

STATE TRANSPORT (PEOPLE-MOVERS) ACT

No. 75 of 1989

ANALYSIS OF CONTENTS

PART I—PRELIMINARY

1. Short title
2. Commencement
3. Interpretation

PART II—PROVISIONS CONCERNING CORPORATION

4. Constitution of Corporation
5. Corporation represents Crown
6. Corporation a constructing authority
7. Functions of Corporation
8. Powers of Corporation
9. Power of Corporation to take land
10. Vesting of land taken
11. Power of Governor in Council to alienate land to Corporation
12. Disposal of land not required for purpose of acquisition

PART III—PROPOSALS FOR PEOPLE-MOVER SYSTEMS AND AGREEMENTS

13. Submission of proposals
14. Corporation's examination of proposals
15. Governor in Council may approve proposal
16. Making of agreement

PART IV—PROVISIONS GOVERNING CONSTRUCTION AND OPERATION OF PEOPLE-MOVER SYSTEMS

17. Construction and operation of people-mover system
18. Licence
19. Period of licence
20. Fees for licences
21. Lease or encumbrance of licence
22. Transfer of licence
23. Cancellation and suspension of licence
24. Appeal against Corporation's decision
25. Approval of people-moving vehicles
26. Dismantling of contravening structures
27. Demolition of unused people-mover system
28. Entry on site of people-mover system
29. Notice to operator
30. Authorized systems not affected by town planning schemes
31. Exclusion of other Acts
32. Easements; ownership of structures
33. Special leases over roads

PART V—MISCELLANEOUS PROVISIONS

34. Delegation
 35. Corporation and Commissioner subject to Minister's directions
 36. Penalty provision
 37. Liability for offence by body corporate
 38. Recovery of expenses
 39. Evidentiary provisions
 40. Regulations
- SCHEDULE

LEGISLATIVE COUNCIL
OF THE PARLIAMENT OF QUEENSLAND
IN SESSION AT BRISBANE
ON THURSDAY, 24TH AUGUST 1989
THE ACTS PASSED BY THE PARLIAMENT OF QUEENSLAND
IN THE SEVENTH YEAR OF THE REIGN OF HER MAJESTY THE QUEEN
IN THE YEAR OF OUR LORD ONE THOUSAND NINE HUNDRED EIGHTY NINE

Queensland



ANNO TRICESIMO OCTAVO

ELIZABETHAE SECUNDAE REGINAE



No. 75 of 1989

**An Act to provide for the construction and operation of
certain types of transport systems for the carriage of
people**

[ASSENTED TO 24TH AUGUST, 1989]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *State Transport (People-movers) Act 1989*,

2. Commencement. (1) Section 1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act shall commence on a date to be appointed by Proclamation.

The date so appointed is in this Act referred to as the commencement of this Act.

3. Interpretation. Except where a contrary intention appears—

“Commissioner” means the person for the time being holding the appointment, Commissioner for Transport, under *The State Transport Act of 1960* or that Act as amended and includes any person for the time being acting in or discharging the duties of that appointment;

“Corporation” means the corporation sole constituted by the *Urban Public Passenger Transport Act 1984* under the name and style “The Commissioner for Transport”;

“Local Authority” means a Local Authority within the meaning of the *Local Government Act 1936-1988* and includes—

(a) any person who at the material time is deemed to be a Local Authority pursuant to that Act;

and

(b) Brisbane City Council;

“Minister” means the Minister of the Crown for the time being charged with the administration of this Act and includes a Minister of the Crown who, for the time being, is performing the duties of the Minister;

“operator” in relation to a people-mover system in respect of which a licence is issued under Part IV, means—

(a) where the licence is not leased to another by the holder thereof—the holder of the licence;

(b) where the licence is leased to another by the holder thereof—the lessee of the licence;

“people-mover system” means a transport system designed and intended for use for the carriage of people by means of a fixed structure on a route that entails carriage over and

above public land or water within Queensland other than carriage by—

a railway within the meaning of the *Railways Act 1914-1985*;

any moving walkway, belt or escalator;

“people-moving vehicle” means a vehicle designed for use in operating a people-mover system;

“public land” means land that is—

(a) Crown land within the meaning of the *Land Act 1962-1988*;

(b) land dedicated as a road for public use;

(c) land reserved and set apart under *The Land Act of 1962* or that Act as amended for any public purpose;

or

(d) land held by or under the control of—

(i) a Local Authority;

or

(ii) a person or body that, for a purpose in connexion with the Government of the State, is constituted by or under an Act;

“the proposer” means the person who put forward the proposal for a people-mover system approved by the Governor in Council under section 15.

PART II—PROVISIONS CONCERNING CORPORATION

4. Constitution of Corporation. (1) The Corporation shall be deemed to have been constituted as a corporation sole for the purposes of this Act and shall be constituted from time to time as prescribed by section 10 of the *Urban Public Passenger Transport Act 1984*.

(2) All courts and persons acting judicially shall take judicial notice of the appointment of any person who for the time being constitutes or at any material time constituted the Corporation and of their respective signatures and of the official seal of the Corporation affixed to any document and, in the absence of proof to the contrary, shall presume that the relevant signature or seal was duly affixed.

(3) The Corporation deemed to have been constituted for the purposes of this Act has the capacities conferred on it by section 11 of the *Urban Public Passenger Transport Act 1984*.

5. Corporation represents Crown. (1) For the purposes of this Act the Corporation represents the Crown and has and may exercise all the rights, privileges and remedies of the Crown.

(2) Except to the extent that this Act specifically applies to the Corporation, this Act does not bind the Crown.

6. Corporation a constructing authority. For the purposes of this Act the Corporation is a constructing authority within the meaning of the *Acquisition of Land Act 1967-1988*.

7. Functions of Corporation. In addition to the functions otherwise imposed upon it by this Act, the functions of the Corporation are—

- (a) to conduct studies and research and to carry out investigations with respect to the present and future need for people-mover systems;
- (b) to ensure that people-mover systems are efficient for the purpose for which they are constructed;
- (c) to encourage and promote the use of people-mover systems and for that purpose to disseminate information;
- (d) to advise the Minister on any matter that is relevant to the administration of this Act.

8. Powers of Corporation. (1) The Corporation may exercise such powers as are necessary or desirable to allow the proper discharge by it of its functions.

(2) Without limiting the powers of the Corporation otherwise conferred by this Act or had by it in its corporate capacity, the Corporation may—

- (a) by itself or in conjunction with another person or other persons construct and operate a people-mover system;
- (b) by public advertisement or otherwise, invite proposals for the construction and operation of a people-mover system;
- (c) require that a proposal for the construction and operation of a people-mover system submitted to it be accompanied by a deposit and an administration fee or either of them in such amount as the Corporation thinks fit;
- (d) assist in the construction or operation of any people-mover system by providing money, equipment, vehicles, facilities and other assistance as the Corporation thinks fit;
- (e) employ persons for the purpose of advising it in connexion with the discharge of its functions and the exercise of its powers;
- (f) enter into agreements and acquire assets and undertakings as will, in the Corporation's opinion, assist it in the proper discharge of its functions or effective exercise of its powers;
- (g) sell, lease or let on hire land, premises, vehicles and equipment for the purpose of the construction or operation of a people-mover system;
- (h) for the purpose of its constructing or operating a people-mover system and in accordance with subsection (3), enter upon and temporarily occupy a road and—
 - (i) open and break up the soil and pavement thereof;
 - (ii) construct or place therein plant, machinery, equipment

or goods and erect therein temporary workshops, sheds and other buildings;

- (iii) make therein cuttings and excavations, and construct therein or thereover fixed structures, subways, tunnels, drains and bridges;
- (iv) lay therein or erect thereover tracks, cables and power-lines;
- (v) reinstate the surface of the road and for that purpose remove and dispose of earth, vegetation and other material thereon;
- (i) in accordance with subsection (3), enter upon and temporarily occupy a road and repair, alter, demolish, destroy or remove from the road plant, machinery, equipment, goods, workshops, sheds and other buildings, fixed structures, tunnels, drains, bridges, tracks, cables or power-lines constructed, erected or placed by it in or over the road for the purpose of constructing or operating a people-mover system.

(3) The Corporation shall not exercise a power referred to in subsection (2) (h) or (i) unless it has given notice in writing of the intention so to do to the authority having the care and management of the road in question.

The Corporation shall not, in the exercise of a power referred to in subsection (2) (h) or (i)—

- (a) alter the position of a main, sewer or drain;
- or

(b) alter the position of a pipe for the supply of water or gas or a cable for the supply of electricity, unless it has given notice in writing of the intention so to do to the authority having the care and management of the main, sewer, drain, pipe or cable and the authority so notified has consented to the proposed alteration.

The Corporation shall, in the exercise of a power under this section, ensure that a power-line or cable erected over any road, bridge, vehicular path or water is erected in such manner as to allow for the passage of persons and vehicles reasonably expected to be on the road, bridge or path or of vessels reasonably expected to be on the water.

(4) When the Corporation has opened and broken up a road it shall—

- (a) with all convenient speed and as little interference to traffic as is practical, complete the work for which it is opened and broken up and shall fill in the ground and reinstate and make good the parts so opened and broken up to as good a condition as before it was opened and broken up and shall carry away all rubbish occasioned by the work;
- (b) at all times while the road is opened and broken up, cause the parts so opened and broken up to be fenced and guarded

and lighting sufficient for the warning of traffic to be set up and maintained against or near such parts every night during which the road is opened and broken up;

and

- (c) keep the parts so opened and broken up in good repair for three months after reinstating and making good the same and for any further time not exceeding 12 months during which the soil opened and broken up continues to subside.

9. Power of Corporation to take land. (1) As a constructing authority within the meaning of the *Acquisition of Land Act 1967-1988*, the Corporation may take, in accordance with that Act, land for the purpose of its constructing or operating a people-mover system.

The Corporation shall not exercise its power under this subsection without the prior approval of the Governor in Council.

(2) As well as land granted in fee simple, the Corporation may, in accordance with the *Acquisition of Land Act 1967-1988* and as a constructing authority under that Act, take land that is held from the Crown for an estate or interest less than fee simple.

Land referred to in this subsection shall, if vested in the Corporation by the Proclamation whereby it is taken, be vested in it for an estate in fee simple.

The Governor in Council is hereby authorized to grant in fee simple and so vest the land subject to such reservations and conditions as are authorized or required by the *Land Act 1962-1988*.

(3) The *Acquisition of Land Act 1967-1988* shall be read with and subject to all such modifications and adaptations as are necessary to give operation and effect to subsection (2) including by reading a reference in that Act to the Registrar of Titles as a reference to the person or authority charged with registering instruments evidencing the title to the estate or interest in the land in question held from the Crown.

10. Vesting of land taken. (1) Land taken by the Corporation shall, according as the Proclamation whereby it is taken or a later Proclamation provides, vest in the Crown or the Corporation.

(2) The Governor in Council may, by Order in Council, divest any land from the Corporation and vest the same in the Crown.

11. Power of Governor in Council to alienate land to Corporation. The power conferred by the *Land Act 1962-1988* on the Governor in Council to grant in fee simple, or demise for a term of years or in perpetuity, any Crown land within Queensland includes power to make such a grant or demise to the Corporation for the purposes of this Act in priority to and to the exclusion of all other persons notwithstanding the provisions of the *Land Act 1962-1988*.

12. Disposal of land not required for purpose of acquisition. Subject to the provisions of section 41 of the *Acquisition of Land Act 1967-1988* in respect of land within the meaning of that Act taken by the Corporation, if land taken by the Corporation and held by it, or any part of the land, is not required for or in connexion with the purpose for which it was taken, the land not required shall be dealt with in a manner directed by the Governor in Council by Order in Council.

PART III—PROPOSALS FOR PEOPLE-MOVER SYSTEMS AND AGREEMENTS

13. Submission of proposals. Any person who proposes to construct a people-mover system between two or more places shall, before commencing construction, submit his proposal to the Corporation.

14. Corporation's examination of proposals. (1) When a proposal for a people-mover system has been submitted to it the Corporation shall enter upon an examination of the proposal with a view to the suitability of the proposed system for the purpose to which the proposal relates.

(2) For the purpose of its examination the Corporation—

(a) may enter upon negotiations with the person putting forward the proposal concerning his proposal;

and

(b) may require the person to furnish information or further information in respect of any matter (including the means by which the proposal is to be funded) that the Corporation considers to be relevant to a proper evaluation of the proposal.

(3) When the Corporation has determined that a people-mover system should be constructed and operated between two or more places and that the proposal or one of the proposals submitted to it in relation thereto is acceptable it shall recommend to the Minister that that proposal be approved by the Governor in Council.

15. Governor in Council may approve proposal. The Governor in Council may, on the recommendation of the Minister, approve a proposal for the construction and operation of a people-mover system.

16. Making of agreement. The Corporation and the proposer may enter into an agreement in relation to the construction and operation of the people-mover system.

PART IV—PROVISIONS GOVERNING CONSTRUCTION AND OPERATION OF PEOPLE-MOVER SYSTEMS

17. Construction and operation of people-mover system. (1) After the expiration of 3 months from the commencement of this Act, a people-mover system or any part thereof—

- (a) shall not be constructed otherwise than pursuant to an agreement entered into with the Corporation;
- (b) shall not be operated for the carriage of passengers except under the authority of and in accordance with a licence issued by the Corporation and in this Part referred to as “a licence”.

(2) A person who commits an offence referred to in subsection (1) (a) or (b) is liable—

- (a) in the case of an individual—
 - (i) for a first offence, to a penalty of 100 penalty units and, in addition, where the offence is a continuing one, a daily penalty of 10 penalty units;
 - (ii) for a second or subsequent offence, to a penalty of 200 penalty units and, in addition, where the offence is a continuing one, a daily penalty of 20 penalty units;
- (b) in the case of a body corporate—
 - (i) for a first offence, to a penalty of 200 penalty units and, in addition, where the offence is a continuing one, a daily penalty of 20 penalty units;
 - (ii) for a second or subsequent offence, to a penalty of 400 penalty units and, in addition, where the offence is a continuing one, a daily penalty of 40 penalty units.

18. Licence. (1) The Corporation may from time to time issue a licence that authorizes the operation of a people-mover system.

(2) A licence may be issued to authorize the operation of a discrete part of a people-mover system as well as the operation of the whole of the system.

(3) A licence shall specify all the conditions on which the people-mover system (or part to which the licence relates) is to be operated or on breach of which the licence may be cancelled or suspended.

Without in any way limiting the conditions which may be specified in a licence, conditions may relate to—

- (a) amenities and facilities for passengers;
- (b) facilities for housing people-moving vehicles and other

equipment used in connexion with the operation of the people-mover system;

- (c) routes and timetables;
- (d) the number and type of people-moving vehicles to be used in operating the system and the equipment on those vehicles;
- (e) the fares to be charged and their manner of collection;
- (f) the issue of tickets to passengers and the information to be contained thereon;
- (g) the use of any part of the system for a purpose ancillary to the carriage of passengers;
- (h) the keeping of records and the making of returns to the Corporation;
- (i) the fees payable in respect of the licence and the time and manner of their payment;
- (j) the safety of persons using the system;
- (k) the maintenance of the system.

(4) A licence shall not be issued to authorize the operation of a people-mover system or a part thereof—

- (a) where the proposal for the system has been approved by the Governor in Council under section 15—until after the date of practical completion of the system or, as the case may be, the part thereof as provided for in the agreement relating to its construction between the Corporation and the proposer;
- and
- (b) until the Corporation is satisfied that the system or, as the case may be, the part thereof has been shown by practical testing to be safe and complies with the requirements of law relating to its mechanical and structural safety.

(5) The Corporation may, upon the written request of the holder of the licence or, where it is leased, the lessee, vary, alter or otherwise amend the conditions specified in a licence.

19. Period of licence. (1) A licence shall take effect on the date of its issue by the Corporation and shall continue to have effect for the period specified therein, not exceeding—

- (a) in a case where the Governor in Council has approved that the licence may be granted for a period that is in excess of 25 years—that period;
- (b) in any other case—25 years,

unless it is duly cancelled or surrendered.

On expiry of a licence the Corporation may issue to the person who, immediately before the expiry, was the holder thereof a further licence.

(2) The holder of a licence may surrender the licence to the Corporation at any time.

20. Fees for licences. (1) A licensing fee is payable to the Corporation by the operator of a people-mover system in respect of which a licence is issued.

(2) The licensing fee shall, in the discretion of the Corporation, be—

- (a) an amount fixed by the Corporation;
 - (b) the sum of the amounts fixed by the Corporation for each people-moving vehicle used in operating the people-mover system;
 - (c) an amount per centum as fixed by the Corporation of the gross revenue derived from the operation of the people-mover system;
- or
- (d) a combination of the amounts referred to in paragraphs (a) and (c).

(3) The licensing fee, and any instalment thereof, shall become due and payable to the Corporation at the time and in the manner the Corporation prescribes and any unpaid amount may be recovered by it as a debt due and owing to it by the operator of the people-mover system.

(4) The foregoing provisions of this section apply so as to authorize the Corporation to determine differently the amount or rates of the licensing fee payable in respect of different licences and in respect of different parts of the same people-mover system and, for that purpose, different parts of the same system as fixed by the Corporation shall each be deemed to be a separate system the operation of which is authorized by a licence.

21. Lease or encumbrance of licence. A licence is not capable of being leased or encumbered except with the prior written approval of the Corporation and any purported lease or encumbrance otherwise than with that prior approval is void.

22. Transfer of licence. (1) A licence is not capable of being transferred except in accordance with this section and any purported transfer otherwise is void.

(2) The Corporation may, upon application by the holder of the licence and the proposed transferee, transfer a licence.

(3) The transfer shall be subject to such conditions as the Corporation determines.

(4) The Corporation may, in its discretion, refuse to transfer a licence and shall refuse if, in the opinion of the Commissioner, the transfer would be contrary to, or not desirable in, the public interest.

(5) An application under this section may be made in respect of a discrete part of the people-mover system to which the licence relates and the Corporation, if it consents to the transfer as applied for—

(a) shall issue another licence in respect of that part of the system to which the transfer does not relate or vary, alter or amend the existing licence so that it continues in force in respect only of that part of the system to which the transfer does not relate;

and

(b) shall issue a licence in respect of that part of the system to which the transfer relates.

23. Cancellation and suspension of licence. (1) If it appears to the Corporation—

(a) that a condition of a licence has been breached;

or

(b) that the operator of a people-mover system has committed an offence against this Act;

and

(c) that it is in the public interest that action be taken under this section,

the Corporation may, by writing under its official seal, call upon the holder of the licence and, where the licence is leased to another person, the lessee to show cause to the Commissioner, at a time and place specified in the writing, why the licence should not be cancelled.

(2) If at the time and place so specified or to which the hearing may be adjourned cause is not shown to the Commissioner's satisfaction, the Corporation may, by its order—

(a) cancel the licence;

or

(b) suspend the licence for a period specified in the order.

(3) An order of cancellation or suspension shall not take effect until the expiration of the time limited by section 24 for the institution of an appeal against the Corporation's decision or, where an appeal is duly instituted, until the final determination of the appeal.

(4) During the period of suspension the suspension of a licence has the same effect as a cancellation of the licence.

24. Appeal against Corporation's decision. (1) The holder or lessee of a licence aggrieved by the Corporation's decision to cancel or suspend the licence may appeal to the Minister against the decision within 30 days after the day on which the Corporation's order is made.

Where an appeal is instituted under this subsection the Minister may refer the matter of the appeal to another person or other persons for hearing and determination and if he does so a reference in the

following subsections of this section to the Minister shall, for the purposes of the appeal, be construed as a reference to that other person or, as the case may be, those other persons.

(2) The hearing by the Minister of an appeal shall be a rehearing on the evidence before the Commissioner and on his determination of an appeal the Minister may—

- (a) confirm the Corporation's decision;
- (b) overrule the Corporation's decision and revoke the Corporation's order of cancellation or suspension of the licence;
- or
- (c) order the suspension of the licence for a period specified by him in lieu of cancellation of the licence.

(3) The decision or order of the Minister on an appeal shall be deemed to be the Corporation's decision or order in the proceedings to show cause except that the decision or order of the Minister shall not be appealable.

25. Approval of people-moving vehicles. (1) The Corporation may, in respect of any people-mover system, approve of the people-moving vehicles to be used in operating the system. An approval under this section may specify the maximum number of passengers that may be carried in the vehicle and may specify the maximum load that may be so carried.

(2) The Corporation, if it considers that such action is necessary or desirable in the public interest, may by its order cancel, or suspend for a period, its approval of a people-moving vehicle.

(3) During the period of suspension the suspension of an approval has the same effect as a cancellation of the approval.

(4) The operator of a people-mover system shall not use or permit or allow to be used in the operation of the system a people-moving vehicle—

- (a) that is not approved by the Corporation for use in operating the system;
- or
- (b) otherwise than in accordance with the approval.

26. Dismantling of contravening structures. (1) If any part of a proposed people-mover system is found to have been constructed otherwise than in accordance with any agreement made between the Corporation and the proposer the Corporation may, by writing under its official seal, require the proposer to dismantle the part within a time specified in the writing.

(2) If within the time so specified the part has not been dismantled, the Corporation may, with the approval of the Governor in Council

first obtained, cause the part to be dismantled and for that purpose may, by its agents and servants—

- (a) enter on and occupy for as long as is necessary such lands as it is necessary to enter and occupy;
- and
- (b) do all things necessary to effect the dismantling of the part.

(3) The amount of all expenditure incurred by the Corporation in or in connexion with dismantling a part of a people-mover system under subsection (2) may be recovered by it from the proposer as a debt due and owing to it by the proposer by action in a court of competent jurisdiction.

27. Demolition of unused people-mover system. (1) If at any time a people-mover system is no longer in use for the carriage of passengers and, in the Commissioner's opinion, it is not likely to be so used within a reasonable time, the Corporation may, by writing under its official seal, require the person who is then the owner of the system to demolish and remove the system and restore the ground surface to a condition acceptable to the Corporation within a time specified in the writing.

(2) If within the time so specified the Corporation's requisition has not been complied with, the Corporation may, with the approval of the Governor in Council first obtained, cause the structures of the people-mover system to be demolished and the materials resulting from the demolition to be sold or otherwise disposed of as the Corporation considers to be practicable and for those purposes the Corporation may, by its agents and servants—

- (a) enter on and occupy for as long as is necessary such lands as it is necessary to enter and occupy;
- and
- (b) do all things necessary to effect the demolition, sale and disposal.

The Corporation is competent to pass good title in the sale or disposal of materials resulting from the demolition.

(3) The proceeds of a sale of materials resulting from demolition shall be applied as follows:—

- (a) firstly in payment of the expenses of the sale;
- (b) secondly in payment of creditors of the owner of the structures demolished whose debts are secured on or arose in relation to those structures;
- (c) thirdly in payment of the costs of demolition;
- (d) fourthly in payment of any balance to the owner of the structures demolished.

(4) The Corporation may recover by action in a court of competent jurisdiction from the owner of structures demolished under subsection (2) any amount of costs of demolition for which the Corporation has

not been recouped from the proceeds of sale of the demolition material, as a debt due and owing to the Corporation by the owner.

28. Entry on site of people-mover system. (1) The Corporation by its agents and servants, is authorized to—

- (a) enter the site occupied or to be occupied by a people-mover system and all premises and places used or to be used in conjunction with the site;
- (b) inspect the site, premises and places;
- (c) inspect and test any part of the system,

for the purpose of—

- (d) ensuring compliance with this Act or any agreement made by the Corporation in relation to the system;
or
- (e) ensuring compliance with any conditions of a licence granted in relation to the system.

(2) Any person concerned in the administration of an Act, other than this Act, applicable to any part of a people-mover system or to the site occupied or to be occupied by a people-mover system or to any premises or place used or to be used in conjunction with the site is authorized to enter on and inspect the site or such premises or place and to inspect and test such part of the system, for the purpose of ensuring compliance with the Act in the administration of which he is concerned.

(3) Any person—

- (a) in charge of the site occupied or to be occupied by a people-mover system or any premises or place used or to be used in conjunction with the site to which site, premises or place entry is sought by a person authorized by subsection (1) or (2);
or
- (b) in charge of a part of a people-mover system to which part access is sought by a person authorized by subsection (1) or (2),

shall facilitate the entry or access sought by such authorized person and his inspection of the site, premises, place or part and his testing of the part.

29. Notice to operator. (1) The operator of a people-mover system shall ensure that the system—

- (a) is structurally and mechanically sound;
- (b) is maintained in a safe and serviceable condition;
and
- (c) is fit for the carriage of passengers.

(2) If a person authorized for the purposes of this section by the

Corporation, either generally or in a particular case, (herein- after in this section referred to as an “authorized officer”) is of the opinion that a people-mover system or any part thereof—

- (a) is not structurally or mechanically sound;
- (b) is not being maintained in a safe and serviceable condition;
- or
- (c) is not fit for the carriage of passengers,

he may, by notice in writing given to the operator of the system or the person apparently in charge of the system or part—

- (d) require the operator to do such things as are specified in the notice for the purpose of making the system or part structurally or mechanically sound, placing it in a safe and serviceable condition or, as the case may be, making it fit for the carriage of passengers within a time specified in the notice;
- and
- (e) if he is of the opinion that it is necessary or desirable in the public interest so to do, direct the operator to cease operating the system or any part thereof until the things required by the notice to be done are done and the direction is rescinded by an authorized officer.

(3) Where the things required by a notice under subsection (2) to be done are done to the satisfaction of an authorized officer, the officer may rescind the direction (if any) that the operator cease operating the system or, as the case may be, a part thereof.

(4) The operator of a people-mover system shall comply with a notice under subsection (2).

30. Authorized systems not affected by town planning schemes. For the purposes of—

- (a) the construction of a people-mover system in accordance with an agreement made by the Corporation with the proposer;
- or
- (b) the operation of a people-mover system under the authority of a licence,

the proposer or the operator of the system is entitled to use land and premises along or adjacent to the route of the system as agreed or authorized and the owners or occupiers of any of such land or premises are entitled to allow the land or premises to be so used notwithstanding the provisions of any town planning scheme for the time being in force and applicable to such land or premises.

31. Exclusion of other Acts. On the recommendation of the Minister, the Governor in Council may, by Order in Council, declare that the provisions or specified provisions of an Act (other than this Act) specified in the order shall not apply in respect of the construction or operation

of a particular people-mover system identified in the order, whereupon for as long as the order remains in force the Act shall be construed as not applying to the system to the extent specified in the order.

32. Easements; ownership of structures. (1) The proposer and a successor to him in title to a people-mover system may acquire and hold an easement over the land of another person for the purposes of the system notwithstanding that the easement is not annexed to or used and enjoyed together with any other land.

A person charged with keeping a register relating to the land shall record in the register particulars of the instrument creating the easement when the instrument is produced to him for registration.

(2) Structures that support or are used in conjunction with the track of a people-mover system and erected by the proposer or a successor to him in title to the system are the property of the proposer or, as the case may be, his successor in title, subject to any agreement by him to the contrary, notwithstanding that they are affixed to the land of another person.

33. Special leases over roads. The power conferred on the Governor in Council by the *Land Act 1962-1988* to grant special leases of land reserved and set apart for public purposes includes power to grant such leases in accordance with that Act of land dedicated as a road for public use and with respect to layers and strata below and air space above the surface of such land for the purposes of a people-mover system.

PART V—MISCELLANEOUS PROVISIONS

34. Delegation. (1) The Corporation or the Commissioner (hereinafter in this section referred to as “the delegant”) may, either generally or otherwise as provided by the instrument of delegation, by writing, delegate—

(a) to any person;

(b) to the holder of an office, specifying its title but not the name of the holder for the time being,

all or any of the delegant’s powers, authorities, functions and duties under this Act, except this power of delegation.

(2) A power, authority, function or duty so delegated, if exercised or discharged by the delegate, shall be exercised or discharged in accordance with the instrument of delegation.

(3) A delegation may be made subject to such terms and conditions as the delegant thinks fit including a requirement that the delegate shall report to the delegant upon the exercise or discharge of the delegated power, authority, function or duty.

(4) The delegant may make such and so many delegations of the same power, authority, function or duty and to such number of persons or holders of office as the delegant thinks fit.

(5) A delegation is revocable at the will of the delegant and does not prevent the exercise of any power or authority or the discharge of any function or duty by the delegant.

35. Corporation and Commissioner subject to Minister's directions. The Corporation and the Commissioner in the discharge of their functions and the exercise of their powers under this Act are subject to the directions of the Minister given in relation to such matters as the Minister in his discretion determines.

36. Penalty provision. (1) A person who—

(a) being required by or under this Act (other than the regulations) to do anything, fails to comply with the requirement;

or

(b) does anything in contravention of this Act (other than the regulations),

commits an offence against this Act and, if no specific penalty is provided for that offence, is liable—

(c) in the case of an individual, to a penalty of 100 penalty units and, in addition, where the offence is a continuing one, a daily penalty of 10 penalty units;

or

(d) in the case of a body corporate, to a penalty of 200 penalty units and, in addition, where the offence is a continuing one, a daily penalty of 20 penalty units.

(2) Prosecution proceedings for an offence against this Act shall be taken in a summary way on the complaint of the Commissioner or of a person authorized by the Commissioner for the purpose, generally or in a particular case.

(3) A statement in a complaint that the complainant is duly authorized to lay the complaint is sufficient evidence of the complainant's authority in the absence of evidence to the contrary.

(4) In respect of a continuing offence a complaint may be laid, from time to time until the offence is discontinued, alleging the commission of an offence over a period: Provided that an offender shall not be punished more than once in respect of any period.

37. Liability for offence by body corporate. (1) Where a body corporate commits an offence against this Act then, without derogating from section 7 of *The Criminal Code*, each of the following persons shall be deemed to have committed the offence and, notwithstanding section 23 of *The Criminal Code*, to be criminally responsible for the act or omission concerned therein and may be charged with the offence and punished accordingly:—

(a) every person who at the time the offence is committed was a director or other member of the governing body thereof by whatever name called;

and

- (b) every person who at the time the offence is committed manages or takes part in the management of the business in Queensland thereof.

(2) This section applies so as not to limit or affect in any way the liability of a body corporate to be proceeded against and punished for an offence against this Act committed by it.

(3) It is a defence to a charge for an offence against this Act brought against a person specified in subsection (1) (a) or (b) to prove that the offence was committed without the person's consent or connivance and that he exercised due diligence to prevent the commission of the offence.

38. Recovery of expenses. The expenses, or such part thereof as is determined by the Commissioner, incurred by the Corporation in respect of any inspection of or test carried out on any part of a people-mover system pursuant to section 28 (1) shall be a debt due and owing to the Corporation by—

- (a) where a licence is not issued under Part IV in respect of the system or the licence is cancelled—the owner of the system;
- (b) where a licence is issued under Part IV in respect of the system, including where the licence is suspended—the operator of the system,

and may be recovered in any court of competent jurisdiction.

39. Evidentiary provisions. (1) A document purporting to be a copy of an agreement made with the Corporation for the purposes of this Act or to be a copy of a licence issued under Part IV, an approval under section 25 or a notice under section 29 and certified under the official seal of the Corporation to be a true copy shall upon its production in any proceedings be evidence and, in the absence of evidence to the contrary, conclusive evidence of that agreement, licence, approval or notice.

(2) A certificate under the official seal of the Corporation stating that at any specified time or during a specified period a particular person was or was not the holder or the lessee of a licence issued under Part IV or that a licence under Part IV was or was not in force in relation to a particular people-mover system or part thereof or that such licence was cancelled or suspended shall upon its production in any proceedings be evidence and, in the absence of evidence to the contrary, conclusive evidence of its contents.

(3) A certificate under the official seal of the Corporation stating that the holder or lessee of a licence issued under Part IV was at any specified time or during any specified period required to do any particular act or thing pursuant to section 29 shall upon its production in any proceedings be evidence and, in the absence of evidence to the contrary, conclusive evidence of its contents.

40. Regulations. (1) The Governor in Council may make regulations not inconsistent with this Act for or with respect to all matters and things that are necessary or convenient for the administration of this Act or to achieve the objects and purposes of this Act.

(2) The power to regulate includes the power to prohibit.

(3) Regulations may be made—

(a) to apply generally in respect of all people-mover systems or to a particular people-mover system or otherwise to be of such general or limited application as is indicated therein;

(b) so as to require any matter to which a regulation relates to be in accordance with a specific requirement of, or direction of, or as approved by, or to the satisfaction of, a specified person or body or class of person or body.

(4) A regulation may impose a penalty for any breach thereof and may impose different penalties in case of successive breaches, but such a penalty shall not exceed 40 penalty units.

A regulation may, where a breach thereof is a continuing breach, impose a daily penalty for the breach not exceeding 4 penalty units.

(5) Without limiting the generality of subsection (1), regulations may be made for or with respect to any of the matters enumerated in the Schedule.

SCHEDULE

[s. 40 (5)]

1. The submission to the Corporation of proposals for the construction and operation of people-mover systems and the documentation required in connexion with such proposals.

2. The application to the Corporation for licences under Part IV and for the transfer thereof.

3. The application to the Corporation for its approval of the leasing or encumbering of a licence under Part IV.

4. The delivery to prescribed persons of licences under Part IV that have expired or been cancelled or suspended or for the purpose of altering, varying or amending the conditions thereof.

5. The conduct of proceedings to show cause to the Commissioner and of proceedings on appeal therefrom.

6. The payment and manner thereof of fares by passengers using a people-mover system and the prevention of the avoidance of such payment.

7. The removal from any part of a people-mover system of persons not authorized to be on or in that part and of persons found or reasonably

suspected of damaging or defacing any part of the system or whose behaviour is causing a nuisance to or is annoying other persons who are using the system or persons employed in connexion with the system's operation.

8. The conduct of persons using a people-mover system or employed in connexion with its operation.

9. The forms to be used and the fees to be paid for the purposes of this Act and the purposes for which they are to be used or paid.

10. The furnishing of information to the Corporation in respect of the operation of a people-mover system and the persons by whom and the times at which the information is to be so furnished.

11. The carriage of luggage of passengers using a people-mover system and of other goods.

12. The identification of people-moving vehicles.

13. The safety and comfort of persons using a people-mover system or any part thereof and the duties owed by the operator of the system to those persons.

14. The removal of vehicles parked on land used in connexion with the operation of a people-mover system.

15. The smoking of tobacco and other substances and the eating of food and the drinking of beverages on any part of a people-mover system.

16. The standard of facilities and equipment provided in connexion with the use by persons of a people-mover system.

17. The use of any part of a people-mover system for advertising purposes or other purposes ancillary to the carriage of passengers.

18. The standards and specifications to be met by people-moving vehicles before they may be approved for use by the Corporation.

19. The service of notices and other writings for the purposes of this Act.

20. The issuing of licences to replace ones that are lost, stolen or defaced or that become illegible.

21. The protection, preservation and safety of any works undertaken by the Corporation in connexion with the construction, operation or maintenance of a people-mover system.

22. Providing for programs to ensure that people-mover systems are properly maintained.

23. The making and keeping of records in respect of the operation of people-mover systems, the production and inspection of records and the taking of extracts from and the making of copies of records.

24. The compiling of reports and the furnishing of reports to the Corporation by the Commissioner of Police relating to the qualifications, antecedents (including the criminal history), character and conduct of—

(a) any person putting forward to the Corporation a proposal for the construction and operation of a people-mover system or applying for a licence under Part IV;

or

(b) any proposed transferee or lessee of a licence under Part IV,

and, where the person or the proposed transferee or lessee is a body corporate, of any director or other person concerned in the management of the body.

25. All matters required or permitted by this Act to be prescribed where the manner of prescription is not specified.