

Transport Legislation (Amendment) Bill

As Sent Print

EXPLANATORY MEMORANDUM

Clause Notes

PART 1—PRELIMINARY MATTERS

Clause 1 sets out the purpose of the Bill, which is to amend—

- the **Chattel Securities Act 1987** to reduce the period in which the discharge or extinguishment of a registered security interest must be reported; and
- the **Melbourne City Link Act 1995** to make various changes concerning tolling and tolling enforcement (particularly to facilitate the sending of invoices to users of City Link) and various minor amendments in relation to agreements; and
- the **Police Regulation Act 1958** to allow police to disclose vehicle accident information in certain cases; and
- the **Rail Corporations Act 1996** to restrict what a determination concerning access to a rail transport service may contain; and
- the **Road Management Act 2004** to enable VicRoads to sell land from discontinued roads; and
- the **Road Safety Act 1986**—
 - to authorise shorter driver licence periods for people who are 75 years of age or older; and
 - to require that an alcohol interlock condition be imposed for a longer period in certain cases; and

- to make special provision in relation to breaches of mass, dimension and load restraint limits and requirements, in particular where those breaches involve heavy vehicles; and
- to enable the certification of pilot vehicle drivers; and
- to otherwise improve the operation of that Act; and
- the **Road Safety (Drug Driving) Act 2003** to make some statute law revision amendments; and
- the **Sentencing Act 1991** to require that an alcohol interlock condition be imposed for a longer period in certain cases; and
- the **Transport Act 1983**—
 - to enable deadlocks in relation to proposed agreements between the operators of rail infrastructure and the proposed operators of rolling stock to be resolved; and
 - to enable interstate commercial passenger vehicles to operate in Victoria in certain circumstances; and
 - to require the licensing authority to be satisfied of certain matters in relation to certain dealings for or in connection with the transfer of a taxi-cab licence or the assignment of rights to operate a vehicle under a taxi-cab licence before authorising the transfer of the licence or assignment of the right; and
 - to clarify the scope of the regulation making powers relating to trading in taxi-cab licences; and
 - to require the organisers of public events that may have an impact on public transport to prepare appropriate plans; and
 - to otherwise improve the operation of that Act; and

- the **Transport (Rights and Responsibilities) Act 2003** in minor respects; and
- the **Port Services Act 1995** to make further provision for Crown land reserves forming part of the port of Melbourne.

Clause 2 provides for commencement arrangements.

Certain provisions amending the **Road Safety (Drug Driving) Act 2003** are deemed to have already commenced. Other provisions come into operation on the day after assent, or on dates to be fixed by proclamation.

Sub-clause (1) states that the Bill will come into operation on the day after Royal Assent, other than the provisions listed in sub-clause (1). The commencement arrangements for the other provisions are explained below.

Sub-clauses (2) and (3) deal with the commencement of clauses 8 to 11 and 15. These provisions amend the **Melbourne City Link Act 1995**. These provisions will come into operation on a day to be fixed by proclamation or 1 July 2005, whichever is earlier.

Sub-clause (4) provides for amendments to the **Road Safety Act 1986** dealing with demerit point appeals to commence operation on 1 February 2005, which will enable consequential amendments to be made to the Road Safety (General) Regulations 1999 prior to that date.

Sub-clauses (5) and (6) deal with the commencement of clauses 39 and 41. These clauses amend the **Road Safety Act 1986** to insert a new Part 10 (and associated transitional provisions) into that Act. The new Part 10 will deal with heavy vehicle mass, dimension and load restraint requirements. These provisions will come into operation on a day to be fixed by proclamation or 30 September 2005, whichever is earlier.

Sub-clause (6) provides that where any provision referred to in sub-clause (5) (including clause 41 which inserts the new Parts 10 and 11 dealing with breaches of mass, dimension and load restraint limits or requirements) has not come into operation before 30 September 2005, that provision comes into operation on that day.

Sub-clauses (7) and (8) deal with the commencement of clause 44(1) and (2) respectively. Both of these amendments correct section cross-references in earlier legislation relating to drug-driving. It is proposed to backdate those amendments to the dates those earlier Acts were passed to ensure that there is no period during which the errors amended by the provisions had legal effect.

Sub-clauses (9) and (10) deal with the commencement of clause 53. This clause amends the **Transport Act 1983** in relation to events affecting public transport. This provision will come into operation on a day to be fixed by proclamation or 1 January 2006, whichever is earlier.

Sub-clauses (11) and (12) deal with the commencement of Part 12. This Part amends the **Port Services Act 1995**. This Part will come into operation on a day to be fixed by proclamation or 1 December 2005, whichever is earlier.

PART 2—AMENDMENTS TO THE CHATTEL SECURITIES ACT 1987

Clause 3 amends section 19 of the **Chattel Securities Act 1987** in relation to the discharge of registered security interests.

Section 19 of that Act provides that if a registered security interest is discharged or extinguished, the person who was the holder of that security interest immediately before the discharge or extinguishment, must apply to the Roads Corporation to cancel the registration, within 14 days from the date on which the person knows or ought reasonably to know that he or she has ceased to be the holder of that security interest.

Sub-clause (1)(a) amends section 19, so that notice of the extinguishment of a security interest must be given within 7 days, instead of 14, as at present.

Sub-clause (1)(b) amends section 19 to provide a penalty for contravention of the obligation under that section.

The result of these amendments will be that security interests must be cleared from the register more quickly, thus reducing the delay before vehicle dealers can put vehicles on the market.

Sub-clause (2) inserts a new sub-section (2) in section 19 which specifies when the discharge of a security interest by a payment made by cheque or a credit facility occurs.

**PART 3—AMENDMENTS TO THE MELBOURNE CITY LINK
ACT 1995**

- Clause 4 amends section 18A(1) of the **Melbourne City Link Act 1995** in relation to publication of agreements under that Act. The effect will be that, where an agreement under the Act has been varied, the Government Printer must now reprint the agreement as so varied "at the same time that this Act is reprinted". This replaces the existing requirement for agreements to be reprinted "with any reprint of this Act". The effect will be that the Act and the agreements will be printed at the same time but in separate documents.
- Clause 5 Sub-clause (2) amends section 18A(2) as a consequence of the amendment made by clause 4. Section 18A(2) enables authorised reprints of the agreements to be produced in evidence in court proceedings and is similar to provisions of Acts that authorise reprints of Acts and regulations.
- Clause 6 makes an amendment to section 18B(1) of the **Melbourne City Link Act 1995** to correct a reference to "agreement" which should be a reference to the exhibit or variation referred to in that section.
- Clause 7 amends section 62(2) and 93I(2) of the **Melbourne City Link Act 1995** as a consequence of the **Road Management Act 2004** so that references to "State highway" in the **Melbourne City Link Act 1995** are substituted with "an arterial road".
- Clause 8 amends sections 69, 70 and 71 of the **Melbourne City Link Act 1995** to make provision in relation to the fixing of tolls and toll administration fees.
- Sub-clause (1)(a) amends section 69 by inserting a new heading to that section and extending the current definition of "tollway billing arrangement" to include agreements or arrangements between a person and an agent of a tollway operator.
- Sub-clause (1)(b) extends section 70(1) of the **Melbourne City Link Act 1995** to provide for the fixing, charging and collecting of toll administration fees in addition to the fixing, charging and collecting of tolls for the use of vehicles in a toll zone. The clause also inserts a new heading to section 70 as a consequence.
- Sub-clauses (2), (3) and (4) amend section 71 of the **Melbourne City Link Act 1995** to provide for the fixing of toll administration fees under the Agreement or the Extension Agreement (as defined in the Act).

Sub-clause (2) amends section 71 by inserting a new sub-section (1A), which provides for the publication (by the relevant tollway operator) of a Government Gazette notice that fixes toll administration fees and the circumstances in which those fees are payable.

A notice may only be published under new section 71(1A) if the relevant concession deeds are amended to provide expressly for the fixing of toll administration fees for the purposes of section 71(1A). This means that no fees can be fixed under this provision unless and until such amending agreements are made. These amending agreements must be tabled in Parliament in accordance with the **Melbourne City Link Act 1995**.

Furthermore, any notice fixing toll administration fees under the new section 71(1A) must conform with those agreements.

Sub-clause (3) amends section 71 by inserting a new sub-section (2A) which provides that a notice under sub-section (1A) may specify different toll administration fees in respect of various matters.

Sub-clause (4) amends section 71 by—

- inserting a new heading and amending sub-sections (3) and (4) as a consequence of the amendment to be made by sub-clause (2);
- omitting recovery of the amount of a toll as a circumstance in which the production of a Government Gazette, purporting to contain a specified notice, is evidence of certain matters; and
- providing that, in circumstances where sub-section (4) applies, notices in the Government Gazette are evidence of toll administration fees as well as the fixing of tolls.

Clause 9 amends section 72 of the **Melbourne City Link Act 1995** to extend its operation in relation to liability to pay the toll and relevant toll administration fees.

Sub-clause (1) inserts a new heading for this purpose.

Sub-clause (2) substitutes a new section 72(1) to provide that a person who is the driver of a vehicle used in a toll zone is liable to pay to the relevant corporation the toll and relevant toll administration fee charged by the relevant corporation.

Sub-clause (3) makes a statute law revision to section 72(4) to refer to "declarations" as well as "statements" made under section 72(3). Section 72(3) enables a person to whom a tolling infringement notice is issued (usually the registered operator of the relevant vehicle) to avoid liability by nominating the actual driver by a sworn statement or a statutory declaration. Under section 72(4), the enforcement agency may then take proceedings against the nominated person in reliance on the statement or, under this amendment, the declaration made under section 72(3).

Clause 10 inserts new sections 72A and 72B in the **Melbourne City Link Act 1995** to provide exemptions from toll administration fees and demands for payment of tolls in certain circumstances.

Section 72A provides that a toll administration fee is not payable in respect of vehicles that are registered with the relevant corporation, are toll exempt under the regulations or are used in accordance with a tollway billing arrangement.

Section 72B provides that a relevant corporation (ie the company administering tolling arrangements on the relevant tollway for the time being) may demand payment of a toll for the use of a vehicle in a toll zone and any relevant toll administration fee from the owner of the vehicle. Alternatively, the demand may be issued to the actual driver as identified in a nomination made by a sworn statement or statutory declaration made under section 72(3).

A demand must be in writing and must separately identify each use for which such a toll or fee is payable. It is intended that there will be amendments to the relevant agreements dealing with invoicing arrangements.

Clause 11 makes further amendments to the **Melbourne City Link Act 1995** concerning tolls.

Sub-clause (1) inserts a new section 73(3A) to provide that in a proceeding for an offence under section 73(1), it is a defence to the charge for the driver to prove both—

- that he or she received, or was issued with, an invoice in respect of the trip that is the subject of the charge; and
- that he or she paid that invoice in full in the manner and in the time permitted by the invoice.

The requirement that the invoice be paid in full before the defence is established applies even if the invoice covers other trips in addition to the trip which was the subject of the charge. Otherwise it would be difficult to ascertain the trip or trips to which a part-payment related.

Sub-clause (2) inserts a new section 73(7) to provide that where a person is found guilty of an offence under section 73(1) (driving an unregistered vehicle in a toll zone) any debt that arose under section 72 is extinguished. This means that there cannot be successful civil proceedings to recover a toll in relation to a trip once a person has been found guilty of a tolling offence in relation to that trip.

Sub-clause (3) amends section 77(1), which sets out the options open to the relevant corporation where it (or a person authorised by it for the purposes of section 77) believes, on reasonable grounds, that an unregistered vehicle in respect of a particular toll zone has been driven in that zone in contravention of Part 4. These options are—

- to request payment of the toll and toll administration fee from a person who appears to be liable to pay the toll and fee; and
- to notify the enforcement agency and request the enforcement agency to take action. The options for enforcement agency action include—
- forwarding a request for payment of the toll and fee;
- serving an infringement notice for a tolling offence; and
- commencing court proceedings (ie issue a summons) for a tolling offence.

There are 2 major differences from the options available to the tollway operator (or "relevant corporation") under the existing section 77(1). First, the tollway operator will be able itself to send an invoice direct to the registered operator of a vehicle. This will be in addition to the existing option of asking the enforcement agency to forward an invoice on the operator's behalf. To this end, the tollway operator may be given access to registration records for the purpose of sending invoices, subject to privacy safeguards—see the amendments proposed by clause 15.

Second, the options available under section 77(1) will no longer be mutually exclusive. That is, the tollway operator may employ one or more of the options, instead of only one, as at present.

At present, if the tollway operator issues an invoice in respect of a trip, it is prevented from requesting enforcement action to be taken if that invoice goes unpaid. By overcoming that problem, this amendment removes an impediment to issuing invoices in respect of trips where there is no account or pre-paid pass.

It is expected that amendments to the relevant agreements will deal with how these options will be used in practice.

Sub-clause (4) amends section 78(1) of the **Melbourne City Link Act 1995** as a consequence of sub-clause (2).

Sub-clause (5) substitutes a new section 82(1) of the **Melbourne City Link Act 1995** to replace the current provisions setting out the penalty for an offence for which an infringement notice is issued under section 80. Section 82(1), as amended by this sub-clause, provides for a single penalty of \$100 for such offences. This is because invoices will be available for use in appropriate cases in future.

Sub-clause (6) repeals section 82(3) of the **Melbourne City Link Act 1995** as a consequence of sub-clause (5).

Sub-clause (7) amends section 84(1), consistent with the amendment made by sub-clause (2). That is, once an infringement notice has been paid in respect of a tolling offence, a toll may not be recovered by civil action in respect of the same trip or on any trip on the same day (this is because only one trip per day per vehicle may be prosecuted—see section 73(4) of the **Melbourne City Link Act 1995**).

- Clause 12 inserts a new section 87(7) in the **Melbourne City Link Act 1995** to clarify that the owner of a vehicle who is taken to be guilty of an offence (detected by a prescribed tolling device) is liable to the same penalties and subject to the same consequences to which he or she would have been liable and subject had he or she been the actual driver at the time of the occurrence of the offence. This amendment is related to the amendments to be made to the "owner onus" provisions of the **Road Safety Act 1986** by clause 32.

Clause 13 inserts a new section 87A in the **Melbourne City Link Act 1995** to provide for applications to the Magistrates' Court for extensions of time to deal with infringement notices for offences under section 73(1), where that notice has not been served in the required manner in the required time period.

Sub-clause (1) provides that a person making such an application must do so within 14 days of having become aware of such a notice and sub-clause (2) provides to the effect that the Magistrates' Court must not grant an extension of time unless it is satisfied that the person became aware of the infringement notice within 14 days of making the application.

Sub-clause (3) sets out the effect of the granting of an extension of time. Such grants have the effect that:

- references in sections 87(3) and 83(1) of the Act (with respect to service of a summons in respect of an offence and withdrawal of an infringement notice) to a 28 day period are to be read as a reference to the extended period;
- certain money paid in relation to certain infringements must be refunded;
- the procedures set out in Schedule 7 to the **Magistrates' Court Act 1989** in relation to enforcement of amounts specified in the notice are discontinued and any warrants issued under that Schedule cease to have effect;
- a period of cancellation, disqualification or suspension, and the extension of any probationary period, of a driver licence or permit, that resulted from an infringement notice and occurred after the person became aware of the notice is to be taken into account by a court in circumstances where it finds that person guilty of an offence in respect of which the notice was issued; and
- a reference in section 85(1) to the expiration of the period specified in the notice must be read as a reference to the expiration of the extended time.

These amendments are related to the amendments to be made to the **Road Safety Act 1986** by clause 33.

Clause 14 amends the definition of "relevant road safety law" in section 90B(1) of the **Melbourne City Link Act 1995** to include regulation 801 of the Road Safety (Vehicles) Regulations 1999.

The effect is to create an exemption from the privacy provisions of the Act, so that "restricted tolling information" collected by the tolling system may be used or disclosed for the purposes of enforcing an offence under regulation 801. Regulation 801 makes it an offence for the registered operator or a driver of a vehicle to use false or altered number plates or registration labels on the vehicle.

Clause 15 amends section 91(1) of the **Melbourne City Link Act 1995** to extend the power of the Roads Corporation to disclose certain information.

Sub-clause (1)(a) amends section 91(1) so that the Roads Corporation or a relevant person within the meaning of section 92 of the **Road Safety Act 1986** may disclose information about the registration of a vehicle under that Act or the ownership of a vehicle for the purposes of Part 4 of the **Melbourne City Link Act 1995** to relevant corporations for the purposes of section 72B or 77(1)(a) of the **Melbourne City Link Act 1995**. Sub-clause (1)(b) makes an amendment as a consequence of sub-clause (1)(a).

Sub-clauses (2) and (3) amends section 91 of the **Melbourne City Link Act 1995**, the effects of which are:

- a disclosure of the information specified in section 91 to a relevant corporation specified in section 91(1)(aa) is a disclosure for the purposes of section 92 of the **Road Safety Act 1986**; and
- the Roads Corporation or a relevant person may not disclose that information without entering into a confidentiality agreement with that corporation under section 92 of that Act.

The purpose of these amendments is to provide the operators of City Link access to information for the purposes of sending out invoices to the owners of vehicles detected using City Link without an account or a pre-paid pass. See the notes to clause 11 for more explanation.

- Clause 16 inserts a new section 122 in the **Melbourne City Clause Link Act 1995** to provide that section 87A (inserted by clause 13 of this Bill) applies to any infringement notice irrespective of whether or not it was issued before, on or after the commencement of clause 13.

PART 4—AMENDMENT TO THE POLICE REGULATION ACT 1958

- Clause 17 inserts a new Part VIB into the **Police Regulation Act 1958**, which regulates the disclosure of vehicle accident information by Victoria Police.

Specifically, clause 17 inserts the following new provisions into the **Police Regulation Act 1958**.

New section 118L defines key terms contained in new Part VIB, including:

- "vehicle accident information", meaning:
 - information that identifies the driver, registered operator or passenger of any vehicle involved in a vehicle accident, any witness to the accident, and any person killed in the accident;
 - a statement of a driver or passenger of any vehicle involved in a vehicle accident, any person who witnessed the accident, or any person injured as a result of the accident;
 - information identifying any vehicle involved in a vehicle accident; and
 - the full particulars of a vehicle accident.
- "authorised purpose", meaning, in relation to the disclosure or use of vehicle accident information, the purposes of obtaining legal advice, recovering any loss or cost incurred as a result of the vehicle accident, assessing an insurance claim, or investigating a vehicle accident for one of those purposes.

New section 118M provides that the Minister may declare a law of another State or a Territory or the Commonwealth to be a non-Victorian statutory compensation scheme law, and a person established under a non-Victorian statutory compensation scheme law or a person who assesses and determines claims for compensation under a non-Victorian statutory compensation

scheme law, to be a statutory scheme insurer. Ministerial Orders made under this section will enable statutory scheme insurers from other jurisdictions to access vehicle accident information from Victoria Police for an authorised purpose.

New section 118N provides that certain persons involved in a vehicle accident and their representatives may request access to vehicle accident information from Victoria Police for an authorised purpose.

New section 118O prescribes application requirements for vehicle accident information. This section provides that an applicant for vehicle accident information must provide proof of identity to the satisfaction of the Chief Commissioner (other than in the case of authorised representatives), and must furnish a statutory declaration stating that they belong to a class of persons authorised under section 118N to apply for vehicle accident information, and the purpose of their request.

New section 118P provides that Victoria Police may disclose vehicle accident information upon request if the requirements of section 118O have been met.

New section 118Q sets out 2 offences prohibiting the disclosure or use of vehicle accident information except for an authorised purpose. The penalty for both offences is 60 penalty units.

- Clause 18 inserts new sections 127A(1D) and 127A(1E) into the **Police Regulation Act 1958**, which provides that section 127A(1) of that Act, which prohibits the unauthorised publication or communication of facts and documents which have come into the possession of Victoria Police members by virtue of their office, does not prevent the disclosure of vehicle accident information in accordance with new Part VIB.

PART 5—AMENDMENT TO THE RAIL CORPORATIONS ACT 1996

- Clause 19 amends section 38G(2) of the **Rail Corporations Act 1996** consequentially on amendments to the **Transport Act 1983** made by clause 46 of the Bill. This amendment inserts a new sub-section (3) into section 38G which provides that a determination by the Essential Services Commission under section 38F of the **Rail Corporations Act 1996** may not, without the written consent of the Secretary to the Department of Infrastructure, interfere with a direction of the Secretary under new section 115B of the **Transport Act 1983** (inserted by clause 46).

PART 6—AMENDMENTS TO THE ROAD MANAGEMENT ACT 2004

- Clause 20 amends the regulation making power at section 132(2) of the **Road Management Act 2004** to enable regulations to be made for certain purposes, in particular, with regulating the conduct of people on roads and enabling the regulations to confer a right of appeal or review against any decision of a road authority under the regulations. It is intended that the regulations will confer rights of appeal to VCAT in relation to certain decisions under the regulations.
- Clause 21 amends Schedule 5 to the **Road Management Act 2004** by inserting an item that empowers VicRoads to sell the land within the boundaries of a discontinued road, or a part of a discontinued road. This restores a power that VicRoads could formerly exercise under clause 2 of Schedule 2 to the **Transport Act 1983**, which was superseded by the **Road Management Act 2004**.

PART 7—AMENDMENTS TO THE ROAD SAFETY ACT 1986

Overview of Part

Part 7 makes a number of amendments to the **Road Safety Act 1986**. In particular it:

- provides for the issuing of driver licences to drivers aged 75 years or more for periods that are shorter than the periods for which licences may be issued to drivers aged under 75 years of age;
- responds to a recent decision of the Supreme Court (*Roads Corporation v Parsons & Holloway*) in relation to appeals against demerit point suspensions by—
- clarifying the grounds on which an appeal may be brought;
- making provision with respect to offences detected by a photographic detection service so that it is clear that the owner of the detected vehicle is liable to the same penalties and subject to the same consequences as if he or she had been the actual driver (including demerit points) unless the owner nominates the actual driver;

- allowing for applications to the Magistrates Court for extensions of time to respond to traffic infringement notices if the applicant can prove that he or she did not actually receive the notice, provided that an extension cannot be sought more than 14 days after the person actually became aware of the notice;
- providing that, where a court grants an extension of time, the applicant has a further 28 days to exercise the options he or she would have had if the notice had been received, such as contesting the charge in court, nominating the actual driver, etc.;
- makes provision for the admissibility of evidence of the fact that a person has incurred demerit points in certain circumstances;
- amends the provisions dealing with alcohol interlocks;
- makes provision with respect to the penalties that may be specified in parking infringement notices issued by members of the police force;
- makes provision with respect to the preparation and registration of industry codes of practice for the transport industry;
- implements the Model Bill developed by the National Transport Commission (NTC) regarding mass, dimension and load restraint limits and requirements for heavy vehicles. The Model Bill provides for the categorisation of mass, dimension and load restraint offences, establishes the responsibilities and liability of various parties involved in road transport in relation to those offences, sets out the powers of enforcement officers and courts where such offences are detected and deals with other compliance and enforcement related matters.

- Clause 22 inserts new definitions in the **Road Safety Act 1986** of terms used in amendments made to that Act by this Bill. Note that section 106 of the **Road Safety Act 1986** contains definitions for the purposes of Part 9 of that Act in relation to inspections and searches of heavy vehicles. Many definitions contained in section 106 apply also to Parts 10 and 11 of the Act, which are inserted by clause 29 of this Bill. Some definitions have been inserted into section 3 and repealed from section 106 (see clause 28 of this Bill) so as to apply to the whole Act.
- Clause 23 amends sections 19 and 95 of the **Road Safety Act 1986** to provide that different provision may be made on the basis of age when issuing driver licences. Following on the report of the Parliamentary Road Safety Committee on the Safety of Older Road Users, the Government decided that driver licence renewals of people over the age of 75 should be limited to periods of 3 years. This clause enables the implementation of that decision.
- Clause 23(1) inserts a new sub-section (3A) in section 19 of the **Road Safety Act 1986** to provide that the Roads Corporation may grant driver licences to people who are 75 years of age or more for shorter terms than the terms that usually apply to people who are less than 75 years of age.
- Clause 23(2) inserts a new sub-section (10) into section 95 of the **Road Safety Act 1986** to provide that the regulations in relation to driver licensing may make provision for people who are 75 years of age or more that is different to provision made for people who are less than 75 years of age.
- The **Equal Opportunity Act 1995** prohibits discrimination on the basis of age. However, section 69 of that Act exempts discrimination that is authorised by a provision of another Act. It is intended that the amendments to the **Road Safety Act 1986** outlined above will be authorising provisions for the purposes of section 69.
- Clause 24 amends section 25 as a consequence of the new provisions that are inserted by clause 27 and for the reasons set out in the notes on that clause.

Clause 25 amends section 25 of the **Road Safety Act 1986** in relation to demerit points.

Sub-clause (1) inserts a new sub-section (4BA) in section 25 of the **Road Safety Act 1986** to provide that section 25(4B) does not apply if a person is prosecuted under section 30 of that Act for driving while a demerit point related suspension is in force and he or she is not found guilty on the grounds that he or she was not aware at the relevant time that his or her licence or permit had been suspended.

Sub-clause (2) extends the circumstances in which the fact that demerit points have been incurred by a person is admissible in evidence under section 25(6) of the **Road Safety Act 1986** by providing that that fact is admissible where it is necessary to establish that the licence or permit had been suspended under that Act or that the holder of a licence or permit had been served with a notice advising him or her of such a suspension.

Clause 26 amends section 25(6) of the **Road Safety Act 1986** as a consequence of the insertion of the new section 26AA by clause 27.

Clause 27 substitutes the existing section 26 of the **Road Safety Act 1986** with new sections 26 and 26AA. These amendments are in response to defects in the present legislation that became apparent as a result of the recent Supreme Court decision in the case of *Magistrates' Court of Victoria & Parsons; Roads Corporation v Magistrates' Court of Victoria & Holloway* [2004] VSC 384 (7 October 2004).

The amendments to the Act made by clause 27 are intended to reflect the intention that appeals against demerit point suspensions are to be restricted to cases of clerical errors made by VicRoads in relation to the recording and the addition of demerit points.

The new section 26 provides for appeals against certain decisions of the Roads Corporation under section 24 of the Act in relation to the refusal, variation, suspension or cancellation of licences. However, appeals may not be made under the new section 26 in relation to demerit point suspensions—these are dealt with under the new section 26AA.

The new section 26AA provides for appeals to the Magistrates' Court against the suspension of driver licences or learner permits by VicRoads under section 25 of the **Road Safety Act 1986** as a result of demerit points being incurred.

Section 25 of the **Road Safety Act 1986** requires VicRoads to record demerit points as required by the regulations and, if a certain number of demerit points are incurred within certain periods, to suspend the driver licence or permit of the person who incurred them. A person may incur demerit points even though he or she was not the driver of the vehicle if, for example, he or she is the vehicle's registered operator but does not nominate the actual driver—see notes on clause 32 and the proposed amendments to section 66 of the Act. This reflects the "owner onus" principle, namely, that the registered operator must take full responsibility for a traffic camera, parking or tolling offence involving his or her vehicle unless and until he or she nominates the actual driver.

Under section 25 and the Road Safety (Drivers) Regulations 1999, VicRoads must record points when notified by the courts or Police or other relevant agency of the outcome of a matter that results in points being incurred. In the recording and adding of points as required by section 25 and the Regulations, VicRoads does not exercise independent discretion but is performing a purely clerical function in carrying out the requirements of the Act and regulations.

It is therefore intended that demerit point appeals under section 26AA are to be confined to the correction of clerical errors by VicRoads. However, other amendments proposed by this Bill will enable an individual who is aggrieved at incurring demerit points in respect of an infringement notice that he or she did not actually receive to apply to a Magistrate for an extension of time to deal with that infringement notice. See in particular the proposed new section 67 of the **Road Safety Act 1986**, which is to be inserted by clause 33.

Section 26(1) provides that, where the Roads Corporation makes a decision to refuse an application for a driver licence, driver licence variation or permit, or in accordance with section 24 suspends, cancels or varies a driver licence or permit, the applicant or holder of the licence or permit may appeal, in accordance with the regulations against that decision to the Magistrates' Court.

Sub-section (2) provides that where such an appeal is made, the court must re-determine the matter of the refusal, suspension or cancellation or variation, hear any relevant evidence tendered by the appellant or the Corporation and take into consideration anything the Corporation should have considered.

Sub-section (3) requires the court to confirm the decision of the Roads Corporation if satisfied that the decision results from a driving disqualification of the appellant in another State or Territory or was required by the regulations.

Sub-section (4) requires the Corporation to give effect to decisions of the court on appeal under section 26.

Section 26AA(1) provides that where VicRoads, acting in accordance with the requirements of section 25(3B)(a), 25(3B)(ab) or 25(3D), suspends a driver licence or permit, the holder of that licence or learner permit may appeal against the suspension to the Magistrates' Court. An appeal must be made in accordance with the regulations and is subject to sub-section (2).

Sub-section (2) provides that an appeal may only be made on either or both of the 2 grounds listed, namely—

- that VicRoads recorded certain demerit points other than as required by the regulations; or
- that an error has been made in the addition of the number of demerit points incurred by the appellant in a relevant period.

Sub-section (3) provides that, the giving of a notice of appeal in accordance with the regulations stays the relevant suspension of the licence or learner permit until the date on which the appeal is determined or, if the appeal is discontinued, the date on which a notice of discontinuance is given. That notice of the discontinuance must be in writing, must be in accordance with the regulations and must be given to both the court and VicRoads.

Sub-section (4) provides that if the court is satisfied that the suspension was required by the regulations or section 25, the court must confirm the suspension.

Sub-section (5) provides for the orders that the court may make or the directions it may give when allowing or dismissing the appeal. Where that court allows the appeal, it may direct the Corporation to either record the demerit points as required by the regulations or correct the relevant error made in the addition of the number of demerit points. Where it dismisses the appeal, the court may order that the suspension (which is the subject of the appeal) take effect from the date specified in the order.

Sub-section (6) requires the Corporation to give effect to every decision of the court on appeal under section 26AA.

- Clause 28 amends section 28(1A) of the **Road Safety Act 1986**.
That section provides that section 28(1) (which requires a court, in certain circumstances to suspend or cancel driver licences or permits or impose periods in which persons are disqualified from obtaining licences or permits) does not affect the obligation of the court to cancel a licence or permit and disqualify the offender in any case in which cancellation and disqualification are mandatory under section 50(1), 60(2), 61(6) or 64(2).
- Sub-clause (1) amends section 28(1A) to extend the operation of that section to all cases where cancellation and disqualification of licences and permits is mandatory under the **Road Safety Act 1986**.
- Sub-clause (2) inserts a new section 28(1B), which provides that if a Court convicts a person of, or is satisfied that a person is guilty of, an offence that is constituted by or has as its necessary element the breach of a mass, dimension and load restraint limit or requirement committed in respect of a heavy vehicle, the court may vary any driver licence or permit held by the person. (New Parts 10 and 11 inserted by clause 41 of this Bill create offences in relation to breaches of mass, dimension and load restraint limits or requirements).
- Clause 29 amends section 29(3) of the **Road Safety Act 1986** as a consequence of the addition of the appeal right under section 26AA inserted by clause 27.
- Clause 30 inserts a new section 30A in the **Road Safety Act 1986** which applies where a person is found not guilty of an offence under section 30 of that Act on the grounds that he or she was not aware at the relevant time that his or her authorisation had been suspended or that he or she was disqualified from obtaining an authorisation.
- Section 30A(2) provides that a court hearing that matter (in which the person was found not guilty) may order that the person serve a period of suspension or disqualification that is in addition to the period or disqualification that applied to the person at the relevant time.
- Sections 30A(3) and (4) specify the maximum period that the court may impose under sub-section (2) and provide that, for the purposes of appeal or review, any period of suspension or disqualification imposed under the section is to be treated as if it had been imposed for the same reason that the original period of suspension or disqualification was imposed.

Clause 31 amends sections 50AAA(3A), 50AAB(3)(a) and 50AAC(1) of the **Road Safety Act 1986** in relation to alcohol interlocks.

The proposed amendments rectify an error in the original interlocks legislation and reflect the original intention that the minimum period of an alcohol interlock condition should be 3 years where the offence for which a person's driver licence or learner permit had been cancelled was a second offence involving one or more of the offences of: driving under the influence of alcohol, refusing to stop or refusing to co-operate in the conduct of a breath test, manslaughter, negligently causing serious injury or culpable driving.

Sub-clause (1) substitutes a new section 50AAA(3A)(a) with the effect that, where an offence to which section 50AAA applies is not a first offence and the person was disqualified under section 50 of the Act from obtaining a driver licence or permit on or before the commencement of section 10 of the **Road Safety (Alcohol Interlocks) Act 2002**, sub-section 3(a) (which relates to reports referred to in section 50(4B)(a)) has no application to the offence and a court may direct the Corporation that it can only grant a person a driver licence or permit subject to certain conditions in relation to approved alcohol interlocks.

Sub-clause (2) makes an amendment to section 50AAB of the **Road Safety Act 1986** as a consequence of sub-clause (1).

Sub-clause (3) substitutes a new section 50AAB(3)(a) in the **Road Safety Act 1986** to provide that, if a direction is given under section 50AAA(3)(b) imposing an alcohol interlock condition on a driver licence or permit, the specified period during which the person concerned cannot apply to the court for removal of that condition must be, in the case of a second offence under section 49(1)(b), 49(1)(f) or 49(1)(g), not less than 6 months after the condition is imposed.

Sub-clause (4) amends section 50AAC(1) of the **Road Safety Act 1986** to make several amendments as a consequence of this clause. In particular, it amends section 50AAC(1) by inserting a new paragraph (c) to extend the operation of that section so that a person who is subject to a direction concerning an alcohol interlock under section 50AAA(3A) of the Act may appeal to the County Court.

Clause 32 inserts a new section 66(6) in the **Roads Safety Act 1986**. This is one of the amendments that arises out of the decision referred to in *Parson's Case*, which is referred to in the notes to clause 27. The new section 66(6) clarifies that the registered operator of a motor vehicle is liable for penalties and other consequences (including demerit points) flowing from offences detected by photographic detection devices and involving a vehicle registered in the operator's name. This reflects the "owner onus" principle, namely, that the registered operator of a vehicle must take full responsibility for a traffic camera, parking or tolling offence involving his or her vehicle unless and until he or she nominates the actual driver.

Clause 33 inserts a new section 67 in the **Road Safety Act 1986**, which has a similar effect to the new section 87A which is inserted in the **Melbourne City Link Act 1995** by clause 13. This is another amendment that is related to the decision referred to in *Parson's Case*, which is referred to in the notes to clause 27. That case arose because demerit points had been recorded in respect of infringement notices which had not actually been received by the people to whom they were issued. The new section 67 will enable an individual in these circumstances to apply, within 14 days of actually becoming aware of the infringement notice, to a Magistrate for a 28 day extension of time to deal with the infringement. If the application is granted, then the person will have the same options he or she would have had if the notice had been received, such as opting to contest the charge in court or by nominating the actual driver at the time of the offence.

Section 67 provides for applications to be made to the Magistrates' Court for an extension of time to deal with certain traffic infringement notices, in circumstances where the person to whom it was issued was not aware of the notice.

Sub-section (2) makes provisions to the effect that the court must not grant an extension unless it is satisfied that the appellant became aware of the notice within 14 days of the application.

Sub-section (3) sets out the effects of the grant of an extension. Extensions have the effect that:

- a reference in sections 66(3) or 88(3) of the Act (with respect to service of summons or notices for certain traffic infringements) to a 28 day period is to be read as a reference to the extended period;
- cancellations, disqualifications, suspensions and extensions of probations that resulted from traffic infringement notices are set aside;

- certain money paid in relation to certain traffic infringements must be refunded;
- demerit points recorded as a result of the traffic infringement notice are cancelled;
- certain acts of the appellant in relation to the traffic infringement notice do not constitute an offence;
- the procedures set out in Schedule 7 to the **Magistrates' Court Act 1989** in relation to enforcement of amounts specified in the notice are discontinued and any warrants issued under that Schedule cease to have effect;
- a period of cancellation, disqualification or suspension, and the extension of probation, of a driver licence or permit, that resulted from a traffic infringement notice and that occurred after the person became aware of the notice is to be taken into account by a court where it finds that person guilty of an offence in respect of which the notice was issued; and
- a reference in section 89(4) to the period in which the penalty specified in an infringement notice is to be paid is to be taken to be a reference to the extended period under this section 67.

Clause 34 inserts new sections 77A and 77B in the **Road Safety Act 1986** to provide for extension of time limits for certain offences and special defences for drivers of heavy vehicles.

Section 77A provides that a proceeding for an offence under Division 4 or Division 6 of Part 10 against a person in any capacity other than as a driver or operator of a vehicle may be commenced within 2 years after the commission of the alleged offence.

The extension of time for bringing certain prosecutions operates despite anything to the contrary in section 26(4) of the **Magistrates' Court Act 1989**, which provides that a proceeding for a summary offence must be commenced not later than 12 months after the date on which the offence is alleged to have been committed except where otherwise provided by or under any other Act.

Section 77B provides a defence to a driver of a heavy vehicle against a charge for an offence involving deficiencies concerning a heavy vehicle.

Sub-section (1) provides that this section applies to an offence involving deficiencies concerning a heavy vehicle where the offence is alleged to have been committed by a person as a driver of the vehicle.

Sub-section (2) provides that that person has a defence to a charge for such an offence if that person can essentially establish that the deficiencies were beyond his or her knowledge and control.

- Clause 35 inserts a new section 87(5) in the **Road Safety Act 1986** in relation to specification of penalties in parking infringement notices.

Section 87(4) of that Act provides that where the fixed penalty for a parking infringement in the Road Safety (General) Regulations 1999 is less than \$50, a municipal council may increase the penalty to not more than \$50 for offences in a parking area controlled by that municipal council.

The new sub-section (5) provides that, if a municipal council fixes a penalty under sub-section (4), a member of the police force issuing a parking infringement notice in respect of the infringement may specify in that notice either the penalty fixed by the council or the penalty specified by the regulations.

- Clause 36 amends section 89B(1) of the **Road Safety Act 1986** to extend the time in which an application for an extension of time for objecting to a traffic infringement notice can be made from 7 days to 14 days.

- Clause 37 inserts new sections 93A and 93B into the **Road Safety Act 1986**, which provide for the making and registration of industry codes of practice. Such codes of practice are relevant for the purposes of the new section 180(3) and the reasonable steps defence provided for in the new Part 10.

- Clause 38 inserts a new section 103H in the **Road Safety Act 1986** which makes transitional provision with respect to new sections 26 and 67 inserted by clauses 27 and 33 respectively.

- Clause 39 inserts a new section 103I which makes transitional provisions with respect to new Parts 10 and 11, which are to be inserted by clause 41 of this Bill.

- Clause 40 repeals certain definitions contained in section 106 of the **Road Safety Act 1986** which are defined terms used in Part 9 of that Act. These definitions are to have application in the proposed new Parts 10 and 11 of that Act, and accordingly have been inserted in section 3 of the Act.
- Clause 41 inserts new Parts 10 and 11 in the **Road Safety Act 1986**. These Parts make provision concerning breaches of certain mass, dimension and load restraint limits and requirements in order to give effect to nationally agreed policies for compliance with, and enforcement of, road transport laws.

Part 10 contains the following Divisions:

- Division 1 sets out various preliminary matters.
- Division 2 classifies certain breaches of mass, dimension and load restraint limits and requirements as either "minor risk breaches", "substantial risk breaches" or "severe risk breaches".
- Division 3 provides for enforcement powers concerning breaches of mass, dimension and load restraint limits and requirements.
- Division 4 provides for the liability of various people who are responsible for breaches of mass, dimension and load restraint limits and requirements, namely: consignors, packers, loaders, operators, drivers and consignees.
- Division 5 sets out how the "reasonable steps defence" that is available in relation to certain offences in these Parts operates, and also sets out how the exclusion of the mistake of fact defence in relation to certain offences operates.
- Division 6 makes provisions with respect to container weight declarations, and obligations and offences in respect of those declarations.
- Division 7 sets out the matters to be taken into consideration by courts when determining sanctions to be imposed in respect of offences which involve a breach of mass or dimension limits or load restraint requirements.

- Division 8 provides for various other matters, including offences for providing false or misleading documentation and a prohibition against contracting out of the operation of Part 10.

Part 11 contains additional provisions concerning breaches of mass, dimension and load restraint limits and requirements by heavy vehicles, as follows:

- Division 1 sets out preliminary matters. Part 11 applies to "relevant heavy vehicle offences" and Division 1 defines that term and the terms "associates" and "operators".
- Division 2 provides for various offences, including offences for victimising employees and contractors and providing certain false or misleading statements or information.
- Division 3 sets out the responsibilities of certain people for relevant heavy vehicle offences, including vicarious liability of bodies corporate and other people for the conduct of officers, employees and agents, and liability of directors, partners, employers and others, and registered operators.
- Division 4 provides for powers of courts where a person is found guilty of a relevant heavy vehicle offence, including the power to impose:
 - a period of disqualification from registration of a vehicle;
 - commercial benefits orders;
 - supervisory intervention orders; and
 - prohibition orders;
- Division 5 confers on inspectors the power to issue, amend and cancel improvement notices, and provides for appeals against the issue of such notices.
- Division 6 provides for the recognition of the administrative actions of authorities of jurisdictions other than Victoria, and recognition of court orders of those jurisdictions.

- Division 7 provides for defences against relevant heavy vehicle offences; and
- Division 8 provides for various evidentiary matters in proceedings in relation to relevant heavy vehicle offences.

Division 1—Preliminary Matters

New Division 1 of Part 10 sets out preliminary matters, which are contained in sections 150 and 151.

Section 150 provides that a reference in Part 10 to a vehicle is to be read as including a reference to anything on or in the vehicle and a reference, where vehicles in a group are physically connected, to each vehicle in the group. However, a reference to a vehicle is not to be read in this way if the provision in which that reference is used shows a contrary intention.

Part 10 contains an express statement in relation to a number of the offences created by this Part that a person charged with the offence does not have the benefit of the mistake of fact defence. The availability of this defence is usually left to the courts to determine on the basis of common law principles. Section 151 provides that those statements are not intended to affect whether or not that defence is available in relation to offences outside Part 10.

Division 2—Categorisation of Breaches

New Division 2 of Part 10 provides for the categorisation of breaches of mass, dimension and load restraint limits or requirements.

Section 152 sets out the purpose of Division 2, which is to classify certain breaches as either minor risk breaches, substantial risk breaches, or severe risk breaches.

Section 153 defines "mass limits" and classifies breaches of those limits as a minor risk breach, substantial risk breach or severe risk breach by reference to the amount by which the permitted mass is exceeded.

Section 154 provides for breaches of "width limits" and classifies breaches of those limits as a minor risk breach, substantial risk breach or severe risk breach by reference to the amount by which the permitted width or distance is exceeded.

Section 155 provides for breaches of "length limits" and classifies breaches of those limits as a minor risk breach, substantial risk breach or severe risk breach by reference to the amount by which the permitted length is exceeded.

Section 156 provides for breaches of "height limits" and classifies breaches of those limits as a minor risk breach, substantial risk breach or severe risk breach by reference to the amount by which the permitted height is exceeded.

Section 157 provides for breaches of "load restraint requirements" and classifies breaches of those requirements as a minor risk breach, substantial risk breach or severe risk breach by reference to whether the breach occurs in circumstances which may involve danger or harm to people or risk of damage or damage to property or the environment.

Section 158 provides for upgrading of the categorisation of minor and substantial risk breaches to substantial and severe breaches respectively where a breach, which would otherwise be a minor risk breach or substantial risk breach, occurs at night, in hazardous conditions, on declared routes or in declared zones.

Sub-section (5) defines "declared route" and "declared zone" for the purposes of this section. "Declared routes" and "declared zones" are declared as such by notice given by the Minister published in the Government Gazette.

Division 3—Enforcement Powers Concerning Mass, Dimension or Load Restraint Breaches

Division 3 provides for enforcement powers concerning breaches of mass, dimension or load restraint limits or requirements.

Section 159(1) provides that Division 3 of Part 10 applies where an inspector (being an authorised officer or a member of the police force) believes on reasonable grounds that a vehicle is in breach of a mass, dimension or load restraint limit or requirement and the vehicle is on or in certain places, including highways, public places, certain premises and any other place that a vehicle has entered as the immediate result of it being involved in an accident on or near a highway.

Section 160 defines the meaning of "rectify a breach" for the purpose of Division 3 of Part 10.

Section 161 provides that, for the purposes of Division 3 of Part 10, if a vehicle is in breach of more than one mass, dimension or load restraint limit or requirement at the time it is inspected by an inspector, all references to "breach" in Division 3 of Part 10 in relation to that vehicle are to be read as reference to those breaches.

Section 162 provides that, where an inspector believes on reasonable grounds that a vehicle is only the subject of a minor risk breach of a mass, dimension or load restraint limit or requirement, the inspector may, depending on the circumstances, direct rectification of that breach before the vehicle commences or continues its journey, authorise a vehicle to continue (subject to conditions imposed by the inspector), or direct the driver of the vehicle to move the vehicle to a specified place and keep the vehicle at that place until the breach has been rectified.

Sub-sections (3) and (4) provide that, when directing a driver to move to a specified place, the inspector may only specify a place that he or she believes on reasonable grounds is a place where it will be possible to rectify the breach and is within 30 km of where the vehicle is stopped. However, if there is no suitable place within a 30 kilometre radius of where the vehicle has stopped, the inspector must specify the first suitable place on the proposed forward route of the journey that was being undertaken at the time the breach was detected.

Section 163 provides for rectification of substantial and severe risk breaches of mass, dimension and load restraint limits or requirements.

Sub-section (2) provides that the inspector, depending on the circumstances, must direct rectification of a breach before a vehicle commences or continues its journey or direct a vehicle to be moved to a specified place that is the nearest suitable place at which it is possible to rectify the breach and to keep the vehicle at that place until the breach has been rectified.

Sub-section 163(3) specifies the circumstances in which it is safe to leave a vehicle at a place.

Section 164 provides that if the most suitable or appropriate place for a breach to be rectified (that otherwise complies with the requirements of Division 3 of Part 10) is the intended destination of a vehicle or the depot of a vehicle (or a vehicle in a group of vehicles), the inspector must direct the driver to move the vehicle to that destination or depot.

Section 165 makes provision concerning the giving of directions and authorisations by inspectors under Division 3 of Part 10.

Section 166 provides that an inspector may impose conditions in relation to a direction or authorisation he or she gives under Division 3 of Part 10.

Section 167 enables a vehicle that is part of a group of vehicles that are physically connected to be moved if it is not itself in breach of a mass, dimension or load restraint limit or requirement.

Section 168 provides that it is an offence to refuse to comply with a direction made under Division 3 of Part 10 or a condition imposed by an inspector in relation to such a direction or authorisation given under that Division.

Section 169 provides that Division 3 of Part 10 applies to a vehicle regardless of whether or not the vehicle is, has been or becomes the subject of a direction under Part 9 (which provides for inspections and searches of heavy vehicles, and provides for the making of directions by inspectors under Division 5 of Part 9).

Section 170 provides for the amendment or revocation of a direction, or conditions imposed on a direction, given under Part 10.

Division 4—Responsibility for Breaches of Mass, Dimension and Load Restraint Limits and Requirements

Division 4 of Part 10 imposes liability on various people involved in road transport (consignors, packers, loaders, operators, drivers and consignees) for breaches of mass, dimension or load restraint limits or requirements. People charged with an offence created under this Division do not have the benefit of a "mistake of fact defence" as defined in Division 5 of this Part, but do, in most cases, have the benefit of the reasonable step defence (as provided for in Division 5 of Part 10).

Section 171 provides for circumstances where a person who is a consignor of goods on or in a vehicle, or goods contained in a container, is guilty of an offence if a vehicle carrying the goods or container is in breach of a mass, dimension or load restraint limit or requirement.

Section 172 makes similar provision in relation to a person who is a "packer" of goods in or on a vehicle.

Section 173 creates an offence for a person who is a "loader" of goods in or on a vehicle that is in breach of a mass, dimension or load restraint limit or requirement.

Section 174 provides that person who is an "operator" of a vehicle is guilty of an offence where that vehicle is in breach of a mass, load or dimension limit or requirement.

Section 175 provides that person who is a "driver" of a vehicle is guilty of an offence where that vehicle is in breach of a mass, dimension or load restraint limit or requirement.

Section 176 provides for offences committed by "consignees" of goods in relation to breaches of mass, load and dimension limits or requirements.

Section 177 provides that if more than one person is liable to be guilty of an offence in respect of a breach of a mass, dimension or load restraint requirement in relation to a vehicle, proceedings may be taken against all or any of those liable in relation to the breach regardless of whether proceedings have been brought or finished against anyone else in relation to the breach and regardless of the outcome of those proceedings.

Section 178 specifies the maximum penalties applying to the offences created by Division 4.

The penalties specified in this section do not apply to sections 176(3) and 176(4), as penalties are specified in those sections.

Division 5—Provisions Concerning Defences

Division 5 provides for a "reasonable steps defence" and makes provision for the exclusion of the defence of "mistake of fact" in relation to certain offences under the new Part 10.

Section 179 provides that a person has the benefit of the "reasonable steps defence" for an offence, where a provision of this Part 10 states that the defence is available, and sets out how a person can establish the defence.

Section 180 provides for a "reasonable steps defence" where an operator or driver seeks to rely on a container weight declaration to establish that defence.

Section 181 sets out how the exclusion of the defence of mistake of fact operates. It is the intention of this section to ensure that the defence approved by the High Court in *Proudman v Dayman* (1941) 67 CLR 536 is not available in relation to offences under this Part where a statement has been made excluding the defence of mistake of fact.

The intention of this section is that the offences in relation to which this section applies should be treated, in legal terms, as offences of "absolute liability" rather than "strict liability". This is consistent with the intent of the national model Bill prepared by the National Transport Commission. In relation to the distinction between offences of absolute liability and strict liability, see the decision of the High Court in *He Kaw Teh v. The Queen* (1985) 157 CLR 523.

However the exclusion of the "honest and reasonable mistake" defence does not affect the circumstances in which the reasonable steps defence set out in the Bill will apply to those offences.

Division 6—Container Weight Declarations

Division 6 of Part 10 provides for obligations and offences for consignors, operators and drivers in relation to "container weight declarations".

Section 182 widens the meaning of "consignor" for the purposes of Division 6.

Section 183 defines a "container weight declaration" for a freight container and a "complying container weight declaration".

Section 184 specifies the duties of a consignor and applies if a consignor offers a freight container to an operator for transport in Victoria by a vehicle.

Section 185 specifies the duty of an operator who arranges for a freight container to be transported in Victoria by a vehicle.

Section 186 makes it an offence for a driver of a vehicle loaded with a freight container to drive the vehicle without having been provided with a container weight declaration relating to that container.

Section 187 makes further provision with respect to the liability of a consignee under section 176. Section 176(2) provides that a person who is a consignee of goods consigned for road transport is guilty of an offence if the person engages in conduct that results or is likely to result in inducing or rewarding the breach of a mass, dimension or load restraint limit or requirement and the person intends that result. This section also sets out circumstances in which a consignee is taken to have intended such a result.

Division 7—Sentencing Considerations for Mass, Dimension or Load Restraint Breaches

Division 7 provides for the considerations to be taken into account by courts in sentencing a person for a mass, dimension or load restraint breach under Part 10.

Section 188 provides for the matters that a court may take into consideration when determining sanctions to be imposed in respect of offences concerning breaches of mass, dimension or load restraint limits or requirements under Division 4 of Part 10.

Sub-section (2) requires a court, in determining such sanctions, to consider the classification of the relevant breach and to consider various matters in respect of each classification of breach, including the level of risk of accelerated road wear, unfair commercial advantage, damage to road infrastructure, increased traffic congestion and diminished public amenity.

Sub-section (3) provides that a court is not limited to consideration only of these matters.

Division 8—Other Matters

Section 189 provides that it is an offence to provide false or misleading journey documentation in relation to goods that are consigned for transport by road, or partly by road and partly by other means, and all or any part of the transport by road occurs or is to occur in Victoria.

Section 190(1) provides that, except where expressly provided for in the new Part 10 of the **Road Safety Act 1986**, nothing in that Part affects any power that a court, a tribunal, the Roads Corporation or an authorised officer or member of the police force has apart from that Part.

Section 190(2) provides that without limiting section 192(1), nothing in Part 10 affects the power or obligation under another law to modify, suspend, cancel or otherwise deal with any licence or registration.

Section 191 deals with contracts or agreements that purport to exclude, limit or modify the operation of Part 10.

**PART 11—ADDITIONAL PROVISIONS
CONCERNING BREACHES OF MASS, DIMENSION
AND LOAD RESTRAINT LIMITS AND
REQUIREMENTS BY HEAVY VEHICLES**

New Part 11 provides for additional provisions concerning breaches of mass, dimension and load restraint limits and requirements by heavy vehicles.

Division 1—Preliminary Matters

Section 192 provides that Part 11 is only to apply in relation to "relevant heavy vehicle offences". It defines that expression to mean an offence that is constituted by or that has as a necessary element the breach of a mass, dimension or load restraint limit or requirement and the breach is committed in respect of a heavy vehicle. (Note that clause 18 of the Bill amends the definition of "heavy vehicle" in section 3 of the **Road Safety Act 1986** to mean "a motor vehicle or trailer that has a GVM greater than 4.5 tonnes and 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.").

Section 193 provides definitions of "associate", "operator" and "registered operator".

Section 194 specifies the circumstances and relationships for which a person is an associate of another person.

Section 195 specifies the circumstances in which a person is an operator of a vehicle.

Division 2—Additional Offences

Section 196 makes provision with respect to victimisation of employees or contractors assisting with or reporting offences.

Section 197 provides for offences of making statements or giving records to the Roads Corporation or to an official who is exercising a power in relation to the investigation of a relevant heavy vehicle offence, where the person making that statement or giving that record knows it is false or misleading in a material detail.

Section 198 provides for offences of providing false or misleading information to a responsible person.

Division 3—Vicarious Responsibility for Offences

Section 199 provides for vicarious responsibility of a body corporate for the conduct of a director, employee or agent of the body corporate while acting within the scope of his or her apparent authority, unless the body corporate establishes that it took reasonable precautions and exercised due diligence to avoid the conduct.

Sub-section (3) provides similarly for conduct engaged in on behalf of a person (other than a body corporate) by an employee or agent of that person while acting within the scope of his or her actual or apparent authority.

Section 200 provides for a liability of directors, partners, employers and others for relevant heavy vehicle offences.

Section 201 provides for liability of registered operators for a relevant heavy vehicle offence. This section applies to a relevant heavy vehicle offence if the offence is expressed to be committed by an operator of a vehicle (whether or not any other person can also commit the offence).

Section 202 provides that nothing in Division 3 of Part 10 is intended to have the effect of making a person liable to conviction more than once in relation to particular conduct that constitutes a relevant heavy vehicle offence.

Division 4—Additional Powers of Courts

Division 4 of Part 10 sets out the powers of courts in relation to relevant heavy vehicle offences.

Section 203 sets out the circumstances in which a court may disqualify a person or the person's associate from registering a vehicle for a specified person where the court has convicted or found the person guilty of a relevant heavy vehicle offence involving a vehicle of which that person is the registered operator.

Section 204 provides that where a court finds a person guilty of a relevant offence, the court may order the person to pay a fine calculated on the basis of the gross commercial benefit that the person or an associate of the person received from the commission of an offence (or would have received if the relevant journey had been completed).

Section 205 provides for the making of supervisory intervention orders by a court.

Section 206 makes it an offence to contravene a supervisory intervention order made under section 205.

Section 207 provides for the making of prohibition orders by courts where that court finds a person guilty of a relevant heavy vehicle offence and considers that person to be a systematic or persistent offender in relation to relevant heavy vehicle offences and does not consider it appropriate to make an order under section 205 (ie a supervisory intervention order).

Section 208 makes it an offence for a person who is subject to an order under section 207 not to comply with that order.

Division 5—Improvement Notices

Section 209 provides that where an inspector is of the opinion that a person is committing a relevant heavy vehicle offence or has committed such an offence in circumstances that make it likely that the offence will continue or be repeated, that inspector may issue the person with an improvement notice requiring the person to take specified action within a specified period to remedy the contravention or to stop the contravention from continuing or occurring again.

Section 210 provides for the amendment of improvement notices.

Section 211 provides for the cancellation of improvement notices.

Section 212 sets out the circumstances in which a person to whom an improvement notice or an amendment to an improvement notice has been issued can appeal that notice or amendment to the Magistrate's Court, and the powers of the Court in relation to those notices and amendments.

Division 6—Effect of administrative actions of authorities of other jurisdictions

Division 6 of Part 10 provides for the recognition of administrative actions of authorities, and court orders, of jurisdictions other than Victoria.

Section 213 deals with the effect in Victoria of an administrative action of an administrative authority of another jurisdiction. Subject to certain exceptions, such administrative action has the same effect in Victoria as it has in the jurisdiction of the administrative authority.

Section 214 deals with the effect in Victoria of an order of a court or tribunal of another jurisdiction. Subject to certain exceptions, such an order has the same effect in Victoria as it has in the jurisdiction of the court or tribunal.

Division 7—Defences

Division 7 of Part 10 provides for defences to relevant heavy vehicle offences.

Section 215 provides a defence to a charge for a relevant heavy vehicle offence if the person charged had a reasonable belief at the time the conduct constituting the offence occurred that circumstances of sudden or extraordinary emergency existed and that the conduct was the only reasonable way to deal with the emergency and was a reasonable response to that emergency.

Section 216 provides a defence to a charge for a relevant heavy vehicle offence if the person charged established that the conduct constituting the offence was authorised or excused by or under a law.

Section 217 provides a special defence for an owner or operator who establishes that their vehicle was being used at the relevant time by an employee or agent outside the scope of their employment or agency.

Section 218 provides that the specification of a defence under the **Road Safety Act 1986** does not affect the availability of any other defence and to a charge that is available to the person charged.

Division 8—Evidentiary Matters

Division 8 of Part 10 provides for evidentiary matters in relation to relevant heavy vehicle offences.

Section 219 sets out the matters that need to be shown in order to establish the state of mind of a body corporate or a person other than a body corporate in circumstances where it is necessary to establish that state of mind in relation to a relevant heavy vehicle offence.

Section 220 provides that a statement in writing purporting to be made by the manufacturer of a vehicle or a component of a vehicle regarding the mass rating of the vehicle or component or by the manufacturer of load restraint equipment designed for use on a vehicle (or a component of a vehicle) regarding the strength or performance rating of the equipment is admissible in any proceedings, and in the absence of evidence the contrary is proof of various matters.

Section 221 provides that transport documentation or journey documentation is admissible in any proceedings in relation to the commission of a relevant heavy vehicle offence and, in the absence of evidence to the contrary, is proof of various matters.

Section 222 provides that a statement in writing of a fact that relates to any matter that is relevant to a prosecution for a relevant heavy vehicle offence, made by various specified people or bodies is admissible in any proceedings and is prima facie evidence of that fact.

Sub-section (2) provides that in a prosecution for a relevant heavy vehicle offence, a statement or allegation in a complaint or charge made by a person bringing the proceedings in relation to certain matters is admissible in evidence and is prima facie evidence of the facts set out in the statement or allegation.

Sub-section (3) provides that section 222 is intended to supplement and not to limit section 84 of the **Road Safety Act 1986**. Section 84 provides that certain certificate evidence is admissible and, the absence of evidence to the contrary, is proof of the matters stated in the certificate.

Clause 42 makes a minor statute law revision amendment to section 5AD(5) of the **Road Safety Act 1986**.

Clause 43 inserts new clauses 74–82 in Schedule 2 of the **Road Safety Act 1986** to provide regulation making powers concerning pilot vehicle drivers.

The Road Safety (Vehicles) Regulations 1999 requires that, in certain circumstances, Class 1 vehicles must be accompanied by a "pilot vehicle". A "pilot vehicle" is a vehicle used to warn other highway users of the presence of that Class 1 vehicle.

PART 8—AMENDMENTS TO THE ROAD SAFETY (DRUG DRIVING) ACT 2003

Clause 44 makes various statute law revisions to the **Road Safety (Drug Driving) Act 2003**.

PART 9—AMENDMENTS TO THE SENTENCING ACT 1991

Clause 45 amends the **Sentencing Act 1991** as a consequence of the amendments made to the **Road Safety Act 1986** by clause 31 in relation to minimum periods of alcohol interlock conditions.

PART 10—AMENDMENTS TO THE TRANSPORT ACT 1983

Clause 46 inserts new sections 115A, 115B and 115C into the **Transport Act 1983**.

Currently, in order to be accredited, an operator of rolling stock, who is not also the relevant manager of rail infrastructure, must have an agreement in place with that manager which includes appropriate arrangements for the safe operation of rolling stock. The provisions inserted by this clause are intended to provide a mechanism for breaking a deadlock between the manager and rolling stock operator in relation to such arrangements in certain circumstances.

New section 115A empowers the Secretary to the Department of Infrastructure to accredit a person as an operator of rolling stock even though the person does not have an agreement referred to above if the Secretary has given a direction under new section 115B.

New section 115B contains the detail of the deadlock breaking mechanism.

Sub-section (1) provides that the section applies if the Secretary is satisfied that the applicant for accreditation has made a reasonable attempt to obtain the agreement referred to above and that the infrastructure manager is unreasonably refusing to enter such an agreement or is otherwise unreasonably delaying the negotiation of such an agreement.

Sub-sections (2) and (3) provide for the issuing of a written notice by the Secretary to the applicant for accreditation and the infrastructure manager which, among other things, must include a warning of the Secretary's powers under this section and that the Secretary may issue a direction under sub-section (4) to the parties at any time after a specified date.

Sub-section (4) provides that, if a notice is given specifying a date and no agreement has been entered by or on that date, the Secretary may—

- determine the arrangements that are to apply to enable the safe operation of the rolling stock; and
- direct either or both parties to give effect to those arrangements; and
- specify when a direction must be complied with.

Sub-section (5) requires that a direction under sub-section (4) must be in writing, must set out any arrangements determined by the Secretary under that sub-section and must be accompanied by a copy of both this section and section 115A.

Sub-section (6) requires a person who is given a direction under sub-section (4) to comply with the directions and has the effect of making it an offence to fail to so comply attracting a maximum penalty of 100 penalty units.

Sub-section (7) applies to a person who is guilty of an offence against sub-section (6) and creates a further offence for each day after the day on which the initial offence was committed during which the person fails to comply with the relevant direction. Each such further offence attracts a maximum penalty of 100 penalty units.

Sub-section (8) provides that this section applies regardless of when the relevant application for accreditation was made.

New section 115C provides the Secretary with an immunity from personal liability in relation to the exercise or purported exercise, in good faith, of the Secretary's powers under new section 115B and provides that any such liability which would otherwise attach to the Secretary attaches instead to the State of Victoria.

Clause 47 amends section 129B of the **Transport Act 1983** so as to extend to a person affected by a decision of the Secretary in relation to a notice or direction under new section 115B the right to apply to the Victorian Civil and Administrative Tribunal for a review of the decision.

Clause 48 amends the **Transport Act 1983** so as to clarify the intended operation of the licensing and driver's certificate requirements under Part VI of that Act in respect of interstate commercial passenger vehicles in certain circumstances.

Sub-clauses (1) and (2) amend section 139 of the **Transport Act 1983** to provide that 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 in Victoria without a licence under Part VI in the circumstances specified in proposed section 139(IB).

It is also made clear that these amendments do 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**, the operators of which are subject to the accreditation scheme under that Act.

Sub-clause (3) amends section 156 of the **Transport Act 1983** to provide that it is not necessary for a driver to hold a driver's certificate under that section if he or she is driving a vehicle that is permitted under the laws of another State or Territory to operate as the equivalent of a commercial passenger vehicle and he or she is driving the vehicle in Victoria in the circumstances set out in proposed section 139(IB).

- Clause 49 inserts new sub-sections (3A) and (3B) into section 149 of the **Transport Act 1983**. This section provides for the transfer of licences for commercial passenger vehicles, which include taxi-cabs.

The new sub-sections provide that, if a dealing for or in connection with a transfer of a taxi-cab licence and related information are required under the regulations to be, as the case requires, conducted, recorded or disclosed in accordance with the rules of a securities exchange or other system specified by the Secretary or with a method or rules specified by the Secretary, the licensing authority may authorise the transfer if it is satisfied that the dealing and the related information have been so conducted, recorded or disclosed.

- Clause 50 inserts new sub-sections (2A) and (2B) into section 150 of the **Transport Act 1983**. This section provides for the assignment of the right to operate a vehicle under taxi-cab licences.

The new sub-sections provide that, if a dealing for or in connection with an assignment of the right to operate a vehicle under a taxi-cab licence and related information are required under the regulations to be, as the case requires, conducted, recorded or disclosed in accordance with the rules of a securities exchange or other system specified by the Secretary to or with a method or rules specified by the Secretary, the licensing authority may grant the application for authority to assign the right if it is satisfied that the dealing and the related information have been so conducted, recorded or disclosed.

- Clause 51 makes amendments to the regulation making powers in section 162 of the **Transport Act 1983** so as to provide more comprehensively for the regulation of trading in, and dealings related to, the transfer of taxi-cab licences and the assignment of the right to operate a vehicle under such licences.

Relevant to these amendments, section 6 of the **Transport (Rights and Responsibilities) Act 2003** will, when it commences, insert into the **Transport Act 1983** a new section 150A which will make it an offence for a person to trade in taxi-cab licences unless he, she or it is authorised to do so

under the regulations. For these purposes, "trade" is defined in relation to negotiating on behalf of a person for such a transfer or assignment.

Sub-clause (1) of this clause amends section 162(1)(ma) by repealing sub-paragraph (iii), which is now seen to be not required and sub-paragraph (v), which has been replaced with new sub-paragraphs which remove an existing limitation on the scope of the existing provision and describe in greater detail the intended effect of the provision. This sub-clause also amends sub-paragraph (iv) of section 162(1)(ma) to clarify that the information referred to in that sub-paragraph is to be provided by a person trading in taxi-cab licences.

Sub-clause (2) of this clause inserts new paragraphs into section 162(1) which empower the making of regulations for or with respect to—

- authorising a person, or class of person, to trade in taxi-cab licences (within the meaning of section 150A) in specified circumstances;
- 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 the rules of a securities exchange or other system specified by the Secretary or a method or rules specified by the Secretary;
- specifying information or classes of information relating to the dealings or classes of dealings referred to above, or necessary to enable those dealings or classes of dealings to be conducted, that must be recorded or disclosed in accordance with the rules of a securities exchange or other system specified by the Secretary or a method or rules specified by the Secretary;
- enabling the Secretary to specify a securities exchange or other system or a method or rules referred to above.

An example of a dealing which might be specified by regulations made under the above powers is the negotiation and completion of a transfer agreement. Examples of information which might be specified are the fact that a taxi-cab licence is available for transfer and the asking price for such transfer.

Clause 52 makes amendments to the provisions of the **Transport Act 1983** which empower the licensing authority to determine that all holders of accident towing licences or heavy accident tow truck towing licences must be accredited or must observe one or more codes of practice. No such determinations are currently in place. The amendments are intended to reflect a policy that requirements for accreditation and the observance of a code or codes of practice are part of a single scheme and should not be imposed separately.

Sub-clauses (1) and (2) amend section 175A of the **Transport Act 1983** to make it clear that a determination under section 175A(2) must include both requirements and make consequential amendments to that section.

Sub-clauses (3), (4) and (5) make consequential amendments to, respectively, sections 175B, 175C and 175D of the **Transport Act 1983**.

Clause 53 inserts a new Division 10 into Part VI of the **Transport Act 1983** which will provide a process for the proper planning for the impact of events on regular public transport services provided by passenger transport companies and bus companies.

New section 192 defines key terms used in the Division.

New section 193 defines the scope of the Division. It provides that the 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.

New section 194 provides that, for the purposes of the 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.

New section 195 requires the organiser of an event which falls within the scope of the Division to notify the Director of Public Transport that the event is to be held. Such a notification must be in writing and must contain a description of the event and any other details required by the Director by notice published in the Government Gazette.

The section also imposes time limits for notifying the Director.

New section 196 provides that, 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.

New section 197 explains what a public transport plan is for the purposes of the Division.

New section 198 deals with the preparation of public transport plans.

New section 199 imposes time limits for submitting a public transport plan to the Director.

New section 200 provides for the setting by the Director of a fee payable by an event organiser who submits a public transport plan to the Director. Under the section, the Director may refuse to consider a plan until the applicable fee is paid.

New section 201 provides for an alternative process if an event is organised at short notice.

The unreasonable failure of an organiser of an event to comply with a requirement imposed under this section can attract the measures provided for in new section 204.

New section 202 empowers the Director to waive or reduce any time limit referred to in new section 195 or 199 and requires the Director to exercise the power so conferred reasonably.

New section 203 provides that the Director must approve or not approve a public transport plan submitted to him or her.

It also empowers the Director to impose conditions to which his or her approval is subject, including a condition that the event organiser meet all or part of any net additional costs incurred by the Department of Infrastructure, a passenger transport company or a bus company as a result of the holding of the event.

New section 204 outlines the consequences of a failure to comply with this Division.

The consequences are that the Director may recover from the organiser of the event as a debt the whole or part of any net additional costs incurred by the Department of Infrastructure, a passenger transport company or a bus company as a result of the holding of the event or breach of conditions.

The section goes on to provide that, except as provided by the section, the organiser of an event is not otherwise liable either criminally or civilly for any failure to comply with the Division.

Finally, the section provides that 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 the Division in respect of the event.

- Clause 54 amends section 217(1) of the **Transport Act 1983** to provide that a member of the police force may weigh any motor vehicle or trailer or any motor vehicle and trailer, and any associated load, for the purposes of ascertaining whether the provisions of that Act or any other Act relating to transport are being observed. Section 217 as unamended provides this power to authorised officers of the Roads Corporation or people authorised in that behalf by that Corporation or the Secretary.
- Clause 55 makes amendments in relation to section 221(4A) of the **Transport Act 1983**. This sub-section empowers a member of the police force or an authorised officer to require a person, who is claiming or taking the benefit of an exemption or concessional deduction from the payment of a toll, fare or charge in relation to travelling on public transport or being in an area for entry to which a ticket is required, to produce evidence of the person's entitlement to the exemption or concession.
- The intention of the provision is that a failure to comply with such a requirement is an offence and the provision provides for a maximum penalty of 5 penalty units.
- The amendments made by this clause are intended to prevent an argument being put that that the provision, as currently drafted, fails to realise that intent.

PART 11—AMENDMENTS TO THE TRANSPORT (RIGHTS AND RESPONSIBILITIES) ACT 2003

- Clause 56 amends section 2(3) of the **Transport (Rights and Responsibilities) Act 2003** so as to extend the default date of commencement of section 6 of that Act, which will insert the new section 150A into the **Transport Act 1983**, from 30 December 2004 to 1 July 2005. This amendment will allow time for regulations to be made under the new regulation making powers inserted by clause 51 before section 150A comes into effect.
- Clause 57 amends section 6 of the **Transport (Rights and Responsibilities) Act 2003** so as to make a consequential change to, and omit a redundant phrase from, the proposed new section 150A to be inserted into the **Transport Act 1983**.

**PART 12—AMENDMENTS TO THE PORT SERVICES
ACT 1995**

- Clause 58 inserts a number of definitions in section 3 of the **Port Services Act 1995**.
- Clause 59 inserts into section 64(4)(c) of the **Port Services Act 1995** a deeming provision that the Port of Melbourne Corporation is an incorporated committee under the **Crown Land (Reserves) Act 1978** for land reserved under section 64. This will allow the Port, when acting as a Committee of Management of land, to exercise all the powers of an incorporated committee rather than the powers of an unincorporated committee.
- Clause 60 inserts a new section 65 and 66 into the **Port Services Act 1995**. The proposed new section 65 inserts a provision that revokes the previous reservation of Station Pier and instead deems it to be temporarily reserved under the **Crown Land (Reserves) Act 1978** for the purposes of the port and that the Port of Melbourne Corporation is deemed to be the committee of management for Station Pier under that Act.
- The proposed new section 66 inserts a provision to complement the amendment made by clause 59. The effect of the new section is to empower the Port of Melbourne Corporation to grant leases or licences in respect of any Crown land for which it is the Committee of Management for periods up to 25 years. The Port of Melbourne Corporation will have the same powers to manage reserved land as it has in relation to land in which it has a proprietary interest, except the power to sell the land. The Port of Melbourne Corporation, when exercising its powers, must not act inconsistently with the purposes for which the land is reserved.
- Clause 61 inserts a new Part 17 into the **Port Services Act 1995**.
- New section 185 inserts a definition of "old body" defined as the Committee of Management of Station Pier existing immediately before this section comes into operation.
- The clause inserts transitional provisions revoking the previous reservation of Station Pier and any regulations that applied. Under the transitional provisions any existing leases and licences entered into by the old body are valid and continue in force. The Port of Melbourne Corporation becomes the successor in law to the old body.
- Clause 62 amends the **Port Services Act 1995** as set out in the Schedule.

SCHEDULE

Schedule inserts 2 new Schedules into the **Port Services Act 1995**.

New Schedule 2 sets out details relating to the previous reservation of Station Pier.

New Schedule 3 inserts a table of parties, location and description of purported deeds and agreements that are covered by the transitional provisions.