



# Transport Planning and Coordination Act 1994

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**Also see endnotes for information about—**

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- **editorial changes made in earlier reprints.**

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Queensland

# Transport Planning and Coordination Act 1994

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# Transport Planning and Coordination Act 1994

[as amended by all amendments that commenced on or before 1 October 2008]

## An Act about the planning and coordination of transport, and other matters for which the Minister is responsible

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Transport Planning and Coordination Act 1994*.

#### 2 Objectives

The objectives of this Act are, within the government's overall policy agenda, to improve—

- (a) the economic, trade and regional development performance of Queensland; and
- (b) the quality of life of Queenslanders;

by achieving overall transport effectiveness and efficiency through strategic planning and management of transport resources.

#### 3 Definitions

In this Act—

*busway transport infrastructure* has the meaning given in the *Transport Infrastructure Act 1994*, schedule 6.

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**complementary purposes**, for the purposes of transport land, includes purposes for a transport associated development.

**ferry service** see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

**franchised road** see the *Transport Infrastructure Act 1994*, schedule 6.

**IDAS** see the *Integrated Planning Act 1997*, section 3.1.1.

**light rail transport infrastructure** has the meaning given in the *Transport Infrastructure Act 1994*, schedule 6.

**local government road** means a road under the control of a local government.

**prescribed transit node** means an area declared under a regulation to be a prescribed transit node.

**public passenger service** see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

**public passenger transport infrastructure** means infrastructure for or associated with the provision of public passenger transport, including, but not limited to, the following—

- (a) a transit terminal for public passenger services;
- (b) a ferry terminal, jetty, pontoon or landing for ferry services;
- (c) a bus stop, bus shelter, bus station or bus lay-by;
- (d) a busway station;
- (e) a taxi rank, limousine rank or limousine standing area;
- (f) a railway station;
- (g) vehicle parking and set-down facilities;
- (h) pedestrian and bicycle paths and bicycle facilities;
- (i) a road on which a public passenger service operates.

**road**, for part 2A, see the *Transport Infrastructure Act 1994*, schedule 6, definition *road*, paragraphs (c) and (d).



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**road works** see the *Transport Infrastructure Act 1994*, schedule 6.

**scheduled passenger service** see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

**toll road** see the *Transport Infrastructure Act 1994*, section 92.

**transport Act** means an Act administered by the Minister, and includes this Act and the *Transport Operations (TransLink Transit Authority) Act 2008*.

**transport associated development** means a development that—

- (a) primarily is or, when constructed, will be a development that supports the object of part 2A and the integration of a prescribed transit node into the community within which it is to operate in a way that contributes to the economic and social wellbeing of the community; and
- (b) includes, or will include, commercial, community, educational, government, high or medium density residential, medical, retail or recreational facilities, places of worship or open or recreational spaces.

*Editor's notes—*

- 1 See section 8A for the object of part 2A.
- 2 See sections 25 and 27 for use of transport associated development.
- 3 See section 28AA for a prescribed transit node.

**transport decision** means a decision under a transport Act.

**transport GOC** means a GOC, or a candidate GOC (within the meaning of the *Government Owned Corporations Act 1993*), on which functions are conferred under the *Transport Infrastructure Act 1994*.

**transport land** means land that—

- (a) has been acquired for transport purposes or for an incidental or complementary purpose; and
- (b) is required for—

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- (i) the operations of a transport GOC; or
- (ii) franchised road or toll road purposes; or
- (iii) the operations of a person who is a railway manager under the *Transport Infrastructure Act 1994*, chapter 7; or
- (iv) busway transport infrastructure or bus passenger services; or
- (v) light rail transport infrastructure or light rail passenger services; or
- (vi) a transport associated development.

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

## Part 2                      Transport coordination plan

### 4                      Development of transport coordination plan

- (1) The chief executive must from time to time develop for the Minister's approval a transport coordination plan to provide a framework for strategic planning and management of transport resources in Queensland in accordance with the objectives of this Act.
- (2) In developing a transport coordination plan, the chief executive must take reasonable steps to engage in public consultation.
- (3) A transport coordination plan applies for the period specified in the plan, but the chief executive may, if it is appropriate in the circumstances, develop a new transport coordination plan for the Minister's approval even though the period has not ended.
- (4) The Minister may, at any time, direct the chief executive to prepare a new transport coordination plan for the Minister's

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approval or to amend the current transport coordination plan in the way the Minister directs.

- (5) The Minister may approve a transport coordination plan that is submitted for approval or require the chief executive to amend the plan in the way the Minister directs.

## **5 Contents of transport coordination plan**

- (1) A transport coordination plan must include—
- (a) a statement of the specific objectives sought to be achieved by the plan; and
  - (b) criteria for deciding priorities for spending on transport; and
  - (c) appropriate performance indicators for deciding whether, and to what extent, the objectives of the plan have been achieved.
- (2) A transport coordination plan must also provide—
- (a) an adequate framework for the coordinated planning for transport; and
  - (b) a way of achieving effective and efficient use of land for transport purposes.

## **6 Transport coordination plan to be consistent with overall strategic planning for government etc.**

Each transport coordination plan must—

- (a) be consistent with the government's overall strategic planning for Queensland; and
- (b) take into account—
  - (i) national transport strategies; and
  - (ii) regional transport and other development strategies; and
  - (iii) local government interests; and

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- (iv) the government's land use planning; and
- (v) the government's environmental policies.

## 7 **Tabling of transport coordination plan**

The Minister must cause a copy of each transport coordination plan, and of each amendment of a transport coordination plan, approved by the Minister, to be tabled in the Legislative Assembly.

## 8 **Effect of failure to comply with pt 2**

- (1) It is Parliament's intention that this part be complied with.
- (2) However—
  - (a) this part is directory only and does not create rights or impose legally enforceable obligations on the State, Minister, chief executive or anyone else; and
  - (b) failure to comply with this part does not affect the validity of anything done or not done under this Act or another Act.
- (3) In addition, a decision made, or appearing to be made, under this part—
  - (a) is final and conclusive; and
  - (b) cannot be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, under the *Judicial Review Act 1991* (whether by the Supreme Court, another court, a tribunal or another entity); and
  - (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (4) In this section—

**decision** includes—

  - (a) conduct engaged in to make a decision; and

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- (b) conduct related to making a decision; and
  - (c) failure to make a decision.

## **Part 2A**                      **Land use and transport coordination**

### **8A**      **Object of pt 2A**

- (1) The object of this part is to enable the chief executive to encourage increased integration between land use and transport.
- (2) The way the object is to be achieved includes—
  - (a) ensuring, as far as practicable, development does not have a significant adverse impact on existing and future public passenger transport; and
  - (b) ensuring, as far as practicable, public passenger transport offers an attractive alternative to private transport in a way that reduces the overall economic, environmental and social costs of transport; and
  - (c) promoting urban development that maximises the use of public passenger transport; and
  - (d) increasing opportunities for people to access public passenger transport, including access by cycling and walking; and
  - (e) ensuring, as far as practicable, the provision of public passenger transport infrastructure to support public passenger transport.

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**8B Impact of particular development on public passenger transport**

- (1) This section applies if the chief executive is an assessment manager or a referral agency under the *Integrated Planning Act 1997* for a development application under that Act.
- (2) For performing the chief executive's functions as assessment manager or referral agency, the chief executive must consider the extent to which the proposed development satisfies the objectives of this part.
- (3) Subsection (2) is in addition to, and does not limit, the *Integrated Planning Act 1997*, section 3.3.15 and chapter 3, part 5, division 2.

**8C Impact of road works on local government road**

- (1) This section applies in relation to road works on a local government road if the road works—
  - (a) are to be carried out on a road that forms part of a route used for a public passenger service; or
  - (b) will do either of the following while the works are being carried out or when the works are finished—
    - (i) restrict or limit access to public passenger transport infrastructure;
    - (ii) result in the removal of public passenger transport infrastructure.
- (2) However, this section applies in relation to a route used for a public passenger service only if the chief executive advises the relevant local government, in writing, that a code for IDAS applies to the route.
- (3) Without limiting subsection (2), the chief executive may identify as a route to which a code for IDAS applies—
  - (a) a route used for a scheduled passenger service; or
  - (b) a route identified in a passenger transport implementation strategy or program under the *Transport Operations (Passenger Transport) Act 1994*.

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- (4) A person who undertakes road works on a local government road to which this section applies must comply with a code for IDAS prescribed under a regulation for this section.

## **8D Impact of change of management of local government road on public passenger transport**

- (1) A local government must apply to the chief executive to obtain the chief executive's written approval to make a change to the management of a local government road that, if made, would have a significant adverse impact on the provision of public passenger transport.

*Examples—*

- the closure of a road or lane that is part of a public passenger transport route
  - the removal or alteration of a bus lane or transit lane
  - a change in the direction of traffic flow along a road that is part of a public passenger transport route
  - a change in priority settings on a road that is part of a public passenger transport route
- (2) The chief executive—
- (a) must consider the application within—
    - (i) 21 days after receiving it; or
    - (ii) the longer time notified to the local government by the chief executive, in writing, before the end of the 21 days; and
  - (b) may—
    - (i) approve the proposed change, with or without conditions; or
    - (ii) refuse to approve the proposed change.
- (3) The chief executive must give the local government written notice of the chief executive's decision on the application.

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- (4) If the chief executive does not do any of the following within the 21 days, the chief executive is taken to have approved the proposed change—
  - (a) approve the proposed change;
  - (b) refuse to approve the proposed change;
  - (c) give the local government a notice under subsection (2).
- (5) Part 5 applies to a decision of the chief executive under subsection (2)(b).
- (6) This section does not apply if—
  - (a) the chief executive has considered the change of management of the local government road as part of the chief executive's consideration of a development application under IDAS; or
  - (b) it is reasonably necessary for the change to be made without delay including, for example, because of an emergency affecting the safety of the road network.
- (7) In this section—

*IDAS* see the *Integrated Planning Act 1997*, section 3.1.1.

## **8E Guidelines for pt 2A**

- (1) The chief executive may make guidelines—
  - (a) about a matter mentioned in section 8A; or
  - (b) for the purposes of sections 8B to 8D.
- (2) The guidelines may also—
  - (a) identify a particular transport facility, transport corridor or parcel of land; and
  - (b) include other matters relevant to subsection (1)(a) or (b).
- (3) A person must have regard to relevant guidelines when—
  - (a) planning or carrying out development under the *Integrated Planning Act 1997*; or





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- (b) ensuring the effective planning and development of transport infrastructure; and
- (c) developing and implementing travel demand management initiatives, including marketing and promotion initiatives, to more efficiently use road capacity.

## 23 Functions of chief executive not limited by implication

- (1) No transport Act limits, by implication, the chief executive's functions under another Act or law.

*Note—*

This Act (and the chief executive's functions under it) does not limit, by implication, the following functions under other Acts or laws—

- the chief executive's responsibilities as chief executive under the *Public Service Act 1996*, especially section 51
- the chief executive's functions as accountable officer under the *Financial Administration and Audit Act 1977*, especially section 36
- the chief executive's functions, whether at common law or under statute, as the person in control, under the Minister, of a department of government of the State
- the chief executive's functions under the *Transport Infrastructure Act 1994*, including, for example, the chief executive's functions for road transport infrastructure, busway transport infrastructure and light rail transport infrastructure under that Act.

- (2) This section is enacted to remove any doubt about the chief executive's functions.

- (3) In this section—

*function* includes responsibility.

*law* includes any common law rule.

## 24 General powers of chief executive

- (1) The chief executive has, under the Minister and as agent of the State, all the powers of the State that are necessary or desirable for performing the chief executive's functions.

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- (2) Anything done in the name of, or for, the State by the chief executive in performing the chief executive's functions is taken to have been done for, and binds, the State.
  - (3) Without limiting subsection (1), the chief executive may, for example, in performing the chief executive's functions—
    - (a) enter into arrangements, agreements, contracts and deeds; and
    - (b) acquire, hold, deal with and dispose of property; and
    - (c) appoint agents and attorneys; and
    - (d) charge, and fix terms, for goods, services, facilities and information supplied; and
    - (e) seal any document; and
    - (f) do other things necessary or convenient to be done for, or in connection with, the chief executive's functions.
  - (4) Without limiting subsection (1), the chief executive has the powers given to the chief executive under this or another Act or at common law.
  - (5) No transport Act limits, by implication, the powers that the chief executive has under another Act or law, and, in particular, no transport Act prevents, by implication—
    - (a) the chief executive doing anything in trade or commerce; or
    - (b) the chief executive doing anything outside Queensland, including outside Australia.
  - (6) However, the chief executive's powers are subject to any restriction expressly imposed on the chief executive under this or another Act.
  - (7) This section is enacted to remove any doubt about the chief executive's powers.
  - (8) In this section—

*function* includes responsibility.

*law* includes any common law rule.

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*power* includes legal capacity.

*restriction* includes prohibition.

*trade or commerce* includes—

- (a) a business or professional activity; and
- (b) anything else done for gain or reward.

## **25 General powers regarding property**

- (1) The chief executive may, for the State, acquire, hold, dispose of or otherwise deal with property for the purposes of transport, for an incidental purpose, for the purpose of a transport associated development or for a combination of these purposes.

*Note—*

See subsections (2) and (2A) if land is to be acquired by resumption.

- (2) The power conferred by subsection (1) includes power to acquire land by resumption in accordance with this part if the land is, in the chief executive's opinion, required for the purposes of transport, for an incidental purpose, for the purpose of a transport associated development or for a combination of these purposes.
- (2A) If land is acquired by resumption for the purpose of a transport associated development as mentioned in subsection (1) or (2), at the time of acquisition the land must also be acquired for the purposes of transport or for an incidental purpose.
- (3) Without limiting subsection (1) or (2), the chief executive may, for the State, acquire property for any of the following purposes—
  - (a) the facilitation of transport infrastructure;
  - (b) the supply or improvement of facilities for users of transport infrastructure;
  - (c) the amelioration of negative environmental effects associated with transport infrastructure;

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- (d) the construction or relocation of ancillary works and encroachments and public utility plant within the meaning of the *Transport Infrastructure Act 1994*, chapter 6.
- (4) In acquiring land under this part, the chief executive must have regard to any relevant provisions of—
- (a) the transport coordination plan; and
  - (b) transport infrastructure strategies in force under the *Transport Infrastructure Act 1994*.
- (5) The chief executive may have regard to any other matters the chief executive considers relevant.
- (6) The power to acquire land under this part includes power to acquire land or an easement or other interest in land above or beneath the surface without acquiring rights in the surface.
- (7) Subsection (6) applies to the acquisition of an easement even though the easement—
- (a) is not attached to, or used and enjoyed with, a dominant tenement; or
  - (b) must not be used and enjoyed in common with any other person.
- (8) For the *Acquisition of Land Act 1967*—
- (a) the chief executive is a constructing authority within the meaning of that Act; and
  - (b) without limiting the chief executive's powers to take land under that Act, the chief executive, as a constructing authority under that Act, may take land for purposes mentioned in subsections (1), (2) and (3).
- (9) The chief executive may, as a constructing authority under the *Acquisition of Land Act 1967*, obtain or resume a lease of State land or some other interest in State land that is less than freehold.
- (10) If the chief executive issues a notice of intention to resume a lease of State land, or some other interest in State land that is less than freehold, the chief executive must file a copy of the

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notice in the appropriate land register kept under the *Land Act 1994*.

- (11) If the chief executive amends or discontinues a resumption mentioned in subsection (10), the chief executive must immediately file a notice of the amendment or discontinuance in the register.
- (12) If an acquisition of land by the chief executive would sever land of the owner from other land of the owner, the chief executive may, with the Minister's approval, acquire by agreement or resumption the whole or a part of the severed area.
- (13) Land acquired under this part may be described in the instrument acquiring the land in any way sufficient to identify the land.

## **26 Taking of land by the chief executive for future transport purposes**

An acquisition of land that will be required at some future time for a purpose for which land may be taken under this Act by the chief executive is an acquisition of land for the purposes of this Act even if the time when the land will be required is indefinite or presently cannot be worked out.

### **26A Changing requirement for transport land**

- (1) This section applies to transport land taken under the *Acquisition of Land Act 1967* for a particular transport purpose.
- (2) The Minister may, by gazette notice under this Act, declare that the land is required for another stated transport purpose.
- (3) The land is taken to have been acquired for the other transport purpose from the day the declaration is published in the gazette.
- (4) The *Acquisition of Land Act 1967*, section 41 does not apply to the land because of the change of purpose.

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- (5) This section does not affect any right of a person to compensation because of the acquisition.
  - (6) To remove doubt, it is declared that a declaration under subsection (2)—
    - (a) is not an acquisition of the land; and
    - (b) does not give a right to compensation.

## **27 Power of chief executive to lease, sell or otherwise dispose of land**

- (1) The chief executive may, for the State, lease, sell or otherwise dispose of transport land—
  - (a) if the land is for busway transport infrastructure or bus passenger services—to any person for busway transport infrastructure or bus passenger services; or
  - (aa) if the land is for franchised road or toll road purposes—to any person for franchised road or toll road purposes; or
  - (b) if the land is for light rail transport infrastructure or light rail passenger services—to any person for light rail transport infrastructure or light rail passenger services; or
  - (ba) if the land is for a combination of purposes (***combined purposes***) including the purpose of a transport associated development (***relevant purpose***)—to any person for a relevant purpose, whether or not the person is going to deal with the land for any other purpose included in the combined purposes; or
  - (c) if the land is for a transport purpose other than a purpose mentioned in paragraph (a), (aa), (b) or (ba)—to a transport GOC or railway manager under the *Transport Infrastructure Act 1994*.
- (2) Subsection (1) applies despite the *Acquisition of Land Act 1967*.

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*Note—*

Subsection (1) would operate, for example, despite any implication in the *Acquisition of Land Act 1967* that the chief executive must carry out the development for which land is acquired and despite the requirements of section 41 of that Act.

- (3) To remove any doubt, it is declared that the power of the chief executive to acquire land by resumption or otherwise under this part applies even if the acquisition is carried out with the intention of disposing of land—
  - (a) under subsection (1); or
  - (b) as mentioned in subsection (aa), (b) or (c) under the *Transport Infrastructure Act 1994*, section 84C, 240 or 355.
- (4) Subsection (3) does not limit the power to acquire land under this part.

## **28 No compensation for works after notice of intention to resume or agreement to acquire**

In deciding the amount of compensation payable to a person for land resumed under this part, regard must not be had to the value of works carried out on the land at a time after a notice of intention to resume the land has been sent to a person entitled to compensation for the land or agreement to acquire has been reached.

## **28AA Declaration of area used or to be used for particular purposes to be prescribed transit node**

- (1) A regulation may declare an area that is used, or is proposed to be used, as any of the following to be a prescribed transit node—
  - (a) a busway station;
  - (b) railway station;
  - (c) a station for operating a light rail;
  - (d) another transport facility.



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- (2) For a declaration under subsection (1), the Minister may have regard to planning documents the Minister considers appropriate in relation to the region or local area within which the prescribed transit node is or is to be located.

*Examples of planning documents—*

- South East Queensland Regional Plan
- South East Queensland Infrastructure Plan and Program
- local growth management strategy.

## Part 4A Special provisions for busways

### 28A Definitions for pt 4A

In this part—

***Acquisition Act*** means the *Acquisition of Land Act 1967*.

***agreement*** means an agreement under the Acquisition Act, section 15(1).

***busway*** means—

- (a) a route especially designed and constructed for, and dedicated to, the priority movement of buses for passenger transport purposes; and
- (b) places for the taking on and letting off of bus passengers using the route.

***commencement*** means the commencement of section 28B.

***constructing authority***, for a land acquisition, means the constructing authority for the land acquisition under the Acquisition Act.

***construction contract*** means a contract concerning the construction of a busway.

***land acquisition*** means the taking of land under the authority of this Act and the Acquisition Act if, regardless of the

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particular purpose for the taking of the land, the taking of land is concerned with the construction or proposed construction of a busway.

*notice of intention to resume* means a notice of intention to resume under the Acquisition Act.

*taking of land* means the taking of land—

- (a) under a gazette notice under the Acquisition Act, section 9(7), including as amended by any amending gazette notice under section 11 of that Act; or
- (b) under a gazette notice under the Acquisition Act, section 15(12).

## **28B Busway land acquisition**

- (1) Subsections (2) and (3) apply to a land acquisition that—
  - (a) happened before the commencement; or
  - (b) happens after the commencement if—
    - (i) the notice of intention to resume for the land acquisition was served before the commencement; or
    - (ii) the date of the agreement for the land acquisition was earlier than the commencement.
- (2) It is declared that the validity and effectiveness of the land acquisition was not, and is not, affected by—
  - (a) whether the constructing authority was or is, or purported or purports to be—
    - (i) the chief executive with administrative responsibilities concerning matters connected with transport infrastructure; or
    - (ii) the chief executive with administrative responsibilities concerning matters connected with roads; or
  - (b) for the application of the Acquisition Act, section 9 or 15, whether the person assuming the role of Minister

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was or is the Minister mentioned in the Acquisition Act, section 9(1), definition *Minister*, paragraph (b) or another Minister.

- (3) It is declared that, despite anything done for the land acquisition, the constructing authority for the acquisition is taken to be, and always to have been, the chief executive with administrative responsibilities concerning matters connected with roads.

**28BA Further provisions relating to land acquisitions for busways on or after 13 October 2000**

- (1) This section applies to a land acquisition that—
- (a) happened on or after 13 October 2000 and before the relevant date; or
  - (b) happens after the relevant date if—
    - (i) the notice of intention to resume for the land acquisition was served on or after 13 October 2000 and before the relevant date; or
    - (ii) the date of the agreement for the land acquisition was on or after 13 October 2000 and earlier than the relevant date.
- (2) It is declared that the validity and effectiveness of the land acquisition was not, and is not, affected by—
- (a) whether the constructing authority was or is, or purported or purports to be—
    - (i) the chief executive with administrative responsibilities concerning matters connected with transport infrastructure; or
    - (ii) the chief executive with administrative responsibilities concerning matters connected with roads; or
  - (b) for the application of the Acquisition Act, section 9 or 15—whether the person assuming the role of Minister was or is the Minister mentioned in the Acquisition Act,

[s 28C]

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section 9(1), definition *Minister*, paragraph (b) or another Minister.

- (3) It is declared that, despite anything done for the land acquisition, the constructing authority for the acquisition is taken to be, and always to have been, the chief executive with administrative responsibilities concerning matters connected with roads.
- (4) In this section—  
*relevant date* means the date of the commencement of this section.

## **28C Construction contracts**

It is declared that the validity and effectiveness of a construction contract entered into before or after the commencement was not, and is not, affected by whether the entity entering into the contract for the State was or is—

- (a) the chief executive with administrative responsibilities concerning matters connected with transport infrastructure; or
- (b) the chief executive with administrative responsibilities concerning matters connected with roads.

# **Part 4B Special provision for local government tollways**

## **28D Powers regarding property**

- (1) A local government may acquire, hold, dispose of or otherwise deal with land for—
  - (a) an approved tollway project under the *Transport Infrastructure Act 1994*; or

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- (b) a local government tollway under the *Transport Infrastructure Act 1994*.
- (2) Without limiting subsection (1), a local government may—
- (a) acquire land for an approved tollway project or local government tollway with the intention of disposing of it to another person to operate as a tollway; and
- (b) dispose of land acquired by the local government for an approved tollway project or local government tollway to another person.
- (3) The power conferred by subsection (1) includes power to acquire land by taking it under the *Acquisition of Land Act 1967* if the land is, in the local government's opinion, required for an approved tollway project or local government tollway, or for an incidental purpose.
- (4) The power to acquire land under this section includes power to acquire land or an easement or other interest in land above or beneath the surface without acquiring rights in the surface.
- (5) Subsection (4) applies to the acquisition of an easement even though the easement—
- (a) is not attached to, or used and enjoyed with, a dominant tenement; or
- (b) must not be used and enjoyed in common with any other person.
- (6) A local government acquiring land under this section is a constructing authority within the meaning of the *Acquisition of Land Act 1967*.
- (7) If an acquisition of land by a local government would sever land of the owner from other land of the owner, the local government may acquire the whole or a part of the severed area by agreement or by taking the land under the *Acquisition of Land Act 1967*.
- (8) Land acquired under this section may be described in the instrument acquiring the land in any way sufficient to identify the land.

[s 28DA]

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## **28DA Approved tollway project becomes local government tollway**

- (1) This section applies if—
  - (a) a local government has started acquiring land for an approved tollway project as mentioned in section 28D; and
  - (b) before the acquisition is complete, a local government tollway is declared for the approved tollway project.
- (2) The acquisition is not affected by the declaration of the local government tollway and the local government may continue the acquisition as if the declaration had not been made.

# **Part 5 Review of and appeals against decisions**

## **Division 1 General**

### **29 What part applies to**

This part applies if a transport Act states that this part applies to—

- (a) a review of a decision (the *original decision*) under the transport Act; and
- (b) an appeal to a court stated in the transport Act (the *appeal court*) against a reviewed decision.

### **30 Definitions**

In this part—

*appeal court* see section 29(1).

*chief executive* means, if the original decision is made by the commissioner of the police service under the *Transport*

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*Operations (Road Use Management) Act 1995*, section 43—the commissioner.

*original decision* see section 29(1).

*reviewed decision* see section 34.

## **Division 2                      Review of original decisions**

### **31            Applying for review**

(1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.

(2) However, if—

(a) the notice did not state the reasons for the original decision; and

(b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1);

the person may apply within 28 days after the person is given the statement of the reasons.

(3) In addition, the chief executive may extend the period for applying.

(4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

### **32            Stay of operation of original decision**

(1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the appeal court.

(2) The appeal court may stay the original decision to secure the effectiveness of the review and any later appeal to the court.

[s 33]

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- (3) In setting the time for hearing the application, the appeal court must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the appeal court with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
  - (a) may be given on conditions the appeal court considers appropriate; and
  - (b) operates for the period specified by the appeal court; and
  - (c) may be revoked or amended by the appeal court.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the appeal court allows the applicant to enable the applicant to appeal against the decision.
- (8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

### **33 Review panels**

- (1) The chief executive may establish review panels for this part.
- (2) Subject to subsection (5), a review panel consists of persons nominated by the chief executive.
- (3) A member of a review panel may be paid the fees and allowances decided by the Governor in Council.
- (4) The chief executive may refer an application for a review of an original decision to a review panel for advice.
- (5) The person who made the original decision can not be a member of a review panel reviewing the decision.



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### **34 Decision on review**

- (1) A decision on an application for review of an original decision must be made within 28 days after the application is made.
- (2) If the chief executive was not the original decision maker, the chief executive, in reviewing the decision, has the same powers as the original decision maker.
- (3) If within the 28 days, the chief executive confirms or amends the original decision or substitutes another decision, the chief executive must give the applicant written notice (the *decision notice*) of the confirmed, amended or substituted decision (the *reviewed decision*).
- (4) The decision notice must state—
  - (a) the reasons for the reviewed decision; and
  - (b) that the applicant may, within 28 days, appeal against the reviewed decision to the appeal court.
- (5) However, if a decision is not made on the application within the 28 days, the chief executive is taken to have made a decision (also the *reviewed decision*) at the end of the 28 days confirming the original decision and the reasons given for it.
- (6) In appealing to the appeal court, the decision subject to appeal is the reviewed decision and not the original decision.

## **Division 3 Appeals against reviewed decisions**

### **35 Time for making appeals**

- (1) A person may appeal against a reviewed decision only within—
  - (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
  - (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

[s 36]

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- (2) However, if—
  - (a) the decision notice did not state the reasons for the decision; and
  - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);the person may apply within 28 days after the person is given a statement of the reasons.
- (3) Also, the appeal court may extend the period for appealing.

### **36 Starting appeals**

- (1) An appeal must be started by—
  - (a) filing a written notice of appeal with the appeal court; and
  - (b) serving a copy of the notice on the chief executive.
- (2) An appeal to a Magistrates Court or District Court may be made to the Magistrates Court or District Court nearest the place where the applicant resides or carries on business.

### **36A Stay of operation of reviewed decision**

- (1) If a person appeals against a reviewed decision to the appeal court, the person may immediately apply to the appeal court for a stay of the decision.
- (2) The appeal court may stay the reviewed decision to secure the effectiveness of the appeal.
- (3) In setting the time for hearing the stay application, the appeal court must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the appeal court with it on the chief executive at least 2 business days before the hearing.

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- (6) The stay—
- (a) may be given on conditions that the appeal court considers appropriate; and
  - (b) operates for the period specified by the appeal court, but not extending past the time when the court decides the appeal; and
  - (c) may be revoked or amended by the appeal court.
- (7) Apart from a stay of the operation of a decision, an appeal does not affect the operation or carrying out of the decision.

### **36B Powers of appeal court on appeal**

- (1) In deciding an appeal against a reviewed decision, the appeal court—
- (a) has the same powers as the person who made the original decision; and
  - (b) is not bound by the rules of evidence; and
  - (c) must comply with natural justice; and
  - (d) may hear the appeal in court or in chambers.
- (2) An appeal is by way of rehearing.
- (3) The appeal court may—
- (a) confirm the reviewed decision; or
  - (b) set aside the reviewed decision and substitute another decision that it considers appropriate; or
  - (c) set aside the reviewed decision and return the issue to the person who made the original decision with the directions that it considers appropriate.

### **36C Effect of decision of appeal court on appeal**

If the appeal court substitutes another decision for the reviewed decision, the substituted decision is, for the relevant

[s 36D]

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provision of the transport Act, taken to be that of the person who made the original decision.

### **36D Assessors**

If the judge hearing an appeal in a District Court is of the opinion that the appeal against a reviewed decision involves a question of special knowledge and skill, the judge may appoint 1 or more assessors to help the judge in deciding the appeal.

### **36DA Commissioner for Children and Young People and Child Guardian**

- (1) This section applies if an appeal concerns a reviewed decision about driver authorisation if a driver disqualifying offence involving a child was relevant to the original decision.
- (2) The Commissioner for Children and Young People and Child Guardian may appear as a party.
- (3) In this section—

*driver authorisation* means driver authorisation under the *Transport Operations (Passenger Transport) Act 1994*.

*driver disqualifying offence* means a driver disqualifying offence under the *Transport Operations (Passenger Transport) Act 1994*.

## **Part 6 General**

### **36E Advisory committees**

- (1) The Minister may establish as many advisory committees as the Minister considers appropriate for the administration of a transport Act.

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- (2) An advisory committee has the functions the Minister decides.
  - (3) A member of an advisory committee may be paid the fees and allowances decided by the Governor in Council.

### **37 Delegation by the Minister or the chief executive**

- (1) The Minister or the chief executive (the *delegator*) may delegate to a person a function or power of the delegator under this or another Act.
- (2) A function or power may be subdelegated if the delegation allows the subdelegation of the function or power.

### **38 Regulation-making power**

- (1) The Governor in Council may make regulations for the purposes of this Act.
- (2) Without limiting subsection (1), a regulation may be made about—
  - (a) a code for IDAS for proposed activities mentioned in part 2A; or
  - (b) consideration, whether monetary or otherwise, to be given to compensate the chief executive in taking action to rectify the impact a proposed activity mentioned in part 2A will have; or
  - (c) action to be taken to rectify the impact a proposed activity mentioned in part 2A will have.

## 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 1 October 2008. Future amendments of the Transport Planning and Coordination 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)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	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 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	15 April 1994	27 April 1994
2	1994 Act No. 32	1 July 1994	19 July 1994
3	1995 Act No. 32	1 July 1995	7 July 1995
4	1995 Act No. 57	15 December 1995	29 January 1996
4A	1996 Act No. 37	1 December 1996	21 March 1997
4B	1997 Act No. 66	12 December 1997	13 January 1998
5	1997 Act No. 66	12 December 1997	14 January 1998
5A	2000 Act No. 40	21 December 2001	11 January 2002
5B	2002 Act No. 15	24 June 2002	24 June 2002

Reprint No.	Amendments included	Effective	Notes
5C	2000 Act No. 40	14 October 2002	

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Reprint No.	Amendments included	Effective	Notes
5D	1994 Act No. 8 (amd 2003 Act No. 54)	1 December 2003	
5E	2004 Act No. 9	20 May 2004	
5F	2004 Act No. 40	19 September 2005	
5G	2005 Act No. 49	2 November 2005	
5H	2005 Act No. 67	27 January 2006	
5I rv	2006 Act No. 21	17 May 2006	
5J	2007 Act No. 6	1 June 2007	
5K	2007 Act No. 36	29 August 2007	
6	2007 Act No. 43	25 October 2007	
6A	2008 Act No. 31	21 May 2008	
6B	2008 Act No. 32	1 July 2008	
6C	2007 Act No. 10	1 October 2008	

## 5 Tables in earlier reprints

Name of table	Reprint No.
Obsolete and redundant provisions	3
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## 6 List of legislation

### **Transport Planning and Coordination Act 1994 No. 2**

date of assent 7 March 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 15 April 1994 (1994 SL No. 129)

amending legislation—

### **Transport Infrastructure Amendment Act 1994 No. 32 ss 1–2, 14 sch 1**

date of assent 30 June 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1994 (see s 2)

### **Transport Operations (Road Use Management) Act 1995 No. 9 ss 1–2, 92 sch 1**

date of assent 5 April 1995

commenced on date of assent (see s 2(1))

### **Transport Infrastructure Amendment (Rail) Act 1995 No. 32 pt 1, s 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)



**Transport Planning and Coordination Amendment Act 1995 No. 48 pts 1–2**

date of assent 22 November 1995

ss 1–2 commenced on date of assent

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

**Statute Law Revision Act 1995 No. 57 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

**Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

**Transport Legislation Amendment Act 1997 No. 66 pts 1, 9**

date of assent 1 December 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 12 December 1997 (1997 SL No. 439)

**Transport (Busway and Light Rail) Amendment Act 2000 No. 40 pts 1, 5**

date of assent 13 October 2000

ss 1–2, 39 commenced on date of assent

pt 5 hdg, ss 33, 36–37 commenced 21 December 2001 (2001 SL No. 278)

remaining provisions commenced 14 October 2002 (automatic commencement under AIA s 15DA(2) (2001 SL No. 183 s 2))

**Transport Legislation Amendment Act 2002 No. 15 ss 1, 2(2), pt 10**

date of assent 17 May 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 24 June 2002 (2002 SL No. 140)

**Transport Infrastructure Act 1994 No. 8 s 491(3) sch 5 (prev s 200A(3) sch 2B) (this Act is amended, see amending legislation below)**

amending legislation—

**Transport Infrastructure and Another Act Amendment Act 2003 No. 54 ss 1–2, 34, 39 (amends 1994 No. 8 above)**

date of assent 18 September 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2003 (2003 SL No. 294)

**Transport and Other Legislation Amendment Act 2004 No. 9 s 1, pt 6**

date of assent 20 May 2004

commenced on date of assent

**Transport and Other Legislation Amendment Act (No. 2) 2004 No. 40 pts 1, 5**

date of assent 27 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 19 September 2005 (2005 SL No. 177)

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**Transport Legislation Amendment Act 2005 No. 49 s 1, pt 7**

date of assent 2 November 2005  
commenced on date of assent

**Transport and Other Legislation Amendment Act 2005 No. 67 pts 1, 6**

date of assent 8 December 2005  
ss 1–2 commenced on date of assent  
remaining provisions commenced 27 January 2006 (2006 SL No. 2)

**Maritime and Other Legislation Amendment Act 2006 No. 21 s 1, pt 5 div 4, s 150(1) sch 1**

date of assent 17 May 2006  
commenced on date of assent

**Transport Legislation and Another Act Amendment Act 2007 No. 6 pts 1, 10**

date of assent 28 February 2007  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 June 2007 (2007 SL No. 93)

**Government Owned Corporations Amendment Act 2007 No. 10 ss 1–2, 62 sch**

date of assent 20 March 2007  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 October 2008 (2008 SL No. 316)

**Statute Law (Miscellaneous Provisions) Act 2007 No. 36**

date of assent 29 August 2007  
commenced on date of assent

**Transport Legislation Amendment Act 2007 No. 43 s 1, pt 7**

date of assent 25 October 2007  
commenced on date of assent

**Transport Legislation Amendment Act 2008 No. 31 s 1, pt 9, s 72 sch**

date of assent 21 May 2008  
commenced on date of assent

**Transport Operations (TransLink Transit Authority) Act 2008 No. 32 ss 1–2, pt 14**

date of assent 21 May 2008  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2008 (2008 SL No. 188)

## 7 List of annotations

**This Act has been renumbered—see table of renumbered provisions in endnote 8.**

**Title** amd 1994 No. 32 s 14 sch 1

**Objectives**

s 2 prev s 2 om R3 (see RA s 37)

**Definitions**

- s 3** def “**busway transport infrastructure**” ins 2000 No. 40 s 34(1)  
 amd 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39)  
 def “**chief executive**” om R3 (see RA s 39)  
 def “**complementary purposes**” ins 2008 No. 31 s 67(1)  
 def “**ferry service**” ins 2004 No. 40 s 17  
 def “**franchised road**” ins 2007 No. 43 s 89(1)  
 def “**IDAS**” ins 2004 No. 40 s 17  
 def “**light rail transport infrastructure**” ins 2000 No. 40 s 34(1)  
 amd 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss 34, 39)  
 def “**local government road**” ins 2004 No. 40 s 17  
 def “**long distance scheduled passenger service**” ins 2004 No. 40 s 17  
 om 2008 No. 32 s 108(1)  
 def “**prescribed transit node**” ins 2008 No. 31 s 67(1)  
 def “**public passenger service**” ins 2004 No. 40 s 17  
 def “**public passenger transport infrastructure**” ins 2004 No. 40 s 17  
 amd 2005 No. 49 s 76  
 def “**road**” ins 2004 No. 40 s 17  
 def “**road works**” ins 2004 No. 40 s 17  
 def “**scheduled passenger service**” ins 2004 No. 40 s 17  
 def “**SEQTA**” ins 1995 No. 48 s 4  
 om 2008 No. 32 s 108(1)  
 def “**SEQTA area**” ins 1995 No. 48 s 4  
 om 2008 No. 32 s 108(1)  
 def “**toll road**” ins 2007 No. 43 s 89(1)  
 def “**transport Act**” ins 1994 No. 32 s 14 sch 1  
 amd 2008 No. 32 s 108(2)  
 def “**transport associated development**” ins 2008 No. 31 s 67(1)  
 def “**transport decision**” ins 1994 No. 32 s 14 sch 1  
 def “**transport GOC**” ins 1995 No. 32 s 23 sch  
 amd 2007 No. 10 s 62 sch  
 def “**transport land**” ins 1995 No. 32 s 23 sch  
 amd 2000 No. 40 s 34(2); 1994 No. 8 s 491(3) sch 5 (amd 2003 No. 54 ss  
 34, 39); 2007 No. 43 s 89(2); 2008 No. 31 s 67(2)  
 def “**transport purpose**” ins 1994 No. 32 s 14 sch 1

**Transport coordination plan to be consistent with overall strategic planning for government etc.**

- s 6** amd 1995 No. 48 s 5; 2008 No. 32 s 109

**Effect of failure to comply with pt 2**

- s 8** ins 1995 No. 9 s 92 sch

**PART 2A—LAND USE AND TRANSPORT COORDINATION**

- pt hdg** ins 2004 No. 40 s 18

**Object of pt 2A**

- s 8A** ins 2004 No. 40 s 18

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**Impact of particular development on public passenger transport**

s 8B ins 2004 No. 40 s 18

**Impact of road works on local government road**

s 8C ins 2004 No. 40 s 18  
amd 2008 No. 32 s 110

**Impact of change of management of local government road on public passenger transport**

s 8D ins 2004 No. 40 s 18  
amd 2005 No. 49 s 77; 2007 No. 36 s 2 sch

**Guidelines for pt 2A**

s 8E ins 2004 No. 40 s 18  
amd 2005 No. 49 s 78  
sub 2007 No. 6 s 68

**PART 3—THE SOUTH-EAST QUEENSLAND TRANSIT AUTHORITY**

pt hdg ins 1995 No. 48 s 6  
om 2008 No. 32 s 111

**Object of part**

s 9 ins 1995 No. 48 s 6  
amd 1996 No. 37 s 147 sch 2  
om 2008 No. 32 s 111

**The south-east Queensland transit authority**

s 10 ins 1995 No. 48 s 6  
om 2008 No. 32 s 111

**SEQTA is excluded matter for Corporations Act**

s 10A ins 2002 No. 15 s 64  
om 2008 No. 32 s 111

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**Functions of SEQTA**

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**SEQTA's powers**

s 13 ins 1995 No. 48 s 6  
om 2008 No. 32 s 111

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om 2008 No. 32 s 111

**Development of integrated regional transport plan**

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s 16 ins 1995 No. 48 s 6  
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s 16A ins 2002 No. 15 s 65  
om 2008 No. 32 s 111

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s 17 ins 1995 No. 48 s 6  
om 2008 No. 32 s 111

**Duration of appointment**

s 18 ins 1995 No. 48 s 6  
om 2008 No. 32 s 111

**SEQTA board's functions**

s 19 ins 1995 No. 48 s 6  
om 2008 No. 32 s 111

**Effect of SEQTA board's decisions**

s 20 ins 1995 No. 48 s 6  
om 2008 No. 32 s 111

**Fees and allowances**

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pres s 21 ins 1995 No. 48 s 6  
om 2008 No. 32 s 111

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om 2008 No. 32 s 111  
pres s 22 ins 2008 No. 32 s 112

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pres s 23 (prev s 8A) ins 1994 No. 32 s 14 sch 1  
renum 1995 No. 32 s 23 sch  
amd 2000 No. 40 s 35; 2007 No. 36 s 2 sch

**General powers of chief executive**

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**General powers regarding property**

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prov hdg amd 1995 No. 32 s 23 sch; 2000 No. 40 s 38(1)

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sub 1995 No. 32 s 23 sch

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**Definitions for pt 4A**

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def “**taking of land**” amd 2008 No. 31 s 72 sch

**Busway land acquisition**

s 28B ins 2000 No. 40 s 39

amd 2007 No. 43 s 91; 2008 No. 31 s 72 sch

**Further provisions relating to land acquisitions for busways on or after 13 October 2000**

s 28BA ins 2007 No. 43 s 92

**Construction contracts**

s 28C ins 2000 No. 40 s 39

**PART 4B—SPECIAL PROVISION FOR LOCAL GOVERNMENT TOLLWAYS**

pt hdg ins 2005 No. 67 s 42

**Powers regarding property**

s 28D ins 2005 No. 67 s 42

amd 2006 No. 21 s 148 ((3) amdt given effect, minor error in location command)

**Approved tollway project becomes local government tollway**

s 28DA ins 2006 No. 21 s 149

**PART 5—REVIEW OF AND APPEALS AGAINST DECISIONS**

pt hdg sub 1997 No. 66 s 138

**Division 1—General**

div hdg ins 1997 No. 66 s 138

**What part applies to**

s 29 sub 1997 No. 66 s 138

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**Division 2—Review of original decisions**

div hdg ins 1997 No. 66 s 138

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**Stay of operation of original decision**

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s 33 sub 1997 No. 66 s 138

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s 34 sub 1997 No. 66 s 138

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prov hdg ins 2004 No. 9 s 71A  
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s 36E ins 1997 No. 66 s 139

**Delegation by Minister or the chief executive**

s 37 amd 1995 No. 48 s 7; 2006 No. 21 s 150(1) sch 1; 2008 No. 32 s 113

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