

Queensland



**TRANSPORT AND OTHER
LEGISLATION AMENDMENT
BILL 2004**



TRANSPORT AND OTHER LEGISLATION AMENDMENT BILL 2004

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2004

A BILL

FOR

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

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Clause 1 Short title

3

This Act may be cited as the *Transport and Other Legislation Amendment Act 2004*.

4

5

Clause 2 Commencement

6

The following provisions of the Act commence on proclamation—

7

- section 55 (to the extent it inserts sections 160 and 161)
- schedule, amendment of the *Land Title Act 1994*.

8

9

PART 2—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994

10

11

Clause 3 Act amended in pt 2 and sch

12

This part and the schedule amend the *Transport Infrastructure Act 1994*.

13

Clause 4 Insertion of new s 239A

14

Chapter 7, part 7—

15

insert—

16

‘239A Effect of resumption of particular interests in land

17

‘(1) This section applies if, under the resumption laws, the chief executive, for the State, acquires an interest in land that is less than a freehold interest (the “**acquired land**”) for use by a railway manager as part of a rail transport corridor.

18

19

20

21

- ‘(2) The acquired land is free of any interest or obligation arising under the interest that was acquired. 1
2
- ‘(3) The chief executive, for the State, may exercise all the powers of an owner in relation to the acquired land. 3
4
- ‘(4) The chief executive must, as soon as practicable, arrange for the acquired land to become unallocated State land for the purposes of section 240. 5
6
7
- ‘(5) However, the chief executive may delay the acquired land becoming unallocated State land until any proposed rail transport infrastructure is built or substantially built and the boundaries of the land are more accurately defined. 8
9
10
11
- ‘(6) The *Acquisition of Land Act 1967*, section 12(2A),¹ does not apply to the acquired land. 12
13
- ‘(7) In this section— 14
- “**resumption laws**” means — 15
- (a) the *Transport Planning and Coordination Act 1994*, section 25;² 16
and 17
 - (b) the *Acquisition of Land Act 1967*’. 18

- Clause 5 Insertion of new s 260A** 19
- After section 260— 20
- insert—* 21
- ‘260A Transfer of obligations for existing railway to new railway manager** 22
23
- ‘(1) This section applies if— 24
- (a) Queensland Rail has obligations under section 260 in relation to a railway that it leases; and 25
26
 - (b) Queensland Rail surrenders the lease of the railway; and 27
 - (c) the railway is leased to another railway manager; and 28

1 *Acquisition of Land Act 1967*, section 12 (Effect of gazette resumption notice)

2 *Transport Planning and Coordination Act 1994*, section 25 (General powers regarding property)

(d) the other railway manager operates the railway as a railway.

‘(2) After the railway is leased to the other railway manager, the other railway manager must satisfy Queensland Rail’s obligations under section 260.

‘(3) However, Queensland Rail continues to be responsible for any obligations that arose before the lease of the railway was surrendered.’.

Clause 6 Amendment of s 521 (Definitions for pt 3)

Section 521, definition “previous”, ‘with that number as in force’—

omit, insert—

‘as that provision existed’.

Clause 7 Insertion of new s 530

Chapter 18, part 3—

insert—

‘530 Declaration about s 521, definition “previous”

‘It is declared that, for the period starting on 1 December 2003 to immediately before the commencement of this section, the definition “previous” in section 521 is taken to have included ‘as that provision existed’ instead of ‘with that number as in force’.’.

PART 3—AMENDMENT OF TRANSPORT OPERATIONS (MARINE SAFETY) ACT 1994

Clause 8 Act amended in pt 3 and sch

This part and the schedule amend the *Transport Operations (Marine Safety) Act 1994*.

Clause 9	Replacement of s 212 (Regulations may give effect to Uniform Shipping Laws Code)	1
		2
	Section 212—	3
	<i>omit, insert—</i>	4
	‘212 Regulations may give effect to agreements or documents about ships approved by Australian entity	5
		6
	‘A regulation may give effect (with or without changes and whether in whole or part) to an agreement or document about ships approved by an Australian entity whose functions include matters relating to marine safety.	7
		8
		9
	<i>Example—</i>	10
	Uniform Shipping Laws Code adopted by the Australian Transport Council. ³ .	11

PART 4—AMENDMENT OF TRANSPORT OPERATIONS (PASSENGER TRANSPORT) ACT 1994

Clause 10	Act amended in pt 4 and sch	14
	This part and the schedule amend the <i>Transport Operations (Passenger Transport) Act 1994</i> .	15
		16
Clause 11	Insertion of new s 4A	17
	Chapter 1, after section 4—	18
	<i>insert—</i>	19
	‘4A Act does not prevent local law from imposing additional requirements	20
		21
	‘This Act does not prevent a local government from making a local law imposing requirements that are additional to requirements under this Act for the protection of property or infrastructure relating to public passenger transport in its local government area.’.	22
		23
		24
		25

³ The Australian Transport Council comprises Commonwealth, State, Territory and New Zealand Ministers responsible for transport, roads and marine and ports issues.

Clause 12	Amendment of s 12 (What is operator accreditation)	1
	Section 12(2)(a), after ‘a service’—	2
	<i>insert—</i>	3
	‘using a fixed track vehicle’.	4
Clause 13	Amendment of s 24 (What is driver authorisation)	5
	Section 24(2)(a), after ‘a service’—	6
	<i>insert—</i>	7
	‘using a fixed track vehicle’.	8
Clause 14	Amendment of s 43 (Obligation to hold service contracts)	9
	(1) Section 43(1)(a) and (b)—	10
	<i>omit, insert—</i>	11
	‘(a) if the service contract area or route is in the Translink area—	12
	(i) a Translink service contract; or	13
	(ii) a written agreement with the chief executive that is not a	14
	service contract; or	15
	(iii) with the chief executive’s approval, a written agreement	16
	with the holder of a Translink service contract; or	17
	(b) in any other case—	18
	(i) a service contract; or	19
	(ii) a written agreement with the holder of a service contract.’.	20
	(2) Section 43(1), penalty, paragraph (b)—	21
	<i>omit, insert—</i>	22
	‘(b) if the service contract area or route is in the Translink	23
	area—160 penalty units; or	24
	(c) in any other case—30 penalty units.’.	25

Clause 15	Amendment of s 46 (Review of holder's performance)	1
	(1) After section 46(1A)—	2
	<i>insert—</i>	3
	‘(1B) Subsections (4) to (7) do not apply to a Translink service contract.’.	4
		5
	(2) Section 46—	6
	<i>insert—</i>	7
	‘(7A) On a review of a Translink service contract, the chief executive must take into account whether the holder is meeting the requirements of the holder's service contract.’.	8
		9
		10
Clause 16	Amendment of s 51 (Conditions of funding)	11
	(1) Section 51(2) and (3)—	12
	<i>renumber</i> as section 51(3) and (4).	13
	(2) Section 51—	14
	<i>insert—</i>	15
	‘(2) Subsection (1) does not apply to a Translink service contract.’.	16
Clause 17	Insertion of new s 54A	17
	Chapter 6, part 2, division 2, before section 55—	18
	<i>insert—</i>	19
	‘54A Application of div 2	20
	‘This division applies to all service contracts for scheduled passenger services, other than Translink service contracts.’.	21
		22
Clause 18	Insertion of new ch 6, pt 2, div 2AA	23
	After section 62A—	24
	<i>insert—</i>	25

‘Division 2AA—Translink service contracts

1

‘62AAA Purpose of div 2AA

2

‘The purpose of this division is to provide for arrangements between the chief executive and operators to facilitate an integrated ticketing system in the SEQ area.

3

4

5

‘62AAB Definition for div 2AA

6

‘In this division—

7

“**prescribed day**”, in relation to a notice under this division, means the day stated in the notice, being not less than 28 days after the date of the notice.

8

9

10

‘62AAC What is a Translink service contract

11

‘(1) A “**Translink service contract**” is a service contract for scheduled passenger services in the Translink area under which—

12

13

(a) the holder charges the fare set by the chief executive; and

14

(b) the State retains the revenue; and

15

(c) the State pays the holder for the services provided under the contract.

16

17

‘(2) A Translink service contract does not give the holder the exclusive right to operate a scheduled passenger service in the Translink area.

18

19

‘(3) For subsection (1), it does not matter whether the service contract was entered into before or after the commencement of this section.

20

21

‘62AAD Offer of new Translink service contract

22

‘(1) This section applies if the chief executive—

23

(a) decides the performance of a holder of a Translink service contract (the “**existing contract**”) has been satisfactory; and

24

25

(b) proposes, at the end of the term of the existing contract, to invite offers for a new Translink service contract—

26

27

(i) for the same kind of scheduled passenger service provided under the existing contract; or

28

29

- (ii) for those services and additional services for the same area or route defined in the existing contract. 1
2
- ‘(2) The chief executive must, by written notice, invite the holder to offer for the new Translink service contract. 3
4
- ‘(3) The chief executive may invite offers from any or all other holders of Translink service contracts or from the public only if the holder— 5
6
- (a) refuses the invitation; or 7
 - (b) fails to respond to the invitation by the prescribed day; or 8
 - (c) fails to make an offer that is acceptable or, despite section 62AAE, is substantially acceptable. 9
10
- ‘(4) This section does not apply in relation to an existing contract— 11
- (a) that is an emergency service contract; or 12
 - (b) that is a service contract in relation to which an option to renew may be exercised; or 13
14
 - (c) that states this section does not apply to it. 15
- ‘62AAE Matters to be considered generally when considering offers for Translink service contracts 16
17**
- ‘(1) The chief executive— 18
- (a) is not obliged to accept any offer for a Translink service contract; and 19
20
 - (b) may only accept an offer for a Translink service contract if the chief executive considers the offer to be acceptable for the contract. 21
22
23
- ‘(2) In deciding if an offer for a Translink service contract is acceptable, the chief executive must have regard to at least the following— 24
25
- (a) the ability of each offerer to meet the minimum service levels and other standards of performance specified in the invitation to offer; 26
27
28
 - (b) the cost of providing the scheduled passenger service; 29
 - (c) the need for sustainability and continuity of services; 30
 - (d) any matters prescribed under a regulation. 31

‘(3) In deciding between 2 or more acceptable offers, the chief executive must select the offer the chief executive considers to be the best having regard to the matters mentioned in subsection (2)(a) to (d).

‘62AAF Unsatisfactory performance of Translink service contract holder

‘If the chief executive decides, for section 62AAD, that a service contract holder’s performance under a Translink service contract has not been satisfactory, the chief executive must give the holder written notice of the decision and the reasons for it.

‘62AAG New service contract area or route in the Translink area

‘(1) This section applies if the chief executive—

- (a) has declared a service contract area or route under section 42 (“**new service area**”);⁴ and
- (b) the new service area is proposed to be in the Translink area (“**the proposal**”).

‘(2) The chief executive must—

- (a) give written notice of the proposal to all affected operators; and
- (b) allow the affected operators a reasonable opportunity to make written representations to the chief executive about the proposal by the prescribed day.

‘(3) If, after considering all written representations made by the prescribed day, the chief executive intends continuing with the proposal, the chief executive may do any of the following—

- (a) give an affected operator, by written notice, the opportunity to offer, by the prescribed day, to provide a scheduled passenger service for the new service area (the “**new service**”);
- (b) invite any or all holders of Translink service contracts, by written notice, to offer by the prescribed day, to provide the new service;
- (c) invite the public, by public notice, to offer to provide the new service.

⁴ Section 42 (Declaration that service contracts are required)

-
- ‘(4) If the chief executive acts under subsection (3)(a) and either— 1
- (a) an affected operator makes no offer, or if there is more than 2
1 affected operator, no affected operator makes an offer, by the 3
prescribed day; or 4
 - (b) if 1 or more offers are made, the chief executive decides no offer 5
made is acceptable under section 62AAE; 6
- the chief executive may invite offers from any or all holders of Translink 7
service contracts or from the public under subsection (3)(b) or (c) to 8
provide the new service. 9
- ‘(5) If the chief executive acts under subsection (3)(b) and no holder of a 10
Translink service contract— 11
- (a) makes an offer by the prescribed day; or 12
 - (b) makes an offer that the chief executive decides is acceptable 13
under section 62AAE; 14
- the chief executive may invite offers from the public under 15
subsection (3)(c) to provide the new service. 16
- ‘(6) However, if— 17
- (a) an offer is made under subsection (3)(a) or (b) by the prescribed 18
day; and 19
 - (b) the chief executive considers the offer substantially meets the 20
requirements of an offer that would be acceptable under 21
section 62AAE; 22
- the chief executive may defer inviting offers under subsection (3)(b) or (c) 23
to allow an opportunity for a contract to be concluded with the offerer. 24
- ‘(7) In this section— 25
- “affected operator”** means— 26
- (a) the holder of a Translink service contract providing a scheduled 27
passenger service in the new service area, or in a service area or 28
route adjacent to the new service area; or 29
 - (b) any other operator providing a scheduled passenger service in the 30
new service area. 31

‘62AAH Compensation

‘(1) This section applies if, following a proposal mentioned in section 62AAG—

- (a) the new service area is prescribed under a regulation to be in the Translink area; and
- (b) an affected operator mentioned in section 62AAG, other than the holder of a Translink service contract—
 - (i) did not offer to provide the new service; or
 - (ii) is not awarded a Translink service contract to provide the new service.

‘(2) The affected operator may claim compensation from the State.

‘(3) The amount of compensation payable to the affected operator is to be decided by agreement between the chief executive and the operator or, if there is no agreement, by an arbitrator appointed by the chief executive and the operator.

‘(4) Without limiting the matters an arbitrator may or may not take into account, a regulation may provide for matters to be considered, or not considered, in deciding the amount of compensation.

‘(5) The *Commercial Arbitration Act 1990* applies to the arbitration.

‘62AAI What happens when Translink service contract is surrendered, cancelled or terminated

‘(1) This section applies if a Translink service contract is surrendered, cancelled or terminated, whether by the chief executive or by the operator.

‘(2) The chief executive may do either of the following—

- (a) invite any or all holders of Translink service contracts, by written notice, to offer by the prescribed day for the Translink service contract;
- (b) invite the public, by public notice, to offer for the Translink service contract.

‘(3) If the chief executive acts under subsection (2)(a) and either—

- (a) no holder of a Translink service contract makes an offer by the prescribed day; or

(b) if 1 or more offers are made, the chief executive decides no offer made is acceptable under section 62AAE; 1
2

the chief executive may invite offers from the public under subsection (2)(b) for the Translink service contract. 3
4

‘(4) However, if— 5

(a) an offer is made under subsection (2)(a) by the prescribed day; 6
and 7

(b) the chief executive considers the offer substantially meets the requirements of an offer that would be acceptable under section 62AAE; 8
9
10

the chief executive may defer inviting offers from the public under subsection (2)(b) to allow an opportunity for a contract to be concluded with the offerer.’. 11
12
13

Clause 19 Replacement of s 101 (Standards do not apply to railway managers or operators) 14
15

Section 101— 16

omit, insert— 17

‘101 Application of standards to railway managers or railway operators 18
19

‘Standards do not apply to a railway manager or railway operator in relation to a public passenger service provided using a fixed track vehicle.’. 20
21

Clause 20 Omission of ch 11, pt 2 22

Chapter 11, part 2— 23

omit. 24

Clause 21 Renumbering of ch 11, pt 1 25

Chapter 11, part 1— 26

renumber as chapter 11, part 2. 27

Clause 22	Insertion of new ch 11, pt 1	1
	Chapter 11—	2
	<i>insert—</i>	3
	‘PART 1—INTERPRETATION	4
	‘110 Definition for ch 11	5
	‘In this chapter—	6
	“relevant transport legislation” means—	7
	(a) this Act; or	8
	(b) the <i>Transport Infrastructure Act 1994</i> , chapter 7 or 14; ⁵ or	9
	(c) a regulation in relation to a railway made under the <i>Transport Infrastructure Act 1994</i> .’.	10
		11
Clause 23	Amendment of s 111 (Appointment of authorised persons etc.)	12
	(1) Section 111(1) and (1A), after ‘authorised person’—	13
	<i>insert—</i>	14
	‘for relevant transport legislation’.	15
	(2) Section 111(1A)(b)—	16
	<i>omit, insert—</i>	17
	‘(b) an employee of, or a contractor for, a railway manager or railway operator;	18
		19
	(c) an employee of a contractor mentioned in paragraph (b);	20
	(d) another person prescribed under a regulation.’.	21
	(3) Section 111—	22
	<i>insert—</i>	23
	‘(5) An authorised person who is a person mentioned in subsection (2)(b) or (c) may exercise a power under this Act only in	24
	relation to a railway managed or operated by the railway manager or	25
		26

⁵ *Transport Infrastructure Act 1994*, chapter 7 (Rail transport infrastructure and other matters) or 14 (Transporting dangerous goods by rail)

railway operator of whom the person is an employee, a contractor or an employee of a contractor.

‘(6) Subsection (5) does not apply to an authorised person who is—

(a) an employee of, or a contractor for, Queensland Rail; or

(b) an employee of a contractor for Queensland Rail.’.

(4) Section 111(1A) to (3)—

renumber as section 111(2) to (4).

Clause 24 Amendment of s 112 (Identity cards)

(1) Section 112(4)—

relocate and renumber as section 112(1A).

(2) Section 112(1A) to (3)—

renumber as section 112 (2) to (4).

Clause 25 Amendment of s 114 (Powers of authorised persons)

Section 114(1)—

omit, insert—

‘(1) An authorised person has the powers given under relevant transport legislation.’.

Clause 26 Amendment of s 115 (Protection from liability)

(1) Section 115(2), from ‘this Act’—

omit, insert—

‘relevant transport legislation’.

(2) Section 115(3)—

omit, insert—

‘(3) If subsection (2) prevents a civil liability attaching to a person, the liability attaches instead to—

(a) if the authorised person is employed by a railway manager or railway operator and is exercising a power in relation to a railway—the manager or operator of the railway; or

(b) in any other case—the State. 1

‘(4) For subsection (3)(a), a person is employed by a railway manager or 2
railway operator if the person is— 3

(a) an employee of, or a contractor for, the railway manager or 4
operator; or 5

(b) an employee of a contractor mentioned in paragraph (a).’. 6

Clause 27 Amendment of s 126 (Procedure after thing seized) 7

Section 126(4) to (6)— 8

omit. 9

Clause 28 Amendment of s 126D (Forfeiture of seized things) 10

Section 126D(1)(c), after ‘against’— 11

insert— 12

‘this Act or’. 13

Clause 29 Insertion of new s 126P 14

Chapter 11, part 4, before section 127— 15

insert— 16

‘126P Definition for pt 4 17

‘In this part— 18

“**relevant offence**” means an offence against relevant transport 19
legislation.’. 20

Clause 30 Replacement of s 127 (Power to require name and address) 21

Section 127— 22

omit, insert— 23

‘127 Power to require name, address and age 24

‘(1) An authorised person may require a person to state the person’s 25
name and address if the authorised person— 26

- (a) finds the person committing a relevant offence; or 1
- (b) finds the person in circumstances that lead, or has information 2
that leads, the authorised person to reasonably suspect that the 3
person has just committed a relevant offence. 4
- ‘(2) The authorised person may also require the person to state the 5
person’s age if the authorised person reasonably suspects that the person’s 6
age is required for the enforcement of relevant transport legislation. 7
- ‘(3) When making the requirement, the authorised person must warn the 8
person that it is an offence to fail to state the person’s name and address 9
and, if relevant, age unless the person has a reasonable excuse. 10
- ‘(4) The authorised person may require the person to give evidence of 11
the correctness of the person’s stated name, address or age if the authorised 12
person reasonably suspects that the stated name, address or age is false. 13
- ‘(5) A person must comply with the authorised person’s requirement 14
under subsection (1), (2) or (4), unless the person has a reasonable excuse. 15
- Maximum penalty—40 penalty units. 16
- ‘(6) A person does not commit an offence against this section if— 17
 - (a) the person was required to state the person’s name, address or 18
age by an authorised person who suspected the person had 19
committed a relevant offence; and 20
 - (b) the person is not proved to have committed the offence.’. 21

- Clause 31 Amendment of s 128 (Power to require information from certain 22
persons) 23**
- (1) Section 128(1), ‘suspects on reasonable grounds’— 24
omit, insert— 25
‘reasonably suspects’. 26
 - (2) Section 128(1)(a), ‘an offence against this Act’— 27
omit, insert— 28
‘a relevant offence’. 29
 - (3) Section 128(1)(b)— 30
omit, insert— 31

‘(b) the offence relates to the construction, operation, maintenance or
repair of a public passenger vehicle or a railway; and’.

Clause 32	Amendment of s 130 (False or misleading information)	3
	Section 130(1)(a) and (b), ‘, authorised person for a railway’—	4
	<i>omit.</i>	5
Clause 33	Amendment of s 131 (False, misleading or incomplete documents)	6
	Section 131(1) and (2), ‘, authorised person for a railway’—	7
	<i>omit.</i>	8
Clause 34	Amendment of s 135 (Obstructing authorised person or authorised person for a railway)	9
	(1) Section 135, heading—	10
	<i>omit, insert—</i>	11
	‘135 Obstructing authorised person’.	12
	(2) Section 135(1), from ‘or an’ to ‘(an “official”)’—	13
	<i>omit.</i>	14
	(3) Section 135(2), ‘official’—	15
	<i>omit, insert—</i>	16
	‘authorised person’.	17
Clause 35	Amendment of s 136 (Impersonating authorised person or authorised person for a railway)	18
	(1) Section 136, heading—	19
	<i>omit, insert—</i>	20
	‘136 Impersonating authorised person’.	21
	(2) Section 136, ‘or an authorised person for a railway’—	22
	<i>omit.</i>	23
		24
		25

Clause 36	Amendment and relocation of s 139 (Power to require production of tickets)	1 2
	(1) Section 139(1) to (3)—	3
	<i>omit, insert—</i>	4
	‘(1) The driver or an authorised person may require anyone who is travelling or attempting to travel on a public passenger vehicle to produce to the driver or authorised person the person’s ticket for the journey.	5 6 7
	‘(2) If the driver or an authorised person reasonably suspects that a person has just travelled on a public passenger vehicle, the driver or authorised person may require the person to produce to the driver or authorised person the person’s ticket for the journey.	8 9 10 11
	‘(3) If the driver or the authorised person reasonably suspects that the ticket produced to the driver or authorised person is an invalid ticket, the driver or authorised person may require the person to give it to the driver or authorised person.’.	12 13 14 15
	(2) Section 139(5), after ‘subsection (4)’—	16
	<i>insert—</i>	17
	‘in relation to travel by rail’.	18
	(3) Section 139—	19
	<i>insert—</i>	20
	‘(6) In this section—	21
	“invalid ticket” means an invalid ticket as defined under section 143AB(2).’.	22 23
	(4) Section 139—	24
	<i>relocate and renumber</i> as section 143ADA.	25
Clause 37	Amendment and relocation of s 140 (Power to require person to leave train etc.)	26 27
	(1) Section 140(1), ‘for a railway’—	28
	<i>omit.</i>	29

	(2) Section 140(1)(a), ‘141, 142 or 143’—	1
	<i>omit, insert—</i>	2
	‘143AC or 143AF ⁶ ’.	3
	(3) Section 140(2) and (3)—	4
	<i>omit.</i>	5
	(4) Section 140(4)—	6
	<i>renumber</i> as section 140(2).	7
	(5) Section 140—	8
	<i>relocate and renumber</i> as section 143AHA.	9
Clause 38	Omission of ch 11, pt 6	10
	Chapter 11, part 6, as amended—	11
	<i>omit.</i>	12
Clause 39	Omission of ch 11, pt 7, hdg	13
	Chapter 11, part 7, heading—	14
	<i>omit.</i>	15
Clause 40	Omission of ss 141–143	16
	Sections 141 to 143—	17
	<i>omit.</i>	18
Clause 41	Amendment and relocation of s 143A (Evidence of concession entitlement)	19
	(1) Section 143A(2)—	20
	<i>omit, insert—</i>	21
		22

6 Section 143AC (Fare evasion) or 143AF (Creating disturbance or nuisance on railway or vehicle)

‘(2) The driver or an authorised person may require anyone who is travelling or about to travel on a concession ticket to produce evidence of the person’s entitlement to the concession.’.

(2) Section 143A—

relocate and renumber as section 143ADB.

Clause 42 Omission of s 143AB (Application of ch 11A)

Section 143AB—

omit.

Clause 43 Amendment of s 143AC (Definitions for ch 11A)

(1) Section 143AC, definitions “driver” and “over-travel”—

omit.

(2) Section 143AC—

insert—

‘**“driver”** includes—

(a) a conductor or train guard on or near a public passenger vehicle who is operating in relation to the vehicle; and

(b) for a ferry, the master of the ferry or a deckhand operating in relation to the ferry.

“master” see the *Transport Operations (Marine Safety) Act 1994*, section 7.

“tag off” means present a smartcard to a smartcard reader on completing a journey, or part of a journey, resulting in a response from the smartcard reader that the transaction is successful.

“tag on” means present a smartcard to a smartcard reader on starting a journey, or part of a journey, resulting in a response from the smartcard reader that the transaction is successful.’.

(3) Section 143AC—

renumber as section 143AA.

Clause 44 Insertion of new s 143AB

After section 143AA—

insert—

‘143AB When does a person evade payment of a fare

‘(1) A person “**evades payment of a fare**” in relation to a public passenger vehicle if the person—

(a) when attempting to travel, for an intended journey—

(i) does not, without a reasonable excuse, pay the fare lawfully required; or

(ii) if using a smartcard, does not tag on; or

(iii) attempts to travel on an invalid ticket; or

(b) in relation to all or part of a journey travelled—

(i) does not, without a reasonable excuse, pay the fare lawfully required or, if using a smartcard, does not tag on; or

(ii) travels on a concession fare without being entitled to the concession; or

(iii) travels on an invalid ticket; or

(iv) travels by railway in a railway carriage of a higher class than that paid for and shown on the person’s ticket for the journey.

‘(2) In this section—

“**invalid ticket**” means a ticket for a journey for which a ticket is required that—

(a) is used, or attempted to be used—

(i) to over-travel the fare that was paid for the journey, without reasonable excuse; or

(ii) for a journey that is not the journey for which the ticket was issued; or

(iii) if the ticket is non-transferrable, by a person who is not the first user of the ticket; or

(b) has been altered or defaced; or

(c) is counterfeit.

“over-travel”, in relation to a fare, means remain on a public passenger vehicle after the place, distance or time covered by the fare paid for the journey has been reached and includes, for a smartcard, tag off before the completion of the journey or part of the journey.’.

Clause 45	Replacement of s 143AD (Fare evasion and obtaining hire of vehicle by fraud etc.)	5
	Section 143AD—	6
	<i>omit, insert—</i>	7
	‘143AC Fare evasion	8
	‘A person must not evade payment of the fare lawfully required for the person’s use or hire of a public passenger vehicle.	9
	Maximum penalty—40 penalty units or 6 months imprisonment.	10
	‘143AD Obtaining hire or use of vehicle by fraud or misrepresentation	11
	‘A person must not obtain, or attempt to obtain, the use or hire of a public passenger vehicle by fraud or misrepresentation.	12
	Maximum penalty—40 penalty units or 6 months imprisonment.’.	13
Clause 46	Amendment of s 143AE (Vehicle and equipment not to be interfered with)	14
	(1) Section 143AE, heading—	15
	<i>omit, insert—</i>	16
	‘143AE Interfering with service, vehicle or equipment’.	17
	(2) Section 143AE(1)—	18
	<i>omit, insert—</i>	19
	‘(1) A person must not wilfully and unlawfully interfere with a public passenger service, public passenger vehicle or service equipment.	20
	Maximum penalty—40 penalty units or 6 months imprisonment.’.	21

Clause 47	Replacement of s 143AF (Creating disturbance or nuisance on vehicle)	1
		2
	Section 143AF—	3
	<i>omit, insert—</i>	4
	‘143AF Creating disturbance or nuisance on railway or vehicle	5
	‘A person must not create a disturbance or nuisance while on a railway	6
	or public passenger vehicle, unless the person has a reasonable excuse.	7
	Maximum penalty—40 penalty units or 6 months imprisonment.’.	8
Clause 48	Amendment of s 143AG (Direction to leave, or not to enter, vehicle)	9
		10
	(1) Section 143AG(1)—	11
	<i>omit, insert—</i>	12
	‘(1) Subsection (2) applies if the driver or an authorised person	13
	reasonably believes that a person who is on, or about to enter, a public	14
	passenger vehicle—	15
	(a) is creating, or is likely to create, a disturbance or nuisance on the	16
	vehicle; or	17
	(b) is causing, or is likely to cause a danger to anyone; or	18
	(c) is contravening, or has just contravened, section 143AC or	19
	143AE.’.	20
	(2) Section 143AG—	21
	<i>insert—</i>	22
	‘(5) In this section—	23
	“over-travel” means “over-travel as defined under section 143AB(2).’.	24
Clause 49	Amendment of s 143AH (Direction to leave vehicle)	25
	(1) Section 143AH, heading—	26
	<i>omit, insert—</i>	27
	‘143AH Direction to leave or not to enter vehicle that is full’.	28

	(2) Section 143AH(3), after ‘leave’—	1
	<i>insert</i> —	2
	‘, or not to enter,’.	3
	(3) Section 143AH(1) and (2)—	4
	<i>relocate and renumber</i> as section 143AG(3) and (4).	5
Clause	50 Replacement of s 143AK (Offence to contravene direction)	6
	Section 143AK—	7
	<i>omit, insert</i> —	8
	‘143AK Offence to contravene direction	9
	‘A person must not contravene a direction given to the person under this	10
	chapter, unless the person has a reasonable excuse.	11
	Maximum penalty—40 penalty units.’.	12
Clause	51 Amendment of s 149 (Offences of dishonesty)	13
	Section 149(1), after ‘must not’—	14
	<i>insert</i> —	15
	‘apply for or’.	16
Clause	52 Amendment of s 152 (No need to prove appointments)	17
	Section 152, ‘for a railway’—	18
	<i>omit.</i>	19
Clause	53 Amendment of s 154 (Attempt to commit offence)	20
	Section 154—	21
	<i>insert</i> —	22

‘(3) However, this section does not apply to an offence under section 143AC or 143AD.⁷’.

Clause 54 Amendment of s 154B (Definitions for pt 2)

Section 154B, definitions “fare” and “service equipment”—
relocate to schedule 3.

Clause 55 Insertion of new ch 13, pt 1A

After section 156—

insert—

**‘PART 1A—TRANSITIONAL PROVISIONS FOR
TRANSPORT AND OTHER LEGISLATION
AMENDMENT ACT 2004**

‘157 Authorised persons

‘(1) A person who, immediately before the commencement of this section, was an authorised person for a railway under section 116(1) or (2)⁸ or an authorised person for a light rail under section 116(2A) is taken to be an authorised person under section 111.⁹

‘(2) Subsection (1) does not affect any limitation on the powers of the authorised person existing immediately before the commencement of this section.

‘158 Offers for Translink service contracts

‘(1) This section applies if, before the commencement of this section, the chief executive has, under section 62,¹⁰ invited a service contract holder mentioned in schedule 2A, column 1 to offer for a Translink service contract.

7 Section 143AC (Fare evasion) or 143AD (Obtaining hire or use of vehicle by fraud or misrepresentation)

8 Section 116 (Appointment of authorised persons for railways or light rail)

9 Section 111 (Appointment of authorised persons etc.)

10 Section 62 (Offer of new service contract)

‘(2) The invitation to offer replaces any right (“existing right”) the holder may have to offer for a new service contract, and the holder’s existing right is extinguished.	1 2 3
‘(3) If the holder—	4
(a) refuses the invitation mentioned in subsection (1); or	5
(b) fails to respond to the invitation within the time allowed by the chief executive under the invitation; or	6 7
(c) fails to make an offer that is acceptable;	8
the chief executive may, after the commencement of this section, invite offers for the Translink service contract from any or all other holders of service contracts mentioned in schedule 2A, column 1 or from the public.	9 10 11
‘(4) For subsection (3), it does not matter whether the refusal mentioned in subsection (3)(a) or the failure to respond mentioned in subsection (3)(b) happened before or after the commencement of this section.	12 13 14
‘159 Matters to be considered when considering offer	15
‘(1) This section applies to any consideration by the chief executive, whether before or after the commencement of this section, of an offer for a Translink service contract made in response to an invitation mentioned in section 158(1).	16 17 18 19
‘(2) The chief executive—	20
(a) was not, or is not, obliged to accept any offer for the contract; and	21 22
(b) could only have accepted, or may only accept, an offer for the contract if the chief executive considered, or considers, the offer to be acceptable for the contract.	23 24 25
‘(3) In deciding whether the offer was or is acceptable, it is enough that the chief executive had or has regard to at least the following—	26 27
(a) the ability of each offerer to meet the minimum service levels and other standards of performance specified in the invitation to offer;	28 29 30
(b) the cost of providing the scheduled passenger service;	31
(c) the need for sustainability and continuity of services.	32

‘160 Termination of particular service contracts in SEQ area	1
‘(1) This section applies if a service contract holder mentioned in schedule 2A, column 1—	2 3
(a) is the holder of a service contract for a service contract area or route listed opposite the holder’s name in schedule 2A, column 2 that is in force immediately before 6.00 p.m. on 25 June 2004; and	4 5 6 7
(b) does not enter into a Translink service contract before 6.00 p.m. on 25 June 2004.	8 9
‘(2) The holder’s service contract for the area or route mentioned in column 2 is terminated at 6.00 p.m. on 25 June 2004.	10 11
‘161 Compensation	12
‘(1) A holder may claim compensation from the State if—	13
(a) the holder’s service contract is terminated because of section 160; and	14 15
(b) the holder does not enter into a Translink service contract.	16
‘(2) The amount of compensation is to be decided by agreement between the chief executive and the holder or, if there is no agreement, by an arbitrator appointed by the chief executive and the holder.	17 18 19
‘(3) Without limiting the matters an arbitrator may or may not take into account, a regulation may provide for matters to be considered, or not considered, in deciding the amount of compensation.	20 21 22
‘(4) The <i>Commercial Arbitration Act 1990</i> applies to the arbitration.’.	23
Clause 56 Insertion of new sch 2A	24
After schedule 2—	25
insert—	26

‘SCHEDULE 2A

1

‘PARTICULAR SERVICE CONTRACTS IN SEQ AREA

2

sections 158 and 160 and schedule 3,

3

definition “Translink area”, paragraph (a)

4

Service contract holder**Service contract area or route**

Bribie Island Coaches Pty Ltd

Bribie Island and Bribie
Island–Caboolture service contract
area/route

Brisbane City Council

Brisbane service contract
area/routeArana Hills, Albany Creek and
Dayboro–Petrie service contract
area/route

Bus Queensland Pty Ltd

Park Ridge and
Beaudesert–Brisbane service
contract area/route

Caboolture Bus Lines Pty Ltd

Caboolture service contract
area/routeClark’s Logan City Bus Service
(Qld) Pty Ltd

Logan service area

GK & JM Thompson Pty Ltd

Strathpine and Murrumba Downs
service contract area/route

Hornibrook Bus Lines Pty Ltd

Redcliffe, Kallangur, Petrie and
Redcliffe–Brisbane service
contract area/route

Mt Gravatt Bus Service Pty Ltd

Burbank/McKenzie service
contract area/routeNational Bus Company (Qld) Pty
LtdCleveland/Redland Bay service
contract area/route

S & S Webster Investments Pty Ltd

Deception Bay/Narangba service
area/route

Service contract holder	Service contract area or route
Surfside Buslines Pty Ltd	Gold Coast service area
Transit Australia Pty Ltd	Sunshine Coast service area
Westside Bus Co. Pty Ltd	Ipswich/Goodna service contract area
	Camira/Springfield and Wacol Railway Station to Inala Plaza via Carole Park, Ellengrove, Forest Lake and Doolandalla service contract area/route’.

Clause 57	Amendment of sch 3 (Dictionary)	1
	(1) Schedule 3, definitions “authorised person”, “driver”, “fare”, “invalid ticket”, “railway” and “service equipment”—	2
	<i>omit.</i>	3
	(2) Schedule 3—	4
	<i>insert—</i>	5
	‘ “authorised person” means a person who is, or is appointed as, an authorised person under section 111.	6
	“driver”—	7
	(a) generally—means the driver of a public passenger vehicle; and	8
	(b) for chapter 11A—see section 143AA.	9
	“evade payment of a fare” see section 143AB.	10
	“fixed track vehicle” includes a train and a light rail vehicle.	11
	“light rail” see the <i>Transport Infrastructure Act 1994</i> , schedule 6.	12
	“light rail vehicle” see the <i>Transport Infrastructure Act 1994</i> , schedule 6.	13
	“master”, for chapter 11A, see section 143AA.	14
	“prescribed day” for chapter 6, part 2, division 2AA, see section 62AAB.	15
	“railway” includes—	16
	(a) for chapters 11 and 11A—a carpark or bus station under a railway manager’s control; and	17
		20

(b) in relation to the transportation of dangerous goods by rail—a cableway.	1 2
“reasonably suspects” means suspects on reasonable grounds.	3
“relevant offence” , for chapter 11, part 4, see section 126P.	4
“relevant transport legislation” , for chapter 11, see section 110.	5
“SEQ area” means the local government area of the following local governments—	6 7
(a) the cities of Brisbane, Caloundra, Gold Coast, Ipswich, Logan, Redcliffe and Toowoomba;	8 9
(b) the shires of Beaudesert, Boonah, Caboolture, Esk, Gatton, Kilcoy, Laidley, Maroochy, Noosa, Pine Rivers and Redland.	10 11
“smartcard” means a card or something similar approved by the chief executive on which electronic records of transit and other applications are stored.	12 13 14
“tag off” , for chapter 11A, see section 143AA.	15
“tag on” , for chapter 11A, see section 143AA.	16
“ticket” includes a smartcard.	17
“Translink area” means—	18
(a) the service contract areas or routes mentioned in schedule 2A, column 2; and	19 20
(b) any other service contract areas or routes in the SEQ area that are prescribed under a regulation for this definition.	21 22
“Translink service contract” see section 62AAC.’.	23
(3) Schedule 3, definition “ferry”, after ‘boat’—	24
<i>insert—</i>	25
‘, barge’.	26

PART 5—AMENDMENT OF TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995

Clause 58 Act amended in pt 5 and sch

This part and the schedule amend the *Transport Operations (Road Use Management) Act 1995*.

Clause 59 Amendment of s 19 (Procedure for amending, suspending or cancelling approvals)

(1) Section 19(2)(c)—

omit, insert—

‘(c) if the proposed action was to cancel the approval—

(i) amend the approval; or

(ii) suspend the approval for a period, including on the condition that—

(A) if the grounds for taking action under this section are capable of being remedied by the holder, the holder remedy the grounds to the chief executive’s reasonable satisfaction within a reasonable time before the suspension period ends; and

(B) if the holder fails to remedy the grounds in accordance with subparagraph (A), the chief executive may cancel the approval under section 19A; or

(iii) cancel the approval.’.

(2) Section 19(4)(b)—

renumber as section 19(4)(c).

(3) Section 19(4)—

insert—

‘(b) if the approval is suspended on the condition mentioned in subsection (2)(c)(ii), the approval may be cancelled under section 19A if the holder fails to comply with the condition; and’.

Clause 60	Insertion of new s 19A	1
	Chapter 3, part 1A—	2
	<i>insert—</i>	3
	‘19A Cancelling suspended approval for failing to take remedial action	4
	‘(1) This section applies if the chief executive—	5
	(a) suspends an approval on the condition mentioned in	6
	section 19(2)(c)(ii); and	7
	(b) reasonably believes the holder has failed to comply with the	8
	condition.	9
	‘(2) The chief executive may by written notice given to the holder cancel	10
	the approval.	11
	‘(3) The notice must state—	12
	(a) the reasons for the chief executive’s belief; and	13
	(b) that the holder may—	14
	(i) under section 65—ask for the decision to be reviewed and	15
	appeal against the reviewed decision; and	16
	(ii) under the <i>Transport Planning and Coordination Act 1994</i> ,	17
	part 5—ask for the decision or the reviewed decision to be	18
	stayed.	19
	‘(4) The cancellation takes effect on the later of the following—	20
	(a) the day the notice is given to the holder;	21
	(b) the day stated in the notice.’.	22
Clause 61	Amendment of s 32 (Power to stop heavy vehicles)	23
	Section 32(4), penalty, ‘subsection (3)’—	24
	<i>omit, insert—</i>	25
	‘subsection (4)’.	26
Clause 62	Insertion of new s 53A	27
	After section 53—	28
	<i>insert—</i>	29

‘53A Proof of giving false and misleading statements and documents	1
‘(1) This section applies to a proceeding for an offence against section 52 or 53.	2 3
‘(2) It is sufficient proof the statement was made, or the document was given, to the official to prove it was made or given to a person authorised to receive it.	4 5 6
‘(3) It does not matter whether the person was an official or whether the authorisation was a delegation, agency or any other form of authorisation by which someone acts through another.’.	7 8 9
 Clause 63 Amendment of s 66 (Local laws etc.)	 10
(1) Section 66(3)(a)(i), after ‘footpath,’—	11
insert—	12
‘shared path,’.	13
(2) Section 66—	14
insert—	15
‘(8) In this section—	16
“shared path” see the <i>Transport Operations (Road Use Management—Road Rules) Regulation 1999</i> , section 242(2). ¹¹ .	17 18
 Clause 64 Amendment of s 101 (Who may regulate parking)	 19
Section 101(1), ‘, under a local law,’—	20
omit.	21
 Clause 65 Amendment of s 102 (Parking regulation involves installing official traffic signs)	 22 23
Section 102(1), ‘install’—	24

11 *Transport Operations (Road Use Management—Road Rules) Regulation 1999*, section 242 (Travelling in or on a wheeled recreational device or toy on a footpath or shared path)

omit, insert— 1
‘regulate parking by installing’. 2

Clause 66	Amendment of s 103 (Examples of how parking may be regulated)	3
	(1) Section 103(3), ‘Under a local law,’—	4
	<i>omit, insert—</i>	5
	‘Official traffic signs installed by’.	6
	(2) Section 103(3)(d)—	7
	<i>omit.</i>	8
	(3) Section 103(3)(e) and (f)—	9
	<i>renumber</i> as subsection 3(d) and (e).	10
	(4) Section 103(4)(c)—	11
	<i>omit.</i>	12
	(5) Section 103(5)(c)—	13
	<i>omit.</i>	14
	(6) Section 103—	15
	<i>insert—</i>	16
	‘(6) A local government may, by local law or resolution, specify the following—	17
	(a) parking fees for a place or a traffic area;	19
	(b) the fee for—	20
	(i) a permit mentioned in subsection (4)(a)(i) or (ii); or	21
	(ii) a commercial vehicle identification label mentioned in subsection (5)(a).’.	22
		23

Clause 67	Amendment of s 105 (Paid parking)	24
	Section 105(1) ‘has—’ to ‘installed’—	25
	<i>omit, insert—</i>	26
	‘has installed’.	27

Clause	68	Amendment of s 108 (Local laws about minor traffic offences)	1
		Section 108(4), definition “minor traffic offence”—	2
		<i>insert—</i>	3
		‘(c) an offence against section 74 that is a contravention of an indication given by an official traffic sign installed by a local government under this part.’.	4 5 6
Clause	69	Amendment of sch 3 (Reviewable decisions)	7
		Schedule 3—	8
		<i>insert—</i>	9
		‘19A Cancelling suspended approvals Magistrates’.	
 PART 6—AMENDMENT OF TRANSPORT PLANNING AND COORDINATION ACT 1994			10 11
Clause	70	Act amended in pt 6	12
		This part amends the <i>Transport Planning and Coordination Act 1994</i> .	13
Clause	71	Amendment of s 25 (General powers regarding property)	14
		(1) Section 25(10) and (11)—	15
		<i>renumber</i> as section 25(12) and (13).	16
		(2) Section 25—	17
		<i>insert—</i>	18
		‘(10) If the chief executive issues a notice of intention to resume a lease of State land, or some other interest in State land that is less than freehold, the chief executive must file a copy of the notice in the appropriate land register kept under the <i>Land Act 1994</i> .	19 20 21 22
		‘(11) If the chief executive amends or discontinues a resumption mentioned in subsection (10), the chief executive must immediately file a notice of the amendment or discontinuance in the register.’.	23 24 25

PART 7—AMENDMENT OF LAND ACT 1994

		1
Clause 72	Act amended in pt 7	2
	This part amends the <i>Land Act 1994</i> .	3
Clause 73	Renumbering of ch 6, pt 1, div 3A	4
	Chapter 6, part 1, division 3A—	5
	<i>renumber</i> as chapter 6, part 1, division 3B.	6
Clause 74	Renumbering of s 290A (Explanatory format plan)	7
	Section 290A—	8
	<i>renumber</i> as section 290D.	9
Clause 75	Insertion of new ch 6, pt 1, div 3A	10
	Chapter 6, part 1, after section 290AA—	11
	<i>insert</i> —	12
	‘Division 3A—Format of plans of survey	13
	‘290A Available formats for plans	14
	‘(1) A plan of survey may be in a standard or volumetric format.	15
	‘(2) The format to be used in the plan depends on how the plan is to	16
	define the land to which it relates.	17
	‘290B Standard format plan	18
	‘A “ standard format ” plan of survey defines land using a horizontal	19
	plane and references to marks on the ground.	20
	<i>Example of marks</i> —	21
	Posts in the ground.	22

‘290C Volumetric format plan	1
‘A “volumetric format” plan of survey defines land using	2
3 dimensionally located points to identify the position, shape and	3
dimensions of each bounding surface.’.	4
 Clause 76 Insertion of new ch 6, pt 1, div 3C	5
Chapter 6, part 1, after section 290D, as renumbered—	6
<i>insert—</i>	7
<i>‘Division 3C—Plans of subdivision</i>	8
 ‘290E Meaning of “plan of subdivision”	9
‘A “plan of subdivision” is a plan of survey providing for 1 or more of	10
the following—	11
(a) the division of 1 or more lots;	12
(b) the amalgamation of 2 or more lots to create a smaller number of	13
lots;	14
(c) the dedication of land to public use;	15
(d) the redefinition of a lot on a resurvey.	16
 ‘290F Plan of subdivision may be registered	17
‘(1) A plan of subdivision may be registered in the appropriate register	18
in the land registry.	19
‘(2) A lot defined in the plan is created as a lot when the plan is	20
registered.	21
‘(3) The registration of a plan of subdivision does not limit anything the	22
Governor in Council or Minister may do under this Act.	23
‘(4) On the registration of a plan of subdivision of transport land, the	24
description of the land is amended as provided by the plan of subdivision.	25
‘(5) Subsection (4) is not limited by section 360. ¹²	26

12 Section 360 (Governor in Council may change leases)

‘290G Standard format plan of subdivision	1
‘A standard format plan of subdivision may only divide a standard format lot.	2 3
‘290H Volumetric format plan of subdivision	4
‘A volumetric format plan of subdivision may divide a lot on a standard or volumetric format plan of subdivision.	5 6
‘290I Division of lot on standard format plan of subdivision	7
‘(1) This section applies if a volumetric format plan of subdivision divides a standard format lot, creating 2 or more lots.	8 9
‘(2) If, after the division, a created lot continues to be defined using a horizontal plane and references to marks on the ground, the created lot is a standard lot.	10 11 12
‘290J Requirements for registration of plan of subdivision	13
‘(1) A plan of subdivision must—	14
(a) show all proposed lots marked with separate and distinct numbers; and	15 16
(b) show all proposed easements marked with separate and distinct letters; and	17 18
(c) distinctly show all roads, parks, reserves and other proposed lots that are to be public use land; and	19 20
(d) comply with directions of the chief executive about the required format for a plan of subdivision; and	21 22
(e) comply with the <i>Surveyors Act 1977</i> ; and	23
(f) be certified as accurate by a licensed surveyor; and	24
(g) include a statement agreeing to the plan by—	25
(i) the lessee; or	26
(ii) if the mortgagee of the lessee is in possession—the mortgagee in possession; and	27 28
(h) be consented to by the Minister; and	29

(i) be consented to by all registered mortgagees of each lot the subject of the plan and all other registered sublessees whose interests are affected by the plan.	1 2 3
‘(2) If the plan of subdivision defines the boundaries of a lease, or part of a lease, or another interest in land less than freehold, that is acquired by resumption under the authority of an Act—	4 5 6
(a) subsection (1)(g), (h) and (i) does not apply; and	7
(b) the plan must be consented to by the acquiring entity.	8
‘290K Particulars to be recorded on registration of plan	9
‘In registering a plan of subdivision, the chief executive must record in the appropriate register particulars of each proposed lot that is not public use land.	10 11 12
‘290L Lodged plan that is withdrawn and re-lodged	13
‘If a plan of subdivision is withdrawn and re-lodged under section 308, it must be treated for the purposes of section 283 and section 298 to have been lodged when it was first lodged. ¹³	14 15 16
‘290M Division excluding road or watercourse	17
‘(1) A lot may be divided by a plan of subdivision, even though there is a road or watercourse within the boundaries of the lot that is not part of the lot.	18 19 20
‘(2) However, the road or watercourse is not included in any lot created by the plan of subdivision, even though it may be within the boundaries of the lot.	21 22 23
‘290N Pre-examination of plans	24
‘(1) Nothing in this Act prevents the chief executive from examining a plan of survey and related instruments deposited before the plan is lodged for registration.	25 26 27

13 Section 308 (Withdrawing lodged document before registration), section 283 (Documents form part of a register) and section 298 (Priority of registered documents)

‘(2) Section 305 applies to a plan and related instruments deposited under subsection (1).¹⁴’. 1
2

Clause 77 Insertion of new ch 6, pt 1A 3

Chapter 6, after section 294— 4

insert— 5

‘PART 1A—BUILDING MANAGEMENT STATEMENTS 6

‘Division 1—Application 7

‘294A Application 8

‘This part applies only to transport land. 9

‘Division 2—Building management statements 10

‘294B Building management statement may be registered 11

‘(1) A building management statement may be registered. 12

‘(2) A “**building management statement**” is a document that— 13

(a) identifies lots to which it applies; and 14

(b) contains provisions benefiting and burdening the lots to which it applies; and 15
16

(c) otherwise complies with the requirements of this division for a building management statement. 17
18

‘(3) The lots to which a building management statement applies must be lots wholly or partly contained in, or wholly or partly containing, a building. 19
20
21

‘(4) However, the registration of a building management statement does not limit anything the Governor in Council may do, or the chief executive must do, under section 360.¹⁵’. 22
23
24

14 Section 305 (Requisitions)

15 Section 360 (Governor in Council may change leases)

‘294C Circumstances under which building management statement may be registered	1 2
‘(1) A building management statement may be registered if—	3
(a) the statement is signed by the lessees of all lots to which the statement applies; and	4 5
(b) the statement complies with the directions of the chief executive about the required format for a building management statement.	6 7
‘(2) The lots to which a building management statement applies must comprise—	8 9
(a) 2 or more volumetric format lots; or	10
(b) 1 or more volumetric format lots, and 1 or more standard format lots.	11 12
 ‘294D Content of building management statement	 13
‘(1) A building management statement must contain provisions about the following—	14 15
(a) the supply of services to lots;	16
(b) rights of access to lots;	17
(c) rights of support and shelter;	18
(d) insurance arrangements.	19
‘(2) A building management statement may contain provisions about the following—	20 21
(a) the establishment and operation of a management group;	22
(b) the imposition and recovery of levies, how levy amounts are to be kept and how levy amounts are to be spent;	23 24
(c) property maintenance;	25
(d) architectural and landscaping standards;	26
(e) dispute resolution;	27
(f) rules for common services and facilities;	28
(g) administrative arrangements;	29
(h) arrangements for accomplishing the extinguishment of the statement.	30 31

‘(3) To remove doubt, it is declared that a right of access, support or shelter, or other right in the nature of an easement, under a building management statement may operate according to its terms, and may be effective, despite the absence of a formal registered easement establishing the right.

‘(4) A dispute resolution provision under a building management statement may operate to require the referral of a dispute arising under the statement other than to a court.

‘(5) However, the provision is ineffective to the extent that it purports to operate to stop final determination of the dispute in a court of competent jurisdiction.

‘294E Registration of building management statement

‘(1) When registering a building management statement, the chief executive must record a reference to the statement in the particulars for the lease in the appropriate register.

‘(2) However, the chief executive, though not obliged to examine, may examine a building management statement for its validity, including, in particular, its consistency with any plan of subdivision, or its compliance with the requirements for a building management statement.

‘294F Amending a building management statement

‘(1) A building management statement may be amended by registering an instrument of amendment of the building management statement.

‘(2) The instrument of amendment must be signed by the lessees of all lots to which the building management statement applies.

‘(3) The instrument of amendment must not change the lots to which it applies.

‘294G Building management statement if lots owned by 1 lessee

‘A building management statement may be registered even if all the lots to which it applies have the same lessee.

‘294H One person becoming lessee of all lots	1
‘If the same person becomes the lessee of all lots to which a building management statement applies, the building management statement is extinguished only if the lessee asks the chief executive to extinguish it.	2 3 4
‘294I Extinguishing a building management statement	5
‘(1) A building management statement may be extinguished by registering a document of extinguishment of the building management statement.	6 7 8
‘(2) The instrument of extinguishment must be signed by the lessees of all lots to which the building management statement applies.	9 10
‘(3) However, a building management statement may be extinguished only if all registered mortgagees of lots to which the building management statement applies consent to the extinguishment.	11 12 13
‘294J Building management statement affecting freehold and non-freehold land	14 15
‘(1) If a building management statement benefits or burdens both freehold and non-freehold land, the building management statement must be registered in the appropriate registers.	16 17 18
‘(2) Further dealings affecting the building management statement must also be registered in the appropriate registers.	19 20
‘(3) If a lot subject to a building management statement, including a lot under the <i>Land Title Act 1994</i> , is surrendered to the State to be dealt with under this Act, the building management statement continues over the resulting unallocated State land only if the Minister approves the continuation.	21 22 23 24 25
‘(4) In considering whether to approve the continuation of the building management statement, the Minister may consider if it is reasonably necessary to benefit the lots, including the unallocated State land, the subject of the building management statement.	26 27 28 29
‘(5) If a building management statement continues over unallocated State land, the continuation must be recorded in the appropriate register.	30 31
‘(6) If unallocated State land, over which there is a building management statement, is dealt with under this Act—	32 33

	(a) the Minister may approve the building management statement continue; and	1 2
	(b) if approved—the continuation of the building management statement must be recorded in the appropriate register.’.	3 4
Clause 78	Amendment of s 352 (Plan of survey must be registered if needed)	5
	Section 352(3)—	6
	<i>insert—</i>	7
	‘(e) the plan complies with section 290J. ¹⁶ ’.	8
Clause 79	Amendment of s 392 (Delegation by Minister)	9
	(1) Section 392—	10
	<i>insert—</i>	11
	‘(2A) The Minister may delegate the Minister’s powers under this Act about rail land that is leased under this Act to the chief executive, or to an officer or employee, of the department within which the <i>Transport Infrastructure Act 1994</i> , chapter 7 ¹⁷ is administered.’.	12 13 14 15
	(2) Section 392—	16
	<i>insert—</i>	17
	‘(5) In subsection (2A)—	18
	“ rail land ” means rail corridor land and non-rail corridor land as defined under the <i>Transport Infrastructure Act 1994</i> .’.	19 20
Clause 80	Amendment of sch 6 (Dictionary)	21
	(1) Schedule 6—	22
	<i>insert—</i>	23

16 Section 290J (Requirements for registration of plan of subdivision)

17 *Transport Infrastructure Act 1994*, chapter 7 (Rail transport infrastructure and other matters)

-
- ‘ **“building”**’ means a fixed structure that is wholly or partly enclosed by walls and is roofed, and includes a part of a building.
- “building management statement”** see section 294B(2).
- “document”** includes—
- (a) a deed of grant or lease; and
 - (b) a will, grant of representation, or exemplification of a will, that may be used to deal with a lot; and
 - (c) a deed that relates to or may be used to deal with a lot; and
 - (d) a power of attorney that may be used to deal with a lot; and
 - (e) a request, application or other document that deals with a lot and may be registered under this Act; and
 - (f) a map or plan of survey that may be lodged; and
 - (g) another document that may be deposited.
- “lot”** means a separate, distinct parcel of land created on the registration of a plan of subdivision.
- “plan of subdivision”** see section 290E.
- “standard format”** see section 290B.
- “standard format lot”** means a lot on a standard format plan of survey.
- “transport land”**, for chapter 6, means any of the following land that is held under a perpetual lease—
- (a) land declared to be busway land under the *Transport Infrastructure Act 1994*, chapter 9;
 - (b) land declared to be light rail land under the *Transport Infrastructure Act 1994*, chapter 10;
 - (c) non-rail corridor land as defined under the *Transport Infrastructure Act 1994*;
 - (d) rail corridor land as defined under the *Transport Infrastructure Act 1994*.
- “volumetric format”** see section 290C.’.
- (2) Schedule 6, definition **“explanatory format plan”**, ‘section 290A’—
omit, insert—
‘section 290D’.

PART 8—AMENDMENT OF LAND TITLE ACT 1994**Clause 81 Act amended in pt 8 and sch**

This part and the schedule amend the *Land Title Act 1994*.

Clause 82 Insertion of new s 54J

Part 4, division 4—

insert—

‘54J Building management statement affecting freehold and non-freehold land

‘(1) If a building management statement benefits or burdens both freehold and non-freehold land, the building management statement must be registered in the appropriate registers.

‘(2) Further dealings affecting the building management statement must also be registered in the appropriate registers.

‘(3) If a lot subject to a building management statement, including a lot over which a lease is issued under the *Land Act 1994*, is surrendered to the State to be dealt with under the *Land Act 1994*, the building management statement continues over the resulting unallocated State land only if the Minister approves the continuation.

‘(4) In considering whether to approve the continuation of the building management statement, the Minister may consider if it is reasonably necessary to benefit the lots, including the unallocated State land, the subject of the building management statement.

‘(5) In this section—

“**Minister**” means the Minister administering the *Land Act 1994*.’.

SCHEDULE	1
MINOR AND CONSEQUENTIAL AMENDMENTS	2
sections 3, 8, 10, 58 and 81	3
LAND ACT 1994	4
1 Section 290J(e), ‘Surveyors Act 1977’—	5
<i>omit, insert—</i>	6
<i>‘Survey and Mapping Infrastructure Act 2003’.</i>	7
TRANSPORT INFRASTRUCTURE ACT 1994	8
1 Section 400(2)(c), ‘for the light rail’—	9
<i>omit.</i>	10
2 Section 481(b) and (c)—	11
<i>omit.</i>	12
3 Schedule 1, item 17, ‘for a railway’—	13
<i>omit.</i>	14
4 Schedule 6, definition, “authorised person”, ‘, other than for a railway or light rail,’—	15
<i>omit.</i>	16
5 Schedule 6, definitions “authorised person for a light rail” and “authorised person for a railway”—	17
<i>omit.</i>	18
	19
	20

SCHEDULE (continued)

TRANSPORT OPERATIONS (MARINE SAFETY)	1
ACT 1994	2
1 Section 4—	3
<i>insert—</i>	4
‘ “approved form” see section 206B.’	5
TRANSPORT OPERATIONS (PASSENGER	6
TRANSPORT) ACT 1994	7
1 Section 47A(4), ‘section 62.’—	8
<i>omit, insert—</i>	9
‘sections 62 and 62AAD. ¹⁸ ’	10
2 Chapter 6, part 2, division 2, heading, ‘service’—	11
<i>insert—</i>	12
‘ <i>passenger services</i> ’.	13
3 Section 56(3)(a)(ii)(A), ‘sections’—	14
<i>omit, insert—</i>	15
‘section’.	16
4 Section 56(3)(a)(ii)(C), ‘has’—	17
<i>omit.</i>	18

18 Sections 62 (Offer of new service contract) and 62AAD (Offer of new Translink service contract)

SCHEDULE (continued)

5	Section 59(2), after ‘regard to’—	1
	<i>insert—</i>	2
	‘at least the following’.	3
6	Section 59(2)(a), (b), (c) and (d), ‘; and’—	4
	<i>omit, insert—</i>	5
	‘;’.	6
7	Section 61(4), ‘A’—	7
	<i>omit, insert—</i>	8
	‘Without limiting the matters an arbitrator may or may not take into account, a’.	9
		10
8	Chapter 11, part 3A, heading, after ‘FOR’—	11
	<i>insert—</i>	12
	‘DANGEROUS GOODS ON’.	13
9	Chapter 11A, heading—	14
	<i>omit, insert—</i>	15
	‘CHAPTER 11A—FARE EVASION AND OTHER OFFENCES’.	16
		17
10	Section 143AI, ‘part’—	18
	<i>omit, insert—</i>	19
	‘chapter’.	20

SCHEDULE (continued)

TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995	1 2
1 Section 151, heading—	3
<i>omit, insert—</i>	4
‘151 Application of ch 5A’.	5
2 Section 151(1), ‘This part’—	6
<i>omit, insert—</i>	7
‘This chapter’.	8
3 Section 151(2), ‘this part’—	9
<i>omit, insert—</i>	10
‘this chapter’.	11