

Queensland



# **TRANSPORT LEGISLATION AMENDMENT ACT 2000**

**Act No. 6 of 2000**



Queensland



**TRANSPORT LEGISLATION  
AMENDMENT ACT 2000**

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Queensland



## **Transport Legislation Amendment Act 2000**

### **Act No. 6 of 2000**

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**An Act to amend legislation administered by the Minister for  
Transport and Minister for Main Roads**

*[Assented to 20 April 2000]*

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **Short title**

**1.** This Act may be cited as the *Transport Legislation Amendment Act 2000*.

### **Commencement**

**2.(1)** Section 40 is taken to have commenced on 31 December 1999.

**(2)** Sections 6 to 38 commence on a day to be fixed by proclamation.

## **PART 2—AMENDMENT OF TRAFFIC ACT 1949**

### **Act amended in pt 2**

**3.** This part amends the *Traffic Act 1949*.

### **Omission of pt 4 (Offences in relation to public transport)**

**4.** Part 4—

*omit.*

### **Omission of s 62 (Court may order penalty be paid to aggrieved person)**

**5.** Section 62—

*omit.*

## **PART 3—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994**

### **Act amended in pt 3**

6. This part amends the *Transport Infrastructure Act 1994*.

### **Amendment of title**

7. Title, at the end—

*insert—*

**‘and related matters’.**

### **Amendment of s 2 (Objectives of this Act)**

8. Section 2(2)—

*insert—*

- ‘(f) for air—to promote basic access to air services, and regional development, by making provision about air transport infrastructure;
- (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.’.

### **Amendment of s 9 (Obligations about government supported transport infrastructure)**

9.(1) Section 9, ‘, and the boards of Queensland Rail and each port authority,’—

*omit.*

(2) Section 9(a), ‘entity’—

*omit, insert—*

‘chief executive’.

### **Amendment of s 10 (Report on giving effect to s 9)**

**10.** Section 10, ‘, Queensland Rail and each port authority’—

*omit.*

### **Insertion of new ch 4A**

**11.** After section 20—

*insert—*

## **‘CHAPTER 4A—AIR TRANSPORT INFRASTRUCTURE**

### **‘Air transport infrastructure funding programs**

‘**20A.(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.

**‘Report on implementation of program**

‘**20B.** 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.’.

**Amendment of s 22 (Definitions for ch 5)**

**12.(1)** Section 22, definition “**ancillary works and encroachments**”, paragraph (a)(i)—

*omit, insert—*

‘(i) cane railways;’.

**(2)** Section 22, definition “**ancillary works and encroachments**”, paragraph (a)(ix), before ‘pipes’ and ‘tanks’—

*insert—*

‘water’.

**(3)** Section 22 definition “**ancillary works and encroachments**”, after paragraph (a)(ix)—

*insert—*

‘(ixa) pipes;

(ixb) tanks;’.

**(4)** Section 22, definition “**ancillary works and encroachments**”, paragraph (a)(xi)—

*omit, insert—*

‘(xi) road access works’.

**(5)** Section 22, definition “**ancillary works and encroachments**”, paragraph (a)(xv), ‘or’—

*omit.*

**(6)** Section 22, definition “**ancillary works and encroachments**”, paragraph (a)—

*insert—*

‘(xvi) pumps and bowsers; or’.

(7) Section 22, definition “**means of access**”—

*omit.*

(8) Section 22—

*insert—*

**“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.’.

### **Amendment of s 47 (Ancillary works and encroachments)**

**13.(1)** Section 47(6)—

*renumber* as section 47(7).

(2) Section 47—

*insert—*

‘(6) If approval is required under subsection (2) for ancillary works and encroachments that are road access works, the approval—

- (a) may only be given if there is a permitted road access location under a decision in force under section 52(1) in relation to the road access works;<sup>1</sup> and
- (b) is in force only while the decision specifying the permitted road access location remains in force.’.

<sup>1</sup> For an application to obtain a permitted road access location, see section 52 (Management of access between individual properties and State-controlled roads)



**Amendment of s 49 (Alteration etc. of ancillary works and encroachments)**

**14.(1)** Section 49(4)(b)—

*renumber* as section 49(4)(c).

**(2)** Section 49(4)(a)—

*omit, insert*—

‘(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’.

**(3)** Section 49(4)(c) as renumbered, after ‘become’—

*insert*—

‘ or may in the future become’.

**(4)** Section 49(5), ‘a means of access’—

*omit, insert*—

‘road access works’.

**Amendment of ch 5, pt 5, div 2, sdiv 2, hdg (Special arrangements for means of access)**

**15.** Chapter 5, part 5, division 2, subdivision 2, heading—

*omit, insert*—

*‘Subdivision 2—Special arrangements about access’.*

**Amendment of s 50 (Definitions)**

**16.(1)** Section 50, definition “**approved means of access**”—

*omit.*

(2) Section 50—

*insert—*

‘**“declaration”** has the meaning given by section 51(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 52(1).

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

## Replacement of ss 51–56

17. Sections 51 to 56—

*omit, insert—*

### ‘Limited access roads

‘**51.(1)** The chief executive, by gazette notice complying with sections 51B and 51C, 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 52 to access between the limited access road and adjacent land.

‘(3) For a State-controlled road that is a limited access road under section 264(1),<sup>2</sup> the chief executive may—

- (a) develop a policy about the application of section 52 to access between the road and adjacent land; and

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<sup>2</sup> Section 264 (Transitional—access-limited roads)

- (b) publish a gazette notice complying with section 51C 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
- (b) by gazette notice complying with section 51C, 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 51D; and
- (d) must apply the policy as made, amended or replaced.

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

‘51A. 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.

#### **‘Information in s 51 gazette notice about a declaration**

‘51B. A gazette notice under section 51(1) must state—

- (a) the reasons for the declaration; and
- (b) that any person whose interests are affected by the declaration may—
  - (i) under section 196<sup>3</sup>—ask for the decision to be reviewed and appeal against the reviewed decision; and
  - (ii) under the *Transport Planning and Coordination Act 1994*,

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<sup>3</sup> Section 196 (Review of and appeals against decisions)

part 5<sup>4</sup>—ask for the decision or the reviewed decision to be stayed.

**‘Information in s 51 gazette notice about new or replacement policy**

**‘51C.(1)** A gazette notice under section 51(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 52 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 51G;
- (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 196—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.

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<sup>4</sup> *Transport Planning and Coordination Act 1994*, part 5 (Review of and appeals against decisions)

‘(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.

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

‘51D.(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 state—

- (a) the notice is given under this section; and
- (b) the reasons for the decision; and
- (c) that any person whose interests are affected by the decision may—
  - (i) under section 196—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.

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

‘51E. A gazette notice under section 51 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.

**‘Advertisement of gazette notice**

**‘51F.** The publishing of a gazette notice under section 51 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.

**‘Offence for limited access roads**

**‘51G.** 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 52(1) that authorises the construction or change.

Maximum penalty—200 penalty units.

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

**‘52.(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—

- (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 51 that is applicable to the decision.

### ‘Chief executive may require additional information from applicant

‘52A. The chief executive may—

- (a) require an applicant for a decision under section 52(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.

**‘Decision under s 52(1) may impose construction or financial obligation**

**‘52B.** A decision under subsection 52(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 52G, may include either or both of the following conditions—

- (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.

**‘Limitation on new decisions under s 52(1)**

**‘52C.** If there is a permitted road access location for land, the chief executive may make a new decision under section 52(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.

**‘Road access works within State-controlled road**

**‘52D.(1)** To remove doubt, it is declared that—



- (a) a decision under section 52(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 52 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 52(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 52(1) about anything mentioned in section 52(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 52(1).

‘(3) Subsection (2) does not limit the discretion of the chief executive under section 52(1).

**‘Notice of decision under s 52(1)**

‘**52E.(1)** If the chief executive makes a decision under section 52(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.

‘(2) The notice must state the following—

- (a) the notice is given under this section;
- (b) the reasons for the decision;
- (c) the person is bound by the decision because of section 53;
- (d) the text of section 53;

- (e) that any person whose interests are affected by the decision may—
  - (i) under section 196—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;
- (f) that there is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.

‘(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 52(1) for the land.

‘(4) The chief executive must give the person the copy.

**‘Other persons may, by notice, also become bound by a decision under s 52(1)**

‘52F.(1) If a particular person is not already bound by a decision under section 52(1), the chief executive may—

- (a) give the person a copy of the decision and of section 53; 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.

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

‘52G.(1) This section applies to land adjacent to a State-controlled road, if there is no decision in force under section 52(1) for the land.

‘(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 52(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 52(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.

**‘Offences about road access locations and road access works, relating to decisions under s 52(1)**

‘53.(1) This section applies to—

- (a) a person who has been given notice under section 52E or 52F of a decision under section 52(1) about access between a State-controlled road and adjacent land; and
- (b) all present owners of that adjacent land if the decision was made in conjunction with a development approval issued under the *Integrated Planning Act 1997*;<sup>5</sup> and
- (c) all future owners of that adjacent land if—
- (i) the decision was made in conjunction with a development approval issued under the *Integrated Planning Act 1997*; and
- (ii) the approval does not indicate that the decision does not apply to future owners.<sup>6</sup>

‘(2) A person to whom this section applies must not—

<sup>5</sup> For access to approval details, see the *Integrated Planning Act 1997*, section 5.7.4 (Documents assessment manager must keep available for inspection and purchase)

<sup>6</sup> For access to approval details, see the *Integrated Planning Act 1997*, section 5.7.4 (Documents assessment manager must keep available for inspection and purchase)

- (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
- (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 52F.

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

‘54.(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 53.

‘(2) If the chief executive takes steps under subsection (1), because a person contravenes or attempts to contravene section 53, the chief executive may recover from the person as a debt the reasonable costs of taking the steps.

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

‘55. (1) This section applies if a decision under section 52(1) has an effect mentioned in section 56(1) or (2), and section 57 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
- (b) the carrying out, or a contribution towards the carrying out, of other works in relation to the land.

### ‘**Compensation**

‘**56.(1)** This section applies if a decision under section 52(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 52(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 52(1) has the effect of changing in substance the effect of a previous decision in force under section 52(1) about anything mentioned in 52(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 55; or
- (b) the chief executive decides it is not practicable to take action under section 55.

‘(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—

- (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”.’.

### **Amendment of s 57 (Cases where compensation not payable)**

**18.(1)** Section 57(3)—

*omit.*

**(2)** Section 57(4)—

*renumber* as section 57(3).

**(3)** Section 57—

*insert—*

‘(4) Also, the chief executive is not liable to pay compensation for the effect of a decision under section 52(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 a reconfiguration of a lot; and
  - (ii) the development was taken into account in making the decision, and the decision has the effect mentioned in section 56(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 a

reconfiguration of 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 56(1)(b);

(c) if the decision has the effect mentioned in section 56(2).

‘(5) Subsection (4) applies whether or not the application results from action taken under section 52G.

‘(6) For subsection (4)(a) and (b), “development”, “material change of use”, “premises” and “reconfiguration of a lot” have the meaning given by the *Integrated Planning Act 1997*, schedule 10.’.

### **Insertion of new s 57A**

**19.** Chapter 5, part 5, division 2, subdivision 2, after section 57—

*insert—*

### **‘Conditions in development approval under Integrated Planning Act 1997**

‘**57A.** For sections 55 to 57, if—

(a) a development approval under the *Integrated Planning Act 1997* 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 that Act;

a decision, that includes the conditions, is taken to be in force under section 52(1) for the proposed development of the land.’.

<sup>7</sup> *Integrated Planning Act 1997*, schedule 10 (Dictionary)

**Amendment of s 75 (Scope of chapter)**

**20.** Section 75(2)(e)—

*omit, insert—*

‘(e) a cane railway; or’.

**Insertion of new s 84A**

**21.** After section 84—

*insert—*

**‘Annual levy**

‘**84A.(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.

‘**(3)** The chief executive must give the railway manager or railway operator written notice of the amount of a levy.

‘**(4)** The chief executive may recover the amount of a levy as a debt owed to the chief executive.’.

**Amendment of s 104 (Power of authorised person to investigate incident)**

**22.(1)** Section 104(5), ‘breath’—

*omit.*

**(2)** Section 104(6), ‘or examination’—

*omit, insert—*

‘mentioned in subsection (5)’.

**(3)** Section 104—

*insert—*

‘**(6A)** The medical examination mentioned in subsection (5) must take place within a reasonable time after the authorised person forms the reasonable suspicions about the employee under the subsection.’.



(4) Section 104(10), ‘or examination’—

*omit, insert—*

‘mentioned in subsection (5)’.

(5) Section 104—

*insert—*

‘(11) 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.

**“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.’.

### **Omission of ss 105–108**

23. Sections 105 to 108—

*omit.*

### **Amendment of s 181A (Meaning of “miscellaneous transport infrastructure”)**

24. Section 181A(2), before ‘and’—

*insert—*

‘, air transport infrastructure, public marine transport infrastructure’.

**Insertion of new ch 8B**

25. After section 187A—

*insert—*

**‘CHAPTER 8B—PUBLIC MARINE TRANSPORT  
INFRASTRUCTURE**

**‘PART 1—PUBLIC MARINE FACILITIES**

**‘Appointment of manager of public marine facility**

**‘187B.(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.

**‘Manager’s responsibility for maintenance and injuries etc.**

**‘187C.(1)** The manager is responsible for maintaining the public marine facility in good condition to a standard appropriate to its use.

‘(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 section 236;<sup>8</sup> or
  - (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.

#### **‘Management by chief executive**

‘**187D.(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 187B.

‘(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.

‘(3) This section does not limit a power the chief executive has apart from this section.

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<sup>8</sup> Section 236 (Continuation of certain provisions of Harbours Act requiring approval for certain matters)

**‘Management by local government**

**‘187E.** 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.

**‘Management by port authority**

**‘187F.** 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 7 or the *Government Owned Corporations Act 1993*; and
- (b) may exercise its powers, and do anything it considers necessary or convenient for the facility’s effective and efficient management.

**‘Management by another person**

**‘187G.** 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.

**‘Exercise of manager’s powers to be consistent with conditions**

**‘187H.** Anything done by a manager under sections 187D to 187G must be consistent with any conditions imposed on the manager’s appointment.

**‘Fees**

**‘187I.(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,<sup>9</sup> who imposes a fee under this section may recover the fee as a debt owing to the manager.

‘(6) This section does not limit the powers a manager has apart from this section.

### ‘When manager may resign

‘187J. A manager may resign with the consent of the Governor in Council.

### ‘Removal of improvements added by manager

‘187K.(1) If a manager resigns under section 187J 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

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<sup>9</sup> For the recovery of fees payable to the chief executive see section 188.

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.

### **‘Regulation prevails over action taken by a manager under this part**

‘187L.(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.

## **‘PART 2—MANAGEMENT OF WATERWAYS**

### **‘Object of pt 2**

‘187M.(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.

### ‘**Functions of chief executive under pt 2**

‘187N. The chief executive has the following functions under this part—

- (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.

### ‘**Waterway transport management plan**

‘187O.(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.

#### **‘Contents of a waterway transport management plan**

**‘187P.** A waterway transport management plan may provide for a matter mentioned in schedule 1A or a matter about which a regulation may be made.<sup>10</sup>

#### **‘Notice of draft waterway transport management plan**

**‘187Q.(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

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<sup>10</sup> Schedule 1A (Subject matter for waterway transport management plans)



made to the chief executive.

‘(4) The chief executive must consider all submissions made by that day.

### ‘Other laws prevail over waterway transport management plan

‘**187R.(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.’.

### Replacement of s 191 (Disposal of fees, penalties etc.)

26. Section 191—

*omit, insert—*

#### ‘Disposal of fees, penalties etc.

‘**191.(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 8B, 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 *Justices Act 1886*, part 4A<sup>11</sup> concerning a vehicle parking or stopping offence under this Act is to be paid to the GOC.

‘(3) 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 8B is to be paid to the local government.

‘(4) The following amounts are controlled receipts for the purpose of the *Financial Administration and Audit Act 1977*—

<sup>11</sup> *Justices Act 1886*, part 4A (Infringement notices)

- (a) a fee paid to the chief executive under a regulation mentioned in section 187B(3) or 187I(4)(a);<sup>12</sup>
- (b) a levy paid to the chief executive under a regulation mentioned in schedule 1, item 20.

‘(5) Fees under section 187B(3) or levies under schedule 1, item 20 received or recovered by the chief executive are to be retained by the chief executive and not paid into the consolidated fund.

‘(6) Fees or other amounts under section 187I 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.

‘(7) All other fees, penalties and other amounts received or recovered under this Act are to be paid to the consolidated fund.’.

#### **Amendment of s 228 (Continuation of harbours under Harbours Act or port under Port of Brisbane Authority Act etc.)**

27. Section 228(3), ‘1 July’—

*omit, insert—*

‘31 December’.

#### **Amendment of s 232 (Harbours Corporation of Queensland)**

28. Section 232(8), ‘1 July’—

*omit, insert—*

‘31 December’.

#### **Amendment of s 235 (Continuation of certain provisions of Harbours Act about jetties and ramps etc.)**

29. Section 235(5), ‘1 July’—

*omit, insert—*

‘31 December’.

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<sup>12</sup> Section 187B (Appointment of manager of public marine facility) or section 187I (Fees)

**Amendment of s 240 (Application of Acts Interpretation Act, s 20A to this part)**

30. Section 240(2), ‘1 July 2000’—

*omit, insert—*

‘30 June 2001’.

**Insertion of new s 240A**

31. Chapter 10, part 3, after section 240—

*insert—*

**‘Expiries under this part**

‘**240A.** 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.’.

**Replacement of ch 10, pt 4, div 5, hdg**

32. Chapter 10, part 4, division 5, heading—

*omit, insert—*

**‘CHAPTER 11—FURTHER TRANSITIONAL PROVISIONS****‘PART 1—TRANSITIONAL PROVISIONS FOR THE INTEGRATED PLANNING ACT 1997’.****Insertion of new ch 11, pt 2**

33. Chapter 11, after section 262—

*insert—*

**‘PART 2—TRANSITIONAL PROVISIONS FOR THE TRANSPORT LEGISLATION AMENDMENT ACT 2000**

**‘Definitions for pt 2**

‘263. In this part—

“**amendment Act**” means the *Transport Legislation Amendment Act 2000*.

“**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.

**‘Transitional—access-limited roads**

‘264.(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 51.

‘(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.<sup>13</sup>

‘(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 51(3).

**‘Transitional—previous decisions about access**

‘265.(1) A decision under repealed section 52<sup>14</sup> 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 52(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

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<sup>13</sup> Repealed section 51 (Access-limited roads)

<sup>14</sup> Repealed section 52 (Management of access between individual properties and State-controlled roads)

immediately before the commencement of this section, (a **“previous decision”**) is taken from the commencement, with necessary changes, to be a decision under section 52(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.

### **‘Transitional—ancillary works and encroachments**

**‘266.(1)** A reference in a gazette notice to an approval or contract under section 47,<sup>15</sup> 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 47, is taken from the commencement, for sections 55 to 57, to be road access works relating to a permitted road access location under a decision under section 52(1).

### **Insertion of new s 267**

**34.** Chapter 11, part 2 —

*insert—*

### **‘Transitional—wharf or other harbour work**

**‘267.(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<sup>16</sup> immediately before the commencement of this section.

**‘(2)** From the commencement, the person is taken to be appointed under section 187B as the manager of the public marine facility constituted by the harbour work (**“the facility”**).

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<sup>15</sup> Section 47 (Ancillary works and encroachments)

<sup>16</sup> Repealed *Harbours Act 1955*, section 140 (Management of government wharf may be vested in harbour board, etc.)

‘(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 187E 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 continues in force from the commencement until the port authority takes action under section 187F that replaces, or is inconsistent with, the resolution.

‘(5) Despite subsections (3) and (4), an amount that immediately before the commencement was fixed under section 140(4A) of the repealed *Harbours Act 1955* in relation to the facility continues to be fixed from the commencement until a fee is imposed, under section 187I for the facility for any matter.

‘(6) A right, permit or license granted under any of the following by-laws, that was in force immediately before the commencement, is taken from the commencement to be an approval granted by the chief executive as manager of the facility—

- *Bowen Harbour Board By-law 1977*, by-laws 1,2,9 and 10
- *Mooloolaba Boat Harbour By-law 1976*
- *Roslyn Bay Boat Harbour By-law 1980*
- *Snapper Creek and Urangan Boat Harbours By-law 1976*.’.

### **Amendment of sch 1 (Subject matter for regulations)**

**35.(1)** Schedule 1, item 1, ‘access-limited’—

*omit, insert—*

‘limited access’.

**(2)** Schedule 1, item 8—

*omit, insert—*

‘8. Allowing the chief executive to give a fee concession or a full or part refund of a fee or levy.’.

**(3)** Schedule 1—

*insert—*

‘19. 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.

‘20. 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.

‘21. How a levy is to be calculated, the date by which it must be paid, and for the payment of a levy by instalments.

‘22. The suspension or cancellation of an accreditation for non-payment of a levy.

‘23. Protection of, and consequences of damage to, State-owned or State-controlled transport infrastructure, including a State-controlled road, a future State-controlled road and ancillary works and encroachments on them.’.

### **Insertion of new sch 1A**

36. After schedule 1—

*insert—*

## **‘SCHEDULE 1A—SUBJECT MATTER FOR WATERWAY TRANSPORT MANAGEMENT PLANS**

section 187P

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 appointment of authorised persons and their powers.

9. The issue of directions by authorised persons under a waterway transport management plan.

10. 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.’.

### **Amendment of sch 2, hdg (Appeals)**

37.(1) Schedule 2, heading—

*omit, insert—*

#### **‘REVIEWS AND APPEALS’.**

(2) Schedule 2—

*insert—*

‘51(1)	Decision to declare a limited access road	Planning Environment	and
51	Policy for limited access road made , replaced or amended	Planning Environment’.	and

(3) Schedule 2, item for section 54—

*omit.*

### **Amendment of sch 3 (Dictionary)**

38.(1) Schedule 3, definitions “**approved means of access**” and “**sugar tramway**” —



*omit.*

(2) Schedule 3—

*insert—*

“**air transport infrastructure**” includes transport infrastructure relating to aircraft or to the operation of aircraft.

“**cane railway**” means a tramway or railway—

- (a) operated, entirely or partly, on—
  - (i) an easement under the *Sugar Industry Act 1991*, part 11; or
  - (ii) an easement under the *Sugar Milling Rationalisation Act 1991*, part 4; or
  - (iii) 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.

“**maintain**” includes repair.

“**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.

“**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.

*Examples—*

1. An area of land and waters, specified under a regulation, that constitutes a boat harbour.
2. 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.

“**tenure**”, over boat harbour land, means a lease, licence, permit or other authority conferring a right of possession or occupation for the land.

“**water traffic**” includes a hovercraft and a vehicle, person, aircraft or other craft on or in water.

“**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.’.

(3) Schedule 3, definition “**transport infrastructure**”, after ‘port’—  
*insert—*

‘, air, public marine’.

## **PART 4—AMENDMENT OF THE TRANSPORT OPERATIONS (MARINE POLLUTION) ACT 1995**

### **Act amended in pt 4**

**39.** This part amends the *Transport Operations (Marine Pollution) Act 1995*.

### **Amendment of s 2 (Commencement)**

**40.** Section 2(3), ‘2000’—

*omit, insert—*

‘2002’.

### **Insertion of new s 55A**

**41.** Part 8, division 3, after section 55—

*insert—*

**‘Shipboard waste management plan**

‘55A.(1) This section applies to a ship—

- (a) with a gross tonnage of at least 400 tons; or
- (b) designed to sleep at least 15 persons.

‘(2) If the ship does not have on board a shipboard waste management plan, the ship’s owner and master each commit an offence.

Maximum penalty—850 penalty units.

‘(3) If the ship is not fitted with any equipment that may be required to implement the plan, the ship’s owner and master each commit an offence.

Maximum penalty—850 penalty units.

‘(4) A regulation may prescribe minimum requirements for a shipboard waste management plan.’.

**Amendment of s 111 (Definitions for part)**

42. Section 111, definition “**discharge expenses**”, paragraph (a)—

*insert—*

- ‘(v) the exercise of a power by an authorised officer or the chief executive under part 12, division 6 or 7;<sup>17</sup> and’.

**Amendment of s 115 (Claims on security)**

43.(1) Section 115(1), ‘a discharge of a pollutant from a ship into coastal waters’—

*omit, insert—*

‘the detained ship’.

(2) Section 115(2), after ‘State’—

*insert—*

‘jointly and severally by the owner and the master of the ship from which the pollutant was discharged or was likely to be discharged’.

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<sup>17</sup> Part 12, division 6 (Response action to discharge and authorised officer’s emergency powers) or 7 (Power of intervention)

**Amendment of schedule (Dictionary)****44.** Schedule—*insert—*

- ‘**“damage”**, in an express reference to damage to a ship or its equipment, does not include any existing defect in the ship or its equipment resulting from an event, a lack of maintenance or anything else.’.

**PART 5—AMENDMENT OF TRANSPORT OPERATIONS (PASSENGER TRANSPORT) ACT 1994****Act amended in pt 5**

**45.** This part amends the *Transport Operations (Passenger Transport) Act 1994*.

**Amendment of s 14 (Operator accreditation standards)****46.(1)** Section 14(e)—*renumber* as section 14(f).**(2)** Section 14—*insert—*

- ‘(e) the operator’s responsibility to comply with or ensure that a driver complies with an Act, or a provision of an Act, that would promote safety or customer service; and’.

**Insertion of new s 22A****47.** Chapter 3, after section 22—*insert—***‘Operator accreditation is evidence of being the operator**

**‘22A.** In a proceeding for an offence against this Act, evidence that a

person—

- (a) is involved in providing a public passenger service; and
- (b) is accredited to operate the service;

is evidence that the person is the operator of the service.’.

### **Amendment of s 26 (Driver authorisation standards)**

**48.** Section 26—

*insert—*

- ‘(e) require compliance with another Act, or a provision of another Act, that would promote safety or customer service.’.

### **Insertion of new s 29A**

**49.** After section 29—

*insert—*

#### **‘Restricted driver authorisation**

**‘29A.(1)** A regulation may make provision about an operator, who holds operator accreditation to operate a public passenger service, granting on behalf of the chief executive a restricted driver authorisation to authorise a person to operate a public passenger vehicle while, and only while, it is being used by the operator to provide the service.

**‘(2)** Without limiting subsection (1), a regulation may—

- (a) limit the persons to whom restricted driver authorisation may be granted; or
- (b) exclude an operator from granting restricted driver authorisation; or
- (c) provide for restrictions applying to a driver under restricted driver authorisation.’.

### **Amendment of s 39 (Scope of service contracts)**

**50.** Section 39(b) to (d)—

*omit, insert—*

- ‘(b) services for the administration of taxi services; and
- (c) ferry services; and
- (d) long distance scheduled passenger services; and’.

### **Insertion of new s 42A**

**51.** After section 42—

*insert—*

#### **‘Other declarations that service contracts are required**

‘**42A.** A regulation may declare that, on and from a day to be fixed by the chief executive by gazette notice, a service contract will be required to provide a scheduled passenger service that is a ferry service operating in a specified area or on specified route.’.

### **Amendment of 43 (Obligation to hold service contracts)**

**52.** Section 43—

*insert—*

‘(2) A person must not provide a service for which a service contract is required under section 42A unless the person is entitled to provide the service under a service contract.

Maximum penalty—30 penalty units.’.

### **Amendment of s 44 (Term of service contracts)**

**53.** Section 44(3), from ‘the following’—

*omit, insert—*

‘section 47.’.

### **Amendment of s 46 (Review of holder’s performance)**

**54.** Section 46, before subsection (1)—

*insert—*

‘(1A) This section does not apply to a prescribed school service contract or a ferry service contract.’

### **Replacement of s 48 (Transfer or surrender of service contracts)**

**55.** Section 48—

*omit, insert—*

#### **‘Transfer or surrender of service contracts etc.**

‘**48.(1)** The holder of a service contract may, with the chief executive’s approval—

- (a) transfer to another person all the holder’s rights and liabilities in relation to providing future services under the contract; or
- (b) if the contract relates to more than 1 area, route or service, transfer to another person all the holder’s rights and liabilities in relation to providing future services under the contract for 1 or more of the areas, routes or services; or
- (c) surrender the contract.

‘**(2)** On the transfer of rights and liabilities under subsection (1), for all purposes of this Act—

- (a) the transferee becomes the holder of a new service contract consisting of the transferred rights and liabilities for the remaining period of the original contract; and
- (b) the transferor becomes the holder of a new service contract for the balance of the original rights and liabilities under the contract.

*Example—*

If an original service contract is for 2 school service routes, and 1 of the routes is transferred under this section, there are now 2 separate contracts for the purposes of an entitlement to a first opportunity to an offer for a new contract under section 62AC.’

**Omission of s 53 (Special consideration for government funded service contracts for the transport of eligible school children)**

**56.** Section 53—

*omit.*

**Replacement of ch 6, pt 2, div 2, hdg**

**57.** Chapter 6, part 2, division 2, heading—

*omit, insert—*

*‘Division 2—General provisions for service contracts for scheduled service’.*

**Amendment of s 56 (Entitlement of existing operators)**

**58.** Section 56(1)(b), after ‘for’—

*insert—*

‘part or all of’.

**Amendment of s 57 (Entering into a service contract for a scheduled passenger service)**

**59.(1)** Section 57(3)(b)—

*omit, insert—*

‘(b) the holder makes an offer that the chief executive decides is unacceptable under section 59.’.

**(2)** Section 57—

*insert—*

‘**(5)** Despite subsection (3)(b), if—

- (a) the holder makes an offer within the time allowed under subsection (3)(a); and
- (b) the chief executive considers the offer substantially meets the requirements of an offer that would be acceptable under section 59;



the chief executive may defer inviting public offers to allow an opportunity for a contract to be concluded with the holder.’.

### **Amendment of s 60 (Amendments of service contracts)**

**60.(1)** Section 60(2)(a), ‘written’—

*omit.*

**(2)** Section 60(2)(b), ‘action within 28 days.’—

*omit, insert—*

‘action—

- (i) for a prescribed school service contract—within 14 days; or
- (ii) for another service contract—within 28 days.’.

**(3)** Section 60—

*insert—*

‘**(2A)** The notice under subsection (2)(a) must be in writing, unless the service contract is a prescribed school service contract.’.

**(4)** Section 60(4)(a) and (b)—

*omit, insert—*

‘(a) the holder makes no offer—

- (i) for a prescribed school service contract—within 28 days after notice was given under subsection (3); or
- (ii) for another service contract—within 60 days after notice was given under subsection (3); or

(b) the holder makes an offer that the chief executive decides is unacceptable under section 59.

‘**(5)** Despite subsection (4), if—

- (a) the holder makes an offer within the time allowed under subsection (4); and
- (b) the chief executive considers the offer substantially meets the requirements of an offer that would be acceptable under section 59;

the chief executive may defer inviting public offers to allow an opportunity for a contract to be concluded with the holder.’.

### **Amendment of s 62 (Offer of new service contract)**

**61.** Section 62(3), after ‘to it’—

*insert—*

‘or to a prescribed school service contract’.

### **Insertion of new ch 6, pt 2, div 2A**

**62.** After section 62A—

*insert—*

*‘Division 2A—Inviting offers for prescribed school service contracts*

#### **‘Application of div 2A to previous prescribed school service contracts**

**‘62AA.** A reference in this division to a prescribed school service contract that has been entered into with the chief executive includes a contract entered before the commencement of this division.

#### **‘Entitlement of an existing operator providing substantially the same service under a transitional provision**

**‘62AB.(1)** This section applies if—

- (a) an operator is providing a school service for an area or route under a transitional authority; and
- (b) the chief executive proposes to enter into a prescribed school service contract for the same, or substantially the same, area or route.

**‘(2)** The chief executive must give the operator the first opportunity to offer for the contract by giving the operator a notice under subsection (3).

**‘(3)** The notice must invite the operator to make an offer, in a stated way, for the contract within a stated time of not less than 60 days.

‘(4) In this section—

“**transitional authority**” means a contract, licence, or permit mentioned in section 159, 161 or 162.

**‘Entitlement of satisfactorily performing existing operator under a service contract**

‘62AC.(1) This section applies if—

- (a) an operator is providing a school service for an area or route under a prescribed school service contract; and
- (b) the chief executive proposes, at the end of the contract’s term, to enter into a prescribed school service contract for the same, or substantially the same, area or route; and
- (c) no notice has been given to the operator under subsection (4) for the contract.

‘(2) The chief executive must give the operator the first opportunity to offer for the contract by giving the operator a notice under subsection (3).

‘(3) The notice must invite the operator to make an offer, in a stated way, for the contract within a stated period of not less than 60 days.

‘(4) The chief executive may, for this section, decide that a contract holder’s performance under the contract has been unsatisfactory and give the holder written notice of the decision and the reasons for it.

‘(5) This section does not apply to the holder of an existing contract that states that this section does not apply to the contract.

**‘First opportunity to offer may be given to existing operator of school services under a service contract or transitional provision**

‘62AD.(1) This section applies if—

- (a) no operator is entitled under section 62AB or 62AC to a first opportunity to offer for the contract; and
- (b) 1 or more operators are providing school services for a school under a service contract or transitional authority; and
- (c) the chief executive proposes to enter into a prescribed school

service contract for school services for the school.

‘(2) The chief executive may give each operator the first opportunity to offer for the contract by giving a notice under subsection (3) to each operator.

‘(3) The notice must invite the operator to make an offer, in a stated way, for the contract within a stated time of not less than 60 days.

‘(4) In this section—

“**transitional authority**” means a contract, licence, or permit mentioned in section 159, 161 or 162.

**‘When public offer must be invited, and when offers may be invited in another way**

‘**62AE.(1)** This section applies if the chief executive proposes to enter into a prescribed school service contract and—

- (a) no operator is entitled to, or is to be given, the first opportunity to make an offer for the contract under section 62AB, 62AC or 62AD; or
- (b) an operator has been given a notice under section 62AB, 62AC or 62AD inviting the operator to offer for the contract and—
  - (i) the operator fails to make an offer within the time stated in the notice; or
  - (ii) the operator refuses the invitation; or
  - (iii) the operator makes an offer that the chief executive decides is unacceptable under section 59.

‘(2) The chief executive must, by public notice, invite offers from the public, within a stated reasonable time, for a service contract to provide the service.

‘(3) However if—

- (a) an operator makes an offer, within the time stated in a notice given under section 62AB, 62AC or 62AD; and
- (b) the chief executive considers the offer substantially meets the requirements of an offer that would be acceptable under

section 59;

the chief executive may defer inviting public offers to allow an opportunity for a contract to be concluded with the operator.

‘(4) The chief executive may invite offers, other than by public notice under subsection (2), in any way the chief executive considers appropriate, but only if the chief executive has already invited offers from the public under subsection (2).

‘(5) A time allowed to a person, under a notice or otherwise, for making an offer does not prevent the person from making an offer or further offer after that time.

#### **‘Prohibition on making offers to allow first opportunity**

‘**62AF.(1)** This section applies if the chief executive proposes to enter into a prescribed school service contract and 1 or more operators are entitled to, or are to be given, the first opportunity to make an offer for the contract under section 62AB, 62AC or 62AD.

‘(2) The chief executive must not invite anyone else to offer for the contract other than under section 62AE(2) or (4).’.

#### **Amendment of s 74 (Conditions of taxi service licences)**

**63.(1)** Section 74(4), after ‘service’—

*insert—*

‘under a taxi service’.

**(2)** Section 74(4), penalty, after ‘penalty’—

*insert—*

‘for subsection (4)’.

**(3)** Section 74(5)—

*insert as heading—*

#### **‘Notice to be kept in taxi’.**

**(4)** Section 74(5)—

*renumber as section 74AA.*

(5) Section 74(6)—  
*omit.*

### **Insertion of new s 74AB**

**64.** After section 74AA, as renumbered—  
*insert—*

#### **‘Prohibitions on using taxis**

**‘74AB.(1)** The operator of a taxi service must not use a taxi to provide a public passenger service—

- (a) in a taxi service area outside the area stated in the licence for the taxi; or
- (b) in a way that contravenes a restriction to which the licence is subject.

Maximum penalty—40 penalty units.

**‘(2)** The driver of a taxi must not use the taxi to provide a public passenger service—

- (a) in a taxi service area outside the area stated in the licence for the taxi; or
- (b) in a way that contravenes a restriction to which the licence is subject.

Maximum penalty—40 penalty units.

**‘(3)** However, the driver or operator does not contravene subsection (1)(a) or (2)(a) while the taxi is being used—

- (a) to complete a single passenger journey that started within the taxi area stated in the licence; or
- (b) to provide a public passenger service under a contract with a government entity.

*Example of a single passenger journey—*

A passenger is picked up in Brisbane and is taken to Southport. The taxi waits for the passenger at Southport and then takes the passenger to Ipswich and waits again before returning the passenger to Brisbane.

‘(4) In this section—

“government entity” means—

- (a) any State or the Commonwealth; or
- (b) a department, service, agency, authority, commission, corporation, instrumentality, board, office, or other entity, established for a government purpose of any State or the Commonwealth; or
- (c) a part of an entity mentioned in paragraph (b).’.

### **Amendment of s 100 (Direction to comply with standards)**

**65.(1)** Section 100(1)—

*omit, insert—*

‘**100.(1)** If the chief executive considers a person has not complied, or is not complying, with a provision of a standard, the chief executive may give the person a written direction to comply with the standard.

‘(2) If the failure to comply relates to a matter mentioned in subsection (3), the direction may be—

- (a) to comply with the provision in relation to all public passenger vehicles at all times within the next 3 years after the notice is given; or
- (b) to immediately stop failing to comply with the provision, and to comply with the provision in relation to all public passenger vehicles at all times within the next 3 years after the notice is given.

‘(3) The matters are—

- (a) fatigue, or another matter about a driver’s fitness to drive or operate a vehicle; or
- (b) the condition of a vehicle; or
- (c) the safe operation of a vehicle, including overloading and the seating or standing of passengers.

‘(4) If the failure to comply relates to a matter mentioned in subsection (3) or to another matter, the direction may be to comply with the

provision at all times within the 3 year period starting on a stated day in relation to—

- (a) all public passenger vehicles; or
- (b) all public passenger services.

‘(5) The stated day must be at least 5 working days after the day the direction is given.

‘(6) A direction must state—

- (a) each failure to comply with the direction, without a reasonable excuse, is a separate offence; and
- (b) the maximum penalty for each offence; and
- (c) the direction does not relieve the person from the obligation to comply with another provision of this or another Act.’.

(2) Section 100(2)—

*renumber* as section 100(7).

(3) Section 100(7), as renumbered, penalty, ‘for subsection (2)’—  
*omit*.

(4) Section 100—

*insert*—

‘(8) This section does not limit, and is not limited by, another provision of this or another Act.

*Example*—

Noncompliance with a standard may, under a regulation, be made an offence or a ground for cancellation of driver authorisation or operator accreditation.’.

### **Amendment of s 119 (Protection from liability)**

66.(1) Section 119(2), after ‘this Act’—

*insert*—

‘or the *Transport Infrastructure Act 1994*’.

(2) Section 119—

*insert*—



‘(4) For subsection (3)(a), a person is employed by a railway manager or operator if the person is—

- (a) an employee, agent or contractor of the railway manager or operator; or
- (b) an employee of an agent or contractor mentioned in paragraph (a).’.

**Amendment of s 129 (Power to require production of certain documents)**

**67.(1)** Section 129(1), ‘it.’—

*omit, insert—*

‘either or both of the following—

- (a) the accreditation, authorisation, licence or contract;
- (b) photographic identification issued in official form in or outside Australia.’.

**(2)** Section 129(3), ‘the document’—

*omit, insert—*

‘a document mentioned in subsection (1)(a) and produced under subsection (2)’.

**Amendment of s 130 (False or misleading information)**

**68.** Section 130(1)(a) and (b), after ‘authorised person’—

*insert—*

‘, authorised person for a railway’.

**Amendment of s 131 (False, misleading or incomplete documents)**

**69.(1)** Section 131(1) and (2), after ‘authorised person’—

*insert—*

‘, authorised person for a railway’.

(2) Section 131—

*insert—*

‘(4) In this section—

“document” includes a report under this or another Act.’.

### **Replacement of ss 135 and 136**

70. Section 135—

*omit, insert—*

#### **‘Obstructing authorised person or authorised person for a railway**

‘135.(1) A person must not obstruct an authorised person or an authorised person for a railway (an “official”) 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 an official under subsection (1) and the official decides to exercise the power, the official must, if practicable, warn the person—

- (a) that the official considers the person’s conduct is obstructing the official; and
- (b) that it is an offence to obstruct the official, unless the person has a reasonable excuse.

#### **‘Impersonating authorised person or authorised person for a railway**

‘136. A person must not pretend to be an authorised person or an authorised person for a railway.

Maximum penalty—80 penalty units.’.

### **Amendment of s 140 (Power to require person to leave train etc.)**

71. Section 140(1)(a), ‘146;5’—

*omit, insert—*

‘144 or 146;<sup>18</sup>’.

### **Insertion of new ch 11A**

72. After section 143A—

*insert—*

## **‘CHAPTER 11A—FARE EVASION AND OTHER MISCONDUCT ON VEHICLES OTHER THAN TRAINS**

### **‘Application of ch 11A**

‘143AB. This chapter applies to public passenger vehicles other than trains.

### **‘Definitions for ch 11A**

‘143AC. In this chapter—

“**driver**”, of a vehicle, includes a conductor on or near the vehicle who is operating in relation to the vehicle.

“**fare**”, for a taxi, includes a charge a taxi driver may charge under a regulation for cleaning a taxi soiled by the passenger.

“**over-travel**”, a fare, means remain on the vehicle after the place, distance or time covered by the fare has been reached.

### **‘Fare evasion and obtaining hire of vehicle by fraud etc.**

‘143AD.(1) A passenger on a public passenger vehicle must not evade or attempt to evade part or all of the lawful fare for the vehicle’s use or hire.

Maximum penalty—40 penalty units or 6 months imprisonment.

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<sup>18</sup> *Transport Infrastructure Act 1994*, section 144 (Interfering with railway) or 146 (Trespassing on railway)

‘(2) A person must not obtain or attempt to obtain the use or hire of a public passenger vehicle by fraud or misrepresentation.

Maximum penalty—40 penalty units or 6 months imprisonment.

#### **‘Vehicle and equipment not to be interfered with**

‘143AE.(1) A person must not wilfully and unlawfully interfere with a public passenger vehicle.

Maximum penalty—40 penalty units or 6 months imprisonment.

‘(2) In this section—

“**interfere with**” means damage, deface or otherwise improperly interfere.

“**vehicle**” includes the vehicle’s equipment.

#### **‘Creating disturbance or nuisance on vehicle**

‘143AF. A person must not create a disturbance or nuisance while on a public passenger vehicle, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units or 6 months imprisonment.

#### **‘Direction to leave, or not to enter, vehicle**

‘143AG.(1) This section applies if the driver of a public passenger vehicle or an authorised person believes, on reasonable grounds that a person who is on, or about to enter, a public passenger vehicle—

- (a) is causing, or is likely to cause, a nuisance or annoyance to the driver or passengers on the vehicle; or
- (b) is causing, or is likely to cause, a danger to the person or others; or
- (c) is contravening, or has just contravened, section 143AE in relation to the vehicle; or
- (d) has evaded or attempted to evade payment of the required fare for using or hiring the vehicle.

‘(2) The driver or an authorised person may direct the person to leave, or not to enter, the vehicle.

**‘Direction to leave vehicle**

**‘143AH.(1)** If a person on a public passenger vehicle has paid a fare for travel on the vehicle but over-travels the fare paid, the driver or an authorised person may direct the person to leave the vehicle.

**‘(2)** If a person is on a public passenger vehicle that is hired by someone else, without the hirer’s permission, the driver or an authorised person may direct the person to leave the vehicle.

**‘(3)** If—

- (a) a person is about to enter, or has just entered, a public passenger vehicle, or a compartment of a public passenger vehicle, that appears already to have its full complement of passengers; and
- (b) the driver or an authorised person tells the person, in a general way, that the vehicle or compartment is full and that the person can not board the vehicle or compartment or remain on the vehicle or in the compartment; and
- (c) the person fails to leave the vehicle or compartment;

the driver or an authorised person may direct the person to leave the vehicle or compartment.

**‘Direction not to be given in particular circumstances**

**‘143AI.** A driver or authorised person must not give a direction under this part—

- (a) if complying with the direction is likely to endanger the safety of a person; or
- (b) if the direction is given to a school child and is inconsistent with a code of conduct prescribed under a regulation.

Maximum penalty—5 penalty units.

**‘Person given direction to be told particular things**

**‘143AJ.** The person giving a direction under this part must tell, in a general way, the person to whom the direction is given—

- (a) the reason that the person has been directed to leave the vehicle;

and

- (b) that it is an offence to fail to comply with the direction, unless the person has a reasonable excuse.

*Example of paragraph (a)—*

The reason is that you are being a nuisance to other passengers.

### **‘Offence to contravene direction**

**‘143AK.** A person must not contravene a direction given to the person under section 143AG or 143AH, unless the person has a reasonable excuse.

Maximum penalty—5 penalty units.

### **Insertion of new s 154A**

**73.** After section 154—

*insert—*

### **‘Direction to pay operator the penalty recovered for fare evasion etc.**

**‘154A.(1).** This section applies to an offence or alleged offence under this Act in relation to a fare, ticket or ticket concession for a public passenger service.

**‘(2)** The court may direct that part or all of a fine or penalty recovered for an offence to which this section applies be paid to a stated person aggrieved by the commission of the offence.

**‘(3)** The chief executive may direct that part or all of the penalties paid under infringement notices for alleged offences to which this section applies be paid to the operator providing the public passenger service.

**‘(4)** While the direction under subsection (3) remains in force, penalties recovered under the infringement notices are to be paid in accordance with the direction.’.

### **Amendment of s 161 (Arrangements for school transport—fixed term contracts)**

**74.** Section 161—

*insert—*



- (c) a limousine service;
- (d) an unscheduled long distance passenger service.

**“infringement notice”** means an infringement notice under the *Justices Act 1886*, part 4A or the *State Penalties Enforcement Act 1999*, part 3.

**“prescribed school service contract”** means a service contract—

- (a) to provide a service for which no declaration has been made under section 42;<sup>19</sup> and
- (b) that is, or is part of, an arrangement under section 144.<sup>20</sup>

**“restricted driver authorisation”** means driver authorisation that is restricted under section 29A.

**“unscheduled long distance passenger service”** means a pre-booked public passenger service by road—

- (a) that is unscheduled; and
- (b) by which all passengers on the service are carried on a journey of at least 40 km to a general destination that has been predetermined by the operator of the service; and
- (c) no passenger’s journey is entirely within—
  - (i) a single service contract area or route, other than for a service for the administration of taxi services; or
  - (ii) a single taxi service area.’.

(3) Schedule 3, definition **“public passenger service”**, before ‘but does not’—

*insert—*

‘and includes a driver service and a service for the administration of taxi services’.

<sup>19</sup> Section 42 (Declaration that service contract are required)

<sup>20</sup> Section 144 (Transport arrangements for pupils)



**PART 6—AMENDMENT OF TRANSPORT  
OPERATIONS (ROAD USE MANAGEMENT) ACT  
1995**

**Act amended in schedule**

**78.** The schedule amends the *Transport Operations (Road Use Management) Act 1995*.

**PART 7—REPEAL OF SEA CARRIAGE OF GOODS  
(STATE) ACT 1930**

**Repeal**

**79.** The *Sea Carriage of Goods (State) Act 1930* is repealed.

**SCHEDULE****MINOR AMENDMENTS OF TRANSPORT  
OPERATIONS (ROAD USE MANAGEMENT) ACT  
1995**

section 78

**1. Section 36(1), after ‘owner’—***insert—*

‘or registered operator’.

**2. Section 37(1), after ‘owner’—***insert—*

‘, registered operator’.

**3. Section 37(3), after ‘owner’—***insert—*

‘or registered operator’.

**4. Section 57B(3), definition “influencing person”, after ‘owner’—***insert—*

‘or registered operator’.

**5. Section 60(2)(d), ‘registered as the owner’—***omit, insert—*

‘recorded as the registered operator’.

## SCHEDULE (continued)

**6. Section 63(2), from ‘person’—**

*omit, insert—*

‘following person—

- (a) if the thing is a vehicle that has a registered operator—the registered operator;
- (b) if the thing is anything else—the person who appears to be its owner.’.

**7. Section 87(5)(d)(iv)—**

*omit.*

**8. Section 87(5)—**

*insert—*

‘(da) if the disqualification for which the application is made resulted from the applicant’s conviction for an offence against section 79(2A), (2B), (2D) or (2J);

(db) if—

- (i) the disqualification for which the application is made resulted from the applicant’s conviction for an offence against section 79(2); and
- (ii) the applicant is a person to whom section 79(2A), (2B), (2D) or (2J) would have applied apart from the fact that the concentration of alcohol in the person’s blood equalled or exceeded 50 mg of alcohol per 100 mL of blood;’.

**9. Section 87(5B)—**

*insert—*

‘(d) a suspension under section 79(9); or

(e) a 24 hour suspension under section 80(22AA).’.

## SCHEDULE (continued)

**10. Section 146(1)(i), after ‘owners’—***insert—*

‘or registered operators’.

**11. Section 147(1)(a)(ix), after ‘owners’—***insert—*

‘or registered operators’.

**12. Section 148, paragraph (b)(i), example, ‘ownership of the vehicle is otherwise’—***omit, insert—*

‘the registration is’.

**13. Section 165(1), after ‘owner’—***insert—*

‘or registered operator’.

**14. Section 170(1) and (2), ‘the owner’—***omit, insert—*

‘the registered operator’.

**15. Section 170(1), ‘an owner’—***omit, insert—*

‘a registered operator’.

**16. Section 170(1), ‘owner’s’—***omit, insert—*

‘registered operator’s’.

## SCHEDULE (continued)

**17. Section 170(3), ‘owner’—**

*omit, insert—*

‘operator’.

**18. Section 186, definition “Traffic Act”, ‘repealed’—**

*omit.*

**19. After section 193—**

*insert—*

**‘Wheeled recreational devices and wheeled toys**

**‘194.(1)** To remove doubt, it is declared that a wheeled recreational device, pedal car, scooter, tricycle or similar toy is, and always has been, a vehicle within the meaning of the definition **“vehicle”** in schedule 4.

**‘(2)** Subsection (1) is not effective to impose criminal liability retrospectively.’.

**20. Schedule 4, dictionary—**

*insert—*

**‘ “registered operator”** means a person—

- (a) in whose name the vehicle is registered under a transport Act or a corresponding law; or
- (b) who has given notice to the chief executive for the purpose of having the vehicle registered in the person’s name under a transport Act.

**“wheeled recreational device”** means a wheeled device, built to transport a person, propelled by human power or gravity, and ordinarily used for recreation or play, and—

- (a) includes rollerblades, rollerskates, a skateboard or similar wheeled device; but

## SCHEDULE (continued)

- (b) does not include a golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy.

**“wheeled toy”** means a child’s pedal car, scooter or tricycle or a similar toy, but only when it is being used by a child who is under 12 years old.’.