

Version No. 034
Project Development and Construction
Management Act 1994

No. 101 of 1994

Version incorporating amendments as at 8 February 2008

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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1 Purposes

The main purposes of this Act are—

- | | |
|--|---|
| (a) to facilitate certain development projects in Victoria; | |
| (b) to provide for the setting of standards and the issuing of directions in relation to public construction; | |
| (c) to establish the Secretary to the Department of Infrastructure as a body corporate; | S. 1(c)
amended by
No. 46/1998
s. 7(Sch. 1). |
| (d) to provide for the transfer of certain matters from the Urban Land Authority to the Secretary to the Department of Infrastructure; | S. 1(d)
amended by
No. 46/1998
s. 7(Sch. 1). |
| (da) to establish the Secretary to the Department of State and Regional Development as a body corporate; | S. 1(da)
inserted by
No. 72/2000
s. 4. |
| (db) to provide for the transfer of certain matters from the Secretary to the Department of Infrastructure to the Secretary to the Department of State and Regional Development; | S. 1(db)
inserted by
No. 72/2000
s. 4. |

- (e) to amend the **Bayside Project Act 1988**;
- (f) to repeal the **Public Lands and Works Act 1964**.

2 Commencement

- (1) Section 1 and this section come into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in subsection (2) does not come into operation within the period of 6 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

3 Definitions

- (1) In this Act—

application order means an order under section 8;

building includes—

- (a) a structure and part of a building or a structure; and
- (b) fences, walls, out-buildings, service installations and other appurtenances of a building; and
- (c) a boat or a pontoon which is permanently moored or fixed to land;

department means—

- (a) a department within the meaning of section 4 of the **Public Administration Act 2004**; or

S. 3(1) def. of *department* substituted by No. 46/1998 s. 7(Sch. 1), amended by No. 108/2004 s. 117(1) (Sch. 3 item 163.1).

- (b) an office specified in section 16(1) of that Act;

development includes—

- (a) the construction or carrying out, extension, demolition or removal of a building or works;
- (b) the decoration or alteration of the inside or outside of a building or the alteration of works;
- (c) the subdivision or consolidation of land, airspace or buildings;
- (d) the installation or provision or operation of facilities or services;
- (e) the relocation, deepening or widening of a waterway;

directions mean directions issued under section 30;

enactment means a rule, regulation, by-law, order, Order in Council, proclamation or other instrument of a legislative character;

facilitating agency in relation to a nominated project means the public statutory corporation specified in the nomination order as the facilitating agency for that project;

function includes power, discretion, authority and duty;

limitations, in relation to land, means trusts, reservations, restrictions, exceptions, encumbrances, limitations, rights, privileges, estates and interests;

S. 3(1) def. of *limitations* amended by No. 46/1997 s. 4(2).

nominated project means a development or proposed development declared by a nomination order to be a project to which this Act applies;

S. 3(1) def. of
public body
substituted by
No. 43/1995
s. 23(a).

nomination order means an order under section 6;

public body in Part 3 or Part 4 means—

- (a) a public statutory authority;
- (b) a State business corporation within the meaning of the **State Owned Enterprises Act 1992**;
- (c) a body, office or trust body—
 - (i) established by or under an Act or enactment; or
 - (ii) established by the Governor in Council or a Minister—

and that is declared by the Minister, by notice published in the Government Gazette, to be a body or office to which that Part applies;

public construction means any matter relating to the construction, maintenance, rehabilitation, alteration, extension or demolition of any improvements on land by, or on behalf of, departments or public bodies and includes—

- (a) design and construction practices;
- (b) tendering processes;
- (c) project delivery;
- (d) contract administration;

public statutory corporation means any corporation established by or under an Act for a public purpose other than a municipal council;

responsible Minister, in relation to a nominated project, means the Minister specified in the nomination order as the Minister responsible for that project;

road includes bridge, highway, street, lane, footway, square, court, alley or right of way, whether accessible to the public generally or not;

* * * * * S. 3(1) def. of Secretary repealed by No. 72/2000 s. 5(1)(a).

Secretary to the Department of Infrastructure means the body corporate constituted under section 35;

S. 3(1) def. of Secretary to the Department of Infrastructure inserted by No. 72/2000 s. 5(1)(a).

* * * * * S. 3(1) def. of Secretary to the Department of State and Regional Development inserted by No. 72/2000 s. 5(1)(a), repealed by No. 16/2003 s. 22.

standards means standards set under section 29;

* * * * * S. 3(1) def of the Department amended by No. 46/1997 s. 4(1), repealed by No. 72/2000 s. 5(1)(b).

works includes any change to the natural or existing condition or topography of land including the removal, destruction, or lopping of trees and the removal of

vegetation or topsoil and land reclamation
and land decontamination.

S. 3(2)
amended by
Nos 46/1998
s. 7(Sch. 1),
72/2000
s. 5(2)(a)(b),
108/2004
s. 117(1)
(Sch. 3
item 163.2).

- (2) If, under the **Public Administration Act 2004**, the name of the Department of Infrastructure or the Department of State and Regional Development is changed, a reference in this Act to the Department of Infrastructure or the Department of State and Regional Development must be read, from the date the name is changed, as a reference to the relevant Department by its new name.

4 Crown bound

This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

5 Application of Act

S. 5(3)
amended by
No. 46/1997
s. 5.

- (1) A provision of Part 3 does not apply to a nominated project unless that provision is specified in an application order in relation to the project.
- (2) A provision of Part 3 does not apply to a facilitating agency unless that provision is specified in an application order in relation to the agency.
- (3) Section 19, 20, 22, 23 or 24 does not apply to the responsible Minister unless that provision is specified in an application order in relation to the Minister.

S. 5(4)
amended by
No. 72/2000
s. 6.

- (4) A function conferred on a Minister or facilitating agency by an application order is additional to and does not derogate from any other function of the Minister or agency under Part 5 or Part 5A of this Act or any other Act or law.

PART 2—NOMINATION OF PROJECTS

6 Nomination order

The Governor in Council, on the recommendation of the Premier, may, by order published in the Government Gazette, declare a development or proposed development to be a project to which this Act applies.

7 Contents of order

A nomination order must specify—

- (a) the Minister who is to be responsible for the nominated project; and
- (b) if there is to be a facilitating agency for the nominated project, the public statutory corporation which is to be that facilitating agency.

S. 7
substituted by
No. 46/1997
s. 6.

8 Application order

The Governor in Council, on the recommendation of the Premier, by order published in the Government Gazette relating to a nominated project—

- (a) may specify the provisions of Part 3 which are to apply in relation to the nominated project;
- (b) if there is a facilitating agency for the nominated project, may specify the provisions of Part 3 which are to apply to that facilitating agency;
- (c) may specify that all or any of sections 19, 20, 22, 23 and 24 apply in relation to the responsible Minister for the nominated project;
- (d) may specify an area of land for the purposes of the nominated project;

S. 8
substituted by
No. 46/1997
s. 7.

s. 8A

(e) may specify any other matter permitted by this Act to be specified in an order under this section.

S. 8A
inserted by
No. 16/2003
s. 23.

8A Orders may be amended or revoked

- (1) The Governor in Council, on the recommendation of the Premier, by order published in the Government Gazette, may—
 - (a) amend a nomination order or an application order; or
 - (b) revoke a nomination order or an application order.
- (2) An order under subsection (1) which amends a nomination order may substitute a facilitating agency specified in the nomination order.
- (3) An order under subsection (1) may provide for any matter necessary or convenient to give effect to the order including, but not limited to, the transfer, apportionment, settlement or determination of any property, income, assets, rights, liabilities or other matters.

S. 9
substituted by
No. 46/1997
s. 8.

9 Tabling of orders

The Premier must cause—

- (a) a copy of each nomination order, together with a statement signed by the Premier of reasons for the making of the order; and
- (b) a copy of each application order; and
- (c) a copy of each order made under section 8A—

S. 9(b)
amended by
No. 16/2003
s. 24(1).

S. 9(c)
inserted by
No. 16/2003
s. 24(2).

to be laid before each House of Parliament within 14 sitting days after the order is made.

* * * * *

S. 10
repealed by
No. 46/1997
s. 9.

11 Delegation by facilitating agency

- (1) A facilitating agency may by instrument delegate all or any of its functions under this Act in respect of a nominated project to—
- (a) an officer of or the holder of any office or position in the facilitating agency; or
 - (b) with the consent of the Minister, to any other person or body or to the holder of any other office.
- (2) If—
- (a) a function referred to in section 14 is delegated under subsection (1) to a person or body or the holder of an office or position; and
 - (b) the instrument of delegation authorises the sub-delegation of the function—
- then, subject to any conditions to which the delegation is subject, the delegate may sub-delegate the function to—
- (c) an officer of or the holder of any office or position in the facilitating agency; or
 - (d) with the consent of the Minister, to any other person or body or to the holder of any other office or position—
- but may not sub-delegate a power of delegation.
- (3) The Minister's consent under this section may be in respect of a class or classes of persons or bodies or offices.

12 Responsible Minister's directions

- (1) The responsible Minister may give a facilitating agency written directions in relation to a nominated project.
- (2) A facilitating agency must comply with any directions under this section in carrying out its functions under this Act in relation to the nominated project.
- (3) An agreement or arrangement or contract entered into under this Act in contravention of subsection (2) is not void only because of that contravention.

13 Treasurer's directions

- (1) The Treasurer may give a facilitating agency written directions in relation to any matter relating to the financing of a nominated project if the Treasurer is of the opinion that that matter may involve any direct or indirect or contingent liability to the State.
 - (2) A facilitating agency must comply with any directions under this section in carrying out its functions under this Act in relation to a nominated project.
 - (3) An agreement or arrangement or contract entered into under this Act in contravention of subsection (2) is not void only because of that contravention.
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**PART 3—PROVISIONS RELATING TO NOMINATED
PROJECTS**

Division 1—Agreements and arrangements

14 Contracts and agreements

A facilitating agency may enter into contracts and agreements and other arrangements with any person for the purposes of a nominated project, other than arrangements referred to in section 15.

15 Arrangements

- (1) A facilitating agency, with the approval of the Treasurer, may do all or any of the following for the purposes of a nominated project—
 - (a) form or participate in the formation of, a corporation, trust, partnership or other body;
 - (b) subscribe for, or otherwise acquire, and hold and dispose of shares in, or debentures or other securities of, a corporation;
 - (c) subscribe for, or otherwise acquire, and hold and dispose of, units in a trust;
 - (d) acquire and hold and dispose of an interest in a partnership or other body;
 - (e) enter into any contract, agreement or arrangement with a person for the sharing of profits, union of interest, co-operation, joint venture, reciprocal concessions or otherwise.
- (2) Subsection (1) applies whether a person or body referred to in that subsection or a party to a contract or arrangement under subsection (1)(e) is formed or carries on business in Victoria or elsewhere.
- (3) An approval under this section may be given for a particular case or class of cases.

16 Reciprocal arrangements with public sector agencies

- (1) A facilitating agency, for the purpose of a nominated project, may enter into an agreement or arrangement with a Minister, government department or public body (*public sector agency*) concerning—
 - (a) the carrying out by the facilitating agency and the public sector agency of any of their respective functions; or
 - (b) the carrying out or providing by the facilitating agency for the public sector agency, or by the public sector agency for the facilitating agency, of any works or services; or
 - (c) the use or joint use by the facilitating agency and the public sector agency of their respective facilities or the services of their respective staff; or
 - (d) the allocation of funds collected under the agreement or arrangement.
- (2) The facilitating agency must consult with the Treasurer before entering into an agreement or arrangement which provides for the allocation of funds to be collected under the agreement or arrangement.

Division 2—Obtaining land

17 Grant of land to facilitating agency

- (1) The Governor in Council on behalf of the Crown may grant to a facilitating agency for the purposes of a nominated project for an estate in fee simple—

-
- (a) land divested or surrendered under section 18 or 18A; or
- (b) any other unalienated land of the Crown that is not reserved under the **Crown Land (Reserves) Act 1978**.
- (2) A grant of land—
- (a) under subsection (1)(a) must be made on the recommendation of the responsible Minister;
- (b) under subsection (1)(b) must be made on the recommendation of the Minister administering Part IX of the **Land Act 1958**.
- (3) The Governor in Council may, as a condition of granting land to a facilitating agency, require it to agree to pay into the Consolidated Fund or, if the land was surrendered by or divested from a public body, to that body, an amount or amounts at the times or over the period determined by the Governor in Council.
- (4) A condition under subsection (3) may only be imposed on the joint recommendation of—
- (a) the responsible Minister and the Minister responsible for the public body, in the case of land surrendered by or divested from a public body; or
- (b) the responsible Minister and the Minister administering Part IX of the **Land Act 1958**, in any other case.
- (5) The grant—
- (a) if it is of land covered with waters of the sea, must be to a depth not greater than 60 metres below high water mark; and

S. 17(1)(a)
amended by
No. 46/1997
s. 10.

- (b) if it is for other land, must be to a depth not greater than 60 metres below the surface of the land; and
 - (c) may contain any other terms, covenants, conditions or limitations that the Governor in Council determines.
- (6) Land may be granted to a facilitating agency with or without consideration being given by the facilitating agency.
- (7) Sections 339A and 339B of the **Land Act 1958** apply to a grant of land under this section as if it were a grant of land in fee simple under that Act.

18 Surrender or divesting of land of other bodies

- (1) The Governor in Council, by order published in the Government Gazette, may—
- (a) require a public body in which land is vested to surrender it to the Crown; or
 - (b) divest land from a public body—
for the purposes of a nominated project.
- (2) Subsection (1) does not apply to land which is reserved under the **Crown Land (Reserves) Act 1978**.
- (3) A public body must comply with a requirement under subsection (1)(a).
- (4) On—
- (a) the conveyance to the Crown or the registration of an instrument of transfer and surrender to the Crown of land that a public body is required to surrender under subsection (1)(a); or

S. 18(2)
amended by
No. 43/1995
s. 23(b).

(b) the publication in the Government Gazette of an order under subsection (1)(b)—

the land concerned is deemed to be unalienated land of the Crown and is freed and discharged from all limitations.

- (5) The Governor in Council, by order published in the Government Gazette, may make any amendments to any land description in any Act or subordinate instrument that are necessary because of the divesting or surrender of land under this section.
- (6) A power may only be exercised under subsection (1) or (5) on the joint recommendation of the responsible Minister and the Minister administering the Act under which the public body is established.

18A Surrender of interests in unreserved Crown land

S. 18A
inserted by
No. 46/1997
s. 11.

- (1) The responsible Minister may recommend to the Governor in Council that—
- (a) the interests (if any) in any Crown land; and
 - (b) the prescribed contractual rights (if any) relating to any Crown land—

which is part of an area specified in an application order for a nominated project be surrendered to the Crown or extinguished.

- (2) The responsible Minister may make a recommendation under subsection (1) on—
- (a) receiving a plan of the land signed by the Surveyor-General; and
 - (b) being satisfied that the land shown on the plan represents land—
 - (i) the interests (if any) in which are to be surrendered to the Crown; and

-
- (ii) in relation to which prescribed contractual rights (if any) are to be extinguished.
- (3) This section does not apply to land which is reserved under the **Crown Land (Reserves) Act 1978**.
- (4) On receiving the responsible Minister's recommendation, the Governor in Council may, by order published in the Government Gazette, declare that—
- (a) the interests (if any) in the land shown on the plan are surrendered to the Crown; and
 - (b) the prescribed contractual rights (if any) in relation to the land shown on the plan are extinguished.
- (5) On publication of an order under subsection (4) in the Government Gazette—
- (a) the land is deemed to be unalienated land of the Crown, freed and discharged from all limitations; and
 - (b) all prescribed contractual rights (if any) relating to the land are extinguished; and
 - (c) if any part of the land is or is being used as a road, that part of the land ceases to be a road and all rights, easements and privileges existing or claimed in it either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise, cease; and
 - (d) if any part of the land is the bed, soil and banks of a river, all rights easements and privileges existing or claimed in that part of the land either in the public or by any body or person as incident to any express or
-

implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise, cease.

- (6) Subsection (5) has effect despite anything to the contrary in section 175A of the **Water Industry Act 1994** or any other Act.
- (7) In this section *prescribed contractual right* means a right (other than an interest in land) created under an agreement in writing entered into between a public body and another person (not being the Crown).

19 Acquisition by agreement

- (1) For the purposes of a nominated project, the responsible Minister or the facilitating agency may acquire by agreement an interest in land on any terms (including consideration) that the responsible Minister or agency considers appropriate.
- (2) Any interest in land acquired by the responsible Minister under this section vests in the Crown and is deemed to be unalienated land of the Crown.

S. 19
substituted by
No. 46/1997
s. 12.

20 Compulsory acquisition

- (1) For the purposes of a nominated project, the responsible Minister or the facilitating agency may acquire an interest in land by compulsory process.
- (2) The **Land Acquisition and Compensation Act 1986** applies to subsection (1) and for that purpose—
 - (a) subsection (1) is the special Act; and
 - (b) the responsible Minister or the facilitating agency (as the case requires) is the Authority.

s. 20A

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- (3) Any interest in land acquired by the responsible Minister under this section—
- (a) vests in the Crown under section 24 of the **Land Acquisition and Compensation Act 1986** despite anything to the contrary in that section; and
 - (b) is deemed to be unalienated land of the Crown.

Pt 3 Div. 2A
(Heading and
s. 20A)
inserted by
No. 46/1997
s. 13.

Division 2A—Compensation for surrendered or divested land

S. 20A
inserted by
No. 46/1997
s. 13.

20A Right to compensation on surrender or divesting

- (1) Subject to this Act and the **Land Acquisition and Compensation Act 1986**, every person (other than a public body) who immediately before the publication of an order under section 18 or 18A had a legal or equitable estate or interest in land to which the order applies or, in the case of an order under section 18A, a prescribed contractual right (within the meaning of that section) in relation to land to which the order applies, has a claim for compensation.
 - (2) The **Land Acquisition and Compensation Act 1986** (except sections 31 to 36) applies to the determination of compensation payable under this section as if the publication of the order were a notice of acquisition of that estate or interest or right and the responsible Minister had acquired that estate or interest or right on behalf of the Crown.
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Division 2B—Entry into possession of surrendered or divested land

Pt 3 Div. 2B
(Heading and
ss 20B–20J)
inserted by
No. 46/1997
s. 13.

20B Interpretation

S. 20B
inserted by
No. 46/1997
s. 13.

In this Division—

surrender date in relation to land means the date of publication of an order under section 18 or 18A in relation to that land;

surrendered land means land which on the publication of an order under section 18 or 18A is deemed to be unalienated land of the Crown.

20C Application

S. 20C
inserted by
No. 46/1997
s. 13.

This Division applies to surrendered land whether it became surrendered land before or after the commencement of section 13 of the **Project Development and Construction Management (Amendment) Act 1997**.

20D Power to enter into possession

S. 20D
inserted by
No. 46/1997
s. 13.

Subject to this Division, the responsible Minister may enter into possession of surrendered land.

20E Entry into possession

S. 20E
inserted by
No. 46/1997
s. 13.

- (1) The responsible Minister must diligently endeavour to obtain agreement with the occupier of surrendered land as to the terms on which the Minister will enter into possession of the land.
- (2) Subject to this Division, if surrendered land or part of surrendered land is used, at the surrender date, by a person as the principal place of residence or business of that person, the responsible Minister must not enter into possession of—

-
- (a) the part of the land so used; or
- (b) if the whole of the land is so used, that land—
- before the end of 3 months after the surrender date and unless the responsible Minister has given 7 days' notice in writing of his or her intention to enter into possession to the person in occupation of the land.
- (3) A person referred to in subsection (2) is not liable for the payment of rent in respect of the occupation by that person of that part of the surrendered land which is used as the principal place of residence or business of that person during the period specified in that subsection.
- (4) Subsection (2) does not apply if—
- (a) the Governor in Council, on the recommendation of the responsible Minister, by order certifies that having regard to—
- (i) the urgency of the case or any other exceptional circumstances; and
- (ii) the public interest—
- it is not practicable for the responsible Minister to delay entry into possession of the surrendered land until after the end of the period referred to in subsection (2); or
- (b) the responsible Minister and the person in occupation of the surrendered land have entered into an agreement in relation to the time of entry into possession of the surrendered land by the responsible Minister.
- (5) If, at the surrender date, surrendered land is not used by any person as the principal place of residence or business of that person, the responsible Minister may enter into possession of the land at any time after the surrender date after
-

-
- giving 7 days' notice in writing of his or her intention to enter into possession to the person in occupation of the land.
- (6) The period of occupation of the surrendered land after the surrender date (including the period referred to in subsection (2)) may be extended by agreement in writing between the responsible Minister and the person in occupation of the surrendered land.
 - (7) An agreement under subsection (6) must provide for the payment of rent by the person in occupation of the relevant land to the Crown.
 - (8) If a person continues to occupy surrendered land after the period referred to in subsection (2) or the surrender date (as the case may be) and an agreement has not been entered into under subsection (6) in respect of that occupation, that person is to be taken to be in possession of the land in pursuance of a tenancy determinable at will by the responsible Minister and is liable to pay to the Crown a fair market rent in respect of that continued occupation.
 - (9) If a person referred to in subsection (2) ceases of the person's own accord to occupy the surrendered land before the end of the period referred to in that subsection, the entitlement of that person under this Division to occupy the land without payment of rent to the Crown also ceases.
 - (10) An order under subsection (4)(a) must specify the date on which the responsible Minister is to take possession.
 - (11) The responsible Minister must give a copy of the order under subsection (4)(a) to the person in occupation of the land.
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s. 20F

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- (12) The person whose period of occupation of the surrendered land was abridged under subsection (4)(a) is entitled to claim compensation under Division 2A for any loss or damage which is incurred as a direct, natural and reasonable consequence of that abridgment and for which the person could not otherwise make a claim under that Division.
- (13) The compensation payable pursuant to subsection (12) may be paid to—
- (a) the person who is entitled to claim the compensation; or
 - (b) the constituted attorney of that person.

S. 20F
inserted by
No. 46/1997
s. 13.

20F Recovery of rent

Any rent payable to the Crown under section 20E may be recovered as a debt due to the Crown in any court of competent jurisdiction.

S. 20G
inserted by
No. 46/1997
s. 13.

20G Proceedings where refusal to give up possession

- (1) If the responsible Minister is entitled under this Division to enter into possession of surrendered land and the occupier of the land or any other person—
- (a) refuses to give up the possession of the land; or
 - (b) hinders the responsible Minister from entering on and taking possession of the land—

the responsible Minister may issue his or her warrant under this section to the sheriff.

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- (2) A warrant issued under this section authorises the sheriff to—
- (a) enter onto the land specified in the warrant; and
 - (b) deliver possession of the land to the responsible Minister or the person appointed in the warrant to receive possession of the land; and
 - (c) use such force as is reasonably necessary to execute the warrant.
- (3) On receipt of a warrant issued under this section, the sheriff must deliver possession of the land to the responsible Minister or the person appointed in the warrant to receive possession of the land.
- (4) The costs incurred in the issuing and execution of a warrant must be paid by the person refusing to give up possession.
- (5) The amount of the costs and the amount of any rent owed by that person must be deducted and retained by the responsible Minister from the compensation (if any) payable under this Part to that person.
- (6) If no compensation is payable to that person or if the compensation payable is less than the amount of the costs and rent (if any) then payment of the amount in excess of the compensation must if not paid on demand be enforced by a warrant to seize property.
- (7) On application by the responsible Minister, a magistrate must issue a warrant for the purposes of subsection (6).
- (8) In this section, *sheriff* means the sheriff or a deputy sheriff under the **Supreme Court Act 1986**.
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s. 20H

S. 20H
inserted by
No. 46/1997
s. 13,
amended by
No. 109/1997
s. 533(Sch. 2
item 10.1).

20H Residential Tenancies Act 1997 not to apply

Nothing in the **Residential Tenancies Act 1997** applies to or in relation to any matter provided for or any proceedings under this Division.

S. 20I
inserted by
No. 46/1997
s. 13.

20I Giving of notice

If the whereabouts of a person to whom the responsible Minister is required to give a notice or document is not known to the responsible Minister, the notice or document may be given—

- (a) by publication of a copy of it in a newspaper circulating generally throughout the State; and
- (b) by affixing it in a prominent place on the land to which it relates.

S. 20J
inserted by
No. 46/1997
s. 13.

20J Minor misdescription not to invalidate notice

The validity of any notice under this Division is not affected by any misdescription in it of the land or of any interest in the land if sufficient information appears on the face of the notice to identify the land or interest affected.

Division 3—Disposing of land

21 Facilitating agency may surrender land to the Crown

A facilitating agency is an authority for the purposes of section 22A of the **Land Act 1958**.

22 Disposing of land

- (1) A facilitating agency may—
 - (a) grant a lease or licence or easement or privilege over land vested in it or registered in its name; or

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- (b) sell or dispose of its interest in fee simple in any land—
on any terms (including consideration) that it considers appropriate.
- (2) On disposing of the whole of its interest in any land to another person, a facilitating agency may enter into an agreement with the person concerning the use or development of the land.
- (3) For the purposes of a nominated project, the responsible Minister, may—
- (a) grant a lease or licence or easement or privilege over Crown land; or
 - (b) recommend to the Governor in Council the grant, sale or disposition of Crown land—
on any terms (including consideration) that the responsible Minister considers appropriate.
- (4) The responsible Minister must consult with the Minister administering the **Land Act 1958** before exercising any power under subsection (3).
- (5) Subsection (3) does not apply to land which is reserved under the **Crown Land (Reserves) Act 1978**.
- (6) The Governor in Council may grant, sell or dispose of Crown land to any person in accordance with the recommendation of the responsible Minister under this section.
- (7) Land may be sold or disposed of to a person under subsection (6) on condition that the person enter into an agreement with the responsible Minister concerning the use or development of the land.
- S. 22(3) substituted by No. 46/1997 s. 14.
- S. 22(4) inserted by No. 46/1997 s. 14.
- S. 22(5) inserted by No. 46/1997 s. 14.
- S. 22(6) inserted by No. 46/1997 s. 14.
- S. 22(7) inserted by No. 46/1997 s. 14.

S. 22(8)
inserted by
No. 46/1997
s. 14.

- (8) Division 2 of Part 9 of the **Planning and Environment Act 1987** applies to an agreement under subsection (2) or (7) as if—
- (a) it was an agreement under that Division; and
 - (b) it referred to the responsible Minister or the facilitating agency (as the case requires) instead of the responsible authority for the planning scheme; and
 - (c) section 174(2)(c) were omitted; and
 - (d) sections 177(2), 178 and 179(1) referred to the responsible Minister or the facilitating agency (as the case requires) instead of the Minister.

S. 22(9)
inserted by
No. 46/1997
s. 14.

- (9) This section applies despite anything to the contrary in the **Land Act 1958**.

Division 4—Powers relating to roads and buildings

23 Powers relating to roads

- (1) For the purposes of a nominated project, the responsible Minister or a facilitating agency may—
- (a) construct, realign, relocate, open or close any road; and
 - (b) carry out or operate works or facilities associated with its powers under paragraph (a).
- (2) Before making a decision to close, realign or relocate a road, the responsible Minister or facilitating agency must ensure that provision is made with respect to pipes, wires, apparatus, sewers, drains, tunnels, conduits, poles, posts and fixtures lawfully on over under or across the road or part of the road.

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- (3) If the responsible Minister or a facilitating agency makes a decision to close, realign or relocate a road, the responsible Minister or facilitating agency must make provision for the payment of compensation to—
- (a) any person in whom the land comprised in the road or part of the road is vested; and
 - (b) any owner of property which in the opinion of the responsible Minister or the facilitating agency, as the case requires, is likely to be substantially affected by that closure, realignment or relocation.
- (4) The responsible Minister may certify that, having regard to the extent to which any person referred to in subsection (3)(a) or (b) is or is likely to be affected by the closure, realignment or relocation of a road, the compensation payable to that person under subsection (3) should not exceed the amount stated in the certificate (not being more than \$400).
- (5) If the responsible Minister so certifies under subsection (4), the amount stated in the certificate in respect of that person shall be the full amount payable to him or her under subsection (3) by the responsible Minister or the facilitating agency, as the case requires, by way of compensation.
- (6) If the responsible Minister is satisfied that a person who might be entitled to compensation under subsection (3) cannot be found, the Minister may direct that no provision, or such provision as the responsible Minister specifies, shall be made for payment of compensation to that person.

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- (7) If subsection (5) or (6) does not apply, the compensation payable to a person under subsection (3) shall be—
- (a) the amount agreed between the responsible Minister or the facilitating agency, as the case requires, and the person; or
 - (b) if agreement is not reached, the amount determined as if the amount of compensation payable were a disputed claim under Part 10 of the **Land Acquisition and Compensation Act 1976**.
- (8) The Governor in Council may by order published in the Government Gazette provide for—
- (a) any vesting or divesting of lands;
 - (b) any amendments to any land descriptions in any Act or subordinate instrument—
- necessary because of the exercise by the responsible Minister or facilitating agency of its powers under subsection (1).

24 Closing roads

- (1) A decision under section 23 to close, realign or relocate a road has no effect until the responsible Minister or facilitating agency causes notice of it to be published in the Government Gazette and in a newspaper circulating generally throughout the area affected by the closure, realignment or relocation.
- (2) On the publication under subsection (1) of a decision closing, realigning or relocating a road—
- (a) the land over which the closed, realigned or relocated road ran ceases to be a road; and

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- (b) all rights, easements and privileges existing or claimed in the land either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise, cease; and
 - (c) the land is deemed to be unalienated land of the Crown.
- (3) For the purpose of a nominated project, the responsible Minister or the facilitating agency may temporarily close a road to traffic if that Minister or agency considers it necessary to do so so that works on the road or neighbouring land can be carried out.

25 Administration of Building Act

- (1) Despite anything to the contrary in the **Building Act 1993**, the Minister administering that Act may, by order published in the Government Gazette, declare that the administration and enforcement in relation to all or part of a nominated project of any of the provisions of that Act and the regulations made under that Act is to be carried out by the facilitating agency or any other person or body specified in the order and in accordance with the terms and conditions of the order.
- (2) The **Building Act 1993** and the regulations under that Act apply for the purposes of this section as if any reference to a council or a relevant building surveyor or a municipal building surveyor were a reference to the facilitating agency or the relevant person or body specified in an order under this section.

Division 5—Financial provisions

26 Exemption from taxes, rates, charges etc.

- (1) Despite anything to the contrary in any Act or law, the Treasurer, on the recommendation of the responsible Minister, may by instrument—
 - (a) totally or partially exempt any land, document or transaction relating to a nominated project from any duty, rate, tax, or charge levied under any other Act or law; or
 - (b) defer the payment of the whole or part of any duty, rate, tax or charge levied under any other Act or law on any land, document or transaction relating to a nominated project.
- (2) An exemption or deferral must state the time for which it operates and may be subject to any conditions specified in the instrument of exemption or deferral.
- (3) The responsible Minister must obtain the written consent of the person or body responsible for levying a duty, rate, tax or charge (other than one payable into the Consolidated Fund) before making a recommendation under subsection (1) in relation to that duty, rate, tax or charge.

27 Treasurer may execute guarantees in respect of project

- (1) The Treasurer, on such terms and conditions as the Treasurer thinks fit, may—
 - (a) execute a guarantee in favour of a person or body in respect of the performance of any obligation by a person or body under an agreement or contract relating to a nominated project; or

Project Development and Construction Management Act 1994
No. 101 of 1994
Part 3—Provisions Relating to Nominated Projects

s. 27

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- (b) execute an indemnity or covenant in favour of a person or body in respect of any expense, loss, damage, cost or liability incurred or that may be incurred by that person or body under or in respect of an agreement or contract relating to a nominated project. **S. 27(1)(b) amended by No. 46/1997 s. 16(1)(a).**
- (2) The Treasurer must not execute a guarantee, indemnity or covenant under subsection (1) unless he or she has first obtained the written consent of—
- (a) in the case of a guarantee, indemnity or covenant relating to the obligations of the Crown under an agreement or contract, each Minister who is a party to the agreement or contract; or **S. 27(2)(a) amended by No. 46/1997 s. 16(1)(b).**
- (b) in any other case—
- (i) any public body which is a party to the agreement or contract in relation to which the guarantee, indemnity or covenant is to be given; and
- (ii) the Minister administering the Act by or under which that public body is constituted.
- (3) Section 30 of the **Borrowing and Investment Powers Act 1987** applies to a guarantee, indemnity or covenant under subsection (1) as if it were a guarantee, indemnity or covenant under Part 5 of that Act.

28 Borrowing and investment powers

If the application order in respect of a nominated project so provides the facilitating agency is deemed—

- (a) to be an authority for the purposes of the **Borrowing and Investment Powers Act 1987**; and
 - (b) to be such an authority to which such of sections 5, 8, 10, 11, 11AA, 11AB, 12, 14, 14A, 15, 20, 20A or 21 of that Act as are specified in the application order apply.
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**PART 4—STANDARDS AND DIRECTIONS FOR PUBLIC
CONSTRUCTION**

29 Standards for public construction

The Minister may set standards, not inconsistent with any other Act or any statutory rule, relating to public construction.

30 Directions for public construction

The Minister may issue written directions, not inconsistent with any other Act or statutory rule, relating to public construction.

31 Inconsistency with supply policies

Despite anything in this Part, a provision of a standard or direction, that is inconsistent with a provision of a supply policy within the meaning of the **Financial Management Act 1994**, prevails to the extent of the inconsistency.

32 Content of standards and directions

Standards and directions may—

- (a) be of general or limited application;
- (b) differ according to differences in time, place or circumstance;
- (c) confer a discretionary authority or impose a duty on a specified person or class of persons;
- (d) leave anything for the approval or satisfaction of a specified person or class of persons;
- (e) apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any person whether—

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- (i) wholly or partially or as amended by the standards or directions; or
 - (ii) as formulated, issued, prescribed or published at the time the standards are set or the directions are issued or at any time before then; or
 - (iii) as formulated, issued, prescribed or published from time to time;
 - (f) provide in a specified case or class of cases for the exemption of departments, public bodies, persons or things or classes of departments, public bodies, persons or things from any provision of the standards or directions, whether unconditionally or on specified conditions and either wholly or to a specified extent.

33 Application of standards and directions

Standards and directions apply to any public construction undertaken by, or on behalf of, any department or public body, except to the extent specified in the standards or directions or determined by the Minister.

34 Standards and directions to be published and made available

- (1) The Minister must cause a copy of any standards or directions to be made available, on request, to departments or public bodies to which they apply.
- (2) The Minister must cause a list of any standards set and directions issued during a year and notice of where they are available for inspection to be included in the report of operations of the Department for that year under Part 7 of the **Financial Management Act 1994**.

**PART 5—THE SECRETARY TO THE DEPARTMENT OF
INFRASTRUCTURE**

Pt 5 (Heading)
amended by
No. 72/2000
s. 7(1).

35 The Secretary is a body corporate

(1) The person who is for the time being the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department of Infrastructure and the successors in office of that person are a body corporate under the name "Secretary to the Department of Infrastructure" which, by that name—

S. 35(1)
amended by
Nos 46/1997
s. 15, 46/1998
s. 7(Sch. 1),
72/2000
s. 7(2)(a),
108/2004
s. 117(1)
(Sch. 3
item 163.2).

(a) has perpetual succession;

(b) has an official seal;

S. 35(1)(b)
amended by
No. 72/2000
s. 7(2)(b).

(c) may sue and be sued;

(d) may acquire, hold and dispose of real and personal property;

(e) may do and suffer all things that a body corporate may, by law, do and suffer.

(2) The official seal of the Secretary to the Department of Infrastructure must be kept as directed by the Secretary and must not be used except as authorised by the Secretary.

S. 35(2)
substituted by
No. 72/2000
s. 7(3).

(3) All courts must take judicial notice of the official seal of the Secretary to the Department of Infrastructure on a document and, until the contrary is proved, must presume that the seal was properly affixed.

S. 35(3)
substituted by
No. 72/2000
s. 7(3).

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S. 36
repealed by
No. 46/1998
s. 7(Sch. 1).

s. 37

37 Functions of the Secretary to the Department of Infrastructure

S. 37(1)
amended by
No. 72/2000
s. 8(1).

- (1) The Secretary to the Department of Infrastructure has the following functions—
 - (a) by agreement, to facilitate and manage public construction for departments and public bodies;
 - (b) in relation to public construction—
 - (i) to provide consultancies, information and advice to departments and public bodies;
 - (ii) to provide advice and information to the Minister;
 - (c) by agreement, to facilitate and manage construction for other persons or bodies.

S. 37(2)
amended by
No. 72/2000
s. 8(1).

- (2) In addition to subsection (1), the Secretary to the Department of Infrastructure has any functions conferred on the Secretary to the Department of Infrastructure under Part 3.

S. 37(2A)
inserted by
No. 103/1997
s. 5(1),
amended by
No. 72/2000
s. 8(1).

- (2A) In addition to subsections (1) and (2), the Secretary to the Department of Infrastructure has any functions conferred on the Secretary to the Department of Infrastructure under Part 9A of the **Planning and Environment Act 1987**.

S. 37(3)
amended by
No. 72/2000
s. 8(1).

- (3) The Secretary to the Department of Infrastructure may perform its functions within or outside Victoria.

38 Powers of the Secretary to the Department of Infrastructure

S. 38(1)
amended by
No. 72/2000
s. 8(1).

- (1) The Secretary to the Department of Infrastructure has all the powers necessary to perform its functions under section 37(1).

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- (2) Without limiting subsection (1), the Secretary to the Department of Infrastructure may, in the performance of its functions under section 37(1)—
- (a) enter into any agreements or arrangements with any person or body;
 - (b) enter into agreements or arrangements for the provision by the Secretary to the Department of Infrastructure of administration, management or information systems or services;
 - (c) do all things necessary or convenient to be done to give effect to the agreements and arrangements referred to in paragraphs (a) and (b);
 - (d) with the approval of the Treasurer, form, participate in the formation of, or be a member of a body corporate, association, partnership, trust or other body and enter into a joint venture with any other person.
- (3) The Secretary to the Department of Infrastructure has any powers conferred under Part 3 to perform the functions conferred on the Secretary to the Department of Infrastructure under that Part.
- (3A) The Secretary to the Department of Infrastructure has any powers conferred on the Secretary to the Department of Infrastructure under Part 9A of the **Planning and Environment Act 1987**.
- (4) The Secretary to the Department of Infrastructure may exercise its powers within or outside Victoria.

S. 38(2)
amended by
No. 72/2000
s. 8(1).

S. 38(2)(b)
amended by
No. 72/2000
s. 8(1).

S. 38(3)
amended by
No. 72/2000
s. 8(1).

S. 38(3A)
inserted by
No. 103/1997
s. 5(2),
amended by
No. 72/2000
s. 8(1).

S. 38(4)
amended by
No. 72/2000
s. 8(1).

s. 39

S. 39
amended by
No. 72/2000
s. 8(1).

39 Secretary to the Department of Infrastructure is subject to Ministerial control

In the exercise of powers and functions the Secretary to the Department of Infrastructure is subject to the direction and control of the Minister.

S. 40
amended by
Nos 46/1998
s. 7(Sch. 1),
72/2000
s. 8(1),
108/2004
s. 117(1)
(Sch. 3
item 163.2).

40 Department Head's powers are not affected

The powers and functions of the person who for the time being constitutes the Secretary to the Department of Infrastructure are in addition to, and do not affect, that person's powers and functions as a Department Head under the **Public Administration Act 2004**.

S. 41
amended by
Nos 46/1998
s. 7(Sch. 1),
72/2000
s. 8(2)(a)(b).

41 Delegation

The Secretary to the Department of Infrastructure may delegate in writing to any employee or class of employees of the Department of Infrastructure any of the powers conferred on the Secretary to the Department of Infrastructure under this Part or the regulations other than this power of delegation.

Pt 5A
(Heading and
ss 41A–41F)
inserted by
No. 72/2000
s. 9,
amended by
No. 75/2001
s. 67(1)(2),
repealed by
No. 16/2003
s. 25.

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PART 6—GENERAL

42 Improper use of information

A person connected with a nominated project must not make improper use of information acquired because of that person's connection with the project—

- (a) to gain directly or indirectly any pecuniary advantage for himself or herself or anyone else;
- (b) with intent to cause detriment to the project irrespective of whether or not detriment was caused.

Penalty: 50 penalty units.

43 Information to be confidential

A person connected with a nominated project must not make a record of, or divulge or communicate to any person, information about the project gained because of that connection with the project except—

- (a) in carrying out official duties; or
- (b) in carrying out duties or obligations under this Act or any agreement or arrangement under this Act; or
- (c) with the consent of the responsible Minister; or
- (d) to a court, in proceedings under this Act or in relation to an agreement or arrangement made under this Act.

Penalty: 50 penalty units.

s. 44

44 Who is connected with a nominated project?

For the purposes of sections 42 and 43, a person is connected with a nominated project if the person is or has been—

- (a) a participant with the facilitating agency in a body (corporate or unincorporate), trust, partnership, joint venture, or other joint undertaking relating to the project; or
- (b) a party to an agreement or arrangement made with the facilitating agency in relation to the project.

S. 44(b)
amended by
No. 43/1995
s. 23(c).

45 Action by Registrar of Titles

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(2) On being requested to do so and on delivery of any relevant instrument or document, the Registrar of Titles must make any recordings in the Register that are necessary because of the operation of this Act or an order made under this Act.

(3) This section does not apply in relation to anything done under Part 7 or Part 8.

S. 45(3)
amended by
No. 72/2000
s. 10.

46 Regulations

The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

PART 7—TRANSFER OF MAJOR PROJECTS

47 Definitions

(1) In this Part—

Chairman means the Chairman of the Urban Land Authority;

former ULA property means property, rights or liabilities of the Urban Land Authority that, under this Part, have vested in, or become liabilities of, the Secretary;

instrument includes a document and an oral agreement;

liabilities means all liabilities, duties and obligations, whether actual, contingent or prospective;

major project means—

- (a) a major State project specified in the Schedule; or
- (b) a project designated by the relevant Ministers under subsection (2);

property means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description;

relevant date, in relation to an allocation statement or property, rights or liabilities allocated under an allocation statement, means the date fixed by the Minister under subsection (3) for the purposes of that statement;

relevant Ministers means the Ministers for the time being administering the **Urban Land Authority Act 1979**;

rights means all rights, powers, privileges and immunities, whether actual, contingent or prospective;

Secretary means the Secretary to the Department of Infrastructure as constituted under section 35;

Urban Land Authority means the Urban Land Authority established under the **Urban Land Authority Act 1979**;

Urban Land Authority instrument means an instrument (including a legislative instrument other than this Act) subsisting immediately before the relevant date—

- (a) to which the Urban Land Authority was a party; or
- (b) that was given to or in favour of the Urban Land Authority; or
- (c) that refers to the Urban Land Authority; or
- (d) under which—
 - (i) money is, or may become, payable to or by the Urban Land Authority; or
 - (ii) other property is to be, or may become liable to be, transferred to or by the Urban Land Authority.

S. 47(1) def. of *Secretary* inserted by No. 72/2000 s. 11.

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- (2) The relevant Ministers may, by instrument, designate any project which is or was the responsibility of the Minister for Major Projects or the Minister responsible for Major Projects as a major project for the purposes of this Part.
 - (3) The relevant Ministers may, by notice in the Government Gazette, fix the relevant date for the purposes of an allocation statement under section 48.

48 Urban Land Authority and Secretary to prepare allocation statement or statements

- (1) The Urban Land Authority and the Secretary must give to the relevant Ministers and the Treasurer within the period of 3 months after the date on which this Act receives the Royal Assent a statement or statements approved by the Treasurer and the relevant Ministers relating to the property, rights and liabilities of the Urban Land Authority in relation to a major project or projects as at a date specified by the Minister for the purposes of the relevant statement.
 - (2) A statement under this section in relation to a major project—
 - (a) must allocate to the Secretary all the property, rights and liabilities of the Urban Land Authority which relate to the project; and
 - (b) must be signed by the Chairman of the Urban Land Authority and the Secretary.
 - (3) If a statement under this section is approved by the Treasurer and the relevant Ministers—
 - (a) the Treasurer and the relevant Ministers must sign the statement; and
 - (b) the statement is an allocation statement for the purposes of this Part.
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- (4) The Treasurer and the relevant Ministers may at any time direct the Urban Land Authority and the Secretary to amend a statement given to them under this section as specified in the direction.
 - (5) An allocation statement under this section may be amended by writing signed by the Treasurer and the relevant Ministers.
 - (6) In this section, *statement* and *allocation statement* include a statement or allocation statement amended in accordance with this section.

49 Certificate of Chairman

- (1) A certificate signed by the Chairman certifying that property, rights or liabilities of the Urban Land Authority specified in the certificate have been allocated under the allocation statement to the Secretary is, unless revoked under subsection (2), conclusive evidence—
 - (a) that the property, rights or liabilities have been so allocated; and
 - (b) that the property, rights or liabilities vested in or became the property, rights or liabilities of the Secretary on the relevant date.
 - (2) If the Treasurer and the relevant Ministers so direct the Chairman in writing, the Chairman must revoke a certificate given under subsection (1) by issuing another certificate or certificates in place of the first certificate.
 - (3) The Chairman—
 - (a) must keep a register of certificates issued under this section; and
 - (b) must make the register reasonably available for inspection by the Secretary or any other interested person.
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50 Property transferred to Secretary

On the relevant date—

- (a) all property and rights of the Urban Land Authority that are allocated to the Secretary under an allocation statement, vest in the Secretary; and
- (b) all liabilities of the Urban Land Authority that are allocated to the Secretary under an allocation statement, become liabilities of the Secretary.

51 Allocation of property etc. subject to encumbrances

Unless an allocation statement under this Part otherwise provides, where, under this Part property and rights vest in the Secretary or liabilities become liabilities of the Secretary—

- (a) the property and rights so vested are subject to the encumbrances (if any) to which they were subject immediately before so vesting; and
- (b) the rights to which the Urban Land Authority was entitled in respect of those liabilities immediately before they ceased to be liabilities of the Urban Land Authority vest in the Secretary.

52 Substitution of party to agreement

If, under an allocation statement, the rights and liabilities of the Urban Land Authority under an agreement are allocated to the Secretary—

- (a) the Secretary becomes, on the relevant date, a party to the agreement in place of the Urban Land Authority; and
- (b) on and after the relevant date, the agreement has effect as if the Secretary had always been a party to the agreement.

53 Urban Land Authority instruments

Each Urban Land Authority instrument relating to former ULA property continues to have effect according to its tenor on and after the relevant date as if a reference in the instrument to the Urban Land Authority were a reference to the Secretary.

54 Proceedings

If, immediately before the relevant date, proceedings relating to former ULA property (including arbitration proceedings) to which the Urban Land Authority was a party were pending or existing in any court or tribunal, then, on and after that date, the Secretary is substituted for the Urban Land Authority as a party to the proceedings and has the same rights in the proceedings as the Urban Land Authority had.

55 Interests in land

Without affecting the generality of this Part and despite anything to the contrary in any other Act or law, if, immediately before the relevant date, the Urban Land Authority is, in relation to former ULA property, the registered proprietor of an interest in land under the **Transfer of Land Act 1958**, then on and after that date—

- (a) the Secretary is deemed to be the registered proprietor of that interest in land; and
- (b) the Secretary has the same rights and remedies in respect of that interest as the Urban Land Authority had.

56 Action by Registrar of Titles

On being requested to do so and on delivery of any relevant instrument or document and certificate of the Chairman, the Registrar of Titles must make any recordings in the Register that are necessary because of the operation of this Part.

57 Taxes

No stamp duty or other tax is chargeable under any Act in respect of anything done under this Part or in respect of any act or transaction connected with or necessary to be done by reason of this Part, including a transaction entered into or an instrument made, executed, lodged or given, for the purpose of, or connected with the transfer of property, rights or liabilities of the Urban Land Authority.

58 Evidence

- (1) Documentary or other evidence that would have been admissible for or against the interests of the Urban Land Authority in relation to former ULA property if this Part had not been enacted, is admissible for or against the interests of the Secretary.
- (2) Division 3A of Part III of the **Evidence Act 1958** continues to apply with respect to the books of account of the Urban Land Authority and to entries made in those books of account before the relevant date, whether or not they relate to former ULA property.
- (3) In subsection (2), *books of account* has the same meaning as in Division 3A of Part III of the **Evidence Act 1958**.

S. 58(2)
amended by
No. 43/1995
s. 23(d).

59 Validity of things done under this Part

- (1) Nothing effected by this Part or done or suffered by the Urban Land Authority, the State, a Minister or the Secretary under this Part—
 - (a) is to be regarded as placing the Urban Land Authority, the State, a Minister or the Secretary in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
 - (b) is to be regarded as placing any of them in breach of or as constituting a default under any Act or other law or any provision in any agreement, arrangement or understanding including, without limiting the generality of the foregoing, any provision prohibiting, restricting or regulating the assignment or transfer of any property or the disclosure of any information; or
 - (c) is to be regarded as fulfilling any condition which allows a person to exercise a right or remedy in respect of or to terminate any agreement or obligation; or
 - (d) releases any surety or other obligee wholly or in part from any obligation.
- (2) The validity of any act or transaction of the Urban Land Authority or the Chairman must not be called in question in any proceedings on the ground that any provision of this Part had not been complied with.

PART 8—TRANSFER OF DESIGNATED PROJECTS

New Pt 8
(Heading and
ss 60–75)
inserted by
No. 72/2000
s. 12.

60 Definitions

New s. 60
inserted by
No. 72/2000
s. 12.

In this Part—

allocation statement means an allocation statement made under section 63;

designated project means a nominated project designated by the relevant Ministers under section 61;

former Secretary of Infrastructure property means property, rights or liabilities of the Secretary to the Department of Infrastructure that, under this Part, have vested in or become liabilities of the Secretary to the Department of State and Regional Development;

instrument includes a document and an oral agreement;

liabilities means all liabilities, duties and obligations, whether actual, contingent or prospective;

property means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description;

relevant date, in relation to an allocation statement or property, rights or liabilities allocated under an allocation statement, means the date fixed by the relevant Ministers under section 62 for the purposes of that statement;

relevant Ministers means the Ministers administering this Act and the Minister administering the **Docklands Authority Act 1991**;

rights means all rights, powers, privileges and immunities, whether actual, contingent or prospective;

Secretary to the Department of Infrastructure instrument means an instrument (including a legislative instrument other than this Act) subsisting immediately before the relevant date—

- (a) to which the Secretary to the Department of Infrastructure was a party; or
- (b) that was given to or in favour of the Secretary to the Department of Infrastructure; or
- (c) that refers to the Secretary to the Department of Infrastructure; or
- (d) under which—
 - (i) money is, or may become, payable to or by the Secretary to the Department of Infrastructure; or
 - (ii) other property is to be, or may become liable to be, transferred to or by the Secretary to the Department of Infrastructure.

New s. 61
inserted by
No. 72/2000
s. 12.

61 Ministers may designate project

The relevant Ministers, by instrument, may designate any nominated project for which the Secretary to the Department of Infrastructure is the facilitating agency as a designated project for the purposes of this Part.

62 Ministers may fix relevant date

The relevant Ministers, by notice published in the Government Gazette, may fix the relevant date for the purposes of an allocation statement under section 63.

New s. 62
inserted by
No. 72/2000
s. 12.

63 Secretaries to prepare allocation statement or statements

New s. 63
inserted by
No. 72/2000
s. 12.

- (1) The Secretary to the Department of Infrastructure and the Secretary to the Department of State and Regional Development must give to the relevant Ministers and the Treasurer within the period of 3 months after 1 January 2001, or such longer period as is approved by the relevant Ministers and the Treasurer, a statement or statements approved by the Treasurer and the relevant Ministers relating to the property, rights and liabilities of the Secretary to the Department of Infrastructure in relation to a designated project as at the relevant date.
- (2) A statement under this section in relation to a designated project—
 - (a) must allocate to the Secretary to the Department of State and Regional Development all the property, rights and liabilities of the Secretary to the Department of Infrastructure which relate to the project; and
 - (b) must be signed by the Secretary to the Department of Infrastructure and the Secretary to the Department of State and Regional Development.
- (3) If a statement under this section is approved by the Treasurer and the relevant Ministers—
 - (a) the Treasurer and the relevant Ministers must sign the statement; and

- (b) the statement is an allocation statement for the purposes of this Part.
- (4) The Treasurer and the relevant Ministers may at any time direct the Secretary to the Department of Infrastructure and the Secretary to the Department of State and Regional Development to amend a statement given to them under this section as specified in the direction.
- (5) An allocation statement under this section may be amended by writing signed by the Treasurer and the relevant Ministers.
- (6) In this section, *statement* and *allocation statement* include a statement or allocation statement amended in accordance with this section.

New s. 64
inserted by
No. 72/2000
s. 12.

64 Certificate of Secretary to the Department of Infrastructure

- (1) A certificate signed by the Secretary to the Department of Infrastructure certifying that property, rights or liabilities of the Secretary to the Department of Infrastructure specified in the certificate have been allocated under an allocation statement to the Secretary to the Department of State and Regional Development is, unless revoked under subsection (2), conclusive evidence—
 - (a) that the property, rights or liabilities have been so allocated; and
 - (b) that the property, rights or liabilities vested in or became the property, rights or liabilities of the Secretary to the Department of State and Regional Development on the relevant date.

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- (2) If the Treasurer and the relevant Ministers so direct the Secretary to the Department of Infrastructure in writing, the Secretary to the Department of Infrastructure must revoke a certificate given under subsection (1) by issuing another certificate or certificates in place of the first certificate.
 - (3) The Secretary to the Department of Infrastructure—
 - (a) must keep a register of certificates issued under this section; and
 - (b) must make the register reasonably available for inspection by the Secretary to the Department of State and Regional Development or any other interested person.

65 Effect of transfer on nomination order

New s. 65
inserted by
No. 72/2000
s. 12.

On and after the relevant date—

- (a) in any nomination order in force as at that relevant date relating to the designated project, a reference to the Secretary to the Department of Infrastructure as the facilitating agency for that project must be construed as a reference to the Secretary to the Department of State and Regional Development as the facilitating agency for that project; and
 - (b) the Secretary to the Department of State and Regional Development is deemed to be the facilitating agency for that project; and
 - (c) unless revoked, amended or varied in accordance with this Act, any other provision of the nomination order and any application order in force as at the relevant date relating to that project continue to apply to that project.
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s. 66

New s. 66
inserted by
No. 72/2000
s. 12.

66 Property transferred to Secretary to the Department of State and Regional Development

On the relevant date—

- (a) all property and rights of the Secretary to the Department of Infrastructure that are allocated under an allocation statement to the Secretary to the Department of State and Regional Development vest in the Secretary to the Department of State and Regional Development; and
- (b) all liabilities of the Secretary to the Department of Infrastructure that are allocated under an allocation statement to the Secretary to the Department of State and Regional Development become liabilities of the Secretary to the Department of State and Regional Development.

New s. 67
inserted by
No. 72/2000
s. 12.

67 Allocation of property etc. subject to encumbrances

Unless an allocation statement otherwise provides, if, under this Part, property and rights vest in the Secretary to the Department of State and Regional Development or liabilities become liabilities of the Secretary to the Department of State and Regional Development—

- (a) the property and rights so vested are subject to the encumbrances (if any) to which they were subject immediately before so vesting; and
- (b) the rights to which the Secretary to the Department of Infrastructure was entitled in respect of those liabilities immediately before they ceased to be liabilities of that Secretary vest in the Secretary to the Department of State and Regional Development.

68 Substitution of party to agreement

New s. 68
inserted by
No. 72/2000
s. 12.

If, under an allocation statement, the rights and liabilities of the Secretary to the Department of Infrastructure under an agreement are allocated to the Secretary to the Department of State and Regional Development—

- (a) the Secretary to the Department of State and Regional Development becomes, on the relevant date, a party to the agreement in place of the Secretary to the Department of Infrastructure; and
- (b) on and after the relevant date, the agreement has effect as if the Secretary to the Department of State and Regional Development had always been a party to the agreement.

69 Secretary to the Department of Infrastructure instruments

New s. 69
inserted by
No. 72/2000
s. 12.

Each Secretary to the Department of Infrastructure instrument relating to former Secretary to the Department of Infrastructure property continues to have effect according to its tenor on and after the relevant date as if a reference in the instrument to the Secretary to the Department of Infrastructure were a reference to the Secretary to the Department of State and Regional Development.

s. 70

S. 70
inserted by
No. 72/2000
s. 12.

70 Proceedings

If, immediately before the relevant date, proceedings relating to former Secretary to the Department of Infrastructure property (including arbitration proceedings) to which the Secretary to the Department of Infrastructure was a party were pending or existing in any court or tribunal, then, on and after that date, the Secretary to the Department of State and Regional Development is substituted for the Secretary to the Department of Infrastructure as a party to the proceedings and has the same rights in the proceedings as the Secretary to the Department of Infrastructure had.

S. 71
inserted by
No. 72/2000
s. 12.

71 Interests in land

Without affecting the generality of this Part and despite anything to the contrary in any other Act or law, if, immediately before the relevant date, the Secretary to the Department of Infrastructure is, in relation to former Secretary to the Department of Infrastructure property, the registered proprietor of an interest in land under the **Transfer of Land Act 1958**, then on and after that date—

- (a) the Secretary to the Department of State and Regional Development is deemed to be the registered proprietor of that interest in land; and
- (b) the Secretary to the Department of State and Regional Development has the same rights and remedies in respect of that interest as the Secretary to the Department of Infrastructure had.

72 Action by Registrar of Titles

On being requested to do so and on delivery of any relevant instrument or document, the Registrar of Titles must make any recordings in the Register that are necessary because of the operation of this Part.

S. 72
inserted by
No. 72/2000
s. 12.

73 Taxes

No stamp duty or other tax is chargeable under any Act in respect of anything done under this Part or in respect of any act or transaction connected with or necessary to be done by reason of this Part, including a transaction entered into or an instrument made, executed, lodged or given, for the purpose of, or connected with the transfer of property, rights or liabilities of the Secretary to the Department of Infrastructure.

S. 73
inserted by
No. 72/2000
s. 12.

74 Evidence

- (1) Documentary or other evidence that would have been admissible for or against the interests of the Secretary to the Department of Infrastructure in relation to former Secretary to the Department of Infrastructure property if this Part had not been enacted, is admissible for or against the interests of the Secretary to the Department of State and Regional Development.
- (2) Division 3A of Part III of the **Evidence Act 1958** continues to apply with respect to the books of account of the Secretary to the Department of Infrastructure and to entries made in those books of account before the relevant date, whether or not they relate to former Secretary to the Department of Infrastructure property.
- (3) In subsection (2), *books of account* has the same meaning as in Division 3A of Part III of the **Evidence Act 1958**.

S. 74
inserted by
No. 72/2000
s. 12.

S. 75
inserted by
No. 72/2000
s. 12.

75 Validity of things done under this Part

- (1) Nothing effected by this Part or done or suffered by the Secretary to the Department of Infrastructure, the State, a Minister or the Secretary to the Department of State and Regional Development under this Part—
 - (a) is to be regarded as placing the Secretary to the Department of Infrastructure, the State, a Minister or the Secretary to the Department of State and Regional Development in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
 - (b) is to be regarded as placing any of them in breach of or as constituting a default under any Act or other law or any provision in any agreement, arrangement or understanding including, without limiting the generality of the foregoing, any provision prohibiting, restricting or regulating the assignment or transfer of any property or the disclosure of any information; or
 - (c) is to be regarded as fulfilling any condition which allows a person to exercise a right or remedy in respect of or to terminate any agreement or obligation; or
 - (d) releases any surety or other obligee wholly or in part from any obligation.
- (2) The validity of any act or transaction of the Secretary to the Department of Infrastructure must not be called in question in any proceedings on the ground that any provision of this Part had not been complied with.

PART 9—TRANSITIONAL AND SAVING PROVISIONS

New Pt 9
(Heading and
ss 76–78)
inserted by
No. 16/2003
s. 26.

76 Confirmation of nomination order

For the removal of doubt, the order entitled Amendment of Nomination Orders made by the Governor in Council on 5 March 2002 and published in the Government Gazette on 27 March 2002 is deemed to be and always to have been valid and effective in accordance with its terms.

S. 76
inserted by
No. 16/2003
s. 26.

77 Confirmation of direction

For the removal of doubt, the direction given by the Minister for Major Projects to the Secretary to the Department of State and Regional Development under section 41D and dated 28 February 2002 is deemed to be and always to have been valid and effective in accordance with its terms.

S. 77
inserted by
No. 16/2003
s. 26.

78 Body corporate is dissolved

On the repeal of Part 5A by the **Commonwealth Games Arrangements (Amendment) Act 2003** the body corporate known as "Secretary to the Department of Innovation, Industry and Regional Development" is dissolved.

S. 78
inserted by
No. 16/2003
s. 26.

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Pts 8, 9
(Headings
and ss 60–69)
repealed by
No. 46/1997
s. 16(2).

Sch.

SCHEDULE

MAJOR STATE PROJECTS

- 1 Melbourne Casino Project
- 2 New Exhibition Centre Project
- 3 New Museum of Victoria Project
- 4 State Library Restoration and Extension Project
- 5 Living Museum of Aboriginal Culture Project
- 6 Old Customs House Project
- 7 Old Treasury Building Project
- 8 City Square/Regent Theatre Project
- 9 Bayside Project
- 10 Bundoora Mont Park Precinct Project
- 11 Princes Gate Plaza Project
- 12 Jolimont Project
- 13 Southbank Project
- 14 Lynch's Bridge Project
- 15 Melbourne Sports and Aquatic Centre Project
- 16 Convention Centre Project
- 17 Prince Henry's Site Disposal Project
- 18 National Tennis Centre Pedestrian Bridge Project
- 19 Queen Victoria Hospital Site Project
- 20 Docklands Project
- 21 Olympic Park Car Park Project
- 22 Redevelopment of the MCG Southern Stand Project

Project Development and Construction Management Act 1994
No. 101 of 1994

Sch.

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- 23 Bullock Island Project
 - 24 Rapid Transit Link Project
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ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 15 November 1994

Legislative Council: 6 December 1994

The long title for the Bill for this Act was "A Bill to facilitate certain development projects in Victoria, to provide for the setting of standards and the issuing of directions in relation to public construction, to establish the Secretary to the Department of Planning and Development as a body corporate, to provide for the transfer of certain matters from the Urban Land Authority to the Secretary to the Department of Planning and Development, to amend the **Bayside Project Act 1988**, to repeal the **Public Lands and Works Act 1964**, and to make consequential amendments to other Acts and for other purposes."

The **Project Development and Construction Management Act 1994** was assented to on 13 December 1994 and came into operation as follows:

Sections 1, 2 on 13 December 1994: section 2(1); sections 3–28, 35–59, 63, Schedule on 12 January 1995: Government Gazette 12 January 1995 page 15—see **Interpretation of Legislation Act 1984**; rest of Act on 22 May 1995: Government Gazette 18 May 1995 page 1180.

2. Table of Amendments

This Version incorporates amendments made to the **Project Development and Construction Management Act 1994** by Acts and subordinate instruments.

Financial Management and Audit Acts (Amendment) Act 1995, No. 43/1995

Assent Date: 14.6.95
Commencement Date: S. 23 on 13.12.94: s. 2(4)
Current State: This information relates only to the provision/s amending the **Project Development and Construction Management Act 1994**

Project Development and Construction Management (Amendment) Act 1997, No. 46/1997

Assent Date: 11.6.97
Commencement Date: 11.6.97: s. 2
Current State: All of Act in operation

Planning and Environment (Amendment) Act 1997, No. 103/1997

Assent Date: 16.12.97
Commencement Date: S. 5 on 16.12.97: s. 2
Current State: This information relates only to the provision/s amending the **Project Development and Construction Management Act 1994**

Residential Tenancies Act 1997, No. 109/1997

Assent Date: 23.12.97
Commencement Date: S. 533(Sch. 2 item 10) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Project Development and Construction Management Act 1994**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Project Development and Construction Management Act 1994**

Transfer of Land (Single Register) Act 1998, No. 85/1998

Assent Date: 17.11.98
Commencement Date: S. 24(Sch. item 47) on 1.1.99: s. 2(3)
Current State: This information relates only to the provision/s amending the **Project Development and Construction Management Act 1994**

Project Development and Construction Management Act 1994
No. 101 of 1994

Endnotes

**Project Development and Construction Management (Amendment) Act 2000,
No. 72/2000**

Assent Date: 21.11.00
Commencement Date: 1.1.01: s. 2
Current State: All of Act in operation

Commonwealth Games Arrangements Act 2001, No. 57/2001

Assent Date: 16.10.01
Commencement Date: S. 67 on 17.10.01: s. 2
Current State: This information relates only to the provision/s
amending the **Project Development and
Construction Management Act 1994**

Commonwealth Games Arrangements (Amendment) Act 2003, No. 16/2003

Assent Date: 13.5.03
Commencement Date: Ss 22–26 on 14.5.03: s. 2
Current State: This information relates only to the provision/s
amending the **Project Development and
Construction Management Act 1994**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 163) on 5.4.05: Government
Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s
amending the **Project Development and
Construction Management Act 1994**

3. Explanatory Details

No entries at date of publication.