



Queensland

# **Transport Operations (TransLink Transit Authority) Bill 2008**





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# 2008

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## A Bill

for

**An Act for the management of mass transit services in south east Queensland, and to amend the *Public Service Act 1996*, the *Transport Infrastructure Act 1994*, the *Transport Operations (Passenger Transport) Act 1994*, the *Transport Operations (Road Use Management) Act 1995* and the *Transport Planning and Coordination Act 1994* for particular purposes**

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[s 1]

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<b>The Parliament of Queensland enacts—</b>	1
<b>Part 1 Preliminary</b>	2
<b>Division 1 Introduction</b>	3
<b>1 Short title</b>	4
This Act may be cited as the <i>Transport Operations (TransLink Transit Authority) Act 2008</i> .	5 6
<b>2 Commencement</b>	7
This Act commences on a day to be fixed by proclamation.	8
<b>3 Purposes of Act and their achievement</b>	9
(1) The main purpose of this Act is to deliver in the TransLink area the best possible mass transit services at reasonable cost to the community and government, while keeping government regulation to a minimum.	10 11 12 13
(2) Other purposes of this Act are, consistently with the objectives of the <i>Transport Planning and Coordination Act 1994</i> , to do the following in relation to the TransLink area—	14 15 16
(a) enable the effective operational planning and efficient management of mass transit services in a way that—	17 18
(i) is responsive to community needs; and	19
(ii) offers an attractive alternative to private transport and reduces the overall environmental, economic and social costs of passenger transport; and	20 21 22
(iii) addresses the challenges of future growth; and	23
(iv) provides a high level of accountability; and	24

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	(v) is at a reasonable cost to the community and government;	1 2
	(b) provide a reasonable level of community access and mobility in support of the government’s social justice objectives;	3 4 5
	(c) provide a framework for coordinating the provision of the services under service contracts or other contracts to form a comprehensive, integrated and efficient mass transit network;	6 7 8 9
	(d) help the government achieve its congestion management priorities relating to transport.	10 11
(3)	To achieve the purposes, this Act establishes the TransLink Transit Authority to manage mass transit services in the TransLink area.	12 13 14
<b>4</b>	<b>Act binds all persons</b>	15
(1)	This Act binds all persons including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.	16 17 18
(2)	Nothing in this Act makes the State liable to be prosecuted for an offence.	19 20
<b>5</b>	<b>Relationship with Transport Operations (Passenger Transport) Act 1994</b>	21 22
	This Act does not affect—	23
(a)	the functions or powers under TOPTA of the TOPTA chief executive; or	24 25
(b)	the rights or obligations under TOPTA of drivers and operators and of passengers using public passenger services.	26 27 28

[s 6]

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<b>Division 2</b>	<b>Interpretation</b>	1
<b>6</b>	<b>Definitions</b>	2
	The dictionary in schedule 2 defines particular words used in this Act.	3 4
<b>7</b>	<b>What is the <i>TransLink area</i></b>	5
(1)	The <i>TransLink area</i> is—	6
(a)	the service contract areas or routes mentioned in schedule 1; and	7 8
(b)	another service contract area or route in the SEQ area, as prescribed under a regulation.	9 10
(2)	In this section—	11
	<i>SEQ area</i> means the combined local government areas of the following local governments under the <i>Local Government Act 1993</i> as that Act was in force immediately before 15 March 2008—	12 13 14 15
(a)	the cities of Brisbane, Caloundra, Gold Coast, Ipswich, Logan, Redcliffe and Toowoomba;	16 17
(b)	the shires of Beaudesert, Boonah, Caboolture, Esk, Gatton, Kilcoy, Laidley, Maroochy, Noosa, Pine Rivers and Redland.	18 19 20
	<i>service contract area or route</i> see TOPTA, schedule 3.’.	21
	<i>Editor’s note</i> —	22
	Indicative maps of the TransLink area are on TransLink’s website. < <a href="http://www.translink.com.au/">http://www.translink.com.au/</a> >’.	23 24
<b>8</b>	<b>What is a <i>mass transit network</i></b>	25
	A <i>mass transit network</i> is a centrally planned and coordinated system of mass transit services and related infrastructure, technology and facilities including, for example, ticketing,	26 27 28

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fares and customer information facilities and bus stops and stations.	1 2
<b>Part 2</b>	
<b>Establishment and status of TransLink</b>	3 4
<b>9 Establishment</b>	5
The TransLink Transit Authority is established.	6
<b>10 Legal status</b>	7
TransLink—	8
(a) is a body corporate, consisting of the board of members provided for under part 4; and	9 10
(b) has perpetual succession; and	11
(c) may sue and be sued in its corporate name.	12
<b>11 TransLink represents the State</b>	13
(1) TransLink represents the State.	14
(2) Without limiting subsection (1), TransLink has the status, privileges and immunities of the State.	15 16
<b>12 TransLink declared to be excluded matter for Corporations Act</b>	17 18
TransLink is declared to be an excluded matter for the Corporations Act, section 5F in relation to the whole of the Corporations legislation.	19 20 21
<i>Editor's note—</i>	22
Corporations Act, section 5F (Corporations legislation does not apply to matters declared by State or Territory law to be an excluded matter)	23 24

[s 13]

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<b>13</b>	<b>Application of other Acts</b>	1
(1)	TransLink is—	2
(a)	a statutory body under the <i>Financial Administration and Audit Act 1977</i> ; and	3 4
(b)	a statutory body under the <i>Statutory Bodies Financial Arrangements Act 1982</i> (the <b>SBFA</b> ).	5 6
(2)	The SBFA, part 2B sets out the way in which TransLink’s powers under this Act are affected by that Act.	7 8
<b>Part 3</b>	<b>Functions and powers of TransLink</b>	9 10
<b>Division 1</b>	<b>Functions</b>	11
<b>14</b>	<b>Main function and its achievement</b>	12
(1)	TransLink’s main function is to give effect to the purposes of this Act.	13 14
(2)	The main function is performed primarily by TransLink doing the following in relation to mass transit services for the TransLink area—	15 16 17
(a)	operational planning for a mass transit network;	18
(b)	planning, purchasing and delivering the services, including, for example, by coordinating the scheduling of modes of mass transit services;	19 20 21
(c)	managing and maintaining infrastructure for the services, including, for example, bus stops and on-road bus facilities;	22 23 24
(d)	delivering and managing infrastructure that is critical for the services;	25 26
(e)	improving and expanding the range of the services;	27

- 
- (f) establishing a single point of contact for customer service issues, including, for example, the provision of service information and complaints handling; 1  
2  
3
- (g) managing the introduction of new technology to improve the services; 4  
5
- Example—* 6
- real time passenger information and the widespread use of new ticketing technology 7  
8
- (h) improving the governance of the services, with local government, consumer and independent expert representations; 9  
10  
11
- (i) managing service contracts and other contracts to— 12
- (i) ensure value for taxpayers through performance-based incentives that promote integration, on-time running and customer service; 13  
14  
15  
and 16
- (ii) minimise fare evasion; 17
- (j) managing integrated ticketing, including, for example, by developing fare products; 18  
19
- (k) providing information to passengers; 20
- (l) carrying out commercial activities related to the services to obtain revenue for the performance of its other functions; 21  
22  
23
- Examples of commercial activities that TransLink may carry out—* 24
- the sale of advertising rights on TransLink facilities 25
  - commercial arrangements for the application of new ticketing technology 26  
27
- (m) making recommendations to the Minister about fare strategies and service levels; 28  
29
- (n) giving information to help the development of plans and strategies under other Acts relating to transport; 30  
31
- (o) implementing government policies for, or in association with, other governmental agencies. 32  
33
-

[s 15]

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- (3) It is Parliament's expectation that once the single point of contact for customer service issues has been established, an operator of any relevant mass transit service will not establish or continue any similar point of contact for the service without TransLink's agreement. 1  
2  
3  
4  
5
- (4) In this section— 6  
*commercial activities* include— 7
- (a) commercial activities that are not within the ordinary functions of the State; and 8  
9
- (b) commercial activities of a competitive nature. 10
- relevant mass transit service* means a mass transit service provided under an agreement entered into by TransLink in its own right or as a delegate. 11  
12  
13

## **Division 2                      Powers** 14

### **15            General powers** 15

- (1) TransLink has the powers— 16
- (a) necessary or convenient to perform its functions; or 17
- (b) incidental to the performance of its functions; or 18
- (c) to help to achieve the purposes of this Act. 19
- (2) Without limiting subsection (1), TransLink may do all or any of the following— 20  
21
- (a) acquire, hold, dispose of, and deal with, property; 22
- (b) appoint agents and attorneys; 23
- (c) engage consultants; 24
- (d) subject to sections 16 and 17(5), enter into contracts, joint ventures and commercial arrangements; 25  
26
- (e) do anything necessary or convenient to be done in the performance of its functions under an Act. 27  
28

- 
- (3) In performing its functions, TransLink may act alone or in conjunction with public sector units, local governments, agencies or instrumentalities of the Commonwealth and other entities. 1  
2  
3  
4
- (4) TransLink also has the powers conferred on it under another provision of this Act or under another Act. 5  
6
- 16 Service contracts** 7
- (1) TransLink does not have the power, in its own right, to enter into a contract that is, or is in the nature of, a service contract. 8  
9
- (2) To remove any doubt, it is declared that subsection (1) does not prevent TransLink from entering into service contracts or performing functions or exercising powers relating to service contracts as the delegate of the TOPTA chief executive. 10  
11  
12  
13
- 17 Work performance arrangements** 14
- (1) TransLink may enter into, and give effect to, a work performance arrangement (a *relevant arrangement*) with— 15  
16
- (a) the employing office; or 17
- (b) the appropriate authority of another government entity. 18
- (2) A relevant arrangement may make provision for all matters necessary or convenient to be provided under the arrangement. 19  
20  
21
- (3) For example, a relevant arrangement may provide for— 22
- (a) the appointment of a person to an office, and the holding of the office by the person, for the arrangement; and 23  
24
- (b) the authorising of a person to exercise powers for the arrangement; and 25  
26
- (c) whether payment is to be made for work done under the arrangement and, if so, what payment is to be made and who is to make the payment. 27  
28  
29
- (4) A person performing work for TransLink under a relevant arrangement— 30  
31

[s 18]

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(a)	is not employed by TransLink; and	1
(b)	remains an employee of the State or government entity whose appropriate authority is a party to the arrangement.	2 3 4
(5)	To remove any doubt, it is declared that TransLink does not have power to employ a person performing work for TransLink under a relevant arrangement.	5 6 7
<b>18</b>	<b>Powers subject to Ministerial directions</b>	8
	The exercise of any of TransLink's powers is subject to Ministerial directions.	9 10
<b>Part 4</b>	<b>TransLink's board</b>	11
<b>Division 1</b>	<b>Board membership</b>	12
<b>19</b>	<b>The members</b>	13
	The board consists of 7 persons (each a <i>member</i> ) made up of—	14 15
(a)	a chairperson (an <i>appointed member</i> ); and	16
(b)	the TOPTA chief executive; and	17
(c)	1 person (also an <i>appointed member</i> ) who is the chief executive officer of a local government—	18 19
(i)	whose area includes any of the TransLink area; and	20
(ii)	that substantially funds passenger transport services in the part of its area that is in the TransLink area; and	21 22 23
(d)	4 other persons (each also an <i>appointed member</i> ).	24

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<b>20</b>	<b>Appointed members</b>	1
(1)	Appointed members are to be appointed by the Governor in Council.	2 3
(2)	An appointed member may be appointed on a full-time or part-time basis.	4 5
(3)	Appointed members are appointed under this Act and not the <i>Public Service Act 1996</i> .	6 7
<b>21</b>	<b>Eligibility for appointment</b>	8
	A person may be appointed as an appointed member only if the person is not a disqualified person and the person—	9 10
(a)	has extensive knowledge of and experience in 1 or more of the following—	11 12
	(i) the representation of the interests of customers of public transport services;	13 14
	(ii) the representation of the interests of employees in the public transport sector;	15 16
	(iii) transport coordination and operational planning;	17
	(iv) public transport network planning;	18
	(v) law, economics or accounting;	19
	(vi) social policy;	20
	(vii) customer relations;	21
	(viii) commercial and marketing development; or	22
(b)	has other knowledge and experience the Minister considers appropriate.	23 24
<b>22</b>	<b>Duration of appointment</b>	25
(1)	Subject to section 23, an appointed member holds office for the term stated in the member's instrument of appointment.	26 27
(2)	The term stated in the instrument of appointment must not be longer than 5 years.	28 29

[s 23]

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(3)	Subsection (1) does not limit or otherwise affect the operation of the <i>Acts Interpretation Act 1954</i> , section 25 in relation to the appointment.	1 2 3
<b>23</b>	<b>Terms and conditions of appointment</b>	4
(1)	An appointed member is to be paid the remuneration and allowances decided by the Governor in Council in the person's instrument of appointment.	5 6 7
(2)	An appointed member holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.	8 9 10
<b>24</b>	<b>Resignation</b>	11
	An appointed member may resign by signed notice given to the Minister.	12 13
<b>25</b>	<b>Delegation by local government member</b>	14
(1)	The appointed member who is the chief executive officer of a local government may delegate that member's functions as a member to an appropriately qualified employee of the local government.	15 16 17 18
(2)	However, the functions can not be delegated to a person if—	19
(a)	the person is a disqualified person; or	20
(b)	the person, or a close relative of the person, has a direct or indirect pecuniary interest that conflicts or may conflict with the proper performance of any function of a member; or	21 22 23 24
(c)	any function of the person as an employee of the local government relates to any of TransLink's functions.	25 26

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<b>Division 2</b>	<b>Meetings and other business of board</b>	1 2
<b>26</b>	<b>Conduct of business</b>	3
	(1) A regulation may provide for how the board must conduct its business, including its meetings.	4 5
	(2) Subject to subsection (1) and this division, the board may conduct its business, including its meetings, in the way it considers appropriate.	6 7 8
<b>27</b>	<b>Times and places of meetings</b>	9
	(1) Board meetings are to be held at the times and places the chairperson decides.	10 11
	(2) However, the chairperson must call a meeting if asked, in writing, to do so by at least 2 members.	12 13
	(3) Also, the chairperson must call a meeting at least once in each quarter.	14 15
<b>28</b>	<b>Quorum</b>	16
	A quorum for a board meeting is more than half of the number of members.	17 18
<b>29</b>	<b>Presiding at meetings</b>	19
	(1) The chairperson is to preside at all board meetings at which the chairperson is present.	20 21
	(2) If the chairperson is not present, the following member is to preside—	22 23
	(a) the member chosen by the chairperson and advised to the TOPTA chief executive;	24 25
	(b) otherwise—the member chosen by the members present.	26 27

[s 30]

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<b>30</b>	<b>Conduct of meetings</b>	1
(1)	The board may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between persons taking part in the meeting.	2 3 4 5
(2)	A person who takes part in a board meeting under subsection (1) is taken to be present at the meeting.	6 7
(3)	A decision at a board meeting must be a majority decision of the members present.	8 9
(4)	However, if there is an equality of votes cast on a matter the chairperson has a casting vote.	10 11
<b>31</b>	<b>Decisions outside meetings</b>	12
	A decision of the board, other than a decision at a board meeting, may be made only with the written agreement of a majority of the members.	13 14 15
<b>32</b>	<b>Minutes and record of decisions</b>	16
	The board must keep—	17
(a)	minutes of its meetings; and	18
(b)	a record of any decisions under section 31.	19
<b>Division 3</b>	<b>Miscellaneous provision</b>	20
<b>33</b>	<b>Protection of members from civil liability</b>	21
(1)	A member is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act or a direction or a requirement under this Act.	22 23 24
(2)	If subsection (1) prevents a civil liability attaching to the member, the liability attaches instead to the State.	25 26

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<b>Part 5</b>	<b>Staffing</b>	1
<b>Division 1</b>	<b>Chief executive officer of TransLink</b>	2
<b>34</b>	<b>Chief executive officer</b>	3
(1)	The Governor in Council must appoint a chief executive officer of TransLink.	4 5
(2)	A disqualified person can not be appointed as the chief executive officer.	6 7
(3)	The chief executive officer's remuneration and allowances and other terms and conditions of office are as decided by the Governor in Council in the person's instrument of appointment.	8 9 10 11
(4)	The chief executive officer is employed under this Act and not the <i>Public Service Act 1996</i> .	12 13
(5)	The chief executive officer must report to the board about TransLink's operations.	14 15
<b>35</b>	<b>Acting chief executive officer</b>	16
(1)	This section applies if—	17
(a)	no chief executive officer has been appointed; or	18
(b)	the office of chief executive is vacant; or	19
(c)	the appointed chief executive officer (the <i>usual ceo</i> ) is absent or is unable to discharge the functions of the office because of illness or any other reason.	20 21 22
(2)	The Minister may, by signed notice, appoint a person to act in the office.	23 24
(3)	For the circumstances mentioned in (1)(a) or (b), the appointment ends when, if the Governor in Council appoints someone else as the chief executive officer, the term of that appointment starts.	25 26 27 28

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- (4) Also, for the circumstances mentioned in subsection (1)(c), the appointment ends if the Minister gives the appointee notice that the usual ceo has resumed his or her duties as the chief executive officer. 1  
2  
3  
4
- (5) The *Acts Interpretation Act 1954*, section 24B(7D) to (15) applies to the appointee as if the appointee had been appointed under that section. 5  
6  
7
- (6) This section does not limit or otherwise affect the *Acts Interpretation Act 1954*, section 24B. 8  
9

## **Division 2                      Employing office** 10

### **36            Establishment** 11

- (1) The TransLink Transit Authority Employing Office is established. 12  
13
- (2) The employing office is a separate entity from TransLink. 14

### **37            Functions** 15

The main functions of the employing office are— 16

- (a) entering into, for the State, a work performance arrangement with TransLink under which employees of the employing office perform work for TransLink; and 17  
18  
19
- (b) employing, for the State, staff to perform work for TransLink under a work performance arrangement; and 20  
21
- (c) doing anything incidental to the discharge of the functions mentioned in paragraphs (a) and (b). 22  
23

### **38            Employing office may employ staff** 24

- (1) The employing office may, for the State, employ staff. 25
- (2) Employees of the employing office are employed under the *Public Service Act 1996*. 26  
27

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<b>Part 6</b>	<b>Directions, reporting and information</b>	1 2
<b>39</b>	<b>Ministerial directions or guidelines to TransLink</b>	3
(1)	The Minister may give TransLink—	4
(a)	a written direction about the performance of its functions (a <i>Ministerial direction</i> ); or	5 6
(b)	written guidelines to help TransLink perform its functions.	7 8
(2)	A Ministerial direction may prohibit TransLink from acquiring particular assets or assets of a particular type.	9 10
(3)	TransLink must comply with a Ministerial direction.	11
<b>40</b>	<b>Infrastructure project reporting</b>	12
(1)	The Minister may, by notice, require TransLink to give the Minister or a stated public service officer of the department or a stated person in a stated government entity a report, or reports at stated intervals, about its infrastructure projects.	13 14 15 16
(2)	TransLink must comply with the requirement.	17
<b>41</b>	<b>Ministerial access to information</b>	18
(1)	The Minister may, by notice, require TransLink to prepare, approve and give the Minister or a stated public service officer of the department or a stated person in a stated government entity stated information or stated documents, or copies of documents, in TransLink’s possession.	19 20 21 22 23
(2)	TransLink must comply with the requirement.	24
<b>42</b>	<b>TransLink network plans</b>	25
(1)	TransLink must, at least every four years, prepare, approve and give the Minister a written network plan about funded	26 27

[s 43]

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improvements in mass transit services and infrastructure for the TransLink area.	1 2
(2) A network plan can not be implemented unless it has been approved by the Minister.	3 4
<b>43 Fare strategies</b>	5
(1) TransLink must prepare, approve and give the Minister a written fare strategy making recommendations about fares for mass transit services under service contracts relating to the TransLink area during the following periods from TransLink's establishment—	6 7 8 9 10
(a) generally—each 5 year period;	11
(b) if the Minister, by notice, directs shorter periods—each of the shorter periods.	12 13
(2) A fare strategy can not be implemented unless it has been approved by the Minister.	14 15
<b>44 System performance reports</b>	16
(1) TransLink must prepare, approve and give the Minister a written report about the performance of its functions at quarterly intervals or other more frequent intervals as directed by the Minister.	17 18 19 20
(2) Without limiting subsection (1), the report must address the following issues for mass transit services for the TransLink area—	21 22 23
(a) customer complaints management reporting;	24
(b) patronage reporting;	25
(c) service faults and rectification;	26
(d) safety;	27
(e) contractual issues;	28
(f) revenue and expenditure reporting.	29

- 
- 45 Annual report** 1
- (1) TransLink must prepare, approve and give the Minister a written report about the performance of its functions each financial year. 2  
3  
4
- (2) The report must be given as soon as practicable after the end of the financial year, but within 2 months after the year ends. 5  
6
- (3) The Minister must, within 14 sitting days after receiving the report, cause a copy to be tabled in the Legislative Assembly. 7  
8
- (4) Without limiting subsection (1), the report must include— 9
- (a) a copy of any Ministerial directions given during the year; and 10  
11
- (b) a statement about how TransLink performed its functions during the year compared with the expected performance for the year under the relevant network plan; and 12  
13  
14  
15
- (c) any other matter prescribed under a regulation. 16
- (5) To remove any doubt, it is declared that this section does not limit or otherwise affect any obligation TransLink has to give a report under the *Financial Administration and Audit Act 1977*. 17  
18  
19  
20
- 46 Provisions for making plan or recommendation to Minister** 21  
22
- (1) This section applies if, in the performance of its functions, TransLink proposes to make a network plan or other plan for, or a recommendation to, the Minister. 23  
24  
25
- (2) The plan or recommendation must, as far as practicable, be consistent with— 26  
27
- (a) existing strategies, plans and implementation programs and other strategic documents or plans under an Act relating to transport or the TransLink area; and 28  
29  
30
- (b) the contractual liabilities of the State of which the board is aware. 31  
32



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(5)	A special event declaration is sufficiently made if TransLink publishes the declaration on its website or in a newspaper circulating in the TransLink area.	1 2 3
<b>48</b>	<b>Coordination power for mass transit services to special events</b>	4 5
	TransLink may coordinate the provision of mass transit services to and from a special event in the TransLink area.	6 7
<b>49</b>	<b>TransLink approval required for special event services</b>	8
(1)	A person must not enter into or perform a contract or arrangement for the provision of mass transit services to or from a special event in the TransLink area without TransLink’s written approval.	9 10 11 12
	Maximum penalty—200 penalty units.	13
	<i>Note—</i>	14
	See however section 57 (Deferral of application of s 49 for particular contracts and arrangements for special event services).	15 16
(2)	A contract or arrangement made or entered into in contravention of subsection (1) has no effect to the extent of the contravention.	17 18 19
<b>50</b>	<b>Special event approvals</b>	20
(1)	An approval by TransLink under section 49(1) (a <i>special event approval</i> ) may—	21 22
(a)	be given on TransLink’s own initiative; and	23
(b)	be given for a specific mass transit service to or from a special event or generally for a stated type of mass transit service to or from a special event.	24 25 26
(2)	A special event approval is sufficiently given if TransLink publishes the approval on its website or in a newspaper circulating in the TransLink area.	27 28 29



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<b>52</b>	<b>Criminal history report about appointee or prospective appointee</b>	1 2
(1)	This section applies in relation to—	3
(a)	a member; or	4
(b)	the chief executive officer; or	5
(c)	a person who is being considered for appointment as a member or the chief executive officer (a <i>prospective appointee</i> ).	6 7 8
(2)	The Minister may ask the commissioner of the police service for—	9 10
(a)	a written report about the person’s criminal history; and	11
(b)	a brief description of the circumstances of any conviction mentioned in the criminal history.	12 13
(3)	However, if the request relates to a prospective appointee, the Minister may make the request only if the person has given the Minister written consent for the request.	14 15 16
(4)	The commissioner of the police service must comply with the request.	17 18
(5)	However, subsection (4) applies only to information in the commissioner’s possession or to which the commissioner has access.	19 20 21
(6)	The Minister must ensure a report given under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.	22 23 24
(7)	In this section—	25
	<i>criminal history</i> , of a person, means the person’s criminal history as defined under the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> , other than for a spent conviction.	26 27 28
	<i>spent conviction</i> means a conviction—	29
(a)	for which the rehabilitation period under the <i>Criminal Law (Rehabilitation of Offenders) Act 1986</i> has expired under that Act; and	30 31 32

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	(b) that is not revived as prescribed by section 11 of that Act.	1 2
<b>53</b>	<b>Disclosure of disqualification by appointees</b>	3
	If an appointed member or the chief executive officer is or becomes a disqualified person, that person must, as soon as practicable, give the Minister notice of that fact.	4 5 6
	Maximum penalty—100 penalty units.	7
<b>54</b>	<b>Disclosure of conflicts of interest by appointees</b>	8
	(1) This section applies if—	9
	(a) a member, or a close relative of a member, has a direct or indirect pecuniary interest that conflicts or may conflict with the proper performance of the member's functions; or	10 11 12 13
	(b) the chief executive officer, or a close relative of the chief executive officer, has a direct or indirect pecuniary interest that conflicts or may conflict with the proper performance of the chief executive officer's functions.	14 15 16 17
	(2) The member or chief executive officer must, as soon as practicable, disclose the interest to—	18 19
	(a) if the matter is being considered or about to be considered by the board—the board; or	20 21
	(b) otherwise—the Minister.	22
	Maximum penalty—100 penalty units.	23
	(3) If a member has disclosed an interest relating to a matter being considered or about to be considered by the board, the member must not participate in the board's consideration of the matter.	24 25 26 27
	Maximum penalty—100 penalty units.	28

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<b>55</b>	<b>Delegations by TransLink</b>	1
	(1) TransLink may delegate its functions under this Act to—	2
	(a) a member; or	3
	(b) the chief executive officer; or	4
	(c) any other appropriately qualified person.	5
	(2) However, TransLink can not delegate its functions under part 6 of approving a document that it must give to the Minister.	6 7
	(3) A member, other than an appointed member, may delegate the member's functions as a member to an appropriately qualified public service officer.	8 9 10
	(4) In this section—	11
	<i>functions</i> includes powers.	12
<b>56</b>	<b>Regulation-making power</b>	13
	The Governor in Council may make regulations under this Act.	14 15

## **Part 9**                      **Transitional provisions**                      16

<b>57</b>	<b>Deferral of application of s 49 for particular contracts and arrangements for special event services</b>	17 18
	(1) This section applies to a contract or arrangement made or entered into before section 49 commences.	19 20
	(2) Section 49 does not apply to the performance of the contract or arrangement until the first anniversary of the commencement.	21 22 23

[s 58]

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<b>58</b>	<b>Novation of particular State contracts to TransLink</b>	1
(1)	This section applies to a contract prescribed under a regulation—	2
		3
(a)	in force immediately before this section commences; and	4
		5
(b)	to which the State is a party; and	6
(c)	that relates to the performance of a function by or for the State that will, from the commencement, be a function of TransLink; and	7
		8
		9
(d)	that is not a service contract, work performance arrangement or contract of employment.	10
		11
(2)	On the commencement, the following apply despite any provision of the contract—	12
		13
(a)	TransLink is taken to be a party to the contract instead of the State;	14
		15
(b)	TransLink assumes the State's liabilities and rights under the contract;	16
		17
(c)	a reference in the contract to the State is taken to be a reference to TransLink;	18
		19
(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.	20
		21
		22
(3)	Subsection (2), or any thing done under it, does not—	23
(a)	discharge or otherwise affect the contract or the performance of the contract by another party to it; or	24
		25
(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.	26
		27
		28
(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)—	29
		30
		31

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- (a) the advice is taken to have been obtained; and 1
- (b) the consent or notice is taken to have been given. 2
- (5) To remove any doubt, it is declared that— 3
- (a) a State is a party to a contract entered into by an entity 4  
that is a manifestation of, or that represents, the State (a 5  
***State entity***), either for the State or in the entity’s own 6  
right; and 7
- Examples of manifestations of the State—* 8
- the TOPTA department 9
  - the former unincorporated body known as ‘Translink’ that 10  
formed part of the TOPTA department before the 11  
commencement 12
- (b) a reference in a contract to the performance of a 13  
function by or for the State includes a reference to 14  
performance of that function by or for a State entity; and 15
- (c) a liability that, under a contract, is expressed to be a 16  
liability of a State entity is a liability of the State under 17  
that contract; and 18
- (d) a right that, under a contract, is expressed to be a right of 19  
a State entity is a right of the State under that contract; 20  
and 21
- (e) a reference in a contract to a named State entity is a 22  
reference to the State. 23
- (6) For subsection (1)(b), a contract relating to the performance of 24  
a function by or for the State includes a contract under which 25  
a guarantee, indemnity or other form of surety is given for the 26  
performance of the function by or for the State. 27
- (7) In this section— 28
- contract*** includes a deed or other instrument under which a 29  
guarantee, indemnity or other form of surety is given in favour 30  
of the State, whether or not for consideration. 31

[s 59]

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<b>59</b>	<b>Existing service contracts not affected</b>	1
	To remove any doubt, it is declared that the enactment of this Act does not, of itself, alter or in any way affect a service contract.	2 3 4
<b>60</b>	<b>Transfer of particular State assets and liabilities to TransLink</b>	5 6
(1)	The Minister may prepare a register of the assets and liabilities of the State that are to be transferred to TransLink for the purposes of this Act.	7 8 9
(2)	The register has no effect unless it is approved under a regulation.	10 11
(3)	When the register takes effect—	12
(a)	the State is divested of the assets and liabilities and they become assets and liabilities of TransLink; and	13 14
(b)	proceedings by or against the State, or that could have been started by or against the State before the taking of effect, relating to the assets or liabilities may be continued or started by or against TransLink.	15 16 17 18
(4)	This section does not limit or otherwise affect section 58(2)(b).	19 20
<b>61</b>	<b>Registration of transferred assets</b>	21
(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 60(3)(a), becomes an asset of TransLink.	22 23 24
(2)	The registrar or person must, if asked by TransLink in the appropriate form, and on payment of any fee, record a transfer of the asset to TransLink.	25 26 27
(3)	In this section—	28
	<i>registrar of titles</i> means a public official or authority responsible for registering title to land and dealings affecting land.	29 30 31

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<b>62</b>	<b>References to former body known as Translink</b>	1
	A reference in a document to the former unincorporated body known as ‘Translink’ that, before this section commences, formed part of the TOPTA department is, if the context permits, taken to be a reference to TransLink.	2 3 4 5
<b>63</b>	<b>Existing industrial instruments that bind employing office</b>	6
	The employing office is, on the commencement of this section, taken to be bound by the industrial instruments under the <i>Industrial Relations Act 1999</i> that on the commencement—	7 8 9 10
	(a) bind the State; and	11
	(b) apply to public service employees whose employment is carried out in the TOPTA department.	12 13
<b>Part 10</b>	<b>Amendment of Public Service Act 1996</b>	14 15
<b>64</b>	<b>Act amended in pt 10</b>	16
	This part amends the <i>Public Service Act 1996</i> .	17
<b>65</b>	<b>Amendment of sch 1 (Public service offices and their heads)</b>	18 19
	Schedule 1, item 12—	20
	<i>omit, insert—</i>	21
‘12	TransLink Transit Authority Employing Office under the <i>Transport Operations (TransLink Transit Authority) Act 2008</i>	The chief executive officer under the <i>Transport Operations (TransLink Transit Authority) Act 2008</i> ’.

[s 66]

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<b>Part 11</b>	<b>Amendment of Transport Infrastructure Act 1994</b>	1 2
<b>66</b>	<b>Act amended in pt 11</b>	3
	This part amends the <i>Transport Infrastructure Act 1994</i> .	4
<b>67</b>	<b>Amendment of s 6 (Contents of transport infrastructure strategies)</b>	5 6
	Section 6(4), ‘SEQTA area under the <i>Transport Planning and Coordination Act 1994</i> ’—	7 8
	<i>omit, insert—</i>	9
	‘TransLink area under the <i>Transport Operations (TransLink Transit Authority) Act 2008</i> ’.	10 11
<b>68</b>	<b>Amendment of s 20 (Transport GOCs)</b>	12
	Section 20(1), after ‘transport infrastructure strategies’—	13
	<i>insert—</i>	14
	‘and any network plan under the <i>Transport Operations (TransLink Transit Authority) Act 2008</i> ’.	15 16
<b>Part 12</b>	<b>Amendment of Transport Operations (Passenger Transport) Act 1994</b>	17 18 19
<b>69</b>	<b>Act amended in pt 12</b>	20
	This part amends the <i>Transport Operations (Passenger Transport) Act 1994</i> .	21 22

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<b>70</b>	<b>Insertion of new ch 5A</b>	1
	After section 36—	2
	<i>insert—</i>	3
	<b>‘Chapter 5A</b>	4
	<b>Essential public transport</b>	
	<b>infrastructure</b>	5
<b>‘36A</b>	<b>Declaration of essential public transport infrastructure</b>	6
	‘(1) A regulation may declare infrastructure to be essential public	7
	transport infrastructure.	8
	‘(2) However, the declaration may be made only if—	9
	(a) the infrastructure is used, or may be used, for the	10
	provision of a public passenger service; and	11
	(b) the Minister is satisfied that the infrastructure—	12
	(i) makes up part of the transport network for public	13
	passenger services; and	14
	(ii) is essential to the continuity of public passenger	15
	services.	16
	‘(3) The declaration must identify the infrastructure and the public	17
	passenger service.	18
	‘(4) In this section—	19
	<i>infrastructure</i> includes land and any other property.	20
<b>‘36B</b>	<b>Chief executive’s power to give direction about use</b>	21
	<b>of essential public transport infrastructure</b>	22
	‘(1) The chief executive may, by written notice, give the owner of	23
	essential public transport infrastructure a direction to—	24
	(a) allow any operator of the relevant service for the	25
	infrastructure to use the infrastructure on stated	26
	conditions fixed by the chief executive; and	27

[s 70]

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- (b) not to change the infrastructure in a way that restricts that use. 1  
2
- ‘(2) However, before giving the direction, the chief executive must— 3  
4
- (a) give the relevant parties a reasonable opportunity to make written submissions about the proposed direction; 5  
and 6  
7
- (b) consider any submissions made under paragraph (a); 8  
and 9
- (c) be satisfied that— 10
- (i) the relevant parties have not been able to reach an agreement about the use under the proposed declaration; and 11  
12  
13
- (ii) there is no other reasonably practicable alternative to the direction that will secure the use. 14  
15
- ‘(3) The direction must— 16
- (a) identify the infrastructure and the relevant service; and 17
- (b) state a reasonable period within which the direction must be complied with; and 18  
19
- (c) include, or be accompanied by, an information notice about the decision to give the direction and the decision to fix the conditions. 20  
21  
22
- ‘(4) The direction is an *essential infrastructure direction*. 23
- ‘(5) In this section— 24
- relevant parties* means— 25
- (a) the owner and anyone else who would, under section 36C, be bound by the proposed direction; and 26  
27
- (b) any operator of the relevant service. 28
- relevant service* means the public passenger service identified in the declaration that declared the essential public transport infrastructure. 29  
30  
31

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<b>‘36C</b>	<b>Persons bound by essential infrastructure direction</b>	1
	‘An essential infrastructure direction binds—	2
	(a) the owner and any lessee of the infrastructure to which the direction relates; and	3 4
	(b) to the extent the infrastructure consists of land—any person with an interest in the land; and	5 6
	(c) a transferee of the infrastructure from a person mentioned in paragraph (a) or (b); and	7 8
	(d) a transferee of the infrastructure from a person mentioned in paragraph (c); and	9 10
	(e) anyone else who has control of the infrastructure.	11
<b>‘36D</b>	<b>Failure to comply with essential infrastructure direction</b>	12 13
	‘A person who is bound by an essential infrastructure direction must comply with the direction.	14 15
	Maximum penalty—1665 penalty units.	16
<b>‘36E</b>	<b>Record of essential infrastructure direction in land registry</b>	17 18
	‘(1) This section applies if an essential infrastructure direction relates to land.	19 20
	‘(2) As soon as practicable after giving the direction, the chief executive must give the registrar written notice of the giving of the direction.	21 22 23
	‘(3) The registrar must keep records showing that the direction has been given.	24 25
	‘(4) The registrar must keep the records in a way that a search of any register kept by the registrar will show that the direction has been given.	26 27 28
	‘(5) If the direction is amended or repealed, the chief executive must give written notice of that fact to the registrar.	29 30

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- ‘(6) As soon as practicable after receiving a notice under subsection (5), the registrar must—
- (a) for an amendment—change the records to reflect the amendment; or
  - (b) if the direction is repealed—remove the particulars of the direction from the records.
- ‘(7) In this section—  
*registrar* means the registrar of titles under the *Land Title Act 1994* or another person responsible for keeping a register for dealings in land.

### ‘36F Compensation

- ‘(1) A person bound by an essential infrastructure direction may claim compensation from the State for costs incurred by the person in complying with the direction.
- ‘(2) The amount of the compensation is to be decided by agreement between the chief executive and the claimant or, if there is no agreement, by an arbitrator.
- ‘(3) The arbitrator must be appointed by—
- (a) agreement between the chief executive and the claimant; or
  - (b) if the chief executive and the claimant can not agree—the Institute of Arbitrators & Mediators Australia or, if that body ceases to exist, another body that represents arbitrators.
- ‘(4) The compensation must not include any component for—
- (a) loss of income or profit for any use of the infrastructure other than that required to be allowed under the direction; or
  - (b) diminution in the value of the infrastructure or land related to the infrastructure because of the direction.
- ‘(5) Without limiting the matters an arbitrator may or may not take into account, a regulation may provide for matters to be

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	considered, or not considered, in deciding the amount of compensation.	1 2
	‘(6) The <i>Commercial Arbitration Act 1990</i> applies to the arbitration.	3 4
<b>‘36G</b>	<b>Chief executive’s power to decide matters about rail safety unaffected</b>	5 6
	‘To remove any doubt, it is declared that this chapter does not limit or otherwise affect the chief executive’s power to make a decision under the <i>Transport Infrastructure Act 1994</i> , section 139(2) about rail transport infrastructure.’	7 8 9 10
<b>71</b>	<b>Amendment of s 39 (Scope of service contracts)</b>	11
	(1) Section 39(d)— <i>omit.</i>	12 13
	(2) Section 39(e)— <i>renumber</i> as section 39(d).	14 15
<b>72</b>	<b>Amendment of s 42 (Declaration that service contracts are required)</b>	16 17
	Section 42— <i>insert</i> —	18 19
	‘(4) Before deciding to make a declaration under subsection (2), the chief executive must—	20 21
	(a) give written notice of the proposed declaration to all operators providing a public passenger service of the kind and for the area or route to be specified in the proposed declaration; and	22 23 24 25
	(b) allow the operators at least 28 days to make written submissions to the chief executive, about the proposed declaration; and	26 27 28
	(c) consider any submissions made under paragraph (b).’	29

[s 73]

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<b>73</b>	<b>Insertion of new of s 42B</b>	1
	After section 42A—	2
	<i>insert—</i>	3
<b>‘42B</b>	<b>Amendment of service contract area or route</b>	4
	‘(1) The chief executive may, by public notice, amend the service contract area or route the subject of a declaration under section 42.	5 6 7
	‘(2) However, the amendment may be made only if the chief executive is satisfied the amendment is necessary—	8 9
	(a) to extend the service into developing areas; or	10
	(b) because of changed traffic conditions; or	11
	(c) for public safety; or	12
	(d) to improve the service in the public interest.	13
	‘(3) The public notice must fix the day on which the amendment takes effect.	14 15
	‘(4) Before deciding to make the amendment, the chief executive must—	16 17
	(a) give written notice of the proposed amendment to each affected operator; and	18 19
	(b) allow each affected operator at least 28 days to make written submissions to the chief executive about the proposed amendment; and	20 21 22
	(c) consider any submissions made under paragraph (b).	23
	‘(5) In this section—	24
	<i>affected operator</i> means—	25
	(a) each holder of a service contract for the service contract area or route whose interests are materially affected by the proposed amendment; and	26 27 28
	(b) if the amendment is to add an area or route—any operator providing a public passenger service of the kind specified in the declaration for the additional area or the additional route.’.	29 30 31 32

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<b>74</b>	<b>Amendment of s 43 (Obligation to hold service contracts)</b>	1
(1)	Section 43(1), ‘Translink’—	2
	<i>omit, insert</i> —	3
	‘TransLink’.	4
(2)	Section 43(1)(b)(ii)—	5
	<i>omit, insert</i> —	6
	(ii) a written agreement with the chief executive; or	7
	(iii) with the chief executive’s approval, a written	8
	agreement with the holder of a service contract.’.	9
(3)	Section 43(2)—	10
	<i>renumber</i> as section 43(3).	11
(4)	Section 43—	12
	<i>insert</i> —	13
‘(2)	A written agreement with the chief executive mentioned in	14
	subsection (1)(b)(ii) may be made only if—	15
(a)	the chief executive has invited a service contract holder	16
	for the service contract area or route to offer to provide	17
	the public passenger service and the holder—	18
	(i) refused the invitation; or	19
	(ii) makes an offer that, in the chief executive’s	20
	opinion, is not appropriate for the public passenger	21
	service; or	22
	(iii) did not respond to the invitation within the time	23
	allowed for a response to it; or	24
(b)	the public passenger service is not a service of a kind to	25
	which an existing service contract applies.’.	26
<b>75</b>	<b>Amendment of s 46 (Review of holder’s performance)</b>	27
(1)	Section 46, ‘Translink’—	28
	<i>omit, insert</i> —	29

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[s 76]

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	‘TransLink’.	1
(2)	Section 46(2), after ‘emergency service contract’—	2
	<i>insert—</i>	3
	‘or a service contract for a term of less than 2 years’.	4
<b>76</b>	<b>Omission of s 54 (Special condition for service contracts for restricted school services)</b>	5
	Section 54—	6
	<i>omit.</i>	7
<b>77</b>	<b>Amendment of ch 6, pt 2, div 2 hdg (General provisions for service contracts for scheduled passenger services)</b>	9
	Chapter 6, part 2, division 2, heading, ‘scheduled passenger services’—	10
	<i>omit, insert—</i>	11
	‘general route services’.	12
<b>78</b>	<b>Amendment of s 54A (Application of div 2)</b>	13
	Section 54A, from ‘scheduled passenger services’—	14
	<i>omit, insert—</i>	15
	‘general route services, other than TransLink service contracts.’.	16
<b>79</b>	<b>Amendment of s 55 (Entering into a service contract for a scheduled passenger service—no existing operators)</b>	17
(1)	Section 55, heading, ‘scheduled passenger service’—	18
	<i>omit, insert—</i>	19
	‘general route service’.	20
(2)	Section 55, ‘public passenger service’—	21
		22
		23
		24
		25

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	<i>omit, insert—</i>	1
	‘general route service’.	2
<b>80</b>	<b>Amendment of s 56 (Entitlement of existing operators)</b>	3
	Section 56(1)(b), ‘scheduled passenger service’—	4
	<i>omit, insert—</i>	5
	‘general route service’.	6
<b>81</b>	<b>Amendment of s 57 (Entering into a service contract for a scheduled passenger service)</b>	7
	(1) Section 57, ‘scheduled passenger service’—	8
	<i>omit, insert—</i>	9
	‘general route service’.	10
	(2) Section 57, ‘holder’—	11
	<i>omit, insert—</i>	12
	‘operator’.	13
<b>82</b>	<b>Amendment of s 59 (Matters to be considered)</b>	14
	Section 59(4), definition <i>offer for a service contract</i> , from ‘an offer’—	15
	<i>omit, insert—</i>	16
	‘an offer under section 60(2) to provide a service for an amended service area or route.’.	17
<b>83</b>	<b>Replacement of s 60 (Amendments of service contracts)</b>	18
	Section 60—	19
	<i>omit, insert—</i>	20
		21
		22
		23

[s 84]

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<b>‘60</b>	<b>Service contract for amended service contract area or route</b>	1 2
‘(1)	This section applies if, under section 42B, a service contract area or route for a general route service is amended to add an area or route to the service contract area or route.	3 4 5
‘(2)	The chief executive must, by written notice, invite the existing holder of the service contract for the service contract area or route the first opportunity to offer to provide the service for the amended area or route.	6 7 8 9
‘(3)	If—	10
	(a) the existing holder makes no offer within 60 days after the notice is given; or	11 12
	(b) the holder makes an offer that the chief executive decides is unacceptable under section 59;	13 14
	the chief executive must, by public notice, invite offers from the public to provide the service for the amended area or route (a <i>public invitation</i> ).	15 16 17
‘(4)	Despite subsection (3), if—	18
	(a) the holder makes an offer within the 60 days; and	19
	(b) the chief executive considers the offer substantially complies with the requirements of an offer that would be acceptable under section 59;	20 21 22
	the chief executive may defer the making of a public invitation to allow an opportunity for a service contract for the amended area or route to be concluded with the holder.’.	23 24 25
<b>84</b>	<b>Amendment of s 61 (Compensation)</b>	26
(1)	Section 61(1), ‘area or route’—	27
	<i>omit, insert—</i>	28
	‘service contract area or route’.	29
(2)	Section 61(1)(b)(ii), ‘an amendment of the holder’s service contract’—	30 31

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<i>omit, insert—</i>	1
‘a service contract’.	2
(3) Section 61(2), ‘submissions’—	3
<i>omit, insert—</i>	4
‘offers’.	5
<b>85 Amendment of s 62 (Offer of new service contract)</b>	6
(1) Section 62(3)(a)(ii)—	7
<i>omit.</i>	8
(2) Section 62(3)(a)(iii)—	9
<i>renumber</i> as section 62(3)(a)(ii).	10
<b>86 Amendment of ch 6, pt 2, div 2AA hdg (Translink service contracts)</b>	11
Chapter 6, part 2, division 2AA, heading, ‘Translink’—	12
<i>omit, insert—</i>	13
‘ <b>TransLink</b> ’.	14
<b>87 Omission of s 62AAA (Purpose of div 2AA)</b>	15
Section 62AAA—	16
<i>omit.</i>	17
<b>88 Amendment of s 62AAC (What is a Translink service contract)</b>	18
(1) Section 62AAC, heading, ‘Translink’—	19
<i>omit, insert—</i>	20
‘ <b>TransLink</b> ’.	21
(2) Section 62AAC(1), before paragraph (a)—	22
<i>omit, insert—</i>	23
	24
	25

[s 89]

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- ‘(1) A **TransLink service contract** is a service contract for a  
general route service relating to the functions of the  
TransLink Transit Authority under the *Transport Operations  
(TransLink Transit Authority) Act 2008*, under which  
contract—’.
- (3) Section 62AAC(1)(c), ‘under the contract’—  
*omit*.
- (4) Section 62AAC(2)—  
*omit, insert—*
- ‘(2) A TransLink service contract does not give the holder the  
exclusive right to operate a general route service in the service  
contract area or route the subject of the contract.’.

**89 Insertion of new s 62AACA**

After section 62AAC—  
*insert—*

**‘62AACA Entering into a TransLink service contract**

- ‘(1) This section applies if—
- (a) a declaration under section 42 is made for a service  
contract area or route (the ***new area or route***); and
- (b) the chief executive proposes to provide a general route  
service (the ***new service***) for the new area or route,  
under a TransLink service contract.
- ‘(2) The chief executive may—
- (a) invite an affected operator, by written notice, to offer, by  
the prescribed day, to provide the new service (an  
***operator invitation***); or
- (b) invite any or all holders of TransLink service contracts,  
by written notice, to offer, by the prescribed day, to  
provide the new service (a ***holder invitation***); or
- (c) invite the public, by public notice, to offer to provide the  
new service (a ***public invitation***).

- 
- ‘(3) If the chief executive makes an operator invitation and either—
- (a) an affected operator makes no offer, or if there is more than 1 affected operator, no affected operator 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;
- the chief executive may make a holder invitation or a public invitation.
- ‘(4) If the chief executive makes a holder invitation and no holder of a TransLink service contract—
- (a) makes an offer by the prescribed day; or
  - (b) makes an offer that the chief executive decides is acceptable under section 62AAE;
- the chief executive may make a public invitation.
- ‘(5) However, if—
- (a) an offer is made in response to an operator invitation or a holder invitation by the prescribed day; and
  - (b) the chief executive considers the offer substantially complies with the requirements of an offer that would be acceptable under section 62AAE;
- the chief executive may defer the making of a public invitation to allow an opportunity for a service contract to be concluded with the offerer.
- ‘(6) In this section—
- affected operator* means an operator providing a general route service of the kind specified in the declaration for all or part of the new area or route.’.

- 90 Amendment of s 62AAD (Offer of new Translink service contract)**
- (1) Section 62AAD, ‘Translink’—

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	<i>omit, insert—</i>	1
	‘TransLink’.	2
(2)	Section 62AAD(1)(b)(i), ‘scheduled passenger service’—	3
	<i>omit, insert—</i>	4
	‘general route service’.	5
<b>91</b>	<b>Amendment of s 62AAE (Matters to be considered generally when considering offers for Translink service contracts)</b>	6
		7
		8
(1)	Section 62AAE, ‘Translink’—	9
	<i>omit, insert—</i>	10
	‘TransLink’.	11
(2)	Section 62AAE(2)(b), ‘scheduled passenger service’—	12
	<i>omit, insert—</i>	13
	‘general route service’.	14
<b>92</b>	<b>Amendment of s 62AAF (Unsatisfactory performance of Translink service contract holder)</b>	15
		16
	Section 62AAF, ‘Translink’—	17
	<i>omit, insert—</i>	18
	‘TransLink’.	19
<b>93</b>	<b>Replacement of s 62AAG (New service contract area or route in the Translink area)</b>	20
		21
	Section 62AAG—	22
	<i>omit, insert—</i>	23
<b>‘62AAG Service contract for amended service contract area or route</b>		24
		25
(1)	This section applies if—	26

- 
- (a) under section 42B, a service contract area or route is amended (the *amended service area or route*); and
- (b) the chief executive proposes to provide a general route service (the *amended service*) for the amended service area or route, under a TransLink service contract.
- ‘(2) The chief executive may—
- (a) invite an affected operator, by written notice, to offer, by the prescribed day, to provide the amended service (an *operator invitation*); or
- (b) invite any or all holders of TransLink service contracts, by written notice, to offer, by the prescribed day, to provide the amended service (a *holder invitation*); or
- (c) invite the public, by public notice, to offer to provide the amended service (a *public invitation*).
- ‘(3) If the chief executive makes an operator invitation and either—
- (a) an affected operator makes no offer, or if there is more than 1 affected operator, no affected operator 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;
- the chief executive may make a holder invitation or a public invitation.
- ‘(4) If the chief executive makes a holder invitation and no holder of a TransLink service contract—
- (a) makes an offer by the prescribed day; or
- (b) makes an offer that the chief executive decides is acceptable under section 62AAE;
- the chief executive may make a public invitation.
- ‘(5) However, if—
- (a) an offer is made in response to an operator invitation or a holder invitation by the prescribed day; and

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(b) the chief executive considers the offer substantially  
complies with the requirements of an offer that would be  
acceptable under section 62AAE;

the chief executive may defer the making of a public invitation  
to allow an opportunity for a service contract to be concluded  
with the offerer.

‘(6) In this section—

*affected operator* means—

(a) the holder of a TransLink service contract providing a  
general route service of the specified kind within the  
area or route incorporated into the amended service area  
or route under the amendment under section 42B (the  
*incorporated area*); or

(b) any other operator providing a general route service of  
that kind within the incorporated area; or

(c) each holder of a service contract for the service contract  
area or route whose interests are materially affected by  
the amendment.

*specified kind* means the kind of general route service  
specified under the declaration under section 42A for the  
service.’.

**94 Amendment of s 62AAH (Compensation)**

Section 62AAH(1)—

*omit, insert—*

‘(1) This section applies if an affected operator under section  
62AACA or 62AAG—

(a) did not offer to provide the new service or the amended  
service under that section; or

(b) is not awarded a TransLink service contract to provide  
the new service or the amended service.’.

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<b>95</b>	<b>Amendment of s 62AAI (What happens when Translink service contract is surrendered, cancelled or terminated)</b>	1 2
	Section 62AAI, ‘Translink’—	3
	<i>omit, insert</i> —	4
	‘TransLink’.	5
<b>96</b>	<b>Omission of s 62AB (Entitlement of an existing operator providing substantially the same service under a transitional provision)</b>	6 7 8
	Section 62AB—	9
	<i>omit.</i>	10
<b>97</b>	<b>Amendment of s 62AD (First opportunity to offer may be given to existing operator of school services under a service contract or transitional provision)</b>	11 12 13
	(1) Section 62AD, heading, ‘or transitional provision’—	14
	<i>omit.</i>	15
	(2) Section 62AD(1)(a), ‘section 62AB or 62AC’—	16
	<i>omit, insert</i> —	17
	‘section 62AC’.	18
	(3) Section 62AD(1)(b), ‘or transitional authority’—	19
	<i>omit.</i>	20
	(4) Section 62AD(5)—	21
	<i>omit.</i>	22
<b>98</b>	<b>Amendment of s 62AE (When public offer must be invited, and when offers may be invited in another way)</b>	23 24
	Section 62AE, ‘section 62AB, 62AC or 62AD’—	25
	<i>omit, insert</i> —	26
	‘section 62AC or 62AD’.	27

[s 99]

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<b>99</b>	<b>Amendment of s 62AF (Prohibition on making offers to allow first opportunity)</b>	1 2
	Section 62AF(1), ‘section 62AB, 62AC or 62AD’—	3
	<i>omit, insert—</i>	4
	‘section 62AC or 62AD’.	5
<b>100</b>	<b>Omission of ch 13, pt 1A, div 2 (Translink service contracts)</b>	6 7
	Chapter 13, part 1A, division 2—	8
	<i>omit.</i>	9
<b>101</b>	<b>Insertion of new ch 13, pt 5</b>	10
	Chapter 13—	11
	<i>insert—</i>	12
<b>‘Part 5</b>	<b>Provision for Transport Operations (TransLink Transit Authority) Act 2008</b>	13 14 15
<b>‘180</b>	<b>Existing declarations under s 42(2) for a scheduled passenger service</b>	16 17
	‘(1) This section applies to a declaration under section 42(2) if—	18
	(a) it was in force immediately before the <i>Transport Operations (TransLink Transit Authority) Act 2008</i> , section 104(2) commences; and	19 20 21
	(b) under the declaration, a service contract is required to provide a specified kind of service that, under this Act as in force before the commencement, was a long distance scheduled passenger service or a scheduled passenger service.	22 23 24 25 26
	‘(2) On the commencement, the declaration is taken to be a declaration under section 42(2) to provide the same kind of service as a general route service.’	27 28 29

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<b>102</b>	<b>Amendment of sch 2 (Reviewable decisions)</b>	1
	Schedule 2—	2
	<i>insert—</i>	3
	‘36B(1) Decision to give essential infrastructure direction	District Court
	36B(1) Decision to fix conditions for essential infrastructure direction	District Court’.
<b>103</b>	<b>Omission of sch 2A (Particular service contracts in SEQ area)</b>	4
	Schedule 2A—	5
	<i>omit.</i>	6
		7
<b>104</b>	<b>Amendment of sch 3 (Dictionary)</b>	8
(1)	Schedule 3, definitions <i>accommodation transfer service, long distance scheduled passenger service, restricted school service, scheduled passenger service, SEQ area, tourist service, tourist transfer service</i> and <i>Translink area—</i>	9
	<i>omit.</i>	10
		11
		12
		13
(2)	Schedule 3—	14
	<i>insert—</i>	15
	<i>essential infrastructure direction</i> see section 36B(4).	16
	<i>essential public transport infrastructure</i> means infrastructure the subject of a declaration under section 36A(1).	17
		18
	<i>general route service</i> means—	19
(a)	a scheduled passenger service available to the public for general purposes; or	20
		21
	<i>Examples of general purposes—</i>	22
	a purpose related to education, employment, entertainment or shopping and a financial, health or a medical service	23
		24

[s 104]

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- (b) a scheduled passenger service available to any person if the person pays a subscription or a membership fee that is paid principally for the service. 1  
2  
3
- scheduled passenger service*** means a public passenger service— 4  
5
- (a) conducted on a route in accordance with a timetable for the service; or 6  
7
- (b) conducted on a route that forms a circle or loop (commonly called a ‘loop service’); or 8  
9
- (c) conducted on a continuous basis between 2 points (commonly called a ‘shuttle service’); or 10  
11
- (d) under which the vehicle used may, at the request of individual passengers, deviate from the usual route from time to time (commonly called a ‘route deviation service’); or 12  
13  
14  
15
- (e) under which the actual route to be traversed may vary within a corridor or zone at the request of individual passengers each time the service operates (commonly called a ‘dial and ride service’). 16  
17  
18  
19
- timetable***, for a scheduled passenger service, means an arrangement under which the starting time or finishing time, or both, for each service is fixed. 20  
21  
22
- TransLink area*** see the *Transport Operations (TransLink Transit Authority) Act 2008*, section 7. 23  
24
- (3) Schedule 3, definition *school service*, ‘public’— 25  
*omit, insert*— 26  
‘scheduled’. 27
- (4) Schedule 3, definition *Translink service contract*, ‘Translink’— 28  
29  
*omit, insert*— 30  
‘***TransLink***’. 31

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<b>Part 13</b>	<b>Amendment of Transport Operations (Road Use Management) Act 1995</b>	1 2 3
<b>105</b>	<b>Act amended in pt 13</b>	4
	<i>This part amends the Transport Operations (Road Use Management) Act 1995.</i>	5 6
<b>106</b>	<b>Amendment of s 8 (Contents of strategies)</b>	7
	<i>Section 8(4), ‘SEQTA area under the Transport Planning and Coordination Act 1994’—</i>	8 9
	<i>omit, insert—</i>	10
	<i>‘TransLink area under the Transport Operations (TransLink Transit Authority) Act 2008’.</i>	11 12
<b>Part 14</b>	<b>Amendment of Transport Planning and Coordination Act 1994</b>	13 14 15
<b>107</b>	<b>Act amended in pt 14</b>	16
	<i>This part amends the Transport Planning and Coordination Act 1994.</i>	17 18
<b>108</b>	<b>Amendment of s 3 (Definitions)</b>	19
(1)	<i>Section 3, definitions long distance scheduled passenger service, SEQTA and SEQTA area—</i>	20 21
	<i>omit.</i>	22
(2)	<i>Section 3, definition transport Act, after ‘this Act’—</i>	23

[s 109]

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	<i>insert—</i>	1
	‘and the <i>Transport Operations (TransLink Transit Authority) Act 2008</i> ’.	2 3
<b>109</b>	<b>Amendment of s 6 (Transport coordination plan to be consistent with overall strategic planning for government etc.)</b>	4 5 6
	(1) Section 6(b)—	7
	<i>omit.</i>	8
	(2) Section 6(c)—	9
	<i>renumber</i> as section 6(b).	10
<b>110</b>	<b>Amendment of s 8C (Impact of road works on local government road)</b>	11 12
	(1) Section 8C(3)(b)—	13
	<i>omit.</i>	14
	(2) Section 8C(3)(c)—	15
	<i>renumber</i> as section 8C(3)(b).	16
<b>111</b>	<b>Omission of pt 3 (The South-East Queensland Transit Authority)</b>	17 18
	Part 3—	19
	<i>omit.</i>	20
<b>112</b>	<b>Insertion of new s 22</b>	21
	Part 4—	22
	<i>insert—</i>	23
<b>‘22</b>	<b>Chief executive’s coordination and strategic planning functions</b>	24 25
	‘(1) The chief executive’s functions under the transport Acts include—	26 27

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(a)	coordinating the strategic planning and operation of integrated transport systems in the State; and	1 2
(b)	managing the allocation of funds to achieve this outcome.	3 4
‘(2)	Without limiting subsection (1), the chief executive is to achieve the functions mentioned in subsection (1) by—	5 6
(a)	ensuring more effective integration of land use and transport planning by—	7 8
(i)	evaluating the effectiveness of proposed and existing transport systems in the State; and	9 10
(ii)	developing and implementing integrated regional transport plans that complement the objectives of regional and land use plans in the State; and	11 12 13
(b)	ensuring the effective planning and development of transport infrastructure; and	14 15
(c)	developing and implementing travel demand management initiatives, including marketing and promotion initiatives, to more efficiently use road capacity.’	16 17 18 19
<b>113</b>	<b>Amendment of s 37 (Delegation by the Minister or the chief executive)</b>	20 21
	Section 37(1), ‘, chief executive, or SEQTA chief executive’—	22 23
	<i>omit, insert—</i>	24
	‘or the chief executive’.	25



<b>Schedule 2</b>	<b>Dictionary</b>	1
	section 6	2
	<i>appointed member</i> see section 19(a), (c) and (d).	3
	<i>appropriately qualified</i> , in relation to a delegated function or power, includes having the qualifications, experience or standing to perform the function or exercise the power.	4 5 6
	<i>Example of standing—</i>	7
	a person’s classification level in the public service	8
	<i>board</i> means the board of TransLink.	9
	<i>chairperson</i> means the chairperson of TransLink.	10
	<i>chief executive officer</i> means TransLink’s chief executive officer appointed under section 34(1).	11 12
	<i>close relative</i> , of a person, means the person’s—	13
	(a) spouse; or	14
	(b) parent or grandparent; or	15
	(c) brother or sister; or	16
	(d) child or grandchild.	17
	<i>conviction</i> includes a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.	18 19 20
	<i>disqualified person</i> means any of the following—	21
	(a) a party to a contract as follows ( <i>relevant contract</i> )—	22
	(i) a service contact relating to the TransLink area;	23
	(ii) a contract with TransLink relating to a public transport system;	24 25
	(b) a person who, under the Corporations Act, is a related entity of a body corporate that is a party to a relevant contract;	26 27 28

Schedule 2

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- (c) an employee of a party to a relevant contract, unless the party is a local government; 1  
2
- (d) a member of the Legislative Assembly or of a parliament of the Commonwealth or another State; 3  
4
- (e) a councillor of a local government; 5
- (f) a person who has been convicted of an indictable offence; 6  
7
- (g) a person who is or has been an insolvent under administration under the Corporations Act, section 9; 8  
9
- (h) a person who is disqualified from managing corporations under the Corporations Act, part 2D.6. 10  
11
- employing office*** means the TransLink Transit Authority Employing Office established under section 36(1). 12  
13
- general route service*** see TOPTA, schedule 3. 14
- government entity*** see the *Public Service Act 1996*, section 21. 15  
16
- mass transit network*** see section 8. 17
- mass transit services*** means general route services for the carriage of large numbers of passengers. 18  
19
- member*** see section 19. 20
- Ministerial direction*** see section 39(1)(a). 21
- network plan*** means a network plan given to the Minister under section 42. 22  
23
- notice*** means a notice in writing. 24
- service contract*** see TOPTA, section 38. 25
- special event*** means an event the subject of a declaration under section 47(1). 26  
27
- TOPTA*** means the *Transport Operations (Passenger Transport) Act 1994*. 28  
29
- TOPTA chief executive*** means the chief executive of the TOPTA department. 30  
31

***TOPTA department*** means the department in which TOPTA  
is administered. 1  
2

***TransLink*** means the TransLink Transit Authority,  
established under section 9. 3  
4

***TransLink area*** see section 7. 5

***work performance arrangement*** means an arrangement under  
which an employee of a government entity performs work for  
another government entity. 6  
7  
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