

Queensland



**TRANSPORT  
INFRASTRUCTURE AND  
ANOTHER  
ACT AMENDMENT ACT 2001**

**Act No. 36 of 2001**



# Queensland



## TRANSPORT INFRASTRUCTURE AND ANOTHER ACT AMENDMENT ACT 2001

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Queensland



**Transport Infrastructure and Another  
Act Amendment Act 2001**

**Act No. 36 of 2001**

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**An Act to amend the *Transport Infrastructure Act 1994* and the  
*Transport Operations (Marine Safety) Act 1994***

*[Assented to 7 June 2001]*

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **1 Short title**

This Act may be cited as the *Transport Infrastructure and Another Act Amendment Act 2001*.

### **2 Commencement**

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

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

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

This part amends the *Transport Infrastructure Act 1994*.

### **4 Amendment of s 70 (Rateability of land)**

Section 70(2), before ‘land’—

*insert—*

‘road franchise agreement’.

### **5 Replacement of s 73 (Franchised roads to be roads for other purposes)**

Section 73—

*omit, insert—*

## **‘PART 7—TOLL ROADS**

### *‘Division 1—Preliminary*

#### **‘73 Definitions for pt 7**

In this part—

**“administration charge”**, for a toll, means the administration charge set in relation to non-payment of the toll.

**“designated vehicle”** means a vehicle, other than an exempt vehicle, of a type liable for a toll under a regulation under section 73A.

**“E toll only pay point”**, means a part of a toll plaza, designated by appropriate signs, for the exclusive use of vehicles using the E toll system.

**“E toll system”** means an electronic system operated by a toll road operator for the recording, or the recording and meeting, of liability for a toll for use of the toll road.

**“exempt vehicle”** means a vehicle exempted under an Act or an Act or law of the Commonwealth or another State from the payment of tolls on roads.

**“prescribed time”**, for a notice given to a person under division 3, means 30 days, or the greater number of days stated in the notice, after the notice is given.

**“registered operator”**, of a vehicle that has passed through a toll plaza, means a person who, when the vehicle passed through the toll plaza, was the person in whose name the vehicle was registered under a registration Act.

**“registration Act”** means—

- (a) the *Transport Operations (Road Use Management) Act 1995* or another Act dealing with the registration of vehicles prescribed under a regulation; or
- (b) a law of the Commonwealth or another State dealing generally with the registration of vehicles.

**“toll plaza”** means a part of a toll road where facilities are constructed for either or both of the following—

- (a) the collection of tolls from the drivers of vehicles using the toll road;
- (b) the operation of an E toll system for vehicles using the toll road.

**“toll road”** means a road or part of a road declared under a regulation under section 73A to be a toll road.

**“toll road operator”** means—

- (a) if the relevant toll road is the subject of a road franchise agreement—the person stated in the agreement as the person who is to operate the toll road; or
- (b) otherwise—the chief executive.

**“valid account”**, for an E toll system operating for a toll road, means an account that—

- (a) has been established by a person for using the E toll system; and
- (b) is, under the arrangements under which the account was established, available to be operated for using the toll road.

### *‘Division 2—Toll roads and toll payment requirements*

#### **‘73A Tolls**

**‘(1)** A regulation may declare that a State-controlled road or part of a State-controlled road, or a franchised road or part of a franchised road, is a toll road.

**‘(2)** A regulation under subsection (1) must state—

- (a) when tolls become payable for use of the toll road; and
- (b) the types of vehicles liable for tolls; and
- (c) for the use of toll road by each of the types of vehicles—
  - (i) the amount of toll payable at each toll plaza; or
  - (ii) another way that is authorised for the setting and publication of the amount of toll payable at each toll plaza, including any necessary directions for the setting and publication of the amount.

**‘(3)** A regulation under subsection (1) may, for a toll, state—

- (a) the administration charge to be payable under this part; or



- (b) another way that is authorised for the setting and publication of the amount of the administration charge to be payable under this part, including any necessary directions for the setting and publication of the amount.

‘(4) An administration charge for a toll must not be more than the reasonable cost, under division 3, of issuing a notice and collecting the unpaid toll and administration charge for the toll.

‘(5) This section does not limit section 200.<sup>1</sup>

### **‘73B Liability for toll and satisfying the liability**

‘(1) The driver of a designated vehicle entering, or on, a toll road is liable, at each toll plaza through which the vehicle passes, for the toll payable at the toll plaza for the use of the toll road by the vehicle.

‘(2) The amount of any unpaid toll may be recovered by the toll road operator as a debt from the driver, subject to any applicable agreement made by the toll road operator.

‘(3) The driver may satisfy the driver’s liability for the toll payable at a toll plaza by—

- (a) at a part of the toll plaza designated by appropriate signs as available for making a toll payment in cash, making a payment in cash of the toll payable; or
- (b) at a part of the toll plaza designated by appropriate signs as available for making a toll payment by using a touch tag, paying the toll payable by using a touch tag in accordance with the requirements of the toll road operator; or
- (c) at an E toll only pay point at the toll plaza, or at another part of the toll plaza designated by appropriate signs as available for using the E toll system, using the E toll system in accordance with the requirements of section 73C(1).

‘(4) If the designated vehicle is at an E toll only pay point at the toll plaza, the driver may satisfy the driver’s liability for the toll only by using the E toll system in accordance with the requirements of section 73C(1).

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<sup>1</sup> Section 200 (Regulations)

### **‘73C Using the E toll system**

‘(1) The following requirements apply for using the E toll system to satisfy a driver’s liability under section 73B for the toll payable at a toll plaza—

- (a) a properly operating transponder or other electronic device is in, or fitted to, the designated vehicle;
- (b) the transponder or other device—
  - (i) was issued for a vehicle of the same type as the designated vehicle; and
  - (ii) is linked to a valid account for the E toll system operating for the toll road; and
  - (iii) properly activates the E toll system.

‘(2) To remove doubt, it is declared that using the E toll system to satisfy the liability of a designated vehicle’s driver for the toll payable at a toll plaza does not affect another contractual obligation owed by the driver or another person to a toll road operator under an applicable agreement made by the toll road operator.

*Example for subsection (2)—*

The arrangements for a person’s account with a toll road operator may provide that the person will be billed at the end of each month for all the times the transponder issued to the person has been used at toll plazas in the month.

### ***‘Division 3—Failure to pay toll***

### **‘73D Application of div 3**

‘This division applies if—

- (a) a designated vehicle passes through a toll plaza; and
- (b) the driver does not, under section 73B(3), satisfy the driver’s liability for the toll payable at the toll plaza.

### **‘73E Definition for div 3**

‘In this division—

**“deferred toll amount”** means the total of the following amounts—

- (a) the amount of the toll for which the driver's liability was not satisfied under section 73B(3);
- (b) the amount of the administration charge for the toll.

### **'73F Liability for administration charge in addition to unpaid toll**

'If this division applies, the driver immediately becomes liable to pay the toll road operator, in addition to the unpaid toll, the administration charge for the toll.

### **'73G Notice to vehicle's registered operator**

'(1) The toll road operator may give a notice under this section only if the toll road operator has not received the deferred toll amount.

'(2) The toll road operator may give the registered operator of the vehicle a written notice in the approved form requiring the registered operator, within the prescribed time for the notice—

- (a) to pay the toll road operator the deferred toll amount; or
- (b) to give the toll road operator the registered operator's statutory declaration in the approved form containing information that—
  - (i) establishes, to the extent it is reasonably practicable for the registered operator to do so, that the registered operator was not the driver; and
  - (ii) gives the toll road operator all the help the registered operator can reasonably give for establishing the driver's name and address.

'(3) The registered operator must comply with the notice given under subsection (2) unless the registered operator has a reasonable excuse.

Maximum penalty—15 penalty units.

'(4) For giving the notice under subsection (2), the registered operator's address for service may be taken to be the address recorded for the registered operator under the registration Act applying to the designated vehicle's registration.

### **‘73H Notice to information holder**

‘(1) The toll road operator may give a notice under this section only if the toll road operator—

- (a) has not received the deferred toll amount; and
- (b) considers, on reasonable grounds, that a person (the “**information holder**”) other than the vehicle’s registered operator has information that could help the toll road operator establish the name and address of the driver.

‘(2) The toll road operator may give the information holder a written notice in the approved form requiring the information holder, within the prescribed time for the notice, to give the toll road operator a statutory declaration complying with subsection (3).

‘(3) The statutory declaration must—

- (a) be made by the information holder; and
- (b) be in the approved form; and
- (c) contain information giving the toll road operator all the help the information holder can reasonably give for establishing the driver’s name and address.

‘(4) The information holder must comply with the notice given under subsection (2) unless the information holder has a reasonable excuse.

Maximum penalty for subsection (4)—15 penalty units.

### **‘73I Notice to person identified as driver**

‘(1) The toll road operator may give a notice under this section only if the toll road operator—

- (a) has not received the deferred toll amount; and
- (b) considers, on reasonable grounds, that the toll road operator has correctly identified the person (the “**identified person**”) who was the driver.

‘(2) The toll road operator may give the identified person a written notice in the approved form requiring the identified person, within the prescribed time for the notice—

- (a) to pay the toll road operator the deferred toll amount; or

- (b) to give the toll road operator the identified person's statutory declaration in the approved form containing information that—
- (i) establishes, to the extent it is reasonably practicable for the identified person to do so, that the identified person was not the driver; and
  - (ii) gives the toll road operator all the help the identified person can reasonably give for establishing the driver's name and address.

'(3) The identified person must comply with the notice given under subsection (2) unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—15 penalty units.

### **'73J Statutory declarations for div 3**

'(1) A statutory declaration given by a person under this division may, if appropriate, be supported by statutory declarations in the approved form from other persons.

'(2) If a person required to give a statutory declaration under this division is a body corporate, the statutory declaration must be given by a person authorised to act for the body corporate.

### **'73K Limit on offences**

'If this division applies more than once because of a failure to pay a toll at each of 2 or more toll plazas on the 1 toll road in a single journey, a person liable for an offence under this division arising out of the journey may not be punished for more than 1 offence.

## ***'Division 4—Miscellaneous***

### **'73L Confidentiality**

'(1) A person must not, intentionally or recklessly, disclose, allow access to, record or use personal information.

Maximum penalty—200 penalty units.

'(2) However, a person may disclose, allow access to, record or use personal information—

- (a) in the discharge of a function related to the administration of this part; or
- (b) if authorised, expressly or impliedly—
  - (i) under another provision of this Act, or under another Act; or
  - (ii) by the individual whose identity is apparent, or can reasonably be ascertained, from the personal information; or
- (c) for a proceeding in a court or tribunal, if the personal information is admissible as evidence in the proceeding; or
- (d) if the purpose for which the action is taken is directly related to the purpose for which the personal information was obtained; or
- (e) if the person believes on reasonable grounds that the action is necessary to prevent or lessen a serious and imminent threat to the life or health of an individual.

‘(3) In this section—

“**administration of this part**” includes the operation of a toll road under this part.

“**personal information**” means information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, that—

- (a) has been gained or otherwise brought into existence—
  - (i) through involvement in the administration of this part; or
  - (ii) because of an opportunity provided by involvement in the administration of this part; and
- (b) is about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

### ‘73M Evidence and procedure

‘(1) For this part—

- (a) it is not necessary to prove the appointment of an official; and
- (b) a signature purporting to be the signature of an official is evidence of the signature it purports to be; and
- (c) a certificate stating any of the following matters is evidence of the matter—

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- (i) a stated place was or was not a toll road or part of a toll road;
- (ii) a stated place was or was not a toll plaza or part of a toll plaza;
- (iii) a stated person was or was not recorded as the registered operator of a stated vehicle;
- (iv) a stated vehicle was or was not a designated vehicle of a stated type;
- (v) the toll payable for a vehicle's use of a toll road has not been paid;
- (vi) the administration charge for a toll has not been paid;
- (vii) a statutory declaration required for division 3 was or was not received;
- (viii) a recording is a recording of a type mentioned in subsection (3).

**(2)** A certificate—

- (a) may relate to a stated time or period of time; and
- (b) if it is issued for a particular period, has the effect mentioned in subsection (1)(c) for the entire period.

**(3)** A recording by a photographic, mechanical, electronic or other device for the purpose of administering this part, including for the operation of a toll road under this part, is evidence—

- (a) that the recording was made; and
- (b) of the accuracy of the recording; and
- (c) of the matters stated in the recording.

**(4)** For this section—

**“certificate”** means a certificate purporting to be signed by an official.

**“official”** means—

- (a) the chief executive, or a suitably qualified officer or employee of the department acting under the authority of the chief executive;  
or
- (b) the chief executive officer, however named, of a toll road operator, or a suitably qualified employee of the toll road

operator acting under the authority of the chief executive officer.’.

## **6 Amendment of sch 1 (Subject matter for regulations)**

Schedule 1, item 6—

*omit.*

## **7 Amendment of sch 3 (Dictionary)**

Schedule 3—

*insert—*

‘**“administration charge”**, for chapter 5, part 7, see section 73.

**“designated vehicle”**, for chapter 5, part 7, see section 73.

**“E toll only pay point”**, for chapter 5, part 7, see section 73.

**“E toll system”**, for chapter 5, part 7, see section 73.

**“exempt vehicle”**, for chapter 5, part 7, see section 73.

**“prescribed time”**, for chapter 5, part 7, see section 73.

**“registered operator”**, for chapter 5, part 7, see section 73.

**“registration Act”**, for chapter 5, part 7, see section 73.

**“road franchise agreement”**, for chapter 5, see section 66.

**“toll plaza”**, for chapter 5, part 7, see section 73.

**“toll road”**, for chapter 5, part 7, see section 73.

**“toll road operator”**, for chapter 5, part 7, see section 73.

**“valid account”**, for chapter 5, part 7, see section 73.’.



## **PART 3—AMENDMENT OF TRANSPORT OPERATIONS (MARINE SAFETY) ACT 1994**

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

This part amends the *Transport Operations (Marine Safety) Act 1994*.

### **9 Amendment of s 4 (Definitions)**

Section 4—

*insert—*

‘**“port authority”** means a port authority under the *Transport Infrastructure Act 1994*.’.

### **10 Amendment of s 60 (Regulation may require licences)**

Section 60(2)—

*omit.*

### **11 Amendment of s 99 (Pilots required for ship navigation in pilotage areas)**

(1) Section 99(1), penalty—

*omit, insert—*

‘Maximum penalty—200 penalty units.’.

(2) Section 99(2)—

*omit.*

### **12 Replacement of s 101 (Immunity for pilots and their employers)**

Section 101—

*omit, insert—*

#### **‘101 Immunity for pilots and general employers**

‘(1) A conducting pilot is not civilly liable for damage or loss caused by an act or omission of the conducting pilot.’

‘(2) A supervising pilot is not civilly liable for damage or loss caused by an act or omission of the conducting pilot or the supervising pilot.

‘(3) The general employer of a conducting pilot or supervising pilot is not civilly liable for damage or loss caused by an act or omission of the conducting pilot or supervising pilot.

‘(4) Subsections (1) to (3) do not affect—

- (a) any liability of a conducting pilot or supervising pilot’s general employer for not appointing a qualified and competent person as a pilot; and
- (b) any liability of a ship’s master and owner.

‘(5) In this section—

“**conducting pilot**” means a pilot who has the conduct of a ship as its pilot.

“**general employer**”, of a conducting pilot or supervising pilot, includes, if the department or a port authority has entered into a written agreement for the supply of pilotage services in a pilotage area and the pilot is acting in the supply of the services, each party to the agreement.

“**supervising pilot**” means a person who is licensed under a regulation as a pilot and who is on board a ship to train a conducting pilot or assess a conducting pilot’s competence as a pilot.’.

### **13 Insertion of new s 102A**

After section 102—

*insert—*

#### **‘102A Restriction on conduct of ship by pilot**

‘(1) A pilot must not have the conduct of a ship as its pilot unless the pilot—

- (a) is an employee of the department or a port authority; or
- (b) is acting in the supply of pilotage services the subject of a written agreement between—
  - (i) the department or a port authority; and
  - (ii) the pilot or another person.

Maximum penalty—40 penalty units.

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‘(2) Despite subsection (1), a pilot may have the conduct of a ship as its pilot if another pilot (the “**supervisor**”) is training the pilot, or assessing the pilot’s competence, and the supervisor—

- (a) is an employee of the department or a port authority; or
- (b) is acting in the supply of pilotage services the subject of a written agreement between—
  - (i) the department or a port authority; and
  - (ii) the supervisor or another person.

‘(3) Subsections (1) and (2) do not limit section 61(3).’.