

PARLIAMENT OF VICTORIA

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**Road Legislation (Projects and Road Safety) Act  
2006**

**Act No.**

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PARLIAMENT OF VICTORIA

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A BILL

to make further miscellaneous amendments to the **Road Safety Act 1986**, to amend the **Land Acquisition and Compensation Act 1986**, the **Chattel Securities Act 1987**, the **Planning and Environment Act 1987**, the **Children and Young Persons Act 1989**, the **Sentencing Act 1991**, the **Melbourne City Link Act 1995**, the **Alpine Resorts (Management) Act 1997**, the **Road Management Act 2004**, the **Children and Young Persons (Miscellaneous Amendments) Act 2005**, the **Children, Youth and Families Act 2005** and the **Infringements Act 2006** and for other purposes.

**Road Legislation (Projects and Road Safety) Act 2006**

**The Parliament of Victoria enacts as follows:**

*Road Legislation (Projects and Road Safety) Act 2006*  
*Act No.*

Part 1—Preliminary

s. 1

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**PART 1—PRELIMINARY**

**1. Purpose**

The main purpose of this Act is—

(a) to amend the **Road Safety Act 1986**—

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- (i) to increase the penalties for certain offences involving alcohol or other drugs or a refusal to comply with requirements under Part 5 and, for this purpose, to clarify what is taken to be a second or other subsequent offence;
  - (ii) to alter the circumstances in which a court is permitted or required to impose an alcohol interlock condition;
  - (iii) to implement an intelligent access program for heavy vehicles;
  - (iv) to introduce a graduated probationary driver licence scheme and introduce other measures in relation to young or inexperienced drivers;
  - (v) to reform the nomination process under the "owner onus" provisions of that Act;
  - (vi) to prevent the registration or transfer of registration of a motor vehicle if the Chief Commissioner of Police intends to make an application for the impoundment, immobilisation or forfeiture of that motor vehicle;
  - (vii) to make other miscellaneous amendments to that Act;

*Road Legislation (Projects and Road Safety) Act 2006*  
*Act No.*

Part 1—Preliminary

s. 1

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- (b) to amend the **Sentencing Act 1991** to increase the minimum period before certain persons subject to an alcohol interlock condition on their driver licence or permit can apply for its removal;
- 10
- (c) to amend the **Road Management Act 2004**—
- (i) in relation to the M1 Redevelopment Project; and;
- (ii) to make other miscellaneous amendments;
- 15
- (d) to amend the **Melbourne City Link Act 1995**—
- (i) in relation to the Link Upgrade Project; and
- (ii) to reform the nomination process under the "owner onus" provisions of that Act;
- 20
- (e) to amend the **Chattel Securities Act 1987** to include on the certificate provided to prospective purchasers any intended application for the impoundment, immobilisation or forfeiture of a motor vehicle;
- 25
- (f) to amend the **Land Acquisition and Compensation Act 1986** and the **Planning and Environment Act 1987** in relation to the effect of zoning decisions on compensation;
- 30
- (g) to amend the **Alpine Resorts (Management) Act 1997** to make further provision for land at Mount Hotham Alpine Resort and for the powers of VicRoads and the Mount Hotham Alpine Resort

*Road Legislation (Projects and Road Safety) Act 2006*  
*Act No.*

Part 1—Preliminary

s. 2

Management Board and to make other amendments to that Act;

- (h) to make amendments of a statute law revision or consequential nature to the **Children and Young Persons Act 1989**, the **Children and Young Persons (Miscellaneous Amendments) Act 2005**, the **Children, Youth and Families Act 2005** and the **Infringements Act 2006**.

**2. Commencement**

- (1) This Part, Part 2, Part 3 (except sections 9 and 11), section 27(1), Part 6, Part 7, Part 8, Part 9, Part 10 and Part 11 come into operation on the day after the day on which this Act receives the Royal Assent.
- (2) Subject to sub-sections (3), (4) and (5), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If section 16 or 19 does not come into operation before 1 January 2007, it comes into operation on that day.
- (4) If section 9, 11 or 18 or a provision of Part 5 does not come into operation before 1 July 2007, it comes into operation on that day.
- (5) If section 17 or 20 does not come into operation before 1 July 2008, it comes into operation on that day.

*Road Legislation (Projects and Road Safety) Act 2006*  
*Act No.*

Part 2—Alcohol and Other Drugs Amendments

s. 3

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**PART 2—ALCOHOL AND OTHER DRUGS AMENDMENTS**

**3. Interpretative provision**

In section 48(2) of the **Road Safety Act 1986**—

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(a) after "convicted" (where first occurring)  
**insert** ", or found guilty,";

(b) before "has" **insert** "(the *new offence*)";

(c) for "found guilty or been convicted"  
**substitute** "convicted, or found guilty,";

10

(d) for "the conviction for the offence against  
that paragraph or section is to be taken to be  
a conviction for a subsequent offence"  
**substitute** "(an *old offence*), the new offence  
is to be taken to be a subsequent offence for  
the purposes of this Act and, if relevant for  
those purposes, also to be a second offence if  
the person has only ever been convicted, or  
found guilty, of one old offence".

15

See:  
Act No.  
127/1986.  
Reprint No. 9  
as at  
25 August  
2005  
and  
amending  
Act Nos  
19/1991,  
110/2004,  
21/2005,  
24/2005,  
93/2005,  
95/2005,  
97/2005,  
12/2006,  
20/2006,  
32/2006 and  
48/2006.  
LawToday:  
www.dms.  
dpc.vic.  
gov.au

**4. Penalties for offences involving alcohol or other  
drugs**

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(1) For section 49(2)(b) of the **Road Safety Act 1986**  
**substitute**—

25

"(b) in the case of a second offence, to a fine of  
not more than 120 penalty units or to  
imprisonment for a term of not more than  
12 months; and

(c) in the case of any other subsequent offence,  
to a fine of not more than 180 penalty units  
or to imprisonment for a term of not more  
than 18 months."

*Road Legislation (Projects and Road Safety) Act 2006*  
*Act No.*

Part 2—Alcohol and Other Drugs Amendments

s. 4

(2) For section 49(3) of the **Road Safety Act 1986**  
**substitute—**

"(2A) A person who is guilty of an offence under  
paragraph (b), (f) or (g) of sub-section (1),  
other than an accompanying driver offence,  
is liable—

(a) in the case of a first offence, to a fine of  
not more than 12 penalty units; and

(b) in the case of a second offence—

(i) to a fine of not more than  
60 penalty units or to  
imprisonment for a term of not  
more than 6 months if the  
concentration of alcohol—

(A) in the person's blood was  
less than 0.15 grams per  
100 millilitres of blood; or

(B) in the person's breath was  
less than 0.15 grams per  
210 litres of exhaled air—

as the case requires; or

(ii) to a fine of not more than  
120 penalty units or to  
imprisonment for a term of not  
more than 12 months if the  
concentration of alcohol—

(A) in the person's blood was  
0.15 grams or more per  
100 millilitres of blood; or

(B) in the person's breath was  
0.15 grams or more per  
210 litres of exhaled air—

as the case requires; and

*Road Legislation (Projects and Road Safety) Act 2006*  
*Act No.*

Part 2—Alcohol and Other Drugs Amendments

s. 4

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- (c) in the case of any other subsequent offence—
    - (i) to a fine of not more than 120 penalty units or imprisonment for a term of not more than 12 months if the concentration of alcohol—
      - (A) in the person's blood was less than 0.15 grams per 100 millilitres of blood; or
      - (B) in the person's breath was less than 0.15 grams per 210 litres of exhaled air—as the case requires; or
    - (ii) to a fine of not more than 180 penalty units or to imprisonment for a term of not more than 18 months if the concentration of alcohol—
      - (A) in the person's blood was 0.15 grams or more per 100 millilitres of blood; or
      - (B) in the person's breath was 0.15 grams or more per 210 litres of exhaled air—as the case requires.
  - (3) A person who is guilty of an offence under paragraph (ba), (c), (ca), (d), (e) or (ea) of sub-section (1), other than an accompanying driver offence, is liable—
    - (a) in the case of a first offence, to a fine of not more than 12 penalty units; and



*Road Legislation (Projects and Road Safety) Act 2006*  
*Act No.*

**s. 4**

Part 2—Alcohol and Other Drugs Amendments

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- (b) in the case of a second offence, to a fine of not more than 120 penalty units or to imprisonment for a term of not more than 12 months; and
- 5 (c) in the case of any other subsequent offence, to a fine of not more than 180 penalty units or to imprisonment for a term of not more than 18 months."
- 10 (3) In section 49(3AAA) of the **Road Safety Act 1986**—
- (a) in paragraph (a), for "6" **substitute** "12";
- (b) in paragraph (b)—
- (i) for "subsequent" **substitute** "second";
- 15 (ii) for "12 penalty units." **substitute** "60 penalty units; and";
- (c) after paragraph (b) **insert**—
- "(c) in the case of any other subsequent offence, to a fine of not more than
- 20 120 penalty units."
- (4) In section 50 of the **Road Safety Act 1986**—
- (a) in sub-section (1DA)—
- (i) in paragraph (a), for "3" **substitute** "6";
- (ii) in paragraph (b), for "6" **substitute** "12";
- 25 (b) in sub-section (1E)—
- (i) in paragraph (a), for "3" **substitute** "6";
- (ii) in paragraph (b), for "6" **substitute** "12";
- 30 (c) in sub-section (3)(b)(i) and (ii), for "0.10 grams" **substitute** "0.07 grams";
-

(d) in the note at the foot of sub-sections (4A) and (4B), for "50AAA(3)(a)" **substitute** "50AAA(3AA)".

**5. Direction to impose alcohol interlock condition**

(1) After section 50AAA(1) of the **Road Safety Act 1986 insert—**

'(1A) If—

- (a) the offence was a first offence; and
- (b) the offence was under section 49(1)(b), (f) or (g); and
- (c) the concentration of alcohol—
  - (i) in the person's blood at the relevant time was 0.07 grams or more per 100 millilitres of blood but less than 0.15 grams per 100 millilitres of blood; or
  - (ii) in the person's breath at the relevant time was 0.07 grams or more per 210 litres of exhaled air but less than 0.15 grams per 210 litres of exhaled air—

as the case requires—

on making the order, the court may direct the Corporation that it can only grant the person a driver licence or permit that is subject to a condition that the person must only drive a motor vehicle with an approved alcohol interlock installed and maintained by an approved alcohol interlock supplier or a person or body authorised by such a supplier.

Note: For "approved alcohol interlock" and "approved alcohol interlock supplier", see section 3(1).'

*Road Legislation (Projects and Road Safety) Act 2006*  
*Act No.*

Part 2—Alcohol and Other Drugs Amendments

s. 5

(2) For section 50AAA(2) of the **Road Safety Act 1986** substitute—

"(2) If—

(a) the offence was a first offence; and

(b) either—

(i) the offence was under section 49(1)(a) (other than an offence involving only drugs) or section 49(1)(c), (d) or (e); or

(ii) in the case of an offence under section 49(1)(b), (f) or (g), the concentration of alcohol—

(A) in the person's blood at the relevant time was 0.15 grams or more per 100 millilitres of blood; or

(B) in the person's breath at the relevant time was 0.15 grams or more per 210 litres of exhaled air—

as the case requires—

on making the order, the court must direct the Corporation that it can only grant the person a driver licence or permit that is subject to a condition that the person must only drive a motor vehicle with an approved alcohol interlock installed and maintained by an approved alcohol interlock supplier or a person or body authorised by such a supplier."

(3) Section 50AAA(3)(a) of the **Road Safety Act 1986** is **repealed**.

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(4) After section 50AAA(3) of the **Road Safety Act 1986** insert—

"(3AA) If the offence was an offence referred to in sub-section (2) or (3), then, despite section 50(4A) and (4B), the person is not required to obtain, and the court is not required to have regard to, a report referred to in section 50(4B)(a)."

(5) In the **Road Safety Act 1986**—

(a) in section 50AAA(3A)—

(i) after "sub-section (3)" insert "or (3AA)";

(ii) for "sub-section (3)(a)" substitute "sub-section (3AA)";

(b) in section 50AAB(1), after "section" insert "50AAA(1A),";

(c) in section 50AAB(2), after "section" insert "50AAA(1A) or";

(d) in section 50AAB(3)—

(i) in paragraph (a), for "6 months" substitute "12 months";

(ii) in paragraph (b), for "3 years" substitute "4 years".

(6) In section 50AAC(1) of the **Road Safety Act 1986**—

(a) after "section" (where first occurring) insert "50AAA(1A),";

(b) in paragraph (a), for "50AAA(2)" substitute "50AAA(1A)";

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(c) after paragraph (a) **insert**—

"(ab) in the case of a direction under section 50AAA(2)—the period specified in the direction during which the person cannot apply for the removal of an alcohol interlock condition if that period is more than 6 months; or".

(7) In column 1 of the Table in section 50AA of the **Road Safety Act 1986**, for "Section 50AAA(2)" **substitute** "Section 50AAA(1A), (2)".

**6. Penalty for offence of not allowing doctor to take blood sample**

For the penalty at the foot of section 56(2) of the **Road Safety Act 1986 substitute**—

"Penalty: For a first offence, 12 penalty units;  
For a second offence, 120 penalty units or imprisonment for 12 months;  
For any other subsequent offence, 180 penalty units or imprisonment for 18 months.".

**7. Sentencing Act 1991—increase in minimum period before alcohol interlock condition can be removed**

(1) In section 89B(2)(b) of the **Sentencing Act 1991**, for "3 years" **substitute** "4 years".

(2) In section 89C(1)(b) of the **Sentencing Act 1991**, for "3 years" **substitute** "4 years".

**8. Statute law revision**

Sections 2(3) and 57(2) of the **Children and Young Persons (Miscellaneous Amendments) Act 2005** are **repealed**.

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**PART 3—HEAVY VEHICLE AMENDMENTS**

**9. New Part 12 inserted in Road Safety Act 1986**

After Part 11 of the **Road Safety Act 1986**  
**insert—**

**'PART 12—INTELLIGENT ACCESS PROGRAM  
FOR HEAVY VEHICLES**

**Division 1—Preliminary**

**223. What the Intelligent Access Program is**

The Intelligent Access Program is a program to allow heavy vehicles to have access, or improved access, to the road network in return for monitoring, by an intelligent transport system, of their compliance with specified access conditions.

**224. Application of Commonwealth Acts Interpretation Act 1901**

(1) The Acts Interpretation Act 1901 of the Commonwealth applies to the interpretation of this Part, except that, in relation to Victoria—

- (a) "Gazette" refers to the Victorian Government Gazette; and
- (b) "Minister" refers to the responsible Minister of Victoria.

(2) This section does not prevent the **Interpretation of Legislation Act 1984** from applying to this Part to the extent that it can do so consistently with the application of the Acts Interpretation Act 1901 of the Commonwealth.

**225. Definitions**

(1) In this Part—

**"approved intelligent transport system"**

means an intelligent transport system approved for the purposes of the IAP by TCA;

Note: "intelligent transport system" is defined in section 3;

**"business day"** means a day other than a Saturday, a Sunday or a public holiday appointed under the **Public Holidays Act 1993**;

**"compliance purposes"** has the same meaning as in Part 9;

Note: See section 110;

**"IAP"** means Intelligent Access Program;

**"IAP agreement"** means an agreement between the operator of a vehicle and an IAP service provider under which the IAP service provider agrees to provide IAP monitoring services to the operator;

**"IAP auditor"** means a person appointed as an IAP auditor under section 254(2);

**"IAP condition"** means a requirement relating to the use of an approved intelligent transport system specified in respect of an IAP vehicle, or class of IAP vehicle, under which that vehicle is, or vehicles of that class are, allowed to be used on an IAP road;

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**"IAP identifier"** means a unique number or code that is to be transmitted from a device on a vehicle to a remote receiving device for the purpose of enabling the location of the vehicle at any time to be ascertained;

10

**"IAP information"** means information that has been generated or collected for any purpose relating to the IAP;

15

**"IAP participant"** means an operator of a vehicle or vehicles that has entered into an IAP agreement, and operates at least one IAP vehicle;

20

**"IAP road"** means a road or road-related area specified in an IAP condition for use by IAP vehicles;

25

**"IAP service provider"** means a person that is certified as an IAP service provider by TCA;

30

**"IAP vehicle"** means a vehicle that is subject to an IAP condition, is equipped for monitoring under the IAP, and is covered by an IAP agreement;

**"intelligent access map"** means the spatial data set, issued by TCA from time to time, that defines the national public road system;

Note: The intelligent access map may not include some private roads;

**"Intelligent Access Program"** has the meaning given in section 223;



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**"law-enforcement purposes"** means the purposes of investigating or prosecuting an offence (whether summary or indictable and whether against the law of Victoria or of another jurisdiction);

**"malfunction"** of an approved intelligent transport system has the meaning given in sub-section (2);

10

**"mass, dimension or load restraint concession"** means an exemption granted by the Corporation (whether in the form of a permit, notice or other exemption) under which a vehicle is permitted to be used on a highway—

15

(a) at a mass, or with a dimension, that is greater than the mass or dimension limit imposed by or under this Act; or

20

(b) with the load restrained in a manner other than the manner that is required by or under this Act;

**"non-compliance"** means contravention by an IAP vehicle of an IAP condition;

25

**"non-compliance report"** means a report, generated by an approved intelligent transport system, of non-compliance;

30

**"personal information"** means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion;

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**"tampering"** with an approved intelligent transport system, means conduct prohibited by section 264;

5

**"tampering report"** means a report under section 241;

**"TCA"** means Transport Certification Australia Ltd ACN 113 379 936.

(2) An approved intelligent transport system **"malfunctions"** if—

10

(a) it ceases to work at all, or works only intermittently; or

15

(b) it does not perform one or more functions required under the IAP, or performs any such function only intermittently; or

(c) it performs such a function in such a way that the results of its doing so are inaccurate or unreliable (including intermittently inaccurate or unreliable).

20

(3) A reference in a provision of this Part to an approved form is a reference to the form approved by the Corporation for the purposes of the provision.

**226. Other means of enforcement not excluded**

25

Nothing in this Part has the effect of preventing or excluding any other method of enforcement of a road or transport law.

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**Division 2—Powers and Duties of Corporation  
in relation to IAP**

**227. What IAP conditions do**

(1) An IAP condition—

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(a) must specify at least one IAP road  
("spatial data"); and

(b) may specify—

10

(i) periods during which IAP vehicles  
are permitted to use the specified  
IAP road ("temporal data"); and

(ii) maximum speeds at which IAP  
vehicles may travel during that  
use ("speed data"); and

15

(iii) any other condition of access to  
the IAP road (for example, a  
condition about mass limits); and

20

(c) may specify a period within which an  
approved intelligent transport system  
must generate, and send to the  
Corporation, a non-compliance report  
after the system detects a non-  
compliance with the condition by an  
IAP vehicle.

25

(2) If an IAP condition does not specify speed  
data, it is taken to authorise the use of IAP  
vehicles on the IAP road at any speed at  
which a non-IAP vehicle of the same class  
could be used on the IAP road.

30

(3) An IAP condition that specifies speed data  
does not authorise an IAP vehicle to travel at  
a speed in excess of a speed limit that applies  
to vehicles generally.

5 (4) If an IAP condition does not specify temporal data, it is taken to authorise the use of IAP vehicles on the IAP road at any time at which a non-IAP vehicle of the same class could be used on the IAP road.

(5) An IAP condition may require an IAP vehicle to be monitored whether or not it uses an IAP road.

**228. Corporation may specify IAP conditions**

10 (1) The Corporation may, on its own initiative or on the application of an operator, specify one or more IAP conditions with respect to a vehicle or class of vehicles in respect of which a mass, dimension or load restraint concession applies.

15 (2) The Corporation must publish notice in the Gazette of—

(a) an IAP condition specified on the Corporation's own initiative; and

20 (b) an IAP condition specified with respect to a class of vehicles.

(3) An IAP condition may be specified at the time the mass, dimension or load restraint concession is given or subsequently.

25 **229. Issue of IAP identifiers**

The Corporation may issue an IAP identifier for an IAP vehicle.

**Division 3—Duties and Obligations of Operators of Vehicles**

30 **230. Offence—providing false or misleading information to IAP service provider**

(1) The operator of an IAP vehicle is guilty of an offence if—

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- 5
- (a) the operator gives information to an IAP service provider with which the operator has entered into an IAP agreement; and
- (b) the information is relevant to the operation of the vehicle; and
- (c) the information is false or misleading in a material respect.
- 10
- Penalty: 100 penalty units, in the case of a corporation;  
20 penalty units, in any other case.
- 15
- (2) Without limiting sub-section (1)(b), information about an IAP condition that applies, or is capable of applying, to a vehicle is relevant to the operation of the vehicle.
- (3) The operator of a vehicle is guilty of an offence if—
- 20
- (a) the operator gives information to an IAP service provider; and
- (b) the operator intends that the IAP service provider will enter into an IAP agreement with the operator in reliance on the information; and
- 25
- (c) the information is false or misleading in a material respect.
- Penalty: 100 penalty units, in the case of a corporation;  
20 penalty units, in any other case.

**231. Operators' obligation to tell drivers about collection of personal information and other matters**

- 5 (1) The operator of an IAP vehicle must take reasonable steps to tell the vehicle's driver, before the vehicle begins a journey—
- (a) that the vehicle will be monitored by an IAP service provider; and
- 10 (b) what information will be collected by the IAP service provider; and
- (c) the purposes for which that information is collected; and
- 15 (d) the persons and authorities to which information so collected may be disclosed; and
- (e) the fact that the collection of the information is authorised by this Act; and
- 20 (f) the fact that the driver has the rights of reasonable access to, and of correction of, the information; and
- (g) what he or she needs to do to exercise those rights; and
- 25 (h) the name and address of any IAP service provider that may collect the information.

Penalty: 100 penalty units, in the case of a corporation;  
20 penalty units, in any other case.

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(2) The operator of an IAP vehicle must take reasonable steps to tell the vehicle's driver, before the vehicle begins a journey—

(a) about the driver's obligation under section 233; and

(b) how the driver can make the reports required by that obligation.

Penalty: 100 penalty units, in the case of a corporation;

20 penalty units, in any other case.

(3) An operator may comply with sub-sections (1) and (2) by—

(a) placing a notice that gives the required information in a place in the vehicle's driving cab where it is clearly visible; or

(b) giving the required information to the driver in writing as part of a written contract of employment between the driver and the operator.

(4) The regulations may prescribe—

(a) a form of notice that may be used for the purposes of sub-section (3)(a); and

(b) for sub-section (3)(b), a standard form of words that may be used as part of a written contract of employment.

**232. System malfunctions—duties of operators of IAP vehicles**

(1) If the operator of an IAP vehicle becomes aware that an approved intelligent transport system fitted to the vehicle is malfunctioning, the operator must tell the Corporation about the malfunction

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immediately, in person or by radio,  
telephone, fax or email.

Penalty: 60 penalty units, in the case of a  
corporation;

5 12 penalty units, in any other case.

(2) The operator must keep a written record of  
each report of a malfunction, including—

10 (a) the date, time and type of the  
malfunction, the date and time the  
operator became aware of the  
malfunction and the location of the  
vehicle concerned at the time of the  
malfunction; and

15 (b) the date and time of the report, the  
location of the vehicle at that time, the  
type of report and the name of the  
individual who made the report.

Penalty: 60 penalty units, in the case of a  
corporation;

20 12 penalty units, in any other case.

**Division 4—Duties of Vehicle Drivers**

**233. System malfunctions—drivers' duties**

25 (1) If the driver of an IAP vehicle becomes  
aware that an approved intelligent transport  
system fitted to the vehicle is  
malfunctioning, the driver must tell the  
vehicle's operator about the malfunction  
immediately, in person or by radio,  
telephone, fax or email.

30 Penalty: 12 penalty units.



- 5
- (2) The driver must keep a written record of each report of a malfunction, including—
- (a) the date, time and type of the malfunction, the date and time the driver became aware of the malfunction and the location of the vehicle concerned at the time of the malfunction; and
- 10 (b) the date and time of the report, the location of the vehicle at that time and the type of report.

Penalty: 12 penalty units.

**Division 5—Duties, Powers and Obligations of IAP Service Providers**

15 **234. IAP service providers' duties in regard to use and disclosure of information**

An IAP service provider must not use or disclose IAP information otherwise than as required or authorised by or under this Act or any other law.

20 Penalty: 200 penalty units, in the case of a corporation;

40 penalty units, in any other case.

25 **235. IAP service providers' powers to collect, store, use and disclose IAP information**

- 30 (1) An IAP service provider may collect, store and use IAP information (including personal information) for compliance purposes.
- (2) An IAP service provider may disclose IAP information (including personal information) to the Corporation, or to TCA, for compliance purposes.

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- (3) An IAP service provider may disclose to an inspector for law-enforcement purposes—
- (a) a non-compliance report or a tampering report; or
  - (b) any other IAP information (including personal information), if so authorised by a warrant issued by a court.

Note: An IAP service provider has a separate obligation to make non-compliance reports and tampering reports to the Corporation—see sections 240 and 241.

- (4) If an IAP service provider discloses IAP information to an inspector under subsection (3)(b), the inspector must not disclose the information to any other person or use the information, unless—
- (a) the inspector believes the disclosure or use is reasonably necessary for law-enforcement purposes; or
  - (b) the disclosure or use is otherwise authorised by or under this Act or any other law.
- (5) With the consent of an IAP participant, an IAP service provider may disclose IAP information about the participant to a person other than the participant, or use IAP information about the participant, for any purpose if the information—
- (a) does not identify any individual; and
  - (b) contains nothing by which the identity of any individual can reasonably be ascertained.

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(6) An IAP service provider may disclose IAP information (except a non-compliance report or a tampering report) about an IAP participant to the participant.

(7) In addition, an IAP service provider may disclose or use IAP information (including personal information)—

(a) in the case of personal information, with the consent of the person to whom the personal information relates; or

(b) as otherwise authorised by or under this Act or any other law.

(8) An IAP service provider must give an IAP auditor access to any record kept by the IAP service provider for the purposes of this Act.

Penalty: 200 penalty units, in the case of a corporation;

40 penalty units, in any other case.

**236. IAP service providers' duties in regard to recording, disclosure and use of information**

(1) If an IAP service provider discloses or uses IAP information, the IAP service provider must make a record of the disclosure or use containing the following information—

(a) the name of the person who disclosed or used the IAP information;

(b) the date of the disclosure or use;

(c) in the case of a disclosure of IAP information, the person or body to whom or to which that information was disclosed;

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- (d) in the case of the use of IAP information by the IAP service provider, a brief description of how the information was used;
- (e) the provision of this Act or another law that authorised the disclosure or use;
- 10 (f) if the authority for the disclosure or use also required a document (for example, a warrant, a certificate or a consent), a copy of the document.
- (2) The IAP service provider must make the record within 5 business days after the relevant disclosure or use.
- 15 (3) The IAP service provider must make the record in a form that allows the record to be readily inspected.
- (4) The IAP service provider must retain the record for 2 years.
- 20 (5) An IAP service provider is guilty of an offence if the IAP service provider does not comply with a requirement of any of subsections (1) to (4).
- Penalty: 200 penalty units, in the case of a corporation;
- 25 40 penalty units, in any other case.

**237. IAP service providers' obligations in regard to quality and security of IAP information**

- 30 (1) An IAP service provider must take reasonable steps to ensure that the IAP information the IAP service provider collects—

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- (a) is necessary for, or is directly related to, the purpose for which it is collected, or a directly related purpose; and
- (b) is not excessive for that purpose; and
- (c) is accurate, up-to-date and complete.
- 10
- (2) An IAP service provider must take reasonable steps to ensure that the collection of IAP information does not intrude to an unreasonable extent on the personal privacy of any individual to whom the information relates.
- 15
- (3) If an individual (including an individual who is an IAP participant) about whom an IAP service provider holds personal information so requests, the IAP service provider must make appropriate alterations to the personal information to ensure that the information is accurate, complete, up-to-date and not misleading.
- 20
- (4) If the IAP service provider considers that the personal information the subject of such a request is not inaccurate, incomplete, out-of-date or misleading, the IAP service provider may refuse to comply with the request, but must then—
- 25
- (a) give the individual a statement in writing of the IAP service provider's reasons for refusing; and
- 30
- (b) if the individual so requests, attach to, or include with, the information a statement by the individual concerning his or her views as to the accuracy, completeness, currency or effect of the personal information.

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(5) An IAP service provider is guilty of an offence if the IAP service provider does not comply with a requirement of any of sub-sections (1) to (4).

Penalty: 200 penalty units, in the case of a corporation;

40 penalty units, in any other case.

**238. IAP service providers' obligations to keep records of monitoring**

(1) An IAP service provider must keep a record of the IAP information that the IAP service provider collects that is organised in a way that allows the record to be conveniently and properly audited.

(2) An IAP service provider must keep—

(a) a copy of a non-compliance report; and

(b) the data relied on to generate the report—

for at least 4 years after the report is made by the IAP service provider.

(3) An IAP service provider must take reasonable steps to protect IAP information collected by the IAP service provider against unauthorised access, unauthorised use, misuse, loss, modification or unauthorised disclosure.

(4) An IAP service provider must take reasonable steps to destroy IAP information (including personal information), other than information required by sub-section (2) to be kept, one year after the information is collected.

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- (5) An IAP service provider is guilty of an offence if the IAP service provider does not comply with a requirement of any of sub-sections (1) to (4).

Penalty: 100 penalty units, in the case of a corporation;

20 penalty units, in any other case.

**239. IAP service providers' obligation to make individuals aware of personal information held**

- (1) An IAP service provider must prepare, and make publicly available, a document that sets out the IAP service provider's policies on the management of information.

- (2) If an individual about whom an IAP service provider holds personal information so requests, the IAP service provider must, subject to sub-section (4), take reasonable steps to inform the individual of—

(a) the kinds of information the IAP service provider holds about him or her; and

(b) the purpose for which the information is held; and

(c) the fact that the holding of the information is authorised by this Act; and

(d) the way in which the IAP service provider collects, holds, uses and discloses the information; and

(e) the persons and authorities to whom or to which the information may be disclosed; and

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- (f) the fact that he or she has the rights of reasonable access to, and of correction of, the information; and
- (g) what he or she needs to do to exercise those rights.
- 10
- (3) Subject to sub-section (4), an IAP service provider must, on request by an individual about whom the IAP service provider holds personal information, give the individual access to the information as soon as practicable after receiving the request.
- (4) Nothing in sub-section (2) or (3) requires an IAP service provider—
- 15
- (a) to inform an individual that a non-compliance report or a tampering report exists or has been made; or
- (b) to give an individual access to such a report.
- 20
- (5) An IAP service provider must not charge an individual for access to information under sub-section (3) except for any costs reasonably incurred by the IAP service provider in giving access to the information.
- 25
- (6) An IAP service provider is guilty of an offence if the IAP service provider does not comply with a requirement of any of sub-sections (1), (2) or (3).
- Penalty: 100 penalty units, in the case of a corporation;
- 30 20 penalty units, in any other case.



**240. IAP service providers' obligation to make non-compliance reports**

(1) An IAP service provider is guilty of an offence if the IAP service provider—

(a) knows of—

(i) a breach by an IAP participant of an IAP condition; or

(ii) anything that indicates that an IAP participant may have breached such a condition; and

(b) does not make a non-compliance report that complies with sub-section (2) to the Corporation within the time allowed, in the circumstances, under sub-section (3).

Penalty: 200 penalty units, in the case of a corporation;  
40 penalty units, in any other case.

(2) A non-compliance report—

(a) must be in the form approved for the purpose by TCA; and

(b) must contain any information required by the IAP service provider's certification; and

(c) may include information, about apparent tampering with an approved intelligent transport system, electronically generated by the system itself.

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(3) The IAP service provider must make the report—

(a) within any time specified in the relevant IAP condition; or

(b) within any time specified by the Corporation (by written direction) for the purpose.

(4) For the purposes of this section, an IAP service provider is taken to know of a breach of an IAP condition if the IAP service provider's monitoring equipment has detected the breach.

**241. IAP service providers' obligation to report tampering**

(1) If an IAP service provider knows, or has reasonable grounds to suspect, that intelligent transport system equipment has been tampered with, the IAP service provider must report that fact, in accordance with sub-section (2), to the Corporation within 5 business days.

(2) A tampering report—

(a) must be in the form approved for the purpose by TCA; and

(b) must contain any information required by the IAP service provider's certification.

(3) If an IAP service provider knows, or has reasonable grounds to suspect, that approved intelligent transport system equipment has been tampered with, the IAP service provider must not disclose to any person other than the Corporation—

(a) that the IAP service provider has that knowledge or suspicion; or

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- 5 (b) any information from which the person to whom the disclosure is made could reasonably infer that the IAP service provider has that knowledge or suspicion.
- 10 (4) If an IAP service provider has made a tampering report to the Corporation, the IAP service provider must not disclose to any person other than the Corporation—
- (a) that the report has been made; or
- (b) any information from which the person to whom the disclosure is made could reasonably infer that the IAP service provider has made such a report.
- 15 (5) An IAP service provider is guilty of an offence if the IAP service provider does not comply with a requirement of any of sub-sections (1) to (4).
- 20 Penalty: 200 penalty units, in the case of a corporation;  
40 penalty units, in any other case.
- (6) In this section, a reference to knowledge or suspicion does not include knowledge or suspicion resulting only from—
- 25 (a) a report, contained in a non-compliance report or otherwise made by an approved intelligent transport system, of the electronic detection of apparent tampering with that system; or
- 30 (b) the analysis of data produced by such a system.

**242. Offence—IAP service provider providing false or misleading information to Corporation or TCA**

An IAP service provider is guilty of an offence if—

- (a) the IAP service provider gives information to the Corporation or TCA; and
- (b) the information is relevant to the operation of an IAP vehicle; and
- (c) the information is false or misleading in a material respect.

Penalty: 200 penalty units, in the case of a corporation;  
40 penalty units, in any other case.

**Division 6—Functions, Duties, Powers and Obligations of TCA**

**243. Functions of TCA**

For the purposes of this Act, the functions of TCA are—

- (a) to manage the certification and audit regime for the IAP; and
- (b) to certify and audit, and cancel the certification of, IAP service providers; and
- (c) to appoint and co-ordinate IAP auditors.

**244. TCA's duties in regard to disclosure and use of information**

- 5
- (1) TCA must not disclose or use IAP information unless it first takes reasonable steps to ensure that, having regard to the purpose for which the information is to be disclosed or used, the information is accurate, complete, up-to-date and not misleading.
- 10
- (2) Subject to sections 245, 246 and 247, TCA must not disclose or use information for a purpose other than the purpose for which it collected the information.
- 15
- (3) TCA must not use information relating to a particular IAP participant, or disclose that information other than to—
- (a) the participant; or
  - (b) an IAP auditor; or
  - (c) the Corporation—
- 20
- unless the use or disclosure is authorised by or under this Act or any other law.
- (4) TCA must not disclose information relating to a breach of an IAP service provider's obligations except to—
- 25
- (a) the Corporation; or
  - (b) an IAP auditor.
- (5) If TCA discloses or uses IAP information (other than disclosure or use for law enforcement purposes), TCA must make a record of the disclosure or use containing the following information—
- 30
- (a) the name of the person who disclosed or used the IAP information;

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- 5
- (b) the date of the disclosure or use;
- (c) in the case of a disclosure of IAP information, the person or body to whom or to which the information was disclosed;
- 10
- (d) in the case of the use of IAP information by TCA, a brief description of how the information was used;
- (e) the provision of this Act or another law that authorised the disclosure or use;
- (f) if the authority for the disclosure or use also required a document (for example, a warrant, a certificate or a consent), a copy of the document.
- 15
- (6) TCA must make the record within 5 business days after the relevant disclosure or use.
- (7) TCA must make the record in a form that allows the record to be readily inspected.
- (8) TCA must retain the record for 2 years.
- 20
- 245. TCA's powers to collect, store, use and disclose IAP information**
- (1) TCA may collect, store, use and disclose IAP information (including personal information) for the performance of its
- 25
- functions and for law-enforcement purposes.
- (2) With the consent of an IAP participant, TCA may disclose or use IAP information about the participant for any purpose if the information—
- 30
- (a) does not identify any individual; and
- (b) contains nothing by which the identity of any individual can reasonably be ascertained.

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- 5
- (3) TCA may disclose or use IAP information (including personal information)—
- (a) in the case of personal information, with the consent of the person to whom the personal information relates; or
  - (b) as otherwise authorised by or under this Act or any other law.

**246. Disclosure of information for law-enforcement purposes etc.**

- 10
- (1) TCA may disclose to an inspector for law-enforcement purposes—
- (a) a non-compliance report or a tampering report; or
  - (b) any other IAP information (including personal information), if so authorised by a warrant issued by a court.
- 15
- (2) If TCA discloses information to an inspector under sub-section (1)(b), the inspector must not disclose the information to any other person or use the information, unless—
- (a) the inspector believes the disclosure or use is reasonably necessary for law-enforcement purposes; or
  - (b) the disclosure or use is otherwise authorised by or under this Act or any other law.
- 20
- 25

**247. Use of information for research**

30

TCA may use or disclose information for research purposes, but only if the information contains no personal information.

**248. TCA's obligations in regard to collecting IAP information**

- (1) TCA must take reasonable steps to ensure that IAP information that it collects—
- 5           (a) is necessary for, or is directly related to, the purpose for which it is collected, or a directly related purpose; and
- (b) is not excessive for that purpose; and
- (c) is accurate, up-to-date and complete.
- 10       (2) TCA must take reasonable steps to ensure that the collection of IAP information does not intrude to an unreasonable extent on the personal privacy of any individual to whom the information relates.

**249. TCA's obligation to keep information secure**

- (1) TCA must take reasonable steps to protect IAP information collected by it against unauthorised access, unauthorised use,
- 20           misuse, loss, modification or unauthorised disclosure.
- (2) Subject to sections 244 and 251, after IAP information (including personal information) collected by TCA has been held
- 25           for one year, TCA must take reasonable steps to—
- (a) destroy the information; or
- (b) permanently remove anything from the information by which an individual can
- 30           be identified.
- (3) Sub-section (2) does not apply for so long as the IAP information is required as evidence.



**250. TCA's obligation to make individuals aware of personal information held**

5

(1) TCA must prepare, and make publicly available, a document that sets out its policies on the management of information.

10

(2) If an individual so requests, TCA must, subject to sub-section (4), take reasonable steps to inform the individual of—

(a) the kinds of information it holds about him or her; and

(b) the purpose for which the information is held; and

(c) the way in which it collects, holds, uses and discloses the information; and

15

(d) the persons and authorities to whom or to which the information may be disclosed; and

20

(e) the fact that the collection of the information is authorised by this Act; and

(f) the fact that he or she has the rights of reasonable access to, and of correction of, the information; and

25

(g) what he or she needs to do to exercise those rights.

30

(3) Subject to sub-section (4), TCA must, on request by an individual about whom TCA holds personal information, give the individual access to the information as soon as practicable after receiving the request.

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- 5 (4) Nothing in sub-section (2) or (3) requires  
TCA—
- (a) to inform an individual that a non-compliance report or a tampering report exists or has been made; or
- (b) to give an individual access to such a report.
- 10 (5) TCA must not charge an individual for access to information under sub-section (3) except for any costs reasonably incurred by TCA in giving access to the information.

**251. TCA's obligation to keep records of transactions**

- 15 (1) TCA must keep and retain records, in accordance with this section, of its transactions with the Corporation, IAP service providers and IAP auditors.
- (2) The records must be organised in such a way as will enable them to be conveniently and properly audited.
- 20 (3) TCA must keep a non-compliance report for at least 4 years after its receipt.
- (4) TCA must retain any other record referred to in sub-section (1) for at least one year after the record is made.
- 25

**252. TCA's obligation to correct errors etc.**

- 30 (1) TCA must take reasonable steps to ensure that personal information that it collects is accurate, complete, up-to-date and not misleading.
- (2) If so requested by an IAP participant or an IAP service provider, TCA must make appropriate alterations to any personal information it holds to ensure that the

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information is accurate, complete, up-to-date and not misleading.

5 (3) If TCA considers that personal information the subject of a request under sub-section (2) is not inaccurate, incomplete, out-of-date or misleading, it may refuse to comply with the request, but must then—

10 (a) give the IAP participant or IAP service provider a written statement of its reasons for refusing; and

15 (b) if the IAP participant or IAP service provider so requests, attach to, or include with, the information a statement by the participant or provider concerning their views as to the accuracy, completeness, currency or effect of the personal information.

**253. TCA's obligation to report tampering**

20 (1) If TCA knows, or has reasonable grounds to suspect, that intelligent transport system equipment has been tampered with, TCA must report that fact to the Corporation within 5 business days.

25 (2) If TCA knows, or has reasonable grounds to suspect, that approved intelligent transport system equipment has been tampered with, TCA must not disclose to any person other than the Corporation—

30 (a) that TCA has that knowledge or suspicion; or

(b) any information from which the person to whom the disclosure is made could reasonably infer that TCA has that knowledge or suspicion.

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(3) If TCA has made a report to the Corporation of apparent tampering or suspicion of tampering, TCA must not disclose to any person other than the Corporation—

- (a) that the report has been made; or
- (b) any information from which the person to whom the disclosure is made could reasonably infer that TCA has made such a report.

(4) In this section, a reference to knowledge or suspicion does not include knowledge or suspicion resulting only from—

- (a) electronic detection, by an approved intelligent transport system, of apparent tampering with that system; or
- (b) the analysis of data produced by such a system.

**Division 7—Duties, Powers and Obligations of IAP Auditors**

**254. IAP audit and IAP auditors**

(1) IAP audit is the process of—

- (a) reviewing IAP information held by an IAP service provider to determine its completeness and reliability; and
- (b) reviewing the processes by which that information was collected; and
- (c) examining how it is stored, used and disclosed; and
- (d) examining IAP equipment installed in a vehicle or used by an IAP service provider.

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- (2) TCA may appoint as many persons as are necessary as IAP auditors for the purposes of this Part.

**255. IAP auditors' duties in regard to disclosure and use of information**

- (1) An IAP auditor must not disclose or use IAP information unless the auditor first takes reasonable steps to ensure that, having regard to the purpose for which the information is to be disclosed or used, the information is accurate, complete, up-to-date and not misleading.

- (2) An IAP auditor must not disclose or use information for a purpose other than the purpose for which the auditor collected the information.

- (3) An IAP auditor must not use information relating to a particular IAP participant, or disclose that information other than to—

- (a) the participant; or
- (b) TCA; or
- (c) the Corporation—

unless the use or disclosure is authorised by or under this Act or any other law.

- (4) An IAP auditor must not disclose information relating to non-compliance or tampering except to—

- (a) the Corporation; or
- (b) TCA.

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- (5) If an IAP auditor discloses or uses IAP information (other than disclosure or use for law-enforcement purposes), the IAP auditor must make a record of the disclosure or use containing the following information—
- 10
- (a) the name of the person who disclosed or used the IAP information;
- (b) the date of the disclosure or use;
- (c) in the case of a disclosure of IAP information, the person or body to whom or to which the information was disclosed;
- 15
- (d) in the case of the use of IAP information by the IAP auditor, a brief description of how the information was used;
- (e) the provision of this Act or another law that authorised the disclosure or use;
- 20
- (f) if the authority for the disclosure or use also required a document (for example, a warrant, a certificate or a consent), a copy of the document.
- 25
- (6) The IAP auditor must make the record within 5 business days after the relevant disclosure or use.
- (7) The IAP auditor must make the record in a form that allows the record to be readily inspected.
- 30
- (8) The IAP auditor must retain the record for 2 years.

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(9) An IAP auditor is guilty of an offence if the IAP auditor does not comply with a requirement of any of sub-sections (1) to (8).

Penalty: 200 penalty units, in the case of a corporation;

40 penalty units, in any other case.

**256. IAP auditors' powers to collect, store, use and disclose IAP information**

(1) An IAP auditor may collect, store, use and disclose IAP information (including personal information) for—

(a) the performance of the IAP auditor's functions; or

(b) to report, to TCA, non-compliance or tampering by an IAP participant; or

(c) to report, to TCA, tampering by an IAP service provider, or a failure by an IAP service provider to comply with the provider's obligations.

(2) An IAP auditor may use or disclose IAP information (including personal information)—

(a) in the case of personal information, with the consent of the person to whom the personal information relates; or

(b) as otherwise authorised by or under this Act or any other law.

**257. IAP auditors' obligations in regard to collecting IAP information**

(1) An IAP auditor may collect IAP information that is reasonably necessary to enable the auditor to prepare an audit report on an IAP service provider.

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(2) An IAP auditor must take reasonable steps to ensure that IAP information that the IAP auditor collects—

5

(a) is necessary for, or is directly related to, the purpose for which it is collected, or a directly related purpose; and

(b) is not excessive for that purpose; and

(c) is accurate, up-to-date and complete.

10

(3) An IAP auditor must take reasonable steps to ensure that the collection of IAP information does not intrude to an unreasonable extent on the personal privacy of any individual to whom the information relates.

15

(4) An IAP auditor is guilty of an offence if the IAP auditor does not comply with a requirement of any of sub-sections (1), (2) or (3).

Penalty: 200 penalty units, in the case of a corporation;

20

40 penalty units, in any other case.

**258. IAP auditors' obligation to keep information secure**

25

(1) An IAP auditor must take reasonable steps to protect IAP information collected by the IAP auditor against unauthorised access, unauthorised use, misuse, loss, modification or unauthorised disclosure.

30

(2) An IAP auditor must take reasonable steps to destroy personal information no longer needed for IAP purposes, or remove permanently from such information anything by which an individual can be identified.



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(3) An IAP auditor is guilty of an offence if the IAP auditor does not comply with a requirement of sub-section (1) or (2).

Penalty: 200 penalty units, in the case of a corporation;

40 penalty units, in any other case.

**259. IAP auditors' obligation to make individuals aware of personal information held**

(1) If an individual so requests, an IAP auditor must take reasonable steps to inform the individual of—

(a) the kinds of information the IAP auditor holds about him or her; and

(b) the purpose for which the information is held; and

(c) the way in which the IAP auditor collects, holds, uses and discloses the information; and

(d) the persons and authorities to whom or to which the information may be disclosed; and

(e) the fact that that the collection of the information is authorised by this Act; and

(f) the fact that he or she has the rights of reasonable access to, and of correction of, the information; and

(g) what he or she needs to do to exercise those rights.

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5 (2) An IAP auditor must, on request by an individual about whom the IAP auditor holds personal information, give the individual access to the information as soon as practicable after receiving the request.

10 (3) An IAP auditor must not charge an individual for access to information under sub-section (2) except for any costs reasonably incurred by the auditor in giving access to the information.

(4) An IAP auditor is guilty of an offence if the IAP auditor does not comply with a requirement of sub-section (1) or (2).

15 Penalty: 200 penalty units, in the case of a corporation;

40 penalty units, in any other case.

**260. IAP auditors' obligation to keep records of transactions**

20 (1) An IAP auditor must keep and retain records, in accordance with this section, of the IAP auditor's transactions with IAP service providers and TCA.

Penalty: 200 penalty units, in the case of a corporation;

25 40 penalty units, in any other case.

(2) The records must be organised in such a way as will enable them to be conveniently and properly audited.

**261. IAP auditors' obligation to correct errors etc.**

5

(1) An IAP auditor must take reasonable steps to ensure that information that the IAP auditor collects is accurate, complete, up-to-date and not misleading.

10

(2) If so requested by an IAP participant or an IAP service provider, an IAP auditor must make appropriate alterations to any information the IAP auditor holds to ensure that the information is accurate, complete, up-to-date and not misleading.

15

(3) If the IAP auditor considers that the information the subject of such a request is not inaccurate, incomplete, out-of-date or misleading, the IAP auditor may refuse to comply with the request, but must then—

20

(a) give the IAP participant or IAP service provider a statement in writing of the IAP auditor's reasons for refusing; and

25

(b) if the IAP participant or IAP service provider so requests, attach to, or include with, the information a statement by the participant or provider concerning their views as to the accuracy, completeness, currency or effect of the personal information.

30

(4) An IAP auditor is guilty of an offence if the IAP auditor does not comply with a requirement of any of sub-sections (1), (2) or (3).

Penalty: 200 penalty units, in the case of a corporation;  
40 penalty units, in any other case.

**262. IAP auditors' obligation to report breaches by IAP service providers**

5 If an IAP auditor knows of a breach by an IAP service provider of the provider's obligations under this Act, or of anything that indicates that an IAP service provider may have breached such an obligation, the IAP auditor must, as soon as practicable, report that fact to TCA.

10 Penalty: 200 penalty units, in the case of a corporation;  
40 penalty units, in any other case.

**263. IAP auditors' obligation to report tampering**

15 If an IAP auditor knows, or has reasonable grounds to suspect, that intelligent transport system equipment has been tampered with, the IAP auditor must, as soon as practicable, report that fact to—

- 20 (a) in the case of tampering or suspected tampering by an IAP participant—the Corporation; or
- (b) in the case of tampering or suspected tampering by an IAP service  
25 provider—TCA.

Penalty: 200 penalty units, in the case of a corporation;  
40 penalty units, in any other case.

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**Division 8—Tampering with Approved  
Intelligent Transport System**

**264. Offence—tampering with approved  
intelligent transport system**

5

(1) A person is guilty of an offence if—

(a) the person engages in conduct that has  
the result that—

10

(i) the system is altered; or

(ii) the system is installed or used in a  
way that is not in accordance with  
the conditions of its certification  
by TCA; or

15

(iii) any data instruction that the  
system uses internally is altered;  
and

(b) the person does so with the intention of  
causing the system to—

20

(i) fail to collect IAP information, or  
fail to collect that information  
correctly; or

(ii) fail to store IAP information, or  
fail to store that information  
correctly; or

25

(iii) fail to report IAP information, or  
fail to report that information  
correctly.

Penalty: 1000 penalty units, in the case of a  
corporation;

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200 penalty units, in any other  
case.

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(2) A person is guilty of an offence if the person—

- (a) engages in conduct; and
- (b) is reckless as to whether, or negligently fails to consider whether, as a result of the conduct, the system may—
  - (i) fail to collect IAP information, or fail to collect that information correctly; or
  - (ii) fail to store IAP information, or fail to store that information correctly; or
  - (iii) fail to report IAP information, or fail to report that information correctly.

Penalty: 500 penalty units, in the case of a corporation;  
100 penalty units, in any other case.

(3) For the purposes of this section—

- (a) a system **"fails"** if it does not perform as intended in terms of accuracy, timeliness, reliability, verifiability or any other performance parameter; and
- (b) **"fail"** includes fail permanently, fail temporarily, fail on a particular occasion or occasions, and fail in particular circumstances.

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**Division 9—Evidence**

**265. Definition and application**

(1) In this Division—

"at a specified time" includes on a specified date and during a specified period.

(2) This Division is intended to supplement, rather than to limit, section 84.

**266. Certificates by the Corporation**

A certificate purporting to be issued by the Corporation stating any of the following—

- (a) that a specified IAP condition was in effect for a specified IAP participant at a specified time;
- (b) that a specified person is, or was at a specified time, an IAP participant;
- (c) that a specified IAP condition applied to a specified IAP vehicle at a specified time;
- (d) that a specified vehicle is, or was at a specified time, an IAP vehicle;
- (e) that a specified IAP participant is, or was at a specified time, the operator of a specified IAP vehicle;
- (f) that a specified non-compliance report, tampering report or IAP auditor's report was received at a specified time, or has not been received;
- (g) that no report of a malfunction has been received, or had been received at a specified time, by the Corporation in relation to an approved intelligent transport system fitted to a specified IAP vehicle;

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(h) that a report of a specified malfunction was received at a specified time, or has not been received;

5

(i) that a specified form is an approved form for a specified purpose—

is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof of the matters stated in it.

**267. Certificate as to intelligent access map**

10

(1) TCA may certify in writing that a particular map is the intelligent access map as issued by TCA at a specified time.

(2) The map may be in the form of an electronic data file.

15

(3) A certificate under sub-section (1) is admissible in evidence in any proceedings and is conclusive evidence of the matters stated in it.

20

(4) The intelligent access map, as issued by TCA at a particular time, is presumed (unless evidence sufficient to raise doubt about the presumption is adduced) to be a correct representation of the national road network at the time of its issue.

25

(5) A document purporting to be a certificate under sub-section (1) is presumed (unless evidence sufficient to raise doubt about the presumption is adduced) to be what it purports to be.

30

(6) The person who signed such a document is presumed (unless evidence sufficient to raise doubt about the presumption is adduced) to have been authorised by TCA to do so.



**268. Other certificates by TCA**

A certificate purporting to be issued by TCA stating any of the following—

- (a) that a particular intelligent transport system is, or was at a specified time, an approved intelligent transport system;
- (b) that on a specified date a specified person was or was not an IAP service provider or an IAP auditor—

is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof of the matters stated in it.

**269. Presumption of correct operation**

The equipment and software that make up an approved intelligent transport system are presumed (unless evidence sufficient to raise doubt about the presumption is adduced) to have operated correctly on any particular occasion.

**270. Evidence as to vehicle's position**

A statement of a vehicle's position on the surface of the earth at a particular time, in a non-compliance report or otherwise generated or produced by means of an approved intelligent transport system, is presumed (unless evidence sufficient to raise doubt about the presumption is adduced) to be a correct statement of the vehicle's position at the time.

**271. IAP information generated etc. by approved intelligent transport system**

- 5 (1) IAP information generated by an approved intelligent transport system is presumed (unless evidence sufficient to raise doubt about the presumption is adduced) to have been correctly generated.
- 10 (2) IAP information recorded by an approved intelligent transport system is presumed (unless evidence sufficient to raise doubt about the presumption is adduced) to have been correctly recorded.
- 15 (3) IAP information stored by an approved intelligent transport system is presumed (unless evidence sufficient to raise doubt about the presumption is adduced) not to be changed by that storage.
- 20 (4) If it is established that some of such IAP information has been changed by being so stored, the presumption in sub-section (3) continues to apply to any other IAP information so stored.

**272. Reports by approved intelligent transport system**

- 25 (1) A document purporting to be a non-compliance report, or a report under section 241, made by an approved intelligent transport system—
- 30 (a) is admissible in evidence in any proceedings; and
- (b) in the absence of evidence to the contrary, is proof of the matters stated in it; and

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(c) is presumed (unless evidence sufficient to raise doubt about the presumption is adduced) to be a correct report of information generated and recorded by the system.

10

(2) A document purporting to be a report made by an approved intelligent transport system setting out IAP information—

(a) is admissible in evidence in any proceedings; and

(b) in the absence of evidence to the contrary, is proof of the matters stated in it; and

15

(c) is presumed (unless evidence sufficient to raise doubt about the presumption is adduced) to be a correct report of information generated and recorded by the system.

20

(3) If it is established that a part of a document referred to in sub-section (1) or (2) is not a correct report of the relevant part of the IAP information as so recorded, the presumption in sub-section (1)(c) or (2)(c) continues to apply to the remainder of the report.

25

**273. Results of mathematical procedures**

(1) A certificate purporting to be issued by the Corporation—

30

(a) stating that a specified mathematical (including statistical) procedure was carried out in relation to IAP information specified or referred to in the certificate; and

(b) setting out the results of doing so—  
is admissible in evidence in any proceedings  
and, in the absence of evidence to the  
contrary, is proof of the matters stated in it.

5 (2) The specified procedure is presumed (unless  
evidence sufficient to raise doubt about the  
presumption is adduced)—

(a) to be valid and reliable for the purpose  
for which it was used; and

10 (b) to have been carried out correctly.!

#### **10. Tampering with speed limiting devices**

For section 70(1C) of the **Road Safety Act 1986**  
**substitute—**

15 "(1C) On convicting a person, or finding a person  
guilty, of an offence against sub-section (1A)  
the court may, if the person holds a driver  
licence or permit, cancel that licence or  
permit and, whether or not the person holds a  
20 driver licence or permit, disqualify the  
person from obtaining one for a period the  
court thinks fit, not exceeding 4 years."

#### **11. Consequential amendment—confidentiality**

After section 92(3) of the **Road Safety Act 1986**  
**insert—**

25 "(3A) Sub-section (3)(d) does not apply to any IAP  
information obtained by the Corporation or a  
relevant person—

(a) from an IAP service provider under  
section 235; or

30 (b) from TCA under section 246.

Note: Sections 235 and 246 contain provisions  
regarding the disclosure and use of  
IAP information."

**12. Direction to provide certain information**

After section 136(1)(a) of the **Road Safety Act 1986 insert—**

"(ab) to provide information about the current or intended trip of the vehicle, including—

(i) the location of the start or intended start of the trip; and

(ii) the route or intended route of the trip; and

(iii) the location of the destination or intended destination of the trip;"

**13. New Division 8 inserted in Part 9**

After Division 7 of Part 9 of the **Road Safety Act 1986 insert—**

**'Division 8—Interstate Provisions**

**149AA. Reciprocal powers of officers**

(1) This section has effect in relation to another jurisdiction while the corresponding law of the other jurisdiction contains provisions corresponding to this section.

(2) The Minister may enter into agreements with a Minister of the other jurisdiction for the purposes of this section, and to amend or revoke any such agreement.

(3) To the extent envisaged by such an agreement—

(a) an inspector of this jurisdiction may, in this jurisdiction or the other jurisdiction, exercise powers conferred on an authorised officer or police officer of the other jurisdiction by or

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under the corresponding law of the  
other jurisdiction; and

(b) an authorised officer or police officer of  
the other jurisdiction may, in this  
jurisdiction or the other jurisdiction,  
exercise powers conferred respectively  
on an inspector by or under this Act.

(4) Anything done or omitted to be done by an  
inspector of this jurisdiction under sub-  
section (3) is taken to have been done under  
this Act as well as under the corresponding  
law.

(5) The regulations may make provision for or  
with respect to the exercise of powers under  
this section.

(6) In this section—

**"corresponding law"** means a law of  
another jurisdiction that is declared to  
be a corresponding law under sub-  
section (7);

**"jurisdiction"** means a State or Territory of  
the Commonwealth.

(7) The Minister may, by Order published in the  
Government Gazette, declare a law of  
another jurisdiction to be a corresponding  
law for the purposes of this section.'

**14. Upgrading of breach categorisation**

In sections 158(2) and 158(3) of the **Road Safety  
Act 1986**, after "breach" (where first occurring)  
**insert** "of a width limit or length limit".

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**15. Reasonable steps defence for breaches of mass limits**

In sections 174(3) and 175(3) of the **Road Safety Act 1986** omit "that is a substantial risk breach, or a severe risk breach".

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**PART 4—GRADUATED LICENSING AND YOUNG DRIVER SAFETY**

**16. Compulsory carriage of licence—young drivers**

After section 19(7) of the **Road Safety Act 1986**  
insert—

"(8) A person under the age of 26 years who holds a driver licence must have the licence in his or her possession at all times while driving or in charge of a motor vehicle.

Penalty: 5 penalty units."

**17. Graduated probationary driver licences**

(1) For section 21(1) of the **Road Safety Act 1986**  
substitute—

"(1) If a driver licence is granted to a person who has not previously held one, that licence must, unless the regulations otherwise provide, be granted on probation in accordance with the regulations, until the latest of—

- (a) the date specified in the licence, or that date as extended in accordance with the regulations; or
- (b) the date on which the person passes any appropriate tests that the Corporation requires him or her to pass to obtain a full driver licence; or
- (c) the date on which the person complies with any prescribed procedures and requirements."



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(2) For section 21(2) of the **Road Safety Act 1986**  
**substitute—**

"(2) If a driver licence which is granted to a  
person on probation expires or is cancelled  
by a court or the Corporation before the  
completion of the full cumulative  
probationary period applicable to the holder  
of the licence and subsequently a new driver  
licence is granted to the person, that new  
licence must, unless the regulations  
otherwise provide, be granted on probation  
in accordance with the regulations, until the  
latest of—

- (a) the date specified in the licence, or that  
date as extended in accordance with the  
regulations; or
- (b) the date on which the person passes any  
appropriate tests that the Corporation  
requires him or her to pass to obtain a  
full driver licence; or
- (c) the date on which the person complies  
with any prescribed procedures and  
requirements.

(3) Regulations for the purpose of this section  
may—

- (a) provide for different classes of  
probationary driver licences depending  
on a person's age, experience or any  
other factor;
- (b) provide for the period of probation in  
respect of each class of probationary  
driver licence;

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- 5 (c) provide that a person who holds a probationary driver licence of one class must, after completing that period of probation, hold a probationary driver licence of another class before being granted a full driver licence;
- 10 (d) provide for the extension of a probationary period in the case of a person who commits a specified offence or who has his or her licence suspended;
- 15 (e) require a person who holds a probationary driver licence of one class to pass any appropriate tests that the Corporation requires, and to comply with any other procedures or requirements, before being granted a probationary driver licence of another class."
- 20 (3) For section 21(6) of the **Road Safety Act 1986** substitute—
- 25 "(6) A reference in this Act or the regulations to the probationary period, or the period of probation, of a licence must be taken to be a reference to the period ending on the latest of—
- 30 (a) the date specified in the licence, or that date as extended in accordance with the regulations; or
- (b) the date on which the person passes any appropriate tests that the Corporation requires him or her to pass to obtain a full driver licence; or
- 35 (c) the date on which the person complies with any prescribed procedures and requirements."

**18. Compulsory carriage of learner permit**

After section 22(5) of the **Road Safety Act 1986**  
**insert—**

"(6) A person who holds a learner permit must  
have the permit in his or her possession at all  
times while driving or in charge of a motor  
vehicle.

Penalty: 5 penalty units."

**19. Drink-driving offences by young or inexperienced  
drivers**

(1) After section 50(1AB) of the **Road Safety Act**  
**1986 insert—**

"(1AC) Sub-section (1AB)(b) does not apply to a  
person who, at the time the offence was  
committed, was under the age of 26 years."

(2) After section 50AAA(2) of the **Road Safety Act**  
**1986 insert—**

"(2A) Despite sub-section (1A), if—

(a) the offence was a first offence; and

(b) either—

(i) the offence was under  
section 49(1)(a) (other than an  
offence involving only drugs) or  
section 49(1)(c), (d) or (e); or

(ii) in the case of an offence under  
section 49(1)(b), (f) or (g), the  
concentration of alcohol—

(A) in the person's blood at the  
relevant time was 0.07 grams  
or more per 100 millilitres of  
blood; or

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(B) in the person's breath at the relevant time was 0.07 grams or more per 210 litres of exhaled air—

as the case requires; and

(c) at the time of the offence the person was—

(i) under the age of 26 years; or

(ii) the holder of a probationary driver licence—

on making the order, the court must direct the Corporation that it can only grant the person a driver licence or permit that is subject to a condition that the person must only drive a motor vehicle with an approved alcohol interlock installed and maintained by an approved alcohol interlock supplier or a person or body authorised by such a supplier."

(3) In the **Road Safety Act 1986**—

(a) in section 18(3), after "50AAA(2)" **insert** ", 50AAA(2A)";

(b) in section 50AAA(3AA), after "sub-section (2)" **insert** ", (2A)";

(c) in section 50AAB—

(i) in sub-section (1), after "50AAA(2)," **insert** "50AAA(2A),";

(ii) in sub-section (2), for "50AAA(1A) or 50AAA(2)" **substitute** "50AAA(1A), 50AAA(2) or 50AAA(2A)";

(d) in section 50AAC(1)—

(i) after "50AAA(2)," **insert** "50AAA(2A),";

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(ii) in paragraph (ab), after "50AAA(2)"  
**insert** "or 50AAA(2A)";

(e) in column 1 of the Table in section 50AA,  
after "Section 50AAA(1A), (2)" **insert**  
", (2A)";

(f) in sections 89C(1)(a)(i) and 89C(8)(a), after  
"the person" **insert** "or the person was under  
the age of 26 years at the time of the  
infringement".

**20. Consequential amendment regarding probationary  
licences**

(1) After section 84BD(2) of the **Road Safety Act  
1986 insert—**

"(3) Despite sub-section (1), the payment of a  
monetary penalty or the recording of demerit  
points in relation to an offence that is an  
operator onus offence by force of section 66  
may be recorded and used for the purposes  
of determining the period or periods for  
which a person may be required to hold a  
driver licence on probation."

(2) After section 89(8) of the **Road Safety Act 1986  
insert—**

"(9) Despite anything to the contrary in this  
section, the fact that a person paid a penalty,  
was found guilty, participated in a diversion  
program or had a conviction imposed by the  
court, in respect of an infringement for  
which an infringement notice was served  
may be recorded and used for the purposes  
of determining the period or periods for  
which a person may be required to hold a  
driver licence on probation."

**PART 5—OPERATOR ONUS AMENDMENTS**

**21. Duty of owner or responsible person to give information in relation to a motor vehicle**

(1) In section 60(1) of the **Road Safety Act 1986**—

- 5 (a) after "a motor vehicle" **insert** ", or a relevant nominated person in relation to a motor vehicle,";
- (b) for "he or she" **substitute** "the person";
- (c) for "the owner" **substitute** "the person";
- 10 (d) after "occasion" **insert** "or had possession or control of the motor vehicle on any occasion".

(2) After section 60(1) of the **Road Safety Act 1986** **insert**—

15 '(1A) For the purposes of sub-section (1) "**a relevant nominated person**" means a person nominated in an effective known user statement (within the meaning of Part 6AA) or sold vehicle statement (within the meaning of that Part) as being the responsible person (within the meaning of that Part) in relation to a motor vehicle at the time when the motor vehicle was involved in an offence that is an operator onus offence for the purposes of that Part.'

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(3) Before section 60(2) of the **Road Safety Act 1986** **insert**—

30 "(1B) A member of the police force who is acting in the execution of duty may require any person whom the member believes on reasonable grounds to have had possession or control of a motor vehicle on a particular occasion to give any information which it is



**22. Duty of owner or responsible person to give information in relation to a trailer**

(1) In section 60A(1) of the **Road Safety Act 1986**—

(a) after "a trailer" **insert** ", or a relevant nominated person in relation to a trailer or a motor vehicle to which a trailer was attached on any occasion,";

(b) for "he or she" **substitute** "the person";

(c) for "the owner" **substitute** "the person";

(d) after "occasion" **insert** "or had possession or control of the trailer on any occasion".

(2) After section 60A(1) of the **Road Safety Act 1986 insert**—

'(1A) For the purposes of sub-section (1) **"a relevant nominated person"** means a person nominated in an effective known user statement (within the meaning of Part 6AA) or sold vehicle statement (within the meaning of that Part) as being the responsible person (within the meaning of that Part) in relation to a trailer or a motor vehicle to which a trailer was attached at the time when the trailer was involved in an offence that is an operator onus offence for the purposes of that Part.'

(3) Before section 60A(2) of the **Road Safety Act 1986 insert**—

"(1B) A member of the police force who is acting in the execution of duty may require any person whom the member believes on reasonable grounds to have had possession or control of a trailer or a motor vehicle on a particular occasion to give any information which it is within the power of the person to give and which may lead to the identification



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of any person who was the driver of the trailer or of a motor vehicle to which the trailer was attached on that occasion or had possession or control of the trailer or motor vehicle on that occasion.

(1C) A person who, without reasonable excuse, refuses or fails to comply with a requirement made under sub-section (1B) is guilty of an offence."

(4) After section 60A(3) of the **Road Safety Act 1986** insert—

"(4) A requirement under this section may be made orally or in writing.

(5) A written requirement may be sent by post addressed to the person to whom it is made at the person's home address or at an authorised address (within the meaning of section 163A of the **Infringements Act 2006**).

(6) A written requirement sent by post to a person at an authorised address (within the meaning of section 163A of the **Infringements Act 2006**) and returned undelivered to its sender is deemed to be served 14 days after the date specified in the requirement as the date of the requirement, despite it being returned to its sender as undelivered.

(7) Sub-section (6) has effect despite anything to the contrary in section 49(1) of the **Interpretation of Legislation Act 1984**."

**23. New section 66 substituted**

For section 66 of the **Road Safety Act 1986**  
**substitute—**

**"66. Certain prescribed offences to be operator  
onus offences**

A prescribed offence that is detected by a  
prescribed detection device or by a  
prescribed process or the detection of which  
involves the use of a prescribed detection  
device is an operator onus offence for the  
purposes of Part 6AA."

**24. New Part 6AA inserted in Road Safety Act 1986**

After Part 6 of the **Road Safety Act 1986**  
**insert—**

**'PART 6AA—OPERATOR ONUS**

**84BA. Purpose of this Part**

The purpose of this Part is to establish an  
"operator onus" system for certain offences  
arising out of the operation of motor vehicles  
or trailers based on the principle that, if the  
identity of the driver or person in charge is  
not established at the time the offence is  
detected, the person last known to have  
possession or control of the vehicle or trailer  
should generally be liable for the offence  
unless that person can establish that they  
were not responsible for the vehicle or trailer  
at the time of the offence and provide  
information sufficient to identify and locate  
who was.

**84BB. Definitions**

In this Part—

**"corresponding body"** means a body outside Victoria that has functions under a corresponding law that correspond with any of the functions of the Corporation under Division 2 of Part 2;

**"corresponding law"** means a law of the Commonwealth or of another State or of a Territory that corresponds to Division 2 of Part 2;

**"effective"**, in relation to an illegal user statement, a known user statement, a sold vehicle statement or an unknown user statement, means a statement that is, or is accepted by an enforcement official under section 84BE as, and has not ceased to be, an effective statement for the purposes of this Part;

**"enforcement official"** means—

(a) the informant in any proceeding commenced against the operator of a motor vehicle or trailer; or

(b) the issuing officer (within the meaning of the **Infringements Act 2006**) in relation to an infringement notice served on the operator of a motor vehicle or trailer; or

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(c) the enforcement agency (within the meaning of the **Infringements Act 2006**) in relation to a penalty reminder notice served on the operator of a motor vehicle or trailer under Part 2 of that Act—

in relation to the driving, or being in charge, of the motor vehicle or trailer at the relevant time;

**"illegal user statement"**, in relation to an offence involving a motor vehicle or trailer, means a statement in writing made by a person to the effect that the person believes that at the time of the offence the motor vehicle or trailer was a stolen motor vehicle or trailer or that the number plates displayed on the motor vehicle or trailer were stolen and giving reasons for that belief;

**"known user statement"**, in relation to an offence involving a motor vehicle or trailer, means a statement in writing made by a person—

(a) to the effect that the person was not at the time of the offence driving, or had not at that time possession or control of, the motor vehicle or trailer or the motor vehicle to which the trailer was attached; and

(b) containing sufficient information to identify and locate the person who the person making the statement last knew to have, before the offence, possession or control of the motor vehicle or

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trailer or of the motor vehicle to  
which the trailer was attached; and

- 5 (c) giving reasons for any matter  
stated in response to the  
requirement imposed by  
paragraph (b);

10 **"nomination rejection statement"** means a  
statement in writing made by a person  
nominated in a known user statement or  
a sold vehicle statement as being the  
responsible person in relation to a  
motor vehicle or trailer—

- (a) to the effect—

15 (i) if nominated in a known user  
statement, that the person  
had not had possession or  
control of the motor vehicle  
or trailer, as the case  
requires, before the offence,  
20 as stated in the known user  
statement, and did not have  
possession or control of it at  
the time of the offence; and

25 (ii) if nominated in a sold  
vehicle statement, that the  
motor vehicle or trailer, as  
the case requires, had not  
been sold or disposed of to  
the person, and that no  
30 interest in it had otherwise  
vested in the person, as  
stated in the sold vehicle  
statement; and

- 35 (b) giving reasons for any matter  
stated by the person;

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**"operator"**, in relation to a motor vehicle or trailer at the time of an offence, means each of the following—

5

(a) the registered operator of the motor vehicle or trailer at that time or the person recorded at that time on a register of vehicles maintained under a corresponding law as the person responsible for the motor vehicle or trailer;

10

(b) if the Corporation under the regulations, or a corresponding body under a corresponding law, has received notice of transfer of registration of the motor vehicle or trailer, the person whose name is disclosed in the records kept by the Corporation or the corresponding body (as the case requires) as being responsible for the motor vehicle or trailer at that time;

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20

(c) if the motor vehicle or trailer is not registered under this Act or a corresponding law, the person whose name is disclosed in the records kept by the Corporation or the corresponding body as being responsible for the motor vehicle or trailer at that time;

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30

(d) if the motor vehicle or trailer displays a number plate—

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(i) the person who, at the time at which the registration number borne by that number plate was last assigned by the Corporation

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or a corresponding body, was the registered operator of, or (if assigned by a corresponding body) the person recorded on a register of vehicles maintained under the corresponding law as the person responsible for, the motor vehicle or trailer to which that registration number was assigned, whether or not that motor vehicle or trailer is the same as the motor vehicle or trailer involved in the offence; or

10

(ii) the person whose name is disclosed in the records kept by the Corporation or a corresponding body as being entitled, or last entitled, at that time to use or possess that number plate;

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(e) if the motor vehicle or trailer displays a general identification mark by means of a special identification plate issued by the Corporation under the regulations or by a corresponding body under a corresponding law, the person to whom the mark is assigned at that time;

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**"responsible person"**, in relation to a motor vehicle or trailer at the time of an offence, means each of the following—

5

(a) the operator of the motor vehicle or trailer;

(b) in the case of a trailer, the operator of the motor vehicle to which the trailer was attached at that time;

10

(c) the person nominated in an effective known user statement or an effective sold vehicle statement;

15

(d) in the case of an offence against section 73(1) of the **Melbourne City Link Act 1995**, without limiting paragraphs (a), (b) and (c), the person nominated as the driver of the motor vehicle at that time in a statement or declaration supplied in accordance with section 72(3) of that Act;

20

**"sold vehicle statement"**, in relation to an offence involving a motor vehicle or trailer, means a statement in writing made by a person—

25

(a) to the effect that—

30

(i) the person had sold or otherwise disposed of the motor vehicle or trailer before the time of the offence or that any interest in the motor vehicle or trailer had otherwise ceased to be vested in the person before that time; and

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(ii) the person was not at that time driving, or had not at that time possession or control of, the motor vehicle or trailer or the motor vehicle to which the trailer was attached; and

10

(b) containing sufficient information to identify and locate the person to whom the motor vehicle or trailer was sold or disposed of, or in whom an interest in the motor vehicle or trailer was otherwise vested, and the date and, if relevant, the time of the sale, disposal or vesting;

15

**"unknown user statement"**, in relation to an offence involving a motor vehicle or trailer, means a statement in writing made by a person to the effect that the person—

20

(a) was not at the time of the offence driving, or had not at that time possession or control of, the motor vehicle or trailer or the motor vehicle to which the trailer was attached; and

25

30

(b) does not know and could not with reasonable diligence ascertain the identity of the person who was at that time driving or, had at that time possession or control of, the motor vehicle or trailer or the motor vehicle to which the trailer was attached and giving reasons for not knowing and not being

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able to ascertain the identity of  
that person.

**84BC. Operator onus offences**

- 5 (1) If the Act or legislative instrument that  
creates an offence that may be committed by  
the driver or person in charge of a motor  
vehicle or trailer, or any other Act or  
legislative instrument, expressly states that  
10 the offence is an operator onus offence for  
the purposes of this Part, then (except as  
otherwise provided by this Part) the person  
who at the time of the offence is the  
responsible person in relation to the motor  
15 vehicle or trailer is guilty of the offence as if  
that person were the driver or person in  
charge (as the case requires) of the motor  
vehicle or trailer at that time.
- 20 (2) Nothing in sub-section (1) affects the  
liability of the person actually driving, or in  
charge of, as the case requires, the motor  
vehicle or trailer at the time of the offence.
- 25 (3) The operator of a motor vehicle or trailer  
only ceases to be the responsible person in  
relation to the motor vehicle or trailer if  
another person is the responsible person in  
relation to that vehicle or trailer by force of  
section 84BE or 84BF.
- 30 (4) A person who by force of this section is  
guilty of an offence is liable to the same  
penalties and subject to the same  
consequences to which the person would  
35 have been liable and subject had the person  
been the driver, or in charge, as the case  
requires, of the motor vehicle or trailer at the  
time of the offence.

**84BD. Effect of payment of penalty, etc.**

5 (1) If by force of section 84BC more than one  
person may be guilty of an offence involving  
a motor vehicle or trailer and the full amount  
of any monetary penalty is paid (and not  
refunded under section 88(4)) and any other  
necessary consequence (including the  
recording of demerit points against the  
10 person) is suffered by any one of them in  
relation to the offence, no further penalty or  
consequence may be imposed on or  
recovered from that person or any other  
person in relation to the offence.

15 (2) Despite sub-section (1), the payment of a  
monetary penalty or the recording of demerit  
points in relation to an offence that is an  
operator onus offence by force of  
section 66—

20 (a) may be recorded for the purposes of a  
heavy vehicle registration suspension  
scheme within the meaning of section  
89(7); and

25 (b) does not prevent the suspension of the  
registration of a heavy vehicle under  
that scheme.

**84BE. Use of effective statement to avoid liability**

(1) A person is not guilty of an offence by force  
of section 84BC if—

30 (a) within the prescribed period the person  
gives to an enforcement official—

(i) an illegal user statement; or

(ii) a known user statement; or

(iii) a sold vehicle statement; or

(iv) an unknown user statement; and

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(b) the statement is an effective statement for the purposes of this Part.

Note 1: A statement may cease to be an effective statement under section 84BF.

Note 2: It is an offence to provide false or misleading information in a statement: see section 84BI.

(2) Information contained in a known user statement or a sold vehicle statement identifying a person is sufficient for the purposes of this Part if it contains—

(a) in the case of an individual, his or her full name and current home address and either his or her date of birth or the number of the licence or permit authorising him or her to drive and, if that licence or permit is issued by a corresponding Authority, the name of that Authority; and

(b) in the case of a person other than an individual, its full name and current address and (where applicable) its Australian Business Number or Australian Company Number; and

(c) in any case, any other prescribed information.

(3) A statement containing all the information required by sub-section (2) is an effective statement for the purposes of this Part.

(4) In addition, an enforcement official may decide to accept a known user statement or a sold vehicle statement as an effective statement for the purposes of this Part even if it does not contain all the information required by sub-section (2) if the enforcement official is satisfied that it

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contains sufficient information to identify and locate the nominated person.

- 5
- (5) An enforcement official may decide to accept an illegal user statement or an unknown user statement as an effective statement for the purposes of this Part if satisfied as to the matters stated in it.
- 10
- (6) An enforcement official to whom a known user statement or sold vehicle statement (not containing all the information required by sub-section (2)) or an illegal user statement or an unknown user statement is given under sub-section (1) must, within the prescribed period, cause a notice to be served on the person who gave the statement stating whether or not the enforcement official has decided under sub-section (4) or (5) (as the case requires) to accept the statement as an effective statement for the purposes of this Part.
- 15
- (7) If sub-section (6) is not complied with in respect of a statement, the enforcement official must be taken to have decided to accept the statement as an effective statement for the purposes of this Part.
- 20
- (8) A notice under sub-section (6) may be served by post addressed to the person at an authorised address (within the meaning of section 163A of the **Infringements Act 2006**).
- 25
- (9) A notice under sub-section (6) served in accordance with sub-section (8) and returned undelivered to its sender is deemed to be served 14 days after the date specified in the notice as the date of the notice, despite it being returned to its sender as undelivered.
- 30
- 35

- (10) Sub-section (9) has effect despite anything to the contrary in section 49(1) of the **Interpretation of Legislation Act 1984.**

**84BF. Cancellation of acceptance of statement**

- 5 (1) An enforcement official may cancel the acceptance of a statement as an effective statement for the purposes of this Part (including a statement taken to have been accepted by force of section 84BE(7))—

- 10 (a) if in the case of a known user statement or a sold vehicle statement, the person nominated in the statement as being the responsible person gives to an enforcement official within the prescribed period a nomination rejection statement and the enforcement official is satisfied, having regard to the matters stated in the nomination rejection statement, that the nomination was incorrect; or

15 Note: It is an offence to provide false or misleading information in a statement: see section 84BI.

- 20 (b) if in the case of a statement not containing all the information required by section 84BE(2), the information contained in the statement proves not to be sufficient to identify or locate the nominated person; or

- 25 (c) in prescribed circumstances.

- 30 (2) If the acceptance of a statement as an effective statement is cancelled under sub-section (1), on that cancellation—

- 35 (a) the statement ceases to be an effective statement for the purposes of this Part; and

- 5 (b) the person who would, but for the statement, have continued to be the responsible person in relation to the motor vehicle or trailer (as the case requires) becomes again the responsible person.

**84BG. Proceedings against nominated persons**

- 10 (1) A proceeding against a person nominated in an effective known user statement or sold vehicle statement for an offence to which this Part applies may be commenced not later than 12 months after—

15 (a) the day on which the statement was given to the enforcement official; or

20 (b) if the statement again becomes an effective statement because of the cancellation under section 84BF(1) of the acceptance of a subsequent statement, the day on which the subsequent statement is cancelled.

- 25 (2) In a proceeding referred to in sub-section (1) the known user statement or sold vehicle statement is evidence and, in the absence of evidence to the contrary, proof of the matters stated in it.

**84BH. Defences to operator onus offences**

In a proceeding for an operator onus offence it is a defence to the charge for the defendant to prove any of the following—

- 30 (a) that the defendant had made an illegal user statement, a known user statement, a sold vehicle statement or an unknown user statement within the prescribed period and that the statement is, or  
35 ought to have been accepted by an

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enforcement official as, an effective statement for the purposes of this Part;

5

- (b) that the acceptance as an effective statement for the purposes of this Part of an illegal user statement, known user statement, sold vehicle statement or unknown user statement made by the defendant ought not to have been cancelled under section 84BF(1);

10

- (c) if the proceeding against the defendant is based on a nomination made in a known user statement or sold vehicle statement, that the defendant had made a nomination rejection statement and that an enforcement official ought to have been satisfied, having regard to the matters stated in the nomination rejection statement, that the nomination was incorrect;

15

20

- (d) if the proceeding against the defendant is based on a nomination made in a statement or declaration supplied in accordance with section 72(3) of the **Melbourne City Link Act 1995**, that the defendant was not the driver of the vehicle at the time of the offence.

25

**84BI. Offence to provide false or misleading information**

30

A person must not in a statement given under section 84BE(1) or 84BF(1)(a) to an enforcement official provide information that the person knows to be false or misleading in a material respect.

Penalty: 60 penalty units.!



**25. Repeal of section 85**

Section 85 of the **Road Safety Act 1986** is  
**repealed.**

**26. New section 86 substituted**

For section 86 of the **Road Safety Act 1986**  
**substitute—**

**"86. Parking infringements to be operator  
onus offences**

A parking infringement is an operator onus  
offence for the purposes of Part 6AA."

**27. Service of infringement notices under Melbourne  
City Link Act 1995**

(1) After section 80(2) of the **Melbourne City Link  
Act 1995** insert—

"(2A) In addition to and without limiting section 12  
of the **Infringements Act 2006**, an  
infringement notice referred to in sub-  
section (1) may be served by sending the  
notice by post addressed to—

- (a) the owner of the vehicle involved in the  
offence; or
- (b) the driver of that vehicle as shown in a  
statement or declaration supplied in  
accordance with section 72(3)  
or 87(3)."

(2) In section 80(2A) of the **Melbourne City Link  
Act 1995**—

(a) for paragraph (a) **substitute—**

"(a) the responsible person (within the  
meaning of Part 6AA of the **Road  
Safety Act 1986**) in relation to the  
vehicle involved in the offence; or";

(b) in paragraph (b) **omit "or 87(3)".**

See:  
Act No.  
107/1995.  
Reprint No. 6  
as at  
10 February  
2006 and  
amending Act  
Nos 61/2005,  
32/2006 and  
48/2006.  
LawToday:  
www.dms.  
dpc.vic.  
gov.au

**28. Offences detected by prescribed tolling device to be operator onus offences**

(1) For section 87(1) of the **Melbourne City Link Act 1995** substitute—

"(1) An offence against section 73(1) is an operator onus offence for the purposes of Part 6AA of the **Road Safety Act 1986**."

(2) In section 87 of the **Melbourne City Link Act 1995**, sub-sections (2), (3), (3A), (4), (5) and (7) are **repealed**.

**29. New section 123 inserted in Melbourne City Link Act 1995**

After section 122 of the **Melbourne City Link Act 1995** insert—

**"123. Transitional provision—Road Legislation (Projects and Road Safety) Act 2006**

(1) The amendments to sections 80(2A) and 87 of this Act made by sections 27(2) and 28 of the **Road Legislation (Projects and Road Safety) Act 2006** only apply to offences against section 73(1) of this Act alleged to have been committed on or after the commencement of those sections of that Act.

(2) For the purposes of sub-section (1), if an offence is alleged to have been committed between two dates, one before and one after the commencement of sections 27(2) and 28 of the **Road Legislation (Projects and Road Safety) Act 2006**, the offence is alleged to have been committed before the commencement of those sections."

**30. Consequential amendment of Road Safety Act 1986**

(1) In the note at the foot of section 26AA(2) of the **Road Safety Act 1986**—

(a) for "owner of" **substitute** "responsible person in relation to";

(b) for "section 66(6)" **substitute** "section 84BC(4)".

(2) In section 67(5)(b) of the **Road Safety Act 1986**, for "sections 66(3) and 88(3)" **substitute** "section 88(3)".

(3) Section 67(5)(i) of the **Road Safety Act 1986** is **repealed**.

(4) For section 67(6)(b) of the **Road Safety Act 1986** **substitute**—

"(b) gives a statement under section 84BE to an enforcement official within the meaning of Part 6AA; or".

(5) In section 67(6)(c) of the **Road Safety Act 1986**, for "section 66(3)" **substitute** "Part 6AA".

**31. Consequential amendment of children legislation**

(1) In Schedule 2A to the **Children and Young Persons Act 1989**, for clause 3(2)(j), (k) and (l) **substitute**—

"(j) if the infringement notice was served under section 87 of the **Road Safety Act 1986**, the child was at the time of the alleged offence the responsible person (within the meaning of Part 6AA of the **Road Safety Act 1986**) in relation to the vehicle involved in the offence; and

(k) if the infringement notice was issued in respect of an offence to which section 66 of the **Road Safety Act 1986** applies, the child was at the time of the alleged offence the

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responsible person (within the meaning of Part 6AA of the **Road Safety Act 1986**) in relation to the motor vehicle or trailer involved in the offence; and

5 (l) if the infringement notice was issued in respect of an offence against section 73(1) of the **Melbourne City Link Act 1995**, the child was at the time of the alleged offence—

10 (i) the responsible person (within the meaning of Part 6AA of the **Road Safety Act 1986**) in relation to the vehicle involved in the offence; or

15 (ii) the driver of that vehicle as shown in a statement or declaration supplied in accordance with section 72(3) of the **Melbourne City Link Act 1995**; and".

20 (2) In Part 2 of Schedule 3 to the **Children, Youth and Families Act 2005**, for clause 3(2)(j), (k) and (l) **substitute—**

25 "(j) if the infringement notice was served under section 87 of the **Road Safety Act 1986**, the child was at the time of the alleged offence the responsible person (within the meaning of Part 6AA of the **Road Safety Act 1986**) in relation to the vehicle involved in the offence; and

30 (k) if the infringement notice was issued in respect of an offence to which section 66 of the **Road Safety Act 1986** applies, the child was at the time of the alleged offence the responsible person (within the meaning of Part 6AA of the **Road Safety Act 1986**) in relation to the motor vehicle or trailer  
35 involved in the offence; and

- 5 (l) if the infringement notice was issued in respect of an offence against section 73(1) of the **Melbourne City Link Act 1995**, the child was at the time of the alleged offence—
- 10 (i) the responsible person (within the meaning of Part 6AA of the **Road Safety Act 1986**) in relation to the vehicle involved in the offence; or
- 10 (ii) the driver of that vehicle as shown in a statement or declaration supplied in accordance with section 72(3) of the **Melbourne City Link Act 1995**; and".

15 **32. Consequential amendment of Infringements Act 2006**

- (1) For section 54(2)(e), (f) and (g) of the **Infringements Act 2006** substitute—

20 "(e) if the infringement notice was served under section 87 of the **Road Safety Act 1986**, the person was at the time of the infringement offence the responsible person (within the meaning of Part 6AA of the **Road Safety Act 1986**) in relation to the vehicle involved in the offence; and

- 25 (f) if the infringement notice was issued in respect of an offence to which section 66 of the **Road Safety Act 1986** applies, the person was at the time of the infringement offence the responsible person (within the meaning of Part 6AA of the **Road Safety Act 1986**) in relation to the motor vehicle or trailer involved in the offence; and
- 30

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- 5 (g) if the infringement notice was issued in respect of an offence against section 73(1) of the **Melbourne City Link Act 1995**, the person was at the time of the infringement offence—
- 10 (i) the responsible person (within the meaning of Part 6AA of the **Road Safety Act 1986**) in relation to the vehicle involved in the offence; or
- (ii) the driver of that vehicle as shown in a statement or declaration supplied in accordance with section 72(3) of the **Melbourne City Link Act 1995**; and".
- 15 (2) In section 55(h) of the **Infringements Act 2006**, for "driver" (where twice occurring) substitute "person".
- (3) In section 162(4) of the **Infringements Act 2006**, for paragraphs (b), (c) and (d) substitute—
- 20 "(b) if the infringement notice was served under section 87 of the **Road Safety Act 1986**, to the last address of the person who is the responsible person (within the meaning of Part 6AA of the **Road Safety Act 1986**) in relation to the vehicle involved in the offence
- 25 at the time of the offence; or
- 30 (c) if the infringement notice was issued in respect of an offence to which section 66 of the **Road Safety Act 1986** applies, to the last address of the person who is the responsible person (within the meaning of Part 6AA of the **Road Safety Act 1986**) in relation to the motor vehicle or trailer involved in the offence at the time of the offence; or

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(d) if the infringement notice was issued in respect of an offence against section 73(1) of the **Melbourne City Link Act 1995**—

5

(i) to the last address of the person who is the responsible person (within the meaning of Part 6AA of the **Road Safety Act 1986**) in relation to the vehicle involved in the offence at the time of the offence; or

10

(ii) to the last address of the driver of that vehicle as shown in a statement or declaration supplied in accordance with section 72(3) of the **Melbourne City Link Act 1995**; or".

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Part 6—Impoundment, Immobilisation and Forfeiture of Motor Vehicles

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**PART 6—IMPOUNDMENT, IMMOBILISATION AND  
FORFEITURE OF MOTOR VEHICLES**

**Division 1—Amendment of Chattel Securities Act 1987**

**33. Certificate**

(1) In section 24(2)(b) of the **Chattel Securities Act 1987**, for "obtained." **substitute** "obtained; or".

(2) After section 24(2)(b) of the **Chattel Securities Act 1987** insert—

"(c) goods which are specified in a notice served under section 84W(1) or 84Y(1) of the **Road Safety Act 1986**."

Note: Sections 84W(1) and 84Y(1) of the **Road Safety Act 1986** provide that the Chief Commissioner of Police must notify certain persons if he or she intends to make an application for an order for the impoundment, immobilisation or forfeiture of a motor vehicle. Sections 84X and 84Y(4) of that Act prohibit a person from selling or disposing of an interest in that motor vehicle before such an application is made and determined."

See:  
Act No.  
15/1987.  
Reprint No. 2  
as at  
1 July 1999  
and  
amending  
Act Nos  
99/2000,  
44/2001,  
92/2001,  
110/2004 and  
32/2006.  
LawToday:  
www.dms.  
dpc.vic.  
gov.au

**Division 2—Amendment of Road Safety Act 1986**

**34. Powers of Corporation**

In section 5AB(1) of the **Road Safety Act 1986**, after "Part" insert "and Part 6A".

**35. Effecting registration, renewal or transfer**

In section 9(1) of the **Road Safety Act 1986**, after "regulations" insert "and Division 3 of Part 6A".

**36. Notice**

(1) In sections 84W(1)(c) and 84Y(1)(c) of the **Road Safety Act 1986**, for "sought." **substitute** "sought; and".



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(2) After sections 84W(1)(c) and 84Y(1)(c) of the **Road Safety Act 1986** insert—

"(d) the Corporation."

**37. Interest in motor vehicle not to be transferred**

In sections 84X(1) and 84Y(4) of the **Road Safety Act 1986**, after "determined," insert "or if an impoundment or immobilisation order or a forfeiture order is made, before the motor vehicle is seized under this Division,".

**38. New sections 84YA, 84YB and 84YC inserted**

After section 84Y of the **Road Safety Act 1986** insert—

**"84YA. Direction not to transfer registration or register motor vehicle**

(1) Within 7 days after service of a notice under section 84W(1) or 84Y(1), the Chief Commissioner of Police must direct the Corporation—

- (a) not to transfer the registration of the motor vehicle that is the subject of the notice from the registered operator to another person; or
- (b) not to register (other than by way of renewal) the motor vehicle that is the subject of the notice, unless the applicant for registration was the most recent registered operator of that motor vehicle—

until the Chief Commissioner notifies the Corporation that the direction has ceased in accordance with sub-section (3).

(2) Sub-section (1) applies whether or not an actual application for transfer of registration or registration has been made.

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5 (3) The Chief Commissioner of Police must  
notify the Corporation that the direction not  
to transfer registration or register under sub-  
section (1) has ceased when any of the  
following occurs—

(a) if a notice is served under  
section 84W(1)—

10 (i) the driver is found not guilty of  
the relevant offence for which the  
application specified in the notice  
is made and the driver is not found  
guilty of any other relevant  
offence arising out of the same  
single set of circumstances;

15 (ii) the Chief Commissioner of Police  
does not make the application  
referred to in the notice within  
28 days after the driver is  
sentenced for a relevant offence;

20 (iii) the charge for the relevant offence  
specified in the notice is  
withdrawn and no other charge is  
laid for any other relevant offence  
arising out of the same single set  
of circumstances;

25 (b) if a notice is served under  
section 84Y(1)—

30 (i) the driver is found not guilty of  
one or more relevant offences  
which results in the driver being  
subject to only one remaining  
charge for a relevant offence;

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- 5 (ii) the Chief Commissioner of Police does not make the application referred to in the notice within 28 days after the driver is sentenced for the second or third relevant offence;
- 10 (iii) the charges for one or more of the relevant offences specified in the notice are withdrawn which results in the driver being subject to only one remaining charge for a relevant offence;
- 15 (c) the court hearing the application declines to make an impoundment or immobilisation order or a forfeiture order;
- 20 (d) the court sets aside an impoundment or immobilisation order or a forfeiture order under section 84ZA;
- 25 (e) an impoundment or immobilisation order or a forfeiture order is set aside on appeal or, as a result of a conviction for a relevant offence being set aside on appeal, the order ceases to have effect;
- 30 (f) the period of impoundment or immobilisation specified in an impoundment or immobilisation order ends;
- 35 (g) a forfeiture order becomes effective and a member of the police force or an authorised person takes possession of the motor vehicle that is the subject of the forfeiture order.
- Note: Section 84ZB sets out when an order takes effect.

**84YB. Corporation not to transfer registration or register motor vehicle**

5 (1) If directed by the Chief Commissioner of Police under section 84YA, and until notified by the Chief Commissioner under that section that the direction has ceased, the Corporation must not—

10 (a) transfer the registration of the motor vehicle that is the subject of a notice served under section 84W(1) or 84Y(1) from the registered operator to another person; or

15 (b) register (other than by way of renewal) the motor vehicle that is the subject of a notice served under section 84W(1) or 84Y(1), unless the applicant for registration was the most recent registered operator of that motor vehicle.

20 (2) If the Chief Commissioner of Police gives a direction under section 84YA(1) in respect of a motor vehicle, the Corporation must send to the registered operator of the motor vehicle a notice advising that no transfer of registration will occur in relation to that motor vehicle until the Chief Commissioner gives notification under section 84YA(3).

**84YC. Cessation of direction under this Act does not affect any suspension**

30 The cessation of a direction not to transfer the registration of, or register, a motor vehicle under this Division does not affect the suspension of that registration under any other Act or law."

**PART 7—MISCELLANEOUS AMENDMENTS TO ROAD  
SAFETY ACT 1986**

**39. Definitions**

In section 3(1) of the **Road Safety Act 1986**—

5

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

' **"chassis number"**, in relation to a motor  
vehicle, means the identification  
number—

10

(a) permanently marked on the  
chassis or other part of the vehicle  
by the vehicle manufacturer at the  
time of manufacture; or

(b) specified by the Corporation in  
accordance with the regulations;

15

**"engine identification number"**, in relation  
to a motor vehicle, means the  
individual number clearly stamped,  
embossed or otherwise permanently  
marked on the engine block or main  
component of the engine;

20

**"identification plate"**, in relation to a motor  
vehicle, has the same meaning as in the  
Motor Vehicle Standards Act 1989 of  
the Commonwealth;

25

**"manufacturer's build plate"**, in relation to  
a motor vehicle, means a plate which  
describes the build specification of the  
vehicle and which was placed on the  
vehicle by the manufacturer at the time  
of its manufacture;

30

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**"vehicle identification number"**, in relation to a motor vehicle, means the 17 character alpha-numeric identifier—

- 5
- (a) placed on the vehicle in accordance with Australian Design Rule 61; or
  - (b) specified by the Corporation in accordance with the regulations—

10 that uniquely identifies the vehicle and sets it apart from similar vehicles;

**"vehicle identifier"**, in relation to a motor vehicle, means—

- 15
- (a) in the case of a motor vehicle manufactured on or after 1 January 1989, the vehicle identification number permanently recorded on the vehicle; or
  - (b) in any other case, the chassis number marked on the vehicle in accordance with clause 58 of Schedule 8 to the Road Safety (Vehicles) Regulations 1999 or in accordance with a law of another State or a Territory that corresponds with that clause;'
- 20
- 25

(b) the definitions of "corresponding law" and "tailgating infringement" are **repealed**.

**40. Power to inspect motor vehicles and trailers**

(1) For section 13(1) of the **Road Safety Act 1986**  
**substitute—**

5           "(1) An authorised officer for the purposes of this  
section or a member of the police force may  
at any reasonable time inspect a motor  
vehicle or trailer which is being used on a  
highway if the officer or member believes on  
reasonable grounds that—

10           (a) the driver of the motor vehicle is not  
complying with this Act or the  
regulations in driving a motor vehicle  
of that kind; or

15           (b) the motor vehicle or trailer does not  
comply with this Act or the  
regulations."

(2) For section 13(2) of the **Road Safety Act 1986**  
**substitute—**

20           "(2) An authorised officer for the purposes of this  
section or a member of the police force may,  
by notice in accordance with sub-section (3),  
require to be produced for inspection at a  
place specified in the notice, a motor vehicle  
or trailer which the officer or member has  
25           reasonable grounds for suspecting has within  
the preceding 30 days been used or will be  
used on a highway if the officer or member  
believes on reasonable grounds that—

30           (a) the driver of the motor vehicle has not  
complied with this Act or the  
regulations in driving a motor vehicle  
of that kind; or

35           (b) the motor vehicle or trailer does not  
comply with this Act or the  
regulations."

**41. Definition of vehicle identifier**

In section 16B(1) of the **Road Safety Act 1986**, the definition of "vehicle identifier" is **repealed**.

**42. Offence if driver not licensed**

(1) In section 18(1) of the **Road Safety Act 1986**, after "sub-section (2)" **insert** "or (3)".

(2) After section 18(2) of the **Road Safety Act 1986** **insert**—

"(3) If the court is satisfied, in the case of a person who drove a motor vehicle on a highway in the circumstances referred to in sub-section (1)(a), that the person may have been subject to a direction under section 50AAA(1A) or 50AAA(3A) or would have been subject to a direction under section 50AAA(2) or 50AAA(3)(b) had the person applied under section 50(4) for an order as to the issue of a driver licence or permit or, having applied under that section, had the court not refused to make the order sought, that person is liable to a fine of not more than 30 penalty units or to imprisonment for a term of not more than 4 months.

(4) If sub-section (3) applies, the court may, if it considers it appropriate to do so, order that the motor vehicle concerned be immobilised (whether by wheel clamps or any other means) for a period specified in the order of up to 12 months.

(5) An order under sub-section (4) may be made subject to specified conditions.

(6) The court may make an order under sub-section (4) whether the motor vehicle is owned by the offender or another person.



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5 (7) If the court considers that another person, who is not present at the hearing concerning the making of an order under sub-section (4), may be substantially affected by such an order, the court must issue a summons to that other person to show cause why the order should not be made.

10 (8) On return of the summons, the court may, after hearing the evidence brought before it, make or refuse to make the order."

**43. New section 47A inserted**

After section 47 of the **Road Safety Act 1986**  
**insert—**

**'47A. Definition**

15 (1) In this Part—

**"corresponding law"** means a law of another State or a Territory that is declared to be a corresponding law under sub-section (2).

20 (2) The Minister may, by Order published in the Government Gazette, declare a law of another State or Territory to be a corresponding law for the purposes of this Part.'

25 **44. Evidentiary provisions**

(1) In section 57(2)(b) of the **Road Safety Act 1986**, after "section 318(1)" **insert** "or 319(1)".

30 (2) In section 57A(1) of the **Road Safety Act 1986**, in paragraph (c) of the definition of "prescribed legal proceeding", after "section 318(1)" **insert** "or 319(1)".

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(3) In section 57B(2)(c) of the **Road Safety Act 1986**, after "section 318(1)" **insert** "or 319(1)".

(4) In section 58(1)(b) of the **Road Safety Act 1986**, after "section 318(1)" **insert** "or 319(1)".

5

**45. Unauthorised use of freeway**

For section 68A(9) of the **Road Safety Act 1986** **substitute—**

10

'(9) In this section "**freeway**", "**pathway**" and "**road reserve**" have the same meanings as in the **Road Management Act 2004**.'

**46. Forgery etc. of documents and identification marks**

After section 72(1) of the **Road Safety Act 1986** **insert—**

15

"(1A) A person is guilty of an offence if that person—

(a) forges; or

(b) fraudulently alters or uses; or

(c) fraudulently lends or allows to be used by any other person—

20

any vehicle identifier, engine identification number, identification plate, manufacturer's build plate or any other plate, label or mark that uniquely identifies a vehicle and sets it apart from similar vehicles.

25

Penalty: 60 penalty units or imprisonment for 6 months."

**47. Penalty for parking infringement**

In section 87(4) of the **Road Safety Act 1986**, for "\$50" **substitute** "0.5 penalty unit".

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**48. Non-road activities on highways**

- (1) In section 99B(1) of the **Road Safety Act 1986**, for "a road authority" **substitute** "the coordinating road authority".
- (2) In sections 99B(2) and 99B(3)(a) of the **Road Safety Act 1986**, for "road authority" **substitute** "coordinating road authority".

**49. Statute law revision**

In Schedule 1 to the **Road Safety Act 1986**, for "Section 50" **substitute** "Sections 50 and 89C".

**50. New section 103L inserted**

Before section 104 of the **Road Safety Act 1986** insert—

**"103L. Transitional provisions—Road Legislation (Projects and Road Safety) Act 2006**

- (1) The amendments to a section of this Act made by Part 2 of the **Road Legislation (Projects and Road Safety) Act 2006** only apply to offences alleged to have been committed on or after the commencement of that Part.
- (2) Sections 50(1AC) and 50AAA(2A) of this Act, as inserted by section 19 of the **Road Legislation (Projects and Road Safety) Act 2006**, and sections 50AAB, 50AAC, 50AA and 89C of this Act, as amended by that section 19, only apply to offences or infringements alleged to have been committed on or after the commencement of that section 19.
- (3) Section 70(1C) of this Act, as substituted by section 10 of the **Road Legislation (Projects and Road Safety) Act 2006** only applies to offences against section 70(1A)

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alleged to have been committed on or after  
the commencement of that section 10.

5 (4) The amendments made to a section of this  
Act by any of the following provisions of the  
**Road Legislation (Projects and Road  
Safety) Act 2006** only apply to offences  
alleged to have been committed on or after  
the commencement of that provision—

10 (a) section 21(1)(a);

(b) section 21(2);

(c) section 22(1)(a);

(d) section 22(2).

15 (5) Part 6AA of this Act, as inserted by  
section 24 of the **Road Legislation  
(Projects and Road Safety) Act 2006**, and  
sections 66 and 86 of this Act, as substituted  
by sections 23 and 26 respectively of that  
Act, only apply to offences alleged to have  
been committed on or after the  
20 commencement of that section 24, 23 or 26  
(as the case requires).

25 (6) For the purposes of sub-sections (1) to (5), if  
an offence is alleged to have been committed  
between two dates, one before and one after  
the commencement of a provision of the  
**Road Legislation (Projects and Road  
Safety) Act 2006**, the offence is alleged to  
have been committed before the  
commencement of that provision.

30 (7) The amendment of section 158 of this Act by  
section 14 of the **Road Legislation  
(Projects and Road Safety) Act 2006**  
applies to a breach that occurred before, on  
35 or after the commencement of that  
amendment.

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- (8) The amendment of sections 174(3) and 175(3) of this Act by section 15 of the **Road Legislation (Projects and Road Safety) Act 2006** applies to offences alleged to have been committed before, on or after the commencement of that amendment."
- 

5

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Part 8—Amendments to Road Management Act 2004

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**PART 8—AMENDMENTS TO ROAD MANAGEMENT  
ACT 2004**

**51. Definitions**

In section 3(1) of the **Road Management  
Act 2004**—

(a) in the definition of "road infrastructure"—

(i) in paragraph (b), for "infrastructure;"  
**substitute** "infrastructure—";

(ii) after paragraph (b) **insert**—

'but does not include—

(c) if the irrigation channel, sewer or  
drain is "works" within the  
meaning of the **Water Act 1989**,  
any bridge or culvert over an  
irrigation channel, sewer or drain,  
other than a bridge or culvert  
constructed by a road authority; or

(d) a bridge or culvert over a sewer or  
drain constructed under  
section 132 of the **Melbourne  
and Metropolitan Board of  
Works Act 1958**;

(b) in the Example at the foot of the definition of  
"road infrastructure" **omit** "A bridge, culvert  
or ford would be a structure forming part of a  
roadway.";

(c) in the definition of "road-related  
infrastructure", after "installed" **insert**  
"or constructed".

See:  
Act No.  
12/2004.  
Reprint No. 1  
as at  
1 July 2004  
and  
amending  
Act Nos  
39/2004,  
108/2004,  
110/2004,  
14/2005,  
24/2005,  
61/2005,  
95/2005,  
9/2006 and  
32/2006.  
LawToday:  
www.dms.  
dpc.vic.  
gov.au

**52. Interpretation and application**

(1) In section 5(2) of the **Road Management Act 2004**—

(a) after "provisions of" **insert** "section 3E,";

(b) **omit** "1,".

(2) In section 5(10)(b) of the **Road Management Act 2004**, for "section 245B" **substitute** "section 254B".

**53. Power of VicRoads to make declarations in respect of roads**

For section 14(1)(c) of the **Road Management Act 2004 substitute**—

"(c) amend or revoke a declaration under this section."

**54. Arrangements to transfer road management functions**

(1) For the heading to section 15 of the **Road Management Act 2004 substitute**—

**"Arrangements to transfer road management functions"**.

(2) For section 15(1) of the **Road Management Act 2004 substitute**—

"(1) A road authority may enter into an arrangement with another road authority or a utility to transfer a road management function of the road authority that would otherwise apply under section 36 or 37 with respect to a road to the other road authority or to the utility."

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*Act No.*

Part 8—Amendments to Road Management Act 2004

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(3) After section 15(1) of the **Road Management Act 2004** insert—

"(1A) A road authority may enter into an arrangement with a utility to transfer a road management function of the utility to the road authority."

(4) In section 15(3) of the **Road Management Act 2004** omit "road authority which is a".

**55. Register of public roads**

(1) In section 19(1) of the **Road Management Act 2004**, after "specifying the" insert "public".

(2) At the foot of section 19(1) of the **Road Management Act 2004** insert—

"Note: Section 17 establishes which roads are public roads."

**56. Amendment of certain references in section 116**

In section 116(4) of the **Road Management Act 2004**—

(a) for "sub-section (1)" substitute "sub-section (3)";

(b) for "section 116" substitute "section 115".

**57. Compensation payable by a road authority in certain circumstances**

In section 127(1) of the **Road Management Act 2004**, for "Schedule 2" substitute "clause 2 of Schedule 2".



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Part 8—Amendments to Road Management Act 2004

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**58. Schedule 2**

In Schedule 2 to the **Road Management Act 2004**, for clause 5(1) **substitute—**

"(1) A road authority must publish a notice of the making, amending or revoking of a declaration under section 42 or of the making, amending, revoking or substitution of a policy under clause 3 in the Government Gazette."

---

5

**PART 9—LAND COMPENSATION AMENDMENTS**

**59. Land Acquisition and Compensation Act 1986—  
matters affecting compensation**

(1) After section 43(1) of the **Land Acquisition and  
Compensation Act 1986** insert—

"(1A) Despite anything to the contrary in this Part,  
in assessing compensation, if—

- (a) the land in which the acquired interest  
subsists is reserved for a public purpose  
in a planning instrument; and
- (b) the reservation forms the boundary of a  
zone in that planning instrument; and
- (c) the decision to impose the zoning  
boundary was not related to the purpose  
for which the interest in land was  
acquired—

regard may be had to the actual zoning of the  
land in which the acquired interest subsists  
and, where relevant, to the actual zoning  
boundary."

(2) After section 43(5) of the **Land Acquisition and  
Compensation Act 1986** insert—

"(6) Despite the amendment of this section by the  
**Road Legislation (Projects and Road  
Safety) Act 2006**, this section continues to  
apply in relation to an entitlement to  
compensation arising under this Act before  
the commencement of section 59 of that Act  
as if section 59 of that Act had not been  
enacted."

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Part 9—Land Compensation Amendments

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- (3) In section 41(7) of the **Land Acquisition and Compensation Act 1986** for "as if the underlying zoning applied to the land" **substitute** "on the basis of the actual zoning that applied to the land".

**60. Planning and Environment Act 1987—new section 104A inserted**

After section 104 of the **Planning and Environment Act 1987** insert—

**"104A. Actual zoning of land may be considered in determining compensation**

- (1) In assessing compensation under this Part for the financial loss suffered by the owner or occupier of land, if—
- (a) the land is reserved or is proposed to be reserved for a public purpose; and
  - (b) the reservation or proposed reservation forms or will form the boundary of a zone in a planning scheme or an amendment to a planning scheme; and
  - (c) the decision to impose the zoning boundary was not related to the purpose for which the land is or is proposed to be reserved—

regard may be had to the actual zoning of the land as at the date when the liability to pay compensation first arose and, where relevant, to the actual zoning boundary at that date.

- (2) Nothing in this section applies in relation to a right to compensation or a liability to pay compensation arising under this Part before the commencement of section 60 of the **Road Legislation (Projects and Road Safety) Act 2006** and this Part continues to apply to the determination of that

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compensation as if section 60 of that Act had not been enacted."

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**PART 10—AMENDMENTS TO THE ALPINE RESORTS  
(MANAGEMENT) ACT 1997**

**61. Insertion of new Part 5A**

After Part 5 of the **Alpine Resorts  
(Management) Act 1997** insert—

**'PART 5A—MOUNT HOTHAM VILLAGE  
ROAD PROJECT**

**57A. Definitions**

In this Part—

**"designated area"** means the land shown  
hatched on the plan in the Schedule;

**"road project area"** means the land that  
becomes the road project area under  
section 57B(3).

**57B. Road project area**

(1) The Minister—

(a) on receiving a plan, signed by the  
Surveyor-General, of land that is within  
the designated area; and

(b) on being satisfied that the land shown  
on the plan represents the land that is to  
be the road project area—

may recommend to the Governor in Council  
that the land be determined to be the road  
project area.

(2) On receiving the Minister's recommendation  
under sub-section (1), the Governor in  
Council may, by Order published in the  
Government Gazette, declare the land to be  
the road project area.

- (3) On the publication of an Order under sub-section (2), the land becomes the road project area.

**57C. Power of VicRoads to enter into agreement as to property in the road project area**

- (1) VicRoads may enter into an agreement with the Mount Hotham Alpine Resort Management Board as to the management or use of or access to any personal property of VicRoads that is on land in the road project area.
- (2) An agreement under sub-section (1)—
- (a) must be in writing; and
  - (b) may be for any term not exceeding 99 years; and
  - (c) may provide for any rights or obligations under the agreement to be assigned by the Mount Hotham Alpine Resort Management Board to another person and for further assignments of any such rights or obligations, with the consent of the Board.
- (3) The power to enter into an agreement under this section is in addition to any other powers of VicRoads and must not be taken to derogate from those powers.

**57D. Powers of Mount Hotham Alpine Resort Management Board to enter into agreements as to property in the road project area**

5 (1) If—

(a) the Mount Hotham Alpine Resort Management Board has entered into an agreement with VicRoads under section 57C; and

10 (b) the agreement that the Board has entered into provides for the assignment of any rights or obligations under the agreement—

15 the Mount Hotham Alpine Resort Management Board may enter into an agreement for any such assignment.

(2) An agreement under sub-section (1)—

(a) must be in writing; and

20 (b) may be for any term not exceeding 99 years; and

(c) may provide for further assignment of any rights conferred or obligations imposed under the agreement.

25 (3) The power to enter into an agreement under this section is in addition to any other powers of the Mount Hotham Alpine Resort Management Board and must not be taken to derogate from those powers.

**57E. Agreement as to further assignment**

30 Any agreement for the assignment of any rights conferred or obligations imposed under an agreement under section 57D must not be entered into unless the consent of the Mount Hotham Alpine Resort Management

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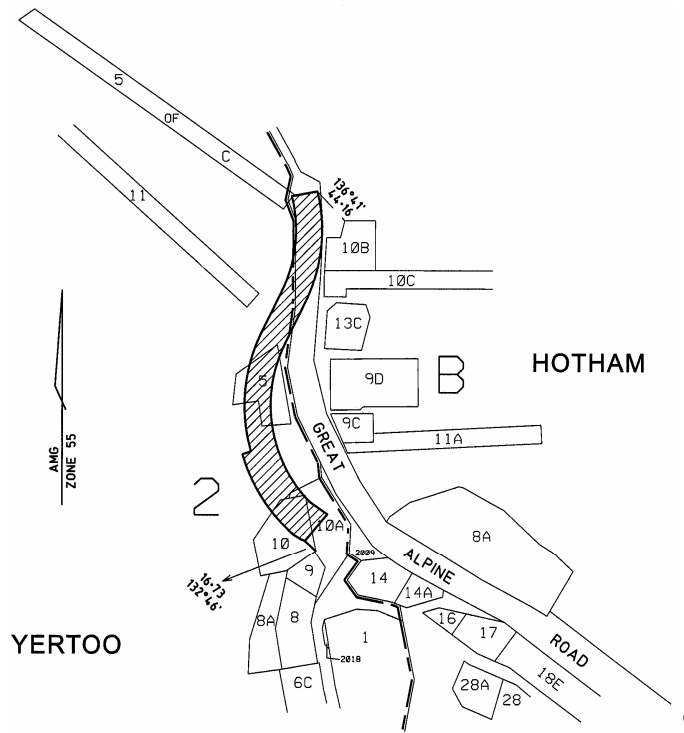
Board has first been obtained to the entering  
into of that agreement.!

**62. Insertion of Schedule**

After Part 6 of the **Alpine Resorts  
(Management) Act 1997** insert—

"

**SCHEDULE**





**PART 11—M1 REDEVELOPMENT PROJECT**

**Division 1—Amendments to Road Management Act 2004**

**63. Interpretation and application of Act**

5 In section 5(9) of the **Road Management Act 2004** after "interests" insert "otherwise than in accordance with the Native Title Act 1993 of the Commonwealth".

**64. New section 45A inserted**

10 After section 45 of the **Road Management Act 2004** insert—

**"45A. Provisions relating to the M1 Redevelopment Project**

- 15 (1) Without limiting any other powers or duties of VicRoads under this Act, the powers and duties of VicRoads include the specific powers and duties set out in Schedule 5A.
- (2) Schedule 5A has effect."

**65. New Schedule 5A inserted**

20 After Schedule 5 to the **Road Management Act 2004** insert—

**'SCHEDULE 5A**

**SPECIFIC PROVISIONS RELATING TO THE M1 REDEVELOPMENT PROJECT**

**PART 1—INTRODUCTORY**

25 **1. Definitions**

In this Schedule—

**"Central Plan Office"** means the Central Plan Office of the Department of Sustainability and Environment;

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"**City Link Minister**" means the Minister for the time being administering the **Melbourne City Link Act 1995**;

5

"**Link Upgrade area**" has the meaning given by clause 6;

"**Link Upgrade Project**" means any part of the M1 Redevelopment Project that relates to the Link Upgrade area;

10

"**Crown land Minister**" means the Minister for the time being administering the **Crown Land (Reserves) Act 1978**;

"**M1 Redevelopment Project**" means the project described in clause 2 or any part of that project;

15

"**Native Title Act**" means the Native Title Act 1993 of the Commonwealth;

"**Planning Minister**" means the Minister for the time being administering the **Planning and Environment Act 1987**;

20

"**redevelopment acquisition**" has the meaning given by clause 10;

"**Redevelopment Project area**" has the meaning given by clause 3;

25

"**Road Minister**" means the Minister for the time being administering this Act;

"**VicRoads area**" means any part of the Redevelopment Project area other than the Link Upgrade area.

30

**PART 2—M1 REDEVELOPMENT PROJECT  
AND REDEVELOPMENT PROJECT AREA**

**2. M1 Redevelopment Project**

35

In this Schedule a reference to the M1 Redevelopment Project is a reference to the project for the widening of the M1 Corridor from Doveton to Yarraville.

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**3. Redevelopment Project area**

- 5 (1) Subject to this clause, for the purposes of this Schedule, the Redevelopment Project area means the areas of land shown coloured pink and coloured blue on the plans numbered LEGL./06-358 to LEGL./06-414 and lodged in the Central Plan Office or, if any of those areas of land is varied in accordance with this Part, those areas as so varied.
- 10 (2) For the purposes of this Schedule, the plans referred to in sub-clause (1) must be read as one plan in the manner shown in plans numbered LEGL./06-356 and LEGL./06-357.
- 15 (3) If consolidated plans for the Redevelopment Project area have been approved under clause 5, then for the purposes of this Schedule, the Redevelopment Project area means the areas of land shown as the Redevelopment Project area on the current approved consolidated plans or, if any of those areas of land is varied in accordance with this Part, those areas as so varied.
- 20

**4. Changes to Redevelopment Project area**

- 25 (1) The Governor in Council may, by Order published in the Government Gazette, vary the Redevelopment Project area by doing all or any of the following—
- 30 (a) increasing the Redevelopment Project area by adding land in the vicinity of the Redevelopment Project area; or
- (b) decreasing the Redevelopment Project area; or
- 35 (c) removing land from the VicRoads area and adding it to the Link Upgrade area; or
- (d) removing land from the Link Upgrade area and adding it to the VicRoads area.
- 40 (2) An Order under this clause takes effect on the day that it is published in the Government Gazette or, if a later day is specified in the Order, on that later day.

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- 5 (3) An Order under this clause must be made on the recommendation of the Road Minister, the City Link Minister and the Planning Minister.
- 5 (4) The Ministers must not make a recommendation under sub-clause (3) unless they have received the appropriate plans, which have been—
- (a) signed by the Surveyor-General; and
- (b) lodged at the Central Plan Office.
- 10 (5) For the purposes of sub-clause (4), the appropriate plans may show the Redevelopment Project area as varied.
- (6) An Order under this clause may refer to the plans referred to in clause 3 and sub-clause (4).
- 15 (7) An Order under this clause may designate land that is added to the Redevelopment Project area to be added to and form part of the Link Upgrade area.
- 20 (8) The Road Minister must cause a copy of each Order under this clause to be laid before each House of the Parliament within 6 sitting days of that House after the Order is made.
- 25 (9) Part 5 of the **Subordinate Legislation Act 1994** applies to an Order under this clause as if that Order were a statutory rule within the meaning of that Act.

**5. Consolidated plans**

- 30 (1) The Governor in Council may, by Order published in the Government Gazette, approve consolidated plans of the Redevelopment Project area incorporating all variations to the Redevelopment Project area made under clause 4 up to the date of the Order.
- 35 (2) An Order under this clause takes effect on the day that it is published in the Government Gazette or, if a later day is specified in the Order, on that later day.
- (3) An Order under this clause must be made on the recommendation of the Road Minister.

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(4) The Road Minister must not make a recommendation under sub-clause (3) unless the Road Minister has received the appropriate consolidated plans, which have been—

(a) signed by the Surveyor-General; and

(b) lodged at the Central Plan Office.

(5) An Order under this clause approving consolidated plans for the Redevelopment Project area revokes and replaces any existing approved consolidated plans for the Redevelopment Project area.

**6. Link Upgrade area**

(1) Subject to this clause, for the purposes of this Schedule, the Link Upgrade area means the areas that form part of the Redevelopment Project area that are shown coloured blue on the plans numbered LEGL./06-369 to LEGL./06-377 and lodged in the Central Plan Office, or if any of those areas of land is varied in accordance with this Part, those areas as so varied.

(2) For the purposes of this Schedule, the plans referred to in sub-clause (1) must be read as one plan.

(3) If land is added to or removed from the Link Upgrade area under clause 5, for the purposes of this Schedule, the Link Upgrade area means the areas referred to in sub-clause (1) as so varied.

(4) If consolidated plans for the Redevelopment Project area have been approved under clause 5, then for the purposes of this Act, the Link Upgrade area means the areas of land shown as the Link Upgrade area on the current approved consolidated plans or, if any of those areas of land is varied in accordance with this Part, those areas as so varied.

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**PART 3—PLANNING CONTROLS IN THE  
REDEVELOPMENT PROJECT AREA**

**7. Amendment of planning schemes**

- 5 (1) In addition to any other power to prepare, adopt  
or approve amendments to planning schemes,  
the Planning Minister may—
- (a) on the recommendation of the Road  
Minister and the City Link Minister,  
prepare; and
- 10 (b) adopt and approve—  
amendments to any planning scheme applying  
to any land in the Redevelopment Project area  
to facilitate the M1 Redevelopment Project.
- 15 (2) Without limiting what an amendment may  
include, an amendment prepared under this  
clause may—
- (a) impose any conditions on the  
development and use of land for the  
purposes of the M1 Redevelopment  
Project that the Planning Minister may  
determine; and
- 20 (b) provide that no permit is required for all  
or any part of that development or use of  
land; and
- 25 (c) specify the Planning Minister as the  
responsible authority for the  
administration or enforcement of any  
provision of a planning scheme  
applicable to the M1 Redevelopment  
Project.
- 30 (3) The **Planning and Environment Act 1987**  
(except for sections 12(1)(a), 12(1)(e), 12(2)  
and 12(3) and Divisions 1 and 2 of Part 3 and  
sections 38(2) to 38(5) and 39(1) to 39(5) and  
any regulations made for the purposes of those  
provisions) applies to the preparation, adoption  
and approval of an amendment under this  
35 clause.

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- 5 (4) Section 39(7) of the **Planning and Environment Act 1987** applies to an amendment prepared, adopted or approved under this clause as if before "Division 1" there were inserted "section 12(1) or".
- 10 (5) Section 39(8) of the **Planning and Environment Act 1987** applies to an amendment prepared or adopted under this clause as if—
- (a) for the expression "Except for an application under this section, a person" there were substituted "A person"; and
- (b) before "Division 1" there were inserted "section 12(1) or".
- 15 (6) This clause has effect despite anything in section 46 of the **Planning and Environment Act 1987** and that section does not apply to an amendment prepared, adopted or approved under this clause.
- 20 **8. VicRoads to be referral authority**
- VicRoads is deemed to be specified as a referral authority in each planning scheme under the **Planning and Environment Act 1987** to the extent that it applies to the Redevelopment Project area in respect of any matter affecting land within the Redevelopment Project area.
- 25 **9. Planning compensation**
- 30 Despite anything to the contrary in Part 5 of the **Planning and Environment Act 1987** or in a planning scheme or amendment under that Act, that Part applies as if—
- 35 (a) the Redevelopment Project area had been reserved under a planning scheme for a public purpose, being the M1 Redevelopment Project; and

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- 5 (b) VicRoads were liable to pay any compensation under that Part that arises from that deemed reservation and no other planning authority, responsible authority, Minister or public authority were liable to pay compensation in respect of the Redevelopment Project area under that Part.

10 **PART 4—ACQUISITION OF REDEVELOPMENT PROJECT LAND**

**Division 1—Acquisition of Land in Redevelopment Project Area**

**Subdivision 1—General**

15 **10. Application of Division to M1 Redevelopment Project**

- 20 (1) This Division applies if, under clause 11 of Schedule 5, VicRoads acquires or intends to acquire any land in the Redevelopment Project area for the purposes of the M1 Redevelopment Project (a "**redevelopment acquisition**").
- (2) This Division applies in addition to the provisions of clause 11 of Schedule 5.
- 25 (3) If VicRoads exercises a power conferred by clause 7 of Schedule 3 in relation to the Redevelopment Project area, this Division applies to the exercise of that power in addition to clause 11 of Schedule 5.
- 30 (4) This Division and clause 11 of Schedule 5 do not apply to the compulsory acquisition of native title rights and interests in land in the Redevelopment Project area.

**11. Modification of Land Acquisition and Compensation Act 1986—general**

- 35 (1) Section 3(3) of the **Land Acquisition and Compensation Act 1986** does not apply to the extent that this Division is inconsistent with that Act.



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- 5 (2) The Redevelopment Project area is deemed to have been reserved under a planning instrument for a public purpose for the purposes of section 5 of the **Land Acquisition and Compensation Act 1986**.
- 10 (3) Section 8(1) of the **Land Acquisition and Compensation Act 1986** applies to a redevelopment acquisition as if for paragraph (e) there were substituted—  
"e) state that the land is within the Redevelopment Project area within the meaning of Schedule 5A to the **Road Management Act 2004**;"
- 15 (4) Section 43 of the **Land Acquisition and Compensation Act 1986** applies to a redevelopment acquisition as if after section 43(1)(b) there were inserted—  
"ba) Any special suitability or adaptability of the land in which the acquired interest subsists for a purpose for which it could be used under the **Road Management Act 2004** or the **Melbourne City Link Act 1995** for the purposes of the M1 Redevelopment Project within the meaning of Schedule 5A to the **Road Management Act 2004**."
- 20
- 25 (5) Section 109 of the **Land Acquisition and Compensation Act 1986** does not apply to an interest in land acquired under a redevelopment acquisition.
- 30

**12. Modification of Land Acquisition and Compensation Act 1986—regulations**

35 The regulations in force from time to time under the **Land Acquisition and Compensation Act 1986** and the forms prescribed under those regulations apply in relation to the operation of this Division with such modifications as are necessary to give effect to this Division.

**13. Cultural and Recreational Lands Act 1963**

Section 3 of the **Cultural and Recreational Lands Act 1963** does not apply to a redevelopment acquisition.

**Subdivision 2—Special Acquisition Process**

**14. Election by VicRoads**

VicRoads may, by notice published in the Government Gazette, elect to use the procedures under this Division for the acquisition under clause 11 of Schedule 5 of specified land that is part of the Redevelopment Project area or land in a specified part of the Redevelopment Project area for the purposes of the M1 Redevelopment Project.

**15. Notice of intention to acquire**

- (1) If VicRoads has made an election under clause 14, VicRoads may publish in the Government Gazette a notice of intention to acquire the specified land that is part of the Redevelopment Project area or land in the specified part of the Redevelopment Project area.
- (2) As soon as practicable after the publication of the notice under sub-clause (1), VicRoads must serve a notice of intention to acquire the land on—
  - (a) in the case of land that is under the operation of the **Transfer of Land Act 1958**, any person who appears from the Register to have an interest in the land; and
  - (b) in the case of land that is not under the operation of the **Transfer of Land Act 1958**—
    - (i) any person who appears from an examination of the Register kept by the Registrar-General to be the owner of the fee simple or an equity of redemption or other interest in the land; and

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- 5 (ii) any person whom a municipal council certifies to be liable to be rated in respect of the land under the **Local Government Act 1989**; and
- (c) any person who appears to be an occupier of the land; and
- 10 (d) in the case of an acquisition of a lease over Crown land or a licence that constitutes an interest in Crown land, any person whom the Secretary to the Department of Sustainability and Environment certifies to be the holder of an interest in that lease or licence under the **Land Act 1958** or the **Crown Land (Reserves) Act 1978**.
- 15
- (3) A municipal council must provide a certificate under sub-clause (2)(b)(ii) on the written application of VicRoads stating that it is required for the purposes of this clause.
- 20

**16. Further modification of Land Acquisition and Compensation Act 1986**

25 If VicRoads has made an election under clause 14, then in addition to the modifications to the application of the **Land Acquisition and Compensation Act 1986** made in clause 11, that Act applies to a redevelopment acquisition of the land to which the election applies as further modified by this Division.

**17. Modification of Part 2 of the Land Acquisition and Compensation Act 1986**

30 Part 2 of the **Land Acquisition and Compensation Act 1986** applies to an acquisition referred to in clause 16 as if in that Act—

35

- (a) that Part referred to—
- 40 (i) a notice of intention to acquire an interest in land under clause 15 of Schedule 5A to the **Road Management Act 2004** instead of a notice of intention to acquire that interest under that Part;

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- 5 (ii) the publication of the notice of intention to acquire an interest in land in the Government Gazette under clause 15 of Schedule 5A to the **Road Management Act 2004** instead of the service of a notice of intention to acquire an interest under section 6 of that Act;
- 10 (b) sections 6, 7 and 13 were omitted;
- (c) in section 12—
- 15 (i) for "section 6" there were substituted "clause 15(2) of Schedule 5A to the **Road Management Act 2004**";
- (ii) before "while the notice is in force" there were inserted "from the date of service of that notice and";
- 20 (d) for section 14(1) there were substituted—
- "(1) VicRoads may, by notice published in the Government Gazette, amend any error in the description of any land in a notice under clause 15 of Schedule 5A to the **Road Management Act 2004** or any other matter contained in the notice.
- 25
- 30 (1A) as soon as practicable after the publication of the notice under sub-section (1), VicRoads must serve a copy of the notice on any person on whom and in the same manner as the notice was served under clause 15 of Schedule 5A to the **Road Management Act 2004**;"
- 35
- 40 (e) for section 15(2) there were substituted—
- "(2) If VicRoads makes a determination under sub-section (1), VicRoads must—

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(a) publish a statement cancelling the notice of intention to acquire in the same manner as the notice was published under clause 15 of Schedule 5A to the **Road Management Act 2004**; and

10

(b) serve a statement cancelling the notice of intention to acquire on all persons on whom the notice was served under clause 15(2) of Schedule 5A to the **Road Management Act 2004**."

15

(f) for section 24 there were substituted—

**"24. Effect of notice of acquisition**

20

On publication in the Government Gazette of a notice of acquisition of land—

25

(a) the fee simple in the land described in the notice vests in VicRoads without transfer or conveyance freed and discharged from all trusts, restrictions, dedications, limitations, reservations, obligations, mortgages, encumbrances, contracts, licences, charges and rates of any kind; and

30

(b) any interest that a person has in the land (including any interest that a public statutory authority has in the land) is divested accordingly, whether or not notice was given under clause 15 of Schedule 5A to the **Road Management Act 2004** to the owner of that interest."

35

40

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**18. Modification of section 104 of the Land Acquisition and Compensation Act 1986**

Section 104 of the **Land Acquisition and Compensation Act 1986** applies to an acquisition referred to in clause 16 as if—

(a) in sub-section (1) after "post" there were inserted "or by leaving it at the person's usual or last known place of residence or business with a person apparently not less than 16 years of age and apparently residing or employed at that place"; and

(b) after sub-section (2) there were inserted—

(2A) If a notice or other document is to be served on the occupier of any land and the name of that person is not known, the document may be addressed to "the occupier".

**19. Further modification of Land Acquisition and Compensation Act 1986—regulations**

In addition to the modifications to the application of the regulations under the **Land Acquisition and Compensation Act 1986** and the forms prescribed under those regulations referred to in clause 12, those regulations and forms apply in relation to an acquisition to which an election under clause 14 applies with such further modifications as are necessary to give effect to this Division.

**Division 2—Acquisition of Native Title Rights and Interests**

**20. Compulsory acquisition of native title rights and interests**

(1) VicRoads may acquire a native title right or interest in land in the Redevelopment Project area by a compulsory process for the purposes of the M1 Redevelopment Project or any purpose connected with the M1 Redevelopment Project.

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(2) Subject to this Division, the **Land Acquisition and Compensation Act 1986** applies to a compulsory acquisition referred to in sub-clause (1) and for that purpose—

(a) the **Road Management Act 2004** is the special Act; and

(b) VicRoads is the Authority.

(3) Section 3(3) of the **Land Acquisition and Compensation Act 1986** does not apply to the extent that this Division is inconsistent with that Act.

**21. Procedure for acquisition**

(1) For the purposes of the compulsory acquisition of native title rights and interests in land, VicRoads is authorised to comply with any relevant procedure under the Native Title Act for a valid acquisition of those rights and interests.

(2) If the procedure under section 24MD(6B) of the Native Title Act applies and an objection is not made under paragraph (d) of that sub-section within 2 months after notice is given under that sub-section, VicRoads may compulsorily acquire the native title rights and interests.

(3) For the purposes of the application of the procedure under section 24MD(6B) of the Native Title Act in relation to the compulsory acquisition, the Tribunal is the independent body for hearing an objection under section 24MD(6B)(f) and clauses 22 and 23 apply.

(4) If an objection is made under section 24MD(6B)(d) of the Native Title Act to a proposed compulsory acquisition of native title rights and interests, VicRoads may compulsorily acquire the native title rights and interests in the land if—

(a) all those objections have been withdrawn; or

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- 5 (b) within 5 months after notification under section 24MD(6B) of the Native Title Act of a proposed compulsory acquisition a request has not been made for the objection to be referred to the Tribunal.
- 10 (5) If an objection made under section 24MD(6B)(d) of the Native Title Act to a proposed compulsory acquisition is referred to the Tribunal and a determination is made that the proposed compulsory acquisition proceed, VicRoads, in accordance with the determination and subject to this Act, may compulsorily acquire the native title rights and interests.
- 15 (6) If the Tribunal makes a determination that the proposed compulsory acquisition not proceed, or proceed subject to conditions, VicRoads must comply with that determination except as permitted by sub-paragraphs (i), (ii) and (iii) of section 24MD(6B)(g) of the Native Title Act.
- 20

**22. Referral of objections to Tribunal**

- 25 (1) A person or body that makes an objection under section 24MD(6B)(d) of the Native Title Act to a proposed compulsory acquisition of native title rights and interests may request VicRoads to refer the objection to the Tribunal.
- 30 (2) A request must be made within 5 months after notification under section 24MD(6B) of the Native Title Act of the proposed compulsory acquisition.
- 35 (3) If a request is made, the Authority must refer the objection to the Tribunal unless VicRoads decides not to proceed with the compulsory acquisition.
- (4) VicRoads is a party to a proceeding in the Tribunal in respect of an objection.



**23. Determination of Tribunal on objection**

- 5 (1) The Tribunal may make any of the following determinations in respect of an objection referred to it under clause 22—
- (a) a determination that the proposed compulsory acquisition that is the subject of the objection proceed; or
- 10 (b) a determination that the proposed compulsory acquisition proceed subject to conditions; or
- (c) a determination that the proposed compulsory acquisition not proceed.
- 15 (2) In making a determination, the Tribunal must take into account—
- (a) the likely impact of the proposed compulsory acquisition on the objector's registered native title rights and interests; and
- 20 (b) the measures proposed to be taken to minimise that impact.
- (3) For the avoidance of doubt, a determination is not an order of the Tribunal for the purposes of the **Victorian Civil and Administrative Tribunal Act 1998**.

25 Note: Compare section 79 of the Native Title Act.

**24. Disputed claims for compensation: native title land**

30 If the compensation payable to a person in respect of the compulsory acquisition of native title rights and interests in land to which this Division applies does not amount to compensation on just terms, the person is entitled to such additional compensation as is necessary to ensure that compensation is paid on just terms.

**25. Cultural and Recreational Lands Act 1963**

40 Section 3 of the **Cultural and Recreational Lands Act 1963** does not apply to the compulsory acquisition of a right or interest under this Division.

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**PART 5—PROVISION OF PUBLIC LAND AND  
COUNCIL LAND**

**Division 1—Surrender or Divesting of Public Land and  
Council Land**

**26. Surrender or divesting of land of public authorities  
and Councils**

- (1) The Governor in Council may, by Order published in the Government Gazette—
- (a) require a public authority or municipal council in which land in the Redevelopment Project area is vested to surrender that land to the Crown; or
  - (b) divest land in the Redevelopment Project area from a public authority or municipal council.
- (2) Sub-clause (1) applies whether or not that land was vested in the public authority or municipal council by or under this Act or any other Act or by any other means.
- (3) Without limiting sub-clause (2), sub-clause (1) applies to land vested in VicRoads whether or not the land was vested in VicRoads by or under this Part.
- (4) Sub-clause (1) does not apply to land that is reserved under the **Crown Land (Reserves) Act 1978**.
- (5) A public authority or municipal council must comply with a requirement under sub-clause (1)(a).
- (6) A power may only be exercised under sub-clause (1) on the joint recommendation of the Road Minister and—
- (a) in the case of a public authority, the Minister administering the Act under which the public authority is established; or
  - (b) in the case of a municipal council, the Minister administering the **Local Government Act 1989**.

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- (7) An Order under this clause may describe the land by reference to a plan or plans.

**27. Surrender of interests in unreserved Crown land**

- (1) The Road Minister may recommend to the Governor in Council that the interests (if any) of a public authority or a municipal council in any Crown land that is a part of the Redevelopment Project area be surrendered to the Crown on—

- (a) receiving a plan of land signed by the Surveyor-General; and
- (b) being satisfied that the land shown on the plan represents land, the interests in which are to be surrendered to the Crown.

- (2) Sub-clause (1) does not apply to land that is reserved under the **Crown Land (Reserves) Act 1978**.

- (3) On receiving the Minister's recommendation, the Governor in Council may, by Order published in the Government Gazette, declare that the interests (if any) in the land shown on the plan are surrendered to the Crown.

- (4) An Order under this clause may describe the land by reference to the plan referred to in sub-clause (1).

**28. Effect of surrender or divesting**

- (1) This clause applies to land on—

- (a) the conveyance to the Crown or the registration of an instrument of transfer and surrender to the Crown of the land that a public authority or municipal council is required to surrender under clause 26(1)(a); or
- (b) the publication in the Government Gazette of an Order under clause 26(1)(b) in respect of the land; or
- (c) the publication in the Government Gazette of an Order under clause 27 in respect of the land.

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- (2) The land is deemed to be unalienated land of the Crown and is freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests.
  - (3) Unless the relevant Order under clause 26 or 27 expressly excludes the operation of this sub-clause, if any part of the land is or is being used as a road—
    - (a) that part of the land ceases to be a road; and
    - (b) all rights, easements and privileges existing or claimed in that part of the land either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise, cease.
  - (4) Unless the relevant Order under clause 26 or 27 expressly excludes the operation of this sub-clause, if any part of the land is the bed, soil and banks of a river, all rights, easements and privileges existing or claimed in that part of the land either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise, cease.
  - (5) If the relevant Order under clause 26 or 27 provides for the land or any part of the land to be reserved for the purposes of the Link Upgrade Project, the land is deemed to be temporarily reserved under section 4(1) of the **Crown Land (Reserves) Act 1978** for public purposes, being, in particular, the purposes of the Link Upgrade Project.
  - (6) If the relevant Order under clause 26 or 27 does not provide for the land to be reserved for the purposes of the Link Upgrade Project, the land is vested in fee simple in VicRoads.
  - (7) Sub-clause (3) does not apply if the land is land for which a lease has been granted under section 60 or 93G of the **Melbourne City Link Act 1995**.

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- (8) This clause has effect despite anything to the contrary in section 175A of the **Water Industry Act 1994**, section 10 of or clause 1 of Schedule 5 to this Act or any other Act.

**29. Temporary reservation may be amended or revoked**

The reservation of land under clause 28(5) may be amended, revoked and otherwise dealt with in accordance with the **Crown Land (Reserves) Act 1978**.

**Division 2—Removal of Reservations on Land**

**30. Land Acts not to apply**

This Division has effect despite anything to the contrary in the **Crown Land (Reserves) Act 1978** or the **Land Act 1958**.

**31. Revocation of reservations—entire reservation**

- (1) If any Crown land permanently or temporarily reserved under the **Crown Land (Reserves) Act 1978** is entirely within the Redevelopment Project area, the Road Minister and the Crown land Minister may jointly recommend to the Governor in Council that the reservation of that land be revoked in its entirety.
- (2) On receiving the Ministers' recommendation, the Governor in Council may, by Order published in the Government Gazette, revoke the following—

- (a) any Order in Council reserving the land;
- (b) any Crown grant, certificate of title or folio of the Register issued or created with respect to the land.

**32. Revocation of reservations—part of reservation**

- (1) If any Crown land permanently or temporarily reserved under the **Crown Land (Reserves) Act 1978** is within the Redevelopment Project area, and if only part of the reservation of that land is to be revoked, the Road Minister and the Crown land Minister on—
- (a) receiving a plan of land signed by the Surveyor-General; and



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- 5 (b) all rights, easements and privileges  
existing or claimed in that part of the  
land either in the public or by any body  
or person as incident to any express or  
implied grant, or past dedication or  
supposed dedication or by user or  
operation of law or otherwise, cease.
- 10 (4) Unless the relevant Order under clause 31 or 32  
expressly excludes the operation of this sub-  
clause, if any part of the land is the bed, soil  
and banks of a river, all rights, easements and  
privileges existing or claimed in that part of the  
land either in the public or by any body or  
15 person as incident to any express or implied  
grant, or past dedication or supposed dedication  
or by user or operation of law or otherwise,  
cease.
- 20 (5) The appointment of any committee of  
management is revoked in so far as it applies to  
the land.
- (6) Any regulations made under section 13 of the  
**Crown Land (Reserves) Act 1978** are revoked  
in so far as they apply to the land.
- 25 (7) If the relevant Order under clause 31 or 32  
provides for the land or any part of the land to  
be reserved for the purposes of the Link  
Upgrade Project, the land is deemed to be  
temporarily reserved under section 4(1) of the  
**Crown Land (Reserves) Act 1978** for public  
30 purposes, being, in particular, the purposes of  
the Link Upgrade Project.
- (8) If the relevant Order under clause 31 or 32 does  
not provide for the land to be reserved for the  
purposes of the Link Upgrade Project, the land  
35 is vested in fee simple in VicRoads.
- (9) Sub-clause (5) does not apply if the land is land  
for which a lease has been granted under  
section 60 or 93G of the **Melbourne City Link**  
**Act 1995**.
- 40 (10) This clause has effect despite anything to the  
contrary in section 175A of the **Water**  
**Industry Act 1994**, section 10 of this Act or  
any other Act.
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**34. Temporary reservation may be amended or revoked**

The reservation of land under clause 33(7) may be amended, revoked and otherwise dealt with in accordance with the **Crown Land (Reserves) Act 1978**.

**Division 3—Continuation of Roads**

**35. Orders may continue or declare roads**

- (1) An Order made under Division 1 or Division 2 may specify that any part of the land (that is the subject of the Order) that was a freeway or an arterial road before the publication of the Order continues to be a freeway or arterial road.
- (2) Any land that is specified in an Order in accordance with sub-clause (1) continues to be a freeway or an arterial road as specified in the Order.
- (3) The Governor in Council may, by Order published in the Government Gazette, specify that any land that was the subject of an Order under Division 1 or Division 2 and that was a freeway or an arterial road immediately before the publication of the Order is to be deemed to be a freeway or an arterial road.
- (4) Any land that is specified in an Order in accordance with sub-clause (3) is, from the date of publication of the Order, deemed to be declared under section 14 of the **Road Management Act 2004** as a freeway or an arterial road as specified in the Order.
- (5) For the avoidance of doubt it is declared that this clause has effect in addition to and not in derogation of any deemed reservation of the land under this Part.
- (6) Despite anything to the contrary in section 10 or any other provision of this Act, the continuation of a road or the making of an Order under this clause does not revive any rights of the public in relation to a public highway that have been extinguished under Division 1 or Division 2.



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(7) This clause has effect despite anything to the contrary in any other Act.

**PART 6—ENTRY INTO POSSESSION OF  
CERTAIN REDEVELOPMENT PROJECT LAND**

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**36. Definitions**

In this Part—

**"redevelopment project land"** means—

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(a) land that is deemed under Part 5 to be temporarily reserved under section 4(1) of the **Crown Land (Reserves) Act 1978** for public purposes, being, in particular, the purposes of the Link Upgrade Project; or

15

(b) land that is vested in VicRoads under Part 5.

**"relevant date"** in relation to land means the date on which the land first became redevelopment project land.

20

**37. Power to enter into possession**

Subject to this Part, VicRoads may enter into possession of redevelopment project land.

**38. VicRoads must try to obtain agreement**

25

VicRoads must diligently endeavour to obtain agreement with the person in occupation of redevelopment project land (the **occupier**) as to the terms on which VicRoads will enter into possession of the land.

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**39. Time for entry into possession—general**

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If, at the relevant date, redevelopment project land is not used by any person as the principal place of residence or business of that person, VicRoads may enter into possession of the land at any time after the relevant date after giving 7 days notice in writing of its intention to enter into possession to the occupier of the land.

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**40. Time for entry into possession—residence or business**

(1) Subject to this Part, if redevelopment project land or part of redevelopment project land is used, at the relevant date, by a person as the principal place of residence or business of that person, VicRoads must not enter into possession of—

(a) the part of the land so used; or

(b) if the whole of the land is so used, that land—

before the end of 3 months after the relevant date and unless VicRoads has given 7 days notice in writing of its intention to enter into possession to the occupier of the land.

(2) The occupier is not liable for the payment of rent in respect of the occupation of that part of the redevelopment project land that is used as the principal place of residence or business of the occupier during the 3 month period referred to in sub-clause (1).

(3) If the occupier ceases of the occupier's own accord to occupy the redevelopment project land before the end of the 3 month period referred to in sub-clause (1), the entitlement of that person under this Part to occupy the land without payment of rent to VicRoads also ceases.

(4) If the occupier was in occupation of the land immediately before the relevant date—

(a) in accordance with section 26(2) of the **Land Acquisition and Compensation Act 1986** or an agreement under section 26(6) of that Act; or

(b) in accordance with section 20E(2) of the **Project Development and Construction Management Act 1994** or an agreement under section 20E(6) of that Act—

this Part applies as if the 3 month period referred to in sub-clause (1) were the remainder of the period of occupation permitted under the

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relevant provision or agreement specified in paragraph (a) or (b) of this sub-clause.

(5) If the occupier was in occupation of the land before the relevant date—

(a) in accordance with section 26(2) of the **Land Acquisition and Compensation Act 1986** or an agreement under section 26(6) of that Act; or

(b) in accordance with section 20E(2) of the **Project Development and Construction Management Act 1994** or an agreement under section 20E(6) of that Act—

and the period of occupation permitted under the relevant provision or agreement specified in paragraph (a) or (b) had ended before the relevant date, VicRoads may enter into possession of the land at any time after the relevant date after giving 7 days notice in writing of its intention to enter into possession to the occupier of the land.

**41. Early entry of place of residence or business**

(1) Clause 40 does not apply if—

(a) the Governor in Council certifies that having regard to—

(i) the urgency of the case or any other exceptional circumstances;  
and

(ii) the public interest—

it is not practicable for VicRoads to delay entry into possession of the redevelopment project land until after the end of the 3 month period referred to in clause 40(1); or

(b) VicRoads and the occupier have, with the consent of the Minister, entered into an agreement in relation to the time of entry into possession of the redevelopment project land by VicRoads.

(2) A certificate under sub-clause (1)(a) must specify the date on which VicRoads is to take possession.

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- (3) VicRoads must serve a copy of the certificate under sub-clause (1)(a) on the occupier.
  - (4) The occupier whose period of occupation of the redevelopment project land was abridged under sub-clause (1)(a) is entitled to claim compensation under Part 7 for any loss or damage that is incurred as a direct, natural and reasonable consequence of that abridgment and for which the person could not otherwise make a claim under that Part.
  - (5) The compensation payable pursuant to sub-clause (4) may be paid to—
    - (a) the person who is entitled to claim the compensation; or
    - (b) the constituted attorney of that person.

**42. Occupation may be extended by agreement**

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- (1) The period of occupation of the redevelopment project land after the relevant date (including the 3 month period referred to in clause 40(1)) may be extended by agreement in writing between VicRoads and the occupier of the redevelopment project land.
  - (2) An agreement under sub-clause (1) must provide for the payment of rent by the occupier of the relevant land to VicRoads.

**43. Continued occupation without agreement**

30

If a person continues to occupy redevelopment project land after the period permitted under clause 40 or the relevant date (as the case may be) and an agreement has not been entered into under clause 42 in respect of that occupation, that person—

- 35
- (a) is to be taken to be in possession of the land in pursuance of a tenancy determinable at will by VicRoads; and
  - (b) is liable to pay to VicRoads a fair market rent in respect of that continued occupation.

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**44. Recovery of rent**

Any rent payable to VicRoads under this Part may be recovered as a debt due to VicRoads in any court of competent jurisdiction.

**45. Proceedings where refusal to give up possession**

(1) If VicRoads is entitled under this Part to enter into possession of redevelopment project land and the occupier of the land or any other person—

(a) refuses to give up the possession of the land; or

(b) hinders VicRoads from entering on and taking possession of the land—

VicRoads may issue its warrant under this clause to the sheriff.

(2) A warrant issued under this clause authorises the sheriff to—

(a) enter onto the land specified in the warrant; and

(b) deliver possession of the land to VicRoads or the person appointed in the warrant to receive possession of the land; and

(c) use such force as is reasonably necessary to execute the warrant.

(3) On receipt of a warrant issued under this clause, the sheriff must deliver possession of the land to VicRoads or the person appointed in the warrant to receive possession of the land.

(4) The costs incurred in the issuing and execution of a warrant must be paid by the person refusing to give up possession.

(5) The amount of the costs and the amount of any rent owed by that person must be deducted and retained by VicRoads from the compensation (if any) payable under Part 7 to that person.

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5 (6) If no compensation is payable to that person or if the compensation payable is less than the amount of the costs and rent (if any) then payment of the amount in excess of the compensation must if not paid on demand be enforced by a warrant to seize property.

(7) On application by VicRoads, a magistrate must issue a warrant for the purposes of sub-clause (6).

10 (8) In this clause, "**sheriff**" means the sheriff or a deputy sheriff under the **Supreme Court Act 1986**.

**46. Residential Tenancies Act 1997 not to apply**

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

**47. Giving of notices and documents**

20 (1) Any notice or other document that VicRoads is required to give to any person under this Part may be served on that person personally or by post.

25 (2) If VicRoads does not know the location of a person on whom VicRoads is required to serve the notice or document, the notice or document may be served—

(a) by publication of a copy of it in a newspaper circulating generally throughout the State; and

30 (b) by affixing it in a prominent place on the land to which it relates.

**48. Minor misdescription not to invalidate notice**

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

**49. Process under this Part may be completed**

If VicRoads has commenced a process under this Part to enter into possession of land vested in it under Part 5 and, before VicRoads enters into possession of the land, the land is deemed under Part 5 to be temporarily reserved under section 4(1) of the **Crown Land (Reserves) Act 1978**, VicRoads may complete any process and take any further action under this Part to obtain possession of the land as if the land had not been so reserved.

**PART 7—COMPENSATION FOR  
SURRENDERED OR DIVESTED OR  
RESERVED LAND**

**50. Compensation—surrender, divesting or revocation  
of reservation**

- (1) Subject to this Part and the **Land Acquisition and Compensation Act 1986**, every person who immediately before the publication of an Order under Division 1 or 2 of Part 5 had a legal or equitable estate or interest in land to which the Order applies has a claim for compensation.
- (2) The **Land Acquisition and Compensation Act 1986** (except sections 31 to 36) applies to the determination of compensation payable under this clause as if the publication of the Order were a notice of acquisition of that estate or interest and VicRoads had acquired that estate or interest.
- (3) Section 43 of the **Land Acquisition and Compensation Act 1986** applies to the determination of compensation under this clause as if after section 43(1)(b) there were inserted—
  - "(ba) Any special suitability or adaptability of the land in which the acquired interest subsists for a purpose for which it could be used under the **Road Management Act 2004** or the **Melbourne City Link Act 1995** for the purposes of the M1 Redevelopment Project within the

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meaning of the **Road Management Act 2004**."

(4) This clause does not apply to—

- (a) an estate or interest held by a public statutory authority; or
- (b) an estate or interest (other than an interest in fee simple) held by a municipal council.

**51. Compensation for municipal councils in certain circumstances**

(1) This clause applies to land that was under the control of a municipal council immediately before the publication of an Order under Division 2 of Part 5 in relation to that land.

(2) If the municipal council has—

- (a) sustained any pecuniary loss; or
- (b) incurred any expense—

as a direct, natural and reasonable consequence of the Order, the municipal council may claim the amount of that loss or expense from VicRoads.

(3) For the purposes of sub-clause (2), the value of the land must not be taken into account when calculating the loss sustained or expense incurred by the municipal council.

(4) A claim under sub-clause (2) must be made within 2 years after the Order was made.

(5) Section 48 and Parts 10 and 11 of the **Land Acquisition and Compensation Act 1986** apply to a claim under sub-clause (2) as if it were a claim under section 47(1) of that Act.

**52. No other compensation payable**

Except as provided in this Part or clause 41 or section 127, no compensation is payable by the Crown or VicRoads in respect of anything done or arising out of Part 5 or Part 6.



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**PART 8—GENERAL**

**53. Effect of reservation of a stratum of Crown land**

(1) If a stratum of Crown land becomes redevelopment project land, any reservation or other right, title, trust, limitation, reservation, restriction, encumbrance, estate or interest—

(a) that applied both to that stratum of land and to any other stratum of land, immediately before the relevant date; and

(b) that was revoked or surrendered with respect to the redevelopment project land on the reservation of the stratum—

continues to apply to the other strata of land to which it applied immediately before the relevant date, despite the stratum becoming redevelopment project land.

(2) In this clause "**redevelopment project land**" and "**relevant date**" have the same meanings as they have in Part 6.

**54. Action by Registrar of Titles**

On being requested to do so and on delivery of any relevant instrument or document (but without production of a duplicate Crown grant or certificate of title), the Registrar of Titles must, as soon as practicable, make any recordings in the Register that are necessary because of the operation of this Schedule.'

**Division 2—Amendment of Melbourne City Link Act 1995**

**66. Definitions**

In section 3 of the **Melbourne City Link Act 1995** insert the following definition—

' "**Link Upgrade Project**" has the same meaning that it has in Schedule 5A to the **Road Management Act 2004**;'.

**67. The Project**

At the end of section 6 of the **Melbourne City Link Act 1995** insert—

5       "(2) In this Act, a reference to the Project includes a reference to the Link Upgrade Project."

**68. Variation of the Agreement**

After section 15(5) of the **Melbourne City Link Act 1995** insert—

10       "(5A) For the avoidance of doubt—

15               (a) an agreement may be entered into, and is deemed always to have been authorised to be entered into, under sub-section (1) in relation to the Link Upgrade Project; and

              (b) a variation may be made, and is deemed always to have been authorised to be made, under sub-section (1A) in relation to the Link Upgrade Project."

20       **69. Emergency powers to apply**

In section 16(2) of the **Melbourne City Link Act 1995** for ", 97 and 98" substitute "and 98 and Division 8 of Part 2B".

25       **70. Variation of the Integration and Facilitation Agreement**

After section 15B(8) of the **Melbourne City Link Act 1995** insert—

30       "(8A) For the avoidance of doubt—

              (a) an agreement may be entered into, and is deemed always to have been authorised to be entered into, under sub-section (1) in relation to the Link Upgrade Project; and

- (b) a variation may be made, and is deemed always to have been authorised to be made, under sub-section (2) in relation to the Link Upgrade Project."

5                   **71. Variation of the Extension Agreement**

After section 15D(9) of the **Melbourne City Link Act 1995** insert—

"(9A) For the avoidance of doubt—

- 10                   (a) an agreement may be entered into, and is deemed always to have been authorised to be entered into, under sub-section (1) in relation to the Link Upgrade Project; and
- 15                   (b) a variation may be made, and is deemed always to have been authorised to be made, under sub-section (2) in relation to the Link Upgrade Project."

**72. New Part 2B inserted**

20                   After Part 2A of the **Melbourne City Link Act 1995** insert—

**'PART 2B—LINK UPGRADE PROJECT**

**Division 1—Introductory**

**21. Definitions**

(1) In this Part—

25                   "**approved Utility agreement**" means a Utility agreement that is approved by the Roads Corporation under section 52;

30                   "**construction permit**" means a construction permit issued under Division 4;

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**"decision-maker"**, in Division 7, means—

- (a) the Minister and the Utility Minister; or
- (b) a person appointed under section 56ZA;

**"Link Upgrade area"** has the same meaning as it has in Schedule 5A to the **Road Management Act 2004**;

**"Link Upgrade construction area"** means land for which a construction permit is issued;

**"Link Upgrade construction work"** means work for the construction of the Link Upgrade Project;

**"Link Upgrade licensed land"** means land that is the subject of a licence issued under Division 3;

**"M1 Redevelopment Project"** has the same meaning as it has in Schedule 5A to the **Road Management Act 2004**;

**"notified Utility infrastructure"** means Utility infrastructure—

- (a) that is identified under section 54; or
- (b) that has been notified under section 56;

**"rectification"** includes repair, replacement and reinstatement;

**"reserved Link Upgrade land"** means land that under Schedule 5A to the **Road Management Act 2004** is deemed to be temporarily reserved under section 4(1) of the **Crown Land (Reserves) Act 1978** for public purposes, being, in

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particular, the purposes of the Link Upgrade Project;

**"unnotified Utility infrastructure"** means Utility infrastructure—

- 5
- (a) that has not been identified under section 54; or
  - (b) that has not been notified under section 56;

**"Utility"** means—

- 10
- (a) a utility within the meaning of the **Road Management Act 2004**; or
  - (b) the Director of Public Transport under the **Transport Act 1983**; or
  - 15 (c) any person who manages rail infrastructure within the meaning of Division 3 of Part VI of the **Transport Act 1983**; or
  - 20 (d) any person who operates rolling stock within the meaning of Division 3 of Part VI of the **Transport Act 1983**;

**"Utility agreement"** means an agreement entered into under section 49 and, if that agreement is amended under section 53, that agreement as so amended;

25

**"Utility infrastructure"** means any part of the supply, distribution or reticulation network operated or managed by a Utility, including—

30

- (a) poles, pipes, cables, wires, conduits and tunnels; and

(b) rail infrastructure and tram infrastructure (both within the meaning of the **Rail Corporations Act 1996**);

5 **"Utility Minister"** in relation to a Utility, means the Minister for the time being administering any Act—

10 (a) under which a Utility is authorised to provide an infrastructure service; or

(b) that regulates the provision by the Utility of an infrastructure service;

**"works"** has the same meaning as it has in the **Road Management Act 2004**.

15 (2) The Premier may determine a Minister as the Utility Minister for a Utility and if a determination is made that Minister is deemed to be the Utility Minister for that Utility for the purposes of this Part.

20 **Division 2—General Powers of Roads Corporation**

**22. Roads Corporation appointed committee of management**

25 (1) VicRoads is deemed to be the committee of management under the **Crown Land (Reserves) Act 1978** of reserved Link Upgrade land.

30 (2) The provisions of sections 15(2), 15(3), 15(4), 15(7), 15(8) and 15(9) of the **Crown Land (Reserves) Act 1978** do not apply to the Roads Corporation as committee of management.

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(3) In addition to the powers conferred on committees of management under the **Crown Land (Reserves) Act 1978**, the Roads Corporation as committee of management has all the powers necessary to give effect to this Act.

10

(4) For the purposes of this section, the **Crown Land (Reserves) Act 1978** applies as if a reference to the Minister under that Act were a reference to the Minister administering this Act.

### **23. Temporary access to Crown land**

15

(1) The Roads Corporation may, with the approval of the Minister administering section 12 of the **Land Act 1958** given after consultation with any other Minister concerned with the management or use of the land use any Crown land for the purposes of the Link Upgrade Project.

20

(2) If any Crown land proposed to be so used by the Roads Corporation is reserved under the **Crown Land (Reserves) Act 1978** for a purpose that is inconsistent with that use, the Roads Corporation must not use the land unless the reservation is revoked.

25

### **Division 3—Licences**

#### **24. Application**

30

This Division applies despite anything to the contrary in section 175A of the **Water Industry Act 1994**, the **Land Act 1958**, the **Crown Land (Reserves) Act 1978** or any other Act.

**25. Roads Corporation may issue licence for purposes of Link Upgrade Project**

- 5 (1) The Roads Corporation may issue a licence in accordance with the Agreement to enter and use the whole or part of any reserved Link Upgrade land in accordance with the Agreement.
- 10 (2) A licence under sub-section (1) may only be issued to a person entitled under the Agreement to the issue of a licence.

**26. Term of licence**

The term of the licence must be in accordance with the Agreement.

**27. Conditions of licence—general**

- 15 (1) The Roads Corporation may impose conditions on a licence subject to and in accordance with the Agreement.
- 20 (2) A licence that is inconsistent with the Agreement is invalid only to the extent of the inconsistency.

**28. Conditions on licence over stratum of land**

- 25 (1) Subject to section 27, in imposing conditions on a licence over a stratum of land, the Roads Corporation must have regard to the following matters—
- 30 (a) that reasonable access to and use of the stratum and other land be provided for; and
- (b) that the rights of the registered proprietor, lessee or licensee of other land not be interfered with; and



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- (c) that the rights of support of the stratum or of other land or of any building or structure erected or to be erected on those lands be provided for; and
  - (d) that the making and removal of improvements by the licensee be provided for; and
  - (e) that any necessary rights for the passage or provision of services (including drainage, sewerage or the supply of water, gas, electricity or telecommunications) to or through the stratum, where those rights are necessary for the reasonable enjoyment of the stratum or of other land, be provided for.

- 20
- (2) The issuing of a licence under this Division of a stratum of land is conclusive proof of compliance with sub-sections (1)(a), (1)(b), (1)(c), (1)(d) and (1)(e) with respect to the licence.

**29. Ability to mortgage licence**

25

The licensee may only mortgage, charge, assign or otherwise encumber the licensee's interest in the licence in accordance with the terms of the Agreement.

**30. Amendment of licence**

A licence may be amended at any time with the agreement of the licensee.

30

**31. Termination of licence**

A licence may be terminated in whole or in part before the end of the term of the licence in accordance with the Agreement.

**32. Renewal of licence**

A licence may be renewed in accordance with the terms of the Agreement.

**33. Act to apply as if Link Upgrade licensed land were leased land**

(1) On the issue under this Division of a licence in respect of land—

(a) this Act (except section 99) applies to that land as if any reference in this Act to leased land or land leased under section 60 included a reference to that land; and

(b) section 62 applies to that land as if any reference in that section to the grant of a lease under section 60 were a reference to the issue of a licence under this Division in respect of that land.

(2) This section ceases to apply to land on the termination of the licence in respect of the land.

**Division 4—Construction Permits**

**34. Construction permit**

(1) The Roads Corporation may issue a construction permit in accordance with the Agreement to any person who is entitled under the Agreement to the issue of a construction permit.

(2) A construction permit authorises the carrying out of works for the purposes of the Link Upgrade Project over land to which the permit applies.

**35. Land to which permit can apply**

A construction permit may be issued under this Division over the following land—

- (a) leased land;
- (b) reserved Link Upgrade project land;
- (c) land which is temporarily occupied by the Roads Corporation for the purposes of the M1 Redevelopment Project under Part 9 of the **Land Acquisition and Compensation Act 1986**;
- (d) Crown land which the Roads Corporation is permitted to use under section 23;
- (e) land vested in the Roads Corporation;
- (f) land that is available land within the meaning of clause 11 of Schedule 3 to the **Road Management Act 2004**.

**36. Conditions on permit**

- (1) The Roads Corporation may impose conditions on a construction permit subject to and in accordance with the Agreement.
- (2) A construction permit does not authorise any activity on land referred to in section 35(c) that would be inconsistent with Part 9 of the **Land Acquisition and Compensation Act 1986**.
- (3) A construction permit that is inconsistent with the Agreement is invalid only to the extent of the inconsistency.

**37. Cancellation of permit**

- 5
- (1) The Roads Corporation may cancel a construction permit.
  - (2) A construction permit is cancelled to the extent that it relates to land if that land ceases to be land for which a construction permit may be issued.

**Division 5—Statutory Powers and Exemptions**

**38. Application of planning laws**

- 10
- (1) This section applies to a use or development of land that is authorised by or under this Act or the Agreement or a construction permit for the purposes of the Link Upgrade Project.
  - 15 (2) Nothing in a planning scheme under the **Planning and Environment Act 1987** that applies to the Link Upgrade area—
    - (a) requires a permit under that Act for the use or development; or
    - (b) prevents the use or development.

20 **39. Approvals of public bodies not required**

- 25
- (1) Subject to Division 7, but despite anything to the contrary in any other enactment or law, a permit, licence, consent, approval or other authority is not required from any person or body, other than the Roads Corporation (in accordance with the Agreement) or the Environment Protection Authority, for the carrying out of works for the purposes of the Link Upgrade Project.
  - 30 (2) Nothing in this section derogates from any requirement relating to standards of construction and safety that may apply under any other Act, including—

- 5
- (a) the **Occupational Health and Safety Act 2004**; and
  - (b) the **Rail Safety Act 2006**; and
  - (c) section 99A of the **Road Safety Act 1986**.

10

**40. Application of Building Act 1993**

The **Building Act 1993** does not apply to or in relation to land for which a construction permit has been issued or to anything done on that land.

15

**41. Application of mineral resources and extractive industry Acts**

- 20
- (1) The **Mineral Resources (Sustainable Development) Act 1990** does not apply to or in relation to land for which a construction permit has been issued or to anything done on that land.
  - (2) The **Extractive Industries Development Act 1995** does not apply to or in relation to land for which a construction permit has been issued or to anything done on that land.

25

**42. Application of South Melbourne Land Act 1986**

The **South Melbourne Land Act 1986** does not apply to or in relation to land for which a construction permit has been issued or to anything done on that land.

30

**43. Application of Heritage Act 1995**

- (1) The Minister administering the **Heritage Act 1995**, by Order published in the Government Gazette, may exempt any registered building or registered land or other building or any part of the Link Upgrade area from the operation of that Act.

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- 5
- (2) On the making of an Order under sub-section (1), the **Heritage Act 1995** ceases to apply to the building or land in respect of which the Order is made and any registered building or registered land ceases to be registered under that Act.
- 10
- (3) An Order under sub-section (1) may be made subject to any conditions specified in the Order including—
- 15
- (a) a condition requiring specified things to be done to the satisfaction of the Minister administering the **Heritage Act 1995**; and
- (b) a condition providing that any use or development of land is conditional on an agreement being entered into with that Minister.
- 20
- (4) Any person who fails to comply with a condition of any Order or an agreement made under an Order is guilty of an offence and liable to a penalty not exceeding 1500 penalty units or 2 years imprisonment.
- 25
- (5) The Minister administering the **Heritage Act 1995** may revoke or amend an Order made under sub-section (1).
- 30
- (6) On the revocation of an Order made under sub-section (1)—
- (a) the **Heritage Act 1995** again applies to any building or land affected by the Order; and
- (b) in the case of a building or land affected by the Order that was previously registered under that Act, that Act applies as if that building or
- 35
- land had not been registered.

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**Division 6—Road Operation and Management**

**44. Management of roads specified in Order**

(1) This section applies to any road specified in an Order under Division 3 of Part 5 of Schedule 5A to the **Road Management Act 2004**.

(2) The Link corporation is deemed to be the responsible road authority for the road for the purposes of—

(a) the **Road Management Act 2004** and any regulations under that Act; and

(b) the **Road Safety Act 1986** and any regulations under that Act; and

(c) this Act and the regulations—

as if the road were part of the Link road.

**45. Management of other roads**

(1) The Minister may from time to time declare that the Link corporation or the holder of a construction permit is to be the responsible road authority for a road or part of a road on land in the Link Upgrade area or on any land to which a construction permit applies.

(2) The Minister must cause a notice of a declaration under sub-section (1) to be published in the Government Gazette.

(3) On the publication of a notice of a declaration under sub-section (1), the Link corporation or the holder of the construction permit (as the case requires) is deemed to be the responsible road authority under the **Road Management Act 2004** for the road or part of a road specified in the declaration.

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(4) The **Road Management Act 2004** (except Division 4 of Part 4 and Schedule 7) applies to a road or part of a road specified in a declaration under sub-section (1) as if any reference in that Act to the Link road were a reference to the road or part of a road specified in the declaration.

10

(5) The Minister may at any time revoke a declaration under sub-section (1).

(6) The Minister must cause a notice of a revocation of a declaration under sub-section (1) to be published in the Government Gazette.

15

(7) On the publication of the notice of revocation of a declaration under this section, the Link corporation or the holder of the construction permit (as the case requires) ceases to be the responsible road authority for the road or part of a road specified in the declaration.

20

**Division 7—Interface with Utilities**

**Subdivision 1—Introduction**

**46. Certain powers of Utilities not affected**

25

Nothing in this Part affects any power of a Utility—

- (a) to respond to and deal with an emergency; or
- (b) to use a vehicle on any road in the Link Upgrade area.



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**Subdivision 2—Consent of Link Corporation**

**47. Utility to obtain consent of Link corporation**

- 5 (1) A Utility must obtain the written consent of the Link corporation before carrying out or causing the carrying out of works on Utility infrastructure, or for the construction of new Utility infrastructure, in, on, over or under land in the Link Upgrade construction area.
- 10 (2) The Link corporation must not unreasonably delay or refuse its consent under this section.
- (3) A consent under this section may be granted on such reasonable conditions as the Link corporation thinks fit.
- 15 (4) This section does not apply to Utility infrastructure if—
- 20 (a) an approved Utility agreement provides for access by the Utility to the Link Upgrade construction area to carry out works in relation to that Utility infrastructure; or
- (b) the work is being carried out under a determination made under Subdivision 7.
- 25 (5) This section applies in addition to the requirements of and despite anything to the contrary in any other Act or law.

**48. Utility may refer matter to Ministers for determination**

A Utility may refer the matter to the Minister and the Utility Minister for determination under Subdivision 7 if—

- (a) the Link corporation refuses or unreasonably delays giving its consent under section 47; or
- (b) the Utility objects to any condition imposed by the Link corporation on that consent.

**Subdivision 3—Agreements between Link Corporation and Utility**

**49. Agreements in relation to Link Upgrade construction area**

- (1) The Link corporation may enter into an agreement with a Utility under this Subdivision in relation to Utility infrastructure or any works affecting Utility infrastructure constructed or to be constructed in, on, over or under the Link Upgrade construction area.
- (2) Nothing in this section prevents any additional person from being a party to a Utility agreement.

**50. What can a Utility agreement provide for?**

- (1) A Utility agreement may only provide for the following matters—
  - (a) the means of minimising disruption to the Utility infrastructure and the services provided by the Utility infrastructure;

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- (b) the respective rights of the Link corporation and the Utility to have access to the Utility infrastructure;
  - (c) the respective rights of the Link corporation and the Utility to carry out works affecting the Utility infrastructure;
  - (d) the relocation and rectification of Utility infrastructure;
  - (e) the standards (including safety, operational and accreditation standards) that are to apply to the relocation or rectification of Utility infrastructure;
  - (f) the costs of any relocation or rectification of the Utility infrastructure and how those costs are to be apportioned between the Link corporation and the Utility;
  - (g) the certification by the Utility of works affecting Utility infrastructure;
  - (h) the compensation to be paid for—
    - (i) any disruption to the functions performed by the Utility; or
    - (ii) any disruption to the functions or obligations of the Link corporation; or
    - (iii) any pecuniary loss sustained or any expense incurred by the Utility as a direct, natural and reasonable consequence of the issue of the construction permit under Division 4.
- (2) An agreement that provides for any other matter is not a Utility agreement for the purposes of this Subdivision.
-

**51. Requirements for Utility agreements**

- (1) A Utility agreement must be in writing.
- (2) A Utility agreement must not be inconsistent with—
- (a) this Act; or
  - (b) the Agreement; or
  - (c) the Integration and Facilitation Agreement; or
  - (d) the Exhibition Street Extension Agreement.
- (3) A Utility agreement that does not comply with sub-section (2) is of no effect to the extent of the inconsistency.
- (4) If a Utility agreement provides for standards in relation to a matter in accordance with section 50(1)(e), those standards are to apply in relation to that matter despite anything to the contrary in any other Act or law, once the Utility agreement takes effect.

**52. Utility agreements must be approved by the Roads Corporation**

A Utility agreement is of no effect unless it is approved by the Roads Corporation.

**53. Utility agreement may be amended**

- (1) An approved Utility agreement may be amended by agreement between the Link corporation and the Utility.
- (2) An amendment of an approved Utility agreement is of no effect unless it is approved by the Roads Corporation.
- (3) In this section, "**amended**" includes varied, added to, substituted, cancelled or revoked.

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**Subdivision 4—Notified Utility Infrastructure**

**54. Duty to identify Utility infrastructure**

5 Before Link Upgrade construction work commences on land in the Link Upgrade construction area, the Link corporation must take all reasonable steps to identify all Utility infrastructure in, on, over or under that land that may be affected by the Link Upgrade construction work.

10 **55. Link corporation to give notice**

(1) Before Link Upgrade construction work commences on land in the Link Upgrade construction area, the Link corporation must give notice of the proposed Link Upgrade construction work in accordance with this section.

(2) The notice must—

(a) be published in the Government Gazette; and

20 (b) be given in writing to each Utility that the Link corporation is aware owns or operates Utility infrastructure in the Link Upgrade construction area.

25 (3) The notice must require Utilities with Utility infrastructure in the Link Upgrade construction area to notify the Link corporation in writing within 30 business days after the publication or giving of the notice (whichever is the later)—

30 (a) setting out the nature and location of the Utility infrastructure; and

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(b) stating whether or not the Utility believes that the Utility infrastructure will be affected by the Link Upgrade construction work.

5 (4) The Link corporation is not required to give  
a notice to a Utility under sub-section (2)(b)  
in relation to particular Utility infrastructure  
if an approved Utility agreement exists with  
10 that Utility in relation to that Utility  
infrastructure.

**56. Duty of Utility to give notice**

A Utility must, within the time required in the notice given under section 55, give notice in writing to the Link corporation—

- 15 (a) setting out the nature and location of the Utility infrastructure of the Utility in the Link Upgrade construction area; and
- 20 (b) stating whether or not the Utility believes that the Utility infrastructure will be affected by the Link Upgrade construction work.

**56A. Copies of notices to be given to Roads Corporation**

- 25 (1) The Link corporation must give the Roads Corporation a copy of each notice given under section 55 as soon as practicable and not more than 7 days after the notice is given.
- 30 (2) The Link corporation must give the Roads Corporation a copy of each notice received by the Link corporation under section 56 as soon as practicable and not more than 7 days after receiving that notice.

**56B. Link corporation to consult and seek agreement**

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- (1) After complying with section 55 and before Link Upgrade construction work commences on land in the Link Upgrade construction area, the Link corporation must consult with any Utility that the Link corporation is aware owns or operates Utility infrastructure in the Link Upgrade construction area that may be affected by the Link Upgrade construction work.
  - (2) In consulting under sub-section (1), the Link corporation and the Utility must make all reasonable efforts to reach agreement in accordance with Subdivision 3.
  - (3) This section does not apply to Utility infrastructure if the Link corporation has already reached an agreement with the Utility under Subdivision 3 in respect of that Utility infrastructure.

**56C. Referral to Ministers for determination if no agreement**

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30

If an agreement has not been reached with a Utility under Subdivision 3 within 50 business days after the Utility gives notice to the Link corporation under section 56, the Link corporation may refer the matters under negotiation to the Minister and the Utility Minister for determination under Subdivision 7.

**56D. Power of Minister to direct Utility**

- 35
- (1) The Minister, after consultation with the Utility Minister, may direct a Utility to carry out works in the Link Upgrade construction area.

5 (2) The Minister may only give a direction under sub-section (1) if it is necessary to implement the matters provided for in an approved Utility agreement or a determination under Subdivision 7.

10 (3) Without limiting sub-section (1), a direction under this section may specify a period within which works required under the approved Utility agreement or determination must be performed even if this is a different period from any period provided for in the approved Utility agreement or determination.

**56E. Direction to Link corporation**

15 (1) The Link corporation may apply to the Minister for a direction under this section if—

20 (a) a Utility has not completed the works required by a direction under section 56D within the period specified in the direction; or

25 (b) the Link corporation believes on reasonable grounds that the works required by a direction under section 56D will not be completed within the period specified in the direction.

30 (2) On an application under this section, the Minister, after consultation with the Utility Minister, may direct the Link corporation to carry out or complete the works required by the relevant direction under section 56D.

35 (3) Without limiting sub-section (2), a direction under this section may specify a period within which the works must be performed even if this is a different period from any period provided for in the approved Utility



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agreement or determination or the relevant direction under section 56D.

- 5 (4) If the Link corporation complies under a direction under this section with a requirement imposed on a Utility or any other person, the Utility or other person is not required to comply with that requirement.

**56F. Requirements for directions**

- 10 (1) A direction under section 56D or 56E must be in writing.
- (2) A direction must not cause unreasonable delay or add unreasonable cost to the Link Upgrade Project.
- 15 (3) Subject to this section, a direction must not be inconsistent with—
- (a) this Act; or
  - (b) the Agreement; or
  - 20 (c) the Integration and Facilitation Agreement; or
  - (d) the Exhibition Street Extension Agreement.

**56G. Direction to prevail over requirement to consent**

- 25 (1) A direction under section 56D or 56E prevails over any provision of any other Act or law that requires the Utility to consent to the carrying out of the work that is subject to the direction.
- 30 (2) If a direction provides for compliance with a standard in relation to a matter, that standard applies in relation to that matter despite anything to the contrary in any other Act or law.
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**Subdivision 5—Unnotified Utility  
Infrastructure**

**56H. Duties of Link corporation**

5 If the Link corporation or the holder of a  
construction permit discovers unnotified  
Utility infrastructure while Link Upgrade  
construction work is being carried out, the  
Link corporation must—

- 10 (a) take all reasonable steps to identify the  
Utility that owns or operates that Utility  
infrastructure; and
- (b) give notice of the Utility infrastructure  
to—
- 15 (i) the Road Corporation; and  
(ii) the relevant Utility Minister.

**56I. Link corporation to give notice**

20 (1) If the Link corporation has identified the  
Utility that owns or operates unnotified  
Utility infrastructure, the Link corporation  
must give the Utility notice of the Link  
Upgrade construction work in accordance  
with this section.

(2) The notice must—

- 25 (a) be in writing; and
- (b) request the Utility to advise the Link  
corporation within 2 business days as to  
whether the Utility infrastructure is still  
operational or, if it is not operational,  
whether it is redundant; and

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(c) request the Utility within 2 business days—

(i) to agree to authorise the Link corporation to remove the Utility infrastructure, if it is redundant; or

(ii) to agree to the relocation of the Utility infrastructure; or

(iii) to request the Link corporation to preserve the Utility infrastructure and agree to pay any costs incurred by the Link corporation as a result of any delay caused by preserving that infrastructure.

**56J. Utility agreement may be entered into**

The Link corporation and the Utility may enter into an agreement under Subdivision 3 with respect to any matter referred to in section 56I(2)(c).

**56K. Notice to Minister if Utility cannot be found or fails to respond**

The Link corporation may notify the Minister and the Roads Corporation if—

(a) a Utility fails to comply with a request under section 56I within 2 business days after being given a notice under that section; or

(b) the Link corporation is unable to identify the Utility that owns or operates unnotified Utility infrastructure within 2 business days after the discovery of the infrastructure.

**56L. Minister may direct Utility to carry out works**

5

(1) The Minister, after consultation with the Utility Minister, may direct a Utility that is given notice under section 56I to carry out works in the Link Upgrade construction area.

10

(2) The Minister must give a direction under sub-section (1) if it is necessary to give effect to—

(a) the Agreement; or

(b) the Integration and Facilitation Agreement; or

(c) the Exhibition Street Extension Agreement.

15

(3) This section does not apply to the carrying out of works if an approved Utility agreement exists in respect of those works.

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(4) A direction under this section may specify—

(a) the manner in which and the standard to which the direction must be complied with; and

(b) the period (being not less than 28 days) within which the direction must be complied with.

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(5) If a direction under this section provides for compliance with a standard in relation to a matter that standard is to apply in relation to that matter despite anything to the contrary in any other Act or law.

**56M. Direction to Link corporation after notice to Minister**

(1) The Minister, after consultation with the Utility Minister, may give a direction under this section if—

(a) the Link corporation has given the Minister notice under section 56K; and

(b) the Minister considers that a delay in relocating or reinstating the Utility infrastructure—

(i) would be contrary to the public interest; or

(ii) would, in all the circumstances, be unreasonable.

(2) A direction under sub-section (1)—

(a) may direct the Link corporation to relocate, rectify or otherwise deal with the Utility infrastructure; and

(b) may direct the Link corporation to comply with specified standards (including safety, operational and accreditation standards) that are to apply to the relocation or rectification of the Utility infrastructure; and

(c) may direct the Link corporation to comply with any safety or technical requirements imposed by law in respect of the carrying out of the required works (including any requirements imposed on the Utility or any other person specified in the direction in respect of those works) that are not inconsistent with—

(i) the Agreement; or

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(ii) the Integration and Facilitation Agreement; or

(iii) the Exhibition Street Extension Agreement; and

5 (d) must direct the Link corporation to take reasonable care and take all reasonable steps to minimise damage to the Utility infrastructure and disruption to the infrastructure services.

10 (3) If a direction directs the Link corporation, under sub-section (2)(b), to comply with specified standards in relation to a matter, those standards are to apply in relation to that matter despite anything to the contrary in any other Act or law.

15

**56N. Direction to Link corporation after application to Minister**

20 (1) The Link corporation may apply to the Minister for a direction under this section if—

(a) a Utility has not completed the works required by a direction under section 56L within the period specified in the direction; or

25 (b) the Link corporation believes on reasonable grounds that the works required by a direction under section 56L will not be completed within the period specified in the direction.

30 (2) On an application under this section, the Minister, after consultation with the Utility Minister, may direct the Link corporation to carry out or complete the works required by the relevant direction under section 56L.

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(3) Without limiting sub-section (2), a direction under this section may specify a period within which the works must be performed even if this is a different period from any period provided for in the relevant direction under section 56L.

10

(4) If the Link corporation complies under a direction under this section with a requirement imposed on a Utility or any other person, the Utility or other person is not required to comply with that requirement.

**56O. Requirements for directions**

15

(1) A direction under section 56L, 56M or 56N must be in writing.

20

(2) The Minister must ensure that a direction under section 56L, 56M or 56N does not cause unreasonable delay or add unreasonable cost to the Link Upgrade Project.

25

(3) Subject to this section, a direction under section 56L, 56M or 56N must not be inconsistent with—

- (a) this Act; or
- (b) the Agreement; or
- (c) the Integration and Facilitation Agreement; or
- (d) the Exhibition Street Extension Agreement.

**56P. Direction to prevail over requirement to consent**

5 A direction under section 56M or 56N prevails over any provision of any other Act that requires the Utility to consent to the carrying out of the work that is subject to the direction.

**Subdivision 6—Liability for Costs**

10 **56Q. Link corporation to be liable for certain relocation and rectification costs**

15 Subject to this Subdivision, the Link corporation is liable to pay the fair and reasonable costs of relocating or rectifying any Utility infrastructure that is affected by the Link Upgrade construction work.

**56R. Standard to apply to relocation or rectification**

- 20 (1) For the purposes of section 56Q, the standard applied to the relocation or rectification must result in the Utility infrastructure having the same or a similar technical capability and having at least the same remaining life as it had before it was affected.
- 25 (2) If new Utility infrastructure is required to meet the standard referred to in subsection (1), the Link corporation is liable for the cost of that new infrastructure.



**56S. Utility liable for differential if it requests upgrade**

If a Utility requests that a higher standard than the standard required by section 56R should apply to the relocation or rectification of Utility infrastructure, the Utility is liable to pay the difference in cost between the lower and higher standard.

**56T. Utility liable for delay costs**

- (1) If the failure of a Utility to notify the Link corporation of Utility infrastructure caused the Link corporation to incur costs as a result of a delay in carrying out Link Upgrade construction work, the Utility is liable to pay those costs to the Link corporation.
- (2) A Utility is liable for costs under this section on the basis that the Link corporation makes all reasonable efforts to mitigate its loss.
- (3) If the Link corporation does not make all reasonable efforts to mitigate its loss, the Utility is only liable for the costs that would have been incurred if the Link corporation had made all reasonable efforts to mitigate its loss.

**56U. Limitation of liability**

Except as provided in this Division, the Link corporation is not liable to pay damages or other compensation to the Utility or any other person as a result of any effect of the Link Upgrade Project on—

- (a) the Utility infrastructure of the Utility;  
or
- (b) the provision of infrastructure services by the Utility using Utility infrastructure.

**56V. Dispute as to cost of relocation or rectification**

- 5 (1) If a dispute arises between the Link corporation and a Utility as to the cost of relocation or rectification of Utility infrastructure, the Link corporation or the Utility may refer the matter to the Minister and the Utility Minister for determination under Subdivision 7.
- 10 (2) The person referring the matter for determination must notify the Roads Corporation of that referral.

**56W. Certification of work**

- 15 (1) On completion by the Link corporation of any work of relocation or rectification of Utility infrastructure under Subdivision 5, the Utility must assess the work and—
- 20 (a) if it is satisfied that the work is satisfactory and complete, certify that fact to the Link corporation; or
- (b) if it is not satisfied that the work is satisfactory or complete, notify the Link corporation that more work is required.
- 25 (2) The notice under sub-section (1)(b) must specify as clearly as possible the work that is required.
- 30 (3) If the Utility does not give a certificate or notice under sub-section (1) within 14 days after the Link corporation notifies it of the completion of the work, the Utility is deemed to be satisfied with the work.

5 (4) If the Utility gives a notice under sub-section (1)(b), the Link corporation must complete the further work required in the notice within the period of 30 days after receipt of the notice or any longer period specified in the notice.

10 (5) This section does not apply if the Link corporation is unable to identify the Utility that owns or operates the Utility infrastructure.

**56X. Referral of matters by Utilities to Ministers for determination**

15 The Utility may refer the matter to the Minister and the Utility Minister for determination under Subdivision 7 if the Link corporation does not complete the further work to the Utility's satisfaction within the specified time under section 56W.

20 **56Y. Referral of matters by Link corporation to Ministers for determination**

25 The Link corporation may refer the matter to the Minister and the Utility Minister for determination under Subdivision 7 if the Utility refuses to certify the work on the completion of the further work under section 56W or unreasonably delays giving that certification.

30 **56Z. Link corporation no longer liable if work satisfactory**

The Link corporation ceases to be liable to carry out any further work in respect of a specific work of relocation or rectification if—

- 35 (a) a certificate is given under section 56W in respect of the work; or

- (b) the work is deemed under that section to be satisfactory; or
- (c) the work is determined under Subdivision 7 to be satisfactory.

5

**Subdivision 7—Dispute Resolution**

**56ZA. Who can determine matters referred to the Ministers?**

10

On the referral of a matter to them under this Division, the Minister and the Utility Minister must—

- (a) determine the matter; or
- (b) appoint a person to determine the matter.

15

**56ZB. What must be considered in determining a matter?**

In determining a matter, the decision-maker—

20

- (a) must have regard to—
  - (i) any submission (whether written or oral) of the Link corporation or the Utility; and
  - (ii) in the case of a matter referred under section 56C, the public interest in minimising the disruption of the services provided by the Utility; and
- (b) may have regard to any other information or material that the decision-maker thinks fit.

25

**56ZC. Requirements for determinations**

- 5
- (1) A determination under this Subdivision must be in writing.
- (2) The decision-maker must ensure that the determination does not cause unreasonable delay or add unreasonable cost to the Link Upgrade Project.
- (3) Subject to this section, a determination must not be inconsistent with—
- 10
- (a) this Act; or
- (b) the Agreement; or
- (c) the Integration and Facilitation Agreement; or
- (d) the Exhibition Street Extension Agreement.
- 15

**56ZD. Determination to prevail over inconsistent laws**

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If there is any inconsistency between a determination under this Subdivision and any other Act or law, the determination prevails to the extent of the inconsistency.

**Division 8—Emergency Orders**

**56ZE. Emergency orders**

- 25
- (1) The Roads Corporation may make an emergency order if the Roads Corporation is of the opinion that the order is necessary because of a danger to life or property arising out of the carrying out of works for the Link Upgrade Project on land in the Link Upgrade construction area.
- 30

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(2) An emergency order may require any person to do any one or more of the following things within a specified time or times—

- 5
- (a) to evacuate the land or any part of the land;
- (b) to stop the carrying out of works for the Link Upgrade Project on the land or any part of the land;
- 10
- (c) to carry out works to make any part of the Link Upgrade Project safe or to secure the land or any part of the land from access.

(3) An emergency order must be in writing and may include any conditions that the Roads Corporation thinks fit.

15

**56ZF. Service of emergency order**

The Roads Corporation must cause an emergency order under section 56ZE to be served on—

- 20
- (a) the Link corporation; and
- (b) the Minister; and
- (c) any person to whom it is directed—
- without delay after it is made.

**56ZG. Period of operation of emergency order**

An emergency order remains in force until—

- 25
- (a) it is complied with; or
- (b) it is cancelled in writing by the Roads Corporation.

**56ZH. Offence to fail to comply with emergency order**

- (1) A person to whom an emergency order is directed under this Division must comply with the emergency order.

Penalty: 60 penalty units in the case of a natural person;  
300 penalty units in the case of a corporation.

- (2) It is a defence to a prosecution of a person for an offence under this section if—
- (a) the person took all reasonable steps to comply with the emergency order; or
  - (b) the person had a reasonable excuse for failing to comply with the emergency order.

**56ZI. Request for police assistance**

The Roads Corporation may request the assistance of a member of the police force to evacuate an area that is subject to an emergency order.

**Division 9—Actions by Public Bodies**

**56ZJ. Bodies may be required to act**

- (1) The Governor in Council, by Order published in the Government Gazette, may require a Department Head (within the meaning of the **Public Administration Act 2004**), a public statutory authority or a Council—

- (a) to carry out their functions in relation to the Link Upgrade area or anything done or to be done in the Link Upgrade area; and

- (b) to carry out those functions within a period specified in the Order.
- (2) The Department Head, authority or Council must comply with the requirement.
- 5 (3) A requirement made under sub-section (1) cannot vary a time or time limit prescribed by or under an Act.

**Division 10—Revocation of Reservation and Interim Operation**

10 **56ZK. Revocation of reservation on termination of licence**

- 15 (1) The Minister, after consultation with the Minister administering the **Crown Land (Reserves) Act 1978**, may recommend to the Governor in Council that the temporary reservation of land that was licensed under Division 2 be revoked on the termination of the licence as to that land.
- 20 (2) After receiving the Minister's recommendation, the Governor in Council may, by Order published in the Government Gazette, revoke the reservation of the land.
- 25 (3) An Order under sub-section (2) has effect on the day that it is published in the Government Gazette.
- (4) On an Order under sub-section (2) taking effect—
- 30 (a) the land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and



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- (b) if any part of the land is or is being used as a road—
    - (i) that part of the land ceases to be a road; and
    - (ii) all rights, easements and privileges existing or claimed in that part of the land either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise, cease; and
  - (c) if any part of the land is the bed, soil and banks of a river, all rights, easements and privileges existing or claimed in that part of the land either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise, cease; and
  - (d) the appointment of the Roads Corporation as committee of management is revoked to the extent that it applies to the land.
- (5) Nothing in sub-section (4) affects or extinguishes any right or interest created by operation of—
- (a) the Agreement; or
  - (b) the Integration and Facilitation Agreement; or
  - (c) the Exhibition Street Extension Agreement.

**56ZL. Interim operation**

- 5 (1) Subject to this section, if a temporary reservation of land is revoked under section 56ZK—
- (a) this Act applies to that land as if any reference in this Act to leased land or land leased under section 60 included a reference to that land; and
- 10 (b) section 62 applies to that land as if any reference in that section to the grant of a lease under section 60 were a reference to the revocation under section 56ZK of the reservation in respect of that land.
- 15 (2) The Minister may by Order published in the Government Gazette declare that this section no longer applies to that land.
- (3) An Order under sub-section (2) may direct that the land be vested in the Roads Corporation.
- 20 (4) On the publication of an Order under sub-section (2) in relation to land—
- (a) if the Order so directs, the land vests in fee simple in the Roads Corporation;
- 25 and
- (b) this section ceases to apply to the land.
- (5) Unless it has already ceased to apply under sub-section (4), this section ceases to apply to land on the grant of a lease of that land under section 60.'
- 30

**73. Heading to Part 3**

For the heading to Part 3 of the **Melbourne City Link Act 1995** substitute—

**"PART 3—LEASED LAND".**

**74. New section 65 inserted**

After section 64A of the **Melbourne City Link Act 1995** insert—

**"65. Action by Registrar of Titles**

On being requested to do so and on delivery of any relevant instrument or document (but without production of a duplicate Crown grant or certificate of title), the Registrar of Titles must, as soon as practicable register any lease made in accordance with the Agreement."

**75. Limitation on powers to make local laws**

Before section 104(3)(b) of the **Melbourne City Link Act 1995** insert—

"(a) it restricts the capacity to use any road for access to or egress from any land for which a construction permit is issued under Division 4 of Part 2B for the carrying out of works for the purposes of the Link Upgrade Project; or"

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**Endnotes**

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**ENDNOTES**

By Authority. Government Printer for the State of Victoria.