

Queensland



# **TRANSPORT LEGISLATION AMENDMENT ACT 1998**

**Act No. 33 of 1998**



# Queensland



## TRANSPORT LEGISLATION AMENDMENT ACT 1998

### TABLE OF PROVISIONS

Section		Page
<b>PART 1—PRELIMINARY</b>		
1	Short title .....	4
2	Commencement .....	4
<b>PART 2—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994</b>		
3	Act amended in pt 2 .....	4
4	Insertion of new s 80 .....	4
	80 Definition for pt 4 .....	5
5	Amendment of s 84 (Granting accreditation) .....	5
6	Amendment of s 85 (Accreditation conditions) .....	5
7	Amendment of s 131 (Lease of land to railway managers) .....	6
8	Amendment of s 132 (Status of railway land) .....	7
9	Insertion of new s 136 .....	7
	136 Railway works on corridor land .....	7
10	Amendment of s 228 (Continuation of harbours under Harbours Act or port under Port of Brisbane Authority Act etc.) .....	7
11	Amendment of s 232 (Harbours Corporation of Queensland) .....	8
12	Amendment of s 233 (Continuation of certain by-laws and provisions of Harbours Act) .....	8
13	Amendment of s 235 (Continuation of certain provisions of Harbours Act about jetties and ramps etc.) .....	8
14	Amendment of s 240 (Application of Acts Interpretation Act, s 20A to this part) .....	9
15	Insertion of new ch 10, pt 5 .....	9

---

	<b>PART 5—TRANSITIONAL PROVISIONS FOR TRANSPORT LEGISLATION AMENDMENT ACT 1998</b>	
	260 Offences during retrospective period . . . . .	9
16	Amendment of sch 3 (Dictionary) . . . . .	9
	<b>PART 3—AMENDMENT OF TRANSPORT LEGISLATION AMENDMENT ACT 1997</b>	
17	Act amended in pt 3 . . . . .	10
18	Omission of s 132 (Insertion of new ss 92–92B) . . . . .	10
	<b>PART 4—AMENDMENT OF TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995</b>	
19	Act amended in pt 4 . . . . .	10
20	Amendment of ch 3 (Road user performance and compliance) . . . . .	10
21	Amendment of s 18 (Grounds for amending suspending or cancelling approvals) . . . . .	11
22	Amendment of s 56 (Using documents voided for non-payment) . . . . .	12
23	Amendment of s 85 (Regulations) . . . . .	12
24	Amendment of ch 7 (Transitional provisions, amendments and repeals) . . . . .	12
25	Amendment of sch 2A (Reviewable decisions) . . . . .	14
26	Amendment of sch 3 (Dictionary) . . . . .	15

Queensland



## **Transport Legislation Amendment Act 1998**

### **Act No. 33 of 1998**

---

**An Act to amend Acts administered by the Minister for Transport  
and Minister for Main Roads**

*[Assented to 23 September 1998]*

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **Short title**

**1.** This Act may be cited as the *Transport Legislation Amendment Act 1998*.

### **Commencement**

**2.(1)** Section 9 is taken to have commenced on 31 March 1998.

**(2)** Section 24(3) is taken to have commenced on 7 August 1998.

**(3)** Sections 15, 20, 21, 24(4), 25, and 26 and part 3 commence on assent.

**(4)** The remaining provisions of this Act are taken to have commenced on 1 July 1998.

## **PART 2—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994**

### **Act amended in pt 2**

**3.** This part amends the *Transport Infrastructure Act 1994*.

### **Insertion of new s 80**

**4.** Chapter 6, part 4, before section 81—

*insert—*

**‘Definition for pt 4**

‘80. In this part—

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

**Amendment of s 84 (Granting accreditation)**

5. Section 84(2)(d)—

*omit, insert—*

‘(d) the applicant has a right—

- (i) of access to the land where the railway is constructed, or proposed to be constructed, either under this Act or with the agreement of the land’s owner; and
- (ii) to use rail transport infrastructure or other rail infrastructure for the railway with the agreement of the infrastructure’s owner.’.

**Amendment of s 85 (Accreditation conditions)**

6.(1) Section 85(2)(a)—

*omit, insert—*

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

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

(2) Section 85(2)(c) to (e)—

*omit, insert—*

‘(c) for all accreditations—

- (i) the person’s financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities for the railway; or

- (ii) paying accreditation fees; or
- (iii) another matter prescribed under a regulation.’.

### **Amendment of s 131 (Lease of land to railway managers)**

#### **7.(1) Section 131(4)(a)—**

*omit, insert—*

‘(a) if the manager agrees to meet the full costs of the acquisition—

- (i) for a term of not more than 100 years; and
- (ii) for a rent, if demanded, of \$1 per year; and
- (iii) on other terms decided by the chief executive; or’.

#### **(2) Section 131(6)—**

*omit.*

#### **(3) Section 131(5) to (8)—**

*renumber* as section 131(7) to (9).

#### **(4) Section 131—**

*insert—*

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

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

#### **(5) Section 131(7) (as renumbered), after ‘subsection (4)’—**

*insert—*

‘or a sublease to a railway manager granted under the exercise of an option mentioned in subsection (5)’.

#### **(6) Section 131(9) (as renumbered)—**

*insert—*

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



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

### **Amendment of s 132 (Status of railway land)**

**8.(1)** Section 132(1), after ‘corridor land is’—

*insert—*

‘, for any rail transport infrastructure on the land or proposed to be constructed on the land,’.

**(2)** Section 132(2), definition “**corridor land**”—

*insert—*

‘(c) future railway land.’.

### **Insertion of new s 136**

**9.** Chapter 7, part 7, after section 135—

*insert—*

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

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

**‘(2)** In this section—

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

### **Amendment of s 228 (Continuation of harbours under Harbours Act or port under Port of Brisbane Authority Act etc.)**

**10.** Section 228(3), ‘4’—

*omit, insert—*

‘5’.

### **Amendment of s 232 (Harbours Corporation of Queensland)**

**11.(1)** Section 232(7)—

*omit.*

**(2)** Section 232(8), ‘4’—

*omit, insert—*

‘5’.

### **Amendment of s 233 (Continuation of certain by-laws and provisions of Harbours Act)**

**12.(1)** Section 233(7) to (13)—

*omit, insert—*

‘(7) For the purpose of the continuing effect of the *Marine Land Dredging By-law 1987*, a reference in it to an authorised person or officer is a reference to a person who, immediately before 1 July 1994, was an authorised person or officer under the by-law.

‘(8) This section has effect despite the repeal of the *Harbours Act 1955*.

‘(9) This section expires on 1 July 1999 or, if an earlier date is prescribed under a regulation, on that date.’.

### **Amendment of s 235 (Continuation of certain provisions of Harbours Act about jetties and ramps etc.)**

**13.(1)** Section 235(1), sixth dot point—

*omit.*

**(2)** Section 235(5) to (7)—

*omit, insert—*

‘(5) This section expires on 1 July 1999 or, if an earlier date is prescribed under a regulation, on that date.’.

**Amendment of s 240 (Application of Acts Interpretation Act, s 20A to this part)**

14. Section 240(2), ‘4’—  
*omit, insert—*  
‘5’.

**Insertion of new ch 10, pt 5**

15. Chapter 10—  
*insert—*

**‘PART 5—TRANSITIONAL PROVISIONS FOR  
TRANSPORT LEGISLATION AMENDMENT ACT  
1998**

**‘Offences during retrospective period**

‘260.(1) This section applies to an offence against a provision of a statutory instrument mentioned in section 232 or 235 that happened between the 2 July 1998 and the commencement of this section.

‘(2) Despite the retrospective commencement of sections 10, 11, 13 and 14 of the *Transport Legislation Amendment Act 1998*, a prosecution for the offence can not be started, or if started, ends on the commencement.

‘(3) This part expires at the end of the day on which it commences.’.

**Amendment of sch 3 (Dictionary)**

- 16.(1) Schedule 3, definition “**railway manager**”—  
*omit.*

- (2) Schedule 3—  
*insert—*

‘**“railway”**, for chapter 6, part 4, see section 80.

“**railway manager**”, for a railway or a proposed railway, means the person who is accredited under chapter 6, part 4 as the railway manager for the railway or proposed railway.’.

### **PART 3—AMENDMENT OF TRANSPORT LEGISLATION AMENDMENT ACT 1997**

#### **Act amended in pt 3**

17. This part amends the *Transport Legislation Amendment Act 1997*.

#### **Omission of s 132 (Insertion of new ss 92–92B)**

18. Section 132—

*omit.*

### **PART 4—AMENDMENT OF TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995**

#### **Act amended in pt 4**

19. This part amends the *Transport Operations (Road Use Management) Act 1995*.

#### **Amendment of ch 3 (Road user performance and compliance)**

20. Chapter 3, part 1—

*omit, insert—*

## ‘PART 1—ALTERNATIVE COMPLIANCE

### ‘Alternative ways of complying with Act

‘**15.(1)** A person who operates a vehicle (an “**operator**”) may apply to the chief executive for approval of a scheme (an “**alternative compliance scheme**”) for an alternative way to comply with a provision of this Act that is prescribed under a regulation.

‘**(2)** The regulation must prescribe the purpose of the prescribed provision.

‘**(3)** An application for approval of an alternative compliance scheme must be in writing.

‘**(4)** The chief executive may approve an alternative compliance scheme only if satisfied it provides an effective way of demonstrating the operator’s vehicles, or drivers operating under it in Queensland, achieve the prescribed purpose.

‘**(5)** The chief executive may approve the scheme by written notice to the operator.

‘**(6)** The approval may be given on conditions stated in it and operates for the period stated in it.

‘**(7)** The prescribed provision does not apply to the operator’s vehicles or drivers as provided under the scheme while—

- (a) an approval is in force for the operator; and
- (b) the operator complies with the scheme, including the conditions of its approval.

‘**(8)** In this section—

“**interstate scheme**” means a scheme approved as an alternative compliance scheme under a corresponding law to this part.

“**scheme**” includes an interstate scheme.’.

### **Amendment of s 18 (Grounds for amending suspending or cancelling approvals)**

**21.** Section 18(d)—

*omit, insert—*

‘(d) for an approval of an alternative compliance scheme—

- (i) the scheme is not, or is no longer, an effective way of demonstrating the operator’s vehicles or drivers operating under it in Queensland achieve the relevant purpose prescribed under section 15(2); or
- (ii) for an interstate scheme—the approval under a corresponding law to this chapter is amended, suspended or cancelled.’.

### **Amendment of s 56 (Using documents voided for non-payment)**

**22.** Section 56—

*insert—*

‘(1A) However, this section does not apply to a licence or other document specified under a regulation.’.

### **Amendment of s 85 (Regulations)**

**23.(1)** Section 85, heading—

*omit, insert—*

**‘Regulation-making power’.**

**(2)** Section 85(3)(a), after ‘Act’—

*insert—*

‘and the effect of non-payment’.

### **Amendment of ch 7 (Transitional provisions, amendments and repeals)**

**24.(1)** Chapter 7—

*insert—*

**‘PART 1—TRANSITIONAL PROVISIONS FOR  
TRANSPORT OPERATIONS (ROAD USE  
MANAGEMENT) ACT 1995’.**

(2) Chapter 7—

*insert—*

**‘PART 2—TRANSITIONAL PROVISIONS FOR  
TRANSPORT LEGISLATION AMENDMENT ACT  
1998**

**‘Transitional provisions for Motor Vehicles Control Act 1975 about  
local laws**

‘94.(1) This section applies to a local law made under the repealed *Motor Vehicles Control Act 1975*, section 35,<sup>1</sup> and in force immediately before the commencement of this section.

‘(2) The law remains in force, until amended or repealed under the *Local Government Act 1993*.’.

**‘Transport Infrastructure (Roads) Regulation 1991**

‘95. For section 56,<sup>2</sup> a certificate of registration under the *Transport Infrastructure (Roads) Regulation 1991* is a document to which section 56 does not apply.’.

(3) Chapter 7, part 2 (as inserted)—

*insert—*

**‘Carriage of Dangerous Goods by Road Regulation 1989—transition  
of approvals**

‘96.(1) An approval of something given under the code that was in force immediately before 7 August 1998 is taken to be an approval of the thing

---

<sup>1</sup> Section 35 (Function of local government to execute Act)

<sup>2</sup> Section 56 (Using documents voided for non-payment)

under the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 1998*.

‘(2) The approval is subject to the same conditions that applied immediately before the commencement of this section.

‘(3) In this section—

“code” means the code under the *Carriage of Dangerous Goods by Road Regulation 1989*.’.

(4) Chapter 7, part 2 (as inserted)—

*insert—*

#### ‘Carriage of Dangerous Goods by Road Act 1984—exemptions

‘97.(1) This section applies to an exemption given under the repealed *Carriage of Dangerous Goods by Road Act 1984*, section 24,<sup>3</sup> that was in force immediately before the repeal of that Act.

‘(2) The exemption is taken to be an exemption under section 79C that exempts the person to whom it was given from complying with a provision of the *Transport Operations (Road Use Management—Dangerous Goods) Regulation 1998* that most closely corresponds to the provision stated in the exemption.

‘(3) Subsection (2) applies even though section 79C had not commenced on the repeal.

‘(4) The exemption—

- (a) is, to the greatest practicable extent, subject to the same conditions that applied immediately before the repeal; and
- (b) despite paragraph (a), expires on 31 January 1999.’.

#### Amendment of sch 2A (Reviewable decisions)

25. Schedule 2A, from ‘15’ to ‘Magistrates’ (2nd mention)—

*omit, insert—*

‘ 15                    Approving alternative compliance schemes                    Magistrates’.

<sup>3</sup> Section 24 (Exemption from complying with this Act)



**Amendment of sch 3 (Dictionary)**

**26.(1)** Schedule 3, definitions “**interstate scheme**” and “**operator**”—  
*omit.*

**(2)** Schedule 3—  
*insert—*

‘ “**interstate scheme**” see section 15(8).

“**operator**” see section 15(1).’.