

Queensland



TRANSPORT OPERATIONS (PASSENGER TRANSPORT) ACT 1994

**Reprinted as in force on 4 January 2002
(includes amendments up to Act No. 79 of 2001)**

Warning—see last endnote for uncommenced amendments

Reprint No. 4B

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Information about this reprint

This Act is reprinted as at 4 January 2002. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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 have been made to use aspects of format and printing style consistent with current drafting practice (s 35).

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

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TRANSPORT OPERATIONS (PASSENGER TRANSPORT) ACT 1994

[as amended by all amendments that commenced on or before 4 January 2002]

An Act about passenger transport, and for other purposes

CHAPTER 1—PRELIMINARY

1 Short title

This Act may be cited as the *Transport Operations (Passenger Transport) Act 1994*.

2 Objectives of Act

(1) This Act is intended to achieve the provision of the best possible public passenger transport at reasonable cost to the community and government, keeping government regulation to a minimum.

(2) However, this Act recognises that market entry restrictions may be needed in the public interest.

(3) The overall objectives of this Act are, consistent with the objectives of the *Transport Planning and Coordination Act 1994*, to—

- (a) enable the effective planning and efficient management of public passenger transport in the State; and
- (b) provide a system of public passenger transport in the State that—
 - (i) is responsive to community needs; and
 - (ii) offers an attractive alternative to private transport in a way that reduces the overall environmental, economic and social costs of passenger transport; and
 - (iii) addresses the challenges of future growth; and
 - (iv) provides a high level of accountability; and

- (v) provides public passenger services at a reasonable cost to the community and government; and
- (c) provide a reasonable level of community access and mobility in support of the Government's social justice objectives; and
- (d) provide an adequate framework for coordinating the different forms of public passenger transport to form a comprehensive, integrated and efficient system.

3 Definitions—the dictionary

(1) The dictionary at the end of this Act defines particular words used in this Act.

(2) To remove any doubt, the dictionary is a schedule.

4 Act binds all persons

(1) In this section—

“**government entity**” includes—

- (a) the State, the Commonwealth or another State; or
- (b) an instrumentality or agent of the State, the Commonwealth or another State.

(2) This Act binds all persons, including every government entity.

(3) However, a regulation may exempt a government entity from this Act or a provision of this Act.

CHAPTER 2—RESPONSIBILITIES FOR TRANSPORT STRATEGIES AND PROGRAMS

PART 1—PASSENGER TRANSPORT STRATEGIES

5 Development of passenger transport strategies

(1) The chief executive must, from time to time, develop for the Minister's approval passenger transport strategies designed to give effect to the transport coordination plan in accordance with this Act's objectives.

(2) In developing passenger transport 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 passenger transport strategies for the Minister's approval or to amend passenger transport strategies in the way the Minister directs.

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

(5) The Minister must table a copy of each passenger transport strategy, and each amendment of a passenger transport strategy, approved by the Minister in the Legislative Assembly within 5 sitting days after it is approved.

6 Contents of passenger transport strategies

(1) Passenger transport strategies must include—

- (a) a statement of the specific objectives sought to be achieved; and
- (b) proposals for the provision of public passenger transport; and
- (c) criteria for deciding priorities for government spending on public passenger transport, and options for raising the necessary finance; and
- (d) appropriate performance indicators for deciding whether, and to what extent, the objectives of the strategies have been achieved.

(2) Passenger transport strategies must aim to provide an adequate framework for coordinating and integrating the provision of passenger

transport between the different transport modes and different levels of government.

(3) Passenger transport strategies may also take into account agreements between the State and the Commonwealth, other States and local governments about passenger transport.

(4) Passenger transport strategies for the SEQTA area under the *Transport Planning and Coordination Act 1994* must not be inconsistent with, and must give effect to any integrated regional transport plan in force for the area.

PART 2—PASSENGER TRANSPORT IMPLEMENTATION PROGRAMS

7 Development of passenger transport implementation programs

(1) Before the start of each financial year, the chief executive must develop for the Minister's approval passenger transport implementation programs for the year and for 1 or more later years.

(2) A passenger transport implementation program must include a statement of—

- (a) the policies, projects and financial provisions for implementing the passenger transport strategies; and
- (b) the performance targets to be achieved.

(3) A passenger transport implementation program may include proposals to spend amounts not directly related to public passenger transport if the proposals would contribute to the effectiveness and efficiency of public passenger transport.

(4) In developing passenger transport implementation programs, the chief executive must take reasonable steps to engage in public consultation.

(5) A passenger transport implementation program must be made available to the public in a way decided by the Minister.

(6) The Minister may at any time direct the chief executive to amend a passenger transport implementation program.

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

8 Consistency with passenger transport strategies

(1) Subject to directions of the Minister, a passenger transport implementation program must be consistent with the passenger transport strategies.

(2) If the Minister gives a direction under this section resulting in a passenger transport implementation program being inconsistent with passenger transport strategies, the Minister must table a copy of the direction in the Legislative Assembly within 5 sitting days after it is given.

9 Report on operation of passenger transport programs

Each annual report of the department must include a report on the implementation of passenger transport implementation programs during the year to which the report relates.

PART 3—CHIEF EXECUTIVE’S GENERAL ACCOUNTABILITIES

10 Obligations about public passenger transport

(1) The chief executive must ensure—

- (a) public passenger transport is developed in a way that—
 - (i) takes into account national and international benchmarks and best practice; and
 - (ii) promotes, within overall transport objectives, the safety of passengers; and
 - (iii) encourages efficient, competitive and commercial behaviour in the provision of public passenger transport; and
 - (iv) ensures a strategic and integrated approach to the provision of public passenger transport; and

- (v) promotes energy efficiency and reduces adverse environmental impact; and
- (b) public passenger transport operates to achieve—
 - (i) efficiency; and
 - (ii) cost effectiveness; and
 - (iii) the highest quality and accessibility of services, and effective infrastructure, consistent with reasonable cost; and
- (c) funding provided by the State for public passenger transport is applied in an efficient, cost effective and equitable way.

(2) Each annual report of the department must include a report on how effect has been given to subsection (1) during the year to which the report relates.

CHAPTER 3—OPERATOR ACCREDITATION

11 Purpose of operator accreditation

The purpose of operator accreditation is to encourage the high quality operation of public passenger services by—

- (a) raising standards and awareness of operators in the areas of safety, service delivery and business acumen; and
- (b) ensuring public passenger service operators are held accountable for complying with appropriate standards.

12 What is operator accreditation

(1) “**Operator accreditation**” is a qualification an operator of a public passenger service must attain and maintain to provide the service.

(2) However, subsection (1) does not apply to the operator of any of the following public passenger services—

- (a) a service provided by a railway operator;
- (b) an air service;

- (c) a service prescribed under a regulation as a service to which this section does not apply.

14 Operator accreditation standards

Standards about operator accreditation may relate to—

- (a) the applicant's capacity to ensure the appropriate operation and maintenance of public passenger vehicles; and
- (b) the applicant's ability to provide a quality public passenger service; and
- (c) an operator's responsibility to comply with vehicle design, safety and operational requirements; and
- (d) the applicant's business management skills, including, expertise in timetabling, route planning, marketing, customer services and financial management; and
- (e) the operator's responsibility to comply with or ensure that a driver complies with an Act, or a provision of an Act, that would promote safety or customer service; and
- (f) other matters prescribed by regulation.¹

15 Duties of operators

A person must not provide a public passenger service for which operator accreditation is required under this Act unless—

- (a) the person is accredited to operate the service; and
- (b) the person uses appropriately authorised drivers.

Maximum penalty—160 penalty units.

16 Responsibility for system of operator accreditation

(1) The chief executive is responsible for administering the scheme of operator accreditation.

(2) If a person to whom the chief executive delegates powers about operator accreditation that are prescribed by regulation fails, without

¹ Chapter 9 deals with the making of standards.

reasonable excuse, to comply with a condition of the delegation, the person commits an offence.

Maximum penalty—160 penalty units.

17 Granting, renewing or refusing operator accreditation

(1) A regulation may make provision about granting, renewing, or refusing to grant or renew, operator accreditation.

(2) Without limiting subsection (1), a regulation may authorise the chief executive to refuse to grant a person operator accreditation if—

- (a) for an individual—the person has been convicted of a disqualifying offence or has been charged with a disqualifying offence and the charge has not been finally disposed of; or
- (b) for a member of a partnership—the person, or another member of the partnership, has been convicted of a disqualifying offence or has been charged with a disqualifying offence and the charge has not been finally disposed of; or
- (c) for a corporation—the person, or an executive officer of the corporation, has been convicted of a disqualifying offence or has been charged with a disqualifying offence and the charge has not been finally disposed of.

18 Provisional operator accreditation

A regulation may provide for granting, or refusing to grant, operator accreditation on a provisional basis.

19 Applicant to notify charge for disqualifying offence etc.

(1) If an applicant for an operator accreditation is charged with a disqualifying offence, the applicant must immediately notify the chief executive under the regulations.

(2) When the charge is dealt with, the applicant must immediately notify the chief executive under the regulations of the outcome of the charge.

Maximum penalty—10 penalty units.

20 Amendment, suspension and cancellation of operator accreditation

(1) A regulation may make provision about amending, suspending or cancelling operator accreditation.

(2) Without limiting subsection (1), a regulation may authorise the chief executive to suspend or cancel a person's operator accreditation if—

- (a) for an individual—the person is convicted of a disqualifying offence; or
- (b) for a member of a partnership—the person, or another member of the partnership, is convicted of a disqualifying offence; or
- (c) for a corporation—the person, or an executive officer of the person, is convicted of a disqualifying offence.

(3) Without limiting subsection (1), a regulation may authorise the chief executive immediately to suspend a person's operator accreditation if—

- (a) for an individual—the person is charged with a disqualifying offence or the chief executive otherwise considers it necessary in the public interest; or
- (b) for a member of a partnership—the person, or another member of the partnership, is charged with a disqualifying offence or the chief executive otherwise considers it necessary in the public interest; or
- (c) for a corporation—the person, or an executive officer of the person, is charged with a disqualifying offence or the chief executive otherwise considers it necessary in the public interest.

21 Accredited operator to notify charge for disqualifying offence etc.

(1) A person who is an accredited operator must immediately notify the chief executive under the regulations if—

- (a) for an individual—the person is charged with a disqualifying offence; or
- (b) for a member of a partnership—the person, or another member of the partnership, is charged with a disqualifying offence; or
- (c) for a corporation—the person, or an executive officer of the person, is charged with a disqualifying offence.

(2) When the charge is dealt with, the person must immediately notify the chief executive under the regulations of the outcome of the charge.

Maximum penalty—10 penalty units.

22 Member of partnership must inform another partner of charge for disqualifying offence etc.

(1) A member of a partnership that is an accredited operator must immediately inform, under the regulations, another member of the partnership if the member is charged with a disqualifying offence.

(2) When the charge is dealt with, the member must immediately inform, under the regulations, another member of the partnership of the outcome of the charge.

(3) An executive officer of a corporation that is an accredited operator must immediately inform, under the regulations, another executive officer of the operator if the executive officer is charged with a disqualifying offence.

(4) When the charge is dealt with, the executive officer must immediately inform, under the regulations, another executive officer of the operator of the outcome of the charge.

Maximum penalty—10 penalty units.

22A Operator accreditation is evidence of being the operator

In a proceeding for an offence against this Act, evidence that a person—

- (a) is involved in providing a public passenger service; and
- (b) is accredited to operate the service;

is evidence that the person is the operator of the service.

CHAPTER 4—DRIVER AUTHORISATION

23 Purpose of driver authorisation

The purpose of driver authorisation is to ensure drivers of public passenger vehicles—

- (a) are capable of safely operating the relevant type of vehicle; and
- (b) are aware of their customer service responsibilities; and
- (c) conduct themselves appropriately.

24 What is driver authorisation

(1) **“Driver authorisation”** is a qualification a driver of a vehicle providing a public passenger service must attain and maintain to operate the vehicle while providing the service.

(2) However, subsection (1) does not apply to the driver of a vehicle providing any of the following public passenger services—

- (a) a service provided by a railway operator;
- (b) an air service;
- (c) a service prescribed under a regulation as a service to which this section does not apply.

26 Driver authorisation standards

Standards about driver authorisation may—

- (a) relate to the applicant’s ability to operate safely a public passenger vehicle of the relevant category; and
- (b) include requirements about the applicant’s medical fitness; and
- (c) require compliance with the *Anti-Discrimination Act 1991*; and
- (d) relate to customer service and other matters prescribed by regulation;² and
- (e) require compliance with another Act, or a provision of another Act, that would promote safety or customer service.

² Chapter 9 deals with the making of standards.

27 Driver must hold appropriate authorisation

A person must not operate a public passenger vehicle providing a public passenger service for which driver authorisation is required unless the person is an appropriately authorised driver.

Maximum penalty—30 penalty units.

28 Responsibility for system of driver authorisation

(1) The chief executive is responsible for administering the scheme of driver authorisation.

(2) If a person to whom the chief executive delegates powers about driver authorisation that are prescribed by regulation fails, without reasonable excuse, to comply with a condition of the delegation, the person commits an offence.

Maximum penalty—160 penalty units.

29 Granting, renewing or refusing driver authorisation

(1) A regulation may make provision about granting, renewing, or refusing to grant or renew, driver authorisation.

(2) Without limiting subsection (1), a regulation may authorise the chief executive to refuse to grant a person driver authorisation if the person has been convicted of a disqualifying offence or has been charged with a disqualifying offence and the charge has not been finally disposed of.

29A Restricted driver authorisation

(1) A regulation may make provision about an operator, who holds operator accreditation to operate a public passenger service, granting on behalf of the chief executive a restricted driver authorisation to authorise a person to operate a public passenger vehicle while, and only while, it is being used by the operator to provide the service.

(2) Without limiting subsection (1), a regulation may—

- (a) limit the persons to whom restricted driver authorisation may be granted; or
- (b) exclude an operator from granting restricted driver authorisation; or

- (c) provide for restrictions applying to a driver under restricted driver authorisation.

30 Provisional driver authorisation

A regulation may provide for granting, or refusing to grant, driver authorisation on a provisional basis, including provisional authorisation in an emergency.

31 Applicant to notify charge for disqualifying offence etc.

(1) If an applicant for driver authorisation is charged with a disqualifying offence, the applicant must immediately notify the chief executive under the regulations.

(2) When the charge is dealt with, the applicant must immediately notify the chief executive under the regulations of the outcome of the charge.

Maximum penalty—10 penalty units.

32 Amendment, suspension and cancellation of driver authorisations

(1) A regulation may make provision about amending, suspending or cancelling driver authorisations.

(2) Without limiting subsection (1), a regulation may authorise the chief executive to suspend or cancel a person's driver authorisation if the person is convicted of a disqualifying offence.

(3) Without limiting subsection (1), a regulation may authorise the chief executive immediately to suspend a person's driver authorisation if the person is charged with a disqualifying offence or the chief executive otherwise considers it necessary in the public interest.

33 Authorised driver must notify charge for disqualifying offence etc.

(1) An authorised driver must immediately notify the chief executive under the regulations if the driver is charged with a disqualifying offence.

(2) When the charge is dealt with, the authorised driver must immediately inform the chief executive under the regulations of the outcome of the charge.

Maximum penalty—10 penalty units.

34 Authorised driver must notify suspension or cancellation of licence etc.

If a licence or other authorisation required under another Act to drive a vehicle of a type to which a person's driver authorisation relates is suspended or cancelled, the person must immediately notify the chief executive under the regulations.

Maximum penalty—10 penalty units.

35 Obligation to notify accredited operator of suspension or cancellation of licence etc.

If—

- (a) a licence or other authorisation required under another Act to drive a vehicle of a type to which a person's driver authorisation relates is suspended or cancelled; or
- (b) a person's driver authorisation is suspended or cancelled;

and the authorised driver drives a vehicle for an accredited operator, the person must immediately notify the operator under the regulations.

Maximum penalty—10 penalty units.

CHAPTER 5—MARKET ENTRY RESTRICTIONS**36 Market entry restrictions**

(1) A regulation may declare that a public passenger service is to be provided with market entry restrictions.

(2) Before a regulation is made under subsection (1), the Minister must be of the opinion that the following criteria are met, or can be met or substantially met—

- (a) the level of services would be greater than the level that would otherwise be provided;
- (b) access to public passenger transport would be greater than would otherwise be achieved;

- (c) service innovation would be greater than would otherwise be achieved;
- (d) the particular public passenger services would better meet the Government's social justice objectives at a lower cost to the Government than would otherwise be achieved.

CHAPTER 6—SERVICE CONTRACTS

PART 1—PRELIMINARY

Division 1—Application of service contracts

37 Purpose of service contracts

The purpose of service contracts is to hold operators accountable for minimum performance levels to ensure the communities served under the contracts receive, at a reasonable cost, quality and innovative public passenger services.

38 What are service contracts

(1) A “**service contract**” is a contract between the chief executive for the State and an operator under which the operator is required to provide a public passenger service for an area or route in a way that meets or exceeds performance levels stated in the contract.

(2) If—

- (a) a regulation has been made under section 36 (Market entry restrictions) for a public passenger service; and
- (b) the chief executive has declared, under section 42 (Declaration that service contracts are required), that a service contract is required to provide the service for an area or a route;

a service contract may provide the operator with the exclusive right to operate the public passenger service for the area or route.

38A What are temporary service contracts

(1) A “**temporary service contract**” is a service contract, that despite section 44(1), is for a term less than 2 years.

(2) To remove doubt, it is declared that a contract under section 44(2) for a term less than 2 years is not a temporary service contract.

38B Chief executive may enter into service contracts

(1) The chief executive may, for the State, enter into a service contract.

(2) The chief executive may only enter a temporary service contract if satisfied the contract is necessary to—

- (a) ensure the continuity of a public passenger service; or
- (b) establish a public passenger service.

39 Scope of service contracts

The categories of public passenger service for which service contracts may be required are—

- (a) scheduled passenger services; and
- (b) services for the administration of taxi services; and
- (c) ferry services; and
- (d) long distance scheduled passenger services; and
- (e) another category of public passenger services prescribed by regulation.

40 Service contracts to include minimum service levels

(1) A service contract must state minimum service levels to be complied with by the holder.

(2) Minimum service levels for a particular public passenger service must specify—

- (a) the periods when the public passenger service is to be provided; and
- (b) the nature, frequency and extent of the public passenger service during the periods or particular parts of the periods.

(3) Minimum service levels must have regard to—

- (a) the needs of the community for whose benefit the service is provided; and
- (b) service levels in comparable communities, whether in Queensland, elsewhere in Australia or in a foreign country; and
- (c) the cost of service provision.

41 Other matters to be included in service contracts

(1) A service contract may—

- (a) establish performance outcomes for frequency, regularity, punctuality and accessibility; and
- (b) establish performance outcomes for customer information and service; and
- (c) establish principles for fare setting; and
- (d) establish performance levels for the quality and type of public passenger vehicles; and
- (e) establish criteria for government payments under the contract; and
- (f) require the holder to provide or fund infrastructure associated with providing the public passenger service; and
- (g) require the holder to have or develop a business plan outlining how the performance levels are to be achieved; and
- (h) require the holder to establish a management information system to monitor, record and report periodically on performance; and
- (i) require the holder to provide the chief executive with information the chief executive may require; and
- (j) establish performance outcomes for other aspects of the way the holder provides the public passenger service or carries on business; and
- (k) provide for the payment of compensation by the holder if the holder contravenes a condition of the contract, including, for example, compensation for the cost of providing the service through another holder; and
- (l) include other terms required by the chief executive.

(2) The chief executive—

- (a) is obliged under a service contract to act in a reasonable way to facilitate the contract's operation; and
- (b) has the other obligations stated in the contract.

Division 2—Requirement for service contracts

42 Declaration that service contracts are required

(1) This section applies to a public passenger service to which a regulation under section 36 (Market entry restrictions) applies.

(2) The chief executive may, by public notice, declare that a service contract will be required to provide a public passenger service of a specified kind for a specified area or route.

(3) In the notice given under subsection (2) or another public notice, the chief executive must fix the day on and from which the service contract is required.

42A Other declarations that service contracts are required

A regulation may declare that, on and from a day to be fixed by the chief executive by gazette notice, a service contract will be required to provide a scheduled passenger service that is a ferry service operating in a specified area or on specified route.

43 Obligation to hold service contracts

(1) A person must not provide a public passenger service for an area or route if the area or route is a service contract area or route for public passenger services of that kind unless the person is entitled to provide the public passenger service under—

- (a) a service contract; or
- (b) a written agreement with the holder of a service contract.

Maximum penalty—

- (a) if a holder of a service contract has the exclusive right to operate the public passenger service for the area or route—160 penalty units; or

(b) in any other case—30 penalty units.

(2) A person must not provide a service for which a service contract is required under section 42A unless the person is entitled to provide the service under a service contract.

Maximum penalty—30 penalty units.

Division 3—Administrative provisions

44 Term of service contracts

(1) A service contract is for a term of 5 years.

(2) However, the chief executive may, when entering into a service contract for a service contract area or route that does not provide for the exclusive right to operate a public passenger service for the area or route, enter into the contract for a shorter term to ensure that the contract expires on the same day as all other current service contracts of the same kind for the area or route.

(3) Subsection (1) is also subject to section 47.

45 Conditions of service contracts

A service contract is subject to conditions agreed by the parties.

46 Review of holder's performance

(1A) This section does not apply to a prescribed school service contract or a ferry service contract.

(1) The chief executive may arrange for reviews of a holder's performance under a service contract.

(2) However, each service contract, other than a contract under section 44(2) with a term of less than 2 years or a temporary service contract, must be reviewed as near as practicable to the middle of the term of the contract (a "**midterm review**").

(3) A service contract may also be reviewed at another time if the parties agree.

(4) Each holder under a service contract must, for a midterm review, conduct a market based needs assessment for public passenger services of the relevant type for the contract area or route.

(5) The chief executive may make, and distribute to holders, guidelines to which operators must have regard in conducting assessments under subsection (4).

(6) The chief executive must take into account any relevant research done by the holder.

(7) If, on a review, it is shown that the holder—

- (a) has taken all reasonable steps to fulfil the contract and actively promoted the use of public passenger transport; but
- (b) has not achieved the patronage levels agreed to by the chief executive and the holder;

the chief executive may review the holder's minimum service levels or work with the holder to achieve increased patronage.

(8) If, after a review, the chief executive is of the opinion the holder's performance has been inadequate in a significant respect, the chief executive—

- (a) must notify the holder of the inadequacy; and
- (b) may require the holder to take specified steps to remedy the inadequacy.

(9) If a holder fails to take the required steps to remedy the inadequacy within the time allowed by the chief executive, the chief executive may, by notice to the holder, terminate the service contract.

(10) Compensation is not recoverable from anyone (including the chief executive and the State) for or in relation to the termination of the service contract under subsection (9).

47 Breach of service contracts

(1) The chief executive may, by notice given to a holder, amend, suspend or cancel the holder's service contract if the holder contravenes a condition of the contract.

(2) Before taking action against a holder under subsection (1), the chief executive must give the holder written notice of the intended action, and

allow the holder an opportunity to make written representations about the intended action within 10 working days.

48 Transfer or surrender of service contracts etc.

(1) The holder of a service contract may, with the chief executive's approval—

- (a) transfer to another person all the holder's rights and liabilities in relation to providing future services under the contract; or
- (b) if the contract relates to more than 1 area, route or service, transfer to another person all the holder's rights and liabilities in relation to providing future services under the contract for 1 or more of the areas, routes or services; or
- (c) surrender the contract.

(2) On the transfer of rights and liabilities under subsection (1), for all purposes of this Act—

- (a) the transferee becomes the holder of a new service contract consisting of the transferred rights and liabilities for the remaining period of the original contract; and
- (b) the transferor becomes the holder of a new service contract for the balance of the original rights and liabilities under the contract.

Example—

If an original service contract is for 2 school service routes, and 1 of the routes is transferred under this section, there are now 2 separate contracts for the purposes of an entitlement to a first opportunity to an offer for a new contract under section 62AC.

PART 2—SCHEDULED PASSENGER SERVICES

Division 1—Preliminary

49 Application of part

This part applies only to scheduled passenger services.

50 Commercial and government funded service contracts

(1) Service contracts for scheduled passenger services are classified as commercial service contracts or government funded service contracts.

(2) A “**commercial service contract**” is a service contract under which the holder is remunerated from revenue generated by passengers’ fares.

(3) A “**government funded service contract**” is a contract under which the holder is remunerated—

- (a) entirely from government payments for services provided; or
- (b) partly from revenue generated by fares and partly from government payments for services provided.

(4) Reimbursement for government specified fare concessions is to be treated as remuneration from revenue generated by passengers’ fares.

51 Conditions of funding

(1) If a holder is required under a service contract to provide concessions, the contract must also provide for a scheme under which the holder will be reimbursed for the concessions by government funding.

(2) A service contract may require the holder to provide improved levels of productivity.

(3) A service contract may require the holder to provide a discount for infants, children and school students.

52 Approval of basis for funding or other financial assistance by State

(1) The chief executive may enter into a service contract providing for funding or other financial assistance by the State only if the Minister has approved the basis on which the funding or other financial assistance is to be provided.

(2) In considering whether to give an approval under subsection (1), the Minister must have regard to the principle that funding or other financial assistance by the State for scheduled passenger services should be provided principally for—

- (a) scheduled passenger services that the Government requires to be provided and that would not be provided, or provided at the same

level, without funding or other financial assistance by the State; and

(b) reimbursement for government specified fare concessions.

(3) Each annual report of the department must include—

(a) details of funding or other financial assistance provided by the State to each holder who receives funding or other financial assistance during the year to which the report relates; and

(b) reasons for the funding or other financial assistance.

54 Special condition for commercial service contracts for restricted school services

A commercial service contract may include a condition that the provision of transport of students to particular schools may be provided by another operator over the service contract area or route, or part of the service contract area or route, as a restricted school service for which there will be no government funding.

Division 2—General provisions for service contracts for scheduled service

55 Entering into a service contract for a scheduled passenger service—no existing operators

If—

(a) an area or route is identified under section 42 (Declaration that service contracts are required) for a public passenger service; and

(b) no-one has an entitlement under section 56(1) for the area or route;

the chief executive must, by public notice, invite offers from the public, whether by tender or in another way, for a service contract to provide the public passenger service for the area or route.

56 Entitlement of existing operators

(1) This section applies if—

- (a) the chief executive proposes to enter into a service contract (a “**new contract**”) under section 38B for an area or route declared under section 42; and
- (b) there is an operator (an “**existing operator**”) who already provides a scheduled passenger service of the same kind for part or all of the area or route as the service that is to be provided under the new contract; and
- (c) there is no holder of an existing service contract who must be invited to offer for the contract under section 62(1A).

(2) The existing operator is entitled to the first opportunity, exercised in the way set out in section 57, to offer for the new contract.

(3) This section does not apply to—

- (a) a service contract holder operating under a service contract for the area or route—
 - (i) that states that section 62 does not apply to it; or
 - (ii) if the chief executive has—
 - (A) issued a notice under sections 46(9) or 62A to the holder; or
 - (B) issued a notice to the holder suspending or cancelling the holder’s service contract under section 47(1); or
 - (C) has received notice from the holder that the holder intends to surrender the holder’s service contract; or
- (b) a person providing a service, of the kind that is required to be provided under the service contract, under a written agreement with the holder.

57 Entering into a service contract for a scheduled passenger service

(1) This section applies if an existing operator has an entitlement under section 56 in relation to a new contract.

(2) The chief executive must, by written notice, invite the operator to offer, whether by tender or in another way, for a service contract to provide the public passenger service for the area or route under the new contract.

(3) However, the chief executive must, by public notice, invite offers from the public, whether by tender or in another way, for the service contract if—

- (a) no offer is made to the invitation within 60 days after it is made, or any extended time under subsection (4); or
- (b) the holder makes an offer that the chief executive decides is unacceptable under section 59.

(4) The chief executive may by written notice to the existing operator, within the 60 days, extend that time, once only, by a maximum of 60 days.

(5) Despite subsection (3)(b), if—

- (a) the holder makes an offer within the time allowed under subsection (3)(a); and
- (b) the chief executive considers the offer substantially meets the requirements of an offer that would be acceptable under section 59;

the chief executive may defer inviting public offers to allow an opportunity for a contract to be concluded with the holder.

59 Matters to be considered

(1) The chief executive—

- (a) is not obliged to accept any offer for a service contract; and
- (b) may only accept an offer for a service contract if the chief executive considers the offer to be acceptable for the contract.

(2) In deciding if an offer for a service contract is acceptable, the chief executive must have regard to—

- (a) the needs of the community for whose benefit the service is to be provided; and
- (b) the ability of each offerer to meet the minimum service levels and other standards of performance specified in the offer; and
- (c) the cost of providing the service; and
- (d) the need for sustainability and continuity of services; and
- (e) any matters prescribed under a regulation.

(3) In deciding between 2 or more acceptable offers, the chief executive must select the offer the chief executive considers to be the best having regard to the matters mentioned in subsection (2)(a) to (e).

(4) In this section—

“offer for a service contract”, includes an offer to amend a service contract under section 60(3).

60 Amendments of service contracts

(1) The chief executive may amend the area or route of a service contract if the chief executive is satisfied the amendment is necessary—

- (a) to extend services into developing areas; or
- (b) because of changed traffic conditions or for reasons of public safety; or
- (c) for improvement of services in the public interest.

(2) Before making a decision under this section, the chief executive must—

- (a) give notice of the chief executive’s intended action to—
 - (i) the holder of the service contract; and
 - (ii) any other operator providing a public passenger service of that kind within the proposed amended area or route; and
- (b) allow the holder and any other operator a reasonable opportunity to make written representation to the chief executive, about the intended action—
 - (i) for a prescribed school service contract—within 14 days; or
 - (ii) for another service contract—within 28 days.

(2A) The notice under subsection (2)(a) must be in writing, unless the service contract is a prescribed school service contract.

(3) If, after considering all written representations made within the stated time, the chief executive intends proceeding with the proposed amendment in the way stated in the notice, or in another way having regard to the representations, the chief executive must, by written notice, give the holder the first opportunity to offer to provide the service in the amended area or route.

(4) However, the chief executive must, by public notice, invite offers from the public, whether by tender or in another way, for the service contract if—

- (a) the holder makes no offer—

- (i) for a prescribed school service contract—within 28 days after notice was given under subsection (3); or
 - (ii) for another service contract—within 60 days after notice was given under subsection (3); or
 - (b) the holder makes an offer that the chief executive decides is unacceptable under section 59.
- (5)** Despite subsection (4), if—
- (a) the holder makes an offer within the time allowed under subsection (4); and
 - (b) the chief executive considers the offer substantially meets the requirements of an offer that would be acceptable under section 59;

the chief executive may defer inviting public offers to allow an opportunity for a contract to be concluded with the holder.

61 Compensation

- (1)** This section applies if—
- (a) an existing operator is not awarded a service contract for the area or route, or part of the area or route, for which the operator was providing services; or
 - (b) a decision is made under section 60, and an existing service contract holder—
 - (i) does not offer to provide the service for the amended area or route; or
 - (ii) is not awarded an amendment of the holder's service contract to provide the service for the amended area or route.

(1A) The chief executive may require the holder of the new or amended service contract, as a condition of it, to pay compensation to the existing operator or service contract holder.

(2) If submissions for the new service contract were invited from the public, the chief executive may act under subsection (1A) only if the invitation stated that this section applied to the contract.

(3) The amount of compensation is to be decided by agreement between the holder of the new or amended service contract and the existing operator

or service contract holder or, if there is no agreement, by an arbitrator appointed by the parties.

(4) A regulation may make provision about matters to be considered, or not considered, in deciding the amount of compensation.

(5) The *Commercial Arbitration Act 1990* applies to the arbitration.

62 Offer of new service contract

(1) This section applies if the chief executive—

- (a) decides a service contract holder's performance under a service contract (the "**existing contract**") has been satisfactory; and
- (b) proposes to offer a new service contract for the same kind of service provided under the existing contract, at the end of its term, for the same, or substantially the same, service contract area or route.

(1A) The chief executive must, by written notice, invite the holder to offer, whether by tender or in another way, for the new service contract.

(2) The chief executive may invite offers from the public or someone else only if the holder—

- (a) refuses the invitation; or
- (b) fails to respond to the invitation within a time (of at least 60 days) allowed by the chief executive; or
- (c) fails to make an offer that is acceptable or, despite section 59, is substantially acceptable.

(3) This section does not apply to the holder of a service contract that states that this section does not apply to it or to a prescribed school service contract.

62A Notice to be given

If the chief executive decides, for section 62, a service contract holder's performance under a service contract has not been satisfactory, the chief executive must give the holder written notice of the decision and the reasons for it.

Division 2A—Inviting offers for prescribed school service contracts**62AA Application of div 2A to previous prescribed school service contracts**

A reference in this division to a prescribed school service contract that has been entered into with the chief executive includes a contract entered before the commencement of this division.

62AB Entitlement of an existing operator providing substantially the same service under a transitional provision

(1) This section applies if—

- (a) an operator is providing a school service for an area or route under a transitional authority; and
- (b) the chief executive proposes to enter into a prescribed school service contract for the same, or substantially the same, area or route.

(2) The chief executive must give the operator the first opportunity to offer for the contract by giving the operator a notice under subsection (3).

(3) The notice must invite the operator to make an offer, in a stated way, for the contract within a stated time of not less than 60 days.

(4) In this section—

“**transitional authority**” means a contract, licence, or permit mentioned in section 159, 161 or 162.

62AC Entitlement of satisfactorily performing existing operator under a service contract

(1) This section applies if—

- (a) an operator is providing a school service for an area or route under a prescribed school service contract; and
- (b) the chief executive proposes, at the end of the contract’s term, to enter into a prescribed school service contract for the same, or substantially the same, area or route; and
- (c) no notice has been given to the operator under subsection (4) for the contract.

(2) The chief executive must give the operator the first opportunity to offer for the contract by giving the operator a notice under subsection (3).

(3) The notice must invite the operator to make an offer, in a stated way, for the contract within a stated period of not less than 60 days.

(4) The chief executive may, for this section, decide that a contract holder's performance under the contract has been unsatisfactory and give the holder written notice of the decision and the reasons for it.

(5) This section does not apply to the holder of an existing contract that states that this section does not apply to the contract.

62AD First opportunity to offer may be given to existing operator of school services under a service contract or transitional provision

(1) This section applies if—

- (a) no operator is entitled under section 62AB or 62AC to a first opportunity to offer for the contract; and
- (b) 1 or more operators are providing school services for a school under a service contract or transitional authority; and
- (c) the chief executive proposes to enter into a prescribed school service contract for school services for the school.

(2) The chief executive may give each operator the first opportunity to offer for the contract by giving a notice under subsection (3) to each operator.

(3) The notice must invite the operator to make an offer, in a stated way, for the contract within a stated time of not less than 60 days.

(4) In this section—

“transitional authority” means a contract, licence, or permit mentioned in section 159, 161 or 162.

62AE When public offer must be invited, and when offers may be invited in another way

(1) This section applies if the chief executive proposes to enter into a prescribed school service contract and—

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- (a) no operator is entitled to, or is to be given, the first opportunity to make an offer for the contract under section 62AB, 62AC or 62AD; or
- (b) an operator has been given a notice under section 62AB, 62AC or 62AD inviting the operator to offer for the contract and—
 - (i) the operator fails to make an offer within the time stated in the notice; or
 - (ii) the operator refuses the invitation; or
 - (iii) the operator makes an offer that the chief executive decides is unacceptable under section 59.

(2) The chief executive must, by public notice, invite offers from the public, within a stated reasonable time, for a service contract to provide the service.

(3) However if—

- (a) an operator makes an offer, within the time stated in a notice given under section 62AB, 62AC or 62AD; and
- (b) the chief executive considers the offer substantially meets the requirements of an offer that would be acceptable under section 59;

the chief executive may defer inviting public offers to allow an opportunity for a contract to be concluded with the operator.

(4) The chief executive may invite offers, other than by public notice under subsection (2), in any way the chief executive considers appropriate, but only if the chief executive has already invited offers from the public under subsection (2).

(5) A time allowed to a person, under a notice or otherwise, for making an offer does not prevent the person from making an offer or further offer after that time.

62AF Prohibition on making offers to allow first opportunity

(1) This section applies if the chief executive proposes to enter into a prescribed school service contract and 1 or more operators are entitled to, or are to be given, the first opportunity to make an offer for the contract under section 62AB, 62AC or 62AD.

(2) The chief executive must not invite anyone else to offer for the contract other than under section 62AE(2) or (4).

Division 3—Entering into temporary service contracts to ensure continuity of existing service

62B Temporary service contracts to ensure continuity of service

(1) This section applies if the chief executive intends to enter into a temporary service contract to ensure the continuity of a service provided under an existing service contract.

(2) The chief executive may—

- (a) invite offers from the public or other operators in whatever way the chief executive considers appropriate; and
- (b) decide the period within which offers must be made.

(3) Section 62 does not apply to the temporary service contract unless—

- (a) the temporary service contract provides for the service under the contract to start immediately after the end of the term of the existing service contract; and
- (b) the holder of the temporary service contract was the holder of the existing service contract; and
- (c) section 62 applied to the existing service contract.

PART 3—ADMINISTRATION OF TAXI SERVICES

63 Application of part

This part applies only to the administration of taxi services.

64 Provision of taxi services

A person administers a taxi service if the person carries on a business in the course of which—

- (a) bookings for taxi services are accepted; and

- (b) taxis are assigned to customers;

whether or not the person operates all or some of the taxis used to provide the services.

65 Taxi services to be provided only by taxis

(1) If a person who administers a taxi service receives a request for the services of a taxi, the person must not—

- (a) provide a vehicle that is not a taxi; or
(b) suggest to the person who made the request that the person accept a vehicle that is not a taxi.

Maximum penalty—160 penalty units.

(2) To meet demand during peak patronage periods, the chief executive may exempt a person from subsection (1).

66 Regulation may declare that service contracts are required

A regulation may declare that, on and from a day to be fixed by the chief executive by gazette notice, the administration of taxi services in an area must be performed under a service contract.

67 Amendments of taxi service contracts

(1) The chief executive may amend the conditions of a taxi service contract if the chief executive is satisfied that the amendment is necessary to extend services into developing areas or for improvement of services in the public interest.

(2) Before making a decision under this section, the chief executive must give the holder written notice of the intended action, and allow the holder a reasonable opportunity to make written representations about the intended action within 10 working days.

CHAPTER 7—TAXI SERVICE LICENCES

68 Purpose of taxi service licences

The purpose of taxi service licences is to ensure that the communities served by taxis receive quality and innovative taxi services at a reasonable cost.

69 What are taxi service licences

A “**taxi service licence**” is a licence issued by the chief executive under which the holder is required to provide a taxi service in an area in a way that meets or exceeds specified performance levels.

70 Requirement for taxi service licences

A person must not provide a taxi service using a vehicle unless the person has a taxi service licence to provide the service with the vehicle.

Maximum penalty—160 penalty units.

71 Taxi service areas

(1) This section applies to a taxi service to which a regulation under section 36 (Market entry restrictions) applies.

(2) The chief executive may, by public notice, declare a taxi service area.

(3) The chief executive may, by public notice, fix the number of taxi service licences for a taxi service area.

(4) In fixing the number of taxi service licences for a taxi service area, the chief executive must—

- (a) ensure there are enough taxi service licences for the area to meet public demand; and
- (b) take into account—
 - (i) the views of users of taxi services in the area; and
 - (ii) recent changes in travel patterns in the area; and
 - (iii) the types of taxi services available in the area; and

- (iv) the performance of the existing taxi fleet in the area; and
- (v) the productivity of the fleet.

72 Issue of new taxi service licences

(1) Before the chief executive issues a new taxi service licence for a taxi service area, the chief executive must, by public notice, invite offers to purchase the taxi service licence—

- (a) stating—
 - (i) the intention to issue the licence; and
 - (ii) if licences have been previously issued for the area—the most recent prices for which licences have been transferred; and
- (b) calling for offers for the taxi service licence.

(2) The chief executive is not obliged to accept any offer for a taxi service licence.

73 Term of taxi service licences

(1) A taxi service licence is for a term of 5 years.

(2) It must be renewed for successive terms of 5 years if its conditions are complied with.

(3) However, the renewal of a taxi service licence may be for a shorter term if the applicant asks for a shorter term.

(4) This section does not apply to a taxi service licence issued on a nonrenewable basis.

74 Conditions of taxi service licences

(1) A taxi service licence is subject to the conditions stated in it by the chief executive.

- (2) The conditions of a taxi service licence must—
 - (a) require the operator to use a particular type of vehicle or a vehicle of a type approved for taxis by the chief executive; and
 - (b) specify the taxi service area to which the taxi service licence applies; and

- (c) require the operator not to charge more than the maximum fares published in the gazette under section 74A; and
 - (d) subject to section 74B—
 - (i) state the vehicle to be used under the licence; and
 - (ii) require the operator to display a registration plate on the vehicle distinguishing it as a taxi.
- (3) The conditions of a taxi service licence may—
- (a) require that the operator have access to a continuously operating booking service; and
 - (b) require the operator—
 - (i) to cooperate with the holder of a taxi service contract; and
 - (ii) to comply with all reasonable requests to provide taxi services made by the holder of the contract; and
 - (iii) not to act in a way likely to prevent the holder of the taxi service contract complying with the conditions of the contract; and
 - (c) require the operator to install and maintain stated equipment in taxis; and
 - (d) require that the operator only operate the taxi on a stated day or at stated times; and
 - (e) make other requirements of an operator.

(4) The operator of a taxi service under a taxi service licence must not contravene a condition of the licence.

Maximum penalty for subsection (4)—40 penalty units.

74AA Notice to be kept in taxi

The operator of a taxi service must ensure that a written notice stating the following is kept inside the taxi used to provide the service and is readily available to the driver—

- (a) the area, stated in the taxi service licence for the taxi, in which the taxi may be operated;
- (b) any other restrictions to which the licence is subject.

Maximum penalty—40 penalty units.

74AB Prohibitions on using taxis

(1) The operator of a taxi service must not use a taxi to provide a public passenger service—

- (a) in a taxi service area outside the area stated in the licence for the taxi; or
- (b) in a way that contravenes a restriction to which the licence is subject.

Maximum penalty—40 penalty units.

(2) The driver of a taxi must not use the taxi to provide a public passenger service—

- (a) in a taxi service area outside the area stated in the licence for the taxi; or
- (b) in a way that contravenes a restriction to which the licence is subject.

Maximum penalty—40 penalty units.

(3) However, the driver or operator does not contravene subsection (1)(a) or (2)(a) while the taxi is being used—

- (a) to complete a single passenger journey that started within the taxi area stated in the licence; or
- (b) to provide a public passenger service under a contract with a government entity.

Example of a single passenger journey—

A passenger is picked up in Brisbane and is taken to Southport. The taxi waits for the passenger at Southport and then takes the passenger to Ipswich and waits again before returning the passenger to Brisbane.

(4) In this section—

“government entity” means—

- (a) any State or the Commonwealth; or
- (b) a department, service, agency, authority, commission, corporation, instrumentality, board, office, or other entity, established for a government purpose of any State or the Commonwealth; or
- (c) a part of an entity mentioned in paragraph (b).

74A Maximum taxi fares

(1) The chief executive may, by gazette notice, decide maximum fares for taxis.

(2) However, the chief executive may, by gazette notice, decide that the maximum fares do not apply to a type of taxi stated in the notice if the chief executive is satisfied that under the procedure used to book the type of taxi—

- (a) the hirer has to specifically ask for the type of taxi; and
- (b) the operator and the hirer have to agree on the amount of the fare at the time of booking.

74B Substitute taxi

A regulation may—

- (a) allow a vehicle, other than the vehicle stated in a taxi service licence, to be used under the licence in stated circumstances and on stated conditions; and
- (b) exempt an operator of a taxi service from complying with a condition of the taxi service licence under section 74(2)(d)(ii).

75 Amendment of taxi service licence conditions

(1) A regulation may authorise the chief executive to amend the conditions of a taxi service licence if the chief executive is satisfied the amendment is necessary for improving taxi services in the public interest.

(2) A regulation may also authorise the amendment of taxi service licences in other circumstances and make other provision about amending taxi service licences.

76 Transfer, lease and surrender of taxi service licences

A regulation may make provision about transferring, leasing or surrendering taxi service licences.

77 Transfer of taxi service licences between areas

(1) The chief executive may amend the conditions of a taxi service licence applying to a particular taxi service area so that it applies to another taxi service area if—

- (a) the holder of the licence successfully offers for a transfer to the relevant taxi service area following the calling of offers by public notice; or
- (b) the taxi service areas are amalgamated; or
- (c) the holder of the licence applies for a transfer to the relevant taxi service area.

(2) If, in the chief executive's opinion, the value of taxi service licences in the area to which the licence is to be transferred is greater than in the area from which the licence is transferred, the chief executive may require as a condition of the transfer that the operator pay to the chief executive an amount representing the difference in value.

(3) This section does not limit the power to make regulations about amending taxi service licences.

78 Limitation on number of licences held by single operator and associates

A regulation may make provision about limiting the number of licences held, leased or managed by a single operator (and persons who are, under the regulations, associates of the operator) in a taxi service area.

79 Suspension and cancellation of taxi service licences

(1) A regulation may make provision about suspending and cancelling taxi service licences.

(2) Without limiting subsection (1), a regulation may authorise the chief executive to suspend or cancel a person's taxi service licence if—

- (a) the person contravenes this Act or a condition of the licence; or
- (b) the person holds, leases or manages more than the maximum allowed number of taxi service licences.

(3) Without limiting subsection (1), a regulation may authorise the chief executive to suspend immediately a person's taxi service licence if the chief executive considers it necessary in the public interest.

(4) Without limiting subsection (1), if the operator accreditation of the holder of a taxi service licence is suspended or cancelled—

- (a) for suspension—the licence is suspended while the accreditation is suspended; or
- (b) for cancellation—the licence is suspended until it is transferred to an accredited operator.

80 Taxi subsidy scheme

A regulation may provide a scheme under which the State pays the whole or a part of taxi fares for particular groups.

CHAPTER 8—LIMOUSINE SERVICE LICENCES

81 Purpose of limousine service licences

The purpose of limousine service licences is to ensure that the communities served under the licences receive luxury quality, unscheduled public passenger services.

82 What are limousine service licences

A “**limousine service licence**” is a licence issued by the chief executive under which the holder is required to provide a limousine service in an area in a way that meets or exceeds specified performance levels.

83 Requirement for limousine service licences

A person must not provide a limousine service using a vehicle unless the person has a limousine service licence to provide the service with the vehicle.

Maximum penalty—160 penalty units.

84 Limousine service areas

The chief executive may, by public notice, declare a limousine service area.

85 No limit on number of licences held

There is no limit on the number of limousine service licences a person may hold.

86 Term of limousine service licence

(1) A limousine service licence is for a term of 5 years.

(2) It must be renewed for successive terms of 5 years if its conditions are complied with.

(3) However, the renewal of a limousine service licence may be for a shorter term if the applicant asks for a shorter term.

87 Conditions of limousine service licences

(1) A limousine service licence is subject to the conditions stated in it by the chief executive.

(2) The conditions of a limousine service licence must—

- (a) prohibit the operator from operating a limousine service unless an earlier booking has been made; and
- (b) require the operator to use a luxury motor vehicle; and
- (c) specify the limousine service area to which the limousine service licence applies; and
- (d) subject to section 87A—
 - (i) state the vehicle to be used in the licence; and
 - (ii) require the operator to display a registration plate on the vehicle distinguishing it as a limousine.

(3) The conditions of a limousine licence may—

- (a) restrict the operation of the limousine service to particular occasions, including, for example, weddings; or
- (b) make other requirements of an operator; or

- (c) allow the operator in specified circumstances to ply for hire from and to specified locations.

(4) The operator of a limousine service licence must not contravene a condition of the licence.

Maximum penalty—40 penalty units.

(5) The operator of a limousine service must ensure that a written notice stating the following is kept inside the limousine used to provide the service and is readily available to the driver—

- (a) the area stated in the limousine service licence for the limousine in which the limousine may be operated;
- (b) any other restrictions to which the licence is subject.

Maximum penalty—40 penalty units.

(6) The driver of the limousine must not operate it—

- (a) in a limousine service area in which it is not licensed to operate; or
- (b) in a way that contravenes a restriction to which the licence is subject.

Maximum penalty—40 penalty units.

87A Substitute limousine

A regulation may—

- (a) allow a vehicle, other than the vehicle stated in a limousine service licence, to be used under the licence in stated circumstances and on stated conditions; and
- (b) exempt an operator of a limousine service from complying with a condition of the limousine service licence under section 87(2)(d)(ii).

88 Amendment of limousine service licence conditions

(1) A regulation may authorise the chief executive to amend the conditions of a limousine service licence if the chief executive is satisfied the amendment is necessary for improving limousine services in the public interest.

(2) A regulation may also authorise the amendment of limousine service licences in other circumstances and make other provisions about amending limousine service licences.

89 Transfer, lease and surrender of limousine service licences

A regulation may make provision about transferring, leasing or surrendering limousine service licences.

90 Transfer of limousine service licences between areas

(1) The chief executive may amend the conditions of a limousine service licence applying to a particular limousine service area so that it applies to another limousine service area.

(2) This section does not limit the power to make regulations about amending limousine service licences.

91 Suspension and cancellation of limousine service licences

(1) A regulation may make provision about suspending and cancelling limousine service licences.

(2) Without limiting subsection (1), a regulation may authorise the chief executive to suspend or cancel a person's limousine service licence if the person contravenes this Act or a condition of the licence.

(3) Without limiting subsection (1), a regulation may authorise the chief executive to suspend immediately a person's limousine service licence if the chief executive considers it necessary in the public interest.

(4) Without limiting subsection (1), if the operator accreditation of the holder of a limousine service licence is suspended or cancelled—

- (a) for suspension—the licence is suspended while the accreditation is suspended; or
- (b) for cancellation—the licence is suspended until it is transferred to an accredited operator.

CHAPTER 9—STANDARDS

92 Making of standards

- (1) The chief executive may make standards under this Act.
- (2) A standard is subordinate legislation.
- (3) A standard is not effective until it is approved by the Governor in Council.

93 Notice of proposal to prepare draft standard

- (1) Before making a standard about a matter, the chief executive must give public notice of a proposal to prepare a draft standard about the matter.
- (2) The notice must—
 - (a) invite submissions on the proposal from public authorities, industry, interested groups and persons, and the public; and
 - (b) state where copies of the proposal may be inspected or obtained; and
 - (c) specify a day, not earlier than 14 days from public notice or first public notice of the proposal, by which submissions may be made to the chief executive about the proposal.

94 Preparation of draft standard

In preparing the draft standard, the chief executive must ensure the draft standard—

- (a) sets out its purposes; and
- (b) takes into account national and international benchmarks and best practices.

95 Notice of draft standard

- (1) When the draft standard has been prepared, the chief executive must give public notice of the draft standard.
- (2) The notice must—

- (a) invite submissions on the draft standard from public authorities, interested groups and persons, and the public; and
- (b) state where copies of the draft standard may be inspected or obtained; and
- (c) specify the day, not earlier than 14 days from public notice or first public notice of the draft standard, by which submissions may be made to the chief executive about the draft standard.

96 Preparation of standard

In preparing the standard, the chief executive must have regard to the advice and submissions properly received about the draft standard.

97 Interim standards

(1) If the chief executive is satisfied that, for reasons of urgency, it is necessary or desirable to make a standard on an interim basis, the chief executive may make the standard even though the following sections have not been complied with—

- section 93 (Notice of proposal to prepare draft standard)
- section 94 (Preparation of draft standard)
- section 95 (Notice of draft standard)
- section 96 (Preparation of standard).

(2) The interim standard must include a sunset provision stating the interim standard expires 6 months after its commencement.

98 Regulations prevail over standards

(1) If there is an inconsistency between a regulation and a standard, the regulation prevails to the extent of the inconsistency.

(2) Subsection (1) applies whether the standard was made before or after the regulation.

99 Review of standards

(1) The chief executive must review each standard within 7 years after its approval.

(2) The procedures applying to the preparation and approval of standards under this chapter apply to the review of standards with any necessary changes and any changes prescribed by regulation.

100 Direction to comply with standards

(1) If the chief executive considers a person has not complied, or is not complying, with a provision of a standard, the chief executive may give the person a written direction to comply with the standard.

(2) If the failure to comply relates to a matter mentioned in subsection (3), the direction may be—

- (a) to comply with the provision in relation to all public passenger vehicles at all times within the next 3 years after the notice is given; or
- (b) to immediately stop failing to comply with the provision, and to comply with the provision in relation to all public passenger vehicles at all times within the next 3 years after the notice is given.

(3) The matters are—

- (a) fatigue, or another matter about a driver's fitness to drive or operate a vehicle; or
- (b) the condition of a vehicle; or
- (c) the safe operation of a vehicle, including overloading and the seating or standing of passengers.

(4) If the failure to comply relates to a matter mentioned in subsection (3) or to another matter, the direction may be to comply with the provision at all times within the 3 year period starting on a stated day in relation to—

- (a) all public passenger vehicles; or
- (b) all public passenger services.

(5) The stated day must be at least 5 working days after the day the direction is given.

(6) A direction must state—

- (a) each failure to comply with the direction, without a reasonable excuse, is a separate offence; and

- (b) the maximum penalty for each offence; and
- (c) the direction does not relieve the person from the obligation to comply with another provision of this or another Act.

(7) The person must not contravene the direction unless the person has a reasonable excuse for not complying with it.

Maximum penalty—160 penalty units.

(8) This section does not limit, and is not limited by, another provision of this or another Act.

Example—

Noncompliance with a standard may, under a regulation, be made an offence or a ground for cancellation of driver authorisation or operator accreditation.

101 Standards do not apply to railway managers or operators

Standards do not apply to railway managers or operators.

CHAPTER 10—REVIEW OF AND APPEALS AGAINST DECISIONS

102 Review of and appeals against decisions

(1) A person whose interests are affected by a decision (the “**original decision**”) stated in schedule 2 may ask the chief executive to review the decision.

(2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision of the Act under which the decision is made requires that the person be given a statement of reasons for the decision.

(3) The *Transport Planning and Coordination Act 1994*, part 5, division 2³—

- (a) applies to the review; and

3 *Transport Planning and Coordination Act 1994*, part 5 (Review of and appeals against decisions), division 2 (Review of original decisions)

(b) provides—

- (i) for the procedure for applying for the review and the way it is to be carried out; and
- (ii) that the original decision may be stayed by the person by applying to the court mentioned in subsection (4).

(4) Also, after the chief executive confirms or amends the original decision or substitutes another decision, the person may appeal against the confirmed, amended or substituted decision (the “**reviewed decision**”) to the court stated in schedule 2.

(5) The *Transport Planning and Coordination Act 1994*, part 5, division 3⁴—

(a) applies to the appeal; and

(b) provides—

- (i) for the procedure for the appeal and the way it is to be disposed of; and
- (ii) that the reviewed decision may be stayed by the person by applying to the court mentioned in subsection (3).

CHAPTER 11—ENFORCEMENT

PART 1—AUTHORISED PERSONS

111 Appointment of authorised persons etc.

(1) Every police officer is an authorised person.

(1A) The chief executive may appoint any of the following persons to be an authorised person—

- (a) a public service employee;
- (b) another person prescribed under a regulation.

⁴ *Transport Planning and Coordination Act 1994*, part 5 (Review of and appeals against decisions), division 3 (Appeals against reviewed decisions)

(2) The chief executive may appoint a person as an authorised person only if—

- (a) in the chief executive's opinion, the person has the necessary expertise or experience to be an authorised person; or
- (b) the person has satisfactorily finished training approved by the chief executive.

(3) The chief executive may restrict the powers of an authorised person (other than a police officer) by written notice given to the person.

112 Identity cards

(1) The chief executive must issue an identity card to each authorised person.

(2) The identity card must—

- (a) contain a recent photograph of the authorised person; and
- (b) be signed by the authorised person; and
- (c) identify the person as an authorised person; and
- (d) include an expiry date.

(3) A person who ceases to be an authorised person must, as soon as practicable, return the identity card to the chief executive, unless the person has a reasonable excuse for not returning it.

Maximum penalty—10 penalty units.

(4) This section does not apply to an authorised person who is a police officer.

(5) Nothing in this section prevents the issue of a single identity card to a person for this Act and other Acts.

113 Production or display of authorised person's identity card

(1) This section does not apply to a police officer.

(2) An authorised person may exercise a power in relation to someone else only if—

- (a) the person first produces the person's identity card for the other person's inspection; or

- (b) the authorised person has the person's identity card displayed so that it is clearly visible to the other person.

(3) However, if for any reason it is not practicable to comply with subsection (2) before exercising the power, the authorised person must produce the identity card for the other person's inspection as soon as it is practicable.

114 Powers of authorised persons

- (1) An authorised person has the powers given under this or another Act.
(2) A regulation may limit the powers of authorised persons.

115 Protection from liability

- (1) This section applies to—
(a) an authorised person; and
(b) a person acting under the direction of an authorised person.

(2) A person does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(3) If subsection (2) prevents a civil liability attaching to a person, the liability attaches instead to the State.

PART 2—AUTHORISED PERSONS FOR RAILWAYS

116 Appointment of authorised persons for railways

- (1) Every police officer is an authorised person for every railway.
(2) The chief executive may appoint any of the following to be an authorised person for the railway—
(a) an employee of the railway manager or operator;
(b) a person prescribed under a regulation;

(c) if the chief executive intends to require the authorised person to investigate a matter under the *Transport Infrastructure Act 1994*, section 103(2)⁵ about the railway—

- (i) an employee of the railway manager or operator; or
- (ii) any other person.

(3) The chief executive may appoint a person to be an authorised person for the railway only if—

- (a) the chief executive considers the person has the necessary expertise or experience to be an authorised person; or
- (b) the person has satisfactorily finished training approved by the chief executive.

(4) The chief executive may limit the powers of an authorised person (other than a police officer) by written notice given to the person.

(5) An authorised person may only exercise a power under this Act for the railway for which the person was appointed.

117 Identity cards

(1) This section does not apply to an authorised person for a railway who is a police officer.

(2) A railway manager or operator must give an identity card to each person appointed as an authorised person for the railway under section 116(2)(a) or (b).

(2A) The chief executive must give an identity card to each person appointed as an authorised person for the railway under section 116(2)(c).

(3) The identity card must—

- (a) contain a recent photograph of the person; and
- (b) be signed by the person; and
- (c) identify the person as an authorised person for the railway; and
- (d) state an expiry date.

(4) A person who stops being an authorised person for the railway must return the person's identity card to the chief executive, railway manager or

⁵ *Transport Infrastructure Act 1994*, section 103 (Investigations by authorised person)

operator as soon as practicable (but within 21 days) after the person stops being an authorised person, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

(5) This section does not prevent the giving of a single identity card to the person for this and other Acts.

118 Producing or displaying authorised person’s identity card

(1) This section does not apply to a police officer.

(2) An authorised person for a railway may exercise a power in relation to anyone only if—

- (a) the person first produces the person’s identity card for the other person’s inspection; or
- (b) the authorised person has the person’s identity card displayed so it is clearly visible to the other person.

(3) However, if for any reason it is not practicable to comply with subsection (2) before exercising the power, the authorised person must produce the identity card as soon as it is practicable.

119 Protection from liability

(1) In this section—

“official” means—

- (a) an authorised person for a railway; or
- (b) a person acting under an authorised person’s direction.

(2) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act or the *Transport Infrastructure Act 1994*.

(3) If subsection (2) prevents a civil liability attaching to a person, the liability attaches instead to—

- (a) if the authorised person is employed by a railway manager or operator—the manager or operator; or
- (b) in any other case—the State.

(4) For subsection (3)(a), a person is employed by a railway manager or operator if the person is—

- (a) an employee, agent or contractor of the railway manager or operator; or
- (b) an employee of an agent or contractor mentioned in paragraph (a).

PART 3—POWERS OF AUTHORISED PERSONS IN RELATION TO PLACES AND VEHICLES

120 Entry of place

An authorised person may enter a place if—

- (a) its occupier consents to the entry or the purpose of the entry is to get the occupier's consent; or
- (b) it is a public place and the entry is made when it is open to the public; or
- (c) it is mentioned in an accreditation, authorisation, contract or licence under this Act as a place of business, or another place, required to be open to inspection and the entry is made when the place is—
 - (i) open for the conduct of business or otherwise open for entry; or
 - (ii) required under the accreditation, authorisation, contract or licence to be open for inspection; or
- (d) the entry is authorised by a warrant.

121 Warrants

(1) An authorised person may apply to a magistrate for a warrant for a place.

(2) An application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the authorised person gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

Example—

The magistrate may require additional information supporting the application to be given by statutory declaration.

(4) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the “**evidence**”) that may provide evidence of the commission of an offence against this Act; and
- (b) the evidence is, or may be within the next 7 days, at the place.

(5) The warrant must state—

- (a) that the authorised person may, with necessary and reasonable help and force, enter the place and exercise the authorised person’s powers under this Act; and
- (b) the evidence for which the warrant is issued; and
- (c) the hours of the day when entry may be made; and
- (d) the day (within 14 days after the warrant’s issue) when the warrant ends.

(6) The magistrate must record the reasons for issuing the warrant.

122 Warrants—applications made otherwise than in person

(1) An authorised person may apply for a warrant by phone, fax, radio or another form of communication if the authorised person considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the authorised person’s remote location.

(2) Before applying for the warrant, the authorised person must prepare an application stating the grounds on which the warrant is sought.

(3) The authorised person may apply for the warrant before the application is sworn.

(4) After issuing the warrant, the magistrate must immediately fax a copy to the authorised person if it is reasonably practicable to fax the copy.

(5) If it is not reasonably practicable to fax a copy of the warrant to the authorised person—

- (a) the magistrate must—
 - (i) tell the authorised person what the terms of the warrant are; and
 - (ii) tell the authorised person the date and time the warrant was signed; and
 - (iii) record on the warrant the reasons for issuing the warrant; and
- (b) the authorised person must write on a form of warrant (“**warrant form**”)—
 - (i) the magistrate’s name; and
 - (ii) the date and time the magistrate signed the warrant; and
 - (iii) the warrant’s terms.

(6) The facsimile warrant, or the warrant form properly completed by the authorised person, authorises the entry and the exercise of the other powers authorised by the warrant issued by the magistrate.

(7) The authorised person must, at the first reasonable opportunity, send to the magistrate—

- (a) the sworn application; and
- (b) if a warrant form was completed by the authorised person—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

(9) Unless the contrary is proved, a court must presume that a power exercised by an authorised person was not authorised by a warrant issued under this section if—

- (a) a question arises, in a proceeding before the court, whether the exercise of power was authorised by a warrant; and
- (b) the warrant is not produced in evidence.

123 Entry or boarding of vehicles

(1) An authorised person may enter or board a vehicle if the authorised person has reasonable grounds for suspecting—

- (a) the vehicle is being, or has been, used in the commission of an offence against this Act; or
- (b) the vehicle, or a thing in or on the vehicle, may provide evidence of the commission of an offence against this Act.

(2) If the vehicle is moving or about to move, the authorised person may signal the person in control of the vehicle to stop the vehicle or not to move it.

(3) To enable the vehicle to be entered or boarded, the authorised person may—

- (a) act with necessary and reasonable help and force; and
- (b) require the person in control of the vehicle to give reasonable help to the authorised person.

(4) A person must obey a signal under subsection (2), unless the person has a reasonable excuse for disobeying it.

Maximum penalty—40 penalty units.

(5) A person must comply with a requirement under subsection (3)(b), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

(6) It is a reasonable excuse for a person to disobey a signal under subsection (2) if—

- (a) the person reasonably believes that to obey the signal immediately would have endangered the person, someone else or the vehicle; and
- (b) the person obeys the signal as soon as it is practicable to obey it.

124 General powers in relation to places and vehicles

(1) An authorised person who enters a place, or enters or boards a vehicle, under this chapter may—

- (a) search any part of the place or vehicle; or
- (b) inspect, photograph or film anything in or on the place or vehicle; or
- (c) take samples of or from anything in or on the place or vehicle; or

- (d) take extracts from, or make copies of, a document in or on the place or vehicle; or
- (e) take into or onto the place or vehicle any persons, equipment and materials the authorised person reasonably requires for exercising a power under this Act; or
- (f) require the occupier of the place, or a person in or on the place or vehicle, to give the authorised person reasonable help to exercise the powers mentioned in paragraphs (a) to (e); or
- (g) if the authorised person enters or boards a vehicle—by written notice given to the person in control of the vehicle, require the person—
 - (i) to take the vehicle to a stated reasonable place by a stated reasonable time; and
 - (ii) if necessary, to remain in control of the vehicle at the place for a reasonable time;

to enable an authorised person to exercise the powers mentioned in paragraphs (a) to (e).

(1A) It is unnecessary for an authorised person who may enter or board a vehicle under this chapter, to enter or board the vehicle to make a requirement under subsection (1)(g) of the person in control of the vehicle (the “**driver**”) if the authorised person is physically able to make the requirement of the driver without entering or boarding the vehicle.

(2) A person who is required to give reasonable help under subsection (1)(f) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(3) If the requirement is to be complied with by the person by—

- (a) giving information; or
- (b) producing a document (other than a document required to be kept by the person under this Act);

it is a reasonable excuse for the person to fail to comply with the requirement if complying with the requirement might tend to incriminate the person.

(4) A person who is required by an authorised person under subsection (1)(g) to take action in relation to a vehicle must comply with

the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

(5) If, for any reason, it is not practicable to make a requirement under subsection (1)(g) by written notice, the requirement may be made orally and confirmed by written notice as soon as practicable.

(6) Nothing in this section prevents an authorised person making a further requirement under subsection (1)(g) of the same person or another person in relation to the same vehicle if it is necessary and reasonable to make the further requirement.

(7) An authorised person may not enter a part of a vehicle used only as a living area, or exercise a power under subsection (1)(a) to (e) in relation to that part, unless the authorised person is accompanied by the person in control of the vehicle.

(8) Subsection (7) does not apply if the person in control of the vehicle is unavailable or unwilling to accompany the authorised person or the authorised person is unable for another reason to comply with the subsection.

(9) This section does not apply to an authorised person who enters a place to get the occupier's consent unless the consent is given or the entry is otherwise authorised.

124A Power to require limousines to be moved

(1) This section applies if an authorised person reasonably believes a limousine is plying or standing for hire in a place other than a place where it is authorised under this Act to ply or stand for hire.

(2) The authorised person may require the person in control (the “**controller**”) of the limousine to move the limousine to a place where it may lawfully ply or stand for hire.

(3) When making the requirement, the authorised person must warn the controller it is an offence to fail to move the limousine as required unless the controller has a reasonable excuse.

(4) The controller must comply with the requirement unless the controller has a reasonable excuse.

Maximum penalty—40 penalty units.

(5) This section does not limit any other power the authorised person may exercise in relation to the limousine or its controller under this Act.

125 Power to seize evidence

(1) An authorised person who enters a place under this part with a warrant may seize the evidence for which the warrant was issued.

(2) An authorised person who enters a place under this part with the occupier's consent may seize the particular thing for which the entry was made if the authorised person believes on reasonable grounds the thing is evidence of an offence against this Act.

(3) An authorised person who enters a place under this part with a warrant or with the occupier's consent may also seize another thing if the authorised person believes on reasonable grounds—

- (a) the thing is evidence of an offence against this Act; and
- (b) the seizure is necessary to prevent the thing being—
 - (i) concealed, lost or destroyed; or
 - (ii) used to commit, continue or repeat the offence.

(4) An authorised person who enters a place under this part other than with a warrant or with the occupier's consent, or who enters or boards a vehicle, may seize a thing if the authorised person believes on reasonable grounds—

- (a) the thing is evidence of an offence against this Act; and
- (b) the seizure is necessary to prevent the thing being—
 - (i) concealed, lost or destroyed; or
 - (ii) used to commit, continue or repeat the offence.

126 Procedure after thing seized

(1) As soon as practicable after a thing is seized by an authorised person under this part, the authorised person must give a receipt for it to the person from whom it was seized.

(2) The receipt must describe generally each thing seized and its condition.

(3) If, for any reason, it is not practicable to comply with subsection (1), the authorised person must—

- (a) leave the receipt at the place of seizure; and
- (b) ensure the receipt is left in a reasonably secure way and in a conspicuous position.

(4) The authorised person must return the seized thing to its owner at the end of—

- (a) 6 months; or
- (b) if a prosecution for an offence involving it is started within the 6 months—the prosecution for the offence and any appeal from the prosecution.

(5) Despite subsection (4), the authorised person must return the seized thing to its owner immediately the authorised person stops being satisfied its retention as evidence is necessary.

(6) However, the authorised person may keep the seized thing if the authorised person believes, on reasonable grounds, it is necessary to continue to keep it to prevent its use in committing an offence.

PART 4—OTHER ENFORCEMENT POWERS OF AUTHORISED PERSONS

127 Power to require name and address

(1) An authorised person may require a person to state the person's name and address if the authorised person—

- (a) finds the person committing an offence against this Act; or
- (b) finds the person in circumstances that lead, or has information that leads, the authorised person to suspect, on reasonable grounds the person just committed an offence against this Act.

(2) When making the requirement, the authorised person must warn the person it is an offence to fail to state the person's name and address, unless the person has a reasonable excuse.

(3) The authorised person may require the person to give evidence of the correctness of the person's stated name or address if the authorised person suspects, on reasonable grounds, that the stated name or address is false.

(4) A person must comply with a requirement under subsection (1) or (3), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

(5) The person does not commit an offence against this section if—

- (a) the authorised person required the person to state the person's name and address on suspicion of the person having committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

128 Power to require information from certain persons

(1) This section applies if an authorised person suspects on reasonable grounds—

- (a) an offence against this Act has been committed; and
- (b) the offence relates to the operation, maintenance or repair of a public passenger vehicle; and
- (c) a person may be able to give information about the offence.

(2) The authorised person may require the person to give information about the offence.

(2A) Also, the authorised person may, by written notice, require the person to attend the office of the authorised person at a stated reasonable time to give the information.

(3) When making a requirement under subsection (2) or (2A), the authorised person must warn the person it is an offence to fail to give the information or attend at the time and place stated in the notice unless the person has a reasonable excuse.

(4) The person must comply with a requirement under subsection (2) or (2A), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

(5) It is a reasonable excuse for the person to fail to give information if giving it might tend to incriminate the person.

(6) The person does not commit an offence against this section if the information sought by the authorised person is not in fact relevant to the offence.

129 Power to require production of certain documents

(1) An authorised person may require a person who holds, or claims to hold, an accreditation, authorisation, licence or contract under this Act to produce either or both of the following—

- (a) the accreditation, authorisation, licence or contract;
- (b) photographic identification issued in official form in or outside Australia.

(2) The person must produce the document for inspection, unless the person has a reasonable excuse for not producing it.

Maximum penalty—40 penalty units.

(3) The authorised person may keep a document mentioned in subsection (1)(a) and produced under subsection (2) to take an extract from it or make a copy of it.

(4) The authorised person must return the document to the person as soon as practicable after taking the extract or making the copy.

PART 5—OTHER ENFORCEMENT MATTERS

130 False or misleading information

(1) A person must not—

- (a) state anything to the chief executive, an authorised person, authorised person for a railway or a review panel the person knows is false or misleading in a material particular; or
- (b) omit from a statement made to the chief executive, an authorised person, authorised person for a railway or a review panel anything without which the statement is, to the person's knowledge, misleading in a material particular.

Maximum penalty—60 penalty units.

(2) A complaint against a person for an offence against subsection (1)(a) or (b) is sufficient if it states that the statement made was false or misleading to the person's knowledge.

131 False, misleading or incomplete documents

(1) A person must not give to the chief executive, an authorised person, authorised person for a railway or a review panel a document containing information the person knows is false, misleading or incomplete in a material particular.

Maximum penalty—60 penalty units.

(2) Subsection (1) does not apply to a person who, when giving the document to the chief executive, authorised person, authorised person for a railway or review panel—

- (a) informs the chief executive, authorised person, authorised person for a railway or review panel, to the best of the person's ability, how it is false, misleading or incomplete; and
- (b) gives the correct information to the chief executive, authorised person, authorised person for a railway or review panel if the person has, or can reasonably obtain, the correct information.

(3) A complaint against a person for an offence against subsection (1) is sufficient if it states that the statement made was false, misleading or incomplete to the person's knowledge.

(4) In this section—

“**document**” includes a report under this or another Act.

132 Compensation

(1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under this chapter, including, for example, in complying with a requirement made of the person under this chapter.

(2) Payment of compensation may be claimed and ordered in a proceeding for—

- (a) compensation brought in a court of competent jurisdiction for the recovery of compensation; or

- (b) an offence against this Act brought against the person by whom the claim is made.

(3) A court may order the payment of compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

133 Authorised person to give notice of damage

(1) An authorised person who, in the exercise, or purported exercise, of a power under this chapter, damages anything must immediately give written notice of the particulars of the damage.

(2) The notice must be given to the person who appears to the authorised person to be the owner of the thing.

(3) If, for any reason, it is not practicable to comply with subsection (2), the authorised person must—

- (a) leave the notice at the place where the damage happened; and
- (b) ensure the notice is left in a reasonably secure way and in a conspicuous position.

(4) In this section—

“owner” of a thing includes the person in possession or control of the thing.

134 Consent to entry by an authorised person

(1) This section applies if the authorised person intends to seek the consent of an occupier of a place to an authorised person entering the place under this chapter.

(2) Before seeking the consent, the authorised person must inform the occupier—

- (a) of the purpose of the entry; and
- (b) that anything found and seized may be used in evidence in court; and
- (c) that the occupier is not required to consent.

(3) If the consent is given, the authorised person may ask the occupier to sign an acknowledgment of the consent.

(4) The acknowledgment must—

(a) state the occupier was informed—

(i) of the purpose of the entry; and

(ii) that anything found and seized may be used in evidence in court; and

(iii) that the occupier was not required to consent; and

(b) state the occupier gave the authorised person consent under this chapter to enter the place and exercise powers under this chapter.

(5) If the occupier signs an acknowledgment of consent, the authorised person must immediately give a copy to the occupier.

135 Obstructing authorised person or authorised person for a railway

(1) A person must not obstruct an authorised person or an authorised person for a railway (an “**official**”) in the exercise of a power under this or another Act, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

(2) If a person has obstructed an official under subsection (1) and the official decides to exercise the power, the official must, if practicable, warn the person—

(a) that the official considers the person’s conduct is obstructing the official; and

(b) that it is an offence to obstruct the official, unless the person has a reasonable excuse.

136 Impersonating authorised person or authorised person for a railway

A person must not pretend to be an authorised person or an authorised person for a railway.

Maximum penalty—80 penalty units.

136 Impersonation of authorised person

A person must not pretend to be an authorised person.

Maximum penalty—80 penalty units.

PART 6—POWERS OF AUTHORISED PERSONS FOR RAILWAYS

137 Power to require name and address etc.

(1) An authorised person for a railway may require a person to state the person's name and address if the authorised person—

- (a) finds the person committing an offence (a “**relevant offence**”) against this Act or the *Transport Infrastructure Act 1994*, chapter 6;⁶ or
- (b) finds the person in circumstances that lead, or has information that leads, the authorised person to reasonably suspect the person has just committed a relevant offence.

(2) The authorised person may also require the person to state the person's age if the authorised person reasonably suspects the person's age is required for the enforcement of this Act or the *Transport Infrastructure Act 1994*, chapter 6.

(3) When making the requirement, the authorised person must warn the person that it is an offence to fail to state the person's name and address and, if relevant, age unless the person has a reasonable excuse.

(4) The authorised person may require the person to give evidence of the correctness of the person's stated name, address or age if the authorised person reasonably suspects the stated name, address or age is false.

(5) A person must comply with the authorised person's requirement under subsection (1), (2) or (4), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

(6) A person does not commit an offence against this section if—

- (a) the person was required to state the person's name and address by an authorised person who suspected the person had committed a relevant offence; and
- (b) the person is not proved to have committed the offence.

6 *Transport Infrastructure Act 1994*, chapter 6 (Rail transport infrastructure)

138 Power to require information from certain persons

(1) This section applies if an authorised person for a railway reasonably suspects—

- (a) an offence against this Act has just been committed; and
- (b) the offence relates to the construction, operation or maintenance of a railway; and
- (c) a person may be able to give information about the offence.

(2) The authorised person may require the person to give information about the offence.

(3) When making the requirement, the authorised person must warn the person it is an offence to fail to give the information, unless the person has a reasonable excuse.

(4) The person must give the information, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(5) It is a reasonable excuse for an individual to fail to give information if giving it might tend to incriminate the individual.

(6) The person does not commit an offence against this section if the information sought by the authorised person is not in fact relevant to the offence.

139 Power to require production of tickets

(1) An authorised person for a railway may require anyone who is travelling by rail to produce to the authorised person the person's ticket for the journey.

(2) If an authorised person reasonably suspects a person who is at a railway station has just travelled by rail, the person may require the person to produce to the authorised person the person's ticket for the journey.

(3) If an authorised person reasonably suspects a ticket produced to the authorised person is an invalid ticket, the authorised person may require the person to give it to the authorised person.

(4) The person must comply with a requirement under subsection (1) to (3), unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(5) A person does not commit an offence against subsection (4) because of subsection (1) if, immediately before the person started the journey, the railway station where the person started the journey—

- (a) was not open for business; and
- (b) was not equipped with an automatic ticket machine that was able to dispense tickets at the time.

140 Power to require person to leave train etc.

(1) An authorised person for a railway may direct a person to leave a railway, or a train or other passenger vehicle being operated by a railway manager or operator, if—

- (a) the authorised person finds the person committing an offence against section 141, 142 or 143, or the *Transport Infrastructure Act 1994*, section 144 or 146;⁷ and
- (b) the authorised person reasonably believes the person may continue to commit or immediately repeat the offence.

(2) However, the authorised person may not give the direction if obeying the direction could put the person's safety at risk.

(3) The person must obey the direction, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(4) If the person does not obey the direction, the authorised person may use force that is reasonable to get the person to leave.

⁷ *Transport Infrastructure Act 1994*, section 144 (Interfering with railway) or 146 (Trespassing on railway)

PART 7—RAILWAY OFFENCES

141 Creating disturbance on trains etc.

A person must not create a disturbance or create a nuisance while on a railway, or a train or other passenger vehicle being operated by a railway manager or operator, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

142 Travelling without paying fare etc.

(1) A person must not, without reasonable excuse, travel by railway unless—

- (a) before starting the journey, the person—
 - (i) had paid the correct fare and obtained a ticket for the journey; or
 - (ii) if the correct fare could not be paid—had obtained a ticket for the journey from an automatic ticket machine and the cost of the ticket was more than the correct fare, or was less than the correct fare but as close as possible as could be obtained from the machine; or
- (b) the person already had a ticket that authorised the person to travel on the journey.

Maximum penalty—20 penalty units.

(2) A person does not commit an offence against subsection (1) if, immediately before the person started on the journey, the railway station at which the person started the journey—

- (a) was not open for business; and
- (b) was not equipped with an automatic ticket machine that was capable of dispensing tickets.

(3) If—

- (a) a person obtains a ticket from an automatic ticket machine before starting a journey by railway; and
- (b) the cost of the ticket is less than the correct fare for the journey;

the person must, at or before the end of the journey, pay the difference to the railway operator, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(4) If—

- (a) a person cannot comply with subsection (1)(a) before starting a journey by railway because of circumstances mentioned in subsection (2); and
- (b) the person did not already have a ticket that authorised the person to travel on the journey;

the person must, at or before the end of the journey, pay the correct fare for the journey to the railway operator, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(5) A person does not commit an offence against subsection (3) or (4) for a journey if—

- (a) the person was not required by an authorised person for a railway to produce the person's ticket for the journey before the person left the railway station where the journey ended; and
- (b) that railway station was not open for business when the journey ended.

(6) However, if at or before the end of the journey mentioned in subsection (3) or (4), the person is required by an authorised person for a railway to produce the person's ticket, the person must immediately offer to pay the fare payable for the journey.

Maximum penalty—20 penalty units.

(7) A person must not, without reasonable excuse, travel by another transportation system provided by a railway manager or operator unless, before starting the journey, the person—

- (a) had paid the correct fare and obtained a ticket for the journey; or
- (b) the person already had a ticket that authorised the person to travel on the journey.

Maximum penalty—20 penalty units.

143 Travelling on invalid tickets

A person must not travel, or attempt to travel—

- (a) by railway or by another transportation system provided by a railway manager or operator using an invalid ticket, unless the person has a reasonable excuse; or
- (b) by railway in a railway carriage of a higher class to the class shown on the person's ticket for the journey, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

143A Evidence of concession entitlement

(1) A person who buys a concession ticket must carry evidence of the person's entitlement to the concession when—

- (a) buying the ticket; or
- (b) travelling on the journey for which the ticket is issued.

(2) An authorised person for a railway may require someone who has bought a concession ticket to produce evidence of the person's entitlement to the concession.

(3) A person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

CHAPTER 11A—FARE EVASION AND OTHER MISCONDUCT ON VEHICLES OTHER THAN TRAINS

143AB Application of ch 11A

This chapter applies to public passenger vehicles other than trains.

143AC Definitions for ch 11A

In this chapter—

“**driver**”, of a vehicle, includes a conductor on or near the vehicle who is operating in relation to the vehicle.

“**fare**”, for a taxi, includes a charge a taxi driver may charge under a regulation for cleaning a taxi soiled by the passenger.

“**over-travel**”, a fare, means remain on the vehicle after the place, distance or time covered by the fare has been reached.

143AD Fare evasion and obtaining hire of vehicle by fraud etc.

(1) A passenger on a public passenger vehicle must not evade or attempt to evade part or all of the lawful fare for the vehicle’s use or hire.

Maximum penalty—40 penalty units or 6 months imprisonment.

(2) A person must not obtain or attempt to obtain the use or hire of a public passenger vehicle by fraud or misrepresentation.

Maximum penalty—40 penalty units or 6 months imprisonment.

143AE Vehicle and equipment not to be interfered with

(1) A person must not wilfully and unlawfully interfere with a public passenger vehicle.

Maximum penalty—40 penalty units or 6 months imprisonment.

(2) In this section—

“**interfere with**” means damage, deface or otherwise improperly interfere.

“**vehicle**” includes the vehicle’s equipment.

143AF Creating disturbance or nuisance on vehicle

A person must not create a disturbance or nuisance while on a public passenger vehicle, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units or 6 months imprisonment.

143AG Direction to leave, or not to enter, vehicle

(1) This section applies if the driver of a public passenger vehicle or an authorised person believes, on reasonable grounds that a person who is on, or about to enter, a public passenger vehicle—

- (a) is causing, or is likely to cause, a nuisance or annoyance to the driver or passengers on the vehicle; or
- (b) is causing, or is likely to cause, a danger to the person or others; or
- (c) is contravening, or has just contravened, section 143AE in relation to the vehicle; or
- (d) has evaded or attempted to evade payment of the required fare for using or hiring the vehicle.

(2) The driver or an authorised person may direct the person to leave, or not to enter, the vehicle.

143AH Direction to leave vehicle

(1) If a person on a public passenger vehicle has paid a fare for travel on the vehicle but over-travels the fare paid, the driver or an authorised person may direct the person to leave the vehicle.

(2) If a person is on a public passenger vehicle that is hired by someone else, without the hirer's permission, the driver or an authorised person may direct the person to leave the vehicle.

(3) If—

- (a) a person is about to enter, or has just entered, a public passenger vehicle, or a compartment of a public passenger vehicle, that appears already to have its full complement of passengers; and
- (b) the driver or an authorised person tells the person, in a general way, that the vehicle or compartment is full and that the person can not board the vehicle or compartment or remain on the vehicle or in the compartment; and
- (c) the person fails to leave the vehicle or compartment;

the driver or an authorised person may direct the person to leave the vehicle or compartment.

143AI Direction not to be given in particular circumstances

A driver or authorised person must not give a direction under this part—

- (a) if complying with the direction is likely to endanger the safety of a person; or

- (b) if the direction is given to a school child and is inconsistent with a code of conduct prescribed under a regulation.

Maximum penalty—5 penalty units.

143AJ Person given direction to be told particular things

The person giving a direction under this part must tell, in a general way, the person to whom the direction is given—

- (a) the reason that the person has been directed to leave the vehicle; and
- (b) that it is an offence to fail to comply with the direction, unless the person has a reasonable excuse.

Example of paragraph (a)—

The reason is that you are being a nuisance to other passengers.

143AK Offence to contravene direction

A person must not contravene a direction given to the person under section 143AG or 143AH, unless the person has a reasonable excuse.

Maximum penalty—5 penalty units.

CHAPTER 12—MISCELLANEOUS

143B Approval of basis for funding for transport function

(1) The chief executive may enter into an agreement providing for help from the State for a transport function only if the Minister has approved the basis on which the help is to be provided.

(2) In considering whether to give an approval under subsection (1), the Minister must have regard to the principle that help from the State for a transport function should be provided principally for—

- (a) public passenger services that the government requires to be provided and that would not be provided, or provided at the same level, without help from the State; or

- (b) facilities for public passenger services that the government requires to be provided and that would not be provided, or provided at the same level, without help from the State; or
 - (c) vehicles that the government requires to be used on public passenger services and that would not be provided, or provided at the same level, without help from the State.
- (3) Each annual report of the department must include—
- (a) details of help provided by the State to a person who receives help during the year to which the report relates; and
 - (b) reasons for the help.
- (4) In this section—

“**help**” includes funding and financial or other assistance.

“**transport function**” means a function under this Act or that is necessary or incidental to achieving the objectives of this Act but does not include—

- (a) funding or other financial assistance under section 52;⁸ or
- (b) arrangements under section 144; or
- (c) financial arrangements under sections 172C to 172F.⁹

144 Transport arrangements for pupils

(1) The chief executive may make arrangements for the transport of pupils to and from schools or other educational establishments.

(2) Without limiting the scope of arrangements, arrangements may include—

- (a) arrangements for transporting pupils with or without charge between their homes and their educational establishments; and
- (b) arrangements for paying all or part of pupils’ reasonable travel expenses.

⁸ Section 52 (Approval of basis for funding or other financial assistance by State)

⁹ Sections 172C to 172E expired 30 November 2001. Section 172F expired 7 November 1999.

145 Impact of certain decisions by local governments on public passenger transport

(1) A local government must obtain the chief executive's written approval if it intends to—

- (a) approve a subdivision, rezoning or development of land; or
- (b) carry out road works on a local government road or make changes to the management of a local government road;

and the approval or the works or changes would have a significant adverse impact on the provision of public passenger transport.

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

(3) An approval by the chief executive under subsection (1) may be subject to conditions consistent with the *Integrated Planning Act 1997*, including, for example, a condition that—

- (a) consideration, whether monetary or otherwise, be given to compensate the chief executive in taking action to rectify the impact the subdivision, rezoning, development, road works or changes will have; or
- (b) action be taken to rectify the impact 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 consistent with the *Integrated Planning Act 1997*, including, for example, a condition that—

- (a) consideration, whether monetary or otherwise, be given to compensate the chief executive in taking action to rectify the impact the subdivision, rezoning, development, road works or changes will have; or
- (b) action be taken to rectify the impact the subdivision, rezoning, development, road works or changes will have.

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

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

(8) An application for approval by the chief executive under subsection (1) must be dealt with—

- (a) within 21 days after it is received; or
- (b) within a longer period notified to the local government by the chief executive within the 21 day period.

(9) 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 it;

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

146 Effect of decisions of Planning and Environment Court

(1) If—

- (a) an approval under section 145(1) 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
- (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 145(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 145; 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.

147 Demand management

The Minister may authorise a local government to carry out, under a local law, demand management measures to encourage the use of public passenger transport.

148 Inquiries about person's suitability to hold accreditation or authorisation

(1) The chief executive may make inquiries about a person to help in deciding whether—

- (a) the person is a suitable person to hold, or continue to hold, operator accreditation or driver authorisation; or
- (b) the person or another person of whom the person is a partner is a suitable person to hold, or continue to hold, operator accreditation; or
- (c) a corporation of which the person is an executive officer is a suitable person to hold, or continue to hold, operator accreditation.

(2) If asked by the chief executive, the commissioner of the police service must give the chief executive a written report about the person's criminal history.

(3) Subsection (2) applies to the criminal history in the commissioner's possession or to which the commissioner has access.

149 Offences of dishonesty

(1) A person must not obtain an accreditation, authorisation, contract or licence under this Act by intentionally or recklessly making a false representation.

Maximum penalty—60 penalty units.

(2) A person must not forge an accreditation, authorisation, contract or licence under this Act.

Maximum penalty—60 penalty units.

(3) A person must not intentionally or recklessly obtain, or help someone else obtain, a financial benefit under this Act to which the person is not entitled.

Maximum penalty—60 penalty units.

(4) A person must not—

- (a) use an accreditation, authorisation, contract or licence under this Act fraudulently; or
- (b) permit the fraudulent use by someone else of an accreditation, authorisation, contract or licence under this Act.

Maximum penalty—60 penalty units.

150 Records and evidence from records

(1) The chief executive must keep records of the grant, refusal to grant, amendment, suspension and cancellation of accreditations, authorisations, contracts and licences under this Act.

(2) A certificate apparently signed by a delegate of the chief executive and stating any of the following matters is evidence of the matter—

- (a) that a person mentioned in the certificate held or did not hold an accreditation, authorisation, contract or licence of a stated kind on a day or throughout a period mentioned in the certificate;
- (b) the conditions of an accreditation, authorisation, contract or licence held by a named person under this Act on a day or throughout a period mentioned in the certificate;
- (c) that a person did not give a stated notice to the chief executive.

151 Proceedings for offences

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

(2) A proceeding for an offence must start—

- (a) within 1 year after the offence is committed; or
- (b) within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

152 No need to prove appointments

In a proceeding for an offence against this Act, there is no need to prove the appointment of an authorised person for a railway.

153 Prosecutions for railway offences

(1) This section applies to an offence against this Act committed by a person while the person was travelling by rail.

(2) A complaint for the offence may be heard at a place appointed for holding Magistrates Courts within any of the districts through which the person travelled on the rail journey.

(3) This section has effect despite, but does not limit, the *Justices Act 1886*, section 139.¹⁰

154 Attempt to commit offence

(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).

154A Direction to pay operator the penalty recovered for fare evasion etc.

(1) This section applies to an offence or alleged offence under this Act in relation to a fare, ticket or ticket concession for a public passenger service.

(2) The court may direct that part or all of a fine or penalty recovered for an offence to which this section applies be paid to a stated person aggrieved by the commission of the offence.

(3) The chief executive may direct that part or all of the penalties paid under infringement notices for alleged offences to which this section applies be paid to the operator providing the public passenger service.

(4) While the direction under subsection (3) remains in force, penalties recovered under the infringement notices are to be paid in accordance with the direction.

¹⁰ *Justices Act 1886*, section 139 (Where summary cases to be heard)

155 Regulations

(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made prescribing offences for a contravention of a regulation and fixing a maximum penalty of not more than 80 penalty units for the contravention.

(3) A regulation may—

- (a) prescribe fees and charges payable for the issue of instruments or doing other things under this Act; or
- (b) make provision about the safety of public passenger services and issues affecting the safety of the services; or
- (c) relate to fares charged for the use of public passenger services; or
- (d) make provision about the rights and obligations of passengers and drivers of public passenger vehicles; or
- (e) specify the requirements for operator accreditation or driver authorisation; or
- (f) provide for the funding or operation of public passenger services and issues affecting the services; or
- (g) specify requirements for public passenger vehicles or for equipment for public passenger vehicles; or
- (h) require the collection, maintenance, retention or production of records.

CHAPTER 13—TRANSITIONAL PROVISIONS**PART 1—SAVINGS AND TRANSITIONAL*****172C Financial arrangements for operator without service contract***

(1) *This section applies to an operator who—*

- (a) *has received payments under section 172A or 172B for a service;*
and

- (b) *has not entered into a service contract, other than a temporary service contract, for the service before 2 December 1996; and*
- (c) *continues to hold a licence or permit mentioned in section 159 or a contract or temporary service contract mentioned in section 160.*

(2) *The Minister is to pay the operator for the service—*

- (a) *the amount the operator would receive under section 52(2)(b),¹¹ were the service performed under a service contract; and*
- (b) *an additional amount decided by the Minister.*

(3) *However, for the first year of payment starting from 1 December 1996, the Minister must pay the operator a payment equal to the payment that the operator received under section 172A or 172B for the year ending on 30 November 1996.*

(4) *The payment under subsection (2)(b) in following years must—*

- (a) *not be more than the amount paid under subsection (2)(b) for the first year; and*
- (b) *reduce to zero by 30 November 2001.*

(5) *Despite subsection (3), if the Minister is not satisfied the operator has maintained at least the level of service that existed at 30 November 1996, the Minister may reduce the payments under subsection (2)(b) as the Minister considers appropriate.*

(6) *This section expires on 30 November 2001.*

172D Financial arrangements for operators with service contracts entered into between commencement and 1 December 1996

(1) *This section applies to an operator who—*

- (a) *has received payments under section 172A or 172B for a service; and*
- (b) *enters into a service contract, other than a temporary service contract, between the commencement and 1 December 1996.*

¹¹ Section 52 (Approval of basis for funding or other financial assistance by State)

(2) *In addition to the amount the operator has the right to receive under the service contract under section 52(2)(b), the Minister is to pay the operator for the service an amount decided by the Minister.*

(3) *However, for the first year of payment starting from the beginning of the contract, the amount decided by the Minister must be the amount, that when added with the amount payable to the operator under section 52(2)(b) for the year, is equal to the payment that the operator received under section 172A or 172B for the year before entering into the service contract.*

(4) *The payment under subsection (2) for the subsequent 4 years must—*

- (a) *not be more than the amount paid under subsection (2) for the first year; and*
- (b) *reduce to zero over that time.*

(5) *This section expires on 30 November 2001.*

172E Financial arrangements for operators with service contracts entered into on or after 2 December 1996

(1) *This section applies to an operator who—*

- (a) *has received payments under section 172C for a service; and*
- (b) *enters into a service contract on or after 2 December 1996.*

(2) *The Minister is to continue paying the operator in the way stated in section 172C(2) to (4) (the “provisions”) as if—*

- (a) *the service contract had been entered into on 1 December 1996; and*
- (b) *the operator had the right to the payments under the provisions.*

(3) *This section expires on 30 November 2001.¹²*

12 These provisions have expired and are included in this reprint for informational purposes only. They will be omitted in the next reprint.

PART 2—TRANSITION OF REFERENCES IN ACTS

174 Application of part

This part applies to references in Acts enacted before its commencement.

175 Urban Passenger Service Proprietors Assistance Act 1975 references

A reference to the *Urban Passenger Service Proprietors Assistance Act 1975* is taken to be a reference to this Act.

176 Urban Public Passenger Transport Act 1984 references

A reference to the *Urban Public Passenger Transport Act 1984* is taken to be a reference to this Act.

177 State Transport Act 1960 references etc.

(1) A reference (whether express or implied) to a provision of the *State Transport Act 1960* repealed by this Act is taken to be a reference to this Act.

(2) A reference to a licence to hire-taxi-meter cab or a licence to hire-exempted cab under the *State Transport Act 1960* is taken to be a reference to a taxi service licence under this Act.

(3) A reference to a licence to hire-private hire car under the *State Transport Act 1960* is taken to be a reference to a limousine service licence.

SCHEDULE 1**DISQUALIFYING OFFENCES—PROVISIONS OF THE
CRIMINAL CODE**

dictionary, def “disqualifying offence”

PART 1—EXISTING PROVISIONS

1. Chapter 9 (Unlawful assemblies—breaches of the peace)
2. Chapter 16 (Offences relating to the administration of justice)
3. Chapter 20 (Miscellaneous offences against public authority)
4. Chapter 22 (Offences against morality)
5. Chapter 26 (Assaults and violence to the person generally—justification and excuse)
6. Chapter 27 (Duties relating to the preservation of human life)
7. Chapter 28 (Homicide—Suicide—Concealment of birth)
8. Chapter 29 (Offences endangering life or health)
9. Chapter 30 (Assaults)
10. Chapter 32 (Assaults on females—abduction)
11. Chapter 33 (Offences against liberty)
- 11A. Section 359E (Punishment of unlawful stalking)
12. Section 363 (Child-stealing)
13. Chapter 36 (Stealing)
14. Chapter 37 (Offences analogous to stealing)
15. Chapter 38 (Stealing with violence—extortion by threats)
16. Chapter 39 (Burglary—Housebreaking—And like offences)
17. Chapter 40 (Other fraudulent practices)
18. Chapter 41 (Receiving property stolen or fraudulently obtained and like offences)

SCHEDULE 1 (continued)

19. Chapter 42 (Frauds by trustees and officers of companies and corporations—false accounting)
20. Chapter 42A (Secret commissions)
21. Chapter 46 (Offences)
22. Chapter 49 (Punishment of forgery and like offences)
23. Chapter 52 (Personation)
24. Chapter 56 (Conspiracy)

**PART 2—PROVISIONS REPEALED BY CRIMINAL
LAW AMENDMENT ACT 1997**

1. Section 343A (Assaults occasioning bodily harm)
2. Section 344 (Aggravated assaults)

SCHEDULE 2**REVIEWABLE DECISIONS**

section 102

Section	Description of decision	Court
17	Refusal to grant or renew operator accreditation	Magistrates
20	Amendment, suspension or cancellation of operator accreditation	Magistrates
29	Refusal to grant or renew driver authorisation	Magistrates
32	Amendment, suspension or cancellation of driver authorisation	Magistrates
46(8)	Requirement to take steps to remedy service inadequacies	District or Magistrates
46(9)	Termination of service contract for failure to remedy service inadequacies	District or Magistrates
47(1)	Amendment, suspension or cancellation of a service contract for contravention of a condition of the service contract	District or Magistrates
62AC(4)	Contract holder's performance has been unsatisfactory	Magistrates
75(1)	Amendment of the conditions of a taxi service licence	Magistrates
77(2)	Requirement to pay amount as condition of transfer of taxi service licence between areas	District or Magistrates
79	Suspension or cancellation of a taxi service licence	District or Magistrates

SCHEDULE 2 (continued)

Section	Description of decision	Court
88(1)	Amendment of conditions of a limousine service licence	Magistrates
91	Suspension or cancellation of a limousine service licence	District or Magistrates
145(1)	Refusal to approve subdivision, rezoning, development, road works or changes to management of road	Planning and Environment
145(3)	Imposition of conditions	Planning and Environment
172C(5)	Reduction of payment	District or Magistrates

If this schedule indicates that an appeal may be made to a District Court or a Magistrates Court, the appeal is to be to a District Court if the amount involved is more than \$40 000 and to a Magistrates Court in any other case.

SCHEDULE 3**DICTIONARY**

section 3

“accommodation house” means a place providing lodging or food and lodging to the public.

“accommodation transfer service” means a public passenger service—

- (a) that—
 - (i) is provided for travellers arriving in or departing from an area; and
 - (ii) operates between an airport, ferry terminal, intercity bus terminal or railway terminal and an accommodation house in the area; and
- (b) that requires journeys on the service to be pre-booked and travel documentation for them to be issued before the travellers arrive in the area.

“accredited operator” means a person who holds an operator accreditation or provisional operator accreditation.

“air service” means a scheduled passenger service provided by aircraft between airports in the State.

“authorised driver” means a person who holds a driver authorisation or a provisional driver accreditation.

“authorised person” means—

- (a) for an authorised person for a railway—a person who holds an appointment under this Act as an authorised person for the railway; or
- (b) a person who holds an appointment under this Act as an authorised person.

“bus” means a motor vehicle with seating capacity for 9 or more passengers (excluding the driver).

SCHEDULE 3 (continued)

“charter bus service” means a public passenger service involving the charter of a bus and driver for prearranged journeys and for pre-agreed amounts if—

- (a) neither the operator nor the driver receive individual fares; and
- (b) each journey has a common origin or destination or both; and
- (c) the charterer has the right to decide the route and time of travel.

“commercial service contract” see section 50(2).

“community transport service” means a public passenger service funded or subsidised out of public money or by a charity and provided for the benefit of a particular group.

“conviction” includes a finding of guilt, and the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

“courtesy transport service” means a public passenger service provided, free of charge, by an entity using a vehicle owned or leased by the entity for customers, clients or students of the entity.

“criminal history” of a person means the person’s criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, and—

- (a) despite section 6¹³ of that Act, includes a conviction of the person to which the section applies; and
- (b) despite section 5¹⁴ of that Act, includes a charge made against the person for an offence.

“demand management measures” includes pricing of parking, other demand management pricing, bus priority and high vehicle occupancy measures.

Example of high vehicle occupancy measures—

Dedicated transit lanes.

“demand responsive service” includes a service that is—

13 *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6 (Non-disclosure of convictions upon expiration of rehabilitation period)

14 *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 5 (Matter excluded from criminal history)

SCHEDULE 3 (continued)

- (a) held out as being able to respond to requests for service immediately or within a period of time appropriate to a taxi or within a similar period; or
- (b) held out as being a service providing taxis or a service similar to a service providing taxis; or
- (c) conducted in a way that may reasonably be expected to give prospective customers or the public the impression that the service is, or operates in a way similar to, a service providing taxis.

“disqualifying offence” means—

- (a) an offence against a provision of the Criminal Code mentioned in schedule 1; or
- (b) an offence against the *Drugs Misuse Act 1986* punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative; or
- (c) an offence against the *Weapons Act 1990* punishable by imprisonment for 1 year or more, even though a fine may be imposed in addition or as an alternative; or
- (d) an offence prescribed by regulation; or
- (e) an offence committed outside Queensland that would be a disqualifying offence if committed in Queensland.

“driver” means the driver of a public passenger vehicle.

“driver authorisation” see section 24.

“driver service” includes a service of actually providing a vehicle, on hire or otherwise, if a driver for the vehicle is offered or available by, through or on behalf of the operator.

“eligible school children” means children whose travel to and from school or another educational establishment is the subject of an arrangement under section 144.

“established route”, for a scheduled passenger service, includes reasonable deviations from the route that do not substantially affect the service’s regular timetable.

“excluded public passenger service” means any of the following—

SCHEDULE 3 (continued)

- (a) a community transport service;
- (b) a courtesy transport service;
- (c) a limousine service;
- (d) an unscheduled long distance passenger service.

“executive officer” of a corporation means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director or the person’s position is given the name of executive officer.

“ferry” includes ship, boat and hovercraft.

“ferry service” means a public passenger service provided by a ferry on or over water, and includes a service provided by water taxi.

“free of charge”, for a courtesy transport service, includes without any of the following—

- (a) any payment or other consideration for the service;
- (b) requiring or asking for a levy, donation or other monetary contribution for the service, for example, the purchase of a ticket in a raffle;
- (c) displaying a receptacle, whether on the vehicle used to provide the service or elsewhere, in such a way as to suggest that a donation is expected or required to travel on the vehicle.

“government funded service contract” see section 50(3).

“holder”, for a service contract, means the operator—

- (a) with whom the chief executive has entered the contract under section 38B; or
- (b) to whom the contract has been transferred under section 48(a).

“individual fares”, for a charter bus service, include—

- (a) payment for a thing if the payment entitles the person making it to travel on the bus; and
- (b) a charge for the charter that is calculated on a per person basis.

“infringement notice” means an infringement notice under the *Justices Act 1886*, part 4A or the *State Penalties Enforcement Act 1999*, part 3.

SCHEDULE 3 (continued)

“insult” includes abuse.

“invalid ticket”, for chapter 11, parts 6 and 7¹⁵ means a ticket for a rail journey that—

- (a) is used by a person after the end of the journey for which the ticket was issued; or
- (b) is used by a person for a journey that is not the journey for which the ticket was issued; or
- (c) is used by a person after the expiry time on the ticket; or
- (d) has been altered or defaced; or
- (e) was obtained by a false statement about a concession fare; or
- (f) is counterfeit.

“lease” of a taxi service licence or a limousine service licence means a transfer of the licence made on condition that the licence will, at the end of a specified term, or on fulfilment of a specified condition, revert to the transferor.

“limousine” means a motor vehicle for which a limousine service licence is in force.

“limousine service” means an unscheduled public passenger service provided by a luxury motor vehicle where the fare for a journey is decided before the journey begins.

“limousine service licence” see section 82.

“local government road” means a road under the control of a local government.

“long distance scheduled passenger service” means a road based scheduled passenger service in which passengers are carried on an established route—

- (a) for an average distance of at least 40 km; or
- (b) between non-adjointing service contract areas or routes.

15 Chapter 11 (Enforcement), part 6 (Powers of authorised persons for railways) and part 7 (Railway offences)

SCHEDULE 3 (continued)

“luxury motor vehicle” means a vehicle declared by a regulation to be a luxury motor vehicle.

“obstruct” includes abuse, hinder, insult, resist, threaten or attempt to obstruct.

“occupier” of a place includes a person who reasonably appears to be the occupier, or in charge of, the place.

“operator” means a person carrying on the business of providing a public passenger service, and includes a person carrying on the business of administering a taxi service and the lessor of a limousine service licence or taxi service licence.

“operator accreditation” see section 12.

“person in control” includes—

- (a) for a ferry—the person who has, or reasonably appears to have, command or charge of the ferry; and
- (b) for another vehicle—the vehicle’s driver or the person who reasonably appears to be the vehicle’s driver.

“place” includes land, waters and premises, but does not include a vehicle.

“premises” includes—

- (a) a building, wharf or other structure; and
- (b) a part of a building, wharf or other structure; and
- (c) land or waters where a building, wharf or other structure is situated.

“prescribed school service contract” means a service contract—

- (a) to provide a service for which no declaration has been made under section 42;¹⁶ and
- (b) that is, or is part of, an arrangement under section 144.¹⁷

“public notice” means a notice published in a newspaper circulating generally throughout the State or, if the matter being published is of

16 Section 42 (Declaration that service contracts are required)

17 Section 144 (Transport arrangements for pupils)

SCHEDULE 3 (continued)

interest only in a particular area, in a newspaper circulating generally throughout the area.

“public passenger service” means a service for the carriage of passengers if—

- (a) the service is provided for fare or other consideration; or
- (b) the service is provided in the course of a trade or business (but not if it is provided by an employer solely for employees); or
- (c) the service is a courtesy or community transport service;

and includes a driver service and a service for the administration of taxi services but does not include a service excluded from this Act by a regulation.

“public passenger vehicle” means any of the following vehicles used to transport members of the public—

- (a) a bus;
- (b) a ferry;
- (c) a taxi;
- (d) a fixed track vehicle;
- (e) an aircraft;
- (f) a limousine;
- (g) a vehicle classified by regulation as a public passenger vehicle.

“public place” means a place that the public is entitled to use, is open to the public or is used by the public, whether or not on payment of money.

“railway”, for chapter 11, includes car parks and bus stations under a railway manager’s control.

“railway manager” has the meaning given by the *Transport Infrastructure Act 1994*.

“railway operator” has the meaning given by the *Transport Infrastructure Act 1994*.

“reasonably” means on grounds that are reasonable in all the circumstances.

SCHEDULE 3 (continued)

“restricted driver authorisation” means driver authorisation that is restricted under section 29A.

“restricted school service” means a scheduled passenger service only for the transport of school children who pay fares for the service if the amount of the fares is negotiated between the school concerned and the operator.

“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 works” has the same meaning as in the *Transport Infrastructure Act 1994*, chapter 5 (Road transport infrastructure).

“scheduled passenger service” means a public passenger service conducted on an established route in accordance with a regular timetable, and includes a school service and a restricted school service, but does not include the following—

- (a) an accommodation transfer service;
- (b) a long distance scheduled passenger service;
- (c) a tourist service;
- (d) a tourist transfer service.

“school service” means a public passenger service only or primarily for the transport of school children to and from school (other than for school excursions) on days that schools are open for instruction.

“service contract” see section 38(1).

SCHEDULE 3 (continued)

“service contract area or route” means an area or route for which a service contract is required under section 42 or 66¹⁸ to provide particular public passenger services.

“standard” means a standard in force under this Act.

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

“taxi service” means a public passenger service, other than an excluded public passenger service, provided by a motor vehicle under which the vehicle—

- (a) is able, when not hired, to be hailed for hire by members of the public; or
- (b) provides a demand responsive service under which members of the public are able to hire the vehicle through electronic communication; or
- (c) plys or stand for hire on a road.

“taxi service area” means an area declared under section 71 (Taxi service areas).

“taxi service licence” see section 69.

“temporary service contract” see section 38A.

“tourist service” means a pre-booked public passenger service operated in accordance with a publicly available itinerary to—

- (a) a common scenic or tourist attraction; or
- (b) if the service is not wholly within a service contract area or route—a major sporting or cultural event.

“tourist transfer service” means a public passenger service—

- (a) that operates between—
 - (i) an accommodation house or a place prescribed under a regulation; and
 - (ii) a tourist attraction or tourist service; and

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

SCHEDULE 3 (continued)

- (b) where journeys on the service are pre-booked before the time of travel.

“transport coordination plan” means the transport coordination plan developed under the *Transport Planning and Coordination Act 1994*.

“unscheduled long distance passenger service” means a pre-booked public passenger service by road—

- (a) that is unscheduled; and
- (b) by which all passengers on the service are carried on a journey of at least 40 km to a general destination that has been predetermined by the operator of the service; and
- (c) no passenger’s journey is entirely within—
- (i) a single service contract area or route, other than for a service for the administration of taxi services; or
- (ii) a single taxi service area.

“vehicle” includes a ferry.

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 4 January 2002. Future amendments of the Transport Operations (Passenger Transport) Act 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	9 November 1994
2	to Act No. 37 of 1995	3 August 1995
3	to Act No. 48 of 1995	24 January 1996
3A	to Act No. 43 of 1996	4 December 1996
3B	to Act No. 9 of 1997	15 August 1997
3C	to Act No. 13 of 1998	7 April 1998
3D	to Act No. 43 of 1998	24 March 1999
3E	to Act No. 42 of 1999	11 February 2000
4	to Act No. 6 of 2000	28 August 2000
4A	to Act No. 46 of 2000	8 November 2000

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Corrected minor errors	4
Renumbered provisions	2

6 List of legislation

Transport Operations (Passenger Transport) Act 1994 No. 43

date of assent 14 September 1994

ss 1–2 commenced on date of assent

s 143 sch 3 amdts 5–8 of the Transport Infrastructure Act 1994 commenced
1 July 1994 (see s 2(2))

remaining provisions commenced 7 November 1994 (1994 SL No. 378)

as amended by—

Transport Infrastructure Amendment (Rail) Act 1995 No. 32 ss 1–2, 23 sch

date of assent 14 June 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1995 (see s 2(2), 1995 SL No. 162
ss 2(3), 19)

Criminal Code No. 37 of 1995 ss 1–2, 458 sch 2 pt 2

date of assent 16 June 1995

ss 1–2 commenced on date of assent

remaining provisions never proclaimed into force and rep 1997 No. 3 s 121

Transport Planning and Coordination Amendment Act 1995 No. 48 pts 1, 4, s 12 sch

date of assent 22 November 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 15 December 1995 (1995 SL No. 365)

Transport Operations (Passenger Transport) Amendment Act 1996 No. 43

date of assent 7 November 1996

ss 4–5 commenced 24 November 1996 (1996 SL No. 342)

remaining provisions commenced on date of assent

Justice and Other Legislation (Miscellaneous Provisions) Act 1997 No. 9 ss 1, 2(5) pt 24

date of assent 15 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 20 June 1997 (1997 SL No. 155)

Transport Legislation Amendment Act 1997 No. 66 pts 1, 7

date of assent 1 December 1997

ss 1–2 commenced on date of assent

s 63 commenced 30 April 1999 (automatic commencement under AIA s 15DA(2) (1998 SL No. 317 s 3(2))

s 64 commenced 31 July 1999 (automatic commencement under AIA s 15DA(2) (1998 SL No. 317 s 4(2))

remaining provisions commenced 12 December 1997 (1997 SL No. 439)

Statute Law (Miscellaneous Provisions) Act 1997 No. 81 ss 1–3, sch

date of assent 5 December 1997

ss 1–2 commenced on date of assent

remaining provision commenced 30 November 1996

Building and Integrated Planning Amendment Act 1998 No. 13 ss 1, 2(3), 191 sch

date of assent 23 March 1998

ss 1–2 commenced on date of assent

remaining amdts commenced 30 March 1998 (1998 SL No. 55)

Transport Legislation Amendment Act (No. 2) 1998 No. 43 s 1 pt 5

date of assent 27 November 1998

commenced on date of assent

Criminal Code (Stalking) Amendment Act 1999 No. 18 pts 1, 3 sch

date of assent 30 April 1999

commenced on date of assent

Road Transport Reform Act 1999 No. 42 ss 1, 2(3) pt 2 div 4

date of assent 2 September 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 22 November 1999 (see s 2(3), 1999 SL No. 285)

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev s 373) sch 3

date of assent 23 March 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

Transport Legislation Amendment Act 2000 No. 6 s 1 pt 5

date of assent 20 April 2000

commenced on date of assent

ss 74, 75 and 77(1) (def “means of access”) (amendments could not be given effect)

Transport (Busway and Light Rail) Amendment Act 2000 No. 40 pts 1, 3

date of assent 13 October 2000

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (automatic commencement under AIA s 15DA(2) deferred to 14 October 2002 (2001 SL No. 183 s 2))

Statute Law (Miscellaneous Provisions) Act 2000 No. 46 ss 1, 3 sch

date of assent 25 October 2000

commenced on date of assent

Transport Legislation Amendment Act 2001 No. 79 ss 1, 2(3), pt 10

date of assent 29 November 2001

ss 1–2 commenced on date of assent

pt 10 hdg, ss 81, 89(4) commenced 21 December 2001 (2001 SL No. 279)

remaining provisions not yet proclaimed into force (see s 2(3))**7 List of annotations****This reprint has been renumbered—see table of renumbered provisions in endnote 8.****CHAPTER 1—PRELIMINARY****Commencement**

s 2 prev s 2 om R2 (see RA s 37)

CHAPTER 2—RESPONSIBILITIES FOR TRANSPORT STRATEGIES AND PROGRAMS**Contents of passenger transport strategies**

s 6 amd 1995 No. 48 s 13

CHAPTER 3—OPERATOR ACCREDITATION**What is operator accreditation**

s 12 sub 1997 No. 66 s 63

Scope of operator accreditation

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AIA s 20A applies (see s 157(3))
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- s 158** amd 1996 No. 43 s 8
 AIA s 20A applies (see s 158(3))
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- s 159** amd 1995 No. 48 s 12 sch; 1996 No. 43 s 9
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- s 160** amd 1995 No. 48 s 12 sch; 1996 No. 43 s 10
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- s 161** prev s 161 exp 7 May 1995 (see prev s161(2))
 pres s 161 (prev s 150) amd 1996 No. 43 s 11; 1997 No. 66 s 106
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 amd 2000 No. 6 s 74 could not be given effect

Arrangements for school transport—other contracts

- s 162** prev s 162 exp 7 May 1995 (see prev s162(3))
 pres s 162 (prev s 151) amd 1995 No. 48 s 12 sch; 1996 No. 43 s 12
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 amd 2000 No. 6 s 75 could not be given effect

Holders of licences to hire

- s 163** prev s 163 exp 7 January 1995 (see s 163(2))
 exp 7 November 1995 (see s 163(5))

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- s 164** exp 7 November 1996 (sees164(2))

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- s 165** exp 31 May 1996 (see s 165(8))

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- s 169** exp 7 November 1996 (see s 169(3))

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- s 170** amd 1995 No. 48 s 12 sch
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- s 172** amd 1995 No. 48 s 12 sch
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- s 172A** ins 1996 No. 43 s 13
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- s 172F** ins 1996 No. 43 s 13
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- s 175** prev s 175 ins 1995 No. 32 s 23 sch
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- pt 4 (ss 170–172)** prev pt 4 exp 7 January 1995 (see s 172)

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sub 1995 No. 37 s 458 sch 2 (never proclaimed into force and om 1997 No. 3 s 121)
amd 1997 No. 9 s 91; 1999 No. 18 s 6 sch

SCHEDULE 2—REVIEWABLE DECISIONS

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amd 1996 No. 43 s 15; 1997 No. 66 s 107(2); 2000 No. 6 s 76; 2001 No. 79 s 88

SCHEDULE 3—DICTIONARY

prev sch 3 om R1 (see RA s 40)
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def “**accommodation house**” ins 1997 No. 66 s 108(2)
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def “**authorised driver**” amd 1997 No. 66 s 108(3)
def “**authorised person**” sub 1995 No. 32 s 23 sch
def “**community transport service**” amd 1997 No. 66 s 108(4)
def “**Competition Code**” ins 2000 No. 40 s 30
def “**competition legislation**” ins 2000 No. 40 s 30
def “**courtesy transport service**” amd 1997 No. 66 s 108(4)–(5)
def “**dangerous goods**” ins 2001 No. 79 s 89(2)
def “**dangerous situation**” ins 2001 No. 79 s 89(2)
def “**dangerous situation notice**” ins 2001 No. 79 s 89(2)
def “**demand responsive service**” ins 1998 No. 43 s 27(3)
def “**disqualifying offence**” amd 1995 No. 37 s 458 sch 2 (never proclaimed into force and om 1997 No. 3 s 121)
def “**driver service**” ins 2000 No. 6 s 77(2)
def “**established route**” ins 1997 No. 66 s 108(2)
def “**excluded public passenger service**” ins 1997 No. 66 s 108(2)
amd 1998 No. 43 s 27(1)–(2)
sub 2000 No. 6 s 77(1)–(2)
def “**fare**” ins 2000 No. 40 s 30
def “**fare provision**” ins 2000 No. 40 s 30
def “**free of charge**” ins 1997 No. 66 s 108(2)
def “**holder**” ins 1997 No. 66 s 108(2)
amd 2001 No. 79 s 89(3)
def “**identified provision**” ins 2000 No. 40 s 30
def “**in**” ins 2001 No. 79 s 89(2)
def “**individual fares**” ins 1997 No. 66 s 108(2)
def “**information notice**” ins 2001 No. 79 s 89(2)
def “**infringement notice**” ins 2000 No. 6 s 77(2)
def “**insult**” ins 1997 No. 66 s 108(2)
def “**invalid ticket**” ins 1995 No. 32 s 23 sch
def “**long distance scheduled passenger service**” sub 1997 No. 66 s 108
def “**management entity**” ins 2000 No. 40 s 30
def “**management entity provision**” ins 2000 No. 40 s 30
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- def “**operator**” amd 2001 No. 79 s 89(4)
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 def “**rail**” ins 2001 No. 79 s 89(2)
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 def “**railway**” ins 1997 No. 66 s 108(2)
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 def “**reasonably**” ins 1995 No. 32 s 23 sch
 def “**remedial action notice**” ins 2001 No. 79 s 89(2)
 def “**restricted driver authorisation**” ins 2000 No. 6 s 77(2)
 def “**road**” sub 1997 No. 66 s 108
 def “**scheduled passenger service**” amd 1997 No. 66 s 108(6)
 def “**school service**” amd 1997 No. 66 s 108(7)
 def “**service contract area or route**” amd 1998 No. 43 s 27(5)
 def “**service entity**” ins 2000 No. 40 s 30
 def “**service entity provision**” ins 2000 No. 40 s 30
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 def “**tare**” ins 2001 No. 79 s 89(2)
 def “**taxi**” sub 1998 No. 43 s 27(4)
 def “**taxi service**” sub 1997 No. 66 s 108
 def “**temporary service contract**” ins 1997 No. 66 s 108(2)
 def “**tourist service**” sub 1997 No. 66 s 108
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 def “**TPA**” ins 2000 No. 40 s 30
 def “**transport**” ins 2001 No. 79 s 89(2)
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8 List of forms**Form F2828 Version July 2000—Infringement notice (Queensland Rail)—First and Final notice**

pubd gaz 24 November 2000 p 1181

Form F3712 Version February 2000—Medical certificate for motor vehicle driver

pubd gaz 24 November 2000 pp 1179–80

Form F3712ES November 2001—Medical Certificate for Motor Vehicle Driver

pubd gaz 7 December 2001 p 1256

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10 Provisions that have not commenced and are not incorporated into reprint

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

Transport (Busway and Light Rail) Amendment Act 2000 No. 40 ss 21–30 read as follows—

**TRANSPORT OPERATIONS (PASSENGER
TRANSPORT) ACT 1994**

21 Amendment of ch 11, pt 2 hdg

Chapter 11, part 2, heading, after ‘**RAILWAYS**’—

insert—

‘OR LIGHT RAIL’.

22 Amendment of s 116 (Appointment of authorised persons for railways)

(1) Section 116, heading, after ‘**railways**’—

insert—

‘or light rail’.

(2) Section 116(2), ‘for the railway’—

omit, insert—

‘for a railway’.

(3) Section 116—

insert—

‘(2A) The chief executive may appoint a person to be an authorised person for a light rail.’.

(4) Section 116(3), ‘for the railway’—

omit, insert—

‘for a railway or light rail’.

(5) Section 116(4), after ‘authorised person’—

insert—

‘for a railway or light rail’.

(6) Section 116(5), after ‘the railway’—

insert—

‘or light rail’.

23 Amendment of s 117 (Identity cards)

(1) Section 117—

insert—

‘(2B) The chief executive must give an identity card to each person appointed as an authorised person for a light rail under section 116(2A).’.

(2) Section 117(3)(c), after ‘railway’—

insert—

‘or light rail’.

(3) Section 117—

insert—

‘(4A) A person who stops being an authorised person for a light rail must return the person’s identity card to the chief executive as soon as practicable, but within 21 days, after the person stops being an authorised person for the light rail, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.’.

24 Amendment of s 118 (Producing or displaying authorised person’s identity card)

Section 118(2), after ‘for a railway’—

insert—

‘or light rail’.

25 Amendment of s 119 (Protection from liability)

(1) Section 119(1), definition “official”, paragraph (a), after ‘for a railway’—

insert—

‘or light rail’.

(2) Section 119(3)(a), after ‘authorised person’—

insert—

‘is an authorised person for a railway and’.

26 Omission of s 136 (Impersonation of authorised person)

Section 136 (as enacted in Act No. 43 of 1994 as section 132 and subsequently renumbered)—

omit.

27 Insertion of new pt hdg

Chapter 12, before section 143B—

insert—

‘PART 1—GENERAL’.

28 Insertion of new ch 12, pt 2 and new pt hdg

Chapter 12, after section 154A—

insert—

**‘PART 2—AUTHORISATIONS FOR COMPETITION
LEGISLATION**

‘Division 1—Interpretation

‘154B Definitions for pt 2

‘In this part—

“**Competition Code**” means the Competition Code under the *Competition Policy Reform (Queensland) Act 1996*.

“competition legislation” means TPA, section 51(1)(b)¹⁹ or the Competition Code, section 51.²⁰

“fare”, in relation to a public passenger service, means—

- (a) the price payable for use of the service; or
- (b) the provisions of, or arrangements for, a discount, allowance, rebate or credit applying in relation to the price payable for use of the service.

“fare provision” see section 154C.

“identified provision” see section 154D.

“management entity” means—

- (a) the State; or
- (b) a State influenced entity.

“management entity provision” see section 154E.

“service entity” means an entity that provides or proposes to provide 1 or more public passenger services in Queensland as an operator.

“service entity provision” see section 154F.

“service equipment”, for a public passenger service, means any of the following used in operating the service—

- (a) facilities, including ticketing systems, network monitoring systems, communications equipment and timing systems;
- (b) infrastructure, including tunnels, stations, parking facilities and passenger interchanges;
- (c) goods or services related to something mentioned in paragraph (a) or (b).

19 *Trade Practices Act 1974* (Cwlth), section 51 (Exceptions)

20 The Competition Code, section 51 states that in deciding whether a person has contravened the Code, Part IV, certain things must be disregarded. Section 51(1) of the Code provides that the following must be disregarded—

‘(a)...

- (b) anything done in a State, if the thing is specified in, and specifically authorised by:
 - (i) an Act passed by the Parliament of that State; or
 - (ii) regulations made under such an Act.’

“State influenced entity” see section 154G.

“TPA” means the *Trade Practices Act 1974* (Cwlth).

‘154C Meaning of “fare provision”

‘(1) For this part, a **“fare provision”** is a provision about a fare (the “relevant fare”) applying for a public passenger service of 1 or more service entities.

‘(2) However, a provision is a **“fare provision”** only if—

- (a) the provision has the purpose, or has or is likely to have the effect, of—
 - (i) fixing, controlling or maintaining the fare; or
 - (ii) providing for the fixing, controlling or maintaining of the fare; and
- (b) the provision is negotiated and agreed to in the context of a contract, arrangement or understanding for coordinating or integrating public passenger services; and
- (c) at any particular time the provision is given effect to, the relevant fare is consistent with any model fare structure arrangement that—
 - (i) has been approved by the chief executive; and
 - (ii) has been published in the gazette; and
 - (iii) is still in force.

‘154D Meaning of “identified provision”

‘For this part, a provision is an **“identified provision”** if it is a provision about—

- (a) the coordination or integration of public passenger services of 2 or more service entities; or
- (b) the route to be used or not to be used by a service entity in providing a public passenger service; or
- (c) an area in which a service entity will or will not provide a public passenger service; or

- (d) where a service entity will or will not pick up or set down passengers in providing a public passenger service; or
- (e) the times a service entity will or will not provide a public passenger service; or
- (f) the persons or classes of persons to whom a service entity will or will not provide a public passenger service; or
- (g) a characteristic of a vehicle, vessel or item of rolling stock a service entity will or will not use to provide a public passenger service; or
- (h) a service entity not providing a public passenger service that competes, or if it were provided, would compete, with a public passenger service of another service entity; or
- (i) a service entity providing a public passenger service for or on behalf of another person, including another service entity, whether as principal or agent; or
- (j) a service entity issuing a ticket for a public passenger service, if all or part of the service is to be provided by 1 or more other service entities; or
- (k) the name, sign, decal or logo under which a service entity is to provide a public passenger service; or
- (l) the terms on which a service entity provides a public passenger service; or
- (m) the promotion of a public passenger service provided by 1 or more of the service entities.

‘154E Meaning of “management entity provision”

‘(1) For this part, a **“management entity provision”** is a provision about the supply by a management entity of a service for a public passenger service of 1 or more service entities.

‘(2) However, a provision is a **“management entity provision”** only if the provision is—

- (a) about the persons or classes of persons to whom the service will be supplied; or
- (b) to the effect that the management entity is to supply the service on condition that the service entity or entities are to acquire

service equipment, including from a person who is not a party to the contract, arrangement or understanding containing the provision.

‘154F Meaning of “service entity provision”

‘(1) For this part, a **“service entity provision”** is a provision about the acquisition, use or supply of service equipment for a public passenger service of 1 or more service entities.

‘(2) However, a provision is a **“service entity provision”** only if the provision is—

- (a) about the persons or classes of persons from whom the service equipment will be acquired or to whom the service equipment will be supplied; or
- (b) to the effect that a service entity or management entity is to supply the service equipment on condition that another person, including another service entity or management entity, is to acquire other service equipment, including from a person who is not a party to the contract, arrangement or understanding containing the provision.

‘154G Meaning of “State influenced entity”

‘(1) For this part, a **“State influenced entity”** is an entity whose functions include coordinating or facilitating the integration of public passenger services.

‘(2) However, an entity is a **“State influenced entity”** only if at least 1 of the following applies—

- (a) the State has power to appoint a person to, or remove a person from, the board or managing body of the entity;
- (b) the State has power to vote, or control a vote, at a meeting of the board or managing body of the entity;
- (c) the State has power to vote, or control a vote, at a meeting of the members of the entity.

‘154H References to public passenger services in pt 2

‘(1) A reference in this part to a public passenger service does not include a reference to a public passenger service that is a taxi service or limousine service.

‘(2) A reference in this part to the public passenger service of a service entity is a reference to a public passenger service the service entity provides or proposes to provide in Queensland as an operator.

‘154I Extended meanings of certain expressions in pt 2

‘For this part—

- (a) reference to making a contract or arrangement containing a particular provision includes reference to the following—
 - (i) offering to make a contract or arrangement containing the particular provision;
 - (ii) refusing to make a contract or arrangement unless the contract or arrangement contains the particular provision; and
- (b) reference to arriving at an understanding containing a particular provision includes reference to the following—
 - (i) offering to arrive at an understanding containing the particular provision;
 - (ii) refusing to arrive at an understanding unless the understanding contains the particular provision; and
- (c) reference to the supply of something includes reference to the following—
 - (i) the supply of the thing at a particular price;
 - (ii) an offer to supply the thing;
 - (iii) an offer to supply the thing at a particular price;
 - (iv) giving, or offering to give, a discount, allowance, rebate or credit in relation to the supply or proposed supply of the thing;
 - (v) resupply of the thing; and
- (d) reference to the supply of something on a condition includes reference to a refusal to supply the thing without the condition.

Division 2—Authorisations**‘154J Authorisations for coordination and integration of public passenger services**

‘The following things are specifically authorised for the competition legislation—

- (a) 2 or more service entities making a contract or arrangement, or arriving at an understanding, that includes an identified provision, but only if the contract, arrangement or understanding was first approved by the Minister;
- (b) a service entity giving effect to an identified provision mentioned in paragraph (a);
- (c) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a fare provision;
- (d) a service entity giving effect to a fare provision mentioned in paragraph (c);
- (e) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a provision under which the service entities—
 - (i) are to share revenue or profits received by any of them in relation to a public passenger service of 1 or more of them; or
 - (ii) are to pay all or part of the costs related to providing a public passenger service of 1 or more of them;
- (f) a service entity giving effect to a provision mentioned in paragraph (e);
- (g) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a service entity provision;
- (h) a service entity giving effect to a service entity provision mentioned in paragraph (g);
- (i) 1 or more service entities and a management entity making a contract or arrangement, or arriving at an understanding, containing an identified provision, a fare provision, a management entity provision or a service entity provision;

- (j) a service entity or management entity giving effect to a provision mentioned in paragraph (i);
- (k) a management entity and another entity (the “system entity”) making a contract or arrangement, or arriving at an understanding, containing a provision about the system entity doing 1 or more of the following in relation to service equipment for 1 or more service entities’ public passenger services—
 - (i) designing the equipment;
 - (ii) making the equipment;
 - (iii) building the equipment;
 - (iv) installing the equipment;
 - (v) maintaining the equipment;
- (l) an entity giving effect to a provision mentioned in paragraph (k).

‘154K Provisions limiting application of authorisations

‘(1) Section 154J applies to a service entity in relation to a public passenger service it provides or proposes to provide only if the service entity is—

- (a) if the public passenger service is a service for the carriage of passengers on a railway—
 - (i) a railway manager for the railway; or
 - (ii) a person who is accredited under the *Transport Infrastructure Act 1994*, chapter 6, part 4²¹ as a railway operator for the railway; or
- (b) if the public passenger service is a ferry service—the operator of the ferry service; or
- (c) otherwise—the holder of an operator accreditation for the public passenger service.

‘(2) Section 154J(b), (d), (f) and (h) applies to a provision for only 5 years after the contract, arrangement or understanding containing the provision is made or arrived at.

21 *Transport Infrastructure Act 1994*, chapter 6 (Rail transport infrastructure), part 4 (Accreditation)

‘154L Provisions supporting application of authorisations

‘(1) A thing authorised under section 154J, as qualified by section 154K, is authorised even if—

- (a) it has a purpose, or an effect or likely effect, of substantially lessening competition in a market; or
- (b) it has a purpose described in TPA, section 46(1)²² or the Competition Code, section 46(1);²³ or
- (c) the applicable contract, arrangement or understanding contains a provision that—
 - (i) under TPA, section 4D,²⁴ is taken to be an exclusionary provision under TPA; or
 - (ii) under the Competition Code, is taken to be an exclusionary provision under the Competition Code.

‘(2) A thing mentioned in section 154J(g), (h), (i), (j), (k) or (l), as qualified by section 154K, is authorised even if it involves an entity to which the provision applies engaging in the practice of exclusive dealing in a way described in TPA, section 47²⁵ or in the Competition Code, section 47.²⁶

‘PART 3—REGULATION-MAKING POWER’.**29 Amendment of s 155 (Regulations)**

Section 155(3)—

insert—

- ‘(i) prescribe rules about the use by the following, under the Transport Infrastructure Act 1994, of busway land—

22 *Trade Practices Act 1974* (Cwlth), section 46 (Misuse of market power)

23 Competition Code, section 46 (Misuse of market power)

24 *Trade Practices Act 1974* (Cwlth), section 4D (Exclusionary provisions)

25 *Trade Practices Act 1974* (Cwlth), section 47 (Exclusive dealing)

26 Competition Code, section 47 (Exclusive dealing)

- (i) buses operating on a busway established on the busway land; and
- (ii) persons having the permission of the chief executive to be on the busway land; or
- (j) prescribe rules about the use by the following, under the *Transport Infrastructure Act 1994*, of light rail land—
 - (i) light rail vehicles operating on a light rail established on the light rail land; and
 - (ii) persons having the permission of the chief executive or a light rail manager for the light rail to be on the light rail land.’.

30 Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

- ‘ **“Competition Code”**, for chapter 12, part 2, see section 154B.
- “competition legislation”**, for chapter 12, part 2, see section 154B.
- “fare”**, for chapter 12, part 2, see section 154B.
- “fare provision”**, for chapter 12, part 2, see section 154C.
- “identified provision”**, for chapter 12, part 2, see section 154D.
- “management entity”**, for chapter 12, part 2, see section 154B.
- “management entity provision”**, for chapter 12, part 2, see section 154E.
- “service entity”**, for chapter 12, part 2, see section 154B.
- “service entity provision”**, for chapter 12, part 2, see section 154F.
- “service equipment”**, for a public passenger service, for chapter 12, part 2, see section 154B.
- “State influenced entity”**, for chapter 12, part 2, see section 154G.
- “TPA”**, for chapter 12, part 2, see section 154B.’.

Transport Legislation Amendment Act 2001 No. 79 ss 82–89(3) read as follows—

82 Insertion of new ss 126A–126G and pts 3A and 3B

Chapter 11, part 3, after section 126—

insert—

‘126A Securing seized things

‘Having seized a thing, an authorised person may—

- (a) move the thing from the place where it was seized (the “**place of seizure**”); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

Examples of restricting access to a thing—

1. Sealing a thing and marking it to show access to it is restricted.
2. Sealing the entrance to a room where the seized thing is situated and marking the entrance to show access to the room is restricted.

‘126B Tampering with seized things

‘If an authorised person restricts access to a seized thing, a person must not tamper with the thing, or something restricting access to the thing, unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

‘126C Powers supporting seizure

‘(1) To enable a thing to be seized, an authorised person may require the person in control of it—

- (a) to take it to a stated reasonable place by a stated reasonable time; and
- (b) if necessary, to remain in control of it at the stated place for a reasonable time.

‘(2) The requirement must be made by notice in the approved form.

‘(3) However, if for any reason it is not practicable to give the notice, the requirement may be made orally and confirmed by notice in the approved form as soon as practicable.

‘(4) A further requirement may be made under this section about seizing the thing if it is necessary and reasonable to make the further requirement.

Examples of a further requirement—

A requirement that the thing—

- be transported during stated off-peak hours
- be transported along a particular route
- be transported in a particular way
- have appropriate placards or markings attached to it while it is being transported.

‘(5) A person of whom a requirement is made under subsection (1) or (3) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—60 penalty units.

‘126D Forfeiture of seized things

‘(1) A seized thing is forfeited to the State if the authorised person who seized the thing—

- (a) can not find its owner, after making reasonable inquiries; or
- (b) can not return it to its owner, after making reasonable efforts; or
- (c) reasonably believes it is necessary to keep the thing to prevent it being used to commit an offence against the *Transport Infrastructure Act 1994*, chapter 8AA.²⁷

‘(2) In applying subsection (1)—

- (a) subsection (1)(a) does not require the authorised person to make inquiries if it would be unreasonable to make inquiries to find the owner; and
- (b) subsection (1)(b) does not require the authorised person to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

‘(3) If the authorised person decides it is necessary to keep something under subsection (1)(c), the authorised person must immediately give the

²⁷ *Transport Infrastructure Act 1994*, chapter 8AA (Transporting dangerous goods by rail)

owner a statement of the reasons for the decision and an information notice.

‘(4) Subsection (3) does not apply if the authorised person can not find the owner, after making reasonable inquiries.

‘(5) Regard must be had to the thing’s nature, condition and value in deciding—

- (a) whether it would be unreasonable to make inquiries or efforts under this section; and
- (b) if making inquiries or efforts, what inquiries or efforts, including the period over which they are made, are reasonable.

‘126E Dealing with forfeited things etc.

‘(1) On the forfeiture of a thing to the State, the thing becomes the State’s property and may be dealt with by the chief executive as the chief executive considers appropriate.

‘(2) Without limiting subsection (1), the chief executive may destroy or dispose of the thing.

‘(3) The chief executive must not deal with the thing until any review of, or appeal against, the decision to forfeit the thing is decided.

‘126F Return of seized things

‘(1) If a seized thing has not been forfeited, the authorised person must return it to its owner—

- (a) at the end of 6 months after the thing is seized; or
- (b) if a proceeding for an offence involving the thing is started within 6 months after the thing is seized, at the end of the proceeding and any appeal from the proceeding.

‘(2) Despite subsection (1), unless the thing has been forfeited, the authorised person must immediately return a thing seized as evidence to its owner if the authorised person stops being satisfied its continued retention as evidence is necessary.

‘126G Access to seized things

‘(1) Until a seized thing is forfeited or returned, an authorised person must allow its owner to inspect it and, if it is a document, to copy it.

‘(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

‘PART 3A—POWERS OF AUTHORISED PERSONS FOR RAIL VEHICLES**‘126H Power to hold or stop and hold rail vehicle**

‘(1) This section applies if an authorised person reasonably believes that—

- (a) dangerous goods are on a rail vehicle and a provision of the *Transport Infrastructure Act 1994*, chapter 8AA is being contravened in relation to their transportation; and
- (b) the interests of safety require the authorised person to stop or hold the vehicle.

‘(2) The authorised person may require the railway operator for the vehicle to hold, or stop and hold, the vehicle at a stated safe place.

‘(3) Before making the requirement, the authorised person must tell the railway operator the grounds for the belief.

‘(4) For subsection (2), a place is a “**safe place**” if—

- (a) the train controller tells the authorised person that it is safe, so far as other rail traffic is concerned, to stop or hold the vehicle at the place; and
- (b) the presence of the vehicle at the place is unlikely to endanger human life or property.

‘(5) The railway operator must comply with a requirement under subsection (2), unless the railway operator has a reasonable excuse.

Maximum penalty—120 penalty units.

‘(6) The train controller must give any advice asked for by the authorised person about whether it is safe, so far as other rail traffic is concerned, to stop or hold the vehicle at a place.

Maximum penalty—40 penalty unit.

‘(7) This section does not limit any other power under this part or part 3B.²⁸

‘(8) In this section—

“**train controller**”, in relation to a rail vehicle, means an individual who is in control of train control signalling and communication for the section of track on which the rail vehicle is travelling or standing.

‘126I Power to require rail vehicle inspection

‘(1) If an authorised person reasonably believes a rail vehicle that has been, or is being used, to transport dangerous goods may not comply with the *Transport Infrastructure Act 1994*, chapter 8AA, the authorised person may require its owner to have it inspected at a stated reasonable time and place.

‘(2) The requirement must be made by notice in the approved form.

‘(3) The owner must comply with the requirement, unless the owner has a reasonable excuse.

Maximum penalty for subsection (3)—60 penalty units.

‘126J Power to prohibit use of rail vehicle

‘(1) This section applies if an authorised person reasonably believes a rail vehicle that has been used, or is being used, to transport dangerous goods does not comply with the *Transport Infrastructure Act 1994*, chapter 8AA.

‘(2) The authorised person may, by notice in the approved form, require the owner of the vehicle not to use the vehicle, or permit it to be used, until—

- (a) it, its equipment and any load on it are inspected at a stated reasonable place and are found to comply with the chapter; or

²⁸ Part 3B (Powers of authorised persons for dangerous situations involving rail vehicles)

- (b) stated reasonable action is taken in relation to the rail vehicle to ensure it complies with the chapter.

Examples of action that may be reasonable under paragraph (b)—

1. Adjusting or moving a vehicle's load.
2. Rearranging the order of rail vehicles.
3. Carrying out stated repairs to a vehicle and then having the vehicle inspected at a stated reasonable place and found to comply with the chapter.

‘(3) The owner must comply with the notice, unless the owner has a reasonable excuse.

Maximum penalty for subsection (3)—120 penalty units.

‘126K Power to give remedial action notices

‘(1) This section applies if an authorised person reasonably believes a person—

- (a) has contravened a provision of the *Transport Infrastructure Act 1994*, chapter 8AA in circumstances that indicate that it is likely the contravention will be repeated; or
- (b) is contravening a provision of the chapter.

‘(2) The authorised person may give the person a written notice (a “**remedial action notice**”) requiring the person to remedy the cause of the contravention.

‘(3) The notice must state the following—

- (a) the provision the authorised person believes the person has contravened or is contravening;
- (b) the reasons for the belief;
- (c) that the person must remedy the cause of the contravention within a stated reasonable time;
- (d) if the notice is attached to a rail vehicle—a warning that it is an offence for a person to remove the notice from the vehicle until the notice is complied with, but that the person to whom the notice is given may remove the notice to immediately read it and reattach it to the vehicle.

‘(4) The notice may also state the steps the authorised person reasonably believes are necessary to remedy the cause of the contravention.

‘(5) If the notice relates to a rail vehicle, the notice may be given by securely attaching it to the vehicle in a conspicuous place.

‘(6) The person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—the maximum penalty for the contravention of the provision mentioned in the notice as the provision the authorised person believes the person has contravened or is contravening.

‘(7) The person does not commit an offence against subsection (6) if the person is not proved to have contravened the provision mentioned in the notice as the provision the authorised person believes the person has contravened or is contravening.

‘(8) A person must not remove a remedial action notice from a rail vehicle before the notice is complied with.

Maximum penalty—135 penalty units.

‘(9) However, the person to whom the notice is given does not contravene subsection (8) if the person removes the notice from the vehicle and immediately reads it and reattaches it to the vehicle.

‘PART 3B—POWERS OF AUTHORISED PERSONS FOR DANGEROUS SITUATIONS INVOLVING RAIL VEHICLES

‘126L Application of part

‘(1) This part applies only if an authorised person reasonably believes a dangerous situation exists.

‘(2) A “**dangerous situation**” is a situation involving the transportation of dangerous goods by rail that is causing, or is likely to cause, imminent risk of—

- (a) death of, or significant injury to, a person; or
- (b) significant harm to the environment; or
- (c) significant damage to property.

‘126M Additional power to require information or produce document

‘(1) This section applies if an authorised person reasonably believes a person may be able to give information or produce a document that will help deal with a dangerous situation.

‘(2) The authorised person may require the person to give the information or produce the document.

‘(3) The person must give the information or produce the document, unless the person has a reasonable excuse.

Maximum penalty—

- (a) if the contravention results in the death of, or grievous bodily harm to, a person—270 penalty units; or
- (b) otherwise—135 penalty units.

‘(4) The fact that giving the information or providing the document might tend to incriminate the person is not a reasonable excuse for subsection (3).

‘(5) However, evidence of, or directly or indirectly derived from, the information or the production of the document that might tend to incriminate the person is not admissible in evidence against the person in a proceeding, other than a proceeding for—

- (a) an offence against section 130 or 131;²⁹ or
- (b) another offence about the falsity of the information or document.

‘126N Power to give directions to deal with dangerous situation

‘(1) This section applies if an authorised person reasonably believes a person involved in the transportation of dangerous goods is in a position to take steps to deal with a dangerous situation involving the goods.

‘(2) The authorised person may give the person a written notice (a **“dangerous situation notice”**) requiring the person to take reasonable steps to deal with the dangerous situation.

‘(3) The notice must state the following—

²⁹ Section 130 (False or misleading information) or 131 (False, misleading or incomplete documents)

- (a) what it is that the authorised person believes is causing the dangerous situation;
- (b) the grounds for the belief;
- (c) the reasonable steps the person must take to deal with the dangerous situation;
- (d) that the person must take the steps within a stated reasonable time;
- (e) if the notice is attached to a rail vehicle—a warning that it is an offence for a person to remove the notice from the vehicle until the notice is complied with, but that the person to whom the notice is given may remove the notice to immediately read it and reattach it to the vehicle.

‘(4) If the notice relates to a rail vehicle, the notice may be given by securely attaching it to the vehicle in a conspicuous place.

‘(5) The person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—

- (a) if the contravention results in the death of, or grievous bodily harm to, a person—270 penalty units; or
- (b) otherwise—135 penalty units.

‘(6) A person must not remove a dangerous situation notice from a rail vehicle before the notice is complied with.

Maximum penalty—135 penalty units.

‘(7) However, the person to whom the notice is given does not contravene subsection (6) if the person removes the notice from the vehicle and immediately reads it and reattaches it to the vehicle.

‘1260 Power to take direct action to deal with dangerous situation

‘(1) This section applies if an authorised person reasonably believes—

- (a) a person given a remedial action notice or dangerous situation notice has not complied with the notice; or
- (b) having regard to the nature of the dangerous situation, action under a remedial action notice or dangerous situation notice is inappropriate to deal with the dangerous situation.

‘(2) The authorised person may take the action the authorised person reasonably believes is necessary to deal with the dangerous situation.

‘(3) The action the authorised person may take includes asking someone the authorised person reasonably believes has appropriate knowledge and experience to help the authorised person deal with the dangerous situation.

‘(4) If the person agrees to help, the person is taken to have the powers of an authorised person to the extent reasonably necessary for the person to help deal with the dangerous situation.

‘(5) A rail vehicle can not be stopped or held under this section.’.

83 Amendment of s 127 (Power to require name and address)

Section 127(1)(a), after ‘Act’—

insert—

‘or the *Transport Infrastructure Act 1994*, chapter 8AA³⁰’.

84 Amendment of s 129 (Power to require production of certain documents)

Section 129(2) to (4)—

omit, insert—

‘(2) An authorised person may require a person to produce for inspection a document issued, or required to be kept, under the *Transport Infrastructure Act 1994*, chapter 8AA³¹ or a law of another State or the Commonwealth about transporting dangerous goods by rail.

‘(3) The person must comply with the requirement under subsection (1) or (2), unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

‘(4) The authorised person may keep the document to copy it.

30 *Transport Infrastructure Act 1994*, chapter 8AA (Transporting dangerous goods by rail)

31 *Transport Infrastructure Act 1994*, chapter 8AA (Transporting dangerous goods by rail)

‘(5) If the authorised person copies it, the authorised person may ask the person responsible for keeping the document to certify the copy as a true copy of the document.

‘(6) The authorised person must return the document to the person as soon as practicable after copying it.’.

85 Amendment of s 137 (Power to require name and address etc.)

(1) Section 137(1)(a)—

omit, insert—

‘(a) finds the person committing an offence (a **“relevant offence”**) against railway legislation; or’.

(2) Section 137(2), from ‘this Act’ to ‘chapter 6’—

omit, insert—

‘railway legislation’.

(3) Section 137—

insert—

‘(7) In this section—

“railway legislation” means—

- (a) a provision of this Act relating to a railway; or
- (b) the *Transport Infrastructure Act 1994*, chapter 6; or
- (c) a regulation in relation to a railway made under the *Transport Infrastructure Act 1994* other than under chapter 8AA of that Act.’.

86 Amendment of s 143AE (Vehicle and equipment not to be interfered with)

Section 143AE(2), definition **“interfere with”**, after ‘improperly interfere’—

insert—

‘with’.

87 Insertion of new s 153A

After section 153—

insert—

‘Evidentiary aids—belief of authorised person

‘(1) If, in a prosecution for a contravention of chapter 11³² or the *Transport Infrastructure Act 1994*, chapter 8AA³³—

- (a) an authorised person gives evidence that the authorised person believed any of the following matters—
 - (i) that dangerous goods, stated in shipping documents carried in a rail vehicle, were being carried in the vehicle;
 - (ii) that particular goods were dangerous goods or dangerous goods of a particular type;
 - (iii) that goods were the particular dangerous goods as indicated by markings on the goods;
 - (iv) that a container contained the particular dangerous goods as indicated by markings on the container;
 - (v) that a rail vehicle was being used to transport the particular dangerous goods as indicated by markings on the vehicle;
 - (vi) that goods, a container or its contents had the particular attribute that was indicated by the markings on the goods, container or contents;
 - (vii) that a rail vehicle was loaded with, or a container contained, the quantity of dangerous goods as indicated by markings on the vehicle or container; and
- (b) the court considers the belief to be reasonable given the authorised person’s experience or qualifications; and
- (c) there is no evidence to the contrary;

the court must accept the matter as proved.

‘(2) In this section—

“attribute” means—

32 Chapter 11 (Enforcement)

33 *Transport Infrastructure Act 1994*, chapter 8AA (Transporting dangerous goods by rail)

- (a) capacity; or
- (b) character; or
- (c) date of manufacture; or
- (d) origin; or
- (e) ownership; or
- (f) specification; or
- (g) tare.

“**markings**” include labels and placards.

“**on**” includes attached to.’.

88 Amendment of sch 2 (Reviewable decisions)

(1) Schedule 2—

insert—

‘**126D** Forfeiture of seized things Magistrates’.

(2) Schedule 2, ‘a District Court’—

omit, insert—

‘the District Court’.

89 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definition “**railway**”—

omit.

(2) Schedule 3—

insert—

‘“**dangerous goods**” means goods prescribed under the *Transport Infrastructure Act 1994*, chapter 8AA,³⁴ to be dangerous goods.

“**dangerous situation**” see section 126L.

“**dangerous situation notice**” see section 126N.

³⁴ *Transport Infrastructure Act 1994*, chapter 8AA (Transporting dangerous goods by rail)

“in” a rail vehicle includes on the vehicle.

“information notice”, for a decision of the chief executive, means a notice stating that a person affected by the decision may—

- (a) under section 102³⁵—ask for the decision to be reviewed and appeal against the reviewed decision; and
- (b) under the *Transport Planning and Coordination Act 1994*, part 5³⁶—ask for the decision or the reviewed decision to be stayed.

“rail”, for chapter 11 in relation to the transportation of dangerous goods by rail, includes cableway.

“rail vehicle”, for chapter 11 in relation to the transportation of dangerous goods by rail, includes a cableway car.

“railway”, for chapter 11—

- (a) includes a carpark or bus station under a railway manager’s control; and
- (b) in relation to the transportation of dangerous goods by rail, includes a cableway.

“remedial action notice” see section 126K.

“tare” means the weight of a vehicle equipped for travelling on a railway, but not including any load.

“transport” dangerous goods includes—

- (a) pack, load and unload the goods, and transfer them to or from a rail vehicle, for their transport; and
- (b) mark packages, and unit loads, containing dangerous goods; and
- (c) placard containers and rail vehicles in which dangerous goods are transported.’.

(3) Schedule 3, definition **“holder”**, paragraph (b), ‘section 48(a)’—

omit, insert—

‘section 48(1)(a) or (b)’.

35 Section 102 (Review of and appeals against decisions)

36 *Transport Planning and Coordination Act 1994*, part 5 (Review of and appeals against decisions)

