

Queensland



# **TRANSPORT INFRASTRUCTURE (ROADS) ACT 1991**

**Reprinted as in force on 1 June 1992  
(Act not amended up to this date)**

**Reprint No. 1**

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- omit the enacting words as permitted by section 7(1)(a) of that Act;
- use citations and references permitted by Division 2 of that Act;
- use updated references permitted by Division 3 of that Act;
- correct spelling, and use different spelling consistent with current legislative drafting practice, as permitted by section 26(2) of that Act;
- use punctuation and expressions consistent with current legislative drafting practice as permitted by sections 27 and 29 of that Act;
- use conjunctives and disjunctives consistent with current legislative drafting practice as permitted by section 28 of that Act;
- use the names for instruments and provision units permitted by sections 31 and 32 of that Act;
- relocate marginal or cite notes as permitted by section 34 of that Act;
- use format and printing style consistent with current legislative drafting practice as permitted by section 35 of that Act;
- omit provisions that are no longer required as permitted by sections 38 and 40 of that Act;
- omit unnecessary referential words as permitted by section 41 of that Act;
- do anything else permitted to be done by that Act or a regulation made under that Act;
- make all necessary consequential amendments as permitted by section 7(1)(l) of that Act.

**Also see Endnotes for—**

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**

Queensland



**TRANSPORT INFRASTRUCTURE  
(ROADS) ACT 1991**

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# **TRANSPORT INFRASTRUCTURE (ROADS) ACT 1991**

[reprinted as in force on 1 June 1992<sup>2</sup>]

**An Act to make provision for the development and management of  
road transport infrastructure and for other purposes**

## **PART 1—PRELIMINARY**

### **Short title**

**1.1** This Act may be cited as the *Transport Infrastructure (Roads) Act 1991*<sup>3-5</sup>.

### **Commencement**

**1.2(1)** Section 1.1 and this section commence on the day this Act is assented to for and on behalf of Her Majesty.

**(2)** The remaining provisions commence on a day or days fixed by proclamation.

### **Repeals**

**1.3** The Acts specified in Schedule 2 are repealed to the extent specified in that Schedule and are referred to in this Act as the “repealed Acts”.

### **Savings and transitional**

**1.4** The savings, transitional and validation provisions specified in Schedule 3 have effect.

**Interpretation**

**1.5(1)** In this Act—

**“ancillary works and encroachments”** includes cane railways, tramways, grids, signs (service, advertising and tourist), paths (including pedestrian and bicycle paths), bridges, means of access, fences, poles, awnings, buildings, fuel pumps, fuel tanks, bores, pumping stations, windmills, rest area facilities, utilities, and other prescribed works and encroachments, but does not include statutory utilities;

**“Area”** means the Area of a local authority;

**“building”** includes a fixed structure that is—

- (a) wholly or partly enclosed by walls; or
- (b) wholly or partly roofed;

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

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

that involves the development of transport infrastructure or road transport infrastructure;

**“Corporation”** means the corporation sole constituted by the *Urban Public Passenger Transport Act 1984* under the name and style The Director-General, Department of Transport;

**“declared road”** means—

- (a) a road declared under Part 3 to be a declared road for the purposes of this Act; or
- (b) a part of such a road;

**“department”** means the department of the government of Queensland within which this Act is administered;

**“Director-General”** means the chief executive (however described) of the Department and includes any officer temporarily discharging the

responsibilities of the chief executive;

**“employee”** means a person employed by the Director-General for the purposes of this Act;

**“environmental effects”** means the anticipated and measured effects of a policy of, a proposal for or a development on the physical, biological, social, cultural and visual systems within which such a development is proposed or happens, including related off-site and cumulative impacts;

**“land”** includes—

- (a) any estate or interest in land whether freehold, Crown land subject to occupation, lease or alienation or held from the Crown under an occupation licence under the *Land Act 1962*; and
- (b) land within the beds and banks of a stream, watercourse or inundated land; and
- (c) land beneath the internal waters of Queensland;

**“local authority”** means—

- (a) a local authority within the meaning of the *Local Government Act 1936*; or
- (b) the Brisbane City Council; or
- (c) an Aboriginal Council within the meaning of the *Community Services (Aborigines) Act 1984*; or
- (d) an Island Council within the meaning of the *Community Services (Torres Strait) Act 1984*;

**“maintenance”** includes—

- (a) rehabilitation; and
- (b) replacement; and
- (c) repair; and
- (d) recurrent servicing; and
- (e) preventive and remedial action; and
- (f) removal; and
- (g) in respect of transport infrastructure provided by or on behalf of

the Corporation—operating and managing systems and services;

**“Manual of Uniform Traffic Control Devices”** means the Manual of Uniform Traffic Control Devices (Queensland) for the time being under the *Traffic Act 1949*;

**“means of access”** means the physical means of entry or exit for traffic from land to a road or from a road to land;

**“Minister”** includes any Minister of the Crown for the time being performing the duties of the Minister;

**“motorway”** means—

- (a) a declared road designated a motorway under this Act; or
- (b) a part of such a road;

**“occupier”**, in relation to land, means the person in actual occupation of the land or, if there is no person in actual occupation, the person entitled to possession of the land;

**“officer”** means an officer appointed for the purposes of this Act;

**“official traffic sign”** means an official traffic sign within the meaning of the *Traffic Act 1949*;

**“on”**, in relation to a road, includes within, under and over the road;

**“owner”**, in relation to land, means—

- (a) the registered proprietor of the land; or
- (b) the lessee or licensee from the Crown in respect of the land; or
- (c) the person who, for the time being, has lawful control of the land, on trust or otherwise; or
- (d) the person who is entitled to receive the rents and profits of the land;

**“person”** includes a partnership or other association or body, whether incorporated or unincorporated;

**“road”** means—

- (a) any surveyed or unsurveyed land dedicated to public use as a road; or
- (b) any track on land used by the public as a road through—

- (i) vacant Crown land; or
- (ii) land under the control of a local authority; or
- (iii) any pastoral holding; or
- (iv) any reserve;

whether or not the boundary of the land has been surveyed and the land dedicated to public use as a road; or

- (c) any bridge, culvert, ferry or ford; or
- (d) any part of such land, bridge, culvert, ferry or ford;

**“road transport infrastructure”** includes transport infrastructure relating to roads;

**“statutory utility”** means a utility which is authorised under any other Act to be on a declared road;

**“traffic”** includes the passing to and fro of persons, vehicles and animals;

**“transport infrastructure”** includes road, rail, marine and air transport infrastructure;

**“utility”** includes railway, monorail, tramway, viaduct, aqueduct, conduit, cable, fixed mechanical conveyor, pipeline, pole, electrical installation (within the meaning of the *Electricity Act 1976*), telecommunications plant and water channel;

**“vehicle”** includes a trailer whether or not attached to another vehicle;

**“watercourse”** means a river, creek or stream in which water flows permanently or intermittently—

- (a) in a natural channel; or
- (b) in a natural channel artificially improved; or
- (c) in an artificial channel that has changed the course of the watercourse;

**“works for road transport infrastructure”** means any works done or to be done on a road or for the purpose of facilitating road transport infrastructure and includes—

- (a) the clearing and excavation of land; and
- (b) the forming of embankments; and

- (c) the carrying out of subgrade treatment, road surfacing and drainage works; and
- (d) the provision of medians, bridges, tunnels, drainage works, official traffic signs, street and other lighting, safety barriers, environmental works, communication devices, vehicle weighing devices, fencing and means of access; and
- (e) the construction of pavement and temporary buildings; and
- (f) any other works approved by the Minister as works for road transport infrastructure.

(2) In this Act, where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

(3) In this Act, every word of any gender is to be construed to include all other genders.

## **PART 2—ADMINISTRATION**

### *Division 1—General powers of Corporation and Director-General*

#### **Administration of Act**

**2.1** Subject to the Minister, the Corporation and the Director-General administer this Act.

#### **Corporation is the Crown**

**2.2** For the purposes of this Act, the Corporation represents the Crown and has and may exercise all the powers, privileges, rights and remedies of the Crown.

**Legal capacities of Corporation**

**2.3** In addition to the capacities conferred on the Corporation by section 11 of the *Urban Public Passenger Transport Act 1984*, the Corporation may do anything that is necessary or desirable in the exercise and performance of the functions and powers of the Corporation under this Act.

**Functions and powers of Corporation and Director-General**

**2.4(1)** The Corporation and the Director-General have the functions and powers conferred or imposed by or under this Act or any other Act.

**(2)** Under this Act the Corporation and the Director-General have the functions and necessary powers to manage transport infrastructure generally (and particularly road transport infrastructure) by—

- (a) recommending which roads are to be—
  - (i) declared roads; and
  - (ii) subject to limitation of access; and
  - (iii) motorways; and
- (b) acquiring property; and
- (c) carrying out surveys, investigations, environmental assessments, planning and design; and
- (d) undertaking construction and maintenance on land; and
- (e) planning, monitoring and controlling road traffic operations on or affecting declared roads; and
- (f) implementing road safety measures and promoting safe behaviour by users of roads; and
- (g) operating associated business enterprises; and
- (h) providing technical, consulting, property and business services; and
- (i) administering the distribution of certain Commonwealth and State funds to local authorities and other persons for road transport infrastructure purposes; and
- (j) charging and collecting fees and charges for use of roads and for

- provision of services; and
- (k) regulating the transport by road of heavy and over-dimension loads; and
- (l) managing a register of vehicles.

### **General power to make and enter into contracts**

**2.5(1)** In this section—

“**person**” includes a Crown instrumentality or an instrumentality representing the Crown;

“**Crown**” means the Crown in right of the Commonwealth or of the State.

(2) The Corporation may make a contract or agreement with any person with respect to the exercise of any power or the performance of a function conferred or imposed on it by or under this Act or any other Act.

(3) In exercising the powers conferred by this section, the Corporation is to comply with the requirements of the *Financial Administration and Audit Act 1977* applicable to making contracts as if the Corporation were an accountable officer within the meaning of that Act.

### **Mode of making or entering into contracts or agreements**

**2.6(1)** Subject to this section, the Corporation may exercise a power conferred on it by section 2.5 itself or by the Director-General or an agent of the Corporation.

(2) Where a contract or agreement is to be made by the Corporation and the contract or agreement, if made by and between natural persons—

- (a) would be required to be by deed or in writing under seal; or
- (b) would be required to be in writing signed by the parties; or
- (c) may be made orally;

then the contract or agreement—

- (d) where paragraph (a) applies, is to be made in writing under its seal; and
- (e) where paragraph (b) applies, is to be made in writing signed on



behalf of the Corporation by a person approved in writing by the Corporation; and

- (f) where paragraph (c) applies, may be made orally on behalf of the Corporation by a person approved in writing by the Corporation.

(3) Any contract or agreement made on behalf of the Corporation may be entered into by the Corporation or by a person approved by it and may be varied, amended or discharged by the Corporation or that person in the manner in which it is approved to be made.

### *Division 2—Delegations*

#### **Delegations**

2.7(1) For the purposes of this section—

**“approved functions or powers”** means any of the functions or powers approved from time to time by the Minister;

**“delegating officer”** means an officer, or the holder of an office, approved by the Minister.

(2) All or any of the functions or powers under this or any other Act of the Corporation or of the Director-General may, by writing under the hand of the Director-General, be delegated to an officer or employee or to the holder of any specified office or to a person with specified qualifications whilst performing a specified function.

(3) All or any of the approved functions or powers under this or any other Act of the Corporation or of the Director-General may, by writing under the hand of a delegating officer, be delegated to an officer or employee or to the holder of any specified office or to a person with specified qualifications whilst performing a specified function.

(4) Any of the functions or powers of the Corporation under section 37(2) (Diversion of traffic) of the *Traffic Act 1949* may, by writing under the hand of the Director-General or of a delegating officer, be delegated to a person, or the holder of any specified position or qualification, carrying out construction, augmentation, alteration or maintenance on or affecting a road, during the course of the construction, augmentation, alteration or maintenance.

(5) A function or power delegated under this section, if performed or exercised by the delegate, is to be performed or exercised only in accordance with that delegation.

(6) A delegation made by the Director-General may be made subject to such terms as the Director-General determines, including a requirement that the delegate is to report to the Director-General upon the performance or exercise of the delegated function or power.

(7) A delegation made by a delegating officer may be subject to such of the terms and conditions that have been approved by the Director-General as the delegating officer determines.

(8) There may be more than 1 delegation of the same function or power under this Act.

(9) A delegation may be revoked at any time.

(10) A delegation does not prevent the exercise of a delegated power or the performance of a delegated function by the Corporation or the Director-General.

(11) Anything done by a delegate under a delegation has the same force and effect as if the thing had been done by the Corporation or the Director-General, as the case requires.

### *Division 3—General*

#### **Authentication of documents**

**2.8** A document made or issued by the Corporation for the purposes of this Act is sufficiently authenticated if—

- (a) being a class of document that requires the Corporation's seal, it is under the official seal duly affixed; or
- (b) being any other document, it is made or signed by the Director-General or by the appropriate officer or employee.

**Application of s.28A of Acts Interpretation Act**

**2.9** Section 28A of the *Acts Interpretation Act 1954* applies in respect of orders in council made under this Act and notifications published in the Gazette under Division 4 or 7 of Part 3, as if they were regulations, and for that purpose a reference in that section to repeal is a reference to revocation.

**Application of certain provisions of Local Government Act 1936-1990**

**2.10** For the purposes of this Act the provisions of the *Local Government Act 1936* referred to in the following table, so far as they are applicable, apply to the Corporation, the Director-General, officers, agents and employees of the Corporation or Director-General and for that purpose—

- (a) a reference to a local authority or Council is a reference to the Corporation; and
- (b) a reference to the chairperson, members, clerk or officers of a local authority or Council is a reference to the Director-General, officers, agents and employees of the Corporation or Director-General; and
- (c) a reference to a road is a reference to a declared road or other road for the time being under the control of the Corporation; and
- (d) a reference to the Minister is a reference to the Minister within the meaning of this Act; and
- (e) a reference to an Area is a reference to Queensland; and
- (f) a reference to a by-law is a reference to a regulation under this Act.

**TABLE**

Section 32(10)	Place from which materials are taken to be fenced, etc.
Section 32(11)	Precautions where works in progress
Section 32(13)	Right to procure materials.
Section 35(8)	Alignment of roads and declaration of encroachments.

Section 35(10)	Realignment.
Section 35(10A)	Determination not to proceed with realignment.
Section 35(14)	Planting trees in roads.
Section 35(15)	Refuges, etc., in roads.
Section 35(17)	Owners of railways to maintain road crossings.
Section 35(18)	Fencing land for public safety, etc.
Section 35(19)	Removal of overhanging trees, etc., from roads.
Section 35(20)	Local authority may paint or affix names of roads on any structure.
Section 35(23)	Temporary diversion of traffic.
Section 50(8)	Obstructing execution of Act.
Section 52(1)	Notices, etc. to be signed.
Section 52(2)	Service on local authority.
Section 52(3)	Service of notice by local authority.
Section 52(3A)	Construction of subsections (2) and (3).
Section 52(7)	Appearance of local authorities.
Section 52(10)	Action for negligence.
Section 52(11)	Limit of liability of local authority.

### **Continuation of powers of local authorities**

**2.11** A local authority has the powers (to the extent that those powers are not inconsistent with this Act) over declared roads within its Area that it has over other roads in its Area.

### **Power to require information from local authorities**

**2.12(1)** The Corporation may, by written notice given to a local authority, require the local authority to give to it, or to a specified person, information with respect to a particular matter relevant to the discharge by the Corporation of its functions or the exercise of its powers.

**(2)** The notice is to specify a reasonable time within which the notice is to be satisfied and may specify the manner in which it is to be satisfied.

**(3)** Subject to subsection (4), the local authority is to comply with the

notice.

(4) The local authority may appeal to the Minister against the notice and, if the local authority does so, the local authority only has to comply with the notice if, and to the extent that, the Minister directs and then within the time directed by the Minister.

### **Officers and employees**

**2.13** Officers may be appointed and employees may be engaged in accordance with the *Public Service Management and Employment Act 1988* to assist in the administration of this Act.

## **PART 3—DECLARED ROADS**

### *Division 1—Declaration of declared roads*

#### **Declaration of declared roads**

**3.1(1)** The Minister may, on the recommendation of the Corporation, by notification published in the Gazette declare a road, route or means of access to any land, or any part of a road, route or means of access, to be a declared road.

(2) A declared road is to be 1 of the classification of declared roads for the time being prescribed by regulation.

(3) The declaration is to specify—

- (a) the points of commencement and termination of the declared road; and
- (b) the width and, where appropriate, the alignment of the declared road; and
- (c) where the declared road is part only of a road, route or means of access, the part; and
- (d) the prescribed classification of the declared road.

(4) If a road or a part of a road ceases to be a declared road, then, unless otherwise determined by the Minister, the associated drainage and other easements, come under the control and jurisdiction of the local authority for the Area in which the road is situated.

### **Declaration of new road or deviation to be declared road**

**3.2(1)** In the case of a new road or a deviation from an existing declared road, when the Corporation is satisfied that the new road or deviation or a part of that road or deviation is fit for use as a road, the Corporation is to recommend to the Minister that the new road, deviation or part be a declared road.

(1A) The recommendation is to describe the alignment of and distinctly specify the points of commencement, termination and the width of the new road or deviation.

(2) Upon the recommendation of the Corporation, if the Minister approves the recommendation, the Minister is to declare by notification published in the Gazette that the new road or deviation be and become a declared road.

(2A) The land upon which the road or deviation has been constructed thereupon and thenceforth from the date of publication in the Gazette of the notification becomes and is absolutely dedicated to the public as a road within the meaning of this Act and of any law now or hereafter in force.

### **Declared roads on Crown reserves, State forests etc.**

**3.3(1)** Unless otherwise specified, a declared road or a deviation from a declared road through any Crown reserve, State forest, timber reserve, vacant Crown land or pastoral holding includes all the land within 30 m of the designed or constructed centre line of the road pavement or surface except that, in the case of a pastoral holding, the declared road includes all the land within 30 m of the centre line of the pavement, surface or track in use until the designed road, pavement or surface is made trafficable.

(2) Where the width of such a declared road is more than 60 m, the Minister at the request of the Corporation may by notification published in the Gazette declare that the declared road in question is limited in width as specified in the notification.

- (3) While the declaration remains in force—
- (a) the declared road in question is limited in width as specified in the notification; and
  - (b) any and every portion of the declared road which is outside the width as specified in the notification, is not a declared road.

### **Local authorities to be notified**

**3.4(1)** The Corporation, before recommending to the Minister—

- (a) that any existing road be a declared road or a declaration of a declared road be revoked; or
- (b) that the classification of a declared road, limitation of access to a declared road or its status as a motorway be changed;

must serve notice of intention to make the recommendation on each local authority in whose Area the road is situated.

(2) The notice must specify the classification of the declared road to which it relates and must fix a day, not less than 30 days from the service of the notice, upon which any written objection which may be made by any local authority concerned will be considered by the Corporation before making any recommendation.

(3) A local authority which has objected in writing within 30 days from the service of the notice may, within 30 days after the consideration of its objection, appeal to the Minister, who may confirm, vary or disallow the recommendation.

### ***Division 2—Vesting of property in declared roads etc.***

#### **Property in declared roads etc.**

**3.5(1)** The absolute property in any land over which a declared road is declared is vested in the Crown.

(2) The property in naturally occurring materials on a declared road is vested in the Corporation.

(3) The Corporation may sell, dispose of and grant permits for the

removal of naturally occurring materials on declared roads.

(4) The property in works for road transport infrastructure (other than statutory utilities) constructed on a declared road is vested in the Corporation.

(5) If the Corporation requires as a condition for granting approval for the construction of ancillary works and encroachments on a declared road that the property in the ancillary works and encroachments is to be vested in the Corporation, upon the construction of the ancillary works and encroachments, the property vests in the Corporation.

(6) This section is not to be construed to prevent the grant of any authority under the *Mineral Resources Act 1989* in respect of any mineral under a declared road and the payment of royalties in respect thereof to the Crown.

(7) To the extent that subsections (1), (2), (3) and (4) conflict with the provisions of the *Transport Infrastructure (Railways) Act 1991* in respect of at-grade intersections of roads and railways, that Act prevails.

### **Damage to road transport infrastructure etc.**

**3.6(1)** A person, without lawful excuse, must not damage, remove or interfere with naturally occurring materials, works for road transport infrastructure or ancillary works and encroachments on a declared road.

(2) A person who causes damage to road transport infrastructure, whether or not an offence is committed, is liable for the cost of repairing the damage or replacing or reconstructing as necessary the road transport infrastructure which cost is a debt due and owing by that person to the Corporation.

(3) Where such damage is caused through the operation of a vehicle and the driver of the vehicle is unknown or cannot be located, the person in whose name the vehicle is registered whether under this Act or any other Act of the Commonwealth or a State or Territory of the Commonwealth providing for the registration of vehicles is liable for such costs of repair, replacement or reconstruction for which the driver would be liable unless the vehicle was being used at the time without the consent or knowledge of that person.

(4) A person must not deposit rubbish or abandon goods or materials on



a declared road except at places approved and upon the terms and conditions determined by the Corporation.

(5) If the Corporation considers that, as a result of natural or other occurrences, it is appropriate, in order to prevent damage to road transport infrastructure or to ensure the safety of road users and other persons, the Corporation may determine that—

- (a) a declared road is closed to—
  - (i) all traffic; or
  - (ii) traffic of a particular class; or
- (b) a declared road may only be used—
  - (i) at specified times; and
  - (ii) by particular classes of vehicles; and
  - (iii) upon such terms and conditions (including restrictions on the weight of loads of vehicles) as the Corporation specifies.

(6) Action taken by the Corporation is to be advertised by notice in or announcement by the appropriate news media.

(7) Road users must comply with a determination for so long as a determination remains in force.

### ***Division 3—Control of access to and from land contiguous with declared roads***

#### **Control of access**

**3.7(1)** In respect of a declared road and certain land contiguous with that road, the Corporation may determine under such terms and conditions as the Corporation specifies any 1 or more of the following—

- (a) the means of access that may be used by traffic to or from that land (which may be to or from another road);
- (b) that access to and from that land is restricted, regulated or totally prohibited;
- (c) that access to or access from that land is restricted, regulated or totally prohibited.

**(1A)** A determination previously made under this section may be varied by another determination under this section.

**(2)** The Corporation is not to make a determination under subsection (1)(b) or (c) totally prohibiting access unless it is reasonable and necessary for the present or future safety and convenience of road users or the efficiency of the road system in the vicinity of the land.

**(3)** A person who, if action taken under subsection (1)(b) or (c) is proceeded with, would be entitled to compensation under Division 5, may appeal in writing to the Minister against that action setting out the reasons for the appeal within 30 days after notification by the Corporation of its determination.

**(4)** Upon such an appeal, the Minister may confirm, vary or disallow the determination of the Corporation. The decision is final and must be given effect by the Corporation.

#### ***Division 4—Declared roads subject to limitation of access***

##### **Notification limiting access to declared roads etc.**

**3.8(1)** Upon the recommendation of the Corporation, the Minister may, by notification published in the Gazette, declare—

(a) that access to—

- (i) a declared road; or
- (ii) a widening of a declared road; or
- (iii) a deviation from a declared road;

is limited from the date of the notification or a later date specified in the notification or to be specified in a later notification;

(b) that—

- (i) access to an existing road or to a proposed road; or
- (ii) in respect of land specified in the notification, should any part of that land become a road, access to that road;

is to be limited on the date when the road becomes a declared road or a later date to be specified in a later notification.

(2) Access to a declared road may be limited under this section by any 1 or more of the following—

- (a) restricting, regulating or prohibiting—
  - (i) the use of that road as access to or from a contiguous road; or
  - (ii) the use of that road as access to or from land contiguous with that declared road; or
  - (iii) the crossing of that road from contiguous land;
- (b) limiting access to the whole of the declared road or to a specified part or parts only of the width of the declared road or to part of the declared road.

(3) A notification made under subsection (1) is to describe and specify the alignment and points of commencement and termination of the relevant part of the declared road, proposed declared road or existing road.

(4) A notification for the purposes of this section may be incorporated as part of a notification made under any other provisions of this Act.

### **When notification takes effect**

**3.9(1)** Where a notification made under section 3.8 relates to an existing declared road or a widening of or deviation from a declared road, on and from—

- (a) the date of the publication of the notification in the Gazette; or
- (b) a later date specified in the notification for the purpose; or
- (c) where the notification specifies that a later date is to be specified by a later notification, the date specified in the later notification;

whichever is the later, access in respect of the declared road specified in the notification is limited in every respect and to the extent specified in the notification.

(2) Where a notification published under section 3.8 relates to—

- (a) an existing road that is not a declared road; or
- (b) land that is not an existing road;

on and from—

- (c) the date the road or land becomes a declared road; or
- (d) a later date specified in a later notification;

whichever is the later, access in respect of the declared road specified in the notification is limited in every respect and to the extent specified in the notification.

### **Corporation may prevent access**

**3.10** The Corporation may do such things and take all steps as are reasonable and necessary to prevent access to a declared road to which access is limited under this Division.

### **Where existing means of access becomes limited, Corporation to provide means of access**

**3.11(1)** Where a means of access exists in respect of a road, at the date of publication in the Gazette of the notification declaring that access to the road is or is to be limited, the Corporation is to provide, in such manner and at such points as the Corporation considers desirable, means of access to or routes for entering, leaving or crossing that road.

**(2)** For the purposes of subsection (1), means of access to or routes for entering, leaving or crossing a road may be provided by way of another road or roads or the construction of works for road transport infrastructure on another road or other roads which road, roads or works may be vested in the local authority.

**(3)** Where more than 1 notification is published declaring that access to a road is limited or is to be limited, subsection (1) only applies in respect of the first notification.

**(4)** Subsection (1) does not apply in respect of a road when the road is or becomes a declared road and if—

- (a) the owner of the affected land has otherwise agreed with the Corporation; or
- (b) the Corporation has paid compensation to the owner for the limitation of access.

(5) The Corporation is to notify in the Gazette any and every means of access or route provided under this section.

**Consent of Corporation required for others to provide means of access**

**3.12(1)** A person must not, without the prior consent in writing of the Corporation, construct, form or lay out, or begin to construct, form or lay out, any means of access to, from or within—

- (a) a declared road to which access is limited under this Division; or
- (b) any other road in respect of which a first notification has been published under section 3.8.

(2) Such consent may be subject to such terms and conditions as the Corporation determines.

***Division 5—Compensation concerning access***

**Compensation for loss or damage where access affected**

**3.13(1)** A person having an estate or interest in land in respect of which—

- (a) all access to a declared road is totally prohibited; and
- (b) the Corporation determines that there is no other practical means of access to a road in respect of that land;

is entitled to recover from the Corporation compensation for any loss or damage sustained by that person because of the access being totally prohibited in respect of the current use of the land immediately prior to the prohibition.

(2) A person having an estate or interest in land in respect of which access by a lawful means of access existing at the time a determination is made under Division 3 becomes totally prohibited, is entitled to recover from the Corporation—

- (a) compensation for any loss or damage sustained by that person because of the total prohibition; and

- (b) the costs reasonably incurred in providing a reasonable means of access acceptable to the Corporation.

(3) A person having an estate or interest in land in respect of which—

- (a) access to a contiguous declared road is limited under Division 4; and
- (b) a means of access existing at the time that access first becomes limited is affected; and
- (c) any restriction on the use of the land consequent upon the limitation directly affects the land in an injurious manner;

is entitled to recover from the Corporation compensation for any loss or damage sustained by that person because the land is so affected.

### **Cases where compensation not payable**

**3.14(1)** Compensation under section 3.13 is not payable unless a claim has been served on the Corporation within 1 year after—

- (a) the day when the limitation, restriction, regulation or total prohibition of access came into force; or
- (b) the day a person having an estate or interest in the land is first notified by the Corporation of the limitation, restriction, regulation or total prohibition;

whichever is the later.

(2) In respect of any estate or interest in land, the entitlement conferred by section 3.13 becomes extinguished upon the Corporation paying compensation to the person having for the time being that estate or interest.

(3) Where a declared road to which access is limited under Division 4 is widened, compensation is not payable by the Corporation under section 3.13 in respect of any limitation of access to the widened declared road.

(4) Subject to section 3.13(1) and (2) compensation is not payable by the Corporation for any loss or damage that may be sustained by action taken under Division 3.

(5) The Corporation is not liable to pay compensation for any loss or damage that may be sustained by any limitation, restriction, regulation or total prohibition of access under Division 3 or 4 in respect of any land if, at

the time the limitation, restriction, regulation or total prohibition is recommended by the Corporation, the Corporation recommends the resumption of the land and action is taken to resume that land accordingly.

### **Compensation, if no agreement, to be determined by Land Court**

**3.15(1)** Any question as to whether compensation is payable under section 3.13 or as to the amount of compensation is, in default of agreement, to be determined by the Land Court.

(2) Jurisdiction is conferred upon that Court to hear and determine all such questions.

(3) The power to make rules of court with respect to the Land Court includes power to make all such rules of court as may be considered necessary for any purpose of or related to the exercise by that Court of its jurisdiction under this section.

(4) Subject to sections 3.13 and 3.14 and any such rules of court, the *Acquisition of Land Act 1967* applies with all necessary adaptations, in respect of the making, hearing and determination of a claim for compensation under this section as if that claim were a claim for compensation under that Act but that Act does not apply so as to entitle any claimant for compensation under section 3.13 to any sum not claimable or in excess of the amount claimable under, subject to, and in accordance with the provisions of sections 3.13 and 3.14.

(5) Compensation under section 3.13 in respect of any estate or interest in land is to be an amount equal to the difference between the market value of the estate or interest in the land as injuriously affected by the limitation, restriction, regulation or total prohibition of access and what would be that market value if the land were not so injuriously affected.

(6) In assessing the market value of an estate or interest in land as injuriously affected, there is to be taken into account—

(a) any modifications of that injury because of—

(i) any approval given by the Corporation and any conditions attached to that approval; and

(ii) any undertaking given or proposed to be given by the Corporation; and

- (b) any benefit which may accrue to any land in which the claimant has an estate or interest because of—
  - (i) the construction or improvement upon land in the vicinity of the land in respect of which compensation is claimed of any road or any other way subsidiary to such a road by the Corporation or by any other person or authority, at any time after the day on and from which the access was limited or restricted, regulated or totally prohibited under section 3.13; or
  - (ii) the coming into force of the prohibition, limitation or restriction.

(7) If the land has, since the prohibition, limitation or restriction of access came into force, become or ceased to be separate from other land, the amount of compensation is not to be enhanced because of its having so become or ceased.

(8) For the purposes of subsection (7), land is separate from other land when the person having the estate or interest in the land has not the like estate or interest in the other land.

### ***Division 6—Dealing with contiguous land subject to approval of corporation***

#### **Local authority to approve subdivision of land contiguous with declared roads only with Corporation's approval**

**3.16(1)** A local authority must not approve any plan of subdivision of land contiguous with a declared road or any other road or land in respect of which the Corporation has previously advised the local authority in writing that it is intended to become a declared road except with the prior written consent of the Corporation.

(2) The local authority may appeal in writing to the Minister where the Corporation has failed or refused to consent or imposed unreasonable requirements.

(3) The decision of the Minister upon an appeal is final and must be given effect by the Corporation and the local authority.



***Division 7—Motorways on declared roads*****Notification of motorways**

**3.17(1)** Upon the recommendation of the Corporation the Minister may, by notification published in the Gazette, declare that a declared road or a specified part of the width and length of a declared road is a motorway.

(2) The notification is to describe and specify the alignment and points of commencement and termination of the motorway.

(3) Where by a notification made under section 3.8 access to a specified road or specified land is declared to be limited, that or a later notification (in either case made upon the recommendation of the Corporation) may declare that—

- (a) the road or land is a motorway from a date specified in that notification (being not earlier than the date when the road or land becomes a declared road); or
- (b) the road or land is a proposed motorway.

(4) A notification for the purposes of subsection (3) may be incorporated as part of the notification declaring that access is limited.

(5) On the date specified in the notification made under subsection (3)(a), the road or the road comprised in the land concerned becomes a motorway.

**Prevention of access**

**3.18** Where the Corporation considers it necessary to prevent access from a road (whether a declared road or not) to a motorway, the Corporation may prevent access to traffic at the place where it joins the motorway.

## **PART 4—FRANCHISED MOTORWAYS**

### **Franchised motorways not declared roads**

**4.1** A franchised motorway that is the subject of a current agreement under the *Motorways Agreements Act 1987* is not a declared road.

## **PART 5—PROPERTY PROVISIONS**

### **General powers regarding property**

**5.1** Subject to this Act, the Corporation may take, acquire, hold, divide, subdivide, amalgamate, lease, exchange, transfer, sell or otherwise deal with and dispose of real and personal property for the purposes of this Act.

### **Acquisition of land by Corporation**

**5.2(1)** The Corporation may acquire, by agreement or resumption, land that in the opinion of the Corporation is required for the purposes of this Act.

**(2)** For the purposes of acquiring land by resumption, the Corporation has the functions and powers conferred or imposed upon a constructing authority under the *Acquisition of Land Act 1967* and, subject to this section, that Act applies accordingly.

**(3)** The Corporation may, as a constructing authority under the *Acquisition of Land Act 1967*, take land held from the Crown by way of lease or any other estate or interest less than freehold.

**(4)** Where the acquisition of land by the Corporation will sever the balance area, or part of the balance area, from other land used by the owner, the Corporation may, with the approval of the Minister and the written consent of the owner, acquire by agreement or resumption the whole or a part of that balance area.

**(5)** The power conferred upon the Governor in Council by section 22 of the *Acquisition of Land Act 1967* includes power to vest land in the

Corporation under the *Land Act 1962* as leasehold under such tenure as the Governor in Council considers appropriate.

### **Purposes for acquisition of land**

**5.3(1)** For the purposes of this Part, the purpose “roads” specified in Schedule 2 (Purposes for which land may be taken under that Act) to the *Acquisition of Land Act 1967* includes road transport infrastructure.

**(2)** In addition, the Corporation may acquire land by agreement or resumption for the following purposes—

- (a) facilitation of any transport infrastructure; or
- (b) provision or improvement of facilities for users of a declared road or proposed declared road; or
- (c) construction or relocation of ancillary works and encroachments and statutory utilities; or
- (d) amelioration of negative environmental effects associated with transport infrastructure; or
- (e) provision of access in respect of any scenic reserve, national park, environmental park or marine park; or
- (f) scenic purposes; or
- (g) any other public purpose within the meaning of the *Land Act 1962*.

**(3)** Where the Corporation is required or requested by any authority under any other Act or law to provide land to offset the acquisition of land for the purposes of this Act or for the provision of transport infrastructure, the acquisition of the land to be provided is acquisition for the purposes of this Act.

**(4)** Land acquired as provided in subsection (2) may become part of any relevant contiguous declared road.

**(5)** The Corporation may recommend to the appropriate authority that land taken as provided in subsection (2)(e) or (f)—

- (a) be set apart and declared as a national park or environmental park under the *Nature Conservation Act 1992*; or

- (b) be reserved and set apart under the *Land Act 1962* for a public purpose or as environmental park and placed under the control of the Corporation as trustee of that land; or
- (c) be leased or otherwise dealt with under the *Land Act 1962*.

(6) The Corporation may, with the approval of the Minister, take or lease land or acquire an easement over land to provide access in respect of any scenic reserve, national park, environmental park or marine park and maintain any private road works existing on that land.

(7) Land is not to be acquired for a purpose specified in subsection (2)(e) or (f) unless the Corporation has first consulted with the Department responsible for the administration of scenic reserves, national parks, environmental parks, or as the case may be, marine parks.

### **Taking of land by the Corporation for purposes other than a declared road or deviation from an existing road**

**5.4(1)** Where the Corporation requires to take land under this Act, not being land for a declared road, or a deviation from an existing declared road, the Corporation is to prepare maps, plans and estimates, showing the land proposed to be acquired and the cost of acquiring it.

(2) The acquisition of land that will be required at some future time for any works or purpose for which land may be taken under this Act by the Corporation, is acquisition of land for the purposes of this Act even if the future time when the land will be required for the works or purpose in question is indefinite or presently unascertainable or that those works or that purpose have not been or cannot be presently planned or otherwise particularised by the Corporation.

### **Power of Corporation to lease or dispose of land**

**5.5** Subject to the *Acquisition of Land Act 1967*, the Corporation may lease, sell or otherwise dispose of land acquired by it under this Act that is not being used or required for the purposes of this Act.

**Dealing with old roads**

**5.6(1)** Where under this Act a deviation from a declared road has been made, no part of the old road may be leased or sold without the approval of the Corporation.

**(2)** Where, in the opinion of the Corporation, an authorised deviation of a declared road causes a part of the old road to be no longer required by the Corporation, the Corporation may arrange with the owner of any land through which the deviation will be made for an exchange of a part of the old road contiguous with the land of the owner for land of the owner required for the deviation, and the agreed or assessed value of the part of the old road is to be deducted from any sum to be paid to the owner by the Corporation by way of compensation.

**Creation and widening of reservation for declared road**

**5.7(1)** Upon the recommendation of the Corporation, the Governor in Council may by order in council create or widen a reservation for a declared road in or through or in and through land.

**(2)** As from the date of the publication in the Gazette of the order in council, no person may construct, build or place any structure or building or any portion of any structure or building on land the subject of a reservation for a declared road.

**(3)** Except as provided by this section, the interests of any owner or occupier of land comprised in land the subject of a reservation for a declared road are not affected until—

- (a) the Corporation acquires title to so much of the land comprised in that reservation as is required for road purposes; or
- (b) that land is dedicated for use as a road.

**(4)** Unless, before the expiration of 7 years from the date of publication in the Gazette of an order in council under subsection (1), the Corporation has acquired title to any land affected by the reservation of land for a declared road or the land has been dedicated for use as a road, the owner of the land may, by requisition in writing, delivered to the Corporation, require—

- (a) that the Corporation acquire title to the land; or

- (b) that the land be excluded from the land the subject of the reservation for the declared road.

**(4A)** Forthwith upon receipt of a requisition under subsection (4), the Corporation—

- (a) is to proceed to acquire title to the land; or
- (b) is to recommend to the Governor in Council that the land be excluded from the land the subject of the reservation for the declared road; or
- (c) is to—
  - (i) proceed to acquire title to part of the land; and
  - (ii) recommend to the Governor in Council that the remaining land be excluded from the land the subject of the reservation for the declared road.

**(5)** For the purposes of subsection (4A)(b) or (c)(ii), the exclusion of land by order in council from the land the subject of the reservation for a declared road takes effect upon publication in the Gazette of the order in council specifying the land excluded.

### **No compensation for works after notice of intention to resume**

**5.8** In determining the amount of compensation payable in respect of land resumed under this Part, regard must not be had to the value of any works for road transport infrastructure carried out on that land at any time after a notice of intention to resume the land has been received from persons entitled to compensation under this section.

## **PART 6—SURVEYS, INVESTIGATIONS, ENVIRONMENTAL ASSESSMENTS, PLANNING AND DESIGN**

### **Powers of Corporation regarding surveys, investigations, environmental assessments, planning and design**

**6.1** Subject to this Act, the Corporation may—

- (a) carry out surveys and investigations—
  - (i) to determine what roads should be declared roads and the classification of those declared roads; and
  - (ii) to assess the nature and extent of natural resources and materials of the State suitable for construction of works for and maintenance of road transport infrastructure and other transport infrastructure; and
  - (iii) to determine the most effective and economical methods of dealing with, supplying and using those resources and materials for construction of works for and maintenance of road transport infrastructure and other transport infrastructure; and
  - (iv) to assess the most effective or appropriate methods of construction of works for and maintenance of road transport infrastructure and other transport infrastructure; and
  - (v) to assess whether any new roads or deviations of existing roads should be made to facilitate effective land settlement and communication and to improve traffic conditions; and
  - (vi) to determine the most effective or appropriate methods of monitoring and controlling road traffic operations; and
  - (vii) to understand and forecast road user trends and characteristics; and
  - (viii) regarding the avoidance and mitigation of negative environmental effects; and
- (b) prepare designs and estimates of the costs of road transport infrastructure and other transport infrastructure; and

- (c) prepare and make available standard specifications dealing with—
  - (i) materials used for road transport infrastructure and other transport infrastructure; and
  - (ii) design, construction of works for and maintenance of road transport infrastructure and other transport infrastructure; and
  - (iii) monitoring and controlling road traffic operations on declared roads.

### **Power to enter land for surveys, etc.**

**6.2(1)** For the purposes of this Act, the Director-General and any officer, employee or agent may—

- (a) enter and re-enter from time to time upon any land, with such assistants as are required, to make any survey or investigation which is approved to be made; and
- (b) affix or set up on the land trigonometrical stations, survey instruments, survey pegs, marks or poles and, from time to time, alter, remove, inspect, reinstate, and repair them; and
- (c) dig and bore into the land to ascertain the nature of the soil and set out the lines of any works on the land; and
- (d) do all things as are reasonable and necessary for those purposes.

**(2)** When practicable, at least 3 days written notice must be given to the owner or occupier of the land of the intention to enter the land and, if required by the owner or occupier, the person entering is to show to the owner or occupier that person's identification.

### **Destruction, etc. of survey equipment**

**6.3** A person must not—

- (a) without due authority destroy, mutilate, deface, take away or alter the position of any trigonometrical station, survey instrument, equipment or machinery, survey peg, mark or pole fixed or set up by any person under section 6.2; or



- (b) wilfully obstruct any person acting under section 6.2.

## **PART 7—CONSTRUCTION AND MAINTENANCE**

### *Division 1—Road transport infrastructure on declared roads*

#### **Power to construct works for and maintain road transport infrastructure on declared roads**

**7.1** The Corporation may carry out—

- (a) with the approval of the Minister by notification published in the Gazette, construction of works (other than works of a minor nature) for; and
- (b) maintenance of;

road transport infrastructure on a declared road or the whole or part of any land which is not a declared road but is intended to become the whole or part of a declared road.

#### **Works by local authorities on declared roads**

**7.2(1)** The Corporation may agree in writing with a local authority for the local authority to—

- (a) carry out planning or design of works for road transport infrastructure; or
- (b) construct works for road transport infrastructure; or
- (c) maintain road transport infrastructure; or
- (d) supervise the construction of works for or maintenance of road transport infrastructure;

on a declared road, whether or not the relevant part of the declared road is within the Area of the local authority.

**(2)** The construction, maintenance or supervision referred to in this

section is to be carried out in accordance with such terms and conditions as the Corporation determines.

### **Construction and maintenance on declared roads by others**

**7.3(1)** A person is not to carry out—

- (a) construction of works for or maintenance of road transport infrastructure on a declared road; or
- (b) works that affect road transport infrastructure on a declared road or affect the operation of road transport infrastructure;

without the prior written approval of the Corporation given on such terms and conditions as the Corporation determines.

**(2)** Subsection (1) does not apply to a person who carries out—

- (a) construction, augmentation, alteration or maintenance concerning statutory utilities; or
- (b) urgent maintenance of ancillary works and encroachments or utilities other than statutory utilities.

**(3)** A person who has the written approval of the Corporation to carry out maintenance of road transport infrastructure on a declared road is not liable for non-feasance associated with that maintenance.

### **Cost sharing arrangements regarding declared roads**

**7.4** Subject to section 7.3, the Corporation may arrange with a local authority or other person for the sharing by the Corporation with the local authority or other person of the cost of—

- (a) acquisition of land for the purposes of road transport infrastructure; and
- (b) construction of works for road transport infrastructure on a declared road; and
- (c) maintenance of road transport infrastructure on a declared road;

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

**Restrictions on roads joining declared roads**

**7.5(1)** Notwithstanding any other Act, without the prior approval in writing of the Corporation—

- (a) a local authority must not approve a plan for construction of works for road transport infrastructure; and
- (b) a person, including a local authority, must not carry out construction of works for road transport infrastructure, lay out or commence to construct or lay out such works or authorise, direct or permit a person so to do;

if those works would join or intersect a declared road.

**(2)** Approval referred to in subsection (1), may be granted subject to such terms and conditions as the Corporation considers necessary or desirable.

**Temporary occupation and use of land**

**7.6(1)** For the purposes of carrying out construction of works for or maintenance of transport infrastructure the Corporation may—

- (a) temporarily occupy and use any land including roads; and
- (b) open and break up the soil and pavement of that land; and
- (c) construct cuttings and excavations and construct subways, tunnels, drains and bridges; and
- (d) lay in or erect tracks, cables or power-lines necessary for the works; and
- (e) take from that land stone, gravel, earth, water and other material; and
- (f) form and use temporary roads on any land; and
- (g) deposit on that land any material; and
- (h) manufacture or produce products or other materials on that land; and
- (i) erect or place on that land workshops, sheds and other buildings of a temporary nature and machinery, equipment and goods; and
- (j) establish and use water facilities on that land; and

- (k) repair, alter, demolish, destroy or remove anything done under this subsection.

(2) Where a local authority under section 7.3, has been permitted by the Corporation to carry out construction of works for or maintenance of road transport infrastructure, the local authority and its officers and employees may do any of the things the Corporation may do under subsection (1).

(3) Where a person has been awarded a contract by the Corporation to carry out any construction of works for or maintenance of transport infrastructure and the Corporation has temporarily occupied land for those purposes, the Corporation may determine that that person and the person's officers and employees may act as delegates of the Corporation in which case they may do any of the things the Corporation may do under subsection (1) subject to compliance with the Corporation's written terms and conditions.

### **Temporary road on land**

**7.7** Where construction of works for or maintenance of transport infrastructure is proposed, the Corporation may construct on or through land in the vicinity of the road, a temporary road to carry traffic during the construction or maintenance.

### **Notice of entry**

**7.8(1)** Before the occupation or use of land under section 7.6 or 7.7, the person having the charge of construction of works for or maintenance of transport infrastructure, or where a local authority is permitted to carry out the construction or maintenance, the clerk, engineer or overseer of the local authority is to give at least 3 days written notice to the owner or occupier of that land.

**(1A)** The notice must state—

- (a) the use proposed to be made of the land; and
- (b) details of the things proposed to be done on the land; and
- (c) an approximate period during which that use is expected to continue.

**(2)** The Corporation may serve on the owner, or, if the owner is not the

occupier, the occupier, of land which it is necessary to resume for construction of works for transport infrastructure, notice of intention to enter that land in accordance with subsection (1) whether or not a notice of resumption has been served in respect of that land.

(3) After the expiration of 3 days from service of a notice under subsection (1), the Director-General, officers, employees and delegates may enter the relevant land for the purpose of the construction or maintenance indicated in the notice.

(4) Subsections (1), (2) and (3) do not apply to prevent the entry on land in a situation where urgent remedial attention is required.

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

**7.9(1)** An owner of land, at any time during the entry, occupation or use of the land under section 7.6 or 7.7, may give notice in writing to the Corporation claiming compensation for physical damage caused by that entry, occupation or use.

(2) Compensation under this section is not payable unless a claim is received by the Corporation within 1 year after occupation or use has ceased, unless the Corporation waives this limitation.

(3) If the land the subject of a notice under subsection (1) is not acquired by or on behalf of the Corporation, the owner and all persons having an interest in the land may, subject to subsection (4), recover compensation under the *Acquisition of Land Act 1967* for all damage done because of the entry, occupation or use.

(4) Compensation awarded under subsection (3) is not to exceed the compensation that would have been awarded if the land had been taken by or on behalf of the Corporation.

### **Fencing declared roads**

**7.10** Despite any other Act or law, the Corporation is not required to contribute to, pay compensation for or provide fencing of the whole or any part of the boundary between land and—

- (a) an existing declared road; or
- (b) a road or land that is intended to become the whole or part of a

declared road, except where the land is substantially fenced and the presence of the declared road will render such fencing ineffective; or

- (c) a widening or deviation of an existing declared road involving the acquisition of land except where the previous boundary of the declared road was substantially fenced.

### **Watercourses in connection with road transport infrastructure**

**7.11(1)** The Corporation may—

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

in connection with the construction of works for and maintenance of road transport infrastructure.

(2) The Corporation may enter and occupy private land, in accordance with sections 7.6, 7.7 and 7.8 and carry out such works as the Corporation considers necessary to enable the diversion or construction of a watercourse to operate effectively and efficiently.

(3) A person must not cause damage or construct works that cause damage by water to a watercourse on a declared road or to any road transport infrastructure.

### *Division 2—Ancillary works and encroachments etc. on declared roads*

#### **Ancillary works and encroachments**

**7.12(1)** The Corporation may require that ancillary works and encroachments specified by the Corporation must not be constructed, maintained or operated on a declared road without the prior written approval of the Corporation.

(2) Despite anything in any other Act or law, a person must not construct, commence to construct or maintain any ancillary works and encroachments specified by the Corporation under subsection (1), on a declared road without the prior written approval of the Corporation. An approval may be subject to such terms and conditions as the Corporation

determines.

(3) The Corporation may construct and maintain ancillary works and encroachments for the purpose of transport infrastructure in which case subsections (1) and (2) do not apply.

### **Erection of buildings on declared roads**

**7.13(1)** Upon the recommendation of the Corporation, the Minister may by notification published in the Gazette approve the erection of a building on a declared road.

(2) The Corporation may carry out or a person approved by the Corporation may, on the terms and conditions determined by the Corporation, carry out the erection of the building which is approved under subsection (1).

(3) No Act or law, rule, process or practice or judgment of any court, prejudices or limits the operation or effect of this section or of a notification made or purporting to be made under this section.

### ***Division 3—Statutory utilities on declared roads***

#### **Location and requirements**

**7.14(1)** For the purposes of this Division—

“**location**” of a statutory utility includes the line, level and boundary of the utility on the declared road.

(2) Requirements referred to in this Division must be in writing and relate to terms and conditions regarding—

- (a) location of the statutory utility to meet present or future road transport infrastructure needs; and
- (b) construction of works for or restoration, alteration or maintenance of road transport infrastructure resulting from construction, augmentation, alteration or maintenance of the utility; and
- (c) traffic operations associated with construction, augmentation, alteration or maintenance of the utility or with construction of

works for or restoration, alteration or maintenance of the road transport infrastructure.

(3) Requirements shall have due regard to the relevant legislation of specific statutory utilities.

### **Specification of Corporation's requirements regarding statutory utilities**

**7.15** Despite any other Act—

- (a) the construction, augmentation, alteration or maintenance of a statutory utility on a declared road must be undertaken in accordance with the Corporation's requirements and at the expense of the owner of the statutory utility; and
- (b) construction of works for or restoration, alteration or maintenance of road transport infrastructure on a declared road rendered necessary by the construction, augmentation or maintenance of a statutory utility on a declared road must be undertaken in accordance with the Corporation's requirements and at the expense of the owner of the statutory utility; and
- (c) any requirements given under paragraphs (a) and (b) are to be advised to the owner of the statutory utility within a reasonable period.

### **Information by owner of statutory utility to Corporation**

**7.16(1)** A person who desires to take any action referred to in section 7.15 must give notice in writing to the Corporation of intention to carry out work on a declared road within a reasonable time prior to taking that action.

(2) Where a statutory utility is constructed, augmented or altered on a declared road, the owner of that utility must prepare records that sufficiently define the location of the utility within the declared road at the time of construction, augmentation or alteration of the utility.

(3) When requested by the Corporation the owner of a statutory utility must provide information to the Corporation to define sufficiently the location of the utility in a specified area.



**Liability for damage or expenses**

**7.17(1)** Despite any other Act or law, unless the Corporation otherwise agrees, the Corporation is not liable for any damage caused by the Corporation to a statutory utility on a declared road if—

- (a) prior to the causing of the damage the Corporation had requested information under section 7.16(2) from the owner of the utility and the owner had not within a reasonable time complied with the request; or
- (b) information under section 7.16(2) provided to the Corporation does not define in sufficient detail the location of the utility; or
- (c) the damage was incurred as a consequence of the utility having been constructed, augmented, altered or maintained otherwise than in accordance with the Corporation's requirements.

**(2)** Where the Corporation incurs additional expense in carrying out construction of works for or maintenance of road transport infrastructure on a declared road by reason that—

- (a) the owner of a statutory utility had not provided within a reasonable time information requested by the Corporation; or
- (b) information provided to the Corporation does not define in sufficient detail the location of a utility; or
- (c) a utility had not been constructed, augmented, altered or maintained in accordance with the Corporation's requirements;

the Corporation may recover from the owner of the utility the additional expense which becomes a debt due and owing by that person to the Corporation.

**(3)** Despite any other Act, where the construction of works for or maintenance of road transport infrastructure by or on behalf of the Corporation necessitates the removal or replacement of any statutory utility on a declared road—

- (a) the Corporation cannot be compelled to replace or reconstruct the utility in its previous location and form; and
- (b) where the utility is replaced or reconstructed—
  - (i) it is to be in accordance with the Corporation's

requirements; and

- (ii) it is to be at the expense of the Corporation but the cost to the Corporation of replacement or reconstruction may be reduced by agreement between the Corporation and the owner of the utility after taking into account—
  - (A) the remaining life of the utility; and
  - (B) additional, avoidable expense due to faulty information provided by the owner of the utility concerning location of the utility; and
  - (C) additional, avoidable expense due to the utility not being constructed in accordance with the Corporation's requirements.

### **Corporation and owner of statutory utility may share costs**

**7.18** The Corporation may arrange with the owner of a statutory utility (whether existing or proposed) for the sharing by the Corporation and the owner of the cost of all or any of—

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

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

### **Application of Division to statutory utilities under Electricity Act**

**7.19** This Division, other than this section, does not apply to statutory utilities constructed under the *Electricity Act 1976*.

***Division 4—Other transport infrastructure*****Agreements regarding transport infrastructure**

**7.20(1)** For the purpose of providing or improving the operation of transport infrastructure the Corporation, with the prior approval of the Minister by notification published in the Gazette, may agree with—

- (a) a local authority or another person; or
- (b) a local authority and another person;

with respect to the provision of transport infrastructure including the acquisition of land and—

- (c) the carrying out of construction of works for or maintenance of;  
or
- (d) the construction of works for and maintenance of;

transport infrastructure on any land.

**(2)** Any agreement entered into by the Corporation under subsection (1) may include arrangements for the sharing of the costs by the parties of the acquisition of land and of the construction and maintenance of works (including the costs of plans, specifications and estimates of works).

**(3)** The Corporation may establish criteria to be met with respect to works or activities proposed by any local authority or person requesting the Corporation to act under this section.

**PART 8—FINANCIAL PROVISIONS****Financial arrangements and investments**

**8.1(1)** For the purpose of discharging its functions and exercising its powers under this Act the Corporation is empowered to enter into financial arrangements within the meaning of the *Statutory Bodies Financial Arrangements Act 1982* with the Treasurer or any other person.

**(2)** In respect of the Corporation as a statutory body within the meaning

of that Act, the provisions of Part 4 of that Act, other than the provisions of sections 33, 34, 39 and 47(1) and (2), apply, but the Corporation is not required—

- (a) to obtain the sanction of the Treasurer pursuant to section 22(3) of that Act in respect of negotiations by the Corporation with a view to its discharge of the functions of—
  - (i) acquiring land or personal property in connection with the discharge; or
  - (ii) holding, dealing with or disposing of land or personal property acquired by it; or
- (b) to obtain the approval of the Governor in Council in respect of the discharge by the Corporation of any of those functions.

## **PART 9—GENERAL PROVISIONS**

### *Division 1—Provisions for compliance with Act*

#### **Authorised officers**

**9.1(1)** The Director-General may authorise an officer or employee, or the holder of any office specified by the Director-General, to exercise all or any of the powers conferred by this Act or any other Act on an authorised officer.

**(2)** A reference in this Act to an authorised officer is a reference to—

- (a) an officer or employee authorised by the Director-General under subsection (1); and
- (b) a person employed in or a class of person within the public sector of Queensland authorised by the Director-General.

**(3)** The Director-General may cause an identity card to be issued to an authorised officer.

**(4)** The identity card must—

- (a) contain a recent photograph of the authorised officer; and
- (b) be in a form approved by the Corporation.

(5) A person who ceases to be an authorised officer must, as soon as practicable, return his or her identity card to the Director-General.

### **General powers of authorised officers regarding vehicles on roads**

**9.2** For the purposes of this Act, an authorised officer may at all reasonable times on a road, exercise the powers set out in section 9.4(1) in respect of a vehicle on the road as if the vehicle were premises entered with the consent of the occupier.

### **Entry and search of premises—evidence of offences**

**9.3(1)** Subject to subsection (2), an authorised officer who has reasonable grounds for suspecting that there is in premises a particular matter or thing (the “**search object**”) that may afford evidence of the commission of an offence against this Act, may—

- (a) enter the premises; and
- (b) exercise the powers set out in section 9.4(1).

(2) The authorised officer must not enter the premises, or exercise a power, under subsection (1) unless—

- (a) the occupier of the premises consents to the entry or the exercise of the power; or
- (b) a warrant under section 9.6 that was issued in relation to the search object authorises the entry or the exercise of the power.

### **General powers of authorised officer in relation to premises**

**9.4(1)** An authorised officer who enters premises under section 9.3(1) may—

- (a) search any part of the premises; and
- (b) inspect and examine anything on the premises; and
- (c) take extracts from, and make copies of, any documents on the

premises; and

- (d) take into the premises such equipment and materials as the authorised officer requires for the purpose of exercising any powers in relation to the premises; and
- (e) require the occupier of or any person in the premises to give to the authorised officer reasonable assistance in relation to the exercise of the authorised officer's powers mentioned in paragraphs (a), (b), (c) and (d).

(2) A person must not, without reasonable excuse, refuse or fail to comply with a requirement made under subsection (1)(e).

(3) It is a reasonable excuse for a person to refuse or fail to answer a question or produce a document if answering the question, or producing the document, might tend to incriminate the person.

### **Effect of finding objects**

**9.5(1)** If an authorised officer who enters premises under this Division finds the search object, the following provisions have effect—

- (a) the authorised officer may seize the search object; and
- (b) the authorised officer may keep the search object for 60 days, or, if a prosecution for an offence against this Act in the commission of which the search object may have been used or otherwise involved is instituted within that period, until the completion of the proceedings for the offence and of any appeal from the decision in relation to the proceedings; and
- (c) if the search object is a book, record or document—while the authorised officer has possession of the book, record or document, the authorised person must allow the book, record or document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the authorised officer's possession.

(2) If, in the course of searching the premises under subsection (1) pursuant to a warrant under this Division an authorised officer—

- (a) finds a thing that the authorised officer believes, on reasonable grounds to be—

- (i) a matter or thing (other than the search object) that will afford evidence of the commission of the offence in request of which the warrant was issued; or
  - (ii) a matter or thing that will afford evidence of the commission of another offence against this Act; and
- (b) the authorised officer believes, on reasonable grounds, that it is necessary to seize the matter or thing to prevent—
- (i) its concealment, loss or destruction; or
  - (ii) its use in committing, continuing or repeating the offence mentioned in subsection (1), or the other offence, as the case may be;

subsection (1) applies to the matter or thing as if it were the search object.

### **Warrant to enter premises**

**9.6(1)** An authorised officer may apply to a stipendiary magistrate for a warrant under this section in relation to particular premises.

**(2)** Subject to subsection (3), the magistrate may issue the warrant if the magistrate is satisfied, by information on oath, that there are reasonable grounds for suspecting that there is, or there may be within the next 72 hours, in the premises a particular matter or thing (the “**search object**”) that may afford evidence of the commission of an offence against this Act.

**(3)** If the magistrate requires further information concerning the grounds on which the issue of the warrant is being sought, the magistrate must not issue the warrant unless the authorised officer or some other person has given the information to the magistrate in the form (either orally, written or by affidavit) that the magistrate requires.

**(4)** The warrant must—

- (a) state the name of the authorised officer; and
- (b) authorise the authorised officer, with such assistance and by such force as is necessary and reasonable—
  - (i) to enter the premises; and
  - (ii) to exercise the powers set out in section 9.4(1); and

- (iii) to seize the search object; and
- (c) state whether the entry is authorised to be made at any time of the day or night or during specified hours of the day or night; and
- (d) specify the day (not more than 7 days after the issue of the warrant) on which the warrant ceases to have effect; and
- (e) state the purpose for which the warrant is issued.

### **General power to obtain information**

**9.7(1)** In relation to any matter relevant to the operation or enforcement of this Act other than a matter referred to in section 9.8, an authorised officer may require a person (either by oral or written requisition) to supply—

- (a) any information; and
- (b) any records or a copy thereof;

in the person's possession.

**(2)** For the purpose of subsection (1) a person is taken to be in possession of—

- (a) information, if the person has the information or is entitled to access to the information; and
- (b) records, if the person has them in the person's possession or has them under control in any place, whether for that person's own use or benefit or for another's use or benefit and although another person has the actual possession or custody of the records.

**(3)** A requisition made under subsection (1) may require that the information or records or copy thereof be supplied—

- (a) to the authorised officer or another authorised officer or to an officer of the Department; and
- (b) at the place the requisition is made or at another place; and
- (c) within a specified reasonable time; and
- (d) in person, by certified mail or in another specified manner; and
- (e) by means of, or accompanied by, verification in the form of a



statutory declaration made in accordance with the *Oaths Act 1867*;  
and

(f) in the case of information, orally or in writing.

**(4)** A person must not—

(a) refuse or fail to furnish any information, records or a copy thereof as required of the person under this section; or

(b) in response to a requisition made under this section furnish information, records or copies thereof that is or are false or misleading in a material particular.

**(5)** A person is not entitled to refuse or fail to furnish information or records or a copy thereof on the ground only that the information, or records or copy thereof would tend to incriminate the person.

**(6)** If in response to a requisition authorised by subsection (1)(a), a person furnishes information that would tend to incriminate that person in any offence under this Act, other than an offence defined in subsection (4)(b), the information furnished is not admissible in evidence against that person in proceedings in any court or tribunal.

**(6A)** This subsection does not apply to information as to the name and address of the person.

**(7)** Where a person records or stores any matter by means of a mechanical, electronic or other device, the duty imposed by this section to produce any records containing those matters includes a duty to produce the matters in written form if that is demanded.

**(7A)** The duty imposed by this section to produce a copy of any records is a duty to produce a clear reproduction.

**(8)** An authorised officer or an officer or employee of the Department may take notes or copies of or extracts from records or a copy thereof produced under this section.

**(9)** Records furnished under this section may be retained for so long as it is necessary to do so for the purposes of this Act, but the person otherwise entitled to possession thereof, upon request, is entitled to be furnished as soon as practicable with a copy thereof certified by the Director-General to be a true copy and such a certified copy must be received in all courts and elsewhere as evidence of the matters contained therein as if it were the

original.

### **Additional powers of authorised officers regarding vehicles**

**9.8** An authorised officer concerned with the provisions of this Act relating to the registration of vehicles or the use or condition of vehicles upon roads may—

- (a) require the driver of a vehicle on any road to stop by indicating that requirement to the driver in any appropriate manner which may include the display of a prescribed sign; or
- (b) require the driver or person apparently in charge of a vehicle on any road to move the vehicle to a place specified by the authorised officer; or
- (c) require the driver of a vehicle to give full information as to the nature, origin and destination of the loading upon the vehicle; or
- (d) unlock, unfasten, or open or require the driver of a vehicle to unlock, unfasten, or open any closed door on or component of a vehicle or remove or require the driver thereof to remove any removable cover upon a vehicle; or
- (e) measure and weigh any vehicle and its load; or
- (f) enter, search and examine any vehicle and documents or things, which the authorised officer considers, on reasonable grounds, may relate to registration, use or condition of the vehicle, found in or on a vehicle; or
- (g) enter upon a vehicle and move or remove or direct the driver to move or remove in whole or in part any loading upon the vehicle which is in excess of the maximum weight, height or width prescribed by or under this or any other Act to be carried upon the vehicle, at the relevant time or place or under the relevant conditions, manner or circumstances.

### **Authorised officer may require name and address**

**9.9** An authorised officer who—

- (a) finds any person committing or reasonably suspects any person

- of having committed an offence against this Act; or
- (b) is making inquiries or investigations with a view to establishing whether or not an offence against this Act has been committed by any person; or
  - (c) is reasonably of the opinion that the name and address of any person is required for the purpose of giving effect to any provision of this Act, or for the purpose of enabling the authorised officer to carry out the authorised officer's functions and powers under this Act;

may require that person to state the person's name and address, or name or address, and if the authorised officer has reasonable grounds to suppose that the name and address, or name or address given is false, may require evidence of the correctness thereof.

### **Compliance with requirement**

**9.10(1)** A person to whom an authorised officer duly makes a requirement under this Act must not refuse or fail to comply with the requirement in every respect.

**(2)** A person required under this Act to state that person's name and address or name or address who—

- (a) refuses or otherwise fails to comply with the requirement; or
- (b) states a false name and address, or, as the case may be, a false name or a false address;

commits an offence against this Act.

**(3)** A person required under this Act to give evidence of the correctness of a name and address, or name or address, who fails to give that evidence, or who gives false evidence with respect to the name and address or, as the case may be, name or address, commits an offence against this Act.

### **Cooperation with authorised officers**

**9.11** A person must—

- (a) when required by an authorised officer facilitate by all reasonable means the entry into or on any place or vehicle by an authorised

officer;

- (b) when required by or under this Act to furnish any assistance or to furnish any information to an authorised officer, furnish that assistance or information, as the case may be, or, in the latter case, furnish information which is not in any respect false or misleading;
- (c) produce any licence, permit, authority, or other certificate, or book, notice, record, document or writing, production of which is required under this Act by an authorised officer, and allow an authorised officer to take a copy of or extract from it.

### **Obstruction of authorised officers etc.**

**9.12** A person must not, without reasonable excuse, obstruct, hinder or resist an authorised officer in the exercise of powers under this Act.

### **False or misleading statements**

**9.13** A person must not—

- (a) make to an authorised officer a statement that the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to an authorised officer any matter or thing without which the statement is, to the knowledge of the person, misleading in a material particular; or
- (c) give to an authorised officer a document containing information that the person knows is false, misleading or incomplete in a material particular without—
  - (i) indicating to the authorised officer that the document is false, misleading or incomplete and the respect in which the document is false, misleading or incomplete; and
  - (ii) providing correct information to the authorised officer if the person has, or can reasonably obtain the correct information.

**Traffic direction by authorised officers**

**9.14(1)** A person must obey any direction, signal or order directing traffic given by an authorised officer.

**(2)** A person does not contravene any law relating to the regulation or control of traffic merely because the person obeys a direction, signal or order under this section.

***Division 2—Miscellaneous provisions*****Offences generally**

**9.15** A person who contravenes or fails to comply with a provision of this Act commits an offence against this Act and, if a specific penalty is not otherwise provided, is liable to a maximum penalty of 80 penalty units.

**Proceedings for offences**

**9.16(1)** Offences against this Act may be prosecuted in a summary way under the *Justices Act 1886* upon the complaint of the Director-General or an authorised officer and a proceeding for an offence is to be brought within 12 months after the offence is committed.

**(2)** Despite this or any other Act, in a proceeding on a complaint the court may make an order on any matter within its jurisdiction though no application is made in respect of the matter.

**Liability of owner for offence relating to use of vehicles**

**9.17(1)** Despite section 7 or 23 of the Criminal Code or any other Act or rule of law or practice, where an offence against a provision of this Act relating to the use of vehicles is committed by the driver of the vehicle, the person (“**the owner**”) in whose name a vehicle is registered (whether under this Act or any other Act of the Commonwealth or a State or Territory of the Commonwealth providing for the registration of vehicles) is to be taken to have taken part in committing the offence and may be charged with actually committing the offence unless the owner shows that, at the time the offence was committed the owner was not the driver and—

- (a) the vehicle was leased or let on hire (other than by way of a hire purchase agreement or a lease arrangement with an option to purchase) to another person by the owner; or
- (b) the vehicle was being used without the authority or consent of the owner.

(2) Subject to subsection (1)(a) and (b), it is immaterial to the liability of the owner for such offence that—

- (a) the offence was committed without the authority or contrary to the instructions of that person; or
- (b) the offence occurred independently of the exercise of the will of that person.

(3) This section does not affect the liability of any driver who actually commits an offence.

### **Conduct of directors, servants and agents**

**9.18(1)** Where it is necessary to establish for the purposes of a prosecution for an offence against this Act, the state of mind of a body corporate in relation to particular conduct, it is sufficient to show—

- (a) that the conduct was engaged in by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; and
- (b) that the director, servant or agent had the state of mind.

(2) Conduct engaged in on behalf of a body corporate by 1 of its directors, servants or agents within the scope of his or her actual or apparent authority is taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the Corporation.

(2A) It is a defence for the body corporate to prove that it took reasonable precautions and exercised due diligence to avoid the conduct.

(3) Where, in a prosecution for an offence against this Act, it is necessary to establish the state of mind of a person other than a body corporate in relation to particular conduct, it is sufficient to show—

- (a) that the conduct was engaged in by a servant or agent of the person within the scope of actual or apparent authority; and

(b) that the servant or agent had the state of mind.

(4) Any conduct engaged in on behalf of a person other than a body corporate by a servant or agent of the person within the scope of actual or apparent authority is to be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the person.

(4A) It is a defence for the master or principal to prove that he or she took reasonable precautions and exercised due diligence to avoid the conduct.

(5) In this section—

- (a) a reference to a person's state of mind includes a reference to—
  - (i) the person's knowledge, intention, opinion, belief or purpose; and
  - (ii) the person's reasons for the intentions, opinion, belief or purpose; and
- (b) a reference to a director of a body corporate includes a reference to a member of the governing body of a body corporate; and
- (c) a reference to engaging in conduct includes a reference to failing or refusing to engage in conduct.

### **On conviction, order for payment of fees etc.**

**9.19** A court which convicts a person of an offence against this Act may, in addition to imposing any penalty, order the defendant to pay—

- (a) an amount not exceeding double the amount of any fee or fees due under this Act; and
- (b) an amount towards the cost of repairing damage to road transport infrastructure whether actually incurred or not yet incurred but reasonably estimated by the Corporation.

### **Directors liable for penalties of bodies corporate**

**9.20** Where a body corporate has been ordered to pay a penalty for an offence against this Act or any other amount under section 9.19, the amount of the penalty and any other such amount becomes a debt due and owing to

the Corporation jointly and severally by the body corporate and each member of the governing body of the body corporate and may be recovered as a debt in any court of competent jurisdiction.

### **Disposal of fees, penalties etc.**

**9.21** All fees, penalties and other moneys received or recovered under this Act are to be paid into the Consolidated Fund.

### **Service of documents**

**9.22(1)** Any notice, direction, order, other document or writing required or authorised by this Act to be given to or served on a person is duly given or served if—

- (a) it is delivered personally to the person to whom it is directed; or
- (b) it is left at the place of residence or business of the person to whom it is directed last known to the person who gives it; or
- (c) it is sent by post to the place of residence or business of the person to whom it is directed last known to the person who gives it; or
- (d) where it is addressed to the owner or occupier of land or premises—it is left with some adult person on the land or premises or, if there is no such person, it or a true copy of it is fixed on some conspicuous part of the land or premises; or
- (e) where it is addressed to the Corporation or the Director-General, it is left with some person at any office of the Corporation or forwarded by post to the Director-General.

**(2)** A document or writing that is directed to an owner or occupier of land whose name is not known may be addressed to the person by the description ‘owner’ or, as the case may be, ‘occupier’ of the land in question without further name or description.

**(3)** Subject to subsection (2), a document or writing that is directed to a person whose name and address are unknown may be given or served by publishing that document or writing 3 times in a newspaper circulating generally in the locality in question at intervals of not less than 1 week between each publication.



**Evidentiary provisions**

**9.23 (1)** In a proceeding for the purposes of this Act—

- (a) a signature purporting to be that of the Minister, Director-General, any authorised officer or other officer is to be taken to be the signature it purports to be until the contrary is proved; and
- (b) the production of a map or plan purporting to have been made on behalf of the Corporation and sealed with its seal or purporting to have been issued or published by a department of the government of the State or an officer thereof is prima facie evidence of the matters stated or delineated therein; and
- (c) copies of plans, specifications and books of reference with respect to matters arising under this Act and of any alteration or correction thereof or extract therefrom certified by an authorised officer to be true and correct copies are, upon their production in that proceeding, prima facie evidence of the contents thereof; and
- (d) a copy of an extract from a newspaper purporting to be a newspaper circulating in a certain locality consisting of or including a notice or particulars purporting to be made and inserted in that newspaper by, or on behalf or under the direction of the Corporation with respect to matters arising under this Act is, upon its production in that proceeding prima facie evidence—
  - (i) that the newspaper is one circulating in the locality in question;
  - (ii) that the advertisement was made and inserted in that newspaper by, on behalf or under the direction of the Corporation;
  - (iii) of the contents of that advertisement; and
- (e) a document or writing purporting to be made or issued by, on behalf of or under the direction of the Corporation or the Director-General and purporting to be under the seal of the Corporation or signed by the Minister, Director-General or a person authorised in that behalf by the Corporation or the Director-General is, upon its production in that proceeding, prima facie evidence of the matters contained in that document or writing; and
- (f) the production of a deed of grant, certificate of title,

memorandum of transfer or other instrument creating an interest in land or of a duly certified copy thereof is prima facie evidence that the person named therein as registered proprietor or as entitled to the interest is the owner of or person entitled to the interest in the land; and

- (g) wherever it is necessary to mention or refer to a person as the owner or occupier of land or premises, it is sufficient for the purposes of that proceeding to designate that person as the owner or occupier of the land or premises without reference to the person's name or further or other description; and
- (h) a document purporting to be a copy of any record, registration, permit, approval, certificate, order, notice or authority under this Act is, upon its production in that proceeding, prima facie evidence of that licence, registration, permit, approval, certificate, order, notice or authority; and
- (i) a certificate purporting to be signed by a person authorised to grant it, is, upon its production in that proceeding, prima facie evidence of the matters contained in that certificate; and
- (j) a certificate purporting to be signed by the Director-General or an authorised officer certifying the receipt or otherwise of any notice, application or payment or that any amount of fees or other moneys specified in the certificate is payable under this Act by a specified person and has not been paid is, upon its production in that proceeding, prima facie evidence of the matters contained in that certificate; and
- (k) a certificate or document relating to a vehicle purporting to be issued under this Act or any Act of the Commonwealth or of a State or Territory providing for the registration of vehicles is, upon its production in that proceeding, prima facie evidence of the matters contained in that certificate or document and that the person named therein as the person in whose name the vehicle is registered was the person using the vehicle at the material time or during the material period; and
- (l) an allegation or averment in a complaint—
  - (i) that a place is, or that any thing was done or omitted, within a specified district or area;

- (ii) that any person was or was not, at the material time, permitted, registered, authorised or approved under this Act;
- (iii) that any registration, permit, approval, certificate or authority required under this Act to be obtained was not duly obtained by the person required to obtain it;
- (iv) that the place on which an alleged offence was committed was a road;

is prima facie evidence of that allegation or averment; and

- (m) an allegation in a complaint or like document by means of which legal proceedings of any kind are initiated that an item named therein is or is not the property of the Corporation or the department is prima facie evidence of the matters alleged.

(2) This section does not prejudice or in any way affect other means of proving any matter.

## **Regulations**

**9.24(1)** The Governor in Council may make regulations not inconsistent with this Act for or with respect to all matters and things that are necessary or convenient for the administration of this Act or with respect to the powers, authorities, functions and duties conferred or imposed on the Corporation or the Director-General for the purposes of this Act or for carrying this Act into effect.

(2) Without limiting subsection (1), regulations may be made for or with respect to the matters specified in Schedule 1 including regulating or controlling persons and things in respect of those matters.

(3) The power to regulate or control includes the power to prohibit.

(4) Regulations may be made to apply generally throughout Queensland or within a locality in Queensland or, with respect to a class of person, matter or thing, to apply generally or to be of limited application as indicated therein.

(5) The regulations—

- (a) may adopt wholly or partly and specifically or by reference and with any alteration, amendment, modification or variation any of the standards, rules, codes, specifications or methods of any

association, body or institution whether in force or recommended at the time of adoption or as amended from time to time;

- (b) may impose functions or confer powers in connection with the regulations on a department of the government of the State, public authority or local authority;
- (c) may provide that certain provisions are to take effect during a specified period or a specified period of each year.

(6) The regulations may prescribe—

- (a) that any offences under this Act are to be offences in respect of which a notice may be given or posted to an offender or affixed to a vehicle advising that a prescribed penalty may be paid for such offence within a prescribed period without involving court proceedings; and
- (b) the amounts that are payable by way of penalties in respect of offences so prescribed which sums of money may be prescribed differently in relation to different offences or differently in relation to any such offence according to previous like offences or the time, place or circumstance related to the commission of the offence; and
- (c) the form of, and the particulars to be contained in, the notice; and
- (d) the manner in which the notice may be given or posted to a person or affixed to a vehicle.

(7) Regulations under subsection (6) in respect of the notice referred to therein may prescribe that the notice may also advise that an amount (determined by the Corporation) up to but not exceeding double the amount of any fee or fees due for any purpose under this Act that may be paid within the same period as that prescribed in respect of the prescribed penalty, without involving court proceedings.

(8) A regulation relating to declared roads may provide that it is to apply to all declared roads, specified declared roads or to specified parts of specified declared roads.

(9) A regulation made regulating or controlling persons, animals or vehicles on declared roads is not to be inconsistent with the *Traffic Act 1949* but any regulation that is inconsistent is to have effect except to the extent of the inconsistency.

**SCHEDULE 1****SUBJECT MATTER FOR REGULATIONS**

section 9.24

**ADMINISTRATION**

Functions and powers of the Corporation, Director-General, officers, employees, delegates and authorised officers to facilitate and enforce the carrying into effect of the provisions of this Act.

**DECLARED ROADS**

Management of the various classifications of declared roads.

Protection of transport infrastructure and land under the control of the Corporation.

Consequences of damage or interference to declared roads or road transport infrastructure.

Control of naturally occurring materials on declared roads.

Regulation, restriction and control of access to declared roads.

Creation and operation of declared roads subject to limitation of access.

Creation and operation of motorways.

Regulation of advertising on or in the vicinity of declared roads.

Regulation of persons, animals, vehicles and rubbish on declared roads.

**PROPERTY PROVISIONS**

Provision of service centres, rest areas, scenic areas within Queensland.

## SURVEYS, INVESTIGATIONS, ENVIRONMENTAL ASSESSMENTS, PLANNING AND DESIGN

Production, keeping, maintenance and display of maps for the purpose of this Act.

## CONSTRUCTION AND MAINTENANCE

Construction of works for and maintenance of transport infrastructure.

Planning, design and construction by local authorities of works for road transport infrastructure, maintenance of road transport infrastructure by local authorities and supervision of construction of works for road transport infrastructure by local authorities.

Temporary occupation of land under this Act.

Regulation of traffic (including for safety purposes) during construction of works for or maintenance of road transport infrastructure.

Creation or diversion of watercourses on a declared road or affecting a declared road.

Regulation of ancillary works and encroachments.

Requirements for construction, augmentation, alteration and maintenance of statutory utilities on declared roads.

## FINANCIAL PROVISIONS

Financial contributions to or payments by local authorities for construction of works for and maintenance of transport infrastructure.

Interest payable on moneys outstanding under the Act.

Tolls payable through use of transport infrastructure.

## GENERAL PROVISIONS

Penalties for failure to comply with the regulations.

Exemptions from the operation of the regulations.

Forms to be used for the purposes of this Act and the purposes for which

those forms must be used respectively.

Fees, charges, allowances, royalties, costs or expenses payable to or to be paid by the Corporation.

Provision and dealing with notices, requisitions and other documents or writings.

Compensation payable under this Act.

Granting and managing vehicle registrations and permits.

Management and operation of a register of vehicles including—

initial registration;

renewal of registration;

cancellation or suspension of registration;

transfer of registration;

identification of current registration;

identification of vehicles for registration purposes;

identification of persons applying for registration or transfer of registration of vehicles;

duties of persons in whose names vehicles are registered;

sale of information contained in the register;

inspection of vehicles and records;

appointment of the Corporation as an agent for bodies providing statutorily required insurance cover;

appointment, functions and powers of agents of the Corporation.

Conditions upon which vehicles may be used on roads.

Prohibition of use of unregistered or non-complying vehicles.

Notification of transfers and sales of unregistered vehicles.

Use of unregistered vehicles by dealers and others.

Use, regulation and control of dealers' plates.

Regulation and control of the transportation of heavy or over-dimension loads on roads.

Display of notices.

All matters required or permitted by or under this Act to be prescribed where the manner of prescription is not specified.



## **SCHEDULE 3**

### **SAVINGS, TRANSITIONAL AND VALIDATION**

section 1.4

#### **Declared roads**

**1.** Until declared to be a declared road of a classification prescribed by the regulations, a declared road that exists under the repealed Acts immediately before the commencement of this section is a declared road and the type of declared road that it is under those Acts immediately before that commencement is the classification of that declared road under this Act.

#### **References to The Commissioner of Main Roads**

**4.** A reference in any—

- (a) Act; or
- (b) proclamation, order in council, regulation, rule, by-law or ordinance; or
- (c) licence, approval, authority, permit, direction, determination, order, notice, prohibition or other act of executive or administrative authority; or
- (d) agreement, deed or other document, instrument or writing of any kind;

in existence immediately before the commencement of section 1.4—

- (e) to the corporation sole under the name The Commissioner of Main Roads is to be construed as a reference to the Corporation; and
- (f) to the Commissioner of Main Roads as a natural person is to be construed as a reference to the Director-General.

**References to The Main Roads Fund**

5. A reference in any—

- (a) Act; or
- (b) proclamation, order in council, regulation, rule, by-law or ordinance; or
- (c) agreement, deed or other document or writing of any kind;

in existence immediately before the commencement of section 1.4 to The Main Roads Fund maintained under the repealed Acts is to be construed as a reference to the funds of the Department.

**Transfer of assets and liabilities**

7. (1) On the commencement of section 1.4—

- (a) all moneys that immediately before that commencement are standing at credit in a fund or account administered by The Commissioner of Main Roads together with interest accrued and due thereon vest in the Corporation; and
- (b) all moneys and liquidated and unliquidated claims that immediately before that commencement were payable to or recoverable by The Commissioner of Main Roads are payable to and recoverable by the Corporation; and
- (c) all real and personal property of The Commissioner of Main Roads is divested from The Commissioner of Main Roads and vested in the Corporation; and
- (d) all contracts and agreements entered into by or on behalf of The Commissioner of Main Roads and all guarantees, undertakings and securities given by or on behalf of or to The Commissioner of Main Roads and in force immediately before that commencement, are to be taken to have been entered into or, as the case may be, given by or to the Corporation and may be enforced against or by the Corporation accordingly; and
- (e) all actions, suits and proceedings by or against The Commissioner of Main Roads pending or existing immediately prior to that commencement may be continued or discontinued by or against the Corporation which is to be substituted as a party

thereto in place of The Commissioner of Main Roads; and

- (f) all debts owing and moneys payable by and liquidated or unliquidated claims recoverable against The Commissioner of Main Roads and subsisting immediately before that commencement become and are debts owing or moneys payable by or, as the case may be, claims recoverable against the Corporation.

(2) The Registrar of Titles and all other persons charged with the keeping of a register with respect to dealings with property vested in the Corporation by this clause are, upon request made or on behalf of the Corporation, to make in that register all endorsements necessary to record the vesting in the Corporation of the property in question pursuant to this clause.

(3) Despite any Act to the contrary, a request made for the purposes of subclause (2) is not liable to stamp duty and no fees or charges are payable in respect thereof.

### **Acts, etc. under repealed Acts continue under this Act**

8. Every registration, certificate, licence, permit, order, approval, exemption, direction, notification, notice, delegation or other act or authority granted, issued, made and published, given or done under the repealed Acts and in force immediately before the commencement of section 1.4 continues in force as if it were granted, issued, made and published, given or done under this Act until it expires by effluxion of the time limited for its operation at the time it was granted, issued, made and published, given or done or is revoked, cancelled, suspended or surrendered in accordance with this Act.

### **Funds allocated under s. 19 of repealed Acts but unexpended at commencement**

10. Any funds allocated under section 19 of the repealed Acts before the commencement of section 1.4 and not fully expended at that commencement are to be expended by the Corporation for the purpose for which the moneys were allocated.

**Fees**

**11.** All fees prescribed by or under the repealed Acts to be paid are prescribed by or under this Act and continue to be payable as prescribed.

**Existing officers and employees**

**12.** A person who immediately before the commencement of section 1.4 holds an office or a position to which that person was appointed under or for the purposes of the repealed Acts continues to hold that office or position or the corresponding office or position under or for the purposes of this Act until that person vacates or is lawfully removed from that office or position and, where that office or position has been held immediately before that commencement subject to and in accordance with the *Public Service Management and Employment Act 1988*, the same or the corresponding office or position is held subject to and in accordance with that Act.

**Reference to repealed Act provisions**

**13.** Where in any Act or enactment, proclamation, order in council, regulation, rule, by-law, ordinance, order or other document or writing, reference is made to a provision of the repealed Acts, unless the contrary intention appears, that reference is to the corresponding provision of this Act and that Act, enactment, proclamation, order in council, regulation, rule, by-law, ordinance, order, document or writing is to be construed accordingly.

**Unforeseen circumstances**

**14.** If in any case in respect of the transition from the law in force before the commencement of section 1.4 to the provisions of this Act, it appears to the Governor in Council that no provision or no sufficient provision is made to effectuate that transition, the Governor in Council may by order in council make such provision as the Governor in Council thinks fit with respect thereto providing for and supplying such omission or insufficiency, and that provision has effect accordingly.

**Continuation of delegation**

**16.** Any delegation or other authorisation of a person to do anything under the repealed Acts current at the commencement of section 1.4 continues to have full force and effect as a delegation or authorisation under and with respect to this Act.

**ENDNOTES****1 Index to endnotes**

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**2 Date to which amendments incorporated**

This is the day mentioned in section 5(c) of the *Reprints Act 1992*. However, no amendments have commenced operation before that day. Future amendments of the *Transport Infrastructure (Roads) Act 1991* may be made in accordance with this reprint because of section 49 of the *Reprints Act 1992*.

**3 List of legislation****Transport Infrastructure (Roads) Act 1991 No 29**

date of assent 5 June 1991

ss 1.1–1.2 commenced on date of assent

remaining provisions commenced 14 July 1991 (SL No 16 Gaz 13 July 1991 p 1527)

## 4 List of annotations

### Key to abbreviations in list of annotations

RA	=	<i>Reprints Act 1992</i>
amd	=	amended
ins	=	inserted
om	=	omitted
renum	=	renumbered
sub	=	substituted
Pt hdg	=	Part heading
Div hdg	=	Division heading
Sdiv hdg	=	Subdivision heading
hdg prec	=	heading preceding
prov hdg	=	provision heading
cl	=	clause
pres	=	present
orig	=	original

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

**Sch 2** om (see s 40 RA)

### **SCHEDULE 3—SAVINGS, TRANSITIONAL AND VALIDATION**

#### **Motorways**

**cl 2** om (see s 38 RA)

#### **Limitation of access**

**cl 3** om (see s 38 RA)

#### **Decisions etc. of The Commissioner of Main Roads become decisions etc. of Corporation**

**cl 6** om (see s 38 RA)

#### **Works**

**cl 9** om (see s 38 RA)

#### **Validation of certain decisions**

**cl 15** om (see s 38 RA)

## 5 Table of renumbered provisions

### TABLE OF RENUMBERED PROVISIONS under section 43 of *Reprints Act 1992*

Original	Renumbered as
3.2(1)(a)	3.2(1)
3.2(1)(b)	3.2(1A)
3.2(2)(a)	3.2(2)
3.2(2)(b)	3.2(2A)
3.3(2) (2nd sentence)	3.2(3)
3.7(1) (2nd sentence)	3.7(1A)
3.12 (1st sentence)	3.12(1)
3.12 (2nd sentence)	3.12(2)
3.17(4) (2nd sentence)	3.17(5)
5.7(4)(a)	5.7(4)
5.7(4)(i)	5.7(4)(a)
5.7(4)(ii)	5.7(4)(b)
5.7(4)(b)	5.7(4A)
5.7(4)(b)(i)	5.7(4A)(a)
5.7(4)(b)(ii)	5.7(4A)(b)
5.7(4)(b)(iii)	5.7(4A)(c)
5.7(4)(b)(iii)(A)	5.7(4A)(c)(i)
5.7(4)(b)(iii)(B)	5.7(4A)(c)(ii)
7.8(1)(a)	7.8(1)
7.8(1)(b)	7.8(1A)
7.8(1)(b)(i)	7.8(1A)(a)
7.8(1)(b)(ii)	7.8(1A)(b)
7.8(1)(b)(iii)	7.8(1A)(c)
7.14(2) (2nd sentence)	7.14(3)
7.16(2)(a)	7.16(2)
7.16(2)(b)	7.16(3)
8.1 (1st sentence)	8.1(1)
8.1 (2nd sentence)	8.1(2)
9.7(6) (2nd sentence)	9.7(6A)
9.7(7) (2nd sentence)	9.7(7A)
9.18(2) (2nd sentence)	9.18(2A)
9.18(4) (2nd sentence)	9.18(4A)