



# Transport Infrastructure Act 1994

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Queensland

# Transport Infrastructure Act 1994

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# Transport Infrastructure Act 1994

[as amended by all amendments that commenced on or before 23 May 2010]

## An Act about infrastructure and related matters

### Chapter 1 Preliminary

#### 1 Short title

This Act may be cited as the *Transport Infrastructure Act 1994*.

#### 2 Objectives of this Act

- (1) The overall objective of this Act is, consistent with the objectives of the *Transport Planning and Coordination Act 1994*, to provide a regime that allows for and encourages effective integrated planning and efficient management of a system of transport infrastructure.
- (2) In particular, the objectives of this Act are—
  - (a) to allow the Government to have a strategic overview of the provision and operation of all transport infrastructure; and
  - (b) for roads—to establish a regime under which—
    - (i) a system of roads of national and State significance can be effectively planned and efficiently managed; and
    - (ii) influence can be exercised over the total road network in a way that contributes to overall transport efficiency; and

[s 2]

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- (iii) account is taken of the need to provide adequate levels of safety, and community access to the road network; and
  - (iv) impacts on development from environmental emissions generated by State-controlled roads are addressed by the development; and
- (c) for miscellaneous transport infrastructure—to establish a regime for the effective planning and efficient management of the infrastructure; and
- (d) for rail—to establish a regime that—
  - (i) contributes to overall transport effectiveness and efficiency; and
  - (ii) provides for adequate levels of safety; and
  - (iii) contributes to lower transport costs by allowing the maximum flexibility in rail transport operations consistent with achieving safety objectives; and
  - (v) allows railway managers and operators to make decisions on a commercial basis; and
- (e) for ports—to establish a regime under which a ports system is provided and can be managed within an overall strategic framework; and
- (f) for air—to promote basic access to air services, and regional development, by making provision about air transport infrastructure; and
- (g) for public marine transport—to establish a regime under which—
  - (i) public marine facilities are effectively and efficiently managed; and
  - (ii) the use of waterways for transport purposes is effectively and efficiently managed; and
- (h) for busways—to establish a regime that provides for—
  - (i) flexibility in the choice between private and public construction and management; and

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- (ii) land tenure arrangements allowing private management to be established on a sound financial basis; and
  - (i) for busways and light rail—to establish a regime for each that—
    - (i) contributes to overall transport effectiveness and efficiency; and
    - (ii) provides for safely constructed, managed and operated infrastructure; and
    - (iii) is responsive to community needs; and
    - (iv) offers an appealing alternative to private transport in a way that takes into account overall environmental, economic and social influences of transport; and
    - (v) addresses the challenges of future growth; and
    - (vi) provides busway and light rail transport infrastructure and passenger services at a reasonable cost to the community and government; and
    - (vii) results in minimal interference with access to and from the road network; and
    - (viii) encourages the facilitation and use of public transport; and
    - (ix) gives priority to public transport over private vehicles; and
    - (x) contributes to lower transport costs by allowing the maximum flexibility in busway and light rail transport operations consistent with achieving safety objectives; and
    - (xi) allows managers and operators of busways and light rail to make decisions on a commercial basis; and
  - (j) for light rail—to establish a regime that provides for—

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- (i) flexibility in the choice between private and public construction and management; and
- (ii) land tenure arrangements allowing private management to be established on a sound financial basis; and
- (iv) the construction, management and operation of light rail transport infrastructure under a light rail franchise agreement.

### **3 Definitions—the dictionary**

- (1) A dictionary in schedule 6 defines particular words used in this Act.
- (2) Definitions found elsewhere in the Act are signposted in the dictionary.

### **3A Notes in text**

A note in the text of this Act is part of the Act.

### **4 State/Commonwealth agreements or arrangements**

The powers and discretions conferred by this Act may be exercised in accordance with an agreement or arrangement between the State and the Commonwealth about the funding of transport infrastructure.

## **Chapter 2 Transport infrastructure strategies**

### **5 Development of transport infrastructure strategies**

- (1) The chief executive must, from time to time, develop for the Minister's approval transport infrastructure strategies that are

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designed to give effect to the coordination plan in relation to transport infrastructure in accordance with the objectives of this Act.

- (2) In developing transport infrastructure strategies, the chief executive must take reasonable steps to engage in public consultation.
- (3) The Minister may, at any time, direct the chief executive to prepare new transport infrastructure strategies for the Minister's approval or to amend transport infrastructure strategies in the way the Minister directs.
- (4) The Minister may approve transport infrastructure strategies that are submitted for approval or require the chief executive to amend the strategies in the way the Minister directs.

## **6 Contents of transport infrastructure strategies**

- (1) Transport infrastructure strategies must include—
  - (a) a statement of the specific objectives sought to be achieved; and
  - (b) proposals for the provision of transport infrastructure; and
  - (c) investment criteria for deciding priorities for government supported transport infrastructure between and within the different transport modes and options for financing the priorities; and
  - (d) criteria for deciding which roads should be controlled by the chief executive as State-controlled roads; and
  - (e) appropriate performance indicators for deciding whether, and to what extent, the objectives of the strategies have been achieved.
- (2) Transport infrastructure strategies must aim to provide an adequate framework for coordinating and integrating the provision of transport infrastructure as between the different transport modes.

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- (3) Transport infrastructure strategies must take account of agreements or arrangements between the State and the Commonwealth about the funding of transport infrastructure.
- (4) Transport infrastructure strategies for the TransLink area under the *Transport Operations (TransLink Transit Authority) Act 2008* must not be inconsistent with, and must give effect to any integrated regional transport plan in force for the area.

## **7 Tabling of transport infrastructure strategies**

The Minister must cause transport infrastructure strategies, and each amendment of transport infrastructure strategies, approved by the Minister to be tabled in the Legislative Assembly.

# **Chapter 3 Obligations about transport infrastructure**

## **8 Objective of chapter**

In giving effect to the objective of this Act, this chapter is intended to ensure value for money for resources applied to the construction, maintenance and operation of transport infrastructure.

## **9 Obligations about government supported transport infrastructure**

The chief executive must ensure that—

- (a) the construction, maintenance and operation of all government supported transport infrastructure for which the chief executive is responsible is carried out in a way that, within the objective of this chapter—

- (i) takes into account best practice and national benchmarks; and
  - (ii) promotes the safe transport of persons and goods; and
  - (iii) reduces adverse environmental impacts; and
  - (iv) encourages efficient and competitive behaviour in the construction and maintenance of transport infrastructure; and
- (b) the construction, maintenance and operation of all government supported transport infrastructure for which the chief executive is responsible is carried out in accordance with standards—
- (i) published by the chief executive; and
  - (ii) designed, within overall transport objectives, to achieve efficiency, affordable quality and cost effectiveness; and
- (c) contracts that are let for the construction, maintenance or operation of transport infrastructure are designed in a way that encourages efficient performance by the contractor.

## **9A Beneficial assets**

- (1) For section 9(a)(iii), it is recognised that, although the operation or use of transport infrastructure may have significantly adverse environmental impacts, the operation and use are necessary for the community's environmental, social and economic wellbeing.
- (2) However, it is intended that, within the objective of this chapter, any significantly adverse environmental impacts resulting from the operation or use of transport infrastructure be progressively reduced to the extent that it is practicable to do so.

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## **10 Report on giving effect to s 9**

Each annual report of the department must include a report on the way in which effect has been given to section 9 (Obligations about government supported transport infrastructure) during the year to which the report relates.

# **Chapter 4 Implementation of transport infrastructure strategies**

## **Part 1 Roads implementation programs**

### **11 Development of roads implementation programs**

- (1) The chief executive must, each year, develop for the Minister's approval roads implementation programs for the year and for 1 or more later years.
- (2) Roads implementation programs must include—
  - (a) a program of projects, and policies and financial provisions, for implementing the transport infrastructure strategies in relation to road transport infrastructure, including roads that are not State-controlled roads; and
  - (b) performance targets for road transport infrastructure.
- (3) Roads implementation programs may include proposals to spend amounts on transport infrastructure other than road transport infrastructure if the spending would contribute to intermodal effectiveness and efficiency.
- (4) In developing roads implementation programs, the chief executive must take reasonable steps to consult with local governments that, in the opinion of the chief executive, would be affected by the programs.

- (5) Roads implementation programs are to be made publicly available in the way decided by the Minister.
- (6) The Minister may at any time direct the chief executive to amend roads implementation programs.
- (7) The Minister may approve roads implementation programs that are submitted for approval or require the chief executive to amend the programs in the way the Minister directs.

## **12 Consistency with transport infrastructure strategies**

- (1) Subject to directions of the Minister, roads implementation programs must be consistent with transport infrastructure strategies.
- (2) If the Minister gives a direction under this section that results in roads implementation programs being inconsistent with transport infrastructure strategies, the Minister must cause a copy of the direction to be tabled in the Legislative Assembly within 5 sitting days after it is given.

## **13 Report on operation of roads implementation programs**

Each annual report of the department must include a report on the operation of the roads implementation programs during the year to which the annual report relates.

# **Part 2 Rail implementation programs**

## **14 Development of programs**

- (1) The chief executive must, each year, develop for the Minister's approval rail implementation programs for the year and for 1 or more later years for rail transport infrastructure that is government supported transport infrastructure.
- (2) Rail implementation programs must include—

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- (a) a program of projects, and policies and budgets, for implementing the transport infrastructure strategies for rail transport infrastructure that is government supported transport infrastructure; and
  - (b) performance targets for the rail transport infrastructure.
- (3) In developing rail implementation programs, the chief executive must take reasonable steps to—
  - (a) consult with local governments and railway managers and operators that the chief executive considers would be affected by the programs; and
  - (b) minimise conflict between the programs and expenditure programs of local governments and railway managers and operators.
- (4) Rail implementation programs are to be made publicly available in the way decided by the Minister.
- (5) The Minister may, at any time, direct the chief executive to amend a rail implementation program.
- (6) The Minister may—
  - (a) approve a rail implementation program submitted for approval; or
  - (b) require the chief executive to amend a rail implementation program submitted for approval.

## **15 Consistency with transport infrastructure strategies**

- (1) Subject to the Minister's directions, a rail implementation program must be consistent with transport infrastructure strategies.
- (2) If a direction of the Minister results in a rail implementation program being inconsistent with a transport infrastructure strategy, the Minister must table a copy of the direction in the Legislative Assembly within 5 sitting days after it is given.

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**16 Report on implementation of programs**

Each annual report of the department must include a report on the implementation of the rail implementation program for the year of the report.

**Part 3 Implementation programs for miscellaneous transport infrastructure**

**17 Development of implementation programs for miscellaneous transport infrastructure**

- (1) The chief executive must, each year, develop for the Minister's approval implementation programs for miscellaneous transport infrastructure for the year and for 1 or more later years.
- (2) Implementation programs for miscellaneous transport infrastructure must include—
  - (a) a program of projects, and policies and budgets, for implementing the transport infrastructure strategies about the miscellaneous transport infrastructure covered by the programs; and
  - (b) performance targets for that miscellaneous transport infrastructure.
- (3) Implementation programs for miscellaneous transport infrastructure may include proposals to spend amounts on transport infrastructure other than miscellaneous transport infrastructure if the spending would contribute to intermodal effectiveness and efficiency.
- (4) In developing implementation programs for miscellaneous transport infrastructure, the chief executive must take reasonable steps to consult with local governments that, in the

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opinion of the chief executive, would be affected by the programs.

- (5) Implementation programs for miscellaneous transport infrastructure are to be made publicly available in the way decided by the Minister.
- (6) The Minister may at any time direct the chief executive to amend implementation programs for miscellaneous transport infrastructure.
- (7) The Minister may approve implementation programs for miscellaneous transport infrastructure that are submitted for approval or require the chief executive to amend the programs in the way the Minister directs.

## **18 Consistency with transport infrastructure strategies**

- (1) Subject to directions of the Minister, implementation programs for miscellaneous transport infrastructure must be consistent with transport infrastructure strategies.
- (2) If the Minister gives a direction under this section that results in implementation programs for miscellaneous transport infrastructure being inconsistent with transport infrastructure strategies, the Minister must cause a copy of the direction to be tabled in the Legislative Assembly within 5 sitting days after it is given.

## **19 Report on operation of implementation programs for miscellaneous transport infrastructure**

Each annual report of the department must include a report on the operation of the implementation programs for miscellaneous transport infrastructure during the year to which the annual report relates.

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## Part 4                      Transport GOCs

### 20      Transport GOCs

- (1) In preparing a corporate plan or a statement of corporate intent, each rail GOC and each GOC port authority must take into account the transport infrastructure strategies and any network plan under the *Transport Operations (TransLink Transit Authority) Act 2008*.
- (2) A rail GOC or a GOC port authority may spend amounts on transport infrastructure other than rail transport infrastructure or port infrastructure if the spending would contribute to effectiveness and efficiency.

## Chapter 5                  Air transport infrastructure

### 21      Air transport infrastructure funding programs

- (1) The chief executive may develop, for the Minister's approval, an air transport infrastructure funding program.
- (2) The purpose of a program is to facilitate basic access to air transport services and regional development.
- (3) An air transport infrastructure funding program must include a program of government funding to facilitate the upgrading or building of runways, landing strips or ancillary works.
- (4) The chief executive may, with the Minister's approval, amend an air transport infrastructure funding program.
- (5) The chief executive may develop guidelines, consistent with the objectives of this Act and government policy, for assessing funding applications under a program.
- (6) The chief executive must make any current program or guidelines publicly available.

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## **22 Report on implementation of program**

Each annual report of the department must include a report on the implementation of the air transport infrastructure funding program for the year of the report.

# **Chapter 6 Road transport infrastructure**

## **Part 1 Preliminary**

### **23 Scope of chapter**

- (1) To give effect to the objectives of this Act in relation to road transport infrastructure, the chief executive has, subject to the Minister and as required by this chapter—
  - (a) the function of influencing the total road network; and
  - (b) control over roads of State significance in the total road network, including roads of national significance that are managed in accordance with agreements or arrangements between the State and the Commonwealth about the funding of road transport infrastructure.
- (2) This chapter establishes a framework under which the construction, maintenance or operation of a State-controlled road can be done by the chief executive, or by a local government or someone else under agreements or arrangements with the chief executive.

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## **Part 2 State-controlled roads**

### **Division 1 Declaration of State-controlled roads**

#### **24 Declaration of State-controlled roads**

- (1) The Minister may, by gazette notice, declare a road or route, or part of a road or route, to be a State-controlled road.
- (2) A declaration must be consistent with criteria about the declaration of State-controlled roads in the transport infrastructure strategies.
- (3) A declaration must enable the location of the road to be identified.
- (4) The location may be identified by specifying—
  - (a) the starting and ending points of the road; and
  - (b) the alignment of the road; and
  - (c) the width of the road by reference to the constructed centre line of the road pavement or surface.
- (5) Unless otherwise specified in a declaration, the width of a State-controlled road through a State reserve, State forest, timber reserve, vacant State land or pastoral holding is 30m each side of the centre line of the trafficked route.

#### **25 Consultation before declaration**

Before making or revoking a declaration under section 24 (Declaration of State-controlled roads), the Minister must—

- (a) notify each local government that would, in the Minister's opinion, be affected by the proposed declaration or revocation; and

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- (b) give the local governments a reasonable opportunity to make submissions to the Minister on the proposed declaration or revocation.

## 26 State-controlled roads on rail corridor land

- (1) This section applies if, under section 24, the Minister intends to declare a road or route, or part of a road or route, that crosses rail corridor land and continues on the other side of the rail corridor land to be a State-controlled road.
- (2) Before making the declaration, the Minister must—
  - (a) consult with the railway manager, if any, for the rail corridor land; and
  - (b) give the railway manager a reasonable opportunity to make submissions to the Minister on the declaration.
- (3) If the Minister decides to declare the road or route, or part of the road or route, to be a State-controlled road, the Minister must, when making the declaration, declare in the gazette notice the part of the rail corridor land where it is crossed by the road or route to be a common area (*common area*) for the rail corridor land and the State-controlled road.
- (4) When the common area is declared—
  - (a) the chief executive may construct, maintain and operate the State-controlled road on the common area in a way not inconsistent with its use as rail corridor land; and
  - (b) a railway manager for the rail corridor land may construct, maintain and operate a railway on the common area in a way not inconsistent with its use as State-controlled road; and
  - (c) the railway manager and its agents or employees do not have any liability for the State-controlled road or its use or operation on the common area.

*Examples for paragraph (a)—*

- a level crossing

- a bridge or other structure over a railway
  - a bridge or other structure that allows the road to pass under the railway
- (5) Unless the chief executive and a railway manager for the rail corridor land otherwise agree—
- (a) subject to section 251, the chief executive is responsible for maintaining the State-controlled road on the common area; and
  - (b) if the State-controlled road on the common area stops being used, the chief executive is responsible for the cost of removing road transport infrastructure from the common area and restoring the railway.
- (6) The State is taken not to be in breach of any of its obligations in a sublease of the rail corridor land between the State and the railway manager by—
- (a) the Minister's declarations; or
  - (b) anything done by the chief executive under chapter 6 for the common area.
- (7) After the common area is declared—
- (a) the chief executive must promptly give a copy of the gazette notice of the declarations to the registrar of titles; and
  - (b) the registrar of titles must record the declarations on the relevant lease of the rail corridor land to the State and any affected sublease in the leasehold land register.

## **Division 2                      Motorways**

### **27                      Declaration of motorways**

- (1) The Minister may, by gazette notice, declare that the whole or a part of a State-controlled road is a motorway.

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- (2) A declaration must enable the location of the motorway to be identified.
- (3) Before making or revoking a declaration, the Minister must—
  - (a) notify each local government that would, in the Minister's opinion, be affected by the proposed declaration or revocation; and
  - (b) give the local governments a reasonable opportunity to make submissions to the Minister on the proposed declaration or revocation.

### **Division 3                      Chief executive to have powers of a local government**

#### **28            Chief executive to have power of a local government for State-controlled roads**

The chief executive may exercise, for a State-controlled road in the area of a local government, all of the powers that the local government may exercise for a local government road in the area.

### **Part 3                              Construction, maintenance and operation**

#### **29            Powers of chief executive for road works contracts etc.**

- (1) The chief executive may, in accordance with the relevant roads implementation program, carry out, or enter into contracts for the State with other persons (including local governments, State government bodies and agencies of the Government of some other State or of a Territory) for the carrying out of—

- (a) road works on a State-controlled road or on land that is intended to become a State-controlled road; or
  - (b) other works that contribute to the effectiveness and efficiency of the road network; or
  - (c) the operation of a State-controlled road.
- (2) The chief executive may, for the State, carry out road works on a local government road in accordance with an agreement between the chief executive and the local government.
  - (3) The chief executive may, for the State, enter into contracts with other persons for road works to be carried out outside the State by the chief executive, a local government, a State government body or a contractor to the chief executive in accordance with an agreement between the State and the other State or Territory concerned.
  - (4) A contract with a local government under this section about the maintenance and operation of a State-controlled road may include arrangements about which powers of the local government are to be exercised by the chief executive and which of the powers are to be exercised by the local government for the State-controlled road.
  - (5) A local government may enter into a contract mentioned in subsection (1) even though the contract relates to works or operation outside the local government's area.
  - (6) The chief executive may, for the State, carry out, or enter into contracts for, works on or adjacent to a State-controlled road at the request of the owner of adjacent land on the basis that the owner provides consideration, whether monetary or otherwise, as agreed between the chief executive and the owner.
  - (7) This section does not prevent the chief executive carrying out, or entering into contracts for the carrying out, of road works of a minor or emergency nature.

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**30 Obligations in carrying out of works or operation of roads by the chief executive**

In carrying out works, or the operation of roads, mentioned in section 29 (Powers of chief executive for road works contracts etc.), the chief executive must ensure that the carrying out is done on a price competitive basis.

**31 Contracts to encourage efficiency**

- (1) In entering into contracts of the kind mentioned in section 29 (Powers of chief executive for road works contracts etc.), the chief executive must ensure that open competition is encouraged.
- (2) Subsection (1) does not apply to a contract with a person if the person is the sole invitee and enters into a price performance contract with the chief executive.

**32 Cost sharing arrangements**

The chief executive may arrange with another person (including a local government and a State government body) for the sharing by the chief executive with the other person of the cost of—

- (a) acquisition of land for transport infrastructure; or
- (b) road works on a State-controlled road; or
- (c) other works that contribute to the effectiveness and efficiency of the road network; or
- (d) the operation of a State-controlled road;

including all necessary preliminary costs associated with the acquisition, works or operation.

**33 Prohibition on road works etc. on State-controlled roads**

- (1) A person must not, without lawful excuse or the written approval of the chief executive—

- (a) carry out road works on a State-controlled road; or
- (b) interfere with a State-controlled road or its operation.

Maximum penalty—200 penalty units.

- (2) An approval may be subject to conditions decided by the chief executive.

- (3) A person must not contravene a condition that applies to the person under subsection (2).

Maximum penalty—200 penalty units.

- (4) Subsection (1) does not apply to a person who carries out maintenance of ancillary works and encroachments or landscaping that does not interfere with a State-controlled road or its operation.

- (5) An approval under subsection (1) for road works that are road access works may only be given if there is a permitted road access location under a decision in force under section 62(1) in relation to the road access works.

### **34 Offender to pay cost of remedying unauthorised works**

- (1) If a person carries out works contrary to section 33(1) (Prohibition on road works etc. on State-controlled roads), the chief executive may—

- (a) dismantle or alter the works; or
- (b) remedy damage caused by the works.

- (2) If the chief executive causes the works to be dismantled or altered or the damage to be remedied under subsection (1), the person is liable to pay to the chief executive the costs incurred by the chief executive.

### **35 Temporary occupation and use of land**

- (1) To carry out road works, the chief executive may temporarily occupy and use land, including roads, and do anything on the land that is necessary or convenient to be done.

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- (2) Subsection (1) does not authorise the chief executive to extract quarry material from a watercourse in a wild river area.

### **36 Notice of entry or permission to enter**

- (1) The person who is proposing to occupy or use land under section 35 (Temporary occupation and use of land) must—
  - (a) give at least 3 days written notice to the owner or occupier of the land; or
  - (b) obtain the written approval of the owner or occupier to the occupation or use.
- (2) The notice must state—
  - (a) the road works to be carried out; and
  - (b) the use proposed to be made of the land; and
  - (c) details of the things proposed to be done on the land; and
  - (d) an approximate period when the occupation or use is expected to continue.
- (3) A notice may be given under subsection (1) in relation to land even if it is proposed to resume the land for road works.
- (4) After the end of 3 days after service of a notice under subsection (1), or with the agreement of the owner or occupier, the land may be entered and the road works specified in the notice carried out.
- (5) If urgent remedial attention is required, subsection (1) does not apply but the person who is proposing to occupy or use the land must, if it is practicable, notify the owner or occupier of the land orally.

### **37 Compensation for physical damage from entry etc.**

- (1) An owner of land that is entered, occupied or used under section 35 (Temporary occupation and use of land) may give a

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written notice to the chief executive claiming compensation for physical damage caused by the entry, occupation or use or for the taking or consumption of materials.

- (2) Compensation is not payable unless a claim is received by the chief executive within 1 year after occupation or use has ended.
- (3) However, the chief executive may allow a claim to be made at a later time.
- (4) Compensation awarded under this section must not be more than the compensation that would have been awarded if the land had been acquired.

### **38 Fencing State-controlled roads**

- (1) The chief executive does not have to contribute to the fencing of the whole or a part of the boundary between land and—
  - (a) an existing State-controlled road; or
  - (b) a road or land that is intended to become a State-controlled road; or
  - (c) a widening or deviation of a State-controlled road involving the acquisition of land.
- (2) However, subsection (1)(b) does not apply to an existing road if the land is substantially fenced and the presence of the road will make the fencing ineffective.
- (3) Subsection (1)(c) does not apply if the previous boundary of the road was substantially fenced.

### **39 Watercourses and road works**

- (1) To carry out road works, the chief executive may—
  - (a) divert a watercourse; or
  - (b) construct a watercourse, whether temporary or permanent.



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**41 Improvement of State-controlled road as an economic alternative to improvement of the local road network**

If a local government concludes that improvements to a State-controlled road in its area would be beneficial to the local road network, the local government may make financial arrangements with the chief executive for the improvements to be made.

**42 Impact of certain local government decisions on State-controlled roads**

- (1) A local government must obtain the chief executive's written approval if—
  - (a) it intends to carry out road works on a local government road or make changes to the management of a local government road; and
  - (b) the works or changes would—
    - (i) require the carrying out of road works on a State-controlled road; or
    - (ii) otherwise have a significant adverse impact on a State-controlled road; or
    - (iii) have a significant impact on the planning of a State-controlled road or a future State-controlled road.
- (2) Subsection (1) does not apply if the chief executive has considered the works or changes as part of consideration of a development application.
- (3) The chief executive may make guidelines to which local governments must have regard in deciding whether an approval of the chief executive under subsection (1) is required.
- (4) An approval by the chief executive under subsection (1) may be subject to conditions, including a condition that consideration, whether monetary or otherwise, be given in

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compensation for the impact that the road works or changes will have.

- (5) Subsection (1) does not apply if the conditions applied and enforced by the local government for the road works or changes comply with permission criteria fixed by the chief executive.
- (6) The permission criteria may include conditions, including a condition that consideration, whether monetary or otherwise, be given in compensation for the impact that the road works or changes will have.
- (7) A local government must comply with conditions that apply to it under this section.
- (8) If a local government contravenes subsection (1) or a condition that applies to it under this section, the local government is liable to compensate the chief executive for the cost of road works to State-controlled roads that are reasonably required because of the contravention.
- (9) An approval by the chief executive under subsection (1) must be given—
  - (a) within 21 days after receiving the application for approval; or
  - (b) within a longer period notified to the local government by the chief executive within the 21 day period.
- (10) If—
  - (a) a local government applies for an approval under subsection (1); and
  - (b) the chief executive does not respond to the application within 21 days after receiving the application;the chief executive is taken to have given approval at the end of the 21 days.
- (11) In this section—

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*future State-controlled road* means a road or land that the chief executive has notified the local government in writing is intended to become a State-controlled road.

- (12) The chief executive must cause a copy of each notice under subsection (11) to be published in the gazette.

### **43 Distraction of traffic on motorways**

- (1) A local government must obtain the chief executive's written approval if it intends to approve the erection, alteration or operation of an advertising sign or other advertising device that would be—
- (a) visible from a motorway; and
  - (b) beyond the boundaries of the motorway; and
  - (c) reasonably likely to create a traffic hazard for the motorway.
- (2) The chief executive may make guidelines to which local governments must have regard in deciding whether an approval of the chief executive under subsection (1) is required for particular motorways.
- (3) An approval by the chief executive under subsection (1) may be subject to conditions.
- (4) Subsection (1) does not apply if the conditions applied by the local government to the erection, alteration or operation of the sign or device comply with permission criteria fixed by the chief executive.
- (5) The permission criteria may include conditions.
- (6) A local government must comply with conditions that apply to it under this section.
- (7) An approval by the chief executive under subsection (1) must be given—
- (a) within 21 days after receiving the application for approval; or

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- (b) within a longer period notified to the local government by the chief executive within the 21 day period.
- (8) If—
- (a) a local government applies for an approval under subsection (1); and
  - (b) the chief executive does not respond to the application within 21 days after receiving the application;
- the chief executive is taken to have given approval at the end of the 21 days.
- (9) In this section—
- motorway* includes a road or land that the chief executive has notified the local government in writing is intended to become a motorway.
- (10) The chief executive must cause a copy of each notice under subsection (9) to be published in the gazette.

#### **44 Effect of decisions of Planning and Environment Court**

- (1) If—
- (a) an approval under section 42(1) (Impact of certain local government decisions on State-controlled roads) is subject to conditions; and
  - (b) a local government imposes conditions on the road works or changes to which the approval relates; and
  - (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);
- then, to the extent to which the amendment relates to the conditions of the approval under section 42(1), the conditions of the approval are taken to be amended accordingly.
- (2) If—
- (a) there are permission criteria relevant to road works or changes mentioned in section 42; and

- (b) a local government imposes conditions on the road works or changes; and
- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the permission criteria, the permission criteria are taken to be amended accordingly in their application to the road works or changes.

(3) If—

- (a) an approval under section 43(1) (Distraction of traffic on motorways) is subject to conditions; and
- (b) a local government imposes conditions on the relevant erection, alteration or operation of the sign or other device; and
- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the conditions of the approval under section 43(1), the conditions of the approval are taken to be amended accordingly.

(4) If—

- (a) there are permission criteria relevant to the erection, alteration or operation of a sign or other device mentioned in section 43; and
- (b) a local government imposes conditions on the erection, alteration or operation; and
- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the permission criteria, the permission criteria are taken to be amended accordingly in their application to the erection, alteration or operation.

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- (5) The Planning and Environment Court is not to amend conditions as mentioned in this section without giving the chief executive a chance to be heard.

#### **45 Management of particular functions on State-controlled roads by local governments**

- (1) A local government may exercise, for a State-controlled road in its area, all the powers that it may exercise for a local government road in its area.
- (2) However, if there is a contract of the kind mentioned in section 29(4) (Powers of chief executive for road works contracts etc.) between the chief executive and a local government, the exercise of the powers must be done as required by the contract.
- (3) If there is no contract of the kind mentioned in section 29(4) between the chief executive and a local government, the chief executive may direct the local government not to exercise any or some of its powers for a State-controlled road specified in the direction.
- (4) A direction under subsection (3) may be subject to conditions.
- (5) A local government must comply with directions or conditions under this section.
- (6) The exercise of a power by a local government under this section is not a contravention of this Act.



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- (e) state that a contravention of a requirement of the notice is an offence against this section and the maximum penalty for the offence.
- (3) The chief executive must take reasonable steps to advertise a declaration under subsection (1) in a way the chief executive considers appropriate.

*Examples of ways declaration may be advertised—*

on the department's website, in a newspaper circulating generally in the relevant area, on television, on the radio

- (4) A person must not contravene a restricted road use notice erected or displayed under subsection (1), unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (5) A person must not unlawfully tamper with a restricted road use notice erected or displayed under subsection (1).

Maximum penalty—200 penalty units.

- (6) Neither the State nor the chief executive is liable for damage or injury caused directly because of a contravention of a declaration in force under subsection (1).

- (7) In this section—

*tamper*, with a restricted road use notice erected or displayed under subsection (1), includes—

- (a) damage, deface or destroy the notice; and
- (b) move or remove the notice; and
- (c) hinder the visibility of the notice.

#### **47 Removal of materials etc.**

- (1) A person must not, without lawful excuse, damage, remove or interfere with naturally occurring materials, stockpiles of materials, watercourses, road works or ancillary works and encroachments on a State-controlled road.

Maximum penalty—200 penalty units.

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- (2) A person must not deposit rubbish or abandon goods or materials on a State-controlled road other than at places approved by, and under conditions fixed by, the chief executive.

Maximum penalty—200 penalty units.

#### **48 Recovery of cost of damage**

- (1) If—
- (a) a person intentionally, recklessly or negligently causes damage to road works or ancillary works and encroachments on a State-controlled road, whether or not an offence is committed; and
  - (b) the chief executive repairs the damage or replaces or reconstructs as necessary the road works or ancillary works and encroachments;

the person is liable to pay to the chief executive the cost of repair, replacement or reconstruction.

- (2) If—
- (a) the damage is caused by the operation of a vehicle; and
  - (b) the driver of the vehicle is unknown or can not be located;

the person in whose name the vehicle is registered is liable for the costs of repair, replacement or reconstruction for which the driver would be liable.

- (3) Subsection (2) does not apply if the vehicle was being used without the agreement or knowledge of the person in whose name the vehicle is registered.
- (4) If—
- (a) a court finds a person guilty of an offence against this Act; and
  - (b) in committing the offence, the person caused damage to road works or ancillary works and encroachments;

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the court may, in addition to imposing a penalty, order the person to pay an amount towards the cost of repairing the damage.

#### **49 Assessment of impacts on State-controlled roads from certain activities**

- (1) This section applies if—
  - (a) the chief executive considers the carrying on of an activity prescribed under a regulation is having, or will have, a significant adverse impact on a State-controlled road; and
  - (b) the activity is not for—
    - (i) a significant project under the *State Development and Public Works Organisation Act 1971*; or
    - (ii) development declared under a planning scheme to be assessable development; or
    - (iii) development in an urban development area under the *Urban Land Development Authority Act 2007*.
- (2) The chief executive may require the entity carrying out the activity to provide information, within a reasonable time, that will enable the chief executive to assess the impact.
- (3) After assessing the impact, the chief executive may decide to do 1 or more of the following—
  - (a) give the entity a direction about the use of the road to lessen the impact;
  - (b) require the entity—
    - (i) to carry out works to lessen the impact; or
    - (ii) to pay an amount as compensation for the impact.
- (4) The chief executive may require the works to be carried out or the amount to be paid before the impact commences or intensifies.

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- (5) The amount required to be paid under subsection (3)(b)(ii) is a debt payable to the chief executive and may be recovered in a court of competent jurisdiction.
  - (6) The regulation mentioned in subsection (1)(a)—
    - (a) must contain a process under which the chief executive's decision may be reviewed; and
    - (b) may contain a process for enforcing the decision.

#### **49A Impact of particular development and State-controlled roads**

- (1) This section applies if the chief executive is an assessment manager or a referral agency for a development application made after the commencement of this section.
- (2) Also, this section has as its purpose ensuring—
  - (a) the efficient and safe management of State-controlled roads; and
  - (b) that development addresses impacts on the development from environmental emissions generated by State-controlled roads.

*Examples of environmental emissions—*

air particles, fumes, light, noise

- (3) For performing the chief executive's functions as assessment manager or referral agency, the chief executive must consider the extent to which the proposed development satisfies the purpose mentioned in subsection (2).
- (4) Subsection (3) is in addition to, and does not limit, the Planning Act, section 282 and chapter 6, part 5, division 2.

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## **Division 2                    Ancillary works and encroachments and roadside facilities**

### **Subdivision 1            General rules for ancillary works and encroachments**

#### **50            Ancillary works and encroachments**

- (1) The chief executive may construct, maintain, operate or conduct ancillary works and encroachments on a State-controlled road.
- (2) The chief executive may, by gazette notice, decide that specified ancillary works and encroachments must not be constructed, maintained, operated or conducted on State-controlled roads, or on State-controlled roads in a specified district, without the written approval of the chief executive.
- (3) A person must not construct, maintain, operate or conduct ancillary works and encroachments on a State-controlled road contrary to a notice under subsection (2).

Maximum penalty—200 penalty units.

- (4) Subsection (3) does not apply to the construction, maintenance, operation or conduct of ancillary works and encroachments on a State-controlled road if the construction, maintenance, operation or conduct—
  - (a) conforms to requirements specified by the chief executive by gazette notice; or
  - (b) is done as required by a contract entered into with the chief executive.
- (5) An approval or requirements under this section may be subject to conditions (including conditions about the payment of fees and other charges) fixed by the chief executive.

- (6) A thing is not done contrary to this section if it is permitted under the *Land Act 1994*, the *Transport Operations (Road Use Management) Act 1995*, the *Urban Land Development Authority Act 2007* or an Act about local government.

## **51 Presumptions about advertising notices**

- (1) This section applies to a prosecution for an offence against section 50(3) in relation to an advertising notice.
- (2) Each person whose product or service is advertised on the notice is taken to maintain the notice, unless the person proves the advertisement was placed without the person's knowledge or permission.

## **52 Alteration etc. of ancillary works and encroachments**

- (1) If ancillary works and encroachments are constructed, maintained, operated or conducted contrary to section 50 (Ancillary works and encroachments), the chief executive may—
- (a) cause them to be altered, relocated, made safe or removed; or
- (b) for activities—direct that their conduct be altered or that they stop being conducted.
- (2) A person who constructed, maintained or operated ancillary works and encroachments contrary to section 50 is liable to pay to the chief executive the cost of altering or relocating them, making them safe or removing them.
- (3) If ancillary works and encroachments are removed under subsection (1), the chief executive may cause them to be sold or destroyed.
- (4) If the chief executive is of the opinion that ancillary works and encroachments, or the use of ancillary works and encroachments, that were constructed, maintained, operated or conducted on a State-controlled road under an approval, requirements or contract under section 50—

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- (a) by themselves or with other factors—
  - (i) are creating or may in the future create a traffic hazard; or
  - (ii) are reducing or may in the future reduce safety; or
  - (iii) are having or may in the future have an adverse effect on traffic operations; or
- (b) require emergency action; or
- (c) have become or may in the future become an obstacle to the carrying out of road works on the road or to the construction, augmentation, alteration or maintenance of public utility plant on the road;

the chief executive may cause them to be, or direct that they be, altered, relocated, made safe or removed or, for activities, direct that their conduct be altered or that they stop being conducted.

- (5) A person must comply with a direction under this section.

Maximum penalty—200 penalty units.

- (6) If ancillary works and encroachments are altered, relocated, made safe or removed because of a direction under subsection (4), the chief executive may enter into an agreement with the owner of the ancillary works and encroachments for making a contribution towards the cost of the alteration, relocation, making safe or removal.

## Subdivision 2 Special arrangements about access

### 53 Definitions

In this subdivision—

*declaration* has the meaning given by section 54(1).

*land*, adjacent to a State-controlled road, includes land that is not adjacent to the road but is benefited by an easement, registered under the *Land Title Act 1994*—

- (a) that is over land that is adjacent to the road; and
- (b) that starts at the boundary between the land mentioned in paragraph (a) and the road.

*owner* includes a lessee under the *Land Act 1994*.

*permitted road access location* means a permitted road access location under a decision in force under section 62(1).

*road access location* means a location on a property boundary between land and a road for the entry or exit of traffic.

*State-controlled road* includes a road or land that the chief executive has notified the relevant local government in writing is intended to become a State-controlled road.

## 54 Limited access roads

- (1) The chief executive, by gazette notice complying with sections 56 and 57, may declare part or all of a State-controlled road to be a limited access road (a *declaration*).
- (2) For each limited access road proposed to be declared, the chief executive must make a policy about the application of section 62 to access between the limited access road and adjacent land.
- (3) For a State-controlled road that is a limited access road under section 516(1), the chief executive may—
  - (a) develop a policy about the application of section 62 to access between the road and adjacent land; and
  - (b) publish a gazette notice complying with section 57 about the policy.
- (4) If a gazette notice mentioned in subsection (1) or (3) is published for a limited access road, the chief executive—
  - (a) must ensure there is always a policy for the road while it is a limited access road; and

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- (b) by gazette notice complying with section 57, may replace the policy as it exists at any time for the road; and
- (c) without a gazette notice, may amend the policy under section 58; and
- (d) must apply the policy as made, amended or replaced.

## **55 Local government to be consulted on proposed declaration or policy**

The chief executive must, before giving effect to a proposal to publish a gazette notice to make, amend or revoke a declaration or to make, amend or replace a policy for a limited access road—

- (a) notify each local government, that the chief executive considers is affected by the proposal, of the proposal; and
- (b) give each notified local government a reasonable opportunity to make a submission to the chief executive on the proposal.

## **56 Information in s 54 gazette notice about a declaration**

- (1) A gazette notice under section 54(1) must state the reasons for the declaration.
- (2) The gazette notice must also state that any person whose interests are affected by the declaration may—
  - (a) under section 485—ask for the decision to make the declaration (the *original decision*) to be reviewed by the chief executive; and
  - (b) under the *Transport Planning and Coordination Act 1994*, part 5, division 2—apply for the original decision to be stayed; and
  - (c) under the *Transport and Planning Coordination Act 1994*, part 5, division 3—

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- (i) appeal against the chief executive's decision on the review (the *reviewed decision*) to the court stated in schedule 3 for the decision; and
  - (ii) apply for the reviewed decision to be stayed.

**57 Information in s 54 gazette notice about new or replacement policy**

- (1) A gazette notice under section 54(1), (3)(b) or (4)(b) for a limited access road must state the following—
  - (a) that there is a policy, that will be applied, about the application of section 62 to access between the road and adjacent land;
  - (b) if the policy is replacing another policy, that a policy identified in the notice is being replaced;
  - (c) the text of section 61;
  - (d) either—
    - (i) the text of the policy; or
    - (ii) a notice that the policy is available for inspection, free of charge, during business hours at stated places;
  - (e) that the policy may be amended at any time without a gazette notice if—
    - (i) the amendment merely changes or repeals specific provision for 1 or more particular properties; and
    - (ii) the owner or occupier of each property has been given written notice of the amendment;
  - (f) that any person whose interests are affected by a policy, or, if the policy is a replacement policy, any change of the policy being replaced, may—
    - (i) under section 485—ask for the decision about the policy to be applied (the *original decision*) to be reviewed by the chief executive; and

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- (ii) under the *Transport Planning and Coordination Act 1994*, part 5, division 2—apply for the original decision to be stayed; and
  - (iii) under the *Transport and Planning Coordination Act 1994*, part 5, division 3—
    - (A) appeal against the chief executive’s decision on the review (the *reviewed decision*) to the court stated in schedule 3 for the decision; and
    - (B) apply for the reviewed decision to be stayed.
- (2) If the policy for the limited access road is replacing another policy, the rights mentioned in subsection (1)(f) of a person mentioned in subsection (1)(f) are limited to any change the policy makes to the replaced policy.

**58 Amendment of policy for a limited access road in limited circumstances**

- (1) The chief executive may amend a policy for a limited access, as opposed to replacing the policy, if—
- (a) the amendment is a mere change or repeal of a specific provision for 1 or more particular properties; and
  - (b) the chief executive has given the owner or occupier of each property written notice of the amendment.
- (2) The written notice mentioned in subsection (1)(b) must—
- (a) state the notice is given under this section; and
  - (b) state the reasons for the decision; and
  - (c) be accompanied by an information notice for the decision.

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**59 Gazette notices must show location of limited access road**

A gazette notice under section 54 must contain enough information to allow the location of the limited access road to be identified, for example by including the following information—

- (a) the points at which the limited access road starts or ends;
- (b) its alignment;
- (c) the boundaries of the State-controlled road to which limitation of access is to be applied.

**60 Advertisement of gazette notice**

The publishing of a gazette notice under section 54 must be advertised in a newspaper circulating in the area of the limited access road, or if there is no newspaper circulating in the area, in a newspaper circulating throughout the State.

**61 Offence for limited access roads**

A person must not construct or change a physical means of entry or exit for traffic between land and a limited access road without first obtaining a decision under section 62(1) that authorises the construction or change.

Maximum penalty—200 penalty units.

**62 Management of access between individual properties and State-controlled roads**

- (1) The chief executive may, for 1 or more State-controlled roads and particular adjacent land, on application by a person with an interest in the land or the chief executive's own initiative, make a written decision stating any of the following—

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- (a) the location or locations at which access between the land and the road is permitted (a *permitted road access location*);
  - (b) restrictions on the use of a permitted road access location;
  - (c) conditions on the use of a permitted road access location;
  - (d) where particular road access works, or a stated type of road access works, must be situated;
  - (e) conditions or restrictions on the use of road access works;
  - (f) that access at a location or locations is no longer permitted;
  - (g) that road access works for construction at a place must be of a stated type, standard or extent or be constructed in a stated way;
  - (h) that either the type, construction or extent of existing road access works must be changed in a way stated by the chief executive or the use of the works must be discontinued;
  - (i) that all access between the road and the land is prohibited or no longer prohibited;
  - (j) that stated existing road access works must be removed by the owner within a stated reasonable time;
  - (k) without limiting paragraphs (f) to (j), that anything mentioned in paragraphs (a) to (e) is changed or must be changed as stated in the decision.
- (2) A condition or restriction under subsection (1) may, for example, be any of the following—
- (a) a prohibition on the use of the permitted road access location or road access works by pedestrians;
  - (b) a prohibition on turns by vehicles going in or out of the land;

- (c) a restriction on the type and number of vehicles the owner, occupier or person who applied for the decision may allow to use the permitted road access location;
  - (d) a requirement that the owner, occupier or person who applied for the decision take reasonable, or stated reasonable, steps to ensure the permitted road access location is used by others in accordance with the conditions;
  - (e) a restriction on when the permitted road access location may be used.
- (3) All or part of a decision may be limited to a stated period by reference to time or circumstance.
  - (4) A decision must be consistent with any policy under section 54 that is applicable to the decision.

**63 Chief executive may require additional information from applicant**

The chief executive may—

- (a) require an applicant for a decision under section 62(1) to give the chief executive any additional information the chief executive reasonably needs to decide the application; and
- (b) refuse to consider the application until the applicant gives the required information.

**64 Decision under s 62(1) may impose construction or financial obligation**

A decision under section 62(1) made on application by a person with an interest in the land, other than on an application in compliance with a direction given under section 69, may include either or both of the following conditions—

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- (a) that the applicant construct, pay for, or contribute to the cost of, stated road access works to be constructed to a stated standard;
- (b) that the applicant maintain, pay for, or contribute to the cost of, maintaining stated road access works to a stated standard.

## **65 Limitation on new decisions under s 62(1)**

If there is a permitted road access location for land, the chief executive may make a new decision under section 62(1) for the land on the chief executive's own initiative only if the chief executive considers the permitted road access location, road access works associated with it, or the use of either of them—

- (a) by themselves, or with other factors—
  - (i) are creating or may in the future create a traffic hazard; or
  - (ii) are reducing or may in the future reduce safety; or
  - (iii) are having or may in the future have an adverse effect on traffic operations; or
- (b) require emergency action; or
- (c) has become or may in the future become an obstacle to—
  - (i) the carrying out of road works on a State-controlled road; or
  - (ii) the construction, augmentation, alteration or maintenance of ancillary works and encroachments, or public utility plant, on a State-controlled road.

## **66 Road access works within State-controlled road**

- (1) To remove doubt, it is declared that—

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- (a) a decision under section 62(1) does not give rise to any rights whether beneficial or otherwise in any property that is on, or part of, a State-controlled road; and
  - (b) section 62 does not limit the chief executive's powers to change, remove, construct or deal with road access works to the extent they are on, or part of, a State-controlled road.
- (2) Also, it is declared that the chief executive is not obliged to consider making or obliged to make a decision for a person under section 62(1) in relation to road access works to the extent they are on, or part of, a State-controlled road if none of the following circumstances relevant to the decision exist—
- (a) action by the chief executive in substance changing the effect of a previous decision, binding on the person, in force under section 62(1) about anything mentioned in section 62(1)(a) to (c);
  - (b) action by the chief executive affecting a written agreement under this Act between the chief executive and the person bound by a decision under 62(1).
- (3) Subsection (2) does not limit the discretion of the chief executive under section 62(1).

## **67 Notice of decision under s 62(1)**

- (1) If the chief executive makes a decision under section 62(1), the chief executive must give written notice of the decision to each of the following persons—
  - (a) the owner of the land;
  - (b) the occupier of the land;
  - (c) any person who may have applied for the decision.
- (1A) However, subsection (1) does not apply if the decision was made in conjunction with a development approval.
- (2) The notice must state the following—
  - (a) the notice is given under this section;

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- (b) the reasons for the decision;
  - (c) the person is bound by the decision because of section 70;
  - (d) the text of section 70;
  - (e) that there is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
- (2A) If the decision is not a decision sought by the person to whom the written notice is given, the written notice must be accompanied by an information notice for the decision.
- (3) A person who has an interest in particular land may ask the chief executive, in writing, to give the person a copy of any decision in force under section 62(1) for the land.
- (4) The chief executive must give the person the copy.

**68 Other persons may, by notice, also become bound by a decision under s 62(1)**

- (1) If a particular person is not already bound by a decision under section 62(1), the chief executive may—
- (a) give the person a copy of the decision and of section 70; and
  - (b) notify the person, in writing, that the person is bound, under this section, by the decision.
- (2) A person notified under subsection (1) is bound by the decision.

**69 Direction to owner or occupier to apply for permitted road access location**

- (1) This section applies to land adjacent to a State-controlled road, if there is no decision in force under section 62(1) for the land.

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- (2) The chief executive may give a person who is the owner or occupier of the land a written direction that the person must do either or both of the following—
    - (a) within 28 days of the direction, apply under section 62(1) to have the chief executive make a decision about access between the land and the State-controlled road;
    - (b) not use, or permit anyone else to use, any road access location on any boundary between the land and the State-controlled road until the person has applied to the chief executive for a decision under section 62(1).
  - (3) The direction must state the penalty for not complying with the direction.
  - (4) A person given a direction under subsection (2) must comply with the direction.

Maximum penalty for subsection (4)—200 penalty units.

## **70 Offences about road access locations and road access works, relating to decisions under s 62(1)**

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
  - (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
  - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
  - (c) obtain any other access between the land and the road contrary to the decision; or
  - (d) use a road access location or road access works contrary to the decision; or

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- (e) contravene a condition stated in the decision; or
- (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
- (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

## **71 Chief executive may take steps to prevent or deal with contravention**

- (1) The chief executive may take reasonable and necessary steps to prevent, or protect the public from the consequences of, a person's contravention of section 70.
- (2) If the chief executive takes steps under subsection (1), because a person contravenes or attempts to contravene section 70, the chief executive may recover from the person as a debt the reasonable costs of taking the steps.

## **72 Chief executive may supply or contribute to new access arrangements**

- (1) This section applies if a decision under section 62(1) has an effect mentioned in section 73(1) or (2), and section 74 does not prevent the payment of compensation or remove the chief executive's liability to pay compensation.
- (2) The chief executive may enter into an agreement with the owner, or the owner and the occupier, of the land for—
  - (a) the supply by the chief executive of, or a contribution towards the supply by the chief executive of, alternative road access works between the State-controlled road and the adjacent land or between the adjacent land and another road; or

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- (b) the carrying out, or a contribution towards the carrying out, of other works in relation to the land.

### **73 Compensation**

- (1) This section applies if a decision under section 62(1) has the effect that all access between a State-controlled road and particular adjacent land is prohibited and—
  - (a) there is—
    - (i) no practical alternative road access location for the land, that is, the land becomes effectively landlocked; and
    - (ii) no previous decision in force under section 62(1) under which the land was effectively landlocked; or
  - (b) there is a permitted road access location between the land and the road, and paragraph (a) does not apply.
- (2) This section also applies if a decision under section 62(1) has the effect of changing in substance the effect of a previous decision in force under section 62(1) about anything mentioned in 62(1)(a) to (c) other than in a way that has the effect mentioned in subsection (1).
- (3) However, this section only applies if the owner or occupier claiming compensation is adversely affected by the decision and—
  - (a) an agreement can not be reached with the chief executive under section 72; or
  - (b) the chief executive decides it is not practicable to take action under section 72.
- (4) The owner or occupier may recover as a debt from the chief executive compensation for the diminution in value because of the prohibition or change.
- (5) To remove doubt, it is declared that—

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- (a) in deciding compensation, access to and from the land that could be made available at other locations must be taken into account; and
- (b) compensation is not payable to the extent that the diminution in value is attributable to a prohibition or change that affects—
  - (i) the supply of access to and from a traffic stream; or
  - (ii) road works mentioned in paragraph (b) of the definition *road access works*.

#### **74 Cases where compensation not payable**

- (1) Compensation is payable under section 73 to a person only if a claim is given to the chief executive within 1 year after—
  - (a) the day when the relevant decision took effect; or
  - (b) the day when the person was first notified by the chief executive of the decision;whichever is the later.
- (2) However, the chief executive may allow a claim to be made at a later time.
- (3) The chief executive is not liable to pay compensation for action under this subdivision in relation to land if action is taken to acquire the land.
- (4) Also, the chief executive is not liable to pay compensation for the effect of a decision under section 62(1) made on an application by a person with an interest in the land in any of the following circumstances—
  - (a) if—
    - (i) there is a proposed, ongoing or completed development of the land that involves a material change of use of premises or reconfiguring a lot; and

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- (ii) the development was taken into account in making the decision, and the decision has the effect mentioned in section 73(1)(a);
  - (b) if—
    - (i) there is a proposed, ongoing or completed development of the land that—
      - (A) involves a material change of use of premises or reconfiguring a lot; or
      - (B) has had or is likely to have a significant impact on traffic safety or efficiency on the State-controlled road to which the decision relates; and
    - (ii) the development was taken into account in making the decision, and the decision has the effect mentioned in section 73(1)(b);
  - (c) if the decision has the effect mentioned in section 73(2).
- (5) Subsection (4) applies whether or not the application results from action taken under section 69.
- (6) In this section—
- development* see the Planning Act, section 7.
- premises* see the Planning Act, schedule 3.

## 75 Conditions in development approval

For sections 72 to 74, if—

- (a) a development approval includes conditions about access between land and a State-controlled road; and
- (b) the conditions were included because of the chief executive's response as a concurrence agency for the development application; and
- (c) the development approval has not lapsed under the Planning Act;

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a decision, that includes the conditions, is taken to be in force under section 62(1) for the proposed development of the land.

### **Subdivision 3      Roadside facilities**

#### **76      Roadside facilities**

- (1) The chief executive may supply, or enter into an agreement with another person for the supply of, roadside service centres, roadside rest facilities and other roadside businesses adjacent to or near State-controlled roads.
- (2) The agreement may include—
  - (a) arrangements for supplying access to the facility from the road; and
  - (b) provision for payment of amounts to the chief executive, whether by lump sum or annual rental, in consideration for supplying the access or for supplying access to the traffic stream.

### **Division 3                      Public utility plant on State-controlled roads**

#### **77      Application of div 3**

This division does not apply to—

- (a) public utility plant constructed under the *Electricity Act 1994*; or
- (b) gas infrastructure, or the carrying out of gas infrastructure work, under the *Gas Supply Act 2003*.

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**78 Location**

For the purposes of this division, the location of public utility plant on a State-controlled road includes the line, level and boundary of the plant on the road.

**79 Chief executive's requirements for public utility plant**

- (1) The chief executive may, by written notice to the owner of public utility plant on a State-controlled road, make requirements about matters prescribed under a regulation in relation to the plant.
- (2) The requirements may include the imposition of conditions, including conditions about the payment of a fee or other charge fixed by the chief executive.

**80 Specification of chief executive's requirements about public utility plant**

- (1) The construction, augmentation, alteration or maintenance of public utility plant on a State-controlled road must be undertaken in accordance with the chief executive's requirements and at the expense of the owner of the plant.
- (2) Road works on a State-controlled road made necessary by the construction, augmentation, alteration or maintenance of public utility plant on a State-controlled road must be undertaken in accordance with the chief executive's requirements and at the expense of the owner of the plant.
- (3) Requirements mentioned in subsection (1) or (2) are to be notified in writing to the owner of the plant within a reasonable period.

**81 Information by owner of public utility plant to chief executive**

- (1) A person who wants to take action mentioned in section 80 (Specification of chief executive's requirements about public utility plant) must give a written notice to the chief executive

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of the person's intention to carry out work on a State-controlled road within a reasonable time before taking the action.

- (2) If public utility plant is constructed, augmented, altered or maintained on a State-controlled road, the owner of the plant must prepare records that adequately define the location of the plant on the road at the time of the construction, augmentation, alteration or maintenance of the plant.
- (3) The owner of public utility plant on a State-controlled road must, if asked by the chief executive, supply information to the chief executive to define adequately the location of the plant in a specified area.

Maximum penalty for subsection (3)—40 penalty units.

## **82 Liability for damage or expenses**

- (1) Unless the chief executive otherwise agrees, the chief executive is not liable for damage caused by the chief executive to public utility plant on a State-controlled road if—
  - (a) the chief executive had, before the damage was caused, asked for information under section 81(3) (Information by owner of public utility plant to chief executive) from the owner of the plant and—
    - (i) the owner had not, within a reasonable time, complied with the request; and
    - (ii) the damage was caused because of the failure to comply with the request; or
  - (b) information supplied to the chief executive under section 81(3) does not define in adequate detail the location of the plant and the damage was caused because of the failure to define in adequate detail the location of the plant; or
  - (c) the damage was caused because of the plant having been constructed, augmented, altered or maintained other

than under the chief executive's requirements under this division.

- (2) If the chief executive incurs additional expense in carrying out road works on a State-controlled road because—
  - (a) the owner of public utility plant had not supplied within a reasonable time information asked for by the chief executive under section 81(3); or
  - (b) information supplied to the chief executive did not define in adequate detail the location of public utility plant; or
  - (c) public utility plant had not been constructed, augmented, altered or maintained under the chief executive's requirements;

the owner of the plant is liable to pay to the chief executive the additional expense.

- (3) If the construction of road works by or for the chief executive requires the removal or replacement of public utility plant on a State-controlled road, the chief executive can not be compelled to approve the replacement or reconstruction of the plant in its previous location and form.
- (4) If the chief executive approves the replacement or reconstruction of plant, the replacement or reconstruction must be done under the chief executive's requirements.

### **83 Chief executive and owner of public utility plant may share costs**

The chief executive may arrange with the owner of public utility plant (whether existing or proposed) for the sharing by the chief executive and the owner of the cost of all or any of—

- (a) acquisition of land associated with the plant; or
- (b) construction, augmentation, alteration or maintenance of the plant; or
- (c) construction of road works affected by the plant;

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including all necessary preliminary costs associated with the acquisition, construction, augmentation, alteration or maintenance.

## **Part 6 State toll road corridor land and franchised roads**

### **Division 1 Preliminary**

#### **84 Objectives of part**

The objectives of this part are—

- (a) to assist and encourage private investment in the construction, maintenance and operation of road transport infrastructure; and
- (b) by the involvement of private investment, to enable road transport infrastructure projects to be undertaken at an earlier time than would otherwise be possible; and
- (c) to provide an appropriate management structure for the construction, maintenance and operation of road transport infrastructure on a commercial basis.

### **Division 2 State toll road corridor land**

#### **84A Declaration of land as State toll road corridor land**

- (1) The Minister may, by gazette notice, declare the following land to be State toll road corridor land—
  - (a) non-freehold land (including a road or reserve, or part of a road or reserve, under the *Land Act 1994*) on or within

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which road transport infrastructure or rail transport infrastructure is situated;

- (b) land, not mentioned in paragraph (a), that is held by the State.
- (2) The land must be—
- (a) identified specifically in the gazette notice; or
  - (b) identified generally in the gazette notice, and identified specifically in documents described in the gazette notice and available to be read at an office of the department mentioned in the gazette notice.
- (3) The declaration of land as State toll road corridor land may be subject to conditions, included in the declaration under subsection (1), the Minister considers necessary or desirable in the circumstances.
- (4) The Minister must, in a declaration under subsection (1), declare the terms for section 84C(5)(d) that are to apply to the lease of the land to the State under section 84C(4)(a).
- (5) The terms mentioned in subsection (4) must—
- (a) have been agreed to by the Minister administering the *Land Act 1994*; and
  - (b) be consistent with section 84C(5)(a) to (c).
- (6) The Minister may, in a declaration under subsection (1), declare that a stated interest in land declared to be State toll road corridor land continues in relation to—
- (a) the lease of the land to the State under section 84C(4)(a); or
  - (b) a lease of the land by the State to another person under section 84C(6).
- (7) In this section—

***non-freehold land*** means non-freehold land under the *Land Act 1994*.

[s 84B]

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## **84B State toll road corridor land on rail corridor land**

- (1) This section applies if—
  - (a) the Minister intends to declare land to be State toll road corridor land under section 84A; and
  - (b) a level crossing is situated partly on the land and partly on rail corridor land.
- (2) Before making the declaration, the Minister must—
  - (a) consult with the railway manager, if any, for the rail corridor land; and
  - (b) give the railway manager a reasonable opportunity to make submissions to the Minister about the intended declaration.
- (3) If the Minister decides to declare the land to be State toll road corridor land, the declaration must also declare the part of the rail corridor land on which the level crossing is partly situated to be a common area (the *common area*) for the rail corridor land and the State toll road corridor land.
- (4) When the common area is declared—
  - (a) the relevant person may construct, maintain and operate a toll road, and transport infrastructure relating to a toll road, on the common area in a way not inconsistent with its use as rail corridor land; and

*Examples for paragraph (a)—*

    - filling in a pothole on a toll road
    - erecting a sign about safety matters on a toll road
  - (b) the railway manager, if any, for the rail corridor land may construct, maintain and operate a railway on the common area in a way not inconsistent with its use as a toll road; and
  - (c) the railway manager and its agents or employees do not have any liability for the toll road or its use or operation on the common area.

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- (5) Unless the relevant person and the railway manager, if any, for the rail corridor land otherwise agree—
- (a) subject to section 251, the relevant person is responsible for maintaining a toll road, and transport infrastructure relating to a toll road, on the common area; and
  - (b) if the toll road on the common area stops being used, the relevant person is responsible for the cost of removing road transport infrastructure from the common area and restoring the railway.
- (6) The State is taken not to be in breach of any of its obligations in a sublease of the rail corridor land, whether entered into before or after the commencement of this section, between the State and the railway manager by—
- (a) the Minister's declaration; or
  - (b) anything done by the chief executive under this chapter for the common area.
- (7) If a declaration under section 84A includes a common area—
- (a) the chief executive must, as soon as practicable, give a copy of the gazette notice of the declaration to the registrar of titles; and
  - (b) the registrar of titles must record the declaration on the relevant lease of the rail corridor land to the State and any affected sublease in the leasehold land register; and
  - (c) any existing common area on the part of the rail corridor land where the level crossing is situated is, on the publication of the declaration, extinguished.
- (8) In this section—
- level crossing** means a level crossing and its associated infrastructure.
- relevant person**, for State toll road corridor land, means—
- (a) the chief executive; or

[s 84C]

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- (b) if the State toll road corridor land has been leased under section 84C(6)—the person to whom the land has been leased.

### **84C Effect on land of State toll road corridor land declaration**

- (1) If a road or reserve, or part of a road or reserve, under the *Land Act 1994* is declared under section 84A to be State toll road corridor land, the road or reserve, or the part—
  - (a) stops being a road or reserve under that Act; and
  - (b) becomes unallocated State land.
- (2) If a lot, or part of a lot, under the *Land Title Act 1994* is declared under section 84A to be State toll road corridor land, the lot or part becomes unallocated State land.
- (3) If land, other than land mentioned in subsection (1) or (2) or unallocated State land, is declared under section 84A to be State toll road corridor land, the land becomes unallocated State land.
- (3A) If, immediately before the declaration of land as State toll road corridor land, public utility plant was located on the land, the declaration does not affect the ownership of the public utility plant.
- (3B) Subject to subsection (3A), land that becomes unallocated State land under subsection (1), (2) or (3) is free of any interest or obligation other than the interests in the land, if any, continued under section 84A(6).
- (4) The Minister administering the *Land Act 1994*—
  - (a) is taken to have leased the State toll road corridor land to the State under the *Land Act 1994*, section 17(2) when the declaration is made; and
  - (b) must lodge a document evidencing the lease in the leasehold land register.
- (5) The lease is—
  - (a) in perpetuity; and

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- (b) if demanded, for a rent of \$1 a year; and
  - (c) subject to the interests in the State toll road corridor land, if any, continued in relation to the lease under section 84A(6)(a); and
  - (d) on the terms stated in the declaration of the State toll road corridor land under section 84A(4).
- (6) The State may lease State toll road corridor land to another person.
- (6A) A person to whom the State has leased State toll road corridor land, or a person who holds a lease under the lease from the State, may lease the State toll road corridor land to another person.
- (7) Each lease under subsection (6) or (6A) may include an option to renew the lease.
- (8) The terms of the lease under subsection (6), including an option to renew the lease, and a renewed lease are—
- (a) to be decided by the Minister; and
  - (b) subject to the interests in the State toll road corridor land, if any, continued in relation to the lease under section 84A(6)(b).
- (9) The *Land Act 1994*, sections 157, 183, 204, 211 and 336(2)(a) and (c) do not apply to a lease or sublease of State toll road corridor land.
- (10) If an interest that is a registered interest is continued under section 84A(6), the registrar of titles must record the interest in the leasehold land register against the lease in relation to which it is continued.
- (11) In this section—
- registered interest*** means—
- (a) an interest recorded in a register kept under the *Land Act 1994*, section 276; or
  - (b) a registered interest under the *Land Title Act 1994*.

[s 84D]

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## **84D Compensation**

- (1) Subsection (3) applies to a person who has an interest in land declared to be State toll road corridor land under section 84A.
- (2) However, subsection (3) does not apply if the interest—
  - (a) is continued under section 84A(6); or
  - (b) is an interest under a services contract for the land.
- (3) The person has a right to claim compensation under the *Acquisition of Land Act 1967*, section 12(5A) and (5B) and part 4 as if the interest were land taken by the State under that Act.
- (4) For applying the *Acquisition of Land Act 1967* under subsection (3)—
  - (a) the State is the constructing authority; and
  - (b) for section 24(2A) of that Act, a claimant refers a claim for compensation to the Land Court by filing in the office of the registrar of the court copies of the claim given by the claimant to the State and the gazette notice for the declaration; and
  - (c) the reference in section 24(5) of that Act to the date of the gazette containing the gazette resumption notice taking the land is taken to be a reference to the date of the gazette containing the gazette notice for the declaration.
- (5) Other than as stated in this section, a person has no right to compensation for the declaration of land as State toll road corridor land under section 84A.

## **Division 3 Franchised roads**

### **85 Power to enter into road franchise agreements**

- (1) The Minister may, for the State, enter into an agreement (a *road franchise agreement*) with a person under which, or as

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part of which, the person is to invest in the construction, maintenance or operation of road transport infrastructure.

- (2) The agreement must be consistent with—
  - (a) the coordination plan; and
  - (b) the objectives of this Act; and
  - (c) the current transport infrastructure strategies; and
  - (d) the obligations about government supported transport infrastructure set out in section 9.
- (3) The agreement may include, for example—
  - (a) provisions about the ownership of the road transport infrastructure; or
  - (b) provisions about tolls for the use of the road transport infrastructure; or
  - (c) provisions about administration charges in relation to tolls for the use of the road transport infrastructure.

### **85A Franchised road on rail corridor land**

- (1) If, under section 85, the Minister intends to enter into a road franchise agreement involving the construction, maintenance or operation of a road, or part of a road, that crosses rail corridor land and continues on the other side of the rail corridor land, the Minister must—
  - (a) consult with the railway manager, if any, for the rail corridor land; and
  - (b) give the railway manager a reasonable opportunity to make submissions to the Minister about the intended declaration.
- (2) If the Minister enters into the road franchise agreement, the Minister must, by gazette notice, declare the part of the rail corridor land where it is crossed by the road to be a common area (*common area*) for the rail corridor land and the franchised road.

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- (3) The declaration of the common area must be made as soon as practicable after the Minister enters into the road franchise agreement.
- (4) After the common area is declared—
  - (a) the franchisee may construct, maintain or operate a franchised road on the common area in a way not inconsistent with its use as rail corridor land; and  
*Examples for paragraph (a)—*
    - a bridge or other structure over a railway
    - a bridge or other structure that allows the franchised road to pass under the railway
  - (b) the railway manager, if any, for the rail corridor land may construct, maintain and operate a railway on the common area in a way not inconsistent with its use as a franchised road; and
  - (c) the railway manager and its agents or employees do not have any liability for the franchised road or its use or operation on the common area.
- (5) Unless the franchisee and the railway manager, if any, for the rail corridor land otherwise agree—
  - (a) subject to section 251, the franchisee is responsible for maintaining a franchised road on the common area; and
  - (b) if the franchised road on the common area stops being used, the franchisee is responsible for the cost of removing road transport infrastructure from the common area and restoring the railway.
- (6) The State is taken not to be in breach of any of its obligations in a sublease of the rail corridor land, whether entered into before or after the commencement of this section, between the State and the railway manager by—
  - (a) the road franchise agreement; or
  - (b) anything done by the franchisee under this chapter for the common area.

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- (7) After the common area is declared—
- (a) the chief executive must, as soon as practicable, give a copy of the gazette notice of the declaration to the registrar of titles; and
  - (b) the registrar of titles must record the declaration on the relevant lease of the rail corridor land to the State and any affected sublease in the leasehold land register; and
  - (c) any existing common area on the part of the rail corridor land where it is crossed by the franchised road is, on the publication of the declaration, extinguished.

**85B Application of Queensland Heritage Act 1992 for development for a franchised road**

- (1) This section applies to development for a franchised road if the development is proposed to be carried out in relation to a registered place under the *Queensland Heritage Act 1992*.
- (2) The development is taken to be development proposed to be carried out by the State to which section 71 of that Act applies.
- (3) In this section—  
*development* see the Planning Act, section 7.

**86 Tabling of road franchise agreements**

The Minister must table each road franchise agreement, and each amendment of a road franchise agreement, in the Legislative Assembly as soon as practicable after it is entered into.

**87 Report on operation of part**

Each annual report of the department must include a report on the operation of this part during the financial year to which the report relates.

## **88 Recovery of money**

If a road franchise agreement provides that the Minister may recover an amount from a franchisee, the amount may be recovered as a debt payable by the franchisee to the State.

## **89 Rateability of land**

(1) In this section—

*road franchise agreement land* means land on which is situated road transport infrastructure to which a road franchise agreement applies.

(2) A regulation may provide that road franchise agreement land is not rateable under the *Local Government Act 1993* or the *City of Brisbane Act 1924*.

## **90 Application of other provisions of this chapter**

(1) The provisions of parts 1 to 5, and regulations made for the parts, apply to a franchised road as if it were a State-controlled road.

(2) A regulation may—

(a) prescribe changes to the way the provisions apply to a particular franchised road; or

(b) declare that some of the provisions do not apply to a particular franchised road.

## **91 Guarantees and undertakings**

For the purpose of giving guarantees or undertakings to a franchisee, the following sections of the *Statutory Bodies Financial Arrangements Act 1982* apply, with all necessary changes and any changes prescribed by regulation, to the franchisee as if the franchisee were a statutory body within the meaning of the Act—

- section 14 (Conditions precedent to financial arrangements and other matters)
- section 16 (Guarantees for the State)
- section 18 (Requirement for security)
- section 19 (Guarantee may include waiver of immunity and other provisions)
- section 20 (Guarantee not affected by transfer of liability)
- part 3, division 3 (Consequences if payment required under guarantee).

## Part 7 Toll roads

### Division 1 Preliminary

#### 92 Definitions for pt 7

In this part—

*designated vehicle* means a vehicle, other than an exempt vehicle, of a type liable for a toll under a gazette notice under section 93.

*E toll system* means an electronic system operated by a toll road operator for the recording, or the recording and meeting, of liability for a toll for use of the toll road.

*prescribed time*, for a notice given to a person under division 3, means 30 days, or the greater number of days stated in the notice, after the notice is given.

*toll road* means a road, or part of a road, in relation to which a toll has become payable for use of the road or part of the road, under a declaration under section 93.

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***toll road operator*** means—

- (a) if the relevant toll road is the subject of a road franchise agreement—the person stated in the agreement as the person who is to operate the toll road; or
- (b) otherwise—the chief executive.

***user administration charge***, for a toll, means the user administration charge set, under a gazette notice under section 93, for persons making payment of the toll other than in cash or by use of a touch tag or the E toll system.

## **Division 2                      Toll roads and toll payment requirements**

### **93            Tolls**

- (1) The Minister may, by gazette notice, declare a toll may be payable for use of any of the following—
  - (a) a State-controlled road or part of a State-controlled road;
  - (b) a franchised road or part of a franchised road;
  - (c) a road to be constructed under a road franchise agreement;
  - (d) State toll road corridor land or part of State toll road corridor land.
- (2) A declaration under subsection (1) must include notice of the matters mentioned in schedule 5 for the toll road.
- (3) A toll may be set in a way that applies differently—
  - (a) to different classes of vehicles; or
  - (b) by reference to stated exceptions or factors.
- (4) Subsection (3) does not limit schedule 5 or the *Statutory Instruments Act 1992*.

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- (5) An administration charge, under a gazette notice under subsection (1), for a toll must not be more than the reasonable cost, under this division, of issuing a notice for, and collecting, the unpaid toll and administration charge for the toll.
  - (6) A user administration charge, under a gazette notice under subsection (1), for a toll must not be more than the reasonable cost, under this division, of administering and collecting payment of the toll.

**93A Application of Queensland Heritage Act 1992 for development for a toll road**

- (1) This section applies to development for a toll road if the development is proposed to be carried out in relation to a registered place under the *Queensland Heritage Act 1992*.
- (2) The development is taken to be development proposed to be carried out by the State to which section 71 of that Act applies.
- (3) In this section—  
*development* see the Planning Act, section 7.

**94 Liability for toll and user administration charge and satisfying the liability**

- (1) The driver of a designated vehicle entering, or on, a toll road is liable, at each toll plaza through which the vehicle passes, for—
  - (a) the toll payable at the toll plaza for the use of the toll road by the vehicle; and
  - (b) if the driver satisfies the driver's liability under paragraph (a) other than in cash or by use of a touch tag or the E toll system—the user administration charge for the toll.

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- (2) The amount of any unpaid toll or user administration charge may be recovered by the toll road operator as a debt from the driver, subject to any applicable agreement made by the toll road operator.
- (3) However, the driver is not liable to pay the amount of the user administration charge for the toll if the toll is unpaid because—
  - (a) the driver's transponder or other electronic device is faulty through no fault of the driver and the driver is unaware it is faulty; or
  - (b) the E toll system is faulty or otherwise inoperable.
- (3A) The driver may satisfy the driver's liability for the toll payable at a toll plaza by—
  - (a) if a part of the toll plaza is designated by appropriate signs as available for making a toll payment in cash—making a payment in cash of the toll payable; or
  - (b) if a part of the toll plaza is designated by appropriate signs as available for making a toll payment by using a touch tag—using a touch tag as required by the toll road operator; or
  - (c) if there is an E toll only pay point at the toll plaza, or another part of the toll plaza designated by appropriate signs as available for using the E toll system—using the E toll system as required under section 95(1); or
  - (d) if a gazette notice under section 93 provides another way of making the payment—making the payment in that way.
- (4) If the designated vehicle is at an E toll only pay point at the toll plaza, the driver may satisfy the driver's liability for the toll only by using the E toll system in accordance with the requirements of section 95(1).

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## 95 Using the E toll system

- (1) The following requirements apply for using the E toll system to satisfy a driver's liability under section 94 for the toll payable at a toll plaza—
  - (a) a properly operating transponder or other electronic device is in, or fitted to, the designated vehicle;
  - (b) the transponder or other device—
    - (i) was issued for a vehicle of the same type as the designated vehicle; and
    - (ii) is linked to a valid account for the E toll system operating for the toll road; and
    - (iii) properly activates the E toll system.
- (2) To remove doubt, it is declared that using the E toll system to satisfy the liability of a designated vehicle's driver for the toll payable at a toll plaza does not affect another contractual obligation owed by the driver or another person to a toll road operator under an applicable agreement made by the toll road operator.

*Example for subsection (2)—*

The arrangements for a person's account with a toll road operator may provide that the person will be billed at the end of each month for all the times the transponder issued to the person has been used at toll plazas in the month.

## Division 3 Failure to pay toll

### 96 Application of div 3

This division applies if—

- (a) a designated vehicle passes through a toll plaza; and
- (b) the driver does not, under section 94(3A), satisfy the driver's liability for the toll payable at the toll plaza.

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**97 Definition for div 3**

In this division—

*deferred toll amount* means the total of the following amounts—

- (a) the amount of the toll for which the driver's liability was not satisfied under section 94(3A);
- (b) the amount of the administration charge for the toll.

**98 Liability for administration charge in addition to unpaid toll**

- (1) If this division applies to a driver, the driver immediately becomes liable to pay the toll road operator, in addition to the unpaid toll, the amount of the administration charge for the toll.
- (2) However, the driver is not liable under subsection (1) to pay the amount of the administration charge for the toll if the toll is unpaid because—
  - (a) the driver's transponder or other electronic device is faulty through no fault of the driver and the driver is unaware it is faulty; or
  - (b) the E toll system is faulty or otherwise inoperable.

**99 Notice to vehicle's registered operator**

- (1) The toll road operator may give a notice under this section only if the toll road operator has not received the deferred toll amount.
- (2) The toll road operator may give the registered operator of the vehicle a written notice in the approved form requiring the registered operator, within the prescribed time for the notice—
  - (a) to pay the toll road operator the deferred toll amount; or

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- (b) to give the toll road operator the registered operator's statutory declaration in the approved form containing information that—
- (i) if the registered operator is an individual—establishes, to the extent it is reasonably practicable for the registered operator to do so, that the registered operator was not the driver; and
  - (ii) gives the toll road operator all the help the registered operator can reasonably give for establishing the driver's name and address.
- (3) The registered operator must comply with the notice given under subsection (2) unless the registered operator has a reasonable excuse.
- Maximum penalty—15 penalty units.
- (4) For giving the notice under subsection (2), the registered operator's address for service may be taken to be the address recorded for the registered operator under the registration Act applying to the designated vehicle's registration.

### **99A Corporation may be taken to be driver of vehicle**

- (1) This section applies if the registered operator of the vehicle—
- (a) is a corporation; and
  - (b) fails to give the toll road operator all the help, under section 99(2)(b)(ii), the registered operator can reasonably give to enable the toll road operator to establish the name and address of the driver of the vehicle.
- (2) The registered operator of the vehicle is taken to be the driver of the vehicle for sections 94 and 98.

## **100 Notice to information holder**

- (1) The toll road operator may give a notice under this section only if the toll road operator—
  - (a) has not received the deferred toll amount; and
  - (b) considers, on reasonable grounds, that a person (the *information holder*) other than the vehicle's registered operator has information that could help the toll road operator establish the name and address of the driver.
- (2) The toll road operator may give the information holder a written notice in the approved form requiring the information holder, within the prescribed time for the notice, to give the toll road operator a statutory declaration complying with subsection (3).
- (3) The statutory declaration must—
  - (a) be made by the information holder; and
  - (b) be in the approved form; and
  - (c) contain information giving the toll road operator all the help the information holder can reasonably give for establishing the driver's name and address.
- (4) The information holder must comply with the notice given under subsection (2) unless the information holder has a reasonable excuse.

Maximum penalty for subsection (4)—15 penalty units.

## **101 Notice to person identified as driver**

- (1) The toll road operator may give a notice under this section only if the toll road operator—
  - (a) has not received the deferred toll amount; and
  - (b) considers, on reasonable grounds, that the toll road operator has correctly identified the person (the *identified person*) who was the driver.

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- (2) The toll road operator may give the identified person a written notice in the approved form requiring the identified person, within the prescribed time for the notice—
- (a) to pay the toll road operator the deferred toll amount; or
  - (b) to give the toll road operator the identified person's statutory declaration in the approved form containing information that—
    - (i) establishes, to the extent it is reasonably practicable for the identified person to do so, that the identified person was not the driver; and
    - (ii) gives the toll road operator all the help the identified person can reasonably give for establishing the driver's name and address.
- (3) The identified person must comply with the notice given under subsection (2) unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—15 penalty units.

## **102 Statutory declarations for div 3**

- (1) A statutory declaration given by a person under this division may, if appropriate, be supported by statutory declarations in the approved form from other persons.
- (2) If a person required to give a statutory declaration under this division is a body corporate, the statutory declaration must be given by a person authorised to act for the body corporate.

## **103 Limit on offences**

If this division applies more than once because of a failure to pay a toll at each of 2 or more toll plazas on the 1 toll road in a single journey, a person liable for an offence under this division arising out of the journey may not be punished for more than 1 offence.

## Division 4                      Miscellaneous

### 104      Confidentiality

- (1) A person must not, intentionally or recklessly, disclose, allow access to, record or use personal information.

Maximum penalty—200 penalty units.

- (2) However, a person may disclose, allow access to, record or use personal information—

(a) in the discharge of a function related to the administration of this part; or

(b) if authorised, expressly or impliedly—

(i) under another provision of this Act, or under another Act; or

(ii) by the individual whose identity is apparent, or can reasonably be ascertained, from the personal information; or

(c) for a proceeding in a court or tribunal, if the personal information is admissible as evidence in the proceeding; or

(d) if the purpose for which the action is taken is directly related to the purpose for which the personal information was obtained; or

(e) if the person believes on reasonable grounds that the action is necessary to prevent or lessen a serious and imminent threat to the life or health of an individual.

- (3) In this section—

*administration of this part* includes the operation of a toll road under this part.

*personal information* means information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, that—

- (a) has been gained or otherwise brought into existence—
  - (i) through involvement in the administration of this part; or
  - (ii) because of an opportunity provided by involvement in the administration of this part; and
- (b) is about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

## **105 Evidence and procedure**

- (1) For this part—
  - (a) it is not necessary to prove the appointment of an official; and
  - (b) a signature purporting to be the signature of an official is evidence of the signature it purports to be; and
  - (c) a certificate stating any of the following matters is evidence of the matter—
    - (i) a stated place was or was not a toll road or part of a toll road;
    - (ii) a stated place was or was not a toll plaza or part of a toll plaza;
    - (iii) a stated person was or was not recorded as the registered operator of a stated vehicle;
    - (iv) a stated vehicle was or was not a designated vehicle of a stated type;
    - (v) the toll payable for a vehicle's use of a toll road has not been paid;
    - (vi) the administration charge for a toll has not been paid;
    - (vii) a statutory declaration required for division 3 was or was not received;

[s 105]

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(viii) a recording is a recording of a type mentioned in subsection (3).

- (2) A certificate—
- (a) may relate to a stated time or period of time; and
  - (b) if it is issued for a particular period, has the effect mentioned in subsection (1)(c) for the entire period.
- (3) A recording by a photographic, mechanical, electronic or other device for the purpose of administering this part, including for the operation of a toll road under this part, is evidence—
- (a) that the recording was made; and
  - (b) of the accuracy of the recording; and
  - (c) of the matters stated in the recording.
- (4) For this section—

***certificate*** means a certificate purporting to be signed by an official.

***official*** means—

- (a) the chief executive, or a suitably qualified officer or employee of the department acting under the authority of the chief executive; or
- (b) the chief executive officer, however named, of a toll road operator, or a suitably qualified employee of the toll road operator acting under the authority of the chief executive officer.

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## Part 8 Local government tollways

### Division 1 Preliminary

#### 105A Objectives of pt 8

The objectives of this part are—

- (a) to provide a framework for the management and operation of local government tollway corridor land; and
- (b) to ensure transport infrastructure on local government tollway corridor land is—
  - (i) developed as an integrated and affordable transport system consistent with public transport infrastructure and the existing road network; and
  - (ii) integrated with the objectives of land use planning; and
  - (iii) provided in a coordinated and efficient way with an acceptable level of community access; and
  - (iv) responsive to community needs and the challenges of further growth; and
  - (v) financially viable.

#### 105B Definitions for pt 8

In this part—

***approved tollway project*** means a tollway project approved under section 105C(2) to be an approved tollway project.

***compliance notice*** see section 105GC(2).

***declaration***, for a local government tollway, means a declaration under section 105GA as in force from time to time.

[s 105B]

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***designated vehicle*** means a vehicle, other than an exempt vehicle, of a type in relation to which a toll is payable under a notice under section 105ZB(1).

***E toll system*** means an electronic system operated by a local government tollway operator for the recording, or the recording and meeting, of liability for a toll for use of the local government tollway.

***final notice*** see section 105GE(4).

***local government franchised road*** means land to which a local government tollway franchise agreement applies, and includes facilities identified in the local government tollway franchise agreement that are on or for the tollway and relate to the operation or servicing of the tollway or facilities for tollway users.

***local government franchisee*** means a person with whom a local government has entered into a local government tollway franchise agreement.

***local government tollway*** see section 105GA(5).

***local government tollway corridor land***—

- (a) for division 4—see section 105L; or
- (b) otherwise—means land declared under section 105H to be local government tollway corridor land.

***local government tollway franchise agreement*** see section 105Y.

***local government tollway infrastructure*** means transport infrastructure relating to local government tollways.

***local government tollway infrastructure works*** means works done for—

- (a) constructing local government tollway infrastructure or things associated with local government tollway infrastructure; or

- (b) maintaining local government tollway infrastructure or things associated with local government tollway infrastructure; or
- (c) facilitating the operation of local government tollway infrastructure or things associated with local government tollway infrastructure.

***local government tollway operator***, for a local government tollway, means—

- (a) if the local government tollway is the subject of a local government tollway franchise agreement—the person stated in the agreement as the person who is to operate the local government tollway; or
- (b) otherwise—the relevant local government.

***matter***, in relation to a contravention, means any matter arising because of the contravention.

***prescribed time***, for a notice given to a person under division 6, subdivision 3, means 30 days, or the greater number of days stated in the notice, after the notice is given.

***relevant notice*** see section 105GH(1).

***revocation notice*** see section 105GD(2)(b).

***schedule 5 step-in notice*** see section 105GF(2).

***schedule 5A step-in notice*** see section 105GG(2).

***suspension notice*** see section 105GD(2)(a).

***tollway project*** means a project for the development and construction of a tollway, including local government tollway infrastructure.

***user administration charge***, for a toll, means the user administration charge set, under a notice under section 105ZB(1), for persons making payment of the toll other than in cash or by use of the E toll system.

## **Division 2                      Approval of tollway project**

### **105C Approval of tollway project**

- (1) A local government may, by written notice given to the Minister, ask the Minister for approval for a tollway project.
- (2) The Minister may, by written notice given to the local government, approve the tollway project to be an approved tollway project.
- (3) Without limiting the matters to which the Minister may have regard in deciding whether to approve a tollway project, the Minister may have regard to the following matters—
  - (a) whether the tollway project is viable or likely to be viable, including, for example, whether the tollway under the tollway project will be economically, financially and technically viable;
  - (b) whether the funding of the tollway project is viable or likely to be viable, including, for example, whether funding of the tollway project provides the local government with the best value for money outcome;
  - (c) whether the tollway project—
    - (i) meets an identified community need; and
    - (ii) fits with transport plans prepared by the State; and
    - (iii) is considered to be a priority by the State;
  - (d) whether the tollway project has an impact on other transport infrastructure policies, priorities and services;
  - (e) whether there is an alternative road for which a toll is not charged and that offers an acceptable level of service;
  - (f) the proposed methodology or strategy for charging tolls for use of the tollway.
- (4) The approval of a tollway project may be subject to conditions, included in the notice under subsection (2), about

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matters the Minister considers necessary or desirable in the circumstances, including, for example, a matter mentioned in subsection (3).

- (5) This section is in addition to and not in substitution for—
- (a) the *State Development and Public Works Organisation Act 1971*; or
  - (b) the *Statutory Bodies Financial Arrangements Act 1982*.

### **105E Minister may amend approval**

- (1) This section applies if the Minister is reasonably satisfied there is a material change of a type mentioned in section 105ZOA to an approved tollway project.
- (2) The Minister may, at any time during the currency of the approval for the approved tollway project, amend the approval by written notice given to the local government.
- (3) The Minister may amend the approval by—
  - (a) imposing a condition on the approval; or
  - (b) amending a condition on the approval; or
  - (c) removing a condition on the approval.
- (4) For subsection (2), the Minister may amend the approval—
  - (a) because of a notice given under section 105ZOA of a material change; or
  - (b) on the Minister's own initiative.
- (5) An amendment of an approval takes effect on the day the notice of the amendment is given to the local government or the later day stated in the notice.

### **105F When approval has effect**

An approval under section 105C(2)—

[s 105G]

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- (a) starts on the day the Minister gives the local government written notice under that subsection about the approval; and
- (b) ends on the earlier of the following days—
  - (i) the day the Minister declares, under section 105GA, the land the subject of the approved tollway project to be a local government tollway;
  - (ii) the day the Minister revokes the approval.

*Note—*

For the way in which the power to revoke an approval is exercisable, see the *Acts Interpretation Act 1954*, section 24AA.

## **Division 2A            Local government tollway**

### **Subdivision 1        Declaration**

#### **105G   Request for declaration**

- (1) A local government that has an approved tollway project may, by written notice given to the Minister, ask the Minister to declare a local government tollway for the approved tollway project.
- (2) The request must be accompanied by a plan of the proposed local government tollway.
- (3) After receiving the application and the plan, the Minister may, by written notice given to the local government, ask the local government to give the Minister, within the reasonable time stated in the notice—
  - (a) further information or documents about the approved tollway project or proposed local government tollway; or

- (b) a revised plan or another plan for the local government tollway.
- (4) If the local government does not comply with a request made under subsection (3), the Minister may make the decision about the declaration without the further information or document or revised or other plan.

### **105GA Declaration**

- (1) If the Minister receives a request under section 105G, the Minister may, by gazette notice, declare that any of the following is a local government tollway—
  - (a) a local government franchised road or part of a local government franchised road;
  - (b) local government tollway corridor land or part of local government tollway corridor land.
- (2) Without limiting the matters to which the Minister may have regard in deciding whether to declare a local government tollway for an approved tollway project, the Minister may have regard to the following matters—
  - (a) whether there have been any material changes to the approved tollway project;
  - (b) whether the local government has complied with conditions to which, under division 2, the approved tollway project is subject;
  - (c) whether the local government has complied with all other requirements relevant to the approved tollway project under an Act.
- (3) The Minister may, by the gazette notice mentioned in subsection (1), impose the conditions that the Minister considers necessary in the circumstances on the declaration of a local government tollway.
- (4) A condition must be about a matter mentioned in schedule 5 or 5A.

[s 105GB]

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- (5) In this section, a *local government tollway* means a local government tollway declared under this section and, if the context permits, includes the maintenance or operation of the local government tollway.

### **105GB Amendment etc. of declaration or conditions at request of local government**

- (1) A local government for which the declaration of a local government tollway has been made may, by written notice given to the Minister, ask the Minister—
- (a) to amend the description of the local government tollway because the boundaries of the land described in the declaration are not stated with adequate certainty; or
  - (b) to amend the declaration by including additional land in, or omitting land from, the declaration; or
  - (c) to impose, amend or remove a condition on the declaration about a matter mentioned in schedule 5 or 5A.
- (2) A request under subsection (1)(a) or (b) must be accompanied by a plan of the local government tollway, identifying the land for which the amendment is sought.
- (3) The Minister may, by gazette notice, amend the declaration as the Minister considers necessary or desirable in the circumstances.
- (4) If the local government makes a request under subsection (1)(c), the Minister may, by gazette notice—
- (a) if the request relates to a condition mentioned in schedule 5—impose, amend or remove a condition on the declaration about a matter mentioned in schedule 5 as the Minister considers necessary or desirable; or
  - (b) if the request relates to a condition mentioned in schedule 5A—impose, amend or remove a condition on the declaration about a matter mentioned in schedule 5A as the Minister considers necessary or desirable.

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- (5) An amendment of a declaration or the imposition, amendment or removal of a condition under this section—
- (a) if the amendment relates to a request under subsection (1)(a)—is taken to have had effect from the day on which the declaration of the local government tollway took effect; or
  - (b) otherwise—takes effect from the day the gazette notice is published.

## **Subdivision 2 Compliance with conditions of declaration**

### **105GC Compliance notice**

- (1) This section applies if the Minister reasonably believes a condition imposed on a declaration of a local government tollway is being, or has been, contravened by—
- (a) the local government; or
  - (b) if the local government has entered into a local government tollway franchise agreement for the tollway—the local government franchisee.
- (2) The Minister may give the local government a notice (*a compliance notice*) requiring the local government—
- (a) if the local government is contravening, or has contravened, the condition—
    - (i) to stop contravening the condition; or
    - (ii) to stop contravening the condition and rectify the matter; or
    - (iii) to rectify the matter; or
  - (b) if the local government franchisee is contravening, or has contravened, the condition—

[s 105GC]

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- (i) to ensure the local government franchisee stops contravening the condition; or
  - (ii) to ensure the local government franchisee stops contravening the condition and the local government to rectify, or ensure the local government franchisee rectifies, the matter; or
  - (iii) to rectify, or ensure the local government franchisee rectifies, the matter.
- (3) The compliance notice must state the following—
  - (a) that the Minister believes the local government or local government franchisee is contravening, or has contravened, a condition imposed on the declaration of the local government tollway;
  - (b) the condition the Minister believes is being, or has been, contravened;
  - (c) briefly, how it is believed the condition is being, or has been, contravened;
  - (d) if the notice requires the local government to rectify, or ensure the local government franchisee rectifies, a matter—
    - (i) the matter the Minister believes is reasonably capable of being rectified; and
    - (ii) the steps the local government must take to rectify, or ensure the local government franchisee rectifies, the matter; and
    - (iii) the stated reasonable period, not less than 7 days after the day the compliance notice is given, in which the local government must take the steps or ensure the local government franchisee has taken the steps;
  - (e) that if the contravention continues or the matter is not rectified as required, the Minister may take action described in the notice under section 105GD, 105GF or 105GG.

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- (4) If the local government has entered into a local government tollway franchise agreement for the local government tollway, the Minister must also give a copy of the compliance notice to the local government franchisee.
  - (5) The local government must, as required by the compliance notice and unless the local government has a reasonable excuse—
    - (a) stop contravening the condition or rectify the matter; or
    - (b) ensure the local government franchisee stops contravening the condition or rectifies the matter.

#### **105GD Failure to comply with compliance notice if no local government tollway franchise agreement**

- (1) This section applies if—
  - (a) the Minister has given a local government a compliance notice; and
  - (b) the local government fails to stop contravening the condition, or fails to rectify the matter, as required by the compliance notice; and
  - (c) the local government—
    - (i) has not entered into a local government tollway franchise agreement for the local government tollway; or
    - (ii) has entered into a local government tollway franchise agreement for the local government tollway but the agreement has ended.
- (2) The Minister may—
  - (a) by written notice (a *suspension notice*) given to the local government, declare that a toll stops being payable for the use of the local government tollway for a period stated in the notice; or
  - (b) give the local government a notice (a *revocation notice*) that states the following—

[s 105GE]

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- (i) that the Minister believes the local government has failed to stop contravening the condition, or failed to rectify the matter, as required by the compliance notice;
  - (ii) briefly, how it is believed the local government has failed to stop contravening the condition, or failed to rectify the matter, as required by the compliance notice, including any of the matters mentioned in section 105GC(3) that are still relevant for the revocation notice;
  - (iii) the steps the local government must take to stop contravening the condition or rectify the matter;
  - (iv) the stated reasonable period, not less than 7 days after the day the revocation notice is given, in which the contravention must stop or the matter must be rectified;
  - (v) that if, within the stated reasonable period, the contravention does not stop or the matter is not rectified, the Minister intends to revoke the declaration of the local government tollway.
- (3) The local government must comply with the revocation notice, unless the local government has a reasonable excuse.

### **105GE Effect of revocation notice or suspension notice**

- (1) Subsection (2) applies if—
  - (a) the Minister gives a local government a revocation notice; and
  - (b) the local government fails to stop contravening the condition or fails to rectify the matter, as required by the revocation notice.
- (2) The Minister may, by gazette notice, revoke the declaration of the local government tollway.

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- (3) A gazette notice under subsection (2) takes effect from the day the gazette notice is published or the later day stated in the gazette notice.
  - (4) As soon as practicable after revoking a declaration under subsection (2), the Minister must give the local government a notice (a *final notice*) about the revocation of the declaration.
  - (5) If the Minister gives the local government a suspension notice—
    - (a) the suspension notice has effect for the period stated in the suspension notice; and
    - (b) a person is not liable, under section 105ZC, to pay a toll for the use of the local government tollway for the period.

### **105GF Failure to comply with compliance notice for schedule 5 condition**

- (1) This section applies if—
  - (a) a local government has entered into a local government tollway franchise agreement for the local government tollway; and
  - (b) the Minister has given the local government a compliance notice; and
  - (c) the local government or local government franchisee fails to stop contravening the condition, or fails to rectify the matter, as required by the compliance notice; and
  - (d) the condition is a condition mentioned in schedule 5.
- (2) The Minister may give the local government a notice (a *schedule 5 step-in notice*) that states the following—
  - (a) that the Minister believes the local government or local government franchisee has failed to stop contravening the condition, or failed to rectify the matter, as required by the compliance notice;

[s 105GF]

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- (b) briefly, how it is believed the local government or local government franchisee has failed to stop contravening the condition, or failed to rectify the matter, as required by the compliance notice, including any of the matters mentioned in section 105GC(3) that are still relevant for the schedule 5 step-in notice;
  - (c) the steps the local government must take—
    - (i) to stop contravening the condition or to rectify the matter; or
    - (ii) to ensure the local government franchisee stops contravening the condition or rectifies the matter;
  - (d) the stated reasonable period, not less than 7 days after the day the schedule 5 step-in notice is given, in which the contravention must stop or the matter must be rectified;
  - (e) that if, within the stated reasonable period, the contravention does not stop or the matter is not rectified, the chief executive may exercise powers under subsection (4).
- (3) The local government must, as required by the schedule 5 step-in notice and unless the local government has a reasonable excuse—
- (a) stop contravening the condition or rectify the matter; or
  - (b) ensure the local government franchisee stops contravening the condition or rectifies the matter.
- (4) If the local government fails to comply with the schedule 5 step-in notice, the chief executive may exercise the powers of the local government under the local government tollway franchise agreement for the purpose of, and only for the purpose of, enforcing the local government's rights under the agreement in relation to the contravention of the condition.
- (5) The chief executive may exercise rights under subsection (4)—
- (a) as if the chief executive were—

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- (i) a party to the local government tollway franchise agreement in place of the local government; and
  - (ii) subject to the requirements imposed on the exercise of the rights by any agreement the local government has made with a financier in relation to the local government tollway; and
  - (iii) entitled to all the indemnities, benefits and protections in favour of the local government under the local government tollway franchise agreement or any ancillary agreement between the local government and the local government franchisee or the local government franchisee's financiers; and
- (b) without relieving the local government from any of its obligations and responsibilities under the local government tollway franchise agreement.
- (6) If the chief executive incurs costs, losses or expenses because of the exercise of powers under subsection (4), the amount of the costs, losses or expenses—
- (a) is a debt payable to the State by the local government; and
  - (b) may be recovered as a debt by action against the local government.
- (7) The Minister must also give a copy of the schedule 5 step-in notice to the local government franchisee.

### **105GG Failure to comply with compliance notice for schedule 5A condition**

- (1) This section applies if—
  - (a) a local government has entered into a local government tollway franchise agreement for the local government tollway; and
  - (b) the Minister has given the local government a compliance notice; and

[s 105GG]

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- (c) the local government fails to stop contravening the condition, or fails to rectify the matter, as required by the compliance notice; and
- (d) the condition is a condition mentioned in schedule 5A.

*Note—*

The notice would not mention the local government franchisee because the conditions in schedule 5A apply only to the local government.

- (2) The Minister may give the local government a notice (a ***schedule 5A step-in notice***) that states the following—
  - (a) that the Minister believes the local government has failed to stop contravening the condition, or failed to rectify the matter, as required by the compliance notice;
  - (b) briefly, how it is believed the local government has failed to stop contravening the condition, or failed to rectify the matter, as required by the compliance notice, including any of the matters mentioned in section 105GC(3) that are still relevant for the schedule 5A step-in notice;
  - (c) the steps the local government must take to stop contravening the condition or to rectify the matter;
  - (d) the stated reasonable period, not less than 7 days after the day the schedule 5A step-in notice is given, in which the contravention must stop or the matter must be rectified;
  - (e) that if, within the stated reasonable period, the contravention does not stop or the matter is not rectified, the chief executive may take steps to stop the contravention or rectify the matter.
- (3) The local government must, as required by the schedule 5A step-in notice, stop contravening the condition or rectify the matter, unless the local government has a reasonable excuse.
- (4) If the local government fails to comply with the schedule 5A step-in notice, the chief executive may take the steps the chief

executive considers necessary to stop the contravention or rectify the matter.

- (5) If the chief executive incurs costs, losses or expenses because of taking steps under subsection (4), the amount of the costs, losses or expenses—
- (a) is a debt payable to the State by the local government; and
  - (b) may be recovered as a debt by action against the local government.

### **Subdivision 3      Appeal**

#### **105GH Decision by Minister in relation to notice**

- (1) This section applies if the Minister decides to give a local government any of the following notices (a *relevant notice*)—
- (a) a compliance notice;
  - (b) a suspension notice;
  - (c) a revocation notice;
  - (d) a final notice;
  - (e) a schedule 5 step-in notice;
  - (f) a schedule 5A step-in notice.
- (2) The relevant notice must state—
- (a) that the local government may appeal against the decision; and
  - (b) that, under the *Transport Planning and Coordination Act 1994*, part 5, division 3, as applied under section 105GI, the local government may ask for the decision to be stayed.

[s 105GI]

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### **105GI Appeal against decision**

- (1) This section applies if a local government is given a relevant notice.
- (2) The local government may appeal to the Supreme Court against the Minister's decision to give the relevant notice.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
  - (a) applies to the appeal as if—
    - (i) references in the division to the chief executive were references to the Minister; and
    - (ii) references in the division to a reviewed decision were references to the decision; and
    - (iii) references in the division to an appeal court or the appeal court were references to the Supreme Court; and
  - (b) provides—
    - (i) for the procedure for the appeal and the way it is to be disposed of; and
    - (ii) that the decision may be stayed by the local government by applying to the Supreme Court.

## **Division 3                      Local government tollway corridor land**

### **105H Declaration of land as local government tollway corridor land**

- (1) A local government that has an approved tollway project or local government tollway may ask the Minister to declare any of the following land to be local government tollway corridor land—
  - (a) land acquired by the local government for the approved tollway project or local government tollway, including

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- under the *Transport Planning and Coordination Act 1994*, section 28D;
- (b) land that is a road under the *Land Act 1994*, other than a State-controlled road;
  - (c) land, not mentioned in paragraph (a) or (b), held by the local government;
  - (d) land, not mentioned in paragraph (b), held by the State.
- (1A) A request under subsection (1) must be accompanied by—
- (a) a survey plan of the local government tollway corridor land for the approved tollway project or local government tollway that—
    - (i) shows the local government tollway corridor land as it will exist if the declaration is made; and
    - (ii) identifies the land for which the declaration is sought; and
  - (b) if the request relates to a local government tollway—a request under section 105GB(1)(a) or (b) to amend the declaration of the local government tollway in accordance with the proposed declaration of the local government tollway corridor land.
- (2) If asked to declare land mentioned in subsection (1)(a) to be local government tollway corridor land, the Minister must, by gazette notice, declare the land to be local government tollway corridor land.
- (3) If asked to declare land mentioned in subsection (1)(b), (c) or (d) to be local government tollway corridor land, the Minister may, by gazette notice, declare the land to be local government tollway corridor land.
- (4) However, the Minister must make a declaration under subsection (2), or may make a declaration under subsection (3), only if the Minister is satisfied the local government has complied with—

[s 105H]

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- (a) all conditions to which, under this Act, the approved tollway project or the declaration of a local government tollway is subject; and
  - (b) all other requirements relevant to the approved tollway project or the declaration of a local government tollway under an Act.
- (5) The land must be—
- (a) identified specifically in the gazette notice; or
  - (b) identified generally in the gazette notice, and identified specifically in documents described in the gazette notice and available to be read at the local government's public office.
- (6) The declaration of land as local government tollway corridor land may be subject to conditions, included in the declaration under subsection (2) or (3), the Minister considers necessary or desirable in the circumstances.
- (7) The Minister must, in a declaration under subsection (2) or (3), declare the terms for section 105J(5)(d) that are to apply to the lease of the land to the State under section 105J(4)(a).
- (8) The terms mentioned in subsection (7) must—
- (a) have been agreed to by the Minister administering the *Land Act 1994*; and
  - (b) be consistent with section 105J(5)(a) to (c).
- (9) The Minister may, in a declaration under subsection (2) or (3), declare that a stated interest in land declared to be local government tollway corridor land continues in relation to—
- (a) the lease of the land to the State under section 105J(4)(a); or
  - (b) the lease of the land to a local government under section 105J(6).

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## 105I Local government tollway corridor land on rail corridor land

- (1) This section applies if, under section 105H, the Minister intends to declare a road, or part of a road, that crosses rail corridor land and continues on the other side of the rail corridor land to be local government tollway corridor land.
- (2) Before making the declaration, the Minister must—
  - (a) consult with the railway manager, if any, for the rail corridor land; and
  - (b) give the railway manager a reasonable opportunity to make submissions to the Minister about the intended declaration.
- (3) If the Minister decides to declare the road, or part of the road, to be local government tollway corridor land, the declaration under section 105H(2) or (3) must also declare the part of the rail corridor land where it is crossed by the road to be a common area (*common area*) for the rail corridor land and the local government tollway corridor land.
- (4) The declaration of a common area may be subject to conditions, included in the declaration under section 105H(2) or (3), the Minister considers necessary or desirable.
- (5) When the common area is declared—
  - (a) the local government for whom the declaration of the local government tollway corridor land is made may construct, maintain and operate a local government tollway on the common area in a way not inconsistent with its use as rail corridor land; and  
*Examples for paragraph (a)—*
    - a bridge or other structure over a railway
    - a bridge or other structure that allows the tollway to pass under the railway
  - (b) the railway manager, if any, for the rail corridor land may construct, maintain and operate a railway on the

[s 105I]

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- common area in a way not inconsistent with its use as a local government tollway; and
- (c) the railway manager and its agents or employees do not have any liability for the local government tollway or its use or operation on the common area.
- (6) Unless the local government and the railway manager, if any, for the rail corridor land otherwise agree—
- (a) subject to section 251, the local government is responsible for maintaining a local government tollway on the common area; and
  - (b) if the local government tollway on the common area stops being used, the local government is responsible for the cost of removing local government tollway infrastructure from the common area and restoring the railway.
- (7) The State is taken not to be in breach of any of its obligations in a sublease of the rail corridor land, whether entered into before or after the commencement of this section, between the State and the railway manager by—
- (a) the Minister's declaration; or
  - (b) anything done by the local government for the common area.
- (8) If a declaration under section 105H(2) or (3) includes a common area—
- (a) the chief executive must, as soon as practicable, give a copy of the gazette notice of the declaration to the registrar of titles; and
  - (b) the registrar of titles must record the declaration on the relevant lease of the rail corridor land to the State and any affected sublease in the leasehold land register; and
  - (c) any existing common area on the part of the rail corridor land where it is crossed by the road is, on the publication of the declaration, extinguished.

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**105J Effect on land of local government tollway corridor land declaration**

- (1) If a road, or part of a road, under the *Land Act 1994* is declared under section 105H to be local government tollway corridor land, the road or part—
  - (a) stops being a road under that Act; and
  - (b) becomes unallocated State land.
- (2) If a lot, or part of a lot, under the *Land Title Act 1994* is declared under section 105H to be local government tollway corridor land, the lot or part becomes unallocated State land.
- (3) If land, other than land mentioned in subsection (1) or (2) or unallocated State land, is declared under section 105H to be local government tollway corridor land, the land becomes unallocated State land.
- (3A) Subject to section 105M, land that becomes unallocated State land under subsection (1), (2) or (3) is free of any interest or obligation other than the interests in the land, if any, continued under section 105H(9).
- (4) The Minister administering the *Land Act 1994*—
  - (a) is taken to have leased the local government tollway corridor land to the State under the *Land Act 1994*, section 17(2) when the declaration is made; and
  - (b) must lodge a document evidencing the lease in the leasehold land register.
- (5) The lease is—
  - (a) in perpetuity; and
  - (b) if demanded, for a rent of \$1 a year; and
  - (c) subject to the interests in the local government tollway corridor land, if any, continued in relation to the lease under section 105H(9)(a); and
  - (d) on the terms stated in the declaration of the local government tollway corridor land under section 105H(7).

[s 105J]

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- (6) The State must lease local government tollway corridor land to the local government that asked, under section 105H, for the land to be declared to be local government tollway corridor land.
- (7) The lease under subsection (6) may include an option to renew the lease.
- (8) The terms of the lease under subsection (6), including an option to renew the lease, and a renewed lease are—
  - (a) to be decided by the Minister; and
  - (b) subject to the interests in the land, if any, continued in relation to the lease under section 105H(9)(b).
- (9) The local government may lease the local government tollway corridor land to another person for use as a tollway.
- (10) A person to whom the local government has leased the local government tollway corridor land, or a person who holds a lease under the lease from the local government, may lease the local government tollway corridor land to another person.
- (11) Each lease under subsection (9) or (10) may include an option to renew the lease.
- (12) The terms of each lease under subsection (9) or (10), including an option to renew the lease, and a renewed lease are to be decided by the lessor and lessee but must be consistent with any conditions imposed on the approved tollway project under an Act.
- (13) If an interest that is a registered interest is continued under section 105H(9), the registrar of titles must record the interest in the leasehold land register against the lease in relation to which it is continued.
- (14) In this section—

***registered interest*** means—

  - (a) an interest recorded in a register kept under the *Land Act 1994*, section 276; or
  - (b) a registered interest under the *Land Title Act 1994*.

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## 105JA Compensation

- (1) Subsection (3) applies to a person who has an interest in land declared to be local government tollway corridor land under section 105H.
- (2) However, subsection (3) does not apply if the interest—
  - (a) is continued under section 105H(9); or
  - (b) is an interest under a services contract for the land.
- (3) The person has a right to claim compensation under the *Acquisition of Land Act 1967*, section 12(5A) and (5B) and part 4 as if the interest were land taken by the State under that Act.
- (4) For applying the *Acquisition of Land Act 1967* under subsection (3)—
  - (a) the State is the constructing authority; and
  - (b) for section 24(2A) of that Act, a claimant refers a claim for compensation to the Land Court by filing in the office of the registrar of the court copies of the claim given by the claimant to the State and the gazette notice for the declaration; and
  - (c) the reference in section 24(5) of that Act to the date of the gazette containing the gazette resumption notice taking the land is taken to be a reference to the date of the gazette containing the gazette notice for the declaration.
- (5) Other than as stated in this section, a person has no right to compensation for the declaration of land as local government tollway corridor land under section 105H.

## 105K Relationship with other Acts

The following provisions do not apply to any lease or sublease, under section 105J, of local government tollway corridor land—

[s 105L]

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- (a) the *Land Act 1994*, sections 157, 183, 204, 211 and 336(2)(a) and (c);
- (b) the *Local Government Act 1993*, sections 491 and 492;
- (c) the *City of Brisbane Act 1924*, section 46H.

## **Division 4            Public utility plant**

### **Subdivision 1        Preliminary**

#### **105L    Definition for div 4**

In this division—

*local government tollway corridor land* means local government tollway corridor land that, immediately before it was declared under this chapter to be local government tollway corridor land, was a road or part of a road.

### **Subdivision 2        Ownership of public utility plant**

#### **105M    Retention of ownership of public utility plant**

- (1) This section applies if, immediately before the declaration of land as local government tollway corridor land, public utility plant was located on the land.
- (2) The declaration does not affect the ownership of the public utility plant.

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### **Subdivision 3 Powers of public utility provider on local government tollway corridor land**

#### **105N Public utility plant on local government tollway corridor land**

- (1) A public utility provider may do the following things on local government tollway corridor land—
  - (a) build, replace or take away, or alter, other than for maintenance or repair, its public utility plant;
  - (b) maintain or repair, or alter, for maintenance or repair, its public utility plant;
  - (c) take reasonable steps to stop obstruction or potential obstruction to, or interference or potential interference with, its public utility plant.
- (2) However, the public utility provider may do things mentioned in subsection (1) only with the written agreement of the local government for whom the declaration of the local government tollway corridor land was made.
- (3) The local government must not unreasonably withhold agreement.
- (4) However, the local government may impose conditions on the agreement—
  - (a) to ensure the safety of persons doing things mentioned in subsection (1); or
  - (b) to require persons doing things mentioned in subsection (1) to undergo training.
- (5) Despite subsection (2), a public utility provider may, if acting in the interests of public safety, carry out urgent maintenance of its public utility plant on local government tollway corridor land without the written agreement of the local government.

[s 105O]

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- (6) However, the public utility provider may carry out urgent maintenance under subsection (5) only if the public utility provider—
  - (a) makes all reasonable attempts to obtain the oral agreement of the chief executive officer of the local government to the carrying out of the maintenance; and
  - (b) whether or not the chief executive officer's oral agreement is obtained, acts as quickly as possible to advise the local government of the details of the maintenance being carried out.
- (7) Building or altering public utility plant under subsection (1)(a) does not affect the ownership of the public utility plant.

## **Subdivision 4      Obligations of public utility provider**

### **105O    Local government must give public utility provider information**

- (1) This section applies if a public utility provider asks, in writing, the local government for information about lines and levels for planned local government tollway infrastructure on local government tollway corridor land.
- (2) The local government must give the public utility provider the information about the lines and levels necessary to enable the public utility provider to minimise possible adverse effects of the establishment of the infrastructure on the public utility provider's works.

### **105P    Public utility provider to consult with local government before replacing public utility plant**

- (1) This section applies if a public utility provider proposes to replace the whole or a substantial proportion of its public utility plant on local government tollway corridor land.

- (2) The public utility provider must, before seeking written agreement under section 105N, consult with the local government.
- (3) The object of the consultation is to identify mutually beneficial arrangements for the replacement of the public utility plant, having regard to existing development plans for the local government tollway corridor land.

### **105Q Public utility provider to comply with local government's or chief executive officer's agreement**

- (1) This section applies if, in relation to local government tollway corridor land, a public utility provider does something mentioned in section 105N(1) (the *relevant action*)—
  - (a) without the written agreement of the local government, or the oral agreement of the local government's chief executive officer, required under section 105N; or
  - (b) in a way inconsistent with an agreement with the local government or chief executive officer.
- (2) The local government may, by written notice given to the public utility provider, require the public utility provider, at the public utility provider's cost, and within the time stated in the notice, to take action to remedy the relevant action.
- (3) The time stated in the notice must be a time that is reasonable in the circumstances.
- (4) If the public utility provider does not comply with the notice, the local government may arrange for action the local government considers necessary to remedy the relevant action.
- (5) The local government's reasonable expenses in arranging for the action to be carried out is a debt payable by the public utility provider to the local government.

[s 105R]

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### **105R Local government may require public utility provider to change position of public utility plant**

- (1) A local government may require a public utility provider to change the position of the public utility provider's public utility plant on local government tollway corridor land if the local government considers that the public utility plant will interfere with the exercise of the local government's powers for the local government tollway corridor land.
- (2) The local government is responsible only for the cost of changing the position of the public utility plant.

### **105S Information by public utility provider to local government**

- (1) If, in relation to public utility plant on local government tollway corridor land, a public utility provider does something mentioned in section 105N(1), the public utility provider must prepare records adequately defining the location of the public utility plant.
- (2) A public utility provider owning public utility plant located on local government tollway corridor land must, if asked by the local government, give the local government information adequately defining the location of the public utility plant.

Maximum penalty for subsection (2)—40 penalty units.

## **Subdivision 5 Liability for matters relating to public utility plant**

### **105T Liability for damage caused by failure to comply with request for information**

- (1) This section applies if—
  - (a) a local government causes damage to public utility plant located on local government tollway corridor land; and
  - (b) before the damage was caused, the local government had asked for information as mentioned in section

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- 105S(2) from the public utility provider owning the public utility plant; and
- (c) the public utility provider had not, within a reasonable time, complied with the request; and
  - (d) the damage was caused because of the failure to comply with the request.
- (2) Unless the local government otherwise agrees, the local government is not liable for the damage.

**105U Liability for damage caused by failure to give enough detail about location of public utility plant**

- (1) This section applies if—
- (a) a local government causes damage to public utility plant located on local government tollway corridor land; and
  - (b) information given to the local government under section 105S(2) did not define in enough detail the location of the public utility plant; and
  - (c) the damage was caused because of the failure to define in enough detail the location of the public utility plant.
- (2) Unless the local government otherwise agrees, the local government is not liable for the damage.

**105V Liability for damage caused because of failure to comply with local government's requirements**

- (1) This section applies if—
- (a) a local government causes damage to public utility plant located on local government tollway corridor land; and
  - (b) the damage is caused because the public utility provider owning the public utility plant did something mentioned in section 105N(1) in relation to the public utility plant other than under the local government's requirements under this division.

[s 105W]

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- (2) Unless the local government otherwise agrees, the local government is not liable for the damage.

### **105W Liability of public utility provider to pay additional expenses incurred by local government**

- (1) This section applies if a local government incurs additional expense in carrying out local government tollway infrastructure works on local government tollway corridor land because a public utility provider—
  - (a) did not give within a reasonable time information asked for by the local government as mentioned in section 105S(2); or
  - (b) in giving information as mentioned in section 105S(2) to the local government, did not define in enough detail the location of public utility plant; or
  - (c) did something mentioned in section 105N(1) in relation to public utility plant other than under the local government's requirements under this division.
- (2) Unless the local government otherwise agrees, the public utility provider is liable to pay the local government the additional expense.

## **Subdivision 6 Replacement or reconstruction of public utility plant**

### **105X Replacement or reconstruction of public utility plant**

- (1) This section applies if the carrying out of local government tollway infrastructure works on local government tollway corridor land by or for the local government requires taking away or replacing public utility plant.
- (2) The local government can not be compelled to replace or reconstruct the public utility plant in its previous location and form.

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- (3) If the public utility plant is replaced or reconstructed—
    - (a) it must be done under the local government’s requirements; and
    - (b) it must be done at the local government’s expense.
  - (4) However, the cost to the local government of replacement or reconstruction of the public utility plant may be reduced by agreement between the local government and the public utility provider owning the public utility plant after taking into account—
    - (a) the remaining life of the public utility plant; and
    - (b) the salvage or scrap value of the public utility plant; and
    - (c) additional expense incurred because of inaccurate information given by the public utility provider about the location of the public utility plant; and
    - (d) additional expense incurred because the public utility plant was not constructed in accordance with the local government’s requirements.

## **Division 5                      Franchising local government tollway corridor land**

### **105Y Power to enter into tollway franchise agreements**

- (1) A local government may, with the Treasurer’s approval under the *Statutory Bodies Financial Arrangements Act 1982*, section 60A, enter into an agreement (a ***local government tollway franchise agreement***) with a person under which, or as part of which, the person is to invest in the construction, maintenance or operation of—
  - (a) a tollway under an approved tollway project; or
  - (b) a local government tollway.
- (2) The agreement must be consistent with—

[s 105Z]

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- (a) for a tollway under an approved tollway project—conditions to which, under division 2, the approved tollway project is subject; and
  - (b) for a local government tollway—conditions to which, under division 2A, the declaration of the local government tollway is subject.
- (3) Also, to the extent practicable, the agreement must be consistent with—
- (a) the coordination plan; and
  - (b) the objectives of this Act; and
  - (c) any relevant regional plan under the Planning Act; and
  - (d) the objectives of the State’s current transport infrastructure strategies.
- (4) The agreement may include, for example, the following—
- (a) provisions about the ownership of the local government tollway infrastructure;
  - (b) provisions about tolls for the use of the local government tollway;
  - (c) provisions about administration charges in relation to tolls for the use of the local government tollway.

### **105Z Tabling of local government tollway franchise agreements**

- (1) The mayor of a local government that enters into a local government tollway franchise agreement or an amendment of a local government tollway franchise agreement must, as soon as practicable after the agreement or amendment is entered into, table the agreement or amendment at a meeting of the local government.
- (2) The local government must—
  - (a) keep the local government tollway franchise agreement or the amendment of a local government tollway

franchise agreement open for inspection, free of charge, by members of the public at its public office; and

- (b) make copies available for purchase at a price not more than the cost to the local government of producing the copy and, if a copy is supplied to a purchaser by post, the cost of the postage.

### **105ZA Annual report on operation of part**

- (1) If a local government has entered into a local government tollway franchise agreement, each annual report of the local government under the *Local Government Act 1993* or the *City of Brisbane Act 1924* must include a report on the operation of this part during the financial year to which the report relates.
- (2) Without limiting subsection (1), the report must include—
  - (a) if the local government has an approved tollway project—a statement of how it is complying with conditions to which the approval is subject; and
  - (b) if the local government has a local government tollway—a statement of how it is complying with any conditions imposed on the declaration.

## **Division 6 Tolling matters**

### **Subdivision 1 Notice of tolling matters**

#### **105ZB Local government to give notice of tolling matters**

- (1) A local government must give notice of the matters mentioned in schedule 5 for a local government tollway before a toll becomes payable for the use of the local government tollway.
- (2) Notice under subsection (1) must be given by a notice published in a newspaper circulating generally in the local government's area and in adjoining local government areas.

[s 105ZC]

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- (3) A toll may be set in a way that applies differently—
  - (a) to different classes of vehicles; or
  - (b) by reference to stated exceptions or factors.
- (4) Subsection (3) does not limit schedule 5 or the *Statutory Instruments Act 1992*.
- (5) An administration charge, under a notice under subsection (1), for a toll must not be more than the reasonable cost, under this division, of issuing a notice for, and collecting, the unpaid toll and administration charge for the toll.
- (6) A user administration charge, under a notice under subsection (1), for a toll must not be more than the reasonable cost, under this division, of administering and collecting payment of the toll.

## **Subdivision 2      Liability for tolls**

### **105ZC Liability for toll and user administration charge and satisfying the liability**

- (1) The driver of a designated vehicle entering, or on, a local government tollway is liable, at each toll plaza through which the vehicle passes, for—
  - (a) the toll payable at the toll plaza for the use of the local government tollway by the vehicle; and
  - (b) if the driver satisfies the driver's liability under paragraph (a) other than in cash or by use of the E toll system—the user administration charge for the toll.
- (2) The amount of any unpaid toll or user administration charge may be recovered by the local government tollway operator as a debt from the driver, subject to any applicable agreement made by the local government tollway operator.
- (3) However, the driver is not liable to pay the amount of the user administration charge for the toll if the toll is unpaid because—

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- (a) the driver's transponder or other electronic device is faulty through no fault of the driver and the driver is unaware it is faulty; or
  - (b) the E toll system is faulty or otherwise inoperable.
- (4) The driver may satisfy the driver's liability for the toll payable at a toll plaza by—
- (a) if a part of the toll plaza is designated by appropriate signs as available for making a toll payment in cash—making a payment in cash of the toll payable; or
  - (b) if there is an E toll only pay point at the toll plaza, or another part of the toll plaza designated by appropriate signs as available for using an E toll system—using the E toll system as required under section 105ZD(1); or
  - (c) if a notice under section 105ZB(1) provides another way of making the payment—making the payment in that way.
- (5) If the designated vehicle is at an E toll only pay point at the toll plaza, the driver may satisfy the driver's liability for the toll only by—
- (a) using the E toll system as required under section 105ZD(1); or
  - (b) another way provided in a notice under section 105ZB(1).

### **105ZD Using the E toll system**

- (1) The following requirements apply for using the E toll system to satisfy the driver's liability for the toll payable at the toll plaza—
- (a) the designated vehicle must have a properly operating transponder or other electronic device;
  - (b) the transponder or other device—
    - (i) must have been issued for a vehicle of the same type as the designated vehicle; and

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- (ii) must be linked to a valid account for the E toll system operating for the local government tollway; and
  - (iii) must properly activate the E toll system.
- (2) Using the E toll system to satisfy the liability of a designated vehicle's driver for the toll payable at a toll plaza does not affect another contractual obligation owed by the driver or another person to a local government tollway operator under an applicable agreement made by the local government tollway operator.

*Example for subsection (2)—*

The arrangements for a person's account with a local government tollway operator may provide that the person will be billed at the end of each month for all the times the transponder issued to the person has been used at toll plazas on the local government tollway in the month.

### **Subdivision 3 Failure to pay toll**

#### **105ZE Application of sdiv 3**

This subdivision applies if—

- (a) a designated vehicle passes through a toll plaza on a local government tollway; and
- (b) the driver does not, under section 105ZC(4), satisfy the driver's liability for the toll payable at the toll plaza.

#### **105ZF Definition for sdiv 3**

In this subdivision—

*deferred toll amount* means the total of the following amounts for any local government tollway—

- (a) the amount of the toll for which the driver's liability was not satisfied under section 105ZC(4);
- (b) the amount of the administration charge for the toll.

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### **105ZG Liability for administration charge in addition to unpaid toll**

- (1) If this subdivision applies to a driver, the driver immediately becomes liable to pay the local government tollway operator, in addition to the unpaid toll, the amount of the administration charge for the toll.
- (2) However, the driver is not liable under subsection (1) to pay the amount of the administration charge for the toll if the toll is unpaid because—
  - (a) the driver's transponder or other electronic device is faulty through no fault of the driver and the driver is unaware it is faulty; or
  - (b) the E toll system is faulty or otherwise inoperable.

### **105ZH Notice to vehicle's registered operator**

- (1) The local government tollway operator may give a notice under this section only if the local government tollway operator has not received the deferred toll amount.
- (2) The local government tollway operator may give the registered operator of the vehicle a written notice requiring the registered operator, within the prescribed time for the notice—
  - (a) to pay the local government tollway operator the deferred toll amount; or
  - (b) to give the local government tollway operator the registered operator's statutory declaration containing information that—
    - (i) if the registered operator is an individual—establishes, to the extent it is reasonably practicable for the registered operator to do so, that the registered operator was not the driver; and

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- (ii) gives the local government tollway operator all the help the registered operator can reasonably give for establishing the driver's name and address.
- (3) The registered operator must comply with the notice given under subsection (2) unless the registered operator has a reasonable excuse.  
Maximum penalty—15 penalty units.
- (4) For giving the notice under subsection (2), the registered operator's address for service may be taken to be the address recorded for the registered operator under the registration Act applying to the designated vehicle's registration.

#### **105ZI Corporation may be taken to be driver of vehicle**

- (1) This section applies if the registered operator of the vehicle—
  - (a) is a corporation; and
  - (b) fails to give the local government tollway operator all the help, under section 105ZH(2)(b)(ii), the registered operator can reasonably give to enable the local government tollway operator to establish the name and address of the driver of the vehicle.
- (2) The registered operator of the vehicle is taken to be the driver of the vehicle for sections 105ZC and 105ZG.

#### **105ZJ Notice to information holder**

- (1) The local government tollway operator may give a notice under this section only if the local government tollway operator—
  - (a) has not received the deferred toll amount; and
  - (b) considers, on reasonable grounds, that a person (the *information holder*) other than the vehicle's registered operator has information that could help the local government tollway operator establish the name and address of the driver.

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- (2) The local government tollway operator may give the information holder a written notice requiring the information holder, within the prescribed time for the notice, to give the local government tollway operator a statutory declaration complying with subsection (3).
  - (3) The statutory declaration must—
    - (a) be made by the information holder; and
    - (b) contain information giving the local government tollway operator all the help the information holder can reasonably give for establishing the driver's name and address.
  - (4) The information holder must comply with the notice given under subsection (2) unless the information holder has a reasonable excuse.

Maximum penalty for subsection (4)—15 penalty units.

### **105ZK Notice to person identified as driver**

- (1) The local government tollway operator may give a notice under this section only if the local government tollway operator—
  - (a) has not received the deferred toll amount; and
  - (b) considers, on reasonable grounds, that the local government tollway operator has correctly identified the person (the *identified person*) who was the driver.
- (2) The local government tollway operator may give the identified person a written notice requiring the identified person, within the prescribed time for the notice—
  - (a) to pay the local government tollway operator the deferred toll amount; or
  - (b) to give the local government tollway operator the identified person's statutory declaration containing information that—

[s 105ZL]

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- (i) establishes, to the extent it is reasonably practicable for the identified person to do so, that the identified person was not the driver; and
  - (ii) gives the local government tollway operator all the help the identified person can reasonably give for establishing the driver's name and address.
- (3) The identified person must comply with the notice given under subsection (2) unless the identified person has a reasonable excuse.

Maximum penalty for subsection (3)—15 penalty units.

## **Subdivision 4      Statutory declarations and    limitation on offences**

### **105ZL Statutory declarations for sdiv 3**

- (1) A statutory declaration given by a person under subdivision 3 may, if appropriate, be supported by statutory declarations from other persons.
- (2) If a person required to give a statutory declaration under subdivision 3 is a corporation, the statutory declaration must be given by a person authorised to act for the corporation.

### **105ZM Limit on offences**

If this division applies more than once because of a failure to pay a toll at each of 2 or more toll plazas on the 1 local government tollway in a single journey, a person liable for an offence under this division arising out of the journey may not be punished for more than 1 offence.

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## Subdivision 5 Confidentiality of personal information

### 105ZN Confidentiality

- (1) A person must not, intentionally or recklessly, disclose, allow access to, record or use personal information.

Maximum penalty—200 penalty units.

- (2) However, a person may disclose, allow access to, record or use personal information—

(a) in the discharge of a function related to the administration of this division; or

(b) if authorised, expressly or impliedly—

(i) under another provision of this Act, or under another Act; or

(ii) by the individual whose identity is apparent, or can reasonably be ascertained, from the personal information; or

(c) for a proceeding in a court or tribunal, if the personal information is admissible as evidence in the proceeding; or

(d) if the purpose for which the action is taken is directly related to the purpose for which the personal information was obtained; or

(e) if the person believes on reasonable grounds that the action is necessary to prevent or lessen a serious and imminent threat to the life or health of an individual.

- (3) In this section—

*administration of this division* includes the operation of a local government tollway under this division.

*personal information* means information or an opinion, including information or an opinion forming part of a

[s 105ZO]

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database, whether true or not, and whether recorded in a material form or not, that—

- (a) has been gained or otherwise brought into existence—
  - (i) through involvement in the administration of this division; or
  - (ii) because of an opportunity provided by involvement in the administration of this division; and
- (b) is about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

## **Subdivision 6 Evidentiary matters**

### **105ZO Evidence and procedure**

- (1) For this division—
  - (a) it is not necessary to prove the appointment of an official of a local government or a local government tollway operator; and
  - (b) a signature purporting to be the signature of an official of a local government or a local government tollway operator is evidence of the signature it purports to be; and
  - (c) a certificate stating any of the following matters is evidence of the matter—
    - (i) a stated place was or was not a local government tollway or part of a local government tollway;
    - (ii) a stated place was or was not a toll plaza or part of a toll plaza for a local government tollway;
    - (iii) a stated person was or was not recorded as the registered operator of a stated vehicle;
    - (iv) a stated vehicle was or was not a designated vehicle of a stated type;

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- (v) the toll payable for a designated vehicle's use of a local government tollway has not been paid;
  - (vi) the administration charge for a toll has not been paid;
  - (vii) the user administration charge for a toll has not been paid;
  - (viii) a statutory declaration required for subdivision 3 was or was not received;
  - (ix) a recording is a recording of a type mentioned in subsection (3).
- (2) A certificate—
- (a) may relate to a stated time or period of time; and
  - (b) if it is issued for a particular period, has the effect mentioned in subsection (1)(c) for the entire period.
- (3) A recording by a photographic, mechanical, electronic or other device for the purpose of administering this division, including for the operation of a local government tollway under this division, is evidence of—
- (a) the making of the recording; and
  - (b) the accuracy of the recording; and
  - (c) the matters stated in the recording.
- (4) In this section—

***certificate*** means a certificate purporting to be signed by an official.

***official***, of a local government or a local government tollway operator, means—

- (a) the chief executive officer of the local government, or an officer or employee of the local government acting under the authority of the chief executive officer; or
- (b) the chief executive officer, however named, of a local government tollway operator, or an employee of the

local government tollway operator acting under the authority of the chief executive officer.

## **Division 7                      Miscellaneous**

### **105ZOA Local government to keep Minister informed**

- (1) A local government that has an approved tollway project or local government tollway must, by written notice given to the Minister, inform the Minister about any material change relating to the approved tollway project or local government tollway as soon as practicable after the local government becomes aware of the material change.
- (2) Without limiting subsection (1), a material change to an approved tollway project or local government tollway includes a change that may—
  - (a) adversely affect the local government's financial position in a material way; or
  - (b) adversely affect the State's financial position in a material way; or
  - (c) adversely impact on the operation or management of a State-controlled road, a franchised road or public transport in a material way; or
  - (d) affect the proposed methodology or strategy for charging tolls for use of the local government tollway; or
  - (e) change the performance specifications for the approved tollway project or local government tollway, including, for example, the project alignment or design or the land required for the approved tollway project or local government tollway.

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**105ZOB State not liable for loss relating to local government tollway etc.**

- (1) The State is not liable for any loss suffered by a local government or another person arising out of any matter relating to an approved tollway project or local government tollway.
- (2) Without limiting subsection (1), the State is not liable for any loss suffered by a local government or another person arising out of the following—
  - (a) the approval of a tollway project, including any conditions to which the approval is subject, or any amendment or revocation of the approval;
  - (b) the declaration of a local government tollway;
  - (c) the construction, maintenance or operation of a local government tollway;
  - (d) the declaration of land to be local government tollway corridor land;
  - (e) any condition imposed on a declaration or any amendment of a condition;
  - (f) a decision by the Minister to issue a compliance notice, suspension notice, revocation notice, final notice, schedule 5 step-in notice or schedule 5A step-in notice;
  - (g) anything done under a schedule 5 step-in notice or schedule 5A step-in notice.

## **Part 9 Public thoroughfare easements**

### **105ZP Public thoroughfare easements**

- (1) This section applies if a public thoroughfare easement is created over relevant land.

[s 105ZP]

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- (2) The State has control of the easement land, subject to the provisions of the instrument creating the easement.
- (3) Control of the easement land includes capacity to take all necessary steps for—
  - (a) construction, maintenance and improvement of the easement land; and
  - (b) regulation of the use of the easement land.
- (4) Despite subsections (2) and (3)—
  - (a) the State has responsibility for the maintenance of the easement land; and
  - (b) for deciding the respective rights and liabilities that attach to a relevant entity for anything that happens arising out of the use of the easement land, the easement land must be taken to be a State-controlled road.
- (5) The owner of the relevant land, as the grantor of the easement, or as a successor in title of the grantor of the easement—
  - (a) is not required, and can not be required, to maintain, or to contribute to the maintenance of, any part of the easement land; and
  - (b) is not, and can not be made, civilly liable for an act done, or omission made, honestly and without negligence, in relation to the easement land.
- (6) In this section—

***easement land*** means any part of the relevant land that is affected by the public thoroughfare easement.

***owner***, of the relevant land, means—
  - (a) if the relevant land is land granted in trust under the *Land Act 1994*—the trustee of the land; or
  - (b) if the relevant land is non-freehold land under the *Land Act 1994*—the lessee or licensee of the land; or
  - (c) if the relevant land is a lot under the *Land Title Act 1994*—the registered owner of the lot.

*relevant entity* means any of following—

- (a) the owner of the relevant land;
- (b) the State;
- (c) any member of the public.

*relevant land* means—

- (a) land granted in trust, or non-freehold land, under the *Land Act 1994*; or
- (b) a lot under the *Land Title Act 1994*.

## Chapter 7 Rail transport infrastructure and other matters

### Part 1 Preliminary

#### 106 Ways of achieving objectives

The objectives of this Act for rail are intended to be achieved by—

- (a) providing for the development and implementation of rail transport infrastructure strategies; and
- (b) providing a framework to—
  - (i) allow railway managers to manage rail transport infrastructure in an effective and efficient way; and
  - (ii) allow railway operators to operate rolling stock in an effective and efficient way; and
- (c) providing for adequate levels of safety by having an accreditation system for railway managers and railway operators.

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### **107 Scope of chapter**

- (1) This chapter applies to rail transport infrastructure and other rail infrastructure.
- (2) This chapter does not apply to—
  - (a) a cable car; or
  - (b) a monorail; or
  - (c) an amusement railway; or
  - (d) a railway that—
    - (i) is part of, and used solely for, a mining operation; and
    - (ii) is not connected to a railway used to transport passengers or freight; or
  - (e) a cane railway; or
  - (f) light rail or light rail transport infrastructure; or
  - (g) another railway prescribed under a regulation.

## **Part 2 Investigating potential rail corridor**

### **108 Purpose of pt 2**

The purpose of this part is—

- (a) to facilitate the development of railway infrastructure by giving a person who is genuinely considering constructing a railway authorisation to enter land to enable the land's potential and suitability as a rail corridor to be investigated; and
- (b) to safeguard the interests of owners and occupiers of land affected by the entry.

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## 109 Definitions for pt 2

In this part—

*associated person*, of an investigator, means any of the following—

- (a) if the investigator is a corporation—the corporation’s chief executive, secretary or directors;
- (b) the investigator’s employees or partners who are individuals;
- (c) a person who is an agent of, or contractor for, the investigator, and engaged in writing for the purposes of the investigator’s authority;
- (d) employees of an agent or contractor mentioned in paragraph (c);
- (e) if a person mentioned in paragraph (c) is a corporation—the corporation’s chief executive, secretary, directors or employees.

*authority* means a rail feasibility investigator’s authority.

*investigator* means a person who holds an authority.

## 110 How to apply for a rail feasibility investigator’s authority

- (1) A person may apply to the chief executive for a rail feasibility investigator’s authority for an area of land.
- (2) The application must be in writing and state the following information—
  - (a) the area of land;
  - (b) the purpose for which the authority is sought;
  - (c) details of the nature of the activities proposed to be conducted in the area;
  - (d) the period for which the authority is sought.

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### **111 Additional information for application**

- (1) The chief executive may—
  - (a) make inquiries to decide the application; and
  - (b) require the applicant to give the chief executive additional information to decide the application.
- (2) The chief executive may reject the application if the applicant fails, without reasonable excuse, to give the additional information within a stated reasonable time of not less than 28 days.

### **112 Granting authority**

- (1) The chief executive may grant or refuse to grant an authority.
- (2) The chief executive must grant the authority if the chief executive is satisfied the person is genuinely considering constructing a railway and is acting reasonably and in good faith.
- (3) If the chief executive refuses to grant an authority, the chief executive must give the applicant written reasons for the refusal.
- (4) In deciding the area for an authority, the chief executive must be satisfied the area is no more extensive than is reasonably necessary.

### **113 Rail feasibility investigator's authority**

- (1) An authority must be in writing stating the following—
  - (a) the area to which it applies;
  - (b) the purpose for which it is granted;
  - (c) when it expires;
  - (d) any conditions that may be imposed on the authority.

*Example of conditions—*

lodging a bond with the chief executive or taking out insurance

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- (2) An authority authorises the investigator and associated persons—
- (a) to enter and re-enter any land within the area to which it applies for the purpose of investigating the land's potential and suitability as a rail corridor; and
  - (b) to the extent reasonably necessary or convenient for that purpose—
    - (i) to do anything on the land; or
    - (ii) to bring anything onto the land; or
    - (iii) to temporarily leave machinery, equipment or other items on the land.

*Examples of things authorised by the authority—*

- to conduct surveys and take soil samples
  - to clear vegetation, or otherwise disturb the land, to the extent reasonably necessary
  - to construct temporary access tracks using the land or using materials brought onto the land
- (3) The grant of an authority is not an indication of a commitment or approval by the State, the chief executive or any other person in relation to any proposal, and in particular, does not commit the State to acquiring any land as a rail corridor.
- (4) An investigator or associated person must comply with each condition of the investigator's authority, unless the investigator or associated person has a reasonable excuse.

Maximum penalty for subsection (4)—200 penalty units.

#### **114 What investigator must do before land is entered for the first time**

- (1) Before land is entered for the first time under an investigator's authority, the investigator must give a written notice to the land's owner or occupier.
- (2) The notice must state—

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- (a) the chief executive has granted to the investigator a rail feasibility investigator's authority for an area that is part of or includes the land; and
  - (b) the things the investigator and associated persons of the investigator are authorised to do under the authority; and
  - (c) a general outline of the things intended to be done on the land, including the construction of any temporary access track; and
  - (d) the approximate period during which the land is to be entered under the authority; and
  - (e) the grant of the authority is not an indication of a commitment or approval by the State, the chief executive or any other person in relation to any proposal, and in particular, does not commit the State to acquiring any land as a rail corridor.
- (3) The investigator or associated person may enter onto land only if—
- (a) the owner or occupier of the land gives written consent to the entry; or
  - (b) at least 7 days have passed since the notice was given.

### **115 Investigator to issue associated person with identification**

- (1) Before an investigator allows an associated person to act under the investigator's authority, the investigator must issue the associated person with identification.

Maximum penalty—10 penalty units.

- (2) The identification must—
- (a) state the names of the investigator and the person to whom the identification is issued; and
  - (b) indicate that, for the purposes of this Act, the person is associated with the holder of a rail feasibility investigator's authority; and

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- (c) state the capacity in which the associated person is an associated person; and
  - (d) be signed by or for the investigator; and
  - (e) be signed by the associated person; and
  - (f) state an expiry date.
- (3) A person who stops being an associated person of an investigator must return the person's identification issued under subsection (1) to the investigator as soon as practicable, but within 21 days, after the person stops being an associated person, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

- (4) Subsections (5) and (6) apply if a person who claims to be or appears to be the owner or occupier of land within the area for an authority asks an individual who has entered, is entering or is about to enter land under an authority—
- (a) for identification; or
  - (b) about the person's authority to enter the land.
- (5) If the request is made of an investigator, the investigator must immediately state the investigator's name and show the person a copy of the investigator's authority.

Maximum penalty—10 penalty units.

- (6) If the request is made of an associated person of an investigator, the associated person must immediately state his or her name and show the other person the identification issued to the associated person under subsection (1).

Maximum penalty for subsection (6)—10 penalty units.

## **116 Pretending to be an investigator etc.**

A person must not pretend—

- (a) to be an investigator; or

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(b) to be an associated person of an investigator.

Maximum penalty—80 penalty units.

### **117 Investigator to take care in acting under authority**

An investigator—

- (a) must take as much care as is practicable to minimise damage to the land or inconvenience to the land's owner or occupier; and
- (b) may do anything necessary or desirable to minimise the damage or inconvenience; and
- (c) is liable to compensate the land's owner or occupier for any loss or damage suffered by the owner or occupier arising out of the entry onto the land, any use made of the land, anything brought onto the land or anything done or left on the land in connection with the investigator's authority.

### **118 Compensation payable by investigator**

- (1) An owner or occupier of land may, by written notice given to an investigator—
  - (a) claim compensation from the investigator for loss or damage arising out of an entry onto the land, any use made of the land, anything brought onto the land or anything done or left on the land in connection with the investigator's authority; or
  - (b) require the investigator to carry out works to rectify the damage within a reasonable time after the investigator has finished investigating the land under the authority; or
  - (c) require the investigator to carry out works under paragraph (b) and then claim compensation for any loss or damage not rectified.
- (2) A claim may be made—

- (a) whether or not the act or omission giving rise to the claim was authorised under the authority; and
  - (b) whether or not the investigator prohibited, or took steps to prevent, the loss or damage; and
  - (c) even though the loss or damage was caused or contributed to by an associated person.
- (3) The notice must be given—
- (a) within 1 year after the loss or damage happened; or
  - (b) at a later time allowed by a court.
- (4) The amount of compensation is—
- (a) the amount agreed between the parties; or
  - (b) if the parties can not agree within a reasonable time—the amount decided by a court with jurisdiction for the amount of compensation claimed.

## **Part 3                      Accreditation**

### **Division 1                Introductory**

#### **119    Purposes of pt 3**

The purposes of this part include providing for an accreditation system for railway managers and railway operators.

#### **120    Part does not create civil cause of action**

- (1) This part does not—
- (a) create a civil cause of action based on a contravention of a provision of this part; or

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- (b) affect or limit a civil right or remedy that exists apart from this part, whether at common law or otherwise.
- (2) Without limiting subsection (1)(b), compliance with this part does not necessarily show that a civil obligation that exists apart from this part has been satisfied or has not been breached.
- (3) The inclusion of this section in this part does not affect the interpretation of this Act other than this part.

## 121 Definitions for pt 3

In this part—

*accepted representations*—

- (a) for a proposed safety direction—see section 143(2); and
- (b) for a show cause notice—see section 157(2).

*approved safety management system* see section 122.

*audit program* see section 150(1).

*certificate of accreditation* see section 126(7).

*disciplinary action*, about an accreditation for a railway or light rail, means 1 or more of the following—

- (a) cancelling the accreditation;
- (b) suspending, for a stated period, the accreditation;
- (c) varying the accreditation except if the variation is made because of an application of the accredited person;
- (d) directing an application to be made to amend an accredited person's approved safety management system for a railway or the operation of rolling stock on a railway.

*dispute matter* see section 141(1)(b).

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***employee***, of an accredited person, means—

- (a) an employee of, or a contractor for, the accredited person; or
- (b) an employee of a contractor mentioned in paragraph (a); or
- (c) an individual who performs work for the accredited person without payment, while the person is performing that work.

*Example of paragraph (c)—*

An individual does work as a volunteer for an organisation of which the person is a member. The organisation is an accredited person. The volunteer is an employee of the accredited person when the volunteer is performing work for the accredited person.

***imposed condition*** means a condition imposed on an accreditation by the chief executive, whether the condition was imposed on the accreditation at the time it was granted or at a later time.

***interim minor amendment***—

- (a) of an approved safety management system for a railway managed by a railway manager, means an amendment of the approved safety management system if the amendment—
  - (i) has not been the subject of an application under section 133; and
  - (ii) does not or will not increase the frequency or consequences of an existing hazard or risk, or allow a new hazard or risk to arise, relating to the management of the railway; or
- (b) of an approved safety management system for the operation of rolling stock on a railway by a railway operator, means an amendment of the approved safety management system if the amendment—
  - (i) has not been the subject of an application under section 133; and

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- (ii) does not or will not increase the frequency or consequences of an existing hazard or risk, or allow a new hazard or risk to arise, relating to the operation of rolling stock on the railway.

**proposed action** see section 156(2)(a).

**railway** includes a railway proposed to be constructed on future railway land.

**regulation condition** see section 129(1).

**representation period** see section 142(2)(c).

**safety direction**—

- (a) for a direction given by the chief executive—see section 144(1); or
- (b) for a direction given by a rail safety officer—see section 146(1) or 147(1).

**show cause notice** see section 156(1).

**show cause period** see section 156(2)(f).

**suspend**, an accreditation, means any of the following, as stated in the suspension, for a period stated in the suspension—

- (a) suspend the entire accreditation;
- (b) suspend that part of the accreditation relating to a particular railway managed by, or a particular operation of rolling stock by, the accredited person;
- (c) suspend that part of the accreditation relating to a particular part of the railway managed by, or a particular part of the operation of rolling stock by, the accredited person.

## **122 Meaning of approved safety management system**

- (1) As mentioned in section 126(2)(b) or (3)(b), when the chief executive accredits a person under that section as a railway manager or railway operator for a railway, the chief executive

must be satisfied the person has a safety management system that is appropriate.

- (2) For the first year of accreditation for a railway managed by a railway manager, or for the operation of rolling stock on a railway by a railway operator, the ***approved safety management system*** in relation to the railway manager or railway operator is the safety management system for the railway mentioned in subsection (1).
- (3) For the second year, or a later year, of accreditation for a railway managed by a railway manager, or for the operation of rolling stock on a railway by a railway operator, the ***approved safety management system*** in relation to the railway manager or railway operator is—
  - (a) if a proposed safety management system for the year is approved under section 136—the system approved under that section; or
  - (b) if a proposed safety management system is not approved under section 136 for the year—the approved safety management system that was in force for the last preceding year of accreditation for which there was an approved safety management system, whether that system was—
    - (i) the system mentioned in subsection (1); or
    - (ii) a system approved under section 136.
- (4) An approved safety management system in force under subsection (2) or (3) is subject to an amendment of the system approved under section 133.

## **Division 2                      Accreditation of railway managers and railway operators**

### **123      Accreditation of managers and operators**

- (1) A person must not manage a railway unless the person is accredited as the railway manager for the railway.

Maximum penalty—500 penalty units.

- (2) A person must not operate rolling stock on a railway unless the person is accredited as a railway operator for the railway.

Maximum penalty—500 penalty units.

- (3) Subsection (1) does not apply to a person who—

- (a) owns or manages a railway for a purpose that is incidental to the person's main business; and
- (b) has an agreement with a person who is accredited as the railway manager for another railway for the connection of the railway to the other railway; and
- (c) maintains the railway, or arranges for it to be maintained, in a way that is acceptable to the other person.

### **124      Applications for accreditation**

A person may apply, in the approved form, to the chief executive for accreditation as—

- (a) the railway manager for a railway; or
- (b) a railway operator for a railway; or
- (c) the railway manager and a railway operator for a railway.

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## **125 Additional information for applications**

- (1) The chief executive may, by written notice, require an applicant to give the chief executive stated written information that the chief executive reasonably requires to consider the application.
- (2) The chief executive may reject the application if the applicant fails to comply with the requirement within a stated reasonable time, of not less than 28 days, without reasonable excuse.

## **126 Granting accreditation**

- (1) The chief executive must promptly consider an application for accreditation and grant, or refuse to grant, the accreditation.
- (2) The chief executive must accredit an applicant as the railway manager for a railway if satisfied—
  - (a) the applicant—
    - (i) is accredited in another State to manage a similar type of railway; or
    - (ii) has the competency and capacity to manage the railway safely; and
  - (b) the applicant has an appropriate safety management system; and
  - (c) the applicant has the financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities for the railway; and
  - (d) the applicant has a right—
    - (i) of access to the land where the railway is constructed, or proposed to be constructed, either under this Act or with the agreement of the land's owner; and
    - (ii) to use rail transport infrastructure or other rail infrastructure for the railway with the agreement of the infrastructure's owner.

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- (3) The chief executive must accredit an applicant as a railway operator for a railway if satisfied—
  - (a) the applicant—
    - (i) is accredited in another State to operate rolling stock on a railway for a similar type of service; or
    - (ii) has the competency and capacity to operate rolling stock on the railway safely; and
  - (b) the applicant has an appropriate safety management system; and
  - (c) the applicant has the financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities for the railway; and
  - (d) unless the applicant is applying for accreditation as the railway manager and operator of a railway—the applicant has an agreement with the railway’s manager to operate particular rolling stock on the railway, and the agreement includes appropriate arrangements for the safe operation of the rolling stock.
- (4) In considering a safety management system, the chief executive must consider—
  - (a) the applicant’s rail transport proposal; and
  - (b) the appropriateness of the safety management system for the proposal; and
  - (c) the safety levels achievable, consistent with the nature of the proposal, at a reasonable cost; and
  - (d) the need for efficient and competitive rail transport services; and
  - (e) consistency with generally accepted risk management principles; and
  - (f) the levels of safety proposed relative to the levels of safety of competing transport modes.

- (5) Subsection (4) does not limit by implication the matters the chief executive may consider in considering a safety management system.
- (6) If the chief executive decides to grant the accreditation, the chief executive must promptly give the applicant a written notice stating—
  - (a) the decision; and
  - (b) the details of the accreditation, including its scope; and
  - (c) if the accreditation is granted subject to a condition of the type mentioned in section 128—
    - (i) the details of the condition; and
    - (ii) the reason for the condition.
- (7) Also, the chief executive must give to the applicant a certificate about the accreditation (a *certificate of accreditation*).
- (8) If the chief executive decides not to grant the accreditation, the chief executive must promptly give the applicant a written notice stating—
  - (a) the decision; and
  - (b) the reason for the decision.
- (9) Written notice of a decision given under subsection (6) or (8) must be accompanied by an information notice for the decision.

## **127 Annual levy**

- (1) A regulation may impose levies on railway managers relating to their accreditation on a basis prescribed under the regulation.
- (2) A regulation may impose levies on railway operators relating to their accreditation on a basis prescribed under the regulation.

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- (3) The chief executive must give each accredited person a signed notice stating—
  - (a) the amount of the levy payable by the accredited person; and
  - (b) a reasonable date by which the levy is to be paid to the chief executive.
- (4) An accredited person given a notice under subsection (3) must pay the amount of the levy by the date stated in the notice.
- (5) If the accredited person does not pay the amount of the levy by the date stated in the notice, the amount is a debt owed to the chief executive.

## **128 Accreditation conditions**

- (1) An accreditation may be subject to imposed conditions or regulation conditions.
- (2) The chief executive may impose reasonable conditions on an accreditation that the chief executive considers appropriate, including matters relating to—
  - (a) for the accreditation of a person as the manager of a railway—
    - (i) constructing or maintaining the railway; or
    - (ii) managing the railway safely, considering the need for efficient and competitive services; or
  - (b) for the accreditation of a person as an operator of a railway—
    - (i) operating rolling stock safely, considering the need for efficient and competitive services; or
    - (ii) the person having an agreement with the manager of the railway to operate particular rolling stock on the railway, and the agreement, including appropriate arrangements for the safe operation of rolling stock; or

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- (c) for all accreditations—
- (i) the approved safety management system for the railway or the operation of rolling stock on the railway with which the accredited person must comply; or
  - (ii) another matter prescribed under a regulation.
- (3) An accredited person must comply with each imposed condition on the person's accreditation.

Maximum penalty for subsection (3)—200 penalty units.

### **129 Regulation may prescribe a condition applying to an accreditation**

- (1) A regulation may prescribe—
  - (a) a condition (a *regulation condition*) to which an accreditation of an accredited person is subject; and
  - (b) a penalty for contravening the regulation condition.
- (2) If there is an inconsistency between an imposed condition and a regulation condition, the regulation condition applies to the extent of the inconsistency.
- (3) For the application of a regulation condition to an accreditation of an accredited person, it is irrelevant when the accreditation of the accredited person was granted.

### **130 Surrender of accreditation**

- (1) An accredited person may surrender the person's accreditation by signed notice given to the chief executive.
- (2) The accredited person must return to the chief executive the certificate of accreditation within 14 days after the surrender of the accreditation, unless the accredited person has a reasonable excuse.

Maximum penalty for subsection (2)—20 penalty units.

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### **131 Accreditation period**

An accreditation remains in force until it is suspended, cancelled or surrendered.

### **132 Amendment of imposed conditions**

- (1) An accredited person may apply to the chief executive for an amendment of the conditions imposed on the person's accreditation.
- (2) The chief executive must consider the application and may grant, or refuse to grant, the amendment.
- (3) The chief executive may amend a condition only if satisfied the condition is—
  - (a) no longer appropriate; or
  - (b) no longer consistent with generally accepted risk management principles.
- (4) If the chief executive decides to amend a condition, the chief executive must promptly give the applicant a written notice stating the decision and the amendment.
- (5) If the chief executive decides not to amend a condition, the chief executive must promptly give the applicant a written notice stating—
  - (a) the decision; and
  - (b) the reason for the decision.
- (6) The written notice must be accompanied by an information notice for the decision.
- (7) If the chief executive does not decide the application within 70 days after it is made, the chief executive is taken to have made the amendment sought by the accredited person at the end of the 70 days.
- (8) Despite subsection (1), an application for an amendment of an approved safety management system for a railway managed by an accredited person, or for the operation of rolling stock

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on a railway by an accredited person, must be made under section 133.

### **133 Amendment of approved safety management system**

- (1) An accredited person may apply to the chief executive for approval of a proposed amendment of the approved safety management system for either of the following—
  - (a) a railway managed by the accredited person;
  - (b) the operation of rolling stock on a railway by the accredited person.
- (2) The chief executive must consider the application and may approve, or refuse to approve, the proposed amendment.
- (3) The chief executive may approve the proposed amendment only if reasonably satisfied the approved safety management system, as it will be amended, is consistent with generally accepted risk management principles.
- (4) If the chief executive decides to approve the proposed amendment, the chief executive must give the applicant a signed notice stating the decision and the approved amendment.
- (5) The approved amendment is taken to be incorporated into the approved safety management system for the railway, or for the operation of rolling stock on the railway, on the day stated in the signed notice.
- (6) If the chief executive decides to refuse to approve the proposed amendment, the chief executive must give the applicant—
  - (a) a signed notice stating the decision and the reason for the decision; and
  - (b) an information notice for the decision.
- (7) Nothing in this section requires an accredited person to apply to the chief executive for approval of an interim minor amendment of the approved safety management system for—

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- (a) a railway managed by the accredited person; or
- (b) the operation of rolling stock on a railway by the accredited person.

*Editor's note—*

See sections 134(2) and 135(2)(b) for provisions about interim minor amendments.

## **Division 3                      Obligations of accredited persons**

### **134      Accredited person must comply with approved safety management system**

- (1) An accredited person must, unless the person has a reasonable excuse, comply with—
  - (a) the approved safety management system for the railway managed by the accredited person; or
  - (b) the approved safety management system for the operation of rolling stock by the accredited person on a railway.

Maximum penalty—200 penalty units.

- (2) It is a reasonable excuse if the accredited person complied with—
  - (a) the approved safety management system amended by an interim minor amendment; or
  - (b) the approved safety management system to the extent that was practicable while complying with a safety direction given to the accredited person.
- (3) Subsection (2) does not limit the excuses that may be reasonable excuses.

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**135 Accredited person to review approved safety management system each year and related matters**

- (1) Before each anniversary of the accreditation of an accredited person for a railway that is managed by the accredited person, or for the operation of rolling stock on a railway by the accredited person, the accredited person must—
  - (a) review the appropriateness of the approved safety management system for the railway or for the operation of rolling stock; and
  - (b) consider any safety directions given since the last approval; and
  - (c) consider whether an amendment is required to the system.
- (2) At least 28 days before the anniversary, the accredited person must give to the chief executive—
  - (a) a signed notice, in the approved form, stating how the accredited person complied with subsection (1); and
  - (b) if there is a difference between the approved safety management system for the railway, or for the operation of rolling stock on the railway, for the current year of accreditation and the proposed safety management system for the following year, including, for example, interim minor amendments—
    - (i) a copy of the proposed system; and
    - (ii) a statement identifying the differences; and
    - (iii) an application under section 136 for approval of the proposed system.

Maximum penalty for subsection (2)—100 penalty units.

**136 Approval of proposed safety management system**

- (1) This section applies if—

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- (a) an accredited person for a railway has reviewed and considered matters as mentioned in section 135(1); and
  - (b) the person must give to the chief executive an application, as mentioned in section 135(2)(b)(iii), for the approval of a proposed safety management system for the railway or for the operation of rolling stock on a railway; and
  - (c) the person has given the application to the chief executive.
- (2) The chief executive must consider the application and may approve, or refuse to approve, the proposed system.
  - (3) The chief executive may approve the proposed system only if reasonably satisfied the proposed system is consistent with generally accepted risk management principles.
  - (4) If the chief executive decides to approve the proposed system, the chief executive must give the applicant a signed notice stating the decision.
  - (5) If the chief executive decides to refuse to approve the proposed system, the chief executive must give the applicant—
    - (a) a signed notice stating the decision and the reason for the decision; and
    - (b) an information notice for the decision.

### **137 Financial capacity or insurance arrangements to meet potential accident liabilities**

- (1) A railway manager must have the financial capacity, or public risk insurance arrangements, at all times to meet reasonable potential accident liabilities relating to the railway managed by the railway manager.

Maximum penalty—400 penalty units.

- (2) A railway operator must have the financial capacity, or public risk insurance arrangements, at all times to meet reasonable

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potential accident liabilities relating to the rolling stock operated on a railway by the railway operator.

Maximum penalty—400 penalty units.

- (3) The chief executive may, by signed notice given to an accredited person, require the accredited person to satisfy the chief executive that the person has the financial capacity or public risk insurance arrangements as mentioned in subsection (1) or (2).
- (4) An accredited person given a notice under subsection (3) must comply with the notice within 14 days after the notice is given to the accredited person.

Maximum penalty—40 penalty units.

- (5) The chief executive may, under section 158, suspend an accreditation whether or not—
  - (a) the chief executive has given the accredited person a notice under subsection (3); or
  - (b) the period to comply with a notice under that subsection has ended.

**138 Notice of cancellation etc. of agreement mentioned in s 126(3)(d)**

- (1) This section applies to an agreement mentioned in section 126(3)(d).
- (2) If the agreement is cancelled or suspended, each party to the agreement must give the chief executive a signed notice about the cancellation or suspension within 14 days after the cancellation or suspension.

Maximum penalty—200 penalty units.

## **Division 4                      Disputes about or under    agreements for access to rail    transport infrastructure that relate    to rail safety**

### **139      Chief executive may decide matters on request**

- (1) This section applies if parties to negotiations for a proposed agreement about access to rail transport infrastructure are unable to agree about a safety matter.
- (2) The chief executive may make a decision about the safety matter if—
  - (a) the access is required to be given under an access undertaking and, under that undertaking, the QCA asks the chief executive to make a decision about the safety matter; or
  - (b) there is no access undertaking but access is required to be given under the *Queensland Competition Authority Act 1997* and the QCA asks the chief executive to make a decision about the safety matter; or
  - (c) the access is not required under an access undertaking or the *Queensland Competition Authority Act 1997*, but at least 1 of the parties to the negotiations asks the chief executive to make a decision about the safety matter and the chief executive reasonably considers it appropriate to make a decision.
- (3) If a decision is made under subsection (2)(a) about a safety matter and the QCA is dealing with matters under the access undertaking that include the safety matter, the QCA must not make a decision relating to the safety matter that is inconsistent with the chief executive's decision about the safety matter.
- (4) If a decision is made under subsection (2)(b) and the QCA must exercise a power under the *Queensland Competition Authority Act 1997* relating to the safety matter, the QCA

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must have regard to the chief executive's decision in exercising the power.

- (5) If a decision is made under subsection (2)(c), the decision is binding on the parties to the negotiations only if the parties agreed to be bound by the decision.
- (6) The chief executive may develop guidelines for making decisions under subsection (2).
- (7) The chief executive must make any current guidelines mentioned in subsection (6) publicly available.
- (8) In this section—

*access undertaking* see the *Queensland Competition Authority Act 1997*, the schedule.

*QCA* means the Queensland Competition Authority.

*safety matter* means a matter about rail safety.

#### **140 Notice of dispute under agreement for access**

- (1) This section applies to a dispute under an agreement for accessing rail transport infrastructure if the dispute is about a matter relating to rail safety, including, for example, the following agreements—
  - (a) an agreement mentioned in section 261(1);
  - (b) an access agreement.
- (2) A person who gives notice of the dispute to another party to the agreement may give the chief executive a signed notice stating details of the dispute.
- (3) Each accredited person who is a party to the agreement must give the chief executive a signed notice stating details of the resolution of the dispute within 14 days after the resolution.  
Maximum penalty—10 penalty units.
- (4) In this section—

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*access agreement* see the *Queensland Competition Authority Act 1997*, the schedule.

*resolution*, of a dispute, means the end of the dispute by—

- (a) agreement of the parties to the dispute; or
- (b) arbitration; or
- (c) a decision of an expert under the agreement; or
- (d) a decision of a court or the Queensland Competition Authority.

#### **141 Helping in a dispute under agreement for access**

- (1) This section applies if the chief executive—
  - (a) is given a notice under section 140(2); and
  - (b) reasonably considers that it may be appropriate to give a safety direction about the matter stated in the notice as in dispute (the *dispute matter*).
- (2) The chief executive must inform himself or herself about the dispute matter in any way the chief executive consider appropriate.
- (3) Without limiting subsection (2), the chief executive may consult with 1 or more of the following persons about the dispute matter—
  - (a) each accredited person who is a party to the agreement;
  - (b) another person whom the chief executive reasonably believes may be able to help the chief executive in relation to the dispute matter, including, for example, the Queensland Competition Authority.
- (4) For consulting with an accredited person, the chief executive may give a signed notice to the accredited person stating a reasonable time and place for a meeting with the accredited person.

- (5) An accredited person given a notice under subsection (4) must attend the meeting at the time and place stated in the notice.

Maximum penalty for subsection (5)—10 penalty units.

## 142 Notice of proposed safety direction

- (1) If the chief executive reasonably considers himself or herself informed about a dispute matter and that it is reasonable to make a safety direction about the matter, the chief executive must give each party to the agreement, and the Queensland Competition Authority, the proposed safety direction to be given to an accredited person.
- (2) The proposed safety direction must include—
- (a) the grounds for the proposed safety direction; and
  - (b) an outline of the facts and circumstances forming the basis for the grounds; and
  - (c) an invitation to each person given the proposed safety direction to show, within a stated period (the *representation period*), why the proposed safety direction should not be given to an accredited person.
- (3) The representation period must be a period ending at least 14 days after the day that the proposed safety direction is given to the parties to the agreement.

## 143 Consideration of representations

- (1) Each person given a proposed safety direction under section 142(1) may make written representations about the proposed safety direction to the chief executive in the representation period.
- (2) The chief executive must consider all written representations (the *accepted representations*) made under subsection (1).

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## **144 Chief executive's actions after stated period**

- (1) After considering any accepted representations, the chief executive may give a direction (a *safety direction*) to 1 or more accredited persons to do or not to do an act stated in the safety direction.
- (2) The safety direction must include—
  - (a) the reason for the safety direction; and
  - (b) the day by which the safety direction must be complied with, that must be reasonable having regard to the nature of the matters to be done under the safety direction.
- (3) A directed person must comply with the safety direction, unless the directed person has a reasonable excuse.  
Maximum penalty—200 penalty units.
- (4) The safety direction must be accompanied by an information notice about the chief executive's decision to give the safety direction.
- (5) Also, the chief executive must give to a dispute party a signed notice about the fact that a safety direction has been given to the directed person.
- (6) In this section—

*directed person* means a person given a safety direction under subsection (1).

*dispute party* means a person given a proposed safety direction as mentioned in section 142(1) who is not a directed person.

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## **Division 5                      Safety directions by rail safety officers**

### **145      Application of division**

This division applies if a rail safety officer reasonably believes, for either or both of the following reasons, it is necessary to give an accredited person, or a person who appears to the officer to be an employee of an accredited person, a safety direction—

- (a) to maintain an adequate level of safety in managing a railway or the operation of rolling stock on a railway;
- (b) to prevent a situation the rail safety officer reasonably considers to be unsafe.

### **146      Written direction by rail safety officer**

- (1) The rail safety officer may, by a written direction given to the accredited person or the employee (a *safety direction*), direct the accredited person or employee to do or not to do an act stated in the safety direction.
- (2) The safety direction must state a date or, if applicable, a time on the day by which the safety direction must be complied with, that must be reasonable having regard to the nature of the matters to be done under the safety direction.
- (3) A person to whom a safety direction is given under subsection (1) must comply with it, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—150 penalty units.

### **147      Spoken direction because written direction is not possible or reasonable**

- (1) If it is not possible or reasonable for the rail safety officer to give a safety direction in writing to the accredited person or the employee as mentioned in section 146(1), the officer may

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direct the accredited person or employee (also a *safety direction*) to do or not to do a stated act by telling the accredited person or employee—

- (a) to do or not to do the stated act; and
  - (b) the reason for the officer giving the safety direction.
- (2) A person to whom a safety direction is given under subsection (1) must comply with it, unless the person has a reasonable excuse.

Maximum penalty—150 penalty units.

- (3) It is a reasonable excuse if the officer did not tell the person that the person commits an offence if the person does not comply with the safety direction.
- (4) Within 5 days after giving a person a safety direction under subsection (1), the rail safety officer must give the accredited person or employee a written notice stating the safety direction given under that subsection.

**148 Direction under s 146(1) or 147(4) must include reasons and be accompanied by information notice**

- (1) This section applies to a rail safety officer when giving a safety direction under section 146(1) or a written notice stating a safety direction under section 147(4).
- (2) The safety direction or notice must—
- (a) include the reasons for the safety direction; and
  - (b) be accompanied by an information notice for the safety direction.
- (3) If it is not possible or reasonable for a rail safety officer to comply with subsection (2) at the time the officer is giving the safety direction, the officer must comply with the subsection as soon as is reasonably practicable for the officer to do so.

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**149 Safety directions and relationship with Workplace Health and Safety Act 1995**

- (1) It is a defence in a proceeding against a person for a safety direction contravention for the person to prove—
- (a) the person committed the act or omission constituting the safety direction contravention as part of complying with the person's workplace obligations; and
  - (b) in committing the act or omission constituting the safety direction contravention, the person did each of the following to diminish the consequences of the safety direction contravention—
    - (i) chose an appropriate way;
    - (ii) took reasonable care and skill;
    - (iii) exercised proper diligence.

- (2) In this section—

*safety direction contravention* means a contravention of an obligation imposed on the person under a safety direction.

*workplace obligations*, of a person, means the person's obligations under the *Workplace Health and Safety Act 1995*, section 26 and part 3, divisions 2 and 3.

## **Division 6                      Audit regime**

**150 Audit program for inspecting activities of accredited person**

- (1) For each year, the chief executive must prepare a program (an *audit program*) for inspecting the activities of railway managers and railway operators during the year.
- (2) Without limiting subsection (1), an audit program may focus on the following—
- (a) particular railway managers or railway operators;

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- (b) a particular criterion relating to railway managers or railway operators;
- (c) a particular aspect of safety.

### **151 When inspections may be carried out during a year**

- (1) During a year, the chief executive may inspect an accredited person under an audit program for the year.
- (2) Also, the chief executive may inspect an accredited person if the chief executive reasonably believes—
  - (a) an aspect of safety needs to be considered in relation to the particular accredited person or accredited persons generally; or
  - (b) the accredited person has not, or is not, complying with a railway provision.

### **152 Requirement to give information or document for inspection**

- (1) For inspecting an accredited person, the chief executive may, by signed notice given to the accredited person, require the accredited person to give the chief executive information or a document the chief executive reasonably believes is relevant to the inspection.
- (2) The notice must include—
  - (a) a time, that is reasonable in the circumstances, by which the accredited person must comply with the requirement; and
  - (b) a warning that it is an offence to fail to comply with the requirement, unless the accredited person has a reasonable excuse.

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**153 Failure to give information or document for inspection**

- (1) A person to whom a notice is given under section 152 must comply with the requirement in the notice within the time stated in it, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

- (2) If the person is an individual, it is a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the person.
- (3) The person does not commit an offence against this section if the information or document sought by the chief executive is not in fact relevant to the inspection.

**Division 7                      Disciplinary action against  
   accredited persons**

**154 Happening that may give rise to a belief that a ground for  
disciplinary action exists**

- (1) The chief executive may consider that a ground for disciplinary action about an accreditation of an accredited person exists after any of the following—
- (a) an inspection under an audit program;
  - (b) an inspection other than under an audit program;
  - (c) a report of a serious incident;
  - (d) an investigation of an incident.
- (2) However, subsection (1) does not limit the matters that may cause the chief executive to consider a ground for disciplinary action exists.

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## **155 Grounds for disciplinary action about the accreditation of an accredited person**

Each of the following is a ground to take disciplinary action about an accreditation of an accredited person—

- (a) the accredited person contravened a provision of this part, part 5 or 6 or chapter 14, whether or not—
  - (i) a penalty is provided for the provision that the accredited person contravened; or
  - (ii) a proceeding for a railway offence, or another action under this Act relating to a railway provision, is started against the person; or
  - (iii) the person is convicted of a railway offence, or another action is taken in relation to the person under this Act;
- (b) the accredited person failed to comply with a condition of the accreditation.

## **156 Show cause notice**

- (1) If the chief executive reasonably believes a ground exists to take disciplinary action about an accreditation of an accredited person, the chief executive must give the accredited person a signed notice (a *show cause notice*).
- (2) The show cause notice must state each of the following—
  - (a) the disciplinary action the chief executive proposes taking under this division (the *proposed action*);
  - (b) the grounds for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) if the proposed action includes suspension—the proposed suspension including the proposed period of the suspension;

- (e) if the proposed action includes varying the accreditation—the change that it is proposed to make to an imposed condition or a new condition it is proposed to impose on the accreditation;
  - (f) an invitation to the accredited person to show, within a stated period (the *show cause period*), why the proposed action should not be taken.
- (3) The show cause period must be a period ending at least 28 days after the day the show cause notice is given to the accredited person.

### **157 Consideration of representations**

- (1) The accredited person may make written representations about the show cause notice to the chief executive in the show cause period.
- (2) The chief executive must consider all written representations (the *accepted representations*) made under subsection (1).

### **158 Immediate suspension of an accreditation**

- (1) This section applies if the chief executive reasonably believes—
  - (a) a ground to take disciplinary action about an accreditation requires the immediate suspension of the accreditation—
    - (i) to ensure the safety of persons; or
    - (ii) to prevent damage to rail transport infrastructure or other rail infrastructure; or
  - (b) an accredited person does not have the financial capacity or public risk insurance arrangements required under section 137(1) or (2).
- (2) The chief executive may suspend the accreditation immediately.

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- (3) The suspension can be effected only by the chief executive giving the accredited person all of the following—
  - (a) a signed notice stating the suspension and the reason for the suspension;
  - (b) an information notice for the suspension;
  - (c) a show cause notice.
- (4) The suspension—
  - (a) takes effect immediately all the documents mentioned in subsection (3) are given to the accredited person; and
  - (b) continues to operate until the show cause notice is finally dealt with.

## **159 Action by chief executive**

- (1) This section applies if—
  - (a) there are no accepted representations for the show cause notice; or
  - (b) after considering the accepted representations for the show cause notice, the chief executive still believes the ground for disciplinary action exists relating to the accreditation.
- (2) The chief executive may—
  - (a) if the proposed action is a direction to apply to amend the approved safety management system for a railway managed, or for the operation of rolling stock on a railway, by the accredited person—direct the accredited person to apply for the proposed amendment by a stated time; or
  - (b) if the proposed action is to suspend the accreditation—suspend the accreditation for not longer than the proposed period of suspension; or
  - (c) if the proposed action is to vary the accreditation—vary the accreditation in the proposed way, or another way to

which the accredited person has consented in writing, including by varying an existing condition or by imposing a new condition; or

- (d) if the proposed action is to cancel the accreditation—cancel the accreditation or suspend the accreditation for a period.
- (3) More than 1 type of disciplinary action about an accreditation of an accredited person may be taken under this section.
  - (4) If the chief executive decides to take action under subsection (2), the chief executive must immediately give the accredited person—
    - (a) a signed notice stating—
      - (i) the decision; and
      - (ii) for a direction as mentioned in subsection (2)(a)—that the accreditation will be suspended in its entirety under subsection (5) without further notice until the accredited person makes the application for the proposed amendment; and
      - (iii) the reasons for the decision; and
    - (b) an information notice for the decision.
  - (5) If the chief executive directs the accredited person to apply for a proposed amendment by a stated time and the person does not make the application by the stated time, the accredited person's accreditation is suspended in its entirety from that time until the day after the day the accredited person gives the chief executive the application.
  - (6) If the chief executive's decision is to cancel the accreditation, the notice mentioned in subsection (4)(a) must include a direction to the accredited person to return the certificate of accreditation to the chief executive, within 14 days after receiving the notice.

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- (7) A person who is directed under subsection (6) to return a certificate of accreditation must comply with the direction within 14 days after receiving the direction.

Maximum penalty—40 penalty units.

- (8) The decision takes effect on the later of the following—
- (a) the day the signed notice mentioned in subsection (4)(a) is given to the accredited person;
  - (b) the day of effect stated in the signed notice.

### **160 Decision by chief executive not to take action under s 159**

- (1) This section applies if—
- (a) there are accepted representations for the show cause notice; and
  - (b) after considering the accepted representations for the show cause notice, the chief executive no longer believes a ground for disciplinary action exists relating to the accreditation.
- (2) The chief executive must give the accredited person a signed notice stating the chief executive does not intend to take action under section 159 and the matter is completed.

## **Division 8 Information about safety issues**

### **161 Chief executive may publish safety bulletin**

- (1) The chief executive may publish, in a way that the chief executive considers appropriate, a document containing information about safety issues for railways (a *safety bulletin*).
- (2) Without limiting the information that may be included in a safety bulletin, the chief executive may include any of the following information—

- (a) information arising out of a report of an incident or an investigation into an incident, including a serious incident;
  - (b) information arising out of an inspection of an accredited person;
  - (c) other information about safety issues, including information from outside Queensland.
- (3) The chief executive must consult with an accredited person about information the chief executive proposes to publish that may identify, or be reasonably expected to identify, the accredited person.
- (4) Also, the chief executive must consult with an accredited person, or any other person, about information the chief executive proposes to publish in which the accredited person or the other person has a proprietary interest.

## **Part 4                      Rail transport infrastructure powers**

### **Division 1                Railway works**

#### **162    Application of div 1**

This division applies only to railway works.

#### **163    Entering land for railway works etc.**

For railway works, the chief executive or an accredited person may enter someone else's land and carry out the works.

## **164 Entry to land by notice or with approval**

- (1) Before entering someone else's land to carry out railway works, the chief executive or an accredited person must—
  - (a) give at least 7 days written notice to the land's owner or occupier; or
  - (b) get the written agreement of the land's owner or occupier to the entry.
- (2) The notice must—
  - (a) state the use intended to be made of the land; and
  - (b) include a general outline of the intended works; and
  - (c) state an approximate period when the works are expected to be carried out on the land.
- (3) The chief executive or accredited person need not comply with subsection (1) for—
  - (a) urgent remedial action on a railway; or
  - (b) maintenance on a road.
- (4) If urgent remedial action is required, the chief executive or accredited person must give the land's owner or occupier as much oral notice as is practicable.

## **165 Care to be taken in carrying out works etc.**

In entering land and carrying out railway works on the land, the chief executive or an accredited person—

- (a) must take as much care as is practicable to minimise damage to the land or inconvenience to the land's owner or occupier; and
- (b) may do anything necessary or desirable to minimise the damage or inconvenience; and
- (c) must get the agreement of the owner or occupier to take or use the materials of the land's owner or occupier, unless urgent remedial action on a railway is required.

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**166 Compensation for carrying out works etc.**

- (1) An owner or occupier of land entered under this part by the chief executive or an accredited person may, by written notice given to the chief executive or accredited person—
  - (a) claim compensation for loss or damage caused by the entry or railway works carried out on the land; or
  - (b) claim compensation for the taking or use of materials; or
  - (c) require the person to carry out works in restitution for the damage; or
  - (d) require the person to carry out works in restitution for the damage and then claim compensation for any loss or damage not restituted.
- (2) The notice must be given—
  - (a) within 1 year after the railway works are completed; or
  - (b) at a later time allowed by the chief executive or accredited person.
- (3) The amount of compensation is—
  - (a) the amount agreed between the parties; or
  - (b) if the parties can not agree within a reasonable time—the amount decided by a court with jurisdiction for the recovery of the amount of compensation claimed.
- (4) However, the amount of compensation for damage to the land and its fixtures, and for taking or use of materials, can not be more than the amount that would have been awarded if the land had been acquired.

**167 Watercourses**

- (1) To carry out railway works, an accredited person may, with the chief executive's written approval—
  - (a) divert a watercourse; or

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- (b) construct a watercourse, whether temporary or permanent.
- (2) In deciding whether to approve the diversion of a watercourse, the chief executive must consider the effect the works would have on the watercourse's physical integrity and flow characteristics.
- (3) Subsection (2) does not limit the matters the chief executive may consider.
- (4) Subsection (1) does not authorise the chief executive, in a wild river area, to grant an approval under this section to—
  - (a) divert or construct a watercourse; or
  - (b) extract quarry material from a watercourse.

## **Division 2                      Other powers**

### **168      Power to require works to stop**

- (1) A person must not, without the chief executive's written approval, carry out works near a railway if the works threaten, or are likely to threaten, the railway's safety or operational integrity.

Maximum penalty—100 penalty units.

- (2) If—
  - (a) a person is carrying out, or proposes to carry out, works near a railway; and
  - (b) the chief executive reasonably believes they threaten, or are likely to threaten, the railway's safety or operational integrity;

the chief executive may give the person a written direction to stop, alter or not to start the works.

- (3) The person must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (4) If works are carried out contrary to subsection (1) or a direction under subsection (2), the chief executive may, by written notice, require the owner of the land where the works are situated to alter, demolish or take away the works within a stated reasonable time.

- (5) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (6) If the person does not comply with the requirement, the chief executive may—

- (a) alter, demolish or take away the works; or
- (b) alter, demolish or take away the works and recover the cost of doing so from the land's owner as a debt payable by the owner.

- (7) For this section, a person authorised by the chief executive may enter land and inspect works—

- (a) after giving 3 days written notice to the land's owner or occupier; or
- (b) with the written agreement of the land's owner or occupier; or
- (c) without notice or approval, if the chief executive reasonably believes there is an immediate and significant threat to the railway's safety or operational integrity.

- (8) This section binds all persons, including the State, the Commonwealth and the other States.

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## **169 Closing railway crossings**

- (1) A railway manager may temporarily close or regulate a railway crossing if satisfied it is necessary because of an immediate threat to—
  - (a) the safety of the railway; or
  - (b) the public using it or who may use it.
- (2) If the manager decides to close or regulate a crossing—
  - (a) the manager must, as soon as practicable after its closure or regulation, notify the authority responsible for the crossing of its closure or regulation, unless the authority has agreed that notification is unnecessary; and
  - (b) the manager may construct a substitute crossing.

# **Part 5 Rail safety officers**

## **Division 1 Definitions**

### **170 Definitions for pt 5**

In this part—

*enter*, rolling stock, includes board rolling stock.

*place* includes the following—

- (a) land;
- (b) a building or other structure, or part of a building or other structure, of any type;
- (c) a group of buildings or other structures, or part of a group of buildings or other structures, of any type.

**public place** means—

- (a) a place, or part of a place, that the public is entitled to use, that is open to members of the public or that is used by the public, whether or not on payment of money; or
- (b) a place, or part of a place, that the occupier allows members of the public to enter, whether or not on payment of money.

**railway workplace** means either of the following places —

- (a) a place that is, or at which is located, rail transport infrastructure or other rail infrastructure;
- (b) another place used by an accredited person to conduct activities in relation to managing a railway or operating rolling stock on a railway.

## **Division 2                      Rail safety officers including provisions about appointment**

### **171      Rail safety officers**

- (1) Each police officer is a rail safety officer.
- (2) The chief executive may appoint an officer of the department, or any other person, as a rail safety officer.
- (3) However, the chief executive may appoint a person under subsection (2) only if the chief executive is reasonably satisfied the person is qualified for appointment because the person has the necessary expertise or experience.
- (4) Sections 172(1)(a) and (b), 173 and 174 do not apply to a rail safety officer who is a police officer.

### **172      Appointment conditions and limit on powers**

- (1) A rail safety officer holds office on any conditions stated in—
  - (a) the officer’s instrument of appointment; or

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- (b) a signed notice by the chief executive given to the officer; or
- (c) a regulation.

*Example for subsection (1)(a)—*

The instrument of appointment of a rail safety officer may provide that if the officer is an employee of a railway manager or railway operator for a railway, the officer is appointed only to investigate, or may not investigate, a matter under section 216(2) about a specific railway.

- (2) The instrument of appointment, a signed notice given to the officer or a regulation may limit the officer's powers under a railway provision.

### **173 Issue of identity card to each rail safety officer**

- (1) The chief executive must issue an identity card to each rail safety officer.
- (2) The identity card must—
  - (a) contain a recent photo of the officer; and
  - (b) contain a copy of the officer's signature; and
  - (c) identify the person as a rail safety officer under this Act; and
  - (d) state an expiry date for the card.
- (3) This section does not prevent the issuing of a single identity card to a person for this Act and other purposes.

### **174 Production or display of identity card**

- (1) In exercising a power under a railway provision in relation to a person, a rail safety officer must—
  - (a) produce the officer's identity card for the person's inspection before exercising the power; or
  - (b) have the identity card displayed so that it is clearly visible to the person when exercising the power.

- (2) However, if it is not practicable to comply with subsection (1), the officer must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), a rail safety officer does not exercise a power in relation to a person only because the officer, as authorised under this Act, enters—
  - (a) a public place when it is open to the public; or
  - (b) a place for the purpose of asking the occupier of the place for consent to enter.

### **175 When rail safety officer ceases to hold office**

- (1) A rail safety officer ceases to hold office if any of the following happens—
  - (a) the term of office stated in a condition of office ends;
  - (b) the officer ceases to hold office under another condition of office;
  - (c) the officer's resignation under section 176 takes effect.
- (2) Subsection (1) does not limit the ways a rail safety officer may cease to hold office.
- (3) In this section—

*condition of office* means a condition on which the officer holds office.

### **176 Resignation**

A rail safety officer may resign by signed notice given to the chief executive.

### **177 Return of identity card**

A person who ceases to be a rail safety officer must return the person's identity card to the chief executive within 21 days

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after ceasing to be an officer, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

### **Division 3                      Entry to places by rail safety officers**

#### **178      Power to enter places**

- (1) A rail safety officer may enter a place if—
  - (a) its occupier consents to the entry; or
  - (b) it is a public place and the entry is made when it is open to the public; or
  - (c) the entry is authorised by a warrant; or
  - (d) it is a railway workplace and the entry is made when the place is—
    - (i) open for carrying on activities for which the place is a railway workplace; or
    - (ii) otherwise open for entry; or
    - (iii) required to be open for inspection under an accreditation for a railway; or
    - (iv) not open, or required to be open, as mentioned in subparagraphs (i) to (iii) but the entry is urgently required to investigate the circumstances of a serious incident.
- (2) For the purpose of asking the occupier of a place for consent to enter, the officer may, without the occupier's consent or a warrant—
  - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or

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- (b) enter part of the place the officer reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.
  - (3) A rail safety officer who enters a railway workplace under subsection (1)(d) must not unnecessarily impede any activities being conducted at the workplace.
  - (4) If a rail safety officer may enter a place under subsection (1)(d), the officer is not authorised to enter any part of the place that is a home.
  - (5) In this section—  
*home* means a building, caravan or other structure in which an individual lives.

## **179 Procedure for entry with consent**

- (1) This section applies if a rail safety officer intends to ask an occupier of a place to consent to the officer or another rail safety officer entering the place.
- (2) Before asking for the consent, the officer must tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the officer may ask the occupier to sign an acknowledgment of the consent.
- (4) The acknowledgment must state—
  - (a) the occupier has been told—
    - (i) the purpose of the entry; and
    - (ii) that the occupier is not required to consent; and
  - (b) the purpose of the entry; and
  - (c) the occupier gives the officer consent to enter the place and exercise powers under a railway provision; and
  - (d) the time and date the consent was given.

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- (5) If the occupier signs the acknowledgment, the officer must immediately give a copy to the occupier.
- (6) If—
  - (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
  - (b) an acknowledgment complying with subsection (4) for the entry is not produced in evidence;the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

### **180 Procedure for other entries without warrant**

- (1) This section applies if—
  - (a) a rail safety officer intends to enter a place without the consent of an occupier of the place or a warrant, as authorised under section 178(1)(d); and
  - (b) an occupier is present at the place.
- (2) Before entering the place, the officer must tell, or make a reasonable attempt to tell, the occupier—
  - (a) the purpose of the entry; and
  - (b) that the officer is permitted under section 178(1)(d) to enter the place without the occupier's consent or a warrant.

### **181 Application for warrant**

- (1) A rail safety officer may apply to a magistrate for a warrant relating to a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the officer gives the magistrate all of the information the

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magistrate requires about the application in the way the magistrate requires.

*Example for subsection (3)—*

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

## **182 Issue of warrant**

- (1) A magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
  - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of a railway offence; and
  - (b) the evidence is at the place or, within the next 7 days, may be at the place.
- (2) The warrant must state—
  - (a) that a stated rail safety officer may, with necessary and reasonable help and force—
    - (i) enter the place and any other place necessary for entry; and
    - (ii) exercise powers under a railway provision; and
  - (b) the railway offence for which the warrant is sought; and
  - (c) the evidence that may be seized under the warrant; and
  - (d) the hours of the day or night when the place may be entered; and
  - (e) the date, within 14 days after the warrant's issue, the warrant ends.

## **183 Special warrants**

- (1) A rail safety officer may apply for a warrant (a *special warrant*) by phone, fax, radio or another form of communication if the officer reasonably believes it necessary because of—

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- (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the officer's remote location.
- (2) Before applying for the special warrant, the officer must prepare an application stating the grounds on which the warrant is sought.
- (3) The officer may apply for the warrant before the application is sworn.
- (4) After issuing the special warrant, the magistrate must immediately fax or otherwise electronically communicate a copy (a *facsimile warrant*) to the officer if it is reasonably practicable to do so.
- (5) If it is not reasonably practicable to fax or electronically communicate a copy to the officer—
  - (a) the magistrate must tell the officer—
    - (i) what the terms of the special warrant are; and
    - (ii) the date and time the special warrant is issued; and
  - (b) the officer must complete a form of warrant (a *warrant form*) and write on it—
    - (i) the magistrate's name; and
    - (ii) the date and time the magistrate issued the special warrant; and
    - (iii) the terms of the special warrant.
- (6) The facsimile warrant, or the warrant form properly completed by the officer, authorises the entry and the exercise of the other powers stated in the special warrant issued.
- (7) The officer must, at the first reasonable opportunity, send the magistrate—
  - (a) the sworn application; and
  - (b) if the officer completed a warrant form—the completed warrant form.

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- (8) On receiving the documents, the magistrate must attach them to the special warrant.
- (9) If—
- (a) an issue arises in a proceeding about whether an exercise of a power was authorised by a special warrant; and
  - (b) the warrant is not produced in evidence;
- the onus of proof is on the person relying on the lawfulness of the exercise of the power to prove a special warrant authorised the exercise of the power.

#### **184 Warrants—procedure before entry**

- (1) This section applies if—
- (a) a rail safety officer stated in a warrant issued under this division for a place is intending to enter the place under the warrant; and
  - (b) a person is present at the place.
- (2) Before entering the place, the officer must do or make a reasonable attempt to do the following things—
- (a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the officer's identity card or other document evidencing the officer's appointment;
  - (b) give the person a copy of the warrant or, if the entry is authorised by a facsimile warrant or warrant form, a copy of the facsimile warrant or warrant form;
  - (c) tell the person the officer is permitted by the warrant to enter the place;
  - (d) give the person an opportunity to allow the officer immediate entry to the place without using force.
- (3) However, the officer need not comply with subsection (2) if the officer reasonably believes immediate entry to the place is

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required to ensure the effective execution of the warrant is not frustrated.

- (4) Subsection (2)(a) does not apply to a rail safety officer who is a police officer.

*Editor's note—*

See the *Police Powers and Responsibilities Act 2000*, section 637 (Supplying police officer's details).

## **Division 4                      General powers of rail safety officers**

### **185      General powers after entering place**

- (1) This division applies to a rail safety officer who, under division 3, enters a place.
- (2) However if, under section 178(2), the officer enters a place to ask the occupier's consent to enter a place, this division applies to the officer only if the consent is given or the entry is otherwise authorised.
- (3) To the extent the officer reasonably considers it necessary for an inspection or investigation under a railway provision, the officer may do any of the following—
  - (a) search any part of the place;
  - (b) enter or open, using reasonable force, a structure, rolling stock, vehicle or other thing to examine the structure, rolling stock, vehicle or other thing;
  - (c) inspect, film, photograph, videotape or otherwise record an image of a document, structure, rolling stock, vehicle or other thing at the place;
  - (d) take, or authorise another person to take, for analysis a thing, or a sample of or from the thing, at the place;
  - (e) mark, tag or otherwise identify rolling stock, a vehicle or other thing at the place;

- (f) take an extract from, or copy, a document at the place;
  - (g) take into the place the equipment, materials or persons the officer reasonably requires for exercising a power under this part;
  - (h) take a necessary step to allow a power under paragraphs (a) to (g) to be exercised.
- (4) If the officer takes a sample or thing for analysis under subsection (3)(d), the officer must—
- (a) give a receipt for the sample or thing to the person in charge of the thing or place from which it was taken; and
  - (b) for a sample or thing with an intrinsic value—at the end of 6 months after the sample or thing was taken, return it to the person who appears to be the owner of it or the person in charge of the thing or place from which it was taken.

*Editor's note—*

See section 199(1) (Forfeiture by rail safety officer) for what happens if a sample or thing can not be returned to its owner or the owner can not be found.

- (5) However, if for any reason it is not practicable to comply with subsection (4)(a), the officer must leave the receipt at the place in a conspicuous position and in a reasonably secure way.

## **186 Procedure before entering or opening rolling stock or vehicle**

- (1) If a relevant person is present at rolling stock or a vehicle, the rail safety officer must do or make a reasonable attempt to do the following before entering the rolling stock or vehicle under section 185—
- (a) tell the relevant person the purpose of the entry;
  - (b) ask for the consent of the relevant person to the entry;

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- (c) tell the relevant person the officer is permitted under a railway provision to enter the rolling stock or vehicle without consent;
  - (d) for a vehicle—if the relevant person is not the owner of the vehicle, advise the vehicle’s owner of the officer’s intention to enter it.
- (2) If a relevant person is not present at rolling stock or a vehicle, before entering the rolling stock or vehicle, the officer must—
- (a) take reasonable steps to find a relevant person for the rolling stock or vehicle; and
  - (b) comply with subsection (1)(a) to (c) for the relevant person if found.
- (3) Subsections (1)(d) and (2) do not require the officer to take a step the officer reasonably believes may frustrate or otherwise hinder an inspection or investigation under a railway provision or the purpose of the intended entry.
- (4) In this section—
- relevant person* means—
- (a) for rolling stock—a person who is the driver or guard of, or engineer for, the rolling stock; or
  - (b) for a vehicle—a person who appears to be the driver, or to be in control, of the vehicle.

### **187 Power to require reasonable help or information**

- (1) A rail safety officer may require the occupier of, or someone else at, a place entered into under division 3 to give the officer—
- (a) reasonable help to exercise a power under a railway provision; or
  - (b) information to help the officer ascertain whether a railway provision is being complied with.

*Example for subsection (1)—*

When inspecting rolling stock, a rail safety officer may ask the driver of the rolling stock to accompany the officer or to explain how a piece of equipment is used as part of the accredited person's approved safety management system for the railway or for the operation of rolling stock on the railway.

- (2) When making a requirement under subsection (1), the officer must warn the person that it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.
- (3) A person required to give reasonable help under subsection (1)(a), or give information under subsection (1)(b), must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (4) If the person is an individual, it is a reasonable excuse for the person not to comply with the requirement to give information if complying with the requirement might tend to incriminate the person.

**188 Power to stop rolling stock or vehicle that may be entered or opened**

- (1) If rolling stock or a vehicle that a rail safety officer may enter or open under a railway provision is moving or about to move, the officer may—
  - (a) require the accredited person for the rolling stock or vehicle to stop the rolling stock or vehicle at, not move the rolling stock or vehicle from, or move the rolling stock or vehicle to, a stated place; or
  - (b) ask or signal the person in control of the rolling stock or vehicle to stop the rolling stock or vehicle at, or not move the rolling stock or vehicle from, a stated place.
- (2) Before making a request or giving a signal under subsection (1)(b) relating to rolling stock, the officer must—

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- (a) consult with the train controller for the rolling stock about whether it is safe to stop the rolling stock at, or not move the rolling stock from, the place taking into account other rolling stock; and
  - (b) disrupt the operation of rolling stock on the railway only to the extent that is reasonably necessary.
- (3) An accredited person of whom a requirement is made under subsection (1)(a) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (4) The person in control of rolling stock, or a vehicle, to whom a request is made or signal given under subsection (1)(b) must comply with the request or signal, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (5) It is a reasonable excuse for the person in control of rolling stock or a vehicle not to comply with the request or signal if—
- (a) to immediately comply with the request or signal would—
    - (i) endanger the person or someone else; or
    - (ii) cause damage to rail transport infrastructure, rolling stock or a vehicle; and
  - (b) the person complies with the request or signal as soon as is practicable to comply with it.

## **189 Other powers about rolling stock or vehicles that may be entered**

- (1) If a rail safety officer enters or opens rolling stock or a vehicle under a railway provision, the officer may require the person in control of the rolling stock or vehicle—
- (a) to give the officer reasonable help to enter or open the rolling stock or vehicle; or

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- (b) to bring the rolling stock or vehicle to a stated reasonable place and remain in control of the rolling stock or vehicle for a reasonable period to allow the officer to exercise a power under a railway provision.
- (2) When making a requirement under subsection (1), the officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.
- (3) A person must not fail to comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—100 penalty units.

## **Division 5                      Seizure**

### **190      Power to seize evidence if entry without consent or warrant**

A rail safety officer who enters a place under a railway provision, without consent and without a warrant, may seize a thing at the place only if the officer reasonably believes—

- (a) the thing is evidence of a railway offence; and
- (b) the seizure is necessary to prevent the thing being—
- (i) destroyed, hidden or lost; or
- (ii) used to commit, continue or repeat, a railway offence.

### **191      Power to seize evidence if entry with consent or warrant**

- (1) This section applies if a rail safety officer enters a place under a power under a railway provision with the necessary consent of a person or with a warrant.
- (2) If the officer enters a place with the necessary consent, the officer may seize a thing at the place if—

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- (a) the officer reasonably believes the thing is evidence of a railway offence; and
  - (b) seizure of the thing is consistent with the purpose of entry as told to the person when asking for the person's consent.
- (3) If the officer enters the place with a warrant, the officer may seize a thing that is the evidence for which the warrant was issued.
- (4) The officer may seize anything else at the place if the officer reasonably believes—
- (a) the thing is evidence of a railway offence; and
  - (b) the seizure is necessary to prevent the thing being—
    - (i) destroyed, hidden or lost; or
    - (ii) used to commit, continue or repeat a railway offence.

## 192 Securing seized things

Having seized a thing, a rail safety officer may—

- (a) move the thing from the place where it was seized (the *place of seizure*); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it; or

*Examples of restricting access to a thing—*

- 1 marking, sealing, tagging or otherwise identifying the thing to show access to it is restricted
  - 2 sealing the entrance to a room where the thing is situated and marking the entrance to show access to the thing is restricted
- (c) for equipment—make it inoperable.

*Example of making equipment inoperable—*

dismantling equipment or removing a component of equipment without which the equipment is not capable of being used

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### 193 Offence to tamper with seized thing

- (1) If a rail safety officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without a rail safety officer's approval.

Maximum penalty—60 penalty units.

- (2) If a rail safety officer makes seized equipment inoperable, a person must not tamper, or attempt to tamper, with the equipment, without a rail safety officer's approval.

Maximum penalty—60 penalty units.

### 194 Powers to support seizure

- (1) To enable a thing to be seized, a rail safety officer may require the person in control of it—

- (a) to take it to a stated reasonable place by a stated reasonable time; and  
(b) if necessary, to remain in control of it at the stated place for a stated reasonable period.

- (2) The requirement—

- (a) must be made by signed notice given to the person; or  
(b) if for any reason it is not practicable to give a signed notice to the person—may be made orally and confirmed by signed notice given to the person as soon as is practicable.

- (3) A further requirement may be made under this section about the thing if it is necessary and reasonable to make the further requirement.

*Examples of a further requirement—*

A requirement that the thing—

- be transported during stated off-peak hours
- be transported along a particular route
- be transported in a particular way.

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- (4) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

- (5) Subject to the provisions of this part providing for compensation, the cost of complying with subsection (1) or (3) must be borne by the person.

*Editor's note—*

See section 213 (Compensation).

- (6) For this section, a person is *in control* of a thing if the person has, or reasonably appears to a rail safety officer to have, authority to exercise control over the thing.

## **195 Rail safety officer may require thing's return**

- (1) If a rail safety officer has required a person to take a thing to a stated reasonable place by a stated reasonable time under a railway provision, the officer may require the person to return the thing to the place from which it was taken.

- (2) A person of whom a requirement is made under subsection (1) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (3) Subject to the provisions of this part providing for compensation, the cost of complying with subsection (1) must be borne by the person.

## **196 Receipt for seized thing**

- (1) After a rail safety officer seizes a thing, the officer must give a receipt for it to the person from whom the thing was seized.

- (2) However, if for any reason it is not practicable to comply with subsection (1), the officer must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.

- (3) The receipt must describe generally the thing seized and its condition.
- (4) This section does not apply to a thing if it would be impracticable or unreasonable to expect the officer to account for the thing given its condition, nature and value.

### **197 Return of seized thing**

- (1) This section applies to a seized thing if—
  - (a) the thing has some intrinsic value; and
  - (b) the thing has not been forfeited under division 6.
- (2) A rail safety officer must return the thing to its owner—
  - (a) at the end of 6 months after the seizure; or
  - (b) if a proceeding for an offence involving the thing is started within the 6 months—at the end of the proceeding and any appeal from the proceeding.
- (3) Despite subsection (2), the officer must return a thing seized as evidence if the officer stops being satisfied—
  - (a) its continued retention as evidence is necessary; and
  - (b) its continued retention is necessary to prevent the thing being used to continue, or repeat, an offence.

### **198 Access to seized thing**

- (1) Until a seized thing is forfeited or returned, a rail safety officer must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

## Division 6                      Forfeiture

### 199      Forfeiture by rail safety officer

- (1) A sample or thing taken for analysis under section 185(3)(d), or a thing seized under division 5, is forfeited to the State if the rail safety officer who took, or arranged the taking of, the sample or thing or who seized the thing—
  - (a) after making reasonable efforts, can not return it to its owner; or
  - (b) after making reasonable inquiries, can not find its owner.
- (2) For subsection (1), the officer is not required to—
  - (a) make efforts if it would be unreasonable to make efforts to return the sample or thing to its owner; or
  - (b) make inquiries if it would be unreasonable to make inquiries to find the owner.

*Example for paragraph (b)—*

The owner of the sample or thing has migrated to another country.
- (3) Regard must be had to the sample's or thing's condition, nature and value in deciding—
  - (a) whether it is reasonable to make efforts or inquiries; and
  - (b) if efforts or inquiries are made—what efforts or inquiries, including the period over which they are made, are reasonable.
- (4) In this section—

**owner**, for a sample or a thing taken for analysis, means the person in charge of the thing or place from which the sample or thing was taken.

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## **200 Forfeiture on conviction**

- (1) On conviction of a person for a railway offence, the court may order the forfeiture to the State of anything owned by the person and seized under division 5.
- (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 the *Penalties and Sentences Act 1992* or another law.

## **201 Dealing with forfeited sample or thing**

- (1) On forfeiture of a sample or thing to the State, the sample or thing becomes the State's property and may be dealt with by the chief executive in a way the chief executive reasonably believes is appropriate.
- (2) Without limiting subsection (1), the chief executive may destroy or dispose of the sample or thing.

## **Division 7 Other powers**

### **202 Power to require name and address**

- (1) A rail safety officer may require a person to state the person's name and residential or business address if the officer—
  - (a) finds the person committing a railway offence; or
  - (b) finds the person in circumstances that lead, or has information that leads, the officer to reasonably suspect the person has just committed a railway offence; or
  - (c) finds the person at a railway workplace, reasonably believes the person is an employee of an accredited person and reasonably considers that it is necessary for the purposes of a railway provision to know the person's name and residential or business address.

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- (2) When making the requirement, the officer must warn the person it is an offence to fail to state the person's name or address unless the person has a reasonable excuse.
- (3) The officer may also require the person to give evidence of the correctness of the stated name or required address if the officer reasonably suspects the stated name or address is false.

### **203 Failure to give name or address**

- (1) A person of whom a requirement is made under section 202(1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) A person does not commit an offence against subsection (1) if—
  - (a) the requirement was given because the rail safety officer reasonably suspected the person had committed a railway offence; and
  - (b) the person is not proved to have committed the railway offence.

### **204 Power to require information about contravention**

- (1) This section applies if a rail safety officer reasonably believes—
  - (a) a railway provision has been contravened; and
  - (b) a person may be able to give information about the contravention.
- (2) The officer may require the person to give information within the person's knowledge about the contravention in a stated reasonable time and in a stated reasonable way.
- (3) When making a requirement under subsection (2), the officer must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

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## **205 Failure to give information about contravention**

- (1) A person of whom a requirement is made under section 204 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

- (2) If the person is an individual, it is a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the person.

## **206 Power to require production of documents**

- (1) A rail safety officer may require an accredited person to make available for inspection by the officer, or produce to the officer for inspection, at a stated reasonable time and place, a document—

- (a) that is required to be kept by the accredited person under the approved safety management system for a railway managed, or for the operation of rolling stock on a railway, by the accredited person; or
- (b) that is prepared under the approved safety management system for a railway managed, or for the operation of rolling stock on a railway, by the accredited person and that the officer reasonably believes is necessary for the officer to consider to understand or verify a document that is required to be kept under the system.

*Example for paragraph (b)—*

The approved safety management system may require testing of equipment as part of a scheduled maintenance program and a record of the results of the test to be kept. If an item of equipment is tested under the approved safety management system, the document that states the results of the test is a document prepared under the approved safety management system.

- (2) When making a requirement under subsection (1), the officer must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

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- (3) The officer may keep the document to copy it but must return the document to the accredited person after copying it.

## **207 Failure to produce document**

- (1) A person required to make available, or produce, for inspection a document under section 206 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

- (2) It is not a reasonable excuse for a person that complying with the requirement might tend to incriminate the person.

## **Division 8 Offences relating to rail safety officers**

### **208 False or misleading statements**

- (1) A person must not state anything to a rail safety officer, in relation to the officer's exercise of a power under a railway provision, that the person knows is false or misleading in a material particular.

Maximum penalty—200 penalty units.

- (2) In a proceeding for an offence against subsection (1), it is enough to state that the statement made was 'false or misleading' to the person's knowledge, without specifying which.

### **209 False or misleading documents**

- (1) A person must not give a rail safety officer a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—200 penalty units.

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- (2) Subsection (1) does not apply to a person if the person when giving the document—
    - (a) tells the officer to the best of the person’s ability, how it is false or misleading; and
    - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
  - (3) In a proceeding for an offence against subsection (1), it is enough to state the document was ‘false or misleading’ to the person’s knowledge, without specifying which.

## **210 Obstruction of rail safety officer**

- (1) A person must not obstruct a rail safety officer, in relation to the officer’s exercise of a power under a railway provision, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (2) If a person has obstructed a rail safety officer and the officer decides to proceed with the exercise of the power, the officer must warn the person that—
  - (a) it is an offence to obstruct the officer unless the person has a reasonable excuse; and
  - (b) the officer reasonably believes the person’s conduct is an obstruction.
- (3) In this section—

*obstruct* includes assault, hinder, resist and attempt or threaten to obstruct.

## **211 Impersonating a rail safety officer**

A person must not pretend to be a rail safety officer.

Maximum penalty—100 penalty units.



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railway provision, other than because of a forfeiture under section 199 or 200.

- (2) The person is entitled to be paid the reasonable compensation because of the loss or damage that is agreed between the chief executive and the person, or failing agreement, decided by a court.
- (3) Compensation may be claimed and ordered to be paid in a proceeding—
  - (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
  - (b) for a railway offence brought against the person claiming compensation.
- (4) A court may order compensation to be paid only if satisfied it is just to make the order in the circumstances of the particular case.

## **Part 6                      Railway incidents**

### **Division 1AA            Preliminary**

#### **213A    Objects**

- (1) The objects of this part are to provide for—
  - (a) the reporting of incidents on or involving a railway; and
  - (b) the investigation of or inquiry into incidents on or involving a railway, including—
    - (i) investigations or inquiries independent of an accredited person for the railway; and
    - (ii) investigations or inquiries conducted to find out the cause of the incidents and to make

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recommendations about improvements to safety of transport by rail.

- (2) The following are not objects of this part—
  - (a) to apportion blame to individuals for incidents on or involving a railway;
  - (b) to provide the way to decide the liability of any individual in relation to an incident on or involving a railway;
  - (c) to help in court proceedings between parties, except as expressly provided by this part;
  - (d) to allow any adverse inference to be drawn from the fact that an individual is involved in an investigation or inquiry.
- (3) Subsection (2) does not make evidence inadmissible in a civil or criminal proceeding unless this part states the evidence is not admissible in the proceeding.

## 213B Definitions for pt 6

In this part—

***civil or criminal proceeding*** includes an administrative proceeding for the discipline of an individual.

***coronial procedure*** means any of the following under the *Coroners Act 2003*—

- (a) the making of a decision for section 30 of that Act;
- (b) an inquest;
- (c) an investigation;
- (d) a conference under section 34 of that Act.

***court*** includes any tribunal, authority, person or body that has power to require the production of documents or answering of questions, but does not include the Legislative Assembly or a commission of inquiry under the *Commissions of Inquiry Act 1950*.

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***data logger recording*** means a recording from a device installed on a locomotive or self-propelled rolling stock that records rolling stock event data related to operational performance of the locomotive or self-propelled rolling stock.

***data logger recording information*** means—

- (a) a data logger recording or part of a data logger recording; or
- (b) a copy or printout of all or part of a data logger recording; or
- (c) any information obtained from a data logger recording or part of a data logger recording.

***individual*** does not include an accredited person.

***inquiry*** means an inquiry conducted by a board of inquiry established or re-established under section 219.

***investigation*** means an investigation under this part of an incident on or involving a railway by a rail safety officer.

***relevant person*** see section 239AE.

***restricted information*** means any of the following, other than data logger recording information—

- (a) a statement, whether oral or in writing, obtained from a person in the course of an investigation or inquiry, including any record of the statement;
- (b) all information recorded in the course of an investigation or inquiry;
- (c) all communications in the course of an investigation or inquiry with a person involved in the operation of rolling stock that is or was the subject of an investigation or inquiry;
- (d) medical or private information regarding persons, including deceased persons, involved in an incident that is being or has been investigated or that is or has been the subject of an inquiry;

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- (e) in relation to rolling stock that is or was the subject of an investigation or an inquiry—information recorded for the purposes of monitoring or directing the progress of the rolling stock from 1 place to another or information recorded about the operation of the rolling stock;
- (f) records of the analysis of information or anything else obtained in the course of an investigation or inquiry, including opinions expressed by a person in that analysis;
- (g) information contained in a document that is given to a rail safety officer or board of inquiry in connection with this part.

## **Division 1                      Report of railway incident**

### **214      Reporting serious incidents**

- (1) If an accredited person for a railway becomes aware that a serious incident has happened on or involving the railway, the person must report the incident to the chief executive under guidelines made under subsection (2).

Maximum penalty—200 penalty units.

- (2) The chief executive may make, and give to all accredited persons, written guidelines—
  - (a) to which they are to have regard in deciding whether an incident is one to which subsection (1) applies; or
  - (b) about the information that must be included in reports under the subsection; or
  - (c) about the times within which reports must be made to the chief executive; or
  - (d) about the form in which reports must be made.

*Example for subsection (2)—*

A guideline may include a form and require that, within 2 hours of an accredited person for a railway becoming aware of a serious incident on or involving the railway, the person must fax the form to a number stated on the form, or telephone a telephone number stated on the form and tell the person answering the phone the information stated on the form.

- (3) In making a guideline, the chief executive must consult with all accredited persons.
- (4) A guideline has no effect unless the Minister notifies the making of the guideline.
- (5) The notice must state the places where copies of the guideline, and the provisions of any document applied, adopted or incorporated by the guideline, are available for inspection, without charge, during normal business hours.
- (6) The notice is subordinate legislation.

## **215 Request for report or incident details**

- (1) This section applies if the chief executive becomes aware that—
  - (a) a serious incident on or involving a railway may have happened even if the incident has not been reported; or
  - (b) an incident, other than a serious incident, on or involving a railway may have happened.
- (2) The chief executive may require an accredited person for the railway to give the chief executive a written report, or stated written details, about the incident within a stated reasonable period.
- (3) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—200 penalty units.

## Division 2                      Investigation of railway incident

### 216      Investigations by rail safety officer

- (1) This section applies if—
  - (a) a serious incident on or involving a railway happens; or
  - (b) the chief executive becomes aware that a serious incident, or an incident other than a serious incident, on or involving a railway may have happened, even if it has not been reported.
- (2) The chief executive may require a rail safety officer to investigate the matter.
- (3) If a report has been given to the chief executive about the incident, the chief executive may require the officer to investigate the matter by reviewing the report.
- (4) After finishing the investigation, the officer must give a report of the results of the investigation (the ***RSO report***) to the chief executive, including whether or not the officer reasonably considers the incident a serious incident and the reasons for considering the incident a serious incident.
- (5) The chief executive must give the Minister a copy of the RSO report within 14 days after receiving the report.
- (6) The Minister must table in the Legislative Assembly a copy of the RSO report within 14 days after receiving the report.
- (7) The following is not admissible in evidence in any civil or criminal proceeding—
  - (a) the RSO report;
  - (b) any report prepared by the rail safety officer as an interim RSO report;
  - (c) any report prepared by the rail safety officer as a draft RSO report for the purposes of consultation.

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- (8) However, subsection (7) has no effect on the use or admissibility of any type of report mentioned in the subsection in a coronial procedure.

## **217 Power of rail safety officer to investigate incident**

- (1) This section applies if—
- (a) an incident on or involving a railway has, or may have, happened; and
  - (b) a rail safety officer is investigating the incident, whether or not at the chief executive's request.
- (2) If the officer reasonably needs help in investigating the incident, the officer may require a person to give the officer reasonable help in the investigation.
- (3) A requirement may only be made of a person whom the officer reasonably believes is competent to give the help.
- (4) If the rail safety officer reasonably believes it necessary for the purposes of the investigation, the rail safety officer may require a person to—
- (a) answer questions relevant to the incident; or
  - (b) produce documents or other things relevant to the incident.
- (5) The officer may require an employee of a railway manager or operator to take an alcohol test, drug test or medical examination if the officer reasonably suspects—
- (a) the employee caused, or was directly involved in, the incident; and
  - (b) the result of the test or examination may help in deciding the circumstances and probable causes of the incident.
- (6) The test mentioned in subsection (5) must take place within 2 hours after the incident happens.

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- (7) The medical examination mentioned in subsection (5) must take place within a reasonable time after the officer forms the reasonable suspicions about the employee under the subsection.
- (8) The cost of the test or examination must be paid by the employee's employer.
- (9) A person must comply with a requirement under this section, unless the person has a reasonable excuse.  
Maximum penalty—200 penalty units.
- (9A) It is not a reasonable excuse for a person to fail to comply with the requirement that complying with the requirement might tend to incriminate the person or make the person liable to a penalty.
- (9B) Subsection (9C) applies to the following (*primary evidence*)—
  - (a) any help given by an individual to a rail safety officer in investigating an incident in response to a requirement under subsection (2);
  - (b) any answer given by an individual to a question mentioned in subsection (4)(a) to a rail safety officer in investigating an incident in response to a requirement under subsection (4)(a);
  - (c) a document or other thing mentioned in subsection (4)(b) produced by an individual to a rail safety officer in investigating an incident, and the fact of that production, in response to a requirement under subsection (4)(b);
  - (d) the results of an alcohol test, drug test or medical examination of an individual mentioned in subsection (5).
- (9C) The following is not admissible in evidence against an individual in any civil or criminal proceeding—
  - (a) primary evidence;

- (b) any information, or document or other thing, obtained as a direct or indirect result of primary evidence (*derived evidence*).
- (9D) Subsection (9C) does not prevent primary evidence or derived evidence being admitted in evidence in criminal proceedings about the falsity or misleading nature of the primary evidence.
- (10) When making a requirement of an individual under this section, a rail safety officer must—
- (a) warn the individual it is an offence to fail to comply with the requirement unless the individual has a reasonable excuse; and
  - (b) advise the individual that—
    - (i) it is not a reasonable excuse that complying with the requirement might tend to incriminate the individual or make the individual liable to a penalty; and
    - (ii) anything obtained under the requirement, and any evidence derived directly or indirectly from anything obtained under the requirement, is not admissible in evidence against the individual in any civil or criminal proceeding.
- (11) If the person refuses to take a test mentioned in subsection (5), the person may be taken, for a purpose prescribed under a regulation, to have been under the influence of alcohol or a drug when the incident happened, in the absence of evidence to the contrary.
- (12) In this section—
- alcohol test* includes—
- (a) a preliminary test to give an indication of the presence or absence of alcohol in a person's breath; and
  - (b) a test to analyse a person's blood or breath to determine the person blood alcohol concentration.

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*drug* means—

- (a) every substance or article which is a dangerous drug under and within the meaning of the *Drugs Misuse Act 1986*; or
- (b) any other substance, article, preparation or mixture (with the exception of liquor) whether gaseous, liquid, solid, or in any other form that, when consumed or used by any person, deprives the person either temporarily or permanently of any of the person's normal mental or physical faculties.

## **218 Compensation**

- (1) This section applies if a person incurs loss or expense because of the exercise or purported exercise by a rail safety officer of a power under this part, including, for example, in complying with a requirement made of the person.
- (2) The person may claim compensation for the loss or expense from the employing authority.
- (3) Payment of 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 offence against this Act brought against the person claiming compensation.
- (4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (5) A regulation may prescribe matters that may, or must, be taken into account by the court in considering whether it is just to make the order.
- (6) In this section—

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*employing authority*, of a rail safety officer, means—

- (a) if the officer is an employee of an accredited person—the accredited person; or
- (b) in any other case—the State.

## **Division 3            Boards of inquiry**

### **Subdivision 1        General**

#### **219    Minister may establish or re-establish boards of inquiry**

- (1) The Minister may, by gazette notice, establish or re-establish a board of inquiry about an incident that—
  - (a) has happened on or involving a railway; and
  - (b) the Minister considers is a serious incident.
- (2) The notice, or a subsequent gazette notice, may specify matters relevant to the inquiry, including, for example, the number and appointment of members, the chairperson and the terms of reference.
- (3) The Minister may exercise powers under this section for an incident—
  - (a) whether or not the incident has been investigated under division 2; or
  - (b) whether or not a board of inquiry has previously inquired into the incident.

#### **220    Role of board of inquiry**

- (1) The board of inquiry must—
  - (a) inquire into the circumstances and probable causes of the relevant incident; and
  - (b) give the Minister a written report of the board's findings.

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- (2) The report may contain the recommendations the board considers appropriate and other relevant matters.
- (3) The Minister must table a copy of the report in the Legislative Assembly within 14 days after receiving the report.
- (4) However, if the board gives the Minister a separate report of matters that the board considers should not be made public, the Minister need not table the separate report in the Legislative Assembly.
- (5) The following is not admissible in evidence in any civil or criminal proceeding—
  - (a) a report under this section;
  - (b) any report prepared by the board as an interim report under this section;
  - (c) any report prepared by the board as a draft report under this section for the purposes of consultation.
- (6) However, subsection (5) has no effect on the use or admissibility of any type of report mentioned in the subsection in a coronial procedure.

## **221 Conditions of appointment**

- (1) Members of the board of inquiry are entitled to be paid the fees and allowances that may be decided by the Minister.
- (2) The members hold office on the terms not provided by this Act that may be decided by the Minister.

## **222 Chief executive to arrange for services of staff and financial matters for board of inquiry**

As soon as practicable after the board of inquiry is established, the chief executive must consult with the chairperson of the board and arrange—

- (a) for the services of officers and employees of the department, rail safety officers and other persons to be

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made available to the board for the conduct of the inquiry; and

- (b) for financial matters relevant to the board.

### **223 Rail safety officer may exercise powers for board's inquiry**

- (1) This section applies to a rail safety officer whose services have been made available to the board of inquiry.
- (2) The rail safety officer may exercise powers under a railway provision for the incident the subject of the board's inquiry.

## **Subdivision 2 Conduct of inquiry**

### **224 Procedure**

- (1) In conducting its inquiry, the board of inquiry—
- (a) must observe natural justice; and
- (b) must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues.
- (2) In conducting the inquiry, the board—
- (a) is not bound by the rules of evidence; and
- (b) may inform itself in any way it considers appropriate, including, for example, holding hearings; and
- (c) may decide the procedures to be followed for the inquiry.
- (3) However, the board must comply with this division and any procedural rules prescribed under a regulation.
- (4) The chairperson presides at the inquiry.

## **225 Notice of inquiry**

The chairperson of the board of inquiry must give at least 14 days written notice of the time and place of the inquiry to anyone who the chairperson has reason to believe should be given the opportunity to appear at the inquiry.

## **226 Inquiry to be held in public other than in special circumstances**

- (1) An inquiry must be held in public.
- (2) However, the board may, of its own initiative or on the application of a person represented at the inquiry, direct that the inquiry, or a part of the inquiry, be held in private, and give directions about the persons who may be present.
- (3) The board may direct that the inquiry be held in private only if satisfied it is proper to make the order in the special circumstances of the inquiry.

## **227 Protection of members, legal representatives and witnesses**

- (1) A member of the board of inquiry has, in the performance of the member's duties, the same protection and immunity as a judge of the Supreme Court.
- (2) A lawyer or other person appearing before the board for someone else has the same protection and immunity as a barrister appearing for a party in a proceeding in the Supreme Court.
- (3) A person summoned to attend or appearing before the board as a witness has the same protection as a witness in a proceeding in the Supreme Court.

## **228 Record of proceedings to be kept**

The board of inquiry must keep a record of its proceedings.

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## **229 Procedural fairness and representation**

In conducting the inquiry, the board must give anyone directly concerned in the incident the subject of the inquiry, the opportunity of making a defence to all claims made against the person either in person or by lawyer or agent.

## **230 Board's powers on inquiry**

- (1) In conducting the inquiry, the board may—
  - (a) act in the absence of any person who has been given a notice under section 225 or some other reasonable notice; and
  - (b) receive evidence on oath or affirmation or by statutory declaration; and
  - (c) adjourn the inquiry; and
  - (d) disregard any defect, error, omission or insufficiency in a document; and
  - (e) permit or refuse to permit a person, including a lawyer, to represent someone else at the inquiry.
- (2) A member of the board may administer an oath or affirmation to a person appearing as a witness before the inquiry.

## **231 Notice to witness**

- (1) The chairperson of the board of inquiry may, by written notice given to a person, require the person to attend the inquiry at a stated time and place to give evidence or produce stated documents or things.
- (2) A person required to appear as a witness before the board is entitled to the witness fees prescribed under a regulation or, if no witness fees are prescribed, the reasonable witness fees decided by the chairperson.

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### **232 Inspection of documents or things**

- (1) If a document or other thing is produced to the board at the inquiry, the board may—
  - (a) inspect the thing; and
  - (b) make copies of, photograph, or take extracts from, the thing if it is relevant to the inquiry.
- (2) The board may also take possession of the thing, and keep it while it is necessary for the inquiry.
- (3) While it keeps a thing, the board must permit a person otherwise entitled to possession of the thing to inspect, make copies of, photograph, or take extracts from, it, at a reasonable place and time that the board decides.

### **233 Inquiry may continue despite court proceedings unless otherwise ordered**

The inquiry of the board of inquiry may start or continue, and a report may be prepared or given, despite a proceeding before any court or tribunal, unless a court or tribunal with the necessary jurisdiction orders otherwise.

### **234 Offences by witnesses**

- (1) A person given a notice under section 231 must not—
  - (a) fail, without reasonable excuse, to attend as required by the notice; or
  - (b) fail, without reasonable excuse, to continue to attend as required by the chairperson of the board of inquiry until excused from further attendance.

Maximum penalty—60 penalty units.

- (2) A person appearing as a witness at the inquiry must not—
  - (a) fail to take an oath or make an affirmation when required by the chairperson of the board; or

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- (b) fail, without reasonable excuse, to answer a question the person is required to answer by a member of the board;  
or
  - (c) fail, without reasonable excuse, to produce a document or thing the person is required to produce by a notice under section 231.

Maximum penalty—60 penalty units.

### **235 Self-incrimination**

- (1) A person appearing as a witness at the inquiry is not excused from—
  - (a) answering a question put to the person at the inquiry; or
  - (b) producing a document or other thing at the inquiry;on the ground that the answer or producing the thing might tend to incriminate the person or make the person liable to a penalty.
- (2) The following is not admissible in evidence against an individual in any civil or criminal proceeding—
  - (a) any answer given at the inquiry by the individual, and any document or other thing produced at the inquiry by the individual and the fact of that production, in response to a requirement under this division (*primary evidence*);
  - (b) any information, or document or other thing, obtained as a direct or indirect result of primary evidence (*derived evidence*).
- (3) Subsection (2) does not prevent primary evidence or derived evidence being admitted in evidence in criminal proceedings about the falsity or misleading nature of the primary evidence.

### **236 False or misleading statements**

- (1) A person must not—
  - (a) state anything to the board of inquiry that the person knows is false or misleading in a material particular; or
  - (b) omit from a statement made to the board of inquiry anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—200 penalty units.

- (2) It is enough for a complaint against a person for an offence against subsection (1) to state that the statement made was false or misleading to the person's knowledge.

### **237 False, misleading or incomplete documents**

- (1) A person must not give to the board of inquiry a document containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—200 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
  - (a) tells the board, to the best of the person's ability, how it is false, misleading or incomplete; and
  - (b) if the person has, or can reasonably get the correct information—gives the correct information.
- (3) It is enough for a complaint against a person for an offence against subsection (1) to state that the document was false, misleading or incomplete to the person's knowledge.

### **238 Contempt of board**

A person must not—

- (a) insult the board of inquiry; or
- (b) deliberately interrupt the inquiry; or

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- (c) create or continue or join in creating or continuing, a disturbance in or near a place where the board is conducting its inquiry; or
  - (d) do anything that would be contempt of court if the board were a judge acting judicially.

Maximum penalty—60 penalty units.

### **239 Change of membership of board**

The inquiry of the board of inquiry is not affected by a change in its membership.

## **Division 4 Protection of particular information**

### **239AA Limitations on disclosure etc. of restricted information**

- (1) A person who is or has been a relevant person must not make a record of restricted information.  
Maximum penalty—2 years imprisonment.
- (2) A person who is or has been a relevant person must not disclose restricted information to any person or to a court.  
Maximum penalty—2 years imprisonment.
- (3) A person who has, or had, access to restricted information under section 239AD must not—
  - (a) make a record of the information; or
  - (b) disclose the information to any person or to a court.Maximum penalty—2 years imprisonment.
- (4) Subsection (1), (2) or (3) does not apply to—
  - (a) anything done by a person in performing functions under this Act or in connection with this Act; or
  - (b) without limiting paragraph (a), disclosure to any board of inquiry; or

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- (c) disclosure to a court in criminal proceedings for an offence against this part; or
- (d) disclosure to a court in civil proceedings if—
  - (i) the chief executive issues a certificate under subsection (6); and
  - (ii) the court makes an order under subsection (7).
- (5) In a proceeding for an offence against subsection (1), (2) or (3), the onus is on the defendant to adduce or point to evidence that suggests a reasonable possibility that subsection (4) applies.
- (6) The chief executive may issue a certificate about restricted information stating that the disclosure of the information is not likely to interfere with any current or future investigation or inquiry.
- (7) If the court is satisfied that any adverse domestic and international impact that the disclosure of the information might have on any current or future investigations or inquiries is outweighed by the public interest in the administration of justice, the court may order the disclosure.
- (8) A court in which a disclosure mentioned in subsection (4)(c) or (d) is made may direct that the restricted information, or any information obtained from the restricted information, must not—
  - (a) be published or communicated to any person; or
  - (b) be published or communicated other than in the way, and to the persons, the court states.
- (9) If a person is prohibited by this section from disclosing restricted information—
  - (a) the person can not be required by a court to disclose the information; and
  - (b) any information disclosed by the person in contravention of this section is not admissible in any

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civil or criminal proceeding, other than a proceeding against the person under this section.

### **239AB Release of restricted information in the interests of safety of transport by rail**

- (1) The chief executive may disclose restricted information to any person if the chief executive considers that the disclosure is necessary or desirable for the purposes of safety of transport by rail.
- (2) However, the chief executive may only disclose restricted information that is, or that contains, personal information in the circumstances prescribed under a regulation.
- (3) In this section—

*personal information* means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

### **239AC Authorisation of coroner to have access to restricted information**

- (1) This section applies if a coroner requests or requires the chief executive to give restricted information to the coroner.
- (2) The chief executive must give the restricted information to the coroner.

### **239AD Chief executive may authorise persons to have access to restricted information**

The chief executive may authorise someone other than a relevant person to have access to restricted information if the chief executive considers that it is necessary or desirable to do so.

## **Division 5                      Relevant persons**

### **239AE Meaning of *relevant person***

A *relevant person* is 1 of the following—

- (a) the chief executive;
- (b) a rail safety officer—
  - (i) who is required to investigate an incident under section 216(2); or
  - (ii) who is not required to investigate an incident under section 216(2) but who is investigating the incident for the purpose of finding out its cause as opposed to finding evidence of a suspected offence; or
  - (iii) whose services are made available to a board of inquiry under section 222;
- (c) another person made available to help a board of inquiry in any capacity.

### **239AF Certification by chief executive of relevant person's involvement in investigation**

The chief executive may issue a certificate stating that a stated person who is or has been a relevant person is involved, or has been involved, in an investigation or inquiry about a stated incident.

### **239AG Relevant persons not compellable as witnesses**

- (1) A person who is or has been a relevant person is not obliged to comply with a subpoena or similar direction of a court to attend and answer questions about an incident if the chief executive has issued a certificate under section 239AF for the person in relation to the incident.

(2) A relevant person is not compellable to give an expert opinion in any civil or criminal proceeding in relation to safety of transport by rail.

(3) This section does not apply to an inquiry or coronial inquest.

(4) In this section—

*expert opinion* means an opinion that requires specialised knowledge based on training, study or experience.

## Part 7 Land for railway purposes

### 239AH Definitions for pt 7

In this part—

*registered interest* means an interest registered in the leasehold land register, other than a mortgage.

*unregistered right*, in relation to land held under a lease or sublease, means a right to use the land that has not been registered or can not be registered in the leasehold land register.

### 239AI Effect of resumption of particular interests in land

(1) This section applies if, under the resumption laws, the chief executive, for the State, acquires an interest in land that is less than a freehold interest (the *acquired land*) for use by a railway manager as part of a rail transport corridor.

(2) The acquired land is free of any interest or obligation arising under the interest that was acquired.

(3) The chief executive, for the State, may exercise all the powers of an owner in relation to the acquired land.

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- (4) The chief executive must, as soon as practicable, arrange for the acquired land to become unallocated State land for the purposes of section 240.
- (5) However, the chief executive may delay the acquired land becoming unallocated State land until any proposed rail transport infrastructure is built or substantially built and the boundaries of the land are more accurately defined.
- (6) The *Acquisition of Land Act 1967*, section 12(2A), does not apply to the acquired land.
- (7) In this section—  
*resumption laws* means—
  - (a) the *Transport Planning and Coordination Act 1994*, section 25; and
  - (b) the *Acquisition of Land Act 1967*.

## 240 Sublease of land to railway managers

- (1) This section applies if—
  - (a) the State acquires land (the *acquired land*) for use by a railway manager as part of a rail transport corridor; or
  - (b) the chief executive decides that non-rail corridor land (also *acquired land*) should be used by a railway manager as part of a rail transport corridor.
- (2) If the acquired land mentioned in subsection (1)(a) becomes unallocated State land, the Minister administering the *Land Act 1994* must lease it to the State under section 17(2) of that Act.
- (3) The lease is in perpetuity and, if demanded, for a rent of \$1 per year.
- (4) The State must sublease acquired land mentioned in subsection (1)(a) or (b) to the manager—
  - (a) if the manager agrees to meet the full costs of the acquisition—

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- (i) for a term of not more than 100 years; and
    - (ii) for a rent, if demanded, of \$1 per year; and
    - (iii) on other terms decided by the chief executive; or
  - (b) otherwise—on terms agreed between the parties.
- (5) A sublease by the State under subsection (4)(a) may include an option to renew the sublease.
- (6) The terms of the option and the renewed sublease are to be decided by the chief executive.
- (6A) Subsections (2) to (6) are subject to section 240AA.
- (7) The *Land Act 1994*, section 336(2)(a) does not apply to a document of amendment of a sublease to a railway manager under subsection (4) or a sublease to a railway manager granted under the exercise of an option mentioned in subsection (5).
- (8) If the manager attaches any rail transport infrastructure or any other works or structures to the acquired land, they remain the manager's property until the manager disposes of them.
- (9) In this section—
- acquires*** includes acquires by—
- (a) gift; and
  - (b) surrender of a sublease previously granted to a railway manager; and
  - (c) exchange; and
  - (d) purchase.
- full costs***, of an acquisition, includes (if the acquired land consists of a lease to the State) all rent or other money payable by the State under the lease granted to the State during the term of—
- (a) the sublease of the acquired land from the State to the manager under subsection (4); and
  - (b) any renewal of the sublease to the manager.

[s 240AA]

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### **240AA Interests in commercial corridor land continue after acquisition**

- (1) This section applies if—
  - (a) the acquired land mentioned in section 240(1)(a) is commercial corridor land; and
  - (b) the land—
    - (i) becomes unallocated State land; and
    - (ii) is subleased to a railway manager under section 240(4).
- (2) All interests in the acquired land, other than the interest of the owner, at the time the acquired land becomes unallocated State land continue in the sublease on the same terms as an interest in the acquired land, with the railway manager as sublessee substituted for the owner of the acquired land as a party to the interest.
- (3) Subsection (2) applies despite the *Land Act 1994*, section 331(2).
- (4) The registrar of titles must record each registered interest continued under subsection (2) on the sublease in the leasehold land register.
- (5) In this section—

*owner*, of acquired land, means the owner of the acquired land before it becomes unallocated State land.

*registered interest* means an interest registered under the *Land Title Act 1994*.

### **240A Registered interests in rail corridor land**

- (1) This section applies if—
  - (a) a railway manager's sublease for a section of rail corridor land—
    - (i) expires; or

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- (ii) is surrendered or terminated; and
  - (b) there is a registered interest in the railway manager's sublease for that section of rail corridor land.
- (2) After the expiry, surrender or termination, the registered interest in the sublease continues on the same terms as a registered interest in the lease for the section of the non-rail corridor land, with the State as lessee substituted for the railway manager as a party to the registered interest.

*Note—*

By definition, rail corridor land becomes non-rail corridor land on expiry, surrender or termination of the sublease.

- (3) Subsection (2) applies despite the *Land Act 1994*, section 372.

## **240B Unregistered rights in rail corridor land**

- (1) This section applies if—
- (a) a railway manager's sublease for a section of rail corridor land—
    - (i) is to expire or be surrendered; or
    - (ii) is terminated; and
  - (b) there is an unregistered right in the railway manager's sublease for that section of rail corridor land.
- (2) If the sublease is to expire or be surrendered, the railway manager must give the chief executive details of all unregistered rights in the sublease at least 3 months before the expiry or surrender of the sublease.
- (2A) Subsection (2) does not apply to a sublease that is to expire if the railway manager and the chief executive, acting on behalf of the State, agree to renew the sublease before or immediately after the expiry.
- (2B) If the sublease is terminated, the railway manager must give the chief executive details of all unregistered rights in the sublease within 3 months after the termination of the sublease.

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- (3) After the expiry, surrender or termination, an unregistered right in the railway manager's sublease for that section of rail corridor land continues on the same terms as an unregistered right in the lease for the section of the non-rail corridor land, with the State as lessee substituted for the railway manager as a party to the unregistered right.
- (4) The chief executive may at any time revoke an unregistered right that is continued under subsection (3) if the chief executive considers—
  - (a) the use of the right would affect the safety or operational integrity of the land as a railway or would adversely affect another transport purpose; or
  - (b) the holder of the right has not complied with any conditions imposed on the right by the railway manager or the chief executive; or
  - (c) the right is being used in a way that is contrary to the provisions of—
    - (i) the perpetual lease of the land to the State; or
    - (ii) the *Land Act 1994*.
- (5) A person whose interest is affected by the chief executive's decision under subsection (4)(a) is entitled to be paid compensation by the State for the loss for the unexpired portion of the unregistered right, but only if—
  - (a) the person had paid the railway manager for the unregistered right; or
  - (b) the person is the owner of land adjacent to the section of rail corridor land the subject of the sublease that has expired or been surrendered or terminated and, as part of the acquisition agreement or settlement of that section of the rail corridor land from the person or a previous owner of the land, the unregistered right mentioned in subsection (3) was granted.
- (6) The person is entitled to be paid, because of the revocation of the right, the reasonable compensation that is agreed between

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the person and the chief executive, or failing agreement, that is decided by a court.

- (7) Compensation may be claimed and ordered to be paid in a proceeding brought in a court with jurisdiction for the recovery of a debt equal to the amount of compensation claimed.
- (8) Subsection (5) does not prevent an *ex gratia* payment from being made to a person under the *Financial Accountability Act 2009*.

#### **240C Lease of non-rail corridor land to railway manager**

- (1) This section applies if the chief executive subleases a section of non-rail corridor land to a railway manager.
- (2) When the registrar of titles registers the sublease in the leasehold land register—
  - (a) the sublease is taken to be the next vested right to, or be next in priority to, the perpetual lease of the section of the land to the State; and
  - (b) the railway manager as sublessee is substituted for the State as a party to any lesser registered interest.
- (3) Also, when the registrar of titles registers the sublease in the leasehold land register—
  - (a) the State's rights and obligations in an unregistered right in the section of the land are taken to be vested in the railway manager as sublessee; and
  - (b) the railway manager is substituted for the State as a party to the unregistered right.
- (4) Subsection (2) applies despite the *Property Law Act 1974*, section 115 and the *Land Act 1994*, section 298.

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#### **240D Lease of non-rail corridor land to local government or government entity**

- (1) This section applies if the chief executive subleases a section of non-rail corridor land to a local government or government entity that is not a railway manager.
- (2) When the registrar of titles registers the sublease in the leasehold land register—
  - (a) the sublease is taken to be the next vested right to, or be next in priority to, the perpetual lease of the section of the land to the State; and
  - (b) the local government or government entity as sublessee is substituted for the State as a party to any lesser registered interest.
- (3) However, subsection (2) does not apply to a registered interest that was registered before the sublease is registered if, when the sublease is registered, a provision in the sublease states that subsection (2) does not apply to the registered interest.
- (4) Also, when the registrar of titles registers the sublease in the leasehold land register—
  - (a) the State's rights and obligations in an unregistered right in the section of the land are taken to be vested in the local government or government entity as sublessee; and
  - (b) the local government or government entity is substituted for the State as a party to the unregistered right.
- (5) Subsections (2) and (3) apply despite the *Property Law Act 1974*, section 115 and the *Land Act 1994*, section 298.

#### **240E Access arrangements across proposed railway**

- (1) This section applies if—
  - (a) the chief executive enters into an agreement with a person about land (*relevant land*)—
    - (i) that the State proposes to acquire as mentioned in section 240(1)(a); or

- (ii) that is non-rail corridor land mentioned in section 240(1)(b); and
  - (b) the relevant land is, or is proposed to be, future railway land; and
  - (c) the person is the railway manager for a proposed railway to be constructed on the relevant land; and
  - (d) the owner of land adjacent to the relevant land (the *land-owner*)—
    - (i) owns the relevant land; or
    - (ii) has a right of access over the relevant land; and
  - (e) the land-owner requires access across the proposed railway.
- (2) The land-owner may ask the railway manager for a right of access across the proposed railway.
- (3) The railway manager must—
- (a) negotiate with the land-owner about a right of access across the proposed railway; and
  - (b) have regard to the relevant matters for the proposed railway; and
  - (c) either—
    - (i) provide a right of access across the proposed railway; or
    - (ii) refuse to provide a right of access across the proposed railway.
- (4) Subsection (5) applies if—
- (a) the railway manager and the land-owner do not agree on a right of access across the proposed railway, including about any conditions to which the right of access is subject; or
  - (b) the railway manager refuses to provide a right of access across the proposed railway.

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- (5) The railway manager or the land-owner may ask the chief executive to decide whether a right of access across the proposed railway should be granted.
- (6) In deciding whether or not to grant a right of access across the proposed railway, the chief executive—
  - (a) must have regard to the relevant matters for the proposed railway; and
  - (b) must consult with the railway manager about what, if any, conditions should be imposed on the right of access; and
  - (c) may ask the railway manager or the land-owner for any other information the chief executive needs to make a decision.
- (7) The railway manager or the land-owner must give the chief executive the information the chief executive asks for.
- (8) The chief executive must decide—
  - (a) to grant a right of access across the proposed railway; or
  - (b) not to grant a right of access across the proposed railway; or
  - (c) not to grant a right of access across the proposed railway and refer the matter of a right of access back to the railway manager for further negotiation with the land-owner.
- (9) If the chief executive decides to grant a right of access under subsection (8)(a), or not to grant a right of access under subsection (8)(b), the chief executive must notify, in writing, the railway manager and the land-owner about the decision.
- (10) The railway manager must meet the full cost of any works required for the purpose of a right of access granted by the chief executive across the proposed railway.
- (11) A right of access across a proposed railway given or granted under this section may be given or granted with or without conditions.

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- (12) Without limiting the conditions the chief executive may impose on a right of access across a proposed railway, the chief executive may impose a condition that the right of access may be used only for a stated approved use.
- (13) In this section—
- railway manager* includes a proposed railway manager.
- relevant matters*, for a proposed railway, means—
- (a) the safety and operational integrity of the proposed railway; and
  - (b) the need to limit the number of level crossings across the proposed railway; and
  - (c) the cost of providing a right of access across the proposed railway.

#### **240F Cancellation of right of access**

- (1) This section applies if relevant land under section 240E becomes rail corridor land.
- (2) Subject to subsection (3), a right of access granted by the chief executive under section 240E(8)(a) remains in force—
  - (a) while the relevant land is rail corridor land; or
  - (b) if the relevant land becomes non-rail corridor land—while the relevant land is non-rail corridor land.
- (3) A right of access granted by the chief executive under section 240E(8)(a) may be cancelled—
  - (a) by written agreement between the relevant entity for the relevant land and the holder of the right of access; or
  - (b) by the chief executive if—
    - (i) the holder of the right of access does not comply with any conditions imposed by the chief executive under section 240E(8)(a) on the right of access; or

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- (ii) the chief executive considers that the use of the right of access would affect the safety or operational integrity of the railway on the relevant land or would adversely affect another transport purpose.
- (4) If the chief executive cancels a right of access under subsection (3)(b)(ii), the owner of land affected by the decision is entitled to be paid reasonable compensation for the loss of the use of the right of access—
  - (a) as agreed between the owner and the relevant entity for the relevant land; or
  - (b) failing agreement under paragraph (a), as decided by the Land Court.
- (5) For subsection (4), if the right of access was granted subject to a condition that it be used only for a stated approved use, the owner is entitled to be paid compensation only for the loss of the approved use of the right of access.
- (6) Compensation may be claimed and ordered to be paid in a proceeding brought in the Land Court.
- (7) In this section—

*relevant entity* means—

  - (a) for relevant land that is rail corridor land—both the chief executive and the railway manager for the land; or
  - (b) for relevant land that becomes non-rail corridor land—the chief executive.

## **241 Railway tunnel easements**

- (1) This section applies to an easement described in schedule 4, despite the terms of the easement.
- (2) The State may grant a licence in relation to the easement to a railway manager.
- (3) If the State grants a licence as mentioned in subsection (2), the railway manager may grant a sublicense to a railway operator.

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- (4) No compensation is payable to the grantor of the easement because of any vesting, transfer, licence or sublicense under this section.
  - (5) In this section—  
*railway tunnel corridor* means a corridor of land within which a tunnel containing rail transport infrastructure is situated.

## 242 What is *future railway land*

- (1) Land becomes *future railway land* when the chief executive, by written notice to the relevant local government and in the gazette, indicates that the land is intended to be used for a railway.
- (2) Future railway land ceases to be future railway land when it is subleased to a railway manager under section 240(4).
- (3) If the chief executive decides that future railway land is no longer to be used for a railway, the chief executive must give written notice of that fact to the relevant local government and in the gazette.

## 243 Status of railway land

- (1) The railway manager for corridor land is, for any rail transport infrastructure on the land or proposed to be constructed on the land, subject to the same controls and exemptions under State and local laws that an agency of the State would be if it had the manager's interest in the land.
- (2) In this section—  
*corridor land* means—
  - (a) commercial corridor land that is not leased by the railway manager on a commercial basis; or
  - (b) existing rail corridor land, or new rail corridor land, that is not subleased by the railway manager on a commercial basis; or

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(c) future railway land.

*railway manager*, for corridor land, means the person who is accredited under part 3 as the railway manager for the railway or proposed railway on, or proposed to be on, the corridor land.

## **244 Existing rail transport infrastructure on land**

- (1) This section applies if at the commencement—
  - (a) rail transport infrastructure was on land that is not owned or leased by Queensland Rail; and
  - (b) the previous rail corporation had managed a railway using the rail transport infrastructure.
- (2) After the commencement—
  - (a) the rail transport infrastructure may stay on the land; and
  - (b) the railway manager may—
    - (i) alter the rail transport infrastructure; and
    - (ii) manage the railway using the rail transport infrastructure, whether or not altered; and
    - (iii) operate, or authorise a railway operator to operate, rolling stock on the railway.
- (3) A person has no interest in, or right to, the rail transport infrastructure (whether or not altered) on land only because the person has an interest in the land.

## **245 Existing buildings on land**

- (1) If, immediately before the commencement, a building of the previous rail corporation was lawfully on land—
  - (a) it may stay on the land; and
  - (b) its construction is not subject to any approval that did not affect it immediately before the commencement.

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- (2) If, immediately before the commencement, the previous rail corporation's activities were lawfully being carried out on the land, they may still be carried out on the land despite any change to the zoning of the land.
  - (3) In this section—  
*building* includes a structure or works.

**247 Chief executive taken to be owner of rail corridor land and non-rail corridor land for particular circumstances under Planning Act**

- (1) This section applies if, under the Planning Act—
  - (a) land that is rail corridor land or non-rail corridor land is to be designated for community infrastructure; or
  - (b) an application requires notice to be given to an owner of adjoining land and the land is rail corridor land or non-rail corridor land; or
  - (c) the consent of an owner of land that is rail corridor land or non-rail corridor land is otherwise required.
- (2) For the purposes of the Planning Act, the chief executive is taken to be the owner of the land that is rail corridor land or non-rail corridor land.

## **Part 8 General**

**248 Rail GOC and wholly owned subsidiary not common carrier**

Neither of the following is a common carrier—

- (a) a rail GOC;
- (b) a wholly owned subsidiary of a rail GOC.

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*Note—*

See also section 561 in relation to QR Limited and subsidiaries of QR Limited.

## **249 Railways on particular roads**

- (1) This section applies if—
  - (a) a railway manager—
    - (i) holds a sublease of rail corridor land; or
    - (ii) has access to future railway land; and
  - (b) the route of the rail corridor land or future railway land—
    - (i) is interrupted by a relevant road; and
    - (ii) continues on the other side of the relevant road.
- (2) The Minister may, by gazette notice, declare the part of the relevant road where it interrupts the route to be a common area (*common area*) for the relevant road and the route of the rail corridor land or future railway land.
- (3) If the Minister declares a common area—
  - (a) the railway manager for the rail corridor land or future railway land may construct, maintain and operate a railway on the common area in a way not inconsistent with its use as a relevant road; and
  - (b) the relevant person for the relevant road may construct, maintain and operate the relevant road on the common area in a way not inconsistent with its use as a railway; and
  - (c) the relevant person for the relevant road and the relevant person's agents or employees do not have any liability for the railway or its use or operation on the common area.

*Examples for paragraph (a)—*

- a level crossing

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- a bridge or other structure over the road
  - a bridge or other structure that allows the railway to pass under the road
- (4) After a common area is declared—
- (a) the chief executive must give a copy of the gazette notice to the registrar of titles—
    - (i) promptly after the gazette notice is published, if the land is rail corridor land; or
    - (ii) promptly after the land is subleased to the railway manager under section 240(4), if the land is future railway land; and
  - (b) the registrar of titles must record the declaration on the relevant lease of the rail corridor land to the State and the sublease in the leasehold land register.
- (5) If a railway on a common area stops being used, the railway manager for the railway is responsible for the cost of removing rail transport infrastructure from the common area and restoring the road, unless the relevant person and the railway manager otherwise agree.
- (6) In this section—

***chief executive for chapter 6*** means the chief executive of the department that deals with the administration of chapter 6.

***relevant person*** means—

- (a) for a State-controlled road—the chief executive for chapter 6; or
- (b) for a franchised road—the franchisee; or
- (c) for State toll road corridor land—
  - (i) the chief executive for chapter 6; or
  - (ii) if the State toll road corridor land has been leased—the person to whom the land has been leased; or
- (d) for local government tollway corridor land—

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- (i) the local government; or
- (ii) if the local government tollway corridor land has been leased—the person to whom the land has been leased.

*relevant road* means—

- (a) a State-controlled road; or
- (b) a franchised road; or
- (c) State toll road corridor land; or
- (d) local government tollway corridor land.

## **250 Altering road levels**

- (1) In constructing or managing a railway, the railway manager for the railway may alter the level of a road or require the authority responsible for the road to alter its level.
- (2) Unless the railway manager and the authority responsible for the road agree, the railway manager must pay all reasonable expenses incurred by the authority in altering the road level.
- (3) A person whose land is directly affected by the alteration is entitled to be paid compensation by the railway manager.
- (4) The amount of compensation is—
  - (a) the amount agreed between the parties; or
  - (b) if the parties can not agree within a reasonable time—the amount decided by a court with jurisdiction for the recovery of the amount of compensation claimed.
- (5) However, the amount of compensation can not be more than the amount that would have been awarded if the land had been acquired.

## **251 Maintaining roads crossing railways**

- (1) A railway manager for a railway must maintain—

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- (a) the part of the railway on a road; and
  - (b) the surface of a road, in a character in keeping with the road—
    - (i) between the rails; and
    - (ii) outside the outermost rails to a distance of 0.6m.
- (2) If a railway is built by way of a bridge or other structure over or under a road, the authority that maintained the road before the railway was built must continue to maintain the road under or over the bridge or structure.

## **252 No presumption of dedication of roads**

If the public uses railway land as a road or otherwise for access purposes, the land is not taken to have been dedicated for use as a road even though the use is authorised or allowed by the railway manager.

## **253 Extending roads through or over rail corridor land or non-rail corridor land**

- (1) The chief executive may allow a local government to construct, maintain and operate a road on rail corridor land or non-rail corridor land by way of—
- (a) a bridge or other structure over relevant infrastructure on the land; or
  - (b) a bridge or other structure that allows the road to pass under relevant infrastructure on the land; or
  - (c) a crossing at the same level as relevant infrastructure on the land.

*Example for paragraph (c)—*

a level crossing

- (1A) Without limiting subsection (1), a permission may be granted under the subsection in relation to relevant infrastructure that is proposed to be on the land—

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- (a) under a transport infrastructure strategy; or
  - (b) for non-rail corridor land that is subleased, under the relevant sublease.
- (2) The permission may be subject to conditions.
- (2A) Without limiting subsection (2), a condition of a permission for rail corridor land may provide for the future expansion of the railway on the land.

*Example—*

A condition may provide that the length of a bridge over a railway be long enough to allow for an additional track to be laid in the future.

- (3) Before deciding a request for the permission, the chief executive must consult with the relevant person for the land.
- (3A) After the permission is granted—
- (a) the chief executive must immediately give a copy of the permission to the registrar of titles; and
  - (b) the registrar of titles must record the permission on the relevant lease of the rail corridor land or non-rail corridor land to the State and any affected sublease in the leasehold land register.
- (4) The relevant person may continue to use the land, and the airspace above the land, other than any land and airspace excluded by a condition of the permission.
- (5) The chief executive and the relevant person and their agents or employees, do not have any duty or liability for the road or its use or operation.
- (6) Once the road is used, it is taken to be—
- (a) a road under the relevant local government's control; and
  - (b) a road under any Act about the use of vehicles on a road.
- (7) Unless the chief executive and the local government otherwise agree—

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- (a) the local government is responsible for maintaining the road and the bridge, structure or crossing; and
  - (b) if the road stops being used—the local government is responsible for the cost of taking the bridge, structure or crossing away and restoring the relevant infrastructure on the land.
- (8) The State is taken not to be in breach of any of its obligations in a sublease of rail corridor land or non-rail corridor land between the State and a relevant person for the land by—
- (a) giving the permission; or
  - (b) anything done by the local government under the permission.
- (9) In this section—
- relevant infrastructure*** means—
- (a) for rail corridor land—a railway or part of a railway on the land; or
  - (b) for non-rail corridor land—any infrastructure on the land.
- relevant person*** means—
- (a) for rail corridor land—the railway manager for the land; or
  - (b) for non-rail corridor land—any entity to whom the land is subleased.

## **254 Level crossings**

- (1) Pedestrians and drivers of vehicles must give way to—
- (a) a railway operator's rolling stock on railway tracks at a level crossing; and
  - (b) a railway manager's rail vehicle on railway tracks at a level crossing.

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- (2) If an accident happens at a level crossing because a person does not comply with subsection (1)—
  - (a) the railway manager or operator is not liable for any injury or damage caused in the accident; and
  - (b) the person must pay the railway manager or operator the cost of any damage caused to property of the manager or operator.
- (3) However, subsection (2) does not apply if the manager or operator, or its agents or employees, were negligent in relation to the accident.

## **255 Interfering with railway**

- (1) A person must not interfere with a railway unless—
  - (a) the person has the railway's manager written approval; or
  - (b) the interference is permitted or authorised under a right of access under section 240E, section 253 or a railway provision.

Maximum penalty—160 penalty units.

- (2) An approval may be subject to a reasonable condition.
- (3) The person must comply with the condition.  
Maximum penalty—40 penalty units.
- (4) Subsection (1) does not apply to a person who carries out urgent maintenance of a railway.
- (5) This section binds all persons, including the State, the Commonwealth and the other States.

## **256 Rectifying unauthorised interference**

- (1) If a person contravenes section 255(1) by interfering with a railway, the railway manager for the railway may, by written

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notice, require the person to rectify the interference within a stated reasonable time.

- (2) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (3) If the person does not comply with the requirement, the railway manager may rectify the interference.

- (4) The person must pay the manager the manager's costs of—

- (a) rectifying the interference; or  
(b) altering the construction, maintenance or operation of the railway because of the interference.

- (5) In this section—

*rectify the interference* means—

- (a) alter, dismantle or take away any works; or  
(b) fix any damage caused by the interference.

## **257 Trespassing on railway**

A person must not wilfully trespass on a railway.

Maximum penalty—40 penalty units.

## **258 Impact of particular development and railways**

- (1) This section applies if the chief executive is an assessment manager or a referral agency for a development application.

- (2) Also, this section has as its purpose ensuring—

- (a) the safety and operational integrity of railways and future railways; and  
(b) that development addresses impacts on the development from environmental emissions generated by railways or future railways.

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*Examples of environmental emissions—*

air particles, fumes, light, noise

- (3) For performing the chief executive's functions as assessment manager or referral agency, the chief executive must consider the extent to which the proposed development satisfies the purpose mentioned in subsection (2).
- (4) Subsection (3) is in addition to, and does not limit, the Planning Act, section 282 and chapter 6, part 5, division 2.

**258A Impact of change of management of local government road on railways**

- (1) A local government must apply to the chief executive to obtain the chief executive's written approval to make a change to the management of a local government road that, if made—
  - (a) would require works to be carried out on a railway; or
  - (b) would have a significant adverse impact on the safety and operational integrity of a railway or a future railway.
- (2) The chief executive—
  - (a) must consider the application within—
    - (i) 30 days after receiving it; or
    - (ii) the longer time notified to the local government by the chief executive, in writing, before the end of the 30 days; and
  - (b) may—
    - (i) approve the proposed change, with or without conditions; or
    - (ii) refuse to approve the proposed change.
- (3) The chief executive must give the local government written notice of the chief executive's decision on the application.
- (4) If the chief executive does not do any of the following within the 30 days, the chief executive is taken to have approved the proposed change—

- (a) approve the proposed change;
  - (b) refuse to approve the proposed change;
  - (c) give the local government a notice under subsection (2).
- (5) This section does not apply if the chief executive has considered the change to the management of the local government road as part of the chief executive's consideration of a development application.

### **258B Guidelines for ss 258–258A**

- (1) For the purposes of sections 258 and 258A, the chief executive may make guidelines to which a person must have regard when—
- (a) carrying out development under the Planning Act; or
  - (b) making changes to the management of a local government road.
- (2) The chief executive must give a copy of the guidelines to each local government affected by the guidelines.

### **259 Fencing new railways**

- (1) A railway manager need not contribute to the fencing of any part of the boundary of land that is—
- (a) a future railway; or
  - (b) acquired for a widening or deviation of a railway.
- (2) Subsection (1) does not apply if—
- (a) the land acquired was substantially fenced; and
  - (b) the railway's presence may make the fencing ineffective.

### **260 Works for existing railways**

- (1) This section applies—

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- (a) while a railway existing at the commencement (the *existing railway*) continues to be operated as a railway; and
  - (b) to the owners and occupiers of land next to the existing railway (the *neighbouring land*).
- (2) The relevant railway manager must, within a reasonable time, construct and maintain—
  - (a) works that are necessary to make good any interruptions caused by the existing railway to the use of the neighbouring land; and
  - (b) works that are necessary to—
    - (i) separate the existing railway from the neighbouring land; and
    - (ii) protect the stock straying from the neighbouring land onto the railway; and
  - (c) sufficient works to ensure the neighbouring land's drainage is as good, or nearly as good, as it was before the existing railway was constructed.
- (3) The relevant railway manager may satisfy its obligation under subsection (2)(b) by constructing and maintaining a fence of substantially similar quality to any fence around the neighbouring land when the railway was constructed.
- (4) This section does not require the relevant railway manager to—
  - (a) construct or maintain works in a way that would prevent or obstruct the use of the existing railway; or
  - (b) construct or maintain works for owners or occupiers who agreed to receive, and have been paid, compensation in place of the works.
- (5) The Land Court must decide any dispute about the adequacy of works or maintenance under this section.
- (6) If the owner or occupier of neighbouring land considers that works carried out under this section are insufficient for the

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convenient use of the land, the owner or occupier may, with the relevant railway manager's agreement, carry out further works at the owner's or occupier's expense.

- (7) The relevant railway manager may, by written notice given to the owner or occupier, require the further works to be carried out—
  - (a) under the supervision of a person nominated by the relevant railway manager; and
  - (b) according to plans and specifications approved by the relevant railway manager.
- (8) The relevant railway manager must attempt to keep the cost of the further works to a reasonable level.
- (9) Until the relevant railway manager carries out the works mentioned in subsection (2), the owner or occupier of the neighbouring land, and their employees and agents, may cross the existing railway next to the land with vehicles and livestock.
- (10) The crossing must be made directly, and in a way that is safe and does not damage or obstruct the railway.
- (11) However, subsection (9) does not apply to an owner or occupier who agreed to receive, and has been paid, compensation in place of the works.
- (12) A person must shut and lock a gate set up under this section at either side of an existing railway as soon as the person, and any vehicles or livestock in the person's care, have passed through the gate.

Maximum penalty for subsection (12)—10 penalty units.

- (13) In this section—

***relevant railway manager*** means the railway manager for the existing railway.

## **261 Non-accredited railways**

- (1) A non-accredited railway may be connected, either directly or through another non-accredited railway, to the railway of an accredited railway manager with the manager's written agreement.
- (2) Unless the parties otherwise agree, the manager is not liable for any injury, loss or damage arising from an act done, or omission made, honestly and without negligence, on the non-accredited railway.
- (3) Subject to any agreement between the manager and the non-accredited railway manager, the manager may—
  - (a) disconnect the non-accredited railway from the railway; or
  - (b) close the connection between the non-accredited railway and the railway.
- (4) Before taking action under subsection (3), the manager must—
  - (a) give at least 3 months notice of the proposed action; or
  - (b) get the written agreement of the non-accredited railway manager to the proposed action.
- (5) For the disconnection, the manager may, by written notice, require the non-accredited railway manager to take away any part of the railway on land managed by the manager.
- (6) If the non-accredited railway manager does not take it away within a reasonable time, the manager may take it away and recover the costs from the non-accredited manager.
- (7) If the manager maintains the non-accredited railway the manager may exercise its powers under a railway provision in relation to the non-accredited railway.
- (8) A person must not construct a non-accredited railway on a watercourse without the chief executive's written approval.
- (9) If a railway operator operates rolling stock over a non-accredited railway, the railway operator may exercise its

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powers under a railway provision in relation to the non-accredited railway.

(10) In this section—

***non-accredited railway*** means a railway managed by a non-accredited railway manager.

***non-accredited railway manager*** means a person who is not required to be accredited for a railway because of section 123(3).

## **262 Application of Land Act 1994**

The following sections of the *Land Act 1994* do not apply to a lease of existing rail corridor land, new rail corridor land, non-rail corridor land or a lease granted under the lease—

- section 157 (Expiry of lease)
- section 183 (Rent payable generally)
- section 204 (Survey condition)
- section 211 (Reviewing imposed conditions of lease)
- section 336(2)(a) and (c).

## **263 Limitation of liability for chief executive and rail safety officers**

- (1) The chief executive and each rail safety officer is not civilly liable for an act or omission done honestly and without negligence under a railway provision.
- (2) If subsection (1) prevents a civil liability attaching to a person, the liability instead attaches to—
  - (a) for a rail safety officer who is an employee of an accredited person for a railway, to the extent the officer's act or omission arose because of the exercise or purported exercise of a power under part 6 involving an

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- incident on or involving the railway—the accredited person; or
- (b) in any other case—the State.

## **264 Helping in accidents or emergencies**

- (1) This section applies if a person—
  - (a) helps, or attempts to help, in a situation in which an accident or emergency involving a railway happens or is likely to happen; and
  - (b) the help, or attempt to help, is given—
    - (i) honestly and without negligence; and
    - (ii) without any fee, charge or other reward.
- (2) The person does not incur civil liability for helping or attempting to help.
- (3) If subsection (2) prevents civil liability attaching to a person, the liability attaches instead to the State.
- (4) This section does not apply to—
  - (a) a person whose act or omission wholly or partly caused the accident, emergency or likely accident or emergency; or
  - (b) a rail safety officer.

## **265 Delayed passenger services**

- (1) A railway manager must endeavour to bring a passenger service that is delayed back to its scheduled running time.
- (2) In complying with subsection (1), a railway manager must not distinguish between different types of regularly scheduled passenger services.
- (3) Subsection (2) does not limit the matters that the railway manager may consider as relevant when complying with subsection (1).

*Examples of relevant matter—*

- 1 a train transporting livestock
- 2 train service entitlements for services other than passenger services

**266 Priority for regularly scheduled passenger services in allocating train paths**

- (1) The chief executive may establish a process that regularly allows the chief executive to identify passenger service requirements.
- (2) For the process established under subsection (1), the chief executive may, by written notice to a railway manager, require the railway manager to give to the chief executive information about—
  - (a) the total number of train paths that is possible for a specific section of railway track having regard to the railway manager's maintenance requirements; and
  - (b) the existing train paths that are the subject of agreements with railway operators for access to that specific section of railway track; and
  - (c) the usage of the existing train paths on that specific section of railway track.
- (3) After identifying passenger service requirements, the chief executive may give written notice to each accredited person about the passenger service requirements relevant to the railway manager's railway.
- (4) A railway manager given a notice under subsection (3) must, whenever a train path is available for the railway manager to allocate, provide for priority to be given to the passenger service requirements as stated in the notice.
- (5) In complying with subsection (4), a railway manager must not distinguish between different types of regularly scheduled passenger services.
- (6) In charging for access to regularly scheduled passenger services (an *access charge*), a railway manager must not—

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- (a) differentiate between similar regularly scheduled passenger services operating or proposed to operate over the same route at different times of the day; or
- (b) set an access charge for a train path that is greater than the access charge set for similar train paths on the same route.

(7) In this section—

*available*, in relation to the allocation of a train path, includes—

- (a) a new train path available for allocation because of rearrangements of train operations or new or upgraded infrastructure; and
- (b) reallocating an existing train path.

*infrastructure* includes rail transport infrastructure and other rail infrastructure.

*passenger service requirements* means requirements for train paths for the following—

- (a) regularly scheduled passenger services on railway track in the State;
- (b) rolling stock that is to be used for a regularly scheduled passenger service and is being relocated for the purpose of providing the service.

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## Chapter 8 Port infrastructure and other matters

### Part 1 Preliminary

#### 267 Definitions for chapter

In this chapter—

*charge* means an amount charged by a port authority or relevant entity.

*completion day*, in relation to the Port of Brisbane, means the beginning of the day of the first declaration of a port lessee for the port under section 289Y.

*corporate plan* means a corporate plan required by the *Government Owned Corporations Act 1993*.

*extractive material* means sand, gravel, boulders, clay, silt, mud or other material in or on land under tidal water, but does not include a mineral within the meaning of the *Mineral Resources Act 1989*.

*land* means any land, whether above or below the ordinary high water mark at spring tides.

*Land Act* means the *Land Act 1994*.

*lease* includes a sublease.

*port agreement* see section 279B.

*port area* see section 267AA.

*port entity*—

- (a) in relation to a port, other than the Port of Brisbane, means the port authority; or
- (b) in relation to the Port of Brisbane, means each of the following—
  - (i) the port lessor;

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- (ii) a port lessee;
- (iii) a port manager.

**port facilities** see section 267A.

**port lessee** means an entity declared to be a port lessee under section 289Y.

**port lessor** means an entity declared to be the port lessor under section 289Y.

**port manager** means an entity appointed as a port manager under section 289ZA.

**port operator** means—

- (a) a port lessee or port manager to whom functions have been delegated under section 289Z; or
- (b) otherwise—the port lessor.

**port services** includes the following services relating to the management of a port area or port facilities—

- (a) monitoring and management of the movement of vessels, vehicles, goods and people in the port area;
- (b) services in relation to port facilities;
- (c) services in relation to dredging;
- (d) services in relation to reclaiming land;
- (e) management, monitoring or administration of the use of, and access to, port facilities;
- (f) security services and security monitoring services in the port area;
- (g) services relating to the safety of persons or things in the port area;
- (h) services relating to the preservation of the environment;
- (i) issuing, and monitoring the use of, security identification;
- (j) traffic control services;

- (k) emergency services;
- (l) processing applications, reporting information and attending to other administrative matters for the management of the port.

**port user** includes the following—

- (a) the owner, master or agent of the owner of a vessel or vehicle using port facilities or port services;
- (b) the owner, consignor or consignee or person entitled to possession of goods located in or passing through the port area;
- (c) the agent of a person mentioned in paragraph (b);
- (d) a lessee or licensee of any part of the port area (other than a port operator or the port lessor) and their invitees.

**relevant entity** see section 279A(1).

**requirement**, of a port notice, includes a direction, instruction, indication, condition or other provision contained in the port notice.

**ship** has the same meaning as in the *Transport Operations (Marine Safety) Act 1994*.

**statement of corporate intent** means a statement of corporate intent required by the *Government Owned Corporations Act 1993*.

**strategic port land** means land that is strategic port land under section 286 (Approval of land use plans).

**sublease** includes the following—

- (a) any derivative under lease;
- (b) a concurrent lease;
- (c) a concurrent lease of any derivative under lease.

**trade lease** means a lease of land under the Land Act that was transferred, whether before or after the commencement of section 477C, from the Port of Brisbane Corporation to the

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Urban Land Development Authority under the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*.

*vessel* includes a boat, ship, seaplane, hovercraft or amphibious craft.

### **267AA Meaning of *port area***

- (1) *Port area*—
  - (a) of a port authority for a port, means the area of its strategic port land and port facilities, and within its port limits; or
  - (b) of a port entity other than a port authority, means each of the following—
    - (i) the area of Brisbane core port land;
    - (ii) the area of its port facilities;
    - (iii) the area within its port limits;
    - (iv) another area prescribed by regulation.
- (2) However, a port area mentioned in subsection (1)(b) does not include an area prescribed by regulation not to be part of the port area for that port.
- (3) A regulation may define or amend the limits of the Port of Brisbane.

### **267A Meaning of *port facilities***

- (1) *Port facilities*—
  - (a) of a port authority, means the facilities or land that are—
    - (i) owned or controlled by—
      - (A) the port authority; or
      - (B) if the port authority is a GOC port authority—a wholly owned subsidiary of the port authority; and

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- (ii) used in the operation or strategic management of the port authority's port; or
- (b) of a port entity other than a port authority, means the facilities or land that are—
- (i) owned or controlled by a port entity other than a port authority, or leased or licensed to or occupied by, or constructed, managed, provided or maintained by a port entity other than a port authority; and
- (ii) used or intended to be used in connection with the management, operation, development, maintenance of, or access to, the port entity's port.
- (2) For subsection (1)(b), a lease or licence of land or facilities granted, or other provision for the use of or access to land or facilities made, by a port entity other than a port authority for the benefit of a person is to be disregarded.
- (3) Port facilities for a port entity other than a port authority also include land or facilities prescribed by regulation to be port facilities.
- (4) Port facilities for a port entity other than a port authority do not include land or facilities prescribed by regulation not to be port facilities.

*Examples of port facilities—*

- wharf and port marine operational areas and shipping channels within port limits
- marine and port structures
- berths and berth pockets
- ship building facilities and dry docks
- offshore structures used for shipping purposes
- wharf protection devices
- hydraulic structures
- bulk loading and unloading facilities
- boat harbours and boat ramps



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**269 Port authority is excluded matter for Corporations Act**

A port authority established under section 268 is declared to be an excluded matter for the Corporations Act, section 5F in relation to the following provisions of the Corporations Act—

- (a) parts 2D.1 and 2D.6;
- (b) chapters 2K and 2L;
- (c) parts 5.7, 5.7B, 5.9 and 5B.2.

**270 Abolition of port authority**

- (1) A regulation may abolish a port authority established under section 268 and transfer its functions to another port authority, the State or a local government (the *transferee*).
- (2) A regulation may also transfer to the transferee, or to a port authority, the State or a local government, assets and liabilities of the abolished port authority.
- (3) A legal proceeding by or against the abolished port authority about the port, or transferred assets and liabilities, that is unfinished when the relevant regulation commences may be continued and finished by or against—
  - (a) the transferee; or
  - (b) if the assets or liabilities concerned are transferred to a person mentioned in subsection (2) who is not the transferee—the person.

**271 Transfer of management of a port**

- (1) A regulation may transfer the management of a port from a port authority, the State or a local government (the *transferor*) to a port authority, the State or a local government (the *transferee*).
- (2) A regulation may also transfer to the transferee, or to a port authority, the State or a local government, assets and liabilities of the transferor.

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- (3) A legal proceeding by or against the transferor about the port, or transferred assets or liabilities, that is unfinished when the relevant regulation commences may be continued and finished by or against—
  - (a) the transferee; or
  - (b) if the assets or liabilities concerned are transferred to a person mentioned in subsection (2) who is not the transferee—the person.
- (4) Subsections (2) and (3) do not apply if—
  - (a) the transferor and transferee are both GOC Act entities; and
  - (b) the assets and liabilities of the transferor are transferred, under the *Government Owned Corporations Act 1993*, to the transferee.

## **272 Regulation may make transitional arrangements**

- (1) If a port authority is established or abolished, or the management of a port is transferred, under this part, a regulation may make transitional arrangements about the establishment, abolition or transfer.
- (2) The transitional arrangements may include—
  - (a) arrangements for the transfer of staff, and their superannuation and other entitlements; or
  - (b) other transitional arrangements necessary or convenient for the establishment, abolition or transfer.
- (3) This section does not apply if the transfer of the management of a port is from a port authority that is a GOC Act entity to another port authority that is also a GOC Act entity.

## **273 Management of port by State or local government**

If the State or a local government is given the management of a port under this chapter, the Minister or the local government

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has, for the port, all the functions and powers, and all the obligations, of a port authority under this chapter.

**274 Regulation may define port limits etc.**

A regulation may—

- (a) define or amend the limits of a port, other than the Port of Brisbane; or
- (b) give a name to a port or change the name of a port; or
- (c) for a new port—transfer the management of the port to an existing port authority, the State or a local government; or
- (d) change the name of a port authority established under section 268.

**274A Regulation may declare GOC Act entity to be port authority**

For a GOC Act entity, a regulation may do 1 or more of the following—

- (a) declare the entity to be a port authority;
- (b) prescribe the port the entity is to manage;
- (c) revoke the declaration of the entity as a port authority.

## **Part 3 Functions and powers of port authorities**

**275 Functions of port authorities**

- (1) The functions of a port authority are—

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- (a) to establish, manage, and operate effective and efficient port facilities and services in its port; and
- (b) to make land available for—
  - (i) the establishment, management and operation of effective and efficient port facilities and services in its port by other persons; or
  - (ii) other purposes consistent with the operation of its port; and
- (c) to provide or arrange for the provision of ancillary services or works necessary or convenient for the effective and efficient operation of its port; and
- (d) to keep appropriate levels of safety and security in the provision and operation of the facilities and services; and
- (e) to provide other services incidental to the performance of its other functions or likely to enhance the usage of the port; and
- (f) without limiting any other paragraph of this subsection, in relation to strategic port land of the following port authorities—
  - (i) the Far North Queensland Ports Corporation Limited—to provide or arrange for the development and use of its strategic port land at Cairns for residential and tourist accommodation;
  - (ii) the Port of Brisbane Corporation Limited—to provide or arrange for the development and use of its strategic port land—
    - (A) at Eagle Farm and Hamilton, for residential accommodation, community infrastructure and ancillary services; and
    - (B) at Fisherman Islands, for local commercial activities;

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- (iii) the Far North Queensland Ports Corporation Limited and Port of Brisbane Corporation Limited—to plan or carry out works in relation to the development and use of strategic port land under subparagraphs (i) and (ii); and
- (g) to perform any other functions conferred on it under this or another Act or under the regulations.
- (2) A port authority's functions as provided under subsection (1) may be removed, restricted or limited by regulation.
- (3) If a function mentioned in subsection (1)(g) is conferred on a port authority, the port authority must ensure a copy of a document specifying the function is available during business hours for inspection, or for purchase at a reasonable cost, at the office of the port authority in, or nearest to, each port to which it applies.
- (4) In this section—

*Far North Queensland Ports Corporation Limited* means Far North Queensland Ports Corporation Limited ACN 131 836 014.

*Port of Brisbane Corporation Limited* means Port of Brisbane Corporation Limited ACN 124 048 522.

## **276 Port services function**

- (1) A port authority has, in addition to its functions under section 275, the function of providing port services and ancillary services—
- (a) whether in or outside its port; and
- (b) whether in or outside Australia; and
- (c) whether for another port authority or for someone else.
- (2) A GOC port authority is taken to have had the function mentioned in subsection (1) from when it became a GOC.
- (3) In this section—

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*ancillary services* means services ancillary to the provision of port services, including services appropriate for complementing or enhancing the provision of port services.

*port services* means any of the following—

- (a) services relating to the establishment, operation or administration of ports;
- (b) dredging services;
- (c) services relating to the reclamation of land;
- (d) consultancy services about any of the services mentioned in paragraphs (a) to (c).

## **277 Powers of port authorities or port lessor subject to Marine Safety Act**

- (1) The powers of a port authority or port lessor under this chapter, including powers conferred by a regulation, must be exercised subject to the powers of—
  - (a) the general manager under part 14A of the Marine Safety Act; or
  - (b) a harbour master under the Marine Safety Act about marine safety and navigation.
- (2) In this section—

*Marine Safety Act* means the *Transport Operations (Marine Safety) Act 1994*.

## **278 Powers of port authorities**

- (1) In addition to the powers a port authority has because of this chapter, each port authority has all powers necessary or convenient for performing its functions.
- (2) Without limiting subsection (1), a port authority's powers include power—
  - (a) to dredge and otherwise maintain or improve navigational channels in its port; and

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- (b) to reduce or remove a shoal, bank or accumulation in its port that, in the port authority's opinion, impedes navigation in its port.
  - (3) A port authority is not liable to pay royalties or similar charges for extractive material removed—
    - (a) to maintain or improve navigational channels in its port, or improve navigation in its port, if the material is disposed of—
      - (i) in an area associated with port activities and approved by the Minister; and
      - (ii) under relevant statutory environmental controls; or
    - (b) to reclaim land that is, or is proposed to be, strategic port land.

**278A Functions and powers of port authority that is a GOC not limited**

This chapter does not limit the functions or powers a port authority that is a GOC may have.

**Part 3A Liability for, and recovery of, charges and expenses**

**279 Port authority may impose a charge**

- (1) A port authority may impose a charge for the use of its port area.
- (2) A charge may, for example, be imposed by reference to—
  - (a) a ship using its port; or
  - (b) goods or passengers loaded, unloaded or transhipped to or from a ship using port facilities in its port.

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- (3) This section does not limit the powers a port authority has apart from this section.

### **279A Relevant entity may impose charges**

- (1) The port lessor, a port lessee or a port manager (a *relevant entity*) may impose charges in relation to port services and port facilities, including in relation to—
  - (a) the acquisition, establishment, construction, improvement, operation and maintenance of port facilities; and
  - (b) works relating to port facilities including dredging and disposal of dredged material and reclamation of land.
- (2) Subsection (1) is subject to—
  - (a) any conditions or limitations on charges in any port agreement to which the relevant entity is a party; and
  - (b) any agreement between the relevant entity and a port user.
- (3) The relevant entity must maintain a website and must publish its standard charges and conditions on the website.
- (4) A charge may not be imposed on a person who is exempt from payment of the charge under—
  - (a) subject to section 279B(4), a port agreement to which the relevant entity is a party; or
  - (b) a regulation made under section 281C.
- (5) This section does not limit the powers or rights that the relevant entity has apart from this section, except to the extent stated in this section.

### **279B Port agreement**

- (1) The Minister may, for the State, enter into an agreement (a *port agreement*) with a relevant entity about charges imposed by the relevant entity under section 279A.

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- (2) Without limiting subsection (1), a port agreement may—
- (a) provide for exemptions, or partial exemptions, from payment of charges, including interest on charges, imposed by the relevant entity; or
  - (b) impose obligations or conditions in relation to the provision of port services or port facilities or the exercise of powers by the relevant entity under section 279A.

*Example—*

A port agreement may oblige a relevant entity to undertake stated capital or maintenance works as a condition of imposing charges.

- (3) Subsection (2)(a) does not limit the power of a relevant entity to otherwise exempt or partially exempt a person from a charge, including any interest on a charge, imposed by the relevant entity.
- (4) If there is an inconsistency between the port agreement and a regulation made under section 281C, the regulation prevails to the extent of the inconsistency.
- (5) The Minister must table each port agreement, and each amendment of a port agreement, in the Legislative Assembly as soon as practicable after it is entered into.
- (6) In this section—

***Minister*** means the Minister who administers this section or the Treasurer.

## **280 Liability for a charge in relation to a ship**

If a charge is payable in relation to a ship, the following persons are jointly and severally liable for the charge—

- (a) the owner of the ship;
- (b) the master of the ship;

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- (c) the agent of the ship's owner;
- (d) another person who has accepted liability for the charge.

### **281A Liability for a charge in relation to goods**

If a charge is payable in relation to goods, the following persons are jointly and severally liable for the charge—

- (a) the owner of the goods;
- (b) the consignor and consignee of the goods;
- (c) the agent for the sale or custody of the goods;
- (d) the person entitled to possession of the goods;
- (e) for goods transported by ship—
  - (i) the owner of the ship; and
  - (ii) the master of the ship;
- (f) another person who has accepted liability for the charge.

### **281B Liability for a charge in relation to passengers**

If a charge is payable in relation to passengers on a ship, the following persons are jointly and severally liable for the charge—

- (a) the owner of the ship;
- (b) the master of the ship;
- (c) the agent of the ship's owner;
- (d) another person who has accepted liability for the charge.

### **281C Payment of a charge and interest on an unpaid charge**

- (1) A charge imposed by a port authority or relevant entity is payable within a reasonable time decided by the port authority or relevant entity.

- (2) If the charge is not paid on or before the day the charge is due, interest is payable on the unpaid amount of the charge at a reasonable rate decided by the port authority or relevant entity.
- (3) The port authority or relevant entity may recover a charge, or part of a charge, and any interest payable in relation to the charge, as a debt payable to the port authority or relevant entity.
- (4) A regulation may provide for exemptions from the payment of charges, including any interest on a charge.
- (5) Subsection (4) does not affect or limit the power of a port authority or relevant entity to exempt or partially exempt a person from a charge, including any interest on the charge, imposed by a port authority or relevant entity.

#### **281D Liability for movement of ships, vehicles, goods or rolling stock**

- (1) This section applies if a port authority or port operator incurs an expense because an authorised officer of the port authority or port lessor moves, or takes a step to move, a ship, a vehicle, goods or rolling stock under part 3B.
- (2) The amount of the expense, to the extent that the amount is reasonable, is a debt owing to the port authority or port operator by—
  - (a) for a ship or goods—the persons who are liable for a charge payable in relation to the ship or goods; or
  - (b) for a vehicle or rolling stock—the owner and driver of the vehicle or rolling stock.
- (3) The liability of persons mentioned in subsection (2)(a) and (b) is joint and several.

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### **281E Liability for damage to port facilities**

- (1) If damage is caused by a ship to port facilities, the following persons are jointly and severally liable for the damage—
  - (a) the owner of the ship;
  - (b) the master of the ship;
  - (c) the agent of the ship's owner.
- (2) If damage is caused to port facilities by floating or submerged material, the owner of the material is liable for the damage if the damage happened because of the intentional, reckless or negligent act of the owner.
- (3) A port entity may recover its reasonable cost of rectifying the damage as a debt payable to the entity.

### **281F Security for payment of charges and potential liabilities**

- (1) A port entity may, by written notice, require a person to give the port entity a security deposit as security for a liability or debt incurred, or that may be incurred, to it under this part in relation to—
  - (a) the payment of a charge; or
  - (b) damage caused, or that may be caused, to port facilities.
- (2) The security deposit must be in or for an amount decided by the port entity that is a reasonable amount having regard to the liability or potential liability of the person under this part.
- (3) The security deposit may be—
  - (a) cash; or
  - (b) a guarantee from a financial institution; or
  - (c) in another form accepted by the port entity.
- (4) The port entity may appropriate or partly appropriate a security deposit to meet the liability or indebtedness of the person if the liability or debt is unpaid after becoming due.

- (5) If a security deposit is appropriated or partly appropriated, the port entity may, by written notice, require the person to give the port entity a further security deposit.
- (6) Also, if the port entity considers that the person's liability or indebtedness, or potential liability or indebtedness, to it under this part should be more adequately guaranteed, the port entity may, by written notice, require the person to give the port entity a security deposit in a greater amount, or in a different form, or both.

## **Part 3B Control of activities at ports**

### **Division 1 Port notices**

#### **282 Port authority or port lessor may control activities by port notice**

- (1) A port authority or port lessor may display or publish a notice (a *port notice*) to control activities or conduct in its port area if the port authority or port lessor reasonably considers the activities or conduct may—
  - (a) affect the port's operation; or
  - (b) cause damage to the port authority's strategic port land or Brisbane core port land; or
  - (c) cause damage to the environment.
- (2) Without limiting subsection (1), the purposes for which a port authority or port lessor may display or publish a port notice include—
  - (a) maintaining or improving the safe, secure or efficient operation of its port; or

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*Example for paragraph (a)—*

A port authority or port lessor may issue a port notice to ensure that the loading or unloading operations at the port facilities are carried out efficiently.

- (b) maintaining fair or reasonable access to port facilities for users of its port; or

*Example for paragraph (b)—*

A port authority or port lessor may issue a port notice to ensure that a user of its port facilities does not unreasonably restrict the access of other users of its port facilities.

- (c) moving or mooring ships within its port area; or  
(d) managing controlled activities; or  
(e) preventing damage to strategic port land or Brisbane core port land; or  
(f) preventing damage to the environment.
- (3) This section does not limit the powers a port authority or port lessor has under this division.

### **282AA Port lessor may give port notice requiring information**

- (1) The port lessor may display or publish a port notice requiring a person or class of persons to produce to the port lessor or port lessor's delegate, information relevant to the following—
- (a) the provision or use of port services;  
(b) the calculation of charges;  
(c) the provision, use or preservation of port facilities;  
(d) the management, operation, safety, security or efficiency of the port;  
(e) information requested by a Commonwealth or State entity.
- (2) For subsection (1), the information requested may include the following—

- (a) a description of vessels, vehicles, goods and commodities entering or located in the port area;
- (b) data about the movement of vessels, vehicles or passengers and the movement and storage of goods and commodities;
- (c) information about the efficiency of operations and other logistical matters.

**282A Port notice—movement or mooring of, or activities on or by, ships**

A port authority or port lessor may control by port notice—

- (a) the movement or mooring of ships at its port facilities;  
or
- (b) the movement or mooring of ships if the movement or mooring may affect the port's operation; or
- (c) activities on or by ships moored at its port facilities or in its port if the activities may affect the port's operation.

**282C Port notice—movement, handling or storage of goods**

A port authority or port lessor may control by port notice the movement, handling or storage of goods loaded, waiting to be loaded, unloaded or transhipped to or from ships at its port facilities.

**282D Port notice—movement of persons**

A port authority or port lessor may control by port notice the movement of persons at its port facilities including, for example, where the movement of members of the public, or another identified group, is restricted or prohibited.

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### **282E Port notice—parking or stopping of vehicles**

- (1) A port authority or port lessor may control by port notice the parking or stopping of vehicles at or on its port facilities, strategic port land or Brisbane core port land including, for example, by indicating a place where parking or stopping of a vehicle is restricted or prohibited.
- (2) However, a port authority's or port lessor's power to control a matter mentioned in subsection (1) by port notice is subject to the control of the matter by an official traffic sign installed under the *Transport Operations (Road Use Management) Act 1995*, chapter 5, part 2, by the chief executive within the meaning of that part.

### **282F Port notice—movement, stopping or parking of rolling stock**

A port authority or port lessor may control by port notice the movement, stopping or parking of rolling stock at its port facilities including, for example, by indicating where parking of rolling stock is restricted or prohibited.

### **282G Display or publication of port notices**

- (1) To have effect, a port notice must—
  - (a) be displayed on or near the thing to which it relates; or
  - (b) be published on the port authority's, port lessor's or port lessor's delegate's web site on the internet.
- (2) Before a port notice mentioned in subsection (1)(b) has effect, the port authority or port lessor issuing the port notice must publish it on at least 2 occasions in a newspaper circulated in the area to which the port notice relates.
- (3) A copy of a port notice must be available during normal business hours for inspection, or for purchase at a reasonable cost, at the office of the port authority, port lessor or port lessor's delegate that is in, or nearest to, the area to which the notice relates.

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**282H Port notice may refer to documents held by port authority, port lessor or port lessor's delegate**

- (1) A port notice may require a person to comply, in whole or in part, with a requirement of a stated document held by the port authority, port lessor or port lessor's delegate.
- (2) However, the requirement must be able to be made by a port notice under this division.
- (3) If the document is a standard, the port notice must state that a copy of the standard is available during normal business hours for inspection, or for purchase at a reasonable cost, at a stated office of the port authority, port lessor or port lessor's delegate that is in, or nearest to, the area to which the notice relates.
- (4) If the document is not a standard, the port notice must—
  - (a) include a copy of the document; or
  - (b) do both of the following—
    - (i) include a summary of the requirement;
    - (ii) state that a copy of the document is available during normal business hours, free of charge, at a stated office of the port authority, port lessor or port lessor's delegate that is in, or nearest to, the area to which the notice relates.
- (5) In this section—

***standard*** means—

  - (a) the Code of Safe Practice for Solid Bulk Cargoes issued by the International Maritime Organisation, as it applies to materials mentioned in group B of the Code; or
  - (b) the International Maritime Dangerous Goods Code published by the International Maritime Organisation; or
  - (c) the International Safety Guide for Oil Tankers and Terminals issued by the International Chamber of Shipping, the Oil Companies International Marine

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- Forum and the International Association of Ports and Harbours; or
- (d) the Ship to Ship Transfer Guide (Liquefied Gases) issued by the International Chamber of Shipping and the Oil Companies International Marine Forum; or
  - (e) the Ship to Ship Transfer Guide (Petroleum) issued by the International Chamber of Shipping and the Oil Companies International Marine Forum; or
  - (f) the Tanker Safety Guide (Chemicals) issued by the International Chamber of Shipping; or
  - (g) the Tanker Safety Guide (Liquefied Gas) issued by the International Chamber of Shipping; or
  - (h) a code, guide, rule, specification, standard or other document (a *relevant document*) adopted, made or published by—
    - (i) the International Association of Ports and Harbours; or
    - (ii) the International Chamber of Shipping; or
    - (iii) the International Maritime Organisation; or
    - (iv) the Oil Companies International Marine Forum; or
  - (i) a Standards Australia standard adopting, making or publishing a relevant document adopted, made or published by an entity mentioned in paragraph (h)(i) to (vi); or
  - (j) a relevant document prescribed under a regulation for this definition.

## **282I Port notices generally**

- (1) A port notice—
  - (a) must indicate the area to which the port notice applies; and

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- (b) if contravention of a requirement of the port notice is an offence against this Act—must state that fact and the maximum penalty for the offence.
  - (2) Evidence that a sign was displayed on or near the thing to which it relates is evidence that the notice was displayed by the port authority or port lessor.
  - (3) A port notice displayed on or near the thing to which it relates must be clearly visible to passers-by.

### **282J Offence of not complying with a port notice**

A person must comply with each requirement of a port notice, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—

- (a) for a contravention of a requirement of a port notice about a controlled activity—100 penalty units; or
- (b) for a contravention of a requirement of a port notice about the movement or mooring of, or activities on or by, a ship—100 penalty units; or
- (c) for a contravention of a requirement of a port notice about the movement, handling or storage of goods—50 penalty units; or
- (d) for a contravention of a requirement of a port notice about any other matter—25 penalty units.

## **Division 2 Authorised officers**

### **282K Appointment and qualifications of authorised officers**

- (1) A port authority or port lessor may appoint a person as an authorised officer for the port authority or port lessor.
- (2) However, the port authority or port lessor may appoint a person as an authorised officer for the port authority or port

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lessor only if the port authority or port lessor is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.

### **282L Appointment conditions and limit on powers**

- (1) An authorised officer holds office on any conditions stated in—
  - (a) the authorised officer’s instrument of appointment; or
  - (b) a signed notice given to the authorised officer; or
  - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the authorised officer or a regulation may limit the authorised officer’s powers under this Act.
- (3) In this section—

*signed notice* means a notice signed by—

  - (a) the port lessor or port lessor’s delegate; or
  - (b) an officer of the port authority, port lessor or port lessor’s delegate who is authorised by the entity to sign notices.

### **282M Issue of identity card**

- (1) The port authority or port lessor must issue an identity card to each authorised officer.
- (2) The identity card must—
  - (a) contain a recent photo of the authorised officer; and
  - (b) contain a copy of the authorised officer’s signature; and
  - (c) identify the person as an authorised officer for the port authority or port lessor under this Act; and
  - (d) state an expiry date for the card.

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## **282N Production or display of identity card**

- (1) In exercising a power under this Act in relation to a person, an authorised officer must—
  - (a) produce the authorised officer’s identity card for the person’s inspection before exercising the power; or
  - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the authorised officer must produce the identity card for the person’s inspection at the first reasonable opportunity.

## **282O When authorised officer ceases to hold office**

- (1) An authorised officer ceases to hold office if—
  - (a) the term of office stated in a condition of office ends; or
  - (b) under another condition of office, the authorised officer ceases to hold office.
- (2) Subsection (1) does not limit the ways an authorised officer may stop holding office.
- (3) In this section—

*condition of office* means a condition on which the authorised officer holds office.

## **282P Return of identity card**

A person who ceases to be an authorised officer of a port authority or port lessor must return the person’s identity card to the port authority, port lessor or port lessor’s delegate within 21 days after ceasing to be an authorised officer unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

## **Division 3                      Directions**

### **282Q    Authorised officer may give directions**

- (1) An authorised officer of a port authority or port lessor may give a verbal direction to a person in the port authority's or port lessor's port area if giving the direction is reasonably necessary to—
- (a) ensure the safety or security of the port area, its users or a port entity's employees; or
  - (b) prevent the person's activities or conduct from affecting the port's operation.

*Examples of directions that may be given for subsection (1)—*

- a direction to control the movement or mooring of, or activities on or by, a ship
- a direction to control the movement, stopping or parking of a vehicle or rolling stock
- a direction to control the movement, handling or storage of goods that are loaded, waiting to be loaded, unloaded or being transhipped
- a direction to control the movement of persons
- a direction to a person, who is the holder of an approval to perform a controlled activity under part 4A, to stop performing the controlled activity for a period

- (2) Subsection (3) applies if an authorised officer—
- (a) finds a person committing an offence, or reasonably suspects that a person has just committed an offence, against section 283G; or
  - (b) reasonably believes that a person's presence at the port facilities may pose a threat to the safety or security of the port facilities, its users or a port entity's employees; or
  - (c) reasonably believes that a person is in an area of the port facilities without lawful justification or excuse.

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- (3) An authorised officer may give a verbal direction to the person to—
    - (a) immediately leave the port facilities, or an area of the port facilities; or
    - (b) immediately leave the port facilities, or an area of the port facilities, and not return for at least 24 hours.
  - (4) An authorised officer must identify himself or herself as an authorised officer if the authorised officer gives a verbal direction by radio, megaphone or another form of distance communication.
  - (5) An authorised officer must not give a verbal direction about the movement of rolling stock if a train controller is satisfied that the movement of the rolling stock would cause an immediate threat to—
    - (a) the safety of the railway; or
    - (b) the public using it or who may use it.

### **282R If a person does not comply with a direction**

- (1) If the person does not comply with a verbal direction given by an authorised officer under section 282Q, the authorised officer may give the person a written notice stating—
  - (a) the authorised officer's name; and
  - (b) the direction; and
  - (c) a brief statement about the authorised officer's reason for giving the direction; and
  - (d) a further reasonable time within which the person must comply with the direction; and
  - (e) when the direction was given.
- (2) If it is not possible or reasonable for the authorised officer to give the person a written notice at the time the person does not comply with a verbal direction given by an authorised officer under section 282Q, the authorised officer—

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- (a) may give the person a further verbal direction stating the information mentioned in subsection (1)(a) to (d); and
  - (b) must give the person the written notice the person would have received at the time the person did not comply with the verbal direction as soon as practicable after giving the further verbal direction.
- (3) At the time the authorised officer gives the person a written notice under subsection (1), or a further verbal direction under subsection (2)(a), the authorised officer must warn the person that the person may commit an offence unless the person complies with the direction within the stated time.

### **282S Offence of not complying with a direction**

Unless a person has a reasonable excuse, a person must comply with a direction given to the person by an authorised officer under section 282R, within the reasonable time stated in a written notice under section 282R(1) or as part of a further verbal direction under 282R(2)(a).

Maximum penalty—

- (a) if the contravention results in a significant delay to port operations—200 penalty units; or
- (b) otherwise—
  - (i) for a contravention of a direction to leave the port facilities or an area of the port facilities, or leave the port facilities or an area of the port facilities and not return for 24 hours—100 penalty units; or
  - (ii) for a contravention of a direction about the movement or mooring of, or activities on or by, a ship—100 penalty units; or
  - (iii) for a contravention of a direction about the movement, handling or storage of goods—50 penalty units; or
  - (iv) for a contravention of another direction—25 penalty units.

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## **Division 4                      Moving contravening property**

### **282T    Moving contravening property**

- (1) This section applies if—
  - (a) an authorised officer of a port authority or port lessor reasonably believes that a ship, a vehicle, goods or rolling stock in a port or at a port facility is contravening property; and
  - (b) the authorised officer reasonably believes that it is necessary to move the contravening property having regard to—
    - (i) the efficient operation of the port; or
    - (ii) the safety or security of the port, its users or a port entity's employees; and
  - (c) the authorised officer—
    - (i) can not immediately find the person in charge of the contravening property; or
    - (ii) reasonably believes the person in charge of the contravening property can not, or will not, move the contravening property immediately.
- (2) The authorised officer may—
  - (a) take steps necessary and reasonable to have the contravening property moved; and
  - (b) if the contravening property is property in the form of goods that are perishable, or of little or no value, treat the goods as abandoned property under part 4B.
- (3) However, for contravening property that is rolling stock, the authorised officer must not move the rolling stock if a train controller is satisfied that the movement of the rolling stock would cause an immediate threat to—
  - (a) the safety of the railway; or

- (b) the public using it or who may use it.
- (4) In this section—
- contravening property* means a ship, a vehicle, goods or rolling stock, that is moored, parked or left in a port or at a port facility in contravention of—
- (a) a requirement of a port notice; or
  - (b) a direction of an authorised officer under division 3.
- person in charge*, of contravening property, means—
- (a) for contravening property that is a ship—the ship’s master or another person in charge of the ship; or
  - (b) for contravening property that is a vehicle or rolling stock—the driver of the vehicle or rolling stock or another person in charge of the vehicle or rolling stock; or
  - (c) for contravening property that is property in the form of goods—the owner of the goods or another person in charge of the goods.

## Division 5                      Other powers and offences

### 283      Power to require name and address

- (1) An authorised officer of a port authority or port lessor may require a person, who is in the port authority’s or port lessor’s port area, to state the person’s name and address if the authorised officer—
  - (a) finds the person committing an offence against this Act; or
  - (b) reasonably suspects the person has just committed an offence against this Act.
- (2) When making the requirement, the authorised officer must warn the person that it is an offence to fail to state the person’s name and address unless the person has a reasonable excuse.

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- (3) The authorised officer may require the person to give evidence of the correctness of the person's stated name and address if the authorised officer reasonably suspects the stated name or address is false.
  - (4) A person must comply with the authorised officer's requirement under subsection (1) or (3), unless the person has a reasonable excuse for not complying with it.  
Maximum penalty—10 penalty units.
  - (5) The person does not commit an offence against this section if—
    - (a) the authorised officer required the person to state the person's name and address in the circumstances mentioned in subsection (1)(a) or (b); and
    - (b) the person is not proved to have committed the offence.

### **283A Inspection of documents**

- (1) An authorised officer of a port authority or port lessor may require a person, who is or may be liable to pay a charge to the port authority or a relevant entity, to produce for the authorised officer's inspection, documents that are—
  - (a) under the person's control; and
  - (b) relevant to deciding—
    - (i) whether the person is liable to pay the charge; or
    - (ii) the amount of the charge.
- (2) The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (2)—50 penalty units.

### **283B Inspection of ships, vehicles, rolling stock and goods**

- (1) This section applies only to the extent necessary to allow an authorised officer of a port authority or port lessor to decide—

[s 283C]

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- (a) whether a charge is payable in relation to a ship or goods; and
  - (b) the amount of the charge.
- (2) A person in charge of a conveyance in the port authority's or port lessor's port area must allow the authorised officer to enter and inspect the conveyance, or inspect goods on or in the conveyance, if asked by the authorised officer.

Maximum penalty—50 penalty units.

- (3) In this section—

*conveyance* means a ship, a vehicle or rolling stock.

### **283C Obstructing authorised officer**

- (1) A person in a port authority's or port lessor's port area must not obstruct an authorised officer in the exercise of a power under this part, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (2) In this section—

*obstruct* includes hinder, resist, insult, attempt to obstruct and threaten to obstruct.

### **283D False or misleading statement**

- (1) A person must not state anything to an authorised officer that the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) It is enough for a complaint for an offence against subsection (1) to state the statement made was 'false or misleading' to the person's knowledge, without specifying which.

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### **283E False or misleading document**

- (1) A person must not give an authorised officer a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person if the person when giving the document—
  - (a) tells the authorised officer, to the best of the person’s ability, how it is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (3) It is enough for a complaint for an offence against subsection (1) to state the document was ‘false or misleading’ to the person’s knowledge, without specifying which.

### **283F Impersonating an authorised officer**

A person must not pretend to be an authorised officer.

Maximum penalty—50 penalty units.

### **283G Conduct causing public nuisance**

A person at a port authority’s or port lessor’s port facilities must not be disorderly or create a disturbance.

Maximum penalty—50 penalty units.

### **283H Interfering with port notices**

- (1) This section applies to a port notice, other than a port notice published on a port authority’s, port lessor’s or port lessor’s delegate’s web site on the internet.
- (2) A person must not unlawfully interfere with the port notice.

Maximum penalty—25 penalty units.

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(3) In this section—

*interfere*, with a port notice, includes removing or damaging the port notice.

## Part 3C Land management—Port of Brisbane

### Division 1 Preliminary

#### 283I Definitions for pt 3C

In this part—

*balance port land* see section 283L.

*Brisbane core port land* see section 283K.

*Brisbane port LUP* means the plan, approved under this part, that regulates development on Brisbane core port land.

*Brisbane port railway land* means—

- (a) any part of Brisbane core port land that is leased for railway purposes; or
- (b) any land completely or partly within Brisbane core port land, or adjoining Brisbane core port land, if the land is—
  - (i) rail corridor land; or
  - (ii) future railway land.

*community infrastructure designation* means a designation of land for community infrastructure under the Planning Act, section 200.

*consultation period* see section 283ZB(2)(f).

*contributions schedule* see section 283S(1)(g).

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**core matters**, for the Brisbane port LUP (including its preparation), means each of the following matters—

- (a) land use and development;
- (b) core port infrastructure;
- (c) valuable features.

**core port infrastructure** means core port infrastructure stated in schedule 5B, part 2.

**draft plan** see section 283ZA.

**first Brisbane port LUP** means the first Brisbane port LUP as published under section 283Q(1).

**former land use plan** means the land use plan under this Act for the Port of Brisbane in effect immediately before the completion day.

**high-water mark** means the ordinary high-water mark at spring tides.

**land use and development**, for an area, includes each of the following—

- (a) the location of, and the relationships between, the land uses in the area;
- (b) the current effects of land use in the area;
- (c) the likely effects of any proposed development of Brisbane core port land;
- (d) the accessibility to, and within, Brisbane core port land.

**minor amendment (LUP)**, for the Brisbane port LUP, means—

- (a) an amendment correcting or changing any of the following—
  - (i) an explanatory matter about the plan, this Act or the Planning Act;
  - (ii) the format or presentation of the plan;

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- (iii) a spelling, typographical, grammatical or mapping error in the plan;
  - (iv) a factual matter incorrectly stated in the plan;
  - (v) a redundant or outdated term;
  - (vi) inconsistent numbering of provisions in the plan;
  - (vii) cross-references to provisions in the plan;
  - (viii) a matter in the Brisbane port LUP to make it consistent with a State planning regulatory provision, a regional plan or a State planning policy under the Planning Act; or
- (b) an amendment to include a statement in the plan that a State planning instrument, or a part of a State planning instrument, is appropriately reflected in the plan, if the planning Minister has advised the port operator that the planning Minister is satisfied the Brisbane port LUP reflects the instrument; or
- (c) an amendment the planning Minister and transport Minister agree is made to reflect—
- (i) a development approval; or
  - (ii) a community infrastructure designation; or
  - (iii) transport infrastructure or planned transport infrastructure.

***plan commencement day*** see section 283R.

***planned transport infrastructure*** means future transport infrastructure that is—

- (a) planned under the Brisbane port LUP; or
- (b) authorised under a development approval or mentioned in a community infrastructure designation; or
- (c) planned under a State planning instrument; or

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- (d) any of the following identified in a guideline made under the *Transport Planning and Coordination Act 1994*, section 8E—
- (i) a future busway station;
  - (ii) a future railway passenger station for the network known as Citytrain;
  - (iii) a future passenger transport interchange facility;
  - (iv) a future route for public transport; or
- (e) future railway land; or
- (f) a road or land that the chief executive has notified a local government in writing is intended to become a State-controlled road.

***planning chief executive*** means the chief executive of the department in which the Planning Act is administered.

***planning Minister*** means the Minister administering the Planning Act.

***port prohibited development*** means—

- (a) port prohibited development stated in schedule 5B, part 3; or
- (b) development that is stated in the Brisbane port LUP to be port prohibited development for the plan or a precinct.

***port related development*** means port related development stated in schedule 5B, part 4.

***precinct*** means an area marked on a map in the Brisbane port LUP and for which a table of assessment is identified in the plan.

***premises*** see the Planning Act, schedule 3.

***priority infrastructure interface plan***, for the Brisbane port LUP, means a document prepared by or for the port operator describing how development that is consistent with the Brisbane port LUP is intended to coordinate with the priority

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infrastructure plan of the Brisbane City Council for the types of local government infrastructure relevant to Brisbane core port land.

***priority infrastructure plan***, of a local government, means the local government's priority infrastructure plan under the Planning Act.

***properly made submission*** means a submission that—

- (a) is in writing and, unless the submission is made electronically, is signed by each person who made the submission; and
- (b) is given to all of the following—
  - (i) the port operator;
  - (ii) the planning Minister;
  - (iii) the transport Minister; and
- (c) is received during the consultation period; and
- (d) states the name and residential or business address of each person who made the submission; and
- (e) states the grounds of the submission and the facts and circumstances relied on in support of the grounds.

***registered interest*** means an interest registered in—

- (a) the freehold land register; or
- (b) the leasehold land register under the Land Act.

***service provider*** means an entity that is a service provider under the *Water Supply (Safety and Reliability) Act 2008*.

***State interest*** see the Planning Act, schedule 3.

***State planning instrument*** means a State planning instrument under the Planning Act.

***statement of proposal*** see section 283Y(1).

***strategic plan***, for the Brisbane port LUP, see section 283S(2).

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**table of assessment**, for a precinct, means a statement in the Brisbane port LUP for the precinct as to whether particular development in the precinct is any of the following—

- (a) exempt development, self-assessable development, development requiring compliance assessment or assessable development for the Planning Act under the Brisbane port LUP;
- (b) port prohibited development;
- (c) development that is consistent or inconsistent with the Brisbane port LUP.

**transport Minister** means the Minister administering this Act.

**transport reasons** means all of the following—

- (a) the objectives of this Act;
- (b) the elements of the strategic plan for the Brisbane port LUP relating to—
  - (i) planning for core port infrastructure, port related development and other transport infrastructure; and
  - (ii) maintaining buffer land for the infrastructure or development;
- (c) the safety and operational integrity of core port infrastructure and planned core port infrastructure identified under the Brisbane port LUP;
- (d) the safety and operational integrity of transport infrastructure and planned transport infrastructure not mentioned in paragraph (c);
- (e) any matter for which the chief executive of the department in which this Act or any of the following Acts is administered has jurisdiction as a referral agency under the Planning Act—
  - (i) the *Transport Planning and Coordination Act 1994*;

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- (ii) the *Transport Operations (Marine Safety) Act 1994*.

*valuable features* see the Planning Act, section 89(2).

### **283J Treasurer may declare land to be Brisbane core port land or balance port land**

The Treasurer may by gazette notice—

- (a) declare land to be Brisbane core port land for the first Brisbane port LUP; and
- (b) on or before the day Brisbane core port land is declared under paragraph (a), declare land to be balance port land.

### **283K What is *Brisbane core port land***

*Brisbane core port land* means—

- (a) for the first Brisbane port LUP—land the Treasurer declares to be Brisbane core port land under section 283J; or
- (b) after the day the first Brisbane port LUP has effect—
  - (i) land identified in the Brisbane port LUP as Brisbane core port land; or
  - (ii) land that is subject to a table of assessment for a precinct, if the port lessee or port lessor has a registered interest in the land.

### **283L What is *balance port land***

*Balance port land* means land the Treasurer declares to be balance port land under section 283J.

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### **283M Application of Planning Act**

- (1) Subject to this part, the Planning Act applies for development on Brisbane core port land and balance port land.
- (2) If there is an inconsistency between this part and the Planning Act, this part prevails to the extent of the inconsistency.
- (3) If development is stated to be development of a particular type for the Planning Act under the Brisbane port LUP, the development is taken to be development of that type under that Act.
- (4) Other than as provided for under this part, a development application for development that is assessable development for the Planning Act under the Brisbane port LUP is not subject to a referral agency jurisdiction under that Act.

*Note—*

See sections 283ZQ to 283ZY for referral agencies, and their jurisdictions relating to development applications for development under the Brisbane port LUP.

### **283N Brisbane core port land not subject to local planning instrument**

Brisbane core port land is not subject to a local planning instrument under the Planning Act.

## **Division 2 Particular provisions about balance port land and planning schemes**

### **283O Balance port land is not strategic port land**

If strategic port land is declared to be balance port land under section 283L, it stops being strategic port land.

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### **283P Amendment of planning schemes**

- (1) The Treasurer may, by gazette notice on or before the day land is declared to be Brisbane core port land under section 283J, amend the planning schemes of the following local governments for the purpose of dealing with balance port land under the planning schemes—
  - (a) Brisbane City Council;
  - (b) Moreton Bay Regional Council.
- (2) The gazette notice may provide for an amendment of a planning scheme to deal with balance port land that—
  - (a) is not a part of the area of a local government; and
  - (b) adjoins the area of a local government.
- (3) The local government is the assessment manager for a development application for development on the balance port land dealt with by the gazette notice.
- (4) A planning scheme as amended under this section—
  - (a) applies to the balance port land dealt with under the planning scheme; and
  - (b) may be amended under the Planning Act.

## **Division 3 Plan for land use on Brisbane core port land**

### **Subdivision 1 First Brisbane port LUP**

#### **283Q Notice of first plan**

- (1) The Treasurer must, on or as soon as practicable after the completion day, publish notice in the gazette of the plan for land use (the *first Brisbane port LUP*) for Brisbane core port land.

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- (2) Section 283S, other than section 283S(1)(h), applies to the first Brisbane port LUP.
  - (3) The Treasurer may act under subsection (1) only if satisfied—
    - (a) the first Brisbane port LUP satisfactorily deals with the core matters relevant to the plan; and
    - (b) State interests will not be adversely affected by the plan.
  - (4) The Treasurer must give a copy of the gazette notice and the first Brisbane port LUP to—
    - (a) the port operator; and
    - (b) Brisbane City Council.
  - (5) On and from the day the notice mentioned in subsection (1) is published in the gazette—
    - (a) the former land use plan is of no force or effect for Brisbane core port land; and
    - (b) strategic port land that has been declared to be Brisbane core port land stops being strategic port land.

### **283R Status of first plan**

The first Brisbane port LUP—

- (a) has effect as the Brisbane port LUP for Brisbane core port land on and from the day notice of the plan is published in the gazette (the *plan commencement day*); and
- (b) is taken to be the Brisbane port LUP approved under this division until it is replaced or amended under the division.

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## **Subdivision 2      Content and review of Brisbane port LUP**

### **283S    Content of plan—mandatory requirements**

- (1) The Brisbane port LUP must, for Brisbane core port land—
  - (a) include a part outlining, by way of concept plans and words, for a period of at least 20 years after the plan commencement day—
    - (i) planning for core port infrastructure and proposed port related development for the land; and
    - (ii) anticipated infrastructure requirements relating to development mentioned in subparagraph (i); and
  - (b) include a part identifying the strategic outcomes for the land and stating measures that facilitate achieving the strategic outcomes; and
  - (c) state details of the land and the current and intended uses of the land; and
  - (d) coordinate and integrate the core matters relevant to the plan; and
  - (e) integrate matters relevant to the land under the regional plan and State planning policies under the Planning Act; and
  - (f) outline existing land uses for land (*adjacent land*) adjoining or neighbouring Brisbane core port land and how the adjacent land is dealt with by the planning scheme for the adjacent land; and
  - (g) include a schedule of charges (a *contributions schedule*) under which a contribution may be required by a condition imposed on a development approval under section 283ZZ; and
  - (h) include a priority infrastructure interface plan for the land.

*Note—*

Subsection (1)(h) does not apply to the first Brisbane port LUP. See section 283Q(2).

- (2) The parts of the Brisbane port LUP mentioned in subsection (1)(a) and (b) are called the *strategic plan*.
- (3) The other parts of the Brisbane port LUP must be consistent with the strategic plan.
- (4) For subsection (1)(b), measures facilitating achievement of the strategic outcomes include the identification of—
  - (a) exempt development, self-assessable development or development requiring compliance assessment for the Planning Act under the Brisbane port LUP; or
  - (b) assessable development for the Planning Act under the Brisbane port LUP requiring code or impact assessment; or
  - (c) port prohibited development.
- (5) Without limiting subsection (1), the Brisbane port LUP may—
  - (a) state that particular development is inconsistent with the plan, or a part of the plan relating to a particular precinct, for transport reasons; or
  - (b) state that any part of Brisbane core port land is intended to be maintained as buffer land; or
  - (c) include details of any land proposed to become part of Brisbane core port land.

### **283T Content of plan—matters about development**

- (1) The Brisbane port LUP may state that development on Brisbane core port land, or in a precinct, is port prohibited development.
- (2) Also, the Brisbane port LUP may state—

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- (a) that development is consistent or inconsistent with the plan or a part of the plan relating to a particular precinct; and
  - (b) the reasons that development is inconsistent with the plan or the part.
- (3) The Brisbane port LUP may state that development that is a material change of use of premises for core port infrastructure and is consistent with the plan for a precinct is, within that precinct, exempt development or self-assessable development for the Planning Act under the plan.
- (4) The Brisbane port LUP may state that development that is a material change of use of premises for port related development and is consistent with the plan for a precinct is, within that precinct, exempt development, self-assessable development, development requiring compliance assessment, or assessable development requiring code assessment for the Planning Act under the plan.
- (5) However, the Brisbane port LUP must not state that—
- (a) port prohibited development stated in schedule 5B is exempt development, self-assessable development, development requiring compliance assessment or assessable development for the Planning Act; or
  - (b) development prescribed under the Planning Act, section 232(2) is self-assessable development, development requiring compliance assessment or assessable development for the Planning Act; or
  - (c) any of the following development is assessable development or port prohibited development for the Planning Act under the plan—
    - (i) development that is a material change of use of premises for core port infrastructure and is consistent with the plan;
    - (ii) self-assessable development prescribed under the Planning Act, section 232(1); or

- (d) development that is a material change of use of premises for port related development, and is consistent with the plan, is assessable development requiring impact assessment or port prohibited development under the plan.
- (6) Development prescribed under the Planning Act, section 232(2) is, for that Act, exempt from assessment against the Brisbane port LUP.
- (7) Self-assessable development prescribed under the Planning Act, section 232(1) is self-assessable development for the Brisbane port LUP.

### **283U Requirement to review plan**

- (1) The port operator must complete a review of the Brisbane port LUP at least every 10 years after the plan commencement day.
- (2) The review must include an assessment of the achievement of the strategic outcomes identified in the plan.

### **283V Action port operator must take after review**

After reviewing the Brisbane port LUP, the port operator must—

- (a) propose to prepare a new Brisbane port LUP; or
- (b) propose to amend the Brisbane port LUP; or
- (c) if the port operator is satisfied the Brisbane port LUP is suitable to continue without amendment—decide to take no further action.

### **283W Report about review if decision is to take no action**

If the port operator decides to take no further action under section 283V(c), the port operator must—

- (a) prepare a report stating the reasons the port operator decided to take no further action; and

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- (b) give a copy of the report to the planning Minister and the transport Minister.

### **283X When plan must include priority infrastructure interface plan**

The port operator must ensure the Brisbane port LUP includes a priority infrastructure interface plan for Brisbane core port land by the earlier of the following—

- (a) the day that is 3 years after the day the Brisbane City Council's first priority infrastructure plan is included in its planning scheme;
- (b) the day the port operator first prepares a new Brisbane port LUP under this division after the Brisbane City Council's first priority infrastructure plan is included in its planning scheme.

## **Subdivision 3 Preparation and amendment of Brisbane port LUP by port operator**

### **283Y Statement of proposal for preparation or amendment of Brisbane port LUP**

- (1) The port operator must prepare a statement (*statement of proposal*) about—
  - (a) the preparation of a new Brisbane port LUP; or
  - (b) an amendment of the Brisbane port LUP.
- (2) However, subsection (1)(b) does not apply to an amendment of the Brisbane port LUP if the amendment—
  - (a) is to remove land from the Brisbane port LUP; or
  - (b) is a minor amendment (LUP).
- (3) The statement of proposal must—

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- (a) identify matters the port operator anticipates the Brisbane port LUP will address; and
  - (b) state how the port operator intends to address each relevant aspect of the core matters in the plan.
- (4) The port operator must give a copy of the statement of proposal to—
- (a) the Brisbane City Council; and
  - (b) the planning Minister; and
  - (c) the transport Minister.

**283Z Brisbane port LUP may be amended to identify additional land**

- (1) The Brisbane port LUP may be amended to identify additional land as Brisbane core port land if the planning Minister and transport Minister are satisfied the additional land—
- (a) is land in which the port lessee or port lessor has a registered interest; and
  - (b) is or may be used—
    - (i) for core port infrastructure; or
    - (ii) for port related development; or
    - (iii) as buffer land.

*Note—*

Land identified in the Brisbane port LUP is Brisbane core port land. See section 283K.

- (2) Subsection (1) does not limit how the Brisbane port LUP may be amended.

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### **283ZA Draft plan for preparation or amendment of Brisbane port LUP**

After complying with section 283Y, and section 283ZB to the extent the section relates to a statement of proposal, the port operator must—

- (a) take appropriate account of issues raised as a result of consultation under section 283ZB in relation to the statement of proposal; and
- (b) prepare a draft (*draft plan*) of—
  - (i) if the statement of proposal is for the preparation of a new Brisbane port LUP—the plan; or
  - (ii) if the statement of proposal is for an amendment of the Brisbane port LUP—the amendment of the plan; and
- (c) give a copy of the draft plan to—
  - (i) the Brisbane City Council; and
  - (ii) the planning Minister; and
  - (iii) the transport Minister.

### **283ZB Consultation on statement of proposal or draft plan**

- (1) This section applies if the port operator prepares a statement of proposal under section 283Y or a draft plan under section 283ZA.
- (2) The port operator must publish, at least once in a newspaper circulating generally in the area to which the statement of proposal or the draft plan relates, a notice stating the following—
  - (a) the name of the port operator;
  - (b) that the statement of proposal or draft plan relates to Brisbane core port land;
  - (c) that the port operator has prepared a statement of proposal, or a draft plan, and that it is available for

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- inspection and purchase at the office of the port operator in Brisbane;
- (d) a contact telephone number for information about the statement of proposal or draft plan;
  - (e) that any person may make a properly made submission about the statement of proposal or draft plan;
  - (f) the period (the *consultation period*) during which a submission mentioned in paragraph (e) may be made;
  - (g) the requirements for a properly made submission.
- (3) The consultation period must be—
- (a) for a statement of proposal—at least 20 business days after the notice is first published under subsection (2); or
  - (b) for a draft plan—at least 40 business days after the notice is first published under subsection (2).

### **283ZC Consideration of draft plan and submissions**

- (1) On receiving a copy of a draft plan, the planning Minister and the transport Minister must consider whether or not any State interests would be adversely affected by the draft plan.
- (2) Also, before approving a draft plan or recommending approval of a draft plan to the Governor in Council under this subdivision, the planning Minister and the transport Minister must consider all properly made submissions.

### **283ZD Directions for amendment of draft plan**

- (1) The planning Minister and the transport Minister may return a draft plan prepared by the port operator for amendment in the way directed by the planning Minister and the transport Minister.
- (2) A copy of the direction must be published in the gazette within 21 days after it is given.

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### **283ZE Approval of plans**

- (1) The planning Minister and the transport Minister may jointly approve a draft plan if satisfied that—
  - (a) the draft plan, or Brisbane port LUP as amended by the draft plan, satisfactorily deals with the core matters relevant to the plan and the mandatory requirements of the plan under section 283S; and
  - (b) the port operator has taken appropriate account of issues raised in properly made submissions; and
  - (c) the Brisbane City Council does not have a substantial objection to the draft plan; and
  - (d) State interests will not be adversely affected by the draft plan.
- (2) If the planning Minister and the transport Minister are satisfied about subsection (1)(a), (b) and (d) but are satisfied that the Brisbane City Council has a substantial objection to the draft plan, the draft plan may only be approved by the Governor in Council.
- (3) Approval of the Brisbane port LUP, or an amendment of the plan, must be notified in the gazette within 21 days after it is given.
- (4) The approval or amendment takes effect when it is notified in the gazette.
- (5) As soon as practicable after the approval or amendment is notified in the gazette, the planning chief executive must give the port operator notice of the gazettal.

### **283ZF Port operator to publish approved plan**

The port operator must ensure the Brisbane port LUP as approved under this division is published on its website.

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### **283ZG Recovery of Ministers' costs**

The reasonable costs and expenses incurred by the planning Minister and the transport Minister in acting under this subdivision in relation to a draft plan are a debt payable by the port operator to the State.

## **Subdivision 4 Miscellaneous**

### **283ZH Notification about Brisbane port LUP**

If the Brisbane port LUP is approved or amended under subdivision 3, the planning chief executive must give written notice of the details of the plan or amendment to the Brisbane City Council.

### **283ZI Recording matters about Brisbane port LUP**

- (1) The Brisbane City Council must ensure there is a record—
  - (a) on each relevant map in its planning scheme identifying the land to which the Brisbane port LUP applies; and
  - (b) in the planning scheme stating that interested persons may obtain details of the Brisbane port LUP from the port operator.
- (2) For the guideline made under the Planning Act, section 117(1), the making of the record is an administrative amendment to the planning scheme.

### **283ZJ Ministerial direction to port operator**

- (1) This section applies if the planning Minister and the transport Minister are satisfied—
  - (a) a minor amendment (LUP) is required for the Brisbane port LUP; or

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- (b) the port operator has not complied with a requirement under subdivision 2 or 3 to make or amend the Brisbane port LUP.
- (2) The planning Minister and the transport Minister jointly may, by written notice, direct the port operator—
  - (a) to make the minor amendment (LUP) within a stated reasonable period; or
  - (b) comply with the requirement under subdivision 2 or 3 within a stated reasonable period.
- (3) The notice must state the reasons for deciding to give the direction.
- (4) Before giving a direction to the port operator under subsection (2), the Ministers must consult with the port operator.
- (5) The port operator must comply with the direction.

## **Division 4                      Effect of land becoming or ceasing to be Brisbane core port land**

### **283ZK Effect of land becoming Brisbane core port land**

- (1) This section applies if land becomes Brisbane core port land (*new port land*) at any time after the day the first Brisbane port LUP has effect.
- (2) The port operator must give written notice of the particulars of the new port land, including the date the land became Brisbane core port land, to—
  - (a) the Brisbane City Council; and
  - (b) the planning chief executive.
- (3) An entity given a notice under subsection (2) must ensure there is a record, on each relevant map in the council's planning scheme held by the entity, indicating that the land is Brisbane core port land.

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- (4) If the new port land is land that is subject to a table of assessment for a precinct, the Brisbane port LUP applies to the land on and from the day it becomes Brisbane core port land.
  - (5) If subsection (4) does not apply to the new port land, the new port land continues to be subject to the planning scheme for the land until the Brisbane port LUP is amended to identify the land as Brisbane core port land.
  - (6) On and from the day land becomes Brisbane core port land—
    - (a) the Brisbane City Council ceases to be the assessment manager in relation to the land; and
    - (b) the planning chief executive is the assessment manager in relation to the land.

### **283ZL Effect of land ceasing to be Brisbane core port land**

- (1) This section applies if land (*former port land*) stops being Brisbane core port land.
- (2) The port operator must give written notice of the particulars of the former port land, including the date it stopped being Brisbane core port land, to—
  - (a) the Brisbane City Council; and
  - (b) the planning chief executive.
- (3) An entity given a notice under subsection (2) must ensure there is a record, on each relevant map in the council's planning scheme held by the entity, indicating that the land is not Brisbane core port land.
- (4) Subsections (5) to (7) apply if the former port land is, when it stops being Brisbane core port land, unzoned land.
- (5) While the former port land is unzoned land—
  - (a) the Brisbane port LUP continues to apply to the land and the land is taken to be a part of the Brisbane City Council's planning scheme; and

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- (b) the Brisbane City Council is the assessment manager for a development application for development on the land that is assessable development for the Planning Act under the Brisbane port LUP even if the land is not part of, but adjoins, the council's local government area.
- (6) When the former port land stops being unzoned land, the Brisbane port LUP does not apply to the land.
- (7) To the extent subsection (5) is inconsistent with the standard planning scheme provisions under the Planning Act, subsection (5) prevails.
- (8) Subsection (6) applies to former port land even if the Brisbane port LUP has not been amended to show the former port land is not included in the plan.
- (9) In this section—  
*unzoned land* means land that is not zoned for a purpose or use under a planning scheme.

## **Division 5                      Particular matters about development on Brisbane core port land**

### **Subdivision 1              Preliminary**

#### **283ZM Reconfiguring a lot**

- (1) Subsection (2) applies to development that is reconfiguring a lot by a lease only if the reconfiguring is for 1 of the following stated permitted purposes under the lease—
  - (a) core port infrastructure;
  - (b) transport infrastructure;
  - (c) core port infrastructure and transport infrastructure.

- (2) Despite the Planning Act, the development is exempt development under that Act.
- (3) Subsections (4) to (6) apply to development that is reconfiguring a lot, other than for a stated purpose mentioned in subsection (1).
- (4) The development is assessable development requiring code assessment under the Planning Act and there are no referral agencies for the development.
- (5) If a development application is only for the reconfiguring of a lot on Brisbane core port land, the application must be decided within 20 business days after the application is made.
- (6) A condition can not be imposed on a development approval for reconfiguring a lot on Brisbane core port land if the condition requires a monetary payment to anyone.

### **283ZN Port prohibited development**

- (1) A development application or request for compliance assessment can not be made for development on Brisbane core port land if the development is port prohibited development.
- (2) If a development application or request for compliance assessment is made and any part of the development applied for is port prohibited development, the application or request is taken not to have been made and IDAS does not apply to it.
- (3) In this section—  
*request for compliance assessment* means a request for compliance assessment under the Planning Act, section 401.

### **283ZO Code assessment under Brisbane port LUP**

- (1) This section applies to any part of a development application requiring code assessment under the Brisbane port LUP for port related development.

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- (2) Subject to any requirements of a concurrence agency for the part of the application, the assessment manager must approve the part of the application if the port related development—
  - (a) is consistent with the Brisbane port LUP; and
  - (b) complies with all applicable codes for the development.

## **Subdivision 2 Provisions about assessment manager and referral agencies**

### **283ZP Planning chief executive is assessment manager for particular development**

- (1) The planning chief executive is the assessment manager for the following development—
  - (a) material change of use of premises completely or partly on Brisbane core port land if the development is assessable development for the Planning Act under the Brisbane port LUP;
  - (b) reconfiguring a lot completely or partly on Brisbane core port land if the development is assessable development for the Planning Act under this part;
  - (c) operational work completely on Brisbane core port land if the development is assessable development for the Planning Act under the Brisbane port LUP.
- (2) If the planning chief executive is the assessment manager for development mentioned in subsection (1), the planning chief executive must assess the development against the Brisbane port LUP.
- (3) Also, in assessing the development, the planning chief executive must have regard to each State planning instrument applicable to the development.

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**283ZQ Referral agency, and jurisdiction, for particular development—Brisbane City Council**

If the planning chief executive is the assessment manager for a development application for material change of use made assessable for the Planning Act under the Brisbane port LUP—

- (a) the Brisbane City Council is an advice agency for the application; and
- (b) the council's jurisdiction as an advice agency is in relation to any material impacts of the proposed development—
  - (i) identified by the council; and
  - (ii) on land, other than Brisbane core port land, in its local government area.

**283ZR Referral agency and jurisdiction for development inconsistent with Brisbane port LUP—Transport chief executive**

- (1) The transport Minister is a concurrence agency for a development application for development on Brisbane core port land involving development that is inconsistent with the Brisbane port LUP for transport reasons.
- (2) The transport Minister's jurisdiction as a concurrence agency is the transport reasons and the application must be assessed against the transport reasons.
- (3) The Planning Act, chapter 8, part 1, division 8 does not limit the jurisdiction of the transport Minister as a concurrence agency.

**283ZS Referral agency and jurisdiction for particular building work—chief executive**

- (1) This section applies to a development application for building work on Brisbane core port land if the premises the subject of

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the application is completely or partly within, or within 25m of, Brisbane port railway land.

- (2) The chief executive is a concurrence agency for the application.
- (3) The chief executive's jurisdiction as a concurrence agency is the purpose mentioned in section 258(2).
- (4) This part does not limit or otherwise affect any referral agency jurisdiction for building work under the Planning Act.
- (5) In this section—  
*building work* see the Planning Act, section 10.

**283ZT Referral agency, and jurisdiction, for material change of use and operational work under Brisbane port LUP—chief executive**

- (1) This section applies to a development application for material change of use or operational work for development made assessable development for the Planning Act under the Brisbane port LUP.
- (2) The chief executive is a concurrence agency for the application if the development is—
  - (a) a material change of use of premises on—
    - (i) land contiguous to a State-controlled road; or
    - (ii) land not contiguous to a State-controlled road and for which the chief executive would be a concurrence agency under the Planning Act, for the State-controlled road, if the development were assessable under a planning scheme; or

*Editor's note—*

For development mentioned in subparagraph (ii), see the *Sustainable Planning Regulation 2009*, schedule 7, table 3, item 2 and schedule 11.

- (iii) land completely or partly within a public transport corridor or a future public transport corridor; or

- (iv) land not completely or partly within a public transport corridor or a future public transport corridor and for which the chief executive would be a concurrence agency under the Planning Act, for public passenger transport, if the development were assessable under a planning scheme; or

*Editor's note—*

For development mentioned in subparagraph (iv), see the *Sustainable Planning Regulation 2009*, schedule 7, table 3, item 14 and schedule 12.

- (v) land completely or partly within Brisbane port railway land; or
- (vi) land not completely or partly within Brisbane port railway land and for which the chief executive would be a concurrence agency under the Planning Act, for the Brisbane port railway land, if the development were assessable under a planning scheme; or

*Editor's note—*

For development mentioned in subparagraph (vi), see the *Sustainable Planning Regulation 2009*, schedule 7, table 3, item 15 and schedule 13.

- (b) operational work that—
  - (i) is associated with access to a State-controlled road; or
  - (ii) is for filling or excavation on land contiguous to a State-controlled road; or
  - (iii) involves the redirection or intensification of site stormwater from land contiguous to a State-controlled road through a pipe with a cross-sectional area greater than 625cm<sup>2</sup> that directs stormwater to a State-controlled road; or
  - (iv) is completely or partly within a public transport corridor or a future public transport corridor; or

[s 283ZU]

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- (v) is completely or partly on, or within 25m of, Brisbane port railway land and the work involves extracting, excavating or filling more than 50m<sup>3</sup>.
- (3) The chief executive's jurisdiction as a concurrence agency is—
- (a) for a material change of use mentioned in subsection (2)(a)(i) or (ii) and operational work mentioned in subsection (2)(b)(i), (ii) or (iii)—the purpose mentioned in section 49A(2); and
  - (b) for a material change of use mentioned in subsection (2)(a)(iii) or (iv) and operational work mentioned in subsection (2)(b)(iv)—land use and transport coordination under the *Transport Planning and Coordination Act 1994*; and
  - (c) for a material change of use mentioned in subsection (2)(a)(v) or (vi) and operational work mentioned in subsection (2)(b)(v)—the purpose mentioned in section 258(2).
- (4) In this section—

***future public transport corridor*** means a future public transport corridor under the Planning Act.

***land contiguous to a State-controlled road*** means land, the subject of a development application, if part of the land—

- (a) is within 100m of the State-controlled road; or
- (b) is part of a future State-controlled road.

***public transport corridor*** means a public transport corridor under the Planning Act.

### **283ZU Referral agency, and jurisdiction, for material change of use under Brisbane port LUP—administering authority**

- (1) This section applies to a development application for a material change of use for development made assessable

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development for the Planning Act under the Brisbane port LUP.

- (2) The administering authority is a concurrence agency for the application if the development is a material change of use of premises—
- (a) for an environmentally relevant activity made assessable development under the Planning Act; or
  - (b) for a mobile and temporary environmentally relevant activity made assessable development under the Planning Act; or
  - (c) if—
    - (i) all or part of the premises is on the environmental management register or contaminated land register under the Environmental Protection Act; and
    - (ii) the administering authority would be a concurrence agency under the Planning Act for contaminated land management.
- (3) The administering authority's jurisdiction as a concurrence agency is—
- (a) for a material change of use mentioned in subsection (2)(a) or (b)—the purposes of the Environmental Protection Act; and
  - (b) for a material change of use mentioned in subsection (2)(c)—protection of the environment by the management of contaminated land under the Environmental Protection Act.
- (4) In this section—

***administering authority*** see the Environmental Protection Act, schedule 4.

***environmentally relevant activity*** see the Environmental Protection Act, section 18.

***Environmental Protection Act*** means the *Environmental Protection Act 1994*.

[s 283ZV]

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*mobile and temporary environmentally relevant activity* see the Environmental Protection Act, schedule 4.

### **283ZV Assessment and referrals for heritage places**

- (1) Development on a local heritage place that is on Brisbane core port land is not assessable development under the Planning Act even if the development is prescribed as assessable development under section 232(1) of that Act.
- (2) Subsection (1) applies to development on the local heritage place whether or not it became a local heritage place before or after the completion day.
- (3) This part does not limit or otherwise affect assessment, or any referral agency jurisdiction, under the Planning Act for development on a Queensland heritage place.
- (4) In this section—

*local heritage place* means a local heritage place under the *Queensland Heritage Act 1992*.

*Queensland heritage place* means a registered place under the *Queensland Heritage Act 1992*.

### **283ZW Referral agency, and jurisdiction, for material change of use and operational work under Brisbane port LUP—coastal protection**

- (1) This section applies to a development application for a material change of use or operational work made assessable development for the Planning Act under the Brisbane port LUP if the application is also for—
  - (a) tidal works; or
  - (b) operational work, carried out completely or partly within a coastal management district, that is made assessable development under the Planning Act.

- (2) The chief executive administering the *Coastal Protection and Management Act 1995* is a concurrence agency for the application.
- (3) The chief executive's jurisdiction as a concurrence agency is coastal management under the *Coastal Protection and Management Act 1995*, other than amenity and aesthetic significance or value.
- (4) In this section—  
*coastal management district* means a coastal management district under the *Coastal Protection and Management Act 1995*, other than an area declared as a coastal management district under section 54(2) of that Act.

*tidal works* see the *Coastal Protection and Management Act 1995*, schedule.

**283ZX Referral agency, and jurisdiction, for material change of use and operational work under Brisbane port LUP—other referral agencies**

- (1) This section applies to a development application for material change of use or operational work for development made assessable development for the Planning Act under the Brisbane port LUP.
- (2) If the material change of use of premises is for a major hazard facility or possible major hazard facility, the chief executive administering the *Dangerous Goods Safety Management Act 2001* is a concurrence agency for the application.
- (3) If the development application includes operational work for which the chief executive administering the *Water Act 2000* is a concurrence agency under the Planning Act, that chief executive is a concurrence agency for the application.
- (4) If the development application includes operational work for which the chief executive administering the *Water Supply (Safety and Reliability) Act 2008* is a concurrence agency under the Planning Act, that chief executive is a concurrence agency for the application.

[s 283ZY]

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- (5) If the development application includes a material change of use of premises or operational work for which the chief executive administering the *Fisheries Act 1994* is a concurrence agency under the Planning Act, that chief executive is a concurrence agency for the application.
- (6) The jurisdiction as a concurrence agency for a chief executive mentioned in subsection (2), (3), (4) or (5) is the concurrence agency jurisdiction the chief executive has under the Planning Act for a development application of the type mentioned in the subsection.
- (7) In this section—  
*major hazard facility* see the *Dangerous Goods Safety Management Act 2001*, section 31(1).

### **283ZY Development on land below high-water mark and within the port limits**

- (1) The chief executive administering the *Transport Operations (Marine Safety) Act 1994* is a concurrence agency for a development application for development below high-water mark and within the port limits.
- (2) The jurisdiction as a concurrence agency is the purposes of the *Transport Operations (Marine Safety) Act 1994*.
- (3) The port operator is an advice agency for a development application—
  - (a) for development below high-water mark and within the port limits; and
  - (b) for which the applicant is not the port operator.
- (4) The port operator's jurisdiction as an advice agency is the safety and operational integrity of the port.
- (5) In this section—  
*port limits* means the Port of Brisbane's port limits under this Act.

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## **283ZZ Restriction on conditions of development approvals**

- (1) The assessment manager for a development application for development on Brisbane core port land may, under the Planning Act, impose a condition on the development approval for the application requiring a contribution only in relation to the following infrastructure provided by the Brisbane City Council or a service provider—
  - (a) drainage;
  - (b) public transport;
  - (c) roads;
  - (d) sewerage and water supply headworks.
- (2) In this section—

*contribution*, for a condition of a development approval, means an amount payable under the condition to the Brisbane City Council or a service provider—

- (a) for infrastructure provided by the Brisbane City Council or service provider; and
- (b) worked out under the contributions schedule on the basis of the relevance of the infrastructure to the actual proposed development to which the approval relates.

*Note—*

This section does not effect the conditions that may be imposed by a referral agency.

## **Subdivision 3 Application of particular provisions of Planning Act**

### **283ZZA Particular provisions of Planning Act do not apply in relation to Brisbane core port land**

- (1) The Planning Act, section 714 does not apply in relation to Brisbane core port land.

[s 283ZZB]

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*Editor's note—*

Planning Act, section 714 (Local government may take or purchase land).

- (2) A person is not entitled to claim compensation under the Planning Act, chapter 9, part 3, or any other law in relation to a change to the Brisbane port LUP affecting the person's interest in any Brisbane core port land.

#### **283ZZB Modified application of Planning Act, ch 9, pt 6, div 4**

- (1) A person may apply to the planning chief executive for a planning and development certificate under the Planning Act, chapter 9, part 6, division 4, for premises on Brisbane core port land.
- (2) The application must be accompanied by the fee prescribed under a regulation.
- (3) For subsection (1), the Planning Act, sections 738 to 742 apply—
  - (a) as if a reference in the sections to a local government were a reference to the planning chief executive; and
  - (b) as if the reference in section 738(a) to any planning scheme were a reference to the Brisbane port LUP; and
  - (c) as if the reference in section 738(a) to any infrastructure charges schedule or regulated infrastructure charges schedule were a reference to any contributions schedule under the Brisbane port LUP; and
  - (d) as if the reference in section 739(g) to 'for the planning scheme area' were omitted; and
  - (e) as if section 739(h) were omitted; and
  - (g) as if section 739(m) included a reference to a copy of an infrastructure agreement received under section 283ZZE of this Act; and
  - (f) as if section 739(n) provided that the planning and development certificate must be accompanied by any

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statement of proposal or draft plan for Brisbane core port land that is—

- (i) published under section 283ZB(2) of this Act; and
- (ii) not yet approved under section 283ZE of this Act.

### **283ZZC Restriction on designation for community infrastructure**

- (1) Despite the Planning Act, chapter 5, only a Minister may, under that part, designate Brisbane core port land for community infrastructure.
- (2) Development under a designation by a Minister under the Planning Act, chapter 5 is exempt development to the extent the development would, other than for this section, be self-assessable development, development requiring compliance assessment or assessable development for the Planning Act under the Brisbane port LUP.
- (3) Subsection (2) does not limit the Planning Act, section 203.

*Editor's note—*

Planning Act, section 203 (How IDAS applies to designated land)

- (4) In this section—  
*community infrastructure* see the Planning Act, schedule 3.

### **283ZZD Restriction on application of master plan**

To the extent a master plan under the Planning Act for a master planned area identified by a local government under that Act relates to Brisbane core port land, the master plan is of no effect.

## **Subdivision 4      Notice of development approval**

### **283ZZE Requirement to give notice of development approval and infrastructure agreement**

- (1) If the planning chief executive gives a development approval for development on Brisbane core port land, the planning chief executive must, within 5 business days after giving the approval, give a copy of the approval to each of the following—
  - (a) the Brisbane City Council;
  - (b) the port operator;
  - (c) the chief executive;
  - (d) each referral agency for the development application to which the approval relates.
  
- (2) If an applicant for a development approval for development on Brisbane core port land enters into an infrastructure agreement under the Planning Act in relation to the development, the applicant must give a copy of the agreement to—
  - (a) the Brisbane City Council; and
  - (b) if the planning chief executive is not a party to the agreement—the planning chief executive; and
  - (c) if the chief executive is not a party to the agreement—the chief executive.

## **Subdivision 5      Delegation**

### **283ZZF Delegation of particular functions of planning chief executive**

- (1) The planning chief executive may delegate the planning chief executive's relevant administrative functions to Brisbane City Council.

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- (2) If the planning chief executive delegates any relevant administrative functions to Brisbane City Council, the planning chief executive must—
- (a) give written notice of the delegation to the port operator; and
  - (b) publish the notice on the website of the department in which the Planning Act is administered.
- (3) In this section—
- relevant administrative functions* means the planning chief executive's functions under the Planning Act for matters relating to the administration and enforcement, under that Act, of a development approval for development on Brisbane core port land.

## **Subdivision 6      Development approvals affected by change**

### **283ZZG Brisbane port LUP does not affect existing development approval**

- (1) This section applies if—
- (a) a development approval is in effect for premises on Brisbane core port land; and
  - (b) after the approval is given, the Brisbane port LUP is replaced or amended.
- (2) To the extent the development approval has not lapsed, the replacement or amended Brisbane port LUP does not stop or additionally regulate the development to which the approval relates, or otherwise affect the approval.

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### **283ZZH Planning scheme can not affect existing development approval**

- (1) This section applies if a development approval is in effect for premises on—
  - (a) Brisbane core port land, and the land the subject of the approval stops being Brisbane core port land; or
  - (b) land that becomes balance port land.
- (2) The carrying out of development or the use of premises under the approval can not be stopped or additionally regulated under any planning scheme that applies to the land—
  - (a) when, or after, it stops being Brisbane core port land; or
  - (b) when, or after, it becomes balance port land.

### **283ZZI Changing status of land—effect on development approvals**

- (1) Subsection (2) applies if—
  - (a) a development approval is in effect for premises on Brisbane core port land; and
  - (b) the land the subject of the approval stops being Brisbane core port land; and
  - (c) the approval was given by the Port of Brisbane Corporation or the planning chief executive.
- (2) For the purposes of any matter relating to the administration or enforcement of the development approval under the Planning Act, the approval is taken to have been given by the Brisbane City Council.
- (3) Subsection (4) applies if—
  - (a) a development approval is in effect for premises on land that is not Brisbane core port land; and
  - (b) the land the subject of the approval becomes Brisbane core port land.

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- (4) For the purposes of any matter relating to the administration or enforcement of the development approval under the Planning Act, the approval is taken to have been given by the planning chief executive.
  - (5) Subsection (6) applies if—
    - (a) a development approval is in effect for premises on balance port land; and
    - (b) the approval was given by the Port of Brisbane Corporation.
  - (6) For the purposes of any matter relating to the administration or enforcement of the development approval under the Planning Act, the approval is taken to have been given by—
    - (a) the Urban Land Development Authority under the *Urban Land Development Authority Act 2007* if the balance port land is in the Northshore Hamilton urban development area under that Act; or
    - (b) otherwise—the local government for the area that adjoins the balance port land or in which the balance port land is situated.

## **Subdivision 7      Dealing with development applications affected by change**

### **283ZZJ Particular development applications—Brisbane core port land**

- (1) This section applies to a development application for—
  - (a) development on strategic port land that becomes Brisbane core port land if—
    - (i) the application was made but not decided under the Planning Act before day the land becomes Brisbane core port land; and

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- (ii) the assessment manager for the application is the Port of Brisbane Corporation; or
  - (b) development assessed against a planning scheme if the land the subject of the application becomes Brisbane core port land before the application is finally decided.
- (2) On the relevant day for the development application—
  - (a) the planning chief executive is taken to be the assessment manager for the application; and
  - (b) the IDAS process for the application stops.
- (3) As soon as practicable after the relevant day for a development application to which subsection (1)(a) applies, the port operator must give the application to the planning chief executive.
- (4) As soon as practicable after the relevant day for a development application to which subsection (1)(b) applies, the assessment manager for the application must give the application to the planning chief executive.
- (5) The planning chief executive may, in writing, ask the port operator or assessment manager for any information or material about the application the planning chief executive reasonably requires to process and decide the application.
- (6) The port operator or assessment manager must comply with a request under subsection (5) within 10 business days after receiving the request.
- (7) On receiving the application, and any further information or material requested under subsection (5), the planning chief executive must consider the application and the further information or material.
- (8) The IDAS process for the application starts again 20 business days after the later of the following—
  - (a) the day the IDAS process stopped under subsection (2)(b);

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- (b) the day the planning chief executive is given the application under subsection (4).
- (9) Subject to this part, the Planning Act applies for processing and deciding the application.
- (10) Despite subsection (9), the planning chief executive must assess the application against the matters that would have applied for the assessment before the relevant day for the application.
- (11) In this section—  
*relevant day*, for a development application for land, means the day the land becomes Brisbane core port land.

**283ZZK Particular development applications—balance port land or former Brisbane core port land**

- (1) This section applies to a development application for—
- (a) development on land that becomes balance port land if—
- (i) the application was made but not decided under the Planning Act before the relevant day for the land; and
- (ii) the assessment manager for the application is the Port of Brisbane Corporation; or
- (b) development on land that stops being Brisbane core port land if the development is assessable development for the Planning Act under the Brisbane port LUP.
- (2) On the relevant day for the land—
- (a) the Urban Land Development Authority under the *Urban Land Development Authority Act 2007* is taken to be the assessment manager for the application if the land is in the Northshore Hamilton urban development area under that Act; or
- (b) if the land is not land mentioned in paragraph (a)—the local government for the area that adjoins the land or in

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which the land is situated is taken to be the assessment manager for the application; and

- (c) the IDAS process for the application stops.
- (3) As soon as practicable after the relevant day for the land, the former assessment manager for the application must give the application to the new assessment manager for the application.
- (4) The new assessment manager may, in writing, ask the former assessment manager for any information or material about the application the new assessment manager reasonably requires to process and decide the application.
- (5) The former assessment manager must comply with a request under subsection (4) within 10 business days after receiving the request.
- (6) On receiving the application, and any further information or material requested under subsection (4), the new assessment manager must consider the application and the further information or material.
- (7) The IDAS process for the application starts again 20 business days after the later of the following—
  - (a) the day the IDAS process stopped under subsection (2)(c);
  - (b) the day the new assessment manager is given the application under subsection (3).
- (8) Subject to this part, the Planning Act applies for processing and deciding the application.
- (9) Despite subsection (8), the new assessment manager must assess the application against the matters (including the former land use plan) that would have applied for the assessment before the relevant day for the land.
- (10) In this section—

***former assessment manager*** means—

- (a) for a development application to which subsection (1)(a) applies—the Port of Brisbane Corporation; or
- (b) for a development application to which subsection (1)(b) applies—the planning chief executive.

***new assessment manager***, for a development application, means the entity that under subsection (2) is taken to be the assessment manager for the application.

***relevant day*** means—

- (a) for land that becomes balance port land—the day the land was declared to be balance port land under section 283J; or
- (b) otherwise—the day the land stops being Brisbane core port land.

## **Division 6 Dealings with Brisbane port land**

### **283ZZL Definitions for div 6**

In this division—

***Minister*** means the Minister administering the Land Act.

***port land*** means land that is, or is needed as, Brisbane core port land.

***port lease*** means a lease held under the Land Act by—

- (a) the Port of Brisbane Corporation; or
- (b) a subsidiary of the Port of Brisbane Corporation; or
- (c) the port lessor.

### **283ZZM Grant of port land**

- (1) If land (including reclaimed land) above high-water mark is port land—

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- (a) the Governor in Council may issue to the port lessor, without competition, a deed of grant over all or part of the land; or
  - (b) the Minister may issue to the port lessor, without competition, a lease over all or part of the land for either a term of years or in perpetuity.
- (2) If land below high-water mark is port land the Minister may issue to the port lessor, without competition, a lease over all or part of the land for either a term of years or in perpetuity.
  - (3) If tenure over port land is to be issued to the port lessor, the Governor in Council or the Minister may include that land with freehold land or a lease held by the port lessor.
  - (4) If a deed of grant is issued for reclaimed land under this division, or if reclaimed land is included in freehold land under this division, the purchase price for the land is nil.
  - (5) If reclaimed land is already held under a lease, the lease must be surrendered before a new lease or deed of grant is issued under this section.
  - (6) The following provisions of the Land Act do not apply if this section applies—
    - (a) section 16;
    - (b) chapter 4, part 1, division 1;
    - (c) section 127;
    - (d) section 155(1).

### **283ZZN Leases and licences under Land Act**

- (1) This section applies to any of the following dealings affecting land—
  - (a) a transfer under the Land Act, section 322 of a sublease;
  - (b) a sublease under the Land Act, section 332;
  - (c) an amendment under the Land Act, section 336 of a sublease;

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- (d) the creation under the Land Act, section 362 of an easement that burdens or benefits a sublease;
  - (e) the registration under the Land Act, section 363 of an easement that burdens or benefits a sublease;
  - (f) an amendment under the Land Act, section 370 of a registered easement that burdens or benefits a sublease.
- (2) If land affected by the dealing is held under a port lease or a sublease of a port lease, despite a provision of the Land Act mentioned in subsection (1) the Minister's approval is not required for the dealing or the registration of a document for the dealing.
  - (3) If a port entity holds a lease under the Land Act of port land, or a sublease of a trade lease of land, the port entity may grant a licence to enter and use the land.
  - (4) Subsection (3) is subject to any condition of the lease that prohibits or restricts the grant of a licence.
  - (5) To remove any doubt, it is declared that the Minister's approval under the Land Act is not required for the grant of a licence under this section.

*Note—*

See also sections 477C–477E in relation to declared projects under the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*.

### **283ZZO Amendment of area of subleases of port land**

- (1) An amendment to a sublease of a port lease may increase or decrease the subleased area.
- (2) To remove any doubt, it is declared that an amendment under this section increasing the area of a sublease does not constitute the surrender of a lease or sublease, or create a new lease or sublease.
- (3) To remove any doubt, it is declared that an amendment under this section decreasing the area of a sublease does not constitute the surrender of a lease or sublease of the remaining area of the sublease, or create a new lease or sublease.

[s 283ZZP]

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### **283ZZP Delegation by Minister**

The Minister may delegate a function or power under this division to the chief executive or an officer or employee of the department that administers the Land Act.

### **283ZZQ Application of Land Act and registration**

- (1) Subject to this division, the Land Act applies to a lease granted under this division as if it were granted under the Land Act.
- (2) The chief executive of the department that administers the Land Act may record a dealing effected for a lease under this division in the leasehold land register.

## **Part 4                      Land management—ports    other than Port of Brisbane**

### **Division 1                      Strategic port land**

#### **284      Definitions for div 1**

In this division—

*core matters*, in relation to a land use plan (including its preparation), means each of the following matters—

- (a) land use and development;
- (b) port facilities;
- (c) valuable features.

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*land use and development*, for an area, includes each of the following—

- (a) the location of, and the relationships between, the land uses in the area;
- (b) the current effects of land use in the area;
- (c) the likely effects of any proposed development of the land;
- (d) the accessibility to the area.

*valuable features* see the Planning Act, section 89(2).

## **285 Land use plans**

- (1) This section applies to port authority land that is on or near the interface between the land and the waters within the limits of the port, as defined under section 274, and that is used or may be used—
  - (a) for domestic or international trade; or
  - (b) by industries requiring close proximity to a port; or
  - (c) for the integration of sea transport with other transport modes; or
  - (d) as port buffer lands; or
  - (e) as a boating facility; or
  - (f) for a purpose mentioned in section 275(1)(f); or
  - (g) for other purposes of a port authority prescribed under a regulation.
- (2) At least every 8 years, a port authority must prepare a land use plan in relation to the port authority's land for approval under section 286.
- (3) The Minister may also direct a port authority to prepare a land use plan, or an amendment of a land use plan, for approval under section 286.
- (4) A port authority's land use plan must—

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- (a) specify details of—
    - (i) the port authority’s strategic port land; and
    - (ii) land the port authority proposes to become strategic port land; and
    - (iii) the current and proposed uses of the land; and
  - (b) coordinate and integrate the core matters relevant to the land use plan; and
  - (c) identify desired environmental outcomes for the land; and
  - (d) include measures that will help achieve the desired environmental outcomes.
- (5) In this section—

***port authority land***, of a port authority, means land the port authority or, if the port authority is a GOC port authority, a wholly owned subsidiary of the port authority—

- (a) holds title to; or
- (b) holds directly from the State.

**285A Statement of proposal for preparation of a land use plan or amendment of a plan**

- (1) A port authority must prepare a statement (*statement of proposal*) about—
- (a) the preparation of a land use plan; or
  - (b) an amendment of a land use plan, unless the amendment—
    - (i) is to remove land from the land use plan; or
    - (ii) relates to land that is already strategic port land and its usage is not to change.
- (2) The statement of proposal must—

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- (a) identify matters the port authority anticipates the land use plan will address; and
  - (b) state how the port authority intends to address each relevant aspect of a core matter in the land use plan.
- (3) A port authority must supply the statement of proposal to the local government for the local government area within which the port area is situated, and any other local government for a local government area adjoining the port area.

### **285B Draft plan for preparation of a land use plan or amendment of a plan**

After complying with section 285A, and section 285C to the extent the section relates to a statement of proposal, a port authority must—

- (a) take appropriate account of issues raised as a result of consultation under section 285C in relation to the statement of proposal; and
- (b) prepare a draft (*draft plan*) of—
  - (i) if the statement of proposal is for the preparation of a land use plan—the land use plan; or
  - (ii) if the statement of proposal is for an amendment of a land use plan—the amendment of the land use plan; and
- (c) supply the draft plan to the local government for the local government area within which the port area is situated, and any other local government for a local government area adjoining the port area.

### **285C Consultation on statement of proposal or draft plan**

- (1) This section applies if a port authority prepares a statement of proposal under section 285A or a draft plan under section 285B.

[s 285D]

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- (2) The port authority must publish, at least once in a newspaper circulating generally in the area to which the statement of proposal or the draft plan relates, a notice stating the following—
  - (a) the name of the port authority;
  - (b) that the port authority has prepared a statement of proposal or a draft plan and that it is available for inspection and purchase;
  - (c) a contact telephone number for information about the statement of proposal or draft plan;
  - (d) that any person may make written submissions about the statement of proposal or draft plan to the port authority;
  - (e) the period (the *consultation period*) during which submissions may be made;
  - (f) the requirements for properly making a submission.
- (3) The consultation period must be for at least 40 business days after the notice is first published under subsection (2).

### **285D Directions by Minister for amendment of draft plan**

- (1) The Minister may return a draft plan prepared by the port authority under section 285B for amendment in the way directed by the Minister.
- (2) A copy of the direction must be published in the gazette within 21 days after it is given.

### **286 Approval of land use plans**

- (1) The Minister may approve a draft plan prepared under section 285B if the Minister is satisfied that—
  - (a) the land included in the draft plan is used or may be used for a matter or purpose mentioned in section 285(1); and

- (b) the port authority has taken appropriate account of issues raised in written submissions made to it under section 285C; and
  - (c) no local government has a substantial objection to the draft plan; and
  - (d) State interests will not be adversely affected by the draft plan.
- (2) If the Minister is satisfied about subsection (1)(a), (b) and (d) but is satisfied that a local government has a substantial objection to the draft plan, the draft plan may only be approved by the Governor in Council.
  - (3) Approval of a land use plan, or an amendment of a land use plan, must be notified in the gazette within 21 days after it is given.
  - (4) The approval takes effect when it is notified in the gazette.
  - (5) Land included in a port authority's current approved land use plan is its strategic port land.
  - (6) Each port authority must ensure the port authority's current approved land use plan is published on the port authority's web site on the internet.

**287 Strategic port land not subject to local planning instrument**

- (1) Strategic port land is not subject to a local planning instrument under the Planning Act.
- (2) Subsection (1) has effect despite the Planning Act, chapter 3.

## Division 2                      General

### 287A Impact of particular development and port operations

- (1) This section applies if the Minister or chief executive is an assessment manager or a referral agency for a development application.
- (2) This section has as its purpose ensuring—
  - (a) the safety and operational integrity of ports; and
  - (b) that development addresses impacts on the development from environmental emissions generated from a port.

*Examples of environmental emissions—*

air particles, fumes, light, noise

- (3) For performing the Minister's or the chief executive's functions as assessment manager or referral agency, the Minister or the chief executive must consider the extent to which the proposed development satisfies the purpose mentioned in subsection (2).
- (4) Subsection (3) is in addition to, and does not limit, the Planning Act, section 282 and chapter 6, part 5, division 2.
- (5) This section does not apply to development in a State development area under the *State Development and Public Works Organisation Act 1971*.

### 287B Guidelines for s 287A

- (1) For the purpose of section 287A, the chief executive may make guidelines to which a person must have regard when carrying out development under the *Sustainable Planning Act 2009*.
- (2) The chief executive must give a copy of the guidelines to each local government affected by the guidelines.

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## **288 Restrictions on dealing in property**

- (1) A port authority must not, without the Minister's written approval—
  - (a) dispose of freehold land; or
  - (b) enter into a lease, licence or another form of tenure of its strategic port land, or its port facilities, for longer than 25 years (including any renewal option).
- (2) Also, a wholly owned subsidiary of a GOC port authority must not, without the Minister's approval—
  - (a) dispose of freehold land; or
  - (b) enter into a lease, licence or another form of tenure of its facilities or land that are a port authority's port facilities, for longer than 25 years (including any renewal option).
- (3) An approval may be subject to conditions.
- (4) A purported dealing in land or port facilities contrary to this section has no effect.

## **289 Port marine operational area**

In an Act, a reference to the marine operational area of a port is a reference to an area of land that is—

- (a) within the limits of the port; and
- (b) below the ordinary high water mark at spring tides; and
- (c) at least 1 of the following—
  - (i) in, or within 200m of, marked shipping channels and recognised entry and exit shipping corridors;
  - (ii) in, or within 100m of, swing basins, commercial shipping wharves, moorings, anchorages and spoil grounds;
  - (iii) declared under a regulation to be a marine operational area for the port.

## Part 4A Port approvals

### 289A Application of pt 4A

This part applies if a port authority decides to regulate a controlled activity by issuing a port notice, under section 282, under which the approval of the port authority is required to perform the controlled activity.

### 289B Definitions for pt 4A

In this part—

*approval* see section 289C(1).

*controlled activity* means any of the following activities—

- (a) operating a tug service;
- (b) in relation to a ship—
  - (i) burning; or
  - (ii) welding; or
  - (iii) riveting; or
  - (iv) spray painting; or
  - (v) sand blasting; or
  - (vi) another similar activity prescribed under a regulation;
- (c) operating a refuelling facility.

### 289C Application for approval

- (1) A person may apply to a port authority for approval to perform a controlled activity in a port authority's port area (an *approval*).
- (2) The application must—
  - (a) be in writing; and

- (b) identify the area where the controlled activity will be performed under the approval; and
- (c) state any other thing relevant to the proper consideration of the application as required under a regulation.

**289D Port authority may grant approval, with or without conditions**

- (1) The port authority may decide to—
  - (a) grant an application for an approval, with or without conditions; or
  - (b) refuse the application.
- (2) A holder of an approval to operate a tug service may or may not be given an exclusive right to operate the tug service in a port area.
- (3) A holder of an approval must not breach a condition of the approval.

Maximum penalty for subsection (3)—50 penalty units.

**289E Change of conditions on an approval**

- (1) A port authority may change an approval, if the port authority considers it reasonably necessary to do so having regard to—
  - (a) the efficient operation of the port; or
  - (b) the safety or security of the port, its users or the port authority's employees.

- (2) In this section—

*change*, an approval, means revoke, suspend, or impose or change a condition on, the approval.

**289F Decision by port authority in relation to approval**

- (1) This section applies if the port authority decides to do any of the following—

[s 289G]

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- (a) refuse an application for an approval;
  - (b) impose a condition on an approval as part of a grant of an application for an approval;
  - (c) change, within the meaning of section 289E, an approval.
- (2) The port authority must give the applicant or approval holder a written notice stating the following—
- (a) the decision;
  - (b) the reasons for the decision.
- (3) The written notice must also state that the applicant or approval holder may—
- (a) under section 289G—ask for the decision (the ***original decision***) to be reviewed by the port authority; and
  - (b) under the *Transport and Planning Coordination Act 1994*, part 5, division 2—apply for the original decision to be stayed; and
  - (c) under section 289GA—ask for the port authority’s decision on the review (the ***reviewed decision***) to be reviewed by QCAT; and
  - (d) under the QCAT Act—apply for the reviewed decision to be stayed.

### **289G Internal review of decisions**

- (1) A person whose interests are affected by a decision mentioned in section 289F(1) (the ***original decision***) may ask the port authority to review the decision.
- (2) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
- (a) applies to the review as if a reference in the division to the chief executive were a reference to the port authority that made the decision; and
  - (b) provides—

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- (i) for the procedure for applying for the review and the way it is to be carried out; and
  - (ii) that the person may apply to QCAT to have the original decision stayed.

### **289GA External review of decisions**

- (1) If a reviewed decision is not the decision sought by the applicant for the review, the port authority that made the reviewed decision must give the applicant a QCAT information notice for the reviewed decision.
- (2) The applicant may apply, as provided under the QCAT Act, to QCAT for a review of the reviewed decision.

*Note—*

The QCAT Act, section 22(3) provides that QCAT may stay the operation of the reviewed decision, either on application by a person or on its own initiative.

- (3) In this section—

*reviewed decision* means the port authority's decision on a review under section 289G.

## **Part 4B                      Disposal of abandoned property**

### **289H Definitions for pt 4B**

In this part—

*abandoned property* means property that the port authority or port operator reasonably believes has been abandoned at the port authority's or port operator's port facilities including, for example—

- (a) a ship or a vehicle; or

[s 289I]

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(b) a thing attached to, or contained in, a ship or a vehicle.

*insufficient value property* means abandoned property that is—

- (a) of no value; or
- (b) if sold by a port authority or port operator, would not be likely to return sufficient proceeds of sale to cover the total of the following amounts—
  - (i) the expenses reasonably incurred by the port authority or port operator in selling the property;
  - (ii) the expenses reasonably incurred by the port authority or port operator in dealing with the property under this part;
  - (iii) the charges, interest and other expenses owing to the port authority or port operator in relation to the property.

### **289I Reasonable steps must be taken to find owner**

- (1) This section applies to abandoned property found at the port authority's or port operator's port facility, unless—
  - (a) it is insufficient value property; or
  - (b) it is perishable and it is impracticable for the port authority or port operator to keep it having regard to its nature and condition.
- (2) The port authority or port operator—
  - (a) must take reasonable steps to locate the owner of the property; and
  - (b) may have the property moved to a place it considers appropriate.
- (3) If the port authority or port operator has located the owner of the property within 28 days after the property was found, the port authority or port operator must give the owner a written notice—

- (a) describing the property; and
  - (b) stating the property has been found; and
  - (c) explaining how it may be recovered; and
  - (d) stating the property may be sold or disposed of if it is not recovered.
- (4) If the port authority or port operator has not located the owner of the property within 28 days after finding the property, the port authority or port operator must publish a notice in a newspaper circulating generally in the State that includes the matters mentioned in subsection (3)(a) to (d).

#### **289J A person may claim property**

The port authority or port operator must return abandoned property to a person if the person, within 28 days after the notice is given or published under section 289I—

- (a) satisfies the port authority or port operator that the person is the owner of the property; and
- (b) pays the expenses reasonably incurred by the port authority or port operator in dealing with the property under this part.

#### **289K If property not claimed**

If a person does not claim the abandoned property within 28 days after a port authority or port operator has given or published a notice under section 289I about it, the port authority or port operator may sell the property.

#### **289L Sale of perishable property**

The port authority or port operator may sell abandoned property if it is perishable and it is impracticable for the port authority or port operator to keep it having regard to its nature and condition.

[s 289M]

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### **289M Proceeds from the sale of abandoned property**

- (1) If abandoned property is sold by a port authority or port operator, the proceeds of the sale must be applied in the following order—
  - (a) in payment of the expenses reasonably incurred by the port authority or port operator in selling the property;
  - (b) in payment of the expenses reasonably incurred by the port authority or port operator in dealing with the property under this part;
  - (c) in payment of charges, interest and other expenses owing to the port authority or port operator in relation to the property;
  - (d) in payment of any balance to the owner.
- (2) If the proceeds of the sale are less than the total of the expenses mentioned in subsection (1)(a), (b) and (c), the difference is a debt owing to the port authority or port operator by the owner.
- (3) Compensation may not be recovered against the port authority or port operator in relation to a payment under this section.

### **289N Abandoned property of no value**

A port authority or port operator may dispose of abandoned property that is insufficient value property in the way the port authority or port operator considers appropriate.

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## Part 4C Port of Brisbane—land tax and rates

### 289O Owner of land for land tax purposes

- (1) This section applies for the purposes of the *Land Tax Act 1915* and the *Land Tax Act 2010*.
- (2) Unless subsection (3) applies, if a lessee or sublessee of strategic port land is a subsidiary of the Port of Brisbane Corporation—
  - (a) the subsidiary is taken to be the owner of the land; and
  - (b) the Port of Brisbane Corporation is taken not to be the owner of the land.
- (3) If there is a port lessee of Brisbane core port land—
  - (a) the port lessee is taken to be the owner of the land; and
  - (b) the Port of Brisbane Corporation and the port lessor are taken not to be the owner of the land.
- (4) A liability of the Port of Brisbane Corporation for land tax on strategic port land that has accrued but not been paid when a lease or sublease of the land is granted by the Port of Brisbane Corporation to a subsidiary of it is a liability of the subsidiary and not a liability of the Port of Brisbane Corporation.
- (5) A liability for land tax on Brisbane core port land that has accrued but not been paid when a lease or sublease of the land from the port lessor to a port lessee is terminated or expires is a liability of the entity that was the port lessee immediately before the termination or expiration and not a liability of the port lessor.
- (6) In this section—

*land tax* includes unpaid tax interest and penalty tax within the meaning of the *Taxation Administration Act 2001*.

[s 289P]

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### **289P Owner of land for rating purposes**

- (1) This section applies for the purposes of the *Local Government Act 1993* and the *Local Government Act 2009* about levying or payment of rates.
- (2) If a lessee or sublessee of strategic port land is a subsidiary of the Port of Brisbane Corporation—
  - (a) the lessee or sublessee is taken to be the owner of the land; and
  - (b) the Port of Brisbane Corporation is taken not to be the owner of the land.
- (3) If Brisbane core port land is occupied under a lease or sublease from the Port of Brisbane Corporation or a port entity other than a port authority—
  - (a) the occupier is taken to be the owner of the land; and
  - (b) the Port of Brisbane Corporation and each port entity that is not an occupier of the land are taken not to be the owner of the land.
- (4) An entity must notify the commissioner in writing if the entity becomes a lessee or sublessee mentioned in subsection (2), or becomes a port lessee mentioned in subsection (3), within 28 days after becoming the lessee, sublessee or port lessee.
- (5) A liability of the Port of Brisbane Corporation for rates in respect of strategic port land that has accrued but not been paid when a lease or sublease of the land is granted by the Port of Brisbane Corporation to a subsidiary of it is a liability of the subsidiary and not a liability of the Port of Brisbane Corporation.
- (6) A liability for rates in respect of Brisbane core port land that has accrued but not been paid when a lease or sublease of the land from the port lessor to a port lessee is terminated or expires is a liability of the entity that would have been liable under subsection (5) if the lease or sublease had not terminated or expired.
- (7) The following land is exempted from rates—

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- (a) strategic port land that is occupied by a member of POBC Group;
  - (b) Brisbane core port land that is used for a road (other than a road maintained by a local government), vacant land, buffer zone or grass verge, or that is below the high-water mark;
  - (c) existing rail corridor land or new rail corridor land.
- (8) In this section—
- commissioner* has the meaning given under the *Taxation Administration Act 2001*.

**289Q When port lessor, port lessee or port manager is not liable to pay royalties or similar charges**

The port lessor, a port lessee or a port manager is not liable to pay royalties or similar charges for extractive material removed—

- (a) to maintain or improve navigational channels in its port, or improve navigation in its port, if the material is disposed of under relevant statutory environmental controls; or
- (b) to reclaim land that is, or is proposed to be, Brisbane core port land.

**Part 4D Port of Brisbane—matters relating to Water Supply (Safety and Reliability) Act 2008**

**289R Definition for pt 4D**

In this part—

[s 289S]

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*Water Supply Act* means the *Water Supply (Safety and Reliability) Act 2008*.

**289S Words have the same meaning as in the Water Supply Act**

A word used in this part and defined in the Water Supply Act has the same meaning as in the Water Supply Act.

**289T Port operator is service provider**

- (1) This section applies in relation to infrastructure for supplying water services or sewerage services owned by the port lessor in relation to the Port of Brisbane.
- (2) For the purposes of the Water Supply Act—
  - (a) a port operator, other than the port lessor, is taken to be—
    - (i) a water service provider for infrastructure for supplying water services; and
    - (ii) a sewerage service provider for infrastructure for supplying sewerage services; and
  - (b) if there is a port operator other than the port lessor—the port lessor is taken not to supply water services or sewerage services.

**289U Entry into service provider register**

- (1) If section 289T applies—
  - (a) as soon as practicable after an entity other than the port lessor becomes a port operator, the entity must give the regulator any information requested by the regulator for the purpose of registration as a service provider; and
  - (b) the regulator must—
    - (i) register the entity in the service provider register as a service provider for the relevant services; and

- (ii) give the entity notice of the registration; and
  - (c) the Water Supply Act, sections 21 and 22 do not apply to the registration.
- (2) The entity is a water service provider or sewerage service provider from the day it becomes a port operator, regardless of when it is registered.

### **289V Sewerage infrastructure for Port of Brisbane**

- (1) For the purposes of the Water Supply Act, chapter 2, part 3, division 4 and part 6, and sections 193, 330 and 331—
- (a) the relevant distributor-retailer is taken to be a sewerage service provider in respect of sewerage infrastructure owned by the port lessor in relation to the Port of Brisbane; and
  - (b) sewerage infrastructure mentioned in paragraph (a) is taken to be part of the relevant distributor-retailer’s infrastructure.
- (2) The port lessor or, if there is a port operator other than the port lessor, the port operator must give the relevant distributor-retailer information about the sewerage infrastructure mentioned in subsection (1)(a) reasonably requested by the relevant distributor-retailer in relation to the grant or administration of trade waste approvals.
- (3) In this section—

*relevant distributor-retailer* means the Brisbane City Council or another entity that owns the infrastructure connected to the sewerage infrastructure mentioned in subsection (1)(a).

### **289W No affect on ownership**

This part does not affect the ownership of any infrastructure for supplying water or sewerage services.

[s 289X]

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### **289X Port land trade waste approvals**

- (1) This section applies to instruments issued before the commencement of this section—
  - (a) purportedly as trade waste approvals for the purposes of the Water Supply Act, chapter 2, part 6; and
  - (b) by the Brisbane City Council to an occupant of land at the Port of Brisbane.
- (2) The instruments are taken to be trade waste approvals issued on the commencement of this section for the purposes of the Water Supply Act.

## **Part 4E Port of Brisbane—other matters**

### **289Y Declaration of port lessor and port lessees**

- (1) The Treasurer may, by gazette notice—
  - (a) declare an entity to be the port lessor for the Port of Brisbane; or
  - (b) if an entity holds any Brisbane core port land under a lease, sublease or licence from the port lessor—declare the entity to be a port lessee for the Port of Brisbane.
- (2) For subsection (1)(b), it does not matter whether the entity enters into the lease, sublease or licence with the port lessor or is an assignee of that instrument.

### **289Z Delegation by port lessor to port lessee or port manager**

- (1) The port lessor may delegate a function under this chapter, other than under part 3A, to a port lessee or port manager.

*Note—*

See the *Acts Interpretation Act 1954*, section 27A.

- (2) It is a condition of a lease of Brisbane core port land that the port lessee must comply with, or ensure a port manager complies with, the lawful directions of the port lessor in relation to the performance of delegated functions.
- (3) A regulation or the conditions of a delegation may require the port lessee or port manager to establish a system for monitoring, and receiving and dealing with complaints about, the performance of delegated functions.
- (4) In this section—

*delegated function* means a function of the port lessor delegated to a port lessee or port manager.

*function* includes power.

### **289ZA Appointment of port manager**

- (1) The port lessor may appoint an entity as a port manager for the Port of Brisbane.
- (2) A port lessee may, with the written approval of the port lessor, appoint an entity as a port manager for the Port of Brisbane.

### **289ZB Liability for acts of authorised officers and others, and related matters**

- (1) If a person is appointed as an authorised officer by a delegate of the port lessor—
  - (a) the person is not an officer, employee or agent of the port lessor only because of that appointment; and
  - (b) the port lessor is not civilly liable for an act done, or omission made, by the person as an authorised officer.
- (2) If subsection (1) prevents a civil liability attaching to the port lessor, the liability attaches instead to the delegate.

[s 289ZC]

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- (3) An authorised officer is not civilly liable for an act done, or omission made, by the officer for a port operator honestly and without negligence.
- (4) If subsection (3) prevents a civil liability attaching to an authorised officer, the liability attaches instead to the delegate that appointed the officer.
- (5) An employee of the port lessor or person acting for the port lessor, is not civilly liable for an act done, or omission made, by the employee or person for the port lessor honestly and without negligence.
- (6) If subsection (5) prevents a civil liability attaching to an employee or person, the liability attaches instead to the port lessor.

### **289ZC Application of particular local laws to Brisbane core port land**

- (1) The following local laws of the Brisbane City Council do not apply to Brisbane core port land—
  - (a) local laws 6 (Streets, bridges, culverts etc.), 11 (Sundry matters relating to structures), 13 (Foreshore and retaining walls) and 14 (Parking and control of traffic);
  - (b) Heavy and Long Vehicle Parking Local Law 1999.
- (2) Also, a regulation may provide that a stated local law does not apply, or does not apply to a stated extent, or applies with stated changes, to Brisbane core port land.
- (3) The regulation may fix, as the time of effect, the day fixed for another matter under a gazette notice made under another provision of this Act.

*Example—*

The regulation may fix, as the time of effect, the day on which notice is published of the first land use plan for Brisbane core port land.

- (4) In this section—

*time of effect* means the day on which a stated local law stops applying, or stops applying to a stated extent, or starts applying with stated changes, to Brisbane core port land.

### **289ZD Delayed application of new local laws to Brisbane core port land**

- (1) This section applies to a local law made after the completion day.
- (2) Subject to subsection (3), the local law does not apply to Brisbane core port land until the later of the following days—
  - (a) the day that is 3 months after the day the local law is made;
  - (b) the day the local law commences.
- (3) Subsection (2) stops applying to the local law on the commencement of a regulation under section 289ZC about the application or non-application of the local law to the Brisbane core port land.

### **289ZE Port lessor may substitute for port lessee**

- (1) This section applies if, at any time after the commencement of this section—
  - (a) an entity ceases to be a port lessee; and
  - (b) another entity has not become a port lessee.
- (2) If this chapter requires or permits something to be done by a port lessee, the thing may be done by the port lessor.



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- (3) A person must not carry on port activities of a substantial nature at a place unless the place is in a port or a place where a decision under section 291 (Carrying on port activities outside port limits) applies.

Maximum penalty—200 penalty units.

**294 Transitional provisions applying in relation to port authorities that are candidate GOCs**

- (1) This section applies in relation to a port authority that is a candidate GOC.
- (2) A regulation may prescribe matters about the administration and operation of the port authority, including, for example, matters about—
- (a) the port authority's board, chief executive officer and senior management; and
  - (b) the port authority's powers; and
  - (c) the port authority's employees; and
  - (d) the port authority's superannuation schemes; and
  - (e) dealings with the port authority.
- (3) Without limiting subsection (2), a regulation under the subsection may make provision to the same or similar effect as the following provisions of the *Government Owned Corporations Act 1993*—
- chapter 3 (Government Owned Corporations (GOCs)), part 10 (General reserve powers of shareholding Ministers)
  - sections 124 and 125
  - sections 146 to 153
  - schedule 1 (Interim boards of directors)
  - schedule 2 (Executives of candidate GOC associates and associate subsidiaries).

[s 295]

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- (4) Subsections (2) and (3) are in addition to, and do not limit, section 290 (Protection from liability).
- (5) A regulation under this section may create offences and prescribe penalties for the offences of not more than 100 penalty units.
- (6) A regulation may prescribe transitional provisions about the port authority and an entity to which its assets and liabilities are to be transferred by a regulation under the *Government Owned Corporations Act 1993*.
- (7) The port authority is a statutory body for the purposes of the *Statutory Bodies Financial Arrangements Act 1982*.
- (8) This section ceases to apply to the port authority when its assets and liabilities are transferred to an entity by regulation under the *Government Owned Corporations Act 1993* or 18 months after it first applied to the authority.

## **295 Notices at entrances**

- (1) If—
  - (a) a port authority erects or displays a notice at each entrance commonly used by persons to gain access to its port; and
  - (b) the notice contains information about the port; and
  - (c) in a case where use of its port or facilities gives rise to a liability for charges—the notice states this and indicates generally the nature of the charges; and
  - (d) in a case where a contravention of a requirement of the notice is an offence—the notice states this and indicates generally the penalties that apply; and
  - (e) a person gains access to the port by using another entrance;

the person is taken to be aware of the information.

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- (2) If—
- (a) a port authority erects or displays a notice at each entrance commonly used by persons to gain access to its strategic port land; and
  - (b) the notice contains information about the strategic port land; and
  - (c) in a case where use of its strategic port land or facilities gives rise to a liability for charges—the notice states this and indicates generally the nature of the charges; and
  - (d) in a case where a contravention of a requirement of the notice is an offence—the notice states this and indicates generally the penalties that apply; and
  - (e) a person gains access to the strategic port land by using another entrance;
- the person is taken to be aware of the information.

## **Chapter 9      Busways and busway transport infrastructure**

### **Part 1            Preliminary**

#### **296      Ways of achieving busway objectives**

The objectives of this Act for busways are intended to be achieved by—

- (a) developing and putting into effect busway transport infrastructure strategies; and
- (b) establishing a legal framework to allow the construction, maintenance, management and operation of busway transport infrastructure in an effective and efficient way.



- (ii) temporarily occupy the land;
    - (iii) temporarily use the land; and
  - (b) do anything on the land necessary or convenient for the function, including, for example, for busway transport infrastructure works.
- (2) However, the chief executive must not authorise a person to enter land under this section if the entry is a type of entry able to be authorised under an investigator's authority under chapter 11.

## **299 When land may be entered, occupied or used**

- (1) This section applies if a person proposes to enter, occupy or use land under this part.
- (2) The person may enter, occupy or use the land without the permission of, or notice to, the owner or occupier of the land to perform urgent remedial work to facilitate or maintain the operation of busway transport infrastructure.
- (3) However, the person must, if practicable, notify the occupier orally or in writing before entering the land.
- (4) If the entry, occupation or use is other than for the performance of urgent remedial work, the person may enter, occupy or use the land if the person—
  - (a) obtains the written permission of—
    - (i) each person who is an owner of the land; and
    - (ii) each person who is an occupier of the land; or
  - (b) gives at least 7 days written notice to the occupier before the entry, occupation or use.
- (5) The notice under subsection (4)(b) must state—
  - (a) all works proposed to be performed; and
  - (b) all uses proposed to be made of the land; and

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- (c) details of anything else proposed to be done on the land; and
  - (d) the approximate period when occupation or use is expected to continue; and
  - (e) an owner or occupier of the land may claim compensation from the chief executive for loss or damage caused by the entry, occupation or use.
- (6) A notice may be given under this section even though it is proposed to resume the land for busway transport infrastructure.
- (7) Power to enter, occupy or use land under this part does not authorise entry, occupation or use of a structure on the land used solely for residential purposes without the permission of the occupier of the land.

### **300 Compensation**

- (1) This section applies if land is entered, occupied or used under this part.
- (2) An owner or occupier of the land may claim compensation from the chief executive for loss or damage caused by the entry, occupation or use, including by the taking or consumption of materials.
- (3) However, compensation is payable only if written notice of the claim or proposed claim is given to the chief executive—
  - (a) after the loss or damage happens, but within 1 year after the entry, occupation or use ends; or
  - (b) at a later time allowed by the chief executive.
- (4) In the absence of agreement between the owner or occupier and the chief executive about the payment of compensation, payment of compensation may be claimed and ordered in a proceeding brought in the Land Court.

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- (5) The Land Court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.
  - (6) Compensation paid under this section for loss or damage caused to land must not be more than the compensation that would have been awarded if the land had been acquired.

## **Part 3                      Establishment of busways**

### **301      Definition for pt 3**

In this part—

*road* means a road under the *Land Act 1994*, but does not include a State-controlled road.

### **302      Declaration of land as busway land**

- (1) The Minister may, by gazette notice, declare land to be busway land.
- (2) Land declared to be busway land—
  - (a) must be—
    - (i) identified specifically in the gazette notice; or
    - (ii) identified generally in the gazette notice, and identified specifically in documents described in the gazette notice and available for perusal at an office of the department mentioned in the gazette notice; and
  - (b) must consist only of land for a busway and busway transport infrastructure.
- (3) The identification of land declared to be busway land may, but need not, be by reference to strata occupied by the land.

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- (4) Land may be declared to be busway land only if it is—
  - (a) land acquired by the State or the chief executive for busway purposes or for a purpose, or combination of purposes, that includes busway purposes; or
  - (b) a road; or
  - (c) land acquired by the State or the chief executive, other than land mentioned in paragraph (a) or (b), on which busway transport infrastructure is located.
- (5) In this section—

*busway purposes* includes busway transport infrastructure.

### **303 Effect on land of busway declaration**

- (1) If a road or a part of a road is declared under this part to be busway land, the road or part—
  - (a) stops being a road; and
  - (b) becomes unallocated State land.
- (2) If a lot or a part of a lot under the *Land Title Act 1994* is declared under this part to be busway land, the lot or part becomes unallocated State land.
- (2A) If land, other than land mentioned in subsection (1) or (2) or unallocated State land, is declared under this part to be busway land, the land becomes unallocated State land.
- (3) Busway land can not be declared under section 24 to be a State-controlled road.
- (4) The Governor in Council must lease busway land that is unallocated State land to the State under the *Land Act 1994*, section 17.
- (5) The lease is in perpetuity and, if demanded, for a rent of \$1 a year.
- (6) The *Land Act 1994*, sections 157, 183, 204, 211 and 336(2)(a) and (c) do not apply to a lease or sublease of busway land.

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### **303AA Sublease of lease of busway land**

- (1) The State may sublease its lease of busway land to another person for a busway established or proposed to be established on the busway land on terms negotiated and agreed between the parties.
- (2) For the *Land Act 1994*, section 332(1)(b), the other person is eligible to hold a sublease of the lease.
- (3) The first sublease under subsection (1) (the *original sublease*) may include an option to renew the sublease, and any subsequent sublease may in turn include an option to renew.
- (4) The terms of any option and any subsequent sublease are to be those negotiated and agreed between the parties.
- (5) The *Land Act 1994*, section 336(2)(a) does not apply to a document of amendment of the original sublease or any subsequent sublease.
- (6) If a sublessee attaches busway transport infrastructure to the land the subject of the original sublease or a subsequent sublease, the infrastructure immediately becomes the property of the chief executive unless the parties to the sublease agree it is to become the property of the chief executive at a later time.
- (7) Despite any agreement under subsection (6), the infrastructure, if it has not already become the property of the chief executive, becomes the property of the chief executive—
  - (a) if there is no subsequent sublease—at the end of the original sublease; or
  - (b) if there is only 1 subsequent sublease—at the end of the subsequent sublease; or
  - (c) if there are 2 or more subsequent subleases—at the end of the last of the subsequent subleases.
- (8) Neither the original sublease nor any subsequent sublease stops being a sublease only because persons are expressly or impliedly permitted by the chief executive under this chapter to be on the subleased land.

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- (9) This section does not stop the granting of a lease or sublease to another person for a busway, other than under this section, of land that is not busway land but on which there is, or is proposed to be, busway transport infrastructure.
- (10) In this section—  
*busway land* means busway land that is leased to the State under the *Land Act 1994*, section 17.

### **303AB Licence in relation to busway land or busway transport infrastructure**

- (1) The chief executive may, for the State, grant to a person a licence in relation to busway land or busway transport infrastructure for any of the following purposes—
- (a) construction, maintenance or operation of any thing on the land;
- (b) the use of the land or infrastructure for any purpose, including, for example, a commercial or retail purpose;
- Examples—*
- the erection, alteration or operation of an advertising sign or other advertising device
  - a retail outlet
- (c) maintenance, management or operation of the land or infrastructure.
- (2) A licence under subsection (1) is subject to any conditions that the chief executive considers appropriate and that are stated in the licence.
- (3) If a licence is granted under subsection (1) in relation to busway land—
- (a) the chief executive must give written notice of the licence to the registrar of titles; and
- (b) the registrar of titles must record the licence against the land, including any lease and sublease of the land, in the appropriate register.

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- (4) A licence under subsection (1) may be mortgaged, sublicensed or transferred with the consent of the chief executive.
  - (5) Despite the *Land Act 1994*, chapter 4, part 4, the chief executive of the department in which that Act is administered can not issue a permit to occupy—
    - (a) busway land to which a licence under subsection (1) relates; or
    - (b) land on which busway transport infrastructure to which a licence under subsection (1) relates is, or is proposed to be, situated.
  - (6) Subsection (7) applies if there is any inconsistency between—
    - (a) a local government's control of a road under the *Local Government Act 1993*, section 901 or the *Local Government Act 2009*, section 60, other than for a matter mentioned in section 305 or 307 of this Act; and
    - (b) a provision of a licence under subsection (1).
  - (7) To the extent of the inconsistency the provision of the licence prevails.
  - (8) In this section—

***busway land*** includes land—

    - (a) held by the chief executive on behalf of the State; and
    - (b) on which busway transport infrastructure is, or is proposed to be, situated.

### **303A Declaration of common areas for busways and roads**

- (1) This section applies if—
  - (a) a busway is interrupted by a road and continues on the other side of the road; or
  - (b) an intersection is formed where a road meets a busway, whether or not at right angles, at the start or end of the busway.

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- (2) The chief executive may, by gazette notice, declare a part of the road where it interrupts, or intersects with, the busway to be a common area (a *busway common area*) for the road and the busway.
- (3) A gazette notice under subsection (2)—
  - (a) must include a description of, or a way of identifying, the busway common area; and
  - (b) may include conditions on the operation and use of the busway common area to ensure the safety and operational integrity of the road or busway.
- (4) In this section—

*road* includes a State-controlled road.

### **303B Effect of declaration of busway common area**

If the chief executive declares a busway common area—

- (a) a busway may be constructed, maintained and operated on the busway common area in a way not inconsistent with its use as a road; and
- (b) a busway safety officer may exercise powers under this Act on the busway common area as if the busway common area were part of the busway; and
- (c) if the road is a State-controlled road—the chief executive may construct, maintain and operate the road on the busway common area in a way not inconsistent with its use as a busway; and
- (d) if the road is not a State-controlled road—
  - (i) the local government for the area in which the road is located may construct, maintain and operate the road on the busway common area in a way not inconsistent with its use as a busway; and
  - (ii) the local government does not have any liability for the busway or its use or operation on the busway common area; and

- (iii) the State does not have any liability for the road or its use or operation on the busway common area.

### **303C Relationship with Local Government Act 1993, s 901**

- (1) This section applies if there is any inconsistency between—
  - (a) a local government's control under the *Local Government Act 1993*, section 901, of a busway common area including, for example, the regulation of the use of the busway common area or movement of traffic on the busway common area; and
  - (b) a condition imposed by the chief executive on the operation or use of the busway common area as mentioned in section 303A(3).
- (2) To the extent of the inconsistency the condition imposed by the chief executive prevails.

### **304 Development of busway and busway transport infrastructure**

- (1) This section applies to the establishment of a busway, including any investigating, planning, maintaining, managing, operating, and arranging for the busway or for busway transport infrastructure for the busway.
- (2) Nothing in this chapter is intended to affect the operation of the Planning Act to the extent that the establishment of the busway is development under that Act.

## **Part 4                      Management of busway land    and busway transport    infrastructure**

### **Division 1                      Transport infrastructure interaction**

#### **305      Altering road levels by a local government**

- (1) The chief executive may require a local government having control of a road to alter the level of the road for—
  - (a) busway transport infrastructure works; or
  - (b) the management or operation of a busway.
- (2) However, the chief executive—
  - (a) must consult with the local government about the nature and extent of the alteration of the level of the road before the alteration is started; and
  - (b) subject to an agreement between the chief executive and the local government arising out of the consultation, pay all reasonable costs incurred by the local government in altering the road level.
- (3) The local government must comply with the chief executive's requirement.

#### **306      Watercourses and busway transport infrastructure works**

- (1) To carry out busway transport infrastructure works, the chief executive may—
  - (a) divert a watercourse; or
  - (b) construct a watercourse, whether temporary or permanent.

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- (2) In taking action under subsection (1)(a), the chief executive must consider the effect that the action will have on the physical integrity and flow characteristics of the watercourse.
  - (3) Subsection (1) does not authorise the chief executive, in a wild river area, to—
    - (a) divert or construct a watercourse; or
    - (b) extract quarry material from a watercourse.

**307 Permitted construction by local government of roads over or under busway land**

- (1) Despite section 303(1), the chief executive may permit a local government to construct, maintain and operate a road located on busway land, consisting of—
  - (a) a bridge or other structure allowing traffic to pass over the level at which buses use the busway land; or
  - (b) a structure allowing traffic to pass under the level at which buses use the busway land.
- (2) The permission may be given on reasonable conditions.
- (3) In deciding whether to give the permission, the chief executive must consider the limiting effect the use of the road is likely to have on the use of the busway land for busway passenger services.
- (4) While the bridge or other structure is being used for the road—
  - (a) neither the chief executive nor any person the chief executive has permitted to operate a bus using the busway land has any duty or liability for the road or its use or operation; and
  - (b) the road is taken to be a road of which the local government has control under the *Local Government Act 1993*, section 901(1); and
  - (c) the road is taken to be a road under any Act about the use of vehicles on a road.

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- (5) Unless the chief executive and the local government otherwise agree—
  - (a) the local government is responsible for maintaining the road and the bridge or other structure; and
  - (b) if the bridge or other structure stops being used for the road, the local government is responsible for the cost of taking the bridge or other structure away and of restoring the busway land.

**308 Powers of chief executive for busway transport infrastructure works contracts etc.**

- (1) The chief executive may, for the State, carry out or enter into contracts with other persons for the carrying out of—
  - (a) busway transport infrastructure works on a busway or on land that is intended to become a busway; or
  - (b) other works that contribute to the effectiveness and efficiency of the busway network; or
  - (c) the operation of a busway.
- (2) The chief executive, for the State, may enter into contracts with other persons for busway transport infrastructure works to be carried out outside the State under an agreement between the State and the other State concerned.
- (3) A contract with a local government under this section may include arrangements about which powers of the local government are to be exercised by the chief executive, and which are to be exercised by the local government, for the busway.
- (4) A local government may enter into a contract mentioned in subsection (1) even though the contract relates to works or operation outside the local government's area.
- (5) The chief executive, for the State, may carry out or enter into contracts for works on or adjacent to a busway at the request of the owner of adjacent land on the basis that the owner

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provides consideration, whether monetary or otherwise, as agreed between the chief executive and the owner.

- (6) This section does not prevent the chief executive carrying out, or entering into contracts for the carrying out, of busway transport infrastructure works of a minor or emergency nature.
- (7) In carrying out works or the operation of a busway, the chief executive must ensure that the carrying out is done on a price competitive basis.
- (8) In entering into contracts under this section, the chief executive must ensure that open competition is encouraged.
- (9) Subsection (8) does not apply to a contract with a person if the person is the sole invitee and enters into a price performance contract with the chief executive.
- (10) The chief executive may arrange with another person for the sharing by the chief executive with the other person of the cost of—
  - (a) acquisition of land for busway transport infrastructure; or
  - (b) busway transport infrastructure works on a busway; or
  - (c) other works that contribute to the effectiveness and efficiency of the busway network; or
  - (d) the operation of a busway;including all necessary preliminary costs associated with the acquisition, works or operation.

### **309 Distraction of traffic on busway**

- (1) A local government must obtain the chief executive's written approval if it intends to approve the erection, alteration or operation of an advertising sign or other advertising device that would be—
  - (a) visible from a busway; and

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- (b) reasonably likely to create a traffic hazard for the busway.
- (2) For subsection (1), the chief executive may make guidelines to which local governments must have regard in deciding whether the chief executive's approval is required for a particular busway.
- (3) An approval may be subject to conditions.
- (4) Subsection (1) does not apply if the conditions applied by the local government to the erection, alteration or operation of the sign or device comply with permission criteria fixed by the chief executive.
- (5) The permission criteria may include conditions.
- (6) A local government must comply with conditions that apply to it under this section.
- (7) An approval must be given—
  - (a) within 21 days after receiving the application for approval; or
  - (b) within a longer period notified to the local government by the chief executive within the 21 day period.
- (8) If the chief executive does not respond to a local government's application within 21 days after receiving it, the chief executive is taken to have given approval at the end of the 21 days.
- (9) The chief executive must publish a copy of each notice mentioned in subsection (10) in the gazette.
- (10) In this section—

*busway* includes land that the chief executive has notified the local government in writing is intended to become a busway.

### **310 No presumption of dedication of road**

- (1) This section applies if the public uses busway land as a road, or for access purposes other than as a road.

- (2) The busway land does not at law, either because the use is authorised or permitted by the chief executive or for another reason, become dedicated to public use as a road.

## **Division 2                    Interfering with busway transport infrastructure**

### **311    Interfering with busway transport infrastructure**

- (1) A person must not interfere with or carry out works on busway transport infrastructure unless—
  - (a) the person has the written approval of the chief executive; or
  - (b) the interference or works are for the construction, maintenance or operation of a road permitted under this part to be constructed, maintained and operated across, over or under the busway transport infrastructure; or
  - (c) the interference or works are otherwise authorised under this Act or another Act.

Maximum penalty—160 penalty units.

- (2) An approval under subsection (1)(a) may be given on reasonable conditions.
- (3) The person given the approval must comply with the conditions of the approval.

Maximum penalty—40 penalty units.

- (4) Subsection (1) does not apply to the carrying out of urgent maintenance of a busway or busway transport infrastructure.

### **312    Rectifying unauthorised interference or works**

- (1) This section applies if a person (the *identified person*) interferes with or carries out works on busway transport infrastructure in contravention of section 311(1).

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- (2) The chief executive may, by written notice given to the identified person, require the person to rectify the interference, or the effect of the carrying out of the works, within a stated reasonable time.
- (3) The identified person must comply with the notice unless the person has a reasonable excuse.  
Maximum penalty—40 penalty units.
- (4) If the identified person does not comply with the notice, the chief executive may rectify the interference or the effect of the carrying out of the works.
- (5) The identified person must pay the amount of the chief executive's reasonable costs of—
  - (a) rectifying the interference or the effect of the carrying out of the works; or
  - (b) changing the way the busway transport infrastructure is built, maintained or operated because of the interference or the effect of the carrying out of the works.
- (6) The chief executive may recover the amount as a debt.
- (7) In this section—  
*rectify the interference* includes the following—
  - (a) alter, dismantle or take away works;
  - (b) fix damage caused by the interference.

## **Division 3                      Ancillary works and encroachments**

### **313      Ancillary works and encroachments**

- (1) The chief executive may construct, maintain, operate or conduct ancillary works and encroachments on a busway.
- (2) The chief executive may, by gazette notice, decide that stated ancillary works and encroachments must not be constructed,

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maintained, operated or conducted on busways, without the chief executive's written approval.

- (3) A person must not construct, maintain, operate or conduct ancillary works and encroachments on a busway contrary to a notice under subsection (2).

Maximum penalty—200 penalty units.

- (4) Subsection (3) does not apply to the construction, maintenance, operation or conduct of ancillary works and encroachments on a busway if the construction, maintenance, operation or conduct—
- (a) conforms to requirements specified by the chief executive by gazette notice; or
  - (b) is done as required by a contract entered into with the chief executive.
- (5) An approval or requirements may be subject to conditions, including conditions about the payment of fees and other charges, fixed by the chief executive.

### **314 Presumptions about advertising sign**

- (1) This section applies to a prosecution for an offence against section 313(3) in relation to an advertising sign.
- (2) Each person whose product or service is advertised on the sign is taken to maintain the sign, unless the person proves the advertisement was placed without the person's knowledge or permission.

### **315 Alteration etc. of ancillary works and encroachments**

- (1) If ancillary works and encroachments are constructed, maintained, operated or conducted contrary to section 313, the chief executive may—

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- (a) cause them to be altered, relocated, made safe or removed; or
  - (b) for activities—direct that their conduct be altered or that they stop being conducted.
- (2) A person who constructed, maintained or operated ancillary works and encroachments contrary to section 313 is liable to pay to the chief executive the cost of altering or relocating them, making them safe or removing them.
- (3) If ancillary works and encroachments are removed under subsection (1), the chief executive may cause them to be sold or destroyed.
- (4) If the chief executive considers ancillary works and encroachments, or the use of ancillary works and encroachments, that were constructed, maintained, operated or conducted on a busway under an approval, requirements or contract under section 313—
- (a) by themselves or with other factors—
    - (i) are creating, or may create, a traffic hazard; or
    - (ii) are reducing, or may reduce, safety; or
    - (iii) are having, or may have, an adverse effect on traffic operations; or
  - (b) require emergency action; or
  - (c) have become, or may become, an obstacle to the carrying out of busway transport infrastructure works on the busway or to the construction, augmentation, alteration or maintenance of public utility plant on the busway;

the chief executive may cause them to be, or direct that they be, altered, relocated, made safe or removed or, for activities, direct that their conduct be altered or that they stop being conducted.

- (5) A person must comply with a direction under subsection (4).  
Maximum penalty—200 penalty units.

- (6) If ancillary works and encroachments are altered, relocated, made safe or removed because of a direction under subsection (4), the chief executive may enter into an agreement with the owner of the ancillary works and encroachments for making a contribution towards the cost of the alteration, relocation, making safe or removal.

## **Division 4                      Public utility plant**

### **316      Definition for div 4**

In this division—

*busway land* includes land—

- (a) held by the chief executive on behalf of the State; and
- (b) on which busway transport infrastructure is, or is proposed to be, situated.

*Note*—

Information about projects and initiatives involving busway land is available on the department's website at <[www.tmr.qld.gov.au](http://www.tmr.qld.gov.au)>.

### **317      Retention of ownership of public utility plant**

- (1) This section applies if, immediately before the declaration of land as busway land under section 302, public utility plant is located on the land.
- (2) The declaration does not affect the ownership of the public utility plant.

### **318      Public utility plant on busway land**

- (1) A public utility provider may do the following things on busway land—
  - (a) build, replace or take away, or alter, other than for maintenance or repair, its public utility plant;

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- (b) maintain or repair, or alter, for maintenance or repair, its public utility plant;
  - (c) take reasonable steps to stop obstruction or potential obstruction to, or interference or potential interference with, its public utility plant.
- (2) However, the provider may do things mentioned in subsection (1) only if the chief executive agrees in writing.
- (3) The chief executive must not unreasonably withhold agreement.
- (4) Despite subsection (2), a public utility provider may, if acting in the interests of public safety, carry out urgent maintenance of its public utility plant on busway land without the written agreement of the chief executive, but only if the provider—
- (a) makes all reasonable attempts to obtain the chief executive’s oral agreement to the carrying out of the maintenance; and
  - (b) whether or not the chief executive’s oral agreement is obtained, acts as quickly as possible to advise the chief executive of the details of the maintenance being carried out.
- (5) Building or altering public utility plant under subsection (1)(a) does not affect the ownership of the plant.

### **319 Chief executive must give provider information**

If asked in writing by a public utility provider, the chief executive must give the provider information about lines and levels for planned busway transport infrastructure on busway land necessary to enable the provider to minimise possible adverse affects of the establishment of the infrastructure on the provider’s works.

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**320 Public utility provider to consult with chief executive before replacing public utility plant**

- (1) If a public utility provider proposes to replace the whole or a substantial proportion of its public utility plant on busway land, the provider must, before seeking written agreement under section 318, consult with the chief executive.
- (2) The object of the consultation is to identify mutually beneficial arrangements for the replacement of the public utility plant, having regard to existing development plans for the busway land.

**321 Public utility provider to comply with chief executive's agreement**

- (1) This section applies if, in relation to busway land, a public utility provider does something mentioned in section 318(1) (the *relevant action*)—
  - (a) without the written or oral agreement of the chief executive required under section 318; or
  - (b) in a way inconsistent with an agreement with the chief executive; or
  - (c) in a way inconsistent with a regulation about how things mentioned in section 318(1) are to be done.
- (2) The chief executive may, by written notice given to the public utility provider, require the provider, at the provider's cost, and within the time stated in the notice, to take action to remedy the relevant action.
- (3) The time stated in the notice must be a time that is reasonable in the circumstances.
- (4) If the provider does not comply with the notice, the chief executive may arrange for action the chief executive considers necessary to remedy the relevant action.
- (5) The chief executive's reasonable expenses in arranging for the action to be carried out is a debt payable by the provider to the chief executive.

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**322 Chief executive may require public utility provider to alter position of public utility plant**

- (1) The chief executive may require a public utility provider to alter the position of the provider's public utility plant on busway land if the chief executive considers that the plant will interfere with the exercise of the chief executive's powers for the busway land.
- (2) The chief executive is responsible only for the cost of altering the position of the public utility plant.

**323 Information by public utility provider to chief executive**

- (1) If, in relation to public utility plant on busway land, a public utility provider does something mentioned in section 318(1), the provider must prepare records adequately defining the location of the plant.
- (2) A public utility provider owning public utility plant located on busway land must, if asked by the chief executive, give the chief executive information adequately defining the location of the plant.

Maximum penalty for subsection (2)—40 penalty units.

**324 Liability for damage caused by failure to comply with request for information**

- (1) This section applies if—
  - (a) the chief executive causes damage to public utility plant located on busway land; and
  - (b) before the damage was caused, the chief executive had asked for information under section 323(2) from the public utility provider owning the public utility plant; and
  - (c) the provider had not, within a reasonable time, complied with the request; and

- (d) the damage was caused because of the failure to comply with the request.
- (2) Unless the chief executive otherwise agrees, the chief executive is not liable for the damage.

**325 Liability for damage caused by failure to give enough detail about location of public utility plant**

- (1) This section applies if—
  - (a) the chief executive causes damage to public utility plant located on busway land; and
  - (b) information supplied to the chief executive under section 323(2) did not define in enough detail the location of the plant; and
  - (c) the damage was caused because of the failure to define in enough detail the location of the plant.
- (2) Unless the chief executive otherwise agrees, the chief executive is not liable for the damage.

**326 Liability for damage caused because of failure to comply with chief executive's requirements**

- (1) This section applies if—
  - (a) the chief executive causes damage to public utility plant located on busway land; and
  - (b) the damage is caused because the public utility provider owning the plant did something mentioned in section 318(1) in relation to the plant other than under the chief executive's requirements under this division.
- (2) Unless the chief executive otherwise agrees, the chief executive is not liable for the damage.

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**327 Liability of public utility provider to pay additional expenses incurred by chief executive**

- (1) This section applies if the chief executive incurs additional expense in carrying out busway transport infrastructure works on busway land because a public utility provider—
  - (a) did not supply within a reasonable time information asked for by the chief executive under section 323(2); or
  - (b) in supplying information to the chief executive, did not define in enough detail the location of public utility plant; or
  - (c) did something mentioned in section 318(1) in relation to public utility plant other than under the chief executive's requirements under this division.
- (2) The public utility provider is liable to pay the chief executive the additional expense.

**328 Replacement or reconstruction of public utility plant**

- (1) If the carrying out of busway transport infrastructure works on busway land by or for the chief executive requires taking away or replacing public utility plant, the chief executive can not be compelled to replace or reconstruct the plant in its previous location and form.
- (2) If the plant is replaced or reconstructed—
  - (a) it must be done under the chief executive's requirements; and
  - (b) it must be at the chief executive's expense, but the cost to the chief executive of replacement or reconstruction may be reduced by agreement between the chief executive and the public utility provider owning the plant after taking into account—
    - (i) the remaining life of the plant; and
    - (ii) the salvage or scrap value of the plant; and

- (iii) additional expense incurred because of inaccurate information supplied by the provider about the location of the plant; and
- (iv) additional expense incurred because the plant was not constructed in accordance with the chief executive's requirements.

## **Division 5                      Use of busway or busway transport infrastructure**

### **329      Trespass on busway or busway transport infrastructure**

- (1) A person must not, without reasonable excuse, be on a busway or busway transport infrastructure unless the person has permission of the chief executive to be on the busway or infrastructure.

Maximum penalty—40 penalty units.

- (2) For subsection (1), permission may be given, for example—
- (a) expressly, by—
    - (i) signs, structures, textured pavement or painted lines designating points for vehicles or pedestrians to cross the busway or busway transport infrastructure; or
    - (ii) signs designating the hours during which the busway or busway transport infrastructure may be used by pedestrians to access a public passenger service; or
    - (iii) signs designating a part of the busway or busway transport infrastructure as being open to pedestrians to access a public passenger service; or
  - (b) impliedly, by the absence of demarcation between ordinary road and the busway or busway transport infrastructure.

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- (3) A regulation may include rules about the use of a busway or busway transport infrastructure by a bus or by persons having the permission of the chief executive to be on the busway or infrastructure.

## Division 6 Compensation entitlements

### 330 Definitions for div 6

In this division—

*access*, for land, means—

- (a) access to the land from the road network, whether or not through other land; or
- (b) access from the land to the road network, whether or not through other land.

*busway land* means busway land that, when declared under this chapter to be busway land, was a road or part of a road.

*establishment*, of busway transport infrastructure on busway land, includes the following—

- (a) initial construction of the busway transport infrastructure on the busway land;
- (b) construction for changing or adding to busway transport infrastructure previously constructed on the busway land;
- (c) putting in place the arrangements under which persons are permitted or not permitted to be on the busway land.

*interference*, with access, includes loss or reduction of access.

### 331 No entitlement to compensation for particular matters

- (1) A person having an interest in land (the *relevant land*) has no entitlement at law, except to the extent this division provides,

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to compensation for a matter listed in subsection (2), to the extent the matter is caused by—

- (a) the establishment of a busway; or
  - (b) the establishment or proposed establishment of busway transport infrastructure on busway land; or
  - (c) the operation of a busway on busway land.
- (2) The matters are—
- (a) the adverse affect on the amenity or likely amenity of the neighbourhood of the relevant land; and
  - (b) interference with an activity of a business, commercial, industrial or residential nature carried out on the relevant land; and
  - (c) loss or damage arising directly or indirectly from interference with access for the relevant land; and
  - (d) the reduction or loss of a right of access for the relevant land and loss or damage caused by the reduction or loss of the right of access.

### **332 Compensation for reduced market value of interest in land**

- (1) A person who has an interest in land (the *relevant land*) is entitled to compensation if the establishment of busway transport infrastructure on busway land (the *infrastructure*), when completed, is a cause of interference (the *interference*) with access for the relevant land.
- (2) Subsection (1) applies only if—
  - (a) either of the following applies—
    - (i) the busway land joins directly with the relevant land or with land (*access land*) giving access for the relevant land because of an easement or other right or interest;

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- (ii) the busway land does not join directly with the relevant land or with access land, but it is possible to travel from the relevant land or access land to the busway land by travelling only over road; and
  - (b) the practical effect of the interference is substantially greater in nature and extent than the practical effect of interference with access for the relevant land that might reasonably be expected to be experienced from time to time in changes to the operation of the road network; and
  - (c) the practical effect of the interference is that there is a direct and substantial interference with practicable access for the relevant land compared with the practicable access existing for the relevant land before the establishment of the infrastructure.
- (3) The amount of the compensation is the amount by which the market value of the interest may fairly be said to have been reduced because of the interference now affecting the relevant land.
- (4) However, the compensation must not be more than the compensation that would have been awarded if the interest had been acquired.

### **333 Compensation of person in actual occupation for interference with enjoyment of land**

- (1) A person is entitled to compensation if—
- (a) the person is in actual occupation of land (the *relevant land*) when the establishment of busway transport infrastructure on busway land (the *infrastructure*) is happening or when it is completed; and
  - (b) the establishment of the infrastructure is a cause of interference with access (the *access interference*) for the relevant land; and

- (c) the access interference is a cause of interference (the *enjoyment interference*) with the person's enjoyment of the relevant land.
- (2) Subsection (1) applies only if—
- (a) either of the following applies—
    - (i) the busway land joins directly with the relevant land or with land (*access land*) giving access for the relevant land because of an easement or other right or interest;
    - (ii) the busway land does not join directly with the relevant land or with access land, but it is possible to travel from the relevant land or access land to the busway land by travelling only over road; and
  - (b) the practical effect of the access interference is substantially greater in nature and extent than the practical effects of interference with access for the relevant land that might reasonably be expected to be experienced from time to time in changes to the operation of the road network; and
  - (c) the practical effect of the access interference is that there is a direct and substantial interference with practicable access for the relevant land compared with the practicable access existing for the relevant land before the establishment of the infrastructure.
- (3) The amount of compensation is an amount fairly representing, in the particular circumstances—
- (a) if the person is in occupation of the relevant land at any time during the establishment of the infrastructure—the reasonable cost to the person of the enjoyment interference during the establishment; and
  - (b) if the person is in occupation of the relevant land when the establishment of the infrastructure is completed—the reasonable cost to the person of the enjoyment interference, starting from when the establishment of the infrastructure is completed.

[s 334]

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- (4) In calculating the compensation, no regard is to be had to the reduction in the market value of an interest the person may have in the relevant land.

### **334 Chief executive may supply or contribute to new access arrangements**

- (1) The chief executive may, having regard to the establishment, or proposed establishment, of busway transport infrastructure on busway land, enter into an agreement with a person who is the owner or occupier of land (the *relevant land*) for—
  - (a) the supply by the chief executive, or a contribution by the chief executive towards the supply, of works for alternative access for the relevant land; or
  - (b) the carrying out, or a contribution towards the carrying out, of other works in relation to the relevant land for the purpose of access for the land.
- (2) A person's entitlement to compensation under this division is reduced to the extent provided for in an agreement under subsection (1).

### **335 Obtaining compensation**

- (1) A person claiming to be entitled to compensation under this division may apply in writing to the chief executive for the compensation.
- (2) The application must be made—
  - (a) within 12 months after the establishment of busway transport infrastructure on busway land giving rise to the claim for compensation; or
  - (b) within a longer time agreed by the chief executive.
- (3) If, within 60 days after the person applies under subsection (1), or a longer time agreed between the person and the chief executive, no agreement has been reached between the person and the chief executive on the application—

- (a) the person may apply to the Land Court for the compensation; or
  - (b) the chief executive may apply to the Land Court to have the compensation decided by the court.
- (4) The Land Court has jurisdiction to deal with an application made to it under subsection (3), including jurisdiction to require the chief executive to pay the person compensation decided by the court.
- (5) Nothing in subsection (2)(a) stops a person from applying for compensation before the establishment of the busway transport infrastructure is completed if the claim relates to the person's occupation of land during the establishment of the infrastructure.

## **Part 4A                      Accreditation as busway manager**

### **335AA Reference to busway in pt 4A**

In this part, other than in this section, section 335AB and section 335AP, a reference to a busway is a reference to a busway that is—

- (a) established on busway land; or
- (b) proposed to be established on busway land; or
- (c) proposed to be established on land proposed to become busway land.

[s 335AB]

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### **335AB Only accredited person can manage busway**

A person must not manage a busway on busway land unless the person is accredited as the busway manager for the busway.

Maximum penalty—160 penalty units.

### **335AC Application for accreditation**

A person may apply to the chief executive for accreditation as the busway manager for a busway.

### **335AD Additional information for application**

- (1) The chief executive may, by written notice, require an applicant to give the chief executive the stated written information the chief executive reasonably requires to consider the application.
- (2) The chief executive may reject the application if the applicant does not comply with the requirement within a stated reasonable time, not less than 28 days, without reasonable excuse.

### **335AE Giving accreditation**

- (1) The chief executive must promptly consider an application for accreditation and give, or refuse to give, the accreditation.
- (2) The chief executive must accredit an applicant as the busway manager for a busway if satisfied—
  - (a) the applicant has the competency and capacity to manage the busway safely; and
  - (b) the applicant has an appropriate safety management system; and
  - (c) the applicant has the financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities for the busway; and

- (d) the applicant has rights of access to all land the applicant needs for the establishment and operation of the busway; and
  - (e) the applicant has rights to the use of all busway transport infrastructure and other infrastructure the applicant needs for the establishment and operation of the busway.
- (3) In considering a safety management system, the chief executive must consider—
- (a) what the applicant proposes for the busway; and
  - (b) the appropriateness of the safety management system for what the applicant proposes; and
  - (c) the safety levels achievable, consistent with the nature of what the applicant proposes, at a reasonable cost; and
  - (d) the need for efficient and competitive busway transport services; and
  - (e) consistency with generally accepted risk management principles; and
  - (f) the levels of safety proposed compared with the levels of safety of competing transport modes.
- (4) Subsection (3) does not limit what the chief executive may consider in considering a safety management system.
- (5) If the chief executive decides to give the accreditation, the chief executive must promptly give the applicant a written notice stating—
- (a) the decision; and
  - (b) the details of the accreditation, including its scope; and
  - (c) if the accreditation is given on conditions—
    - (i) the details of the conditions; and
    - (ii) the reason for the conditions.

[s 335AF]

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- (6) If the chief executive decides not to give the accreditation, the chief executive must promptly give the applicant a written notice stating—
  - (a) the decision; and
  - (b) the reason for the decision.
- (7) A written notice given under subsection (5) or (6) must be accompanied by an information notice for the decision the subject of the notice.

### **335AF Annual levy**

- (1) A regulation may impose levies on busway managers for busways relating to their accreditation on a basis prescribed under the regulation.
- (2) The chief executive must give each busway manager for a busway written notice of the amount of a levy applying to the manager.
- (3) The chief executive may recover the amount of a levy as a debt owed to the chief executive.

### **335AG Accreditation conditions**

- (1) An accreditation of a person as the busway manager for a busway may be subject to conditions.
- (2) However, the conditions must be about—
  - (a) constructing or maintaining the busway; or
  - (b) managing the busway safely, considering the need for efficient and competitive services; or
  - (c) the person's financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities for the busway; or
  - (d) paying accreditation fees; or
  - (e) something else prescribed under a regulation.

- (3) A person must comply with each condition of the person's accreditation as the busway manager for a busway.

Maximum penalty for subsection (3)—40 penalty units.

### **335AH Requiring accreditation conditions to be complied with**

- (1) This section applies if the chief executive reasonably believes a person has not complied with a condition of the person's accreditation as the busway manager for a busway.
- (2) The chief executive may, by written notice, require the person to remedy the breach within a reasonable period stated in the notice.
- (3) If the person has not complied with the condition of the person's accreditation as the busway manager for a busway, the person must comply with the notice.

Maximum penalty for subsection (3)—60 penalty units.

### **335AI Accreditation period**

A person's accreditation as the busway manager for a busway remains in force until it is suspended, cancelled or surrendered.

### **335AJ Amending accreditation conditions on application**

- (1) A person accredited as the busway manager for a busway may apply to the chief executive for an amendment of the conditions of the person's accreditation.
- (2) The chief executive must consider the application and decide whether to make the amendment.
- (3) The chief executive may amend a condition only if satisfied the condition is—
  - (a) no longer appropriate; or
  - (b) no longer consistent with generally accepted risk management principles.

[s 335AK]

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- (4) If the chief executive decides to amend a condition, the chief executive must promptly give the applicant a written notice stating the decision and the amendment.
- (5) If the chief executive decides not to amend a condition, the chief executive must promptly give the applicant a written notice stating—
  - (a) the decision; and
  - (b) the reason for the decision.
- (6) A written notice given under subsection (5) must be accompanied by an information notice for the decision the subject of the notice.
- (7) If the chief executive does not decide the application within 70 days after it is made, the chief executive is taken to have made the amendment sought by the applicant at the end of the 70 days.

### **335AK Amending accreditation conditions without application**

- (1) This section applies if the chief executive considers the conditions of a person's accreditation as the busway manager for a busway should be amended but the person has not applied for the proposed amendment.
- (2) Before amending the conditions, the chief executive must give the person a written notice—
  - (a) stating the proposed amendment; and
  - (b) stating the reason for the proposed amendment; and
  - (c) inviting the person to show, within a stated time of at least 28 days, why the proposed amendment should not be made.
- (3) If, after considering all written representations made within the stated time, the chief executive still considers the conditions should be amended, the chief executive may amend the conditions—
  - (a) in the way proposed; or

- (b) in another way, having regard to the representations.
- (4) The chief executive must inform the person of the decision by written notice.
- (5) If the chief executive decides to amend the conditions, the notice must also state—
  - (a) the amendment; and
  - (b) the reason for the decision.
- (6) A written notice given under subsection (4) must be accompanied by an information notice for the decision the subject of the notice.
- (7) Subsections (2) to (5) do not apply if the chief executive proposes to amend the conditions of a person's accreditation as the busway manager for a busway for a formal or clerical reason not adversely affecting the person's interests.
- (8) The chief executive may amend a condition in a way mentioned in subsection (7) by written notice given to the person.

### **335AL Suspending or cancelling accreditation**

- (1) This section applies if the chief executive—
  - (a) reasonably suspects a person accredited as the busway manager for a busway has not complied with a condition of the person's accreditation; and
  - (b) considers the person's accreditation should be suspended or cancelled (the *proposed action*).
- (2) Before taking the proposed action, the chief executive must give the person a written notice—
  - (a) stating the proposed action; and
  - (b) stating the reason for the proposed action; and
  - (c) if the proposed action is suspension of the accreditation, stating the proposed suspension period; and

[s 335AL]

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- (d) if the proposed action is a limited suspension of the accreditation, stating the details of the proposed limitation; and
    - Editor's note—*
      - See section 335AN (Limited suspension of accreditation).
  - (e) inviting the person to show, within a stated time of at least 28 days, why the proposed action should not be taken.
- (3) If, after considering all written representations made within the stated time, the chief executive still considers the proposed action should be taken, the chief executive may—
- (a) if the proposed action is to suspend the accreditation—suspend the accreditation—
    - (i) for no longer than the proposed suspension period; and
    - (ii) if the proposed action was a limited suspension, by no more than the proposed limitation; or
  - (b) if the proposed action was to cancel the accreditation—cancel the accreditation or suspend it for a period.
- (4) The chief executive must inform the person of the decision by written notice.
- (5) If the chief executive decides to suspend or cancel the accreditation, the notice must also state the reason for the decision.
- (6) The chief executive may immediately cancel the accreditation by written notice given to the person if—
- (a) rather than cancel the accreditation, the chief executive has suspended it on condition the person do certain things to rectify the failure to comply with a condition of the person's accreditation; but
  - (b) the person has not rectified the failure within the suspension period.

- (7) The notice must state the reason for the decision.
- (8) A written notice given under subsection (4) or (6) must be accompanied by an information notice for the decision the subject of the notice.

### **335AM Immediate suspension of accreditation**

- (1) This section applies if the chief executive—
  - (a) reasonably believes a person accredited as the busway manager for a busway has not complied with a condition of the person's accreditation; and
  - (b) considers members of the public may be seriously harmed if urgent action to suspend the person's accreditation is not taken.
- (2) The chief executive may immediately suspend the accreditation by written notice given to the person.
- (3) The notice must state the reason for the decision and must be accompanied by an information notice for the decision.
- (4) The chief executive must at the same time give the person a notice under section 335AL(2).
- (5) The accreditation is suspended under this section until the earlier of the following—
  - (a) the chief executive gives the person notice of the chief executive's decision under section 335AL;
  - (b) the end of 60 days after the notice under subsection (2) was given to the person.

### **335AN Limited suspension of accreditation**

Under section 335AL or 335AM, the chief executive may limit a suspension of a person's accreditation as the busway manager for a busway to, for example, a particular busway for which the person is accredited as a busway manager.

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### **335AO Surrender of accreditation**

A person accredited as the busway manager for a busway may, at any time, surrender the person's accreditation by written notice given to the chief executive.

### **335AP Accreditation for proposed busway**

- (1) This section applies if—
  - (a) a person holds an accreditation under this part as the busway manager for a busway—
    - (i) proposed to be established on busway land; or
    - (ii) proposed to be established on land proposed to become busway land; and
  - (b) the busway is established on busway land substantially in the way proposed.
- (2) The accreditation automatically becomes an accreditation under this part that the person holds as the busway manager for the busway as established.

## **Part 5                      Busway authorisation**

### **335A Definitions for pt 5**

In this part—

*authorised busway user*, for a busway, means—

- (a) a busway service provider authorised by the chief executive to use the busway; or
- (b) another person authorised by the chief executive for the busway.

*busway service provider* means—

- (a) a person using a bus to provide a public passenger service other than—
  - (i) a limousine service within the meaning of the *Transport Operations (Passenger Transport) Act 1994*; or
  - (ii) a taxi service within the meaning of the *Transport Operations (Passenger Transport) Act 1994*; or
  - (iii) a person who provides a scheduled passenger service under a service contract referred to in section 336(1)(a)(ii); or
- (b) a person carrying out busway transport infrastructure works on a busway or busway transport infrastructure.

### **336 Who may drive on a busway**

- (1) A person must not drive on a busway, other than a busway common area, unless the person is—
  - (a) driving in the course of the person's duty as an employee of—
    - (i) a busway service provider authorised by the chief executive to use the busway; or
    - (ii) the holder of a service contract that requires the holder to provide a public passenger service for the area in which the busway is located; or
    - (iii) an emergency service; or
  - (b) authorised by the chief executive to drive on the busway.
- (2) In this section—

*emergency service* means—

- (a) the Queensland Ambulance Service; or
- (b) the Queensland Fire and Rescue Service; or

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- (c) the Queensland Police Service; or
- (d) the State Emergency Service; or
- (e) another entity approved by the chief executive.

### **337 Applying for authorisation as authorised busway user**

- (1) A person may apply to the chief executive for authorisation as an authorised busway user for a busway.
- (2) The chief executive may, by written notice, require an applicant to give the chief executive stated written information that the chief executive reasonably requires to consider the application.
- (3) The chief executive may reject the application if the applicant fails to comply with the requirement within a stated reasonable time, of not less than 28 days, without reasonable excuse.

### **338 Considering application for authorisation**

- (1) The chief executive must promptly consider an application for authorisation as an authorised busway user and decide to grant, or refuse to grant, the authorisation.
- (2) If the chief executive decides to grant the authorisation, the chief executive must promptly give the applicant a written notice stating—
  - (a) the decision; and
  - (b) the details of the authorisation, including its scope; and
  - (c) if the authorisation is subject to a condition—
    - (i) the details of the condition; and
    - (ii) the reason for the condition.
- (3) If the chief executive decides not to grant the authorisation, the chief executive must promptly give the applicant a written notice stating—

- (a) the decision; and
  - (b) the reason for the decision.
- (4) A notice under subsection (2) or (3) must be accompanied by an information notice.

### **339 Authorisation conditions**

- (1) An authorisation may be subject to conditions.
- (2) A condition may relate only to—
  - (a) safely using a busway; or
  - (b) something else prescribed under a regulation.
- (3) An authorised busway user must comply with each condition of the authorised busway user's authorisation.

Maximum penalty for subsection (3)—40 penalty units.

### **340 Requiring authorisation conditions to be complied with**

- (1) This section applies if the chief executive reasonably believes an authorised busway user has not complied with a condition of the authorised busway user's authorisation.
- (2) The chief executive may, by written notice, require the authorised busway user to remedy the breach within a reasonable period stated in the notice.
- (3) If the authorised busway user has not complied with the condition, the authorised busway user must comply with the notice.

Maximum penalty for subsection (3)—40 penalty units.

### **341 Authorisation period**

An authorised busway user's authorisation remains in force until suspended, cancelled or surrendered.

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### **342 Amending authorisation conditions on application**

- (1) An authorised busway user may apply to the chief executive for an amendment of the conditions of the authorised busway user's authorisation.
- (2) The chief executive must consider the application and decide to grant, or refuse to grant, the amendment.
- (3) The chief executive may amend a condition only if satisfied the condition is—
  - (a) no longer appropriate; or
  - (b) no longer consistent with generally accepted risk management principles.
- (4) If the chief executive decides to amend a condition, the chief executive must promptly give the applicant a written notice stating the decision and the amendment.
- (5) If the chief executive decides not to amend a condition, the chief executive must promptly give the applicant a written notice stating—
  - (a) the decision; and
  - (b) the reason for the decision.
- (6) A notice under subsection (5) must be accompanied by an information notice.
- (7) If the chief executive does not decide the application within 70 days after it is made, the chief executive is taken to have made the amendment sought by the applicant at the end of the 70 days.

### **343 Amending authorisation conditions without application**

- (1) This section applies if the chief executive considers the conditions of an authorised busway user's authorisation should be amended although the authorised busway user has not applied for the amendment.

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- (2) Before amending the conditions, the chief executive must give the authorised busway user a written notice stating—
    - (a) the proposed amendment; and
    - (b) the reason for the amendment; and
    - (c) an invitation to the authorised busway user to show in writing, within a stated time of at least 28 days, why the amendment should not be made.
  - (3) If, after considering all written representations made within the stated time, the chief executive still considers the conditions should be amended, the chief executive may amend the conditions—
    - (a) in the way proposed; or
    - (b) in another way, having regard to the representations.
  - (4) The chief executive must inform the authorised busway user of the decision by written notice.
  - (5) If the chief executive decides to amend the conditions, the notice must also state—
    - (a) the amendment; and
    - (b) the reason for the decision.
  - (6) A notice under subsection (5) must be accompanied by an information notice.
  - (7) Subsections (2) to (5) do not apply if the chief executive proposes to amend the conditions of an authorised busway user's authorisation for a formal or clerical reason that does not adversely affect the authorised busway user's interests.
  - (8) The chief executive may amend a condition in a way mentioned in subsection (7) by written notice to the authorised busway user.

### **344 Suspending or cancelling authorisation**

- (1) This section applies if the chief executive—

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- (a) reasonably suspects an authorised busway user has contravened a condition of the authorised busway user's authorisation; and
  - (b) considers the authorisation should be suspended or cancelled (the *proposed action*).
- (2) Before taking the proposed action, the chief executive must give the authorised busway user a written notice stating—
  - (a) the proposed action; and
  - (b) the reason for the proposed action; and
  - (c) if the proposed action is to suspend the authorisation—the proposed suspension period; and
  - (d) if the proposed action is to suspend the authorisation only in relation to a particular service operated by the authorised busway user—the service; and
  - (e) an invitation to the authorised busway user to show in writing, within a stated time of at least 28 days, why the proposed action should not be taken.
- (3) If after considering all written representations made within the stated time, the chief executive still considers the proposed action should be taken, the chief executive may—
  - (a) if the proposed action was to suspend the authorisation—suspend the authorisation—
    - (i) for no longer than the proposed suspension period; and
    - (ii) if the proposed suspension was limited to a particular service—only in relation to the service; or
  - (b) if the proposed action was to cancel the authorisation—cancel the authorisation or suspend it for a period.
- (4) The chief executive must inform the authorised busway user of the decision by written notice.

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- (5) If the chief executive decides to suspend or cancel the authorisation, the notice must also state the reason for the decision.
- (6) If—
- (a) rather than cancel the authorisation, the chief executive suspends it on condition that the authorised busway user do certain things to rectify the failure to comply with a condition of the authorised busway user's authorisation; and
  - (b) the authorised busway user does not rectify the failure within the suspension period;
- the chief executive may immediately cancel the authorisation by written notice to the authorised busway user.
- (7) A notice under subsection (4) or (6) must be accompanied by an information notice.

### **345 Immediate suspension of authorisation**

- (1) This section applies if the chief executive—
- (a) reasonably believes an authorised busway user has contravened a condition of the authorised busway user's authorisation; and
  - (b) considers members of the public may be seriously harmed if urgent action to suspend the authorisation is not taken.
- (2) The chief executive may immediately suspend the authorisation by written notice to the authorised busway user.
- (3) The notice must state the reason for the decision and must be accompanied by an information notice.
- (4) The chief executive must at the same time give the authorised busway user a notice under section 344(2).
- (5) The authorisation is suspended under this section until the earlier of the following—

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- (a) the chief executive gives the authorised busway user notice of the chief executive's decision under section 344;
- (b) the end of 60 days after the notice under subsection (2) was given to the authorised busway user.

### **346 Surrender of authorisation**

An authorised busway user may, at any time, surrender the authorised busway user's authorisation by written notice to the chief executive.

## **Part 6 Busway safety officers**

### **Division 1 Preliminary**

#### **346A Definition for pt 6**

In this part—

*relevant busway legislation* means—

- (a) this part; or
- (b) a regulation relating to busways or busway transport infrastructure.

### **Division 2 Appointment of busway safety officers**

#### **346B Appointment and qualifications**

- (1) The chief executive may appoint a person as a busway safety officer.

- (2) However, the chief executive may appoint a person as a busway safety officer only if the chief executive is satisfied the person is qualified for appointment because the person has the necessary expertise or experience.
- (3) Also, the chief executive may appoint a person other than a public service officer as a busway safety officer only if the person has completed, to the chief executive's satisfaction, training approved by the chief executive.

### **346C Appointment conditions and limit on powers**

- (1) A busway safety officer holds office on any conditions stated in—
  - (a) the busway safety officer's instrument of appointment; or
  - (b) a signed notice given to the busway safety officer; or
  - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the busway safety officer or a regulation may limit the busway safety officer's powers under this Act.
- (3) In this section—

*signed notice* means a notice signed by the chief executive.

## **Division 3 Identity cards**

### **346D Issue of identity card**

- (1) The chief executive must issue an identity card to each busway safety officer.
- (2) The identity card must—
  - (a) contain a recent photo of the busway safety officer; and
  - (b) contain a copy of the busway safety officer's signature; and

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- (c) identify the person as a busway safety officer under this Act; and
  - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and for other purposes.

### **346E Production or display of identity card**

- (1) In exercising a power under this Act in relation to a person, a busway safety officer must—
- (a) produce the busway safety officer's identity card for the person's inspection before exercising the power; or
  - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the busway safety officer must produce the identity card for the person's inspection at the first reasonable opportunity.

## **Division 4 Ceasing to hold office**

### **346F When busway safety officer ceases to hold office**

- (1) A busway safety officer ceases to hold office if any of the following happens—
- (a) the term of office stated in a condition of the office ends;
  - (b) under another condition of office, the busway safety officer ceases to hold office;
  - (c) the busway safety officer's resignation under section 346G takes effect.
- (2) Subsection (1) does not limit the ways a busway safety officer may cease to hold office.
- (3) In this section—

*condition of office* means a condition on which the busway safety officer holds office.

### **346G Resignation**

A busway safety officer may resign by signed notice given to the chief executive.

### **346H Return of identity card**

A person who ceases to be a busway safety officer must return the person's identity card to the chief executive within 21 days after ceasing to be a busway safety officer, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

## **Division 5 Powers**

### **346I Powers of busway safety officer**

A busway safety officer has the following powers—

- (a) power to give a direction to a person driving a vehicle about driving or parking the vehicle on a busway or busway transport infrastructure;
- (b) power to give a direction to a person about parking or leaving a vehicle or other property on a busway or busway transport infrastructure;
- (c) another power given to the busway safety officer under this part.

### **346J Direction to ensure orderly movement**

- (1) A busway safety officer may give a direction to a person on a busway or busway transport infrastructure for the purpose of

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ensuring the orderly movement of persons onto, off, towards or away from a bus operating on the busway.

- (2) The person must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—20 penalty units.

**346K Direction to person creating disturbance to leave busway or busway transport infrastructure**

- (1) This section applies if a busway safety officer reasonably believes a person on a busway or busway transport infrastructure is creating, or is likely to create, a disturbance.
- (2) Subsection (1) does not apply to a person on a bus operating on the busway.
- (3) The busway safety officer may direct the person to leave the busway or busway transport infrastructure.
- (4) The direction must include the busway safety officer telling the person that—
- (a) the person is directed to leave the busway or busway transport infrastructure because the person is creating, or is likely to create, a disturbance; and
  - (b) it is an offence to fail to comply with the direction, unless the person has a reasonable excuse.
- (5) An explanation given under subsection (4) by a busway safety officer need only be in general terms.
- (6) A person given a direction must comply with it, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (7) In this section—

*creating a disturbance* includes depositing, dropping or throwing a matter, substance or thing on a busway or busway transport infrastructure that is likely to injure a person or damage a vehicle or busway transport infrastructure.

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### **346L Direction to ensure safety and security**

- (1) A busway safety officer may give a direction to a person on a busway or busway transport infrastructure if the busway safety officer reasonably believes the direction is necessary to ensure the safety or security of 1 or more of the following—
  - (a) the busway or busway transport infrastructure;
  - (b) users of the busway or busway transport infrastructure;
  - (c) persons employed on or in the busway or busway transport infrastructure.
- (2) The direction must include the busway safety officer telling the person that—
  - (a) the person is given the direction because it is necessary to ensure the safety or security of 1 or more persons or things mentioned in subsection (1)(a), (b) or (c); and
  - (b) it is an offence to fail to comply with the direction, unless the person has a reasonable excuse.
- (3) An explanation given under subsection (2) by a busway safety officer need only be in general terms.
- (4) A person given a direction must comply with it, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—20 penalty units.

### **346M Power to require name, address and age**

- (1) A busway safety officer may require a person to state the person's name and address if the busway safety officer—
  - (a) finds the person committing a relevant busway offence;  
or
  - (b) finds the person in circumstances that lead, or has information that leads, the busway safety officer to reasonably suspect the person has just committed a relevant busway offence.

[s 346N]

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- (2) The busway safety officer may also require the person to state the person's age if the busway safety officer reasonably suspects the person's age is required for the enforcement of relevant busway legislation.
- (3) When making the requirement, the busway safety officer must warn the person that it is an offence to fail to state the person's name and address and, if relevant, age, unless the person has a reasonable excuse.
- (4) The busway safety officer may require the person to give evidence of the correctness of the person's stated name, address or age if the busway safety officer reasonably suspects the stated name, address or age is false.
- (5) A person must comply with the busway safety officer's requirement under subsection (1), (2) or (4), unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (6) A person does not commit an offence against this section if—
  - (a) the person was required to state the person's name, address or age by a busway safety officer who suspected the person had committed a relevant busway offence; and
  - (b) the person is not proved to have committed the offence.
- (7) In this section—

*relevant busway offence* means an offence against relevant busway legislation.

## **Division 6                      Provisions relating to evidence of offences**

### **346N    Seizing evidence**

A busway safety officer may seize a thing at a place that is a busway or busway transport infrastructure if the busway

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safety officer reasonably believes the thing is evidence of an offence against relevant busway legislation.

### **346O Securing seized things**

Having seized a thing, a busway safety officer may—

- (a) move the thing from the place where it was seized (the *place of seizure*); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

*Examples of restricting access to a thing—*

sealing a thing and marking it to show access to it is restricted

### **346P Tampering with seized things**

- (1) If a busway safety officer restricts access to a seized thing, a person must not tamper with the thing without a busway safety officer's approval.

Maximum penalty—10 penalty units.

- (2) In this section—

*tamper*, with a thing, includes attempt to tamper with the thing or something restricting access to the thing.

### **346Q Receipts for seized things**

- (1) As soon as practicable after a busway safety officer seizes a thing, the busway safety officer must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the busway safety officer must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
- (3) The receipt must describe generally each thing seized and its condition.

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- (4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt, given the thing's nature, condition and value.

### **346R Forfeiture of seized things**

- (1) A seized thing is forfeited to the State if the busway safety officer who seized the thing—
  - (a) can not find its owner, after making reasonable inquiries; or
  - (b) can not return it to its owner, after making reasonable efforts; or
  - (c) reasonably believes it is necessary to retain the thing to prevent it being used to commit an offence against this Act.
- (2) In applying subsection (1)—
  - (a) subsection (1)(a) does not require the busway safety officer to make inquiries if it would be unreasonable to make inquiries to find the owner; and
  - (b) subsection (1)(b) does not require the busway safety officer to make efforts if it would be unreasonable to make efforts to return the thing to its owner.
- (3) If the busway safety officer makes a decision under subsection (1)(c), resulting in the seized thing being forfeited to the State, the busway safety officer must immediately give the owner a written notice stating—
  - (a) the decision; and
  - (b) the reasons for the decision.
- (4) A notice under subsection (3) must be accompanied by an information notice.
- (5) Subsection (3) does not apply if—
  - (a) the busway safety officer can not find the owner, after making reasonable inquiries; or

- (b) it is impracticable or would be unreasonable to give the notice.
- (6) Regard must be had to a thing's nature, condition and value—
  - (a) in deciding—
    - (i) whether it is reasonable to make inquiries or efforts; and
    - (ii) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable; or
  - (b) in deciding whether it would be unreasonable to give the notice under subsection (3).

### **346S Forfeiture on conviction**

- (1) On the conviction of a person for an offence against relevant busway legislation, 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 the order—
  - (a) whether or not the thing has been seized; and
  - (b) if the thing has been seized, whether or not the thing has been returned to its owner.
- (3) The court may make any order to enforce the forfeiture it considers appropriate.
- (4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

### **346T Dealing with forfeited things etc.**

- (1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.

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- (2) Without limiting subsection (1), the chief executive may destroy or dispose of the thing.
- (3) Despite subsection (1), the chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal, relevant to the thing, of which the chief executive is aware.

### **346U Return of seized things**

- (1) If a seized thing has not been forfeited, the busway safety officer must return it to its owner—
  - (a) at the end of 6 months; or
  - (b) if a proceeding for an offence involving the thing is started within 6 months, at the end of the proceeding and any appeal from the proceeding.
- (2) Despite subsection (1), unless the thing has been forfeited, the busway safety officer must immediately return a thing seized as evidence to its owner if the busway safety officer stops being satisfied its continued retention as evidence is necessary.

### **346V Access to seized things**

- (1) Until a seized thing is forfeited or returned, a busway safety officer must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

## **Division 7                      Miscellaneous**

### **346W Protection from liability**

- (1) This section applies to each of the following (a *protected person*)—

- (a) a busway safety officer;
  - (b) a person acting under the direction of a busway safety officer.
- (2) A protected person does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.
- (3) If subsection (2) prevents a civil liability attaching to a protected person, the liability attaches instead to the State.

### **346X False or misleading information**

- (1) A person must not state anything to a busway safety officer, in relation to the exercise by the busway safety officer of a power under relevant busway legislation, the person knows is false or misleading in a material particular.

Maximum penalty—60 penalty units.

- (2) It is enough for a complaint for an offence against subsection (1) to show the statement made was ‘false or misleading’ to the person’s knowledge, without specifying which.

### **346Y False or misleading documents**

- (1) A person must not give a busway safety officer a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—60 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
- (a) tells the busway safety officer, to the best of the person’s ability, how it is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

[s 346Z]

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- (3) It is enough for a complaint for an offence against subsection (1) to state the document was ‘false or misleading’ to the person’s knowledge, without specifying which.

### **346Z Compensation**

- (1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise, or purported exercise, of a power under relevant busway legislation, including, for example, in complying with a requirement made of the person under this part.
- (2) Payment of compensation may be claimed and ordered in a proceeding for—
  - (a) compensation brought in a court of competent jurisdiction for the recovery of compensation; or
  - (b) an offence against this Act brought against the person by whom the claim is made.
- (3) A court may order the payment of compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

### **346ZA Busway safety officer to give notice of damage**

- (1) A busway safety officer who, in the exercise, or purported exercise, of a power under relevant busway legislation, damages anything must immediately give written notice of the particulars of the damage.
- (2) The notice must be given to the person who appears to the busway safety officer to be the owner of the thing.
- (3) If, for any reason, it is not practicable to comply with subsection (2), the busway safety officer must—
  - (a) leave the notice at the place where the damage happened; and
  - (b) ensure the notice is left in a reasonably secure way and in a conspicuous position.

(4) In this section—

*owner*, of a thing, includes the person in possession or control of the thing.

### **346ZB Obstructing busway safety officer**

(1) A person must not obstruct a busway safety officer in the exercise of a power under this or another Act, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

(2) If a person has obstructed a busway safety officer under subsection (1) and the busway safety officer decides to exercise the power, the busway safety officer must, if practicable, warn the person—

- (a) that the busway safety officer considers the person's conduct is obstructing the busway safety officer; and
- (b) that it is an offence to obstruct the busway safety officer, unless the person has a reasonable excuse.

### **346ZC Impersonating busway safety officer**

A person must not pretend to be a busway safety officer.

Maximum penalty—80 penalty units.

## **Chapter 10 Light rail and light rail transport infrastructure**

### **Part 1 Preliminary**

#### **347 Ways of achieving light rail objectives**

The objectives of this Act for light rail are intended to be achieved by—

- (a) developing and putting into effect light rail transport infrastructure strategies; and
- (b) establishing a legal framework to allow the construction, maintenance, management and operation of light rail transport infrastructure in an effective and efficient way.

### **Part 2 Chief executive's functions and powers**

#### **348 Functions**

The chief executive has the following functions in relation to light rail, including a proposed light rail, and light rail transport infrastructure, including proposed light rail transport infrastructure—

- (a) investigating, planning, establishing, maintaining, managing or operating, or arranging for someone else to investigate, plan, establish, maintain, manage or operate;
- (b) providing or arranging for associated services or works necessary or convenient for effective and efficient construction, management and operation;

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- (c) efficiently integrating with any transport infrastructure, including busway transport infrastructure;
  - (d) providing for appropriate levels of safety in construction, management and operation;
  - (e) doing other things that directly or indirectly—
    - (i) are likely to enhance the provision of light rail transport infrastructure and passenger services on light rail; or
    - (ii) are incidental or complementary to the performance of another function.

### **349 Authority to enter or temporarily occupy or use land**

- (1) For the performance of a function under this chapter, the chief executive, or someone authorised in writing by the chief executive, may—
  - (a) do 1 or more of the following in relation to land—
    - (i) enter the land, whether or not for temporarily occupying or using the land;
    - (ii) temporarily occupy the land;
    - (iii) temporarily use the land; and
  - (b) do anything on the land necessary or convenient for the function, including, for example, for light rail transport infrastructure works.
- (2) However, the chief executive must not authorise a person to enter land under this section if the entry is a type of entry able to be authorised under an investigator's authority under chapter 11.

### **350 When land may be entered, occupied or used**

- (1) This section applies if a person proposes to enter, occupy or use land under this part.

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- (2) The person may enter, occupy or use the land without the permission of, or notice to, the owner or occupier of the land to perform urgent remedial work to facilitate or maintain the operation of light rail transport infrastructure.
- (3) However, the person must, if practicable, notify the occupier orally or in writing before entering the land.
- (4) If the entry, occupation or use is other than for the performance of urgent remedial work, the person may enter, occupy or use the land if the person—
  - (a) obtains the written permission of—
    - (i) each person who is an owner of the land; and
    - (ii) each person who is an occupier of the land; or
  - (b) gives at least 7 days written notice to the occupier before the entry, occupation or use.
- (5) The notice under subsection (4)(b) must state—
  - (a) all works proposed to be performed; and
  - (b) all uses proposed to be made of the land; and
  - (c) details of anything else proposed to be done on the land; and
  - (d) the approximate period when occupation or use is expected to continue; and
  - (e) that an owner or occupier of the land may claim compensation from the chief executive for loss or damage caused by the entry, occupation or use.
- (6) A notice may be given under this section even though it is proposed to resume the land for light rail transport infrastructure.
- (7) Power to enter, occupy or use land under this part does not authorise entry, occupation or use of a structure on the land used solely for residential purposes without the permission of the occupier of the land.

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### 351 Compensation

- (1) This section applies if land is entered, occupied or used under this part.
- (2) An owner or occupier of the land may claim compensation from the chief executive for loss or damage caused by the entry, occupation or use, including by the taking or consumption of materials.
- (3) However, compensation is payable only if written notice of the claim or proposed claim is given to the chief executive—
  - (a) after the loss or damage happens, but within 1 year after the entry, occupation or use ends; or
  - (b) at a later time allowed by the chief executive.
- (4) In the absence of agreement between the owner or occupier and the chief executive about the payment of compensation, payment of compensation may be claimed and ordered in a proceeding brought in the Land Court.
- (5) The Land Court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (6) Compensation paid under this section for loss or damage caused to land must not be more than the compensation that would have been awarded if the land had been acquired.

## Part 3 Establishment of light rail

### 352 Definition for pt 3

In this part—

*road*—

- (a) means a road under the *Land Act 1994*; and
- (b) includes a State-controlled road.

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### **353 Declaration of land as light rail land**

- (1) The Minister may, by gazette notice, declare land to be light rail land.
- (2) Land declared to be light rail land—
  - (a) must be—
    - (i) identified specifically in the gazette notice; or
    - (ii) identified generally in the gazette notice, and identified specifically in documents described in the gazette notice and available for perusal at an office of the department mentioned in the gazette notice; and
  - (b) must consist only of land for a light rail and light rail transport infrastructure, which may be land on which transport infrastructure other than light rail transport infrastructure is situated or operated.
- (3) The identification of land declared to be light rail land may, but need not, be by reference to strata occupied by the land.
- (4) Land may be declared to be light rail land only if it is—
  - (a) unallocated State land and other land held by the State; or
  - (b) land granted in trust under the *Land Act 1994*, chapter 3, part 1, division 3; or
  - (c) busway land, but only if it is the subject of a lease to the State under the *Land Act 1994*, section 17; or
  - (d) a road.
- (5) In this section—

*light rail purposes* includes light rail transport infrastructure.

### **354 Effect on land of light rail declaration**

- (1) If a road or a part of a road is declared under this part to be light rail land, the road or part—

- 
- (a) stops being a road; and
  - (b) becomes unallocated State land.
- (2) If a lot or a part of a lot under the *Land Title Act 1994* is declared under this part to be light rail land, the lot or part becomes unallocated State land.
  - (3) If busway land is declared under this part to be light rail land—
    - (a) any lease of the land under the *Land Act 1994*, section 17 provided for under chapter 9 ends; and
    - (b) the land stops being busway land and becomes unallocated State land.
  - (4) If land, other than land mentioned in subsection (1), (2) or (3) or unallocated State land, is declared under this part to be light rail land, the land becomes unallocated State land.
  - (5) The Minister administering the *Land Act 1994* must lease light rail land that is unallocated State land to the State under the *Land Act 1994*, section 17.
  - (6) The lease is in perpetuity and, if demanded, for a rent of \$1 a year.
  - (7) The *Land Act 1994*, sections 157, 183, 204, 211 and 336(2)(a) and (c) do not apply to a lease or sublease of light rail land.

### **355 Sublease of lease of light rail land**

- (1) The State may sublease its lease of light rail land to a light rail manager for a light rail established or proposed to be established on the light rail land on terms negotiated and agreed between the parties.
- (2) For the *Land Act 1994*, section 332(1)(b), the light rail manager is eligible to hold a sublease of the lease.
- (3) The first sublease under subsection (1) (the *original sublease*) may include an option to renew the sublease, and any subsequent sublease may in turn include an option to renew.

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- (4) The terms of any option and any subsequent sublease are to be those negotiated and agreed between the parties.
- (5) The *Land Act 1994*, section 336(2)(a) does not apply to a document of amendment of the original sublease or any subsequent sublease.
- (6) If the light rail manager attaches light rail transport infrastructure to the land the subject of the original sublease or a subsequent sublease, the infrastructure immediately becomes the property of the chief executive unless the parties to the sublease agree it is to become the property of the chief executive at a later time.
- (7) Despite any agreement under subsection (6), the infrastructure, if it has not already become the property of the chief executive, becomes the property of the chief executive—
  - (a) if there is no subsequent sublease—at the end of the original sublease; or
  - (b) if there is only 1 subsequent sublease—at the end of the subsequent sublease; or
  - (c) if there are 2 or more subsequent subleases—at the end of the last of the subsequent subleases.
- (8) Neither the original sublease nor any subsequent sublease stops being a sublease only because—
  - (a) under part 4, land the subject of the sublease is taken to be a State-controlled road or a road under the control of a local government; or
  - (b) persons are expressly or impliedly permitted by the chief executive under this chapter to be on the subleased land.
- (9) This section does not stop the granting of a lease or sublease to a light rail manager for a light rail, other than under this section, of land that is not light rail land but on which there is, or is proposed to be, light rail transport infrastructure.
- (10) Despite subsection (1) or (4), the Minister may impose any condition on a sublease, option or subsequent sublease

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granted under this section that the Minister considers necessary to—

- (a) achieve the objectives of this Act mentioned in section 2; or
  - (b) ensure public safety.
- (11) A condition imposed by the Minister under subsection (10) takes effect on the day stated in a notice given, for the purposes of this subsection, by the Minister to the other party to the sublease, option or subsequent sublease.
- (12) In this section—

*light rail land* means light rail land that is leased to the State under the *Land Act 1994*, section 17.

### **355A Licence in relation to light rail land or infrastructure**

- (1) The chief executive may, for the State, grant to a person a licence in relation to light rail land or light rail transport infrastructure for any of the following purposes—
- (a) construction, maintenance or operation of any thing on the land;
  - (b) the use of the land or infrastructure for any purpose, including, for example, a commercial or retail purpose;  
*Examples—*
    - the erection, alteration or operation of an advertising sign or other advertising device
    - a retail outlet
  - (c) maintenance, management or operation of the land or infrastructure.
- (2) A licence under subsection (1) is subject to any conditions that the chief executive considers appropriate and that are stated in the licence.
- (3) If a licence is granted under subsection (1) in relation to light rail land—

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- (a) the chief executive must give written notice of the licence to the registrar of titles; and
  - (b) the registrar of titles must record the licence against the land, including any lease and sublease of the land, in the appropriate register.
- (4) A licence under subsection (1) may be mortgaged, sublicenced or transferred with the consent of the chief executive.
- (5) Despite the *Land Act 1994*, chapter 4, part 4, the chief executive of the department in which that Act is administered can not issue a permit under that provision to occupy—
- (a) light rail land to which a licence under subsection (1) relates; or
  - (b) land on which light rail transport infrastructure to which a licence under subsection (1) relates is, or is proposed to be, situated.
- (6) Subsection (7) applies if there is any inconsistency between—
- (a) a local government's control of a road under the *Local Government Act 1993*, section 901 or the *Local Government Act 2009*, section 60, other than for a matter mentioned in section 357 or 358 of this Act; and
  - (b) a provision of a licence under subsection (1).
- (7) To the extent of the inconsistency the provision of the licence prevails.
- (8) In this section—
- light rail land*** includes land—
- (a) held by the chief executive on behalf of the State; and
  - (b) on which light rail transport infrastructure is, or is proposed to be, situated.

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**356 Development of light rail and light rail transport infrastructure**

- (1) This section applies to the establishment of a light rail, including all investigating, planning, maintaining, managing, operating, and arranging for the light rail or for light rail transport infrastructure for the light rail.
- (2) Nothing in this chapter is intended to affect the operation of the Planning Act to the extent that the establishment of the light rail is development under that Act.

**Part 4 Management of light rail land and light rail transport infrastructure**

**Division 1 Transport infrastructure interaction**

**357 Altering road levels by a local government**

- (1) The chief executive may require a local government having control of a road to alter the level of the road for—
  - (a) light rail transport infrastructure works; or
  - (b) the management or operation of a light rail.
- (2) However, the chief executive—
  - (a) must consult with the local government about the nature and extent of the alteration of the level of the road before the alteration is started; and
  - (b) subject to an agreement between the chief executive and the local government arising out of the consultation, pay all reasonable costs incurred by the local government in altering the road level.

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- (3) The local government must comply with the chief executive's requirements.

### **358 Permitted construction by local government of roads over or under light rail land**

- (1) Despite section 354(1), the chief executive may permit a local government to construct, maintain and operate a road located on light rail land, consisting of—
  - (a) a bridge or other structure allowing traffic to pass over the level at which light rail vehicles use the light rail land; or
  - (b) a structure allowing traffic to pass under the level at which light rail vehicles use the light rail land.
- (2) However, if there is a light rail manager for a light rail established on the light rail land, the chief executive must consult with the light rail manager before deciding whether to give the permission.
- (3) The permission may be given on reasonable conditions.
- (4) In deciding whether to give the permission, the chief executive must consider the limiting effect the use of the road is likely to have on the use of the light rail land for light rail passenger services.
- (5) While the bridge or other structure is being used for the road—
  - (a) none of the following has any duty or liability for the road or its use or operation—
    - (i) the chief executive;
    - (ii) if there is a light rail manager for a light rail established on the light rail land, the manager;
    - (iii) if there is a light rail operator for a light rail established on the light rail land, the operator; and

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- (b) the road is taken to be a road of which the local government has control under the *Local Government Act 1993*, section 901(1); and
  - (c) the road is taken to be a road under any Act about the use of vehicles on a road.
- (6) Unless the chief executive and the local government otherwise agree—
- (a) the local government is responsible for maintaining the road and the bridge or other structure; and
  - (b) if the bridge or other structure stops being used for the road, the local government is responsible for the cost of taking the bridge or other structure away and of restoring the light rail land.

### **359 Designation of light rail land for use as road under local government control**

- (1) Despite section 354(1), the chief executive may, by gazette notice, designate light rail land described in the notice as light rail land that is to be used as a road under a local government's control.
- (2) The chief executive must also—
  - (a) give a copy of the notice to the local government; and
  - (b) publish a copy of the notice in a newspaper circulating generally in the area of the light rail land.
- (3) If there is a light rail manager for a light rail established on the light rail land, the chief executive must consult with the light rail manager before designating the light rail land under the notice.
- (4) The land described in the notice must be land generally suitable for both of the following—
  - (a) use as a road;
  - (b) the operation of a light rail.

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- (5) The notice may include directions with which the local government must comply, including directions about the local government's exercise of powers under the *Local Government Act 1993* for roads it controls.
- (6) However, the chief executive must consult with the local government before including any directions in the notice.
- (7) While the notice is in force, the land described in the notice is taken to be—
  - (a) a road of which the local government has control under the *Local Government Act 1993*, section 901(1); and
  - (b) a road under any Act about the use of vehicles on a road.
- (8) However, in taking the necessary steps mentioned in the *Local Government Act 1993*, section 901(2), the local government must comply with all directions included in the notice, including the notice as amended from time to time.

### **360 Designation of light rail land for use as State-controlled road**

- (1) Despite section 354(1), the Minister may, by gazette notice, designate light rail land described in the notice as light rail land to be used as a State-controlled road.
- (2) The Minister must also publish a copy of the notice in a newspaper circulating generally in the area of the light rail land.
- (3) If there is a light rail manager for a light rail established on the light rail land, the Minister must consult with the manager before designating the light rail land under the notice.
- (4) The land described in the notice must be land generally suitable for both of the following—
  - (a) use as a State-controlled road;
  - (b) the operation of a light rail.
- (5) The notice may include operational arrangements applying to the use of the light rail land as a State-controlled road.

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- (6) While the notice is in force, the land described in the notice is, except to the extent provided for in the notice, taken to be—
- (a) a State-controlled road for the provisions of this Act, other than chapter 6, part 2, division 1 and part 5, division 3, and of any other Act, applying to State-controlled roads; and
  - (b) a road under any Act about the use of vehicles on a road.

**360A Powers of chief executive for light rail transport infrastructure works contracts etc.**

- (1) The chief executive may, for the State, carry out or enter into contracts with other persons for the carrying out of—
- (a) light rail transport infrastructure works on a light rail or on land that is intended to become a light rail; or
  - (b) works on land affected by a light rail or a proposed light rail, including, for example, road works on a road; or
  - (c) other works that contribute to the effectiveness and efficiency of the light rail network; or
  - (d) the operation of a light rail; or
  - (e) the operation of a public passenger service using light rail transport infrastructure.
- (2) The chief executive, for the State, may enter into contracts with other persons for light rail transport infrastructure works to be carried out outside the State under an agreement between the State and the other State concerned.
- (3) A contract with a local government under this section may include arrangements about which powers of the local government are to be exercised by the chief executive, and which are to be exercised by the local government, for the light rail.
- (4) A local government may enter into a contract mentioned in subsection (1) even though the contract relates to works or operation outside the local government's area.

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- (5) The chief executive, for the State, may carry out or enter into contracts for works on or adjacent to a light rail at the request of the owner of adjacent land on the basis that the owner provides consideration, whether monetary or otherwise, as agreed between the chief executive and the owner.
- (6) This section does not prevent the chief executive carrying out, or entering into contracts for the carrying out, of light rail transport infrastructure works of a minor or emergency nature.
- (7) In carrying out works or the operation of a light rail, the chief executive must ensure that the carrying out is done on a price competitive basis.
- (8) In entering into contracts under this section, the chief executive must ensure that open competition is encouraged.
- (9) Subsection (8) does not apply to a contract with a person if the person is the sole invitee and enters into a price performance contract with the chief executive.
- (10) The chief executive may arrange with another person for the sharing by the chief executive with the other person of the cost of—
  - (a) acquisition of land for light rail transport infrastructure; or
  - (b) light rail transport infrastructure works on a light rail or land that is intended to become a light rail; or
  - (c) works on land affected by a light rail or a proposed light rail, including, for example, road works on a road; or
  - (d) other works that contribute to the effectiveness and efficiency of the light rail network; or
  - (e) the operation of a light rail; or
  - (f) the operation of a public passenger service using light rail transport infrastructure;including all necessary preliminary costs associated with the acquisition, works or operation.

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**361 No presumption of dedication of road**

- (1) This section applies if the public uses light rail land as a road, or for access purposes other than as a road.
- (2) The light rail land does not at law, either because the use is authorised or permitted by the chief executive or for another reason, become dedicated to public use as a road.

**Division 2 Interfering with light rail transport infrastructure**

**361A Definition for div 2**

In this division—

*interfere with*, light rail transport infrastructure, includes carrying out works on the infrastructure.

**362 Interfering with light rail transport infrastructure or works**

- (1) A person must not interfere with light rail transport infrastructure or light rail transport infrastructure works, unless—
  - (a) the person has the written approval of—
    - (i) for light rail transport infrastructure for light rail for which there is a light rail manager—the manager; or
    - (ii) for light rail transport infrastructure works constructed or maintained for, or that facilitate operation of, light rail transport infrastructure for light rail for which there is a light rail manager—the manager; or
    - (iii) otherwise—the chief executive; or
  - (b) the interference is for the construction, maintenance or operation of a road permitted under this part to be

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constructed, maintained and operated across, over or under the light rail transport infrastructure; or

- (c) the interference is otherwise authorised under this Act or another Act.

Maximum penalty—160 penalty units.

- (2) Subsection (1) applies even if the interference is for the carrying out of functions that apart from subsection (1) are lawful on light rail land that, under division 1, is taken to be—
- (a) a road of which a local government has control under the *Local Government Act 1993*, section 901(1); or
- (b) a State-controlled road for provisions of any Act applying to State-controlled roads.
- (3) An approval under subsection (1)(a) may be given on reasonable conditions.
- (4) However, a light rail manager for a light rail may give the approval only if the chief executive—
- (a) has been consulted about the giving of the approval; and
- (b) has approved all conditions to which the approval is subject.
- (5) The person given the approval must comply with the conditions of the approval.

Maximum penalty—40 penalty units.

- (6) Subsection (1) does not apply to the carrying out of urgent maintenance of a light rail or light rail transport infrastructure.

### **363 Rectifying unauthorised interference**

- (1) This section applies if a person (the *identified person*) interferes with light rail transport infrastructure or light rail transport infrastructure works in contravention of section 362(1).
- (2) If there is a light rail manager for a light rail established for the light rail transport infrastructure or for light rail transport

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infrastructure to which the light rail transport infrastructure works relate, the manager may give a written notice to the identified person requiring the person to rectify the interference within a stated reasonable time.

- (3) The light rail manager may give the identified person the notice only if the chief executive—
  - (a) has been consulted about the giving of the notice; and
  - (b) has approved the terms of the notice.
- (4) If subsection (2) does not apply, the chief executive may give a written notice to the identified person requiring the person to rectify the interference within a stated reasonable time.
- (5) The identified person must comply with a notice given under subsection (2) or (4), unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (6) If the identified person does not comply with the notice, the person who gave the notice (the *notifier*) may rectify the interference.
- (7) The identified person must pay the amount of the notifier's reasonable costs of—
  - (a) rectifying the interference; or
  - (b) changing the way the light rail transport infrastructure is built, maintained or operated, or the way the light the light rail transport infrastructure works are done, because of the interference.

(8) The notifier may recover the amount as a debt.

(9) In this section—

*rectify the interference* includes the following—

- (a) alter, dismantle or take away works;
- (b) fix damage caused by the interference;

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- (c) for interference involving the carrying out of works on light rail transport infrastructure—rectify the effect of the carrying out of the works.

## **Division 3                      Public utility plant**

### **364      Definitions for div 3**

In this division—

*light rail authority*, for light rail land, means—

- (a) if there is a light rail manager for a light rail established, or proposed to be established, on the light rail land—each of the following—
  - (i) the chief executive;
  - (ii) the light rail manager; or
- (b) otherwise—the chief executive.

*light rail land* includes land—

- (a) held by the chief executive on behalf of the State; and
- (b) on which light rail transport infrastructure is, or is proposed to be, situated.

*Note*—

Information about projects and initiatives involving light rail land is available on the department's website at <[www.tmr.qld.gov.au](http://www.tmr.qld.gov.au)>.

### **365      Retention of ownership of public utility plant**

- (1) This section applies if, immediately before the declaration of land as light rail land under section 353, public utility plant is located on the land.
- (2) The declaration does not affect the ownership of the public utility plant.

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**366 Public utility plant on light rail land**

- (1) A public utility provider may do the following things on light rail land—
  - (a) build, replace or take away, or alter, other than for maintenance or repair, its public utility plant;
  - (b) maintain or repair, or alter, for maintenance or repair, its public utility plant;
  - (c) take reasonable steps to stop obstruction or potential obstruction to, or interference or potential interference with, its public utility plant.
- (2) However, the provider may do things mentioned in subsection (1) only if each light rail authority for the light rail land agrees in writing.
- (3) A light rail authority must not unreasonably withhold agreement.
- (4) Despite subsection (2), a public utility provider may, if acting in the interests of public safety, carry out urgent maintenance of its public utility plant on light rail land without the written agreement of each light rail authority for the light rail land, but only if the provider—
  - (a) makes all reasonable attempts to obtain each authority's oral agreement to the carrying out of the maintenance; and
  - (b) whether or not each authority's oral agreement is obtained, acts as quickly as possible to advise each authority of the details of the maintenance being carried out.
- (5) Building or altering public utility plant does not affect the ownership of the plant.

**367 Chief executive must give provider information**

If asked in writing by a public utility provider, the chief executive must give the provider information about lines and

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levels for planned light rail transport infrastructure on light rail land necessary to enable the provider to minimise possible adverse affects of the establishment of the infrastructure on the provider's works.

**368 Public utility provider to consult with light rail authority before replacing public utility plant**

- (1) If a public utility provider proposes to replace the whole or a substantial proportion of its public utility plant on light rail land, the provider must, before seeking written agreement under section 366, consult with each entity that is a light rail authority for the light rail land.
- (2) The object of the consultation is to identify mutually beneficial arrangements for the replacement of the public utility plant, having regard to existing development plans for the light rail land.

**369 Public utility provider to comply with light rail authority's agreement**

- (1) This section applies if, in relation to light rail land, a public utility provider does something mentioned in section 366(1) (the *relevant action*)—
  - (a) without the written or oral agreement of a light rail authority required under section 366; or
  - (b) in a way inconsistent with an agreement with a light rail authority for the light rail land; or
  - (c) in a way inconsistent with a regulation about how things mentioned in section 366(1) are to be done.
- (2) If this section applies because of subsection (1)(a) or (b), the light rail authority may, by written notice given to the public utility provider, require the provider, at the provider's cost, and within the time stated in the notice, to take action to remedy the relevant action.

- (3) If this section applies because of subsection (1)(c), the chief executive may, by written notice given to the public utility provider, require the provider, at the provider's cost, and within the time stated in the notice, to take action to remedy the relevant action.
- (4) The time stated in a notice under subsection (2) or (3) must be a time that is reasonable in the circumstances.
- (5) If the provider does not comply with the notice, the light rail authority giving the notice to the provider may arrange for action the authority considers necessary to remedy the relevant action.
- (6) The light rail authority's reasonable expenses in arranging for the action to be carried out is a debt payable by the provider to the light rail authority.

**370 Chief executive may require public utility provider to alter position of public utility plant**

- (1) The chief executive may require a public utility provider to alter the position of the provider's public utility plant on light rail land if the chief executive considers that the plant will interfere with the exercise of the chief executive's powers for the light rail land.
- (2) The chief executive is responsible only for the cost of altering the position of the public utility plant.

**371 Information by public utility provider to light rail authority**

- (1) If, in relation to public utility plant on light rail land, a public utility provider does something mentioned in section 366(1), the provider must prepare records adequately defining the location of the plant.
- (2) A public utility provider owning public utility plant located on light rail land must, if asked by a light rail authority for the

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light rail land, give the light rail authority information adequately defining the location of the plant.

Maximum penalty for subsection (2)—40 penalty units.

**372 Liability for damage caused by failure to comply with request for information**

- (1) This section applies if—
  - (a) a light rail authority for light rail land causes damage to public utility plant located on the light rail land; and
  - (b) before the damage was caused, the light rail authority had asked for information under section 371(2) from the public utility provider owning the public utility plant; and
  - (c) the provider had not, within a reasonable time, complied with the request; and
  - (d) the damage was caused because of the failure to comply with the request.
- (2) Unless the light rail authority otherwise agrees, the authority is not liable for the damage.

**373 Liability for damage caused by failure to give enough detail about location of public utility plant**

- (1) This section applies if—
  - (a) a light rail authority for light rail land cause damage to public utility plant located on the light rail land; and
  - (b) information supplied to the light rail authority under section 371(2) did not define in enough detail the location of the plant; and
  - (c) the damage was caused because of the failure to define in enough detail the location of the plant.
- (2) Unless the light rail authority otherwise agrees, the authority is not liable for the damage.

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**374 Liability for damage caused because of failure to comply with light rail authority's requirements**

- (1) This section applies if—
  - (a) a light rail authority for light rail land causes damage to public utility plant located on the light rail land; and
  - (b) the damage was caused because the public utility provider owning the plant did something mentioned in section 366(1) in relation to the plant other than under the light rail authority's requirements under this division.
- (2) Unless the light rail authority otherwise agrees, the authority is not liable for the damage.

**375 Liability of public utility provider to pay additional expenses incurred by light rail authority**

- (1) This section applies if a light rail authority for light rail land incurs additional expense in carrying out light rail transport infrastructure works on the light rail land because a public utility provider—
  - (a) did not supply within a reasonable time information asked for by the authority under section 371(2); or
  - (b) in supplying information to the authority, did not define in enough detail the location of public utility plant; or
  - (c) did something mentioned in section 366(1) in relation to public utility plant other than under the authority's requirements under this division.
- (2) The public utility provider is liable to pay the light rail authority the additional expense.

**376 Replacement or reconstruction of public utility plant**

- (1) If the carrying out of light rail transport infrastructure works by or for a light rail authority for light rail land requires taking away or replacing public utility plant, the light rail authority

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can not be compelled to replace or reconstruct the plant in its previous location and form.

- (2) If the plant is replaced or reconstructed—
- (a) it must be done under the light rail authority's requirements; and
  - (b) it must be at the authority's expense, but the cost to the authority of replacement or reconstruction may be reduced by agreement between the authority and the public utility provider owning the plant after taking into account—
    - (i) the remaining life of the plant; and
    - (ii) the salvage or scrap value of the plant; and
    - (iii) additional expense incurred because of inaccurate information supplied by the provider about the location of the plant; and
    - (iv) additional expense incurred because the plant was not constructed in accordance with the authority's requirements.

## **Division 4                      Use of light rail or light rail transport infrastructure**

### **377      Trespass on light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site**

- (1) A person must not, without reasonable excuse, be on a light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site unless the person has the relevant person's permission to be on the light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site.

Maximum penalty—40 penalty units.

- (2) For subsection (1), permission may be given, for example—
- (a) expressly, by—
    - (i) signs, structures, textured pavement or painted lines designating points for vehicles or pedestrians to cross the light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site; or
    - (ii) signs designating the hours during which the light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site may be used by pedestrians to access a public passenger service; or
    - (iii) signs, markings or signals designating a part of the light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site as being open to traffic or to a member of the public to access a public passenger service; or
  - (b) impliedly, by the absence of demarcation between ordinary road and the light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site.
- (3) Subsection (1) does not apply to a person who is on light rail land if, under division 1, the light rail land is taken to be—
- (a) a road of which a local government has control under the *Local Government Act 1993*, section 901(1); or
  - (b) a State-controlled road.
- (4) A regulation may include rules about the use of a light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site by—
- (a) light rail vehicles; or
  - (b) persons having the permission of the chief executive to be on the light rail, light rail land, light rail transport

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infrastructure or light rail transport infrastructure works site.

(5) In this section—

*light rail land* includes land—

- (a) held by the chief executive on behalf of the State; and
- (b) on which light rail transport infrastructure is situated.

*light rail transport infrastructure works site* means land on which light rail transport infrastructure works are situated.

*relevant person* means—

- (a) for a light rail, light rail land on which there is a light rail, or light rail transport infrastructure used for a light rail, for which there is a light rail manager—the manager; or
- (b) for a light rail, light rail land or light rail transport infrastructure to which paragraph (a) does not apply—the chief executive; or
- (c) for a light rail transport infrastructure works site for light rail transport infrastructure works relating to a light rail for which there is a light rail manager—the manager; or
- (d) for a light rail transport infrastructure works site to which paragraph (c) does not apply—the chief executive.

## **Division 4A          Franchised light rail**

### **Subdivision 1      Preliminary**

#### **377A Objectives of division**

The objectives of this division are—

- 
- (a) to assist and encourage private investment in the construction, maintenance and operation of light rail transport infrastructure; and
  - (b) by the involvement of private investment, to enable light rail transport infrastructure projects to be undertaken, or public passenger services using light rail transport infrastructure to be provided, at an earlier time than would otherwise be possible; and
  - (c) to provide an appropriate management structure for the construction, maintenance and operation of light rail transport infrastructure, or the operation of a public passenger service using light rail transport infrastructure, on a commercial basis.

## Subdivision 2      Franchised light rail

### 377B Power to enter into light rail franchise agreements

- (1) The Minister may, for the State, enter into an agreement (a *light rail franchise agreement*) with a person under which, or as part of which, the person is to invest in 1 or more of the following—
  - (a) works for, or associated with, establishing a light rail;
  - (b) designing light rail transport infrastructure;
  - (c) constructing light rail transport infrastructure;
  - (d) maintaining light rail transport infrastructure;
  - (e) managing light rail transport infrastructure;
  - (f) operating light rail transport infrastructure;
  - (g) operating a public passenger service using light rail transport infrastructure.
- (2) The agreement must be consistent with—
  - (a) the coordination plan; and

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- (b) the objectives of this Act; and
  - (c) the current transport infrastructure strategies; and
  - (d) the obligations about government supported transport infrastructure set out in section 9.
- (3) The agreement may include, for example, provisions about any or all of the following—
- (a) the ownership of the light rail transport infrastructure;
  - (b) the transfer of rights under the light rail franchise agreement;
  - (c) the granting of security in relation to the light rail transport infrastructure;
  - (d) charges for the use of the light rail transport infrastructure;
  - (e) administration charges in relation to the charges mentioned in paragraph (d);
  - (f) the safety and standard of the light rail transport infrastructure;
  - (g) for an agreement relating to operating a public passenger service using light rail transport infrastructure—
    - (i) the level of the service that is to be provided; and
    - (ii) performance measures relating to the operation of the service;
  - (h) any other matter that the Minister considers necessary or desirable in the circumstances.

### **377C Operating public passenger service under agreement**

- (1) This section applies if a light rail franchise agreement relates to operating a public passenger service using light rail transport infrastructure.

- (2) The *Transport Operations (Passenger Transport) Act 1994*, chapter 6 does not apply to the light rail franchise agreement or the operation of the public passenger service.
- (3) The *Transport Operations (Passenger Transport) Regulation 2005*, part 8 does not apply in relation to the operation of the public passenger service or the operation of a light rail vehicle for the service.

### **377D Tabling of light rail franchise agreements**

- (1) The Minister must table each light rail franchise agreement and each amendment of a light rail franchise agreement in the Legislative Assembly as soon as practicable after it is entered into.
- (2) However, subsection (1) does not require the Minister to table a part of a light rail franchise agreement or amendment of a light rail franchise agreement if—
  - (a) the person with whom the State has entered the agreement gives the Minister a written notice claiming the part of the agreement or amendment should be treated as confidential on the grounds of commercial confidentiality; and
  - (b) the Minister reasonably considers the part of the agreement or amendment would be—
    - (i) exempt information under the *Right to Information Act 2009*; or
    - (ii) information disclosure of which could reasonably be expected to cause a public interest harm as mentioned in the *Right to Information Act 2009*, schedule 4, part 4, item 7.

### **377E Report on operation of division**

Each annual report of the department must include a report on the operation of this division during the financial year to which the report relates.

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### **377F Recovery of money**

If a light rail franchise agreement provides that the Minister may recover an amount from a franchisee, the amount may be recovered as a debt payable by the franchisee to the State.

### **377G Rateability of land**

- (1) A regulation may provide that light rail franchise agreement land is not rateable land under the *Local Government Act 1993* or *Local Government Act 2009*.
- (2) In this section—

*light rail franchise agreement land* means land on which is situated a light rail or light rail transport infrastructure to which a light rail franchise agreement applies.

### **377H Guarantees and undertakings**

For giving guarantees or undertakings to a franchisee, the *Statutory Bodies Financial Arrangements Act 1982* sections 14, 16, 18, 19 and 20 and part 3, division 3 apply, with all necessary changes and any changes prescribed under a regulation, to the franchisee as if the franchisee were a statutory body within the meaning of that Act.

*Editor's note—*

*Statutory Bodies Financial Arrangements Act 1982*, sections 14 (Conditions precedent to financial arrangements and other matters), 16 (Guarantees for the State), 18 (Requirement for security), 19 (Guarantee may include waiver of immunity and other provisions) and 20 (Guarantee not affected by transfer of liability) and part 3, division 3 (Consequences if payment required under guarantee)

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## Subdivision 3      Interface management

### 377I      Purpose of sdiv 3

The purpose of this subdivision is to provide for a regime for dealing with light rail interface issues in light rail interface management areas.

### 377J      Definitions for sdiv 3

In this subdivision—

*light rail interface* means an interface between—

- (a) 1 or more of the following—
  - (i) light rail;
  - (ii) light rail land;
  - (iii) light rail transport infrastructure;
  - (iv) light rail transport infrastructure works; and
- (b) either or both of the following—
  - (i) a thing (including a building, another structure or road) that is in the immediate vicinity of, or otherwise affects or is affected by, a thing mentioned in paragraph (a);
  - (ii) a place (including a building, another structure or road) at, on or in which an activity that affects or is affected by a thing mentioned in paragraph (a) is carried out.

*light rail interface agreement* see section 377K.

*light rail interface issue* means an issue that arises because of a light rail interface.

*Examples of issues that may be light rail interface issues—*

- access to a thing located partly on land owned or occupied by someone else

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- access to a thing that can only be accessed for a particular purpose (for example, maintenance) by entering land owned or occupied by someone else
- shared responsibility for safety and maintenance of shared facilities
- disruption of, or delays in, carrying out activities at a place caused by the presence of a thing, or carrying out of activities, at an adjacent or nearby place

***light rail interface management area*** means land or part of land declared as a light rail interface management area under section 377L.

***light rail land*** includes land—

- (a) held by the chief executive on behalf of the State; and
- (b) on which light rail transport infrastructure is situated.

### **377K Meaning and scope of *light rail interface agreement***

- (1) A ***light rail interface agreement*** is an agreement that provides for the following—
  - (a) identifying light rail interface issues for the light rail interface covered by the agreement;
  - (b) measures for managing the identified light rail interface issues, and implementing the measures;
  - (c) the evaluation, testing and, if necessary, revision of the measures mentioned in paragraph (b);
  - (d) the roles and responsibilities of each party to the agreement in relation to the measures mentioned in paragraph (b);
  - (e) the procedures by which each party will monitor compliance with the obligations under the agreement;
  - (f) a process for keeping the agreement under review and how any review will be conducted and implemented;
  - (g) enforcing rights or obligations under the agreement, including, for example, a dispute resolution process.

- (2) A light rail interface agreement—
  - (a) may provide for a matter by applying, adopting or incorporating a matter contained in another document (with or without modification); and
  - (b) may consist of 2 or more documents.
- (3) A light rail interface agreement must be consistent with—
  - (a) the objectives of this Act mentioned in section 2; and
  - (b) the objectives of other transport laws.

### **377L Declaration of light rail interface management area**

- (1) The chief executive may, by gazette notice, declare land or part of land to be a light rail interface management area if—
  - (a) there is a light rail interface on the land or part; and
  - (b) the chief executive reasonably believes—
    - (i) the light rail interface creates or is likely to create light rail interface issues; and
    - (ii) light rail interface arrangements should be in place to deal with the light rail interface issues or potential light rail interface issues.
- (2) Before making the declaration, the chief executive must—
  - (a) give the persons the chief executive considers may be affected by the declaration written notice of the chief executive's proposal to make the declaration; and

*Examples of persons who may be affected by the declaration—*

    - a person who owns, manages, controls or is otherwise responsible for a thing or place in relation to which the light rail interface issues or potential light rail interface issues exist
  - (b) give the persons a reasonable opportunity to make submissions to the chief executive in relation to the proposed declaration; and
  - (c) have regard to any submissions made by the persons.

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- (3) Land declared to be a light rail interface management area must be—
  - (a) identified specifically in the gazette notice; or
  - (b) identified generally in the gazette notice, and identified specifically in documents described in the gazette notice and available for perusal at an office of the department mentioned in the gazette notice.
- (4) The identification of land declared to be a light rail interface management area may, but need not, be by reference to strata occupied by the land.
- (5) In this section—

*light rail interface arrangements* means—

  - (a) light rail interface agreements; or
  - (b) arrangements under section 377O.

### **377M Particular persons may enter into light rail interface agreement**

- (1) This section applies if—
  - (a) there is a light rail interface; and
  - (b) a person (*first person*) owns, manages, controls or is otherwise responsible for light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works the subject of the light rail interface; and

*Examples of persons for paragraph (b)—*

light rail manager, light rail operator, the chief executive

- (c) another person (*second person*) owns, manages, controls or is otherwise responsible for a relevant thing or place the subject of the light rail interface; and

*Examples of persons for paragraph (c)—*

owner or occupier, a local government, chief executive, public utility plant provider

- (d) the light rail interface is in a light rail interface management area.
- (2) The first person and second person may enter into a light rail interface agreement for the light rail interface.
- (3) In this section—  
*relevant thing or place* means a thing or place mentioned in section 377J, definition *light rail interface*, paragraph (b)(i) or (ii).

### **377N Failure to enter into light rail interface agreement**

- (1) This section applies if the chief executive is satisfied—
  - (a) that, under section 377M, a person is seeking to enter into a light rail interface agreement with another person and the agreement has not been entered into because the other person—
    - (i) is unreasonably refusing or failing to enter into a light rail interface agreement with the person; or
    - (ii) is unreasonably delaying the negotiation of a light rail interface agreement with the person; or
  - (b) that—
    - (i) section 377M applies in relation to persons for a light rail interface in a light rail management area; and
    - (ii) the persons have not made a reasonable attempt to enter into a light rail interface agreement for the interface.
- (2) The chief executive may be satisfied for subsection (1)(b) only if it has been at least 60 days after the declaration of the light rail interface management area mentioned in the subsection.
- (3) The chief executive may give the persons mentioned in subsection (1)(a) or (b) a written notice (a *preliminary notice*) that—

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- (a) states the chief executive's powers under this division, including that the chief executive may give a direction under section 377O at any time after a stated date that is at least 28 days after the preliminary notice is given; and
  - (b) includes copies of this section and section 377O; and
  - (c) identifies the light rail interface issues that the chief executive reasonably considers should be dealt with by a light rail interface agreement between the persons.
- (4) The preliminary notice may contain suggested terms for inclusion in a light rail interface agreement to deal with the light rail interface issues mentioned in subsection (3)(c).
- (5) The chief executive may, by written notice, ask a person to whom a preliminary notice was given for information the chief executive reasonably requires for giving a direction under section 377O.
- (6) A person to whom a written notice is given under subsection (5) must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty for subsection (6)—60 penalty units.

### **377O Direction about arrangement that is to apply**

- (1) This section applies if—
- (a) the chief executive gives a preliminary notice under section 377N to persons; and
  - (b) the persons have not entered into a light rail interface agreement to deal with the light rail interface issues identified in the preliminary notice by the date stated in the preliminary notice.
- (2) The chief executive may—
- (a) decide the arrangements that are to apply in relation to the light rail interface issues identified in the preliminary notice; and

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- (b) direct the persons to implement the arrangements by a stated date.
  - (3) A direction under subsection (2)(b) may be given at any time after a day that is at least 28 days after the preliminary notice is given.
  - (4) A direction given under subsection (2)(b) must be written and state the following—
    - (a) the arrangements decided by the chief executive that are to apply in relation to the light rail interface issues identified in the preliminary notice;
    - (b) the date by which the arrangements must be implemented.
  - (5) A person to whom a direction is given under subsection (2)(b) must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—200 penalty units.

### **377P Guidelines about light rail interfaces etc.**

- (1) The chief executive may make guidelines about the following—
  - (a) how persons may identify light rail interface issues that may affect them;
  - (b) measures that may be implemented to deal with particular light rail interface issues;
  - (c) standard terms that may be included in light rail interface agreements.
- (2) The chief executive must—
  - (a) publish the guidelines, and the provisions of any document applied, adopted or incorporated by the guidelines, on the department's website; and
  - (b) make copies of the guidelines, and the provisions of any document applied, adopted or incorporated by the

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guidelines, available for inspection, without charge, during normal business hours, at the places the chief executive considers appropriate.

## **Subdivision 4      Miscellaneous**

### **377Q Severance of light rail transport infrastructure**

- (1) The chief executive may decide to sever light rail transport infrastructure from light rail land on which it is situated.
- (2) If the chief executive makes a decision under subsection (1), the severed infrastructure is taken to be, and must be dealt with as, personal property separate from the land.
- (3) A decision under subsection (1) takes effect on the day stated in a notice given, for the purposes of this subsection, by the chief executive to—
  - (a) the owner of the light rail transport infrastructure; and
  - (b) each other person the chief executive knows, or ought reasonably to know, has an interest in the light rail transport infrastructure.
- (4) The severance of light rail transport infrastructure from land under this section—
  - (a) does not affect the right of the infrastructure to be situated on the land; and
  - (b) does not affect a person's rights or obligations under a light rail franchise agreement relating to the infrastructure, other than to the extent stated in the agreement; and
  - (c) does not affect any right to drain water or sewage from the infrastructure across and through the land or to use any means of drainage of water or sewage from the facility across and through the land.
- (5) In this section—

*light rail land* includes land—

- (a) held by the chief executive on behalf of the State; and
- (b) on which light rail transport infrastructure is situated.

*light rail transport infrastructure* includes any part of light rail transport infrastructure.

**377R Limited compensation for easements etc. or damage relating to overhead wiring for a light rail**

- (1) This section applies in relation to the following—
  - (a) a light rail overhead wiring easement;
  - (b) light rail overhead wiring damage.
- (2) Despite anything to the contrary in the *Acquisition of Land Act 1967* or a provision of this chapter, compensation is not payable for—
  - (a) the taking of a light rail overhead wiring easement that is an easement or other interest in land relating to a road; or
  - (b) light rail overhead wiring damage that occurs on or in relation to a road.
- (3) Also, despite anything to the contrary in the *Acquisition of Land Act 1967* or a provision of this chapter, compensation is payable for the following only in accordance with subsections (4) to (8)—
  - (a) the taking of a light rail overhead wiring easement that is not an easement or other interest in land relating to a road (*compensable taking of overhead wiring easement*);
  - (b) light rail overhead wiring damage that occurs other than on or in relation to a road (*compensable overhead wiring damage*).
- (4) A relevant person may apply in writing to the chief executive for compensation for—

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- (a) compensable taking of overhead wiring easement; or
  - (b) compensable overhead wiring damage.
- (5) An application under subsection (4) must be made—
- (a) within 1 year after—
    - (i) for compensable taking of overhead wiring easement—the day of the taking; or
    - (ii) for compensable overhead wiring damage—the day the damage occurs; or
  - (b) within a longer period allowed by the chief executive.
- (6) If, within 60 days after a relevant person applies for compensation under subsection (5), or a longer period agreed between the person and the chief executive, no agreement has been reached between the person and the chief executive about the application—
- (a) the person may apply to the Land Court for the compensation; or
  - (b) the chief executive may apply to the Land Court to have the compensation decided by the court.
- (7) The Land Court has jurisdiction to deal with an application made to it under subsection (6), including jurisdiction to require the chief executive to pay the person compensation decided by the court.
- (8) Compensation paid under this section for compensable overhead wiring damage caused to land must not be more than the compensation that would have been awarded if the land had been taken by the chief executive under the *Transport Planning and Coordination Act 1994*, part 4.
- (9) In this section—

***light rail overhead wiring damage*** means damage caused by the construction of overhead wiring for a light rail.

***light rail overhead wiring easement*** means an easement or other interest in land taken by the chief executive under the

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*Transport Planning and Coordination Act 1994*, part 4, for the construction, maintenance or operation of overhead wiring for a light rail.

**relevant person** means—

- (a) for compensable taking of overhead wiring easement—the person who holds an interest in the land affected by the easement or other interest in the land; or
- (b) for compensable overhead wiring damage—a person affected by the damage.

**road** means road within the meaning of section 352.

## Division 5                      Compensation entitlements

### 378      Definitions for div 5

In this division—

**access**, for land, means—

- (a) access to the land from the road network, whether or not through other land; or
- (b) access from the land to the road network, whether or not through other land.

**busway land** means busway land that, when declared under chapter 9 to be busway land, was a road or part of a road.

**establishment**, of light rail transport infrastructure on light rail land, includes the following—

- (a) initial construction of the light rail transport infrastructure on the light rail land;
- (b) construction for changing or adding to light rail transport infrastructure previously constructed on the light rail land;

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- (c) putting in place the arrangements under which persons are permitted or not permitted to be on the light rail land.

*interference*, with access, includes loss or reduction of access.

*light rail land* means light rail land that, when declared under this chapter to be light rail land, was—

- (a) a road or part of a road; or
- (b) busway land.

### **379 No entitlement to compensation for particular matters**

- (1) A person having an interest in land (the *relevant land*) has no entitlement at law, except to the extent this division provides, to compensation for a matter listed in subsection (2), to the extent the matter is caused by—
  - (a) the establishment of a light rail; or
  - (b) the establishment or proposed establishment of light rail transport infrastructure on light rail land; or
  - (c) the operation of a light rail on light rail land.
- (2) The matters are—
  - (a) the adverse affect on the amenity or likely amenity of the neighbourhood of the relevant land; and
  - (b) interference with an activity of a business, commercial, industrial or residential nature carried out on the relevant land; and
  - (c) loss or damage arising directly or indirectly from interference with access for the relevant land; and
  - (d) the reduction or loss of a right of access for the relevant land and loss or damage caused by the reduction or loss of the right of access.

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**380 Compensation for reduced market value of interest in land**

- (1) A person who has an interest in land (the *relevant land*) is entitled to compensation if the establishment of light rail transport infrastructure on light rail land (the *infrastructure*), when completed, is a cause of interference (the *interference*) with access for the relevant land.
- (2) Subsection (1) applies only if—
  - (a) either of the following applies—
    - (i) the light rail land joins directly with the relevant land or with land (*access land*) giving access for the relevant land because of an easement or other right or interest;
    - (ii) the light rail land does not join directly with the relevant land or with access land, but it is possible to travel from the relevant land or access land to the light rail land by travelling only over road; and
  - (b) the practical effect of the interference is substantially greater in nature and extent than the practical effect of interference with access for the relevant land that might reasonably be expected to be experienced from time to time in changes to the operation of the road network; and
  - (c) the practical effect of the access interference is that there is a direct and substantial interference with practicable access for the relevant land compared with the practicable access existing for the relevant land before the establishment of the infrastructure.
- (3) The amount of the compensation is the amount by which the market value of the interest may fairly be said to have been reduced because of the interference now affecting the relevant land.
- (4) However, the compensation must not be more than the compensation that would have been awarded if the interest had been acquired.

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**381 Compensation of person in actual occupation for interference with enjoyment of land**

- (1) A person is entitled to compensation if—
- (a) the person is in actual occupation of land (the *relevant land*) when the establishment of light rail transport infrastructure on light rail land (the *infrastructure*) is happening or when it is completed; and
  - (b) the establishment of the infrastructure is a cause of interference with access (the *access interference*) for the relevant land; and
  - (c) the access interference is a cause of interference (the *enjoyment interference*) with the person's enjoyment of the relevant land.
- (2) Subsection (1) applies only if—
- (a) either of the following applies—
    - (i) the light rail land joins directly with the relevant land or with land (*access land*) giving access for the relevant land because of an easement or other right or interest;
    - (ii) the light rail land does not join directly with the relevant land or with access land, but it is possible to travel from the relevant land or access land to the light rail land by travelling only over road; and
  - (b) the practical effect of the access interference is substantially greater in nature and extent than the practical effects of interference with access for the relevant land that might reasonably be expected to be experienced from time to time in changes to the operation of the road network; and
  - (c) the practical effect of the access interference is that there is a direct and substantial interference with practicable access for the relevant land compared with the practicable access existing for the relevant land before the infrastructure.

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- (3) The amount of compensation is an amount fairly representing, in the particular circumstances—
    - (a) if the person is in occupation of the relevant land at any time during the establishment of the infrastructure—the reasonable cost to the person of the enjoyment interference during the establishment; and
    - (b) if the person is in occupation of the relevant land when the establishment of the infrastructure is completed—the reasonable cost to the person of the enjoyment interference, starting from when the establishment of the infrastructure is completed.
  - (4) In calculating the compensation, no regard is to be had to the reduction in the market value of an interest the person may have in the relevant land.

### **382 Chief executive may supply or contribute to new access arrangements**

- (1) The chief executive may, having regard to the establishment, or proposed establishment, of light rail transport infrastructure on light rail land, enter into an agreement with a person who is the owner or occupier of land (the *relevant land*) for—
  - (a) the supply by the chief executive, or a contribution by the chief executive towards the supply, of works for alternative access for the relevant land; or
  - (b) the carrying out, or a contribution towards the carrying out, of other works in relation to the relevant land for the purpose of access for the land.
- (2) A person's entitlement to compensation under this division is reduced to the extent provided for in an agreement under subsection (1).

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### **383 Obtaining compensation**

- (1) A person claiming to be entitled to compensation under this division may apply in writing to the chief executive for the compensation.
- (2) The application must be made—
  - (a) within 12 months after the establishment of light rail transport infrastructure on light rail land giving rise to the claim for compensation; or
  - (b) within a longer time agreed by the chief executive.
- (3) If, within 60 days after the person applies under subsection (1), or a longer time agreed between the person and the chief executive, no agreement has been reached between the person and the chief executive on the application—
  - (a) the person may apply to the Land Court for the compensation; or
  - (b) the chief executive may apply to the Land Court to have the compensation decided by the court.
- (4) The Land Court has jurisdiction to deal with an application made to it under subsection (3), including jurisdiction to require the chief executive to pay the person compensation decided by the court.
- (5) Nothing in subsection (2)(a) stops a person from applying for compensation before the establishment of the light rail transport infrastructure is completed if the claim relates to the person's occupation of land during the establishment of the infrastructure.

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## **Part 5**                      **Accreditation provisions for light rail**

### **384**     **Reference to light rail in pt 5**

In this part, other than in this section, section 385 and section 399, a reference to a light rail is a reference to a light rail that is—

- (a) established on light rail land; or
- (b) proposed to be established on light rail land; or
- (c) proposed to be established on land proposed to become light rail land.

### **385**     **Accreditation of managers and operators**

- (1) A person must not manage a light rail on light rail land unless the person is accredited as the light rail manager for the light rail.

Maximum penalty—160 penalty units.

- (2) A person must not operate rolling stock on a light rail on light rail land unless the person is accredited as a light rail operator for the light rail.

Maximum penalty—160 penalty units.

### **386**     **Applications for accreditation**

A person may apply to the chief executive for accreditation as—

- (a) the light rail manager for a light rail; or
- (b) a light rail operator for a light rail; or
- (c) the light rail manager and a light rail operator for a light rail.

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### **387 Additional information for applications**

- (1) The chief executive may, by written notice, require an applicant to give the chief executive the stated written information the chief executive reasonably requires to consider the application.
- (2) The chief executive may reject the application if the applicant does not comply with the requirement within a stated reasonable time, not less than 28 days, without reasonable excuse.

### **388 Giving accreditation**

- (1) The chief executive must promptly consider an application for accreditation and give, or refuse to give, the accreditation.
- (2) The chief executive must accredit an applicant as the light rail manager for a light rail if satisfied—
  - (a) the applicant—
    - (i) is accredited in another State to manage a similar type of light rail; or
    - (ii) has the competency and capacity to manage the light rail safely; and
  - (b) the applicant has an appropriate safety management system; and
  - (c) the applicant has the financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities for the light rail; and
  - (d) the applicant has rights of access to all land the applicant needs for the establishment and operation of the light rail; and
  - (e) the applicant has rights to the use of all light rail transport infrastructure and other infrastructure the applicant needs for the establishment and operation of the light rail.

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- (3) The chief executive must accredit an applicant as a light rail operator for a light rail if satisfied—
- (a) the applicant—
    - (i) is accredited in another State to operate rolling stock on a light rail for a similar type of service; or
    - (ii) has the competency and capacity to operate rolling stock on the light rail safely; and
  - (b) the applicant has an appropriate safety management system; and
  - (c) the applicant has the financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities for the light rail; and
  - (d) the applicant has or will have an agreement with the light rail’s manager that—
    - (i) authorises the applicant to operate particular rolling stock on the light rail; and
    - (ii) includes appropriate arrangements for the safe operation of the rolling stock.
- (4) Subsection (3)(d) does not apply if the applicant is applying for accreditation as both the light rail manager and the light rail operator for the light rail.
- (5) In considering a safety management system, the chief executive must consider—
- (a) what the applicant proposes for the light rail; and
  - (b) the appropriateness of the safety management system for what the applicant proposes; and
  - (c) the safety levels achievable, consistent with the nature of what the applicant proposes, at a reasonable cost; and
  - (d) the need for efficient and competitive light rail transport services; and
  - (e) consistency with generally accepted risk management principles; and

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- (f) the levels of safety proposed compared with the levels of safety of competing transport modes.
- (6) Subsection (5) does not limit what the chief executive may consider in considering a safety management system.
- (7) If the chief executive decides to give the accreditation, the chief executive must promptly give the applicant a written notice stating—
  - (a) the decision; and
  - (b) the details of the accreditation, including its scope; and
  - (c) if the accreditation is given on conditions—
    - (i) the details of the conditions; and
    - (ii) the reason for the conditions.
- (8) If the chief executive decides not give the accreditation, the chief executive must promptly give the applicant a written notice stating—
  - (a) the decision; and
  - (b) the reason for the decision.
- (9) A written notice given under subsection (7) or (8) must be accompanied by an information notice for the decision the subject of the notice.

### **389 Annual levy**

- (1) A regulation may impose levies on light rail managers and operators for light rail relating to their accreditation on a basis prescribed under the regulation.
- (2) The chief executive must give each light rail manager and light rail operator for a light rail written notice of the amount of a levy applying to the manager or operator.
- (3) The chief executive may recover the amount of a levy as a debt owed to the chief executive.

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**390 Accreditation conditions**

- (1) An accreditation may be subject to conditions.
- (2) For the accreditation of a person as the light rail manager for a light rail, a condition must be about—
  - (a) constructing or maintaining the light rail; or
  - (b) managing the light rail safely, considering the need for efficient and competitive services.
- (3) For the accreditation of a person as a light rail operator for a light rail, a condition must be about—
  - (a) operating rolling stock safely, considering the need for efficient and competitive services; or
  - (b) the person having an agreement with the light rail's manager that—
    - (i) authorises the person to operate particular rolling stock on the light rail; and
    - (ii) includes appropriate arrangements for the safe operation of the rolling stock.
- (4) However, for either type of accreditation, a condition may also be about—
  - (a) the person's financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities for the light rail; or
  - (b) paying accreditation fees; or
  - (c) something else prescribed under a regulation.
- (5) An accredited person must comply with each condition of the person's accreditation.

Maximum penalty for subsection (5)—40 penalty units.

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### **391 Requiring accreditation conditions to be complied with**

- (1) This section applies if the chief executive reasonably believes an accredited person has not complied with a condition of the person's accreditation.
- (2) The chief executive may, by written notice, require the person to remedy the breach within a reasonable period stated in the notice.
- (3) If the person has not complied with the condition of the person's accreditation, the person must comply with the notice.

Maximum penalty for subsection (3)—60 penalty units.

### **392 Accreditation period**

An accreditation remains in force until it is suspended, cancelled or surrendered.

### **393 Amending accreditation conditions on application**

- (1) An accredited person may apply to the chief executive for an amendment of the conditions of the person's accreditation.
- (2) The chief executive must consider the application and decide whether to make the amendment.
- (3) The chief executive may amend a condition only if satisfied the condition is—
  - (a) no longer appropriate; or
  - (b) no longer consistent with generally accepted risk management principles.
- (4) If the chief executive decides to amend a condition, the chief executive must promptly give the applicant a written notice stating the decision and the amendment.
- (5) If the chief executive decides not to amend a condition, the chief executive must promptly give the applicant a written notice stating—

- (a) the decision; and
  - (b) the reason for the decision.
- (6) A written notice given under subsection (5) must be accompanied by an information notice for the decision the subject of the notice.
- (7) If the chief executive does not decide the application within 70 days after it is made, the chief executive is taken to have made the amendment sought by the accredited person at the end of the 70 days.

### **394 Amending accreditation conditions without application**

- (1) This section applies if the chief executive considers the conditions of a person's accreditation should be amended but the person has not applied for the proposed amendment.
- (2) Before amending the conditions, the chief executive must give the person a written notice—
- (a) stating the proposed amendment; and
  - (b) stating the reason for the proposed amendment; and
  - (c) inviting the person to show, within a stated time of at least 28 days, why the proposed amendment should not be made.
- (3) If, after considering all written representations made within the stated time, the chief executive still considers the conditions should be amended, the chief executive may amend the conditions—
- (a) in the way proposed; or
  - (b) in another way, having regard to the representations.
- (4) The chief executive must inform the person of the decision by written notice.
- (5) If the chief executive decides to amend the conditions, the notice must also state—
- (a) the amendment; and

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- (b) the reason for the decision.
- (6) A written notice given under subsections (4) and (5) must be accompanied by an information notice for the decision the subject of the notice.
- (7) Subsections (2) to (5) do not apply if the chief executive proposes to amend the conditions of a person's accreditation for a formal or clerical reason not adversely affecting the person's interests.
- (8) The chief executive may amend a condition in a way mentioned in subsection (7) by written notice given to the person.

### **395 Suspending or cancelling accreditation**

- (1) This section applies if the chief executive—
  - (a) reasonably suspects an accredited person has not complied with a condition of the person's accreditation; and
  - (b) considers the person's accreditation should be suspended or cancelled (the *proposed action*).
- (2) Before taking the proposed action, the chief executive must give the person a written notice—
  - (a) stating the proposed action; and
  - (b) stating the reason for the proposed action; and
  - (c) if the proposed action is suspension of the accreditation, stating the proposed suspension period; and
  - (d) if the proposed action is a limited suspension of the accreditation, stating the details of the proposed limitation; and

*Editor's note—*

See section 397 (Limited suspension of accreditation).

- (e) inviting the person to show, within a stated time of at least 28 days, why the proposed action should not be taken.
- (3) If, after considering all written representations made within the stated time, the chief executive still considers the proposed action should be taken, the chief executive may—
- (a) if the proposed action is to suspend the accreditation—suspend the accreditation—
    - (i) for no longer than the proposed suspension period; and
    - (ii) if the proposed action was a limited suspension, by no more than the proposed limitation; or
  - (b) if the proposed action was to cancel the accreditation—cancel the accreditation or suspend it for a period.
- (4) The chief executive must inform the person of the decision by written notice.
- (5) If the chief executive decides to suspend or cancel the accreditation, the notice must also state the reason for the decision.
- (6) The chief executive may immediately cancel the accreditation by written notice given to the person if—
- (a) rather than cancel the accreditation, the chief executive has suspended it on condition the person do certain things to rectify the failure to comply with a condition of the person's accreditation; but
  - (b) the person has not rectified the failure within the suspension period.
- (7) The notice must state the reason for the decision.
- (8) A written notice given under subsection (4) or (6) must be accompanied by an information notice for the decision the subject of the notice.

### **396 Immediate suspension of accreditation**

- (1) This section applies if the chief executive—
  - (a) reasonably believes an accredited person has not complied with a condition of the person's accreditation; and
  - (b) considers members of the public may be seriously harmed if urgent action to suspend the accreditation is not taken.
- (2) The chief executive may immediately suspend an accreditation by written notice given to the person.
- (3) The notice must state the reason for the decision and must be accompanied by an information notice for the decision.
- (4) The chief executive must at the same time give the person a notice under section 395(2).
- (5) The accreditation is suspended under this section until the earlier of the following—
  - (a) the chief executive gives the person notice of the chief executive's decision under section 395;
  - (b) the end of 60 days after the notice under subsection (2) was given to the person.

### **397 Limited suspension of accreditation**

Under section 395 or 396, the chief executive may limit a suspension to, for example—

- (a) a particular light rail for which the accredited person is accredited; or
- (b) a particular service operated by the accredited person.

### **398 Surrender of accreditation**

An accredited person may, at any time, surrender the person's accreditation by written notice given to the chief executive.

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**399 Accreditation for proposed light rail**

- (1) This section applies if—
  - (a) a person holds an accreditation under this part as the light rail manager, a light rail operator, or the light rail manager and a light rail operator, for a light rail—
    - (i) proposed to be established on light rail land; or
    - (ii) proposed to be established on land proposed to become light rail land; and
  - (b) the light rail is established on light rail land substantially in the way proposed.
- (2) The accreditation automatically becomes an accreditation under this Act that the person holds as the light rail manager, a light rail operator, or the light rail manager and a light rail operator, for the light rail as established.

## **Part 6 Light rail incidents**

**400 Application of ch 7, pt 6 and other provisions**

- (1) Chapter 7, part 6 applies for a light rail in the same way it applies for a railway.
- (2) For applying chapter 7, part 6 for a light rail—
  - (a) a reference to a railway is taken to be a reference to a light rail; and
  - (b) a reference to an accredited person is taken to be a reference to an accredited person for this chapter; and
  - (c) a reference to a rail safety officer is taken to be a reference to a person who is an authorised person.

## Chapter 11 Investigating potential busway or light rail

### 401 Purpose of ch 11

The purpose of this chapter is—

- (a) to allow persons authorised by the chief executive to enter land to investigate the land's potential and suitability for the development of busway or light rail transport infrastructure (the *development*) before powers under chapter 9 or 10 are exercised; and
- (b) to safeguard the interests of the owners and occupiers of land affected by the entry.

### 402 Definitions for ch 11

In this chapter—

*affected person* for land, means each person who is an owner or occupier of the land.

*associated person*, of an investigator, means any of the following—

- (a) if the investigator is a corporation, the corporation's chief executive, secretary or directors;
- (b) the investigator's employees or partners who are individuals;
- (c) a person who is an agent of, or contractor for, the investigator, and engaged in writing for the investigator's authority;
- (d) employees of an agent or contractor mentioned in paragraph (c);
- (e) if a person mentioned in paragraph (c) is a corporation, the corporation's chief executive, secretary, directors or employees.

*compensation notice* see section 411.

*development* see section 401.

*investigator* means a person who holds an investigator's authority.

*investigator's authority* means an investigator's authority given under this chapter.

*rectification notice* see section 411.

### **403 How to apply for investigator's authority**

- (1) This section applies if the person proposing the development can not successfully negotiate entry to the land with all affected persons for the land.
- (2) The person may apply to the chief executive for an investigator's authority for the land.
- (3) The applicant must give the chief executive the following in support of the application—
  - (a) details of the proposed development, including the land on which the development is proposed to be located;
  - (b) the likely demand for the services associated with the proposed development;
  - (c) advice as to how the proposed development would satisfy an identified need;
  - (d) details of the applicant's financial and technical capacity to establish the proposed development;
  - (e) details of the steps the applicant has taken, or tried to take, to satisfy its obligations under subsection (1);
  - (f) all other information the chief executive considers is necessary to assess the application.
- (4) The application must be in writing and state the following information—
  - (a) the land intended to be entered under the investigator's authority;
  - (b) the purpose for which the authority is sought;

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- (c) details of the nature of the activities proposed to be conducted on the land;
- (d) the period for which the authority is sought.
- (5) The chief executive must advise the affected persons for the land—
  - (a) that an application for an investigator’s authority has been made for the land; and
  - (b) the powers a person given an authority may exercise under this chapter.

#### **404 Additional information about application**

- (1) Before deciding the application, the chief executive—
  - (a) must consult with the affected persons for the land about the proposed entry to the land; and
  - (b) may require the applicant to give additional information about the proposed entry.
- (2) The chief executive may reject the application if the applicant fails, without reasonable excuse, to give the additional information within a stated reasonable time of not less than 28 days.

#### **405 Giving investigator’s authority**

- (1) The chief executive may—
  - (a) give an investigator’s authority, with or without conditions; or
  - (b) refuse to give the authority.
- (2) If the chief executive refuses to give the investigator’s authority, the chief executive must give the applicant written reasons for the refusal.
- (3) Without limiting subsection (1)(a), a condition may require lodging a bond or security deposit with the chief executive.

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- (4) The investigator's authority must be only for the part of the land the chief executive is satisfied is reasonably necessary for conducting the investigations.

#### **406 Investigator's authority**

- (1) The investigator's authority must be in writing stating the following—
- (a) the land to which it applies;
  - (b) the purpose for which it is given;
  - (c) when it ends;
  - (d) all conditions imposed on the authority.
- (2) The investigator's authority authorises the investigator and associated persons of the investigator—
- (a) to enter and re-enter land the subject of the authority for investigating the land's potential and suitability for the development; and
  - (b) to the extent reasonably necessary or convenient for the purpose—
    - (i) to do anything on the land; or
    - (ii) to bring anything onto the land; or
    - (iii) to temporarily leave machinery, equipment or other items on the land.

*Examples of actions authorised by the investigator's authority—*

- 1 to conduct surveys, investigate and take samples
  - 2 to clear vegetation, or otherwise disturb the land, to the extent reasonably necessary
  - 3 to construct temporary access tracks using the land or using materials brought onto the land
- (3) It is declared that—
- (a) the giving of the investigator's authority is not an indication of a commitment or approval by the State, the chief executive or anyone else to any proposal, and in

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particular, does not commit the State to acquiring land for the development; and

- (b) a person is not an employee or agent of the State only because the person is an investigator.
- (4) The investigator's authority does not authorise entering or doing anything to a structure on the land used solely for residential purposes without the permission of the occupier of the land.
- (5) The investigator and each associated person of the investigator, must comply with each condition of the authority, unless the investigator or associated person has a reasonable excuse.

Maximum penalty for subsection (5)—200 penalty units.

**407 What investigator must do before land is entered for the first time**

- (1) Before land is entered for the first time under the investigator's authority, the investigator must give a written notice to the affected persons for the land together with a copy of the authority.
- (2) The notice must state the following—
  - (a) the investigator has been given the investigator's authority;
  - (b) the things the investigator and associated persons of the investigator are authorised to do under the authority;
  - (c) a general outline of the things intended to be done on the land, including the construction of any temporary access track;
  - (d) the approximate period during which the land is to be entered under the authority;
  - (e) the rights of the affected persons under this chapter for the rectification of, and to compensation for, loss or damage suffered because of the investigation;

- (f) the giving of the authority is not an indication of a commitment or approval by the State, the chief executive or anyone else in relation to any proposal, and in particular, does not commit the State to acquiring land for the development.
- (3) The investigator or an associated person of the investigator may enter the land only if—
  - (a) the affected persons give written consent to the entry; or
  - (b) at least 7 days have passed since the notice was given.

#### **408 Investigator to issue associated person with identification**

- (1) Before the investigator allows an associated person of the investigator to act under the investigator's authority, the investigator must give the associated person an identification document in the approved form.

Maximum penalty—10 penalty units.

- (2) The identification document must—
  - (a) state the names of the investigator and the person to whom the identification document is given; and
  - (b) indicate that, for this Act, the person is associated with the holder of the investigator's authority; and
  - (c) state the capacity in which the associated person is an associated person; and
  - (d) be signed by or for the investigator; and
  - (e) be signed by or for the associated person; and
  - (f) state when it ends.
- (3) A person who stops being an associated person of an investigator must return the person's identification document to the investigator as soon as practicable, but within 21 days, after the person stops being an associated person, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

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(4) Subsections (5) and (6) apply if a person who claims to be, or appears to be, an affected person for the land asks an individual who has entered, is entering or is about to enter land under the investigator's authority—

- (a) for identification; or
- (b) about the person's authority to enter the land.

(5) If the request is made of an investigator, the investigator must immediately state the investigator's name and show the person a copy of the investigator's authority.

Maximum penalty—10 penalty units.

(6) If the request is made of an associated person of the investigator, the associated person must immediately state his or her name and show the other person the associated person's identification document.

Maximum penalty for subsection (6)—10 penalty units.

#### **409 Pretending to be an investigator or associated person**

A person must not pretend to be an investigator or an associated person of an investigator.

Maximum penalty—80 penalty units.

#### **410 Investigator to take care in acting under investigator's authority**

The investigator and all associated persons of the investigator—

- (a) must take as much care as is practicable to minimise damage to the land or inconvenience to the affected persons for the land; and
- (b) may do anything necessary or desirable to minimise the damage or inconvenience.

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## 411 Rectification of damage by investigator

- (1) An affected person for the land may, by written notice (*rectification notice*) given to the investigator, require the investigator, within a reasonable time after the investigator has finished investigating the land under the investigator's authority, to rectify loss or damage suffered by the affected person arising out of—
  - (a) the investigator entering the land; or
  - (b) use made of the land by the investigator; or
  - (c) anything brought onto the land by the investigator; or
  - (d) anything done or left on the land while the investigator was on the land under, or purportedly under, the investigator's authority.
- (2) If the loss or damage mentioned in subsection (1) is not rectified or can not be rectified, the affected person may, by written notice (*compensation notice*) given to the investigator, claim compensation for the loss or damage not rectified.
- (3) A rectification or compensation notice must be given—
  - (a) within 1 year after the loss or damage was suffered; or
  - (b) at a later time allowed by the Land Court.
- (4) The claim for compensation may be made—
  - (a) whether or not the act or omission giving rise to the claim was authorised under the investigator's authority; and
  - (b) whether or not the investigator took steps to prevent the loss or damage; and
  - (c) even though the loss or damage was caused, or contributed to, by an associated person of the investigator.
- (5) In subsection (1)—

*investigator* includes an associated person of the investigator.

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#### **412 Compensation payable by investigator**

- (1) The investigator must compensate each affected person for the land for the loss or damage the affected person has suffered and that has not been rectified.
- (2) The amount of compensation is—
  - (a) the amount agreed between the parties; or
  - (b) if the parties can not agree on the amount within a reasonable time, the amount decided by the Land Court.

#### **413 Release of bond or security deposit**

- (1) This section applies if, under a condition of the investigator's authority, a bond or security deposit is required to be lodged with the chief executive.
- (2) If an affected person for the land does not give a rectification or compensation notice within the prescribed time, the chief executive may keep the bond or security deposit until 1 year after the investigator's authority expires.
- (3) If an affected person for the land gives a rectification or compensation notice within the prescribed time, the chief executive may keep the bond or security deposit until the chief executive is satisfied the damage or loss has been repaired or rectified or any compensation agreed or awarded for the damage or loss has been paid to the affected person.
- (4) In this section—

*prescribed time*, for giving a rectification or compensation notice arising out of the entry of land by the investigator, means 1 year after the investigator was last on the land under, or purportedly under, the investigator's authority.

#### **414 Use of bond or security deposit to repair or rectify**

- (1) This section applies if—

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- (a) under a condition of the investigator's authority, a bond or security deposit is required to be lodged with the chief executive; and
  - (b) an affected person for the land gives a rectification or compensation notice within the prescribed time; and
  - (c) the chief executive is satisfied the damage or loss has not been repaired or rectified or compensation agreed or awarded for the damage or loss has not been paid to the affected person.
- (2) The chief executive—
- (a) may use the bond or security deposit to repair or rectify the damage or loss or pay the compensation; and
  - (b) must pay the balance, if any, to the investigator.
- (3) In this section—

*prescribed time*, for giving a rectification or compensation notice arising out of the entry of land by the investigator, means 1 year after the investigator was last on the land under, or purportedly under, the investigator's authority.

## Chapter 12      Miscellaneous transport infrastructure

### Part 1              Preliminary

#### 415      Definitions for ch 12

In this chapter—

*approval* means an approval granted under section 420.

*approval conditions* see section 423(1).

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***dispute notice*** see section 425(1).

***intersecting area*** means an area (other than an area of land that is required land) or a thing that—

- (a) intersects required land; and
- (b) is owned, administered, controlled, or managed by a GOC or a local government.

*Examples—*

- an area of water
- land covered by water
- miscellaneous transport infrastructure works
- a port
- rail corridor land
- a road

***licensee*** means the holder of an operational licence.

***operational licence*** means a licence in force granted—

- (a) under section 418; or
- (b) under another Act, for infrastructure that is miscellaneous transport infrastructure.

***required land*** means land that has been acquired for miscellaneous transport purposes or an incidental purpose.

***responsible entity***, for an intersecting area, means an entity responsible for administering, controlling, or managing the area under any Act.

## **416 Meaning of *miscellaneous transport infrastructure***

(1) ***Miscellaneous transport infrastructure*** means—

- (a) infrastructure relating to the transportation, movement, transmission or flow of anything, including, for example, goods, material, substances, matter, particles with or without charge, light, energy, information and anything generated or produced; or

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*Examples of infrastructure relating to the transportation, movement, transmission or flow of anything—*

- pipelines, whether underground or above ground, for transporting chemical, gas or petroleum products, or mineral slurry
  - conveyor belts
- (b) anything declared under a regulation to be miscellaneous transport infrastructure, whether or not it is infrastructure under paragraph (a).
- (2) However, road transport infrastructure, rail transport infrastructure, air transport infrastructure, public marine transport infrastructure and port infrastructure are not miscellaneous transport infrastructure.
- (3) Also, busway transport infrastructure and light rail transport infrastructure are not miscellaneous transport infrastructure.

## **Part 2**                      **Operational licences and approvals for licensees**

### **Division 1**                **Definitions**

#### **417**    **Definition for pt 2**

In this part, other than division 2—

*Minister* means the Minister administering the *State Development and Public Works Organisation Act 1971*.

## **Division 2                    Granting operational licences**

### **418    Minister may grant operational licence**

The Minister may grant to a person a licence to construct, maintain, use or operate stated miscellaneous transport infrastructure on stated conditions.

## **Division 3                    Approvals for licensees for intersecting areas**

### **419    Purpose and scope of div 3**

- (1) The purpose of this division is to provide a mechanism for a licensee to obtain an approval from a responsible entity for an intersecting area.
- (2) However, this division does not apply to an approval if the approval is required under another Act.
- (3) This division applies only for ensuring miscellaneous transport infrastructure can be constructed, maintained, used or operated across, over or under the area.

### **420    Approvals**

- (1) A licensee may apply for an approval by a responsible entity to construct, maintain, use or operate miscellaneous transport infrastructure stated in the licensee's operational licence across, over or under an intersecting area.
- (2) The application must—
  - (a) be written; and
  - (b) identify the area and the miscellaneous transport infrastructure; and
  - (c) state any other thing prescribed under a regulation.
- (3) The entity may grant or refuse the approval.

- (4) If the approval is granted, the licensee may, subject to any approval conditions, construct, maintain, use or operate the miscellaneous transport infrastructure identified in the application across, over or under the area.

#### **421 Refusal to grant approval**

If an application has been made to a responsible entity and the entity refuses the application, it must give the applicant written notice within 14 days after refusing the application stating—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the applicant may apply in writing to the Minister for the approval.

#### **422 Licensee may apply to Minister if approval not granted**

- (1) This section applies if—
  - (a) an application has been made to a responsible entity for an approval; and
  - (b) the entity refuses the application or does not grant the application within 20 business days after it is made.
- (2) The applicant may apply in writing to the Minister for the approval.
- (3) The Minister may grant or refuse the approval.
- (4) The Minister must give the applicant and the entity notice of the granting or refusal.
- (5) If the Minister grants the approval, it is taken to have been granted by the entity.
- (6) If the Minister decides to grant or refuse the approval, the Minister must prepare a statement of the reasons for the decision for this section.

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- (7) The statement of reasons must be tabled in the Legislative Assembly within 14 sitting days after the day of the decision.
- (8) In preparing the statement of reasons, the Minister must not include anything that is exempt information.
- (9) A failure to comply with subsections (6) to (8) is of no effect.
- (10) The *Judicial Review Act 1991*, parts 3 and 4, do not apply to any decision the Minister makes or fails to make for this section.
- (11) In this section—  
*exempt information* means information that is exempt information under the *Right to Information Act 2009*.

## Division 4                      Conditions for approvals

### 423      Approval conditions

- (1) If a responsible entity or the Minister grants an approval, the entity may impose reasonable conditions for the approval (*approval conditions*).
- (2) However, a condition may only be imposed within 20 business days of—
  - (a) if the approval was granted by the entity—the making of the application to the entity; or
  - (b) if the approval was granted by the Minister—the giving of notice of the approval by the Minister to the entity.
- (3) An approval condition may, for example, provide for the following—
  - (a) reinstating land disturbed by construction;
  - (b) installing signs, markings or warning devices about or for the miscellaneous transport infrastructure for which the approval was granted on the intersecting area;
  - (c) surveying or siting the infrastructure on the area;

- (d) adding to, altering or replacing the infrastructure, at the applicant's cost—
  - (i) to ensure the safe operation or use of other infrastructure or works on the area; or
  - (ii) to preserve, promote or protect the environmental condition of the area;
- (e) how the approval may be amended, suspended or cancelled.

#### **424 Notice of approval conditions**

If a responsible entity imposes approval conditions, it must give the applicant for the approval written notice within 14 days after imposing the conditions stating—

- (a) the conditions; and
- (b) that the applicant may appeal against the conditions to an arbitrator; and
- (c) that an appeal may be started by giving the entity a written notice of dispute within 20 business days after receiving the notice of the conditions.

### **Division 5 Arbitration of approval conditions**

#### **425 Notice of dispute**

- (1) If a responsible entity imposes approval conditions, the applicant for the approval may, by written notice to the entity (a *dispute notice*), dispute the reasonableness of the conditions.
- (2) However, if notice of the conditions has been given to the applicant under section 424, a dispute notice may only be given within 20 business days after the giving of the notice of the conditions.

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#### **426 Appointment of arbitrator**

- (1) Within 10 business days after the giving of a dispute notice, the responsible entity and the applicant for approval must join in appointing an independent arbitrator to resolve the dispute.
- (2) If the entity and the applicant do not appoint an arbitrator within the 10 business days, the following persons may, on the application of the applicant or entity, appoint the arbitrator—
  - (a) if the entity is a local government—the Minister and the Minister administering the Planning Act, acting jointly;
  - (b) if the entity is not a local government—the Minister.
- (3) However, each Minister may nominate another person to exercise the power under subsection (2).

#### **427 Arbitrator's functions**

The arbitrator must—

- (a) resolve the dispute by deciding what are reasonable conditions for the approval; and
- (b) give the entity and the applicant notice of, and reasons for, the decision.

#### **428 Arbitrator's powers**

- (1) In resolving the dispute, the arbitrator may—
  - (a) confirm the approval conditions imposed by the responsible entity; or
  - (b) amend the conditions; or
  - (c) set aside the conditions and substitute other conditions.
- (2) The arbitrator may exercise the powers of an arbitrator under the *Commercial Arbitration Act 1990*.

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#### **429 Hearing procedures**

- (1) An arbitration must be by way of rehearing, unaffected by the responsible entity's decision on the approval conditions.
- (2) Unless this division or a regulation made under schedule 1 otherwise provides, the practice and procedure for an arbitration follow the practice and procedure for an arbitration under the *Commercial Arbitration Act 1990*.

#### **430 Effect of arbitrator's decisions**

- (1) An arbitrator's decision under this division is final.
- (2) The entity and the applicant may not apply for review of, or appeal against, the decision.
- (3) The approval conditions decided by the arbitrator are, other than for section 424 and this division, taken to be the approval conditions imposed by the responsible entity.

### **Division 6 Miscellaneous**

#### **431 Miscellaneous transport infrastructure remains property of licensee**

- (1) This section applies if—
  - (a) a licensee constructs, maintains, uses or operates miscellaneous transport infrastructure across, over or under an intersecting area; and
  - (b) the licensee has obtained an approval from each responsible entity for the area.
- (2) Subject to a condition of the licensee's operational licence or an agreement between the licensee and the State, the infrastructure remains the licensee's property despite—
  - (a) the attaching of the infrastructure to the area; or
  - (b) an approval condition.

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- (3) However, an approval condition may provide for—
  - (a) if the State agrees—the disposal of the infrastructure to the State on reasonable terms if the licensee no longer holds an operational licence for the infrastructure; or
  - (b) if the State and licensee agree—someone else to own or acquire the infrastructure.

#### **432 Compensation to responsible entity from licensee**

- (1) This section applies if—
  - (a) a licensee constructs, maintains, uses or operates miscellaneous transport infrastructure across, over or under an intersecting area; and
  - (b) a responsible entity for the area incurs a cost, damage, liability or loss because of the existence, construction, maintenance, use or operation of the infrastructure.
- (2) The licensee must pay the entity the amount of the cost, damage, loss or liability.
- (3) The entity may claim the amount in a proceeding in a court with jurisdiction for the amount claimed.

## **Part 3 Authorities to occupy and use land**

#### **433 Temporary use and occupation of land**

To carry out miscellaneous transport infrastructure works, the chief executive, or anyone authorised in writing by the chief executive, may temporarily occupy and use land, including roads, and do anything on the land that is necessary or convenient.

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**434 Notice of entry or permission to enter**

- (1) If a person proposes to occupy or use land under this chapter, the person must—
  - (a) give at least 3 days written notice to the owner or occupier of the land; or
  - (b) obtain the written permission of the owner or occupier to the occupation or use.
- (2) The notice must state—
  - (a) the miscellaneous transport infrastructure works to be carried out; and
  - (b) the use proposed to be made of the land; and
  - (c) details of the things proposed to be done on the land; and
  - (d) an approximate period when the occupation or use is expected to continue.
- (3) A notice may be given under subsection (1) in relation to land even though it is proposed to resume the land for miscellaneous transport infrastructure.
- (4) After the end of 3 days after service of a notice under subsection (1), or with the permission of the owner or occupier, the land may be entered and the miscellaneous transport infrastructure works specified in the notice carried out.
- (5) If a person proposes to occupy or use land to carry out urgent remedial work to miscellaneous transport infrastructure or miscellaneous transport infrastructure works, subsection (1) does not apply but the person must, if practicable, notify the owner or occupier of the land orally before entering the land.

**435 Compensation for physical damage from entry etc.**

- (1) An owner of land that is entered, occupied or used under this chapter may give a written notice to the chief executive claiming compensation for physical damage caused by the



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## Part 5                      Miscellaneous

### 437      Effect of chapter on other Acts

This chapter has effect despite a provision of another Act about—

- (a) constructing miscellaneous transport infrastructure; or
- (b) acquiring interests in land, or doing anything else, to enable the construction of miscellaneous transport infrastructure.

## Chapter 13      Function of QR Limited

### 438      Function

- (1) The function of QR Limited is to provide comprehensive transport services and services ancillary to those services, whether in or outside Queensland or Australia.
- (2) Without limiting subsection (1), the function includes—
  - (a) the provision of passenger and freight transport services; and
  - (b) the provision of consultancy and training services relating to transport services; and
  - (c) establishing, maintaining and arranging for the provision of transport infrastructure; and
  - (d) doing anything likely to complement or enhance the function or something mentioned in paragraphs (a) to (c).
- (3) QR Limited is taken to have had the function from when Queensland Rail became a GOC.
- (4) This section does not limit the functions of QR Limited.

## **Part 2 Declaration of QR National**

### **438A Treasurer to declare QR National by gazette notice**

The Treasurer must, by gazette notice made within 6 months after the commencement of this section, state the entity that is, or is to be, the ultimate holding company of QR Limited ACN 124 649 967.

## **Chapter 14 Transporting dangerous goods by rail**

### **Part 1 Introductory**

#### **439 Purposes of ch 14**

The purposes of this chapter are—

- (a) to reduce risk arising from transporting dangerous goods by rail; and
- (b) to help create a substantially uniform national rail transport law about dangerous goods; and
- (c) to promote consistency between the regulation of the transport of dangerous goods by rail and by other modes of transport.

#### **440 Application of ch 14**

- (1) This chapter—
  - (a) applies only to the transportation of dangerous goods by rail; and
  - (b) applies in addition to, and does not limit, any other provision of this Act or any other Act.

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- (2) However, this chapter does not apply to any of the following—
- (a) the transport of the following except if transported with other dangerous goods—
    - (i) radioactive substances under the *Radiation Safety Act 1999*;
    - (ii) explosives under the *Explosives Act 1999*;
  - (b) the transport of dangerous goods if the total quantity of dangerous goods in a load on a rail vehicle is less than the quantity for which an inner package, as prescribed under a regulation, is required to be marked under the regulation;
  - (c) the transport by a person of a load of dangerous goods by rail if—
    - (i) the load does not contain dangerous goods—
      - (A) in a receptacle with a capacity that is more than a capacity prescribed under a regulation; or
      - (B) in a receptacle if the quantity of dangerous goods in the receptacle is more than the quantity prescribed under a regulation for the receptacle; and
    - (ii) the goods are not, and do not include, dangerous goods prescribed under a regulation as designated dangerous goods; and
    - (iii) the aggregate quantity of the dangerous goods in the load, as worked out under a regulation, is less than 25% of a load of dangerous goods that, under a regulation, is required to be placarded; and
    - (iv) the goods are not being transported by the person in the course of a business of transporting goods by rail.

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- (3) Also, even if particular goods are prescribed under a regulation as dangerous goods, this chapter does not apply to the transport of the particular dangerous goods in a rail vehicle if—
- (a) the dangerous goods are in packaging that is—
    - (i) designed for, and forming part of, the fuel or electrical system of the rail vehicle propulsion engine or auxiliary engine; or
    - (ii) part of, and necessary for, the operation of an appliance, plant or refrigeration system forming part of or attached to the rail vehicle; or
  - (b) the dangerous goods are in equipment carried in, fitted to or installed in the rail vehicle and designed for the safety or protection of an occupant of the rail vehicle, the rail vehicle or its load, including, for example, a fire extinguisher or self-contained breathing apparatus.
- (4) A requirement of this Act imposed because of this chapter does not apply to the transport by rail of dangerous goods to the extent the goods are transported by, or under the direction of, an authorised person or relevant emergency service officer to prevent a dangerous situation.

#### **441 Ch 14 binds all persons**

- (1) This chapter binds all persons, including every Queensland government entity, and, so far as the legislative power of the Parliament permits, every government entity of the Commonwealth or of another State.
- (2) In this section—  
**government entity** includes—
- (a) the State, the Commonwealth or another State; and
  - (b) an instrumentality, agent, authority, company, GOC or entity of the State, the Commonwealth or another State.

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## Part 2                      Regulations

### 442      Regulations about dangerous goods

- (1) A regulation may make provision about dangerous goods and the transport of dangerous goods by rail, including, for example, the following—
  - (a) identifying and classifying goods as dangerous goods, and the identification and classification of dangerous goods;
  - (b) the making of decisions by the chief executive for the purposes of a regulation in relation to the following—
    - (i) the identification and classification of goods as dangerous goods;
    - (ii) the identification and classification of dangerous goods;
    - (iii) the specification of what is, and what is not, compatible with dangerous goods for transport purposes;
    - (iv) prohibiting or regulating the transport of dangerous goods;
    - (v) regulating the containment of dangerous goods that are being, or that are to be, transported;
  - (d) the analysis and testing of dangerous goods;
  - (e) the marking and labelling of packages containing dangerous goods for transport and the placarding of rail vehicles and packaging on or in which dangerous goods are transported;
  - (g) containers, rail vehicles, packaging equipment and other items to be used for transporting dangerous goods;
  - (h) the manufacture of rail vehicles, containers, packaging, equipment and other items for use in transporting dangerous goods;

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- (i) the loading of dangerous goods for, and the unloading of dangerous goods after, their transportation;
- (j) deciding routes along which, the areas in which and the times during which, dangerous goods may or may not be transported;
- (k) procedures for transporting dangerous goods, including—
  - (i) the quantities and circumstances in which dangerous goods may be transported; and
  - (ii) safety procedures and equipment;
- (l) the approval of—
  - (i) rail vehicles, packaging, equipment and other items used in relation to transporting dangerous goods; and
  - (ii) facilities for, and methods of, testing or using rail vehicles, packaging, equipment and other items used in relation to transporting dangerous goods; and
  - (iii) processes carried out in relation to transporting dangerous goods;
- (n) other approvals;
- (o) documents to be prepared or kept by persons involved in transporting dangerous goods and the approval of alternative documentation;
- (p) obligations arising, and procedures to be followed, in a dangerous situation;
- (q) the training and qualifications required of persons involved in, and the approval of training courses and qualifications relating to involvement in, transporting dangerous goods;
- (r) the recognition of accredited providers of training, package testing, design verification and other similar activities.

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- (1A) Without limiting subsection (1), a regulation may make provision about—
- (a) the recognition of laws of other jurisdictions relating to transporting dangerous goods by rail, things done under those laws and giving effect to those things; and
  - (b) the recognition of an entity (the *competent authorities panel*) whose membership includes the chief executive and dangerous goods authorities, and other matters in relation to the competent authorities panel.
- (1B) For subsection (1A)(b), a regulation may provide that the chief executive must refer to the competent authorities panel—
- (a) an application made to the chief executive for a decision, approval or exemption under this Act if the chief executive considers the decision, approval or exemption should have effect in all participating dangerous goods jurisdictions or some of those jurisdictions including this jurisdiction; or
  - (b) a decision, approval or exemption under this Act that has effect in all participating dangerous goods jurisdictions or some of those jurisdictions including this jurisdiction if—
    - (i) the chief executive considers the decision, approval or exemption should be cancelled or amended; or
    - (ii) a dangerous goods authority recommended to the chief executive that the decision, approval or exemption should be cancelled or amended; or
  - (c) a recommendation by the chief executive to a dangerous goods authority that a decision, approval or exemption given by the authority under a corresponding law, that has effect in all participating dangerous goods jurisdictions or some of those jurisdictions including this jurisdiction, if the chief executive considers a ground exists under the corresponding law for the

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authority to cancel or amend the decision, approval or exemption.

- (1C) If a regulation provides that a matter must be referred to the competent authorities panel, the regulation may provide that the chief executive must have regard to the panel's decision.
- (1D) A regulation may make provision in relation to an action taken or decision made by the competent authorities panel or a dangerous goods authority in relation to a matter considered by the competent authorities panel, including that the action or decision has effect in this jurisdiction as if it were an action or decision of the chief executive.
- (2) Without limiting subsection (1), a regulation may provide—
- (a) for the granting or renewing of, or refusing to grant or renew, an approval or exemption; or
  - (b) grounds for amending, suspending or cancelling an approval or exemption.
- (3) The *Statutory Instruments Act 1992* is not limited by this section.
- (4) In this section—
- amend*** includes vary.
- corresponding law*** means—
- (a) a law of another State corresponding, or substantially corresponding, to this chapter; or
  - (b) a law of the other State that is declared under a regulation to be a corresponding law, whether or not the law corresponds, or substantially corresponds, to this chapter.

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## Part 3 Approvals and exemptions

### Division 1 Exemptions

#### 443 Exemptions

- (1) A person, or a representative of a class of person, may apply to the chief executive for an exemption from complying with a provision of a regulation about transporting dangerous goods by rail.
- (2) The chief executive may, on an application under subsection (1) or on the chief executive's own initiative, exempt a person or a class of person from complying with the provision if satisfied—
  - (a) it is not reasonably practicable for the person or class of person to comply with the provision; and
  - (b) granting the exemption—
    - (i) would not be likely to create a risk of a dangerous situation, greater than would be the case if the person or class of person did comply; and
    - (ii) would not cause unnecessary administrative or enforcement difficulties, particularly about maintaining national substantially uniform rail transport laws about dangerous goods.
- (3) If an exemption is given on conditions, the exemption operates only if the conditions are complied with.
- (4) A person operating under an exemption must comply with any conditions on which the exemption was granted.

Maximum penalty—100 penalty units or 6 months imprisonment.
- (5) If an application is made for an exemption and the chief executive grants the exemption, the chief executive must send to each applicant a notice stating—

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- (a) the provisions of a dangerous goods regulation in relation to which the exemption applies; and
  - (b) the dangerous goods to which the exemption applies; and
  - (c) the time for which the exemption applies, including the date that the exemption takes effect; and
  - (d) the conditions to which the exemption is subject; and
  - (e) the geographical area for which the exemption applies; and
  - (f) for a class exemption—each of the following to be stated in the exemption—
    - (i) the class of person exempted;
    - (ii) the class representative for the exemption.
- (6) If an application is made for an exemption and the chief executive does not grant the exemption, the chief executive must give a notice stating the following to each applicant—
- (a) that the chief executive is not granting the exemption;
  - (b) the reasons for the decision;
  - (c) that the person may—
    - (i) under section 485, ask for the decision to be reviewed and appeal against the reviewed decision; and
    - (ii) under the *Transport Planning and Coordination Act 1994*, part 5, ask for the decision or the reviewed decision to be stayed.

*Note—*

A notice is not required when an exemption is granted on conditions.

- (7) The *Statutory Instruments Act 1992*, sections 24 to 26 apply to the exemption as if it were a statutory instrument.
- (8) A regulation may make provision in relation to applying for, and the giving of, exemptions under this Act.



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- (3) It is also a ground for amending, suspending or cancelling an exemption if—
  - (a) public safety has been endangered, or is likely to be endangered because of the exemption; or
  - (b) the chief executive considers that if he or she were dealing with an application for the exemption again (a *notional application*), the chief executive would not be satisfied, as mentioned in section 443(2), in relation to the granting of the notional application; or
  - (c) the chief executive considers it necessary in the public interest.
- (4) It is also a ground for amending, suspending or cancelling an approval if—
  - (a) public safety has been endangered, or is likely to be endangered because of the exemption; or
  - (b) the chief executive considers it necessary in the public interest.

**445 What chief executive must do before taking proposed action, other than for class exemption**

- (1) This section applies if the chief executive proposes to amend, suspend or cancel an approval or exemption, other than a class exemption (the *proposed action*).
- (2) Before taking the proposed action, the chief executive must give the holder of the approval or exemption written notice stating—
  - (a) the proposed action; and
  - (b) the grounds for the proposed action; and
  - (c) an outline of the facts and circumstances forming the basis for the grounds; and
  - (d) if the proposed action is to amend the approval or exemption, including a condition of the approval or exemption—the proposed amendment; and

- (e) if the proposed action is to suspend the approval or exemption—the proposed suspension period; and
- (f) an invitation to the holder of the approval or exemption to show in writing, within a stated time of at least 28 days, why the proposed action should not be taken.

**446 What chief executive must do before taking proposed action for class exemption**

- (1) This section applies if the chief executive proposes to amend, suspend or cancel a class exemption (the *proposed action*).
- (2) Before taking the proposed action, the chief executive must give written notice to the class representative for the exemption and in the gazette stating—
  - (a) the proposed action; and
  - (b) the grounds for the proposed action; and
  - (c) an outline of the facts and circumstances forming the basis for the grounds; and
  - (d) if the proposed action is to amend the exemption, including a condition of the exemption—the proposed amendment; and
  - (e) if the proposed action is to suspend the exemption—the proposed suspension period; and
  - (f) an invitation to any member of the class for the exemption to show in writing, within a stated time of at least 28 days, why the proposed action should not be taken.

**447 Decision on proposed action**

- (1) If, after considering any written representations made within the time allowed under section 445 or 446, the chief executive still considers the proposed action should be taken, the chief executive may—

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- (a) if the proposed action was to amend the approval or exemption—amend the approval or exemption; or
  - (b) if the proposed action was to suspend the approval or exemption—suspend the approval or exemption for no longer than the period stated in the notice under section 445 or 446; or
  - (c) if the proposed action was to cancel the approval or exemption—amend or cancel the approval or exemption, or suspend the approval or exemption for a period.
- (2) The chief executive must give written notice of the chief executive's decision to—
- (a) for an approval or exemption, other than a class exemption—the holder; or
  - (b) for a class exemption—the class representative for the exemption.
- (3) If the chief executive decides to amend, suspend or cancel the approval or exemption, the notice must state the reasons for the decision and be accompanied by an information notice.
- (4) The decision takes effect on the day notice is given under subsection (2) or a later day stated in the notice.

**448 Sections 445–447 do not apply to beneficial or clerical amendment**

- (1) Sections 445 to 447 do not apply—
- (a) if the chief executive proposes to amend an approval or exemption only—
    - (i) for a formal or clerical reason; or
    - (ii) in another way that does not adversely affect the interests of any person; or
  - (b) if the chief executive proposes to amend an approval or exemption in another way or cancel it and the holder has asked the chief executive to take the proposed action.

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- (2) The chief executive may amend an approval or exemption in a way mentioned in subsection (1) by written notice to—
    - (a) for an approval or exemption, other than a class exemption—the holder; or
    - (b) for a class exemption—the class representative for the exemption.

#### **449 Immediate suspension in the public interest**

- (1) Despite sections 445 and 446, this section applies if the chief executive considers it is necessary in the interest of public safety to immediately suspend an approval or exemption.
- (2) The chief executive may, by written notice to the holder of the approval or exemption, other than a class exemption, immediately suspend the approval or exemption until the earlier of the following—
  - (a) a notice is given to the holder under section 447(2); or
  - (b) the end of 56 days after the day the notice under this section is given to the holder.
- (3) The chief executive may, by written notice to the class representative for a class exemption, immediately suspend the exemption until the earlier of the following—
  - (a) a notice is given for the exemption under section 447(2); or
  - (b) the end of 56 days after the day the notice under this section is given to the class representative.
- (4) If the chief executive suspends a class exemption, the chief executive must give notice of the suspension in the gazette.
- (5) A notice under subsection (2) or (3) must state the reasons for the decision and be accompanied by an information notice.

## **Part 4                      Offences**

### **451      Duties when transporting dangerous goods**

- (1) A person involved in transporting dangerous goods by rail must ensure, as far as is practicable, that the goods are transported safely.
- (2) A person involved in transporting dangerous goods by rail must not contravene this chapter or a dangerous goods regulation in circumstances in which the person knew, or ought reasonably to have known, that the contravention would be likely to endanger the safety of another person or of property or the environment.

Maximum penalty—

- (a) if the contravention results in death or grievous bodily harm to a person—1000 penalty units or 2 years imprisonment; or
  - (b) otherwise—500 penalty units or 1 year's imprisonment.
- (3) This section applies in addition to, and does not limit, any other provision of this chapter or a dangerous goods regulation.

### **452      Exclusion orders prohibiting involvement in the transport of dangerous goods by rail**

- (1) This section applies if a person is convicted of a dangerous goods offence.
- (2) The court before which the person is convicted may, after having regard to the following matters, make an order (an *exclusion order*) that the person be prohibited for a stated period from involvement in the transport of dangerous goods by rail—
  - (a) the person's record in the transport of dangerous goods;

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- (b) the person's criminal history to the extent the court considers it relevant to the making of the exclusion order;
- (c) the circumstances surrounding the commission of the offence;
- (d) any other matters the court considers appropriate.
- (3) However, the court must not make an exclusion order that prohibits the person from driving a rail vehicle other than a rail vehicle transporting dangerous goods.
- (4) A person must not contravene an exclusion order.  
Maximum penalty—500 penalty units or 2 years imprisonment.
- (5) Subsections (2) and (4) do not limit any other penalty the court may impose for the offence.
- (6) If a court has made an exclusion order, the court may revoke or amend the exclusion order on the application of—
- (a) the chief executive; or
- (b) the person for whom the order was made but only if the court is satisfied there has been a change of circumstances warranting revocation or amendment and the chief executive was given reasonable notice of the application.
- (7) For subsection (6), the chief executive is entitled to appear and be heard and to give and produce evidence at the hearing of the application for or against the granting of the revocation or amendment.
- (8) In this section—  
***criminal history***, of a person, means each of the following despite the *Criminal Law (Rehabilitation of Offenders) Act 1986*, sections 6, 8 and 9—
- (a) every conviction of the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this provision;

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- (b) every charge made against the person for an offence, in Queensland or elsewhere, and whether before or after the commencement of this provision.

***involvement***, in the transport of dangerous goods by rail, includes the following—

- (a) importing, or arranging for the importation of, dangerous goods;
- (b) marking or labelling packages and unit loads containing dangerous goods for transport by rail, and placarding vehicles in which dangerous goods are transported by road;
- (c) consigning dangerous goods for transport by rail;
- (d) loading dangerous goods onto a vehicle or into a container that is to be put on a vehicle for transport by rail or unloading dangerous goods that have been transported by rail;
- (e) undertaking or being responsible for, other than as an employee or subcontractor, the transport of dangerous goods by rail;
- (f) driving a vehicle carrying dangerous goods by rail;
- (g) being a consignee of dangerous goods transported by rail;
- (h) being involved as a director, secretary or manager of a corporation or other person who takes part in the management of a corporation that takes part in something mentioned in paragraphs (a) to (g).

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## **Part 5                      Recovery of costs and forfeiture**

### **453      Forfeiture if conviction relates to dangerous goods**

- (1) This section applies if a person is convicted of a dangerous goods offence.
- (2) The court before which the person is convicted may order the dangerous goods or their packaging, or other things used to commit the offence, be forfeited to the State.
- (3) Subsection (1) does not limit the court's power to make any other order on the conviction including an order under section 455.

### **454      Dealing with forfeited things etc.**

- (1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.
- (2) Without limiting subsection (1), the chief executive may destroy or dispose of the thing.
- (3) The chief executive must not deal with the thing until any review of, or appeal against, the decision to forfeit the thing is decided.

### **455      Recovery of costs from convicted person**

- (1) A court convicting a person of a dangerous goods offence may order the person to pay to the State any of the following—
  - (a) costs that have been reasonably incurred in investigating and prosecuting the offence including, for example, collecting, packaging, testing, transporting, storing or destroying the dangerous goods or other evidence;
  - (b) costs that, after the conviction, will be reasonably incurred in collecting, packaging, testing, transporting,

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storing, destroying, selling or otherwise disposing of the dangerous goods or other evidence, whether or not there is an order under section 453 for forfeiture of the dangerous goods or other things.

- (2) An amount ordered to be paid under subsection (1) is a debt owing to the State.
- (3) A court may make an order under subsection (1) in addition to any other order the court may make.
- (4) A document purporting to be signed by any of the following stating details of the costs that have been or will be reasonably incurred for a matter mentioned in subsection (1) is evidence of the costs—
  - (a) for the department—the chief executive;
  - (b) for another government entity—the person who is the chief executive or otherwise responsible for the entity.

#### **456 Recovery of costs of government action**

- (1) This section applies if any of the following events happen in relation to the transportation of dangerous goods by rail—
  - (a) a dangerous situation;
  - (b) an incident wholly or partly constituted by or arising from—
    - (i) the escape of dangerous goods; or
    - (ii) an explosion or fire involving dangerous goods;
  - (c) an incident involving the risk of the escape of dangerous goods or an explosion or fire involving dangerous goods.
- (2) If a government entity incurs costs because of the event, the entity may recover the costs reasonably incurred in dealing with the event as a debt owing to the entity.
- (3) The costs are recoverable as a joint and several liability from the following persons—

- (a) the person who owned the dangerous goods when the event happened;
  - (b) the person who had possession or control of the dangerous goods when the event happened;
  - (c) the person who caused the event;
  - (d) the person responsible (other than as an employee, agent or subcontractor of someone else) for the transportation of the dangerous goods by rail.
- (4) However, costs are not recoverable from a person—
- (a) who does not incur civil liability because of section 458; or
  - (b) who establishes that—
    - (i) the event was primarily caused by someone else; or
    - (ii) the person could not, exercising reasonable care, have prevented the event; or
    - (iii) the event was not attributable to the person or to an employee, agent or subcontractor of the person.
- (5) This section does not limit the powers a government entity has apart from this chapter.

## **Part 6                      Miscellaneous**

### **457      Facilitation of proof**

- (1) In a prosecution for a dangerous goods offence, if an authorised person gives evidence that he or she believes, or believed at a particular time relevant to the exercise of a power, any of the matters mentioned in subsection (2), the court must accept the matter as proved if—
- (a) it considers the belief is, or was, reasonable; and

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- (b) there is no evidence to the contrary.
- (2) The matters are as follows—
- (a) that dangerous goods described in transport documentation as being carried in a rail vehicle are or were carried in the rail vehicle;
  - (b) that particular goods are or were dangerous goods or dangerous goods of a particular type;
  - (c) if a marking or placard on, or attached to, a substance or container indicates or indicated that the substance is or was or the container contains or contained particular dangerous goods—that the substance is or was or the container contains or contained those dangerous goods;
  - (d) if a marking on, or attached to, a package indicates or indicated that the package contains or contained particular dangerous goods—that the package contains or contained those dangerous goods;
  - (e) if a marking or placard on, or attached to, a vehicle or equipment indicates or indicated that the vehicle or equipment is or was being used to transport dangerous goods—that the vehicle or equipment is or was being used to transport those dangerous goods;
  - (f) if a marking or placard on, or attached to, a substance or packaging indicates or indicated, in relation to the substance, the packaging or the contents of the packaging, a particular capacity, tare weight, origin, character, specification, ownership or date of manufacture—that the substance, the packaging or the contents of the packaging has or had that capacity, tare weight, origin, character, specification, ownership or date of manufacture;
  - (g) if markings on, or attached to, a package indicate or indicated, in relation to the contents of the package, a particular capacity, tare weight, origin, character, specification, ownership or date of manufacture—that the contents of the package have or had that capacity,

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tare weight, origin, character, specification, ownership or date of manufacture;

- (h) if a marking or placard on, or attached to, a vehicle or packaging indicates or indicated, in relation to the load of the vehicle or the contents of the packaging, a particular quantity of dangerous goods—that the vehicle or packaging contains or contained that quantity of dangerous goods;
- (i) that a person is or is not, or was or was not at a particular time, accredited in relation to the transport by rail of dangerous goods.

#### **457A Document signed by chief executive is evidence of matters stated in it if no evidence to the contrary**

- (1) In a prosecution for a contravention of this Act, a court may admit each of the following documents as evidence if the document purports to be signed by the chief executive—
  - (a) a document relating to whether a person is exempt from a requirement under section 443;
  - (b) a document relating to a vehicle, equipment or another item required under a dangerous goods regulation to be approved by the chief executive;
  - (c) a document relating to an accreditation under a dangerous goods regulation about the transport of dangerous goods.
- (2) If there is no evidence to the contrary, the court must accept the document as proof of the facts stated in it.

#### **458 Helping in accidents or emergencies**

- (1) This section applies if a person, other than an official—
  - (a) helps, or attempts to help, in a situation in which an accident or emergency involving dangerous goods happens or is likely to happen; and



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- (b) a reference in a provision of this Act to a dangerous goods regulation includes a reference to a regulation that makes provision for goods too dangerous to be transported.
  - (4) Subsections (1) and (3) do not apply to the following provisions—
    - (a) section 440;
    - (b) part 2;
    - (c) section 443.
  - (5) Also, subsections (1) and (3) do not apply to subordinate legislation made under this Act unless a particular instrument of subordinate legislation expressly provides.
  - (6) A requirement of this Act imposed because of this part does not apply to the transport by rail of goods too dangerous to be transported to the extent the goods are transported by, or under the direction of, an authorised person or relevant emergency service officer to prevent a dangerous situation.

#### **458B Consignment of goods too dangerous to be transported prohibited**

A person must not consign for transport by rail goods too dangerous to be transported.

Maximum penalty—

- (a) if the contravention results in death or grievous bodily harm to a person—1000 penalty units or 2 years imprisonment; or
- (b) otherwise—500 penalty units or 1 year's imprisonment.

#### **458C Regulations**

- (1) A regulation may make provision about goods too dangerous to be transported by rail, including, for example, the following—

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- (a) identifying, classifying and regulating goods that are too dangerous to be transported, including prohibiting the transport of the goods;
  - (b) the making of decisions by the chief executive for the purposes of a regulation in relation to the following—
    - (i) the identification and classification of goods as goods too dangerous to be transported;
    - (ii) the identification and classification of goods too dangerous to be transported.
- (2) Without limiting subsection (1), a regulation may make provision about—
- (a) the recognition of laws of other jurisdictions relating to goods too dangerous to be transported by rail, things done under those laws and giving effect to those things; and
  - (b) the recognition of an entity (the *competent authorities panel*) whose membership includes the chief executive and dangerous goods authorities, and other matters in relation to the competent authorities panel.
- (3) For subsection (2)(b), a regulation may provide that the chief executive must refer to the competent authorities panel—
- (a) an application made to the chief executive for a decision under this Act if the chief executive considers the decision should have effect in all participating dangerous goods jurisdictions or some of those jurisdictions including this jurisdiction; or
  - (b) a decision under this Act that has effect in all participating dangerous goods jurisdictions or some of those jurisdictions including this jurisdiction if—
    - (i) the chief executive considers the decision should be cancelled or amended; or
    - (ii) a dangerous goods authority recommended to the chief executive that the decision should be cancelled or amended; or

- (c) a recommendation by the chief executive to a dangerous goods authority that a decision given by the authority under a corresponding law, that has effect in all participating dangerous goods jurisdictions or some of those jurisdictions including this jurisdiction, if the chief executive considers a ground exists under the corresponding law for the authority to cancel or amend the decision.
- (4) If a regulation provides that a matter must be referred to the competent authorities panel, the regulation may provide that the chief executive must have regard to the panel's decision.
- (5) A regulation may make provision in relation to an action taken or decision made by the competent authorities panel or a dangerous goods authority in relation to a matter considered by the competent authorities panel, including that the action or decision has effect in this jurisdiction as if it were an action or decision of the chief executive.
- (6) The *Statutory Instruments Act 1992* is not limited by this section.
- (7) In this section—
  - amend*** includes vary.
  - corresponding law*** means—
    - (a) a law of another State corresponding, or substantially corresponding, to this chapter; or
    - (b) a law of the other State that is declared under a regulation to be a corresponding law, whether or not the law corresponds, or substantially corresponds, to this chapter.

## **Chapter 15 Public marine transport infrastructure**

### **Part 1 Public marine facilities**

#### **459 Appointment of manager of public marine facility**

- (1) The Governor in Council may, by regulation, appoint a person (the *manager*) to manage a public marine facility.

*Examples of persons who may be appointed—*

a local government, a port authority, the chief executive or the person who is for the time being the manager of a resort

- (2) The appointment may only be made if the person consents to the appointment.
- (3) The appointment may be on conditions stated under the regulation, including the payment of a fee to the chief executive for moorings in the facility.
- (4) Under a regulation, a condition may be changed if the manager consents to the change.
- (5) However, the consent of the manager is not required to change the fee payable under a regulation to the chief executive for moorings in the facility.
- (6) Subsection (3) does not limit the power to impose, under a regulation, fees for moorings in a public marine facility, whether or not a manager has been appointed to manage the facility.

#### **460 Manager's responsibility for maintenance and injuries etc.**

- (1) The manager is responsible for maintaining the public marine facility in good condition to a standard appropriate to its use.

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- (2) The facility is taken, for the purposes of all adverse civil proceedings in relation to death, injury, damage or loss, to be solely owned, occupied and under the management, control and responsibility of the manager.
- (3) However, subsection (2) does not apply to the extent any death, injury, damage or loss is attributable to a structural defect in the facility unless—
- (a) the defect is attributable to the manager's failure to—
- (i) properly construct, extend or alter the facility in accordance with a sanction under a provision continuing to have effect under repealed section 236; or
- Editor's note—*
- Section 236 (Continuation of certain provisions of Harbours Act requiring approval for certain matters) was repealed on 20 October 2003.
- (ii) properly maintain the facility; or
- (b) the defect or its continuation is attributable to a contravention by the manager of the conditions of the manager's appointment.

#### **461 Management by chief executive**

- (1) If, apart from this section, there is no current manager of a public marine facility, the chief executive is taken to be the manager of the facility until the chief executive or someone else is appointed as the manager under section 459.
- (2) If the chief executive is the manager of a public marine facility, the chief executive—
- (a) has any powers, conferred under a regulation, to limit or prohibit the use of the facility; and
- (b) may exercise any other of the chief executive's powers, and do anything the chief executive considers necessary or convenient, for the facility's effective and efficient management.

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- (3) This section does not limit a power the chief executive has apart from this section.

#### **462 Management by local government**

If a local government is the manager of a public marine facility, the local government—

- (a) has, for the facility, all the functions, powers and obligations of a local government under the *Local Government Act 1993*; and
- (b) may make local laws and do anything it considers necessary or convenient for the facility's effective and efficient management.

#### **463 Management by port authority**

- (1) If a port authority is the manager of a public marine facility, the port authority—

- (a) has, for the facility, all the functions, powers and obligations of a port authority under chapter 8; and
- (b) may exercise its powers, and do anything it considers necessary or convenient for the facility's effective and efficient management.

- (2) This section does not limit the functions, powers or obligations of a port authority that is a GOC.

#### **464 Management by another person**

If the manager of a public marine facility is not the chief executive, a local government or a port authority, the manager's management powers include any power, conferred under a regulation, to limit or prohibit the use of the facility.

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**465 Exercise of manager's powers to be consistent with conditions**

Anything done by a manager under sections 461 to 464 must be consistent with any conditions imposed on the manager's appointment.

**466 Fees**

- (1) The manager of a public marine facility may impose fees payable to the manager for the use of the facility, whether as a condition of an approval to use the facility or otherwise.
- (2) The fee may, for example, be imposed by reference to—
  - (a) ships using the facility; or
  - (b) goods or passengers loaded, unloaded or transhipped to or from ships using the facility; or
  - (c) vehicular access to the facility.
- (3) However, a fee may not be imposed for the genuine, transient private recreational use of a boat ramp, jetty, landing or pontoon.

*Example of transient use—*

loading fishing gear onto a ship that only takes 15 minutes

- (4) Also, if the manager is—
  - (a) the chief executive—the amount of the fee must be prescribed under a regulation; and
  - (b) a local government—the amount of the fee must be prescribed under a local law; and
  - (c) a port authority—the amount of the fee must be fixed by a resolution of the board of the port authority.
- (5) A manager, other than the chief executive, who imposes a fee under this section may recover the fee as a debt owing to the manager.

*Editor's note—*

For the recovery of fees payable to the chief executive see section 476.

[s 467]

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- (6) This section does not limit the powers a manager has apart from this section.

#### **467 When manager may resign**

A manager may resign with the consent of the Governor in Council.

#### **468 Removal of improvements added by manager**

- (1) If a manager resigns under section 467 or the manager's appointment is revoked, the manager may, within the next 3 months, remove any improvements to the facility added by the manager that do not form an integral part of the facility.
- (2) Any of those improvements not removed within the 3 months then become the State's property.
- (3) This section does not apply to improvements that were funded by the State or intended to become State-owned under an agreement between the State and the manager or under the conditions of the manager's appointment.

#### **469 Regulation prevails over action taken by a manager under this part**

- (1) If there is any inconsistency between a regulation and action taken under this part by a manager, the regulation prevails to the extent of the inconsistency.

*Example—*

A regulation about the management of public marine facilities prevails over a local law made for the purposes of this part to the extent they are inconsistent.

- (2) Subsection (1) applies whether the action was taken before or after the regulation.

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## **Part 2                      Management of waterways**

### **Division 1                Preliminary**

#### **470      Object of pt 2**

- (1) This part recognises that particular waterways require a system of regulation to balance demands on the use, by water traffic, of the waterways and associated infrastructure.
- (2) The object of this part is to promote the overall effective and efficient use of waterways for transport by establishing a management regime that—
  - (a) is consistent with the objectives of other transport laws; and
  - (b) promotes community input; and
  - (c) supplements other relevant laws; and
  - (d) reflects a coordinated approach to meeting community transport needs.
- (3) To achieve the object, particular regard must be had to—
  - (a) alternative means that do not involve regulation through waterway transport management plans; and
  - (b) transport infrastructure needs; and
  - (c) the need to facilitate both recreational and commercial use of waterways; and
  - (d) the impact of proposed waterway transport management plans on community transport needs.

#### **471      Functions of chief executive under pt 2**

The chief executive has the following functions under this part—

[s 472]

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- (a) to consult with public authorities, industry, interested groups and persons, and the public;
- (b) to assess current and future demands of water traffic and for the use of waterways;
- (c) to plan for the effective and efficient management of—
  - (i) water traffic and associated infrastructure; and
  - (ii) the use of waterways;
- (d) to prepare proposals for transport management plans under this part;
- (e) to make recommendations to the Minister for this part.

## **Division 2                      Waterway transport management plans**

### **472      Waterway transport management plan**

- (1) The Minister may make a transport management plan under this Act for an area (a *waterway transport management plan*).
- (2) A waterway transport management plan is subordinate legislation.
- (3) A waterway transport management plan is not effective until it is approved by the Governor in Council.
- (4) A waterway transport management plan applies to—
  - (a) waters within the area described in the waterway transport management plan; and
  - (b) watercraft infrastructure specified in the plan; and
  - (c) the airspace above the area to a height above the surface specified in the plan.

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**473 Contents of a waterway transport management plan**

A waterway transport management plan may provide for a matter mentioned in schedule 2 or a matter about which a regulation may be made.

**474 Notice of draft waterway transport management plan**

- (1) The chief executive must give public notice of a draft waterway transport management plan.
- (2) The notice must be published—
  - (a) once a week for 2 consecutive weeks in a newspaper circulating generally throughout the State; and
  - (b) if the waterway transport management plan applies only to a particular area of the State—in a newspaper circulating generally in the area.
- (3) The notice must state the following—
  - (a) the addresses where copies of the draft waterway transport management plan may be inspected and, on payment of the fee prescribed by regulation, purchased;
  - (b) an invitation for submissions on the draft plan from public authorities, industry, interested groups and persons, and the public;
  - (c) a day, not earlier than 1 month from the first publication of a notice under subsection (2)(a), by which submissions may be made to the chief executive.
- (4) The chief executive must consider all submissions made by that day.
- (5) This section does not apply if the draft deals only with—
  - (a) a minor error; or
  - (b) an amendment of a fee or levy consistent with announced government policy.
- (6) In this section—

[s 475]

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*minor error* includes—

- (a) a typographical error; and
- (b) a grammatical error; and
- (c) an error of punctuation; and
- (d) an error in cross-referencing to a provision of a law.

#### **475 Other laws prevail over waterway transport management plan**

- (1) If there is any inconsistency between a waterway transport management plan and another law the other law prevails to the extent of the inconsistency.
- (2) Subsection (1) applies whether the waterway transport management plan was made before or after the other law.
- (3) In this section—

*another law* means any subordinate legislation and action taken under part 1.

### **Division 3                      Authorised persons for waterway transport management plans**

#### **475A Authorised persons**

- (1) The following persons are authorised persons for a waterway transport management plan—

- (a) a police officer;

*Note—*

See the *Police Powers and Responsibilities Act 2000*, section 14 for provisions about the declaration of police officers as public officials.

- (b) under an arrangement between the chief executive and the chief executive of the department in which the

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*Fisheries Act 1994* is administered—an inspector under that Act.

- (2) The chief executive may appoint an officer of the department, or any other person, as an authorised person.
- (3) However, the chief executive may appoint a person under subsection (2) only if the chief executive is reasonably satisfied the person is qualified for appointment because the person has the necessary expertise or experience.
- (4) Sections 475B(1)(a) and (b), 475C and 475D do not apply to an authorised person who is a police officer.

#### **475B Appointment conditions and limit on powers**

- (1) An authorised person holds office on any conditions stated in—
  - (a) the person’s instrument of appointment; or
  - (b) a signed notice by the chief executive given to the person; or
  - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the person or a regulation may limit the person’s powers under this Act.

#### **475C Issue of identity card to each authorised person**

- (1) The chief executive must issue an identity card to each authorised person.
- (2) The identity card must—
  - (a) contain a recent photo of the person; and
  - (b) contain a copy of the person’s signature; and
  - (c) identify the person as an authorised person under this Act for a waterway transport management plan; and
  - (d) state an expiry date for the card.

[s 475D]

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- (3) This section does not prevent the issuing of a single identity card to a person for a waterway transport management plan and other purposes.

#### **475D Production or display of identity card**

- (1) In exercising a power under this division in relation to a person, an authorised person must—
  - (a) produce the authorised person’s identity card for the person’s inspection before exercising the power; or
  - (b) have the identity card displayed so that it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the authorised person must produce the identity card for the person’s inspection at the first reasonable opportunity.
- (3) For subsection (1), an authorised person does not exercise a power in relation to a person only because the authorised person has entered a place as mentioned in section 475I(2).

#### **475E When authorised person ceases to hold office**

- (1) An authorised person ceases to hold office if any of the following happens—
  - (a) the term of office stated in a condition of office ends;
  - (b) the person ceases to hold office under another condition of office;
  - (c) the person’s resignation under section 475F takes effect.
- (2) Subsection (1) does not limit the ways an authorised person may cease to hold office.
- (3) In this section—

*condition of office* means a condition on which the person holds office.

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#### **475F Resignation**

An authorised person may resign by signed notice given to the chief executive.

#### **475G Return of identity card**

A person who ceases to be an authorised person must return the person's identity card to the chief executive within 21 days after ceasing to be an authorised person, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

### **Division 4 Powers of authorised persons**

#### **Subdivision 1 Interpretation**

##### **475H Definitions for div 4**

In this division—

*occupier*, of a place that is a watercraft, means the owner or operator of the watercraft.

*place* includes the following—

- (a) land;
- (b) a building or other structure, or part of a building or other structure, of any type;
- (c) a group of buildings or other structures, or part of a group of buildings or other structures, of any type;
- (d) a watercraft.

## **Subdivision 2      Entry of places by authorised persons**

### **475I    Power to enter places**

- (1) An authorised person may enter a place if—
  - (a) its occupier consents to the entry; or
  - (b) the entry is authorised by a warrant.
- (2) For the purpose of asking the occupier of a place for consent to enter, an authorised person may, without the occupier's consent or a warrant—
  - (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
  - (b) enter part of the place the authorised person reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

### **475J    Procedure for entry with consent**

- (1) This section applies if an authorised person intends to ask an occupier of a place to consent to the authorised person or another authorised person entering the place under section 475I(1)(a).
- (2) Before asking for the consent, the authorised person must tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgement of the consent.
- (4) The acknowledgement must state—
  - (a) the occupier has been told—
    - (i) the purpose of the entry; and

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- (ii) that the occupier is not required to consent; and
  - (b) the purpose of the entry; and
  - (c) the occupier gives the authorised person consent to enter the place and exercise powers under this division; and
  - (d) the time and date the consent was given.
- (5) If the occupier signs the acknowledgement, the authorised person must immediately give a copy to the occupier.
- (6) If—
- (a) an issue arises in a proceeding about whether the occupier consented to the entry; and
  - (b) an acknowledgement complying with subsection (4) for the entry is not produced in evidence;

the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

#### **475K Application for warrant**

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

*Example—*

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

#### **475L Issue of warrant**

- (1) A magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

[s 475M]

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- (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against a waterway transport management plan; and
  - (b) the evidence is at the place or, within the next 7 days, may be at the place.
- (2) The warrant must state—
- (a) that a stated authorised person may, with necessary and reasonable help and force—
    - (i) enter the place and any other place necessary for entry; and
    - (ii) exercise the authorised person’s powers under this division; and
  - (b) the offence for which the warrant is sought; and
  - (c) the evidence that may be seized under the warrant; and
  - (d) the hours of the day or night when the place may be entered; and
  - (e) the date, within 14 days after the warrant’s issue, the warrant ends.

#### **475M Warrants—procedure before entry**

- (1) This section applies if an authorised person named in a warrant issued under this subdivision in relation to a place is intending to enter the place under the warrant.
- (2) Before entering the place the authorised person must do, or make a reasonable attempt to do, the following—
  - (a) identify himself or herself to a person who appears to be an occupier of the place by producing a copy of the authorised person’s identity card;
  - (b) give the person a copy of the warrant;
  - (c) tell the person the authorised person is permitted by the warrant to enter the place;

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- (d) give the person an opportunity to allow the authorised person immediate entry to the place without using force.
  - (3) However, the authorised person need not comply with subsection (2) if the authorised person reasonably believes that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.
  - (4) Subsection (2)(a) does not apply to an authorised person who is a police officer.

*Note—*

See the *Police Powers and Responsibilities Act 2000*, section 637 for provisions about police officers supplying details.

### **Subdivision 3 Powers after entry**

#### **475N General powers after entering places**

- (1) This subdivision applies to an authorised person who enters a place under subdivision 2.
- (2) However if, under section 475I(2), the authorised person enters a place to ask the occupier's consent to enter a place, this subdivision applies to the authorised person only if the consent is given or the entry is otherwise authorised.
- (3) The authorised person may do any of the following—
  - (a) search any part of the place;
  - (b) inspect, measure, test, film, photograph, videotape or otherwise record an image of any part of the place or anything at the place;
  - (c) take a thing, or a sample of or from a thing, at the place for analysis, measurement or testing;
  - (d) take an extract from, or copy, a document at the place;
  - (e) take into or onto the place any equipment, materials or persons the authorised person reasonably requires for exercising a power under this division.

[s 475O]

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- (4) If the authorised person takes a sample or thing for analysis under subsection (3)(c), the authorised person must—
- (a) give a receipt for the sample or thing to the person in charge of the thing or place from which it was taken; and
  - (b) for a sample or thing with an intrinsic value—at the end of 6 months after the sample or thing was taken, return it to the person who appears to be the owner of it or the person in charge of the thing or place from which it was taken.

*Note—*

Section 475V provides for forfeiture of the sample or thing to the State in particular circumstances.

- (5) However, if for any reason it is not practicable to comply with subsection (4)(a), the authorised person must leave the receipt at the place in a conspicuous position and in a reasonably secure way.

#### **475O Power to require reasonable help or information**

- (1) An authorised person may require the occupier of, or someone else at, a place entered under subdivision 2 to give the authorised person reasonable help to exercise any of the powers mentioned in section 475N(3)(a) to (e).
- (2) A person must comply with a requirement under subsection (1), unless the person has a reasonable excuse.
- Maximum penalty—20 penalty units.
- (3) A requirement under subsection (1) does not include a requirement to produce a document or give information.

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## **Subdivision 4      Removal of watercraft**

### **475P    Notice of intention to remove watercraft**

- (1) An authorised person who reasonably believes a watercraft is anchored or moored in contravention of a waterway transport management plan may give the watercraft's owner or operator a notice of intention to remove the watercraft.
- (2) The notice must state the contravention and that the watercraft may be removed by an authorised person if the watercraft is not moved, within 14 days after the notice is given, to a place that is not in contravention of a waterway transport management plan.
- (3) Without limiting the ways the notice may be given, it may be given by securely attaching it to the watercraft in a prominent position.

### **475Q    Removing illegally anchored or moored watercraft**

- (1) This section applies if—
  - (a) a notice of intention to remove a watercraft has been given under section 475P; and
  - (b) after the 14 days mentioned in the notice, the watercraft is still anchored or moored in contravention of a waterway transport management plan; and
  - (c) an authorised person—
    - (i) can not immediately find the watercraft's owner or operator; or
    - (ii) reasonably believes neither the watercraft's owner nor operator is able or willing to move the watercraft immediately.
- (2) The authorised person may take steps that are necessary and reasonable to have the watercraft and anything in, on or attached to it removed to a place that is not in contravention of a waterway transport management plan.

[s 475R]

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### **475R Removal of hazardous watercraft**

- (1) This section applies if an authorised person reasonably believes a watercraft is—
  - (a) anchored or moored in contravention of a waterway transport management plan; and
  - (b) a hazard to water traffic.

*Example for paragraph (b)—*

A watercraft is a hazard to water traffic if it is on or beside the course of a power boat race conducted under a consent under the *Transport Operations (Marine Safety) Act 1994*, section 217(2).

- (2) The authorised person may take steps that are necessary and reasonable to have the watercraft and anything in, on or attached to it removed to a place that is not in contravention of a waterway transport management plan.

### **475S Giving notice of removal of watercraft**

- (1) If a watercraft is removed under section 475Q or 475R, the chief executive must give the watercraft's owner written notice of the place where the watercraft has been taken.
- (2) However, if the chief executive can not find the owner after making reasonable inquiries having regard to the watercraft's value, the chief executive may give the notice by publishing it in a newspaper circulating in the locality from which the watercraft was removed.
- (3) In this section—

*watercraft* includes anything in, on or attached to the watercraft.

### **475T Dealing with removed watercraft**

- (1) This section applies if—
  - (a) the chief executive gives notice under section 475S about the removal of a watercraft; and

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- (b) the watercraft's owner does not take possession of the watercraft and pay the amount of all expenses of removal of the watercraft within 1 month after the notice is given.
- (2) Having regard to the value and condition of the watercraft, the chief executive may sell it by public auction or otherwise dispose of it.
- (3) In this section—
- expenses of removal*, of a watercraft, includes expenses of—
- (a) removing and detaining the watercraft; and
  - (b) giving notice under section 475S; and
  - (c) advertising for sale or other disposal of the watercraft; and
  - (d) selling or otherwise disposing of the watercraft.
- watercraft* includes anything in, on or attached to the watercraft.

#### **475U Proceeds from the sale of removed watercraft**

- (1) If watercraft is sold under section 475T(2), the proceeds of the sale must be applied—
- (a) first, in payment of the expenses of removal of the watercraft reasonably incurred by the chief executive in selling the watercraft; and
  - (b) second, in payment of any balance to the watercraft's owner.
- (2) If the proceeds of the sale are less than the total of the expenses mentioned in subsection (1)(a), the difference is a debt owing by the owner to the State.
- (3) Compensation may not be recovered against the State in relation to a payment under this section.
- (4) In this section—

[s 475V]

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*expenses of removal*, of a watercraft, include expenses of—

- (a) removing and detaining the watercraft; and
- (b) giving notice under section 475S; and
- (c) advertising for sale or other disposal of the watercraft; and
- (d) selling or otherwise disposing of the watercraft.

*watercraft* includes anything in, on or attached to the watercraft.

#### **475V Forfeiture by authorised person**

- (1) A sample or thing taken for analysis under section 475N(3)(c) is forfeited to the State if the authorised person who took, or arranged the taking of, the sample or thing—
  - (a) after making reasonable efforts, can not return it to its owner; or
  - (b) after making reasonable inquiries, can not find its owner.
- (2) For subsection (1), the authorised person is not required—
  - (a) to make efforts if it would be unreasonable to make efforts to return the sample or thing to its owner; or
  - (b) to make inquiries if it would be unreasonable to make inquiries to find the owner.

*Example for paragraph (b)—*

The owner of the sample or thing has migrated to another country.

- (3) Regard must be had to the condition, nature and value of the sample or thing in deciding—
  - (a) whether it is reasonable to make efforts or inquiries; and
  - (b) if efforts or inquiries are made—what efforts or inquiries, including the period over which they are made, are reasonable.

(4) In this section—

*owner*, of a sample or thing taken for analysis, means the person in charge of the sample or thing or place from which it was taken.

### **475W Dealing with forfeited sample or thing**

- (1) On forfeiture of a sample or thing to the State, it becomes the State's property and may be dealt with by the chief executive in a way the chief executive reasonably believes is appropriate.
- (2) Without limiting subsection (1), the chief executive may destroy or dispose of the sample or thing.

## **Subdivision 5 General enforcement matters**

### **475X Direction to stop contravening plan**

- (1) If an authorised person considers a person is not complying with a provision of a waterway transport management plan, the authorised person may give the person a direction to immediately stop contravening the plan in a stated way.
- (2) When giving the direction, the authorised person must tell the person that it is an offence to fail to comply with the direction, unless the person has a reasonable excuse.
- (3) The person must comply with the direction.

Maximum penalty for subsection (3)—40 penalty units.

### **475Y Power to require name and address**

- (1) This section applies if—
  - (a) an authorised person finds a person committing an offence against a waterway transport management plan;or

[s 475Z]

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- (b) an authorised person finds a person in circumstances that lead, or has information about a person that leads, the authorised person to reasonably suspect the person has just committed an offence against a waterway transport management plan.
- (2) The authorised person may require the person to state the person's name and residential address.
- (3) When making the requirement, the authorised person must warn the person it is an offence to fail to state the person's name or residential address unless the person has a reasonable excuse.
- (4) The authorised person may also require the person to give evidence of the correctness of the stated name or residential address if the authorised person reasonably suspects the stated name or address is false.
- (5) A person of whom a requirement is made under subsection (2) or (4) must comply with the requirement unless the person has a reasonable excuse.  
Maximum penalty—20 penalty units.
- (6) A person does not commit an offence against subsection (5) if—
  - (a) the requirement was given because the authorised person reasonably suspected the person had committed an offence; and
  - (b) the person is not proved to have committed the offence.

#### **475Z False or misleading statements**

- (1) A person must not state anything to an authorised person, in relation to the authorised person's exercise of a power under this division, that the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

- (2) In a proceeding for an offence against subsection (1), it is enough to state that the statement made was ‘false or misleading’ to the person’s knowledge, without specifying which.

#### **475ZA False or misleading documents**

- (1) A person must not give an authorised person a document containing information that the person knows is false or misleading in a material particular.

Maximum penalty—20 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
  - (a) tells the authorised person, to the best of the person’s ability, how the document is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information to the authorised person.
- (3) In a proceeding for an offence against subsection (1), it is enough to state the document was ‘false or misleading’ to the person’s knowledge, without specifying which.

#### **475ZB Obstruction of authorised person**

- (1) A person must not obstruct an authorised person, in relation to the authorised person’s exercise of a power under this division, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (2) If a person has obstructed an authorised person and the authorised person decides to proceed with the exercise of the power, the authorised person must warn the person that—
  - (a) it is an offence to obstruct the authorised person unless the person has a reasonable excuse; and

[s 475ZC]

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- (b) the authorised person reasonably believes the person's conduct is an obstruction.
- (3) In this section—
- obstruct* includes assault, hinder, resist and attempt or threaten to obstruct.

### **475ZC Impersonating an authorised person**

A person must not pretend to be an authorised person.

Maximum penalty—40 penalty units.

### **475ZD Notice of damage**

- (1) This section applies if—
  - (a) an authorised person damages something when exercising, or purporting to exercise, a power under this division; or
  - (b) another person acting under the direction or authority of an authorised person when exercising or purporting to exercise a power under this division damages something.
- (2) The authorised person must give a signed notice to the person who appears to be the owner or person in possession of the thing.
- (3) If for any reason it is not practicable to comply with subsection (2), the authorised person must leave the notice in a conspicuous position and in a reasonably secure way at the place where the damage happened.
- (4) The notice must state the particulars of the damage.
- (5) If the authorised person reasonably believes the damage was caused by a latent defect in the thing or other circumstances beyond the control of the authorised person or person acting under the direction or authority of the authorised person, the authorised person may state the belief in the notice.

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- (6) However, an authorised person need not comply with this section if the authorised person reasonably believes the damage is trivial.

### **475ZE Protection from liability**

- (1) An authorised person is not civilly liable for an act or omission done honestly and without negligence under this division.
- (2) If subsection (1) prevents civil liability attaching to an authorised person, the liability attaches instead to the State.

## **Chapter 16 General provisions**

### **476 Amounts payable to chief executive are debts owing to the State**

An amount payable by a person to the chief executive under this Act or the Planning Act is a debt owing to the State.

### **476A Chief executive may give information to corresponding authority**

- (1) In relation to the transport of dangerous goods by rail, whether within or outside Queensland, the chief executive may give to a corresponding authority—
- (a) information about action taken by the chief executive under this Act; or
  - (b) information obtained under this Act.
- (2) Subsection (1) does not apply if the chief executive or the corresponding authority would otherwise be required to maintain confidentiality about the information under an Act.
- (3) In this section—

[s 476B]

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*corresponding authority* means—

- (a) a government entity of the Commonwealth or another State responsible for administering a corresponding law to a transport Act; or
- (b) a person prescribed under a regulation as a corresponding authority for this Act.

#### **476B Power to require works to stop**

- (1) A person must not, without the chief executive's written approval, carry out works on land if the works threaten, or are likely to threaten, the safety or operational integrity of transport infrastructure.

Maximum penalty—100 penalty units.

- (2) If—
  - (a) a person is carrying out, or proposes to carry out, works on land; and
  - (b) the chief executive reasonably believes the works threaten, or are likely to threaten, the safety or operational integrity of transport infrastructure;

the chief executive may give the person a written direction to stop, alter or not to start the works.

- (3) The person must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (4) If works are carried out contrary to subsection (1) or a direction under subsection (2), the chief executive may, by written notice, require the owner of the land where the works are situated to alter, demolish or take away the works within a stated reasonable time.

- (5) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

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- (6) If the person does not comply with the requirement, the chief executive may—
    - (a) alter, demolish or take away the works; or
    - (b) alter, demolish or take away the works and recover the cost of doing so from the land's owner as a debt payable by the owner.
  - (7) For this section, a person authorised by the chief executive may enter land and inspect works—
    - (a) after giving 3 days written notice to the land's owner or occupier; or
    - (b) with the written agreement of the land's owner or occupier; or
    - (c) without notice or approval, if the chief executive reasonably believes there is an immediate and significant threat to the safety or operational integrity of the transport infrastructure.
  - (8) This section binds all persons, including the State, the Commonwealth and the other States.
  - (9) In this section—

*transport infrastructure* does not include rail transport infrastructure.

#### **476C Compensation**

- (1) This section applies if a person enters land under section 476B(7).
- (2) An owner or occupier of the land may, by written notice given to the chief executive—
  - (a) claim compensation for loss or damage caused by the entry on the land; or
  - (b) claim compensation for the taking or use of materials; or
  - (c) require the chief executive to carry out works in restitution for the damage; or

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- (d) require the chief executive to carry out works in restitution for the damage and then claim compensation for any loss or damage not restituted.
- (3) The notice must be given—
  - (a) within 1 year after the entry ends; or
  - (b) at a later time allowed by the chief executive.
- (4) The amount of compensation is—
  - (a) the amount agreed between the parties; or
  - (b) if the parties can not agree within a reasonable time—the amount decided by a court with jurisdiction for the recovery of the amount of compensation claimed.
- (5) However, the amount of compensation for damage to the land and its fixtures, and for taking or use of materials, can not be more than the amount that would have been awarded if the land had been acquired.

#### **476D Registration of notice about nature of works**

- (1) This section applies if the chief executive reasonably believes works of a particular nature that may be conducted on land are likely to threaten the safety or operational integrity of transport infrastructure.
- (2) The chief executive may give the registrar of titles a signed notice—
  - (a) identifying the land; and
  - (b) identifying the nature of works that may be conducted on the land the chief executive reasonably believes is likely to threaten the safety or operational integrity of transport infrastructure; and
  - (c) stating that the owner of the land must obtain the chief executive's written approval under section 168 or 476B before conducting works of that nature on the land.

- (3) The registrar of titles must ensure a notice appears in the relevant register kept under the *Land Act 1994* or the *Land Title Act 1994* so that a search of the register will show that an owner of the land must obtain the chief executive's written approval under section 168 or 476B before conducting works of the nature identified in the notice on the land.
- (4) No fee is payable for registration of the notice.

#### **477 Power to require information from local governments**

- (1) The chief executive may, by written notice given to a local government, require that the local government give to the chief executive, or to a specified person, information on a particular issue relevant to the discharge of functions or the exercise of powers under this Act or the Planning Act.
- (2) The notice must specify a reasonable time within which the notice is to be complied with and may specify the way in which it is to be complied with.
- (3) The local government must comply with the notice.
- (4) However, the local government may appeal to the Minister against the notice and, if the local government appeals, the local government only has to comply with the notice if, and to the extent that, the Minister directs.

#### **477A Power to deal with particular land**

- (1) The chief executive may apply under the *Land Act 1994* for the issue of a deed of grant for a part of prescribed land if the chief executive considers the issue of the deed of grant is necessary—
  - (a) to facilitate development for commercial purposes; or
  - (b) to provide community infrastructure.
- (2) In this section—

*community infrastructure* see the Planning Act, schedule 3.

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*prescribed land* means—

- (a) busway land; or
- (b) light rail land; or
- (c) rail land.

*rail land* means non-rail corridor land or rail corridor land that is held under a perpetual lease under the *Land Act 1994*.

#### **477B Recording of information for land in transport noise corridor**

- (1) The chief executive may give the registrar of titles a written notice about land within a transport noise corridor.
- (2) The notice must include particulars of the land.
- (3) If the chief executive acts under subsection (1), the registrar of titles must—
  - (a) keep a record to show the land to which the notice relates is land within a transport noise corridor; and
  - (b) keep the record in a way that a search of the register kept by the registrar under any Act relating to title to land will show the land is within a transport noise corridor.
- (4) Subsection (5) applies if land for which a notice is given under subsection (1) is no longer within a transport noise corridor.
- (5) As soon as practicable after becoming aware the land is no longer within the transport noise corridor, the chief executive must give the registrar of titles written notice of the fact.
- (6) On receiving the notice, the registrar of titles must remove the record mentioned in subsection (3) from the registrar's records.
- (7) No fee is payable to the registrar for keeping or removing a record under this section.
- (8) In this section—

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*transport noise corridor* means a transport noise corridor designated under the *Building Act 1975*, section 246Z.

#### **477C Concurrent subleases for declared projects**

- (1) If a relevant entity holds a lease under the *Land Act 1994* of port land or land relating to a declared project that has been subleased to a person, the entity may grant a concurrent sublease of all or part of the land to another person for all or part of the term of the lease.
- (2) If the Urban Land Development Authority holds a trade lease of land that has been subleased to a person, the authority may grant a concurrent sublease of all or part of the land to another person for all or part of the term of the lease.
- (3) To remove any doubt, it is declared that the Minister's approval under the *Land Act 1994* is not required for a grant of a concurrent sublease under this section.
- (4) The chief executive of the department that administers the *Land Act 1994* may record a dealing effected under this section in the leasehold land register.
- (5) In this section—

*declared entity* has the meaning given by the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*.

*declared project* has the meaning given by the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*.

*lease* see section 267.

*port entity* see section 267.

*port land* see section 283ZZL.

*relevant entity* means the following—

- (a) the State;
- (b) a declared entity, other than the Urban Land Development Authority;
- (c) a port entity;

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- (d) a railway manager;
  - (e) a related body corporate of a railway manager.
- sublease* see section 267.

#### **477D Rent under Land Act 1994 leases for declared projects**

- (1) This section applies to a lease, licence or permit (a *relevant lease, licence or permit*)—
  - (a) held under the *Land Act 1994* by the State or a State body; and
  - (b) that relates to—
    - (i) a declared project; or
    - (ii) land used or required in connection with—
      - (A) the operation of the Port of Brisbane; or
      - (B) the operation of the Abbot Point Coal Terminal; or
      - (C) the operation of a railway that is leased from the State or a State body; or
      - (D) activities related to any of the matters described in sub-subparagraphs (A) to (C).
- (2) The Minister, or the Treasurer in relation to a declared project, may set the rent for a relevant lease, licence, or permit, or a class of relevant leases, licences or permits.
- (3) Without limiting this section, rent set under this section may be set at zero dollars in total or for a rental period.
- (4) The *Land Act 1994*, sections 182, 183, 183A, 183AA, 184 and chapter 5, part 1, division 2 do not apply to a relevant lease, licence or permit, or a class of relevant leases, licences or permits, for which rent is set under this section.
- (5) In this section—

*declared project* see section 477C.

*lease* see section 267.

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**Minister** means the Minister administering the *Land Act 1994*.

**State body** means any of the following within the meaning of the *Government Owned Corporations Act 1993*—

- (a) a GOC;
- (b) a government entity;
- (c) a subsidiary of a GOC or government entity.

#### **477E Licences under Land Act for declared projects**

- (1) If a relevant entity holds a lease of land under the *Land Act 1994* in relation to a declared project, the entity may grant a licence to enter and use the land.
- (2) To remove any doubt, it is declared that the Minister's approval under the *Land Act 1994* is not required for the grant of a licence under this section.
- (3) In this section—

**declared entity** see section 477C.

**lease** see section 267.

**declared project** see section 477C.

**relevant entity** means the following—

- (a) the State;
- (b) a declared entity;
- (c) a railway manager;
- (d) a related body corporate of a railway manager.

#### **478 Conduct of company directors, employees or agents**

- (1) In this section—  
**engaging** in conduct includes failing to engage in conduct.

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***representative*** means—

- (a) in relation to a corporation—an executive officer, employee or agent of the corporation; or
- (b) in relation to an individual—an employee or agent of the individual.

***state of mind*** of a person includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of a corporation about particular conduct, it is sufficient to show—
- (a) the conduct was engaged in by a representative of the corporation within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (3) Conduct engaged in on behalf of a corporation by a representative of the corporation within the scope of the representative's actual or apparent authority is taken, in a proceeding for an offence against this Act, to have been engaged in also by the corporation unless the corporation establishes it took reasonable precautions and exercised proper diligence to avoid the conduct.
- (4) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of an individual about particular conduct, it is sufficient to show—
- (a) the conduct was engaged in by a representative of the individual within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (5) Conduct engaged in on behalf of an individual by a representative of the individual within the scope of the representative's actual or apparent authority is taken, in a

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proceeding for an offence against this Act, to have been engaged in also by the individual unless the individual establishes the individual took reasonable precautions and exercised proper diligence to avoid the conduct.

#### **479 Approval of forms**

The chief executive may approve forms for use under this Act.

#### **480 Disposal of fees, penalties etc.**

- (1) Fees or other amounts received or recovered under this Act in relation to the operations of a GOC, or a local government under chapter 15, are to be paid to the GOC or local government.
- (2) A penalty received or recovered in relation to the operations of a GOC for an infringement notice offence under the *State Penalties Enforcement Act 1999* concerning a vehicle parking or stopping offence under this Act is to be paid to the GOC.
- (3) Penalties received or recovered in relation to a local government's tolling enforcement by an entity other than the local government are to be paid to the local government.
- (4) Penalties received or recovered by a local government in relation to the local government's tolling enforcement may be retained by the local government.
- (5) To remove doubt, it is declared that a penalty received or recovered in relation to the operations of a local government for an offence under a local law authorised by chapter 15 is to be paid to the local government.
- (6) The following amounts are controlled receipts for the purpose of the *Financial Accountability Act 2009*—
  - (a) a fee paid to the chief executive under a regulation mentioned in section 459(3) or 466(4)(a);
  - (b) a levy paid to the chief executive under a regulation mentioned in schedule 1, item 21.

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- (7) A declared amount received or recovered by the chief executive is to be retained by the chief executive and not paid into the consolidated fund.
- (8) Fees or other amounts under section 466 received or recovered by a manager of a public marine facility are to be retained by the manager and not paid into the consolidated fund.
- (9) All other fees, penalties and other amounts received or recovered under this Act are to be paid to the consolidated fund.
- (10) In this section—

*declared amount* means any of the following—

- (a) a fee or charge under section 79(2);
- (b) a fee under section 459(3);
- (c) a levy under schedule 1, item 21.

*local government tollway* see section 105GA(5).

*relevant tolling offence* means an offence against section 105ZH(3), 105ZJ(4) or 105ZK(3).

*tolling enforcement*, in relation to a local government, means enforcement of a relevant tolling offence committed in relation to a local government tollway in the local government's area and started by—

- (a) an infringement notice served under the *State Penalties Enforcement Act 1999*; or
- (b) complaint and summons served under the *Justices Act 1886*.

#### **481 No need to prove appointments**

In a proceeding for an offence against this Act, there is no need to prove the appointment of a person who is any of the following—

- (a) an authorised person;

- (b) a rail safety officer;
- (c) an authorised person, or officer, appointed under a regulation as an authorised person, or officer, relating to a matter as stated in the regulation.

**482 Prosecutions for offences committed while travelling on a railway**

- (1) This section applies to an offence against this Act committed by a person while the person was travelling on a railway.
- (2) A complaint for the offence may be heard at a place appointed for holding Magistrates Courts within any of the districts through which the person travelled on the railway.
- (3) This section has effect despite, but does not limit, the *Justices Act 1886*, section 139.

**483 Proceedings for offences**

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for an offence must start—
  - (a) within 1 year after the commission of the offence; or
  - (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.
- (3) A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.

**484 Attempts to commit offences**

- (1) A person must not attempt to commit an offence against this Act.  

Maximum penalty—half the maximum penalty for committing the offence.

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- (2) The Criminal Code, section 4 (Attempts to commit offences) applies to subsection (1).

#### **485 Internal review of decisions**

- (1) A person whose interests are affected by a decision described in schedule 3 (the *original decision*) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
  - (a) applies to the review; and
  - (b) provides—
    - (i) for the procedure for applying for the review and the way it is to be carried out; and
    - (ii) that the person may apply to QCAT to have the original decision stayed.

#### **485A External review of decisions**

- (1) This section applies in relation to an original decision if QCAT is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the chief executive must give the applicant a QCAT information notice for the reviewed decision.
- (3) The applicant may apply, as provided under the QCAT Act, to QCAT for a review of the reviewed decision.

*Note—*

The QCAT Act, section 22(3) provides that QCAT may stay the operation of the reviewed decision, either on application by a person or on its own initiative.

(4) In this section—

*original decision* means a decision described in schedule 3.

*reviewed decision* means the chief executive's decision on a review under section 485.

### **485B Appeals against decisions**

(1) This section applies in relation to an original decision if a court (the *appeal court*) is stated in schedule 3 for the decision.

(2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.

(3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—

(a) applies to the appeal; and

(b) provides—

(i) for the procedure for the appeal and the way it is to be disposed of; and

(ii) that the person may apply to the appeal court to have the original decision stayed.

(4) In this section—

*original decision* means a decision described in schedule 3.

*reviewed decision* means the chief executive's decision on a review under section 485.

### **486 Application of Judicial Review Act 1991 to a transport GOC**

(1) The *Judicial Review Act 1991* does not apply to a decision of a transport GOC made in carrying out its excluded activities.

(2) A regulation may declare the activities of a transport GOC that are taken to be, or are taken not to be, activities conducted on a commercial basis.

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(3) In this section—

*commercial activities* means activities conducted on a commercial basis.

*community service obligations* has the same meaning as in the *Government Owned Corporations Act 1993*.

*excluded activities* means—

- (a) commercial activities; or
- (b) community service obligations prescribed under a regulation.

*transport GOC* means a rail GOC, a GOC port authority, or another GOC on which functions are conferred under this Act.

#### **487 Altering watercourse to adversely affect transport route**

(1) A person must not, without lawful excuse, alter a watercourse in a way that adversely affects a transport route.

Maximum penalty—40 penalty units.

(2) If the chief executive considers that water from a watercourse has collected or is likely to collect, and obstruct or be likely to obstruct, traffic on a transport route, the chief executive may—

- (a) under section 35, 164 or 298, enter the land on which the watercourse is situated; and
- (b) take the action that the chief executive considers necessary or desirable to reduce or prevent the collection of water.

(3) Before exercising the powers under subsection (2), the chief executive may, by written notice, require the owner of the land on which the watercourse is situated to take the action that the chief executive considers necessary or desirable to reduce or prevent the collection of water.

(4) The owner must comply with the notice, unless the owner has a reasonable excuse.

Maximum penalty—200 penalty units.

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- (5) If the owner fails to comply with the notice, the chief executive may exercise the powers mentioned in subsection (2).
  - (6) The owner is liable to pay the chief executive the costs incurred because of the exercise of powers.
  - (7) This section applies—
    - (a) even if the water collected as a result of action that was authorised under an Act; or
    - (b) whether the water collects permanently, temporarily or intermittently.
  - (8) In this section—

*alter* includes damage and interfere with.

*chief executive*, in relation to a railway, includes a railway manager or operator for whom an accreditation for the railway is in force under chapter 7.

*transport route* means a busway, railway or road.

#### **488 Altering materials etc.**

- (1) A person must not, without lawful excuse, alter any naturally occurring materials, stockpile of material or works on a busway or railway.

Maximum penalty—200 penalty units.

- (2) A person must not deposit rubbish or abandon goods or materials on a busway or railway other than at places approved by, and under conditions fixed by, the chief executive.

Maximum penalty—200 penalty units.

- (3) In this section—

*alter* includes damage, interfere with and remove.

*chief executive*, in relation to a railway, includes a railway manager or operator for whom an accreditation for the railway is in force under chapter 7.

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*works* means—

- (a) for a busway—
  - (i) ancillary works and encroachments; or
  - (ii) busway transport infrastructure works; or
- (b) for a railway—railway works.

#### **489 Recovery of cost of damage**

- (1) This section applies if a person intentionally, recklessly or negligently damages works on a busway or railway.
- (2) The person is liable to pay the chief executive the cost of repairing the damage.
- (3) However, if the damage is caused by the driver of a vehicle whose identity is unknown, or who can not be located, the registered operator of the vehicle is liable for the costs of repairing the damage, unless the vehicle was being used without the registered operator's knowledge or permission.
- (4) Subsections (2) and (3) apply, whether or not the damage constitutes, or is done in connection with, an offence against this Act.
- (5) However, if—
  - (a) a court finds a person guilty of an offence against this Act; and
  - (b) in committing the offence, the person damaged works;the court may, as well as imposing a penalty, order the person to pay an amount towards the cost of repairing the damage.
- (6) In this section—

*chief executive*, in relation to a railway, includes a railway manager or operator for whom an accreditation for the railway is in force under chapter 7.

*registered operator* means the person in whose name the vehicle is registered.

*repairing* includes replacing and reconstructing.

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*works* means—

- (a) for a busway—
  - (i) ancillary works and encroachments; or
  - (ii) busway transport infrastructure works; or
- (b) for a railway—railway works.

#### **490 Regulations**

- (1) The Governor in Council may make regulations for the purposes of this Act.
- (2) A regulation may create offences and prescribe penalties for the offences of not more than 40 penalty units.
- (3) In particular, regulations may be made for the matters specified in schedule 1.
- (4) A regulation may confer functions or powers on a local government or a State government body.

## **Chapter 17 Savings and transitional provisions, amendments and repeals**

### **Part 1 Savings and transitional provisions about ports**

#### **492 Continuation of pt 5, div 2 of Port of Brisbane Authority Act 1976**

- (1) The *Port of Brisbane Authority Act 1976*, part 5, division 2 as well as any definitions in the Act relevant to the division,

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continue to apply to leases for which compensation could be claimed under the division.

- (2) This section has effect despite the repeal of the *Port of Brisbane Authority Act 1976*.
- (3) This section expires on a date to be fixed by regulation.

#### **493 Expiries under this part**

If a provision of this part allows a regulation to prescribe an earlier day than the day stated in the provision for the expiry of a section, a regulation may be made prescribing an earlier day than the stated day for part of the section.

## **Part 2                      General savings and transitional provisions**

### **Division 1                Transition of references about roads**

#### **494 Application of division**

This division applies to references in Acts in existence at its commencement.

#### **495 Transport Infrastructure (Roads) Act 1991 references**

A reference to the *Transport Infrastructure (Roads) Act 1991* is, in relation to transport infrastructure or another matter dealt with under this Act, taken to be a reference to this Act.

**496 Main Roads Act 1920 references**

A reference to the *Main Roads Act 1920* may, in relation to transport infrastructure or another matter dealt with under this Act, be taken to be a reference to this Act.

**497 Commissioner of Main Roads references**

A reference to the Commissioner of Main Roads (either as a natural person or corporation sole) is taken to be a reference to the chief executive.

**498 Declared road references**

- (1) A reference to a declared road under the *Main Roads Act 1920* is taken to be a reference to a State-controlled road under this Act.
- (2) A reference to a declared road under the *Transport Infrastructure (Roads) Act 1991* is taken to be a reference to a State-controlled road under this Act.

**499 Motorway references**

A reference to a motorway under the *Transport Infrastructure (Roads) Act 1991* is taken to be a reference to a motorway under this Act.

**500 Main Roads Fund references**

A reference to the Main Roads Fund is taken to be a reference to the funds of the department.

## **Division 2                      Transition of references about railways**

### **501      Application of division**

This division applies to references in Acts (other than this Act) in existence at its commencement.

### **502      Railways Act 1914 references**

A reference to the *Railways Act 1914* is taken to be a reference to this Act.

### **503      Transport Infrastructure (Railways) Act 1991 references**

A reference to the *Transport Infrastructure (Railways) Act 1991* is taken to be a reference to this Act.

### **504      Commissioner for railways references**

A reference to the commissioner for railways is taken to be a reference to—

- (a) for the commissioner as a corporation sole—Queensland Rail; or
- (b) for the commissioner as an individual—the chief executive of Queensland Rail.

### **505      Railways Department references**

A reference to the Railways Department is taken to be a reference to Queensland Rail.

### **506      Queensland Railways references**

A reference to Queensland Railways is taken to be a reference to Queensland Rail.

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## **Division 3                      Transition of references about ports**

### **507      Application of division**

This division applies to references in Acts in existence at its commencement.

### **508      Harbours Act 1955 and Port of Brisbane Authority Act 1976 references**

A reference to the *Harbours Act 1955* or *Port of Brisbane Authority Act 1976* is taken to be a reference to this Act.

### **509      Harbour board references**

- (1) A reference to a harbour board is taken to be a reference to a port authority under this Act.
- (2) A reference to the Port of Brisbane Authority is taken to be a reference to the Port of Brisbane Corporation.

### **510      Harbour references**

A reference to a harbour is taken to be a reference to a port under this Act.

### **511      Harbours Corporation and Harbours Trust references**

- (1) A reference to the Harbours Corporation or Harbours Trust is taken to be a reference to—
  - (a) for a port to which subsection (2) applies—the Ports Corporation of Queensland; or
  - (b) in any other case—the State.
- (2) This subsection applies to the following ports—
  - Abbot Point
  - Burketown

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- Cape Flattery
- Cooktown
- Hay Point
- Innisfail
- Karumba
- Lucinda
- Margaret Bay
- Maryborough
- Port Kennedy
- Quintell Beach
- St Lawrence
- Weipa.

**512 Gold Coast Waterways Authority references**

A reference to the Gold Coast Waterways Authority is taken to be a reference to the State.

## **Chapter 18 Further transitional provisions and declaration**

### **Part 1 Transitional provisions for the Integrated Planning Act 1997**

**513 Continuing application of previous provisions to non-IDAS applications**

(1) This section applies if—

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- (a) a local government would have had to apply under section 42 for the approval of a subdivision, rezoning or development of land (the *work*) under the section as in force immediately before its amendment by the *Integrated Planning and Other Legislation Amendment Act 1999*; and
  - (b) a development approval for the same work is not required under the repealed *Integrated Planning Act 1997* or the *Sustainable Planning Act 2009*.
- (2) Sections 42 and 44 and schedule 3, as in force immediately before their amendment by the *Integrated Planning and Other Legislation Amendment Act 1999*, apply to the work.

**514 Applications for approval of subdivisions, rezoning or development**

If an approval was applied for under section 42(1)(a)(i), as in force immediately before its amendment by the *Integrated Planning and Other Legislation Amendment Act 1999*, processing of the application and all matters incidental to the processing, including any review or appeal made in relation to a decision about the application, must proceed as if that Act had not been enacted.

**Part 2 Transitional provisions for the Transport Legislation Amendment Act 2000**

**515 Definitions for pt 2**

In this part—

*amendment Act* means the *Transport Legislation Amendment Act 2000*.

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*repealed section 51* means section 51 repealed by section 17 of the amendment Act.

*repealed section 52* means section 52 repealed by section 17 of the amendment Act.

### **516 Transitional—access-limited roads**

- (1) A State-controlled road or part of a State-controlled road that immediately before the commencement of this section was an access-limited road is taken to be a limited access road declared under section 54.
- (2) For subsection (1), an access-limited road includes a State-controlled road, or part of a State-controlled road, to which access was limited immediately before the commencement of repealed section 51 to the extent not inconsistent with a declaration made under repealed section 51.
- (3) A policy made under repealed section 51 in force immediately before the commencement of this section is taken, with necessary changes, to be a policy gazetted under section 54(3).

### **517 Transitional—previous decisions about access**

- (1) A decision under repealed section 52 in force immediately before the commencement of this section (a *previous decision*) is taken, from the commencement, with necessary changes, to be a decision under section 62(1).
- (2) A decision prohibiting or limiting access to a State-controlled road in force immediately before the commencement of repealed section 52, to the extent not inconsistent with a decision under the repealed section 52 in force immediately before the commencement of this section, (a *previous decision*) is taken from the commencement, with necessary changes, to be a decision under section 62(1).
- (3) Without limiting subsection (1) or (2)—

- (a) a location at which access was permitted under the previous decision is taken to be a permitted road access location; and
- (b) means of access, under the previous decision, that are physical works are taken to be road access works.

### **518 Transitional—ancillary works and encroachments**

- (1) A reference in a gazette notice to an approval or contract under section 50, published, given or made before the commencement of this section, is taken to be a reference to road access works.
- (2) Anything that, immediately before the commencement of this section was a means of access constructed, maintained or operated under an approval, requirements or a contract under section 50, is taken from the commencement, for sections 72 to 74, to be road access works relating to a permitted road access location under a decision under section 62(1).

### **519 Transitional—wharf or other harbour work**

- (1) This section applies if management and control of a wharf or other harbour work was vested in a person under the repealed *Harbours Act 1955*, section 140 immediately before the commencement of this section.
- (2) From the commencement, the person is taken to be appointed under section 459 as the manager of the public marine facility constituted by the harbour work (*the facility*).
- (3) A provision of a by-law under the *Local Government Act 1936*, or local law, about the facility that was in force immediately before the commencement continues in force from the commencement until the manager makes a local law under section 462 that replaces, or is inconsistent with, the provision.
- (4) A resolution of the board of a port authority about the facility that was in force immediately before the commencement



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## 521 Definitions for pt 3

In this part—

*commencement* means commencement of this section.

*continuing accredited person* means a person who was an accredited person for chapter 7 immediately before the commencement.

*previous*, in relation to a numbered provision, means the provision of this Act as that provision existed immediately before the commencement.

## 522 Inclusion of s 120

The inclusion of section 120 does not affect or limit the interpretation of this Act in relation to a matter arising before the commencement.

## 523 Approved safety management system for person who is accredited at commencement

- (1) This section applies to the safety management system that the chief executive considered appropriate at the time of considering the application for accreditation of a continuing accredited person, as that system was in force immediately before the commencement.
- (2) The safety management system is the approved safety management system for a railway managed, or for the operation of rolling stock on a railway, by the continuing accredited person.
- (3) For section 135, the anniversary day for a continuing accredited person is the day the person was accredited under the Act as in force at any time before the commencement.

## 524 Certificate of accreditation given before commencement

- (1) If a document about a continuing accredited person's accreditation was issued to the person under this Act before

the commencement and it purported to be a certificate of accreditation, the document is the person's certificate of accreditation.

- (2) If a document purporting to be a certificate of accreditation was not issued to a continuing accredited person before the commencement, the chief executive must issue a certificate of accreditation to the accredited person before the end of 6 months after the commencement.

## **525 Annual levy before commencement**

- (1) This section applies to a notice under previous section 127(3) given to an accredited person before the commencement.
- (2) After the commencement, the notice is a notice under section 127(3) and is not invalid only because it does not comply with that subsection.

## **526 Accreditation conditions**

- (1) This section applies to an accreditation under previous section 128 as the accreditation exists immediately before the commencement.
- (2) The accreditation continues to be subject to the conditions to which the accreditation was subject immediately before the commencement.
- (3) Subsection (2) is subject to an express provision of this Act or a regulation condition.

*Example of the application of subsection (2)—*

If an accreditation before the commencement contained conditions about the accredited person's financial capacity or public risk insurance arrangements, those conditions may not apply to the extent they are inconsistent with section 137.

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**527 How to deal with application for amending accreditation conditions made before commencement**

- (1) This section applies to an application made under previous section 132 for which the chief executive has not granted, or refused to grant, the amendment before the commencement.
- (2) The application is to be dealt with by the chief executive as—
  - (a) to the extent the application relates to the accredited person's safety management system—an application under section 133; and
  - (b) to the extent the application relates to matters other than the accredited person's safety management system—an application under section 132.

**528 Actions to amend accreditation conditions without application or to suspend or cancel accreditation**

- (1) This section applies to an accreditation if—
  - (a) the chief executive had given the accredited person a notice under previous section 139 or 140 before the commencement; and
  - (b) the proceeding started by the giving of the notice has not been completed before the commencement.
- (2) The proceeding that the notice starts is to be continued and completed under chapter 7, part 3, division 7 as if the notice were a show cause notice under that division.
- (3) If the notice under previous section 140(2) was given at the same time as a notice under previous section 145, the suspension under previous section 145 continues until the proceeding following the giving of the notice is completed under section 159 or 160.

**529 Appeals**

- (1) This section applies to a person if, before the commencement, the person may—

- (a) ask the chief executive to review a decision under section 485(1); or
  - (b) appeal against a reviewed decision under section 485(4).
- (2) The person's rights as mentioned in subsection (1) continue after the commencement subject to any limitations applicable before the commencement.
- (3) Subsection (2) applies whether or not the person has done either of the things mentioned in subsection (1) before the commencement.
- (4) For an application for a review or an appeal by a person to whom this section applies, when either the chief executive or an appeal court is exercising powers under the *Transport Planning and Coordination Act 1994*, part 5, the chief executive or appeal court must exercise those powers as if the right to make the application or appeal arose after the commencement.

### **530 Declaration about s 521, definition *previous***

It is declared that, for the period starting on 1 December 2003 to immediately before the commencement of this section, the definition *previous* in section 521 is taken to have included 'as that provision existed' instead of 'with that number as in force'.

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## Part 4                      Transitional provision for the Transport Infrastructure Amendment Act 2004

### 531      Statements about derailment

- (1) This section applies to a statement about the derailment made by a relevant employee to a rail safety officer before the commencement of this section.
- (2) The statement (the *primary evidence*) and any information, or document or other thing obtained as a direct or indirect result of the statement (the *derived evidence*) is not admissible in evidence against the employee in any civil or criminal proceeding.
- (3) Subsection (2) does not prevent the primary evidence or derived evidence being admitted in evidence in criminal proceedings about the falsity or misleading nature of the primary evidence.
- (4) Also, subsection (2) has no effect on the use or admissibility of a report in a coronial procedure.
- (5) It is declared that the statement, information, or document or other thing mentioned in subsection (2) is taken to be restricted information for the purposes of chapter 7, part 6.
- (6) In this section—

*derailment* means the derailment of the tilt train operated by Queensland Rail derailed on or about 16 November 2004 at Berajondo.

*relevant employee* means an individual involved in the derailment who at the time of the derailment was an employee of a railway operator for the rolling stock involved in the derailment.



- (a) is taken to be an approval granted by the port authority under chapter 8, part 4A; and
  - (b) expires whenever the first of the following happens—
    - (i) the end of 6 months after commencement;
    - (ii) the port authority gives a new approval to the person in substitution for the controlled activity approval under this Act.
- (5) For subsection 4(b)(ii), the port authority may give an approval without receiving an application for the approval under section 289C.

### **534 Proceedings**

A proceeding by or against a port authority under a repealed regulation, that has not ended before the commencement, may be continued and finished as if the repealed regulation had not been repealed.

### **535 Land use plans**

- (1) This section applies if, before commencement—
- (a) consultation had started or had been completed in relation to a proposed land use plan or amendment of a land use plan under section 285 as in force immediately before commencement; and

*Editor's note—*

See section 285 (Consultation on land use plans) as in force immediately before commencement.

- (b) the Minister had not approved the proposed land use plan or amendment of the land use plan under section 286 as in force immediately before commencement.

*Editor's note—*

See section 286 (Approval of land use plans) as in force immediately before commencement.

- (2) Chapter 8, part 4, division 1, as in force immediately before commencement, continues to apply to the proposed land use plan or amendment of a land use plan despite the enactment of the *Transport Infrastructure and Other Legislation Amendment Act 2005*.

### **536 Detained property**

- (1) This section applies to property, detained by a port authority under part 4, division 2 of a repealed regulation, which has not been completely dealt with by the port authority under that division before commencement.
- (2) The port authority may continue to deal with the property as if the repealed regulation had not been repealed.

### **538 Things done under re-enacted provision**

- (1) This section applies subject to this part.
- (2) A thing continues to have effect as if the thing had been done under this Act if the thing—
- (a) expressly or impliedly was authorised to be done under a provision of a repealed regulation; and
  - (b) was in force immediately before the repeal; and
  - (c) can be done under a re-enacted provision.

*Examples of things that continue to have effect—*

- port notices issued by a port authority
- appointments of authorised officers
- directions given to a person by an authorised officer

- (3) In this section—

*re-enacted provision* means a provision of a repealed regulation that has been re-enacted, including with changes, as a provision in chapter 8 by the *Transport Infrastructure and Other Legislation Amendment Act 2005*.

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## **Part 6**                      **Transitional provisions for the Transport Legislation Amendment Act 2005**

### **Division 1**                **Transitional provision for port authorities**

#### **539**    **Port authorities**

- (1) This section applies to a port authority mentioned in schedule 6, definition *port authority*, paragraph (a), (b) or (c), as in force immediately before the commencement of this section.
- (2) On the commencement—
  - (a) the port authority continues in existence as if it had been declared to be a port authority under a regulation under section 274A; and
  - (b) the port or ports that the port authority is prescribed to manage is the port or are the ports the port authority managed immediately before the commencement.

### **Division 2**                **Transitional provisions for busways**

#### **540**    **Busway authorisation**

- (1) If, immediately before the commencement, a person was an authorised busway service provider, the person is, on the commencement, taken to be an authorised busway user.
- (2) A reference in an Act or a document to an authorised busway service provider may, if the context permits, be taken to be a reference to an authorised busway user.

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## 541 Busway safety officers

- (1) If, immediately before the commencement, a person was a busway safety officer under section 22 of the regulation the person is, on the commencement, taken to be a busway safety officer appointed under section 346B.
- (2) If, immediately before the commencement, the person held office on conditions stated in an instrument of appointment or signed notice, on the commencement the stated conditions continue to apply to the appointment as if they were stated in an instrument of appointment or a signed notice under section 346C.
- (3) If the person had been issued with an identity card under section 24 of the regulation, on the commencement the identity card is taken to have been issued under section 346D.
- (4) In this section—

***commencement*** means the commencement of this section.

***regulation*** means the *Transport Infrastructure (Busway) Regulation 2002*, as in force immediately before the commencement.

## 542 Offences

Proceedings for an offence against the *Transport Infrastructure (Busway) Regulation 2002*, section 7, 9 or 29, may be continued, or started, as if the section had not been repealed.

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## **Part 7**

# **Transitional provisions for Transport and Other Legislation Amendment Act 2005**

### **543 Transitional provision for toll roads**

- (1) This section applies if, immediately before the commencement, a State-controlled road or part of a State-controlled road, or a franchised road or part of a franchised road, was a toll road under the previous provisions.
- (2) On the commencement—
  - (a) the road continues to be a toll road as if it had been declared to be a toll road by gazette notice under section 93; and
  - (b) tolls payable for the use of toll roads under the previous provisions continue to be payable for the use of toll roads as if they had been provided for by gazette notice under section 93; and
  - (c) the types of vehicles liable for tolls for use of the toll road under the previous provisions continue to be liable for tolls for use of the toll road as if they had been provided for by gazette notice under section 93; and
  - (d) the toll set as payable under the previous provisions for each type of vehicle at each toll plaza on the toll road continues to be payable as if it had been provided for by gazette notice under section 93; and
  - (e) the administration charge for a toll set under the previous provisions for chapter 6, part 7 of the Act continues as the administration charge for the toll as if it had been provided for by gazette notice under section 93.
- (3) The Minister may, by gazette notice, provide for a matter mentioned in schedule 5 for a toll road mentioned in

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subsection (1) as if the toll road were being declared under section 93.

- (4) Without limiting subsection (3), a gazette notice under that subsection may provide for, or amend, a matter mentioned in subsection (2).
- (5) In this section—

*commencement* means the commencement of this section.

*previous provisions* means the *Transport Infrastructure (State-controlled Roads) Regulation 1994*, part 4.

#### **544 Transitional provision for north-south bypass tunnel project**

- (1) On the commencement, the north-south bypass tunnel project is taken to be an approved tollway project as if the Minister had, by written notice given to Brisbane City Council, given approval under section 105C(2).
- (2) Without limiting subsection (1)—
  - (a) the approval of the tollway project is taken, for section 105F, to have started on the day on which the memorandum of understanding was entered into; and
  - (b) a condition to which the north-south bypass tunnel project is subject, immediately before the commencement, including, for example, under the memorandum of understanding, is taken to be a condition to which the approval is subject under section 105C(4); and
  - (c) the approval of the north-south bypass tunnel project may be amended under section 105E.
- (3) In this section—

*commencement* means the commencement of this section.

*memorandum of understanding* means the document titled ‘Memorandum of Understanding—North-South Bypass

Tunnel Project' entered into between the State of Queensland and Brisbane City Council and dated 28 February 2005.

*north-south bypass tunnel project* means the project described in the document titled 'North-South Bypass Tunnel Draft Environmental Impact Statement' prepared under the *State Development and Public Works Organisation Act 1971* by Sinclair Knight Merz Pty Ltd and Connell Wagner Pty Ltd and dated February 2005.

*Editor's note—*

A copy of the document may be obtained at the Brisbane City Council's public office or through the Council's website at <[www.brisbane.qld.gov.au](http://www.brisbane.qld.gov.au)>.

## Part 8

# Transitional provision for Maritime and Other Legislation Amendment Act 2006

### 545 Making and approval of waterway transport management plan

The amendment of a waterway transport management plan mentioned in the *Maritime and Other Legislation Amendment Act 2006*, schedule 2 does not affect the power of—

- (a) the Minister to further amend or to repeal the plan; or
- (b) the Governor in Council to approve the making of an amendment or repeal of the plan.



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## Part 10 Transitional provision and declaration for Transport and Other Legislation Amendment Act 2008, part 3, division 12

### 547 Declaration about particular subleases

- (1) This section applies to—
  - (a) amendment to sublease 701720343 executed on 29 August 2008 by the State of Queensland and QR Limited and lodged with the registrar of titles under dealing number 711947329; and
  - (b) transfers of the following subleases from QR Limited to QR Network Pty Ltd executed on 29 August 2008—
    - 701720343
    - 709548151
    - 709650878.
- (2) For the *Land Act 1994*, section 302, the amendment and transfers are taken to have been registered on 1 September 2008.

### 548 Declaration about sch 4 easements

- (1) This section applies to the transfers of schedule 4 easements from QR Limited to the State of Queensland executed on 29 August 2008.
- (2) For the *Land Title Act 1994*, section 62, the transfers are taken to have been registered on 1 September 2008.
- (3) In this section—

***schedule 4 easement*** means an easement mentioned in schedule 4.

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### **549 Exercise of power under s 241**

- (1) This section applies to an easement to which section 241 applies.
- (2) An exercise of power under previous section 241 continues to have effect under this Act, including an exercise of power by QR Limited.

*Note—*

Previous section 241 mentioned Queensland Rail but on 1 July 2007 Queensland Rail became QR Limited.

- (3) Without limiting subsection (2), in relation to the grant of a licence to a railway manager or the grant of a sublicence to a railway operator under previous section 241, the grant is taken to have been made under section 241 and may be dealt with under that section.
- (4) In this section—

*previous section 241* means section 241 as in force immediately before the commencement of this section.

## **Part 11 Transitional provision for Right to Information Act 2009**

### **551 Effect of regulation amendment**

The amendment of the *Transport Infrastructure (Rail) Regulation 2006* by the *Right to Information Act 2009* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

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## **Part 12**                      **Transitional provision for Sustainable Planning Act 2009**

### **552**    **Application of s 247**

Section 247(2) as in force immediately before the commencement of this section continues to apply in relation to—

- (a) a matter mentioned in section 247(1)(a) and being done under the repealed *Integrated Planning Act 1997* before or after the commencement; and
- (b) a requirement mentioned in section 247(1)(b) or (c) arising under the repealed *Integrated Planning Act 1997* before or after the commencement.

## **Part 13**                      **Transitional provisions for Transport and Other Legislation Amendment Act 2009**

### **Division 1**                **Prescribed development applications**

#### **553**    **Application of s 258 to prescribed development applications**

- (1) This section applies to a prescribed development application made—
  - (a) before, and not finally dealt with at, the commencement;  
or
  - (b) within 6 months after the commencement.

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- (2) The following provisions do not apply in relation to the development application—
- (a) section 258(2)(b);
  - (b) section 258(3), to the extent it refers to the purpose mentioned in section 258(2)(b).
- (3) In this section—

*commencement* means the commencement of this section.

*prescribed development application* means a development application made under the repealed *Integrated Planning Act 1997* or the *Sustainable Planning Act 2009* for which the chief executive is an assessment manager or a referral agency under that Act.

#### **554 Application of s 287A to prescribed development applications**

- (1) Section 287A does not apply in relation to a prescribed development application made—
- (a) before, and not finally dealt with at, the commencement; or
  - (b) within 6 months after the commencement.
- (2) In this section—

*commencement* means the commencement of this section.

*prescribed development application* means a development application made under the repealed *Integrated Planning Act 1997* or the *Sustainable Planning Act 2009* for which the Minister or the chief executive is an assessment manager or a referral agency under that Act.

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## Division 2                      Waterway transport management plans

### 555      **Amendment of waterway transport management plan by the amending Act does not affect powers of Minister and Governor in Council**

- (1) The amendment of a waterway transport management plan by the amending Act does not affect—
  - (a) the power of the Minister to further amend the plan or to repeal it; or
  - (a) the power of the Governor in Council to approve a matter mentioned in paragraph (a).
- (2) In this section—

*amending Act* means the *Transport and Other Legislation Amendment Act 2009*.

*a waterway transport management plan* means—

- (a) the *Transport Infrastructure (Gold Coast Waterways) Management Plan 2000*; or
- (b) the *Transport Infrastructure (Sunshine Coast Waterways) Management Plan 2000*; or
- (c) the *Transport Infrastructure (Yeppoon Waterways) Management Plan 2000*.

## **Part 14**

# **Transitional provisions for Transport and Other Legislation Amendment Act (No. 2) 2010**

### **556 Existing applications for approval for road access works**

- (1) This section applies if an application for approval for road access works is made under section 33 or 50 (the *relevant section*) before the commencement of this section but is not decided before the commencement.
- (2) The chief executive must decide, or continue to decide, the application under the relevant section as if this Act had not been amended by the *Transport and Other Legislation Amendment Act (No. 2) 2010*.

### **557 Particular applications for approval for road access works**

- (1) This section applies to an application for the chief executive's approval for the construction, maintenance, operation or conduct of road access works on a State-controlled road that is made—
  - (a) after the commencement of this section; and
  - (b) purportedly under section 50.
- (2) The application is taken to have been made, and must be dealt with, under section 33.

### **558 Effect of change in definition *rail transport infrastructure* on development applications**

- (1) This section applies to a prescribed development application made—
  - (a) before, and not finally dealt with at, the commencement;  
or

- (b) within 6 months after the commencement.
- (2) The Act, as in force immediately before the commencement, applies to the development application as if schedule 6, definition *rail transport infrastructure* had not been amended.
- (3) In this section—

*commencement* means the commencement of this section.

*prescribed development application* means a development application for which the chief executive is an assessment manager or a referral agency.

## Chapter 20 Transitional provisions for Port of Brisbane

### 562 Definitions for ch 20

In this chapter—

*commencement* means the commencement of this section.

*completion day*, in relation to the Port of Brisbane, means the beginning of the day of the first declaration of a port lessee for the port under section 289Y.

*interim period* means the period from the commencement to the completion day.

*port area* see section 267AA.

*transition period*, for a port notice immediately before the completion day, means the period from the completion day until the port notice is amended or replaced so that it refers to the port lessor or its delegate.

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**563 Alteration of port area of Port of Brisbane during interim period**

- (1) A regulation may alter the port area of the Port of Brisbane during the interim period.
- (2) This section does not limit the power to make a regulation under section 267AA(3).

**564 References to port area of Port of Brisbane during interim period**

During the interim period, a reference in chapter 8 to the port area of the Port of Brisbane includes the area of a trade lease.

**565 References to port entity during interim period**

During the interim period, a reference in chapter 8, other than sections 267AA and 267A, to a port entity in relation to the Port of Brisbane is taken to be a reference to the port authority for the Port of Brisbane.

**566 References to relevant entity for charging during interim period**

During the interim period, for chapter 8, part 3A and section 267, definition *charge*, a subsidiary of the Port of Brisbane Corporation is taken to be a relevant entity.

**567 References to port authority for charging during interim period**

- (1) During the interim period, a reference in chapter 8, part 3A and in section 267, definition *charge* to a port authority is taken to include a reference to a subsidiary of the Port of Brisbane Corporation.
- (2) If a reference to a port authority is taken to include a reference to a subsidiary of the Port of Brisbane Corporation under subsection (1), the following apply—

- (a) a reference to the port of the Port of Brisbane Corporation is taken to include a reference to the port of the subsidiary of the Port of Brisbane Corporation;
- (b) a reference to the port area of the Port of Brisbane Corporation is taken to include a reference to the port area of the subsidiary of the Port of Brisbane Corporation;
- (c) a reference to the port facilities of the Port of Brisbane Corporation is taken to include a reference to the port facilities of the subsidiary of the Port of Brisbane Corporation.

**568 Port notices of Port of Brisbane Corporation taken to be port notices of port lessor or delegate during transition period**

During the transition period—

- (a) a port notice displayed or published by the Port of Brisbane Corporation immediately before the completion day is taken to be a port notice displayed or published by the port lessor or its delegate; and
- (b) a reference in a port notice to the Port of Brisbane Corporation is taken to be a reference to the port lessor or its delegate.

**569 Application of ch 8, pt 4D during interim period**

- (1) This section applies during the interim period.
- (2) For chapter 8, part 4D—
  - (a) a reference in the part to a port operator, other than the port lessor, includes a reference to a subsidiary of the Port of Brisbane Corporation that is the lessee of infrastructure—
    - (i) for supplying water services or sewerage services; and

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- (ii) that is owned by the Port of Brisbane Corporation;  
and
- (b) a reference in the part to the port lessor includes a reference to the Port of Brisbane Corporation.

### **570 When member of POBC Group not liable to pay royalties or similar charges**

- (1) This section applies during the interim period.
- (2) A member of POBC Group is not liable to pay royalties or similar charges for extractive material removed—
  - (a) to maintain or improve navigational channels in its port, or improve navigation in its port, if the material is disposed of under relevant statutory environmental controls; or
  - (b) to reclaim land that is, or is proposed to be, strategic port land or Brisbane core port land.

### **571 Authorised officers**

- (1) This section applies to an appointment as an authorised officer for the Port of Brisbane Corporation in force, immediately before the completion day, under chapter 8, part 3B, division 2.
- (2) The appointment continues in force on the same conditions, for a period of 3 months starting on the completion day, as if it were an appointment as an authorised officer for the port lessor.
- (3) Subsection (2) applies subject to any earlier ending of the appointment, or change of conditions of the appointment, under this Act.

### **572 Delegation**

- (1) The Port of Brisbane Corporation, during the interim period, may delegate its functions under chapter 8 to a subsidiary of the Port of Brisbane Corporation.

- (2) In this section—  
*functions* includes powers.

### **573 Abandoned property**

- (1) This section applies to any property that—
- (a) immediately before the completion day, is abandoned under chapter 8, part 4B and in the possession of the Port of Brisbane Corporation; and
  - (b) is abandoned on land that, on the completion day, is in the port area of the Port of Brisbane.
- (2) Anything done by the Port of Brisbane Corporation under chapter 8, part 4B in relation to the property is taken to have been done by the port operator.

### **574 Proceeds from the sale of abandoned property**

- (1) This section applies if—
- (a) property is abandoned on land that, on the completion day, is in the port area; and
  - (b) immediately before the completion day, the Port of Brisbane Corporation is holding an amount that is, under section 289M, proceeds of sale of the property.
- (2) From the completion day, section 289M continues to apply to the port operator in relation to the amount.

### **575 Amendment of regulations**

The amendment of a regulation by the *Transport and Other Legislation Amendment Act (No. 2) 2010*, chapter 2 does not affect the power of the Governor in Council to further amend the regulation or to repeal it.

## **Schedule 1      Subject matter for regulations**

section 490

- 1 the conditions of use of motorways or limited access roads, including limitations on access or use, and removal of stationary vehicles
- 2 regulation of traffic (including for safety purposes) during construction of road works, busway transport infrastructure works or light rail transport infrastructure works
- 3 regulation of animals on State-controlled roads, busways, busway transport infrastructure, light rails or light rail transport infrastructure
- 4 camping on State-controlled roads or areas under the chief executive's control
- 5 regulation of ancillary works and encroachments
- 6 exemptions from regulations
- 7 allowing the chief executive to give a fee concession or a full or part refund of a fee or levy
- 8 fees, charges, allowances, royalties, costs or expenses to be paid
- 9 the operation by the chief executive of electronic and other devices for monitoring, recording or controlling the passage of vehicles or the flow of traffic on—
  - (a) State-controlled roads; or
  - (b) roads that are proposed to be State-controlled roads; or
  - (c) franchised roads; or
  - (d) other roads with the agreement of the relevant local government; or
  - (e) busways; or
  - (f) light rails

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- 10 regulation of safety issues relating to managing a railway or operating rolling stock on a railway
  - 11 conditions to which an accreditation for a railway is subject
  - 12 regulation of—
    - (a) busway, light rail or miscellaneous transport infrastructure; or
    - (b) busway, light rail or miscellaneous transport infrastructure works; or
    - (c) busways or light rails; or
    - (d) busway land or light rail land
  - 13 the rights and obligations of persons on—
    - (a) a railway; or
    - (b) a busway or busway transport infrastructure; or
    - (c) a light rail or light rail transport infrastructure; or
    - (d) busway land or light rail land
  - 14 the removal and disposal of vehicles or property that are abandoned on—
    - (a) a railway; or
    - (b) a busway, busway land, or busway transport infrastructure; or
    - (c) a light rail, light rail land, or light rail transport infrastructure
  - 15 the removal of vehicles parked or property left—
    - (a) on a busway, busway land, or busway transport infrastructure, against the directions of—
      - (i) the busway manager for the busway, the person in control of the busway land, or the busway manager for which the busway transport infrastructure is used; or
      - (ii) the chief executive; or
    - (b) on a railway against the directions of—

- (i) an accredited person for the railway; or
  - (ii) the chief executive; or
- (c) on a light rail, light rail land, or light rail transport infrastructure, against the directions of—
  - (i) an accredited person for the light rail, the person in control of the light rail land, or an accredited person for the light rail for which the light rail transport infrastructure is used; or
  - (ii) the chief executive
- 16 the recovery of the costs of doing the things mentioned in sections 14 and 15
- 17 alcohol breath tests, drug tests and medical examinations that may be required by a rail safety officer or an authorised person
- 18 the granting of approvals to licensees under chapter 12
- 19 conditions of approvals to licensees under chapter 12
- 20 the management of public marine facilities by the chief executive, including matters about abandoned property, property moored, left, moved or parked contrary to a notice or direction, the appointment and powers of authorised officers and fees for producing or preparing documents
- 21 a levy on a person who has a tenure over boat harbour land managed by the chief executive as a contribution towards the dredging and maintenance of public marine transport infrastructure
- 22 how a levy is to be calculated, the date by which it must be paid, and for the payment of a levy by instalments
- 23 the suspension or cancellation of an accreditation for non-payment of a levy
- 24 protection of, and consequences of damage to, State-owned or State-controlled land or transport infrastructure, including a State-controlled road, a future State-controlled road, busway, busway land, light rail, light rail land, and ancillary works and encroachments on them

- 25 the exemption of vehicles from the payment of tolls on roads
- 26 matters relating to light rail interface issues

## **Schedule 2      Subject matter for waterway transport management plans**

section 473

- 1 regulating the mooring and anchoring of watercraft
- 2 regulating the types of water traffic that may use certain waters or certain marine infrastructure
- 3 regulating, when and for how long, watercraft may remain at a place or locality
- 4 regulating living on board watercraft
- 5 regulating recreational activities involving the use of waterways or watercraft, for example, private or commercial skiing, use of personal watercraft, diving, parasailing and sailing
- 6 nuisances caused by the use of watercraft or persons on board watercraft or by cargo or things associated with the use of watercraft or waterways infrastructure
- 7 a levy on marina owners, as a contribution towards dredging and maintenance of public marine transport infrastructure
- 8 the issue of directions by authorised persons under a waterway transport management plan
- 9 protection of public marine transport infrastructure and recovery of expenses incurred as a result of a contravention of a waterway transport management plan from a person contravening it

## Schedule 3      Reviews and appeals

sections 485, 485A and 485B

<b>Section of the Act</b>	<b>Description of decision</b>	<b>Court or tribunal</b>
33	refusal to approve carrying out of proposed road works	QCAT
33	refusal to approve action interfering with State-controlled road or its operation	QCAT
33	imposition of conditions on approval	QCAT
34	decision of chief executive about amount of costs incurred	QCAT
37	decision of chief executive about amount of compensation	QCAT
37	decision not to extend time	QCAT
38	decision of chief executive not to contribute to fencing	QCAT
42(1)	refusal to approve road works or changes	Planning and Environment
42(4) and (6)	imposition of conditions	Planning and Environment
42(8)	decision of chief executive about amount of compensation	QCAT
43(1)	refusal to approve erection of, alteration or operation of sign or device	Planning and Environment
43(3) and (5)	imposition or inclusion of conditions	Planning and Environment
48	decision of chief executive about cost of repair, replacement or reconstruction of damaged work	QCAT
50	refusal of chief executive to approve construction, maintenance, operation or conduct of ancillary work or encroachment	QCAT

<b>Section of the Act</b>	<b>Description of decision</b>	<b>Court or tribunal</b>
52(1)	decision to cause ancillary works and encroachments to be altered, relocated, made safe or removed, or to direct that the conduct of ancillary works and encroachments be altered or stop	QCAT
52(2)	decision of chief executive about cost of alteration, making safe or removing ancillary work and encroachments	QCAT
52(4)	decision to alter, relocate, make safe or remove ancillary works and encroachments or that activities are to be altered or to stop	QCAT
54(1)	decision to declare a limited access road	Planning and Environment
54	policy for limited access road made, replaced or amended	Planning and Environment
62	decision about access between State-controlled road and particular adjacent land	Planning and Environment
73	decision of chief executive about amount of compensation	QCAT
74(2)	decision not to extend time for claim	QCAT
78	requirement by chief executive about public utility plant on State-controlled road	QCAT
82	decision of chief executive about amount of additional expense	QCAT
126	refusal to grant accreditation	QCAT
126	granting accreditation subject to conditions	QCAT
132(2)	refusal to amend accreditation conditions	QCAT
133(2)	refusal to approve a proposed amendment to approved safety management system	QCAT
136(2)	refusal to approve a proposed safety management system	QCAT

<b>Section of the Act</b>	<b>Description of decision</b>	<b>Court or tribunal</b>
139(2)	decision about a matter relating to rail safety that can not be agreed on by parties	QCAT
144(1)	decision to give a safety direction	QCAT
146(1)	a written direction to do or not to do an act	QCAT
147(1)	telling a person to do or not to do an act	QCAT
158(2)	immediate suspension of accreditation	QCAT
159(2)	direction to apply for amendment of an approved safety management system, or suspension, variation or cancellation of accreditation	QCAT
166(2)	refusal to allow later time to give notice for compensation	QCAT
167	refusal to approve diversion or construction of watercourse	QCAT
168(2)	direction requiring works to stop, be altered or not started	QCAT
168(4)	requirement to alter, demolish or take away works	QCAT
168(6)	decision to alter, demolish or take away works	QCAT
168(6)	decision about cost of altering, demolishing or taking away works	QCAT
240B(4)	decision of chief executive to revoke continued unregistered right in non-rail corridor land	Planning and Environment
240E(8)	decision of chief executive to grant or not grant a right of access across a proposed railway, or impose conditions on a right of access across a proposed railway	Land
240F(3)(b)(i) and (ii)	decision of chief executive to cancel a right of access across a railway or proposed railway, other than by agreement with the relevant railway manager and holder of the right of access	Land

<b>Section of the Act</b>	<b>Description of decision</b>	<b>Court or tribunal</b>
300(3)(b)	refusal to allow later time to give notice for compensation	QCAT
309(1)	refusal to approve erection of, alteration or operation of sign or device	Planning and Environment
309(3) and (5)	imposition or inclusion of conditions	Planning and Environment
313	refusal of chief executive to approve construction, maintenance, operation or conduct of ancillary work or encroachment	QCAT
315(1)	decision to cause ancillary works and encroachments to be altered, relocated, made safe or removed, or to direct that the conduct of ancillary works and encroachments be altered or stopped	QCAT
315(2)	decision of chief executive about cost of alteration, making safe or removing ancillary work and encroachments	QCAT
315(4)	decision to alter, relocate, make safe or remove ancillary works and encroachments or that activities are to be altered or to stop	QCAT
322	requirement by chief executive about public utility plant on busway land	QCAT
327	decision of chief executive about amount of additional expense	QCAT
335AE	giving accreditation on conditions	QCAT
335AE	refusal to give accreditation	QCAT
335AJ(2)	refusal to amend accreditation conditions	QCAT
335AK(3)	amendment of accreditation conditions	QCAT
335AK(8)	amendment of accreditation conditions	QCAT
335AL(3)	suspension or cancellation of accreditation	QCAT
335AL(6)	immediate cancellation of accreditation	QCAT

<b>Section of the Act</b>	<b>Description of decision</b>	<b>Court or tribunal</b>
335AM(2)	immediate suspension of accreditation	QCAT
338(2)	decision of chief executive to impose conditions on an authorisation	QCAT
338(3)	decision of chief executive not to grant an authorisation	QCAT
342(5)	decision of chief executive not to amend authorisation conditions	QCAT
343(3)	decision of chief executive to amend authorisation conditions	QCAT
344(3)	suspension or cancellation of authorisation	QCAT
344(6)	immediate cancellation of authorisation	QCAT
345(2)	immediate suspension of authorisation	QCAT
346R(1)(c)	decision of busway safety officer resulting in forfeiture of seized thing to the State	QCAT
351(3)(b)	refusal to allow later time to give notice for compensation	QCAT
370	requirement by chief executive about public utility plant on light rail land	QCAT
375	decision of chief executive about amount of additional expense	QCAT
388	giving accreditation on conditions	QCAT
388	refusal to give accreditation	QCAT
393(2)	refusal to amend accreditation conditions	QCAT
394(3)	amendment of accreditation conditions	QCAT
394(8)	amendment of accreditation conditions	QCAT
395(3)	suspension or cancellation of accreditation	QCAT
395(6)	immediate cancellation of accreditation	QCAT
396(2)	immediate suspension of accreditation	QCAT
443	refusing to give exemption	QCAT

<b>Section of the Act</b>	<b>Description of decision</b>	<b>Court or tribunal</b>
447	amendment, suspension or cancellation of approval or exemption	QCAT
449	immediate suspension of approval or exemption	QCAT
476B(2)	direction requiring works to stop, be altered or not started	QCAT
476B(4)	requirement to alter, demolish or take away works	QCAT
476B(6)	decision to alter, demolish or take away works	QCAT
476B(6)	decision about recovering cost of altering, demolishing or taking away works	QCAT
476D	decision to register notice about nature of works	QCAT
489	decision of chief executive about cost of repair, replacement or reconstruction of damaged works	QCAT

## Schedule 4      Railway tunnel easements

section 241

<b>Servient land</b>	<b>Easement</b>
Lot 325 CP SL 1633	Easements A and B RP 852852
Lot 408 CP SL 7151	Lots C and D CP 852851
Lot 515 CP SL 6565	Easement G RP 852850
Lot 461 CP SL 3741	Lot H CP 852849
Lot 13 CP B32219	Easement K RP 136379
Lot 1 RP 115152	Easement H RP 115158
Lot 5 SP 115364	Easement A SP 118572
Lot 5 SP 115364	Easement B SP 118573
Lot 5 SP 115364	Easement E SP 118574
Lot 5 SP 115364	Easement F SP 118575
Lot 5 SP 115364	Easement G SP 118576
Lot 5 SP 115364	Easement H SP 118577
Lot 5 SP 115364	Easement K SP 134045
Lot 5 SP 115364	Easement L SP 123675
Lot 2 RP 124155	Easement A RP 852844
Lot 2 RP 124155	Easement B RP 893936
Lot 2 RP 118622	Easement in gross no. 602205520
Lot 2 RP 118622	Easement B RP 852845
Lot 1 RP 152576	Easement in gross no. 602205520
Lot 1 RP 152576	Easement C RP 852845
Lot 2 RP 152576	Easement D RP 852845
Lot 2 RP 85223 and Lot 1 RP 105765	Easement B RP 852848
Lot 21 RP 178644	Easement in gross no. 602106739
Lot 21 RP 178644	Easements A, B and C RP 183623
Lot 1 RP 188351	Easement in gross no. 602505742
Lot 1 RP 117227	Easement A RP 880802
Lot 2 RP 117227	Easement A RP 852848

<b>Servient land</b>	<b>Easement</b>
Lot 1 RP 155774	Easement E RP 852846
Lot 1 RP 197728	Easement F RP 852847
Lot 2 RP 10133	Easement in gross no. 601608083
Lot 2 RP 10133	Easement H RP 852847
Lot 3 RP 10133	Easement in gross no. 601401832
Lot 3 RP 10133	Easement K RP 852847
Lot 13 RP 10122	Easement D RP 852846
Lot 2 RP 60443	Easement C RP 852846
Lot 2 RP 197728	Easement G RP 852847
Lot 13 RP 10124	Easement in gross no. 601539792
Lot 13 RP 10124 and Lot 2 RP 10129	Easement J RP 852847
Lot 12 RP 10124	Easement in gross no. 601544351
Lot 1 RP 196222	Easement in gross no. 602129535
Lot 1 RP 196222	Easement in gross no. 602129536
Lot 9 RP 814964	Easement A RP 852846
Lot 0 BUP 4313 (CMS 10872)	Easement in gross no. 601201902
Lot 0 BUP 4313 (CMS 10872)	Easement B RP 852846
Lots 22 and 23 RP 10122	Easement in gross no. 602279385
Lot 2 RP 888141	Easement in gross no. 601837139
Lot 5 RP 127273	Easement A RP 852853
Lot 0 BUP 9977 (CMS 5362)	Easement B RP 852853
Lot 15 SP 126957	Easements C and D RP 852853
Lot 16 SP 120013	Easements C and E RP 852853
Lot 2 RP 9449	Easement F RP 852854
Lot 1 RP 9449	Easement G RP 852854
Lot 10 SP 120689	Lot B RP 852855
Lot 10 SP 120689	Easement H RP 852853
Lot 10 SP 120689	Lot J RP 852854
Lot 10 SP 120689	Easements M and N RP 885880
Lot 10 SP 120689	Easement in gross no. 601481648
Lot 10 SP 120689	Easement in gross no. 601922003
Lot 10 SP 120689	Easement in gross no. 601922004

<b>Servient land</b>	<b>Easement</b>
Lot 10 SP 120689	Easement in gross no. 601993708
Lot 10 SP 120689	Easement in gross no. 602418143
Lot 8 RP 151540	Easement A RP 852855
Lot 1 RP 202674	Easement in gross no. 601481648
Lot 1 RP 202674	Easement E RP 852855
Lot 0 BUP 105422 (CMS 15376)	Easements C and D RP 852855
Lot 3 RP 9399	Easement A RP 880804
Lot 103 RP 48101	Easement F RP 852855
Lots 67 to 69 RP 46061	Easement in gross no. 602009566
Lots 67 to 69 RP 46061	Easement in gross no. 602009567
Lot 60 RP 46062	Easement A RP 852856
Lot 59 RP 46062	Easement in gross no. 601842947
Lot 59 RP 46062	Easement B RP 852856
Lot 58 RP 46062	Easement C RP 852856
Lots 55 to 57 RP 46062	Easements A, B, and C RP 880805
Lot 54 RP 47036	Easement D RP 852856
Lots 51 and 52 RP 47036	Easement E RP 852856
Lot 1 RP 126496	Easements A and B RP 126496
Lot 2 RP 11632	Easement in gross no. 602230916
Lot 4 RP 11657	Easement in gross no. 602063425
Lot 5 RP 11657	Easement A RP 46641
Lot 6 RP 11657	Easement in gross no. 602443214
Lot 6 RP 11657	Easement in gross no. 602443215
Lot 7 RP 11657	Easement in gross no. 601262452
Lot 7 RP 11657	Easement in gross no. 702217998
Lot 12 RP 11657	Easement in gross no. 602820194
Lots 21 to 26 RP 11653	Easement in gross no. 602464557
Lots 21, 22, 24 and 26 RP 11653	Easement in gross no. 602464558
Lots 27 and 28 RP 11653	Easement in gross no. 602784029
Lot 28 RP 11653	Easement in gross no. 602563205
Lot 29 RP 11668	Easement in gross no. 602784029
Lot 29 RP 11668	Easement in gross no. 602784030

## **Schedule 5      Tolling matters for toll road or local government tollway**

sections 93, 105GA and 105GB

- 1 the types of vehicles liable for tolls for use of a toll road or local government tollway
- 2 the maximum toll payable for use of a toll road or local government tollway for each type of vehicle liable to pay a toll
- 3 the methodology to be used to decide indexed, periodic increases in the maximum toll payable for use of a toll road or local government tollway
- 4 the day the toll becomes payable by each type of vehicle liable to pay a toll for use of a toll road or local government tollway
- 5 the administration charge payable for issuing a notice for, and collecting, an unpaid toll for use of a toll road or local government tollway
- 6 the ways of making payment of the toll liability for use of a toll road or local government tollway, other than payment in cash or by use of the E toll system
- 7 the user administration charge payable for persons making payment of the toll other than in cash or by use of the E toll system
- 8 a description of the arrangements that will be used to allow users of a toll road or local government tollway to satisfy the liability to pay tolls on the toll road or local government tollway and tolls on other toll roads or tollways in the State or another State
- 9 the day the toll stops being payable, or a method to work out the day that the toll stops being payable, by each type of vehicle liable to pay a toll for use of a toll road or local government tollway

## **Schedule 5A      Other matters for conditions for local government tollways**

sections 105GA and 105GB

- 1 traffic management by the local government
- 2 management by the local government of the impact of the local government tollway on the road network
- 3 reports from local government about the local government tollway

## **Schedule 5B      Core port infrastructure, port related development and port prohibited development**

section 283I, definitions *core port infrastructure*, *port prohibited development* and *port related development*

### **Part 1                      Definitions for schedule 5B**

In this schedule—

***food and drink outlet*** means premises used for preparing and selling food or drink to the public, on a regular basis, for consumption on or off the premises.

***freight warehouse or depot*** means premises used to receive, store, or distribute goods, if at least 75% of the goods are, in each year, transported by ship through the Port of Brisbane.

***hospital*** means premises—

- (a) used for medical or surgical care or treatment of patients; and
- (b) at which accommodation is provided for inpatients to stay overnight.

***medical centre*** means premises—

- (a) used for medical or surgical care or treatment of patients; and
- (b) at which accommodation is not provided for patients to stay overnight.

***nature based recreation facility*** means premises used for minor recreational facilities that cause minimal impact on the environment.

*Examples—*

boardwalks, picnic facilities and premises used to educate visitors about an area's ecology

**office**—

- 1 *Office* means premises used for an administrative, professional or management service, other than the manufacture or sale of goods.

*Example*—

a financial institution's office

- 2 However, *office* does not include ancillary offices for core port infrastructure.

**port terminal facility**—

- 1 *Port terminal facility* means premises used for handling shipping freight or dealing with a ship's passengers.
- 2 *Port terminal facility* includes facilities within a building that are used to provide goods and services, including, for example, services to a ship's passengers.

*Example of facilities for paragraph 2*—

- arts and craft stores, bookstores, gift or souvenir stores, newsagencies, pharmacies and toy stores
- tourism or accommodation booking offices

**residential development** means premises in which people reside or stay, whether permanently or temporarily.

*Examples*—

dwelling house, hostel, hotel, motel, multiple dwelling, relocatable home park, residential care facility, retirement facility and caretaker's accommodation

**seafarers' centre** means premises where chaplaincy services and rest and recreational facilities are provided primarily for seafarers.

**service station**—

- 1 *Service station* means premises used primarily for the sale of fuel for vehicles.
- 2 *Service station* includes part of any premises mentioned in paragraph 1 used to maintain, service, repair, clean or hire vehicles, or as a shop (minor) or food and drink outlet.

**shop (minor)** means premises that—

- (a) are used for the display or retail of goods or personal services; and
- (b) have a gross floor area of not more than 2500m<sup>2</sup>.

*Examples—*

beauty salon, dry cleaning shop, laundromat and supermarket

**shopping facility (major)** means a building or group of buildings that—

- (a) are used primarily as shops or retail showrooms; and
- (b) are an integrated development; and
- (c) have a gross floor area of more than 2500m<sup>2</sup>.

*Examples—*

department store, discount department store, discount factory outlet, retail warehouse, shopping centre and a showroom or wholesale facility

**sport and recreation (major)** means premises that—

- (a) are used for sporting or recreational activities; and
- (b) have an area of more than 2500m<sup>2</sup>.

*Examples—*

race track, sporting field and motor sport track

**tourist attraction (major)** means premises that—

- (a) are used primarily for public entertainment or recreation; and
- (b) have an area of more than 2500m<sup>2</sup>.

*Examples—*

theme park and zoo

**transport and equipment depot** means premises used to garage, store or maintain vehicles and equipment, including, for example, trucks and earthmoving equipment.

**visitor centre** means premises used primarily to provide information to visitors about the Port of Brisbane or training relating to the port, including premises containing an office, cafe or meeting rooms.





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## **Part 4**                      **Port related development**

Development for a following purpose is port related development for Brisbane core port land—

- (a) food and drink outlet;
- (b) medical centre;
- (c) nature based recreation facility;
- (d) office;
- (e) park;
- (f) seafarers' centre;
- (g) service station;
- (h) shop (minor);
- (i) visitor centre;
- (j) warehouse (general).

## Schedule 6 Dictionary

### section 3

*abandoned property*, for chapter 8, part 4B, see section 289H.

*accepted representations*, for chapter 7, part 3, see section 121.

*accreditation* means—

- (a) for a railway—accreditation granted under section 126 as a railway manager or railway operator; or
- (b) for light rail—accreditation given under section 388 as a light rail manager or light rail operator.

*accredited person* means—

- (a) for chapter 7—a railway manager or operator for whom an accreditation is in force under the chapter; or
- (b) for chapter 10—a light rail manager or operator for a light rail for whom an accreditation is in force under the chapter.

*acquire*, for chapter 9, part 3 and chapter 10, part 3, includes acquire by gift, exchange or purchase.

*administration charge*, for a toll, means the administration charge set in relation to non-payment of the toll.

*advice agency* means an advice agency for a development application under the Planning Act.

*affected person*, for chapter 11, see section 402.

*air transport infrastructure* includes transport infrastructure relating to aircraft or to the operation of aircraft.

*alter* includes add to.

*amusement railway* means a railway that—

- (a) is operated solely within an amusement or theme park—

- 
- (i) that is registered as an amusement device under the *Workplace Health and Safety Act 1995*; and
  - (ii) that does not operate on, or across, a road; or
  - (b) operates on a track with a gauge of less than 600mm on a place other than a road.

***ancillary works and encroachments*** means—

- (a) the following things—
  - (i) cane railways;
  - (ii) monorails;
  - (iii) bridges, overhead conveyors or other overhead structures;
  - (iv) tunnels;
  - (v) rest area facilities;
  - (vi) monuments or statues;
  - (vii) advertising signs or other advertising devices;
  - (viii) traffic and service signs;
  - (ix) bores, wells, pumps, windmills, water pipes, channels, culverts, viaducts, water tanks or dams;
  - (x) pipes;
  - (xi) tanks;
  - (xii) cables;
  - (xiv) paths or bikeways;
  - (xv) grids or other stock facilities;
  - (xvi) buildings, shelters, awnings or mail boxes;
  - (xvii) poles, lighting, gates or fences;
  - (xviii) pumps and bowsers; or
- (b) any of the following activities—
  - (i) drilling;
  - (ii) clearing;

- (iii) trimming;
  - (iv) slashing;
  - (v) landscaping;
  - (vi) planting;
  - (vii) burning off;
  - (viii) removing trees;
  - (ix) road safety related activities;
  - (x) sporting activities;
  - (xi) camping;
  - (xii) conducting a business (for example, a market);
  - (xiii) moving stock, other than under a stock route travel permit under the *Land Protection (Pest and Stock Route Management) Act 2002*;
  - (xiv) holding meetings; or
- (c) other encroachments declared under a regulation to be ancillary works and encroachments;

but does not include public utility plant.

***approval***—

- (a) for chapter 8, part 4A—see section 289B; or
- (b) for chapter 12—see section 415; or
- (c) for chapter 14—means an approval by the chief executive.

***approval conditions***, for chapter 12, see section 415.

***approved form*** means a form approved by the chief executive under section 479.

***approved safety management system***, for chapter 7, part 3, see section 122.

***approved tollway project***, for chapter 6, part 8, see section 105B.

***assessment manager*** means the assessment manager for a development application under the Planning Act.

***associated person*** for—

- (a) chapter 7, part 2—see section 109; or
- (b) chapter 11—see section 402.

***audit program***, for chapter 7, part 3, see section 121.

***authorised busway user***, for chapter 9, part 5, see section 335A.

***authorised officer***—

- (a) for chapter 8—means a person appointed under section 282K; or
- (b) for a person who is appointed under a regulation as an officer in relation to a matter as stated in the regulation—means a person appointed under the regulation as an officer for the matter.

***authorised person*** means—

- (a) for chapter 15, part 2—a person who is an authorised person for a waterway transport management plan under section 475A; or
- (b) for a person who is appointed under a regulation as an authorised person relating to a matter as stated in the regulation—a person appointed under the regulation as an authorised person for the matter; or
- (c) otherwise—a person who is an authorised person under the *Transport Operations (Passenger Transport) Act 1994*, section 111.

***authority***, for chapter 7, part 2, see section 109.

***balance port land*** see section 283I.

***Brisbane core port land*** see section 283I.

***Brisbane port LUP*** see section 283I.

***Brisbane port railway land***, for chapter 8, part 3C, see section 283I.

**busway** means—

- (a) a route especially designed and constructed for, and dedicated to, the priority movement of buses for passenger transport purposes; and
- (b) places for the taking on and letting off of bus passengers using the route.

**busway common area** see section 303A(2).

**busway land**—

- 1 *Busway land* means land declared to be busway land under chapter 9.
- 2 Additionally, the following apply—
  - (a) for chapter 9, part 4, division 4, see section 316;
  - (b) for chapter 9, part 4, division 6, see section 330;
  - (c) for chapter 10, part 4, division 5, see section 378.

**busway manager**, for a busway, means a person who holds an accreditation under chapter 9, part 4A as the busway manager for the busway.

**busway service provider**, for chapter 9, part 5, see section 335A.

**busway transport infrastructure** means each of the following—

- (a) the pavement on which buses run for a busway;
- (b) the stations for operating a busway;
- (c) other facilities necessary for managing or operating a busway, including for example—
  - (i) infrastructure put in place for the busway, including the following—
    - support earthworks
    - cuttings
    - drainage works
    - excavations

- 
- land fill; and
- (ii) the following things, if associated with the busway's operation—
- access or service lanes
  - bridges, including bridges over water
  - busway operation control facilities
  - communication systems
  - depots
  - machinery and other equipment
  - monitoring and security systems
  - noise barriers
  - notice boards, notice markers and signs
  - office buildings
  - passenger interchange facilities between the busway and other modes of transport
  - platforms
  - positioning systems
  - power and communication cables
  - signalling facilities and equipment
  - survey stations, pegs and marks
  - ticketing equipment and systems
  - timetabling systems
  - tunnels
  - under-busway structures
  - workshops;
- (d) vehicle parking and set down facilities for intending passengers for a busway;
- (e) pedestrian facilities, including paving of footpaths, for a busway;

- (f) other facilities, or commercial or retail outlets or works, for the convenience of passengers and others who may use a busway, including, for example, automatic teller machines, lockers or showers for cyclists and others, newsagents and wheelchair hire or exchange centres;
- (g) landscaping or associated works for a busway.

***busway transport infrastructure works*** means works done for—

- (a) constructing busway transport infrastructure or things associated with busway transport infrastructure; or
- (b) the maintenance of busway transport infrastructure or of things associated with busway transport infrastructure; or
- (c) facilitating the operation of busway transport infrastructure or things associated with busway transport infrastructure.

***candidate GOC*** has the same meaning as in the *Government Owned Corporations Act 1993*.

***cane railway*** means a tramway or railway—

- (a) operated, entirely or partly, on an access right under the *Sugar Industry Act 1999*, chapter 2, part 4; and
- (b) used, or proposed to be used, to transport sugar cane, sugar or sugar cane by-products; and
- (c) that does not transport passengers or other freight for reward.

***carry out*** road or railway works means do anything on land that is reasonably necessary or desirable for the works, including, for example, temporarily occupy or use the land.

***certificate of accreditation***, for chapter 7, part 3 and section 524, see section 121.

***charge*** see section 267.

***civil or criminal proceeding***, for chapter 7, part 6, and section 531, see section 213B.

***class exemption*** means an exemption granted to a class of person under section 443(2).

***class representative***, for a class exemption, means the representative of a class of person who applied for the exemption.

***commencement***—

- (a) for chapter 18, part 3, see section 521; or
- (b) for chapter 18, part 5, see section 532; or
- (c) for chapter 19, see section 559; or
- (d) for chapter 20, see section 562.

***commercial corridor land*** means old QR land—

- (a) on or within which rail transport infrastructure is situated; and
- (b) notified by the chief executive in the gazette.

***community infrastructure designation*** for chapter 8, part 3C, see section 283I.

***compensation notice***, for chapter 11, see section 411.

***completion day***—

- (a) for chapter 8, see section 267; or
- (b) for chapter 20, see section 562.

***compliance notice***, for chapter 6, part 8, see section 105B.

***concurrency agency*** means a concurrence agency for a development application under the Planning Act.

***consign*** and ***consignor***—

- 1 A person ***consigns***, and is the ***consignor*** in relation to, goods transported, or to be transported, by rail or goods that are dangerous goods if the person is any of the following—
  - (a) the person who has consented to being, and is, named or otherwise identified as the consignor of the goods in the transport documentation for the consignment;

- (b) if there is no person as described in paragraph (a)—
    - (i) for goods transported or to be transported by rail—the person who engages an operator of the railway, either directly or through another person, to transport the goods by rail; or
    - (ii) for goods that are dangerous goods—the person who engages a prime contractor, either directly or through another person, to transport the goods; or
    - (iii) if there is no person as described in subparagraph (i) or (ii)—the person who has possession of, or control over, the goods immediately before the goods are transported by rail; or
    - (iv) if there is no person as described in subparagraph (i), (ii) or (iii)—the person who loads a vehicle with the goods, for transport by rail, at a place—
      - (A) where goods in bulk are stored, temporarily held or otherwise held waiting collection; and
      - (B) that is unattended, other than by the driver or trainee driver of the rail vehicle or someone else necessary for the normal operation of the rail vehicle, during loading;
  - (c) if there is no person as described in paragraph (a) or (b) and the goods are imported into Australia through a place in Queensland—the importer of the goods.
- 2 Also, a person consigns goods for transport by rail if the person arranges for the conveyance of the goods on a rail vehicle owned or controlled by the person.

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**consignee**, in relation to dangerous goods transported or to be transported by rail—

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

**construction** of busway, light rail, or road transport infrastructure includes each of the following for the infrastructure, to the extent it involves the development of the infrastructure—

- (a) initial construction;
- (b) improvement of its standard;
- (c) realignment;
- (d) widening;
- (e) extension to accommodate the extension of a busway, light rail or road.

**consultation period**, for chapter 8, part 3C, see section 283I.

**continuing accredited person**, for chapter 18, part 3, see section 521.

**contributions schedule**, for chapter 8, part 3C, see section section 283I.

**controlled activity**, for chapter 8, see section 289B.

**convicting** a person includes a court finding the person guilty, or the person pleading guilty, whether or not a conviction is recorded.

**coordination plan** means the transport coordination plan developed under the *Transport Planning and Coordination Act 1994*.

**core matters**, for chapter 8, part 3C, see section 283I.

**core port infrastructure** see section 283I.

**coronial procedure**, for chapter 7, part 6, and section 531, see section 213B.

**corporate plan**, for chapter 8, see section 267.

**court**, for chapter 7, part 6, see section 213B.

**dangerous goods** means—

- (a) goods prescribed under a regulation to be dangerous goods; or
- (b) for implied references to goods too dangerous to be transported—see chapter 14, part 7, section 458A.

**dangerous goods authority** means an entity in a participating dangerous goods jurisdiction that has functions under a corresponding law to chapter 14 that correspond to the chief executive's functions under that chapter.

**dangerous goods offence** means an offence against chapter 14, the *Transport Operations (Passenger Transport) Act 1994*, chapter 11, or a dangerous goods regulation, involving or relating to the transport of dangerous goods by rail.

**dangerous goods regulation** means a regulation made under chapter 14—

- (a) applying to the transport of dangerous goods by rail; or
- (b) for implied references to goods too dangerous to be transported—see chapter 14, part 7, section 458A.

**dangerous situation** means a situation involving the transportation of dangerous goods by rail that is causing, or is likely to cause, imminent risk of—

- (a) death of, or significant injury to, a person; or
- (b) significant harm to the environment; or
- (c) significant damage to property.

**data logger recording**, for chapter 7, part 6, see section 213B.

***data logger recording information***, for chapter 7, part 6, see section 213B.

***declaration***—

- (a) for chapter 6, part 5, division 2, subdivision 2, see section 53; or
- (b) for chapter 6, part 8, for a local government tollway, see section 105B.

***deferred toll amount***—

- (a) for chapter 6, part 7, division 3—see section 97; or
- (b) for chapter 6, part 8, division 6, subdivision 3—see section 105ZF.

***designated vehicle***—

- (a) for chapter 6, part 7—see section 92; or
- (b) for chapter 6, part 8—see section 105B.

***development***—

- (a) for chapter 8, part 3C, means development under the Planning Act; or
- (b) for chapter 11, see section 402.

***development application*** means an application for a development approval.

***development approval*** means a development approval under the Planning Act.

***disciplinary action***, for chapter 7, part 3, see section 121.

***dispute matter***, for chapter 7, part 3, see section 121.

***dispute notice***, for chapter 12, see section 415.

***draft plan***—

- (a) for chapter 8, part 3C, see section 283I; or
- (b) for chapter 8, part 4, see section 285B.

***employee***, for section 26 and chapter 7, parts 3, 6 and 8, see section 121.

**enter**, relating to rolling stock, for chapter 7, part 5, see section 170.

**establishment**, for—

- (a) chapter 9, part 4, division 6—see section 330; or
- (b) chapter 10, part 4, division 5—see section 378.

**E toll only pay point** means a part of a toll plaza designated by appropriate signs for the exclusive use of vehicles using the E toll system.

**E toll system**—

- (a) for chapter 6, part 7—see section 92; or
- (b) for chapter 6, part 8—see section 105B.

**exemption**, for chapter 14, means an exemption under section 443.

**exempt vehicle** means a vehicle exempted from the payment of tolls on roads under—

- (a) an Act; or
- (b) an Act or law of the Commonwealth; or
- (c) an Act of another State that is prescribed under a regulation for this paragraph.

**existing rail corridor land** means old QR land—

- (a) on or within which rail transport infrastructure is situated; and
- (b) that is not commercial corridor land.

**extractive material**, for chapter 8, see section 267.

**final notice**, for chapter 6, part 8, see section 105B.

**first Brisbane port LUP**, for chapter 8, part 3C, see section 283I.

**food and drink outlet**, for schedule 5B, see schedule 5B, part 1.

**former land use plan**, for chapter 8, part 3C, see section 283I.

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***franchised road*** means a road to which a road franchise agreement applies, and includes facilities identified in the road franchise agreement that are on or adjacent to the road and relate to the operation or servicing of the road or facilities for road users.

***franchisee*** means—

- (a) for a road franchise agreement—a person with whom the Minister has entered into the agreement; or
- (b) for a light rail franchise agreement—a person with whom the Minister has entered into the agreement.

***freight warehouse or depot***, for schedule 5B, see schedule 5B, part 1.

***future railway land*** has the meaning given by section 242.

***GOC*** includes a candidate GOC.

***GOC Act entity*** means—

- (a) a GOC; or
- (b) an entity established under the *Government Owned Corporations Act 1993*.

***GOC port authority*** means a port authority that is a GOC.

***goods too dangerous to be transported*** means goods prescribed under a dangerous goods regulation as goods too dangerous to be transported.

***government supported transport infrastructure*** means transport infrastructure that—

- (a) is funded, wholly or partly, by appropriations from the consolidated fund; or
- (b) is funded, wholly or partly, by borrowings made by the Government (other than commercial borrowings made by the Queensland Treasury Corporation acting as an agent); or
- (c) is funded, wholly or partly, by borrowings guaranteed by the Government other than borrowings for commercial investments; or

- (d) is provided by a person on the basis of conditions agreed to by the Government that are intended to support the commercial viability of the infrastructure.

**high-water mark**, for chapter 8, part 3C, see section 283I.

**hospital**, for schedule 5B, see schedule 5B, part 1.

**IDAS** means the system detailed in the Planning Act, chapter 3, for integrating State and local government assessment and approval processes for development.

**IDAS process** means the process for dealing with a development application under the IDAS stages under the Planning Act.

**imposed condition**, for chapter 7, part 3, see section 121.

**in** a rail vehicle includes on the vehicle.

**incident** means an incident that has caused or could have caused—

- (a) property damage; or
- (b) injury to an individual, including death.

**individual**, for chapter 7, part 6, and section 531, see section 213B.

**information notice**, for a decision the subject of a written notice given to a person, means a written notice stating that the person may—

- (a) under section 485—ask for the decision to be reviewed by the chief executive; and
- (b) under the *Transport and Planning Coordination Act 1994*, part 5, division 2—apply for the decision to be stayed; and
- (c) either—
  - (i) if section 485A applies in relation to the reviewed decision—
    - (A) under that section—ask for the reviewed decision to be reviewed by QCAT; and

- (B) under the QCAT Act—apply for the reviewed decision to be stayed; or
- (ii) if section 485B applies in relation to the reviewed decision, under the *Transport and Planning Coordination Act 1994*, part 5, division 3—
  - (A) appeal against the reviewed decision to the court stated in schedule 3 for the decision; and
  - (B) apply for the reviewed decision to be stayed.

*inquiry*, for chapter 7, part 6, see section 213B.

*insufficient value property*, for chapter 8, part 4B, see section 289H.

*interfere with* a railway means—

- (a) carry out works on the railway; or
- (b) otherwise interfere with the railway or its operation.

*interfere with*, light rail transport infrastructure, for chapter 10, part 4, division 2, see section 361A.

*interim minor amendment*, for chapter 7, part 3, see section 121.

*interim period*, for chapter 20, see section 562.

*intersecting area*, for chapter 12, see section 415.

*investigation*, for chapter 7, part 6, see section 213B.

*investigator* means—

- (a) other than for chapter 11—a person who holds an authority; or
- (b) for chapter 11—a person who holds an investigator's authority under that chapter.

*investigator's authority*, for chapter 11, see section 402.

*land*—

- (a) for chapter 6, part 5, division 2, subdivision 2, for land adjacent to a State-controlled road, see section 53; or

- (b) for chapter 6, and for chapters 9 to 12, includes—
  - (i) an interest in land; and
  - (ii) land within the beds and banks of a watercourse or inundated land; and
  - (iii) land beneath the internal waters of Queensland; or
- (c) for chapter 7 includes—
  - (i) a reserve within the meaning of the *Land Act 1994* or a road; and
  - (ii) land within the beds or banks of a watercourse or inundated land; or
- (d) for chapter 7, part 7 and for chapters 9 to 12, includes the airspace above, and the land below, the surface; or
- (e) for chapter 8, see section 267.

***Land Act***, for chapter 8, see section 267.

***land use and development***, for chapter 8, part 3C, see section 283I.

***lease***, for chapters 8 and 20, see section 267.

***leasehold land register*** means the leasehold land register kept under the *Land Act 1994*, section 276(a).

***licensee***, for chapter 12, see section 415.

***light rail*** means—

- (a) a route wholly or partly dedicated to the priority movement of light rail vehicles for passenger transport purposes, whether or not the route was designed and constructed for those purposes as well as other purposes; and
- (b) places for the taking on and letting off of light rail vehicle passengers using the route.

***light rail authority***, for chapter 10, part 4, division 3, see section 364.

***light rail franchise agreement*** see section 377B.

***light rail interface***, for chapter 10, part 4, division 4A, subdivision 3, see section 377J.

***light rail interface agreement***, for chapter 10, part 4, division 4A, subdivision 3, see section 377K.

***light rail interface issue*** see section 377J.

***light rail interface management area***, for chapter 10, part 4, division 4A, subdivision 3, see section 377J.

***light rail land***—

- 1 *Light rail land* means land declared to be light rail land under chapter 10.
- 2 Additionally, the following apply—
  - (a) for chapter 10, part 4, division 3, see section 364;
  - (b) for chapter 10, part 4, division 4A, see section 377J;
  - (c) for chapter 10, part 4, division 5, see section 378.

***light rail manager***, for a light rail, means a person who holds an accreditation under chapter 10, part 5 as the light rail manager for the light rail.

***light rail operator***, for a light rail, means a person who holds an accreditation under chapter 10, part 5 as a light rail operator for the light rail.

***light rail transport infrastructure*** means each of the following—

- (a) the rails on which light rail vehicles run for a light rail and pavement incorporating the rails;
- (b) the stations for operating a light rail;
- (c) other facilities necessary for managing or operating a light rail, including, for example—
  - (i) works built for the light rail, including the following—
    - cuttings
    - drainage works

- excavations
  - land fill
  - track support earthworks; and
- (ii) light rail vehicles that operate on a light rail; and
- (iii) the following things if they are associated with the light rail's operation—
- access or service lanes
  - bridges, including bridges over water
  - communication systems
  - light rail operation control facilities
  - machinery and other equipment
  - maintenance depots
  - marshalling yards
  - monitoring and security systems
  - noise barriers
  - notice boards, notice markers and signs
  - office buildings
  - overhead wiring
  - over-track structures
  - passenger interchange facilities between light rail and other modes of transport
  - platforms
  - positioning systems
  - power and communication cables
  - power supply substations and equipment
  - signalling facilities and equipment
  - survey stations, pegs and marks
  - ticketing equipment and systems
  - timetabling systems

- tunnels
  - under-track structures
  - workshops;
- (d) vehicle parking and set down facilities for intending passengers for a light rail;
- (e) pedestrian facilities, including paving of footpaths, for a light rail;
- (f) other facilities, or commercial or retail outlets or works, for the convenience of passengers and others who may use a light rail, including, for example, automatic teller machines, lockers or showers for cyclists and others, newsagents and wheelchair hire or exchange centres;
- (g) landscaping or associated works for a light rail.

***light rail transport infrastructure works*** means works done for—

- (a) constructing light rail transport infrastructure or things associated with light rail transport infrastructure; or
- (b) the maintenance of light rail transport infrastructure or of things associated with light rail transport infrastructure; or
- (c) facilitating the operation of light rail transport infrastructure or things associated with light rail transport infrastructure.

***light rail vehicle*** means a type of transport that—

- (a) is intended wholly or mainly for the carriage of passengers or for track maintenance; and
- (b) travels on flanged wheels on parallel rails; and
- (c) is designed to operate in line of sight on road-like areas.

***loading***, in relation to loading a rail vehicle with dangerous goods, includes the following—

- (a) loading 1 or more packages of the goods in or on the rail vehicle;

- (b) placing or securing 1 or more packages of the goods on the rail vehicle;
- (c) supervising an activity mentioned in paragraph (a) or (b);
- (d) managing or controlling an activity mentioned in paragraph (a), (b) or (c);

but does not include loading goods into packaging already on the rail vehicle or placing or securing packages in or on further packaging already on the vehicle.

***local government franchised road***, for chapter 6, part 8, see section 105B.

***local government franchisee***, for chapter 6, part 8, see section 105B.

***local government road*** means a road that is under the control of a local government.

***local government tollway***, for chapter 6, part 8, see section 105B.

***local government tollway corridor land***, for chapter 6, part 8 and section 249, see section 105B.

***local government tollway franchise agreement***, for chapter 6, part 8, see section 105Y.

***local government tollway infrastructure***, for chapter 6, part 8, see section 105B.

***local government tollway infrastructure works***, for chapter 6, part 8, see section 105B.

***local government tollway operator***, for chapter 6, part 8, see section 105B.

***maintain*** includes repair.

***maintenance***, for chapters 6, 7 and 12, includes—

- (a) rehabilitation; and
- (b) replacement; and
- (c) repair; and

- 
- (d) recurrent servicing; and
  - (e) preventive and remedial action; and
  - (f) removal; and
  - (g) alteration; and
  - (h) maintaining systems and services for transport infrastructure.

***material change of use*** see the Planning Act, section 10.

***matter***, for chapter 6, part 8, see section 105B.

***medical centre***, for schedule 5B, see schedule 5B, part 1.

***member of POBC Group*** means the Port of Brisbane Corporation or a subsidiary of the Port of Brisbane Corporation.

***member of QR Group***, for chapter 19, see section 559.

***Minister***, for chapter 8, part 3C, division 6, see section 283ZZL.

***minor amendment (LUP)***, for chapter 8, part 3C, see section 283I.

***miscellaneous transport infrastructure*** see section 416.

***miscellaneous transport infrastructure works*** means—

- (a) works done for—
  - (i) constructing miscellaneous transport infrastructure or things associated with miscellaneous transport infrastructure; or
  - (ii) the maintenance of miscellaneous transport infrastructure or of things associated with miscellaneous transport infrastructure; or
  - (iii) facilitating the operation of miscellaneous transport infrastructure or things associated with miscellaneous transport infrastructure; or
- (b) works declared under a regulation to be miscellaneous transport infrastructure works.

**motorway** means a State-controlled road that is declared to be a motorway under section 27 (Declaration of motorways).

**nature based recreation facility**, for schedule 5B, see schedule 5B, part 1.

**new rail corridor land** means land that is subleased to a railway manager under section 240.

**non-rail corridor land** means land leased to the State in perpetuity that was—

- (a) old QR land declared to be non-rail corridor land; or
- (b) rail corridor land for which the sublease previously granted to a railway manager has—
  - (i) expired; or
  - (ii) been surrendered or terminated.

**notice** means a notice, sign or pictograph of any type of material and whether fixed or moveable.

**occupier**, of a place that is a watercraft, see section 475H.

**occupier**, of land, for chapters 6, 7, 9, 10, 11 and 12, means—

- (a) the person in actual occupation of the land; or
- (b) if there is no person in actual occupation—the person entitled to possession of the land;

and, for a watercourse or reserve, includes the person responsible for the care and management of the watercourse or reserve.

**office**, for schedule 5B, see schedule 5B, part 1.

**old QR land** means land (other than an easement in land) that, immediately before the commencement of the *Transport Infrastructure Amendment (Rail) Act 1995*, section 4—

- (a) was held by the previous rail corporation in fee simple; or
- (b) could be granted in fee simple to the previous rail corporation under the *Transport Infrastructure (Railways) Act 1991*, section 49(2).

**on** a railway, road or other land includes over or under the land.

**operational licence**, for chapter 12, see section 415.

**operational work** see the Planning Act, section 10(1).

**other rail infrastructure** means—

- (a) freight centres or depots; or
- (b) maintenance depots; or
- (c) office buildings or housing; or
- (d) rolling stock or other vehicles that operate on a railway;  
or
- (e) workshops; or
- (f) any railway track, works or other thing that is part of anything mentioned in paragraphs (a) to (e).

**overhead wiring** means an overhead electrical power supply system and associated support structures and safety signs.

*Example of overhead electrical power supply system—*

a catenary

**owner**, of land, includes—

- (a) the lessee or licensee from the State of the land; or
- (b) the person who has lawful control of the land, on trust or otherwise; or
- (c) the person who is entitled to receive the rents and profits of the land.

**pack**, in relation to dangerous goods, includes the following—

- (a) put goods in packaging, even if that packaging is already on a rail vehicle;

*Example for paragraph (a)—*

A person who uses a hose to fill the tank of a tank rail vehicle with petrol packs the petrol for transport.

- (b) enclose or otherwise contain more than 1 package, even if that packaging is already on a rail vehicle;

- (c) supervise an activity mentioned in paragraph (a) or (b);
- (d) manage or control an activity mentioned in paragraph (a), (b) or (c).

**package**, in relation to dangerous goods, means the complete product of the packing of the goods for transport, and consists of the goods and their packaging.

**packaging**, in relation to dangerous goods—

- (a) means anything that contains, holds, protects or encloses the goods, whether directly or indirectly, to enable them to be received or held for transport, or to be transported; and
- (b) includes anything prescribed under a dangerous goods regulation to be packaging.

*Notes—*

- 1 It may be that a container constitutes the whole of the packaging of goods, as in the case of a drum in which goods, including, for example, dangerous goods, are directly placed.
- 2 The term is not used in the same way as it is used in United Nations publications relating to the transport of dangerous goods.

**park**, for schedule 5B, see schedule 5B, part 1.

**participating dangerous goods jurisdiction** means a State that has a corresponding law to chapter 14 unless a regulation provides that the State is not a participating dangerous goods jurisdiction.

**permitted road access location**, for chapter 6, part 5, division 2, subdivision 2, see section 53.

**personal watercraft** means a power driven ship that is designed to be operated by a person standing, crouching or kneeling on it or sitting astride it.

**placard** means a label or emergency information panel that is required under a dangerous goods regulation to be used in transporting dangerous goods by rail.

**place—**

- (a) for chapter 7, part 5, see section 170; or

(b) for chapter 15, part 2, division 4, see section 475H.

***plan commencement day***, for chapter 8, part 3C, see section 283I.

***planned transport infrastructure***, for chapter 8, part 3C, see section 283I.

***Planning Act*** means the *Sustainable Planning Act 2009*.

***planning chief executive*** means the chief executive of the department in which the Planning Act is administered.

***planning Minister*** means the Minister administering the Planning Act.

***planning scheme*** means a planning scheme under the Planning Act.

***plant*** includes any of the following—

- (a) a conduit or cable;
- (b) an electrical installation under the *Electricity Act 1994*;
- (c) an overhead conveyor;
- (d) a pipeline;
- (e) a pole;
- (f) a railway, monorail or tramway;
- (g) a telecommunications plant;
- (h) a viaduct or aqueduct;
- (i) a water channel.

***port***—

- (a) of a port authority, means a port for which the authority is responsible; or
- (b) of the port lessor, means the port for which the port lessor is declared to be the port lessor; or
- (c) of a port lessee, means the port for which the port lessee is declared to be a port lessee; or

- (c) of a port manager, means a port for which the port lessor that appointed, or approved the appointment of, the port manager, is declared to be the port lessor.

**port agreement**, for chapter 8, see section 267.

**port area**, for chapters 8 and 20, see section 267AA.

**port authority**—

- (a) means a port authority established under section 268 or a body declared to be a port authority under a regulation under section 274A; but
- (b) does not include a port authority that has been abolished under section 270 or for which the declaration has been revoked under a regulation under section 274A.

**port entity**, for chapters 8 and 20, see section 267.

**port facilities**, for chapter 8, see section 267.

**port infrastructure** includes transport infrastructure relating to ports.

**port land**, for chapter 8, part 3C, division 6, see section 283ZZL.

**port lease**, for chapter 8, part 3C, division 6, see section 283ZZL.

**port lessee** see section 267.

**port lessor** see section 267.

**port manager** see section 267.

**port notice**, for chapter 8, see section 282(1).

**Port of Brisbane Corporation** means Port of Brisbane Corporation Limited ACN 124 048 522.

**port operator**, for chapters 8 and 20, see section 267.

**port prohibited development** see section 283I.

**port related development** see section 283I.

**port services**, for chapter 8, see section 267.

***port terminal facility***, for schedule 5B, see schedule 5B, part 1.

***port user***, for chapter 8, see section 267.

***precinct***, for chapter 8, part 3C, see section 283I.

***premises***, for chapter 8, part 3C and schedule 5B, see section 283I.

***prescribed time***—

- (a) for chapter 6, part 7—see section 92; or
- (b) for chapter 6, part 8—see section 105B.

***prevent***, in relation to the transport of dangerous goods, includes avert, eliminate, minimise, remove and stop.

***previous***, for chapter 18, part 3, see section 521.

***previous rail corporation*** means Queensland Railways.

***priority infrastructure interface plan***, for chapter 8, part 3C, see section 283I.

***priority infrastructure plan***, for chapter 8, part 3C, see section 283I.

***prohibited shareholding interest***, for chapter 13, see section 438.

***properly made submission***, for chapter 8, part 3C, see section 283I.

***proposed action***, for chapter 7, part 3, see section 121.

***public marine facility*** means public marine transport infrastructure, including—

- (a) land or waters associated with the infrastructure that are affected by its use; and
- (b) land or waters specified for the infrastructure under a regulation made with the objective of clarifying what are the land or waters associated with the infrastructure that are affected by its use.

*Example—*

- an area of land and waters, specified under a regulation, that constitutes a boat harbour
- breakwaters, jetties, landings, mooring piles, pontoons, carparks and land or waters affected by the use of the infrastructure

***public marine transport infrastructure*** means State-owned or State-controlled transport infrastructure relating to Queensland waters, other than port or miscellaneous transport infrastructure.

***public passenger service*** see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

***public place***, for chapter 7, part 5, see section 170.

***public thoroughfare easement*** means a public thoroughfare easement under either of the following provisions, if the easement is in favour of the State—

- (a) the *Land Act 1994*, chapter 6, part 4, division 8;
- (b) the *Land Title Act 1994*, part 6, division 4.

***public utility plant*** means plant permitted under another Act or a Commonwealth Act to be on a road.

***public utility provider*** means an entity that owns public utility plant.

***QCAT information notice*** means a notice complying with the QCAT Act, section 157(2).

***QR Limited*** means QR Limited ACN 124649967.

***QR National***, for chapter 13, see section 438.

***QR Network Pty Ltd*** means QR Network Pty Ltd ACN 132181116.

***quarry material*** see the *Water Act 2000*, schedule 4.

***Queensland Competition Authority*** means the Queensland Competition Authority established under the *Queensland Competition Authority Act 1997*, section 7.

***rail***, for chapter 14, includes cableway.

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***rail corridor land*** means existing rail corridor land or new rail corridor land.

***rail GOC*** means a GOC the principal business of which is to do either or both of the following—

- (a) manage a railway;
- (b) operate rolling stock on a railway.

***rail safety officer*** means a person who is appointed as a rail safety officer under section 171.

***rail transport infrastructure*** means facilities necessary for operating a railway, including—

- (a) railway track and works built for the railway, including, for example—
  - cuttings
  - drainage works
  - excavations
  - land fill
  - track support earthworks; and
- (b) any of the following things that are associated with the railway's operation—
  - bridges
  - communication systems
  - machinery and other equipment
  - marshalling yards
  - notice boards, notice markers and signs
  - overhead electrical power supply systems
  - over-track structures
  - platforms
  - power and communication cables
  - service roads
  - signalling facilities and equipment

- stations
  - survey stations, pegs and marks
  - train operation control facilities
  - tunnels
  - under-track structures; and
- (c) vehicle parking and set down facilities for intending passengers for a railway that are controlled or owned by a railway manager or the chief executive; and
- (d) pedestrian facilities, including footpath paving, for the railway that are controlled or owned by a railway manager or the chief executive;

but does not include other rail infrastructure.

**rail vehicle**, for chapter 14, includes rolling stock and a cableway car.

**railway** does not include a light rail or light rail transport infrastructure, and for chapter 7, part 3, see also section 121.

**railway crossing** means a level crossing, bridge or another structure used to cross over or under a railway.

**railway manager** means—

- (a) for a railway or a proposed railway—the person who is accredited under chapter 7, part 3 as the railway manager for the railway or proposed railway; or
- (b) for rail corridor land—the person who is accredited under chapter 7, part 3 as the railway manager for the railway or proposed railway on, or proposed to be on, the rail corridor land.

**railway offence** means—

- (a) an offence against a provision of chapter 7, parts 3, 5 or 6; or
- (b) an attempt to commit an offence against a provision mentioned in paragraph (a).

**railway operator** means a person who operates rolling stock on a railway.

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**railway provision** means a provision of chapter 7, parts 3, 5 or 6.

**railway workplace**, for chapter 7, part 5, see section 170.

**railway works** means—

- (a) works for constructing, maintaining, altering or operating a railway or rolling stock; or
- (b) other works declared under a regulation to be railway works.

**reasonably** means on grounds that are reasonable in all the circumstances.

**reconfiguring a lot** see the Planning Act, section 10.

**rectification notice**, for chapter 11, see section 411.

**referral agency** means a referral agency for a development application under the Planning Act.

**registered interest**, for chapter 8, part 3C, see section 283I.

**registered operator**, of a vehicle that has passed through a toll plaza, means a person who, when the vehicle passed through the toll plaza, was the person in whose name the vehicle was registered under a registration Act.

**registrar of titles** means a public official or authority responsible for registering title to land and dealings affecting land.

**registration Act** means—

- (a) the *Transport Operations (Road Use Management) Act 1995* or another Act, prescribed under a regulation, dealing with the registration of vehicles; or
- (b) a law of the Commonwealth or another State dealing generally with the registration of vehicles.

**regulation condition**, for chapter 7, part 3, see section 121.

**related body corporate** has the meaning given in the Corporations Act.

**relevant busway legislation**, for chapter 9, part 6, see section 346A.

***relevant emergency service officer*** means an officer of any of the following—

- (a) the Queensland Ambulance Service;
- (b) the Queensland Fire and Rescue Service;
- (c) the Queensland Police Service;
- (d) the State Emergency Service;
- (e) a service of another State, corresponding to a service mentioned in paragraphs (a) to (d), if there is a dangerous goods authority for the State;
- (f) a unit of the Australian Defence Force corresponding to a service mentioned in paragraphs (a) to (d).

***relevant entity***, for chapters 8 and 20, see section 267.

***relevant interest***, for chapter 13, see section 438.

***relevant notice***, for chapter 6, part 8, see section 105B.

***relevant person***, for chapter 7, part 6, see section 239AE.

***relevant person***, for chapter 13, see section 438.

***repealed regulation***, for chapter 18, part 5, see section 532.

***representation period***, for chapter 7, part 3, see section 121.

***required land***, for chapter 12, see section 415.

***requirement***, of a port notice, for chapter 8, see section 267.

***residential development***, for schedule 5B, see schedule 5B, part 1.

***responsible entity***, for chapter 12, see section 415.

***restricted information***, for chapter 7, part 6, see section 213B.

***revocation notice***, for chapter 6, part 8, see section 105B.

***road***—

- (a) for chapter 9, part 3, has the meaning given in section 301; and
- (b) for chapter 10, part 3, has the meaning given in section 352; and

- (c) does not include an area or thing that is busway land, busway transport infrastructure, light rail land or light rail transport infrastructure; and
- (ca) does not include a public thoroughfare easement; and
- (d) subject to paragraphs (a) to (c), means—
- (i) an area of land dedicated to public use as a road; or
  - (ii) an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; or
  - (iii) a bridge, culvert, ferry, ford, tunnel or viaduct; or
  - (iv) a pedestrian or bicycle path; or
  - (v) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in subparagraphs (i) to (iv).

**road access location**, for chapter 6, part 5, division 2, subdivision 2, see section 53.

**road access works** means—

- (a) a physical means of entry or exit for traffic between land and a road; or

*Example—*

a driveway

- (b) road works providing entry or exit for traffic between works mentioned in paragraph (a) and the part of the road formed or prepared for use by general traffic.

*Example—*

an acceleration or deceleration lane, or a laneway, lane or track, connecting a driveway of a property adjacent to a road to a lane on the road designed to carry through traffic

**road franchise agreement**, for chapter 6, see section 85.

**road transport infrastructure** includes transport infrastructure relating to roads.

**road works**, for chapter 6, means—

- (a) works done for—

- (i) constructing roads or things associated with roads; or
  - (ii) maintaining roads or things associated with roads (other than public utility plant); or
  - (iii) facilitating the operation of road transport infrastructure; or
- (b) road access works; or
- (c) works declared under a regulation to be road works.

**rolling stock** means a vehicle, including, for example, a train and light rail vehicle, that operates on a railway or light rail and is used, or is proposed to be used, for either of the following purposes—

- (a) transporting passengers or freight on a railway or light rail track; or
- (b) maintenance work, or other work associated with, a railway or light rail.

**safety direction**, for chapter 7, part 3, see section 121.

**schedule 5 step-in notice**, for chapter 6, part 8, see section 105B.

**schedule 5A step-in notice**, for chapter 6, part 8, see section 105B.

**seafarers' centre**, for schedule 5B, see schedule 5B, part 1.

**serious incident** means an incident that has caused, or could have caused, significant property damage, serious injury or death.

**service provider**, for chapter 8, part 3C, see section 283I.

**services contract**, for land, means a contract merely for the provision of services on, to, or in relation to, the land, but does not include a contract for the provision of services under which a person has a right to reside on any part of the land.

*Example of a services contract—*

a contract for the provision of a mowing service

**service station**, for schedule 5B, see schedule 5B, part 1.

*ship*, for chapter 8, see section 267.

*shop (minor)*, for schedule 5B, see schedule 5B, part 1.

*shopping facility (major)*, for schedule 5B, see schedule 5B, part 1.

*show cause notice*, for chapter 7, part 3, see section 121.

*show cause period*, for chapter 7, part 3, see section 121.

*signed notice* means a written notice signed by the person giving the notice.

*sport and recreation (major)*, for schedule 5B, see schedule 5B, part 1.

*State-controlled road* means a road or land, or part of a road or land, declared under section 24 to be a State-controlled road, and, for chapter 6, part 5, division 2, subdivision 2, see section 53.

*State government body*, for chapter 6, means—

- (a) a department or a division, branch or other part of a department; or
- (b) a State instrumentality, agency, authority or entity or a division, branch or other part of a State instrumentality, agency, authority or entity; or
- (c) a GOC;

but does not include a local government.

*State interest*, for chapter 8, part 3C, see section 283I.

*statement of corporate intent*, for chapter 8, see section 267.

*statement of proposal*—

- (a) for chapter 8, part 3C, see section 283I; or
- (b) for chapter 8, part 4, see section 285A.

*State planning instrument*, for chapter 8, part 3C, see section 283I.

*State toll road corridor land* means land declared to be State toll road corridor land under section 84A.

**strategic plan**, for chapter 8, part 3C, see section 283I.

**strategic port land**, for chapter 8, see section 267.

**sublease**, for chapters 8 and 20, see section 267.

**subsidiary**, of a body corporate, has the meaning given in the Corporations Act.

**suspend**, for chapter 7, part 3, see section 121.

**suspension notice**, for chapter 6, part 8, see section 105B.

**table of assessment**, for chapter 8, part 3C, see section 283I.

**tenure**, over boat harbour land, means a lease, licence, permit or other authority conferring a right of possession or occupation for the land.

**toll plaza** means a part of a toll road or local government tollway where facilities are constructed for either or both of the following—

- (a) the collection of tolls from the drivers of vehicles using the toll road or local government tollway;
- (b) the operation of an E toll system for vehicles using the toll road or local government tollway.

**toll road**, for chapter 6, part 7, see section 92.

**toll road operator**, for chapter 6, part 7, see section 92.

**tollway project**, for chapter 6, part 8, see section 105B.

**tourist attraction (major)**, for schedule 5B, see schedule 5B, part 1.

**trade lease** see section 267.

**traffic** includes the passing back and forth of persons, vehicles and animals.

**train** means a conveyance or group of connected conveyances that travels on a rail or rails of a railway or sugar tramway.

**train controller**, for rolling stock, means an individual who is in control of train control signalling and communication for the section of track on which the rolling stock is moving or stationary.

***transition period***, for chapter 20, see section 562.

***transport***, in relation to dangerous goods, includes each of the following—

- (a) the packing, loading and unloading of the goods, and the transfer of the goods to or from a vehicle, for their transport by rail;
- (b) the marking or labelling of packages containing dangerous goods for their transport by rail;
- (c) the placarding of packaging and vehicles in which dangerous goods are transported, or are to be transported, by rail;
- (d) other matters incidental to their transport, or in preparation for their transport, by rail.

***transport and equipment depot***, for schedule 5B, see schedule 5B, part 1.

***transport documentation*** means each of the following—

- (a) for a rail vehicle—
  - (i) each contractual document directly or indirectly associated with—
    - (A) a transaction for the actual or proposed transport by rail of goods or any previous transport of the goods by any transport method; or
    - (B) goods, to the extent the document is relevant to the transaction for their actual or proposed transport by rail; or
  - (ii) each document—
    - (A) contemplated in a contractual document mentioned in subparagraph (i); or
    - (B) required by law, or customarily given, in connection with a contractual document or transaction mentioned in subparagraph (i);

*Examples—*

- a bill of lading

- a consignment note
- a container weight declaration
- a contract of carriage
- a delivery order
- an export receipt advice
- an invoice
- a load manifest
- a sea carriage document
- a vendor declaration
- train wire
- sequential consist
- loading form

(b) for the transport of dangerous goods—documentation required to be kept under a dangerous goods regulation.

***transport infrastructure*** includes—

- (a) air, busway, light rail, miscellaneous, public marine, rail or road transport infrastructure; and
- (b) transport infrastructure relating to ports.

***transport Minister***, for chapter 8, part 3C, see section 283I.

***transport purpose*** includes any purpose for which the Minister is responsible.

***transport reasons***, for chapter 8, part 3C, see section 283I.

***Treasurer*** means the Minister who administers the *Financial Accountability Act 2009*.

***Urban Land Development Authority*** means the Urban Land Development Authority established under the *Urban Land Development Act 2007*.

***user administration charge***—

- (a) for chapter 6, part 7—see section 92; or
- (b) for chapter 6, part 8—see section 105B.

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***valid account***, for an E toll system operating for a toll road or local government tollway, means an account that—

- (a) has been established by a person for using the E toll system; and
- (b) is, under the arrangements under which the account was established, available to be operated for using the toll road or local government tollway.

***valuable features***, for chapter 8, part 3C, see section 283I.

***vehicle***, see the *Transport Operations (Road Use Management) Act 1995*.

***vessel***, for chapter 8, see section 267.

***visitor centre***, for schedule 5B, see schedule 5B, part 1.

***warehouse (general)***, for schedule 5B, see schedule 5B, part 1.

***watercourse*** includes a lake, spring, stream or swale.

***watercraft*** includes any thing that is water traffic or a device, for example, a sailboard, used for the movement of persons who are on or in water.

***Water Supply Act***, for chapter 8, part 4D, see section 289R.

***water traffic*** includes a hovercraft and a vehicle, person, aircraft or other craft on or in water.

***waterway transport management plan*** see section 472(1).

***wild river area*** see the *Wild Rivers Act 2005*, schedule.

***wilfully*** means deliberately or recklessly.

***wind farm***, for schedule 5B, see schedule 5B, part 1.

***works*** includes activities.

## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 23 May 2010. Future amendments of the Transport Infrastructure Act 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	15 April 1994	27 April 1994
2	1994 Act No. 32	1 July 1994	26 July 1994
3	1994 Act No. 81	18 November 1994	27 January 1995
4	1995 Act No. 32	1 July 1995	7 July 1995
5	1995 Act No. 57	15 December 1995	1 February 1996
5A	1996 Act No. 13	23 May 1996	3 September 1996
5B	1996 Act No. 74	12 December 1996	25 April 1997
5C	1997 Act No. 9	1 July 1997	15 August 1997
6	1997 Act No. 66	12 December 1997	6 February 1998
6A	1998 Act No. 23	22 May 1998	25 June 1998
7	1998 Act No. 43	27 November 1998	8 January 1999
7A	1999 Act No. 42	4 June 1999	12 November 1999
7B	1999 Act No. 59	1 January 2000	4 February 2000
7C	2000 Act No. 6	1 July 2000	8 September 2000

Endnotes

Reprint No.	Amendments to	Effective	Reprint date
7D	2000 Act No. 46	25 October 2000	8 November 2000
7E	2000 Act No. 64	1 December 2000	15 December 2000
7F	2000 Act No. 64	1 January 2001	12 January 2001
7G	2000 Act No. 64	12 March 2001	23 March 2001
8	2001 Act No. 36	25 June 2001	7 September 2001
8A	2001 Act No. 93	21 December 2001	11 January 2002
8B	2001 Act No. 93	1 March 2002	15 March 2002
8C	2002 Act No. 15	24 June 2002	24 June 2002

Reprint No.	Amendments included	Effective	Notes
8D	2002 Act No. 29	1 October 2002	
8E	2001 Act No. 79	11 October 2002	
8F	2000 Act No. 40 (amd 2001 Act No. 79)	14 October 2002	
8G	2001 Act No. 79 2002 Act No. 15	29 November 2002	
8H	2002 Act No. 71 2002 Act No. 72	13 December 2002	
8I	2002 Act No. 12 (amd 2003 Act No. 19) 2003 Act No. 29	1 July 2003	
8J	2003 Act No. 64	16 October 2003	
8K	2001 Act No. 93	20 October 2003	
8L	2003 Act No. 32	28 November 2003	
9 rv	2003 Act No. 54	1 December 2003	Revision notice issued for R9
9A rv	—	1 January 2004	provs exp 31 December 2003
9B	2004 Act No. 5	13 May 2004	
9C	2004 Act No. 9	20 May 2004	
9D	2004 Act No. 9	1 July 2004	
9E	2004 Act No. 53 2004 Act No. 54	29 November 2004	
9F	2004 Act No. 3	1 January 2005	
9G 2rv	2005 Act No. 22	29 August 2005	
10 2rv	2004 Act No. 40	19 September 2005	Revision notice issued for R10 Revision notice no. 2 issued for R10
10A 2rv	2005 Act No. 49	2 November 2005	
10B 2rv	2005 Act No. 42	2 December 2005	
10C 2rv	2005 Act No. 49	26 January 2006	
10D 2rv	2005 Act No. 67	27 January 2006	
10E 2rv	2005 Act No. 68	6 February 2006	
10F 2rv	2006 Act No. 21	17 May 2006	
10G 2rv	2005 Act No. 49	5 June 2006	

Reprint No.	Amendments included	Effective	Notes
10H rv	—	30 August 2006	prov exp 29 August 2006
10I	2007 Act No. 6	1 June 2007	
10J	2007 Act No. 36	29 August 2007	
10K	2007 Act No. 41	21 September 2007	
11	2007 Act No. 43	25 October 2007	
11A	2007 Act No. 58	16 November 2007	
11B	2007 Act No. 19	1 January 2008	
11C	2008 Act No. 31	21 May 2008	
11D	2008 Act No. 32	1 July 2008	
11E	2008 Act No. 46	12 September 2008	
11F	2007 Act No. 10	1 October 2008	
11G	2008 Act No. 67	1 December 2008	
11H	2008 Act No. 66	1 January 2009	
11I	2008 Act No. 46	6 February 2009	
12	—	7 February 2009	provs exp 6 February 2009
12A	2009 Act No. 9	1 July 2009	
	2009 Act No. 13		
12B	2009 Act No. 47	19 November 2009	
12C	2009 Act No. 24	1 December 2009	
12D	2009 Act No. 36	18 December 2009	
12E	2009 Act No. 51	31 March 2010	
12F	2010 Act No. 13	1 April 2010	
12G	2010 Act No. 19	23 May 2010	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Changed citations and remade laws	3, 4, 5
Corrected minor errors	3, 4, 5, 10, 11
Renumbered provisions	3, 4, 9

## 6 List of legislation

### Transport Infrastructure Act 1994 No. 8

date of assent 7 March 1994

ss 1–2 commenced on date of assent

s 132 sch 3 amdts of the Harbours Act 1955 never proclaimed into force and om 1994 No. 32 s 13(1) (as from 1 July 1994)

ss 86, 122, 132 sch 3 amdts of the State Transport (People-movers) Act 1989 and the Urban Public Passenger Transport Act 1984 and sch 3 amdt 5 of the Transport

Endnotes

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Infrastructure (Roads) Act 1991 commenced 7 November 1994 (1994 SL No. 378)  
remaining provisions commenced 15 April 1994 (1994 SL No. 128)  
amending legislation—

**Transport Infrastructure Amendment Act 1994 No. 32**

date of assent 30 June 1994  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1994 (see s 2)

**Queensland Investment Corporation Amendment Act 1994 No. 38 pts 1, 5**

date of assent 14 September 1994  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 October 1994 (see s 2 and 1994 SL No. 341 ss 2, 8)

**Transport Operations (Passenger Transport) Act 1994 No. 43 ss 1–2, 143 sch 3**

date of assent 14 September 1994  
ss 1–2 commenced on date of assent  
amds 5–8 commenced 1 July 1994 (see s 2(2))  
remaining provisions commenced 7 November 1994 (1994 SL No. 378)

**Transport Infrastructure Amendment Act (No. 2) 1994 No. 49**

date of assent 14 September 1994  
ss 1–2 commenced on date of assent  
remaining provisions commenced 18 November 1994 (1994 SL No. 399)

**Land Act 1994 No. 81 ss 1–2, 527 sch 5**

date of assent 1 December 1994  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1995 (1995 SL No. 185)

**Transport Operations (Road Use Management) Act 1995 No. 9 ss 1–2, 92 sch 1 (this Act is amended, see amending legislation below)**

date of assent 5 April 1995  
commenced on date of assent (see s 2(1))  
amending legislation—

**Transport Infrastructure Amendment (Rail) Act 1995 No. 32 ss 1–2(1), 23 sch (amends 1995 No. 9 above)**

date of assent 14 June 1995  
commenced on date of assent (see s 2(1))

**Transport Infrastructure Amendment (Rail) Act 1995 No. 32 pts 1–2**

date of assent 14 June 1995  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1995 (see s 2(2) and 1995 SL No. 162 ss 2(3), 19)

**Coastal Protection and Management Act 1995 No. 41 ss 1–2, 105 sch 1**

date of assent 9 November 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 1996 (1996 SL No. 8)

**Transport Planning and Coordination Amendment Act 1995 No. 48 pts 1, 3**

date of assent 22 November 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 15 December 1995 (1995 SL No. 365)

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

**Primary Industries Legislation Amendment Act 1996 No. 13 pts 1, 10**

date of assent 23 May 1996

commenced on date of assent

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch**

date of assent 20 November 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 June 1997 (1997 SL No. 128)

**Transport (Gladstone East End to Harbour Corridor) Act 1996 No. 74 ss 1, 10**

date of assent 12 December 1996

commenced on date of assent

**Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9 ss 1, 2(1), (4)  
pt 23**

date of assent 15 May 1997

s 87(1) commenced 1 July 1997 (see s 2(4))

remaining provisions commenced on date of assent (see s 2(1))

**Transport Legislation Amendment Act 1997 No. 66 pts 1, 4**

date of assent 1 December 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 12 December 1997 (1997 SL No. 439)

**Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3), 191 sch**

date of assent 23 March 1998

ss 1–2 commenced on date of assent

remaining amdts commenced 30 March 1998 (1998 SL No. 55)

**Government Owned Corporations and Other Legislation Amendment Act 1998 No.  
21 ss 1, 2(3), pt 4**

date of assent 1 May 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 22 May 1998 (1998 SL No. 144)

**Transport Infrastructure Amendment Act 1998 No. 23**

date of assent 14 May 1998

ss 5(1)–(2), 7 commenced on 1 July 1994 (see s 2)

remaining provisions commenced on date of assent

**Integrated Planning and Other Legislation Amendment Act 1998 No. 31 ss 1, 2(5) pt 8**

date of assent 3 September 1998  
ss 1–2 commenced on date of assent  
remaining provisions commenced 12 October 1998 (1998 SL No. 270)

**Transport Legislation Amendment Act 1998 No. 33 ss 1–2 pt 2**

date of assent 23 September 1998  
ss 1–2, 15 commenced on date of assent  
s 9 commenced 31 March 1998 (see s 2(1))  
remaining provisions commenced 1 July 1998 (see s 2(4))

**Transport Legislation Amendment Act (No. 2) 1998 No. 43 s 1 pt 4**

date of assent 27 November 1998  
commenced on date of assent

**Integrated Planning and Other Legislation Amendment Act 1999 No. 11 ss 1–2(1) pt 5**

date of assent 30 March 1999  
ss 1–2, 26, 31–32 commenced on date of assent (see s 2(1))  
remaining provisions commenced 1 December 1999 (1999 SL No. 280)

**Statutory Instruments and Another Act Amendment Act 1999 No. 24 ss 1, 2(2) sch**

date of assent 4 June 1999  
commenced on date of assent

**Road Transport Reform Act 1999 No. 42 ss 1–2(1), 54(3) sch pt 3**

date of assent 2 September 1999  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 December 1999 (see s 2(1))

**Sugar Industry Act 1999 No. 51 ss 1, 2(2), 228 sch 1**

date of assent 18 November 1999  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 January 2000 (see s 2(2))

**Local Government and Other Legislation Amendment Act (No. 2) 1999 No. 59 ss 1, 2(7), pt 11**

date of assent 29 November 1999  
commenced on date of assent

**Local Government and Other Legislation Amendment Act 2000 No. 4 ss 1, 2(4) pt 9**

date of assent 16 March 2000  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 December 2000 (2000 SL No. 292)

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev s 373) sch 3**

date of assent 23 March 2000  
ss 1–2, 461 commenced on date of assent (see s 2(2))  
remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

**Transport Legislation Amendment Act 2000 No. 6 ss 1, 2(2) pt 3**

date of assent 20 April 2000

ss 1–2 commenced on date of assent

ss 25 (to the extent it ins new ch 8B pt 1), 26, 34, 35(2), 35(3) (to the extent it ins ss 19, 20 and 22), 38(2) (to the extent it ins the defs “public marine facility”, “public marine transport infrastructure” and “tenure”) commenced 1 January 2001 (2000 SL No. 338)

remaining provisions commenced 1 July 2000 (2000 SL No. 150)

**Transport (Busway and Light Rail) Amendment Act 2000 No. 40 pts 1–2 (this Act is amended, see amending legislation below)**

date of assent 13 October 2000

ss 1–2 commenced on date of assent

pt 2 hdg, ss 3, 12 and 16 commenced 12 March 2001 (2001 SL No. 9)

s 13 (to the extent it ins new s 180A) never proclaimed into force and om 2001 No. 79 s 19(1)

s 13 (to the extent it ins new s 180ZL) never proclaimed into force and om 2001 No. 79 s 19(8)

s 19 (to the extent it ins the def “busway”) commenced 21 December 2001 (2001 SL No. 278)

s 19 (to the extent it om the def “plant”) commenced 14 October 2002 (automatic commencement under AIA s 15DA(2) (2001 SL No. 183 s 2)) (amdt could not be given effect)

s 19(8) never proclaimed into force and om 2001 No. 79 s 20(2)

remaining provisions commenced 14 October 2002 (automatic commencement under AIA s 15DA(2) (2001 SL No. 183 s 2))

amending legislation—

**Transport Legislation Amendment Act 2001 No. 79 ss 1, 2(3), pt 5 (amends 2000 No. 40 above)**

date of assent 29 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 11 October 2002 (2002 SL No. 271)

**Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch**

date of assent 25 October 2000

commenced on date of assent

**Environmental Protection and Other Legislation Amendment Act 2000 No. 64 ss 1, 2(2), pt 6**

date of assent 24 November 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2001 (2000 SL No. 350)

**Transport Infrastructure and Another Act Amendment Act 2001 No. 36 pts 1–2**

date of assent 7 June 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 25 June 2001 (2001 SL No. 78)

**Duties Act 2001 No. 71 ss 1–2(1), 551 sch 1**

date of assent 13 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 2002 (2002 SL No. 10)

**Transport Legislation Amendment Act 2001 No. 79 ss 1, 2(3), pt 7 (this Act is amended, see amending legislation below)**

date of assent 29 November 2001

ss 1–2 commenced on date of assent

pt 7 hdg, ss 24, 27–29, 31–33, 35–36, 38, 41, 42(1) (to the extent it om the def “future railway land”), 42(2) (to the extent it ins the def “future railway land”) and 43 commenced 21 December 2001 (2001 SL No. 279)

ss 25A, 42(4) commenced 24 June 2002 (2002 SL No. 139)

s 30 never proclaimed into force and om 2002 No. 15 s 30 (as from 24 June 2002)

ss 37, 39, 40, 42(1) (except to the extent it om the def “future railway land”), 42(2) (except to the extent it ins the def “future railway land”) and 42(3) commenced 11 October 2002 (2002 SL No. 271)

remaining provisions commenced 29 November 2002 (2002 SL No. 306)

amending legislation—

**Transport Legislation Amendment Act 2002 No. 15 ss 1, 2(2), pt 6 (amends 2001 No. 79 above)**

date of assent 17 May 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 24 June 2002 (2002 SL No. 140)

**Coastal Protection and Management and Other Legislation Amendment Act 2001 No. 93 ss 1–2, 25(c)**

date of assent 10 December 2001

ss 1–2 commenced on date of assent

remaining provision commenced 20 October 2003 (2003 SL No. 202)

**Land Protection (Pest and Stock Route Management) Act 2002 No. 12 ss 1–2, 329 sch 2 (this Act is amended, see amending legislation below)**

date of assent 24 April 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (2003 SL No. 116)

amending legislation—

**Statute Law (Miscellaneous Provisions) Act 2003 No. 19 ss 1, 3 sch (amends 2002 No. 12 above)**

date of assent 9 May 2003

commenced on date of assent

**Transport Legislation Amendment Act 2002 No. 15 ss 1, 2(2), pt 5**

date of assent 17 May 2002

ss 1–2 commenced on date of assent

s 23 commenced 29 November 2002 (2002 SL No. 307)

remaining provisions commenced 24 June 2002 (2002 SL No. 140)

**Maritime Safety Queensland Act 2002 No. 29 ss 1–2, 16 sch 1**

date of assent 6 August 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 2002 (2002 SL No. 249)

**Transport Legislation Amendment Act (No. 2) 2002 No. 71 s 1, pt 4**

date of assent 13 December 2002

commenced on date of assent

**Environmental Legislation Amendment Act 2002 No. 72 s 1, pt 6**

date of assent 13 December 2002

commenced on date of assent

**Gas Supply Act 2003 No. 29 ss 1–2, ch 8 pt 7**

date of assent 23 May 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2003 (2003 SL No. 121)

**Queensland Heritage and Other Legislation Amendment Act 2003 No. 32 pts 1, 7  
(this Act is amended, see amending legislation below)**

date of assent 23 May 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 28 November 2003 (2003 SL No. 267)

amending legislation—

**Transport Infrastructure Act 1994 No. 8 s 200A(3) sch 2B (amends 2003 No. 32 above) (this Act is amended, see amending legislation below)**

amending legislation—

**Transport Infrastructure and Another Act Amendment Act 2003  
No. 54 ss 1–2, 34, 39 (amends 1994 No. 8 above)**

date of assent 18 September 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2003 (2003 SL No. 294) (amds could not be given effect)

**Transport Infrastructure and Another Act Amendment Act 2003 No. 54 pts 1–2**

date of assent 18 September 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2003 (2003 SL No. 294)

**Integrated Planning and Other Legislation Amendment Act 2003 No. 64 ss 1, 2(3)(f),  
pt 10**

date of assent 16 October 2003

ss 1–2 commenced on date of assent

remaining provisions commenced on date of assent (see s 2(3)(f))

**Sugar Industry Reform Act 2004 No. 3 ss 1, 2(3), 37 sch**

date of assent 6 May 2004

ss 1–2 commenced on assent

remaining provisions commenced 1 January 2005 (see s 2(3))

**Aurukun Associates Agreement Repeal Act 2004 No. 5 ss 1, 8 sch**

date of assent 13 May 2004  
commenced on date of assent

**Transport and Other Legislation Amendment Act 2004 No. 9 pts 1–2, s 3 sch**

date of assent 20 May 2004  
ss 1–2 commenced on date of assent  
sch commenced 1 July 2004 (2004 SL No. 80)  
remaining provisions commenced on date of assent

**Transport and Other Legislation Amendment Act (No. 2) 2004 No. 40 pts 1, 2**

date of assent 27 October 2004  
ss 1–2 commenced on date of assent  
remaining provisions commenced 19 September 2005 (2005 SL No. 177)

**Statute Law (Miscellaneous Provisions) Act 2004 No. 53**

date of assent 29 November 2004  
commenced on date of assent

**Transport Infrastructure Amendment Act 2004 No. 54 ss 1–10**

date of assent 29 November 2004  
commenced on date of assent

**Transport Infrastructure and Other Legislation Amendment Act 2005 No. 22 pts 1, 3**

date of assent 19 May 2005  
ss 1–2 commenced on date of assent  
remaining provisions commenced 29 August 2005 (2005 SL No. 184)

**Wild Rivers Act 2005 No. 42 ss 1–2, 52 sch 1**

date of assent 14 October 2005  
ss 1–2 commenced on date of assent  
remaining provisions commenced 2 December 2005 (2005 SL No. 287)

**Transport Legislation Amendment Act 2005 No. 49 pts 1–2**

date of assent 2 November 2005  
ss 1–2 commenced on date of assent  
s 4 commenced 26 January 2006 (2006 SL No. 3)  
ss 28, 32 (to the extent it ins ss 541–542) commenced 5 June 2006 (2006 SL No. 106)  
remaining provisions commenced on date of assent

**Transport and Other Legislation Amendment Act 2005 No. 67 pts 1, 5**

date of assent 8 December 2005  
ss 1–2 commenced on date of assent  
remaining provisions commenced 27 January 2006 (2006 SL No. 2)

**Natural Resources and Other Legislation Amendment Act 2005 No. 68 pts 1, 9**

date of assent 8 December 2005  
ss 1–2 commenced on date of assent  
remaining provisions commenced 6 February 2006 (2006 SL No. 6)

**Maritime and Other Legislation Amendment Act 2006 No. 21 s 1, pt 5 div 1, s 150(1) sch 1**

date of assent 17 May 2006  
commenced on date of assent

**Transport Legislation and Another Act Amendment Act 2007 No. 6 pts 1, 5, s 19 sch 1**

date of assent 28 February 2007  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 June 2007 (2007 SL No. 93)

**Government Owned Corporations Amendment Act 2007 No. 10 ss 1–2, 62 sch**

date of assent 20 March 2007  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 October 2008 (2008 SL No. 316)

**Land and Other Legislation Amendment Act 2007 No. 19 pts 1, 8**

date of assent 23 April 2007  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 January 2008 (2007 SL No. 318)

**Statute Law (Miscellaneous Provisions) Act 2007 No. 36**

date of assent 29 August 2007  
commenced on date of assent

**Urban Land Development Authority Act 2007 No. 41 ss 1–2, pt 13**

date of assent 11 September 2007  
ss 1–2 commenced on date of assent  
remaining provisions commenced 21 September 2007 (2007 SL No. 235)

**Transport Legislation Amendment Act 2007 No. 43 s 1, pt 3**

date of assent 25 October 2007  
commenced on date of assent

**South East Queensland Water (Restructuring) Act 2007 No. 58 s 1, pt 3 div 3**

date of assent 16 November 2007  
commenced on date of assent

**Transport Legislation Amendment Act 2008 No. 31 s 1, pt 3, s 72 sch**

date of assent 21 May 2008  
commenced on date of assent

**Transport Operations (TransLink Transit Authority) Act 2008 No. 32 ss 1–2, pt 11**

date of assent 21 May 2008  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2008 (2008 SL No. 188)

**Airport Assets (Restructuring and Disposal) Act 2008 No. 46 ss 1, 2(b), pt 7**

date of assent 12 September 2008  
ss 1–2 commenced on date of assent  
pt 7 div 3 commenced 6 February 2009 (2009 SL No. 7)  
remaining provisions commenced on date of assent

**Penalties and Sentences and Other Acts Amendment Act 2008 No. 66 ss 1, 2(2), 4 sch pt 2**

date of assent 1 December 2008

ss 1–2 commenced on date of assent

sch pt 2 commenced 1 January 2009 immediately after the commencement of the Transport and Other Legislation Amendment Act 2008 No. 67 pt 2 (2008 SL No. 433)

remaining provision commenced on date of assent

**Transport and Other Legislation Amendment Act 2008 No. 67 ss 1, 2(3)(a), pt 2 div 1, pt 3 div 12, pt 9, pt 11 div 2**

date of assent 1 December 2008

ss 1–2 commenced on date of assent

pt 2 div 1 commenced 1 January 2009 (2008 SL No. 424)

remaining provisions commenced on date of assent

**Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1**

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

**Right to Information Act 2009 No. 13 ss 1–2, 213 sch 5**

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 132)

**Local Government Act 2009 No. 17 ss 1, 2(4), 331 sch 1**

date of assent 12 June 2009

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (automatic commencement under AIA s 15DA(2) deferred to 13 June 2011 (2010 SL No. 55 s 2))

**Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009 No. 24 ss 1–2, ch 13 pt 4**

date of assent 26 June 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2009 (2009 SL No. 252)

**Sustainable Planning Act 2009 No. 36 ss 1–2, 872 sch 2**

date of assent 22 September 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 18 December 2009 (2009 SL No. 281)

**Transport and Other Legislation Amendment Act 2009 No. 47 s 1, pt 3, s 5 sch**

date of assent 19 November 2009

commenced on date of assent

**Building and Other Legislation Amendment Act 2009 No. 51 ss 1–2(1), pt 11**

date of assent 19 November 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 31 March 2010 (2010 SL No. 14)

**Transport (Rail Safety) Act 2010 No. 6 ss 1–2, pt 16**

date of assent 4 March 2010

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (see s 2)

**Transport and Other Legislation Amendment Act 2010 No. 13 ss 1, 2(2)(c)–(d), ch 4 pt 1, s 84 sch pt 1**

date of assent 1 April 2010

ss 1–2 commenced on date of assent

s 84 sch pt 1 amends to Transport Infrastructure Act 1994 amdt 11 (to the extent it ins def “permitted road access location”) commenced on date of assent (see s 2(2)(d)) (amdt could not be given effect)

remaining provisions commenced on date of assent (see s 2(2)(c)–(d))

**Transport and Other Legislation Amendment Act (No. 2) 2010 No. 19 ss 1, 2(1)(c)–(d), 2(2), 2(3)(a), ch 2 pts 17–18, ch 3 pt 2, ch 4 pt 3, s 281 sch**

date of assent 23 May 2010

ss 1–2 commenced on date of assent

ss 69, 74 (to the extent it ins new ch 13 pts 1, 3–4), 77, 84 not yet proclaimed into force (see s 2(1)(c)–(d), 2(2), 2(3)(a))

remaining provisions commenced on date of assent

Note—(1) ss 69, 77 commence on the day the declaration of QR Limited ACN 124649967 as a GOC is revoked under the Infrastructure Investment (Asset Restructuring and Disposal) Act 2009 s 11A (see s 2(1))

(2) s 74 (to the extent it ins new ch 13 pts 1, 3–4) commences on the day a gazette notice is made under the Transport Infrastructure Act 1994 s 438A as ins by s 74 of this Act (see s 2(2))

(3) s 84 commences on the day the declaration of the Port of Brisbane Corporation Limited ACN 124048522 as a port authority is revoked under the Infrastructure Investment (Asset Restructuring and Disposal) Act 2009 s 11A (see 2(3))

**South-East Queensland Water (Distribution and Retail Restructuring) and Other Legislation Amendment Act 2010 No. 20 ss 1, 2(1)(d), pt 10**

date of assent 23 May 2010

ss 1–2 commenced on date of assent

remaining provisions commence 1 July 2010 (see s 2(1)(d))

## 7 List of annotations

**This reprint has been renumbered—see schedule of renumbering in endnote 9.**

**Title** amd 2000 No. 6 s 7

**Objectives of this Act**

**s 2** prev s 2 om R4 (see RA s 37)

pres s 2 amd 1995 No. 32 s 4; 2000 No. 6 s 8; 2000 No. 40 s 4; 2003 No. 54 s 4; 2007 No. 10 s 62 sch; 2008 No. 31 s 72 sch; 2008 No. 67 s 261; 2009 No. 47 s 6; 2010 No. 19 ss 67, 166, 191

Endnotes

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**Definitions—the dictionary**

- s 3** amd 1994 No. 32 s 4(3); 1994 No. 49 s 3 sch 1  
Note—prev s 3 contained definitions for this Act. Definitions are now located in schedule 6 (Dictionary).  
sub 1995 No. 9 s 92 sch 1

**Notes in text**

- s 3A** ins 2005 No. 67 s 21

**Contents of transport infrastructure strategies**

- s 6** amd 1995 No. 48 s 10; 2008 No. 32 s 67

**Obligations about government supported transport infrastructure**

- s 9** amd 1995 No. 32 s 5; 2000 No. 6 s 9  
sub 2009 No. 47 s 7

**Beneficial assets**

- s 9A** ins 2009 No. 47 s 7

**Report on giving effect to s 9**

- s 10** amd 1995 No. 32 s 6; 2000 No. 6 s 10

**CHAPTER 4—IMPLEMENTATION OF TRANSPORT INFRASTRUCTURE STRATEGIES**

**PART 2—RAIL IMPLEMENTATION PROGRAMS**

- pt hdg** ins 1995 No. 32 s 7

**Development of programs**

- s 14** ins 1995 No. 32 s 7

**Consistency with transport infrastructure strategies**

- s 15** ins 1995 No. 32 s 7

**Report on implementation of programs**

- s 16** ins 1995 No. 32 s 7

**Transport GOCs**

- s 20** amd 1995 No. 32 s 8; 2008 No. 32 s 68; 2008 No. 67 s 133; 2010 No. 19 s 68

**CHAPTER 5—AIR TRANSPORT INFRASTRUCTURE**

- ch hdg** ins 2000 No. 6 s 11

**Air transport infrastructure funding programs**

- s 21** ins 2000 No. 6 s 11

**Report on implementation of program**

- prov hdg** sub 1995 No. 32 s 9(1)  
**s 22** prev s 22 amd 1994 No. 49 s 4; 1995 No. 9 s 92 sch 1; 1995 No. 32 s 9(2)–(3); 2000 No. 6 s 12; 2000 No. 40 s 5; 2002 No. 12 s 329 sch 2 (amdt could not be given effect)  
om 2001 No. 79 s 25  
pres s 22 ins 2000 No. 6 s 11

**CHAPTER 6—ROAD TRANSPORT INFRASTRUCTURE****State-controlled roads on rail corridor land**

s 26 ins 2001 No. 79 s 25A

**Prohibition on road works etc. on State-controlled roads**

s 33 amd 1995 No. 9 s 92 sch 1; 2010 No. 19 s 192

**Temporary occupation and use of land**

s 35 amd 2005 No. 42 s 52 sch 1

**Watercourses and road works**

s 39 amd 2005 No. 42 s 52 sch 1

**Impact of certain local government decisions on State-controlled roads**

s 42 amd 1998 No. 13 s 191 sch; 1999 No. 11 s 27; 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**Effect of decisions of Planning and Environment Court**

s 44 amd 1999 No. 11 s 28

**PART 5—MANAGEMENT OF STATE-CONTROLLED ROADS****Temporary restrictions on use of State-controlled roads**

s 46 amd 1995 No. 9 s 92 sch 1; 2008 No. 67 s 285

**Removal of materials etc.**

s 47 amd 1995 No. 9 s 92 sch 1; 2001 No. 79 s 26; 2008 No. 31 s 72 sch

**Assessment of impacts on State-controlled roads from certain activities**

s 49 ins 2003 No. 64 s 147  
amd 2007 No. 41 s 247; 2009 No. 47 s 5 sch; 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**Impact of particular development and State-controlled roads**

s 49A ins 2010 No. 19 s 193

**Division 2—Ancillary works and encroachments and roadside facilities****Ancillary works and encroachments**

s 50 amd 1995 No. 9 s 92 sch 1; 1999 No. 42 s 54(3) sch pt 3; 2000 No. 6 s 13; 2007 No. 41 s 248; 2010 No. 19 s 194

**Presumptions about advertising notices**

s 51 ins 1995 No. 9 s 92 sch 1

**Alteration etc. of ancillary works and encroachments**

s 52 amd 1995 No. 9 s 92 sch 1; 2000 No. 6 s 14; 2010 No. 19 s 195

**Subdivision 2—Special arrangements about access**

sdiv hdg sub 2000 No. 6 s 15

**Definitions**

s 53 def “**approved means of access**” om 2000 No. 6 s 16(1)  
def “**declaration**” ins 2000 No. 6 s 16(2)  
def “**land**” ins 2000 No. 6 s 16(2)  
def “**owner**” ins 2000 No. 6 s 16(2)

def “**permitted road access locations**” ins 2000 No. 6 s 16(2)  
def “**road access location**” ins 2000 No. 6 s 16(2)

**Limited access roads**

s 54 sub 2000 No. 6 s 17

**Local government to be consulted on proposed declaration or policy**

s 55 ins 2000 No. 6 s 17

**Information in s 54 gazette notice about a declaration**

s 56 ins 2000 No. 6 s 17  
sub 2009 No. 24 s 1715

**Information in s 54 gazette notice about new or replacement policy**

s 57 ins 2000 No. 6 s 17  
amd 2009 No. 24 s 1716

**Amendment of policy for a limited access road in limited circumstances**

s 58 ins 2000 No. 6 s 17  
amd 2009 No. 24 s 1717

**Gazette notices must show location of limited access road**

s 59 ins 2000 No. 6 s 17

**Advertisement of gazette notice**

s 60 ins 2000 No. 6 s 17

**Offence for limited access roads**

s 61 ins 2000 No. 6 s 17

**Management of access between individual properties and State-controlled roads**

s 62 sub 2000 No. 6 s 17  
amd 2004 No. 53 s 2 sch

**Chief executive may require additional information from applicant**

s 63 ins 2000 No. 6 s 17

**Decision under s 62(1) may impose construction or financial obligation**

s 64 prev s 64 om 2003 No. 29 s 384  
pres s 64 ins 2000 No. 6 s 17  
amd 2009 No. 47 s 5 sch

**Limitation on new decisions under s 62(1)**

s 65 ins 2000 No. 6 s 17

**Road access works within State-controlled road**

s 66 ins 2000 No. 6 s 17

**Notice of decision under s 62(1)**

s 67 ins 2000 No. 6 s 17  
amd 2009 No. 24 s 1718; 2010 No. 19 s 196

**Other persons may, by notice, also become bound by a decision under s 62(1)**

**s 68** prev s 68 ins 1994 No. 49 s 5  
om 1995 No. 32 s 10  
pres s 68 ins 2000 No. 6 s 17

**Direction to owner or occupier to apply for permitted road access location**

**s 69** ins 2000 No. 6 s 17

**Offences about road access locations and road access works, relating to decisions under s 62(1)**

**s 70** amd 1995 No. 9 s 92 sch 1  
sub 2000 No. 6 s 17  
amd 2009 No. 36 s 872 sch 2; 2010 No. 19 s 197

**Chief executive may take steps to prevent or deal with contravention**

**s 71** sub 2000 No. 6 s 17

**Chief executive may supply or contribute to new access arrangements**

**s 72** sub 2000 No. 6 s 17

**Compensation**

**s 73** sub 2000 No. 6 s 17

**Cases where compensation not payable**

**s 74** amd 2000 No. 6 s 18; 2008 No. 31 s 72 sch; 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**Conditions in development approval**

**prov hdg** amd 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch  
**s 75** prev s 75 om 1994 No. 49 s 3 sch 1  
AIA s 20A applies (see prev s 126(1))  
pres s 75 ins 2000 No. 6 s 19  
amd 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**Functions**

**s 76** prev s 76 ins 1995 No. 32 s 11  
om 1998 No. 21 s 38

**Application of div 3**

**s 77** orig s 77 om 1994 No. 49 s 3 sch 1  
AIA s 20A applies (see orig s 126(1))  
prev s 77 ins 1995 No. 32 s 11  
exp 1 July 1996 (see prev s 80)  
pres s 77 ins 2003 No. 29 s 383  
amd 2008 No. 31 s 72 sch

**Location**

**s 78** orig s 78 om 1994 No. 49 s 3 sch 1  
AIA s 20A applies (see orig s 126(1))  
prev s 78 ins 1995 No. 32 s 11  
exp 1 July 1996 (see prev s 80)  
pres s 78 sub 2001 No. 79 s 27

**Chief executive's requirements for public utility plant**

**s 79** orig s 79 om 1994 No. 49 s 3 sch 1  
AIA s 20A applies (see orig s 126(1))  
prev s 79 ins 1995 No. 32 s 11  
exp 1 July 1996 (see prev s 80)  
pres s 79 ins 2001 No. 79 s 27

**Expiry of part**

**s 80** orig s 80 om 1994 No. 49 s 3 sch 1  
AIA s 20A applies (see orig s 126(1))  
prev s 80 ins 1995 No. 32 s 11  
exp 1 July 1996 (see prev s 80)

**Liability for damage or expenses**

**s 82** prev s 82 om 1994 No. 49 s 3 sch 1  
AIA s 20A applies (see prev s 126(1))  
pres s 82 amd 2001 No. 79 s 28

**PART 6—STATE TOLL ROAD CORRIDOR LAND AND FRANCHISED ROADS**

**pt hdg** ins 1994 No. 49 s 5  
sub 2005 No. 67 s 22

**Division 1—Preliminary**

**div hdg** ins 2005 No. 67 s 22

**Objectives of part**

**s 84** prev s 84 om 1994 No. 49 s 3 sch 1  
AIA s 20A applies (see prev s 126(1))  
pres s 84 ins 1994 No. 49 s 5

**Division 2—State toll road corridor land**

**div hdg** ins 2005 No. 67 s 23

**Declaration of land as State toll road corridor land**

**s 84A** ins 2005 No. 67 s 23  
amd 2010 No. 19 s 198

**State toll road corridor land on rail corridor land**

**s 84B** ins 2005 No. 67 s 23  
amd 2006 No. 21 s 107; 2010 No. 19 s 199

**Effect on land of State toll road corridor land declaration**

**s 84C** ins 2005 No. 67 s 23  
amd 2007 No. 43 s 6; 2010 No. 13 s 85; 2010 No. 19 s 200

**Compensation**

**s 84D** ins 2010 No. 19 s 201

**Division 3—Franchised roads**

**div hdg** ins 2005 No. 67 s 23

**Power to enter into road franchise agreements**

**s 85** ins 1994 No. 49 s 5  
amd 2006 No. 21 s 108

**Franchised road on rail corridor land**

s 85A ins 2006 No. 21 s 109

**Application of Queensland Heritage Act 1992 for development for a franchised road**

s 85B ins 2007 No. 58 s 115  
amd 2009 No. 47 s 5 sch; 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**Tabling of road franchise agreements**

s 86 prev s 86 om 1994 No. 49 s 3 sch 1  
pres s 86 ins 1994 No. 49 s 5

**Report on operation of part**

s 87 ins 1994 No. 49 s 5

**Recovery of money**

s 88 ins 1994 No. 49 s 5

**Rateability of land**

s 89 ins 1994 No. 49 s 5  
amd 2001 No. 36 s 4

**Application of other provisions of this chapter**

s 90 ins 1994 No. 49 s 5  
amd 2006 No. 21 s 110

**Guarantees and undertakings**

prov hdg sub 2001 No. 71 s 551 sch 1  
s 91 ins 1994 No. 49 s 5  
amd 1996 No. 54 s 9 sch; 2001 No. 71 s 551 sch 1

**PART 7—TOLL ROADS**

pt hdg ins 2001 No. 36 s 5

**Division 1—Preliminary**

div hdg ins 2001 No. 36 s 5

**Definitions for pt 7**

s 92 prev s 92 ins 1994 No. 32 s 10  
exp 1 August 1994 (see prev s 92(3))  
AIA s 20A applies (see prev s 240(1))  
pres s 92 ins 1994 No. 49 s 5  
sub 2001 No. 36 s 5  
def “**administration charge**” om 2005 No. 67 s 25(1)  
def “**designated vehicle**” amd 2005 No. 67 s 25(3)  
def “**E toll only pay point**” om 2005 No. 67 s 25(1)  
def “**exempt vehicle**” om 2005 No. 67 s 25(1)  
def “**registered operator**” om 2005 No. 67 s 25(1)  
def “**registration Act**” om 2005 No. 67 s 25(1)  
def “**toll plaza**” om 2005 No. 67 s 25(1)  
def “**toll road**” amd 2005 No. 67 s 25(3)  
sub 2008 No. 31 s 13

def “**user administration charge**” ins 2005 No. 67 s 25(2)  
amd 2006 No. 21 s 111  
def “**valid account**” om 2005 No. 67 s 25(1)

**Division 2—Toll roads and toll payment requirements**

**div hdg** ins 2001 No. 36 s 5

**Tolls**

**s 93** prev s 93 ins 1994 No. 32 s 10  
exp 1 July 1994 (see prev s 93(3))  
AIA s 20A applies (see prev s 240(1))  
pres s 93 ins 2001 No. 36 s 5  
amd 2005 No. 49 s 4  
sub 2005 No. 67 s 26  
amd 2008 No. 31 s 14

**Application of Queensland Heritage Act 1992 for development for a toll road**

**s 93A** ins 2007 No. 58 s 116  
amd 2009 No. 47 s 5 sch; 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**Liability for toll and user administration charge and satisfying the liability**

**prov hdg** amd 2005 No. 67 s 27(1)  
**s 94** ins 2001 No. 36 s 5  
amd 2005 No. 67 s 27(2)–(4); 2006 No. 21 s 112

**Using the E toll system**

**s 95** ins 2001 No. 36 s 5

**Division 3—Failure to pay toll**

**div hdg** ins 2001 No. 36 s 5

**Application of div 3**

**s 96** ins 2001 No. 36 s 5  
amd 2006 No. 21 s 113

**Definition for div 3**

**s 97** ins 2001 No. 36 s 5  
def “**deferred toll amount**” amd 2005 No. 67 s 28; 2006 No. 21 s 114

**Liability for administration charge in addition to unpaid toll**

**prov hdg** amd 2006 No. 21 s 115(1)  
**s 98** ins 2001 No. 36 s 5  
sub 2005 No. 67 s 29  
amd 2006 No. 21 s 115(2)

**Notice to vehicle’s registered operator**

**s 99** prev s 99 ins 1994 No. 38 s 24  
om 1995 No. 32 s 13  
pres s 99 ins 2001 No. 36 s 5  
amd 2005 No. 67 s 30

**Corporation may be taken to be driver of vehicle**

**s 99A** ins 2005 No. 67 s 31

**Notice to information holder**

- s 100** orig s 100 ins 1994 No. 32 s 10  
 exp 1 August 1994 (see orig s 100(2))  
 AIA s 20A applies (see prev s 240(1))  
 prev s 100 ins 1994 No. 32 s 5  
 om 1995 No. 32 s 13  
 pres s 100 ins 2001 No. 36 s 5

**Notice to person identified as driver**

- s 101** ins 2001 No. 36 s 5

**Statutory declarations for div 3**

- s 102** ins 2001 No. 36 s 5

**Limit on offences**

- s 103** ins 2001 No. 36 s 5

**Division 4—Miscellaneous**

- div hdg** ins 2001 No. 36 s 5

**Confidentiality**

- s 104** ins 2001 No. 36 s 5

**Evidence and procedure**

- s 105** prev s 105 ins 1995 No. 32 s 11  
 om 2000 No. 6 s 23  
 pres s 105 ins 2001 No. 36 s 5

**PART 8—LOCAL GOVERNMENT TOLLWAYS**

- pt hdg** ins 2005 No. 67 s 32

**Division 1—Preliminary**

- div hdg** ins 2005 No. 67 s 32

**Objectives of pt 8**

- s 105A** ins 2005 No. 67 s 32

**Definitions for pt 8**

- s 105B** ins 2005 No. 67 s 32  
 def “**compliance notice**” ins 2006 No. 21 s 116(2)  
 def “**declaration**” ins 2006 No. 21 s 116(2)  
 def “**designated vehicle**” amd 2006 No. 21 s 116(3)  
 def “**final notice**” ins 2006 No. 21 s 116(2)  
 amd 2009 No. 47 s 5 sch  
 def “**local government franchisee**” ins 2006 No. 21 s 116(2)  
 def “**local government tollway**” sub 2006 No. 21 s 116(1)–(2)  
 def “**matter**” ins 2006 No. 21 s 116(2)  
 def “**relevant notice**” ins 2006 No. 21 s 116(2)  
 def “**revocation notice**” ins 2006 No. 21 s 116(2)  
 def “**schedule 5 step-in notice**” ins 2006 No. 21 s 116(2)  
 def “**schedule 5A step-in notice**” ins 2006 No. 21 s 116(2)  
 def “**suspension notice**” ins 2006 No. 21 s 116(2)  
 def “**user administration charge**” amd 2006 No. 21 s 116(3)

**Division 2—Approval of tollway project**

**div hdg** ins 2005 No. 67 s 32

**Approval of tollway project**

**s 105C** ins 2005 No. 67 s 32

**Local government to keep Minister informed**

**s 105D** ins 2005 No. 67 s 32  
om 2006 No. 21 s 117

**Minister may amend approval**

**s 105E** ins 2005 No. 67 s 32  
amd 2006 No. 21 s 118

**When approval has effect**

**s 105F** ins 2005 No. 67 s 32  
amd 2006 No. 21 s 119

**Division 2A—Local government tollway**

**div hdg** ins 2006 No. 21 s 120

**Subdivision 1—Declaration**

**sdiv hdg** ins 2006 No. 21 s 120

**Request for declaration**

**s 105G** ins 2005 No. 67 s 32  
sub 2006 No. 21 s 120

**Declaration**

**s 105GA** ins 2006 No. 21 s 120  
amd 2009 No. 47 s 5 sch

**Amendment etc. of declaration or conditions at request of local government**

**s 105GB** ins 2006 No. 21 s 120

**Subdivision 2—Compliance with conditions of declaration**

**sdiv hdg** ins 2006 No. 21 s 120

**Compliance notice**

**s 105GC** ins 2006 No. 21 s 120

**Failure to comply with compliance notice if no local government tollway franchise agreement**

**s 105GD** ins 2006 No. 21 s 120

**Effect of revocation notice or suspension notice**

**s 105GE** ins 2006 No. 21 s 120

**Failure to comply with compliance notice for schedule 5 condition**

**s 105GF** ins 2006 No. 21 s 120

**Failure to comply with compliance notice for schedule 5A condition**

**s 105GG** ins 2006 No. 21 s 120

**Subdivision 3—Appeal****sdiv hdg** ins 2006 No. 21 s 120**Decision by Minister in relation to notice****s 105GH** ins 2006 No. 21 s 120**Appeal against decision****s 105GI** ins 2006 No. 21 s 120**Division 3—Local government tollway corridor land****div hdg** ins 2005 No. 67 s 32**Declaration of land as local government tollway corridor land****s 105H** ins 2005 No. 67 s 32  
amd 2006 No. 21 s 121; 2010 No. 19 s 202**Local government tollway corridor land on rail corridor land****s 105I** ins 2005 No. 67 s 32**Effect on land of local government tollway corridor land declaration****s 105J** ins 2005 No. 67 s 32  
amd 2010 No. 13 s 86; 2010 No. 19 s 203**Compensation****s 105JA** ins 2010 No. 19 s 204**Relationship with other Acts****s 105K** ins 2005 No. 67 s 32**Division 4—Public utility plant****div hdg** ins 2005 No. 67 s 32**Subdivision 1—Preliminary****sdiv 1 (s 105L)** ins 2005 No. 67 s 32**Subdivision 2—Ownership of public utility plant****sdiv 2 (s 105M)** ins 2005 No. 67 s 32**Subdivision 3—Powers of public utility provider on local government tollway corridor land****sdiv 3 (s 105N)** ins 2005 No. 67 s 32**Subdivision 4—Obligations of public utility provider****sdiv 4 (ss 105O–105S)** ins 2005 No. 67 s 32**Subdivision 5—Liability for matters relating to public utility plant****sdiv 5 (ss 105T–105W)** ins 2005 No. 67 s 32**Subdivision 6—Replacement or reconstruction of public utility plant****sdiv 6 (s 105X)** ins 2005 No. 67 s 32**Division 5—Franchising local government tollway corridor land****div hdg** ins 2005 No. 67 s 32

**Power to enter into tollway franchise agreements**

s 105Y ins 2005 No. 67 s 32  
amd 2006 No. 21 s 122; 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**Tabling of local government tollway franchise agreements**

s 105Z ins 2005 No. 67 s 32

**Annual report on operation of part**

s 105ZA ins 2005 No. 67 s 32  
sub 2006 No. 21 s 123

**Division 6—Tolling matters**

div hdg ins 2005 No. 67 s 32  
sub 2006 No. 21 s 124

**Subdivision 1—Notice of tolling matters**

sdiv hdg ins 2005 No. 67 s 32  
sub 2006 No. 21 s 125

**Local government to give notice of tolling matters**

s 105ZB ins 2005 No. 67 s 32  
sub 2006 No. 21 s 125

**Subdivision 2—Liability for tolls**

sdiv hdg ins 2005 No. 67 s 32

**Liability for toll and user administration charge and satisfying the liability**

s 105ZC ins 2005 No. 67 s 32  
amd 2006 No. 21 s 150(1) sch 1; 2009 No. 47 s 5 sch

**Using the E toll system**

s 105ZD ins 2005 No. 67 s 32

**Subdivision 3—Failure to pay toll**

sdiv hdg ins 2005 No. 67 s 32

**Application of sdiv 3**

s 105ZE ins 2005 No. 67 s 32

**Definition for sdiv 3**

s 105ZF ins 2005 No. 67 s 32  
def “deferred toll amount” amd 2006 No. 21 s 126

**Liability for administration charge in addition to unpaid toll**

prov hdg amd 2006 No. 21 s 127(1)

s 105ZG ins 2005 No. 67 s 32  
amd 2006 No. 21 s 127(2)

**Notice to vehicle’s registered operator**

s 105ZH ins 2005 No. 67 s 32

**Corporation may be taken to be driver of vehicle**

s 105ZI ins 2005 No. 67 s 32

**Notice to information holder**

s 105ZJ ins 2005 No. 67 s 32

**Notice to person identified as driver**

s 105ZK ins 2005 No. 67 s 32

**Subdivision 4—Statutory declarations and limitation on offences**

sdiv 4 (ss 105ZL–105ZM) ins 2005 No. 67 s 32

**Subdivision 5—Confidentiality of personal information**

sdiv 5 (s 105ZN) ins 2005 No. 67 s 32

**Subdivision 6—Evidentiary matters**

sdiv 6 (s 105ZO) ins 2005 No. 67 s 32

**Division 7—Miscellaneous**

div hdg ins 2006 No. 21 s 128

**Local government to keep Minister informed**

s 105ZOA ins 2006 No. 21 s 128

**State not liable for loss relating to local government tollway etc.**

s 105ZOB ins 2006 No. 21 s 128

**PART 9—PUBLIC THOROUGHFARE EASEMENTS**

pt 9 (s 105ZP) ins 2005 No. 68 s 128

**CHAPTER 7—RAIL TRANSPORT INFRASTRUCTURE AND OTHER MATTERS**ch hdg ins 1995 No. 32 s 11  
amd 2003 No. 54 s 5**PART 1—PRELIMINARY**

pt hdg ins 1995 No. 32 s 11

**Ways of achieving objectives**s 106 prev s 106 ins 1995 No. 32 s 11  
om 2000 No. 6 s 23  
pres s 106 ins 1995 No. 32 s 11  
amd 2003 No. 54 s 6**Scope of chapter**s 107 prev s 107 ins 1995 No. 32 s 11  
om 2000 No 6 s 23  
pres s 107 ins 1995 No. 32 s 11  
amd 1997 No. 66 s 38; 2000 No. 6 s 20; 2000 No. 40 s 6; 2003 No. 54 s 7**PART 2—INVESTIGATING POTENTIAL RAIL CORRIDOR**pt hdg prev pt 2 hdg ins 1995 No. 32 s 11  
om 1998 No. 21 s 38  
pres pt 2 hdg ins 1998 No. 43 s 9

**Purpose of pt 2**

**s 108** prev s 108 ins 1995 No. 32 s 11  
om 2000 No. 6 s 23  
pres s 108 ins 1998 No. 43 s 9

**Definitions for pt 2**

**s 109** prev s 109 ins 1994 No. 32 s 10  
exp 1 July 1994 (see prev s 109(2))  
AIA s 20A applies (see prev s 240(1))  
pres s 109 ins 1998 No. 43 s 9

**Leases and licences under s 64 of Harbours Act**

**s 109A** ins 1994 No. 43 s 143 sch 3 (retro)  
exp 1 October 1994 (see s 109A(2))  
AIA s 20A applies (see s 109A(3))

**Leases and licences under s 196 of Harbours Act**

**s 109B** ins 1994 No. 43 s 143 sch 3 (retro)  
exp 1 October 1994 (see s 109B(2))  
AIA s 20A applies (see s 109B(3))

**How to apply for a rail feasibility investigator's authority**

**s 110** prev s 110 ins 1994 No. 32 s 10  
exp 1 July 1994 (see prev s 110(2))  
AIA s 20A applies (see prev s 240(1))  
pres s 110 ins 1998 No. 43 s 9

**Additional information for application**

**s 111** prev s 111 ins 1994 No. 32 s 10  
exp 1 October 1994 (see prev s 111(3))  
AIA s 20A applies (see prev s 240(1))  
pres s 111 ins 1998 No. 43 s 9

**Granting authority**

**s 112** ins 1998 No. 43 s 9

**Rail feasibility investigator's authority**

**s 113** ins 1998 No. 43 s 9

**What investigator must do before land is entered for the first time**

**s 114** ins 1998 No. 43 s 9

**Investigator to issue associated person with identification**

**s 115** ins 1998 No. 43 s 9

**Pretending to be an investigator etc.**

**s 116** ins 1998 No. 43 s 9

**Investigator to take care in acting under authority**

**s 117** ins 1998 No. 43 s 9

**Compensation payable by investigator**

- s 118** prev s 118 ins 1994 No. 49 s 3 sch 1  
 exp 18 May 1995 (see prev s 118(2))  
 AIA s 20A applies (see prev s 126(1))  
 pres s 118 ins 1998 No. 43 s 9

**PART 3—ACCREDITATION**

- pt hdg** prev pt 3 hdg ins 1995 No. 32 s 11  
 exp 1 July 1996 (see prev s 80)  
 pres pt 3 hdg ins 1995 No. 32 s 11

**Division 1—Introductory**

- div hdg** ins 2003 No. 54 s 8

**Purposes of pt 3**

- s 119** ins 1998 No. 33 s 4 (retro)  
 sub 2003 No. 54 s 8

**Part does not create civil cause of action**

- s 120** ins 2003 No. 54 s 8

**Definitions for pt 3**

- s 121** ins 2003 No. 54 s 8

**Meaning of “approved safety management system”**

- s 122** ins 2003 No. 54 s 8

**Division 2—Accreditation of railway managers and railway operators**

- div hdg** ins 2003 No. 54 s 8

**Accreditation of managers and operators**

- s 123** ins 1995 No. 32 s 11  
 amd 2003 No. 54 s 9

**Applications for accreditation**

- s 124** ins 1995 No. 32 s 11  
 amd 2003 No. 54 s 10

**Additional information for applications**

- s 125** ins 1995 No. 32 s 11

**Granting accreditation**

- s 126** prev s 126 ins 1994 No. 49 s 3 sch 1  
 exp 18 May 1995 (see prev s 126(2))  
 pres s 126 ins 1995 No. 32 s 11  
 amd 1997 No. 66 s 39; 1998 No. 33 s 5 (retro); 2000 No. 40 s 7; 2003 No. 54  
 s 11

**Permissions to extend roads etc.**

- s 126H** ins 1995 No. 32 s 16  
 exp 1 July 1995 (see s 126H(3))  
 AIA s 20A applies (see s 126H(2))

**Numbering and renumbering of Act**

**s 126O** ins 1995 No. 32 s 16  
om R4 (see RA s 37)

**Annual levy**

**s 127** ins 2000 No. 6 s 21  
amd 2003 No. 54 s 12

**Accreditation conditions**

**s 128** ins 1995 No. 32 s 11  
amd 1998 No. 33 s 6 (retro); 2003 No. 54 s 13

**Regulation may prescribe a condition applying to an accreditation**

**s 129** prev s 129 ins 1994 No. 32 s 10  
(1), (3)–(4) exp 1 August 1994 (see prev s 129(4))  
(1)–(2) exp 20 June 1995 (see prev s 129(2), 1994 SL No. 252 s 53(1) as ins  
1995 SL No. 215 s 3)  
AIA s 20A applies (see prev s 240(1))  
pres s 129 ins 1995 No. 32 s 11  
sub 2003 No. 54 s 14

**Surrender of accreditation**

**s 130** prev s 130 ins 1994 No. 32 s 10  
exp 1 July 1995 (see prev s 130(2))  
AIA s 20A applies (see prev s 240(1))  
pres s 130 ins 2003 No. 54 s 14

**Accreditation period**

**s 131** ins 1995 No. 32 s 11

**Numbering and renumbering of Act**

**s 131A** ins 1994 No. 49 s 3 sch 1  
om R3 (see RA s 37)

**Amendment of imposed conditions**

**prov hdg** sub 2003 No. 54 s 15(1)  
**s 132** ins 1995 No. 32 s 11  
amd 1997 No. 66 s 40; 2000 No. 40 s 8; 2003 No. 54 s 15(2)–(3)

**Amendment of approved safety management system**

**s 133** prev s 133 ins 1995 No. 32 s 11  
om 2003 No. 32 s 35  
pres s 133 ins 2003 No. 54 s 18

**Division 3—Obligations of accredited persons**

**div hdg** ins 2003 No. 54 s 18

**Accredited person must comply with approved safety management system**

**s 134** ins 2003 No. 54 s 18

**Accredited person to review approved safety management system each year and related matters**

- s 135** prev s 135 ins 1994 No. 32 s 10  
 exp 20 June 1995 (see prev s 135(3), 1994 SL No. 252 s 53(1) as ins 1995 SL No. 215 s 3)  
 AIA s 20A applies (see prev s 240(1))  
 pres s 135 ins 2003 No. 54 s 18

**Approval of proposed safety management system**

- s 136** prev s 136 ins 1995 No. 32 s 11  
 amd 1996 No. 74 s 10  
 om 1998 No. 13 s 191 sch  
 pres s 136 ins 2003 No. 54 s 18

**Financial capacity or insurance arrangements to meet potential accident liabilities**

- s 137** ins 2003 No. 54 s 18

**Notice of cancellation etc. of agreement mentioned in s 126(3)(d)**

- s 138** prev s 138 ins 1995 No. 32 s 11  
 om 2002 No. 15 s 23 (retro)  
 pres s 138 ins 2003 No. 54 s 18

**Division 4—Disputes about or under agreements for access to rail transport infrastructure that relate to rail safety**

- div hdg** ins 2003 No. 54 s 18

**Chief executive may decide matters on request**

- s 139** ins 1995 No. 32 s 11  
 amd 1997 No. 66 s 41; 2000 No. 40 s 9  
 sub 2003 No. 54 ss 16, 18

**Notice of dispute under agreement for access**

- s 140** ins 1995 No. 32 s 11  
 amd 1997 No. 66 s 42; 2000 No. 40 s 10  
 sub 2003 No. 54 ss 16, 18

**Helping in a dispute under agreement for access**

- s 141** ins 2003 No. 54 s 18

**Notice of proposed safety direction**

- s 142** ins 2003 No. 54 s 18

**Consideration of representations**

- s 143** prev s 143 ins 1994 No. 32 s 10  
 exp 1 July 1995 (see prev s 143(4))  
 AIA s 20A applies (see prev s 240(1))  
 pres s 143 ins 2003 No. 54 s 18

**Chief executive's actions after stated period**

- s 144** ins 2003 No. 54 s 18

**Division 5—Safety directions by rail safety officers**

- div hdg** ins 2003 No. 54 s 18

**Application of division**

**s 145** ins 1995 No. 32 s 11  
amd 1997 No. 66 s 43; 2000 No. 40 s 11  
sub 2003 No. 54 ss 16, 18

**Written direction by rail safety officer**

**s 146** ins 2003 No. 54 s 18

**Spoken direction because written direction is not possible or reasonable**

**s 147** prev s 147 ins 1995 No. 32 s 11  
om 2000 No. 5 s 461 sch 3  
pres s 147 ins 2003 No. 54 s 18

**Direction under s 146(1) or 147(4) must include reasons and be accompanied by information notice**

**s 148** ins 2003 No. 54 s 18

**Safety directions and relationship with Workplace Health and Safety Act 1995**

**s 149** ins 2003 No. 54 s 18

**Division 6—Audit regime**

**div hdg** ins 2003 No. 54 s 18

**Audit program for inspecting activities of accredited person**

**s 150** ins 1995 No. 32 s 11  
sub 2003 No. 54 ss 16, 18

**When inspections may be carried out during a year**

**s 151** ins 2003 No. 54 s 18

**Requirement to give information or document for inspection**

**s 152** ins 2003 No. 54 s 18

**Failure to give information or document for inspection**

**s 153** ins 2003 No. 54 s 18

**Division 7—Disciplinary action against accredited persons**

**div hdg** ins 2003 No. 54 s 18

**Happening that may give rise to a belief that a ground for disciplinary action exists**

**s 154** prev s 154 ins 1994 No. 32 s 5  
om 2001 No. 79 s 32  
pres s 154 ins 1995 No. 32 s 11  
sub 2003 No. 54 ss 16, 18

**Grounds for disciplinary action about the accreditation of an accredited person**

**s 155** ins 2003 No. 54 s 18

**Show cause notice**

**s 156** ins 2003 No. 54 s 18

**Consideration of representations**

**s 157** ins 2003 No. 54 s 18

**Immediate suspension of an accreditation**

**s 158** prev s 158 ins 1994 No. 32 s 10  
om 1995 No. 32 s 18  
pres s 158 ins 2003 No. 54 s 18

**Action by chief executive**

**s 159** prev s 159 ins 1994 No. 32 s 10  
om 1995 No. 32 s 18  
pres s 159 ins 2003 No. 54 s 18

**Decision by chief executive not to take action under s 159**

**s 160** prev s 160 ins 1994 No. 32 s 10  
om 1995 No. 32 s 18  
pres s 160 ins 2003 No. 54 s 18

**Division 8—Information about safety issues**

**div hdg** ins 2003 No. 54 s 18

**Chief executive may publish safety bulletin**

**s 161** prev s 161 ins 1994 No. 32 s 10  
om 1995 No. 32 s 18  
pres s 161 ins 2003 No. 54 s 18

**PART 4—RAIL TRANSPORT INFRASTRUCTURE POWERS**

**pt hdg** ins 1995 No. 32 s 11

**Division 1—Railway works**

**div hdg** ins 1998 No. 43 s 10

**Application of div 1**

**s 162** prev s 162 ins 1994 No. 32 s 10  
om 1995 No. 9 s 92 sch 1  
pres s 162 (prev 93A) ins 1998 No. 43 s 10  
renum 2003 No. 54 s 17

**Entering land for railway works etc.**

**s 163** ins 1995 No. 32 s 11

**Entry to land by notice or with approval**

**s 164** ins 1995 No. 32 s 11

**Care to be taken in carrying out works etc.**

**s 165** ins 1995 No. 32 s 11

**Compensation for carrying out works etc.**

**s 166** ins 1995 No. 32 s 11

**Watercourses**

**s 167** ins 1995 No. 32 s 11  
amd 2005 No. 42 s 52 sch 1

**Division 2—Other powers**

**div hdg** ins 1998 No. 43 s 11

**Power to require works to stop**

s 168 ins 1995 No. 32 s 11

**Closing railway crossings**

s 169 ins 1995 No. 32 s 11

**PART 5—RAIL SAFETY OFFICERS**

pt hdg ins 2003 No. 54 s 20

**Division 1—Definitions**

div 1 (s 170) ins 2003 No. 54 s 20

**Division 2—Rail safety officers including provisions about appointment**

div hdg ins 2003 No. 54 s 20

**Rail safety officers**

s 171 ins 2003 No. 54 s 20

**Appointment conditions and limit on powers**

s 172 ins 2003 No. 54 s 20

**Issue of identity card to each rail safety officer**

s 173 prev s 173 ins 1994 No. 32 s 5  
om 2000 No. 4 s 93  
pres s 173 ins 2003 No. 54 s 20

**Production or display of identity card**

s 174 ins 2003 No. 54 s 20

**When rail safety officer ceases to hold office**

s 175 ins 2003 No. 54 s 20

**Resignation**

s 176 ins 2003 No. 54 s 20

**Return of identity card**

s 177 ins 2003 No. 54 s 20

**Division 3—Entry to places by rail safety officers**

div hdg ins 2003 No. 54 s 20

**Power to enter places**

s 178 ins 2003 No. 54 s 20  
amd 2008 No. 67 s 286

**Procedure for entry with consent**

s 179 ins 2003 No. 54 s 20

**Procedure for other entries without warrant**

s 180 ins 2003 No. 54 s 20

**Application for warrant**

s 181 ins 2003 No. 54 s 20

**Issue of warrant**

s 182 ins 2003 No. 54 s 20  
amd 2009 No. 47 s 5 sch

**Special warrants**

s 183 ins 2003 No. 54 s 20

**Warrants—procedure before entry**

s 184 ins 2003 No. 54 s 20

**Division 4—General powers of rail safety officers**

div hdg ins 2003 No. 54 s 20

**General powers after entering place**

s 185 ins 2003 No. 54 s 20

**Procedure before entering or opening rolling stock or vehicle**

s 186 ins 2003 No. 54 s 20

**Power to require reasonable help or information**

s 187 ins 2003 No. 54 s 20

**Power to stop rolling stock or vehicle that may be entered or opened**

s 188 ins 2003 No. 54 s 20  
amd 2005 No. 22 s 6

**Other powers about rolling stock or vehicles that may be entered**

s 189 ins 2003 No. 54 s 20

**Division 5—Seizure**

div hdg ins 2003 No. 54 s 20

**Power to seize evidence if entry without consent or warrant**

s 190 ins 1995 No. 32 s 11  
sub 2003 No. 54 ss 19, 20

**Power to seize evidence if entry with consent or warrant**

s 191 ins 2003 No. 54 s 20

**Securing seized things**

s 192 ins 2003 No. 54 s 20

**Offence to tamper with seized thing**

s 193 ins 2003 No. 54 s 20

**Powers to support seizure**

s 194 ins 2003 No. 54 s 20

**Rail safety officer may require thing's return**

s 195 ins 2003 No. 54 s 20

**Receipt for seized thing**

s 196 ins 2003 No. 54 s 20

Endnotes

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**Return of seized thing**

s 197      prev s 197 om 1997 No. 66 s 51  
            pres s 197 ins 2003 No. 54 s 20

**Access to seized thing**

s 198      prev s 198 om 1997 No. 66 s 51  
            pres s 198 ins 2003 No. 54 s 20

**Division 6—Forfeiture**

div hdg    ins 2003 No. 54 s 20

**Forfeiture by rail safety officer**

s 199      ins 2003 No. 54 s 20

**Forfeiture on conviction**

s 200      ins 2003 No. 54 s 20

**Dealing with forfeited sample or thing**

prov hdg   amd 1994 No. 32 s 9(1)

s 201      prev s 201 amd 1994 No. 32 s 9(2); 1994 No. 43 s 143 sch 3  
            om 2003 No. 54 s 35  
            pres s 201 ins 2003 No. 54 s 20

**Division 7—Other powers**

div hdg    ins 2003 No. 54 s 20

**Power to require name and address**

s 202      orig s 202(1) om 1994 No. 49 s 3 sch 1  
            AIA s 20A applies to orig (1) (see prev s 126(1))  
            prev s 202(1)–(2) exp 18 November 1995 (see prev s 202(2))  
            pres s 202 ins 2003 No. 54 s 20

**Failure to give name or address**

s 203      prev s 203 amd 1994 No. 49 s 3 sch 1  
            exp 18 November 1996 (see prev s 203(5))  
            (1)–(3) AIA s 20A applies (see prev s 203(4))  
            pres s 203 ins 2003 No. 54 s 20

**Power to require information about contravention**

s 204      prev s 204 amd 1994 No. 49 s 3 sch 1  
            exp 18 November 1996 (see prev s 204(3))  
            (1) AIA s 20A applies (see prev s 204(2))  
            pres s 204 ins 2003 No. 54 s 20

**Failure to give information about contravention**

s 205      prev s 205 amd 1994 No. 49 s 3 sch 1  
            exp 18 November 1996 (see prev s 205(2))  
            pres s 205 ins 2003 No. 54 s 20

**Power to require production of documents**

- s 206** prev s 206 amd 1994 No. 49 s 3 sch 1  
exp 18 November 1996 (see prev s 206(2))  
AIA s 20A applies (see prev s 126(1))  
pres s 206 ins 2003 No. 54 s 20

**Failure to produce document**

- s 207** prev s 207 amd 1994 No. 49 s 3 sch 1  
exp 18 November 1995 (see prev s 207(4))  
pres s 207 ins 2003 No. 54 s 20

**Division 8—Offences relating to rail safety officers**

- div hdg** ins 2003 No. 54 s 20

**False or misleading statements**

- s 208** prev s 208 amd 1994 No. 49 s 3 sch 1  
exp 18 November 1996 (see prev s 208(2))  
pres s 208 ins 2003 No. 54 s 20

**False or misleading documents**

- s 209** prev s 209 amd 1994 No. 49 s 3 sch 1  
exp 18 November 1996 (see prev s 209(2)–(3))  
pres s 209 ins 2003 No. 54 s 20

**Obstruction of rail safety officer**

- s 210** prev s 210 amd 1994 No. 49 s 3 sch 1  
exp 18 November 1996 (see prev s 210(3)–(4))  
pres s 210 ins 2003 No. 54 s 20

**Impersonating a rail safety officer**

- s 211** prev s 211 amd 1994 No. 49 s 3 sch 1  
exp 18 November 1996 (see prev s 211(3))  
pres s 211 ins 2003 No. 54 s 20

**Division 9—Notice of damage and compensation**

- div hdg** ins 2003 No. 54 s 20

**Notice of damage**

- s 212** prev s 212 amd 1994 No. 49 s 3 sch 1  
exp 18 November 1996 (see prev s 212(2))  
pres s 212 ins 2003 No. 54 s 20

**Compensation**

- s 213** prev s 213 ins 1994 No. 49 s 3 sch 1  
exp 18 November 1995 (see prev s 213(5))  
pres s 213 ins 2003 No. 54 s 20

**PART 6—RAILWAY INCIDENTS**

- pt hdg** ins 1995 No. 32 s 11

**Division 1AA—Preliminary**

- div 1AA (ss 213A–213B)** ins 2004 No. 54 s 3

**Division 1—Report of railway incident**

**div hdg** ins 1995 No. 32 s 11

**Reporting serious incidents**

**s 214** prev s 214 ins 1995 No. 32 s 16  
amd 1997 No. 66 s 52  
exp 30 June 2003 (see prev s 218(2))  
AIA s 20A applies (see prev s 218(1))  
pres s 214 ins 2003 No. 54 s 21

**Request for report or incident details**

**s 215** prev s 215 ins 1995 No. 32 s 16  
amd 2000 No. 40 s 16; 2002 No. 15 s 26 (retro)  
exp 30 June 2003 (see prev s 218(2))  
AIA s 20A applies (see prev s 218(1))  
pres s 215 ins 1995 No. 32 s 11  
amd 1995 No. 57 s 4 sch 1; 2003 No. 54 s 22

**Division 2—Investigation of railway incident**

**div hdg** ins 1995 No. 32 s 11

**Investigations by rail safety officer**

**prov hdg** amd 2003 No. 54 s 23(1)  
**s 216** prev s 216 ins 1995 No. 32 s 16  
exp 30 June 2003 (see prev s 218(2))  
AIA s 20A applies (see prev s 218(1))  
pres s 216 ins 1995 No. 32 s 11  
amd 2003 No. 54 s 23(2)–(5); 2004 No. 54 s 4

**Power of rail safety officer to investigate incident**

**prov hdg** amd 2003 No. 54 s 24(1)  
**s 217** prev s 217 ins 1995 No. 32 s 16  
exp 30 June 2003 (see prev s 218(2))  
AIA s 20A applies (see prev s 218(1))  
pres s 217 ins 1995 No. 32 s 11  
amd 2000 No. 6 s 22; 2003 No. 54 s 24(2)–(7); 2004 No. 54 s 5

**Compensation**

**s 218** prev s 218 ins 1995 No. 32 s 16  
amd 2002 No. 15 s 27 (retro)  
exp 30 June 2003 (see prev s 218(2))  
AIA s 20A applies (see prev s 218(1))  
pres s 218 ins 1995 No. 32 s 11  
amd 2003 No. 54 s 25

**Division 3—Boards of inquiry**

**div hdg** ins 1995 No. 32 s 11

**Subdivision 1—General**

**sdiv hdg** ins 1995 No. 32 s 11

**Minister may establish or re-establish boards of inquiry**

- s 219** prev s 219 ins 1995 No. 32 s 16  
exp 1 July 1997 (see prev s 219(6)–(7))  
pres s 219 ins 1995 No. 32 s 11

**Role of board of inquiry**

- s 220** prev s 220 ins 1995 No. 32 s 16  
exp 1 July 2000 (see prev s 220(4))  
pres s 220 ins 1995 No. 32 s 11  
amd 2004 No. 54 s 6

**Conditions of appointment**

- s 221** prev s 221 ins 1995 No. 32 s 16  
amd 2002 No. 15 s 28 (retro)  
exp 30 June 2003 (see prev s 221(4) and 1995 SL No. 342 s 4)  
pres s 221 ins 1995 No. 32 s 11

**Chief executive to arrange for services of staff and financial matters for board of inquiry**

- s 222** prev s 222 ins 1995 No. 32 s 16  
exp 1 July 2000 (see prev s 222(5))  
pres s 222 ins 1995 No. 32 s 11  
amd 2003 No. 54 s 26

**Rail safety officer may exercise powers for board's inquiry**

- prov hdg** amd 2003 No. 54 s 27(1)  
**s 223** prev s 223 ins 1995 No. 32 s 16  
exp 1 July 2002 (see prev s 223(3))  
AIA s 20A applies (see prev s 223(2))  
pres s 223 ins 1995 No. 32 s 11  
amd 2003 No. 54 s 27(2)–(3)

**Subdivision 2—Conduct of inquiry**

- sdiv hdg** ins 1995 No. 32 s 11

**Procedure**

- s 224** prev s 224 ins 1995 No. 32 s 16  
exp 1 July 2002 (see prev s 224(9))  
AIA s 20A applies (see prev s 224(5))  
pres s 224 ins 1995 No. 32 s 11

**Notice of inquiry**

- s 225** prev s 225 ins 1995 No. 32 s 16  
amd 1995 No. 48 s 11  
exp 22 November 1996 (see prev s 225(4))  
pres s 225 ins 1995 No. 32 s 11

**Inquiry to be held in public other than in special circumstances**

- s 226** prev s 226 ins 1995 No. 32 s 16  
exp 1 July 1996 (see prev s 226(3))  
pres s 226 ins 1995 No. 32 s 11

**Protection of members, legal representatives and witnesses**

**s 227** orig s 227 ins 1994 No. 32 s 10  
amd 1996 No. 13 s 57  
exp 1 July 1997 (see orig s 227(2))  
AIA s 20A applies (see prev s 240(1))  
prev s 227 ins 1998 No. 23 s 4  
om 2001 No. 79 s 38  
pres s 227 ins 1995 No. 32 s 11

**Record of proceedings to be kept**

**s 228** prev s 228 ins 1994 No. 32 s 10  
amd 1996 No. 13 s 57; 1997 No. 9 s 84; 1998 No. 33 s 10 (retro); 1999 No. 24  
s 2(2) sch; 2000 No. 6 s 27  
exp 31 December 2000 (see prev s 228(3))  
AIA s 20A applies (see prev s 240(1))  
pres s 228 ins 1995 No. 32 s 11

**Procedural fairness and representation**

**s 229** prev s 229 ins 1994 No. 32 s 10  
amd 1996 No. 13 s 57  
exp 1 July 1997 (see prev s 229(2))  
AIA s 20A applies (see prev s 240(1))  
pres s 229 ins 1995 No. 32 s 11

**Board's powers on inquiry**

**s 230** prev s 230 ins 1994 No. 32 s 10  
amd 1996 No. 13 s 57  
exp 1 July 1997 (see prev s 230(5))  
AIA s 20A applies (see prev s 240(1))  
pres s 230 ins 1995 No. 32 s 11

**Notice to witness**

**s 231** prev s 231 ins 1994 No. 32 s 10  
amd 1996 No. 13 s 57  
exp 1 July 1997 (see prev s 231(3))  
AIA s 20A applies (see prev s 240(1))  
pres s 231 ins 1995 No. 32 s 11

**Inspection of documents or things**

**s 232** prev s 232 ins 1994 No. 32 s 10  
amd 1996 No. 13 s 57; 1997 No. 9 s 85; 1998 No. 33 s 11 (retro); 1999 No. 24  
s 2(2) sch; 2000 No. 6 s 28  
exp 31 December 2000 (see prev s 232(8))  
AIA s 20A applies (see prev s 240(1))  
pres s 232 ins 1995 No. 32 s 11

**Inquiry may continue despite court proceedings unless otherwise ordered**

**prov hdg** sub 1998 No. 23 s 5(1) (retro)  
**s 233** prev s 233 ins 1994 No. 32 s 10  
 amd 1994 No. 43 s 143 sch 3 (retro); 1996 No. 13 s 57; 1997 No. 9 s 86; 1998  
 No. 23 s 5(2)(retro)–(3); 1998 No. 33 s 12 (retro); 1999 No. 11 s 31; 2000  
 No. 64 s 172; 2002 No. 72 s 31  
 om 2001 No. 93 s 25(c)  
 exp 31 December 2003 (see prev s 233(9)) (exp could not be given effect)  
 AIA s 20A applies (see prev s 240(1))  
 pres s 233 ins 1995 No. 32 s 11

**Validation of permits issued for Mackay Harbour**

**s 233A** ins 1998 No. 23 s 6  
 exp 15 May 1998 (see s 233A(4))  
 AIA s 20A applies (see prev s 240(1))

**Certain persons taken to have permits for Mackay Harbour**

**s 233B** ins 1998 No. 23 s 6  
 exp 15 May 1998 (see s 233B(3))  
 AIA s 20A applies (see prev s 240(1))

**Certain persons taken to have had permits for Brisbane River under By-law No. 2, 1994**

**s 233C** ins 1998 No. 23 s 6  
 exp 15 May 1998 (see 233C(5))  
 AIA s 20A applies (see prev s 240(1))

**Certain persons taken to have had permits for Brisbane River under Port of Brisbane Sand and Gravel By-law 1992**

**s 233D** ins 1998 No. 23 s 6  
 exp 15 May 1998 (see s 233D(4))  
 AIA s 20A applies (see prev s 240(1))

**Certain persons taken to have permits for Brisbane River under Marine Land Dredging By-law 1987**

**s 233E** ins 1998 No. 23 s 6  
 exp 15 May 1998 (see s 233E(4))  
 AIA s 20A applies (see prev s 240(1))

**Survey and supervision cost to be retained by Port of Brisbane Corporation**

**s 233F** ins 1998 No. 23 s 6  
 exp 15 May 1998 (see s 233F(2))  
 AIA s 20A applies (see prev s 240(1))

**Offences by witnesses**

**s 234** prev s 234 ins 1994 No. 32 s 10  
 amd 1994 No. 81 s 527 sch 5; 1996 No. 13 s 57  
 exp 1 July 1997 (see prev s 234(4))  
 AIA s 20A applies (see prev s 240(1))  
 pres s 234 ins 1995 No. 32 s 11

**Self-incrimination**

**s 235** prev s 235 ins 1994 No. 32 s 10  
amd 1994 No. 43 s 143 sch 3 (retro); 1996 No. 13 s 57; 1997 No. 9 s 87; 1998  
No. 33 s 13 (retro); 1999 No. 24 s 2(2) sch; 2000 No. 6 s 29  
(3) exp 1 July 1997 (see prev s 235(5A))  
exp 31 December 2000 (see prev s 235(5))  
AIA s 20A applies (see prev s 240(1))  
pres s 235 ins 1995 No. 32 s 11  
amd 2004 No. 54 s 7

**False or misleading statements**

**s 236** prev s 236 ins 1994 No. 32 s 10  
amd 1995 No. 41 s 105 sch 1; 1997 No. 9 s 88; 1998 No. 23 s 7 (retro); 1999  
No. 11 s 32; 1999 No. 59 s 59; 2000 No. 64 s 173; 2002 No. 72 s 32  
om 2001 No. 93 s 25(c)  
exp 31 December 2003 (see prev s 236(8)) (exp could not be given effect)  
AIA s 20A applies (see prev s 240(1))  
pres s 236 ins 1995 No. 32 s 11

**False, misleading or incomplete documents**

**s 237** prev s 237 ins 1994 No. 32 s 10  
amd 1996 No. 13 s 56  
exp 31 October 1996 (see prev s 237(4))  
AIA s 20A applies (see prev s 240(1))  
pres s 237 ins 1995 No. 32 s 11

**Contempt of board**

**s 238** prev s 238 ins 1994 No. 32 s 10  
amd 1996 No. 13 s 57  
exp 1 July 1997 (see prev s 238(3))  
AIA s 20A applies (see prev s 240(1))  
pres s 238 ins 1995 No. 32 s 11

**Change of membership of board**

**s 239** ins 1995 No. 32 s 11

**Division 4—Protection of particular information**

**div 4 (ss 239AA–239AD)** ins 2004 No. 54 s 8

**Division 5—Relevant persons**

**div 5 (ss 239AE–239AG)** ins 2004 No. 54 s 8

**PART 7—LAND FOR RAILWAY PURPOSES**

**pt hdg** ins 1995 No. 32 s 11

**Definitions for pt 7**

**s 239AH** ins 2007 No. 6 s 20

**Effect of resumption of particular interests in land**

**s 239AI** (prev s 239A) ins 2004 No. 9 s 4  
renum 2007 No. 6 s 19 sch 1

**Sublease of land to railway managers**

**prov hdg** amd 2007 No. 6 s 19 sch 1  
**s 240** prev s 240 ins 1994 No. 32 s 10  
 amd 1996 No. 13 s 57; 1997 No. 9 s 89; 1998 No. 33 s 14 (retro); 1999 No. 24 s 2(2) sch; 2000 No. 6 s 30  
 exp 30 June 2001 (see prev s 240(2))  
 AIA s 20A applies (see prev s 240(1))  
 pres s 240 ins 1995 No. 32 s 11  
 sub 1997 No. 66 s 44  
 amd 1998 No. 33 s 7 (retro); 2005 No. 49 s 5; 2007 No. 6 s 19 sch 1; 2008 No. 67 s 134

**Interests in commercial corridor land continue after acquisition**

**s 240AA** ins 2008 No. 67 s 135

**Registered interests in rail corridor land**

**s 240A** ins 2007 No. 6 s 21  
 amd 2008 No. 67 s 136

**Unregistered rights in rail corridor land**

**s 240B** ins 2007 No. 6 s 21  
 amd 2008 No. 67 s 137; 2009 No. 9 s 136 sch 1

**Lease of non-rail corridor land to railway manager**

**s 240C** ins 2007 No. 6 s 21

**Lease of non-rail corridor land to local government or government entity**

**s 240D** ins 2007 No. 6 s 21

**Access arrangements across proposed railway**

**s 240E** ins 2008 No. 31 s 16

**Cancellation of right of access**

**s 240F** ins 2008 No. 31 s 16  
 amd 2008 No. 67 s 138

**Railway tunnel easements**

**s 241** ins 2001 No. 79 s 29  
 amd 2008 No. 67 s 139

**What is “future railway land”**

**s 242** ins 2001 No. 79 s 29  
 amd 2007 No. 6 s 19 sch 1

**Status of railway land**

**s 243** prev s 243 (prev s 129 (orig s 90)) renum 1994 No. 32 s 12; 1994 No. 43 s 143 sch 3  
 om R3 (see RA s 40)  
 pres s 243 ins 1995 No. 32 s 11  
 amd 1998 No. 33 s 8 (retro); 2005 No. 67 s 33

**Existing rail transport infrastructure on land**

**s 244** ins 1995 No. 32 s 11  
amd 1997 No. 66 s 45

**Existing buildings on land**

**s 245** ins 1995 No. 32 s 11

**Railway works on corridor land**

**s 246** ins 1998 No. 33 s 9 (retro)  
amd 2009 No. 36 s 872 sch 2  
om 2010 No. 19 s 70

**Chief executive taken to be owner of rail corridor land and non-rail corridor land for particular circumstances under Planning Act**

**prov hdg** amd 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch  
**s 247** ins 2002 No. 71 s 11  
sub 2007 No. 6 s 22  
amd 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**PART 8—GENERAL**

**pt hdg** ins 1995 No. 32 s 11

**Rail GOC and wholly owned subsidiary not common carrier**

**s 248** ins 1995 No. 32 s 11  
sub 2008 No. 67 s 140; 2010 No. 19 s 71

**Railways on particular roads**

**prov hdg** amd 2005 No. 67 s 34(1)  
**s 249** ins 2002 No. 15 s 24 (retro)  
amd 2005 No. 67 s 34(2)–(6); 2006 No. 21 s 129; 2007 No. 6 s 19 sch 1

**Altering road levels**

**s 250** ins 1995 No. 32 s 11

**Maintaining roads crossing railways**

**s 251** ins 1995 No. 32 s 11  
amd 1997 No. 66 s 46

**No presumption of dedication of roads**

**s 252** ins 1995 No. 32 s 11

**Extending roads through or over rail corridor land or non-rail corridor land**

**prov hdg** amd 2008 No. 31 s 17(1)  
**s 253** ins 1995 No. 32 s 11  
sub 1997 No. 66 s 47  
amd 2007 No. 6 s 23; 2008 No. 31 s 17(2)–(13)

**Level crossings**

**s 254** ins 1995 No. 32 s 11

**Interfering with railway**

**s 255** ins 1995 No. 32 s 11  
amd 1997 No. 66 s 48; 2003 No. 54 s 28; 2008 No. 31 s 18

**Rectifying unauthorised interference**

s 256 ins 1995 No. 32 s 11

**Trespassing on railway**

s 257 ins 1995 No. 32 s 11

**Impact of particular development and railways**

prov hdg amd 2009 No. 47 s 8(1)

s 258 ins 1995 No. 32 s 11  
sub 2004 No. 40 s 4  
amd 2009 No. 47 s 8(2); 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**Impact of change of management of local government road on railways**

s 258A ins 2004 No. 40 s 4  
amd 2007 No. 6 s 24; 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**Guidelines for ss 258–258A**

s 258B ins 2004 No. 40 s 4  
amd 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**Fencing new railways**

s 259 ins 1995 No. 32 s 11

**Works for existing railways**

s 260 orig s 260 ins 1998 No. 33 s 15  
exp 23 September 1998 (see orig s 260(3))  
prev s 260 ins 1998 No. 43 s 23  
exp 27 May 1999 (see prev s 260(3))  
pres s 260 ins 1995 No. 32 s 11  
amd 2008 No. 67 s 141; 2010 No. 19 s 72

**Transfer of obligations for existing railway to new railway manager**

s 260A ins 2004 No. 9 s 5; 2007 No. 6 s 19 sch 1  
sub 2008 No. 67 s 142  
om 2010 No. 19 s 73

**Non-accredited railways**

s 261 ins 1995 No. 32 s 11  
amd 1997 No. 66 s 49; 2003 No. 54 s 29

**Application of Land Act 1994**

s 262 ins 1995 No. 32 s 11  
amd 2001 No. 79 s 31; 2007 No. 6 s 19 sch 1; 2009 No. 47 s 5 sch

**Limitation of liability for chief executive and rail safety officers**

s 263 ins 2003 No. 54 s 30

**Helping in accidents or emergencies**

s 264 ins 2003 No. 54 s 30

**Delayed passenger services**

s 265 ins 2003 No. 54 s 30

**Priority for regularly scheduled passenger services in allocating train paths**  
s 266 ins 2003 No. 54 s 30

**CHAPTER 8—PORT INFRASTRUCTURE AND OTHER MATTERS**

**ch hdg** ins 1994 No. 32 s 5  
amd 2005 No. 22 s 7

**PART 1—PRELIMINARY**

**pt hdg** ins 1994 No. 32 s 5

**Definitions for chapter**

**prov hdg** sub 1995 No. 32 s 12  
**s 267** ins 1994 No. 32 s 5  
def “**airport**” ins 2005 No. 22 s 8  
om 2008 No. 46 s 134  
def “**candidate GOC**” om 1995 No. 9 s 92 sch 1  
def “**charge**” sub 2010 No. 19 s 80  
def “**completion day**” ins 2010 No. 19 s 80(2)  
def “**GOC**” om 1995 No. 9 s 92 sch 1  
def “**Land Act**” ins 2010 No. 19 s 80(2)  
def “**lease**” ins 2010 No. 19 s 80(2)  
def “**notice**” om 1995 No. 9 s 92 sch 1  
def “**port agreement**” ins 2010 No. 19 s 80(2)  
def “**port area**” ins 2005 No. 22 s 8  
sub 2010 No. 19 s 80  
def “**port entity**” ins 2010 No. 19 s 80(2)  
def “**port facilities**” ins 2005 No. 22 s 8  
def “**port lessee**” ins 2010 No. 19 s 80(2)  
def “**port lessor**” ins 2010 No. 19 s 80(2)  
def “**port manager**” ins 2010 No. 19 s 80(2)  
def “**port operator**” ins 2010 No. 19 s 80(2)  
def “**port services**” ins 2010 No. 19 s 80(2)  
def “**port user**” ins 2010 No. 19 s 80(2)  
def “**relevant entity**” ins 2010 No. 19 s 80(2)  
def “**requirement**” ins 2005 No. 22 s 8  
def “**sublease**” ins 2010 No. 19 s 80(2)  
def “**trade lease**” ins 2010 No. 19 s 80(2)  
def “**vehicle**” om 1995 No. 57 s 4 sch 1  
def “**vessel**” ins 2010 No. 19 s 80(2)

**Meaning of “port area”**

**s 267AA** ins 2010 No. 19 s 81

**Meaning of “port facilities”**

**s 267A** ins 2005 No. 22 s 9  
amd 2008 No. 67 s 287; 2008 No. 46 s 135  
sub 2010 No. 19 s 82

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**PART 1A—TRANSITIONAL PROVISIONS FOR AIRPORT RESTRUCTURING AND DISPOSAL**

**pt 1A (ss 267AB–267AD)** ins 2008 No. 46 s 133  
 exp on the day the *Airport Assets (Restructuring and Disposal) Act 2008*, s 134 commenced (see s 267AD)

**PART 2—ESTABLISHMENT, DECLARATION AND ABOLITION OF PORT AUTHORITIES**

**pt hdg** ins 1994 No. 32 s 5  
 sub 2005 No. 49 s 6

**Establishment of new port authority**

**s 268** ins 1994 No. 32 s 5

**Port authority is excluded matter for Corporations Act**

**s 269** ins 2002 No. 15 s 25 (retro)

**Abolition of port authority**

**s 270** ins 1994 No. 32 s 5  
 amd 2005 No. 49 s 7

**Transfer of management of a port**

**s 271** ins 1994 No. 32 s 5  
 amd 2005 No. 49 s 8; 2007 No. 10 s 62 sch

**Division 3—Transition of references about railways**

**div hdg** ins 1994 No. 32 s 10  
 om 1995 No. 32 s 18

**Regulation may make transitional arrangements**

**s 272** ins 1994 No. 32 s 5  
 amd 2001 No. 71 s 551 sch 1; 2005 No. 49 s 9; 2007 No. 10 s 62 sch; 2008 No. 31 s 72 sch

**Management of port by State or local government**

**s 273** ins 1994 No. 32 s 5

**Regulation may define port limits etc.**

**s 274** ins 1994 No. 32 s 5  
 amd 2005 No. 49 s 10; 2010 No. 19 s 83

**Regulation may declare GOC Act entity to be port authority**

**s 274A** ins 2005 No. 49 s 11  
 sub 2007 No. 10 s 62 sch

**PART 3—FUNCTIONS AND POWERS OF PORT AUTHORITIES**

**pt hdg** ins 1994 No. 32 s 5

**Functions of port authorities**

**s 275** ins 1994 No. 32 s 5  
 amd 2002 No. 71 s 12; 2005 No. 22 s 10; 2006 No. 21 s 130; 2009 No. 47 s 9

**Port services function**

**s 276** ins 2000 No. 40 s 12  
amd 2002 No. 29 s 16 sch 1; 2008 No. 67 s 288; 2008 No. 46 s 136

**Division 4—General**

**div hdg** ins 1994 No. 32 s 10  
om 1995 No. 9 s 92 sch 1

**Powers of port authorities or port lessor subject to Marine Safety Act**

**prov hdg** amd 2010 No. 19 s 85(1)  
**s 277** ins 1994 No. 32 s 5  
amd 2009 No. 47 s 10; 2010 No. 19 s 85(2)

**Powers of port authorities**

**s 278** ins 1994 No. 32 s 5  
amd 2007 No. 10 s 62 sch

**Functions and powers of port authority that is a GOC not limited**

**s 278A** ins 2007 No. 10 s 62 sch

**PART 3A—LIABILITY FOR, AND RECOVERY OF, CHARGES AND EXPENSES**

**pt hdg** ins 2005 No. 22 s 11

**Port authority may impose a charge**

**s 279** ins 1994 No. 32 s 5  
amd 1994 No. 43 s 143 sch 3; 2000 No. 5 s 461 sch 3  
sub 2005 No. 22 s 11  
amd 2008 No. 46 s 137

**Relevant entity may impose charges**

**s 279A** ins 2010 No. 19 s 86

**Port agreement**

**s 279B** ins 2010 No. 19 s 86

**Liability for a charge in relation to a ship**

**s 280** ins 1994 No. 32 s 5  
sub 2005 No. 22 s 11

**Liability for a charge in relation to an aircraft**

**s 281** ins 1994 No. 32 s 5  
sub 2005 No. 22 s 11  
om 2008 No. 46 s 138

**Liability for a charge in relation to goods**

**s 281A** ins 2005 No. 22 s 11  
amd 2008 No. 46 s 139

**Liability for a charge in relation to passengers**

**s 281B** ins 2005 No. 22 s 11  
sub 2008 No. 46 s 140

**Payment of a charge and interest on an unpaid charge**

**s 281C** ins 2005 No. 22 s 11  
amd 2010 No. 19 s 87

**Liability for movement of ships, vehicles, goods or rolling stock**

**prov hdg** amd 2008 No. 46 s 141(1)  
**s 281D** ins 2005 No. 22 s 11  
amd 2008 No. 46 s 141(2)–(3); 2010 No. 19 s 88

**Liability for damage to port facilities**

**prov hdg** amd 2010 No. 19 s 89(1)  
**s 281E** ins 2005 No. 22 s 11  
amd 2008 No. 46 s 142; 2010 No. 19 s 89(2)–(3)

**Security for payment of charges and potential liabilities**

**s 281F** ins 2005 No. 22 s 11  
amd 2010 No. 19 s 90

**PART 3B—CONTROL OF ACTIVITIES AT PORTS**

**pt hdg** ins 2005 No. 22 s 11

**Division 1—Port notices**

**div hdg** ins 2005 No. 22 s 11

**Port authority or port lessor may control activities by port notice**

**prov hdg** amd 2010 No. 19 s 91(1)  
**s 282** ins 1994 No. 32 s 5  
sub 2005 No. 22 s 11  
amd 2008 No. 46 s 143; 2010 No. 19 s 91(2)–(3)

**Port lessor may give port notice requiring information**

**s 282AA** ins 2010 No. 19 s 92

**Port notice—movement or mooring of, or activities on or by, ships**

**s 282A** ins 2005 No. 22 s 11  
amd 2010 No. 19 s 93

**Port notice—aircraft parking**

**s 282B** ins 2005 No. 22 s 11  
om 2008 No. 46 s 144

**Port notice—movement, handling or storage of goods**

**s 282C** ins 2005 No. 22 s 11  
amd 2008 No. 46 s 145; 2010 No. 19 s 94

**Port notice—movement of persons**

**s 282D** ins 2005 No. 22 s 11  
amd 2010 No. 19 s 95

**Port notice—parking or stopping of vehicles**

**s 282E** ins 2005 No. 22 s 11  
amd 2010 No. 19 s 96

**Port notice—movement, stopping or parking of rolling stock**

s 282F ins 2005 No. 22 s 11  
amd 2010 No. 19 s 97

**Display or publication of port notices**

s 282G ins 2005 No. 22 s 11  
amd 2010 No. 19 s 98

**Port notice may refer to documents held by port authority, port lessor or port lessor's delegate**

prov hdg amd 2010 No. 19 s 99(1)  
s 282H ins 2005 No. 22 s 11  
amd 2008 No. 46 s 146; 2010 No. 13 s 84 sch pt 1; 2010 No. 19 s 99(2)

**Port notices generally**

s 282I ins 2005 No. 22 s 11  
amd 2010 No. 19 s 100

**Offence of not complying with a port notice**

s 282J ins 2005 No. 22 s 11  
amd 2008 No. 46 s 147

**Division 2—Authorised officers**

div hdg ins 2005 No. 22 s 11

**Appointment and qualifications of authorised officers**

s 282K ins 2005 No. 22 s 11  
amd 2010 No. 19 s 101

**Appointment conditions and limit on powers**

s 282L ins 2005 No. 22 s 11  
amd 2010 No. 19 s 102

**Issue of identity card**

s 282M ins 2005 No. 22 s 11  
amd 2010 No. 19 s 103

**Production or display of identity card**

s 282N ins 2005 No. 22 s 11

**When authorised officer ceases to hold office**

s 282O ins 2005 No. 22 s 11

**Return of identity card**

s 282P ins 2005 No. 22 s 11  
amd 2010 No. 19 s 104

**Division 3—Directions**

div hdg ins 2005 No. 22 s 11

**Authorised officer may give directions**

s 282Q ins 2005 No. 22 s 11  
amd 2008 No. 46 s 148; 2010 No. 19 s 105

**If a person does not comply with a direction**

s 282R ins 2005 No. 22 s 11

**Offence of not complying with a direction**

s 282S ins 2005 No. 22 s 11  
amd 2008 No. 46 s 149

**Division 4—Moving contravening property**

div hdg ins 2005 No. 22 s 11

**Moving contravening property**

s 282T ins 2005 No. 22 s 11  
amd 2008 No. 46 s 150; 2010 No. 19 s 106

**Division 5—Other powers and offences**

div hdg ins 2005 No. 22 s 11

**Power to require name and address**

s 283 ins 1994 No. 32 s 5  
sub 2005 No. 22 s 11  
amd 2010 No. 19 s 107

**Inspection of documents**

s 283A ins 2005 No. 22 s 11  
amd 2010 No. 19 s 108

**Inspection of ships, vehicles, rolling stock and goods**

prov hdg amd 2008 No. 46 s 151(1)  
s 283B ins 2005 No. 22 s 11  
amd 2008 No. 46 s 151(2)–(3); 2010 No. 19 s 109

**Obstructing authorised officer**

s 283C ins 2005 No. 22 s 11  
amd 2010 No. 19 s 110

**False or misleading statement**

s 283D ins 2005 No. 22 s 11

**False or misleading document**

s 283E ins 2005 No. 22 s 11

**Impersonating an authorised officer**

s 283F ins 2005 No. 22 s 11

**Conduct causing public nuisance**

s 283G ins 2005 No. 22 s 11  
amd 2010 No. 19 s 111

**Interfering with port notices**

s 283H ins 2005 No. 22 s 11  
amd 2010 No. 19 s 112

**PART 3C—LAND MANAGEMENT—PORT OF BRISBANE**

pt hdg ins 2010 No. 19 s 113

**Division 1—Preliminary**

**div 1** (ss 283I–283N) ins 2010 No. 19 s 113

**Division 2—Particular provisions about balance port land and planning schemes**

**div 2** (ss 283O–283P) ins 2010 No. 19 s 113

**Division 3—Plan for land use on Brisbane core port land**

**div hdg** ins 2010 No. 19 s 113

**Subdivision 1—First Brisbane port LUP**

**sdiv 1** (ss 283Q–283R) ins 2010 No. 19 s 113

**Subdivision 2—Content and review of Brisbane port LUP**

**sdiv 2** (ss 283S–283X) ins 2010 No. 19 s 113

**Subdivision 3—Preparation and amendment of Brisbane port LUP by port operator**

**sdiv 3** (ss 283Y–283ZG) ins 2010 No. 19 s 113

**Subdivision 4—Miscellaneous**

**sdiv 4** (ss 283ZH–283ZJ) ins 2010 No. 19 s 113

**Division 4—Effect of land becoming or ceasing to be Brisbane core port land**

**div 4** (ss 283ZK–283ZL) ins 2010 No. 19 s 113

**Division 5—Particular matters about development on Brisbane core port land**

**div hdg** ins 2010 No. 19 s 113

**Subdivision 1—Preliminary**

**sdiv 1** (ss 283ZM–283ZO) ins 2010 No. 19 s 113

**Subdivision 2—Provisions about assessment manager and referral agencies**

**sdiv 2** (ss 283ZP–283ZZ) ins 2010 No. 19 s 113

**Subdivision 3—Application of particular provisions of Planning Act**

**sdiv 3** (ss 283ZZA–283ZZD) ins 2010 No. 19 s 113

**Subdivision 4—Notice of development approval**

**sdiv 4** (s 283ZZE) ins 2010 No. 19 s 113

**Subdivision 5—Delegation**

**sdiv 5** (s 283ZZF) ins 2010 No. 19 s 113

**Subdivision 6—Development approvals affected by change**

**sdiv 6** (ss 283ZZG–283ZZI) ins 2010 No. 19 s 113

**Subdivision 7—Dealing with development applications affected by change**

**sdiv 7** (ss 283ZZJ–283ZZK) ins 2010 No. 19 s 113

**Division 6—Dealings with Brisbane port land**

**div 6** (ss 283ZZL–283ZZQ) ins 2010 No. 19 s 113

**PART 4—LAND MANAGEMENT—PORTS OTHER THAN PORT OF BRISBANE**

**pt hdg** ins 1994 No. 32 s 5  
amd 2010 No. 19 s 114

**Division 1—Strategic port land****div hdg** ins 1994 No. 32 s 5**Definitions for div 1****s 284** ins 1994 No. 32 s 5  
sub 2005 No. 22 s 12  
def “**valuable features**” amd 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch**Land use plans****s 285** ins 1994 No. 32 s 5  
sub 2005 No. 22 s 12  
amd 2006 No. 21 s 131; 2008 No. 67 s 289; 2008 No. 46 s 152**Statement of proposal for preparation of a land use plan or amendment of a plan****s 285A** ins 2005 No. 22 s 12**Draft plan for preparation of a land use plan or amendment of a plan****s 285B** ins 2005 No. 22 s 12**Consultation on statement of proposal or draft plan****s 285C** ins 2005 No. 22 s 12**Directions by Minister for amendment of draft plan****s 285D** ins 2005 No. 22 s 12**Approval of land use plans****s 286** ins 1994 No. 32 s 5  
amd 2005 No. 22 s 13**Strategic port land not subject to local planning instrument****s 287** ins 1994 No. 32 s 5  
amd 1998 No. 13 s 191 sch  
sub 1998 No. 31 s 87; 2000 No. 4 s 92; 2009 No. 36 s 872 sch 2  
amd 2010 No. 19 s 281 sch**Division 2—General****div hdg** ins 1994 No. 32 s 5**Impact of particular development and port operations****s 287A** ins 2009 No. 47 s 11  
amd 2010 No. 13 s 84 sch pt 1; 2010 No. 19 s 281 sch**Guidelines for s 287A****s 287B** ins 2009 No. 47 s 11  
amd 2010 No. 13 s 84 sch pt 1**Restrictions on dealing in property****s 288** ins 1994 No. 32 s 5  
amd 2008 No. 67 s 290**Port marine operational area****s 289** ins 2002 No. 71 s 13**PART 4A—PORT APPROVALS****pt hdg** ins 2005 No. 22 s 14

**Application of pt 4A**

s 289A ins 2005 No. 22 s 14

**Definitions for pt 4A**

s 289B ins 2005 No. 22 s 14

**Application for approval**

s 289C ins 2005 No. 22 s 14

**Port authority may grant approval, with or without conditions**

s 289D ins 2005 No. 22 s 14

**Change of conditions on an approval**

s 289E ins 2005 No. 22 s 14

**Decision by port authority in relation to approval**

s 289F ins 2005 No. 22 s 14  
amd 2009 No. 24 s 1719

**Internal review of decisions**

s 289G ins 2005 No. 22 s 14  
sub 2009 No. 24 s 1720

**External review of decisions**

s 289GA ins 2009 No. 24 s 1720

**PART 4B—DISPOSAL OF ABANDONED PROPERTY**

pt hdg ins 2005 No. 22 s 14

**Definitions for pt 4B**

s 289H ins 2005 No. 22 s 14  
def “abandoned property” amd 2008 No. 46 s 153; 2010 No. 19 s  
115(1)–(2)  
def “insufficient value property” amd 2010 No. 19 s 115(3)–(4)

**Reasonable steps must be taken to find owner**

s 289I ins 2005 No. 22 s 14  
amd 2010 No. 19 s 116

**A person may claim property**

s 289J ins 2005 No. 22 s 14  
amd 2010 No. 19 s 117

**If property not claimed**

s 289K ins 2005 No. 22 s 14  
amd 2010 No. 19 s 118

**Sale of perishable property**

s 289L ins 2005 No. 22 s 14  
amd 2010 No. 19 s 119

**Proceeds from the sale of abandoned property**

s 289M ins 2005 No. 22 s 14  
amd 2010 No. 19 s 120

**Abandoned property of no value**

s 289N ins 2005 No. 22 s 14  
amd 2010 No. 19 s 121

**PART 4C—PORT OF BRISBANE—LAND TAX AND RATES**

pt 4C (ss 289O–289Q) ins 2010 No. 19 s 122

**PART 4D—PORT OF BRISBANE—MATTERS RELATING TO WATER SUPPLY (SAFETY AND RELIABILITY) ACT 2008**

pt 4D (ss 289R–289X) ins 2010 No. 19 s 122

**PART 4E—PORT OF BRISBANE—OTHER MATTERS**

pt 4E (ss 289Y–289ZE) ins 2010 No. 19 s 122

**PART 5—GENERAL**

pt hdg ins 1994 No. 32 s 5

**Protection from liability**

s 290 ins 1994 No. 32 s 5  
amd 2007 No. 10 s 62 sch

**Carrying on port activities outside port limits**

s 291 ins 1994 No. 32 s 5  
amd 2008 No. 46 s 154

**Offences**

s 292 ins 1994 No. 32 s 5  
amd 2008 No. 46 s 155; 2010 No. 19 s 123

**Payment of charges and interest on unpaid charges**

s 293 ins 1994 No. 32 s 5  
om 2005 No. 22 s 15

**Transitional provisions applying in relation to port authorities that are candidate GOCs**

s 294 ins 1994 No. 32 s 5  
amd 1994 No. 43 s 143 sch 3; 2007 No. 10 s 62 sch; 2010 No. 13 s 84 sch pt 1

**Notices at entrances**

s 295 ins 1994 No. 32 s 5

**CHAPTER 9—BUSWAYS AND BUSWAY TRANSPORT INFRASTRUCTURE**

ch hdg ins 2000 No. 40 s 13

**PART 1—PRELIMINARY**

pt hdg ins 2000 No. 40 s 13

**Ways of achieving busway objectives**

s 296 ins 2000 No. 40 s 13

**PART 2—CHIEF EXECUTIVE'S FUNCTIONS AND POWERS**

pt 2 (ss 297–300) ins 2000 No. 40 s 13

**PART 3—ESTABLISHMENT OF BUSWAYS**

pt hdg ins 2000 No. 40 s 13

**Definition for pt 3**

s 301 ins 2000 No. 40 s 13

**Declaration of land as busway land**

s 302 ins 2000 No. 40 s 13  
amd 2005 No. 49 s 12; 2008 No. 31 s 20

**Effect on land of busway declaration**

s 303 ins 2000 No. 40 s 13  
amd 2005 No. 49 s 13; 2005 No. 67 s 35

**Sublease of lease of busway land**

s 303AA ins 2008 No. 67 s 262

**Licence in relation to busway land or busway transport infrastructure**

s 303AB ins 2010 No. 19 s 167

**Declaration of common areas for busways and roads**

s 303A ins 2005 No. 49 s 14

**Effect of declaration of busway common area**

s 303B ins 2005 No. 49 s 14

**Relationship with Local Government Act 1993, s 901**

s 303C ins 2005 No. 49 s 14

**Development of busway and busway transport infrastructure**

s 304 ins 2000 No. 40 s 13  
amd 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**PART 4—MANAGEMENT OF BUSWAY LAND AND BUSWAY TRANSPORT  
INFRASTRUCTURE**

pt hdg ins 2000 No. 40 s 13

**Division 1—Transport infrastructure interaction**

div hdg ins 2000 No. 40 s 13

**Altering road levels by a local government**

s 305 ins 2000 No. 40 s 13

**Watercourses and busway transport infrastructure works**

s 306 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(2))  
amd 2005 No. 42 s 52 sch 1

**Permitted construction by local government of roads over or under busway land**

s 307 ins 2000 No. 40 s 13

**Powers of chief executive for busway transport infrastructure works contracts etc.**

s 308 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(3))

**Distraction of traffic on busway**

s 309 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(3))

**No presumption of dedication of road**

s 310 ins 2000 No. 40 s 13

**Division 2—Interfering with busway transport infrastructure****div hdg** ins 2000 No. 40 s 13**Interfering with busway transport infrastructure****s 311** ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(4))**Rectifying unauthorised interference or works****s 312** ins 2000 No. 40 s 13**Division 3—Ancillary works and encroachments****div 3 (ss 313–315)** ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(5))**Division 4—Public utility plant****div hdg** ins 2000 No. 40 s 13**Definition for div 4****s 316** ins 2000 No. 40 s 13  
def “**busway land**” sub 2010 No. 19 s 205**Retention of ownership of public utility plant****s 317** ins 2000 No. 40 s 13  
amd 2010 No. 19 s 206**Public utility plant on busway land****s 318** ins 2000 No. 40 s 13**Chief executive must give provider information****s 319** ins 2000 No. 40 s 13**Public utility provider to consult with chief executive before replacing public utility plant****s 320** ins 2000 No. 40 s 13**Public utility provider to comply with chief executive’s agreement****s 321** ins 2000 No. 40 s 13**Chief executive may require public utility provider to alter position of public utility plant****s 322** ins 2000 No. 40 s 13**Information by public utility provider to chief executive****s 323** ins 2000 No. 40 s 13**Liability for damage caused by failure to comply with request for information****s 324** ins 2000 No. 40 s 13**Liability for damage caused by failure to give enough detail about location of public utility plant****s 325** ins 2000 No. 40 s 13**Liability for damage caused because of failure to comply with chief executive’s requirements****s 326** ins 2000 No. 40 s 13  
amd 2010 No. 13 s 84 sch pt 1

**Liability of public utility provider to pay additional expenses incurred by chief executive**

s 327 ins 2000 No. 40 s 13

**Replacement or reconstruction of public utility plant**

s 328 ins 2000 No. 40 s 13

**Division 5—Use of busway or busway transport infrastructure**

div hdg ins 2000 No. 40 s 13  
sub 2008 No. 67 s 263

**Trespass on busway or busway transport infrastructure**

s 329 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(6))  
sub 2008 No. 67 s 263

**Division 6—Compensation entitlements**

div 6 (ss 330–335) ins 2000 No. 40 s 13

**PART 4A—ACCREDITATION AS BUSWAY MANAGER**

pt 4A (ss 335AA–335AP) ins 2008 No. 67 s 264

**PART 5—BUSWAY AUTHORISATION**

pt hdg ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(7))  
sub 2005 No. 49 s 15

**Definitions for pt 5**

s 335A ins 2005 No. 49 s 16

**Who may drive on a busway**

s 336 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(7))  
amd 2005 No. 49 s 17; 2009 No. 47 s 5 sch

**Applying for authorisation as authorised busway user**

prov hdg ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(7))  
amd 2005 No. 49 s 18(1)  
s 337 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(7))  
amd 2005 No. 49 s 18(2)

**Considering application for authorisation**

s 338 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(7))  
amd 2005 No. 49 s 19

**Authorisation conditions**

s 339 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(7))  
amd 2005 No. 49 s 20

**Requiring authorisation conditions to be complied with**

s 340 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(7))  
amd 2005 No. 49 s 21

**Authorisation period**

s 341 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(7))  
amd 2005 No. 49 s 22

**Amending authorisation conditions on application**

s 342 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(7))  
amd 2005 No. 49 s 23

**Amending authorisation conditions without application**

s 343 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(7))  
amd 2005 No. 49 s 24

**Suspending or cancelling authorisation**

s 344 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(7))  
amd 2005 No. 49 s 25

**Immediate suspension of authorisation**

s 345 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(7))  
amd 2005 No. 49 s 26

**Surrender of authorisation**

s 346 ins 2000 No. 40 s 13 (amd 2001 No. 79 s 19(7))  
amd 2005 No. 49 s 27

**PART 6—BUSWAY SAFETY OFFICERS**

pt 6 (ss 346A–346ZC) ins 2005 No. 49 s 28

**CHAPTER 10—LIGHT RAIL AND LIGHT RAIL TRANSPORT  
INFRASTRUCTURE**

ch hdg ins 2000 No. 40 s 13

**PART 1—PRELIMINARY**

pt hdg ins 2000 No. 40 s 13

**Ways of achieving light rail objectives**

s 347 ins 2000 No. 40 s 13

**PART 2—CHIEF EXECUTIVE’S FUNCTIONS AND POWERS**

pt 2 (ss 348–351) ins 2000 No. 40 s 13

**PART 3—ESTABLISHMENT OF LIGHT RAIL**

pt hdg ins 2000 No. 40 s 13

**Definition for pt 3**

s 352 ins 2000 No. 40 s 13  
def “road” sub 2010 No. 19 s 168

**Declaration of land as light rail land**

s 353 ins 2000 No. 40 s 13  
amd 2005 No. 49 s 29; 2008 No. 31 s 21; 2010 No. 19 s 169

**Effect on land of light rail declaration**

s 354 ins 2000 No. 40 s 13  
amd 2005 No. 49 s 30; 2005 No. 67 s 36; 2010 No. 19 s 170

**Sublease of lease of light rail land**

s 355 ins 2000 No. 40 s 13  
amd 2010 No. 19 s 171

**Licence in relation to light rail land or infrastructure**

s 355A ins 2010 No. 19 s 172

**Development of light rail and light rail transport infrastructure**

s 356 ins 2000 No. 40 s 13  
amd 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**PART 4—MANAGEMENT OF LIGHT RAIL LAND AND LIGHT RAIL  
TRANSPORT INFRASTRUCTURE**

pt hdg ins 2000 No. 40 s 13

**Division 1—Transport infrastructure interaction**

div hdg ins 2000 No. 40 s 13

**Altering road levels by a local government**

s 357 ins 2000 No. 40 s 13

**Permitted construction by local government of roads over or under light rail land**

s 358 ins 2000 No. 40 s 13

**Designation of light rail land for use as road under local government control**

s 359 ins 2000 No. 40 s 13

**Designation of light rail land for use as State-controlled road**

s 360 ins 2000 No. 40 s 13

**Powers of chief executive for light rail transport infrastructure works contracts etc.**

s 360A ins 2008 No. 67 s 265  
amd 2010 No. 19 s 173

**No presumption of dedication of road**

s 361 ins 2000 No. 40 s 13

**Division 2—Interfering with light rail transport infrastructure**

div hdg ins 2000 No. 40 s 13

**Definition for div 2**

s 361A ins 2010 No. 19 s 174

**Interfering with light rail transport infrastructure or works**

prov hdg amd 2010 No. 19 s 175(1)  
s 362 ins 2000 No. 40 s 13  
amd 2010 No. 19 s 175(2)–(3)

**Rectifying unauthorised interference**

prov hdg amd 2010 No. 19 s 176(1)  
s 363 ins 2000 No. 40 s 13  
amd 2010 No. 19 s 176(2)–(7)

**Division 3—Public utility plant**

div hdg ins 2000 No. 40 s 13

**Definitions for div 3**

- s 364** ins 2000 No. 40 s 13  
 def “**busway land**” om 2010 No. 19 s 207(1)  
 def “**light rail land**” sub 2010 No. 19 s 207

**Retention of ownership of public utility plant**

- s 365** ins 2000 No. 40 s 13  
 amd 2010 No. 19 s 208

**Public utility plant on light rail land**

- s 366** ins 2000 No. 40 s 13

**Chief executive must give provider information**

- s 367** ins 2000 No. 40 s 13

**Public utility provider to consult with light rail authority before replacing public utility plant**

- prov hdg** amd 2010 No. 19 s 209  
**s 368** ins 2000 No. 40 s 13

**Public utility provider to comply with light rail authority’s agreement**

- s 369** ins 2000 No. 40 s 13

**Chief executive may require public utility provider to alter position of public utility plant**

- s 370** ins 2000 No. 40 s 13

**Information by public utility provider to light rail authority**

- prov hdg** amd 2010 No. 19 s 210  
**s 371** ins 2000 No. 40 s 13

**Liability for damage caused by failure to comply with request for information**

- s 372** ins 2000 No. 40 s 13

**Liability for damage caused by failure to give enough detail about location of public utility plant**

- s 373** ins 2000 No. 40 s 13

**Liability for damage caused because of failure to comply with light rail authority’s requirements**

- s 374** ins 2000 No. 40 s 13  
 amd 2009 No. 47 s 5 sch

**Liability of public utility provider to pay additional expenses incurred by light rail authority**

- s 375** ins 2000 No. 40 s 13

**Replacement or reconstruction of public utility plant**

- s 376** ins 2000 No. 40 s 13

**Division 4—Use of light rail or light rail transport infrastructure**

- div hdg** ins 2000 No. 40 s 13  
 sub 2008 No. 67 s 266

**Trespass on light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site**

**prov hdg** sub 2010 No. 19 s 177(1)  
**s 377** ins 2000 No. 40 s 13  
sub 2008 No. 67 s 266  
amd 2010 No. 19 s 177

**Division 4A—Franchised light rail**

**div hdg** ins 2010 No. 19 s 178

**Subdivision 1—Preliminary**

**sdiv 1 (s 377A)** ins 2010 No. 19 s 178

**Subdivision 2—Franchised light rail**

**sdiv 2 (ss 377B–377H)** ins 2010 No. 19 s 178

**Subdivision 3—Interface management**

**sdiv 3 (ss 377I–377P)** ins 2010 No. 19 s 178

**Subdivision 4—Miscellaneous**

**sdiv 4 (ss 377Q–377R)** ins 2010 No. 19 s 178

**Division 5—Compensation entitlements**

**div 5 (ss 378–383)** ins 2000 No. 40 s 13

**PART 5—ACCREDITATION PROVISIONS FOR LIGHT RAIL**

**pt 5 (ss 384–399)** ins 2000 No. 40 s 13

**PART 6—LIGHT RAIL INCIDENTS**

**pt 6** ins 2000 No. 40 s 13

**Application of ch 7, pt 6 and other provisions**

**s 400** ins 2000 No. 40 s 13  
amd 2003 No. 54 s 31; 2004 No. 9 s 3 sch

**CHAPTER 11—INVESTIGATING POTENTIAL BUSWAY OR LIGHT RAIL**

**ch hdg** ins 2000 No. 40 s 13

**Purpose of ch 11**

**s 401** ins 2000 No. 40 s 13

**Definitions for ch 11**

**s 402** ins 2000 No. 40 s 13

**How to apply for investigator’s authority**

**s 403** ins 2000 No. 40 s 13  
amd 2009 No. 47 s 5 sch

**Additional information about application**

**s 404** ins 2000 No. 40 s 13

**Giving investigator’s authority**

**s 405** ins 2000 No. 40 s 13

**Investigator's authority**

s 406 ins 2000 No. 40 s 13

**What investigator must do before land is entered for the first time**

s 407 ins 2000 No. 40 s 13

**Investigator to issue associated person with identification**

s 408 ins 2000 No. 40 s 13

**Pretending to be an investigator or associated person**

s 409 ins 2000 No. 40 s 13

**Investigator to take care in acting under investigator's authority**

s 410 ins 2000 No. 40 s 13

**Rectification of damage by investigator**

s 411 ins 2000 No. 40 s 13

**Compensation payable by investigator**

s 412 ins 2000 No. 40 s 13

**Release of bond or security deposit**

s 413 ins 2000 No. 40 s 13

**Use of bond or security deposit to repair or rectify**

s 414 ins 2000 No. 40 s 13

**CHAPTER 12—MISCELLANEOUS TRANSPORT INFRASTRUCTURE**

ch hdg ins 1995 No. 9 s 92 sch 1

**PART 1—PRELIMINARY**

pt hdg ins 1998 No. 43 s 12

**Definitions for ch 12**

prov hdg sub 1998 No. 43 s 13(1)

s 415 ins 1995 No. 9 s 92 sch 1

def “**approval**” ins 1998 No. 43 s 13(3)def “**approval conditions**” ins 1998 No. 43 s 13(3)def “**dispute notice**” ins 1998 No. 43 s 13(3)def “**intersecting area**” ins 1998 No. 43 s 13(3)def “**licence**” ins 1995 No. 9 s 92 sch 1

om 1998 No. 43 s 13(2)

def “**licensee**” ins 1995 No. 9 s 92 sch 1

sub 1998 No. 43 s 13(2)–(3)

def “**operational licence**” ins 1998 No. 43 s 13(3)def “**required land**” ins 1995 No. 9 s 92 sch 1def “**responsible entity**” ins 1998 No. 43 s 13(3)**Meaning of “miscellaneous transport infrastructure”**

s 416 ins 1998 No. 43 s 14

amd 2000 No. 6 s 24; 2000 No. 40 s 14; 2005 No. 49 s 31

**PART 2—OPERATIONAL LICENCES AND APPROVALS FOR LICENSEES**

pt hdg ins 1998 No. 43 s 15

**Division 1—Definitions**

**div hdg** ins 1998 No. 43 s 15

**Definition for pt 2**

**s 417** ins 1998 No. 43 s 15  
amd 2001 No. 79 s 33

**Division 2—Granting operational licences**

**div hdg** ins 1998 No. 43 s 16

**Minister may grant operational licence**

**prov hdg** sub 1998 No. 43 s 17  
**s 418** ins 1995 No. 9 s 92 sch 1

**Division 3—Approvals for licensees for intersecting areas**

**div hdg** ins 1998 No. 43 s 18

**Purpose and scope of div 3**

**s 419** ins 1998 No. 43 s 18

**Approvals**

**s 420** ins 1998 No. 43 s 18

**Refusal to grant approval**

**s 421** ins 1998 No. 43 s 18

**Licensee may apply to Minister if approval not granted**

**s 422** ins 1998 No. 43 s 18  
amd 2009 No. 13 s 213 sch 5

**Division 4—Conditions for approvals**

**div hdg** ins 1998 No. 43 s 18

**Approval conditions**

**s 423** ins 1998 No. 43 s 18

**Notice of approval conditions**

**s 424** ins 1998 No. 43 s 18

**Division 5—Arbitration of approval conditions**

**div hdg** ins 1998 No. 43 s 18

**Notice of dispute**

**s 425** ins 1998 No. 43 s 18

**Appointment of arbitrator**

**s 426** ins 1998 No. 43 s 18  
amd 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**Arbitrator's functions**

**s 427** ins 1998 No. 43 s 18

**Arbitrator's powers**

**s 428** ins 1998 No. 43 s 18

**Hearing procedures**

s 429 ins 1998 No. 43 s 18

**Effect of arbitrator's decisions**

s 430 ins 1998 No. 43 s 18

**Division 6—Miscellaneous**

div hdg ins 1998 No. 43 s 18

**Miscellaneous transport infrastructure remains property of licensee**

s 431 ins 1998 No. 43 s 18

**Compensation to responsible entity from licensee**

s 432 ins 1998 No. 43 s 18

**PART 3—AUTHORITIES TO OCCUPY AND USE LAND**

pt hdg ins 1998 No. 43 s 18

**Temporary use and occupation of land**

s 433 ins 1995 No. 9 s 92 sch 1

**Notice of entry or permission to enter**

s 434 ins 1995 No. 9 s 92 sch 1

**Compensation for physical damage from entry etc.**

s 435 ins 1995 No. 9 s 92 sch 1

**PART 4—POWERS OF CHIEF EXECUTIVE OVER REQUIRED LAND**

pt hdg ins 1998 No. 43 s 19

**Chief executive may grant interests in land**

s 436 ins 1995 No. 9 s 92 sch 1  
amd 1998 No. 43 s 20

**PART 5—MISCELLANEOUS**

pt hdg ins 1998 No. 43 s 21

**Effect of chapter on other Acts**

s 437 ins 1995 No. 9 s 92 sch 1

**CHAPTER 13—FUNCTION OF QR LIMITED**

ch hdg ins 1998 No. 21 s 39  
amd 2008 No. 67 s 143

**Function**

s 438 ins 1998 No. 21 s 39  
amd 2007 No. 10 s 62 sch; 2008 No. 67 s 144

**PART 2—DECLARATION OF QR NATIONAL**

pt 2 (s 438A) ins 2010 No. 19 s 74

**CHAPTER 14—TRANSPORTING DANGEROUS GOODS BY RAIL**

ch hdg ins 2001 No. 79 s 34

**PART 1—INTRODUCTORY**

pt hdg ins 2001 No. 79 s 34

**Purposes of ch 14**

s 439 ins 2001 No. 79 s 34

**Application of ch 14**

s 440 ins 2001 No. 79 s 34  
amd 2003 No. 29 s 385; 2008 No. 67 s 4

**Ch 14 binds all persons**

s 441 ins 2001 No. 79 s 34

**PART 2—REGULATIONS**

pt hdg ins 2001 No. 79 s 34

**Regulations about dangerous goods**

s 442 ins 2001 No. 79 s 34  
amd 2008 No. 67 s 5

**PART 3—APPROVALS AND EXEMPTIONS**

pt hdg ins 2001 No. 79 s 34

**Division 1—Exemptions**

div hdg ins 2001 No. 79 s 34

**Exemptions**

s 443 ins 2001 No. 79 s 34  
amd 2008 No. 67 s 6; 2008 No. 66 s 4 sch pt 2

**Division 2—Amending, suspending or cancelling approval or exemption**

div hdg ins 2001 No. 79 s 34

**Grounds for amending, suspending or cancelling approval or exemption**

s 444 ins 2001 No. 79 s 34  
amd 2008 No. 67 s 7

**What chief executive must do before taking proposed action, other than for class exemption**

s 445 ins 2001 No. 79 s 34

**What chief executive must do before taking proposed action for class exemption**

s 446 ins 2001 No. 79 s 34

**Decision on proposed action**

s 447 ins 2001 No. 79 s 34

**Sections 445–447 do not apply to beneficial or clerical amendment**

s 448 ins 2001 No. 79 s 34

**Immediate suspension in the public interest**

s 449 ins 2001 No. 79 s 34  
amd 2008 No. 67 s 8

**PART 4—OFFENCES**

pt hdg ins 2001 No. 79 s 34

**Goods too dangerous to be transported**

s 450 ins 2001 No. 79 s 34  
om 2008 No. 67 s 9

**Duties when transporting dangerous goods**

s 451 ins 2001 No. 79 s 34  
amd 2008 No. 67 s 10; 2008 No. 66 s 4 sch pt 2

**Exclusion orders prohibiting involvement in the transport of dangerous goods by rail**

s 452 ins 2001 No. 79 s 34  
sub 2008 No. 67 s 11  
amd 2008 No. 66 s 4 sch pt 2

**PART 5—RECOVERY OF COSTS AND FORFEITURE**

pt hdg ins 2001 No. 79 s 34

**Forfeiture if conviction relates to dangerous goods**

s 453 ins 2001 No. 79 s 34  
sub 2008 No. 67 s 12

**Dealing with forfeited things etc.**

s 454 ins 2001 No. 79 s 34

**Recovery of costs from convicted person**

s 455 ins 2001 No. 79 s 34  
amd 2008 No. 67 s 13

**Recovery of costs of government action**

s 456 ins 2001 No. 79 s 34  
amd 2008 No. 31 s 72 sch

**PART 6—MISCELLANEOUS**

pt hdg ins 2001 No. 79 s 34

**Facilitation of proof**

s 457 ins 2001 No. 79 s 34  
sub 2008 No. 67 s 14

**Document signed by chief executive is evidence of matters stated in it if no evidence to the contrary**

s 457A ins 2008 No. 67 s 14

**Helping in accidents or emergencies**

s 458 ins 2001 No. 79 s 34

**PART 7—GOODS TOO DANGEROUS TO BE TRANSPORTED**

pt hdg ins 2008 No. 67 s 15

**Application of Act to goods too dangerous to be transported**

s 458A ins 2008 No. 67 s 15

**Consignment of goods too dangerous to be transported prohibited**

s 458B ins 2008 No. 67 s 15  
amd 2008 No. 66 s 4 sch pt 2

**Regulations**

s 458C ins 2008 No. 67 s 15

**CHAPTER 15—PUBLIC MARINE TRANSPORT INFRASTRUCTURE**

ch hdg ins 2000 No. 6 s 25

**PART 1—PUBLIC MARINE FACILITIES**

pt hdg ins 2000 No. 6 s 25

**Appointment of manager of public marine facility**

s 459 ins 2000 No. 6 s 25

**Manager's responsibility for maintenance and injuries etc.**

s 460 ins 2000 No. 6 s 25  
amd 2008 No. 31 s 72 sch

**Management by chief executive**

s 461 ins 2000 No. 6 s 25

**Management by local government**

s 462 ins 2000 No. 6 s 25

**Management by port authority**

s 463 ins 2000 No. 6 s 25  
amd 2007 No. 10 s 62 sch; 2009 No. 47 s 5 sch

**Management by another person**

s 464 ins 2000 No. 6 s 25

**Exercise of manager's powers to be consistent with conditions**

s 465 ins 2000 No. 6 s 25

**Fees**

s 466 ins 2000 No. 6 s 25

**When manager may resign**

s 467 ins 2000 No. 6 s 25

**Removal of improvements added by manager**

s 468 ins 2000 No. 6 s 25

**Regulation prevails over action taken by a manager under this part**

s 469 ins 2000 No. 6 s 25

**PART 2—MANAGEMENT OF WATERWAYS**

pt hdg ins 2000 No. 6 s 25

**Division 1—Preliminary**

div hdg ins 2009 No. 47 s 12

**Object of pt 2**

s 470 ins 2000 No. 6 s 25

**Functions of chief executive under pt 2**

s 471 ins 2000 No. 6 s 25

**Division 2—Waterway transport management plans****div hdg** ins 2009 No. 47 s 13**Waterway transport management plan****s 472** ins 2000 No. 6 s 25**Contents of a waterway transport management plan****s 473** ins 2000 No. 6 s 25**Notice of draft waterway transport management plan****s 474** ins 2000 No. 6 s 25  
amd 2001 No. 79 s 35**Other laws prevail over waterway transport management plan****s 475** ins 2000 No. 6 s 25**Division 3—Authorised persons for waterway transport management plans****div 3 (ss 475A–475G)** ins 2009 No. 47 s 14**Division 4—Powers of authorised persons****div hdg** ins 2009 No. 47 s 14**Subdivision 1—Interpretation****sdiv 1 (s 475H)** ins 2009 No. 47 s 14**Subdivision 2—Entry of places by authorised persons****sdiv 2 (ss 475I–475M)** ins 2009 No. 47 s 14**Subdivision 3—Powers after entry****sdiv 3 (ss 475N–475O)** ins 2009 No. 47 s 14**Subdivision 4—Removal of watercraft****sdiv 4 (ss 475P–475W)** ins 2009 No. 47 s 14**Subdivision 5—General enforcement matters****sdiv 5 (ss 475X–475ZE)** ins 2009 No. 47 s 14**CHAPTER 16—GENERAL PROVISIONS****ch hdg** (prev ch 7 hdg) renum 1995 No. 9 s 92 sch 1**Amounts payable to chief executive are debts owing to the State****s 476** sub 1999 No. 11 s 29  
amd 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch**Chief executive may give information to corresponding authority****s 476A** ins 2008 No. 67 s 16**Power to require works to stop****s 476B** ins 2010 No. 19 s 211**Compensation****s 476C** ins 2010 No. 19 s 211**Registration of notice about nature of works****s 476D** ins 2010 No. 19 s 211

**Power to require information from local governments**

s 477 amd 1999 No. 11 s 30; 2009 No. 36 s 872 sch 2; 2010 No. 19 s 281 sch

**Power to deal with particular land**

s 477A ins 2007 No. 19 s 217  
amd 2009 No. 36 s 872 sch 2; 2010 No. 19 ss 179, 281 sch

**Recording of information for land in transport noise corridor**

s 477B ins 2009 No. 51 s 80

**Concurrent subleases for declared projects**

s 477C ins 2010 No. 19 s 124

**Rent under Land Act 1994 leases for declared projects**

s 477D ins 2010 No. 19 s 124

**Licences under Land Act for declared projects**

s 477E ins 2010 No. 19 s 124

**Approval of forms**

s 479 ins 1998 No. 43 s 22

**Disposal of fees, penalties etc.**

s 480 amd 1997 No. 66 s 50  
sub 2000 No. 6 s 26  
amd 2001 No. 79 s 36; 2009 No. 9 s 136 sch 1; 2010 No. 13 s 87

**No need to prove appointments**

s 481 ins 1995 No. 32 s 14  
amd 2003 No. 54 s 32; 2004 No. 9 s 3 sch; 2009 No. 47 s 5 sch

**Prosecutions for offences committed while travelling on a railway**

prov hdg amd 2003 No. 54 s 33  
s 482 ins 1995 No. 32 s 14

**Proceedings for offences**

s 483 ins 1994 No. 32 s 6  
amd 2007 No. 6 s 25

**Attempts to commit offences**

s 484 ins 1994 No. 32 s 6

**Internal review of decisions**

s 485 sub 1997 No. 66 s 51; 2009 No. 24 s 1721

**External review of decisions**

s 485A ins 2009 No. 24 s 1721

**Appeals against decisions**

s 485B ins 2009 No. 24 s 1721

**Application of Judicial Review Act 1991 to a transport GOC**

**prov hdg** amd 2009 No. 13 s 213 sch 5; 2009 No. 47 s 5 sch; 2010 No. 19 s 75(1)

**s 486** ins 1995 No. 32 s 15

amd 2000 No. 46 s 3 sch; 2007 No. 10 s 62 sch; 2009 No. 13 s 213 sch 5; 2010 No. 19 s 75(2)

**Altering watercourse to adversely affect transport route**

**s 487** ins 2001 No. 79 s 37

**Altering materials etc.**

**s 488** ins 2001 No. 79 s 37

**Recovery of cost of damage**

**s 489** ins 2001 No. 79 s 37

**Renumbering of Act**

**s 491** ins 2000 No. 40 s 15

sub 2003 No. 54 s 34

exp 31 December 2003 (see s 491(4))

**CHAPTER 17—SAVINGS AND TRANSITIONAL PROVISIONS, AMENDMENTS AND REPEALS**

**ch hdg** (prev ch 8 hdg) amd 1994 No. 32 s 7

renum 1995 No. 9 s 92 sch 1

**PART 1—SAVINGS AND TRANSITIONAL PROVISIONS ABOUT PORTS**

**pt hdg** prev pt 1 hdg amd 1994 No. 32 s 8

om 2003 No. 54 s 35

pres pt 1 hdg ins 1994 No. 32 s 10

**Continuation of pt 5, div 2 of Port of Brisbane Authority Act 1976**

**prov hdg** amd 2009 No. 47 s 5 sch

**s 492** ins 1994 No. 32 s 10

exp on a date to be fixed by regulation (see s 492(3))

AIA s 20A applies (see prev s 240(1))

**Expiries under this part**

**s 493** ins 2000 No. 6 s 31

AIA s 20A applies (see prev s 240(1))

**PART 2—GENERAL SAVINGS AND TRANSITIONAL PROVISIONS**

**pt hdg** prev pt 2 hdg ins 1995 No. 32 s 16

om 2003 No. 54 s 35

pres pt 2 hdg ins 1994 No. 32 s 10

**Division 1—Transition of references about roads**

**div hdg** prev div 1 hdg ins 1995 No. 32 s 16

exp 30 June 2003 (see orig s 218(2))

pres div 1 hdg ins 1994 No. 32 s 10

**Application of division**

**s 494** ins 1994 No. 32 s 10

**Transport Infrastructure (Roads) Act 1991 references**

s 495 ins 1994 No. 32 s 10  
amd 1995 No. 9 s 92 sch 1

**Main Roads Act 1920 references**

s 496 ins 1994 No. 32 s 10  
sub 1995 No. 9 s 92 sch 1; 1995 No. 57 s 4 sch 1

**Commissioner of Main Roads references**

s 497 ins 1994 No. 32 s 10

**Declared road references**

s 498 ins 1994 No. 32 s 10

**Motorway references**

s 499 ins 1994 No. 32 s 10

**Main Roads Fund references**

s 500 ins 1994 No. 32 s 10

**Division 2—Transition of references about railways**

div hdg prev div 2 hdg ins 1995 No. 32 s 16  
om 2003 No. 54 s 35  
pres div 2 hdg ins 1995 No. 32 s 17

**Application of division**

s 501 ins 1995 No. 32 s 17

**Railways Act 1914 references**

s 502 ins 1995 No. 32 s 17

**Transport Infrastructure (Railways) Act 1991 references**

s 503 ins 1995 No. 32 s 17

**Commissioner for railways references**

s 504 ins 1995 No. 32 s 17

**Railways Department references**

s 505 ins 1995 No. 32 s 17

**Queensland Railways references**

s 506 ins 1995 No. 32 s 17

**Division 3—Transition of references about ports**

div hdg ins 1994 No. 32 s 10

**Application of division**

s 507 ins 1994 No. 32 s 10

**Harbours Act 1955 and Port of Brisbane Authority Act 1976 references**

s 508 ins 1994 No. 32 s 10

**Harbour board references**

s 509 ins 1994 No. 32 s 10

**Harbour references**

s 510 ins 1994 No. 32 s 10

**Harbours Corporation and Harbours Trust references**

s 511 ins 1994 No. 32 s 10  
amd 2004 No. 5 s 8 sch

**Gold Coast Waterways Authority references**

s 512 ins 1994 No. 32 s 10

**PART 4—AMENDMENTS OF OTHER ACTS**

(prev pt 2 hdg) renum 1994 No. 32 s 11  
om R3 (see RA s 37)

**PART 5—TRANSITIONAL PROVISIONS FOR TRANSPORT LEGISLATION  
AMENDMENT ACT 1998**

pt hdg ins 1998 No. 33 s 15  
exp 23 September 1998 (see orig s 260(3))

**Division 4—Transition of forms**

div hdg ins 1998 No. 43 s 23  
exp 27 May 1999 (see prev s 260(3))

**Division 5—Transitional provisions about the Integrated Planning Act 1997**

div hdg ins 1999 No. 11 s 33  
om 2000 No. 6 s 32

**CHAPTER 18—FURTHER TRANSITIONAL PROVISIONS AND  
DECLARATION**

ch hdg ins 2000 No. 6 s 32  
amd 2008 No. 67 s 145

**PART 1—TRANSITIONAL PROVISIONS FOR THE INTEGRATED PLANNING  
ACT 1997**

pt hdg ins 2000 No. 6 s 32

**Continuing application of previous provisions to non-IDAS applications**

s 513 ins 1999 No. 11 s 33  
amd 2009 No. 36 s 872 sch 2

**Applications for approval of subdivisions, rezoning or development**

s 514 ins 1999 No. 11 s 33

**PART 2—TRANSITIONAL PROVISIONS FOR THE TRANSPORT  
LEGISLATION AMENDMENT ACT 2000**

pt hdg ins 2000 No. 6 s 33

**Definitions for pt 2**

s 515 ins 2000 No. 6 s 33

**Transitional—access-limited roads**

s 516 ins 2000 No. 6 s 33

**Transitional—previous decisions about access**

s 517 ins 2000 No. 6 s 33

**Transitional—ancillary works and encroachments**

s 518 ins 2000 No. 6 s 33

**Transitional—wharf or other harbour work**

s 519 ins 2000 No. 6 s 34

**PART 3—TRANSITIONAL PROVISIONS FOR THE TRANSPORT  
INFRASTRUCTURE AND ANOTHER ACT AMENDMENT ACT 2003**

pt hdg ins 2003 No. 54 s 36

**Application of part**

s 520 ins 2003 No. 54 s 36

**Definitions for pt 3**

s 521 ins 2003 No. 54 s 36  
def “previous” amd 2004 No. 9 s 6

**Inclusion of s 120**

s 522 ins 2003 No. 54 s 36

**Approved safety management system for person who is accredited at commencement**

s 523 ins 2003 No. 54 s 36

**Certificate of accreditation given before commencement**

s 524 ins 2003 No. 54 s 36

**Annual levy before commencement**

s 525 ins 2003 No. 54 s 36

**Accreditation conditions**

s 526 ins 2003 No. 54 s 36

**How to deal with application for amending accreditation conditions made before  
commencement**

s 527 ins 2003 No. 54 s 36

**Actions to amend accreditation conditions without application or to suspend or  
cancel accreditation**

s 528 ins 2003 No. 54 s 36

**Appeals**

s 529 ins 2003 No. 54 s 36

**Declaration about s 521, definition “previous”**

s 530 ins 2004 No. 9 s 7

**PART 4—TRANSITIONAL PROVISION FOR THE TRANSPORT  
INFRASTRUCTURE AMENDMENT ACT 2004**

pt 4 (s 531) ins 2004 No. 54 s 9

**PART 5—TRANSITIONAL PROVISIONS FOR THE TRANSPORT  
INFRASTRUCTURE AND OTHER LEGISLATION AMENDMENT ACT  
2005**

pt hdg ins 2005 No. 22 s 16

**Definitions for pt 5**

s 532 ins 2005 No. 22 s 16

**Approvals**

s 533 ins 2005 No. 22 s 16

**Proceedings**

s 534 ins 2005 No. 22 s 16

**Land use plans**

s 535 ins 2005 No. 22 s 16

**Detained property**

s 536 ins 2005 No. 22 s 16

**Notices in the form of official traffic signs**

s 537 ins 2005 No. 22 s 16  
exp 29 August 2006 (see s 537(3))

**Things done under re-enacted provision**

s 538 ins 2005 No. 22 s 16

**PART 6—TRANSITIONAL PROVISIONS FOR THE TRANSPORT  
LEGISLATION AMENDMENT ACT 2005**

pt hdg ins 2005 No. 49 s 32

**Division 1—Transitional provision for port authorities**

div 1 (s 539) ins 2005 No. 49 s 32

**Division 2—Transitional provisions for busways**

div hdg ins 2005 No. 49 s 32

**Busway authorisation**

s 540 ins 2005 No. 49 s 32

**Busway safety officers**

s 541 ins 2005 No. 49 s 32

**Offences**

s 542 ins 2005 No. 49 s 32

**PART 7—TRANSITIONAL PROVISIONS FOR TRANSPORT AND OTHER  
LEGISLATION AMENDMENT ACT 2005**

pt 7 (ss 543–544) ins 2005 No. 67 s 37

**PART 8—TRANSITIONAL PROVISION FOR MARITIME AND OTHER  
LEGISLATION AMENDMENT ACT 2006**

pt hdg ins 2006 No. 21 s 150(1) sch

**Making and approval of waterway transport management plan**

s 545 ins 2006 No. 21 s 150(1) sch

**PART 9—TRANSITIONAL PROVISION FOR TRANSPORT LEGISLATION  
AMENDMENT ACT 2008, PART 3, DIVISION 2**

pt 9 (s 546) ins 2008 No. 31 s 15

**PART 10—TRANSITIONAL PROVISION AND DECLARATION FOR  
TRANSPORT AND OTHER LEGISLATION AMENDMENT ACT 2008,  
PART 3, DIVISION 12**

**pt hdg** ins 2008 No. 67 s 146

**Declaration about particular subleases**

**s 547** ins 2008 No. 67 s 146

**Declaration about sch 4 easements**

**s 548** ins 2008 No. 67 s 146

**Exercise of power under s 241**

**s 549** ins 2008 No. 67 s 146

**Application of s 260A in relation to transfer of sublease 701720343**

**s 550** ins 2008 No. 67 s 146  
om 2010 No. 19 s 76

**PART 11—TRANSITIONAL PROVISION FOR RIGHT TO INFORMATION ACT  
2009**

**pt 11 (s 551)** ins 2009 No. 13 s 213 sch 5

**PART 12—TRANSITIONAL PROVISION FOR SUSTAINABLE PLANNING ACT  
2009**

**pt 12 (s 552)** ins 2009 No. 36 s 872 sch 2

**PART 13—TRANSITIONAL PROVISIONS FOR TRANSPORT AND OTHER  
LEGISLATION AMENDMENT ACT 2009**

**pt hdg** ins 2009 No. 47 s 15

**Division 1—Prescribed development applications**

**div hdg** ins 2009 No. 47 s 15

**Application of s 258 to prescribed development applications**

**s 553** ins 2009 No. 47 s 15  
amd 2010 No. 13 s 84 sch pt 1

**Application of s 287A to prescribed development applications**

**s 554** ins 2009 No. 47 s 15  
amd 2010 No. 13 s 84 sch pt 1

**Division 2—Waterway transport management plans**

**div 2 (s 555)** ins 2009 No. 47 s 15

**PART 14—TRANSITIONAL PROVISIONS FOR TRANSPORT AND OTHER  
LEGISLATION AMENDMENT ACT (No. 2) 2010**

**pt 14 (ss 556–558)** ins 2010 No. 19 s 212

**CHAPTER 20—TRANSITIONAL PROVISIONS FOR PORT OF BRISBANE**

**ch 20 (ss 562–575)** ins 2010 No. 19 s 125

**SCHEDULE 1—SUBJECT MATTER FOR REGULATIONS**

amd 1994 No. 49 s 3 sch 1; 1995 No. 9 s 92 sch 1; 1995 No. 32 s 19; 1997 No.  
66 s 53; 1998 No. 43 s 24; 2000 No. 6 s 35; 2000 No. 40 s 17; 2001 No. 36

s 6; 2001 No. 79 s 39; 2003 No. 54 s 37; 2004 No. 9 s 3 sch; 2005 No. 49 s 33; 2005 No. 67 s 38; 2008 No. 67 s 267; 2010 No. 19 s 180

## **SCHEDULE 2—SUBJECT MATTER FOR WATERWAY TRANSPORT MANAGEMENT PLANS**

ins 2000 No. 6 s 36  
amd 2009 No. 47 s 5 sch

## **SCHEDULE 3—REVIEWS AND APPEALS**

**sch hdg** amd 2000 No. 6 s 37(1); 2009 No. 24 s 1722(1)  
**sch 3** amd 1994 No. 49 s 3 sch 1; 1995 No. 32 s 20; 1999 No. 11 s 34; 2000 No. 6 s 37(2)–(3); 2000 No. 40 s 18; 2001 No. 79 s 40; 2003 No. 54 s 38; 2007 No. 6 s 26; 2008 No. 31 s 19; 2008 No. 67 s 268; 2009 No. 24 s 1722(2)–(5); 2010 No. 13 s 84 sch pt 1; 2010 No. 19 s 213

## **SCHEDULE 4—RAILWAY TUNNEL EASEMENTS**

ins 2001 No. 79 s 41

## **SCHEDULE 5—TOLLING MATTERS FOR TOLL ROAD OR LOCAL GOVERNMENT TOLLWAY**

prev sch 5 ins 2003 No. 54 s 39  
exp 31 December 2003 (see s 491(4))  
pres sch 5 ins 2005 No. 67 s 39  
sub 2006 No. 21 s 132  
amd 2007 No. 43 s 7

## **SCHEDULE 5A—OTHER MATTERS FOR CONDITIONS FOR LOCAL GOVERNMENT TOLLWAYS**

ins 2006 No. 21 s 133

## **SCHEDULE 5B—CORE PORT INFRASTRUCTURE, PORT RELATED DEVELOPMENT AND PORT PROHIBITED DEVELOPMENT**

ins 2010 No. 19 s 126

## **SCHEDULE 6—DICTIONARY**

Note—definitions for this Act were originally located in prev s 3.  
prev sch 6 amd R1 (see RA s 40); 1994 No. 32 s 13  
om R3 (see RA s 40)  
pres sch 6 ins 1995 No. 9 s 92 sch 1  
def “**abandoned property**” ins 2005 No. 22 s 17(2)  
def “**accepted representations**” ins 2003 No. 54 s 40(2)  
def “**access**” ins 2000 No. 40 s 19(2)  
om 2009 No. 47 s 5 sch  
def “**accreditation**” ins 2003 No. 54 s 40(2)  
def “**accredited person**” ins 1995 No. 32 s 21(2)  
sub 2000 No. 40 s 19(1)–(2)  
def “**acquire**” ins 2000 No. 40 s 19(2)  
def “**administration charge**” ins 2001 No. 36 s 6  
sub 2005 No. 67 s 40  
def “**advice agency**” ins 2010 No. 19 s 127(2)  
def “**affected person**” ins 2000 No. 40 s 19(2)

Endnotes

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- def **“airport”** ins 2005 No. 22 s 17(2)  
om 2008 No. 46 s 156(1)
- def **“air transport infrastructure”** ins 2000 No. 6 s 38(2)
- def **“alter”** ins 1995 No. 32 s 21(2)
- def **“amusement railway”** ins 1997 No. 66 s 54(1)
- def **“ancillary works and encroachments”** ins 1995 No. 9 s 92 sch 1  
sub 2001 No. 79 s 42(1)–(2)  
amd 2002 No. 12 s 329 sch 2 (amd 2003 No. 19 s 3 sch); 2008 No. 31 s 72  
sch; 2009 No. 47 s 5 sch; 2010 No. 19 s 214(2)
- def **“approval”** ins 1998 No. 43 s 25(2)  
sub 2001 No. 79 s 42(1)–(2); 2005 No. 22 s 17(1)–(2)
- def **“approval conditions”** ins 1998 No. 43 s 25(2)
- def **“approved form”** ins 2000 No. 40 s 19(2)  
sub 2003 No. 54 s 40(1)–(2)
- def **“approved means of access”** ins 1995 No. 9 s 92 sch 1  
om 2000 No. 6 s 38(1)
- def **“approved safety management system”** ins 2003 No. 54 s 40(2)
- def **“approved tollway project”** ins 2005 No. 67 s 40(2)
- def **“assessment manager”** ins 2010 No. 19 s 127(2)
- def **“associated person”** ins 1998 No. 43 s 25(2)  
sub 2000 No. 40 s 19(1)–(2)
- def **“audit program”** ins 2003 No. 54 s 40(2)
- def **“authorised busway user”** ins 2005 No. 49 s 34(2)
- def **“authorised officer”** ins 2003 No. 54 s 40(2)  
sub 2005 No. 22 s 17(1)–(2)
- def **“authorised person”** ins 1995 No. 32 s 21(2)  
sub 2000 No. 40 s 19(1)–(2); 2003 No. 54 s 40(1)–(2)  
amd 2004 No. 9 s 3 sch; 2009 No. 47 s 5 sch
- def **“authorised person for a light rail”** ins 2003 No. 54 s 40(2)  
om 2004 No. 9 s 3 sch
- def **“authorised person for a railway”** ins 2003 No. 54 s 40(2)  
om 2004 No. 9 s 3 sch
- def **“authority”** ins 1998 No. 43 s 25(2)
- def **“balance port land”** ins 2010 No. 19 s 127(2)
- def **“Brisbane core port land”** ins 2010 No. 19 s 127(2)
- def **“Brisbane port LUP”** ins 2010 No. 19 s 127(2)
- def **“Brisbane port railway land”** ins 2010 No. 19 s 127(2)
- def **“busway”** ins 2000 No. 40 s 19(2)
- def **“busway common area”** ins 2005 No. 49 s 34(2)
- def **“busway land”** ins 2000 No. 40 s 19(2)  
amd 2010 No. 19 s 214(3)–(4)
- def **“busway manager”** ins 2008 No. 67 s 269
- def **“busway service provider”** ins 2005 No. 49 s 34(2)
- def **“busway transport infrastructure”** ins 2000 No. 40 s 19(2)  
amd 2008 No. 31 s 22(1); 2010 No. 19 s 214(5)–(6)
- def **“busway transport infrastructure works”** ins 2000 No. 40 s 19(2)
- def **“candidate GOC”** ins 1995 No. 9 s 92 sch 1

- def “**cane railway**” ins 2000 No. 6 s 38(2)  
 amd 2004 No. 3 s 37 sch; 2007 No. 36 s 2 sch
- def “**carry out**” ins 1995 No. 32 s 21(2)
- def “**certificate of accreditation**” ins 2003 No. 54 s 40(2)
- def “**charge**” ins 1995 No. 9 s 92 sch 1
- def “**charterer**” ins 2005 No. 22 s 17(2)  
 om 2008 No. 46 s 156(1)
- def “**chief executive**” om from prev s 3 1995 No. 9 s 92 sch 1
- def “**civil or criminal proceeding**” ins 2004 No. 54 s 10
- def “**class exemption**” ins 2001 No. 79 s 42(2)
- def “**class representative**” ins 2001 No. 79 s 42(2)
- def “**commencement**” ins 2003 No. 54 s 40(2)  
 sub 2005 No. 22 s 17(1)–(2); 2010 No. 19 s 78(2)  
 amd 2010 No. 19 s 127(3)
- def “**commercial corridor land**” ins 1995 No. 32 s 21(2)
- def “**community infrastructure designation**” ins 2010 No. 19 s 127(2)
- def “**compensation notice**” ins 2000 No. 40 s 19(2)
- def “**competition principles**” ins 1995 No. 32 s 21(2)  
 om 2001 No. 79 s 42(1)
- def “**completion day**” ins 2010 No. 19 s 127(2)
- def “**compliance notice**” ins 2006 No. 21 s 134
- def “**concurrence agency**” ins 2010 No. 19 s 127(2)
- def “**consign**” and “**consignor**” ins 2008 No. 67 s 17(1)
- def “**consignee**” ins 2008 No. 67 s 17(1)
- def “**construction**” ins 1995 No. 9 s 92 sch 1  
 sub 2000 No. 40 s 19(1)–(2) (amd 2001 No. 79 s 20(1))
- def “**consultation period**” ins 2010 No. 19 s 127(2)
- def “**continuing accredited person**” ins 2003 No. 54 s 40(2)
- def “**contributions schedule**” ins 2010 No. 19 s 127(2)
- def “**controlled activity**” ins 2005 No. 22 s 17(2)
- def “**convicting**” ins 2001 No. 79 s 42(2)
- def “**coordination plan**” reloc 1995 No. 9 s 92 sch 1
- def “**core matters**” ins 2010 No. 19 s 127(2)
- def “**core port infrastructure**” ins 2010 No. 19 s 127(2)
- def “**coronial procedure**” ins 2004 No. 54 s 10
- def “**corporate plan**” ins 1995 No. 9 s 92 sch 1
- def “**court**” ins 2009 No. 47 s 5 sch
- def “**dangerous goods**” ins 2001 No. 79 s 42(2)  
 om 2009 No. 47 s 5 sch
- def “**dangerous goods**”, 2nd mention, ins 2008 No. 67 s 17(1)
- def “**dangerous goods authority**” ins 2008 No. 67 s 17(1)
- def “**dangerous goods offence**” ins 2008 No. 67 s 17(1)
- def “**dangerous goods regulation**” ins 2008 No. 67 s 17(1)
- def “**dangerous situation**” ins 2001 No. 79 s 42(2)
- def “**data logger recording**” ins 2009 No. 47 s 5 sch
- def “**data logger recording information**” ins 2009 No. 47 s 5 sch
- def “**declaration**” ins 2006 No. 21 s 134  
 sub 2009 No. 47 s 5 sch

- def “**deferred toll amount**” ins 2005 No. 67 s 40(2)
- def “**designated vehicle**” ins 2001 No. 36 s 7  
sub 2005 No. 67 s 40
- def “**development**” ins 2000 No. 40 s 19(2)  
sub 2010 No. 19 s 127(1)–(2)
- def “**development application**” ins 2010 No. 19 s 127(2)
- def “**development approval**” ins 2010 No. 19 s 127(2)
- def “**disciplinary action**” ins 2003 No. 54 s 40(2)
- def “**dispute matter**” ins 2003 No. 54 s 40(2)
- def “**dispute notice**” ins 1998 No. 43 s 25(2)
- def “**draft plan**” ins 2005 No. 22 s 17(2)  
sub 2010 No. 19 s 127(1)–(2)
- def “**employee**” ins 2003 No. 54 s 40(2)
- def “**enter**” ins 2003 No. 54 s 40(2)
- def “**establishment**” prev def ins 2000 No. 40 s 19(2)  
om 2009 No. 47 s 5 sch  
pres def ins 2010 No. 13 s 84 sch pt 1
- def “**E toll only pay point**” ins 2001 No. 36 s 7  
sub 2005 No. 67 s 40
- def “**E toll system**” ins 2001 No. 36 s 7  
sub 2005 No. 67 s 40
- def “**exemption**” ins 2001 No. 79 s 42(2)
- def “**exempt vehicle**” ins 2001 No. 36 s 7  
sub 2005 No. 67 s 40
- def “**existing rail corridor land**” ins 1995 No. 32 s 21(2)
- def “**extractive material**” ins 2009 No. 47 s 5 sch
- def “**final notice**” ins 2006 No. 21 s 134
- def “**first Brisbane port LUP**” ins 2010 No. 19 s 127(2)
- def “**food and drink outlet**” ins 2010 No. 19 s 127(2)
- def “**former land use plan**” ins 2010 No. 19 s 127(2)
- def “**franchised road**” prev def ins 1995 No. 9 s 92 sch 1  
om R4 (see RA s 5(d))  
pres def ins 1994 No. 49 s 4  
reloc from s 20 1995 No. 32 s 9(4)
- def “**franchisee**” prev def ins 1995 No. 9 s 92 sch 1  
om R4 (see RA s 5(d))  
pres def ins 1994 No. 49 s 4  
reloc from s 20 1995 No. 32 s 9(4)  
sub 2010 No. 19 s 181(1)–(2)
- def “**freight warehouse or depot**” ins 2010 No. 19 s 127(2)
- def “**future railway land**” ins 1995 No. 32 s 21(2)  
sub 2001 No. 79 s 42(1)–(2)
- def “**GOC**” om from prev s 3 1995 No. 9 s 92 sch 1  
ins 1995 No. 9 s 92 sch 1
- def “**GOC Act entity**” ins 2007 No. 10 s 62 sch
- def “**GOC port authority**” ins 2008 No. 67 s 291
- def “**goods too dangerous to be transported**” ins 2008 No. 67 s 17(1)

- def **“government supported transport infrastructure”** reloc 1995 No. 9 s 92 sch 1
- def **“high-water mark”** ins 2010 No. 19 s 127(2)
- def **“hospital”** ins 2010 No. 19 s 127(2)
- def **“IDAS”** ins 2010 No. 19 s 127(2)
- def **“IDAS process”** ins 2010 No. 19 s 127(2)
- def **“imposed condition”** ins 2003 No. 54 s 40(2)
- def **“in”** ins 2001 No. 79 s 42(2)
- def **“incident”** ins 2003 No. 54 s 40(2)
- def **“individual”** ins 2004 No. 54 s 10
- def **“information notice”** ins 2000 No. 40 s 19(2)  
sub 2009 No. 24 s 1723
- def **“inquiry”** ins 2004 No. 54 s 10
- def **“insufficient value property”** ins 2005 No. 22 s 17(2)
- def **“interference”** ins 2000 No. 40 s 19(2)  
om 2009 No. 47 s 5 sch
- def **“interference with”** ins 1995 No. 32 s 21(2)
- def **“interfere with”** ins 2010 No. 19 s 181(2)
- def **“interim minor amendment”** ins 2003 No. 54 s 40(2)
- def **“interim period”** ins 2010 No. 19 s 127(2)
- def **“intersecting area”** ins 1998 No. 43 s 25(2)
- def **“investigation”** ins 2004 No. 54 s 10
- def **“investigator”** ins 1998 No. 43 s 25(2)  
sub 2000 No. 40 s 19(1)–(2)
- def **“investigator’s authority”** ins 2000 No. 40 s 19(2)
- def **“land”** ins 1995 No. 9 s 92 sch 1  
amd 1995 No. 32 s 21(3); 1998 No. 43 s 25(3); 2000 No. 40 s 19(3)–(4);  
2001 No. 79 s 42(3)  
sub 2009 No. 47 s 5 sch
- def **“Land Act”** ins 2010 No. 19 s 127(2)
- def **“land use and development”** ins 2010 No. 19 s 127(2)
- def **“lease”** ins 2010 No. 19 s 127(2)
- def **“leasehold land register”** ins 2007 No. 6 s 27(2)
- def **“licensee”** ins 1998 No. 43 s 25(2)
- def **“light rail”** ins 2000 No. 40 s 19(2)  
amd 2010 No. 19 s 181(3)
- def **“light rail authority”** ins 2000 No. 40 s 19(2)
- def **“light rail franchise agreement”** ins 2010 No. 19 s 181(2)
- def **“light rail interface”** ins 2010 No. 19 s 181(2)
- def **“light rail interface agreement”** ins 2010 No. 19 s 181(2)
- def **“light rail interface issue”** ins 2010 No. 19 s 181(2)
- def **“light rail interface management area”** ins 2010 No. 19 s 181(2)
- def **“light rail land”** ins 2000 No. 40 s 19(2)  
amd 2010 No. 19 s 181(4)
- def **“light rail manager”** ins 2000 No. 40 s 19(2)
- def **“light rail operator”** ins 2000 No. 40 s 19(2)
- def **“light rail transport infrastructure”** ins 2000 No. 40 s 19(2)  
amd 2008 No. 31 s 22(2); 2010 No. 19 ss 181(5), 214(7)–(8)

Endnotes

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- def “**light rail transport infrastructure works**” ins 2000 No. 40 s 19(2)
- def “**light rail vehicle**” ins 2000 No. 40 s 19(2)
- def “**loading**” ins 2008 No. 67 s 17(1)
- def “**local government**” ins 1995 No. 9 s 92 sch 1
- def “**local government franchised road**” ins 2005 No. 67 s 40(2)
- def “**local government franchisee**” ins 2006 No. 21 s 134
- def “**local government road**” prev def ins 1995 No. 9 s 92 sch 1  
om R4 (see RA s 5(d))  
reloc from s 20 1995 No. 32 s 9(4)
- def “**local government tollway**” ins 2005 No. 67 s 40(2)
- def “**local government tollway corridor land**” ins 2005 No. 67 s 40(2)  
amd 2009 No. 47 s 5 sch
- def “**local government tollway franchise agreement**” ins 2005 No. 67 s 40(2)
- def “**local government tollway infrastructure**” ins 2005 No. 67 s 40(2)
- def “**local government tollway infrastructure works**” ins 2005 No. 67 s 40(2)
- def “**local government tollway operator**” ins 2005 No. 67 s 40(2)
- def “**maintain**” ins 2000 No. 6 s 38(2)
- def “**maintenance**” prev def ins 1995 No. 9 s 92 sch 1  
om R4 (see RA s 5(d))  
pres def ins 1995 No. 32 s 21(2)  
amd 1998 No. 43 s 25(4)
- def “**material change of use**” ins 2010 No. 19 s 127(2)
- def “**matter**” ins 1995 No. 9 s 92 sch 1  
om 2001 No. 79 s 42(1)  
ins 2006 No. 21 s 134
- def “**medical centre**” ins 2010 No. 19 s 127(2)
- def “**member of POBC group**” ins 2010 No. 19 s 127(2)
- def “**member of QR group**” ins 2010 No. 19 s 78(1)
- def “**Minister**” ins 2010 No. 19 s 127(2)
- def “**minor amendment (LUP)**” ins 2010 No. 19 s 127(2)
- def “**miscellaneous transport infrastructure**” om from prev s 3 1995 No. 9 s 92 sch 1  
ins 1995 No. 9 s 92 sch 1  
sub 1998 No. 43 s 25(1)–(2)
- def “**miscellaneous transport infrastructure works**” reloc from s 181 1998 No. 43 s 13(4)
- def “**motorway**” prev def ins 1995 No. 9 s 92 sch 1  
om R4 (see RA s 5(d))  
pres def reloc from s 20 1995 No. 32 s 9(4)
- def “**nature based recreation facility**” ins 2010 No. 19 s 127(2)
- def “**new rail corridor land**” ins 1995 No. 32 s 21(2)  
amd 2007 No. 6 s 27(3)
- def “**non-rail corridor land**” ins 1995 No. 32 s 21(2)  
sub 2005 No. 49 s 34; 2007 No. 6 s 27(1)–(2)  
amd 2008 No. 67 s 147(2)
- def “**notice**” ins 1995 No. 9 s 92 sch 1

- def **“occupier”**, of a place that is a watercraft, ins 2009 No. 47 s 5 sch
- def **“occupier”**, of land, ins 1995 No. 9 s 92 sch 1  
 sub 1995 No. 32 s 21(1)–(2)  
 amd 2000 No. 40 s 19(5)
- def **“office”** ins 2010 No. 19 s 127(2)
- def **“old QR land”** ins 1995 No. 32 s 21(2)
- def **“on”** ins 1995 No. 9 s 92 sch 1  
 sub 1995 No. 32 s 21(1)–(2)
- def **“operational licence”** ins 1998 No. 43 s 25(2)
- def **“operational work”** ins 2010 No. 19 s 127(2)
- def **“other rail infrastructure”** ins 1995 No. 32 s 21(2)
- def **“overhead wiring”** ins 2010 No. 19 s 181(2)
- def **“owner”** ins 1995 No. 9 s 92 sch 1  
 sub 1995 No. 32 s 21(1)–(2)
- def **“pack”** ins 2008 No. 67 s 17(1)
- def **“package”** ins 2008 No. 67 s 17(1)
- def **“packaging”** ins 2008 No. 67 s 17(1)
- def **“park”** ins 2010 No. 19 s 127(2)
- def **“participating dangerous goods jurisdiction”** ins 2008 No. 67 s 17(1)
- def **“permitted road access location”** ins 2009 No. 47 s 5 sch
- def **“personal watercraft”** ins 2000 No. 6 s 38(2)
- def **“placard”** ins 2008 No. 67 s 17(1)
- def **“place”** ins 2003 No. 54 s 40(2)  
 sub 2009 No. 47 s 5 sch
- def **“plan commencement day”** ins 2010 No. 19 s 127(2)
- def **“planned transport infrastructure”** ins 2010 No. 19 s 127(2)
- def **“Planning Act”** ins 2010 No. 19 s 127(2)
- def **“planning chief executive”** ins 2010 No. 19 s 127(2)
- def **“planning Minister”** ins 2010 No. 19 s 127(2)
- def **“planning scheme”** ins 2010 No. 19 s 127(2)
- def **“plant”** ins 1995 No. 9 s 92 sch 1  
 om 2001 No. 79 s 42(1); 2000 No. 40 s 19(1) (amdt could not be given effect)  
 ins 2000 No. 40 s 19(2)
- def **“port”** ins 1994 No. 32 s 4(2)  
 reloc 1995 No. 9 s 92 sch 1  
 amd 2008 No. 46 s 156(2)  
 sub 2010 No. 19 s 127(1)–(2)
- def **“port agreement”** ins 2010 No. 19 s 127(2)
- def **“port area”** ins 2005 No. 22 s 17(2)  
 sub 2010 No. 19 s 127(1)–(2)
- def **“port authority”** sub 1994 No. 32 s 4(1)–(2)  
 reloc 1995 No. 9 s 92 sch 1  
 amd 2001 No. 79 s 42(4); 2005 No. 22 s 17(3)  
 sub 2005 No. 49 s 34
- def **“port entity”** ins 2010 No. 19 s 127(2)
- def **“port facilities”** ins 2005 No. 22 s 17(2)
- def **“port infrastructure”** reloc 1995 No. 9 s 92 sch 1

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- def “**port land**” ins 2010 No. 19 s 127(2)
- def “**port lease**” ins 2010 No. 19 s 127(2)
- def “**port lessee**” ins 2010 No. 19 s 127(2)
- def “**port lessor**” ins 2010 No. 19 s 127(2)
- def “**port manager**” ins 2010 No. 19 s 127(2)
- def “**port notice**” ins 2005 No. 22 s 17(2)
- def “**Port of Brisbane Corporation**” ins 2010 No. 19 s 127(2)
- def “**port operator**” ins 2010 No. 19 s 127(2)
- def “**port prohibited development**” ins 2010 No. 19 s 127(2)
- def “**port related development**” ins 2010 No. 19 s 127(2)
- def “**port services**” ins 2010 No. 19 s 127(2)
- def “**port terminal facility**” ins 2010 No. 19 s 127(2)
- def “**port user**” ins 2010 No. 19 s 127(2)
- def “**precinct**” ins 2010 No. 19 s 127(2)
- def “**premises**” ins 2010 No. 19 s 127(2)
- def “**prescribed time**” ins 2001 No. 36 s 7  
sub 2005 No. 67 s 40
- def “**prevent**” ins 2008 No. 67 s 17(1)
- def “**previous**” ins 2003 No. 54 s 40(2)
- def “**previous rail corporation**” ins 1995 No. 32 s 21(2)
- def “**priority infrastructure interface plan**” ins 2010 No. 19 s 127(2)
- def “**priority infrastructure plan**” ins 2010 No. 19 s 127(2)
- def “**prohibited shareholding interest**” ins 2010 No. 19 s 78(1)
- def “**properly made submission**” ins 2010 No. 19 s 127(2)
- def “**proposed action**” ins 2003 No. 54 s 40(2)
- def “**public marine facility**” ins 2000 No. 6 s 38(2)  
amd 2010 No. 13 s 84 sch pt 1
- def “**public marine transport infrastructure**” ins 2000 No. 6 s 38(2)
- def “**public passenger service**” ins 2010 No. 19 s 181(2)
- def “**public place**” ins 2003 No. 54 s 40(2)
- def “**public thoroughfare easement**” ins 2005 No. 68 s 129(1)
- def “**public utility plant**” ins 2000 No. 40 s 19(2)
- def “**public utility provider**” ins 2000 No. 40 s 19(2)
- def “**QCAT information notice**” ins 2009 No. 24 s 1723(2)
- def “**QR Limited**” ins 2008 No. 67 s 147(1)
- def “**QR National**” ins 2010 No. 19 s 78(1)
- def “**QR Network Pty Ltd**” ins 2008 No. 67 s 147(1)
- def “**quarry material**” ins 2005 No. 42 s 52 sch 1
- def “**Queensland Competition Authority**” ins 2003 No. 54 s 40(2)  
amd 2009 No. 47 s 5 sch
- def “**rail**” ins 2001 No. 79 s 42(2)
- def “**rail corridor land**” ins 1997 No. 66 s 54(1)
- def “**rail GOC**” ins 2010 No. 19 s 78(1)
- def “**rail safety officer**” ins 2003 No. 54 s 40(2)

- def **“rail transport infrastructure”** reloc 1995 No. 9 s 92 sch 1  
 sub 1995 No. 32 s 21(1)–(2)  
 amd 2010 No. 19 s 214(9)
- def **“rail vehicle”** ins 2001 No. 79 s 42(2)  
 amd 2008 No. 67 s 17(2)
- def **“railway”** ins 1998 No. 33 s 16(2) (retro)  
 sub 2000 No. 40 s 19(1)–(2)  
 amd 2003 No. 54 s 40(3)
- def **“railway crossing”** ins 1995 No. 32 s 21(2)
- def **“railway manager”** ins 1995 No. 32 s 21(2)  
 sub 1998 No. 33 s 16 (retro); 2005 No. 67 s 40
- def **“railway offence”** ins 2003 No. 54 s 40(2)
- def **“railway operator”** ins 1995 No. 32 s 21(2)
- def **“railway provision”** ins 2003 No. 54 s 40(2)
- def **“railway workplace”** ins 2003 No. 54 s 40(2)
- def **“railway works”** ins 1995 No. 32 s 21(2)  
 sub 1998 No. 43 s 25(1)–(2)
- def **“reasonably”** ins 1995 No. 32 s 21(2)
- def **“reconfiguring a lot”** ins 2010 No. 19 s 127(2)
- def **“rectification notice”** ins 2000 No. 40 s 19(2)
- def **“referral agency”** ins 2010 No. 19 s 127(2)
- def **“registered interest”** ins 2010 No. 19 s 127(2)
- def **“registered operator”** ins 2001 No. 36 s 7  
 sub 2005 No. 67 s 40
- def **“registrar of titles”** ins 2008 No. 67 s 147(1)
- def **“registration Act”** ins 2001 No. 36 s 7  
 sub 2005 No. 67 s 40
- def **“regulation condition”** ins 2003 No. 54 s 40(2)
- def **“related body corporate”** ins 2010 No. 19 s 127(2)
- def **“relevant busway legislation”** ins 2005 No. 49 s 34(2)
- def **“relevant emergency service officer”** ins 2008 No. 67 s 17(1)
- def **“relevant entity”** ins 2010 No. 19 s 127(2)
- def **“relevant interest”** ins 2010 No. 19 s 78(1)
- def **“relevant notice”** ins 2006 No. 21 s 134
- def **“relevant person”**, for chapter 7, part 6, ins 2004 No. 54 s 10
- def **“relevant person”**, for chapter 13, ins 2010 No. 19 s 78(3)
- def **“repealed regulation”** ins 2005 No. 22 s 17(2)
- def **“representation period”** ins 2003 No. 54 s 40(2)
- def **“required land”** ins 1998 No. 43 s 25(2)
- def **“requirement”** ins 2005 No. 22 s 17(2)
- def **“residential development”** ins 2010 No. 19 s 127(2)
- def **“responsible entity”** ins 1998 No. 43 s 25(2)
- def **“restricted information”** ins 2004 No. 54 s 10
- def **“reviewed decision”** ins 1997 No. 66 s 54(1)  
 om 2009 No. 24 s 1723(1)
- def **“revocation notice”** ins 2006 No. 21 s 134
- def **“road”** reloc from s 20 1995 No. 32 s 9(4)  
 sub 2000 No. 40 s 19(1)–(2)

- amd 2005 No. 68 s 129(2)
- def “**road access location**” ins 2009 No. 47 s 5 sch
- def “**road access works**” ins 2001 No. 79 s 42(2)
  - amd 2008 No. 31 s 72 sch; 2009 No. 47 s 5 sch
- def “**road franchise agreement**” ins 2001 No. 36 s 7
- def “**road transport infrastructure**” reloc 1995 No. 9 s 92 sch 1
- def “**road works**” ins 2001 No. 79 s 42(2)
  - amd 2010 No. 19 s 214(10)–(11)
- def “**rolling stock**” ins 1995 No. 32 s 21(2)
  - amd 1997 No. 66 s 54(2); 2000 No. 40 s 19(6)–(7)
  - sub 2003 No. 54 s 40(1)–(2)
- def “**safety direction**” ins 2003 No. 54 s 40(2)
- def “**schedule 5 step-in notice**” ins 2006 No. 21 s 134
- def “**schedule 5A step-in notice**” ins 2006 No. 21 s 134
- def “**seafarers’ centre**” ins 2010 No. 19 s 127(2)
- def “**serious incident**” ins 1995 No. 32 s 21(2)
- def “**service provider**” ins 2010 No. 19 s 127(2)
- def “**services contract**” ins 2010 No. 19 s 214(1)
- def “**service station**” ins 2010 No. 19 s 127(2)
- def “**ship**” ins 1995 No. 9 s 92 sch 1
- def “**shop (minor)**” ins 2010 No. 19 s 127(2)
- def “**shopping facility (major)**” ins 2010 No. 19 s 127(2)
- def “**show cause notice**” ins 2003 No. 54 s 40(2)
- def “**show cause period**” ins 2003 No. 54 s 40(2)
- def “**signed notice**” ins 2003 No. 54 s 40(2)
- def “**sport and recreation (major)**” ins 2010 No. 19 s 127(2)
- def “**State controlled road**” ins 1995 No. 9 s 92 sch 1
  - om 1995 No. 57 s 4 sch 1
- def “**State-controlled road**” reloc 1995 No. 9 s 92 sch 1
  - sub 1995 No. 57 s 4 sch 1
- def “**State government body**” ins 2001 No. 79 s 42(2)
- def “**State interest**” ins 2010 No. 19 s 127(2)
- def “**statement of corporate intent**” ins 1995 No. 9 s 92 sch 1
- def “**statement of proposal**” ins 2005 No. 22 s 17(2)
  - sub 2010 No. 19 s 127(1)–(2)
- def “**State planning instrument**” ins 2010 No. 19 s 127(2)
- def “**State toll road corridor land**” ins 2005 No. 67 s 40(2)
- def “**strategic plan**” ins 2010 No. 19 s 127(2)
- def “**strategic port land**” ins 1995 No. 9 s 92 sch 1
- def “**sublease**” ins 2010 No. 19 s 127(2)
- def “**subsidiary**” ins 2010 No. 19 s 127(2)
- def “**sugar tramway**” ins 1995 No. 32 s 21(2)
  - amd 1999 No. 51 s 228 sch 1
  - om 2000 No. 6 s 38(1)
- def “**suspend**” ins 2003 No. 54 s 40(2)
- def “**suspension notice**” ins 2006 No. 21 s 134
- def “**table of assessment**” ins 2010 No. 19 s 127(2)
- def “**tenure**” ins 2000 No. 6 s 38(2)

- def “**toll plaza**” for chapter 5, ins 2001 No. 36 s 7  
om 2007 No. 36 s 2 sch
- def “**toll plaza**” ins 2005 No. 67 s 40(2)
- def “**toll road**” ins 2001 No. 36 s 7
- def “**toll road operator**” ins 2001 No. 36 s 7
- def “**tollway project**” ins 2005 No. 67 s 40(2)
- def “**tourist attraction (major)**” ins 2010 No. 19 s 127(2)
- def “**trade lease**” ins 2010 No. 19 s 127(2)
- def “**traffic**” ins 2001 No. 79 s 42(2)
- def “**train**” ins 1997 No. 66 s 54(1)
- def “**train controller**” ins 2005 No. 22 s 17(2)
- def “**transition period**” ins 2010 No. 19 s 127(2)
- def “**transport**”, dangerous goods, ins 2001 No. 79 s 42(2)  
om 2010 No. 13 s 84 sch pt 1
- def “**transport**”, in relation to dangerous goods, ins 2008 No. 67 s 17(1)
- def “**transport and equipment depot**” ins 2010 No. 19 s 127(2)
- def “**transport documentation**” ins 2008 No. 67 s 17(1)
- def “**transport infrastructure**” reloc 1995 No. 9 s 92 sch 1  
amd 2000 No. 6 s 38(3)  
sub 2001 No. 79 s 42(1)–(2)
- def “**transport Minister**” ins 2010 No. 19 s 127(2)
- def “**transport purpose**” ins 1994 No. 49 s 3 sch 1  
reloc 1995 No. 9 s 92 sch 1
- def “**transport reasons**” ins 2010 No. 19 s 127(2)
- def “**Treasurer**” ins 2010 No. 19 s 127(2)
- def “**Urban Land Development Authority**” ins 2010 No. 19 s 127(2)
- def “**user administration charge**” ins 2005 No. 67 s 40(2)
- def “**valid account**” ins 2001 No. 36 s 7  
sub 2005 No. 67 s 40
- def “**valuable features**” ins 2010 No. 19 s 127(2)
- def “**vehicle**” ins 1995 No. 9 s 92 sch 1  
sub 1995 No. 57 s 4 sch 1  
amd 1999 No. 42 s 54(3) sch pt 3
- def “**vessel**” ins 2010 No. 19 s 127(2)
- def “**visitor centre**” ins 2010 No. 19 s 127(2)
- def “**warehouse (general)**” ins 2010 No. 19 s 127(2)
- def “**watercourse**” ins 2001 No. 79 s 42(2)
- def “**watercraft**” ins 2000 No. 6 s 38(2)
- def “**Water Supply Act**” ins 2010 No. 19 s 127(2)
- def “**water traffic**” ins 2000 No. 6 s 38(2)
- def “**waterway transport management plan**” ins 2009 No. 47 s 5 sch
- def “**wild river area**” ins 2005 No. 42 s 52 sch 1  
amd 2009 No. 47 s 5 sch
- def “**wilfully**” ins 1995 No. 32 s 21(2)
- def “**wind farm**” ins 2010 No. 19 s 127(2)
- def “**works**” ins 1995 No. 32 s 21(2)

**ATTACHMENT FOR TRANSPORT INFRASTRUCTURE ACT 1994 NOT FORMING PART OF ANY ACT—EXTRACT FROM COMPETITION PRINCIPLES AGREEMENT—PROVISIONS ABOUT ACCESS TO SIGNIFICANT INFRASTRUCTURE FACILITIES**

om 2001 No. 79 s 43

## **8 List of forms notified or published in the gazette**

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

**Form 1501 November 2009—Prosecution Unit Infringement Notice**

pubd gaz 18 December 2009 p 1288

**Form 3389 Version June 2003—Railway Manager/Railway Operator Accreditation**

pubd gaz 12 December 2003 p 1185

**Form 3463 Version July 2000—Infringement Notice (Marine)—First and Final Notice**

pubd gaz 24 November 2000 p 1181

**Form 4141 Version September 2003—Approved Safety Management System for Railway**

pubd gaz 12 December 2003 p 1185

**Form 4142 Version September 2003—Exemption from Compliance with Dangerous Goods by Rail Regulation Application**

pubd gaz 12 December 2003 p 1185

**Form 4143 Version September 2003—Administration Determination or Approval Application Amendment**

pubd gaz 12 December 2003 p 1185

**Form 4562 November 2009—Prosecution Unit Infringement Notice – Photographic Detection**

pubd gaz 18 December 2009 p 1289

**Form 4725 November 2009—Tolling Offence Unit Infringement Notice (Fail to Comply with a Toll Road Demand Notice)**

pubd gaz 18 December 2009 p 1289

**Form M3977 Version 4 February 2004—Notice of Demand for Non-payment of Toll**

pubd gaz 2 April 2004 p 1295

**Form M3978 Version 4 February 2004—Notice of Demand for Non-payment of Toll—Statutory Declaration Nomination**

pubd gaz 2 April 2004 p 1295

**Form M3979 Version 4 February 2004—Notice of Demand for Information regarding Non-payment of Toll**  
pubd gaz 2 April 2004 p 1295

**Form M4705 Version March 2009—Demand Notice for NonPayment of Toll Queensland Registered Vehicle**  
pubd gaz 3 April 2009 p 1607

**Form M4706 Version March 2009—Demand Notice for NonPayment of Toll Interstate Registered Vehicle**  
pubd gaz 3 April 2009 p 1607

**Form M4707 Version March 2009—Demand for Information Notice Regarding Non Payment of Toll**  
pubd gaz 3 April 2009 p 1607

**Form M4710 Version March 2009—Demand Notice for NonPayment of Toll – Statutory Declaration Nomination**  
pubd gaz 3 April 2009 p 1607

## 9 Schedule of renumbering

Reprint No. 3 was renumbered under the Reprints Act 1992 s 43 as required by the Transport Infrastructure Act 1994 s 131A

Reprint No. 4 was renumbered under the Reprints Act 1992 s 43 as required by the Transport Infrastructure Act 1994 s 126O

Reprint No. 9 was renumbered as required by the Transport Infrastructure Act 1994 s 491

Original Act (Reprint No. 1) 15/4/94	New prov ins between Reprint Nos. 1 and 3	Reprint No. 3 18/11/94	New prov ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/95	New prov ins between Reprint Nos. 4 and 9	Reprint No. 9 1/12/03
ch 1 hdg	–	ch 1 hdg	–	ch 1 hdg	–	ch 1 hdg
1	–	1	–	1	–	1
2	–	2	–	om	–	–
3	–	3	–	2	–	2
4	–	4	–	3	–	3
5	–	5	–	4	–	4
ch 2 hdg	–	ch 2 hdg	–	ch 2 hdg	–	ch 2 hdg
6	–	6	–	5	–	5

Transport Infrastructure Act 1994

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Original Act (Reprint No. 1) 15/4/94	New prov ins between Reprint Nos. 1 and 3	Reprint No. 3 18/11/94	New prov ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/95	New prov ins between Reprint Nos. 4 and 9	Reprint No. 9 1/12/03
7	–	7	–	6	–	6
8	–	8	–	7	–	7
ch 3 hdg	–	ch 3 hdg	–	ch 3 hdg	–	ch 3 hdg
9	–	9	–	8	–	8
10	–	10	–	9	–	9
11	–	11	–	10	–	10
ch 4 hdg	–	ch 4 hdg	–	ch 4 hdg	–	ch 4 hdg
pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
12	–	12	–	11	–	11
13	–	13	–	12	–	12
14	–	14	–	13	–	13
–	–	–	pt 1A hdg	pt 2 hdg	–	pt 2 hdg
–	–	–	14A	14	–	14
–	–	–	14B	15	–	15
–	–	–	14C	16	–	16
pt 2 hdg	–	pt 2 hdg	–	pt 3 hdg	–	pt 3 hdg
15	–	15	–	17	–	17
16	–	16	–	18	–	18
17	–	17	–	19	–	19
pt 3 hdg	–	pt 3 hdg	–	pt 4 hdg	–	pt 4 hdg
18	–	18	–	20	–	20
–	–	–	–	–	ch 4A hdg	ch 5 hdg
–	–	–	–	–	20A	21
–	–	–	–	–	20B	22
ch 5 hdg	–	ch 5 hdg	–	ch 5 hdg	–	ch 6 hdg
pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
19	–	19	–	21	–	23
20	–	20	–	22	om	–

Original Act (Reprint No. 1) 15/4/94	New prov ins between Reprint Nos. 1 and 3	Reprint No. 3 18/11/94	New prov ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/95	New prov ins between Reprint Nos. 4 and 9	Reprint No. 9 1/12/03
		s 20, def "ancillary works and encroachments"				
		(a)(ia)	–	(a)(ii)		
		(a)(ii)	–	(a)(iii)		
		(a)(iii)	–	(a)(iv)		
		(a)(iv)	–	(a)(v)		
		(a)(v)	–	(a)(vi)		
		(a)(vi)	–	(a)(vii)		
		(a)(vii)	–	(a)(viii)		
		(a)(viii)	–	(a)(xi)		
		(a)(ix)	–	(a)(x)		
		(a)(x)	–	(a)(xi)		
		(a)(xi)	–	(a)(xii)		
		(a)(xii)	–	(a)(xiii)		
		(a)(xiii)	–	(a)(xiv)		
		(a)(xiv)	–	(a)(xv)		
pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg
div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
21	–	21	–	23	–	24
22	–	22	–	24	–	25
–	–	–	–	–	24A	26
div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
23	–	23	–	25	–	27
div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
24	–	24	–	26	–	28
pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg
25	–	25	–	27	–	29
26	–	26	–	28	–	30

Transport Infrastructure Act 1994

Endnotes

Original Act (Reprint No. 1) 15/4/94	New prov ins between Reprint Nos. 1 and 3	Reprint No. 3 18/11/94	New prov ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/95	New prov ins between Reprint Nos. 4 and 9	Reprint No. 9 1/12/03
27	–	27	–	29	–	31
28	–	28	–	30	–	32
29	–	29	–	31	–	33
30	–	30	–	32	–	34
31	–	31	–	33	–	35
32	–	32	–	34	–	36
33	–	33	–	35	–	37
34	–	34	–	36	–	38
35	–	35	–	37	–	39
pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg
36	–	36	–	38	–	40
37	–	37	–	39	–	41
38	–	38	–	40	–	42
–	–	–	–	–	40(1A)	42(2)
38(2)	–	38(2)	–	40(2)	–	42(3)
38(3)	–	38(3)	–	40(3)	–	42(4)
38(4)	–	38(4)	–	40(4)	–	42(5)
38(5)	–	38(5)	–	40(5)	–	42(6)
38(6)	–	38(6)	–	40(6)	–	42(7)
39	–	39	–	41	–	43
40	–	40	–	42	–	44
41	–	41	–	43	–	45
pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg
div 1 hdg	–	div 1 hdg	–	div 1 hdg	–	div 1 hdg
42	–	42	–	44	–	46
43	–	43	–	45	–	47
44	–	44	–	46	–	48
–	–	–	–	–	46A	49

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div 2 hdg	–	div 2 hdg	–	div 2 hdg	–	div 2 hdg
sdiv 1 hdg	–	sdiv 1 hdg	–	sdiv 1 hdg	–	sdiv 1 hdg
45	–	45	–	47	–	50
–	–	–	45A	48	–	51
46	–	46	–	49	–	52
sdiv 2 hdg	–	sdiv 2 hdg	–	sdiv 2 hdg	–	sdiv 2 hdg
47	–	47	–	50	–	53
48	–	48	–	51	–	54
–	–	–	–	–	51A	55
–	–	–	–	–	51B	56
–	–	–	–	–	51C	57
–	–	–	–	–	51D	58
–	–	–	–	–	51E	59
–	–	–	–	–	51F	60
–	–	–	–	–	51G	61
49	–	49	–	52	–	62
–	–	–	–	–	52A	63
–	–	–	–	–	52B	64
–	–	–	–	–	52C	65
–	–	–	–	–	52D	66
–	–	–	–	–	52E	67
–	–	–	–	–	52F	68
–	–	–	–	–	52G	69
50	–	50	–	53	–	70
51	–	51	–	54	–	71
52	–	52	–	55	–	72
53	–	53	–	56	–	73
54	–	54	–	57	–	74

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–	–	–	–	–	57A	75
sdiv 3 hdg	–	sdiv 3 hdg	–	sdiv 3 hdg	–	sdiv 3 hdg
55	–	55	–	58	–	76
div 3 hdg	–	div 3 hdg	–	div 3 hdg	–	div 3 hdg
–	–	–	–	–	58A	77
56	–	56	–	59	–	78
–	–	–	–	–	59A	79
57	–	57	–	60	–	80
58	–	58	–	61	–	81
59	–	59	–	62	–	82
60	–	60	–	63	–	83
61	–	61	–	64	om	–
–	pt 6 hdg	pt 6 hdg	–	pt 6 hdg	–	pt 6 hdg
–	61AA	62	–	65	–	84
–	61AB	63	–	66	–	85
–	61AC	64	–	67	–	86
–	61AD	65	–	68	–	87
–	61AE	66	–	69	–	88
–	61AF	67	–	70	–	89
–	61AG	68	om	–	–	–
–	61AH	69	–	71	–	90
–	61AI	70	–	72	–	91
–	61AJ	71	–	73	om	–
–	–	–	–	–	pt 7 hdg	pt 7 hdg
–	–	–	–	–	div 1 hdg	div 1 hdg
–	–	–	–	–	73	92
–	–	–	–	–	div 2 hdg	div 2 hdg
–	–	–	–	–	73A	93

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-	-	-	-	-	73B	94
-	-	-	-	-	73C	95
-	-	-	-	-	div 3 hdg	div 3 hdg
-	-	-	-	-	73D	96
-	-	-	-	-	73E	97
-	-	-	-	-	73F	98
-	-	-	-	-	73G	99
-	-	-	-	-	73H	100
-	-	-	-	-	73I	101
-	-	-	-	-	73J	102
-	-	-	-	-	73K	103
-	-	-	-	-	div 4 hdg	div 4 hdg
-	-	-	-	-	73L	104
-	-	-	-	-	73M	105
-	-	-	ch 5A hdg	ch 6 hdg	-	ch 7 hdg
-	-	-	pt 1 hdg	pt 1 hdg	-	pt 1 hdg
-	-	-	71A	74	-	106
-	-	-	71B	75	-	107
-	-	-	pt 2 hdg	pt 2 hdg	om new pt 2 hdg ins	pt 2 hdg
-	-	-	71C	76	om new s 76 ins	108
-	-	-	pt 3 hdg	pt 3 hdg	exp	-
-	-	-	71D	77	exp new s 77 ins	109
-	-	-	71E	78	exp new s 78 ins	110

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-	-	-	71F	79	exp new s 79 ins	111
-	-	-	-	-	79A	112
-	-	-	-	-	79B	113
-	-	-	-	-	79C	114
-	-	-	-	-	79D	115
-	-	-	-	-	79E	116
-	-	-	-	-	79F	117
-	-	-	-	-	79G	118
-	-	-	71G	80	exp	-
-	-	-	pt 4 hdg	pt 4 hdg	-	pt 3 hdg
-	-	-	-	-	div 1 hdg	div 1 hdg
-	-	-	-	-	80	119
-	-	-	-	-	80A	120
-	-	-	-	-	80B	121
-	-	-	-	-	80C	122
-	-	-	-	-	div 2 hdg	div 2 hdg
-	-	-	71H	81		123
-	-	-	71I	82		124
-	-	-	71J	83		125
-	-	-	71K	84		126
-	-	-	-	-	84A	127
-	-	-	71L	85		128
-	-	-	71M	86		129
-	-	-	-	-	86A	130
-	-	-	71N	87		131
-	-	-	71O	88		132
-	-	-	-	-	88A	133

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-	-	-	-	-	div 3 hdg	div 3 hdg
-	-	-	-	-	88B	134
-	-	-	-	-	88C	135
-	-	-	-	-	88D	136
-	-	-	-	-	88E	137
-	-	-	-	-	88F	138
-	-	-	-	-	div 4 hdg	div 4 hdg
-	-	-	-	-	89	139
-	-	-	-	-	90	140
-	-	-	-	-	90A	141
-	-	-	-	-	90B	142
-	-	-	-	-	90C	143
-	-	-	-	-	90D	144
-	-	-	-	-	div 5 hdg	div 5 hdg
-	-	-	-	-	91	145
-	-	-	-	-	91A	146
-	-	-	-	-	91B	147
-	-	-	-	-	91C	148
-	-	-	-	-	91D	149
-	-	-	-	-	div 6 hdg	div 6 hdg
-	-	-	-	-	92	150
-	-	-	-	-	92A	151
-	-	-	-	-	92B	152
-	-	-	-	-	92C	153
-	-	-	-	-	div 7 hdg	div 7 hdg
-	-	-	-	-	93	154
-	-	-	-	-	93A	155
-	-	-	-	-	93B	156

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-	-	-	-	-	93C	157
-	-	-	-	-	93D	158
-	-	-	-	-	93E	159
-	-	-	-	-	93F	160
-	-	-	-	-	div 8 hdg	div 8 hdg
-	-	-	-	-	93G	161
-	-	-	71P	89	om	-
-	-	-	71Q	90	om	-
-	-	-	71R	91	om	-
-	-	-	71S	92	om	-
-	-	-	71T	93	om	-
-	-	-	pt 5 hdg	pt 5 hdg	-	pt 4 hdg
-	-	-	-	-	div 1 hdg	div 1 hdg
-	-	-	-	-	93H (prev s 93A)	162
-	-	-	71U	94	-	163
-	-	-	71V	95	-	164
-	-	-	71W	96	-	165
-	-	-	71X	97	-	166
-	-	-	71Y	98	-	167
-	-	-	-	-	div 2 hdg	div 2 hdg
-	-	-	71Z	99	-	168
-	-	-	71ZA	100	-	169
-	-	-	-	-	pt 5A hdg	pt 5 hdg
-	-	-	-	-	div 1 hdg	div 1 hdg
-	-	-	-	-	100A	170
-	-	-	-	-	div 2 hdg	div 2 hdg
-	-	-	-	-	100B	171

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-	-	-	-	-	100C	172
-	-	-	-	-	100D	173
-	-	-	-	-	100E	174
-	-	-	-	-	100F	175
-	-	-	-	-	100G	176
-	-	-	-	-	100H	177
-	-	-	-	-	div 3 hdg	div 3 hdg
-	-	-	-	-	100I	178
-	-	-	-	-	100J	179
-	-	-	-	-	100K	180
-	-	-	-	-	100L	181
-	-	-	-	-	100M	182
-	-	-	-	-	100N	183
-	-	-	-	-	100O	184
-	-	-	-	-	div 4 hdg	div 4 hdg
-	-	-	-	-	100P	185
-	-	-	-	-	100Q	186
-	-	-	-	-	100R	187
-	-	-	-	-	100S	188
-	-	-	-	-	100T	189
-	-	-	-	-	div 5 hdg	div 5 hdg
-	-	-	-	-	101	190
-	-	-	-	-	101A	191
-	-	-	-	-	101B	192
-	-	-	-	-	101C	193
-	-	-	-	-	101D	194
-	-	-	-	-	101E	195
-	-	-	-	-	101F	196

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-	-	-	-	-	101G	197
-	-	-	-	-	101H	198
-	-	-	-	-	div 6 hdg	div 6 hdg
-	-	-	-	-	101I	199
-	-	-	-	-	101J	200
-	-	-	-	-	101K	201
-	-	-	-	-	div 7 hdg	div 7 hdg
-	-	-	-	-	101L	202
-	-	-	-	-	101M	203
-	-	-	-	-	101N	204
-	-	-	-	-	101O	205
-	-	-	-	-	101P	206
-	-	-	-	-	101Q	207
-	-	-	-	-	div 8 hdg	div 8 hdg
-	-	-	-	-	101R	208
-	-	-	-	-	101S	209
-	-	-	-	-	101T	210
-	-	-	-	-	101U	211
-	-	-	-	-	div 9 hdg	div 9 hdg
-	-	-	-	-	101V	212
-	-	-	-	-	101W	213
-	-	-	pt 6 hdg	pt 6 hdg	-	pt 6 hdg
-	-	-	div 1 hdg	div 1 hdg	-	div 1 hdg
-	-	-	71ZB	101	om	-
-	-	-	-	-	101X	214
-	-	-	71ZC	102	-	215
-	-	-	div 2 hdg	div 2 hdg	-	div 2 hdg
-	-	-	71ZD	103	-	216

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-	-	-	71ZE	104	-	217
-	-	-	-	-	104(6A)	217(7)
-	-	-	71ZE	104(7)	-	217(8)
-	-	-	71ZE	104(8)	-	217(9)
-	-	-	71ZE	104(9)	-	217(10)
-	-	-	71ZE	104(10)	-	217(11)
-	-	-	-	-	104(11)	217(12)
-	-	-	71ZF	105	om	-
-	-	-	71ZG	106	om	-
-	-	-	71ZH	107	om	-
-	-	-	71ZI	108	om	-
-	-	-	71ZJ	109	-	218
-	-	-	div 3 hdg	div 3 hdg	-	div 3 hdg
-	-	-	sdiv 1 hdg	sdiv 1 hdg	-	sdiv 1 hdg
-	-	-	71ZK	110	-	219
-	-	-	71ZL	111	-	220
-	-	-	71ZM	112	-	221
-	-	-	71ZN	113	-	222
-	-	-	71ZO	114	-	223
-	-	-	sdiv 2 hdg	sdiv 2 hdg	-	sdiv 2 hdg
-	-	-	71ZP	115	-	224
-	-	-	71ZQ	116	-	225
-	-	-	71ZR	117	-	226
-	-	-	71ZS	118	-	227
-	-	-	71ZT	119	-	228
-	-	-	71ZU	120	-	229
-	-	-	71ZV	121	-	230
-	-	-	71ZW	122	-	231

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-	-	-	71ZX	123	-	232
-	-	-	71ZY	124	-	233
-	-	-	71ZZ	125	-	234
-	-	-	71ZZA	126	-	235
-	-	-	71ZZB	127	-	236
-	-	-	71ZZC	128	-	237
-	-	-	71ZZD	129	-	238
-	-	-	71ZZE	130	-	239
-	-	-	pt 7 hdg	pt 7 hdg	-	pt 7 hdg
-	-	-	71ZZF	131	-	240
-	-	-	-	-	131A	241
-	-	-	-	-	131B	242
-	-	-	71ZZG	132	-	243
-	-	-	71ZZH	133	om	-
-	-	-	71ZZI	134	-	244
-	-	-	71ZZJ	135	-	245
-	-	-	71ZZK	136	om new s 136 ins	246
-	-	-	-	-	136A	247
-	-	-	pt 8 hdg	pt 8 hdg	-	pt 8 hdg
-	-	-	71ZZL	137	-	248
-	-	-	71ZZM	138	om	-
-	-	-	-	-	138A	249
-	-	-	71ZZN	139	-	250
-	-	-	71ZZO	140	-	251
-	-	-	71ZZP	141	-	252
-	-	-	71ZZQ	142	-	253
-	-	-	71ZZR	143	-	254

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–	–	–	71ZZS	144	–	255
–	–	–	71ZZT	145	–	256
–	–	–	71ZZU	146	–	257
–	–	–	71ZZV	147	om	–
–	–	–	71ZZW	148	–	258
–	–	–	71ZZX	149	–	259
–	–	–	71ZZY	150	–	260
–	–	–	71ZZZ	151	–	261
–	–	–	71ZZZA	152	–	262
–	–	–	–	–	152A	263
–	–	–	–	–	152B	264
–	–	–	–	–	152C	265
–	–	–	–	–	152D	266
–	ch 5A hdg	ch 6 hdg	–	ch 7 hdg	–	ch 8 hdg
–	pt 1 hdg	pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg
–	61A	72	–	153	–	267
–	pt 2 hdg	pt 2 hdg	–	pt 2 hdg	–	pt 2 hdg
–	61B	73	–	154	om	–
–	61C	74	–	155	–	268
–	–	–	–	–	155A	269
–	61D	75	–	156	–	270
–	61E	76	–	157	–	271
–	61F	77	–	158	–	272
–	61G	78	–	159	–	273
–	61H	79	–	160	–	274
–	pt 3 hdg	pt 3 hdg	–	pt 3 hdg	–	pt 3 hdg
–	61I	80	–	161	–	275
–	–	–	–	–	161A	276

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–	61J	81	–	162	–	277
–	61K	82	–	163	–	278
–	61L	83	–	164	–	279
–	61L(1)(k)	83(1)(k)	–	164(1)(k)	–	279(1)(j)
–	61M	84	–	165	–	280
–	61N	85	–	166	–	281
–	61O	86	–	167	–	282
–	61P	87	–	168	–	283
–	pt 4 hdg	pt 4 hdg	–	pt 4 hdg	–	pt 4 hdg
–	div 1 hdg	div 1 hdg	–	div 1 hdg	–	div 1 hdg
–	61Q	88	–	169	–	284
–	61R	89	–	170	–	285
–	61S	90	–	171	–	286
–	61T	91	–	172	–	287
–	61U	92	–	173	om	–
–	div 2 hdg	div 2 hdg	–	div 2 hdg	–	div 2 hdg
–	61V	93	–	174	–	288
–	–	–	–	–	174A	289
–	pt 5 hdg	pt 5 hdg	–	pt 5 hdg	–	pt 5 hdg
–	61W	94	–	175	–	290
–	61X	95	–	176	–	291
–	61Y	96	–	177	–	292
–	61Z	97	–	178	–	293
–	61ZA	98	–	179	–	294
–	61ZAA	99	om	–	–	–
–	61ZB	100	om	–	–	–
–	61ZC	101	–	180	–	295
–	–	–	–	–	ch 7A hdg	ch 9 hdg

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-	-	-	-	-	pt 1 hdg	pt 1 hdg
-	-	-	-	-	180A om	-
-	-	-	-	-	180B	296
-	-	-	-	-	pt 2 hdg	pt 2 hdg
-	-	-	-	-	180C	297
-	-	-	-	-	180D	298
-	-	-	-	-	180E	299
-	-	-	-	-	180F	300
-	-	-	-	-	pt 3 hdg	pt 3 hdg
-	-	-	-	-	180G	301
-	-	-	-	-	180H	302
-	-	-	-	-	180I	303
-	-	-	-	-	180J	304
-	-	-	-	-	pt 4 hdg	pt 4 hdg
-	-	-	-	-	div 1 hdg	div 1 hdg
-	-	-	-	-	180K	305
-	-	-	-	-	180KA	306
-	-	-	-	-	180L	307
-	-	-	-	-	180M	308
-	-	-	-	-	180N	309
-	-	-	-	-	180O	310
-	-	-	-	-	div 2 hdg	div 2 hdg
-	-	-	-	-	180P	311
-	-	-	-	-	180P(3)	311(2)
-	-	-	-	-	180P(4)	311(3)
-	-	-	-	-	180P(5)	311(4)
-	-	-	-	-	180Q	312

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-	-	-	-	-	div 2A hdg	div 3 hdg
-	-	-	-	-	180QA	313
-	-	-	-	-	180QB	314
-	-	-	-	-	180QC	315
-	-	-	-	-	div 3 hdg	div 4 hdg
-	-	-	-	-	180R	316
-	-	-	-	-	180S	317
-	-	-	-	-	180T	318
-	-	-	-	-	180U	319
-	-	-	-	-	180V	320
-	-	-	-	-	180W	321
-	-	-	-	-	180X	322
-	-	-	-	-	180Y	323
-	-	-	-	-	180Z	324
-	-	-	-	-	180ZA	325
-	-	-	-	-	180ZB	326
-	-	-	-	-	180ZC	327
-	-	-	-	-	180ZD	328
-	-	-	-	-	div 4 hdg	div 5 hdg
-	-	-	-	-	180ZE	329
-	-	-	-	-	180ZE(4)	329(3)
-	-	-	-	-	div 5 hdg	div 6 hdg
-	-	-	-	-	180ZF	330
-	-	-	-	-	180ZG	331
-	-	-	-	-	180ZH	332
-	-	-	-	-	180ZI	333
-	-	-	-	-	180ZJ	334
-	-	-	-	-	180ZK	335

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-	-	-	-	-	pt 5 hdg	pt 5 hdg
-	-	-	-	-	180ZKA	336
-	-	-	-	-	180ZKB	337
-	-	-	-	-	180ZKC	338
-	-	-	-	-	180ZKD	339
-	-	-	-	-	180ZKE	340
-	-	-	-	-	180ZKF	341
-	-	-	-	-	180ZKG	342
-	-	-	-	-	180ZKH	343
-	-	-	-	-	180ZKI	344
-	-	-	-	-	180ZKJ	345
-	-	-	-	-	180ZKK	346
-	-	-	-	-	ch 7B hdg	ch 10 hdg
-	-	-	-	-	pt 1 hdg	pt 1 hdg
-	-	-	-	-	180ZLom	-
-	-	-	-	-	180ZM	347
-	-	-	-	-	pt 2 hdg	pt 2 hdg
-	-	-	-	-	180ZN	348
-	-	-	-	-	180ZO	349
-	-	-	-	-	180ZP	350
-	-	-	-	-	180ZQ	351
-	-	-	-	-	pt 3 hdg	pt 3 hdg
-	-	-	-	-	180ZR	352
-	-	-	-	-	180ZS	353
-	-	-	-	-	180ZT	354
-	-	-	-	-	180ZU	355
-	-	-	-	-	180ZV	356

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-	-	-	-	-	pt 4 hdg	pt 4 hdg
-	-	-	-	-	div 1 hdg	div 1 hdg
-	-	-	-	-	180ZW	357
-	-	-	-	-	180ZX	358
-	-	-	-	-	180ZY	359
-	-	-	-	-	180ZZ	360
-	-	-	-	-	180ZZA	361
-	-	-	-	-	div 2 hdg	div 2 hdg
-	-	-	-	-	180ZZB	362
-	-	-	-	-	180ZZC	363
-	-	-	-	-	div 3 hdg	div 3 hdg
-	-	-	-	-	180ZZD	364
-	-	-	-	-	180ZZE	365
-	-	-	-	-	180ZZF	366
-	-	-	-	-	180ZZG	367
-	-	-	-	-	180ZZH	368
-	-	-	-	-	180ZZI	369
-	-	-	-	-	180ZZJ	370
-	-	-	-	-	180ZZK	371
-	-	-	-	-	180ZZL	372
-	-	-	-	-	180ZZM	373
-	-	-	-	-	180ZZN	374
-	-	-	-	-	180ZZO	375
-	-	-	-	-	180ZZP	376
-	-	-	-	-	div 4 hdg	div 4 hdg
-	-	-	-	-	180ZZQ	377
-	-	-	-	-	div 5 hdg	div 5 hdg
-	-	-	-	-	180ZZR	378

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-	-	-	-	-	180ZZS	379
-	-	-	-	-	180ZZT	380
-	-	-	-	-	180ZZU	381
-	-	-	-	-	180ZZV	382
-	-	-	-	-	180ZZW	383
-	-	-	-	-	pt 5 hdg	pt 5 hdg
-	-	-	-	-	180ZZX	384
-	-	-	-	-	180ZZY	385
-	-	-	-	-	180ZZZ	386
-	-	-	-	-	180ZZZA	387
-	-	-	-	-	180ZZZB	388
-	-	-	-	-	180ZZZC	389
-	-	-	-	-	180ZZZD	390
-	-	-	-	-	180ZZZE	391
-	-	-	-	-	180ZZZF	392
-	-	-	-	-	180ZZZG	393
-	-	-	-	-	180ZZZH	394
-	-	-	-	-	180ZZZI	395
-	-	-	-	-	180ZZZJ	396
-	-	-	-	-	180ZZZK	397
-	-	-	-	-	180ZZZL	398
-	-	-	-	-	180ZZZM	399
-	-	-	-	-	pt 6 hdg	pt 6 hdg
-	-	-	-	-	180ZZZN	400
-	-	-	-	-	ch 7C hdg	ch 11 hdg
-	-	-	-	-	180ZZZO	401
-	-	-	-	-	180ZZZP	402
-	-	-	-	-	180ZZZQ	403

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-	-	-	-	-	180ZZZR	404
-	-	-	-	-	180ZZZS	405
-	-	-	-	-	180ZZZT	406
-	-	-	-	-	180ZZZU	407
-	-	-	-	-	180ZZZV	408
-	-	-	-	-	180ZZZW	409
-	-	-	-	-	180ZZZX	410
-	-	-	-	-	180ZZZY	411
-	-	-	-	-	180ZZZZ	412
-	-	-	-	-	180ZZZZA	413
-	-	-	-	-	180ZZZZB	414
-	-	-	ch 7 hdg	ch 8 hdg	-	ch 12 hdg
-	-	-	-	-	pt 1 hdg	pt 1 hdg
-	-	-	101A	181	-	415
-	-	-	-	-	181A	416
-	-	-	-	-	pt 2 hdg	pt 2 hdg
-	-	-	-	-	div 1 hdg	div 1 hdg
-	-	-	-	-	181B	417
-	-	-	-	-	div 2 hdg	div 2 hdg
-	-	-	101B	182	-	418
-	-	-	-	-	div 3 hdg	div 3 hdg
-	-	-	-	-	182A	419
-	-	-	-	-	182B	420
-	-	-	-	-	182C	421
-	-	-	-	-	182D	422
-	-	-	-	-	div 4 hdg	div 4 hdg
-	-	-	-	-	182E	423
-	-	-	-	-	182F	424

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-	-	-	-	-	div 5 hdg	div 5 hdg
-	-	-	-	-	182G	425
-	-	-	-	-	182H	426
-	-	-	-	-	182I	427
-	-	-	-	-	182J	428
-	-	-	-	-	182K	429
-	-	-	-	-	182L	430
-	-	-	-	-	div 6 hdg	div 6 hdg
-	-	-	-	-	182M	431
-	-	-	-	-	182N	432
-	-	-	-	-	pt 3 hdg	pt 3 hdg
-	-	-	101C	183	-	433
-	-	-	101D	184	-	434
-	-	-	101E	185	-	435
-	-	-	-	-	pt 4 hdg	pt 4 hdg
-	-	-	101F	186	-	436
-	-	-	-	-	pt 5 hdg	pt 5 hdg
-	-	-	101G	187	-	437
-	-	-	-	-	ch 8A hdg	ch 13 hdg
-	-	-	-	-	187A	438
-	-	-	-	-	ch 8AA hdg	ch 14 hdg
-	-	-	-	-	pt 1 hdg	pt 1 hdg
-	-	-	-	-	187AA	439
-	-	-	-	-	187AB	440
-	-	-	-	-	187AC	441
-	-	-	-	-	pt 2 hdg	pt 2 hdg
-	-	-	-	-	187AD	442
-	-	-	-	-	pt 3 hdg	pt 3 hdg

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-	-	-	-	-	div 1 hdg	div 1 hdg
-	-	-	-	-	187AE	443
-	-	-	-	-	div 2 hdg	div 2 hdg
-	-	-	-	-	187AF	444
-	-	-	-	-	187AG	445
-	-	-	-	-	187AH	446
-	-	-	-	-	187AI	447
-	-	-	-	-	187AJ	448
-	-	-	-	-	187AK	449
-	-	-	-	-	pt 4 hdg	pt 4 hdg
-	-	-	-	-	187AL	450
-	-	-	-	-	187AM	451
-	-	-	-	-	187AN	452
-	-	-	-	-	pt 5 hdg	pt 5 hdg
-	-	-	-	-	187AO	453
-	-	-	-	-	187AP	454
-	-	-	-	-	187AQ	455
-	-	-	-	-	187AR	456
-	-	-	-	-	pt 6 hdg	pt 6 hdg
-	-	-	-	-	187AS	457
-	-	-	-	-	187AT	458
-	-	-	-	-	ch 8B hdg	ch 15 hdg
-	-	-	-	-	pt 1 hdg	pt 1 hdg
-	-	-	-	-	187B	459
-	-	-	-	-	187C	460
-	-	-	-	-	187D	461
-	-	-	-	-	187E	462
-	-	-	-	-	187F	463

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-	-	-	-	-	187G	464
-	-	-	-	-	187H	465
-	-	-	-	-	187I	466
-	-	-	-	-	187J	467
-	-	-	-	-	187K	468
-	-	-	-	-	187L	469
-	-	-	-	-	pt 2 hdg	pt 2 hdg
-	-	-	-	-	187M	470
-	-	-	-	-	187N	471
-	-	-	-	-	187O	472
-	-	-	-	-	187P	473
-	-	-	-	-	187Q	474
-	-	-	-	-	187R	475
ch 6 hdg	-	ch 7 hdg	renum as ch 8 hdg	ch 9 hdg	-	ch 16 hdg
62	-	102	-	188	-	476
63	-	103	-	189	-	477
64	-	104	-	190	-	478
-	-	-	-	-	190A	479
65	-	105	-	191	-	480
-	-	-	105A	192	-	481
-	-	-	105B	193	-	482
-	65A	106	-	194	-	483
-	65B	107	-	195	-	484
66	-	108	-	196	-	485
67	-	109	-	197	om	-
68	-	110	-	198	om	-
-	-	-	110A	199	-	486

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–	–	–	–	–	199A	487
–	–	–	–	–	199B	488
–	–	–	–	–	199C	489
69	–	111	–	200	–	490
–	–	–	–	–	200A	491
ch 7 hdg	–	ch 8 hdg	renum as ch 9 hdg	ch 10 hdg	–	ch 17 hdg
pt 1 hdg	–	pt 1 hdg	–	pt 1 hdg	om	–
70	–	112	–	201	om	–
71	–	113	–	202	exp	–
71(2)	–	113(1)	–	202(1)	exp	–
71(3)	–	113(2)	–	202(2)	exp	–
72	–	114	–	203	exp	–
73	–	115	–	204	exp	–
74	–	116	–	205	exp	–
75	om	–	–	–	–	–
76	–	117	–	206	exp	–
77	om	–	–	–	–	–
78	om	–	–	–	–	–
79	om	–	–	–	–	–
80	om	–	–	–	–	–
–	80A	118	–	exp	–	–
81	–	119	–	207	exp	–
82	om	–	–	–	–	–
83	–	120	–	208	exp	–
84	om	–	–	–	–	–
85	–	121	–	209	exp	–
86	om	–	–	–	–	–

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87	–	122	–	210	exp	–
88	–	123	–	211	exp	–
89	–	124	–	212	exp	–
–	89A	125	–	213	exp	–
–	89B	126	exp	–	–	–
pt 2 hdg	renum as pt 4 hdg	om	–	–	–	–
90	renum as 132	om	–	–	–	–
–	–	–	pt 1A hdg	pt 2 hdg	om	–
–	–	–	div 1 hdg	div 1 hdg	exp	–
–	–	–	126A	214	exp	–
–	–	–	126B	215	exp	–
–	–	–	126C	216	exp	–
–	–	–	126D	217	exp	–
–	–	–	126E	218	exp	–
–	–	–	div 2 hdg	div 2 hdg	om	–
–	–	–	126F	219	exp	–
–	–	–	126G	220	exp	–
–	–	–	126H	exp	–	–
–	–	–	126I	221	exp	–
–	–	–	126J	222	exp	–
–	–	–	126K	223	exp	–
–	–	–	126L	224	exp	–
–	–	–	126M	225	exp	–
–	–	–	126N	226	exp	–
–	–	–	126O	om	–	–
–	pt 2 hdg	pt 2 hdg	–	pt 3 hdg	–	pt 1 hdg

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–	90	127	–	227	exp new s 227 ins om	–
–	91	128	–	228	exp	–
–	92	exp	–	–	–	–
–	93	exp	–	–	–	–
–	94	129	exp	–	–	–
–	94(2)	129(1)	exp	–	–	–
–	94(5)	129(2)	exp	–	–	–
–	95	130	exp	–	–	–
–	96	131	–	229	exp	–
–	97	132	–	230	exp	–
–	98	133	–	231	exp	–
–	99	134	–	232	exp	–
–	100	exp	–	–	–	–
–	101	135	exp	–	–	–
–	102	136	–	233	om	–
–	102(5A)	136(6)	–	233(6)	om	–
–	102(6)	136(7)	–	233(7)	om	–
–	102(7)	136(8)	–	233(8)	om	–
–	102(8)	136(9)	–	233(9)	om	–
–	102(9)	136(10)	–	233(10)	om	–
–	102(10)	136(11)	–	233(11)	om	–
–	–	–	–	–	233A exp	–
–	–	–	–	–	233B exp	–
–	–	–	–	–	233C exp	–

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-	-	-	-	-	233D exp	-
-	-	-	-	-	233E exp	-
-	-	-	-	-	233F exp	-
-	103	137	-	234	exp	-
-	104	138	-	235	exp	-
-	104(2A)	138(3)	-	235(3)	exp	-
-	104(3)	138(4)	-	235(4)	exp	-
-	104(4)	138(5)	-	235(5)	exp	-
-	104(5)	138(6)	-	235(6)	om	-
-	104(6)	138(7)	-	235(7)	om	-
-	105	139	-	236	om	-
-	106	140	-	237	exp	-
-	107	141	-	238	exp	-
-	108	142	-	239	-	492
-	109	exp	-	-	-	-
-	109A	exp	-	-	-	-
-	109B	exp	-	-	-	-
-	110	exp	-	-	-	-
-	111	exp	-	-	-	-
-	112	143	exp	-	-	-
-	113	144	-	240	exp	-
-	-	-	-	-	240A	493
-	pt 3 hdg	pt 3 hdg	-	pt 4 hdg	-	pt 2 hdg
-	div 1 hdg	div 1 hdg	-	div 1 hdg	-	div 1 hdg
-	114	145	-	241	-	494
-	115	146	-	242	-	495

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–	116	147	–	243	–	496
–	117	148	–	244	–	497
–	118	149	–	245	–	498
–	119	150	–	246	–	499
–	120	151	–	247	–	500
–	–	–	div 1A hdg	div 2 hdg	–	div 2 hdg
–	–	–	151A	248	–	501
–	–	–	151B	249	–	502
–	–	–	151C	250	–	503
–	–	–	151D	251	–	504
–	–	–	151E	252	–	505
–	–	–	151F	253	–	506
–	div 2 hdg	div 2 hdg	–	div 3 hdg	–	div 3 hdg
–	121	152	–	254	–	507
–	122	153	–	255	–	508
–	123	154	–	256	–	509
–	124	155	–	257	–	510
–	125	156	–	258	–	511
–	126	157	–	259	–	512
–	div 3 hdg	div 3 hdg	om	–	–	–
–	127	158	om	–	–	–
–	128	159	om	–	–	–
–	129	160	om	–	–	–
–	130	161	om	–	–	–
–	div 4 hdg	div 4 hdg	om	–	–	–
–	131	162	om	–	–	–
–	131A	om	–	–	–	–

Original Act (Reprint No. 1) 15/4/94	New prov ins between Reprint Nos. 1 and 3	Reprint No. 3 18/11/94	New prov ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/95	New prov ins between Reprint Nos. 4 and 9	Reprint No. 9 1/12/03
-	-	-	-	-	div 4 hdg exp	-
-	-	-	-	-	260 exp	-
-	-	-	-	-	div 5 hdg om	-
-	-	-	-	-	pt 5 hdg exp	-
-	-	-	-	-	260 exp	-
-	-	-	-	-	ch 11 hdg	ch 18 hdg
-	-	-	-	-	pt 1 hdg	pt 1 hdg
-	-	-	-	-	261	513
-	-	-	-	-	262	514
-	-	-	-	-	pt 2 hdg	pt 2 hdg
-	-	-	-	-	263	515
-	-	-	-	-	264	516
-	-	-	-	-	265	517
-	-	-	-	-	266	518
-	-	-	-	-	267	519
-	-	-	-	-	pt 3 hdg	pt 3 hdg
-	-	-	-	-	268	520
-	-	-	-	-	269	521
-	-	-	-	-	270	522
-	-	-	-	-	271	523
-	-	-	-	-	272	524
-	-	-	-	-	273	525
-	-	-	-	-	274	526
-	-	-	-	-	275	527
-	-	-	-	-	276	528

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–	–	–	–	–	277	529
sch 1	–	sch 1	–	sch 1	–	sch 1
sch 1 item 7	–	sch 1 item 7	–	sch 1 item 7	–	sch 1 item 6
sch 1 item 8	–	sch 1 item 8	–	sch 1 item 8	–	sch 1 item 7
sch 1 item 9	–	sch 1 item 9	–	sch 1 item 9	–	sch 1 item 8
sch 1 item 10	–	sch 1 item 10	–	sch 1 item 10	–	sch 1 item 9
–	–	–	–	–	sch 1 item 10A	sch 1 item 10
–	–	–	–	–	sch 1 item 10B	sch 1 item 11
–	–	–	–	sch 1 item 11	–	sch 1 item 12
–	–	–	–	sch 1 item 11	renum as sch 1 item 12	sch 1 item 13
–	–	–	–	sch 1 item 13	–	sch 1 item 14
–	–	–	–	sch 1 item 14	–	sch 1 item 15
–	–	–	–	sch 1 item 15	–	sch 1 item 16
–	–	–	–	sch 1 item 16	–	sch 1 item 17
–	–	–	–	–	sch 1 item 17	sch 1 item 18
–	–	–	–	–	sch 1 item 18	sch 1 item 19
–	–	–	–	–	sch 1 item 19	sch 1 item 20
–	–	–	–	–	sch 1 item 20	sch 1 item 21
–	–	–	–	–	sch 1 item 21	sch 1 item 22
–	–	–	–	–	sch 1 item 22	sch 1 item 23

Original Act (Reprint No. 1) 15/4/94	New prov ins between Reprint Nos. 1 and 3	Reprint No. 3 18/11/94	New prov ins between Reprint Nos. 3 and 4	Reprint No. 4 1/7/95	New prov ins between Reprint Nos. 4 and 9	Reprint No. 9 1/12/03
–	–	–	–	–	sch 1 item 23	sch 1 item 24
–	–	–	–	–	sch 1A	sch 2
sch 2	–	sch 2	–	sch 2	–	sch 3
–	–	–	–	–	sch 2A	sch 4
–	–	–	–	–	sch 2B	sch 5
sch 3	–	om	sch 3	sch 3	–	sch 6

## 10 Information about retrospectivity

Retrospective amendments that have been consolidated are noted in the list of legislation and list of annotations. Any retrospective amendment that has not been consolidated is noted in an editor's note to the text.

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