

Queensland



**TRANSPORT LEGISLATION
AMENDMENT ACT (No. 2)
1998**

Act No. 43 of 1998

Queensland



TRANSPORT LEGISLATION AMENDMENT ACT (No. 2) 1998

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Queensland



**Transport Legislation Amendment Act (No. 2)
1998**

Act No. 43 of 1998

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

[Assented to 27 November 1998]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Transport Legislation Amendment Act (No. 2) 1998*.

Commencement

2.(1) Part 2 commences on a day to be fixed by proclamation.

(2) Part 3 is taken to have commenced on 12 December 1996.

PART 2—AMENDMENT OF TRAFFIC ACT 1949

Act amended in pt 2

3. This part amends the *Traffic Act 1949*.

Amendment of s 44 (Removal of things from roads)

4.(1) Section 44(7)—

omit, insert—

‘**(6C)** Subsections (7) to (15) apply if the chief executive officer of a local government considers on reasonable grounds that a vehicle, tram or animal in the local government’s area has been abandoned on a road by the person who last drove or used it, or that—

- (a) a vehicle, tram or animal in the local government’s area has been—

- (i) left on a road unattended whether temporarily or otherwise for a time or in a place, condition, way or circumstances where its presence is hazardous; or
 - (ii) found on a road in a place, condition, way or circumstances where its presence is hazardous or in contravention of this Act; and
- (b) the driver of the vehicle, tram or animal—
- (i) can not readily be located; or
 - (ii) has failed to immediately remove the vehicle, tram or animal when required by the local government to do so.

‘(6D) For subsection 6C, the presence of a vehicle, tram or animal on a road is “**hazardous**” if it is causing, or is likely to cause, danger, hindrance or obstruction to traffic or is preventing, hindering or obstructing, or is likely to prevent, hinder or obstruct, the use of the road or a part of the road for a lawful purpose.

‘(7) The local government may remove the vehicle, tram or animal from the road and detain it at a place for safe keeping.’

(2) Section 44(8) to (12) and (14), ‘such vehicle’—

omit, insert—

‘the vehicle, tram or animal’.

(3) Section 44(8) and (10), ‘the local government’—

omit, insert—

‘the chief executive officer of the local government’.

(4) Section 44(11)(b) and (12), ‘the vehicle’—

omit, insert—

‘the vehicle, tram or animal’.

(5) Section 44(12), from ‘which’ to ‘(7)’—

omit.

(6) Section 44(13), from ‘contained’ to ‘government’—

omit, insert—

‘in or on the vehicle, tram or animal at the time of its removal may be disposed of in the way the chief executive officer of the local government’.

(7) Section 44(14), from ‘The’ to ‘subsection (7) shall’—

omit, insert—

‘The chief executive officer of the local government must’.

(8) Section 44(14)(a) ‘applicant’ to ‘government’—

omit, insert—

‘applicant to the chief executive officer of the local government’.

(9) Section 44(14)(b), from ‘satisfaction’, first mention, to ‘ownership’—

omit, insert—

‘satisfaction of the chief executive officer of the applicant’s ownership’.

(10) Section 44(14)(b), from ‘satisfaction’, second mention, to ‘authority’—

omit, insert—

‘satisfaction of the chief executive officer of the applicant’s authority’.

(11) Section 44(14)(c), ‘by such local government’—

omit.

(12) Section 44(15), ‘vehicle’—

omit, insert—

‘vehicle, tram or animal’.

(13) Section 44(16), from ‘vehicles’ to ‘area’—

omit, insert—

‘a vehicle, tram or animal in the local government’s area that a person authorised under the local law considers on reasonable grounds—

- (a) has been abandoned on a road; or
- (b) has been left as described in subsection (6C)(a)(i); or
- (c) has been found as described in subsection (6C)(a)(ii)’.

**PART 3—AMENDMENT OF TRANSPORT
(GLADSTONE EAST END TO HARBOUR
CORRIDOR) ACT 1996**

Act amended in pt 3

5. This part amends the *Transport (Gladstone East End To Harbour Corridor) Act 1996*.

Replacement of schs 1 and 2

6. Schedules 1 and 2—

omit, insert—

‘SCHEDULE 1

‘LAND FOR RAIL TRANSPORT CORRIDOR

section 2

PART 1—LAND ALIENATED FROM THE STATE

1. An area of 1.996 hectares being Lot 27 on plan SP103897 Parish of Targinie, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
2. An area of 1663 square metres being Lot 32 on plan SP103897 Parish of Targinie, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
3. An area of 6.325 hectares being Lot 35 on plan SP103899 Parish of Targinie, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.

4. A volume of 1261 cubic metres being Lot 37 on plan SP103900 Parish of Targinie, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
5. An area of 1.5731 hectares being Lot 11 on plan SP101565 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
6. An area of 3.553 hectares being Lot 15 on plan SP101565 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.¹
7. An area of 3.05 hectares being Lot 13 on plan SP101565 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.²
8. An area of 1.697 hectares being Lot 16 on plan SP101566 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
9. An area of 3.7072 hectares being Lot 18 on plan SP101566 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.³
10. An area of 377 square metres being Lot 21 on plan SP101566 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.⁴

¹ The area includes 254 square metres of Easement W on RP 836822.

² The area includes 104 square metres of Easement V on RP 836822.

³ The area includes 318 square metres of Easement A on RP 614754.

⁴ The area includes 196 square metres of Easement A on RP 614755.

- 11.** An area of 3.1168 hectares being Lot 24 on plan SP101567 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
- 12.** An area of 4.546 hectares being Lot 26 on plan SP101568 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
- 13.** An area of 2690 square metres being Lot 29 on plan SP101567 Parish of Nolan, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
- 14.** An area of 1.114 hectares being Lot 42 on plan SP101567 Parish of Nolan, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
- 15.** An area of 1.759 hectares being Lot 40 on plan SP101567 Parish of Nolan, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
- 16.** An area of 1054 square metres being Lot 33 on plan SP101570 Parish of Nolan, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
- 17.** An area of 1.983 hectares being Lot 36 on plan SP101570 Parish of Nolan, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
- 18.** A volume of 957 cubic metres being Lot 38 on plan SP101572 Parish of Nolan, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.

19. An area of 4.3885 hectares being Lot 32 on plan SP101570 Parish of Nolan, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.

PART 2—RESERVED LAND

20. An area of 3592 square metres being Lot 7 on plan SP103894 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.

PART 3—STATE LAND

21. An area of 3.495 hectares being Lot 1 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
22. An area of 2.326 hectares being Lot 2 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
23. An area of 1518 square metres being Lot 5 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
24. An area of 3.382 hectares being Lot 12 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
25. An area of 7.937 hectares being Lot 21 on plan SP103896 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.

26. An area of 2567 square metres being Lot 10 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
27. An area of 1.093 hectares being Lot 23 on plan SP103896 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
28. An area of 3.861 hectares being Lot 30 on plan SP103898 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
29. An area of 10.15 hectares being Lot 3 on plan SP101558 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
30. An area of 6424 square metres being Lot 5 on plan SP101558 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
31. An area of 9.972 hectares being Lot 7 on plan SP101558 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
32. An area of 6478 square metres being Lot 14 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
33. An area of 3.244 hectares being Lot 16 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
34. An area of 1.284 hectares being Lot 18 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.⁵

⁵ A copy of each plan mentioned in the schedule is available for inspection at the office of the Department of Main Roads, 477 Boundary Street, Spring Hill.

‘SCHEDULE 2**‘LAND FOR ROAD PURPOSES**

section 3

PART 1—LAND ALIENATED FROM THE STATE

1. An area of 3676 square metres shown as New Road on plan SP103897 Parish of Targinie, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
2. An area of 1008 square metres shown as New Road on plan SP101566 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
3. An area of 3.162 hectares shown as New Road on plan SP101567 Parish of Mount Larcom, County of Clinton and Parish of Nolan, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
4. An area of 1250 square metres shown as New Road on plan SP101570 Parish of Nolan, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.

PART 2—RESERVED LAND

5. An area of 629 square metres shown as New Road on plan SP103894 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.

PART 3—STATE LAND

6. An area of 5316 square metres shown as Road to be Opened on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
7. An area of 1524 square metres shown as Road to be Opened on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
8. An area of 1177 square metres shown as Road to be Opened on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
9. An area of 959 square metres shown as Road to be Opened on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
10. An area of 1965 square metres shown as Road to be Opened on plan SP103896 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
11. An area of 6994 square metres shown as Road to be Opened on plan SP103898 Parish of Targinie, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
12. An area of 2433 square metres shown as Road to be Opened on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.

13. An area of 1.964 hectares shown as New Road on plan SP101558 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.⁶.

Replacement of sch 4 (Roads partially closed)

7. Schedule 4—

omit, insert—

‘SCHEDULE 4

‘ROADS PARTIALLY CLOSED

section 5

1. An area of road of 6680 square metres being Lot 3 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
2. An area of road of 1795 square metres being Lot 4 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
3. An area of road of 4341 square metres being Lot 6 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
4. An area of road of 6624 square metres being Lot 8 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.

⁶ A copy of each plan mentioned in the schedule is available for inspection at the office of the Department of Main Roads, 477 Boundary Street, Spring Hill.

5. An area of road of 6444 square metres being Lot 19 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
6. An area of road of 2681 square metres being Lot 22 on plan SP103896 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
7. An area of road of 1385 square metres being Lot 24 on plan SP103896 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
8. An area of road of 952 square metres being Lot 26 on plan SP103896 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
9. An area of road of 2251 square metres being Lot 29 on plan SP103898 Parish of Targinie, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
10. An area of road of 2809 square metres being Lot 31 on plan SP103898 Parish of Targinie, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
11. An area of road of 5134 square metres being Lot 33 on plan SP103898 Parish of Targinie, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
12. An area of road of 1333 square metres being Lot 34 on plan SP103898 Parish of Targinie, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.

- 13.** An area of road of 3096 square metres being Lot 1 on plan SP101560 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
- 14.** An area of road of 9698 square metres being Lot 9 on plan SP101559 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
- 15.** An area of road of 1.786 hectares being Lot 20 on plan SP101569 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
- 16.** An area of road of 2408 square metres being Lot 25 on plan SP101569 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
- 17.** An area of road of 887 square metres being Lot 30 on plan SP101571 Parish of Nolan, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
- 18.** An area of road of 2200 square metres being Lot 43 on plan SP101571 Parish of Nolan, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
- 19.** An area of road of 897 square metres being Lot 44 on plan SP101571 Parish of Nolan, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
- 20.** An area of road of 826 square metres being Lot 39 on plan SP101571 Parish of Nolan, County of Deas Thompson being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.

21. A volume of road of 19920 cubic metres being Lot 20 on plan SP103895 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
22. A volume of road of 8127 cubic metres being Lot 2 on plan SP101563 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
23. A volume of road of 7080 cubic metres being Lot 10 on plan SP101564 Parish of Mount Larcom, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
24. An area of road of 8883 square metres being Lot 13 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
25. An area of road of 2886 square metres being Lot 15 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.
26. An area of road of 2223 square metres being Lot 17 on plan SP103893 Parish of Calliope, County of Clinton being a plan for registration in the Office of Registrar of Titles, Department of Natural Resources, Brisbane.⁷.

⁷ A copy of each plan mentioned in the schedule is available for inspection at the office of the Department of Main Roads, 477 Boundary Street, Spring Hill.

PART 4—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994

Act amended in pt 4

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

Insertion of new ch 6, pt 2

9. Chapter 6—

insert—

‘PART 2—INVESTIGATING POTENTIAL RAIL CORRIDOR

‘Purpose of pt 2

- ‘76. The purpose of this part is—

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

‘Definitions for pt 2

- ‘77. In this part—

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

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

- (d) employees of an agent or contractor mentioned in paragraph (c);
- (e) if a person mentioned in paragraph (c) is a corporation—the corporation’s chief executive, secretary, directors or employees.

“authority” means a rail feasibility investigator’s authority.

“investigator” means a person who holds an authority.

‘How to apply for a rail feasibility investigator’s authority

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

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

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

‘Additional information for application

‘79.(1) The chief executive may—

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

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

‘Granting authority

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

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

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

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

‘Rail feasibility investigator’s authority

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

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

Example of conditions—

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

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

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

Examples of things authorised by the authority—

1. To conduct surveys and take soil samples.
2. To clear vegetation, or otherwise disturb the land, to the extent reasonably necessary.

3. To construct temporary access tracks using the land or using materials brought onto the land.

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

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

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

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

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

‘(2) The notice must state—

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

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

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

‘Investigator to issue associated person with identification

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

Maximum penalty—10 penalty units.

‘(2) The identification must—

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

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

Maximum penalty—10 penalty units.

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

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

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

Maximum penalty—10 penalty units.

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

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

‘Pretending to be an investigator etc.

‘79E. A person must not pretend—

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

Maximum penalty—80 penalty units.

‘Investigator to take care in acting under authority

‘79F. An investigator—

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

‘Compensation payable by investigator

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

- (a) claim compensation from the investigator for loss or damage arising out of an entry onto the land, any use made of the land, anything brought onto the land or anything done or left on the land in connection with the investigator’s authority; or

- (b) require the investigator to carry out works to rectify the damage within a reasonable time after the investigator has finished investigating the land under the authority; or
- (c) require the investigator to carry out works under paragraph (b) and then claim compensation for any loss or damage not rectified.

‘(2) A claim may be made—

- (a) whether or not the act or omission giving rise to the claim was authorised under the authority; and
- (b) whether or not the investigator prohibited, or took steps to prevent, the loss or damage; and
- (c) even though the loss or damage was caused or contributed to by an associated person.

‘(3) The notice must be given—

- (a) within 1 year after the loss or damage happened; or
- (b) at a later time allowed by a court.

‘(4) The amount of compensation is—

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

Insertion of new ch 6, pt 5, div 1 hdg and new s 93A

10. Before section 94—

omit, insert—

‘Division 1—Railway works

‘Application of div 1

‘93A. This division applies only to railway works.’.

Insertion of new ch 6, pt 5, div 2 hdg

11. After section 98—

insert—

‘Division 2—Other powers’.

Insertion of new ch 8, pt 1 hdg

12. After chapter 8 heading—

insert—

‘PART 1—PRELIMINARY’.

Amendment of s 181 (Definitions)

13.(1) Section 181, heading—

omit, insert—

‘Definitions for ch 8’.

(2) Section 181, definitions **“licence”** and **“licensee”**—

omit.

(3) Section 181—

insert—

‘**“approval”** means an approval granted under section 182B.

“approval conditions” see section 182E(1).

“dispute notice” see section 182G(1).

“intersecting area” means an area (other than an area of land that is required land) or a thing that—

(a) intersects required land; and

(b) is owned, administered, controlled, or managed by a GOC or a local government.

Examples—

- an area of water

- land covered by water
- miscellaneous transport infrastructure works
- a port
- rail corridor land
- a road.

“licensee” means the holder of an operational licence.

“operational licence” means a licence in force granted—

- (a) under section 182; or
- (b) under another Act, for infrastructure that is miscellaneous transport infrastructure.

“responsible entity”, for an intersecting area, means an entity responsible for administering, controlling, or managing the area under any Act.’.

(4) Section 181, definition **“miscellaneous transport infrastructure works”**—

relocate to schedule 3.

Insertion of new s 181A

14. After section 181—

insert—

‘Meaning of “miscellaneous transport infrastructure”

‘181A.(1) “Miscellaneous transport infrastructure” means—

- (a) infrastructure relating to the transportation, movement, transmission or flow of anything, including, for example, goods, material, substances, matter, particles with or without charge, light, energy, information and anything generated or produced; or
- (b) anything declared under a regulation to be miscellaneous transport infrastructure, whether or not it is infrastructure under paragraph (a).

‘(2) However, road transport infrastructure, rail transport infrastructure and port infrastructure are not miscellaneous transport infrastructure.’.

Insertion of new ch 8, pt 2 hdg and pt 2, div 1

15. After section 181A—

insert—

**‘PART 2—OPERATIONAL LICENCES AND
APPROVALS FOR LICENSEES**

‘Division 1—Definitions

‘Definition for pt 2

‘181B. In this part, other than division 2—

“**Minister**” means the Minister administering the *State Development and Public Works Organization Act 1971*.’.

Insertion of new ch 8, pt 2, div 2 hdg

16. After section 181B—

insert—

‘Division 2—Granting operational licences’.

Amendment of s 182 (Licence for miscellaneous transport infrastructure)

17. Section 182, heading—

omit, insert—

‘Minister may grant operational licence’.

Insertion of new ch 8, pt 2, divs 3–6 and ch 8, pt 3 hdg

18. After section 182—

insert—

‘Division 3—Approvals for licensees for intersecting areas

‘Purpose and scope of div 3

‘182A.(1) The purpose of this division is to provide a mechanism for a licensee to obtain an approval from a responsible entity for an intersecting area.

‘(2) However, this division does not apply to an approval if the approval is required under another Act.

‘(3) This division applies only for ensuring miscellaneous transport infrastructure can be constructed, maintained, used or operated across, over or under the area.

‘Approvals

‘182B.(1) A licensee may apply for an approval by a responsible entity to construct, maintain, use or operate miscellaneous transport infrastructure stated in the licensee’s operational licence across, over or under an intersecting area.

‘(2) The application must—

- (a) be written; and
- (b) identify the area and the miscellaneous transport infrastructure; and
- (c) state any other thing prescribed under a regulation.

‘(3) The entity may grant or refuse the approval.

‘(4) If the approval is granted, the licensee may, subject to any approval conditions, construct, maintain, use or operate the miscellaneous transport infrastructure identified in the application across, over or under the area.

‘Refusal to grant approval

‘182C. If an application has been made to a responsible entity and the entity refuses the application, it must give the applicant written notice within 14 days after refusing the application stating—

- (a) the decision; and

- (b) the reasons for the decision; and
- (c) that the applicant may apply in writing to the Minister for the approval.

‘Licensee may apply to Minister if approval not granted

‘182D.(1) This section applies if—

- (a) an application has been made to a responsible entity for an approval; and
- (b) the entity refuses the application or does not grant the application within 20 business days after it is made.

‘(2) The applicant may apply in writing to the Minister for the approval.

‘(3) The Minister may grant or refuse the approval.

‘(4) The Minister must give the applicant and the entity notice of the granting or refusal.

‘(5) If the Minister grants the approval, it is taken to have been granted by the entity.

‘(6) If the Minister decides to grant or refuse the approval, the Minister must prepare a statement of the reasons for the decision for this section.

‘(7) The statement of reasons must be tabled in the Legislative Assembly within 14 sitting days after the day of the decision.

‘(8) In preparing the statement of reasons, the Minister must not include matter that is exempt matter.

‘(9) A failure to comply with subsections (6) to (8) is of no effect.

‘(10) The *Judicial Review Act 1991*, parts 3 and 4,⁸ do not apply to any decision the Minister makes or fails to make for this section.

⁸ *Judicial Review Act 1991*, parts 3 (Statutory orders of review) and 4 (Reasons for decision)

‘(11) In this section—

“**exempt matter**” means matter defined as exempt matter under the *Freedom of Information Act 1992*, part 3, division 2.⁹

‘Division 4—Conditions for approvals

‘Approval conditions

‘**182E.(1)** If a responsible entity or the Minister grants an approval, the entity may impose reasonable conditions for the approval (“**approval conditions**”).

‘(2) However, a condition may only be imposed within 20 business days of—

- (a) if the approval was granted by the entity—the making of the application to the entity; or
- (b) if the approval was granted by the Minister—the giving of notice of the approval by the Minister to the entity.

‘(3) An approval condition may, for example, provide for the following—

- (a) reinstating land disturbed by construction;
- (b) installing signs, markings or warning devices about or for the miscellaneous transport infrastructure for which the approval was granted on the intersecting area;
- (c) surveying or siting the infrastructure on the area;
- (d) adding to, altering or replacing the infrastructure, at the applicant’s cost—
 - (i) to ensure the safe operation or use of other infrastructure or works on the area; or

⁹ *Freedom of Information Act 1992*, Part 3 (Access to documents), division 2 (Exempt matter)

- (ii) to preserve, promote or protect the environmental condition of the area;
- (e) how the approval may be amended, suspended or cancelled.

‘Notice of approval conditions

‘182F. If a responsible entity imposes approval conditions, it must give the applicant for the approval written notice within 14 days after imposing the conditions stating—

- (a) the conditions; and
- (b) that the applicant may appeal against the conditions to an arbitrator; and
- (c) that an appeal may be started by giving the entity a written notice of dispute within 20 business days after receiving the notice of the conditions.

‘Division 5—Arbitration of approval conditions

‘Notice of dispute

‘182G.(1) If a responsible entity imposes approval conditions, the applicant for the approval may, by written notice to the entity (a **“dispute notice”**), dispute the reasonableness of the conditions.

‘(2) However, if notice of the conditions has been given to the applicant under section 182F, a dispute notice may only be given within 20 business days after the giving of the notice of the conditions.

‘Appointment of arbitrator

‘182H.(1) Within 10 business days after the giving of a dispute notice, the responsible entity and the applicant for approval must join in appointing an independent arbitrator to resolve the dispute.

‘(2) If the entity and the applicant do not appoint an arbitrator within the 10 business days, the following persons may, on the application of the applicant or entity, appoint the arbitrator—

- (a) if the entity is a local government—the Minister and the Minister administering the *Integrated Planning Act 1997*, acting jointly;
- (b) if the entity is not a local government—the Minister.

‘(3) However, each Minister may nominate another person to exercise the power under subsection (2).

‘Arbitrator’s functions

‘182I. The arbitrator must—

- (a) resolve the dispute by deciding what are reasonable conditions for the approval; and
- (b) give the entity and the applicant notice of, and reasons for, the decision.

‘Arbitrator’s powers

‘182J.(1) In resolving the dispute, the arbitrator may—

- (a) confirm the approval conditions imposed by the responsible entity; or
- (b) amend the conditions; or
- (c) set aside the conditions and substitute other conditions.

‘(2) The arbitrator may exercise the powers of an arbitrator under the *Commercial Arbitration Act 1990*.

‘Hearing procedures

‘182K.(1) An arbitration must be by way of rehearing, unaffected by the responsible entity’s decision on the approval conditions.

‘(2) Unless this division or a regulation made under schedule 1 otherwise provides, the practice and procedure for an arbitration follow the practice and procedure for an arbitration under the *Commercial Arbitration Act 1990*.

‘Effect of arbitrator’s decisions

‘182L.(1) An arbitrator’s decision under this division is final.

‘(2) The entity and the applicant may not apply for review of, or appeal against, the decision.

‘(3) The approval conditions decided by the arbitrator are, other than for section 182F¹⁰ and this division, taken to be the approval conditions imposed by the responsible entity.

‘Division 6—Miscellaneous**‘Miscellaneous transport infrastructure remains property of licensee**

‘182M.(1) This section applies if—

- (a) a licensee constructs, maintains, uses or operates miscellaneous transport infrastructure across, over or under an intersecting area; and
- (b) the licensee has obtained an approval from each responsible entity for the area.

‘(2) Subject to a condition of the licensee’s operational licence or an agreement between the licensee and the State, the infrastructure remains the licensee’s property despite—

- (a) the attaching of the infrastructure to the area; or
- (b) an approval condition.

‘(3) However, an approval condition may provide for—

- (a) if the State agrees—the disposal of the infrastructure to the State on reasonable terms if the licensee no longer holds an operational licence for the infrastructure; or
- (b) if the State and licensee agree—someone else to own or acquire the infrastructure.

¹⁰ Section 182F (Notice of approval conditions)

‘Compensation to responsible entity from licensee

‘182N.(1) This section applies if—

- (a) a licensee constructs, maintains, uses or operates miscellaneous transport infrastructure across, over or under an intersecting area; and
- (b) a responsible entity for the area incurs a cost, damage, liability or loss because of the existence, construction, maintenance, use or operation of the infrastructure.

‘(2) The licensee must pay the entity the amount of the cost, damage, loss or liability.

‘(3) The entity may claim the amount in a proceeding in a court with jurisdiction for the amount claimed.

‘PART 3—AUTHORITIES TO OCCUPY AND USE LAND’.**Insertion of new ch 8, pt 4 hdg**

19. After section 185—

insert—

‘PART 4—POWERS OF CHIEF EXECUTIVE OVER REQUIRED LAND’.**Amendment of s 186 (Chief executive may grant interests in land)**

20. Section 186(1)—

insert—

‘Example of an interest in land under subsection (1)—

A licence or right to use or occupy required land.’.

Insertion of new ch 8, pt 5 hdg

21. After section 186—

insert—

‘PART 5—MISCELLANEOUS’.**Insertion of new s 190A**

22. After section 190—

insert—

‘Approval of forms

‘190A. The chief executive may approve forms for use under this Act.’.

Insertion of new ch 10, pt 4, div 4

23. Chapter 10, part 4—

insert—

‘Division 4—Transition of forms**‘Transitional provision about forms**

‘260.(1) This section applies if—

- (a) immediately before its commencement, there was a prescribed form for a matter; and
- (b) on the commencement, there is to be an approved form for the matter or a form may be approved for the matter.

‘(2) Until there is an approved form for the matter, the form that was the prescribed form for the matter immediately before the commencement is taken to be the approved form for the matter.

‘(3) This division expires 6 months after it commences.’.

Amendment of sch 1 (Subject matter for regulations)

24. Schedule 1—

insert—

17. The granting of approvals to licensees under chapter 8.

18. Conditions of approvals to licensees under chapter 8.’

Amendment of sch 3 (Dictionary)

25.(1) Schedule 3, definition “**miscellaneous transport infrastructure**” and “**railway works**”—

omit.

(2) Schedule 3—

insert—

‘ “**approval**”, for chapter 8, see section 181.

“**approval conditions**”, for chapter 8, see section 181.

“**associated person**”, for chapter 6, part 2, see section 77.

“**authority**”, for chapter 6, part 2, see section 77.

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

“**dispute notice**”, for chapter 8, see section 181.

“**intersecting area**”, for chapter 8, see section 181.

“**licensee**”, for chapter 8, see section 181.

“**miscellaneous transport infrastructure**” see section 181A.

“**operational licence**”, for chapter 8, see section 181.

“**railway works**” means—

(a) works for constructing, maintaining, altering or operating a railway or rolling stock, or

(b) other works declared under a regulation to be railway works.

“**required land**”, for chapter 8, see section 181.

“**responsible entity**”, for chapter 8, see section 181.’

(3) Schedule 3, definition “**land**”, paragraph (c), ‘chapter 6, part 7’—

omit, insert—

‘chapter 6, part 7 and for chapter 8¹¹’.

(4) Schedule 3, definition “**maintenance**”, ‘chapters 5 and 6,’—

omit, insert—

‘chapters 5, 6 and 8,¹²’.

PART 5—AMENDMENT OF TRANSPORT OPERATIONS (PASSENGER TRANSPORT) ACT 1994

Act amended in pt 5

26. This part amends the *Transport Operations (Passenger Transport) Act 1994*.

Amendment of sch 3 (Dictionary)

27.(1) Schedule 3, definition “**excluded public passenger service**”, paragraph (a)—

omit.

(2) Schedule 3, definition “**excluded public passenger service**”, paragraphs (b) to (g)—

renumber as paragraphs (a) to (f).

(3) Schedule 3—

insert—

‘**“demand responsive service”** includes a service that is—

- (a) held out as being able to respond to requests for service immediately or within a period of time appropriate to a taxi or

¹¹ Chapter 6 (Rail transport infrastructure), part 7 (Land for railway purposes) and chapter 8 (Miscellaneous transport infrastructure)

¹² Chapters 5 (Road transport infrastructure), 6 (Rail transport infrastructure) and 8 (Miscellaneous transport infrastructure)

within a similar period; or

- (b) held out as being a service providing taxis or a service similar to a service providing taxis; or
- (c) conducted in a way that may reasonably be expected to give prospective customers or the public the impression that the service is, or operates in a way similar to, a service providing taxis.’.

(4) Schedule 3, definition “**taxi**”—

omit, insert—

‘ “**taxi**”, other than in the definition “demand responsive service”, means a motor vehicle for which a taxi service licence is in force.’.

(5) Schedule 3, definition “**service contract area or route**”, ‘(Declaration that service contracts are required)’—

omit, insert—

‘or 66¹³’.

PART 6—AMENDMENT OF INTEGRATED PLANNING ACT 1997

Act amended in pt 6

28. This part amends the *Integrated Planning Act 1997*.

Amendment of sch 8 (Assessable, self-assessable and exempt development)

29. Schedule 8, part 3—

insert—

¹³ Section 42 (Declaration that service contracts are required) or 66 (Regulation may declare that service contracts are required)

‘**21A.** Operational work carried out under a rail feasibility investigator’s authority granted under the *Transport Infrastructure Act 1994*.’.

PART 7—AMENDMENT OF JUDICIAL REVIEW ACT 1991

Act amended in pt 7

30. This part amends the *Judicial Review Act 1991*.

Amendment of sch 1 (Operation of other laws)

31. Schedule 1, part 1—

insert—

‘**9.** *Transport Infrastructure Act 1994*, section 182D.¹⁴’.

¹⁴ *Transport Infrastructure Act 1994*, section 182D (Licensee may apply to Minister if approval not granted)