

TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) BILL 1995

EXPLANATORY NOTE

The Transport Operations (Road Use Management) Bill 1995 has been drafted consistent with current legislative drafting practice and has been written in plain English. As a consequence, particular clauses and sub-clauses require little or no specific further explanation. As a result certain clauses and sub-clauses have been repeated or summarised in general terms only.

GENERAL OUTLINE

Objectives of Legislation

The overall objective of the legislation is to be consistent with the *Transport Planning and Coordination Act 1994*, and to establish a legislative regime for best practice management of road use in Queensland.

Central to such a regime is the requirement that the legislation:

- provide the legislative framework for implementing national road transport legislation;
- provide the opportunity to reform existing Queensland road use legislation.

In particular, the objectives of the legislation are to be achieved by:

- promoting the most efficient means of road use taking into account improved road safety and environmental impacts;
- the provision of strategic planning requirements for the planning and management of road use in Queensland;

Specifically, these objectives will establish a system of road use management which will:

- promote the efficient movement of people, goods and services;
- contribute to the strategic management of road infrastructure consistent with the *Transport Infrastructure Act 1994*;
- improve road safety and the environmental impacts of road use in a way that contributes to overall transport efficiency; and
- support a reasonable level of community access and mobility in support of government social justice objectives.

The legislation will establish a regime to manage road use and proactively address challenges currently facing the Queensland road system including:

- excessive reliance on private vehicles;
- congestion;
- vehicle pollution and greenhouse issues;
- the safety of high risk road users;
- mobility and access difficulties for some community members;
- improving the efficiency of the road transport industry;
- population growth; and
- impact of new technologies.

Reasons for Legislation

The Bill forms part of an integrated legislative structure for transport established in the *Transport Planning and Co-ordination Act 1994*. The Transport Operations (Road Use Management) Bill, once enacted, will be one of four pieces of legislation dealing with transport services, which together with the *Transport Infrastructure Act 1994*, *Transport Operations (Marine Safety) Act 1994* and *Transport Operations (Passenger Transport) Act 1994* sit under the umbrella of the *Transport Planning and Co-ordination Act 1994*.

This Bill is the first stage of the Transport Operations (Road Use Management) Act and establishes the framework and initial administrative requirements to implement national uniform road transport legislation as it is developed and approved. This stage of the Bill provides heads of power to make regulations in relation to vehicle and road use charges, vehicle operations, vehicle management and driver management. These regulation provisions will enable national transport regulation in the areas of heavy vehicle charges,

vehicle operations, driver licensing and vehicle registration to be implemented and the consolidation and rationalisation of road use legislation. Dangerous goods will be addressed in the next stage of legislation.

Rationalisation of Transport Legislation

The Minister for Transport has embarked on a complete overhaul of transport related legislation. As part of this process, this Bill provides the framework to both deliver national uniformity and consolidate (and review) regulation of road use management in Queensland. Current road use management legislation is fragmented across six Acts and contains duplication and numerous inconsistencies. The Acts affected by this Bill are:

- *Carriage of Dangerous Goods by Road Act 1984;*
- *Motor Vehicles Control Act 1975;*
- *Motor Vehicles Safety Act 1980;*
- *State Transport Act 1960*
- *Traffic Act 1949;* and
- *Transport Infrastructure (Roads) Act 1991.*

Portfolio Strategic Planning

The *Transport Planning and Coordination Act 1994* incorporates a legislative obligation to develop a Transport Coordination Plan for the strategic management of road use across the State.

The Transport Coordination Plan provides the framework for the strategic planning and coordination of the most important transport infrastructure and road use in Queensland, especially those controlled by the Department of Transport

In the *Transport Operations (Road Use Management) Bill 1995*, the Minister will be committed to operating strategically and will be accountable for that by the requirement to develop road use management strategies for the transport portfolio that are designed to give effect to the Transport Coordination Plan under the *Transport Planning and Coordination Act 1994*. These strategies will include goal statements and will incorporate criteria for determining the financial and management accountability of the Minister for achieving road use management objectives.

Estimated Cost for Government Implementation

The cost to government in implementing the Bill will be administrative in nature, so the cost will not be significant. Costs will be able to be met within existing budgetary allocations.

Consultation

All government departments affected by this legislation as well as the Local Government Association, industry groups and community groups have been consulted during the drafting of the Bill.

To the extent possible to reconcile the sometimes conflicting views, the various components have been incorporated into the Bill. There are no unresolved substantive issues.

CHAPTER 1—PRELIMINARY

Clause 1 sets out the short title of the Bill.

Clause 2 provides that all the provisions of the Bill, with the exception of Section 92 (Amendments of Acts), will commence on a day to be fixed by proclamation. Section 92 will commence on assent.

Clause 3 describes the Bill's overall objective for the best possible management of road use across the State.

The Bill provides for the effective planning and efficient management of road use and establishes a framework for coordinating the different forms of road use to form a comprehensive, integrated and efficient system.

This framework is consistent with the broad economic and social objectives of the *Transport Planning and Coordination Act 1994*.

Clause 4 outlines the need to achieve a balance between safety and its cost to the community, industry and government.

Clause 5 provides for a dictionary of the definitions and terms used in the Bill. The dictionary is included in Schedule 3 attached to the Bill.

Clause 6 provides that the Act is binding to the Crown yet grants the ability to make exemptions by regulation.

CHAPTER 2—RESPONSIBILITIES FOR ROAD USE MANAGEMENT STRATEGIES AND PROGRAMS

PART 1—ROAD USE MANAGEMENT STRATEGIES

Development of road use management strategies

Clause 7 imposes a legislative obligation on the chief executive to periodically develop road use management strategies for approval by the Minister. These strategies are designed to give effect to the Transport Coordination Plan required to be developed under the *Transport Planning and Co-ordination Act 1994*.

In developing these strategies, the chief executive must engage in an appropriate level of public consultation.

The Minister may either approve the strategies submitted by the chief executive, or direct that they be amended or be replaced by new strategies.

Clause 8 describes the minimum contents of road use management strategies including more detailed objectives to supplement those mentioned in *Clause 3*.

These strategies must include “criteria for deciding priorities for government spending on road use management initiatives”.

These strategies must also incorporate “an adequate framework for coordinating and integrating road use management policies as between the different transport modes and as between different levels of government”.

These strategies must also take into account agreements between Queensland, the Commonwealth, local governments or another State regarding road use management.

Clause 9 imposes an obligation that all road use management strategies and any subsequent variations, must be tabled in the House by the Minister. This will provide transparency and accountability in the way that government operates.

PART 2—ROAD USE IMPLEMENTATION PROGRAMS

Clause 10 requires the chief executive to develop for the Minister's approval annual road use implementation programs which describe the activities for that year and which give effect to the road use management strategies required under *Clause 7*.

The road use implementation programs must include a statement of the policies, projects, financial provisions and performance targets to be achieved for each year. These programs may include proposals to spend money not directly related to road use if such proposals contribute to the effectiveness and efficiency of road use management.

In developing these programs, the chief executive must engage in public consultation and make available copies of the programs as directed by the Minister.

The Minister may approve road use implementation programs or require them to be amended.

Clause 11 provides that, subject to the Minister directing otherwise, road use implementation programs must be consistent with road use management strategies. If the Minister directs a program to be inconsistent with road use management strategies, this clause requires the Minister to table the direction in the House, thus providing flexibility while maintaining transparency and accountability.

Clause 12 provides for annual reporting on the performance of road use implementation programs.

PART 3—GUIDELINES

Clause 13 provides that in developing and implementing road use management policies, both the Minister and the chief executive take into account accepted benchmarks and best practice, promote the safety of all road users, encourage efficient, competitive and commercial behaviour, and ensure a strategic and integrated approach is taken.

Further, the Minister and the chief executive must ensure that road use management achieves efficiency, cost effectiveness and affordable quality of services.

The chief executive must report annually on how effect has been given to these guidelines.

PART 4—OBJECTIVES

Clause 14 lists the objectives of compliance that are as far as practicable to be applied in encouraging a high level of road user performance and compliance and outlines measures aimed at encouraging compliance including alternative compliance schemes.

CHAPTER 3—ROAD USER PERFORMANCE AND COMPLIANCE

PART 1—ALTERNATIVE COMPLIANCE

Clause 15 defines the terms alternative compliance and performance standard and provides a framework for the chief executive to approve alternative ways of complying with the Act.

Clause 16 provides that the chief executive may approve an alternative compliance scheme operating nationally or in another State or Territory providing the scheme achieves a required performance standard.

Clause 17 outlines the circumstances under which specified provisions of the Act or Regulation need not apply in relation to approved compliance schemes.

Clause 18 outlines on what ground the chief executive can amend, suspend or cancel approval of an alternative compliance scheme.

Clause 19 outlines the procedure to be followed by the chief executive when amending, suspending or cancelling approval of an alternative compliance scheme.

PART 2—AUTHORISED OFFICERS AND ACCREDITED PERSONS

Clause 20 provides that the chief executive may appoint a person to be an authorised officer under this Act providing the person is an employee of the public service or another person prescribed by regulation. The clause places an obligation on the chief executive to be satisfied that a person (other than a police officer) is suitable for appointment.

Police officers are authorised officers by virtue of their appointment as police officers.

Clause 21 provides that the chief executive may appoint a person to be an accredited person to perform specified functions under the Act. The clause places an obligation on the chief executive to be satisfied that a person is suitable for appointment.

Clause 22 establishes the powers given to an authorised officer or an accredited person under this or another Act and that the exercise of these powers are subject to the directions of the chief executive or Commissioner.

A regulation, condition of employment, or a written notice issued by the chief executive officer or Commissioner, may limit these powers.

Clause 23 outlines the conditions of appointment for an authorised officer and accredited person and the procedure for resignation.

Clause 24 requires for the chief executive to issue each authorised officer (other than a police officer) an identity card containing a recent photograph and signature of the authorised officer. The clause also places an obligation on a person issued with an identity card to return that card to the chief executive as soon as practicable after ceasing to be an authorised officer, unless the person has a reasonable excuse for not doing so.

Clause 25 requires an authorised officer (other than an uniformed police officer) to display their identity card to a person before exercising a power under this Act in relation to the person.

The clause provides that an authorised officer must produce the identity card for inspection by the person at the first reasonable opportunity if for any reason it is not practical to produce their identity card before exercising a power. For example, it would not be practical for an authorised officer requiring the driver of a vehicle to stop to produce their identity card for the person's inspection until the vehicle had stopped.

PART 3—POWERS OF AUTHORISED OFFICERS

Background

This Part confers powers on authorised officers to make inquiries regarding complaints/information received. This Part allows powers to be utilised when the conditions applied to the exercise of powers have been met, for example:

- the authorised officer has a reasonable belief that a vehicle does not comply with a transport Act; or
- the authorised officer has a reasonable belief that the vehicle is or has been involved in an offence.

Clause 26 outlines the circumstances under which an authorised officer may enter a place.

Clause 27 outlines procedures to be followed by an authorised officer to gain an occupier's consent to enter a place. The clause also provides that an authorised person may ask for an acknowledgment of the occupier's consent and specifies what the acknowledgment must contain.

Clause 28 provides for an authorised officer to apply to a Magistrate for a warrant to enter a place and sets out the grounds on which the warrant application can be considered by a Magistrate.

Clause 29 provides that warrant applications may be made other than in person in special or urgent circumstances. The clause outlines procedures to be followed by both an authorised officer and a Magistrate in issuing warrants in special or urgent circumstances. An example of a special circumstance would be if the authorised officer had detected an offence in a remote location and did not have reasonable access to a Magistrate.

Clause 30 outlines the general powers and obligations and limitations thereto, of an authorised officer who enters a place or a vehicle. This clause also places certain obligations on the occupier of the place or vehicle.

The clause makes it an offence for a person to fail to comply with this requirement unless he or she has a reasonable excuse.

Clause 31 provides that a police officer may stop a private vehicle to check whether the vehicle or person in control of the vehicle complies with a transport Act. This clause also outlines the circumstances under which an authorised officer (other than a police officer) may stop private vehicles.

The clause provides for a regulation that may impose a restriction on an authorised officer (other than a police officer) from stopping a private (including at night).

The clause makes it an offence for a person in control of a private vehicle to disobey the direction of an authorised officer to stop, unless the person has a reasonable excuse.

Clause 32 outlines and provides examples of the circumstances under which an authorised officer may stop a heavy vehicle.

The clause makes it an offence for a person in control of a heavy vehicle to disobey the direction of an authorised officer to stop, unless the person has a reasonable excuse.

Clause 33 outlines the circumstances under which an authorised officer may require a person in control of a vehicle stopped under clause 31 or 32, or is stationary on a road, to move the vehicle to a reasonable place to enable the authorised officer to exercise a power.

The clause makes it an offence for a person in control of a vehicle to disobey the direction of an authorised officer to move that vehicle, unless the person has a reasonable excuse.

In addition, for a heavy vehicle, if a person in control of the vehicle refuses to move the vehicle, an authorised officer can move the vehicle to a reasonable place. For example, if the driver of a heavy vehicle stopped the vehicle on, or in a position that restricted access to, weighing equipment, and refused to move the vehicle, an authorised officer could move the vehicle to a reasonable place.

Clause 34 provides powers for an authorised officer to inspect a vehicle that has been stopped under *clause 31 or 32*, or is stationary on a road, to check that the vehicle complies with the Act.

The clause provides that an authorised officer may do anything reasonable (for example, enter, open or unfasten any part of the vehicle, or move the vehicle's load) for the purpose of inspecting the vehicle.

Clause 35 provides for an authorised officer, for the purposes of enforcing a transport Act, to enter and examine a vehicle if he or she reasonably believes that -

- the vehicle is being or has just been used to commit an offence; or
- evidence of an offence that is being or has just been committed is contained in the vehicle.

In addition, an authorised officer may request the assistance of the person in control of the vehicle, or may exercise necessary and reasonable force to enter the vehicle.

An authorised officer may not exercise powers under this section in relation to personal possessions in a vehicle, or documents in a private vehicle, other than documents that are issued or required to be kept under a transport Act or corresponding law.

The clause makes it an offence for a person to fail to comply with this requirement unless he or she has a reasonable excuse.

Clause 36 provides that an authorised officer may require by means of a notice in an approved form, the owner of a vehicle to present the vehicle for inspection at a specified time and date, if the authorised officer reasonably believes a vehicle may not comply with this Act.

The clause makes it an offence for a person to fail to comply with this requirement, unless he or she has a reasonable excuse.

Clause 37 provides for an authorised officer to direct by means of a notice in an approved form, a person whose vehicle is believed to be unsafe, not to use the vehicle until the vehicle has been inspected or the required action stated in the notice is taken in relation to the vehicle to ensure it complies with this Act.

The clause makes it an offence for a person to fail to comply with this requirement, unless he or she has a reasonable excuse.

Clause 38 provides for an authorised officer to prohibit the driver of a vehicle stopped under clause 31 or 32 or a vehicle that is stationary on a road, from driving a vehicle, if the authorised officer reasonably believes that a transport Act would be contravened by driving a vehicle.

Clause 39 provides that an authorised officer may require reasonable help from a person in control of a vehicle to effectively exercise a power under a this Act.

In addition, an authorised officer may instruct a person who is in or has just left the vehicle to act in a way the officer believes necessary to safely exercise a power under this Act or to preserve the safety of the officer or the person(s).

The clause makes it an offence for a person to fail to comply with this requirement, unless he or she has a reasonable excuse.

Clause 40 outlines an authorised officers's powers to seize evidence. It provides for an authorised officer who enters a place under the provisions of this Part to seize evidence for which a warrant was issued; or to seize evidence of an offence against a transport Act where consent was given by the occupier to enter the place; or to seize anything else that may be an offence against a transport Act; or seize evidence to prevent its destruction; or seize evidence which will stop the continuation of an offence.

In addition, an authorised officer, after entering a vehicle, may seize anything in the vehicle that the officer reasonably believes is evidence of an offence against a transport Act.

Clause 41 outlines the power of an authorised officer, once a thing has been seized, to move the thing from the place of seizure or leave the thing at the place of seizure but restrict access.

The clause makes it an offence for a person to tamper or attempt to tamper with the seized thing after access has been restricted without the approval of the authorised officer.

In addition, an authorised officer may require by notice in an approved form, the person in control of a thing to be seized to take the thing to a reasonable place at a reasonable time.

Clause 42 provides that an authorised officer, as soon as practicable after a thing is seized under this Part, must provide a receipt for it to the person from whom it was seized.

This clause also outlines the circumstances under which it is not necessary to issue a receipt for a seized thing.

Clause 43 provides the conditions for the forfeiture of unclaimed seized things and the procedure to be followed by the chief executive or Commissioner for advising the thing's owner of the decision.

Clause 44 provides the chief executive or Commissioner with the authority to deal with forfeited things in a way considered appropriate. However, before dealing with a thing, the chief executive or Commissioner must wait until any review or appeal over the decision to forfeit the thing has been decided.

Clause 45 provides that until a seized thing is forfeited or returned, the owner of the thing must be allowed reasonable access to the thing.

Clause 46 outlines the conditions and procedure for returning a seized thing to its owner.

Clause 47 enables the chief executive to approve the setting up of checkpoints, either on a road; or elsewhere with the owner's consent, where an authorised officer can inspect vehicles.

Clause 48 outlines the circumstances under which an authorised officer can require a person to identify themselves and give their address.

The clause provides powers for an authorised officer to require a person in control of a vehicle to provide his or her name and address and to produce evidence of the correctness of that information.

The clause makes it an offence for a person to disobey the direction of an authorised officer to provide his or her correct name and address unless the person has a reasonable excuse or if the person is subsequently not proved to have committed an offence against a transport Act. However the authorised officer must first have warned the person of the potential offence.

Clause 49 provides the power for an authorised officer to require a person to produce a document that has been issued or required to be kept under a transport Act or corresponding law.

The clause makes it an offence for a person to fail to comply with this requirement, unless he or she has a reasonable excuse.

In addition, an authorised officer may either keep the document to make notes on, or copy the document. However the authorised officer must return the document to the person as soon as practicable.

Clause 50 provides the power for an authorised officer to require a person in control of a heavy vehicle to provide information regarding certain offences that are declared under a regulation as an information offence. The authorised officer may only require information if it is reasonably believed an offence has been committed against a transport Act and a person may be able to give information about the offence.

When requiring information, an authorised officer must first warn the person that it is an offence not to answer unless the person has a reasonable excuse. It would be a reasonable excuse for a person not to answer if doing so might incriminate the person.

PART 4—ADDITIONAL POWERS OF POLICE OFFICERS

Clause 51 provides powers of arrest to police officers for offences committed against specified provisions of this Act and where proceedings by way of complaint and summons would be ineffective.

This clause will not limit the powers a police officer has as an authorised officer.

PART 5—LEGAL PROCEEDINGS

Clause 52 provides an offence for a person to give false or misleading information to the chief executive, the Commissioner, an authorised officer or an accredited person.

Clause 53 provides an offence for a person to provide the chief executive, the Commissioner, an authorised officer or an accredited person with a document containing information which the person knows to be false, misleading or incomplete unless the person advises that this is so and when reasonably able, provides the correct information.

Clause 54 provides an offence for a person to obstruct or hinder an authorised officer or an accredited person in the exercise of power under the Act unless he or she has a reasonable excuse.

Clause 55 provides an offence for a person to impersonate an authorised officer or an accredited person.

Clause 56 outlines the circumstances when it would be an offence for a person who is using a document issued under this Act that has been voided because the payment of the document fee was dishonoured.

The clause also provides that if the department incurs expense as a result of a cheque or payment not being honoured, the person making the payment is liable for reimbursement of expense to the State.

Clause 57 defines a liability offence and provides that in relation to such an offence committed by the driver or other person in control of a heavy vehicle, liability for the offence may also attach to the owner of the vehicle, or the person who controls the loading or operation of the vehicle.

The clause also outlines under what circumstances the owner or person who controls the loading or operation of a heavy vehicle can defend such an offence.

Clause 58 provides that, for the purposes of a transport Act, it is not necessary to prove to the Magistrates Court the appointment of the chief executive, the Commissioner, an authorised officer, an accredited officer or a police officer

Clause 59 provides that, for the purposes of a transport Act, it is not necessary to prove to the Magistrates Court the signature of the chief executive, the Commissioner, an authorised officer, an accredited officer or a police officer.

Clause 60 provides that a certificate providing details of an offence that has been signed by the chief executive or Commissioner or a delegate of the chief executive or Commissioner shall be considered to be evidence of the matter.

The clause outlines other evidentiary provisions which will enable prosecutions to be conducted in a manner which is effective, efficient, avoids unnecessary legal and administrative delays and meets accepted legislative standards.

Clause 61 provides that a certificate issued for an instrument declared under a regulation (for example a speedometer, breath analysing instrument or weighing device) shall be considered to be evidence that the instrument was operating correctly and providing accurate readings

The clause also outlines the circumstances when a defendant may challenge the accuracy of the instrument.

Clause 62 provides that an offence under this Act is by way of summary proceedings under the *Justices Act 1886*. Proceedings must start within one year of the commission of the offence or within 6 months of the offence coming to the complainant's knowledge, but in any case not later than two years after the committing of the offence.

PART 6—GENERAL

Clause 63 provides that if while exercising a power under a transport Act an authorised officer, or a person acting under the direction of an authorised officer, damages anything, the authorised officer must notify the owner of the thing by written notice.

Clause 64 outlines the circumstances when a person may claim compensation against the State for loss or expense incurred because of the exercise of a power under a transport Act.

CHAPTER 4—REVIEW OF AND APPEAL AGAINST DECISIONS

PART 1—REVIEW OF DECISIONS

Clause 65 provides that a person whose interests are affected by a decision of the chief executive regarding certain sections of this Act, may seek a review of that decision. A person seeking review is entitled to receive a statement of reasons for that decision.

Clause 66 provides that a person seeking review of a decision must apply within 28 days after receiving notice of the decision. However, if the notice does not set out a statement of reasons for that decision and a person requests such a statement within 28 days, the aggrieved person may make application within 28 days after receiving the statement of reasons.

The chief executive may extend the period for making an application for review.

An application for review must be in writing and state in detail why a review of the decision is sought.

Clause 67 provides for an application for a stay of operation of a decision to a Magistrates Court and allows the Magistrates Court to grant a stay of operation of the decision while under review or later appeal.

Clause 68 provides for the chief executive to refer an application for a review to a review panel for advice, except where the application is frivolous or vexatious.

Clause 69 provides for the chief executive to establish review panels to assess the application. Furthermore the composition of the review panel is provided for including representation from the department, a relevant industry or union, a representative of the community and an independent person. The panel may also include a representative of the Commissioner.

Clause 70 allows an applicant seeking review, the opportunity to make representations to the review panel.

Following a review panel's deliberations, the panel must make a recommendation to the chief executive confirming, amending or cancelling the decision.

Clause 71 requires the chief executive to consider the recommendation of a review panel. The chief executive may subsequently confirm or amend the original decision or substitute a new decision.

The chief executive is obliged to give written notice to the aggrieved person of the outcome.

If the chief executive's decision is contrary to the wants of an aggrieved person, the chief executive must provide a statement of reasons for the decision and advise that the person may appeal to a specified court within 28 days.

PART 2—APPEALS

Clause 72 provides that a person whose interests are affected by a decision under *clause 70* may appeal that decision to the Magistrates Court.

Clause 73 provides that a person may make application to appeal a decision within 28 days after receiving notice of the decision. However, if the notice does not set out a statement of reasons for that decision and a person requests such a statement within 28 days, the aggrieved person may make application within 28 days after receiving the statement of reasons.

This clause invokes the generic appeal mechanisms under the *Transport Planning and Coordination Act 1994*.

CHAPTER 5—ROAD USE

PART 1—VEHICLE AND ROAD USE FEES

Clause 74 provides for fees for road use (other than registration) and that these fees must relate to the cost of the road use.

PART 2—VEHICLE OPERATIONS

Clause 75 provides that regulation can prescribe rules regarding the operation of vehicles and provides examples of the types of matters for which regulations will be made.

PART 3—VEHICLE MANAGEMENT

Clause 76 provides that a regulation may prescribe vehicle standards.

Clause 77 provides that a regulation may prescribe the methods for identifying vehicles and the procedure for recording vehicles and the circumstances under which this information can be provided.

PART 4—DRIVER MANAGEMENT

Clause 78 provides that a regulation may prescribe rules about the required standard of driver skills and knowledge and how this knowledge will be tested. The clause also outlines licensing procedures and practices.

Clause 79 provides that the chief executive may only provide licence details under certain circumstances.

CHAPTER 6—MISCELLANEOUS

Clause 80 describes the courts discretion to impose a penalty not exceeding double the amount of fees or charges on a person convicted of an offence against this Act.

In addition, if in committing an offence, a person causes damage to road transport infrastructure, the court may impose a penalty on the person for an amount not exceeding the amount of the damage.

Clause 81 describes the procedure for issuing a notice to the owner of a vehicle.

Clause 82 provides for the approval of official traffic signs and requires that these signs be contained in either the Manual of Uniform Traffic Control Devices; or an approved notice, and that these be made available for public inspection.

Clause 83 provides protection from liability for the Minister, chief executive, Commissioner, authorised officer, accredited person, a person acting under the direction of an authorised officer, an officer or employee of the department or of the Queensland Police Service, the chief executive officer or another officer or employee of a local government, for an act or omission done honestly and without negligence.

The clause further provides that if the clause prevents a civil liability attaching to a person, the liability attaches instead to the State or local government.

Clause 84 states that whilst it is the intention of Parliament that Chapter 2 of this Act (Road Use Management Strategies and Implementation Programs, Guidelines and Objectives) be complied with, this Chapter is directory only and does not create rights or impose legally enforceable obligations on the State, Minister, chief executive, Commissioner or anyone else.

The clause also provides that decisions made under Chapter 2 are final and conclusive and are excluded for the operations of the *Judicial Review Act 1991* and is not subject to writs or orders of courts or tribunals.

Chapter 2 imposes obligations on the administrative arm of government as to how it is to approach road use management and it is intended that decisions made in meeting these administrative obligations not impose legal obligations in relation to decisions made or not made.

Clause 85 provides for the Governor in Council to make regulations under this Act. It also sets a maximum penalty that may be prescribed by a regulation under this Act.

This clause outlines, but is not limited by, what a regulation may be made for.

CHAPTER 7—TRANSITIONAL

PROVISIONS, AMENDMENTS AND REPEALS

Clauses 86 - 91 provide for references to various transport Acts to be a reference to this Act when those Acts are amended or repealed.

Clause 92 provides for amendments that are required to be made to existing legislation. The Acts requiring amendment are described in Schedule 1 attached to this Act.

Clause 93 provides repeal arrangements for existing legislation that will in time be invalidated by this Act. These Acts are described in Schedule 2 attached to this Act.

SCHEDULE 1—AMENDMENT OF ACTS

The Acts included for amendment are:

- *State Transport (People-movers) Act 1989*
- *Transport Infrastructure Roads Act 1991*

To provide for administrative changes to ensure that those references to the Corporation sole “The Director-General, Department of Transport” which have not been replaced with the words “chief executive” or the “State” are replaced. Also includes other minor amendments necessitated by these changes including replacing the words “Director-General” with “chief executive”.

- *Traffic Act 1949*

To provide:

- clarification that in Section 9 the definition of “place” in Section (c) of the definition of “road” may include public parking areas in shopping centres; and
- clarification that the application of Section 44BA(5) may include land controlled by a local government under an arrangement with a person in control of the land. An example would be a disabled parking area in a shopping centre; and

- clarification of penalty provisions required as a result of the updating of legislative standards.
- *Transport Operations (Marine Safety) Act 1994*

To provide:

- in Section 42(3)(A)(i)—a transitional arrangement for certificates of survey issued under previous legislation to be used as evidence of a person meeting their general safety obligation; and
- in Section 60—conditions on the issue of pilot’s licences to reflect existing practice and correct an omission from this Act; and
- in Section 66A—consistent provisions in this Act for ship builders similar to those for ship designers and marine surveyors; and
- in Section 67—clarification of the intent of this Section.
- *Transport Infrastructure Act 1994*

To provide:

- revised penalties in various Sections and reference to the *Main Roads Act 1920*.
- *Transport Planning and Coordination Act 1994*

To provide:

- for decisions made or not made in fulfilling the administrative obligations imposed by Part 2 not to impose legal obligations.
- that whilst it is the intention of Parliament that Part 2 of this Act is complied with, this Part is directory only and does not create rights or impose legally enforceable obligations on the State, Minister, chief executive, Commissioner or anyone else.

SCHEDULE 3—REPEALED ACTS**PART 1—PRINCIPAL ACTS**

The Acts listed are intended for repeal within the next two years:

- *The Carriage of Dangerous Goods by Road Act 1984*
- *Motor Vehicles Control Act 1975*
- *Motor Vehicles Safety Act 1980*
- *State Transport Act 1960*
- *Transport Infrastructure (Roads) Act 1991*

PART 2—AMENDING ACTS

The acts listed are intended for repeal on assent of this Bill:

- *Carriage of Dangerous Goods by Road Amendment Act 1988 No 5*
- *Carriage of Dangerous Goods by Road Amendment Act 1993 No 16*
- *Motor Vehicles Control Amendment Act 1988 No 28*
- *Motor Vehicles Safety Act and Other Acts Amendment Act 1985 No 30*
- *Motor Vehicles Safety Amendment Act 1990 No 53*
- *Motor Vehicles Safety Amendment Act 1993 No 45*
- *State Transport Amendment Act 1965 No 63*
- *State Transport Act Amendment Act 1981 No 93*
- *State Transport Act and other Amendment Act 1990 No 16*
- *Traffic Amendment Act 1994 No 8*
- *Transport Infrastructure Amendment Act 1994 No 32*
- *Transport Legislation Amendment Act 1993 No 5*
- *Transport Legislation Amendment Act (No 2) 1993 No 61*

SCHEDULE 3—DICTIONARY

Dictionary contains the definition of the terms used in this Act.