



Queensland

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

**Reprinted as in force on 1 July 2009**

**Reprint No. 1A**

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

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprint.**

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Queensland

# Transport Operations (TransLink Transit Authority) Act 2008

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# Transport Operations (TransLink Transit Authority) Act 2008

[as amended by all amendments that commenced on or before 1 July 2009]

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

## Part 1 Preliminary

### Division 1 Introduction

#### 1 Short title

This Act may be cited as the *Transport Operations (TransLink Transit Authority) Act 2008*.

#### 2 Commencement

This Act commences on a day to be fixed by proclamation.

#### 3 Purposes of Act and their achievement

- (1) The main purpose of this Act is to deliver in the TransLink area the best possible mass transit services at reasonable cost to the community and government, while keeping government regulation to a minimum.

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- (2) Other purposes of this Act are, consistently with the objectives of the *Transport Planning and Coordination Act 1994*, to do the following in relation to the TransLink area—
  - (a) enable the effective operational planning and efficient management of mass transit services in a way that—
    - (i) is responsive to community needs; and
    - (ii) offers an attractive alternative to private transport and reduces the overall environmental, economic and social costs of passenger transport; and
    - (iii) addresses the challenges of future growth; and
    - (iv) provides a high level of accountability; and
    - (v) is at a reasonable cost to the community and government;
  - (b) provide a reasonable level of community access and mobility in support of the government’s social justice objectives;
  - (c) provide a framework for coordinating the provision of the services under service contracts or other contracts to form a comprehensive, integrated and efficient mass transit network;
  - (d) help the government achieve its congestion management priorities relating to transport.
- (3) To achieve the purposes, this Act establishes the TransLink Transit Authority to manage mass transit services in the TransLink area.

#### **4 Act binds all persons**

- (1) This Act binds all persons including the State and, to the extent the legislative power of the Parliament permits, the Commonwealth and the other States.
- (2) Nothing in this Act makes the State liable to be prosecuted for an offence.

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## 5 Relationship with Transport Operations (Passenger Transport) Act 1994

This Act does not affect—

- (a) the functions or powers under TOPTA of the TOPTA chief executive; or
- (b) the rights or obligations under TOPTA of drivers and operators and of passengers using public passenger services.

## Division 2 Interpretation

### 6 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

### 7 What is the *TransLink area*

- (1) The *TransLink area* is—
  - (a) the service contract areas or routes mentioned in schedule 1; and
  - (b) another service contract area or route in the SEQ area, as prescribed under a regulation.

- (2) In this section—

*SEQ area* means the combined local government areas of the following local governments under the *Local Government Act 1993* as that Act was in force immediately before 15 March 2008—

- (a) the cities of Brisbane, Caloundra, Gold Coast, Ipswich, Logan, Redcliffe and Toowoomba;
- (b) the shires of Beaudesert, Boonah, Caboolture, Esk, Gatton, Kilcoy, Laidley, Maroochy, Noosa, Pine Rivers and Redland.

*service contract area or route* see TOPTA, schedule 3.

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*Editor's note—*

Indicative maps of the TransLink area are on TransLink's website  
<<http://www.translink.com.au/>>.

## **8 What is a *mass transit network***

A *mass transit network* is a centrally planned and coordinated system of mass transit services and related infrastructure, technology and facilities including, for example, ticketing, fares and customer information facilities and bus stops and stations.

# **Part 2 Establishment and status of TransLink**

## **9 Establishment**

The TransLink Transit Authority is established.

## **10 Legal status**

TransLink—

- (a) is a body corporate, consisting of the board of members provided for under part 4; and
- (b) has perpetual succession; and
- (c) may sue and be sued in its corporate name.

## **11 TransLink represents the State**

- (1) TransLink represents the State.
- (2) Without limiting subsection (1), TransLink has the status, privileges and immunities of the State.

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**12 TransLink declared to be excluded matter for Corporations Act**

TransLink is declared to be an excluded matter for the Corporations Act, section 5F in relation to the whole of the Corporations legislation.

*Editor's note—*

Corporations Act, section 5F (Corporations legislation does not apply to matters declared by State or Territory law to be an excluded matter)

**13 Application of other Acts**

- (1) TransLink is—
  - (a) a statutory body under the *Financial Accountability Act 2009*; and
  - (b) a statutory body under the *Statutory Bodies Financial Arrangements Act 1982* (the *SBFA*).
- (2) The SBFA, part 2B sets out the way in which TransLink's powers under this Act are affected by that Act.

**Part 3 Functions and powers of TransLink**

**Division 1 Functions**

**14 Main function and its achievement**

- (1) TransLink's main function is to give effect to the purposes of this Act.
- (2) The main function is performed primarily by TransLink doing the following in relation to mass transit services for the TransLink area—
  - (a) operational planning for a mass transit network;

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- (b) planning, purchasing and delivering the services, including, for example, by coordinating the scheduling of modes of mass transit services;
- (c) managing and maintaining infrastructure for the services, including, for example, bus stops and on-road bus facilities;
- (d) delivering and managing infrastructure that is critical for the services;
- (e) improving and expanding the range of the services;
- (f) establishing a single point of contact for customer service issues, including, for example, the provision of service information and complaints handling;
- (g) managing the introduction of new technology to improve the services;

*Example—*

real time passenger information and the widespread use of new ticketing technology

- (h) improving the governance of the services, with local government, consumer and independent expert representations;
- (i) managing service contracts and other contracts to—
  - (i) ensure value for taxpayers through performance-based incentives that promote integration, on-time running and customer service; and
  - (ii) minimise fare evasion;
- (j) managing integrated ticketing, including, for example, by developing fare products;
- (k) providing information to passengers;
- (l) carrying out commercial activities related to the services to obtain revenue for the performance of its other functions;

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*Examples of commercial activities that TransLink may carry out—*

- the sale of advertising rights on TransLink facilities
  - commercial arrangements for the application of new ticketing technology
- (m) making recommendations to the Minister about fare strategies and service levels;
- (n) giving information to help the development of plans and strategies under other Acts relating to transport;
- (o) implementing government policies for, or in association with, other governmental agencies.
- (3) It is Parliament’s expectation that once the single point of contact for customer service issues has been established, an operator of any relevant mass transit service will not establish or continue any similar point of contact for the service without TransLink’s agreement.
- (4) In this section—
- commercial activities* include—
- (a) commercial activities that are not within the ordinary functions of the State; and
  - (b) commercial activities of a competitive nature.
- relevant mass transit service* means a mass transit service provided under an agreement entered into by TransLink in its own right or as a delegate.

## **Division 2                    Powers**

### **15            General powers**

- (1) TransLink has the powers—
- (a) necessary or convenient to perform its functions; or
  - (b) incidental to the performance of its functions; or
  - (c) to help to achieve the purposes of this Act.

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- (2) Without limiting subsection (1), TransLink may do all or any of the following—
  - (a) acquire, hold, dispose of, and deal with, property;
  - (b) appoint agents and attorneys;
  - (c) engage consultants;
  - (d) subject to sections 16 and 17(5), enter into contracts, joint ventures and commercial arrangements;
  - (e) do anything necessary or convenient to be done in the performance of its functions under an Act.
- (3) In performing its functions, TransLink may act alone or in conjunction with public sector units, local governments, agencies or instrumentalities of the Commonwealth and other entities.
- (4) TransLink also has the powers conferred on it under another provision of this Act or under another Act.

## **16 Service contracts**

- (1) TransLink does not have the power, in its own right, to enter into a contract that is, or is in the nature of, a service contract.
- (2) To remove any doubt, it is declared that subsection (1) does not prevent TransLink from entering into service contracts or performing functions or exercising powers relating to service contracts as the delegate of the TOPTA chief executive.

## **17 Work performance arrangements**

- (1) TransLink may enter into, and give effect to, a work performance arrangement (a *relevant arrangement*) with—
  - (a) the employing office; or
  - (b) the appropriate authority of another government entity.
- (2) A relevant arrangement may make provision for all matters necessary or convenient to be provided under the arrangement.

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- (3) For example, a relevant arrangement may provide for—
    - (a) the appointment of a person to an office, and the holding of the office by the person, for the arrangement; and
    - (b) the authorising of a person to exercise powers for the arrangement; and
    - (c) whether payment is to be made for work done under the arrangement and, if so, what payment is to be made and who is to make the payment.
  - (4) A person performing work for TransLink under a relevant arrangement—
    - (a) is not employed by TransLink; and
    - (b) remains an employee of the State or government entity whose appropriate authority is a party to the arrangement.
  - (5) To remove any doubt, it is declared that TransLink does not have power to employ a person performing work for TransLink under a relevant arrangement.

## **18 Powers subject to Ministerial directions**

The exercise of any of TransLink's powers is subject to Ministerial directions.

# **Part 4 TransLink's board**

## **Division 1 Board membership**

### **19 The members**

The board consists of 7 persons (each a *member*) made up of—

- (a) a chairperson (an *appointed member*); and

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- (b) the TOPTA chief executive; and
- (c) 1 person (also an *appointed member*) who is the chief executive officer of a local government—
  - (i) whose area includes any of the TransLink area; and
  - (ii) that substantially funds passenger transport services in the part of its area that is in the TransLink area; and
- (d) 4 other persons (each also an *appointed member*).

## 20 Appointed members

- (1) Appointed members are to be appointed by the Governor in Council.
- (2) An appointed member may be appointed on a full-time or part-time basis.
- (3) Appointed members are appointed under this Act and not the *Public Service Act 1996*.

## 21 Eligibility for appointment

A person may be appointed as an appointed member only if the person is not a disqualified person and the person—

- (a) has extensive knowledge of and experience in 1 or more of the following—
  - (i) the representation of the interests of customers of public transport services;
  - (ii) the representation of the interests of employees in the public transport sector;
  - (iii) transport coordination and operational planning;
  - (iv) public transport network planning;
  - (v) law, economics or accounting;
  - (vi) social policy;
  - (vii) customer relations;

- (viii) commercial and marketing development; or
- (b) has other knowledge and experience the Minister considers appropriate.

## **22 Duration of appointment**

- (1) Subject to section 23, an appointed member holds office for the term stated in the member's instrument of appointment.
- (2) The term stated in the instrument of appointment must not be longer than 5 years.
- (3) Subsection (1) does not limit or otherwise affect the operation of the *Acts Interpretation Act 1954*, section 25 in relation to the appointment.

## **23 Terms and conditions of appointment**

- (1) An appointed member is to be paid the remuneration and allowances decided by the Governor in Council in the person's instrument of appointment.
- (2) An appointed member holds office on the terms and conditions, not provided for by this Act, that are decided by the Governor in Council.

## **24 Resignation**

An appointed member may resign by signed notice given to the Minister.

## **25 Delegation by local government member**

- (1) The appointed member who is the chief executive officer of a local government may delegate that member's functions as a member to an appropriately qualified employee of the local government.
- (2) However, the functions can not be delegated to a person if—
  - (a) the person is a disqualified person; or

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- (b) the person, or a close relative of the person, has a direct or indirect pecuniary interest that conflicts or may conflict with the proper performance of any function of a member; or
- (c) any function of the person as an employee of the local government relates to any of TransLink's functions.

## **Division 2                      Meetings and other business of board**

### **26            Conduct of business**

- (1) A regulation may provide for how the board must conduct its business, including its meetings.
- (2) Subject to subsection (1) and this division, the board may conduct its business, including its meetings, in the way it considers appropriate.

### **27            Times and places of meetings**

- (1) Board meetings are to be held at the times and places the chairperson decides.
- (2) However, the chairperson must call a meeting if asked, in writing, to do so by at least 2 members.
- (3) Also, the chairperson must call a meeting at least once in each quarter.

### **28            Quorum**

A quorum for a board meeting is more than half of the number of members.

### **29            Presiding at meetings**

- (1) The chairperson is to preside at all board meetings at which the chairperson is present.

- (2) If the chairperson is not present, the following member is to preside—
  - (a) the member chosen by the chairperson and advised to the TOPTA chief executive;
  - (b) otherwise—the member chosen by the members present.

### **30 Conduct of meetings**

- (1) The board may hold meetings, or allow members to take part in its meetings, by using any technology allowing reasonably contemporaneous and continuous communication between persons taking part in the meeting.
- (2) A person who takes part in a board meeting under subsection (1) is taken to be present at the meeting.
- (3) A decision at a board meeting must be a majority decision of the members present.
- (4) However, if there is an equality of votes cast on a matter the chairperson has a casting vote.

### **31 Decisions outside meetings**

A decision of the board, other than a decision at a board meeting, may be made only with the written agreement of a majority of the members.

### **32 Minutes and record of decisions**

The board must keep—

- (a) minutes of its meetings; and
- (b) a record of any decisions under section 31.

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## **Division 3                      Miscellaneous provision**

### **33            Protection of members from civil liability**

- (1) A member is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act or a direction or a requirement under this Act.
- (2) If subsection (1) prevents a civil liability attaching to the member, the liability attaches instead to the State.

## **Part 5                              Staffing**

### **Division 1                      Chief executive officer of TransLink**

#### **34            Chief executive officer**

- (1) The Governor in Council must appoint a chief executive officer of TransLink.
- (2) A disqualified person can not be appointed as the chief executive officer.
- (3) The chief executive officer's remuneration and allowances and other terms and conditions of office are as decided by the Governor in Council in the person's instrument of appointment.
- (4) The chief executive officer is employed under this Act and not the *Public Service Act 1996*.
- (5) The chief executive officer must report to the board about TransLink's operations.

#### **35            Acting chief executive officer**

- (1) This section applies if—

- 
- (a) no chief executive officer has been appointed; or
  - (b) the office of chief executive is vacant; or
  - (c) the appointed chief executive officer (the *usual ceo*) is absent or is unable to discharge the functions of the office because of illness or any other reason.
- (2) The Minister may, by signed notice, appoint a person to act in the office.
  - (3) For the circumstances mentioned in (1)(a) or (b), the appointment ends when, if the Governor in Council appoints someone else as the chief executive officer, the term of that appointment starts.
  - (4) Also, for the circumstances mentioned in subsection (1)(c), the appointment ends if the Minister gives the appointee notice that the usual ceo has resumed his or her duties as the chief executive officer.
  - (5) The *Acts Interpretation Act 1954*, section 24B(7D) to (15) applies to the appointee as if the appointee had been appointed under that section.
  - (6) This section does not limit or otherwise affect the *Acts Interpretation Act 1954*, section 24B.

## **Division 2            Employing office**

### **36        Establishment**

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

### **37        Functions**

The main functions of the employing office are—

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

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

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

## **Part 6 Directions, reporting and information**

### **39 Ministerial directions or guidelines to TransLink**

- (1) The Minister may give TransLink—
  - (a) a written direction about the performance of its functions (a *Ministerial direction*); or
  - (b) written guidelines to help TransLink perform its functions.
- (2) A Ministerial direction may prohibit TransLink from acquiring particular assets or assets of a particular type.
- (3) TransLink must comply with a Ministerial direction.

### **40 Infrastructure project reporting**

- (1) The Minister may, by notice, require TransLink to give the Minister or a stated public service officer of the department or

a stated person in a stated government entity a report, or reports at stated intervals, about its infrastructure projects.

- (2) TransLink must comply with the requirement.

#### **41 Ministerial access to information**

- (1) The Minister may, by notice, require TransLink to prepare, approve and give the Minister or a stated public service officer of the department or a stated person in a stated government entity stated information or stated documents, or copies of documents, in TransLink's possession.
- (2) TransLink must comply with the requirement.

#### **42 TransLink network plans**

- (1) TransLink must, at least every four years, prepare, approve and give the Minister a written network plan about funded improvements in mass transit services and infrastructure for the TransLink area.
- (2) A network plan can not be implemented unless it has been approved by the Minister.

#### **43 Fare strategies**

- (1) TransLink must prepare, approve and give the Minister a written fare strategy making recommendations about fares for mass transit services under service contracts relating to the TransLink area during the following periods from TransLink's establishment—
  - (a) generally—each 5 year period;
  - (b) if the Minister, by notice, directs shorter periods—each of the shorter periods.
- (2) A fare strategy can not be implemented unless it has been approved by the Minister.

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#### **44 System performance reports**

- (1) TransLink must prepare, approve and give the Minister a written report about the performance of its functions at quarterly intervals or other more frequent intervals as directed by the Minister.
- (2) Without limiting subsection (1), the report must address the following issues for mass transit services for the TransLink area—
  - (a) customer complaints management reporting;
  - (b) patronage reporting;
  - (c) service faults and rectification;
  - (d) safety;
  - (e) contractual issues;
  - (f) revenue and expenditure reporting.

#### **45 Annual report**

- (1) TransLink must prepare, approve and give the Minister a written report about the performance of its functions each financial year.
- (2) The report must be given as soon as practicable after the end of the financial year, but within 2 months after the year ends.
- (3) The Minister must, within 14 sitting days after receiving the report, cause a copy to be tabled in the Legislative Assembly.
- (4) Without limiting subsection (1), the report must include—
  - (a) a copy of any Ministerial directions given during the year; and
  - (b) a statement about how TransLink performed its functions during the year compared with the expected performance for the year under the relevant network plan; and
  - (c) any other matter prescribed under a regulation.

- 
- (5) To remove any doubt, it is declared that this section does not limit or otherwise affect any obligation TransLink has to give a report under the *Financial Accountability Act 2009*.

#### **46 Provisions for making plan or recommendation to Minister**

- (1) This section applies if, in the performance of its functions, TransLink proposes to make a network plan or other plan for, or a recommendation to, the Minister.
- (2) The plan or recommendation must, as far as practicable, be consistent with—
- (a) existing strategies, plans and implementation programs and other strategic documents or plans under an Act relating to transport or the TransLink area; and
  - (b) the contractual liabilities of the State of which the board is aware.
- (3) The plan or recommendation must be responsive to customer needs, provide value-for-money and promote efficiency.
- (4) If the proposal is a plan, it must include performance indicators.

## **Part 7 Special events**

#### **47 Declaration of special event**

- (1) TransLink may declare that an event to be carried out in the TransLink area is a special event (a *special event declaration*).
- (2) A special event declaration may be for a stated event or all events, or all events of a stated type, to be carried out at a stated place.

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- (3) A special event declaration may be made only if TransLink considers that—
  - (a) there will be at least 5000 participants or spectators at the event or events the subject of the declaration; and
  - (b) either—
    - (i) significant road closures or bus stop relocations are likely to be part of the management of transport to or from the event or events; or
    - (ii) the provision of transport services to or from the event or events is likely to rely on an increased use of vehicles or other facilities funded or managed by TransLink.
- (4) For subsection (3)(b)(i), a road closure or bus stop relocation is significant if it is likely to affect the provision of mass transit services generally in the TransLink area.
- (5) A special event declaration is sufficiently made if TransLink publishes the declaration on its website or in a newspaper circulating in the TransLink area.

#### **48 Coordination power for mass transit services to special events**

TransLink may coordinate the provision of mass transit services to and from a special event in the TransLink area.

#### **49 TransLink approval required for special event services**

- (1) A person must not enter into or perform a contract or arrangement for the provision of mass transit services to or from a special event in the TransLink area without TransLink's written approval.

Maximum penalty—200 penalty units.

*Note—*

See however section 57 (Deferral of application of s 49 for particular contracts and arrangements for special event services).

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- (2) A contract or arrangement made or entered into in contravention of subsection (1) has no effect to the extent of the contravention.

## **50 Special event approvals**

- (1) An approval by TransLink under section 49(1) (a *special event approval*) may—
- (a) be given on TransLink’s own initiative; and
  - (b) be given for a specific mass transit service to or from a special event or generally for a stated type of mass transit service to or from a special event.
- (2) A special event approval is sufficiently given if TransLink publishes the approval on its website or in a newspaper circulating in the TransLink area.
- (3) TransLink may impose conditions on the giving of a special event approval.
- (4) The conditions may include a requirement that, before the special event approval applies to a person, the person must pay TransLink a contribution to TransLink’s costs of coordinating the relevant mass transit services.

## **Part 8 Miscellaneous provisions**

### **51 Request for information from prospective appointees**

- (1) This section applies if a person is being considered for appointment as an appointed member or the chief executive officer.
- (2) The Minister may ask the person to give the Minister a written statement stating—
- (a) whether or not the person is a disqualified person; and

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- (b) whether or not the person, or any close relative of the person, has a direct or indirect pecuniary interest that, if the appointment is made, conflicts or may conflict with the proper performance of the person's functions under the appointment.
- (3) The person must not give the Minister a statement under subsection (2) that the person knows is false or misleading in a material particular.  
Maximum penalty—100 penalty units.
- (4) A complaint against a person for an offence against subsection (3) is sufficient if it states that the statement or the information was false or misleading to the person's knowledge, without specifying whether it was false or whether it was misleading.

## 52 **Criminal history report about appointee or prospective appointee**

- (1) This section applies in relation to—
  - (a) a member; or
  - (b) the chief executive officer; or
  - (c) a person who is being considered for appointment as a member or the chief executive officer (a *prospective appointee*).
- (2) The Minister may ask the commissioner of the police service for—
  - (a) a written report about the person's criminal history; and
  - (b) a brief description of the circumstances of any conviction mentioned in the criminal history.
- (3) However, if the request relates to a prospective appointee, the Minister may make the request only if the person has given the Minister written consent for the request.
- (4) The commissioner of the police service must comply with the request.

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- (5) However, subsection (4) applies only to information in the commissioner's possession or to which the commissioner has access.
- (6) The Minister must ensure a report given under this section is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

- (7) In this section—

***criminal history***, of a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than for a spent conviction.

***spent conviction*** means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

### **53 Disclosure of disqualification by appointees**

If an appointed member or the chief executive officer is or becomes a disqualified person, that person must, as soon as practicable, give the Minister notice of that fact.

Maximum penalty—100 penalty units.

### **54 Disclosure of conflicts of interest by appointees**

- (1) This section applies if—
- (a) a member, or a close relative of a member, has a direct or indirect pecuniary interest that conflicts or may conflict with the proper performance of the member's functions; or
- (b) the chief executive officer, or a close relative of the chief executive officer, has a direct or indirect pecuniary interest that conflicts or may conflict with the proper performance of the chief executive officer's functions.

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- (2) The member or chief executive officer must, as soon as practicable, disclose the interest to—
  - (a) if the matter is being considered or about to be considered by the board—the board; or
  - (b) otherwise—the Minister.

Maximum penalty—100 penalty units.

- (3) If a member has disclosed an interest relating to a matter being considered or about to be considered by the board, the member must not participate in the board's consideration of the matter.

Maximum penalty—100 penalty units.

## **55 Delegations by TransLink**

- (1) TransLink may delegate its functions under this Act to—
  - (a) a member; or
  - (b) the chief executive officer; or
  - (c) any other appropriately qualified person.
- (2) However, TransLink can not delegate its functions under part 6 of approving a document that it must give to the Minister.
- (3) A member, other than an appointed member, may delegate the member's functions as a member to an appropriately qualified public service officer.
- (4) In this section—

*functions* includes powers.

## **56 Regulation-making power**

The Governor in Council may make regulations under this Act.

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## Part 9 Transitional provisions

### 57 Deferral of application of s 49 for particular contracts and arrangements for special event services

- (1) This section applies to a contract or arrangement made or entered into before section 49 commences.
- (2) Section 49 does not apply to the performance of the contract or arrangement until the first anniversary of the commencement.

### 58 Novation of particular State contracts to TransLink

- (1) This section applies to a contract prescribed under a regulation—
  - (a) in force immediately before this section commences; and
  - (b) to which the State is a party; and
  - (c) that relates to the performance of a function by or for the State that will, from the commencement, be a function of TransLink; and
  - (d) that is not a service contract, work performance arrangement or contract of employment.
- (2) On the commencement, the following apply despite any provision of the contract—
  - (a) TransLink is taken to be a party to the contract instead of the State;
  - (b) TransLink assumes the State's liabilities and rights under the contract;
  - (c) a reference in the contract to the State is taken to be a reference to TransLink;
  - (d) changes to the contract that are necessary for, or incidental to, the matters in paragraphs (a) to (c) are taken to have been made.

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- (3) Subsection (2), or any thing done under it, does not—
- (a) discharge or otherwise affect the contract or the performance of the contract by another party to it; or
  - (b) fulfil a condition allowing a person to terminate the contract or be released, wholly or partly, from the contract or a liability under it.
- (4) If the advice or consent of, or giving notice to, a person would be necessary to give effect to any matter under subsection (2)—
- (a) the advice is taken to have been obtained; and
  - (b) the consent or notice is taken to have been given.
- (5) To remove any doubt, it is declared that—
- (a) a State is a party to a contract entered into by an entity that is a manifestation of, or that represents, the State (a ***State entity***), either for the State or in the entity's own right; and
    - Examples of manifestations of the State—*
      - the TOPTA department
      - the former unincorporated body known as 'Translink' that formed part of the TOPTA department before the commencement
  - (b) a reference in a contract to the performance of a function by or for the State includes a reference to performance of that function by or for a State entity; and
  - (c) a liability that, under a contract, is expressed to be a liability of a State entity is a liability of the State under that contract; and
  - (d) a right that, under a contract, is expressed to be a right of a State entity is a right of the State under that contract; and
  - (e) a reference in a contract to a named State entity is a reference to the State.
- (6) For subsection (1)(b), a contract relating to the performance of a function by or for the State includes a contract under which

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a guarantee, indemnity or other form of surety is given for the performance of the function by or for the State.

(7) In this section—

*contract* includes a deed or other instrument under which a guarantee, indemnity or other form of surety is given in favour of the State, whether or not for consideration.

## **59 Existing service contracts not affected**

To remove any doubt, it is declared that the enactment of this Act does not, of itself, alter or in any way affect a service contract.

## **60 Transfer of particular State assets and liabilities to TransLink**

- (1) The Minister may prepare a register of the assets and liabilities of the State that are to be transferred to TransLink for the purposes of this Act.
- (2) The register has no effect unless it is approved under a regulation.
- (3) When the register takes effect—
  - (a) the State is divested of the assets and liabilities and they become assets and liabilities of TransLink; and
  - (b) proceedings by or against the State, or that could have been started by or against the State before the taking of effect, relating to the assets or liabilities may be continued or started by or against TransLink.
- (4) This section does not limit or otherwise affect section 58(2)(b).

## **61 Registration of transferred assets**

- (1) This section applies to the registrar of titles or other person responsible for keeping a register for dealings about an asset that, under section 60(3)(a), becomes an asset of TransLink.

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(2) The registrar or person must, if asked by TransLink in the appropriate form, and on payment of any fee, record a transfer of the asset to TransLink.

(3) In this section—

*registrar of titles* means a public official or authority responsible for registering title to land and dealings affecting land.

## **62 References to former body known as Translink**

A reference in a document to the former unincorporated body known as ‘Translink’ that, before this section commences, formed part of the TOPTA department is, if the context permits, taken to be a reference to TransLink.

## **63 Existing industrial instruments that bind employing office**

The employing office is, on the commencement of this section, taken to be bound by the industrial instruments under the *Industrial Relations Act 1999* that on the commencement—

- (a) bind the State; and
- (b) apply to public service employees whose employment is carried out in the TOPTA department.

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## **Schedule 1      Service contract areas or routes for the TransLink area**

section 7(1)(a)

- Arana Hills, Albany Creek and Dayboro–Petrie service contract area/route
- Bribie Island and Bribie Island–Caboolture service contract area/route
- Brisbane service contract area/route
- Burbank/McKenzie service contract area/route
- Caboolture service contract area/route
- Camira/Springfield and Wacol Railway Station to Inala Plaza via Carole Park, Ellengrove, Forest Lake and Doolandalla service contract area/route
- Cleveland/Redland Bay service contract area/route
- Deception Bay/Narangba service contract area/route
- Gold Coast service contract area
- Gold Coast–Coomera service contract area
- Ipswich/Goodna service contract area
- Logan service contract area
- Park Ridge and Beaudesert–Brisbane service contract area/route
- Ormeau–Beenleigh service contract route
- Redcliffe, Kallangur, Petrie and Redcliffe–Brisbane service contract area/route
- Samford Valley–Ferny Grove service contract route
- Strathpine and Murrumba Downs service contract area/route
- Sunshine Coast service contract area
- Sunshine Coast service contract area no. 2

## Schedule 2 Dictionary

### section 6

***appointed member*** see section 19(a), (c) and (d).

***appropriately qualified***, in relation to a delegated function or power, includes having the qualifications, experience or standing to perform the function or exercise the power.

*Example of standing—*

a person's classification level in the public service

***board*** means the board of TransLink.

***chairperson*** means the chairperson of TransLink.

***chief executive officer*** means TransLink's chief executive officer appointed under section 34(1).

***close relative***, of a person, means the person's—

- (a) spouse; or
- (b) parent or grandparent; or
- (c) brother or sister; or
- (d) child or grandchild.

***conviction*** includes a finding of guilt or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

***disqualified person*** means any of the following—

- (a) a party to a contract as follows (***relevant contract***)—
  - (i) a service contract relating to the TransLink area;
  - (ii) a contract with TransLink relating to a public transport system;
- (b) a person who, under the Corporations Act, is a related entity of a body corporate that is a party to a relevant contract;

- 
- (c) an employee of a party to a relevant contract, unless the party is a local government;
  - (d) a member of the Legislative Assembly or of a parliament of the Commonwealth or another State;
  - (e) a councillor of a local government;
  - (f) a person who has been convicted of an indictable offence;
  - (g) a person who is or has been an insolvent under administration under the Corporations Act, section 9;
  - (h) a person who is disqualified from managing corporations under the Corporations Act, part 2D.6.

***employing office*** means the TransLink Transit Authority Employing Office established under section 36(1).

***general route service*** see TOPTA, schedule 3.

***government entity*** see the *Public Service Act 1996*, section 21.

***mass transit network*** see section 8.

***mass transit services*** means general route services for the carriage of large numbers of passengers.

***member*** see section 19.

***Ministerial direction*** see section 39(1)(a).

***network plan*** means a network plan given to the Minister under section 42.

***notice*** means a notice in writing.

***service contract*** see TOPTA, section 38.

***special event*** means an event the subject of a declaration under section 47(1).

***TOPTA*** means the *Transport Operations (Passenger Transport) Act 1994*.

***TOPTA chief executive*** means the chief executive of the TOPTA department.

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

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

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

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

# Endnotes

## 1 Index to endnotes

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## 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2009. Future amendments of the Transport Operations (TransLink Transit Authority) Act 2008 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

## 3 Key

### Key to abbreviations in list of legislation and annotations

| Key    | Explanation                    | Key     | Explanation                             |
|--------|--------------------------------|---------|---|
| AIA    | = Acts Interpretation Act 1954 | (prev)  | = previously                            |
| amd    | = amended                      | proc    | = proclamation                          |
| amdt   | = amendment                    | prov    | = provision                             |
| ch     | = chapter                      | pt      | = part                                  |
| def    | = definition                   | pubd    | = published                             |
| div    | = division                     | R[X]    | = Reprint No. [X]                       |
| exp    | = expires/expired              | RA      | = Reprints Act 1992                     |
| gaz    | = gazette                      | reloc   | = relocated                             |
| hdg    | = heading                      | renum   | = renumbered                            |
| ins    | = inserted                     | rep     | = repealed                              |
| lap    | = lapsed                       | (retro) | = retrospectively                       |
| notfd  | = notified                     | rv      | = revised edition                       |
| num    | = numbered                     | s       | = section                               |
| o in c | = order in council             | sch     | = schedule                              |
| om     | = omitted                      | sdiv    | = subdivision                           |
| orig   | = original                     | SIA     | = Statutory Instruments Act 1992        |
| p      | = page                         | SIR     | = Statutory Instruments Regulation 2002 |
| para   | = paragraph                    | SL      | = subordinate legislation               |
| prec   | = preceding                    | sub     | = substituted                           |
| pres   | = present                      | unnum   | = unnumbered                            |
| prev   | = previous                     |         |   |

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

| Reprint No. | Amendments included | Effective   | Notes |
|-------------|---------------------|-------------|-------|
| 1           | none                | 1 July 2008 |       |
| 1A          | 2009 Act No. 9      | 1 July 2009 |       |

## 5 List of legislation

### **Transport Operations (TransLink Transit Authority) Act 2008 No. 32**

date of assent 21 May 2008

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2008 (2008 SL No. 188)

amending legislation—

### **Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1**

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

## 6 List of annotations

### **Application of other Acts**

s 13 amd 2009 No. 9 s 136 sch 1

### **Annual report**

s 45 amd 2009 No. 9 s 136 sch 1

### **PART 10—AMENDMENT OF PUBLIC SERVICE ACT 1996**

pt 10 (ss 64–65) om R1 (see RA ss 7(1)(k) and 40)

### **PART 11—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994**

pt 11 (ss 66–68) om R1 (see RA ss 7(1)(k) and 40)

### **PART 12—AMENDMENT OF TRANSPORT OPERATIONS (PASSENGER TRANSPORT) ACT 1994**

pt 12 (ss 69–104) om R1 (see RA ss 7(1)(k) and 40)

### **PART 13—AMENDMENT OF TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995**

pt 13 (ss 105–106) om R1 (see RA ss 7(1)(k) and 40)

**PART 14—AMENDMENT OF TRANSPORT PLANNING AND COORDINATION  
ACT 1994**

**pt 14 (ss 107–113)** om R1 (see RA ss 7(1)(k) and 40)

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