



Queensland

Transport Operations (Passenger Transport) and Other Legislation Amendment Act 2012

Act No. 31 of 2012



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Queensland

Transport Operations (Passenger Transport) and Other Legislation Amendment Act 2012

Act No. 31 of 2012

An Act to repeal the Transport Operations (TransLink Transit Authority) Act 2008, to amend the Transport Operations (Passenger Transport) Act 1994 and to make consequential or minor amendments of other Acts mentioned in the schedule, for particular purposes

[Assented to 8 November 2012]

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Transport Operations (Passenger Transport) and Other Legislation Amendment Act 2012*.

2 Commencement

The following provisions commence on a day to be fixed by proclamation—

- (a) sections 4, 5, 7 to 9, 11 to 17, 29, 30 and 31(2) and (4);
- (b) parts 3 and 4;
- (c) schedule.

Part 2 Amendment of Transport Operations (Passenger Transport) Act 1994

3 Act amended

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

Note—

See also the amendments in the schedule.

4 Amendment of s 6 (Contents of passenger transport strategies)

Section 6(4)—

omit, insert—

- ‘(4) If there is an integrated regional transport plan under the *Transport Planning and Coordination Act 1994* for an area, the passenger transport strategies for the area must not be inconsistent with, and must give effect to, the plan.’

5 Amendment of s 43 (Obligation to hold service contracts)

- (1) Section 43(1)(a) and (b)—

omit, insert—

- ‘(a) a service contract; or
(b) a written agreement with the chief executive; or
(c) with the chief executive’s approval, a written agreement with the holder of a service contract.’

- (2) Section 43(1), penalty, paragraph (b), ‘TransLink area’—

omit, insert—

‘integrated mass transit area’.

- (3) Section 43(2), words before paragraph (a)—

omit, insert—

‘For a service contract area or route that is not in the integrated mass transit area, a written agreement with the chief executive mentioned in subsection (1)(b) may be made only if—’.

6 Amendment of s 48C (Term of emergency service contract)

Section 48C(2), ‘6 months’—

omit, insert—

‘12 months’.

[s 7]

7 Amendment of s 52 (Approval of basis for funding or other financial assistance by State)

Section 52(3)(a), ‘, other than a service contract for the TransLink area,’—

omit.

8 Insertion of new s 62AAA

Chapter 6, part 2, division 2AA, before section 62AAB—

insert—

‘62AAA What is the *integrated mass transit area*

‘(1) The *integrated mass transit area* is—

- (a) the service contract areas or routes mentioned in schedule 1B; and
- (b) another service contract area or route in the SEQ area, as prescribed under a regulation.

‘(2) In this section—

SEQ area means the combined local government areas of the following local governments under the *Local Government Act 1993* as that Act was in force immediately before 15 March 2008—

- (a) the cities of Brisbane, Caloundra, Gold Coast, Ipswich, Logan, Redcliffe and Toowoomba;
- (b) the shires of Beaudesert, Boonah, Caboolture, Esk, Gatton, Kilcoy, Laidley, Maroochy, Noosa, Pine Rivers and Redland.’.

9 Amendment of s 62AAC (What is a TransLink service contract)

(1) Section 62AAC, heading, ‘a TransLink service contract’—

omit, insert—

‘an *integrated mass transit service contract*’.

(2) Section 62AAC(1), words before paragraph (a)—

omit, insert—

‘An *integrated mass transit service contract* is a service contract for a general route service in the integrated mass transit area, under which contract’.

(3) Section 62AAC(2), ‘A TransLink’—

omit, insert—

‘An integrated mass transit’.

10 Amendment of s 62AAG (Service contract for amended service contract area or route)

Section 62AAG(6), definition *specified kind*, ‘42A’—

omit, insert—

‘42’.

11 Omission of ch 6, pt 4, div 1 (Special events in TransLink area)

Chapter 6, part 4, division 1—

omit.

12 Omission of ch 6, pt 4, div 2, hdg (Special events in non-TransLink area)

Chapter 6, part 4, division 2, heading—

omit.

13 Insertion of new s 67B

Chapter 6, part 4—

insert—

‘67B Definition for pt 4

‘In this part—

[s 14]

non-integrated mass transit area means an area other than the integrated mass transit area.’.

14 Amendment and renumbering of s 67F (Declaration of special event)

- (1) Section 67F(1), ‘in a non-TransLink area’—
omit.
- (2) Section 67F(4), from ‘generally’—
omit, insert—
‘generally—
 - (a) if the event or events the subject of the declaration are to be carried out in the integrated mass transit area—in the integrated mass transit area; or
 - (b) otherwise—in the non-integrated mass transit area.’.
- (3) Section 67F(5), ‘circulating in the non-TransLink area.’—
omit, insert—
‘circulating—
 - (a) if the event or events the subject of the declaration are to be carried out in the integrated mass transit area—in the integrated mass transit area; or
 - (b) otherwise—in the non-integrated mass transit area.’.
- (4) Section 67F—
renumber as section 67C.

15 Amendment and renumbering of s 67G (Coordination power for scheduled passenger services to special events)

- (1) Section 67G, ‘in a non-TransLink area’—
omit.
- (2) Section 67G—

renumber as section 67D.

16 Amendment and renumbering of s 67H (Chief executive's approval required for special event services)

(1) Section 67H(1), 'in a non-TransLink area'—

omit.

(2) Section 67H(1), note—

omit.

(3) Section 67H—

renumber as section 67E.

17 Amendment and renumbering of s 67I (Special event approvals)

(1) Section 67I(1), '67H(1)'—

omit, insert—

'67E(1)'.

(2) Section 67I(2), 'circulating in the non-TransLink area.'—

omit, insert—

'circulating—

(a) if a special event the subject of the approval is to be carried out in the integrated mass transit area—in the integrated mass transit area; or

(b) otherwise—in the non-integrated mass transit area.'.

(3) Section 67I—

renumber as section 67F.

18 Insertion of new s 74AC

After section 74AB—

insert—

[s 19]

‘74AC Fitting or using taximeter prohibited

- ‘(1) The operator of a public passenger service must not equip a vehicle that is used, or intended to be used, to provide the service, other than a taxi, with a taximeter or a similar instrument.

Maximum penalty—160 penalty units.

- ‘(2) The operator of a public passenger service must not require or allow the driver of a vehicle being used to provide the service, other than a taxi, to use a taximeter or a similar instrument to calculate, during or after a journey, the amount of the fare for hiring the vehicle for the journey.

Maximum penalty—160 penalty units.

- ‘(3) This section does not apply to the operator of a cross-border taxi service.

- ‘(4) In this section—

hiring a vehicle, for a journey, includes hiring a vehicle for the journey, hiring a driver for the journey or hiring both a vehicle and a driver for the journey.

similar instrument means an instrument designed to calculate the amount of a fare for hiring a vehicle for a journey during or after the journey by reference to the time or distance travelled or another matter relating to the journey.’

19 Amendment of s 129E (Period of detention)

- (1) Section 129E(1), ‘to arrange for the delivery of the person to a police officer’—

omit, insert—

‘in relation to the detention of the person’.

- (2) Section 129E(2)—

omit.

- (3) Section 129E(4), ‘or (3)’—

omit.

-
- (4) Section 129E(4), examples, ‘(4)’—
omit, insert—
‘(3)’.
- (5) Section 129E(3) to (5)—
renumber as section 129E(2) to (4).

20 Replacement of s 129G (Written report to be given to police officer)

Section 129G—
omit, insert—

‘129G Written report to be given to police officer

- ‘(1) This section applies if a police officer takes a person detained by a transit officer under this part into the police officer’s custody.
- ‘(2) The transit officer must give a written report for the detention to the police officer when, or immediately after, the police officer takes the person into the police officer’s custody.’.

21 Amendment of s 129I (Requirements for written report given under this division)

- (1) Section 129I(2)(j)—
omit, insert—
- ‘(j) if the detained person is detained until a police officer arrives to deal with the person under section 129E—
- (i) the name and rank of the police officer; and
 - (ii) when the police officer arrived to deal with the detained person; and
 - (iii) if the police officer took the detained person into the police officer’s custody—when the police officer took the detained person into the police officer’s custody;’.

[s 22]

- (2) Section 129I(2)(k)(ii), ‘and’—
omit.

22 Amendment of s 129L (Responsible person to be notified of detention)

- (1) Section 129L(1)(a)—
omit, insert—

- ‘(a) under this part, a transit officer is detaining a person at a place until a police officer arrives; and
(aa) the detained person is a child or a person with impaired capacity; and’.

- (2) Section 129L(1)(aa) and (b)—
renumber as 129L(1)(b) and (c).

- (3) Section 129L(2)—
omit, insert—

- ‘(2) The transit officer must, as soon as practicable, advise the responsible person for the child or person of the detention and the place where the child or person is being detained.’.

23 Amendment of s 129ZL (Application for a civil banning order)

- (1) Section 129ZL(1)(c), after ‘or (2)’—
insert—

‘(a) to (f)’.

- (2) Section 129ZL—
insert—

- ‘(1A) The application must state that, if the respondent would like the court hearing the application to consider a matter mentioned in section 129ZO(2)(g) to (i), the respondent must provide information about the matter to the court.’.

- (3) Section 129ZL(1A) to (3)—
renumber as 129ZL(2) to (4).

24 Amendment of s 129ZO (Making a civil banning order)

- (1) Section 129ZO, ‘, part 3’—
omit.
- (2) Section 129ZO(1)(a)—
omit, insert—
‘(a) either—
- (i) within 12 months before the date of the application for the civil banning order, the respondent committed a relevant act of violence; or
 - (ii) within any 12-month period occurring in the 2 years before the date of the application for the civil banning order, the respondent was served 10 or more infringement notices for a relevant offence or relevant offences; and’.
- (3) Section 129ZO(7), definition *dealt with*, paragraph (d)—
omit, insert—
‘(d) an order has been made against the respondent for the relevant offence under section 38 of that Act.’.

25 Amendment of s 129ZS (Orders must be explained)

- (1) Section 129ZS, heading, after ‘must be’—
insert—
‘**served and**’.
- (2) Section 129ZS, before subsection (1)—
insert—
‘(1A) If a court makes a civil banning order or interim civil banning order for a respondent, the order must be served on the respondent.’.

[s 26]

- (3) Section 129ZS(1), '(2)'—
omit, insert—
'(3)'.
- (4) Section 129ZS(1) and (3), after 'a respondent'—
insert—
'or a legal or other representative of the respondent'.
- (5) Section 129ZS(3), '(4)'—
omit, insert—
'(5)'.
- (6) Section 129ZS(5), '(2) or (4)'—
omit, insert—
'(3) or (5)'.
- (7) Section 129ZS(1A) to (6)—
renumber as section 129ZS(1) to (7).

26 Omission of s 129ZT (Civil banning order to be given to interested persons)

Section 129ZT—
omit.

27 Amendment of s 143AHB (Power to require person to leave or not enter public transport infrastructure if person contravening exclusion order)

- (1) Section 143AHB, heading, 'exclusion'—
omit.
- (2) Section 143AHB(1), after 'an exclusion order'—
insert—
'or a civil banning order'.
- (3) Section 143AHB(3), from 'mentioned in'—

omit, insert—

‘for contravening the order.’.

(4) Section 143AHB—

insert—

- ‘(4) For subsection (3), a person has a reasonable excuse for contravening the order if—
- (a) for an exclusion order—the person has a reasonable excuse mentioned in section 129ZG(2); or
 - (b) for a civil banning order—the person has a reasonable excuse mentioned in section 129ZZ(2).’.

28 Insertion of new ch 13, pt 13

Chapter 13—

insert—

‘Part 13

Transitional and declaratory provisions for Transport Operations (Passenger Transport) and Other Legislation Amendment Act 2012

‘193 Definitions for pt 13

‘In this part—

repealed Act means the *Transport Operations (TransLink Transit Authority) Act 2008*.

transfer day means the day on which the *Transport Operations (Passenger Transport) and Other Legislation Amendment Act 2012*, section 32 commences.

TransLink means either of the following entities established under the repealed Act—

[s 29]

- (a) the TransLink Transit Authority;
- (b) the TransLink Transit Authority Employing Office.

‘194 Declaratory provision for s 62AAG(6)

‘It is declared that section 62AAG(6), definition *specified kind*, as inserted in this Act by the *Transport Operations (TransLink Transit Authority) Act 2008*, section 93, is taken always to have referred to section 42.’

29 Insertion of new ss 195 to 202

After section 194—

insert—

‘195 Novation of TransLink contracts to the State

- ‘(1) This section applies to a contract—
 - (a) to which, immediately before the transfer day, TransLink is a party; and
 - (b) that is not a service contract, work performance arrangement or contract of employment.
- ‘(2) The following apply despite any provision of the contract—
 - (a) the State is taken to be a party to the contract instead of TransLink;
 - (b) the State assumes TransLink’s liabilities and rights under the contract;
 - (c) a reference in the contract to TransLink is taken to be a reference to the State;
 - (d) changes to the contract that are necessary for, or incidental to, the matters in paragraphs (a) to (c) are taken to have been made.
- ‘(3) Subsection (2), or any thing done under it, does not—
 - (a) discharge or otherwise affect the contract or the performance of the contract by another party to it; or

-
- (b) fulfil a condition allowing a person to terminate the contract or be released, wholly or partly, from the contract or a liability under it.
- ‘(4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to any matter under subsection (2)—
- (a) the advice is taken to have been obtained; and
 - (b) the consent or notice is taken to have been given.
- ‘(5) In this section—
- contract* includes a deed or other instrument, whether or not for consideration.

‘196 Existing service contracts not affected

- ‘(1) To remove any doubt, it is declared that, subject to subsection (2), the repeal of the repealed Act does not, of itself, alter or in any way affect a service contract.
- ‘(2) A service contract that, immediately before the transfer day, was a TransLink service contract is taken to be an integrated mass transit service contract.
- ‘(3) In this section—
- TransLink service contract* see section 62AAC as in force immediately before the transfer day.

‘197 Transfer of TransLink assets and liabilities to the State

- ‘(1) At the beginning of the day on the transfer day—
- (a) TransLink is divested of all TransLink assets and released from all TransLink liabilities; and
 - (b) TransLink assets become the assets of the State; and
 - (c) TransLink liabilities are assumed by the State.
- ‘(2) This section does not limit or otherwise affect section 195(2)(b).

[s 29]

‘(3) In this section—

TransLink asset means an asset that, immediately before the transfer day, is an asset of TransLink.

TransLink liability means a liability that, immediately before the transfer day, is a liability of TransLink.

‘198 Successor in law

‘(1) The State is the successor in law of TransLink.

‘(2) Without limiting subsection (1), proceedings by or against TransLink, or that could have been started by or against TransLink before the transfer day, may be continued or started by or against the State.

‘199 Registration of transferred assets

‘(1) This section applies to the registrar of titles or other person responsible for keeping a register for dealings about an asset that, under section 197(1)(b), becomes an asset of the State.

‘(2) The registrar or person must, if asked by the State in the appropriate form, and on payment of any fee, record a transfer of the asset to the State.

‘(3) In this section—

registrar of titles means a public official or authority responsible for registering title to land and dealings affecting land.

‘200 References to former body known as TransLink

‘(1) A reference in a document to TransLink is, if the context permits, taken to be a reference to the State.

‘(2) This section does not apply to an industrial instrument.

‘201 Preservation of rights of employees

- ‘(1) An employee of TransLink, other than the chief executive officer of TransLink, is transferred to the department.
- ‘(2) On the transfer mentioned in subsection (1)—
- (a) the employee retains and is entitled to all rights that have accrued to the employee because of the person’s employment with TransLink; and
 - (b) the employee’s service as an employee of TransLink is taken to be service of a like nature in the public service for deciding the employee’s rights as a public service employee; and
 - (c) the employee’s continuity of service is not broken.

‘202 Special event declarations

- ‘(1) A special event declaration made under the previous declaration provisions and in effect immediately before the transfer day has effect from the transfer day as if it were a declaration made under section 67C.
- ‘(2) A written approval given under the previous approval provisions and in effect before the transfer day has effect from the transfer day as if it were the chief executive’s written approval given under section 67E.
- ‘(3) In this section—

previous approval provisions means sections 67D and 67H as in force before the transfer day.

previous declaration provisions means sections 67B and 67F as in force before the transfer day.’.

30 Insertion of new sch 1B

After schedule 1A—

insert—

[s 30]

‘Schedule 1B Integrated mass transit area

section 62AAA

- Arana Hills, Albany Creek and Dayboro–Petrie service contract area/route
- Bribie Island and Bribie Island–Caboolture service contract area/route
- Brisbane service contract area/route
- Burbank/McKenzie service contract area/route
- Caboolture service contract area/route
- Camira/Springfield and Wacol Railway Station to Inala Plaza via Carole Park, Ellengrove, Forest Lake and Doolandalla service contract area/route
- Cleveland/Redland Bay service contract area/route
- Dakabin/Mango Hill (North Lakes) service contract area
- Deception Bay/Narangba service contract area/route
- Gold Coast service contract area
- Gold Coast–Coomera service contract area
- Ipswich/Goodna service contract area
- Logan service contract area
- Park Ridge and Beaudesert–Brisbane service contract area/route
- Ormeau–Beenleigh service contract route
- Redcliffe, Kallangur, Petrie and Redcliffe–Brisbane service contract area/route
- Samford Valley–Ferny Grove service contract route
- Strathpine and Murrumba Downs service contract area/route

- Sunshine Coast service contract area
- Sunshine Coast service contract area no. 2’.

31 Amendment of sch 3 (Dictionary)

- (1) Schedule 3, definition *public transport infrastructure*—
omit.
- (2) Schedule 3, definitions *non-TransLink area*, *special event*, *TransLink*, *TransLink area* and *TransLink service contract*—
omit.
- (3) Schedule 3—
insert—

‘cross-border taxi rank means a taxi rank identified, by a sign erected or placed by the chief executive at the taxi rank, as a taxi rank where a NSW taxi can ply or stand for hire by a person intending to make a journey to New South Wales.

cross-border taxi service means a taxi service that is provided—

- (a) by using a NSW taxi; and
- (b) for only 1 or more of the following journeys—
 - (i) a journey that starts in New South Wales and ends in Queensland;
 - (ii) a journey that starts at a cross-border taxi rank and ends in New South Wales and is not pre-booked;
 - (iii) a single passenger journey that starts and ends in New South Wales.

Example of a single passenger journey—

A passenger is picked up in Tweed Heads and is taken to Coolangatta. The taxi waits for the passenger at Coolangatta and then takes the passenger to Kirra and waits again before returning the passenger to Tweed Heads.

[s 31]

NSW taxi means a motor vehicle licensed as a taxi-cab under the *Passenger Transport Act 1990* (NSW), part 4, division 4.

public transport infrastructure means any of the following—

- (a) a railway;
- (b) a train or other passenger vehicle being operated by a railway manager or railway operator;
- (c) a light rail;
- (d) a light rail vehicle or other public passenger vehicle being operated by a light rail manager, or light rail operator, for a light rail;
- (e) a bus or other motor vehicle being used for a general route service;
- (f) a busway as defined under the *Transport Infrastructure Act 1994*;
- (g) a ferry being used for a general route service;
- (h) a station, platform or other structure or place for the taking on and letting off of passengers of a vehicle mentioned in paragraph (b), (d), (e) or (g), including the following—
 - (i) a railway station or platform;
 - (ii) a light rail station or platform;
 - (iii) facilities for passengers to interchange between the same or different modes of transport;

Examples—

- Cannon Hill bus interchange
 - Roma Street busway/railway interchange
- (iv) a bus station;
 - (v) a bus stop, including the area in the immediate vicinity of the bus stop;
 - (vi) a jetty or other structure at which a ferry makes a scheduled stop for a ferry service, and any associated structure;

- (vii) landscaping associated with a station, platform or other structure or place;
- (i) car parking and set down facilities for intending passengers of a vehicle mentioned in paragraph (b), (d), (e) or (g), including the following—
 - (i) a car park under the control of a railway manager or railway operator;
 - (ii) a car park under the control of a light rail manager, or light rail operator;
 - (iii) a car park associated with a busway;
- (j) any other structure or facilities for the use or convenience of passengers of a vehicle mentioned in paragraph (b), (d), (e) or (g).

Examples of other structures or facilities—

overhead or underground walkways between railway platforms, footpaths, seating, ticketing machines, public toilets, signage

taximeter means an instrument that is designed—

- (a) to record fares for individual and multiple hiring of a taxi; and
 - (b) to show the fare for each hiring.’.
- (4) Schedule 3—

insert—

‘integrated mass transit area see section 62AAA.

integrated mass transit service contract see section 62AAC.

non-integrated mass transit area, for chapter 6, part 4, see section 67B.

special event, for chapter 6, part 4, means an event the subject of a declaration under section 67C.’.

[s 32]

Part 3 Repeal

32 Repeal

The Transport Operations (TransLink Transit Authority) Act 2008, No. 32 is repealed.

Part 4 Minor and consequential amendments

33 Acts amended

The schedule amends the Acts it mentions.

Schedule	Acts amended
-----------------	---------------------

section 33

Integrity Act 2009

- 1 Schedule 1, entry for the chief executive officer of the TransLink Transit Authority—**

omit.

Public Service Act 2008

- 1 Schedule 1, entry for the TransLink Transit Authority Employing Office—**

omit.

Transport Infrastructure Act 1994

- 1 Section 6(4)—**

omit, insert—

‘(4) If there is an integrated regional transport plan under the *Transport Planning and Coordination Act 1994* for an area, the transport infrastructure strategies for the area must not be inconsistent with, and must give effect to, the plan.’

- 2 Section 20(1), ‘and any network plan under the *Transport Operations (TransLink Transit Authority) Act 2008*’—**

omit.

Transport Operations (Passenger Transport) Act 1994

1 Section 26, editor's note, 'Editor's note'—

omit, insert—

'Note'.

2 Amendment of various sections

Each of the following provisions is amended by omitting 'a TransLink service contract' and inserting 'an integrated mass transit service contract'—

- section 46(1B) and (7A)
- section 51(2)
- section 62AACA, heading, (1)(b) and (4)
- section 62AAD(1)(a)
- section 62AAE(1)(a), (1)(b) and (2)
- section 62AAF
- section 62AAG(1)(b), (4) and (6) definition *affected operator*, paragraph (a)
- section 62AAH(1)(b)
- section 62AAI(1) and (3)(a).

3 Amendment of various sections

Each of the following provisions is amended by omitting 'TransLink service contracts' and inserting 'integrated mass transit service contracts'—

- section 54A
- section 62AACA(2)(b)
- section 62AAD(3)
- section 62AAE, heading
- section 62AAG(2)(b)

- section 62AAI(2)(a).

4 Chapter 6, part 2, division 2AA, heading, ‘TransLink’—

omit, insert—

‘Integrated mass transit’.

5 Section 62AAD, heading, ‘TransLink’—

omit, insert—

‘integrated mass transit’.

6 Section 62AAD, ‘new TransLink’—

omit, insert—

‘new integrated mass transit’.

7 Section 62AAF, heading, ‘TransLink’—

omit, insert—

‘integrated mass transit’.

8 Section 62AAI, heading, ‘TransLink’—

omit, insert—

‘integrated mass transit’.

9 Section 62AAI, ‘the TransLink’—

omit, insert—

‘the integrated mass transit’.

Transport Operations (Road Use Management) Act 1995

1 Section 8(4)—

omit, insert—

- ‘(4) If there is an integrated regional transport plan under the *Transport Planning and Coordination Act 1994* for an area, a road use management strategy for the area must not be inconsistent with, and must give effect to, the plan.’

Transport Planning and Coordination Act 1994

1 Section 3, definition *transport Act*, ‘and the *Transport Operations (TransLink Transit Authority) Act 2008*’—

omit.

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