

**Transport Legislation Amendment (Ports
Integration) Act 2010**
No. 45 of 2010

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
PART 1—PRELIMINARY	1
1 Purpose	1
2 Commencement	2
PART 2—AMENDMENT OF TRANSPORT INTEGRATION ACT 2010	3
3 Commencement	3
4 Definitions	3
5 Application to a transport body	5
6 Application to an interface body	6
7 New section 27A inserted	6
27A Strategy and implementation plan	6
8 New Divisions 3A and 3B inserted into Part 6	7
Division 3A—Port of Melbourne Corporation	7
141A Definition	7
141B Port of Melbourne Corporation	7
141C Port of Melbourne Corporation not to represent the Crown	8
141D Object of Port of Melbourne Corporation	8
141E Functions of Port of Melbourne Corporation	9
141F Dredging by Port of Melbourne Corporation	11
141G Acquisition or disposal of land by Port of Melbourne Corporation to be approved by Minister	12
141H Public interest functions	12
Division 3B—Victorian Regional Channels Authority	13
141I Definition	13
141J Victorian Regional Channels Authority	14
141K Victorian Regional Channels Authority not to represent the Crown	14
141L Object of Victorian Regional Channels Authority	14
141M Functions of Victorian Regional Channels Authority	15

<i>Section</i>	<i>Page</i>
141N Power to contract for the provision of services and facilities	17
141O Dredging	17
141P Public interest functions	18
9 Transport Corporation not to make loans to directors	19
10 Determination of initial capital	19
11 Capital	20
12 Repayment of capital	20
13 Annual report	20
14 Corporate plan	21
15 Statement of corporate intent	22
16 Corporate plan to be followed	22
17 Board of directors to give notice of significant events	22
18 Transport Act 1983	23
19 Rail Corporations Act 1996	23
20 Marine Act 1988	23
21 New sections 201A, 201B and 201C inserted	23
201A Transitional provision on amendment of Port Services Act 1995	23
201B Transfer of staff from Port of Hastings Corporation to Port of Melbourne Corporation	25
201C Substitution of parties to channel operating agreement in respect of port of Hastings waters	27
22 Consequential amendments to other Acts	28
23 Statute law revision	28
PART 3—AMENDMENT OF PORT SERVICES ACT 1995	30
24 Change of name of Act	30
25 Purpose	30
26 Definitions	30
27 Substitute heading to Part 2	31
28 Amendment of Division 1 of Part 2	31
29 Transitional powers under leases	31
30 Amendment of Division 1A of Part 2	32
31 Port operations	32
32 Division 2 of Part 2 repealed	32
33 Amendment of Division 3 of Part 2	32
34 Definitions	32
35 General power to make determinations	33
36 Wharfage fees	33
37 Definitions	33
38 Making a declaration of restricted access area	33
39 Protection from liability	34
40 Definitions	34
41 Repeal of provisions applying to port corporations	34

<i>Section</i>	<i>Page</i>
PART 4—CONSEQUENTIAL AMENDMENTS	35
42 Functions of the Authority— Docklands Act 1991	35
43 Docklands may become or cease to be a port— Docklands Act 1991	35
44 Definitions— Marine Act 1988	36
45 Boating activities— Marine Act 1988	37
46 Requirement to engage harbour master— Marine Act 1988	37
47 Authorisation to act as a harbour master— Marine Act 1988	38
48 Power to prosecute— Marine Act 1988	38
49 Service— Marine Act 1988	39
50 Particular powers of the Director— Marine Act 1988	39
51 Metropolitan fire district— Metropolitan Fire Brigades Act 1958	39
52 Action on alarm of fire— Metropolitan Fire Brigades Act 1958	39
53 Pipelines excluded from Act— Pipelines Act 2005	40
54 Disclosure of information— Road Safety Act 1986	40
55 Functions and powers in relation to ports— State Electricity Commission Act 1958	40
56 Substitute heading to Part V— Transport Act 1983	41
57 Public authorities— Treasury Corporation of Victoria Act 1992	41
58 Designated waterways, land or works— Melbourne Water Corporation—Water Act 1989	42
PART 5—REPEAL OF AMENDING ACT	43
59 Repeal of amending Act	43
<hr style="border-top: 3px double #000;"/>	
ENDNOTES	44



Victoria

Transport Legislation Amendment (Ports Integration) Act 2010[†]

No. 45 of 2010

[Assented to 17 August 2010]

The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purpose

The main purpose of this Act is to continue the establishment of an integrated and sustainable transport system in Victoria by amending the **Transport Integration Act 2010** and the **Port Services Act 1995** to provide for—

-
- (a) the continuation of the Port of Melbourne Corporation and Victorian Regional Channels Authority under the **Transport Integration Act 2010**; and
 - (b) the abolition of the Port of Hastings Corporation; and
 - (c) the Port of Melbourne Corporation to be the successor in law of the Port of Hastings Corporation; and
 - (d) the making of amendments to certain other Acts.

2 Commencement

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
 - (2) If a provision of this Act does not come into operation before 1 July 2011, it comes into operation on that day.
-

**PART 2—AMENDMENT OF TRANSPORT INTEGRATION
ACT 2010**

3 Commencement

- (1) In section 2(2) of the **Transport Integration Act 2010**, after "Act" **insert** "(including the items and provisions of items in a Schedule)".
- (2) In section 2(3) of the **Transport Integration Act 2010**, after "subsection (2)" **insert** "(including an item or a provision of an item in a Schedule)".

See:
Act No.
6/2010.
Statute Book:
www.
legislation.
vic.gov.au

4 Definitions

In section 3 of the **Transport Integration Act 2010**—

- (a) in the definition of *transport body*—
 - (i) in paragraph (p) **omit** "established under section 10 of the **Port Services Act 1995**";
 - (ii) paragraph (q) is **repealed**;
 - (iii) in paragraph (r) **omit** "established under section 18 of the **Port Services Act 1995**";
- (b) in the definition of *Transport Corporation*—
 - (i) in paragraph (c), after "Corporation;" **insert** "or";
 - (ii) after paragraph (c) **insert**—
 - "(d) the Port of Melbourne Corporation; or
 - (e) the Victorian Regional Channels Authority;"

- (c) in the definition of *transport legislation*—
- (i) for paragraph (k) **substitute**—
"(k) **Port Management Act 1995**";
 - (ii) after paragraph (q) **insert**—
"(qa) **Western Port (Steel Works) Act 1970**";
 - (iii) after paragraph (r) **insert**—
"(ra) **Westernport Development Act 1967**";
- (d) **insert** the following definitions—
- "*channel*, in relation to port waters, has the same meaning as in the **Port Management Act 1995**;
- commercial trading port* has the same meaning as in the **Port Management Act 1995**;
- domestic partner* of a person means—
- (a) a person who is in a registered relationship with the person; or
 - (b) a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender);
- partner* of a person means the person's spouse or domestic partner;
- port* has the same meaning as in the **Port Management Act 1995**;
- port manager* has the same meaning as in the **Port Management Act 1995**;
-

port of Hastings has the same meaning as in the **Port Management Act 1995**;

port of Hastings waters has the same meaning as in the **Port Management Act 1995**;

port of Melbourne has the same meaning as in the **Port Management Act 1995**;

Port of Melbourne Corporation means the body corporate continued under section 141B;

port of Melbourne waters has the same meaning as in the **Port Management Act 1995**;

port waters has the same meaning as in the **Port Management Act 1995**;

public entity has the same meaning as in the **Public Administration Act 2004**;

spouse of a person means a person to whom the person is married;

Victorian Regional Channels Authority means the body corporate continued under section 141J;".

5 Application to a transport body

For section 24(5) of the **Transport Integration Act 2010** substitute—

"(5) An Act specified in the heading to an item in Schedule 1 is amended, on the commencement of that item or a provision of that item, as set out in that item or provision."

6 Application to an interface body

For section 25(5) of the **Transport Integration Act 2010 substitute—**

"(5) An Act specified in the heading to an item in Schedule 2 is amended, on the commencement of that item or a provision of that item, as set out in that item or provision."

7 New section 27A inserted

After section 27 of the **Transport Integration Act 2010 insert—**

"27A Strategy and implementation plan

- (1) This section applies to the following transport bodies—
 - (a) a transport corporation;
 - (b) a transport safety agency;
 - (c) a transport system agency;
 - (d) a prescribed transport body.
 - (2) A transport body referred to in subsection (1) must develop a strategy and implementation plan.
 - (3) A strategy and implementation plan must specify the processes and procedures that the transport body will put in place to enable the transport body to have regard to the transport system objectives and decision making principles in accordance with transport legislation from the date that the plan has effect.
 - (4) A strategy and implementation plan must be published in the Government Gazette not later than 1 July 2011.
-

-
- (5) A strategy and implementation plan has effect from the date specified in the plan, being a date on or after the date that the plan is published in the Government Gazette.
 - (6) A transport body must engage with stakeholders in preparing a strategy and implementation plan.
 - (7) A transport body must review the effectiveness of the strategy and implementation plan at regular intervals."

8 New Divisions 3A and 3B inserted into Part 6

After Division 3 of Part 6 of the **Transport Integration Act 2010** insert—

"Division 3A—Port of Melbourne Corporation

141A Definition

In this Division—

PoMC ports means—

- (a) the port of Melbourne; and
- (b) the port of Hastings.

141B Port of Melbourne Corporation

- (1) The Port of Melbourne Corporation established under section 10 of the **Port Services Act 1995** (as in force immediately before the commencement of this section) is continued under this Act.
- (2) The Port of Melbourne Corporation continued under this Act is taken to be the same body as the Port of Melbourne Corporation established under the **Port Services Act 1995** as in force before the commencement of this section.

- (3) The Port of Melbourne Corporation is the successor in law of the Port of Hastings Corporation.
- (4) In this section, *Port of Hastings Corporation* means the Port of Hastings Corporation established under section 17A of the **Port Services Act 1995** (as in force immediately before the commencement of this section).

141C Port of Melbourne Corporation not to represent the Crown

The Port of Melbourne Corporation is a public entity, but does not represent the Crown.

141D Object of Port of Melbourne Corporation

- (1) The primary object of the Port of Melbourne Corporation is to manage and develop the PoMC ports consistent with the vision statement and the transport system objectives.
- (2) Without limiting the generality of subsection (1), the primary object includes the following—
 - (a) to ensure, in collaboration with relevant responsible bodies, that the PoMC ports are effectively integrated with the transport system and other systems of infrastructure in the State;
 - (b) to facilitate, in collaboration with relevant responsible bodies, the sustainable growth of trade through the PoMC ports;
 - (c) to ensure that essential port services of the PoMC ports are available and cost effective;

- (d) to establish and manage channels in port of Melbourne waters and port of Hastings waters for use on a fair and reasonable basis.

141E Functions of Port of Melbourne Corporation

- (1) The functions of the Port of Melbourne Corporation are—
 - (a) to plan for the development and operation of the PoMC ports;
 - (b) to provide land, waters and infrastructure necessary for the development and operation of the PoMC ports;
 - (c) to develop, or enable and control the development by others of, the whole or any part of the PoMC ports;
 - (d) to manage, or enable and control the management by others of, the whole or any part of the PoMC ports;
 - (e) to provide, or enable and control the provision by others of, services for the operation of the PoMC ports;
 - (f) to promote and market the PoMC ports;
 - (g) to facilitate the integration of infrastructure and logistics systems in the PoMC ports with the transport system and other relevant systems outside the ports;
 - (h) to manage and, in accordance with standards developed by the Director, Transport Safety, to dredge and maintain channels in port of Melbourne waters and port of Hastings waters;

- (i) to provide and maintain, in accordance with the standards developed by the Director, Transport Safety, navigation aids in connection with navigation in port of Melbourne waters and port of Hastings waters;
 - (j) to generally direct and control, in accordance with the **Marine Act 1988**, the movement of vessels in port of Melbourne waters and port of Hastings waters;
 - (k) to perform functions in accordance with a direction given by the Minister under section 141H;
 - (l) to perform any other functions or duties conferred on the Port of Melbourne Corporation by any other Act or any regulations under any other Act.
- (2) In performing the functions conferred on the Port of Melbourne Corporation, the Port of Melbourne Corporation must—
- (a) carry out its functions consistently with State policies and strategies for the development of the Victorian port and freight networks; and
 - (b) to the extent that it is possible to do so consistently with paragraph (a), operate in a commercially sound manner having regard to—
 - (i) the benefits of increased competition between persons and bodies that provide services related to the operation of the PoMC ports;
-

- (ii) the persons living or working in the immediate neighbourhood of the PoMC ports;
- (iii) the need to conduct research and collect information relating to the performance of the functions and the operation of the PoMC ports so as to enable the Port of Melbourne Corporation to meet the primary object of the Port of Melbourne Corporation;
- (iv) the need to deal efficiently with any complaints relating to the performance of its functions.

141F Dredging by Port of Melbourne Corporation

Without limiting the generality of the powers conferred on it, but subject to obtaining any permit, consent or other authority required by or under any other Act, the Port of Melbourne Corporation, in connection with carrying out its functions as a channel operator—

- (a) may alter, dredge, cleanse, scour, straighten and improve any channel in port of Melbourne waters or port of Hastings waters;
- (b) may reduce or remove any banks or shoals within any such channel;
- (c) may abate and remove any impediments, obstructions and nuisances in any such channel that are injurious to the sea-bed or that obstruct or tend to obstruct navigation;

(d) may—

- (i) place or dispose of excavated or dredged material resulting from the performance of any function under paragraph (a), (b) or (c) in port of Melbourne waters or port of Hastings waters; or
- (ii) undertake, in port of Melbourne waters or port of Hastings waters, any works necessary to place or dispose of excavated or dredged material resulting from the performance of any function under paragraph (a), (b) or (c).

141G Acquisition or disposal of land by Port of Melbourne Corporation to be approved by Minister

- (1) The Port of Melbourne Corporation must obtain the approval of the Minister before acquiring or disposing of any interest in land.
- (2) Subsection (1) does not apply to any interest in land or class of interest in land exempted by the Minister by notice in writing given to the Port of Melbourne Corporation.

141H Public interest functions

- (1) The Minister, with the approval of the Treasurer, may direct the board of the Port of Melbourne Corporation—
 - (a) to perform certain functions that the Minister considers to be in the public interest but that may cause the Port of Melbourne Corporation to suffer financial detriment; or
 - (b) to cease to perform functions of a kind referred to in paragraph (a); or
-

-
- (c) to cease to perform certain functions that the Minister considers not to be in the public interest.
- (2) The board of the Port of Melbourne Corporation must comply with a direction given under subsection (1).
- (3) If the Port of Melbourne Corporation satisfies the Treasurer that it has suffered financial detriment as a result of complying with a direction given under subsection (1), the Port of Melbourne Corporation may be reimbursed by the State an amount determined by the Treasurer and the Consolidated Fund is hereby appropriated to the necessary extent accordingly.
- (4) The reference in this section to suffering financial detriment includes a reference to incurring net costs that are greater than would have been incurred if the direction were not complied with.

Division 3B—Victorian Regional Channels Authority

141I Definition

In this Division—

regional port waters means port waters other than—

- (a) port of Melbourne waters; or
- (b) port of Hastings waters; or
- (c) waters declared by Order in Council under section 5(2) of the **Port Management Act 1995** to be the port waters of a local port (within the meaning of that Act); or

- (d) waters deemed under section 183(1) of the **Port Management Act 1995** to be the waters of a local port (within the meaning of that Act) for the purposes of that Act.

141J Victorian Regional Channels Authority

The Victorian Regional Channels Authority established under section 18 of the **Port Services Act 1995** (as in force immediately before the commencement of this section) is continued under this Act.

141K Victorian Regional Channels Authority not to represent the Crown

The Victorian Regional Channels Authority is a public entity, but does not represent the Crown.

141L Object of Victorian Regional Channels Authority

- (1) The primary object of the Victorian Regional Channels Authority is to ensure that regional port waters and channels in regional port waters are managed for use on a fair and reasonable basis consistent with the vision statement and the transport system objectives.
- (2) Without limiting the generality of subsection (1), the primary object includes ensuring, in collaboration with transport bodies and public entities, that regional port waters and channels in regional port waters are effectively integrated with the transport system and other systems of infrastructure in the State.

141M Functions of Victorian Regional Channels Authority

- (1) The functions of the Victorian Regional Channels Authority are—
- (a) to ensure, in relation to regional port waters and channels in those waters—
 - (i) the establishment, management and, in accordance with the standards developed by the Director, Transport Safety, the dredging and maintenance of the channels in those waters;
 - (ii) the provision and maintenance, in accordance with the standards developed by the Director, Transport Safety, of navigation aids in connection with navigation in those waters and channels;
 - (iii) the general direction and control of the movement of vessels within those waters and channels in accordance with the **Marine Act 1988**;
 - (b) to provide technical advice and support to port managers about the management and operation of regional port waters and channels in regional port waters;
 - (c) with the approval of the Minister, to assist a port manager with the integrated planning, development, management and promotion activities for the port for which that person is port manager;
 - (d) to perform functions in accordance with a direction given by the Minister under section 141P;
-

- (e) any other functions or duties conferred on the Victorian Regional Channels Authority by any other Act or any regulations under any other Act.
- (2) In performing the functions conferred on the Victorian Regional Channels Authority, the Victorian Regional Channels Authority must operate in a commercially sound manner having regard to—
- (a) the benefits of increased competition between persons and bodies that provide services related to the operation of the area where it is carrying out the functions;
 - (b) the need to conduct research and collect information relating to the performance of the functions and the operation of regional port waters and channels in regional port waters so as to enable the Victorian Regional Channels Authority to meet the primary object of the Victorian Regional Channels Authority;
 - (c) the need to deal efficiently with any complaints relating to the performance of its functions.
- (3) The Victorian Regional Channels Authority may carry out its functions referred to in subsection (1)(a) in relation to a commercial trading port by arranging for the port manager or another person to carry out those functions for the port waters and channels in the port.

141N Power to contract for the provision of services and facilities

Without limiting the generality of section 152(2)(a), the Victorian Regional Channels Authority may enter into contracts (including contracts of indemnity) for the provision of services or facilities.

141O Dredging

Without limiting the generality of the powers conferred on it but subject to obtaining any permit, consent or other authority required by or under any other Act, the Victorian Regional Channels Authority in connection with carrying out its functions—

- (a) may alter, dredge, cleanse, scour, straighten and improve the bed and channel of any river or sea-bed in port waters;
- (b) may reduce or remove any banks or shoals within any such river or sea-bed;
- (c) may abate and remove impediments, obstructions and nuisances in, or on the banks and shores of, any such river or sea-bed that are injurious to the river or sea-bed or that obstruct or tend to obstruct navigation;
- (d) may—
 - (i) place or dispose of excavated or dredged material resulting from the performance of any function under paragraph (a), (b) or (c) in port waters in which the function is being performed; or

- (ii) undertake any works necessary to place or dispose of excavated or dredged material resulting from the performance of any function under paragraph (a), (b) or (c) in port waters in which the function is being performed.

141P Public interest functions

- (1) The Minister, with the approval of the Treasurer, may direct the board of the Victorian Regional Channels Authority—
 - (a) to perform certain functions that the Minister considers to be in the public interest but that may cause the Victorian Regional Channels Authority to suffer financial detriment; or
 - (b) to cease to perform functions of a kind referred to in paragraph (a); or
 - (c) to cease to perform certain functions that the Minister considers not to be in the public interest.
 - (2) The board of the Victorian Regional Channels Authority must comply with a direction given under subsection (1).
 - (3) If the Victorian Regional Channels Authority satisfies the Treasurer that it has suffered financial detriment as a result of complying with a direction given under subsection (1), the Victorian Regional Channels Authority may be reimbursed by the State an amount determined by the Treasurer and the Consolidated Fund is hereby appropriated to the necessary extent accordingly.
-

- (4) The reference in this section to suffering financial detriment includes a reference to incurring net costs that are greater than would have been incurred if the direction were not complied with."

9 Transport Corporation not to make loans to directors

In section 155(1) of the **Transport Integration Act 2010**, for "spouse" (wherever occurring) substitute "partner".

10 Determination of initial capital

After section 158(5) of the **Transport Integration Act 2010** insert—

- "(6) This section applies to the Port of Melbourne Corporation and the Victorian Regional Channels Authority, with the following modifications—
- (a) in subsection (1), a reference to the Minister is taken to be a reference to the Treasurer after consultation with the Minister;
 - (b) in subsections (2) and (4)(b), a reference to the Minister is taken to be a reference to the Treasurer.
- (7) For the purposes of this Part, the amount of initial capital determined by the Treasurer in respect of the Port of Melbourne Corporation and the Victorian Regional Channels Authority under section 39 of the **Port Services Act 1995** (as in force immediately before the commencement of section 33 of the **Transport Legislation Amendment (Ports Integration) Act 2010**) is deemed to have been determined under this section."

11 Capital

At the end of section 159 of the **Transport Integration Act 2010** insert—

"(2) This section applies to the Port of Melbourne Corporation and the Victorian Regional Channels Authority with the following modification—in subsection (1)(b) and (1)(d), a reference to the Minister is taken to be a reference to the Treasurer."

12 Repayment of capital

After section 160(2) of the **Transport Integration Act 2010** insert—

"(3) This section applies to the Port of Melbourne Corporation and the Victorian Regional Channels Authority with the following modifications—

- (a) in subsection (1), a reference to the Minister is taken to be a reference to the Treasurer, after consultation with the Minister;
- (b) in subsection (2), a reference to the Minister is taken to be a reference to the Treasurer."

13 Annual report

At the end of section 164 of the **Transport Integration Act 2010** insert—

"(2) The Port of Melbourne Corporation, in its annual report for a financial year under Part 7 of the **Financial Management Act 1994**, must include a copy of each direction given to it during that year under section 141H together with a statement of its response to that direction.

- (3) The Victorian Regional Channels Authority, in its annual report for a financial year under Part 7 of the **Financial Management Act 1994**, must include a copy of each direction given to it during that year under section 141P together with a statement of its response to that direction."

14 Corporate plan

After section 165(12) of the **Transport Integration Act 2010** insert—

- "(13) This section applies to the Port of Melbourne Corporation and the Victorian Regional Channels Authority with the following modifications—
- (a) in subsections (2), (3)(a), (5), (6) and (7) a reference to the Minister is taken to be a reference to the Treasurer and the Minister;
 - (b) in subsection (3)(c), a reference to the Minister is taken to be a reference to the Treasurer or the Minister;
 - (c) in subsection (4)—
 - (i) the first reference to the Minister is taken to be a reference to the Treasurer or the Minister; and
 - (ii) the second reference to the Minister is taken to be a reference to the Treasurer and the Minister;
 - (d) in subsection (8)—
 - (i) the first reference to the Minister is taken to be a reference to the Treasurer and the Minister; and

- (ii) the second reference to the Minister is taken to be a reference to the Treasurer or the Minister;
- (e) in subsection (9), a reference to the Minister is taken to be a reference to the Treasurer after consultation with the Minister;
- (f) in subsection (10), a reference to the Minister is taken to be a reference to the Treasurer."

15 Statement of corporate intent

At the end of section 166 of the **Transport Integration Act 2010** insert—

- "(2) This section applies to the Port of Melbourne Corporation and the Victorian Regional Channels Authority with the following modification—a reference to the Minister is taken to be a reference to the Treasurer and the Minister."

16 Corporate plan to be followed

After section 167(2) of the **Transport Integration Act 2010** insert—

- "(3) This section applies to the Port of Melbourne Corporation and the Victorian Regional Channels Authority with the following modification—a reference to the Minister is taken to be a reference to the Treasurer and the Minister."

17 Board of directors to give notice of significant events

After section 169(2) of the **Transport Integration Act 2010** insert—

- "(3) This section applies to the Port of Melbourne Corporation and the Victorian Regional Channels Authority with the following
-

modification—a reference to the Minister is taken to be a reference to the Treasurer and the Minister."

18 Transport Act 1983

For section 199(3) of the **Transport Integration Act 2010** substitute—

"(3) The **Transport Act 1983** is amended as set out in an item or a provision of an item in Schedule 3 on the commencement of that item or provision."

19 Rail Corporations Act 1996

For section 200(3) of the **Transport Integration Act 2010** substitute—

"(3) The **Rail Corporations Act 1996** is amended as set out in an item or a provision of an item in Schedule 4 on the commencement of that item or provision."

20 Marine Act 1988

For section 201(1) of the **Transport Integration Act 2010** substitute—

"(1) The **Marine Act 1988** is amended as set out in an item or a provision of an item in Schedule 5 on the commencement of that item or provision."

21 New sections 201A, 201B and 201C inserted

After section 201 of the **Transport Integration Act 2010** insert—

"201A Transitional provision on amendment of Port Services Act 1995

(1) On and after the commencement of this section, any reference in any Act (other than this Act), regulation, subordinate instrument or other document whatsoever to the **Port**

- Services Act 1995** is to be construed as a reference to the **Port Management Act 1995**, unless the contrary intention appears.
- (2) Except as expressly or by necessary implication provided in this Act or the **Transport Legislation Amendment (Ports Integration) Act 2010**, all persons, things and circumstances appointed or created by or under the **Port Services Act 1995**, as in force before its amendment by the **Transport Legislation Amendment (Ports Integration) Act 2010**, or existing or continuing under that Act immediately before the commencement of this section continue under and subject to this Act to have the same status, operation and effect as they respectively would have had if that Act had not been amended by the **Transport Legislation Amendment (Ports Integration) Act 2010**.
 - (3) On and after the commencement of this section, any reference in an Act (other than this Act), regulation, subordinate instrument or other document whatsoever to the Port of Hastings Corporation, so far as it relates to any period after that commencement and if not inconsistent with the context and subject-matter, must be construed as a reference to the Port of Melbourne Corporation and the force and effect of any such document is not to be taken to be affected by that commencement.
 - (4) Nothing in this section limits or otherwise affects the operation of the **Interpretation of Legislation Act 1984**.
-

201B Transfer of staff from Port of Hastings Corporation to Port of Melbourne Corporation

- (1) The Secretary must list in writing the officers and employees of the Port of Hastings Corporation employed by the Port of Hastings Corporation immediately before the commencement of this section who are to be employed under Part 3 of the **Public Administration Act 2004**.
 - (2) An employee or officer listed under subsection (1) (a *transferred employee*) is taken—
 - (a) to be employed under Part 3 of the **Public Administration Act 2004** with effect from the commencement of this section; and
 - (b) to be employed in his or her new position with effect on and from the commencement of this section; and
 - (c) to be employed on the same terms and conditions as those that applied to the person as an officer or employee of the Port of Hastings Corporation immediately before the commencement of this section; and
 - (d) to have accrued an entitlement to benefits in connection with the employment under Part 3 of the **Public Administration Act 2004** that is equivalent to the entitlement that the person had accrued, as an officer or employee of the Port of Hastings Corporation, immediately before the commencement of this section.
-

- (3) The service of a transferred employee under Part 3 of the **Public Administration Act 2004** is to be regarded for all purposes as having been continuous with the service of the transferred employee, immediately before the commencement of this section, as an officer or employee of the Port of Hastings Corporation.
- (4) A transferred employee is not entitled to receive any payment or other benefit by reason only of having ceased to be an employee of the Port of Hastings Corporation because of the operation of this Part.
- (5) A certificate purporting to be signed by the Secretary certifying that a person named in the certificate was, with effect from the commencement of this section, employed, by virtue of this section, under Part 3 of the **Public Administration Act 2004**, is admissible in evidence in any proceedings and is conclusive proof of the matters stated in it.
- (6) The superannuation entitlements of any person who is a transferred employee are taken not to be affected by that person becoming a transferred employee.
- (7) 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 commencement of this section; or

- (b) a transferred employee from resigning or being dismissed at any time after the commencement of this section in accordance with the then existing terms and conditions of his or her employment under Part 3 of the **Public Administration Act 2004**.

201C Substitution of parties to channel operating agreement in respect of port of Hastings waters

- (1) In this section—

channel operating agreement means the agreement commencing on 15 June 2007 (as from time to time amended, supplemented or novated) in relation to the operation and maintenance of channels in port of Hastings waters between—

- (a) the Crown in right of the State of Victoria; and
(b) the Victorian Regional Channels Authority; and
(c) Toll Transport Pty Ltd (ABN 31 006 604 191);

Victorian Regional Channels Authority means the body established by section 18 of the **Port Services Act 1995** as in force immediately before the commencement of section 32 of the **Transport Legislation Amendment (Ports Integration) Act 2010**.

- (2) On and from the commencement of this section, the Port of Melbourne Corporation is taken to be substituted for the Victorian Regional Channels Authority as a party to the channel operating agreement.

- (3) For the purposes of subsection (2), the Port of Melbourne Corporation is taken to have the power conferred on the Victorian Regional Channels Authority under section 21(2) of the **Port Services Act 1995** as in force immediately before the commencement of section 32 of the **Transport Legislation Amendment (Ports Integration) Act 2010**.
- (4) For the purposes of subsection (2), in the **Port Management Act 1995** a reference to the channel operator for port of Hastings waters is taken to be a reference to—
- (a) Toll Transport Pty Ltd (ABN 31 006 604 191); or
 - (b) if that person has assigned to another person the right, power or duty that is relevant to that reference, that other person."

22 Consequential amendments to other Acts

For section 203(1) of the **Transport Integration Act 2010** substitute—

- "(1) An Act specified in the heading to an item in Schedule 6 is amended, on the commencement of that item or a provision of that item, as set out in that item or provision."

23 Statute law revision

- (1) In section 3 of the **Transport Integration Act 2010**, in paragraph (f) of the definition of *transport legislation*, for "Eastlink" substitute "EastLink".
- (2) In section 69(2) of the **Transport Integration Act 2010**, for "transport" substitute "Transport".
-

-
- (3) In the heading to item 5 of Schedule 1 to the **Transport Integration Act 2010**, for "**Eastlink**" substitute "**EastLink**".
- (4) In Schedule 6 to the **Transport Integration Act 2010**—
- (a) in the heading to item 14, for "**Eastlink**" substitute "**EastLink**";
 - (b) in item 14(c) omit "**Public**";
 - (c) in item 26.9(b), for "**Miscellaneous**" substitute "**Miscellaneous**".
-

PART 3—AMENDMENT OF PORT SERVICES ACT 1995

24 Change of name of Act

See:
Act No.
82/1995.
Reprint No. 5
as at
31 July 2009
and
amending
Act Nos
69/2009,
93/2009 and
6/2010.
LawToday:
www.
legislation.
vic.gov.au

For the title to the **Port Services Act 1995**
substitute "**Port Management Act 1995**".

25 Purpose

Section 1(a) of the **Port Services Act 1995** is
repealed.

26 Definitions

In section 3(1) of the **Port Services Act 1995**—

- (a) the definitions of *board* and *POHC* are
repealed;
 - (b) in paragraph (a) of the definition of *channel
operator*, after "port of Melbourne waters"
insert "or port of Hastings waters";
 - (c) in the definition of *port corporation*, for
"Port of Melbourne Corporation, Port of
Hastings Corporation" substitute "Port of
Melbourne Corporation";
 - (d) for the definition of *Port of Melbourne
Corporation* substitute—
"*Port of Melbourne Corporation* has the
same meaning as it has in the
Transport Integration Act 2010";
-

(e) for the definition of **VRCA substitute**—

"VRCA means the Victorian Regional Channels Authority within the meaning of the **Transport Integration Act 2010**";

(f) **insert** the following definitions—

"port of Hastings means port of Hastings land and port of Hastings waters;

port of Hastings land means land declared by Order in Council under section 5(1) of the **Port Management Act 1995** to be the port land of the port of Hastings;

port of Hastings waters means waters declared by Order in Council under section 5(2) of the **Port Management Act 1995** to be the port waters of the port of Hastings";

27 Substitute heading to Part 2

For the heading to Part 2 of the **Port Services Act 1995 substitute**—

"PART 2—PROVISIONS RELATING TO PORT CORPORATIONS".

28 Amendment of Division 1 of Part 2

- (1) The heading to Division 1 of Part 2 of the **Port Services Act 1995 is repealed**.
- (2) Sections 10, 11, 12, 13, 14, 14A and 15 of the **Port Services Act 1995 are repealed**.

29 Transitional powers under leases

For the heading to section 16 of the **Port Services Act 1995 substitute**—

"Port of Melbourne Corporation—transitional powers under leases".

30 Amendment of Division 1A of Part 2

- (1) The heading to Division 1A of Part 2 of the **Port Services Act 1995** is **repealed**.
- (2) Sections 17A, 17B, 17C, 17D, 17F and 17G of the **Port Services Act 1995** are **repealed**.

31 Port operations

- (1) In section 17E(1) of the **Port Services Act 1995**, for "Port of Hastings Corporation" **substitute** "Port of Melbourne Corporation".
- (2) In section 17E(2) of the **Port Services Act 1995**, for "Port of Hastings Corporation" **substitute** "Port of Melbourne Corporation".
- (3) In section 17E(3) of the **Port Services Act 1995**, for "Port of Hastings Corporation" **substitute** "Port of Melbourne Corporation".

32 Division 2 of Part 2 repealed

Division 2 of Part 2 of the **Port Services Act 1995** is **repealed**.

33 Amendment of Division 3 of Part 2

- (1) The heading to Division 3 of Part 2 of the **Port Services Act 1995** is **repealed**.
- (2) Sections 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43 and 44 of the **Port Services Act 1995** are **repealed**.

34 Definitions

In section 45 of the **Port Services Act 1995**, in the definition of *channel operator*, after "port of Melbourne waters" **insert** "or port of Hastings waters".

35 General power to make determinations

In section 54(5) of the **Port Services Act 1995**—

- (a) after "port of Melbourne" **insert** "or the port of Hastings";
- (b) for "objectives under section 12" **substitute** "object under section 141D of the **Transport Integration Act 2010**".

36 Wharfage fees

In section 74(1) of the **Port Services Act 1995**, after "port of Melbourne" **insert** "or the port of Hastings".

37 Definitions

In section 83 of the **Port Services Act 1995**, in the definition of *port waters*, for "section 21" **substitute** "Division 3B of Part 6 of the **Transport Integration Act 2010**".

38 Making a declaration of restricted access area

- (1) In section 84(1)(a)(i) of the **Port Services Act 1995**, after "waters" **insert** "or port of Hastings waters".
- (2) In section 84(1)(a)(ii) of the **Port Services Act 1995**, after "land" **insert** "or port of Hastings land".
- (3) In section 84(1)(b) of the **Port Services Act 1995**, after "port of Melbourne waters" (where first occurring) **insert** "or port of Hastings waters".
- (4) For section 84(1)(b)(ii) of the **Port Services Act 1995** **substitute**—
 - (ii) within port of Melbourne waters, port of Melbourne land, port of Hastings waters or port of Hastings land—".

- (5) In section 84(7) of the **Port Services Act 1995**, for "section 21" **substitute** "Division 3B of Part 6 of the **Transport Integration Act 2010**".

39 Protection from liability

For section 91(3)(d) of the **Port Services Act 1995 substitute—**

"(d) the port of Hastings waters."

40 Definitions

In section 91J of the **Port Services Act 1995**, in the definition of *relevant port authority*—

- (a) in paragraph (a), after "port of Melbourne" **insert** "or the port of Hastings";
- (b) paragraph (b) is **repealed**.

41 Repeal of provisions applying to port corporations

Schedule 1 to the **Port Services Act 1995** is **repealed**.

PART 4—CONSEQUENTIAL AMENDMENTS

42 Functions of the Authority—Docklands Act 1991

In section 10(j) of the **Docklands Act 1991**, for "**Port Services Act 1995**" substitute "**Port Management Act 1995**".

See:
Act No.
22/1991.
Reprint No. 4
as at
1 March 2005
and
amending
Act Nos
108/2004,
95/2005,
69/2006,
74/2006,
80/2006,
66/2009 and
6/2010.
LawToday:
www.
legislation.
vic.gov.au

**43 Docklands may become or cease to be a port—
Docklands Act 1991**

(1) In section 32(1) of the **Docklands Act 1991**—

- (a) in paragraph (da), for "**Port Services Act 1995**" substitute "**Port Management Act 1995**";
- (b) in paragraph (ea), for "**Port Services Act 1995**;" substitute "**Port Management Act 1995**."

(2) In section 32(2) of the **Docklands Act 1991**, for "**Port Services Act 1995**" substitute "**Port Management Act 1995**".

See:
Act No.
52/1988.
Reprint No. 7
as at
12 December
2007
and
amending
Act Nos
17/2009,
68/2009,
69/2009,
93/2009,
6/2010 and
13/2010.
LawToday:
www.
legislation.
vic.gov.au

44 Definitions—Marine Act 1988

In section 3(1) of the **Marine Act 1988**—

- (a) in the definition of *channel operator*, for "**Port Services Act 1995**" substitute "**Port Management Act 1995**";
- (b) in paragraph (c) of the definition of *local authority*, for "**Port Services Act 1995**" substitute "**Port Management Act 1995**";
- (c) in the definition of *local port*, for "**Port Services Act 1995**" substitute "**Port Management Act 1995**";
- (d) in the definition of *local port manager*, for "**Port Services Act 1995**" substitute "**Port Management Act 1995**";
- (e) in paragraph (c) of the definition of *marine infringement*, for "**Port Services Act 1995**" substitute "**Port Management Act 1995**";
- (f) in the definition of *port corporation*, for "**Port Services Act 1995**" substitute "**Port Management Act 1995**";
- (g) in paragraph (a) of the definition of *port management body*, after "port of Melbourne" insert "or the port of Hastings";
- (h) in the definition of *port management body*—
 - (i) in subparagraph (ii), for "that channel operator; and" substitute "that channel operator;";
 - (ii) subparagraph (iii) is repealed;
- (i) in the definition of *port of Melbourne*, for "**Port Services Act 1995**" substitute "**Port Management Act 1995**";

- (j) in the definition of *Port of Melbourne Corporation*, for "Port Services Act 1995" substitute "Transport Integration Act 2010";
- (k) in the definition of *port of Melbourne waters*, for "Port Services Act 1995" substitute "Port Management Act 1995";
- (l) in the definition of *port waters*, for "Port Services Act 1995" substitute "Port Management Act 1995";
- (m) in paragraph (b) of the definition of *relevant marine safety law*, for "Port Services Act 1995" substitute "Port Management Act 1995";
- (n) for the definition of *Victorian Regional Channels Authority* substitute—
"*Victorian Regional Channels Authority* has the same meaning as in the **Transport Integration Act 2010**";.

45 Boating activities—Marine Act 1988

In section 16 of the **Marine Act 1988**, for "Port Services Act 1995" substitute "Port Management Act 1995".

46 Requirement to engage harbour master—Marine Act 1988

- (1) In section 26A(2) of the **Marine Act 1988**, for "Port Services Act 1995" substitute "Port Management Act 1995".
- (2) In section 26A(3) of the **Marine Act 1988**, for "Port Services Act 1995" substitute "Port Management Act 1995".

(3) In section 26A(4) of the **Marine Act 1988**—

- (a) for "Victorian Regional Channels Authority" **substitute** "Port of Melbourne Corporation";
- (b) for "**Port Services Act 1995**" **substitute** "**Port Management Act 1995**".

47 Authorisation to act as a harbour master—Marine Act 1988

(1) After section 26B(1) of the **Marine Act 1988** **insert**—

"(1A) The Port of Melbourne Corporation may, having first—

- (a) consulted the harbour master engaged for the waters that have been declared under section 5 of the **Port Management Act 1995** to be port waters of the port of Hastings; and
- (b) obtained the approval in writing of the Director—

authorise, in writing, a person to act as an assistant harbour master for the port waters of the port of Hastings."

(2) In section 26B(2) of the **Marine Act 1988**—

- (a) for "**Port Services Act 1995**" **substitute** "**Port Management Act 1995**";
- (b) in paragraph (b), for "Portland; or" **substitute** "Portland—";
- (c) paragraph (c) is **repealed**.

48 Power to prosecute—Marine Act 1988

In section 87(1) of the **Marine Act 1988**, for "**Port Services Act 1995**" **substitute** "**Port Management Act 1995**".

49 Service—Marine Act 1988

- (1) In section 101(1) of the **Marine Act 1988**, for "**Port Services Act 1995**" substitute "**Port Management Act 1995**".
- (2) In section 101(2) of the **Marine Act 1988**, for "**Port Services Act 1995**" substitute "**Port Management Act 1995**".
- (3) In section 101(3) of the **Marine Act 1988**, for "**Port Services Act 1995**" substitute "**Port Management Act 1995**".

50 Particular powers of the Director—Marine Act 1988

In Schedule 4 to the **Marine Act 1988**, in item 22(a), for "**Port Services Act 1995**" substitute "**Port Management Act 1995**".

51 Metropolitan fire district—Metropolitan Fire Brigades Act 1958

- (1) In section 4(2)(a) of the **Metropolitan Fire Brigades Act 1958**, for "**Port Services Act 1995**" substitute "**Port Management Act 1995**".
- (2) Section 4(2)(ab) of the **Metropolitan Fire Brigades Act 1958** is repealed.

See:
Act No.
6315.
Reprint No. 10
as at
1 July 2006
and
amending
Act Nos
74/2006,
80/2006,
77/2008 and
69/2009.
LawToday:
www.
legislation.
vic.gov.au

52 Action on alarm of fire—Metropolitan Fire Brigades Act 1958

In section 32B(5) of the **Metropolitan Fire Brigades Act 1958**, for "established by the **Port Services Act 1995**" substitute "(within the meaning of the **Transport Integration Act 2010**)".

See:
Act No.
61/2005
and
amending
Act Nos
29/2006,
60/2006,
25/2008,
30/2008,
62/2008,
6/2010 and
10/2010.
LawToday:
www.
legislation.
vic.gov.au

53 Pipelines excluded from Act—Pipelines Act 2005

In clause 2(b) of Schedule 1 to the **Pipelines Act 2005**, for "**Port Services Act 1995**" substitute "**Port Management Act 1995**".

See:
Act No.
127/1986.
Reprint No. 12
as at
5 April 2010
and
amending
Act Nos
19/1991,
13/2009,
93/2009,
6/2010, 9/2010
and 13/2010.
LawToday:
www.
legislation.
vic.gov.au

54 Disclosure of information—Road Safety Act 1986

In section 92(3)(cb) of the **Road Safety Act 1986**—

- (a) for "established under section 10 of the **Port Services Act 1995**" substitute "within the meaning of the **Transport Integration Act 2010**";
- (b) after "port of Melbourne" insert "or the port of Hastings";
- (c) for "that Act" substitute "the **Port Management Act 1995**".

See:
Act No.
6377.
Reprint No. 9
as at
31 December
1999
and
amending
Act Nos
69/2000,
32/2001,
39/2005,
68/2009 and
69/2009.
LawToday:
www.
legislation.
vic.gov.au

55 Functions and powers in relation to ports—State Electricity Commission Act 1958

In section 12C(1) of the **State Electricity Commission Act 1958**, for "**Port Services Act 1995**" (wherever occurring) substitute "**Port Management Act 1995**".

56 Substitute heading to Part V—Transport Act 1983

For the heading to Part V of the **Transport Act 1983** substitute—

**"PART V—CHIEF INVESTIGATOR,
TRANSPORT SAFETY".**

See:
Act No.
9921.
Reprint No. 14
as at
31 July 2009
and
amending
Act Nos
71/2006,
13/2009,
45/2009,
68/2009,
69/2009,
91/2009,
93/2009 and
6/2010.
LawToday:
www.
legislation.
vic.gov.au

**57 Public authorities—Treasury Corporation of
Victoria Act 1992**

In column 2 of the table in Schedule 1 to the
Treasury Corporation of Victoria Act 1992, for
"Port Services Act 1995" (wherever occurring)
substitute **"Transport Integration Act 2010"**.

See:
Act No.
80/1992.
Reprint No. 3
as at
3 November
2003
and
amending
Act Nos
85/2003,
108/2004,
29/2006,
80/2006 and
6/2010.
LawToday:
www.
legislation.
vic.gov.au

See:
Act No.
80/1989.
Reprint No. 9
as at
24 April 2008
and
amending
Act Nos
4/2008,
12/2008,
46/2008,
61/2008,
75/2008,
4/2009,
54/2009,
68/2009,
69/2009,
1/2010 and
6/2010.
LawToday:
www.
legislation.
vic.gov.au

**58 Designated waterways, land or works—Melbourne
Water Corporation—Water Act 1989**

In section 188A(1)(a)(i) of the **Water Act 1989**—

- (a) for "Port of Melbourne" substitute "port of Melbourne or the port of Hastings";
- (b) for "**Port Services Act 1995**" substitute "**Port Management Act 1995**".

PART 5—REPEAL OF AMENDING ACT

59 Repeal of amending Act

This Act is **repealed** on 1 July 2012.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

ENDNOTES

[†] *Minister's second reading speech—*

Legislative Assembly: 6 May 2010

Legislative Council: 27 May 2010

The long title for the Bill for this Act was "A Bill for an Act to continue the establishment of an integrated and sustainable transport system in Victoria by amending the **Transport Integration Act 2010** and the **Port Services Act 1995** to provide for the Port of Melbourne Corporation and the Victorian Regional Channels Authority to continue under the **Transport Integration Act 2010** and for the abolition of the Port of Hastings Corporation and for the Port of Melbourne Corporation to be the successor in law of the Port of Hastings Corporation and to make other amendments to the **Transport Integration Act 2010** and to amend certain other Acts and for other purposes."