

**QUEENSLAND****TRANSPORT INFRASTRUCTURE  
AMENDMENT BILL (NO. 2) 1994****EXPLANATORY NOTE****GENERAL OUTLINE****Staged Development of the *Transport Infrastructure Act 1994***

It is the Government's intention to have one piece of legislation which clearly addresses the objectives and management of transport infrastructure in this State.

In pursuit of this objective, the initial *Transport Infrastructure Act 1994* contained core provisions relating to all forms of transport infrastructure, and in particular that relating to road infrastructure. This was amended later to incorporate provisions relating to ports.

As a further step in the staged development of the *Transport Infrastructure Act 1994*, the Transport Infrastructure Amendment Bill (No. 2) 1994 now amends it to cover specific objectives, obligations and powers concerning franchised roads.

**FRANCHISED ROADS****Pre-existing Situation**

Tolls exist on the Gateway Bridge, the Logan Motorway and the Sunshine Motorway. The existing franchise companies are wholly-owned by the Government and their debts are Government guaranteed (guarantees and undertakings are not limited to the repayment of loans and interest thereon but include the repayment of all debts as well as providing working capital to enable the franchisee to meet its contractual obligations, as described in the *Motorways Agreements Act 1987*). The existing franchise companies believe that the inflexibility of the current mechanisms limits their ability to achieve their potential.

Under pre-existing franchised motorways legislation, if the State desires to establish a new toll road or bridge, an agreement would be executed between the State of Queensland and the franchise company and appended as a Schedule to the *Motorways Agreements Act 1987*, necessitating an amendment to such legislation.

Further, each agreement allows for separate by-laws to be developed for each tolled road or bridge. To date, this has resulted in three sets of by-laws which largely mirror each other and the regulations which will apply to State-controlled roads. This approach unnecessarily complicates enforcement of legislation and the situation would progressively worsen with the expansion of the tolled roads network.

### **Objectives of New Legislation**

The objective of the Transport Infrastructure Amendment Bill (No. 2) 1994 is to expand the *Transport Infrastructure Act 1994* to cover specific objectives, obligations and powers concerning franchised roads, previously covered by separate legislation, namely the *Gateway Bridge Agreement Act 1980* and the *Motorways Agreements Act 1987*.

### **Estimated Cost for Government Implementation**

The implementation process for this Bill will be administrative in nature and so the cost will not be significant. Costs will be able to be met within existing budgetary allocations.

### **Consultation**

To the extent that it is possible to reconcile the sometimes conflicting views, the various comments have been incorporated into the revised draft of this Bill. There are no unresolved substantive issues.

### **Cross-references with Previous Legislation**

Attached is Appendix A which provides cross-references between the existing generic franchised motorways legislation, the *Motorways Agreements Act 1987*, and this Bill.

## NOTES ON PROVISIONS

### CHAPTER 1—PRELIMINARY

*Clause 1* sets out the short title of the Bill.

*Clause 2* provides that all of the provisions of the Bill will commence on a day to be fixed by proclamation.

*Clause 3* provides that the *Transport Infrastructure Act 1994* be amended as specified in the Transport Infrastructure Amendment Bill (No. 2) 1994, together with Schedule 1 listing minor and consequential amendments to the Act.

*Clause 4* provides additional definitions in section 20(1).

*Clause 5* provides that Part 6 of the Transport Infrastructure Amendment Bill (No. 2) 1994 be inserted after Part 5 of Chapter 5 of the *Transport Infrastructure Act 1994*.

### PART 6—FRANCHISED ROADS

*Proposed Section 61AA* describes the objectives of Part 6, which are to:

- promote/assist private investment in the provision, maintenance and operation of road transport infrastructure;
- enable road transport infrastructure projects to be undertaken at an earlier time than otherwise would be possible; and
- provide an appropriate management structure for the construction, maintenance and operation of road transport infrastructure on a commercial basis.

*Proposed Section 61AB* provides that the Minister may enter into a road franchise agreement on behalf of the Queensland Government with a person (the “franchisee”) for the construction and/or maintenance and/or operation of road transport infrastructure by the franchisee. The essence of the franchise agreement is that the franchisee will be required to contribute its own funds towards the whole or part of the cost of the construction,

maintenance or operation of the road and will receive an opportunity for a return on those funds on a commercial basis in accordance with any guarantees and undertakings provided for in the agreement. This legislation is intended as a mechanism for involving non-Queensland Government funding in road transport infrastructure.

It is intended that road franchise agreements are not to be limited to private sector companies. The companies involved may be wholly or partly Government—including local government) owned.

A road franchise agreement is to be consistent with:

- the Transport Coordination Plan (which is required by the *Transport Planning and Coordination Act 1994* to be prepared);
- the objectives which are set out in sections 3 and 9 of the *Transport Infrastructure Act 1994*;
- the current transport infrastructure strategies; and
- the obligations under section 10 of the *Transport Infrastructure Act 1994* to obtain value for money, ie.

— the construction, maintenance and operation of all government supported transport infrastructure for which the entity is responsible is carried out in accordance with standards published by the entity that are designed to achieve—

- (i) efficiency; and
- (ii) affordable quality; and
- (iii) cost effectiveness; and

— construction, maintenance or operation is carried out in a way that—

- (i) takes into account national and international benchmarks and international best practice; and
- (ii) promotes, within overall transport objectives, the safe transport of persons and goods; and
- (iii) encourages efficient and competitive behaviour in the construction and maintenance of transport infrastructure; and

- contracts that are let for the construction, maintenance or operation of transport infrastructure are designed in a way that encourages efficient performance by the contractor.

The road franchise agreement is not limited in its content by this legislation but may include provisions about ownership and tolls.

*Proposed Section 6IAC* provides that a road franchise agreement, including any variation of the agreement or any supplementary agreement, is to be tabled in Parliament for information, as a transparency mechanism. Road franchise agreements will not be incorporated in legislation.

*Proposed Section 6IAD* provides that each annual report of the department must include a report on the operation of road franchise agreements, as an accountability mechanism.

*Proposed Section 6IAE* indicates that, where an agreement provides for the Minister to recover monies from the franchisee in respect of any action taken by the Minister to remedy a default by the franchisee, that amount is to be recoverable by the State.

*Proposed Section 6IAF* provides for a regulation-making power to exempt road franchise agreement land from rates. Similar powers are presently contained within the Agreements under the *Gateway Bridge Agreement Act 1980* and the *Motorways Agreements Act 1987*.

*Proposed Section 6IAG* empowers the chief executive to lease, sell or otherwise dispose of land, acquired by resumption for transport or incidental purposes, to a franchisee, despite the *Acquisition of Land Act 1967*.

*Proposed Section 6IAH* provides for the application of State-controlled road powers to franchised roads. A franchised road is not to be a State-controlled road. However, there is to be a power to make regulations applying provisions of the *Transport Infrastructure Act 1994* relating to State-controlled roads to franchised roads, with such modifications or adaptations as are necessary.

A franchisee is not to be given power to make by-laws. Instead, it is intended that any necessary additional provisions will be made by regulations applying to franchised roads. These regulations would deal with matters not covered by adapted State-controlled road provisions. A franchise agreement may provide for the franchisee to adopt such of these provisions as are appropriate to its circumstances.

*Proposed Section 6IAI* provides that, where the Treasurer provides a guarantee, undertaking or an exemption from stamp duty on behalf of the State, the relevant sections of the *Statutory Bodies Financial Arrangements Act 1982* are to apply as if the franchisee were a statutory body.

*Proposed Section 6IAJ* will allow the application of vehicle registration and weights of loads legislation to franchised roads, all of which are not State-controlled roads.

*Clause 6* amends those Acts listed in Schedule 2.

Due to the importance of having legislation in place by 1 July 1994, it was not possible to attend to a number of administrative functions in time for the introduction of the Transport Infrastructure Amendment Bill 1994 concerning ports infrastructure. The proposed amendments will remedy this.

*Clause 7* repeals the following Acts:

- *Gateway Bridge Agreement Act 1980 No. 10*
- *Gateway Bridge Agreement Act Amendment Act 1986 No. 85*
- *Motorways Agreements Act 1987 No. 39*
- *Logan Motorway Agreement Act Amendment Act 1988 No. 71*

### **Schedule 1 minor and consequential amendments of *Transport Infrastructure Act 1994*.**

*Clause 1* provides additional definition in section 4(1).

*Clause 2* provides an updated list of where additional definitions are located in Act.

*Clauses 3 to 10* deletes some expired savings provisions and establishes sunset provisions to existing savings and transitional provisions contained in the *Transport Infrastructure Act 1994*.

*Clause 11* provides for the continuance of an approval under previous legislation, the *Transport Infrastructure (Roads) Act 1991*, for the subdivision of land contiguous with a declared road or intended declared road.

*Clauses 12 to 20* deletes some expired savings provisions and establishes sunset provisions to existing savings and transitional provisions contained in the *Transport Infrastructure Act 1994*.

*Clause 21* provides for savings and transitional provisions for the existing agreements and by-laws under the:

- *Gateway Bridge Agreement Act 1980*; and
- *Motorways Agreements Act 1987*.

This will require fresh agreements to be written under the new legislation within 1 year of the commencement date of this Act and the finalisation of regulations in lieu of the present by-laws.

*Clause 22* provides for the renumbering of the *Transport Infrastructure Act 1994* to occur at the next reprint in accordance with section 43 of the *Reprints Act 1992*.

*Clause 23-24* amends the list of subject matter for regulations to include:

- conditions of use of access-limited roads, including limitation of access or use, and removal of stationary vehicles; and
- franchised roads amongst the types of roads that the chief executive can monitor etc, by electronic and other devices.

*Clause 25* amends the list of matters subject to appeal to include section 38(8) of the *Transport Infrastructure Act 1994*.

**Appendix A**


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**CROSS-REFERENCES BETWEEN  
TRANSPORT INFRASTRUCTURE AMENDMENT BILL (NO. 2)  
1994 AND MOTORWAYS AGREEMENTS ACT 1987**

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Bill Sequence (1994 Bill Vs 1987 Act)	Act Sequence (1987 Act Vs 1994 Bill)
1 = 1	1 = 1
2 = new provision	2 = 4
3 = new provision	3 = 61AB
4 = 2	4 = omitted
5 = new provision	5 = omitted
61AA = new provision	6.(1) = omitted
61AB = 3	6.(2) = omitted
61AC = new provision	6.(3) = 61AI
61AD = new provision	6.(4) = omitted
61AE = new provision	6.(5) = omitted
61AF = new provision	
61AG = new provision	7 = omitted
61AH = new provision	
61AI = 6(3)	8 = omitted
61AJ = new provision	9 = omitted
6 = new provision	10 = omitted
7 = new provision	11 = omitted
	12 = omitted
	13 = omitted

“Omitted” means that the provision has not been incorporated into the Transport Infrastructure Amendment Bill (No. 2) 1994.

