### TABLE OF PROVISIONS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PART I—PRELIMINARY</strong></td>
<td>1</td>
</tr>
<tr>
<td>1 Short title and commencement</td>
<td>1</td>
</tr>
<tr>
<td>2 Definitions</td>
<td>2</td>
</tr>
<tr>
<td>2A Transport Integration Act 2010</td>
<td>20</td>
</tr>
<tr>
<td><strong>PART II—ADMINISTRATION</strong></td>
<td>21</td>
</tr>
<tr>
<td><strong>Division 1—The Department</strong></td>
<td>21</td>
</tr>
<tr>
<td>3 Repealed</td>
<td>21</td>
</tr>
<tr>
<td><strong>Subdivision 1—General</strong></td>
<td>21</td>
</tr>
<tr>
<td>4 Repealed</td>
<td>21</td>
</tr>
<tr>
<td>4A Revenue allocation agreements</td>
<td>22</td>
</tr>
<tr>
<td>5 Contracts for the provision of transport services</td>
<td>22</td>
</tr>
<tr>
<td>6–6C Repealed</td>
<td>22</td>
</tr>
<tr>
<td>7 Minister may make use of services of officers etc. of public service or public entities</td>
<td>23</td>
</tr>
<tr>
<td>7A Repealed</td>
<td>24</td>
</tr>
<tr>
<td><strong>Subdivision 2—Director of Public Transport</strong></td>
<td>24</td>
</tr>
<tr>
<td>8–9BA Repealed</td>
<td>24</td>
</tr>
<tr>
<td>9C Clearance of trees etc.</td>
<td>26</td>
</tr>
<tr>
<td>9D No obligation to fence</td>
<td>28</td>
</tr>
<tr>
<td>9E Power to break up roads, etc.</td>
<td>29</td>
</tr>
<tr>
<td>9F Power to install stopping places, etc.</td>
<td>29</td>
</tr>
<tr>
<td>9G Level crossings</td>
<td>30</td>
</tr>
<tr>
<td>9H Tram infrastructure</td>
<td>31</td>
</tr>
<tr>
<td>9I Overhead power supply</td>
<td>31</td>
</tr>
<tr>
<td>9J Power to stop traffic</td>
<td>32</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td>Subdivision 3—<em>Repealed</em></td>
<td>33</td>
</tr>
<tr>
<td>9K–9ZD <em>Repealed</em></td>
<td>33</td>
</tr>
<tr>
<td>Subdivision 4—Provisions relating to passenger services</td>
<td>33</td>
</tr>
<tr>
<td>10</td>
<td>Priority of passenger services</td>
</tr>
<tr>
<td>11</td>
<td>Public Transport Fund</td>
</tr>
<tr>
<td>12</td>
<td>Financial assistance to train drivers following fatal incidents</td>
</tr>
<tr>
<td>Divisions 2–5—<em>Repealed</em></td>
<td>39</td>
</tr>
<tr>
<td>13–37</td>
<td><em>Repealed</em></td>
</tr>
<tr>
<td>PART IIA—<em>Repealed</em></td>
<td>42</td>
</tr>
<tr>
<td>37A</td>
<td><em>Repealed</em></td>
</tr>
<tr>
<td>PART III—POWERS OF THE CORPORATION</td>
<td>43</td>
</tr>
<tr>
<td>38–42</td>
<td><em>Repealed</em></td>
</tr>
<tr>
<td>43</td>
<td>Special acquisition powers of Rail Track with respect to the Loop</td>
</tr>
<tr>
<td>44–53</td>
<td><em>Repealed</em></td>
</tr>
<tr>
<td>54</td>
<td>Provisions as to proposed developments along the line of the Loop</td>
</tr>
<tr>
<td>55</td>
<td><em>Repealed</em></td>
</tr>
<tr>
<td>56</td>
<td>Regulations</td>
</tr>
<tr>
<td>56A, 56B</td>
<td><em>Repealed</em></td>
</tr>
<tr>
<td>57</td>
<td>Declaration of Southern Cross Station for purposes of regulations</td>
</tr>
<tr>
<td>PART IV—FINANCIAL</td>
<td>64</td>
</tr>
<tr>
<td>Division 1—<em>Repealed</em></td>
<td>64</td>
</tr>
<tr>
<td>58–67</td>
<td><em>Repealed</em></td>
</tr>
<tr>
<td>Division 2—Borrowing powers</td>
<td>64</td>
</tr>
<tr>
<td>68–77</td>
<td><em>Repealed</em></td>
</tr>
<tr>
<td>77A</td>
<td>Power to give a guarantee in relation to a contract assigned by the Secretary</td>
</tr>
<tr>
<td>78–81A</td>
<td><em>Repealed</em></td>
</tr>
<tr>
<td>Division 3—Borrowing and investment powers of Public Transport Corporation</td>
<td>69</td>
</tr>
<tr>
<td>81B</td>
<td><em>Repealed</em></td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td><strong>PART V—CHIEF INVESTIGATOR, TRANSPORT SAFETY</strong></td>
<td>70</td>
</tr>
<tr>
<td>Division 1—Preliminary matters</td>
<td>70</td>
</tr>
<tr>
<td>82 Object</td>
<td>70</td>
</tr>
<tr>
<td>82A, 82B <em>Repealed</em></td>
<td>70</td>
</tr>
<tr>
<td>82C Application of definitions to this Part</td>
<td>70</td>
</tr>
<tr>
<td>Division 2—Appointment, functions and general powers</td>
<td>71</td>
</tr>
<tr>
<td>83–83L <em>Repealed</em></td>
<td>71</td>
</tr>
<tr>
<td>Division 3—Investigations</td>
<td>72</td>
</tr>
<tr>
<td>84 Specific investigation powers—public transport safety matters</td>
<td>72</td>
</tr>
<tr>
<td>84A Specific investigation powers—marine safety matters</td>
<td>74</td>
</tr>
<tr>
<td>84AB Chief Investigator, Transport Safety may require persons to attend and answer questions</td>
<td>75</td>
</tr>
<tr>
<td>84B Identity cards</td>
<td>77</td>
</tr>
<tr>
<td>Division 4—Reports and miscellaneous matters</td>
<td>78</td>
</tr>
<tr>
<td>85 Reports to be given promptly to the Minister</td>
<td>78</td>
</tr>
<tr>
<td>85A Consultation before report finalised</td>
<td>78</td>
</tr>
<tr>
<td>85B <em>Repealed</em></td>
<td>79</td>
</tr>
<tr>
<td>85C Limitations on disclosure etc. of information obtained under this Part</td>
<td>79</td>
</tr>
<tr>
<td>85D Release of information in the interests of transport safety</td>
<td>81</td>
</tr>
<tr>
<td>85DA Reports not admissible in evidence</td>
<td>81</td>
</tr>
<tr>
<td>85E Chief Investigator, Transport Safety may authorise non-staff members to have access to information</td>
<td>82</td>
</tr>
<tr>
<td>85F Confidential reporting of safety information by transport workers</td>
<td>82</td>
</tr>
<tr>
<td>85G <em>Repealed</em></td>
<td>83</td>
</tr>
<tr>
<td>85H Chief Investigator, Transport Safety may ask Commonwealth official to investigate accident or incident</td>
<td>83</td>
</tr>
<tr>
<td><strong>PART VI—LICENSING OF CERTAIN VEHICLES AND DRIVER ACCREDITATION</strong></td>
<td>85</td>
</tr>
<tr>
<td>Division 1—General provisions</td>
<td>85</td>
</tr>
<tr>
<td>86 Definitions</td>
<td>85</td>
</tr>
<tr>
<td>87 Operation of motor vehicle as a commercial passenger vehicle or commercial goods vehicle</td>
<td>103</td>
</tr>
<tr>
<td>88 Part to bind Crown</td>
<td>106</td>
</tr>
<tr>
<td>89 Determinations of policy</td>
<td>106</td>
</tr>
<tr>
<td>90 No compensation payable</td>
<td>107</td>
</tr>
<tr>
<td>91 <em>Repealed</em></td>
<td>108</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>Divisions 2, 3—Repealed</td>
<td>109</td>
</tr>
<tr>
<td>92–129Y Repealed</td>
<td>109</td>
</tr>
<tr>
<td>Division 4—Accreditation of taxi-cab industry participants</td>
<td>111</td>
</tr>
<tr>
<td>Subdivision 1—Preliminary</td>
<td>111</td>
</tr>
<tr>
<td>130 Purpose of accreditation</td>
<td>111</td>
</tr>
<tr>
<td>130A Definitions and interpretative provisions</td>
<td>112</td>
</tr>
<tr>
<td>Subdivision 2—Requirement for accreditation</td>
<td>121</td>
</tr>
<tr>
<td>131 Offence for taxi-cab operator not to be accredited</td>
<td>121</td>
</tr>
<tr>
<td>131A Offence for provider of taxi-cab network services not to be accredited</td>
<td>122</td>
</tr>
<tr>
<td>Subdivision 3—Application for accreditation</td>
<td>123</td>
</tr>
<tr>
<td>132 Making of application</td>
<td>123</td>
</tr>
<tr>
<td>132A Time within which licensing authority must deal with application</td>
<td>125</td>
</tr>
<tr>
<td>132B Circumstances in which application may be approved</td>
<td>125</td>
</tr>
<tr>
<td>132C How long accreditation lasts</td>
<td>126</td>
</tr>
<tr>
<td>132D Mandatory refusal of accreditation</td>
<td>126</td>
</tr>
<tr>
<td>132E Presumption in favour of refusal of accreditation</td>
<td>130</td>
</tr>
<tr>
<td>132F Discretionary refusal of accreditation</td>
<td>131</td>
</tr>
<tr>
<td>132G Notification and reasons to be given if accreditation refused</td>
<td>136</td>
</tr>
<tr>
<td>132H Disqualification by licensing authority from ability to apply for accreditation</td>
<td>137</td>
</tr>
<tr>
<td>Subdivision 4—Accreditation conditions and business and service standards</td>
<td>137</td>
</tr>
<tr>
<td>133 Restrictions and conditions concerning accreditation</td>
<td>137</td>
</tr>
<tr>
<td>133A Licensing authority may vary, revoke or impose new conditions, restrictions or other limitations</td>
<td>138</td>
</tr>
<tr>
<td>133B Offence to fail to comply with conditions etc.</td>
<td>139</td>
</tr>
<tr>
<td>133C Business and service standards</td>
<td>140</td>
</tr>
<tr>
<td>Subdivision 5—Certificates of accreditation</td>
<td>141</td>
</tr>
<tr>
<td>134 Issue of certificate of accreditation</td>
<td>141</td>
</tr>
<tr>
<td>134A Offence not to produce certificate when required</td>
<td>143</td>
</tr>
<tr>
<td>Subdivision 6—Disciplinary action and improvement notices</td>
<td>144</td>
</tr>
<tr>
<td>135 When the licensing authority may take disciplinary action</td>
<td>144</td>
</tr>
<tr>
<td>135A Disciplinary actions that may be taken in relation to accreditations</td>
<td>144</td>
</tr>
<tr>
<td>135B Procedure for taking disciplinary action</td>
<td>146</td>
</tr>
<tr>
<td>135C Immediate suspension of accreditation</td>
<td>147</td>
</tr>
<tr>
<td>135D Effect of suspension of accreditation</td>
<td>148</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
</tr>
<tr>
<td>135E</td>
<td>Return of certificate of accreditation</td>
</tr>
<tr>
<td>135F</td>
<td>Improvement notices</td>
</tr>
<tr>
<td>135G</td>
<td>Formal irregularities or defects in notice</td>
</tr>
<tr>
<td>135H</td>
<td>Proceedings for offences not affected by improvement notices</td>
</tr>
<tr>
<td><strong>Subdivision 7—Review of decisions</strong></td>
<td></td>
</tr>
<tr>
<td>136</td>
<td>Jurisdiction of VCAT in relation to mandatory refusal or cancellation of accreditation</td>
</tr>
<tr>
<td>136A</td>
<td>Review of decision by VCAT</td>
</tr>
<tr>
<td>136B</td>
<td>Time period for making application to VCAT</td>
</tr>
<tr>
<td><strong>Subdivision 8—Miscellaneous</strong></td>
<td></td>
</tr>
<tr>
<td>137</td>
<td>Accreditation cannot be transferred</td>
</tr>
<tr>
<td>137A</td>
<td>Holder of accreditation to notify of relevant change in circumstances</td>
</tr>
<tr>
<td>137B</td>
<td>Surrender of accreditation</td>
</tr>
<tr>
<td>137C</td>
<td>False representation in relation to accreditation</td>
</tr>
<tr>
<td>137D</td>
<td>Communication with responsible person</td>
</tr>
<tr>
<td>137E</td>
<td>Regulations</td>
</tr>
<tr>
<td><strong>Division 5—Commercial passenger vehicles</strong></td>
<td></td>
</tr>
<tr>
<td>138</td>
<td>Application of Division</td>
</tr>
<tr>
<td>138A</td>
<td>Repealed</td>
</tr>
<tr>
<td>139</td>
<td>Vehicles not to be operated unless licensed</td>
</tr>
<tr>
<td>140</td>
<td>Application for licence</td>
</tr>
<tr>
<td>141</td>
<td>Public commercial passenger vehicles</td>
</tr>
<tr>
<td>141A</td>
<td>Repealed</td>
</tr>
<tr>
<td>141B</td>
<td>Restricted hire vehicles</td>
</tr>
<tr>
<td>142</td>
<td>Hire cars and special purpose vehicles</td>
</tr>
<tr>
<td>143</td>
<td>Taxi-cab licences</td>
</tr>
<tr>
<td>143A</td>
<td>Power to make Orders for the granting of taxi-cab licences in taxi-cab zones</td>
</tr>
<tr>
<td>143B</td>
<td>Repealed</td>
</tr>
<tr>
<td>143C</td>
<td>Review by Tribunal of refusal to grant licence</td>
</tr>
<tr>
<td>143D</td>
<td>Condition forbidding transfer of taxi-cab licence</td>
</tr>
<tr>
<td>144</td>
<td>Conditions</td>
</tr>
<tr>
<td>144A</td>
<td>Determination of taxi fares or hiring rates</td>
</tr>
<tr>
<td>145</td>
<td>Classification of vehicles</td>
</tr>
<tr>
<td>146</td>
<td>Cancellation or alteration of licences</td>
</tr>
<tr>
<td>146AA</td>
<td>Directions</td>
</tr>
<tr>
<td>146A</td>
<td>Repealed</td>
</tr>
<tr>
<td>146B</td>
<td>Power to vary public commercial passenger vehicle licence</td>
</tr>
<tr>
<td>146C</td>
<td>Review by Tribunal of licence cancellation etc.</td>
</tr>
<tr>
<td>147</td>
<td>Repealed</td>
</tr>
<tr>
<td>147A</td>
<td>Annual licence fees</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td>147B Setting of fees</td>
<td>185</td>
</tr>
<tr>
<td>148 Repealed</td>
<td>186</td>
</tr>
<tr>
<td>149 Transfers of licences</td>
<td>186</td>
</tr>
<tr>
<td>150 Assignments</td>
<td>189</td>
</tr>
<tr>
<td>150A Unauthorised person must not trade in taxi-cab licences</td>
<td>193</td>
</tr>
<tr>
<td>151 Use of substitute vehicles where licensed vehicles undergoing repair</td>
<td>194</td>
</tr>
<tr>
<td>152 As to substitution of vehicles generally</td>
<td>194</td>
</tr>
<tr>
<td>153 Cancellation of licence for vehicles</td>
<td>194</td>
</tr>
<tr>
<td>154 Temporary permit</td>
<td>196</td>
</tr>
<tr>
<td>155 Goods vehicle used as passenger vehicle to be licensed</td>
<td>196</td>
</tr>
<tr>
<td>156 Repealed</td>
<td>197</td>
</tr>
<tr>
<td>156A Effect on taxi-cab licences of certain outcomes</td>
<td>197</td>
</tr>
<tr>
<td>157 Revocation or suspension of licence, permit or certificate</td>
<td>201</td>
</tr>
<tr>
<td>157A, 157B Repealed</td>
<td>203</td>
</tr>
<tr>
<td>158 Offences</td>
<td>204</td>
</tr>
<tr>
<td>158A Touting</td>
<td>205</td>
</tr>
<tr>
<td>158AA Offence for taxi-cab to be operated without permission of accredited operator or related person</td>
<td>206</td>
</tr>
<tr>
<td>158AB Operator of taxi-cab commits offence if taxi-cab is operated by certain persons</td>
<td>207</td>
</tr>
<tr>
<td>158AC Person operating taxi-cab commits offence if taxi-cab is operated by certain persons</td>
<td>208</td>
</tr>
<tr>
<td>158B Offences relating to security cameras and privacy of passengers</td>
<td>209</td>
</tr>
<tr>
<td>158C Agreements in relation to images obtained from security cameras</td>
<td>211</td>
</tr>
<tr>
<td>159 Onus of proof on accused in certain cases</td>
<td>212</td>
</tr>
<tr>
<td>160 General penalty</td>
<td>212</td>
</tr>
<tr>
<td>161 Penalty for failure to pay hiring rate</td>
<td>213</td>
</tr>
<tr>
<td>162 Regulations</td>
<td>213</td>
</tr>
<tr>
<td>Division 6—Driver accreditation—commercial passenger vehicles and private bus services</td>
<td>221</td>
</tr>
<tr>
<td>163 Interpretation</td>
<td>221</td>
</tr>
<tr>
<td>164 Public care objective</td>
<td>223</td>
</tr>
<tr>
<td>165 Offence to drive certain vehicles without accreditation</td>
<td>224</td>
</tr>
<tr>
<td>166 Director's power to accredit persons</td>
<td>225</td>
</tr>
<tr>
<td>167 Tests, qualifications and other requirements</td>
<td>225</td>
</tr>
<tr>
<td>168 Term and renewal of accreditation</td>
<td>227</td>
</tr>
<tr>
<td>169 Matters to be considered by the Director when issuing or renewing an accreditation</td>
<td>228</td>
</tr>
<tr>
<td>169A Imposition of conditions on accreditation</td>
<td>233</td>
</tr>
<tr>
<td>169B Offence to fail to comply with conditions</td>
<td>234</td>
</tr>
<tr>
<td>169C Disqualification by Director from ability to apply for accreditation</td>
<td>234</td>
</tr>
<tr>
<td>169D Certificate of accreditation</td>
<td>236</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td>169E</td>
<td>Mandatory cancellation in certain circumstances</td>
</tr>
<tr>
<td>169EA</td>
<td>Mandatory suspension in certain circumstances</td>
</tr>
<tr>
<td>169EB</td>
<td>Reinstatement of driver accreditation in certain circumstances where it has been suspended</td>
</tr>
<tr>
<td>169EC</td>
<td>Person whose driver licence or probationary licence is suspended or cancelled must notify the Director</td>
</tr>
<tr>
<td>169F</td>
<td>Powers of the Director to consider disciplinary action</td>
</tr>
<tr>
<td>169G</td>
<td>Notice to holder of accreditation</td>
</tr>
<tr>
<td>169H</td>
<td>Submissions to Director</td>
</tr>
<tr>
<td>169I</td>
<td>Actions Director may take after consideration</td>
</tr>
<tr>
<td>169J</td>
<td>Notice of Director’s decision</td>
</tr>
<tr>
<td>169K</td>
<td>Interim suspension of accreditation</td>
</tr>
<tr>
<td>169L</td>
<td>Re-instatement of accreditation</td>
</tr>
<tr>
<td>169M</td>
<td>Compensation for lost income during suspension</td>
</tr>
<tr>
<td>169N</td>
<td>Jurisdiction of VCAT as to category 1 offenders</td>
</tr>
<tr>
<td>169O</td>
<td>Review of decision by VCAT</td>
</tr>
<tr>
<td>169P</td>
<td>Time period for making application for review</td>
</tr>
<tr>
<td>169Q</td>
<td>Offence not to sign certificate on receipt</td>
</tr>
<tr>
<td>169R</td>
<td>Offence not to notify change of address and give driver accreditation</td>
</tr>
<tr>
<td>169S</td>
<td>Offence not to notify of suspension or cancellation of accreditation</td>
</tr>
<tr>
<td>169T</td>
<td>Offence not to notify of being charged with, or found guilty of, a disqualifying offence</td>
</tr>
<tr>
<td>169U</td>
<td>Offence to retain illegible certificate</td>
</tr>
<tr>
<td>169V</td>
<td>Offence to retain certificate if accreditation suspended or cancelled</td>
</tr>
<tr>
<td>169W</td>
<td>Offence not to carry certificate when driving</td>
</tr>
<tr>
<td>169WA</td>
<td>Operator must not permit non-accredited driver to drive commercial passenger vehicle etc.</td>
</tr>
<tr>
<td>169WB</td>
<td>Holder of accreditation must not permit non-accredited driver to drive commercial passenger vehicle etc.</td>
</tr>
<tr>
<td>169X</td>
<td>Offence not to produce certificate when asked</td>
</tr>
<tr>
<td>169Y</td>
<td>Power of Director to determine fees</td>
</tr>
<tr>
<td>169Z</td>
<td>Regulations</td>
</tr>
</tbody>
</table>

**Divisions 7, 8—Repealed**

| 170–185A | Repealed | 253 |

**Division 9—Commission investigations**

<p>| 186 | Reference by Minister | 253 |
| 187 | Conduct of investigation | 254 |
| 188 | Objectives not to apply | 255 |
| 189 | Powers relating to investigations | 256 |
| 190 | Reports | 257 |
| 191 | Application of confidentiality provisions of Essential Services Commission Act 2001 | 258 |</p>
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Division 10—Events affecting public transport</strong></td>
<td>259</td>
</tr>
<tr>
<td>192 Meaning of <em>event</em> and <em>organiser</em></td>
<td>260</td>
</tr>
<tr>
<td>193 Events to which this Division applies</td>
<td>260</td>
</tr>
<tr>
<td>194 Meaning of <em>regular public transport service</em></td>
<td>260</td>
</tr>
<tr>
<td>195 Organiser must give notice of proposed event</td>
<td>260</td>
</tr>
<tr>
<td>196 Director may ask that a public transport plan be submitted</td>
<td>261</td>
</tr>
<tr>
<td>197 Public transport plans</td>
<td>261</td>
</tr>
<tr>
<td>198 Preparation of public transport plans</td>
<td>262</td>
</tr>
<tr>
<td>199 By when public transport plans to be submitted</td>
<td>263</td>
</tr>
<tr>
<td>200 Director may impose fee</td>
<td>263</td>
</tr>
<tr>
<td>201 Alternative arrangements if time limited</td>
<td>264</td>
</tr>
<tr>
<td>202 Director may waive or reduce time limits</td>
<td>264</td>
</tr>
<tr>
<td>203 Approval of public transport plans</td>
<td>265</td>
</tr>
<tr>
<td>204 Consequences of a failure to comply with this Division</td>
<td>265</td>
</tr>
<tr>
<td>205–207 Repealed</td>
<td>259</td>
</tr>
<tr>
<td><strong>PART VII—PROSECUTIONS, ENFORCEMENT AND PENALTIES AND OTHER MATTERS</strong></td>
<td>267</td>
</tr>
<tr>
<td><strong>Division 1—Interpretations</strong></td>
<td>267</td>
</tr>
<tr>
<td>208 Definitions</td>
<td>267</td>
</tr>
<tr>
<td><strong>Division 2—Transport and ticket infringements</strong></td>
<td>272</td>
</tr>
<tr>
<td>209–211 Repealed</td>
<td>272</td>
</tr>
<tr>
<td>212 Transport and ticket infringements</td>
<td>273</td>
</tr>
<tr>
<td>212A Offence to falsely represent oneself as an officer of the Roads Corporation</td>
<td>274</td>
</tr>
<tr>
<td>213 Repealed</td>
<td>274</td>
</tr>
<tr>
<td>213A Administrative costs in respect of ticket infringements</td>
<td>275</td>
</tr>
<tr>
<td>214 Proof of prior convictions or findings of guilt</td>
<td>276</td>
</tr>
<tr>
<td>214A Differences in penalties</td>
<td>277</td>
</tr>
<tr>
<td>215 Regulations</td>
<td>277</td>
</tr>
<tr>
<td><strong>Division 2A—Safety work infringements</strong></td>
<td>280</td>
</tr>
<tr>
<td>215A Repealed</td>
<td>280</td>
</tr>
<tr>
<td>215B Safety work infringements</td>
<td>280</td>
</tr>
<tr>
<td>215C Effect of safety work infringement</td>
<td>282</td>
</tr>
<tr>
<td>215D Extension of time to object if no actual notice</td>
<td>283</td>
</tr>
<tr>
<td>215E Application of <em>Infringements Act 2006</em></td>
<td>284</td>
</tr>
<tr>
<td>215F Proof of prior convictions</td>
<td>284</td>
</tr>
<tr>
<td>215G Regulations</td>
<td>285</td>
</tr>
</tbody>
</table>
Section | Page
--- | ---
Division 3—Enforcement provisions—vehicle inspections | 287
  
  216 Inspection of motor vehicles | 287
  217 Powers of officers authorized by Roads Corporation | 290
  217A Additional inspection power concerning heavy vehicles | 291
  218, 218A Repealed | 292

Division 3A—Other enforcement provisions | 293
  
  218B Power to require names and addresses | 293
  219 Power to arrest suspected offenders | 297
  219AA, 219A Repealed | 299
  220 Power to remove offenders | 299

Division 4—Regulation of entitlement to use public transport services | 302
  
  220AA False reports to officers | 302
  220A Offence to dishonestly obtain a ticket etc. | 303
  220B Offence to counterfeit or alter a ticket | 303
  220C Offence to claim exemption or concession if not entitled | 303
  220D Director may determine conditions | 304
  220DA Conditions relating to overseas student travel | 305
  221 Information not to be disclosed | 307
  221AA Regulations concerning entitlement to use public transport services | 311

Division 4AA—Authorisation of persons for the purposes of enforcement | 314
  
  221A Authorisation of Departmental authorised officers | 314
  221AB Authorisation of other authorised officers | 314
  221B Application for authorisation | 315
  221C Qualification requirements | 316
  221CA Time limits on section 221AB authorisations | 317
  221CB Scope of authorisation may be limited | 317
  221CC Non-compliance with a limit | 318
  221D Conditions of authorisation | 318
  221E Change of conditions | 319
  221F Non-compliance with a condition | 319
  221FA Clarification of places in which certain authorised officers may operate | 319
  221G Application for renewal of authorisation | 320
  221H Renewal of authorisation | 321
  221I Issue of identity cards | 322
  221J Inquiry into conduct of authorised officer | 324
  221K Effect of suspension | 325
  221L Revocation of authorisation | 325
  221M Tribunal reviews | 326
  221N Authorisations cease to exist in certain circumstances | 327
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>221O</td>
<td>Return of identity cards</td>
</tr>
<tr>
<td>221P</td>
<td>Lost, stolen or destroyed identity cards to be reported</td>
</tr>
<tr>
<td>221Q</td>
<td>Replacement of identity cards</td>
</tr>
<tr>
<td>221R</td>
<td>Offence to falsely represent oneself as an authorised officer</td>
</tr>
<tr>
<td>221S</td>
<td>Application by proposed employee</td>
</tr>
<tr>
<td>221T</td>
<td>Investigation by Ombudsman</td>
</tr>
<tr>
<td><strong>Division 4AAA—Transport safety offences</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Subdivision 1—Interpretation</strong></td>
<td></td>
</tr>
<tr>
<td>221U</td>
<td>Definitions</td>
</tr>
<tr>
<td>221V</td>
<td>Exclusion of mistake of fact defence</td>
</tr>
<tr>
<td>221W</td>
<td>Statement that mistake of fact defence does not apply not to affect other offences</td>
</tr>
<tr>
<td><strong>Subdivision 2—Offences</strong></td>
<td></td>
</tr>
<tr>
<td>221X</td>
<td>Overdimensional vehicles crossing tracks</td>
</tr>
<tr>
<td>221Y</td>
<td>Operators of overdimensional vehicles crossing tracks without permission also guilty of offence</td>
</tr>
<tr>
<td>221Z</td>
<td>Reasonable steps defence—reliance on container weight declaration</td>
</tr>
<tr>
<td>221ZA</td>
<td>Specification of vehicle limits and fees for overdimensional vehicles crossing tracks</td>
</tr>
<tr>
<td>221ZB</td>
<td>Animals on railway tracks</td>
</tr>
<tr>
<td>221ZC</td>
<td>Placing things on tracks</td>
</tr>
<tr>
<td>221ZD</td>
<td>Mounting a place not intended for travel etc.</td>
</tr>
<tr>
<td>221ZE</td>
<td>Travelling in a place not intended for travel etc.</td>
</tr>
<tr>
<td>221ZF</td>
<td>Applying brake or emergency device</td>
</tr>
<tr>
<td>221ZG</td>
<td>Stopping a rail vehicle or road vehicle</td>
</tr>
<tr>
<td>221ZH</td>
<td>Operating equipment</td>
</tr>
<tr>
<td>221ZI</td>
<td>Permitting drainage</td>
</tr>
<tr>
<td><strong>Division 4AB—Further offences</strong></td>
<td></td>
</tr>
<tr>
<td>222, 222A</td>
<td>Repealed</td>
</tr>
<tr>
<td>222B</td>
<td>Interference with prescribed equipment</td>
</tr>
<tr>
<td>223</td>
<td>Offence to trespass on land or premises of Roads Corporation or Rail Track</td>
</tr>
<tr>
<td>223A–223F</td>
<td>Repealed</td>
</tr>
<tr>
<td>224</td>
<td>Offence to provide false or misleading information</td>
</tr>
<tr>
<td>225</td>
<td>Offence to assault or obstruct officers etc.</td>
</tr>
<tr>
<td>225A</td>
<td>Repealed</td>
</tr>
<tr>
<td>225B</td>
<td>Offence to impersonate an officer</td>
</tr>
<tr>
<td>225C</td>
<td>Offence to offer, give, solicit or accept a bribe</td>
</tr>
<tr>
<td>226</td>
<td>Offences by bodies corporate</td>
</tr>
<tr>
<td>227</td>
<td>Offences by unincorporated bodies, partnerships etc.</td>
</tr>
</tbody>
</table>
227A Power of court to require attendance at approved public transport education program 353
228 General penalty 353

Division 4A—Accreditation of passenger transport companies 354
228AA Objective 354
228AB Definition 354
228A Application for accreditation 355
228B Matters to be considered by Director 356
228C Giving or refusal of accreditation 356
228D Conditions of accreditation 357
228DA Accredited companies must comply with conditions 357
228DB Offence to employ or engage authorised officer without accreditation under this Division 358
228E Change of conditions etc. 358
228F Duration of accreditation 359
228G Requirement to notify Director about charges, etc. 359
228H Notifications 360
228HA Audit of certain books and records of accredited companies for compliance purposes 362
228I Application for renewal of accreditation 363
228J Renewal of accreditation 364
228K Nature of accreditation 366
228L Repealed 366
228M Director not liable for giving accreditation 367
228N Supervision of accredited companies 367
228O Procedure and powers 369
228P Immediate power of suspension 370
228Q Effect of suspension, cancellation or failure to renew 371
228R Tribunal reviews 372

Division 4B—Enforcement of relevant transport safety laws 373

Subdivision 1—Interpretation 373
228S Definitions 373
228SA Crown to be bound 376

Subdivision 2—Transport safety officers 377
228T Appointment 377
228U Identity cards 377
228V Return of identity cards 378
228W Production of identity card 378
228X Transport safety officers subject to Safety Director's direction 379
228Y Investigation by Ombudsman of actions etc. of transport safety officers 380
Subdivision 3—Powers of entry
228Z Power of entry 380
228ZA Procedure for entry with consent 381

Subdivision 4—Inspection, inquiry, search and seizure powers
228ZB General inspection, inquiry and search powers 382
228ZC Securing a site 383
228ZD Offence to enter secured site 384
228ZE Seizure power 384
228ZF Use of equipment to examine or process things 384

Subdivision 5—Search warrants
228ZG Search warrant 385
228ZH Seizure of things not mentioned in the warrant 386
228ZI Announcement before entry 387
228ZJ Copy of warrant to be given to occupier 388

Subdivision 6—Directions
228ZK Power to require production of documents and related items 388
228ZL Direction to provide reasonable assistance 389
228ZM Direction to provide certain information 390
228ZN Direction to state name and address 391
228ZO Directions for the protection of evidence 391

Subdivision 7—Seized things and samples taken
228ZP Securing seized things 393
228ZQ Offence to tamper with seized thing 393
228ZR Powers to support seizure 393
228ZS Transport safety officer may direct a thing’s return 394
228ZT Receipt for seized things 395
228ZU Copies of certain seized things to be given 396
228ZV Return of seized things 396
228ZW Magistrates’ Court may extend period 397
228ZX Forfeiture of seized thing 397

Subdivision 8—Miscellaneous provisions relating to enforcement powers
228ZY Manner in which transport safety officers may give directions under this Division 398
228ZZ Use of force 399
228ZZA Use or seizure of electronic equipment 399
228ZZB Compensation for damage caused during exercise of powers under this Division 400
## Section 9—Improvement notices

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>228ZZC Improvement notices</td>
<td>401</td>
</tr>
<tr>
<td>228ZZD Improvement notices—closures of level crossings, bridges or other structures</td>
<td>403</td>
</tr>
<tr>
<td>228ZZE Contravention of improvement notice</td>
<td>404</td>
</tr>
<tr>
<td>228ZZF Amendment of improvement notices</td>
<td>404</td>
</tr>
<tr>
<td>228ZZG Cancellation of improvement notices</td>
<td>405</td>
</tr>
<tr>
<td>228ZZH Clearance certificates for improvement notices</td>
<td>405</td>
</tr>
<tr>
<td>228ZZI Proceedings for offences not affected by improvement notices or clearance certificates</td>
<td>406</td>
</tr>
</tbody>
</table>

## Subdivision 10—Prohibition notices

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>228ZZJ Prohibition notice</td>
<td>406</td>
</tr>
<tr>
<td>228ZZK Contravention of prohibition notice</td>
<td>408</td>
</tr>
<tr>
<td>228ZZKA Oral direction before prohibition notice served</td>
<td>409</td>
</tr>
<tr>
<td>228ZZL Amendment of prohibition notice</td>
<td>410</td>
</tr>
<tr>
<td>228ZZM Withdrawal of prohibition notices</td>
<td>411</td>
</tr>
<tr>
<td>228ZZN Certificates that matters that give rise to immediate risks to safety remedied</td>
<td>411</td>
</tr>
<tr>
<td>228ZZO Proceedings for offences not affected by prohibition notices or certificates issued under section 228ZZN</td>
<td>412</td>
</tr>
</tbody>
</table>

## Subdivision 11—Other Matters

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>228ZZP Self-incrimination not an excuse</td>
<td>412</td>
</tr>
</tbody>
</table>

## Subdivision 11A—Transport safety infringement notices

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>228ZZPA Transport safety infringements</td>
<td>414</td>
</tr>
<tr>
<td>228ZZPB Regulations</td>
<td>414</td>
</tr>
</tbody>
</table>

## Subdivision 12—Review of decisions relating to improvement and prohibition notices

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>228ZZQ Reviewable decisions</td>
<td>415</td>
</tr>
<tr>
<td>228ZZR Review by the Safety Director</td>
<td>416</td>
</tr>
<tr>
<td>228ZZS Review by the Tribunal</td>
<td>418</td>
</tr>
</tbody>
</table>

## Subdivision 13—Undertakings relating to contraventions of relevant safety laws

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>228ZZSA Definition</td>
<td>419</td>
</tr>
<tr>
<td>228ZZSB Safety Director may accept undertaking</td>
<td>419</td>
</tr>
<tr>
<td>228ZZSC Varying or withdrawing undertaking</td>
<td>420</td>
</tr>
<tr>
<td>228ZZSD Review of refusal to vary or withdraw undertaking</td>
<td>421</td>
</tr>
<tr>
<td>228ZZSE Enforcement of undertaking</td>
<td>421</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td><strong>Division 5—Prosecutions and evidentiary provisions</strong></td>
<td>422</td>
</tr>
<tr>
<td>229  Prosecutions</td>
<td>422</td>
</tr>
<tr>
<td>229A Who may only bring proceedings for offences against relevant transport safety laws</td>
<td>425</td>
</tr>
<tr>
<td>229B Limitation period for prosecutions for indictable offences against relevant transport safety laws</td>
<td>425</td>
</tr>
<tr>
<td>230  Evidentiary provisions</td>
<td>425</td>
</tr>
<tr>
<td>230A Evidentiary certificates—relevant transport safety laws</td>
<td>425</td>
</tr>
<tr>
<td>230AB Evidentiary provision—smartcards</td>
<td>431</td>
</tr>
<tr>
<td>230AC Certificate of authorised officer who operated hand held reader</td>
<td>431</td>
</tr>
<tr>
<td>230AD Certificate in respect of prescribed devices and processes</td>
<td>432</td>
</tr>
<tr>
<td>230AE Notice by informant</td>
<td>433</td>
</tr>
<tr>
<td>230AF Notice by accused</td>
<td>434</td>
</tr>
<tr>
<td>230AG Informant may adduce evidence in relation to ticket offence</td>
<td>436</td>
</tr>
<tr>
<td>230AH Regulations</td>
<td>437</td>
</tr>
<tr>
<td><strong>Division 6—Sentences in relation to relevant transport laws</strong></td>
<td>438</td>
</tr>
<tr>
<td>230AI Definitions</td>
<td>438</td>
</tr>
<tr>
<td>230B Commercial benefits penalty order</td>
<td>439</td>
</tr>
<tr>
<td>230C Supervisory intervention order</td>
<td>440</td>
</tr>
<tr>
<td>230D Contravention of supervisory intervention order</td>
<td>444</td>
</tr>
<tr>
<td>230DA Exclusion orders</td>
<td>445</td>
</tr>
<tr>
<td>230DB Corporations Act displacement</td>
<td>447</td>
</tr>
<tr>
<td>230DC Contravention of exclusion order</td>
<td>447</td>
</tr>
<tr>
<td>230E Release on the giving of a safety undertaking</td>
<td>448</td>
</tr>
<tr>
<td>230F Variation or breach of orders under section 230E</td>
<td>449</td>
</tr>
<tr>
<td>230FA Adverse publicity order</td>
<td>450</td>
</tr>
<tr>
<td><strong>Division 7—Other matters</strong></td>
<td>451</td>
</tr>
<tr>
<td><strong>Subdivision 1—Interpretation</strong></td>
<td>451</td>
</tr>
<tr>
<td>230G Definitions</td>
<td>451</td>
</tr>
<tr>
<td><strong>Subdivision 2—Liability</strong></td>
<td>452</td>
</tr>
<tr>
<td>230H Civil liability not affected by a relevant rail safety duty law</td>
<td>452</td>
</tr>
<tr>
<td>230I Interaction with the Occupational Health and Safety Act 2004</td>
<td>453</td>
</tr>
<tr>
<td>230J Offences by bodies corporate, officers of bodies corporate,</td>
<td>453</td>
</tr>
<tr>
<td>partnerships etc.</td>
<td></td>
</tr>
</tbody>
</table>
PART VIIA—ENFORCEMENT AND RELATED POWERS FOR THE PORT OF MELBOURNE 455

Division 1—Preliminary 455
230K Definition 455
230L Appointment 455
230M Identity cards 456
230N Return of identity cards 456
230O Production of identity card 456

Division 2—Powers of entry and search of vessels 457
230P Power to enter and inspect vessels 457
230Q Production of identity card by port safety officers before vessel searches 458
230R Consent not needed for inspections 459

Division 3—Powers of entry and search of premises 459
230S Entry of premises with consent 459
230T Entry of premises without consent 461
230U Powers that may be exercised on entry 462
230V Securing a site 462
230W Offence to enter secured site 463

Division 4—Provisions as to use of or seizure of equipment or goods 463
230X Use of equipment to examine or process things 463
230Y Copies of certain things seized to be given 464
230Z Access to seized things 464
230ZA Retention and return of seized documents or things 465
230ZB Magistrates' Court may extend 3 month period 465

Division 5—General 466
230ZC Requirement to assist port safety officer during entry 466
230ZD Protection against self-incrimination 467
230ZE Persons who may bring proceedings 467

PART VIII—MISCELLANEOUS AND TRANSITIONAL 468

Division 1—Transfer of powers functions assets liabilities and staff 468
231 Definitions 468
232 Abolition of former Authorities 469
233 Transfer of property liabilities contracts debts causes of actions leases etc. to Corporation 470
234–242 Repealed 473
243 Contributors to State Employees Retirement Benefits Fund 473
244 Contributors to Superannuation Fund 474
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>244A Members of Transport Superannuation Fund</td>
<td>474</td>
</tr>
<tr>
<td>245 Contributors to other funds</td>
<td>475</td>
</tr>
<tr>
<td>246 Country Roads Board</td>
<td>475</td>
</tr>
</tbody>
</table>

**Division 1A—Transitional provisions**

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>246A Transport Acts (Amendment) Act 1997</td>
<td>476</td>
</tr>
<tr>
<td>246B Rail Corporations (Further Amendment) Act 1998</td>
<td>477</td>
</tr>
<tr>
<td>246C Rail Corporations and Transport Acts (Amendment) Act 1999</td>
<td>477</td>
</tr>
<tr>
<td>246CAA Rail Safety Act 2006—Authorised officers for drug and alcohol testing</td>
<td>478</td>
</tr>
</tbody>
</table>

**Division 1B—Validation**

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>246CA Definitions</td>
<td>479</td>
</tr>
<tr>
<td>246CB Authorized officers for the purposes of sections 212 and 213 appointed by MTA and STA</td>
<td>479</td>
</tr>
<tr>
<td>246CC Authorised officers for the purposes of Division 2 of Part VII appointed by PTC</td>
<td>480</td>
</tr>
<tr>
<td>246CD Authorised officers for the purposes of section Division 2 of Part II appointed by Secretary</td>
<td>482</td>
</tr>
<tr>
<td>246CE Authorized officer for the purposes of section 218 appointed by the MTA or STA</td>
<td>485</td>
</tr>
<tr>
<td>246CF Authorized officer for the purposes of section 218 or 218B appointed by the PTC under section 218(1)</td>
<td>486</td>
</tr>
<tr>
<td>246CG Authorised officers for the purposes of section 218B appointed by PTC under that section</td>
<td>487</td>
</tr>
<tr>
<td>246CH Authorised officers for the purposes of section 218B by Secretary</td>
<td>488</td>
</tr>
<tr>
<td>246CI Officers of the MTA and STA authorized for the purposes of section 219(2) or (4)</td>
<td>490</td>
</tr>
<tr>
<td>246CJ Officers of the PTC authorised for the purposes of section 219(2), (4) or (7)</td>
<td>491</td>
</tr>
<tr>
<td>246CK Officers of the PTC authorised for the purposes of section 219A</td>
<td>493</td>
</tr>
<tr>
<td>246CL Relevant employees and authorised officers for the purposes of section 219</td>
<td>494</td>
</tr>
<tr>
<td>246CM Authorised persons for the purposes of section 219AA</td>
<td>497</td>
</tr>
<tr>
<td>246CN Authorised persons, authorised officers and relevant employees for the purposes of section 220</td>
<td>499</td>
</tr>
<tr>
<td>246CO Authorized persons for the purposes of section 221 authorized by MTA or STA</td>
<td>502</td>
</tr>
<tr>
<td>246CP Authorized persons for the purposes of section 221 authorized by PTC</td>
<td>503</td>
</tr>
<tr>
<td>246CQ Authorized persons for the purposes of section 221 authorised by the Secretary</td>
<td>504</td>
</tr>
<tr>
<td>246CR Authorised officers for the purposes of section 221AA</td>
<td>509</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td>246CS</td>
<td>Examples of things validated 510</td>
</tr>
<tr>
<td>246CT</td>
<td>Accreditations under Division 4A of Part VII 511</td>
</tr>
<tr>
<td>246CU</td>
<td>Prosecutorial authorisations by the MTA or STA 512</td>
</tr>
<tr>
<td>246CV</td>
<td>Prosecutorial authorisations by the PTC 514</td>
</tr>
<tr>
<td>246CW</td>
<td>Prosecutorial authorisations by the Secretary 518</td>
</tr>
<tr>
<td>246CX</td>
<td>Only things done or purported to have been done under a purported authorisation and appointment validated 521</td>
</tr>
<tr>
<td>246CY</td>
<td>Evidence 521</td>
</tr>
<tr>
<td>246CZ</td>
<td>Delegations generally in relation to authorisations 522</td>
</tr>
<tr>
<td>246CZA</td>
<td>Delegations generally in relation to accreditations 525</td>
</tr>
<tr>
<td>246CZB</td>
<td>Incorrect delegations purportedly under section 6B 525</td>
</tr>
<tr>
<td>246CZC</td>
<td>No proceedings may be brought 527</td>
</tr>
<tr>
<td>246CZD</td>
<td>Preservation of rights only in certain proceedings 527</td>
</tr>
<tr>
<td>Division 2—Miscellaneous</td>
<td>528</td>
</tr>
<tr>
<td>246D</td>
<td>Temporary authorisations for the purposes of Division 4AA of Part VII 528</td>
</tr>
<tr>
<td>246E</td>
<td>Temporary authorisation for the purposes of sections 211 and 218B 529</td>
</tr>
<tr>
<td>247</td>
<td>Power to Governor in Council to authorize tourist railways 530</td>
</tr>
<tr>
<td>248</td>
<td>Provisions applicable to tourist railways 531</td>
</tr>
<tr>
<td>249</td>
<td>Roads Corporation need not fence 532</td>
</tr>
<tr>
<td>249A</td>
<td>Repealed 533</td>
</tr>
<tr>
<td>249B</td>
<td>Regulations with respect to services operated by a passenger transport company etc. 533</td>
</tr>
<tr>
<td>249C</td>
<td>Repealed 533</td>
</tr>
<tr>
<td>250</td>
<td>Service of documents on natural persons 533</td>
</tr>
<tr>
<td>251</td>
<td>Service of documents on corporations 534</td>
</tr>
<tr>
<td>251A</td>
<td>Sale of lost property found in or on public transport property 535</td>
</tr>
<tr>
<td>251B</td>
<td>Nuisances and noise emissions 536</td>
</tr>
<tr>
<td>252</td>
<td>Determination of differences 538</td>
</tr>
<tr>
<td>253</td>
<td>Revocation of reservations for tramways purposes 538</td>
</tr>
<tr>
<td>253A</td>
<td>Revocation of part of Melbourne Park Reservation for tramways purposes 539</td>
</tr>
<tr>
<td>253B</td>
<td>Further revocation of reservations for tramways purposes 540</td>
</tr>
<tr>
<td>253C</td>
<td>Re-reservation of certain land for Yarra Park 540</td>
</tr>
<tr>
<td>253D</td>
<td>Registrar of Titles to make necessary amendments 541</td>
</tr>
<tr>
<td>254</td>
<td>Acts etc. deemed performed by Road Traffic Authority 541</td>
</tr>
<tr>
<td>254A</td>
<td>Repeal of Part IIA 542</td>
</tr>
<tr>
<td>254B</td>
<td>Transitional provision—Effect of repeal of Part IIA 542</td>
</tr>
<tr>
<td>255</td>
<td>Supreme Court—limitation of jurisdiction 542</td>
</tr>
<tr>
<td>255A</td>
<td>Supreme Court—limitation of jurisdiction 543</td>
</tr>
<tr>
<td>255B</td>
<td>Supreme Court—limitation of jurisdiction 543</td>
</tr>
<tr>
<td>255C</td>
<td>Supreme Court—limitation of jurisdiction 543</td>
</tr>
<tr>
<td>255D</td>
<td>Supreme Court—limitation of jurisdiction 543</td>
</tr>
</tbody>
</table>
Section | Page
---|---
255E | Supreme Court—limitation of jurisdiction 543
255F | Supreme Court—limitation of jurisdiction 543
256 | Regulations 543

**Division 3—Transitional and savings provisions—Transport (Further Amendment) Act 2001** 545

257 | Definitions 545
258 | Transfer of rights and liabilities etc. of PTC to the Secretary on behalf of the Crown 545
259 | List of staff to be transferred 547
260 | Transfer of staff of PTC 548
261 | Savings provision—assignments 549
262 | Savings provision—guarantees 550
263 | Transitional provision—Power to amend or grant further guarantee on assignment of contract 550

**Division 4—Savings and transitional provisions—Transport (Rights and Responsibilities) Act 2003** 551

264 | Commencement date 551
265 | Continuation of Departmental authorisations 551
266 | Continuation of Roads Corporation authorisations 552
267 | Continuation of passenger transport and bus company employee authorisations 552

**Division 5—Transitional provisions—Transport Legislation (Further Amendment) Act 2006** 553

268 | Definitions 553
269 | Old certificates deemed to be accreditations 553
270 | Saving of accreditations granted by Secretary 554
271 | Saving of agreements etc. 555

**Division 6—Transitional provisions—Transport (Taxi-cab Accreditation and Other Amendments) Act 2006** 556

272 | Taxi-cab accreditation 556
273 | Assignments 559

**Division 7—Transitional Provisions—Transport Legislation Amendment (Driver and Industry Standards) Act 2008** 559

274 | Accreditations 559

**Division 8—Transitional provisions—Statute Law Amendment (Charter of Human Rights and Responsibilities) Act 2009** 560

275 | Transitional provision—direction to provide reasonable assistance 560
276 | Transitional provision—direction to state name and address 561
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SCHEDULES</strong></td>
<td>562</td>
</tr>
<tr>
<td>SCHEDULES 1–6—Repealed</td>
<td>562</td>
</tr>
<tr>
<td>SCHEDULE 7—Covenants to be Included in Deed of Assignment</td>
<td>565</td>
</tr>
<tr>
<td>SCHEDULE 8—Repealed</td>
<td>565</td>
</tr>
<tr>
<td>SCHEDULE 9—Partial Revocation of Reservation on Yarra Park Land</td>
<td>566</td>
</tr>
<tr>
<td>SCHEDULE 10—Partial Revocation of Reservation on Yarra Park Land</td>
<td>567</td>
</tr>
<tr>
<td>SCHEDULES 11, 12—Repealed</td>
<td>567</td>
</tr>
<tr>
<td><strong>ENDNOTES</strong></td>
<td>568</td>
</tr>
<tr>
<td>1. General Information</td>
<td>568</td>
</tr>
<tr>
<td>2. Table of Amendments</td>
<td>569</td>
</tr>
<tr>
<td>3. Explanatory Details</td>
<td>591</td>
</tr>
</tbody>
</table>
An Act to Re-enact with Amendments the Law relating to Transport including the Law with respect to Railways, Roads and Tramways, to repeal the Country Roads Act 1958, the Melbourne and Metropolitan Tramways Act 1958, the Ministry of Transport Act 1958, the Railway Lands Acquisition Act 1958, the Railways Act 1958, the Road Traffic Act 1958, the Transport Regulation Act 1958, the Melbourne Underground Rail Loop Act 1970, the Recreation Vehicles Act 1973, the Railway Construction and Property Board Act 1979 and certain other Acts, to make consequential amendments to various Acts and for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

PART I—PRELIMINARY

1 Short title and commencement

(1) This Act may be cited as the Transport (Compliance and Miscellaneous) Act 1983.

(2) The several provisions of this Act shall come into operation or be deemed to have come into operation as follows—
(a) section 246 shall be deemed to have come into operation on 5 May 1983;

(b) Division 7 of Part VI shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette; and

(c) the remaining provisions of this Act shall come into operation on 1 July 1983.

* * * * *

2 Definitions

(1) In this Act unless inconsistent with the context or subject-matter—

* accredited rail operator * has the same meaning as in the Rail Safety Act 2006;

* * * * *
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983
Part I—Preliminary

appointed day means 1 July 1983;

bus has the same meaning as it has in section 3(1) of the Bus Safety Act 2009;

Bus Association Victoria means the incorporated association registered as Bus Association Victoria Inc. (registration number A0023338R);
bus company means a person or body that has entered into a contract with the Crown, or the Secretary or the Director on behalf of the Crown, for the provision of any transport services (including a service contract within the meaning of the Public Transport Competition Act 1995) but does not include a person or body that is a passenger transport company;

business day means a day that is not—
(a) a Saturday or a Sunday; or
(b) a day that is wholly or partly observed as a public holiday throughout Victoria;

Chief Investigator, Transport Safety has the same meaning as it has in section 3 of the Transport Integration Act 2010;

Commonwealth means Commonwealth of Australia;
Department means the Department of Transport;

Director means the Director of Public Transport within the meaning of section 3 of the Transport Integration Act 2010;
Safety Director means the Director, Transport Safety within the meaning of section 3 of the Transport Integration Act 2010;

entitlement to use a public transport service includes an entitlement to use a public transport service arising under a contract or arrangement with, or under a licence or permission given by, the Public Transport Ticketing Body or a bus company or passenger transport company;

former Corporation means the Public Transport Corporation established under Division 3 of Part 2 of the Transport Act 1983 as in force immediately before the commencement of section 9 of the Transport (Further Amendment) Act 2001;
improvement notice means a notice served under section 228ZZC;

land includes any estate, interest, easement, servitude, privilege or right in or over land and strata above or below the surface of land and easements and rights to use strata above or below the surface of land;

licensing authority means the Director;
mandatory rail safety decision means—

(a) a decision of the Safety Director under the Rail Safety Act 2006 whether to—

(i) accredit or refuse to accredit—

(A) the rail infrastructure operations carried out by a rail infrastructure manager; or

(B) the rolling stock operations carried out by a rolling stock operator; or

(ii) to impose, vary or revoke a condition or restriction on an accreditation of an accredited rail operator; or

(iii) to vary an accreditation of an accredited rail operator; or

(b) a decision of the Safety Director or a transport safety officer to—

(i) serve an improvement notice; or

(ii) amend an improvement notice under section 228ZZF; or

(c) a decision of the Safety Director or a transport safety officer to—

(i) serve a prohibition notice; or

(ii) amend a prohibition notice under section 228ZZL;
**marine safety matter** has the same meaning as it has in section 3 of the *Transport Integration Act 2010*;
officer means a person for the time being employed in the Department or in or by the Corporation (whether or not that person is employed in the transport service);

passenger service has the same meaning as in the Rail Management Act 1996;

passenger transport company means—

(d) V/Line Corporation; or
(e) a train operator; or
(f) a tram operator; or
(g) a person or body specified in an Order under subsection (2A), subject to any terms and conditions specified in that Order;
prescribed means prescribed by this Act or the regulations;

prohibition notice means a notice served under section 228ZZJ;

public transport property means property that is used by a passenger transport company in the provision of a passenger service or by a bus company in the provision of transport services;

public transport safety matter has the same meaning as it has in section 3 of the Transport Integration Act 2010;
Public Transport Ticketing Body means—

(a) the State body established for the purposes of the State Owned Enterprises Act 1992 by Order in Council made on 17 June 2003 and published in Special Government Gazette S119 on 17 June 2003; or

(b) if the State body referred to in paragraph (a) is declared to be a State business corporation (by whatever name called) under the State Owned Enterprises Act 1992, that State business corporation;

rail corporation has the same meaning as in the Rail Management Act 1996;

rail freight operator means—

(b) a person or body specified in an Order under subsection (2B), subject to any terms and conditions specified in that Order;

rail infrastructure has the same meaning as in the Rail Management Act 1996;
rail infrastructure manager has the same meaning as in the Rail Safety Act 2006;

rail infrastructure operations has the same meaning as in the Rail Safety Act 2006;

rail operations has the same meaning as in the Rail Safety Act 2006;

**rail infrastructure manager** has the same meaning as in the Rail Safety Act 2006;

rail infrastructure operations has the same meaning as in the Rail Safety Act 2006;

rail operations has the same meaning as in the Rail Safety Act 2006;

* * * * *

Rail Track means Victorian Rail Track within the meaning of section 3 of the Transport Integration Act 2010;

* * * * *

* * * * *

* * * * *

* * * * *

* * * * *

* * * * *

* * * * *

* * * * *

* * * * *
relevant transport safety law means—

(a) Divisions 4B and 6 of Part VII or any regulations made under this Act for the purposes of those Divisions;

(b) the Rail Safety Act 2006 or any regulations made under that Act;

(c) section 93A, 93B or 93C of the Electricity Industry Act 2000;

(d) section 149A, 149B or 149C of the Gas Industry Act 2001;

(e) Division 4A of Part 4 of the Road Management Act 2004;

(ea) the Transport Integration Act 2010 or any regulations made under that Act;

(f) section 137A, 137B or 137C of the Water Act 1989;

(g) section 62A, 62B or 62C of the Water Industry Act 1994;

(h) section 23 of the Crimes Act 1958 but only in relation to conduct engaged in by a person on or at, or in the immediate vicinity of, rail infrastructure or rolling stock that places or may place another person in danger of serious injury;

road includes bridge, culvert, ferry and ford;
**Roads Corporation** has the same meaning as it has in section 3 of the **Transport Integration Act 2010**;

**rolling stock operations** has the same meaning as in the **Rail Safety Act 2006**;

**rolling stock operator** has the same meaning as in the **Rail Safety Act 2006**;

**Secretary** means the Secretary to the Department;

**Southern Cross Station** means those parts of the Southern Cross Station precinct that are declared to be the Southern Cross Station by Order under section 57(1);
Southern Cross Station precinct means the land hatched on the plan in Schedule 2 to the Rail Corporations Act 1996 as in force immediately before the commencement of section 7 of the Transport Legislation General Amendments Act 2009;

the Loop means the rail tracks and ancillary works authorised to be constructed pursuant to the Melbourne Underground Rail Loop Act 1970;

train operator, in relation to a provision of this Act, means a body corporate specified in an Order under subsection (2C) to be a train operator for the purposes of that provision;
tram infrastructure has the same meaning as in the Rail Management Act 1996;

tram operator, in relation to a provision of this Act, means a body corporate specified in an Order under subsection (2D) to be a tram operator for the purposes of that provision;

transport safety officer means a person appointed under section 228T;

Treasurer means the Treasurer of Victoria;

Tribunal means Victorian Civil and Administrative Tribunal established by the Victorian Civil and Administrative Tribunal Act 1998;

* * * * *

S. 2(1) def. of tram infrastructure inserted by No. 32/2002 s. 3, amended by No. 6/2010 s. 199(3) (Sch. 3 item 1.1(p)).

S. 2(1) def. of tram operator inserted by No. 98/1998 s. 18(1).

S. 2(1) def. of transport safety officer inserted by No. 9/2006 s. 111.

S. 2(1) def. of transport service repealed by No. 30/2000 s. 3(2).

S. 2(1) def. of Tribunal inserted by No. 52/1998 s. 311(Sch. 1 item 96.1).

S. 2(1) def. of West Gate Bridge repealed by No. 12/2004 s. 137(1).
(2) Where a word or phrase is given a particular meaning in this Act, other parts of speech and grammatical forms of that word or phrase have, unless the contrary intention appears, corresponding meanings.

(2A) The Governor in Council, by Order published in the Government Gazette, may declare that a person or body specified in the Order, being a person or body that has entered into a contract with the Crown or the Secretary or the Director on behalf of the Crown for the provision by that person or body of a passenger service, is, on and from a date specified in the Order and subject to any terms and conditions specified in the Order, a passenger transport company for the purposes of this Act.

(2B) The Governor in Council, by Order published in the Government Gazette, may declare that a person or body specified in the Order, being a person or body that operates rail freight services, is, on and from a date specified in the Order and subject to any terms and conditions specified in the Order, a rail freight operator for the purposes of this Act.

(2C) The Governor in Council, by Order published in the Government Gazette, may declare that a specified body corporate, being a body corporate that—

(a) is a party to a lease of rail infrastructure (within the meaning of the Rail Management Act 1996) by the Director acting on behalf of the Crown or Rail Track or the Southern Cross Station Authority; or
Part I—Preliminary

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(b) is a party to a contract with the Secretary or the Director acting on behalf of the Crown for the provision by that body corporate of a passenger service—

is, on and from a specified date, a train operator for the purposes of a specified provision of this Act.

(2D) The Governor in Council, by Order published in the Government Gazette, may declare that a specified body corporate, being a body corporate that—

(a) is a party to a lease of tram infrastructure (within the meaning of the Rail Management Act 1996) by the Director acting on behalf of the Crown or Rail Track or the Southern Cross Station Authority; or

(b) is a party to a contract with the Secretary or the Director acting on behalf of the Crown for the provision by that body corporate of a passenger service—

is, on and from a specified date, a tram operator for the purposes of a specified provision of this Act.
(3) If under the **Public Administration Act 2004** the name of the Department of Transport is changed, the reference in the definition of *Secretary* in subsection (1) to that Department must, from the date when the name is changed, be treated as a reference to the Department by its new name.

---

**2A Transport Integration Act 2010**

This Act is transport legislation within the meaning of the **Transport Integration Act 2010**.
PART II—ADMINISTRATION

Division 1—The Department

Subdivision 1—General

Pt 2 Div. 1 (Heading) substituted by No. 98/1998 s. 19.


Pt 2 Div. 1 Subdiv. 1 (Heading) inserted by No. 9/2006 s. 112.

S. 4 amended by Nos 44/1989 s. 40(Sch. 1 item 7.1), 60/1994 s. 5, 68/1995 s. 40(2)(3), 100/1995 s. 32(Sch. 2 item 10), 28/1996 s. 4(d)(f)(g), 46/1998 s. 7(Sch. 1), 98/1998 s. 25(a), 6/1999 s. 10, 54/2001 as 5, 25(Sch. items 1.1–1.4), 9/2006 s. 113, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 2.1).
4A Revenue allocation agreements

(1) The Crown may enter into agreements relating to the allocation of revenue derived from the provision by any person or body of any passenger services or other transport services.

(2) An agreement referred to in subsection (1) may be entered into on behalf of the Crown by the Secretary or the Director or the Secretary and the Director acting jointly.

5 Contracts for the provision of transport services

Despite anything to the contrary in this Act, the Secretary or the Director has authority on behalf of the Crown—

(a) to enter into a contract with any person or body for the provision by that person or body of any transport services.

* * * * * * * * *
7 Minister may make use of services of officers etc. of public service or public entities

For the purposes of this Act the Minister administering this Act with the consent of the Minister administering the Department concerned or (as the case requires) of the body concerned may make use of the services of any officer or employee of the public service or a public entity subject to the agreement of that officer or employee.
S. 7A
inserted by
No. 44/1989
s. 7,
amended by
Nos 85/1992
s. 3, 28/1996
s. 4(j), 98/1998
s. 21(3),
repealed by
No. 6/2010
s. 199(3)
(Sch. 3
item 2.1).

Pt 2 Div. 1
Subdiv. 2
(Heading)
inserted by
No. 9/2006
s. 114.

New s. 8
inserted by
No. 98/1998
s. 22,
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 208.1),
repealed by
No. 6/2010
s. 199(3)
(Sch. 3
item 2.1).

New s. 9
inserted by
No. 98/1998
s. 22,
amended by
Nos 45/1999
s. 18, 32/2002
s. 4, 95/2005
s. 31, 92/2006
s. 115, 47/2006
s. 3, 69/2007
s. 7(1),
repealed by
No. 6/2010
s. 199(3)
(Sch. 3
item 2.1).
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983
Part II—Administration

S. 9AA
inserted by No. 92006 s. 116, amended by No. 69/2007 s. 7(2), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 2.1).

S. 9AB
inserted by No. 92006 s. 116, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 2.1).

S. 9AC
inserted by No. 92006 s. 116 (as amended by No. 47/2006 s. 53(1)), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 2.1).

S. 9AD
inserted by No. 47/2006 s. 4, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 2.1).

S. 9A
inserted by No. 32/2002 s. 5, amended by No. 47/2006 s. 5, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 2.1).
9C Clearance of trees etc.

(1) This section applies if any tree or wood in the vicinity of a railway track operated or maintained by the Director on behalf of the Crown poses a risk to the safety of anyone on, or using, the railway track.

Examples

The following trees pose a risk to the safety of a person using a railway track—

(a) a tree that obstructs a view of a signal box from a portion of the track;

(b) a tree near the middle of a curve of the track that restricts the view of the track of anyone entering the curve;

(c) a tree whose roots are underneath the track.
(1A) The Director may, on behalf of the Crown, by written notice, require the owner or occupier of any land on which the tree or wood is situated to fell and remove the tree or wood.

(2) Notice under subsection (1A) may be served on an owner or occupier—

(a) personally; or

(b) by sending it by post to the owner or occupier at that person's usual or last known residential or business address; or

(c) by leaving it at the usual or last known residential or business address of the owner or occupier with a person on the premises who is apparently at least 16 years old and apparently residing or employed there; or

(d) in a manner prescribed by any other Act or law for service on a person or class of person of the same type as the owner or occupier; or

(e) if the identity or address of the owner or occupier is not known—

(i) by displaying it on the land; and

(ii) by publishing a copy of it and a description of the land in a newspaper circulating generally in Victoria.

(3) In exercising a power under subsection (1A), the Director must act reasonably.

(4) If the owner or occupier of the land does not comply with the notice within the time specified in the notice, the Director may—

(a) enter the land at any reasonable time and carry out the work specified in the notice; and
(b) recover on behalf of the Crown the cost of carrying out the work from the owner or occupier as a debt.

(5) A power of the Director under this section may be exercised by—

(a) the Director personally; or

(b) any other person who is authorised in writing by the Director; or

(c) any officer or employee of a person referred to in paragraph (b).

(6) Any person acting under subsection (1A) or (4) may fell or remove any tree or wood that is the subject of a notice under subsection (1A) without the need to obtain a permit under any relevant planning scheme under the Planning and Environment Act 1987, despite anything to the contrary in or under that Act.

9D No obligation to fence

(1) Despite any Act or rule of law to the contrary, neither the Director nor the Crown—

(a) is required to fence or contribute to the fencing of any portion of a railway or tramway;

(b) is liable for any damage that may be caused by reason of any railway or tramway not being fenced in or fenced off.

(2) The Director may, but is not obliged to, erect and maintain such fences in connection with a railway or tramway as he or she thinks proper.
9E  Power to break up roads, etc.

(1) Subject to the **Road Management Act 2004**, the Director may on behalf of the Crown—

(a) open and break up, and divert traffic from, any public road within the meaning of the **Road Management Act 2004** on or adjacent to which there is rail infrastructure or tram infrastructure that is operated or maintained by the Director on behalf of the Crown; and

(b) take possession of, and use, the whole or any portion of that public road.

(2) In exercising a power under subsection (1), the Director must act reasonably.

(3) A power of the Director under this section may be exercised by—

(a) the Director personally; or

(b) any other person who is authorised in writing by the Director; or

(c) any officer or employee of a person referred to in paragraph (b).

9F  Power to install stopping places, etc.

(1) Subject to the **Road Management Act 2004**, the Director may on behalf of the Crown install, remove or re-locate stopping places and associated facilities for passenger services on any public road within the meaning of the **Road Management Act 2004**.
management act 2004 on or adjacent to which there is tram infrastructure that is operated or maintained by the director on behalf of the crown.

(2) in exercising a power under subsection (1), the director must act reasonably.

(3) a power of the director under this section may be exercised by—

   (a) the director personally; or

   (b) any other person who is authorised in writing by the director; or

   (c) any officer or employee of a person referred to in paragraph (b).

9G level crossings

(1) despite anything to the contrary in any other act or law, the director may on behalf of the crown—

   (a) use level crossings connecting parts of the rail infrastructure or tram infrastructure to which an agreement, lease or licence relating to, or connected with, a service provided by or on behalf of the director applies (being an agreement, lease or licence entered into between the director on behalf of the crown and rail track) subject to and in accordance with that agreement, lease or licence; and

   (b) close the level crossing to road traffic while the railway track or tramway track is in use, subject to and in accordance with that agreement, lease or licence.

(2) a power of the director under this section may be exercised by the director personally or by a person authorised in accordance with the agreement, lease or licence referred to in subsection (1) to exercise a power conferred on
the Director under this section, subject to any terms and conditions specified in the authorisation.

**9H Tram infrastructure**

(1) Despite anything to the contrary in any other Act or law, the Director may on behalf of the Crown use tram infrastructure to which an agreement, lease or licence relating to, or connected with, a passenger service provided by or on behalf of the Director applies (being an agreement, lease or licence entered into between the Director on behalf of the Crown and Rail Track) subject to and in accordance with that agreement, lease or licence.

(2) A power of the Director under this section may be exercised by the Director personally or by a person authorised in accordance with the agreement, lease or licence referred to in subsection (1) to exercise a power conferred on the Director under this section, subject to any terms and conditions specified in the authorisation.

(3) Nothing in this section is to be taken as limiting any other power of the Director, including the Director's powers under section 9(4)(bb).

**9I Overhead power supply**

(1) Subject to the Road Management Act 2004, the Director may on behalf of the Crown install, remove or relocate rail infrastructure or tram infrastructure consisting of structures comprising or supporting overhead electrical power supply systems situated on or over, or partly on or over, property of the Roads Corporation or the municipal council.
(2) In exercising a power under subsection (1), the Director must act reasonably.

(3) A power of the Director under this section may be exercised by—

(a) the Director personally; or

(b) any other person who is authorised in writing by the Director; or

(c) any officer or employee of a person referred to in paragraph (b).

9J Power to stop traffic

(1) Subject to the Road Management Act 2004, the Director, subject to the agreement, lease or licence relating to, or connected with, the provision of a service or to a lease of rail infrastructure or tram infrastructure (being an agreement, lease or licence entered into between the Director on behalf of the Crown and Rail Track)—

(a) may stop traffic in circumstances where it is reasonably necessary to do so;

(b) in an emergency, may stop traffic.

(2) In exercising a power under subsection (1), the Director must act reasonably.

(3) A power of the Director under this section may be exercised by the Director personally or by a person authorised in accordance with the agreement, lease or licence referred to in subsection (1) to exercise a power conferred on the Director under this section, subject to any terms and conditions specified in the authorisation.
Subdivision 4—Provisions relating to passenger services

10 Priority of passenger services

(1) If—

(a) an agreement relating to the provision or operation of passenger services entered into between the Director on behalf of the Crown and a train operator provides for the Director to require or approve a change in the timetable for a passenger service provided by the train operator; and

(b) in accordance with that agreement the Director requires or approves a timetable change; and

(c) in order to provide the passenger service to which the timetable change relates, the train operator requires use of rail transport services or declared rail transport services; and

Pt 2 Div. 1 Subdiv. 3 (Heading and ss 9K–9ZD) inserted by No. 92/2006 s. 117, amended by Nos 69/2007 s. 8, 4/2008 s. 32 (Sch. item 33), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 2.2).

New s. 10 inserted by No. 98/1998 s. 23.

S. 10(1)(c) amended by Nos 45/1999 s. 19(1)(a), 25/2005 s. 9(1)(e)(ii).
(d) the train operator is—

(i) a party to an agreement relating to the provision of those rail transport services or declared rail transport services; or

(ii) an access provider bound by a dispute resolution decision relating to the provision of those rail transport services or declared rail transport services—

then—

(e) the person that is the operator for the purposes of Part 2A of the Rail Management Act 1996 of the rail infrastructure used to provide those rail transport services or declared rail transport services (in this section referred to as the rail infrastructure operator) must provide the train operator with such services as are necessary to enable the train operator to provide the passenger service in accordance with the timetable change; or

(f) if the train operator and the rail infrastructure operator are the same person, the train operator may use those services to the extent necessary to enable the train operator to provide the passenger service in accordance with the timetable change.
(2) Subsection (1) applies even if the use by the train operator of the rail transport services and declared rail transport services may—

(a) interfere with an existing use by the rail infrastructure operator of the rail transport services or declared rail transport services for the provision by that operator of a rail transport service other than a passenger service or a service that is predominantly a passenger service (in this section referred to as a non-passenger service); or

(b) interfere with an existing right of another person to use the rail transport services or declared rail transport services (as the case may be) to provide a non-passenger service.

(3) Subsection (1) is subject to—

(a) any existing use by the rail infrastructure operator of the rail transport services or declared rail transport services for the provision of, or predominantly for the provision of, a passenger service by that operator; or

(b) any existing right of a train operator to use the rail transport services or declared rail transport services for the provision of, or predominantly for the provision of, a passenger service.

(4) Nothing in subsection (2) or (3) affects any provision of an agreement or a dispute resolution decision referred to in subsection (1)(d) relating to a right to use rail transport services or declared rail transport services referred to in subsection (2)(b) or (3)(b) which specifies the respective rights or obligations of—
Part II—Administration

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(a) in the case of an agreement, binding access arrangement, the parties to the agreement; or

(ab) in the case of a binding access arrangement, the access provider and any access seeker; or

(b) in the case of a dispute resolution decision, the parties bound by that decision—
as a result of—

(c) any interference with an existing use or right arising from the operation of this section; or

(d) the Director requiring or approving a timetable change in accordance with an agreement referred to in subsection (1)(a).

(5) Subject to the terms of any agreement, binding access agreement, or a dispute resolution decision relating to a right referred to in subsection (2)(b), if the operation of this section interferes with that right, the rail infrastructure operator must use all reasonable endeavours to provide alternative rail transport services or declared rail transport services (as the case requires) to the person whose right to use those services is interfered with so as to minimise that interference.

(6) In deciding whether to require or approve a timetable change in accordance with an agreement referred to in subsection (1)(a), the Director must have regard to the objective of ensuring that the provision of a passenger service has priority over any non-passenger service unless, in the particular circumstances, the interference with a non-passenger service resulting from according that priority would in the opinion of the Director be serious and unreasonable.
(7) In this section access provider, access seeker, binding access arrangement, dispute resolution decision, rail transport service and declared rail transport service have the meanings given to them under section 38A of the Rail Management Act 1996.

11 Public Transport Fund

(1) There shall be established in the Trust Fund an account to be known as the "Public Transport Fund".

(2) There shall be paid into the Public Transport Fund—

(a) all amounts received under agreements, leases or licences entered into by or on behalf of the Crown relating to, or connected with, passenger services or other transport services;

(b) all amounts allocated to the Crown in accordance with any agreement referred to in section 4A(1);

(c) any income from the investment of money standing to the credit of the Fund and the proceeds of sale of any investment;

(d) money appropriated by the Parliament for the purposes of the Fund;

(e) any other money directed by the Treasurer to be paid into the Fund.

(3) There shall be paid out of the Public Transport Fund—

(a) all amounts payable by or on behalf of the Crown in accordance with agreements, leases or licences relating to passenger services or other transport services;
Part II—Administration

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983
Part II—Administration

38

(b) any other amounts authorised under this or any other Act to be paid out of the Fund.

(4) Money standing to the credit of the Public Transport Fund may be invested in any manner in which trust funds may be invested under the Trustee Act 1958.

12 Financial assistance to train drivers following fatal incidents

(1) The Director must grant to a train driver engaged by a train operator an amount of financial assistance equal to the prescribed amount if the Director is satisfied that the train driver is eligible under this section to be awarded that amount.

(2) A train driver is eligible under this section to be awarded financial assistance if—

(a) the train driver was driving a train that was involved in an incident in which one or more persons died either by being struck by the train or by being in a vehicle struck by a train; and

(b) the incident occurred on or after the commencement of section 9 of the Transport Legislation Amendment Act 2007.

(3) A train driver is not eligible for financial assistance under this section if the train driver was convicted or found guilty of an offence under Part 6 of the Rail Safety Act 2006 involving alcohol or drugs in relation to the incident.

(4) The financial assistance granted under this section must be paid out of the Public Transport Fund as a lump sum.
(5) Despite anything to the contrary in the Accident Compensation Act 1985 or the Transport Accident Act 1986, a grant of financial assistance under this section is not to be taken into account in determining any amount of compensation, assistance or payment of any kind that the train driver is entitled to receive under either of those Acts.

Note
The financial assistance that a train driver has been awarded or is eligible to be awarded under this section is to be taken into account to reduce the amount of financial assistance awarded to the train driver under the Victims of Crime Assistance Act 1996. See section 16(ac) of that Act.

(6) In this section the prescribed amount of financial assistance is $1300 or any higher amount that is prescribed as the maximum amount for the purposes of section 8A of the Victims of Crime Assistance Act 1996 in relation to a category C act of violence.
Pt 2 Div. 3
(Heading and
ss 13–20)
amended by
Nos 127/1986
s. 102(Sch. 4
item 28.1),
15/1987
s. 31(3),
52/1988
s. 161(Sch. 6
item 14.1),
substituted as
Pt 2 Div. 3
(Heading and
ss 13–16) by
No. 44/1989
s. 9,
amended by
Nos 76/1991
s. 15(1),
85/1992 ss 5,
6, 9(1)(a),
60/1994 s. 7,
17/1995
s. 24(a),
60/1995
s. 41(1),
104/1997 s. 32,
47/1998
s. 16(2)(3),
96/1998
s. 25(c),
30/2000 ss 4,
5, 54/2001
ss 9, 25(Sch.
item 1.5),
12/2004
ss 136, 137(6),
30/2007 s. 225,
93/2009 s. 36,
repealed by
No. 6/2010
s. 199(3)
(Sch. 3
item 3).

Pt 2 Div. 3A
(Heading and
ss 17–20E)
inserted by
No. 47/1998
s. 15,
repealed by
No. 54/2001
s. 9.
Pt 2 Div. 4
(Heading and ss 21–33)
amended by Nos 10220 s. 14, 100/1986 ss 3(22), 5, 50/1988 s. 93(2)(Sch. 2 Pt 2 item 59), 44/1989 ss 10–16, 17(2), 40(Sch. 1 items 1, 2, 1, 6.1, 8.1, 20), 81/1990 s. 7(1), 85/1992 ss 7, 8, 9(1)(b)(c), 120/1993 s. 64, 60/1994 s. 8, 17/1995 s. 22, 68/1995 s. 42, 28/1996 s. 5, 47/1998 s. 16(4)–(6), 54/2001 ss 10, 25(Sch. items 1.6–1.12, 1.14), 49/2004 s. 46, 95/2005 s. 33, 69/2007 s. 40(1), 74/2007 s. 80, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 4).

Pt 2 Div. 5
(Heading and ss 34–37)
amended by Nos 44/1989 ss 18(1), 40(Sch. 1 items 15, 25), 85/1992 s. 9(1)(c)(d), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 5).
Pt 2A
(Heading and
s. 37A)
inserted by
No. 54/2002
s. 3,
amended by
No. 59/2003
s. 124,
repealed by
No. 9921
s. 254A2.
PART III—POWERS OF THE CORPORATION

'S. 38
amended by
Nos 100/1986
s. 3(22),
44/1989
s. 40(Sch. 1
items 2.1, 10),
54/2001
s. 25(Sch.
items 1.15,
1.16),
repealed by
No. 6/2010
s. 199(3)
(Sch. 3
item 6).

'S. 39
amended by
Nos 9984
s. 5(d), 10220
s. 16, 100/1986
s. 3(22),
123/1986 s. 80,
44/1989
s. 40(Sch. 1
item 2.1),
54/2001 ss 11,
25(Sch.
item 1.17),
repealed by
No. 6/2010
s. 199(3)
(Sch. 3
item 6).
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983
Part III—Powers of the Corporation

S. 40
substituted by
No. 44/1989
s. 19,
amended by
Nos 60/1994
s. 9(1)(2),
30/2000 s. 6,
repealed by
No. 54/2001
s. 12.

S. 41
substituted by
No. 44/1989
s. 19,
repealed by
No. 12/2004
s. 137(7).

S. 42
amended by
Nos 9984
s. 5(e),
100/1986
s. 3(22),
121/1986
s. 112, 18/1989
s. 13(Sch. 2
item 90(a)),
44/1989
ss 20(a)(b),
40(Sch. 1
items 1, 2.1,
8.1), 81/1989
s. 3(Sch.
item 53.1),
81/1990
s. 7(3),
85/1998
s. 24(Sch.
item 59),
30/2000 s. 7,
54/2001
s. 25(Sch.
items 1.19–
1.25),
repealed by
No. 12/2004
s. 137(8).
43 Special acquisition powers of Rail Track with respect to the Loop

(1) Rail Track may—

(a) purchase or, with the approval of the Minister, compulsorily acquire any land in the City of Melbourne shown hatched in Schedule 3 to the Melbourne Underground Rail Loop Act 1970;

(b) purchase any land in the City of Melbourne shown hatched in Schedule 4 to the Melbourne Underground Rail Loop Act 1970 and, with the approval of the Minister, compulsorily acquire the right, title or interest in any street, lane or road set out on that land.

(2) Notwithstanding anything in this or any other Act, compensation shall not be payable by Rail Track in respect of any lands used by that Corporation to complete the construction of the Loop under, over or upon any lands comprised in any public or private road, street or way or any public place or any lands vested in or controlled by any person or body corporate or unincorporate for public purposes.

* * * * *
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983
Part III—Powers of the Corporation

S. 45
amended by
Nos 12/1989
s. 4(1)(Sch. 2
item 120.2) (as
amended by
No. 13/1990
s. 38(2)(z)),
44/1989
s. 40(Sch. 1
items 1.2.1,
8.1), 54/2001
s. 25(Sch.
items 1.26–
1.28),
repealed by
No. 6/2010
s. 199(3)
(Sch. 3
item 6).

S. 46
amended by
Nos 44/1989
s. 40(Sch. 1
items 2.1, 8.1),
54/2001
s. 25(Sch.
item 1.29),
repealed by
No. 6/2010
s. 199(3)
(Sch. 3
item 6).

S. 47
amended by
Nos 100/1986
s. 6, 44/1989
s. 40(Sch. 1
items 1.2.1,
8.1, 12.1),
76/1991
s. 15(2),
79/1996
s. 58(1),
46/1998
s. 7(Sch. 1),
54/2001
s. 25(Sch.
items 1.30–
1.32),
repealed by
No. 6/2010
s. 199(3)
(Sch. 3
item 6).
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983
Part III—Powers of the Corporation
54 Provisions as to proposed developments along the line of the Loop

(1) Any person who proposes to develop any land along or in the immediate proximity of the Loop shall before commencing the development and without in any way limiting his obligation under any other Act to obtain any other approval or consent submit to Rail Track full details of his proposed development and shall comply with any conditions imposed by Rail Track which it thinks may be necessary for the protection of the Loop or the proposed development.
(2) If in the case of any development there is a breach of subsection (1), Rail Track may by notice in writing to the owner of the land to which the breach relates require—

(a) the demolition of the whole or any part of any structure;

(b) the making of any additions or extensions to or alterations of any structure; or

(c) the carrying out of any other work upon above or below the surface of the land which Rail Track thinks may be necessary for the protection of the Loop or the development.

(3) A notice given pursuant to subsection (2) shall specify a day (being, except in the case of an emergency, not less than 30 days after the day on which it is given) before which the notice is to be complied with.

(4) If any notice given pursuant to subsection (2) is not complied with by the day so specified, Rail Track may without any further notice enter upon the land and carry out the works required by the notice.

(5) The costs and expenses of carrying out any work pursuant to subsection (4) shall be a civil debt recoverable summarily by Rail Track from the owner of the land in any court of competent jurisdiction.

(6) Nothing in this section shall limit any rights of Rail Track to have any development restrained in consequence of a breach of this section or otherwise.
(7) In this section *develop any land* means erect or demolish any structure in or upon the land, alter any such structure substantially or excavate the land.

* * * * *

### 56 Regulations

(1) The Governor in Council may make regulations for or with respect to—

(a) generally regulating and controlling the carrying out of any works or undertaking by the Roads Corporation, a passenger transport company or rail freight operator;

(b) prohibiting conduct in relation to, or regulating the conduct of anyone in Southern Cross Station or in or on, any vehicle or place belonging to, or under the control of, Rail Track, the Roads Corporation, a passenger transport company, a rail freight operator or a bus company, including, for example, prohibiting or regulating the following conduct on the vehicle or place—

(i) littering;

(ii) gambling;

(iii) graffiti;

(iv) damage to property;
(v) the possession of open containers of liquor or containers that purport to contain liquor;

(vi) the crossing of railway tracks and tramway tracks in specified circumstances;

(ba) providing for the removal and disposal of open containers of liquor, or containers that purport to contain liquor, in or on a vehicle or place referred to in paragraph (b);

(c) preventing interference with or damage to Southern Cross Station or any property, works or undertaking in Southern Cross Station or belonging to or under the control of the Roads Corporation, a passenger transport company or rail freight operator;

(ca) preventing interference with or damage to any vehicle belonging to or under the control of a bus company;

(d) prohibiting the discharge of sewage or drainage onto Southern Cross Station or any land or premises the property of the Roads Corporation or Rail Track;
(e) preventing trespassing upon Southern Cross Station or any land or premises the property of the Roads Corporation or Rail Track or under the control of the Director or of a passenger transport company or rail freight operator;

(f) excluding or removing persons, animals or vehicles or specified classes of persons, animals or vehicles from Southern Cross Station or any land or premises the property of the Roads Corporation or Rail Track or under the control of the Director or of a passenger transport company or rail freight operator;

(g) prescribing the persons or classes of persons permitted to leave vehicles standing in Southern Cross Station or upon any parking area provided by the Roads Corporation and the periods for which and the conditions under which vehicles may be so left standing;

(ga) in relation to the parking of vehicles in Southern Cross Station or on any place belonging to, or under the control of, Rail Track, a passenger transport company, a rail freight operator or a bus company—

(i) regulating the circumstances in which the parking may occur, including, for example—

(A) specifying the conditions and restrictions to which the parking is subject, or to which it may be
made subject (including the payment of fees and whether owner onus applies);

(B) providing for different provisions or conditions and restrictions to apply to different areas of the place;

(ii) providing for signs and marks, and for control devices such as barriers and devices to restrict entry or exit;

(iii) specifying the legal effects of signs, marks and devices, and the evidence that is sufficient to prove their existence and effect;

(iv) providing for authorised officers to require an occupant, or an intending occupant, of a vehicle at the place to produce evidence that any condition or restriction applying to parking at that place has been complied with;

(v) providing for the person in control of the place, any person acting on behalf of that person and authorised officers to give directions in relation to the parking of a vehicle at the place (including directions that the vehicle not be parked at the place, or that the vehicle be removed from the place) to the owner or driver of the vehicle, regardless of whether the person is in the vehicle, and regardless of where the person giving the direction is at the time that the direction is given;
(vi) authorising the person in control of the place, or an authorised officer, to do anything that is necessary to enable the enforcement of regulations made under this paragraph;

(h) regulating and controlling the placing by persons of refuse, rubbish or other materials in Southern Cross Station or on land or premises the property of the Roads Corporation or Rail Track or under the control of the Director or of a passenger transport company or rail freight operator and the removal from such land or premises of refuse, rubbish or other materials;

(i) the filling up by the Roads Corporation of any excavation made by any person on land the property of that Corporation;

(j) the recovery by the Roads Corporation in the Magistrates' Court from the persons responsible of expenses incurred by that Corporation in removing refuse, rubbish or material placed on land or premises the property of that Corporation or in filling up any excavation made by any person on land the property of that Corporation in contravention of regulations made under this Part;

(k) regulating and controlling noise and other emissions from Southern Cross Station or land the property of the Roads Corporation or Rail Track or under the control of the
Director or of a passenger transport company or rail freight operator and the manner of recording and measuring any noise or emission and the instruments to be used therefor;

(l) the conditions upon which passengers and goods shall be carried or other services provided and prohibiting the carriage or delivery for carriage of dangerous goods other than dangerous goods within the meaning of the Dangerous Goods Act 1985 where that Act deals with their carriage or delivery for carriage;

(m) the requirements to be observed and the precautions to be taken in connexion with the carriage or delivery for carriage of dangerous goods other than dangerous goods within the meaning of the Dangerous Goods Act 1985 where that Act deals with their carriage or delivery for carriage;

(ma) prohibiting entry onto Southern Cross Station or any specified land or premises the property of a passenger transport company or Rail Track by persons not holding a ticket authorising that entry;
(p) regulating the disposal of unclaimed goods and the passing of title therein;

(q) regulating the manner of crossing any line of railway on the level and prescribing the charges to be demanded in respect of any such crossing; and

(r) generally prescribing any matter or thing that by this Part or Division 4, 4AA or 4A of Part VII is authorized or required or permitted to be prescribed or that is necessary to be prescribed for carrying out or giving effect to this Part or Division 4, 4AA or 4A of Part VII or giving effect to the powers conferred on a passenger transport company, Rail Track or the Roads Corporation by this Part or on the Secretary by Division 4, 4AA or 4A of Part VII.

(2) The Governor in Council may make regulations for or with respect to—

(a) regulating or prohibiting the digging up of any road;

(b) prohibiting the driving, drawing or carrying over any road of a greater mass than that fixed by the Roads Corporation;

(c) preventing interference with or damage to the soil, pavement flags, sods or other materials of any road or any fence on any road or any scrapings of any road or sand on any road;

(d) prohibiting the discharge onto any road of sewage or drainage;
(e) preventing interference with or damage to any guide-post, bridge hand-rail, sign, notice, light or other fixture or equipment situated or placed upon any road;

(f) regulating or prohibiting the making of any building, hedge, ditch, fence, hole, heap, drain or obstruction on, across or in any road;

(g) keeping any road clear from all seedlings, suckers and other off-sets from any hedge or live fence and preventing any branch thereof from overhanging the road;

(h) regulating or prohibiting the erection and construction of hoardings on or in the vicinity of declared roads or regulating, restricting, preventing or controlling the exhibition of advertisements on or in the vicinity of declared roads;

(i) requiring the droving of live stock along stock routes and prohibiting or regulating the droving of live stock along roads or the carriageway of roads in cases where roads or sections thereof in the vicinity of those roads or where parts of those roads have been proclaimed to be stock routes;

(j) prohibiting or regulating excavating and blasting operations in the vicinity of any road;

(k) prohibiting or regulating the removal of grass growing on any road or the seed of such grass;
Part III—Powers of the Corporation

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(l) preventing the cutting, breaking, barking, rooting up or otherwise destroying, damaging or removing of the whole or any part of any tree, sapling, shrub, underwood or timber in or upon any road without the written permission of the Roads Corporation;

(m) conferring upon the Roads Corporation with respect to roads any right, power, protection, privilege or obligation relating to the construction, improvement or maintenance of roads conferred upon a municipal council by any Act relating to local government;

(n) impounding cattle which are on any part of any State highway, main road, freeway, tourists' road or metropolitan bridge;

(o) preventing a municipal council from causing to be sealed any plan of subdivision of land abutting on a freeway or a proposed freeway except with the consent in writing of the Roads Corporation or, in any case where the Roads Corporation has failed or refused so to consent, of the Governor in Council;

(p) the manner of entering, crossing or leaving any freeway;

(q) prohibiting or regulating the taking or entering or being upon any freeway of any animal;

(r) the removal of dead animals or of vehicles abandoned or left standing on any land or premises the property of the Roads Corporation or on any part of a declared road or any other road maintained by the Roads
Part III—Powers of the Corporation

Corporation and the recovery of the cost of their removal and regulating the storage and disposal of such vehicles and the passing of title therein and providing for the recovery of the cost of their storage and disposal;

(s) permitting or prohibiting the use of freeways or any freeway or any class of freeways by traffic or any class of traffic;

(t) prohibiting or regulating the parking of vehicles on freeways or any freeway or any class of freeways;

(u) generally providing for the control, management and proper use of freeways;

(z) regulating the use of roadside reserves and requiring such charges as are approved by the Minister to be paid by persons using roadside reserves or facilities on roadside reserves.

(3) Regulations made under this Part—

(a) may be of general or of specially limited application;

(b) may differ according to differences in time, place or circumstance;
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983
Part III—Powers of the Corporation

S. 56(3)(c) amended by Nos 44/1989 s. 40(Sch. 1 item 3.1(a)), 30/2000 s. 12(2)(a).

(c) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by the Roads Corporation or any government department, municipal council or other public authority or by any officer thereof;

(d) may confer powers or impose duties in connexion with the regulations on the Roads Corporation or passenger transport company or bus company or any government department, municipal council, responsible authority under the Planning and Environment Act 1987 or other public authority or on any officer thereof or on the owner or occupier of any land, building or premises or on any other person whomsoever;

(e) may apply, adopt or incorporate, with or without modification, the provisions of any Act or of any regulations made under any Act, as in force at a particular time or as in force from time to time;

(f) may appoint fees which may be charged and received by the Roads Corporation or passenger transport company or bus company for any permit which may be granted under the regulations by that Corporation or passenger transport company or bus company;

(g) may provide that an application may be made to the Tribunal for review of a decision of the Roads Corporation or an officer of the Roads Corporation or for a declaration concerning the validity of any such decision; and

(h) may impose a penalty not exceeding 20 penalty units for any contravention of or failure to comply with the regulations.

(3A) A reference in subsection (1) to—

(a) a passenger transport company is a reference to such a company only in its capacity as a provider of a passenger service; and

(ab) a bus company is a reference to such a company only in its capacity as a provider of transport services; and

(b) a rail freight operator is a reference to such an operator only in its capacity as an operator of rail freight services—

and regulations cannot be made under that subsection that have any effect in relation to such a company or operator in the performance by it of any other function or the exercise by it of any other power.

(4) A reference in subsection (2)—

(a) to a road includes a road under construction; and
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Part III—Powers of the Corporation

(b) to land the property of the Roads Corporation includes land taken or used by the Roads Corporation on which a highway is proposed to be or is being constructed.

(5) A reference to parking in subsection (1)(ga) includes a reference to leaving a vehicle standing.
57 Declaration of Southern Cross Station for purposes of regulations

(1) The Governor in Council may, by notice published in the Government Gazette, declare a part of the Southern Cross Station precinct to be the Southern Cross Station.

(2) A declaration under subsection (1) may be by reference to a map.
PART IV—FINANCIAL

Pt 4 Div. 1
(Heading and
ss 57–67)
amended by
Nos 10087
s. 3(1)(Sch. 1
item 273),
100/1986
s. 3(22),
44/1989
s. 40(Sch. 1
items 1, 2, 3,
6.1, 6.3, 7.1,
7.3–7.5, 8.1,
10–13),
31/1994
s. 4(Sch. 2
item 93),
75/1994 s. 20,
46/1998
s. 7(Sch. 1),
11/2001
s. 3(Sch.
item 80.1),
54/2001
s. 25(Sch.
items 1.35–
1.58) (as
amended by
No. 32/2002
s. 24(b)(i)),
repealed by
No. 6/2010
s. 199(3)
(Sch. 3
item 7).

Division 2—Borrowing powers

S. 68
repealed by
No. 100/1986
s. 3(22).
S. 68A
inserted by
No. 9984
s. 4(d),
amended by
Nos 100/1986
s. 3(22),
80/1992 s. 55,
44/1989 s. 23,
repealed by
No. 54/2001
s. 13.

Ss 69–75
repealed by
No. 100/1986
s. 3(22).

S. 76
amended by
Nos 100/1986
s. 3(19)(22),
44/1989
s. 40(Sch. 1
items 1, 6.1),
18/1994
s. 66(Sch. 2
item 25),
85/1994 s. 6,
46/1998
s. 7(Sch. 1),
11/2001
s. 3(Sch. item
80.2), 54/2001
s. 25(Sch.
item 1.59),
repealed by
No. 62/2010
s. 19(3)
(Sch. 3
item 8).
77A Power to give a guarantee in relation to a contract assigned by the Secretary

(1) Where—

(a) the rights and liabilities of the former Corporation under the relevant contract have been transferred to or vested in the Secretary on behalf of the Crown, whether by an assignment or an allocation or by any other operation of law; and

(b) those rights and liabilities under that contract are subsequently assigned to another person—

the Treasurer may give a guarantee, in favour of any person, guaranteeing the due performance of any obligations of the person to whom the rights and liabilities under the relevant contract are assigned, being obligations arising under the relevant contract.

(2) Where—

(a) the rights and liabilities of a person under the relevant contract are assigned with the approval of the Treasurer to another person; and
(b) the obligations of the first-mentioned person under the relevant contract have been guaranteed under subsection (1)—

the Treasurer may give a guarantee, in favour of any person, guaranteeing the due performance of any obligations of the second-mentioned person arising under the contract.

(3) Where—

(a) the rights and liabilities of a person under the relevant contract are assigned with the approval of the Treasurer to another person; and

(b) the obligations of the first-mentioned person under the relevant contract have been guaranteed under subsection (1)—

the Treasurer may amend any guarantee given by him or her under subsection (1) so that it extends to guaranteeing the due performance of any obligations of the second-mentioned person under the relevant contract.

(4) Any sums required by the Treasurer for fulfilling any guarantee given by him or her under this section must be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly) and any sums received or recovered by the Treasurer from the person whose obligations are guaranteed, in respect of any sums so paid by the Treasurer, must be paid into the Consolidated Fund.

(5) In this section relevant contract means the service contract entered into between the former Corporation and OneLink Transit Systems Pty Ltd ACN 059 733 443 with effect from 24 May 1994 as amended, varied and restated from time to time.
Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part IV—Financial

<table>
<thead>
<tr>
<th>Section</th>
<th>Action</th>
<th>Date</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>S. 78</td>
<td>repealed by No. 100/1986 s. 3(22).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>S. 79</td>
<td>amended by Nos 100/1986 s. 3(22), 46/1998 s. 7(Sch. 1), repealed by No. 54/2001 s. 18.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>S. 80</td>
<td>substituted by No. 100/1986 s. 3(22), amended by No. 46/1998 s. 7(Sch. 1), repealed by No. 54/2001 s. 18.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>S. 81</td>
<td>amended by Nos 10087 s. 3(1)(Sch. 1 item 274), 44/1989 s. 40(Sch. 1 items 2.1, 4, 7.1, 8.1), 16/1998 s. 10(1), repealed by No. 54/2001 s. 18.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Division 3—Borrowing and investment powers of Public Transport Corporation

S. 81A
inserted by
No. 100/1986
s. 3(20),
amended by
Nos 44/1989
s. 40(Sch. 1
items 1, 8.1),
46/1998
s. 7(Sch. 1),
54/2001
s. 25(Sch.
item 1.60),
repealed by
No. 6/2010
s. 199(3)
(Sch. 3
item 8).

Pt 4 Div. 3
(Heading and
s. 81B)
inserted by
No. 85/1994
s. 7.

S. 81B
inserted by
No. 85/1994
s. 7,
repealed by
No. 54/2001
s. 25(Sch.
item 1.61).
PART V—CHIEF INVESTIGATOR, TRANSPORT SAFETY

Division 1—Preliminary matters

82 Object

The object of this Part is to improve public transport and marine safety by providing for the independent investigation of public transport safety matters and marine safety matters.

* * * * *

82C Application of definitions to this Part

(1) In this Part, the expressions railway, rail infrastructure, rail safety work and rolling stock have the same meanings as in section 3 of the Rail Safety Act 2006.

(2) In this Part, the expressions harbour master, master, owner, pilot, pilotage services provider, pilot exempt master and vessel have the same meanings as in section 3(1) of the Marine Act 1988.
Division 2—Appointment, functions and general powers

New s. 83 inserted by No. 10/2006 s. 4, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 9.1).

Ss 83A–83E inserted by No. 10/2006 s. 4, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 9.1).

S. 83F inserted by No. 10/2006 s. 4, amended by No. 4/2008 s. 32 (Sch. item 33), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 9.1).

Ss 83G–83L inserted by No. 10/2006 s. 4, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 9.1).
Division 3—Investigations

84 Specific investigation powers—public transport safety matters

For the purposes of this Part, Subdivisions 1, 3, 4, 5, 6, 7 and 8 of Division 4B of Part VII apply—

(a) as if a reference in those provisions—

(i) to a transport safety officer was a reference to the Chief Investigator, Transport Safety; and

(ii) to railway premises included a reference—

(A) to any place where an incident involving a bus occurred and where the bus, or anything that is, or that is possibly, relevant to an investigation into the incident, is still present; and

(B) to any premises used by a person to conduct bus operations or other related activities; and

(iii) to rail operations included a reference to bus operations; and

(iv) to a railway accident included a reference to an accident involving a bus; and

(v) to rail infrastructure included a reference to any infrastructure used in relation to a bus operation; and

(vi) to rolling stock included a reference to buses; and
(vii) to compliance and investigative purposes was a reference to the purpose of carrying out an investigation into a public transport safety matter; and

(viii) to "this Division" was a reference to this Part; and

(b) as if section 228ZB(1)(f) were omitted; and

(c) as if in section 228ZC—

(i) there were substituted for subsections (1)(a) and (1)(b) the following—

"for the purpose of carrying out an investigation into a public transport safety matter"; and

(ii) in subsection (2) the words "or the Safety Director specifies" were omitted; and

(d) as if in section 228ZG—

(i) a reference to evidence of the commission of an offence against a relevant transport safety law was a reference to a thing or things of significance to an investigation into a public transport safety matter; and

(ii) there were substituted for subsection (3)(a) the following paragraph—

"(a) a brief description of the investigation in respect of which the warrant is issued; and"; and

(e) as if in section 228ZH(b), the words "or its use in the commission of an offence against a relevant transport safety law" were omitted; and
(f) as if in section 228ZL(2)(b) there were substituted for all words after "for the purpose of" the words "an investigation into a public transport safety matter"; and

(g) as if section 228ZV(2)(a) were omitted; and

(h) as if for section 228ZW(2) there were substituted the following subsection—

"(2) The Magistrates' Court may order such an extension if it is satisfied that retention of the thing is still necessary for the purposes of the investigation into a public transport safety matter in respect of which the thing was seized."; and

(i) as if in section 228ZZA(1)(c) there were substituted for all words after "is relevant to" the words "an investigation into a public transport safety matter"; and

(j) as if section 228ZZB(2)(a) were omitted.

84A Specific investigation powers—marine safety matters

(1) The Chief Investigator, Transport Safety may exercise any of the powers conferred on an inspector by Division 3 of Part 8 of the Marine Act 1988 for the purpose of carrying out an investigation into a marine safety matter.

(2) For the purposes of this Part, sections 83A and 83C of the Marine Act 1988 apply to the carrying out of an investigation into a marine safety matter by the Chief Investigator, Transport Safety.

(3) For the purposes of this section, Division 3 of Part 8 of the Marine Act 1988 applies as if a reference in that Division—
Part V—Chief Investigator, Transport Safety

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(a) to an inspector was a reference to the Chief Investigator, Transport Safety; and

(b) to an investigation under section 82D was a reference to an investigation into a marine safety matter.

84AB Chief Investigator, Transport Safety may require persons to attend and answer questions

(1) If the Chief Investigator, Transport Safety considers it necessary for the purposes of an investigation into a public transport safety matter or a marine safety matter under this Part, the Chief Investigator, Transport Safety may require a person to attend before the Chief Investigator, Transport Safety and answer questions asked by the Chief Investigator, Transport Safety relating to matters relevant to the investigation.

(2) The requirement under subsection (1) must be by notice in writing.

(3) The notice must—

(a) be signed by the Chief Investigator, Transport Safety; and

(b) specify the time and place at which the person is required to attend before the Chief Investigator, Transport Safety.
Part V—Chief Investigator, Transport Safety

(4) The time specified in the notice must be reasonable having regard to the circumstances.

(5) When a person attends before the Chief Investigator, Transport Safety under this section, the Chief Investigator, Transport Safety may require the questions to be answered on oath or affirmation.

(6) Before requiring a person to answer a question under this section, the Chief Investigator, Transport Safety must inform the person of the effect of subsections (9) and (10).

(7) For the purpose of subsection (5), the Chief Investigator, Transport Safety may administer an oath or affirmation.

(8) A person of whom a requirement is made under this section must not—

(a) fail to attend before the Chief Investigator, Transport Safety in accordance with the requirement; or

(b) refuse to take an oath or make an affirmation when required by the Chief Investigator, Transport Safety to do so; or

(c) refuse or fail to answer a question lawfully asked of the person by the Chief Investigator, Transport Safety.

Penalty: 30 penalty units.

(9) A person is not excused from answering a question put to him or her under this section on the ground that the answer to the question might
tend to incriminate the person or make the person liable to a penalty.

(10) An answer given to a question put to a person under this section is not admissible in evidence against the person in any civil or criminal proceeding other than—

(a) a proceeding in respect of an offence against this section; or

(b) a proceeding in respect of the falsity of an answer.

(11) A person who attends before the Chief Investigator, Transport Safety in accordance with a requirement under this section is entitled to be paid, in relation to that attendance, fees or allowances fixed by or calculated in accordance with an Order made by the Governor in Council for the purposes of this section.

84B Identity cards

(1) If the Chief Investigator, Transport Safety delegates any power conferred on him or her by section 84 or 84A to another person, he or she must give the person an identity card that contains a photograph of the person and that identifies the person by name as a person authorised to exercise the power by the Chief Investigator, Transport Safety.

(2) If a person to whom an identity card has been issued under subsection (1) ceases to be authorised to exercise any power referred to in the identity card, the person must return the identity card to the Chief Investigator, Transport Safety as soon as is practicable after that cessation.

Penalty: 1 penalty unit.
85 Reports to be given promptly to the Minister

The Chief Investigator, Transport Safety must, as soon as is practicable after completing an investigation into a public transport safety matter or a marine safety matter, give the Minister a report of the investigation.

85A Consultation before report finalised

However, before reporting the results of an investigation to the Minister, the Chief Investigator, Transport Safety must consult with—

(a) the Director (in relation to an investigation into a public transport safety matter); and

(c) the Safety Director; and

(d) the Secretary; and

(e) any person or body who has assisted the Chief Investigator, Transport Safety with the investigation; and

(f) any person or body to whom the report may be relevant.
85C Limitations on disclosure etc. of information obtained under this Part

(1) A person must not disclose any information obtained while carrying out a function under this Part, or obtained under section 85E.

Penalty: 60 penalty units.

(2) However, the person may disclose such information if—

(a) the disclosure is made in the performance of a duty under, or in connection with, this Part; or

(b) the person has the consent of the person who originally supplied the information; or

(c) subject to subsection (3), the disclosure is made in legal proceedings at the direction of a court; or

(d) the information is in the public domain at the time it is disclosed.

(3) A court may only direct a person to disclose the information if—

(a) the disclosure is required for the purposes of a criminal proceeding for an offence against this Act; or

(b) the disclosure is to be made in civil proceedings and the following 2 conditions are met—
(i) the Chief Investigator, Transport Safety has issued a certificate in relation to the information stating that the disclosure of the information is not likely to interfere with any investigation; and

(ii) the court is satisfied that any adverse domestic and international impact that the disclosure of the information might have on any current or future investigations is outweighed by the public interest in the administration of justice.

(4) In directing a person to disclose information, the court may also direct that the information, or any information obtained from the information, must not—

(a) be published, or be communicated to any person; or

(b) be published, or be communicated, except in a manner, and to a person, specified by the court.

(5) Any information disclosed by a person in contravention of this section is not admissible in any civil or criminal proceedings (other than proceedings against the person under this section).

(6) Subsection (2) is not intended to interfere with any rights another person may have with regard to the disclosure of the information.

(7) A reference in this section to a court is to be read as including a reference to a tribunal and to a person exercising judicial authority.
85D Release of information in the interests of transport safety

(1) The Chief Investigator, Transport Safety may disclose information acquired by him or her in carrying out his or her functions under this or any other Act to any person if the Chief Investigator, Transport Safety considers that the disclosure is necessary or desirable for the purposes of transport safety.

(2) However, the Chief Investigator, Transport Safety may only disclose information that is, or that contains, personal information in the circumstances allowed by the regulations.

(3) In this section, personal information has the same meaning as in section 3 of the Information Privacy Act 2000.

85DA Reports not admissible in evidence

(1) A report of an investigation into a public transport safety matter or marine safety matter under this Part is not admissible in evidence in any civil or criminal proceeding.

(2) Subsection (1) does not apply—

(a) to the admissibility of a final report in evidence in a coronial inquiry; or

(b) if the court considers that a failure to admit a report into evidence in a criminal proceeding could prejudice the fair trial of the accused.

(3) This section applies despite anything to the contrary in sections 85C and 85D.

(4) In this section report means—

(a) final report; or

(b) draft report; or
(c) any document that is incidental to a final report or draft report.

85E Chief Investigator, Transport Safety may authorise non-staff members to have access to information

The Chief Investigator, Transport Safety may authorise a person who is not a member of his or her staff to have access to information acquired by the Chief Investigator, Transport Safety in carrying out his or her functions under this or any other Act if the Chief Investigator, Transport Safety considers that it is necessary or desirable to do so.

Note

A person authorised to have access to information under this section is subject to the confidentiality requirements of section 85C.

85F Confidential reporting of safety information by transport workers

(1) In this section a transport worker is a person who, as an employee, as a contractor or as a volunteer—

(a) carries out work for—

(i) a person who operates a road transport passenger service (as defined by section 3(1) of the Public Transport Competition Act 1995); or

(ii) a person who manages any rail infrastructure or who provides, or operates, any rolling stock; or

(iii) a person who undertakes rail safety work; or

(b) is involved with the operation of vessels.
Part V—Chief Investigator, Transport Safety

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(2) The Chief Investigator, Transport Safety may establish a system for the voluntary reporting by transport workers of public transport safety matters and marine safety matters.

(3) The Chief Investigator, Transport Safety must not disclose to any other person, or to any court, tribunal or person acting judicially, any information that may identify a transport worker who provides information under the voluntary reporting system unless—

(a) the worker consents to the disclosure; or

(b) the Chief Investigator, Transport Safety or the court, tribunal or person is of the opinion that it is necessary in the public interest that the information be disclosed.

* * * * *

85H Chief Investigator, Transport Safety may ask Commonwealth official to investigate accident or incident

The Chief Investigator, Transport Safety may ask the Executive Director of Transport Safety Investigations appointed under section 12 of the Transport Safety Investigations Act 2003 of the Commonwealth to investigate any accident or incident that has occurred in Victoria that is a public transport safety matter or a marine safety matter.
Pt V—Chief Investigator, Transport Safety

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983
Part V—Chief Investigator, Transport Safety

s. 85

Pt 5
(Heading and ss 82–85)
amended by Nos 10220
s. 4(a)–(c), 50/1988
s. 93(2)(Sch. 2 Pt 2 item 59),
52/1988
s. 161(Sch. 6 items 14.2,
14.3), 44/1989
s. 40(Sch. 1 item 2.1),
68/1992
s. 114(Sch. 7 item 4),
85/1992
s. 9(1)(e),
82/1994
s. 13(Sch. 2 item 9),
79/1996 s. 4(j),
59/1996
s. 10(Sch. 2 item 23),
57/1996
s. 58(2),
16/1998
s. 10(2)–(4),
46/1998
s. 7(Sch. 1),
repealed by No. 30/2000
s. 13.
PART VI—LICENSING OF CERTAIN VEHICLES AND DRIVER ACCREDITATION

Division 1—General provisions

86 Definitions

(1) In this Part unless inconsistent with the context or subject-matter—

* * * * *

S. 86(1) def. of accident inserted by No. 17/1995 s. 3(a), repealed by No. 30/2007 s. 227(1)(a).

* * * * *

S. 86(1) def. of accident scene inserted by No. 17/1995 s. 3(a), repealed by No. 30/2007 s. 227(1)(b).

* * * * *

S. 86(1) def. of accident tow truck inserted by No. 17/1995 s. 3(a), repealed by No. 30/2007 s. 227(1)(c).

* * * * *

S. 86(1) def. of accident towing inserted by No. 17/1995 s. 3(a), repealed by No. 30/2007 s. 227(1)(d).
**accredited operator**, for sections 158AA, 158AB and 158AC, means the operator of the taxi-cab but only while the operator holds an accreditation as a taxi-cab operator under Division 4;

**applicable pre-1973 fraud or dishonesty offence** means the offence at common law of larceny abolished by section 3(1) of the **Crimes (Theft) Act 1973**;
* * * * *

**carrying capacity**, in relation to a motor vehicle, means the mass determined by the Roads Corporation to be the maximum permissible mass of any load which may be carried on that motor vehicle;

**category 1 offence** means—

(a) an offence against the **Crimes Act 1958** that involves sexual penetration (within the meaning given by section 35(1) of the **Crimes Act 1958**); or

(b) an offence against a provision of the **Crimes Act 1958** amended or repealed before the commencement of section 8 of the **Transport Legislation (Further Amendment) Act 2006** of which the necessary elements at the time it was committed consisted of elements that constitute an offence referred to in paragraph (a); or

(c) an offence specified in clause 1 of Schedule 1 to the **Sentencing Act 1991**, if the victim of the offence was a child or a person with a cognitive impairment, that is not an offence referred to in paragraph (a) or (b); or

(ca) an offence against section 5A of the **Crimes Act 1958**; or

(cb) an offence against section 318 of the **Crimes Act 1958** (whether in relation to a motor vehicle or a vessel); or
(d) an offence specified in clause 3 of Schedule 1 to the Sentencing Act 1991; or

(e) a child pornography offence within the meaning of the Working with Children Act 2005; or

(f) an offence within the meaning of Division 101 of the Criminal Code Act 1995 of the Commonwealth; or

(g) an offence under a law of a jurisdiction other than Victoria (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this definition;

**category 2 offence** means—

(a) an offence specified in clause 1 of Schedule 1 to the Sentencing Act 1991 that is not an offence referred to in paragraph (a), (b), (c), (cd) or (ce) of the definition of **category 1 offence**; or

(b) an offence specified in clause 2 of Schedule 1 to the Sentencing Act 1991 that is not an offence specified in clause 3 of that Schedule; or

(c) an offence specified in clause 4 of Schedule 1 to the Sentencing Act 1991; or

(ca) an offence against section 24 of the Crimes Act 1958 arising out of the driving of a motor vehicle by the offender; or

(cb) an offence against section 21A of the Crimes Act 1958; or
(cc) an offence against section 60B of the Crimes Act 1958; or

(cd) an offence against section 319(1) of the Crimes Act 1958 (whether in relation to a motor vehicle or a vessel); or

(ce) an offence against section 319(1A) of the Crimes Act 1958 (whether in relation to a motor vehicle or a vessel); or

(cf) an offence against section 61 of the Road Safety Act 1986 resulting in a person being killed or suffering serious injury; or

(cg) an offence against section 71AB or 71B of the Drugs, Poisons and Controlled Substances Act 1981; or

(ch) an offence against section 46 or 47 or Part 5 of the Sex Offenders Registration Act 2004 (other than section 70); or

(ci) an offence against the Serious Sex Offenders Monitoring Act 2005 (other than section 42(3)); or

(cia) an offence against the Serious Sex Offenders (Detention and Supervision) Act 2009 (other than section 182 or 186); or

(cj) an offence against section 271.4 (trafficking in children) or section 271.7 (domestic trafficking in children) of the Criminal Code of the Commonwealth other than in circumstances where the purpose of the exploitation is to provide sexual services within the meaning of that section; or
(d) an offence involving fraud or dishonesty; or

(e) an offence under a law of a jurisdiction other than Victoria (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this definition;

category 3 offence means—

(aa) an offence specified in any of the following infringement notices—

(i) a safety work infringement notice to which section 215C(1) applies;

(ii) an infringement notice to which section 61A(2) of the Marine Act 1988 applies;

(iii) a traffic infringement notice to which section 89A(2) of the Road Safety Act 1986 applies; or

(a) a criminal offence that is not a category 1 offence, a category 2 offence or an offence referred to in paragraph (aa); or

(b) an offence under a law of a jurisdiction other than Victoria (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this definition;

commercial goods vehicle means any motor vehicle (together with any trailer) which is used or intended to be used for carrying goods for hire or reward or for any consideration or in the course of any trade or business whatsoever, but does not include—
Part VI—Licensing of Certain Vehicles and Driver Accreditation

[Transport (Compliance and Miscellaneous) Act 1983 No. 9921 of 1983]

(a) any such motor vehicle which is a licensed commercial passenger vehicle and is carrying goods in accordance with its licence and the regulations or any such motor vehicle the carrying capacity of which (together with any trailer) does not exceed 2 tonnes and which is owned by a primary producer and used by him solely in connexion with his business as a primary producer; or

(b) a tow truck;

commercial passenger vehicle means any motor vehicle (together with any trailer fore-car side-car or other vehicle or device, if any, attached thereto) which is used or intended to be used for carrying passengers for hire or reward;

Commission means the Essential Services Commission established under the Essential Services Commission Act 2001;

company has the same meaning as in section 9 of the Corporations Act;

* * * * * * *
corporation has the same meaning as that given by section 57A of the Corporations Act;

costs incurred in making the journey includes—
(a) fuel costs; and
(b) maintenance costs; and
(c) parking costs; and
(d) insurance costs; and
(e) vehicle depreciation;

director has the same meaning as it has in section 9 of the Corporations Act;
disqualifying offence means a category 1 offence, a category 2 offence or a category 3 offence;

drive, in relation to a vehicle, includes being in control of the vehicle;

driver accreditation means an accreditation under section 166;

goods includes all chattels personal;

highway has the same meaning as in section 3(1) of the Road Safety Act 1986;

hire car means a commercial passenger vehicle classified as a hire car by the licensing authority under section 145;
**Transport (Compliance and Miscellaneous) Act 1983**  
No. 9921 of 1983  
Part VI—Licensing of Certain Vehicles and Driver Accreditation

| hire car licence | means a commercial passenger vehicle licence in respect of a vehicle which operates or is to operate as a hire car; |
| level 1 offence | means— |
| (a) murder, manslaughter or an offence under Subdivision (1), (1AA) or (4) of Division 1 of Part I of the *Crimes Act 1958* (homicide and serious assaults); or |
| (b) an offence under Subdivision (8A), (8B), (8C), (8D) or (8E) of Division 1 of Part I of the *Crimes Act 1958* (serious sexual offences) or under any corresponding previous enactment or an attempt to commit any such offence or an assault with intent to commit any such offence; or |
| (c) any other assault punishable by imprisonment for 6 months or more; or |
| (d) an offence under section 321(1) of the *Crimes Act 1958* (conspiracy) where the conspiracy is to commit an offence referred to in paragraph (a), (b) or (c); |
level 2 offence means—

(a) an offence under section 71, 71AA, 71AB or 71AC of the Drugs, Poisons and Controlled Substances Act 1981 (drug trafficking); or

(ab) an offence under section 71 of the Drugs, Poisons and Controlled Substances Act 1981 as in force immediately before the commencement of the Drugs, Poisons and Controlled Substances (Amendment) Act 2001; or

(b) an offence under Division 2 of Part I of the Crimes Act 1958 (theft and similar or associated offences); or

(c) an offence under Division 3 of Part I of the Crimes Act 1958 (criminal damage to property); or

(d) an offence under the Accident Compensation Act 1985 or the Transport Accident Act 1986, but only if the offence involves fraud; or

(e) an offence under section 321(1) of the Crimes Act 1958 (conspiracy) where the conspiracy is to commit an offence referred to in paragraph (a), (b), (c) or (d);

* * * * *

motor cycle has the same meaning as in the Road Safety Act 1986;
Part VI—Licensing of Certain Vehicles and Driver Accreditation

motor vehicle means a motor vehicle within the meaning of the Road Safety Act 1986 and includes a trailer attached to the vehicle;

operate means—

(a) in the case of a commercial passenger vehicle (other than a taxi-cab), carry passengers for hire or reward; and

(ab) in the case of a taxi-cab, carry passengers for hire or reward and includes to ply or stand for hire or to use the taxi-cab in any other way for the purpose of carrying passengers for hire or reward; and

(b) in the case of a commercial goods vehicle, carry goods for hire or reward or for any consideration or in the course of any trade or business whatsoever.

operator in relation to a taxi-cab, means—

(a) unless paragraph (b) applies, the holder of the licence under which the taxi-cab is operated; or

(b) if the right to operate the taxi-cab has been assigned to a person under section 150, that person while the assignment remains in force;

S. 86(1) def. of motor vehicle inserted by No. 127/1986 s. 102(Sch. 4 item 29.2).

S. 86(1) def. of operate amended by Nos 10220 s. 11(1)(a)(i)(ii), 120/1993 s. 5(b), 6/1999 s. 9(1), 74/2000 s. 3(Sch. 1 item 130), 71/2006 s. 16(c)(i)(ii).

S. 86(1) def. of operator in relation to a taxi-cab inserted by No. 71/2006 s. 16(d).

S. 86(1) def. of operator in relation to a tow truck repealed by No. 30/2007 s. 227(1)(k).
Order in Council means an Order made by the Governor in Council and published in the Government Gazette;

owner includes—

(a) every person who is the owner or joint owner of a commercial passenger vehicle or commercial goods vehicle;

(b) any person who has the use of a commercial passenger vehicle or commercial goods vehicle under a hiring or hire-purchase agreement; and

(c) any person in whose name—

   (i) a commercial passenger vehicle;

   (ii) a commercial goods vehicle—

* * * * *

* * * *

* * * *

* * * *

* * * *

is registered under the Road Safety Act 1986 or any Act or Ordinance of any State or Territory of the Commonwealth corresponding to that Act but does not include an unpaid vendor of any such vehicle under a hire-purchase agreement;

* * * * *
s. 86

**primary producer** has the same meaning as in the Road Safety Act 1986;

**private bus service** has the same meaning as it has in the Public Transport Competition Act 1995;

---

**public commercial passenger vehicle** means a commercial passenger vehicle operated by or proposed to be operated by—

(a) any person, to be used under contract with the Department of Education and Early Childhood Development of Victoria, which contract is approved by the Director; or

(b) any person for the carriage of members of the public along a fixed route on a regular basis, whether or not fares are charged, and the operation of which commercial passenger vehicle is approved by the Director;

**public place** means—

(a) any bridge, footpath, court, alley, passage or thoroughfare open to or used by the public;
(b) any park, garden, reserve or other place of public recreation or resort;

(c) any open place to which the public, whether upon or without payment for admission, have or are permitted to have access;

(d) any wharf, pier or jetty; and

(e) any school or the land or premises in connexion therewith—

but does not include a highway;

*recreation vehicle* means a vehicle propelled by internal combustion, steam, gas, oil, electricity or any other power but does not include—

(a) a railway locomotive, railway carriage, tram-car or tram-motor;

(b) a tractor; or

(c) a vehicle of a type specified by Order of the Governor in Council for the purposes of this section;

*restricted hire vehicle* means a commercial passenger vehicle which is licensed to operate solely after the vehicle has been hired from the place or places specified in the licence granted in respect of it and which—

(a) is—

(i) a classic and historic motor car; or

(ii) a veteran motor car; or

(iii) a vintage motor car—

within the meaning of Part 4 of the *Motor Car Traders Act 1986*; or
(b) because of the nature of its construction or the manner in which it is equipped is capable of providing a passenger transport service of a kind that no other category of vehicle licensed in accordance with Division 5 is capable of providing; or

(c) was manufactured more than 25 years before the date of the application for a licence in respect of it and which is of a category of vehicle that the Minister, by notice published in the Government Gazette, declares to be a category of vehicle to which this paragraph applies; or

(d) has a seating capacity for 8 but not more than 12 people (including the driver) which is used or intended to be used in connection with the provision of a tour package;

**restricted hire vehicle licence** means a commercial passenger vehicle licence in respect of a vehicle which operates or is to operate as a restricted hire vehicle;

**special purpose vehicle** means a commercial passenger vehicle classified as a special purpose vehicle by the licensing authority under section 145;

**special purpose vehicle licence** means a commercial passenger vehicle licence in respect of a vehicle which operates or is to operate as a special purpose vehicle;
specified indicable fraud or dishonesty offence means any of the following indicable offences involving fraud or dishonesty—

(a) an offence against section 74, 81, 82, 83A or 88 of the Crimes Act 1958;

(b) an offence against section 181 of the Crimes Act 1958 that involves knowingly aiding, abetting, counselling, procuring, or attempting or taking part in or in any way being privy to an offence referred to in paragraph (a);

(c) an offence against section 131.1, 132.1, 132.6, 132.7, 132.8, 134.1, 134.2, or 135.1 of the Criminal Code of the Commonwealth;

(d) an offence under a law of a jurisdiction other than Victoria or the Commonwealth (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this definition;

taxi-cab means a commercial passenger vehicle which is used or intended to be used for hiring by the public on demand and which operates by being hailed or from a stand appointed for the use of such vehicles or which has been previously booked or ordered but does not include such a vehicle which operates solely by being previously booked or ordered;
**taxi-cab licence** means a commercial passenger vehicle licence in respect of a vehicle which operates or is to operate as a taxi-cab;

**tour package** means a combination of services provided for a price comprising—

(a) the hire of a commercial passenger vehicle; and

(b) as a substantial component of the package—

(i) accommodation; or

(ii) other services or facilities appropriate to tourists;
Part VI—Licensing of Certain Vehicles and Driver Accreditation

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

103

vehicle pool matching service means a service under which a person undertakes for reward or for any consideration to introduce a passenger and a driver for the purpose of entering into a vehicle pooling agreement.

(2) Any Order in Council made under this Part may by like Order in Council be amended, varied or revoked.

87 Operation of motor vehicle as a commercial passenger vehicle or commercial goods vehicle

(1) A motor vehicle shall be deemed to operate as a commercial passenger vehicle if passengers are carried therein for hire or reward.

(2) A motor vehicle (other than a vehicle licensed under this Part) shall be deemed not to operate as a commercial passenger vehicle and shall be deemed not to operate for hire or reward for the
purposes of this Part or any other Act or any contract of insurance by reason only of the carriage of passengers if the carriage is made pursuant to a vehicle pooling agreement.

(3) For the purposes of subsection (2) a carriage of passengers is made pursuant to a vehicle pooling agreement when the carriage is—

(a) incidental to the main purpose of the journey;
(b) not the result of touting for passengers by the driver or any other person on any highway;
(c) limited to a maximum of 7 passengers in any one vehicle; and

(d) made pursuant to any arrangement for the carriage of the passengers for a consideration that is merely—

(i) the undertaking by the passenger to carry the driver or a member of the family of the driver on a similar journey in exchange for his carriage or the carriage of a member of his family; or

(ii) the payment by the passenger of a share of the costs incurred in making the journey and does not involve profit to the driver or any other person.

(4) A motor vehicle (other than a vehicle licensed under this Part) shall be deemed not to operate as a commercial passenger vehicle or a commercial goods vehicle and shall be deemed not to operate for hire or reward for the purposes of this Part or any contract of insurance by reason only of the carriage of goods or passengers if the carriage is made pursuant to a charitable arrangement.
(5) For the purposes of subsection (4) a carriage of goods or passengers is made pursuant to a charitable arrangement when—

(a) the main purpose of the journey or intended journey is to carry the goods or passengers;

(b) the journey is or is to be undertaken for or on behalf of a municipality or prescribed organization as part of its charitable or benevolent work or its work for the relief or welfare of members of the public;

(c) the motor vehicle is or is to be driven by a person who receives no remuneration in respect of the journey except pursuant to an arrangement mentioned in paragraph (d); and

(d) the journey is or is to be made pursuant to any arrangement for the carriage of the goods or passengers for a consideration that is merely the payment by a passenger, or by the municipality or the prescribed organization for which the work is done of the costs or part of the costs incurred in making the journey and does not involve profit to the driver or any other person.

(6) A person who—

(a) conducts a vehicle pool matching service without the consent of the Roads Corporation; or

(b) contravenes a condition to which that consent is subject—

is guilty of an offence.
(7) A consent under subsection (6) may be given—
   (a) by instrument in writing to the person concerned; or
   (b) in relation to a class of cases, by notice published in the Government Gazette.

88 Part to bind Crown

This Part binds the Crown, not only in right of the State of Victoria, but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

89 Determinations of policy

(1) The Minister may from time to time make written determinations of policy in relation to the operation of this Part.

(2) The Minister shall cause a copy of every determination of policy made by him under subsection (1) to be served on—
   *   *   *   *   *

   (b) the Roads Corporation; and
Part VI—Licensing of Certain Vehicles and Driver Accreditation

(c) the Director.

* * * * *

and to be published in the Government Gazette.

90 No compensation payable

(1) No compensation shall be payable to any person in respect of or as a consequence of any decision or determination made pursuant to this Part—

(a) to grant, issue, renew, reject, cancel, suspend or revoke any licence, certificate, permit, consent, assignment or other authority under this Part;

(b) to add, alter or vary any condition or term of or attached to any licence, certificate, permit, consent, assignment or other authority under this Part; or

(c) to alter the route or area in respect of which any licence has been granted under this Part.

(2) Without limiting subsection (1), no compensation is payable to any person in respect of, or as a consequence of, a decision of the licensing authority under Division 4—

S. 89(2)(c) substituted by No. 44/1989 s. 25, repealed by No. 129/1993 s. 7, new s. 89(2)(c) inserted by No. 60/1994 s. 11, amended by No. 47/2006 s. 31(1)(Sch. 1 Pt 1 item 2).

S. 89(2)(d) repealed by No. 44/1989 s. 25.

S. 90 amended by No. 71/2006 s. 4 (ILA s. 39B(1)).

S. 90(a) amended by No. 79/1991 s. 4(3).

S. 90(b) amended by No. 79/1991 s. 4(3).

S. 90(2) inserted by No. 71/2006 s. 4.
(a) to approve or refuse an application for accreditation; or
(b) to impose a condition, restriction or other limitation on an accreditation; or
(c) to vary or revoke a condition, restriction or other limitation on an accreditation; or
(d) to take disciplinary action; or
(e) to serve an improvement notice.
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983
Part VI—Licensing of Certain Vehicles and Driver Accreditation

Pt 6 Div. 2
(Heading and ss 92–97)
amended by Nos 10087
s. 3(1)(Sch. 1 item 276
(a)(b)),
111/1986
s. 180(2)
(Sch. 2 item 2(a)),
repealed by No. 127/1986
s. 102(Sch. 4
item 28.4),
new Pt 6
Div. 2
(Heading and ss 92–102)
inserted by No. 60/1994
s. 12,
amended by Nos 7/1995
s. 5, 58/1995
s. 20, 100/1995
ss 60, 61,
28/1996
ss 4(j), 6(1), 7,
16(1)(b),
52/1998
s. 311(Sch. 1
item 96.3),
14/2000
ss 31–33,
30/2000 ss 16,
17, 54/2001
s. 25(Sch. item 1.62),
94/2001
ss 4–17,
34/2003
s. 13(b)(c),
94/2003
ss 28(1)–(13),
29–32,
49/2004 s. 47,
108/2004
s. 117(1)
(Sch. 3 item 208.1),
repealed by No. 92/2006
s. 119.5

109
Part VI—Licensing of Certain Vehicles and Driver Accreditation

s. 98

(amended by Nos. 111/1986 s. 180(2) (Sch. 2 item 2(b)–(g)), 32/1988 s. 36, repealed by No. 127/1986 s. 102 (Sch. 4 item 28.4), new Pt 6 Div. 3 (Heading and ss 103–129Y) inserted by No. 28/1996 s. 3, amended by Nos. 52/1998 s. 311 (Sch. 1 items 96.4, 96.5), 65/2000 ss 3–5, 44/2001 s. 3 (Sch. item 115.2), 94/2001 ss 18–20, 32/2002 s. 7, 34/2003 ss 4, 5, 94/2003 s. 28(14), 101/2003 s. 3, 49/2004 s. 48, 110/2004 ss 46, 47, 19/2005 s. 11(3), repealed by No. 9/2006 s. 119h.)
Division 4—Accreditation of taxi-cab industry participants

Subdivision 1—Preliminary

130 Purpose of accreditation

The purpose of accreditation under this Division is to facilitate the provision of safe, reliable and efficient taxi-cab services that meet reasonable community expectations.
130A Definitions and interpretative provisions

(1) In this Division—

  co-operative has the same meaning as in the Co-operatives Act 1996;

  disqualifying offence means a tier 1 offence, a tier 2 offence or a tier 3 offence;

  incorporated association has the same meaning as in the Associations Incorporation Act 1981;

  officer, in relation to a body corporate other than a company, co-operative or incorporated association, means a member of the committee of management of the body corporate;

  officer, in relation to a company, means—

  (a) a director or secretary of the company; or

  (b) a person—

  (i) who makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the company; or

  (ii) who has the capacity to affect significantly the company's financial standing; or

  (iii) in accordance with whose instructions or wishes the directors of the company are accustomed to act (excluding advice given by the person in the...
proper performance of functions attaching to the person's professional capacity or their business relationship with the directors of the company);

**officer**, in relation to a co-operative, means—

(a) a director or secretary of the co-operative; or

(b) a person who is concerned, or takes part, in the management of the co-operative, whether or not as a director;

**officer**, in relation to an incorporated association, means—

(a) the public officer (within the meaning of the Associations Incorporation Act 1981) of the incorporated association; or

(b) a member of the committee (within the meaning of the Associations Incorporation Act 1981) of the incorporated association; or

(c) a person who is concerned, or takes part, in the management of the incorporated association;

**person** includes a body corporate, an unincorporated body or association and a partnership;

**relevant person**, in relation to an applicant for accreditation or an accredited person, means—

(a) if the applicant or accredited person is an individual, any person who is concerned, or takes part, in the management of the activities to which
the application or the accreditation relates, whether as an employee of the applicant or accredited person or otherwise; or

(b) if the applicant or accredited person is a partnership, each partner and any other person who is concerned, or takes part, in the management of the activities to which the application or the accreditation relates, whether as an employee of the applicant or accredited person or otherwise; or

(c) if the applicant or accredited person is an unincorporated body or association other than a partnership, each member of the committee of management of the body or association and any other person who is concerned, or takes part, in the management of the activities to which the application or the accreditation relates, whether as an employee of the applicant or accredited person or otherwise; or

(d) if the applicant or accredited person is a company, a co-operative or an incorporated association, each officer of the company, co-operative or incorporated association; or

(e) if the applicant or accredited person is a body corporate other than a company, co-operative or incorporated association, each officer of the body and any other person who is concerned,
or takes part, in the management of the activities to which the application or the accreditation relates, whether as an employee of the applicant or accredited person or otherwise;

**responsible person**, in relation to an applicant for accreditation or an accredited person, means—

(a) if the applicant or accredited person is an individual, the applicant or accredited person; or

(b) in any other case, a relevant person nominated by the applicant or accredited person as the responsible person;

**taxi-cab network service** means—

(a) the receipt and dispatch of bookings or orders for the hiring of taxi-cabs; or

(b) the provision for taxi-cabs of a central communications system—

and includes the provision by or on behalf of a provider of a service of a kind referred to in paragraph (a) or (b) of all or any of the following—

(c) a global positioning system for taxi-cabs;

(d) maintenance of information management systems in relation to the hiring, and bookings and orders for the hiring, of taxi-cabs;

(e) brand identification for taxi-cabs;

(f) support services for taxi-cab operators and drivers;
(g) maintenance of a system for receiving and handling customer complaints relating to the hiring, and bookings and orders for the hiring, of taxi-cabs;

(h) taxi-cab driver training;

*tier 1 offence* means—

(a) an offence against the *Crimes Act 1958* that involves sexual penetration (within the meaning given by section 35(1) of that Act); or

(b) an offence against a provision of the *Crimes Act 1958* amended or repealed before the commencement of Part 2 of the *Transport (Taxi-cab Accreditation and Other Amendments) Act 2006* of which the necessary elements at the time it was committed consisted of elements that constitute an offence referred to in paragraph (a); or

(c) an offence specified in clause 1 of Schedule 1 to the *Sentencing Act 1991*, if the victim of the offence was a child or a person with a cognitive impairment, that is not an offence referred to in paragraph (a) or (b); or

(ca) an offence against section 5A of the *Crimes Act 1958*; or

(cb) an offence against section 318 of the *Crimes Act 1958* (whether in relation to a motor vehicle or a vessel); or

(d) a child pornography offence within the meaning of the *Working with Children Act 2005*; or
(e) an offence within the meaning of Division 101 of the Criminal Code of the Commonwealth; or

(f) an offence specified in clause 3 of Schedule 1 to the Sentencing Act 1991; or

(g) an indictable offence involving fraud or dishonesty; or

(h) an offence specified in clause 4 of Schedule 1 to the Sentencing Act 1991; or

(i) an offence under a law of a jurisdiction other than Victoria (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this definition;

**tier 2 offence** means—

(a) an offence specified in clause 1 of Schedule 1 to the Sentencing Act 1991 that is not an offence referred to in paragraph (a), (b), (c), (ca), (cb) or (d) of the definition of tier 1 offence; or

(b) an offence specified in clause 2 of Schedule 1 to the Sentencing Act 1991 that is not an offence specified in clause 3 of that Schedule; or

(ba) an offence against section 24 of the Crimes Act 1958 arising out of the driving of a motor vehicle by the offender; or

(bb) an offence against section 319(1) of the Crimes Act 1958 (whether in relation to a motor vehicle or a vessel); or
(bc) an offence against section 319(1A) of the Crimes Act 1958 (whether in relation to a motor vehicle or a vessel); or

(bd) an offence against section 61 of the Road Safety Act 1986 resulting in a person being killed or suffering serious injury; or

(bg) an applicable pre-1973 fraud or dishonesty offence; or

(bh) a specified indictable fraud or dishonesty offence; or

(c) a summary offence involving fraud or dishonesty; or

(d) an offence under a law of a jurisdiction other than Victoria (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in paragraphs (a) to (bd), (bg) or (c) of this definition;

**tier 3 offence** means—

(aa) an offence specified in any of the following infringement notices—

(i) a safety work infringement notice to which section 215C(1) applies;

(ii) an infringement notice to which section 61A(2) of the Marine Act 1988 applies;

(iii) a traffic infringement notice to which section 89A(2) of the Road Safety Act 1986 applies; or
(a) a criminal offence that is not a tier 1 offence, a tier 2 offence or an offence referred to in paragraph (aa); or

(b) an offence under a law of a jurisdiction other than Victoria (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this definition;

(2) In this Division, a reference to a person who has been found guilty of an offence is a reference to a person—

(a) against whom a court has made a formal finding that he or she is guilty of the offence; or

(b) from whom a court has accepted a plea that he or she is guilty of the offence; or

(c) from whom a court has accepted an admission under section 100 of the Sentencing Act 1991 that he or she has committed the offence, or from whom a similar admission has been accepted under equivalent provisions of the laws of a jurisdiction other than Victoria; or

(ca) in relation to whom any of the following infringement notices has taken effect as a conviction for the offence specified in the notice—

(i) a safety work infringement notice to which section 215C(1) applies;

(ii) an infringement notice to which section 61A(2) of the Marine Act 1988 applies;
(iii) a traffic infringement notice to which section 89A(2) of the *Road Safety Act 1986* applies; or

(d) against whom a finding has been made under—

(i) section 17(1)(b) of the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* that he or she was not guilty of the offence because of mental impairment; or

(ii) section 17(1)(c) of the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* that he or she committed the offence or an offence available as an alternative; or

(iii) the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* of not guilty because of mental impairment—

or against whom a similar finding has been made under equivalent provisions of the laws of a jurisdiction other than Victoria (including jurisdictions outside Australia)—being an admission, plea or finding that has not been subsequently quashed or set aside by a court.

(3) In this Division, a reference to a person who has been charged with an offence is a reference to a person—

(a) against whom an indictment has been filed for the offence; or

(b) against whom a charge-sheet charging the offence has been filed, whether or not—

(i) a summons to answer to the charge; or
(ii) a warrant to arrest the person—
has been issued or served.

(4) In this Division, a reference to a charge that has
not been finally disposed of is a reference to a
charge that has not been finally dealt with by—

(a) being withdrawn or by the discontinuance of
the prosecution; or

(b) the charge having been dismissed by a court;
or

(c) the person charged having been discharged
by a court following a committal proceeding; or

(d) the person charged having been acquitted or
found guilty of the offence that was the
subject of the charge by a court; or

(e) any other prescribed means.

(5) In this Division, a reference to an application for
accreditation includes a reference to an
application for renewal of accreditation.

Subdivision 2—Requirement for accreditation

131 Offence for taxi-cab operator not to be accredited

The operator of a taxi-cab must not operate the
taxi-cab unless the operator is accredited under
this Division as a taxi-cab operator.

Penalty: 60 penalty units.
131A Offence for provider of taxi-cab network services not to be accredited

(1) A person must not—

(a) provide a taxi-cab network service; or

(b) advertise or in any other way hold themselves out as able or willing to provide a taxi-cab network service—

unless the person is accredited under this Division to provide that service.

Penalty: In the case of a natural person, 240 penalty units;

In the case of a body corporate, 1200 penalty units.

(2) Subsection (1) does not apply to—

(a) in the case of a taxi-cab network service of a kind referred to in paragraph (a) of the definition of taxi-cab network service in section 130A(1)—

(i) a driver of a taxi-cab who receives a booking or order for the hiring of that taxi-cab directly from the person making the booking or placing the order or directly from the operator of the taxi-cab as described in subparagraph (ii); or

(ii) the operator of a taxi-cab who receives a booking or order for the hiring of that taxi-cab directly from the person making the booking or placing the order which the operator then passes on directly to the driver of the taxi-cab; or
(iii) a driver or the operator of a taxi-cab who receives a booking or order for the hiring of that taxi-cab directly from the person making the booking or placing the order which the driver or operator then passes on directly to a person who is accredited to provide that service; or

(b) in any case, a driver or the operator of a taxi-cab who provides a taxi-cab network service and who is a member of an unincorporated body or association comprising drivers and operators of taxi-cabs that is accredited to provide that service.

Subdivision 3—Application for accreditation

132 Making of application

(1) A person may apply to the licensing authority for accreditation as a—

(a) taxi-cab licence holder; or

(b) taxi-cab operator; or

(c) provider of taxi-cab network services.

Note

See subsection (5) for restriction on applications by unincorporated bodies or associations.

(2) An application must—

(a) be made in the manner and form determined by the licensing authority; and

(b) be accompanied by—

(i) the fee (if any) for the application determined by the licensing authority under section 147B; and
(ii) evidence, as required by the regulations, that each relevant person in relation to the applicant, satisfies the requirements for the relevant accreditation; and

(iii) any other things that are required by the regulations; and

(c) in the case of an application by a person that is not an individual, nominate a relevant person as the responsible person in relation to the applicant.

(3) The licensing authority may require an applicant to—

(a) supply further information specified by the licensing authority;

(b) verify, by a statutory declaration signed by or on behalf of the applicant, information supplied for the purposes of the application.

(4) The application, and any further information supplied by the applicant under subsection (3), must be—

(a) if the regulations so provide, signed in accordance with the regulations; and

(b) declared by each signatory to be true and correct.

(5) An unincorporated body or association, other than a partnership, is not capable of applying for, or holding, an accreditation as a taxi-cab licence holder or a taxi-cab operator.

(6) In the case of an application by a person that is not an individual, the licensing authority is entitled to communicate with the responsible person in relation to the application.
132A  Time within which licensing authority must deal with application

(1) Subject to this section, the licensing authority must decide whether to approve or refuse an application for accreditation within 90 days after receiving the application.

(2) The licensing authority may, before the expiry of the period specified in subsection (1), decide to extend the period within which he or she may decide whether to approve or refuse an application.

(3) If the licensing authority decides to extend the period within which he or she may decide whether to approve or refuse an application, the licensing authority must notify the applicant of that decision and the new period within which the licensing authority intends to make his or her decision whether to approve or refuse an application.

(4) A notification under subsection (3) must be in writing.

132B  Circumstances in which application may be approved

Subject to this Subdivision, the licensing authority may approve an application for accreditation if the licensing authority is satisfied that the applicant—

(a) is suitable to be accredited; and

(b) has complied with the application requirements under this Subdivision.

Note

See Subdivision 4 for conditions, restrictions and other limitations that may be imposed on an accreditation and for business and service standards that must be met.
132C How long accreditation lasts

(1) Subject to subsection (2), an accreditation remains in force until—

(a) it is cancelled or surrendered; or

(b) the expiry of the period specified in the certificate of accreditation, which must not be more than 5 years—

whichever is the sooner.

(2) If an application for renewal of an accreditation is made before the expiry of the period specified in the certificate of accreditation, the licensing authority may determine to extend the period of operation of the accreditation.

(3) If the licensing authority makes a determination under subsection (2), the accreditation (unless it is sooner cancelled or surrendered) remains in force until—

(a) the expiry of the period specified in the certificate of accreditation; or

(b) 7 days after the licensing authority gives the applicant notice of its decision on the application for renewal of the accreditation—

whichever is the later.

132D Mandatory refusal of accreditation

(1) The licensing authority must refuse an application for accreditation if the licensing authority believes, on reasonable grounds, that—

(a) in the case of accreditation as a taxi-cab operator, the applicant or a relevant person in relation to the applicant—
(i) has been found guilty of a tier 1 offence
(other than a specified indictable fraud
or dishonesty offence) at any time
before the application for accreditation;
or

(ia) has been found guilty in the 10 years
before the application for accreditation
of a tier 1 offence that is a specified
indictable fraud or dishonesty offence;
or

(ii) is a person who is subject to—

(A) reporting obligations referred to in
section 12(1)(a) of the Working
with Children Act 2005; or

(B) an order referred to in section
12(1)(b) of the Working with
Children Act 2005; and

(ab) in the case of accreditation as a provider of
taxi-cab network services, the applicant or a
relevant person in relation to the applicant—

(i) has been found guilty of a tier 1 offence
(other than an offence under
section 318 of the Crimes Act 1958 or
a specified indictable fraud or
dishonesty offence) at any time before
the application for accreditation; or

(ia) has been found guilty in the 10 years
before the application for accreditation
of a tier 1 offence that is a specified
indictable fraud or dishonesty offence;
or

(ii) is a person who is subject to—

(A) reporting obligations referred to in
section 12(1)(a) of the Working
with Children Act 2005; or
(B) an order referred to in section 12(1)(b) of the Working with Children Act 2005; and

(b) in any case, the applicant—

(i) is disqualified under section 132H or 135A from applying for the relevant accreditation; or

(ii) does not personally or through relevant persons in relation to the applicant, have a sound knowledge of the activities in respect of which accreditation is sought; or

(iii) does not personally or through relevant persons in relation to the applicant, have the competency and capacity (other than financial) to meet the business and service standards for the activities in respect of which accreditation is sought; or

(iv) does not have the financial capacity to meet the business and service standards for the activities in respect of which accreditation is sought.

(2) In determining the financial capacity of an applicant, the licensing authority may have regard to whether the applicant, or a relevant person in relation to the applicant, is or has been—

(a) bankrupt under the law of Australia or of any place outside Australia; or

(b) an officer of a company that is, or has been, placed in administration or liquidation or been wound up, or in respect of property of which a receiver has been appointed, under the law of Australia or of any place outside Australia.
(3) An applicant must be taken not to have the required financial capacity if—

(a) the applicant is a company and—

(i) a receiver or receiver and manager, within the meaning of the Corporations Act, has been appointed in relation to the applicant; or

(ii) the applicant has been placed in administration under the Corporations Act or under the law of any place outside Australia; or

(iii) a court has made an order under the Corporations Act for the winding up of the applicant; or

(b) the applicant, or a relevant person in relation to the applicant, is an undischarged bankrupt under the law of Australia or of any place outside Australia; or

(c) the applicant, or a relevant person in relation to the applicant, is disqualified from managing a corporation under Part 2D.6 of the Corporations Act or under the law of any place outside Australia; or

(d) the applicant, or a relevant person in relation to the applicant, has been found guilty of an offence against section 209(3) or Part 5.8 of the Corporations Act or of an offence against a law of a place outside Australia that corresponds to that section or Part.

(4) The licensing authority must not refuse to issue an accreditation to a person on a ground referred to in subsection (1)(a)(i) if a decision to refuse to issue an accreditation or a decision to cancel an accreditation in respect of that person on that ground has previously been overturned by VCAT.
132E Presumption in favour of refusal of accreditation

The licensing authority must refuse an application for accreditation—

(a) as a taxi-cab licence holder if the licensing authority is aware that the applicant, or a relevant person in relation to the applicant, has been found guilty of a tier 1 or tier 2 offence at any time before the application for accreditation; or

(b) as a taxi-cab operator if the licensing authority is aware that the applicant, or a relevant person in relation to the applicant, has been found guilty of—

(i) a tier 2 offence (other than an applicable pre-1973 fraud or dishonesty offence or a specified indictable fraud or dishonesty offence) at any time before the application for accreditation; or

(ii) an applicable pre-1973 fraud or dishonesty offence or a specified indictable fraud or dishonesty offence more than 10 years before the application for accreditation; or

(c) as a provider of taxi-cab network services if the licensing authority is aware that the applicant, or a relevant person in relation to the applicant, has been found guilty of—

(i) a tier 2 offence (other than an applicable pre-1973 fraud or dishonesty offence or a specified indictable fraud or dishonesty offence) at any time before the application for accreditation; or
(ii) an applicable pre-1973 fraud or dishonesty offence or a specified indictable fraud or dishonesty offence more than 10 years before the application for accreditation; or

(iii) an offence under section 318 of the Crimes Act 1958 at any time before the application for accreditation—

unless the licensing authority is satisfied that the applicant has demonstrated that the issue of the accreditation is appropriate having regard to the purpose of accreditation set out in section 130.

132F Discretionary refusal of accreditation

(1) The licensing authority may refuse an application for accreditation if the licensing authority is aware that the applicant, or a relevant person in relation to the applicant—

(a) has been found guilty of a tier 3 offence; or

(b) is the subject to a charge for a disqualifying offence that has not been finally disposed of at the time of considering the application.

(2) In exercising a discretion under subsection (1), the licensing authority must have regard to—

(a) the nature and gravity of the offence and its relevance to the activities in respect of which accreditation is sought; and

(b) the period of time since the offence was committed; and

(c) whether a finding of guilt or conviction was recorded; and

(d) the sentence (if any) imposed for the offence; and

(e) the age of the applicant or relevant person when the offence was committed; and

S. 132F inserted by No. 71/2006 s. 3.
(f) in relation to any sexual offence, the age of any victim; and

(g) whether or not the conduct that constituted the offence has been decriminalised since the offence was committed; and

(h) the behaviour of the applicant or relevant person since committing the offence; and

(i) the likelihood of the applicant or relevant person committing another such offence in the future, in particular, any future threat to a child or other vulnerable person; and

(j) any information given by the applicant or relevant person; and

(k) any other matter that the licensing authority considers relevant.

(3) The licensing authority may refuse an application for accreditation if the licensing authority believes on reasonable grounds that—

(a) the applicant has contravened a business or service standard applicable to an accreditation held, or previously held, by the applicant under this Division; or

Note
Business and service standards may be determined under section 133C.

(b) the applicant has contravened a condition, restriction or other limitation imposed on an accreditation held, or previously held, by the applicant under this Division; or

(c) the applicant, or a relevant person in relation to the applicant, has contravened a provision of this Act or regulations made under this Act.
(4) Nothing in this section limits a discretion of the licensing authority to approve or refuse an application for accreditation.

(5) To avoid doubt, in exercising a discretion to approve or refuse an application for accreditation, the licensing authority may have regard to—

(a) where the applicant, or any relevant person in relation to the applicant, resides or carries on business; and

(b) in the case of an applicant that is a company, whether the applicant is registered under the Corporations Act and where it has its principal place of business; and

Note
A condition may be imposed under Subdivision 4 with respect to place of residence or business.

(c) an infringement notice that has been served on the applicant in relation to an offence under Part VI or under regulations made for the purposes of that Part or a traffic infringement within the meaning of the Road Safety Act 1986 that—

(i) has not been withdrawn or cancelled; and

(ii) is not deemed to be a charge in relation to the offence by operation of section 40(b) of the Infringements Act 2006; and

(d) an infringement notice of the kind referred to in paragraph (c) that has been served on the applicant in relation to an offence referred to in that paragraph in relation to which
information lodged under section 71(1)(a) of the Infringements Act 2006 is not deemed to be a charge by operation of section 71(1)(b) of that Act; and

(e) in relation to an infringement notice referred to in paragraph (c) or (d)—

(i) the nature and gravity of the infringement offence for which the infringement notice was served and the offence's relevance to the purpose for which the applicant seeks to be accredited; and

(ii) when the infringement offence for which the infringement notice was served was alleged to have been committed; and

(iii) whether the infringement offence for which the infringement notice was served still exists; and

(iv) in the case of an applicant who is a natural person, the age of the applicant at the time of the infringement offence for which the infringement notice was served; and

(v) in the case of an applicant who is a natural person, the applicant's behaviour since the alleged commission of the infringement offence for which the infringement notice was served; and

(vi) in the case of an applicant who is a natural person, the likelihood of the applicant committing another infringement offence for which the infringement notice was served; and
(vii) whether the infringement offence for which the infringement notice was served has been expiated; and

(viii) whether the decision to serve the infringement notice has been subject to internal review under Division 3 of Part 2 of the Infringements Act 2006; and

(ix) in the case of an applicant who is a natural person, if the infringement notice was served for a traffic infringement for which demerit points were incurred under section 25 of the Road Safety Act 1986, the effect of the operation of that section on the applicant including the demerit points recorded against the applicant in the Demerits Register kept under that section; and

(x) if the infringement notice was served for a traffic infringement, whether the applicant made any of the following statements under Part 6AA of the Road Safety Act 1986 in relation to the traffic infringement—

(A) an illegal user statement;

(B) a known user statement;

(C) a sold vehicle statement;

(D) an unknown user statement; and

(xi) if the infringement notice was served for a traffic infringement and the applicant made a known user statement or a sold vehicle statement under Part 6AA of the Road Safety Act 1986 in relation to the traffic infringement, whether a person made a nomination
rejection statement under that Part in response to the known user statement or sold vehicle statement; and

(xii) any information that the applicant has given the licensing authority in relation to the infringement notice, including reasons why the infringement penalty stated in the infringement notice was paid; and

(xiii) any other matter that the licensing authority considers relevant.

---

132G Notification and reasons to be given if accreditation refused

(1) If the licensing authority decides to refuse to accredit an applicant, the licensing authority must—

(a) notify the applicant—

(i) of the decision; and

(ii) that the applicant has a right to seek review of the decision under Subdivision 7; and

(b) give the applicant a statement of reasons for the decision.

(2) A notification under subsection (1)(a) and a statement of reasons under subsection (1)(b) must be—

(a) in writing; and

(b) given to the applicant as soon as practicable after the licensing authority makes his or her decision to refuse to accredit the applicant.
132H Disqualification by licensing authority from ability to apply for accreditation

(1) If the licensing authority decides to refuse an application for accreditation, the licensing authority may determine that the applicant is disqualified from applying for accreditation of that kind under this Division for the period determined by the licensing authority.

(2) The period determined by the licensing authority under subsection (1) must not exceed 5 years.

Subdivision 4—Accreditation conditions and business and service standards

133 Restrictions and conditions concerning accreditation

(1) In accrediting an applicant, the licensing authority may limit the accreditation in any way the licensing authority thinks appropriate.

(2) Without limiting subsection (1), the licensing authority may—
   
   (a) impose conditions on the accreditation that are not inconsistent with any condition applicable under subsection (3); or
   
   (b) restrict the scope of the accreditation.

(3) An accreditation is also subject to any condition set out in the regulations as in force from time to time that applies to the accreditation.

(4) Without affecting any limitation imposed on an accreditation of a taxi-cab operator under this section, the accreditation is subject to the condition that there must be in place at all times in respect of the taxi-cab when the taxi-cab operator is operating it, or permitting it to be operated,
arrangements approved by the licensing authority between the taxi-cab operator and a person accredited to supply taxi-cab network services for the provision of such services as are specified by the licensing authority.

**Note**

It is an offence against section 133B not to comply with this condition.

(5) Without affecting any limitation imposed on an accreditation of a person accredited to supply taxi-cab network services under this section, the accreditation is subject to the condition that the accredited person must not, without reasonable excuse, refuse to enter into, with an accredited taxi-cab operator, arrangements approved by the licensing authority for the provision of such services as are specified by the licensing authority in respect of the taxi-cab when the taxi-cab operator is operating it or permitting it to be operated.

**Note**

It is an offence against section 133B not to comply with this condition.

---

### Section 133A

**S. 133A inserted by No. 71/2006 s. 3.**

**133A Licensing authority may vary, revoke or impose new conditions, restrictions or other limitations**

(1) The licensing authority may at any time on his or her own initiative or on the written application of the accredited person—

(a) vary or revoke a condition, restriction or other limitation imposed by the licensing authority on an accreditation; or

(b) impose a new condition, restriction or other limitation on an accreditation.
(2) Before taking action under this section, the licensing authority must—

(a) give the accredited person written notice of the action that the licensing authority proposes to take and of the reasons for taking that action; and

(b) allow the accredited person to make written representations about the intended action within 10 business days (or any other period that the licensing authority and the accredited person agree upon).

(3) Subsection (2) does not apply if the licensing authority considers it necessary to take immediate action in the interests of public safety.

(4) The licensing authority must—

(a) give the accredited person—

(i) details of any action taken under subsection (1); and

(ii) a statement of reasons for any action taken under subsection (1); and

(b) notify the accredited person that the person has a right to seek review of the licensing authority's decision under Subdivision 7.

(5) The licensing authority must give the details, the statement of reasons and notice under subsection (4) in writing.

133B Offence to fail to comply with conditions etc.

An accredited person must comply with any condition, restriction or other limitation imposed
on the accreditation by or under this Division of which the person has been given notice.

Penalty: In the case of an accreditation as a taxi-cab licence holder or taxi-cab operator, 30 penalty units;

In the case of an accreditation as a provider of taxi-cab network services, 120 penalty units for a natural person and 600 penalty units for a body corporate.

133C Business and service standards

(1) The Minister may, by notice published in the Government Gazette, determine minimum business and service standards to be met by all accredited persons or by a specified class, or specified classes, of accredited person.

(2) The Minister may only determine standards under subsection (1) if he or she has caused a notice in accordance with subsection (3) to be published in respect of the proposed standards—

(a) in the Government Gazette; and

(b) in a daily newspaper circulating generally throughout Victoria; and

(c) if the Minister considers it appropriate, in such trade, professional or public interest publications as he or she determines—

and has ensured that all comments and submissions received in response to the notice have been considered.

(3) A notice must—

(a) state the reason for, and the objectives of, the proposed standards; and

(b) specify where a copy of the proposed standards can be obtained; and
(c) invite public comments or submissions within such time (being not less than 28 days from the publication of the notice) as is specified in the notice.

(4) Standards may be determined under this section in relation to—

(a) compliance with applicable legislation;

(b) business capability;

(c) information and records management;

(d) financial viability;

(e) safety of taxi-cab drivers, customers and members of the public;

(f) customer service;

(g) dealings with industry participants, customers and government;

(h) complaint handling processes;

(i) education and training;

(j) any other matter that the Minister considers appropriate.

(5) A business or service standard may apply to an accreditation in force at the time the standard is determined or in force at any time after that.

Subdivision 5—Certificates of accreditation

134 Issue of certificate of accreditation

(1) On accrediting an applicant under this Division the licensing authority must allocate an accreditation number to the accredited person and issue a certificate of accreditation that—

(a) is in the form approved by the licensing authority; and
(b) sets out—

(i) the accreditation number allocated to the accredited person; and

(ii) the name of the holder of the accreditation; and

(iii) the kind of accreditation; and

(iv) any conditions, restrictions or other limitations to which the accreditation is subject; and

(v) the date of expiry of the accreditation; and

(vi) any additional information that the licensing authority considers appropriate.

(2) On accrediting an applicant under this Division the licensing authority must also give the accredited person a copy of the business and service standards applicable to the accreditation.

Note

Business and service standards may be determined under section 133C.

(3) The licensing authority may, on the application of the accredited person accompanied by the fee (if any) determined by the licensing authority, issue a replacement certificate of accreditation if the licensing authority is satisfied (whether on the production of a statutory declaration or otherwise) that the certificate last issued to the accredited person has been lost, stolen or destroyed.
(4) A person who has made an application under subsection (3) on the ground that a certificate has been lost or stolen and who subsequently recovers the lost or stolen certificate must, within 14 days after the day on which the certificate is recovered—

(a) notify the licensing authority of the recovery; and

(b) return the recovered certificate to the licensing authority unless informed by the licensing authority that it is not necessary to do so.

Penalty: 20 penalty units.

134A Offence not to produce certificate when required

(1) A member of the police force, or a person authorised in writing to do so by the Director, may require a person who is carrying out an activity for which an accreditation is required and who claims to be accredited to carry out that activity to produce the person's certificate of accreditation for inspection.

(2) An accredited person must not fail to produce the person's certificate of accreditation for inspection when required to do so under subsection (1).

Penalty: 5 penalty units.

(3) In a proceeding for an offence against this section it is a defence to the charge if—

(a) the accused has a reasonable excuse for failing to produce the certificate of accreditation when required to do so under subsection (1); and

(b) within 5 days after being required to produce the certificate, the accused produces it at the place directed by the member of the police force or authorised person.
Subdivision 6—Disciplinary action and improvement notices

135 When the licensing authority may take disciplinary action

The licensing authority may take disciplinary action against an accredited person in respect of an accreditation held by that person if satisfied—

(a) that a ground for refusal of an application for the accreditation under section 132D, 132E or 132F exists in relation to the accredited person or a relevant person in relation to the accredited person; or

(b) that a ground for the service under section 135F of an improvement notice on the accredited person in respect of the accreditation exists; or

(c) that the accreditation was obtained because of a false or misleading statement made, or false or misleading information supplied, by the accredited person or a relevant person in relation to the accredited person; or

(d) that a relevant person in relation to the accredited person has failed to comply with a requirement under section 137A(6).

Note

The licensing authority is required to take disciplinary action in the circumstances set out in section 135A(3).

135A Disciplinary actions that may be taken in relation to accreditations

(1) The licensing authority may take one or more of the following actions (disciplinary actions) in relation to an accreditation held by a person—

(a) cancel the accreditation and disqualify the holder from applying for an accreditation of that kind for a period not exceeding 5 years;
(b) suspend the accreditation for any period;

(c) if the accreditation is already suspended, do either of the following—

(i) cancel the accreditation and disqualify the holder from applying for an accreditation of that kind for a period not exceeding 5 years;

(ii) suspend the accreditation for an additional period;

(d) direct the person, or a relevant person in relation to the person, to undertake particular training;

(e) impose a new condition, restriction or other limitation on, or vary a condition, restriction or other limitation on, the accreditation;

(f) reprimand the accredited person.

(2) If an accredited person holds more than one kind of accreditation under this Division, the licensing authority may take action in relation to any one or more of the accreditations.

(3) If the licensing authority is satisfied that a ground for refusal of an application for accreditation under section 132D(1)(a) or (ab) exists in relation to the accredited person or a relevant person in relation to the accredited person, the licensing authority must take disciplinary action of a kind referred to in subsection (1)(a) in relation to the accreditation held by the accredited person.

(4) Despite subsection (3), the licensing authority must not take disciplinary action referred to in subsection (3) if a decision to refuse to issue or cancel an accreditation in respect of that person on a relevant ground referred to in that subsection has previously been overturned by VCAT.
135B Procedure for taking disciplinary action

(1) If the licensing authority proposes to take disciplinary action against an accredited person, the licensing authority must serve on that person a notice (a **disciplinary notice**) that—

(a) states the proposed action (including any proposed period of suspension or disqualification from applying for an accreditation of a particular kind); and

(b) if the accredited person holds more than one kind of accreditation under this Division, states the accreditation or accreditations to which the proposed action relates; and

(c) states the grounds for the proposed action; and

(d) invites the person to make a written submission within a stated period as to why the proposed action should not be taken.

(2) For the purposes of subsection (1)(d), the period stated in the disciplinary notice must be—

(a) if an immediate suspension notice is also served under section 135C, a period of at least 14 days after the day on which the disciplinary notice is served on the accredited person; or

(b) in any other case, a period of at least 28 days after the day on which the disciplinary notice is served on the accredited person.

(3) In deciding whether to take disciplinary action, the licensing authority must consider any response given to the authority in accordance with subsection (1)(d).
(4) If the licensing authority is satisfied that grounds for taking disciplinary action against a person have been established, the licensing authority may—

(a) take any disciplinary action of which notice was given in the disciplinary notice or any disciplinary action that is of lesser severity than that of which notice was given in the disciplinary notice; and

(b) in any case—

(i) direct the person, or a relevant person in relation to the person, to undertake particular training; or

(ii) reprimand the person.

(5) The licensing authority must, as soon as practicable, serve written notice on the accredited person of the decision with respect to taking, or not taking, disciplinary action and, if the decision is to take disciplinary action, of—

(a) the disciplinary action being taken; and

(b) the date, which must not be earlier than 7 days after the day on which the notice under this subsection is served, on which any cancellation, suspension, disqualification or new or amended condition, limitation or other restriction takes effect.

135C Immediate suspension of accreditation

(1) This section applies if the licensing authority—

(a) has decided to serve, or has served, a disciplinary notice on a person; and

(b) believes, on reasonable grounds, that it is in the public interest that the accreditation held by the person be suspended as soon as
practicable before a decision is made to take action under section 135B(4) in relation to the person.

(2) In forming the belief referred to in subsection (1)(b), the licensing authority must consider—

(a) the circumstances leading to the decision to serve the disciplinary notice; and

(b) the grounds stated, or proposed to be stated, in the disciplinary notice.

(3) The licensing authority may serve on the person a notice (an immediate suspension notice) suspending the accreditation.

(4) If an immediate suspension notice is served on the person, the accreditation is suspended on that service.

(5) An immediate suspension notice served in relation to an accreditation ends—

(a) if the accreditation is cancelled or suspended under section 135B(4)—when the cancellation or suspension takes effect; or

(b) if a condition, restriction or other limitation is imposed on the accreditation, or a condition, restriction or other limitation on the accreditation is amended—when the condition, restriction or other limitation or amended condition, restriction or other limitation, takes effect; or

(c) in any other case—when the person is notified under section 135B(5) of the decision made on the disciplinary notice.

135D Effect of suspension of accreditation

(1) This section applies if the licensing authority suspends a person’s accreditation.
(2) During the period of the suspension, the person is taken not to hold an accreditation of that kind and to be disqualified from applying for an accreditation of that kind.

135E Return of certificate of accreditation

(1) The holder of a cancelled or suspended accreditation must, not later than 7 days after the cancellation or suspension takes effect—

(a) return the certificate of accreditation to the licensing authority; or

(b) if the certificate has been lost, stolen or destroyed, give the authority a statement, verified by a statutory declaration signed by or on behalf of the holder, that the certificate has been lost, stolen or destroyed.

Penalty: 20 penalty units.

(2) If a person's accreditation is suspended and it has not expired when the suspension ends, the licensing authority must return the certificate of accreditation to the person.

135F Improvement notices

(1) If the licensing authority reasonably believes on reasonable grounds—

(a) that an accredited person is contravening—

(i) a condition, restriction or other limitation on the accreditation; or

(ii) an applicable business or service standard; or

Note

Business and service standards may be determined under section 133C.
(b) that an accredited person, or a relevant person in relation to an accredited person, is contravening a provision of this Act or of the regulations; or

(c) that—

(i) an accredited person has contravened a condition, restriction or other limitation on the accreditation or an applicable business or service standard; or

(ii) an accredited person, or a relevant person in relation to an accredited person, has contravened a provision of this Act or of the regulations—

in circumstances that make it likely the contravention will continue or be repeated—

the licensing authority may serve on the accredited person an improvement notice requiring the person to remedy the contravention or likely contravention, or the matters or activities causing the contravention or likely contravention, within the period specified in the notice.

(2) An improvement notice must—

(a) state the basis for the licensing authority's belief on which the service of the notice is based; and

(b) specify the condition, restriction, limitation, standard or provision that the licensing authority believes has been or is likely to be contravened; and

(c) specify a date (with or without a time) by which the accredited person is required to remedy the contravention or likely contravention or the matters or activities causing the contravention or likely contravention, that the licensing authority
considers reasonable having regard to the purpose of the accreditation and the nature of the contravention or likely contravention; and

(d) set out the penalty for contravening the notice; and

(e) include a statement of the effect of section 135H (proceedings for offences not affected by improvement notices); and

(f) state that the notice is served under this section; and

(g) state how the accredited person may seek review of the service of the notice.

(3) An improvement notice may include directions concerning the measures to be taken to remedy the contravention or likely contravention, or the matters or activities causing the contravention or likely contravention, to which the notice relates.

(4) Without limiting subsection (3), an improvement notice may include—

(a) a direction that if the accredited person has not remedied the contravention, likely contravention, matters or activities (as the case may be) by the date and time (if any) specified in the notice, an activity to which the notice relates is to cease until the licensing authority has certified in writing that the contravention or likely contravention has, or the matters or activities have, been remedied; and

(b) interim directions, or interim conditions, restrictions or other limitations on the carrying out of any activities to which the notice relates, that the licensing authority
considers necessary to minimise risks to safety or the risk of a serious failure to provide a reliable and efficient taxi-cab service.

(5) An accredited person on whom an improvement notice is served must comply with the notice.

Penalty: 20 penalty units.

(6) If an application for review of a decision under this section has been made under Subdivision 7, the licensing authority must not give a certificate under subsection (4)(a) in relation to the improvement notice concerned until after the review ends.

135G Formal irregularities or defects in notice

An improvement notice is not invalid merely because of—

(a) a formal defect or irregularity in the notice unless the defect or irregularity causes or is likely to cause substantial injustice; or

(b) a failure to use the correct name of the accredited person on whom the notice is served if the notice sufficiently identifies the person and is served on the person in accordance with section 250 or 251, as the case requires.

135H Proceedings for offences not affected by improvement notices

The service of an improvement notice does not affect any proceeding for an offence against this Act or the regulations in connection with any matter in respect of which the notice was served.
Subdivision 7—Review of decisions

136 Jurisdiction of VCAT in relation to mandatory refusal or cancellation of accreditation

(1) This section applies to a person—

(a) whose application for accreditation is refused (wholly or partly) on a ground set out in section 132D(1)(a) or (ab); or

(b) whose accreditation is cancelled (wholly or partly) and who is disqualified from applying for an accreditation of that kind under section 135A(3).

(1A) The person may apply to VCAT for an order that, as the case requires, the licensing authority—

(a) approve an application for accreditation; or

(b) not refuse an application for accreditation on a ground referred to in subsection (1)(a); or

(c) reinstate an accreditation and not disqualify the person from applying for accreditation of that kind; or

(d) not cancel an accreditation and disqualify that person from applying for an accreditation of that kind in reliance on section 135A(3).

(2) On an application under subsection (1A) VCAT may by order direct the licensing authority to—

(a) accredit the applicant; or

(b) re-consider the application for accreditation on the basis that a ground set out in section 132D(1)(a) or (ab) is not a ground for refusal; or

New s. 136 inserted by No. 71/2006 s. 3.

S. 136(1) amended by No. 85/2008 s. 8, substituted by No. 19/2010 s. 25(1).

S. 136(1A) inserted by No. 19/2010 s. 25(1).

S. 136(2) amended by No. 19/2010 s. 25(2).

S. 136(2)(b) amended by No. 85/2008 s. 8.
(c) reinstate the accreditation and not disqualify the applicant from applying for accreditation of that kind; or

(d) re-consider the cancellation and disqualification on the basis that cancellation and disqualification is not required under section 135A(3).

(3) VCAT must not make an order applied for under subsection (1) unless it is satisfied that the applicant has demonstrated that holding the accreditation is appropriate having regard to the purpose of accreditation set out in section 130.

(4) In making an order under subsection (2) in a matter involving a tier 1 offence VCAT may have regard to—

(a) any matter referred to in section 132F(2)(a) to (j); and

(b) any other matter that VCAT considers relevant.

(5) The licensing authority must comply with an order made by VCAT under subsection (2).

(6) If VCAT refuses to make an order applied for under subsection (1A), VCAT may by order disqualify the person from applying for accreditation of the kind to which the application relates for a period not exceeding 5 years.

(7) A period of disqualification under an order under subsection (6) may be in substitution of a period of disqualification imposed by the licensing authority.

### 136A Review of decision by VCAT

(1) An applicant for accreditation, an accredited person or a relevant person in relation to an applicant or accredited person whose interests are affected by a decision to which this subsection
applies made by the licensing authority under this Division may apply to VCAT for review of the decision.

(2) Subsection (1) applies to a decision—

(a) to refuse an application for accreditation; or

(ab) to disqualify a person from applying for accreditation; or

(b) to impose a condition, restriction or other limitation on an accreditation; or

(c) to vary or revoke a condition, restriction or other limitation on an accreditation; or

(d) to take disciplinary action; or

(e) to serve an improvement notice.

(3) Subsection (1) does not apply to a decision to the extent to which an application may be made by the applicant under section 136(1) for an order in respect of the decision.

**136B Time period for making application to VCAT**

An application under section 136(1) or for review under section 136A(1) must be made within 28 days after the later of—

(a) the day on which the decision of the licensing authority was made; or

(b) if, under the Victorian Civil and Administrative Tribunal Act 1998, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
Subdivision 8—Miscellaneous

137 Accreditation cannot be transferred

(1) An accreditation—
   (a) is personal to the person who holds it;
   (b) is not capable of being transferred or assigned to any other person or otherwise dealt with by the person who holds it;
   (c) does not vest by operation of law in any other person.

(2) A purported transfer, assignment or lease of an accreditation and any other purported dealing with an accreditation by the person who holds it is of no effect.

(3) The holder of an accreditation must not purport to transfer or assign it to any other person or otherwise purport to deal with it.

Penalty: 60 penalty units.

(4) This section—
   (a) does not apply to the surrender of an accreditation in accordance with this Division; and
   (b) has effect despite anything in any Act or rule of law to the contrary.

137A Holder of accreditation to notify of relevant change in circumstances

(1) If a relevant change in circumstances occurs with respect to an accreditation or an accredited person, the accredited person must notify the licensing authority of the change in writing within 7 days after becoming aware of the change.
(2) For the purposes of subsection (1) a relevant change in circumstances is a change in circumstances—

(a) that has resulted or will result in any particular set out in—

(i) the application for the accreditation or in any document that accompanied that application or was supplied in connection with it; or

(ii) the certificate of accreditation—

becoming inaccurate or inapplicable; or

(b) with respect to the manner of carrying out any activity to which the accreditation relates that has resulted or will or may result in the accredited person not being able to meet the business and service standards applicable to that activity; or

(c) that has resulted or will or may result in a ground for refusal of accreditation referred to in section 132D, 132E or 132F becoming applicable to the accredited person or a relevant person in relation to the accredited person.

(3) If the relevant change in circumstances has resulted or will result in any particular set out in the certificate of accreditation becoming inaccurate or inapplicable, the accredited person must surrender the certificate to the licensing authority within 7 days after becoming aware of the change.

(4) An accredited person who contravenes subsection (1) or (3) is guilty of an offence and liable to—

(a) in the case of a person accredited as a taxi-cab licence holder or as a taxi-cab operator, a penalty not exceeding 60 penalty units; and
(b) in the case of a person accredited as a provider of taxi-cab network services, a penalty not exceeding 240 penalty units for a natural person and 1200 penalty units for a body corporate.

(5) If a certificate of accreditation is surrendered to the licensing authority in accordance with subsection (3), the licensing authority may amend the certificate or issue a replacement certificate for the remainder of the period of the accreditation.

(6) The licensing authority may require a person who is a relevant person in relation to an accredited person to provide any other information or comply with any other requirement (including a criminal records check) that the licensing authority reasonably requires to decide whether, because of a relevant change of circumstances, the accredited person is no longer a suitable person to be accredited.

(7) A person must not fail to comply with a requirement under subsection (6).

Penalty: 20 penalty units.

Note

A failure to comply with subsection (6) is also a ground for taking disciplinary action against the accredited person under section 135(d).

137B  Surrender of accreditation

(1) An accredited person may apply in writing to the licensing authority for consent to the surrender of the accreditation.

(2) An application under subsection (1) must be accompanied by the certificate of accreditation unless—

(a) the certificate has already been returned to the licensing authority; or
(b) the certificate has been lost, stolen or destroyed.

(3) If subsection (2)(b) applies, the application must be accompanied by a statement, verified by a statutory declaration signed by or on behalf of the accredited person, that the certificate has been lost, stolen or destroyed.

(4) If an application is made in accordance with this section, the licensing authority must consent to the surrender unless it is taking, or proposing to take, action to cancel or suspend the accreditation.

(5) Despite subsection (4), the licensing authority may impose any condition on the grant of the consent that the licensing authority reasonably considers necessary to protect the interests of a third party.

137C False representation in relation to accreditation

A person must not falsely represent that the person is accredited under this Division or holds an accreditation under this Division of a specified kind.

Penalty: 30 penalty units.

137D Communication with responsible person

If an accredited person is not an individual, the licensing authority is entitled to communicate at any time in relation to the accreditation with the person who is the responsible person in relation to the accredited person.

137E Regulations

(1) The Governor in Council may make regulations for or with respect to—
(a) accreditations under this Division, including,
but not limited to, conditions to which
accreditations, or any class of accreditation,
are subject; and

* * * * *

(c) any other matter or thing required or
permitted by this Division to be prescribed or
necessary to be prescribed to give effect to
this Division.

(2) Without limiting subsection (1)(a), conditions
prescribed under that subsection may include
conditions relating to—

(a) the keeping of records, including records as
to gross revenue earned and complaints
received and how dealt with;

(b) the submission of information (including
copies of records) to the licensing authority;

(c) the inspection or auditing of records.

(3) Any regulations made under this section—

(a) may be of general or of specially limited
application; and

(b) may differ according to differences in time,
place or circumstance; and

(c) may prescribe penalties of not more than
20 penalty units for any contravention of the
regulations; and

(d) may confer a power or discretionary
authority on a person or a class of person; and
(e) may apply adopt or incorporate (with or without modification) any matter contained in a document as in force at the time the regulations are made or at any time before then; and

(f) may provide for the exemption of a specified person or thing or a specified class of person or thing from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.

**Division 5—Commercial passenger vehicles**

138 **Application of Division**

This Division shall not apply with respect to any motor vehicle while being used exclusively—

(a) by a commercial traveller in the ordinary course of his business and carrying one or more other commercial travellers on a journey connected with the employment of such other commercial traveller or travellers as such; or

(b) for the purposes of essential emergency transport of persons necessitated by failure break-down or stoppage of the ordinary passenger transport service in cases where the facts relating to such emergency transport are reported by the owner of the vehicle so used to the licensing authority within seven days after the act of transport is completed;

(c) for the purposes of providing ambulance services (within the meaning of the **Ambulance Services Act 1986**) or for providing non-emergency patient transport services (within the meaning of the...
**Non-Emergency Patient Transport Act 2003.**

* * * * *

### 139 Vehicles not to be operated unless licensed

(1) Subject to the regulations and subsections (1A) and (1B), a commercial passenger vehicle shall not operate on any highway unless it is licensed in accordance with this Division.

(1A) The regulations may exempt from subsection (1) a specified commercial passenger vehicle or a specified class of commercial passenger vehicle operated by a specified person or a specified class of person who is accredited under Part 2 of the **Public Transport Competition Act 1995** to operate a road transport passenger service within the meaning of that Act.

(1B) A vehicle that is permitted under the laws of another State or Territory to operate as the equivalent of a commercial passenger vehicle may operate on a highway, if, in accordance with those laws—

(a) it is used to pick up a passenger in that other State or Territory and to take the passenger to a destination in Victoria, and it operates on the highway solely for that purpose; or

(b) having been pre-booked to do so, it is used to pick up a passenger in Victoria for the purpose of taking the passenger to a
destination in that other State or Territory, and it operates on the highway solely for that purpose; or

(c) it is used to pick up a passenger in a State or Territory other than Victoria and to take the passenger to a destination in a State or Territory other than Victoria, and it operates on the highway solely for that purpose.

(1C) Subsection (1B) does not apply to a vehicle that is being used to operate a road transport passenger service within the meaning of the Public Transport Competition Act 1995.

(2) Subject to this Division and Division 4 on the application of—

(a) the owner; or

(b) a person who intends to become the owner—

of a commercial passenger vehicle the licensing authority may in respect of that vehicle grant that owner or intending owner a commercial passenger vehicle licence.

140 Application for licence

(1) An application for a commercial passenger vehicle licence must—

(a) be in the form approved by the licensing authority; and

(b) contain the particulars required by the licensing authority.

(2) An application for a commercial passenger vehicle licence must be accompanied by the appropriate application fee determined under section 147B.
141 Public commercial passenger vehicles

(1) Section 146 does not apply in relation to an application for a commercial passenger vehicle licence in respect of a vehicle which is to operate as a public commercial passenger vehicle or in relation to a commercial passenger vehicle licence granted in respect of such a vehicle.

* * * * *
(5) Notwithstanding anything in this section no commercial passenger vehicle shall be operated by or under contract with the Director or any other public authority unless there has been paid in respect of that vehicle to the Roads Corporation an amount equal to the fees payable under the Road Safety Act 1986 for the registration or renewal of registration of the vehicle as a motor vehicle.

141B Restricted hire vehicles

(2) Subject to this Division, the licensing authority must not grant an application for a restricted hire vehicle licence unless satisfied that the applicant is a fit and proper person to hold such a licence.

(3) A restricted hire vehicle licence is not transferable to any other person.
142 Hire cars and special purpose vehicles

(1) Subject to this Division, the licensing authority must not grant an application for a hire car licence or a special purpose vehicle licence unless the licensing authority is satisfied that the applicant is a fit and proper person to hold the licence and—

(a) either—

(i) the granting of the licence is consistent with any determination of policy made by the Minister under section 89; or

(ii) the Minister has approved the granting of the licence even though to do so would be inconsistent with a determination of policy made by him or her under section 89; and

(b) in the case of an application for a hire car licence in respect of a hire car that is to be operated from a place in a specified area—

(i) the licensing authority has had regard to the interests of the people who either require, or provide, taxi-cab services or hire car services in any particular district or districts within which the service is proposed to be provided that is, or that are, in the specified area; and

(ii) the licensing authority has had regard to whether or not the granting of the application would be likely to adversely affect the viability of the provision of existing taxi-cab or hire car services in that district or those districts.
(1A) For the purposes of subsection (1)(b), a specified area is an area specified by the licensing authority for the purposes of subsection (1)(b) by notice published in the Government Gazette.

(2) Subject to subsection (7), a fee must be paid for a hire car licence or a special purpose vehicle licence granted on or after 9 May 2002.

(3) The fee is an amount determined from time to time by the Minister by Order published in the Government Gazette.

(4) Subject to subsection (5), the fee is payable—

(a) if the licence is granted before the day on which the Transport (Further Miscellaneous Amendments) Act 2002 receives the Royal Assent—within the period after that day specified by the licensing authority; or

(b) in any other case—before the licence is granted.

(5) The licensing authority may allow a licence fee to be paid by instalments and may issue a certificate evidencing the grant of the licence on the payment of the first instalment.

(6) The licensing authority may suspend or cancel a licence if—

(a) an instalment is not paid by the due date; or

(b) in the case of a licence referred to in subsection (4)(a), the licence fee is not paid within the period specified under that subsection.

(7) This Act, as in force immediately before 9 May 2002, continues to apply to the granting of a hire car licence or a special purpose vehicle licence if the application for the licence was made before that day.
(8) Section 143 does not apply to the granting or refusal of a hire car licence or a special purpose vehicle licence if the application for the licence is made on or after 9 May 2002.

143 Taxi-cab licences

(1) Before granting or refusing to grant any application for a taxi-cab licence, the licensing authority shall have regard primarily to the interests of the public generally including those of persons requiring as well as those of persons providing facilities for the transport of passengers, and without restricting the generality of the foregoing requirement shall take into consideration—

(a) the advantages of the service proposed to be provided, the saving of time which would be effected thereby, and the convenience (including the advantage arising from journeys not being broken) which would be afforded to the public by the provision of that service;

(b) the existing transportation service for the conveyance of passengers upon the routes or within the area proposed to be served in relation to—

(i) its present adequacy and probabilities of improvement to meet all reasonable public demands;

(ii) the effect upon that existing service of the service proposed to be provided; and

(iii) the fares paid by those passengers;
(c) the benefit to any particular district or districts or to the residents thereof which would be afforded by the service proposed to be provided;

(d) any report submitted by the council of any municipal council in the municipal district of which the service is proposed to be provided;

(e) any report submitted by a regional advisory board established under section 36;

(f) the condition of the roads to be included in any proposed route or area;

(h) any other relevant matters which the licensing authority considers will affect the interests of the public.

(2) Subject to this Division, the licensing authority may grant the application with or without variation or may refuse to grant the application.

(2A) The licensing authority must not grant a taxi-cab licence unless the applicant is accredited under Division 4 as a taxi-cab licence holder.
Part VI—Licensing of Certain Vehicles and Driver Accreditation

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  

s. 143A

(2B) The licensing authority must not grant a taxi-cab licence to which a condition referred to in section 143D(1)(b) is to be attached unless the applicant is accredited under Division 4 as a taxi-cab operator.

(3) The licensing authority shall not grant a taxi-cab licence unless—

(a) the granting of the licence is consistent with any determination of policy made by the Minister under section 89; or

(b) the Minister has approved the granting of the licence notwithstanding any inconsistency with a determination of policy made by him or her under section 89.

(4) This section does not apply to the granting of a taxi-cab licence to operate in an area proclaimed as a taxi-cab zone under section 143A.

143A Power to make Orders for the granting of taxi-cab licences in taxi-cab zones

(1) The Minister may, by Order published in the Government Gazette—

(a) proclaim an area or areas as a taxi-cab zone or zones;

(b) specify whether the fees to be paid for taxi-cab licences are to be determined by tender or are to be a fixed price;


s. 143A(1) inserted by No. 99/1998 s. 4.

s. 143A(3) inserted by No. 100/1986 s. 11(1).

s. 143A(3)(b) inserted by No. 32/2002 s. 10(2)(b)(i).

s. 143A(3)(b) amended by No. 32/2002 s. 10(2)(b)(ii).

s. 143(3) inserted by Nos 44/1989 s. 40(Sch. 1 item 8.4), 120/1993 s. 12(2), 60/1994 s. 15(1), 37/1996 s. 9(4)(e)(b), 32/2002 s. 10(2)(b)(ii).

s. 143(3)(b) amended by Nos 44/1989 s. 40(Sch. 1 item 8.4), 120/1993 s. 12(2), 60/1994 s. 15(1), 37/1996 s. 9(4)(e)(b), 32/2002 s. 10(2)(b)(i).

s. 143(2B) inserted by No. 71/2006 s. 6(2).

S. 143A

170
(c) specify the classes of people and the qualifications of people eligible to apply and the procedures to be followed for the granting of taxi-cab licences;

(d) specify the particulars that must be included in an application for a taxi-cab licence;

(e) specify the date by which applications for taxi-cab licences must be lodged with the licensing authority;

(f) provide that all applications for taxi-cab licences to operate in a proclaimed zone made before a specified time are to lapse.

(2) Subject to an Order, on the application of—

(a) the owner; or

(b) a person who intends to become the owner—

of a taxi-cab, the licensing authority may grant the owner or intending owner a taxi-cab licence.

(3) If an Order specifies that a fixed price method be adopted for granting licences, the Order must also specify the price.

(4) A fee must be paid for a taxi-cab licence.

(5) If the fixed price method is adopted for granting licences, the fixed price is the licence fee payable.

(6) If the tender method is adopted for granting licences, the amount specified in the tender is the licence fee payable.

(7) An application for a taxi-cab licence must be accompanied by—

(a) any particular required by the Order; and

(b) the appropriate application fee determined under section 147B.
(8) The licensing authority may grant taxi-cab licences to applicants at any time within one year of the closing date for applications.

(9) On granting a licence, the licensing authority may give to the licence holder a certificate evidencing the grant of the licence.

(10) The licensing authority may allow a licence fee to be paid by instalments and may issue a certificate evidencing the grant of the licence on the payment of the first instalment.

(11) The licensing authority may suspend or cancel a licence if an instalment is not paid by the due date.

(12) The licensing authority must not grant a taxi-cab licence to operate in an area proclaimed as a taxi-cab zone under this section unless the owner or intending owner is accredited under Division 4 as a taxi-cab licence holder.

(13) The licensing authority must not grant a taxi-cab licence (being a licence to operate in an area proclaimed as a taxi-cab zone under this section) to which a condition referred to in section 143D(1)(b) is to be attached unless the owner or intending owner is accredited under Division 4 as a taxi-cab operator.
143C  Review by Tribunal of refusal to grant licence

(1) An applicant may apply to the Tribunal for review of a decision by the licensing authority to refuse to grant an application for a commercial passenger vehicle licence other than an application in respect of a vehicle which is to operate as a public commercial passenger vehicle.

(2) An application for review must be made within 28 days after the later of—

(a) the day on which the decision is made;

(b) if, under the Victorian Civil and Administrative Tribunal Act 1998, the applicant requests a statement of reasons for the decision, the day on which the statement of reasons is given to the applicant or the applicant is informed under section 46(5) of that Act that a statement of reasons will not be given.

143D  Condition forbidding transfer of taxi-cab licence

(1) In issuing a taxi-cab licence, the licensing authority may attach one or more of the following conditions to the licence—

(a) that the licence cannot be transferred, or cannot be transferred for a specified period;

(b) that the licence cannot be assigned, or cannot be assigned for a specified period.
(2) The licensing authority may not attach such a condition in respect of a taxi-cab licence granted under section 143A unless the relevant Order under that section stated that the licence would be subject to that condition.

(3) Despite section 146, the licensing authority cannot remove or alter a condition attached to a licence under subsection (1).

144 Conditions

(1) Subject to subsection (1AA), the following shall be implied conditions of every commercial passenger vehicle licence—

(a) that the vehicle is maintained in a fit and serviceable condition;

(b) that in relation to the vehicle, the provisions of any Act or regulation thereunder with respect to—

(i) the manner in which and the persons by whom the vehicle may be driven;

(ii) the number of passengers that may be carried in the vehicle;

(iii) the construction equipment and condition of the vehicle; and

(iv) limitation of hours of driving—

are complied with; and

(c) in the case of a commercial passenger vehicle that is not a taxi-cab, that the vehicle is not, without the consent in writing of the licensing authority, operated by any person other than the owner or a person employed by the owner; and
(d) that if the licence holder does not commence to operate a commercial passenger vehicle service within 90 days of being sent notice by the licensing authority that it has granted the licence, the licensing authority may cancel the licence; and

(e) that any direction given by the licensing authority or a delegate of the licensing authority under section 146AA is complied with.

(1AA) Subsection (1) applies in respect of a restricted hire vehicle licence as if in paragraph (c) for the expression "owner or a person employed by the owner" there were substituted the expression "licence holder or a person employed by the licence holder".

(1A) A person who breaches the licence condition implied by subsection (1)(a) or (1)(e) is guilty of an offence.

Penalty: 10 penalty units for a first offence;

20 penalty units for a subsequent offence.

(1B) The licensing authority may cancel a licence if the licence condition implied by subsection (1)(d) is breached.
Part VI—Licensing of Certain Vehicles and Driver Accreditation

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

S. 144

(1C) The licensing authority may give consent for the purposes of subsection (1)(c) by notice published in the Government Gazette relating to all commercial passenger vehicles or to a specified commercial passenger vehicle or a specified class of commercial passenger vehicle.

(2) The licensing authority may in its discretion attach to any commercial passenger vehicle licence all or any of the following conditions, namely—

(a) that the vehicle shall operate only upon specified routes or in a specified area;

(b) that not more than a specified number of passengers shall be carried at any one time on the vehicle;

(c) that specified time-tables shall be observed;

(d) that reasonable fares or hiring rates shall be charged—

(i) in the case of taxi-cabs, as determined by the Minister; and

(ii) in all other cases, as specified in the conditions;

(da) that any late night surcharge or holiday surcharge payable by a passenger in a taxi-cab is to be retained by the driver of the taxi-cab;

(e) that prescribed records shall be kept;

(f) that goods shall only be carried in accordance with the conditions specified; and
(g) such other conditions appropriate to the service to be provided as the licensing authority thinks proper to impose in the public interest.

(3) In addition to the conditions implied by subsection (1), the following are implied conditions of every taxi-cab licence—

(a) that wireless equipment capable of transmitting images or data obtained from the use of a surveillance camera installed in the taxi-cab must not be installed in the taxi-cab; and

(b) that equipment capable of making an audio recording, other than an emergency warning device, must not be installed in the taxi-cab.

(4) A person who breaches a licence condition implied by subsection (3) is guilty of an offence.

Penalty: 10 penalty units for a first offence; 20 penalty units for a subsequent offence.

(5) If a taxi-cab licence is subject to the condition referred to in subsection (2)(da), a late night surcharge or holiday surcharge paid by a passenger in a taxi-cab may be retained by the driver of the taxi-cab despite any provision of any contract or agreement to the contrary.

(6) Subsection (5) applies to a contract or agreement whether entered into before or after the commencement of section 10 of the Transport (Further Miscellaneous Amendments) Act 2002.
Part VI—Licensing of Certain Vehicles and Driver Accreditation

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

178

(7) Subsections (2)(d)(i) (as amended by section 10(4)(a) of the Transport (Further Miscellaneous Amendments) Act 2002), (2)(da) and (3) apply to a taxi-cab licence whether granted before or after the commencement of section 10 of that Act.

(8) For the purposes of the licence condition referred to in subsection (2)(d)(i), a determination by the Secretary of fares or hiring rates that was in force immediately before the commencement of section 10 of the Transport (Further Miscellaneous Amendments) Act 2002 is taken to be a determination of the Minister, until the Minister makes a determination under section 144A.

(9) In this section—

**emergency warning device** means an emergency warning device required to be installed in a taxi-cab under the regulations that is capable of activating an audio recording in the case of an emergency;

**holiday surcharge** means that part of a taxi-cab fare or hiring rate specified as a holiday surcharge under section 144A(3);

**late night surcharge** means that part of a taxi-cab fare or hiring rate specified as a late night surcharge under section 144A(3).

144A Determination of taxi fares or hiring rates

(1) For the purposes of the licence condition referred to in section 144A(2)(d)(i), the Minister may from time to time determine the taxi-cab fares or hiring rates that may be charged.
(2) The Minister cannot determine a fare or hiring rate under subsection (1) unless he or she—

(a) has referred the matter to the Commission for investigation under Division 9 and has received the Commission's report on the investigation; and

(b) has received a report from the Director.

(3) The Minister may specify part of a fare or hiring rate as a late night surcharge or a holiday surcharge.

145 Classification of vehicles

The licensing authority may classify vehicles into different categories having regard to the type of vehicle and the commercial passenger service to be provided and in respect of which categories different types of licences may be granted and may at any time during the currency of a licence change the classification of a vehicle and the type of licence.

146 Cancellation or alteration of licences

(1) Subject to this section the licensing authority may at any time during the currency of a commercial passenger vehicle licence—

(a) upon its own motion and for reasons stated in writing sent to the licence holder; or

(b) upon the application of the licence holder—

cancel the licence or alter the conditions attached to that licence or alter the route or area in respect of which that licence was granted.
(2) Notwithstanding anything in this section, the charter or touring conditions attached to a commercial passenger vehicle licence shall not be cancelled or altered pursuant to this section except upon the application of the owner of the vehicle in respect of which that licence was granted.
146AA Directions

(1) Subject to this section, the licensing authority may at any time during the currency of a taxi-cab licence give, by any means that the licensing authority thinks fit, directions to—

(a) the holder of a taxi-cab licence or class of taxi-cab licence; or
Part VI—Licensing of Certain Vehicles and Driver Accreditation

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(b) the driver of a taxi-cab—
about the carrying of passengers in accordance with the conditions of the licence.

(2) The licensing authority may, with the approval of the Minister, by instrument, delegate to a person by name or the holder of an office or position any power of the licensing authority under subsection (1).

*   *   *   *   *

146B Power to vary public commercial passenger vehicle licence

Upon the application of the holder of a commercial passenger vehicle licence in respect of a vehicle which operates as a public commercial passenger vehicle, the licensing authority may vary any licence condition except a condition relating to routes or school contract operations.
146C Review by Tribunal of licence cancellation etc.

(1) The holder of a commercial passenger vehicle licence may apply to the Tribunal for review of a decision by the licensing authority—

(a) to suspend the licence under section 143A(11) or 147A(3); or

(b) to cancel the licence under section 143A(11), 144(1B), 146(1) or 147A(3); or

(c) to alter the conditions attached to the licence or alter the route or area in respect of which it was granted under section 146(1) or 146B.

(2) An application for review must be made within 28 days after the later of—

(a) the day on which the decision is made;

(b) if, under the Victorian Civil and Administrative Tribunal Act 1998, the licence holder requests a statement of reasons for the decision, the day on which the statement of reasons is given to the licence holder or the licence holder is informed under section 46(5) of that Act that a statement of reasons will not be given.

---

S. 146C inserted by No. 120/1993 s. 17, amended by No. 60/1994 s. 15(1).

S. 146C(1) amended by No. 52/1998 s. 311(Sch. 1 items 96.8, 96.9 (ILA s. 39B(1))).

S. 146C(2) inserted by No. 52/1998 s. 311(Sch. 1 item 96.9).

S. 147(1)(2) amended by No. 44/1989 s. 40(Sch. 1 item 6.2), repealed by No. 120/1993 s. 18(a).
Part VI—Licensing of Certain Vehicles and Driver Accreditation

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

S. 147A

147A Annual licence fees

(1) The holder of a commercial passenger vehicle licence must pay the appropriate annual licence fee determined under section 147B in respect of every commercial passenger vehicle for which the holder has a licence.

(2) Subsection (1) does not apply to vehicles licensed to operate solely as public commercial passenger vehicles.

(3) The licensing authority may suspend or cancel a commercial passenger vehicle licence if the holder of the licence fails to pay any fee or instalment required to be paid in respect of the licence or the vehicle by or under this Act.

S. 147A(4)(5) inserted by No. 17/1995 s. 20(2), repealed by No. 30/2007 s. 228(3).
147B Setting of fees

(1) The licensing authority may determine—

(a) the fees payable under sections 140(2), 143A(7)(b), 147A(1) and (4), 149(1A)(b), 150(3), 151(2), 152 and 154(2); and

(b) fees to be paid for inspections of commercial passenger vehicles or any other thing done by the licensing authority in relation to a commercial passenger vehicle or a licence for such a vehicle including, without limiting the generality of this paragraph, the fee to be paid for the issue of a replacement licence if a licence is lost, destroyed or mutilated.

(2) The licensing authority must obtain the approval of the Minister for any fee determined by the licensing authority.
(3) Fees take effect upon publication in the Government Gazette or upon any later date specified in a notice accompanying the publication of the fees in the Government Gazette.

149 Transfers of licences

(1) Subject to this section, the holder of a commercial passenger vehicle licence may apply to the licensing authority for authority to transfer the licence to a specified person.

(1AA) Subsection (1) does not apply to the holder of—

(a) a restricted hire vehicle licence; or

(b) a licence granted temporarily for a particular purpose of limited duration; or

(c) a taxi-cab licence that has attached to it a current condition imposed under section 143D that states that the licence cannot be transferred.

(1A) The application must be accompanied by—

(a) a copy of the transfer agreement signed by the applicant and the intended transferee; and

(b) the appropriate application fee determined under section 147B.
(2) The licensing authority must not authorise the transfer of—

(a) a commercial passenger vehicle licence in respect of a vehicle which operates as a public commercial passenger vehicle unless the licensing authority is satisfied that the transfer is in the general interests of the public; or

(b) a taxi-cab licence that is suspended by force of section 156A(2) or (6) unless the licensing authority agrees to lift that suspension.

(3) The licensing authority may, subject to subsection (2), authorize the transfer of a commercial passenger vehicle licence if it is satisfied—

(a) other than in the case of a taxi-cab licence, that the person to whom it is proposed to transfer the licence is a suitable person having regard to his character, qualifications and financial stability; or

(b) other than in the case of a taxi-cab licence, where the person to whom it is proposed to transfer the licence is a corporation—

(i) that the directors of the corporation are suitable persons having regard to their character and qualifications; and

(ii) as to the financial stability of the corporation; or

(c) where the licence is subject to a condition that it must not be transferred for a specified time after it is issued, that there are special circumstances warranting the transfer within the period of time covered by the condition.
(3AA) In addition to subsection (3)(c), the licensing authority may authorise the transfer of a taxi-cab licence if satisfied that—

(a) the person to whom it is proposed to transfer the licence is accredited under Division 4 as a taxi-cab licence holder; and

(b) in the case of a licence to which a condition referred to in section 143D(1)(b) is attached, the person to whom it is proposed to transfer the licence is accredited under Division 4 as a taxi-cab operator.

(3A) In addition to subsections (3)(c) and (3AA), the licensing authority may authorize the transfer of a taxi-cab licence if—

(a) a relevant dealing is a dealing of a kind or a class, and related information is information of a kind or class, that is required under the regulations to be, as the case requires, conducted, recorded or disclosed in accordance with—

(i) the rules of a securities exchange or other system specified by the Director; or

(ii) a method or rules specified by the Director; and

(b) the licensing authority is satisfied that—

(i) the relevant dealing has been so conducted, recorded or disclosed; and

(ii) the related information has been so recorded or disclosed.
(3B) In subsection (3A)—

**relevant dealing** means a dealing for or in connection with the transfer of a taxi-cab licence;

**related information** means information relating to a relevant dealing or necessary to enable a relevant dealing to be conducted.

(4) Where the licensing authority has authorized the transfer of a licence, the licence must be transferred by the licensing authority upon it receiving a transfer—

(a) in the form approved by the licensing authority; and

(b) containing the particulars required by the licensing authority; and

(c) executed by the transferor and transferee.

* * * * *

150 Assignments

(1) A holder of a licence to operate a taxi-cab (hereafter in this section referred to as the assignor) may apply to the licensing authority for authority to assign to a person specified in the application (hereafter in this section referred to as the assignee) his right to operate a vehicle under the licence.
Part VI—Licensing of Certain Vehicles and Driver Accreditation

(1A) Subsection (1) does not apply to the holder of a taxi-cab licence that has attached to it a current condition imposed under section 143D that states that the licence cannot be assigned.

(2) The licensing authority may grant any application under subsection (1) or may refuse any such application.

(2AA) Without limiting subsection (2), the licensing authority must refuse an application unless the assignee is accredited under Division 4 as a taxi-cab operator.

(2A) Without limiting subsection (2), the licensing authority must refuse an application if—

(a) a relevant dealing is a dealing of a kind or a class, and related information is information of a kind or class, that is required under the regulations to be, as the case requires, conducted, recorded or disclosed in accordance with—

(i) the rules of a securities exchange or other system specified by the Director; or

(ii) a method or rules specified by the Director; and

(b) the licensing authority is not satisfied that—

(i) the relevant dealing has been so conducted, recorded or disclosed; and

(ii) the related information has been so recorded or disclosed.
(2B) In subsection (2A)—

**relevant dealing** means a dealing for or in connection with the assignment of the right to operate a vehicle under a taxi-cab licence;

**related information** means information relating to a relevant dealing or necessary to enable a relevant dealing to be conducted.

(3) Where the licensing authority grants an application under subsection (1) the licensing authority shall upon payment of the appropriate application fee determined under section 147B authorize the assignment of the right to operate a vehicle under the licence.

(4) An authority under this section shall be subject to such of the following conditions as are applicable in the circumstances, namely:

(a) That an agreement containing covenants in the form of Schedule 7 or to the like effect be entered into by the assignor and the assignee and a copy thereof lodged with the licensing authority before the assignee operates a vehicle under the assignment;

(b) That if the assignee proposes, in the course of exercising his rights under the assignment, to operate a vehicle owned by or under the control of the assignor the assignor and the assignee shall enter into an agreement approved by the licensing authority for leasing the vehicle for the period of the assignment of the rights under the licence;

(c) That the assignee shall for the purposes of this Division and the regulations made under this Division have all the privileges, duties and responsibilities of the assignor as holder of the licence with respect to the operation of the vehicle under the licence—
and subject to such other conditions, limitations and restrictions—
(d) as are prescribed; or
(e) as the licensing authority considers are appropriate.

(4A) An assignment or purported assignment under this section is of no effect if—
(a) it is not authorised by the licensing authority under this section; or
(b) it is not made in writing; or
(c) subject to subsection (4B), it is not for a fixed period of 3 years or less.

(4B) An assignment under this section may provide for the termination of the assignment in specified circumstances before the expiry of the period of the assignment.

(4C) An assignment under this section cannot be renewed and cannot be varied so as to extend the period of the assignment.

(4D) Nothing in subsection (4C) prevents a fresh application being made under subsection (1) for authority to assign the right to operate a vehicle under a licence to operate a taxi-cab to an assignee or former assignee of that right.

(5) The assignee of a licence under this section shall not assign or attempt to assign his rights under the assignment.
(7) Unless sooner cancelled under subsection (6) or otherwise terminated, an assignment under this section ends at the expiration of the period of the assignment.

150A **Unauthorised person must not trade in taxi-cab licences**

(1) A person must not trade in taxi-cab licences unless he, she or it is authorised to do so under regulations made under section 162.

Penalty: 500 penalty units.

(2) For the purposes of this section, a person trades in taxi-cab licences if he, she or it—

(a) negotiates on behalf of another person for the transfer of a taxi-cab licence to that other person or for the assignment of the right to operate a vehicle under a taxi-cab licence to that other person;

(b) negotiates on behalf of another person for the transfer of a taxi-cab licence held by that other person or for the assignment of a right to operate a vehicle under a taxi-cab licence held by that other person;

(c) advertises that he, she or it is able or willing to do anything set out in paragraph (a) or (b);
(d) in any way holds himself, herself or itself out to another person as being able or willing to do anything set out in paragraph (a) or (b).

151 Use of substitute vehicles where licensed vehicles undergoing repair

(1) Where any licensed vehicle is temporarily out of use while undergoing repair the licensing authority may on the application of the owner authorize him in writing to use a substitute vehicle for such period as it thinks proper and the terms and conditions of the licence in respect of the original vehicle shall extend and apply to such substitute vehicle during the period for which it is so used.

(2) The application must be accompanied by the appropriate application fee determined under section 147B.

152 As to substitution of vehicles generally

The licensing authority may on the application of the owner of a licensed vehicle and on the payment of the appropriate application fee determined under section 147B authorize the owner to substitute a vehicle for the licensed vehicle and where any such substitution is authorized the terms and conditions of the licence in respect of the original vehicle shall extend and apply to the substituted vehicle.

153 Cancellation of licence for vehicles

(1) Where the licensing authority is satisfied that any vehicle licensed under this Division is no longer fit and suitable for the purpose for which it is licensed or has been in use for a period longer than is prescribed in relation to vehicles of the class to which the vehicle belongs the licensing authority may after notifying the owner of the licensed vehicle that the licensing authority
proposes to cancel the licence issued in respect of the vehicle from such date as is specified in the notice cancel that licence as from that date.

(2) The owner of a licensed vehicle may apply to the Tribunal for review of a decision by the licensing authority to cancel the licence under subsection (1).

(3) An application for review must be made within 28 days after the later of—

(a) the day on which the decision is made;

(b) if, under the Victorian Civil and Administrative Tribunal Act 1998, the owner requests a statement of reasons for the decision, the day on which the statement of reasons is given to the owner or the owner is informed under section 46(5) of that Act that a statement of reasons will not be given.

(4) The licensing authority may revoke any cancellation made pursuant to subsection (1) if the owner—

(a) applies to have a suitable vehicle substituted for the vehicle licensed under this Division; or

(b) in a case where the licence is cancelled on the ground that the vehicle licensed under this Division is no longer fit and suitable for the purpose for which it is licensed satisfies the licensing authority that the vehicle has been made fit and suitable for that purpose.
154 Temporary permit

(1) The licensing authority or any person authorized in that behalf by the licensing authority in writing (whether generally or in any particular case) may grant to the owner of any licensed vehicle a permit authorizing such vehicle to operate temporarily in any manner not specified in the licence.

(2) There shall be paid in respect of each permit granted pursuant to subsection (1) the appropriate fee determined under section 147B.

155 Goods vehicle used as passenger vehicle to be licensed

(1) No motor vehicle constructed or ordinarily used for the carriage of goods shall be used for the carriage of passengers for hire or reward unless such motor vehicle—

(a) is licensed as a commercial passenger vehicle; or

(b) is licensed under a special licence for the purpose which the licensing authority or any person authorized whether generally or in any particular case in that behalf by the licensing authority is hereby authorized to grant upon such conditions as it thinks fit.

(2) Subsection (1) shall not apply in respect of a passenger who is—

(a) the owner of the vehicle;

(b) a member of the owner's family and who resides in the same household with him;

(c) an employee of the owner and actually employed and remunerated by him in connexion with the operation of the vehicle at the time; or
(d) carried in a tow truck, if that carriage is not prohibited under the Accident Towing Services Act 2007.

(3) Subject to subsection (4), the owner and the driver of any motor vehicle which is used in contravention of this section shall be severally guilty of an offence against this Division.

(4) In any prosecution against the driver of any motor vehicle under this section it shall be a good defence if the driver satisfies the court hearing the prosecution that he did not know that the motor vehicle was not licensed as required by this section.

* * * * *

156A Effect on taxi-cab licences of certain outcomes

(1) If the accreditation under Division 4 of a person as a taxi-cab licence holder is cancelled under Subdivision 6 of that Division or under section 272(5) or is surrendered with the consent of the licensing authority under section 137B or expires without being renewed—
(a) any taxi-cab licence held by the person to which a condition referred to in section 143D(1)(a) is attached is revoked by force of this subsection; and

(b) any other taxi-cab licence held by the person is revoked by force of this subsection on the expiry of the period of 90 days after that cancellation or surrender or expiry of accreditation (or any longer period allowed by the licensing authority) unless the licence is transferred in accordance with this Division to another person before then.

(2) If the accreditation under Division 4 of a person as a taxi-cab licence holder is suspended under Subdivision 6 of that Division, any taxi-cab licence held by the person (including any licence the right to operate a vehicle under which has been assigned by that person under section 150) is, subject to section 149(2), suspended by force of this subsection for the same period as the accreditation is suspended.

(3) If a taxi-cab licence to which a condition referred to in section 143D(1)(b) is not attached is transferred in accordance with this Division to a person who is accredited as a taxi-cab licence holder, but not as a taxi-cab operator, the licence is revoked by force of this subsection on the expiry of the period of 90 days after that transfer (or any longer period allowed by the licensing authority) unless before then the transferee in accordance with this Division—

(a) assigns to another person the right to operate a vehicle under the licence; or

(b) transfers the licence to another person.
(4) If the operator of a taxi-cab is found guilty of an offence against section 131—

(a) if the right to operate a vehicle under a taxi-cab licence has been assigned to the operator under section 150, the assignment is revoked by force of this subsection; and

(b) if the operator is the holder of a taxi-cab licence to which conditions under both section 143D(1)(a) and (b) are attached, the licence is revoked by force of this subsection; and

(c) if the operator is the holder of a taxi-cab licence to which conditions under both section 143D(1)(a) and (b) are not attached, the licence is revoked by force of this subsection on the expiry of the period of 90 days after the finding (or any longer period allowed by the licensing authority) unless before then the operator in accordance with this Division—

(i) assigns to another person the right to operate a vehicle under the licence; or

(ii) transfers the licence to another person.

(5) If the accreditation under Division 4 of a person as a taxi-cab operator is cancelled under Subdivision 6 of that Division or under section 272(5) or is surrendered with the consent of the licensing authority under section 137B or expires without being renewed—

(a) if the right to operate a vehicle under a taxi-cab licence has been assigned to the operator under section 150, the assignment is revoked by force of this subsection; and

(b) if the operator is the holder of a taxi-cab licence to which conditions under both section 143D(1)(a) and (b) are attached, the
licence is revoked by force of this subsection; and

(c) if the operator is the holder of a taxi-cab licence to which conditions under both section 143D(1)(a) and (b) are not attached, the licence is revoked by force of this subsection on the expiry of the period of 90 days after the cancellation or surrender or expiry of accreditation (or any longer period allowed by the licensing authority) unless before then the operator in accordance with this Division—

(i) assigns to another person the right to operate a vehicle under the licence; or

(ii) transfers the licence to another person.

(6) If the accreditation under Division 4 of a person as a taxi-cab operator is suspended under Subdivision 6 of that Division—

(a) any assignment to the operator under section 150 of the right to operate a vehicle under a taxi-cab licence is suspended by force of this subsection for the same period as the accreditation is suspended; and

(b) any taxi-cab licence held by the operator (other than any licence the right to operate a vehicle under which has been assigned by that person under section 150) is, subject to section 149(2), suspended by force of this subsection for the same period as the accreditation is suspended.
157 Revocation or suspension of licence, permit or certificate

(1) Subject to subsection (3), the licensing authority may by notice in writing to the holder of a licence or permit granted under this Division, suspend or revoke the licence or permit on the ground that any of the conditions attached to the licence or permit or the provisions of this Act or the Road Safety Act 1986 or the regulations made under those Acts applicable thereto have not been complied with, if the licensing authority is satisfied that because of—

(a) the frequency of;

(b) the wilful commission of; or

(c) the danger to the public as a result of—

the breach of those conditions or the provisions of this Act or the Road Safety Act 1986 or the regulations, the licence or permit should be revoked or suspended.

(2) Subject to subsection (3), the licensing authority may by notice in writing suspend or revoke a licence or permit granted under this Division if it is satisfied that—

(a) any statement made to the licensing authority was wilfully false in any material particular; or

(b) the holder of the licence or permit is not a fit and proper person to hold that licence or permit.
(3) The licensing authority shall not suspend or revoke a licence or permit pursuant to this section unless the holder of the licence or permit has been given a reasonable opportunity to show cause why the licence or permit should not be suspended or revoked.

(4) The holder of a licence or permit granted under this Division may apply to the Tribunal for review of a decision by the licensing authority under this section to suspend or revoke the licence or permit.

(4A) An application for review must be made within 28 days after the later of—

(a) the day on which the decision is made;

(b) if, under the Victorian Civil and Administrative Tribunal Act 1998, the licence or permit holder requests a statement of reasons for the decision, the day on which the statement of reasons is given to the licence or permit holder or the licence or permit holder is informed under section 46(5) of that Act that a statement of reasons will not be given.
**Part VI—Licensing of Certain Vehicles and Driver Accreditation**

<table>
<thead>
<tr>
<th>S. 157(5)</th>
<th>S. 157(6)</th>
<th>S. 157(7)</th>
</tr>
</thead>
<tbody>
<tr>
<td>amended by Nos 44/1989 s. 40(Sch. 1 item 6.2), 57/1989 s. 3(Sch. item 202.4), 60/1994 s. 15(1), substituted by No. 34/2003 s. 7(2), repealed by No. 47/2006 s. 11(3).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>amended by Nos 44/1989 s. 40(Sch. 1 item 6.2), 57/1989 s. 3(Sch. item 202.5), 60/1994 s. 15(1), substituted by No. 34/2003 s. 7(2), repealed by No. 47/2006 s. 11(3).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>inserted by No. 52/1998 s. 311(Sch. 1 item 96.14), repealed by No. 65/2000 s. 6.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*S 157A, 157B inserted by No. 34/2003 s. 8, repealed by No. 47/2006 s. 12.*
158 Offences

(1) Subject to subsection (2), the driver and the owner of any commercial passenger vehicle which operates as a commercial passenger vehicle on any highway without being authorized to so operate by a licence, permit or other authority required by or under this Division shall be severally guilty of an offence against this Division.

(2) In any prosecution against the driver pursuant to subsection (1) it shall be a good defence if the driver satisfies the court hearing the prosecution that he did not know that the vehicle was not authorized to so operate.

(3) The driver and the owner of any licensed commercial passenger vehicle which operates otherwise than in accordance with the provisions or conditions of any licence, permit or other authority required by or under this Division or any regulations made under section 162 shall be severally guilty of an offence against this Division.

(4) In any prosecution under this section it shall be a good defence if the accused satisfies the court that—

(a) the commercial passenger vehicle operated in contravention of this section without his knowledge; or

(b) the vehicle was used only in a case of emergency for the purpose of completing a journey in substitution for a vehicle authorized to operate by a licence, permit or other authority required by or under this Division.
158A Touting

(1) A person who at a specified place—
   (a) touts for the business of the hire of a motor vehicle; or
   (b) makes an offer to hire a motor vehicle; or
   (c) solicits custom for the hire of a motor vehicle; or
   (d) induces a person to hire a motor vehicle—
       by personally approaching a person on his or her own behalf or on behalf of another person or by displaying advertising material on or about his or her person is guilty of an offence.

(2) A person who at a place other than a specified place—
   (a) touts for the business of the hire of a motor vehicle; or
   (b) makes an offer to hire a motor vehicle; or
   (c) solicits custom for the hire of a motor vehicle; or
   (d) induces a person to hire a motor vehicle—
       by personally approaching a person on his or her own behalf or on behalf of another person or by displaying advertising material on or about his or her person is guilty of an offence.

(3) A person who is guilty of an offence under this section is liable to a penalty not exceeding 50 penalty units.
(4) A person is not guilty of an offence under subsection (2) if—

(a) the motor vehicle is a licensed commercial passenger vehicle; and

(b) the conduct set out in subsection (2) is not in breach of the conditions of the licence or the regulations.

(5) The Director may by notice published in the Government Gazette specify places for the purposes of this section.

(6) In this section—

*advertising material* does not include an insignia or business name when it forms part of a uniform;

*hire*, in relation to a motor vehicle, means the hire of that vehicle together with the provision of a driver.

**158AA Offence for taxi-cab to be operated without permission of accredited operator or related person**

A person (the *first person*) must not permit another person to operate a taxi-cab unless the first person—

(a) is the accredited operator; or

(b) is a relevant person in relation to the accredited operator; or

(c) is an employee of the accredited operator and does so under the express authority of the accredited operator.

Penalty: 60 penalty units.
Part VI—Licensing of Certain Vehicles and Driver Accreditation

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983
Part VI—Licensing of Certain Vehicles and Driver Accreditation

158AB Operator of taxi-cab commits offence if taxi-cab is operated by certain persons

(1) If a taxi-cab is permitted to be operated by a person—

(a) who is not the operator of the taxi-cab; and

(b) who does not have the permission of any of the following persons to permit another person to operate the taxi-cab—

(i) the operator of the taxi-cab;

(ii) a relevant person in relation to the accredited operator;

(iii) an employee of the accredited operator where that employee has given that permission under the express authority of the accredited operator—

the operator of the taxi-cab is guilty of an offence and is liable to a penalty not exceeding 60 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if the operator of the taxi-cab satisfies the court that the operator took all reasonable steps to stop the taxi-cab being operated by a person who did not have permission of the kind specified in subsection (1)(b).

Note

See also the definitions of operate and operator in section 86(1).
158AC Person operating taxi-cab commits offence if taxi-cab is operated by certain persons

(1) If a taxi-cab is permitted to be operated by a person—

(a) who is not the operator of the taxi-cab; and

(b) who does not have the permission of any of the following persons to operate the taxi-cab—

(i) the operator of the taxi-cab;

(ii) a relevant person in relation to the accredited operator;

(iii) an employee of the accredited operator where that employee has given that permission under the express authority of the accredited operator—

the person operating the taxi-cab is guilty of an offence and is liable to a penalty not exceeding 60 penalty units.

(2) It is a defence to a prosecution for an offence against subsection (1) if the person operating the taxi-cab satisfies the court that he or she took all reasonable steps to determine whether the person who gave permission to operate the taxi-cab could lawfully give that permission.

Note

See also the definitions of *operate* and *operator* in section 86(1).
158B Offences relating to security cameras and privacy of passengers

(1) A person must not download or print an image or other data obtained from the use of a security camera installed in a taxi-cab unless—

(a) the person is acting in accordance with—

(i) an agreement under section 158C; and

(ii) the regulations (if any); or

(b) the person is employed in the Department and is acting in accordance with—

(i) the written authorisation of the Director; and

(ii) the regulations (if any).

Penalty: In the case of a natural person, 240 penalty units; In the case of a body corporate, 1200 penalty units.

(2) A person must not—

(a) possess, publish, transmit or disclose to any other person an image or other data obtained from the use of a security camera in a taxi-cab; or

(b) transmit images or data directly from a security camera in a taxi-cab—

unless the person is acting in accordance with—
(c) the written authorisation of the Director; and

(d) the regulations (if any).

Penalty: In the case of a natural person, 240 penalty units;

In the case of a body corporate, 1200 penalty units.

(3) The Director's written authorisation for the purpose of subsection (1)(b) or (2) is subject to—

(a) any conditions determined by the Director and specified in the authorisation; and

(b) any conditions prescribed by the regulations.

(4) A person must not make an audio recording of any person who has hired a taxi-cab (the passenger) while the passenger is travelling in the taxi-cab.

Penalty: In the case of a natural person, 240 penalty units;

In the case of a body corporate, 1200 penalty units.

(5) Subsection (4) does not apply to an audio recording resulting from the operation of an emergency warning device within the meaning of section 144(9).
(6) Nothing in this section—

(a) applies to prohibit anything done by a member of the police force in the course of his or her duty that would be lawful apart from this section; or

(b) affects or takes away from the provisions of the Surveillance Devices Act 1999.

158C Agreements in relation to images obtained from security cameras

(1) The Director may make an agreement with a person for the downloading or printing of images or other data obtained from the use of a security camera installed in a taxi-cab.

(2) The agreement may authorise the person with whom it is made, or a person employed or engaged by that person, to download or print images or other data obtained from the use of a security camera installed in a taxi-cab, on the terms and conditions contained in the agreement.

(3) The Information Privacy Act 2000 applies to a person with whom the Director makes an agreement under this section as if—

(a) the person were a contracted service provider; and

(b) the agreement were a State contract—within the meaning of that Act.

(4) Without limiting the application of subsection (3), an agreement under this section between the Director and a person must provide for the person to be bound by the Information Privacy Principles under the Information Privacy Act 2000 and any applicable code of practice under that Act with respect to any act done, or practice engaged in, by
the person for the purposes of the agreement in the same way and to the same extent as the Director would have been bound by them in respect of that act or practice had it been directly done or engaged in by the Director.

159 Onus of proof on accused in certain cases

In any prosecution against the owner or driver of any commercial passenger vehicle the onus shall lie upon the accused of proving that the passengers carried upon such vehicle were not carried for reward at separate and distinct fares for each passenger but the accused shall not be under any obligation to discharge such onus until the informant first discharges the onus of proving that the passengers carried upon such vehicle were carried for reward.

160 General penalty

(1) Subject to subsection (2), every person guilty of an offence against this Division or any regulations made under section 162 for which a penalty is not expressly provided shall be liable—

(a) in the case of a first offence, to a penalty of not more than 5 penalty units; and

(b) in the case of a second or any subsequent offence, to a penalty of not more than 10 penalty units.
(2) Every person guilty of an offence against section 158(1) where the vehicle has a seating capacity for not more than 12 people (including the driver) is liable to a penalty of not more than 50 penalty units.

161 Penalty for failure to pay hiring rate

Where any person is convicted of the offence of not paying a hiring rate in the manner prescribed in the regulations under section 162 the court before which he is convicted may in addition to any other penalty order the person to pay to the person to whom the hiring rate should have been paid an amount equal to the amount that should have been paid by way of hiring rate together with such compensation, as the court thinks fit, for the expense and inconvenience caused to the person to whom the hiring rate should have been paid, by the non-payment.

162 Regulations

(1) The Governor in Council may make regulations for or with respect to—

(a) the design and construction of commercial passenger vehicles so as to secure the safety comfort and convenience of drivers, passengers and the public;

(aa) empowering an officer of the licensing authority to exempt particular commercial passenger vehicles or classes of those vehicles from any of the provisions made under paragraph (a);
Part VI—Licensing of Certain Vehicles and Driver Accreditation

(b) the fitting of screens equipment and warning devices on commercial passenger vehicles of such dimensions design and construction as the licensing authority shall approve so as to secure the safety of drivers, and the prohibiting of the operation of such equipment or devices except on prescribed occasions;

(ba) the equipment to be used, or not to be used, in or on commercial passenger vehicles;

(bb) without limiting paragraph (b)—

(i) requiring the installation of security cameras in taxi-cabs; and

(ii) regulating the installation and use of security cameras in taxi-cabs and the downloading, printing, possession, publication, transmission and disclosure of images or other data obtained from them;

(bc) information derived from or contained in equipment required or permitted by or under this Act or the regulations to be used in or on a taxi-cab, including—

(i) the keeping of the information; and

(ii) the provision of the information to the licensing authority; and

(iii) the inspection or auditing of the information by or on behalf of the licensing authority;

(c) prescribing and regulating in respect of vehicles (including motor vehicles operating under a special licence under section 155)—
(i) the conduct and duties of owners, drivers, conductors and passengers;
(ii) the dress and appearance of drivers and conductors;
(iia) the appearance of the vehicles (including the signs, notices and labels to be used, or not to be used, in or on the vehicles);
(iii) the fares or hiring rates to be paid by passengers, the collection thereof and the issue of tickets;
(iv) the safeguarding and disposal of lost or unclaimed property left in or carried on such vehicles;
(v) agreements between owners and drivers of such vehicles;
(vi) generally, conditions relating to the operation and use of such vehicles;
(ca) appointing stands and feeder ranks for commercial passenger vehicles;
(d) prohibiting or regulating the carriage of goods in commercial passenger vehicles;
(e) the alteration, maintenance and repair of vehicles;
(ea) the inspection of commercial passenger vehicles;
(f) the publication of time-tables, fares and rates in or on vehicles whether by exhibition or otherwise;

S. 162(1)(ca) inserted by No. 100/1986 s. 19(b).
S. 162(1)(e) amended by No. 60/1994 s. 19(c).
S. 162(1)(ea) inserted by No. 60/1994 s. 19(d).
Part VI—Licensing of Certain Vehicles and Driver Accreditation

S. 162(1)(g) amended by Nos 100/1986 s. 19(c), 120/1993 s. 31(1)(a), repealed by No. 47/2006 s. 13(a).


S. 162(1)(gb) inserted by No. 68/1995 s. 43(4).

S. 162(1)(h) repealed by No. 120/1993 s. 31(1)(b), new s. 162(1)(h) inserted by No. 60/1994 s. 19(e), amended by No. 47/2006 s. 13(b).

S. 162(1)(ia) inserted by No. 100/1986 s. 19(e).

S. 162 amended by Nos 100/1986 s. 19(c).

S. 162(1)(j) inserted by No. 100/1986 s. 19(e).

S. 162(1)(k) inserted by No. 100/1986 s. 19(e).

(b) exempting from section 139(1) a specified commercial passenger vehicle or a specified class of commercial passenger vehicle operated by a specified person or a specified class of person of a kind referred to in section 139(1A);

(h) the conditions to which licences or permits are subject;

(i) applications for licences or permits and the revocation or suspension thereof;

(ia) specifying, in relation to the granting of taxi-cab licences under section 143A—

(i) the classes of people and the qualifications of people eligible to apply for licences; and
(ii) the procedures to be followed for the
granting of licences;

(j) records to be kept in relation to vehicles and
the inspection of those records;

(k) the furnishing by owners of vehicles of
statistical and other information;

(m) the transfer of licences;

(ma) regulating trading in taxi-cab licences
(within the meaning of section 150A),
including—

(i) requiring that a person trading in taxi-
cab licences be accredited to do so;

(ii) providing for a system of accreditation
to support such a requirement,
including—

(A) imposing minimum requirements
concerning integrity, competence
and financial capacity;

(B) the conditions to be observed by
an accredited person in trading in
taxi-cab licences (including
conditions concerning the
amounts that may be charged for
carrying out that trading);
(iv) requiring that specified information, or information of a specified type, be provided by a person trading in taxi-cab licences to a person to whom a taxi-cab licence is to be transferred or to whom a right to operate a vehicle under a taxi-cab licence is to be assigned;

(mb) authorising a person, or class of person, to trade in taxi-cab licences (within the meaning of section 150A) in specified circumstances;

(mc) specifying dealings or classes of dealings for or in connection with the transfer of taxi-cab licences or the assignment of rights to operate vehicles under taxi-cab licences that must be conducted, recorded or disclosed in accordance with—

(i) the rules of a securities exchange or other system specified by the Director; or

(ii) a method or rules specified by the Director;
(md) specifying information or classes of information—

(i) relating to dealings or classes of dealings referred to in paragraph (mc); or

(ii) necessary to enable dealings or classes of dealings referred to in paragraph (mc) to be conducted—

that must be recorded or disclosed in accordance with the rules of a securities exchange or other system specified by the Director, or a method or rules specified by the Director;

(me) enabling the Director to specify a securities exchange or other system or a method or rules referred to in paragraphs (mc) and (md);

(o) the assignment of rights under licences, the conditions to which assignments are to be subject and the cancellation or suspension of such assignments; and

(oa) prohibiting or regulating smoking in vehicles;
(p) generally, all such matters and things as are authorized or permitted to be prescribed or are necessary or expedient to be prescribed for carrying this Division into effect.

(2) Any regulations made under this section—

(a) may be of general or of specially limited application;

(b) may differ according to differences in time, place or circumstance; and

(c) may prescribe penalties of not more than 20 penalty units for any breach thereof; and

(d) may confer a power or a discretionary authority on a person or body or a class of people or bodies; and

(e) may apply, adopt or incorporate (with or without modification) any matter contained in a document as in force at the time the regulations are made or at any time before then; and

(f) may provide for the exemption of a specified person, body or thing or a specified class of persons, bodies or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified; and

(g) may provide that an application may be made to the Tribunal for review of a decision made by a specified person in the exercise or purported exercise of a power conferred by the regulations.
Division 6—Driver accreditation—commercial passenger vehicles and private bus services

163 Interpretation

(1) In this Division, a reference to a person who has been found guilty of an offence is a reference to a person—

(a) against whom a court has made a formal finding that he or she is guilty of the offence; or

(b) from whom a court has accepted a plea that he or she is guilty of the offence; or

(c) from whom a court has accepted an admission under section 100 of the Sentencing Act 1991 that he or she has committed the offence, or from whom a similar admission has been accepted under equivalent provisions of the laws of a jurisdiction other than Victoria; or

(ca) in relation to whom any of the following infringement notices has taken effect as a conviction for the offence specified in the notice—

(i) a safety work infringement notice to which section 215C(1) applies;

(ii) an infringement notice to which section 61A(2) of the Marine Act 1988 applies;

S. 163(1)(ca) inserted by No. 19/2010 s. 29.
(iii) a traffic infringement notice to which section 89A(2) of the Road Safety Act 1986 applies; or

(d) against whom a finding has been made under—

(i) section 17(1)(b) of the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 that he or she was not guilty of the offence because of mental impairment; or

(ii) section 17(1)(c) of the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 that he or she committed the offence or an offence available as an alternative; or

(iii) the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 of not guilty because of mental impairment— or against whom a similar finding has been made under equivalent provisions of the laws of a jurisdiction other than Victoria—

being an admission, plea or finding that has not been subsequently quashed or set aside by a court.

(2) In this Division, a reference to a person who has been charged with an offence is a reference to a person—

(a) against whom an indictment has been filed for the offence; or

(b) against whom a charge-sheet charging the offence has been filed, whether or not—

(i) a summons to answer to the charge; or
(ii) a warrant to arrest the person—

has been issued or served.

(3) In this Division, a reference to a charge that has
not been finally disposed of is a reference to a
charge that has not been finally dealt with by—

(a) being withdrawn or by the discontinuance of
the prosecution; or

(b) the charge having been dismissed by a court;
or

(c) the person charged having been discharged
by a court following a committal proceeding;
or

(d) the person charged having been acquitted or
found guilty of the offence that was the
subject of the charge by a court; or

(e) any other prescribed means.

164 Public care objective

(1) The public care objective is the objective that the
services provided by drivers of commercial
passenger vehicles and vehicles used for the
operation of private bus services—

(a) be provided—

(i) with safety; and

(ii) with comfort, amenity and
    convenience—

to persons using the services and to other
persons, particularly children and other
vulnerable persons; and
(b) be carried out in a manner that is not fraudulent or dishonest.

Note

Other vulnerable persons include elderly and disabled persons.

(2) In this Division, a reference to the public care objective is a reference to the objective set out in subsection (1).

165 Offence to drive certain vehicles without accreditation

(1) A person must not drive—

(a) a commercial passenger vehicle; or

(b) a vehicle being used for the operation of a private bus service—

unless that person holds a driver accreditation.

Penalty: 60 penalty units.

(2) Subsection (1)(a) does not apply to a person who is driving a commercial passenger vehicle, if there is no passenger being carried in the vehicle for hire or reward and the person is driving the vehicle—

(a) to test the vehicle; or

(b) as a trainee driver under instruction; or

(c) in the case of a commercial passenger vehicle that is not a taxi-cab, solely for private use.

(3) Subsection (1)(b) does not apply to a person who is driving a vehicle that is used for the operation of a private bus service—

(a) to test the vehicle; or

(b) as a trainee driver under instruction; or

(c) solely for private use.
(4) Despite anything to the contrary in this section, it is not necessary for a driver of a commercial passenger vehicle to hold a driver accreditation if—

(a) he or she is driving a vehicle that is permitted by the laws of another State or Territory to operate as the equivalent of a commercial passenger vehicle; and

(b) he or she is driving the vehicle in Victoria in any of the circumstances set out in section 139(1B).

166 Director's power to accredit persons

(1) The Director may accredit a person to drive—

(a) a commercial passenger vehicle; or

(b) a vehicle being used for the operation of a private bus service.

(2) A person may apply to the Director for the issue of a driver accreditation.

(3) An application under subsection (2) must be—

(a) in the form approved by the Director; and

(b) accompanied by any information or thing required by the Director; and

(c) accompanied by the fee (if any) for the application determined by the Director.

167 Tests, qualifications and other requirements

(1) The Director may require an applicant for driver accreditation to do all or any of the following—

(a) to undertake a specified course of training;

(b) to hold a specified qualification;
(c) to pass tests specified by the Director including tests relating to—
   (i) the applicant's fitness to drive a vehicle; or
   (ii) the applicant's medical condition.

(1A) The Director may specify courses of training by reference to either or both of the following—
   (a) the name of the course;
   (b) the provider of the course.

(1B) In specifying a course of training, the Director must be satisfied as to—
   (a) the content or nature of the course; and
   (b) the materials, resources and equipment required to provide the course.

(1C) In specifying a course of training under this section, the Director must have regard to—
   (a) the public care objective; and
   (b) the objective of ensuring that applicants are technically competent to operate a commercial passenger vehicle.

(1D) Without limiting subsection (1) or (1A), the courses of training, qualifications and tests specified by the Director may include those relating to—
   (a) the driving of vehicles of a specified class or classes;
   (b) the knowledge of the names and location of significant streets and places in Melbourne or any other area relevant to the specified class of vehicle;
   (c) the knowledge and use of the English language;
(d) customer service in the field of commercial passenger transport and private bus services.

(1E) The Director must publish the name and provider of any course of training specified under this section on the Department's Internet site.

(2) The Director may require an applicant for a driver accreditation to—

(a) give the Director a certificate from a prescribed class of person stating that the applicant is not suffering from any condition which would prevent him or her from driving a vehicle; and

(b) give the Director a certificate stating that he or she has passed a prescribed vision acuteness test; and

(c) be photographed, or have a digitised image of the applicant made, at a place and in a manner specified by the Director; and

(d) give the Director 3 recent colour passport size photographs of the applicant showing his or her head and full face only; and

(e) give the Director a specimen signature at a place and in a manner specified by the Director.

168 Term and renewal of accreditation

(1) A driver accreditation remains in force for the period specified in the accreditation, which must not be more than 3 years.

(2) The holder of a driver accreditation may apply to the Director for renewal of the accreditation.

(3) An application under subsection (2) must be—

(a) made before the expiry of the accreditation; and
(b) in the form approved by the Director; and
(c) accompanied by any information or thing required by the Director; and
(d) accompanied by the fee (if any) for the application determined by the Director.

(4) Despite subsection (3)(a), the Director may accept an application that has been made after the expiry of the accreditation if the applicant pays the additional fee (if any) that is determined by the Director for the lodgement of late applications.

169 Matters to be considered by the Director when issuing or renewing an accreditation

(1) If subsection (2), (3) or (4) does not apply to an applicant for the issue or renewal of a driver accreditation, the Director may grant the application if the Director is satisfied—

(a) that the issuing of accreditation is appropriate having regard to the public care objective; and

(b) that the applicant—

(i) is technically competent and sufficiently fit and healthy to be able to provide the service; and

(ii) is suitable in other respects to provide the service; and

(c) that the applicant has complied with the application requirements under this Division.

(1A) For the purposes of subsection (1), the Director may have regard to whether the applicant has at any time been subject to a finding of a prescribed kind made by, or on behalf of a prescribed body, referred to in section 14(1)(a) of the Working with Children Act 2005.
(1B) For the purposes of subsection (1), the Director may have regard to—

(a) an infringement notice that has been served on the applicant in relation to an offence under Part VI or under regulations made for the purposes of that Part or a traffic infringement within the meaning of the Road Safety Act 1986 that—

(i) has not been withdrawn or cancelled; and

(ii) is not deemed to be a charge in relation to the offence by operation of section 40(b) of the Infringements Act 2006; and

(b) an infringement notice of the kind referred to in paragraph (a) that has been served on the applicant in relation to an offence referred to in that paragraph in relation to which information lodged under section 71(1)(a) of the Infringements Act 2006 is not deemed to be a charge by operation of section 71(1)(b) of that Act; and

(c) in relation to an infringement notice referred to in paragraph (a) or (b)—

(i) the nature and gravity of the infringement offence for which the infringement notice was served and the offence's relevance to the purpose for which the applicant seeks to be accredited; and

(ii) when the infringement offence for which the infringement notice was served was alleged to have been committed; and
(iii) whether the infringement offence for which the infringement notice was served still exists; and

(iv) the age of the applicant at the time of the infringement offence for which the infringement notice was served; and

(v) the applicant's behaviour since the alleged commission of the infringement offence for which the infringement notice was served; and

(vi) the likelihood of the applicant committing another infringement offence for which the infringement notice was served; and

(vii) whether the infringement offence for which the infringement notice was served has been expiated; and

(viii) whether the decision to serve the infringement notice has been subject to internal review under Division 3 of Part 2 of the Infringements Act 2006; and

(ix) if the infringement notice was served for a traffic infringement for which demerit points were incurred under section 25 of the Road Safety Act 1986, the effect of the operation of that section on the applicant including the demerit points recorded against the applicant in the Demerits Register kept under that section; and

(x) if the infringement notice was served for a traffic infringement, whether the applicant made any of the following statements under Part 6AA of the Road
Saftey Act 1986 in relation to the traffic infringement—

(A) an illegal user statement;
(B) a known user statement;
(C) a sold vehicle statement;
(D) an unknown user statement; and

(xi) if the infringement notice was served for a traffic infringement and the applicant made a known user statement or a sold vehicle statement under Part 6AA of the Safety Act 1986 in relation to the traffic infringement, whether a person made a nomination rejection statement under that Part in response to the known user statement or sold vehicle statement; and

(xii) any information that the applicant has given the Director in relation to the infringement notice, including reasons why the infringement penalty stated in the infringement notice was paid; and

(xiii) any other matter that the Director considers relevant.

(2) The Director must not issue or renew a driver accreditation if the Director is aware that the applicant—

(a) does not hold either—

(i) a driver licence under the Road Safety Act 1986; or

(ii) a probationary driver licence under the Road Safety Act 1986, where the applicant has also satisfied the Director that he or she is competent to provide the service because he or she has
relevant experience or is a person to whom other special circumstances apply; or

(b) has been found guilty of a category 1 offence; or

(c) is a person who is subject to—

(i) reporting obligations referred to in section 12(1)(a) of the Working with Children Act 2005; or

(ii) an order referred to in section 12(1)(b) of the Working with Children Act 2005.

(3) The Director must not issue or renew a driver accreditation if the Director is aware that the applicant is the subject of a charge for a category 1 offence or has been found guilty of a category 2 offence unless the Director is satisfied that the applicant has demonstrated that the issue or renewal of accreditation is appropriate having regard to the public care objective.

(4) The Director may refuse to issue or renew a driver accreditation if the Director is aware that the applicant—

(a) has been found guilty of a category 3 offence; or

(b) is the subject to a charge for a category 2 offence or category 3 offence that has not been finally disposed of at the time of considering the application.

(5) In making a decision under subsection (3) or (4), the Director may have regard to any matter to which a consideration in section 169C(3)(b) would apply.
(6) The Director must not make a decision under subsection (3) or (4) to issue or renew an accreditation unless the Director is satisfied of the matters set out in subsection (1)(a) to (c).

(7) The Director must not refuse to issue or renew an accreditation to a person on a ground referred to in subsection (2) if a decision to refuse to issue an accreditation or renew an accreditation or a decision to cancel an accreditation in respect of that person on that ground has previously been overturned by VCAT.

169A Imposition of conditions on accreditation

(1) The Director may impose conditions on a driver accreditation either—

(a) on issuing or renewing the accreditation; or

(b) at any time during the course of an accreditation.

(2) In considering whether or not to impose conditions on an accreditation, the Director must have regard to the public care objective.

(2A) Without limiting subsection (1), the Director may impose on a driver accreditation a condition requiring the holder of the accreditation to undertake a course of training or to pass a test specified under section 167.

(3) Nothing in the regulations is to be taken to limit the power of the Director to impose conditions under this section.

(4) The Director must give the person to whom a driver accreditation is issued, or whose driver accreditation is renewed, a written copy of any conditions the Director imposes on the relevant driver accreditation.
169B Offence to fail to comply with conditions

The holder of an accreditation under this Division must comply with any conditions imposed by the Director on the accreditation under section 169A.

Penalty: 10 penalty units.

169C Disqualification by Director from ability to apply for accreditation

(1) If the Director has refused the application for the issue or renewal of the accreditation the Director may determine that the applicant is disqualified from applying for accreditation under this Division for the period determined by the Director.

(1A) If the Director cancels a person's accreditation, the Director must determine that the applicant is disqualified from applying for accreditation under this Division for a period determined by the Director.

(2) The period determined by the Director under subsection (1) or (1A) must not exceed 5 years.

(3) In making a determination under subsection (1), the Director must have regard to—

(a) the public care objective; and

(b) if the applicant has been found guilty of a category 2 offence or category 3 offence—

(i) the nature and gravity of the offence and its relevance to the service to be provided by the applicant; and

(ii) the period of time since the applicant committed the offence; and

(iii) whether a finding of guilt or conviction was recorded; and
(iv) the sentence imposed for the offence; and

(v) the age of the applicant when the offence was committed; and

(vi) in relation to any sexual offence, the age of any victim; and

(vii) whether or not the conduct that constituted the offence has been decriminalised since the offence was committed; and

(viii) the applicant's behaviour since committing the offence; and

(ix) the likelihood of the applicant committing another such offence in the future, in particular, any future threat to a child or other vulnerable person; and

(x) any information given by the applicant; and

(xi) any other matter the Director considers relevant.

(4) A person who has been disqualified under this section is not entitled to make a further application for the issue of accreditation until the period determined by the Director has elapsed unless, since the date of disqualification, there has been a relevant change in circumstances.

(5) For the purposes of subsection (4), a relevant change in circumstances includes where—

(a) a charge that the person was subject to, that was pending at the date of the disqualification, is finally dealt with, without the person being found guilty of the offence; or

s. 169C
(b) a finding of guilt of the person is quashed or set aside by a court after the date of the disqualification; or

(e) a finding on which the decision to disqualify the person under subsection (1) was based is quashed or set aside after the date of the disqualification.

169D Certificate of accreditation

On issuing or renewing a driver accreditation the Director must issue a certificate of accreditation that—

(a) is in the form approved by the Director; and

(b) sets out—

(i) the name of the holder of the accreditation; and

(ii) the type of vehicle the holder is accredited to drive.

169E Mandatory cancellation in certain circumstances

(1) If the holder of a driver accreditation has been found guilty of a category 1 offence or becomes subject to the reporting obligations, or an order, referred to in section 169(2)(c), the Director must cancel that person's accreditation.
(2) The Director must not cancel an accreditation of a person on a ground referred to in subsection (1) if a decision to refuse to issue an accreditation or renew an accreditation or a decision to cancel an accreditation in respect of that person on that ground has previously been overturned by VCAT.

169EA Mandatory suspension in certain circumstances

(1) This section applies if the holder of a driver accreditation has his or her driver licence or probationary licence under the Road Safety Act 1986 suspended or cancelled under that Act.

(2) The Director must suspend that person's driver accreditation.

(3) A suspension under this section of a driver accreditation remains in force until the Director reinstates the accreditation of the person in accordance with section 169EB.

169EB Reinstatement of driver accreditation in certain circumstances where it has been suspended

The Director must reinstate the accreditation of a person suspended in accordance with section 169EA if—

(a) the person gives evidence, to the satisfaction of the Director, that—

(i) the suspension of the person's driver licence or probationary licence under the Road Safety Act 1986 has ceased; or

(ii) the person has been granted a driver licence or probationary licence under the Road Safety Act 1986; and

(b) there are no grounds for the Director to consider taking action under section 169I(1).
Person whose driver licence or probationary licence is suspended or cancelled must notify the Director

The holder of a driver accreditation, whose driver licence or probationary licence under the Road Safety Act 1986 is suspended or cancelled under that Act, must, within 7 days of that suspension or cancellation—

(a) notify the Director of that suspension or cancellation; and

(b) return to the Director his or her certificate of accreditation.

Penalty: 5 penalty units.

Powers of the Director to consider disciplinary action

If the Director is satisfied that there are reasonable grounds for believing that the holder of a driver accreditation—

(a) has been found guilty of a category 2 offence or a category 3 offence or is subject to a charge for a disqualifying offence that has not been finally disposed of; or

(b) has failed to comply with a condition of the accreditation; or

(c) would no longer satisfy any one or more of the matters set out in section 169(1)(a) or (b)—

the Director may consider taking action under section 169I(1).
169G Notice to holder of accreditation

Before taking action under section 169I(1) the Director must give to the holder a notice—

(a) stating that the Director is satisfied that there are grounds for taking action under section 169I(1); and

(b) setting out those grounds; and

(c) specifying that the holder may make a written submission under section 169H and setting out the date by which the submission must be made under section 169H(2).

169H Submissions to Director

(1) A person who has received a notice from the Director—

(a) under section 169G; or

(b) in any case where the Director has suspended an accreditation under section 169K, a notice under section 169K(3)—

may make a written submission to the Director as to the matters set out in the notice.

(2) A submission under this section must be received by the Director—

(a) in the case where the Director has suspended the accreditation of the person under section 169K, no later than 14 days after the day on which the person received the notice under section 169G or if a later date has been specified by the Director in the notice, that date; or

(b) in any other case, no later than 28 days after the day on which the person received the notice under section 169G or if a later date has been specified by the Director in the notice, that date.
169I Actions Director may take after consideration

(1) If, after considering all the material available, the Director is of the opinion that the ground on which the Director considered taking action has been established, the Director may decide to take one or more of the following actions—

(a) reprimand the holder of the accreditation;

(b) warn the holder of the accreditation that more serious action may be taken in the future if the holder repeats the behaviour;

(ba) require the holder of the accreditation to undertake a course of training or to pass a test specified under section 167;

(c) impose a further condition on the accreditation;

(d) suspend the accreditation for a specified period or until a specified event occurs;

(e) cancel the accreditation;

(f) disqualify the holder of the accreditation from being accredited or applying for accreditation for a specified period not exceeding 5 years.

(2) In making a decision under subsection (1), if the holder of the accreditation is alleged to have committed a disqualifying offence, the Director must have regard to any matter to which a consideration in section 169C(3)(b) would apply.

169J Notice of Director's decision

On making a decision under section 169I(1), the Director must notify the holder of the accreditation, in writing, of the decision and of the reasons for the decision.
169K Interim suspension of accreditation

(1) On making a decision under section 169F to consider taking action under section 169I, the Director may suspend the driver accreditation of the person in respect of whom the decision is made, if the Director is satisfied that it is necessary to do so, having regard to the public care objective.

(2) The Director, on being satisfied that the holder of a driver accreditation—

(a) has been charged with a category 1 offence and the charge has not been finally disposed of, must suspend the driver accreditation; or

(b) has been charged with a category 2 offence or a category 3 offence and the charge has not been finally disposed of, may suspend the driver accreditation.

(3) The Director must serve notice of a suspension under this section of a driver accreditation on the holder of the accreditation.

(4) A notice under subsection (3) must set out the reasons for the suspension.

(5) A suspension under subsection (1) remains in force—

(a) until the Director has made a decision as to the action to be taken under section 169I; or

(b) until the Director re-instates the accreditation—whichever is the earlier.
(6) A suspension under subsection (2) remains in force—
(a) until the charge is finally disposed of; or
(b) until the Director re-instates the accreditation—
whichever is the earlier.

169L Re-instatement of accreditation
If the Director has suspended the driver accreditation of a person under section 169I or 169K pending the hearing of a charge for a disqualifying offence, and the person is not found guilty of the offence, the Director must re-instate the accreditation of the person.

169M Compensation for lost income during suspension
(1) The holder of a driver accreditation to whom section 169L applies may apply to the Director for a determination of compensation for any income lost during the period of suspension.

(2) An application under subsection (1) must be—
(a) in writing; and
(b) in the form approved by the Director; and
(c) accompanied by any information or thing required by the Director.

(3) On receiving an application under subsection (1), the Director may determine the amount of compensation to which the holder of the accreditation is entitled.

(4) An amount determined by the Director under subsection (3) may be recovered as a debt owed by the Crown to the holder of the accreditation.
169N  Jurisdiction of VCAT as to category 1 offenders

(1) A person—

(a) whose application for the issue or renewal of a driver accreditation is refused on a ground set out in section 169(2)(b) or (c); or
(b) whose driver accreditation is cancelled under section 169E; or
(c) who is disqualified from applying for a driver accreditation under section 169C(1A)—

may apply to VCAT for an order that the Director issue, renew or reinstate the driver accreditation or cancel the disqualification (as the case may be).

(2) On an application under subsection (1) VCAT may by order direct the Director to—

(a) issue a driver accreditation to the applicant; or
(b) renew the driver accreditation of the applicant; or
(c) reinstate the driver accreditation of the applicant; or
(d) make a determination cancelling the disqualification of the applicant.

(3) VCAT must not make an order under subsection (2) to issue, renew or reinstate an accreditation unless—
(a) VCAT is satisfied of the matters set out in section 169(1)(b); and

(b) the applicant has demonstrated that the issue, renewal or reinstatement is appropriate having regard to the public care objective; and

(c) VCAT is satisfied that—

(i) the making of the order would not pose an unjustifiable risk to the safety of persons using services provided by the drivers of commercial passenger vehicles and private bus services, having regard to—

(A) the matters set out in section 169C(3)(b)(i) to (x); and

(B) any other matter that VCAT considers relevant to the application; and

(ii) in all the circumstances, it is in the public interest to make the order.

(5) The Director must comply with an order made by VCAT under this section.

(6) If VCAT refuses to make an order applied for under subsection (1), VCAT may by order disqualify the person from applying for a driver accreditation under this Division for a period not exceeding 5 years.

(7) A period of disqualification under an order under subsection (6) may be in substitution of a period of disqualification imposed by the Director.
169O Review of decision by VCAT

(1) A person, who is affected by the relevant decision, may apply to VCAT for a review of—

(a) a decision of the Director to refuse to issue or renew an accreditation under this Division; or

(b) a decision of the Director to suspend or cancel an accreditation under this Division; or

(c) a decision of the Director to impose a condition on an accreditation under this Division; or

(d) a determination of the Director to disqualify the person from applying for the issue of an accreditation under this Division; or

(e) a decision of the Director not to, or a failure by the Director to, under section 169EB reinstate the accreditation of a person suspended in accordance with section 169EA.

(2) To avoid doubt, subsection (1) does not apply to a refusal of the Director to issue or renew a driver accreditation or to a cancellation of a driver accreditation in the circumstances in which section 169N(1) applies.

(3) VCAT must not make a decision under subsection (1) unless VCAT is satisfied that the decision is appropriate having regard to the public care objective.

(4) VCAT must not make a decision under this section to issue, renew or reinstate an accreditation unless VCAT is satisfied of the matters set out in section 169(1)(b).
(5) In making a decision under this section on a matter involving a disqualifying offence VCAT may have regard to any matter to which a consideration in section 169C(3)(b) would apply.

169P Time period for making application for review

(1) An application to VCAT for an order under section 169N must be made within 28 days of the refusal of the application for driver accreditation or the cancellation of the driver accreditation (as the case requires).

(2) An application for review under section 169O must be made within 28 days of the later of—

(a) the day on which the decision was made; or

(b) if, under the Victorian Civil and Administrative Tribunal Act 1998, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

169Q Offence not to sign certificate on receipt

The holder of a driver accreditation, on receiving a certificate of accreditation under section 169D, must sign the certificate.

Penalty: 5 penalty units.

169R Offence not to notify change of address and give driver accreditation

The holder of a driver accreditation must, within 7 days of changing his or her residential address—

(a) notify the Director of the change of residential address; and
(b) return to the Director his or her certificate of accreditation.

Penalty: 5 penalty units.

169S Offence not to notify of suspension or cancellation of accreditation

(1) If the holder of a driver accreditation is employed or engaged by a relevant operator the holder of the driver accreditation must notify the relevant operator of any suspension or cancellation of his or her driver accreditation within 7 days of receiving notice of the suspension or cancellation.

Penalty: 5 penalty units.

(2) In this section—

relevant operator means a person who—

(a) is the operator of a taxi-cab; or

(b) holds a licence granted under Division 5 in respect of a commercial passenger vehicle (other than a taxi-cab); or

(c) is an accredited person.

Note

Accredited person is defined in the Public Transport Competition Act 1995. See also section 3(3) of that Act.

169T Offence not to notify of being charged with, or found guilty of, a disqualifying offence

(1) If the holder of a driver accreditation is charged with, or found guilty of, a disqualifying offence the holder must notify the Director of the charge or the finding of guilt within 28 days of the holder being so charged or found guilty.

Penalty: 5 penalty units.
(2) If the holder of a driver accreditation becomes subject to—

(a) the reporting obligations; or

(b) an order—

referred to in section 169(2)(c), the holder must notify the Director of the obligation or order within 28 days of the holder becoming so subject.

Penalty: 5 penalty units.

169U Offence to retain illegible certificate

If the certificate of accreditation of the holder of a driver accreditation becomes illegible or is altered or defaced, the holder must return the certificate to the Director and apply for the issue of a replacement certificate.

Penalty: 5 penalty units.

169V Offence to retain certificate if accreditation suspended or cancelled

If the accreditation of the holder of a driver accreditation is suspended or cancelled, the holder must return his or her certificate of accreditation to the Director within 28 days of receiving notice of the suspension or cancellation.

Penalty: 5 penalty units.

169W Offence not to carry certificate when driving

If the holder of a driver accreditation is driving a vehicle in circumstances in which he or she is required under this Division to have the accreditation, he or she must carry his or her certificate of accreditation.

Penalty: 5 penalty units.
169WA Operator must not permit non-accredited driver to drive commercial passenger vehicle etc.

(1) In this section—

relevant operator means a person who—

(a) is an operator of a taxi-cab; or

(b) holds a licence granted under Division 5 in respect of a commercial passenger vehicle (other than a taxi-cab); or

(c) is an accredited person.

Note

Accredited person is defined in the Public Transport Competition Act 1995. See also section 3(3) of that Act.

(2) A relevant operator must not permit a person who is not a holder of a driver accreditation (the second person) to drive—

(a) a commercial passenger vehicle operated by the relevant operator; or

(b) a vehicle being used by the relevant operator for the operation of a private bus service.

Penalty: 10 penalty units.

(3) A relevant operator is not guilty of an offence under subsection (2) if the operator believed, after making all reasonable enquiries, that the second person was the holder of a driver accreditation.

169WB Holder of accreditation must not permit non-accredited driver to drive commercial passenger vehicle etc.

(1) The holder of a driver accreditation must not permit a person who is not a holder of a driver accreditation (the second person) to drive—

(a) a commercial passenger vehicle; or
Part VI—Licensing of Certain Vehicles and Driver Accreditation

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(b) a vehicle being used for the operation of a private bus service.

Penalty: 10 penalty units.

(2) A holder of a driver accreditation is not guilty of an offence under subsection (1) if the holder believed, after making all reasonable enquiries, that the second person was the holder of a driver accreditation.

169X Offence not to produce certificate when asked

If the holder of a driver accreditation is driving a vehicle in circumstances in which he or she is required under this Division to have the accreditation, and if the holder is asked by an authorised officer or a member of the police force to produce his or her certificate of accreditation, he or she must do so.

Penalty: 5 penalty units.

169Y Power of Director to determine fees

(1) The Director may determine fees for applications under this Division.

(2) The Director must obtain the approval of the Minister for any determination made under subsection (1).

(3) Any fee determined under subsection (1) may differ according to differences to time, place or circumstance.

(4) Any fee determined by the Director under subsection (1) must be published in the Government Gazette.
169Z Regulations

(1) The Governor in Council may make regulations for or with respect to—

(a) prescribing and regulating in respect of persons who are holders of accreditations under this Division—

(i) the conduct and duties of such persons; and

(ii) the dress and appearance of such persons; and

(iii) the safeguarding and disposal of lost or unclaimed property left in or carried on vehicles that are required to be driven by such persons; and

(iv) generally, conditions relating to the operation and use of vehicles when driven by such persons;

(b) accreditations under this Division, including, but not limited to—

(i) conditions to which such accreditations or any class of such accreditations are subject; and

(ii) qualifications to be required of, and the tests to be passed by, applicants for such accreditations; and

(iii) applications for such accreditations and the cancellation or suspension of such accreditations;

(c) any matter or thing required or permitted by this Division to be prescribed or necessary to be prescribed to give effect to this Division.
(2) Any regulations made under this section—

(a) may be of general or of specially limited application; and

(b) may differ according to differences in time, place or circumstance; and

(c) may prescribe penalties of not more than 20 penalty units for any contravention of or failure to comply with the regulations; and

(d) may confer a power or discretionary authority on a person or body or a class of person or body; and

(e) may apply adopt or incorporate (with or without modification) any matter contained in a document as in force at the time the regulations are made or at any time before then; and

(f) may provide for the exemption of a specified person, body or thing or a specified class of person, body or thing from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.

* * * * *
Division 9—Commission investigations

186 Reference by Minister

(1) The Commission must conduct an investigation into any matter relating to—

(a) licence fees for hire car licences or special purpose vehicle licences; or

(b) taxi-cab fares or hiring rates; or

(c) charges determined under section 211 of the Accident Towing Services Act 2007—

that the Minister by written notice refers to the Commission for investigation under this Division.

(2) The Minister must consult with the Minister administering the Essential Services Commission Act 2001 before referring a matter to the Commission.
Part VI—Licensing of Certain Vehicles and Driver Accreditation

(3) The written notice must specify the terms of reference for the investigation.

(4) The Minister referring a matter—
   
   (a) may specify a period within which a report is to be submitted to the Minister;
   
   (b) may require the Commission to make a draft report publicly available or available to specified persons or bodies during the investigation;
   
   (c) may require the Commission to consider specified matters;
   
   (d) may give the Commission specific directions in respect of the conduct of the investigation;
   
   (e) may specify objectives that the Commission is to have in performing its functions and exercising its powers in relation to the investigation.

(5) If the Minister has referred a matter to the Commission for investigation, the Minister may, by written notice given to the Commission, withdraw or amend the reference at any time before the Minister has received the report from the Commission.

(6) The Minister must cause a notice given to the Commission under this section to be published in the Government Gazette.

187 Conduct of investigation

(1) Subject to this Act and any directions under section 186(4)(d), the Commission may conduct an investigation under this Division in any manner the Commission considers appropriate.
(2) In conducting an investigation, the Commission is not bound by rules or practices as to evidence but may inform itself in relation to any matter in any manner the Commission considers appropriate.

(3) The Commission may receive written submissions or statements.

(4) If the Commission holds a public hearing—
   (a) the Commission has a discretion as to whether any person may appear before the Commission in person or be represented by another person;
   (b) the Commission may determine that the hearing, or part of the hearing, be held in private if it is satisfied that—
       (i) it would be in the public interest; or
       (ii) the evidence is of a confidential or commercially sensitive nature.

(5) In conducting an investigation, the Commission—
   (a) may consult with any person that it considers appropriate;
   (b) may hold public seminars and hold workshops;
   (c) may establish working groups and task forces.

188 Objectives not to apply

Except to the extent (if any) that the Minister otherwise determines, the objectives of the Commission under the Essential Services Commission Act 2001 or any other Act do not apply to the functions and powers of the Commission under this Division.
189 Powers relating to investigations

(1) The Commission may serve upon any person a summons—
   (a) to provide specified information;
   (b) to produce specified documents;
   (c) to appear before the Commission to give evidence.

(2) The Commission may make an order for the manner of service, including substituted service, of a summons under subsection (1).

(3) A person must not, without lawful excuse, disobey a summons of the Commission.
   Penalty: 60 penalty units.

(4) It is a lawful excuse for the purposes of subsection (3) that compliance may tend to incriminate the person or make the person liable to a penalty for any other offence.

(5) A person must not give information to the Commission that he or she knows is false or misleading.
   Penalty: 120 penalty units or imprisonment for 6 months.

(6) A person must not—
   (a) threaten, intimidate or coerce another person; or
   (b) take, threaten to take, incite or be involved in any action that causes another person to suffer any loss, injury or disadvantage—
   because that other person assisted, or intends to assist, any investigation conducted by the Commission.
   Penalty: 120 penalty units.
(7) Civil proceedings do not lie against a person in respect of loss, damage or injury of any kind suffered by another person because of the making in good faith of a statement, or the giving in good faith of a document or information to the Commission in connection with an investigation under this Division, whether or not the statement is made, or the document or information is given, in connection with a written submission or a public hearing.

190 Reports

(1) The Commission must submit a copy of its report on an investigation to the Minister.

(2) If, in the opinion of the Commission, a report will contain confidential or commercially sensitive information, the Commission must divide the report into—

(a) a document containing the confidential or commercially sensitive information; and

(b) another document containing the rest of the report.

(3) Any information that the Commission may disclose under section 38 of the Essential Services Commission Act 2001 is not confidential or commercially sensitive for the purposes of subsection (2) unless an appeal panel states that it is imposing a restriction under section 56(7)(b)(i) of that Act.

(4) If the Commission submits a final report to the Minister in the form required by subsection (2), a reference to the final report in subsections (5), (6) and (7) is to be read as a reference to the document described in subsection (2)(b).
(5) The Minister must cause a copy of the final report to be laid before each House of the Parliament within 7 sitting days of the House after receiving the final report.

(6) The Minister must, after the final report has been laid before each House of the Parliament, or if the Parliament is not sitting, within 30 days after receiving a final report, ensure that a copy of the final report is available for public inspection.

(7) After the Minister has made a final report publicly available, the Commission must ensure that copies are made publicly available.

191 Application of confidentiality provisions of Essential Services Commission Act 2001

For the purposes of this Division, section 38 of the Essential Services Commission Act 2001 applies as if—

(a) in subsection (1)(a) of that section, after "section 37, 44 or 51" there were inserted "or section 189 of the Transport Act 1983";

(b) in subsection (2)(c)(iii) of that section, after "section 45 or 52" there were inserted "or section 190 of the Transport Act 1983";

(c) in subsection (3)(c) of that section, after "section 45(2) or 52(2)" there were inserted "or section 190(2) of the Transport Act 1983".
Division 10—Events affecting public transport

Pt 6 Div. 10
(Heading and ss 198–207)
amended by Nos 10087
s. 3(Sch. 1
item 283
(a)(b), 10220
ss 11(2), 12,
13(1)–(6)
(7)(b)–(f),
52/1988
s. 161(Sch. 6
items 14.4,
14.5), 12/1989
s. 4(Sch. 1
item 202.8),
120/1993
s. 47–54,
repealed by
No. 16/1998
s. 8.

Pt 6 Div. 9
(Heading and ss 186–197)
amended by Nos 10087
s. 3(Sch. 1
items 281,
282), 100/1986
s. 40(a)(b),
127/1986
s. 102(Sch. 4
item 28.12),
44/1989
s. 40(Sch. 1
item 6.2),
120/1993
ss 47–54,
repealed by
No. 16/1998
s. 8.
192 Meaning of event and organiser

(1) In this Division, an event is a gathering of people for a common purpose or purposes that is organised by a person or body.

(2) For the purposes of this Division, the organiser of an event is the person or body that is primarily responsible for organising the event.

193 Events to which this Division applies

This Division only applies to an event if it is reasonable to expect that the event will require the deviation, delay, replacement, supplementation or cancellation of a regular public transport service provided by a passenger transport company or a bus company.

194 Meaning of regular public transport service

For the purposes of this Division, a public transport service is regular if it is scheduled to occur on a regular basis at fixed times or frequencies on fixed routes.

195 Organiser must give notice of proposed event

(1) The organiser of an event must notify the Director that the event is to be held—

(a) in the case of an event that is reasonably expected to attract an attendance of no more than 10,000 people, at least 120 days before the event starts, if the date of the event is set or known by the organiser at least 120 days before the event is to start; or

(b) in the case of an event that is reasonably expected to attract an attendance of more than 10,000 people, at least 150 days before the event starts, if the date of the event is set or known by the organiser at least 150 days before the event is to start; or
Part VI—Licensing of Certain Vehicles and Driver Accreditation

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

261

(c) as soon as is practicable after the date of the event is set or known by the organiser, if that date is only set or known less than 120 or 150 days (as the case may be) before the event is to start.

(2) The notification of the event—

(a) must be made in writing; and

(b) must contain a description of the event and any other details required by the Director by notice published in the Government Gazette.

196 Director may ask that a public transport plan be submitted

After receiving notification of an event, the Director may, after consultation with each municipal council in whose municipal district the event is to be held, ask the organiser of the event to submit a public transport plan for the event to the Director.

197 Public transport plans

(1) A public transport plan is a document that identifies the impact an event is expected to have on regular public transport services and that sets out—

(a) the measures by which it is proposed to mitigate that impact; and

(b) any proposals to modify the affected services to provide for any additional public transport needs generated by the event.

(2) Without limiting the generality of subsection (1), a public transport plan must address the following issues arising from the event to the extent that they contribute to the impact of the event on public transport—

(a) the management of vehicular traffic;
(b) the management of the movement of pedestrians;

(c) the provision of public transport services;

(d) the safety of people in relation to public transport services;

(e) the provision of access by emergency services to, or through the area affected by, the event;

(f) the maintenance of access to public transport services from properties in, or next to, the area affected by the event;

(g) the existence, or provision, of parking facilities.

198 Preparation of public transport plans

(1) If the organiser of an event is asked by the Director to prepare a public transport plan for the event, the organiser must—

(a) advise all affected passenger transport companies and bus companies of the event and its expected impact, and seek proposals from them as to how to deal with that impact; and

(b) in the light of those proposals, attempt to negotiate an agreement with those companies on how to deal with that impact; and

(c) consult, in respect of the plan, with—

(i) all affected municipal councils; and

(ii) if asked by the Director, with the Director.

(2) If the organiser of an event seeks a proposal from a passenger transport company or bus company under subsection (1), the company must take all reasonable steps to provide a reasonable proposal
and must attempt to negotiate an agreement with the organiser as to how to deal with the impact of the event on its regular public transport services.

199 By when public transport plans to be submitted

(1) If asked to provide a public transport plan to the Director under this Division, an event organiser must submit the plan to the Director—

(a) if notification of the event was given to the Director under section 195(1)(a) or 195(1)(b), at least 60 days before the event is to start; or

(b) if notification of the event was given to the Director under section 195(1)(c), by the date specified by the Director.

(2) In specifying a date for the purposes of subsection (1)(b), the Director must ensure, having regard to the time available before the event is to start, that the date specified will enable the organiser to have sufficient time to prepare the plan.

200 Director may impose fee

(1) The Director may, by notice published in the Government Gazette, set a fee that is to be paid by an event organiser who submits a public transport plan to the Director.

(2) If the Director has set a fee under subsection (1), an event organiser who submits a public transport plan to the Director must pay the fee to the Director.

(3) If the Director has set a fee under subsection (1), he or she may refuse to consider a public transport plan until the fee payable in relation to the plan has been paid.
201 Alternative arrangements if time limited

(1) This section applies if—

(a) the Director receives notification of an event under section 195(1)(c); and

(b) in the opinion of the Director—

(i) it would be desirable to minimise the impact the event will have on regular public transport services; but

(ii) there is insufficient time to require the organiser of the event to submit a public transport plan for the event.

(2) The Director may require the organiser of the event, for the purpose, in the time available, of minimising the impact the event will have on regular public transport services, or of providing for any additional public transport needs that may be generated by the event, to do all or any of the following—

(a) to liaise with specified passenger transport companies or bus companies; or

(b) to attend meetings organised by the Director; or

(c) to take any other action specified by the Director.

202 Director may waive or reduce time limits

(1) The Director may waive or reduce any time limit referred to in section 195 or 199.

(2) The Director must exercise the power conferred by this section reasonably.
203 Approval of public transport plans

(1) The Director must approve or not approve a public transport plan that has been submitted to him or her.

(2) In approving a public transport plan, the Director may impose conditions to which his or her approval is subject.

(3) Without limiting the generality of subsection (2), the Director may make the approval of a plan subject to the condition that the event organiser who submitted the plan meet all or part of any net additional costs incurred by the Department or a passenger transport company or bus company as a result of the holding of the event.

204 Consequences of a failure to comply with this Division

(1) This section applies if an event to which this Division applies is held and the organiser of the event—

(a) fails to comply with section 195; or

(b) fails to submit a public transport plan to the Director after being asked to do so; or

(c) fails to comply with any conditions to which the approval of a public transport plan is subject; or

(d) unreasonably fails to comply with any requirements imposed by the Director under section 201.

(2) This section also applies if an event to which this Division applies is held after—

(a) the Director has refused to approve a public transport plan submitted to the Director in relation to the event; or
(b) a public transport plan is submitted to the Director, but it is not approved either because—

(i) it was not submitted in accordance with this Division; or

(ii) any fee payable in relation to the plan was not paid—

and no such plan approved by the Director exists at the time the event is held.

(3) The Director may recover from the organiser as a debt the whole or part of any net additional costs incurred by the Department or a passenger transport company or bus company as a result of the holding of the event or of the breach of conditions.

(4) If the Director recovers under this section any costs incurred by a passenger transport company or bus company, the Director must remit those costs, less any reasonable costs incurred by the Director in recovering the costs, to the company as soon as is practicable after receiving them.

(5) Except as provided by this section, the organiser of an event is not otherwise liable either criminally or civilly for any failure to comply with this Division.

(6) The organiser of an event is not liable to be stopped from holding the event by way of injunction merely because there has been a failure to comply with this Division in respect of the event.
PART VII—PROSECUTIONS, ENFORCEMENT AND PENALTIES AND OTHER MATTERS

Division 1—Interpretations

208 Definitions

In this Part unless inconsistent with the context or subject-matter—

authorised officer means a person authorised by the Director under section 221A or 221AB;

carriage means any passenger vehicle operated by or on behalf of a passenger transport or bus company;

hand held reader means a portable device or combination of portable devices, of a prescribed kind, that is capable of copying or transferring information from a smartcard and storing and displaying that information;
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

**motor vehicle** means a motor vehicle within the meaning of the *Road Safety Act 1986* and includes a trailer attached to the vehicle;

**owner**—

(a) where the vehicle is a motor vehicle, means the person in whose name the motor vehicle is registered under the *Road Safety Act 1986* or any Act or Ordinance of any State or Territory of the Commonwealth corresponding to that Act (whether the property in the motor vehicle is vested in him or not); and

(b) where the vehicle is not a motor vehicle, includes a sole owner, joint owner or part owner of the vehicle or any person who has the possession and use thereof under or subject to a hire-purchase agreement or bill of sale or like instrument;
prescribed device means—
(a) a smartcard; or
(b) a hand held reader; or
(c) any other device prescribed by the regulations for the purposes of sections 230AB, 230AD and 230AE;

public transport service means a service provided by a bus company or a passenger transport company to transport members of the public, and includes any ancillary matters such as allowing entry to any place used in relation to the provision of such a service;

rail safety worker has the same meaning as in the Rail Safety Act 2006;

safety work infringement means an offence under section 76(1)(a), (g) or (h) of the Rail Safety Act 2006 in circumstances where—
(a) the concentration of alcohol in the blood or breath of the rail safety worker is less than 0.15 grams per 100 millilitres of blood or 210 litres of exhaled air (as the case requires); and
(b) the offence is a first offence having regard to the provisions of section 74 of the Rail Safety Act 2006;
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

*s. 208*

**smartcard** means a plastic card or other thing that—
(a) contains an imbedded computer microchip capable of receiving, storing, processing and transferring information; and
(b) may lawfully be used for the purpose of obtaining or proving an entitlement to use a public transport service;

**ticket infringement** means a ticket offence that is prescribed for the purposes of this Part;

**ticket offence** means an offence against Division 4 or any regulations made under section 221AA;
transport infringement means an offence, other than a safety work infringement or ticket infringement, against this Act or the regulations which is prescribed for the purposes of this Part.
Division 2—Transport and ticket infringements

Pt 7 Div. 2
(Heading and
ss 209–215)
amended by
Nos 10085
s. 6, 10087
s. 3(1)(Sch. 1
items 284,
285), 10249
s. 11(a)–(c),
16/1986 s. 30,
127/1986
s. 102(Sch. 4
items 28.14,
28.15, 28.15A
(as amended
by No.
78/1987
s. 21(d)),
28.16(a)(b)),
44/1989
s. 40(Sch. 1
items 12, 13,
19.1),
substituted as
Pt 7 Div. 2
(Heading and
ss 211–215)
by No.
25/1989 s. 42.
Pt 7 Div. 2
(Heading)
amended by
No. 98/1998
s. 28.
New s. 211
inserted by
No. 25/1989
s. 42,
amended by
Nos 81/1990
s. 7(4),
68/1995 s. 45,
104/1997
s. 34(1),
98/1998
s. 29 (as
amended by
No. 45/1999
s. 43(1)(a)(b)),
30/2000 s. 18,
11/2002 s. 3
(Sch. 1
item 62.1),
repealed by
No. 101/2003
s. 15(2).
212 Transport and ticket infringements

(1) A member of the police force or a person who is an officer who is authorised to issue transport infringement notices who has reason to believe that a person has committed a transport infringement may serve on that person a transport infringement notice.

(1A) A person is an officer who is authorised to issue transport infringement notices if he or she is either—

(a) an officer of the Roads Corporation appointed in writing by that Corporation to issue transport infringement notices; or

(b) an authorised officer authorised by the Director under section 221A.

(1B) A member of the police force or an authorised officer who has reason to believe that a person has committed a ticket infringement may serve on that person a ticket infringement notice.

(2) An offence for which—

(a) a transport infringement notice referred to in subsection (1); or

(b) a ticket infringement notice referred to in subsection (1B)—

may be served is an infringement offence within the meaning of the Infringements Act 2006.
(5) The penalty for the purposes of this section in respect of any transport infringement or ticket infringement is the amount prescribed in respect of that infringement.

212A Offence to falsely represent oneself as an officer of the Roads Corporation

A person must not falsely represent himself or herself to be an officer of the Roads Corporation appointed by that Corporation to issue transport infringement notices.

Penalty: 10 penalty units.
213A Administrative costs in respect of ticket infringements

(1) In this section, relevant ticket infringement means a ticket infringement committed—

(a) on, or in relation to, a carriage; or

(b) in relation to a journey on, or in, a carriage; or

(c) on, or in relation to, land or a premises owned, occupied or controlled by a passenger transport or bus company.

(2) This section applies if the regulations state that administrative costs may be paid to passenger transport and bus companies in respect of relevant ticket infringements.

(3) The Director, on behalf of the Crown, may agree with a passenger transport or bus company to pay the company, and may pay the company in accordance with the agreement, the administrative costs permitted to be paid to the company by the regulations.

(4) The Consolidated Fund is appropriated to the extent necessary to allow payments to be made under subsection (3).

(5) If an infringement notice is withdrawn after the penalty has been paid, the company must, within 5 business days after being asked to do so by the Director, refund to the Director any administrative costs paid to it under subsection (3) in respect of the infringement notice.

(6) The Director may only pay administrative costs to a company under this section in respect of ticket infringements committed on or after the day the agreement with the company under this section is made.
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

214 Proof of prior convictions or findings of guilt

(1) If a person is served with a summons for any infringement and it is alleged that the person has been previously convicted or found guilty of any infringement or infringements there may be served with the summons a separate document in the prescribed form signed by the informant setting out particulars of the alleged prior convictions or findings of guilt.

(2) The document setting out the alleged prior convictions or findings of guilt—

(a) must be endorsed with a notice in the prescribed form; and

(b) may be served in any manner in which the summons for the infringement may be served.

(3) If the court by which any person has been convicted or found guilty is satisfied that a copy of any such document was served on that person at least 14 days before the hearing of the charge, the document is admissible in evidence and, in the absence of evidence to the contrary, is proof—

(a) that the person was convicted or found guilty of the offences alleged in the document; and

(b) of the particulars relating to the convictions or findings of guilt set out in the document.
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

(4) Any such document may not be tendered in evidence without the consent of the accused if the accused is present at the hearing of the charge.

(5) Without limiting the generality of the provisions of Part 3.4 of Chapter 3 of the Criminal Procedure Act 2009, where any evidence of prior convictions or findings of guilt has been tendered pursuant to the provisions of this section, the court may set aside, on any terms as to costs or otherwise that the court decides, any conviction, finding or order if it has reasonable grounds to believe that the document tendered in evidence was not in fact brought to the notice of the accused or that the accused was not in fact convicted, or found guilty, of the offences as alleged in the document.

214A Differences in penalties

The penalty for a transport infringement or a ticket infringement may differ according to whether the notice for the infringement is served by a member of the police force or by a person who is an officer who is authorised to issue a notice for a transport infringement or ticket infringement.

215 Regulations

(1) The Governor in Council may make regulations for or with respect to—

(a) prescribing transport infringements for which a transport infringement notice may be served; and
(ab) prescribing ticket infringements for which a ticket infringement notice may be served; and

(b) in addition to the requirements of section 13 of the Infringements Act 2006, any particulars, not inconsistent with that Act, to be contained in an infringement notice;

(d) the form of a withdrawal notice; and

(e) the method of service of a withdrawal notice; and

(f) the penalties for any transport infringement or ticket infringement; and

(ga) permitting the Director, on behalf of the Crown, to pay administrative costs to passenger transport and bus companies in respect of relevant ticket infringements (as defined in section 213A(1)); and

(gb) specifying the amount of those costs, or how those costs are to be calculated; and

(h) the form of the document setting out particulars of prior convictions; and

S. 215(1)(ab) inserted by No. 98/1998 s. 30(5)(a).
S. 215(1)(b) amended by No. 98/1998 s. 30(5)(b), substituted by No. 32/2006 s. 74(4).

S. 215(1)(c) amended by No. 98/1998 s. 30(5)(b), repealed by No. 32/2006 s. 74(5).

S. 215(1)(f) amended by No. 98/1998 s. 30(5)(c).

S. 215(1)(g) repealed by No. 32/2006 s. 74(5).

S. 215(1)(ga) inserted by No. 101/2003 s. 11.

S. 215(1)(gb) inserted by No. 101/2003 s. 11.
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(i) the form of notices to be endorsed on the document setting out particulars of prior convictions; and

(j) generally prescribing any other matter or thing required or permitted by this Division to be prescribed or necessary to be prescribed to give effect to this Division.

(2) Despite anything to the contrary in Division 5 of Part 2 of the Infringements Act 2006, regulations prescribing an amount as the penalty for a transport or ticket infringement may—

(a) prescribe a different amount of penalty according to the number of transport or ticket infringements (or both) committed by the same offender within a specified period; and

(ab) prescribe a lower amount of penalty for a transport infringement or ticket infringement committed by a person under the age of 18 years; and

(b) specify the circumstances in which the different amounts of penalty apply; and

(ba) allow for a different amount of penalty according to whether the notice for the transport infringement or ticket infringement (or both) is served by a member of the police force or by an officer who is authorised to issue the notice; and

(c) provide for a penalty imposed to be revised if—

(i) one or more of the infringement notices on which the amount of the penalty is based is cancelled after the penalty is imposed; or
(ii) the penalty is imposed on the basis of an incorrect number of earlier infringement notices; and

(d) if a penalty imposed is revised, provide for a refund of any amount of penalty that has been overpaid.

* * * * * * *

Division 2A—Safety work infringements

215B Safety work infringements

(1) A member of the police force who has reason to believe that a rail safety worker has committed a safety work infringement may serve a safety work infringement notice on the rail safety worker.

(2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the Infringements Act 2006.
(2A) For the purposes of subsection (1), an infringement notice—

(a) must be in the form required by section 13 of the Infringements Act 2006; and

(b) must include the concentration of alcohol alleged to have been present in the person's blood or breath; and

(c) may contain any additional prescribed details.

(3) A safety work infringement notice may be withdrawn, whether the appropriate penalty has been paid or not, at any time within 28 days after the service of the notice, by serving on the alleged offender, in accordance with the regulations, a withdrawal notice in the prescribed form.

(4) If the appropriate amount specified in the notice as the penalty for the infringement has been paid before the notice is withdrawn, the amount so paid must be refunded on the notice of withdrawal being given.

(5) The penalty for the purposes of this section in respect of any safety work infringement is the amount prescribed in respect of that infringement.

(8) Section 218B applies with respect to offences against Part 6 of the Rail Safety Act 2006 as if it did not refer to an authorised officer.
215C Effect of safety work infringement

(1) Subject to section 215D, a safety work infringement takes effect, 28 days after the date of the notice, as a conviction of the offence specified in the notice, unless the rail safety worker to whom the notice was issued objects, within that time and in accordance with this section, to the infringement notice.

(2) A rail safety worker may object to the infringement notice by giving notice in writing of the objection to the person specified for that purpose in the infringement notice.

(3) A notice of objection must state—

(a) that the rail safety worker to whom the infringement notice was issued refuses to pay the penalty; and

(b) that the rail safety worker requests that the matter be dealt with by a court; and

(c) that the rail safety worker intends to defend any charge arising out of the facts specified in the infringement notice.

(4) The giving of notice of objection to the infringement notice has the effect that—

(a) the infringement notice is cancelled; and

(b) the rail safety worker to whom the infringement notice was issued may only be proceeded against by the filing of a charge-sheet charging the alleged offence.
215D  Extension of time to object if no actual notice

(1) If a safety work infringement notice is not delivered personally to the rail safety worker to whom it was issued, and the rail safety worker is not in fact aware, before the notice takes effect as a conviction, that it had been issued, the rail safety worker may, within 7 days after becoming aware of it, apply in accordance with the regulations to the Magistrates' Court to have the time for objecting to the notice extended.

(2) The court must not grant an extension of time unless it is satisfied that the rail safety worker was not in fact aware, before the infringement notice took effect as a conviction, that it had been issued.

(3) If the court grants an extension of time, and if a notice of objection is given, in accordance with section 215C(2) or with any order made by the court, before the expiry of the extended time, the giving of the notice has the effect that—

(a) the conviction is set aside; and

(b) any of the procedures set out in the Infringements Act 2006 that are being used for the enforcement of the amount specified in the infringement notice as payable in respect of the offence for which the notice was issued must be discontinued and any warrant issued under that Act ceases to have effect; and

(c) the infringement notice is cancelled; and

(d) the rail safety worker may only be proceeded against by the filing of a charge-sheet charging the alleged offence.
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

(4) Despite anything to the contrary in any other Act, a charge-sheet referred to in subsection (3)(d) may be filed not later than 12 months after the date of the notice of objection.

215E Application of Infringements Act 2006

Subject to this Division, the procedures set out in the **Infringements Act 2006** may be used for the enforcement of the amount specified in a safety work infringement notice as payable in respect of the infringement for which the notice was issued.

215F Proof of prior convictions

(1) If a rail safety worker is served with a summons to answer to a charge of a safety work infringement and it is alleged that he or she has been previously convicted or found guilty of any such infringement or infringements there may be served with the summons a separate document in the prescribed form signed by the informant setting out particulars of the alleged prior convictions or findings of guilt.

(2) The document setting out the alleged prior convictions or findings of guilt—

(a) must be endorsed with a notice in the prescribed form; and

(b) may be served in any manner in which the summons to answer to the charge may be served.

(3) If the court by which a rail safety worker is convicted or found guilty is satisfied that a copy of the document referred to in subsection (1) was served on the rail safety worker at least 14 days...
before the hearing of the charge the document is admissible in evidence for the purpose of establishing—

(a) that the rail safety worker was convicted or found guilty of the offences alleged in the document; and

(b) the particulars relating to the convictions or findings of guilt set out in the document.

(4) A document referred to in subsection (1) may not be tendered in evidence without the consent of the accused if the accused is present at the hearing of the charge.

(5) Without limiting Part 3.4 of Chapter 3 of the Criminal Procedure Act 2009, if evidence of prior convictions or findings of guilt has been tendered under this section, the court may set aside, on any terms as to costs or otherwise that the court thinks just, the sentence within the meaning of that Act imposed by it if it has reasonable grounds to believe that—

(a) the document tendered in evidence was not in fact brought to the notice of the accused; or

(b) the accused was not in fact convicted, or found guilty, of the offences as alleged in the document.

215G Regulations

(1) The Governor in Council may make regulations for or with respect to—

(a) any additional prescribed details to be included in a safety work infringement notice; and
(b) the method of service of a safety work infringement notice; and
(c) the form of a withdrawal notice; and
(d) the method of service of a withdrawal notice; and
(e) the penalty for any safety work infringement; and

S. 215G(1)(f) repealed by No. 32/2006 s. 77(1)(b).

(g) the form of the document setting out particulars of prior convictions or findings of guilt; and
(h) the form of notice to be endorsed on a document referred to in paragraph (g); and
(i) generally prescribing any other matter or thing required or permitted by this Division to be prescribed or necessary to be prescribed to give effect to this Division.

(2) Any regulations made under this section—
(a) may be of general or of specially limited application;
(b) may differ according to differences in time, place or circumstance.

S. 215G(2) inserted by No. 17/1995 s. 23(b).

S. 215G(3) inserted by No. 32/2006 s. 77(2).

(3) Regulations made for the purposes of section 215G(1)(a) or (b) must not be inconsistent with the Infringements Act 2006.
Division 3—Enforcement provisions—vehicle inspections

216 Inspection of motor vehicles

(1) For the purpose of ascertaining whether the requirements imposed by or under this Act or any other Act relating to transport are being observed any officer of the Roads Corporation or any person authorized in that behalf by that Corporation or the Director in writing (whether generally or in any particular case) or any member of the police force may request the driver of any motor vehicle—

(a) to produce for inspection any licence, permit or document which is required to be carried in, or by the driver of, the motor vehicle;

(b) to state his or her name and address;

(c) to permit an inspection and examination to be made of the motor vehicle and any trailer attached thereto and of any load carried thereon and of any equipment required to be fitted thereto or carried thereon by or under any Act,
(d) to keep the motor vehicle stationary for a sufficient period of time to enable any such inspection or examination to be made;

(e) to move the motor vehicle and any trailer attached thereto to the nearest convenient place where the motor vehicle, trailer, load and equipment can be inspected and examined with safety;

(f) to present the motor vehicle and trailer at some other reasonable time and place for inspection and examination by an officer of the Roads Corporation or a person authorised under this subsection and for the weighing thereof.

(2) If the driver of any motor vehicle fails to stop the motor vehicle when any officer, person or member referred to in subsection (1) calls to or signals him or her so to do or fails to produce any such document or refuses to state his or her name and address or states a false name or address or refuses or fails to comply with any request made by any such officer, person or member pursuant to subsection (1), the driver shall be guilty of an offence against this Act.

(3) Where in the opinion of any member of the police force, any officer of the Roads Corporation or person authorized pursuant to subsection (1) any motor vehicle is operating as a commercial passenger vehicle and is not duly licensed to operate as such, the member, officer or person may remove from the vehicle and seize any taximeter, "for hire" sign, identification plate or other prescribed article carried on or attached to the vehicle.
(4) Subject to subsection (5), any article seized pursuant to subsection (3) may on conviction of the owner or driver of the vehicle be forfeited by order of the court imposing the conviction.

(5) Where—

(a) at the expiration of one month after the seizure of an article pursuant to subsection (3) no prosecution has been instituted against the owner or driver of the vehicle;

(b) the owner or driver of the vehicle is not convicted; or

(c) the court does not make an order for the forfeiture of the article—

the article shall be returned to the owner or driver of the vehicle.

(6) In conducting an inspection under this section, the person carrying out the inspection may—

(a) carry out any tests that he or she considers to be appropriate; and

(b) copy all or any part of a document, or the contents of a document, that he or she is authorised to inspect; and

(c) extract or copy any data held in any equipment or device required to be fitted to, or carried on, any vehicle being inspected; and

(d) extract or copy any information that is held in any engine management system or related system of the vehicle.

(7) A reference to a driver in this section includes a reference to a person—

(a) who is in charge of a motor vehicle within the meaning of section 3AA of the Road Safety Act 1986;
(b) who is a driver within the meaning of section 3AB of the Road Safety Act 1986.

217 Powers of officers authorized by Roads Corporation

(1) In addition to and without in any way derogating from any of the requirements imposed by or under section 216 any officer of the Roads Corporation thereunto authorized in writing by that Corporation or any other person authorized in that behalf by that Corporation or the Director in writing so to do or any member of the police force may for the purpose of ascertaining whether the provisions of this Act or any other Act relating to transport are being observed weigh any motor vehicle or trailer or any motor vehicle and trailer and any load carried thereon.

(2) An officer of the Roads Corporation or any other person referred to in subsection (1) may exercise the powers conferred by that subsection at the request of any person who is authorized by any Act or law to request any other person to present the motor vehicle or trailer or the motor vehicle and trailer for weighing.

(3) The production of a document purporting to be an authority in writing referred to in subsection (1) and purporting to be signed by the Chief Executive of the Roads Corporation or the Director (as the case requires) or purporting to be the signature of the Chief Executive of the Roads Corporation or the Director (as the case requires) affixed by authority of the Chief Executive of the Roads Corporation or the Director (as the case requires) shall be prima facie evidence of that authority.
(4) Evidence by an officer or other person authorized to weigh any motor vehicle or trailer or any motor vehicle and trailer pursuant to the provisions of subsection (1)—

(a) that the weighbridge or the device prescribed under the Road Safety Act 1986 used by the officer or other person on any occasion was in proper working order and properly operated by him or her; and

(b) that in relation to the weighbridge or device all requirements for the proper operation of the weighbridge or device were complied with—

shall be prima facie evidence of those facts.

217A Additional inspection power concerning heavy vehicles

(1) In this section, heavy vehicle has the same meaning as it has in section 3(1) of the Road Safety Act 1986, but also includes—

(a) any other vehicle that is physically connected to the heavy vehicle (even if that other vehicle is not a heavy vehicle); and

(b) a bus that is used, or that is intended to be used, to carry passengers for reward or in the course of a business.

(2) A person who is authorised to exercise a power under section 216 or 217 may also exercise that power in relation to a heavy vehicle for the purpose of ascertaining whether the requirements imposed by or under the Road Safety Act 1986 are being complied with.

(3) If a person acting under subsection (2) discovers, or reasonably suspects, that a heavy vehicle does not comply with the Road Safety Act 1986 or the regulations made under that Act, section 14 of that
Act applies as if a reference in that section to "a member of the police force or a person referred to in section 13(6)" were a reference to him or her.

(4) For the purposes of subsection (3), reasonably suspects means that the person has formed a reasonable suspicion on the basis of information derived from the vehicle's engine management system using, in accordance with regulations made under the Road Safety Act 1986, an engine management system reading device specified by those regulations.
Division 3A—Other enforcement provisions

218B Power to require names and addresses

(2) An authorised officer or a member of the police force may request a person to state his or her name and address if the officer or member believes on reasonable grounds that the person has committed or is about to commit an offence against this Act or the regulations or against the Graffiti Prevention Act 2007.
(2A) Despite anything to the contrary in subsection (2), an authorised officer who is authorised under section 221AB may only make a request under that subsection if the authorised officer believes on reasonable grounds that the person has committed or is about to commit an offence against this Part or against any regulation made under this Part or section 56 or 249B.

(3) An authorised officer or member of the police force who makes a request under subsection (2) must—

(a) inform the person of the grounds for his or her belief in sufficient detail to allow the person to understand the nature of the offence or suspected offence; and

(b) must, except in the case of a member of the police force who is in uniform—

(i) inform the person that he or she is an authorised officer or member of the police force; and

(ii) state his or her name; and

(iii) produce for inspection by the person proof that he or she is an authorised officer or a member of the police force; and

(c) inform the person that a failure to comply with the request, or the provision of a false name or address, is an offence.

(4) A person must not, in response to a request made under subsection (2) by an authorised officer or member of the police force in accordance with this section—

(a) refuse or fail to comply with the request; or

(b) state a name that is false in a material particular; or
(c) state an address other than the full and correct address of his or her ordinary place of residence or business.

Penalty applying to this subsection: 5 penalty units.

(5) Despite subsection (4), it is not an offence for a person to fail to comply with a request made under subsection (2) if the authorised officer or member of the police force did not fully comply with subsection (3)(b) or (3)(c) in making the request.

(6) If a person states a name and address in response to a request made under subsection (2), the officer or member may request the person to provide evidence of the correctness of the name and address.

* * * *

(6B) A person must comply with a request made under subsection (6), unless he or she has a reasonable excuse for not doing so.

Penalty: 5 penalty units.

(6C) It is not an offence for a person to fail to comply with a request made under subsection (6) if the authorised officer or member of the police force did not inform the person, at the time the request was made, that it is an offence to fail to comply with the request.
(6D) An authorised officer or a member of the police force must not divulge to any other person or use for any purpose any information received by the officer or member in response to a request made under subsection (6), except—

(a) in connection with the administration of this Act or the regulations; or

(b) for the purposes of any legal proceedings arising out of this Act or the regulations, or of any report of such proceedings; or

(c) for the purposes of discharging the law enforcement functions of the Sheriff; or

(d) for any other law enforcement purposes.

Penalty: 50 penalty units.

(7) This section is subject to section 215B(8).
219 Power to arrest suspected offenders

(1) This section applies if a member of the police force or an authorised officer believes on reasonable grounds that a person has committed an offence against this Act or the regulations or against the Graffiti Prevention Act 2007.

(2) The member or officer may without warrant arrest the person if the member or officer believes on reasonable grounds that the arrest is necessary for any one or more of the following reasons—

(a) to ensure the appearance of the person before a court of competent jurisdiction; or

(b) to preserve public order; or
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(c) to prevent the continuation or repetition of the offence or the commission of a further offence; or

(d) for the safety or welfare of members of the public or of the person.

(3) The member or officer may ask any other person to assist him or her to arrest an alleged offender, and that other person may assist in the arrest.

(4) If an alleged offender is arrested in respect of a summary offence, he or she may only be detained for so long as the reason for the arrest under subsection (2) continues. The person detaining the alleged offender must release the alleged offender as soon as the reason ceases to exist, regardless of whether or not the alleged offender has been charged with the offence.

(5) If the person responsible for arresting an alleged offender is not a member of the police force or an authorised officer, the person must give the alleged offender into the charge of a member of the police force or an authorised officer as soon as is practicable after arresting the alleged offender (unless subsection (4) applies).

(6) If a member of the police force or an authorised officer arrests an alleged offender or is given charge of an alleged offender, the member or officer must convey the alleged offender as soon as is practicable before a bail justice or the Magistrates' Court to be dealt with according to law (unless subsection (4) applies).
220 Power to remove offenders

(1A) A member of the police force or an authorised officer may summarily remove a person and the person's property (if any) from—
(a) any vehicle owned or operated by or on behalf of a passenger transport company or a bus company; or

(b) any premises or property of a passenger transport company—

in the circumstances referred to in subsection (1B).

(1B) For the purposes of subsection (1A), the circumstances are—

(a) that the member of the police force or authorised officer believes on reasonable grounds that the person is committing an offence against this Act or the regulations; and

(c) that the commission of the offence is or is likely to be attended with—

(i) danger or annoyance to the public; or

(ii) hindrance to any member of the police force or any authorised officer or any employee of, or person engaged by, a passenger transport company or bus company—

in lawful use of the vehicle, premises or property.
(1C) In addition to the power to summarily remove a person in accordance with subsection (1A), a member of the police force or an authorised officer may take such other action as is necessary to obviate or remove any danger, annoyance or hindrance of the kind referred to in subsection (1B)(c).

(2) A member of the police force or an authorised officer acting under the authority of subsection (1A) or (1C) may, in order to remove a person or the property of the person from a vehicle or premises or property or to obviate or remove a danger, annoyance or hindrance, use such force as is reasonable in the circumstances.

(3) A person who—

(a) is removed or has any property removed from a vehicle or any premises or property under the authority of this section; or

(b) is otherwise affected by any action taken under the authority of this section—

shall have no right of action whatsoever in law against any member of the police force arising out of that removal or action.
(4) A person who alleges that a member of the police force acting or purporting to act under the authority of subsection (1A) or (1C) used more force than is permitted by subsection (2) shall bear the onus of proving that more force than is permitted was used.

(5) Any action taken under this section shall not prevent the institution of proceedings in respect of the offence.

* * * * *

Division 4—Regulation of entitlement to use public transport services

220AA False reports to officers

A person must not give information that is relevant or possibly relevant for the purposes of this Division (including for the purposes of any relevant regulations) and that the person knows, or believes, to be false to any of the following who is performing a function under this Division—

(a) any member of the police force;

(b) an authorised officer;

(c) a person employed by a passenger transport company or a bus company who has duties in relation to the issue, inspection or collection of tickets for, or the operation of, a vehicle operated by the company;
(d) any other person appointed in writing by a passenger transport company, a bus company, a rail freight operator, Rail Track or the Director for the purposes of the regulations.

Penalty: 10 penalty units.

220A Offence to dishonestly obtain a ticket etc.

A person must not by fraudulent means, by false or misleading representation, or by other dishonesty, obtain a ticket or other thing that can be used to prove an entitlement to use a public transport service.

Penalty: 20 penalty units.

220B Offence to counterfeit or alter a ticket

(1) A person must not counterfeit a ticket or other thing that can be used to prove an entitlement to use a public transport service.

Penalty: 20 penalty units.

(2) A person must not alter, or attempt to alter, a ticket or other thing that can be used to prove an entitlement to use a public transport service with the intention of obtaining a benefit to which the person is not entitled.

Penalty: 20 penalty units.

220C Offence to claim exemption or concession if not entitled

A person must not claim or take the benefit of an exemption to pay for an entitlement to use a public transport service, or of a concessionary discount of such a payment, to which he or she is not entitled, if he or she knows that he or she is not entitled to that benefit.

Penalty: 10 penalty units.
220D Director may determine conditions

(1) The Director may determine any conditions to which an entitlement to use a specified public transport service provided by a passenger transport company or a bus company is to be subject.

(1A) A condition determined under subsection (1) may apply, adopt or incorporate any matter contained in any document whether—

(a) wholly or partially or as amended by the condition; or

(b) as in force at a particular time or as in force from time to time.

(2) The Director must publish any conditions determined under subsection (1) in the Government Gazette.

(3) An entitlement to use a public transport service is subject to any condition determined under subsection (1) that has been published in the Government Gazette and that applies to the entitlement.

(4) If there is any inconsistency between a condition that has been determined under subsection (1) and published in the Government Gazette and any other condition relating to an entitlement to use a public transport service, the condition determined under subsection (1) is to prevail.

(5) The Director may, under subsection (1), determine conditions that are to apply in respect of entitlements that exist, but that have not been exercised, before the conditions are published in the Government Gazette.
(6) Any conditions that were determined and published under section 221(1A) and that were in force immediately before the date of commencement of section 24 of the Transport Legislation (Further Miscellaneous Amendments) Act 2005 are deemed to have been determined and published under this section.

220DA Conditions relating to overseas student travel

(1) The conditions determined under section 220D(1) may include a condition providing that overseas students or specified classes of overseas students are not eligible for student concessions to use a public transport service.

(2) If the conditions under section 220D include a condition of a kind referred to in subsection (1), overseas students or overseas students of a class specified in the condition are not entitled to student concessions to use a public transport service to which the condition applies.

(3) The determination or publication by the Director under section 220D of, or compliance by a person with, a condition of a kind referred to in subsection (1) does not constitute discrimination on the basis of race for the purposes of the Equal Opportunity Act 1995.

(4) For the avoidance of doubt it is declared that—

(a) the determination or publication by the Director under section 220D of, or the compliance by a person with, any condition determined under section 220D before the commencement day; or

(b) the approval by the Secretary or Director of the determination of, or the determination or publication by a passenger transport company or a bus company of, or the compliance by any person with, any
condition determined under section 221(1A) before its repeal—

that provided that overseas students or overseas students of a class specified in the condition were not eligible for student concessions to use a public transport service is to be taken—

(c) never to have constituted discrimination on the basis of race for the purposes only of the Equal Opportunity Act 1995; and

(d) to be and always to have been conduct that was authorised.

(5) Subsection (4) does not apply to affect—

(a) any decision in respect of, or any proceeding arising from, Complaint No. 3064890 before the Victorian Human Rights and Equal Opportunity Commission to the extent only that that complaint or proceeding applies to the individual named in the complaint, as at 23 March 2007, as the person on whose behalf the complaint was lodged; or

(b) any proceeding that was completed or in which judgment was given before the commencement day.

(6) In this section—

commencement day means the date of commencement of section 23 of the Transport Legislation Amendment Act 2007;

overseas student means a person holding a visa under the Migration Act 1958 of the Commonwealth which allows the person, whether expressly or otherwise, to study in Victoria but does not include a person who is—
(a) an Australian citizen; or
(b) a permanent resident of Australia; or
(c) a student with refugee status; or
(d) an overseas exchange student; or
(e) in receipt of an Australian Development Scholarship from the Commonwealth Government.

221 Information not to be disclosed

S. 221 (Heading) inserted by No. 95/2005 s. 24(a).


S. 221(1A) inserted by No. 98/1998 s. 34, amended by No. 45/1999 s. 26(a)(i)(ii), repealed by No. 95/2005 s. 24(b)1.
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

S. 221

S. 221(1B) inserted by No. 98/1998 s. 34, amended by No. 48/1999 s. 26(b), repealed by No. 95/2005 s. 24(b).12.

S. 221(2) amended by Nos 120/1993 s. 65(2)(b)(i)–(iv), 76, 101/2003 s. 17(10)(b), repealed by No. 95/2005 s. 24(b).

S. 221(3) amended by Nos 120/1993 ss 65(2)(c)(i)–(ii), 66(5), 101/2003 s. 17(10)(c), repealed by No. 95/2005 s. 24(b).

S. 221(4) amended by Nos 25/1989 s. 47(a), 120/1993 ss 65(2)(d)(i)–(ii), 66(6), 101/2003 s. 17(10)(d), repealed by No. 95/2005 s. 24(b).
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

* * * * *


* * * * *

S. 221(4B) inserted by No. 110/2004 s. 55(2), repealed by No. 28/2007 s. 3(Sch. item 66.2).

* * * * *

S. 221(5) amended by Nos 120/1993 ss 65(2)(f), 66(8), 101/2003 s. 17(10)(b), repealed by No. 95/2005 s. 24(b).

* * * * *

S. 221(6) amended by Nos 25/1989 s. 47(c), 44/1989 s. 40(Sch. 1 item 13.1), 68/1993 s. 47(2), 104/1997 s. 35(2), 45/1999 s. 25(2), 101/2003 s. 17(10)(e), repealed by No. 95/2005 s. 24(b).

309
(7) Subject to subsections (8) and (9), a passenger transport company or bus company or a person employed by, or engaged in providing services for, that company or the Secretary, the Director or an authorised officer must not—

(a) except at the direction of the Minister, divulge to any person the contents of any record relating to the movement of a person into or out of or within a carriage or any land or premises the property of that company for entry to which a ticket is required; or

(b) use, other than for the purposes of this Act or the regulations, his or her knowledge of any such record; or

(c) reveal at any time (including a time after a person has ceased to be employed by, or to be engaged in providing services for, that company or has ceased to be the Secretary, the Director or an authorised officer) any information gained in an official capacity in relation to a matter referred to in paragraph (a).

Penalty: 50 penalty units.

(8) Subsection (7) does not prevent the divulging, use or revealing of information—

(a) in connection with the administration of this Act or the regulations; or
(b) for the purposes of any legal proceedings arising out of this Act or the regulations, or of any report of such proceedings.

(9) Subsection (7) also does not prevent the divulging, use or revealing of information to a person—

(a) who the Director certifies in writing—

(i) is a public transport industry ombudsman; and

(ii) has an appropriate privacy protection policy in operation in relation to any information of the nature of the information that is to be divulged to, used by, or revealed to, the person; and

(b) who states in writing that the information is needed to investigate or otherwise deal with a complaint concerning public transport made to the person.

221AA Regulations concerning entitlement to use public transport services

(1) The Governor in Council may make regulations for or with respect to—

(a) regulating entitlement to use a public transport service including, for example—

(i) regulating or specifying methods of obtaining that entitlement and proving that such an entitlement exists;

(ii) regulating the use of tickets or other means by which proof of such entitlements may be made, including specifying the circumstances in which it or they, or anything that is claimed to be a ticket or other proof, is, or are, to be surrendered;
(b) deeming the existence of contracts, or the elements of contracts, between providers, sellers (whether retail or otherwise), buyers or users of entitlements to use a public transport service, or providers of a public transport service, in relation to those entitlements, and regulating or specifying the contents of those contracts;

Example

Under a particular ticketing system a person may be able to buy a ticket to use a tram operated by a passenger transport company from an agency that is independent of the company, and then to give that ticket to a person who uses it to travel on the tram. Paragraph (b) enables the making of a regulation that could deem a contract to exist between the passenger transport company and the person on the tram.

(c) ensuring that those using, or who have used, public transport services are, or were at the time of use, entitled to do so including, for example—

(i) providing for the ascertainment of whether a person using, or who has used, a public transport service was entitled to do so, and providing for the inspection, reading and testing (by whatever means, including mechanical means), whether before, during or after the use, of tickets or other proof of entitlement;

(ii) providing for the inspection of any documents that are required to show that the correct amount has been paid for a particular entitlement;
(d) generally prescribing any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to ensure that users of public transport services fairly contribute to the cost of providing the services.

(2) The regulations—

(a) may be of general or of specially limited application; and

(b) may differ according to differences in time, place or circumstance; and

(c) may require a matter affected by the regulations to be—

   (i) in accordance with a specified standard or specified requirement; or

   (ii) approved by or to the satisfaction of a specified person or a specified class of person; or

   (iii) as specified in both subparagraphs (i) and (ii); and

(d) may apply, adopt or incorporate any matter contained in any document whether—

   (i) wholly or partially or as amended by the regulations; or

   (ii) as in force at a particular time or as in force from time to time; and

(e) may confer a discretionary authority or impose a duty on a specified person or a specified class of person; and
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

(f) may provide in a specified case or class of case for the exemption of people or things from any of the provisions of this Act or the regulations, whether unconditionally or on specified conditions, and either wholly or to such an extent as is specified; and

(g) may impose a penalty not exceeding 20 penalty units for a contravention of the regulations.

Division 4AA—Authorisation of persons for the purposes of enforcement

221A Authorisation of Departmental authorised officers

The Director may authorise a person who is employed or engaged by the Department to act as an authorised officer for the purposes of this Part.

221AB Authorisation of other authorised officers

(1) The Director may authorise a person who is employed or engaged by a passenger transport or bus company to act as an authorised officer for the purposes of this Part.
(2) The Director may authorise a person who is employed or engaged by the Bus Association Victoria to act as an authorised officer for the purposes of this Part.

221B Application for authorisation

(1) A person may apply to the Director for authorisation under section 221AB to act as an authorised officer.

(2) An application—

(a) must be in the manner and form determined by the Director;

(b) must be accompanied by—

(i) the prescribed application fee, if any;
(ii) any other things that are prescribed.

(3) The Director may require an applicant—

(a) to furnish his or her date of birth, address and any further information specified by the Director; or
(b) to verify, by statutory declaration, information furnished for the purposes of the application.

### 221C Qualification requirements

(1) The Director may only give a person an authorisation to act as an authorised officer if the Director is satisfied that the person—

(a) is competent to exercise the functions conferred on an authorised officer by this Part; and

(b) is of good repute, having regard to character, honesty and integrity; and

(c) has agreed in writing to exercise the functions conferred on an authorised officer by this Part according to performance criteria established from time to time by the Director; and

(d) in the case of a person who is employed or engaged by a passenger transport company or bus company, is employed or engaged by a passenger transport company or bus company that is accredited by the Director under Division 4A.
(2) In addition, in the case of a person who is employed or engaged by the Bus Association Victoria, the Director may only give the person an authorisation to act as an authorised officer if the Bus Association Victoria is accredited by the Director under Division 4A.

221CA Time limits on section 221AB authorisations

(1) In giving a person an authorisation under section 221AB, the Director must specify the period for which the authorisation remains valid.

(2) The Director must not specify a period that is greater than the maximum (if any) specified by the regulations for the purposes of this section.

221CB Scope of authorisation may be limited

(1) The Director may at any time limit the scope of an authorisation given to a person by—

(a) specifying that the person may only exercise specified powers or functions under the authorisation; or

(b) specifying that the person may not exercise specified powers or functions under the authorisation.
221CC Non-compliance with a limit

A person whose authorisation is subject to a limit imposed under section 221CB must not knowingly exercise, or attempt to exercise, a power or function in contravention of the limit.

Penalty: 10 penalty units

221D Conditions of authorisation

(1) An authorisation is subject to—

(a) any prescribed condition;

(b) any other condition imposed by the Director.

(2) Particulars of an authorisation and of the conditions to which it is subject are to be given by the Director to the person authorised.
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

221E Change of conditions

(1) The Director may at any time vary or revoke a condition of an authorisation or impose a new condition.

(2) Particulars of any action taken under subsection (1) are to be given in writing by the Director to the person authorised.

221F Non-compliance with a condition

A person authorised under this Part must comply with any condition to which his or her authorisation is subject.

Penalty: 10 penalty units.

221FA Clarification of places in which certain authorised officers may operate

A person authorised under section 221AB may exercise the powers of an authorised officer in, on or in relation to—

(a) any vehicle owned or operated by, or on behalf of, a passenger transport company or a bus company; or

(b) any land, building or other property of a passenger transport company or a bus company—

regardless of whether or not he or she is employed or engaged by that company.
221G Application for renewal of authorisation

(1) A person authorised under section 221AB may apply to the Director for the renewal of his or her authorisation.

(2) A renewal application—
   (a) must be made in the manner and form determined by the Director;

   (b) must be accompanied by—
       (i) the prescribed renewal application fee, if any;
       (ii) any other things that are prescribed.

(3) A renewal application must be made not later than 60 days before the expiry of the authorisation.

(4) Despite subsection (3), the Director may consider a renewal application made later than the time applying under subsection (3).
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

321

(4A) If the regulations prescribe a late renewal application fee, the Director may only consider a renewal application made later than the time for applying under subsection (3) if the applicant pays that fee.

(5) The Director may refuse to consider a renewal application made earlier than 90 days before the expiry of the authorisation.

221H Renewal of authorisation

(1) The Director may renew or refuse to renew an authorisation.

(1A) The Director must not renew an authorisation of a person unless the Director is satisfied that the person meets the requirements of section 221C(1)(a) and (b).

(2) On renewing an authorisation the Director may—
   (a) renew it as then in force; or
   (b) vary or revoke any of the conditions to which the authorisation is subject; or
   (c) impose a new condition on the authorisation.
(3) Particulars of the renewal of an authorisation and of the conditions to which it is subject are to be given in writing by the Director to the authorised officer.

(4) A renewed authorisation remains in force for a period determined by the Director not exceeding 3 years unless the authorisation is sooner revoked.

(5) If the Director refuses to renew an authorisation, the Director must notify the person who applied for the renewal in writing of the refusal and the reasons for it.

221I Issue of identity cards

(1) The Director must issue an identity card to any person authorised to act as an authorised officer.

(1A) Despite subsection (1), the Director must not issue an identity card to a person authorised under section 221AB unless the person has paid the fee (if any) specified by the regulations for the purposes of this section.
(1B) A person must not act or purport to act as an authorised officer unless he or she has been issued with an identity card under this section.

Penalty: 10 penalty units.

(2) An identity card under subsection (1) must—

(a) contain a photograph of the authorised officer; and

(b) contain the signature of the authorised officer; and

(c) be signed by an officer of the Department authorised by the Director to do so either generally or in any particular case.

(3) A person issued with an identity card under this section must produce it on being requested to do so.

Penalty: 5 penalty units.

(4) Subject to subsection (1B), any action taken or thing done by an authorised officer is not invalidated by his or her failure to produce his or her identity card.

(5) Subsections (3) and (4) apply regardless of whether or not the person is exercising a power under this Act or under any other Act.
221J Inquiry into conduct of authorised officer

(1) The Director may hold an inquiry for the purpose of determining whether a circumstance referred to in section 221L has occurred in relation to a person authorised under section 221AB.

(2) Whilst the Director is conducting an inquiry under subsection (1), the Director may immediately suspend a person's authorisation during the period of the inquiry if the Director—

(a) considers it necessary to do so in the interest of personal safety of passengers; or

(b) believes, on reasonable grounds, that the person has not exercised his or her power as an authorised officer in an appropriate manner.

(3) If, following the inquiry, the Director is satisfied that a circumstance referred to in section 221L has occurred in relation to the person, the Director may—

(a) reprimand the person;

(b) warn the person that should the circumstance occur again in relation to him or her, the person's authorisation may be revoked;

(c) impose one or more new conditions on the authorisation;
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

(d) suspend the authorisation for a specified period or until a specified event or until a further determination made by the Director;

(e) revoke the authorisation immediately or with effect from a specified later date.

221K Effect of suspension

A person whose authorisation is suspended under section 221J is not authorised during the period of suspension.

221L Revocation of authorisation

The Director may at any time, by written notice served on a person authorised under section 221AB, revoke an authorisation if satisfied that—

(a) the person has on any occasion in exercising his or her functions acted unreasonably or abused his or her power; or

(ab) the person is not competent to exercise the functions conferred on the person as an authorised officer by this Part; or

(ac) the person is not of good repute, having regard to character, honesty and integrity; or

(b) the person has been convicted or found guilty of an offence of a kind that, in the opinion of the Director, renders it inappropriate that he or she continue as an authorised officer; or
(c) the person has, in connection with the
granting of the authorisation, given false or
misleading information;

(d) the person has not complied with a condition
to which his or her authorisation is subject.

221M Tribunal reviews

(1) A person may apply to the Tribunal for review of
a decision of the Director in relation to—

(a) an application for an authorisation or
renewal of an authorisation by that person; or

(b) that person's authorisation; or

(c) that person.

(2) An application for review must be made within
28 days after the later of—

(a) the day on which the decision is made;

(b) if, under the Victorian Civil and
Administrative Tribunal Act 1998, the
person requests a statement of reasons for the
decision, the day on which the statement of
reasons is given to the person or the person is
informed under section 46(5) of that Act that
a statement of reasons will not be given.
221N  Authorisations cease to exist in certain circumstances

An authorisation under section 221AB ceases to exist by force of this section if—

(a) the passenger transport company or bus company by which the authorised officer is employed or engaged ceases to be accredited under Division 4A; or

(b) the authorised officer ceases to be employed or engaged by a passenger transport company or bus company that is accredited under Division 4A; or

(c) in the case of an authorisation granted under section 221AB(2)—

(i) the Bus Association Victoria ceases to be accredited under Division 4A; or

(ii) the authorised officer ceases to be employed or engaged by the Bus Association Victoria.

221O  Return of identity cards

(1) If a person's authorisation under section 221AB—

(a) is revoked by the Director under section 221L; or
(b) ceases to exist by force of section 221N—
the person must immediately deliver to the
Director the identity card issued to him or her
under section 221I(1).

Penalty: 10 penalty units.

(2) If an identity card issued to a person under
section 221I(1)—
(a) becomes illegible; or
(b) is altered; or
(c) is defaced—
the person issued with that identity card must
immediately deliver the identity card to the
Director.

Penalty: 10 penalty units.

**221P Lost, stolen or destroyed identity cards to be reported**

If an identity card issued under section 221I to a
person authorised under section 221AB is lost,
stolen or destroyed, the person issued with that
identity card must immediately notify, in writing,
the Director of that fact.

Penalty: 10 penalty units.

**221Q Replacement of identity cards**

The Director, on the payment of the prescribed fee
(if any), may issue a new identity card to a person
authorised under section 221AB if the Director is
satisfied that the identity card issued to that person
under section 221I(1)—
(a) is illegible;

(b) has been altered or defaced; or

(c) has been lost, stolen or destroyed.
221R Offence to falsely represent oneself as an authorised officer

A person must not falsely represent himself or herself to be an authorised officer.

Penalty: 10 penalty units.

221S Application by proposed employee

(1) A person who is seeking, or proposing to seek, to become employed or engaged by a passenger transport company or bus company or by the Bus Association Victoria may apply to the Director for a certificate as to whether or not, in the opinion of the Director, that person meets the criteria specified in section 221C(1)(a) and (b).

(2) An application—

(a) must be made in the manner and form determined by the Director;

(b) must be accompanied by—

(i) the prescribed application fee, if any;

(ii) any other things that are prescribed.

(3) The Director may require an applicant—

(a) to furnish further information specified by the Director; or
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Section 221T

(b) to verify, by statutory declaration, information furnished for the purposes of the application.

Investigation by Ombudsman

(1) The Ombudsman may enquire into or investigate—

(a) any action taken, or not taken, by a person who is an authorised officer in the person's capacity as an authorised officer; and

(b) any matter relating to such an action or inaction.

(2) For the purposes of subsection (1), the Ombudsman Act 1973 applies as if—

(a) the employer of the person was a public statutory body within the meaning of that Act; and

(b) the senior executive officer of the employer (by whatever title he or she is known) was the principal officer of that public statutory body.

Division 4AAA—Transport safety offences

Subdivision 1—Interpretation

Definitions

In this Division—

authorised person means—

(a) a person employed by a passenger transport company or a bus company who has duties in relation to the operation of a road vehicle or a rail
vehicle operated by the passenger
transport company or bus company; or
(b) a member of the police force; or
(c) an authorised officer; or
(d) a transport safety officer; or
(e) any other person appointed in writing
by a passenger transport company, a
rail freight operator, Rail Track or the
Director for the purposes of this
Division;

*bicycle* means a vehicle with one or more wheels
that is built to be propelled by human power
through a belt, chain or gears (whether or not
it has an auxiliary motor), and—
(a) includes a pedicab, penny-farthing,
scooter, tricycle and unicycle;
(b) does not include a wheelchair, wheeled
recreational device, wheeled toy, or any
vehicle with an auxiliary motor capable
of generating a power output over
200 watts (whether or not the motor is
operating);

*commercial passenger vehicle* has the same
meaning as in section 86(1);

*container weight declaration* for a freight
container means a declaration that states, or
that purports to state, the weight of the
container and its contents;

*freight container* has the same meaning as in the
Road Safety Act 1986;
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

level crossing means—

(a) an area where a road and railway tracks cross at substantially the same level, whether or not there is a level crossing sign on the road at all or any of the entrances to the area; or

(b) an area where a road and tramway tracks cross at substantially the same level and that has a level crossing sign on the road at each entrance to the area;

Note
Rule 120 of the Road Safety Road Rules 2009 includes diagrams of level crossing signs.

operator, in relation to a vehicle, means a person who is responsible for controlling or directing the operations of the vehicle in connection with a business for, or involving, the transport of goods or passengers by road but does not include a person who merely—

(a) arranges for the registration of the vehicle; or

(b) maintains, or arranges for the maintenance of, the vehicle;

private omnibus means a motor vehicle that is used for operating a private bus service within the meaning of the Public Transport Competition Act 1995;

rail premises means any land, building, premises or structure owned, occupied or leased by—

(a) a passenger transport company or the Director in connection with their capacity as providers of passenger services; or
(b) a rail freight operator in connection with its capacity as a provider of a rail freight service; or

(c) Rail Track;

railway track means a railway used by a passenger transport company, rail freight operator or the Director to operate a railway for the carriage of passengers or freight;

rail vehicle means a vehicle that operates on or uses a railway track for the carriage of passengers or freight and includes a train, carriage and wagon;

road vehicle means any vehicle propelled by any form of motive power that is used or intended for use by a passenger transport company, bus company or rail freight operator for the carriage of passengers or freight on any road and includes—

(a) a tram that operates on or uses a tramway track;

(b) a commercial passenger vehicle that is not a taxi-cab;

(c) a private omnibus;

taxi-cab has the same meaning as in section 86(1);

tramway track means a railway used by a passenger transport company or the Director to operate a tramway for the carriage of passengers;

vehicle means a conveyance that is designed to be propelled or drawn by any means, whether or not capable of being so propelled or drawn, and includes—

(a) a motor vehicle;

(b) a trailer;
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(c) a tram;
(d) a train;
(e) a bicycle;
(f) an air-cushion vehicle;
(g) an animal that is being ridden or is drawing a vehicle;
(h) a combination of motor vehicles consisting of a motor vehicle connected to one or more vehicles—

but does not include—

(i) a wheelchair other than a motorised wheelchair capable of a speed of 10 kilometres per hour or more; or
(j) a wheeled recreational device; or
(k) a wheeled toy;

wheeled recreational device means a wheeled device, built to transport a person, propelled by human power or gravity, and ordinarily used for recreation or play, and—

(a) includes rollerblades, rollerskates, a skateboard or similar wheeled device;
(b) does not include a golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy;

wheeled toy means a child's pedal car, scooter or tricycle or a similar toy.

221V Exclusion of mistake of fact defence

(1) This section applies if a provision of this Division states that a person does not have the benefit of the mistake of fact defence for an offence.
(2) It is not a defence to a charge for the offence for the person to prove that, at or before the time of the conduct constituting the offence, the person was under a mistaken but honest and reasonable belief about facts which, had they existed, would have meant that the conduct would not have constituted an offence.

221W Statement that mistake of fact defence does not apply not to affect other offences

A statement in this Division that a person does not have the benefit of the mistake of fact defence is solely intended for the purposes of this Division, and it is not intended to affect the question of whether that defence is, or is not, available to a person in relation to any offence outside this Division.

Subdivision 2—Offences

221X Overdimensional vehicles crossing tracks

(1) A person must not, without the written permission of the Director, drive or attempt to drive or convey across a railway track—

(a) a vehicle with a mass limit that exceeds a mass limit for that vehicle under the Road Safety (Vehicles) Regulations 2009; or

(b) a vehicle which, either by itself or in combination with any load carried by it, exceeds—

(i) the maximum allowable length; or

(ii) the maximum allowable height (when measured from the highest surface of the track to be crossed); or
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Penalty: 20 penalty units.

(2) A person must not, without the written permission of the Director, drive or attempt to drive or convey across a tramway track—

(a) a vehicle with a mass limit that exceeds a mass limit for that vehicle under the Road Safety (Vehicles) Regulations 2009; or

(b) a vehicle which, either by itself or in combination with any load carried by it, exceeds—

(i) the maximum allowable length; or

(ii) the maximum allowable height (when measured from the highest surface of the track to be crossed); or

(iii) the maximum allowable width—specified by notice under section 221ZA; or

(c) a vehicle which may obstruct, displace or interfere with the track to be crossed or with any overhead power line or support wires of a rolling stock operator in the vicinity of the track.

Penalty: 20 penalty units.
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(3) A person charged with an offence under subsection (1) or (2) does not have the benefit of the mistake of fact defence.

Note
Section 221V sets out how subsection (3) operates.

(4) If a vehicle that exceeds a mass limit for that vehicle under the Road Safety (Vehicles) Regulations 2009 is driven or attempted to be driven or conveyed—

(a) across a railway track in contravention of subsection (1); or

(b) across a tramway track in contravention of subsection (2)—

the person charged with an offence under subsection (1) or (2) has the benefit of the reasonable steps defence so far as it relates to reliance on the weight stated in a container weight declaration.

Note
Section 221Z sets out how this defence operates.

(5) The Director may grant permission under subsection (1) or (2) and may impose conditions on that permission.

(6) A person must comply with any conditions imposed by the Director in granting permission under subsection (1) or (2).

Penalty: 20 penalty units.

(7) The fee for the granting of permission is the fee specified by notice under section 221ZA.

(8) If, in the Director's opinion, one or more of the Department's employees or passenger transport company, rail freight operator or Rail Track employees or agents must, in the interests of safety, be present when the vehicle crosses the
railway track or the tramway track the Director may, in addition to the fee referred to in subsection (6) impose the further charge specified by notice under section 221ZA.

(9) The Director may—

(a) refund, in whole or in part, any fee or charge paid, under this section; or

(b) waive, in whole or in part, any fee or charge payable, under this section.

221Y Operators of overdimensional vehicles crossing tracks without permission also guilty of offence

(1) If a vehicle is driven or attempted to be driven or conveyed—

(a) across a railway track in contravention of section 221X(1); or

(b) across a tramway track in contravention of section 221X(2); or

(c) not in accordance with a condition imposed by the Director on a permission under section 221X(1) or (2)—

the operator of the vehicle is guilty of an offence and is liable to a penalty not exceeding 20 penalty units.

(2) A person charged with an offence under this section does not have the benefit of the mistake of fact defence.

Note

Section 221V sets out how subsection (2) operates.

(3) If a vehicle that exceeds a mass limit for that vehicle under the Road Safety (Vehicles) Regulations 2009 is driven or attempted to be driven or conveyed—
(a) across a railway track in contravention of section 221X(1); or

(b) across a tramway track in contravention of section 221X(2)—

the person charged with an offence under subsection (1)(a) or (b) has the benefit of the reasonable steps defence so far as it relates to reliance on the weight stated in a container weight declaration.

Note
Section 221Z sets out how this defence operates.

221Z Reasonable steps defence—reliance on container weight declaration

(1) This section applies if—

(a) a person is charged with an offence under section 221X(1) or (2); or

(b) the operator of a vehicle is charged with an offence under section 221Y(1)(a) or (b)—

and the person or operator has (as the case requires) the benefit, under section 221X(4) or 221Y(3), of the reasonable steps defence so far as it relates to reliance on the weight stated in a container weight declaration.

(2) To the extent that the weight of a freight container and its contents is relevant to the offence, the person charged may rely on the weight stated in the relevant container weight declaration, unless it is established that the person knew, or ought reasonably to have known, that—

(a) the stated weight was lower than the actual weight; or
(b) the distributed weight of the container and its contents, together with—

(i) the mass or location of any other load; or

(ii) the mass of the vehicle or any part of it—

would result in the breach of a mass limit under the Road Safety (Vehicles) Regulations 2009.

221ZA Specification of vehicle limits and fees for overdimensional vehicles crossing tracks

(1) The Director, by notice published in the Government Gazette, may specify—

(a) the maximum allowable length, height or width for a vehicle either by itself or in combination with any load carried by it for the purposes of section 221X(1) or (2);

(b) the fee payable for the granting of permission under section 221X;

(c) the further charge payable for the purposes of section 221X(8).

(2) The further charge specified by notice under this section for the purposes of section 221X(8) may differ according to differences in time, place or circumstance.

221ZB Animals on railway tracks

A person must not take or attempt to take an animal across railway tracks at a pedestrian or level crossing—

(a) when warning signals or devices are operating at the crossing; or

(b) when gates at the crossing are closed or locked; or
(c) when a rail vehicle is entering the crossing; or

(d) when a rail vehicle can be seen or heard approaching and there would be a danger of a collision with the animal if it entered the crossing; or

(e) if the crossing or the path beyond the crossing is blocked; or

(f) when directed not to do so by an authorised person.

Penalty: 20 penalty units.

221ZC Placing things on tracks

A person must not place any thing on a railway track or a tramway track unless the person is driving a vehicle and places the vehicle on a railway track or tramway track in the normal course of driving.

Penalty: 20 penalty units.

221ZD Mounting a place not intended for travel etc.

(1) A person must not, without reasonable excuse, mount or attempt to mount a part of a locomotive, rail vehicle or road vehicle not intended for the purpose of travel by passengers.

Penalty: 15 penalty units.

Example

Mounting roof of a rail vehicle or road vehicle, leading brake van of a rail vehicle, brake van of a rail vehicle, driver's cabin of a road vehicle, coupling or communication platform of a rail vehicle.

(2) A person must not, without reasonable excuse, walk or climb on any part of rail premises not intended for use by passengers or the public.

Penalty: 15 penalty units.
221ZE  Travelling in a place not intended for travel etc.

(1) A person must not, without reasonable excuse, travel or attempt to travel on a part of a locomotive, rail vehicle or road vehicle not intended for the purpose of travel.

Penalty: 20 penalty units.

Example

Travelling on the roof of a rail vehicle or road vehicle, leading brake van of a rail vehicle, brake van of a rail vehicle, driver's cabin of a road vehicle, coupling or communication platform of a rail vehicle.

(2) A rider of a bicycle or a person in or on a wheeled recreational device or wheeled toy must not attach or attempt to attach himself or herself or another person or the bicycle, wheeled recreational device or wheeled toy to the exterior of a rail vehicle or road vehicle for any purpose.

Penalty: 20 penalty units.

Example

A bicycle rider attached to a tram to enable the rider and the bicycle to be pulled along behind the tram.

221ZF  Applying brake or emergency device

A person must not, without reasonable excuse—

(a) apply any brake or make use of any emergency device fitted to a rail vehicle or road vehicle; or

(b) make use of any emergency device on rail premises.

Penalty: 20 penalty units.

Example

Emergency devices include an emergency button on a station communication board or on an escalator.
221ZG Stopping a rail vehicle or road vehicle

A person must not, without reasonable excuse, cause or attempt to cause a rail vehicle or road vehicle in motion to be stopped.

Penalty: 20 penalty units.

221ZH Operating equipment

(1) A person must not, without the permission of an authorised person—
   (a) move or attempt to move;
   (b) interfere or attempt to interfere with;
   (c) tamper or attempt to tamper with;
   (d) operate or attempt to operate—
   any equipment, rail vehicle or road vehicle, owned or operated by a passenger transport company, bus company or the Director in connection with the operation of a passenger service.

Penalty: 20 penalty units.

(2) A person must not, without the permission of an authorised person—
   (a) move or attempt to move;
   (b) interfere or attempt to interfere with;
   (c) tamper or attempt to tamper with;
   (d) operate or attempt to operate—
   any equipment, rail vehicle, owned or operated by a rail freight operator in connection with its rail freight service or by Rail Track.

Penalty: 20 penalty units.
221ZI Permitting drainage

A person must not cause or permit drainage or sewage to flow or empty from any premises occupied by the person onto land or premises the property of Rail Track.

Penalty: 20 penalty units.

Division 4AB—Further offences

---

Pt 7 Div. 4AB (Heading) inserted by No. 63/1999 s. 13(3).

S. 222 amended by Nos 100/1986 s. 36(1), 44/1989 s. 40(Sch. 1 items 2.2, 19.1), 120/1993 ss 66(9)(10), 68, 68/1995 s. 48, 98/1998 s. 25(e), 30/2000 s. 25, 54/2001 s. 20, 45/2005 s. 26, 47/2006 s. 31(Sch. 1 Pt 1 item 32), repealed by No. 9/2006 s. 123.

S. 222A inserted by No. 45/2005 s. 27 (as amended by No. 95/2005 s. 20), amended by No. 47/2006 s. 31(Sch. 1 Pt 1 item 33), repealed by No. 95/2005 s. 42.
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

222B Interference with prescribed equipment

(1) A person must not—

(a) move or attempt to move; or
(b) interfere with or attempt to interfere with; or
(c) tamper or attempt to tamper with—

any prescribed equipment or equipment in a prescribed class of equipment owned by the Public Transport Ticketing Body or operated by or on behalf of the Public Transport Ticketing Body.

Penalty: 20 penalty units.

(2) Subsection (1) does not apply to anything done by any person acting on behalf of, or with the permission of, the Public Transport Ticketing Body.

223 Offence to trespass on land or premises of Roads Corporation or Rail Track

A person must not wilfully trespass on any land or premises owned or occupied by the Roads Corporation or Rail Track.

Penalty: 20 penalty units.
### Transport (Compliance and Miscellaneous) Act 1983

No. 9921 of 1983

**Part VII—Prosecutions, Enforcement and Penalties and Other Matters**

<table>
<thead>
<tr>
<th>S. 223A</th>
<th>*</th>
<th>*</th>
<th>*</th>
<th>*</th>
<th>*</th>
<th>*</th>
</tr>
</thead>
</table>

S. 223A inserted by No. 81/1990 s. 3, amended by Nos 120/1993 s. 69, 46/1998 s. 7(Sch. 1), 98/1998 s. 35 (1)(a)(b)(2), 54/2001 s. 21, 47/2006 s. 31(1)(Sch. 1 Pt 1 item 34), repealed by No. 59/2007 s. 28(1).

<table>
<thead>
<tr>
<th>S. 223B</th>
<th>*</th>
<th>*</th>
<th>*</th>
<th>*</th>
<th>*</th>
<th>*</th>
</tr>
</thead>
</table>

S. 223B inserted by No. 81/1990 s. 3, amended by No. 98/1998 s. 35(1)(a)(c), repealed by No. 59/2007 s. 28(1).

<table>
<thead>
<tr>
<th>S. 223C</th>
<th>*</th>
<th>*</th>
<th>*</th>
<th>*</th>
<th>*</th>
<th>*</th>
</tr>
</thead>
</table>

S. 223C inserted by No. 81/1990 s. 3, amended by No. 98/1998 s. 35(3), repealed by No. 59/2007 s. 28(1).

<table>
<thead>
<tr>
<th>S. 223D</th>
<th>*</th>
<th>*</th>
<th>*</th>
<th>*</th>
<th>*</th>
<th>*</th>
</tr>
</thead>
</table>

S. 223D inserted by No. 81/1990 s. 3, amended by No. 98/1998 s. 35(4), repealed by No. 59/2007 s. 28(1).
224 Offence to provide false or misleading information

(1) A person must not either deliberately or recklessly—

(a) provide any information under this Act that is false or misleading in a material detail; or

(b) provide under this Act any document that is false or misleading in a material detail; or

(c) make any representation under this Act that provides a false or misleading impression of a material detail; or

(d) fail to include any material matter in any information or document provided under this Act if the failure causes the information or document to be false or misleading; or
(e) engage in conduct, or a course of conduct,
for a purpose that is relevant to this Act, if
that conduct is misleading or deceptive, or is
likely to mislead or deceive.

Penalty: 300 penalty units, in the case of a
corporation;

Level 9 imprisonment (6 months
maximum) or 60 penalty units or both,
in any other case.

(2) Subsection (1) does not apply to any conduct that
is an offence under section 220AA (providing
false information in relation to an entitlement to
use a public transport service).

(3) Subsection (1)(b) does not apply if, at the time the
person provided the document to the person or
body to whom the document was provided, the
person either—

(a) informed that person or body that the record
contained a material detail that was false or
misleading and specified in what respect it
was false or misleading; or

(b) took all reasonable steps to provide that
person or body with that information.

(4) A reference in this section to "under this Act" or
"relevant to this Act" is to be read as including a
reference to any purpose associated with this Act
or the regulations, and regardless of whether the
information, document, representation or conduct
was required to be provided, or was provided
voluntarily.
225 Offence to assault or obstruct officers etc.

(1) In this section—

**officer** means—

(a) any officer or agent of the Roads Corporation or of the Department, or an authorised officer, who is acting in the execution of his or her duty under this or any other Act, or under regulations made under this Act;

(b) a person employed by a passenger transport company or a bus company who has duties in relation to the issue, inspection or collection of tickets for, or the operation of, a vehicle operated by the company who is acting in the execution of his or her duties;

(c) any other person appointed in writing by a passenger transport company, a bus company, a rail freight operator, Rail Track or the Secretary for the purposes of the regulations who is acting in the execution of his or her duties in relation to the appointment;
officer's assistant means any person lawfully assisting an officer in the execution of his or her duty under this or any other Act, or under regulations made under this Act.

(2) A person must not, without reasonable excuse, assault or incite or encourage any other person to assault an officer or an officer's assistant.

Penalty: 300 penalty units, in the case of a corporation;

Level 9 imprisonment (6 months maximum) or 60 penalty units or both, in any other case.

(3) A person must not, without reasonable excuse—

(a) resist, obstruct, hinder or refuse to comply with a lawful request or direction of; or

(b) incite or encourage any other person to resist, obstruct, hinder or refuse to comply with a lawful request or direction of—

an officer or an officer's assistant.

Penalty: 300 penalty units, in the case of a corporation;

60 penalty units, in any other case.
225B Offence to impersonate an officer

A person must not, directly or indirectly, falsely represent himself, herself or itself to be—

(a) an officer of the Department or the Roads Corporation; or

(b) an authorised officer (within the meaning of any provision of this Act); or

(c) a person who is authorised to exercise a power or to carry out a function under this Act.

Penalty: 300 penalty units, in the case of a corporation;
Level 9 imprisonment (6 months maximum) or 60 penalty units or both, in any other case.

225C Offence to offer, give, solicit or accept a bribe

(1) In this section—

*bribe* means anything that provides, or that would provide, a benefit or an advantage to an officer or to anyone known to an officer;

*officer* means any officer of the Department, or an authorised officer.

(2) A person must not, directly or indirectly, give, offer to give, cause to be given or attempt to give any bribe to an officer for the purpose of inducing the officer to forgo his or her duty, or to carry out
his or her duty in a manner that he or she would
not usually carry it out.

Penalty: 300 penalty units, in the case of a
corporation;

60 penalty units, in any other case.

(3) An officer must not, directly or indirectly, solicit
or accept, or attempt to solicit or accept, any bribe
for the purpose of inducing him or her to forgo his
or her duty, or to carry out his or her duty in a
manner that he or she would not usually carry it
out.

Penalty: Level 9 imprisonment (6 months
maximum) or 60 penalty units or both.

226 Offences by bodies corporate

(1) Where a body corporate is guilty of an offence
against this Act any person who is concerned or
takes part in the management of that body
corporate is also guilty of that offence and liable
to the penalty for that offence.

(2) It is a defence to a charge brought pursuant to
subsection (1) against a person who is concerned
or takes part in the management of a body
corporate to prove that the offence was committed
by the body corporate without his consent or
connivance and that he exercised due diligence to
prevent the commission of the offence.

227 Offences by unincorporated bodies,
partnerships etc.

Where this Act provides that a person, being a
partnership or an unincorporated body or
association, is guilty of an offence, that reference
to the person—

(a) in the case of a partnership—is to be read as
a reference to each member of the
partnership; and
(b) in the case of an unincorporated body or association—is to be read as a reference to each member of the committee of management of the body or association.

227A Power of court to require attendance at approved public transport education program

(1) If a person is charged with an offence under this Act, or under regulations made under this Act, and on the hearing of the charge the court considers it appropriate in view of the person's circumstances, the court may order the person to undertake a program approved under subsection (2).

(2) For the purposes of this section, the Director may approve programs that educate users of public transport and other persons about issues relating to public transport, including but not limited to—

(a) public transport safety;
(b) the comfort, amenity and convenience of passengers on public transport;
(c) the revenue implications of fare evasion for public transport operators and the State;
(d) the obligations of passengers and other persons in relation to public transport;
(e) the enforcement obligations of authorised officers;
(f) the providers of public transport in Victoria;
(g) any other matter related to public transport that the Director considers appropriate.

228 General penalty

A person who is guilty of an offence against this Act for which a specific penalty is not prescribed by another provision of this Act is liable to a penalty not exceeding 10 penalty units.
Division 4A—Accreditation of passenger transport companies

228AA Objective

The objective of this Division is that the authorised officer management systems provided by passenger transport companies, bus companies and the Bus Association Victoria be provided in a manner that promotes the safety, comfort, amenity and convenience of persons using the services provided by the bodies and other persons, particularly children and other vulnerable persons.

228AB Definition

In this Division, authorised officer management system means a system for the management of authorised officers that includes—

(a) education and training relating to—

(i) the use of enforcement powers;

(ii) behaviour by authorised officers toward members of the public, particularly children and other vulnerable persons;

(b) the reporting requirements and supervision of authorised officers;

(c) any matter prescribed in the regulations for this purpose.
228A Application for accreditation

(1) A passenger transport company or bus company or the Bus Association Victoria may apply to the Director for accreditation to employ or engage people authorised under section 221AB to act as authorised officers.

(2) An application—
   
   (a) must be made in the manner and form determined by the Director;

   (b) must be accompanied by—

      (i) the application fee, if any, determined by the Director and published in the Government Gazette;

      (ii) a detailed description of the applicant's authorised officer management system;

      (iii) any other information or thing determined by the Director.

(2A) The Director must notify in writing all passenger transport companies, bus companies and the Bus Association Victoria of any determination made by the Director under subsection (2).
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

(3) The Director may require an applicant for accreditation—

(a) to furnish further information specified by the Director; or

(b) to verify, by statutory declaration, information furnished for the purposes of the application.

228B Matters to be considered by Director

In determining whether to give an accreditation, the Director must consider—

(a) whether the authorised officer management system that the applicant proposes to have in place is effective and appropriate; and

(b) any matters that are prescribed.

228C Giving or refusal of accreditation

(1) The Director may give or refuse to give an accreditation.
(2) If the Director refuses to give an accreditation, the Director must notify the applicant in writing of the refusal and the reasons for it.

(3) If the Director gives accreditation to the Bus Association Victoria, a reference in this Division to an accredited company is to be read as including a reference to that Association.

228D **Conditions of accreditation**

(1) An accreditation is subject to—
   (a) any prescribed condition;
   (b) any condition imposed by the Director.

(2) Particulars of an accreditation and of the conditions to which it is subject are to be given in writing by the Director to the accredited company.

228DA **Accredited companies must comply with conditions**

A passenger transport company or bus company or the Bus Association Victoria must not do, or omit to do, anything that is in breach of a condition to which its accreditation is subject.

Penalty: 100 penalty units.
228DB Offence to employ or engage authorised officer without accreditation under this Division

A passenger transport company, a bus company or the Bus Association Victoria must not employ or engage a person to act as an authorised officer without being accredited to do so under this Division.

Penalty: 300 penalty units.

228E Change of conditions etc.

(1) The Director may at any time vary or revoke a condition of an accreditation referred to in section 228D(1)(b) or impose a new condition.

(2) The Director may act under subsection (1)—

(a) of his or her own initiative; or

(b) on the written application of the accredited company.

(3) Except where the Director considers it necessary to take action in the interests of public safety, the Director must, before taking action under subsection (2)(a), give the accredited company written notice of the intended action and allow it to make written representations about the intended action within 10 working days.

(4) Particulars of any action taken under subsection (1) are to be given in writing by the Director to the accredited company.
228F Duration of accreditation

(1) An accreditation remains in force for the period specified by the Director.

(1A) The Director must not specify a period that is greater than the maximum (if any) specified by the regulations for the purposes of this section.

(2) The Director may give a temporary accreditation for a period of less than 12 months.

228G Requirement to notify Director about charges, etc.

If at any time while an accreditation is in force—

(a) the accredited company becomes aware that an authorised officer employed or engaged by it has been convicted or found guilty of an
offence or has been charged with an offence and the charge has not been finally disposed of; and

(b) particulars of that conviction, finding or charge have not previously been given by the accredited company to the Director—

the accredited company must immediately notify the Director of the particulars of that conviction, finding or charge.

Penalty: 10 penalty units.

228H Notifications

(1) A company that holds an accreditation (other than a temporary accreditation) must notify the Director (in writing) of any relevant incident or occurrence within 14 days after the day on which the incident or occurrence took place.

Penalty: 50 penalty units.

(2) The Director may request a report from a company that holds an accreditation (other than a temporary accreditation) under this Division on any matter related to the authorised officers employed or engaged by the company.

(3) A request by the Director under subsection (2) must specify a reasonable period within which the report must be received by the Director.

(4) A company that receives a request under subsection (2) must comply with that request within the period specified by the Director under subsection (3).

Penalty: 50 penalty units.
(5) The Director may request further information relating to—

(a) the incident or occurrence to which a notification under subsection (1) relates; or

(b) a report provided to the Director under subsection (4)—

and may specify a reasonable period within which the further information must be received by the Director.

(6) A company must comply with any request for further information under subsection (5) within the period (if any) specified in that request.

Penalty: 50 penalty units.

(7) In this section, relevant incident or occurrence means an incident or occurrence that is determined by the Director to be an incident or occurrence to which this section applies.

(8) The Director must cause to be published in the Government Gazette any determination made by the Director for the purpose of the definition of relevant incident or occurrence.

(9) The Director must notify in writing any company that holds an accreditation under this Division of any determination made by the Director for the purpose of the definition of relevant incident or occurrence.
228HA  Audit of certain books and records of accredited companies for compliance purposes

(1) An accredited company must keep books and records relating to the following—

(a) any condition to which its accreditation is subject and its compliance with that condition;

(b) the scope and operation of its authorised officer management system;

(c) any notification, report or information provided by it under this Division;

(d) any correspondence with the Director in relation to its accreditation, its authorised officer management system or any authorised officer employed or engaged by it;

(e) any other prescribed matter.

Penalty: 50 penalty units.

(2) The Director may audit all books and records referred to in subsection (1) and may take copies of any books or records.

(2A) The Director may authorise an officer of the Department or any other suitably qualified person to conduct an audit under this section.
(2B) A person authorised under subsection (2A) may—

(a) enter any premises in which the person reasonably believes a book or record is kept for the purpose of subsection (1); and

(b) inspect any such book or record; and

(c) make copies of, or take extracts from, any such book or record.

(3) If an audit is conducted as a result of a notification, or the provision of a report, under section 228H, the Director may charge a fee that covers the reasonable costs of conducting that audit.

228I Application for renewal of accreditation

(1) An accredited company (other than the holder of a temporary accreditation) may apply to the Director for renewal of the accreditation.

(2) The holder of a temporary accreditation may, within the period of 2 years beginning at the commencement of section 37 of the Rail Corporations (Amendment) Act 1997, apply to the Director for renewal of the temporary accreditation.

(3) A renewal application—

(a) must be made in the manner and form determined by the Director;
(b) must be accompanied by—

(i) the application fee, if any, determined by the Director and published in the Government Gazette; and

(ii) any other information or thing determined by the Director.

(4) A renewal application must be made not later than 60 days before the expiry of the accreditation.

(5) Despite subsection (4), the Director may consider a renewal application made later than the time applying under subsection (4).

(5A) If the regulations prescribe a late renewal application fee, the Director may only consider a renewal application made later than the time for applying under subsection (4) if the applicant pays that fee.

(6) The Director may refuse to consider a renewal application made earlier than 90 days before the expiry of the accreditation.

228J Renewal of accreditation

(1) The Director may renew or refuse to renew an accreditation.

(1A) In renewing or refusing to renew any accreditation under subsection (1), the Director must have regard to—
(a) the applicant's authorised officer management system; and

(b) the applicant's compliance with the conditions of the applicant's accreditation; and

(c) the conduct of authorised officers employed or engaged by the company, including whether the authorised officers have complied with conditions to which their authorisations are subject; and

(d) any other matter determined by the Director and published in the Government Gazette.

(1B) The Director must notify each company in writing of any determination made by the Director under subsection (1A)(d).

(2) On renewing an accreditation the Director may—

(a) renew it as then in force; or

(b) vary or revoke any of the conditions to which the accreditation is subject; or

(c) impose a new condition on the accreditation (including conditions relating to the authorised officer management system of the company).

(3) Particulars of the renewal of an accreditation and of the conditions to which it is subject are to be given in writing by the Director to the accredited company.

(4) A renewed accreditation remains in force for 5 years unless—

(a) the accreditation is sooner cancelled or surrendered; or

(b) that period is shortened under section 228N(3)(b)(iii).
(5) If the Director refuses to renew an accreditation, the Director must notify the accredited company in writing of the refusal and the reasons for it.

228K Nature of accreditation

(1) An accreditation—

(a) is personal to the accredited company;

(b) is not capable of being transferred or assigned to any other person or, subject to subsection (3), otherwise dealt with by the accredited company;

(c) does not vest by operation of law in any other person.

(2) A purported transfer or assignment of an accreditation and any other purported dealing by the accredited company with an accreditation (otherwise than under and in accordance with subsection (3)) is of no effect.

(3) An accredited company may, with the consent of the Director and in accordance with the regulations, surrender an accreditation.

(4) This section has effect despite anything in any Act or rule of law to the contrary.
228M Director not liable for giving accreditation

No liability attaches to the Director for giving an accreditation to any passenger transport company or bus company or the Bus Association Victoria under this Division.

228N Supervision of accredited companies

(1) The Director may hold an inquiry for the purpose of determining whether proper cause exists for taking action against a passenger transport company or bus company or the Bus Association Victoria that is, or has been, an accredited company.

(2) There is proper cause for taking action against a passenger transport company or bus company or the Bus Association Victoria that is, or has been, an accredited company if—

(a) the company has failed to maintain an effective and appropriate authorised officer management system; or
(aa) the company has failed to comply with section 228H; or

(ab) the company does, or omits to do, anything that is in breach of a condition to which its accreditation is subject; or

(b) the company obtained the accreditation improperly.

(3) If, following an inquiry, the Director is satisfied that proper cause for taking action against the passenger transport company or bus company or the Bus Association Victoria exists, the Director has power to do one or more of the following—

(a) reprimand the company;

(b) if the company is accredited—

(i) warn the company that should further proper cause for taking action be found to exist, the company may be disqualified from holding an accreditation;

(ii) impose one or more new conditions on the accreditation (including conditions relating to the authorised officer management system of the company);

(iii) shorten the period for which the accreditation is to remain in force;

(iv) suspend the accreditation for a specified period or until a specified event or until a further determination made by the Director;

(v) cancel the accreditation immediately or with effect from a specified later date;
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

(c) disqualify the company from holding an accreditation—
   (i) until a specified event; or
   (ii) until a further determination made by the Director.

(4) The Director may exercise the powers conferred by this section in relation to conduct occurring before or after the commencement of section 37 of the Rail Corporations (Amendment) Act 1997.

(5) If the Bus Association Victoria is, or was, given accreditation, a reference to a company in this section is to be read as including a reference to that Association.

228O Procedure and powers

(1) In exercising his or her powers under section 228N, the Director—
   (a) must act fairly and according to equity and good conscience without regard to technicalities or legal forms;
   (b) is not required to conduct himself or herself in a formal manner;
   (c) is not bound by rules or practice as to evidence but may inform himself or herself in relation to any matter in any manner that he or she thinks fit.

(2) For the purpose of and in connection with any inquiry under section 228N, the Director has the powers conferred by sections 14, 15, 16, 20, 20A and 21A of the Evidence (Miscellaneous Provisions) Act 1958 on a board appointed by the
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Governor in Council and those sections apply as if the Director were the sole member of the board.

(3) Subject to this Division and the regulations, the procedure of the Director on or in connection with an inquiry under section 228N is in his or her discretion.

228P Immediate power of suspension

(1) The Director may, subject to and in accordance with the regulations, without holding an inquiry under section 228N, immediately suspend an accreditation under this Division if the Director considers it necessary to do so in the interests of public safety.

(2) A suspension under this section may be for a specified period or until a specified event or until a further determination made by the Director.

(3) A company or association whose accreditation has been suspended under this section may, by notice served on the Director, require the Director to hold an inquiry under section 228N.

(4) The Director must commence an inquiry under section 228N within 7 days after the service on him or her of a notice under subsection (3).

(5) If an inquiry is held under section 228N, a suspension under this section, if then still in effect, ceases to have effect on the completion of that inquiry.
(6) Nothing in this section limits any power of the Director under section 228N.

228Q Effect of suspension, cancellation or failure to renew

(1) A company or association whose accreditation is suspended is not accredited during the period of suspension.

(2) If—

(a) a person who is employed or engaged by a company or association is authorised under section 221AB to act as an authorised officer; and

(b) the accreditation of the company or association is suspended, cancelled or not renewed while that person is so employed or engaged—

the person ceases to be authorised under section 221AB during the period of suspension or cancellation or until the accreditation is renewed.

(3) Subsection (2) does not apply to a person who is authorised under section 221AB to act as an authorised officer if—

(a) the person is employed or engaged by more than one company or association and at least one such company or association continues to be the holder of an accreditation under this Division; or

(b) the person is employed or engaged by another accredited company or association within 30 days following the day on which the accreditation of the company or association by whom he or she was employed or engaged was suspended, cancelled or not renewed.
228R Tribunal reviews

(1) A company or association may apply to the Tribunal for review of a decision of the Director under this Division in relation to—

(a) an application for accreditation or renewal of accreditation by that company or association; or
(b) that company's or association's accreditation; or
(c) that company or association.

(2) An application for review must be made within 28 days after the later of—

(a) the day on which the decision is made; or
(b) if, under the Victorian Civil and Administrative Tribunal Act 1998, the company or association requests a statement of reasons for the decision, the day on which the statement of reasons is given to the company or association or it is informed under section 46(5) of that Act that a statement of reasons will not be given.
Division 4B—Enforcement of relevant transport safety laws

Subdivision 1—Interpretation

228S Definitions

(1) In this Division—

approved code of practice has the same meaning as in the Rail Safety Act 2006;

compliance and investigative purposes includes purposes—

(a) related to ascertaining whether a relevant transport safety law has been or is being complied with, including whether an offence has been committed against a relevant transport safety law;

(b) related to ascertaining whether an approved compliance code has been or is being complied with;

(c) related to an investigation into a public transport safety matter;

(d) related to an audit under Division 5 of Part 3 of the Rail Safety Act 2006;

contractor, in relation to an accredited rail operator, means a person engaged directly or indirectly by the accredited rail operator to supply rail infrastructure operations or rolling stock operations to that accredited rail operator, and includes a sub-contractor;

major incident has the same meaning as in the Rail Safety Act 2006;
officer has the same meaning as in the Rail Safety Act 2006;

person has the same meaning as in the Rail Safety Act 2006;

premises includes any structure, building or place (whether built on or not), and any part of such structure, building or place;

rail infrastructure has the same meaning as in the Rail Safety Act 2006;

railway has the same meaning as in the Rail Safety Act 2006;

rail operations means rail infrastructure operations or rolling stock operations;

railway premises has the same meaning as in the Rail Safety Act 2006;

rail safety worker has the same meaning as in the Rail Safety Act 2006;

relevant person means—

(a) a rail operator or an accredited rail operator; or

(b) an employee of a rail operator or accredited rail operator; or

(c) a contractor of an accredited rail operator; or

(d) a rail safety worker; or

(e) a utility; or

(f) an employee of a utility; or

(g) a works contractor within the meaning of section 85 of the Electricity Industry Act 2000, section 48A of the Road Management Act 2004, section 137A(4) of the Water Act 1989
or section 62A(4) of the Water Industry Act 1994; or

(h) a person authorised in writing by a gas distribution company or gas transmission company under section 148(7) or 149(6) of the Gas Industry Act 2001;

(i) a person whom the Safety Director or a transport safety officer believes on reasonable grounds may be able to provide information, documents or assistance for compliance and investigative purposes;

residential premises means premises, or a part of premises, that is used for predominantly residential purposes;

retention period means a period of 90 days after the seizure of a thing under Subdivision 4 or a search warrant executed in accordance with Subdivision 5;

rolling stock has the same meaning as in the Rail Safety Act 2006;

transport safety infringement means an offence against a transport safety infringement law (other than a safety work infringement) that is prescribed for the purposes of this Division;

transport safety infringement law means—

(a) in the case of an accredited bus operator—a provision of the Bus Safety Act 2009 or the regulations made under that Act;
(b) in the case of an accredited rail operator—a provision of the Rail Safety Act 2006 or the regulations made under that Act;

*utility* means—

(a) an entity (whether publicly or privately owned) which provides, or intends to provide, water, sewerage, drainage, gas, electricity, telephone, telecommunication or other like services under the authority of an Act of Victoria or the Commonwealth;

(b) a road authority within the meaning of the Road Management Act 2004;

*volunteer* has the same meaning as in the Rail Safety Act 2006.

(2) For the purposes of this Division, a premises or a part of a premises, that is used for the carrying out of rail operations, is not to be taken to be residential premises merely because sleeping or other accommodation is provided there to rail safety workers.

**228SA Crown to be bound**

(1) This Division binds the Crown, not only in right of Victoria but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

(2) To avoid doubt, the Crown is a body corporate for the purposes of this Division.
Subdivision 2—Transport safety officers

228T Appointment

(1) The Safety Director, by instrument, may appoint as a transport safety officer any person (including any person employed in the Department under Part 3 of the Public Administration Act 2004) who is suitably qualified or trained to exercise the powers of a transport safety officer under a relevant transport safety law.

(2) An appointment under this section is for a term, and subject to the conditions, specified in the instrument.

(3) Without limiting the conditions to which the appointment of a transport safety officer may be subject, a condition may specify one or more of the following—

(a) the functions and powers under a relevant transport safety law that may not be exercised by the transport safety officer;

(b) the only functions and powers under a relevant transport safety law that may be exercised by the transport safety officer;

(c) the circumstances or manner in which a function or power under a relevant transport safety law may be performed by the transport safety officer.

228U Identity cards

(1) The Safety Director must issue an identity card to a transport safety officer appointed under section 228T.
(2) An identity card must—

(a) contain the name of the transport safety officer to whom it is issued; and

(b) identify the transport safety officer to whom it is issued as a transport safety officer appointed under section 228T; and

(c) subject to subsection (3), contain a photograph of the transport safety officer appointed under section 228T.

(3) An identity card need not contain a photograph of the transport safety officer if the officer being issued with the identity card has been appointed under section 228T to only exercise powers under Part 6 of the Rail Safety Act 2006.

228V Return of identity cards

If a person to whom an identity card has been issued ceases to be a transport safety officer, the person must return the identity card to the Safety Director as soon as practicable.

Penalty: 5 penalty units.

228W Production of identity card

(1) A transport safety officer must produce his or her identity card for inspection—

(a) before exercising a power under a relevant transport safety law; or

(b) if asked to do so by any person at any time during the exercise of a power under a relevant transport safety law.
(2) However, a transport safety officer need not produce his or her identity card when asked to do so if—

(a) the officer reasonably believes that the production of his or her identity card would—

(i) affect the safety or welfare of any person; or

(ii) frustrate the effective exercise of a power under a relevant transport safety law; or

(b) the request to produce his or her identity card is made by a person to whom the officer has already produced that identity card on the same day before exercising a power under a relevant transport safety law.

(3) Any action taken or thing done by a transport safety officer under a relevant transport safety law is not invalidated by his or her failure to produce his or her identity card.

228X Transport safety officers subject to Safety Director's direction

(1) The Safety Director may give a direction to a transport safety officer in relation to that officer's performance or exercise of a function or power under a relevant transport safety law.

(2) A direction under subsection (1) may be of general nature or may relate to a specified matter or class of matter.
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

228Y Investigation by Ombudsman of actions etc. of transport safety officers

(1) The Ombudsman may enquire into or investigate—

(a) any action taken by a person who is a relevant transport safety officer in the person's capacity as a transport safety officer; and

(b) any matter relating to such an action.

(2) For the purposes of subsection (1), the Ombudsman Act 1973 applies as if—

(a) the employer of the person was a public statutory body within the meaning of that Act; and

(b) the senior executive officer of the employer (by whatever title he or she is known) was the principal officer of that public statutory body.

(3) In this section—

relevant transport safety officer means a transport safety officer employed by any person other than a public statutory body within the meaning of the Ombudsman Act 1973.

Subdivision 3—Powers of entry

228Z Power of entry

A transport safety officer may, for compliance and investigative purposes—

(a) enter, without consent, any railway premises at any time during which rail operations or other related activities are being carried out or are usually carried out in or on the railway premises; or
(b) enter any railway premises or residential premises at any time if—

(i) the occupier of the railway premises or residential premises consents to the entry of those premises; or

(ii) the transport safety officer is authorised to do so under a search warrant.

### 228ZA Procedure for entry with consent

1. This section applies if a transport safety officer intends to ask an occupier of a railway premises or residential premises to consent to that officer entering the railway premises or residential premises in accordance with section 228Z(b)(i).

2. Before asking for the consent, the officer must inform the occupier—

   (a) of the purpose of the entry; and

   (b) that the occupier is not required to consent.

3. If the consent is given, the officer may ask the occupier to sign an acknowledgment of the consent.

4. The acknowledgment must state—

   (a) that the occupier has been informed—

      (i) of the purpose of the entry; and

      (ii) that the occupier is not required to consent; and

   (b) the purpose of the entry; and

   (c) that the occupier gives the officer consent to enter the place and exercise powers under this Division; and

   (d) the time and date the consent was given.
(5) If the occupier signs the acknowledgment, the
transport safety officer must immediately give a
copy to the occupier.

(6) If, in any proceeding, an acknowledgment of the
consent is not produced to the court, it must be
presumed, until the contrary is proved, that the
occupier did not consent to the entry by a
transport safety officer and the exercise of powers
by that officer under this Division.

Subdivision 4—Inspection, inquiry, search and seizure
powers

228ZB General inspection, inquiry and search powers

(1) A transport safety officer who enters railway
premises or residential premises under this
Division may, for compliance and investigative
purposes, do any of the following—

(a) inspect rail infrastructure or a part of rail
infrastructure, rolling stock or any other
thing in or on the railway premises;

(b) inquire into any railway accident or other
incident affecting the—

(i) safe operation, construction,
maintenance, repair or alteration of rail
infrastructure in or on the railway
premises; or

(ii) safe operation, maintenance, repair or
alteration of rolling stock in or on the
railway premises;

(c) take measurements, make surveys and take
levels and, for those purposes, dig trenches,
break up the soil and set up any posts, stakes
or markers in or on the railway premises;

(d) make tests or sketches in connection with
any inspection or inquiry;
(e) take samples, photographs or film, videotape or otherwise record images or record sound in connection with any inspection or inquiry;

(f) search for any thing that may be evidence of the commission of an offence against a relevant transport safety law or a breach of the conditions or restrictions of an accreditation of an accredited rail operator;

(g) search for and inspect relevant documents;

(h) require a person in or on the railway premises to produce to the officer, any relevant documents in the person's custody or under the person's control;

(i) make copies of, or take extracts from, any document kept in or on the railway premises;

(j) exercise any other power conferred on the officer by this Act.

(2) In doing any thing referred to in subsection (1), a transport safety officer may be assisted by any person.

(3) A film, photograph, videotape or image taken under subsection (1)(e) of rolling stock, or of any part of rolling stock, is not inadmissible as evidence by reason only of the fact that it includes the likeness of one or more of the rolling stock's passengers if the capturing of that likeness does not appear to have been the main reason for the taking of the film, photograph, videotape or image.

228ZC Securing a site

(1) A transport safety officer may take all reasonable steps to secure the perimeter of any site at a railway premises entered into under this Division if he or she believes on reasonable grounds that it is necessary—
(a) for the purpose of ascertaining whether an offence has been committed against a relevant transport safety law; or
(b) to preserve evidence relating to the commission of an offence against a relevant transport safety law.

(2) The perimeter of a site secured under this section may be for a period that the transport safety officer considers appropriate or the Safety Director specifies.

228ZD Offence to enter secured site
A person must not enter a site the perimeter of which has been secured under section 228ZC unless the person has a reasonable excuse.

Penalty: 60 penalty units.

228ZE Seizure power
A transport safety officer who enters railway premises or residential premises under this Division may seize any thing at that premises if that officer reasonably believes that the seizure of the thing is necessary for compliance and investigative purposes.

228ZF Use of equipment to examine or process things
(1) A transport safety officer may bring on to any railway premises or residential premises any equipment reasonably necessary for the examination or processing of things found at the railway premises or residential premises in order to determine whether they are things that may be seized.

(2) The transport safety officer, or a person assisting the transport safety officer, may operate equipment already at the railway premises or residential premises to carry out the examination or processing of a thing found at the railway
premises or residential premises in order to determine whether it is a thing that may be seized, if the transport safety officer or person assisting believes on reasonable grounds that—

(a) the equipment is suitable for the examination or processing; and

(b) the examination or processing can be carried out without damage to the equipment or the thing.

Subdivision 5—Search warrants

228ZG Search warrant

(1) A transport safety officer may apply to a magistrate for the issue of a search warrant in relation to particular railway premises or residential premises if the transport safety officer believes on reasonable grounds that there is, or may be within the next 72 hours, in, or on, the railway premises or residential premises evidence of the commission of an offence against a relevant transport safety law.

(2) If a magistrate is satisfied that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, in or on railway premises or residential premises a thing or things of a particular kind that may be evidence of the commission of an offence against relevant transport safety law, the magistrate may issue a search warrant authorising a transport safety officer named in the warrant and any assistants the transport safety officer considers necessary—

(a) to enter the railway premises or residential premises, or the part of railway premises or residential premises, named or described in the warrant; and
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

(b) to search for and seize any thing named or described in the warrant.

(3) In addition to any other requirement, a search warrant issued under this section must state—

(a) the offence suspected; and

(b) the railway premises or residential premises to be searched; and

(c) a description of the thing for which the search is to be made; and

(d) any conditions to which the warrant is subject; and

(e) whether entry is authorised to be made at any time or during stated hours; and

(f) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.

(4) A search warrant must be issued in accordance with the Magistrates' Court Act 1989 and in the form set out in the regulations under that Act.

(5) Despite section 78 of the Magistrates' Court Act 1989, a search warrant must not authorise a transport safety officer to arrest a person.

(6) Subject to any provision to the contrary in this Division, the rules to be observed with respect to search warrants mentioned in the Magistrates' Court Act 1989 extend and apply to warrants under this section.

228ZH Seizure of things not mentioned in the warrant

A search warrant authorises the transport safety officer executing the warrant, in addition to the seizure of any thing of the kind described in the warrant, to seize any thing which is not of the kind described in the warrant if—
(a) the transport safety officer believes, on reasonable grounds, that the thing—

(i) is of a kind which could have been included in a warrant issued under this Division; or

(ii) will afford evidence about the commission of an offence against a relevant transport safety law; and

(b) in the case of seizure, the transport safety officer believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent its concealment, loss or destruction or its use in the commission of an offence against a relevant transport safety law.

228ZI Announcement before entry

(1) Before executing a search warrant, the transport safety officer named in the warrant or a person assisting the transport safety officer must announce that he or she is authorised by the warrant to enter the railway premises or residential premises and give any person at the railway premises or residential premises an opportunity to allow entry to the railway premises or residential premises.

(2) The transport safety officer or a person assisting the transport safety officer need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the railway premises or residential premises is required to ensure—

(a) the safety of any person; or

(b) that the effective execution of the search warrant is not frustrated.
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

228ZJ Copy of warrant to be given to occupier

If the occupier or another person who apparently represents the occupier is present at any railway premises or residential premises when a search warrant is being executed, the transport safety officer must—

(a) identify himself or herself to that person by producing his or her identity card for inspection by that person; and

(b) give to that person a copy of the execution copy of the warrant.

Subdivision 6—Directions

228ZK Power to require production of documents and related items

(1) A transport safety officer may, for compliance and investigative purposes, direct a relevant person to provide to the transport safety officer—

(a) any document required to be kept under a relevant transport safety law; and

(b) any documents, devices or other things in his, her or its possession or control relating to rail operations.

(2) The direction must state where and to whom the documents, devices or other things are to be produced.

(3) In giving a direction, the transport safety officer may specify particular documents, devices or other things, or particular classes of documents, devices or other things.

(4) The transport safety officer may do any or all of the following—

(a) inspect any documents, devices or other things that are produced;
(b) copy any documents, devices or other things that are produced;

(c) seize and remove any documents, devices or other things that are produced that the transport safety officer believes on reasonable grounds provide, or may on further inspection provide, evidence of a contravention of a relevant transport safety law.

(5) A relevant person must not refuse or fail to comply with a direction under subsection (1) unless the relevant person has a reasonable excuse.

Penalty: 60 penalty units.

Note

Section 228ZY sets out the manner in which a direction may be given under this Division by a transport safety officer.

228ZL  Direction to provide reasonable assistance

(1) A transport safety officer may direct a relevant person to provide assistance to the transport safety officer to enable the transport safety officer effectively to exercise a power under this Division.

(2) Without limiting subsection (1), the transport safety officer may direct the person to do any or all of the following—

(a) to find and gain access to electronically stored information;

(b) to find and gain access to any information relating to rail operations in a useable form for the purpose of ascertaining compliance with any requirements imposed by or under a relevant transport safety law;
(3) A relevant person must not refuse or fail to comply with a direction under subsection (1) unless the person has a reasonable excuse.

Penalty: 60 penalty units.

(4) In proceedings for an offence against subsection (3), it is a reasonable excuse if the direction was unreasonable.

(5) In proceedings for an offence against subsection (3) it is a defence if the person charged proves on the balance of probabilities that the direction or its subject-matter was outside the scope of the business or other activities of the person.

Note
Section 228ZY sets out the manner in which a direction may be given under this Division by a transport safety officer.

228ZM Direction to provide certain information

(1) A transport safety officer may direct, for compliance and investigative purposes, a rail operator or a rail safety worker who is associated with particular rolling stock—

(a) to state the name, home address and business address of any other person who is associated with the rolling stock;

(b) to give any information that it is within the power of the person to give that may lead to the identification of the owner or operator of the rolling stock on any occasion.

(2) A person must not refuse or fail to comply with a direction under subsection (1).

Penalty: 5 penalty units.

(3) In this section—

*associated with* means the owner or operator of, or in charge or apparently in charge of.
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

228ZN  Direction to state name and address

(1) A transport safety officer may, for compliance and investigative purposes, direct an individual whom the transport safety officer believes on reasonable grounds is, or may be, a relevant person to state his or her name, home address and business address.

(2) A person must comply immediately with a direction.
Penalty: 5 penalty units.

(3) A person must not, in purported compliance with a direction, knowingly provide a false name or address.
Penalty: 5 penalty units.

(4) In proceedings against a person for an offence of failing to state the person's business address, it is a defence if the person charged did not have a business address or the person's business address was not connected (directly or indirectly) with rail operations or works carried out by, or on behalf of, a utility.

(5) This section does not affect any other law that requires a person to state the person's name or address.

Note
Section 228ZY sets out the manner in which a direction may be given under this Division by a transport safety officer.

228ZO  Directions for the protection of evidence

(1) For the purpose of protecting evidence that might be relevant for compliance or investigative purposes, a transport safety officer may direct the person in control of a specified thing or class of specified things that the specified thing, or specified class of things, must not be removed or
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

section 228ZO

interfered with except with the permission of the transport safety officer.

(2) A person must not fail or refuse to comply with a direction under subsection (1).

Penalty: 60 penalty units.

(3) Subsection (2) does not apply if the conduct concerned was necessary—

(a) to ensure the safety of persons, animals or property; or

(b) for the movement of deceased persons or animals; or

(c) to move rolling stock, or the wreckage of rolling stock, to a safe place; or

(d) to protect the environment from significant damage or pollution.

(4) A transport safety officer must not unreasonably withhold his or her permission under subsection (1).

(5) In this section—

*in control*, in relation to a thing or a specified class of things, means having, or reasonably appearing to a transport safety officer as having, authority to exercise control over the thing or specified class of things.

Note

Section 228ZY sets out the manner in which a direction may be given under this Division by a transport safety officer.
Subdivision 7—Seized things and samples taken

228ZP Securing seized things

On seizing a thing under this Division, a transport safety officer may—

(a) move the thing from the railway premises or residential premises where it was seized (the place of seizure); or

(b) leave the thing at the place of seizure but take steps to restrict access to it; or

(c) in relation to equipment that is seized—make the equipment inoperable.

228ZQ Offence to tamper with seized thing

(1) If a transport safety officer restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without a transport safety officer's permission.

Penalty: 60 penalty units.

(2) If a transport safety officer makes seized equipment inoperable, a person must not tamper, or attempt to tamper, with the equipment, without a transport safety officer's permission.

Penalty: 60 penalty units.

228ZR Powers to support seizure

(1) To enable a thing to be seized under this Division, a transport safety officer may direct the person in control of it—

(a) to take it to a specified place within a specified time; and

(b) if necessary, to remain in control of it at the specified place for a period specified in the direction.
(2) A further direction may be made under this section about the thing if it is necessary and reasonable to make the further direction.

Example
A further direction may be that the thing be transported during stated off-peak hours, be transported along a particular route, or be transported in a particular way.

(3) A person given a direction under subsection (1) or (2) must not refuse or fail to comply with that direction unless the person has a reasonable excuse.

Penalty: 60 penalty units.

(4) Without limiting what may be a reasonable excuse under subsection (3), it is a reasonable excuse for a person in control of a thing to not comply with a direction under subsection (1) or (2) if in all the circumstances, the direction was unreasonable.

(5) The cost of complying with subsection (1) or (2) must be borne by the person.

(6) In this section—

in control, in relation to a thing, means having, or reasonably appearing to a transport safety officer as having, authority to exercise control over the thing.

Note
Section 228ZY sets out the manner in which a direction may be given under this Division by a transport safety officer.

228ZS  Transport safety officer may direct a thing's return

(1) If a transport safety officer has directed a person to take a thing to a specified place within a specified time under section 228ZR(1), the officer may direct the person to return the thing to the place from which it was taken.
(2) A person given a direction under subsection (1) must not refuse or fail to comply with that direction unless the person has a reasonable excuse.

Penalty: 60 penalty units.

(3) The cost of complying with a direction under subsection (1) must be borne by the person.

Note
Section 228ZY sets out the manner in which a direction may be given under this Division by a transport safety officer.

228ZT Receipt for seized things

(1) If a transport safety officer seizes a thing, or takes a sample of, or from, a thing at railway premises or residential premises under this Division, the officer must give a receipt for the thing to the person in charge of the thing or the railway premises or residential premises from which it was taken.

(2) A receipt must—

(a) identify the thing seized or sample taken; and

(b) state the name of the transport safety officer who seized the thing or took the sample and the reason why the thing was seized or the sample was taken.

(3) If for any reason it is not practicable for a transport safety officer to comply with subsection (1), the transport safety officer may—

(a) leave the receipt at the railway premises or residential premises in a conspicuous position and in a reasonably secure way; or

(b) send the receipt, by post, to the occupier of the railway premises or residential premises from where the thing was seized or the sample was taken.
228ZU Copies of certain seized things to be given

(1) If, under this Division, a transport safety officer seizes—
   
   (a) a document; or
   
   (b) a thing that can be readily copied; or
   
   (c) a storage device containing information that can be readily copied—

   the transport safety officer must give a copy of the thing or information to the owner or custodian of the document, thing or device as soon as practicable after the seizure.

(2) Subsection (1) does not apply—

   (a) to any document, thing or device moved under section 228ZP(a) or 228ZR; or

   (b) if the transport safety officer is unable to discover the identity of the owner or custodian of any document, thing or device seized.

228ZV Return of seized things

(1) If a transport safety officer seizes a thing under this Division, the transport safety officer must take reasonable steps to return the thing to the person from whom it was seized if the reason for its seizure no longer exists.

(2) If the thing has not been returned before the end of the retention period, the transport safety officer must take reasonable steps to return it unless—

   (a) proceedings have commenced within the retention period and those proceedings (including any appeal) have not been completed; or
(b) the Magistrates' Court makes an order under section 228ZW extending the retention period; or
(c) the thing has been forfeited to the State under section 228ZX.

228ZW Magistrates' Court may extend period

(1) A transport safety officer may apply to the Magistrates' Court within the retention period or within a period extended by the Court under this section for an extension of that period.

(2) The Magistrates' Court may order such an extension if satisfied that retention of the thing is necessary—

(a) for the purposes of an investigation into whether an offence has been committed against a relevant transport safety law; or
(b) to enable evidence of an offence against a relevant transport safety law to be obtained for the purposes of a prosecution; or
(c) because the thing is, or is likely to be, required for the purposes of—

(i) an investigation into a public transport safety matter; or

(ii) an audit under Division 5 of Part 3 of the Rail Safety Act 2006.

(3) The Court may adjourn an application to enable notice of the application to be given to any person.

228ZX Forfeiture of seized thing

(1) Any thing that a transport safety officer has seized and retained under this Division is forfeited to the State if the transport safety officer—
(a) cannot find the thing's owner despite making reasonable enquiries; or
(b) cannot return the thing to the owner despite making reasonable efforts; or
(c) considers it necessary to retain the thing to prevent the commission of an offence against a relevant transport safety law.

(2) If a thing is forfeited to the State under subsection (1)(c), the transport safety officer must notify (in writing) the owner accordingly, setting out how the owner may seek review of the decision to forfeit the thing, unless the transport safety officer cannot find the owner despite making reasonable enquiries.

Subdivision 8—Miscellaneous provisions relating to enforcement powers

228ZY Manner in which transport safety officers may give directions under this Division

(1) A transport safety officer may give a direction under this Division orally or in writing.

(2) If giving a direction orally, the transport safety officer giving the direction—

(a) must state whether it is to be complied with immediately or within a specified period; and

(b) must warn the person to whom the direction is given that it is an offence under this Act to fail to comply with a direction.

(3) If giving a direction in writing, the transport safety officer must ensure that the direction—

(a) states the period within which it is to be complied with; and
(b) states that it is an offence under this Act to fail to comply with a direction.

(4) A written direction may be given to, or sent by post to, the person to whom it is directed.

228ZZ. Use of force

A power conferred by this Division to enter railway premises or residential premises, or to do anything in, at or on any railway premises or residential premises, may not be exercised unless the transport safety officer proposing to exercise the power uses no more force than is reasonably necessary to effect the entry or do the thing for which entry is effected.

228ZZA. Use or seizure of electronic equipment

(1) If—

(a) a thing found at any railway premises or residential premises is or includes a disk, tape or other device for the storage of information; and

(b) equipment at the railway premises or residential premises may be used with the disk, tape or other storage device; and

(c) a transport safety officer believes on reasonable grounds that the information stored on the disk, tape or other storage device is relevant to determine whether a provision of a relevant transport safety law or conditions or restrictions of an accredited rail operator's accreditation have been breached—

the transport safety officer, or a person assisting the transport safety officer, may operate, or may require the occupier or an employee of the occupier to operate, the equipment to access the information.
(2) If the transport safety officer, or a person assisting the transport safety officer, finds that a disk, tape or other storage device at the railway premises or residential premises contains information of the kind referred to in subsection (1)(c), he or she may—

(a) put the information in documentary form and seize the documents so produced; or

(b) copy the information to another disk, tape or other storage device and remove that storage device from the railway premises or residential premises; or

(c) if it is not practicable to put the information in documentary form nor to copy the information, seize the disk, tape or other storage device and the equipment that enables the information to be accessed.

(3) A transport safety officer, or a person assisting a transport safety officer, must not operate or seize equipment for the purpose mentioned in this section unless the transport safety officer or person assisting believes on reasonable grounds that the operation or seizure of the equipment can be carried out without damage to the equipment.

228ZZB Compensation for damage caused during exercise of powers under this Division

(1) The Safety Director must pay compensation for any damage caused by a transport safety officer, or a person assisting a transport safety officer, in exercising (or purporting to exercise) any power conferred by this Division.

(2) However, the Safety Director is not liable to pay compensation to a person for any damage caused during any inspection or search conducted under Subdivision 4, or under a search warrant executed in accordance with Subdivision 5, if—
(a) the thing that was the object of the inspection or search is found and that thing provides evidence of—

(i) the commission of an offence against a relevant transport safety law; or

(ii) non-compliance with a relevant transport safety law or an approved code of practice; and

(b) the damage caused was no more than was reasonably necessary in inspecting, or searching for, the thing.

(3) In determining the amount of compensation payable in relation to any damage caused to electronic equipment, regard is to be had to whether the occupier of the railway premises or residential premises and the employees and agents of the occupier, if they were available at the time, had provided any warning or guidance as to the operation of the equipment that was appropriate in the circumstances.

Subdivision 9—Improvement notices

228ZZC Improvement notices

(1) The Safety Director or a transport safety officer may serve on a relevant person an improvement notice if the Safety Director or transport safety officer believes on reasonable grounds that the relevant person—

(a) is contravening a provision of a relevant transport safety law; or

(b) has contravened a provision of a relevant transport safety law in circumstances that make it likely the contravention will continue or be repeated; or
(c) in the case of a relevant person who is an accredited rail operator—

   (i) is contravening a condition or restriction of the operator's accreditation; or

   (ii) has contravened a condition or restriction of the operator's accreditation in circumstances that make it likely the contravention will continue or be repeated.

(2) The Safety Director or the transport safety officer may serve on the relevant person an improvement notice requiring the relevant person to remedy the contravention or likely contravention, or the matters or activities occasioning the contravention or likely contravention, within the period specified in the notice.

(3) A transport safety officer must, before serving an improvement notice under this section, inform the Safety Director of his or her intention to do so.

(4) An improvement notice must—

   (a) state the basis for the Safety Director's or transport safety officer's belief on which the service of the notice is based; and

   (b) specify the provision of the relevant transport safety law in respect of which that belief is held; and

   (c) specify a date (with or without a time) by which the relevant person is required to remedy the contravention or likely contravention or the matters or activities causing the contravention or likely contravention, that the transport safety officer considers is reasonable; and
(d) include information about obtaining a review of the decision to serve the notice; and

(e) set out the penalty for contravening the notice; and

(f) include a statement of the effect of section 228ZZI (proceedings for offences not affected by improvement notices); and

(g) state that it is served under this section.

(5) An improvement notice may include directions concerning the measures to be taken to remedy the contravention or likely contravention, or the matters or activities causing the contravention or likely contravention, to which the notice relates.

(6) Without limiting subsection (5), an improvement notice may include a direction that if the relevant person has not remedied the contravention, likely contravention, matters or activities (as the case may be) by the date and time (if any) specified in the notice, an activity to which the notice relates is to cease until the Safety Director or a transport safety officer serves a clearance certificate under section 228ZZH.

228ZZD Improvement notices—closures of level crossings, bridges or other structures

(1) Without limiting section 228ZZC, an improvement notice may require a relevant person to close a level crossing, a bridge or other structure passing over or under a railway—

(a) that the relevant person owns or controls; or

(b) for which the relevant person is responsible.

(2) If an improvement notice requires a relevant person to close a level crossing or a bridge or other structure passing over or under a railway, the relevant person must publish a notice of the required closure in a newspaper circulating—
(a) generally in the State; and
(b) in the area in which the level crossing or bridge or other structure is located.

(3) In this section level crossing has the same meaning as in section 221U.

228ZZE Contravation of improvement notice

(1) A relevant person on whom an improvement notice has been served must not refuse or fail to comply with the notice unless the relevant person has a reasonable excuse.

Penalty: In the case of a natural person, 500 penalty units;
In the case of a body corporate, 2500 penalty units.

(2) An offence against subsection (1) is an indictable offence.

Note
However, the offence may be heard and determined summarily (see section 28 of the Criminal Procedure Act 2009).

228ZZF Amendment of improvement notices

(1) An improvement notice served by the Safety Director may be amended by the Safety Director.

(2) An improvement notice served by a transport safety officer may be amended by any transport safety officer or the Safety Director.

(3) An amendment of an improvement notice is effected by service on the relevant person affected of a notice stating the terms of the amendment.
(4) An amendment of an improvement notice is ineffective if it purports to deal with a contravention of a different provision of a relevant transport safety law from that dealt with in the improvement notice as first served.

(5) A notice of an amendment of an improvement notice must—
(a) state the reasons for the amendment; and
(b) include information about obtaining a review of the decision to amend the notice; and
(c) state that it is served under this section.

228ZZG Cancellation of improvement notices
(1) An improvement notice served on a relevant person may only be cancelled by the Safety Director.

(2) Notice of cancellation of an improvement notice is required to be served on the relevant person affected.

228ZZH Clearance certificates for improvement notices
(1) This section applies if the Safety Director or a transport safety officer is satisfied that a relevant person served with an improvement notice has complied with all the requirements of, or a requirement of, that notice.

(2) The Safety Director or a transport safety officer must serve a clearance certificate on the relevant person to the effect that (as the case requires)—
(a) all of the requirements of the improvement notice have been complied with; or
(b) the specific requirement of the improvement notice has been complied with.
(3) The clearance certificate must be served as soon as practicable after the Safety Director or a transport safety officer is so satisfied.

(4) A requirement of the improvement notice to which the clearance certificate relates ceases to be operative on receipt by the relevant person of that certificate.

228ZZI Proceedings for offences not affected by improvement notices or clearance certificates

(1) The service, amendment or cancellation of an improvement notice does not affect any proceedings for an offence against a relevant transport safety law in connection with any matter in respect of which the improvement notice was served.

(2) The issue of a clearance certificate under section 228ZZH in respect of an improvement notice does not affect any proceedings for an offence against a relevant transport safety law in connection with any matter in respect of which the improvement notice was served.

Subdivision 10—Prohibition notices

228ZZJ Prohibition notice

(1) This section applies if—

(a) an activity is occurring at railway premises that involves or will involve an immediate risk to the safety of a person; or

(b) an activity may occur at railway premises that, if it occurs, will involve an immediate risk to the safety of a person; or
(c) an activity may occur at, on, or in the immediate vicinity of, rail infrastructure or rolling stock that, if it occurs, will involve an immediate risk to the safety of rail operations.

(2) If the Safety Director or a transport safety officer believes on reasonable grounds that an activity referred to in subsection (1) is occurring or may occur, the Safety Director or transport safety officer may serve on a person who has or appears to have control over the activity a prohibition notice prohibiting the carrying out of the activity, or the carrying out of the activity in a specified way, until the Safety Director or transport safety officer serves a certificate under section 228ZZN.

(3) A transport safety officer must, before serving a prohibition notice under this section, inform the Safety Director of his or her intention to do so.

(4) A prohibition notice must—

(a) state the basis for the Safety Director's or transport safety officer's belief on which the service of the notice is based; and

(b) specify the activity which the Safety Director or transport safety officer believes involves or will involve the risk and the matters which give or will give rise to the risk; and

(c) if the Safety Director or transport safety officer believes that the activity involves a contravention or likely contravention of a provision of a relevant transport safety law, specify that provision and state the basis for that belief; and

(d) set out the penalty for contravening the notice; and
(e) include information about obtaining a review of the decision to serve the notice; and

(f) include a statement of the effect of section 228ZZO (proceedings for offences not affected by prohibition notices); and

(g) state that it is served under this section.

(5) A prohibition notice may include directions on the measures to be taken to remedy the risk, activities or matters to which the notice relates, or the contravention or likely contravention mentioned in subsection (4)(c).

(6) A prohibition notice that prohibits the carrying out of an activity in a specified way may do so by specifying one or more of the following—

(a) a railway premises, or part of a railway premises, at which the activity is not to be carried out;

(b) rail infrastructure, part of rail infrastructure or a place in the immediate vicinity of rail infrastructure or rolling stock at which the activity is not to be carried out;

(c) any thing that is not to be used in connection with the activity;

(d) any procedure that is not to be followed in connection with the activity.

228ZZK Contravention of prohibition notice

(1) A person on whom a prohibition notice is served must not refuse or fail to comply with the notice unless the person has a reasonable excuse.

Penalty: In the case of a natural person, 500 penalty units;

In the case of a body corporate, 2500 penalty units.
(2) An offence against subsection (1) is an indictable offence.

Note

However, the offence may be heard and determined summarily (see section 28 of the Criminal Procedure Act 2009).

228ZZKA Oral direction before prohibition notice served

(1) This section applies if the Safety Director or a transport safety officer—

(a) believes on reasonable grounds that an activity referred to in section 228ZZJ(1) is occurring or may occur; and

(b) considers that it is not possible or reasonable to immediately serve a prohibition notice under that section.

(2) The Safety Director or transport safety officer may give an oral direction to a person who has or appears to have control over the activity to do or not to do a stated act by telling the person—

(a) to do or not to do the stated act; and

(b) the reason for the Safety Director or transport safety officer giving the direction.

(3) A person to whom a direction is given under subsection (2) must comply with the direction unless the person has a reasonable excuse.

Penalty: In the case of a natural person, 500 penalty units; In the case of a body corporate, 2500 penalty units.

(4) It is a reasonable excuse if the Safety Director or transport safety officer did not tell the person that the person commits an offence if the person does not comply with the direction.
(5) If the Safety Director or transport safety officer gives a direction under subsection (2) in respect of an activity but does not, within 5 days after giving the direction, serve a prohibition notice in respect of the activity, the direction ceases to have effect.

(6) An offence against subsection (3) is an indictable offence.

Note
However, the offence may be heard and determined summarily (see section 28 of the Criminal Procedure Act 2009).

228ZZL Amendment of prohibition notice

(1) A prohibition notice served by the Safety Director may be amended by the Safety Director.

(2) A prohibition notice served by a transport safety officer may be amended by any transport safety officer or the Safety Director.

(3) An amendment of a prohibition notice served is effected by service on the relevant person affected of a notice stating the terms of the amendment.

(4) An amendment of a prohibition notice served is ineffective if it purports to prohibit the carrying out of an activity that is different from the activity prohibited by the prohibition notice as first served.

(5) A notice of an amendment of a prohibition notice must—

   (a) state the reasons for the amendment; and

   (b) include information about obtaining a review of the decision to amend the notice; and

   (c) state that it is served under this section.
228ZZM Withdrawal of prohibition notices

(1) A prohibition notice served on a relevant person may only be withdrawn by the Safety Director.

(2) Notice of the withdrawal of a prohibition notice is required to be served on the relevant person affected.

228ZZN Certificates that matters that give rise to immediate risks to safety remedied

(1) This section applies if the Safety Director or a transport safety officer is satisfied that a relevant person served with a prohibition notice has remedied all of the matters or a matter—

(a) that gave, or will give, rise to an immediate risk to the safety of a person or rail operations because of the carrying out of the activity; and

(b) specified in the prohibition notice.

(2) The Safety Director or a transport safety officer must serve a certificate on the relevant person to the effect that (as the case requires)—

(a) all of the matters or the matter that gave rise to an immediate risk to the safety of a person or rail operations because of the activity specified in the prohibition notice have been remedied; or

(b) all of the matters or the matter that could have given rise to an immediate risk to the safety of a person or rail operations because of the activity specified in the prohibition notice have been remedied.

(3) The certificate must be served as soon as practicable after the Safety Director or transport safety officer is so satisfied.
(4) A matter raised in the prohibition notice that has been remedied to the satisfaction of the Safety Director or transport safety officer, and to which the certificate relates, ceases to be operative on receipt by the relevant person of that certificate.

228ZZO Proceedings for offences not affected by prohibition notices or certificates issued under section 228ZZN

(1) The service, amendment or withdrawal of a prohibition notice does not affect any proceedings for an offence against a relevant transport safety law in connection with any matter in respect of which the prohibition notice was served.

(2) The issue of a certificate under section 228ZZN in respect of a prohibition notice does not affect any proceedings for an offence against a relevant transport safety law in connection with any matter in respect of which the prohibition notice was served.

Subdivision 11—Other Matters

228ZZP Self-incrimination not an excuse

(1) A person is not excused from complying with a direction given under this Division on the ground that complying with the direction may result in information being provided that—

(a) might incriminate the person; or

(b) may make the person liable to a penalty.
(2) Relevant information—

(a) is not admissible in evidence against the person in criminal proceedings other than in proceedings in respect of the provision of false information; or

(b) must not be used in any action, proceeding or process that may make a person liable to a penalty.

(2A) In subsection (2) relevant information means—

(a) information obtained from a natural person under a direction given under this Division; and

(b) any information, document or thing obtained as a direct result or indirect consequence of information disclosed or provided by a natural person under paragraph (a).

(3) Despite subsection (2)(a), any information obtained from a person under section 228ZK(1) is admissible in evidence against the person in criminal proceedings.

(4) Despite subsection (2), any information obtained from a person under this Division that is contained in any document or item that the person is required to keep under a relevant transport safety law is admissible in evidence against the person in criminal proceedings or may be used in any action, proceeding or process that may make a person liable to a penalty.

* * * * *
Subdivision 11A—Transport safety infringement notices

228ZZPA  Transport safety infringements

(1) A transport safety officer who has reason to believe that a person has committed a transport safety infringement may serve a transport safety infringement notice on that person.

(2) An offence referred to in subsection (1) for which a transport safety infringement notice may be served is an infringement offence within the meaning of the Infringements Act 2006.

(3) The penalty for the purposes of this section in respect of any transport safety infringement is the amount prescribed in respect of that infringement.

228ZZPB  Regulations

The Governor in Council may make regulations for or with respect to—

(a) prescribing transport safety infringements for which a transport safety infringement notice may be served; and

(b) in addition to the requirements of section 13 of the Infringements Act 2006, any particulars, not inconsistent with that Act, to be contained in a transport safety infringement notice; and

(c) the form of a withdrawal notice; and

(d) the method of service of a withdrawal notice; and

(e) the penalties for any transport safety infringement; and
(f) the form of the document setting out particulars of prior convictions; and

(g) the form of notices to be endorsed on the document setting out particulars of prior convictions; and

(h) generally prescribing any other matter or thing required or permitted by this Subdivision to be prescribed or necessary to be prescribed to give effect to this Subdivision.

Subdivision 12—Review of decisions relating to improvement and prohibition notices

228ZZQ Reviewable decisions

(1) The following table sets out—

(a) decisions made under Subdivisions 7, 9 and 10 that are reviewable in accordance with this Subdivision (reviewable decisions); and

(b) who is eligible to apply for review of a reviewable decision (the eligible person in relation to the reviewable decision).

(2) To avoid doubt, sections 4 and 5 of the Victorian Civil and Administrative Tribunal Act 1998 apply for the purposes of this Act.

Note

Under section 4 of that Act, a person makes a decision if the person refuses to make a decision or an instrument, imposes a condition or restriction or does or refuses to do any other act or thing. Section 5 of that Act sets out when a person's interests are affected by a decision.
## Part VII—Prosecutions, Enforcement and Penalties and Other Matters

### Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

<table>
<thead>
<tr>
<th>Item</th>
<th>Provision under which reviewable decision is made</th>
<th>Eligible person in relation to reviewable decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>1AA</td>
<td>Section 228ZX (forfeiture of seized things)</td>
<td>The owner of the thing forfeited.</td>
</tr>
<tr>
<td>1</td>
<td>Section 228ZZC (service of improvement notice)</td>
<td>The person on whom the improvement notice is served.</td>
</tr>
<tr>
<td>2</td>
<td>Section 228ZZF (amendment of improvement notice)</td>
<td>The person served with the improvement notice that is being amended.</td>
</tr>
<tr>
<td>3</td>
<td>Section 228ZZH (clearance certificate to the effect that all or any specified requirements of improvement notice have been complied with)</td>
<td>The person on whom the improvement notice was served.</td>
</tr>
<tr>
<td>4</td>
<td>Section 228ZZJ (service of prohibition notice)</td>
<td>The person on whom the prohibition notice is served.</td>
</tr>
<tr>
<td>5</td>
<td>Section 228ZZL (amendment of prohibition notice)</td>
<td>The person served with the prohibition notice that is being amended.</td>
</tr>
<tr>
<td>6</td>
<td>Section 228ZZN (certificate that matters have been remedied)</td>
<td>The person on whom the prohibition notice was served.</td>
</tr>
</tbody>
</table>

### 228ZZR Review by the Safety Director

1. An eligible person—
   
   a. in relation to a reviewable decision made by the Safety Director may, within 28 days after the decision was made, apply to the Safety Director for a review of the decision;
(b) in relation to a reviewable decision, other than a decision made by the Safety Director, may apply to the Safety Director for review of the decision within—

(i) 28 days after the day on which the decision first came to the eligible person's notice; or

(ii) such longer period as the Safety Director allows.

(2) The application must be in the form approved (in writing) by the Safety Director.

(3) If an application is made to the Safety Director in accordance with this section, the Safety Director must make a decision—

(a) to affirm or vary the reviewable decision; or

(b) to set aside the reviewable decision and substitute another decision that the Safety Director considers appropriate.

(4) The Safety Director must give a written notice to the applicant setting out—

(a) the Safety Director's decision under subsection (3) and the reasons for the decision; and

(b) the findings on material questions of fact that led to the decision, referring to the evidence or other material on which those findings were based—

and must do so within 28 days after the application is made or, if the reviewable decision was made under section 228ZZC(5) or 228ZZJ(1) within 7 days after the application is made.
(5) If the Safety Director has not notified an applicant of a decision in accordance with subsection (4), the Safety Director is taken to have made a decision to affirm the reviewable decision.

(6) An application under this section does not affect the operation of the reviewable decision or prevent the taking of any action to implement it unless the Safety Director, on his or her own initiative or on the application of the applicant for review, stays the operation of the decision pending the determination of the review.

(7) The Safety Director must make a decision on an application for a stay within 24 hours after the making of the application.

(8) If the Safety Director has not made a decision in accordance with subsection (7), the Safety Director is taken to have made a decision to grant a stay.

(9) The Safety Director may attach any conditions to a stay of the operation of a reviewable decision that he or she considers appropriate.

228ZZS Review by the Tribunal

(1) A person may apply to the Tribunal for review of—

(a) a reviewable decision made by the Safety Director; or

(b) a decision made, or taken to have been made, by the Safety Director under section 228ZZR in respect of a reviewable decision (including a decision concerning a stay of the operation of the reviewable decision)—

if the person is an eligible person in relation to the reviewable decision.
(2) The application must be made—
   
   (a) within 28 days after the day on which the decision first came to the applicant's notice; or

   (b) if the Safety Director is required by the Victorian Civil and Administrative Tribunal Act 1998 to give the applicant a statement of reasons, within 28 days after the day on which the applicant is given the statement—

   whichever period ends last.

**Subdivision 13—Undertakings relating to contraventions of relevant safety laws**

**228ZZSA Definition**

In this Subdivision—

*relevant safety law* means—

(a) in the case of an accredited bus operator—a provision of the *Bus Safety Act 2009* or the regulations made under that Act;

(b) in the case of an accredited rail operator—a provision of the *Rail Safety Act 2006* or the regulations made under that Act.

**228ZZSB Safety Director may accept undertaking**

(1) The Safety Director may accept (by written notice) a written undertaking given by an accredited bus operator or accredited rail operator in connection with a matter relating to a
contravention or alleged contravention by that operator of a relevant safety law.

(2) However, the Safety Director must not accept an undertaking under subsection (1) if—

(a) the undertaking is in connection with a matter relating to a contravention or alleged contravention of an indictable offence under a relevant safety law; and

(b) the Safety Director considers that it would be appropriate for him or her to—

(i) prosecute that offence; or

(ii) seek advice from the Director of Public Prosecutions for Victoria as to whether that Director considers it appropriate for that Director to prosecute that offence.

(3) An accredited bus operator or accredited rail operator whose undertaking has been accepted by the Safety Director under subsection (1) cannot vary or withdraw that undertaking without the Safety Director's consent.

(4) Neither the Safety Director nor a transport safety officer may bring a proceeding for an offence against a relevant safety law if that offence is constituted by the contravention or alleged contravention to which the undertaking relates.

228ZZSC Varying or withdrawing undertaking

(1) An accredited bus operator or accredited rail operator whose undertaking has been accepted by the Safety Director under section 228ZZSB(1) may apply to the Safety Director for consent to vary or withdraw that undertaking.

(2) An application cannot be made under subsection (1) if there has been a breach of the undertaking.
(3) Within 28 days after receiving an application, the Safety Director must—
   (a) make a decision whether to give or refuse to give his or her consent; and
   (b) notify the applicant of that decision and the reasons for it.

228ZZSD  Review of refusal to vary or withdraw undertaking

(1) An accredited bus operator or accredited rail operator whose application under section 228ZZSC(1) for consent to vary or withdraw an undertaking is refused may apply to VCAT for review of the decision of the Safety Director to refuse consent.

(2) An application for review must be made within 28 days after the later of—
   (a) if the Safety Director makes a decision refusing to give consent, the date of the decision; or
   (b) if, under the Victorian Civil and Administrative Tribunal Act 1998, the accredited bus operator or accredited rail operator requests a statement of reasons for the decision, the day on which the statement of reasons is given to the operator or the operator is informed under section 46(5) of that Act that a statement of reasons will not be given.

228ZZSE  Enforcement of undertaking

(1) If the Safety Director considers that an accredited bus operator or accredited rail operator has contravened an undertaking accepted by the Safety Director, the Safety Director may apply to the Magistrates' Court for enforcement of the undertaking.
(2) If the Magistrates' Court is satisfied that an accredited bus operator or accredited rail operator has contravened the undertaking, the Magistrates' Court may make—

(a) an order that the operator must comply with the undertaking or take specified action to comply with the undertaking; or

(b) any other order that it considers appropriate.

(3) An accredited bus operator or accredited rail operator must comply with an order under subsection (2).

Penalty: In the case of a natural person, 240 penalty units;

In the case of a body corporate, 1200 penalty units.

Division 5—Prosecutions and evidentiary provisions

229 Prosecutions

(1) A proceeding for an offence against this Act or the regulations may only be brought by a member of the police force or a person authorised by the Secretary, the Director or the Roads Corporation either generally or in a particular case.
(1AA) Despite anything to the contrary in subsection (1), a proceeding for a ticket offence may be brought by a person who is employed or engaged by a passenger transport company or a bus company or, if it is accredited under Division 4A, the Bus Association Victoria and who is authorised in writing by the Director either generally or in a particular case for the purposes of this section.

(1A) A proceeding for any other summary offence or for an indictable offence that may be heard and determined summarily may—

(a) if the offence is alleged to have been committed on property owned or occupied by the Roads Corporation, only be brought by a member of the police force or a person authorised by that Corporation either generally or in a particular case; or

(b) if the offence is alleged to have been committed on public transport property of a passenger transport company, only be brought by a member of the police force or a person authorised in writing by the Director either generally or in a particular case for the purposes of this section.
(1B) Without limiting section 328 of the **Criminal Procedure Act 2009**, the person bringing a proceeding under subsection (1), (1AA) or (1A) may appear—

(a) by another person authorised by the Secretary, the Director or the Roads Corporation (as the case requires) under this section; or

(b) even if the informant is not a member of the police force, by a police prosecutor.

(2) In proceedings for an offence against this Act or the regulations it shall be presumed, in the absence of evidence to the contrary, that the person bringing the proceedings was authorized to bring the proceedings.

(3) Except as otherwise provided by or pursuant to this Act, all penalties recovered in relation to an offence against this Act or the regulations for which the proceeding was brought by a person authorised by the Roads Corporation shall be paid into the general fund of that Corporation.

* * * * *
229A Who may only bring proceedings for offences against relevant transport safety laws

(1) Proceedings for an offence against a relevant transport safety law may be brought only by—

(a) the Safety Director; or

(b) a transport safety officer with the written authorisation of the Safety Director (either generally or in a particular case).

(2) An authorisation under subsection (1)(b) is sufficient authority to continue proceedings in any case where the court amends the charge-sheet, warrant or summons.

(3) A transport safety officer who brings proceedings may conduct the proceedings before the court.

(4) Nothing in this section affects the ability of the Director of Public Prosecutions to bring proceedings for an indictable offence against a relevant transport safety law.

229B Limitation period for prosecutions for indictable offences against relevant transport safety laws

Proceedings for an indictable offence against a relevant transport safety law may be brought—

(a) within 3 years after the offence is committed or the Safety Director becomes aware the offence was committed; or

(b) at any time with the written authorisation of the Director of Public Prosecutions.

230 Evidentiary provisions

(1) On the prosecution of any person for stealing any property in or from any vehicle owned or leased by the Roads Corporation or premises owned or occupied by that Corporation or for receiving or having in his possession any property suspected of being so stolen—
(a) evidence may be given of any writing or marks on the property or on any package or container in which the property was enclosed or on any label attached to the property or that package or container without producing or giving notice to produce the original writing or marks; and

(b) a document purporting to be a consignment note, tally note, bill of lading, shipping or railway receipt, delivery order, specification, schedule, packing list or invoice relating to the property shall be admissible in evidence and, in the absence of evidence to the contrary, shall be proof of the particulars contained in the document.

(2) A certificate purporting to be under the hand of the Chief Executive of the Roads Corporation, a passenger transport company, a bus company or a rail corporation certifying that any land, buildings or other property (whether real or personal) described in the certificate is vested in, occupied by or operated by or on behalf of the Roads Corporation, that company or the rail corporation (as the case requires) shall be admissible in evidence in any proceedings and, in the absence of evidence to the contrary, shall be proof of the matters stated in the certificate.

(3) In any prosecution or legal proceedings under this or any other Act, under regulations made under this Act or under regulations or by-laws made under any other Act a statement (whether oral or in writing) by an officer of the Roads Corporation (being an officer authorized to make the statement by the Chief Executive of that Corporation) that—

(a) a road is a State highway, main road, tourists' road, forest road, freeway, stock route or metropolitan bridge; or

S. 230
amended by Nos 100/1986 s. 42(b), 44/1989 s. 40(Sch. 1 items 2.1, 8.1, 13), 81/1990 s. 6, 98/1998 s. 37(1)(a)(b), 45/1999 s. 31(1)(a)(b), 30/2000 s. 29(2)(a)(b).

S. 230(3)
amended by Nos 100/87 s. 3(1)(Sch. 1 item 207), 44/1989 s. 40(Sch. 1 items 12, 13, 17).
(b) a place road structure or thing is or forms part of the West Gate Bridge—

shall be sufficient evidence of that fact until the contrary is shown.

(3A) A certificate purporting to be under the hand of a person who is employed or engaged by a passenger transport company, a bus company or a rail corporation authorised to sign that certificate by the chief executive of that company or the rail corporation (as the case requires), certifying as to any matter which appears in or can be calculated from the records kept by or on behalf of that company or rail corporation (as the case requires) in connection with any ticketing system operated by it or on its behalf is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate.

(4) Any notice, statement, certificate or other document purporting to be under the hand of the Secretary, the Director or the Chief Executive of the Roads Corporation or of an officer of the Department or of that Corporation or of a person who is employed or engaged by a passenger transport company, a bus company or a rail corporation authorised to sign that notice, statement, certificate or other document by the Secretary, the Director or the Chief Executive of the Roads Corporation or of the passenger transport company, the bus company or the rail corporation (as the case requires) shall be admissible in evidence in any proceedings and, in the absence of evidence to the contrary, shall be proof of the matters therein set forth.
(5) Any minute or record of the proceedings of the Roads Corporation, a passenger transport company, a bus company or a rail corporation or a copy of such a minute or record certified as correct under the hand of the Chief Executive of that Corporation or that company or the rail corporation (as the case requires) shall be presumed to be correct until the contrary is shown.

(6) A document purporting to be a minute or record or copy referred to in subsection (5) shall, until the contrary is shown, be deemed to be such a minute or record or copy.

(7) A certificate purporting to be issued by—
   (a) the Public Transport Ticketing Body; or
   (b) the Chief Executive Officer of that Body; or
   (c) an officer, employee or agent of that Body authorised for that purpose by the Chief Executive Officer of that Body—

   certifying as to any matter relating to a smartcard issued by or on behalf of that Body that appears in or can be calculated from the records kept by that Body is admissible in evidence in any proceedings (other than proceedings for a ticket offence) and, in the absence of evidence to the contrary, is proof of that matter.

230A Evidentiary certificates—relevant transport safety laws

(1) In any proceeding for an offence against a relevant transport safety law, a certificate signed, or purporting to be signed, by the Safety Director or a transport safety officer stating any of the following matters shall be admissible in evidence and, in the absence of evidence to the contrary, shall be proof of the matters stated—
(a) a stated document is one of the following things made, given, served or issued under a relevant transport safety law or regulations made under a relevant transport safety law—

(i) an appointment or a decision;

(ii) a notice, notification, direction or requirement;

(iii) an accreditation or exemption;

(iv) an improvement notice or an amendment to an improvement notice already served;

(v) a prohibition notice or an amendment to a prohibition notice already served;

(vi) a clearance certificate issued under section 228ZZH;

(vii) a certificate issued under section 228ZZN;

(b) a stated document is a copy of a thing referred to in paragraph (a);

(c) on a stated day, or during a stated period, a stated person—

(i) was or was not accredited; or

(ii) held or did not hold an exemption;

(d) on a stated day, or during a stated period, an accreditation or exemption—

(i) was or was not in force; or

(ii) was or was not subject to a stated term, condition, limitation or restriction;

(e) on a stated day, or during a stated period, an accreditation was suspended;

(f) on a stated day an accreditation was cancelled, varied or surrendered;
(g) on a stated day a condition or restriction on an accreditation was varied or revoked;
(h) on a stated day an exemption was revoked;
(i) on a stated day or during a stated period, an appointment as a transport safety officer was, or was not, in force for a stated person;
(j) on a stated day a stated person was given a stated notice, notification or direction under a relevant transport safety law;
(k) on a stated day a person was served—
   (i) an improvement notice or prohibition notice; or
   (ii) amendment to an improvement notice or prohibition notice already served;
(l) on a stated day—
   (i) an improvement notice was cancelled; or
   (ii) a prohibition notice was withdrawn;
(m) on a stated day a clearance certificate under section 228ZZH was issued;
(n) on a stated day a certificate under section 228ZZN was issued;
(o) on a stated day a stated requirement was made of a stated person;
(p) that a stated amount is payable under the Rail Safety Act 2006 by a stated person and has not been paid.

(2) In this section—

   accreditation has the same meaning as in the Rail Safety Act 2006;
exemption means an exemption under—

(a) section 46B, 63 or 66 of the Rail Safety Act 2006; or

(b) regulations made under the Rail Safety Act 2006.

230AB Evidentiary provision—smartcards

(1) If a fact relating to a smartcard is relevant in proceedings relating to a ticket offence, evidence of that fact as indicated or determined by a prescribed device that was used in the prescribed manner (if any) or by a printed document that was produced by a prescribed process is admissible in evidence in those proceedings.

(2) For the purposes of this section, a fact relates to a smartcard if it relates to—

(a) the smartcard itself, including its type, identifying numbers and manner of acquisition; or

(b) the holder of the smartcard; or

(c) the existence, or possible existence, of an entitlement to use a public transport service; or

(d) the use of the smartcard.

230AC Certificate of authorised officer who operated hand held reader

(1) A certificate purporting to be issued by an authorised officer who used a hand held reader to copy or transfer information from a smartcard produced to the authorised officer for inspection certifying as to the information copied or transferred from the smartcard in relation to all or any of the following matters—
(a) the card number;
(b) the card type;
(c) the name of the card holder (if applicable);
(d) the use of the card;
(e) the entitlement to use a public transport service—
is admissible in evidence in any proceedings relating to a ticket offence.

(2) Subject to section 230AF, if a certificate is issued under subsection (1) in respect of a smartcard, it is presumed for the purposes of any proceedings relating to a ticket offence that the smartcard had accurately recorded and discharged the information copied or transferred from it by the hand held reader.

230AD Certificate in respect of prescribed devices and processes

A certificate purporting to be issued by a person authorised by the Public Transport Ticketing Body or the Chief Executive Officer of that Body certifying that—

(a) at all relevant times the prescribed devices specified in the certificate had operated correctly and had indicated or determined the facts (if any) stated in the certificate; or

(b) at all relevant times, the printed documents specified in the certificate had been produced by a prescribed process—
is admissible in evidence in any proceedings relating to a ticket offence.
230AE Notice by informant

(1) If the informant in proceedings relating to a ticket offence serves on the accused, by the required time, a copy of a certificate referred to in section 230AC, the certificate is conclusive proof of—

(a) the facts and matters stated in that certificate; and

(b) the fact that the hand held reader used was a prescribed device; and

(c) the fact that the hand held reader was used in the prescribed manner (if any); and

(d) the fact that the hand held reader had operated correctly.

(2) If the informant in proceedings relating to a ticket offence serves on the accused, within the required time, a notice setting out the presumptions set out in section 230AC(2), the facts that are the subject of the presumptions are to be taken to have been conclusively proved.

(3) If the informant in proceedings relating to a ticket offence serves on the accused, within the required time, copy of a certificate referred to in section 230AD, the certificate is conclusive proof—

(a) that the person giving the certificate was authorised to do so; and

(b) in the case of a certificate under section 230AD(a) of—

(i) the fact that at all relevant times the prescribed devices specified in the certificate had operated correctly; and
(ii) the facts (if any) stated in the certificate as indicated or determined by the prescribed devices; and

(c) in the case of a certificate under section 230AD(b) of—

(i) the fact that at all relevant times the printed documents specified in the certificate had been produced by a prescribed process; and

(ii) the facts indicated or determined by the printed documents.

(4) This section is subject to section 230AF.

(5) In this section required time means no less than 56 days before the hearing for the relevant ticket offence.

230AF Notice by accused

(1) The accused in any proceedings relating to a ticket offence may give notice in writing to the informant not less than 28 days before the hearing, or any shorter period ordered by the court or agreed to by the informant, that—

(a) he or she requires the person giving a certificate referred to in section 230AD to be called as a witness; or
(b) he or she intends to adduce evidence in rebuttal of any fact or matter—

(i) stated in a certificate referred to in section 230AC or 230AD; or

(ii) referred to in section 230AE(1) or 230AE(3); or

(c) he or she intends to adduce evidence in rebuttal of any fact that is the subject of a presumption set out in section 230AC(2).

(2) A notice under subsection (1) must specify any fact or matter with which issue is taken and indicate the nature of any expert evidence that the accused intends to have adduced at the hearing.

(3) The accused may not, except with the leave of the court, introduce expert evidence at the hearing if the nature of that evidence was not indicated in a notice under subsection (1).

(4) Subject to subsection (7), if an accused gives a notice to the informant in accordance with subsection (1)(a), the certificate remains admissible as evidence of the facts or matters contained in the certificate or referred to in section 230AE(3) but ceases to be conclusive proof of those facts or matters.

(5) Despite any order under subsection (7), if an accused gives a notice to the informant under subsection (1)(b) in relation to a fact or matter contained in a certificate or referred to in section 230AE(1) or 230AE(3), the certificate—

(a) remains admissible as evidence of that fact or matter but ceases to be conclusive proof of that fact or matter; and

(b) remains admissible as conclusive proof of the facts or matters contained in the certificate or referred to in section 230AE(1)
or 230AE(3) that are not specified in the notice.

(6) If an accused gives notice to the informant under subsection (1)(c) in relation to a fact set out in section 230AC(2), that fact ceases to be presumed and ceases to be taken to be conclusively proved but the certificate if admitted in evidence is deemed to be evidence of that fact.

(7) If an accused gives notice to the informant in accordance with subsection (1)(a) that he or she requires the person giving a certificate referred to in section 230AD to be called as a witness and the court is satisfied that that person—

(a) is dead; or

(b) is unfit by reason of his or her bodily or mental condition to testify as a witness; or

(c) has ceased to be a person authorised by the Public Transport Ticketing Body or the Chief Executive Officer of that Body or is out of Victoria and it is not reasonably practicable to secure his or her attendance; or

(d) cannot with reasonable diligence be found—

the court must order that section 230AE has effect as if the notice had not been given.

230AG  Informant may adduce evidence in relation to ticket offence

(1) Nothing in section 230AE prevents the informant adducing evidence to explain any fact or matter contained in a certificate referred to in that section.

(2) If an informant adduces evidence as provided in subsection (1), the certificate remains admissible in evidence but ceases to be conclusive proof of that fact or matter only.
230AH Regulations

(1) The Governor in Council may make regulations for or with respect to—

(a) prescribing devices for the purposes of sections 230AB, 230AD and 230AE and the manner of using (including testing) those devices; and

(b) the processes for loading information onto a prescribed device or a prescribed computer system, copying or transferring information between prescribed devices or between a prescribed device and a prescribed computer system, storing of information by a prescribed device or prescribed computer system and producing a printed record of information stored by a prescribed device or prescribed computer system; and

(c) generally prescribing any other matter or thing required or permitted by this Division to be prescribed or necessary to be prescribed to give effect to this Division.

(2) The regulations—

(a) may be of general or of specially limited application; and

(b) may differ according to differences in time, place or circumstance; and

(c) may require a matter affected by the regulations to be—

(i) in accordance with a specified standard or specified requirement; or

(ii) approved by or to the satisfaction of a specified person or a specified class of person; or
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Part VII—Prosecutions, Enforcement and Penalties and Other Matters

(iii) as specified in both subparagraphs (i) and (ii); and

(d) may apply, adopt or incorporate any matter contained in any document whether—

(i) wholly or partially or as amended by the regulations; or

(ii) as in force at a particular time or as in force from time to time; and

(e) may confer a discretionary authority or impose a duty on a specified person or a specified class of person.

Division 6—Sentences in relation to relevant transport laws

230AI Definitions

In this Division—

*relevant authorised officer* means an authorised officer authorised by the Director under section 221A;

*relevant law* means—

(a) a relevant transport safety law; or

(b) Division 4 or 5 of Part VI; or

(c) any regulations made under this Act for the purposes of Division 4 or 5 of Part VI.
230B  Commercial benefits penalty order

(1) A court that finds a person guilty of an offence against a relevant law may, on application by any of the following, make an order under this section—

(a) the prosecutor; or
(b) the Safety Director; or
(c) the licensing authority.

(2) The court may make a commercial benefits penalty order requiring the person to pay, as a fine, an amount not exceeding 3 times the amount estimated by the court to be the gross commercial benefit that—

(a) was obtained or obtainable, by the person or by an associate of the person, from the commission of the offence; and

(b) in the case of a journey that was interrupted or not commenced because of action taken by a transport safety officer or a relevant authorised officer in connection with the commission of the offence—would have been obtained or obtainable, by the person or by an associate of the person, from the commission of the offence had the journey been completed.

(3) In estimating the gross commercial benefit that was or would have been obtained or obtainable from the commission of the offence, the court may take into account—

(a) benefits of any kind, whether monetary or otherwise; and
(b) monetary savings or a reduction in any operating or capital expenditure of any kind achieved because of the commission of the offence; and

(c) any other matters that it considers relevant, including (for example)—

(i) the value per tonne or per kilometre of the carriage of the goods involved in the offence as freight; and

(ii) the distance over which any such goods were or were to be carried.

(4) However, in estimating the gross commercial benefit that was or would have been obtained or obtainable from the commission of the offence, the court is required to disregard any costs, expenses or liabilities incurred by the person or by an associate of the person.

(5) Nothing in this section prevents the court from ordering payment of an amount that is—

(a) less than 3 times the estimated gross commercial benefit; or

(b) less than the estimated gross commercial benefit.

### 230C Supervisory intervention order

(1) A court that finds a person guilty of an offence against a relevant law may, on application by any of the following, make an order under this section—

(a) the prosecutor; or

(b) the Safety Director; or

(c) the licensing authority.
(2) The court may make a supervisory intervention order requiring the person (at the person's own expense and for a specified period not exceeding one year) to do all or any of the following—

(a) to do specified things that the court considers will improve the person's compliance with a relevant law or specified aspects of a relevant law, including (for example) the following—

(i) appointing or removing staff to or from particular activities or positions;
(ii) training and supervising staff;
(iii) obtaining expert advice as to maintaining appropriate compliance;
(iv) installing monitoring, compliance, managerial or operational equipment;
(v) implementing monitoring, compliance, managerial or operational practices, systems or procedures;

(b) to conduct specified monitoring, compliance, managerial or operational practices, systems or procedures subject to the direction of one or more of the following as specified in the order—

(i) the Safety Director; or
(ii) the licensing authority; or
(iii) a person nominated by the Safety Director or the licensing authority (as the case requires);

(c) to furnish compliance reports to one or more of the following as specified in the order—

(i) the Safety Director;
(ii) the licensing authority;

(iii) the court;

(d) to appoint a person to have responsibilities—

(i) to assist the person in improving compliance with a relevant law or specified aspects of a relevant law; and

(ii) to monitor the person's performance in complying with a relevant law or specified aspects of a relevant law and in complying with the requirements of the order; and

(iii) to furnish compliance reports to one or more of the following as specified in the order—

(A) the Safety Director;

(B) the licensing authority;

(C) the court.

(3) The court may specify matters that are to be dealt with in compliance reports and the form, manner and frequency in which compliance reports are to be prepared and furnished.

(4) The court may require that compliance reports or aspects of compliance reports be made public, and may specify the form, manner and frequency in which they are to be made public.

(4A) A court may only make an order under this section against a person if the court considers the person to be a systematic or persistent offender against the relevant law.

(5) The court may only make a supervisory order if it is satisfied that the order is capable of improving the person's ability or willingness to comply with the relevant law, having regard to—
(a) the offences against a relevant law of which the person has been previously found guilty; and

(b) the offences against a relevant law for which the person has been proceeded against by way of unwithdrawn infringement notices; and

(c) any other offences or other matters that the court considers to be relevant to the conduct of the person in connection with—

(i) rail transport; or

(ii) the use of a commercial passenger vehicle for the purpose of carrying passengers for hire or reward; or

(iii) the use of a taxi-cab for plying for trade for the purpose referred to in subparagraph (ii); or

(iv) the provision of taxi-cab network services (within the meaning of section 130A(1)).

(6) The order may direct that any other penalty or sanction imposed for the offence by the court is suspended until the court determines that there has been a substantial failure to comply with the order.

(7) A court that has power to make supervisory intervention orders may revoke or amend a supervisory intervention order on the application of—

(a) the Safety Director; or

(ab) the licensing authority; or

(b) the person in respect of whom the order was made, but in that case only if the court is
satisfied that there has been a change of circumstances warranting revocation or amendment.

(8) In this section—

**compliance report**, in relation to a person in respect of whom a supervisory intervention order is made, means a report relating to—

(a) the performance of the person in complying with—

(i) a relevant transport safety law or specified aspects of a relevant transport safety law specified in the order; and

(ii) the requirements of the order; and

(b) without limiting the above—

(i) things done by the person to ensure that any failure by the person to comply with the relevant transport safety law or the specified aspects of the relevant transport safety law does not continue; and

(ii) the results of those things having been done.

### 230D Contravention of supervisory intervention order

A person who is subject to a requirement of a supervisory intervention order must not engage in conduct that results in contravention of the requirement.

**Penalty:** In the case of a natural person, 120 penalty units; in the case of a body corporate, 600 penalty units.
230DA Exclusion orders

(1) A court that finds a person guilty of an offence against a relevant law may make an order under this section on application by—

(a) the prosecutor; or
(b) the Safety Director; or
(c) the licensing authority.

(2) For the purpose of restricting opportunities for the person to commit or be involved in the commission of further offences against relevant laws, the court may, if it considers it appropriate to do so, make an exclusion order prohibiting the person, for a specified period, from—

(a) managing or operating rail infrastructure or rolling stock, or managing or operating a particular type of rail infrastructure or rolling stock; or

(b) being an operator of a taxi-cab or being an operator of a particular type of taxi-cab (other than for the purpose of transferring a taxi-cab licence or assigning the right to operate the taxi-cab); or

(c) operating a commercial passenger vehicle (other than a taxi-cab) or operating a particular type of commercial passenger vehicle (other than a taxi-cab); or

(d) providing a taxi-cab network service (within the meaning of section 130A(1)) or providing a particular type of taxi-cab network service; or
(e) being a director, secretary or officer concerned in the management of a body corporate involved in the carrying out, in the State, of any of the activities referred to in paragraphs (a), (b), (c) and (d); or

(f) being involved in the carrying out, in the State, of any of the activities referred to in paragraphs (a), (b), (c) and (d) except by—

(i) driving a train or rolling stock or a commercial passenger vehicle (other than a taxi-cab); or

(ii) operating a taxi-cab.

(2A) The court may only make an order under this section if it considers the person to be a systematic or persistent offender against the relevant law.

(3) The court may only make an order under this section if it is satisfied that the person should not continue the things the subject of the proposed order and that a supervisory intervention order under section 230C is not appropriate, having regard to—

(a) the offences against a relevant transport safety law of which the person has previously been found guilty; and

(b) any other offences or other matters that the court considers to be relevant to the conduct of the person in connection with rail operations.

(4) A court that has power to make an exclusion order may revoke or amend the exclusion order on the application of—

(a) the Safety Director; or
(ab) the licensing authority; or

(b) the person in respect of whom the order was made, but in that case only if the court is satisfied that there has been a change of circumstances warranting the revocation or amendment.

230DB Corporations Act displacement

Section 230DA is declared to be a Corporations legislation displacement provision for the purposes of section 5G of the Corporations Act in relation to the provisions of Chapter 2D of that Act.

Note

Section 5G of the Corporations Act provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision, any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not apply to the extent necessary to avoid the inconsistency.

230DC Contravention of exclusion order

A person who is subject to an exclusion order must not engage in conduct that results in a contravention of the order.

Penalty: In the case of a natural person, 120 penalty units;

In the case of a body corporate, 600 penalty units.
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

230E Release on the giving of a safety undertaking

(1) If a court convicts a person or finds a person guilty of an offence against a relevant law the court may (with or without recording a conviction) adjourn the proceeding for a period of up to 2 years and make an order for the release of the offender on the offender giving an undertaking with specified conditions.

(2) An undertaking must specify the following conditions—

(a) that the offender appears before the court if called on to do so during the period of the adjournment and, if the court so specifies, at the time to which the further hearing is adjourned;

(b) that the offender does not commit, during the period of the adjournment, any offence against a relevant law;

(c) that the offender observes any special conditions imposed by the court.

(3) Without limiting subsection (2)(c), the court may impose on an offender special conditions that the offender—

(a) engage a consultant, who is approved in writing by the Safety Director or licensing authority, to advise on or assist with safety matters; and

(b) develop and implement a systematic approach to managing risks to safety that arise or may arise in the conduct of the offender's undertaking; and
(c) arrange for the carrying out of an audit of the offender's undertaking in relation to safety by an independent person who is approved in writing by the Safety Director or licensing authority.

(4) An offender who has given an undertaking under this section may be called on to appear before the court—

(a) by order of the court; or

(b) by notice issued by the proper officer (within the meaning of section 72(4) of the Sentencing Act 1991) of the court.

(5) An order or notice under subsection (4) must be served on the offender not less than 4 days before the time specified in it for the appearance.

(6) If the court is satisfied at the time to which a further hearing of a proceeding is adjourned that the offender has observed the conditions of the undertaking, it must discharge the offender without any further hearing of the proceeding.

(7) The court may make an order under this section in relation to an offender in addition to or instead of—

(a) imposing a penalty on the offender; or

(b) making any other order that the court may make in relation to the offence.

230F Variation or breach of orders under section 230E

Sections 78 and 79 of the Sentencing Act 1991 (and any definitions in that Act of terms used in those sections) apply to an order under section 230E for the release of an offender as though they were incorporated into this Act and as though—
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(a) a reference to Subdivision (2) or (3) were instead a reference to section 230E; and

(b) a reference to a prescribed person, a member of a prescribed class of persons, the informant or a police prosecutor were instead a reference to the Safety Director; and

(c) the reference in section 79(4) of the Sentencing Act 1991 to a level 10 fine were instead a reference to a fine not exceeding 10 penalty units for a natural person or 50 penalty units for a body corporate; and

(d) any other necessary modifications were made.

230FA Adverse publicity order

(1) A court that finds a person guilty of an offence—

(a) against a relevant law; or

(b) under Division 4 or 5 of Part VI or any regulations made under this Act for the purposes of either of those Divisions—

may, on the application of the prosecutor, the Safety Director or the licensing authority, make an order under this section.

(2) The court may make an adverse publicity order requiring the offender to do all or any of the following—

(a) to take either or both of the following actions within the period specified in the order—

(i) to publicise, in the way specified in the order, the offence, its consequences, the penalty imposed and any other related matter;
(ii) to notify a specified person or specified class of persons, in the way specified in the order, of the offence, its consequences, the penalty imposed and any other related matter; and

(b) to give, as the case requires, the Safety Director or the licensing authority within 7 days after the end of the period specified in the order, evidence that the action or actions were taken by the offender in accordance with the order.

(3) The court may make an order under this section in addition to—

(a) imposing a penalty on the offender; or

(b) making any other order that the court may make in relation to the offence.

(4) This section does not limit a court's powers under any other provision of this Act.

Division 7—Other matters

Subdivision 1—Interpretation

230G Definitions

In this Subdivision—

*improvement or prohibition notice contravention provision* means section 228ZE(1) or 228ZK(1);

*relevant rail protection law* means—

(a) section 93B or 93C(1) of the *Electricity Industry Act 2000*;
Part VII—Prosecutions, Enforcement and Penalties and Other Matters

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(b) section 149B or 149C(1) of the Gas Industry Act 2001;
(c) section 48E or 48F of the Road Management Act 2004;
(d) section 137B(1) or 137C(1) of the Water Act 1989;
(e) section 62B(1) or 62C(1) of the Water Industry Act 1994;

relevant rail safety duty law means—
(a) section 93A(1) or (2) of the Electricity Industry Act 2000;
(b) section 149A(1) or (2) of the Gas Industry Act 2001;
(c) section 48B, 48C or 48D of the Road Management Act 2004;
(d) section 137A(1) or (2) of the Water Act 1989;
(e) section 62A(1) or (2) of the Water Industry Act 1994.

Subdivision 2—Liability

230H Civil liability not affected by a relevant rail safety duty law

Nothing in a relevant rail safety duty law is to be construed as—

(a) conferring a right of action in civil proceedings in respect of a contravention of a relevant rail safety duty law; or

(b) conferring a defence to an action in civil proceedings or otherwise affecting a right of action in civil proceedings.
230I Interaction with the Occupational Health and Safety Act 2004

(1) If a provision of the Occupational Health and Safety Act 2004 or the regulations made under that Act applies to an activity in respect of which a duty under a relevant rail safety duty law is imposed, that provision continues to apply, and must be observed in addition to the relevant rail safety duty law.

Note
See also section 51 of the Interpretation of Legislation Act 1984.

(2) If a relevant rail safety duty law is inconsistent with a provision of the Occupational Health and Safety Act 2004 or the regulations made under that Act, the Occupational Health and Safety Act 2004 or the regulations made under it prevail to the extent of the inconsistency.

(3) Compliance with a relevant rail safety duty law, or with any requirement imposed under a relevant rail safety duty law, is not in itself a defence in any proceedings for an offence against the Occupational Health and Safety Act 2004 or the regulations made under that Act.

(4) Evidence of a relevant contravention of a relevant rail safety duty law is admissible in any proceedings for an offence against the Occupational Health and Safety Act 2004 or the regulations made under that Act.

230J Offences by bodies corporate, officers of bodies corporate, partnerships etc.

(1) Divisions 1 to 3 of Part 9 of the Rail Safety Act 2006 apply to the commission of an offence against a relevant rail protection law or an improvement or prohibition notice contravention provision in the same way as those Divisions...
apply to the commission of an offence against a provision of the Rail Safety Act 2006 (other than an offence against a provision in Division 2 or 3 of Part 3 of that Act).

(2) Divisions 1 to 3 of Part 9 of the Rail Safety Act 2006 apply to the commission of an offence against a relevant rail safety duty law in the same way as those Divisions apply to the commission of an offence against a provision of Division 2 or 3 of Part 3 of the Rail Safety Act 2006 or regulations made under that Act for the purposes of Division 2 or 3 of Part 3 of that Act.
PART VIIA—ENFORCEMENT AND RELATED POWERS FOR THE PORT OF MELBOURNE

Division 1—Preliminary

230K Definition

In this Part, *hazardous port activity provision* means a provision of the *Port Services Act 1995* or regulations made under that Act as to hazardous port activities, within the meaning of that Act.

230L Appointment

(1) The Secretary, by instrument, may appoint as a port safety officer for the port of Melbourne, a person—

(a) who is employed in the Department under Part 3 of the *Public Administration Act 2004*; or

(b) who is an employee of the Port of Melbourne Corporation.

(2) When appointing a person under this section the Secretary must appoint a person who is suitably qualified or trained to be a port safety officer.

(3) An appointment under this section is for the term, and subject to the conditions, specified in the instrument of appointment.

(4) Without limiting the conditions to which an appointment under this section may be subject, an appointment may be subject to one or more of the following conditions—
s. 230M

(a) that the person appointed may only exercise the functions and powers specified in the instrument of appointment;

(b) that the functions and powers that the person may exercise under the appointment are subject to the conditions specified in the instrument of appointment.

230M Identity cards

(1) The Secretary must issue an identity card to a port safety officer.

(2) An identity card must—

(a) contain the name of the port safety officer to whom it is issued; and

(b) identify the port safety officer to whom it is issued as a port safety officer; and

(c) contain a photograph of the port safety officer.

230N Return of identity cards

If a person to whom an identity card has been issued ceases to be a port safety officer, the person must return the identity card to the Secretary as soon as practicable.

Penalty: 5 penalty units.

230O Production of identity card

(1) A port safety officer must produce his or her identity card for inspection—

(a) before exercising a power under Division 2 or Division 3; or

(b) if asked to do so by any person at any time during the exercise of a power under Division 2 or Division 3.
(2) However, a port safety officer need not produce his or her identity card when asked to do so if—

(a) the officer reasonably believes that the production of his or her identity card would—

(i) affect the safety or welfare of any person; or

(ii) frustrate the effective exercise of a power under Division 2 or Division 3; or

(b) the request to produce his or her identity card is made by a person to whom the officer has already produced that identity card on the same day before exercising a power under Division 2 or Division 3.

(3) Any action taken or thing done by a port safety officer under Division 2 or Division 3 is not invalidated by his or her failure to produce his or her identity card.

Division 2—Powers of entry and search of vessels

230P Power to enter and inspect vessels

(1) For the purpose of determining whether a hazardous port activity provision is being complied with, a port safety officer may enter a vessel that is in port of Melbourne waters.

(2) Without limiting subsection (1), a port safety officer who enters a vessel under subsection (1) may, for the purpose set out in that subsection, do any one or more of the following—

(a) inspect the vessel; or

(b) seize anything found on the vessel that the port safety officer believes on reasonable grounds to be connected with a
contravention of a hazardous port activity provision; or
(c) take samples, photographs or film, videotape or otherwise record images or record sound in connection with the inspection; or
(d) search for and inspect relevant documents; or
(e) require any person in or on the vessel to produce to the port safety officer any document that is required to be kept for the purpose set out in subsection (1) and that is located in or on the vessel and that is in the person's custody or possession or under the person's control; or
(f) make copies of, or take extracts from, any document that is required to be kept for the purpose set out in subsection (1) and that is kept in or on the vessel; or
(g) exercise any other power under this Act conferred on the port safety officer for those purposes.

(3) This section does not authorise the use of force, but the port safety officer may open unlocked doors, panels, objects or other things, or open unlocked places.

230Q Production of identity card by port safety officers before vessel searches

(1) This section applies if—

(a) a port safety officer wishes to inspect a vessel under this Division; and

(b) the master or operator of the vessel, or another person apparently in charge of the vessel, is present in, on or near the vessel.
(2) Before starting to inspect the vessel, the port safety officer must identify himself or herself to the person by producing his or her identity card for inspection by the person.

230R Consent not needed for inspections

A port safety officer may exercise a power under this Division at any time, and without the consent of the master or owner of the vessel, or other person apparently in charge of the vessel, or any other person.

Division 3—Powers of entry and search of premises

230S Entry of premises with consent

(1) A port safety officer may enter premises on port of Melbourne land, with the consent of the occupier of the premises, if the port safety officer believes on reasonable grounds that the entry is necessary because a person has contravened a hazardous port activity provision.

(2) A port safety officer must not exercise a power under subsection (1) in any part of the premises that is used for residential purposes.

(3) A port safety officer must not exercise a power under subsection (1) unless, before asking for the consent of the occupier, the port safety officer—

(a) has produced his or her identity card for inspection; and

(b) has informed the occupier—

(i) of the purpose of the entry and inspection; and

(ii) of the powers that the port safety officer may exercise on entry; and

(iii) that the occupier is not required to consent.
(4) If an occupier consents to the exercise of a power under subsection (1), the port safety officer who requested consent must, before entering the premises, ask the occupier to sign an acknowledgment of the consent.

(5) An acknowledgment must state—

(a) that the occupier has been informed—

(i) of the purpose of the entry and inspection; and

(ii) of the powers that the port safety officer may exercise on entry; and

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

(c) the purpose of the entry; and

(d) that the occupier has consented to the entry and the exercise of the powers; and

(e) the date and time that the occupier consented.

(6) If an occupier consents to the seizure or taking of any thing during an inspection under this section, the port safety officer must, before seizing or taking the thing, ask the occupier to sign an acknowledgment stating—

(a) that the occupier has consented to the seizure or taking of the thing; and

(b) the date and time that the occupier consented.

(7) An occupier who signs an acknowledgment under this section must immediately be given a copy of the signed acknowledgment.

(8) If, in any proceeding, an acknowledgment is not produced to the court or a tribunal, it must be presumed, until the contrary is proved, that the
occupier did not consent to the entry and exercise of powers or to the seizure or the taking of the thing.

230T Entry of premises without consent

(1) A port safety officer may enter premises on port of Melbourne land if the port safety officer believes on reasonable grounds that the entry is necessary because a person has contravened a hazardous port activity provision.

(2) A port safety officer—
   (a) must not exercise a power under subsection (1) in any part of the premises that is used for residential purposes; and
   (b) must not exercise a power under subsection (1) except—
      (i) when the premises are open for business; or
      (ii) when hazardous port activities are being carried out on the premises.

(3) If a port safety officer exercises a power of entry under this section without the owner or occupier being present the port safety officer must, on leaving the premises, leave a notice setting out—
   (a) the time of entry; and
   (b) the purpose of entry; and
   (c) a description of things done while on the premises; and
   (d) the time of departure; and
   (e) the procedure for contacting the port authority for further details of the entry.
230U  Powers that may be exercised on entry

A port safety officer who enters premises under section 230S or 230T may do any one or more of the following—

(a) inspect the premises; or

(b) seize any thing found at the premises that the port safety officer believes on reasonable grounds to be connected with a contravention of a hazardous port activity provision; or

(c) take samples, photographs or film, videotape or otherwise record images or record sound in connection with the inspection; or

(d) search for and inspect relevant documents; or

(e) require any person at the premises to produce to the port safety officer any document that is required to be kept for the purpose for which the inspection is being made and that is located at the premises and that is in the person's custody or possession or under the person's control; or

(f) make copies of, or take extracts from, any document that is required to be kept for the purpose for which the inspection is being made and that is kept at the premises; or

(g) exercise any other power under this Act conferred on the port safety officer for those purposes.

230V  Securing a site

(1) A port safety officer may take all reasonable steps to secure the perimeter of any area of land entered under this Division if he or she believes on reasonable grounds that it is necessary—
(a) for the purpose of ascertaining whether an offence against a hazardous port activity provision has been committed; or
(b) to preserve evidence relating to the commission of an offence against a hazardous port activity provision.

(2) The perimeter of an area secured under this section may be secured for a period that the port safety officer considers appropriate or the Secretary specifies.

230W Offence to enter secured site

A person must not enter a site the perimeter of which has been secured under section 230V unless the person has a reasonable excuse.

Penalty: 60 penalty units.

Division 4—Provisions as to use of or seizure of equipment or goods

230X Use of equipment to examine or process things

(1) A port safety officer may bring on to any premises or vessel at which the port safety officer is exercising a power under Division 2 or Division 3 any equipment reasonably necessary for the examination or processing of things found at the premises or on the vessel in order to determine whether they are things that may be seized.

(2) The port safety officer may operate equipment already at the premises to carry out the examination or processing of a thing found at the premises in order to determine whether it is a thing that may be seized, if the port safety officer believes on reasonable grounds that—

(a) the equipment is suitable for the examination or processing; and
(b) the examination or processing can be carried out without damage to the equipment or the thing.

230Y Copies of certain things seized to be given

(1) If, in exercising a power under Division 2 or Division 3, a port safety officer seizes—
   (a) a document; or
   (b) a thing that can be readily copied; or
   (c) a storage device that contains information that can be readily copied—

   the port safety officer must give a copy of the document, thing or information to the owner or the custodian of the document, thing or device as soon as practicable after the seizure.

(2) Subsection (1) does not apply if the port safety officer is unable to discover the identity of the owner or custodian of the document, thing or device.

(3) If it is not practicable to comply with subsection (1) in respect of a document, thing or device before the port safety officer finishes the search, the port safety officer must give a receipt for it to the person from whom it is seized and removed.

230Z Access to seized things

(1) If a thing is seized under Division 2 or Division 3, the port safety officer who seized the thing must, if practicable, allow the person who would normally be entitled to possession of it reasonable access to it while it remains in the possession, or under the control, of the port safety officer.

(2) This section does not apply if the port safety officer has given the person an accurate copy of the thing.
230ZA Retention and return of seized documents or things

(1) If a port safety officer seizes a document or other thing under this Part, the port safety officer must take reasonable steps to return the document or thing to the person from whom it was seized if the reason for its seizure no longer exists.

(2) If the document or thing seized has not been returned within 3 months after it was seized, the port safety officer must take reasonable steps to return it unless—

(a) proceedings for the purpose for which the document or thing was seized or retained have commenced within that 3 month period and those proceedings (including any appeal) have not been completed; or

(b) the Magistrates' Court makes an order under section 230ZB extending the period during which the document or thing may be retained.

230ZB Magistrates' Court may extend 3 month period

(1) A port safety officer may apply to the Magistrates' Court within 3 months after seizure of a document or thing under Division 2 or Division 3 for an extension (not exceeding 3 months) of the period for which the port safety officer may retain the document or thing but so that the total period of retention does not exceed 12 months.

(2) The Magistrates' Court may order such an extension if it is satisfied that the total period of retention of the document or thing does not exceed 12 months and that retention of the document or thing is necessary—

(a) for the purpose of an investigation into whether a contravention of a hazardous port activity provision; or
(b) to enable evidence of a contravention of a hazardous port activity provision to be obtained for the purpose of a proceeding under such a hazardous port activity provision.

(3) The Magistrates' Court may adjourn an application to enable notice of the application to be given to any person.

Division 5—General

230ZC Requirement to assist port safety officer during entry

(1) A port safety officer who is exercising a power under and in accordance with Division 2 or 3 may require the occupier of the premises or master of a vessel—

(a) to produce documents to the port safety officer; and

(b) to give reasonable assistance to the port safety officer.

(2) Without limiting subsection (1), the port safety officer may direct the person to find and gain access to electronically stored information.

(3) A person to whom a direction is given under this section must not refuse or fail to comply with a direction under subsection (1) unless the person has a reasonable excuse.

Penalty: 60 penalty units.

(4) In proceedings for an offence against subsection (3), it is a reasonable excuse if the direction was unreasonable.
(5) In proceedings for an offence against subsection (3), it is a defence if the person charged proves on the balance of probabilities that the direction or its subject-matter was outside the scope of the business or other activities of the person.

230ZD Protection against self-incrimination

(1) It is a reasonable excuse for a natural person to refuse or fail to give information or do any other thing that the person is required to do by or under this Part, if the giving of the information or the doing of that other thing would tend to incriminate the person.

(2) Despite subsection (1), it is not a reasonable excuse for a natural person to refuse or fail to produce a document that the person is required to produce by or under this Part, if the production of the document would tend to incriminate the person.

230ZE Persons who may bring proceedings

(1) A port safety officer may bring proceedings for an offence against a hazardous port activity provision.

(2) A port safety officer may conduct before a court any proceedings for an offence against a hazardous port activity provision.
PART VIII—MISCELLANEOUS AND TRANSITIONAL

Division 1—Transfer of powers functions assets liabilities and staff

231 Definitions

In this Division—

*existing securities* means debentures, stock, bonds or other securities issued by a former Authority and in existence immediately before 1 July 1989;

*former Authority* means—

(a) the Metropolitan Transit Authority; or
(b) the Road Construction Authority; or
(c) the Road Traffic Authority; or
(d) the State Transport Authority;

*relevant former Authority* means, in relation to—

(a) the Roads Corporation—the Road Construction Authority and the Road Traffic Authority; and
(b) the Public Transport Corporation—the Metropolitan Transit Authority and the State Transport Authority;

* * *
relevant successor Corporation means, in relation to—

(a) the Road Construction Authority and the Road Traffic Authority—the Roads Corporation; and

(b) the Metropolitan Transit Authority and the State Transport Authority—the Public Transport Corporation;

State Employees Retirement Benefits Fund means the State Employees Retirement Benefits Fund established under the State Employees Retirement Benefits Act 1979;

Superannuation Fund means the Superannuation Fund under the State Superannuation Act 1988;

transferred officer means a person who was immediately before 1 July 1989 employed in a former Authority and who by reason of the operation of section 241 becomes employed on and from the appointed day in a Corporation.

232 Abolition of former Authorities

On 1 July 1989—

(a) the former Authorities shall be abolished and the members thereof shall go out of office; and

(b) the relevant successor Corporations shall become and be the successors in law of the relevant former Authorities.
233 Transfer of property liabilities contracts debts causes of actions leases etc. to Corporation

Without affecting the generality of section 232 the following provisions shall have effect on and from 1 July 1989:

(a) All real and personal property whatsoever including without affecting the generality of the foregoing all land buildings undertakings machinery and plant and all choses in action and all moneys and all interests rights benefits and advantages appurtenant to connected with or relating to all or any of the same vested in a former Authority shall be vested in the relevant successor Corporation for the appropriate purpose under this Act;

(b) All liabilities of a former Authority in respect of all outstanding principal moneys together with outstanding and future interest thereon lawfully advanced to or borrowed by the former Authority shall be transferred to and be borne and discharged by the relevant successor Corporation;

(c) All contracts deeds bonds agreements arrangements and other instruments lawfully made or entered into by or on behalf of or in relation to a former Authority and in force immediately before 1 July 1989 shall be as binding and of as full force and effect in favour of or against or in relation to the relevant successor Corporation as they would have been in favour of or against or in relation to the former Authority if the Transport (Amendment) Act 1989 had not been passed and may be enforced as fully and effectually as if the same had been made or entered into by or on behalf of or in

S. 233 amended by No. 44/1989 s. 28(1)(a).
relation to the relevant successor Corporation;

(d) All debts lawfully incurred by or owing by or to a former Authority and due and owing immediately before 1 July 1989 shall be deemed to have been incurred by or owing by or to the relevant successor Corporation and may be recovered from or by the relevant successor Corporation accordingly;

(e) All actions causes of action proceedings and claims for compensation (including any claim for arbitration thereon or appeal therefrom or proceeding thereunder or matter arising thereout) immediately before 1 July 1989 pending or existing by or against a former Authority shall not abate or be discontinued or be in any way prejudicially affected by reason of this Part but may be continued prosecuted and enforced by or against the relevant successor Corporation as they might have been by or against the former Authority if the Transport (Amendment) Act 1989 had not been passed and not further or otherwise;

(f) Any penalty forfeiture or punishment incurred or imposed by or under any Act repealed by this Act may be imposed enforced or recovered by or against the relevant successor Corporation in like manner and to the like extent as the same might have been imposed enforced or recovered by or against the relevant former Authority if the Transport (Amendment) Act 1989 had not been passed, and any proceeding or remedy in respect thereof may be instituted continued or enforced by or against the relevant successor Corporation;
(g) All authorities charges assignments mortgages indemnities and notices made given or granted or issued by or to or in relation to or at the instance of a former Authority and subsisting immediately before 1 July 1989 shall unless the same are sooner suspended cancelled or revoked continue in force for the period for which they were made given or granted or issued and shall be deemed to have been made given granted or issued by or to or in relation to or at the instance of the relevant successor Corporation;

(h) All proclamations Orders in Council by-laws and other instruments made in relation to a former Authority and in force immediately before 1 July 1989 shall so far as they relate to matters continued in force or operation by this Act remain, subject to this Act, in full force and operation in relation to the relevant successor Corporation;

(i) All funds vested in or held by or in relation to a former Authority immediately before 1 July 1989 for any particular purpose or subject to any Act or enactment or particular trusts shall be transferred to and vested in or held by or in relation to the relevant successor Corporation for the like purposes and subject to the like Act enactment or trusts, and no right interest or claim in or with respect to any such fund shall abate or be in any way prejudicially affected by reason of that transfer;
Part VIII—Miscellaneous and Transitional

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(j) All other acts matters and things of a continuing nature made done or commenced by or on behalf of or in relation to a former Authority and immediately before 1 July 1989 of any force or effect or capable of acquiring any force or effect by virtue of any Act shall be deemed and taken to have been made done or commenced by or on behalf of or in relation to the relevant successor Corporation and shall have effect and may be continued and completed by or on behalf of or in relation to the relevant successor Corporation accordingly; and

(k) Any reference to a former Authority in any Act proclamation Order in Council rule regulation by-law notice demand order legal or other proceeding deed contract lease mortgage agreement instrument document or any writing of any kind whatsoever shall, so far as relates to any period after 1 July 1989, if not inconsistent with the context or subject-matter be deemed and taken to refer to the relevant successor Corporation.

243 Contributors to State Employees Retirement Benefits Fund

(1) A transferred officer who was immediately before 1 July 1989 a contributor to the State Employees Retirement Benefits Fund shall on and after 1 July 1989, for so long as he is employed in a Corporation, continue to be a contributor to that Fund.
(2) A transferred officer who continues to be a contributor to the State Employees Retirement Benefits Fund under subsection (1) shall for so long as he is employed in a Corporation, be deemed to be a permanent employee within the meaning of the State Employees Retirement Benefits Act 1979 and the provisions of that Act shall apply as if that person had continued in employment with the former Authority in which he was employed.

244 Contributors to Superannuation Fund

(1) A transferred officer who was immediately before 1 July 1989 a contributor to the Superannuation Fund shall on and after 1 July 1989, for so long as he is employed in a Corporation, continue to be a contributor to that Fund.

(2) A transferred officer who continues to be a contributor to the Superannuation Fund under subsection (1) shall, for so long as he is employed in a Corporation, be deemed to be an officer within the meaning of the State Superannuation Act 1988 and the provisions of the Act shall apply as if that person had continued in employment with the former Authority in which he was employed.

244A Members of Transport Superannuation Fund

A transferred officer who was immediately before 1 July 1989 a member of the Transport Superannuation Fund continues, on and after 1 July 1989 for as long as he or she is employed in a Corporation, to be a member of that Fund.
245 Contributors to other funds

(1) A transferred officer who was immediately before 1 July 1989 a contributor to or member of a superannuation fund or arrangement, other than the State Employees Retirement Benefits Fund, the Superannuation Fund or the Transport Superannuation Fund, shall on and after 1 July 1989, for so long as he is employed in a Corporation, continue to be a contributor to or member of that Fund.

(2) The terms and conditions of a superannuation fund or arrangement to which a transferred officer under subsection (1) continues to contribute or of which he continues to be a member shall, for so long as the transferred officer is employed in a Corporation, apply to that transferred officer as if he had continued in employment with the former Authority with which he had been employed.

246 Country Roads Board

(1) A person—

(a) who was appointed or employed as an officer or employee of the Country Roads Board under section 109N of the Country Roads Act 1958 as in force immediately before the coming into operation of Schedule 11; and

(b) who occupies a position in the Country Roads Board by reason of which he would become eligible to contribute to the State Employees Retirement Benefits Fund but who has not on the coming into operation of this section commenced contributing to that Fund—

may notwithstanding anything to the contrary in the State Employees Retirement Benefits Act 1979 elect not to contribute to that Fund.
(2) An election under subsection (1) may be made at any time between the coming into operation of this section and 30 June 1983.

(3) A person to whom subsection (1) applies, who does not make an election under that subsection shall on and from 30 June 1983 be deemed to be a permanent employee within the meaning of the State Employees Retirement Benefits Act 1979 for so long as he is employed in a Corporation and the provisions of that Act shall apply accordingly.

(4) In this section the **Country Roads Board** means the Country Roads Board established by the Country Roads Act 1958 as in force immediately before the coming into operation of Schedule 11.

### Division 1A—Transitional provisions

#### 246A Transport Acts (Amendment) Act 1997

(1) Despite the repeal of Division 6 of Part 6 by section 21(1) of the Transport Acts (Amendment) Act 1997, that Division continues to apply with respect to a private omnibus licence granted under it or any corresponding previous enactment and in force immediately before that repeal.

(2) A licence referred to in subsection (1) continues in force despite the repeal of Division 6 of Part 6 but may be suspended, revoked or cancelled in accordance with this Act as in force immediately before that repeal and, unless sooner revoked or cancelled, expires on the date on which, by force of section 40(3) of the Public Transport Competition Act 1995, it is to be taken to expire for the purposes of section 40(2) of that Act.
246B Rail Corporations (Further Amendment) Act 1998

On the repeal of section 6A(2) by section 21(1) of the Rail Corporations (Further Amendment) Act 1998, any property vested by force of that section in the Secretary and his or her successors immediately before that repeal vests in the Crown by force of this section.

246C Rail Corporations and Transport Acts (Amendment) Act 1999

(1) Subject to subsection (3) and (4), any officer or employee of the Public Transport Corporation who, immediately before their transfer under Division 3 of Part 3 of the Rail Corporations Act 1996 to another passenger transport company, was authorised under section 211, 218B, 221 or 229 continues, on and from that transfer, to be authorised under that provision, for a period of 12 months after the date of that transfer or until they cease to be an employee of a passenger transport company (whichever occurs sooner).

(2) Subject to subsection (3), a person employed in the Department under Part 3 of the Public Sector Management and Employment Act 1998 who, immediately before their employment under that Part, was an officer of the Public Transport Corporation authorised under section 211, 218B, 221 or 229 continues, on and from their date of employment under that Part, to be authorised under those provisions, for a period of 12 months after that date or until they cease to be employed in the Department under that Part (whichever occurs sooner).

(3) The Secretary may at any time, in writing, revoke or suspend an authorisation that has continued by force of this section.
(4) On or after the transfer of a person to whom subsection (1) applies, an authorisation of that person—

(a) under section 211 ceases to be an authorisation in relation to a transport infringement; and

(b) under section 229 is only with respect to a ticket offence.

246CAA Rail Safety Act 2006—Authorised officers for drug and alcohol testing

(1) A person who, immediately before the relevant date, was an authorised officer appointed by the Secretary under section 100A is, on the relevant date, deemed to be appointed under section 228T—

(a) as a transport safety officer; and

(b) subject to the same restrictions that applied to his or her appointment under section 100A.

(2) Despite section 228U, the Safety Director is not required to issue a person referred to in subsection (1) an identity card.

(3) However, section 228W applies to a person referred to in subsection (1) as if a reference in that section to an identity card were a reference to the certificate issued to the person by the Secretary under section 100A(4).

(4) In this section—

relevant date means the day on which section 125 of the Rail Safety Act 2006 comes into operation.
Division 1B—Validation

246CA Definitions

In this Division—

*MTA* means the Metropolitan Transit Authority established under section 15 (as in force before 1 July 1989);

*PTC* means the Public Transport Corporation established under section 13 (as substituted by section 9 of the *Transport (Amendment) Act 1989* and in force before 30 June 2003);

*STA* means the State Transport Authority established under section 13 (as in force before 1 July 1989).

246CB Authorized officers for the purposes of sections 212 and 213 appointed by MTA and STA

(1) Anything done or that is purported to have been done by a relevant person under section 212 or 213 during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorized officer by the Managing Director of the MTA or STA (as the case requires) under section 212(2) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.

(2) In addition, the relevant person is deemed to have been validly appointed as an authorized officer under section 212(2) during the relevant period.
(3) In this section—

relevant period means the period beginning on 1 July 1983 and ending on 30 June 1989;

Notes
1 1 July 1983 is the day on which section 212 came into operation. See section 1(2)(c).
2 30 June 1989 is the day before the day on which section 40 of and items 12, 13, and 19.1 of Schedule 1 to, the Transport (Amendment) Act 1989 (No. 44/1989) came into operation. Those provisions substituted references to the PTC and the Chief Executive of the PTC.

relevant person means an officer of the MTA or STA whom the Managing Director of the MTA or STA (as the case requires) purportedly appointed to be an authorized officer under section 212(2) during the relevant period.

246CC Authorised officers for the purposes of Division 2 of Part VII appointed by PTC

(1) Anything done or that is purported to have been done by a relevant person under section 212 or 213 during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorized officer by the Chief Executive of the PTC under section 212(2) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.

(2) In addition, the relevant person is deemed to have been validly appointed as an authorized officer under section 212(2) during the relevant period.
(3) In subsections (1) and (2)—

_relevant period_ means the period beginning on 1 July 1989 and ending on 7 August 1990;

_Notes_

1. 1 July 1989 is the day on which section 40 of and items 12, 13, and 19.1 of Schedule 1 to, the _Transport (Amendment) Act 1989_ (No. 44/1989) came into operation. Those provisions substituted references to the PTC and the Chief Executive of the PTC.

2. 7 August 1990 is the day before the day on which section 42 of the _Crimes Legislation (Miscellaneous Amendments) Act 1989_ (No. 25/1989) came into operation. That section substituted new sections 211 to 215.

_relevant person_ means an officer of the PTC whom the Chief Executive of the PTC purportedly appointed to be an authorized officer under section 212(2) during the relevant period.

(4) Anything done or that is purported to have been done by a relevant person under Division 2 of Part VII during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorised officer by the Chief Executive of the PTC or the PTC (as the case requires) under section 211 has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.

(5) In addition, the relevant person is deemed to have been validly appointed as an authorized officer under section 211 during the relevant period.
(6) In subsections (4) and (5)—

_relevant period_ means the period beginning on 8 August 1990 and ending on 30 May 2000;

Notes

1. 8 August 1990 is the day on which section 42 of the _Crimes Legislation (Miscellaneous Amendments) Act 1989_ (No. 25/1989) came into operation. That section inserted a new section 211 which contained a new definition of _authorised officer._

2. 30 May 2000 is the day before the day on which section 18 of the _Transport (Amendment) Act 2000_ (No. 30/2000) came into operation. That section amended the definition of _authorised officer_ in section 211(1) to take out references to the PTC.

_relevant person_ means an officer of the PTC whom the Chief Executive of the PTC, or the PTC, (as the case requires) purportedly appointed to be an authorised officer under section 211 during the relevant period.

246CD  **Authorised officers for the purposes of section Division 2 of Part II appointed by Secretary**

(1) Anything done or that is purported to have been done by a relevant person under Division 2 of Part VII during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorised officer by the Secretary under section 211(1) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.

(2) In addition, the relevant person is deemed to have been validly appointed as an authorised officer under section 211(1) during the relevant period.
(3) In subsections (1) and (2)—

*relevant period* means the period beginning on 23 November 1995 and ending on 2 December 2003;

**Notes**

1 23 November 1995 is the day on which section 45 of the *Public Transport Competition Act 1995* (No. 68/1995) came into operation. That section amended the definition of *authorised officer* to empower the Secretary to appoint authorised officers.

2 2 December 2003 is the day before the day on which section 15(2) of the *Transport (Rights and Responsibilities) Act 2003* (No. 101/2003) came into operation. That section repealed section 211 on 3 December 2003.

*relevant person* means a person whom the Secretary purportedly appointed to be an authorised officer under section 211(1) during the relevant period.

(4) Anything done or that is purported to have been done by a relevant person under section 212 or 213 during the relevant period that would have been validly or lawfully done had—

(a) that relevant person been validly authorised to act as an authorised officer by the Secretary under section 221A or 221AB (as the case requires) for the purposes of Part VII; and

(b) in the case of a purported authorisation under section 221AB, regulations been in force under this Act during the relevant period prescribing—

(i) a period for the purposes of each of sections 221H(4), 228F(1) and 228J(4); and
(ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and

(iii) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised, and in the case of a purported authorisation under section 221AB, such regulations had been in force.

(5) In addition, the relevant person is deemed to be, and have always been, validly authorised to act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

(6) In subsections (4) and (5)—

relevant period means the period beginning on 3 December 2003 and ending on the day section 15 of the Transport Legislation (Further Amendment) Act 2005 comes into operation;

Note

3 December 2003 is the day on which section 15(1) of the Transport (Rights and Responsibilities) Act 2003 (No. 101/2003) came into operation. That section inserted a new definition of authorised officer into section 208.

relevant person means a person whom the Secretary purportedly authorised to, during the relevant period, act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.
246CE  Authorized officer for the purposes of section 218 appointed by the MTA or STA

(1) Anything done or that is purported to have been done by a relevant person under section 218 during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorized officer by the Managing Director of the MTA or STA, or the MTA or STA, (as the case requires) under section 218(1) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.

(2) In addition, the relevant person is deemed to have been validly appointed as an authorized officer under section 218(1) during the relevant period.

(3) In this section—

*relevant period* means the period beginning on 1 July 1983 and ending on 30 June 1989;

**Notes**

1 1 July 1983 is the day on which section 218 came into operation. See section 1(2)(c).

2 30 June 1989 is the day before the day on which section 40 of, and item 23 of Schedule 1 to, the *Transport (Amendment) Act 1989* (No. 44/1989) came into operation. Those provisions substituted a new section 218(1).

*relevant person* means an officer of the MTA or the STA whom the Managing Director of the MTA or STA, or the MTA or STA, (as the case requires) purportedly appointed to be an authorized officer under section 218(1) during the relevant period.
246CF  Authorized officer for the purposes of section 218 or 218B appointed by the PTC under section 218(1)

(1) Anything done or that is purported to have been done by a relevant person under section 218 or 218B during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorized officer by the PTC under section 218(1) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.

(2) In addition, the relevant person is deemed to have been validly appointed as an authorized officer under section 218(1) during the relevant period.

(3) In this section—

relevant period means the period beginning on 1 July 1989 and ending on 30 May 2000;

Notes

1 1 July 1989 is the day on which section 40 of, and item 23 of Schedule 1 to, the Transport (Amendment) Act 1989 (No. 44/1989) came into operation. Those provisions substituted a new section 218(1).

2 30 May 2000 is the day before the day on which section 19 of the Transport (Amendment) Act 2000 (No. 30/2000) came into operation. That section repealed section 218.

relevant person means an officer of the PTC whom the PTC purportedly appointed to be an authorized officer under section 218(1) during the relevant period.
246CG  Authorised officers for the purposes of section 218B appointed by PTC under that section

(1) Anything done or that is purported to have been done by a relevant person under section 218B during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorized officer by the PTC under section 218B(1), has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.

(2) In addition, the relevant person is deemed to have been validly appointed as an authorized officer under section 218B(1) during the relevant period.

(3) In this section—

relevant period means the period beginning on 7 December 1993 and ending on 30 May 2000;

Notes

1 7 December 1993 is the day on which section 67 of the Transport (Amendment) Act 1993 (No. 120/1993) came into operation. That section inserted a new section 218B(1).

2 30 May 2000 is the day before the day on which section 19 of the Transport (Amendment) Act 2000 (No. 30/2000) came into operation. That section repealed section 218.

relevant person means an officer of the PTC whom the PTC purportedly appointed to be an authorized officer under section 218B(1) during the relevant period.
246CH Authorised officers for the purposes of section 218B by Secretary

(1) Anything done or that is purported to have been done by a relevant person under section 218B during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorised officer by the Secretary under section 218B(1) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.

(2) In addition, the relevant person is deemed to have been validly appointed as an authorised officer under section 218B(1) during the relevant period.

(3) In subsections (1) and (2)—

relevant period means the period beginning on 23 November 1995 and ending on 2 December 2003;

Notes

1 23 November 1995 is the day on which section 46 of the Public Transport Competition Act 1995 (No. 68/1995) came into operation. That section amended the definition of authorised officer to empower the Secretary to appoint authorised officers for the purposes of the section.

2 2 December 2003 is the day before the day section 17(5) of the Transport (Rights and Responsibilities) Act 2003 (No. 101/2003) came into operation. That section repealed section 218B(1) on 3 December 2003.

relevant person means a person whom the Secretary purportedly appointed to be an authorised officer under section 218B(1) during the relevant period.
(4) Anything done or that is purported to have been done by a relevant person under section 218B during the relevant period that would have been validly or lawfully done had—

(a) that relevant person been validly authorised to act as an authorised officer by the Secretary under section 221A or 221AB (as the case requires) for the purposes of Part VII; and

(b) in the case of a purported authorisation under section 221AB, regulations been in force under this Act during the relevant period prescribing—

(i) a period for the purposes of each of sections 221H(4), 228F(1) and 228J(4); and

(ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and

(iii) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised, and in the case of a purported authorisation under section 221AB, such regulations had been in force.

(5) In addition, the relevant person is deemed to be, and have always been, validly authorised to act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.
(6) In subsections (4) and (5)—

**relevant period** means the period beginning on 3 December 2003 and ending on the day section 15 of the *Transport Legislation (Further Amendment) Act 2005* comes into operation;

**Note**

3 December 2003 is the day on which section 15(1) of the *Transport (Rights and Responsibilities) Act 2003* (No. 101/2003) came into operation. That section inserted a new definition of *authorised officer* into section 208.

**relevant person** means a person whom the Secretary purportedly authorised to, during the relevant period, act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

---

**246CI Officers of the MTA and STA authorized for the purposes of section 219(2) or (4)**

(1) Anything done or that is purported to have been done by a relevant person under section 219(2) or (4) during the relevant period that would have been validly or lawfully done had that person been validly authorized under the relevant subsection by the MTA or STA to do the thing provided for by the relevant subsection, has, and is deemed always to have had, the same force and effect as it would have had if that officer had been so authorized.

(2) In addition, the relevant person is deemed to have been validly authorized under section 219(2) or (4) (as the case requires) during the relevant period.
(3) In this section—

relevant period means the period beginning on 17 December 1986 and ending on 30 June 1989;

Notes
1 17 December 1986 is the day on which section 33(b) of the Transport (Amendment) Act 1986 (No. 100/1986) came into operation. That section inserted section 219(2) and (4).
2 30 June 1989 is the day before the day on which section 40 of, and items 18 and 19 of Schedule 1 to, the Transport (Amendment) Act 1989 (No. 44/1989) came into operation. Those provisions substituted references to the PTC.

relevant person means an officer of the MTA or STA whom the MTA or STA (as the case requires) purportedly authorized under section 219(2) or (4) to do the thing provided for under the relevant subsection during the relevant period.

246CJ Officers of the PTC authorised for the purposes of section 219(2), (4) or (7)

(1) Anything done or that is purported to have been done by a relevant person under section 219(2) or (4) during the relevant period that would have been validly or lawfully done had that relevant person been validly authorized under the relevant subsection by the PTC to do the thing provided for by the relevant subsection, has, and is deemed always to have had, the same force and effect as it would have had if that person had been so authorized.

(2) In addition, the relevant person is deemed to have been validly authorized under section 219(2) or (4) (as the case requires) during the relevant period.
(3) In subsections (1) and (2)—

**relevant period** means the period beginning on 1 July 1989 and ending on 31 December 1997;

**Notes**

1. 1 July 1989 is the day on which section 40 of, and items 18 and 19 of Schedule 1 to, the Transport (Amendment) Act 1989 (No. 44/1989) came into operation. Those provisions substituted references to the PTC.

2. 31 December 1997 is the day before the day on which section 10 of the Transport (Rail Safety) Act 1996 (No. 28/1996) came into operation. That section substituted a new section 219.

**relevant person** means an officer of the PTC whom the PTC purportedly authorized under section 219(2) or (4) to do the thing provided for under the relevant subsection during the relevant period.

(4) Anything done or that is purported to have been done by a relevant person under section 219(7) during the relevant period that would have been validly or lawfully done had that relevant person been validly authorised under that subsection by the PTC to do the thing provided for by that subsection, has, and is deemed always to have had, the same force and effect as it would have had if that person had been so authorised.

(5) In addition, the relevant person is deemed to have been validly authorized under section 219(7) during the relevant period.
(6) In subsections (4) and (5)—

**relevant period** means the period beginning on
1 January 1998 and ending on 29 June 2003;

Notes
1 1 January 1998 is the day on which section 10 of
the Transport (Rail Safety) Act 1996
(No. 28/1996) came into operation. That section
substituted a new section 219.

2 29 June 2003 is the day before the day on which
section 19(2) of the Transport (Further
Amendment) Act 2001 (No. 54/2001) came into
operation. That section repealed section 219(7).

**relevant person** means an officer of the PTC
whom the PTC purportedly authorised under
section 219(7) to do the thing provided for
under that subsection during the relevant
period.

246CK Officers of the PTC authorised for the purposes
of section 219A

(1) Anything done or that is purported to have been
done by a relevant person under section 219A
during the relevant period that would have been
validly or lawfully done had that relevant person
been validly authorised under section 219A(2) by
the PTC to do the thing provided for by that
section, has, and is deemed always to have had,
the same force and effect as it would have had if
that person had been so authorised.

(2) In addition, the relevant person is deemed to have
been validly authorized under section 219A(2)
during the relevant period.
Part VIII—Miscellaneous and Transitional

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

(3) In subsections (1) and (2)—

**relevant period** means the period beginning on 1 January 1998 and ending on 29 June 2003;

**relevant person** means an officer of the PTC whom the PTC purportedly authorised under section 219A(2) to do the thing provided for under that subsection during the relevant period.

Notes

1 1 January 1998 is the day on which section 10 of the Transport (Rail Safety) Act 1996 (No. 28/1996) came into operation. That section substituted a new section 219A.

2 30 May 2000 is the day before the day on which section 22 of the Transport (Amendment) Act 2000 (No. 30/2000) came into operation. That section repealed section 219A.

S. 246CL Relevant employees and authorised officers for the purposes of section 219

(1) Anything done or that is purported to have been done by a relevant person under section 219 during the relevant period that would have been validly or lawfully done had that relevant person been validly authorised as a relevant employee by the Secretary under section 219(1A)(b) for the purposes of section 219 has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised.

(2) In addition, the relevant person is deemed to have been validly authorised as an authorised officer under section 219(1A)(b) for the purposes of section 219 during the relevant period.
(3) In subsections (1) and (2)—

*relevant period* means the period beginning on 23 December 1999 and ending on 3 December 2003;

Notes

1 23 December 1999 is the day on which section 10 of the *Rail Corporations and Transport Acts (Miscellaneous Amendments) Act 1999* (No. 63/1999) came into operation. That section inserted section 219(1A).

2 2 December 2003 is the day before the day on which section 17(5) of the *Transport (Rights and Responsibilities) Act 2003* (No. 101/2003) came into operation. That section repealed section 219(1A).

*relevant person* means a person whom the Secretary purportedly authorised to be a relevant employee under section 219(1A)(b) during the relevant period.

(4) Anything done or that is purported to have been done by a relevant person under section 219 during the relevant period that would have been validly or lawfully done had—

(a) that relevant person been validly authorised to act as an authorised officer by the Secretary under section 221A or 221AB (as the case requires) for the purposes of Part VII; and

(b) in the case of a purported authorisation under section 221AB, regulations been in force under this Act during the relevant period prescribing—

(i) a period for the purposes of each of sections 221H(4), 228F(1) and 228J(4); and
(ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and

(iii) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised, and in the case of a purported authorisation under section 221AB, such regulations had been in force.

(5) In addition, the relevant person is deemed to be, and have always been, validly authorised to act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

(6) In subsections (4) and (5)—

relevant period means the period beginning on 3 December 2003 and ending on the day section 15 of the Transport Legislation (Further Amendment) Act 2005 comes into operation;

Note

3 December 2003 is the day on which section 15(1) of the Transport (Rights and Responsibilities) Act 2003 (No. 101/2003) came into operation.

That section inserted a new definition of authorised officer into section 208.

relevant person means a person whom the Secretary purportedly authorised to, during the relevant period, act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.
246CM Authorised persons for the purposes of section 219AA

(1) Anything done or that is purported to have been done by a relevant person under section 219AA during the relevant period that would have been validly or lawfully done had—

(a) that relevant person been—

(i) validly authorised as an authorised person by the Secretary under section 219AA(1) for the purposes of section 219AA; and

(ii) given an authorisation by the Secretary under Division 4AA of Part VII for the purposes of section 219AA; and

(b) regulations been in force under this Act during the relevant period prescribing—

(i) a period for the purposes of each of sections 221C(1), 221H(4), 228F(1) and 228J(4); and

(ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and

(iii) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if—

(c) that relevant person had been so authorised and given such an authorisation; and

(d) such regulations had been in force; and

(e) the authorisation had been given for a period that did not exceed the period prescribed under section 221C(1).
(2) In addition, the relevant person is deemed to have been validly authorised as an authorised person under section 219AA(1) for the purposes of section 219AA during the relevant period.

(3) In this section—

**relevant period** means the period beginning on 24 August 1999 and ending on 2 December 2003;

Notes

1 24 August 1999 is the day on which section 32 of the Rail Corporations (Further Amendment) Act 1998 (No. 98/1998) came into operation. That section inserted section 219AA.

2 2 December 2003 is the day before the day section 17(8) of the Transport (Rights and Responsibilities) Act 2003 (No. 101/2003) came into operation. That section repealed section 219AA.

**relevant person** means a person—

(a) whom the Secretary purportedly authorised to be an authorised person under section 219AA(1) for the purposes of section 219AA during the relevant period; and

(b) to whom the Secretary purportedly gave an authorisation under Division 4AA of Part VII for the purposes of section 219AA that existed during the relevant period.
246CN Authorised persons, authorised officers and relevant employees for the purposes of section 220

(1) Anything done or that is purported to have been done by a relevant person under section 220 during the relevant period that would have been validly or lawfully done had—

(a) that relevant person been—

(i) validly authorised, as the case requires, as an authorised person or relevant employee by the Secretary under section 220(1) for the purposes of section 220; and

(ii) given an authorisation by the Secretary under Division 4AA of Part VII for the purposes of section 220; and

(b) regulations been in force under this Act during the relevant period prescribing—

(i) a period for the purposes of each of sections 221C(1), 221H(4), 228F(1) and 228J(4); and

(ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and

(iii) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if—

(c) that relevant person had been so authorised and given such an authorisation; and

(d) such regulations had been in force; and

(e) the authorisation had been given for a period that did not exceed the period prescribed under section 221C(1).
(2) In addition, the relevant person is deemed to have been validly authorised as an authorised person or relevant employee (as the case requires) under section 220(1) for the purposes of section 220 during the relevant period.

(3) In subsections (1) and (2)—

*relevant period* means the period beginning on 24 August 1999 and ending on 2 December 2003;

Notes

1 24 August 1999 is the day on which section 24(1) of the *Rail Corporations and Transport Acts (Amendment) Act 1999* (No. 45/1999) came into operation. That section substituted a new section 220(1).

2 2 December 2003 is the day before the day section 17(9) of the *Transport (Rights and Responsibilities) Act 2003* (No. 101/2003) came into operation. That section repealed section 220(1).

*relevant person* means a person—

(a) whom the Secretary purportedly authorised to be, as the case requires, an authorised person or relevant employee under section 220(1) for the purposes of section 220 during the relevant period; and

(b) to whom the Secretary purportedly gave an authorisation under Division 4AA of Part VII for the purposes of section 220 that existed during the relevant period.
(4) Anything done or that is purported to have been done by a relevant person under section 220 during the relevant period that would have been validly or lawfully done had—

(a) that relevant person been validly authorised to act as an authorised officer by the Secretary under section 221A or 221AB (as the case requires) for the purposes of Part VII; and

(b) in the case of a purported authorisation under section 221AB, regulations been in force under this Act during the relevant period prescribing—

(i) a period for the purposes of each of sections 221H(4), 228F(1) and 228J(4); and

(ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and

(iii) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised, and in the case of a purported authorisation under section 221AB, such regulations had been in force.

(5) In addition, the relevant person is deemed to be, and have always been, validly authorised to act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.
(6) In subsections (4) and (5)—

relevant period means the period beginning on 3 December 2003 and ending on the day section 15 of the Transport Legislation (Further Amendment) Act 2005 comes into operation;

Note
3 December 2003 is the day on which section 15(1) of the Transport (Rights and Responsibilities) Act 2003 (No. 101/2003) came into operation. That section inserted a new definition of authorised officer into section 208.

relevant person means a person whom the Secretary purportedly authorised to, during the relevant period, act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

246CO Authorized persons for the purposes of section 221 authorized by MTA or STA

(1) Anything done or that is purported to have been done by a relevant person under section 221 during the relevant period that would have been validly or lawfully done had that relevant person been validly authorized as an authorized person by the MTA or the STA (as the case requires) under section 221(1)(c) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorized.

(2) In addition, the relevant person is deemed to have been validly authorized as an authorized person under section 221(1)(c) during the relevant period.
(3) In this section—

relevant period means the period beginning on 1 July 1983 and ending on 30 June 1989;

Notes

1 1 July 1983 is the day on which section 221 came into operation. See section 1(2)(c).

2 30 June 1989 is the day before the day on which section 40 of, and item 2.2 of Schedule 1 to, the Transport (Amendment) Act 1989 (No. 44/1989) came into operation. Those provisions substituted new references to the PTC.

relevant person means a person whom the MTA or the STA purportedly authorized to be an authorized person under section 221(1)(c) during the relevant period.

246CP Authorized persons for the purposes of section 221 authorized by PTC

(1) Anything done or that is purported to have been done by a relevant person under section 221 during the relevant period that would have been validly or lawfully done had that relevant person been validly authorized as an authorized person by the PTC under section 221(1)(c) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorized.

(2) In addition, the relevant person is deemed to have been validly authorized as an authorized person under section 221(1)(c) during the relevant period.
(3) In this section—

relevant period means the period beginning on
1 July 1989 and ending on 30 May 2000;

Notes

1 1 July 1989 is the day on which section 40 of,
and item 2.2 of Schedule 1 to, the Transport
(Amendment) Act 1989 (No. 44/1989) came
into operation. Those provisions substituted new
references to the PTC.

2 30 May 2000 is the day before the day on which
section 24 of the Transport (Amendment) Act
2000 (No. 30/2000) came into operation.
That section substituted section 221(1)(c).

relevant person means a person whom the PTC
purportedly authorized to be an authorized
person under section 221(1)(c) during the
relevant period.

246CQ Authorized persons for the purposes of section 221
authorised by the Secretary

(1) Anything done or that is purported to have been
done by a relevant person under section 221
during the relevant period that would have been
validly or lawfully done had that relevant person
been validly authorised as an authorized person by
the Secretary under section 221(1)(c) has, and is
deemed always to have had, the same force and
effect as it would have had if that relevant person
had been so authorised.

(2) In addition, the relevant person is deemed to have
been validly authorised as an authorized person
under section 221(1)(c) during the relevant period.
(3) In this section—

_relevant period_ means the period beginning on
23 November 1995 and ending on 23 August
1999;

Notes

1 23 November 1995 is the day on which
section 47(1) of the *Public Transport
Competition Act 1995* (No. 68/1995) came into
operation. Section 47(1) amended section
221(1)(c) to empower the Secretary to authorise
persons as authorized persons for the purposes of
section 221.

2 23 August 1999 is the day before the day on
which section 37 of the *Rail Corporations
(Amendment) Act 1997* (No. 104/1997) and
section 27 of the *Rail Corporations and
Transport Acts (Amendment) Act 1999*
(No. 45/1999) came into operation.
Those sections inserted Divisions 4A and 4AA
into Part VII.

_relevant person_ means a person whom the
Secretary purportedly authorised to be an
authorized person under section 221(1)(c)
during the relevant period.

(4) Anything done or that is purported to have been
done by a relevant person under section 221
during the relevant period that would have been
validly or lawfully done had—

(a) that relevant person been—

(i) validly authorised as an authorized
person by the Secretary under
section 221(1)(c) for the purposes of
section 221; and

(ii) given an authorisation by the Secretary
under Division 4AA of Part VII for the
purposes of section 221; and
(b) regulations been in force under this Act during the relevant period prescribing—

(i) a period for the purposes of each of sections 221C(1), 221H(4), 228F(1) and 228J(4); and

(ii) a number of days for the purposes of each sections 221G(3) and 228I(4); and

(iii) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if—

(c) that relevant person had been so authorised and given such an authorisation; and

(d) such regulations had been in force; and

(e) the authorisation had been given for a period that did not exceed the period prescribed under section 221C(1).

(5) In addition, the relevant person is deemed to have been validly authorised as an authorized person under section 221(1)(c) for the purposes of section 221 during the relevant period.

(6) In subsections (4) and (5)—

relevant period means the period beginning on 24 August 1999 and ending on 2 December 2003;

Notes

1 24 August 1999 is the day on which section 37 of the Rail Corporations (Amendment) Act 1997 (No. 104/1997) and section 27 of the Rail Corporations and Transport Acts (Amendment) Act 1999 (No. 45/1999) came into operation. Those sections inserted Divisions 4A and 4AA into Part VII.
2 December 2003 is the day before the day section 17(10) of the Transport (Rights and Responsibilities) Act 2003 (No. 101/2003) came into operation. That section repealed section 221(1).

relevant person means a person—

(a) whom the Secretary purportedly authorised to be an authorized person under section 221(1)(c) during the relevant period; and

(b) to whom the Secretary purportedly gave an authorisation under Division 4AA of Part VII for the purposes of section 221 that existed during the relevant period.

(7) Anything done or that is purported to have been done by a relevant person under section 221 during the relevant period that would have been validly or lawfully done had—

(a) that relevant person been validly authorised to act as an authorised officer by the Secretary under section 221A or 221AB (as the case requires) for the purposes of Part VII; and

(b) in the case of a purported authorisation under section 221AB, regulations been in force under this Act during the relevant period prescribing—

(i) a period for the purposes of each of sections 221H(4), 228F(1) and 228J(4); and

(ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and
(iii) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised, and in the case of a purported authorisation under section 221AB, such regulations had been in force.

(8) In addition, the relevant person is deemed to be, and have always been, validly authorised to act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

(9) In subsections (7) and (8)—

*relevant period* means the period beginning on 3 December 2003 and ending on the day section 15 of the *Transport Legislation (Further Amendment) Act 2005* comes into operation;

**Note**

3 December 2003 is the day on which section 15(1) of the *Transport (Rights and Responsibilities) Act 2003* (No. 101/2003) came into operation. That section inserted a new definition of *authorised officer* into section 208.

*relevant person* means a person whom the Secretary purportedly authorised to, during the relevant period, act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.
246CR  Authorised officers for the purposes of section 221AA

(1) Anything done or that is purported to have been done by a relevant person under section 221AA during the relevant period that would have been validly or lawfully done had—

(a) that relevant person been validly authorised to act as an authorised officer by the Secretary under section 221A or 221AB (as the case requires) for the purposes of Part VII; and

(b) in the case of a purported authorisation under section 221AB, regulations been in force under this Act during the relevant period prescribing—

(i) a period for the purposes of each of sections 221H(4), 228F(1) and 228J(4); and

(ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and

(iii) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised, and in the case of a purported authorisation under section 221AB, such regulations had been in force.

(2) In addition, the relevant person is deemed to be, and have always been, validly authorised to act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.
Part VIII—Miscellaneous and Transitional

(3) In this section—

**relevant period** means the period beginning on 3 December 2003 and ending on the day section 15 of the *Transport Legislation (Further Amendment) Act 2005* comes into operation;

**Note**
3 December 2003 is the day section 15(1) of the *Transport (Rights and Responsibilities) Act 2003* (No. 101/2003) came into operation. That section inserted a new definition of *authorised officer* into section 208.

**relevant person** means a person whom the Secretary purportedly authorised to, during the relevant period, act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

---

246CS  Examples of things validated

Without limiting sections 246CB to 246CR, those sections apply with respect to the following—

(a) the issue and service of ticket and transport infringement notices under section 212 during the period beginning on 24 August 1999 and ending on the day section 15 of the *Transport Legislation (Further Amendment) Act 2005* comes into operation;

(b) the request of a person to state his or her name and address and the request of a person to provide evidence of the correctness of that name or address under section 218B as in force from time to time;

(c) the arrest without a warrant of a person under section 219 as in force from time to time;
(d) the detention of a person under section 219AA while that section was in force;

(e) the summary removal of persons and their property (if any), under section 220 (as in force from time to time), from—
   (i) any vehicle owned or operated by or on behalf of a passenger transport company; or
   (ii) any premises or property of a passenger transport company;

(f) the request, under section 221 (as in force from time to time), of a person who has made a journey in a carriage or was on land or premises for which a ticket was required to produce a ticket that is valid for that journey or entry;

(g) the request, under section 221 (as in force from time to time), of a person who has made a journey in a carriage or was on land or premises for which a ticket was required to produce a ticket that is valid for that journey or entry;

(h) the request, under section 221AA (as in force from time to time), of a person who has just left a carriage, or land or premises for entry to which a ticket is required, to produce for inspection the ticket that the person used for the journey, or to be on the land or premises.

246CT Accreditations under Division 4A of Part VII

(1) An accreditation (other than a temporary accreditation) that is given or purportedly given by the Secretary under section 228C during the relevant period that would have been validly and lawfully given had regulations been in force under this Act prescribing a period for the purposes of section 228F(1) has, and is deemed always to have
Part VIII—Miscellaneous and Transitional

Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

had, the same force and effect as it would have had if such regulations had been in force.

(2) An accreditation renewed or purportedly renewed by the Secretary under section 228J during the relevant period that would have been validly and lawfully renewed had regulations been in force under this Act prescribing—

(a) a period for the purposes of section 228J(4); and

(b) a number of days for the purposes of section 228I(4); and

(c) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if such regulations had been in force.

(3) In this section—

relevant period means the period beginning on 24 August 1999 and ending on the day section 15 of the Transport Legislation (Further Amendment) Act 2005 comes into operation.

Note
24 August 1999 is the day on which section 37 of the Rail Corporations (Amendment) Act 1997 (No. 104/1997) came into operation. That section inserted Division 4A into Part VII.

246CU Prosecutorial authorisations by the MTA or STA

(1) Anything done or that is purported to have been done by a relevant person under section 229(1) or 229(1A) (as the case requires) during the relevant period that would have been validly or lawfully done had that relevant person been validly authorized by the MTA or STA, under section 229(1) has, and is deemed always to have
had, the same force and effect as it would have had if that relevant person had been so authorized.

(2) In addition, the relevant person is deemed to have been validly authorized to do the thing under section 229(1) or 229(1A) during the relevant period.

(3) In this section—

**relevant period** means—

(a) in relation to anything done or that is purported to have been done by a relevant person under section 229(1), the period beginning on 1 July 1983 and ending on 30 June 1989;

Notes

1 1 July 1983 is the day on which section 229 came into operation. See section 1(2)(c).

2 30 June 1989 is the day before the day on which section 40 of, and item 2.1 of Schedule 1 to, the Transport (Amendment) Act 1989 (No. 44/1989) came into operation. Those provisions substituted new references to the PTC.

(b) in relation to anything done or that is purported to have been done by a relevant person under section 229(1A), the period beginning on 12 January 1987 and ending on 30 June 1989;

Notes

1 12 January 1987 is the day on which section 41(b) of the Transport (Amendment) Act 1986 (No. 100/1986) came into operation. That section inserted section 229(1A).
2 30 June 1989 is the day before the day on which section 40 of, and item 2.1 of Schedule 1 to, the *Transport (Amendment) Act 1989* (No. 44/1989) came into operation. Those provisions substituted new references to the PTC.

**relevant person** means—

(a) in relation to anything done or that is purported to have been done under section 229(1), a person whom the MTA or STA purportedly authorized under that section to do the thing under that subsection during the relevant period;

(b) in relation to anything done or that is purported to have been done under section 229(1A), an officer of the MTA or STA whom the MTA or STA (as the case requires) purportedly authorized under 229(1) to do the thing under section 229(1A) during the relevant period.

**246CV Prosecutorial authorisations by the PTC**

(1) Anything done or that is purported to have been done by a relevant person under a relevant prosecutorial provision during the relevant period that would have been validly or lawfully done had that relevant person been validly authorised by the PTC, under that provision, to do that thing has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised.

(2) In addition, the relevant person is deemed to have been validly authorised to do the thing under the relevant prosecutorial provision during the relevant period.
(3) In this section—

*relevant period* means—

(a) in relation to anything done or that is purported to have been done under section 229(1), the period beginning on 1 July 1989 and ending on 30 May 2000;

Notes
1 1 July 1989 is the day on which section 40 of, and item 2.1 of Schedule 1 to, the *Transport (Amendment) Act 1989* (No. 44/1989) came into operation. Those provisions substituted new references to the PTC.
2 30 May 2000 is the day before the day on which section 28(1) of the *Transport (Amendment) Act 2000* (No. 30/2000) came into operation. That section removed references to the PTC.

(b) in relation to anything done or that is purported to have been done under section 229(1A), the period beginning on 1 July 1989 and ending on 30 May 2000;

Notes
1 1 July 1989 is the day on which section 40 of, and item 2.1 of Schedule 1 to, the *Transport (Amendment) Act 1989* (No. 44/1989) came into operation. That section substituted new references to the PTC.
2 30 May 2000 is the day before the day on which section 28(2) of the *Transport (Amendment) Act 2000* (No. 30/2000) came into operation. That section removed references to the PTC.
(c) in relation to anything done or that is purported to have been done under section 229(1B)(a), the period beginning on 15 June 1994 and ending on 30 May 2000;

Notes
1 15 June 1994 is the day on which section 26(1) of the Transport (Further Amendment) Act 1994 (No. 60/1994) came into operation. That section inserted section 229(1B).
2 30 May 2000 is the day before the day on which section 28(3) of the Transport (Amendment) Act 2000 (No. 30/2000) came into operation. That section removed references to the PTC.

relevant person means—

(a) in relation to anything done or that is purported to have been done under section 229(1), a person whom the PTC purportedly authorised under that subsection to do the thing under that subsection during the relevant period;

(b) in relation to anything done or that is purported to have been done under section 229(1A) during the period beginning on 1 July 1989 and ending on 14 June 1994 within the relevant period, a person whom the PTC purportedly authorised under section 229 to do the thing under section 229(1A) during that period;

Notes
1 1 July 1989 is the day on which section 40 of, and item 2.1 of Schedule 1 to, the Transport (Amendment) Act 1989 (No. 44/1989) came into operation. That section substituted new references to the PTC.
2 14 June 1994 is the day before the day on which section 26(1) of the Transport (Further Amendment) Act 1994 (No. 60/1994) came into operation. That section substituted a new section 229(1A).

(c) in relation to anything done or that is purported to have been done under section 229(1A) during the period beginning on 15 June 1994 and ending on 30 May 2000 within the relevant period, a person whom the PTC purportedly authorised under that subsection to do the thing under that subsection during that period;

Notes

1 15 June 1994 is the day on which section 26(1) of the Transport (Further Amendment) Act 1994 (No. 60/1994) came into operation. That section substituted a new section 229(1A).

2 30 May 2000 is the day before the day on which section 28(3) of the Transport (Amendment) Act 2000 (No. 30/2000) came into operation. That section removed references to the PTC.

(d) in relation to anything done or that is purported to have been done under section 229(1B), a person whom the PTC purportedly authorised under that subsection to do the thing under that section;

_relevant prosecutorial provision_ means section 229(1), 229(1A) or 229(1B)(a) as in force from time to time during the relevant period.
246CW  Prosecutorial authorisations by the Secretary

(1) Anything done or that is purported to have been done by a relevant person under a relevant prosecutorial provision during the relevant period that would have been validly or lawfully done had that relevant person been validly authorised by the Secretary, under that provision, to do that thing has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised.

(2) In addition, the relevant person is deemed to be, and always have been, validly authorised to do the thing under the relevant prosecutorial provision.

(3) In this section—

*relevant period* means—

(a) in relation to anything done or that is purported to have been done under section 229(1), the period beginning on 15 June 1994 and ending on the day section 15 of the *Transport Legislation (Further Amendment) Act 2005* comes into operation;

Note

15 June 1994 is the day on which section 26(1) of the *Transport (Further Amendment) Act 1994* (No. 60/1994) came into operation. That section substituted section 229(1) and empowered the Secretary to authorise persons.
(b) in relation to anything done or that is purported to have been done under section 229(1AA), the period beginning on 24 August 1999 and ending on the day section 15 of the *Transport Legislation (Further Amendment) Act 2005* comes into operation;

Note

24 August 1999 is the day on which section 36(1) of the *Rail Corporations (Further Amendment) Act 1998* (No. 981998) came into operation. That section inserted section 229(1AA).

(c) in relation to anything done or that is purported to have been done under section 229(1A), the period beginning on 24 August 1999 and ending on the day section 15 of the *Transport Legislation (Further Amendment) Act 2005* comes into operation;

Note

24 August 1999 is the day on which section 30 of the *Rail Corporations and Transport Acts (Amendment) Act 1999* (No. 45/1999) came into operation. That section substituted section 229(1A) and empowered the Secretary to authorise persons.

(d) in relation to anything done or that is purported to have been done under section 229(1B)(a), the period beginning on 15 June 1994 and ending on the day section 15 of the *Transport Legislation (Further Amendment) Act 2005* comes into operation;

Note

15 June 1994 is the day on which section 26(1) of the *Transport (Further Amendment) Act 1994* (No. 60/1994) came into operation. That section inserted section 229(1B).
relevant prosecutorial provision means section 229(1), 229(1AA), 229(1A) or 229(1B) as in force from time to time during the relevant period;

relevant person means—

(a) in relation to anything done or that is purported to have been done under section 229(1), a person whom the Secretary purportedly authorised under that subsection to do the thing under that subsection during the relevant period;

(b) in relation to anything done or that is purported to have been done under section 229(1AA), a person who is employed or engaged by a passenger transport company or a bus company whom the Secretary purportedly authorised under that subsection to do the thing under that subsection during the relevant period;

(c) in relation to anything done or that is purported to have been done under section 229(1A), a person whom the Secretary purportedly authorised under that subsection to do the thing under that subsection during the relevant period;

(d) in relation to anything done or that is purported to have been done under section 229(1B)(a), a person whom the Secretary purportedly authorised under that section to do the thing under that subsection during the relevant period.
246CX Only things done or purported to have been done under a purported authorisation and appointment validated

(1) Despite anything to the contrary in this Division, sections 246CB to 246CR and sections 246CU to 246CW are deemed to only validate things done or purported to have been done by a person under a purported authorisation or appointment—

(a) during the period for which that person was purportedly authorised or appointed under the purported authorisation or appointment; and

(b) that the purported authorisation or appointment purported to authorise to be done.

(2) In this section, purported authorisation or appointment means an authorisation or appointment referred to in sections 246CB to 246CR and sections 246CU to 246CW.

246CY Evidence

(1) Every relevant person who, during the relevant period, was purported to be authorised under section 230(4) (as in force from time to time) by a relevant authority to sign a notice, statement, certificate or other document, is deemed to be, and always to have been, validly authorised by the relevant authority to sign that notice, statement, certificate or other document.

(2) In this section—

relevant authority means—

(a) in relation to an officer of the MTA or STA, the Managing Director of that Authority;

(b) in relation to an officer of the PTC, the Chief Executive of the PTC;
(c) in the case of an officer of the Department, the Secretary;

(d) in the case of a person who is employed or engaged by a passenger transport company, a bus company, or a rail corporation, the chief executive of the passenger transport company, bus company, or rail corporation (as the case requires);

relevant period means the period beginning on 1 July 1983 and ending on the day section 15 of the Transport Legislation (Further Amendment) Act 2005 comes into operation;

Note
1 July 1983 is the day on which section 230 came into operation. See section 1(2)(c).

relevant person means—

(a) an officer of the MTA or STA;

(b) an officer of the PTC;

(c) an officer of the Department;

(d) a person who is employed or engaged by a passenger transport company, a bus company, or a rail corporation.

246CZ Delegations generally in relation to authorisations

(1) Every exercise or purported exercise of a power of authorisation under an instrument of delegation executed under a relevant delegation provision during the period beginning on 1 July 1983 and ending on the day section 15 of the Transport Legislation (Further Amendment) Act 2005 comes into operation is deemed to have, and always to have had, the same force and effect as it would have had if the exercise or purported
exercise of that power had been validly and lawfully exercised by the relevant authority.

(2) In subsection (1)—

power of authorisation means a power conferred under a relevant authorisation provision to, as the case requires—

(a) appoint or authorise a person or an officer of the MTA, STA or PTC to be an authorised officer or authorized person under that provision; or

(b) give an authorisation under that provision;

relevant authorisation provision means—

(a) section 211(1), 212(2), 218(1), 218B(1), 219(1A), (2), (4) or (7), 219A(2), 219AA(1), 220(1) or 221(1)(c);

(b) 221A, 221AB, 221C(1) or 221H;

relevant authority means—

(a) in the case of section 211(1) (as in force during the relevant periods as defined in sections 246CC(6) and 246CD(3)), the Chief Executive of the PTC, the PTC or the Secretary;

(b) in the case of section 212(2) (as in force during the relevant periods as defined in sections 246CB(3) and 246CC(3)), the Managing Director of the MTA or STA or the Chief Executive of the PTC;
(c) in the case of section 218(1) (as in force during the relevant periods as defined in sections 246CE(3) and 246CF(3)), the Managing Director of the MTA, the Managing Director of the STA, the MTA, STA or the PTC;

(d) in the case of section 218B(1) (as in force during the relevant periods as defined in section 246CG(3) and 246CH(3)), the PTC or the Secretary;

(e) in the case of section 219(2), (4) or (7) (as in force during the relevant periods as defined in section 246CI(3), 246CJ(3) and (6)), the MTA, STA or PTC;

(f) in the case of section 219A(2) (as in force during the relevant period as defined in section 246CK(3)), the PTC;

(g) in the case of section 219(1A) (as in force during the relevant period as defined in section 246CL(3)), the Secretary;

(h) in the case of section 219AA(1) (as in force during the relevant period as defined in section 246CM(3)), the Secretary;

(i) in the case of section 220(1) (as in force during the relevant period as defined in section 246CN(3)), the Secretary;

(j) in the case of section 221(1)(c) (as in force during the relevant periods as defined in sections 246CO(3), 246CP(3) and 246CQ(3) and (6)), the MTA, STA, PTC or the Secretary;
(k) in the case of sections 221A, 221AB, 221C(1) and 221H (as in force from time to time), the Secretary;

*relevant delegation provision* means section 6B or section 32(1A), (2), (3) or (3A) (as in force from time to time during the relevant period).

**246CZA Delegations generally in relation to accreditations**

(1) Every exercise or purported exercise of a power of accreditation under an instrument of delegation executed under a relevant delegation provision during the period beginning on 24 August 1999 and ending on the day section 15 of the *Transport Legislation (Further Amendment) Act 2005* comes into operation is deemed to have, and always to have had, the same force and effect as it would have had if the exercise or purported exercise of that power had been validly and lawfully exercised by the Secretary.

(2) In subsection (1)—

*power of accreditation* means a power conferred under a relevant accreditation provision;

*relevant accreditation provision* means a provision of Division 4A of Part VII which confers a function or power on the Secretary;

*relevant delegation provision* means section 6B or 32(1A).

**246CZB Incorrect delegations purportedly under section 6B**

(1) Every instrument of delegation executed by the Secretary under section 6B during the relevant period delegating or purportedly delegating the Secretary's—

(a) power of authorisation under a relevant authorisation provision; or
(b) power of accreditation under a relevant accreditation provision—

that would have been a valid and lawful instrument had that instrument been executed under section 32(1A) has and is deemed always to have had the same force and effect as it would have had if that instrument had been validly and lawfully executed under section 32(1A).

(2) In this section—

relevant accreditation provision means a provision of Division 4A of Part VII which confers a function or power on the Secretary;

relevant authorisation provision means any of the following provisions as in force during the relevant period—

(a) section 211(1), 218(1), 219(1A)(b), 219(2), (4), (7), 219A(2), 219AA(1), 220(1), 221(1)(c) or 221C(1);

(b) section 221A, 221AB or 221H;

relevant period means the period beginning on 1 September 1994 and ending on the day section 15 of the Transport Legislation (Further Amendment) Act 2005 comes into operation.

Note

1 September 1994 is the day on which section 6 of the Transport (Further Amendment) Act 1994 (No. 60/1994) came into operation. That section inserted section 6B.
246CZC No proceedings may be brought

(1) Proceedings (whether criminal or civil) and including proceedings—

(a) seeking damages or compensation; or

(b) seeking the grant of any relief or remedy in the nature of certiorari, prohibition, mandamus or quo warranto, or the grant of a declaration of right or an injunction; or

(c) seeking a writ of habeas corpus; or

(d) seeking any order under the Administrative Law Act 1978—

may not be brought in respect of any matter or thing that, by reason of the operation of sections 246CA to 246CZB, is deemed to be valid or lawful or to have been validly or lawfully done.

(2) Despite subsection (1), a criminal proceeding may be brought that relies on a matter or thing that, by reason of the operation of sections 246CA to 246CZB, is deemed to be valid or lawful or to have been validly or lawfully done.

246CZD Preservation of rights only in certain proceedings

(1) Subject to subsection (2), this Division affects the rights of parties in any proceeding (whether criminal or civil) commenced, and not finally disposed of, before the day on which section 15 of the Transport Legislation (Further Amendment) Act 2005 comes into operation.

(2) Nothing in this Division is to be taken to—

(a) affect the rights of the parties in the proceeding known as Arachichi v Clark heard and determined in the Magistrates' Court at Melbourne on 14 February 2005; or
(b) the rights of the parties in the proceeding known as Clark v National Express Group Australia (Swanston Trams) Pty Ltd (ABN 25 087 494 997) (CI 03 70091 of 2003) in the County Court.

Division 2—Miscellaneous

246D Temporary authorisations for the purposes of Division 4AA of Part VII

(1) Despite anything to the contrary in Division 4AA of Part VII, the Secretary may, in writing, temporarily authorise under a relevant provision a person employed or engaged by a passenger transport company or bus company for a period not extending beyond the first anniversary of the commencement of section 32 of the Rail Corporations and Transport Acts (Amendment) Act 1999.

(2) Without limiting subsection (1), the Secretary may give a temporary authorisation to a person—

(a) without any application having been made by the person for an authorisation; and

(b) without any need to be satisfied of any matter referred to in section 221C(2); and

(c) without any need to issue to the person an identity card under section 221I(1).

(3) A temporary authorisation given under subsection (1) remains in force for the period for which it is given unless—

(a) it is sooner revoked, in writing, by the Secretary; or
(b) the person authorised under the relevant provision ceases to be an employee or engaged by a passenger transport company or bus company before the expiry of that period.

(4) The Secretary may at any time, in writing, suspend an authorisation given under subsection (1).

(5) In this section, relevant provision has the same meaning as in section 221A.

246E Temporary authorisation for the purposes of sections 211 and 218B

(1) Despite anything to the contrary in section 211 or 218B, the Secretary may, in writing, temporarily authorise under either or both provisions a person employed or engaged by a passenger transport company or bus company for a period not extending beyond the first anniversary of the commencement of section 32 of the Rail Corporations and Transport Acts (Amendment) Act 1999.

(2) Without limiting subsection (1), the Secretary may give a temporary authorisation to a person—

(a) without any need to be satisfied of any matter referred to in section 211(3) or 218B(1B) (as the case requires); and

(b) without any need to issue to the person an identity card under section 211(4) or 218B(1C) (as the case requires).

(3) A temporary authorisation given under subsection (1) remains in force for the period for which it is given unless—

(a) it is sooner revoked, in writing, by the Secretary; or
(b) the person ceases to be an employee or engaged by a passenger transport company or bus company before the expiry of that period.

(4) The Secretary may at any time, in writing, suspend an authorisation given under subsection (1).

247 Power to Governor in Council to authorize tourist railways

(1) Where any railway or part thereof has been closed for traffic the Governor in Council may by Order published in the Government Gazette grant to any person the right to occupy that railway or part thereof for a tourist railway and to manage, operate and maintain a tourist railway service thereon.

(2) Any Order under subsection (1) may be made subject to such terms and conditions as the Governor in Council thinks fit.

(3) Any Order made under subsection (1) may be revoked at any time by the Governor in Council.
248 Provisions applicable to tourist railways

While an Order under section 247(1) is in force the following provisions shall apply in relation to the tourist railway:

(a) All powers, duties and liabilities of a passenger transport company or Rail Track to or in relation to the railway or part thereof shall be suspended; and

(b) The Governor in Council may make regulations for or with respect to all matters which are necessary or convenient to be prescribed for or in relation to the management, operation and maintenance of the tourist railway and in particular for the following—

(i) any matter or thing that is incidental to the maintenance of safety in connexion with the operation of the tourist railway;

(ii) conferring on the operator of the tourist railway any power that a passenger transport company might exercise in relation to a railway under its management and control; and

(iii) imposing any duty or obligation upon the person authorized to operate the railway that a passenger transport company would be subject to if it were operating the railway.
249 Roads Corporation need not fence

(1) Notwithstanding any Act or rule of law to the contrary, the Roads Corporation shall not, unless the Minister so directs, be required to fence or contribute to the fencing of any portion of a railway, tramway or road and shall not be liable for any damage which may be caused by reason of any railway, tramway or road not being fenced in or fenced off but the Roads Corporation may erect and maintain such fences in connexion therewith as it thinks proper.

(2) Despite any Act or rule of law to the contrary, a person operating a tourist railway under an Order made under section 247(1) must not, unless the Minister so directs, be required to fence or contribute to the fencing of any portion of the railway and is not liable for any damage which may be caused by reason of the railway not being fenced in or fenced off but that person may erect and maintain such fences in connection with the railway as the person thinks proper.
249B Regulations with respect to services operated by a passenger transport company etc.

(1) The Governor in Council may make regulations for or with respect to any matter or thing necessary to be prescribed for or in relation to the operation, and maintenance of safety in connection with the operation, of any railway or tramway in Victoria that is being operated by a passenger transport company or a rail freight operator.

(2) Section 56(3) applies to regulations made under this section in the same manner as it applies to regulations made under Part III.

250 Service of documents on natural persons

A document required or permitted by this Act or the Rail Safety Act 2006 to be served on a person other than a corporation shall be served—
(a) by delivering the document to that person personally;

(b) by prepaying and posting the document as a letter addressed to that person at his last known place of residence or business or, if he is carrying on business at two or more places, at one of those places;

(c) by leaving the document at the last known place of residence of that person with some person apparently a resident of that place and apparently not less than sixteen years of age; or

(d) by leaving the document at the last known place of business of that person, or if he is carrying on business at two or more places, at one of those places, with some person apparently in the service of that person and apparently not less than sixteen years of age.

251 Service of documents on corporations

A document required by this Act or the Rail Safety Act 2006 to be served upon a person, being a corporation, shall be served—

(a) by prepaying and posting the document as a letter addressed to the corporation at its last known place of business or, if it is carrying on business at two or more places, at one of those places; or

(b) by leaving it at that place, or at one of those places, with some person apparently in the service of the corporation and apparently not less than sixteen years of age.
251A Sale of lost property found in or on public transport property

(1) A person who finds lost property in or on any public transport property of a passenger transport company must deliver the lost property to that passenger transport company.

Penalty: 5 penalty units.

(2) A passenger transport company may sell or dispose of—

(a) any lost property which is not claimed and removed by the owner or the person in charge of the lost property; or

(b) any goods left on a passenger transport company's premises, after a reasonable attempt has been made to contact the owner or person to whom the goods were consigned.

(3) A passenger transport company may sell or dispose of—

(a) any goods or lost property likely to deteriorate immediately; and

(b) all other goods or lost property after the expiry of 60 days from the date the lost property was found or the goods were not claimed.

(4) If goods or lost property are sold by a passenger transport company under this section, the passenger transport company may deduct from the proceeds of the sale the expenses of the sale and any amounts for freight, storage and other charges.

(5) The balance of the proceeds of the sale under this section of any goods or lost property, after deduction of any amounts authorised by subsection (4) to be deducted from those
proceeds, must be dealt with as unclaimed money in accordance with Part 3 of the Unclaimed Money Act 2008.

(6) A purchaser of goods or lost property sold under this section has good title in relation to those goods or lost property.

(7) In this section—

**goods** means any goods delivered to a passenger transport company to be carried as freight and which are not claimed and removed by or on behalf of the owner or the person to whom the goods were consigned;

**lost property** means any thing that appears to have been accidentally or deliberately abandoned by the owner or person in charge of it in or on any public transport property of a passenger transport company but does not include litter within the meaning of the Environment Protection Act 1970.

251B Nuisances and noise emissions

(1) Any noise emanating from rolling stock—

(a) whilst the rolling stock is travelling on a railway track or tramway track; or

(b) whilst the rolling stock is entering or exiting a siding, yard, depot or workshop; or

(c) whilst the rolling stock is in a siding, yard, depot or workshop and is—

(i) powering up to commence to be used in connection with the provision of a passenger service; or

(ii) shutting down after being used in connection with the provision of a passenger service—

does not constitute a nuisance.
(2) Nothing in the Environment Protection Act 1970 or the Local Government Act 1989 or any subordinate instrument within the meaning of the Interpretation of Legislation Act 1984 made under either of those Acts applies in respect of noise emanating from rolling stock—

(a) whilst the rolling stock is travelling on a railway track or tramway track; or

(b) whilst the rolling stock is entering or exiting a siding, yard, depot or workshop; or

(c) whilst the rolling stock is in a siding, yard, depot or workshop and is—

(i) powering up to commence to be used in connection with the provision of a passenger service; or

(ii) shutting down after being used in connection with the provision of a passenger service.

(3) In this section—

rolling stock means any vehicle, used by a passenger transport company for the provision of a passenger service, that operates on or uses a railway track or tramway track including a locomotive, carriage, rail car, rail motor, light rail vehicle, train, tram, light inspection vehicle, road/rail vehicle, trolley and wagon but not including a vehicle designed to operate both on and off a railway or tramway track when the vehicle is not operating on a railway or tramway track.
252 Determination of differences

(1) Where any difference (whether or not arising out of the construction of this Act or any other Act) arises between the Roads Corporation and any government department, municipality or body constituted by or under any Act touching or relating to the carrying out or exercise of the duties, powers, privileges or authorities of the Roads Corporation or any of those bodies, the difference may be determined by the Governor in Council.

(2) The determination of any difference by the Governor in Council under this section shall be final and conclusive upon the parties thereto.

253 Revocation of reservations for tramways purposes

(1) The Order in Council specified in Schedule 9 is revoked to the extent that it applies to the land shown hatched on the plan numbered LEGL./97-215 and lodged in the Central Plan Office.

(2) Crown grant Volume 600 Folio 902 is revoked to the extent that it applies to the land shown hatched on the plan referred to in subsection (1).

(3) On the revocation of the Order in Council specified in Schedule 9 to the extent that it relates to the land shown hatched on the plan referred to in subsection (1)—
(a) the land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and

(b) the appointment of any committee of management is revoked to the extent that it applies to the land; and

(c) any regulations made under section 13 of the Crown Land (Reserves) Act 1978 are revoked to the extent that they apply to the land.

253A Revocation of part of Melbourne Park Reservation for tramways purposes

(1) The deemed temporary reservation of land under Part 5 of the Melbourne and Olympic Parks Act 1985 is revoked to the extent that it applies to the land shown cross-hatched on the plan numbered LEGL./97-215 and lodged in the Central Plan Office.

(2) Despite anything to the contrary in the Melbourne and Olympic Parks Act 1985 and the Crown Land (Reserves) Act 1978, on the revocation of that part of the deemed temporary reservation shown cross-hatched on the plan referred to in subsection (1)—

(a) the land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and

(b) the appointment of the Melbourne and Olympic Parks Trust to manage Melbourne Park is revoked to the extent that it applies to the land; and

(c) any regulations made under section 13 of the Crown Land (Reserves) Act 1978 are revoked to the extent that they apply to the land.

253B Further revocation of reservations for tramways purposes

(1) The Order in Council specified in Schedule 10 is revoked to the extent that it applies to the land shown hatched on the plan numbered LEGL./98-75 and lodged in the Central Plan Office.

(2) Crown grant Volume 600 Folio 902 is revoked to the extent that it applies to the land shown hatched on the plan referred to in subsection (1).

(3) On the revocation of the Order in Council specified in Schedule 10 to the extent that it applies to the land shown hatched on the plan referred to in subsection (1)—

(a) the land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and

(b) the appointment of any committee of management is revoked to the extent that it applies to the land; and

(c) any regulations made under section 13 of the Crown Land (Reserves) Act 1978 are revoked to the extent that they apply to the land.

253C Re-reservation of certain land for Yarra Park

(1) The land shown cross-hatched on the plan numbered LEGL./98-75 and lodged in the Central Plan Office is deemed to be permanently reserved under the Crown Land (Reserves) Act 1978 for
the purposes for which the land described in Schedule 10 is reserved.

(2) Crown grant Volume 600 Folio 902 is deemed to include the land shown cross-hatched on the plan referred to in subsection (1).

(3) The committee of management appointed in respect of the land described in Schedule 10 is deemed to be appointed committee of management of the land shown cross-hatched on the plan referred to in subsection (1).

(4) Any regulations made under section 13 of the Crown Land (Reserves) Act 1978 extend and apply to the land shown cross-hatched on the plan referred to in subsection (1).

253D Registrar of Titles to make necessary amendments

The Registrar of Titles must make any amendments to the Register kept under the Transfer of Land Act 1958 that are necessary because of the operation of any provision of sections 253 to 253C.

254 Acts etc. deemed performed by Road Traffic Authority

(3) All developmental roads within the meaning of the Country Roads Act 1958 in existence immediately before the appointed day shall on that day cease to be developmental roads.

(4) Subsection (5) applies to any act matter or thing which before the appointed day was required to be done or performed by, on behalf of or in relation to the Chief Commissioner of Police and which as
a result of the operation of this Act is required on and after the appointed day to be done or performed by, on behalf of or in relation to the Road Traffic Authority.

(5) Any act matter or thing of a continuing nature to which this subsection applies done or performed before the appointed day by, on behalf of or in relation to the Chief Commissioner of Police shall be deemed to have been done or performed by, on behalf of or in relation to the Road Traffic Authority.

254A Repeal of Part IIA

Part IIA is repealed.

254B Transitional provision—Effect of repeal of Part IIA

Despite the commencement of section 4 of the Transport (Highway Rule) Act 2002 and without limiting the Interpretation of Legislation Act 1984, Part IIA, as in force before the commencement of that section, continues to apply to any cause of action arising before that commencement.

255 Supreme Court—limitation of jurisdiction

It is the intention of this section to alter or vary section 85 of the Constitution Act 1975 to the extent necessary to prevent the Supreme Court from entertaining actions relating to damage caused by reason of a tourist railway operated by a person under an Order made under section 247(1) not being fenced in or fenced off.
255A Supreme Court—limitation of jurisdiction

It is the intention of this section to alter or vary section 85 of the Constitution Act 1975 to the extent necessary to prevent the bringing before the Supreme Court of an action of a kind referred to in section 96(12), 97(7) or 98(10).

255B Supreme Court—limitation of jurisdiction

It is the intention of clause 26A(3) of Schedule 5 to alter or vary section 85 of the Constitution Act 1975.

255C Supreme Court—limitation of jurisdiction

It is the intention of sections 96(12) and 98(10), as amended by section 31 of the Road Safety (Amendment) Act 2000, to alter or vary section 85 of the Constitution Act 1975.

255D Supreme Court—limitation of jurisdiction

It is the intention of section 96B(5) to alter or vary section 85 of the Constitution Act 1975.

255E Supreme Court—limitation of jurisdiction

It is the intention of section 189(7) to alter or vary section 85 of the Constitution Act 1975.

255F Supreme Court—limitation of jurisdiction

It is the intention of section 37A to alter or vary section 85 of the Constitution Act 1975.

256 Regulations

(1) The Governor in Council may make regulations for or with respect to any matter or thing that by this Act is authorized or required or permitted to be prescribed or that is necessary to be prescribed for carrying this Act into effect, including prescribing—
(a) fees to be charged for the supply of any equipment, goods or materials by the Roads Corporation or for the supply of any service by the Roads Corporation;

(e) forms to be used for the purposes of this Act;

(2) Where any form is prescribed by regulations made under this Act, any form in or to the like effect of the prescribed form shall be sufficient in law.
Division 3—Transitional and savings provisions—Transport (Further Amendment) Act 2001

257 Definitions

In this Division, appointed day means the day on which section 9 of the Transport (Further Amendment) Act 2001 comes into operation.

258 Transfer of rights and liabilities etc. of PTC to the Secretary on behalf of the Crown

(1) On the appointed day—

(a) the offices of the Administrator of the Public Transport Corporation and the Deputy Administrator of the Public Transport Corporation are abolished and the person holding each office goes out of office; and
(b) all rights, property and assets that, immediately before the appointed day were vested in the Public Transport Corporation, vest in the Secretary, on behalf of the Crown; and

(c) all debts, liabilities and obligations of the Public Transport Corporation existing immediately before the appointed day, become debts, liabilities and obligations of the Secretary, on behalf of the Crown; and

(d) the Secretary, on behalf of the Crown, is substituted as a party to any proceedings pending in any court or tribunal to which the Public Transport Corporation was a party immediately before the appointed day; and

(e) the Secretary, on behalf of the Crown, is substituted as a party to any arrangement or contract entered into by or on behalf of the Public Transport Corporation and in force immediately before the appointed day; and

(f) any reference to the Public Transport Corporation in any Act or in any proclamation, Order in Council, rule, regulation, order, agreement, instrument, deed or other document, so far as it relates to any period after the appointed day, and if not inconsistent with the context or subject-matter, must be construed as a reference to the Secretary, on behalf of the Crown.

(2) Nothing effected under subsection (1) or done or suffered under subsection (1)—

(a) is to be regarded as placing any person in breach of contract or confidence or as otherwise making any person guilty of a civil wrong;
(b) is to be regarded as placing any person in breach of, or as constituting a default under any Act or other law or obligation or any provision in any agreement or understanding, including, but not limited to, any provision or obligation prohibiting or restricting or regulating the assignment, transfer, sale or disposal of any property or the disclosure of any information;

(c) is to be regarded as fulfilling any condition that allows a person to exercise a power, right or remedy in respect of or to terminate any agreement or obligation; or

(d) is to be regarded as giving rise to any remedy for a party to a contract or an instrument or as causing or permitting the termination of any contract or instrument because of a change in the beneficial or legal ownership of any asset, right or liability; or

(e) is to be regarded as causing any contract or instrument to be void or otherwise unenforceable; or

(f) is to be regarded as frustrating any contract; or

(g) releases any surety or other obligor wholly or in part from any obligation.

259 List of staff to be transferred

The Secretary must list in writing the officers and employees of the Public Transport Corporation employed by the Public Transport Corporation immediately before the appointed day who are to be employed under Part 3 of the Public Sector Management and Employment Act 1998.
260 Transfer of staff of PTC

(1) A person listed under section 259 (transferred employee) is to be regarded as—

(a) having been employed under Part 3 of the Public Sector Management and Employment Act 1998, with effect from the appointed day; and

(b) having been so employed on the same terms and conditions as those that applied to the person immediately before the appointed day as an officer or employee of the Public Transport Corporation; and

(c) having accrued an entitlement to benefits in connection with that employment under Part 3 of the Public Sector Management and Employment Act 1998 that is equivalent to the entitlement that the person had accrued, as an officer or employee of the Public Transport Corporation, immediately before the appointed day.

(2) The service of a transferred employee as an employee under Part 3 of the Public Sector Management and Employment Act 1998 is to be regarded for all purposes as having been continuous with the service of the transferred employee, immediately before the appointed day, as an officer or employee of the Public Transport Corporation.

(3) A transferred employee is not entitled to receive any payment or other benefit by reason only of having ceased to be an officer or employee of the Public Transport Corporation because of the operation of this Division.
(4) A certificate purporting to be signed by the Secretary certifying that a person named in the certificate was, with effect from the appointed day, employed, by virtue of this section, under Part 3 of the Public Sector Management and Employment Act 1998, is admissible in evidence in any proceedings and is conclusive proof of the matters stated in it.

(5) The superannuation entitlements of any person who is a transferred employee are to be taken not to be affected by that person becoming a transferred employee.

(6) Nothing in this section prevents—

(a) any of the terms and conditions of employment of a transferred employee from being altered by or under any law, award or agreement with effect from any time after the appointed day; or

(b) a transferred employee from resigning or being dismissed at any time after that commencement in accordance with the then existing terms and conditions of his or her employment under Part 3 of the Public Sector Management and Employment Act 1998.

261 Savings provision—assignments

(1) The commencement of section 12 of the Transport (Further Amendment) Act 2001 does not affect any assignment made under the former section before that commencement.

(2) In this section, the former section means section 40 as in force before its repeal.
262 Savings provision—guarantees

(1) The commencement of section 16 of the Transport (Further Amendment) Act 2001 does not affect the execution, validity, amendment or assignment of any guarantee effected under the former section 77 before that commencement.

(2) In this section, the former section 77 means section 77 as in force before the commencement of section 16 of the Transport (Further Amendment) Act 2001.

263 Transitional provision—Power to amend or grant further guarantee on assignment of contract

(1) Where—

(a) the rights and liabilities of a person under the relevant contract are assigned with the approval of the Treasurer to another person or transferred to another person (whether by way of allocation or by any other operation of law); and

(b) the obligations of the first-mentioned person under the relevant contract have been guaranteed under section 77 (as in force before the commencement of section 16 of the Transport (Further Amendment) Act 2001)—

the Treasurer may give a guarantee, in favour of any person, guaranteeing the due performance of any obligations of the second-mentioned person arising under the contract (whether or not the second-mentioned person is the Secretary).

(2) Where—

(a) the rights and liabilities of a person under the relevant contract are assigned with the approval of the Treasurer to another person or transferred to another person (whether by
way of allocation or by any other operation of law); and

(b) the obligations of the first-mentioned person under the relevant contract have been guaranteed under section 77 (as in force before the commencement of section 16 of the Transport (Further Amendment) Act 2001)—

the Treasurer may amend any guarantee under section 77 (as so in force) so that it extends to guaranteeing the due performance of any obligations of the second-mentioned person under the relevant contract (whether or not the second-mentioned person is the Secretary).

(3) In this section relevant contract means the service contract entered into between the former Corporation and OneLink Transit Systems Pty Ltd ACN 059 733 443 with effect from 24 May 1994 as amended, varied and restated from time to time.

Division 4—Savings and transitional provisions—Transport (Rights and Responsibilities) Act 2003

264 Commencement date

In this Division, commencement date means the date of commencement of Division 3 of Part 3 of the Transport (Rights and Responsibilities) Act 2003.

265 Continuation of Departmental authorisations

A person who, immediately before the commencement date, held an appointment by the Secretary as an authorised officer under—

(a) paragraph (a) of the definition of authorised officer in section 211; or
(b) paragraph (b) of that definition by virtue of being a person described in paragraph (b)(ii) of that definition—

is deemed to have been appointed as an authorised officer by the Secretary under section 221A.

266 Continuation of Roads Corporation authorisations

A person who, immediately before the commencement date, held an appointment by the Roads Corporation under section 211 as an authorised officer is deemed to be an officer of the Roads Corporation appointed in writing by that Corporation under section 212(1A) to issue transport infringement notices.

267 Continuation of passenger transport and bus company employee authorisations

(1) This section applies to a person who, immediately before the commencement date—

(a) was employed or engaged by a passenger transport or bus company; and

(b) was—

(i) an authorised officer under section 211 or 218B appointed by the Secretary; or

(ii) an authorised person under section 219AA or 220; or

(iii) an authorized person under section 221.

(2) The person is deemed to have been authorised by the Secretary under section 221AB to act as an authorised officer.

(3) The expiry date and any conditions applying to the person's authorisation immediately before the commencement date continue to apply to the authorisation.
Division 5—Transitional provisions—Transport Legislation (Further Amendment) Act 2006

268 Definitions

appointed day means the day on which section 10 of the Transport Legislation (Further Amendment) Act 2006 comes into operation;

driver accreditation has the same meaning as in Part VI;

old driver's certificate means a certificate, in force immediately before the appointed day, under section 156, as in force immediately before the appointed day.

269 Old certificates deemed to be accreditations

(1) An old driver's certificate is deemed to be, on and from the appointed day, a driver accreditation.

(2) An old driver's certificate that is deemed to be a driver accreditation under subsection (1)—

(a) is subject to any conditions to which the certificate was subject immediately before the appointed day, and any such conditions may be dealt with as if they were imposed under Division 6 of Part VI; and

(b) remains in force for the remainder of the term that applied to the certificate immediately before the appointed day, unless, before the end of that term, the accreditation is suspended or cancelled under Division 6 of Part VI; and

(c) except where this section indicates a contrary intention, the provisions of Division 6 of Part VI apply accordingly.
(3) Despite subsection (1), if a person who is the holder of an old driver's certificate is a person who has been found guilty of a category 1 offence, or is subject to the reporting obligations, or an order referred to in section 169(2)(c), the person is not deemed to be the holder of a driver accreditation.

(4) Subsection (3) does not apply if the holder of the certificate can demonstrate to the satisfaction of the Director, having regard to the public care objective under Division 6 of Part VI, that it is appropriate for that person to be deemed to be the holder of such an accreditation.

(5) A person referred to in subsection (3) may apply to VCAT for an order that his or her old driver's certificate be deemed to be a driver accreditation under this section.

(6) If VCAT makes an order under subsection (5), subsection (2) applies to the deemed driver accreditation.

(7) At least 28 days before the appointed day the Director must give each holder of an old driver's certificate to whom subsection (3) applies written notice of the effect of subsections (3), (4), (5) and (6) and allow the person 28 days in which to provide the Director with information for the purposes of subsection (4).

270 Saving of accreditations granted by Secretary

Despite the commencement of section 21 of the Transport Legislation (Further Amendment) Act 2006, an accreditation under Division 4A of Part VII (and any condition to which the accreditation is subject) granted by the Secretary and in force immediately before that commencement is deemed to continue in force as if the accreditation were granted by the Director.
271 Saving of agreements etc.

(1) Any reference to the Secretary in any relevant agreement, instrument, deed or other document, so far as it relates to any period after the commencement of section 31(1) of the Transport Legislation (Further Amendment) Act 2006 and if not inconsistent with the context or subject-matter, must be construed as a reference to the Director.

(1A) An instrument of delegation made by the Secretary under section 32(1A) and in force immediately before the commencement of section 31(1) of the Transport Legislation (Further Amendment) Act 2006 is on that commencement deemed to be an instrument of delegation made by the Director under section 9(7) to the extent that a power delegated under that instrument is a power under a relevant section or a power conferred on a licensing authority by or under this Act.

(2) In this section—

*relevant agreement, instrument, deed or other document* means any agreement, instrument, deed or other document—

(a) entered into under a relevant section of this Act or the Public Transport Competition Act 1995; and

(b) in force immediately before the commencement of section 31(1) of the Transport Legislation (Further Amendment) Act 2006;

*relevant section* means a section of this Act or the Public Transport Competition Act 1995 in which a reference to "Secretary" was amended by the Transport Legislation (Further Amendment) Act 2006 to be a reference to "Director".
272 Taxi-cab accreditation

(1) Subject to this section, a person who holds a taxi-cab licence immediately before the commencement of Part 2 of the **Transport (Taxi-cab Accreditation and Other Amendments) Act 2006** is deemed, for the period of 2 years after that commencement, to be accredited under Division 4 of Part VI as a taxi-cab licence holder.

(2) Subject to this section, a person who immediately before the commencement of Part 2 of the **Transport (Taxi-cab Accreditation and Other Amendments) Act 2006**—

(a) holds a licence to operate a taxi-cab the right to operate a vehicle under which has not been assigned to another person under section 150; or

(b) is a person to whom the right to operate a vehicle under a taxi-cab licence is assigned under section 150—

is deemed, for the period of 2 years after that commencement, to be accredited under Division 4 of Part VI as a taxi-cab operator.

(2A) If—

(a) an application for the grant of a taxi-cab licence under section 143 or 143A; or

(b) an application under section 149 for authority to transfer a taxi-cab licence; or
(c) an application under section 150 for authority to assign the right to operate a vehicle under a taxi-cab licence—

is made but not determined before the commencement of Part 2 of the Transport (Taxi-cab Accreditation and Other Amendments) Act 2006, the application must be considered and determined in accordance with this Act as in force immediately before that commencement.

(2B) Subject to this section, a person who holds a taxi-cab licence—

(a) that was granted to the person in response to an application to which subsection (2A)(a) applies; or

(b) that was transferred to the person in response to an application to which subsection (2A)(b) applies—

is deemed for the period commencing on the date of the grant or transfer of the taxi-cab licence (as the case requires) and ending 2 years after the commencement of Part 2 of the Transport (Taxi-cab Accreditation and Other Amendments) Act 2006 to be accredited under Division 4 of Part VI as a taxi-cab licence holder.

(2C) Subject to this section, a person to whom the right to operate a vehicle under a taxi-cab licence is assigned under an assignment for which an authority was given in response to an application to which subsection (2A)(c) applies is deemed for the period commencing on the date that the authority was given and ending 2 years after the commencement of Part 2 of the Transport (Taxi-cab Accreditation and Other Amendments) Act 2006 to be accredited under Division 4 of Part VI as a taxi-cab operator.
(2D) Subject to this section, if, before a taxi-cab licence is granted or transferred to a person in response to an application to which subsection (2A)(a) or (2A)(b) applies, the licensing authority determines on reasonable grounds that the person does not intend to assign the right to operate a vehicle under the licence to another person—

(a) the licensing authority may determine that the person is to be accredited as a taxi-cab operator; and

(b) if a determination under paragraph (a) is made and notified in writing to the person, the person is deemed for the period commencing on the date that the licence was granted or transferred and ending 2 years after the commencement of Part 2 of the Transport (Taxi-cab Accreditation and Other Amendments) Act 2006 to be accredited under Division 4 of Part VI as a taxi-cab operator.

(3) To avoid doubt, Division 4 of Part VI applies to a deemed accreditation under subsection (1), (2), (2B), (2C) or (2D) and that accreditation may be cancelled, suspended, surrendered or otherwise dealt with (including by the variation, revocation or imposition of a condition, restriction or other limitation) in accordance with that Division.

(4) The licensing authority may at any time during the period of a deemed accreditation of a person under subsection (1), (2), (2B), (2C) or (2D), by written notice served on that person, require that person to apply for accreditation under Division 4 of Part VI as a taxi-cab licence holder or taxi-cab operator (as the case requires) on or before the date specified in the notice, which must not be earlier than 28 days after the day on which the notice is served.
(5) If a person on whom a notice is served under subsection (4) does not apply for accreditation under Division 4 of Part VI as a taxi-cab licence holder or taxi-cab operator (as the case requires) on or before the date specified in the notice, the licensing authority may serve on that person a notice cancelling the deemed accreditation with effect from the date specified in the notice, which must not be earlier than 7 days after the day on which the notice is served.

273 Assignments

The amendments of section 150 of this Act made by Division 2 of Part 3 of the Transport (Taxi-cab Accreditation and Other Amendments) Act 2006 only apply to—

(a) applications made under subsection (1) of that section on or after the commencement of that Division; and

(b) assignments made under that section on or after that commencement in reliance on an authority granted on an application referred to in paragraph (a).


274 Accreditations

(1) The amendments made to this Act by sections 4, 5, 6, 7, 8, 9, 11 and 15 of the Transport Legislation Amendment (Driver and Industry Standards) Act 2008 apply to any application for accreditation or renewal of accreditation under Division 4 of Part VI that was made but not finally decided or withdrawn immediately before the commencement of section 16 of that Act.
(2) The Director must—

(a) immediately after the commencement of section 16 of the Transport Legislation Amendment (Driver and Industry Standards) Act 2008, notify each person who has made an application for accreditation that was not finally decided or withdrawn immediately before that commencement that his or her application will be assessed in accordance with this Act as amended by that 2008 Act; and

(b) give each person so notified 28 days to—

(i) withdraw his or her application if the person wishes to do so; or

(ii) provide the Director with relevant information.

(3) The amendments made to this Act by sections 4, 5, 6, 7, 8, 9, 11 and 15 of the Transport Legislation Amendment (Driver and Industry Standards) Act 2008 apply to any accreditation that was held or deemed to be held by a person immediately before the commencement of section 16 of that Act.


275 Transitional provision—direction to provide reasonable assistance

Despite the commencement of section 14 of the Statute Law Amendment (Charter of Human Rights and Responsibilities) Act 2009, section 228ZL(4) as in force immediately before that commencement continues to apply to proceedings
for an offence against section 228ZL commenced but not completed before that commencement.

276 Transitional provision—direction to state name and address

Despite the commencement of section 15 of the Statute Law Amendment (Charter of Human Rights and Responsibilities) Act 2009, section 228ZN(4) as in force immediately before that commencement continues to apply to proceedings for an offence against section 228ZN commenced but not completed before that commencement.
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Sch. 1

**SCHEDULES**

<table>
<thead>
<tr>
<th>Sch. 1</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>*</td>
</tr>
<tr>
<td>inserted by</td>
<td>*</td>
</tr>
<tr>
<td>No. 85/1992</td>
<td>*</td>
</tr>
<tr>
<td>s. 10</td>
<td>*</td>
</tr>
<tr>
<td>amended by</td>
<td>*</td>
</tr>
<tr>
<td>Nos 120/1993</td>
<td>*</td>
</tr>
<tr>
<td>s. 74(a)–(c),</td>
<td>*</td>
</tr>
<tr>
<td>17/1995</td>
<td>*</td>
</tr>
<tr>
<td>s. 24(c),</td>
<td>*</td>
</tr>
<tr>
<td>42/1995</td>
<td>*</td>
</tr>
<tr>
<td>s. 224(Sch. 2 item 43.1),</td>
<td>*</td>
</tr>
<tr>
<td>68/1995</td>
<td>*</td>
</tr>
<tr>
<td>s. 41(2),</td>
<td>*</td>
</tr>
<tr>
<td>46/1998</td>
<td>*</td>
</tr>
<tr>
<td>s. 7(Sch. 1),</td>
<td>*</td>
</tr>
<tr>
<td>repealed by</td>
<td>*</td>
</tr>
<tr>
<td>No. 47/1998</td>
<td></td>
</tr>
<tr>
<td>s. 16(7).</td>
<td>*</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sch. 1A</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>*</td>
</tr>
<tr>
<td>amended by</td>
<td>*</td>
</tr>
<tr>
<td>Nos 100/1986 ss 3(22),</td>
<td>*</td>
</tr>
<tr>
<td>43(a)–(c),</td>
<td>*</td>
</tr>
<tr>
<td>44/1989</td>
<td>*</td>
</tr>
<tr>
<td>s. 40(Sch. 1 item 26),</td>
<td>*</td>
</tr>
<tr>
<td>81/1990</td>
<td>*</td>
</tr>
<tr>
<td>s. 7(8),</td>
<td>*</td>
</tr>
<tr>
<td>85/1992</td>
<td>*</td>
</tr>
<tr>
<td>s. 9(1)(n),</td>
<td>*</td>
</tr>
<tr>
<td>120/1993</td>
<td>*</td>
</tr>
<tr>
<td>s. 75(a)–(c),</td>
<td>*</td>
</tr>
<tr>
<td>42/1995</td>
<td>*</td>
</tr>
<tr>
<td>s. 224(Sch. 2 item 43.2),</td>
<td>*</td>
</tr>
<tr>
<td>46/1998</td>
<td>*</td>
</tr>
<tr>
<td>s. 7(Sch. 1),</td>
<td>*</td>
</tr>
<tr>
<td>47/1998</td>
<td>*</td>
</tr>
<tr>
<td>s. 16(8),</td>
<td>*</td>
</tr>
<tr>
<td>108/2004</td>
<td>*</td>
</tr>
<tr>
<td>s. 117(1)</td>
<td>*</td>
</tr>
<tr>
<td>(Sch. 3 item 208.3),</td>
<td>*</td>
</tr>
<tr>
<td>repealed by</td>
<td>*</td>
</tr>
<tr>
<td>No. 6/2010</td>
<td></td>
</tr>
<tr>
<td>s. 199(3)</td>
<td>*</td>
</tr>
<tr>
<td>(Sch. 3 item 10).</td>
<td>*</td>
</tr>
</tbody>
</table>
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Sch. 2

* * * * *

Sch. 2 amended by Nos 9984 s. 5(k), 10220 s. 15, 100/1986 s. 3(22), 44/1989 s. 40(Sch. 1 item 27.1(a)–(d)), 76/1991 s. 15(4)(a)(b), 54/2001 s. 25(Sch. item 1.66) (as amended by No. 32/2002 s. 24(b)(iii)), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 11).

* * * * *

Sch. 3
amended by Nos 44/1989 s. 40(Sch. 1 item 28.1(a)–(c)), 25/1998 s. 166(1), repealed by No. 30/2000 s. 31.

* * * * *

Sch. 4
amended by Nos 12/1989 s. 4(1)(Sch. 2 item 120.9) (as amended by No. 13/1990 s. 38(3)(a)), 44/1989 s. 40(Sch. 1 item 29), 99/1994 s. 27, 99/1998 s. 15(2), repealed by No. 12/2004 s. 137(7).
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Sch. 5

Sch. 5
amended by
Nos 10087
s. 3(1)(Sch. 1
items 290–
293), 100/1986
s. 44(a)–(m),
41/1987
s. 103(Sch. 4
item 65.1),
12/1989
s. 4(1)(Sch. 2
items 120.10–
120.47) (as
amended by
No. 13/1990
s. 38(3)(b)–
(e)), 18/1989
s. 13(Sch. 2
item 90(b)),
44/1989
ss 39(1)(g)–(i),
40(Sch. 1
item 30(a)–
(d)), 57/1989
s. 3(Sch. item
202.17),
130/1993
s. 122(Sch. 4
items 14.1–
14.3), 53/1994
s. 34(Sch. 1
items 9.1–9.6),
79/1995 s. 39,
106/1997
s. 35(2),
25/1998
s. 166(2),
99/1998 s. 13,
69/2000 s. 63,
54/2001 s. 24,
20/2003 s. 39,
12/2004 s. 137
(12)–(16),
repealed by
No. 74/2007
s. 85.

Sch. 6
repealed by
No. 100/1986
s. 17(2).

* * * * * *
SCHEDULE 7

COVENANTS TO BE INCLUDED IN DEED OF ASSIGNMENT

The assignee hereby covenants with the assignor to submit the licensed vehicle for inspection when required by the licensing authority within the meaning of Division 5 of Part VI of the Transport Act 1983 or an officer or inspector of the licensing authority.

The assignor hereby covenants with the assignee—

(a) that at all times during the currency of this agreement he shall make all necessary applications to the licensing authority for renewal of the licence the rights under which are assigned by this agreement and shall pay the fees for such renewal and any amount payable by way of seating tax;

(b) to return to the licensing authority for safe keeping the licence and allow all the endorsements required to be made thereon by or under the Transport Act 1983;

(c) to apply to the licensing authority as required by or under this Act for authority to assign the rights under the licence.
### SCHEDULE 9

#### PARTIAL REVOCATION OF RESERVATION ON YARRA PARK LAND

<table>
<thead>
<tr>
<th>Situation and area of land:</th>
<th>At East Melbourne, City of Melbourne, 63.64 hectares less authorised excisions.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Instrument and date of reservation:</td>
<td>Order in Council dated 9 June 1873</td>
</tr>
<tr>
<td>Particulars of registration of Crown grant:</td>
<td>Crown grant Volume 600 Folio 902</td>
</tr>
<tr>
<td>Purpose of reservation:</td>
<td>Yarra Park</td>
</tr>
<tr>
<td>Extent of revocation:</td>
<td>Land shown hatched on the plan numbered LEGL./97-215 and lodged at the Central Plan Office.</td>
</tr>
</tbody>
</table>
### SCHEDULE 10

**PARTIAL REVOCATION OF RESERVATION ON YARRA PARK LAND**

<table>
<thead>
<tr>
<th><strong>Situation and area of land:</strong></th>
<th>At East Melbourne, City of Melbourne, 63·64 hectares less authorised excisions.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Instrument and date of reservation:</strong></td>
<td>Order in Council dated 9 June 1873</td>
</tr>
<tr>
<td><strong>Description of land by reference to Government Gazette:</strong></td>
<td>Government Gazettes dated 12 February 1864, page 350 and 13 June 1873, page 1059</td>
</tr>
<tr>
<td><strong>Particulars of registration of Crown grant:</strong></td>
<td>Crown grant Volume 600 Folio 902</td>
</tr>
<tr>
<td><strong>Purpose of reservation:</strong></td>
<td>Public recreation (Yarra Park)</td>
</tr>
<tr>
<td><strong>Extent of revocation:</strong></td>
<td>Land shown hatched on the plan numbered LEGL./98-75 and lodged at the Central Plan Office.</td>
</tr>
</tbody>
</table>

* * * * *

---


Sch. 11, 12 repealed.
ENDNOTES

1. General Information

The Transport (Compliance and Miscellaneous) Act 1983 was assented to on 23 June 1983 and came into operation as follows:

Section 246 on 5 May 1983: section 1(2)(a); rest of Act (except sections 167–170) on 1 July 1983: section 1(2)(c); sections 167–170 never proclaimed, repealed by No. 106/1997 section 22(1).

The title of this Act was changed from the Transport Act 1983 to the Transport (Compliance and Miscellaneous) Act 1983 by section 199(1) of the Transport Integration Act 2010, No. 6/2010.
2. Table of Amendments

This Version incorporates amendments made to the **Transport (Compliance and Miscellaneous) Act 1983** by Acts and subordinate instruments.

Where a provision has expired, the provision has been omitted and an explanatory sidenote included.


- **Assent Date:** 6.12.83
- **Commencement Date:** All of Act (except s. 6) on 6.12.83: s. 2(1); s. 6 never proclaimed, repealed by No. 100/1986
- **Current State:** All of Act in operation

**Grain Handling Improvement Authorities (Abolition) Act 1984, No. 10049/1984**

- **Assent Date:** 8.5.84
- **Commencement Date:** 8.5.84
- **Current State:** All of Act in operation

**Transport (Traffic Infringement Notices) Act 1984, No. 10085/1984**

- **Assent Date:** 22.5.84
- **Commencement Date:** 1.3.85: Government Gazette 20.2.85 p. 367
- **Current State:** All of Act in operation

**Statute Law Revision Act 1984, No. 10087/1984**

- **Assent Date:** 22.5.84
- **Commencement Date:** S. 3(1)(Sch. 1 items 290–304) on 1.7.83: s. 3(2)(y); ss 3(1)(Sch. 1 items 271–289), 4(1)(Sch. 2) on 22.5.84: s. 2
- **Current State:** This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Dangerous Goods (Road Transport) Act 1984, No. 10159/1984**

- **Assent Date:** 20.11.84
- **Commencement Date:** S. 48 never proclaimed, repealed by No. 10189/1985
- **Current State:** This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Motor Car (Amendment) Act 1985, No. 10178/1985**

- **Assent Date:** 14.5.85
- **Commencement Date:** S. 9 on 1.7.85: Government Gazette 19.6.85 p. 2336
- **Current State:** This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Endnotes

Assent Date: 30.7.85
Commencement Date: S. 6(Sch. 1 items 8, 9) on 1.10.85: Government Gazette 1.10.85 p. 3003
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Transport (Amendment) Act 1985, No. 10220/1985
Assent Date: 3.12.85
Commencement Date: S. 15 on 1.7.83: s. 2(2); rest of Act on 4.12.85: Government Gazette 4.12.85 p. 4458
Current State: All of Act in operation

Magistrates (Summary Proceedings) (Amendment) Act 1985, No. 10249/1985
Assent Date: 10.12.85
Commencement Date: S. 11(a)(b) on 1.4.86; s. 11(c)(d) on 1.10.86: Government Gazette 5.3.86 p. 581
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Courts Amendment Act 1986, No. 16/1986
Assent Date: 22.4.86
Commencement Date: S. 30(Sch. items) on 1.7.86: Government Gazette 25.6.86 p. 2180
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 16.12.86
Commencement Date: Ss 5, 42(b) on 23.6.83; s. 2(2); ss 1, 2, 4, 6–30(1), 31–41(a), 42–44 on 17.12.86: Government Gazette 17.12.86 p. 4744; ss 3, 41(b) on 12.1.87: Government Gazette 23.12.86 p. 4777; s. 30(2)–(4) on 1.1.88: Government Gazette 16.12.87 p. 3392
Current State: All of Act in operation

Transport Accident Act 1986, No. 111/1986
Assent Date: 16.12.86
Commencement Date: S. 180(2)(Sch. 2 item 2) on 1.2.87: Government Gazette 28.1.87 p. 180
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Land Acquisition and Compensation Act 1986, No. 121/1986
Assent Date: 23.12.86
Commencement Date: 29.11.87: Government Gazette 25.11.87 p. 3224
Current State: All of Act in operation
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Port Authorities (Amendment) Act 1986, No. 123/1986
Assent Date: 23.12.86
Commencement Date: S. 31 on 19.12.78: s. 2(2); rest of Act on 23.12.86: Government Gazette 23.12.86 p. 4775
Current State: All of Act in operation

Road Safety Act 1986, No. 127/1986 (as amended by No. 78/1987)
Assent Date: 23.12.86
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Planning Appeals (Amendment) Act 1987, No. 9/1987
Assent Date: 28.4.87
Commencement Date: 1.8.87: Government Gazette 29.7.87 p. 1992
Current State: All of Act in operation

Chattel Securities Act 1987, No. 15/1987
Assent Date: 12.5.87
Commencement Date: 1.8.87: Government Gazette 29.7.87 p. 1992
Current State: All of Act in operation

Conservation, Forests and Lands Act 1987, No. 41/1987
Assent Date: 19.5.87
Commencement Date: S. 103(Sch. 4 item 65.1) on 1.7.87: Government Gazette 24.6.87 p. 1694
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Planning and Environment Act 1987, No. 45/1987
Assent Date: 27.5.87
Commencement Date: S. 205(Sch. items 138, 139) on 16.2.88: Government Gazette 10.2.88 p. 218
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Transport Accident (Amendment) Act 1988, No. 32/1988
Assent Date: 17.5.88
Commencement Date: Ss 4(3), 35 on 16.12.86: s. 2(2); ss 34, 36, 37 on 1.3.88: s. 2(3); rest of Act on 24.5.88: Special Gazette (No. 37) 24.5.88 p. 1
Current State: All of Act in operation

571
State Superannuation Act 1988, No. 50/1988

| Assent Date: | 24.5.88 |
| Commencement Date: | S. 93(3) on 1.7.87; s. 2(1); s. 93(4) on 27.11.87; s. 2(2); Pt 1, Pt 6 Div. 2, s. 91 on 1.1.88; s. 2(3); rest of Act on 1.7.88: Government Gazette 1.6.88 p. 1487 |
| Current State: | All of Act in operation |

Marine Act 1988, No. 52/1988

| Assent Date: | 31.5.88 |
| Commencement Date: | All of Act (except s. 159(4)) on 20.12.88: Special Gazette (No. 105) 20.12.88 p. 1; s. 159(4) on 1.7.89: Government Gazette 28.6.89 p. 1558 |
| Current State: | All of Act in operation |


| Assent Date: | 9.5.89 |
| Commencement Date: | S. 4(1)(Sch. 2 items 120.1–120.4, 120.6–120.8, 120.10–120.31, 120.35, 120.36, 120.38–120.44, 120.47) on 1.11.89: Government Gazette 1.11.89 p. 2798; Sch. 2 items 120.5, 120.9, 120.32–120.34, 120.37, 120.45, 120.46 on 1.10.92: Government Gazette 23.9.92 p. 2789 |
| Current State: | This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983 |

Transfer of Land (Computer Register) Act 1989, No. 18/1989

| Assent Date: | 16.5.89 |
| Commencement Date: | 3.2.92: Government Gazette 18.12.91 p. 3488 |
| Current State: | All of Act in operation |


| Assent Date: | 6.6.89 |
| Current State: | This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983 |

Transport (Amendment) Act 1989, No. 44/1989

| Assent Date: | 6.6.89 |
| Commencement Date: | Ss 16, 39(3), Sch. 2 items 42.1, 42.11, 42.12 on 6.6.89; s. 2(2); s. 39(2) on 16.12.86: s. 2(3); s. 42(1) on 1.11.89: s. 2(4); s. 42(2) on 1.11.89: s. 2(5); s. 42(3) on 11.11.89: s. 2(6); rest of Act on 1.7.89: s. 2(1) |
| Current State: | All of Act in operation |
Magistrates’ Court (Consequential Amendments) Act 1989, No. 57/1989
(as amended by No. 25/1989)
Assent Date: 14.6.89
Commencement Date:
Ss 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210;
rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Water (Consequential Amendments) Act 1989, No. 81/1989
Assent Date: 5.12.89
Commencement Date: 1.11.90: Government Gazette 15.8.90 p. 2473
Current State: All of Act in operation

Assent Date: 11.12.90
Commencement Date:
S. 7(1)(2)(5)(7)–(9) on 6.6.89: s. 2(2); s. 7(3) on 23.12.86: s. 2(3);
rest of Act on 6.3.91: Government Gazette 6.3.91 p. 483
Current State: All of Act in operation

Assent Date: 25.6.91
Commencement Date: 22.4.92: Government Gazette 15.4.92 p. 898
Current State: All of Act in operation

Assent Date: 3.12.91
Commencement Date:
S. 15 on 1.1.92: Government Gazette 18.12.91 p. 3488
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 3.12.91
Commencement Date: 11.12.91: Government Gazette 11.12.91 p. 3404
Current State: All of Act in operation

Public Sector Management Act 1992, No. 68/1992
Assent Date: 19.11.92
Commencement Date:
S. 114(Sch. 7 item 4) on 24.11.92: Special Gazette (No. 62) 24.11.92 p. 1
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 24.11.92
Commencement Date: 1.1.93: Special Gazette (No. 69) 23.12.92 p. 1
Current State: All of Act in operation

Assent Date: 24.11.92
Commencement Date:
Ss 1, 2 on 24.11.92: s. 2(1); rest of Act on 1.12.92: Special Gazette (No. 65) 1.12.92 p. 1
Current State: All of Act in operation

Endnotes
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Endnotes

Transport (Amendment) Act 1993, No. 120/1993 (as amended by No. 60/1994)
Assent Date: 7.12.93
Commencement Date: Pt 1 (ss 1–3), ss 56, 58, 60, 61(2), 65–71, 73–79 on 7.12.93: s. 2(1); Pt 2 (ss 4–55), ss 57, 59, 61(1), 62, 63 on 19.12.93: s. 2(2); rest of Act on 30.5.94: s. 2(4)
Current State: All of Act in operation

Electricity Industry Act 1993, No. 130/1993
Assent Date: 14.12.93
Commencement Date: S. 122(Sch. 4 items 14.1–14.3) on 3.1.94: Special Gazette (No. 97) 23.12.93 p. 1
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 10.5.94
Commencement Date: Pt 1 (ss 1–8), ss 60, 61 on 10.5.94: s. 2(1); rest of Act on 1.7.94: s. 2(2)
Current State: All of Act in operation

(as amended by No. 75/1994)
Assent Date: 31.5.94
Commencement Date: S. 4(Sch. 2 item 93) on 1.1.95: Government Gazette 28.7.94 p. 2055; s. 3(Sch. 1 item 60) never proclaimed, repealed by No. 75/1994
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 15.6.94
Commencement Date: S. 34 on 3.10.94: Special Gazette (No. 64) 27.9.94 p. 1; Sch. 1 items 9.1–9.6 on 3.10.94: s. 2(4A)
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Transport (Further Amendment) Act 1994, No. 60/1994
Assent Date: 15.6.94
Commencement Date: Ss 1–4, 8–11, 13–21, 24–27, 29, 31 on 15.6.94: s. 2(1); ss 12, 22, 23, 28 on 1.1.95: s. 2(4); s. 30 on 19.12.93: s. 2(5); ss 5–7 on 1.9.94: Special Gazette (No. 58) 30.8.94 p. 1
Current State: All of Act in operation

Assent Date: 22.11.94
Commencement Date: S. 7(6) on 10.5.94: s. 2(1); rest of Act on 1.1.95: s. 2(2)
Current State: All of Act in operation

574
Employee Relations (Amendment) Act 1994, No. 82/1994

Assent Date: 29.11.94
Commencement Date: S. 13(Sch. 2 item 9) on 11.5.95: Government Gazette 11.5.95 p. 1093—see Interpretation of Legislation Act 1984
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983


Assent Date: 6.12.94
Commencement Date: 6.12.94
Current State: All of Act in operation


Assent Date: 13.12.94
Commencement Date: S. 27 on 13.12.94: s. 2(1)
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983


Assent Date: 20.12.94
Commencement Date: Ss 1, 2 on 20.12.94: s. 2(1); rest of Act on 1.1.95: Special Gazette (No. 105) 23.12.94 p. 1
Current State: All of Act in operation

Road Safety (Amendment) Act 1995, No. 7/1995

Assent Date: 19.4.95
Commencement Date: 19.4.95
Current State: All of Act in operation

Transport (Tow Truck Reform) Act 1995, No. 17/1995

Assent Date: 9.5.95
Commencement Date: Ss 1, 2, 3(b)–(d), 7, 8(b)(c), 9, 10, 12, 17–19, 20(4), 22–24 on 9.5.95: s. 2(1); ss 3(a)(e)–(g), 4–6, 8(a), 11, 13–16, 20(1)–(3) on 1.10.95: s. 2(2); s. 21 on 2.10.95: s. 2(3)
Current State: All of Act in operation


Assent Date: 14.6.95
Commencement Date: S. 224 on 5.10.95: Government Gazette 28.9.95 p. 2731; Sch. 2 items 43.1, 43.2 on 1.1.96: Government Gazette 21.12.95 p. 3571
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983
Endnotes

Road Safety (Miscellaneous Amendments) Act 1995, No. 58/1995 (as amended by No. 28/1996)

- **Assent Date:** 20.6.95
- **Commencement Date:**
  - S. 20 on 1.1.95: s. 2(3); ss 19, 21–25, 27 on 6.7.95; s. 26 on 1.11.95: Government Gazette 6.7.95 p. 1698
  - Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983


- **Assent Date:** 17.10.95
- **Commencement Date:**
  - Pt 1 (ss 1–4) on 17.10.95: s. 2(1); ss 40–42, 45–48 on 23.11.95: Government Gazette 23.11.95 p. 3234; rest of Act on 17.4.96: s. 2(3)
  - Current State: All of Act in operation

Electricity Industry (Further Amendment) Act 1995, No. 79/1995

- **Assent Date:** 28.11.95
- **Commencement Date:**
  - Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983


- **Assent Date:** 5.12.95
- **Commencement Date:**
  - Ss 60, 61 on 1.1.95: s. 2(3); s. 62 on 1.10.95: s. 2(4); s. 59 on 5.12.95: s. 2(1)
  - Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Melbourne City Link Act 1995, No. 107/1995

- **Assent Date:** 12.12.95
- **Commencement Date:**
  - Ss 121, 122 on 14.12.95: Special Gazette (No. 120) 14.12.95 p. 3
  - Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983


- **Assent Date:** 22.10.96
- **Commencement Date:**
  - Ss 3–10, 12, 16(1) on 1.1.98: s. 2(4); s. 11 on 1.1.99: s. 2(2)
  - Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Assent Date: 6.11.96
Commencement Date: S. 10 on 21.11.96: Government Gazette 21.11.96 p. 2971; s. 9 on 1.7.97 s. 2(4)
Current State: This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 12.12.96
Commencement Date: S. 10(Sch. 2 item 23) on 1.1.97: Special Gazette (No. 146) 23.12.96 p. 15
Current State: This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 17.12.96
Commencement Date: S. 58 on 1.3.97: Special Gazette (No. 11) 28.1.97 p. 1
Current State: This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

Port Services (Amendment) Act 1997, No. 63/1997
Assent Date: 5.11.97
Commencement Date: S. 10(4)(Sch. item 4) on 10.12.97: Government Gazette 4.12.97 p. 3290
Current State: This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 16.12.97
Current State: This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 16.12.97
Commencement Date: Ss 35(2), 36 on 16.12.97: s. 2(1); ss 26, 27 on 17.3.98: Government Gazette 12.3.98 p. 520; ss 3–25 on 1.7.98: s. 2(3)
Current State: This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

Endnotes
Endnotes

Assent Date: 28.4.98
Commencement Date: Pt 3 (ss 8–10) on 28.4.98: s. 2(1)
Current State: This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 12.5.98
Commencement Date: S. 166 on 1.7.98: Special Gazette (No. 65) 30.6.98 p. 2
Current State: This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

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 Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 26.5.98
Commencement Date: Ss 15, 16 on 23.12.99: Government Gazette 23.12.99 p. 2764
Current State: This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

Melbourne City Link (Exhibition Street Extension) Act 1998, No. 50/1998
Assent Date: 2.6.98
Commencement Date: 2.6.98: s. 2
Current State: All of Act in operation

Assent Date: 2.6.98
Commencement Date: S. 311(Sch. 1 items 96.1–96.26) on 1.7.98:
Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 17.11.98
Commencement Date: S. 24(Sch. item 59) on 1.1.99: s. 2(2)
Current State: This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

578
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Rail Corporations (Further Amendment) Act 1998, No. 98/1998 (as amended by No. 45/1999)

**Assent Date:** 24.11.98


**Current State:** This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983


**Assent Date:** 24.11.98

**Commencement Date:** Ss 1, 2, 12–14 on 24.11.98: s. 2(1); ss 3–11, 15 on 8.12.98: Special Gazette (No. 145) 8.12.98 p. 1

**Current State:** All of Act in operation


**Assent Date:** 1.12.98

**Commencement Date:** Ss 38–41 on 1.12.98: s. 2(1)

**Current State:** This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Transport Acts (Further Amendment) Act 1999, No. 6/1999

**Assent Date:** 28.4.99

**Commencement Date:** S. 10 on 28.4.99: s. 2(1); ss 8, 9 on 1.7.00: s. 2(3)

**Current State:** This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983


**Assent Date:** 8.6.99

**Commencement Date:** Ss 16–34 on 24.8.99: Government Gazette 19.8.99 p. 1901

**Current State:** This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983


**Assent Date:** 21.12.99

**Commencement Date:** S. 13 on 22.12.99: s. 2(1); ss 10, 11, 12(1)(b)–(g)(2) on 23.12.99: Government Gazette 23.12.99 p. 2764; s. 12(1)(a) on 1.1.01: s. 2(3)

**Current State:** This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Endnotes
### Endnotes

**Transport (Compliance and Miscellaneous) Act 1983**  
No. 9921 of 1983

<table>
<thead>
<tr>
<th>Act</th>
<th>Assent Date</th>
<th>Commencement Date</th>
<th>Current State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Road Safety (Amendment) Act 2000, No. 14/2000</td>
<td>18.4.00</td>
<td>Ss 31–34 on 1.12.00: s. 2(4)</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Transport (Amendment) Act 2000, No. 30/2000</td>
<td>30.5.00</td>
<td>31.5.00: s. 2</td>
<td>All of Act in operation</td>
</tr>
<tr>
<td>Transport (Miscellaneous Amendments) Act 2000, No. 65/2000</td>
<td>8.11.00</td>
<td>9.11.00: s. 2</td>
<td>All of Act in operation</td>
</tr>
<tr>
<td>Electricity Industry Legislation (Miscellaneous Amendments) Act 2000, No. 69/2000</td>
<td>21.11.00</td>
<td>S. 63 on 1.1.01: s. 2(4)</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Statute Law Revision Act 2000, No. 74/2000</td>
<td>21.11.00</td>
<td>S. 3(Sch. 1 item 130) on 22.11.00: s. 2(1)</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Melbourne City Link (Miscellaneous Amendments) Act 2000, No. 81/2000</td>
<td>28.11.00</td>
<td>S. 45 on 31.12.02: s. 2(3)</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Statute Law Amendment (Authorised Deposit-taking Institutions) Act 2001, No. 11/2001</td>
<td>8.5.01</td>
<td>S. 3(Sch. item 80) on 1.6.01: s. 2(2)</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Corporations (Consequential Amendments) Act 2001, No. 44/2001</td>
<td>27.6.01</td>
<td>S. 3(Sch. item 115) on 15.7.01: s. 2</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
</tbody>
</table>
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Transport (Further Amendment) Act 2001, No. 54/2001 (as amended by No. 32/2002)
Assent Date: 2.10.01
Commencement Date: Ss 15, 17 on 20.6.03: Government Gazette 19.6.03 p. 1434; ss 4–13, 16, 18–27, Sch. items 1.1–1.66 on 30.6.03: s. 2(5); s. 14 repealed on 29.6.03: s. 2(3)
Current State: This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

Drugs, Poisons and Controlled Substances (Amendment) Act 2001, No. 61/2001
Assent Date: 23.10.01
Commencement Date: S. 16(3) on 1.1.02: s. 2(2)
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 23.10.01
Commencement Date: S. 96 on 1.1.02: s. 2
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Transport (Alcohol and Drug Controls) Act 2001, No. 94/2001
Assent Date: 11.12.01
Commencement Date: 30.6.02: s. 2(2)
Current State: All of Act in operation

Statute Law (Further Revision) Act 2002, No. 11/2002
Assent Date: 23.4.02
Commencement Date: S. 3(Sch. 1 item 62) on 24.4.02: s. 2(1)
Current State: This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

Transport (Further Miscellaneous Amendments) Act 2002, No. 32/2002
Assent Date: 12.6.02
Commencement Date: Ss 6(1), 9 on 9.5.02: s. 2(3); ss 3–5, 6(2), 7, 8, 10–16, 18–23 on 13.6.02: s. 2(1); s. 17 on 30.6.03: s. 2(5)
Current State: This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 18.6.02
Commencement Date: S. 28(Sch. item 7) on 19.6.02: s. 2(1)
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Endnotes
Endnotes

<table>
<thead>
<tr>
<th>Act</th>
<th>Assent Date</th>
<th>Commencement Date</th>
<th>Current State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environment Protection (Resource Efficiency) Act 2002, No. 37/2002</td>
<td>18.6.02</td>
<td>S. 51(2) on 19.6.02: s. 2(1)</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Transport (Highway Rule) Act 2002, No. 54/2002</td>
<td>4.11.02</td>
<td>Ss 3, 5 on 5.11.02: s. 2(1); s. 4 on 1.1.05: s. 2(2)</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Port Services (Port of Melbourne Reform) Act 2003, No. 23/2003</td>
<td>13.5.03</td>
<td>S. 30 on 3.11.03: Government Gazette 30.10.03 p. 2744</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Transport (Miscellaneous Amendments) Act 2003, No. 34/2003</td>
<td>27.5.03</td>
<td>Ss 3–13 on 28.5.03; s. 2(1); s. 16(1) on 15.7.03: Special Gazette (No. 138) 15.7.03 p. 1</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Road Safety (Heavy Vehicle Safety) Act 2003, No. 44/2003</td>
<td>11.6.03</td>
<td>Ss 7, 8 on 1.7.03: s. 2(2)</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Victorian Urban Development Authority Act 2003, No. 59/2003</td>
<td>16.6.03</td>
<td>S. 124 on 1.8.03: Government Gazette 31.7.03 p. 2125</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Non-Emergency Patient Transport Act 2003, No. 69/2003</td>
<td>14.10.03</td>
<td>S. 68 on 1.2.06: s. 2(2)</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
</tbody>
</table>
Road Safety (Amendment) Act 2003, No. 94/2003

*Assent Date:* 25.11.03
*Commencement Date:* Ss 28, 30–33 on 26.11.03: s. 2(1); s. 29 on 1.1.05: s. 2(3)
*Current State:* This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983


*Assent Date:* 2.12.03
*Commencement Date:* Ss 3–5, 7–23 on 3.12.03: s. 2(1); s. 6 on 1.7.05: s. 2(3)
*Current State:* This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

Road Management Act 2004, No. 12/2004

*Assent Date:* 11.5.04
*Commencement Date:* Ss 136, 137 on 1.7.04: s. 2(2)
*Current State:* This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983


*Assent Date:* 16.6.04
*Commencement Date:* Ss 46–48 on 17.6.04: s. 2(1)
*Current State:* This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983


*Assent Date:* 21.12.04
*Commencement Date:* S. 117(1)(Sch. 3 item 208) on 5.4.05: Government Gazette 31.3.05 p. 602
*Current State:* This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983


*Assent Date:* 21.12.04
*Commencement Date:* Ss 46–52, 54, 55 on 22.12.04: s. 2(1); s. 53 on 1.1.06: s. 2(10)
*Current State:* This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983

Magistrates' Court (Judicial Registrars and Court Rules) Act 2005, No. 19/2005

*Assent Date:* 24.5.05
*Commencement Date:* S. 11(3) on 25.5.05: s. 2(1)
*Current State:* This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Endnotes

Transport Legislation (Further Amendment) Act 2005, No. 25/2005
Assent Date: 31.5.05
Commencement Date: Ss 9(1)–(6), 10–15 on 31.5.05: s. 2(1); s. 9(7)–(9) on 1.1.06: s. 2(3)
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Tobacco (Amendment) Act 2005, No. 45/2005 (as amended by No. 95/2005)
Assent Date: 16.8.05
Commencement Date: Ss 26, 27 on 1.3.06: s. 2(1)
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Crimes (Homicide) Act 2005, No. 77/2005
Assent Date: 22.11.05
Commencement Date: S. 8(5) on 23.11.05: s. 2
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 29.11.05
Commencement Date: Ss 26–33, 36(1)(2), 37–39 on 30.11.05: s. 2(1); s. 12(3) on 13.12.05: Special Gazette (No. 254) 13.12.05 p. 1; s. 35 on 10.2.06: Government Gazette 9.2.06 p. 208; s. 40 on 26.7.06: s. 2(1A); ss 21–25, 34 on 31.7.06: Government Gazette 6.7.06 p. 1391; ss 41, 43–47 on 8.8.06: Special Gazette (No. 199) 8.8.06 p. 1; s. 42 on 30.6.08: s. 2(6)
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Health Professions Registration Act 2005, No. 97/2005
Assent Date: 7.12.05
Commencement Date: S. 182(Sch. 4 item 50) on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Assent Date: 4.4.06
Commencement Date: S. 129 on 5.4.06: s. 2(2); ss 111–121, 124–128 on 1.8.06: Special Gazette (No. 181) 25.7.06 p. 1; s. 122 on 1.1.07: s. 2(4); s. 123 on 30.6.08: s. 2(5)
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983


Assent Date: 4.4.06
Commencement Date: Ss 3, 4 on 1.8.06: Government Gazette 27.7.06 p. 1534
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: Ss 74–77 on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983


Assent Date: 25.7.06
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Children, Youth and Families (Consequential and Other Amendments) Act 2006, No. 48/2006

Assent Date: 15.8.06
Commencement Date: S. 42(Sch. item 36) as at 23.4.07: s. 2(3)
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983


Assent Date: 19.9.06
Commencement Date: Ss 13, 14, 16–18 on 20.9.06: s. 2(1); ss 3–12, 15 on 31.12.07: s. 2(4); s. 19 on 31.12.09: s. 2(5)
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Endnotes

<table>
<thead>
<tr>
<th>Act</th>
<th>Assent Date</th>
<th>Commencement Date</th>
<th>Current State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006</td>
<td>10.10.06</td>
<td>S. 26(Sch. item 103) on 11.10.06: s. 2(1)</td>
<td>This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Water (Governance) Act 2006, No. 85/2006</td>
<td>17.10.06</td>
<td>S. 173(Sch. 1 item 14) on 1.7.07: s. 2(3)</td>
<td>This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Statute Law Revision Act 2007, No. 28/2007</td>
<td>26.6.07</td>
<td>S. 3(Sch. item 66) on 27.6.07: s. 2(1)</td>
<td>This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Accident Towing Services Act 2007, No. 30/2007</td>
<td>24.7.07</td>
<td>Ss 225–232 on 1.1.09: s. 2(3)</td>
<td>This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Education and Training Reform Miscellaneous Amendments Act 2007, No. 58/2007</td>
<td>27.11.07</td>
<td>S. 55 on 28.11.07: s. 2(1)</td>
<td>This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Graffiti Prevention Act 2007, No. 59/2007</td>
<td>27.11.07</td>
<td>S. 28(1) on 17.4.08: Government Gazette 17.4.08 p. 742</td>
<td>This information relates only to the provision's amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
</tbody>
</table>
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

<table>
<thead>
<tr>
<th>Act Resolution</th>
<th>Assent Date</th>
<th>Commencement Date</th>
<th>Current State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transport Legislation Amendment Act 2007, No. 69/2007</td>
<td>11.12.07</td>
<td>S. 38 on 7.8.06: s. 2(4); s. 40(5) on 30.3.07: s. 2(6); s. 40(2) on 1.7.07: s. 2(5); ss 6–8, 11, 13–20, 22–32, 34–37, 39, 40(1)(3)(4)(6) on 12.12.07: s. 2(1); ss 10, 12, 21 on 31.3.08: Government Gazette 28.2.08 p. 369; s. 9 on 1.7.08: s. 2(3); ss 3–5, 33 on 1.1.09: s. 2(13)</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Road Legislation Further Amendment Act 2007, No. 74/2007</td>
<td>18.12.07</td>
<td>Ss 80–85 on 19.12.07: s. 2(1)</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Motor Car Traders Amendment Act 2008, No. 4/2008</td>
<td>4.3.08</td>
<td>S. 32(Sch. item 33) on 1.12.08: s. 2(2)</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Unclaimed Money Act 2008, No. 44/2008</td>
<td>26.8.08</td>
<td>S. 115 on 1.1.09: s. 2(2)</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Transport Legislation Amendment (Driver and Industry Standards) Act 2008, No. 85/2008</td>
<td>11.12.08</td>
<td>Ss 3-16 on 12.12.08: s. 2</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
<tr>
<td>Transport Legislation Miscellaneous Amendments Act 2009, No. 17/2009</td>
<td>12.5.09</td>
<td>Ss 28, 29 on 13.5.09: s. 2(1)</td>
<td>This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983</td>
</tr>
</tbody>
</table>
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Endnotes

- **Assent Date:** 17.6.09
- **Commencement Date:** Ss 3–5 on 31.7.09: Special Gazette (No. 259) 28.7.09 p. 1
- **Current State:** This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Road Legislation Amendment Act 2009, No. 28/2009
- **Assent Date:** 17.6.09
- **Commencement Date:** S. 87 on 18.6.09: s. 2(1)
- **Current State:** This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

- **Assent Date:** 5.8.09
- **Commencement Date:** Ss 14–16 on 6.8.09: s. 2
- **Current State:** This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

- **Assent Date:** 24.11.09
- **Commencement Date:** S. 97(Sch. item 124) on 1.1.10: Government Gazette 10.12.09 p. 3215
- **Current State:** This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

- **Assent Date:** 24.11.09
- **Commencement Date:** S. 54(Sch. Pt 2 item 53) on 1.1.10: s. 2(2)
- **Current State:** This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Serious Sex Offenders (Detention and Supervision) Act 2009, No. 91/2009
- **Assent Date:** 15.12.09
- **Commencement Date:** S. 219(Sch. 3 item 5) on 1.1.10: Government Gazette 24.12.09 p. 3397
- **Current State:** This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

588
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Transport Legislation Amendment (Hoon Boating and Other Amendments) Act 2009, No. 93/2009
Assent Date: 15.12.09
Commencement Date: 36, 49(4) on 17.12.09: Government Gazette
17.12.09 p. 3339; s. 15 on 1.11.10: Government Gazette 21.10.10 p. 2531
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Transport Integration Act 2010, No. 6/2010
Assent Date: 2.3.10
Commencement Date: 24(5)(Sch. 1 item 16), 199(1)(3)(Sch. 3) on 1.7.10: Special Gazette (No. 256) 30.6.10 p. 1
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Transport Legislation Amendment (Compliance, Enforcement and Regulation) Act 2010, No. 19/2010
Assent Date: 18.5.10
Commencement Date: 18, 77–79, 81 on 22.5.10: Government Gazette
20.5.10 p. 988; ss 72–74 on 11.6.10: Government Gazette 10.6.10 p. 1149; ss 4–13, 17, 19–33, 75, 76, 80 on 30.6.10: Government Gazette 10.6.10 p. 1149
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Transport Legislation Amendment (Ports Integration) Act 2010, No. 45/2010
Assent Date: 17.8.10
Commencement Date: s. 56 on 1.9.10: Special Gazette (No. 337) 24.8.10 p. 1
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Firearms and Other Acts Amendment Act 2010, No. 52/2010
Assent Date: 7.9.10
Commencement Date: s. 34 on 1.11.10: Government Gazette 28.10.10 p. 2583
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Road Legislation Miscellaneous Amendments Act 2010, No. 75/2010
Assent Date: 19.10.10
Commencement Date: 24(3) on 25.10.10: Government Gazette 21.10.10 p. 2531; s. 24(1)(2) on 1.11.10: Government Gazette 21.10.10 p. 2531
Current State: This information relates only to the provision/s amending the Transport (Compliance and Miscellaneous) Act 1983

Endnotes
Transport (Compliance and Miscellaneous) Act 1983
No. 9921 of 1983

Endnotes

<table>
<thead>
<tr>
<th>Gazette</th>
<th>Date</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Gazette (No. 26)</td>
<td>6 June 1990</td>
<td>1</td>
</tr>
<tr>
<td>Government Gazette</td>
<td>23 December 1993</td>
<td>3416</td>
</tr>
<tr>
<td>Government Gazette</td>
<td>11 August 1994</td>
<td>2225</td>
</tr>
<tr>
<td>Government Gazette</td>
<td>22 December 1994</td>
<td>3444</td>
</tr>
</tbody>
</table>
3. Explanatory Details

1 S. 5: Section 31 of the Transport (Further Amendment) Act 1994, No. 60/1994 reads as follows:

31 Transitional provisions

(1) Nothing in this Act affects the validity of—

(a) any contract for the provision of transport services entered into by the Public Transport Corporation with any person or body before the commencement of section 6 of the Transport (Further Amendment) Act 1994; or

(b) the tendering process conducted in relation to a contract referred to in paragraph (a); or

(c) any assignment by the Public Transport Corporation to the Secretary of the Department of Transport of its rights and liabilities under a contract referred to in paragraph (a).

(2) Any application to or proceeding before the Roads Corporation in respect of a vehicle which is, or is to operate as, a taxi-cab or in respect of the owner or driver of such a vehicle or in respect of the holder of a taxi-cab licence that had not been finally determined by the Roads Corporation before the passing of this Act shall be determined by the Secretary in accordance with the Principal Act as amended by this Act.

(3) If under subsection (2) the Secretary determines an application or proceeding, any thing done or any requirement complied with in relation to the application or proceeding before the passing of this Act must, so far as consistent with the provisions of the Principal Act as amended by this Act, be taken to have been done or complied with for the purposes of the determination by the Secretary.
Secretary and the Secretary may have regard to any record of the Roads Corporation in relation to the application or proceeding.

(4) The Principal Act as amended by this Act applies to—

(a) any application for or in relation to a commercial passenger vehicle licence in respect of a vehicle which is, or is to operate as, a taxi-cab made but not finally determined before the passing of this Act;

(b) any commercial passenger vehicle licence in force immediately before that passing in respect of a vehicle which is, or is to operate as, a taxi-cab and any such licence may be assigned, suspended, cancelled, revoked or transferred or have any condition of or attached to it altered in accordance with the provisions of the Principal Act as amended by this Act or have the route or area in respect of which it was granted altered in accordance with those provisions.

(5) A private omnibus licence in force immediately before the commencement of section 20 does not cease to have effect at the end of the period of 1 year after it was granted or renewed but, subject to the Principal Act as amended by this Act, continues in force as if it had been granted after that commencement.

(6) Section 157 of the Principal Act as amended by section 18 of this Act applies only with respect to licences or permits that are suspended or revoked after the commencement of section 11 of this Act.

(7) The provisions of this section are additional to, and do not limit, the provisions of the Interpretation of Legislation Act 1984.
2 S. 37A(2) (repealed): The amendment proposed by section 117(1) (Schedule 3 item 208.2) of the Public Administration Act 2004, No. 108/2004 is not included in this publication as section 37A(2) was repealed by section 254A of the Transport Act 1983, No. 9921/1983.

3 S. 56(1)(b): Section 34(5) of the Transport Legislation (Further Miscellaneous Amendments) Act 2005, No. 95/2005 reads as follows:

34 Additional regulation-making powers

(5) The amendment made by subsection (1) does not affect the validity of the Transport (Ticketing and Conduct) Regulations 2005 or the Transport (Passenger Vehicles) Regulations 2005.

4 S. 56(1)(ba): See note 5.

5 S. 93 (repealed): The amendments proposed by section 182(Schedule 4 item 50) of the Health Professions Registration Act 2005, No. 97/2005 are not included in this publication because section 93 was repealed before these amendments came into operation.

6 Pt 6 Div. 3 (sections 103–129Y) (repealed): The proposed repeal of sections 125 and 129R(3) by section 44 of the Transport Legislation (Further Miscellaneous Amendments) Act 2005, No. 95/2005 is not included in this publication due to the earlier repeal of sections 125 and 129R(3) by section 119 of the Rail Safety Act 2006, No. 9/2006.

7 Pt 6 Div. 5: Section 55 of the Transport (Amendment) Act 1993, No. 120/1993 (as amended by No. 60/1994 s. 30) reads as follows:

55 Transitional provisions (Part 2)

(1) Any application to or proceedings before the Road Transport Licensing Tribunal under the Principal Act that had not been finally determined by the Tribunal immediately before the commencement of section 8 shall be determined by the Roads Corporation in accordance with the Principal Act as amended by this Part.

(2) If under subsection (1) the Roads Corporation determines an application or proceedings, any thing done or any requirement complied with in relation to the application or proceedings before the commencement of section 8 must, so far as consistent with the provisions of the Principal Act

593
as amended by this Part, be taken to have been
done or complied with for the purposes of the
determination by the Roads Corporation and the
Roads Corporation may have regard to any record
of the Road Transport Licensing Tribunal in
relation to the application or proceedings.

(3) The Principal Act as amended by this Part applies
to—

(a) any application for or in relation to a
commercial passenger vehicle licence made
but not finally determined before that
commencement;

(b) any commercial passenger vehicle licence in
force immediately before that
commencement and any such licence may be
suspended, cancelled or transferred or have
any condition of or attached to it altered in
accordance with the provisions of the
Principal Act as amended by this Part or
have the route or area in respect of which it
was granted altered in accordance with those
provisions.

(4) A commercial passenger vehicle licence in force
immediately before the commencement of this
Part does not cease to have effect at the end of the
period specified in it but, subject to the Principal
Act as amended by this Part, continues in force as
if it had been granted after that commencement.

(5) If—

(a) a commercial passenger vehicle licence is in
force immediately before the commencement
of this Part in respect of a vehicle classified
before that commencement by the Roads
Corporation under section 145 of the
Principal Act as a special purpose vehicle; and
(b) that licence would have been granted as a restricted hire vehicle licence had it been granted after that commencement—

the Principal Act as amended by this Part applies to that licence as if it were a restricted hire vehicle licence.

(6) A tow truck licence in force immediately before the commencement of this Part does not cease to have effect at the end of the period specified in it but, subject to the Principal Act as amended by this Part, continues in force as if it had been granted after that commencement.


10 S. 213 (repealed): The amendment proposed by Schedule 4 item 28.16(c) of the Road Safety Act 1986, No. 127/1986 is not included in this publication because section 213 was substituted by section 42 of the Crimes Legislation (Miscellaneous Amendments) Act 1989, No. 25/1989 prior to this amendment coming into operation.

11 S. 221(1A) (repealed): The amendment proposed by section 31(1) (Schedule 1 Part 1 item 15(a)) of the Transport Legislation (Further Amendment) Act 2006, No. 47/2006 is not included in this publication due to the earlier repeal of section 221(1A) by section 24(b) of the Transport Legislation (Further Miscellaneous Amendments) Act 2005, No. 95/2005.

12 S. 221(1B) (repealed): The amendment proposed by section 31(1) (Schedule 1 Part 1 item 15(b)) of the Transport Legislation (Further Amendment) Act 2006, No. 47/2006 is not included in this publication due to the earlier repeal of section 221(1B) by section 24(b) of the Transport Legislation (Further Miscellaneous Amendments) Act 2005, No. 95/2005.
13 Ss 234–242:
S. 234 repealed by No. 100/1986 s. 3(22), new s. 234 inserted by No. 44/1989 s. 29, repealed by No. 85/1992 s. 9(1)(f).
Ss 235–237 repealed by No. 100/1986 s. 3(22).
S. 238 amended by No. 10087 s. 3(1)(Sch. 1 item 288), repealed by No. 100/1986 s. 3(22).
S. 239 substituted by No. 44/1989 s. 30, repealed by No. 85/1992 s. 9(1)(f).
S. 240 substituted by No. 44/1989 s. 31, repealed by No. 85/1992 s. 9(1)(f).
S. 241 amended by No. 44/1989 s. 32(a)(b), repealed by No. 120/1993 s. 70(1).
S. 242 repealed by No. 44/1989 s. 33.

14 Schs 11, 12:
Sch. 11 repealed by No. 10087 s. 4(1)(Sch. 2).
Sch. 12 amended by Nos 10049 s. 6, 10087 s. 3(1)(Sch. 1 items 294–304), repealed by No. 10087 s. 4(1)(Sch. 2).