

Queensland



# TRANSPORT INFRASTRUCTURE ACT 1994

**Reprinted as in force on 27 January 1995  
(includes amendments up to Act No. 81 of 1994)**

**Reprint No. 3**

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# Information about this reprint

This Act is reprinted as at 27 January 1995. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update references (Pt 4, Div 3)
- use standard punctuation consistent with current drafting practice (s 27)
- insert references to schedule, appendix or body of law (s 33B)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 37 and 40)
- number and renumber provisions and references (s 43)
- correct minor errors (s 44).

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

**Also see Endnotes for information about—**

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in the reprint, including—**
  - **Table of changed citations and remade laws**
  - **Table of corrected minor errors**
  - **Table of renumbered provisions.**

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# TRANSPORT INFRASTRUCTURE ACT 1994

[as amended by all amendments that commenced on or before 27 January 1995]

## An Act about transport infrastructure

### CHAPTER 1—PRELIMINARY

#### Short title

1. This Act may be cited as the *Transport Infrastructure Act 1994*.

#### Commencement

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

#### Objectives of this Act

3.(1) The overall objective of this Act is, consistent with the objectives of the *Transport Planning and Coordination Act 1994*, to provide a regime that allows for and encourages effective integrated planning and efficient management of a system of transport infrastructure.

(2) In particular, the objectives of this Act are—

- (a) to allow the Government to have a strategic overview of the provision and operation of all transport infrastructure; and
- (b) for roads—to establish a regime under which—
  - (i) a system of roads of national and State significance can be effectively planned and efficiently managed; and
  - (ii) influence can be exercised over the total road network in a way that contributes to overall transport efficiency; and
  - (iii) account is taken of the need to provide adequate levels of

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- safety, and community access to the road network; and
- (c) for miscellaneous transport infrastructure—to establish a regime for the effective planning and efficient management of the infrastructure; and
  - (d) for rail—to establish a regime under which a rail system is provided and can be managed within an overall strategic framework by Queensland Railways as a GOC in accordance with the principles specified in the *Government Owned Corporations Act 1993*; and
  - (e) for ports—to establish a regime under which a ports system is provided and can be managed within an overall strategic framework by GOCs in accordance with the principles specified in the *Government Owned Corporations Act 1993*.

## **Definitions**

**4.(1)** In this Act—

**“chief executive”** means the chief executive of the department.

**“Coordination Plan”** means the Transport Coordination Plan developed under the *Transport Planning and Coordination Act 1994*.

**“GOC”** has the same meaning as in the *Government Owned Corporations Act 1993*, and includes a candidate GOC within the meaning of that Act.

**“government supported transport infrastructure”** means transport infrastructure that—

- (a) is funded, wholly or partly, by appropriations from the Consolidated Fund; or
- (b) is funded, wholly or partly, by borrowings made by the Government (other than commercial borrowings made by the Queensland Treasury Corporation acting as an agent); or
- (c) is funded, wholly or partly, by borrowings guaranteed by the Government other than borrowings for commercial investments; or
- (d) is provided by a person on the basis of conditions agreed to by the

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Government that are intended to support the commercial viability of the infrastructure.

**“miscellaneous transport infrastructure”** means transport infrastructure for which the chief executive is wholly or partly responsible and that is not road transport infrastructure, rail transport infrastructure or port infrastructure.

**“port”** of a port authority means a port for which the authority is responsible, and includes an airport for which the authority is responsible.

**“port authority”** means—

- (a) the Ports Corporation of Queensland; or
- (b) the Port of Brisbane Corporation; or
- (c) the Gladstone Port Authority; or
- (d) a harbour board continued in existence by section 73 (Continuation of port authorities); or
- (e) a port authority established under section 74 (Establishment of new port authority); or
- (f) another body established under the *Government Owned Corporations Act 1993* and declared by regulation to be a port authority;

but does not include a port authority that has been abolished under section 75 (Abolition of port authority).

**“port infrastructure”** includes transport infrastructure relating to ports.

**“rail transport infrastructure”** includes transport infrastructure relating to railways.

**“road transport infrastructure”** includes transport infrastructure relating to roads.

**“State-controlled road”** means a road or land, or a part of a road or land, declared under section 21 (Declaration of State-controlled roads) to be a State-controlled road.

**“transport infrastructure”** includes road, rail, port and miscellaneous transport infrastructure.

“**transport purpose**” includes any purpose for which the Minister is responsible.

(2) Additional definitions are located in the following provisions—

- (a) for Chapter 5 (Road transport infrastructure)—
  - Part 1—section 20
  - Part 4—sections 38(11) and 39(9)
  - Part 5, Division 2, Subdivision 2—section 47;
- (b) for Chapter 6 (Port infrastructure)—section 72;
- (c) for Chapter 7 (General provisions)—section 104;
- (d) for Chapter 8 (Savings and transitional provisions, amendments and repeals)—
  - Part 1—section 112
  - Part 2—section 127.

### **State/Commonwealth agreements or arrangements**

5. The powers and discretions conferred by this Act may be exercised in accordance with an agreement or arrangement between the State and the Commonwealth about the funding of transport infrastructure.

## **CHAPTER 2—TRANSPORT INFRASTRUCTURE STRATEGIES**

### **Development of transport infrastructure strategies**

6.(1) The chief executive must, from time to time, develop for the Minister’s approval transport infrastructure strategies that are designed to give effect to the Coordination Plan in relation to transport infrastructure in accordance with the objectives of this Act.

(2) In developing transport infrastructure strategies, the chief executive must take reasonable steps to engage in public consultation.

(3) The Minister may, at any time, direct the chief executive to prepare new transport infrastructure strategies for the Minister's approval or to amend transport infrastructure strategies in the way the Minister directs.

(4) The Minister may approve transport infrastructure strategies that are submitted for approval or require the chief executive to amend the strategies in the way the Minister directs.

### **Contents of transport infrastructure strategies**

7.(1) Transport infrastructure strategies must include—

- (a) a statement of the specific objectives sought to be achieved; and
- (b) proposals for the provision of transport infrastructure; and
- (c) investment criteria for deciding priorities for government supported transport infrastructure between and within the different transport modes and options for financing the priorities; and
- (d) criteria for deciding which roads should be controlled by the chief executive as State-controlled roads; and
- (e) appropriate performance indicators for deciding whether, and to what extent, the objectives of the strategies have been achieved.

(2) Transport infrastructure strategies must aim to provide an adequate framework for coordinating and integrating the provision of transport infrastructure as between the different transport modes.

(3) Transport infrastructure strategies must take account of agreements or arrangements between the State and the Commonwealth about the funding of transport infrastructure.

### **Tabling of transport infrastructure strategies**

8. The Minister must cause transport infrastructure strategies, and each amendment of transport infrastructure strategies, approved by the Minister to be tabled in the Legislative Assembly.

## **CHAPTER 3—OBLIGATIONS ABOUT TRANSPORT INFRASTRUCTURE**

### **Objective of Chapter**

**9.** In giving effect to the objective of this Act, this Chapter is intended to ensure value for money for resources applied to the construction, maintenance and operation of transport infrastructure.

### **Obligations about government supported transport infrastructure**

**10.** The chief executive, the Queensland Railways Board and the board of each port authority must ensure that—

- (a) the construction, maintenance and operation of all government supported transport infrastructure for which the entity is responsible is carried out in accordance with standards published by the entity that are designed to achieve—
  - (i) efficiency; and
  - (ii) affordable quality; and
  - (iii) cost effectiveness; and
- (b) construction, maintenance or operation is carried out in a way that—
  - (i) takes into account national and international benchmarks and international best practice; and
  - (ii) promotes, within overall transport objectives, the safe transport of persons and goods; and
  - (iii) encourages efficient and competitive behaviour in the construction and maintenance of transport infrastructure; and
- (c) contracts that are let for the construction, maintenance or operation of transport infrastructure are designed in a way that encourages efficient performance by the contractor.



**Report on giving effect to s 10**

**11.** Each annual report of the department, Queensland Railways and each port authority must include a report on the way in which effect has been given to section 10 (Obligations about government supported transport infrastructure) during the year to which the report relates.

## **CHAPTER 4—IMPLEMENTATION OF TRANSPORT INFRASTRUCTURE STRATEGIES**

### **PART 1—ROADS IMPLEMENTATION PROGRAMS**

#### **Development of roads implementation programs**

**12.(1)** The chief executive must, each year, develop for the Minister's approval roads implementation programs for the year and for 1 or more later years.

**(2)** Roads implementation programs must include—

- (a)** a program of projects, and policies and financial provisions, for implementing the transport infrastructure strategies in relation to road transport infrastructure, including roads that are not State-controlled roads; and
- (b)** performance targets for road transport infrastructure.

**(3)** Roads implementation programs may include proposals to spend amounts on transport infrastructure other than road transport infrastructure if the spending would contribute to intermodal effectiveness and efficiency.

**(4)** In developing roads implementation programs, the chief executive must take reasonable steps to consult with local governments that, in the opinion of the chief executive, would be affected by the programs.

**(5)** Roads implementation programs are to be made publicly available in the way decided by the Minister.

**(6)** The Minister may at any time direct the chief executive to amend

roads implementation programs.

(7) The Minister may approve roads implementation programs that are submitted for approval or require the chief executive to amend the programs in the way the Minister directs.

### **Consistency with transport infrastructure strategies**

**13.(1)** Subject to directions of the Minister, roads implementation programs must be consistent with transport infrastructure strategies.

(2) If the Minister gives a direction under this section that results in roads implementation programs being inconsistent with transport infrastructure strategies, the Minister must cause a copy of the direction to be tabled in the Legislative Assembly within 5 sitting days after it is given.

### **Report on operation of roads implementation programs**

**14.** Each annual report of the department must include a report on the operation of the roads implementation programs during the year to which the annual report relates.

## **PART 2—IMPLEMENTATION PROGRAMS FOR MISCELLANEOUS TRANSPORT INFRASTRUCTURE**

### **Development of implementation programs for miscellaneous transport infrastructure**

**15.(1)** The chief executive must, each year, develop for the Minister's approval implementation programs for miscellaneous transport infrastructure for the year and for 1 or more later years.

(2) Implementation programs for miscellaneous transport infrastructure must include—

- (a) a program of projects, and policies and budgets, for implementing the transport infrastructure strategies about the miscellaneous transport infrastructure covered by the programs; and

(b) performance targets for that miscellaneous transport infrastructure.

(3) Implementation programs for miscellaneous transport infrastructure may include proposals to spend amounts on transport infrastructure other than miscellaneous transport infrastructure if the spending would contribute to intermodal effectiveness and efficiency.

(4) In developing implementation programs for miscellaneous transport infrastructure, the chief executive must take reasonable steps to consult with local governments that, in the opinion of the chief executive, would be affected by the programs.

(5) Implementation programs for miscellaneous transport infrastructure are to be made publicly available in the way decided by the Minister.

(6) The Minister may at any time direct the chief executive to amend implementation programs for miscellaneous transport infrastructure.

(7) The Minister may approve implementation programs for miscellaneous transport infrastructure that are submitted for approval or require the chief executive to amend the programs in the way the Minister directs.

### **Consistency with transport infrastructure strategies**

**16.(1)** Subject to directions of the Minister, implementation programs for miscellaneous transport infrastructure must be consistent with transport infrastructure strategies.

(2) If the Minister gives a direction under this section that results in implementation programs for miscellaneous transport infrastructure being inconsistent with transport infrastructure strategies, the Minister must cause a copy of the direction to be tabled in the Legislative Assembly within 5 sitting days after it is given.

### **Report on operation of implementation programs for miscellaneous transport infrastructure**

**17.** Each annual report of the department must include a report on the operation of the implementation programs for miscellaneous transport infrastructure during the year to which the annual report relates.

## **PART 3—TRANSPORT GOCS**

### **Transport GOCS**

**18.(1)** In preparing a corporate plan or a statement of corporate intent, Queensland Railways and each port authority must take into account the transport infrastructure strategies.

**(2)** Queensland Railways or a port authority may spend amounts on transport infrastructure other than rail transport infrastructure or port infrastructure if the spending would contribute to effectiveness and efficiency.

## **CHAPTER 5—ROAD TRANSPORT INFRASTRUCTURE**

### **PART 1—PRELIMINARY**

#### **Scope of Chapter**

**19.(1)** To give effect to the objectives of this Act in relation to road transport infrastructure, the chief executive has, subject to the Minister and as required by this Chapter—

- (a) the function of influencing the total road network; and
- (b) control over roads of State significance in the total road network, including roads of national significance that are managed in accordance with agreements or arrangements between the State and the Commonwealth about the funding of road transport infrastructure.

**(2)** This Chapter establishes a framework under which the construction, maintenance or operation of a State-controlled road can be done by the chief executive, or by a local government or someone else under agreements or arrangements with the chief executive.

**Definitions**

**20.(1)** In this Chapter—

**“ancillary works and encroachments”** means—

- (a) the following things—
  - (i) cane railways, tramways or monorails;
  - (ii) bridges, overhead conveyors or other overhead structures;
  - (iii) tunnels;
  - (iv) rest area facilities;
  - (v) monuments or statues;
  - (vi) advertising signs or other advertising devices;
  - (vii) traffic and service signs;
  - (viii) bores, wells, pumps, windmills, pipes, channels, culverts, viaducts, tanks or dams;
  - (ix) cables;
  - (x) means of access;
  - (xi) paths or bikeways;
  - (xii) grids or other stock facilities;
  - (xiii) buildings, shelters, awnings or mail boxes;
  - (xiv) poles, lighting, gates or fences; or
- (b) any of the following activities—
  - (i) drilling;
  - (ii) clearing;
  - (iii) trimming;
  - (iv) slashing;
  - (v) landscaping;
  - (vi) planting;
  - (vii) burning off;
  - (viii) removing trees;

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- (ix) road safety related activities;
  - (x) sporting activities;
  - (xi) camping;
  - (xii) conducting a business (for example, a market);
  - (xiii) movement of stock, other than under the *Rural Lands Protection Act 1985*;
  - (xiv) holding meetings; or
- (c) other encroachments declared by regulation to be ancillary works and encroachments;

but does not include public utility plant.

**“construction”**, in relation to road transport infrastructure, includes—

- (a) initial construction; and
- (b) improvement of the standard; and
- (c) realignment; and
- (d) widening;

that involves the development of road transport infrastructure.

**“franchised road”** means a road to which a road franchise agreement<sup>1</sup> applies, and includes facilities identified in the road franchise agreement that are on or adjacent to the road and relate to the operation or servicing of the road or facilities for road users.

**“franchisee”** means a person with whom the Minister has entered into a road franchise agreement.

**“land”** includes—

- (a) an interest in land; and
- (b) land within the beds and banks of a stream, watercourse or inundated land; and
- (c) land beneath the internal waters of Queensland.

**“local government road”** means a road that is under the control of a local

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<sup>1</sup> Road franchise agreements are entered into under section 63.

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government.

**“maintenance”** includes—

- (a) rehabilitation; and
- (b) replacement; and
- (c) repair; and
- (d) recurrent servicing; and
- (e) preventive and remedial action; and
- (f) removal; and
- (g) alteration; and
- (h) maintaining systems and services for transport infrastructure.

**“means of access”** means the physical means of entry or exit for traffic between land and a road.

**“motorway”** means a State-controlled road that is declared to be a motorway under section 23 (Declaration of motorways).

**“occupier”** of land means the person in actual occupation of the land or, if there is no person in actual occupation, the person entitled to possession of the land.

**“on”** a road includes within, under and over the road.

**“owner”** of land means—

- (a) the registered proprietor of the land; or
- (b) the lessee or licensee from the State of the land; or
- (c) the person who has lawful control of the land, on trust or otherwise; or
- (d) the person who is entitled to receive the rents and profits of the land.

**“person”** includes a partnership or other association or body, whether incorporated or unincorporated.

**“plant”** includes any of the following things—

- (a) a railway, monorail and tramway;

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- (b) viaduct and aqueduct;
- (c) conduit and cable;
- (d) overhead conveyor;
- (e) pipeline;
- (f) pole;
- (g) electrical installation within the meaning of the *Electricity Act 1994*;
- (h) telecommunications plant;
- (i) water channel.

**“public utility plant”** means plant that is permitted under another Act or a Commonwealth Act to be on a road.

**“road”** means—

- (a) an area of land dedicated to public use as a road; or
- (b) an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; or
- (c) a bridge, culvert, ferry, ford, tunnel or viaduct; or
- (d) a pedestrian or bicycle path; or
- (e) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in paragraphs (a) to (d).

**“road franchise agreement”** see section 63.

**“road works”** means works done for—

- (a) constructing roads or things associated with roads; or
  - (b) the maintenance of roads or of things associated with roads (other than public utility plant); or
  - (c) facilitating the operation of road transport infrastructure;
- and includes works declared by the regulations to be road works.

**“State government body”** means—

- (a) a department or a division, branch or other part of a department;



or

- (b) a State instrumentality, agency, authority or entity or a division, branch or other part of a State instrumentality, agency, authority or entity; or
- (c) a GOC;

but does not include a local government.

“**traffic**” includes the passing back and forth of persons, vehicles and animals.

(2) Additional definitions for Part 5, Division 2, Subdivision 2 are located in section 47 (Definitions).

## **PART 2—STATE—CONTROLLED ROADS**

### *Division 1—Declaration of State-controlled roads*

#### **Declaration of State-controlled roads**

**21.(1)** The Minister may, by Gazette notice, declare a road or route, or part of a road or route, to be a State-controlled road.

(2) A declaration must be consistent with criteria about the declaration of State-controlled roads in the transport infrastructure strategies.

(3) A declaration must enable the location of the road to be identified.

(4) The location may be identified by specifying—

- (a) the starting and ending points of the road; and
- (b) the alignment of the road; and
- (c) the width of the road by reference to the constructed centre line of the road pavement or surface.

(5) Unless otherwise specified in a declaration, the width of a State-controlled road through a State reserve, State forest, timber reserve, vacant State land or pastoral holding is 30 m each side of the centre line of

the trafficked route.

### **Consultation before declaration**

**22.** Before making or revoking a declaration under section 21 (Declaration of State-controlled roads), the Minister must—

- (a) notify each local government that would, in the Minister's opinion, be affected by the proposed declaration or revocation; and
- (b) give the local governments a reasonable opportunity to make submissions to the Minister on the proposed declaration or revocation.

### *Division 2—Motorways*

#### **Declaration of motorways**

**23.(1)** The Minister may, by Gazette notice, declare that the whole or a part of a State-controlled road is a motorway.

**(2)** A declaration must enable the location of the motorway to be identified.

**(3)** Before making or revoking a declaration, the Minister must—

- (a) notify each local government that would, in the Minister's opinion, be affected by the proposed declaration or revocation; and
- (b) give the local governments a reasonable opportunity to make submissions to the Minister on the proposed declaration or revocation.

### *Division 3—Chief executive to have powers of a local government*

#### **Chief executive to have power of a local government for State-controlled roads**

**24.** The chief executive may exercise, for a State-controlled road in the area of a local government, all of the powers that the local government may exercise for a local government road in the area.

### **PART 3—CONSTRUCTION, MAINTENANCE AND OPERATION**

#### **Powers of chief executive for road works contracts etc.**

**25.(1)** The chief executive may, in accordance with the relevant roads implementation program, carry out, or enter into contracts for the State with other persons (including local governments, State government bodies and agencies of the Government of some other State or of a Territory) for the carrying out of—

- (a) road works on a State-controlled road or on land that is intended to become a State-controlled road; or
- (b) other works that contribute to the effectiveness and efficiency of the road network; or
- (c) the operation of a State-controlled road.

**(2)** The chief executive may, for the State, carry out road works on a local government road in accordance with an agreement between the chief executive and the local government.

**(3)** The chief executive may, for the State, enter into contracts with other persons for road works to be carried out outside the State by the chief executive, a local government, a State government body or a contractor to the chief executive in accordance with an agreement between the State and the other State or Territory concerned.

**(4)** A contract with a local government under this section about the maintenance and operation of a State-controlled road may include arrangements about which powers of the local government are to be exercised by the chief executive and which of the powers are to be exercised by the local government for the State-controlled road.

**(5)** A local government may enter into a contract mentioned in

subsection (1) even though the contract relates to works or operation outside the local government's area.

(6) The chief executive may, for the State, carry out, or enter into contracts for, works on or adjacent to a State-controlled road at the request of the owner of adjacent land on the basis that the owner provides consideration, whether monetary or otherwise, as agreed between the chief executive and the owner.

(7) This section does not prevent the chief executive carrying out, or entering into contracts for the carrying out, of road works of a minor or emergency nature.

### **Obligations in carrying out of works or operation of roads by the chief executive**

26. In carrying out works, or the operation of roads, mentioned in section 25 (Powers of chief executive for road works contracts etc.), the chief executive must ensure that the carrying out is done on a price competitive basis.

### **Contracts to encourage efficiency**

27.(1) In entering into contracts of the kind mentioned in section 25 (Powers of chief executive for road works contracts etc.), the chief executive must ensure that open competition is encouraged.

(2) Subsection (1) does not apply to a contract with a person if the person is the sole invitee and enters into a price performance contract with the chief executive.

### **Cost sharing arrangements**

28. The chief executive may arrange with another person (including a local government and a State government body) for the sharing by the chief executive with the other person of the cost of—

- (a) acquisition of land for transport infrastructure; or
- (b) road works on a State-controlled road; or
- (c) other works that contribute to the effectiveness and efficiency of

the road network; or

- (d) the operation of a State-controlled road;

including all necessary preliminary costs associated with the acquisition, works or operation.

### **Prohibition on road works etc. on State-controlled roads**

**29.(1)** A person must not, without lawful excuse or the written approval of the chief executive—

- (a) carry out road works on a State-controlled road; or  
(b) interfere with a State-controlled road or its operation.

Maximum penalty—40 penalty units.

**(2)** An approval may be subject to conditions decided by the chief executive.

**(3)** A person must not contravene a condition that applies to the person under subsection (2).

Maximum penalty—40 penalty units.

**(4)** Subsection (1) does not apply to a person who carries out maintenance of ancillary works and encroachments or landscaping that does not interfere with a State-controlled road or its operation.

### **Offender to pay cost of remedying unauthorised works**

**30.(1)** If a person carries out works contrary to section 29(1) (Prohibition on road works etc. on State-controlled roads), the chief executive may—

- (a) dismantle or alter the works; or  
(b) remedy damage caused by the works.

**(2)** If the chief executive causes the works to be dismantled or altered or the damage to be remedied under subsection (1), the person is liable to pay to the chief executive the costs incurred by the chief executive.

**Temporary occupation and use of land**

**31.** To carry out road works, the chief executive may temporarily occupy and use land, including roads, and do anything on the land that is necessary or convenient to be done.

**Notice of entry or permission to enter**

**32.(1)** The person who is proposing to occupy or use land under section 31 (Temporary occupation and use of land) must—

- (a) give at least 3 days written notice to the owner or occupier of the land; or
- (b) obtain the written approval of the owner or occupier to the occupation or use.

**(2)** The notice must state—

- (a) the road works to be carried out; and
- (b) the use proposed to be made of the land; and
- (c) details of the things proposed to be done on the land; and
- (d) an approximate period when the occupation or use is expected to continue.

**(3)** A notice may be given under subsection (1) in relation to land even if it is proposed to resume the land for road works.

**(4)** After the end of 3 days after service of a notice under subsection (1), or with the agreement of the owner or occupier, the land may be entered and the road works specified in the notice carried out.

**(5)** If urgent remedial attention is required, subsection (1) does not apply but the person who is proposing to occupy or use the land must, if it is practicable, notify the owner or occupier of the land orally.

**Compensation for physical damage from entry etc.**

**33.(1)** An owner of land that is entered, occupied or used under section 31 (Temporary occupation and use of land) may give a written notice to the chief executive claiming compensation for physical damage caused by the entry, occupation or use or for the taking or consumption of

materials.

(2) Compensation is not payable unless a claim is received by the chief executive within 1 year after occupation or use has ended.

(3) However, the chief executive may allow a claim to be made at a later time.

(4) Compensation awarded under this section must not be more than the compensation that would have been awarded if the land had been acquired.

### **Fencing State-controlled roads**

**34.(1)** The chief executive does not have to contribute to the fencing of the whole or a part of the boundary between land and—

- (a) an existing State-controlled road; or
- (b) a road or land that is intended to become a State-controlled road; or
- (c) a widening or deviation of a State-controlled road involving the acquisition of land.

(2) However, subsection (1)(b) does not apply to an existing road if the land is substantially fenced and the presence of the road will make the fencing ineffective.

(3) Subsection (1)(c) does not apply if the previous boundary of the road was substantially fenced.

### **Watercourses and road works**

**35.(1)** To carry out road works, the chief executive may—

- (a) divert a watercourse; or
- (b) construct a watercourse, whether temporary or permanent.

(2) In taking action under subsection (1), the chief executive must consider the effect that the action will have on the physical integrity and flow characteristics of the watercourse.

(3) The chief executive may enter and occupy private land under section 31 (Temporary occupation and use of land) and carry out works that

the chief executive considers necessary or desirable to enable a watercourse to operate effectively and efficiently.

## **PART 4—RELATIONSHIP WITH LOCAL GOVERNMENTS**

### **Funds for works on, or operation of, local government roads etc.**

**36.(1)** The chief executive may enter into an agreement with a local government under which the chief executive supplies funds to the local government for road works on a local government road, for other works that contribute to the effectiveness and efficiency of the road network or for the operation of a local government road.

**(2)** The agreement—

- (a)** must provide for the works or operation to be carried out in accordance with an agreement between the chief executive and the local government that is designed to ensure value for money in the application of the funds; and
- (b)** may be subject to other conditions.

### **Improvement of State-controlled road as an economic alternative to improvement of the local road network**

**37.** If a local government concludes that improvements to a State-controlled road in its area would be beneficial to the local road network, the local government may make financial arrangements with the chief executive for the improvements to be made.

### **Impact of certain local government decisions on State-controlled roads**

**38.(1)** A local government must obtain the chief executive's written approval if—

- (a)** it intends to—



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- (i) approve a subdivision, rezoning or development of land; or
  - (ii) carry out road works on a local government road or make changes to the management of a local government road; and
- (b) the approval, works or changes would—
- (i) require the carrying out of road works on a State-controlled road; or
  - (ii) otherwise have a significant adverse impact on a State-controlled road; or
  - (iii) have a significant impact on the planning of a State-controlled road or a future State-controlled road.

(2) The chief executive may make guidelines to which local governments must have regard in deciding whether an approval of the chief executive under subsection (1) is required.

(3) An approval by the chief executive under subsection (1) may be subject to conditions, including a condition that consideration, whether monetary or otherwise, be given in compensation for the impact that the subdivision, rezoning, development, road works or changes will have.

(4) Subsection (1) does not apply if the conditions applied and enforced by the local government for the subdivision, rezoning, development, road works or changes comply with permission criteria fixed by the chief executive.

(5) The permission criteria may include conditions, including a condition that consideration, whether monetary or otherwise, be given in compensation for the impact that the subdivision, rezoning, development, road works or changes will have.

(6) A local government must comply with conditions that apply to it under this section.

(7) A failure by a local government to obtain an approval under subsection (1) in relation to the approval of a subdivision, rezoning or development of land does not invalidate the approval by the local government.

(8) If a local government contravenes subsection (1) or a condition that applies to it under this section, the local government is liable to compensate the chief executive for the cost of road works to State-controlled roads that

are reasonably required because of the contravention.

(9) An approval by the chief executive under subsection (1) must be given—

- (a) within 21 days after receiving the application for approval; or
- (b) within a longer period notified to the local government by the chief executive within the 21 day period.

(10) If—

- (a) a local government applies for an approval under subsection (1); and
- (b) the chief executive does not respond to the application within 21 days after receiving the application;

the chief executive is taken to have given approval at the end of the 21 days.

(11) In this section—

**“future State-controlled road”** means a road or land that the chief executive has notified the local government in writing is intended to become a State-controlled road.

(12) The chief executive must cause a copy of each notice under subsection (11) to be published in the Gazette.

### **Distraction of traffic on motorways**

**39.(1)** A local government must obtain the chief executive’s written approval if it intends to approve the erection, alteration or operation of an advertising sign or other advertising device that would be—

- (a) visible from a motorway; and
- (b) beyond the boundaries of the motorway; and
- (c) reasonably likely to create a traffic hazard for the motorway.

(2) The chief executive may make guidelines to which local governments must have regard in deciding whether an approval of the chief executive under subsection (1) is required for particular motorways.

(3) An approval by the chief executive under subsection (1) may be subject to conditions.

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(4) Subsection (1) does not apply if the conditions applied by the local government to the erection, alteration or operation of the sign or device comply with permission criteria fixed by the chief executive.

(5) The permission criteria may include conditions.

(6) A local government must comply with conditions that apply to it under this section.

(7) An approval by the chief executive under subsection (1) must be given—

- (a) within 21 days after receiving the application for approval; or
- (b) within a longer period notified to the local government by the chief executive within the 21 day period.

(8) If—

- (a) a local government applies for an approval under subsection (1); and
- (b) the chief executive does not respond to the application within 21 days after receiving the application;

the chief executive is taken to have given approval at the end of the 21 days.

(9) In this section—

“**motorway**” includes a road or land that the chief executive has notified the local government in writing is intended to become a motorway.

(10) The chief executive must cause a copy of each notice under subsection (9) to be published in the Gazette.

### **Effect of decisions of Planning and Environment Court**

**40.(1)** If—

- (a) an approval under section 38(1) (Impact of certain local government decisions on State-controlled roads) is subject to conditions; and
- (b) a local government imposes conditions on the subdivision, rezoning, development, road works or changes to which the approval relates; and

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- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the conditions of the approval under section 38(1), the conditions of the approval are taken to be amended accordingly.

**(2)** If—

- (a) there are permission criteria relevant to a subdivision, rezoning, development, road works or changes mentioned in section 38; and
- (b) a local government imposes conditions on the subdivision, rezoning, development, road works or changes; and
- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the permission criteria, the permission criteria are taken to be amended accordingly in their application to the subdivision, rezoning, development, road works or changes.

**(3)** If—

- (a) an approval under section 39(1) (Distraction of traffic on motorways) is subject to conditions; and
- (b) a local government imposes conditions on the relevant erection, alteration or operation of the sign or other device; and
- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the conditions of the approval under section 39(1), the conditions of the approval are taken to be amended accordingly.

**(4)** If—

- (a) there are permission criteria relevant to the erection, alteration or operation of a sign or other device mentioned in section 39; and
- (b) a local government imposes conditions on the erection, alteration or operation; and

- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the permission criteria, the permission criteria are taken to be amended accordingly in their application to the erection, alteration or operation.

(5) The Planning and Environment Court is not to amend conditions as mentioned in this section without giving the chief executive a chance to be heard.

### **Management of particular functions on State-controlled roads by local governments**

**41.(1)** A local government may exercise, for a State-controlled road in its area, all the powers that it may exercise for a local government road in its area.

(2) However, if there is a contract of the kind mentioned in section 25(4) (Powers of chief executive for road works contracts etc.) between the chief executive and a local government, the exercise of the powers must be done as required by the contract.

(3) If there is no contract of the kind mentioned in section 25(4) between the chief executive and a local government, the chief executive may direct the local government not to exercise any or some of its powers for a State-controlled road specified in the direction.

(4) A direction under subsection (3) may be subject to conditions.

(5) A local government must comply with directions or conditions under this section.

(6) The exercise of a power by a local government under this section is not a contravention of this Act.

## **PART 5—MANAGEMENT OF STATE–CONTROLLED ROADS**

***Division 1—Prevention of damage and ensuring safety*****Temporary restrictions on use of State-controlled roads**

**42.(1)** If the chief executive considers that it is appropriate that a decision be made to prevent damage to road transport infrastructure or to ensure the safety of road users and other persons, the chief executive may make a written decision that—

- (a) a State-controlled road is temporarily closed to all traffic or traffic of a particular class; or
- (b) a State-controlled road may, during a specified limited period, only be used—
  - (i) at specified times; or
  - (ii) by particular classes of vehicles; or
  - (iii) in accordance with conditions (including restrictions on the weight of loads of vehicles) fixed by the chief executive.

**(2)** A decision under subsection (1) must be advertised by appropriate signs and, if practicable, by notice in a newspaper circulating in the area.

**(3)** Road users must comply with a decision in force under subsection (1).

Maximum penalty—40 penalty units.

**(4)** Neither the State nor the chief executive is liable for damage or injury caused directly because of a contravention of a decision in force under subsection (1).

**Removal of materials etc.**

**43.(1)** A person must not, without lawful excuse, damage, remove or interfere with naturally occurring materials, stockpiles of materials, watercourses, road works or ancillary works and encroachments on a State-controlled road.

Maximum penalty—40 penalty units.

**(2)** A person must not, without lawful excuse, alter or interfere with a watercourse in a way that adversely affects a State-controlled road.

Maximum penalty—40 penalty units.

(3) A person must not deposit rubbish or abandon goods or materials on a State-controlled road other than at places approved by, and under conditions fixed by, the chief executive.

Maximum penalty—40 penalty units.

### **Recovery of cost of damage**

**44.(1)** If—

- (a) a person intentionally, recklessly or negligently causes damage to road works or ancillary works and encroachments on a State-controlled road, whether or not an offence is committed; and
- (b) the chief executive repairs the damage or replaces or reconstructs as necessary the road works or ancillary works and encroachments;

the person is liable to pay to the chief executive the cost of repair, replacement or reconstruction.

**(2)** If—

- (a) the damage is caused by the operation of a vehicle; and
- (b) the driver of the vehicle is unknown or cannot be located;

the person in whose name the vehicle is registered is liable for the costs of repair, replacement or reconstruction for which the driver would be liable.

(3) Subsection (2) does not apply if the vehicle was being used without the agreement or knowledge of the person in whose name the vehicle is registered.

**(4)** If—

- (a) a court finds a person guilty of an offence against this Act; and
- (b) in committing the offence, the person caused damage to road works or ancillary works and encroachments;

the court may, in addition to imposing a penalty, order the person to pay an amount towards the cost of repairing the damage.

***Division 2—Ancillary works and encroachments and roadside facilities******Subdivision 1—General rules for ancillary works and encroachments*****Ancillary works and encroachments**

**45.(1)** The chief executive may construct, maintain, operate or conduct ancillary works and encroachments on a State-controlled road.

**(2)** The chief executive may, by Gazette notice, decide that specified ancillary works and encroachments must not be constructed, maintained, operated or conducted on State-controlled roads, or on State-controlled roads in a specified district, without the written approval of the chief executive.

**(3)** A person must not construct, maintain, operate or conduct ancillary works and encroachments on a State-controlled road contrary to a notice under subsection (2).

Maximum penalty—40 penalty units.

**(4)** Subsection (3) does not apply to the construction, maintenance, operation or conduct of ancillary works and encroachments on a State-controlled road if the construction, maintenance, operation or conduct—

- (a) conforms to requirements specified by the chief executive by Gazette notice; or
- (b) is done as required by a contract entered into with the chief executive.

**(5)** An approval or requirements under this section may be subject to conditions (including conditions about the payment of fees and other charges) fixed by the chief executive.

**(6)** A thing is not done contrary to this section if it is permitted under the *Land Act 1962*, the *Traffic Act 1949* or an Act about local government.

**Alteration etc. of ancillary works and encroachments**

**46.(1)** If ancillary works and encroachments are constructed, maintained,



operated or conducted contrary to section 45 (Ancillary works and encroachments), the chief executive may—

- (a) cause them to be altered, relocated, made safe or removed; or
- (b) for activities—direct that their conduct be altered or that they stop being conducted.

(2) A person who constructed, maintained or operated ancillary works and encroachments contrary to section 45 is liable to pay to the chief executive the cost of altering or relocating them, making them safe or removing them.

(3) If ancillary works and encroachments are removed under subsection (1), the chief executive may cause them to be sold or destroyed.

(4) If the chief executive is of the opinion that ancillary works and encroachments, or the use of ancillary works and encroachments, that were constructed, maintained, operated or conducted on a State-controlled road under an approval, requirements or contract under section 45—

- (a) are creating a traffic hazard for the road; or
- (b) have become an obstacle to the carrying out of road works on the road or to the construction, augmentation, alteration or maintenance of public utility plant on the road;

the chief executive may cause them to be, or direct that they be, altered, relocated, made safe or removed or, for activities, direct that their conduct be altered or that they stop being conducted.

(5) Subsection (4) does not apply to a means of access.

(6) A person must comply with a direction under this section.

Maximum penalty—40 penalty units.

(7) If ancillary works and encroachments are altered, relocated, made safe or removed because of a direction under subsection (4), the chief executive may enter into an agreement with the owner of the ancillary works and encroachments for making a contribution towards the cost of the alteration, relocation, making safe or removal.

*Subdivision 2—Special arrangements for means of access*

**Definitions**

**47.** In this Subdivision—

**“approved means of access”** means a means of access that is constructed, maintained or operated under—

- (a) an approval, requirements or contract under section 45 (Ancillary works and encroachments); or
- (b) an approval under section 49 (Management of access between individual properties and State-controlled roads).

**“State-controlled road”** includes a road or land that the chief executive has notified the relevant local government in writing is intended to become a State-controlled road.

**Access-limited roads**

**48.(1)** The chief executive may, by Gazette notice, declare that a State-controlled road is an access-limited road.

**(2)** Before making or revoking a declaration under subsection (1) the chief executive must—

- (a) notify each local government that would, in the chief executive’s opinion, be affected by the proposed declaration or revocation; and
- (b) give the local governments a reasonable opportunity to make submissions to the chief executive on the proposed declaration or revocation.

**(3)** A notice under subsection (1) must—

- (a) specify the policy that will be applied in dealing with the application of section 49 (Management of access between individual properties and State-controlled roads) to access between the State-controlled road and adjacent land; and
- (b) enable the location of the access-limited road to be identified.

**(4)** Action under subsection (1) must be advertised by notice in a newspaper circulating generally in the area.

**(5)** If a State-controlled road is declared to be an access-limited road, a

person must not construct or alter a means of access between land and the road other than under section 49.

### **Management of access between individual properties and State-controlled roads**

**49.(1)** The chief executive may, in response to an application by a person or on the initiative of the chief executive, for a State-controlled road and particular adjacent land make a written decision specifying—

- (a) that access between the State-controlled road and a specified part of the land is prohibited; or
- (b) the location of a means of access between the State-controlled road and the land; or
- (c) that the existing location, type or use of a means of access between the State-controlled road and the land should be changed in a way specified by the chief executive; or
- (d) conditions that are to apply to the use of a means of access between the State-controlled road and the land.

**(2)** Conditions under section (1)(d) include conditions—

- (a) prohibiting use of the means of access by pedestrians; and
- (b) prohibiting right turns by vehicles going in or out of the property; and
- (c) about the type and number of vehicles using the means of access; and
- (d) about the times when the means of access may be used.

**(3)** The chief executive may take action under this section on the chief executive's own initiative for an approved means of access only if the means of access, or the use of it, in the chief executive's opinion—

- (a) is creating a traffic hazard; or
- (b) has become an obstacle to the carrying out of road works on a State-controlled road or to the construction, augmentation, alteration or maintenance of public utility plant on a State-controlled road.

(4) If the chief executive makes a decision under this section, the chief executive must give the owner and occupier of the land written notice of the decision.

### **Offence for obtaining access contrary to Subdivision or breaching condition**

**50.(1)** A person must not obtain access to or from a State-controlled road contrary to this Subdivision.

(2) A person must not contravene a condition under this Subdivision.

Maximum penalty—40 penalty units.

### **Chief executive may take steps to enforce a decision under this Subdivision**

**51.(1)** The chief executive may take steps that are reasonable and necessary to prevent a person obtaining access contrary to section 50 (Offence for obtaining access contrary to Subdivision or breaching condition).

(2) If the chief executive takes action under subsection (1) because of a person obtaining access contrary to section 50, the person is liable to pay to the chief executive the cost of taking the action.

### **Chief executive may supply or contribute to new access arrangements**

**52.** If the use of an approved means of access between a State-controlled road and a part of adjacent land is prohibited under this Subdivision, the chief executive may enter into an agreement with the owner or occupier of the land for—

- (a) the supply of, or a contribution towards the supply of, an alternative means of access between the land and the State-controlled road or between the land and another road; or
- (b) the carrying out, or a contribution towards the carrying out, of other works in relation to the land.

**Compensation where access prohibited****53.** If—

- (a) the use of an approved means of access between a State-controlled road and a part of adjacent land is prohibited under this Subdivision; and
- (b) either—
  - (i) the chief executive and the owner or occupier can not reach agreement about action to be taken under section 52 (Chief executive may supply or contribute to new access arrangements); or
  - (ii) the chief executive decides that it is not practicable to take action under section 52;

the owner or occupier may recover from the chief executive compensation for the diminution in value because of the prohibition.

**Cases where compensation not payable**

**54.(1)** Compensation is payable under section 53 (Compensation where access prohibited) to a person only if a claim is given to the chief executive within 1 year after—

- (a) the day when the relevant decision took effect; or
- (b) the day when the person was first notified by the chief executive of the decision;

whichever is the later.

**(2)** However, the chief executive may allow a claim to be made at a later time.

**(3)** The chief executive is not liable to pay compensation for action under this Subdivision prohibiting the use of an existing means of access if it is not an approved means of access.

**(4)** The chief executive is not liable to pay compensation for action under this Subdivision in relation to land if action is taken to acquire the land.

**Roadside facilities**

**55.(1)** The chief executive may supply, or enter into an agreement with another person for the supply of, roadside service centres, roadside rest facilities and other roadside businesses adjacent to or near State-controlled roads.

**(2)** The agreement may include—

- (a) arrangements for supplying access to the facility from the road; and
- (b) provision for payment of amounts to the chief executive, whether by lump sum or annual rental, in consideration for supplying the access or for supplying access to the traffic stream.

***Division 3—Public utility plant on State-controlled roads*****Location and requirements**

**56.(1)** For the purposes of this Division, the location of public utility plant on a State-controlled road includes the line, level and boundary of the plant on the road.

**(2)** The chief executive may, by written notice given to the owner of public utility plant, make requirements about the public utility plant on a State-controlled road.

**(3)** The requirements may relate to—

- (a) the location of the public utility plant to meet present or future road transport infrastructure needs; and
- (b) the construction of road works because of the construction, augmentation, alteration or maintenance of the plant; and
- (c) traffic operations associated with the construction, augmentation, alteration or maintenance of the plant or with construction of road works.

**Specification of chief executive's requirements about public utility plant**

**57.(1)** The construction, augmentation, alteration or maintenance of public utility plant on a State-controlled road must be undertaken in accordance with the chief executive's requirements and at the expense of the owner of the plant.

**(2)** Road works on a State-controlled road made necessary by the construction, augmentation, alteration or maintenance of public utility plant on a State-controlled road must be undertaken in accordance with the chief executive's requirements and at the expense of the owner of the plant.

**(3)** Requirements mentioned in subsection (1) or (2) are to be notified in writing to the owner of the plant within a reasonable period.

### **Information by owner of public utility plant to chief executive**

**58.(1)** A person who wants to take action mentioned in section 57 (Specification of chief executive's requirements about public utility plant) must give a written notice to the chief executive of the person's intention to carry out work on a State-controlled road within a reasonable time before taking the action.

**(2)** If public utility plant is constructed, augmented, altered or maintained on a State-controlled road, the owner of the plant must prepare records that adequately define the location of the plant on the road at the time of the construction, augmentation, alteration or maintenance of the plant.

**(3)** The owner of public utility plant on a State-controlled road must, if asked by the chief executive, supply information to the chief executive to define adequately the location of the plant in a specified area.

Maximum penalty for subsection (3)—40 penalty units.

### **Liability for damage or expenses**

**59.(1)** Unless the chief executive otherwise agrees, the chief executive is not liable for damage caused by the chief executive to public utility plant on a State-controlled road if—

- (a) the chief executive had, before the damage was caused, asked for information under section 58(3) (Information by owner of public utility plant to chief executive) from the owner of the plant and—
  - (i) the owner had not, within a reasonable time, complied with

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the request; and

- (ii) the damage was caused because of the failure to comply with the request; or
- (b) information supplied to the chief executive under section 58(3) does not define in adequate detail the location of the plant and the damage was caused because of the failure to define in adequate detail the location of the plant; or
- (c) the damage was caused because of the plant having been constructed, augmented, altered or maintained other than under the chief executive's requirements under this Division.

(2) If the chief executive incurs additional expense in carrying out road works on a State-controlled road because—

- (a) the owner of public utility plant had not supplied within a reasonable time information asked for by the chief executive under section 58(3); or
- (b) information supplied to the chief executive did not define in adequate detail the location of public utility plant; or
- (c) public utility plant had not been constructed, augmented, altered or maintained under the chief executive's requirements;

the owner of the plant is liable to pay to the chief executive the additional expense.

(3) If the construction of road works by or for the chief executive requires the removal or replacement of public utility plant on a State-controlled road, the chief executive cannot be compelled to replace or reconstruct the plant in its previous location and form.

(4) If the plant mentioned in subsection (3) is replaced or reconstructed—

- (a) it must be done under the chief executive's requirements; and
- (b) it must be at the expense of the chief executive but the cost to the chief executive of replacement or reconstruction may be reduced by agreement between the chief executive and the owner of the plant after taking into account—
  - (i) the remaining life of the plant; and
  - (ii) the salvage or scrap value of the plant; and



- (iii) additional expense that was avoidable because of faulty information supplied by the owner of the plant about the location of the plant; and
- (iv) additional expense that was avoidable because of the plant not being constructed in accordance with the chief executive's requirements.

### **Chief executive and owner of public utility plant may share costs**

**60.** The chief executive may arrange with the owner of public utility plant (whether existing or proposed) for the sharing by the chief executive and the owner of the cost of all or any of—

- (a) acquisition of land associated with the plant; or
- (b) construction, augmentation, alteration or maintenance of the plant; or
- (c) construction of road works affected by the plant;

including all necessary preliminary costs associated with the acquisition, construction, augmentation, alteration or maintenance.

### **Division not to apply to public utility plant constructed under the Electricity Act**

**61.** This Division does not apply to public utility plant constructed under the *Electricity Act 1994*.

## **PART 6—FRANCHISED ROADS**

### **Objectives of Part**

**62.** The objectives of this Part are—

- (a) to assist and encourage private investment in the construction, maintenance and operation of road transport infrastructure; and
- (b) by the involvement of private investment, to enable road transport

infrastructure projects to be undertaken at an earlier time than would otherwise be possible; and

- (c) to provide an appropriate management structure for the construction, maintenance and operation of road transport infrastructure on a commercial basis.

### **Power to enter into road franchise agreements**

**63.(1)** The Minister may, for the State, enter into an agreement (a “**road franchise agreement**”) with a person under which, or as part of which, the person is to invest in the construction, maintenance or operation of road transport infrastructure.

**(2)** The agreement must be consistent with—

- (a) the Coordination Plan; and
- (b) the objectives of this Act; and
- (c) the current transport infrastructure strategies; and
- (d) the obligations about government supported transport infrastructure set out in section 10.

**(3)** The agreement may include, for example—

- (a) provisions about the ownership of the road transport infrastructure; or
- (b) provisions about tolls for the use of the road transport infrastructure.

### **Tabling of road franchise agreements**

**64.** The Minister must table each road franchise agreement, and each amendment of a road franchise agreement, in the Legislative Assembly as soon as practicable after it is entered into.

### **Report on operation of Part**

**65.** Each annual report of the department must include a report on the operation of this Part during the financial year to which the report relates.

**Recovery of money**

66. If a road franchise agreement provides that the Minister may recover an amount from a franchisee, the amount may be recovered as a debt payable by the franchisee to the State.

**Rateability of land**

67.(1) In this section—

**“road franchise agreement land”** means land on which is situated road transport infrastructure to which a road franchise agreement applies.

(2) A regulation may provide that land is not rateable under the *Local Government Act 1993* or the *City of Brisbane Act 1924*.

**Power of chief executive to lease or dispose of land to franchisees**

68.(1) In this section—

**“required land”** means land that—

- (a) has been acquired for transport purposes or an incidental purpose; and
- (b) is required for road transport infrastructure for a road to which a road franchise agreement applies.

(2) The chief executive may, for the State, lease, sell or otherwise dispose of the required land to the franchisee of the road franchise agreement.

(3) This section has effect despite the *Acquisition of Land Act 1967*.

**Application of other provisions of this Chapter**

69.(1) The provisions of the other Parts of this Chapter, and of regulations made for this Chapter, apply to a franchised road as if it were a State-controlled road.

(2) A regulation may—

- (a) prescribe changes to the way the provisions apply to a particular franchised road; or
- (b) declare that some of the provisions do not apply to a particular

franchised road.

### **Guarantees, undertakings and stamp duty**

**70.** For the purpose of giving guarantees, undertakings or stamp duty exemptions to a franchisee, the following sections of the *Statutory Bodies Financial Arrangements Act 1982* apply, with all necessary changes and any changes prescribed by regulation, to the franchisee as if the franchisee were a statutory body within the meaning of the Act—

- section 16 (Treasurer’s guarantee)
- section 18 (Requirement for security)
- section 19 (Guarantee not affected by transfer of liability)
- section 20 (Recovery of moneys paid under guarantee)
- section 21 (This Part does not relieve statutory bodies from conditions precedent)
- section 38 (Exemption from stamp duty).

### **Franchised roads to be roads for other purposes**

**71.** A franchised road is a road for the purposes of the *Transport Infrastructure (Roads) Act 1991*.

## **CHAPTER 6—PORT INFRASTRUCTURE**

### **PART 1—PRELIMINARY**

#### **Definitions**

**72.** In this Chapter—

“**candidate GOC**” has the meaning given by section 24 of the *Government Owned Corporations Act 1993*.

“**charge**” means an amount charged by a port authority.

“**corporate plan**” means a corporate plan required by the *Government Owned Corporations Act 1993*.

“**extractivematerial**” means sand, gravel, boulders, clay, silt, mud or other material in or on land under tidal water, but does not include a mineral within the meaning of the *Mineral Resources Act 1989*.

“**GOC**” has the meaning given by section 6 of the *Government Owned Corporations Act 1993*.

“**land**” means any land, whether above or below the ordinary high water mark at spring tides.

“**notice**” means a notice, sign or pictograph of any type of material and whether fixed or moveable.

“**ship**” has the same meaning as in the *Transport Operations (Marine Safety) Act 1994*.

“**statement of corporate intent**” means a statement of corporate intent required by the *Government Owned Corporations Act 1993*.

“**strategic port land**” means land that is strategic port land under section 90 (Approval of land use plans).

“**vehicle**” has the same meaning as in the *Traffic Act 1949*.

## **PART 2—CONTINUATION, ESTABLISHMENT AND ABOLITION OF PORT AUTHORITIES**

### **Continuation of port authorities**

**73.(1)** The following harbour boards are continued in existence as bodies corporate—

- the Bundaberg Port Authority
- the Cairns Port Authority
- the Mackay Port Authority

- the Rockhampton Port Authority
- the Townsville Port Authority.

(2) Each body corporate continues to have a seal.

### **Establishment of new port authority**

**74.(1)** A regulation may establish a new port authority as a body corporate that has a seal and may sue and be sued in its corporate name.

(2) A regulation may also—

- (a) specify the name of the port authority; or
- (b) specify the name of the port it is to manage; or
- (c) transfer assets and liabilities to the authority.

### **Abolition of port authority**

**75.(1)** A regulation may abolish a port authority and transfer its functions to another port authority, the State or a local government (the “**transferee**”).

(2) A regulation may also transfer to the transferee, or to a port authority, the State or a local government, assets and liabilities of the abolished port authority.

(3) A legal proceeding by or against the abolished port authority about the port, or transferred assets and liabilities, that is unfinished when the relevant regulation commences may be continued and finished by or against—

- (a) the transferee; or
- (b) if the assets or liabilities concerned are transferred to a person mentioned in subsection (2) who is not the transferee—the person.

### **Transfer of management of a port**

**76.(1)** A regulation may transfer the management of a port from a port authority, the State or a local government (the “**transferor**”) to a port authority, the State or a local government (the “**transferee**”).

(2) A regulation may also transfer to the transferee, or to a port authority,

the State or a local government, assets and liabilities of the transferor.

(3) A legal proceeding by or against the transferor about the port, or transferred assets or liabilities, that is unfinished when the relevant regulation commences may be continued and finished by or against—

- (a) the transferee; or
- (b) if the assets or liabilities concerned are transferred to a person mentioned in subsection (2) who is not the transferee—the person.

### **Regulation may make transitional arrangements**

77.(1) If a port authority is established or abolished, or the management of a port is transferred, under this Part, a regulation may make transitional arrangements about the establishment, abolition or transfer.

(2) The transitional arrangements may include—

- (a) arrangements for the transfer of staff, and their superannuation and other entitlements; or
- (b) allowing the transfer of assets and liabilities without payment of stamp duty; or
- (c) other transitional arrangements necessary or convenient for the establishment, abolition or transfer.

### **Management of port by State or local government**

78. If the State or a local government is given the management of a port under this Chapter, the Minister or the local government has, for the port, all the functions and powers, and all the obligations, of a port authority under this Chapter.

### **Regulation may define port limits etc.**

79. A regulation may—

- (a) define or amend the limits of a port; or
- (b) give a name to a port or change the name of a port; or

- (c) for a new port—transfer the management of the port to an existing port authority, the State or a local government; or
- (d) change the name of a port authority.

## **PART 3—FUNCTIONS AND POWERS OF PORT AUTHORITIES**

### **Functions of port authorities**

**80.(1)** The functions of a port authority are—

- (a) to establish, manage, and operate effective and efficient port facilities and services in its port; and
- (b) to make land available for—
  - (i) the establishment, management and operation of effective and efficient port facilities and services in its port by other persons; or
  - (ii) other purposes consistent with the operation of its port; and
- (c) to provide or arrange for the provision of ancillary services or works necessary or convenient for the effective and efficient operation of its port; and
- (d) to keep appropriate levels of safety and security in the provision and operation of the facilities and services; and
- (e) to provide other services incidental to the performance of its other functions or likely to enhance the usage of the port; and
- (f) to perform any other functions conferred on it under this or another Act or under the regulations.

**(2)** A port authority's functions as provided under subsection (1) may be removed, restricted or limited by regulation.



### **Powers of port authorities subject to Marine Safety Act**

**81.** The powers of a port authority under this Chapter, including powers conferred by a regulation, must be exercised subject to the powers of a harbour master under the *Transport Operations (Marine Safety) Act 1994* about marine safety and navigation.

### **Powers of port authorities**

**82.(1)** In addition to the powers a port authority has because of this Chapter or the *Government Owned Corporations Act 1993*, each port authority has all powers necessary or convenient for performing its functions.

**(2)** Without limiting subsection (1), a port authority's powers include power—

- (a) to dredge and otherwise maintain or improve navigational channels in its port; and
- (b) to reduce or remove a shoal, bank or accumulation in its port that, in the port authority's opinion, impedes navigation in its port.

**(3)** A port authority is not liable to pay royalties or similar charges for extractive material removed—

- (a) to maintain or improve navigational channels in its port, or improve navigation in its port, if the material is disposed of—
  - (i) in an area associated with port activities and approved by the Minister; and
  - (ii) under relevant statutory environmental controls; or
- (b) to reclaim land that is, or is proposed to be, strategic port land.

### **Additional powers**

**83.(1)** A regulation may—

- (a) allow a port authority to control, whether by using notices, markings, fences, barriers, directions or otherwise—
  - (i) access to or the use of its strategic port land or port facilities, or access to or the use of areas in its port where activities

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- may affect the port's operation; or
- (ii) the movement or mooring of ships at its port facilities, or the movement or mooring of ships in its port if the movement or mooring may affect the port's operation; or
  - (iii) the movement of passengers to or from ships or aircraft using its port facilities or on its port facilities or strategic port land; or
  - (iv) the movement, handling or storage of goods loaded, unloaded or transhipped to or from ships or aircraft using its port facilities or on its port facilities or strategic port land; or
  - (v) the movement, stopping or parking of vehicles, aircraft or trains on its strategic port land or at its port facilities; or
  - (vi) other activities and conduct in its port, on its strategic port land or at its port facilities; or
- (b) allow a port authority to detain, using any necessary and reasonable force, ships, aircraft, goods or vehicles for which the authority's charges are payable until the charges are paid, or to sell the ships, aircraft, goods or vehicles if the charges are not paid; or
  - (c) allow a port authority to require a person to produce documents relevant to the authority's charges, and allow the authority to inspect and make copies of them; or
  - (d) allow a port authority to remove ships, aircraft, vehicles, trains, goods or other property that are—
    - (i) abandoned in its port, on its strategic port land or at its port facilities; or
    - (ii) moored, parked or left against the authority's directions; or
  - (e) allow a port authority to sell or otherwise dispose of ships, aircraft, vehicles, goods or other property abandoned in its port, on its strategic port land or at its port facilities; or
  - (f) allow a port authority to recover from a prescribed person the costs of doing the actions mentioned in paragraphs (b), (d) and (e); or
  - (g) allow a port authority to enter and inspect ships or inspect aircraft,

goods or vehicles on its strategic port land, at its port facilities, or in an area in its port where activities may affect the port's operation, to ensure compliance with this Chapter and, if necessary, enter by passing through land or over facilities under someone else's control; or

- (h) provide that a breach of a notice mentioned in paragraph (a) is an offence; or
- (i) allow the appointment of authorised officers and provide for their functions and powers, including power to take persons to police officers; or
- (j) confer powers of arrest on police officers; or
- (k) confer any other powers on a port authority, including, for example, powers similar to those mentioned in this section.

(2) A regulation under subsection (1) for a port authority applies—

- (a) in the area mentioned in the relevant paragraph or subparagraph of subsection (1); or
- (b) if no area is mentioned—in its port and its strategic port land;

but does not apply outside its port and strategic port land.

(3) After consulting with a port authority, the Minister may direct the authority to perform a function or exercise a power under this section only for a specified area of its port or specified strategic port land or port facilities.

(4) A regulation under this section may create offences and prescribe penalties for the offences of not more than 100 penalty units.

(5) In this section—

“**port facilities**” of a port authority means port facilities owned or controlled by it.

### **Power to impose charges**

**84.(1)** A port authority may impose charges for the use of its port or for the State.

(2) Charges may, for example, be imposed by reference to—

- (a) ships or aircraft using its port; and
- (b) goods or passengers loaded, unloaded or transhipped to or from ships or aircraft using port facilities in its port, whether or not the facilities are owned or controlled by it.

(3) This section does not limit the powers a port authority has apart from this section.

### **Copies of additional functions or powers to be available**

**85.** If functions or powers are conferred on a port authority by a regulation under section 80 (Functions of port authorities) or section 83 (Additional powers), it must ensure that copies of a document specifying details of the functions or powers, and the area where the functions or powers may be exercised or performed, are available for inspection and purchase (at reasonable cost) during business hours at its offices in the locality to which the functions or powers relate.

### **Liability for charges**

**86.** A regulation may prescribe the persons who are liable for charges of a port authority.

### **Liability for damage**

**87.** A regulation may prescribe the persons who are liable for damage to the works or infrastructure of a port authority.

## **PART 4—LAND MANAGEMENT**

### *Division 1—Strategic port land*

#### **Land use plans**

**88.(1)** Each port authority must, from time to time, prepare a land use

plan for approval under section 90 (Approval of land use plans).

(2) After discussing the matter with a port authority, the Minister may direct it to prepare a land use plan or an amendment of a land use plan for approval under section 90.

(3) A port authority's land use plan must specify details of—

- (a) the authority's strategic port land; and
- (b) land the authority wishes to become strategic port land; and
- (c) the current and proposed uses of the land.

### **Consultation on land use plans**

**89.(1)** If a port authority considers that land to which it holds title or that it holds directly from the State is or may be needed—

- (a) for the operation of its port; or
- (b) for use by industries requiring port facilities or that would enhance the usage of the port; or
- (c) for integration between sea or air transport and another transport mode; or
- (d) for a buffer between land required for a purpose mentioned in paragraph (a), (b) or (c) and other land;

the authority may include details of the land, and the current and proposed uses of the land, in a proposed land use plan or an amendment of a land use plan.

(2) The port authority must—

- (a) take reasonable steps to engage in public consultation about the proposed land use plan or amendment; and
- (b) consult with each local government in whose area land included in the plan or amendment is situated.

(3) However, consultation is not required—

- (a) for an amendment to remove land from the land use plan; or
- (b) for land that already is strategic port land whose use is not to change.

(4) After discussing the matter with the port authority, the Minister may return the proposed land use plan or amendment for amendment in the way directed by the Minister.

(5) A copy of the direction must be published in the Gazette within 21 days after it is given.

### **Approval of land use plans**

**90.(1)** The Minister may approve a proposed land use plan, or an amendment of a land use plan, if satisfied that—

- (a) the land included in the plan or amendment is or may be needed for a use mentioned in section 89(1) (Consultation on land use plans); and
- (b) the port authority has taken appropriate account of issues raised by the public consultation; and
- (c) no local government in whose area the land is situated has a substantial objection to the proposed plan or amendment.

(2) If the Minister is satisfied that any of the local governments has a substantial objection, the Governor in Council may approve the proposed land use plan or amendment if satisfied that, on balance, the approval should be given.

(3) Approval of a land use plan, or an amendment of a land use plan, must be notified in the Gazette within 21 days after it is given.

(4) The approval takes effect when it is notified in the Gazette.

(5) Land included in a port authority's current approved land use plan is its strategic port land.

### **Strategic port land not subject to zoning requirements**

**91.** Strategic port land is not subject to the *Local Government (Planning and Environment) Act 1990*.

### **Use of strategic port land to be consistent with approved land use plan**

**92.(1)** A port authority must not use its strategic port land in a way that is inconsistent with its current land use plan.

**(2)** However, the Minister may approve the use by the port authority of part of its strategic port land for a specified time in a way that is inconsistent with its current land use plan if—

- (a) the Minister is satisfied—
  - (i) the authority has taken reasonable steps to engage in public consultation about the proposed use; and
  - (ii) the authority has taken appropriate account of issues raised by the public consultation; and
  - (iii) the authority has consulted with each local government in whose area the land is situated; and
  - (iv) no local government in whose area the land is situated has a substantial objection to the proposed use; or
- (b) the Minister is satisfied that, because of urgent or exceptional circumstances, engaging in the consultative process mentioned in paragraph (a) before the use needs to begin would not be practicable.

**(3)** If an approval is given under subsection (2)(b)—

- (a) the Minister may direct the port authority to engage in the consultative process mentioned in subsection (2)(a) about the use; and
- (b) if the Minister gives the direction and is later satisfied of the matters mentioned in subsection (2)(a)—the approval under subsection (2)(b) is taken to be approval under subsection (2)(a); and
- (c) if the Minister gives the direction and is not later satisfied of the matters mentioned in subsection (2)(a)—the Minister may revoke the approval.

**(4)** If the Minister is satisfied that any of the local governments has a substantial objection, the Governor in Council may approve the use by a port authority of part of its strategic port land for a specified time in a way that is inconsistent with its current land use plan if satisfied that, on balance, the land should be able to be used in that way.

(5) An approval under this section may be subject to conditions.

### *Division 2—General*

#### **Restrictions on dealing in property**

**93.(1)** A port authority must not, without the Minister’s written approval—

- (a) dispose of freehold land; or
- (b) enter into a lease, licence or another form of tenure of its strategic port land, or its port facilities, for longer than 25 years (including any renewal option).

(2) An approval may be subject to conditions.

(3) A purported dealing in land or port facilities contrary to this section has no effect.

## **PART 5—GENERAL**

#### **Protection from liability**

**94.(1)** In this section—

**“official”** means a director of the board of a port authority, an employee of a port authority or a person acting for a port authority.

(2) A regulation may provide that an official is not civilly liable for an act or omission done honestly and without negligence for a port authority.

(3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to the port authority.

(4) This section is in addition to, and does not limit, the following sections of the *Government Owned Corporations Act 1993*—

- section 138 (Statutory GOC not to indemnify officers)
- section 139 (Statutory GOC not to pay premiums for certain



liabilities of officers).

### **Carrying on port activities outside port limits**

**95.(1)** The Governor in Council may decide that port activities of a substantial nature may be carried on at a place that is not a port managed by a port authority, the State or a local government.

**(2)** In this section—

“**port**” does not include an airport.

### **Offences**

**96.(1)** A person must not intentionally or recklessly—

- (a) damage a port authority’s works or infrastructure; or
- (b) interfere with or disrupt a port’s operations; or
- (c) dump refuse or goods at a port or into the waters of a port.

Maximum penalty—200 penalty units.

**(2)** A person must not intentionally or recklessly evade the payment of a port authority’s charges.

Maximum penalty—200 penalty units.

**(3)** A person must not carry on port activities of a substantial nature at a place unless the place is in a port or a place where a decision under section 95 (Carrying on port activities outside port limits) applies.

Maximum penalty—200 penalty units.

**(4)** In subsection (3)—

“**port**” does not include an airport.

### **Payment of charges and interest on unpaid charges**

**97.(1)** Charges of a port authority are payable within the time decided by the authority.

**(2)** If charges of a port authority remain unpaid after the day when they are required to be paid, the authority may charge interest on the amount

unpaid at the rate decided by the authority.

(3) A regulation may provide for exemptions from charges of a port authority, but this section does not affect the power of a port authority to exempt or partially exempt a person from charges of the authority.

### **Transitional provisions applying in relation to port authorities that are candidate GOCs**

**98.(1)** This section applies in relation to a port authority that is a candidate GOC.

(2) A regulation may prescribe matters about the administration and operation of the port authority, including, for example, matters about—

- (a) the port authority's board, chief executive officer and senior management; and
- (b) the port authority's powers; and
- (c) the port authority's employees; and
- (d) the port authority's superannuation schemes; and
- (e) dealings with the port authority.

(3) Without limiting subsection (2), a regulation under the subsection may make provision to the same or similar effect as the following provisions of the *Government Owned Corporations Act 1993*—

- Chapter 3 (Government Owned Corporations (GOCs))
  - Part 5 (Board of directors), Division 1 (Statutory GOCs)
  - Part 6 (Chief executive officer), Division 1 (Statutory GOCs)
  - Part 10 (General reserve powers of shareholding Ministers)
  - Part 12 (Duties and liabilities of directors and other officers), Divisions 1 (Statutory GOCs) and 3 (GOCs generally)
  - Part 13 (Legal capacity and powers), Division 1 (Statutory GOCs)
  - Part 16 (Employees), Divisions 2 (Statutory GOCs) and 4 (GOCs generally)

- Schedule 1 (Additional provisions relating to board of statutory GOC)
- Schedule 2 (Additional provisions relating to chief executive officer of statutory GOC).

(4) Subsections (2) and (3) are in addition to, and do not limit, section 94 (Protection from liability).

(5) A regulation under this section may create offences and prescribe penalties for the offences or not more than 100 penalty units.

(6) A regulation may prescribe transitional provisions about the port authority and an entity to which its assets and liabilities are to be transferred by a regulation under the *Government Owned Corporations Act 1993*.

(7) The port authority is a statutory body for the purposes of the *Statutory Bodies Financial Arrangements Act 1982*.

(8) This section ceases to apply to the port authority when its assets and liabilities are transferred to an entity by regulation under the *Government Owned Corporations Act 1993* or 18 months after it first applied to the authority.

### **Application of Freedom of Information Act and Judicial Review Act**

**99.(1)** In this section—

**“commercial activities”** means activities conducted on a commercial basis.<sup>2</sup>

**“community service obligations”** has the same meaning as in the *Government Owned Corporations Act 1993*.

**“excluded activities”** means—

- (a) commercial activities; or
- (b) community service obligations prescribed by regulation.

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<sup>2</sup> Section 16 of the *Government Owned Corporations Act 1993* defines corporatisation as a structural reform process for nominating government entities that, among other things, changes the conditions and (where required) the structure under which the entities operate so that they operate, as far as practicable, on a commercial basis and in a competitive environment (emphasis added).

**“GOC port authority”** means a port authority that is a GOC.

(2) A regulation may declare the activities of a GOC port authority that are taken to be, or are taken not to be, activities conducted on a commercial basis.

(3) The *Freedom of Information Act 1992* does not apply to a document received or brought into existence by a GOC port authority in carrying out its excluded activities.

(4) The *Judicial Review Act 1991* does not apply to a decision of a GOC port authority made in carrying out its excluded activities.

### **Application of rating Acts**

**100.(1)** Strategic port land is rateable under the *Local Government Act 1993* or *City of Brisbane Act 1924* only if the land is occupied by a person other than a port authority, the State or another government entity (within the meaning of the *Government Owned Corporations Act 1993*).

(2) All other land occupied by a port authority is rateable under the *Local Government Act 1993* and *City of Brisbane Act 1924*.

### **Notices at entrances**

**101.(1)** If—

- (a) a port authority erects or displays a notice at each entrance commonly used by persons to gain access to its port; and
- (b) the notice contains information about the port; and
- (c) in a case where use of its port or facilities gives rise to a liability for charges—the notice states this and indicates generally the nature of the charges; and
- (d) in a case where a contravention of a requirement of the notice is an offence—the notice states this and indicates generally the penalties that apply; and
- (e) a person gains access to the port by using another entrance;

the person is taken to be aware of the information.

(2) If—

- (a) a port authority erects or displays a notice at each entrance commonly used by persons to gain access to its strategic port land; and
- (b) the notice contains information about the strategic port land; and
- (c) in a case where use of its strategic port land or facilities gives rise to a liability for charges—the notice states this and indicates generally the nature of the charges; and
- (d) in a case where a contravention of a requirement of the notice is an offence—the notice states this and indicates generally the penalties that apply; and
- (e) a person gains access to the strategic port land by using another entrance;

the person is taken to be aware of the information.

## CHAPTER 7—GENERAL PROVISIONS

### **Recovery of amounts payable to the chief executive**

**102.** An amount payable by a person to the chief executive under this Act is a debt owing to the State and may be recovered by action against the person in a court of competent jurisdiction.

### **Power to require information from local governments**

**103.(1)** The chief executive may, by written notice given to a local government, require that the local government give to the chief executive, or to a specified person, information on a particular issue relevant to the discharge of functions or the exercise of powers under this Act.

**(2)** The notice must specify a reasonable time within which the notice is to be complied with and may specify the way in which it is to be complied with.

**(3)** The local government must comply with the notice.

(4) However, the local government may appeal to the Minister against the notice and, if the local government appeals, the local government only has to comply with the notice if, and to the extent that, the Minister directs.

### **Conduct of company directors, employees or agents**

**104.(1)** In this section—

**“engaging”** in conduct includes failing to engage in conduct.

**“representative”** means—

- (a) in relation to a corporation—an executive officer, employee or agent of the corporation; or
- (b) in relation to an individual—an employee or agent of the individual.

**“state of mind”** of a person includes—

- (a) the person’s knowledge, intention, opinion, belief or purpose; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

(2) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of a corporation about particular conduct, it is sufficient to show—

- (a) the conduct was engaged in by a representative of the corporation within the scope of the representative’s actual or apparent authority; and
- (b) the representative had the state of mind.

(3) Conduct engaged in on behalf of a corporation by a representative of the corporation within the scope of the representative’s actual or apparent authority is taken, in a proceeding for an offence against this Act, to have been engaged in also by the corporation unless the corporation establishes it took reasonable precautions and exercised proper diligence to avoid the conduct.

(4) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of an individual about particular conduct, it is sufficient to show—

- (a) the conduct was engaged in by a representative of the individual

within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

(5) Conduct engaged in on behalf of an individual by a representative of the individual within the scope of the representative's actual or apparent authority is taken, in a proceeding for an offence against this Act, to have been engaged in also by the individual unless the individual establishes the individual took reasonable precautions and exercised proper diligence to avoid the conduct.

### **Disposal of fees, penalties etc.**

**105.(1)** Fees or other amounts received or recovered under this Act for the operations of a GOC are to be paid to the GOC.

(2) All other fees, penalties and other amounts received or recovered under this Act are to be paid to the Consolidated Fund.

### **Proceedings for offences**

**106.(1)** An offence against this Act is a summary offence.

(2) A proceeding for an offence must start—

(a) within 1 year after the commission of the offence; or

(b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

### **Attempts to commit offences**

**107.(1)** A person must not attempt to commit an offence against this Act. Maximum penalty—half the maximum penalty for committing the offence.

(2) Section 4 (Attempts to commit offences) of the Criminal Code applies to subsection (1).

## Appeals

**108.(1)** A person whose interests are affected by a decision specified in Schedule 2 may appeal against the decision to the court specified in the Schedule opposite to the reference to the decision.

(2) A person who may appeal against or seek a review of a decision is entitled to receive a statement of reasons for the decision.

(3) An appeal lies under subsection (1) against a decision made by a delegate of the chief executive who is an officer or employee of the department only if the applicant has sought a review by the chief executive of the decision.

(4) Sections 17 to 23, and 24(3) and (4), of the *Transport Planning and Coordination Act 1994* apply to an appeal or review.

## Time for making appeals

**109.(1)** An appeal by a person against a decision must be made before the end of 28 days after—

- (a) a document setting out the decision was given to the person; or
- (b) if the document does not set out a statement of reasons for the decision and the person requests a statement of reasons within 28 days after the document was given to the person—the person is given the statement of reasons.

(2) However, the court to which an appeal against a transport decision lies may extend the period for making an appeal.

## Procedure of Planning and Environment Court

**110.(1)** The power to make rules of court under the *Local Government (Planning and Environment) Act 1990* includes power to make rules of court about appeals by the Planning and Environment Court under this Act.

(2) The procedure for an appeal to the Planning and Environment Court is—

- (a) in accordance with the rules made under the *Local Government (Planning and Environment) Act 1990*; or



(b) in the absence of relevant rules—as directed by the Court.

### **Regulations**

**111.(1)** The Governor in Council may make regulations for the purposes of this Act.

(2) A regulation may create offences and prescribe penalties for the offences of not more than 40 penalty units.

(3) In particular, regulations may be made for the matters specified in Schedule 1.

(4) A regulation may confer functions or powers on a local government or a State government body.

## **CHAPTER 8—SAVINGS AND TRANSITIONAL PROVISIONS, AMENDMENTS AND REPEALS**

### **PART 1—SAVINGS AND TRANSITIONAL PROVISIONS ABOUT ROADS**

#### **Definition**

**112.** In this Part—

“**Corporation**” means the corporation sole previously constituted by the *Urban Public Passenger Transport Act 1984*.

#### **State-controlled roads**

**113.(1)** Despite section 21(2) (Declaration of State-controlled roads), a declaration may be made under that section before the first transport infrastructure strategies have been developed.

(2) Subsection (1) and this subsection expire 1 year after the commencement of the *Transport Infrastructure Amendment Act*

(No. 2) 1994.

### **Access to and from State-controlled roads**

**114.(1)** A determination or notice under section 3.7 of the *Transport Infrastructure (Roads) Act 1991* that was in force immediately before the commencement continues in force as if it were a decision under section 49 (Management of access between individual properties and State-controlled roads) of this Act.

**(2)** A declaration under section 3.8 of the *Transport Infrastructure (Roads) Act 1991* that was in force immediately before the commencement continues in force as if it were a declaration under section 48 (Access-limited roads) of this Act.

**(3)** A consent given by the Corporation under section 3.12 of the *Transport Infrastructure (Roads) Act 1991* in force immediately before the commencement remains in force, but may be amended or revoked as if it were a decision by the chief executive under section 49(1) of this Act.

**(4)** Subsections (1) to (3) are laws to which section 20A of the *Acts Interpretation Act 1954* applies.

**(5)** This section expires 2 years after the commencement of the *Transport Infrastructure Amendment Act (No. 2) 1994*.

### **Motorways**

**115.(1)** A road that was, immediately before the commencement, a motorway under section 3.17 of the *Transport Infrastructure (Roads) Act 1991* continues to be a motorway as if it had been declared to be a motorway under section 23 (Declaration of motorways) of this Act.

**(2)** Subsection (1) is a law to which section 20A of the *Acts Interpretation Act 1954* applies.

**(3)** This section expires 2 years after the commencement of the *Transport Infrastructure Amendment Act (No. 2) 1994*.

**Notices to local governments**

**116.(1)** If, immediately before the commencement, a notice given under section 2.12 of the *Transport Infrastructure (Roads) Act 1991* to a local government by the Corporation had not been complied with by the local government, the notice has effect as if it had been given by the chief executive under section 103 (Power to require information from local governments) of this Act.

**(2)** This section expires 2 years after the commencement of the *Transport Infrastructure Amendment Act (No. 2) 1994*.

**Naturally occurring materials**

**117.(1)** A permit granted by the Corporation under section 3.5(3) of the *Transport Infrastructure (Roads) Act 1991* and in force immediately before the commencement continues in force for the period specified in the permit but may be amended or revoked by the chief executive.

**(2)** This section expires 2 years after the commencement of the *Transport Infrastructure Amendment Act (No. 2) 1994*.

**Subdivision of land contiguous to State-controlled roads**

**118.(1)** A consent, and a requirement of a consent, of the Corporation in force under section 3.16(1) of the *Transport Infrastructure (Roads) Act 1991* immediately before 15 April 1994 has effect, and is taken to have had effect, as if it were an approval, or a condition of an approval, by the chief executive under section 38(1) (Impact of certain local government decisions on State-controlled roads) of this Act.

**(2)** This section expires 6 months after it commences.

**Temporary occupation and use of land**

**119.(1)** If, immediately before the commencement, a person could exercise a power because of section 7.6(2) or (3) of the *Transport Infrastructure (Roads) Act 1991*, the person is taken to have been delegated a corresponding power under section 25 of the *Transport Planning and Coordination Act 1994*.

(2) A notice served by the Corporation under section 7.8(1) of the *Transport Infrastructure (Roads) Act 1991* before the commencement is taken to be a notice given by the chief executive under section 32(1) (Notice of entry or permission to enter) of this Act.

(3) An entry, occupation or use of private land by the Corporation mentioned in section 7.6(1), 7.7 or 7.11(2) of the *Transport Infrastructure (Roads) Act 1991* in effect immediately before the commencement is taken to be an entry, occupation or use by the chief executive under the corresponding provision of this Act.

(4) This section expires 1 year after the commencement of the *Transport Infrastructure Amendment Act (No. 2) 1994*.

### **Things done where chief executive now has power**

**120.(1)** If—

- (a) the Corporation, a port authority or the Harbours Corporation of Queensland had started to exercise a power conferred on it under a provision repealed or amended by Schedule 3; and
- (b) the chief executive has a corresponding power under Part 3 of the *Transport Planning and Coordination Act 1994*;

the chief executive may complete the exercise of the power as if the chief executive had started to exercise it.

(2) This section expires 2 years after the commencement of the *Transport Infrastructure Amendment Act (No. 2) 1994*.

### **Legal proceedings**

**121.(1)** A legal proceeding—

- (a) for the exercise by the Corporation of a power or function under a provision of the *Transport Infrastructure (Roads) Act 1991* amended by Schedule 3; or
- (b) for the role of the Corporation as a highway authority;

that was pending immediately before the commencement of the amendment may be continued as if the proceeding had been begun by or brought against the chief executive for the State.

(2) This section expires 2 years after the commencement of the *Transport Infrastructure Amendment Act (No. 2) 1994*.

(3) However, a regulation made within 2 years after the *Transport Infrastructure Amendment Act (No. 2) 1994* commences may extend the operation of the section for a specified period (not longer than 5 years after the commencement of that Act).

### **Land acquisitions and related transactions**

**122.(1)** Despite Schedule 3, the provisions amended by the Schedule, as in force immediately before the commencement of the amendment, continue to have effect to a land acquisition or related transaction, including a claim for compensation, that was begun before the commencement of the amendment.

(2) For dealing with the acquisition or transaction, a thing that could have been done by the Corporation under the provisions may be done by the chief executive.

(3) This section expires 2 years after the commencement of the *Transport Infrastructure Amendment Act (No. 2) 1994*.

(4) However, a regulation made within 2 years after the *Transport Infrastructure Amendment Act (No. 2) 1994* commences may extend the operation of the section for a specified period (not longer than 5 years after the commencement of that Act).

### **Delegations**

**123.(1)** If, immediately before the commencement, a person could exercise a power of the Minister, the chief executive or the Corporation under a delegation under the *Transport Infrastructure (Roads) Act 1991*, the person can continue to exercise the power as if it had been delegated to the person under the *Transport Planning and Coordination Act 1994*.

(2) This section does not prevent the revocation or amendment of a delegation.

(3) This section expires 2 years after the commencement of the *Transport Infrastructure Amendment Act (No. 2) 1994*.

**Preparation of first implementation programs**

**124.(1)** Despite the requirements in Chapter 4 to develop implementation programs each year, the first implementation programs need not be developed until after the first transport infrastructure strategies have been approved.

**(2)** This section expires 2 years after the commencement of the *Transport Infrastructure Amendment Act (No. 2) 1994*.

**Existing franchised road**

**125.(1)** In this section—

“**repealed Act**” means—

- (a) the *Gateway Bridge Agreement Act 1980*; or
- (b) the *Motorways Agreements Act 1987*.

**(2)** An agreement in force under a repealed Act immediately before the commencement has effect under this Act as if it were a road franchise agreement.

**(3)** However, section 64 (Tabling of road franchise agreements) does not apply to the agreement.

**(4)** A by-law in force under a repealed Act immediately before the commencement—

- (a) remains in force for the purposes of this Act, subject to amendment or repeal by a regulation under this Act; and
- (b) is to be read with the changes necessary to make it consistent with this Act and adapt its operation to the provisions of this Act.

**(5)** This section expires 1 year after it commences or, if an earlier date is prescribed by regulation, on that date.

**Application of s 20A of Acts Interpretation Act**

**126.(1)** Section 20A applies to the following provisions (as in force immediately before the commencement of this section)—

- section 113(1) (State-controlled roads)

- section 75 (Arrangements with local governments and others)
- section 117 (Naturally occurring materials)
- section 77 (Approvals and determinations under s 3.6 of the Transport Infrastructure (Roads) Act 1991)
- section 78 (Works by local governments)
- section 79 (Construction and maintenance by others)
- section 80 (Works joining State-controlled roads)
- section 118 (Subdivision of land contiguous to State-controlled roads)
- section 82 (Ancillary works and encroachments)
- section 84 (Continuation of contracts).

(2) This section expires 6 months after it commences.

## **PART 2—SAVINGS AND TRANSITIONAL PROVISIONS ABOUT PORTS**

### **Interpretation**

**127.(1)** In this Part—

**“GOC port authority”** means a port authority that is a GOC.

**“predecessor”** of a GOC port authority means the entity whose assets and liabilities were transferred to the authority by a regulation under the *Government Owned Corporations Act 1993*.

(2) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.

### **Continuation of harbours under Harbours Act or port under Port of Brisbane Authority Act etc.**

**128.(1)** Each harbour whose limits were defined under the *Harbours Act 1955*, and the port whose limits were defined under the *Port of*

*Brisbane Authority Act 1976*, are taken to be ports under this Act with the same limits.

(2) On the commencement, the areas mentioned in section 15(1) of the *Gold Coast Waterways Authority Act Repeal Act 1990* are to be managed for the State by the Minister.

(3) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.

### **Funds under Harbours Act or Port of Brisbane Authority Act**

**129.(1)** Until a regulation provides otherwise—

- (a) an amount standing, at the commencement, to the credit of the Harbours Corporation Fund for the boat harbours of Bowen, Mooloolaba, Rosslyn Bay, Snapper Creek and Urangan is to remain in the fund and is to be managed for the boat harbours by the Minister; and
- (b) income and expenses of the boat harbours must be paid into or out of the fund.

(2) Subsection (1) and this subsection expire 2 years after they commence or, if an earlier date is prescribed by regulation, on that date.

### **Harbour dues**

**130.(1)** Any harbour dues chargeable by or payable to a port authority or a predecessor of a GOC port authority under the *Harbours Act 1955* or *Port of Brisbane Authority Act 1976* become charges of the port authority or GOC port authority on the commencement and, unless the port authority or GOC port authority resolves otherwise, are chargeable or payable at the same rates and in the same way as they were immediately before the commencement.

(2) This section expires 1 year after it commences.

### **Management of certain boat harbours**

**131.(1)** Until a regulation provides otherwise, the boat harbours of Bowen, Mooloolaba, Rosslyn Bay, Snapper Creek and Urangan are to be



managed for the State by the Minister.

(2) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.

### **Harbour and industrial lands**

**132.(1)** Land held by a port authority that, immediately before the commencement, was harbour or industrial lands under the *Harbours Act 1955* continues to be harbour lands or industrial lands until the authority's first land use plan is approved.

(2) If a regulation would apply to a port authority's strategic port land, the regulation applies also to the authority's land to which subsection (1) applies.

(3) Land that continues to be harbour lands under this section is rateable under the *Local Government Act 1993* or *City of Brisbane Act 1924* only if the land is occupied by a person other than a port authority, the State or another government entity (within the meaning of the *Government Owned Corporations Act 1993*).

(4) Land that continues to be industrial lands under this section is rateable under the *Local Government Act 1993* and *City of Brisbane Act 1924*.

(5) This section expires 2 years after it commences.

### **Submission of land use plans**

**133.(1)** Each port authority must submit a proposed land use plan for approval under section 90 (Approval of land use plans) within 1 year after the commencement or any further time (not longer than 6 months) allowed by the Minister.

(2) If a port authority does not submit a proposed land use plan as required by subsection (1), section 132 (Harbour and industrial lands) ceases to apply to the authority's land.

(3) This section expires 2 years after it commences.

## **Harbours Corporation of Queensland**

**134.(1)** All assets and liabilities of the Harbours Corporation of Queensland remaining after the commencement of the *Harbours Amendment Act (No. 2) 1993* and existing at the commencement become, on the commencement, assets and liabilities of the State.

**(2)** The assets and liabilities are to be managed by the Minister or as otherwise decided by the Governor in Council.

**(3)** For the purpose of managing the assets and liabilities, the Governor in Council may decide that powers mentioned in section 64 or 196 of the *Harbours Act 1955* as in force immediately before the commencement may be exercised for the State by a person specified by the Governor in Council.

**(4)** The following by-laws under the *Harbours Act 1955*, as well as any definitions in the Act relevant to the by-laws, continue to have effect—

- *Bowen Harbour Board By-law 1977*, by-laws 1, 2, 9 and 10
- *Gold Coast Waterways Authority By-law 1980*, Chapters 1 to 3, 7 and 10 to 18
- *Houseboats By-law 1978*
- *Mooloolaba Boat Harbour By-law 1976*
- *Roslyn Bay Boat Harbour By-law 1980*
- *Snapper Creek and Urangan Boat Harbours By-law 1976*
- *Vessel, Wharf or Cargo Nuisances By-law 1988*.

**(5)** For the purpose of the continuing effect of a by-law mentioned in subsection (4), a reference in the Act or by-law to an authorised person or officer is a reference to—

- (a) a person who, immediately before the commencement, was an authorised person or officer under the by-law; or
- (b) a person authorised by the Minister.

**(6)** Subsections (4) and (5) have effect despite the repeal of the *Harbours Act 1955*.

**(7)** A legal proceeding by or against the Harbours Corporation of Queensland about assets or liabilities mentioned in this section that is unfinished at the commencement may be continued and finished by or

against the State.

(8) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.

### **Continuation of Inscribed Stock Regulations**

**135.(1)** The following regulations under the *Port of Brisbane Authority Act 1976* or *Harbours Act 1955*, as well as any definitions in the Acts relevant to the regulations, continue to have effect for inscribed stock or debentures issued under the regulations before the commencement—

- *Port of Brisbane Authority Inscribed Stock and Debt Redemption Fund Regulation 1981*
- *Harbour Board Inscribed Stock Regulation 1987*.

(2) Subsection (1) has effect despite the repeal of the Acts mentioned in the subsection.

(3) This section expires on a date to be fixed by regulation.

### **Continuation of certain by-laws**

**136.(1)** The *Marine Land Dredging By-law 1987*, as well as any definitions in the *Harbours Act 1955* relevant to the by-law, continue to have effect.

(2) The by-law has effect as if—

- (a) a reference to the Harbours Corporation, the Director, or the Department of Harbours and Marine, were a reference to the chief executive of the department; and
- (b) the definition of “marine land” in by-law 4 were amended by omitting ‘for which no Harbour Board is constituted’.

(3) A permit issued under the by-law about the removal of extractive material (within the meaning of Chapter 6—Port infrastructure) that was in force immediately before the commencement continues to have effect as if it had been issued under the by-law as continued in effect by this section.

(4) The terms that applied to the permit immediately before the commencement continue to apply.

(5) The Minister may delegate to an officer of the public service or a port authority a power that the Minister has under subsection (1).

(6) For the purposes of subsections (3) and (4), a permit about the removal of extractive material (within the meaning of Chapter 6) that was in force immediately before 1 July 1994 is taken to be a permit validly in force under the *Marine Land Dredging By-law 1987*.

(7) The following by-laws under the *Harbours Act 1955* or *Port of Brisbane Authority Act 1976*, as well as any definitions in the Acts relevant to the by-laws, continue to have effect—

- a by-law about the habitation of houseboats or other vessels
- a by-law about a vessel, wharf or cargo nuisances.

(8) By-laws under the *Cairns Airport Act 1981*, *Harbours Act 1955* or *Mackay Airport Act 1989* for the Cairns Port Authority, Townsville Port Authority or Mackay Port Authority about parking and the regulation of vehicular traffic continue to have effect.

(9) For the purpose of the continuing effect of a by-law mentioned in this section, a reference in the by-law to an authorised person or officer is a reference to—

- (a) a person who, immediately before the commencement, was an authorised person or officer under the by-laws; or
- (b) a person authorised by the relevant port authority.

(10) This section has effect despite the repeal of the following Acts—

- *Cairns Airport Act 1981*
- *Harbours Act 1955*
- *Mackay Airport Act 1989*
- *Port of Brisbane Authority Act 1976*.

(11) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.

### **Continuation of certain provisions of Harbours Act about land**

**137.(1)** The following provisions of the *Harbours Act 1955* continue to have effect—

*Transport Infrastructure Act 1994*

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- section 64A (Leases of vacant Crown land below high water mark)
- section 77 (Foreshores etc. the property of the Crown)
- section 78 (Saving of rights of the Crown to foreshore where land raised by the construction of harbour works)
- section 79 (With certain exceptions land lying below high water mark not to be transferred)
- section 80 (Special lease of lands lying below high water mark)
- section 94 (Issue of perpetual lease etc. of reclaimed land)
- section 94A (Harbour Board may obtain fee simple of certain reclaimed land)
- section 95(1) (Land reclaimed to be under control of local authority)
- section 97 (Existing rights protected)
- section 97A (Inundated land)
- any definitions relevant to the provisions.

(2) The provisions mentioned in subsection (1) continue to have effect, but the lease entered into between the State and Queensland Alumina Limited on 30 October 1970 under section 64A of the *Harbours Act 1955* has effect, subject to any agreement between the parties to the lease, as if—

- (a) the parties to the lease were the Gladstone Port Authority and Queensland Alumina Limited; and
- (b) references in the lease to the Minister were references to the Gladstone Port Authority.

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

(4) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.

### **Continuation of certain provisions of Harbours Act about jetties and ramps etc.**

**138.(1)** The following provisions of the *Harbours Act 1955* and

regulations under that Act continue to have effect—

- section 81 (Power to lease lands to Harbour Boards etc.)
- section 88 (Provision for preventing deviation of certain works without consent of Governor in Council)
- section 140 (Management of Government wharf may be vested in Harbour Board etc.)
- section 142(3) (Lands vested in Board)
- *Barrier Reef Island Jetty Regulation 1971*
- *Boat Ramp Regulation 1972*
- *Fishermen's Jetty Rockhampton Regulation 1972*
- *Heron Island Boat Harbour Regulation 1970*
- any definitions in the Act relevant to the provisions or regulations.

(2) Section 64 (other than subsection (8)) (Power of Harbour Board to lease lands and grant licences and permits to occupy lands) of the *Harbours Act 1955*, as well as any definitions in that Act relevant to the section, continue to have effect for land that, immediately before the commencement, was vested in the control of a harbour board under section 81(4) of the *Harbours Act 1955* or that, after the commencement, become vested in the control of a port authority under that subsection as continued in effect and become strategic port land.

(3) Section 64 (other than subsection (8)) (Power of Harbour Board to lease lands and grant licences and permits to occupy lands) of the *Harbours Act 1955*, as well as any definitions in that Act relevant to the section, also continue to have effect for land mentioned in subsection (1)(c)(iii) and (iv) of the section.

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

(5) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.

(6) However, a regulation made within 2 years after the section commences may extend the operation of the section (other than subsections (1) and (3)) for a specified period (not longer than 5 years after the commencement).

(7) If the operation of this section (other than subsections (1) and (3)) is extended for a period under subsection (6), it expires at the end of the period.

### **Continuation of certain provisions of Harbours Act requiring approval for certain matters**

**139.(1)** The following provisions of the *Harbours Act 1955* and regulations under that Act continue to have effect—

- section 59(3) to (6) (Power of Harbour Board to construct harbour works etc.)
- section 67 (other than subsection (2)) (Removal of certain materials from Queensland waters)
- section 86 (Works on tidal lands or waters etc. not to be constructed without sanction of Governor in Council)
- section 89 (Powers of Minister in respect of works)
- section 90 (Minister may employ engineers etc. to abate works)
- section 91 (Reclamations etc. to be authorised)
- section 92 (Application for authority to reclaim)
- section 93 (Regulations in relation to reclamations)
- *Construction of Harbour Works (Fees) Regulation 1992*
- *Harbours (Reclamation of Land) Regulation 1979*
- any definitions in the Act relevant to the provisions or regulations.

(2) The provisions and regulations mentioned in subsection (1) continue to have effect as if—

- (a) references to the Governor in Council were references to the Minister; and
- (b) references to an order in council were references to a decision of the Minister.

(3) The Minister may delegate to an officer of the public service or a port authority a power under section 67 of the *Harbours Act 1955* that the Minister has under subsection (1).

(4) The Minister may delegate to an officer of the public service, a port authority or a local government a power under section 86 of the *Harbours Act 1955* that the Minister has under subsection (1).

(5) Section 59(3) to (6) of the *Harbours Act 1955* has effect as if references in the provisions to powers under subsection (1) were references to powers of the relevant port authority.

(6) Section 67 of the *Harbours Act 1955* has effect as if—

- (a) references to a harbour board or the Harbours Corporation were a reference to the chief executive of the department; and
- (b) subsection (2A) were amended by omitting ‘subsection (2)’ and substituting ‘the *Marine Land Dredging By-law 1987*’.

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

(8) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.

### **Continuation of certain provisions of Harbours Act about Queensland Sugar Corporation**

**140.(1)** The following provisions of the *Harbours Act 1955* continue to have effect—

- section 177(2) (Power of the Queensland Sugar Corporation to appoint officers etc.)
- section 178 (Power of delegation by the Queensland Sugar Corporation)
- any definitions relevant to the provisions.

(2) Section 178 has effect as if ‘, with the prior approval of the Minister’ were omitted from subsection (1).

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

(4) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.



**Continuation of s 62A of Harbours Act**

**141.(1)** Section 62A of the *Harbours Act 1955*, as well as any definitions in that Act relevant to the section, continue to apply to land of a port authority to which section 97 (Harbour and industrial lands) applies until the first land use plan of the authority is approved.

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

(3) This section expires 2 years after it commences.

**Continuation of Pt 5, Div 2 of Port of Brisbane Authority Act**

**142.(1)** Part 5, Division 2 of the *Port of Brisbane Authority Act 1976*, as well as any definitions in the Act relevant to the Division, continue to apply to leases for which compensation could be claimed under the Division.

(2) This section has effect despite the repeal of the *Port of Brisbane Authority Act 1976*.

(3) This section expires on a date to be fixed by regulation.

***Leases and licences under s 64 of Harbours Act***

**109A.<sup>3</sup>(1)** *If—*

(a) *immediately before 1 July 1994, a lease or licence under section 64 of the Harbours Act 1955 was in force, other than for land vested in a harbour board under section 81(4) of the Act; and*

(b) *the lease or licence required the Minister's approval for—*

(i) *a change of use for a lease or licence for a term of not more than 25 years (including any renewal option); or*

(ii) *an assignment or a subletting or sublicensing;*

*the Minister's approval is no longer needed.*

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<sup>3</sup> This provision expired before the reprint date but has been included for information purposes.

(2) *This section expires 3 months after the day on which it commences.*

(3) *Section 20A of the Acts Interpretation Act 1954 applies to this section.*

### ***Leases and licences under s 196 of Harbours Act***

**109B.4(1)** *If—*

(a) *immediately before 1 July 1994, a lease or licence under section 196 of the Harbours Act 1955 was in force; and*

(b) *the lease or licence required the approval of the Minister for a change of use, an assignment or a subletting or sublicensing;*

*the Minister's approval is no longer needed.*

(2) *This section expires 3 months after the date on which it commences.*

(3) *Section 20A of the Acts Interpretation Act 1954 applies to this section.*

### **Special transitional provisions for former Ports Corporation of Queensland employees**

**143.(1)** This section applies to a person who, immediately before the commencement, was a transferred employee within the meaning of Part 11 (Transitional Provisions About the Establishment of the Ports Corporation) of the *Harbours Act 1955*.

(2) The person may elect to become an officer of the public service within 1 year after the commencement.

(3) If the person becomes an officer of the public service under subsection (2)—

(a) the person's initial terms of employment must not be less favourable than the terms of employment that applied to the person on 31 December 1993; and

(b) for superannuation and leave entitlements, the person is treated as—

(i) not having left the public service when the person became an

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<sup>4</sup> This provision expired before the reprint date but has been included for information purposes.

employee of the Ports Corporation; and

- (ii) having afterwards continued to be an officer of the public service.

(4) This section expires 1 year after it commences.

### **Application of s 20A, Acts Interpretation Act to this Part**

**144.(1)** This Part is a law to which section 20A of the *Acts Interpretation Act 1954* applies.

(2) This section expires 2 years after it commences.

## **PART 3—GENERAL SAVINGS AND TRANSITIONAL PROVISIONS**

### *Division 1—Transition of references about roads*

#### **Application of Division**

**145.** This Division applies to references in Acts in existence at its commencement.

#### **Transport Infrastructure (Roads) Act 1991 references**

**146.** A reference to the *Transport Infrastructure (Roads) Act 1991* is taken to be a reference to this Act.

#### **Main Roads Act 1920 references**

**147.** A reference to the *Main Roads Act 1920* is taken to be a reference to the *Transport Infrastructure (Roads) Act 1991*, this Act or both, as the case requires.

**Commissioner of Main Roads references**

**148.** A reference to the Commissioner of Main Roads (either as a natural person or corporation sole) is taken to be a reference to the chief executive.

**Declared road references**

**149.(1)** A reference to a declared road under the *Main Roads Act 1920* is taken to be a reference to a State-controlled road under this Act.

**(2)** A reference to a declared road under the *Transport Infrastructure (Roads) Act 1991* is taken to be a reference to a State-controlled road under this Act.

**Motorway references**

**150.** A reference to a motorway under the *Transport Infrastructure (Roads) Act 1991* is taken to be a reference to a motorway under this Act.

**Main Roads Fund references**

**151.** A reference to the Main Roads Fund is taken to be a reference to the funds of the department.

***Division 2—Transition of references about ports*****Application of Division**

**152.** This Division applies to references in Acts in existence at its commencement.

**Harbours Act 1955 and Port of Brisbane Authority Act 1976 references**

**153.** A reference to the *Harbours Act 1955* or *Port of Brisbane Authority Act 1976* is taken to be a reference to this Act.

**Harbour board references**

**154.(1)** A reference to a harbour board is taken to be a reference to a port authority under this Act.

**(2)** A reference to the Port of Brisbane Authority is taken to be a reference to the Port of Brisbane Corporation.

**Harbour references**

**155.** A reference to a harbour is taken to be a reference to a port under this Act.

**Harbours Corporation and Harbours Trust references**

**156.(1)** A reference to the Harbours Corporation or Harbours Trust is taken to be a reference to—

- (a) for a port to which subsection (2) applies or for the *Aurukun Associates Agreement Act 1975*—the Ports Corporation of Queensland; or
- (b) in any other case—the State.

**(2)** This subsection applies to the following ports—

- Abbot Point
- Burketown
- Cape Flattery
- Cooktown
- Hay Point
- Innisfail
- Karumba
- Lucinda
- Margaret Bay
- Maryborough
- Port Kennedy

- Quintell Beach
- St Lawrence
- Weipa.

### **Gold Coast Waterways Authority references**

**157.** A reference to the Gold Coast Waterways Authority is taken to be a reference to the State.

### *Division 3—Transition of references about railways*

#### **Application of Division**

**158.** This Division applies to references in Acts (other than the *Transport Infrastructure (Railways) Act 1991*) in existence at its commencement.

#### **Railways Act 1914 references**

**159.** A reference to the *Railways Act 1914* is taken to be a reference to the *Transport Infrastructure (Railways) Act 1991*.

#### **Commissioner for Railways references**

**160.** A reference to the Commissioner for Railways is taken to be a reference to—

- (a) for the Commissioner as a corporation sole—Queensland Railways; or
- (b) for the Commissioner as an individual—the chief executive of Queensland Railways.

#### **Railways Department references**

**161.** A reference to the Railways Department is taken to be a reference to Queensland Railways.

***Division 4—General*****Application of s 32A, Acts Interpretation Act**

**162.** To remove any doubt, the provisions of Divisions 1 to 3 are definitions for the purposes of section 32A of the *Acts Interpretation Act 1954*.

**SCHEDULE 1****SUBJECT MATTER FOR REGULATIONS**

section 111 of this Act

- 1.** The conditions of use of motorways or access-limited roads, including limitations on access or use, and removal of stationary vehicles.
- 2.** Regulation of traffic (including for safety purposes) during construction of road works.
- 3.** Regulation of animals on State-controlled roads.
- 4.** Camping on State-controlled roads or areas under the chief executive's control.
- 5.** Regulation of ancillary works and encroachments.
- 6.** Tolls payable through the use of roads and the collection of the tolls.
- 7.** Exemptions from regulations.
- 8.** Allowing the chief executive to approve forms to be used for the purposes of this Act, and the purposes for which the forms must be used.
- 9.** Fees, charges, allowances, royalties, costs or expenses to be paid.
- 10.** The operation by the chief executive of electronic and other devices for monitoring, recording or controlling the passage of vehicles or the flow of traffic on—
  - (a) State-controlled roads; or
  - (b) roads that are proposed to be State-controlled roads; or
  - (c) franchised roads; or
  - (d) other roads with the agreement of the relevant local government.



**SCHEDULE 2****APPEALS**

section 108 of this Act

<b>Section of the Act</b>	<b>Description of decision</b>	<b>Court</b>
29	Refusal to approve carrying out of proposed road works	Magistrates
	Refusal to approve action interfering with State-controlled road or its operation	Magistrates
	Imposition of conditions on approval	Magistrates
30	Decision of chief executive about amount of costs incurred	District or Magistrates
33	Decision of chief executive about amount of compensation	District or Magistrates
33	Decision not to extend time	District or Magistrates
34	Decision of chief executive not to contribute to fencing	Magistrates
38(1)	Refusal to approve subdivision, rezoning, development, road works or changes	Planning and Environment
38(3) and (5)	Imposition of conditions	Planning and Environment
38(8)	Decision of chief executive about amount of compensation	District or Magistrates
39(1)	Refusal to approve erection of, alteration or operation of sign or device	Planning and Environment
39(3) and (5)	Imposition or inclusion of conditions	Planning and Environment

## SCHEDULE 2 (continued)

44	Decision of chief executive about cost of repair, replacement or reconstruction of damaged work	District or Magistrates
45	Refusal of chief executive to approve construction, maintenance, operation or conduct of ancillary work or encroachment	Magistrates
46(1)	Decision to cause ancillary works and encroachments to be altered, relocated, made safe or removed, or to direct that the conduct of ancillary works and encroachments be altered or stop	District or Magistrates
46(2)	Decision of chief executive about cost of alteration, making safe or removing ancillary work and encroachments	District or Magistrates
46(4)	Decision to alter, relocate, make safe or remove ancillary works and encroachments or that activities are to be altered or to stop	Magistrates
49	Decision about access between State-controlled road and particular adjacent land	Planning and Environment
51	Decision of chief executive about amount of cost of taking action	District or Magistrates
53	Decision of chief executive about amount of compensation	District or Magistrates
54(2)	Decision not to extend time for claim	District or Magistrates
56	Requirement by chief executive about public utility plant on State-controlled road	District
59	Decision of chief executive about amount of additional expense	District or Magistrates

If this Schedule indicates that an appeal may be made to a District Court or to a Magistrates Court, the appeal is to be made to a District Court if the

## SCHEDULE 2 (continued)

amount involved exceeds \$40 000 and to a Magistrates Court in any other case.

## ENDNOTES

### 1 Index to Endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 27 January 1995. Future amendments of the Transport Infrastructure Act 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Table of earlier reprints

Reprint No.	Amendments included	Reprint date
1	none	27 April 1994
2	to Act No. 32 of 1994	26 July 1994

### 4 List of legislation

#### **Transport Infrastructure Act 1994 No. 8**

date of assent 7 March 1994

ss 1–2 commenced on date of assent

s 132 Sch 3 amendments of the Harbours Act 1955 never proclaimed into force and om Act No. 32 of 1994 s 13(1) (as from 1 July 1994)

ss 86, 122, 132 Sch 3 amendments of the State Transport (People-movers) Act 1984 and the Urban Public Passenger Transport Act 1984 and Sch 3

*Transport Infrastructure Act 1994*

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amendment 5 of the Transport Infrastructure (Roads) Act 1991 commenced  
7 November 1994 (1994 SL No. 378)  
remaining provisions commenced 15 April 1994 (1994 SL No. 128)

as amended by—

**Transport Infrastructure Amendment Act 1994 No. 32**

date of assent 30 June 1994  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1994 (see s 2)

**Queensland Investment Corporation Amendment Act 1994 No. 38 Pts 1, 5**

date of assent 14 September 1994  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 October 1994 (see s 2 and 1994 SL No. 341  
ss 2, 8)

**Transport Operations (Passenger Transport) Act 1994 No. 43 s 143 Sch 3**

date of assent 14 September 1994  
amendments 5–8 commenced 1 July 1994 (see s 2(2))  
remaining provisions commenced 7 November 1994 (1994 SL No. 378)

**Transport Infrastructure Amendment Act (No. 2) 1994 No. 49**

date of assent 14 September 1994  
ss 1–2 commenced on date of assent  
remaining provisions commenced 18 November 1994 (1994 SL No. 399)

**Land Act 1994 No. 81 s 527 Sch 5**

date of assent 1 December 1994  
provisions not yet proclaimed into force

## 5 List of annotations

### Key to abbreviations in list of annotations

AIA	=	Acts Interpretation Act 1954
amd	=	amended
Ch	=	Chapter
def	=	definition
Div	=	Division
exp	=	expires/expired
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
R1	=	Reprint No. 1
R3	=	Reprint No. 3
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

### Definitions

- s 4      amd 1994 No. 32 s 4(3); 1994 No. 49 s 3 Sch 1  
           def **“port”** ins 1994 No. 32 s 4(2)  
           def **“port authority”** sub 1994 No. 32 s 4(1)–(2)  
           def **“transport purpose”** ins 1994 No. 49 s 3 Sch 1

### Definitions

- s 20      def **“franchised road”** ins 1994 No. 49 s 4  
           def **“franchisee”** ins 1994 No. 49 s 4  
           def **“road franchise agreement”** ins 1994 No. 49 s 4

## PART 6—FRANCHISED ROADS

- Pt hdg    ins 1994 No. 49 s 5

### Objectives of Part

- s 62      ins 1994 No. 49 s 5

### Power to enter into road franchise agreements

- s 63      ins 1994 No. 49 s 5

### Tabling of road franchise agreements

- s 64      ins 1994 No. 49 s 5

### Report on operation of Part

- s 65      ins 1994 No. 49 s 5

### Recovery of money

- s 66      ins 1994 No. 49 s 5

**Rateability of land**

s 67 ins 1994 No. 49 s 5

**Power of chief executive to lease or dispose of land to franchisees**

s 68 ins 1994 No. 49 s 5

**Application of other provisions of this Chapter**

s 69 ins 1994 No. 49 s 5

**Guarantees, undertakings and stamp duty**

s 70 ins 1994 No. 49 s 5

**Franchised roads to be roads for other purposes**

s 71 ins 1994 No. 49 s 5

**CHAPTER 5A—PORT INFRASTRUCTURE**

Ch hdg ins 1994 No. 32 s 5

**PART 1—PRELIMINARY**

Pt hdg ins 1994 No. 32 s 5

**Definitions**

s 72 ins 1994 No. 32 s 5

**PART 2—CONTINUATION, ESTABLISHMENT AND ABOLITION OF PORT AUTHORITIES**

Pt hdg ins 1994 No. 32 s 5

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s 73 ins 1994 No. 32 s 5

**Establishment of new port authority**

s 74 ins 1994 No. 32 s 5

**Abolition of port authority**

s 75 ins 1994 No. 32 s 5

**Transfer of management of a port**

s 76 ins 1994 No. 32 s 5

**Regulation may make transitional arrangement**

s 77 ins 1994 No. 32 s 5

**Management of port by State or local government**

s 78 ins 1994 No. 32 s 5

**Regulation may define port limits etc.**

s 79 ins 1994 No. 32 s 5

**PART 3—FUNCTIONS AND POWERS OF PORT AUTHORITIES**

Pt hdg ins 1994 No. 32 s 5

**Functions of port authorities**

s 80 ins 1994 No. 32 s 5

**Powers of port authorities subject to Marine Safety Act**

s 81 ins 1994 No. 32 s 5

**Powers of port authorities**

s 82 ins 1994 No. 32 s 5

**Additional powers**

s 83 ins 1994 No. 32 s 5  
amd 1994 No. 43 s 143 Sch 3

**Power to impose charges**

s 84 ins 1994 No. 32 s 5

**Copies of additional functions or powers to be available**

s 85 ins 1994 No. 32 s 5

**Liability for charges**

s 86 ins 1994 No. 32 s 5

**Liability for damage**

s 87 ins 1994 No. 32 s 5

**PART 4—LAND MANAGEMENT**

Pt hdg ins 1994 No. 32 s 5

**Division 1—Strategic port land**

Div hdg ins 1994 No. 32 s 5

**Land use plans**

s 88 ins 1994 No. 32 s 5

**Consultation on land use plans**

s 89 ins 1994 No. 32 s 5

**Approval of land use plans**

s 90 pres s 90 ins 1994 No. 32 s 5

**Strategic port land not subject to zoning requirements**

s 91 ins 1994 No. 32 s 5

**Use of strategic port land to be consistent with approved land use plan**

s 92 ins 1994 No. 32 s 5

**Division 2—General**

Div hdg ins 1994 No. 32 s 5

**Restrictions on dealing in property**

s 93 ins 1994 No. 32 s 5

**PART 5—GENERAL**

Pt hdg ins 1994 No. 32 s 5

**Protection from liability**

s 94 ins 1994 No. 32 s 5

**Carrying on port activities outside port limits**

s 95 ins 1994 No. 32 s 5

**Offences**

s 96 ins 1994 No. 32 s 5



**Payment of charges and interest on unpaid charges**

s 97 ins 1994 No. 32 s 5

**Transitional provisions applying in relation to port authorities that are candidate GOCs**s 98 ins 1994 No. 32 s 5  
amd 1994 No. 43 s 143 Sch 3**Application of Freedom of Information Act and Judicial Review Act**

s 99 ins 1994 No. 38 s 24

**Application of rating Acts**

s 100 ins 1994 No. 32 s 5

**Notices at entrances**

s 101 ins 1994 No. 32 s 5

**Proceedings for offences**

s 106 ins 1994 No. 32 s 6

**Attempts to commit offences**

s 107 ins 1994 No. 32 s 6

**CHAPTER 8—SAVINGS AND TRANSITIONAL PROVISIONS,  
AMENDMENTS AND REPEALS**

Ch hdg amd 1994 No. 32 s 7

**PART 1—SAVINGS AND TRANSITIONAL PROVISIONS ABOUT ROADS**

Pt hdg amd 1994 No. 32 s 8

**Definition**

prov hdg amd 1994 No. 32 s 9(1)

s 112 amd 1994 No. 32 s 9(2)  
def “**Corporation**” amd 1994 No. 43 s 143 Sch 3**State-controlled roads**s 113 prev (1) om 1994 No. 49 s 3 Sch 1  
pres (1)–(2) exp 18 November 1995 (see s 113(2))  
s 20A AIA applies to prev (1) (see s 126(1))**Access to and from State-controlled roads**s 114 amd 1994 No. 49 s 3 Sch 1  
exp 18 November 1996 (see s 114(5))  
(1)–(3) s 20A AIA applies (see s 114(4))**Motorways**s 115 amd 1994 No. 49 s 3 Sch 1  
exp 18 November 1996 (see s 115(3))  
(1) s 20A AIA applies (see s 115(2))**Notices to local governments**s 116 amd 1994 No. 49 s 3 Sch 1  
exp 18 November 1996 (see s 116(2))

**Arrangements with local governments and others**

- s 75** om 1994 No. 49 s 3 Sch 1  
s 20A AIA applies (see s 126(1))

**Naturally occurring materials**

- s 117** amd 1994 No. 49 s 3 Sch 1  
exp 18 November 1996 (see s 117(2))  
s 20A AIA applies (see s 126(1))

**Approvals and determinations under s 3.6 of the Transport Infrastructure (Roads) Act 1991**

- s 77** om 1994 No. 49 s 3 Sch 1  
s 20A AIA applies (see s 126(1))

**Works by local governments**

- s 78** om 1994 No. 49 s 3 Sch 1  
s 20A AIA applies (see s 126(1))

**Construction and maintenance by others**

- s 79** om 1994 No. 49 s 3 Sch 1  
s 20A AIA applies (see s 126(1))

**Works joining State-controlled roads**

- s 80** om 1994 No. 49 s 3 Sch 1  
s 20A AIA applies (see s 126(1))

**Subdivision of land contiguous to State-controlled roads**

- s 118** ins 1994 No. 49 s 3 Sch 1  
exp 18 May 1995 (see s 118(2))  
s 20A AIA applies (see s 126(1))

**Temporary occupation and use of land**

- s 119** amd 1994 No. 49 s 3 Sch 1  
exp 18 November 1995 (see s 119(4))

**Ancillary works and encroachments**

- s 82** om 1994 No. 49 s 3 Sch 1  
s 20A AIA applies (see s 126(1))

**Things done where chief executive now has power**

- s 120** amd 1994 No. 49 s 3 Sch 1  
exp 18 November 1996 (see s 120(2))

**Continuation of contracts**

- s 84** om 1994 No. 49 s 3 Sch 1  
s 20A AIA applies (see s 126(1))

**Legal proceedings**

- s 121** amd 1994 No. 49 s 3 Sch 1  
exp 18 November 1996 or such longer period up to 18 November 1999  
specified by regulation before 18 November 1996 (see s 121(2)–(3))

**Property vested in the Corporation**

- s 86** om 1994 No. 49 s 3 Sch 1

**Land acquisitions and related transactions**

- s 122** amd 1994 No. 49 s 3 Sch 1  
exp 18 November 1996 or such longer period up to 18 November 1999  
specified by regulation before 18 November 1996 (see s 122(3)–(4))

**Delegations**

- s 123** amd 1994 No. 49 s 3 Sch 1  
exp 18 November 1996 (see s 123(3))

**Preparation of first implementation programs**

- s 124** amd 1994 No. 49 s 3 Sch 1  
exp 18 November 1996 (see s 124(2))

**Existing franchised road**

- s 125** ins 1994 No. 49 s 3 Sch 1  
exp 18 November 1995 or on an earlier date prescribed by regulation (see  
s 125(5))

**Application of s 20A of Acts Interpretation Act**

- s 126** ins 1994 No. 49 s 3 Sch 1  
exp 18 May 1995 (see s 126(2))

**PART 2—SAVINGS AND TRANSITIONAL PROVISIONS ABOUT PORTS**

- Pt hdg** prev Pt 2 hdg renum as Pt 4 hdg 1994 No. 32 s 11  
pres Pt 2 hdg ins 1994 No. 32 s 10

**Amendments of other Acts**

- s 90** prev s 90 renum as s 129 1994 No. 32 s 12

**Interpretation**

- s 127** ins 1994 No. 32 s 10  
exp 1 July 1996 or on an earlier date prescribed by regulation (see  
s 127(2))  
s 20A AIA applies (see s 144(1))

**Continuation of harbours under Harbours Act or port under Port of Brisbane Authority Act etc.**

- s 128** ins 1994 No. 32 s 10  
exp 1 July 1996 or on an earlier date prescribed by regulation (see  
s 128(3))  
s 20A AIA applies (see s 144(1))

**Ports of port authorities**

- s 92** ins 1994 No. 32 s 10  
exp 1 August 1994 (see s 92(3))  
s 20A AIA applies (see s 144(1))

**Airport funds**

- s 93** ins 1994 No. 32 s 10  
exp 1 July 1994 (see s 93(3))  
s 20A AIA applies (see s 144(1))

**Funds under Harbours Act or Port of Brisbane Authority Act**

- s 129** pres s 129 ins 1994 No. 32 s 10

prev (1), (3)–(4) exp 1 August 1994 (see s 94(4))  
 pres (1), (2) exp 1 July 1996 or on an earlier date prescribed by regulation  
 (see s 129(2))

s 20A AIA applies (see s 144(1))

#### **Harbour dues**

**s 130** ins 1994 No. 32 s 10  
exp 1 July 1995 (see s 130(2))  
 s 20A AIA applies (see s 144(1))

#### **Management of certain boat harbours**

**s 131** ins 1994 No. 32 s 10  
exp 1 July 1996 or on an earlier date prescribed by regulation (see  
 s 131(2))  
 s 20A AIA applies (see s 144(1))

#### **Harbour and industrial lands**

**s 132** ins 1994 No. 32 s 10  
exp 1 July 1996 (see s 132(5))  
 s 20A AIA applies (see s 144(1))

#### **Submission of land use plans**

**s 133** ins 1994 No. 32 s 10  
exp 1 July 1996 (see s 133(3))  
 s 20A AIA applies (see s 144(1))

#### **Harbours Corporation of Queensland**

**s 134** ins 1994 No. 32 s 10  
exp 1 July 1996 or on an earlier date prescribed by regulation (see  
 s 134(8))  
 s 20A AIA applies (see s 144(1))

#### **Queensland Sugar Corporation funds**

**s 100** ins 1994 No. 32 s 10  
 exp 1 August 1994 (see s 100(2))  
 s 20A AIA applies (see s 144(1))

#### **Continuation of Inscribed Stock Regulations**

**s 135** ins 1994 No. 32 s 10  
exp on a date to be fixed by regulation (see s 135(3))  
 s 20A AIA applies (see s 144(1))

#### **Continuation of certain by-laws**

**s 136** ins 1994 No. 32 s 10  
 amd 1994 No. 43 s 143 Sch 3  
exp 1 July 1996 or on an earlier date prescribed by regulation (see  
 s 136(11))  
 s 20A AIA applies (see s 144(1))

#### **Continuation of certain provisions of Harbours Act about land**

**s 137** ins 1994 No. 32 s 10  
 amd 1994 No. 81 s 527 Sch 5  
exp 1 July 1996 or on an earlier date prescribed by regulation (see  
 s 137(4))

s 20A AIA applies (see s 144(1))

**Continuation of certain provisions of Harbours Act about jetties and ramps etc.**

**s 138** ins 1994 No. 32 s 10  
amd 1994 No. 43 s 143 Sch 3  
exp 1 July 1996 or on an earlier date prescribed by regulation or such longer period up to 1 July 1999 specified by regulation before 1 July 1996 (see s 138(5)–(7))  
s 20A AIA applies (see s 144(1))

**Continuation of certain provisions of Harbours Act requiring approval for certain matters**

**s 139** ins 1994 No. 32 s 10  
exp 1 July 1996 or on an earlier date prescribed by regulation (see s 139(8))  
s 20A AIA applies (see s 144(1))

**Continuation of certain provisions of Harbours Act about Queensland Sugar Corporation**

**s 140** ins 1994 No. 32 s 10  
exp 1 July 1996 or on an earlier date prescribed by regulation (see s 140(4))  
s 20A AIA applies (see s 144(1))

**Continuation of s 62A of Harbours Act**

**s 141** ins 1994 No. 32 s 10  
exp 1 July 1996 (see s 141(3))  
s 20A AIA applies (see s 144(1))

**Continuation of Pt 5, Div 2 of Port of Brisbane Authority Act**

**s 142** ins 1994 No. 32 s 10  
exp on a date to be fixed by regulation (see s 142(3))  
s 20A AIA applies (see s 144(1))

**Leases and licences under s 65 of Harbours Act**

**s 109** ins 1994 No. 32 s 10  
exp 1 July 1994 (see s 109(2))  
s 20A AIA applies (see s 144(1))

**Leases and licences under s 64 of Harbours Act**

**s 109A** ins 1994 No. 43 s 143 Sch 3  
exp 1 October 1994 (see s 109A(2))  
s 20A AIA applies (see s 109A(3))

**Leases and licences under s 196 of Harbours Act**

**s 109B** ins 1994 No. 43 s 143 Sch 3  
exp 1 October 1994 (see s 109B(2))  
s 20A AIA applies (see s 109B(3))

**Lease mentioned in Harbours Act Amendment Act 1968**

**s 110** ins 1994 No. 32 s 10  
exp 1 July 1994 (see s 110(2))  
s 20A AIA applies (see s 144(1))

**Delegations**

- s 111** ins 1994 No. 32 s 10  
 exp 1 October 1994 (see s 111(3))  
 s 20A AIA applies (see s 144(1))

**Special transitional provisions for former Ports Corporation of Queensland employees**

- s 143** ins 1994 No. 32 s 10  
 exp 1 July 1995 (see s 143(4))  
 s 20A AIA applies (see s 144(1))

**Application of s 20A, Acts Interpretation Act to this Part**

- s 144** ins 1994 No. 32 s 10  
 exp 1 July 1996 (see s 144(2))  
 s 20A AIA applies (see s 144(1))

**PART 3—GENERAL SAVINGS AND TRANSITIONAL PROVISIONS**

- Pt hdg** ins 1994 No. 32 s 10

**Division 1—Transition of references about roads**

- Div hdg** ins 1994 No. 32 s 10

**Application of Division**

- s 145** ins 1994 No. 32 s 10

**Transport Infrastructure (Roads) Act 1991 references**

- s 146** ins 1994 No. 32 s 10

**Main Roads Act 1920 references**

- s 147** ins 1994 No. 32 s 10

**Commissioner of Main Roads references**

- s 148** ins 1994 No. 32 s 10

**Declared road references**

- s 149** ins 1994 No. 32 s 10

**Motorway references**

- s 150** ins 1994 No. 32 s 10

**Main Roads Fund references**

- s 151** ins 1994 No. 32 s 10

**Division 2—Transition of references about ports**

- Div hdg** ins 1994 No. 32 s 10

**Application of Division**

- s 152** ins 1994 No. 32 s 10

**Harbours Act 1955 and Port of Brisbane Authority Act 1976 references**

- s 153** ins 1994 No. 32 s 10

**Harbour board references**

- s 154** ins 1994 No. 32 s 10

**Harbour references**

- s 155** ins 1994 No. 32 s 10

**Harbours Corporation and Harbours Trust references**

s 156 ins 1994 No. 32 s 10

**Gold Coast Waterways Authority references**

s 157 ins 1994 No. 32 s 10

**Division 3—Transition of references about railways**

Div hdg ins 1994 No. 32 s 10

**Application of Division**

s 158 ins 1994 No. 32 s 10

**Railways Act 1914 references**

s 159 ins 1994 No. 32 s 10

**Amendments of other Acts**

s 129 prev s 129 (prev s 90) renum as s 132 1994 No. 43 s 143 Sch 3

**Commissioner for Railways references**

s 160 ins 1994 No. 32 s 10

**Railways Department references**

s 161 ins 1994 No. 32 s 10

**Division 4—General**

Div hdg ins 1994 No. 32 s 10

**Application of s 32A, Acts Interpretation Act**

s 162 ins 1994 No. 32 s 10

**Numbering and renumbering of Act**s 163 ins 1994 No. 49 s 3 Sch 1  
om R3 (see RA s 37)**PART 4—AMENDMENTS OF OTHER ACTS**Pt hdg pres Pt 4 hdg (prev Pt 2 hdg) renum 1994 No. 32 s 11  
om R3 (see RA s 37)**Amendments of other Acts**s 132 (prev s 90 and s 129) renum 1994 No. 32 s 12; 1994 No. 43 s 143 Sch 3  
om R3 (see RA s 40)**SCHEDULE 1—SUBJECT MATTER FOR REGULATIONS**

amd 1994 No. 49 s 3 Sch 1

**SCHEDULE 2—APPEALS**

amd 1994 No. 49 s 3 Sch 1

**SCHEDULE 3—AMENDMENTS OF OTHER ACTS**amd R1 (see RA s 40); 1994 No. 32 s 13  
om R3 (see RA s 40)**6 Table of changed citations and remade laws**

*Transport Infrastructure Act 1994*


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under the Reprints Act 1992 ss 21A and 22		
Old	New	Reference provision
Electricity Act 1976	Electricity Act 1994	—
Marine Safety Act 1994	Transport Operations (Marine Safety) Act 1994	Transport Operations (Marine Safety) Act 1994 s 220(a)

**7 Table of corrected minor errors**

TABLE OF CORRECTED MINOR ERRORS  
under the Reprints Act 1992 s 44

Provision	Description
138(2)	om ‘other than 64(8)’ ins ‘other than subsection (8)’

**8 Table of renumbered provisions**

TABLE OF RENUMBERED PROVISIONS  
under the Transport Infrastructure Act 1994 s 163 and the Reprints Act 1992 s 43

Previous	Renumbered as
61AA	62
61AB	63
61AC	64
61AD	65
61AE	66
61AF	67
61AG	68
61AH	69
61AI	70
61AJ	71
Ch 5A	Ch 6
61A	72
61B	73
61C	74
61D	75
61E	76
61F	77



61G	78
61H	79
61I	80
61J	81
61K	82
61L	83
61M	84
61N	85
61O	86
61P	87
61Q	88
61R	89
61S	90
61T	91
61U	92
61V	93
61W	94
61X	95
61Y	96
61Z	97
61ZA	98
61ZAA	99
61ZB	100
61ZC	101
Ch 6	Ch7
62	102
63	103
64	104
65	105
65A	106
65B	107
66	108
67	109
68	110
69	111
Ch 7	Ch 8
70	112
71	113
71(2)	113(1)
71(3)	113(2)
72	114
73	115
74	116
76	117
80A	118
81	119

83	120
85	121
87	122
88	123
89	124
89A	125
89B	126
90	127
91	128
94	129
94(2)	129(1)
94(5)	129(2)
95	130
96	131
97	132
98	133
99	134
101	135
102	136
102(5A)	136(6)
102(6)	136(7)
102(7)	136(8)
102(8)	136(9)
102(9)	136(10)
102(10)	136(11)
103	137
104	138
104(2A)	138(3)
104(3)	138(4)
104(4)	138(5)
104(5)	138(6)
104(6)	138(7)
105	139
106	140
107	141
108	142
112	143
113	144
114	145
115	146
116	147
117	148
118	149
119	150
120	151
121	152

122	153
123	154
124	155
125	156
126	157
127	158
128	159
129	160
130	161
131	162
131A	163

## **9 Provisions that have not commenced and are not incorporated into reprint**

Land Act 1994 s 527 Sch 5 reads as follows—

### **TRANSPORT INFRASTRUCTURE ACT 1994**

#### **Amendments**

##### **1. Section 103(1)—**

*omit, insert—*

**‘103.(1)** Section 97A(11) of the *Harbours Act 1955* and another subsection or definition giving effect to section 97A(11) continues to have effect.’.

##### **2. Section 103(2), ‘provisions mentioned in subsection (1) continue to have effect, but the’—**

*omit.*