

Queensland



# TRANSPORT INFRASTRUCTURE ACT 1994

**Reprinted as in force on 12 November 1999  
(includes amendments up to Act No. 42 of 1999)**

**Warning—see last endnote for uncommenced amendments**

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This Act is reprinted as at 12 November 1999. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

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# TRANSPORT INFRASTRUCTURE ACT 1994

[as amended by all amendments that commenced on or before 12 November 1999]

## An Act about infrastructure

### CHAPTER 1—PRELIMINARY

#### Short title

1. This Act may be cited as the *Transport Infrastructure Act 1994*.

#### Objectives of this Act

**2.(1)** The overall objective of this Act is, consistent with the objectives of the *Transport Planning and Coordination Act 1994*, to provide a regime that allows for and encourages effective integrated planning and efficient management of a system of transport infrastructure.

**(2)** In particular, the objectives of this Act are—

- (a) to allow the Government to have a strategic overview of the provision and operation of all transport infrastructure; and
- (b) for roads—to establish a regime under which—
  - (i) a system of roads of national and State significance can be effectively planned and efficiently managed; and
  - (ii) influence can be exercised over the total road network in a way that contributes to overall transport efficiency; and
  - (iii) account is taken of the need to provide adequate levels of safety, and community access to the road network; and

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- (c) for miscellaneous transport infrastructure—to establish a regime for the effective planning and efficient management of the infrastructure; and
- (d) for rail—to establish a regime that—
  - (i) contributes to overall transport effectiveness and efficiency; and
  - (ii) contributes to lower transport costs by allowing the maximum flexibility in rail transport operations consistent with achieving safety objectives; and
  - (iii) provides a high level of accountability; and
  - (iv) allows railway managers and operators to make decisions on a commercial basis; and
  - (v) provides a framework under which Queensland Rail<sup>1</sup> may operate as required by the *Government Owned Corporations Act 1993*; and
- (e) for ports—to establish a regime under which a ports system is provided and can be managed within an overall strategic framework by GOCs in accordance with the principles specified in the *Government Owned Corporations Act 1993*.

**Definitions—the dictionary**

**3.(1)** A dictionary in schedule 3 defines particular words used in this Act.

**(2)** Definitions found elsewhere in the Act are signposted in the dictionary.

**State/Commonwealth agreements or arrangements**

**4.** The powers and discretions conferred by this Act may be exercised in accordance with an agreement or arrangement between the State and the Commonwealth about the funding of transport infrastructure.

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<sup>1</sup> Queensland Rail is a GOC under the *Government Owned Corporations Act 1993*.

## **CHAPTER 2—TRANSPORT INFRASTRUCTURE STRATEGIES**

### **Development of transport infrastructure strategies**

**5.(1)** The chief executive must, from time to time, develop for the Minister's approval transport infrastructure strategies that are designed to give effect to the coordination plan in relation to transport infrastructure in accordance with the objectives of this Act.

**(2)** In developing transport infrastructure strategies, the chief executive must take reasonable steps to engage in public consultation.

**(3)** The Minister may, at any time, direct the chief executive to prepare new transport infrastructure strategies for the Minister's approval or to amend transport infrastructure strategies in the way the Minister directs.

**(4)** The Minister may approve transport infrastructure strategies that are submitted for approval or require the chief executive to amend the strategies in the way the Minister directs.

### **Contents of transport infrastructure strategies**

**6.(1)** Transport infrastructure strategies must include—

- (a) a statement of the specific objectives sought to be achieved; and
- (b) proposals for the provision of transport infrastructure; and
- (c) investment criteria for deciding priorities for government supported transport infrastructure between and within the different transport modes and options for financing the priorities; and
- (d) criteria for deciding which roads should be controlled by the chief executive as State-controlled roads; and
- (e) appropriate performance indicators for deciding whether, and to what extent, the objectives of the strategies have been achieved.

**(2)** Transport infrastructure strategies must aim to provide an adequate framework for coordinating and integrating the provision of transport infrastructure as between the different transport modes.

**(3)** Transport infrastructure strategies must take account of agreements or

arrangements between the State and the Commonwealth about the funding of transport infrastructure.

(4) Transport infrastructure strategies for the SEQTA area under the *Transport Planning and Coordination Act 1994* must not be inconsistent with, and must give effect to any integrated regional transport plan in force for the area.

### **Tabling of transport infrastructure strategies**

7. The Minister must cause transport infrastructure strategies, and each amendment of transport infrastructure strategies, approved by the Minister to be tabled in the Legislative Assembly.

## **CHAPTER 3—OBLIGATIONS ABOUT TRANSPORT INFRASTRUCTURE**

### **Objective of chapter**

8. In giving effect to the objective of this Act, this chapter is intended to ensure value for money for resources applied to the construction, maintenance and operation of transport infrastructure.

### **Obligations about government supported transport infrastructure**

9. The chief executive, and the boards of Queensland Rail and each port authority, must ensure that—

- (a) the construction, maintenance and operation of all government supported transport infrastructure for which the entity is responsible is carried out in accordance with standards published by the entity that are designed to achieve—
  - (i) efficiency; and
  - (ii) affordable quality; and
  - (iii) cost effectiveness; and

- (b) construction, maintenance or operation is carried out in a way that—
  - (i) takes into account national and international benchmarks and international best practice; and
  - (ii) promotes, within overall transport objectives, the safe transport of persons and goods; and
  - (iii) encourages efficient and competitive behaviour in the construction and maintenance of transport infrastructure; and
- (c) contracts that are let for the construction, maintenance or operation of transport infrastructure are designed in a way that encourages efficient performance by the contractor.

### **Report on giving effect to s 9**

**10.** Each annual report of the department, Queensland Rail and each port authority must include a report on the way in which effect has been given to section 9 (Obligations about government supported transport infrastructure) during the year to which the report relates.

## **CHAPTER 4—IMPLEMENTATION OF TRANSPORT INFRASTRUCTURE STRATEGIES**

### **PART 1—ROADS IMPLEMENTATION PROGRAMS**

#### **Development of roads implementation programs**

**11.(1)** The chief executive must, each year, develop for the Minister's approval roads implementation programs for the year and for 1 or more later years.

- (2) Roads implementation programs must include—

- (a) a program of projects, and policies and financial provisions, for implementing the transport infrastructure strategies in relation to road transport infrastructure, including roads that are not State-controlled roads; and
- (b) performance targets for road transport infrastructure.

(3) Roads implementation programs may include proposals to spend amounts on transport infrastructure other than road transport infrastructure if the spending would contribute to intermodal effectiveness and efficiency.

(4) In developing roads implementation programs, the chief executive must take reasonable steps to consult with local governments that, in the opinion of the chief executive, would be affected by the programs.

(5) Roads implementation programs are to be made publicly available in the way decided by the Minister.

(6) The Minister may at any time direct the chief executive to amend roads implementation programs.

(7) The Minister may approve roads implementation programs that are submitted for approval or require the chief executive to amend the programs in the way the Minister directs.

### **Consistency with transport infrastructure strategies**

**12.(1)** Subject to directions of the Minister, roads implementation programs must be consistent with transport infrastructure strategies.

(2) If the Minister gives a direction under this section that results in roads implementation programs being inconsistent with transport infrastructure strategies, the Minister must cause a copy of the direction to be tabled in the Legislative Assembly within 5 sitting days after it is given.

### **Report on operation of roads implementation programs**

**13.** Each annual report of the department must include a report on the operation of the roads implementation programs during the year to which the annual report relates.

## **PART 2—RAIL IMPLEMENTATION PROGRAMS**

### **Development of programs**

**14.(1)** The chief executive must, each year, develop for the Minister's approval rail implementation programs for the year and for 1 or more later years for rail transport infrastructure that is government supported transport infrastructure.

**(2)** Rail implementation programs must include—

- (a) a program of projects, and policies and budgets, for implementing the transport infrastructure strategies for rail transport infrastructure that is government supported transport infrastructure; and
- (b) performance targets for the rail transport infrastructure.

**(3)** In developing rail implementation programs, the chief executive must take reasonable steps to—

- (a) consult with local governments and railway managers and operators that the chief executive considers would be affected by the programs; and
- (b) minimise conflict between the programs and expenditure programs of local governments and railway managers and operators.

**(4)** Rail implementation programs are to be made publicly available in the way decided by the Minister.

**(5)** The Minister may, at any time, direct the chief executive to amend a rail implementation program.

**(6)** The Minister may—

- (a) approve a rail implementation program submitted for approval; or
- (b) require the chief executive to amend a rail implementation program submitted for approval.

**Consistency with transport infrastructure strategies**

**15.(1)** Subject to the Minister's directions, a rail implementation program must be consistent with transport infrastructure strategies.

**(2)** If a direction of the Minister results in a rail implementation program being inconsistent with a transport infrastructure strategy, the Minister must table a copy of the direction in the Legislative Assembly within 5 sitting days after it is given.

**Report on implementation of programs**

**16.** Each annual report of the department must include a report on the implementation of the rail implementation program for the year of the report.

**PART 3—IMPLEMENTATION PROGRAMS FOR MISCELLANEOUS TRANSPORT INFRASTRUCTURE****Development of implementation programs for miscellaneous transport infrastructure**

**17.(1)** The chief executive must, each year, develop for the Minister's approval implementation programs for miscellaneous transport infrastructure for the year and for 1 or more later years.

**(2)** Implementation programs for miscellaneous transport infrastructure must include—

- (a)** a program of projects, and policies and budgets, for implementing the transport infrastructure strategies about the miscellaneous transport infrastructure covered by the programs; and
- (b)** performance targets for that miscellaneous transport infrastructure.

**(3)** Implementation programs for miscellaneous transport infrastructure may include proposals to spend amounts on transport infrastructure other than miscellaneous transport infrastructure if the spending would contribute

to intermodal effectiveness and efficiency.

(4) In developing implementation programs for miscellaneous transport infrastructure, the chief executive must take reasonable steps to consult with local governments that, in the opinion of the chief executive, would be affected by the programs.

(5) Implementation programs for miscellaneous transport infrastructure are to be made publicly available in the way decided by the Minister.

(6) The Minister may at any time direct the chief executive to amend implementation programs for miscellaneous transport infrastructure.

(7) The Minister may approve implementation programs for miscellaneous transport infrastructure that are submitted for approval or require the chief executive to amend the programs in the way the Minister directs.

### **Consistency with transport infrastructure strategies**

**18.(1)** Subject to directions of the Minister, implementation programs for miscellaneous transport infrastructure must be consistent with transport infrastructure strategies.

(2) If the Minister gives a direction under this section that results in implementation programs for miscellaneous transport infrastructure being inconsistent with transport infrastructure strategies, the Minister must cause a copy of the direction to be tabled in the Legislative Assembly within 5 sitting days after it is given.

### **Report on operation of implementation programs for miscellaneous transport infrastructure**

**19.** Each annual report of the department must include a report on the operation of the implementation programs for miscellaneous transport infrastructure during the year to which the annual report relates.

## **PART 4—TRANSPORT GOCS**

### **Transport GOCS**

**20.(1)** In preparing a corporate plan or a statement of corporate intent, Queensland Rail and each port authority must take into account the transport infrastructure strategies.

**(2)** Queensland Rail or a port authority may spend amounts on transport infrastructure other than rail transport infrastructure or port infrastructure if the spending would contribute to effectiveness and efficiency.

## **CHAPTER 5—ROAD TRANSPORT INFRASTRUCTURE**

### **PART 1—PRELIMINARY**

#### **Scope of chapter**

**21.(1)** To give effect to the objectives of this Act in relation to road transport infrastructure, the chief executive has, subject to the Minister and as required by this chapter—

- (a) the function of influencing the total road network; and
- (b) control over roads of State significance in the total road network, including roads of national significance that are managed in accordance with agreements or arrangements between the State and the Commonwealth about the funding of road transport infrastructure.

**(2)** This chapter establishes a framework under which the construction, maintenance or operation of a State-controlled road can be done by the chief executive, or by a local government or someone else under agreements or arrangements with the chief executive.

**Definitions for ch 5**

22. In this chapter—

**“ancillary works and encroachments”** means—

- (a) the following things—
  - (i) sugar tramways;
  - (ii) monorails;
  - (iii) bridges, overhead conveyors or other overhead structures;
  - (iv) tunnels;
  - (v) rest area facilities;
  - (vi) monuments or statues;
  - (vii) advertising signs or other advertising devices;
  - (viii) traffic and service signs;
  - (ix) bores, wells, pumps, windmills, pipes, channels, culverts, viaducts, tanks or dams;
  - (x) cables;
  - (xi) means of access;
  - (xii) paths or bikeways;
  - (xiii) grids or other stock facilities;
  - (xiv) buildings, shelters, awnings or mail boxes;
  - (xv) poles, lighting, gates or fences; or
- (b) any of the following activities—
  - (i) drilling;
  - (ii) clearing;
  - (iii) trimming;
  - (iv) slashing;
  - (v) landscaping;
  - (vi) planting;
  - (vii) burning off;

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- (viii) removing trees;
  - (ix) road safety related activities;
  - (x) sporting activities;
  - (xi) camping;
  - (xii) conducting a business (for example, a market);
  - (xiii) movement of stock, other than under the *Rural Lands Protection Act 1985*;
  - (xiv) holding meetings; or
- (c) other encroachments declared by regulation to be ancillary works and encroachments;
- but does not include public utility plant.

**“construction”**, in relation to road transport infrastructure, includes—

- (a) initial construction; and
- (b) improvement of the standard; and
- (c) realignment; and
- (d) widening;

that involves the development of road transport infrastructure.

**“means of access”** means the physical means of entry or exit for traffic between land and a road.

**“plant”** includes any of the following things—

- (a) a railway, monorail and tramway;
- (b) viaduct and aqueduct;
- (c) conduit and cable;
- (d) overhead conveyor;
- (e) pipeline;
- (f) pole;
- (g) electrical installation within the meaning of the *Electricity Act 1994*;
- (h) telecommunications plant;

(i) water channel.

**“public utility plant”** means plant that is permitted under another Act or a Commonwealth Act to be on a road.

**“road franchise agreement”** see section 66.

**“road works”** means works done for—

- (a) constructing roads or things associated with roads; or
  - (b) the maintenance of roads or of things associated with roads (other than public utility plant); or
  - (c) facilitating the operation of road transport infrastructure;
- and includes works declared by the regulations to be road works.

**“State government body”** means—

- (a) a department or a division, branch or other part of a department; or
- (b) a State instrumentality, agency, authority or entity or a division, branch or other part of a State instrumentality, agency, authority or entity; or
- (c) a GOC;

but does not include a local government.

**“traffic”** includes the passing back and forth of persons, vehicles and animals.

## **PART 2—STATE—CONTROLLED ROADS**

### *Division 1—Declaration of State-controlled roads*

#### **Declaration of State-controlled roads**

**23.(1)** The Minister may, by gazette notice, declare a road or route, or part of a road or route, to be a State-controlled road.

(2) A declaration must be consistent with criteria about the declaration of State-controlled roads in the transport infrastructure strategies.

(3) A declaration must enable the location of the road to be identified.

(4) The location may be identified by specifying—

(a) the starting and ending points of the road; and

(b) the alignment of the road; and

(c) the width of the road by reference to the constructed centre line of the road pavement or surface.

(5) Unless otherwise specified in a declaration, the width of a State-controlled road through a State reserve, State forest, timber reserve, vacant State land or pastoral holding is 30 m each side of the centre line of the trafficked route.

### **Consultation before declaration**

**24.** Before making or revoking a declaration under section 23 (Declaration of State-controlled roads), the Minister must—

(a) notify each local government that would, in the Minister's opinion, be affected by the proposed declaration or revocation; and

(b) give the local governments a reasonable opportunity to make submissions to the Minister on the proposed declaration or revocation.

## ***Division 2—Motorways***

### **Declaration of motorways**

**25.(1)** The Minister may, by gazette notice, declare that the whole or a part of a State-controlled road is a motorway.

(2) A declaration must enable the location of the motorway to be identified.

(3) Before making or revoking a declaration, the Minister must—

- (a) notify each local government that would, in the Minister's opinion, be affected by the proposed declaration or revocation; and
- (b) give the local governments a reasonable opportunity to make submissions to the Minister on the proposed declaration or revocation.

*Division 3—Chief executive to have powers of a local government*

**Chief executive to have power of a local government for State-controlled roads**

26. The chief executive may exercise, for a State-controlled road in the area of a local government, all of the powers that the local government may exercise for a local government road in the area.

**PART 3—CONSTRUCTION, MAINTENANCE AND OPERATION**

**Powers of chief executive for road works contracts etc.**

27.(1) The chief executive may, in accordance with the relevant roads implementation program, carry out, or enter into contracts for the State with other persons (including local governments, State government bodies and agencies of the Government of some other State or of a Territory) for the carrying out of—

- (a) road works on a State-controlled road or on land that is intended to become a State-controlled road; or
- (b) other works that contribute to the effectiveness and efficiency of the road network; or
- (c) the operation of a State-controlled road.

(2) The chief executive may, for the State, carry out road works on a local government road in accordance with an agreement between the chief executive and the local government.

(3) The chief executive may, for the State, enter into contracts with other persons for road works to be carried out outside the State by the chief executive, a local government, a State government body or a contractor to the chief executive in accordance with an agreement between the State and the other State or Territory concerned.

(4) A contract with a local government under this section about the maintenance and operation of a State-controlled road may include arrangements about which powers of the local government are to be exercised by the chief executive and which of the powers are to be exercised by the local government for the State-controlled road.

(5) A local government may enter into a contract mentioned in subsection (1) even though the contract relates to works or operation outside the local government's area.

(6) The chief executive may, for the State, carry out, or enter into contracts for, works on or adjacent to a State-controlled road at the request of the owner of adjacent land on the basis that the owner provides consideration, whether monetary or otherwise, as agreed between the chief executive and the owner.

(7) This section does not prevent the chief executive carrying out, or entering into contracts for the carrying out, of road works of a minor or emergency nature.

### **Obligations in carrying out of works or operation of roads by the chief executive**

**28.** In carrying out works, or the operation of roads, mentioned in section 27 (Powers of chief executive for road works contracts etc.), the chief executive must ensure that the carrying out is done on a price competitive basis.

**Contracts to encourage efficiency**

**29.(1)** In entering into contracts of the kind mentioned in section 27 (Powers of chief executive for road works contracts etc.), the chief executive must ensure that open competition is encouraged.

**(2)** Subsection (1) does not apply to a contract with a person if the person is the sole invitee and enters into a price performance contract with the chief executive.

**Cost sharing arrangements**

**30.** The chief executive may arrange with another person (including a local government and a State government body) for the sharing by the chief executive with the other person of the cost of—

- (a) acquisition of land for transport infrastructure; or
- (b) road works on a State-controlled road; or
- (c) other works that contribute to the effectiveness and efficiency of the road network; or
- (d) the operation of a State-controlled road;

including all necessary preliminary costs associated with the acquisition, works or operation.

**Prohibition on road works etc. on State-controlled roads**

**31.(1)** A person must not, without lawful excuse or the written approval of the chief executive—

- (a) carry out road works on a State-controlled road; or
- (b) interfere with a State-controlled road or its operation.

Maximum penalty—200 penalty units.

**(2)** An approval may be subject to conditions decided by the chief executive.

**(3)** A person must not contravene a condition that applies to the person under subsection (2).

Maximum penalty—200 penalty units.

(4) Subsection (1) does not apply to a person who carries out maintenance of ancillary works and encroachments or landscaping that does not interfere with a State-controlled road or its operation.

### **Offender to pay cost of remedying unauthorised works**

**32.(1)** If a person carries out works contrary to section 31(1) (Prohibition on road works etc. on State-controlled roads), the chief executive may—

- (a) dismantle or alter the works; or
- (b) remedy damage caused by the works.

(2) If the chief executive causes the works to be dismantled or altered or the damage to be remedied under subsection (1), the person is liable to pay to the chief executive the costs incurred by the chief executive.

### **Temporary occupation and use of land**

**33.** To carry out road works, the chief executive may temporarily occupy and use land, including roads, and do anything on the land that is necessary or convenient to be done.

### **Notice of entry or permission to enter**

**34.(1)** The person who is proposing to occupy or use land under section 33 (Temporary occupation and use of land) must—

- (a) give at least 3 days written notice to the owner or occupier of the land; or
- (b) obtain the written approval of the owner or occupier to the occupation or use.

(2) The notice must state—

- (a) the road works to be carried out; and
- (b) the use proposed to be made of the land; and
- (c) details of the things proposed to be done on the land; and
- (d) an approximate period when the occupation or use is expected to continue.

(3) A notice may be given under subsection (1) in relation to land even if it is proposed to resume the land for road works.

(4) After the end of 3 days after service of a notice under subsection (1), or with the agreement of the owner or occupier, the land may be entered and the road works specified in the notice carried out.

(5) If urgent remedial attention is required, subsection (1) does not apply but the person who is proposing to occupy or use the land must, if it is practicable, notify the owner or occupier of the land orally.

### **Compensation for physical damage from entry etc.**

**35.(1)** An owner of land that is entered, occupied or used under section 33 (Temporary occupation and use of land) may give a written notice to the chief executive claiming compensation for physical damage caused by the entry, occupation or use or for the taking or consumption of materials.

(2) Compensation is not payable unless a claim is received by the chief executive within 1 year after occupation or use has ended.

(3) However, the chief executive may allow a claim to be made at a later time.

(4) Compensation awarded under this section must not be more than the compensation that would have been awarded if the land had been acquired.

### **Fencing State-controlled roads**

**36.(1)** The chief executive does not have to contribute to the fencing of the whole or a part of the boundary between land and—

- (a) an existing State-controlled road; or
- (b) a road or land that is intended to become a State-controlled road; or
- (c) a widening or deviation of a State-controlled road involving the acquisition of land.

(2) However, subsection (1)(b) does not apply to an existing road if the land is substantially fenced and the presence of the road will make the fencing ineffective.

(3) Subsection (1)(c) does not apply if the previous boundary of the road was substantially fenced.

### **Watercourses and road works**

**37.(1)** To carry out road works, the chief executive may—

- (a) divert a watercourse; or
- (b) construct a watercourse, whether temporary or permanent.

(2) In taking action under subsection (1), the chief executive must consider the effect that the action will have on the physical integrity and flow characteristics of the watercourse.

(3) The chief executive may enter and occupy private land under section 33 (Temporary occupation and use of land) and carry out works that the chief executive considers necessary or desirable to enable a watercourse to operate effectively and efficiently.

## **PART 4—RELATIONSHIP WITH LOCAL GOVERNMENTS**

### **Funds for works on, or operation of, local government roads etc.**

**38.(1)** The chief executive may enter into an agreement with a local government under which the chief executive supplies funds to the local government for road works on a local government road, for other works that contribute to the effectiveness and efficiency of the road network or for the operation of a local government road.

(2) The agreement—

- (a) must provide for the works or operation to be carried out in accordance with an agreement between the chief executive and the local government that is designed to ensure value for money in the application of the funds; and
- (b) may be subject to other conditions.

**Improvement of State-controlled road as an economic alternative to improvement of the local road network**

**39.** If a local government concludes that improvements to a State-controlled road in its area would be beneficial to the local road network, the local government may make financial arrangements with the chief executive for the improvements to be made.

**Impact of certain local government decisions on State-controlled roads**

**40.(1)** A local government must obtain the chief executive's written approval if—

- (a) it intends to—
  - (i) approve a subdivision, rezoning or development of land; or
  - (ii) carry out road works on a local government road or make changes to the management of a local government road; and
- (b) the approval, works or changes would—
  - (i) require the carrying out of road works on a State-controlled road; or
  - (ii) otherwise have a significant adverse impact on a State-controlled road; or
  - (iii) have a significant impact on the planning of a State-controlled road or a future State-controlled road.

**(2)** The chief executive may make guidelines to which local governments must have regard in deciding whether an approval of the chief executive under subsection (1) is required.

**(3)** An approval by the chief executive under subsection (1) may be subject to conditions, including a condition that consideration, whether monetary or otherwise, be given in compensation for the impact that the subdivision, rezoning, development, road works or changes will have.

**(4)** Subsection (1) does not apply if the conditions applied and enforced by the local government for the subdivision, rezoning, development, road works or changes comply with permission criteria fixed by the chief executive.

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(5) The permission criteria may include conditions, including a condition that consideration, whether monetary or otherwise, be given in compensation for the impact that the subdivision, rezoning, development, road works or changes will have.

(6) A local government must comply with conditions that apply to it under this section.

(7) A failure by a local government to obtain an approval under subsection (1) in relation to the approval of a subdivision, rezoning or development of land does not invalidate the approval by the local government.

(8) If a local government contravenes subsection (1) or a condition that applies to it under this section, the local government is liable to compensate the chief executive for the cost of road works to State-controlled roads that are reasonably required because of the contravention.

(9) An approval by the chief executive under subsection (1) must be given—

- (a) within 21 days after receiving the application for approval; or
- (b) within a longer period notified to the local government by the chief executive within the 21 day period.

(9A) If the chief executive notifies the local government under subsection (9)(b), the IDAS process under the *Integrated Planning Act 1997* stops for the local government until the chief executive's approval is received by the local government.

(10) If—

- (a) a local government applies for an approval under subsection (1); and
- (b) the chief executive does not respond to the application within 21 days after receiving the application;

the chief executive is taken to have given approval at the end of the 21 days.

(11) In this section—

**“future State-controlled road”** means a road or land that the chief executive has notified the local government in writing is intended to become a State-controlled road.

(12) The chief executive must cause a copy of each notice under subsection (11) to be published in the gazette.

### **Distraction of traffic on motorways**

**41.(1)** A local government must obtain the chief executive's written approval if it intends to approve the erection, alteration or operation of an advertising sign or other advertising device that would be—

- (a) visible from a motorway; and
- (b) beyond the boundaries of the motorway; and
- (c) reasonably likely to create a traffic hazard for the motorway.

(2) The chief executive may make guidelines to which local governments must have regard in deciding whether an approval of the chief executive under subsection (1) is required for particular motorways.

(3) An approval by the chief executive under subsection (1) may be subject to conditions.

(4) Subsection (1) does not apply if the conditions applied by the local government to the erection, alteration or operation of the sign or device comply with permission criteria fixed by the chief executive.

(5) The permission criteria may include conditions.

(6) A local government must comply with conditions that apply to it under this section.

(7) An approval by the chief executive under subsection (1) must be given—

- (a) within 21 days after receiving the application for approval; or
- (b) within a longer period notified to the local government by the chief executive within the 21 day period.

(8) If—

- (a) a local government applies for an approval under subsection (1); and
- (b) the chief executive does not respond to the application within 21 days after receiving the application;

the chief executive is taken to have given approval at the end of the 21 days.

(9) In this section—

“**motorway**” includes a road or land that the chief executive has notified the local government in writing is intended to become a motorway.

(10) The chief executive must cause a copy of each notice under subsection (9) to be published in the gazette.

### **Effect of decisions of Planning and Environment Court**

42.(1) If—

- (a) an approval under section 40(1) (Impact of certain local government decisions on State-controlled roads) is subject to conditions; and
- (b) a local government imposes conditions on the subdivision, rezoning, development, road works or changes to which the approval relates; and
- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the conditions of the approval under section 40(1), the conditions of the approval are taken to be amended accordingly.

(2) If—

- (a) there are permission criteria relevant to a subdivision, rezoning, development, road works or changes mentioned in section 40; and
- (b) a local government imposes conditions on the subdivision, rezoning, development, road works or changes; and
- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the permission criteria, the permission criteria are taken to be amended accordingly in their application to the subdivision, rezoning, development, road works or changes.

**(3)** If—

- (a) an approval under section 41(1) (Distraction of traffic on motorways) is subject to conditions; and
- (b) a local government imposes conditions on the relevant erection, alteration or operation of the sign or other device; and
- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the conditions of the approval under section 41(1), the conditions of the approval are taken to be amended accordingly.

**(4)** If—

- (a) there are permission criteria relevant to the erection, alteration or operation of a sign or other device mentioned in section 41; and
- (b) a local government imposes conditions on the erection, alteration or operation; and
- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the permission criteria, the permission criteria are taken to be amended accordingly in their application to the erection, alteration or operation.

**(5)** The Planning and Environment Court is not to amend conditions as mentioned in this section without giving the chief executive a chance to be heard.

**Management of particular functions on State-controlled roads by local governments**

**43.(1)** A local government may exercise, for a State-controlled road in its area, all the powers that it may exercise for a local government road in its area.

**(2)** However, if there is a contract of the kind mentioned in section 27(4) (Powers of chief executive for road works contracts etc.) between the chief executive and a local government, the exercise of the powers must be done as required by the contract.

(3) If there is no contract of the kind mentioned in section 27(4) between the chief executive and a local government, the chief executive may direct the local government not to exercise any or some of its powers for a State-controlled road specified in the direction.

(4) A direction under subsection (3) may be subject to conditions.

(5) A local government must comply with directions or conditions under this section.

(6) The exercise of a power by a local government under this section is not a contravention of this Act.

## **PART 5—MANAGEMENT OF STATE–CONTROLLED ROADS**

### *Division 1—Prevention of damage and ensuring safety*

#### **Temporary restrictions on use of State-controlled roads**

**44.(1)** If the chief executive considers that it is appropriate that a decision be made to prevent damage to road transport infrastructure or to ensure the safety of road users and other persons, the chief executive may make a written decision that—

- (a) a State-controlled road is temporarily closed to all traffic or traffic of a particular class; or
- (b) a State-controlled road may, during a specified limited period, only be used—
  - (i) at specified times; or
  - (ii) by particular classes of vehicles; or
  - (iii) in accordance with conditions (including restrictions on the weight of loads of vehicles) fixed by the chief executive.

(2) A decision under subsection (1) must be advertised by appropriate signs and, if practicable, by notice in a newspaper circulating in the area.

(3) Road users must comply with a decision in force under subsection (1).

Maximum penalty—200 penalty units.

(4) Neither the State nor the chief executive is liable for damage or injury caused directly because of a contravention of a decision in force under subsection (1).

### **Removal of materials etc.**

**45.(1)** A person must not, without lawful excuse, damage, remove or interfere with naturally occurring materials, stockpiles of materials, watercourses, road works or ancillary works and encroachments on a State-controlled road.

Maximum penalty—200 penalty units.

(2) A person must not, without lawful excuse, alter or interfere with a watercourse in a way that adversely affects a State-controlled road.

Maximum penalty—40 penalty units.

(3) A person must not deposit rubbish or abandon goods or materials on a State-controlled road other than at places approved by, and under conditions fixed by, the chief executive.

Maximum penalty—200 penalty units.

### **Recovery of cost of damage**

**46.(1)** If—

- (a) a person intentionally, recklessly or negligently causes damage to road works or ancillary works and encroachments on a State-controlled road, whether or not an offence is committed; and
- (b) the chief executive repairs the damage or replaces or reconstructs as necessary the road works or ancillary works and encroachments;

the person is liable to pay to the chief executive the cost of repair, replacement or reconstruction.

(2) If—

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- (a) the damage is caused by the operation of a vehicle; and
- (b) the driver of the vehicle is unknown or cannot be located;

the person in whose name the vehicle is registered is liable for the costs of repair, replacement or reconstruction for which the driver would be liable.

(3) Subsection (2) does not apply if the vehicle was being used without the agreement or knowledge of the person in whose name the vehicle is registered.

(4) If—

- (a) a court finds a person guilty of an offence against this Act; and
- (b) in committing the offence, the person caused damage to road works or ancillary works and encroachments;

the court may, in addition to imposing a penalty, order the person to pay an amount towards the cost of repairing the damage.

*Division 2—Ancillary works and encroachments and roadside facilities**Subdivision 1—General rules for ancillary works and encroachments***Ancillary works and encroachments**

**47.(1)** The chief executive may construct, maintain, operate or conduct ancillary works and encroachments on a State-controlled road.

(2) The chief executive may, by gazette notice, decide that specified ancillary works and encroachments must not be constructed, maintained, operated or conducted on State-controlled roads, or on State-controlled roads in a specified district, without the written approval of the chief executive.

(3) A person must not construct, maintain, operate or conduct ancillary works and encroachments on a State-controlled road contrary to a notice under subsection (2).

Maximum penalty—200 penalty units.

(4) Subsection (3) does not apply to the construction, maintenance, operation or conduct of ancillary works and encroachments on a

State-controlled road if the construction, maintenance, operation or conduct—

- (a) conforms to requirements specified by the chief executive by gazette notice; or
- (b) is done as required by a contract entered into with the chief executive.

(5) An approval or requirements under this section may be subject to conditions (including conditions about the payment of fees and other charges) fixed by the chief executive.

(6) A thing is not done contrary to this section if it is permitted under the *Land Act 1994*, the *Traffic Act 1949* or an Act about local government.

### **Presumptions about advertising notices**

**48.(1)** This section applies to a prosecution for an offence against section 47(3) in relation to an advertising notice.

(2) Each person whose product or service is advertised on the notice is taken to maintain the notice, unless the person proves the advertisement was placed without the person's knowledge or permission.

### **Alteration etc. of ancillary works and encroachments**

**49.(1)** If ancillary works and encroachments are constructed, maintained, operated or conducted contrary to section 47 (Ancillary works and encroachments), the chief executive may—

- (a) cause them to be altered, relocated, made safe or removed; or
- (b) for activities—direct that their conduct be altered or that they stop being conducted.

(2) A person who constructed, maintained or operated ancillary works and encroachments contrary to section 47 is liable to pay to the chief executive the cost of altering or relocating them, making them safe or removing them.

(3) If ancillary works and encroachments are removed under subsection (1), the chief executive may cause them to be sold or destroyed.

(4) If the chief executive is of the opinion that ancillary works and encroachments, or the use of ancillary works and encroachments, that were constructed, maintained, operated or conducted on a State-controlled road under an approval, requirements or contract under section 47—

- (a) are creating a traffic hazard for the road; or
- (b) have become an obstacle to the carrying out of road works on the road or to the construction, augmentation, alteration or maintenance of public utility plant on the road;

the chief executive may cause them to be, or direct that they be, altered, relocated, made safe or removed or, for activities, direct that their conduct be altered or that they stop being conducted.

(5) Subsection (4) does not apply to a means of access.

(6) A person must comply with a direction under this section.

Maximum penalty—200 penalty units.

(7) If ancillary works and encroachments are altered, relocated, made safe or removed because of a direction under subsection (4), the chief executive may enter into an agreement with the owner of the ancillary works and encroachments for making a contribution towards the cost of the alteration, relocation, making safe or removal.

### *Subdivision 2—Special arrangements for means of access*

## **Definitions**

**50.** In this subdivision—

“**approved means of access**” means a means of access that is constructed, maintained or operated under—

- (a) an approval, requirements or contract under section 47 (Ancillary works and encroachments); or
- (b) an approval under section 52 (Management of access between individual properties and State-controlled roads).

**“State-controlled road”** includes a road or land that the chief executive has notified the relevant local government in writing is intended to become a State-controlled road.

### **Access-limited roads**

**51.(1)** The chief executive may, by gazette notice, declare that a State-controlled road is an access-limited road.

**(2)** Before making or revoking a declaration under subsection (1) the chief executive must—

- (a) notify each local government that would, in the chief executive’s opinion, be affected by the proposed declaration or revocation; and
- (b) give the local governments a reasonable opportunity to make submissions to the chief executive on the proposed declaration or revocation.

**(3)** A notice under subsection (1) must—

- (a) specify the policy that will be applied in dealing with the application of section 52 (Management of access between individual properties and State-controlled roads) to access between the State-controlled road and adjacent land; and
- (b) enable the location of the access-limited road to be identified.

**(4)** Action under subsection (1) must be advertised by notice in a newspaper circulating generally in the area.

**(5)** If a State-controlled road is declared to be an access-limited road, a person must not construct or alter a means of access between land and the road other than under section 52.

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

**52.(1)** The chief executive may, in response to an application by a person or on the initiative of the chief executive, for a State-controlled road and particular adjacent land make a written decision specifying—

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- (a) that access between the State-controlled road and a specified part of the land is prohibited; or
- (b) the location of a means of access between the State-controlled road and the land; or
- (c) that the existing location, type or use of a means of access between the State-controlled road and the land should be changed in a way specified by the chief executive; or
- (d) conditions that are to apply to the use of a means of access between the State-controlled road and the land.

**(2)** Conditions under section (1)(d) include conditions—

- (a) prohibiting use of the means of access by pedestrians; and
- (b) prohibiting right turns by vehicles going in or out of the property; and
- (c) about the type and number of vehicles using the means of access; and
- (d) about the times when the means of access may be used.

**(3)** The chief executive may take action under this section on the chief executive's own initiative for an approved means of access only if the means of access, or the use of it, in the chief executive's opinion—

- (a) is creating a traffic hazard; or
- (b) has become an obstacle to the carrying out of road works on a State-controlled road or to the construction, augmentation, alteration or maintenance of public utility plant on a State-controlled road.

**(4)** If the chief executive makes a decision under this section, the chief executive must give the owner and occupier of the land written notice of the decision.

**Offence for obtaining access contrary to subdivision or breaching condition**

**53.(1)** A person must not obtain access to or from a State-controlled road contrary to this subdivision.

Maximum penalty—200 penalty units.

**(2)** A person must not contravene a condition under this subdivision.

Maximum penalty—200 penalty units.

**Chief executive may take steps to enforce a decision under this subdivision**

**54.(1)** The chief executive may take steps that are reasonable and necessary to prevent a person obtaining access contrary to section 53 (Offence for obtaining access contrary to subdivision or breaching condition).

**(2)** If the chief executive takes action under subsection (1) because of a person obtaining access contrary to section 53, the person is liable to pay to the chief executive the cost of taking the action.

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

**55.** If the use of an approved means of access between a State-controlled road and a part of adjacent land is prohibited under this subdivision, the chief executive may enter into an agreement with the owner or occupier of the land for—

- (a) the supply of, or a contribution towards the supply of, an alternative means of access between the land and the State-controlled road or between the land and another road; or
- (b) the carrying out, or a contribution towards the carrying out, of other works in relation to the land.

**Compensation where access prohibited****56.** If—

- (a) the use of an approved means of access between a State-controlled road and a part of adjacent land is prohibited under this subdivision; and
- (b) either—
  - (i) the chief executive and the owner or occupier can not reach agreement about action to be taken under section 55 (Chief executive may supply or contribute to new access arrangements); or
  - (ii) the chief executive decides that it is not practicable to take action under section 55;

the owner or occupier may recover from the chief executive compensation for the diminution in value because of the prohibition.

**Cases where compensation not payable**

**57.(1)** Compensation is payable under section 56 (Compensation where access prohibited) to a person only if a claim is given to the chief executive within 1 year after—

- (a) the day when the relevant decision took effect; or
- (b) the day when the person was first notified by the chief executive of the decision;

whichever is the later.

**(2)** However, the chief executive may allow a claim to be made at a later time.

**(3)** The chief executive is not liable to pay compensation for action under this subdivision prohibiting the use of an existing means of access if it is not an approved means of access.

**(4)** The chief executive is not liable to pay compensation for action under this subdivision in relation to land if action is taken to acquire the land.

***Subdivision 3—Roadside facilities*****Roadside facilities**

**58.(1)** The chief executive may supply, or enter into an agreement with another person for the supply of, roadside service centres, roadside rest facilities and other roadside businesses adjacent to or near State-controlled roads.

**(2)** The agreement may include—

- (a) arrangements for supplying access to the facility from the road; and
- (b) provision for payment of amounts to the chief executive, whether by lump sum or annual rental, in consideration for supplying the access or for supplying access to the traffic stream.

***Division 3—Public utility plant on State-controlled roads*****Location and requirements**

**59.(1)** For the purposes of this division, the location of public utility plant on a State-controlled road includes the line, level and boundary of the plant on the road.

**(2)** The chief executive may, by written notice given to the owner of public utility plant, make requirements about the public utility plant on a State-controlled road.

**(3)** The requirements may relate to—

- (a) the location of the public utility plant to meet present or future road transport infrastructure needs; and
- (b) the construction of road works because of the construction, augmentation, alteration or maintenance of the plant; and
- (c) traffic operations associated with the construction, augmentation, alteration or maintenance of the plant or with construction of road works.

**Specification of chief executive's requirements about public utility plant**

**60.(1)** The construction, augmentation, alteration or maintenance of public utility plant on a State-controlled road must be undertaken in accordance with the chief executive's requirements and at the expense of the owner of the plant.

**(2)** Road works on a State-controlled road made necessary by the construction, augmentation, alteration or maintenance of public utility plant on a State-controlled road must be undertaken in accordance with the chief executive's requirements and at the expense of the owner of the plant.

**(3)** Requirements mentioned in subsection (1) or (2) are to be notified in writing to the owner of the plant within a reasonable period.

**Information by owner of public utility plant to chief executive**

**61.(1)** A person who wants to take action mentioned in section 60 (Specification of chief executive's requirements about public utility plant) must give a written notice to the chief executive of the person's intention to carry out work on a State-controlled road within a reasonable time before taking the action.

**(2)** If public utility plant is constructed, augmented, altered or maintained on a State-controlled road, the owner of the plant must prepare records that adequately define the location of the plant on the road at the time of the construction, augmentation, alteration or maintenance of the plant.

**(3)** The owner of public utility plant on a State-controlled road must, if asked by the chief executive, supply information to the chief executive to define adequately the location of the plant in a specified area.

Maximum penalty for subsection (3)—40 penalty units.

**Liability for damage or expenses**

**62.(1)** Unless the chief executive otherwise agrees, the chief executive is not liable for damage caused by the chief executive to public utility plant on a State-controlled road if—

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- (a) the chief executive had, before the damage was caused, asked for information under section 61(3) (Information by owner of public utility plant to chief executive) from the owner of the plant and—
  - (i) the owner had not, within a reasonable time, complied with the request; and
  - (ii) the damage was caused because of the failure to comply with the request; or
- (b) information supplied to the chief executive under section 61(3) does not define in adequate detail the location of the plant and the damage was caused because of the failure to define in adequate detail the location of the plant; or
- (c) the damage was caused because of the plant having been constructed, augmented, altered or maintained other than under the chief executive's requirements under this division.

**(2)** If the chief executive incurs additional expense in carrying out road works on a State-controlled road because—

- (a) the owner of public utility plant had not supplied within a reasonable time information asked for by the chief executive under section 61(3); or
- (b) information supplied to the chief executive did not define in adequate detail the location of public utility plant; or
- (c) public utility plant had not been constructed, augmented, altered or maintained under the chief executive's requirements;

the owner of the plant is liable to pay to the chief executive the additional expense.

**(3)** If the construction of road works by or for the chief executive requires the removal or replacement of public utility plant on a State-controlled road, the chief executive cannot be compelled to replace or reconstruct the plant in its previous location and form.

**(4)** If the plant mentioned in subsection (3) is replaced or reconstructed—

- (a) it must be done under the chief executive's requirements; and

- (b) it must be at the expense of the chief executive but the cost to the chief executive of replacement or reconstruction may be reduced by agreement between the chief executive and the owner of the plant after taking into account—
- (i) the remaining life of the plant; and
  - (ii) the salvage or scrap value of the plant; and
  - (iii) additional expense that was avoidable because of faulty information supplied by the owner of the plant about the location of the plant; and
  - (iv) additional expense that was avoidable because of the plant not being constructed in accordance with the chief executive's requirements.

### **Chief executive and owner of public utility plant may share costs**

**63.** The chief executive may arrange with the owner of public utility plant (whether existing or proposed) for the sharing by the chief executive and the owner of the cost of all or any of—

- (a) acquisition of land associated with the plant; or
- (b) construction, augmentation, alteration or maintenance of the plant; or
- (c) construction of road works affected by the plant;

including all necessary preliminary costs associated with the acquisition, construction, augmentation, alteration or maintenance.

### **Division not to apply to public utility plant constructed under the Electricity Act**

**64.** This division does not apply to public utility plant constructed under the *Electricity Act 1994*.

## PART 6—FRANCHISED ROADS

### Objectives of part

**65.** The objectives of this part are—

- (a) to assist and encourage private investment in the construction, maintenance and operation of road transport infrastructure; and
- (b) by the involvement of private investment, to enable road transport infrastructure projects to be undertaken at an earlier time than would otherwise be possible; and
- (c) to provide an appropriate management structure for the construction, maintenance and operation of road transport infrastructure on a commercial basis.

### Power to enter into road franchise agreements

**66.(1)** The Minister may, for the State, enter into an agreement (a “**road franchise agreement**”) with a person under which, or as part of which, the person is to invest in the construction, maintenance or operation of road transport infrastructure.

**(2)** The agreement must be consistent with—

- (a) the coordination plan; and
- (b) the objectives of this Act; and
- (c) the current transport infrastructure strategies; and
- (d) the obligations about government supported transport infrastructure set out in section 9.

**(3)** The agreement may include, for example—

- (a) provisions about the ownership of the road transport infrastructure; or
- (b) provisions about tolls for the use of the road transport infrastructure.

### **Tabling of road franchise agreements**

**67.** The Minister must table each road franchise agreement, and each amendment of a road franchise agreement, in the Legislative Assembly as soon as practicable after it is entered into.

### **Report on operation of part**

**68.** Each annual report of the department must include a report on the operation of this part during the financial year to which the report relates.

### **Recovery of money**

**69.** If a road franchise agreement provides that the Minister may recover an amount from a franchisee, the amount may be recovered as a debt payable by the franchisee to the State.

### **Rateability of land**

**70.(1)** In this section—

**“road franchise agreement land”** means land on which is situated road transport infrastructure to which a road franchise agreement applies.

**(2)** A regulation may provide that land is not rateable under the *Local Government Act 1993* or the *City of Brisbane Act 1924*.

### **Application of other provisions of this chapter**

**71.(1)** The provisions of the other parts of this chapter, and of regulations made for this chapter, apply to a franchised road as if it were a State-controlled road.

**(2)** A regulation may—

- (a) prescribe changes to the way the provisions apply to a particular franchised road; or
- (b) declare that some of the provisions do not apply to a particular franchised road.

**Guarantees, undertakings and stamp duty**

**72.** For the purpose of giving guarantees, undertakings or stamp duty exemptions to a franchisee, the following sections of the *Statutory Bodies Financial Arrangements Act 1982* apply, with all necessary changes and any changes prescribed by regulation, to the franchisee as if the franchisee were a statutory body within the meaning of the Act—

- section 14 (Conditions precedent to financial arrangements and other matters)
- section 16 (Guarantees for the State)
- section 18 (Requirement for security)
- section 19 (Guarantee may include waiver of immunity and other provisions)
- section 20 (Guarantee not affected by transfer of liability)
- part 3, division 3 (Consequences if payment required under guarantee)
- section 77 (Exemption from stamp duty).

**Franchised roads to be roads for other purposes**

**73.** A franchised road is a road for the purposes of the *Transport Infrastructure (Roads) Act 1991*.

## **CHAPTER 6—RAIL TRANSPORT INFRASTRUCTURE**

### **PART 1—PRELIMINARY**

**Ways of achieving objectives**

**74.** The objectives of this Act for rail are intended to be achieved by—

- (a) providing for the development and implementation of rail transport infrastructure strategies; and
- (b) providing a framework to—
  - (i) allow railway managers to manage rail transport infrastructure in an effective and efficient way; and
  - (ii) allow railway operators to operate rolling stock in an effective and efficient way; and
- (c) introducing a safety accreditation system to maintain appropriate levels of safety in the rail transport industry.

### **Scope of chapter**

**75.(1)** This chapter applies to rail transport infrastructure and rolling stock used, or proposed to be used, to transport passengers or freight for reward.

- (2)** This chapter does not apply to—
- (a) a cable car; or
  - (b) a monorail; or
  - (c) an amusement railway; or
  - (d) a railway that—
    - (i) is part of, and used solely for, a mining operation; and
    - (ii) is not connected to a railway used to transport passengers, or freight, for reward; or
  - (e) a sugar tramway; or
  - (f) a tramway operated solely on roads; or
  - (g) another railway prescribed under a regulation.

## **PART 2—INVESTIGATING POTENTIAL RAIL CORRIDOR**

### **Purpose of pt 2**

**76.** The purpose of this part is—

- (a) to facilitate the development of railway infrastructure by giving a person who is genuinely considering constructing a railway authorisation to enter land to enable the land's potential and suitability as a rail corridor to be investigated; and
- (b) to safeguard the interests of owners and occupiers of land affected by the entry.

### **Definitions for pt 2**

**77.** In this part—

**“associated person”**, of an investigator, means any of the following—

- (a) if the investigator is a corporation—the corporation's chief executive, secretary or directors;
- (b) the investigator's employees or partners who are individuals;
- (c) a person who is an agent of, or contractor for, the investigator, and engaged in writing for the purposes of the investigator's authority;
- (d) employees of an agent or contractor mentioned in paragraph (c);
- (e) if a person mentioned in paragraph (c) is a corporation—the corporation's chief executive, secretary, directors or employees.

**“authority”** means a rail feasibility investigator's authority.

**“investigator”** means a person who holds an authority.

### **How to apply for a rail feasibility investigator's authority**

**78.(1)** A person may apply to the chief executive for a rail feasibility investigator's authority for an area of land.

(2) The application must be in writing and state the following information—

- (a) the area of land;
- (b) the purpose for which the authority is sought;
- (c) details of the nature of the activities proposed to be conducted in the area;
- (d) the period for which the authority is sought.

### **Additional information for application**

**79.(1)** The chief executive may—

- (a) make inquiries to decide the application; and
- (b) require the applicant to give the chief executive additional information to decide the application.

(2) The chief executive may reject the application if the applicant fails, without reasonable excuse, to give the additional information within a stated reasonable time of not less than 28 days.

### **Granting authority**

**79A.(1)** The chief executive may grant or refuse to grant an authority.

(2) The chief executive must grant the authority if the chief executive is satisfied the person is genuinely considering constructing a railway and is acting reasonably and in good faith.

(3) If the chief executive refuses to grant an authority, the chief executive must give the applicant written reasons for the refusal.

(4) In deciding the area for an authority, the chief executive must be satisfied the area is no more extensive than is reasonably necessary.

### **Rail feasibility investigator's authority**

**79B.(1)** An authority must be in writing stating the following—

- (a) the area to which it applies;

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- (b) the purpose for which it is granted;
- (c) when it expires;
- (d) any conditions that may be imposed on the authority.

*Example of conditions—*

Lodging a bond with the chief executive or taking out insurance.

**(2)** An authority authorises the investigator and associated persons—

- (a) to enter and re-enter any land within the area to which it applies for the purpose of investigating the land's potential and suitability as a rail corridor; and
- (b) to the extent reasonably necessary or convenient for that purpose—
  - (i) to do anything on the land; or
  - (ii) to bring anything onto the land; or
  - (iii) to temporarily leave machinery, equipment or other items on the land.

*Examples of things authorised by the authority—*

1. To conduct surveys and take soil samples.
2. To clear vegetation, or otherwise disturb the land, to the extent reasonably necessary.
3. To construct temporary access tracks using the land or using materials brought onto the land.

**(3)** The grant of an authority is not an indication of a commitment or approval by the State, the chief executive or any other person in relation to any proposal, and in particular, does not commit the State to acquiring any land as a rail corridor.

**(4)** An investigator or associated person must comply with each condition of the investigator's authority, unless the investigator or associated person has a reasonable excuse.

Maximum penalty for subsection (4)—200 penalty units.

**What investigator must do before land is entered for the first time**

**79C.(1)** Before land is entered for the first time under an investigator's authority, the investigator must give a written notice to the land's owner or occupier.

**(2)** The notice must state—

- (a) the chief executive has granted to the investigator a rail feasibility investigator's authority for an area that is part of or includes the land; and
- (b) the things the investigator and associated persons of the investigator are authorised to do under the authority; and
- (c) a general outline of the things intended to be done on the land, including the construction of any temporary access track; and
- (d) the approximate period during which the land is to be entered under the authority; and
- (e) the grant of the authority is not an indication of a commitment or approval by the State, the chief executive or any other person in relation to any proposal, and in particular, does not commit the State to acquiring any land as a rail corridor.

**(3)** The investigator or associated person may enter onto land only if—

- (a) the owner or occupier of the land gives written consent to the entry; or
- (b) at least 7 days have passed since the notice was given.

**Investigator to issue associated person with identification**

**79D.(1)** Before an investigator allows an associated person to act under the investigator's authority, the investigator must issue the associated person with identification.

Maximum penalty—10 penalty units.

**(2)** The identification must—

- (a) state the names of the investigator and the person to whom the identification is issued; and

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- (b) indicate that, for the purposes of this Act, the person is associated with the holder of a rail feasibility investigator's authority; and
- (c) state the capacity in which the associated person is an associated person; and
- (d) be signed by or for the investigator; and
- (e) be signed by the associated person; and
- (f) state an expiry date.

(3) A person who stops being an associated person of an investigator must return the person's identification issued under subsection (1) to the investigator as soon as practicable, but within 21 days, after the person stops being an associated person, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

(4) Subsections (5) and (6) apply if a person who claims to be or appears to be the owner or occupier of land within the area for an authority asks an individual who has entered, is entering or is about to enter land under an authority—

- (a) for identification; or
- (b) about the person's authority to enter the land.

(5) If the request is made of an investigator, the investigator must immediately state the investigator's name and show the person a copy of the investigator's authority.

Maximum penalty—10 penalty units.

(6) If the request is made of an associated person of an investigator, the associated person must immediately state his or her name and show the other person the identification issued to the associated person under subsection (1).

Maximum penalty for subsection (6)—10 penalty units.

**Pretending to be an investigator etc.**

**79E.** A person must not pretend—

- (a) to be an investigator; or

- (b) to be an associated person of an investigator.

Maximum penalty—80 penalty units.

### **Investigator to take care in acting under authority**

**79F.** An investigator—

- (a) must take as much care as is practicable to minimise damage to the land or inconvenience to the land's owner or occupier; and
- (b) may do anything necessary or desirable to minimise the damage or inconvenience; and
- (c) is liable to compensate the land's owner or occupier for any loss or damage suffered by the owner or occupier arising out of the entry onto the land, any use made of the land, anything brought onto the land or anything done or left on the land in connection with the investigator's authority.

### **Compensation payable by investigator**

**79G.(1)** An owner or occupier of land may, by written notice given to an investigator—

- (a) claim compensation from the investigator for loss or damage arising out of an entry onto the land, any use made of the land, anything brought onto the land or anything done or left on the land in connection with the investigator's authority; or
- (b) require the investigator to carry out works to rectify the damage within a reasonable time after the investigator has finished investigating the land under the authority; or
- (c) require the investigator to carry out works under paragraph (b) and then claim compensation for any loss or damage not rectified.

**(2)** A claim may be made—

- (a) whether or not the act or omission giving rise to the claim was authorised under the authority; and
- (b) whether or not the investigator prohibited, or took steps to prevent, the loss or damage; and

- (c) even though the loss or damage was caused or contributed to by an associated person.
- (3) The notice must be given—
  - (a) within 1 year after the loss or damage happened; or
  - (b) at a later time allowed by a court.
- (4) The amount of compensation is—
  - (a) the amount agreed between the parties; or
  - (b) if the parties can not agree within a reasonable time—the amount decided by a court with jurisdiction for the amount of compensation claimed.

## **PART 4—ACCREDITATION**

### **Definition for pt 4**

**80.** In this part—

“**railway**” includes a railway proposed to be constructed on future railway land.

### **Accreditation of managers and operators**

**81.(1)** A person must not manage a railway unless the person is accredited as the railway manager for the railway.

Maximum penalty—160 penalty units.

**(2)** A person must not operate rolling stock on a railway unless the person is accredited as a railway operator for the railway.

Maximum penalty—160 penalty units.

**(3)** Subsection (1) does not apply to a person who—

- (a) owns or manages a railway for a purpose that is incidental to the person’s main business; and

- (b) has an agreement with a person who is accredited as the railway manager for another railway for the connection of the railway to the other railway; and
- (c) maintains the railway, or arranges for it to be maintained, in a way that is acceptable to the other person.

### **Applications for accreditation**

**82.** A person may apply to the chief executive for accreditation as—

- (a) the railway manager for a railway; or
- (b) a railway operator for a railway; or
- (c) the railway manager and a railway operator for a railway.

### **Additional information for applications**

**83.(1)** The chief executive may, by written notice, require an applicant to give the chief executive stated written information that the chief executive reasonably requires to consider the application.

**(2)** The chief executive may reject the application if the applicant fails to comply with the requirement within a stated reasonable time, of not less than 28 days, without reasonable excuse.

### **Granting accreditation**

**84.(1)** The chief executive must promptly consider an application for accreditation and grant, or refuse to grant, the accreditation.

**(2)** The chief executive must accredit an applicant as the railway manager for a railway if satisfied—

- (a) the applicant—
  - (i) is accredited in another State to manage a similar type of railway; or
  - (ii) has the competency and capacity to manage the railway safely; and
- (b) the applicant has an appropriate safety management system; and

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- (c) the applicant has the financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities for the railway; and
- (d) the applicant has a right—
  - (i) of access to the land where the railway is constructed, or proposed to be constructed, either under this Act or with the agreement of the land's owner; and
  - (ii) to use rail transport infrastructure or other rail infrastructure for the railway with the agreement of the infrastructure's owner.

**(3)** The chief executive must accredit an applicant as a railway operator for a railway if satisfied—

- (a) the applicant—
  - (i) is accredited in another State to operate rolling stock on a railway for a similar type of service; or
  - (ii) has the competency and capacity to operate rolling stock on the railway safely; and
- (b) the applicant has an appropriate safety management system; and
- (c) the applicant has the financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities for the railway; and
- (d) unless the applicant is applying for accreditation as the railway manager and operator of a railway—the applicant has an agreement with the railway's manager to operate particular rolling stock on the railway, and the agreement includes appropriate arrangements for the safe operation of the rolling stock.

**(4)** In considering a safety management system, the chief executive must consider—

- (a) the applicant's rail transport proposal; and
- (b) the appropriateness of the safety management system for the proposal; and
- (c) the safety levels achievable, consistent with the nature of the proposal, at a reasonable cost; and

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- (d) the need for efficient and competitive rail transport services; and
- (e) consistency with generally accepted risk management principles; and
- (f) the levels of safety proposed relative to the levels of safety of competing transport modes.

(5) Subsection (4) does not limit by implication the matters the chief executive may consider in considering a safety management system.

(6) If the chief executive decides to grant the accreditation, the chief executive must promptly give the applicant a written notice stating—

- (a) the decision; and
- (b) the details of the accreditation, including its scope; and
- (c) if the accreditation is granted subject to a condition—
  - (i) the details of the condition; and
  - (ii) the reason for the condition; and
  - (iii) the applicant may—
    - (A) under section 196—ask for the decision to be reviewed and appeal against the reviewed decision; and
    - (B) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.

(7) If the chief executive decides not to grant the accreditation, the chief executive must promptly give the applicant a written notice stating—

- (a) the decision; and
- (b) the reason for the decision; and
- (c) the applicant may—
  - (i) under section 196—ask for the decision to be reviewed and appeal against the reviewed decision; and
  - (ii) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.

**Accreditation conditions**

**85.(1)** An accreditation may be subject to conditions.

**(2)** A condition may relate only to—

(a) for the accreditation of a person as the manager of a railway—

- (i) constructing or maintaining the railway; or
- (ii) managing the railway safely, considering the need for efficient and competitive services; or

(b) for the accreditation of a person as an operator of a railway—

- (i) operating rolling stock safely, considering the need for efficient and competitive services; or
- (ii) the person having an agreement with the manager of the railway to operate particular rolling stock on the railway, and the agreement, including appropriate arrangements for the safe operation of rolling stock; or

(c) for all accreditations—

- (i) the person's financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities for the railway; or
- (ii) paying accreditation fees; or
- (iii) another matter prescribed under a regulation.

**(3)** An accredited person must comply with each condition of the person's accreditation.

Maximum penalty for subsection (3)—40 penalty units.

**Requiring accreditation conditions to be complied with**

**86.(1)** This section applies if the chief executive reasonably believes an accredited person has not complied with a condition of the person's accreditation.

**(2)** The chief executive may, by written notice, require the person to remedy the breach within a reasonable period stated in the notice.

(3) If the person has not in fact complied with the condition of the person's accreditation, the person must comply with the notice.

Maximum penalty for subsection (3)—60 penalty units.

### **Accreditation period**

**87.** An accreditation remains in force until it is suspended, cancelled or surrendered.

### **Amending accreditation conditions on application**

**88.(1)** An accredited person may apply to the chief executive for an amendment of the conditions of the person's accreditation.

(2) The chief executive must consider the application and may grant, or refuse to grant, the amendment.

(3) The chief executive may amend a condition only if satisfied the condition is—

- (a) no longer appropriate; or
- (b) no longer consistent with generally accepted risk management principles.

(4) If the chief executive decides to amend a condition, the chief executive must promptly give the applicant a written notice stating the decision and the amendment.

(5) If the chief executive decides not to amend a condition, the chief executive must promptly give the applicant a written notice stating—

- (a) the decision; and
- (b) the reason for the decision; and
- (c) the applicant may—
  - (i) under section 196—ask for the decision to be reviewed and appeal against the reviewed decision; and
  - (ii) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.

(6) If the chief executive does not decide the application within 70 days after it is made, the chief executive is taken to have made the amendment sought by the accredited person at the end of the 70 days.

### **Amending accreditation conditions without application**

**89.(1)** This section applies if the chief executive considers the conditions of a person's accreditation should be amended.

(2) Before amending the conditions, the chief executive must give the person a written notice—

- (a) stating the proposed amendment; and
- (b) stating the reason for the amendment; and
- (c) inviting the person to show, within a stated time of at least 28 days, why the amendment should not be made.

(3) If, after considering all written representations made within the stated time, the chief executive still considers the conditions should be amended, the chief executive may amend the conditions—

- (a) in the way proposed; or
- (b) in another way, having regard to the representations.

(4) The chief executive must inform the person of the decision by written notice.

(5) If the chief executive decides to amend the conditions, the notice must also state—

- (a) the amendment; and
- (b) the reason for the decision; and
- (c) the person may—
  - (i) under section 196—ask for the decision to be reviewed and appeal against the reviewed decision; and
  - (ii) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.

(6) Subsections (2) to (5) do not apply if the chief executive proposes to amend the conditions of a person's accreditation for a formal or clerical reason that does not adversely affect the person's interests.

(7) The chief executive may amend a condition in a way mentioned in subsection (6) by written notice given to the person.

### **Suspending or cancelling accreditation**

**90.(1)** This section applies if the chief executive—

- (a) reasonably suspects an accredited person has failed to comply with a condition of the person's accreditation; and
- (b) considers the person's accreditation should be suspended or cancelled (the **“proposed action”**).

(2) Before taking the proposed action, the chief executive must give the person a written notice—

- (a) stating the proposed action; and
- (b) stating the reason for the proposed action; and
- (c) if the proposed action is suspension of the accreditation—stating the proposed suspension period; and
- (d) if the proposed action is a limited suspension of the accreditation<sup>2</sup>—stating the details of the proposed limitation; and
- (e) inviting the person to show, within a stated time of at least 28 days, why the proposed action should not be taken.

(3) If, after considering all written representations made within the stated time, the chief executive still considers the proposed action should be taken, the chief executive may—

- (a) if the proposed action was to suspend the accreditation—suspend the accreditation—
  - (i) for no longer than the proposed suspension period; and
  - (ii) if the proposed action was a limited suspension—by no more than the proposed limitation; or

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<sup>2</sup> See section 92 (Limited suspension of accreditation).

*Transport Infrastructure Act 1994*

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- (b) if the proposed action was to cancel the accreditation—cancel the accreditation or suspend it for a period.

(4) The chief executive must inform the person of the decision by written notice.

(5) If the chief executive decides to suspend or cancel the accreditation, the notice must also state—

- (a) the reason for the decision; and
- (b) the person may—
  - (i) under section 196—ask for the decision to be reviewed and appeal against the reviewed decision; and
  - (ii) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.

(6) If—

- (a) rather than cancel the accreditation, the chief executive suspends it on condition that the person do certain things to rectify the failure to comply with a condition of the person's accreditation; and
- (b) the person does not rectify the failure within the suspension period;

the chief executive may immediately cancel the accreditation by written notice given to the person.

(7) The notice must state—

- (a) the reason for the decision; and
- (b) the person may—
  - (i) under section 196—ask for the decision to be reviewed and appeal against the reviewed decision; and
  - (ii) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.

**Immediate suspension of accreditation**

**91.(1)** This section applies if the chief executive—

- (a) reasonably believes an accredited person has failed to comply with a condition of the person's accreditation; and
- (b) considers members of the public may be seriously harmed if urgent action to suspend the accreditation is not taken.

**(2)** The chief executive may immediately suspend an accreditation by written notice given to the person.

**(3)** The notice must state—

- (a) the reason for the decision; and
- (b) the person may—
  - (i) under section 196—ask for the decision to be reviewed and appeal against the reviewed decision; and
  - (ii) under the *Transport Planning and Coordination Act 1994*, part 5—ask for the decision or the reviewed decision to be stayed.

**(4)** The chief executive must at the same time give the person a notice under section 90(2).<sup>3</sup>

**(5)** The accreditation is suspended under this section until the earlier of the following—

- (a) the chief executive gives the person notice of the chief executive's decision under section 90;
- (b) the end of 60 days after the notice under subsection (2) was given to the person.

**Limited suspension of accreditation**

**92.** Under section 90 or 91,<sup>4</sup> the chief executive may limit a suspension to, for example—

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<sup>3</sup> Section 90 (Suspending or cancelling accreditation)

<sup>4</sup> Section 91 (Immediate suspension of accreditation)

- (a) a particular railway for which the accredited person is accredited;  
or
- (b) a particular service operated by the accredited person.

### **Surrender of accreditation**

**93.** An accredited person may, at any time, surrender the person's accreditation by written notice given to the chief executive.

## **PART 5—RAIL TRANSPORT INFRASTRUCTURE POWERS**

### *Division 1—Railway works*

#### **Application of div 1**

**93A.** This division applies only to railway works.

#### **Entering land for railway works etc.**

**94.** For railway works, the chief executive or an accredited person may enter someone else's land and carry out the works.

#### **Entry to land by notice or with approval**

**95.(1)** Before entering someone else's land to carry out railway works, the chief executive or an accredited person must—

- (a) give at least 7 days written notice to the land's owner or occupier;  
or
- (b) get the written agreement of the land's owner or occupier to the entry.

**(2)** The notice must—

- (a) state the use intended to be made of the land; and

- (b) include a general outline of the intended works; and
- (c) state an approximate period when the works are expected to be carried out on the land.

(3) The chief executive or accredited person need not comply with subsection (1) for—

- (a) urgent remedial action on a railway; or
- (b) maintenance on a road.

(4) If urgent remedial action is required, the chief executive or accredited person must give the land's owner or occupier as much oral notice as is practicable.

### **Care to be taken in carrying out works etc.**

**96.** In entering land and carrying out railway works on the land, the chief executive or an accredited person—

- (a) must take as much care as is practicable to minimise damage to the land or inconvenience to the land's owner or occupier; and
- (b) may do anything necessary or desirable to minimise the damage or inconvenience; and
- (c) must get the agreement of the owner or occupier to take or use the materials of the land's owner or occupier, unless urgent remedial action on a railway is required.

### **Compensation for carrying out works etc.**

**97.(1)** An owner or occupier of land entered under this part by the chief executive or an accredited person may, by written notice given to the chief executive or accredited person—

- (a) claim compensation for loss or damage caused by the entry or railway works carried out on the land; or
- (b) claim compensation for the taking or use of materials; or
- (c) require the person to carry out works in restitution for the damage; or

- (d) require the person to carry out works in restitution for the damage and then claim compensation for any loss or damage not restituted.

(2) The notice must be given—

- (a) within 1 year after the railway works are completed; or
- (b) at a later time allowed by the chief executive or accredited person.

(3) The amount of compensation is—

- (a) the amount agreed between the parties; or
- (b) if the parties can not agree within a reasonable time—the amount decided by a court with jurisdiction for the recovery of the amount of compensation claimed.

(4) However, the amount of compensation for damage to the land and its fixtures, and for taking or use of materials, can not be more than the amount that would have been awarded if the land had been acquired.

## **Watercourses**

**98.(1)** To carry out railway works, an accredited person may, with the chief executive's written approval—

- (a) divert a watercourse; or
- (b) construct a watercourse, whether temporary or permanent.

(2) In deciding whether to approve the diversion of a watercourse, the chief executive must consider the effect the works would have on the watercourse's physical integrity and flow characteristics.

(3) Subsection (2) does not limit the matters the chief executive may consider.

## *Division 2—Other powers*

### **Power to require works to stop**

**99.(1)** A person must not, without the chief executive's written approval, carry out works near a railway if the works threaten, or are likely to threaten,

the railway's safety or operational integrity.

Maximum penalty—100 penalty units.

(2) If—

- (a) a person is carrying out, or proposes to carry out, works near a railway; and
- (b) the chief executive reasonably believes they threaten, or are likely to threaten, the railway's safety or operational integrity;

the chief executive may give the person a written direction to stop, alter or not to start the works.

(3) The person must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(4) If works are carried out contrary to subsection (1) or a direction under subsection (2), the chief executive may, by written notice, require the owner of the land where the works are situated to alter, demolish or take away the works within a stated reasonable time.

(5) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

(6) If the person does not comply with the requirement, the chief executive may—

- (a) alter, demolish or take away the works; or
- (b) alter, demolish or take away the works and recover the cost of doing so from the land's owner as a debt payable by the owner.

(7) For this section, a person authorised by the chief executive may enter land and inspect works—

- (a) after giving 3 days written notice to the land's owner or occupier; or
- (b) with the written agreement of the land's owner or occupier; or
- (c) without notice or approval, if the chief executive reasonably believes there is an immediate and significant threat to the railway's safety or operational integrity.

(8) This section binds all persons, including the State, the Commonwealth and the other States.

### **Closing railway crossings**

**100.(1)** A railway manager may temporarily close or regulate a railway crossing if satisfied it is necessary because of an immediate threat to—

- (a) the safety of the railway; or
- (b) the public using it or who may use it.

(2) If the manager decides to close or regulate a crossing—

- (a) the manager must, as soon as practicable after its closure or regulation, notify the authority responsible for the crossing of its closure or regulation, unless the authority has agreed that notification is unnecessary; and
- (b) the manager may construct a substitute crossing.

## **PART 6—RAILWAY INCIDENTS**

### *Division 1—Report of railway incident*

#### **Reporting serious incidents**

**101.(1)** If an accredited person for a railway becomes aware that a serious incident has happened on or involving a railway, the person must report the incident to the chief executive in accordance with any guidelines under subsection (2).

Maximum penalty—10 penalty units.

(2) The chief executive may make, and give to all accredited persons, written guidelines—

- (a) to which they are to have regard in deciding whether an incident is one to which subsection (1) applies; or

- (b) about the information that must be included in reports under the subsection; or
- (c) about the times within which reports must be made to the chief executive; or
- (d) about the form in which reports must be made.

(3) In making guidelines, the chief executive must consult with accredited persons.

### **Request for report or incident details**

**102.(1)** This section applies if the chief executive becomes aware that a serious incident on or involving a railway may have happened, even if it has not been reported.

(2) The chief executive may require an accredited person for the railway to give the chief executive a written report, or stated written details, about the incident within a stated reasonable period.

(3) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

## ***Division 2—Investigation of railway incident***

### **Investigations by authorised person**

**103.(1)** This section applies if—

- (a) a serious incident on or involving a railway happens; or
- (b) the chief executive becomes aware that a serious incident on or involving a railway may have happened, even if it has not been reported.

(2) The chief executive may require an authorised person for the railway to investigate the matter.

(3) If a report has been given to the chief executive about the incident, the chief executive may require the authorised person to investigate the matter by reviewing the report.

(4) After finishing the investigation, the authorised person must report the results of the investigation to the chief executive.

### **Power of authorised person to investigate incident**

**104.(1)** This section applies if—

- (a) an incident on or involving a railway has, or may have, happened; and
- (b) an authorised person for the railway is investigating the incident, whether or not at the chief executive's request.

(2) If the authorised person reasonably needs help in investigating the incident, the authorised person may require a person to give the authorised person reasonable help in the investigation.

(3) A requirement may only be made of a person who the authorised person reasonably believes is competent to give the help.

(4) The authorised person may require a person who the authorised person reasonably suspects was at or near the scene of the incident when it happened to—

- (a) answer questions relevant to the incident; or
- (b) produce documents or other things relevant to the incident.

(5) The authorised person may require an employee of a railway manager or operator to take an alcohol breath test, drug test or medical examination if the person reasonably suspects—

- (a) the employee caused, or was directly involved in, the incident; and
- (b) the result of the test or examination may help in deciding the circumstances and probable causes of the incident.

(6) The test or examination must take place within 2 hours after the incident happens.

(7) The cost of the test or examination must be paid by the employee's employer.

(8) A person must comply with a requirement under this section, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

(9) When making a requirement of a person under this section, an authorised person must warn the person it is an offence to fail to comply with the requirement unless the person has a reasonable excuse.

(10) If the person refuses to take a test or examination, the person may be taken, for a purpose prescribed under a regulation, to have been under the influence of alcohol or a drug when the incident happened, in the absence of evidence to the contrary.

### **False or misleading statements**

**105.(1)** A person must not—

- (a) state anything to an authorised person for a railway that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to an authorised person for a railway anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—60 penalty units.

(2) It is enough for a complaint against a person for an offence against subsection (1) to state that the statement made was false or misleading to the person's knowledge.

### **False, misleading or incomplete documents**

**106.(1)** A person must not give the chief executive or an authorised person for a railway a document containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—60 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

- (a) tells the chief executive or person, to the best of the person's ability, how it is false, misleading or incomplete; and
- (b) if the person has, or can reasonably get, the correct information—gives the correct information.

(3) It is enough for a complaint against a person for an offence against

subsection (1) to state that the document was false, misleading or incomplete to the person's knowledge.

(4) In this section—

“**document**” includes a report under division 1.<sup>5</sup>

### **Obstructing authorised person**

**107.(1)** A person must not obstruct an authorised person for a railway in the exercise of a power under this or another Act, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

(2) If a person has obstructed an authorised person and the authorised person decides to exercise the power, the authorised person must warn the person.

(3) In warning the person, the authorised person must tell the person—

- (a) it is an offence to obstruct the authorised person, unless the person has a reasonable excuse; and
- (b) the authorised person considers the person's conduct is an obstruction.

### **Impersonating authorised person**

**108.** A person must not pretend to be an authorised person for a railway for this or another Act.

Maximum penalty—80 penalty units.

### **Compensation**

**109.(1)** This section applies if a person incurs loss or expense because of the exercise or purported exercise by an authorised person for a railway of a power under this part, including, for example, in complying with a requirement made of the person.

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<sup>5</sup> Division 1 (Report of railway incident)

(2) The person may claim compensation for the loss or expense from the employing authority.

(3) Payment of compensation may be claimed and ordered in a proceeding—

- (a) brought in a court with jurisdiction for the recovery of the amount of compensation claimed; or
- (b) for an offence against this Act brought against the person claiming compensation.

(4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

(5) A regulation may prescribe matters that may, or must, be taken into account by the court in considering whether it is just to make the order.

(6) In this section—

“**employing authority**”, of an authorised person, means—

- (a) if the authorised person is employed by an accredited person—the accredited person; or
- (b) in any other case—the State.

### *Division 3—Boards of inquiry*

#### *Subdivision 1—General*

#### **Minister may establish or re-establish boards of inquiry**

**110.(1)** The Minister may, by gazette notice, establish or re-establish a board of inquiry about an incident that—

- (a) has happened on or involving a railway; and
- (b) the Minister considers is a serious incident.

(2) The notice, or a subsequent gazette notice, may specify matters relevant to the inquiry, including, for example, the number and appointment of members, the chairperson and the terms of reference.

(3) The Minister may exercise powers under this section for an incident—

- (a) whether or not the incident has been investigated under division 2;<sup>6</sup> or
- (b) whether or not a board of inquiry has previously inquired into the incident.

### **Role of board of inquiry**

**111.(1)** The board of inquiry must—

- (a) inquire into the circumstances and probable causes of the relevant incident; and
- (b) give the Minister a written report of the board's findings.

(2) The report may contain the recommendations the board considers appropriate and other relevant matters.

(3) The Minister must table a copy of the report in the Legislative Assembly within 14 days after receiving the report.

(4) However, if the board gives the Minister a separate report of matters that the board considers should not be made public, the Minister need not table the separate report in the Legislative Assembly.

### **Conditions of appointment**

**112.(1)** Members of the board of inquiry are entitled to be paid the fees and allowances that may be decided by the Minister.

(2) The members hold office on the terms not provided by this Act that may be decided by the Minister.

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<sup>6</sup> Division 2 (Investigation of railway incident)

**Chief executive to arrange for services of staff and financial matters for board of inquiry**

**113.** As soon as practicable after the board of inquiry is established, the chief executive must consult with the chairperson of the board and arrange—

- (a) for the services of officers and employees of the department, authorised persons for a railway and other persons to be made available to the board for the conduct of the inquiry; and
- (b) for financial matters relevant to the board.

**Authorised person may exercise powers for board's inquiry**

**114.(1)** This section applies to an authorised person for a railway whose services have been made available to the board of inquiry.

**(2)** The person may exercise the powers of an authorised person under division 2<sup>7</sup> for the incident the subject of the board's inquiry.

***Subdivision 2—Conduct of inquiry*****Procedure**

**115.(1)** In conducting its inquiry, the board of inquiry—

- (a) must observe natural justice; and
- (b) must act as quickly, and with as little formality and technicality, as is consistent with a fair and proper consideration of the issues.

**(2)** In conducting the inquiry, the board—

- (a) is not bound by the rules of evidence; and
- (b) may inform itself in any way it considers appropriate, including, for example, holding hearings; and
- (c) may decide the procedures to be followed for the inquiry.

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<sup>7</sup> Division 2 (Investigation of railway incident)

(3) However, the board must comply with this division and any procedural rules prescribed under a regulation.

(4) The chairperson presides at the inquiry.

### **Notice of inquiry**

**116.** The chairperson of the board of inquiry must give at least 14 days written notice of the time and place of the inquiry to anyone who the chairperson has reason to believe should be given the opportunity to appear at the inquiry.

### **Inquiry to be held in public other than in special circumstances**

**117.(1)** An inquiry must be held in public.

(2) However, the board may, of its own initiative or on the application of a person represented at the inquiry, direct that the inquiry, or a part of the inquiry, be held in private, and give directions about the persons who may be present.

(3) The board may direct that the inquiry be held in private only if satisfied it is proper to make the order in the special circumstances of the inquiry.

### **Protection of members, legal representatives and witnesses**

**118.(1)** A member of the board of inquiry has, in the performance of the member's duties, the same protection and immunity as a judge of the Supreme Court.

(2) A lawyer or other person appearing before the board for someone else has the same protection and immunity as a barrister appearing for a party in a proceeding in the Supreme Court.

(3) A person summoned to attend or appearing before the board as a witness has the same protection as a witness in a proceeding in the Supreme Court.

**Record of proceedings to be kept**

**119.** The board of inquiry must keep a record of its proceedings.

**Procedural fairness and representation**

**120.** In conducting the inquiry, the board must give anyone directly concerned in the incident the subject of the inquiry, the opportunity of making a defence to all claims made against the person either in person or by lawyer or agent.

**Board's powers on inquiry**

**121.(1)** In conducting the inquiry, the board may—

- (a) act in the absence of any person who has been given a notice under section 116<sup>8</sup> or some other reasonable notice; and
- (b) receive evidence on oath or affirmation or by statutory declaration; and
- (c) adjourn the inquiry; and
- (d) disregard any defect, error, omission or insufficiency in a document; and
- (e) permit or refuse to permit a person, including a lawyer, to represent someone else at the inquiry.

**(2)** A member of the board may administer an oath or affirmation to a person appearing as a witness before the inquiry.

**Notice to witness**

**122.(1)** The chairperson of the board of inquiry may, by written notice given to a person, require the person to attend the inquiry at a stated time and place to give evidence or produce stated documents or things.

**(2)** A person required to appear as a witness before the board is entitled to the witness fees prescribed under a regulation or, if no witness fees are prescribed, the reasonable witness fees decided by the chairperson.

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<sup>8</sup> Section 116 (Notice of inquiry)

**Inspection of documents or things**

**123.(1)** If a document or other thing is produced to the board at the inquiry, the board may—

- (a) inspect the thing; and
- (b) make copies of, photograph, or take extracts from, the thing if it is relevant to the inquiry.

**(2)** The board may also take possession of the thing, and keep it while it is necessary for the inquiry.

**(3)** While it keeps a thing, the board must permit a person otherwise entitled to possession of the thing to inspect, make copies of, photograph, or take extracts from, it, at a reasonable place and time that the board decides.

**Inquiry may continue despite court proceedings unless otherwise ordered**

**124.** The inquiry of the board of inquiry may start or continue, and a report may be prepared or given, despite a proceeding before any court or tribunal, unless a court or tribunal with the necessary jurisdiction orders otherwise.

**Offences by witnesses**

**125.(1)** A person given a notice under section 122<sup>9</sup> must not—

- (a) fail, without reasonable excuse, to attend as required by the notice; or
- (b) fail, without reasonable excuse, to continue to attend as required by the chairperson of the board of inquiry until excused from further attendance.

Maximum penalty—60 penalty units.

**(2)** A person appearing as a witness at the inquiry must not—

- (a) fail to take an oath or make an affirmation when required by the chairperson of the board; or

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<sup>9</sup> Section 122 (Notice to witness)

- (b) fail, without reasonable excuse, to answer a question the person is required to answer by a member of the board; or
- (c) fail, without reasonable excuse, to produce a document or thing the person is required to produce by a notice under section 122.

Maximum penalty—60 penalty units.

### **Self-incrimination**

**126.(1)** A person appearing as a witness at the inquiry is not excused from—

- (a) answering a question put to the person at the inquiry; or
- (b) producing a document or other thing at the inquiry;

on the ground that the answer or producing the thing might tend to incriminate the person.

**(2)** However, neither the answer, nor the fact that the person has produced the thing, is admissible in evidence against the person in a criminal proceeding (other than a proceeding about the falsity or misleading nature of the answer or thing) if—

- (a) before answering the question or producing the thing, the person claims that the answer or producing the thing might tend to incriminate the person; and
- (b) the answer or producing the thing might in fact tend to incriminate the person.

### **False or misleading statements**

**127.(1)** A person must not—

- (a) state anything to the board of inquiry that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to the board of inquiry anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—200 penalty units.

(2) It is enough for a complaint against a person for an offence against subsection (1) to state that the statement made was false or misleading to the person's knowledge.

### **False, misleading or incomplete documents**

**128.(1)** A person must not give to the board of inquiry a document containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—200 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

- (a) tells the board, to the best of the person's ability, how it is false, misleading or incomplete; and
- (b) if the person has, or can reasonably get the correct information—gives the correct information.

(3) It is enough for a complaint against a person for an offence against subsection (1) to state that the document was false, misleading or incomplete to the person's knowledge.

### **Contempt of board**

**129.** A person must not—

- (a) insult the board of inquiry; or
- (b) deliberately interrupt the inquiry; or
- (c) create or continue or join in creating or continuing, a disturbance in or near a place where the board is conducting its inquiry; or
- (d) do anything that would be contempt of court if the board were a judge acting judicially.

Maximum penalty—60 penalty units.

**Change of membership of board**

**130.** The inquiry of the board of inquiry is not affected by a change in its membership.

**PART 7—LAND FOR RAILWAY PURPOSES****Lease of land to railway managers**

**131.(1)** This section applies if—

- (a) the State acquires land (the “**acquired land**”) for use by a railway manager as part of a rail transport corridor; or
- (b) the chief executive decides that land (also “**acquired land**”) leased to the State under section 215 should be used by a railway manager as part of a rail transport corridor.

**(2)** If the acquired land mentioned in subsection (1)(a) becomes unallocated State land, the Governor in Council must lease it to the State under the *Land Act 1994*, section 17.<sup>10</sup>

**(3)** The lease is in perpetuity and, if demanded, for a rent of \$1 per year.

**(4)** The State must lease acquired land mentioned in subsection (1)(a) or (b) to the manager—

- (a) if the manager agrees to meet the full costs of the acquisition—
  - (i) for a term of not more than 100 years; and
  - (ii) for a rent, if demanded, of \$1 per year; and
  - (iii) on other terms decided by the chief executive; or
- (b) otherwise—on terms agreed between the parties.

**(5)** A lease by the State under subsection (4)(a) may include an option to renew the lease.

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<sup>10</sup> *Land Act 1994*, section 17 (Granting land to the State)

*Transport Infrastructure Act 1994*

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(6) The terms of the option and the renewed lease are to be decided by the chief executive.

(7) The *Land Act 1994*, section 336(2)(a)<sup>11</sup> does not apply to a document of amendment of a sublease to a railway manager under subsection (4) or a sublease to a railway manager granted under the exercise of an option mentioned in subsection (5).

(8) If the manager attaches any rail transport infrastructure or any other works or structures to the acquired land, they remain the manager's property until the manager disposes of them.

(9) In this section—

**“acquires”** includes acquires by—

- (a) gift; and
- (b) surrender of a lease previously granted to a railway manager; and
- (c) exchange; and
- (d) purchase.

**“full costs”**, of an acquisition, includes (if the acquired land consists of a lease to the State) all rent or other money payable by the State under the lease granted to the State during the term of—

- (a) the lease of the acquired land from the State to the manager under subsection (4); and
- (b) any renewal of the lease to the manager.

### **Status of railway land**

**132.(1)** The railway manager for corridor land is, for any rail transport infrastructure on the land or proposed to be constructed on the land, subject to the same controls and exemptions under State and local laws that an agency of the State would be if it had the manager's interest in the land.

(2) In this section—

**“corridor land”** means—

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<sup>11</sup> *Land Act 1994*, section 336 (Amending a sublease)

- (a) commercial corridor land that is not leased by the railway manager on a commercial basis; or
- (b) existing rail corridor land, or new rail corridor land, that is not subleased by the railway manager on a commercial basis; or
- (c) future railway land.

### **Application of Queensland Heritage Act**

**133.** The *Queensland Heritage Act 1992* applies to the following property of Queensland Rail as if Queensland Rail were an agency of the State—

- (a) property that is on existing rail corridor land or new rail corridor land; and
- (b) other property that is entered on the heritage register and is identified by the chief executive by gazette notice.

### **Existing rail transport infrastructure on land**

**134.(1)** This section applies if at the commencement—

- (a) rail transport infrastructure was on land that is not owned or leased by Queensland Rail; and
- (b) the previous rail corporation had managed a railway using the rail transport infrastructure.

**(2)** After the commencement—

- (a) the rail transport infrastructure may stay on the land; and
- (b) the railway manager may—
  - (i) alter the rail transport infrastructure; and
  - (ii) manage the railway using the rail transport infrastructure, whether or not altered; and
  - (iii) operate, or authorise a railway operator to operate, rolling stock on the railway.

(3) A person has no interest in, or right to, the rail transport infrastructure (whether or not altered) on land only because the person has an interest in the land.

### **Existing buildings on land**

**135.(1)** If, immediately before the commencement, a building of the previous rail corporation was lawfully on land—

- (a) it may stay on the land; and
- (b) its construction is not subject to any approval that did not affect it immediately before the commencement.

(2) If, immediately before the commencement, the previous rail corporation's activities were lawfully being carried out on the land, they may still be carried out on the land despite any change to the zoning of the land.

(3) In this section—

“**building**” includes a structure or works.

### **Railway works on corridor land**

**136.(1)** The chief executive, for works carried out on corridor land that relate to rail transport infrastructure, must perform a function or exercise a power that, under the *Building Act 1975* or the *Integrated Planning Act 1997*, would be performed or exercised by a local government if this section had not been passed.

(2) In this section—

“**corridor land**” means commercial corridor land, existing rail corridor land, new rail corridor land, future railway land or non-rail corridor land.

## **PART 8—GENERAL**

### **Queensland Rail not a common carrier**

**137.** Queensland Rail is not a common carrier.

### **Carrying dangerous goods**

**138.(1)** While on or travelling by a railway, a person must not possess or have in their luggage any dangerous goods.

Maximum penalty—100 penalty units.

**(2)** A person does not commit an offence against subsection (1) if—

- (a)** the goods are of a type commonly used for personal, domestic or household use; and
- (b)** the quantity of the goods is reasonable considering their nature and common use.

**(3)** A person must not send dangerous goods (code) by railway unless the goods are packed, marked and labelled as required by the code.

Maximum penalty—100 penalty units.

**(4)** A person must not send dangerous goods (other) by railway unless—

- (a)** the goods are marked and labelled to show clearly that they are dangerous goods; and
- (b)** the goods are packed, and otherwise marked and labelled, in a reasonable way considering—
  - (i)** the goods' nature and quantity; and
  - (ii)** the safety of the railway and people working or travelling on it.

Maximum penalty—40 penalty units.

**(5)** In a proceeding for an offence against subsection (1) or (3), a document purporting to be the code is evidence of the code.

**(6)** In this section—

**“code”** means a document, or parts of a document, prescribed under a

regulation to be the code.

**“dangerous goods”** means—

- (a) dangerous goods (code); or
- (b) dangerous goods (other).

**“dangerous goods (code)”** means—

- (a) substances in the code that are prescribed under a regulation; or
- (b) other substances or things declared by a regulation to be dangerous goods.

**“dangerous goods (other)”** means substances or things that, because of their nature, quantity or condition, could, if brought onto a railway or carried by railway, endanger the safety of—

- (a) the railway; or
- (b) a person on the railway.

### **Altering road levels**

**139.(1)** In constructing or managing a railway, the railway manager for the railway may alter the level of a road or require the authority responsible for the road to alter its level.

**(2)** Unless the railway manager and the authority responsible for the road agree, the railway manager must pay all reasonable expenses incurred by the authority in altering the road level.

**(3)** A person whose land is directly affected by the alteration is entitled to be paid compensation by the railway manager.

**(4)** The amount of compensation is—

- (a) the amount agreed between the parties; or
- (b) if the parties can not agree within a reasonable time—the amount decided by a court with jurisdiction for the recovery of the amount of compensation claimed.

**(5)** However, the amount of compensation can not be more than the amount that would have been awarded if the land had been acquired.

**Maintaining roads crossing railways**

**140.(1)** A railway manager for a railway must maintain—

- (a) the part of the railway on a road; and
- (b) the surface of a road, in a character in keeping with the road—
  - (i) between the rails; and
  - (ii) outside the outermost rails to a distance of 0.6 m.

**(2)** If a railway is built by way of a bridge or other structure over or under a road, the authority that maintained the road before the railway was built must continue to maintain the road under or over the bridge or structure.

**No presumption of dedication of roads**

**141.** If the public uses railway land as a road or otherwise for access purposes, the land is not taken to have been dedicated for use as a road even though the use is authorised or allowed by the railway manager.

**Extending roads through or over rail corridor land**

**142.(1)** The chief executive may allow a local government to construct, maintain and operate a road on rail corridor land by way of—

- (a) a bridge or other structure over a railway; or
- (b) a bridge or other structure that allows the road to pass under the railway; or
- (c) a level crossing.

**(2)** The permission may be subject to conditions.

**(3)** Before deciding a request for the permission, the chief executive must consult with the railway manager for the land.

**(4)** The railway manager may continue to use the land, and the airspace above the land, other than any land and airspace excluded by a condition of the permission.

(5) The chief executive and the railway manager and their agents or employees, do not have any duty or liability for the road or its use or operation.

(6) Once the road is used, it is taken to be—

- (a) a road under the relevant local government's control; and
- (b) a road under any Act about the use of vehicles on a road.

(7) Unless the chief executive and the local government otherwise agree—

- (a) the local government is responsible for maintaining the road and the bridge or level crossing; and
- (b) if the road stops being used—the local government is responsible for the cost of taking the bridge or level crossing away and of restoring the railway.

(8) The State is taken not to be in breach of any of its obligations in a sublease of the rail corridor land between the State and the railway manager by—

- (a) giving the permission; or
- (b) anything done by the local government under the permission.

### **Level crossings**

**143.(1)** Pedestrians and drivers of vehicles must give way to—

- (a) a railway operator's rolling stock on railway tracks at a level crossing; and
- (b) a railway manager's rail vehicle on railway tracks at a level crossing.

(2) If an accident happens at a level crossing because a person does not comply with subsection (1)—

- (a) the railway manager or operator is not liable for any injury or damage caused in the accident; and
- (b) the person must pay the railway manager or operator the cost of any damage caused to property of the manager or operator.

(3) However, subsection (2) does not apply if the manager or operator, or its agents or employees, were negligent in relation to the accident.

### **Interfering with railway**

**144.(1)** A person must not interfere with a railway unless—

- (a) the person has the railway's manager written approval; or
- (b) the interference is authorised—
  - (i) under a permission under section 142; or
  - (ii) under another provision of this Act.

Maximum penalty—160 penalty units.

(2) An approval may be subject to a reasonable condition.

(3) The person must comply with the condition.

Maximum penalty—40 penalty units.

(4) Subsection (1) does not apply to a person who carries out urgent maintenance of a railway.

(5) This section binds all persons, including the State, the Commonwealth and the other States.

### **Rectifying unauthorised interference**

**145.(1)** If a person contravenes section 144(1)<sup>12</sup> by interfering with a railway, the railway manager for the railway may, by written notice, require the person to rectify the interference within a stated reasonable time.

(2) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(3) If the person does not comply with the requirement, the railway manager may rectify the interference.

(4) The person must pay the manager the manager's costs of—

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<sup>12</sup> Section 144 (Interfering with railway)

- (a) rectifying the interference; or
- (b) altering the construction, maintenance or operation of the railway because of the interference.

(5) In this section—

**“rectify the interference”** means—

- (a) alter, dismantle or take away any works; or
- (b) fix any damage caused by the interference.

### **Trespassing on railway**

**146.** A person must not wilfully trespass on a railway.

Maximum penalty—40 penalty units.

### **Power to arrest**

**147.(1)** This section applies to any of the following offences—

- an offence against section 107 (Obstructing authorised person)
- an offence against section 146 (Trespassing on railway)
- an offence against the Criminal Code, section 469 (Malicious injuries in general) constituted by wilful and unlawful destruction or damage to rail transport infrastructure, other rail infrastructure or rolling stock.

(2) A police officer may arrest a person without a warrant if the police officer reasonably believes—

- (a) the person has just committed the offence; and
- (b) proceedings by way of complaint and summons against the person would be ineffective.

### **Impact of certain decisions by local governments on railways**

**148.(1)** The chief executive may make guidelines about what a local government must consider in relation to the safety and operational integrity of a railway if—

- (a) it intends to—
  - (i) approve a subdivision, rezoning or development of land; or
  - (ii) carry out road works on a local government road; or
  - (iii) make changes to the management of a local government road; and
- (b) the approval, works or change would—
  - (i) require works to be carried out on a railway; or
  - (ii) otherwise have a significant adverse impact on a railway; or
  - (iii) have a significant impact on the planning of a railway or a future railway.

(2) The chief executive must give a copy of any guidelines to each relevant local government.

### **Fencing new railways**

**149.(1)** A railway manager need not contribute to the fencing of any part of the boundary of land that is—

- (a) a future railway; or
- (b) acquired for a widening or deviation of a railway.

(2) Subsection (1) does not apply if—

- (a) the land acquired was substantially fenced; and
- (b) the railway's presence may make the fencing ineffective.

### **Works for existing railways**

**150.(1)** This section applies—

- (a) while a railway existing at the commencement (the “**existing railway**”) continues to be operated as a railway; and
- (b) to the owners and occupiers of land next to the existing railway (the “**neighbouring land**”).

(2) Queensland Rail must, within a reasonable time, construct and maintain—

- (a) works that are necessary to make good any interruptions caused by the existing railway to the use of the neighbouring land; and
- (b) works that are necessary to—
  - (i) separate the existing railway from the neighbouring land; and
  - (ii) protect the stock straying from the neighbouring land onto the railway; and
- (c) sufficient works to ensure the neighbouring land's drainage is as good, or nearly as good, as it was before the existing railway was constructed.

**(3)** Queensland Rail may satisfy its obligation under subsection (2)(b) by constructing and maintaining a fence of substantially similar quality to any fence around the neighbouring land when the railway was constructed.

**(4)** This section does not require Queensland Rail to—

- (a) construct or maintain works in a way that would prevent or obstruct the use of the existing railway; or
- (b) construct or maintain works for owners or occupiers who agreed to receive, and have been paid, compensation in place of the works.

**(5)** The Land Court must decide any dispute about the adequacy of works or maintenance under this section.

**(6)** If the owner or occupier of neighbouring land considers that works carried out under this section are insufficient for the convenient use of the land, the owner or occupier may, with Queensland Rail's agreement, carry out further works at the owner's or occupier's expense.

**(7)** Queensland Rail may, by written notice given to the owner or occupier, require the further works to be carried out—

- (a) under the supervision of a person nominated by Queensland Rail; and
- (b) according to plans and specifications approved by Queensland Rail.

**(8)** Queensland Rail must attempt to keep the cost of the further works to a reasonable level.

(9) Until Queensland Rail carries out the works mentioned in subsection (2), the owner or occupier of the neighbouring land, and their employees and agents, may cross the existing railway next to the land with vehicles and livestock.

(10) The crossing must be made directly, and in a way that is safe and does not damage or obstruct the railway.

(11) However, subsection (9) does not apply to an owner or occupier who agreed to receive, and has been paid, compensation in place of the works.

(12) A person must shut and lock a gate set up under this section at either side of an existing railway as soon as the person, and any vehicles or livestock in the person's care, have passed through the gate.

Maximum penalty for subsection (12)—10 penalty units.

### **Non-accredited railways**

**151.(1)** A non-accredited railway may be connected, either directly or through another non-accredited railway, to the railway of an accredited railway manager with the manager's written agreement.

(2) Unless the parties otherwise agree, the manager is not liable for any injury, loss or damage arising from an act done, or omission made, honestly and without negligence, on the non-accredited railway.

(3) Subject to any agreement between the manager and the non-accredited railway manager, the manager may—

- (a) disconnect the non-accredited railway from the railway; or
- (b) close the connection between the non-accredited railway and the railway.

(4) Before taking action under subsection (3), the manager must—

- (a) give at least 3 months notice of the proposed action; or
- (b) get the written agreement of the non-accredited railway manager to the proposed action.

(5) For the disconnection, the manager may, by written notice, require the non-accredited railway manager to take away any part of the railway on land managed by the manager.

(6) If the non-accredited railway manager does not take it away within a reasonable time, the manager may take it away and recover the costs from the non-accredited manager.

(7) If the manager maintains the non-accredited railway the manager may exercise its powers under this Act in relation to the non-accredited railway.

(8) A person must not construct a non-accredited railway on a watercourse without the chief executive's written approval.

(9) If a railway operator operates rolling stock over a non-accredited railway, the railway operator may exercise its powers under this Act in relation to the non-accredited railway.

(10) In this section—

**“non-accredited railway”** means a railway managed by a non-accredited railway manager.

**“non-accredited railway manager”** means a person who is not required to be accredited for a railway because of section 81(3).<sup>13</sup>

### **Application of Land Act 1994**

**152.** The following sections of the *Land Act 1994* do not apply to a lease of existing rail corridor land, new rail corridor land or non-rail corridor land—

- section 157 (Expiry of lease)
- section 183 (Rent payable)
- section 204 (Survey condition)
- section 211 (Conditions must be reviewed).

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<sup>13</sup> Section 81 (Accreditation of managers and operators)

## CHAPTER 7—PORT INFRASTRUCTURE

### PART 1—PRELIMINARY

#### Definitions for chapter

153. In this chapter—

“**charge**” means an amount charged by a port authority.

“**corporate plan**” means a corporate plan required by the *Government Owned Corporations Act 1993*.

“**extractive material**” means sand, gravel, boulders, clay, silt, mud or other material in or on land under tidal water, but does not include a mineral within the meaning of the *Mineral Resources Act 1989*.

“**land**” means any land, whether above or below the ordinary high water mark at spring tides.

“**ship**” has the same meaning as in the *Transport Operations (Marine Safety) Act 1994*.

“**statement of corporate intent**” means a statement of corporate intent required by the *Government Owned Corporations Act 1993*.

“**strategic port land**” means land that is strategic port land under section 171 (Approval of land use plans).

### PART 2—CONTINUATION, ESTABLISHMENT AND ABOLITION OF PORT AUTHORITIES

#### Continuation of port authorities

154.(1) The following harbour boards are continued in existence as bodies corporate—

- the Bundaberg Port Authority
- the Cairns Port Authority

- the Mackay Port Authority
- the Rockhampton Port Authority
- the Townsville Port Authority.

(2) Each body corporate continues to have a seal.

### **Establishment of new port authority**

**155.(1)** A regulation may establish a new port authority as a body corporate that has a seal and may sue and be sued in its corporate name.

(2) A regulation may also—

- (a) specify the name of the port authority; or
- (b) specify the name of the port it is to manage; or
- (c) transfer assets and liabilities to the authority.

### **Abolition of port authority**

**156.(1)** A regulation may abolish a port authority and transfer its functions to another port authority, the State or a local government (the “**transferee**”).

(2) A regulation may also transfer to the transferee, or to a port authority, the State or a local government, assets and liabilities of the abolished port authority.

(3) A legal proceeding by or against the abolished port authority about the port, or transferred assets and liabilities, that is unfinished when the relevant regulation commences may be continued and finished by or against—

- (a) the transferee; or
- (b) if the assets or liabilities concerned are transferred to a person mentioned in subsection (2) who is not the transferee—the person.

**Transfer of management of a port**

**157.(1)** A regulation may transfer the management of a port from a port authority, the State or a local government (the “**transferor**”) to a port authority, the State or a local government (the “**transferee**”).

(2) A regulation may also transfer to the transferee, or to a port authority, the State or a local government, assets and liabilities of the transferor.

(3) A legal proceeding by or against the transferor about the port, or transferred assets or liabilities, that is unfinished when the relevant regulation commences may be continued and finished by or against—

- (a) the transferee; or
- (b) if the assets or liabilities concerned are transferred to a person mentioned in subsection (2) who is not the transferee—the person.

**Regulation may make transitional arrangements**

**158.(1)** If a port authority is established or abolished, or the management of a port is transferred, under this part, a regulation may make transitional arrangements about the establishment, abolition or transfer.

(2) The transitional arrangements may include—

- (a) arrangements for the transfer of staff, and their superannuation and other entitlements; or
- (b) allowing the transfer of assets and liabilities without payment of stamp duty; or
- (c) other transitional arrangements necessary or convenient for the establishment, abolition or transfer.

**Management of port by State or local government**

**159.** If the State or a local government is given the management of a port under this chapter, the Minister or the local government has, for the port, all the functions and powers, and all the obligations, of a port authority under this chapter.

**Regulation may define port limits etc.**

**160.** A regulation may—

- (a) define or amend the limits of a port; or
- (b) give a name to a port or change the name of a port; or
- (c) for a new port—transfer the management of the port to an existing port authority, the State or a local government; or
- (d) change the name of a port authority.

## **PART 3—FUNCTIONS AND POWERS OF PORT AUTHORITIES**

**Functions of port authorities**

**161.(1)** The functions of a port authority are—

- (a) to establish, manage, and operate effective and efficient port facilities and services in its port; and
- (b) to make land available for—
  - (i) the establishment, management and operation of effective and efficient port facilities and services in its port by other persons; or
  - (ii) other purposes consistent with the operation of its port; and
- (c) to provide or arrange for the provision of ancillary services or works necessary or convenient for the effective and efficient operation of its port; and
- (d) to keep appropriate levels of safety and security in the provision and operation of the facilities and services; and
- (e) to provide other services incidental to the performance of its other functions or likely to enhance the usage of the port; and
- (f) to perform any other functions conferred on it under this or another Act or under the regulations.

(2) A port authority's functions as provided under subsection (1) may be removed, restricted or limited by regulation.

### **Powers of port authorities subject to Marine Safety Act**

**162.** The powers of a port authority under this chapter, including powers conferred by a regulation, must be exercised subject to the powers of a harbour master under the *Transport Operations (Marine Safety) Act 1994* about marine safety and navigation.

### **Powers of port authorities**

**163.(1)** In addition to the powers a port authority has because of this chapter or the *Government Owned Corporations Act 1993*, each port authority has all powers necessary or convenient for performing its functions.

(2) Without limiting subsection (1), a port authority's powers include power—

- (a) to dredge and otherwise maintain or improve navigational channels in its port; and
- (b) to reduce or remove a shoal, bank or accumulation in its port that, in the port authority's opinion, impedes navigation in its port.

(3) A port authority is not liable to pay royalties or similar charges for extractive material removed—

- (a) to maintain or improve navigational channels in its port, or improve navigation in its port, if the material is disposed of—
  - (i) in an area associated with port activities and approved by the Minister; and
  - (ii) under relevant statutory environmental controls; or
- (b) to reclaim land that is, or is proposed to be, strategic port land.

### **Additional powers**

**164.(1)** A regulation may—

*Transport Infrastructure Act 1994*

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- (a) allow a port authority to control, whether by using notices, markings, fences, barriers, directions or otherwise—
  - (i) access to or the use of its strategic port land or port facilities, or access to or the use of areas in its port where activities may affect the port's operation; or
  - (ii) the movement or mooring of ships at its port facilities, or the movement or mooring of ships in its port if the movement or mooring may affect the port's operation; or
  - (iii) the movement of passengers to or from ships or aircraft using its port facilities or on its port facilities or strategic port land; or
  - (iv) the movement, handling or storage of goods loaded, unloaded or transhipped to or from ships or aircraft using its port facilities or on its port facilities or strategic port land; or
  - (v) the movement, stopping or parking of vehicles, aircraft or trains on its strategic port land or at its port facilities; or
  - (vi) other activities and conduct in its port, on its strategic port land or at its port facilities; or
- (b) allow a port authority to detain, using any necessary and reasonable force, ships, aircraft, goods or vehicles for which the authority's charges are payable until the charges are paid, or to sell the ships, aircraft, goods or vehicles if the charges are not paid; or
- (c) allow a port authority to require a person to produce documents relevant to the authority's charges, and allow the authority to inspect and make copies of them; or
- (d) allow a port authority to remove ships, aircraft, vehicles, trains, goods or other property that are—
  - (i) abandoned in its port, on its strategic port land or at its port facilities; or
  - (ii) moored, parked or left against the authority's directions; or
- (e) allow a port authority to sell or otherwise dispose of ships, aircraft, vehicles, goods or other property abandoned in its port, on its strategic port land or at its port facilities; or

- (f) allow a port authority to recover from a prescribed person the costs of doing the actions mentioned in paragraphs (b), (d) and (e); or
- (g) allow a port authority to enter and inspect ships or inspect aircraft, goods or vehicles on its strategic port land, at its port facilities, or in an area in its port where activities may affect the port's operation, to ensure compliance with this chapter and, if necessary, enter by passing through land or over facilities under someone else's control; or
- (h) provide that a breach of a notice mentioned in paragraph (a) is an offence; or
- (i) allow the appointment of authorised officers and provide for their functions and powers, including power to take persons to police officers; or
- (j) confer powers of arrest on police officers; or
- (k) confer any other powers on a port authority, including, for example, powers similar to those mentioned in this section.

(2) A regulation under subsection (1) for a port authority applies—

- (a) in the area mentioned in the relevant paragraph or subparagraph of subsection (1); or
- (b) if no area is mentioned—in its port and its strategic port land;

but does not apply outside its port and strategic port land.

(3) After consulting with a port authority, the Minister may direct the authority to perform a function or exercise a power under this section only for a specified area of its port or specified strategic port land or port facilities.

(4) A regulation under this section may create offences and prescribe penalties for the offences of not more than 100 penalty units.

(5) In this section—

**“port facilities”** of a port authority means port facilities owned or controlled by it.

**Power to impose charges**

**165.(1)** A port authority may impose charges for the use of its port or for the State.

**(2)** Charges may, for example, be imposed by reference to—

- (a)** ships or aircraft using its port; and
- (b)** goods or passengers loaded, unloaded or transhipped to or from ships or aircraft using port facilities in its port, whether or not the facilities are owned or controlled by it.

**(3)** This section does not limit the powers a port authority has apart from this section.

**Copies of additional functions or powers to be available**

**166.** If functions or powers are conferred on a port authority by a regulation under section 161 (Functions of port authorities) or section 164 (Additional powers), it must ensure that copies of a document specifying details of the functions or powers, and the area where the functions or powers may be exercised or performed, are available for inspection and purchase (at reasonable cost) during business hours at its offices in the locality to which the functions or powers relate.

**Liability for charges**

**167.** A regulation may prescribe the persons who are liable for charges of a port authority.

**Liability for damage**

**168.** A regulation may prescribe the persons who are liable for damage to the works or infrastructure of a port authority.

## **PART 4—LAND MANAGEMENT**

### *Division 1—Strategic port land*

#### **Land use plans**

**169.(1)** Each port authority must, from time to time, prepare a land use plan for approval under section 171 (Approval of land use plans).

**(2)** After discussing the matter with a port authority, the Minister may direct it to prepare a land use plan or an amendment of a land use plan for approval under section 171.

**(3)** A port authority's land use plan must specify details of—

- (a) the authority's strategic port land; and
- (b) land the authority wishes to become strategic port land; and
- (c) the current and proposed uses of the land.

#### **Consultation on land use plans**

**170.(1)** If a port authority considers that land to which it holds title or that it holds directly from the State is or may be needed—

- (a) for the operation of its port; or
- (b) for use by industries requiring port facilities or that would enhance the usage of the port; or
- (c) for integration between sea or air transport and another transport mode; or
- (d) for a buffer between land required for a purpose mentioned in paragraph (a), (b) or (c) and other land;

the authority may include details of the land, and the current and proposed uses of the land, in a proposed land use plan or an amendment of a land use plan.

**(2)** The port authority must—

- (a) take reasonable steps to engage in public consultation about the proposed land use plan or amendment; and

(b) consult with each local government in whose area land included in the plan or amendment is situated.

(3) However, consultation is not required—

(a) for an amendment to remove land from the land use plan; or

(b) for land that already is strategic port land whose use is not to change.

(4) After discussing the matter with the port authority, the Minister may return the proposed land use plan or amendment for amendment in the way directed by the Minister.

(5) A copy of the direction must be published in the gazette within 21 days after it is given.

### **Approval of land use plans**

**171.(1)** The Minister may approve a proposed land use plan, or an amendment of a land use plan, if satisfied that—

(a) the land included in the plan or amendment is or may be needed for a use mentioned in section 170(1) (Consultation on land use plans); and

(b) the port authority has taken appropriate account of issues raised by the public consultation; and

(c) no local government in whose area the land is situated has a substantial objection to the proposed plan or amendment.

(2) If the Minister is satisfied that any of the local governments has a substantial objection, the Governor in Council may approve the proposed land use plan or amendment if satisfied that, on balance, the approval should be given.

(3) Approval of a land use plan, or an amendment of a land use plan, must be notified in the gazette within 21 days after it is given.

(4) The approval takes effect when it is notified in the gazette.

(5) Land included in a port authority's current approved land use plan is its strategic port land.

**Strategic port land not subject to zoning requirements**

**172.(1)** Subject to subsection (2), strategic port land is not subject to the *Integrated Planning Act 1997*.

**(2)** The *Integrated Planning Act 1997* applies only to the extent building work on strategic port land is assessable or self-assessable against the *Standard Building Regulation 1993*.

**Use of strategic port land to be consistent with approved land use plan**

**173.(1)** A port authority must not use its strategic port land in a way that is inconsistent with its current land use plan.

**(2)** However, the Minister may approve the use by the port authority of part of its strategic port land for a specified time in a way that is inconsistent with its current land use plan if—

- (a) the Minister is satisfied—
  - (i) the authority has taken reasonable steps to engage in public consultation about the proposed use; and
  - (ii) the authority has taken appropriate account of issues raised by the public consultation; and
  - (iii) the authority has consulted with each local government in whose area the land is situated; and
  - (iv) no local government in whose area the land is situated has a substantial objection to the proposed use; or
- (b) the Minister is satisfied that, because of urgent or exceptional circumstances, engaging in the consultative process mentioned in paragraph (a) before the use needs to begin would not be practicable.

**(3)** If an approval is given under subsection (2)(b)—

- (a) the Minister may direct the port authority to engage in the consultative process mentioned in subsection (2)(a) about the use; and

- (b) if the Minister gives the direction and is later satisfied of the matters mentioned in subsection (2)(a)—the approval under subsection (2)(b) is taken to be approval under subsection (2)(a); and
- (c) if the Minister gives the direction and is not later satisfied of the matters mentioned in subsection (2)(a)—the Minister may revoke the approval.

(4) If the Minister is satisfied that any of the local governments has a substantial objection, the Governor in Council may approve the use by a port authority of part of its strategic port land for a specified time in a way that is inconsistent with its current land use plan if satisfied that, on balance, the land should be able to be used in that way.

(5) An approval under this section may be subject to conditions.

### *Division 2—General*

#### **Restrictions on dealing in property**

**174.(1)** A port authority must not, without the Minister's written approval—

- (a) dispose of freehold land; or
- (b) enter into a lease, licence or another form of tenure of its strategic port land, or its port facilities, for longer than 25 years (including any renewal option).

(2) An approval may be subject to conditions.

(3) A purported dealing in land or port facilities contrary to this section has no effect.

## PART 5—GENERAL

### Protection from liability

**175.(1)** In this section—

“**official**” means a director of the board of a port authority, an employee of a port authority or a person acting for a port authority.

(2) A regulation may provide that an official is not civilly liable for an act or omission done honestly and without negligence for a port authority.

(3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to the port authority.

(4) This section is in addition to, and does not limit, the following sections of the *Government Owned Corporations Act 1993*—

- section 138 (Statutory GOC not to indemnify officers)
- section 139 (Statutory GOC not to pay premiums for certain liabilities of officers).

### Carrying on port activities outside port limits

**176.(1)** The Governor in Council may decide that port activities of a substantial nature may be carried on at a place that is not a port managed by a port authority, the State or a local government.

(2) In this section—

“**port**” does not include an airport.

### Offences

**177.(1)** A person must not intentionally or recklessly—

- (a) damage a port authority’s works or infrastructure; or
- (b) interfere with or disrupt a port’s operations; or
- (c) dump refuse or goods at a port or into the waters of a port.

Maximum penalty—200 penalty units.

(2) A person must not intentionally or recklessly evade the payment of a port authority's charges.

Maximum penalty—200 penalty units.

(3) A person must not carry on port activities of a substantial nature at a place unless the place is in a port or a place where a decision under section 176 (Carrying on port activities outside port limits) applies.

Maximum penalty—200 penalty units.

(4) In subsection (3)—

“port” does not include an airport.

### **Payment of charges and interest on unpaid charges**

**178.(1)** Charges of a port authority are payable within the time decided by the authority.

(2) If charges of a port authority remain unpaid after the day when they are required to be paid, the authority may charge interest on the amount unpaid at the rate decided by the authority.

(3) A regulation may provide for exemptions from charges of a port authority, but this section does not affect the power of a port authority to exempt or partially exempt a person from charges of the authority.

### **Transitional provisions applying in relation to port authorities that are candidate GOCs**

**179.(1)** This section applies in relation to a port authority that is a candidate GOC.

(2) A regulation may prescribe matters about the administration and operation of the port authority, including, for example, matters about—

- (a) the port authority's board, chief executive officer and senior management; and
- (b) the port authority's powers; and
- (c) the port authority's employees; and
- (d) the port authority's superannuation schemes; and

(e) dealings with the port authority.

(3) Without limiting subsection (2), a regulation under the subsection may make provision to the same or similar effect as the following provisions of the *Government Owned Corporations Act 1993*—

- chapter 3 (Government Owned Corporations (GOCs))
  - part 5 (Board of directors), division 1 (Statutory GOCs)
  - part 6 (Chief executive officer), division 1 (Statutory GOCs)
  - part 10 (General reserve powers of shareholding Ministers)
  - part 12 (Duties and liabilities of directors and other officers), divisions 1 (Statutory GOCs) and 3 (GOCs generally)
  - part 13 (Legal capacity and powers), division 1 (Statutory GOCs)
  - part 16 (Employees), divisions 2 (Statutory GOCs) and 4 (GOCs generally)
- schedule 1 (Additional provisions relating to board of statutory GOC)
- schedule 2 (Additional provisions relating to chief executive officer of statutory GOC).

(4) Subsections (2) and (3) are in addition to, and do not limit, section 175 (Protection from liability).

(5) A regulation under this section may create offences and prescribe penalties for the offences of not more than 100 penalty units.

(6) A regulation may prescribe transitional provisions about the port authority and an entity to which its assets and liabilities are to be transferred by a regulation under the *Government Owned Corporations Act 1993*.

(7) The port authority is a statutory body for the purposes of the *Statutory Bodies Financial Arrangements Act 1982*.

(8) This section ceases to apply to the port authority when its assets and liabilities are transferred to an entity by regulation under the *Government Owned Corporations Act 1993* or 18 months after it first applied to the authority.

**Notices at entrances****180.(1)** If—

- (a) a port authority erects or displays a notice at each entrance commonly used by persons to gain access to its port; and
- (b) the notice contains information about the port; and
- (c) in a case where use of its port or facilities gives rise to a liability for charges—the notice states this and indicates generally the nature of the charges; and
- (d) in a case where a contravention of a requirement of the notice is an offence—the notice states this and indicates generally the penalties that apply; and
- (e) a person gains access to the port by using another entrance;

the person is taken to be aware of the information.

**(2)** If—

- (a) a port authority erects or displays a notice at each entrance commonly used by persons to gain access to its strategic port land; and
- (b) the notice contains information about the strategic port land; and
- (c) in a case where use of its strategic port land or facilities gives rise to a liability for charges—the notice states this and indicates generally the nature of the charges; and
- (d) in a case where a contravention of a requirement of the notice is an offence—the notice states this and indicates generally the penalties that apply; and
- (e) a person gains access to the strategic port land by using another entrance;

the person is taken to be aware of the information.

## CHAPTER 8—MISCELLANEOUS TRANSPORT INFRASTRUCTURE

### PART 1—PRELIMINARY

#### Definitions for ch 8

**181.** In this chapter—

**“approval”** means an approval granted under section 182B.

**“approval conditions”** see section 182E(1).

**“dispute notice”** see section 182G(1).

**“intersecting area”** means an area (other than an area of land that is required land) or a thing that—

- (a) intersects required land; and
- (b) is owned, administered, controlled, or managed by a GOC or a local government.

*Examples—*

- an area of water
- land covered by water
- miscellaneous transport infrastructure works
- a port
- rail corridor land
- a road.

**“licensee”** means the holder of an operational licence.

**“operational licence”** means a licence in force granted—

- (a) under section 182; or
- (b) under another Act, for infrastructure that is miscellaneous transport infrastructure.

**“required land”** means land that has been acquired for miscellaneous transport purposes or an incidental purpose.

**“responsible entity”**, for an intersecting area, means an entity responsible for administering, controlling, or managing the area under any Act.

### **Meaning of “miscellaneous transport infrastructure”**

**181A.(1)** “Miscellaneous transport infrastructure” means—

- (a) infrastructure relating to the transportation, movement, transmission or flow of anything, including, for example, goods, material, substances, matter, particles with or without charge, light, energy, information and anything generated or produced; or
- (b) anything declared under a regulation to be miscellaneous transport infrastructure, whether or not it is infrastructure under paragraph (a).

**(2)** However, road transport infrastructure, rail transport infrastructure and port infrastructure are not miscellaneous transport infrastructure.

## **PART 2—OPERATIONAL LICENCES AND APPROVALS FOR LICENSEES**

### *Division 1—Definitions*

#### **Definition for pt 2**

**181B.** In this part, other than division 2—

**“Minister”** means the Minister administering the *State Development and Public Works Organization Act 1971*.

***Division 2—Granting operational licences*****Minister may grant operational licence**

**182.** The Minister may grant to a person a licence to construct, maintain, use or operate stated miscellaneous transport infrastructure on stated conditions.

***Division 3—Approvals for licensees for intersecting areas*****Purpose and scope of div 3**

**182A.(1)** The purpose of this division is to provide a mechanism for a licensee to obtain an approval from a responsible entity for an intersecting area.

**(2)** However, this division does not apply to an approval if the approval is required under another Act.

**(3)** This division applies only for ensuring miscellaneous transport infrastructure can be constructed, maintained, used or operated across, over or under the area.

**Approvals**

**182B.(1)** A licensee may apply for an approval by a responsible entity to construct, maintain, use or operate miscellaneous transport infrastructure stated in the licensee's operational licence across, over or under an intersecting area.

**(2)** The application must—

- (a)** be written; and
- (b)** identify the area and the miscellaneous transport infrastructure; and
- (c)** state any other thing prescribed under a regulation.

**(3)** The entity may grant or refuse the approval.

(4) If the approval is granted, the licensee may, subject to any approval conditions, construct, maintain, use or operate the miscellaneous transport infrastructure identified in the application across, over or under the area.

### **Refusal to grant approval**

**182C.** If an application has been made to a responsible entity and the entity refuses the application, it must give the applicant written notice within 14 days after refusing the application stating—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the applicant may apply in writing to the Minister for the approval.

### **Licensee may apply to Minister if approval not granted**

**182D.(1)** This section applies if—

- (a) an application has been made to a responsible entity for an approval; and
- (b) the entity refuses the application or does not grant the application within 20 business days after it is made.

(2) The applicant may apply in writing to the Minister for the approval.

(3) The Minister may grant or refuse the approval.

(4) The Minister must give the applicant and the entity notice of the granting or refusal.

(5) If the Minister grants the approval, it is taken to have been granted by the entity.

(6) If the Minister decides to grant or refuse the approval, the Minister must prepare a statement of the reasons for the decision for this section.

(7) The statement of reasons must be tabled in the Legislative Assembly within 14 sitting days after the day of the decision.

(8) In preparing the statement of reasons, the Minister must not include matter that is exempt matter.

(9) A failure to comply with subsections (6) to (8) is of no effect.

(10) The *Judicial Review Act 1991*, parts 3 and 4,<sup>14</sup> do not apply to any decision the Minister makes or fails to make for this section.

(11) In this section—

“**exempt matter**” means matter defined as exempt matter under the *Freedom of Information Act 1992*, part 3, division 2.<sup>15</sup>

#### *Division 4—Conditions for approvals*

##### **Approval conditions**

**182E.(1)** If a responsible entity or the Minister grants an approval, the entity may impose reasonable conditions for the approval (“**approval conditions**”).

(2) However, a condition may only be imposed within 20 business days of—

- (a) if the approval was granted by the entity—the making of the application to the entity; or
- (b) if the approval was granted by the Minister—the giving of notice of the approval by the Minister to the entity.

(3) An approval condition may, for example, provide for the following—

- (a) reinstating land disturbed by construction;
- (b) installing signs, markings or warning devices about or for the miscellaneous transport infrastructure for which the approval was granted on the intersecting area;
- (c) surveying or siting the infrastructure on the area;
- (d) adding to, altering or replacing the infrastructure, at the applicant’s cost—

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<sup>14</sup> *Judicial Review Act 1991*, parts 3 (Statutory orders of review) and 4 (Reasons for decision)

<sup>15</sup> *Freedom of Information Act 1992*, part 3 (Access to documents), division 2 (Exempt matter)

- (i) to ensure the safe operation or use of other infrastructure or works on the area; or
  - (ii) to preserve, promote or protect the environmental condition of the area;
- (e) how the approval may be amended, suspended or cancelled.

### **Notice of approval conditions**

**182F.** If a responsible entity imposes approval conditions, it must give the applicant for the approval written notice within 14 days after imposing the conditions stating—

- (a) the conditions; and
- (b) that the applicant may appeal against the conditions to an arbitrator; and
- (c) that an appeal may be started by giving the entity a written notice of dispute within 20 business days after receiving the notice of the conditions.

### *Division 5—Arbitration of approval conditions*

#### **Notice of dispute**

**182G.(1)** If a responsible entity imposes approval conditions, the applicant for the approval may, by written notice to the entity (a “**dispute notice**”), dispute the reasonableness of the conditions.

**(2)** However, if notice of the conditions has been given to the applicant under section 182F, a dispute notice may only be given within 20 business days after the giving of the notice of the conditions.

#### **Appointment of arbitrator**

**182H.(1)** Within 10 business days after the giving of a dispute notice, the responsible entity and the applicant for approval must join in appointing an independent arbitrator to resolve the dispute.

(2) If the entity and the applicant do not appoint an arbitrator within the 10 business days, the following persons may, on the application of the applicant or entity, appoint the arbitrator—

- (a) if the entity is a local government—the Minister and the Minister administering the *Integrated Planning Act 1997*, acting jointly;
- (b) if the entity is not a local government—the Minister.

(3) However, each Minister may nominate another person to exercise the power under subsection (2).

### **Arbitrator's functions**

**182I.** The arbitrator must—

- (a) resolve the dispute by deciding what are reasonable conditions for the approval; and
- (b) give the entity and the applicant notice of, and reasons for, the decision.

### **Arbitrator's powers**

**182J.(1)** In resolving the dispute, the arbitrator may—

- (a) confirm the approval conditions imposed by the responsible entity; or
- (b) amend the conditions; or
- (c) set aside the conditions and substitute other conditions.

(2) The arbitrator may exercise the powers of an arbitrator under the *Commercial Arbitration Act 1990*.

### **Hearing procedures**

**182K.(1)** An arbitration must be by way of rehearing, unaffected by the responsible entity's decision on the approval conditions.

(2) Unless this division or a regulation made under schedule 1 otherwise provides, the practice and procedure for an arbitration follow the practice and procedure for an arbitration under the *Commercial Arbitration Act 1990*.

### **Effect of arbitrator's decisions**

**182L.(1)** An arbitrator's decision under this division is final.

(2) The entity and the applicant may not apply for review of, or appeal against, the decision.

(3) The approval conditions decided by the arbitrator are, other than for section 182F<sup>16</sup> and this division, taken to be the approval conditions imposed by the responsible entity.

## ***Division 6—Miscellaneous***

### **Miscellaneous transport infrastructure remains property of licensee**

**182M.(1)** This section applies if—

- (a) a licensee constructs, maintains, uses or operates miscellaneous transport infrastructure across, over or under an intersecting area; and
- (b) the licensee has obtained an approval from each responsible entity for the area.

(2) Subject to a condition of the licensee's operational licence or an agreement between the licensee and the State, the infrastructure remains the licensee's property despite—

- (a) the attaching of the infrastructure to the area; or
- (b) an approval condition.

(3) However, an approval condition may provide for—

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<sup>16</sup> Section 182F (Notice of approval conditions)

- (a) if the State agrees—the disposal of the infrastructure to the State on reasonable terms if the licensee no longer holds an operational licence for the infrastructure; or
- (b) if the State and licensee agree—someone else to own or acquire the infrastructure.

### **Compensation to responsible entity from licensee**

**182N.(1)** This section applies if—

- (a) a licensee constructs, maintains, uses or operates miscellaneous transport infrastructure across, over or under an intersecting area; and
- (b) a responsible entity for the area incurs a cost, damage, liability or loss because of the existence, construction, maintenance, use or operation of the infrastructure.

(2) The licensee must pay the entity the amount of the cost, damage, loss or liability.

(3) The entity may claim the amount in a proceeding in a court with jurisdiction for the amount claimed.

## **PART 3—AUTHORITIES TO OCCUPY AND USE LAND**

### **Temporary use and occupation of land**

**183.** To carry out miscellaneous transport infrastructure works, the chief executive, or anyone authorised in writing by the chief executive, may temporarily occupy and use land, including roads, and do anything on the land that is necessary or convenient.

**Notice of entry or permission to enter**

**184.(1)** If a person proposes to occupy or use land under this chapter, the person must—

- (a) give at least 3 days written notice to the owner or occupier of the land; or
- (b) obtain the written permission of the owner or occupier to the occupation or use.

**(2)** The notice must state—

- (a) the miscellaneous transport infrastructure works to be carried out; and
- (b) the use proposed to be made of the land; and
- (c) details of the things proposed to be done on the land; and
- (d) an approximate period when the occupation or use is expected to continue.

**(3)** A notice may be given under subsection (1) in relation to land even though it is proposed to resume the land for miscellaneous transport infrastructure.

**(4)** After the end of 3 days after service of a notice under subsection (1), or with the permission of the owner or occupier, the land may be entered and the miscellaneous transport infrastructure works specified in the notice carried out.

**(5)** If a person proposes to occupy or use land to carry out urgent remedial work to miscellaneous transport infrastructure or miscellaneous transport infrastructure works, subsection (1) does not apply but the person must, if practicable, notify the owner or occupier of the land orally before entering the land.

**Compensation for physical damage from entry etc.**

**185.(1)** An owner of land that is entered, occupied or used under this chapter may give a written notice to the chief executive claiming compensation for physical damage caused by the entry, occupation or use or for the taking or consumption of materials.

(2) Compensation is not payable unless a claim is received by the chief executive within 1 year after occupation or use has ended.

(3) However, the chief executive may allow a claim to be made at a later time.

(4) Compensation awarded under this section must not be more than the compensation that would have been awarded if the land had been acquired.

## **PART 4—POWERS OF CHIEF EXECUTIVE OVER REQUIRED LAND**

### **Chief executive may grant interests in land**

**186.(1)** The chief executive may, for the State, grant or dispose of an interest in required land used, or proposed to be used, for miscellaneous transport infrastructure to—

- (a) a licensee; or
- (b) someone else authorised under another Act to construct, maintain, use or operate miscellaneous transport infrastructure.

*Example of an interest in land under subsection (1)—*

A licence or right to use or occupy required land.

(2) The chief executive may grant the interest on conditions, including, for example, a condition that the interest ends if the person ceases to be a person entitled to be granted the interest.

(3) This section has effect despite the *Acquisition of Land Act 1967*.

## **PART 5—MISCELLANEOUS**

### **Effect of chapter on other Acts**

**187.** This chapter has effect despite a provision of another Act about—

- (a) constructing miscellaneous transport infrastructure; or
- (b) acquiring interests in land, or doing anything else, to enable the construction of miscellaneous transport infrastructure.

## **CHAPTER 8A—FUNCTION OF QUEENSLAND RAIL**

### **Function**

**187A.(1)** The function of Queensland Rail is to provide comprehensive transport services and services ancillary to those services, whether in or outside Queensland or Australia.

**(2)** Without limiting subsection (1), the function includes—

- (a) the provision of passenger and freight transport services; and
- (b) the provision of consultancy and training services relating to transport services; and
- (c) establishing, maintaining and arranging for the provision of transport infrastructure; and
- (d) doing anything likely to complement or enhance the function or something mentioned in paragraphs (a) to (c).

**(3)** Queensland Rail is taken to have had the function from when it became a government owned corporation.

## **CHAPTER 9—GENERAL PROVISIONS**

### **Recovery of amounts payable to the chief executive**

**188.** An amount payable by a person to the chief executive under this Act is a debt owing to the State and may be recovered by action against the person in a court of competent jurisdiction.

**Power to require information from local governments**

**189.(1)** The chief executive may, by written notice given to a local government, require that the local government give to the chief executive, or to a specified person, information on a particular issue relevant to the discharge of functions or the exercise of powers under this Act.

(2) The notice must specify a reasonable time within which the notice is to be complied with and may specify the way in which it is to be complied with.

(3) The local government must comply with the notice.

(4) However, the local government may appeal to the Minister against the notice and, if the local government appeals, the local government only has to comply with the notice if, and to the extent that, the Minister directs.

**Conduct of company directors, employees or agents**

**190.(1)** In this section—

“**engaging**” in conduct includes failing to engage in conduct.

“**representative**” means—

- (a) in relation to a corporation—an executive officer, employee or agent of the corporation; or
- (b) in relation to an individual—an employee or agent of the individual.

“**state of mind**” of a person includes—

- (a) the person’s knowledge, intention, opinion, belief or purpose; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

(2) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of a corporation about particular conduct, it is sufficient to show—

- (a) the conduct was engaged in by a representative of the corporation within the scope of the representative’s actual or apparent authority; and
- (b) the representative had the state of mind.

(3) Conduct engaged in on behalf of a corporation by a representative of the corporation within the scope of the representative's actual or apparent authority is taken, in a proceeding for an offence against this Act, to have been engaged in also by the corporation unless the corporation establishes it took reasonable precautions and exercised proper diligence to avoid the conduct.

(4) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of an individual about particular conduct, it is sufficient to show—

- (a) the conduct was engaged in by a representative of the individual within the scope of the representative's actual or apparent authority; and
- (b) the representative had the state of mind.

(5) Conduct engaged in on behalf of an individual by a representative of the individual within the scope of the representative's actual or apparent authority is taken, in a proceeding for an offence against this Act, to have been engaged in also by the individual unless the individual establishes the individual took reasonable precautions and exercised proper diligence to avoid the conduct.

### **Approval of forms**

**190A.** The chief executive may approve forms for use under this Act.

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

**191.(1)** Fees or other amounts received or recovered under this Act for the operations of a GOC are to be paid to the GOC.

(1A) Under subsection (1), a penalty received or recovered in the operation of a GOC for an infringement notice offence under the *Justices Act 1886*, part 4A<sup>17</sup> concerning vehicle parking is to be paid to the GOC.

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

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<sup>17</sup> *Justices Act 1886*, part 4A (Infringement notices)

**No need to prove appointments**

**192.** In a proceeding for an offence against this Act, there is no need to prove the appointment of a person who is an authorised person for a railway.

**Prosecutions for railway offences**

**193.(1)** This section applies to an offence against this Act committed by a person while the person was travelling on a railway.

(2) A complaint for the offence may be heard at a place appointed for holding Magistrates Courts within any of the districts through which the person travelled on the railway.

(3) This section has effect despite, but does not limit, the *Justices Act 1886*, section 139.<sup>18</sup>

**Proceedings for offences**

**194.(1)** An offence against this Act is a summary offence.

(2) A proceeding for an offence must start—

- (a) within 1 year after the commission of the offence; or
- (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

**Attempts to commit offences**

**195.(1)** A person must not attempt to commit an offence against this Act. Maximum penalty—half the maximum penalty for committing the offence.

(2) The Criminal Code, section 4 (Attempts to commit offences) applies to subsection (1).

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<sup>18</sup> *Justices Act 1886*, section 139 (Where summary cases to be heard)

**Review of and appeals against decisions**

**196.(1)** A person whose interests are affected by a decision (the “**original decision**”) described in schedule 2 may ask the chief executive to review the decision.

(2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision of the Act under which the decision is made requires that the person be given a statement of reasons for the decision.

(3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—

- (a) applies to the review; and
- (b) provides—
  - (i) for the procedure for applying for the review and the way it is to be carried out; and
  - (ii) that the original decision may be stayed by the person by applying to the court mentioned in subsection (4).

(4) Also, after the chief executive confirms or amends the original decision or substitutes another decision, the person may appeal against the confirmed, amended or substituted decision (the “**reviewed decision**”) to the court stated in schedule 2.

(5) The *Transport Planning and Coordination Act 1994*, part 5, division 3—

- (a) applies to the appeal; and
- (b) provides—
  - (i) for the procedure for the appeal and the way it is to be disposed of; and
  - (ii) that the reviewed decision may be stayed by the person by applying to the court mentioned in subsection (4).

### **Application of Freedom of Information Act and Judicial Review Act**

**199.(1)** The *Freedom of Information 1992* does not apply to a document received or brought into existence by a transport GOC in carrying out its excluded activities.

(2) The *Judicial Review Act 1991* does not apply to a decision of a transport GOC made in carrying out its excluded activities.

(3) A regulation may declare the activities of a transport GOC that are taken to be, or are taken not to be, activities conducted on a commercial basis.

(4) In this section—

**“commercial activities”** means activities conducted on a commercial basis.

**“community service obligations”** has the same meaning as in the *Government Owned Corporations Act 1993*.

**“excluded activities”** means—

- (a) commercial activities; or
- (b) community service obligations prescribed under a regulation.

**“transport GOC”** means a GOC whose functions relate mainly to transport.

### **Regulations**

**200.(1)** The Governor in Council may make regulations for the purposes of this Act.

(2) A regulation may create offences and prescribe penalties for the offences of not more than 40 penalty units.

(3) In particular, regulations may be made for the matters specified in schedule 1.

(4) A regulation may confer functions or powers on a local government or a State government body.

## CHAPTER 10—SAVINGS AND TRANSITIONAL PROVISIONS, AMENDMENTS AND REPEALS

### PART 1—SAVINGS AND TRANSITIONAL PROVISIONS ABOUT ROADS

#### Definition

201. In this part—

“**corporation**” means the corporation sole previously constituted by the *Urban Public Passenger Transport Act 1984*.

### PART 2—SAVINGS AND TRANSITIONAL PROVISIONS ABOUT RAILWAYS

#### *Division 1—Provisions about land*

#### Existing rail corridor land

214.(1) On the commencement—

- (a) existing rail corridor land becomes unallocated State land; and
- (b) the Governor in Council must lease the land to the State under the *Land Act 1994*, section 17(b).<sup>19</sup>

(2) The lease is in perpetuity and, if demanded, for a rent of \$1 per year.

(3) The land must be immediately subleased to Queensland Rail.

(4) The sublease is to be for a term of 100 years and, if demanded, for a rent of \$1 per year.

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<sup>19</sup> *Land Act 1994*, section 17 (Granting land to the State)

(5) The sublease is to give Queensland Rail an option to take up a further sublease on the same terms for a further 100 years.

(6) Subsection (1) has effect even though the boundaries of the land may not be precisely identified.

(7) Despite subsection (1), any structures attached to the land (whether before or after the commencement) are Queensland Rail's property until Queensland Rail disposes of them.

(7A) The *Land Act 1994*, section 336(2)(a)<sup>20</sup> does not apply to a document of amendment of the sublease.

(8) In this section—

“**structures**” includes rail transport infrastructure and any other works.

### **Boundary identification etc.**

**215.(1)** Queensland Rail and the chief executive must progressively, and within 5 years after the commencement, identify—

- (a) the boundaries of existing rail corridor land; and
- (b) the parts and boundaries of old QR land (other than existing rail corridor land or commercial corridor land) that—
  - (i) are mentioned in transport infrastructure strategies; and
  - (ii) they consider are of strategic importance to the State as part of a transport corridor.

(2) The identification may be done by compilation, survey or another way sufficient to identify the land.

(3) The chief executive must notify the boundaries in the gazette.

(4) For land identified under subsection (1)(b), the notice must declare the land to be non-rail corridor land.

(5) On the declaration of the land as non-rail corridor land—

- (a) the land becomes unallocated State land; and

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<sup>20</sup> *Land Act 1994*, section 336 (Amending a sublease)

(b) the Governor in Council must lease the land to the State under the *Land Act 1994*, section 17(b).<sup>21</sup>

(6) The lease is in perpetuity and, if demanded, for a rent of \$1 per year.

(7) A regulation made within 5 years after the commencement may extend the period mentioned in subsection (1) by not more than 2 years.

### **Effect of land becoming unallocated State land**

**216.(1)** Subsection (2) applies if, immediately before becoming unallocated State land under this division, existing rail corridor land or non-rail corridor land was subject to a lease to someone else.

(2) The lease continues on the same terms as a sublease—

(a) for existing rail corridor land—from Queensland Rail to the person; or

(b) for non-rail corridor land—from the State to the person.

(3) If, immediately before land becomes unallocated State land under this part, a person had a right to use the land that does not derive from a lease, the right continues.

### **Exemption from fees**

**217.** No fee is payable for the lodgment and registration of any instrument required to give effect to this division or section 221.<sup>22</sup>

### **Expiry of division etc.**

**218.(1)** This division is a law to which the *Acts Interpretation Act 1954*, section 20A<sup>23</sup> applies.

(2) This division expires 7 years after it commences.

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<sup>21</sup> *Land Act 1994*, section 17 (Granting land to the State)

<sup>22</sup> Section 221 (Continuation of Transport Infrastructure (Railways) Act 1991, ss 49 and 51)

<sup>23</sup> *Acts Interpretation Act 1954*, section 20A (Repeal does not end saving, transitional or validating effect etc.)

***Division 2—Other provisions*****Advertising on railway land**

**220.(1)** This section applies if a site on old QR land was being used for advertising immediately before the commencement.

(2) The site may be used for advertising while the land remains commercial corridor land, existing rail corridor land, non-rail corridor land or old QR land.

(3) The approval of a body other than Queensland Rail is not necessary for advertising on the site.

(4) This section expires 5 years after it commences.

**Continuation of Transport Infrastructure (Railways) Act 1991, ss 49 and 51**

**221.(1)** The *Transport Infrastructure (Railways) Act 1991*, sections 49 and 51<sup>24</sup> continue to have effect.

(2) The sections have effect as if a reference to Queensland Railways were a reference to Queensland Rail.

(3) This section has effect despite the repeal of the *Transport Infrastructure (Railways) Act 1991*.

(4) This section expires 5 years after it commences.

(5) A regulation made within 5 years after the commencement may extend the period mentioned in subsection (4) by not more than 2 years.

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<sup>24</sup> *Transport Infrastructure (Railways) Act 1991*, section 49 (Land vests in Queensland Railways)  
*Transport Infrastructure (Railways) Act 1991*, section 51 (Title under repealed Act)

**Continuation of Transport Infrastructure (Railways) Act 1991, ss 47, 48 and 50**

**222.(1)** The *Transport Infrastructure (Railways) Act 1991*, sections 47, 48 and 50<sup>25</sup> continue to have effect for the resumption of land that—

- (a) was started by the previous rail corporation before the commencement; but
- (b) had not finished at the commencement.

**(2)** The sections have effect as if a reference to Queensland Railways were a reference to Queensland Rail.

**(3)** Under subsection (1), a resumption of land started when a notice of intention to resume was given to the land's owner.

**(4)** This section has effect despite the repeal of the *Transport Infrastructure (Railways) Act 1991*.

**(5)** This section expires 5 years after it commences or, if an earlier date is prescribed under a regulation, on that date.

**Existing contracts**

**223.(1)** To remove any doubt about contracts entered into by the previous rail corporation before the commencement, Queensland Rail is taken to represent the State for the contracts.

**(2)** This section is a law to which the *Acts Interpretation Act 1954*, section 20A<sup>26</sup> applies.

**(3)** This section expires 7 years after it commences.

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<sup>25</sup> Section 47 (Land may be taken for the purposes of Act)  
Section 48 (Queensland Railways may acquire certain small parcels)  
Section 50 (Taking Crown land)

<sup>26</sup> *Acts Interpretation Act 1954*, section 20A (Repeal does not end saving, transitional or validating effect etc.)

**Existing transaction documents**

**224.(1)** The purpose of this section is to remove any doubt about the effect of this Act in relation to transaction documents in existence immediately before the introduction day.

**(2)** On and after the introduction day, Queensland Rail is taken to represent the State under each transaction document, and the duties and obligations of the previous rail corporation under each transaction document are taken to be duties and obligations of the State.

**(3)** The State may guarantee payments and obligations under a transaction document.

**(4)** This section has effect, and is taken always to have had effect, as if it commenced on the introduction day.

**(5)** This section is a law to which the *Acts Interpretation Act 1954*, section 20A applies.

**(6)** In this section—

**“introduction day”** means the day the *Transport Infrastructure Amendment (Rail) Bill 1995* was introduced into the Legislative Assembly.<sup>27</sup>

**“transaction document”** means—

- (a) a document, including a lease, sublease or guarantee, connected with a financial arrangement listed in Queensland Railways schedule of leases approved by the Minister on or before the introduction day; or
- (b) a document declared under a regulation to be a transaction document.

**(7)** A regulation made under subsection (6), definition “transaction document”, paragraph (b) may be given retrospective operation to a day not earlier than the introduction day.

**(8)** This section is in addition to the *Government Owned Corporations Act 1993*.

**(9)** This section expires 7 years after it commences.

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<sup>27</sup> The Bill was introduced into the Legislative Assembly on 24 May 1995.

## **PART 3—SAVINGS AND TRANSITIONAL PROVISIONS ABOUT PORTS**

### **Definitions**

227. In this part—

“1986 permit” see section 233C.

“1992 permit” see section 233D.

“1994–95 permit” see section 233A.

“1996–97 permit” see section 233B.

“permit” means a permit for the removal of sand and gravel.

### **Continuation of harbours under Harbours Act or port under Port of Brisbane Authority Act etc.**

228.(1) Each harbour whose limits were defined under the *Harbours Act 1955*, and the port whose limits were defined under the *Port of Brisbane Authority Act 1976*, are taken to be ports under this Act with the same limits.

(2) On the commencement, the areas mentioned in the *Gold Coast Waterways Authority Act Repeal Act 1990*, section 15(1) are to be managed for the State by the Minister.

(3) This section expires on 1 July 2000 or, if an earlier date is prescribed by regulation, on that date.

### **Harbours Corporation of Queensland**

232.(1) All assets and liabilities of the Harbours Corporation of Queensland remaining after the commencement of the *Harbours Amendment Act (No. 2) 1993* and existing at the commencement become, on the commencement, assets and liabilities of the State.

(2) The assets and liabilities are to be managed by the Minister or as otherwise decided by the Governor in Council.

(3) For the purpose of managing the assets and liabilities, the Governor in Council may decide that powers mentioned in the *Harbours Act 1955*, section 64 or 196 as in force immediately before the commencement may be exercised for the State by a person specified by the Governor in Council.

(4) The following by-laws under the *Harbours Act 1955*, as well as any definitions in the Act relevant to the by-laws, continue to have effect—

- *Bowen Harbour Board By-law 1977*, by-laws 1, 2, 9 and 10
- *Gold Coast Waterways Authority By-law 1980*, chapters 1 to 3, 7 and 10 to 18
- *Houseboats By-law 1978*
- *Mooloolaba Boat Harbour By-law 1976*
- *Rosslyn Bay Boat Harbour By-law 1980*
- *Snapper Creek and Urangan Boat Harbours By-law 1976*.

(5) For the purpose of the continuing effect of a by-law mentioned in subsection (4), a reference in the Act or by-law to an authorised person or officer is a reference to—

- (a) a person who, immediately before the commencement, was an authorised person or officer under the by-law; or
- (b) a person authorised by the Minister.

(6) Subsections (4) and (5) have effect despite the repeal of the *Harbours Act 1955*.

(8) This section expires on 1 July 2000 or, if an earlier date is prescribed by regulation, on that date.

### **Continuation of certain by-laws and provisions of Harbours Act**

**233.(1)** The Marine Land Dredging By-law 1987, as well as the following provisions of the *Harbours Act 1955*, continue to have effect—

- (a) sections 67(2), 98 and 101<sup>28</sup> so far as they relate to the by-law;

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<sup>28</sup> Sections 67 (Removal of certain materials from Queensland waters), 98 (Power to make by-laws) and 101 (By-laws made by Harbours Corporation).

*Transport Infrastructure Act 1994*

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(b) any definitions in the Act relevant to the by-law and the provisions mentioned in paragraph (a).

(1A) The provisions of the Harbours Act 1955 mentioned in subsection (1) have effect as if—

(a) a reference to a harbour board or the Harbours Corporation were a reference to the chief executive of the department; and

(b) for section 101—the words ‘under its seal’ were omitted.

(2) The by-law has effect as if—

(a) a reference to the Harbours Corporation, the director, or the Department of Harbours and Marine, were a reference to the chief executive of the department; and

(b) by-law 4, definition of “marine land” were amended by omitting ‘for which no Harbour Board is constituted’.

(5) The Minister may delegate to an officer of the public service or a port authority a power that the Minister has under subsection (1).

(7) For the purpose of the continuing effect of the Marine Land Dredging By-law 1987, a reference in it to an authorised person or officer is a reference to a person who, immediately before 1 July 1994, was an authorised person or officer under the by-law.

(8) This section has effect despite the repeal of the Harbours Act 1955.

(9) This section expires on 31 December 2000 or, if an earlier date is prescribed under a regulation, on that date.

**Continuation of certain provisions of Harbours Act about jetties and ramps etc.**

**235.(1)** The following provisions of the *Harbours Act 1955* and regulations under that Act continue to have effect—

- section 88 (Provision for preventing deviation of certain works without consent of Governor in Council)
- section 140 (Management of Government wharf may be vested in Harbour Board etc.)
- section 142(3) (Lands vested in Board)

- *Barrier Reef Island Jetty Regulation 1971*
- *Boat Ramp Regulation 1972*
- any definitions in the Act relevant to the provisions or regulations.

(2) The *Harbours Act 1955*, section 64 (other than subsection (8)) (Power of Harbour Board to lease lands and grant licences and permits to occupy lands) as well as any definitions in that Act relevant to the section, continue to have effect for land that, immediately before the commencement, was vested in the control of a harbour board under the *Harbours Act 1955*, section 81(4) or that, after the commencement, become vested in the control of a port authority under that subsection as continued in effect and become strategic port land.

(4) This section has effect despite the repeal of the *Harbours Act 1955*.

(5) This section expires on 1 July 2000 or, if an earlier date is prescribed under a regulation, on that date.

### **Continuation of certain provisions of Harbours Act requiring approval for certain matters**

**236.(1)** The following provisions of the *Harbours Act 1955* and regulations under that Act continue to have effect—

- section 59(3) to (6) (Power of Harbour Board to construct harbour works etc.)
- section 67 (other than subsection (2)) (Removal of certain materials from Queensland waters)
- section 86 (Works on tidal lands or waters etc. not to be constructed without sanction of Governor in Council)
- section 89 (Powers of Minister in respect of works)
- section 90 (Minister may employ engineers etc. to abate works)
- section 91 (Reclamations etc. to be authorised)
- section 92 (Application for authority to reclaim)
- section 93 (Regulations in relation to reclamations)
- section 163 (Regulations) so far as it relates to the regulations mentioned in this subsection

*Transport Infrastructure Act 1994*

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- *Construction of Harbour Works (Fees) Regulation 1992*
- *Harbours (Reclamation of Land) Regulation 1979*
- any definitions in the Act relevant to the provisions or regulations.

(2) The provisions and regulations mentioned in subsection (1) continue to have effect as if—

- (a) references to the Governor in Council (other than the reference in section 163(1)) were references to the Minister; and
- (b) references to an order in council were references to a decision of the Minister.

(3) The Minister may delegate to an officer of the public service or a port authority a power under the *Harbours Act 1955*, section 67 that the Minister has under subsection (1).

(4) The Minister may delegate to an officer of the public service, a port authority or a local government a power under the *Harbours Act 1955*, section 86 that the Minister has under subsection (1).

(5) The *Harbours Act 1955*, section 59(3) to (6) has effect as if references in the provisions to powers under subsection (1) were references to powers of the relevant port authority.

(6) The *Harbours Act 1955*, section 67 has effect as if—

- (a) references to a harbour board or the Harbours Corporation were a reference to the chief executive of the department; and
- (b) subsection (2A) were amended by omitting ‘subsection (2)’ and substituting ‘the *Marine Land Dredging By-law 1987*’.

(7) This section has effect despite the repeal of the *Harbours Act 1955*.

(8) This section expires on 31 December 1999 or, if an earlier date is prescribed by regulation, on that date.

### **Continuation of pt 5, div 2 of Port of Brisbane Authority Act**

**239.(1)** The *Port of Brisbane Authority Act 1976*, part 5, division 2 as well as any definitions in the Act relevant to the division, continue to apply to leases for which compensation could be claimed under the division.

(2) This section has effect despite the repeal of the *Port of Brisbane Authority Act 1976*.

(3) This section expires on a date to be fixed by regulation.

### **Application of Acts Interpretation Act, s 20A to this part**

**240.(1)** This part is a law to which the *Acts Interpretation Act 1954*, section 20A applies.

(2) This section expires on 1 July 2000.

## **PART 4—GENERAL SAVINGS AND TRANSITIONAL PROVISIONS**

### *Division 1—Transition of references about roads*

#### **Application of division**

**241.** This division applies to references in Acts in existence at its commencement.

#### **Transport Infrastructure (Roads) Act 1991 references**

**242.** A reference to the *Transport Infrastructure (Roads) Act 1991* is, in relation to transport infrastructure or another matter dealt with under this Act, taken to be a reference to this Act.

#### **Main Roads Act 1920 references**

**243.** A reference to the *Main Roads Act 1920* may, in relation to transport infrastructure or another matter dealt with under this Act, be taken to be a reference to this Act.

**Commissioner of Main Roads references**

**244.** A reference to the Commissioner of Main Roads (either as a natural person or corporation sole) is taken to be a reference to the chief executive.

**Declared road references**

**245.(1)** A reference to a declared road under the *Main Roads Act 1920* is taken to be a reference to a State-controlled road under this Act.

**(2)** A reference to a declared road under the *Transport Infrastructure (Roads) Act 1991* is taken to be a reference to a State-controlled road under this Act.

**Motorway references**

**246.** A reference to a motorway under the *Transport Infrastructure (Roads) Act 1991* is taken to be a reference to a motorway under this Act.

**Main Roads Fund references**

**247.** A reference to the Main Roads Fund is taken to be a reference to the funds of the department.

***Division 2—Transition of references about railways*****Application of division**

**248.** This division applies to references in Acts (other than this Act) in existence at its commencement.

**Railways Act 1914 references**

**249.** A reference to the *Railways Act 1914* is taken to be a reference to this Act.

**Transport Infrastructure (Railways) Act 1991 references**

**250.** A reference to the *Transport Infrastructure (Railways) Act 1991* is taken to be a reference to this Act.

**Commissioner for railways references**

**251.** A reference to the commissioner for railways is taken to be a reference to—

- (a) for the commissioner as a corporation sole—Queensland Rail; or
- (b) for the commissioner as an individual—the chief executive of Queensland Rail.

**Railways Department references**

**252.** A reference to the Railways Department is taken to be a reference to Queensland Rail.

**Queensland Railways references**

**253.** A reference to Queensland Railways is taken to be a reference to Queensland Rail.

***Division 3—Transition of references about ports*****Application of division**

**254.** This division applies to references in Acts in existence at its commencement.

**Harbours Act 1955 and Port of Brisbane Authority Act 1976 references**

**255.** A reference to the *Harbours Act 1955* or *Port of Brisbane Authority Act 1976* is taken to be a reference to this Act.

**Harbour board references**

**256.(1)** A reference to a harbour board is taken to be a reference to a port authority under this Act.

**(2)** A reference to the Port of Brisbane Authority is taken to be a reference to the Port of Brisbane Corporation.

**Harbour references**

**257.** A reference to a harbour is taken to be a reference to a port under this Act.

**Harbours Corporation and Harbours Trust references**

**258.(1)** A reference to the Harbours Corporation or Harbours Trust is taken to be a reference to—

- (a) for a port to which subsection (2) applies or for the *Aurukun Associates Agreement Act 1975*—the Ports Corporation of Queensland; or
- (b) in any other case—the State.

**(2)** This subsection applies to the following ports—

- Abbot Point
- Burketown
- Cape Flattery
- Cooktown
- Hay Point
- Innisfail
- Karumba
- Lucinda
- Margaret Bay
- Maryborough
- Port Kennedy

- Quintell Beach
- St Lawrence
- Weipa.

### **Gold Coast Waterways Authority references**

**259.** A reference to the Gold Coast Waterways Authority is taken to be a reference to the State.

### ***Division 4—Transition of forms***

#### ***Transitional provision about forms***

**260.(1)** *This section applies if—*

- immediately before its commencement, there was a prescribed form for a matter; and*
- on the commencement, there is to be an approved form for the matter or a form may be approved for the matter.*

**(2)** *Until there is an approved form for the matter, the form that was the prescribed form for the matter immediately before the commencement is taken to be the approved form for the matter.*

**(3)** *This division expires 6 months after it commences.*<sup>29</sup>

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<sup>29</sup> This division has expired and is included for informational purposes only. It will be omitted in the next reprint.

**SCHEDULE 1****SUBJECT MATTER FOR REGULATIONS**

section 200

1. The conditions of use of motorways or access-limited roads, including limitations on access or use, and removal of stationary vehicles.
2. Regulation of traffic (including for safety purposes) during construction of road works.
3. Regulation of animals on State-controlled roads.
4. Camping on State-controlled roads or areas under the chief executive's control.
5. Regulation of ancillary works and encroachments.
6. Tolls payable through the use of roads and the collection of the tolls.
7. Exemptions from regulations.
8. Allowing the chief executive to approve forms to be used for the purposes of this Act, and the purposes for which the forms must be used.
9. Fees, charges, allowances, royalties, costs or expenses to be paid.
10. The operation by the chief executive of electronic and other devices for monitoring, recording or controlling the passage of vehicles or the flow of traffic on—
  - (a) State-controlled roads; or
  - (b) roads that are proposed to be State-controlled roads; or
  - (c) franchised roads; or
  - (d) other roads with the agreement of the relevant local government.
11. Regulation of miscellaneous transport infrastructure or miscellaneous transport infrastructure works.
12. The rights and obligations of persons on a railway.

## SCHEDULE 1 (continued)

**13.** The removal by a railway manager of vehicles, goods or other property that are—

- (a) abandoned on its railway; or
- (b) parked or left against the railway manager's directions.

**14.** The sale or other disposal by a railway manager of vehicles, goods or other property abandoned on its railway.

**15.** The recovery by a railway manager of the costs of doing the things mentioned in items 13 and 14.

**16.** Alcohol breath tests, drug tests and medical examinations that may be required by an authorised person for a railway.

**17.** The granting of approvals to licensees under chapter 8.

**18.** Conditions of approvals to licensees under chapter 8.

**SCHEDULE 2****APPEALS**

section 196

<b>Section of the Act</b>	<b>Description of decision</b>	<b>Court</b>
31	Refusal to approve carrying out of proposed road works	Magistrates
	Refusal to approve action interfering with State-controlled road or its operation	Magistrates
	Imposition of conditions on approval	Magistrates
32	Decision of chief executive about amount of costs incurred	District or Magistrates
35	Decision of chief executive about amount of compensation	District or Magistrates
35	Decision not to extend time	District or Magistrates
36	Decision of chief executive not to contribute to fencing	Magistrates
40(1)	Refusal to approve subdivision, rezoning, development, road works or changes	Planning and Environment
40(3) and (5)	Imposition of conditions	Planning and Environment
40(8)	Decision of chief executive about amount of compensation	District or Magistrates
41(1)	Refusal to approve erection of, alteration or operation of sign or device	Planning and Environment
41(3) and (5)	Imposition or inclusion of conditions	Planning and Environment

## SCHEDULE 2 (continued)

46	Decision of chief executive about cost of repair, replacement or reconstruction of damaged work	District or Magistrates
47	Refusal of chief executive to approve construction, maintenance, operation or conduct of ancillary work or encroachment	Magistrates
49(1)	Decision to cause ancillary works and encroachments to be altered, relocated, made safe or removed, or to direct that the conduct of ancillary works and encroachments be altered or stop	District or Magistrates
49(2)	Decision of chief executive about cost of alteration, making safe or removing ancillary work and encroachments	District or Magistrates
49(4)	Decision to alter, relocate, make safe or remove ancillary works and encroachments or that activities are to be altered or to stop	Magistrates
52	Decision about access between State-controlled road and particular adjacent land	Planning and Environment
54	Decision of chief executive about amount of cost of taking action	District or Magistrates
56	Decision of chief executive about amount of compensation	District or Magistrates
57(2)	Decision not to extend time for claim	District or Magistrates
59	Requirement by chief executive about public utility plant on State-controlled road	District
62	Decision of chief executive about amount of additional expense	District or Magistrates
84	Refusal to grant accreditation	District
84	Granting accreditation subject to conditions	District

## SCHEDULE 2 (continued)

88(2)	Refusal to amend accreditation conditions	District or Magistrates
89(3)	Amendment of accreditation conditions	District or Magistrates
89(7)	Amendment of accreditation conditions	District or Magistrates
90(3)	Suspension or cancellation of accreditation	District or Magistrates
91(2)	Immediate suspension of accreditation	District or Magistrates
97(2)	Refusal to allow later time to give notice for compensation	Magistrates
98	Refusal to approve diversion or construction of watercourse	Magistrates
99(2)	Direction requiring works to stop, be altered or not started	District or Magistrates
99(4)	Requirement to alter, demolish or take away works	District or Magistrates
99(6)	Decision to alter, demolish or take away works	District or Magistrates
99(6)	Decision about cost of altering, demolishing or taking away works	District or Magistrates

If this schedule indicates that an appeal may be made to a District Court or to a Magistrates Court, the appeal is to be made to a District Court if the amount involved exceeds \$40 000 and to a Magistrates Court in any other case.

**SCHEDULE 3****DICTIONARY**

section 3

**“accredited person”**, for chapter 6, means a railway manager or operator for whom an accreditation is in force under the chapter.

**“alter”** includes add to.

**“amusement railway”** means a railway that—

- (a) is operated solely within an amusement or theme park—
  - (i) that is registered as an amusement device under the *Workplace Health and Safety Act 1995*; and
  - (ii) that does not operate on, or across, a road; or
- (b) operates on a track with a gauge of less than 600 mm on a place other than a road.

**“ancillary works and encroachments”**, for chapter 5, see section 22.

**“approval”**, for chapter 8, see section 181.

**“approval conditions”**, for chapter 8, see section 181.

**“approved means of access”**, for chapter 5, part 5, division 2, subdivision 2, see section 50.

**“associated person”**, for chapter 6, part 2, see section 77.

**“authorised person”**, for a railway, means—

- (a) a police officer; or
- (b) a person who holds an appointment as an authorised person for the railway under the *Transport Operations (Passenger Transport) Act 1994*, section 116.

**“authority”**, for chapter 6, part 2, see section 77.

## SCHEDULE 3 (continued)

“**candidate GOC**” has the same meaning as in the *Government Owned Corporations Act 1993*.

“**carry out**” road or railway works means do anything on land that is reasonably necessary or desirable for the works, including, for example, temporarily occupy or use the land.

“**charge**” see section 153.

“**commercial corridor land**” means old QR land—

- (a) on or within which rail transport infrastructure is situated; and
- (b) notified by the chief executive in the gazette.

“**competition principles**” see section 77.

“**construction**”, for chapter 5, see section 22.

“**coordination plan**” means the transport coordination plan developed under the *Transport Planning and Coordination Act 1994*.

“**corporate plan**”, for chapter 7, see section 153.

“**dispute notice**”, for chapter 8, see section 181.

“**existing rail corridor land**” means old QR land—

- (a) on or within which rail transport infrastructure is situated; and
- (b) that is not commercial corridor land.

“**franchised road**” means a road to which a road franchise agreement<sup>30</sup> applies, and includes facilities identified in the road franchise agreement that are on or adjacent to the road and relate to the operation or servicing of the road or facilities for road users.

“**franchisee**” means a person with whom the Minister has entered into a road franchise agreement.

“**future railway land**” means land about which the chief executive has, by written notice to the relevant local government and in the gazette, indicated that the land is intended to be used for a railway.

“**GOC**” includes a candidate GOC.

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<sup>30</sup> Road franchise agreements are entered into under section 66.

## SCHEDULE 3 (continued)

**“government supported transport infrastructure”** means transport infrastructure that—

- (a) is funded, wholly or partly, by appropriations from the consolidated fund; or
- (b) is funded, wholly or partly, by borrowings made by the Government (other than commercial borrowings made by the Queensland Treasury Corporation acting as an agent); or
- (c) is funded, wholly or partly, by borrowings guaranteed by the Government other than borrowings for commercial investments; or
- (d) is provided by a person on the basis of conditions agreed to by the Government that are intended to support the commercial viability of the infrastructure.

**“interfere with”** a railway means—

- (a) carry out works on the railway; or
- (b) otherwise interfere with the railway or its operation.

**“intersecting area”**, for chapter 8, see section 181.

**“investigator”** means a person who holds an authority.

**“land”**—

- (a) for chapters 5 and 8—includes—
  - (i) an interest in land; and
  - (ii) land within the beds and banks of a stream, watercourse or inundated land; and
  - (iii) land beneath the internal waters of Queensland; or
- (b) for chapter 6 includes—
  - (i) a reserve within the meaning of the *Land Act 1994* or a road; and
  - (ii) land within the beds or banks of a stream, watercourse or inundated land; or

## SCHEDULE 3 (continued)

- (c) for chapter 6, part 7 and for chapter 8—includes the airspace above, and the land below, the surface; or
- (d) for chapter 7—see section 153.

**“licensee”**, for chapter 8, see section 181.

**“local government road”** means a road that is under the control of a local government.

**“maintenance”**, for chapters 5, 6 and 8, includes—

- (a) rehabilitation; and
- (b) replacement; and
- (c) repair; and
- (d) recurrent servicing; and
- (e) preventive and remedial action; and
- (f) removal; and
- (g) alteration; and
- (h) maintaining systems and services for transport infrastructure.

**“means of access”**, for chapter 5, see section 22.

**“miscellaneous transport infrastructure”** see section 181A.

**“miscellaneous transport infrastructure works”** means—

- (a) works done for—
  - (i) constructing miscellaneous transport infrastructure or things associated with miscellaneous transport infrastructure; or
  - (ii) the maintenance of miscellaneous transport infrastructure or of things associated with miscellaneous transport infrastructure; or
  - (iii) facilitating the operation of miscellaneous transport infrastructure or things associated with miscellaneous transport infrastructure; or
- (b) works declared under a regulation to be miscellaneous transport infrastructure works.

## SCHEDULE 3 (continued)

**“motorway”** means a State-controlled road that is declared to be a motorway under section 25 (Declaration of motorways).

**“new rail corridor land”** means land that is leased to a railway manager under section 131.

**“non-rail corridor land”** means old QR land declared to be non-rail corridor land.

**“notice”** means a notice, sign or pictograph of any type of material and whether fixed or moveable.

**“occupier”**, of land, for chapters 5, 6 and 8, means—

- (a) the person in actual occupation of the land; or
- (b) if there is no person in actual occupation—the person entitled to possession of the land;

and, for a watercourse or reserve, includes the person responsible for the care and management of the watercourse or reserve.

**“old QR land”** means land (other than an easement in land) that, immediately before the commencement of the *Transport Infrastructure Amendment (Rail) Act 1995*, section 4—

- (a) was held by the previous rail corporation in fee simple; or
- (b) could be granted in fee simple to the previous rail corporation under the *Transport Infrastructure (Railways) Act 1991*, section 49(2).

**“on”** a railway, road or other land includes over or under the land.

**“operational licence”**, for chapter 8, see section 181.

**“other rail infrastructure”** means—

- (a) freight centres or depots; or
- (b) maintenance depots; or
- (c) office buildings or housing; or
- (d) rolling stock or other vehicles that operate on a railway; or
- (e) workshops; or

## SCHEDULE 3 (continued)

- (f) any railway track, works or other thing that is part of anything mentioned in paragraphs (a) to (e).

**“owner”**, of land, includes—

- (a) the lessee or licensee from the State of the land; or
- (b) the person who has lawful control of the land, on trust or otherwise; or
- (c) the person who is entitled to receive the rents and profits of the land.

**“plant”**, for chapter 5, see section 22.

**“port”**, of a port authority, means a port for which the authority is responsible, and includes an airport for which the authority is responsible.

**“port authority”** means—

- (a) the Ports Corporation of Queensland; or
- (b) the Port of Brisbane Corporation; or
- (c) the Gladstone Port Authority; or
- (d) a harbour board continued in existence by section 154 (Continuation of port authorities); or
- (e) a port authority established under section 155 (Establishment of new port authority); or
- (f) another body established under the *Government Owned Corporations Act 1993* and declared by regulation to be a port authority;

but does not include a port authority that has been abolished under section 156 (Abolition of port authority).

**“port infrastructure”** includes transport infrastructure relating to ports.

**“previous rail corporation”** means Queensland Railways.

**“rail corridor land”** means existing rail corridor land or new rail corridor land.

## SCHEDULE 3 (continued)

**“rail transport infrastructure”** means facilities necessary for operating a railway, including—

- (a) railway track and works built for the railway, including, for example—
  - cuttings
  - drainage works
  - excavations
  - land fill
  - track support earthworks; and
- (b) any of the following things that are associated with the railway’s operation—
  - bridges
  - communication systems
  - machinery and other equipment
  - marshalling yards
  - notice boards, notice markers and signs
  - overhead electrical power supply systems
  - over-track structures
  - platforms
  - power and communication cables
  - service roads
  - signalling facilities and equipment
  - stations
  - survey stations, pegs and marks
  - train operation control facilities
  - tunnels
  - under-track structures;

## SCHEDULE 3 (continued)

but does not include other rail infrastructure.

**“railway”**, for chapter 6, part 4, see section 80.

**“railway crossing”** means a level crossing, bridge or another structure used to cross over or under a railway.

**“railway manager”**, for a railway or a proposed railway, means the person who is accredited under chapter 6, part 4 as the railway manager for the railway or proposed railway.

**“railway operator”** means a person who operates rolling stock on a railway.

**“railway works”** means—

- (a) works for constructing, maintaining, altering or operating a railway or rolling stock, or
- (b) other works declared under a regulation to be railway works.

**“reasonably”** means on grounds that are reasonable in all the circumstances.

**“required land”**, for chapter 8, see section 181.

**“responsible entity”**, for chapter 8, see section 181.

**“reviewed decision”** see section 196.

**“road”** means—

- (a) an area of land dedicated to public use as a road; or
- (b) an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; or
- (c) a bridge, culvert, ferry, ford, tunnel or viaduct; or
- (d) a pedestrian or bicycle path; or
- (e) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in paragraphs (a) to (d).

**“road transport infrastructure”** includes transport infrastructure relating to roads.

## SCHEDULE 3 (continued)

**“rolling stock”** means a vehicle, including a train, that—

- (a) operates on a railway; and
- (b) is used, or proposed to be used, to transport passengers or freight on a railway track for reward.

**“serious incident”** means an incident that has caused, or could have caused, significant property damage, serious injury or death.

**“ship”**, for chapter 7, see section 153.

**“State-controlled road”** means a road or land, or part of a road or land, declared under section 23 to be a State-controlled road, and, for chapter 5, part 5, division 2, subdivision 2, see section 50.

**“statement of corporate intent”**, for chapter 7, see section 153.

**“strategic port land”**, for chapter 7, see section 153.

**“sugar tramway”** means a tramway—

- (a) operated, entirely or partly, on an easement under the *Sugar Industry Act 1991*, part 11 or the *Sugar Milling Rationalisation Act 1991*, part 4; and
- (b) used, or proposed to be used, to transport sugar cane, sugar or sugar cane by-products; and
- (c) that does not transport passengers or other freight for reward.

**“train”** means a conveyance or group of connected conveyances that travels on a rail or rails of a railway or sugar tramway.

**“transport infrastructure”** includes road, rail, port and miscellaneous transport infrastructure.

**“transport purpose”** includes any purpose for which the Minister is responsible.

**“vehicle”**, see the *Traffic Act 1949*.

**“wilfully”** means deliberately or recklessly.

**“works”** includes activities.

**ATTACHMENT FOR TRANSPORT  
INFRASTRUCTURE ACT 1994 NOT FORMING PART  
OF ANY ACT**

**EXTRACT FROM COMPETITION PRINCIPLES  
AGREEMENT—PROVISIONS ABOUT ACCESS TO  
SIGNIFICANT INFRASTRUCTURE FACILITIES**

**Access to services provided by means of significant infrastructure facilities**

**6.(1)** Subject to sub-clause (2), the Commonwealth will put forward legislation to establish a regime for third party access to services provided by means of significant infrastructure facilities where:

- (a) it would not be economically feasible to duplicate the facility;
- (b) access to the service is necessary in order to permit effective competition in a downstream or upstream market;
- (c) the facility is of national significance having regard to the size of the facility, its importance to constitutional trade or commerce or its importance to the national economy; and
- (d) the safe use of the facility by the person seeking access can be ensured at an economically feasible cost and, if there is a safety requirement, appropriate regulatory arrangements exist.

**(2)** The regime to be established by Commonwealth legislation is not intended to cover a service provided by means of a facility where the State or Territory Party in whose jurisdiction the facility is situated has in place an access regime which covers the facility and conforms to the principles set out in this clause unless:

- (a) the Council determines that the regime is ineffective having regard to the influence of the facility beyond the jurisdictional boundary of the State or Territory; or
- (b) substantial difficulties arise from the facility being situated in more than one jurisdiction.

**(3)** For a State or Territory access regime to conform to the principles set out in this clause, it should:

- (a) apply to services provided by means of significant infrastructure facilities where:
  - (i) it would not be economically feasible to duplicate the facility;
  - (ii) access to the service is necessary in order to permit effective competition in a downstream or upstream market; and
  - (iii) the safe use of the facility by the person seeking access can be ensured at an economically feasible cost and, if there is a safety requirement, appropriate regulatory regimes exist; and
- (b) incorporate the principles referred to in sub-clause (4).

**(4)** A State or Territory access regime should incorporate the following principles:

- (a) Wherever possible third party access to a service provided by means of a facility should be on the basis of terms and conditions agreed between the owner of the facility and the person seeking access.
- (b) Where such agreement cannot be reached, Governments should establish a right for persons to negotiate access to a service provided by means of a facility.
- (c) Any right to negotiate access should provide for an enforcement process.
- (d) Any right to negotiate access should include a date after which the right would lapse unless reviewed and subsequently extended; however, existing contractual rights and obligations should not be automatically revoked.
- (e) The owner of a facility that is used to provide a service should use all reasonable endeavours to accommodate the requirements of persons seeking access.
- (f) Access to a service for persons seeking access need not be on exactly the same terms and conditions.

- (g) Where the owner and a person seeking access cannot agree on terms and conditions for access to the service; they should be required to appoint and fund an independent body to resolve the dispute, if they have not already done so.
- (h) The decision of the dispute resolution body should bind the parties; however, rights of appeal under existing legislative provisions should be preserved.
- (i) In deciding on the terms and conditions for access, the dispute resolution body should take into account:
  - (i) the owner's legitimate business interests and investment in the facility;
  - (ii) the costs to the owner of providing access, including any costs of extending the facility but not costs associated with losses arising from increased competition in upstream or downstream markets;
  - (iii) the economic value to the owner of any additional investment that the person seeking access or the owner has agreed to undertake;
  - (iv) the interests of all persons holding contracts for use of the facility;
  - (v) firm and binding contractual obligations of the owner or other persons (or both) already using the facility;
  - (vi) the operational and technical requirements for the safe and reliable operation of the facility;
  - (vii) the economically efficient operation of the facility; and
  - (viii) the benefit to the public from having competitive markets.
- (j) The owner may be required to extend, or to permit extension of, the facility that is used to provide a service if necessary but this would be subject to:
  - (i) such extension being technically and economically feasible and consistent with the safe and reliable operation of the facility;

- (ii) the owner's legitimate business interests in the facility being protected; and
  - (iii) the terms of access for the third party taking into account the costs borne by the parties for the extension and the economic benefits to the parties resulting from the extension.
- (k) If there has been a material change in circumstances, the parties should be able to apply for a revocation or modification of the access arrangement which was made at the conclusion of the dispute resolution process.
  - (l) The dispute resolution body should only impede the existing right of a person to use a facility where the dispute resolution body has considered whether there is a case for compensation of that person and, if appropriate, determined such compensation.
  - (m) The owner or user of a service shall not engage in conduct for the purpose of hindering access to that service by another person.
  - (n) Separate accounting arrangements should be required for the elements of a business which are covered by the access regime.
  - (o) The dispute resolution body, or relevant authority where provided for under specific legislation, should have access to financial statements and other accounting information pertaining to a service.
  - (p) Where more than one State or Territory access regime applies to a service, those regimes should be consistent and, by means of vested jurisdiction or other cooperative legislative scheme, provide for a single process for persons to seek access to the service, a single body to resolve disputes about any aspect of access and a single forum for enforcement of access arrangements.

**ENDNOTES****1 Index to endnotes**

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 12 November 1999. Future amendments of the Transport Infrastructure Act 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

### 4 Table of earlier reprints

#### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	27 April 1994
2	to Act No. 32 of 1994	26 July 1994
3	to Act No. 81 of 1994	27 January 1995
4	to Act No. 32 of 1995	7 July 1995
5	to Act No. 57 of 1995	1 February 1996
5A	to Act No. 13 of 1996	3 September 1996
5B	to Act No. 9 of 1997	1 July 1997
5C	to Act No. 9 of 1997	15 August 1997
6	to Act No. 66 of 1997	6 February 1998
6A	to Act No. 23 of 1998	25 June 1998
7	to Act No. 43 of 1998	8 January 1999

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	3, 4, 5
Corrected minor errors	3, 4, 5
Renumbered provisions	3, 4, 5, 6, 7

## 6 List of legislation

### **Transport Infrastructure Act 1994 No. 8**

date of assent 7 March 1994

ss 1–2 commenced on date of assent

s 132 sch 3 amendments of the Harbours Act 1955 never proclaimed into force and om Act No. 32 of 1994 s 13(1) (as from 1 July 1994)

ss 86, 122, 132 sch 3 amendments of the State Transport (People-movers) Act 1984 and the Urban Public Passenger Transport Act 1984 and sch 3 amendment 5 of the Transport Infrastructure (Roads) Act 1991 commenced 7 November 1994 (1994 SL No. 378)

remaining provisions commenced 15 April 1994 (1994 SL No. 128)

as amended by—

### **Transport Infrastructure Amendment Act 1994 No. 32**

date of assent 30 June 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1994 (see s 2)

### **Queensland Investment Corporation Amendment Act 1994 No. 38 pts 1, 5**

date of assent 14 September 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 1994 (see s 2 and 1994 SL No. 341 ss 2, 8)

### **Transport Operations (Passenger Transport) Act 1994 No. 43 ss 1–2, 143 sch 3**

date of assent 14 September 1994

ss 1–2 commenced on date of assent

amendments 5–8 commenced 1 July 1994 (see s 2(2))

remaining provisions commenced 7 November 1994 (1994 SL No. 378)

### **Transport Infrastructure Amendment Act (No. 2) 1994 No. 49**

date of assent 14 September 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 18 November 1994 (1994 SL No. 399)

**Land Act 1994 No. 81 ss 1–2, 527 sch 5**

date of assent 1 December 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1995 (1995 SL No. 185)

**Transport Operations (Road Use Management) Act 1995 No. 9 ss 1–2, 92 sch 1  
(as amd 1995 No. 32 s 23 sch as from 14 June 1995 (see s 2(1)))**

date of assent 5 April 1995

commenced on date of assent (see s 2(1))

**Transport Infrastructure Amendment (Rail) Act 1995 No. 32 pts 1–2**

date of assent 14 June 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1995 (see s 2(2), 1995 SL No. 162 s 19(2))

**Coastal Protection and Management Act 1995 No. 41 ss 1–2, 105 sch 1**

date of assent 9 November 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 1996 (1996 SL No. 8)

**Transport Planning and Coordination Amendment Act 1995 No. 48 pts 1, 3**

date of assent 22 November 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 15 December 1995 (1995 SL No. 365)

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

**Primary Industries Legislation Amendment Act 1996 No. 13 pts 1, 10**

date of assent 23 May 1996

commenced on date of assent

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9  
sch**

date of assent 20 November 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 June 1997 (1997 SL No. 128)

**Transport (Gladstone East End to Harbour Corridor) Act 1996 No. 74 ss 1, 10**

date of assent 12 December 1996

commenced on date of assent

**Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9 ss 1,  
2(1), (4) pt 23**

date of assent 15 May 1997

s 87(1) commenced 1 July 1997 (see s 2(4))

remaining provisions commenced on date of assent (see s 2(1))

**Transport Legislation Amendment Act 1997 No. 66 pts 1, 4**

date of assent 1 December 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 12 December 1997 (1997 SL No. 439)

**Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3), 191 sch**

date of assent 23 March 1998

ss 1–2 commenced on date of assent

remaining amdts commenced 30 March 1998 (1998 SL No. 55)

**Government Owned Corporations and Other Legislation Amendment Act 1998 No. 21 ss 1, 2(3), pt 4**

date of assent 1 May 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 22 May 1998 (1998 SL No. 144)

**Transport Infrastructure Amendment Act 1998 No. 23**

date of assent 14 May 1998

ss 5(1)–(2), 7 commenced on 1 July 1994 (see s 2)

remaining provisions commenced on date of assent

**Integrated Planning and Other Legislation Amendment Act 1998 No. 31 ss 1, 2(5) pt 8**

date of assent 3 September 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 12 October 1998 (1998 SL No. 270)

**Transport Legislation Amendment Act 1998 No. 33 ss 1–2 pt 2**

date of assent 23 September 1998

ss 1–2, 15 commenced on date of assent

s 9 commenced 31 March 1998 (see s 2(1))

remaining provisions commenced 1 July 1998 (see s 2(4))

**Transport Legislation Amendment Act (No. 2) 1998 No. 43 s 1 pt 4**

date of assent 27 November 1998

commenced on date of assent

**Integrated Planning and Other Legislation Amendment Act 1999 No. 11 ss 1–2(1) pt 5**

date of assent 30 March 1999

ss 1–2, 26, 31–32 commenced on date of assent (see s 2(1))

remaining provisions not yet proclaimed into force

**Statutory Instruments and Another Act Amendment Act 1999 No. 24 ss 1, 2(2) sch**

date of assent 4 June 1999

commenced on date of assent

**Road Transport Reform Act 1999 No. 42 ss 1–2(1), 54(3) sch pt 3**

date of assent 2 September 1999

ss 1–2 commenced on date of assent

remaining provisions commence 1 December 1999 (see s 2(1))

## **7 List of annotations**

This reprint has been renumbered—see tables of renumbered provisions in endnote 8.

### **Objectives of this Act**

- s 2       prev s 2 om R4 (see RA s 37)
- pres s 2 amd 1995 No. 32 s 4

### **Definitions—the dictionary**

- s 3       amd 1994 No. 32 s 4(3); 1994 No. 49 s 3 sch 1
- sub 1995 No. 9 s 92 sch 1
- def “**chief executive**” om 1995 No. 9 s 92 sch 1
- def “**coordination plan**” reloc to sch 3 1995 No. 9 s 92 sch 1
- def “**GOC**” om 1995 No. 9 s 92 sch 1
- def “**government supported transport infrastructure**” reloc to sch 3
- 1995 No. 9 s 92 sch 1
- def “**miscellaneous transport infrastructure**” om 1995 No. 9 s 92 sch 1
- def “**port**” reloc to sch 3 1995 No. 9 s 92 sch 1
- def “**port authority**” reloc to sch 3 1995 No. 9 s 92 sch 1
- def “**port infrastructure**” reloc to sch 3 1995 No. 9 s 92 sch 1
- def “**rail transport infrastructure**” reloc to sch 3 1995 No. 9 s 92 sch 1
- def “**road transport infrastructure**” reloc to sch 3 1995 No. 9 s 92 sch 1
- def “**State-controlled road**” reloc to sch 3 1995 No. 9 s 92 sch 1
- def “**transport infrastructure**” reloc to sch 3 1995 No. 9 s 92 sch 1
- def “**transport purpose**” reloc to sch 3 1995 No. 9 s 92 sch 1

### **Contents of transport infrastructure strategies**

- s 6       amd 1995 No. 48 s 10

### **Obligations about government supported transport infrastructure**

- s 9       amd 1995 No. 32 s 5

### **Report on giving effect to s 9**

- s 10      amd 1995 No. 32 s 6

## **PART 2—RAIL IMPLEMENTATION PROGRAMS**

- pt hdg   ins 1995 No. 32 s 7

### **Development of programs**

- s 14      ins 1995 No. 32 s 7

### **Consistency with transport infrastructure strategies**

- s 15      ins 1995 No. 32 s 7

### **Report on implementation of programs**

- s 16      ins 1995 No. 32 s 7

### **Transport GOCs**

- s 20      amd 1995 No. 32 s 8

**Definitions for ch 5**

- prov hdg** sub 1995 No. 32 s 9(1)  
**s 22** amd 1995 No. 9 s 92 sch 1  
 def “**ancillary works and encroachments**” amd 1995 No. 32 s 9(3)  
 def “**franchised road**” ins 1994 No. 49 s 4  
     reloc to sch 3 1995 No. 32 s 9(4)  
 def “**franchisee**” ins 1994 No. 49 s 4  
     reloc to sch 3 1995 No. 32 s 9(4)  
 def “**land**” om 1995 No. 9 s 92 sch 1  
 def “**local government road**” reloc to sch 3 1995 No. 32 s 9(4)  
 def “**maintenance**” om 1995 No. 32 s 9(2)  
 def “**motorway**” reloc to sch 3 1995 No. 32 s 9(4)  
 def “**occupier**” om 1995 No. 9 s 92 sch 1  
 def “**on**” om 1995 No. 32 s 9(2)  
 def “**owner**” om 1995 No. 9 s 92 sch 1  
 def “**person**” om 1995 No. 9 s 92 sch 1  
 def “**road**” reloc to sch 3 1995 No. 32 s 9(4)  
 def “**road franchise agreement**” ins 1994 No. 49 s 4

**Prohibition on road works etc. on State-controlled roads**

- s 31** amd 1995 No. 9 s 92 sch 1

**Impact of certain local government decisions on State-controlled roads**

- s 40** amd 1998 No. 13 s 191 sch; 1999 No. 11 s 27

**Effect of decisions of Planning and Environment Court**

- s 42** amd 1999 No. 11 s 28

**Temporary restrictions on use of State-controlled roads**

- s 44** amd 1995 No. 9 s 92 sch 1

**Removal of materials etc.**

- s 45** amd 1995 No. 9 s 92 sch 1

**Ancillary works and encroachments**

- s 47** amd 1995 No. 9 s 92 sch 1; 1999 No. 42 s 54(3) sch pt 3

**Presumptions about advertising notices**

- s 48** ins 1995 No. 9 s 92 sch 1

**Alteration etc. of ancillary works and encroachments**

- s 49** amd 1995 No. 9 s 92 sch 1

**Offence for obtaining access contrary to subdivision or breaching condition**

- s 53** amd 1995 No. 9 s 92 sch 1

**PART 6—FRANCHISED ROADS**

- pt hdg** ins 1994 No. 49 s 5

**Objectives of part**

- s 65** ins 1994 No. 49 s 5

**Power to enter into road franchise agreements**

- s 66** ins 1994 No. 49 s 5

**Tabling of road franchise agreements**

s 67 ins 1994 No. 49 s 5

**Report on operation of part**s 68 prev s 68 ins 1994 No. 49 s 5  
om 1995 No. 32 s 10  
pres s 68 ins 1994 No. 49 s 5**Recovery of money**

s 69 ins 1994 No. 49 s 5

**Rateability of land**

s 70 ins 1994 No. 49 s 5

**Application of other provisions of this chapter**

s 71 ins 1994 No. 49 s 5

**Guarantees, undertakings and stamp duty**s 72 ins 1994 No. 49 s 5  
amd 1996 No. 54 s 9 sch**Franchised roads to be roads for other purposes**

s 73 ins 1994 No. 49 s 5

**CHAPTER 6—RAIL TRANSPORT INFRASTRUCTURE**

ch hdg ins 1995 No. 32 s 11

**PART 1—PRELIMINARY**

pt hdg ins 1995 No. 32 s 11

**Ways of achieving objectives**

s 74 ins 1995 No. 32 s 11

**Scope of chapter**s 75 prev s 75 om 1994 No. 49 s 3 sch 1  
AIA s 20A applies (see prev s 126(1))  
pres s 75 ins 1995 No. 32 s 11  
amd 1997 No. 66 s 38**PART 2—INVESTIGATING POTENTIAL RAIL CORRIDOR**pt hdg prev pt 2 hdg ins 1995 No. 32 s 11  
om 1998 No. 21 s 38  
pres pt 2 hdg ins 1998 No. 43 s 9**Purpose of pt 2**s 76 prev s 76 ins 1995 No. 32 s 11  
om 1998 No. 21 s 38  
pres s 76 ins 1998 No. 43 s 9**PART 3—ACCESS TO RAIL TRANSPORT INFRASTRUCTURE**pt hdg ins 1995 No. 32 s 11  
exp 1 July 1996 (see s 80)

**Definitions for pt 2**

- s 77** orig s 77 om 1994 No. 49 s 3 sch 1  
 AIA s 20A applies (see prev s 126(1))  
 prev s 77 ins 1995 No. 32 s 11  
 exp 1 July 1996 (see s 80)  
 pres s 77 ins 1998 No. 43 s 9

**How to apply for a rail feasibility investigator's authority**

- s 78** orig s 78 om 1994 No. 49 s 3 sch 1  
 AIA s 20A applies (see prev s 126(1))  
 prev s 78 ins 1995 No. 32 s 11  
 exp 1 July 1996 (see s 80)  
 pres s 78 ins 1998 No. 43 s 9

**Additional information for application**

- s 79** orig s 79 om 1994 No. 49 s 3 sch 1  
 AIA s 20A applies (see prev s 126(1))  
 prev s 79 ins 1995 No. 32 s 11  
 exp 1 July 1996 (see s 80)  
 pres s 79 ins 1998 No. 43 s 9

**Granting authority**

- s 79A** ins 1998 No. 43 s 9

**Rail feasibility investigator's authority**

- s 79B** ins 1998 No. 43 s 9

**What investigator must do before land is entered for the first time**

- s 79C** ins 1998 No. 43 s 9

**Investigator to issue associated person with identification**

- s 79D** ins 1998 No. 43 s 9

**Pretending to be an investigator etc.**

- s 79E** ins 1998 No. 43 s 9

**Investigator to take care in acting under authority**

- s 79F** ins 1998 No. 43 s 9

**Compensation payable by investigator**

- s 79G** ins 1998 No. 43 s 9

**PART 4—ACCREDITATION**

- pt hdg** ins 1995 No. 32 s 11

**Definition for pt 4**

- s 80** orig s 80 om 1994 No. 49 s 3 sch 1  
 AIA s 20A applies (see prev s 126(1))  
 prev s 80 ins 1995 No. 32 s 11  
 exp 1 July 1996 (see s 80)  
 pres s 80 ins 1998 No. 33 s 4

**Accreditation of managers and operators**

- s 81** ins 1995 No. 32 s 11

**Applications for accreditation**

- s 82** prev s 82 om 1994 No. 49 s 3 sch 1  
AIA s 20A applies (see prev s 126(1))  
pres s 82 ins 1995 No. 32 s 11

**Additional information for applications**

- s 83** ins 1995 No. 32 s 11

**Granting accreditation**

- s 84** prev s 84 om 1994 No. 49 s 3 sch 1  
AIA s 20A applies (see prev s 126(1))  
pres s 84 ins 1995 No. 32 s 11  
amd 1997 No. 66 s 39; 1998 No. 33 s 5

**Accreditation conditions**

- s 85** ins 1995 No. 32 s 11  
amd 1998 No. 33 s 6

**Requiring accreditation conditions to be complied with**

- s 86** prev s 86 om 1994 No. 49 s 3 sch 1  
pres s 86 ins 1995 No. 32 s 11

**Accreditation period**

- s 87** ins 1995 No. 32 s 11

**Amending accreditation conditions on application**

- s 88** ins 1995 No. 32 s 11  
amd 1997 No. 66 s 40

**Amending accreditation conditions without application**

- s 89** ins 1995 No. 32 s 11  
amd 1997 No. 66 s 41

**Suspending or cancelling accreditation**

- s 90** prev s 90 renum and reloc as s 129 1994 No. 32 s 12  
pres s 90 ins 1995 No. 32 s 11  
amd 1997 No. 66 s 42

**Immediate suspension of accreditation**

- s 91** ins 1995 No. 32 s 11  
amd 1997 No. 66 s 43

**Limited suspension of accreditation**

- s 92** prev s 92 ins 1994 No. 32 s 10  
exp 1 August 1994 (see prev s 92(3))  
AIA s 20A applies (see s 240(1))  
pres s 92 ins 1995 No. 32 s 11

**Surrender of accreditation**

- s 93** prev s 93 ins 1994 No. 32 s 10  
exp 1 July 1994 (see prev s 93(3))  
AIA s 20A applies (see s 240(1))  
pres s 93 ins 1995 No. 32 s 11

**PART 5—RAIL TRANSPORT INFRASTRUCTURE POWERS****pt hdg** ins 1995 No. 32 s 11**Division 1—Railway works****div hdg** ins 1998 No. 43 s 10**Application of div 1****s 93A** ins 1998 No. 43 s 10**Entering land for railway works etc.****s 94** ins 1995 No. 32 s 11**Entry to land by notice or with approval****s 95** ins 1995 No. 32 s 11**Care to be taken in carrying out works etc.****s 96** ins 1995 No. 32 s 11**Compensation for carrying out works etc.****s 97** ins 1995 No. 32 s 11**Watercourses****s 98** ins 1995 No. 32 s 11**Division 2—Other powers****div hdg** ins 1998 No. 43 s 11**Power to require works to stop****s 99** prev s 99 ins 1994 No. 38 s 24  
om 1995 No. 32 s 13  
pres s 99 ins 1995 No. 32 s 11**Closing railway crossings****s 100** prev s 100 ins 1994 No. 32 s 10  
exp 1 August 1994 (see prev s 100(2))  
AIA s 20A applies (see s 240(1))  
prev s 100 ins 1994 No. 32 s 5  
om 1995 No. 32 s 13  
pres s 100 ins 1995 No. 32 s 11**PART 6—RAILWAY INCIDENTS****pt hdg** ins 1995 No. 32 s 11**Division 1—Report of railway incident****div hdg** ins 1995 No. 32 s 11**Reporting serious incidents****s 101** ins 1995 No. 32 s 11**Request for report or incident details****s 102** ins 1995 No. 32 s 11  
amd 1995 No. 57 s 4 sch 1**Division 2—Investigation of railway incident****div hdg** ins 1995 No. 32 s 11

**Investigations by authorised person****s 103** ins 1995 No. 32 s 11**Power of authorised person to investigate incident****s 104** ins 1995 No. 32 s 11**False or misleading statements****s 105** ins 1995 No. 32 s 11**False, misleading or incomplete documents****s 106** ins 1995 No. 32 s 11**Obstructing authorised person****s 107** ins 1995 No. 32 s 11**Impersonating authorised person****s 108** ins 1995 No. 32 s 11**Compensation****s 109** prev s 109 ins 1994 No. 32 s 10  
exp 1 July 1994 (see prev s 109(2))  
AIA s 20A applies (see s 240(1))  
pres s 109 ins 1995 No. 32 s 11**Leases and licences under s 64 of Harbours Act****s 109A** ins 1994 No. 43 s 143 sch 3  
exp 1 October 1994 (see s 109A(2))  
AIA s 20A applies (see s 109A(3))**Leases and licences under s 196 of Harbours Act****s 109B** ins 1994 No. 43 s 143 sch 3  
exp 1 October 1994 (see s 109B(2))  
AIA s 20A applies (see s 109B(3))**Division 3—Boards of inquiry****div hdg** ins 1995 No. 32 s 11**Subdivision 1—General****sdiv hdg** ins 1995 No. 32 s 11**Minister may establish or re-establish boards of inquiry****s 110** prev s 110 ins 1994 No. 32 s 10  
exp 1 July 1994 (see prev s 110(2))  
AIA s 20A applies (see s 240(1))  
pres s 110 ins 1995 No. 32 s 11**Role of board of inquiry****s 111** prev s 111 ins 1994 No. 32 s 10  
exp 1 October 1994 (see prev s 111(3))  
AIA s 20A applies (see s 240(1))  
pres s 111 ins 1995 No. 32 s 11**Conditions of appointment****s 112** ins 1995 No. 32 s 11

**Chief executive to arrange for services of staff and financial matters for board of inquiry**

s 113 ins 1995 No. 32 s 11

**Authorised person may exercise powers for board's inquiry**

s 114 ins 1995 No. 32 s 11

**Subdivision 2—Conduct of inquiry**

sdiv hdg ins 1995 No. 32 s 11

**Procedure**

s 115 ins 1995 No. 32 s 11

**Notice of inquiry**

s 116 ins 1995 No. 32 s 11

**Inquiry to be held in public other than in special circumstances**

s 117 ins 1995 No. 32 s 11

**Protection of members, legal representatives and witnesses**

s 118 prev s 118 ins 1994 No. 49 s 3 sch 1  
 exp 18 May 1995 (see prev s 118(2))  
 AIA s 20A applies (see prev s 126(1))  
 pres s 118 ins 1995 No. 32 s 11

**Record of proceedings to be kept**

s 119 ins 1995 No. 32 s 11

**Procedural fairness and representation**

s 120 ins 1995 No. 32 s 11

**Board's powers on inquiry**

s 121 ins 1995 No. 32 s 11

**Notice to witness**

s 122 ins 1995 No. 32 s 11

**Inspection of documents or things**

s 123 ins 1995 No. 32 s 11

**Inquiry may continue despite court proceedings unless otherwise ordered**

s 124 ins 1995 No. 32 s 11

**Offences by witnesses**

s 125 ins 1995 No. 32 s 11

**Self-incrimination**

s 126 prev s 126 ins 1994 No. 49 s 3 sch 1  
 exp 18 May 1995 (see prev s 126(2))  
 pres s 126 ins 1995 No. 32 s 11

**Permissions to extend roads etc.**

s 126H ins 1995 No. 32 s 16  
 exp 1 July 1995 (see s 126H(3))  
 AIA s 20A applies (see s 126H(2))

**Numbering and renumbering of Act**

**s 126O** ins 1995 No. 32 s 16  
om R4 (see RA s 37)

**False or misleading statements**

**s 127** ins 1995 No. 32 s 11

**False, misleading or incomplete documents**

**s 128** ins 1995 No. 32 s 11

**Contempt of board**

**s 129** orig s 129 (prev s 90) renum and reloc as s 132 1994 No. 43 s 143 sch 3  
prev s 129 ins 1994 No. 32 s 10  
(1), (3)–(4) exp 1 August 1994 (see prev s 94(4))  
(1)–(2) exp 20 June 1995 (see prev s 129(2), 1994 SL No. 252 s 53(1) as  
ins 1995 SL No. 215 s 3)  
AIA s 20A applies (see s 240(1))  
pres s 129 ins 1995 No. 32 s 11

**Change of membership of board**

**s 130** prev s 130 ins 1994 No. 32 s 10  
exp 1 July 1995 (see prev s 130(2))  
AIA s 20A applies (see s 240(1))  
pres s 130 ins 1995 No. 32 s 11

**PART 7—LAND FOR RAILWAY PURPOSES**

**pt hdg** ins 1995 No. 32 s 11

**Lease of land to railway managers**

**s 131** ins 1995 No. 32 s 11  
sub 1997 No. 66 s 44  
amd 1998 No. 33 s 7

**Numbering and renumbering**

**s 131A** ins 1994 No. 49 s 3 sch 1  
om R3 (see RA s 37)

**PART 4—AMENDMENTS OF OTHER ACTS**

**pt hdg** prev pt 4 hdg (prev pt 2 hdg) renum 1994 No. 32 s 11  
om R3 (see RA s 37)

**Status of railway land**

**s 132** (prev s 129) renum and reloc 1994 No. 43 s 143 sch 3  
om R3 (see RA s 40)  
pres s 132 ins 1995 No. 32 s 11  
amd 1998 No. 33 s 8

**Application of Queensland Heritage Act**

**s 133** ins 1995 No. 32 s 11

**Existing rail transport infrastructure on land**

**s 134** ins 1995 No. 32 s 11  
amd 1997 No. 66 s 45

**Existing buildings on land**

- s 135** prev s 135 ins 1994 No. 32 s 10  
 exp 20 June 1995 (see prev s 135(3), 1994 SL No. 252 s 53(1) as ins 1995  
 SL No. 215 s 3)  
 AIA s 20A applies (see s 240(1))  
 pres s 135 ins 1995 No. 32 s 11

**Railway works on corridor land**

- s 136** prev s 136 ins 1995 No. 32 s 11  
 amd 1996 No. 74 s 10  
 om 1998 No. 13 s 191 sch  
 pres s 136 ins 1998 No. 33 s 9

**PART 8—GENERAL**

- pt hdg** ins 1995 No. 32 s 11

**Queensland Rail not a common carrier**

- s 137** ins 1995 No. 32 s 11

**Carrying dangerous goods**

- s 138** ins 1995 No. 32 s 11

**Altering road levels**

- s 139** ins 1995 No. 32 s 11

**Maintaining roads crossing railways**

- s 140** ins 1995 No. 32 s 11  
 amd 1997 No. 66 s 46

**No presumption of dedication of roads**

- s 141** ins 1995 No. 32 s 11

**Extending roads through or over rail corridor land**

- s 142** ins 1995 No. 32 s 11  
 sub 1997 No. 66 s 47

**Level crossings**

- s 143** prev s 143 ins 1994 No. 32 s 10  
 exp 1 July 1995 (see prev s 143(4))  
 AIA s 20A applies (see s 240(1))  
 pres s 143 ins 1995 No. 32 s 11

**Interfering with railway**

- s 144** ins 1995 No. 32 s 11  
 amd 1997 No. 66 s 48

**Rectifying unauthorised interference**

- s 145** ins 1995 No. 32 s 11

**Trespassing on railway**

- s 146** ins 1995 No. 32 s 11

**Power to arrest**

- s 147** ins 1995 No. 32 s 11

**Impact of certain decisions by local governments on railways**

s 148 ins 1995 No. 32 s 11

**Fencing new railways**

s 149 ins 1995 No. 32 s 11

**Works for existing railways**

s 150 ins 1995 No. 32 s 11

**Non-accredited railways**s 151 ins 1995 No. 32 s 11  
amd 1997 No. 66 s 49**Application of Land Act 1994**

s 152 ins 1995 No. 32 s 11

**CHAPTER 7—PORT INFRASTRUCTURE**

ch hdg ins 1994 No. 32 s 5

**PART 1—PRELIMINARY**

pt hdg ins 1994 No. 32 s 5

**Definitions for chapter**

prov hdg sub 1995 No. 32 s 12

s 153 ins 1994 No. 32 s 5  
def “candidate GOC” om 1995 No. 9 s 92 sch 1  
def “GOC” om 1995 No. 9 s 92 sch 1  
def “notice” om 1995 No. 9 s 92 sch 1  
def “vehicle” om 1995 No. 57 s 4 sch 1**PART 2—CONTINUATION, ESTABLISHMENT AND ABOLITION OF PORT  
AUTHORITIES**

pt hdg ins 1994 No. 32 s 5

**Continuation of port authorities**

s 154 ins 1994 No. 32 s 5

**Establishment of new port authority**

s 155 ins 1994 No. 32 s 5

**Abolition of port authority**

s 156 ins 1994 No. 32 s 5

**Transfer of management of a port**

s 157 ins 1994 No. 32 s 5

**Division 3—Transition of references about railways**div hdg prev div 3 hdg ins 1994 No. 32 s 10  
om 1995 No. 32 s 18**Regulation may make transitional arrangement**s 158 prev s 158 ins 1994 No. 32 s 10  
om 1995 No. 32 s 18  
pres s 158 ins 1994 No. 32 s 5

**Management of port by State or local government**

- s 159** prev s 158 ins 1994 No. 32 s 10  
om 1995 No. 32 s 18  
pres s 159 ins 1994 No. 32 s 5

**Regulation may define port limits etc.**

- s 160** prev s 160 ins 1994 No. 32 s 10  
om 1995 No. 32 s 18  
pres s 160 ins 1994 No. 32 s 5

**PART 3—FUNCTIONS AND POWERS OF PORT AUTHORITIES**

- pt hdg** ins 1994 No. 32 s 5

**Functions of port authorities**

- s 161** prev s 161 ins 1994 No. 32 s 10  
om 1995 No. 32 s 18  
pres s 161 ins 1994 No. 32 s 5

**Division 4—General**

- div hdg** prev div 4 hdg ins 1994 No. 32 s 10  
om 1995 No. 9 s 92 sch 1

**Powers of port authorities subject to Marine Safety Act**

- s 162** prev s 162 ins 1994 No. 32 s 10  
om 1995 No. 9 s 92 sch 1  
pres s 162 ins 1994 No. 32 s 5

**Powers of port authorities**

- s 163** ins 1994 No. 32 s 5

**Additional powers**

- s 164** ins 1994 No. 32 s 5  
amd 1994 No. 43 s 143 sch 3

**Power to impose charges**

- s 165** ins 1994 No. 32 s 5

**Copies of additional functions or powers to be available**

- s 166** ins 1994 No. 32 s 5

**Liability for charges**

- s 167** ins 1994 No. 32 s 5

**Liability for damage**

- s 168** ins 1994 No. 32 s 5

**PART 4—LAND MANAGEMENT**

- pt hdg** ins 1994 No. 32 s 5

**Division 1—Strategic port land**

- div hdg** ins 1994 No. 32 s 5

**Land use plans**

- s 169** ins 1994 No. 32 s 5

**Consultation on land use plans**

s 170 ins 1994 No. 32 s 5

**Approval of land use plans**

s 171 pres s 90 ins 1994 No. 32 s 5

**Strategic port land not subject to zoning requirements**s 172 ins 1994 No. 32 s 5  
amd 1998 No. 13 s 191 sch  
sub 1998 No. 31 s 87**Use of strategic port land to be consistent with approved land use plan**

s 173 ins 1994 No. 32 s 5

**Division 2—General**

div hdg ins 1994 No. 32 s 5

**Restrictions on dealing in property**

s 174 ins 1994 No. 32 s 5

**PART 5—GENERAL**

pt hdg ins 1994 No. 32 s 5

**Protection from liability**

s 175 ins 1994 No. 32 s 5

**Carrying on port activities outside port limits**

s 176 ins 1994 No. 32 s 5

**Offences**

s 177 ins 1994 No. 32 s 5

**Payment of charges and interest on unpaid charges**

s 178 ins 1994 No. 32 s 5

**Transitional provisions applying in relation to port authorities that are candidate GOCs**s 179 ins 1994 No. 32 s 5  
amd 1994 No. 43 s 143 sch 3**Notices at entrances**

s 180 ins 1994 No. 32 s 5

**CHAPTER 8—MISCELLANEOUS TRANSPORT INFRASTRUCTURE**ch hdg prev ch 7 hdg renum as ch 8 hdg 1995 No. 9 s 92 sch 1  
pres ch 7 hdg ins 1995 No. 9 s 92 sch 1**PART 1—PRELIMINARY**

pt hdg ins 1998 No. 43 s 12

**Definitions for ch 8**prov hdg sub 1998 No. 43 s 13(1)  
s 181 ins 1995 No. 9 s 92 sch 1  
def “**approval**” ins 1998 No. 43 s 13(3)  
def “**approval conditions**” ins 1998 No. 43 s 13(3)  
def “**dispute notice**” ins 1998 No. 43 s 13(3)

def “**intersecting area**” ins 1998 No. 43 s 13(3)

def “**licence**” ins 1995 No. 9 s 92 sch 1

om 1998 No. 43 s 13(2)

def “**licensee**” ins 1995 No. 9 s 92 sch 1

sub 1998 No. 43 s 13(2)–(3)

def “**miscellaneous transport infrastructure works**” ins 1995 No. 9 s 92 sch 1

reloc to sch 3 1998 No. 43 s 13(4)

def “**operational licence**” ins 1998 No. 43 s 13(3)

def “**required land**” ins 1995 No. 9 s 92 sch 1

def “**responsible entity**” ins 1998 No. 43 s 13(3)

**Meaning of “miscellaneous transport infrastructure”**

**s 181A** ins 1998 No. 43 s 14

**PART 2—OPERATIONAL LICENCES AND APPROVALS FOR LICENSEES**

**pt hdg** ins 1998 No. 43 s 15

**Division 1—Definitions**

**div hdg** ins 1998 No. 43 s 15

**Definition for pt 2**

**s 181B** ins 1998 No. 43 s 15

def “**Minister**” ins 1998 No. 43 s 15

**Division 2—Granting operational licences**

**div hdg** ins 1998 No. 43 s 16

**Minister may grant operational licence**

**prov hdg** sub 1998 No. 43 s 17

**s 182** ins 1995 No. 9 s 92 sch 1

**Division 3—Approvals for licensees for intersecting areas**

**div hdg** ins 1998 No. 43 s 18

**Purpose and scope of div 3**

**s 182A** ins 1998 No. 43 s 18

**Approvals**

**s 182B** ins 1998 No. 43 s 18

**Refusal to grant approval**

**s 182C** ins 1998 No. 43 s 18

**Licensee may apply to Minister if approval not granted**

**s 182D** ins 1998 No. 43 s 18

**Division 4—Conditions for approvals**

**div hdg** ins 1998 No. 43 s 18

**Approval conditions**

**s 182E** ins 1998 No. 43 s 18

**Notice of approval conditions**

**s 182F** ins 1998 No. 43 s 18

**Division 5—Arbitration of approval conditions****div hdg** ins 1998 No. 43 s 18**Notice of dispute****s 182G** ins 1998 No. 43 s 18**Appointment of arbitrator****s 182H** ins 1998 No. 43 s 18**Arbitrator's functions****s 182I** ins 1998 No. 43 s 18**Arbitrator's powers****s 182J** ins 1998 No. 43 s 18**Hearing procedures****s 182K** ins 1998 No. 43 s 18**Effect of arbitrator's decisions****s 182L** ins 1998 No. 43 s 18**Division 6—Miscellaneous****div hdg** ins 1998 No. 43 s 18**Miscellaneous transport infrastructure remains property of licensee****s 182M** ins 1998 No. 43 s 18**Compensation to responsible entity from licensee****s 182N** ins 1998 No. 43 s 18**PART 3—AUTHORITIES TO OCCUPY AND USE LAND****pt hdg** ins 1998 No. 43 s 18**Temporary use and occupation of land****s 183** ins 1995 No. 9 s 92 sch 1**Notice of entry or permission to enter****s 184** ins 1995 No. 9 s 92 sch 1**Compensation for physical damage from entry etc.****s 185** ins 1995 No. 9 s 92 sch 1**PART 4—POWERS OF CHIEF EXECUTIVE OVER REQUIRED LAND****pt hdg** ins 1998 No. 43 s 19**Chief executive may grant interests in land****s 186** ins 1995 No. 9 s 92 sch 1  
amd 1998 No. 43 s 20**PART 5—MISCELLANEOUS****pt hdg** ins 1998 No. 43 s 21**Effect of chapter on other Acts****s 187** ins 1995 No. 9 s 92 sch 1**CHAPTER 8A—FUNCTION OF QUEENSLAND RAIL****ch hdg** ins 1998 No. 21 s 39

**Function**

**s 187A** ins 1998 No. 21 s 39

**Recovery of amounts payable to the chief executive**

**s 188** sub 1999 No. 11 s 29

**Power to require information from local governments**

**s 189** amd 1999 No. 11 s 30

**Approval of forms**

**s 190A** ins 1998 No. 43 s 22

**CHAPTER 9—GENERAL PROVISIONS**

**ch hdg** prev ch 8 hdg renum as ch 9 hdg 1995 No. 9 s 92 sch 1  
pres ch 8 hdg (prev ch 7 hdg) renum 1995 No. 9 s 92 sch 1

**Disposal of fees, penalties etc.**

**s 191** amd 1997 No. 66 s 50

**No need to prove appointments**

**s 192** ins 1995 No. 32 s 14

**Prosecutions for railway offences**

**s 193** ins 1995 No. 32 s 14

**Proceedings for offences**

**s 194** ins 1994 No. 32 s 6

**Attempts to commit offences**

**s 195** ins 1994 No. 32 s 6

**Review of and appeals against decisions**

**s 196** sub 1997 No. 66 s 51

**Time for making appeals**

**s 197** om 1997 No. 66 s 51

**Procedure of Planning and Environment Court**

**s 198** om 1997 No. 66 s 51

**Application of Freedom of Information Act and Judicial Review Act**

**s 199** ins 1995 No. 32 s 15

**CHAPTER 10—SAVINGS AND TRANSITIONAL PROVISIONS, AMENDMENTS AND REPEALS**

**ch 10 hdg** (prev ch 8 hdg) amd 1994 No. 32 s 7  
renum 1995 No. 9 s 92 sch 1

**PART 1—SAVINGS AND TRANSITIONAL PROVISIONS ABOUT ROADS**

**pt hdg** amd 1994 No. 32 s 8

**Definition**

**prov hdg** amd 1994 No. 32 s 9(1)

**s 201** amd 1994 No. 32 s 9(2)

def “**corporation**” amd 1994 No. 43 s 143 sch 3

**State-controlled roads**

- s 202** prev (1) om 1994 No. 49 s 3 sch 1  
 AIA s 20A applies to prev (1) (see prev s 126(1))  
 pres (1)–(2) exp 18 November 1995 (see s 202(2))

**Access to and from State-controlled roads**

- s 203** amd 1994 No. 49 s 3 sch 1  
 exp 18 November 1996 (see s 203(5))  
 (1)–(3) AIA s 20A applies (see s 203(4))

**Motorways**

- s 204** amd 1994 No. 49 s 3 sch 1  
 exp 18 November 1996 (see s 204(3))  
 (1) AIA s 20A applies (see s 204(2))

**Notices to local governments**

- s 205** amd 1994 No. 49 s 3 sch 1  
 exp 18 November 1996 (see s 205(2))

**Naturally occurring materials**

- s 206** amd 1994 No. 49 s 3 sch 1  
 exp 18 November 1996 (see s 206(2))  
 AIA s 20A applies (see prev s 126(1))

**Temporary occupation and use of land**

- s 207** amd 1994 No. 49 s 3 sch 1  
 exp 18 November 1995 (see s 207(4))

**Things done where chief executive now has power**

- s 208** amd 1994 No. 49 s 3 sch 1  
 exp 18 November 1996 (see s 208(2))

**Legal proceedings**

- s 209** amd 1994 No. 49 s 3 sch 1  
 exp 18 November 1996 (see s 209(2)–(3))

**Land acquisitions and related transactions**

- s 210** amd 1994 No. 49 s 3 sch 1  
 exp 18 November 1996 (see s 210(3)–(4))

**Delegations**

- s 211** amd 1994 No. 49 s 3 sch 1  
 exp 18 November 1996 (see s 211(3))

**Preparation of first implementation programs**

- s 212** amd 1994 No. 49 s 3 sch 1  
 exp 18 November 1996 (see s 212(2))

**Existing franchised road**

- s 213** ins 1994 No. 49 s 3 sch 1  
 exp 18 November 1995 (see s 213(5))

**PART 2—SAVINGS AND TRANSITIONAL PROVISIONS ABOUT RAILWAYS**

- pt hdg** ins 1995 No. 32 s 16

**Division 1—Provisions about land****div hdg** ins 1995 No. 32 s 16**Existing rail corridor land****s 214** ins 1995 No. 32 s 16  
amd 1997 No. 66 s 52  
exp 1 July 2002 (see s 218(2))  
AIA s 20A applies (see s 218(1))**Boundary identification etc.****s 215** ins 1995 No. 32 s 16  
exp 1 July 2002 (see s 218(2))  
AIA s 20A applies (see s 218(1))**Effect of land becoming unallocated State land****s 216** ins 1995 No. 32 s 16  
exp 1 July 2002 (see s 218(2))  
AIA s 20A applies (see s 218(1))**Exemption from fees****s 217** ins 1995 No. 32 s 16  
exp 1 July 2002 (see s 218(2))  
AIA s 20A applies (see s 218(1))**Expiry of division etc.****s 218** ins 1995 No. 32 s 16  
exp 1 July 2002 (see s 218(2))  
AIA s 20A applies (see s 218(1))**Division 2—Other provisions****div hdg** ins 1995 No. 32 s 16**Interim accreditation****s 219** ins 1995 No. 32 s 16  
exp 1 July 1997 (see s 219(6)–(7))**Advertising on railway land****s 220** ins 1995 No. 32 s 16  
exp 1 July 2000 (see s 220(4))**Continuation of Transport Infrastructure (Railways) Act 1991, ss 49 and 51****s 221** ins 1995 No. 32 s 16  
exp 1 July 2000 or on a date not later than 1 July 2002 prescribed by regulation made before 1 July 2000 (see s 221(4)–(5))**Continuation of Transport Infrastructure (Railways) Act 1991, ss 47, 48 and 50****s 222** ins 1995 No. 32 s 16  
exp 1 July 2000 or on an earlier date prescribed by regulation (see s 222(5))**Existing contracts****s 223** ins 1995 No. 32 s 16  
exp 1 July 2002 (see s 223(3))  
AIA s 20A applies (see s 223(2))

**Existing transaction documents**

- s 224** ins 1995 No. 32 s 16  
exp 1 July 2002 (see s 224(9))  
 AIA s 20A applies (see s 224(5))

**Existing regulations**

- s 225** ins 1995 No. 32 s 16  
 amd 1995 No. 48 s 11  
 exp 22 November 1996 (see s 225(4))

**Transitional regulations**

- s 226** ins 1995 No. 32 s 16  
 exp 1 July 1996 (see s 226(3))

**PART 3—SAVINGS AND TRANSITIONAL PROVISIONS ABOUT PORTS**

- pt hdg** prev pt 2 hdg renum as pt 4 hdg 1994 No. 32 s 11  
 pres pt 2 hdg ins 1994 No. 32 s 10

**Definitions**

- s 227** ins 1994 No. 32 s 10  
 amd 1996 No. 13 s 57  
 prev s 227 exp 1 July 1997 (see s 227(2))  
 AIA s 20A applies (see s 240(1))  
 pres s 227 ins 1998 No. 23 s 4  
 def “**1986 permit**” ins 1998 No. 23 s 4  
 def “**1992 permit**” ins 1998 No. 23 s 4  
 def “**1994–95 permit**” ins 1998 No. 23 s 4  
 def “**1996–97 permit**” ins 1998 No. 23 s 4  
 def “**permit**” ins 1998 No. 23 s 4

**Continuation of harbours under Harbours Act or port under Port of Brisbane Authority Act etc.**

- s 228** ins 1994 No. 32 s 10  
 amd 1996 No. 13 s 57; 1997 No. 9 s 84; 1998 No. 33 s 10; 1999 No. 24 s 2(2) sch  
exp 1 July 2000 or on an earlier date prescribed by regulation (see s 228(3))  
 AIA s 20A applies (see s 240(1))

**Management of certain boat harbours**

- s 229** ins 1994 No. 32 s 10  
 amd 1996 No. 13 s 57  
 exp 1 July 1997 (see s 229(2))  
 AIA s 20A applies (see s 240(1))

**Harbour and industrial lands**

- s 230** ins 1994 No. 32 s 10  
 amd 1996 No. 13 s 57  
 exp 1 July 1997 (see s 230(5))  
 AIA s 20A applies (see s 240(1))

**Submission of land use plans**

- s 231** ins 1994 No. 32 s 10  
 amd 1996 No. 13 s 57  
 exp 1 July 1997 (see s 231(3))  
 AIA s 20A applies (see s 240(1))

**Harbours Corporation of Queensland**

- s 232** ins 1994 No. 32 s 10  
 amd 1996 No. 13 s 57; 1997 No. 9 s 85; 1998 No. 33 s 11; 1999 No. 24  
 s 2(2) sch  
exp 1 July 2000 or on an earlier date prescribed by regulation (see  
 s 232(8))  
 AIA s 20A applies (see s 240(1))

**Continuation of certain by-laws and provisions of Harbours Act**

- prov hdg** sub 1998 No. 23 s 5(1)
- s 233** ins 1994 No. 32 s 10  
 amd 1994 No. 43 s 143 sch 3; 1996 No. 13 s 57; 1997 No. 9 s 86; 1998  
 No. 23 s 5(2)–(3); 1998 No. 33 s 12; 1999 No. 11 s 31  
exp 31 December 2000 or on an earlier date prescribed by regulation (see  
 s 233(9))  
 AIA s 20A applies (see s 240(1))

**Validation of permits issued for Mackay Harbour**

- s 233A** ins 1998 No. 23 s 6  
 exp 15 May 1998 (see s 233A(4))

**Certain persons taken to have permits for Mackay Harbour**

- s 233B** ins 1998 No. 23 s 6  
 exp 15 May 1998 (see s 233B(3))

**Certain persons taken to have had permits for Brisbane River under By-law No. 2, 1994**

- s 233C** ins 1998 No. 23 s 6  
 exp 15 May 1998 (see 233C(5))

**Certain persons taken to have had permits for brisbane River under Port of Brisbane Sand and Gravel By-law 1992**

- s 233D** ins 1998 No. 23 s 6  
 exp 15 May 1998 (see s 233D(4))

**Certain persons taken to have permits for Brisbane River under Marine Land Dredging By-law 1987**

- s 233E** ins 1998 No. 23 s 6  
 exp 15 May 1998 (see s 233E(4))

**Survey and supervision cost to be retained by Port of Brisbane Corporation**

- s 233F** ins 1998 No. 23 s 6  
 exp 15 May 1998 (see s 233F(2))

**Continuation of certain provisions of Harbours Act about land**

- s 234** ins 1994 No. 32 s 10  
 amd 1994 No. 81 s 527 sch 5; 1996 No. 13 s 57  
 exp 1 July 1997 (see s 234(4))  
 AIA s 20A applies (see s 240(1))

**Continuation of certain provisions of Harbours Act about jetties and ramps etc.**

- s 235** ins 1994 No. 32 s 10  
 amd 1994 No. 43 s 143 sch 3; 1996 No. 13 s 57; 1997 No. 9 s 87; 1998  
 No. 33 s 13; 1999 No. 24 s 2(2) sch  
exp 1 July 2000 or on an earlier date prescribed by regulation (see  
s 235(5))  
 (3) exp 1 July 1997 (see s 235(5A))  
 AIA s 20A applies (see s 240(1))

**Continuation of certain provisions of Harbours Act requiring approval for certain matters**

- s 236** ins 1994 No. 32 s 10  
 amd 1995 No. 41 s 105 sch 1; 1997 No. 9 s 88; 1998 No. 23 s 7; 1999  
 No. 11 s 32  
exp 31 December 2000 or on an earlier date prescribed by regulation (see  
s 236(8))  
 AIA s 20A applies (see s 240(1))

**Continuation of certain provisions of Harbours Act about Queensland Sugar Corporation**

- s 237** ins 1994 No. 32 s 10  
 amd 1996 No. 13 s 56  
 exp 31 October 1996 (see s 237(4))  
 AIA s 20A applies (see s 240(1))

**Continuation of s 62A of Harbours Act**

- s 238** ins 1994 No. 32 s 10  
 amd 1996 No. 13 s 57  
 exp 1 July 1997 (see s 238(3))  
 AIA s 20A applies (see s 240(1))

**Continuation of pt 5, div 2 of Port of Brisbane Authority Act**

- s 239** ins 1994 No. 32 s 10  
exp on a date to be fixed by regulation (see s 239(3))  
 AIA s 20A applies (see s 240(1))

**Application of Acts Interpretation Act, s 20A to this part**

- s 240** ins 1994 No. 32 s 10  
 amd 1996 No. 13 s 57; 1997 No. 9 s 89; 1998 No. 33 s 14; 1999 No. 24  
 s 2(2) sch  
exp 1 July 2000 (see s 240(2))  
 AIA s 20A applies (see s 240(1))

**PART 4—GENERAL SAVINGS AND TRANSITIONAL PROVISIONS**

- pt hdg** ins 1994 No. 32 s 10

**Division 1—Transition of references about roads**

**div hdg** ins 1994 No. 32 s 10

**Application of division**

**s 241** ins 1994 No. 32 s 10

**Transport Infrastructure (Roads) Act 1991 references**

**s 242** ins 1994 No. 32 s 10  
amd 1995 No. 9 s 92 sch 1

**Main Roads Act 1920 references**

**s 243** ins 1994 No. 32 s 10  
sub 1995 No. 9 s 92 sch 1; 1995 No. 57 s 4 sch 1

**Commissioner of Main Roads references**

**s 244** ins 1994 No. 32 s 10

**Declared road references**

**s 245** ins 1994 No. 32 s 10

**Motorway references**

**s 246** ins 1994 No. 32 s 10

**Main Roads Fund references**

**s 247** ins 1994 No. 32 s 10

**Division 2—Transition of references about railways**

**div hdg** ins 1995 No. 32 s 17

**Application of division**

**s 248** ins 1995 No. 32 s 17

**Railways Act 1914 references**

**s 249** ins 1995 No. 32 s 17

**Transport Infrastructure (Railways) Act 1991 references**

**s 250** ins 1995 No. 32 s 17

**Commissioner for railways references**

**s 251** ins 1995 No. 32 s 17

**Railways Department references**

**s 252** ins 1995 No. 32 s 17

**Queensland Railways references**

**s 253** ins 1995 No. 32 s 17

**Division 3—Transition of references about ports**

**div hdg** ins 1994 No. 32 s 10

**Application of division**

**s 254** ins 1994 No. 32 s 10

**Harbours Act 1955 and Port of Brisbane Authority Act 1976 references**

**s 255** ins 1994 No. 32 s 10

**Harbour board references**

**s 256** ins 1994 No. 32 s 10

**Harbour references**

s 257 ins 1994 No. 32 s 10

**Harbours Corporation and Harbours Trust references**

s 258 ins 1994 No. 32 s 10

**Gold Coast Waterways Authority references**

s 259 ins 1994 No. 32 s 10

**PART 5—TRANSITIONAL PROVISIONS FOR TRANSPORT LEGISLATION  
AMENDMENT ACT 1998**pt hdg ins 1998 No. 33 s 15  
exp 23 September 1998**Division 4—Transition of forms**

div hdg ins 1998 No. 43 s 23

**Transitional provision about forms**s 260 prev s 260 ins 1998 No. 33 s 15  
exp 23 September 1998  
pres s 260 ins 1998 No. 43 s 23  
exp 27 May 1999 (see s 260(3))**Division 5—Transitional provisions about the Integrated Planning Act 1997**

div hdg ins 1999 No. 11 s 33

**Continuing application of previous provisions to non-IDAS applications**s 261 ins 1999 No. 11 s 33**Applications for approval of subdivisions, rezoning or development**s 262 ins 1999 No. 11 s 33**SCHEDULE 1—SUBJECT MATTER FOR REGULATIONS**amd 1994 No. 49 s 3 sch 1; 1995 No. 9 s 92 sch 1; 1995 No. 32 s 19; 1997  
No. 66 s 53; 1998 No. 43 s 24**SCHEDULE 2—APPEALS**amd 1994 No. 49 s 3 sch 1; 1995 No. 32 s 20; 1999 No. 11 s 34**SCHEDULE 3—DICTIONARY**prev sch 3 amd R1 (see RA s 40); 1994 No. 32 s 13  
om R3 (see RA s 40)  
pres sch 3 ins 1995 No. 9 s 92 sch 1  
def “**accredited person**” ins 1995 No. 32 s 21(2)  
def “**alter**” ins 1995 No. 32 s 21(2)  
def “**amusement railway**” ins 1997 No. 66 s 54(1)  
def “**ancillary works and encroachments**” ins 1995 No. 9 s 92 sch 1  
def “**approval**” ins 1998 No. 43 s 25(2)  
def “**approval conditions**” ins 1998 No. 43 s 25(2)  
def “**approved means of access**” ins 1995 No. 9 s 92 sch 1  
def “**associated person**” ins 1998 No. 43 s 25(2)  
def “**authorised person**” ins 1995 No. 32 s 21(2)  
def “**authority**” ins 1998 No. 43 s 25(2)  
def “**candidate GOC**” ins 1995 No. 9 s 92 sch 1

- def **“carry out”** ins 1995 No. 32 s 21(2)
- def **“charge”** ins 1995 No. 9 s 92 sch 1
- def **“commercial corridor land”** ins 1995 No. 32 s 21(2)
- def **“competition principles”** ins 1995 No. 32 s 21(2)
- def **“construction”** ins 1995 No. 9 s 92 sch 1
- def **“coordination plan”** reloc from s 4 1995 No. 9 s 92 sch 1
- def **“corporate plan”** ins 1995 No. 9 s 92 sch 1
- def **“dispute notice”** ins 1998 No. 43 s 25(2)
- def **“existing rail corridor land”** ins 1995 No. 32 s 21(2)
- def **“franchised road”** prev def ins 1995 No. 9 s 92 sch 1  
om R4 (see RA s 5(d))  
pres def ins 1994 No. 49 s 4  
reloc from s 20 1995 No. 32 s 9(4)
- def **“franchisee”** prev def ins 1995 No. 9 s 92 sch 1  
om R4 (see RA s 5(d))  
pres def ins 1994 No. 49 s 4  
reloc from s 20 1995 No. 32 s 9(4)
- def **“future railway land”** ins 1995 No. 32 s 21(2)
- def **“GOC”** ins 1995 No. 9 s 92 sch 1
- def **“government supported transport infrastructure”** reloc from s 4  
1995 No. 9 s 92 sch 1
- def **“interference with”** ins 1995 No. 32 s 21(2)
- def **“intersecting area”** ins 1998 No. 43 s 25(2)
- def **“investigator”** ins 1998 No. 43 s 25(2)
- def **“land”** ins 1995 No. 9 s 92 sch 1  
amd 1995 No. 32 s 21(3); 1998 No. 43 s 25(3)
- def **“licensee”** ins 1998 No. 43 s 25(2)
- def **“local government”** ins 1995 No. 9 s 92 sch 1
- def **“local government road”** reloc from s 20 1995 No. 32 s 9(4)
- def **“maintenance”** prev def ins 1995 No. 9 s 92 sch 1  
om R4 (see RA s 5(d))  
pres def ins 1995 No. 32 s 21(2)  
amd 1998 No. 43 s 25(4)
- def **“means of access”** ins 1995 No. 9 s 92 sch 1
- def **“miscellaneous transport infrastructure”** ins 1995 No. 9 s 92 sch 1  
sub 1998 No. 43 s 25(1)–(2)
- def **“miscellaneous transport infrastructure works”** reloc from s 181  
1998 No. 43 s 13(4)
- def **“motorway”** prev def ins 1995 No. 9 s 92 sch 1  
om R4 (see RA s 5(d))  
pres def reloc from s 20 1995 No. 32 s 9(4)
- def **“new rail corridor”** ins 1995 No. 32 s 21(2)
- def **“non-rail corridor land”** ins 1995 No. 32 s 21(2)
- def **“notice”** ins 1995 No. 9 s 92 sch 1
- def **“occupier”** ins 1995 No. 9 s 92 sch 1  
sub 1995 No. 32 s 21(1)–(2)
- def **“old QR land”** ins 1995 No. 32 s 21(2)
- def **“on”** ins 1995 No. 9 s 92 sch 1  
sub 1995 No. 32 s 21(1)–(2)

- def **“operational licence”** ins 1998 No. 43 s 25(2)
- def **“other rail infrastructure”** ins 1995 No. 32 s 21(2)
- def **“owner”** ins 1995 No. 9 s 92 sch 1  
sub 1995 No. 32 s 21(1)–(2)
- def **“plant”** ins 1995 No. 9 s 92 sch 1
- def **“port”** ins 1994 No. 32 s 4(2)  
reloc from s 4 1995 No. 9 s 92 sch 1
- def **“port authority”** sub 1994 No. 32 s 4(1)–(2)  
reloc from s 4 1995 No. 9 s 92 sch 1
- def **“port infrastructure”** reloc from s 4 1995 No. 9 s 92 sch 1
- def **“previous rail corporation”** ins 1995 No. 32 s 21(2)
- def **“rail corridor land”** ins 1997 No. 66 s 54(1)
- def **“rail transport infrastructure”** reloc from s 4 1995 No. 9 s 92 sch 1  
sub 1995 No. 32 s 21(1)–(2)
- def **“railway”** ins 1998 No. 33 s 16(2)
- def **“railway crossing”** ins 1995 No. 32 s 21(2)
- def **“railway manager”** ins 1995 No. 32 s 21(2)  
sub 1998 No. 33 s 16
- def **“railway operator”** ins 1995 No. 32 s 21(2)
- def **“railway works”** ins 1995 No. 32 s 21(2)  
sub 1998 No. 43 s 25(1)–(2)
- def **“reasonably”** ins 1995 No. 32 s 21(2)
- def **“required land”** ins 1998 No. 43 s 25(2)
- def **“responsible entity”** ins 1998 No. 43 s 25(2)
- def **“reviewed decision”** ins 1997 No. 66 s 54(1)
- def **“road”** reloc from s 20 1995 No. 32 s 9(4)
- def **“road transport infrastructure”** reloc from s 4 1995 No. 9 s 92 sch 1
- def **“rolling stock”** ins 1995 No. 32 s 21(2)  
amd 1997 No. 66 s 54(2)
- def **“serious incident”** ins 1995 No. 32 s 21(2)
- def **“ship”** ins 1995 No. 9 s 92 sch 1
- def **“State controlled road”** ins 1995 No. 9 s 92 sch 1  
om 1995 No. 57 s 4 sch 1
- def **“State-controlled road”** reloc from s 4 1995 No. 9 s 92 sch 1  
sub 1995 No. 57 s 4 sch 1
- def **“statement of corporate intent”** ins 1995 No. 9 s 92 sch 1
- def **“strategic port land”** ins 1995 No. 9 s 92 sch 1
- def **“sugar tramway”** ins 1995 No. 32 s 21(2)
- def **“train”** ins 1997 No. 66 s 54(1)
- def **“transport infrastructure”** reloc from s 4 1995 No. 9 s 92 sch 1
- def **“transport purpose”** ins 1994 No. 49 s 3 sch 1  
reloc from s 4 1995 No. 9 s 92 sch 1
- def **“vehicle”** ins 1995 No. 9 s 92 sch 1  
sub 1995 No. 57 s 4 sch 1  
amd 1999 No. 42 s 54(3) sch pt 3
- def **“wilfully”** ins 1995 No. 32 s 21(2)
- def **“works”** ins 1995 No. 32 s 21(2)

**8 Tables of renumbered provisions**

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20, def “ancillary works and enroachments”, (a)(iv)	22, def “ancillary works and enroachments”, (a)(v)
20, def “ancillary works and enroachments”, (a)(v)	22, def “ancillary works and enroachments”, (a)(vi)
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71ZZD	129
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71ZZM	138
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## **9 Provisions that have not commenced and are not incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

**Integrated Planning and Other Legislation Amendment Act 1999 No. 11 ss 27-30, 33 and 34 read as follows—**

### **Amendment of s 40 (Impact of certain local government decisions on State-controlled roads)**

**27.(1)** Section 40(1)(a)—

*omit, insert—*

‘(a) it intends to carry out road works on a local government road or make changes to the management of a local government road; and’.

**(2)** Section 40(1)(b), ‘approval,’—

*omit.*

**(3)** Section 40—

*insert—*

‘**(1A)** Subsection (1) does not apply if the chief executive has considered the works or changes as part of consideration of a development application under IDAS, within the meaning of the *Integrated Planning Act 1997*.’.

**(4)** Section 40(3) to (5), ‘subdivision, rezoning, development,’—

*omit.*

(5) Section 40(7) and (9A)—

*omit.*

**Amendment of s 42 (Effect of decisions of Planning and Environment Court)**

28.(1) Section 42, ‘the subdivision, rezoning, development,’—

*omit, insert—*

‘the’.

(2) Section 42(2)(a), ‘a subdivision, rezoning, development,’—

*omit.*

**Replacement of s 188 (Recovery of amounts payable to the chief executive)**

29. Section 188—

*omit, insert—*

**‘Amounts payable to chief executive are debts owing to the State**

‘188. An amount payable by a person to the chief executive under this Act or the *Integrated Planning Act 1997* is a debt owing to the State.’.

**Amendment of s 189 (Power to require information from local governments)**

30. Section 189(1), after ‘Act’—

*insert—*

‘or the *Integrated Planning Act 1997*’.

**Insertion of new ch 10, pt 4, div 5**

33. After section 260—

*insert—*

***‘Division 5—Transitional provisions about the Integrated Planning Act 1997***

**‘Continuing application of previous provisions to non-IDAS applications**

**‘261.(1)** This section applies if—

- (a) a local government would have had to apply under section 40 for the approval of a subdivision, rezoning or development of land (the “**work**”) under the section as in force immediately before its amendment by the *Integrated Planning and Other Legislation Amendment Act 1999*; and
- (b) a development approval for the same work is not required under the *Integrated Planning Act 1997*.

‘(2) Sections 40 and 42 and schedule 2, as in force immediately before their amendment by the *Integrated Planning and Other Legislation Amendment Act 1999*, apply to the work.

**‘Applications for approval of subdivisions, rezoning or development**

‘**262.** If an approval was applied for under section 40(1)(a)(i), as in force immediately before its amendment by the *Integrated Planning and Other Legislation Amendment Act 1999*, processing of the application and all matters incidental to the processing, including any review or appeal made in relation to a decision about the application, must proceed as if that Act had not been enacted.’

**Amendment of sch 2 (Appeals)**

**34.** Schedule 2, entry for section 40(1), ‘subdivision, rezoning, development,’—

*omit.*

Road Transport Reform Act 1999 No. 42 s 54(3) sch pt 3 reads as follows—

## **TRANSPORT INFRASTRUCTURE ACT 1994**

### **1. Section 47(6) and schedule 3, definition “vehicle”, ‘Traffic Act 1949’—**

*omit, insert—*

*‘Transport Operations (Road Use Management) Act 1995’.*