

**Authorised Version No. 202**  
**Transport (Compliance and Miscellaneous)**  
**Act 1983**

**No. 9921 of 1983**

Authorised Version incorporating amendments as at  
1 July 2017

**TABLE OF PROVISIONS**

<i>Section</i>	<i>Page</i>
<b>Part I—Preliminary</b>	<b>1</b>
1 Short title and commencement	1
2 Definitions	2
2A Transport Integration Act 2010	24
<b>Part II—Administration</b>	<b>25</b>
<b>Division 1—The Department</b>	<b>25</b>
<b>Subdivision 1—General</b>	<b>25</b>
7 Minister may make use of services of officers etc. of public service or public entities	27
<b>Subdivision 4—Provisions relating to passenger services</b>	<b>29</b>
10 Priority of passenger services	29
12 Financial assistance to train drivers following fatal incidents	33
<b>Part III—Powers of the Corporation</b>	<b>39</b>
43 Special acquisition powers of Rail Track with respect to the Loop	41
54 Provisions as to proposed developments along the line of the Loop	44
56 Regulations	46
57 Declaration of Southern Cross Station for purposes of regulations	59
<b>Part IV—Financial</b>	<b>60</b>
<b>Division 2—Borrowing powers</b>	<b>60</b>
77A Power to give a guarantee in relation to a contract assigned by the Secretary	62

<i>Section</i>	<i>Page</i>
<b>Part V—Chief Investigator, Transport Safety</b>	<b>66</b>
<b>Division 1—Preliminary matters</b>	<b>66</b>
82 Object	66
82C Application of definitions to this Part	66
<b>Division 3—Investigations</b>	<b>68</b>
84 Specific investigation powers—public transport safety matters or marine safety matters	68
84A Chief Investigator, Transport Safety to carry photo identification	75
84AA Production of photo identification	75
84AB Chief Investigator, Transport Safety may require persons to attend and answer questions	76
84B Identity cards	78
<b>Division 4—Reports and miscellaneous matters</b>	<b>79</b>
85 Reports to be given promptly to the Minister	79
85A Consultation before report finalised	79
85C Limitations on disclosure etc. of information obtained under this Part	80
85D Release of information in the interests of transport safety	82
85DA Reports not admissible in evidence	82
85E Chief Investigator, Transport Safety may authorise non-staff members to have access to information	83
85F Confidential reporting of safety information by transport workers	83
85H Chief Investigator, Transport Safety may ask Commonwealth agency to investigate accident or incident	85
<b>Part VI—Licensing of certain vehicles and driver accreditation</b>	<b>86</b>
<b>Division 1—General provisions</b>	<b>86</b>
86 Definitions	86
87 Operation of motor vehicle as a commercial passenger vehicle or commercial goods vehicle	108
88 Part to bind Crown	110
89 Determinations of policy	110
90 No compensation payable	112
<b>Division 4—Accreditation of taxi-cab industry participants</b>	<b>115</b>
<b>Subdivision 1—Preliminary</b>	<b>115</b>
130 Purpose of accreditation	115
130A Definitions and interpretative provisions	116

<i>Section</i>	<i>Page</i>
<b>Subdivision 2—Requirement for accreditation</b>	<b>126</b>
131 Offence for taxi-cab operator not to be accredited	126
131A Offence for provider of taxi-cab network services not to be accredited	126
<b>Subdivision 3—Application for accreditation</b>	<b>128</b>
132 Making of application	128
132A Time within which licensing authority must deal with application	129
132B Circumstances in which application may be approved	130
132D Mandatory refusal of accreditation	131
132E Presumption in favour of refusal of accreditation	133
132F Discretionary refusal of accreditation	134
132G Notification and reasons to be given if accreditation refused	139
132H Disqualification by licensing authority from ability to apply for accreditation	140
<b>Subdivision 4—Accreditation conditions</b>	<b>140</b>
133 Restrictions and conditions concerning accreditation	140
133A Licensing authority may vary, revoke or impose new conditions, restrictions or other limitations	141
133B Offence to fail to comply with conditions etc.	142
<b>Subdivision 5—Certificates of accreditation</b>	<b>142</b>
134 Issue of certificate of accreditation	142
134A Offence not to produce certificate when required	144
<b>Subdivision 6—Disciplinary action and improvement notices</b>	<b>145</b>
135 When the licensing authority may take disciplinary action	145
135A Disciplinary actions that may be taken in relation to accreditations	146
135B Procedure for taking disciplinary action	147
135C Immediate suspension of accreditation	149
135D Effect of suspension of accreditation	150
135E Return of certificate of accreditation	150
135F Improvement notices	151
135G Formal irregularities or defects in notice	153
135H Proceedings for offences not affected by improvement notices	154
<b>Subdivision 6A—Internal review</b>	<b>154</b>
135I Definitions	154
135J Meaning of reviewable decision	154
135K Application for internal review	155

<i>Section</i>	<i>Page</i>
135L Effect of decision on application	156
135M Determination of application for internal review	156
<b>Subdivision 7—Jurisdiction of VCAT</b>	<b>157</b>
136 Jurisdiction of VCAT in relation to mandatory refusal or cancellation of accreditation	157
136A Review of decision by VCAT	159
136B Time period for making application to VCAT	160
<b>Subdivision 8—Miscellaneous</b>	<b>160</b>
137 Accreditation cannot be transferred	160
137A Holder of accreditation to notify of relevant change in circumstances	161
137B Surrender of accreditation	163
137C False representation in relation to accreditation	164
137D Communication with responsible person	164
137E Regulations	164
<b>Division 5—Commercial passenger vehicles</b>	<b>167</b>
138 Application of Division	167
139 Vehicles not to be operated unless licensed	168
140 Application for licence	169
141 Public commercial passenger vehicles	170
141B Restricted hire vehicles	172
142 Hire cars and special purpose vehicles	172
142A Hire car zones	175
143 Taxi-cab licences	177
143AB Nature of new taxi-cab licence	179
143A Power to make Orders for the granting of taxi-cab licences in taxi-cab zones	180
143B Taxi-cab zones	183
143C Review by Tribunal of refusal to grant licence	186
143D Condition forbidding transfer of taxi-cab licence	186
144 Conditions	187
144B Meaning of taxi non-cash payment surcharge	196
144C Cap on taxi non-cash payment surcharges	198
144D Offence to enter into certain contracts etc.	199
144E Civil penalties	200
144F Preference must be given to compensation	201
144G Interplay between civil penalties and criminal proceedings	202
144H Taxi non-cash payment surcharge may be recovered as a debt	203
144I Proceeding for damages	203
144J Compensation orders	204
144K Injunctions	205
145 Classification of vehicles	207

<i>Section</i>	<i>Page</i>
146	Cancellation or alteration of licences 207
146AAA	Conversion of certain section 143A licences 209
146AA	Directions 211
146B	Power to vary public commercial passenger vehicle licence 212
146C	Review by Tribunal of licence cancellation etc. 212
147A	Annual licence fees 213
147B	Setting of fees 217
149	Transfers of licences 218
150	Assignments 222
150A	Unauthorised person must not trade in taxi-cab licences 226
151	Use of substitute vehicles where licensed vehicles undergoing repair 226
152	As to substitution of vehicles generally 227
153	Cancellation of licence for vehicles 227
154	Temporary permit 228
155	Goods vehicle used as passenger vehicle to be licensed 229
156A	Effect on taxi-cab licences of certain outcomes 230
157	Revocation or suspension of licence, permit or accreditation 233
157A	Surrender of new taxi-cab licence 236
158	Offences 237
158A	Touting 238
158AA	Offence for taxi-cab to be operated without permission of accredited operator or related person 239
158AB	Operator of taxi-cab commits offence if taxi-cab is operated by certain persons 239
158AC	Person operating taxi-cab commits offence if taxi-cab is operated by certain persons 240
158B	Offences relating to security cameras and privacy of passengers 241
158C	Agreements in relation to images obtained from security cameras 244
158D	Transitional provision (Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013) 245
160	General penalty 246
161	Penalty for failure to pay hiring rate 247
162	Regulations 247
<b>Division 5A—Regulation of maximum taxi fares in Melbourne Metropolitan Zone and Urban and Large Regional Zone</b>	
	<b>255</b>
162A	Application of Essential Services Commission Act 2001 255
162B	Objective of the ESC 255
162C	Powers in relation to fares regulation 255
162D	Price determinations 256
162E	Exercise of regulatory functions 256

<i>Section</i>	<i>Page</i>
<b>Division 5AB—Notification, publication and monitoring of taxi fares and hiring rates in the Regional and Country Zones</b>	<b>257</b>
162EA Licensing authority to be notified of maximum taxi fares and hiring rates in Regional and Country Zones	257
162EB Licensing authority must publish maximum taxi fares and hiring rates in Regional and Country Zones	259
162EC Operators of taxi-cabs in Regional and Country Zones must notify hirers of maximum fares and hiring rates	260
162ED ESC to monitor prices, costs and return on assets in Regional and Country Zones	260
<b>Division 5B—Regulation of maximum non-cash payment surcharges</b>	<b>261</b>
162F Application of Essential Services Commission Act 2001	261
162G Objective of the ESC	262
162H Powers in relation to taxi non-cash payment service regulation	262
162I Exercise of regulatory functions	262
<b>Division 5C—Driver agreements</b>	<b>263</b>
<b>Subdivision 1—Preliminary</b>	<b>263</b>
162J Definition	263
162K Application of Division	264
<b>Subdivision 2—Conditions</b>	<b>264</b>
162L Conditions of driver agreement	264
162M Offence if mandatory condition breached	264
<b>Subdivision 2A—Preliminary assistance in dispute resolution</b>	<b>264</b>
162MA Referral of disputes to TSC	264
162MB Minister may refer dispute directly to the Tribunal	265
162MC Unresolved disputes may be referred to Small Business Commission or the Tribunal	266
<b>Subdivision 3—Alternative dispute resolution</b>	<b>267</b>
162N Function of Small Business Commission	267
162P Mediation or other alternative dispute resolution by Small Business Commission	268
162PA Small Business Commission may issue certificates	269
162PB Parties may apply to the Tribunal	270
<b>Subdivision 4—The Tribunal</b>	<b>270</b>
162Q Jurisdiction of the Tribunal	270
162R Time limits for certain complaints	270
162S Orders the Tribunal can make	271
162T Each party bears its own costs	272

<i>Section</i>	<i>Page</i>
<b>Subdivision 5—Miscellaneous</b>	<b>272</b>
162U Statements made during alternative dispute resolution not admissible	272
<b>Division 6—Driver accreditation—commercial passenger vehicles, commercial bus services and local bus services</b>	<b>273</b>
163 Interpretation	273
164 Public care objective	276
165 Offence to drive certain vehicles without accreditation	276
166 Licensing authority's power to accredit persons	278
167 Tests, qualifications and other requirements	279
168 Term and renewal of accreditation	281
169 Matters to be considered by the licensing authority when issuing or renewing an accreditation	282
169A Imposition of conditions on accreditation	288
169B Offence to fail to comply with conditions	288
169C Disqualification by licensing authority from ability to apply for accreditation	289
169D Certificate of accreditation	291
169DA Working with children check exemption notice	292
169DB When licensing authority must notify that working with children check exemption notice has ceased to have effect	293
169DC When working with children check exemption notice must be returned	294
169E Mandatory cancellation in certain circumstances	294
169EA Mandatory suspension in certain circumstances	295
169EB Reinstatement of driver accreditation in certain circumstances where it has been suspended	295
169EC Person whose driver licence or probationary licence is suspended or cancelled must notify the licensing authority	296
169F Powers of the licensing authority to consider disciplinary action	296
169G Notice to holder of accreditation	297
169H Submissions to licensing authority	297
169I Actions licensing authority may take after consideration	298
169J Notice of licensing authority's decision	299
169K Interim suspension of accreditation	299
169L Re-instatement of accreditation	301
169M Compensation for lost income during suspension	301
169MA Application for internal review	302
169MB Effect of decision on application	303
169MC Determination of application for internal review	304
169N Jurisdiction of VCAT as to category 1 offenders	305
169O Review of decision by VCAT	307

<i>Section</i>	<i>Page</i>
169P	Time period for making application for review 308
169Q	Offence not to sign certificate on receipt 309
169R	Offence not to notify change of address and give driver accreditation 309
169S	Offence not to notify of suspension or cancellation of accreditation 309
169T	Offence not to notify of being charged with, or found guilty of, a disqualifying offence 310
169U	Offence to retain illegible certificate 311
169V	Offence to retain certificate if accreditation suspended or cancelled 311
169W	Offence not to carry certificate when driving 311
169WA	Operator must not permit non-accredited driver to drive commercial passenger vehicle etc. 312
169WB	Holder of accreditation must not permit non-accredited driver to drive commercial passenger vehicle etc. 313
169X	Offence not to produce certificate when asked 313
169Y	Power of licensing authority to determine fees 314
169Z	Regulations 314
<b>Division 6A—Register of taxi industry participants</b>	<b>316</b>
<b>Subdivision 1—Register and public version of register</b>	<b>316</b>
169ZA	Register of taxi industry participants 316
169ZB	Public version of the register 317
169ZC	Corrections of register 317
<b>Subdivision 2—Restriction of public access to information</b>	<b>318</b>
169ZD	What happens when information is included on the register? 318
169ZE	Notification that information to be made publicly available 319
169ZF	Application to restrict public access 319
169ZG	Determination of application 320
169ZH	Notification of determination 320
169ZI	Rights of review 321
<b>Division 7—TSC inquiries</b>	<b>322</b>
170	Inquiries by TSC 322
171	TSC to report on outcomes of inquiries 322
<b>Division 9A—Taxi Services Commission</b>	<b>324</b>
<b>Subdivision 1—Preliminary</b>	<b>324</b>
191A	Definitions 324
<b>Subdivision 4—Confidential or commercially sensitive information</b>	<b>325</b>
191K	Definition 325



<i>Section</i>	<i>Page</i>
191L	Restriction on disclosure or use of sensitive information 326
191M	Use for performance of function or exercise of power permitted 326
191N	Disclosure for performance of function or exercise of power permitted in certain cases 326
191O	Disclosure or use permitted if required by Act 329
191P	Disclosure or use with consent permitted 330
191Q	Disclosure or use in legal proceedings permitted 330
191R	Disclosure or use permitted if information in public domain 330
<b>Subdivision 5—Exempt freedom of information documents</b>	<b>331</b>
191V	Restriction on disclosure and use of exempt freedom of information documents 331
191W	Use for performance of function permitted 331
<b>Subdivision 5A—Power of TSC to obtain and share information</b>	<b>331</b>
191YA	Power to obtain information and documents 331
191YB	Complaints 333
191YC	Service of documents 333
191YD	Information sharing 334
<b>Subdivision 5B—Taxi industry monitoring, compliance and enforcement policy</b>	<b>337</b>
191YE	Definitions 337
191YF	TSC to develop, maintain and review taxi industry monitoring, compliance and enforcement policy 337
191YG	TSC must coordinate and support implementation 338
191YH	TSC must consult when developing or reviewing taxi industry monitoring, compliance and enforcement policy 339
191YI	Content of taxi industry monitoring, compliance and enforcement policy 339
191YJ	Taxi industry monitoring, compliance and enforcement policy to be had regard to 340
<b>Division 10—Events affecting public transport</b>	<b>341</b>
192	Meaning of <i>event</i> and <i>organiser</i> 341
193	Events to which this Division applies 341
194	Meaning of <i>regular public transport service</i> 342
195	Organiser must give notice of proposed event 342
196	Public Transport Development Authority may ask that a public transport plan be submitted 343
197	Public transport plans 343
198	Preparation of public transport plans 344
199	By when public transport plans to be submitted 345
200	Public Transport Development Authority may impose fee 346

<i>Section</i>	<i>Page</i>
201	Alternative arrangements if time limited 346
202	Public Transport Development Authority may waive or reduce time limits 347
203	Approval of public transport plans 348
204	Consequences of a failure to comply with this Division 348
<b>Part VII—Prosecutions, enforcement and penalties and other matters</b>	<b>351</b>
<b>Division 1—Interpretations</b>	<b>351</b>
208	Definitions 351
<b>Division 2—Transport and ticket infringements</b>	<b>358</b>
212	Transport and ticket infringements 359
212A	Offence to falsely represent oneself as an officer of the Roads Corporation 361
213A	Administrative costs in respect of ticket infringements 362
214	Proof of prior convictions or findings of guilt 363
214A	Differences in penalties 364
215	Regulations 364
<b>Division 3—Enforcement provisions—vehicle inspections</b>	<b>368</b>
216	Inspection of motor vehicles 368
217	Powers of officers authorized by Roads Corporation 371
217A	Additional inspection power concerning heavy vehicles 372
<b>Division 3A—Other enforcement provisions</b>	<b>374</b>
218B	Power to require names and addresses 374
219	Power to arrest suspected offenders 378
220	Power to remove offenders 381
<b>Division 4—Regulation of entitlement to use public transport services</b>	<b>384</b>
220AA	False reports to officers 384
220A	Offence to dishonestly obtain a ticket etc. 385
220B	Offence to counterfeit or alter a ticket 385
220C	Offence to claim exemption or concession if not entitled 386
220D	Secretary may determine conditions 386
220DA	Conditions relating to overseas student travel 388
221	Information not to be disclosed 390
221AA	Regulations concerning entitlement to use public transport services 395
<b>Division 4AA—Authorisation of persons for the purposes of enforcement</b>	<b>398</b>
221A	Authorisation of Departmental authorised officers 398
221AB	Authorisation of other authorised officers 398

Section		Page
221B	Application for authorisation	399
221C	Qualification requirements	400
221CA	Time limits on section 221AB authorisations	401
221CB	Scope of authorisation may be limited	401
221CC	Non-compliance with a limit	402
221D	Conditions of authorisation	402
221E	Change of conditions	403
221F	Non-compliance with a condition	403
221FA	Clarification of places in which certain authorised officers may operate	403
221G	Application for renewal of authorisation	404
221H	Renewal of authorisation	405
221I	Issue of identity cards	406
221J	Inquiry into conduct of authorised officer	408
221K	Effect of suspension	409
221L	Revocation of authorisation	409
221M	Tribunal reviews	410
221N	Authorisations cease to exist in certain circumstances	411
221O	Return of identity cards	412
221P	Lost, stolen or destroyed identity cards to be reported	413
221Q	Replacement of identity cards	413
221R	Offence to falsely represent oneself as an authorised officer	413
221S	Application by proposed employee	414
<b>Division 4AAA—Transport safety offences</b>		<b>415</b>
<b>Subdivision 1—Interpretation</b>		<b>415</b>
221U	Definitions	415
221V	Exclusion of mistake of fact defence	419
221W	Statement that mistake of fact defence does not apply not to affect other offences	420
<b>Subdivision 2—Offences</b>		<b>420</b>
221X	Overdimensional vehicles crossing tracks	420
221Y	Operators of overdimensional vehicles crossing tracks without permission also guilty of offence	423
221Z	Reasonable steps defence—reliance on container weight declaration	424
221ZA	Specification of vehicle limits and fees for overdimensional vehicles crossing tracks	425
221ZB	Animals on railway tracks	426
221ZC	Placing things on tracks	426
221ZD	Mounting a place not intended for travel etc.	427
221ZE	Travelling in a place not intended for travel etc.	427
221ZF	Applying brake or emergency device	428
221ZG	Stopping a rail vehicle or road vehicle	428

<i>Section</i>	<i>Page</i>
221ZH Operating equipment	429
221ZI Permitting drainage	429
<b>Division 4AB—Further offences</b>	<b>430</b>
222B Interference with prescribed equipment	430
223 Offence to trespass on land or premises of Roads Corporation or Rail Track	431
224 Offence to provide false or misleading information	433
225 Offence to assault or obstruct officers etc.	434
225B Offence to impersonate an officer	436
225C Offence to offer, give, solicit or accept a bribe	437
226 Criminal liability of officers of bodies corporate—failure to exercise due diligence	438
226A Criminal liability of officers of bodies corporate—failure to exercise due diligence (evidential burden of proof)	440
227 Offences by unincorporated bodies, partnerships etc.	442
227A Power of court to require attendance at approved public transport education program	442
228 General penalty	443
<b>Division 4A—Accreditation of passenger transport companies</b>	<b>443</b>
228AA Objective	443
228AB Definition	444
228A Application for accreditation	444
228B Matters to be considered by Secretary	446
228C Giving or refusal of accreditation	446
228D Conditions of accreditation	447
228DA Accredited companies must comply with conditions	447
228DB Offence to employ or engage authorised officer without accreditation under this Division	448
228E Change of conditions etc.	448
228F Duration of accreditation	449
228G Requirement to notify Secretary about charges, etc.	450
228H Notifications	451
228HA Audit of certain books and records of accredited companies for compliance purposes	453
228I Application for renewal of accreditation	454
228J Renewal of accreditation	456
228K Nature of accreditation	457
228M Secretary not liable for giving accreditation	458
228N Supervision of accredited companies	459
228O Procedure and powers	461
228P Immediate power of suspension	462
228Q Effect of suspension, cancellation or failure to renew	463
228QA Improvement notices	464
228QB Formal irregularities or defects in notice	466

<i>Section</i>	<i>Page</i>
228QC Proceedings for offences not affected by improvement notices	466
228R Tribunal reviews	466
<b>Division 4ABA—Enforcement of commercial passenger vehicle laws</b>	<b>468</b>
<b>Subdivision 1—Interpretation</b>	<b>468</b>
228RA Definitions	468
228RB Meaning of <i>specified person</i>	471
<b>Subdivision 2—Taxi compliance officers</b>	<b>472</b>
228RC Appointment	472
228RD Identity cards	472
228RE Return of identity cards	473
228RF Production of identity card	473
228RG Taxi compliance officers subject to TSC's direction	474
228RH Offence to impersonate a taxi compliance officer	474
<b>Subdivision 3—Powers of entry</b>	<b>474</b>
228RI Power of entry	474
228RJ Requirements applying to entry when persons not present	476
228RK Notification of entry without prior notice to any person	477
228RL Procedure for entry with consent	478
<b>Subdivision 4—Inspection, inquiry, search and seizure powers</b>	<b>479</b>
228RM General inspection, inquiry and search powers	479
<b>Subdivision 5—Search warrants</b>	<b>481</b>
228RN Search warrant	481
228RO Seizure of things not mentioned in the warrant	483
228RP Announcement before entry	484
228RQ Copy of warrant to be given to occupier	484
<b>Subdivision 6—Ancillary investigatory powers</b>	<b>485</b>
228RR Use or seizure of electronic equipment	485
228RS Use of equipment to examine or process things	487
<b>Subdivision 7—Seized things</b>	<b>488</b>
228RT Receipt for seized things	488
228RU Copies of certain seized things to be given	489
228RV Return of seized things	489
228RW Magistrates' Court may extend period	490
228RX Forfeiture of seized thing	490

<i>Section</i>	<i>Page</i>
<b>Subdivision 8—Directions</b>	<b>491</b>
228RY Power to require production of information or documents and related items	491
228RZ Manner in which directions under section 228RY may be given	493
<b>Subdivision 9—Miscellaneous provisions relating to enforcement powers</b>	<b>494</b>
228RZA Use of force	494
228RZB Manner in which taxi compliance officers must exercise powers	494
228RZC Compensation for damage caused during exercise of powers under this Division	494
228RZD Abrogation of privilege against self-incrimination	495
228RZE Legal professional privilege not abrogated	496
<b>Subdivision 10—Review of decisions</b>	<b>497</b>
228RZF Reviewable decisions	497
228RZG Review by TSC	497
228RZH Review by VCAT	499
<b>Subdivision 11—Regulations</b>	<b>500</b>
228RZI Regulations	500
<b>Division 5—Prosecutions and evidentiary provisions</b>	<b>503</b>
229 Prosecutions	503
230 Evidentiary provisions	506
230AB Evidentiary provision—smartcards	510
230AC Certificate of authorised officer who operated hand held reader	510
230AD Certificate in respect of prescribed devices and processes	511
230AE Notice by informant	512
230AF Notice by accused	513
230AG Informant may adduce evidence in relation to ticket offence	515
230AH Regulations	516
<b>Division 6—Sentences in relation to relevant transport laws</b>	<b>517</b>
230AI Definitions	517
230B Commercial benefits penalty order	518
230C Supervisory intervention order	519
230D Contravention of supervisory intervention order	524
230DA Exclusion orders	524
230DB Corporations Act displacement	527
230DC Contravention of exclusion order	527
230E Release on the giving of a safety undertaking	527

<i>Section</i>	<i>Page</i>
230F Variation or contravention of orders under section 230E	530
230FA Adverse publicity order	530
<b>Division 7—Other matters</b>	<b>532</b>
<b>Subdivision 1—Interpretation</b>	<b>532</b>
230G Definitions	532
<b>Subdivision 2—Liability</b>	<b>533</b>
230I Interaction with the Occupational Health and Safety Act 2004	533
230J Offences by bodies corporate, officers of bodies corporate, partnerships etc.	534
<b>Part VIIA—Enforcement and related powers for the Port of Melbourne</b>	<b>535</b>
<b>Division 1—Preliminary</b>	<b>535</b>
230K Definitions	535
230L Appointment	535
230M Identity cards	536
230N Return of identity cards	536
230O Production of identity card	537
<b>Division 2—Powers of entry and search of vessels</b>	<b>537</b>
230P Power to enter and inspect vessels	537
230Q Production of identity card by port safety officers before vessel searches	539
230R Consent not needed for inspections	539
<b>Division 3—Powers of entry and search of premises</b>	<b>539</b>
230S Entry of premises with consent	539
230T Entry of premises without consent	541
230U Powers that may be exercised on entry	542
230V Securing a site	543
230W Offence to enter secured site	543
<b>Division 4—Provisions as to use of or seizure of equipment or goods</b>	<b>544</b>
230X Use of equipment to examine or process things	544
230Y Copies of certain things seized to be given	544
230Z Access to seized things	545
230ZA Retention and return of seized documents or things	545
230ZB Magistrates' Court may extend 3 month period	546
<b>Division 4A—Port safety infringement notices</b>	<b>547</b>
230ZBA Port safety infringements	547
230ZBB Regulations	547

<i>Section</i>	<i>Page</i>
<b>Division 5—General</b>	<b>548</b>
230ZC Requirement to assist port safety officer during entry	548
230ZD Protection against self-incrimination	549
230ZE Persons who may bring proceedings	549
<b>Part VIII—Miscellaneous and transitional</b>	<b>550</b>
<b>Division 1—Transfer of powers functions assets liabilities and staff</b>	<b>550</b>
231 Definitions	550
232 Abolition of former Authorities	551
233 Transfer of property liabilities contracts debts causes of actions leases etc. to Corporation	552
243 Contributors to State Employees Retirement Benefits Fund	555
244 Contributors to Superannuation Fund	556
244A Members of Transport Superannuation Fund	556
245 Contributors to other funds	557
246 Country Roads Board	557
<b>Division 1A—Transitional provisions</b>	<b>558</b>
246A Transport Acts (Amendment) Act 1997	558
246B Rail Corporations (Further Amendment) Act 1998	559
246C Rail Corporations and Transport Acts (Amendment) Act 1999	559
246CAA Rail Safety Act 2006—Authorised officers for drug and alcohol testing	560
<b>Division 1B—Validation</b>	<b>561</b>
246CA Definitions	561
246CB Authorized officers for the purposes of sections 212 and 213 appointed by MTA and STA	561
246CC Authorised officers for the purposes of Division 2 of Part VII appointed by PTC	562
246CD Authorised officers for the purposes of section Division 2 of Part II appointed by Secretary	564
246CE Authorized officer for the purposes of section 218 appointed by the MTA or STA	567
246CF Authorized officer for the purposes of section 218 or 218B appointed by the PTC under section 218(1)	568
246CG Authorised officers for the purposes of section 218B appointed by PTC under that section	569
246CH Authorised officers for the purposes of section 218B by Secretary	570
246CI Officers of the MTA and STA authorized for the purposes of section 219(2) or (4)	572
246CJ Officers of the PTC authorised for the purposes of section 219(2), (4) or (7)	573



Section	Page
246CK	Officers of the PTC authorised for the purposes of section 219A575
246CL	Relevant employees and authorised officers for the purposes of section 219576
246CM	Authorised persons for the purposes of section 219AA579
246CN	Authorised persons, authorised officers and relevant employees for the purposes of section 220580
246CO	Authorized persons for the purposes of section 221 authorized by MTA or STA584
246CP	Authorized persons for the purposes of section 221 authorized by PTC585
246CQ	Authorized persons for the purposes of section 221 authorised by the Secretary586
246CR	Authorised officers for the purposes of section 221AA590
246CS	Examples of things validated591
246CT	Accreditations under Division 4A of Part VII593
246CU	Prosecutorial authorisations by the MTA or STA594
246CV	Prosecutorial authorisations by the PTC596
246CW	Prosecutorial authorisations by the Secretary599
246CX	Only things done or purported to have been done under a purported authorisation and appointment validated602
246CY	Evidence603
246CZ	Delegations generally in relation to authorisations604
246CZA	Delegations generally in relation to accreditations606
246CZB	Incorrect delegations purportedly under section 6B607
246CZC	No proceedings may be brought608
246CZD	Preservation of rights only in certain proceedings609
<b>Division 1C—Wheelchair accessible taxi-cab fixed term licence fee instalment amounts609</b>	
246CZE	Definitions609
246CZF	Instalment amounts for licence fees for WAT fixed term licences changed610
246CZG	Set off of excess licence fee payments612
246CZH	Revocation of 2014 amending Order612
<b>Division 2—Miscellaneous612</b>	
246D	Temporary authorisations for the purposes of Division 4AA of Part VII612
246E	Temporary authorisation for the purposes of sections 211 and 218B613
249	Roads Corporation need not fence615
249B	Regulations with respect to services operated by a passenger transport company etc.616
250	Service of documents on natural persons616
251	Service of documents on corporations617

<i>Section</i>	<i>Page</i>
251A	Sale of lost property found in or on public transport property 618
251B	Nuisances and noise emissions 619
252	Determination of differences 621
253	Revocation of reservations for tramways purposes 621
253A	Revocation of part of Melbourne Park Reservation for tramways purposes 622
253B	Further revocation of reservations for tramways purposes 623
253C	Re-reservation of certain land for Yarra Park 623
253D	Registrar of Titles to make necessary amendments 624
254	Acts etc. deemed performed by Road Traffic Authority 624
254A	Repeal of Part IIA 625
254B	Transitional provision—Effect of repeal of Part IIA 625
255A	Supreme Court—limitation of jurisdiction 625
255B	Supreme Court—limitation of jurisdiction 626
255C	Supreme Court—limitation of jurisdiction 626
255D	Supreme Court—limitation of jurisdiction 626
255E	Supreme Court—limitation of jurisdiction 626
255F	Supreme Court—limitation of jurisdiction 626
256	Regulations 626
<b>Division 3—Transitional and savings provisions—Transport (Further Amendment) Act 2001</b>	
	<b>628</b>
257	Definitions 628
258	Transfer of rights and liabilities etc. of PTC to the Secretary on behalf of the Crown 628
259	List of staff to be transferred 630
260	Transfer of staff of PTC 630
261	Savings provision—assignments 632
262	Savings provision—guarantees 632
263	Transitional provision—Power to amend or grant further guarantee on assignment of contract 633
<b>Division 4—Savings and transitional provisions—Transport (Rights and Responsibilities) Act 2003</b>	
	<b>634</b>
264	Commencement date 634
265	Continuation of Departmental authorisations 634
266	Continuation of Roads Corporation authorisations 634
267	Continuation of passenger transport and bus company employee authorisations 635
<b>Division 5—Transitional provisions—Transport Legislation (Further Amendment) Act 2006</b>	
	<b>635</b>
268	Definitions 635
269	Old certificates deemed to be accreditations 636
270	Saving of accreditations granted by Secretary 637
271	Saving of agreements etc. 637

<i>Section</i>	<i>Page</i>
<b>Division 6—Transitional provisions—Transport (Taxi-cab Accreditation and Other Amendments) Act 2006</b>	<b>639</b>
272 Taxi-cab accreditation	639
273 Assignments	642
<b>Division 7—Transitional provisions—Transport Legislation Amendment (Driver and Industry Standards) Act 2008</b>	<b>642</b>
274 Accreditations	642
<b>Division 8—Transitional provisions—Statute Law Amendment (Charter of Human Rights and Responsibilities) Act 2009</b>	<b>643</b>
275 Transitional provision—direction to provide reasonable assistance	643
276 Transitional provision—direction to state name and address	644
<b>Division 9—Transitional provisions—Part 2 of the Transport Legislation Amendment (Taxi Services Reform and Other Matters) Act 2011</b>	<b>644</b>
<b>Subdivision 1—Preliminary</b>	<b>644</b>
277 Definitions	644
<b>Subdivision 2—Property transfers</b>	<b>647</b>
278 Minister may direct transfer of DPT property etc. to Secretary	647
279 Property etc. transferred in accordance with direction	648
280 Allocation of property etc. subject to encumbrances	649
281 Substitution of party to agreement	649
282 Former DPT instruments and agreements	650
283 Proceedings	650
284 Interests in land	650
285 Action by Registrar of Titles	651
286 Taxes	651
287 Evidence	651
288 Validity of things done under this Subdivision	651
<b>Subdivision 3—Administrative and regulatory function transfers</b>	<b>653</b>
289 General transitional provisions	653
290 Regulatory instruments	653
291 Pending applications for accreditation	654
292 Variations, revocations, or imposition of new conditions, restrictions or other limitations on accreditations	655
293 Disciplinary action taken against accredited persons	655
294 Surrender of accreditations	656
295 Application for commercial passenger vehicle licences	656
296 Cancellation or alteration of licences	656

<i>Section</i>	<i>Page</i>
297	Transfer of licences 657
298	Assignments 657
299	Substitution of vehicle where licensed vehicle undergoing repair 658
300	Substitution of licensed vehicle 658
301	Cancellation of licence for vehicles 658
302	Revocation or suspension of licence, permit or certificate 659
303	Application for driver accreditation 659
304	Application for renewal of driver accreditation 660
305	Actions Director may take in relation to holders of driver accreditations 660
306	Pending applications for authorisations 661
307	Pending applications for renewal of authorisations 661
308	Identity cards of authorised officers 661
309	Inquiries into conduct of authorised officers 661
310	Pending applications for a certificate 662
311	Pending applications for accreditation 662
312	Change of accreditation conditions on application of accredited company 663
313	Change of accreditation conditions on initiative of Director 663
314	Pending applications for renewal of authorisations 663
315	Supervision of accredited companies 664
316	Proceedings 665
317	References to the Director—certain statutory instruments 665
318	Transitional regulations 665
<b>Division 10—Transitional provisions—Part 3 of the Transport Legislation Amendment (Taxi Services Reform and Other Matters) Act 2011</b>	
	<b>666</b>
<b>Subdivision 1—Preliminary</b>	
	<b>666</b>
319	Definitions 666
<b>Subdivision 2—Property transfers</b>	
	<b>668</b>
320	Minister may direct transfer of property of Secretary etc. to TSC 668
321	Property etc. transferred in accordance with direction 669
322	Allocation of property etc. subject to encumbrances 670
323	Substitution of party to agreement 671
324	Former Secretary instruments and agreements 671
325	Proceedings 671
326	Interests in land 672
327	Action by Registrar of Titles 672
328	Taxes 672
329	Evidence 673
330	Validity of things done under this Subdivision 673

<i>Section</i>	<i>Page</i>
<b>Subdivision 3—Administrative and regulatory function transfers</b>	<b>674</b>
331 General transitional provisions	674
332 Regulatory instruments	674
333 Pending applications for accreditation	675
334 Variations, revocations, or imposition of new conditions, restrictions or other limitations on accreditations	676
335 Disciplinary action taken against accredited persons	676
336 Surrender of accreditations	677
337 Application for commercial passenger vehicle licences	677
338 Cancellation or alteration of licences	677
339 Transfer of licences	678
340 Assignments	678
341 Substitution of vehicle where licensed vehicle undergoing repair	679
342 Substitution of licensed vehicle	679
343 Cancellation of licence for vehicles	679
344 Revocation or suspension of licence, permit or certificate	680
345 Application for driver accreditation	680
346 Application for renewal of driver accreditation	681
347 Actions Secretary may take in relation to holders of driver accreditations	681
348 Proceedings	681
349 References to the Secretary—certain statutory instruments	682
350 Transitional regulations	682
<b>Division 11—Transitional provisions—Transport Legislation Amendment (Further Taxi Reform and Other Matters) Act 2014</b>	<b>683</b>
351 Definitions	683
352 Continuation of Public Transport Fund	683
353 Specification of money to be transferred	684
354 Transfer of money and abolition of old fund	684
355 References to old fund	685
<b>Division 12—Transitional provisions—Transport (Compliance and Miscellaneous) Amendment (Abolition of the Penalty Fares Scheme) Act 2016</b>	<b>686</b>
356 Continuation of protection for persons who have paid on-the-spot penalty fares	686
357 Allocation of on-the-spot penalty fares	686

<i>Section</i>	<i>Page</i>
<b>Schedules</b>	<b>687</b>
<b>Schedule 7—Covenants to be included in deed of assignment</b>	<b>690</b>
<b>Schedule 9—Partial revocation of reservation on Yarra Park Land</b>	<b>691</b>
<b>Schedule 10—Partial revocation of reservation on Yarra Park Land</b>	<b>692</b>
<hr/>	
<b>Endnotes</b>	<b>693</b>
1 General information	693
2 Table of Amendments	695
3 Amendments Not in Operation	723
4 Explanatory details	725

---

**Authorised Version No. 202**  
**Transport (Compliance and Miscellaneous)**  
**Act 1983**

**No. 9921 of 1983**

Authorised Version incorporating amendments as at  
1 July 2017

An Act to Re-enact with Amendments the Law relating to Transport including the Law with respect to Railways, Roads and Tramways, to repeal the **Country Roads Act 1958**, the **Melbourne and Metropolitan Tramways Act 1958**, the **Ministry of Transport Act 1958**, the **Railway Lands Acquisition Act 1958**, the **Railways Act 1958**, the **Road Traffic Act 1958**, the **Transport Regulation Act 1958**, the **Melbourne Underground Rail Loop Act 1970**, the **Recreation Vehicles Act 1973**, the **Railway Construction and Property Board Act 1979** and certain other Acts, to make consequential amendments to various Acts and for other purposes.

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

**Part I—Preliminary**

**1 Short title and commencement**

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

S. 1(1)  
amended by  
No. 6/2010  
s. 199(1).

- (2) The several provisions of this Act shall come into operation or be deemed to have come into operation as follows—

- (a) section 246 shall be deemed to have come into operation on 5 May 1983;
- (b) Division 7 of Part VI shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the Government Gazette; and
- (c) the remaining provisions of this Act shall come into operation on 1 July 1983.

S. 1(3)  
amended by  
No. 9984  
s. 5(a),  
repealed by  
No. 100/1986  
s. 39.

\* \* \* \* \*

## 2 Definitions

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

S. 2(1) def. of  
*accredited  
bus operator*  
inserted by  
No. 13/2009  
s. 91(a) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)).

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

S. 2(1) def. of  
*accredited rail  
operator*  
inserted by  
No. 9/2006  
s. 111,  
repealed by  
No. 23/2013  
s. 107(a).

\* \* \* \* \*

S. 2(1) def. of  
*accredited rail  
transport  
operator*  
inserted by  
No. 23/2013  
s. 106.

*accredited rail transport operator* has the same  
meaning as in the **Rail Safety (Local  
Operations) Act 2006**;



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

*	*	*	*	*	S. 2(1) def. of <i>Agency</i> repealed by No. 100/1986 s. 3(22).
*	*	*	*	*	S. 2(1) def. of <i>Administrator</i> inserted by No. 47/1998 s. 16(1), repealed by No. 54/2001 s. 4(1)(b).
*	*	*	*	*	S. 2(1) def. of <i>ancillary works</i> amended by No. 44/1989 s. 4(a), repealed by No. 12/2004 s. 137(1).
<i>appointed day</i> means 1 July 1983;					
*	*	*	*	*	S. 2(1) def. of <i>Associated Authority</i> inserted by No. 9984 s. 4(a)(i), amended by No. 63/1997 s. 10(4)(Sch. item 4), repealed by No. 54/2001 s. 4(1)(c).
*	*	*	*	*	S. 2(1) def. of <i>Authority</i> repealed by No. 44/1989 s. 4(b).
*	*	*	*	*	S. 2(1) def. of <i>bridge</i> repealed by No. 12/2004 s. 137(1).

S. 2(1) def. of  
*bus*  
inserted by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 1.1(b)).

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

S. 2(1) def. of  
*Bus  
Association  
Victoria*  
inserted by  
No. 95/2005  
s. 26.

*Bus Association Victoria* means the  
incorporated association registered  
as Bus Association Victoria Inc.  
(registration number A0023338R);

S. 2(1) def. of  
*bus company*  
inserted by  
No. 45/1999  
s. 17(1)(a),  
amended by  
Nos 13/2009  
s. 91(b) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)),  
61/2011  
s. 25(Sch. 1  
item 13.1(a)),  
3/2017  
s. 50(Sch. 1  
item 10.1(a)).

*bus company* means a person or body that is a  
party to a contract with the Crown or the  
Secretary on behalf of the Crown or the  
Head, Transport for Victoria on behalf of the  
Crown or the Public Transport Development  
Authority, for the provision of any transport  
services (including a service contract within  
the meaning of the **Bus Services Act 1995**)  
but does not include a person or body that is  
a passenger transport company;

S. 2(1) def. of  
*bus service*  
inserted by  
No. 13/2009  
s. 91(a) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)).

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

S. 2(1) def. of  
*business day*  
inserted by  
No. 106/1997  
s. 3.

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

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

---

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

S. 2(1) def. of *Chief Investigator* inserted by No. 10/2006 s. 3, substituted by No. 6/2010 s. 199(3) (Sch. 3 item 1.1(c)).

***Commonwealth*** means Commonwealth of Australia;

\* \* \* \*

S. 2(1) def. of *Corporation* inserted by No. 44/1989 s. 4(c), amended by No. 54/2001 s. 4(1)(d), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 1.1(a)).

\* \* \* \*

S. 2(1) def. of *declared road* amended by Nos 107/1995 s. 121(1), 50/1998 s. 47(a), repealed by No. 12/2004 s. 137(1).

***Department*** means the Department of Transport, Planning and Local Infrastructure;

S. 2(1) def. of *Department* inserted by No. 28/1996 s. 4(a), substituted by No. 6/2010 s. 199(3) (Sch. 3 item 1.1(d)), amended by No. 70/2013 s. 4(Sch. 2 item 52.1).

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

---

S. 2(1) def. of <i>Director</i> inserted by No. 98/1998 s. 18(1), substituted by No. 6/2010 s. 199(3) (Sch. 3 item 1.1(e)), repealed by No. 61/2011 s. 25(Sch. 1 item 13.1(b)).	*	*	*	*	*
S. 2(1) def. of <i>Director of Marine Safety</i> inserted by No. 10/2006 s. 3, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 1.1(a)).	*	*	*	*	*
S. 2(1) def. of <i>Director, Public Transport Safety or Safety Director</i> inserted by No. 9/2006 s. 111, substituted as <i>Safety Director</i> by No. 6/2010 s. 199(3) (Sch. 3 item 1.1(f)), repealed by No. 29/2011 s. 3(Sch. 1 item 98.1).	*	*	*	*	*

---

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

---

*entitlement to use a public transport service*  
includes an entitlement to use a public transport service arising under a contract or arrangement with, or under a licence or permission given by, the Public Transport Development Authority or the Head, Transport for Victoria on behalf of the Crown or a bus company or passenger transport company;

S. 2(1) def. of *entitlement to use a public transport service* inserted by No. 69/2007 s. 6, amended by No. 61/2011 s. 29(1)(a), substituted by Nos 80/2013 s. 4, 71/2016 s. 3, amended by No. 3/2017 s. 50(Sch. 1 item 10.1(b)).

\* \* \* \*

S. 2(1) def. of *Extension road* inserted by No. 50/1998 s. 47(b), repealed by No. 12/2004 s. 137(1).

\* \* \* \*

S. 2(1) def. of *forest road* repealed by No. 12/2004 s. 137(1).

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

S. 2(1) def. of *former Corporation* inserted by No. 54/2001 s. 4(1)(a).

\* \* \* \*

S. 2(1) def. of *freeway* repealed by No. 12/2004 s. 137(1).

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

---

S. 2(1) def. of  
*Head,*  
*Transport for*  
*Victoria*  
inserted by  
No. 3/2017  
s. 50(Sch. 1  
item 10.1(c)).

***Head, Transport for Victoria*** has the same  
meaning as it has in section 3 of the  
**Transport Integration Act 2010;**

S. 2(1) def. of  
*hoarding*  
repealed by  
No. 12/2004  
s. 137(1).

\* \* \* \*

S. 2(1) def. of  
*improvement*  
*notice*  
inserted by  
No. 9/2006  
s. 111,  
substituted by  
No. 27/2014  
s. 137(2)(a).

***improvement notice*** has the same meaning  
as in the **Transport (Safety Schemes  
Compliance and Enforcement) Act 2014;**

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

S. 2(1) def. of  
*licensing*  
*authority*  
inserted by  
No. 37/1996  
s. 9(1),  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 1(1)),  
34/2011 ss 8,  
122(1).

***licensing authority*** means the Taxi Services  
Commission;

S. 2(1) def. of  
*Link road*  
inserted by  
No. 107/1995  
s. 121(2),  
repealed by  
No. 12/2004  
s. 137(1).

\* \* \* \*

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

---

*	*	*	*	*	S. 2(1) def. of <i>main road</i> repealed by No. 12/2004 s. 137(1).
*	*	*	*	*	S. 2(1) def. of <i>maintenance</i> amended by No. 44/1989 s. 4(d), repealed by No. 12/2004 s. 137(1).

*mandatory bus safety decision* means—

- (a) a decision of the Safety Director under the **Bus Safety Act 2009** whether to—
  - (i) accredit or refuse to accredit an operator of a commercial bus service or local bus service within the meaning of the **Bus Safety Act 2009**;
  - (ii) impose, vary or revoke a condition on an accreditation of an accredited bus operator;
  - (iii) vary an accreditation of an accredited bus operator;
- (b) a decision of the Safety Director or a transport safety officer to—
  - (i) serve an improvement notice; or
  - (ii) amend an improvement notice under section 54 of the **Transport (Safety Schemes Compliance and Enforcement) Act 2014**; or
- (c) a decision of the Safety Director or a transport safety officer to—
  - (i) serve a prohibition notice; or

S. 2(1) def. of *mandatory bus safety decision* inserted by No. 13/2009 s. 91(a) (as amended by No. 6/2010 s. 203(1)(Sch. 6 item 4.5)), amended by No. 27/2014 s. 137(1)(a).

- (ii) amend a prohibition notice under section 64 of the **Transport (Safety Schemes Compliance and Enforcement) Act 2014**;

S. 2(1) def. of *mandatory marine safety decision* inserted by No. 65/2010 s. 394(2), amended by Nos 27/2014 s. 137(1)(b) (i)–(iii), 49/2014 s. 61(4).<sup>1</sup>

*mandatory marine safety decision* means—

- (a) a decision of the Safety Director under the **Marine Safety Act 2010** to determine—
  - (i) standards for navigation aids; or
  - (ii) standards for dredging and channel maintenance;
- (b) a decision of the Safety Director or transport safety officer to—
  - (i) serve an improvement notice; or
  - (ii) amend an improvement notice under section 54 of the **Transport (Safety Schemes Compliance and Enforcement) Act 2014**; or
  - (iii) serve a prohibition notice; or
  - (iv) amend a prohibition notice under section 64 of the **Transport (Safety Schemes Compliance and Enforcement) Act 2014**;

S. 2(1) def. of *mandatory rail safety decision* inserted by No. 9/2006 s. 111, amended by Nos 23/2013 s. 107(b)(c), 27/2014 s. 137(1)(c).

*mandatory rail safety decision* means—

- (a) a decision of the Safety Director under the **Rail Safety (Local Operations) Act 2006** whether to—
  - (i) accredit or refuse to accredit—
    - (A) the rail infrastructure operations carried out by a rail infrastructure manager; or



- (B) the rolling stock operations carried out by a rolling stock operator; or
  - (ii) to impose, vary or revoke a condition or restriction on an accreditation of an accredited rail transport operator; or
  - (iii) to vary an accreditation of an accredited rail transport operator; or
  - (b) a decision of the Safety Director or a transport safety officer to—
    - (i) serve an improvement notice; or
    - (ii) amend an improvement notice under section 54 of the **Transport (Safety Schemes Compliance and Enforcement) Act 2014**; or
  - (c) a decision of the Safety Director or a transport safety officer to—
    - (i) serve a prohibition notice; or
    - (ii) amend a prohibition notice under section 64 of the **Transport (Safety Schemes Compliance and Enforcement) Act 2014**;
- marine safety matter* has the same meaning as it has in section 3 of the **Transport Integration Act 2010**;

S. 2(1) def. of *marine safety matter* inserted by No. 10/2006 s. 3, substituted by No. 6/2010 s. 199(3) (Sch. 3 item 1.1(j)).

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

S. 2(1) def. of <i>Melbourne metropolitan area</i> repealed by No. 120/1993 s. 4(1).	*	*	*	*	*
S. 2(1) def. of <i>metropolitan area</i> substituted by No. 45/1987 s. 205(Sch. item 138), repealed by No. 85/2006 s. 173(Sch. 1 item 14).	*	*	*	*	*
S. 2(1) def. of <i>metropolitan bridge</i> repealed by No. 12/2004 s. 137(1).	*	*	*	*	*
S. 2(1) def. of <i>Metropolitan Transit Authority</i> repealed by No. 44/1989 s. 4(e).	*	*	*	*	*
S. 2(1) def. of <i>municipality</i> repealed by No. 12/1989 s. 4(1)(Sch. 2 item 120.1).	*	*	*	*	*
S. 2(1) def. of <i>officer</i> amended by Nos 100/1986 s. 4, 44/1989 s. 4(f), 28/1996 s. 4(b)(i), 54/2001 s. 4(1)(e).	<i>officer</i> means a person for the time being employed in the Department or in or by the Corporation (whether or not that person is employed in the transport service);				

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

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

S. 2(1) def. of  
*passenger  
service*  
inserted by  
No. 98/1998  
s. 18(1),  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 1.1(g)).

*passenger transport company* means—

\* \* \* \* \*

S. 2(1) def. of  
*passenger  
transport  
company*  
inserted by  
No. 104/1997  
s. 31,  
substituted by  
No. 98/1998  
s. 18(2),  
amended by  
Nos 63/1999  
s. 12(1)(a)–(g),  
30/2000  
s. 3(1),  
34/2003  
s. 16(1),  
6/2010  
s. 199(3)  
(Sch. 3  
item 1.1(h)).

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

\* \* \* \* \*

S. 2(1) def. of  
*permanent  
improve-  
ments*  
amended by  
No. 44/1989  
s. 4(g),  
repealed by  
No. 12/2004  
s. 137(1).

\* \* \* \* \*

S. 2(1) def. of  
*permanent  
works*  
repealed by  
No. 12/2004  
s. 137(1).

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

---

S. 2(1) def. of  
*police officer*  
inserted by  
No. 37/2014  
s. 10(Sch.  
item 171.1).

***police officer*** has the same meaning as in the  
**Victoria Police Act 2013;**

S. 2(1) def. of  
*port safety officer*  
inserted by  
No. 19/2010  
s. 3.

***port safety officer*** means a person appointed  
under section 230L;

S. 2(1) def. of  
*prohibition notice*  
inserted by  
No. 9/2006  
s. 111,  
substituted by  
No. 27/2014  
s. 137(2)(b).

***prescribed*** means prescribed by this Act or the  
regulations;

***prohibition notice*** has the same meaning as in the  
**Transport (Safety Schemes Compliance  
and Enforcement) Act 2014;**

S. 2(1) def. of  
*Public Transport Corporation*  
inserted by  
No. 44/1989  
s. 4(h),  
repealed by  
No. 54/2001  
s. 4(1)(f).

\* \* \* \* \*

S. 2(1) def. of  
*Public Transport Development Authority*  
inserted by  
No. 61/2011  
s. 25(Sch. 1  
item 13.1(c)).

***Public Transport Development Authority*** has the  
same meaning as it has in section 3 of the  
**Transport Integration Act 2010;**

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

---

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

S. 2(1) def. of *public transport property* inserted by No. 98/1998 s. 18(1), amended by No. 45/1999 s. 17(1)(b).

*public transport safety matter* has the same meaning as it has in section 3 of the **Transport Integration Act 2010**;

S. 2(1) def. of *public transport safety matter* inserted by No. 10/2006 s. 3, substituted by No. 6/2010 s. 199(3) (Sch. 3 item 1.1(i)).

\* \* \* \* \*

S. 2(1) def. of *Public Transport Ticketing Body* inserted by No. 69/2007 s. 6, repealed by No. 61/2011 s. 29(1)(b).

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

S. 2(1) def. of *rail corporation* inserted by No. 98/1998 s. 18(1), amended by No. 6/2010 s. 199(3) (Sch. 3 item 1.1(k)).

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

---

S. 2(1) def. of  
*rail freight  
operator*  
inserted by  
No. 98/1998  
s. 18(1),  
amended by  
No. 63/1999  
s. 12(2).

*rail freight operator* means—

\* \* \* \* \*

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

S. 2(1) def. of  
*rail infra-  
structure*  
inserted by  
No. 32/2002  
s. 3,  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 1.1(l)).

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

S. 2(1) def. of  
*rail  
infrastructure  
manager*  
inserted by  
No. 9/2006  
s. 111,  
amended by  
No. 23/2013  
s. 107(d).

*rail infrastructure manager* has the same  
meaning as in the **Rail Safety (Local  
Operations) Act 2006;**

S. 2(1) def. of  
*rail  
infrastructure  
operations*  
inserted by  
No. 9/2006  
s. 111,  
repealed by  
No. 23/2013  
s. 107(a).

\* \* \* \* \*

S. 2(1) def. of  
*rail operations*  
inserted by  
No. 9/2006  
s. 111,  
repealed by  
No. 23/2013  
s. 107(a).

\* \* \* \* \*

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

---

*	*	*	*	*	S. 2(1) def. of <i>rail safety recommendation</i> inserted by No. 9/2006 s. 111, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 1.1(a)).
<b><i>Rail Track</i> means Victorian Rail Track within the meaning of section 3 of the <b>Transport Integration Act 2010</b>;</b>					S. 2(1) def. of <i>Rail Track</i> inserted by No. 104/1997 s. 31, substituted by No. 6/2010 s. 199(3) (Sch. 3 item 1.1(m)).
*	*	*	*	*	S. 2(1) def. of <i>relevant marine safety law</i> inserted by No. 65/2010 s. 394(2), repealed by No. 27/2014 s. 137(3).
*	*	*	*	*	S. 2(1) def. of <i>relevant rail safety project</i> inserted by No. 9/2006 s. 111, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 1.1(a)).

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

S. 2(1) def. of  
*relevant  
transport  
safety law*  
inserted by  
No. 9/2006  
s. 111,  
amended by  
Nos 6/2010  
s. 199(3)  
(Sch. 3  
item 1.1(n)),  
13/2009  
s. 91(c) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)),  
65/2010  
s. 394(1),  
23/2013  
s. 107(e),  
repealed by  
No. 27/2014  
s. 137(3).

\* \* \* \*

*road* includes bridge, culvert, ferry and ford;

S. 2(1) def. of  
*Road  
Construction  
Authority*  
repealed by  
No. 44/1989  
s. 4(i).

\* \* \* \*

S. 2(1) def. of  
*Roads  
Corporation*  
inserted by  
No. 44/1989  
s. 4(i),  
substituted by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 1.1(o)).

*Roads Corporation* has the same meaning as it  
has in section 3 of the **Transport  
Integration Act 2010**;



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

*	*	*	*	*	S. 2(1) def. of <i>rolling stock operations</i> inserted by No. 9/2006 s. 111, repealed by No. 23/2013 s. 107(a).
<i>rolling stock operator</i> has the same meaning as in the <b>Rail Safety (Local Operations) Act 2006</b> ;					S. 2(1) def. of <i>rolling stock operator</i> inserted by No. 9/2006 s. 111, amended by No. 23/2013 s. 107(f).
<i>Safety Director</i> means the Director, Transport Safety within the meaning of section 3 of the <b>Transport Integration Act 2010</b> ;					New s. 2(1) def. of <i>Safety Director</i> inserted by No. 29/2011 s. 3(Sch. 1 item 98.2), amended by No. 35/2014 s. 46(1).
<i>Secretary</i> means the Secretary to the Department;					S. 2(1) def. of <i>Secretary</i> inserted by No. 60/1994 s. 4, amended by No. 28/1996 s. 4(b)(ii).
*	*	*	*	*	S. 2(1) def. of <i>Road Traffic Authority</i> repealed by No. 44/1989 s. 4(j).
<i>Southern Cross Station</i> means those parts of the Southern Cross Station precinct that are declared to be the Southern Cross Station by Order under section 57(1);					S. 2(1) def. of <i>Southern Cross Station</i> inserted by No. 19/2010 s. 72.

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

---

S. 2(1) def. of  
*Southern  
Cross Station  
precinct*  
inserted by  
No. 19/2010  
s. 72.

*Southern Cross Station precinct* means the land  
hatched on the plan in Schedule 2 to the  
**Rail Corporations Act 1996** as in force  
immediately before the commencement of  
section 7 of the **Transport Legislation  
General Amendments Act 2009**;

S. 2(1) def. of  
*State highway*  
repealed by  
No. 12/2004  
s. 137(1).

\* \* \* \*

S. 2(1) def. of  
*State  
Transport  
Authority*  
repealed by  
No. 44/1989  
s. 4(k).

\* \* \* \*

S. 2(1) def. of  
*stock route*  
repealed by  
No. 12/2004  
s. 137(1).

\* \* \* \*

S. 2(1) def. of  
*Taxi Services  
Commission*  
inserted by  
No. 34/2011  
s. 122(2).

*Taxi Services Commission* has the same meaning  
as it has in the **Transport Integration  
Act 2010**;

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

S. 2(1) def. of  
*tourists' road*  
repealed by  
No. 12/2004  
s. 137(1).

\* \* \* \*

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

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

*tram infrastructure* has the same meaning as in the **Rail Management Act 1996**;

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

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

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

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

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

\* \* \* \* \*

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

*Treasurer* means the Treasurer of Victoria;

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

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

*TSC* means the Taxi Services Commission established by section 115B of the **Transport Integration Act 2010**.

S. 2(1) def. of *TSC* inserted by No. 43/2013 s. 52(1).

\* \* \* \* \*

S. 2(1) def. of *West Gate Bridge* repealed by No. 12/2004 s. 137(1).

S. 2(2A)  
inserted by  
No. 98/1998  
s. 18(3),  
amended by  
Nos 61/2011  
s. 25(Sch. 1  
item 13.2),  
3/2017  
s. 50(Sch. 1  
item 10.2).

S. 2(2B)  
inserted by  
No. 98/1998  
s. 18(3).

S. 2(2C)  
inserted by  
No. 98/1998  
s. 18(3),  
substituted by  
No. 45/1999  
s. 17(2).

- (2) Where a word or phrase is given a particular meaning in this Act, other parts of speech and grammatical forms of that word or phrase have, unless the contrary intention appears, corresponding meanings.
- (2A) The Governor in Council, by Order published in the Government Gazette, may declare that a person or body specified in the Order, being a person or body that has entered into a contract with the Crown or the Secretary on behalf of the Crown or the Head, Transport for Victoria or the Public Transport Development Authority for the provision by that person or body of a passenger service, is, on and from a date specified in the Order and subject to any terms and conditions specified in the Order, a passenger transport company for the purposes of this Act.
- (2B) The Governor in Council, by Order published in the Government Gazette, may declare that a person or body specified in the Order, being a person or body that operates rail freight services, is, on and from a date specified in the Order and subject to any terms and conditions specified in the Order, a rail freight operator for the purposes of this Act.
- (2C) The Governor in Council, by Order published in the Government Gazette, may declare that a specified body corporate, being a body corporate that—

(a) is a party to a lease of rail infrastructure (within the meaning of the **Rail Management Act 1996**) by the Public Transport Development Authority or the Head, Transport for Victoria on behalf of the Crown or Rail Track or the Southern Cross Station Authority; or

S. 2(2C)(a)  
amended by  
Nos 30/2000  
s. 3(3),  
95/2005  
s. 12(3),  
6/2010  
s. 199(3)  
(Sch. 3  
item 1.2),  
61/2011  
s. 25(Sch. 1  
item 13.3),  
3/2017  
s. 50(Sch. 1  
item 10.3).

(b) is a party to a contract with the Secretary on behalf of the Crown or the Head, Transport for Victoria on behalf of the Crown or the Public Transport Development Authority for the provision by that body corporate of a passenger service—

S. 2(2C)(b)  
amended by  
Nos 61/2011  
s. 25(Sch. 1  
item 13.4),  
3/2017  
s. 50(Sch. 1  
item 10.4).

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

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

S. 2(2D)  
inserted by  
No. 98/1998  
s. 18(3),  
substituted by  
No. 45/1999  
s. 17(2).

(a) is a party to a lease of tram infrastructure (within the meaning of the **Rail Management Act 1996**) by the Public Transport Development Authority or the Head, Transport for Victoria on behalf of the Crown or Rail Track or the Southern Cross Station Authority; or

S. 2(2D)(a)  
amended by  
Nos 30/2000  
s. 3(4),  
95/2005  
s. 12(3),  
6/2010  
s. 199(3)  
(Sch. 3  
item 1.3),  
61/2011  
s. 25(Sch. 1  
item 13.3),  
3/2017  
s. 50(Sch. 1  
item 10.3).

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

---

S. 2(2D)(b)  
amended by  
Nos 61/2011  
s. 25(Sch. 1  
item 13.4),  
3/2017  
s. 50(Sch. 1  
item 10.4).

(b) is a party to a contract with the Secretary on behalf of the Crown or the Head, Transport for Victoria on behalf of the Crown or the Public Transport Development Authority for the provision by that body corporate of a passenger service—

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

S. 2(3)  
repealed by  
No. 120/1993  
s. 4(2),  
new s. 2(3)  
inserted by  
No. 46/1998  
s. 7(Sch. 1),  
amended by  
Nos 108/2004  
s. 117(1)  
(Sch. 3  
item 208.1),  
6/2010  
s. 199(3)  
(Sch. 3  
item 1.4),  
70/2013  
s. 4(Sch. 2  
item 52.2).

(3) If under the **Public Administration Act 2004** the name of the Department of Transport, Planning and Local Infrastructure is changed, the reference in the definition of *Secretary* in subsection (1) to that Department must, from the date when the name is changed, be treated as a reference to the Department by its new name.

S. 2(4)–(6)  
inserted by  
No. 9984  
s. 4(a)(ii),  
repealed by  
No. 54/2001  
s. 4(2).

\* \* \* \* \*

S. 2A  
inserted by  
No. 6/2010  
s. 24(5)(Sch. 1  
item 16).

## 2A Transport Integration Act 2010

This Act is transport legislation within the meaning of the **Transport Integration Act 2010**.

## **Part II—Administration**

### **Division 1—The Department**

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

\* \* \* \*

S. 3  
amended by  
Nos 44/1989  
s. 5(a)(b),  
68/1995  
s. 40(1)(a)(b),  
repealed by  
No. 28/1996  
s. 4(c).

### **Subdivision 1—General**

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

\* \* \* \*

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

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

S. 4A inserted by No. 98/1998 s. 20, repealed by No. 61/2011 s. 23(1).	*	*	*	*	*
S. 5 repealed by No. 44/1989 s. 6, new s. 5 inserted by No. 60/1994 s. 6, amended by Nos 98/1998 s. 25(b), 54/2001 s. 6, repealed by No. 61/2011 s. 23(1).	*	*	*	*	*
S. 6 repealed by No. 44/1989 s. 6, new s. 6 inserted by No. 60/1994 s. 6, amended by No. 28/1996 s. 4(h), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 2.1).	*	*	*	*	*
S. 6A inserted by No. 60/1994 s. 6, amended by Nos 28/1996 s. 4(h)(i), 98/1998 s. 21(1)(2), 54/2001 s. 7, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 2.1).	*	*	*	*	*



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

*	*	*	*	*	<p><b>S. 6B</b> inserted by No. 60/1994 s. 6, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 2.1).</p>
*	*	*	*	*	<p><b>S. 6C</b> inserted by No. 60/1994 s. 6, repealed by No. 54/2001 s. 8.</p>
<p><b>7 Minister may make use of services of officers etc. of public service or public entities</b></p> <p>For the purposes of this Act the Minister administering this Act with the consent of the Minister administering the Department concerned or (as the case requires) of the body concerned may make use of the services of any officer or employee of the public service or a public entity subject to the agreement of that officer or employee.</p>					<p><b>S. 7 (Heading)</b> inserted by No. 80/2006 s. 26(Sch. item 103.1). <b>S. 7</b> amended by Nos 34/2003 s. 13(a), 80/2006 s. 26(Sch. item 103.2), 28/2007 s. 3(Sch. item 66.1).</p>
*	*	*	*	*	<p><b>S. 7A</b> inserted by No. 44/1989 s. 7, amended by Nos 85/1992 s. 3, 28/1996 s. 4(j), 98/1998 s. 21(3), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 2.1).</p>

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

Pt 2 Div. 1  
Subdiv. 2  
(Heading and  
ss 8–9J)  
amended by  
Nos 98/1998  
s. 22, 45/1999  
s. 18, 32/2002  
ss 4, 5,  
12/2004  
s. 137(2)–(5),  
108/2004  
s. 117(1)  
(Sch. 3  
item 208.1),  
95/2005 ss 31,  
32, 9/2006  
ss 114–116  
(as amended  
by No.  
47/2006  
s. 53(1)),  
47/2006 ss 3–  
7, 69/2007 s. 7,  
6/2010  
s. 199(3)  
(Sch. 3  
item 2.1),  
repealed by  
No. 61/2011  
s. 23(2).

\* \* \* \*

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

\* \* \* \*

## **Subdivision 4—Provisions relating to passenger services**

Pt 2 Div. 1  
Subdiv. 4  
(Heading)  
inserted by  
No. 9/2006  
s. 118.

### **10 Priority of passenger services**

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

(1) If—

- (a) an agreement relating to the provision or operation of passenger services between the Head, Transport for Victoria and a train operator provides for the Head, Transport for Victoria to require or approve a change in the timetable for a passenger service provided by the train operator; and
- (b) in accordance with that agreement the Head, Transport for Victoria requires or approves a timetable change; and
- (c) in order to provide the passenger service to which the timetable change relates, the train operator requires use of rail transport services or declared rail transport services; and
- (d) the train operator is—
  - (i) a party to an agreement relating to the provision of those rail transport services or declared rail transport services; or

S. 10(1)(a)  
amended by  
Nos 61/2011  
s. 25(Sch. 1  
item 13.5(a)),  
3/2017  
s. 50(Sch. 1  
item 10.5).

S. 10(1)(b)  
amended by  
Nos 61/2011  
s. 25(Sch. 1  
item 13.5(b)),  
3/2017  
s. 50(Sch. 1  
item 10.5).

S. 10(1)(c)  
amended by  
Nos 45/1999  
s. 19(1)(a),  
25/2005  
s. 9(1)(a)(i)(ii).

S. 10(1)(d)  
amended by  
Nos 45/1999  
s. 19(1)(b),  
62/2001 s. 96,  
substituted by  
No. 25/2005  
s. 9(1)(b).

S. 10(1)(d)(ia)  
inserted by  
No. 25/2005  
s. 9(7).

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

then—

S. 10(1)(e)  
amended by  
Nos 45/1999  
s. 19(1)(c),  
25/2005  
s. 9(1)(c),  
6/2010  
s. 199(3)  
(Sch. 3  
item 2.3).

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

S. 10(2)  
amended by  
No. 25/2005  
s. 9(2)(a)(b).

- (2) Subsection (1) applies even if the use by the train operator of the rail transport services and declared rail transport services may—

S. 10(2)(a)  
amended by  
No. 45/1999  
s. 19(2)(a).

- (a) interfere with an existing use by the rail infrastructure operator of the rail transport services or declared rail transport services for the provision by that operator of a rail transport service other than a passenger

- service or a service that is predominantly a passenger service (in this section referred to as *a non-passenger service*); or
- (b) interfere with an existing right of another person to use the rail transport services or declared rail transport services (as the case may be) to provide a non-passenger service. S. 10(2)(b) amended by Nos 45/1999 s. 19(2)(b), 25/2005 s. 9(2)(c)(i)(ii).
- (3) Subsection (1) is subject to—
- (a) any existing use by the rail infrastructure operator of the rail transport services or declared rail transport services for the provision of, or predominantly for the provision of, a passenger service by that operator; or S. 10(3)(a) amended by No. 45/1999 s. 19(3).
- (b) any existing right of a train operator to use the rail transport services or declared rail transport services for the provision of, or predominantly for the provision of, a passenger service. S. 10(3)(b) amended by Nos 45/1999 s. 19(3), 25/2005 s. 9(3)(a)(b).
- (4) Nothing in subsection (2) or (3) affects any provision of an agreement or a dispute resolution decision referred to in subsection (1)(d) relating to a right to use rail transport services or declared rail transport services referred to in subsection (2)(b) or (3)(b) which specifies the respective rights or obligations of— S. 10(4) substituted by No. 25/2005 s. 9(4).
- (a) in the case of an agreement, binding access arrangement, the parties to the agreement; or S. 10(4)(a) amended by No. 25/2005 s. 9(8)(a).
- (ab) in the case of a binding access arrangement, the access provider and any access seeker; or S. 10(4)(ab) inserted by No. 25/2005 s. 9(8)(b).

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

as a result of—

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

(d) the Head, Transport for Victoria requiring  
or approving a timetable change in  
accordance with an agreement referred  
to in subsection (1)(a).

S. 10(4)(d)  
amended by  
Nos 61/2011  
s. 25(Sch. 1  
item 13.5(b)),  
3/2017  
s. 50(Sch. 1  
item 10.5).

S. 10(5)  
substituted by  
No. 25/2005  
s. 9(5),  
amended by  
No. 25/2005  
s. 9(9).

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

S. 10(6)  
amended by  
Nos 61/2011  
s. 25(Sch. 1  
item 13.5(b)),  
3/2017  
s. 50(Sch. 1  
item 10.5).

(6) In deciding whether to require or approve a  
timetable change in accordance with an  
agreement referred to in subsection (1)(a), the  
Head, Transport for Victoria must have regard  
to the objective of ensuring that the provision  
of a passenger service has priority over any  
non-passenger service unless, in the particular  
circumstances, the interference with a  
non-passenger service resulting from according  
that priority would in the opinion of the Head,  
Transport for Victoria be serious and  
unreasonable.

- (7) In this section *access provider*, *access seeker*, *binding access arrangement*, *dispute resolution decision*, *rail transport service* and *declared rail transport service* have the meanings given to them under section 38A of the **Rail Management Act 1996**.

S. 10(7)  
inserted by  
No. 25/2005  
s. 9(6),  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 2.4).

\* \* \* \* \*

New s. 11  
inserted by  
No. 98/1998  
s. 24,  
amended by  
No. 61/2011  
s. 23(3)(4),  
repealed by  
No. 35/2014  
s. 39.

## 12 Financial assistance to train drivers following fatal incidents

New s. 12  
inserted by  
No. 69/2007  
s. 9.

- (1) The Secretary must grant to a train driver engaged by a train operator an amount of financial assistance equal to the prescribed amount if the Secretary is satisfied that the train driver is eligible under this section to be awarded that amount.
- (2) A train driver is eligible under this section to be awarded financial assistance if—
- (a) the train driver was driving a train that was involved in an incident in which one or more persons died either by being struck by the train or by being in a vehicle struck by a train; and
- (b) the incident occurred on or after the commencement of section 9 of the **Transport Legislation Amendment Act 2007**.

S. 12(1)  
amended by  
Nos 6/2010  
s. 199(3)  
(Sch. 3  
item 2.5),  
61/2011  
s. 25(Sch. 2  
item 5.1).

S. 12(3)  
amended by  
No. 22/2013  
s. 90.

- (3) A train driver is not eligible for financial assistance under this section if the train driver was convicted or found guilty of an offence under Part 6 of the **Rail Safety (Local Operations) Act 2006** or Division 4 of Part 4 of the **Rail Safety National Law Application Act 2013** or Division 9 of Part 3 of the Rail Safety National Law (Victoria) involving alcohol or drugs in relation to the incident.

S. 12(4)  
amended by  
No. 35/2014  
s. 40.

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

**Note**

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

- (6) In this section the prescribed amount of financial assistance is \$1300 or any higher amount that is prescribed as the maximum amount for the purposes of section 8A of the **Victims of Crime Assistance Act 1996** in relation to a category C act of violence.



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

---

\*

\*

\*

\*

\*

Pt 2 Div. 2  
(Heading and  
ss 8–12)  
amended by  
Nos 9984  
ss 4(b)(c),  
5(b)(c),  
100/1986  
s. 3(22),  
44/1989 ss 8,  
39(1)(a),  
40(Sch. 1  
item 7.1),  
repealed by  
No. 85/1992  
s. 4.

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

Pt 2 Div. 3  
(Heading and  
ss 13–20)  
amended by  
Nos 127/1986  
s. 102(Sch. 4  
item 28.1),  
15/1987  
s. 31(3),  
52/1988  
s. 161(Sch. 6  
item 14.1),  
substituted as  
Pt 2 Div. 3  
(Heading and  
ss 13–16) by  
No. 44/1989  
s. 9,  
amended by  
Nos 76/1991  
s. 15(1),  
85/1992 ss 5,  
6, 9(1)(a),  
60/1994 s. 7,  
17/1995  
s. 24(a),  
68/1995  
s. 41(1),  
104/1997 s. 32,  
47/1998  
s. 16(2)(3),  
98/1998  
s. 25(c),  
30/2000 ss 4,  
5, 54/2001  
ss 9, 25(Sch.  
item 1.5),  
12/2004  
ss 136, 137(6),  
30/2007 s. 225,  
93/2009 s. 36,  
repealed by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 3).

\* \* \* \* \*

Pt 2 Div. 3A  
(Heading and  
ss 17–20E)  
inserted by  
No. 47/1998  
s. 15,  
repealed by  
No. 54/2001  
s. 9.

\* \* \* \* \*

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

*	*	*	*	*	<p>Pt 2 Div. 4 (Heading and ss 21–33) amended by Nos 10220 s. 14, 100/1986 ss 3(22), 5, 50/1988 s. 93(2)(Sch. 2 Pt 2 item 59), 44/1989 ss 10–16, 17(2), 40(Sch. 1 items 1, 2.1, 6.1, 8.1, 20), 81/1990 s. 7(1), 85/1992 ss 7, 8, 9(1)(b)(c), 120/1993 s. 64, 60/1994 s. 8, 17/1995 s. 22, 68/1995 s. 42, 28/1996 s. 5, 47/1998 s. 16(4)–(6), 54/2001 ss 10, 25(Sch. items 1.6–1.12, 1.14), 49/2004 s. 46, 95/2005 s. 33, 69/2007 s. 40(1), 74/2007 s. 80, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 4).</p>
*	*	*	*	*	<p>Pt 2 Div. 5 (Heading and ss 34–37) amended by Nos 44/1989 ss 18(1), 40(Sch. 1 items 15, 25), 85/1992 s. 9(1)(c)(d), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 5).</p>

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

Pt 2A  
(Heading and  
s. 37A)  
inserted by  
No. 54/2002  
s. 3,  
amended by  
No. 59/2003  
s. 124,  
repealed by  
No. 9921  
s. 254A<sup>2</sup>.

---

\* \* \* \* \*

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

---

## Part III—Powers of the Corporation

Pt 3 (Heading)  
amended by  
Nos 100/1986  
s. 3(22),  
81/1990  
s. 7(2),  
54/2001  
s. 25(Sch.  
item 1.13).

\* \* \* \*

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

\* \* \* \*

S. 39  
amended by  
Nos 9984  
s. 5(d), 10220  
s. 16, 100/1986  
s. 3(22),  
123/1986 s. 80,  
44/1989  
s. 40(Sch. 1  
item 2.1),  
54/2001 ss 11,  
25(Sch.  
item 1.17),  
repealed by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 6).

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

S. 40 substituted by No. 44/1989 s. 19, amended by Nos 60/1994 s. 9(1)(2), 30/2000 s. 6, repealed by No. 54/2001 s. 12.	*	*	*	*	*
S. 41 substituted by No. 44/1989 s. 19, repealed by No. 12/2004 s. 137(7).	*	*	*	*	*
S. 42 amended by Nos 9984 s. 5(e), 100/1986 s. 3(22), 121/1986 s. 112, 18/1989 s. 13(Sch. 2 item 90(a)), 44/1989 ss 20(a)(b), 40(Sch. 1 items 1, 2.1, 8.1), 81/1989 s. 3(Sch. item 53.1), 81/1990 s. 7(3), 85/1998 s. 24(Sch. item 59), 30/2000 s. 7, 54/2001 s. 25(Sch. items 1.19– 1.25), repealed by No. 12/2004 s. 137(8).	*	*	*	*	*

#### **43 Special acquisition powers of Rail Track with respect to the Loop**

(1) Rail Track may—

- (a) purchase or, with the approval of the Minister, compulsorily acquire any land in the City of Melbourne shown hatched in Schedule 3 to the **Melbourne Underground Rail Loop Act 1970**;
- (b) purchase any land in the City of Melbourne shown hatched in Schedule 4 to the **Melbourne Underground Rail Loop Act 1970** and, with the approval of the Minister, compulsorily acquire the right, title or interest in any street, lane or road set out on that land.

S. 43(1)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 16),  
30/2000  
s. 8(1).

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

S. 43(2)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
items 12, 16),  
30/2000  
s. 8(2).

\* \* \* \* \*

S. 44  
amended by  
Nos 16/1986  
s. 30, 44/1989  
s. 40(Sch. 1  
items 12, 17),  
repealed by  
No. 12/2004  
s. 137(8).

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

S. 45 amended by Nos 12/1989 s. 4(1)(Sch. 2 item 120.2) (as amended by No. 13/1990 s. 38(2)(z)), 44/1989 s. 40(Sch. 1 items 1, 2.1, 8.1), 54/2001 s. 25(Sch. items 1.26– 1.28), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 6).	*	*	*	*	*
S. 46 amended by Nos 44/1989 s. 40(Sch. 1 items 2.1, 8.1), 54/2001 s. 25(Sch. item 1.29), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 6).	*	*	*	*	*
S. 47 amended by Nos 100/1986 s. 6, 44/1989 s. 40(Sch. 1 items 1, 2.1, 8.1, 19.1), 76/1991 s. 15(2), 79/1996 s. 58(1), 46/1998 s. 7(Sch. 1), 54/2001 s. 25(Sch. items 1.30– 1.32), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 6).	*	*	*	*	*



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

*	*	*	*	*	<p><b>S. 48</b> amended by No. 44/1989 s. 40(Sch. 1 items 8.1, 8.2, 17), repealed by No. 12/2004 s. 137(8).</p>
*	*	*	*	*	<p><b>S. 49</b> substituted by No. 44/1989 s. 21, repealed by No. 30/2000 s. 9.</p>
*	*	*	*	*	<p><b>S. 50</b> amended by Nos 44/1989 s. 40(Sch. 1 items 12, 14, 19.1), 76/1991 s. 15(3)(a)(b), 60/1994 s. 10(a)(b), repealed by No. 30/2000 s. 10.</p>
*	*	*	*	*	<p><b>S. 51</b> amended by Nos 44/1989 s. 40(Sch. 1 items 2.1, 8.1, 19.1), 57/1989 s. 3(Sch. items 202.1, 202.2), repealed by No. 30/2000 s. 11.</p>

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

S. 52  
amended by  
Nos 100/1986  
s. 3(17)(a)–(c),  
12/1989  
s. 4(1)(Sch. 2  
items 120.3,  
120.4),  
44/1989  
s. 40(Sch. 1  
item 16),  
80/1992  
s. 55(a)–(d),  
121/1994  
s. 211,  
repealed by  
No. 100/1995  
s. 59(1).

\* \* \* \*

S. 53  
amended by  
Nos 10087  
s. 3(1)(Sch. 1  
item 271),  
100/1986  
s. 3(18),  
12/1989  
s. 4(1)(Sch. 2  
item 120.5) (as  
amended by  
No. 13/1990  
s. 38(2)(za)),  
80/1992  
s. 55(e),  
repealed by  
No. 100/1995  
s. 59(1).

\* \* \* \*

## 54 Provisions as to proposed developments along the line of the Loop

S. 54(1)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
items 12, 16),  
104/1997  
s. 33(1)(2).

- (1) Any person who proposes to develop any land along or in the immediate proximity of the Loop shall before commencing the development and without in any way limiting his obligation under any other Act to obtain any other approval or consent submit to Rail Track full details of his proposed development and shall comply with any conditions imposed by Rail Track which it thinks

may be necessary for the protection of the Loop or the proposed development.

- (2) If in the case of any development there is a breach of subsection (1), Rail Track may by notice in writing to the owner of the land to which the breach relates require—
- (a) the demolition of the whole or any part of any structure;
- (b) the making of any additions or extensions to or alterations of any structure; or
- (c) the carrying out of any other work upon above or below the surface of the land which Rail Track thinks may be necessary for the protection of the Loop or the development.
- (3) A notice given pursuant to subsection (2) shall specify a day (being, except in the case of an emergency, not less than 30 days after the day on which it is given) before which the notice is to be complied with.
- (4) If any notice given pursuant to subsection (2) is not complied with by the day so specified, Rail Track may without any further notice enter upon the land and carry out the works required by the notice.
- (5) The costs and expenses of carrying out any work pursuant to subsection (4) shall be a civil debt recoverable summarily by Rail Track from the owner of the land in any court of competent jurisdiction.
- (6) Nothing in this section shall limit any rights of Rail Track to have any development restrained in consequence of a breach of this section or otherwise.
- S. 54(2) amended by Nos 44/1989 s. 40(Sch. 1 item 16), 104/1997 s. 33(1).
- S. 54(2)(c) amended by Nos 44/1989 s. 40(Sch. 1 item 12), 104/1997 s. 33(2).
- S. 54(4) amended by Nos 44/1989 s. 40(Sch. 1 item 16), 104/1997 s. 33(1).
- S. 54(5) amended by Nos 44/1989 s. 40(Sch. 1 item 16), 104/1997 s. 33(1).
- S. 54(6) amended by Nos 44/1989 s. 40(Sch. 1 item 16), 104/1997 s. 33(1).

- (7) In this section *develop any land* means erect or demolish any structure in or upon the land, alter any such structure substantially or excavate the land.

S. 55  
amended by  
Nos 44/1989  
s. 22, 54/2001  
s. 25(Sch.  
item 1.33),  
repealed by  
No. 74/2007  
s. 81.

\* \* \* \*

## 56 Regulations

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

S. 56(1)(a)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 2.1),  
98/1998  
s. 26(1)(a),  
30/2000  
s. 12(1)(a).

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

S. 56(1)(b)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 2.1),  
98/1998  
s. 26(1)(a),  
30/2000  
s. 12(1)(b),  
substituted by  
No. 95/2005  
s. 34(1),  
amended by  
No. 19/2010  
s. 73(a).

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

- (i) littering;
- (ii) gambling;
- (iii) graffiti;
- (iv) damage to property;

- (v) the possession of open containers of liquor or containers that purport to contain liquor;
- (vi) the crossing of railway tracks and tramway tracks in specified circumstances;
- (ba) providing for the removal and disposal of open containers of liquor, or containers that purport to contain liquor, in or on a vehicle or place referred to in paragraph (b);  

S. 56(1)(ba) inserted by No. 45/1999 s. 20(1)(a), substituted by No. 95/2005 s. 34(1), amended by No. 19/2010 s. 73(b).
- (c) preventing interference with or damage to Southern Cross Station or any property, works or undertaking in Southern Cross Station or belonging to or under the control of the Roads Corporation, a passenger transport company or rail freight operator;  

S. 56(1)(c) amended by Nos 44/1989 s. 40(Sch. 1 item 2.1), 98/1998 s. 26(1)(a), 30/2000 s. 12(1)(c), 19/2010 s. 73(c).
- (ca) preventing interference with or damage to any vehicle belonging to or under the control of a bus company;  

S. 56(1)(ca) inserted by No. 45/1999 s. 20(1)(b).
- (d) prohibiting the discharge of sewage or drainage onto Southern Cross Station or any land or premises the property of the Roads Corporation or Rail Track;  

S. 56(1)(d) amended by Nos 10087 s. 3(1)(Sch. 1 item 272), 44/1989 s. 40(Sch. 1 item 2.1), 98/1998 s. 26(1)(b), 30/2000 s. 12(1)(d), 19/2010 s. 73(d).

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

---

S. 56(1)(e)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 2.1),  
98/1998  
s. 26(1)(c),  
30/2000  
s. 12(1)(e),  
19/2010  
s. 73(e),  
61/2011  
s. 25(Sch. 2  
item 5.2).

(e) preventing trespassing upon Southern Cross Station or any land or premises the property of the Roads Corporation or Rail Track or under the control of the Secretary or the Public Transport Development Authority or of a passenger transport company or rail freight operator;

S. 56(1)(f)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 2.1),  
98/1998  
s. 26(1)(c),  
30/2000  
s. 12(1)(f),  
19/2010  
s. 73(f),  
61/2011  
s. 25(Sch. 2  
item 5.2).

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

S. 56(1)(g)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 2.1),  
30/2000  
s. 12(1)(g),  
19/2010  
s. 73(g).

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

S. 56(1)(ga)  
inserted by  
No. 95/2005  
s. 34(2),  
amended by  
No. 19/2010  
s. 73(h).

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

S. 56(1)(ga)(i)  
amended by  
No. 35/2014  
s. 42(1)(a).

(i) regulating the circumstances in which vehicles may be parked or removed, including, for example—

- (A) specifying the conditions and restrictions to which the parking or removal is subject, or to which it may be made subject (including the payment of fees and whether operator onus applies under Part 6AA of the **Road Safety Act 1986**);  
S. 56(1)(ga)  
(i)(A)  
amended by  
No. 35/2014  
s. 42(1)(b).
- (B) providing for different provisions or conditions and restrictions to apply to different areas of the place;
- (ii) providing for signs and marks, and for control devices such as barriers and devices to restrict entry or exit;
- (iii) specifying the legal effects of signs, marks and devices, and the evidence that is sufficient to prove their existence and effect;
- (iv) providing for authorised officers to require an occupant, or an intending occupant, of a vehicle that is at or has just left the place to produce evidence that any condition or restriction applying to parking at or removal from that place has been complied with, regardless of where the person is at the time the requirement is made;  
S. 56(1)(ga)(iv)  
substituted by  
No. 35/2014  
s. 42(1)(c).
- (v) providing for the person in control of the place, any person acting on behalf of that person and authorised officers to give directions to the owner or driver of a vehicle in relation to the parking of the vehicle at, or removal of the vehicle from, the place (including directions that the vehicle not be parked at the place, or that the vehicle be removed  
S. 56(1)(ga)(v)  
substituted by  
No. 35/2014  
s. 42(1)(d).

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

---

from the place, or that a vehicle that has just left the place must stop), regardless of whether the owner or driver is in the vehicle, and regardless of where the person giving the direction is at the time the direction is given, and regardless of whether the vehicle is at or has just left the place at the time the direction is given;

S. 56(1)(ga)(vi)  
amended by  
No. 35/2014  
s. 42(1)(e).

(vi) authorising the person in control of the place, a person acting on behalf of that person or an authorised officer, to do anything that is necessary to enable the enforcement of regulations made under this paragraph;

S. 56(1)(h)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 2.1),  
98/1998  
s. 26(1)(c),  
30/2000  
s. 12(1)(h),  
19/2010  
s. 73(i),  
61/2011  
s. 25(Sch. 2  
item 5.2).

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

S. 56(1)(i)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
items 2.1, 8.1),  
30/2000  
s. 12(1)(i)(i)(ii).

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



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

---

- |  |   |
|--|---|
| (j) the recovery by the Roads Corporation in the Magistrates' Court from the persons responsible of expenses incurred by that Corporation in removing refuse, rubbish or material placed on land or premises the property of that Corporation or in filling up any excavation made by any person on land the property of that Corporation in contravention of regulations made under this Part;            | S. 56(1)(j)<br>amended by<br>Nos 44/1989<br>s. 40(Sch. 1<br>items 2.1, 8.1),<br>57/1989<br>s. 3(Sch.<br>item 202.3),<br>30/2000<br>s. 12(1)(j)(i)(ii).  |
| (k) regulating and controlling noise and other emissions from Southern Cross Station or land the property of the Roads Corporation or Rail Track or under the control of the Secretary or the Public Transport Development Authority or of a passenger transport company or rail freight operator and the manner of recording and measuring any noise or emission and the instruments to be used therefor; | S. 56(1)(k)<br>amended by<br>Nos 44/1989<br>s. 40(Sch. 1<br>item 2.1),<br>98/1998<br>s. 26(1)(c),<br>30/2000<br>s. 12(1)(k),<br>19/2010<br>s. 73(j),<br>61/2011<br>s. 25(Sch. 2<br>item 5.2). |
| (l) the conditions upon which passengers and goods shall be carried or other services provided and prohibiting the carriage or delivery for carriage of dangerous goods other than dangerous goods within the meaning of the <b>Dangerous Goods Act 1985</b> where that Act deals with their carriage or delivery for carriage;  | S. 56(1)(l)<br>amended by<br>No. 10189<br>s. 6(Sch. 1<br>item 8).   |
| (m) the requirements to be observed and the precautions to be taken in connexion with the carriage or delivery for carriage of dangerous goods other than dangerous goods within the meaning of the <b>Dangerous Goods Act 1985</b> where that Act deals with their carriage or delivery for carriage;   | S. 56(1)(m)<br>amended by<br>No. 10189<br>s. 6(Sch. 1<br>item 9).   |

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

S. 56(1)(ma)  
inserted by  
No. 120/1993  
s. 65(1),  
amended by  
Nos 98/1998  
s. 26(1)(d),  
30/2000  
s. 12(1)(l),  
19/2010  
s. 73(k).

- (ma) prohibiting entry onto Southern Cross Station or any specified land or premises the property of a passenger transport company or Rail Track by persons not holding a ticket authorising that entry;

S. 56(1)(n)  
repealed by  
No. 95/2005  
s. 34(3).

\* \* \* \*

S. 56(1)(o)  
amended by  
No. 100/1986  
s. 7(a),  
repealed by  
No. 95/2005  
s. 34(3).

\* \* \* \*

- (p) regulating the disposal of unclaimed goods and the passing of title therein;
- (q) regulating the manner of crossing any line of railway on the level and prescribing the charges to be demanded in respect of any such crossing; and

S. 56(1)(r)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 2.1),  
98/1998  
s. 26(1)(e)(i)(ii),  
45/1999  
s. 20(1)(c),  
30/2000  
s. 12(1)(m).

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

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

- (a) regulating or prohibiting the digging up of any road;
- (b) prohibiting the driving, drawing or carrying over any road of a greater mass than that fixed by the Roads Corporation;
- (c) preventing interference with or damage to the soil, pavement flags, sods or other materials of any road or any fence on any road or any scrapings of any road or sand on any road;
- (d) prohibiting the discharge onto any road of sewage or drainage;
- (e) preventing interference with or damage to any guide-post, bridge hand-rail, sign, notice, light or other fixture or equipment situated or placed upon any road;
- (f) regulating or prohibiting the making of any building, hedge, ditch, fence, hole, heap, drain or obstruction on, across or in any road;
- (g) keeping any road clear from all seedlings, suckers and other off-sets from any hedge or live fence and preventing any branch thereof from overhanging the road;
- (h) regulating or prohibiting the erection and construction of hoardings on or in the vicinity of declared roads or regulating, restricting, preventing or controlling the exhibition of advertisements on or in the vicinity of declared roads;

S. 56(2)(b)  
amended by  
No. 44/1989  
s. 40(Sch. 1  
item 17).

S. 56(2)(d)  
amended by  
No. 10087  
s. 3(1)(Sch. 1  
item 272).

S. 56(2)(l)  
amended by  
No. 44/1989  
s. 40(Sch. 1  
item 17).

S. 56(2)(m)  
amended by  
Nos 12/1989  
s. 4(1)(Sch. 2  
item 120.6),  
44/1989  
s. 40(Sch. 1  
item 17).

S. 56(2)(o)  
amended by  
No. 44/1989  
s. 40(Sch. 1  
item 17).

- (i) requiring the droving of live stock along stock routes and prohibiting or regulating the droving of live stock along roads or the carriageway of roads in cases where roads or sections thereof in the vicinity of those roads or where parts of those roads have been proclaimed to be stock routes;
- (j) prohibiting or regulating excavating and blasting operations in the vicinity of any road;
- (k) prohibiting or regulating the removal of grass growing on any road or the seed of such grass;
- (l) preventing the cutting, breaking, barking, rooting up or otherwise destroying, damaging or removing of the whole or any part of any tree, sapling, shrub, underwood or timber in or upon any road without the written permission of the Roads Corporation;
- (m) conferring upon the Roads Corporation with respect to roads any right, power, protection, privilege or obligation relating to the construction, improvement or maintenance of roads conferred upon a municipal council by any Act relating to local government;
- (n) impounding cattle which are on any part of any State highway, main road, freeway, tourists' road or metropolitan bridge;
- (o) preventing a municipal council from causing to be sealed any plan of subdivision of land abutting on a freeway or a proposed freeway except with the consent in writing of the Roads Corporation or, in any case where the Roads Corporation has failed or refused so to consent, of the Governor in Council;

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

---

- (p) the manner of entering, crossing or leaving any freeway;
- (q) prohibiting or regulating the taking or entering or being upon any freeway of any animal;
- (r) the removal of dead animals or of vehicles abandoned or left standing on any land or premises the property of the Roads Corporation or on any part of a declared road or any other road maintained by the Roads Corporation and the recovery of the cost of their removal and regulating the storage and disposal of such vehicles and the passing of title therein and providing for the recovery of the cost of their storage and disposal;
- (s) permitting or prohibiting the use of freeways or any freeway or any class of freeways by traffic or any class of traffic;
- (t) prohibiting or regulating the parking of vehicles on freeways or any freeway or any class of freeways;
- (u) generally providing for the control, management and proper use of freeways;

S. 56(2)(r) amended by Nos 44/1989 s. 40(Sch. 1 items 2.1, 17), 106/1997 s. 25, 54/2001 s. 25(Sch. item 1.34), 6/2010 s. 199(3) (Sch. 3 item 12.1).

\* \* \* \* \* S. 56(2)(v)–(y) repealed by No. 12/2004 s. 137(9).

\* \* \* \* \* S. 56(2)(ya) inserted by No. 100/1986 s. 7(b), repealed by No. 12/2004 s. 137(9).

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

(3) Regulations made under this Part—

- (a) may be of general or of specially limited application;
- (b) may differ according to differences in time, place or circumstance;
- (c) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by the Roads Corporation or any government department, municipal council or other public authority or by any officer thereof or, in the case of regulations relating to subsection (1)(ga), by a passenger transport company or by any officer thereof;
- (d) may confer powers or impose duties in connexion with the regulations on the Roads Corporation or passenger transport company or bus company or any government department, municipal council, responsible authority under the **Planning and Environment Act 1987** or other public authority or on any officer thereof or on the owner or occupier of any land, building or premises or on any other person whomsoever;
- (e) may apply, adopt or incorporate, with or without modification, the provisions of any Act or of any regulations made under any Act, as in force at a particular time or as in force from time to time;

S. 56(3)(c)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 3.1(a)),  
30/2000  
s. 12(2)(a),  
35/2014  
s. 42(2).

S. 56(3)(d)  
amended by  
Nos 45/1987  
s. 205(Sch.  
item 139),  
44/1989  
s. 40(Sch. 1  
item 3.1(a)),  
98/1998  
s. 26(2)(a),  
45/1999  
s. 20(2)(a),  
30/2000  
s. 12(2)(b).

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

---

- (f) may appoint fees which may be charged and received by the Roads Corporation or passenger transport company or bus company for any permit which may be granted under the regulations by that Corporation or passenger transport company or bus company;
- (g) may provide that an application may be made to the Tribunal for review of a decision of the Roads Corporation or an officer of the Roads Corporation or for a declaration concerning the validity of any such decision; and
- (h) may impose a penalty not exceeding 20 penalty units for any contravention of or failure to comply with the regulations.
- (3A) A reference in subsection (1) to—
- (a) a passenger transport company is a reference to such a company only in its capacity as a provider of a passenger service; and
- (ab) a bus company is a reference to such a company only in its capacity as a provider of transport services; and
- (b) a rail freight operator is a reference to such an operator only in its capacity as an operator of rail freight services—
- and regulations cannot be made under that subsection that have any effect in relation to such a company or operator in the performance by it of

S. 56(3)(f)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
items 3.1(b),  
8.1), 98/1998  
s. 26(2)(b),  
45/1999  
s. 20(2)(b),  
30/2000  
s. 12(2)(c)(i)(ii).

S. 56(3)(g)  
amended by  
Nos 9/1987  
s. 9(Sch. 3  
item 18.1),  
44/1989  
s. 40(Sch. 1  
item 2.1),  
substituted by  
No. 52/1998  
s. 311(Sch. 1  
item 96.2),  
amended by  
No. 30/2000  
s. 12(2)(d).

S. 56(3)(h)  
amended by  
No. 120/1993  
s. 66(1).

S. 56(3A)  
inserted by  
No. 98/1998  
s. 26(3).

S. 56(3A)(ab)  
inserted by  
No. 45/1999  
s. 20(3).

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

---

any other function or the exercise by it of any other power.

(4) A reference in subsection (2)—

(a) to a road includes a road under construction;  
and

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

S. 56(4)(b)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
items 2.1, 17),  
30/2000  
s. 12(4).

(5) A reference to parking in subsection (1)(ga) includes a reference to leaving a vehicle standing.

S. 56(5)  
amended by  
No. 81/1990  
s. 4,  
repealed by  
No. 120/1993  
s. 66(2),  
new s. 56(5)  
inserted by  
No. 95/2005  
s. 34(4).

S. 56(6)  
inserted by  
No. 9984  
s. 5(f),  
repealed by  
No. 100/1986  
s. 3(22).

\* \* \* \*

S. 56A  
inserted by  
No. 107/1995  
s. 122,  
amended by  
Nos 50/1998  
s. 48, 102/1998  
s. 38, 81/2000  
s. 45(1)(2),  
repealed by  
No. 12/2004  
s. 137(10).

\* \* \* \*



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

---

\* \* \* \* \*

**S. 56B**  
inserted by  
No. 50/1998  
s. 49,  
amended by  
No. 81/2000  
s. 45(3),  
repealed by  
No. 12/2004  
s. 137(10).

**57 Declaration of Southern Cross Station for purposes  
of regulations**

**S. 57**  
inserted by  
No. 19/2010  
s. 74.

- (1) The Governor in Council may, by notice published in the Government Gazette, declare a part of the Southern Cross Station precinct to be the Southern Cross Station.
- (2) A declaration under subsection (1) may be by reference to a map.

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part IV—Financial

---

## Part IV—Financial

Pt 4 Div. 1  
(Heading and  
ss 57–67)  
amended by  
Nos 10087  
s. 3(1)(Sch. 1  
item 273),  
100/1986  
s. 3(22),  
44/1989  
s. 40(Sch. 1  
items 1, 2.1,  
6.1, 6.3, 7.1,  
7.3–7.5, 8.1,  
10–13),  
31/1994  
s. 4(Sch. 2  
item 93),  
75/1994 s. 20,  
46/1998  
s. 7(Sch. 1),  
11/2001  
s. 3(Sch.  
item 80.1),  
54/2001  
s. 25(Sch.  
items 1.35–  
1.58) (as  
amended by  
No. 32/2002  
s. 24(b)(i)),  
repealed by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 7).

\* \* \* \*

### Division 2—Borrowing powers

S. 68  
repealed by  
No. 100/1986  
s. 3(22).

\* \* \* \*

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part IV—Financial

---

*	*	*	*	*	<p><b>S. 68A</b> inserted by No. 9984 s. 4(d), amended by Nos 100/1986 s. 3(22), 80/1992 s. 55, 44/1989 s. 23, repealed by No. 54/2001 s. 13.</p>
*	*	*	*	*	<p><b>Ss 69–75</b> repealed by No. 100/1986 s. 3(22).</p>
*	*	*	*	*	<p><b>S. 76</b> amended by Nos 100/1986 s. 3(19)(22), 44/1989 s. 40(Sch. 1 items 1, 6.1), 18/1994 s. 66(Sch. 2 item 25), 85/1994 s. 6, 46/1998 s. 7(Sch. 1), 11/2001 s. 3(Sch. item 80.2), 54/2001 s. 25(Sch. item 1.59), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 8).</p>

S. 77  
amended by  
Nos 100/1986  
s. 3(22),  
44/1989  
s. 40(Sch. 1  
items 2.1, 8.1),  
46/1998  
s. 7(Sch. 1),  
45/1999 s. 21,  
54/2001 ss 15,  
16,  
repealed by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 8).

\* \* \* \*

S. 77A  
inserted by  
No. 54/2001  
s. 17.

**77A Power to give a guarantee in relation to a contract assigned by the Secretary**

(1) Where—

- (a) the rights and liabilities of the former Corporation under the relevant contract have been transferred to or vested in the Secretary on behalf of the Crown, whether by an assignment or an allocation or by any other operation of law; and
- (b) those rights and liabilities under that contract are subsequently assigned to another person—

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

(2) Where—

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

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

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

- (3) Where—

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

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

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

- (4) Any sums required by the Treasurer for fulfilling any guarantee given by him or her under this section must be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly) and any sums received or recovered by the Treasurer from the person whose obligations are guaranteed, in respect of any sums so paid by the Treasurer, must be paid into the Consolidated Fund.
- (5) In this section *relevant contract* means the service contract entered into between the former Corporation and OneLink Transit Systems Pty Ltd ACN 059 733 443 with effect from 24 May 1994 as amended, varied and restated from time to time.

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part IV—Financial

S. 78 repealed by No. 100/1986 s. 3(22).	*	*	*	*	*
S. 79 amended by Nos 100/1986 s. 3(22), 46/1998 s. 7(Sch. 1), repealed by No. 54/2001 s. 18.	*	*	*	*	*
S. 80 substituted by No. 100/1986 s. 3(22), amended by No. 46/1998 s. 7(Sch. 1), repealed by No. 54/2001 s. 18.	*	*	*	*	*
S. 81 amended by Nos 100/87 s. 3(1)(Sch. 1 item 274), 44/1989 s. 40(Sch. 1 items 2.1, 4, 7.1, 8.1), 16/1998 s. 10(1), repealed by No. 54/2001 s. 18.	*	*	*	*	*

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part IV—Financial

*	*	*	*	*	<p><b>S. 81A</b> inserted by No. 100/1986 s. 3(20), amended by Nos 44/1989 s. 40(Sch. 1 items 1, 8.1), 46/1998 s. 7(Sch. 1), 54/2001 s. 25(Sch. item 1.60), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 8).</p>
*	*	*	*	*	<p><b>Pt 4 Div. 3</b> (Heading) repealed by No. 29/2011 s. 3(Sch. 1 item 98.3).  <b>Pt 4 Div. 3</b> (Heading and s. 81B) inserted by No. 85/1994 s. 7.</p>
*	*	*	*	*	<p><b>S. 81B</b> inserted by No. 85/1994 s. 7, repealed by No. 54/2001 s. 25(Sch. item 1.61).</p>

Pt 5 (Heading)  
substituted by  
No. 45/2010  
s. 56.

Pt 5 (Heading  
and ss 82–85)  
repealed<sup>3</sup>,  
new Pt 5  
(Heading and  
ss 82–85H)  
inserted by  
No. 10/2006  
s. 4.

## Part V—Chief Investigator, Transport Safety

### Division 1—Preliminary matters

New s. 82  
inserted by  
No. 10/2006  
s. 4.

#### 82 Object

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

Ss 82A, 82B  
inserted by  
No. 10/2006  
s. 4,  
repealed by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.1).

\* \* \* \*

S. 82C  
inserted by  
No. 10/2006  
s. 4.

#### 82C Application of definitions to this Part

S. 82C(1)  
amended by  
Nos 22/2013  
s. 91(1) (as  
amended by  
No. 27/2014  
s. 157(1)),  
27/2014  
s. 138(1).

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



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

(2) In this Part, the expression <i>vessel</i> has the same meaning as in section 3(1) of the <b>Marine Safety Act 2010</b> .					S. 82C(2) amended by No. 65/2010 s. 395, substituted by No. 27/2014 s. 138(2).
*	*	*	*	*	Pt 5 Div. 2 (Heading) repealed by No. 29/2011 s. 3(Sch. 1 item 98.4).
*	*	*	*	*	New s. 83 inserted by No. 10/2006 s. 4, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 9.1).
*	*	*	*	*	Ss 83A–83E inserted by No. 10/2006 s. 4, repealed by No. 6/2010 s. 199(3) (Sch. 3 item 9.1).
*	*	*	*	*	S. 83F inserted by No. 10/2006 s. 4, amended by No. 4/2008 s. 32(Sch. item 33), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 9.1).

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

\* \* \* \*

### Division 3—Investigations

#### 84 Specific investigation powers—public transport safety matters or marine safety matters

New s. 84  
inserted by  
No. 10/2006  
s. 4,  
amended by  
Nos 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2),  
65/2010  
s. 396(1) (as  
amended by  
No. 78/2011  
s. 39),  
substituted by  
No. 27/2014  
s. 139.

For the purposes of this Part, Part 2 of the  
**Transport (Safety Schemes Compliance and  
Enforcement) Act 2014** applies—

- (a) as if a reference in that Part—
  - (i) to public transport premises includes a reference to any place where an incident involving a bus occurred and where the bus, or anything that is, or that is possibly, relevant to an investigation into the incident, is still present; and
  - (ii) to compliance and investigative purposes were a reference to the purpose of carrying out an investigation into a public transport safety matter or a marine safety matter; and
  - (iii) to a transport safety officer were a reference to the Chief Investigator, Transport Safety; and
- (b) as if for the purpose of the application of Part 2, in section 3 there were inserted the following definition after the definition of *Secretary*—

*"specified person* means—

- (a) a rail transport operator; or
- (b) an operator of any bus service; or
- (c) an employee of a rail transport operator; or
- (d) a driver of a bus used to provide a bus service; or
- (e) a contractor of a rail transport operator; or
- (f) a procurer of a bus service within the meaning of the **Bus Safety Act 2009**; or
- (g) a rail safety worker; or
- (h) a bus safety worker; or
- (i) a utility; or
- (j) an employee of a utility; or
- (k) a works contractor within the meaning of section 85 of the **Electricity Industry Act 2000**, section 48A of the **Road Management Act 2004**, section 137A(4) of the **Water Act 1989**; or
- (l) a person authorised in writing by a gas distribution company or gas transmission company under section 148(7) or 149(6) of the **Gas Industry Act 2001**;
- (m) a person whom the Chief Investigator believes on reasonable grounds may be able to provide information, documents or assistance for the purpose of

carrying out an investigation into  
a public transport safety matter or  
a marine safety matter;"; and

- (c) as if for section 8(1)(i) there were  
substituted—

"(i) seize any thing (including a  
document)—

(i) at the premises or in a road  
vehicle at the premises; or

(ii) on the rolling stock, bus or  
vessel—

if the Chief Investigator reasonably  
believes that seizure of the thing is  
necessary for the purpose of carrying  
out an investigation into a public  
transport safety matter or a marine  
safety matter;"; and

- (d) as if for section 8(1)(m) there were  
substituted—

"(m) exercise any power that is reasonably  
necessary to be exercised by the Chief  
Investigator for the purposes of an  
investigation into a public transport  
safety matter or a marine safety  
matter."; and

- (e) as if for section 12(3) there were  
substituted—

"(3) The Magistrates' Court may order such  
an extension if satisfied that the  
continued detention of a vessel is  
necessary—

(a) for the purposes of an  
investigation into a marine safety  
matter; or

- (b) because the vessel is, or is likely to be, required for the purposes of an investigation into a marine safety matter."; and
- (f) as if in section 13(2)(a) for "this Act or a transport safety or infrastructure law" there were substituted "this Part"; and
- (g) as if in section 14(2) for "determining whether a provision of this Act or a transport safety or infrastructure law has been contravened" there were substituted "an investigation into a public transport safety matter or marine safety matter"; and
- (h) as if for section 18(3)(a) there were substituted—
  - "(a) there is a particular thing or activity (the *evidence*) that may be significant to an investigation into a public transport safety matter or a marine safety matter; and"; and
- (i) as if for section 18(4)(b) there were substituted—
  - "(b) a brief description of the investigation in respect of which the warrant is sought; and"; and
- (j) as if for section 19(a)(ii) there were substituted—
  - "(ii) is of significance to an investigation into a public transport safety matter or a marine safety matter; and"; and
- (k) as if in section 19(b) the words "or its use in the commission of an offence against this Act or a transport safety or infrastructure law" were omitted; and

(l) as if for section 22 there were substituted—

**"22 Power to require production of documents and related items**

- (1) The Chief Investigator may, for the purposes of an investigation into a public transport safety matter or a marine safety matter, direct a specified person to provide to the Chief Investigator—
  - (a) any document required to be kept under a relevant transport safety or infrastructure law; and
  - (b) any documents, devices or other things in his, her or its possession or control relating to—
    - (i) the provision of bus services; or
    - (ii) railway operations; or
    - (iii) marine operations.
- (2) The direction must state where and to whom the documents, devices or other things are to be produced.
- (3) In giving a direction, the Chief Investigator may specify particular documents, devices or other things, or particular classes of documents, devices or other things.

- (4) The Chief Investigator may do any or all of the following—
  - (a) inspect any documents, devices or other things that are produced;
  - (b) copy any documents, devices or other things that are produced;
  - (c) seize and remove any documents, devices or other things that are produced that the Chief Investigator believes on reasonable grounds are significant for the purposes of the investigation into the public transport safety matter or a marine safety matter."; and
- (m) as if section 23(3) were omitted; and
- (n) as if after section 24(3) there were inserted—
  - "(4) Nothing in this section limits the powers of the Chief Investigator under section 84AB."; and
- (o) as if for section 33(1)(c) there were substituted—
  - "(c) reasonably believes it is necessary to forfeit the thing for the purpose of carrying out an investigation into a public transport safety matter or a marine safety matter."; and

(p) as if for section 34(3) there were substituted—

"(3) For the purposes of subsection (2), a reasonable ground to retain the thing is for the purpose of carrying out an investigation into a public safety matter or a marine safety matter."; and

(q) as if in section 36, the words "under a transport safety or infrastructure law or" were omitted; and

(r) as if in section 37(1), the words "under a transport safety or infrastructure law or" were omitted; and

(s) as if section 39(a) were omitted; and

(t) as if section 40(1)(b) were omitted; and

(u) as if for section 41(1) there were substituted—

"(1) The Chief Investigator may require a person to provide the person's name and residential address if the Chief Investigator believes, on reasonable grounds, that the person is a specified person."; and

(v) as if section 42 were omitted.

S. 84(v)  
amended by  
No. 21/2015  
s. 3(Sch. 1  
item 55.1).



**84A Chief Investigator, Transport Safety to carry photo identification**

The Chief Investigator must carry photo identification when exercising a power conferred on him or her under section 84.

S. 84A  
inserted by  
No. 10/2006  
s. 4,  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2),  
repealed by  
No. 65/2010  
s. 396(2),  
new s. 84A  
inserted by  
No. 27/2014  
s. 140.

**84AA Production of photo identification**

- (1) The Chief Investigator must produce his or her photo identification for inspection—
  - (a) before exercising a power under section 84;  
or
  - (b) if asked to do so by any person at any time during the exercise of a power under section 84.
- (2) However, the Chief Investigator need not produce his or her photo identification when asked to do so if—
  - (a) the Chief Investigator reasonably believes that the production of his or her identity card would—
    - (i) affect the safety or welfare of any person; or
    - (ii) frustrate the effective exercise of a power under section 84; or
  - (b) the request to produce his or her photo identification is made by a person to whom the Chief Investigator has already produced that identification on the same day before exercising a power under section 84.

S. 84AA  
inserted by  
No. 27/2014  
s. 140.

- (3) Any action taken or thing done by the Chief Investigator under section 84 is not invalidated by his or her failure to produce his or her photo identification.

S. 84AB  
(Heading)  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.3).

S. 84AB  
inserted by  
No. 17/2009  
s. 28.

S. 84AB(1)  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2).

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

- (1) If the Chief Investigator, Transport Safety considers it necessary for the purposes of an investigation into a public transport safety matter or a marine safety matter under this Part, the Chief Investigator, Transport Safety may require a person to attend before the Chief Investigator, Transport Safety and answer questions asked by the Chief Investigator, Transport Safety relating to matters relevant to the investigation.
- (2) The requirement under subsection (1) must be by notice in writing.
- (3) The notice must—
- (a) be signed by the Chief Investigator, Transport Safety; and
- (b) specify the time and place at which the person is required to attend before the Chief Investigator, Transport Safety.
- (4) The time specified in the notice must be reasonable having regard to the circumstances.

S. 84AB(3)(a)  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2).

S. 84AB(3)(b)  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2).

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

---

- |   |   |
|---|---|
| (5) When a person attends before the Chief Investigator, Transport Safety under this section, the Chief Investigator, Transport Safety may require the questions to be answered on oath or affirmation. | S. 84AB(5)<br>amended by<br>No. 6/2010<br>s. 199(3)<br>(Sch. 3<br>item 9.2).    |
| (6) Before requiring a person to answer a question under this section, the Chief Investigator, Transport Safety must inform the person of the effect of subsections (9) and (10).                       | S. 84AB(6)<br>amended by<br>No. 6/2010<br>s. 199(3)<br>(Sch. 3<br>item 9.2).    |
| (7) For the purpose of subsection (5), the Chief Investigator, Transport Safety may administer an oath or affirmation.  | S. 84AB(7)<br>amended by<br>No. 6/2010<br>s. 199(3)<br>(Sch. 3<br>item 9.2).    |
| (8) A person of whom a requirement is made under this section must not—   |   |
| (a) fail to attend before the Chief Investigator, Transport Safety in accordance with the requirement; or   | S. 84AB(8)(a)<br>amended by<br>No. 6/2010<br>s. 199(3)<br>(Sch. 3<br>item 9.2). |
| (b) refuse to take an oath or make an affirmation when required by the Chief Investigator, Transport Safety to do so; or  | S. 84AB(8)(b)<br>amended by<br>No. 6/2010<br>s. 199(3)<br>(Sch. 3<br>item 9.2). |
| (c) refuse or fail to answer a question lawfully asked of the person by the Chief Investigator, Transport Safety.   | S. 84AB(8)(c)<br>amended by<br>No. 6/2010<br>s. 199(3)<br>(Sch. 3<br>item 9.2). |

Penalty: 30 penalty units.

- (9) A person is not excused from answering a question put to him or her under this section on the ground that the answer to the question might

tend to incriminate the person or make the person liable to a penalty.

- (10) An answer given to a question put to a person under this section is not admissible in evidence against the person in any civil or criminal proceeding other than—
- (a) a proceeding in respect of an offence against this section; or
  - (b) a proceeding in respect of the falsity of an answer.
- (11) A person who attends before the Chief Investigator, Transport Safety in accordance with a requirement under this section is entitled to be paid, in relation to that attendance, fees or allowances fixed by or calculated in accordance with an Order made by the Governor in Council for the purposes of this section.

S. 84AB(11)  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2).

S. 84B  
inserted by  
No. 10/2006  
s. 4.

#### **84B Identity cards**

S. 84B(1)  
amended by  
Nos 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2),  
27/2014 s. 141.

- (1) If the Chief Investigator, Transport Safety delegates any power conferred on him or her by section 84 to another person, he or she must give the person an identity card that contains a photograph of the person and that identifies the person by name as a person authorised to exercise the power by the Chief Investigator, Transport Safety.
- (2) If a person to whom an identity card has been issued under subsection (1) ceases to be authorised to exercise any power referred to in the identity card, the person must return the identity card to the Chief Investigator, Transport Safety as soon as is practicable after that cessation.

S. 84B(2)  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
items 9.2, 9.4).

Penalty: 1 penalty unit.

## Division 4—Reports and miscellaneous matters

### 85 Reports to be given promptly to the Minister

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

New s. 85 inserted by No. 10/2006 s. 4, amended by No. 6/2010 s. 199(3) (Sch. 3 item 9.2).

### 85A Consultation before report finalised

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

S. 85A inserted by No. 10/2006 s. 4, amended by No. 6/2010 s. 199(3) (Sch. 3 item 9.5(a)).

- (a) the Public Transport Development Authority (in relation to an investigation into a public transport safety matter); and

S. 85A(a) amended by Nos 6/2010 s. 199(3) (Sch. 3 item 9.5(b)), 61/2011 s. 25(Sch. 1 item 13.6).

\* \* \* \* \*

S. 85A(b) repealed by No. 6/2010 s. 199(3) (Sch. 3 item 9.5(c)).

- (c) the Safety Director; and

- (d) the Secretary; and

- (da) the Head, Transport for Victoria; and

S. 85A(da) inserted by No. 3/2017 s. 50(Sch. 1 item 10.6).

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

S. 85A(e) amended by No. 6/2010 s. 199(3) (Sch. 3 item 9.5(a)).

- (f) any person or body to whom the report may be relevant.

S. 85B  
inserted by  
No. 10/2006  
s. 4,  
repealed by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.1).

\* \* \* \*

S. 85C  
inserted by  
No. 10/2006  
s. 4.

### **85C Limitations on disclosure etc. of information obtained under this Part**

- (1) A person must not disclose any information obtained while carrying out a function under this Part, or obtained under section 85E.  
Penalty: 60 penalty units.
- (2) However, the person may disclose such information if—
- (a) the disclosure is made in the performance of a duty under, or in connection with, this Part; or
  - (b) the person has the consent of the person who originally supplied the information; or
  - (c) subject to subsection (3), the disclosure is made in legal proceedings at the direction of a court; or
  - (d) the information is in the public domain at the time it is disclosed.
- (3) A court may only direct a person to disclose the information if—
- (a) the disclosure is required for the purposes of a criminal proceeding for an offence against this Act; or

- (b) the disclosure is to be made in civil proceedings and the following 2 conditions are met—
  - (i) the Chief Investigator, Transport Safety has issued a certificate in relation to the information stating that the disclosure of the information is not likely to interfere with any investigation; and
  - (ii) the court is satisfied that any adverse domestic and international impact that the disclosure of the information might have on any current or future investigations is outweighed by the public interest in the administration of justice.
- (4) In directing a person to disclose information, the court may also direct that the information, or any information obtained from the information, must not—
  - (a) be published, or be communicated to any person; or
  - (b) be published, or be communicated, except in a manner, and to a person, specified by the court.
- (5) Any information disclosed by a person in contravention of this section is not admissible in any civil or criminal proceedings (other than proceedings against the person under this section).
- (6) Subsection (2) is not intended to interfere with any rights another person may have with regard to the disclosure of the information.
- (7) A reference in this section to a court is to be read as including a reference to a tribunal and to a person exercising judicial authority.

S. 85C(3)(b)(i)  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2).

S. 85D  
inserted by  
No. 10/2006  
s. 4.

## **85D Release of information in the interests of transport safety**

S. 85D(1)  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2).

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

S. 85D(2)  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2).

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

S. 85D(3)  
amended by  
No. 60/2014  
s. 140(Sch. 3  
item 46.1).

- (3) In this section, *personal information* has the same meaning as in section 3 of the **Privacy and Data Protection Act 2014**.

S. 85DA  
inserted by  
No. 17/2009  
s. 29.

## **85DA Reports not admissible in evidence**

- (1) A report of an investigation into a public transport safety matter or marine safety matter under this Part is not admissible in evidence in any civil or criminal proceeding.
- (2) Subsection (1) does not apply—
  - (a) to the admissibility of a final report in evidence in a coronial inquiry; or
  - (b) if the court considers that a failure to admit a report into evidence in a criminal proceeding could prejudice the fair trial of the accused.
- (3) This section applies despite anything to the contrary in sections 85C and 85D.
- (4) In this section *report* means—
  - (a) final report; or



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

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

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

**Note**

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

S. 85E  
(Heading)  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.3).  
S. 85E  
inserted by  
No. 10/2006  
s. 4,  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2).

**85F Confidential reporting of safety information by transport workers**

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

- (a) carries out work for—

- (i) a person who operates a commercial bus service (within the meaning of section 3(1) of the **Bus Safety Act 2009**); or

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

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

- (b) is involved with the operation of vessels.

S. 85F  
inserted by  
No. 10/2006  
s. 4.

S. 85F(1)(a)(i)  
amended by  
No. 13/2009  
s. 92(5) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)).

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

---

S. 85F(2)  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2).

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

S. 85F(3)  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2).

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

- (a) the worker consents to the disclosure; or  
(b) the Chief Investigator, Transport Safety or the court, tribunal or person is of the opinion that it is necessary in the public interest that the information be disclosed.

S. 85F(3)(b)  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2).

S. 85G  
inserted by  
No. 10/2006  
s. 4,  
repealed by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 9.1).

\* \* \* \* \*

---

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

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

S. 85H  
(Heading)  
amended by  
Nos 6/2010  
s. 199(3)  
(Sch. 3  
item 9.3),  
22/2013  
s. 92(1).  
S. 85H  
inserted by  
No. 10/2006  
s. 4,  
amended by  
Nos 6/2010  
s. 199(3)  
(Sch. 3  
item 9.2),  
22/2013  
s. 92(2).

\* \* \* \* \*

Pt 5  
(Heading and  
ss 82–85)  
amended by  
Nos 10/220  
s. 4(a)–(c),  
50/1988  
s. 93(2)(Sch. 2  
Pt 2 item 59),  
52/1988  
s. 161(Sch. 6  
items 14.2,  
14.3), 44/1989  
s. 40(Sch. 1  
item 2.1),  
68/1992  
s. 114(Sch. 7  
item 4),  
85/1992  
s. 9(1)(e),  
82/1994  
s. 13(Sch. 2  
item 9),  
28/1996 s. 4(j),  
59/1996  
s. 10(Sch. 2  
item 23),  
79/1996  
s. 58(2),  
16/1998  
s. 10(2)–(4),  
46/1998  
s. 7(Sch. 1),  
repealed by  
No. 30/2000  
s. 13.

Pt 6 (Heading)  
substituted by  
No. 30/2007  
s. 226.

## Part VI—Licensing of certain vehicles and driver accreditation

### Division 1—General provisions

#### 86 Definitions

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

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

\* \* \* \*

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

\* \* \* \*

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

\* \* \* \*

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

\* \* \* \*

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

<i>accredited operator</i> , for sections 158AA, 158AB and 158AC, means the operator of the taxi-cab but only while the operator holds an accreditation as a taxi-cab operator under Division 4;					S. 86(1) def. of <i>accredited operator</i> inserted by No. 19/2010 s. 17(1).
*	*	*	*	*	S. 86(1) def. of <i>allocation centre</i> amended by No. 17/1995 s. 3(b), repealed by No. 30/2007 s. 227(1)(e).
<i>applicable pre-1973 fraud or dishonesty offence</i> means the offence at common law of larceny abolished by section 3(1) of the <b>Crimes (Theft) Act 1973</b> ;					S. 86(1) def. of <i>applicable pre-1973 fraud or dishonesty offence</i> inserted by No. 19/2010 s. 17(1).
*	*	*	*	*	S. 86(1) def. of <i>appropriate Authority</i> amended by No. 10220 s. 13(7)(a)(i)(ii), repealed by No. 44/1989 s. 24(a).
*	*	*	*	*	S. 86(1) def. of <i>Authority</i> repealed by No. 44/1989 s. 24(a).
*	*	*	*	*	S. 86(1) def. of <i>authority to tow</i> amended by Nos 127/1986 s. 102(Sch. 4 item 28.2), 17/1995 s. 3(c), repealed by No. 30/2007 s. 227(1)(f).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

S. 86(1) def. of  
*carry*  
repealed by  
No. 30/2007  
s. 227(1)(g).

\* \* \* \* \*

S. 86(1) def. of  
*carrying capacity*  
amended by  
Nos 127/1986  
s. 102(Sch. 4  
item 28.2),  
44/1989  
s. 24(b).

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

S. 86(1) def. of  
*category 1 offence*  
inserted by  
No. 47/2006  
s. 8(a) (as  
amended by  
No. 71/2006  
s. 21(a)),  
amended by  
Nos 85/2008  
s. 3(1),  
93/2009  
s. 49(4)(a)(i),  
19/2010  
s. 67(a),  
47/2016  
s. 46(1).

*category 1 offence* means—

- (a) an offence against the **Crimes Act 1958** that involves sexual penetration;  
or
- (b) an offence against a provision of the **Crimes Act 1958** amended or repealed before the commencement of section 8 of the **Transport Legislation (Further Amendment) Act 2006** of which the necessary elements at the time it was committed consisted of elements that constitute an offence referred to in paragraph (a); or
- (c) an offence specified in clause 1 of Schedule 1 to the **Sentencing Act 1991**, if the victim of the offence was a child or a person with a cognitive impairment, that is not an offence referred to in paragraph (a) or (b); or
- (ca) an offence against section 5A of the **Crimes Act 1958**; or
- (cb) an offence against section 318 of the **Crimes Act 1958** (whether in relation to a motor vehicle or a vessel); or

- (d) an offence specified in clause 3 of Schedule 1 to the **Sentencing Act 1991**; or
- (e) a child abuse material offence within the meaning of the **Working with Children Act 2005**; or
- (f) an offence within the meaning of Division 101 of the Criminal Code Act 1995 of the Commonwealth; or
- (fa) an offence against section 271.4 (trafficking in children), or section 271.7 (domestic trafficking in children), of the Criminal Code of the Commonwealth; or
- (g) an offence under a law of a jurisdiction other than Victoria (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this definition;

*category 2 offence* means—

- (a) an offence specified in clause 1 of Schedule 1 to the **Sentencing Act 1991** that is not an offence referred to in paragraph (a), (b), (c), (cd) or (ce) of the definition of *category 1 offence*; or
- (b) an offence specified in clause 2 of Schedule 1 to the **Sentencing Act 1991** that is not an offence specified in clause 3 of that Schedule; or
- (c) an offence specified in clause 4 of Schedule 1 to the **Sentencing Act 1991**; or

S. 86(1) def. of *category 2 offence* inserted by No. 47/2006 s. 8(a) (as amended by No. 71/2006 s. 21(b)), amended by Nos 85/2008 s. 3(2), 91/2009 s. 219(Sch. 3 item 5), 93/2009 s. 49(4)(a)(ii), 13/2009 s. 94(a) (as amended by No. 6/2010 s. 203(1)(Sch. 6 item 4.5)), 19/2010 s. 67(b).

- (ca) an offence against section 24 of the **Crimes Act 1958** arising out of the driving of a motor vehicle by the offender; or
- (cb) an offence against section 21A of the **Crimes Act 1958**; or
- (cc) an offence against section 60B of the **Crimes Act 1958**; or
- (cd) an offence against section 319(1) of the **Crimes Act 1958** (whether in relation to a motor vehicle or a vessel); or
- (ce) an offence against section 319(1A) of the **Crimes Act 1958** (whether in relation to a motor vehicle or a vessel); or
- (cf) an offence against section 61 of the **Road Safety Act 1986** resulting in a person being killed or suffering serious injury; or
- (cg) an offence against section 71AB or 71B of the **Drugs, Poisons and Controlled Substances Act 1981**; or
- (ch) an offence against section 46 or 47 or Part 5 of the **Sex Offenders Registration Act 2004** (other than section 70); or
- (ci) an offence against the **Serious Sex Offenders Monitoring Act 2005** (other than section 42(3)); or
- (cia) an offence against the **Serious Sex Offenders (Detention and Supervision) Act 2009** (other than section 182 or 186); or



- (cj) an offence against section 271.4 (trafficking in children) or section 271.7 (domestic trafficking in children) of the Criminal Code of the Commonwealth other than in circumstances where the purpose of the exploitation is to provide sexual services within the meaning of that section; or
- (ck) an offence against section 271.3 (aggravated offence of trafficking in persons), or section 271.6 (aggravated offence of domestic trafficking in persons), of the Criminal Code of the Commonwealth; or
- (d) an offence involving fraud or dishonesty; or
- (da) an offence against the **Bus Safety Act 2009**; or
- (e) an offence under a law of a jurisdiction other than Victoria (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this definition;

*category 3 offence* means—

- (aa) an offence specified in any of the following infringement notices—
  - (i) a safety work infringement notice to which section 215C(1) applies;
  - (ii) an infringement notice to which section 61A(2) of the **Marine Act 1988** applies;

S. 86(1) def. of *category 3 offence* inserted by No. 47/2006 s. 8(a) (as amended by No. 71/2006 s. 21(c)), amended by No. 19/2010 s. 17(2).

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

- (a) a criminal offence that is not a category 1 offence, a category 2 offence or an offence referred to in paragraph (aa); or
- (b) an offence under a law of a jurisdiction other than Victoria (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this definition;

S. 86(1) def. of *commercial bus service* inserted by No. 49/2011 s. 8.

*commercial bus service* has the same meaning as it has in the **Bus Safety Act 2009**;

S. 86(1) def. of *commercial goods vehicle* amended by Nos 127/1986 s. 102(Sch. 4 item 28.2), 13/2009 s. 94(b) (as amended by No. 6/2010 s. 203(1)(Sch. 6 item 4.5)).

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

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

(c) a bus used to provide a bus service that carries goods as part of that service;					
<i>commercial minibus service</i>	has the same meaning as it has in the <b>Bus Safety Act 2009</b> ;				S. 86(1) def. of <i>commercial minibus service</i> inserted by No. 49/2011 s. 8.
<i>commercial passenger vehicle</i>	means any motor vehicle (together with any trailer fore-car side-car or other vehicle or device, if any, attached thereto) which is used or intended to be used for carrying passengers for hire or reward but does not include a bus used to provide a bus service;				S. 86(1) def. of <i>commercial passenger vehicle</i> amended by Nos 127/1986 s. 102(Sch. 4 item 28.2), 120/1993 s. 5(a), 13/2009 s. 94(c) (as amended by No. 6/2010 s. 203(1)(Sch. 6 item 4.5)).
*	*	*	*	*	S. 86(1) def. of <i>Commission</i> inserted by No. 32/2002 s. 6(2), repealed by No. 34/2011 s. 9(1).
<i>company</i>	has the same meaning as in section 9 of the Corporations Act;				S. 86(1) def. of <i>company</i> inserted by No. 71/2006 s. 16(a).
*	*	*	*	*	S. 86(1) def. of <i>controlled area</i> substituted by No. 17/1995 s. 3(d), repealed by No. 30/2007 s. 227(1)(h).

S. 86(1) def. of  
*Corporation*  
amended by  
No. 44/2001  
s. 3(Sch.  
item 115.1),  
substituted by  
No. 71/2006  
s. 16(b).

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

S. 86(1) def. of  
*costs incurred*  
*in making the*  
*journey*  
inserted by  
No. 79/1991  
s. 3(1).

*costs incurred in making the journey* includes—

- (a) fuel costs; and
- (b) maintenance costs; and
- (c) parking costs; and
- (d) insurance costs; and
- (e) vehicle depreciation;

S. 86(1) def. of  
*Country Hire*  
*Car Zone*  
inserted by  
No. 43/2013  
s. 3(2).

*Country Hire Car Zone*—see section 142A(1)(b);

S. 86(1) def. of  
*Country Zone*  
inserted by  
No. 43/2013  
s. 3(1).

*Country Zone*—see section 143B(1)(d);

S. 86(1) def. of  
*damaged*  
*motor car*  
repealed by  
No. 127/1986  
s. 102(Sch. 4  
item 28.2).

\* \* \* \* \*

S. 86(1) def. of  
*damaged*  
*motor vehicle*  
inserted by  
No. 127/1986  
s. 102(Sch. 4  
item 28.2),  
repealed by  
No. 30/2007  
s. 227(1)(i).

\* \* \* \* \*

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

*director* has the same meaning as it has in  
section 9 of the Corporations Act;

S. 86(1) def. of  
*Director*  
amended by  
No. 44/2001  
s. 3(Sch.  
item 115.1),  
substituted as  
*director* by  
No. 47/2006  
s. 8(b).

*disqualifying offence* means a category 1 offence,  
a category 2 offence or a category 3 offence;

S. 86(1) def. of  
*disqualifying  
offence*  
inserted by  
No. 47/2006  
s. 8(a).

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

S. 86(1) def. of  
*drive*  
inserted by  
No. 47/2006  
s. 8(a).

*driver accreditation* means an accreditation under  
section 166;

S. 86(1) def. of  
*driver  
accreditation*  
inserted by  
No. 47/2006  
s. 8(a),  
amended by  
No. 69/2007  
s. 40(2).

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

S. 86(1) def. of  
*ESC*  
inserted by  
No. 34/2011  
s. 9(2).

*goods* includes all chattels personal;

\* \* \* \* \*

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

S. 86(1) def. of  
*highway*  
amended by  
No. 127/1986  
s. 102(Sch. 4  
item 28.2).

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

S. 86(1) def. of  
*hire car*  
inserted by  
No. 58/1995  
s. 19.

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

S. 86(1) def. of  
*hire and drive  
omnibus*  
amended by  
No. 127/1986  
s. 102(Sch. 4  
item 28.2),  
repealed by  
No. 106/1997  
s. 22(2)(a).

\* \* \* \* \*

S. 86(1) def. of  
*hire car  
licence*  
inserted by  
No. 32/2002  
s. 6(1).

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

S. 86(1) def. of  
*level 1 offence*  
inserted by  
No. 17/1995  
s. 3(f),  
amended by  
Nos 106/1997  
s. 4(a),  
77/2005  
s. 8(5).

*level 1 offence* means—

- (a) murder, manslaughter or an offence  
under Subdivision (1), (1AA) or (4) of  
Division 1 of Part I of the **Crimes Act  
1958** (homicide and serious assaults);  
or
- (b) an offence under Subdivision (8A),  
(8B), (8C), (8D) or (8E) of Division 1  
of Part I of the **Crimes Act 1958**  
(serious sexual offences) or under any  
corresponding previous enactment or an  
attempt to commit any such offence or  
an assault with intent to commit any  
such offence; or

- (c) any other assault punishable by imprisonment for 6 months or more; or
- (d) an offence under section 321(1) of the **Crimes Act 1958** (conspiracy) where the conspiracy is to commit an offence referred to in paragraph (a), (b) or (c);

*level 2 offence* means—

- (a) an offence under section 71, 71AA, 71AB or 71AC of the **Drugs, Poisons and Controlled Substances Act 1981** (drug trafficking); or
- (ab) an offence under section 71 of the **Drugs, Poisons and Controlled Substances Act 1981** as in force immediately before the commencement of the **Drugs, Poisons and Controlled Substances (Amendment) Act 2001**; or
- (b) an offence under Division 2 of Part I of the **Crimes Act 1958** (theft and similar or associated offences); or
- (c) an offence under Division 3 of Part I of the **Crimes Act 1958** (criminal damage to property); or
- (d) an offence under the **Accident Compensation Act 1985** or the **Transport Accident Act 1986**, but only if the offence involves fraud; or
- (e) an offence under section 321(1) of the **Crimes Act 1958** (conspiracy) where the conspiracy is to commit an offence referred to in paragraph (a), (b), (c) or (d);

S. 86(1) def. of *level 2 offence* inserted by No. 17/1995 s. 3(f), amended by Nos 106/1997 s. 4(b), 61/2001 s. 16(3), 35/2002 s. 28(Sch. item 7).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 86(1) def. of  
*local bus  
service*  
inserted by  
No. 49/2011  
s. 8.

*local bus service* has the same meaning as it has  
in the **Bus Safety Act 2009**;

S. 86(1) def. of  
*Melbourne  
Metropolitan  
Zone*  
inserted by  
No. 43/2013  
s. 3(1).

*Melbourne Metropolitan Zone*—see  
section 143B(1)(a);

S. 86(1) def. of  
*Metropolitan  
Hire Car Zone*  
inserted by  
No. 43/2013  
s. 3(2).

*Metropolitan Hire Car Zone*—see  
section 142A(1)(a);

S. 86(1) def. of  
*motor car*  
repealed by  
No. 127/1986  
s. 102(Sch. 4  
item 28.2).

\* \* \* \*

S. 86(1) def. of  
*motor cycle*  
inserted by  
No. 32/2002  
s. 6(2).

*motor cycle* has the same meaning as in the **Road  
Safety Act 1986**;

S. 86(1) def. of  
*motor vehicle*  
inserted by  
No. 127/1986  
s. 102(Sch. 4  
item 28.2).

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

S. 86(1) def. of  
*new taxi-cab  
licence*  
inserted by  
No. 43/2013  
s. 3(1).

*new taxi-cab licence* means a taxi-cab licence  
granted under section 143 on or after the  
commencement of section 8(1) of the  
**Transport Legislation Amendment  
(Foundation Taxi and Hire Car Reforms)  
Act 2013**;



***operate*** means—

- (a) in the case of a commercial passenger vehicle (other than a taxi-cab), carry passengers for hire or reward; and
- (ab) in the case of a taxi-cab, carry passengers for hire or reward and includes to ply or stand for hire or to use the taxi-cab in any other way for the purpose of carrying passengers for hire or reward; and
- (b) in the case of a commercial goods vehicle, carry goods for hire or reward or for any consideration or in the course of any trade or business whatsoever.

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

\* \* \* \* \*

***operator*** in relation to a taxi-cab, means—

- (a) unless paragraph (b) applies, the holder of the licence under which the taxi-cab is operated; or
- (b) if the right to operate the taxi-cab has been assigned to a person under section 150, that person while the assignment remains in force;

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

\* \* \* \* \*

S. 86(1) def. of *operator* in relation to a tow truck repealed by No. 30/2007 s. 227(1)(k).

***Order in Council*** means an Order made by the Governor in Council and published in the Government Gazette;

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

S. 86(1) def. of  
*owner*  
amended by  
Nos 10220  
s. 11(1)(b),  
127/1986  
s. 102(Sch. 4  
item 28.2),  
106/1997  
ss 21(2)(a),  
22(2)(b),  
6/1999  
s. 9(2)(a)(b),  
30/2007  
s. 227(2).

*owner* includes—

- (a) every person who is the owner or joint owner of a commercial passenger vehicle or commercial goods vehicle;
- (b) any person who has the use of a commercial passenger vehicle or commercial goods vehicle under a hiring or hire-purchase agreement; and
- (c) any person in whose name—
  - (i) a commercial passenger vehicle;
  - (ii) a commercial goods vehicle—

*	*	*	*	*
*	*	*	*	*
*	*	*	*	*

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

S. 86(1) def. of  
*passenger ferry*  
inserted by  
No. 10220  
s. 11(1)(c),  
repealed by  
No. 6/1999  
s. 9(3).

*	*	*	*	*
---	---	---	---	---

S. 86(1) def. of  
*prescribed amount*  
inserted by  
No. 43/2013  
s. 23.

*prescribed amount* of a taxi non-cash payment surcharge is—

- (a) the maximum amount of the surcharge as determined by the ESC under Division 5B; or

(b) until the first such determination, 5% of the amount that would be payable in respect of the hiring to which the surcharge relates if that amount were paid in cash;

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

S. 86(1) def. of *primary producer* amended by No. 127/1986 s. 102(Sch. 4 item 28.2).

\* \* \* \* \*

S. 86(1) def. of *private bus service* inserted by No. 47/2006 s. 8(a), repealed by No. 13/2009 s. 94(d) (as amended by No. 6/2010 s. 203(1)(Sch. 6 item 4.5)).

\* \* \* \* \*

S. 86(1) def. of *private omnibus* amended by No. 127/1986 s. 102(Sch. 4 item 28.2), repealed by No. 106/1997 s. 21(2)(b).

S. 86(1) def. of  
*public  
commercial  
passenger  
vehicle*  
amended by  
Nos 44/1989  
s. 24(c),  
46/1998  
s. 7(Sch. 1),  
45/1999 s. 22,  
substituted by  
No. 30/2000  
s. 14,  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 1(2)),  
58/2007 s. 55,  
61/2011  
s. 25(Sch. 1  
item 13.6).

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

- (a) any person, to be used under contract with the Department of Education and Early Childhood Development of Victoria, which contract is approved by the Public Transport Development Authority; or
- (b) any person for the carriage of members of the public along a fixed route on a regular basis, whether or not fares are charged, and the operation of which commercial passenger vehicle is approved by the Public Transport Development Authority;

*public place* means—

- (a) any bridge, footpath, court, alley, passage or thoroughfare open to or used by the public;
- (b) any park, garden, reserve or other place of public recreation or resort;
- (c) any open place to which the public, whether upon or without payment for admittance, have or are permitted to have access;
- (d) any wharf, pier or jetty; and
- (e) any school or the land or premises in connexion therewith—

but does not include a highway;

S. 86(1) def. of  
*recreation  
vehicle*  
amended by  
No. 127/1986  
s. 102(Sch. 4  
item 28.2).

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

- (a) a railway locomotive, railway carriage, tram-car or tram-motor;
- (b) a tractor; or
- (c) a vehicle of a type specified by Order of the Governor in Council for the purposes of this section;

***Regional Zone***—see section 143B(1)(c);

S. 86(1) def. of *Regional Zone* inserted by No. 43/2013 s. 3(1).

***register of taxi industry participants*** means the register kept by the licensing authority under section 169ZA;

S. 86(1) def. of *register of taxi industry participants* inserted by No. 35/2014 s. 34.

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

S. 86(1) def. of *restricted hire vehicle* inserted by No. 120/1993 s. 5(c), amended by No. 99/1998 s. 3(1).

- (a) is—
  - (i) a classic and historic motor car; or
  - (ii) a veteran motor car; or
  - (iii) a vintage motor car—  
within the meaning of Part 4 of the **Motor Car Traders Act 1986**; or
- (b) because of the nature of its construction or the manner in which it is equipped is capable of providing a passenger transport service of a kind that no other category of vehicle licensed in accordance with Division 5 is capable of providing; or

- (c) was manufactured more than 25 years before the date of the application for a licence in respect of it and which is of a category of vehicle that the Minister, by notice published in the Government Gazette, declares to be a category of vehicle to which this paragraph applies; or
- (d) has a seating capacity for 8 but not more than 12 people (including the driver) which is used or intended to be used in connection with the provision of a tour package;

S. 86(1) def. of  
*restricted hire  
vehicle  
licence*  
inserted by  
No. 32/2002  
s. 6(2).

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

S. 86(1) def. of  
*special  
purpose  
vehicle*  
inserted by  
No. 58/1995  
s. 19.

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

S. 86(1) def. of  
*special  
purpose  
vehicle  
licence*  
inserted by  
No. 32/2002  
s. 6(1).

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

***specified indictable fraud or dishonesty offence***  
means any of the following indictable  
offences involving fraud or dishonesty—

- (a) an offence against section 74, 81, 82, 83A or 88 of the **Crimes Act 1958**;
- (b) an offence against section 181 of the **Crimes Act 1958** that involves knowingly aiding, abetting, counselling, procuring, or attempting or taking part in or in any way being privy to an offence referred to in paragraph (a);
- (c) an offence against section 131.1, 132.1, 132.6, 132.7, 132.8, 134.1, 134.2 or 135.1 of the Criminal Code of the Commonwealth;
- (d) an offence under a law of a jurisdiction other than Victoria or the Commonwealth (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this definition;

S. 86(1) def. of *specified indictable fraud or dishonesty offence* inserted by No. 19/2010 s. 17(1), amended by No. 29/2011 s. 3(Sch. 1 item 98.5).

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

S. 86(1) def. of *taxi-cab* inserted by No. 10220 s. 5(1)(a).

***taxi-cab licence*** means a commercial passenger vehicle licence in respect of a vehicle which operates or is to operate as a taxi-cab;

S. 86(1) def. of *taxi-cab licence* inserted by No. 32/2002 s. 6(2).

S. 86(1) def. of  
*taxi non-cash  
payment  
surcharge*  
inserted by  
No. 43/2013  
s. 23.

*taxi non-cash payment surcharge* has the  
meaning given by section 144B;

S. 86(1) def. of  
*taxi non-cash  
payment  
transaction*  
inserted by  
No. 43/2013  
s. 23,  
amended by  
No. 35/2014  
s. 43.

*taxi non-cash payment transaction* means the  
payment, other than by means of cash, of any  
amount due in respect of the hiring of a taxi-  
cab;

S. 86(1) def. of  
*tour package*  
inserted by  
No. 99/1998  
s. 3(2).

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

- (a) the hire of a commercial passenger  
vehicle; and
- (b) as a substantial component of the  
package—
  - (i) accommodation; or
  - (ii) other services or facilities  
appropriate to tourists;

S. 86(1) def. of  
*tow*  
amended by  
No. 127/1986  
s. 102(Sch. 4  
item 28.2),  
repealed by  
No. 30/2007  
s. 227(1)(l).

\* \* \* \* \*



Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

*	*	*	*	*	S. 86(1) def. of <i>tow truck</i> amended by Nos 10087 s. 3(1)(Sch. 1 item 275), 127/1986 s. 102(Sch. 4 item 28.2), repealed by No. 30/2007 s. 227(1)(m).
*	*	*	*	*	S. 86(1) def. of <i>tow truck licence</i> inserted by No. 17/1995 s. 3(g), repealed by No. 30/2007 s. 227(1)(n).
*	*	*	*	*	S. 86(1) def. of <i>trade towing</i> inserted by No. 17/1995 s. 3(g), repealed by No. 30/2007 s. 227(1)(o).
*	*	*	*	*	S. 86(1) def. of <i>trailer</i> repealed by No. 127/1986 s. 102(Sch. 4 item 28.2).
*	*	*	*	*	S. 86(1) def. of <i>Tribunal</i> repealed by No. 120/1993 s. 5(d).
<i>Urban and Large Regional Zone</i> —see section 143B(1)(b);					S. 86(1) def. of <i>Urban and Large Regional Zone</i> inserted by No. 43/2013 s. 3(1).

S. 86(1) def. of  
*vehicle pool  
matching  
service*  
inserted by  
No. 79/1991  
s. 4(1).

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

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

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

S. 87(1)  
amended by  
Nos 127/1986  
s. 102(Sch. 4  
item 28.3),  
79/1991  
s. 3(2)(a),  
120/1993  
s. 6(1).

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

S. 87(2)  
amended by  
Nos 127/1986  
s. 102(Sch. 4  
item 28.3),  
79/1991  
s. 3(2)(b)(i)(ii).

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

S. 87(3)  
amended by  
Nos 127/1986  
s. 102(Sch. 4  
item 28.3),  
79/1991  
s. 3(2)(c)(i)(ii).

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

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

S. 87(3)(c)  
amended by  
No. 79/1991  
s. 3(2)(c)(iii).

- (d) made pursuant to any arrangement for the carriage of the passengers for a consideration that is merely—
- (i) the undertaking by the passenger to carry the driver or a member of the family of the driver on a similar journey in exchange for his carriage or the carriage of a member of his family; or
- (ii) the payment by the passenger of a share of the costs incurred in making the journey and does not involve profit to the driver or any other person.
- (4) A motor vehicle (other than a vehicle licensed under this Part) shall be deemed not to operate as a commercial passenger vehicle or a commercial goods vehicle and shall be deemed not to operate for hire or reward for the purposes of this Part or any contract of insurance by reason only of the carriage of goods or passengers if the carriage is made pursuant to a charitable arrangement.
- (5) For the purposes of subsection (4) a carriage of goods or passengers is made pursuant to a charitable arrangement when—
- (a) the main purpose of the journey or intended journey is to carry the goods or passengers;
- (b) the journey is or is to be undertaken for or on behalf of a municipality or prescribed organization as part of its charitable or benevolent work or its work for the relief or welfare of members of the public;
- (c) the motor vehicle is or is to be driven by a person who receives no remuneration in respect of the journey except pursuant to an arrangement mentioned in paragraph (d); and
- S. 87(3)(d) amended by No. 79/1991 s. 3(2)(c)(iv).
- S. 87(3)(d)(ii) amended by No. 79/1991 s. 3(2)(c)(v).
- S. 87(4) amended by Nos 127/1986 s. 102(Sch. 4 item 28.3), 79/1991 s. 3(2)(d)(i)(ii), 120/1993 s. 6(2).
- S. 87(5) amended by No. 79/1991 s. 3(2)(e)(i).
- S. 87(5)(c) amended by No. 127/1986 s. 102(Sch. 4 item 28.3).

S. 87(5)(d)  
amended by  
No. 79/1991  
s. 3(2)(e)(ii)(iii).

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

S. 87(6)  
inserted by  
No. 79/1991  
s. 4(2).

(6) A person who—  
(a) conducts a vehicle pool matching service without the consent of the Roads Corporation; or  
(b) contravenes a condition to which that consent is subject—  
is guilty of an offence.

S. 87(7)  
inserted by  
No. 79/1991  
s. 4(2).

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

## **88 Part to bind Crown**

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

## **89 Determinations of policy**

- (1) The Minister may from time to time make written determinations of policy in relation to the operation of this Part.
- (2) The Minister shall cause a copy of every determination of policy made by him under subsection (1) to be served on—

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

*	*	*	*	*	S. 89(2)(a) substituted by No. 44/1989 s. 25, repealed by No. 30/2000 s. 15.
				(b) the Roads Corporation; and	S. 89(2)(b) substituted by No. 44/1989 s. 25, amended by Nos 60/1994 s. 11, 17/1995 s. 24(b).
				(ba) the licensing authority; and	S. 89(2)(ba) inserted by No. 34/2011 s. 10.
				(c) the Public Transport Development Authority.	S. 89(2)(c) substituted by No. 44/1989 s. 25, repealed by No. 120/1993 s. 7, new s. 89(2)(c) inserted by No. 60/1994 s. 11, amended by Nos 47/2006 s. 31(1)(Sch. 1 Pt 1 item 2), 61/2011 s. 25(Sch. 1 item 13.6).
*	*	*	*	*	S. 89(2)(d) repealed by No. 44/1989 s. 25.

and to be published in the Government Gazette.

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

## 90 No compensation payable

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

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

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

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

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

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

S. 90(2)  
inserted by  
No. 71/2006  
s. 4.

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

(a) to approve or refuse an application for accreditation; or

(b) to impose a condition, restriction or other limitation on an accreditation; or

(c) to vary or revoke a condition, restriction or other limitation on an accreditation; or

(d) to take disciplinary action; or

(e) to serve an improvement notice.

S. 91  
amended by  
No. 34/2003  
s. 3,  
repealed by  
No. 95/2005  
s. 44.

\* \* \* \* \*

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

\* \* \* \*

Pt 6 Div. 2  
(Heading and  
ss 92–97)  
amended by  
Nos 10087  
s. 3(1)(Sch. 1  
item 276  
(a)(b)),  
111/1986  
s. 180(2)  
(Sch. 2  
item 2(a)),  
repealed by  
No. 127/1986  
s. 102(Sch. 4  
item 28.4),  
new Pt 6  
Div. 2  
(Heading and  
ss 92–102)  
inserted by  
No. 60/1994  
s. 12,  
amended by  
Nos 7/1995  
s. 5, 58/1995  
s. 20, 100/1995  
ss 60, 61,  
28/1996  
ss 4(j), 6(1), 7,  
16(1)(b),  
52/1998  
s. 311(Sch. 1  
item 96.3),  
14/2000  
ss 31–33,  
30/2000 ss 16,  
17, 54/2001  
s. 25(Sch.  
item 1.62),  
94/2001  
ss 4–17,  
34/2003  
s. 13(b)(c),  
94/2003  
ss 28(1)–(13),  
29–32,  
49/2004 s. 47,  
108/2004  
s. 117(1)  
(Sch. 3  
item 208.1),  
repealed by  
No. 9/2006  
s. 119.<sup>4</sup>

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

Pt 6 Div. 3  
(Heading and  
ss 98–118)  
amended by  
Nos 111/1986  
s. 180(2)  
(Sch. 2  
item 2(b)–(g)),  
32/1988 s. 36,  
repealed by  
No. 127/1986  
s. 102(Sch. 4  
item 28.4),  
new Pt 6  
Div. 3  
(Heading and  
ss 103–129Y)  
inserted by  
No. 28/1996  
s. 3,  
amended by  
Nos 52/1998  
s. 311(Sch. 1  
items 96.4,  
96.5), 65/2000  
ss 3–5,  
44/2001  
s. 3(Sch.  
item 115.2),  
94/2001  
ss 18–20,  
32/2002 s. 7,  
34/2003 ss 4,  
5, 94/2003  
s. 28(14),  
101/2003 s. 3,  
49/2004 s. 48,  
110/2004  
ss 46, 47,  
19/2005  
s. 11(3),  
repealed by  
No. 9/2006  
s. 119<sup>5</sup>.

\* \* \* \* \*



## **Division 4—Accreditation of taxi-cab industry participants**

### **Subdivision 1—Preliminary**

Pt 6 Div. 4  
(Heading and  
ss 119–137)  
amended by  
Nos 10087  
s. 3(1)(Sch. 1  
item 277),  
100/1986 s. 8,  
127/1986  
s. 102(Sch. 4  
item 28.5),  
44/1989  
ss 39(1)(b),  
40(Sch. 1  
item 6.2),  
repealed by  
No. 120/1993  
s. 8(1), new  
Pt 6 Div. 4  
(Heading and  
ss 130, 131)  
inserted by  
No. 60/1994  
s. 13,  
amended by  
Nos 17/1995  
s. 19(1),  
28/1996 s. 4(j),  
repealed by  
No. 47/2006  
s. 31(2)(Sch. 1  
Pt 2 item 45),  
new Pt 6  
Div. 4  
(Heading and  
ss 130–137E)  
inserted by  
No. 71/2006  
s. 3 (as  
amended by  
No. 69/2007  
ss 77–82).

#### **130 Purpose of accreditation**

The purpose of accreditation under this Division is to facilitate the provision of safe and reliable taxi-cab services that meet reasonable community expectations.

New s. 130  
inserted by  
No. 71/2006  
s. 3,  
amended by  
Nos 19/2010  
s. 18, 35/2014  
s. 4.

## 130A Definitions and interpretative provisions

(1) In this Division—

S. 130A  
inserted by  
No. 71/2006  
s. 3 (as  
amended by  
No. 69/2007  
s. 78).

S. 130A(1)  
def. of  
*co-operative*  
amended by  
No. 9/2013  
s. 42(Sch. 2  
item 18).

*co-operative* has the same meaning as in the  
Co-operatives National Law (Victoria);

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

S. 130A(1)  
def. of  
*incorporated  
association*  
amended by  
No. 20/2012  
s. 226(Sch. 5  
item 23(a)).

*incorporated association* has the same meaning as  
in the **Associations Incorporation Reform  
Act 2012**;

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

*officer*, in relation to a company, means—

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

(b) a person—

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

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

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

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

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

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

- (a) the secretary (within the meaning of the **Associations Incorporation Reform Act 2012**) of the incorporated association; or
- (b) a member of the committee (within the meaning of the **Associations Incorporation Reform Act 2012**) of the incorporated association; or
- (c) a person who is concerned, or takes part, in the management of the incorporated association;

S. 130A(1)  
def. of  
*officer*  
amended by  
No. 20/2012  
s. 226(Sch. 5  
item 23(b)).

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

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

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

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

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

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

***taxi-cab network service*** means—

- (a) the receipt and dispatch of bookings or orders for the hiring of taxi-cabs; or
- (b) the provision for taxi-cabs of a central communications system—

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

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

S. 130A(1)  
def. of  
*tier 1 offence*  
amended by  
Nos 85/2008  
s. 4(1),  
93/2009  
s. 49(4)(b)(i),  
47/2016  
s. 46(2).

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

*tier 1 offence* means—

- (a) an offence against the **Crimes Act 1958** that involves sexual penetration (within the meaning given by section 35(1) of that Act); or
- (b) an offence against a provision of the **Crimes Act 1958** amended or repealed before the commencement of Part 2 of the **Transport (Taxi-cab Accreditation and Other Amendments) Act 2006** of which the necessary elements at the time it was committed consisted of elements that constitute an offence referred to in paragraph (a); or
- (c) an offence specified in clause 1 of Schedule 1 to the **Sentencing Act 1991**, if the victim of the offence was a child or a person with a cognitive impairment, that is not an offence referred to in paragraph (a) or (b); or
- (ca) an offence against section 5A of the **Crimes Act 1958**; or
- (cb) an offence against section 318 of the **Crimes Act 1958** (whether in relation to a motor vehicle or a vessel); or

- (d) a child abuse material offence within the meaning of the **Working with Children Act 2005**; or
- (e) an offence within the meaning of Division 101 of the Criminal Code of the Commonwealth; or
- (f) an offence specified in clause 3 of Schedule 1 to the **Sentencing Act 1991**; or
- (g) an indictable offence involving fraud or dishonesty; or
- (h) an offence specified in clause 4 of Schedule 1 to the **Sentencing Act 1991**; or
- (i) an offence under a law of a jurisdiction other than Victoria (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this definition;

*tier 2 offence* means—

- (a) an offence specified in clause 1 of Schedule 1 to the **Sentencing Act 1991** that is not an offence referred to in paragraph (a), (b), (c), (ca), (cb) or (d) of the definition of *tier 1 offence*; or
- (b) an offence specified in clause 2 of Schedule 1 to the **Sentencing Act 1991** that is not an offence specified in clause 3 of that Schedule; or
- (ba) an offence against section 24 of the **Crimes Act 1958** arising out of the driving of a motor vehicle by the offender; or

S. 130A(1)  
def. of  
*tier 2 offence*  
amended by  
Nos 85/2008  
s. 4(2),  
93/2009  
s. 49(4)(b)(ii),  
19/2010  
ss 19(1)(2), 68.

- (bb) an offence against section 319(1) of the **Crimes Act 1958** (whether in relation to a motor vehicle or a vessel); or
- (bc) an offence against section 319(1A) of the **Crimes Act 1958** (whether in relation to a motor vehicle or a vessel); or
- (bd) an offence against section 61 of the **Road Safety Act 1986** resulting in a person being killed or suffering serious injury; or
- (be) an offence against section 271.3 (aggravated offence of trafficking in persons), or section 271.6 (aggravated offence of domestic trafficking in persons), of the Criminal Code of the Commonwealth; or
- (bf) an offence against section 271.4 (trafficking in children), or section 271.7 (domestic trafficking in children), of the Criminal Code of the Commonwealth; or
- (bg) an applicable pre-1973 fraud or dishonesty offence; or
- (bh) a specified indictable fraud or dishonesty offence; or
- (c) a summary offence involving fraud or dishonesty; or
- (d) an offence under a law of a jurisdiction other than Victoria (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in paragraphs (a) to (bd), (bg) or (c) of this definition;



*tier 3 offence* means—

S. 130A(1)  
def. of  
*tier 3 offence*  
amended by  
No. 19/2010  
s. 19(3).

- (aa) an offence specified in any of the following infringement notices—
    - (i) a safety work infringement notice to which section 215C(1) applies;
    - (ii) an infringement notice to which section 61A(2) of the **Marine Act 1988** applies;
    - (iii) a traffic infringement notice to which section 89A(2) of the **Road Safety Act 1986** applies; or
  - (a) a criminal offence that is not a tier 1 offence, a tier 2 offence or an offence referred to in paragraph (aa); or
  - (b) an offence under a law of a jurisdiction other than Victoria (including jurisdictions outside Australia) that, if it had been committed in Victoria, would have constituted an offence of a kind listed in this definition;
- (2) In this Division, a reference to a person who has been found guilty of an offence is a reference to a person—
- (a) against whom a court has made a formal finding that he or she is guilty of the offence; or
  - (b) from whom a court has accepted a plea that he or she is guilty of the offence; or
  - (c) from whom a court has accepted an admission under section 100 of the **Sentencing Act 1991** that he or she has committed the offence, or from whom a similar admission has been accepted under equivalent provisions of the laws of a jurisdiction other than Victoria; or

S. 130A(2)(ca)  
inserted by  
No. 19/2010  
s. 19(4).

- (ca) in relation to whom any of the following infringement notices has taken effect as a conviction for the offence specified in the notice—
  - (i) a safety work infringement notice to which section 215C(1) applies;
  - (ii) an infringement notice to which section 61A(2) of the **Marine Act 1988** applies;
  - (iii) a traffic infringement notice to which section 89A(2) of the **Road Safety Act 1986** applies; or
- (d) against whom a finding has been made under—

S. 130A  
(2)(d)(i)  
amended by  
No. 55/2014  
s. 153(1)(a).

- (i) section 17(1)(b) or 38X(1)(b) of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997** that he or she was not guilty of the offence because of mental impairment; or

S. 130A  
(2)(d)(ii)  
amended by  
Nos 85/2008  
s. 4(3)(a),  
55/2014  
s. 153(1)(b).

- (ii) section 17(1)(c) or 38X(1)(c) of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997** that he or she committed the offence or an offence available as an alternative; or

S. 130A  
(2)(d)(iii)  
inserted by  
No. 85/2008  
s. 4(3)(b).

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

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

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

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

S. 130A(3)(a)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.1).

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

S. 130A(3)(b)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.2).

(i) a summons to answer to the charge; or

(ii) a warrant to arrest the person—

has been issued or served.

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

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

S. 130A(4)(a)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.3).

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

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

S. 130A(4)(c)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.4).

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

S. 130A(4)(d)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.5).

(e) any other prescribed means.

\* \* \* \* \*

S. 130A(5)  
repealed by  
No. 35/2014  
s. 5.

## **Subdivision 2—Requirement for accreditation**

New s. 131  
inserted by  
No. 71/2006  
s. 3,  
amended by  
Nos 19/2010  
s. 20, 35/2014  
s. 6.

### **131 Offence for taxi-cab operator not to be accredited**

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

Penalty: In the case of a natural person,  
60 penalty units;  
In the case of a body corporate,  
300 penalty units.

S. 131A  
inserted by  
No. 71/2006  
s. 3.

### **131A Offence for provider of taxi-cab network services not to be accredited**

S. 131A(1)  
amended by  
No. 71/2006  
s. 19(1).

(1) A person must not—

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

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

Penalty: In the case of a natural person,  
240 penalty units;  
In the case of a body corporate,  
1200 penalty units.

(2) Subsection (1) does not apply to—

- (a) in the case of a taxi-cab network service of a kind referred to in paragraph (a) of the definition of *taxi-cab network service* in section 130A(1)—
  - (i) a driver of a taxi-cab who receives a booking or order for the hiring of that taxi-cab directly from the person making the booking or placing the

order or directly from the operator of the taxi-cab as described in subparagraph (ii); or

- (ii) the operator of a taxi-cab who receives a booking or order for the hiring of that taxi-cab directly from the person making the booking or placing the order which the operator then passes on directly to the driver of the taxi-cab; or
  - (iii) a driver or the operator of a taxi-cab who receives a booking or order for the hiring of that taxi-cab directly from the person making the booking or placing the order which the driver or operator then passes on directly to a person who is accredited to provide that service; or
- (b) in the case of any kind of taxi-cab network service—
- (i) a driver or the operator of a taxi-cab who—
    - (A) provides the service; and
    - (B) is a member of an unincorporated body or association comprising drivers and operators of taxi-cabs that is accredited to provide that service; or
  - (ii) an operator of a taxi-cab who provides the service to—
    - (A) a driver of the taxi-cab; or
    - (B) a relevant person in relation to the operator.

**S. 131A(2)(b)**  
**substituted by**  
**No. 35/2014**  
**s. 7.**

### **Subdivision 3—Application for accreditation**

New s. 132  
inserted by  
No. 71/2006  
s. 3.

S. 132(1)(a)  
repealed by  
No. 35/2014  
s. 8(1).

#### **132 Making of application**

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

\* \* \* \* \*

(b) taxi-cab operator; or

(c) provider of taxi-cab network services.

#### **Note**

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

- (2) An application must—

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

(b) be accompanied by—

(i) the fee (if any) for the application determined by the licensing authority under section 147B; and

(ii) evidence, as required by the regulations, that each relevant person in relation to the applicant, satisfies the requirements for the relevant accreditation; and

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

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

- (3) The licensing authority may require an applicant to—
- (a) supply further information specified by the licensing authority;
  - (b) verify, by a statutory declaration signed by or on behalf of the applicant, information supplied for the purposes of the application.
- (4) The application, and any further information supplied by the applicant under subsection (3), must be—
- (a) if the regulations so provide, signed in accordance with the regulations; and
  - (b) declared by each signatory to be true and correct.
- (5) An unincorporated body or association, other than a partnership, is not capable of applying for, or holding, an accreditation as a taxi-cab operator.
- (6) In the case of an application by a person that is not an individual, the licensing authority is entitled to communicate with the responsible person in relation to the application.

S. 132(5)  
amended by  
No. 35/2014  
s. 8(2).

**132A Time within which licensing authority must deal with application**

S. 132A  
inserted by  
No. 71/2006  
s. 3.

- (1) Subject to this section, the licensing authority must decide whether to approve or refuse an application for accreditation within 30 days after receiving the application.
- (2) The licensing authority may, before the expiry of the period specified in subsection (1), decide to extend the period within which the licensing authority may decide whether to approve or refuse an application.

S. 132A(1)  
amended by  
No. 35/2014  
s. 9.

S. 132A(2)  
amended by  
No. 34/2011  
s. 11(1).

S. 132A(3)  
amended by  
No. 34/2011  
s. 11(2).

- (3) If the licensing authority decides to extend the period within which the licensing authority may decide whether to approve or refuse an application, the licensing authority must notify the applicant of that decision and the new period within which the licensing authority intends to make the decision whether to approve or refuse an application.
- (4) A notification under subsection (3) must be in writing.

S. 132B  
inserted by  
No. 71/2006  
s. 3.

**132B Circumstances in which application may be approved**

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

- (a) is suitable to be accredited; and
- (b) has complied with the application requirements under this Subdivision.

Note to  
s. 132B  
amended by  
No. 35/2014  
s. 10.

**Note**

See Subdivision 4 for conditions, restrictions and other limitations that may be imposed on an accreditation.

S. 132C  
inserted by  
No. 71/2006  
s. 3 (as  
amended by  
No. 69/2007  
s. 79),  
substituted by  
No. 35/2014  
s. 11.

**132C Accreditation lasts until cancelled or surrendered**

An accreditation remains in force until it is cancelled or surrendered.

**Note**

Section 135D provides that a person is taken not to hold an accreditation during any period in which the accreditation is suspended.



**132D Mandatory refusal of accreditation**

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

S. 132D  
inserted by  
No. 71/2006  
s. 3.

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

S. 132D(1)(a)  
amended by  
No. 85/2008  
s. 5(1).

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

S. 132D(1)(a)(i)  
substituted by  
No. 19/2010  
s. 21(1).

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

S. 132D  
(1)(a)(ia)  
inserted by  
No. 19/2010  
s. 21(1).

(ii) is a person who is subject to—

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

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

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

S. 132D(1)(ab)  
inserted by  
No. 85/2008  
s. 5(2).

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

S. 132D  
(1)(ab)(i)  
substituted by  
No. 19/2010  
s. 21(2).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 132D  
(1)(ab)(ia)  
inserted by  
No. 19/2010  
s. 21(2).

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

(ii) is a person who is subject to—

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

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

(b) in any case, the applicant—

S. 132D  
(1)(b)(i)  
amended by  
No. 35/2014  
s. 12(1)(a).

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

S. 132D  
(1)(b)(ii)-(iv)  
repealed by  
No. 35/2014  
s. 12(1)(b).

\* \* \* \* \*

S. 132D(2)(3)  
repealed by  
No. 35/2014  
s. 12(2).

\* \* \* \* \*

S. 132D(4)  
inserted by  
No. 85/2008  
s. 5(3).

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

---

**132E Presumption in favour of refusal of accreditation**

The licensing authority must refuse an application for accreditation—

\* \* \* \* \*

S. 132E  
inserted by  
No. 71/2006  
s. 3.

S. 132E(a)  
amended by  
No. 19/2010  
s. 22(1),  
repealed by  
No. 35/2014  
s. 13.

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

S. 132E(b)  
amended by  
No. 85/2008  
s. 6(a),  
substituted by  
No. 19/2010  
s. 22(2).

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

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

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

S. 132E(c)  
inserted by  
No. 85/2008  
s. 6(b),  
amended by  
No. 93/2009  
s. 49(4)(c),  
substituted by  
No. 19/2010  
s. 22(2).

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

- (ii) an applicable pre-1973 fraud or dishonesty offence or a specified indictable fraud or dishonesty offence more than 10 years before the application for accreditation; or
- (iii) an offence under section 318 of the **Crimes Act 1958** at any time before the application for accreditation—

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

S. 132F  
inserted by  
No. 71/2006  
s. 3.

#### **132F Discretionary refusal of accreditation**

- (1) The licensing authority may refuse an application for accreditation if the licensing authority is aware that the applicant, or a relevant person in relation to the applicant—
  - (a) has been found guilty of a tier 3 offence; or
  - (b) is the subject to a charge for a disqualifying offence that has not been finally disposed of at the time of considering the application.
- (2) In exercising a discretion under subsection (1), the licensing authority must have regard to—
  - (a) the nature and gravity of the offence and its relevance to the activities in respect of which accreditation is sought; and
  - (b) the period of time since the offence was committed; and
  - (c) whether a finding of guilt or conviction was recorded; and
  - (d) the sentence (if any) imposed for the offence; and
  - (e) the age of the applicant or relevant person when the offence was committed; and

- (f) in relation to any sexual offence, the age of any victim; and
  - (g) whether or not the conduct that constituted the offence has been decriminalised since the offence was committed; and
  - (h) the behaviour of the applicant or relevant person since committing the offence; and
  - (i) the likelihood of the applicant or relevant person committing another such offence in the future, in particular, any future threat to a child or other vulnerable person; and
  - (j) any information given by the applicant or relevant person; and
  - (k) any other matter that the licensing authority considers relevant.
- (3) The licensing authority may refuse an application for accreditation if the licensing authority believes on reasonable grounds that—

\* \* \* \* \*

**S. 132F(3)(a)  
repealed by  
No. 35/2014  
s. 14.**

- (b) the applicant has contravened a condition, restriction or other limitation imposed on an accreditation held, or previously held, by the applicant under this Division; or
  - (c) the applicant, or a relevant person in relation to the applicant, has contravened a provision of this Act or regulations made under this Act.
- (4) Nothing in this section limits a discretion of the licensing authority to approve or refuse an application for accreditation.

**S. 132F(3)(c)  
amended by  
No. 19/2010  
s. 23(1).**

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

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

S. 132F(5)(b)  
amended by  
No. 19/2010  
s. 23(3).

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

Note to  
s. 132F(5)(b)  
inserted by  
No. 19/2010  
s. 23(4).

**Note**

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

S. 132F(5)(c)  
inserted by  
No. 19/2010  
s. 23(5).

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

(i) has not been withdrawn or cancelled; and

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

S. 132F(5)(d)  
inserted by  
No. 19/2010  
s. 23(5).

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

- (e) in relation to an infringement notice referred to in paragraph (c) or (d)—
- (i) the nature and gravity of the infringement offence for which the infringement notice was served and the offence's relevance to the purpose for which the applicant seeks to be accredited; and
  - (ii) when the infringement offence for which the infringement notice was served was alleged to have been committed; and
  - (iii) whether the infringement offence for which the infringement notice was served still exists; and
  - (iv) in the case of an applicant who is a natural person, the age of the applicant at the time of the infringement offence for which the infringement notice was served; and
  - (v) in the case of an applicant who is a natural person, the applicant's behaviour since the alleged commission of the infringement offence for which the infringement notice was served; and
  - (vi) in the case of an applicant who is a natural person, the likelihood of the applicant committing another infringement offence for which the infringement notice was served; and
  - (vii) whether the infringement offence for which the infringement notice was served has been expiated; and

S. 132F(5)(e)  
inserted by  
No. 19/2010  
s. 23(5).

S. 132F(5)  
(e)(ix)  
amended by  
No. 49/2014  
s. 61(1).

- (viii) whether the decision to serve the infringement notice has been subject to internal review under Division 3 of Part 2 of the **Infringements Act 2006**; and
- (ix) in the case of an applicant who is a natural person, if the infringement notice was served for a traffic infringement for which demerit points were incurred under Part 4 of the **Road Safety Act 1986**, the effect of the operation of that Part on the applicant including the demerit points recorded against the applicant in the Demerits Register kept under that Part; and
- (x) if the infringement notice was served for a traffic infringement, whether the applicant made any of the following statements under Part 6AA of the **Road Safety Act 1986** in relation to the traffic infringement—
  - (A) an illegal user statement;
  - (B) a known user statement;
  - (C) a sold vehicle statement;
  - (D) an unknown user statement; and
- (xi) if the infringement notice was served for a traffic infringement and the applicant made a known user statement or a sold vehicle statement under Part 6AA of the **Road Safety Act 1986** in relation to the traffic infringement, whether a person made a nomination rejection statement under that Part in response to the known user statement or sold vehicle statement; and



- (xii) any information that the applicant has given the licensing authority in relation to the infringement notice, including reasons why the infringement penalty stated in the infringement notice was paid; and
- (xiii) any other matter that the licensing authority considers relevant.

\* \* \* \* \*

Note to  
s. 132F(5)  
repealed by  
No. 19/2010  
s. 23(2).

**132G Notification and reasons to be given if accreditation refused**

S. 132G  
inserted by  
No. 71/2006  
s. 3.

- (1) If the licensing authority decides to refuse to accredit an applicant, the licensing authority must—
  - (a) notify the applicant—
    - (i) of the decision; and
    - (ii) that the applicant has a right to seek review of the decision under Subdivision 7; and
  - (b) give the applicant a statement of reasons for the decision.
- (2) A notification under subsection (1)(a) and a statement of reasons under subsection (1)(b) must be—
  - (a) in writing; and
  - (b) given to the applicant as soon as practicable after the licensing authority makes the decision to refuse to accredit the applicant.

S. 132G(2)(b)  
amended by  
No. 34/2011  
s. 12.

S. 132H  
inserted by  
No. 71/2006  
s. 3.

**132H Disqualification by licensing authority from ability to apply for accreditation**

- (1) If the licensing authority decides to refuse an application for accreditation, the licensing authority may determine that the applicant is disqualified from applying for accreditation of that kind under this Division for the period determined by the licensing authority.
- (2) The period determined by the licensing authority under subsection (1) must not exceed 5 years.

Pt 6 Div. 4  
Subdiv. 4  
(Heading)  
amended by  
No. 35/2014  
s. 15.

**Subdivision 4—Accreditation conditions**

New s. 133  
inserted by  
No. 71/2006  
s. 3 (as  
amended by  
No. 69/2007  
s. 80(1)).

**133 Restrictions and conditions concerning accreditation**

- (1) In accrediting an applicant, the licensing authority may limit the accreditation in any way the licensing authority thinks appropriate.
- (2) Without limiting subsection (1), the licensing authority may—
  - (a) impose conditions on the accreditation that are not inconsistent with any condition applicable under subsection (3); or
  - (b) restrict the scope of the accreditation.
- (3) An accreditation is also subject to any condition set out in the regulations as in force from time to time that applies to the accreditation.

S. 133(4)(5)  
repealed by  
No. 35/2014  
s. 16.

\* \* \* \*

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

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

- (1) The licensing authority may at any time on the licensing authority's own initiative or on the written application of the accredited person—
- (a) vary or revoke a condition, restriction or other limitation imposed by the licensing authority on an accreditation; or
  - (b) impose a new condition, restriction or other limitation on an accreditation.
- (2) Before taking action under this section, the licensing authority must—
- (a) give the accredited person written notice of the action that the licensing authority proposes to take and of the reasons for taking that action; and
  - (b) allow the accredited person to make written representations about the intended action within 10 business days (or any other period that the licensing authority and the accredited person agree upon).
- (3) Subsection (2) does not apply if the licensing authority considers it necessary to take immediate action in the interests of public safety.
- (4) The licensing authority must—
- (a) give the accredited person—
    - (i) details of any action taken under subsection (1); and
    - (ii) a statement of reasons for any action taken under subsection (1); and

S. 133A(1)  
amended by  
No. 34/2011  
s. 13.

- (b) notify the accredited person that the person has a right to seek review of the licensing authority's decision under Subdivision 7.
- (5) The licensing authority must give the details, the statement of reasons and notice under subsection (4) in writing.

S. 133B  
inserted by  
No. 71/2006  
s. 3,  
amended by  
No. 35/2014  
s. 17.

### **133B Offence to fail to comply with conditions etc.**

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

Penalty: In the case of an accreditation as a taxi-cab operator, 30 penalty units for a natural person and 150 penalty units for a body corporate;

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

S. 133C  
inserted by  
No. 71/2006  
s. 3 (as  
amended by  
No. 69/2007  
s. 80(2)),  
repealed by  
No. 35/2014  
s. 18.

\* \* \* \* \*

## **Subdivision 5—Certificates of accreditation**

New s. 134  
inserted by  
No. 71/2006  
s. 3.

### **134 Issue of certificate of accreditation**

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

(a) is in the form approved by the licensing authority; and

(b) sets out—

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

(ii) the name of the holder of the accreditation; and

(iii) the kind of accreditation; and

(iv) any conditions, restrictions or other limitations to which the accreditation is subject; and

\*

\*

\*

\*

\*

**S. 134(1)(b)(v)**  
repealed by  
No. 35/2014  
s. 19(1).

(vi) any additional information that the licensing authority considers appropriate.

\*

\*

\*

\*

\*

**S. 134(2)**  
repealed by  
No. 35/2014  
s. 19(2).

(3) The licensing authority may, on the application of the accredited person accompanied by the fee (if any) determined by the licensing authority, issue a replacement certificate of accreditation if the licensing authority is satisfied (whether on the production of a statutory declaration or otherwise) that the certificate last issued to the accredited person has been lost, stolen or destroyed.

(4) A person who has made an application under subsection (3) on the ground that a certificate has been lost or stolen and who subsequently recovers the lost or stolen certificate must, within 14 days after the day on which the certificate is recovered—

- (a) notify the licensing authority of the recovery; and
- (b) return the recovered certificate to the licensing authority unless informed by the licensing authority that it is not necessary to do so.

Penalty: 20 penalty units.

S. 134A  
inserted by  
No. 71/2006  
s. 3.

#### **134A Offence not to produce certificate when required**

S. 134A(1)  
amended by  
Nos 34/2011  
s. 14, 37/2014  
s. 10(Sch.  
item 171.2).

- (1) A police officer, or a person authorised in writing to do so by the licensing authority, may require a person who is carrying out an activity for which an accreditation is required and who claims to be accredited to carry out that activity to produce the person's certificate of accreditation for inspection.
- (2) An accredited person must not fail to produce the person's certificate of accreditation for inspection when required to do so under subsection (1).

Penalty: 5 penalty units.

- (3) In a proceeding for an offence against this section it is a defence to the charge if—

S. 134A(3)(a)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.6).

- (a) the accused has a reasonable excuse for failing to produce the certificate of accreditation when required to do so under subsection (1); and

- (b) within 5 days after being required to produce the certificate, the accused produces it at the place directed by the police officer or authorised person.

S. 134A(3)(b)  
amended by  
Nos 68/2009  
s. 97(Sch.  
item 124.6),  
37/2014  
s. 10(Sch.  
item 171.2).

### **Subdivision 6—Disciplinary action and improvement notices**

#### **135 When the licensing authority may take disciplinary action**

New s. 135  
inserted by  
No. 71/2006  
s. 3.

The licensing authority may take disciplinary action against an accredited person in respect of an accreditation held by that person if satisfied—

- (a) that a ground for refusal of an application for the accreditation under section 132D, 132E or 132F exists in relation to the accredited person or a relevant person in relation to the accredited person; or
- (b) that a ground for the service under section 135F of an improvement notice on the accredited person in respect of the accreditation exists; or
- (c) that the accreditation was obtained because of a false or misleading statement made, or false or misleading information supplied, by the accredited person or a relevant person in relation to the accredited person; or
- (d) that a relevant person in relation to the accredited person has failed to comply with a requirement under section 137A(6).

#### **Note**

The licensing authority is required to take disciplinary action in the circumstances set out in section 135A(3).

S. 135A  
inserted by  
No. 71/2006  
s. 3.

### **135A Disciplinary actions that may be taken in relation to accreditations**

- (1) The licensing authority may take one or more of the following actions (*disciplinary actions*) in relation to an accreditation held by a person—
  - (a) cancel the accreditation and disqualify the holder from applying for an accreditation of that kind for a period not exceeding 5 years;
  - (b) suspend the accreditation for any period;
  - (c) if the accreditation is already suspended, do either of the following—
    - (i) cancel the accreditation and disqualify the holder from applying for an accreditation of that kind for a period not exceeding 5 years;
    - (ii) suspend the accreditation for an additional period;
  - (d) direct the person, or a relevant person in relation to the person, to undertake particular training;
  - (e) impose a new condition, restriction or other limitation on, or vary a condition, restriction or other limitation on, the accreditation;
  - (f) reprimand the accredited person.
- (2) If an accredited person holds more than one kind of accreditation under this Division, the licensing authority may take action in relation to any one or more of the accreditations.
- (3) If the licensing authority is satisfied that a ground for refusal of an application for accreditation under section 132D(1)(a) or (ab) exists in relation to the accredited person or a relevant person in relation to the accredited person, the licensing authority must take disciplinary action of a kind

S. 135A(3)  
amended by  
No. 85/2008  
s. 7.



referred to in subsection (1)(a) in relation to the accreditation held by the accredited person.

- (4) Despite subsection (3), the licensing authority must not take disciplinary action referred to in subsection (3) if a decision to refuse to issue or cancel an accreditation in respect of that person on a relevant ground referred to in that subsection has previously been overturned by VCAT.

S. 135A(4)  
inserted by  
No. 19/2010  
s. 24.

### **135B Procedure for taking disciplinary action**

S. 135B  
inserted by  
No. 71/2006  
s. 3.

- (1) If the licensing authority proposes to take disciplinary action against an accredited person, the licensing authority must serve on that person a notice (a *disciplinary notice*) that—
- (a) states the proposed action (including any proposed period of suspension or disqualification from applying for an accreditation of a particular kind); and
  - (b) if the accredited person holds more than one kind of accreditation under this Division, states the accreditation or accreditations to which the proposed action relates; and
  - (c) states the grounds for the proposed action; and
  - (d) invites the person to make a written submission within a stated period as to why the proposed action should not be taken.
- (2) For the purposes of subsection (1)(d), the period stated in the disciplinary notice must be—
- (a) if an immediate suspension notice is also served under section 135C, a period of at least 14 days after the day on which the disciplinary notice is served on the accredited person; or

- (b) in any other case, a period of at least 28 days after the day on which the disciplinary notice is served on the accredited person.
- (3) In deciding whether to take disciplinary action, the licensing authority must consider any response given to the authority in accordance with subsection (1)(d).
- (4) If the licensing authority is satisfied that grounds for taking disciplinary action against a person have been established, the licensing authority may—
  - (a) take any disciplinary action of which notice was given in the disciplinary notice or any disciplinary action that is of lesser severity than that of which notice was given in the disciplinary notice; and
  - (b) in any case—
    - (i) direct the person, or a relevant person in relation to the person, to undertake particular training; or
    - (ii) reprimand the person.
- (5) The licensing authority must, as soon as practicable, serve written notice on the accredited person of the decision with respect to taking, or not taking, disciplinary action and, if the decision is to take disciplinary action, of—
  - (a) the disciplinary action being taken; and
  - (b) the date, which must not be earlier than 7 days after the day on which the notice under this subsection is served, on which any cancellation, suspension, disqualification or new or amended condition, limitation or other restriction takes effect.

**135C Immediate suspension of accreditation**

S. 135C  
inserted by  
No. 71/2006  
s. 3.

- (1) This section applies if the licensing authority—
  - (a) has decided to serve, or has served, a disciplinary notice on a person; and
  - (b) believes, on reasonable grounds, that it is in the public interest that the accreditation held by the person be suspended as soon as practicable before a decision is made to take action under section 135B(4) in relation to the person.
- (2) In forming the belief referred to in subsection (1)(b), the licensing authority must consider—
  - (a) the circumstances leading to the decision to serve the disciplinary notice; and
  - (b) the grounds stated, or proposed to be stated, in the disciplinary notice.
- (3) The licensing authority may serve on the person a notice (an *immediate suspension notice*) suspending the accreditation.
- (4) If an immediate suspension notice is served on the person, the accreditation is suspended on that service.
- (5) An immediate suspension notice served in relation to an accreditation ends—
  - (a) if the accreditation is cancelled or suspended under section 135B(4)—when the cancellation or suspension takes effect; or
  - (b) if a condition, restriction or other limitation is imposed on the accreditation, or a condition, restriction or other limitation on the accreditation is amended—when the condition, restriction or other limitation or

amended condition, restriction or other limitation, takes effect; or

- (c) in any other case—when the person is notified under section 135B(5) of the decision made on the disciplinary notice.

S. 135D  
inserted by  
No. 71/2006  
s. 3 (as  
amended by  
No. 69/2007  
s. 81).

#### **135D Effect of suspension of accreditation**

- (1) This section applies if the licensing authority suspends a person's accreditation.
- (2) During the period of the suspension, the person is taken not to hold an accreditation of that kind and to be disqualified from applying for an accreditation of that kind.

S. 135E  
inserted by  
No. 71/2006  
s. 3.

#### **135E Return of certificate of accreditation**

- (1) The holder of a cancelled or suspended accreditation must, not later than 7 days after the cancellation or suspension takes effect—
  - (a) return the certificate of accreditation to the licensing authority; or
  - (b) if the certificate has been lost, stolen or destroyed, give the authority a statement, verified by a statutory declaration signed by or on behalf of the holder, that the certificate has been lost, stolen or destroyed.

Penalty: 20 penalty units.

S. 135E(2)  
amended by  
No. 35/2014  
s. 20.

- (2) If a person's accreditation is suspended and it is not cancelled when the suspension ends, the licensing authority must return the certificate of accreditation to the person.

---

**135F Improvement notices**

(1) If the licensing authority reasonably believes on reasonable grounds—

S. 135F  
inserted by  
No. 71/2006  
s. 3.

(a) that an accredited person is contravening—

(i) a condition, restriction or other limitation on the accreditation; or

\* \* \* \* \*

S. 135F(1)  
(a)(ii)  
repealed by  
No. 35/2014  
s. 21(1).

(b) that an accredited person, or a relevant person in relation to an accredited person, is contravening a provision of this Act or of the regulations; or

(c) that—

(i) an accredited person has contravened a condition, restriction or other limitation on the accreditation; or

S. 135F(1)(c)(i)  
amended by  
No. 35/2014  
s. 21(2).

(ii) an accredited person, or a relevant person in relation to an accredited person, has contravened a provision of this Act or of the regulations—

in circumstances that make it likely the contravention will continue or be repeated—

the licensing authority may serve on the accredited person an improvement notice requiring the person to remedy the contravention or likely contravention, or the matters or activities causing the contravention or likely contravention, within the period specified in the notice.

(2) An improvement notice must—

(a) state the basis for the licensing authority's belief on which the service of the notice is based; and

S. 135F(2)(b)  
amended by  
No. 35/2014  
s. 21(3).

- (b) specify the condition, restriction, limitation or provision that the licensing authority believes has been or is likely to be contravened; and
  - (c) specify a date (with or without a time) by which the accredited person is required to remedy the contravention or likely contravention or the matters or activities causing the contravention or likely contravention, that the licensing authority considers reasonable having regard to the purpose of the accreditation and the nature of the contravention or likely contravention; and
  - (d) set out the penalty for contravening the notice; and
  - (e) include a statement of the effect of section 135H (proceedings for offences not affected by improvement notices); and
  - (f) state that the notice is served under this section; and
  - (g) state how the accredited person may seek review of the service of the notice.
- (3) An improvement notice may include directions concerning the measures to be taken to remedy the contravention or likely contravention, or the matters or activities causing the contravention or likely contravention, to which the notice relates.
- (4) Without limiting subsection (3), an improvement notice may include—
- (a) a direction that if the accredited person has not remedied the contravention, likely contravention, matters or activities (as the case may be) by the date and time (if any) specified in the notice, an activity to which the notice relates is to cease until the

licensing authority has certified in writing that the contravention or likely contravention has, or the matters or activities have, been remedied; and

- (b) interim directions, or interim conditions, restrictions or other limitations on the carrying out of any activities to which the notice relates, that the licensing authority considers necessary to minimise risks to safety or the risk of a serious failure to provide a reliable taxi-cab service.

S. 135F(4)(b)  
amended by  
No. 35/2014  
s. 21(4).

- (5) An accredited person on whom an improvement notice is served must comply with the notice.

S. 135F(5)  
amended by  
No. 35/2014  
s. 21(5).

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

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

- (6) If an application for review of a decision under this section has been made under Subdivision 7, the licensing authority must not give a certificate under subsection (4)(a) in relation to the improvement notice concerned until after the review ends.

### **135G Formal irregularities or defects in notice**

S. 135G  
inserted by  
No. 71/2006  
s. 3.

An improvement notice is not invalid merely because of—

- (a) a formal defect or irregularity in the notice unless the defect or irregularity causes or is likely to cause substantial injustice; or
- (b) a failure to use the correct name of the accredited person on whom the notice is served if the notice sufficiently identifies the person and is served on the person in accordance with section 250 or 251, as the case requires.

S. 135H  
inserted by  
No. 71/2006  
s. 3.

### **135H Proceedings for offences not affected by improvement notices**

The service of an improvement notice does not affect any proceeding for an offence against this Act or the regulations in connection with any matter in respect of which the notice was served.

Pt 6 Div. 4  
Subdiv. 6A  
(Heading and  
ss 135I–135M)  
inserted by  
No. 35/2014  
s. 22.

## **Subdivision 6A—Internal review**

S. 135I  
inserted by  
No. 35/2014  
s. 22.

### **135I Definitions**

(1) In this Subdivision—

*eligible person* means a person—

(a) who is—

- (i) an applicant for accreditation; or
- (ii) an accredited person; or
- (iii) a relevant person in relation to an applicant for accreditation or an accredited person; and

(b) whose interests are affected by a reviewable decision;

*reviewable decision* has the meaning given by section 135J.

S. 135J  
inserted by  
No. 35/2014  
s. 22.

### **135J Meaning of reviewable decision**

(1) A *reviewable decision* is a decision—

- (a) to refuse an application for accreditation; or
- (b) to disqualify a person from applying for accreditation; or
- (c) to impose a condition, restriction or other limitation on an accreditation; or



- (d) to vary or revoke a condition, restriction or other limitation on an accreditation; or
  - (e) to take disciplinary action; or
  - (f) to serve an improvement notice.
- (2) A **reviewable decision** does not include—
- (a) a decision referred to in subsection (1) that was—
    - (i) affirmed, varied or substituted for another decision under section 135M; or
    - (ii) made by the licensing authority and not by a delegate of the licensing authority; or
  - (b) a decision in respect of which an application may be made under section 136(1A) for an order in respect of the decision.

**135K Application for internal review**

S. 135K  
inserted by  
No. 35/2014  
s. 22.

- (1) An eligible person may apply to the licensing authority for review of a reviewable decision.

**Note**

Section 136A provides for the review by VCAT of a reviewable decision.

- (2) An application under subsection (1) must be made within—
- (a) 28 days after the day on which the decision first came to the eligible person's notice; or
  - (b) such longer period as the licensing authority allows.
- (3) An application under subsection (1) must be made in the manner and form determined by the licensing authority.

S. 135L  
inserted by  
No. 35/2014  
s. 22.

### **135L Effect of decision on application**

- (1) An application under section 135K(1) does not affect the operation of the reviewable decision or prevent the taking of any action to implement it unless the licensing authority, on its own initiative or on the application of the applicant for review, stays the operation of the decision pending the determination of the internal review.
- (2) The licensing authority must make a decision on an application for a stay within 24 hours after the making of the application.
- (3) If the licensing authority has not made a decision in accordance with subsection (2), the licensing authority is taken to have made a decision to grant a stay.
- (4) The licensing authority may attach any conditions to a stay of the operation of a reviewable decision that the licensing authority considers appropriate.

S. 135M  
inserted by  
No. 35/2014  
s. 22.

### **135M Determination of application for internal review**

- (1) If an application is made to the licensing authority in accordance with section 135K, the licensing authority must make a fresh decision—
  - (a) that affirms or varies the reviewable decision; or
  - (b) that sets aside the reviewable decision and substitutes another decision that the licensing authority considers appropriate.
- (2) The licensing authority must give a written notice to the applicant setting out—
  - (a) the decision of the licensing authority under subsection (1) and the reasons for the decision; and

- (b) the findings on material questions of fact that led to the decision, referring to the evidence or other material on which those findings were based—

and must do so within 28 days after the application is made.

- (3) If the licensing authority has not notified an applicant of a decision in accordance with subsection (2), the licensing authority is taken to have made a decision to affirm the reviewable decision.

### **Subdivision 7—Jurisdiction of VCAT**

Pt 6 Div. 4  
Subdiv. 7  
(Heading)  
substituted by  
No. 35/2014  
s. 23.

#### **136 Jurisdiction of VCAT in relation to mandatory refusal or cancellation of accreditation**

New s. 136  
inserted by  
No. 71/2006  
s. 3.

- (1) This section applies to a person—
  - (a) whose application for accreditation is refused (wholly or partly) on a ground set out in section 132D(1)(a) or (ab); or
  - (b) whose accreditation is cancelled (wholly or partly) and who is disqualified from applying for an accreditation of that kind under section 135A(3).
- (1A) The person may apply to VCAT for an order that, as the case requires, the licensing authority—
  - (a) approve an application for accreditation; or
  - (b) not refuse an application for accreditation on a ground referred to in subsection (1)(a); or

S. 136(1)  
amended by  
No. 85/2008  
s. 8,  
substituted by  
No. 19/2010  
s. 25(1).

S. 136(1A)  
inserted by  
No. 19/2010  
s. 25(1).

- (c) reinstate an accreditation and not disqualify the person from applying for accreditation of that kind; or
- (d) not cancel an accreditation and disqualify that person from applying for an accreditation of that kind in reliance on section 135A(3).
- S. 136(2)  
amended by  
No. 19/2010  
s. 25(2).
- (2) On an application under subsection (1A) VCAT may by order direct the licensing authority to—
- (a) accredit the applicant; or
- S. 136(2)(b)  
amended by  
No. 85/2008  
s. 8.
- (b) re-consider the application for accreditation on the basis that a ground set out in section 132D(1)(a) or (ab) is not a ground for refusal; or
- S. 136(2)(c)  
amended by  
No. 19/2010  
s. 25(3).
- (c) reinstate the accreditation and not disqualify the applicant from applying for accreditation of that kind; or
- S. 136(2)(d)  
amended by  
No. 19/2010  
s. 25(4).
- (d) re-consider the cancellation and disqualification on the basis that cancellation and disqualification is not required under section 135A(3).
- S. 136(3)  
amended by  
No. 35/2014  
s. 46(2).
- (3) VCAT must not make an order applied for under subsection (1A) unless it is satisfied that the applicant has demonstrated that holding the accreditation is appropriate having regard to the purpose of accreditation set out in section 130.
- (4) In making an order under subsection (2) in a matter involving a tier 1 offence VCAT may have regard to—
- (a) any matter referred to in section 132F(2)(a) to (j); and
- (b) any other matter that VCAT considers relevant.

(5) The licensing authority must comply with an order made by VCAT under subsection (2).

(6) If VCAT refuses to make an order applied for under subsection (1A), VCAT may by order disqualify the person from applying for accreditation of the kind to which the application relates for a period not exceeding 5 years.

S. 136(6)  
inserted by  
No. 19/2010  
s. 25(5).

(7) A period of disqualification under an order under subsection (6) may be in substitution of a period of disqualification imposed by the licensing authority.

S. 136(7)  
inserted by  
No. 19/2010  
s. 25(5).

### 136A Review of decision by VCAT

S. 136A  
inserted by  
No. 71/2006  
s. 3.

(1) An eligible person may apply to VCAT for review of a reviewable decision.

S. 136A(1)  
substituted by  
No. 35/2014  
s. 24(1).

\* \* \* \* \*

S. 136A(2)  
amended by  
No. 19/2010  
s. 26,  
repealed by  
No. 35/2014  
s. 24(1).

(3) Subsection (1) does not apply to a decision to the extent to which an application may be made by the applicant under section 136(1A) for an order in respect of the decision.

S. 136A(3)  
amended by  
No. 35/2014  
s. 46(3).

(4) In this section—

*eligible person* has the same meaning as in  
Subdivision 6A;

S. 136A(4)  
inserted by  
No. 35/2014  
s. 24(2).

*reviewable decision* means a decision—

(a) to refuse an application for  
accreditation; or

- (b) to disqualify a person from applying for accreditation; or
- (c) to impose a condition, restriction or other limitation on an accreditation; or
- (d) to vary or revoke a condition, restriction or other limitation on an accreditation; or
- (e) to take disciplinary action; or
- (f) to serve an improvement notice.

S. 136B  
inserted by  
No. 71/2006  
s. 3.

### **136B Time period for making application to VCAT**

An application under section 136(1) or for review under section 136A(1) must be made within 28 days after the later of—

- (a) the day on which the decision of the licensing authority was made; or
- (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

## **Subdivision 8—Miscellaneous**

New s. 137  
inserted by  
No. 71/2006  
s. 3.

### **137 Accreditation cannot be transferred**

- (1) An accreditation—
  - (a) is personal to the person who holds it;
  - (b) is not capable of being transferred or assigned to any other person or otherwise dealt with by the person who holds it;
  - (c) does not vest by operation of law in any other person.

- (2) A purported transfer, assignment or lease of an accreditation and any other purported dealing with an accreditation by the person who holds it is of no effect.
- (3) The holder of an accreditation must not purport to transfer or assign it to any other person or otherwise purport to deal with it.

Penalty: 60 penalty units.

- (4) This section—
  - (a) does not apply to the surrender of an accreditation in accordance with this Division; and
  - (b) has effect despite anything in any Act or rule of law to the contrary.

**137A Holder of accreditation to notify of relevant change in circumstances**

**S. 137A  
inserted by  
No. 71/2006  
s. 3.**

- (1) If a relevant change in circumstances occurs with respect to an accreditation or an accredited person, the accredited person must notify the licensing authority of the change in writing within 7 days after becoming aware of the change.
- (2) For the purposes of subsection (1) a relevant change in circumstances is a change in circumstances—
  - (a) that has resulted or will result in any particular set out in—
    - (i) the application for the accreditation or in any document that accompanied that application or was supplied in connection with it; or
    - (ii) the certificate of accreditation—becoming inaccurate or inapplicable; or

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

S. 137A(2)(b)  
repealed by  
No. 35/2014  
s. 25(1).

\* \* \* \* \*

(c) that has resulted or will or may result in a ground for refusal of accreditation referred to in section 132D, 132E or 132F becoming applicable to the accredited person or a relevant person in relation to the accredited person.

(3) If the relevant change in circumstances has resulted or will result in any particular set out in the certificate of accreditation becoming inaccurate or inapplicable, the accredited person must surrender the certificate to the licensing authority within 7 days after becoming aware of the change.

(4) An accredited person who contravenes subsection (1) or (3) is guilty of an offence and liable to—

S. 137A(4)(a)  
amended by  
No. 35/2014  
s. 25(2).

(a) in the case of a person accredited as a taxi-cab operator, a penalty not exceeding 60 penalty units; and

(b) in the case of a person accredited as a provider of taxi-cab network services, a penalty not exceeding 240 penalty units for a natural person and 1200 penalty units for a body corporate.

S. 137A(5)  
amended by  
No. 35/2014  
s. 25(3).

(5) If a certificate of accreditation is surrendered to the licensing authority in accordance with subsection (3), the licensing authority may amend the certificate or issue a replacement certificate.

(6) The licensing authority may require a person who is a relevant person in relation to an accredited person to provide any other information or comply with any other requirement (including a criminal



records check) that the licensing authority reasonably requires to decide whether, because of a relevant change of circumstances, the accredited person is no longer a suitable person to be accredited.

- (7) A person must not fail to comply with a requirement under subsection (6).

Penalty: 20 penalty units.

**Note**

A failure to comply with subsection (6) is also a ground for taking disciplinary action against the accredited person under section 135(d).

**137B Surrender of accreditation**

**S. 137B  
inserted by  
No. 71/2006  
s. 3.**

- (1) An accredited person may apply in writing to the licensing authority for consent to the surrender of the accreditation.
- (2) An application under subsection (1) must be accompanied by the certificate of accreditation unless—
- (a) the certificate has already been returned to the licensing authority; or
  - (b) the certificate has been lost, stolen or destroyed.
- (3) If subsection (2)(b) applies, the application must be accompanied by a statement, verified by a statutory declaration signed by or on behalf of the accredited person, that the certificate has been lost, stolen or destroyed.
- (4) If an application is made in accordance with this section, the licensing authority must consent to the surrender unless it is taking, or proposing to take, action to cancel or suspend the accreditation.

- (5) Despite subsection (4), the licensing authority may impose any condition on the grant of the consent that the licensing authority reasonably considers necessary to protect the interests of a third party.

S. 137C  
inserted by  
No. 71/2006  
s. 3,  
amended by  
No. 35/2014  
s. 26.

### **137C False representation in relation to accreditation**

A person must not falsely represent that the person is accredited under this Division or holds an accreditation under this Division of a specified kind.

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

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

S. 137D  
inserted by  
No. 71/2006  
s. 3.

### **137D Communication with responsible person**

If an accredited person is not an individual, the licensing authority is entitled to communicate at any time in relation to the accreditation with the person who is the responsible person in relation to the accredited person.

S. 137E  
inserted by  
No. 71/2006  
s. 3 (as  
amended by  
No. 69/2007  
s. 82).

### **137E Regulations**

- (1) The Governor in Council may make regulations for or with respect to—
- (a) accreditations under this Division, including, but not limited to, conditions to which accreditations, or any class of accreditation, are subject; and

S. 137E(1)(b)  
repealed by  
No. 71/2006  
s. 19(2).

\* \* \* \* \*

- (c) any other matter or thing required or permitted by this Division to be prescribed or necessary to be prescribed to give effect to this Division.
- (2) Without limiting subsection (1)(a), conditions prescribed under that subsection may include conditions relating to—
  - (a) the keeping of records, including records as to gross revenue earned and complaints received and how dealt with;
  - (b) the submission of information (including copies of records) to the licensing authority;
  - (c) the inspection or auditing of records; S. 137E(2)(c) amended by No. 35/2014 s. 27(1).
  - (d) the safety of taxi-cab drivers, customers and members of the public; S. 137E(2)(d) inserted by No. 35/2014 s. 27(2).
  - (e) customer service; S. 137E(2)(e) inserted by No. 35/2014 s. 27(2).
  - (f) complaint handling processes; S. 137E(2)(f) inserted by No. 35/2014 s. 27(2).
  - (g) education and training; S. 137E(2)(g) inserted by No. 35/2014 s. 27(2).

S. 137E(2)(h)  
inserted by  
No. 35/2014  
s. 27(2).

- (h) in the case of an accreditation as a provider of taxi-cab network services, a requirement to implement disciplinary procedures that are to apply when a taxi-cab driver or operator to whom the provider provides taxi-cab network services fails to comply with the agreement under which those services are provided.
- (3) Any regulations made under this section—
- (a) may be of general or of specially limited application; and
  - (b) may differ according to differences in time, place or circumstance; and
  - (c) may prescribe penalties of not more than 20 penalty units for any contravention of the regulations; and
  - (d) may confer a power or discretionary authority on a person or a class of person; and
  - (e) may apply adopt or incorporate (with or without modification) any matter contained in a document as in force at the time the regulations are made or at any time before then; and
  - (f) may provide for the exemption of a specified person or thing or a specified class of person or thing from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.

## Division 5—Commercial passenger vehicles<sup>6</sup>

### 138 Application of Division

This Division shall not apply with respect to any motor vehicle while being used exclusively—

- (a) by a commercial traveller in the ordinary course of his business and carrying one or more other commercial travellers on a journey connected with the employment of such other commercial traveller or travellers as such; or
- (b) for the purposes of essential emergency transport of persons necessitated by failure break-down or stoppage of the ordinary passenger transport service in cases where the facts relating to such emergency transport are reported by the owner of the vehicle so used to the licensing authority within seven days after the act of transport is completed;
- (c) for the purposes of providing ambulance services (within the meaning of the **Ambulance Services Act 1986**) or for providing non-emergency patient transport services (within the meaning of the **Non-Emergency Patient Transport Act 2003**).

S. 138  
amended by  
No. 127/1986  
s. 102(Sch. 4  
item 28.6).

S. 138(b)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

S. 138(c)  
inserted by  
No. 69/2003  
s. 68.

\* \* \* \* \*

S. 138A  
inserted by  
No. 60/1994  
s. 14,  
amended by  
Nos 17/1995  
s.19(2),  
58/1995 s. 22,  
repealed by  
No. 37/1996  
s. 9(2).

### **139 Vehicles not to be operated unless licensed**

S. 139(1)  
amended by  
Nos 68/1995  
s. 43(1),  
54/2001 s. 27,  
110/2004  
s. 48(1),  
13/2009  
s. 92(6) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)).

- (1) Subject to the regulations and subsection (1B), a commercial passenger vehicle shall not operate on any highway unless it is licensed in accordance with this Division.

S. 139(1A)  
inserted by  
No. 68/1995  
s. 43(2),  
repealed by  
No. 13/2009  
s. 92(7) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)).

\* \* \* \* \*

S. 139(1B)  
inserted by  
No. 110/2004  
s. 48(2).

- (1B) A vehicle that is permitted under the laws of another State or Territory to operate as the equivalent of a commercial passenger vehicle may operate on a highway, if, in accordance with those laws—
- (a) it is used to pick up a passenger in that other State or Territory and to take the passenger to a destination in Victoria, and it operates on the highway solely for that purpose; or
  - (b) having been pre-booked to do so, it is used to pick up a passenger in Victoria for the purpose of taking the passenger to a destination in that other State or Territory, and it operates on the highway solely for that purpose; or

- (c) it is used to pick up a passenger in a State or Territory other than Victoria and to take the passenger to a destination in a State or Territory other than Victoria, and it operates on the highway solely for that purpose.

\* \* \* \* \*

S. 139(1C)  
inserted by  
No. 110/2004  
s. 48(2),  
repealed by  
No. 13/2009  
s. 92(7) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)).

- (2) Subject to this Division and Division 4 on the application of—
- (a) the owner; or
- (b) a person who intends to become the owner—
- of a commercial passenger vehicle the licensing authority may in respect of that vehicle grant that owner or intending owner a commercial passenger vehicle licence.
- (3) An application for a taxi-cab licence nominating the Melbourne Metropolitan Zone or the Urban and Large Regional Zone cannot be made, nor can the licensing authority grant such a licence, during a period of suspension in effect under section 143AA in relation to such licences.

S. 139(2)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1),  
71/2006 s. 5.

S. 139(3)  
inserted by  
No. 43/2013  
s. 4.

## 140 Application for licence

S. 140  
amended by  
No. 100/1986  
s. 9(a).

- (1) An application for a commercial passenger vehicle licence must—
- (a) be in the form approved by the licensing authority; and

S. 140(1)  
substituted by  
No. 120/1993  
s. 9,  
amended by  
No. 60/1994  
s. 15(1).

(b) contain the particulars required by the  
licensing authority.

S. 140(1A)  
inserted by  
No. 43/2013  
s. 5(1).

(1A) Without limiting subsection (1)(b), an application  
for a taxi-cab licence must nominate the taxi-cab  
zone referred to in section 143B(1) proposed to be  
specified in the licence.

S. 140(1B)  
inserted by  
No. 43/2013  
s. 5(2).

(1B) Without limiting subsection (1)(b), an application  
for a hire car licence must nominate the hire car  
zone referred to in section 142A(1) proposed to be  
specified in the licence.

S. 140(2)  
inserted by  
No. 100/1986  
s. 9(b).

(2) An application for a commercial passenger  
vehicle licence must be accompanied by the  
appropriate application fee determined under  
section 147B.

#### **141 Public commercial passenger vehicles**

S. 141(1)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 8.3),  
37/1996  
s. 9(3)(a),  
32/2002  
s. 8(a).

(1) Section 146 does not apply in relation to an  
application for a commercial passenger vehicle  
licence in respect of a vehicle which is to operate  
as a public commercial passenger vehicle or in  
relation to a commercial passenger vehicle licence  
granted in respect of such a vehicle.

S. 141(2)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
items 5, 8.4),  
60/1994  
s. 16(1),  
repealed by  
No. 37/1996  
s. 9(3)(b).

\* \* \* \* \*



Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

*	*	*	*	*	S. 141(3) amended by Nos 44/1989 s. 40(Sch. 1 items 5, 8.3), 60/1994 s. 16(1)(2) (a)(b), repealed by No. 37/1996 s. 9(3)(b).
*	*	*	*	*	S. 141(4) amended by Nos 44/1989 s. 40(Sch. 1 items 5, 8.4), 60/1994 s. 16(1), repealed by No. 37/1996 s. 9(3)(b)
(5) Notwithstanding anything in this section no commercial passenger vehicle shall be operated by or under contract with the Public Transport Development Authority or any other public authority unless there has been paid in respect of that vehicle to the Roads Corporation an amount equal to the fees payable under the <b>Road Safety Act 1986</b> for the registration or renewal of registration of the vehicle as a motor vehicle.					S. 141(5) amended by Nos 127/1986 s. 102(Sch. 4 item 28.7), 44/1989 s. 40(Sch. 1 items 15, 21), 60/1994 s. 16(1), 47/2006 s. 31(1)(Sch. 1 Pt 1 item 3), 61/2011 s. 25(Sch. 1 item 13.6).
*	*	*	*	*	S. 141A inserted by No. 10220 s. 5(1)(b), repealed by No. 32/2002 s. 8(b).

S. 141B  
inserted by  
No. 120/1993  
s. 10.

## 141B Restricted hire vehicles

S. 141B(1)  
repealed by  
No. 32/2002  
s. 8(c).

\* \* \* \*

S. 141B(2)  
amended by  
No. 58/1995  
s. 23.

- (2) Subject to this Division, the licensing authority must not grant an application for a restricted hire vehicle licence unless satisfied that the applicant is a fit and proper person to hold such a licence.
- (3) A restricted hire vehicle licence is not transferable to any other person.

S. 142  
amended by  
Nos 10220  
s. 5(1)(c)(i)(ii),  
100/1986  
s. 10(a)–(d),  
44/1989  
s. 40(Sch. 1  
items 8.3, 8.4,  
13), 120/1993  
s. 11(1)–(7),  
58/1995  
s. 24(1)(2),  
substituted by  
No. 32/2002  
s. 9.

## 142 Hire cars and special purpose vehicles

S. 142(1)  
amended by  
No. 95/2005  
s. 35(1),  
substituted by  
No. 43/2013  
s. 6(1).

- (1) In this section—  
*the relevant date* means the commencement of  
section 6(1) of the **Transport Legislation  
Amendment (Foundation Taxi and Hire  
Car Reforms) Act 2013**.

S. 142(1AA)  
inserted by  
No. 43/2013  
s. 6(1).

- (1AA) Subject to this Division, if the licensing authority receives, on or after the relevant date, an application for a hire car licence that complies with section 140 and that under section 140(1B) nominates the Metropolitan Hire Car Zone, the licensing authority must grant the application if

satisfied that the applicant is a fit and proper person to hold such a licence.

(1AB) Subject to this Division, if the licensing authority receives, on or after the relevant date, an application for a hire car licence that complies with section 140 and that under section 140(1B) nominates the Country Hire Car Zone, the licensing authority must not grant the application unless satisfied that the applicant is a fit and proper person.

S. 142(1AB)  
inserted by  
No. 43/2013  
s. 6(1).

(1AC) Subject to this Division, the licensing authority may refuse to grant an application covered by subsection (1AB) if, after having had regard to the interests of existing and future users of hire car services in any particular district or districts in the Country Hire Car Zone within which the service is proposed to be provided, it considers that to grant the application would not be in the interests of those users.

S. 142(1AC)  
inserted by  
No. 43/2013  
s. 6(1).

(1AD) Subject to this Division, if the licensing authority receives, on or after the relevant date, an application for a special purpose vehicle licence that complies with section 140, the licensing authority must grant the application if satisfied that the applicant is a fit and proper person to hold such a licence.

S. 142(1AD)  
inserted by  
No. 43/2013  
s. 6(1).

(1A) The licensing authority cannot specify in a hire car licence granted under this section a hire car zone referred to in section 142A(1) other than the one nominated under section 140(1B) in the application for the licence.

S. 142(1A)  
inserted by  
No. 95/2005  
s. 35(2),  
substituted by  
No. 43/2013  
s. 6(2).

(2) Subject to subsection (7), a fee must be paid for a hire car licence or a special purpose vehicle licence granted on or after 9 May 2002.

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 142(2A)  
inserted by  
No. 43/2013  
s. 6(3).

(2A) The fee for a hire car licence in which the Metropolitan Hire Car Zone is specified is \$40 000.

S. 142(2B)  
inserted by  
No. 43/2013  
s. 6(3).

(2B) The fee for a hire car licence in which the Country Hire Car Zone is specified is \$20 000.

S. 142(3)  
amended by  
No. 43/2013  
s. 6(4).

- (3) The fee for a special purpose vehicle licence is an amount determined from time to time by the Minister by Order published in the Government Gazette.
- (4) Subject to subsection (5), the fee is payable—
- (a) if the licence is granted before the day on which the **Transport (Further Miscellaneous Amendments) Act 2002** receives the Royal Assent—within the period after that day specified by the licensing authority; or
  - (b) in any other case—before the licence is granted.
- (5) The licensing authority may allow a licence fee to be paid by instalments and may issue a certificate evidencing the grant of the licence on the payment of the first instalment.
- (6) The licensing authority may suspend or cancel a licence if—
- (a) an instalment is not paid by the due date; or
  - (b) in the case of a licence referred to in subsection (4)(a), the licence fee is not paid within the period specified under that subsection.

- (7) This Act, as in force immediately before 9 May 2002, continues to apply to the granting of a hire car licence or a special purpose vehicle licence if the application for the licence was made before that day.
- (8) Section 143 does not apply to the granting or refusal of a hire car licence or a special purpose vehicle licence if the application for the licence is made on or after 9 May 2002.
- (9) An application for a hire car licence or a special purpose vehicle licence that was made before the relevant date but which had not been determined under this section before that date must be dealt with, and be determined, under this section as in force after that date.
- (10) For the purpose of subsection (9) the licensing authority may require the applicant to provide any further particulars that it requires including, in the case of an application for a hire car licence, the nomination of the hire car zone referred to in section 142A(1) proposed to be specified in the licence.

S. 142(9)  
inserted by  
No. 43/2013  
s. 6(5).

S. 142(10)  
inserted by  
No. 43/2013  
s. 6(5).

#### **142A Hire car zones**

S. 142A  
inserted by  
No. 43/2013  
s. 7.

- (1) The following hire car zones are established—
  - (a) Metropolitan Hire Car Zone;
  - (b) Country Hire Car Zone.
- (2) The Metropolitan Hire Car Zone comprises all areas covered by the taxi-cab zones known as the Melbourne Metropolitan Zone and the Urban and Large Regional Zone, as in existence from time to time.
- (3) The Country Hire Car Zone comprises all areas covered by the taxi-cab zones known as the Regional Zone and the Country Zone, as in existence from time to time.

- (4) Subsection (5) applies to a hire car licence granted under section 142 before the commencement of section 7 of the **Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013** (*new zone commencement*) if an address from which the hire car primarily operates (*operational address*) is specified in the licence immediately before that commencement.
- (5) The licence has effect on and after the new zone commencement as if it specified the hire car zone referred to in subsection (1) within which the operational address for the hire car specified in the licence immediately before that commencement is located.
- (6) Subsection (7) applies to a hire car licence granted under section 142 before the new zone commencement that does not specify an operational address for the hire car.
- (7) The licensing authority may, without limiting section 146, on its own motion and for reasons stated in writing sent to the licence holder, alter the licence so as to specify in it one of the hire car zones referred to in subsection (1).
- (8) Without limiting section 144, a licence to which subsection (7) applies that is altered under that subsection is, on and from that alteration, subject to the conditions implied by—
  - (a) section 144(1)(be); and
  - (b) section 144(1)(bf) or (bg), as the case requires.

### 143 Taxi-cab licences

S. 143  
(Heading)  
inserted by  
No. 32/2002  
s. 10(1).

(1) In this section—

*the relevant date* means the commencement of  
section 8(1) of the **Transport Legislation  
Amendment (Foundation Taxi and Hire  
Car Reforms) Act 2013**.

S. 143(1)  
amended by  
Nos 10220  
s. 5(1)(d),  
12/1989  
s. 4(1)(Sch. 2  
item 120.7),  
44/1989  
s. 40(Sch. 1  
items 8.3, 22),  
120/1993  
s. 12(1),  
60/1994  
s. 15(1),  
54/2001  
s. 25(Sch.  
item 1.63),  
32/2002  
s. 10(2)(a),  
71/2006  
s. 6(1),  
substituted by  
No. 43/2013  
s. 8(1).

(1A) Subject to this Division, if the licensing authority receives, on or after the relevant date, an application for a taxi-cab licence that complies with section 140 and that under section 140(1A) nominates the Melbourne Metropolitan Zone or the Urban and Large Regional Zone, the licensing authority must grant the application.

S. 143(1A)  
inserted by  
No. 43/2013  
s. 8(1).

(1B) Subject to this Division, if the licensing authority receives, on or after the relevant date, an application for a taxi-cab licence that complies with section 140 and that under section 140(1A) nominates the Regional Zone or the Country Zone, the licensing authority, before granting or refusing to grant the application, must have regard to the interests of existing and future users of taxi-cab services in any particular district or districts in

S. 143(1B)  
inserted by  
No. 43/2013  
s. 8(1).

the Zone within which the service is proposed to be provided.

S. 143(1C)  
inserted by  
No. 43/2013  
s. 8(1).

- (1C) Subject to this Division, the licensing authority may refuse to grant an application covered by subsection (1B) if it considers that to grant it would not be in the interests of existing and future users as described in that subsection.

S. 143(2)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 8.3),  
120/1993  
s. 12(1),  
60/1994  
s. 15(1),  
substituted by  
No. 43/2013  
s. 8(1).

- (2) A new taxi-cab licence remains in force unless it is surrendered, suspended, cancelled or revoked in accordance with this Division.

S. 143(2A)  
inserted by  
No. 71/2006  
s. 6(2),  
amended by  
No. 43/2013  
s. 8(2).

- (2A) The licensing authority must not grant a taxi-cab licence unless the applicant is accredited under Division 4 as a taxi-cab operator.

S. 143(2B)  
inserted by  
No. 71/2006  
s. 6(2),  
repealed by  
No. 43/2013  
s. 8(3).

\* \* \* \* \*



- |  |  |
|--|--|
| <p>(3) The licensing authority cannot specify in a taxi-cab licence granted under this section a taxi-cab zone referred to in section 143B(1) other than the one nominated under section 140(1A) in the application for the licence.</p>                                 | <p>S. 143(3) amended by Nos 44/1989 s. 40(Sch. 1 item 8.4), 120/1993 s. 12(2), 60/1994 s. 15(1), 37/1996 s. 9(4)(a)(b), 32/2002 s. 10(2)(b), substituted by No. 43/2013 s. 8(4).</p> |
| <p>(4) An application for a taxi-cab licence that was made before the relevant date but which had not been determined under this section before that date must be dealt with, and be determined, under this section as in force after that date.</p>                     | <p>S. 143(4) inserted by No. 32/2002 s. 10(3), substituted by No. 43/2013 s. 8(5).</p>   |
| <p>(5) For the purpose of subsection (4) the licensing authority may require the applicant to provide any further particulars that it requires including the nomination of the taxi-cab zone referred to in section 143B(1) proposed to be specified in the licence.</p> | <p>S. 143(5) inserted by No. 43/2013 s. 8(5).</p>  |
| <p>*            *            *            *            *</p>   | <p>S. 143AA inserted by No. 43/2013 s. 9, expired by force of No. 9921 s. 143AA(5).</p>  |

### **143AB Nature of new taxi-cab licence**

A new taxi-cab licence—

- (a) is a mere permission for the taxi-cab to be operated on a highway;
- (b) is not personal property;
- (c) does not vest by operation of law in any other person;

S. 143AB inserted by No. 43/2013 s. 9.

- (d) may be transferred in accordance with this Division but cannot otherwise be dealt with by the person who holds it;
- (e) cannot be assigned;
- (f) may be surrendered, suspended, cancelled or revoked in accordance with this Division.

S. 143A  
inserted by  
No. 100/1986  
s. 11(1).

**143A Power to make Orders for the granting of taxi-cab licences in taxi-cab zones**

S. 143A(1)  
amended by  
No. 99/1998  
s. 4.

- (1) The Minister may, by Order published in the Government Gazette—
  - (a) proclaim an area or areas as a taxi-cab zone or zones;
  - (b) specify whether the fees to be paid for taxi-cab licences are to be determined by tender or are to be a fixed price;
  - (c) specify the classes of people and the qualifications of people eligible to apply and the procedures to be followed for the granting of taxi-cab licences;
  - (d) specify the particulars that must be included in an application for a taxi-cab licence;
  - (e) specify the date by which applications for taxi-cab licences must be lodged with the licensing authority;

S. 143A(1)(e)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

- (f) provide that all applications for taxi-cab licences to operate in a proclaimed zone made before a specified time are to lapse.

S. 143A(1A)  
inserted by  
No. 43/2013  
s. 10(1).

- (1A) The Minister must not make an Order under this section on or after the commencement of section 10(1) of the **Transport Legislation**

**Amendment (Foundation Taxi and Hire Car Reforms) Act 2013.**

- (2) Subject to an Order, on the application of—
- (a) the owner; or
  - (b) a person who intends to become the owner—
- of a taxi-cab, the licensing authority may grant the owner or intending owner a taxi-cab licence.
- (3) If an Order specifies that a fixed price method be adopted for granting licences, the Order must also specify the price.
- (4) A fee must be paid for a taxi-cab licence.
- (5) If the fixed price method is adopted for granting licences, the fixed price is the licence fee payable.
- (6) If the tender method is adopted for granting licences, the amount specified in the tender is the licence fee payable.
- (7) An application for a taxi-cab licence must be accompanied by—
- (a) any particular required by the Order; and
  - (b) the appropriate application fee determined under section 147B.
- (8) The licensing authority may grant taxi-cab licences to applicants at any time within one year of the closing date for applications.
- (9) On granting a licence, the licensing authority may give to the licence holder a certificate evidencing the grant of the licence.

S. 143A(2)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

S. 143A(8)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

S. 143A(9)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 143A(10)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

- (10) The licensing authority may allow a licence fee to be paid by instalments and may issue a certificate evidencing the grant of the licence on the payment of the first instalment.

S. 143A(11)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

- (11) The licensing authority may suspend or cancel a licence if an instalment is not paid by the due date.

S. 143A(12)  
inserted by  
No. 71/2006  
s. 7.

- (12) The licensing authority must not grant a taxi-cab licence to operate in an area proclaimed as a taxi-cab zone under this section unless the owner or intending owner is accredited under Division 4 as a taxi-cab licence holder.

S. 143A(13)  
inserted by  
No. 71/2006  
s. 7.

- (13) The licensing authority must not grant a taxi-cab licence (being a licence to operate in an area proclaimed as a taxi-cab zone under this section) to which a condition referred to in section 143D(1)(b) is to be attached unless the owner or intending owner is accredited under Division 4 as a taxi-cab operator.

S. 143A(14)  
inserted by  
No. 43/2013  
s. 10(2).

- (14) Subsection (15) applies to an application (made before the commencement of section 10(2) of the **Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013** but which had not been determined under this section before that commencement) for a taxi-cab licence to operate in an area proclaimed as a taxi-cab zone under this section.

S. 143A(15)  
inserted by  
No. 43/2013  
s. 10(2).

- (15) The application lapses on the commencement referred to in subsection (14).

S. 143A(16)  
inserted by  
No. 43/2013  
s. 10(2).

- (16) However, the applicant may, within 14 days after that commencement, request the licensing authority to treat the application as if it were an

application made under section 139 for the grant of a taxi-cab licence under section 143.

- (17) The licensing authority may require the applicant to provide any further particulars that it requires including the nomination of the taxi-cab zone referred to in section 143B(1) proposed to be specified in the licence. **S. 143A(17) inserted by No. 43/2013 s. 10(2).**
- (18) If the licensing authority agrees to the applicant's request, the application ceases to be lapsed and must be dealt with, and be determined, in accordance with this Division as if it were an application made under section 139 after the commencement referred to in subsection (14). **S. 143A(18) inserted by No. 43/2013 s. 10(2).**

#### **143B Taxi-cab zones**

- (1) The following taxi-cab zones are established— **S. 143B inserted by No. 100/1986 s. 11(1), repealed by No. 99/1998 s. 5, new s. 143B inserted by No. 43/2013 s. 11 (as amended by No. 35/2014 s. 47).**
- (a) Melbourne Metropolitan Zone;
  - (b) Urban and Large Regional Zone;
  - (c) Regional Zone;
  - (d) Country Zone.
- (2) Subject to subsections (3) and (4), the licensing authority may, by notice published in the Government Gazette—
- (a) determine the boundaries of a zone referred to in subsection (1); and
  - (b) alter the boundaries of any such zone then in existence.
- (3) In determining the boundaries of the Urban and Large Regional Zone under subsection (2)(a), the licensing authority must include within those boundaries—
- (a) the Outer Suburban Taxi-Cab Zone as described in Schedule 1 to the Order made under section 143A on 17 June 2010 and

published in the Government Gazette  
(No. S246) on 28 June 2010; and

- (b) the Port Philip Taxi-Cab Zone as described in Schedule 1 to the Order made under section 143A on 16 November 2011 and published in the Government Gazette (No. S370) on 16 November 2011.
- (4) The licensing authority does not have power under subsection (2)(b) to alter the boundaries of the Urban and Large Regional Zone in such a way that it no longer would include the whole of both the Zones referred to in paragraphs (a) and (b) of subsection (3).
- (5) Subject to subsection (6), the boundaries of a zone may be so determined that there is an area of overlap between two adjoining zones.
- (6) An area of overlap cannot have any point within that area that is more than 3 kilometres from any point in either of the two adjoining zones that is outside that area.
- (6A) Despite anything to the contrary in this section, the licensing authority may include within a Zone the area comprising Avalon Airport despite that area also being included within another Zone.
- (7) Subsection (8) applies to a taxi-cab licence granted under section 143 or 143A before the commencement of section 11 of the **Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013** (*new zone commencement*) if an area within which the taxi-cab may accept a hail or rank hiring (*old taxi-cab zone*) is specified in the licence immediately before that commencement.

- (8) The licence has effect on and after the new zone commencement as if it specified the taxi-cab zone referred to in subsection (1) (*new taxi-cab zone*) within which the area comprised in the old taxi-cab zone falls or, if that area falls within more than one new taxi-cab zone, the new taxi-cab zone within which more of that area falls than any other.
- (9) Except for the purposes of subsection (8), a taxi-cab zone proclaimed by an Order made under section 143A before the new zone commencement ceases to exist on that commencement.
- (10) Subsection (11) applies to a taxi-cab licence granted under section 143 or 143A before the new zone commencement that does not specify an area within which the taxi-cab may accept a hail or rank hiring.
- (11) The licensing authority may, without limiting section 146 or 146AAA, on its own motion and for reasons stated in writing sent to the licence holder, alter the licence so as to specify in it one of the taxi-cab zones referred to in subsection (1), being a taxi-cab zone that comprises an area within which the taxi-cab had previously been accepting hail or rank hirings.
- (12) Without limiting section 144, a licence to which subsection (11) applies that is altered under that subsection is, on and from that alteration, subject to the conditions implied by—
  - (a) section 144(1)(ba); and
  - (b) section 144(1)(bb), (bc) or (bd), as the case requires.

S. 143C  
inserted by  
No. 120/1993  
s. 13,  
amended by  
No. 60/1994  
s. 15(1).

### **143C Review by Tribunal of refusal to grant licence**

S. 143C(1)  
amended by  
No. 52/1998  
s. 311(Sch. 1  
items 96.6,  
96.7 (ILA  
s. 39B(1))).

- (1) An applicant may apply to the Tribunal for review of a decision by the licensing authority to refuse to grant an application for a commercial passenger vehicle licence other than an application in respect of a vehicle which is to operate as a public commercial passenger vehicle.

S. 143C(2)  
inserted by  
No. 52/1998  
s. 311(Sch. 1  
item 96.7).

- (2) An application for review must be made within 28 days after the later of—
  - (a) the day on which the decision is made;
  - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the applicant requests a statement of reasons for the decision, the day on which the statement of reasons is given to the applicant or the applicant is informed under section 46(5) of that Act that a statement of reasons will not be given.

S. 143D  
inserted by  
No. 101/2003  
s. 4.

### **143D Condition forbidding transfer of taxi-cab licence**

- (1) In issuing a taxi-cab licence, the licensing authority may attach one or more of the following conditions to the licence—
  - (a) that the licence cannot be transferred, or cannot be transferred for a specified period;
  - (b) that the licence cannot be assigned, or cannot be assigned for a specified period.
- (2) The licensing authority may not attach such a condition in respect of a taxi-cab licence granted under section 143A unless the relevant Order under that section stated that the licence would be subject to that condition.



- (3) Despite section 146, the licensing authority cannot remove or alter a condition attached to a licence under subsection (1).
- (4) This section does not apply to a new taxi-cab licence.

S. 143D(4)  
inserted by  
No. 43/2013  
s. 12.

#### 144 Conditions

- (1) Subject to subsection (1AA), the following shall be implied conditions of every commercial passenger vehicle licence—
  - (a) that the vehicle is maintained in a fit and serviceable condition;
  - (b) that in relation to the vehicle, the provisions of any Act or regulation thereunder with respect to—
    - (i) the manner in which and the persons by whom the vehicle may be driven;
    - (ii) the number of passengers that may be carried in the vehicle;
    - (iii) the construction equipment and condition of the vehicle; and
    - (iv) limitation of hours of driving—are complied with; and
  - (ba) subject to paragraphs (bb), (bc), (bd) and (bda), in the case of a commercial passenger vehicle that is a taxi-cab, that the vehicle may only pick up a passenger within the taxi-cab zone referred to in section 143B(1) that is specified in the licence; and

S. 144(1)  
amended by  
Nos 100/1986  
s. 12, 120/1993  
s. 14(1)(a).

S. 144(1)(b)(i)  
amended by  
No. 120/1993  
s. 14(1)(b).

S. 144(1)(ba)  
inserted by  
No. 43/2013  
s. 13(1) (as  
amended by  
No. 35/2014  
s. 48(1)(2)).

S. 144(1)(bb)  
inserted by  
No. 43/2013  
s. 13(1) (as  
amended by  
No. 35/2014  
s. 48(1)(2)).

(bb) in the case of a commercial passenger vehicle that is a taxi-cab in the licence of which the Melbourne Metropolitan Zone is specified, that the vehicle may, if pre-booked to do so, pick up a passenger outside that Zone and drop him or her off in any Zone but cannot drop off a passenger picked up in the Urban and Large Regional Zone in the Urban and Large Regional Zone; and

S. 144(1)(bc)  
inserted by  
No. 43/2013  
s. 13(1) (as  
amended by  
No. 35/2014  
s. 48(1)(2)).

(bc) in the case of a commercial passenger vehicle that is a taxi-cab in the licence of which the Urban and Large Regional Zone is specified, that the vehicle may, if pre-booked to do so, pick up a passenger outside that Zone and drop him or her off in any Zone but cannot drop off a passenger picked up in the Melbourne Metropolitan Zone in the Melbourne Metropolitan Zone and may only drop him or her off in another Zone if that Zone is specified for that taxi-cab by a notice published under subsection (1BA); and

S. 144(1)(bd)  
inserted by  
No. 43/2013  
s. 13(1) (as  
amended by  
No. 35/2014  
s. 48(1)(2)).

(bd) in the case of a commercial passenger vehicle that is a taxi-cab in the licence of which the Regional Zone is specified, that the vehicle may, if pre-booked to do so, pick up a passenger outside that Zone and drop him or her off in any Zone but cannot drop off a passenger picked up in the Melbourne Metropolitan Zone or the Urban and Large Regional Zone in the Zone in which he or she was picked up and may only drop him or her off in another Zone if that Zone is specified for that taxi-cab by a notice published under subsection (1BA); and

- (bda) in the case of a commercial passenger vehicle that is a taxi-cab in the licence of which the Country Zone is specified, that the vehicle may, if pre-booked to do so, pick up a passenger outside that Zone and drop him or her off in any Zone but cannot drop off a passenger picked up in a Zone other than the Country Zone in the Zone in which he or she was picked up and may only drop him or her off in another Zone if that Zone is specified for that taxi-cab by a notice published under subsection (1BA); and
- (be) subject to paragraphs (bf) and (bg), in the case of a commercial passenger vehicle that is a hire car, that the vehicle may only pick up, and drop off, a passenger in the hire car zone referred to in section 142A(1) that is specified in the licence and only if it has been pre-booked to do so; and
- (bf) in the case of a commercial passenger vehicle that is a hire car in the licence of which the Melbourne Metropolitan Hire Car Zone is specified, that the vehicle may, if pre-booked to do so, pick up a passenger in the Melbourne Metropolitan Hire Car Zone and drop him or her off in the Country Hire Car Zone or pick up a passenger in the Country Hire Car Zone and drop him or her off in or outside that Zone; and
- (bg) in the case of a commercial passenger vehicle that is a hire car in the licence of which the Country Hire Car Zone is specified, that the vehicle may, if pre-booked to do so, pick up a passenger in the Melbourne Metropolitan Hire Car Zone and drop him or her off in the Country Hire Car Zone or pick up a passenger in the Country

S. 144(1)(bda)  
inserted by  
No. 43/2013  
s. 13(1) (as  
amended by  
No. 35/2014  
s. 48(1)(2)).

S. 144(1)(be)  
inserted by  
No. 43/2013  
s. 13(2).

S. 144(1)(bf)  
inserted by  
No. 43/2013  
s. 13(2).

S. 144(1)(bg)  
inserted by  
No. 43/2013  
s. 13(2).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 144(1)(c)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 8.3),  
60/1994  
s. 15(1),  
19/2010 s. 27.

- Hire Car Zone and drop him or her off in the Melbourne Metropolitan Hire Car Zone; and
- (c) in the case of a commercial passenger vehicle that is not a taxi-cab, that the vehicle is not, without the consent in writing of the licensing authority, operated by any person other than the owner or a person employed by the owner; and

S. 144(1)(d)  
inserted by  
No. 100/1986  
s. 12,  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 8.3),  
120/1993  
s. 14(1)(c),  
60/1994  
s. 15(1),  
99/1998  
s. 6(1).

- (d) that if the licence holder does not commence to operate a commercial passenger vehicle service within 90 days of being sent notice by the licensing authority that it has granted the licence, the licensing authority may cancel the licence; and

S. 144(1)(da)  
inserted by  
No. 43/2013  
s. 24(1).

- (da) in the case of a commercial passenger vehicle that is a taxi-cab, that no taxi non-cash payment surcharge of a kind to which section 144C applies is to be collected in the taxi-cab; and

S. 144(1)(db)  
inserted by  
No. 43/2013  
s. 24(2) (as  
amended by  
No. 35/2014  
s. 50(1)).

- (db) in the case of a commercial passenger vehicle that is a taxi-cab in the licence of which the Melbourne Metropolitan Zone or the Urban and Large Regional Zone is specified, that no fare or hiring rate is to be charged that is in excess of that permitted by a determination made by the ESC under Division 5A; and

- |   |   |
|---|---|
| (dc) in the case of a commercial passenger vehicle that is a taxi-cab in the licence of which the Regional Zone or the Country Zone is specified, that no fare or hiring rate is to be charged that is in excess of that notified to, and published by, the licensing authority under Division 5AB; and | S. 144(1)(dc) inserted by No. 43/2013 s. 24(2) (as amended by No. 35/2014 s. 50(1)).  |
| (e) that any direction given by the licensing authority or a delegate of the licensing authority under section 146AA is complied with.  | S. 144(1)(e) inserted by No. 99/1998 s. 6(1).   |
| (1AA) Subsection (1) applies in respect of a restricted hire vehicle licence as if in paragraph (c) for the expression "owner or a person employed by the owner" there were substituted the expression "licence holder or a person employed by the licence holder".                                     | S. 144(1AA) inserted by No. 120/1993 s. 14(2).  |
| (1A) A person who breaches the licence condition implied by subsection (1)(a), (1)(db), (1)(dc) or (1)(e) is guilty of an offence.<br><br>Penalty: 10 penalty units for a first offence;<br>20 penalty units for a subsequent offence.  | S. 144(1A) inserted by No. 100/1986 s. 12, amended by Nos 99/1998 s. 6(2), 43/2013 s. 24(3) (as amended by No. 35/2014 s. 50(2)). |
| (1B) The licensing authority may cancel a licence if the licence condition implied by subsection (1)(d) is breached.  | S. 144(1B) inserted by No. 100/1986 s. 12, amended by Nos 44/1989 s. 40(Sch. 1 item 8.4), 60/1994 s. 15(1).                       |

S. 144(1BA)  
inserted by  
No. 43/2013  
s. 13(2A) (as  
amended by  
No. 35/2014  
s. 48(3)).

(1BA) The licensing authority, by notice published in the Government Gazette, may permit a specified commercial passenger vehicle that is a taxi-cab or a specified class of such vehicles or all such vehicles, if pre-booked to do so, to drop off a passenger picked up in a regulated zone in a taxi-cab zone referred to in section 143B(1) that is specified in the notice.

S. 144(1BB)  
inserted by  
No. 43/2013  
s. 13(2A) (as  
amended by  
No. 35/2014  
s. 48(3)).

(1BB) The licensing authority may only act under subsection (1BA) if it considers that to do so is in the interests of existing and future users of taxi-cab services in the zone proposed to be specified in the notice.

S. 144(1BC)  
inserted by  
No. 43/2013  
s. 13(2A) (as  
amended by  
No. 35/2014  
s. 48(3)).

(1BC) In subsection (1BA) regulated zone means—

- (a) for a taxi-cab in the licence of which the Urban and Large Regional Zone is specified, the Melbourne Metropolitan Zone; or
- (b) for a taxi-cab in the licence of which the Regional Zone is specified, the Melbourne Metropolitan Zone or the Urban and Large Regional Zone; or
- (c) for a taxi-cab in the licence of which the Country Zone is specified, a Zone other than the Country Zone.

S. 144(1C)  
inserted by  
No. 120/1993  
s. 14(3),  
amended by  
No. 60/1994  
s. 15(1).

(1C) The licensing authority may give consent for the purposes of subsection (1)(c) by notice published in the Government Gazette relating to all commercial passenger vehicles or to a specified commercial passenger vehicle or a specified class of commercial passenger vehicle.

S. 144(1D)  
inserted by  
No. 43/2013  
s. 13(3).

(1D) The Governor in Council may make regulations prescribing conditions that are to be additional implied conditions of every new taxi-cab licence or every new taxi-cab licence of a specified class.

- (1E) Without limiting subsection (1D), regulations made under that subsection may—
- (a) restrict the number of passengers that may be carried in a taxi-cab at any one time; or
- (b) require that any late night surcharge or holiday surcharge payable by a passenger in a taxi-cab is to be retained by the driver; or
- (c) regulate the carriage of goods in a taxi-cab.
- (2) The licensing authority may in its discretion attach to any commercial passenger vehicle licence all or any of the following conditions, namely—
- (a) that the vehicle shall operate only upon specified routes or in a specified area;
- (b) that not more than a specified number of passengers shall be carried at any one time on the vehicle;
- (c) that specified time-tables shall be observed;
- (d) that in the case of a commercial passenger vehicle that is not a taxi-cab, that reasonable fares or hiring rates are to be charged as specified in the conditions;
- (da) that any late night surcharge or holiday surcharge payable by a passenger in a taxi-cab is to be retained by the driver of the taxi-cab;
- (e) that prescribed records shall be kept;

S. 144(1E)  
inserted by  
No. 43/2013  
s. 13(3).

S. 144(2)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 5),  
120/1993  
s. 14(4)(a),  
60/1994  
ss 15(1), 16(3),  
37/1996  
s. 9(5).

S. 144(2)(d)  
substituted by  
No. 120/1993  
s. 14(4)(b),  
amended by  
Nos 28/1996  
s. 4(k),  
32/2002  
s. 10(4)(a),  
substituted by  
No. 43/2013  
s. 24(4).

S. 144(2)(da)  
inserted by  
No. 32/2002  
s. 10(4)(b),  
amended by  
No. 19/2010  
s. 75(1).

- (f) that goods shall only be carried in accordance with the conditions specified; and
- S. 144(2)(g) amended by Nos 44/1989 s. 40(Sch. 1 item 8.3), 120/1993 s. 14(4)(a), 60/1994 s. 15(1).
- (g) such other conditions appropriate to the service to be provided as the licensing authority thinks proper to impose in the public interest.
- S. 144(2A) inserted by No. 43/2013 s. 13(4).
- (2A) Subsection (2) does not apply to a new taxi-cab licence.
- S. 144(2B) inserted by No. 43/2013 s. 13(4).
- (2B) The licensing authority may attach to a new taxi-cab licence a condition of any kind that is not inconsistent with any implied condition of that licence.
- S. 144(2C) inserted by No. 43/2013 s. 13(4).
- (2C) Neither regulations under subsection (1D) nor the licensing authority under subsection (2B) may make a new taxi-cab licence subject to a condition specifying the hours during which the taxi-cab must operate or limiting the hours during which it may operate.
- S. 144(3) inserted by No. 32/2002 s. 10(5).
- (3) In addition to the conditions implied by subsection (1), the following are implied conditions of every taxi-cab licence—
- (a) that wireless equipment capable of transmitting images or data obtained from the use of a surveillance camera installed in the taxi-cab must not be installed in the taxi-cab; and



- 
- |  |  |
|--|--|
| <p style="padding-left: 40px;">(b) that equipment capable of making an audio recording, other than an emergency warning device, must not be installed in the taxi-cab.</p>   |  |
| <p>(4) A person who breaches a licence condition implied by subsection (3) is guilty of an offence.</p> <p style="padding-left: 20px;">Penalty: 10 penalty units for a first offence;<br/>20 penalty units for a subsequent offence.</p>   | <p>S. 144(4)<br/>inserted by<br/>No. 32/2002<br/>s. 10(5).</p>   |
| <p>(5) If a taxi-cab licence is subject to the condition referred to in subsection (2)(da) or, in the case of a new taxi-cab licence, such a condition is an additional implied condition of the taxi-cab licence by force of any regulation made under subsection (1D), a late night surcharge or holiday surcharge paid by a passenger in a taxi-cab may be retained by the driver of the taxi-cab despite any provision of any contract or agreement to the contrary.</p> | <p>S. 144(5)<br/>inserted by<br/>No. 32/2002<br/>s. 10(5),<br/>amended by<br/>No. 19/2010<br/>s. 75(2),<br/>substituted by<br/>No. 43/2013<br/>s. 13(5).</p> |
| <p>(6) Subsection (5) applies irrespective of whether the contract or agreement was entered into before or after the time at which the licence became subject to the condition referred to in that subsection.</p>   | <p>S. 144(6)<br/>inserted by<br/>No. 32/2002<br/>s. 10(5),<br/>substituted by<br/>No. 43/2013<br/>s. 13(6).</p>  |
| <p>(7) Subsections (2)(da) and (3) apply to a taxi-cab licence (other than a new taxi-cab licence) whether granted before or after the commencement of section 10 of the <b>Transport (Further Miscellaneous Amendments) Act 2002</b>.</p>   | <p>S. 144(7)<br/>inserted by<br/>No. 32/2002<br/>s. 10(5),<br/>amended by<br/>No. 43/2013<br/>ss 13(7), 24(5).</p>   |
| <p style="text-align: center;">*                      *                      *                      *</p>  | <p>S. 144(8)<br/>inserted by<br/>No. 32/2002<br/>s. 10(5),<br/>repealed by<br/>No. 43/2013<br/>s. 24(6).</p>   |

S. 144(9)  
inserted by  
No. 32/2002  
s. 10(5).

(9) In this section—

***emergency warning device*** means an emergency warning device required to be installed in a taxi-cab under the regulations that is capable of activating an audio recording in the case of an emergency;

S. 144(9)  
def. of  
***holiday surcharge***  
inserted by  
No. 19/2010  
s. 75(3),  
substituted by  
No. 43/2013  
s. 24(7).

***holiday surcharge*** means that part of a taxi-cab fare or hiring rate specified in a price determination made by the ESC under Division 5A as a surcharge payable for the provision of services on a day, or part of a day, specified as being a holiday period in the price determination;

S. 144(9) def.  
of ***late night surcharge***  
substituted by  
No. 43/2013  
s. 24(7).

***late night surcharge*** means that part of a taxi-cab fare or hiring rate specified in a price determination made by the ESC under Division 5A as a surcharge payable for the provision of services late at night.

S. 144A  
inserted by  
No. 32/2002  
s. 11,  
amended by  
Nos 19/2010  
s. 76, 34/2011  
s. 15,  
repealed by  
No. 43/2013  
s. 25.

\* \* \* \* \*

S. 144B  
inserted by  
No. 43/2013  
s. 26.

#### **144B Meaning of taxi non-cash payment surcharge**

(1) Subject to subsection (2), a ***taxi non-cash payment surcharge*** is a fee or charge—

- (a) added to the amount otherwise payable by the hirer in respect of the hiring of a taxi-cab because the payment of the amount otherwise payable is made wholly or partly by means of a taxi non-cash payment transaction; or

- (b) payable by the owner, operator or driver of the taxi-cab or by all or any of them because the payment of an amount payable in respect of the hiring of a taxi-cab is made wholly or partly by means of a taxi non-cash payment transaction.
- (2) A *taxi non-cash payment surcharge* does not include a fee or charge that is imposed in respect of the use of a debit, credit or charge card—
- (a) by a participant in a designated payment system within the meaning of the Payment Systems (Regulation) Act 1998 of the Commonwealth and in compliance with a standard in force under section 18 of that Act; or
  - (b) by a person consistently with a voluntary undertaking given by the person to, and accepted by, the Reserve Bank of Australia.
- (3) A fee or charge may be a *taxi non-cash payment surcharge* irrespective of whether it is—
- (a) payable for accepting or processing, or both accepting and processing, payment made by means of a taxi non-cash payment transaction or for any other reason; or
  - (b) set as a percentage of the amount otherwise payable in respect of the hiring of the taxi-cab or as a fixed amount or as an amount fixed on a sliding scale of any kind or on any other basis.

S. 144C  
inserted by  
No. 43/2013  
s. 26.

### **144C Cap on taxi non-cash payment surcharges**

- (1) This section applies to a taxi non-cash payment surcharge that—
  - (a) exceeds the prescribed amount; or
  - (b) results in the prescribed amount being exceeded when that surcharge is added to any other taxi non-cash payment surcharge charged or collected, or to be charged or collected, by the same or any other person in respect of the same hiring of a taxi-cab, irrespective of whether any such surcharges are payable by the same person or by two or more persons.
- (2) A person must not—
  - (a) impose, whether directly or indirectly, a taxi non-cash payment surcharge to which this section applies; or
  - (b) directly initiate the collection in the taxi-cab of a taxi non-cash payment surcharge to which this section applies or of an amount that includes such a surcharge.

Penalty: 240 penalty units for a natural person  
and 1200 penalty units for a body  
corporate.

#### **Note**

Section 226A applies to an offence against this subsection.

- (3) A person does not commit an offence against subsection (2) because of a taxi non-cash payment surcharge charged or collected, or to be charged or collected, by another person in respect of the hiring of a taxi-cab if—
  - (a) the person presents or points to evidence that suggests a reasonable possibility that the person did not know, and could not reasonably be expected to have known, that

- the other person had charged or collected, or was to charge or collect, a taxi non-cash payment surcharge in respect of that hiring; and
- (b) the contrary is not proved (beyond reasonable doubt) by the prosecution.
- (4) The reference in subsection (2) to a person includes—
  - (a) any person who provided or maintains any equipment installed in the taxi-cab that enabled the taxi non-cash payment transaction to be made; and
  - (b) any person who manages or administers the whole or any part of a system under which taxi non-cash payment transactions may be made; and
  - (c) the owner, operator and driver of the taxi-cab.

**144D Offence to enter into certain contracts etc.**

S. 144D  
inserted by  
No. 43/2013  
s. 26.

The holder of a taxi-cab licence, taxi-cab licence holder accreditation, taxi-cab operator accreditation, provider of taxi-cab network services accreditation or a permit relating to a taxi-cab must not—

- (a) enter into a contract, arrangement or understanding with any person; or
- (b) agree to give effect to a contract, arrangement or understanding entered into by any other persons—

that has the purpose or effect of directly or indirectly causing a taxi non-cash payment surcharge in excess of the prescribed amount, or which when added to any other such surcharge charged or collected, or to be charged or collected, by the same or any other person in respect of the

same hiring of a taxi-cab is in excess of the prescribed amount, to be paid in respect of a hiring of a taxi-cab.

Penalty: 60 penalty units for a natural person and 300 penalty units for a body corporate.

**Note**

Section 226A applies to an offence against this section.

S. 144E  
inserted by  
No. 43/2013  
s. 26.

**144E Civil penalties**

- (1) If the Supreme Court is satisfied, on an application made by the TSC, that a person—
- (a) has contravened section 144C(2); or
  - (b) has attempted to contravene section 144C(2); or
  - (c) has aided, abetted, counselled or procured a person to contravene section 144C(2); or
  - (d) has induced, or attempted to induce, whether by threats, promises or otherwise, a person to contravene section 144C(2); or
  - (e) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of section 144C(2); or
  - (f) has conspired with others to contravene section 144C(2)—

it may order the person to pay, as a debt due to the State, a civil penalty of an amount not exceeding \$1 000 000 for a natural person or \$5 000 000 for a body corporate.

- (2) An application may be made under subsection (1) at any time within 6 years after the contravention or other conduct covered by that subsection.

(3) If, in a proceeding under subsection (1) against a person other than a body corporate, it appears to the Supreme Court that the person has, or may have—

- (a) engaged in conduct in contravention of section 144C(2); or
- (b) engaged in conduct referred to in subsection (1)(b), (c), (d), (e) or (f) that relates to a contravention of section 144C(2)—

but that the person acted honestly and reasonably and, having regard to all the circumstances of the case, ought fairly to be excused, the Supreme Court may relieve the person from liability to a civil penalty under subsection (1).

#### **144F Preference must be given to compensation**

If the Supreme Court considers that—

- (a) it is appropriate to order a person (*the defendant*) to pay a civil penalty under section 144E(1) in relation to—
  - (i) a contravention of section 144C(2); or
  - (ii) conduct referred to in section 144E(1)(b), (c), (d), (e) or (f) that relates to a contravention of section 144C(2); and
- (b) it is appropriate to order the defendant to pay compensation under section 144J to a person who has suffered loss or damage because of that contravention or conduct; and
- (c) the defendant does not have sufficient financial resources to pay both the civil penalty and the compensation—

the Supreme Court must give preference to making an order for compensation.

S. 144F  
inserted by  
No. 43/2013  
s. 26.

S. 144G  
inserted by  
No. 43/2013  
s. 26.

### **144G Interplay between civil penalties and criminal proceedings**

- (1) An application cannot be made to the Supreme Court under section 144E(1) in relation to a contravention of section 144C(2) if the person has been convicted or acquitted of an offence constituted by conduct that is substantially the same as the conduct to which the application relates.
- (2) The Supreme Court must stay a proceeding under section 144E(1) against a person if a criminal proceeding is or has been commenced against the person for an offence constituted by conduct that is substantially the same as the conduct to which the application under that section relates.
- (3) A proceeding stayed in accordance with subsection (2) must be dismissed by the Supreme Court if the person is convicted or acquitted of the offence but otherwise may be resumed by it.
- (4) A criminal proceeding may be commenced against a person for conduct that is substantially the same as conduct to which an application under section 144E(1) relates or in respect of which an order has been made under that section.
- (5) Evidence of information given, or evidence of the production of documents, by a person is not admissible in a proceeding against the person for an offence if—
  - (a) the person previously gave the evidence or produced the documents in a proceeding against the person under section 144E(1);  
and
  - (b) the conduct alleged to constitute the offence is substantially the same as the conduct to which the proceeding under that section related.



- (6) Subsection (5) does not apply to a criminal proceeding in respect of the falsity of evidence given in a proceeding under section 144E(1).

**144H Taxi non-cash payment surcharge may be recovered as a debt**

S. 144H  
inserted by  
No. 43/2013  
s. 26.

A person who has paid a taxi non-cash payment surcharge that exceeds the prescribed amount, or which when added to any other surcharge charged or collected, or to be charged or collected, by the same or any other person in respect of the same hiring of a taxi-cab exceeds the prescribed amount, may recover, as a debt in any court of competent jurisdiction, the amount of that excess from the person to whom the surcharge was payable.

**144I Proceeding for damages**

S. 144I  
inserted by  
No. 43/2013  
s. 26.

- (1) If a person (*the claimant*) suffers loss or damage because of—
- (a) conduct engaged in by another person in contravention of section 144C(2); or
  - (b) conduct referred to in section 144E(1)(b), (c), (d), (e) or (f) engaged in by another person that relates to a contravention of section 144C(2)—

the claimant may recover the amount of the loss or damage in a proceeding brought against that other person in any court of competent jurisdiction.

- (2) A proceeding under subsection (1) may be commenced at any time within 6 years after the day on which the cause of action that relates to the conduct accrued.

S. 144J  
inserted by  
No. 43/2013  
s. 26.

## 144J Compensation orders

- (1) The Supreme Court may—
  - (a) on the application of a person (*the injured person*) who has suffered, or is likely to suffer, loss or damage because of—
    - (i) conduct engaged in by another person in contravention of section 144C(2); or
    - (ii) conduct referred to in section 144E(1)(b), (c), (d), (e) or (f) engaged in by another person that relates to a contravention of section 144C(2); or
  - (b) on the application of the TSC made on behalf of one or more such injured persons—make such order or orders as it thinks appropriate against the person who engaged in the conduct.
- (2) The order must be an order that the Supreme Court considers will—
  - (a) compensate the injured person, or any such injured persons, in whole or in part for the loss or damage; or
  - (b) prevent or reduce the loss or damage suffered, or likely to be suffered, by the injured person or any such injured persons.
- (3) An application may be made under subsection (1) at any time within 6 years after the day on which the cause of action that relates to the conduct accrued.
- (4) An application may be made under subsection (1) even if no other proceeding (whether criminal or civil) has been commenced under this Division in relation to the relevant conduct.

- (5) The TSC must not make an application under subsection (1)(b) on behalf of a person who has not consented in writing to the making of the application on their behalf.

#### **144K Injunctions**

**S. 144K  
inserted by  
No. 43/2013  
s. 26.**

- (1) The Supreme Court may grant an injunction, in any terms that it considers appropriate, if satisfied that a person has engaged, or is proposing to engage, in conduct that constitutes or would constitute—
- (a) a contravention of section 144C(2); or
  - (b) attempting to contravene section 144C(2); or
  - (c) aiding, abetting, counselling or procuring a person to contravene section 144C(2); or
  - (d) inducing, or attempting to induce, whether by threats, promises or otherwise, a person to contravene section 144C(2); or
  - (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of section 144C(2); or
  - (f) conspiring with others to contravene section 144C(2).
- (2) Without limiting subsection (1), the Supreme Court may grant an injunction under that subsection restraining a person from carrying on a business or supplying goods or services (whether or not as part of, or incidental to, the carrying on of another business)—
- (a) for a specified period; or
  - (b) except on specified terms and conditions.
- (3) The Supreme Court may only grant an injunction under subsection (1) on an application by the TSC.

- (4) The power of the Supreme Court to grant an injunction under subsection (1) restraining a person from engaging in conduct may be exercised—
  - (a) whether or not it appears to the Court that the person intends to engage again, or to continue to engage, in conduct of a kind referred to in that subsection; and
  - (b) whether or not the person has previously engaged in conduct of that kind; and
  - (c) whether or not there is an imminent danger of substantial damage to any other person if the person engages in conduct of that kind.
- (5) The power of the Supreme Court to grant an injunction under subsection (1) requiring a person to do an act or thing may be exercised—
  - (a) whether or not it appears to the Court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing; and
  - (b) whether or not the person has previously refused or failed to do that act or thing; and
  - (c) whether or not there is an imminent danger of substantial damage to any other person if the person refuses or fails to do that act or thing.
- (6) On an application under subsection (1) the Supreme Court may grant an injunction by consent of all the parties to the proceeding, whether or not the Court is satisfied as required by that subsection.
- (7) If in the opinion of the Supreme Court it is desirable to do so, the Court may grant an interim injunction pending the determination of an application under subsection (1) but must not

require the applicant or any other person to give any undertakings as to damages as a condition of doing so.

- (8) The Supreme Court may rescind or vary an injunction granted under this section.

#### **145 Classification of vehicles**

The licensing authority may classify vehicles into different categories having regard to the type of vehicle and the commercial passenger service to be provided and in respect of which categories different types of licences may be granted and may at any time during the currency of a licence change the classification of a vehicle and the type of licence.

S. 145  
amended by  
Nos 100/1986  
s. 13, 44/1989  
s. 40(Sch. 1  
item 8.4),  
60/1994  
s. 15(1).

#### **146 Cancellation or alteration of licences**

- (1) Subject to this section the licensing authority may at any time during the currency of a commercial passenger vehicle licence—

S. 146(1)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

- (a) upon its own motion and for reasons stated in writing sent to the licence holder; or

S. 146(1)(a)  
amended by  
No. 100/1986  
s. 14(a).

- (b) upon the application of the licence holder—

S. 146(1)(b)  
amended by  
No. 100/1986  
s. 14(a).

cancel the licence or alter the conditions attached to that licence or alter the route or area in respect of which that licence was granted.

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

- (2) Notwithstanding anything in this section, the charter or touring conditions attached to a commercial passenger vehicle licence shall not be cancelled or altered pursuant to this section except upon the application of the owner of the vehicle in respect of which that licence was granted.
- (3) Nothing in this section affects the operation of section 157A.

S. 146(3)  
amended by  
Nos 100/1986  
s. 14(b),  
44/1989  
s. 40(Sch. 1  
item 6.2),  
120/1993  
s. 15(1),  
60/1994  
s. 15(1),  
repealed by  
No. 32/2002  
s. 12(a), new  
s. 146(3)  
inserted by  
No. 43/2013  
s. 14.

S. 146(4)  
amended by  
Nos 100/1986  
s. 14(c)(i)–(iii)  
(as amended  
by No.  
44/1989  
s. 39(2)(a)),  
44/1989  
s. 40(Sch. 1  
item 6.2),  
120/1993  
s. 15(2),  
60/1994  
s. 15(1),  
repealed by  
No. 32/2002  
s. 12(a).

\* \* \* \* \*

S. 146(5)  
amended by  
No. 44/1989  
s. 40(Sch. 1  
item 6.2),  
repealed by  
No. 120/1993  
s. 15(3).

\* \* \* \* \*

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

*	*	*	*	*	<p>S. 146(6) amended by Nos 100/1986 s. 14(d), 44/1989 s. 40(Sch. 1 items 6.2, 13), 120/1993 s. 15(4), 60/1994 s. 15(2), 58/1995 s. 25, repealed by No. 32/2002 s. 12(a).</p>
*	*	*	*	*	<p>S. 146(7) amended by Nos 44/1989 s. 40(Sch. 1 item 6.2), 120/1993 s. 15(5), 60/1994 s. 15(1), repealed by No. 32/2002 s. 12(a).</p>
*	*	*	*	*	<p>S. 146(8) inserted by No. 100/1986 s. 14(e), amended by No. 44/1989 s. 40(Sch. 1 item 6.2), repealed by No. 120/1993 s. 15(6).</p>
<b>146AAA</b>	<b>Conversion of certain section 143A licences</b>				S. 146AAA inserted by No. 43/2013 s. 15.
<p>(1) The holder of a licence granted under section 143A before the commencement of section 15 of the <b>Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013</b> in accordance with an Order made under that section and specified in subsection (2) may apply to the licensing authority for it to be converted into a new taxi-cab licence.</p>					

- (2) The following Orders are specified for the purposes of subsection (1)—
- (a) Order published in the Government Gazette (No. G37) on 12 September 2002;
  - (b) Order made on 29 March 2004 and published in the Government Gazette (No. S78) on 29 March 2004;
  - (c) Order made on 21 October 2004 and published in the Government Gazette (No. G43) on 21 October 2004;
  - (d) Order made on 2 June 2005 and published in the Government Gazette (No. G22) on 2 June 2005;
  - (e) Order made on 22 June 2006 and published in the Government Gazette (No. G25) on 22 June 2006;
  - (f) Order made on 31 May 2007 and published in the Government Gazette (No. G22) on 31 May 2007;
  - (g) Order made on 27 October 2008 and published in the Government Gazette (No. S287) on 27 October 2008;
  - (h) Order made on 17 June 2010 and published in the Government Gazette (No. S246) on 28 June 2010.
- (3) An application under subsection (1) must—
- (a) be in the form approved by the licensing authority; and
  - (b) contain the particulars required by the licensing authority; and
  - (c) without limiting paragraph (b), nominate the taxi-cab zone referred to in section 143B(1) proposed to be specified in the licence; and



- (d) be accompanied by the appropriate application fee (if any) determined under section 147B.
- (4) The licensing authority must deal with an application under subsection (1) as if it were an application made under section 139 for the grant of a taxi-cab licence under section 143.
- (5) If the licensing authority grants an application under subsection (1), it must cancel the licence issued under section 143A and issue a new licence under section 143 in respect of the same taxi-cab.

**146AA Directions**

- (1) Subject to this section, the licensing authority may at any time during the currency of a taxi-cab licence give, by any means that the licensing authority thinks fit, directions to—
  - (a) the holder of a taxi-cab licence or class of taxi-cab licence; or
  - (b) the driver of a taxi-cab—about the carrying of passengers in accordance with the conditions of the licence.
- (2) The licensing authority may, with the approval of the Minister, by instrument, delegate to a person by name or the holder of an office or position any power of the licensing authority under subsection (1).

\* \* \* \* \*

S. 146AA  
inserted by  
No. 99/1998  
s. 7.

S. 146A  
inserted by  
No. 100/1986  
s. 15,  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
120/1993 s. 16,  
60/1994  
s. 15(1),  
repealed by  
No. 32/2002  
s. 12(b).

S. 146B  
inserted by  
No. 100/1986  
s. 15,  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

### **146B Power to vary public commercial passenger vehicle licence**

Upon the application of the holder of a commercial passenger vehicle licence in respect of a vehicle which operates as a public commercial passenger vehicle, the licensing authority may vary any licence condition except a condition relating to routes or school contract operations.

S. 146C  
inserted by  
No. 120/1993  
s. 17,  
amended by  
No. 60/1994  
s. 15(1).

### **146C Review by Tribunal of licence cancellation etc.**

S. 146C(1)  
amended by  
No. 52/1998  
s. 311(Sch. 1  
items 96.8,  
96.9 (ILA  
s. 39B(1))).

- (1) The holder of a commercial passenger vehicle licence may apply to the Tribunal for review of a decision by the licensing authority—

S. 146C(1)(ab)  
inserted by  
No. 43/2013  
s. 16(1).

- (a) to suspend the licence under section 143A(11) or 147A(3); or  
(ab) to alter the licence under section 143B(11);  
or

S. 146C(1)(ac)  
inserted by  
No. 43/2013  
s. 16(2).

- (ac) to alter the licence under section 142A(7); or

S. 146C(1)(ba)  
inserted by  
No. 43/2013  
s. 16(3).

- (b) to cancel the licence under section 143A(11), 144(1B), 146(1) or 147A(3); or  
(ba) to attach a condition to the licence under section 144(2B); or

S. 146C(1)(c)  
amended by  
No. 35/2014  
s. 28.

- (c) to alter the conditions attached to the licence (other than by revoking a condition) or alter the route or area in respect of which it was granted under section 146(1) or 146B.

- |   |   |
|---|---|
| <p>(2) An application for review must be made within 28 days after the later of—</p> <p style="margin-left: 40px;">(a) the day on which the decision is made;</p> <p style="margin-left: 40px;">(b) if, under the <b>Victorian Civil and Administrative Tribunal Act 1998</b>, the licence holder requests a statement of reasons for the decision, the day on which the statement of reasons is given to the licence holder or the licence holder is informed under section 46(5) of that Act that a statement of reasons will not be given.</p> | <p>S. 146C(2) inserted by No. 52/1998 s. 311(Sch. 1 item 96.9).</p>                                   |
| <p>*                      *                      *                      *</p>   | <p>S. 147(1)(2) amended by No. 44/1989 s. 40(Sch. 1 item 6.2), repealed by No. 120/1993 s. 18(a).</p> |
| <p>*                      *                      *                      *</p>   | <p>S. 147(3) amended by No. 120/1993 s. 18(b), repealed by No. 68/1995 s. 43(3).</p>                  |
| <p><b>147A   Annual licence fees</b></p>  | <p>S. 147A inserted by No. 100/1986 s. 16, amended by No. 60/1994 s. 17(1)(a)(i)(ii).</p>             |
| <p>(1) The holder of a commercial passenger vehicle licence must pay the appropriate annual licence fee determined under section 147B in respect of every commercial passenger vehicle for which the holder has a licence.</p>  | <p>S. 147A(1) amended by Nos 106/1997 s. 21(3)(a)(i)(ii), 30/2007 s. 228(1).</p>                      |
| <p>(2) Subsection (1) does not apply to vehicles licensed to operate solely as public commercial passenger vehicles.</p>  | <p>S. 147A(2) amended by No. 120/1993 s. 19(1).</p>   |

S. 147A(2A)  
inserted by  
No. 43/2013  
s. 17(1).

(2A) Subsection (1) does not apply to a new taxi-cab licence.

S. 147A(2B)  
inserted by  
No. 43/2013  
s. 17(1).

(2B) Subject to subsections (2D) and (2E), the holder of a new taxi-cab licence must pay the appropriate annual licence fee as set out in the following Table—

<i>Zone specified in licence</i>	<i>Conventional taxi-cab annual licence fee</i>	<i>Wheelchair accessible taxi- cab annual licence fee</i>
Melbourne Metropolitan Zone	\$22 000	\$18 400
Urban and Large Regional Zone	\$22 000	\$18 400
Regional Zone	\$11 000	\$11 000
Country Zone	\$3400	\$3400

S. 147A(2C)  
inserted by  
No. 43/2013  
s. 17(1).

(2C) In subsection (2B)—

- (a) ***conventional taxi-cab*** means a taxi-cab that is not a wheelchair accessible taxi-cab;
- (b) ***wheelchair accessible taxi-cab*** means a taxi-cab that has been constructed or modified so that it can accommodate and secure one or more occupied wheelchairs.

S. 147A(2D)  
inserted by  
No. 43/2013  
s. 17(1).

(2D) The holder of a licence granted on an application under section 146AAA(1) where the earlier licence (***old licence***) had been granted under section 143A in respect of a conventional taxi-cab in accordance with the Order specified in section 146AAA(2)(h) is not required to pay an annual licence fee under subsection (2B) during the balance of the period of 12 years commencing on the date on which the old licence was granted.

(2E) The holder of a licence granted on an application under section 146AAA(1) (*new licence*) where the earlier licence (*old licence*) had been granted under section 143A in accordance with an Order specified in section 146AAA(2) (excluding a licence covered by subsection (2D)) is entitled to have the unused balance of the annual fee paid in respect of the old licence, for the year in which the new licence was granted, set off against the annual licence fee payable under subsection (2B) for the first year of the new licence.

S. 147A(2E)  
inserted by  
No. 43/2013  
s. 17(1).

(3) The licensing authority may suspend or cancel a commercial passenger vehicle licence if the holder of the licence fails to pay, by the due date, any fee or instalment required to be paid in respect of the licence or the vehicle by or under this Act.

S. 147A(3)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
120/1993  
s. 19(2),  
60/1994  
ss 15(1),  
17(1)(b),  
17/1995  
s. 20(1),  
106/1997  
s. 21(3)(b),  
30/2007  
s. 228(2),  
43/2013  
s. 17(2).

(4) An amount referred to in the Table in subsection (2B) is to be varied, in respect of the financial year beginning on 1 July 2014 and each subsequent financial year, in accordance with the following formula—

S. 147A(4)  
inserted by  
No. 17/1995  
s. 20(2),  
repealed by  
No. 30/2007  
s. 228(3), new  
s. 147A(4)  
inserted by  
No. 43/2013  
s. 17(3).

$$A \times \left[ \frac{B}{C} - 0.005 \right]$$

where—

A is the amount referred to in the Table in subsection (2B);

B is the all groups consumer price index for Melbourne as at 15 June in the preceding financial year last published by the Australian Statistician in respect of the December quarter of that financial year;

C is the all groups consumer price index for Melbourne as at 15 June in the year preceding the preceding financial year published by the Australian Statistician in respect of the December quarter preceding that 15 June.

S. 147A(5)  
inserted by  
No. 17/1995  
s. 20(2),  
repealed by  
No. 30/2007  
s. 228(3), new  
s. 147A(5)  
inserted by  
No. 43/2013  
s. 17(3).

- (5) An amount calculated in accordance with subsection (4) is to be rounded to the nearest whole dollar.

S. 147A(6)  
inserted by  
No. 43/2013  
s. 17(3).

- (6) If the variation of an amount in accordance with subsection (4) would have the effect of reducing that amount for the financial year in respect of which the calculation is being made compared with the preceding financial year, the variation does not take effect and the amount for that financial year remains the same as it was for the preceding financial year.

S. 147A(7)  
inserted by  
No. 43/2013  
s. 17(3).

- (7) If an amount is varied in accordance with subsection (4), the Table in subsection (2B) and subsection (4) have effect as if a reference to the amount were a reference to the amount as so varied.

S. 147A(8)  
inserted by  
No. 43/2013  
s. 17(3).

- (8) The Minister must, before 30 June in each year, cause a notice to be published in the Government Gazette specifying the amount of the annual licence fee payable in the financial year beginning on 1 July in that year for each kind of new taxi-cab licence as described in subsection (2B).

**147B Setting of fees**

S. 147B  
inserted by  
No. 100/1986  
s. 16.

(1) The licensing authority may determine—

S. 147B(1)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

(a) the fees payable under sections 140(2),  
143A(7)(b), 146AAA(3)(d), 147A(1)  
and (4), 149(1A)(b), 150(3), 151(2), 152  
and 154(2); and

S. 147B(1)(a)  
amended by  
Nos 120/1993  
s. 20(1)(a)(b),  
60/1994  
s. 17(2)(a),  
17/1995  
ss 20(3)(a)–  
(d)(4), 21(2),  
106/1997 s. 5,  
102/1998  
s. 39(5),  
32/2002  
s. 23(a),  
47/2006 s. 9,  
71/2006 s. 8,  
substituted by  
No. 30/2007  
s. 229(a),  
amended by  
No. 43/2013  
s. 18.

(b) fees to be paid for inspections of commercial  
passenger vehicles or any other thing done  
by the licensing authority in relation to a  
commercial passenger vehicle or a licence  
for such a vehicle including, without limiting  
the generality of this paragraph, the fee to be  
paid for the issue of a replacement licence if  
a licence is lost, destroyed or mutilated.

S. 147B(1)(b)  
amended by  
Nos 120/1993  
s. 20(2),  
60/1994  
ss 15(1),  
17(2)(b)(i)(ii),  
106/1997  
s. 21(4)(a)(b),  
30/2007  
s. 229(b).

(2) The licensing authority must obtain the approval  
of the Minister for any fee determined by the  
licensing authority.

S. 147B(2)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

- (3) Fees take effect upon publication in the Government Gazette or upon any later date specified in a notice accompanying the publication of the fees in the Government Gazette.

S. 148  
amended by  
No. 44/1989  
ss 39(1)(c),  
40(Sch. 1  
items 5, 8.3,  
8.4),  
repealed by  
No. 120/1993  
s. 21.

\* \* \* \*

## 149 Transfers of licences

S. 149(1)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 8.3),  
120/1993  
s. 22(1),  
60/1994  
s. 15(1),  
substituted by  
No. 101/2003  
s. 5(1).

- (1) Subject to this section, the holder of a commercial passenger vehicle licence may apply to the licensing authority for authority to transfer the licence to a specified person.

S. 149(1AA)  
inserted by  
No. 101/2003  
s. 5(1).

- (1AA) Subsection (1) does not apply to the holder of—
- (a) a restricted hire vehicle licence; or
  - (b) a licence granted temporarily for a particular purpose of limited duration; or
  - (c) a taxi-cab licence that has attached to it a current condition imposed under section 143D that states that the licence cannot be transferred.

S. 149(1A)  
inserted by  
No. 100/1986  
s. 17(1)(a).

- (1A) The application must be accompanied by—
- (a) a copy of the transfer agreement signed by the applicant and the intended transferee; and
  - (b) the appropriate application fee determined under section 147B.



Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

- |  |   |
|--|---|
| <p>(2) The licensing authority must not authorise the transfer of—</p> <p style="padding-left: 40px;">(a) a commercial passenger vehicle licence in respect of a vehicle which operates as a public commercial passenger vehicle unless the licensing authority is satisfied that the transfer is in the general interests of the public; or</p> <p style="padding-left: 40px;">(b) a taxi-cab licence that is suspended by force of section 156A(6) unless the licensing authority agrees to lift that suspension.</p> <p>(3) The licensing authority may, subject to subsection (2), authorize the transfer of a commercial passenger vehicle licence if it is satisfied—</p> <p style="padding-left: 40px;">(a) other than in the case of a taxi-cab licence, that the person to whom it is proposed to transfer the licence is a fit and proper person to hold the licence; or</p> | <p>S. 149(2)<br/>amended by<br/>Nos 100/1986<br/>s. 17(1)(b),<br/>44/1989<br/>s. 40(Sch. 1<br/>items 5, 8.3),<br/>60/1994<br/>s. 15(1),<br/>54/2001<br/>s. 25(Sch.<br/>item 1.64),<br/>71/2006<br/>s. 9(1)(2),<br/>substituted by<br/>No. 26/2009<br/>s. 3.</p> <p>S. 149(2)(b)<br/>amended by<br/>No. 35/2014<br/>s. 29(1).</p> <p>S. 149(3)<br/>amended by<br/>Nos 100/1986<br/>s. 17(1)(c),<br/>44/1989<br/>s. 40(Sch. 1<br/>item 8.4),<br/>60/1994<br/>s. 15(1).</p> <p>S. 149(3)(a)<br/>amended by<br/>No. 71/2006<br/>s. 9(3),<br/>substituted by<br/>No. 35/2014<br/>s. 29(2).</p> |
| <p>*                      *                      *                      *</p>  | <p>S. 149(3)(b)<br/>amended by<br/>No. 71/2006<br/>s. 9(3),<br/>repealed by<br/>No. 35/2014<br/>s. 29(3).</p>   |

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 149(3)(c)  
inserted by  
No. 100/1986  
s. 17(1)(c).

(c) where the licence is subject to a condition that it must not be transferred for a specified time after it is issued, that there are special circumstances warranting the transfer within the period of time covered by the condition.

S. 149(3AA)  
inserted by  
No. 71/2006  
s. 9(4).

(3AA) In addition to subsection (3)(c), the licensing authority may authorise the transfer of a taxi-cab licence if satisfied that—

S. 149(3AA)(a)  
repealed by  
No. 35/2014  
s. 29(4).

\* \* \* \* \*

S. 149(3AA)(b)  
amended by  
No. 43/2013  
s. 19(2).

(b) in the case of a licence to which a condition referred to in section 143D(1)(b) is attached or a new taxi-cab licence, the person to whom it is proposed to transfer the licence is accredited under Division 4 as a taxi-cab operator.

S. 149(3A)  
inserted by  
No. 110/2004  
s. 49,  
amended by  
No. 71/2006  
s. 9(5).

(3A) In addition to subsections (3)(c) and (3AA), the licensing authority may authorize the transfer of a taxi-cab licence if—

(a) a relevant dealing is a dealing of a kind or a class, and related information is information of a kind or class, that is required under the regulations to be, as the case requires, conducted, recorded or disclosed in accordance with—

S. 149(3A)(a)(i)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 4),  
34/2011 s. 16.

(i) the rules of a securities exchange or other system specified by the licensing authority; or

S. 149  
(3A)(a)(ii)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 4),  
34/2011 s. 16.

(ii) a method or rules specified by the licensing authority; and

(b) the licensing authority is satisfied that—

- (i) the relevant dealing has been so conducted, recorded or disclosed; and
- (ii) the related information has been so recorded or disclosed.

(3B) In subsection (3A)—

***relevant dealing*** means a dealing for or in connection with the transfer of a taxi-cab licence;

***related information*** means information relating to a relevant dealing or necessary to enable a relevant dealing to be conducted.

(4) Where the licensing authority has authorized the transfer of a licence, the licence must be transferred by the licensing authority upon it receiving a transfer—

(a) in the form approved by the licensing authority; and

(b) containing the particulars required by the licensing authority; and

(c) executed by the transferor and transferee.

\* \* \* \* \*

S. 149(3B)  
inserted by  
No. 110/2004  
s. 49.

S. 149(4)  
substituted by  
No. 100/1986  
s. 17(1)(d),  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 8.3),  
60/1994  
s. 15(1).

S. 149(4)(a)  
substituted by  
No. 120/1993  
s. 22(2),  
amended by  
No. 60/1994  
s. 15(1).

S. 149(4)(b)  
substituted by  
No. 120/1993  
s. 22(2),  
amended by  
No. 60/1994  
s. 15(1).

S. 149(5)  
repealed by  
No. 100/1986  
s. 17(1)(d).

## 150 Assignments

S. 150(1)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1),  
71/2006  
s. 15(1).

- (1) A holder of a licence to operate a taxi-cab (hereafter in this section referred to as the assignor) may apply to the licensing authority for authority to assign to a person specified in the application (hereafter in this section referred to as the assignee) his right to operate a vehicle under the licence.

S. 150(1A)  
inserted by  
No. 101/2003  
s. 5(2).

- (1A) Subsection (1) does not apply to the holder of a taxi-cab licence that has attached to it a current condition imposed under section 143D that states that the licence cannot be assigned.

S. 150(1B)  
inserted by  
No. 43/2013  
s. 20(1).

- (1B) Subsection (1) does not apply to a new taxi-cab licence.

S. 150(2)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

- (2) The licensing authority may grant any application under subsection (1) or may refuse any such application.

S. 150(2AA)  
inserted by  
No. 71/2006  
s. 10(1).

- (2AA) Without limiting subsection (2), the licensing authority must refuse an application unless the assignee is accredited under Division 4 as a taxi-cab operator.

S. 150(2A)  
inserted by  
No. 110/2004  
s. 50,  
amended by  
No. 71/2006  
s. 10(2)(a).

- (2A) Without limiting subsection (2), the licensing authority must refuse an application if—
- (a) a relevant dealing is a dealing of a kind or a class, and related information is information of a kind or class, that is required under the regulations to be, as the case requires, conducted, recorded or disclosed in accordance with—

- |  |   |
|--|---|
| (i) the rules of a securities exchange or other system specified by the licensing authority; or  | S. 150(2A)(a)(i) amended by Nos 47/2006 s. 31(1)(Sch. 1 Pt 1 item 5), 34/2011 s. 17.          |
| (ii) a method or rules specified by the licensing authority; and   | S. 150 (2A)(a)(ii) amended by Nos 47/2006 s. 31(1)(Sch. 1 Pt 1 item 5), 34/2011 s. 17.        |
| (b) the licensing authority is not satisfied that—   | S. 150(2A)(b) amended by No. 71/2006 s. 10(2)(b).   |
| (i) the relevant dealing has been so conducted, recorded or disclosed; and   |   |
| (ii) the related information has been so recorded or disclosed.  |   |
| (2B) In subsection (2A)—   | S. 150(2B) inserted by No. 110/2004 s. 50.  |
| <i>relevant dealing</i> means a dealing for or in connection with the assignment of the right to operate a vehicle under a taxi-cab licence;   |   |
| <i>related information</i> means information relating to a relevant dealing or necessary to enable a relevant dealing to be conducted.   |   |
| (3) Where the licensing authority grants an application under subsection (1) the licensing authority shall upon payment of the appropriate application fee determined under section 147B authorize the assignment of the right to operate a vehicle under the licence. | S. 150(3) amended by Nos 44/1989 s. 40(Sch. 1 item 6.2), 120/1993 s. 23(1), 60/1994 s. 15(1). |
| (4) An authority under this section shall be subject to such of the following conditions as are applicable in the circumstances, namely:   |   |
| (a) That an agreement containing covenants in the form of Schedule 7 or to the like effect be entered into by the assignor and the assignee and a copy thereof lodged with the   | S. 150(4)(a) amended by Nos 44/1989 s. 40(Sch. 1 item 6.2), 60/1994 s. 15(1).                 |

S. 150(4)(b)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

- licensing authority before the assignee  
operates a vehicle under the assignment;
- (b) That if the assignee proposes, in the course  
of exercising his rights under the assignment,  
to operate a vehicle owned by or under the  
control of the assignor the assignor and the  
assignee shall enter into an agreement  
approved by the licensing authority for  
leasing the vehicle for the period of the  
assignment of the rights under the licence;
- (c) That the assignee shall for the purposes of  
this Division and the regulations made under  
this Division have all the privileges, duties  
and responsibilities of the assignor as holder  
of the licence with respect to the operation of  
the vehicle under the licence—

and subject to such other conditions, limitations  
and restrictions—

S. 150(4)(e)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

- (d) as are prescribed; or
- (e) as the licensing authority considers are  
appropriate.

S. 150(4A)  
inserted by  
No. 71/2006  
s. 15(2).

(4A) An assignment or purported assignment under this  
section is of no effect if—

S. 150(4A)(b)  
substituted by  
No. 43/2013  
s. 20(2).

- (a) it is not authorised by the licensing authority  
under this section; or
- (b) it is not made in writing.

S. 150(4A)(c)  
repealed by  
No. 43/2013  
s. 20(2).

\* \* \* \* \*

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

*	*	*	*	*	S. 150(4B) inserted by No. 71/2006 s. 15(2), repealed by No. 43/2013 s. 20(3).
(4C)	An assignment under this section cannot be renewed and cannot be varied so as to extend the period of the assignment.				S. 150(4C) inserted by No. 71/2006 s. 15(2).
(4D)	Nothing in subsection (4C) prevents a fresh application being made under subsection (1) for authority to assign the right to operate a vehicle under a licence to operate a taxi-cab to an assignee or former assignee of that right.				S. 150(4D) inserted by No. 71/2006 s. 15(2).
(5)	The assignee of a licence under this section shall not assign or attempt to assign his rights under the assignment.				
*	*	*	*	*	S. 150(6) amended by Nos 44/1989 s. 40(Sch. 1 item 6.2), 60/1994 s. 15(1), 99/1998 s. 8, repealed by No. 71/2006 s. 10(3).
(7)	Unless sooner cancelled under subsection (6) or otherwise terminated, an assignment under this section ends at the expiration of the period of the assignment.				S. 150(7) repealed by No. 120/1993 s. 23(2), new s. 150(7) inserted by No. 71/2006 s. 15(3).

S. 150A  
inserted by  
No. 101/2003  
s. 6 (as  
amended by  
No. 110/2004  
s. 57(a)(b)).

### **150A Unauthorised person must not trade in taxi-cab licences**

- (1) A person must not trade in taxi-cab licences unless he, she or it is authorised to do so under regulations made under section 162.

Penalty: 500 penalty units.

- (2) For the purposes of this section, a person trades in taxi-cab licences if he, she or it—
- (a) negotiates on behalf of another person for the transfer of a taxi-cab licence to that other person or for the assignment of the right to operate a vehicle under a taxi-cab licence to that other person;
  - (b) negotiates on behalf of another person for the transfer of a taxi-cab licence held by that other person or for the assignment of a right to operate a vehicle under a taxi-cab licence held by that other person;
  - (c) advertises that he, she or it is able or willing to do anything set out in paragraph (a) or (b);
  - (d) in any way holds himself, herself or itself out to another person as being able or willing to do anything set out in paragraph (a) or (b).

### **151 Use of substitute vehicles where licensed vehicles undergoing repair**

S. 151(1)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

- (1) Where any licensed vehicle is temporarily out of use while undergoing repair the licensing authority may on the application of the owner authorize him in writing to use a substitute vehicle for such period as it thinks proper and the terms and conditions of the licence in respect of the original vehicle shall extend and apply to such substitute vehicle during the period for which it is so used.



- (2) The application must be accompanied by the appropriate application fee determined under section 147B.

S. 151(2)  
substituted by  
No. 120/1993  
s. 24(1).

### **152 As to substitution of vehicles generally**

The licensing authority may on the application of the owner of a licensed vehicle and on the payment of the appropriate application fee determined under section 147B authorize the owner to substitute a vehicle for the licensed vehicle and where any such substitution is authorized the terms and conditions of the licence in respect of the original vehicle shall extend and apply to the substituted vehicle.

S. 152  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
120/1993  
s. 24(2)(a)(b),  
60/1994  
s. 15(1).

### **153 Cancellation of licence for vehicles**

- (1) Where the licensing authority is satisfied that any vehicle licensed under this Division is no longer fit and suitable for the purpose for which it is licensed or has been in use for a period longer than is prescribed in relation to vehicles of the class to which the vehicle belongs the licensing authority may after notifying the owner of the licensed vehicle that the licensing authority proposes to cancel the licence issued in respect of the vehicle from such date as is specified in the notice cancel that licence as from that date.
- (2) The owner of a licensed vehicle may apply to the Tribunal for review of a decision by the licensing authority to cancel the licence under subsection (1).

S. 153(1)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

S. 153(2)  
amended by  
No. 44/1989  
s. 40(Sch. 1  
item 6.2),  
substituted by  
No. 120/1993  
s. 25,  
amended by  
No. 52/1998  
s. 311(Sch. 1  
item 96.10).

S. 153(3)  
amended by  
No. 44/1989  
s. 40(Sch. 1  
item 6.2),  
repealed by  
No. 120/1993  
s. 25,  
new s. 153(3)  
inserted by  
No. 52/1998  
s. 311(Sch. 1  
item 96.11).

- (3) An application for review must be made within 28 days after the later of—
- (a) the day on which the decision is made;
  - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the owner requests a statement of reasons for the decision, the day on which the statement of reasons is given to the owner or the owner is informed under section 46(5) of that Act that a statement of reasons will not be given.

S. 153(4)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

- (4) The licensing authority may revoke any cancellation made pursuant to subsection (1) if the owner—
- (a) applies to have a suitable vehicle substituted for the vehicle licensed under this Division;  
or

S. 153(4)(b)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

- (b) in a case where the licence is cancelled on the ground that the vehicle licensed under this Division is no longer fit and suitable for the purpose for which it is licensed satisfies the licensing authority that the vehicle has been made fit and suitable for that purpose.

## 154 Temporary permit

S. 154(1)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

- (1) The licensing authority or any person authorized in that behalf by the licensing authority in writing (whether generally or in any particular case) may grant to the owner of any licensed vehicle a permit authorizing such vehicle to operate temporarily in any manner not specified in the licence.

S. 154(2)  
amended by  
No. 120/1993  
s. 26.

- (2) There shall be paid in respect of each permit granted pursuant to subsection (1) the appropriate fee determined under section 147B.

**155 Goods vehicle used as passenger vehicle to be licensed**

- (1) No motor vehicle constructed or ordinarily used for the carriage of goods shall be used for the carriage of passengers for hire or reward unless such motor vehicle—
- (a) is licensed as a commercial passenger vehicle; or
- (b) is licensed under a special licence for the purpose which the licensing authority or any person authorized whether generally or in any particular case in that behalf by the licensing authority is hereby authorized to grant upon such conditions as it thinks fit.
- (2) Subsection (1) shall not apply in respect of a passenger who is—
- (a) the owner of the vehicle;
- (b) a member of the owner's family and who resides in the same household with him;
- (c) an employee of the owner and actually employed and remunerated by him in connexion with the operation of the vehicle at the time; or
- (d) carried in a tow truck, if that carriage is not prohibited under the **Accident Towing Services Act 2007**.
- (3) Subject to subsection (4), the owner and the driver of any motor vehicle which is used in contravention of this section shall be severally guilty of an offence against this Division.

S. 155(1)  
amended by  
Nos 127/1986  
s. 102(Sch. 4  
item 28.8),  
120/1993 s. 27.

S. 155(1)(b)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
37/1996  
s. 9(6).

S. 155(2)(d)  
amended by  
No. 127/1986  
s. 102(Sch. 4  
item 28.8),  
substituted by  
No. 30/2007  
s. 230.

S. 155(3)  
amended by  
No. 127/1986  
s. 102(Sch. 4  
item 28.8).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

S. 155(4)  
amended by  
No. 127/1986  
s. 102(Sch. 4  
item 28.8).

- (4) In any prosecution against the driver of any motor vehicle under this section it shall be a good defence if the driver satisfies the court hearing the prosecution that he did not know that the motor vehicle was not licensed as required by this section.

S. 156  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
120/1993  
s. 28(1)(2),  
60/1994  
s. 15(1),  
68/1995 s. 44,  
106/1997 s. 23,  
99/1998 s. 9,  
34/2003 s. 6,  
110/2004  
s. 48(3),  
repealed by  
No. 47/2006  
s. 10.

\* \* \* \*

S. 156A  
inserted by  
No. 71/2006  
s. 11 (as  
amended by  
No. 69/2007  
s. 83).

### 156A Effect on taxi-cab licences of certain outcomes

S. 156A(1)(2)  
repealed by  
No. 35/2014  
s. 30(1).

\* \* \* \*

S. 156A(3)  
amended by  
No. 35/2014  
s. 30(2).

- (3) If a taxi-cab licence to which a condition referred to in section 143D(1)(b) is not attached is transferred in accordance with this Division to a person who is not accredited as a taxi-cab operator, the licence is revoked by force of this subsection on the expiry of the period of 90 days after that transfer (or any longer period allowed by the licensing authority) unless before then the transferee in accordance with this Division—

- (a) assigns to another person the right to operate a vehicle under the licence; or
  - (b) transfers the licence to another person.
- (4) If the operator of a taxi-cab is found guilty of an offence against section 131—
  - (a) if the right to operate a vehicle under a taxi-cab licence has been assigned to the operator under section 150, the assignment is revoked by force of this subsection; and
  - (b) if the operator is the holder of a taxi-cab licence to which conditions under both section 143D(1)(a) and (b) are attached, the licence is revoked by force of this subsection; and
  - (ba) if the operator is the holder of a new taxi-cab licence, the licence is revoked by force of this subsection; and S. 156A(4)(ba) inserted by No. 43/2013 s. 21(1).
  - (c) if the operator is the holder of a taxi-cab licence to which conditions under both section 143D(1)(a) and (b) are not attached (other than a new taxi-cab licence), the licence is revoked by force of this subsection on the expiry of the period of 90 days after the finding (or any longer period allowed by the licensing authority) unless before then the operator in accordance with this Division—S. 156A(4)(c) amended by No. 43/2013 s. 21(2).
    - (i) assigns to another person the right to operate a vehicle under the licence; or
    - (ii) transfers the licence to another person.
- (5) If the accreditation under Division 4 of a person as a taxi-cab operator is cancelled under Subdivision 6 of that Division or under section 272(5) or is surrendered with the consent of the licensing authority under section 137B—S. 156A(5) amended by No. 35/2014 s. 30(3).

S. 156A(5)(ba)  
inserted by  
No. 43/2013  
s. 21(3).

S. 156A(5)(c)  
amended by  
No. 43/2013  
s. 21(2).

- (a) if the right to operate a vehicle under a taxi-cab licence has been assigned to the operator under section 150, the assignment is revoked by force of this subsection; and
- (b) if the operator is the holder of a taxi-cab licence to which conditions under both section 143D(1)(a) and (b) are attached, the licence is revoked by force of this subsection; and
- (ba) if the operator is the holder of a new taxi-cab licence, the licence is revoked by force of this subsection; and
- (c) if the operator is the holder of a taxi-cab licence to which conditions under both section 143D(1)(a) and (b) are not attached (other than a new taxi-cab licence), the licence is revoked by force of this subsection on the expiry of the period of 90 days after the cancellation or surrender or expiry of accreditation (or any longer period allowed by the licensing authority) unless before then the operator in accordance with this Division—
  - (i) assigns to another person the right to operate a vehicle under the licence; or
  - (ii) transfers the licence to another person.
- (6) If the accreditation under Division 4 of a person as a taxi-cab operator is suspended under Subdivision 6 of that Division—
  - (a) any assignment to the operator under section 150 of the right to operate a vehicle under a taxi-cab licence is suspended by force of this subsection for the same period as the accreditation is suspended; and

- (b) any taxi-cab licence held by the operator (other than any licence the right to operate a vehicle under which has been assigned by that person under section 150) is, subject to section 149(2), suspended by force of this subsection for the same period as the accreditation is suspended.

**157 Revocation or suspension of licence, permit or accreditation**

S. 157  
(Heading)  
inserted by  
No. 43/2013  
s. 27(1).

- (1) Subject to subsection (3), the licensing authority may by notice in writing to the holder of a licence or permit granted under this Division, suspend or revoke the licence or permit on the ground that any of the conditions attached to the licence or permit or the provisions of this Act or the **Road Safety Act 1986** or the regulations made under those Acts applicable thereto have not been complied with, if the licensing authority is satisfied that because of—

S. 157(1)  
amended by  
Nos 100/1986  
s. 18(a)(b),  
127/1986  
s. 102(Sch. 4  
item 28.9),  
44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1),  
47/2006  
s. 11(1).

- (a) the frequency of;  
(b) the wilful commission of; or  
(c) the danger to the public as a result of—

the breach of those conditions or the provisions of this Act or the **Road Safety Act 1986** or the regulations, the licence or permit should be revoked or suspended.

- (2) Subject to subsection (3), the licensing authority may by notice in writing suspend or revoke a licence or permit granted under this Division if it is satisfied that—

S. 157(2)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1),  
47/2006  
s. 11(1).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 157(2)(a)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
120/1993  
s. 29(1),  
60/1994  
s. 15(1).

(a) any statement made to the licensing authority  
was wilfully false in any material particular;  
or

S. 157(2)(b)  
amended by  
No. 47/2006  
s. 11(1).

(b) the holder of the licence or permit is not a fit  
and proper person to hold that licence or  
permit.

S. 157(2A)  
inserted by  
No. 34/2003  
s. 7(1),  
repealed by  
No. 47/2006  
s. 11(2), new  
s. 157(2A)  
inserted by  
No. 43/2013  
s. 27(2).

(2A) Subject to subsection (3), the licensing authority  
may, by notice in writing to the holder of a taxi-  
cab licence, taxi-cab operator accreditation, taxi-  
cab licence holder accreditation or any permit  
relating to a taxi-cab, suspend or revoke the  
licence, accreditation or permit if satisfied, on the  
balance of probabilities, that the holder has  
contravened section 144D.

S. 157(2B)  
inserted by  
No. 34/2003  
s. 7(1),  
repealed by  
No. 47/2006  
s. 11(2), new  
s. 157(2B)  
inserted by  
No. 43/2013  
s. 27(2).

(2B) Nothing in subsection (2A) limits Subdivision 6 of  
Division 4.

S. 157(2C)  
inserted by  
No. 34/2003  
s. 7(1),  
repealed by  
No. 47/2006  
s. 11(2).

\* \* \* \* \*

S. 157(3)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
120/1993  
s. 29(2),  
60/1994  
s. 15(1).

(3) The licensing authority shall not suspend or  
revoke a licence or permit pursuant to this section  
unless the holder of the licence or permit has been  
given a reasonable opportunity to show cause why  
the licence or permit should not be suspended or  
revoked.



- (4) The holder of a licence or permit granted under this Division may apply to the Tribunal for review of a decision by the licensing authority under this section to suspend or revoke the licence or permit<sup>7</sup>.

S. 157(4)  
repealed by  
No. 120/1993  
s. 29(3),  
new s. 157(4)  
inserted by  
No. 60/1994  
s. 18,  
amended by  
No. 52/1998  
s. 311(Sch. 1  
item 96.12).

- (4A) An application for review must be made within 28 days after the later of—

S. 157(4A)  
inserted by  
No. 52/1998  
s. 311(Sch. 1  
item 96.13).

- (a) the day on which the decision is made;
- (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the licence or permit holder requests a statement of reasons for the decision, the day on which the statement of reasons is given to the licence or permit holder or the licence or permit holder is informed under section 46(5) of that Act that a statement of reasons will not be given.

\* \* \* \* \*

S. 157(5)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
57/1989  
s. 3(Sch.  
item 202.4),  
60/1994  
s. 15(1),  
substituted by  
No. 34/2003  
s. 7(2),  
repealed by  
No. 47/2006  
s. 11(3).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

S. 157(6)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
57/1989  
s. 3(Sch.  
Item 202.5),  
60/1994  
s. 15(1),  
substituted by  
No. 34/2003  
s. 7(2),  
repealed by  
No. 47/2006  
s. 11(3).

\* \* \* \*

S. 157(7)  
inserted by  
No. 52/1998  
s. 311(Sch. 1  
item 96.14),  
repealed by  
No. 65/2000  
s. 6.

\* \* \* \*

S. 157A  
inserted by  
No. 34/2003  
s. 8,  
repealed by  
No. 47/2006  
s. 12, new  
s. 157A  
inserted by  
No. 43/2013  
s. 22.

### 157A Surrender of new taxi-cab licence

- (1) The holder of a new taxi-cab licence may at any time surrender that licence to the licensing authority.
- (2) The licensing authority must cancel a licence that is surrendered under subsection (1).
- (3) A former licence holder is not entitled to any refund of the whole or any portion of the annual licence fee paid for the year in which the licence is cancelled under subsection (2).

S. 157B  
inserted by  
No. 34/2003  
s. 8,  
repealed by  
No. 47/2006  
s. 12.

\* \* \* \*

## 158 Offences

- (1) Subject to subsection (2), the driver and the owner of any commercial passenger vehicle which operates as a commercial passenger vehicle on any highway without being authorized to so operate by a licence, permit or other authority required by or under this Division shall be severally guilty of an offence against this Division.
- (2) In any prosecution against the driver pursuant to subsection (1) it shall be a good defence if the driver satisfies the court hearing the prosecution that he did not know that the vehicle was not authorized to so operate.
- (3) The driver and the owner of any licensed commercial passenger vehicle which operates otherwise than in accordance with the provisions or conditions of any licence, permit or other authority required by or under this Division or any regulations made under section 162 shall be severally guilty of an offence against this Division.
- (4) In any prosecution under this section it shall be a good defence if the accused satisfies the court that—
  - (a) the commercial passenger vehicle operated in contravention of this section without his knowledge; or
  - (b) the vehicle was used only in a case of emergency for the purpose of completing a journey in substitution for a vehicle authorized to operate by a licence, permit or other authority required by or under this Division.

S. 158(4)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.7).

**S. 158A**  
inserted by  
No. 99/1998  
s. 10,  
substituted by  
No. 69/2007  
s. 10.

## **158A Touting**

- (1) A person who at a specified place—
  - (a) touts for the business of the hire of a motor vehicle; or
  - (b) makes an offer to hire a motor vehicle; or
  - (c) solicits custom for the hire of a motor vehicle; or
  - (d) induces a person to hire a motor vehicle—  
by personally approaching a person on his or her own behalf or on behalf of another person or by displaying advertising material on or about his or her person is guilty of an offence.
- (2) A person who at a place other than a specified place—
  - (a) touts for the business of the hire of a motor vehicle; or
  - (b) makes an offer to hire a motor vehicle; or
  - (c) solicits custom for the hire of a motor vehicle; or
  - (d) induces a person to hire a motor vehicle—  
by personally approaching a person on his or her own behalf or on behalf of another person or by displaying advertising material on or about his or her person is guilty of an offence.
- (3) A person who is guilty of an offence under this section is liable to a penalty not exceeding 50 penalty units.
- (4) A person is not guilty of an offence under subsection (2) if—
  - (a) the motor vehicle is a licensed commercial passenger vehicle; and

(b) the conduct set out in subsection (2) is not in breach of the conditions of the licence or the regulations.

(5) The licensing authority may by notice published in the Government Gazette specify places for the purposes of this section.

S. 158A(5)  
amended by  
Nos 6/2010  
s. 199(3)  
(Sch. 3  
item 9.6),  
34/2011 s. 18.

(6) In this section—

*advertising material* does not include an insignia or business name when it forms part of a uniform;

*hire*, in relation to a motor vehicle, means the hire of that vehicle together with the provision of a driver.

**158AA Offence for taxi-cab to be operated without permission of accredited operator or related person**

S. 158AA  
inserted by  
No. 19/2010  
s. 28.

A person (the *first person*) must not permit another person to operate a taxi-cab unless the first person—

- (a) is the accredited operator; or
- (b) is a relevant person in relation to the accredited operator; or
- (c) is an employee of the accredited operator and does so under the express authority of the accredited operator.

Penalty: 60 penalty units.

**158AB Operator of taxi-cab commits offence if taxi-cab is operated by certain persons**

S. 158AB  
inserted by  
No. 19/2010  
s. 28.

(1) If a taxi-cab is permitted to be operated by a person—

- (a) who is not the operator of the taxi-cab; and

(b) who does not have the permission of any of the following persons to permit another person to operate the taxi-cab—

- (i) the operator of the taxi-cab;
- (ii) a relevant person in relation to the accredited operator;
- (iii) an employee of the accredited operator where that employee has given that permission under the express authority of the accredited operator—

the operator of the taxi-cab is guilty of an offence and is liable to a penalty not exceeding 60 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the operator of the taxi-cab satisfies the court that the operator took all reasonable steps to stop the taxi-cab being operated by a person who did not have permission of the kind specified in subsection (1)(b).

**Note**

See also the definitions of *operate* and *operator* in section 86(1).

S. 158AC  
inserted by  
No. 19/2010  
s. 28.

**158AC Person operating taxi-cab commits offence if taxi-cab is operated by certain persons**

- (1) If a taxi-cab is permitted to be operated by a person—
- (a) who is not the operator of the taxi-cab; and
  - (b) who does not have the permission of any of the following persons to operate the taxi-cab—
    - (i) the operator of the taxi-cab;
    - (ii) a relevant person in relation to the accredited operator;

- (iii) an employee of the accredited operator where that employee has given that permission under the express authority of the accredited operator—

the person operating the taxi-cab is guilty of an offence and is liable to a penalty not exceeding 60 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the person operating the taxi-cab satisfies the court that he or she took all reasonable steps to determine whether the person who gave permission to operate the taxi-cab could lawfully give that permission.

**Note**

See also the definitions of *operate* and *operator* in section 86(1).

**158B Offences relating to security cameras and privacy of passengers**

S. 158B  
inserted by  
No. 32/2002  
s. 13.

- (1) A person must not download or print an image or other data obtained from the use of a security camera installed in a taxi-cab unless—

- (a) the person is acting in accordance with—

- (i) an agreement under section 158C; and
  - (ii) the regulations (if any); or

S. 158B(1)(a)(ii)  
amended by  
No. 69/2007  
s. 11.

- (b) the person is employed in the licensing authority or his or her services are being used by the licensing authority in accordance with section 115R(2) of the **Transport Integration Act 2010** and is acting in accordance with—

S. 158B(1)(b)  
amended by  
No. 43/2013  
s. 46(2).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 158B(1)(b)(i)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 6(a)),  
34/2011  
s. 19(1),  
43/2013  
s. 46(1).

(i) the written authorisation of the  
licensing authority; and

S. 158B(1)(b)(ii)  
amended by  
No. 69/2007  
s. 11.

(ii) the regulations (if any).

Penalty: In the case of a natural person,  
240 penalty units;  
  
In the case of a body corporate,  
1200 penalty units.

(2) A person must not—

- (a) possess, publish, transmit or disclose to any  
other person an image or other data obtained  
from the use of a security camera in a taxi-  
cab; or
- (b) transmit images or data directly from a  
security camera in a taxi-cab—

unless the person is acting in accordance with—

S. 158B(2)(c)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 6(b)),  
34/2011  
s. 19(1),  
43/2013  
s. 46(1).

(c) the written authorisation of the licensing  
authority; and

S. 158B(2)(d)  
amended by  
No. 69/2007  
s. 11.

(d) the regulations (if any).

Penalty: In the case of a natural person,  
240 penalty units;  
  
In the case of a body corporate,  
1200 penalty units.



- (3) The licensing authority's written authorisation for the purpose of subsection (1)(b) or (2) is subject to—

S. 158B(3)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
6(c)(i)),  
34/2011  
s. 19(2),  
43/2013  
s. 46(3).

- (a) any conditions determined by the licensing authority and specified in the authorisation; and

S. 158B(3)(a)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
6(c)(ii)),  
34/2011  
s. 19(1),  
43/2013  
s. 46(1).

- (b) any conditions prescribed by the regulations.

- (4) A person must not make an audio recording of any person who has hired a taxi-cab (*the passenger*) while the passenger is travelling in the taxi-cab.

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

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

- (5) Subsection (4) does not apply to an audio recording resulting from the operation of an emergency warning device within the meaning of section 144(9).

- (6) Nothing in this section—

- (a) applies to prohibit anything done by a police officer in the course of his or her duty that would be lawful apart from this section; or

S. 158B(6)(a)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 171.2).

- (b) affects or takes away from the provisions of the **Surveillance Devices Act 1999**.

**158C Agreements in relation to images obtained from security cameras**

S. 158C  
inserted by  
No. 32/2002  
s. 13.

S. 158C(1)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 7(a)),  
34/2011  
s. 20(1),  
43/2013  
s. 46(1).

(1) The licensing authority may make an agreement with a person for the downloading or printing of images or other data obtained from the use of a security camera installed in a taxi-cab.

(2) The agreement may authorise the person with whom it is made, or a person employed or engaged by that person, to download or print images or other data obtained from the use of a security camera installed in a taxi-cab, on the terms and conditions contained in the agreement.

S. 158C(3)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 7(b)),  
34/2011  
s. 20(1),  
43/2013  
s. 46(1),  
60/2014  
s. 140(Sch. 3  
item 46.2).

(3) The **Privacy and Data Protection Act 2014** applies to a person with whom the licensing authority makes an agreement under this section as if—

(a) the person were a contracted service provider; and

(b) the agreement were a State contract—  
within the meaning of that Act.

S. 158C(4)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 7(c)),  
34/2011  
s. 20(2),  
43/2013  
s. 46(1),  
60/2014  
s. 140(Sch. 3  
item 46.2).

(4) Without limiting the application of subsection (3), an agreement under this section between the licensing authority and a person must provide for the person to be bound by the Information Privacy Principles under the **Privacy and Data Protection Act 2014** and any applicable code of practice under that Act with respect to any act done, or practice engaged in, by the person for the purposes of the agreement in the same way and to the same extent as the licensing authority would have been bound by them in respect of that act or practice had it been directly done or engaged in by the licensing authority.

**158D Transitional provision (Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013)**

S. 158D  
inserted by  
No. 43/2013  
s. 47.

- (1) Subject to subsection (2), the amendments made to section 158B by section 46 of the **Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013** do not affect an authorisation given under that section by the Secretary before the commencement of that section 46 and that authorisation continues to have effect, subject to any conditions referred to in section 158B(3), on and after that commencement as if it had been given by the licensing authority.
- (2) An authorisation under section 158B(1)(b)(i) only continues to have effect on and after the commencement of section 46 of the **Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013** if the person continues to be employed in the licensing authority, or his or her services continue to be used by the licensing authority in accordance with section 115R(2) of the **Transport Integration Act 2010**, on and after that commencement.
- (3) An agreement under section 158C that was in force between the Secretary and a person immediately before the commencement of section 46 of the **Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013** continues to have effect on and after that commencement as if it were an agreement between the licensing authority and the person.

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 159  
(Heading)  
inserted by  
No. 68/2009  
s. 97(Sch.  
item 124.8).

S. 159  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.9),  
repealed by  
No. 33/2016  
s. 3.

\* \* \* \* \*

## 160 General penalty

(1) Subject to subsection (2), every person guilty of an offence against this Division or any regulations made under section 162 for which a penalty is not expressly provided shall be liable—

S. 160(1)(a)  
substituted by  
No. 120/1993  
s. 30(1).

(a) in the case of a first offence, to a penalty of not more than 5 penalty units; and

S. 160(1)(b)  
substituted by  
No. 120/1993  
s. 30(1).

(b) in the case of a second or any subsequent offence, to a penalty of not more than 10 penalty units.

S. 160(1)(c)  
repealed by  
No. 120/1993  
s. 30(1).

\* \* \* \* \*

S. 160(2)  
repealed by  
No. 120/1993  
s. 30(2),  
new s. 160(2)  
inserted by  
No. 99/1998  
s. 11.

(2) Every person guilty of an offence against section 158(1) where the vehicle has a seating capacity for not more than 12 people (including the driver) is liable to a penalty of not more than 50 penalty units.

## **161 Penalty for failure to pay hiring rate**

Where any person is convicted of the offence of not paying a hiring rate in the manner prescribed in the regulations under section 162 the court before which he is convicted may in addition to any other penalty order the person to pay to the person to whom the hiring rate should have been paid an amount equal to the amount that should have been paid by way of hiring rate together with such compensation, as the court thinks fit, for the expense and inconvenience caused to the person to whom the hiring rate should have been paid, by the non-payment.

## **162 Regulations**

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

(a) the design and construction of commercial passenger vehicles so as to secure the safety comfort and convenience of drivers, passengers and the public;

(aa) empowering an officer of the licensing authority to exempt particular commercial passenger vehicles or classes of those vehicles from any of the provisions made under paragraph (a);

S. 162(1)(aa)  
inserted by  
No. 100/1986  
s. 19(a),  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

(b) the fitting of screens equipment and warning devices on commercial passenger vehicles of such dimensions design and construction as the licensing authority shall approve so as to secure the safety of drivers, and the prohibiting of the operation of such equipment or devices except on prescribed occasions;

S. 162(1)(b)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
60/1994  
s. 15(1).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 162(1)(ba)  
inserted by  
No. 60/1994  
s. 19(a).

(ba) the equipment to be used, or not to be used,  
in or on commercial passenger vehicles;

S. 162(1)(bb)  
inserted by  
No. 32/2002  
s. 14(1).

(bb) without limiting paragraph (b)—

- (i) requiring the installation of security cameras in taxi-cabs; and
- (ii) regulating the installation and use of security cameras in taxi-cabs and the downloading, printing, possession, publication, transmission and disclosure of images or other data obtained from them;

S. 162(1)(bc)  
inserted by  
No. 69/2007  
s. 12,  
amended by  
No. 26/2009  
s. 4.

(bc) information derived from or contained in equipment required or permitted by or under this Act or the regulations to be used in or on a taxi-cab, including—

- (i) the keeping of the information; and
- (ii) the provision of the information to the licensing authority; and
- (iii) the inspection or auditing of the information by or on behalf of the licensing authority;

S. 162(1)(c)  
amended by  
No. 44/1989  
s. 39(1)(d).

(c) prescribing and regulating in respect of vehicles (including motor vehicles operating under a special licence under section 155)—

- (i) the conduct and duties of owners, drivers, conductors and passengers;
- (ii) the dress and appearance of drivers and conductors;

S. 162(1)  
(c)(iia)  
inserted by  
No. 60/1994  
s. 19(b).

(iia) the appearance of the vehicles (including the signs, notices and labels to be used, or not to be used, in or on the vehicles);

- 
- |   |  |
|---|--|
| <p>(iii) the fares or hiring rates to be paid by passengers, the collection thereof and the issue of tickets;</p> <p>(iv) the safeguarding and disposal of lost or unclaimed property left in or carried on such vehicles;</p> <p>(v) agreements between owners and drivers of such vehicles;</p> <p>(vi) generally, conditions relating to the operation and use of such vehicles;</p> <p>(ca) appointing stands and feeder ranks for commercial passenger vehicles;</p> <p>(d) prohibiting or regulating the carriage of goods in commercial passenger vehicles;</p> <p>(e) the alteration, maintenance and repair of vehicles;</p> <p>(ea) the inspection of commercial passenger vehicles;</p> <p>(f) the publication of time-tables, fares and rates in or on vehicles whether by exhibition or otherwise;</p> | <p></p> <p></p> <p></p> <p></p> <p><b>S. 162(1)(ca)</b><br/>inserted by<br/>No. 100/1986<br/>s. 19(b).</p> <p></p> <p></p> <p><b>S. 162(1)(e)</b><br/>amended by<br/>No. 60/1994<br/>s. 19(c).</p> <p><b>S. 162(1)(ea)</b><br/>inserted by<br/>No. 60/1994<br/>s. 19(d).</p> |
| <p>*                      *                      *                      *</p>   | <p><b>S. 162(1)(g)</b><br/>amended by<br/>Nos 100/1986<br/>s. 19(c),<br/>120/1993<br/>s. 31(1)(a),<br/>repealed by<br/>No. 47/2006<br/>s. 13(a).</p>   |
| <p>*                      *                      *                      *</p>   | <p><b>S. 162(1)(ga)</b><br/>inserted by<br/>No. 100/1986<br/>s. 19(d),<br/>repealed by<br/>No. 58/1995<br/>s. 26.</p>  |
-

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 162(1)(gb)  
inserted by  
No. 68/1995  
s. 43(4).

(gb) exempting from section 139(1) a specified commercial passenger vehicle or a specified class of commercial passenger vehicle operated by a specified person or a specified class of person of a kind referred to in section 139(1A);

S. 162(1)(h)  
repealed by  
No. 120/1993  
s. 31(1)(b),  
new  
s. 162(1)(h)  
inserted by  
No. 60/1994  
s. 19(e),  
amended by  
No. 47/2006  
s. 13(b).

(h) the conditions to which licences or permits are subject;

S. 162(1)(i)  
amended by  
No. 47/2006  
s. 13(c).

(i) applications for licences or permits and the revocation or suspension thereof;

S. 162(1)(ia)  
inserted by  
No. 100/1986  
s. 19(e).

(ia) specifying, in relation to the granting of taxi-cab licences under section 143A—

(i) the classes of people and the qualifications of people eligible to apply for licences; and

(ii) the procedures to be followed for the granting of licences;

S. 162(1)(j)  
amended by  
No. 60/1994  
s. 19(f).

(j) records to be kept in relation to vehicles and the inspection of those records;

(k) the furnishing by owners of vehicles of statistical and other information;

S. 162(1)(l)  
repealed by  
No. 120/1993  
s. 31(1)(c).

\* \* \* \* \*



(m) the transfer of licences;

S. 162(1)(m)  
amended by  
No. 100/1986  
s. 19(f).

(ma) regulating trading in taxi-cab licences  
(within the meaning of section 150A),  
including—

S. 162(1)(ma)  
inserted by  
No. 101/2003  
s. 7.

(i) requiring that a person trading in taxi-  
cab licences be accredited to do so;

(ii) providing for a system of accreditation  
to support such a requirement,  
including—

(A) imposing minimum requirements  
concerning integrity, competence  
and financial capacity;

(B) the conditions to be observed by  
an accredited person in trading in  
taxi-cab licences (including  
conditions concerning the  
amounts that may be charged for  
carrying out that trading);

\* \* \* \* \*

S. 162(1)  
(ma)(iii)  
repealed by  
No. 110/2004  
s. 51(1)(a).

(iv) requiring that specified information, or  
information of a specified type, be  
provided by a person trading in taxi-cab  
licences to a person to whom a taxi-cab  
licence is to be transferred or to whom  
a right to operate a vehicle under a  
taxi-cab licence is to be assigned;

S. 162(1)  
(ma)(iv)  
amended by  
No. 110/2004  
s. 51(1)(b).

\* \* \* \* \*

S. 162(1)  
(ma)(v)  
repealed by  
No. 110/2004  
s. 51(1)(a).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 162(1)(mb)  
inserted by  
No. 110/2004  
s. 51(2).

(mb) authorising a person, or class of person, to trade in taxi-cab licences (within the meaning of section 150A) in specified circumstances;

S. 162(1)(mc)  
inserted by  
No. 110/2004  
s. 51(2).

(mc) specifying dealings or classes of dealings for or in connection with the transfer of taxi-cab licences or the assignment of rights to operate vehicles under taxi-cab licences that must be conducted, recorded or disclosed in accordance with—

S. 162  
(1)(mc)(i)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 8(a)),  
34/2011  
s. 21(1).

(i) the rules of a securities exchange or other system specified by the licensing authority; or

S. 162  
(1)(mc)(ii)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 8(a)),  
34/2011  
s. 21(1).

(ii) a method or rules specified by the licensing authority;

S. 162(1)(md)  
inserted by  
No. 110/2004  
s. 51(2),  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 8(b)),  
34/2011  
s. 21(1).

(md) specifying information or classes of information—

(i) relating to dealings or classes of dealings referred to in paragraph (mc); or

(ii) necessary to enable dealings or classes of dealings referred to in paragraph (mc) to be conducted—

that must be recorded or disclosed in accordance with the rules of a securities exchange or other system specified by the licensing authority, or a method or rules specified by the licensing authority;

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

(me) enabling the licensing authority to specify a securities exchange or other system or a method or rules referred to in paragraphs (mc) and (md);	S. 162(1)(me) inserted by No. 110/2004 s. 51(2), amended by Nos 47/2006 s. 31(1)(Sch. 1 Pt 1 item 8(c)), 34/2011 s. 21(2).
* * * *	S. 162(1)(n) repealed by No. 71/2006 s. 12.
* * * *	S. 162(1)(na) (nb) inserted by No. 32/2002 s. 14(2), repealed by No. 71/2006 s. 12.
(o) the assignment of rights under licences, the conditions to which assignments are to be subject and the cancellation or suspension of such assignments; and	S. 162(1)(o) amended by No. 120/1993 s. 31(1)(d).
(oa) prohibiting or regulating smoking in vehicles;	S. 162(1)(oa) inserted by No. 100/1986 s. 19(g).
(p) generally, all such matters and things as are authorized or permitted to be prescribed or are necessary or expedient to be prescribed for carrying this Division into effect.	
(2) Any regulations made under this Division—	S. 162(2) amended by No. 43/2013 s. 52(2).
(a) may be of general or of specially limited application;	

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 162(2)(c)  
amended by  
Nos 120/1993  
s. 31(2),  
60/1994  
s. 19(g).

- (b) may differ according to differences in time, place or circumstance; and
- (c) may prescribe penalties of not more than 20 penalty units for any breach thereof; and

S. 162(2)(d)  
inserted by  
No. 60/1994  
s. 19(g).

- (d) may confer a power or a discretionary authority on a person or body or a class of people or bodies; and

S. 162(2)(e)  
inserted by  
No. 60/1994  
s. 19(g).

- (e) may apply, adopt or incorporate (with or without modification) any matter contained in a document as in force at the time the regulations are made or at any time before then; and

S. 162(2)(f)  
inserted by  
No. 60/1994  
s. 19(g).

- (f) may provide for the exemption of a specified person, body or thing or a specified class of persons, bodies or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified; and

S. 162(2)(g)  
inserted by  
No. 60/1994  
s. 19(g),  
amended by  
No. 52/1998  
s. 311(Sch. 1  
item 96.15) (as  
amended by  
No. 101/1998  
s. 22(1)(o)).

- (g) may provide that an application may be made to the Tribunal for review of a decision made by a specified person in the exercise or purported exercise of a power conferred by the regulations.

**Division 5A—Regulation of maximum taxi fares in  
Melbourne Metropolitan Zone and Urban and  
Large Regional Zone**

Pt 6 Div. 5A  
(Heading  
and ss  
162A–162E)  
inserted by  
No. 43/2013  
s. 28(1) (as  
amended by  
No. 35/2014  
s. 51).

**162A Application of Essential Services Commission  
Act 2001**

S. 162A  
inserted by  
No. 43/2013  
s. 28(1) (as  
amended by  
No. 35/2014  
s. 51).

- (1) For the purposes of the **Essential Services Commission Act 2001**—
  - (a) this Division is relevant legislation; and
  - (b) the taxi industry is a regulated industry.
- (2) If there is any inconsistency between this Division and a provision of the **Essential Services Commission Act 2001**, the provision of this Division prevails.

**162B Objective of the ESC**

The objective of the ESC in relation to the taxi industry is to promote the efficient provision and use of commercial passenger vehicle services.

S. 162B  
inserted by  
No. 43/2013  
s. 28(1) (as  
amended by  
No. 35/2014  
s. 51).

**162C Powers in relation to fares regulation**

- (1) For the purposes of Part 3 of the **Essential Services Commission Act 2001**—
  - (a) the services provided by commercial passenger vehicles operating as taxi-cabs, in the licence of which the Melbourne Metropolitan Zone or the Urban and Large Regional Zone is specified, are prescribed services; and

S. 162C  
inserted by  
No. 43/2013  
s. 28(1) (as  
amended by  
No. 35/2014  
s. 51).

- (b) the maximum charges for the services covered by paragraph (a) are prescribed prices.
- (2) The reference in subsection (1)(b) to maximum charges includes the amount of any holiday surcharge or late night surcharge payable for the provision of those services.

S. 162D  
inserted by  
No. 43/2013  
s. 28(1) (as  
amended by  
No. 35/2014  
s. 51).

#### **162D Price determinations**

Without limiting section 33(5) of the **Essential Services Commission Act 2001**, the manner in which the ESC may regulate prescribed prices includes determining different prices according to—

- (a) the time of day at which, or day of the week or kind of day on which, the service is provided; or
- (b) the taxi-cab zone referred to in section 143B(1) that is specified in the vehicle's licence; or
- (c) the speed at which the vehicle is travelling; or
- (d) the distance travelled by the vehicle; or
- (e) the type of vehicle; or
- (f) the occupancy of the vehicle, including where there is more than one hirer; or
- (g) where the journey begins or ends.

S. 162E  
inserted by  
No. 43/2013  
s. 28(1) (as  
amended by  
No. 35/2014  
s. 51).

#### **162E Exercise of regulatory functions**

- (1) In making a determination in relation to the taxi industry, the ESC must have regard to recommendations 12.1 to 12.9 and 13.1 to 13.5 in the final report of the Taxi Industry Inquiry tabled in both Houses of the Parliament on 12 December 2012.

- (2) The ESC must make an initial determination under this Division of the maximum charges for services provided by taxi-cabs before the first anniversary of the day on which this Act receives the Royal Assent.
- (3) The ESC must complete a review of a price determination no later than 2 years after it is made.
- (4) Subsection (1) expires on the fifth anniversary of the day on which section 28(1) of the **Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013** comes into operation.

**Division 5AB—Notification, publication and monitoring of taxi fares and hiring rates in the Regional and Country Zones**

Pt 6 Div. 5AB  
(Heading and ss 162EA–162ED)  
inserted by  
No. 43/2013  
s. 28(1) (as  
amended by  
No. 35/2014  
s. 51).

**162EA Licensing authority to be notified of maximum taxi fares and hiring rates in Regional and Country Zones**

S. 162EA  
inserted by  
No. 43/2013  
s. 28(1) (as  
amended by  
No. 35/2014  
s. 51).

- (1) This section applies only in relation to a taxi-cab in the licence of which the Regional Zone or the Country Zone is specified.
- (2) The holder of a taxi-cab operator accreditation must not begin to operate a taxi-cab unless—
  - (a) the holder, or a person referred to in subsection (3), has submitted to the licensing authority a notice in the form approved by the authority containing the prescribed information relating to the maximum fares or hiring rates to be charged in respect of the taxi-cab; and

(b) the terms of that notice have been published by the licensing authority on its internet site as required by section 162EB(1).

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

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

- (3) A person accredited to provide taxi-cab network services (within the meaning of Division 4) who has entered into arrangements with the holder of a taxi-cab operator accreditation in respect of a particular taxi-cab may submit to the licensing authority the notice referred to in subsection (2)(a) in respect of that taxi-cab.
- (4) A person who was the operator of a taxi-cab immediately before the commencement of section 24(2) of the **Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013** is to be taken to have submitted to the licensing authority in respect of the taxi-cab, and the licensing authority is to be taken to have received, a notice of a kind referred to in subsection (2)(a) that specifies, as the maximum fares or hiring rates to be charged in respect of the taxi-cab, the fares or hiring rates as determined by the Minister immediately before that commencement.
- (5) If at any time the operator of a taxi-cab proposes to vary the maximum fares or hiring rates to be charged in respect of the taxi-cab, the operator, or a person referred to in subsection (3), may submit to the licensing authority a notice of a kind referred to in subsection (2)(a) in respect of the taxi-cab.



- (6) Without limiting section 115F(1)(de) of the **Transport Integration Act 2010**, the licensing authority must prepare material to provide practical guidance and information to the holders of a taxi-cab operator accreditation or provider of taxi-cab network services accreditation on—
- (a) the development of new fare or hiring rates; and
  - (b) the effect of this section.

**162EB Licensing authority must publish maximum taxi fares and hiring rates in Regional and Country Zones**

S. 162EB  
inserted by  
No. 43/2013  
s. 28(1) (as  
amended by  
No. 35/2014  
s. 51).

- (1) The licensing authority, within 5 business days after receiving, or being taken to have received, a notice of a kind referred to in section 162EA(2)(a) must—
- (a) publish, on its internet site, the terms of the notice; and
  - (b) notify the operator of any taxi-cab to which the notice relates of the date on which it published, or intends to publish, the notice on its internet site.
- (2) A notification under subsection (1)(b) must be—
- (a) in writing; and
  - (b) given to the operator as soon as practicable after the licensing authority receives, or is taken to have received, the notice.
- (3) The licensing authority may also publish on its internet site, in any form that it considers appropriate, information about the maximum fares or hiring rates that may be charged in any area within the Regional Zone or the Country Zone.

S. 162EC  
inserted by  
No. 43/2013  
s. 28(1) (as  
amended by  
No. 35/2014  
s. 51).

**162EC Operators of taxi-cabs in Regional and Country Zones must notify hirers of maximum fares and hiring rates**

The operator of a taxi-cab in the licence of which the Regional Zone or the Country Zone is specified must ensure that information about the maximum fares or hiring rates chargeable in respect of the taxi-cab is made available to hirers in accordance with any prescribed standard.

Penalty: 20 penalty units.

S. 162ED  
inserted by  
No. 43/2013  
s. 28(1) (as  
amended by  
No. 35/2014  
s. 51).

**162ED ESC to monitor prices, costs and return on assets in Regional and Country Zones**

- (1) During the 5 year period beginning on the commencement of section 28(1) of the **Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013** the ESC must monitor the prices, costs and return on assets in the taxi industry in the Regional Zone and the Country Zone with a view to—
  - (a) keeping Victorian consumers and the Government informed about the economic performance of that industry; and
  - (b) supporting the efficient operation of that industry by—
    - (i) monitoring, describing and analysing trends in prices, costs and return on assets; and
    - (ii) identifying and highlighting potential areas of misuse of market power that warrant further investigation.

**Note**

The ESC has power to obtain information and documents under section 37 of the **Essential Services Commission Act 2001**.

- (2) The reference in subsection (1) to the taxi industry in the Regional Zone and the Country Zone is a reference to the services provided by taxi-cabs in the licence of which the Regional Zone or the Country Zone is specified.
- (3) The ESC must prepare an annual report on the conduct of its activities under this section and may at any time, on its own initiative, prepare a special report on the conduct of those activities.
- (4) In preparing a report, the ESC must have regard to the need to ensure that information obtained by it that is of a commercially-sensitive nature is not disclosed in the report.
- (5) The ESC must submit a copy of any report prepared by it under this section to the Minister administering this Division and to the licensing authority.
- (6) The ESC and the licensing authority must ensure that a copy of any report submitted under subsection (5) is published on its internet site.

**Division 5B—Regulation of maximum non-cash payment surcharges**

Pt 6 Div. 5B  
(Heading and  
ss 162F–162I)  
inserted by  
No. 43/2013  
s. 28(2).

**162F Application of Essential Services Commission Act 2001**

S. 162F  
inserted by  
No. 43/2013  
s. 28(2).

- (1) For the purposes of the **Essential Services Commission Act 2001**—
  - (a) this Division is relevant legislation; and
  - (b) the taxi non-cash payment transaction industry is a regulated industry.

- (2) If there is any inconsistency between a provision of this Division and a provision of the **Essential Services Commission Act 2001**, the provision of this Division prevails.

S. 162G  
inserted by  
No. 43/2013  
s. 28(2).

#### **162G Objective of the ESC**

- (1) The objective of the ESC in relation to the taxi non-cash payment transaction industry is to promote efficiency by regulating the amount that may be imposed by way of a taxi non-cash payment surcharge.
- (2) In seeking to achieve the objective specified in subsection (1), the ESC must ensure that persons facilitating the making of taxi non-cash payment transactions are able to recover the reasonable cost of accepting and processing such transactions.
- (3) The reference in subsection (2) to *reasonable cost* includes any fees payable for the acquisition of transactions involving the use of debit, credit or charge cards.

S. 162H  
inserted by  
No. 43/2013  
s. 28(2).

#### **162H Powers in relation to taxi non-cash payment service regulation**

For the purposes of Part 3 of the **Essential Services Commission Act 2001**—

- (a) taxi non-cash payment transactions are prescribed services; and
- (b) the maximum amounts of taxi non-cash payment surcharges are prescribed prices.

S. 162I  
inserted by  
No. 43/2013  
s. 28(2).

#### **162I Exercise of regulatory functions**

- (1) Without limiting section 33(5) of the **Essential Services Commission Act 2001**, the manner in which the ESC may regulate prescribed prices includes determining different prices according to circumstances specified in the determination if it considers it necessary to do so in order for it to comply with section 162G(2).

- (2) The ESC must complete a review of a price determination no later than 2 years after it is made.

## Division 5C—Driver agreements

Pt 6 Div. 5C  
(Heading  
and ss  
162J–162U)  
inserted by  
No. 43/2013.  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

### Subdivision 1—Preliminary

#### 162J Definition

In this Division—

***driver agreement*** means an agreement made between the operator of a taxi-cab and another person (***the taxi-cab driver***) under which the taxi-cab driver is permitted to have possession of the taxi-cab for the purpose of operating it but does not include an agreement for the purchase of the taxi-cab or a contract of employment or of service;

***Small Business Commission*** means the Small Business Commission established under section 4 of the **Small Business Commission Act 2017**;

S. 162J  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

S. 162J def. of  
***Small  
Business  
Commission***  
inserted by  
No. 16/2017  
s. 24(b).

\* \* \* \* \*

S. 162J def. of  
***Small  
Business  
Commis-  
sioner***  
repealed by  
No. 16/2017  
s. 24(a).

S. 162K  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

## **162K Application of Division**

This Division applies to a driver agreement whether made before or after the commencement of section 32 of the **Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013**.

## **Subdivision 2—Conditions**

S. 162L  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

## **162L Conditions of driver agreement**

- (1) The TSC may, by notice published in the Government Gazette, specify conditions that are to be implied in every driver agreement.
- (2) Without limiting subsection (1), it is an implied condition of every driver agreement that at least 55% of the gross fares that accrue when a taxi-cab is under the control of a driver are to be retained by, or paid to, the driver.

S. 162M  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

## **162M Offence if mandatory condition breached**

A party to a driver agreement who breaches a condition of the agreement implied under section 162L commits an offence and is liable to a penalty not exceeding 120 penalty units for a natural person or 600 penalty units for a body corporate.

## **Subdivision 2A—Preliminary assistance in dispute resolution**

S. 162MA  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

## **162MA Referral of disputes to TSC**

- (1) Either party, or both parties, to a driver agreement, or a person proposing to enter into a driver agreement, may refer to the TSC a dispute concerning a condition of the agreement or proposed agreement.

- (2) As soon as practicable after a dispute is referred to it under subsection (1) the TSC must make an assessment as to the nature of the dispute.
- (3) After having made an assessment as to the nature of the dispute, the TSC must decide whether—
  - (a) to provide preliminary assistance in resolving the dispute; or
  - (b) in the case of a dispute concerning a condition of an agreement, to take action to enforce compliance with the agreement; or
  - (c) if there are different aspects to the dispute, to act under both paragraphs (a) and (b).
- (4) If the TSC considers that the dispute may raise an issue of important public policy and it has not decided to take action to enforce compliance with the agreement under subsection (3)(b), it must notify the Minister in writing about the dispute.
- (5) Preliminary assistance that may be provided by the TSC includes the giving of advice designed to ensure that—
  - (a) the parties are fully aware of their rights and obligations; and
  - (b) there is full and open communication between the parties concerning the matter.
- (6) A statement or admission made in the course of the provision by the TSC of preliminary assistance is not admissible in proceedings before the Tribunal under Subdivision 4 or in any other legal proceedings.

**162MB Minister may refer dispute directly to the Tribunal**

- (1) Subsection (2) applies if the Minister considers that the subject matter of a dispute of which he or she has been notified under section 162MA(4) raises an issue of important public policy.

S. 162MB  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

- (2) The Minister may refer the dispute directly to the Tribunal for hearing under Subdivision 4, even if the TSC is in the process of providing preliminary assistance.

S. 162MC  
(Heading)  
amended by  
No. 16/2017  
s. 25(1)

**162MC Unresolved disputes may be referred to Small Business Commission or the Tribunal**

S. 162MC  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

- (1) The TSC may certify in writing that—  
(a) preliminary assistance under this Subdivision has failed to resolve the dispute; or

S.  
162MC(1)(b)  
amended by  
No. 16/2017  
s. 25(2).

- (b) preliminary assistance under this Subdivision has failed to resolve the dispute and, in its opinion, the dispute is unlikely to be resolved with the assistance of the Small Business Commission.

- (2) A certificate issued under subsection (1) must state that a party or both parties may refer the dispute—

S. 162MC(2)(a)  
amended by  
No. 16/2017  
s. 25(2).

- (a) to the Small Business Commission if the certificate certifies as set out in subsection (1)(a); or  
(b) to the Tribunal if the certificate certifies as set out in subsection (1)(b).

- (3) As soon as practicable after issuing a certificate under subsection (1), the TSC must provide a copy of it to the parties to the dispute.

S. 162MC(4)  
amended by  
No. 16/2017  
s. 25(2).

- (4) Within 30 days after receiving a copy of a certificate under subsection (1), a party or both parties to the dispute may refer the dispute to the Small Business Commission or the Tribunal, as the case requires.



- (5) This section does not apply, or ceases to apply, if the Minister refers the dispute directly to the Tribunal under section 162MB(2).

### **Subdivision 3—Alternative dispute resolution**

#### **162N Function of Small Business Commission**

S. 162N  
(Heading)  
amended by  
No. 16/2017  
s. 26(1).

S. 162N  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

- (1) If a dispute is referred to the Small Business Commission under Subdivision 2A, the Commission must make arrangements to facilitate the resolution of the dispute by mediation or another form of alternative dispute resolution as determined by the Commission.
- (2) The Commission may itself conduct a mediation or other form of alternative dispute resolution and is entitled to be paid its fees and expenses for doing so, which must not be more than the maximum amount (if any) prescribed by the regulations.
- (3) The Commission is not subject to the Minister's control or direction in exercising functions under this Subdivision.

S. 162N(1)  
amended by  
No. 16/2017  
s. 26(2).

S. 162N(2)  
amended by  
No. 16/2017  
s. 26(3).

S. 162N(3)  
amended by  
No. 16/2017  
s. 26(4).

\* \* \* \* \*

S. 162P  
(Heading)  
amended by  
No. 16/2017  
s. 27(1).

## **162P Mediation or other alternative dispute resolution by Small Business Commission**

S. 162P  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

S. 162P(1)  
amended by  
No. 16/2017  
s. 27(2).

- (1) This section applies if a dispute is referred to the Small Business Commission under Subdivision 2A.

\* \* \* \* \*

S. 162P(3)  
amended by  
No. 16/2017  
s. 27(3).

- (3) The Small Business Commission may join any person that it considers it appropriate to join as a party to the matter.

S. 162P(4)  
amended by  
No. 16/2017  
s. 27(4).

- (4) The Commission must arrange for each dispute referred under Subdivision 2A to be the subject of—
- (a) mediation by a mediator; or
  - (b) another appropriate form of alternative dispute resolution by a suitably qualified person.
- (5) A party to a mediation or another form of alternative dispute resolution may be represented by a legal practitioner but the mediator or person conducting the other form of alternative dispute resolution may, if he or she considers it appropriate to do so, meet with the party (alone or together with any other party) without their legal representative being present.
- (6) The costs of, and associated with, mediation by a mediator, or another form of alternative dispute resolution by a suitably qualified person (including the fees and expenses of the mediator

or person conducting the other form of alternative dispute resolution) are to be determined by the mediator or that other person and paid by the parties in the proportions that they agree among themselves or, if they cannot agree, in equal shares.

- (7) A mediator or person conducting another form of alternative dispute resolution is not civilly or criminally liable in respect of the performance, in good faith, of the functions of a mediator or of such a person under this section.

**162PA Small Business Commission may issue certificates**

S. 162PA  
(Heading)  
amended by  
No. 16/2017  
s. 28(1).

S. 162PA  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

- (1) The Small Business Commission may certify in writing that alternative dispute resolution under this Subdivision has failed to resolve a dispute referred to it under Subdivision 2A or is unlikely to resolve such a dispute.
- (2) A certificate issued under subsection (1) must include details of the parties involved in the dispute.
- (3) The Commission may certify that a party to the dispute has unreasonably refused to participate in alternative dispute resolution under this Subdivision.
- (4) A certificate issued under this section may be admitted in evidence in proceedings before the Tribunal or a court.

S. 162PA(1)  
amended by  
No. 16/2017  
s. 28(2).

S. 162PA(3)  
amended by  
No. 16/2017  
s. 28(3).

S. 162PA(5)  
amended by  
No. 16/2017  
s. 28(4).

- (5) The Commission is not required to give a party to the dispute an opportunity to be heard by, or make submissions to, the Commission before issuing a certificate under this section.

S. 162PB  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52),  
amended by  
No. 16/2017  
s. 28(5).

#### **162PB Parties may apply to the Tribunal**

If the Small Business Commission issues a certificate under section 162PA(1), a party or both parties to the dispute may apply to the Tribunal for one or more orders under section 162S.

### **Subdivision 4—The Tribunal**

S. 162Q  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

#### **162Q Jurisdiction of the Tribunal**

- (1) The Tribunal has jurisdiction to hear and determine—
- (a) the matter of a dispute referred to it—
    - (i) by the Minister under section 162MB(2); or
    - (ii) by a party or both parties to the dispute in accordance with this Division; or
  - (b) an application by a party, or both parties, to a dispute under section 162PB.
- (2) The Minister or the TSC is not a party to a proceeding in respect of a dispute referred to the Tribunal as set out in subsection (1)(a) unless joined by the Tribunal under section 60 of the **Victorian Civil and Administrative Tribunal Act 1998**.

S. 162R  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

#### **162R Time limits for certain complaints**

- (1) The Tribunal must commence hearing a dispute, referred to it by the Minister under section 162MB(2), within 30 days after its referral.

- (2) The Tribunal, constituted by a presidential member within the meaning of the **Victorian Civil and Administrative Tribunal Act 1998**, may extend the period of 30 days under subsection (1) by one further period of not more than 30 days.

**162S Orders the Tribunal can make**

- (1) The Tribunal may, in a proceeding under this Subdivision, make one or more orders—
- (a) determining the terms of any condition of a driver agreement; or
  - (b) requiring a party to pay money, by way of restitution or compensation or otherwise, to a specified person; or
  - (c) varying any condition of a driver agreement, other than one implied under section 162L; or
  - (d) declaring that a condition of a driver agreement (other than one implied under section 162L) is, or is not, void; or
  - (e) ordering the refund of any money paid under a driver agreement or under a void condition of a driver agreement; or
  - (f) making an order in the nature of an order for specific performance of a driver agreement; or
  - (g) ordering rescission of a driver agreement; or
  - (h) ordering rectification of a driver agreement; or
  - (i) requiring anything else to be done that it is empowered to require to be done under this Subdivision or the **Victorian Civil and Administrative Tribunal Act 1998**.

S. 162S  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

- (2) In ordering the payment of a sum of money by a party, the Tribunal may order the payment of interest on that sum by the party at the rate fixed from time to time under section 2 of the **Penalty Interest Rates Act 1983** or at any lesser rate it thinks appropriate.

S. 162T  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

**162T Each party bears its own costs**

- (1) Despite anything to the contrary in Division 8 of Part 4 of the **Victorian Civil and Administrative Tribunal Act 1998**, each party to a proceeding before the Tribunal under this Subdivision is to bear their own costs in the proceeding.
- (2) However, at any time the Tribunal may make an order that a party pay all or a specified part of the costs of another party to the proceeding but only if the Tribunal is satisfied that it is fair to do so—

\* \* \* \* \*

- (b) because the party refused to take part in, or withdrew from, mediation or other form of alternative dispute resolution under Subdivision 3; or
- (c) having regard to the matters referred to in paragraphs (a) to (e) of section 109(3) of the **Victorian Civil and Administrative Tribunal Act 1998**.
- (3) In this section, *costs* includes fees, charges and disbursements.

**Subdivision 5—Miscellaneous**

S. 162U  
inserted by  
No. 43/2013  
s. 32 (as  
amended by  
No. 35/2014  
s. 52).

**162U Statements made during alternative dispute resolution not admissible**

A statement or admission made in the course of a mediation or another form of alternative dispute resolution under Subdivision 3 is not admissible in

proceedings before the Tribunal under  
Subdivision 4 or in any other legal proceedings.

\* \* \* \* \*

## **Division 6—Driver accreditation—commercial passenger vehicles, commercial bus services and local bus services**

Pt 6 Div. 6  
(Heading)  
amended by  
No. 13/2009  
s. 95(1) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)).

Pt 6 Div. 6  
(Heading and  
ss 163–166)  
amended by  
Nos 100/1986  
s. 20, 44/1989  
s. 40(Sch. 1  
item 6.2),  
120/1993  
ss 32, 33,  
60/1994 s. 20,  
37/1996  
s. 9(7)–(9),  
repealed by  
No. 106/1997  
s. 21(1), new  
Pt 6 Div. 6  
(Heading and  
ss 163–169Z)  
inserted by  
No. 47/2006  
s. 14 (as  
amended by  
No. 71/2006  
ss 22–24).

### **163 Interpretation**

- (1) In this Division, a reference to a person who has been found guilty of an offence is a reference to a person—
- (a) against whom a court has made a formal finding that he or she is guilty of the offence;  
or
  - (b) from whom a court has accepted a plea that he or she is guilty of the offence; or

New s. 163  
inserted by  
No. 47/2006  
s. 14.

S. 163(1)(ca)  
inserted by  
No. 19/2010  
s. 29.

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

- (ca) in relation to whom any of the following infringement notices has taken effect as a conviction for the offence specified in the notice—
- (i) a safety work infringement notice to which section 215C(1) applies;
  - (ii) an infringement notice to which section 61A(2) of the **Marine Act 1988** applies;
  - (iii) a traffic infringement notice to which section 89A(2) of the **Road Safety Act 1986** applies; or

S. 163(1)(d)(i)  
amended by  
No. 55/2014  
s. 153(2)(a).

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

- (i) section 17(1)(b) or 38X(1)(b) of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997** that he or she was not guilty of the offence because of mental impairment; or

S. 163(1)(d)(ii)  
amended by  
Nos 85/2008  
s. 9(a),  
55/2014  
s. 153(2)(b).

- (ii) section 17(1)(c) or 38X(1)(c) of the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997** that he or she committed the offence or an offence available as an alternative; or

S. 163(1)(d)(iii)  
inserted by  
No. 85/2008  
s. 9(b).

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



or against whom a similar finding has been made under equivalent provisions of the laws of a jurisdiction other than Victoria—

being an admission, plea or finding that has not been subsequently quashed or set aside by a court.

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

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

S. 163(2)(a) amended by No. 68/2009 s. 97(Sch. item 124.10).

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

S. 163(2)(b) amended by No. 68/2009 s. 97(Sch. item 124.11).

(i) a summons to answer to the charge; or

(ii) a warrant to arrest the person—

has been issued or served.

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

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

S. 163(3)(a) amended by No. 68/2009 s. 97(Sch. item 124.12).

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

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

S. 163(3)(c) amended by No. 68/2009 s. 97(Sch. item 124.13).

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

S. 163(3)(d) amended by No. 68/2009 s. 97(Sch. item 124.14).

(e) any other prescribed means.

New s. 164  
inserted by  
No. 47/2006  
s. 14.

## **164 Public care objective**

S. 164(1)  
amended by  
Nos 13/2009  
s. 95(2) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)),  
49/2011 s. 9.

- (1) The public care objective is the objective that the services provided by drivers of commercial passenger vehicles and vehicles used for the operation of commercial bus services, commercial minibus services and local bus services—

(a) be provided—

(i) with safety; and

(ii) with comfort, amenity and convenience—

to persons using the services and to other persons, particularly children and other vulnerable persons; and

(b) be carried out in a manner that is not fraudulent or dishonest.

### **Note**

Other vulnerable persons include elderly and disabled persons.

- (2) In this Division, a reference to the public care objective is a reference to the objective set out in subsection (1).

New s. 165  
inserted by  
No. 47/2006  
s. 14 (as  
amended by  
No. 71/2006  
s. 22).

## **165 Offence to drive certain vehicles without accreditation**

- (1) A person must not drive—

(a) a commercial passenger vehicle; or

- (b) a bus used to provide a commercial bus service, a commercial minibus service or a local bus service—

S. 165(1)(b) substituted by Nos 13/2009 s. 95(3) (as amended by No. 6/2010 s. 203(1)(Sch. 6 item 4.5)), 49/2011 s. 10.

unless that person holds a driver accreditation.

Penalty: 60 penalty units.

- (2) Subsection (1) does not apply to a person who is driving a commercial passenger vehicle, if there is no passenger being carried in the vehicle for hire or reward and the person is driving the vehicle—

S. 165(2) amended by No. 13/2009 s. 95(4) (as amended by No. 6/2010 s. 203(1)(Sch. 6 item 4.5)).

- (a) to test the vehicle; or  
(b) as a trainee driver under instruction; or  
(c) in the case of a commercial passenger vehicle that is not a taxi-cab, solely for private use.

\* \* \* \* \*

S. 165(3) repealed by No. 13/2009 s. 95(5) (as amended by No. 6/2010 s. 203(1)(Sch. 6 item 4.5)).

- (4) Despite anything to the contrary in this section, it is not necessary for a driver of a commercial passenger vehicle to hold a driver accreditation if—

- (a) he or she is driving a vehicle that is permitted by the laws of another State or Territory to operate as the equivalent of a commercial passenger vehicle; and  
(b) he or she is driving the vehicle in Victoria in any of the circumstances set out in section 139(1B).

## **166 Licensing authority's power to accredit persons**

S. 166  
(Heading)  
amended by  
No. 34/2011  
s. 22(1).  
New s. 166  
inserted by  
No. 47/2006  
s. 14.

S. 166(1)  
substituted by  
No. 13/2009  
s. 95(6) (as  
amended by  
Nos 19/2010  
s. 64(1), 6/2010  
s. 203(1)(Sch. 6  
item 4.5)),  
34/2011  
s. 22(2).

S. 166(1)(b)  
substituted by  
No. 49/2011  
s. 11.

S. 166(2)  
amended by  
No. 34/2011  
s. 22(2).

S. 166(3)(a)  
amended by  
No. 34/2011  
s. 22(3).

S. 166(3)(b)  
amended by  
No. 34/2011  
s. 22(3).

S. 166(3)(c)  
amended by  
No. 34/2011  
s. 22(3).

- (1) The licensing authority may accredit a person to drive—
  - (a) a commercial passenger vehicle; or
  - (b) a bus used to provide a commercial bus service, a commercial minibus service or a local bus service.
- (2) A person may apply to the licensing authority for the issue of a driver accreditation.
- (3) An application under subsection (2) must be—
  - (a) in the form approved by the licensing authority; and
  - (b) accompanied by any information or thing required by the licensing authority; and
  - (c) accompanied by the fee (if any) for the application determined by the licensing authority.

## **167 Tests, qualifications and other requirements**

New s. 167  
inserted by  
No. 47/2006  
s. 14.

(1) The licensing authority may require an applicant for driver accreditation to do all or any of the following—

S. 167(1)  
substituted by  
No. 85/2008  
s. 10,  
amended by  
No. 34/2011  
s. 23(1).

(a) to undertake a specified course of training;

(b) to hold a specified qualification;

(c) to pass tests specified by the licensing authority including tests relating to—

S. 167(1)(c)  
amended by  
No. 34/2011  
s. 23(1).

(i) the applicant's fitness to drive a vehicle;  
or

(ii) the applicant's medical condition.

(1A) The licensing authority may specify courses of training by reference to either or both of the following—

S. 167(1A)  
inserted by  
No. 85/2008  
s. 10,  
amended by  
No. 34/2011  
s. 23(2).

(a) the name of the course;

(b) the provider of the course.

(1B) In specifying a course of training, the licensing authority must be satisfied as to—

S. 167(1B)  
inserted by  
No. 85/2008  
s. 10,  
amended by  
No. 34/2011  
s. 23(2).

(a) the content or nature of the course; and

(b) the materials, resources and equipment required to provide the course.

(1C) In specifying a course of training under this section, the licensing authority must have regard to—

S. 167(1C)  
inserted by  
No. 85/2008  
s. 10,  
amended by  
No. 34/2011  
s. 23(2).

(a) the public care objective; and

S. 167(1C)(b)  
substituted by  
No. 13/2009  
s. 95(6A) (as  
amended by  
Nos 19/2010  
s. 64(2), 6/2010  
s. 203(1)(Sch. 6  
item 4.5)).

S. 167(1C)  
(b)(ii)  
substituted by  
No. 49/2011  
s. 12.

S. 167(1D)  
inserted by  
No. 85/2008  
s. 10,  
amended by  
No. 34/2011  
s. 23(2).

S. 167(1D)(d)  
amended by  
No. 13/2009  
s. 95(7) (as  
amended by  
Nos 19/2010  
s. 64(2), 6/2010  
s. 203(1)(Sch. 6  
item 4.5)).

S. 167(1E)  
inserted by  
No. 85/2008  
s. 10,  
amended by  
No. 34/2011  
s. 23(2),  
substituted by  
Nos 34/2011  
s. 123,  
35/2014 s. 44.

- (b) the objective of ensuring that applicants are technically competent to operate—
  - (i) a commercial passenger vehicle; or
  - (ii) a bus used to provide a commercial bus service, a commercial minibus service or a local bus service.
- (1D) Without limiting subsection (1) or (1A), the courses of training, qualifications and tests specified by the licensing authority may include those relating to—
  - (a) the driving of vehicles of a specified class or classes;
  - (b) the knowledge of the names and location of significant streets and places in Melbourne or any other area relevant to the specified class of vehicle;
  - (c) the knowledge and use of the English language;
  - (d) customer service in the field of commercial passenger transport and local bus services.
- (1E) The licensing authority must publish the name and provider of any course of training specified under this section on the licensing authority's Internet site.

- |  |  |
|--|--|
| (2) The licensing authority may require an applicant for a driver accreditation to—  | S. 167(2)<br>amended by<br>No. 34/2011<br>s. 23(3).    |
| (a) give the licensing authority a certificate from a prescribed class of person stating that the applicant is not suffering from any condition which would prevent him or her from driving a vehicle; and | S. 167(2)(a)<br>amended by<br>No. 34/2011<br>s. 23(3). |
| (b) give the licensing authority a certificate stating that he or she has passed a prescribed vision acuteness test; and   | S. 167(2)(b)<br>amended by<br>No. 34/2011<br>s. 23(3). |
| (c) be photographed, or have a digitised image of the applicant made, at a place and in a manner specified by the licensing authority; and   | S. 167(2)(c)<br>amended by<br>No. 34/2011<br>s. 23(3). |
| (d) give the licensing authority 3 recent colour passport size photographs of the applicant showing his or her head and full face only; and  | S. 167(2)(d)<br>amended by<br>No. 34/2011<br>s. 23(3). |
| (e) give the licensing authority a specimen signature at a place and in a manner specified by the licensing authority.   | S. 167(2)(e)<br>amended by<br>No. 34/2011<br>s. 23(3). |

#### **168 Term and renewal of accreditation**

- |   |   |
|---|---|
| (1) A driver accreditation remains in force for the period specified in the accreditation, which must not be more than 3 years. | New s.168<br>inserted by<br>No. 47/2006<br>s. 14.   |
| (2) The holder of a driver accreditation may apply to the licensing authority for renewal of the accreditation.                 | S. 168(2)<br>amended by<br>No. 34/2011<br>s. 24(1). |
| (3) An application under subsection (2) must be—  |   |
| (a) made before the expiry of the accreditation; and  |   |

S. 168(3)(b)  
amended by  
No. 34/2011  
s. 24(2).

(b) in the form approved by the licensing authority; and

S. 168(3)(c)  
amended by  
No. 34/2011  
s. 24(2).

(c) accompanied by any information or thing required by the licensing authority; and

S. 168(3)(d)  
amended by  
No. 34/2011  
s. 24(2).

(d) accompanied by the fee (if any) for the application determined by the licensing authority.

S. 168(4)  
amended by  
No. 34/2011  
s. 24(3).

(4) Despite subsection (3)(a), the licensing authority may accept an application that has been made after the expiry of the accreditation if the applicant pays the additional fee (if any) that is determined by the licensing authority for the lodgement of late applications.

S. 169  
(Heading)  
amended by  
No. 61/2011  
s. 23(5).

## **169 Matters to be considered by the licensing authority when issuing or renewing an accreditation**

New s. 169  
inserted by  
No. 47/2006  
s. 14 (as  
amended by  
No. 71/2006  
s. 23).

S. 169(1)  
amended by  
No. 34/2011  
s. 25(1).

(1) If subsection (2), (3) or (4) does not apply to an applicant for the issue or renewal of a driver accreditation, the licensing authority may grant the application if the licensing authority is satisfied—

(a) that the issuing of accreditation is appropriate having regard to the public care objective; and



(b) that the applicant—

- (i) is technically competent and sufficiently fit and healthy to be able to provide the service; and
- (ii) is a fit and proper person to provide the service; and

S. 169(1)(b)(ii)  
amended by  
No. 35/2014  
s. 31.

(c) that the applicant has complied with the application requirements under this Division.

(1A) For the purposes of subsection (1), the licensing authority may have regard to whether the applicant has at any time been subject to a finding of a prescribed kind made by, or on behalf of a prescribed body, referred to in section 14(1)(a) of the **Working with Children Act 2005**.

S. 169(1A)  
inserted by  
No. 85/2008  
s. 11(1),  
amended by  
Nos 19/2010  
s. 30(1),  
34/2011  
s. 25(2).

(1B) For the purposes of subsection (1), the licensing authority may have regard to—

S. 169(1B)  
inserted by  
No. 19/2010  
s. 30(2),  
amended by  
No. 34/2011  
s. 25(3).

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

- (i) has not been withdrawn or cancelled; and
- (ii) is not deemed to be a charge in relation to the offence by operation of section 40(b) of the **Infringements Act 2006**; and

(b) an infringement notice of the kind referred to in paragraph (a) that has been served on the applicant in relation to an offence referred to in that paragraph in relation to which information lodged under section 71(1)(a)

of the **Infringements Act 2006** is not deemed to be a charge by operation of section 71(1)(b) of that Act; and

- (c) in relation to an infringement notice referred to in paragraph (a) or (b)—
- (i) the nature and gravity of the infringement offence for which the infringement notice was served and the offence's relevance to the purpose for which the applicant seeks to be accredited; and
  - (ii) when the infringement offence for which the infringement notice was served was alleged to have been committed; and
  - (iii) whether the infringement offence for which the infringement notice was served still exists; and
  - (iv) the age of the applicant at the time of the infringement offence for which the infringement notice was served; and
  - (v) the applicant's behaviour since the alleged commission of the infringement offence for which the infringement notice was served; and
  - (vi) the likelihood of the applicant committing another infringement offence for which the infringement notice was served; and
  - (vii) whether the infringement offence for which the infringement notice was served has been expiated; and

- (viii) whether the decision to serve the infringement notice has been subject to internal review under Division 3 of Part 2 of the **Infringements Act 2006**; and
- (ix) if the infringement notice was served for a traffic infringement for which demerit points were incurred under Part 4 of the **Road Safety Act 1986**, the effect of the operation of that Part on the applicant including the demerit points recorded against the applicant in the Demerits Register kept under that Part; and
- (x) if the infringement notice was served for a traffic infringement, whether the applicant made any of the following statements under Part 6AA of the **Road Safety Act 1986** in relation to the traffic infringement—
  - (A) an illegal user statement;
  - (B) a known user statement;
  - (C) a sold vehicle statement;
  - (D) an unknown user statement; and
- (xi) if the infringement notice was served for a traffic infringement and the applicant made a known user statement or a sold vehicle statement under Part 6AA of the **Road Safety Act 1986** in relation to the traffic infringement, whether a person made a nomination rejection statement under that Part in response to the known user statement or sold vehicle statement; and

S. 169(1B)(c)  
(ix) amended  
by No.  
49/2014  
s. 61(2).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 169(1B)  
(c)(xii)  
amended by  
No. 34/2011  
s. 25(3).

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

S. 169(1B)  
(c)(xiii)  
amended by  
No. 34/2011  
s. 25(3).

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

S. 169(2)  
amended by  
No. 34/2011  
s. 25(3).

(2) The licensing authority must not issue or renew a driver accreditation if the licensing authority is aware that the applicant—

(a) does not hold either—

(i) a driver licence under the **Road Safety Act 1986**; or

S. 169(2)(a)(ii)  
amended by  
No. 34/2011  
s. 25(3).

(ii) a probationary driver licence under the **Road Safety Act 1986**, where the applicant has also satisfied the licensing authority that he or she is competent to provide the service because he or she has relevant experience or is a person to whom other special circumstances apply; or

(b) has been found guilty of a category 1 offence; or

(c) is a person who is subject to—

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

(ii) an order referred to in section 12(1)(b) of the **Working with Children Act 2005**.

- |  |   |
|--|---|
| (3) The licensing authority must not issue or renew a driver accreditation if the licensing authority is aware that the applicant is the subject of a charge for a category 1 offence or has been found guilty of a category 2 offence unless the licensing authority is satisfied that the applicant has demonstrated that the issue or renewal of accreditation is appropriate having regard to the public care objective. | S. 169(3)<br>amended by<br>Nos 85/2008<br>s. 11(2),<br>34/2011<br>s. 25(3).   |
| (4) The licensing authority may refuse to issue or renew a driver accreditation if the licensing authority is aware that the applicant—<br><br>(a) has been found guilty of a category 3 offence; or<br><br>(b) is the subject to a charge for a category 2 offence or category 3 offence that has not been finally disposed of at the time of considering the application.  | S. 169(4)<br>amended by<br>No. 34/2011<br>s. 25(1).<br><br><br>S. 169(4)(b)<br>amended by<br>No. 85/2008<br>s. 11(3). |
| (5) In making a decision under subsection (3) or (4), the licensing authority may have regard to any matter to which a consideration in section 169C(3)(b) would apply.  | S. 169(5)<br>amended by<br>No. 34/2011<br>s. 25(2).   |
| (6) The licensing authority must not make a decision under subsection (3) or (4) to issue or renew an accreditation unless the licensing authority is satisfied of the matters set out in subsection (1)(a) to (c).  | S. 169(6)<br>amended by<br>No. 34/2011<br>s. 25(1).   |
| (7) The licensing authority must not refuse to issue or renew an accreditation to a person on a ground referred to in subsection (2) if a decision to refuse to issue an accreditation or renew an accreditation or a decision to cancel an accreditation in respect of that person on that ground has previously been overturned by VCAT.   | S. 169(7)<br>inserted by<br>No. 85/2008<br>s. 11(4),<br>amended by<br>No. 34/2011<br>s. 25(2).                        |

S. 169A  
inserted by  
No. 47/2006  
s. 14.

## **169A Imposition of conditions on accreditation**

S. 169A(1)  
amended by  
No. 34/2011  
s. 26(1).

- (1) The licensing authority may impose conditions on a driver accreditation either—
  - (a) on issuing or renewing the accreditation; or
  - (b) at any time during the course of an accreditation.

S. 169A(2)  
amended by  
No. 34/2011  
s. 26(1).

- (2) In considering whether or not to impose conditions on an accreditation, the licensing authority must have regard to the public care objective.

S. 169A(2A)  
inserted by  
No. 85/2008  
s. 12,  
amended by  
No. 34/2011  
s. 26(1).

- (2A) Without limiting subsection (1), the licensing authority may impose on a driver accreditation a condition requiring the holder of the accreditation to undertake a course of training or to pass a test specified under section 167.

S. 169A(3)  
amended by  
No. 34/2011  
s. 26(1).

- (3) Nothing in the regulations is to be taken to limit the power of the licensing authority to impose conditions under this section.

S. 169A(4)  
inserted by  
No. 69/2007  
s. 13,  
amended by  
No. 34/2011  
s. 26(2).

- (4) The licensing authority must give the person to whom a driver accreditation is issued, or whose driver accreditation is renewed, a written copy of any conditions the licensing authority imposes on the relevant driver accreditation.

S. 169B  
inserted by  
No. 47/2006  
s. 14,  
amended by  
No. 34/2011  
s. 27.

## **169B Offence to fail to comply with conditions**

The holder of an accreditation under this Division must comply with any conditions imposed by the licensing authority on the accreditation under section 169A.

Penalty: 10 penalty units.

**169C Disqualification by licensing authority from ability to apply for accreditation**

S. 169C  
(Heading)  
amended by  
No. 34/2011  
s. 28(1).

S. 169C  
inserted by  
No. 47/2006  
s. 14.

S. 169C(1)  
amended by  
No. 34/2011  
s. 28(2).

- (1) If the licensing authority has refused the application for the issue or renewal of the accreditation the licensing authority may determine that the applicant is disqualified from applying for accreditation under this Division for the period determined by the licensing authority.

- (1A) If the licensing authority cancels a person's accreditation, the licensing authority must determine that the applicant is disqualified from applying for accreditation under this Division for a period determined by the licensing authority.

S. 169C(1A)  
inserted by  
No. 19/2010  
s. 31(1),  
amended by  
No. 34/2011  
s. 28(2).

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

S. 169C(2)  
amended by  
Nos 19/2010  
s. 31(2),  
34/2011  
s. 28(3).

- (3) In making a determination under subsection (1), the licensing authority must have regard to—

S. 169C(3)  
amended by  
No. 34/2011  
s. 28(4).

- (a) the public care objective; and
- (b) if the applicant has been found guilty of a category 2 offence or category 3 offence—
- (i) the nature and gravity of the offence and its relevance to the service to be provided by the applicant; and
- (ii) the period of time since the applicant committed the offence; and

S. 169C(3)(b)  
amended by  
No. 69/2007  
s. 14(1).

- (iii) whether a finding of guilt or conviction was recorded; and
- (iv) the sentence imposed for the offence; and
- (v) the age of the applicant when the offence was committed; and
- (vi) in relation to any sexual offence, the age of any victim; and
- (vii) whether or not the conduct that constituted the offence has been decriminalised since the offence was committed; and
- (viii) the applicant's behaviour since committing the offence; and
- (ix) the likelihood of the applicant committing another such offence in the future, in particular, any future threat to a child or other vulnerable person; and
- (x) any information given by the applicant; and
- (xi) any other matter the licensing authority considers relevant.

S. 169C  
(3)(b)(xi)  
amended by  
No. 34/2011  
s. 28(4).

S. 169C(4)  
amended by  
No. 34/2011  
s. 28(3).

- (4) A person who has been disqualified under this section is not entitled to make a further application for the issue of accreditation until the period determined by the licensing authority has elapsed unless, since the date of disqualification, there has been a relevant change in circumstances.



(5) For the purposes of subsection (4), a *relevant change in circumstances* includes where—

- (a) a charge that the person was subject to, that was pending at the date of the disqualification, is finally dealt with, without the person being found guilty of the offence; or
- (b) a finding of guilt of the person is quashed or set aside by a court after the date of the disqualification; or

\* \* \* \* \*

S. 169C(5)(c)(d)  
repealed by  
No. 69/2007  
s. 14(2).

- (e) a finding on which the decision to disqualify the person under subsection (1) was based is quashed or set aside after the date of the disqualification.

#### **169D Certificate of accreditation**

On issuing or renewing a driver accreditation the licensing authority must issue a certificate of accreditation that—

S. 169D  
inserted by  
No. 47/2006  
s. 14,  
amended by  
No. 34/2011  
s. 29.

- (a) is in the form approved by the licensing authority ; and

S. 169D(a)  
amended by  
No. 34/2011  
s. 29.

- (b) sets out—

- (i) the name of the holder of the accreditation; and
  - (ii) the type of vehicle the holder is accredited to drive.

S. 169D(b)(ii)  
amended by  
No. 69/2007  
s. 15(1).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

---

S. 169D(b)(iii)  
repealed by  
No. 69/2007  
s. 15(2).

\* \* \* \* \*

S. 169DA  
inserted by  
No. 19/2010  
s. 34.

**169DA Working with children check exemption notice**

S. 169DA(1)  
amended by  
No. 34/2011  
s. 30.

- (1) A person who—
- (a) holds a driver accreditation; or
  - (b) has applied for a driver accreditation and whose application has not yet been determined—
- may apply to the licensing authority for a working with children check exemption notice.

S. 169DA(3)  
amended by  
No. 34/2011  
s. 30.

- (2) An application under subsection (1) must be in writing.
- (3) On receiving an application under subsection (1), the licensing authority must issue to that person a working with children check exemption notice unless—
- (a) the accreditation was issued as a result of a decision under section 169(3), 169(4), 169N or 169O; or
  - (b) the person has been given a negative notice under the **Working with Children Act 2005** and has not subsequently been given an assessment notice under that Act; or
- (ba) the person is the holder of an assessment notice under the **Working with Children Act 2005** that has been suspended; or

S. 169DA  
(3)(ba)  
inserted by  
No. 61/2012  
s. 19.

- (c) the person held a working with children check exemption notice which ceased to have effect under subsection (5) because that person's driver accreditation was cancelled or suspended; or
  - (d) the person was, under section 32A of the **Working with Children Act 2005**, exempt from a working with children check within the meaning of that Act and ceased to be exempt because that person's driver accreditation was cancelled or suspended.
- (4) A working with children check exemption notice must state that the holder of the notice is exempt from a working with children check under the **Working with Children Act 2005** in relation to work that requires a current driver accreditation under this Division.

**Note**

See section 32B of the **Working with Children Act 2005**.

- (5) A working with children check exemption notice ceases to have effect on the day—
- (a) the holder's driver accreditation is cancelled or suspended; or
  - (b) the holder receives a negative notice under the **Working with Children Act 2005**.

**169DB When licensing authority must notify that working with children check exemption notice has ceased to have effect**

- (1) This section applies if a working with children check exemption notice ceases to have effect because—
- (a) the holder's driver accreditation is cancelled, suspended or expires; or

**S. 169DB**  
(Heading)  
amended by  
No. 34/2011  
s. 31(1).

**S. 169DB**  
inserted by  
No. 19/2010  
s. 34.

S. 169DB(1)(b)  
amended by  
No. 61/2012  
s. 20(1).

(b) the holder receives a negative notice under the **Working with Children Act 2005**; or

S. 169DB(1)(c)  
inserted by  
No. 61/2012  
s. 20(2).

(c) the holder's assessment notice under the **Working with Children Act 2005** is suspended.

**Note**

See section 169DA(5).

S. 169DB(2)  
amended by  
No. 34/2011  
s. 31(2).

(2) The licensing authority must notify the holder of the working with children check exemption notice in writing that—

(a) the working with children check exemption notice has ceased to have effect; and

S. 169DB(2)(b)  
amended by  
No. 34/2011  
s. 31(2).

(b) he or she is required to return the working with children check exemption notice to the licensing authority within 7 days after receipt of the notice under this section.

S. 169DC  
inserted by  
No. 19/2010  
s. 34,  
amended by  
No. 34/2011  
s. 32.

**169DC When working with children check exemption notice must be returned**

A person who receives a notice under section 169DB must return the working with children check exemption notice they hold to the licensing authority within 7 days after the day on which they receive the notice.

Penalty: 5 penalty units.

S. 169E  
inserted by  
No. 47/2006  
s. 14,  
amended by  
Nos 85/2008  
s. 13 (ILA  
s. 39B(1)),  
34/2011 s. 33.

**169E Mandatory cancellation in certain circumstances**

(1) If the holder of a driver accreditation has been found guilty of a category 1 offence or becomes subject to the reporting obligations, or an order, referred to in section 169(2)(c), the licensing authority must cancel that person's accreditation.

- (2) The licensing authority must not cancel an accreditation of a person on a ground referred to in subsection (1) if a decision to refuse to issue an accreditation or renew an accreditation or a decision to cancel an accreditation in respect of that person on that ground has previously been overturned by VCAT.

S. 169E(2)  
inserted by  
No. 85/2008  
s. 13,  
amended by  
No. 34/2011  
s. 33.

**169EA Mandatory suspension in certain circumstances**

S. 169EA  
inserted by  
No. 69/2007  
s. 16.

- (1) This section applies if the holder of a driver accreditation has his or her driver licence or probationary licence under the **Road Safety Act 1986** suspended or cancelled under that Act.
- (2) The licensing authority must suspend that person's driver accreditation.
- (3) A suspension under this section of a driver accreditation remains in force until the licensing authority reinstates the accreditation of the person in accordance with section 169EB.

S. 169EA(2)  
amended by  
No. 34/2011  
s. 34.

S. 169EA(3)  
amended by  
No. 34/2011  
s. 34.

**169EB Reinstatement of driver accreditation in certain circumstances where it has been suspended**

S. 169EB  
inserted by  
No. 69/2007  
s. 16,  
amended by  
No. 34/2011  
s. 35.

The licensing authority must reinstate the accreditation of a person suspended in accordance with section 169EA if—

- (a) the person gives evidence, to the satisfaction of the licensing authority, that—
- (i) the suspension of the person's driver licence or probationary licence under the **Road Safety Act 1986** has ceased; or
- (ii) the person has been granted a driver licence or probationary licence under the **Road Safety Act 1986**; and

S. 169EB(a)  
amended by  
No. 34/2011  
s. 35.

S. 169EB(b)  
amended by  
No. 34/2011  
s. 35.

- (b) there are no grounds for the licensing authority to consider taking action under section 169I(1).

S. 169EC  
(Heading)  
amended by  
No. 34/2011  
s. 36(1).

**169EC Person whose driver licence or probationary licence is suspended or cancelled must notify the licensing authority**

S. 169EC  
inserted by  
No. 69/2007  
s. 16.

The holder of a driver accreditation, whose driver licence or probationary licence under the **Road Safety Act 1986** is suspended or cancelled under that Act, must, within 7 days of that suspension or cancellation—

S. 169EC(a)  
amended by  
No. 34/2011  
s. 36(2).

- (a) notify the licensing authority of that suspension or cancellation; and

S. 169EC(b)  
amended by  
No. 34/2011  
s. 36(2).

- (b) return to the licensing authority his or her certificate of accreditation.

Penalty: 5 penalty units.

S. 169F  
(Heading)  
amended by  
No. 34/2011  
s. 37(1).

**169F Powers of the licensing authority to consider disciplinary action**

S. 169F  
inserted by  
No. 47/2006  
s. 14,  
amended by  
No. 34/2011  
s. 37(2).

If the licensing authority is satisfied that there are reasonable grounds for believing that the holder of a driver accreditation—

- (a) has been found guilty of a category 2 offence or a category 3 offence or is subject to a charge for a disqualifying offence that has not been finally disposed of; or
- (b) has failed to comply with a condition of the accreditation; or

- (c) would no longer satisfy any one or more of the matters set out in section 169(1)(a) or (b)—

the licensing authority may consider taking action under section 169I(1).

**169G Notice to holder of accreditation**

Before taking action under section 169I(1) the licensing authority must give to the holder a notice—

S. 169G  
inserted by  
No. 47/2006  
s. 14,  
amended by  
No. 34/2011  
s. 38.

- (a) stating that the licensing authority is satisfied that there are grounds for taking action under section 169I(1); and
- (b) setting out those grounds; and
- (c) specifying that the holder may make a written submission under section 169H and setting out the date by which the submission must be made under section 169H(2).

S. 169G(a)  
amended by  
No. 34/2011  
s. 38.

**169H Submissions to licensing authority**

S. 169H  
(Heading)  
amended by  
No. 34/2011  
s. 39(1).  
S. 169H  
inserted by  
No. 47/2006  
s. 14.

- (1) A person who has received a notice from the licensing authority—

S. 169H(1)  
amended by  
No. 34/2011  
s. 39(2).

- (a) under section 169G; or
- (b) in any case where the licensing authority has suspended an accreditation under section 169K, a notice under section 169K(3)—

S. 169H(1)(b)  
amended by  
No. 34/2011  
s. 39(2).

may make a written submission to the licensing authority as to the matters set out in the notice.

S. 169H(2)  
amended by  
No. 34/2011  
s. 39(2).

(2) A submission under this section must be received by the licensing authority—

S. 169H(2)(a)  
amended by  
No. 34/2011  
s. 39(2).

(a) in the case where the licensing authority has suspended the accreditation of the person under section 169K, no later than 14 days after the day on which the person received the notice under section 169G or if a later date has been specified by the licensing authority in the notice, that date; or

S. 169H(2)(b)  
amended by  
No. 34/2011  
s. 39(2).

(b) in any other case, no later than 28 days after the day on which the person received the notice under section 169G or if a later date has been specified by the licensing authority in the notice, that date.

S. 169I  
(Heading)  
amended by  
No. 34/2011  
s. 40(1).

#### **169I Actions licensing authority may take after consideration**

S. 169I  
inserted by  
No. 47/2006  
s. 14.

S. 169I(1)  
amended by  
No. 34/2011  
s. 40(2).

(1) If, after considering all the material available, the licensing authority is of the opinion that the ground on which the licensing authority considered taking action has been established, the licensing authority may decide to take one or more of the following actions—

- (a) reprimand the holder of the accreditation;
- (b) warn the holder of the accreditation that more serious action may be taken in the future if the holder repeats the behaviour;

S. 169I(1)(ba)  
inserted by  
No. 85/2008  
s. 14.

(ba) require the holder of the accreditation to undertake a course of training or to pass a test specified under section 167;



- (c) impose a further condition on the accreditation;
  - (d) suspend the accreditation for a specified period or until a specified event occurs;
  - (e) cancel the accreditation;
  - (f) disqualify the holder of the accreditation from being accredited or applying for accreditation for a specified period not exceeding 5 years.
- (2) In making a decision under subsection (1), if the holder of the accreditation is alleged to have committed a disqualifying offence, the licensing authority must have regard to any matter to which a consideration in section 169C(3)(b) would apply.

S. 169I(2)  
amended by  
No. 34/2011  
s. 40(3).

#### **169J Notice of licensing authority's decision**

On making a decision under section 169I(1), the licensing authority must notify the holder of the accreditation, in writing, of the decision and of the reasons for the decision.

S. 169J  
(Heading)  
amended by  
No. 34/2011  
s. 41(1).

S. 169J  
inserted by  
No. 47/2006  
s. 14,  
amended by  
No. 34/2011  
s. 41(2).

#### **169K Interim suspension of accreditation**

S. 169K  
inserted by  
No. 47/2006  
s. 14.

- (1) On making a decision under section 169F to consider taking action under section 169I, the licensing authority may suspend the driver accreditation of the person in respect of whom the decision is made, if the licensing authority is satisfied that it is necessary to do so, having regard to the public care objective.

S. 169K(1)  
amended by  
No. 34/2011  
s. 42(1).

**S. 169K(2)**  
amended by  
No. 34/2011  
s. 42(2).

(2) The licensing authority, on being satisfied that the holder of a driver accreditation—

- (a) has been charged with a category 1 offence and the charge has not been finally disposed of, must suspend the driver accreditation; or
- (b) has been charged with a category 2 offence or a category 3 offence and the charge has not been finally disposed of, may suspend the driver accreditation.

**S. 169K(3)**  
amended by  
No. 34/2011  
s. 42(2).

(3) The licensing authority must serve notice of a suspension under this section of a driver accreditation on the holder of the accreditation.

(4) A notice under subsection (3) must set out the reasons for the suspension.

(5) A suspension under subsection (1) remains in force—

**S. 169K(5)(a)**  
amended by  
No. 34/2011  
s. 42(1).

(a) until the licensing authority has made a decision as to the action to be taken under section 169I; or

**S. 169K(5)(b)**  
amended by  
No. 34/2011  
s. 42(1).

(b) until the licensing authority re-instates the accreditation—

whichever is the earlier.

(6) A suspension under subsection (2) remains in force—

**S. 169K(6)(b)**  
amended by  
No. 34/2011  
s. 42(2).

- (a) until the charge is finally disposed of; or
- (b) until the licensing authority re-instates the accreditation—

whichever is the earlier.

**169L Re-instatement of accreditation**

If the licensing authority has suspended the driver accreditation of a person under section 169I or 169K pending the hearing of a charge for a disqualifying offence, and the person is not found guilty of the offence, the licensing authority must re-instate the accreditation of the person.

S. 169L  
inserted by  
No. 47/2006  
s. 14,  
amended by  
No. 34/2011  
s. 43.

**169M Compensation for lost income during suspension**

S. 169M  
inserted by  
No. 47/2006  
s. 14.

(1) The holder of a driver accreditation to whom section 169L applies may apply to the licensing authority for a determination of compensation for any income lost during the period of suspension.

S. 169M(1)  
amended by  
No. 34/2011  
s. 44.

(2) An application under subsection (1) must be—

(a) in writing; and

(b) in the form approved by the licensing authority; and

S. 169M(2)(b)  
amended by  
No. 34/2011  
s. 44.

(c) accompanied by any information or thing required by the licensing authority.

S. 169M(2)(c)  
amended by  
No. 34/2011  
s. 44.

(3) On receiving an application under subsection (1), the licensing authority may determine the amount of compensation to which the holder of the accreditation is entitled.

S. 169M(3)  
amended by  
No. 34/2011  
s. 44.

(4) An amount determined by the licensing authority under subsection (3) may be recovered as a debt owed by the Crown to the holder of the accreditation.

S. 169M(4)  
amended by  
No. 34/2011  
s. 44.

S. 169MA  
inserted by  
No. 35/2014  
s. 32.

### **169MA Application for internal review**

- (1) A person who is affected by a reviewable decision may apply to the licensing authority for review of the decision.

**Note**

Section 169O provides for the review by VCAT of a reviewable decision.

- (2) An application under subsection (1) must be made within—
- (a) 28 days after the day on which the decision first came to the eligible person's notice; or
  - (b) such longer period as the licensing authority allows.
- (3) An application under subsection (1) must be made in the manner and form determined by the licensing authority.
- (4) In this section—
- reviewable decision***—
- (a) means—
    - (i) a decision of the licensing authority to refuse to issue or renew an accreditation under this Division; or
    - (ii) a decision of the licensing authority to suspend or cancel an accreditation under this Division; or
    - (iii) a decision of the licensing authority to impose a condition on an accreditation under this Division; or

(iv) a determination of the licensing authority to disqualify the person from applying for the issue of an accreditation under this Division; or

(v) a decision of the licensing authority not to, or a failure by the licensing authority to, under section 169EB reinstate the accreditation of a person suspended in accordance with section 169EA; and

(b) does not include—

(i) a decision referred to in paragraph (a) that was—

(A) affirmed, varied or substituted for another decision under section 169MC; or

(B) made by the licensing authority and not by a delegate of the licensing authority; or

(ii) a decision of the licensing authority refusing to issue or renew a driver accreditation, or to cancel a driver accreditation, in the circumstances in which section 169N(1) applies.

S.  
169MA(4)(b)(ii)  
amended by  
No. 21/2015  
s. 3(Sch. 1  
item 55.2).

### **169MB Effect of decision on application**

(1) An application under section 169MA(1) does not affect the operation of the decision that is the subject of the application or prevent the taking of any action to implement it unless the licensing authority, on its own initiative or on the application of the applicant for review, stays the

S. 169MB  
inserted by  
No. 35/2014  
s. 32.

operation of the decision pending the determination of the internal review.

- (2) The licensing authority must make a decision on an application for a stay within 24 hours after the making of the application.
- (3) If the licensing authority has not made a decision in accordance with subsection (2), the licensing authority is taken to have made a decision to grant a stay.
- (4) The licensing authority may attach any conditions to a stay of the operation of a decision that the authority considers appropriate.

S. 169MC  
inserted by  
No. 35/2014  
s. 32.

#### **169MC Determination of application for internal review**

- (1) If an application is made to the licensing authority in accordance with section 169MA, the licensing authority must make a fresh decision—
  - (a) that affirms or varies the decision that is the subject of the application; or
  - (b) that sets aside the decision that is the subject of the application and substitutes another decision that the licensing authority considers appropriate.
- (2) The licensing authority must give a written notice to the applicant setting out—
  - (a) the decision of the licensing authority under subsection (1) and the reasons for the decision; and
  - (b) the findings on material questions of fact that led to the decision, referring to the evidence or other material on which those findings were based—and must do so within 28 days after the application is made.

- (3) If the licensing authority has not notified an applicant of a decision in accordance with subsection (2), the licensing authority is taken to have made a decision to affirm the decision that is the subject of the application.

**169N Jurisdiction of VCAT as to category 1 offenders**

S. 169N  
inserted by  
No. 47/2006  
s. 14.

- (1) A person—

S. 169N(1)  
amended by  
Nos 19/2010  
s. 32(3),  
34/2011 s. 45.

- (a) whose application for the issue or renewal of a driver accreditation is refused on a ground set out in section 169(2)(b) or (c); or

- (b) whose driver accreditation is cancelled under section 169E; or

S. 169N(1)(b)  
amended by  
No. 19/2010  
s. 32(1).

- (c) who is disqualified from applying for a driver accreditation under section 169C(1A)—

S. 169N(1)(c)  
inserted by  
No. 19/2010  
s. 32(2).

may apply to VCAT for an order that the licensing authority issue, renew or reinstate the driver accreditation or cancel the disqualification (as the case may be).

- (2) On an application under subsection (1) VCAT may by order direct the licensing authority to—

S. 169N(2)  
amended by  
No. 34/2011  
s. 45.

- (a) issue a driver accreditation to the applicant;  
or

- (b) renew the driver accreditation of the applicant; or

- (c) reinstate the driver accreditation of the applicant; or

S. 169N(2)(c)  
amended by  
No. 19/2010  
s. 32(4).

S. 169N(2)(d)  
inserted by  
No. 19/2010  
s. 32(5).

(d) make a determination cancelling the  
disqualification of the applicant.

(3) VCAT must not make an order under  
subsection (2) to issue, renew or reinstate an  
accreditation unless—

(a) VCAT is satisfied of the matters set out in  
section 169(1)(b); and

S. 169N(3)(b)  
amended by  
No. 85/2008  
s. 15(1).

(b) the applicant has demonstrated that the issue,  
renewal or reinstatement is appropriate  
having regard to the public care objective;  
and

S. 169N(3)(c)  
inserted by  
No. 85/2008  
s. 15(2).

(c) VCAT is satisfied that—

(i) the making of the order would not pose  
an unjustifiable risk to the safety of  
persons using services provided by the  
drivers of commercial passenger  
vehicles and private bus services,  
having regard to—

(A) the matters set out in  
section 169C(3)(b)(i) to (x); and

(B) any other matter that VCAT  
considers relevant to the  
application; and

(ii) in all the circumstances, it is in the  
public interest to make the order.

S. 169N(4)  
repealed by  
No. 85/2008  
s. 15(3).

\* \* \* \* \*

S. 169N(5)  
amended by  
No. 34/2011  
s. 45.

(5) The licensing authority must comply with an order  
made by VCAT under this section.



- |   |  |
|---|--|
| (6) If VCAT refuses to make an order applied for under subsection (1), VCAT may by order disqualify the person from applying for a driver accreditation under this Division for a period not exceeding 5 years. | S. 169N(6)<br>inserted by<br>No. 19/2010<br>s. 32(6).  |
| (7) A period of disqualification under an order under subsection (6) may be in substitution of a period of disqualification imposed by the licensing authority.   | S. 169N(7)<br>inserted by<br>No. 19/2010<br>s. 32(6),<br>amended by<br>No. 34/2011<br>s. 45. |

#### **169O Review of decision by VCAT**

S. 169O  
inserted by  
No. 47/2006  
s. 14.

- |  |   |
|--|---|
| (1) An person who is affected by a reviewable decision may apply to VCAT for review of the decision.   | S. 169O(1)<br>amended by<br>Nos 69/2007<br>s. 17,<br>19/2010 s. 33,<br>34/2011 s. 46,<br>substituted by<br>No. 35/2014<br>s. 33(1). |
| (2) To avoid doubt, subsection (1) does not apply to a refusal of the licensing authority to issue or renew a driver accreditation or to a cancellation of a driver accreditation in the circumstances in which section 169N(1) applies. | S. 169O(2)<br>amended by<br>No. 34/2011<br>s. 46(1).  |
| (3) VCAT must not make a decision under subsection (1) unless VCAT is satisfied that the decision is appropriate having regard to the public care objective.   |   |
| (4) VCAT must not make a decision under this section to issue, renew or reinstate an accreditation unless VCAT is satisfied of the matters set out in section 169(1)(b).   |   |

S. 169O(6)  
inserted by  
No. 35/2014  
s. 33(2).

(5) In making a decision under this section on a matter involving a disqualifying offence VCAT may have regard to any matter to which a consideration in section 169C(3)(b) would apply.

(6) In this section—

*reviewable decision* means—

- (a) a decision of the licensing authority to refuse to issue or renew an accreditation under this Division; or
- (b) a decision of the licensing authority to suspend or cancel an accreditation under this Division; or
- (c) a decision of the licensing authority to impose a condition on an accreditation under this Division; or
- (d) a determination of the licensing authority to disqualify the person from applying for the issue of an accreditation under this Division; or
- (e) a decision of the licensing authority not to, or a failure by the licensing authority to, under section 169EB reinstate the accreditation of a person suspended in accordance with section 169EA.

S. 169P  
inserted by  
No. 47/2006  
s. 14.

#### **169P Time period for making application for review**

- (1) An application to VCAT for an order under section 169N must be made within 28 days of the refusal of the application for driver accreditation or the cancellation of the driver accreditation (as the case requires).
- (2) An application for review under section 169O must be made within 28 days of the later of—
  - (a) the day on which the decision was made; or

- (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

**169Q Offence not to sign certificate on receipt**

The holder of a driver accreditation, on receiving a certificate of accreditation under section 169D, must sign the certificate.

Penalty: 5 penalty units.

S. 169Q  
inserted by  
No. 47/2006  
s. 14.

**169R Offence not to notify change of address and give driver accreditation**

The holder of a driver accreditation must, within 7 days of changing his or her residential address—

- (a) notify the licensing authority of the change of residential address; and

S. 169R  
inserted by  
No. 47/2006  
s. 14,  
substituted by  
No. 69/2007  
s. 18.

- (b) return to the licensing authority his or her certificate of accreditation.

S. 169R(a)  
amended by  
No. 34/2011  
s. 47.

S. 169R(b)  
amended by  
No. 34/2011  
s. 47.

Penalty: 5 penalty units.

**169S Offence not to notify of suspension or cancellation of accreditation**

- (1) If the holder of a driver accreditation is employed or engaged by a relevant operator the holder of the driver accreditation must notify the relevant operator of any suspension or cancellation of his or her driver accreditation within 7 days of receiving notice of the suspension or cancellation.

Penalty: 5 penalty units.

S. 169S  
inserted by  
No. 47/2006  
s. 14 (as  
amended by  
No. 71/2006  
s. 24),  
amended by  
No. 69/2007  
s. 19 (ILA  
s. 39B(1)).

S. 169S(2)  
inserted by  
No. 69/2007  
s. 19(2).

(2) In this section—

S. 169S(2)  
def. of  
*relevant  
operator*  
amended by  
No. 13/2009  
s. 95(8) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)).

*relevant operator* means a person who—

- (a) is the operator of a taxi-cab; or
- (b) holds a licence granted under  
Division 5 in respect of a commercial  
passenger vehicle (other than a taxi-  
cab); or
- (c) is an accredited bus operator.

Note to  
s. 169S(2)  
repealed by  
No. 13/2009  
s. 95(9) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)).

\* \* \* \* \*

S. 169T  
inserted by  
No. 47/2006  
s. 14.

**169T Offence not to notify of being charged with, or  
found guilty of, a disqualifying offence**

S. 169T(1)  
amended by  
No. 34/2011  
s. 48.

- (1) If the holder of a driver accreditation is charged with, or found guilty of, a disqualifying offence the holder must notify the licensing authority of the charge or the finding of guilt within 28 days of the holder being so charged or found guilty.

Penalty: 5 penalty units.

S. 169T(2)  
amended by  
No. 34/2011  
s. 48.

- (2) If the holder of a driver accreditation becomes subject to—
- (a) the reporting obligations; or

(b) an order—

referred to in section 169(2)(c), the holder must notify the licensing authority of the obligation or order within 28 days of the holder becoming so subject.

Penalty: 5 penalty units.

**169U Offence to retain illegible certificate**

If the certificate of accreditation of the holder of a driver accreditation becomes illegible or is altered or defaced, the holder must return the certificate to the licensing authority and apply for the issue of a replacement certificate.

Penalty: 5 penalty units.

S. 169U  
inserted by  
No. 47/2006  
s. 14,  
amended by  
No. 34/2011  
s. 49.

**169V Offence to retain certificate if accreditation suspended or cancelled**

If the accreditation of the holder of a driver accreditation is suspended or cancelled, the holder must return his or her certificate of accreditation to the licensing authority within 28 days of receiving notice of the suspension or cancellation.

Penalty: 5 penalty units.

S. 169V  
inserted by  
No. 47/2006  
s. 14.

S. 169V  
amended by  
No. 34/2011  
s. 50.

**169W Offence not to carry certificate when driving**

If the holder of a driver accreditation is driving a vehicle in circumstances in which he or she is required under this Division to have the accreditation, he or she must carry his or her certificate of accreditation.

Penalty: 5 penalty units.

S. 169W  
inserted by  
No. 47/2006  
s. 14.

S. 169WA  
inserted by  
No. 69/2007  
s. 20.

**169WA Operator must not permit non-accredited driver to drive commercial passenger vehicle etc.**

(1) In this section—

S. 169WA(1)  
def. of  
*relevant operator*  
amended by  
Nos 13/2009  
s. 95(10) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)),  
49/2011 s. 13.

*relevant operator* means a person who—

- (a) is an operator of a taxi-cab; or
- (b) holds a licence granted under Division 5 in respect of a commercial passenger vehicle (other than a taxi-cab).

\* \* \* \*

Note to  
s. 169WA(1)  
repealed by  
No. 13/2009  
s. 95(11) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)).

\* \* \* \*

(2) A relevant operator must not permit a person who is not a holder of a driver accreditation (the *second person*) to drive—

- (a) a commercial passenger vehicle operated by the relevant operator; or
- (b) a vehicle being used by the relevant operator for the operation of a commercial bus service or a local bus service.

S. 169WA  
(2)(b)  
amended by  
No. 13/2009  
s. 95(12) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)).

Penalty: 10 penalty units.

(3) A relevant operator is not guilty of an offence under subsection (2) if the operator believed, after making all reasonable enquiries, that the second person was the holder of a driver accreditation

**169WB Holder of accreditation must not permit non-accredited driver to drive commercial passenger vehicle etc.**

S. 169WB  
inserted by  
No. 69/2007  
s. 21.

- (1) The holder of a driver accreditation must not permit a person who is not a holder of a driver accreditation (the *second person*) to drive—
- (a) a commercial passenger vehicle; or
  - (b) a vehicle being used for the operation of a commercial bus service, a commercial minibus service or a local bus service.

S. 169WB  
(1)(b)  
amended by  
Nos 13/2009  
s. 95(13) (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)),  
49/2011 s. 14.

Penalty: 10 penalty units.

- (2) A holder of a driver accreditation is not guilty of an offence under subsection (1) if the holder believed, after making all reasonable enquiries, that the second person was the holder of a driver accreditation.

**169X Offence not to produce certificate when asked**

If the holder of a driver accreditation is driving a vehicle in circumstances in which he or she is required under this Division to have the accreditation, and if the holder is asked by an authorised officer or a police officer to produce his or her certificate of accreditation, he or she must do so.

S. 169X  
inserted by  
No. 47/2006  
s. 14,  
amended by  
No. 37/2014  
s. 10(Sch.  
item 171.2).

Penalty: 5 penalty units.

S. 169Y  
(Heading)  
amended by  
No. 61/2011  
s. 23(5).  
S. 169Y  
inserted by  
No. 47/2006  
s. 14.

### **169Y Power of licensing authority to determine fees**

S. 169Y(1)  
amended by  
No. 34/2011  
s. 51.

- (1) The licensing authority may determine fees for applications under this Division.

S. 169Y(2)  
amended by  
No. 34/2011  
s. 51.

- (2) The licensing authority must obtain the approval of the Minister for any determination made under subsection (1).

- (3) Any fee determined under subsection (1) may differ according to differences to time, place or circumstance.

S. 169Y(4)  
amended by  
No. 34/2011  
s. 51.

- (4) Any fee determined by the licensing authority under subsection (1) must be published in the Government Gazette.

S. 169Z  
inserted by  
No. 47/2006  
s. 14.

### **169Z Regulations**

- (1) The Governor in Council may make regulations for or with respect to—
- (a) prescribing and regulating in respect of persons who are holders of accreditations under this Division—
- (i) the conduct and duties of such persons; and
- (ii) the dress and appearance of such persons; and
- (iii) the safeguarding and disposal of lost or unclaimed property left in or carried on vehicles that are required to be driven by such persons; and



- (iv) generally, conditions relating to the operation and use of vehicles when driven by such persons;
  - (b) accreditations under this Division, including, but not limited to—
    - (i) conditions to which such accreditations or any class of such accreditations are subject; and
    - (ii) qualifications to be required of, and the tests to be passed by, applicants for such accreditations; and
    - (iii) applications for such accreditations and the cancellation or suspension of such accreditations;
  - (c) any matter or thing required or permitted by this Division to be prescribed or necessary to be prescribed to give effect to this Division.
- (2) Any regulations made under this section—
- (a) may be of general or of specially limited application; and
  - (b) may differ according to differences in time, place or circumstance; and
  - (c) may prescribe penalties of not more than 20 penalty units for any contravention of or failure to comply with the regulations; and
  - (d) may confer a power or discretionary authority on a person or body or a class of person or body; and
  - (e) may apply adopt or incorporate (with or without modification) any matter contained in a document as in force at the time the regulations are made or at any time before then; and

- (f) may provide for the exemption of a specified person, body or thing or a specified class of person, body or thing from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.

Pt 6 Div. 6A  
(Heading and  
ss 169ZA–  
169ZI)  
inserted by  
No. 35/2014  
s. 35.

## **Division 6A—Register of taxi industry participants**

### **Subdivision 1—Register and public version of register**

S. 169ZA  
inserted by  
No. 35/2014  
s. 35.

#### **169ZA Register of taxi industry participants**

- (1) The licensing authority must keep a register of taxi industry participants.
- (2) The licensing authority must include on the register the name of each person who holds—
  - (a) an accreditation as a taxi-cab operator; or
  - (b) an accreditation as a provider of taxi-cab network services; or
  - (c) a driver accreditation that accredits the holder to drive a commercial passenger vehicle; or
  - (d) a hire car licence; or
  - (e) a special purpose vehicle licence.
- (3) The licensing authority may include the following details for each person whose name is included on the register—
  - (a) business contact details for the person (including a telephone number, fax number, postal address, email address and Internet address);

- (b) details of any taxi-cab network service provided by the person;
- (c) the number of taxi-cabs, hire cars and special purpose vehicles operated by the person.
- (4) The licensing authority must include, for each person whose name is included on the register, any details prescribed for the purposes of this subsection.

**169ZB Public version of the register**

S. 169ZB  
inserted by  
No. 35/2014  
s. 35.

- (1) The licensing authority must keep a public version of the register of taxi industry participants (the *public version of the register*).
- (2) The licensing authority—
  - (a) must make a copy of the public version of the register available at their office during office hours for any person to inspect free of charge; and
  - (b) may publish a copy of the public version of the register on the licensing authority's Internet site.
- (3) The public version of the register must not include any information to which public access is restricted under Subdivision 2.

**169ZC Corrections of register**

S. 169ZC  
inserted by  
No. 35/2014  
s. 35.

- (1) The licensing authority may, if the licensing authority decides it is necessary to do so, correct any error or omission in the register of taxi industry participants or the public version of the register.

- (2) The licensing authority may correct the register by—
- (a) inserting information; or
  - (b) amending information; or
  - (c) omitting information.

### **Subdivision 2—Restriction of public access to information**

S. 169ZD  
inserted by  
No. 35/2014  
s. 35.

#### **169ZD What happens when information is included on the register?**

- (1) On including information in the register of taxi industry participants, the licensing authority must determine whether public access to any part of the information is to be restricted for the purpose of section 169ZB(3).
- (2) The licensing authority must not, under subsection (1), determine that public access to any part of the information is to be restricted unless the licensing authority is satisfied that there are circumstances that justify that restriction.

#### **Example**

An example of a circumstance is the protection of a person's privacy.

- (3) If the licensing authority determines that public access to a part of the information is to be restricted, the licensing authority must restrict public access—
  - (a) indefinitely; or
  - (b) for a specified period.

**169ZE Notification that information to be made publicly available**

S. 169ZE  
inserted by  
No. 35/2014  
s. 35.

- (1) This section applies if the licensing authority determines, under section 169ZD, that public access to any part of the information to which the determination relates is not to be restricted.
- (2) The licensing authority must notify the person to whom that information relates of that determination.
- (3) A notification under subsection (2) must—
  - (a) be in writing; and
  - (b) specify the information that is to be made publicly available.
- (4) For the purpose of section 169ZB(3), public access is restricted to the information until the earlier of—
  - (a) 28 days after the day on which the person is notified under subsection (2); or
  - (b) the day on which the person consents to the information being made publicly available.

**169ZF Application to restrict public access**

S. 169ZF  
inserted by  
No. 35/2014  
s. 35.

- (1) A person may apply to the licensing authority to restrict public access to information that—
  - (a) is included on the register of taxi industry participants; and
  - (b) relates to the person.
- (2) An application under subsection (1) need not be made in writing.
- (3) For the purpose of section 169ZB(3), public access is restricted to the information until the day on which the application is determined.

S. 169ZG  
inserted by  
No. 35/2014  
s. 35.

### **169ZG Determination of application**

- (1) On receiving an application under section 169ZF, the licensing authority must determine whether public access to the information the subject of the application is to be restricted for the purpose of section 169ZB(3).
- (2) The licensing authority must not, under subsection (1), determine that public access to the information the subject of the application is to be restricted unless the licensing authority is satisfied that there are exceptional circumstances that justify that restriction.
- (3) If the licensing authority determines that public access to the information the subject of the application is to be restricted, the licensing authority must restrict public access—
  - (a) indefinitely; or
  - (b) for a specified period.

S. 169ZH  
inserted by  
No. 35/2014  
s. 35.

### **169ZH Notification of determination**

- (1) This section applies if the licensing authority determines, under section 169ZG, that public access to the information to which the determination relates is not to be restricted.
- (2) The licensing authority must notify the person to whom that information relates of the determination within 14 days after the determination is made.
- (3) A notification under subsection (2) must—
  - (a) be in writing; and
  - (b) specify the information that is to be made publicly available.
- (4) For the purpose of section 169ZB(3), public access is restricted to the information to which the determination relates until the earlier of—

- (a) 28 days after the day on which the person is notified under subsection (2); or
- (b) the day on which the person consents to the information being made publicly available.

**169ZI Rights of review**

S. 169ZI  
inserted by  
No. 35/2014  
s. 35.

- (1) A person whose interests are affected by a determination under section 169ZD or 169ZG that public access to information to which the determination relates must be not restricted may apply to the Tribunal for review of the determination.
- (2) An application for review under subsection (1) must be lodged with the Tribunal within 28 days after—
  - (a) notice of the decision was given; or
  - (b) if, under section 45 of the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision—the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.
- (3) For the purpose of section 169ZB(3), public access is restricted to the information until the day on which the application for review is determined.

Pt 6 Div. 7  
(Heading and  
ss 167–170)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 6.2),  
37/1996  
s. 9(10)–(12),  
repealed by  
No. 106/1997  
s. 22(1), new  
Pt 6 Div. 7  
(Heading and  
ss 170, 171)  
inserted by  
No. 43/2013  
s. 48.

## Division 7—TSC inquiries

New s. 170  
inserted by  
No. 43/2013  
s. 48.

### 170 Inquiries by TSC

- (1) This section applies to an inquiry conducted by the TSC under section 115F(1)(dc) of the **Transport Integration Act 2010**.
- (2) At least one Commissioner (as defined by section 115A of the **Transport Integration Act 2010**) must preside at the inquiry.
- (3) Subject to this Division, the TSC may conduct the inquiry in any manner it considers appropriate.
- (4) If directed to do so by the Minister, the TSC must conduct an inquiry into any matter relating to the commercial passenger vehicle industry.
- (5) A direction made by the Minister under subsection (4) must be in writing.

New s. 171  
inserted by  
No. 43/2013  
s. 48.

### 171 TSC to report on outcomes of inquiries

- (1) Without limiting section 115F(1)(df) of the **Transport Integration Act 2010**, at the conclusion of an inquiry the TSC must give the Minister a report on the outcomes of the inquiry.
- (2) A report under subsection (1) must be made in writing.



Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

*	*	*	*	*	Pt 6 Div. 8 repealed by No. 30/2007 s. 231. <sup>8</sup>
*	*	*	*	*	New Pt 6 Div. 9 (Heading and ss 186–191) inserted by No. 32/2002 s. 20, amended by Nos 30/2007 s. 232, 28/2009 s. 87, 34/2011 ss 52–57, 40/2011 s. 22, repealed by No. 43/2013 s. 29.
*	*	*	*	*	Pt 6 Div. 9 (Heading and ss 186–197) amended by Nos 10087 s. 3(1)(Sch. 1 items 281, 282), 100/1986 s. 40(a)(b), 127/1986 s. 102(Sch. 4 item 28.12), 44/1989 s. 40(Sch. 1 item 6.2), 120/1993 ss 47–54, repealed by No. 16/1998 s. 8.

Pt 6 Div. 9A  
(Headings  
and ss 191A–  
191ZE)  
inserted by  
No. 34/2011  
s. 58.

Pt 6 Div. 9A  
(Heading)  
amended by  
No. 34/2011  
s. 124(a) (as  
amended by  
No. 43/2013  
s. 45).

## Division 9A—Taxi Services Commission

### Subdivision 1—Preliminary

S. 191A  
inserted by  
No. 34/2011  
s. 58.

#### 191A Definitions

In this Division—

S. 191A def. of  
*Commission*  
repealed by  
No. 34/2011  
s. 124(b) (as  
amended by  
No. 43/2013  
s. 45).

\* \* \* \*

S. 191A def. of  
*FOI exempt  
document*  
amended by  
No. 34/2011  
s. 124(c) (as  
amended by  
No. 43/2013  
s. 45).

*FOI exempt document* means a document that—

- (a) was given to the TSC by an agency  
(as defined in the **Freedom of  
Information Act 1982**) or a Minister;  
and
- (b) is an exempt document under the  
**Freedom of Information Act 1982** in  
the hands of the agency or Minister.

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VI—Licensing of certain vehicles and driver accreditation

\* \* \* \*

Pt 6 Div. 9A  
Subdiv. 2  
(Heading and  
ss 191B–  
191E)  
inserted by  
Nos 34/2011  
s. 58,  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.7),  
repealed by  
No. 34/2011  
s. 124(d) (as  
amended by  
No. 43/2013  
s. 45).

\* \* \* \*

Pt 6 Div. 9A  
Subdiv. 3  
(Heading and  
ss 191F–191J)  
inserted by  
Nos 34/2011  
s. 58,  
repealed by  
No. 34/2011  
s. 124(d) (as  
amended by  
No. 43/2013  
s. 45).

**Subdivision 4—Confidential or commercially  
sensitive information**

**191K Definition**

In this Subdivision—

S. 191K  
inserted by  
No. 34/2011  
s. 58.

*sensitive information* means information—

S. 191K def. of  
*sensitive  
information*  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

- (a) that is obtained by or on behalf of the  
TSC in the performance of a function  
or exercise of a power under, or in  
connection with, this Act or the  
**Transport Integration Act 2010** or  
given to the TSC; and

(b) that is—

- (i) of a confidential or commercially sensitive nature; or
- (ii) stated to be of a confidential or commercially sensitive nature at the time that it is given to the TSC; and

(c) whether obtained or given—

- (i) under Subdivision 3 or otherwise; and
- (ii) in a document or otherwise.

S. 191L  
inserted by  
No. 34/2011  
s. 58,  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

**191L Restriction on disclosure or use of sensitive information**

The TSC must not disclose or use sensitive information other than in accordance with this Subdivision.

S. 191M  
inserted by  
No. 34/2011  
s. 58,  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

**191M Use for performance of function or exercise of power permitted**

The TSC may use sensitive information in the performance of a function or exercise of a power under, or in connection with, this Act or the **Transport Integration Act 2010**.

S. 191N  
inserted by  
No. 34/2011  
s. 58.

**191N Disclosure for performance of function or exercise of power permitted in certain cases**

S. 191N(1)  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

- (1) The TSC may disclose sensitive information in the performance of a function or exercise of a power under, or in connection with, this Act or the **Transport Integration Act 2010** if the TSC has—

- (a) invited submissions, and considered any made, in accordance with subsection (2); and
  - (b) formed an opinion referred to in subsection (3); and
  - (c) given notice in accordance with subsection (4).
- (2) For the purposes of subsection (1)(a) the TSC must—
- (a) give the person from whom the TSC obtained or who has given the sensitive information (the *provider*) an opportunity to make a submission to the TSC specifying—
    - (i) why the information is of a confidential or commercially sensitive nature; and
    - (ii) the detriment that would be caused by the disclosure of the information; and
  - (b) give the same opportunity to each person—
    - (i) who the TSC knows gave the information to the provider; and
    - (ii) whose identity and address is known to the TSC ; and
  - (c) consider any submission made.

S. 191N(2)  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

S. 191N(2)(a)  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

S. 191N  
(2)(b)(i)  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

S. 191N  
(2)(b)(ii)  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

S. 191N(3)  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

(3) For the purposes of subsection (1)(b) the TSC must form an opinion that—

(a) the disclosure would not cause detriment to—

(i) the provider; and

(ii) any other person who the TSC knows gave the information to the provider; or

S. 191N  
(3)(a)(ii)  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

(b) although the disclosure would cause detriment to a person referred to in paragraph (a), the public benefit in disclosing the information outweighs that detriment.

S. 191N(4)  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

(4) For the purposes of subsection (1)(c) the TSC must give written notice to—

(a) the provider; and

(b) each person—

(i) who the TSC knows gave the information to the provider; and

S. 191N  
(4)(b)(i)  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

S. 191N  
(4)(b)(ii)  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

(ii) whose identity and address is known to the TSC.

(5) The notice must—

(a) state that the TSC wishes to disclose the sensitive information; and

S. 191N  
(5)(a)  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

(b) specify the nature of the intended disclosure; and

(c) set out detailed reasons why the TSC wishes to make the disclosure; and

S. 191N  
(5)(c)  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

(d) state the opinion that the TSC has formed in relation to the recipient of the notice under subsection (3); and

S. 191N  
(5)(d)  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

(e) set out detailed reasons why the TSC has formed that opinion; and

S. 191N  
(5)(e)  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

(f) include a copy of this Subdivision.

**191O Disclosure or use permitted if required by Act**

The TSC may disclose or use sensitive information if that disclosure or use is expressly required by or under a provision of any Act.

S. 191O  
inserted by  
No. 34/2011  
s. 58,  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

S. 191P  
inserted by  
No. 34/2011  
s. 58,  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

**191P Disclosure or use with consent permitted**

The TSC may disclose or use sensitive information with the consent of the person who gave the information.

S. 191Q  
inserted by  
No. 34/2011  
s. 58,  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

**191Q Disclosure or use in legal proceedings permitted**

The TSC may disclose or use sensitive information in legal proceedings at the direction of a court or tribunal.

S. 191R  
inserted by  
No. 34/2011  
s. 58,  
amended by  
No. 34/2011  
s. 124(e) (as  
amended by  
No. 43/2013  
s. 45).

**191R Disclosure or use permitted if information in public domain**

The TSC may disclose or use sensitive information if the information is in the public domain at the time it is disclosed or used.

Ss 191S–  
191U  
inserted by  
No. 34/2011  
s. 58,  
repealed by  
No. 34/2011  
s. 124(f) (as  
amended by  
No. 43/2013  
s. 45).

\* \* \* \* \*



## **Subdivision 5—Exempt freedom of information documents**

### **191V Restriction on disclosure and use of exempt freedom of information documents**

The TSC must not disclose or use information from an FOI exempt document other than in accordance with this Subdivision.

S. 191V inserted by No. 34/2011 s. 58, amended by No. 34/2011 s. 124(g) (as amended by No. 43/2013 s. 45).

### **191W Use for performance of function permitted**

The TSC may use information from an FOI exempt document in the performance of a function or exercise of a power under, or in connection with, this Act or the **Transport Integration Act 2010**.

S. 191W inserted by No. 34/2011 s. 58, amended by No. 34/2011 s. 124(g) (as amended by No. 43/2013 s. 45).

\* \* \* \* \*

Ss 191X, 191Y inserted by No. 34/2011 s. 58, repealed by No. 34/2011 s. 124(h) (as amended by No. 43/2013 s. 45).

## **Subdivision 5A—Power of TSC to obtain and share information**

Pt 6 Div. 9A Subdiv. 5A (Heading and ss 191YA–191YD) inserted by No. 43/2013 s. 49.

### **191YA Power to obtain information and documents**

- (1) The TSC may, by notice in writing, require a person accredited under Division 4 who it believes is capable of providing information or producing documents that may assist it in performing its functions—

S. 191YA inserted by No. 43/2013 s. 49.

- (a) to provide, in accordance with the notice, that information to the TSC; or
    - (b) to produce those documents, in accordance with the notice, to the TSC or a person specified in the notice who is acting on its behalf; or
    - (c) to appear before the TSC at a time and place specified in the notice to provide that information, either orally or in writing, or produce those documents.
  - (2) To avoid doubt, a notice under this section may require the operator of a taxi-cab to produce to the TSC, on a continuing basis, information directly from the taximeter fitted to the taxi-cab.
  - (3) A person must not—
    - (a) refuse or fail to comply with a notice under this section to the extent that the person is capable of complying with it; or
    - (b) in purported compliance with a notice under this section, knowingly provide information that is false or misleading; or
    - (c) obstruct or hinder the TSC in exercising a power under this section.
- Penalty: 120 penalty units for a natural person and 600 penalty units for a body corporate.
- (4) Nothing in this section entitles or requires a person to provide information or produce a document—
    - (a) that is the subject of legal professional privilege or client legal privilege; or
    - (b) if its provision or production might tend to incriminate the person or make the person liable to a penalty.

- (5) Any information provided or document produced by a person in compliance with a notice under this section is not admissible in evidence against the person in any proceedings other than proceedings under this section.
- (6) If any documents are produced to the TSC under this section, it may—
  - (a) inspect the documents or authorise a person to do so;
  - (b) make copies of, or take extracts from, the documents and retain possession of those copies and extracts.

#### **191YB Complaints**

**S. 191YB**  
inserted by  
**No. 43/2013**  
**s. 49.**

- (1) Any person may complain to the Secretary about the exercise of a power by the TSC under this Division.
- (2) The Secretary must—
  - (a) investigate any complaint; and
  - (b) provide a written report to the complainant on the results of the investigation.

#### **191YC Service of documents**

**S. 191YC**  
inserted by  
**No. 43/2013**  
**s. 49.**

- (1) A written requirement by the TSC under this Division may be given personally or by registered post to a person—
  - (a) at the last known place of business, employment or residence of the person; or
  - (b) in the case of a body corporate, at the registered office of the body corporate.
- (2) A person may provide information or a document to the TSC by sending it to the TSC by registered post.

S. 191YD  
inserted by  
No. 43/2013  
s. 49.

### 191YD Information sharing

- (1) The TSC may enter into an arrangement (an *information sharing arrangement*) with a relevant agency for the purposes of sharing or exchanging information held by the TSC and the relevant agency.
- (2) The information to which an information sharing arrangement may relate is limited to the following—
  - (a) information concerning investigations, inquiries, law enforcement, assessment of complaints or any licensing, permit or accreditation matters;
  - (b) probity assessments and reference checks concerning persons who provide, or propose to provide, commercial passenger vehicle services;
  - (c) any other information affecting the interests of users of commercial passenger vehicle services;
  - (d) any other information of a prescribed kind.
- (3) Under an information sharing arrangement, the TSC and the relevant agency are authorised—
  - (a) to request and receive information held by the other party to the arrangement; and
  - (b) to disclose information to the other party—but only to the extent that the information is reasonably necessary to assist the TSC in the exercise of functions under this Part or the **Transport Integration Act 2010** or assist the relevant agency concerned in the exercise of its functions.

- (4) Without limiting subsection (3), the TSC may also (whether as part of an information sharing arrangement or otherwise)—
- (a) refer to a commercial passenger vehicle agency or law enforcement agency any matter (including any complaint) with respect to the commercial passenger vehicle industry or that affects the interests of users of commercial passenger vehicle services;
  - (b) receive any matter of a type described in paragraph (a) from a commercial passenger vehicle agency or law enforcement agency;
  - (c) conduct a joint investigation into any such matter with a commercial passenger vehicle agency or law enforcement agency.
- (5) This section does not limit—
- (a) the powers of the TSC under this Part or the **Transport Integration Act 2010**; or
  - (b) the operation of any other Act under which a relevant agency is authorised or required to disclose information to another person or body; or
  - (c) the giving of information—
    - (i) to a court or tribunal in the course of legal proceedings; or
    - (ii) under an order of a court or tribunal; or
    - (iii) to the extent reasonably required to enable the investigation or the enforcement of a law of the State or of any other State or of a Territory or of the Commonwealth; or
    - (iv) to the ESC; or
    - (v) with the written authority of the Secretary; or

- (vi) with the written authority of the person to whom the information relates.

(6) In this section—

***commercial passenger vehicle agency*** means an agency of the State, or of the Commonwealth, or of another State or a Territory or of an overseas jurisdiction, that exercises functions under an enactment with respect to commercial passenger vehicles;

***law enforcement agency*** means—

- (a) Victoria Police or the police force or police service of another State or of a Territory or of an overseas jurisdiction; or
- (b) the Australian Federal Police; or
- (c) the Australian Crime Commission; or
- (d) any other authority or person responsible for the investigation or prosecution of offences against the laws of the State or of the Commonwealth, another State or a Territory or an overseas jurisdiction;

***relevant agency*** means—

- (a) a commercial passenger vehicle agency; or
- (b) a law enforcement agency; or
- (c) the ESC; or
- (d) any other agency of the State or of the Commonwealth, another State or a Territory or an overseas jurisdiction; or

S. 191YD(6)  
def. of *law enforcement agency*  
amended by  
No. 37/2014  
s. 10(Sch.  
item 171.3).

- (e) any other person or body that exercises functions, in the public interest, that involve protecting the interests of users of commercial passenger vehicle services.

**Subdivision 5B—Taxi industry monitoring, compliance and enforcement policy**

Pt 6 Div. 9A  
Subdiv. 5B  
(Heading and  
ss 191YE–  
191YJ)  
inserted by  
No. 35/2014  
s. 36.

**191YE Definitions**

In this Subdivision—

*commercial passenger vehicle law* has the same meaning as in Division 4ABA of Part VII;

*specified road safety law* means any of the following laws (but only when a taxi compliance officer is performing or exercising functions or powers under that law)—

- (a) section 77 or 84 of the **Road Safety Act 1986**; or
- (b) a provision of the Road Safety Road Rules 2009;

*taxi compliance officer* means a person appointed under section 228RC.

S. 191YE  
inserted by  
No. 35/2014  
s. 36.

**191YF TSC to develop, maintain and review taxi industry monitoring, compliance and enforcement policy**

- (1) The TSC must develop, maintain and review a taxi industry monitoring, compliance and enforcement policy in accordance with this Subdivision.

S. 191YF  
inserted by  
No. 35/2014  
s. 36.

- (2) The purpose of a taxi industry monitoring, compliance and enforcement policy is to support and promote maintaining compliance with, and enforcement of, a commercial passenger vehicle law or specified road safety law by—
  - (a) specifying proportionate, cost effective and efficient options in respect of monitoring and promoting compliance with, and enforcing, a commercial passenger vehicle law or specified road safety law; and
  - (b) specifying how options will be utilised by enforcement agencies to monitor and promote compliance with, and the enforcement of, a commercial passenger vehicle law and specified road safety law consistently.
- (3) The TSC must cause a taxi industry monitoring, compliance and enforcement policy developed under this section to be published on the Internet no later than 12 months after the commencement of this section.
- (4) A taxi industry monitoring, compliance and enforcement policy must be reviewed every 3 years in accordance with section 191YH.

S. 191YG  
inserted by  
No. 35/2014  
s. 36.

**191YG TSC must coordinate and support implementation**

- (1) For the purpose of coordinating and supporting the implementation of a taxi industry monitoring, compliance and enforcement policy, the TSC must provide training, guidance and support to taxi compliance officers who monitor compliance with, and enforce, a commercial passenger vehicle law or specified road safety law.



- (2) In addition, the TSC may coordinate and support the implementation of a taxi industry monitoring, compliance and enforcement policy in any other manner the TSC determines to be appropriate.

**191YH TSC must consult when developing or reviewing taxi industry monitoring, compliance and enforcement policy**

S. 191YH  
inserted by  
No. 35/2014  
s. 36.

- (1) The TSC must develop and review a taxi industry monitoring, compliance and enforcement policy in consultation with—
- (a) Victoria Police; and
  - (b) the Privacy Commissioner; and
  - (c) VicRoads; and
  - (d) representatives of taxi industry participants.
- (2) The TSC may consult with taxi industry regulators in other jurisdictions when developing and reviewing a taxi industry monitoring, compliance and enforcement policy if the TSC considers that it would be useful to do so.

**191YI Content of taxi industry monitoring, compliance and enforcement policy**

S. 191YI  
inserted by  
No. 35/2014  
s. 36.

- (1) A taxi industry monitoring, compliance and enforcement policy must provide guidance on—
- (a) the exercise of the following kinds of powers under a commercial passenger vehicle law or specified road safety law—
    - (i) monitoring and compliance powers;
    - (ii) investigation powers;
    - (iii) enforcement powers; and

(b) the measures to be adopted to promote compliance with and enforcement of, a commercial passenger vehicle law or specified road safety law.

(2) A taxi industry monitoring, compliance and enforcement policy may provide guidance on other matters relevant to monitoring compliance with and enforcing a commercial passenger vehicle law or specified road safety law.

S. 191YJ  
inserted by  
No. 35/2014  
s. 36.

**191YJ Taxi industry monitoring, compliance and enforcement policy to be had regard to**

Persons involved in compliance, monitoring and enforcement activities under a commercial passenger vehicle law or specified road safety law must, so far as is reasonably practicable, have regard to an applicable taxi industry monitoring, compliance and enforcement policy when performing functions and duties and exercising powers under those laws.

Pt 6 Div 9A  
Subdiv. 6  
(Heading and  
ss 191Z–  
191ZE)  
inserted by  
No. 34/2011  
s. 58,  
repealed by  
No. 34/2011  
s. 124(i) (as  
amended by  
No. 43/2013  
s. 45).

\* \* \* \* \*

## Division 10—Events affecting public transport

Pt 6 Div. 10  
(Heading and  
ss 198–207)  
amended by  
Nos 10087  
s. 3(1)(Sch. 1  
item 283  
(a)(b)), 10220  
ss 11(2), 12,  
13(1)–(6)  
(7)(b)–(f),  
52/1988  
s. 161(Sch. 6  
items 14.4,  
14.5), 12/1989  
s. 4(1)(Sch. 2  
item 120.8),  
44/1989  
s. 40(Sch. 1  
item 6.2),  
57/1989  
s. 3(Sch. 1  
item 202.8),  
81/1989  
s. 3(Sch.  
item 53.2),  
repealed by  
No. 6/1999  
s. 8, new Pt 6  
Div. 10  
(Heading and  
ss 192–204)  
inserted by  
No. 110/2004  
s. 53.

### 192 Meaning of *event* and *organiser*

New s. 192  
inserted by  
No. 110/2004  
s. 53.

- (1) In this Division, an *event* is a gathering of people for a common purpose or purposes that is organised by a person or body.
- (2) For the purposes of this Division, the *organiser* of an event is the person or body that is primarily responsible for organising the event.

### 193 Events to which this Division applies

New s. 193  
inserted by  
No. 110/2004  
s. 53.

This Division only applies to an event if it is reasonable to expect that the event will require the deviation, delay, replacement, supplementation or cancellation of a regular public transport service

provided by a passenger transport company or a bus company.

New s. 194  
inserted by  
No. 110/2004  
s. 53.

#### **194 Meaning of *regular public transport service***

For the purposes of this Division, a public transport service is regular if it is scheduled to occur on a regular basis at fixed times or frequencies on fixed routes.

New s. 195  
inserted by  
No. 110/2004  
s. 53.

#### **195 Organiser must give notice of proposed event**

S. 195(1)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

- (1) The organiser of an event must notify the Public Transport Development Authority that the event is to be held—
  - (a) in the case of an event that is reasonably expected to attract an attendance of no more than 10 000 people, at least 120 days before the event starts, if the date of the event is set or known by the organiser at least 120 days before the event is to start; or
  - (b) in the case of an event that is reasonably expected to attract an attendance of more than 10 000 people, at least 150 days before the event starts, if the date of the event is set or known by the organiser at least 150 days before the event is to start; or
  - (c) as soon as is practicable after the date of the event is set or known by the organiser, if that date is only set or known less than 120 or 150 days (as the case may be) before the event is to start.

(2) The notification of the event—

- (a) must be made in writing; and
- (b) must contain a description of the event and any other details required by the Public Transport Development Authority by notice published in the Government Gazette.

S. 195(2)(b)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

**196 Public Transport Development Authority may ask that a public transport plan be submitted**

After receiving notification of an event, the Public Transport Development Authority may, after consultation with each municipal council in whose municipal district the event is to be held, ask the organiser of the event to submit a public transport plan for the event to the Public Transport Development Authority.

S. 196  
(Heading)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).  
New s. 196  
inserted by  
No. 110/2004  
s. 53,  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

**197 Public transport plans**

- (1) A public transport plan is a document that identifies the impact an event is expected to have on regular public transport services and that sets out—
  - (a) the measures by which it is proposed to mitigate that impact; and
  - (b) any proposals to modify the affected services to provide for any additional public transport needs generated by the event.
- (2) Without limiting the generality of subsection (1), a public transport plan must address the following issues arising from the event to the extent that they contribute to the impact of the event on public transport—

New s. 197  
inserted by  
No. 110/2004  
s. 53.

- (a) the management of vehicular traffic;
- (b) the management of the movement of pedestrians;
- (c) the provision of public transport services;
- (d) the safety of people in relation to public transport services;
- (e) the provision of access by emergency services to, or through the area affected by, the event;
- (f) the maintenance of access to public transport services from properties in, or next to, the area affected by the event;
- (g) the existence, or provision, of parking facilities.

New s. 198  
inserted by  
No. 110/2004  
s. 53.

## **198 Preparation of public transport plans**

S. 198(1)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

- (1) If the organiser of an event is asked by the Public Transport Development Authority to prepare a public transport plan for the event, the organiser must—
  - (a) advise all affected passenger transport companies and bus companies of the event and its expected impact, and seek proposals from them as to how to deal with that impact; and
  - (b) in the light of those proposals, attempt to negotiate an agreement with those companies on how to deal with that impact; and
  - (c) consult, in respect of the plan, with—
    - (i) all affected municipal councils; and

(ii) if asked by the Public Transport Development Authority, with the Public Transport Development Authority.

S. 198(1)(c)(ii)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

(2) If the organiser of an event seeks a proposal from a passenger transport company or bus company under subsection (1), the company must take all reasonable steps to provide a reasonable proposal and must attempt to negotiate an agreement with the organiser as to how to deal with the impact of the event on its regular public transport services.

#### **199 By when public transport plans to be submitted**

New s. 199  
inserted by  
No. 110/2004  
s. 53.

(1) If asked to provide a public transport plan to the Public Transport Development Authority under this Division, an event organiser must submit the plan to the Public Transport Development Authority—

S. 199(1)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

(a) if notification of the event was given to the Public Transport Development Authority under section 195(1)(a) or 195(1)(b), at least 60 days before the event is to start; or

S. 199(1)(a)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

(b) if notification of the event was given to the Public Transport Development Authority under section 195(1)(c), by the date specified by the Public Transport Development Authority.

S. 199(1)(b)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

(2) In specifying a date for the purposes of subsection (1)(b), the Public Transport Development Authority must ensure, having regard to the time available before the event is to start, that the date specified will enable the organiser to have sufficient time to prepare the plan.

S. 199(2)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

S. 200  
(Heading)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).  
New s. 200  
inserted by  
No. 110/2004  
s. 53.

## **200 Public Transport Development Authority may impose fee**

S. 200(1)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

- (1) The Public Transport Development Authority may, by notice published in the Government Gazette, set a fee that is to be paid by an event organiser who submits a public transport plan to the Public Transport Development Authority.

S. 200(2)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

- (2) If the Public Transport Development Authority has set a fee under subsection (1), an event organiser who submits a public transport plan to the Public Transport Development Authority must pay the fee to the Public Transport Development Authority.

S. 200(3)  
amended by  
Nos 61/2011  
s. 25(Sch. 1  
item 13.8),  
61/2011  
s. 25(Sch. 1  
item 13.6).

- (3) If the Public Transport Development Authority has set a fee under subsection (1), the Public Transport Development Authority may refuse to consider a public transport plan until the fee payable in relation to the plan has been paid.

New s. 201  
inserted by  
No. 110/2004  
s. 53.

## **201 Alternative arrangements if time limited**

- (1) This section applies if—

S. 201(1)(a)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

- (a) the Public Transport Development Authority receives notification of an event under section 195(1)(c); and



(b) in the opinion of the Public Transport Development Authority—

S. 201(1)(b)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

(i) it would be desirable to minimise the impact the event will have on regular public transport services; but

(ii) there is insufficient time to require the organiser of the event to submit a public transport plan for the event.

(2) The Public Transport Development Authority may require the organiser of the event, for the purpose, in the time available, of minimising the impact the event will have on regular public transport services, or of providing for any additional public transport needs that may be generated by the event, to do all or any of the following—

S. 201(2)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

(a) to liaise with specified passenger transport companies or bus companies; or

(b) to attend meetings organised by the Public Transport Development Authority; or

S. 201(2)(b)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

(c) to take any other action specified by the Public Transport Development Authority.

S. 201(2)(c)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

## **202 Public Transport Development Authority may waive or reduce time limits**

S. 202  
(Heading)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).  
  
New s. 202  
inserted by  
No. 110/2004  
s. 53.

(1) The Public Transport Development Authority may waive or reduce any time limit referred to in section 195 or 199.

S. 202(1)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

S. 202(2)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

- (2) The Public Transport Development Authority must exercise the power conferred by this section reasonably.

New s. 203  
inserted by  
No. 110/2004  
s. 53.

### **203 Approval of public transport plans**

S. 203(1)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

- (1) The Public Transport Development Authority must approve or not approve a public transport plan that has been submitted to him or her.

S. 203(2)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

- (2) In approving a public transport plan, the Public Transport Development Authority may impose conditions to which his or her approval is subject.

S. 203(3)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

- (3) Without limiting the generality of subsection (2), the Public Transport Development Authority may make the approval of a plan subject to the condition that the event organiser who submitted the plan meet all or part of any net additional costs incurred by the Department or a passenger transport company or bus company as a result of the holding of the event.

New s. 204  
inserted by  
No. 110/2004  
s. 53.

### **204 Consequences of a failure to comply with this Division**

- (1) This section applies if an event to which this Division applies is held and the organiser of the event—

(a) fails to comply with section 195; or

(b) fails to submit a public transport plan to the Public Transport Development Authority after being asked to do so; or

S. 204(1)(b)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

- (c) fails to comply with any conditions to which the approval of a public transport plan is subject; or
  - (d) unreasonably fails to comply with any requirements imposed by the Public Transport Development Authority under section 201. S. 204(1)(d)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).
- (2) This section also applies if an event to which this Division applies is held after—
- (a) the Public Transport Development Authority has refused to approve a public transport plan submitted to the Public Transport Development Authority in relation to the event; or S. 204(2)(a)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).
  - (b) a public transport plan is submitted to the Public Transport Development Authority , but it is not approved either because— S. 204(2)(b)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).
    - (i) it was not submitted in accordance with this Division; or
    - (ii) any fee payable in relation to the plan was not paid—and no such plan approved by the Public Transport Development Authority exists at the time the event is held.
- (3) The Public Transport Development Authority may recover from the organiser as a debt the whole or part of any net additional costs incurred by the Department or a passenger transport company or bus company as a result of the holding of the event or of the breach of conditions. S. 204(3)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).
- (4) If the Public Transport Development Authority recovers under this section any costs incurred by a passenger transport company or bus company, the Public Transport Development Authority must remit those costs, less any reasonable costs S. 204(4)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

incurred by the Public Transport Development Authority in recovering the costs, to the company as soon as is practicable after receiving them.

- (5) Except as provided by this section, the organiser of an event is not otherwise liable either criminally or civilly for any failure to comply with this Division.
- (6) The organiser of an event is not liable to be stopped from holding the event by way of injunction merely because there has been a failure to comply with this Division in respect of the event.

---

## Part VII—Prosecutions, enforcement and penalties and other matters

Pt 7 (Heading)  
amended by  
No. 9/2006  
s. 120.

### Division 1—Interpretations

#### 208 Definitions

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

*authorised officer* means a person authorised by the Secretary under section 221A or 221AB;

S. 208 def. of *authorised officer* inserted by No. 101/2003 s. 15(1), amended by Nos 47/2006 s. 31(1)(Sch. 1 Pt 1 item 10), 34/2011 s. 59.

\* \* \* \* \*

S. 208 def. of *authorized officer* repealed by No. 127/1986 s. 102(Sch. 4 item 28.13A) (as amended by No. 78/1987 s. 21(c)).

*carriage* means any passenger vehicle operated by or on behalf of a passenger transport or bus company;

S. 208 def. of *carriage* inserted by No. 101/2003 s. 9(1).

*designated place* has the same meaning as in the **Victoria Police Act 2013**;

S. 208 def. of *designated place* inserted by No. 43/2011 s. 55, substituted by No. 37/2014 s. 10(Sch. item 171.4(a)).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VII—Prosecutions, enforcement and penalties and other matters

S. 208 def. of  
*hand held  
reader*  
inserted by  
No. 69/2007  
s. 3,  
amended by  
No. 19/2010  
s. 77(a).

*hand held reader* means a portable device or  
combination of portable devices, of a  
prescribed kind, that is capable of copying or  
transferring information from a smartcard  
and storing and displaying that information;

S. 208 def. of  
*infringement*  
substituted by  
No. 127/1986  
s. 102(Sch. 4  
item 28.13),  
repealed by  
No. 25/1989  
s. 41(a).

\* \* \* \*

S. 208 def. of  
*motor car*  
repealed by  
No. 127/1986  
s. 102(Sch. 4  
item 28.13).

\* \* \* \*

S. 208 def. of  
*motor vehicle*  
inserted by  
No. 127/1986  
s. 102(Sch. 4  
item 28.13).

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

S. 208 def. of  
*on-the-spot  
penalty fare*  
inserted by  
No. 80/2013  
s. 5,  
repealed by  
No. 71/2016  
s. 4.

\* \* \* \*

S. 208 def. of  
*on-the-spot  
penalty ticket*  
inserted by  
No. 80/2013  
s. 5,  
repealed by  
No. 71/2016  
s. 4.

\* \* \* \*

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VII—Prosecutions, enforcement and penalties and other matters

---

\* \* \* \* \*

S. 208 def. of  
*on-the-spot  
penalty ticket  
offence*  
inserted by  
No. 80/2013  
s. 5,  
repealed by  
No. 71/2016  
s. 4.

***owner***—

S. 208 def. of  
*owner*  
amended by  
No. 127/1986  
s. 102(Sch. 4  
item 28.13).

- (a) where the vehicle is a motor vehicle,  
means the person in whose name the  
motor vehicle is registered under the  
**Road Safety Act 1986** or any Act or  
Ordinance of any State or Territory of  
the Commonwealth corresponding to  
that Act (whether the property in the  
motor vehicle is vested in him or not);  
and
- (b) where the vehicle is not a motor  
vehicle, includes a sole owner, joint  
owner or part owner of the vehicle or  
any person who has the possession and  
use thereof under or subject to a hire-  
purchase agreement or bill of sale or  
like instrument;

***prescribed device*** means—

S. 208 def. of  
*prescribed  
device*  
inserted by  
No. 69/2007  
s. 3,  
amended by  
No. 19/2010  
s. 77(b) (as  
amended by  
No. 29/2011  
s. 3(Sch. 1  
item 100)).

- (a) a smartcard; or
- (b) a hand held reader; or
- (c) any other device prescribed by the  
regulations for the purposes of  
sections 230AB, 230AD and 230AE;

S. 208 def. of  
*protective services officer*  
inserted by  
No. 43/2011  
s. 55,  
substituted by  
No. 37/2014  
s. 10(Sch.  
item 171.4(b)).

*protective services officer* has the same meaning  
as in the **Victoria Police Act 2013**;

S. 208 def. of  
*public transport service*  
inserted by  
No. 95/2005  
s. 21(a).

*public transport service* means a service provided  
by a bus company or a passenger transport  
company to transport members of the public,  
and includes any ancillary matters such as  
allowing entry to any place used in relation  
to the provision of such a service;

S. 208 def. of  
*rail safety worker*  
inserted by  
No. 47/2006  
s. 54(a),  
substituted by  
No. 22/2013  
s. 93.

*rail safety worker* means a rail safety worker  
within the meaning of the **Rail Safety (Local  
Operations) Act 2006** or the Rail Safety  
National Law (Victoria);

S. 208 def. of  
*safety work infringement*  
inserted by  
No. 60/1994  
s. 22(a),  
amended by  
Nos 63/1999  
s. 13(1),  
94/2003  
s. 28(15),  
9/2006  
s. 121(a)(b),  
47/2006  
s. 54(b),  
49/2011 s. 4,  
substituted by  
No. 22/2013  
s. 94.

*safety work infringement* means—

- (a) an offence under section 76(1)(a), (g)  
or (h) of the **Rail Safety (Local  
Operations) Act 2006** in circumstances  
where—
  - (i) the concentration of alcohol in the  
blood or breath of the rail safety  
worker is less than 0·015 grams  
per 100 millilitres of blood or  
0·015 grams per 210 litres of  
exhaled air (as the case requires);  
and
  - (ii) the offence is a first offence  
having regard to the provisions of  
section 74 of the **Rail Safety  
(Local Operations) Act 2006**;



(b) an offence against section 128(1) of the Rail Safety National Law (Victoria) or section 77(1)(a), (f) or (g) of the **Rail Safety (Local Operations) Act 2006** (as it forms part of the **Rail Safety National Law Application Act 2013** by operation of section 43 of that Act) in circumstances where—

(i) the concentration of alcohol in the blood or breath of the rail safety worker is less than 0.015 grams per 100 millilitres of blood or 0.015 grams per 210 litres of exhaled air (as the case requires); and

(ii) the offence is a first offence having regard to the provisions of section 74 of the **Rail Safety (Local Operations) Act 2006** (as it forms part of the **Rail Safety National Law Application Act 2013** by operation of section 43 of that Act);

*	*	*	*	*	S. 208 def. of <i>parking infringement</i> repealed by No. 127/1986 s. 102(Sch. 4 item 28.13) (as amended by No. 78/1987 s. 21(b)).
---	---	---	---	---	---

*	*	*	*	*	S. 208 def. of <i>prosecution officer</i> repealed by No. 25/1989 s. 41(b).
---	---	---	---	---	---

S. 208 def. of  
*smartcard*  
inserted by  
No. 69/2007  
s. 3.

*smartcard* means a plastic card or other thing  
that—

- (a) contains an imbedded computer  
microchip capable of receiving, storing,  
processing and transferring  
information; and
- (b) may lawfully be used for the purpose of  
obtaining or proving an entitlement to  
use a public transport service;

S. 208 def. of  
*ticket*  
inserted by  
No. 101/2003  
s. 9(1),  
repealed by  
No. 95/2005  
s. 21(b).

\* \* \* \* \*

S. 208 def. of  
*ticket infringement*  
inserted by  
No. 98/1998  
s. 27(1).

*ticket infringement* means a ticket offence that is  
prescribed for the purposes of this Part;

S. 208 def. of  
*ticket offence*  
inserted by  
No. 98/1998  
s. 27(1),  
amended by  
No. 101/2003  
s. 14,  
substituted by  
No. 95/2005  
s. 21(c).

*ticket offence* means an offence against Division 4  
or any regulations made under  
section 221AA;

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VII—Prosecutions, enforcement and penalties and other matters

---

*	*	*	*	*	<p>S. 208 def. of <i>traffic infringement</i> amended by No. 10085 s. 4(a)–(c), repealed by No. 127/1986 s. 102(Sch. 4 item 28.13) (as amended by No. 78/1987 s. 21(b)).</p>
<p><i>transport infringement</i> means an offence, other than a safety work infringement or ticket infringement, against this Act or the regulations which is prescribed for the purposes of this Part.</p>					
*	*	*	*	*	<p>S. 208 def. of <i>transport infringement</i> inserted by No. 25/1989 s. 41(b), amended by Nos 60/1994 s. 22(b), 98/1998 s. 27(2).</p>
*	*	*	*	*	<p>S. 208 def. of <i>worker</i> inserted by No. 60/1994 s. 22(c), repealed by No. 47/2006 s. 54(c).</p>

## Division 2—Transport and ticket infringements

Pt 7 Div. 2  
(Heading and  
ss 209–215)  
amended by  
Nos 10085  
s. 6, 10087  
s. 3(1)(Sch. 1  
items 284,  
285), 10249  
s. 11(a)–(c),  
16/1986 s. 30,  
127/1986  
s. 102(Sch. 4  
items 28.14,  
28.15, 28.15A  
(as amended  
by No.  
78/1987  
s. 21(d)),  
28.16(a)(b)),  
44/1989  
s. 40(Sch. 1  
items 12, 13,  
19.1),  
substituted as  
Pt 7 Div. 2  
(Heading and  
ss 211–215)  
by No.  
25/1989 s. 42.  
  
Pt 7 Div. 2  
(Heading)  
amended by  
No. 98/1998  
s. 28.

New s. 211  
inserted by  
No. 25/1989  
s. 42,  
amended by  
Nos 81/1990  
s. 7(4),  
68/1995 s. 45,  
104/1997  
s. 34(1),  
98/1998  
s. 29 (as  
amended by  
No. 45/1999  
s. 43(1)(a)(b)),  
30/2000 s. 18,  
11/2002 s. 3  
(Sch. 1  
item 62.1),  
repealed by  
No. 101/2003  
s. 15(2).

\* \* \* \*

## 212 Transport and ticket infringements

S. 212  
(Heading)  
inserted by  
No. 101/2003  
s. 15(3).

S. 212  
substituted by  
No. 25/1989  
s. 42.

- (1) Any of the following persons who has reason to believe that a person has committed a transport infringement may serve on that person a transport infringement notice—

S. 212(1)  
amended by  
Nos 98/1998  
s. 30(1),  
101/2003  
s. 15(4),  
32/2006  
s. 74(1)(a),  
substituted by  
No. 43/2011  
s. 56(1).

- (a) a police officer;

S. 212(1)(a)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 171.5).

- (b) if the offence is believed to have been committed at or in the vicinity of a designated place—a protective services officer;

- (c) a person who is an officer who is authorised to issue transport infringement notices.

- (1A) A person is an officer who is authorised to issue transport infringement notices if he or she is either—

S. 212(1A)  
inserted by  
No. 98/1998  
s. 30(2),  
substituted by  
No. 101/2003  
s. 15(5).

- (a) an officer of the Roads Corporation appointed in writing by that Corporation to issue transport infringement notices; or

- (ab) a person employed in the TSC, or whose services are being used by the TSC in accordance with section 115R(2) of the **Transport Integration Act 2010**, appointed in writing by the TSC to issue transport infringement notices; or

S. 212(1A)(ab)  
inserted by  
No. 43/2013  
s. 50.

S. 212(1A)(b)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 11),  
34/2011 s. 60.

(b) an authorised officer authorised by the  
Secretary under section 221A.

S. 212(1B)  
inserted by  
No. 101/2003  
s. 15(5),  
amended by  
No. 32/2006  
s. 74(1)(b),  
substituted by  
No. 43/2011  
s. 56(2),  
amended by  
Nos 80/2013  
s. 6, 71/2016  
s. 5.

(1B) Any of the following persons who has reason to  
believe that a person has committed a ticket  
infringement may serve on that person a ticket  
infringement notice—

S. 212(1B)(a)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 171.5).

(a) a police officer;

(b) if the infringement is believed to have been  
committed at or in the vicinity of a  
designated place—a protective services  
officer on duty at the designated place;

(c) an authorised officer.

S. 212(2)  
amended by  
No. 98/1998  
s. 30(3),  
substituted by  
No. 32/2006  
s. 74(2).

(2) An offence for which—

(a) a transport infringement notice referred to in  
subsection (1); or

(b) a ticket infringement notice referred to in  
subsection (1B)—

may be served is an infringement offence within  
the meaning of the **Infringements Act 2006**.

S. 212(3)  
amended by  
No. 98/1998  
s. 30(3),  
repealed by  
No. 32/2006  
s. 74(3).

\* \* \* \* \*

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VII—Prosecutions, enforcement and penalties and other matters

*	*	*	*	*	S. 212(4) repealed by No. 32/2006 s. 74(3).
(5) The penalty for the purposes of this section in respect of any transport infringement or ticket infringement is the amount prescribed in respect of that infringement.					S. 212(5) amended by No. 98/1998 s. 30(4).
*	*	*	*	*	S. 212AA inserted by No. 80/2013 s. 7, amended by No. 49/2014 s. 61(3), repealed by No. 71/2016 s. 6.
<b>212A Offence to falsely represent oneself as an officer of the Roads Corporation</b>					S. 212A inserted by No. 101/2003 s. 16.
A person must not falsely represent himself or herself to be an officer of the Roads Corporation appointed by that Corporation to issue transport infringement notices.					
Penalty: 10 penalty units.					
*	*	*	*	*	S. 213 substituted by No. 25/1989 s. 42, <sup>9</sup> amended by Nos 57/1989 s. 3(Sch. items 202.9, 202.10) (as amended by No. 25/1989 s. 52 (as amended by No. 34/1990 s. 7(5))), 101/2003 s. 17(1), repealed by No. 32/2006 s. 74(3).

S. 213A  
inserted by  
No. 101/2003  
s. 10.

## **213A Administrative costs in respect of ticket infringements**

- (1) In this section, *relevant ticket infringement* means a ticket infringement committed—
  - (a) on, or in relation to, a carriage; or
  - (b) in relation to a journey on, or in, a carriage; or
  - (c) on, or in relation to, land or a premises owned, occupied or controlled by a passenger transport or bus company.
- (2) This section applies if the regulations state that administrative costs may be paid to passenger transport and bus companies in respect of relevant ticket infringements.
- (3) The Public Transport Development Authority may agree with a passenger transport or bus company to pay the company, and may pay the company in accordance with the agreement, the administrative costs permitted to be paid to the company by the regulations.
- (4) The Consolidated Fund is appropriated to the extent necessary to allow payments to be made under subsection (3).
- (5) If an infringement notice is withdrawn after the penalty has been paid, the company must, within 5 business days after being asked to do so by the Public Transport Development Authority, refund to the Public Transport Development Authority any administrative costs paid to it under subsection (3) in respect of the infringement notice.
- (6) The Public Transport Development Authority may only pay administrative costs to a company under this section in respect of ticket infringements

S. 213A(3)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.9).

S. 213A(5)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

S. 213A(6)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).



committed on or after the day the agreement with the company under this section is made.

## **214 Proof of prior convictions or findings of guilt**

S. 214  
substituted by  
No. 25/1989  
s. 42.

(1) If a person is served with a summons for any infringement and it is alleged that the person has been previously convicted or found guilty of any infringement or infringements there may be served with the summons a separate document in the prescribed form signed by the informant setting out particulars of the alleged prior convictions or findings of guilt.

S. 214(1)  
amended by  
No. 28/1996  
s. 8(a)(i)(ii).

(2) The document setting out the alleged prior convictions or findings of guilt—

S. 214(2)  
amended by  
No. 28/1996  
s. 8(b).

(a) must be endorsed with a notice in the prescribed form; and

(b) may be served in any manner in which the summons for the infringement may be served.

(3) If the court by which any person has been convicted or found guilty is satisfied that a copy of any such document was served on that person at least 14 days before the hearing of the charge, the document is admissible in evidence and, in the absence of evidence to the contrary, is proof—

S. 214(3)  
amended by  
Nos 57/1989  
s. 3(Sch. item  
202.11) (as  
amended by  
No. 25/1989  
s. 52 (as  
amended by  
No. 34/1990  
s. 7(5)(c))),  
28/1996  
s. 8(c)(i).

(a) that the person was convicted or found guilty of the offences alleged in the document; and

S. 214(3)(a)  
amended by  
No. 28/1996  
s. 8(c)(i).

(b) of the particulars relating to the convictions or findings of guilt set out in the document.

S. 214(3)(b)  
amended by  
No. 28/1996  
s. 8(c)(ii).

S. 214(4)  
amended by  
Nos 57/1989  
s. 3(Sch. item  
202.12) (as  
amended by  
No. 25/1989  
s. 52 (as  
amended by  
No. 34/1990  
s. 7(5)(d))),  
68/2009  
s. 97(Sch.  
item 124.15).

- (4) Any such document may not be tendered in evidence without the consent of the accused if the accused is present at the hearing of the charge.

S. 214(5)  
amended by  
Nos 57/1989  
s. 3(Sch. item  
202.13) (as  
amended by  
No. 25/1989  
s. 52 (as  
amended by  
No. 34/1990  
s. 7(5)(e))),  
28/1996  
s. 8(d)(i)–(iii),  
68/2009  
s. 97(Sch.  
item 124.16).

- (5) Without limiting the generality of the provisions of Part 3.4 of Chapter 3 of the **Criminal Procedure Act 2009**, where any evidence of prior convictions or findings of guilt has been tendered pursuant to the provisions of this section, the court may set aside, on any terms as to costs or otherwise that the court decides, any conviction, finding or order if it has reasonable grounds to believe that the document tendered in evidence was not in fact brought to the notice of the accused or that the accused was not in fact convicted, or found guilty, of the offences as alleged in the document.

S. 214A  
inserted by  
No. 71/2006  
s. 13,  
amended by  
No. 37/2014  
s. 10(Sch.  
item 171.5).

#### 214A Differences in penalties

The penalty for a transport infringement or a ticket infringement may differ according to whether the notice for the infringement is served by a police officer or by a person who is an officer who is authorised to issue a notice for a transport infringement or ticket infringement.

S. 215  
substituted by  
No. 25/1989  
s. 42.

#### 215 Regulations

- (1) The Governor in Council may make regulations for or with respect to—
- (a) prescribing transport infringements for which a transport infringement notice may be served; and

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VII—Prosecutions, enforcement and penalties and other matters

---

- |  |   |
|--|---|
| (ab) prescribing ticket infringements for which a ticket infringement notice may be served; and  | S. 215(1)(ab) inserted by No. 98/1998 s. 30(5)(a).  |
| (b) in addition to the requirements of section 13 of the <b>Infringements Act 2006</b> , any particulars, not inconsistent with that Act, to be contained in an infringement notice;                             | S. 215(1)(b) amended by No. 98/1998 s. 30(5)(b), substituted by No. 32/2006 s. 74(4).         |
| * * * * *  | S. 215(1)(c) amended by No. 98/1998 s. 30(5)(b), repealed by No. 32/2006 s. 74(5).            |
| (d) the form of a withdrawal notice; and   |   |
| (e) the method of service of a withdrawal notice; and  |   |
| (f) the penalties for any transport infringement or ticket infringement; and   | S. 215(1)(f) amended by No. 98/1998 s. 30(5)(c).  |
| * * * * *  | S. 215(1)(g) repealed by No. 32/2006 s. 74(5).  |
| (ga) permitting the Public Transport Development Authority to pay administrative costs to passenger transport and bus companies in respect of relevant ticket infringements (as defined in section 213A(1)); and | S. 215(1)(ga) inserted by No. 101/2003 s. 11, amended by No. 61/2011 s. 25(Sch. 1 item 13.9). |
| (gb) specifying the amount of those costs, or how those costs are to be calculated; and  | S. 215(1)(gb) inserted by No. 101/2003 s. 11.   |

- (h) the form of the document setting out particulars of prior convictions; and
  - (i) the form of notices to be endorsed on the document setting out particulars of prior convictions; and
  - (j) generally prescribing any other matter or thing required or permitted by this Division to be prescribed or necessary to be prescribed to give effect to this Division.
- (2) Despite anything to the contrary in Division 5 of Part 2 of the **Infringements Act 2006**, regulations prescribing an amount as the penalty for a transport or ticket infringement may—
- (a) prescribe a different amount of penalty according to the number of transport or ticket infringements (or both) committed by the same offender within a specified period; and
  - (ab) prescribe a lower amount of penalty for a transport infringement or ticket infringement committed by a person under the age of 18 years; and
  - (b) specify the circumstances in which the different amounts of penalty apply; and
- (ba) allow for a different amount of penalty according to whether the notice for the transport infringement or ticket infringement (or both) is served by a police officer or by an officer who is authorised to issue the notice; and
- S. 215(2)**  
repealed by  
No. 16/1998  
s. 10(5), new  
s. 215(2)  
inserted by  
No. 101/2003  
s. 12,  
amended by  
No. 71/2006  
s. 14(1).
- S. 215(2)(ab)**  
inserted by  
No. 19/2010  
s. 78.
- S. 215(2)(b)**  
amended by  
No. 95/2005  
s. 37(a).
- S. 215(2)(ba)**  
inserted by  
No. 71/2006  
s. 14(2),  
amended by  
No. 37/2014  
s. 10(Sch.  
item 171.5).

- |   |  |
|---|--|
| <p>(c) provide for a penalty imposed to be revised if—</p> <p style="margin-left: 40px;">(i) one or more of the infringement notices on which the amount of the penalty is based is cancelled after the penalty is imposed; or</p> <p style="margin-left: 40px;">(ii) the penalty is imposed on the basis of an incorrect number of earlier infringement notices; and</p> <p>(d) if a penalty imposed is revised, provide for a refund of any amount of penalty that has been overpaid.</p> | <p><b>S. 215(2)(c)</b><br/>inserted by<br/>No. 95/2005<br/>s. 37(b).</p> |
|---|--|

*	*	*	*	*	<p><b>S. 215(3)</b> repealed by No. 16/1998 s. 10(5).</p>
*	*	*	*	*	<p><b>Pt 7 Div. 2A</b> (Heading and ss 215A– 215G) inserted by No. 60/1994 s. 23, amended by Nos 17/1995 s. 23, 94/2003 ss 28(16), 33, 32/2006 ss 75–77, 47/2006 ss 55–59, 68/2009 s. 97(Sch. items 124.17– 124.21), 22/2013 s. 95, repealed by No. 27/2014 s. 142.<sup>10</sup></p>

Pt 7 Div. 3  
(Heading)  
amended by  
No. 101/2003  
s. 17(2).

## **Division 3—Enforcement provisions— vehicle inspections**

S. 216  
amended by  
No. 44/1989  
s. 40(Sch. 1  
item 15).

### **216 Inspection of motor vehicles**

S. 216(1)  
amended by  
Nos 127/1986  
s. 102(Sch. 4  
item 28.17),  
44/1989  
s. 40(Sch. 1  
items 12, 15),  
60/1994  
s. 24(1)(a),  
32/2002  
s. 23(b)(i),  
44/2003  
s. 7(1),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 12),  
34/2011 s. 61,  
37/2014  
s. 10(Sch.  
item 171.6(a)).

- (1) For the purpose of ascertaining whether the requirements imposed by or under this Act or any other Act relating to transport are being observed any officer of the Roads Corporation or any person authorized in that behalf by that Corporation or the licensing authority in writing (whether generally or in any particular case) or any police officer may request the driver of any motor vehicle—

S. 216(1)(a)  
amended by  
No. 127/1986  
s. 102(Sch. 4  
item 28.17).

- (a) to produce for inspection any licence, permit or document which is required to be carried in, or by the driver of, the motor vehicle;

S. 216(1)(b)  
amended by  
No. 32/2002  
s. 23(b)(ii).

- (b) to state his or her name and address;

S. 216(1)(c)  
amended by  
No. 127/1986  
s. 102(Sch. 4  
item 28.17).

- (c) to permit an inspection and examination to be made of the motor vehicle and any trailer attached thereto and of any load carried thereon and of any equipment required to be fitted thereto or carried thereon by or under any Act;

- |  |   |
|--|---|
| (d) to keep the motor vehicle stationary for a sufficient period of time to enable any such inspection or examination to be made;  | S. 216(1)(d)<br>amended by<br>No. 127/1986<br>s. 102(Sch. 4<br>item 28.17).   |
| (e) to move the motor vehicle and any trailer attached thereto to the nearest convenient place where the motor vehicle, trailer, load and equipment can be inspected and examined with safety;   | S. 216(1)(e)<br>amended by<br>No. 127/1986<br>s. 102(Sch. 4<br>item 28.17).   |
| (f) to present the motor vehicle and trailer at some other reasonable time and place for inspection and examination by an officer of the Roads Corporation or a person authorised under this subsection and for the weighing thereof.  | S. 216(1)(f)<br>amended by<br>Nos 10087<br>s. 3(1)(Sch. 1<br>item 286),<br>127/1986<br>s. 102(Sch. 4<br>item 28.17),<br>44/1989<br>s. 40(Sch. 1<br>item 15),<br>60/1994<br>s. 24(1)(b). |
| (2) If the driver of any motor vehicle fails to stop the motor vehicle when any officer or person referred to in subsection (1) calls to or signals him or her so to do or fails to produce any such document or refuses to state his or her name and address or states a false name or address or refuses or fails to comply with any request made by any such officer of person pursuant to subsection (1), the driver shall be guilty of an offence against this Act. | S. 216(2)<br>amended by<br>Nos 127/1986<br>s. 102(Sch. 4<br>item 28.17),<br>32/2002<br>s. 23(c)(i)–(iii),<br>37/2014<br>s. 10(Sch.<br>item 171.6(b)).                                   |
| (3) Where in the opinion of any police officer, any officer of the Roads Corporation or person authorized pursuant to subsection (1) any motor vehicle is operating as a commercial passenger vehicle and is not duly licensed to operate as such, the officer or person may remove from the vehicle and seize any taxi-meter, "for hire" sign, identification plate or other prescribed article carried on or attached to the vehicle.                                  | S. 216(3)<br>amended by<br>Nos 127/1986<br>s. 102(Sch. 4<br>item 28.17),<br>44/1989<br>s. 40(Sch. 1<br>item 15),<br>32/2002<br>s. 23(d),<br>37/2014<br>s. 10(Sch.<br>item 171.6(c)).    |

(4) Subject to subsection (5), any article seized pursuant to subsection (3) may on conviction of the owner or driver of the vehicle be forfeited by order of the court imposing the conviction.

(5) Where—

- (a) at the expiration of one month after the seizure of an article pursuant to subsection (3) no prosecution has been instituted against the owner or driver of the vehicle;
- (b) the owner or driver of the vehicle is not convicted; or
- (c) the court does not make an order for the forfeiture of the article—

the article shall be returned to the owner or driver of the vehicle.

(6) In conducting an inspection under this section, the person carrying out the inspection may—

- (a) carry out any tests that he or she considers to be appropriate; and
- (b) copy all or any part of a document, or the contents of a document, that he or she is authorised to inspect; and
- (c) extract or copy any data held in any equipment or device required to be fitted to, or carried on, any vehicle being inspected; and
- (d) extract or copy any information that is held in any engine management system or related system of the vehicle.

S. 216(6)  
inserted by  
No. 44/2003  
s. 7(2),  
amended by  
No. 101/2003  
s. 17(3).

S. 216(6)(c)  
amended by  
No. 95/2005  
s. 38(a).

S. 216(6)(d)  
inserted by  
No. 95/2005  
s. 38(b).



(7) A reference to a *driver* in this section includes a reference to a person—

S. 216(7)  
inserted by  
No. 44/2003  
s. 7(2).

(a) who is in charge of a motor vehicle within the meaning of section 3AA of the **Road Safety Act 1986**;

(b) who is a driver within the meaning of section 3AB of the **Road Safety Act 1986**.

## **217 Powers of officers authorized by Roads Corporation**

(1) In addition to and without in any way derogating from any of the requirements imposed by or under section 216 any officer of the Roads Corporation thereunto authorized in writing by that Corporation or any other person authorized in that behalf by that Corporation or the licensing authority in writing so to do or any police officer may for the purpose of ascertaining whether the provisions of this Act or any other Act relating to transport are being observed weigh any motor vehicle or trailer or any motor vehicle and trailer and any load carried thereon.

S. 217(1)  
amended by  
Nos 127/1986  
s. 102(Sch. 4  
item 28.18),  
44/1989  
s. 40(Sch. 1  
items 12, 15),  
60/1994  
s. 24(2),  
32/2002  
s. 23(e),  
44/2003  
s. 7(1),  
110/2004 s. 54,  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
13(a)), 34/2011  
s. 62(1),  
37/2014  
s. 10(Sch.  
item 171.7).

(2) An officer of the Roads Corporation or any other person referred to in subsection (1) may exercise the powers conferred by that subsection at the request of any person who is authorized by any Act or law to request any other person to present the motor vehicle or trailer or the motor vehicle and trailer for weighing.

S. 217(2)  
amended by  
Nos 127/1986  
s. 102(Sch. 4  
item 28.18),  
44/1989  
s. 40(Sch. 1  
item 15).

S. 217(3)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
items 13, 15),  
60/1994  
s. 24(3),  
32/2002  
s. 23(e),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
13(b)), 34/2011  
s. 62(2).

- (3) The production of a document purporting to be an authority in writing referred to in subsection (1) and purporting to be signed by the Chief Executive of the Roads Corporation or the licensing authority (as the case requires) or purporting to be the signature of the Chief Executive of the Roads Corporation or the licensing authority (as the case requires) affixed by authority of the Chief Executive of the Roads Corporation or the licensing authority (as the case requires) shall be prima facie evidence of that authority.

S. 217(4)  
amended by  
No. 127/1986  
s. 102(Sch. 4  
item 28.18).

- (4) Evidence by an officer or other person authorized to weigh any motor vehicle or trailer or any motor vehicle and trailer pursuant to the provisions of subsection (1)—

S. 217(4)(a)  
amended by  
Nos 127/1986  
s. 102(Sch. 4  
item 28.18),  
32/2002  
s. 23(f)(i)(ii).

- (a) that the weighbridge or the device prescribed under the **Road Safety Act 1986** used by the officer or other person on any occasion was in proper working order and properly operated by him or her; and
- (b) that in relation to the weighbridge or device all requirements for the proper operation of the weighbridge or device were complied with—

shall be prima facie evidence of those facts.

S. 217A  
inserted by  
No. 44/2003  
s. 8.

## **217A Additional inspection power concerning heavy vehicles**

- (1) In this section, *heavy vehicle* has the same meaning as it has in section 3(1) of the **Road Safety Act 1986**, but also includes—
- (a) any other vehicle that is physically connected to the heavy vehicle (even if that other vehicle is not a heavy vehicle); and

- (b) a bus that is used, or that is intended to be used, to carry passengers for reward or in the course of a business.
- (2) A person who is authorised to exercise a power under section 216 or 217 may also exercise that power in relation to a heavy vehicle for the purpose of ascertaining whether the requirements imposed by or under the **Road Safety Act 1986** are being complied with.
- (3) If a person acting under subsection (2) discovers, or reasonably suspects, that a heavy vehicle does not comply with the **Road Safety Act 1986** or the regulations made under that Act, section 14 of that Act applies as if a reference in that section to "a police officer or a person referred to in section 13(6)" were a reference to him or her.
- (4) For the purposes of subsection (3), *reasonably suspects* means that the person has formed a reasonable suspicion on the basis of information derived from the vehicle's engine management system using, in accordance with regulations made under the **Road Safety Act 1986**, an engine management system reading device specified by those regulations.
- \* \* \* \* \*

S. 217A(3)  
amended by  
Nos 95/2005  
s. 39(1),  
37/2014  
s. 10(Sch.  
item 171.8).

S. 217A(4)  
inserted by  
No. 95/2005  
s. 39(2).

S. 218  
amended by  
Nos 100/1986  
s. 32(a)–(h),  
25/1989  
s. 43(a)(b),  
44/1989  
s. 40(Sch. 1  
items 2.1, 8.1,  
23), 81/1990  
s. 7(5),  
120/1993  
s. 66(3),  
repealed by  
No. 30/2000  
s. 19.

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VII—Prosecutions, enforcement and penalties and other matters

---

S. 218A  
inserted by  
No. 100/1986  
s. 32(i),  
amended by  
Nos 25/1989  
s. 44, 81/1990  
s. 7(6),  
120/1993  
s. 66(4),  
repealed by  
No. 30/2000  
s. 19.

\* \* \* \* \*

Pt 7 Div. 3A  
(Heading)  
inserted by  
No. 101/2003  
s. 17(4).

### Division 3A—Other enforcement provisions

S. 218B  
inserted by  
No. 120/1993  
s. 67.

#### 218B Power to require names and addresses

S. 218B(1)  
amended by  
No. 68/1995  
s. 46(1),  
substituted by  
Nos 28/1996  
s. 9, 30/2000  
s. 20,  
repealed by  
No. 101/2003  
s. 17(5).

\* \* \* \* \*

S. 218B(1A)  
inserted by  
No. 68/1995  
s. 46(2),  
repealed by  
No. 101/2003  
s. 17(5).

\* \* \* \* \*

S. 218B  
(1B)–(1G)  
inserted by  
No. 104/1997  
s. 34(2),  
repealed by  
No. 101/2003  
s. 17(5).

\* \* \* \* \*

(2) An authorised officer, a protective services officer on duty at a designated place or a police officer may request a person to state his or her name and address if the officer believes on reasonable grounds that the person has committed or is about to commit an offence against this Act or the regulations or against the **Graffiti Prevention Act 2007**.

S. 218B(2)  
amended by  
Nos 52/2010  
s. 34(1),  
43/2011  
s. 57(1),  
37/2014  
s. 10(Sch.  
item 171.9).

(2A) Despite anything to the contrary in subsection (2), an authorised officer who is authorised under section 221AB may only make a request under that subsection if the authorised officer believes on reasonable grounds that the person has committed or is about to commit an offence against this Part or against any regulation made under this Part or section 56 or 249B.

S. 218B(2A)  
inserted by  
No. 98/1998  
s. 31 (as  
amended by  
No. 45/1999  
s. 43(2)),  
amended by  
No. 101/2003  
s. 17(6).

(3) An authorised officer, protective services officer or police officer who makes a request under subsection (2)—

S. 218B(3)  
substituted by  
No. 95/2005  
s. 40(1),  
amended by  
No. 43/2011  
s. 57(2)(3),  
substituted by  
No. 37/2014  
s. 10(Sch.  
item 171.10).

(a) must inform the person of the grounds for his or her belief in sufficient detail to allow the person to understand the nature of the offence or suspected offence; and

(b) must, except in the case of a police officer or protective services officer who is in uniform—

(i) inform the person that he or she is an authorised officer, protective services officer or police officer; and

(ii) state his or her name; and

(iii) produce for inspection by the person proof that he or she is an authorised officer, protective services officer or police officer; and

S. 218B(4)  
amended by  
Nos 32/2002  
s. 21(1),  
43/2011  
s. 57(4),  
37/2014  
s. 10(Sch.  
item 171.11).

- (c) must inform the person that a failure to comply with the request, or the provision of a false name or address, is an offence.
- (4) A person must not, in response to a request made under subsection (2) by an authorised officer, protective services officer or police officer in accordance with this section—
- (a) refuse or fail to comply with the request; or
- (b) state a name that is false in a material particular; or
- (c) state an address other than the full and correct address of his or her ordinary place of residence or business.

Penalty applying to this subsection: 5 penalty units.

S. 218B(5)  
substituted by  
No. 95/2005  
s. 40(2),  
amended by  
Nos 43/2011  
s. 57(4),  
37/2014  
s. 10(Sch.  
item 171.11).

- (5) Despite subsection (4), it is not an offence for a person to fail to comply with a request made under subsection (2) if the authorised officer, protective services officer or police officer did not fully comply with subsection (3)(b) or (3)(c) in making the request.

S. 218B(6)  
substituted by  
No. 95/2005  
s. 40(3),  
amended by  
No. 37/2014  
s. 10(Sch.  
item 171.12).

- (6) If a person states a name and address in response to a request made under subsection (2), the officer may request the person to provide evidence of the correctness of the name and address.

S. 218B(6A)  
inserted by  
No. 32/2002  
s. 21(2),  
repealed by  
No. 95/2005  
s. 40(3).

\* \* \* \* \*

- |  |  |
|--|--|
| (6B) A person must comply with a request made under subsection (6), unless he or she has a reasonable excuse for not doing so.<br><br>Penalty: 5 penalty units.  | S. 218B(6B) inserted by No. 32/2002 s. 21(2), amended by No. 47/2006 s. 15(1)(a).  |
| (6C) It is not an offence for a person to fail to comply with a request made under subsection (6) if the authorised officer, protective services officer or police officer did not inform the person, at the time the request was made, that it is an offence to fail to comply with the request.  | S. 218B(6C) inserted by No. 32/2002 s. 21(2), amended by Nos 47/2006 s. 15(1)(b), 43/2011 s. 57(4), 37/2014 s. 10(Sch. item 171.13).   |
| (6D) An authorised officer, protective services officer or a police officer must not divulge to any other person or use for any purpose any information received by the officer in response to a request made under subsection (6), except—<br><br>(a) in connection with the administration of this Act or the regulations; or<br><br>(b) for the purposes of any legal proceedings arising out of this Act or the regulations, or of any report of such proceedings; or<br><br>(c) for the purposes of discharging the law enforcement functions of the Sheriff; or<br><br>(d) for any other law enforcement purposes.<br><br>Penalty: 50 penalty units. | S. 218B(6D) inserted by No. 32/2002 s. 21(2), amended by Nos 47/2006 s. 15(1)(c), 43/2011 s. 57(4), 37/2014 s. 10(Sch. item 171.14).<br><br>S. 218B(6D)(b) amended by No. 47/2006 s. 15(2)(a).<br><br>S. 218B(6D)(c) inserted by No. 47/2006 s. 15(2)(b).<br><br>S. 218B(6D)(d) inserted by No. 47/2006 s. 15(2)(b). |

S. 218B(7)  
inserted by  
No. 60/1994  
s. 24(4).

(7) This section is subject to section 215B(8).

S. 219  
amended by  
Nos 100/1986  
s. 33(a)(b),  
25/1989  
s. 45(a)-(d),  
44/1989  
s. 40(Sch. 1  
items 7.2, 18,  
19.1), 57/1989  
s. 3(Sch.  
items 202.14–  
202.16),  
substituted by  
No. 28/1996  
s. 10.

## 219 Power to arrest suspected offenders

S. 219(1AA)  
inserted by  
No. 45/1999  
s. 23(1),  
substituted as  
s. 219(1A) by  
No. 63/1999  
s. 10,  
amended by  
No. 54/2001  
s. 19(1),  
repealed by  
No. 101/2003  
s. 17(5).

\* \* \* \*

S. 219(1)  
amended by  
Nos 45/1999  
s. 23(2),  
30/2000 s. 21,  
101/2003  
s. 17(7)(a),  
52/2010  
s. 34(2),  
43/2011 s. 58,  
37/2014  
s. 10(Sch.  
item  
171.15(a)).

(1) This section applies if a police officer, a protective services officer on duty at a designated place or an authorised officer believes on reasonable grounds that a person has committed an offence against this Act or the regulations or against the **Graffiti Prevention Act 2007**.



- (2) The officer may without warrant arrest the person if the officer believes on reasonable grounds that the arrest is necessary for any one or more of the following reasons—
- (a) to ensure the appearance of the person before a court of competent jurisdiction; or
  - (b) to preserve public order; or
  - (c) to prevent the continuation or repetition of the offence or the commission of a further offence; or
  - (d) for the safety or welfare of members of the public or of the person.
- (3) The officer may ask any other person to assist him or her to arrest an alleged offender, and that other person may assist in the arrest.
- (4) If an alleged offender is arrested in respect of a summary offence, he or she may only be detained for so long as the reason for the arrest under subsection (2) continues. The person detaining the alleged offender must release the alleged offender as soon as the reason ceases to exist, regardless of whether or not the alleged offender has been charged with the offence.
- (5) If the person responsible for arresting an alleged offender is not a police officer or an authorised officer, the person must give the alleged offender into the charge of a police officer or an authorised officer as soon as is practicable after arresting the alleged offender (unless subsection (4) applies).
- S. 219(2)**  
amended by  
Nos 45/1999  
s. 23(3),  
101/2003  
s. 17(7)(b),  
37/2014  
s. 10(Sch.  
item  
171.15(b)).
- S. 219(3)**  
amended by  
Nos 45/1999  
s. 23(4),  
101/2003  
s. 17(7)(b),  
37/2014  
s. 10(Sch.  
item  
171.15(b)).
- S. 219(5)**  
amended by  
Nos 101/2003  
s. 17(7)(c),  
37/2014  
s. 10(Sch.  
item  
171.15(c)).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VII—Prosecutions, enforcement and penalties and other matters

S. 219(6) amended by Nos 101/2003 s. 17(7)(c), 37/2014 s. 10(Sch. item 171.15(d)).	(6) If a police officer or an authorised officer arrests an alleged offender or is given charge of an alleged offender, the officer must convey the alleged offender as soon as is practicable before a bail justice or the Magistrates' Court to be dealt with according to law (unless subsection (4) applies).				
S. 219(7) repealed by No. 54/2001 s. 19(2).	*	*	*	*	*
S. 219AA inserted by No. 98/1998 s. 32 (as amended by No. 45/1999 s. 43(3)(a)(b)), amended by No. 65/2000 s. 7, repealed by No. 101/2003 s. 17(8).	*	*	*	*	*
S. 219A inserted by No. 28/1996 s. 10, repealed by No. 30/2000 s. 22.	*	*	*	*	*

## 220 Power to remove offenders

\* \* \* \*

S. 220(1)  
amended by  
Nos 100/1986  
s. 34(a),  
25/1989  
s. 46(a)(i)–(iii),  
44/1989  
s. 40(Sch. 1  
items 12,  
19.1),  
substituted by  
No. 45/1999  
s. 24(1),  
amended by  
Nos 63/1999  
s. 11, 54/2001  
s. 19(3),  
repealed by  
No. 101/2003  
s. 17(9)(a).

(1A) A police officer, a protective services officer on duty at a designated place or an authorised officer may summarily remove a person and the person's property (if any) from—

S. 220(1A)  
inserted by  
No. 45/1999  
s. 24(1),  
amended by  
Nos 30/2000  
s. 23(1)(a),  
101/2003  
s. 17(9)(b),  
43/2011  
s. 59(1),  
37/2014  
s. 10(Sch.  
item 171.16).

(a) any vehicle owned or operated by or on behalf of a passenger transport company or a bus company; or

S. 220(1A)(a)  
amended by  
No. 30/2000  
s. 23(1)(b).

(b) any premises or property of a passenger transport company—

S. 220(1A)(b)  
amended by  
No. 30/2000  
s. 23(1)(c).

in the circumstances referred to in subsection (1B).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VII—Prosecutions, enforcement and penalties and other matters

---

S. 220(1B)  
inserted by  
No. 45/1999  
s. 24(1).

(1B) For the purposes of subsection (1A), the  
circumstances are—

S. 220(1B)(a)  
amended by  
No. 30/2000  
s. 23(2)(a),  
substituted by  
No. 101/2003  
s. 17(9)(c),  
amended by  
Nos 43/2011  
s. 59(2)(a),  
37/2014  
s. 10(Sch.  
item 171.16).

(a) that the police officer, protective services  
officer or authorised officer believes on  
reasonable grounds that the person is  
committing an offence against this Act or the  
regulations; and

S. 220(1B)(b)  
repealed by  
No. 101/2003  
s. 17(9)(c).

\* \* \* \*

(c) that the commission of the offence is or is  
likely to be attended with—

S. 220(1B)  
(c)(ii)  
amended by  
Nos 30/2000  
s. 23(2)(b),  
101/2003  
s. 17(9)(d),  
43/2011  
s. 59(2)(b),  
37/2014  
s. 10(Sch.  
item 171.16).

(i) danger or annoyance to the public; or  
(ii) hindrance to any police officer or any  
protective services officer, any  
authorised officer or any employee of,  
or person engaged by, a passenger  
transport company or bus company—

in lawful use of the vehicle, premises or  
property.

- 
- |  |  |
|--|--|
| (1C) In addition to the power to summarily remove a person in accordance with subsection (1A), a police officer, a protective services officer on duty at a designated place or an authorised officer may take such other action as is necessary to obviate or remove any danger, annoyance or hindrance of the kind referred to in subsection (1B)(c).  | S. 220(1C)<br>inserted by<br>No. 45/1999<br>s. 24(1),<br>amended by<br>Nos 30/2000<br>s. 23(3),<br>101/2003<br>s. 17(9)(b),<br>43/2011<br>s. 59(3),<br>37/2014<br>s. 10(Sch.<br>item 171.16).  |
| (2) A police officer, a protective services officer or an authorised officer acting under the authority of subsection (1A) or (1C) may, in order to remove a person or the property of the person from a vehicle or premises or property or to obviate or remove a danger, annoyance or hindrance, use such force as is reasonable in the circumstances. | S. 220(2)<br>amended by<br>Nos 100/1986<br>s. 34(b),<br>25/1989<br>s. 46(b),<br>44/1989<br>s. 40(Sch. 1<br>item 19.1),<br>45/1999<br>s. 24(2)(a)(b),<br>30/2000<br>s. 23(4),<br>101/2003<br>s. 17(9)(e),<br>43/2011<br>s. 59(4),<br>37/2014<br>s. 10(Sch.<br>item 171.16). |
| (3) A person who—  | S. 220(3)<br>amended by<br>Nos 25/1989<br>s. 46(c),<br>44/1989<br>s. 40(Sch. 1<br>item 19.1),<br>30/2000<br>s. 23(5),<br>43/2011<br>s. 59(5),<br>37/2014<br>s. 10(Sch.<br>item 171.16).  |
| (a) is removed or has any property removed from a vehicle or any premises or property under the authority of this section; or  | S. 220(3)(a)<br>amended by<br>No. 100/1986<br>s. 34(c).  |
-

(b) is otherwise affected by any action taken under the authority of this section—

shall have no right of action whatsoever in law against any police officer or any protective services officer arising out of that removal or action.

S. 220(4)  
amended by  
Nos 25/1989  
s. 46(d),  
44/1989  
s. 40(Sch. 1  
item 19.1),  
45/1999  
s. 24(3),  
30/2000  
s. 23(6),  
43/2011  
s. 59(6),  
37/2014  
s. 10(Sch.  
item 171.16).

- (4) A person who alleges that a police officer or a protective services officer acting or purporting to act under the authority of subsection (1A) or (1C) used more force than is permitted by subsection (2) shall bear the onus of proving that more force than is permitted was used.

- (5) Any action taken under this section shall not prevent the institution of proceedings in respect of the offence.

S. 220(6)  
inserted by  
No. 45/1999  
s. 24(4),  
repealed by  
No. 101/2003  
s. 17(9)(a).

\* \* \* \* \*

Pt 7 Div. 4  
(Heading)  
substituted by  
No. 63/1999  
s. 13(2),  
amended by  
No. 95/2005  
s. 22.

## **Division 4—Regulation of entitlement to use public transport services**

S. 220AA  
inserted by  
No. 95/2005  
s. 41.

### **220AA False reports to officers**

A person must not give information that is relevant or possibly relevant for the purposes of this Division (including for the purposes of any relevant regulations) and that the person knows, or

believes, to be false to any of the following who is performing a function under this Division—

(a) any police officer;

S. 220AA(a)  
amended by  
No. 37/2014  
s. 10(Sch.  
item 171.16).

(ab) a protective services officer on duty at a designated place;

S. 220AA(ab)  
inserted by  
No. 43/2011  
s. 60.

(b) an authorised officer;

(c) a person employed by a passenger transport company or a bus company who has duties in relation to the issue, inspection or collection of tickets for, or the operation of, a vehicle operated by the company;

(d) any other person appointed in writing by a passenger transport company, a bus company, a rail freight operator, Rail Track or the Secretary for the purposes of the regulations.

S. 220AA(d)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 14),  
61/2011  
s. 25(Sch. 2  
item 5.1).

Penalty: 10 penalty units.

**220A Offence to dishonestly obtain a ticket etc.**

S. 220A  
inserted by  
No. 95/2005  
s. 23.

A person must not by fraudulent means, by false or misleading representation, or by other dishonesty, obtain a ticket or other thing that can be used to prove an entitlement to use a public transport service.

Penalty: 20 penalty units.

**220B Offence to counterfeit or alter a ticket**

S. 220B  
inserted by  
No. 95/2005  
s. 23.

(1) A person must not counterfeit a ticket or other thing that can be used to prove an entitlement to use a public transport service.

Penalty: 20 penalty units.

- (2) A person must not alter, or attempt to alter, a ticket or other thing that can be used to prove an entitlement to use a public transport service with the intention of obtaining a benefit to which the person is not entitled.

Penalty: 20 penalty units.

S. 220C  
inserted by  
No. 95/2005  
s. 23.

**220C Offence to claim exemption or concession if not entitled**

A person must not claim or take the benefit of an exemption to pay for an entitlement to use a public transport service, or of a concessionary discount of such a payment, to which he or she is not entitled, if he or she knows that he or she is not entitled to that benefit.

Penalty: 10 penalty units.

S. 220D  
(Heading)  
amended by  
No. 61/2011  
s. 25(Sch. 2  
item 5.1)  
S. 220D  
inserted by  
No. 95/2005  
s. 23.

**220D Secretary may determine conditions**

S. 220D(1)  
amended by  
No. 61/2011  
s. 25(Sch. 2  
item 5.1).

- (1) The Secretary may determine any conditions to which an entitlement to use a specified public transport service provided by a passenger transport company or a bus company is to be subject.

S. 220D(1A)  
inserted by  
No. 69/2007  
s. 22.

- (1A) A condition determined under subsection (1) may apply, adopt or incorporate any matter contained in any document whether—
- (a) wholly or partially or as amended by the condition; or



(b) as in force at a particular time or as in force from time to time.

- |  |   |
|--|---|
| (1B) Before the Secretary determines any conditions under subsection (1), the Secretary must consult with the Public Transport Development Authority in respect of the proposed conditions, including on the structure and level of fares.   | S. 220D(1B) inserted by No. 61/2011 s. 24(1).             |
| (2) The Secretary must publish any conditions determined under subsection (1) in the Government Gazette.   | S. 220D(2) amended by No. 61/2011 s. 25(Sch. 2 item 5.1). |
| (3) An entitlement to use a public transport service is subject to any condition determined under subsection (1) that has been published in the Government Gazette and that applies to the entitlement.  |   |
| (4) Subject to subsection (4A), if there is any inconsistency between a condition that has been determined under subsection (1) and published in the Government Gazette and any other condition relating to an entitlement to use a public transport service, the condition determined under subsection (1) is to prevail. | S. 220D(4) amended by No. 61/2011 s. 24(2).               |
| (4A) If there is an inconsistency between a condition that has been determined under subsection (1) and any regulations made under section 221AA, the regulations prevail to the extent of the inconsistency.  | S. 220D(4A) inserted by No. 61/2011 s. 24(3).             |
| (5) The Secretary may, under subsection (1), determine conditions that are to apply in respect of entitlements that exist, but that have not been exercised, before the conditions are published in the Government Gazette.  | S. 220D(5) amended by No. 61/2011 s. 25(Sch. 2 item 5.1). |
| (6) Any conditions that were determined and published under section 221(1A) and that were in force immediately before the date of  |   |

commencement of section 24 of the **Transport Legislation (Further Miscellaneous Amendments) Act 2005** are deemed to have been determined and published under this section.

S. 220DA  
inserted by  
No. 69/2007  
s. 23.

**220DA Conditions relating to overseas student travel**

- (1) The conditions determined under section 220D(1) may include a condition providing that overseas students or specified classes of overseas students are not eligible for student concessions to use a public transport service.
- (2) If the conditions under section 220D include a condition of a kind referred to in subsection (1), overseas students or overseas students of a class specified in the condition are not entitled to student concessions to use a public transport service to which the condition applies.
- (3) The determination or publication by the Secretary under section 220D of, or compliance by a person with, a condition of a kind referred to in subsection (1) does not constitute discrimination on the basis of race for the purposes of the **Equal Opportunity Act 2010**.

S. 220DA(3)  
amended by  
Nos 16/2010  
s. 209(Sch.  
item 9) (as  
amended by  
No. 29/2011  
s. 3(Sch. 1  
item 34)),  
61/2011  
s. 25(Sch. 2  
item 5.1).

- (4) For the avoidance of doubt it is declared that—

S. 220DA(4)(a)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.10).

- (a) the determination or publication by the Director of Public Transport under section 220D of, or the compliance by a person with, any condition determined under section 220D before the commencement day;  
or

S. 220DA(4)(b)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.10).

- (b) the approval by the Secretary or Director of Public Transport of the determination of, or the determination or publication by a passenger transport company or a bus

company of, or the compliance by any person with, any condition determined under section 221(1A) before its repeal—

that provided that overseas students or overseas students of a class specified in the condition were not eligible for student concessions to use a public transport service is to be taken—

(c) never to have constituted discrimination on the basis of race for the purposes only of the **Equal Opportunity Act 1995**; and

(d) to be and always to have been conduct that was authorised.

(5) Subsection (4) does not apply to affect—

(a) any decision in respect of, or any proceeding arising from, Complaint No. 3064890 before the Victorian Human Rights and Equal Opportunity Commission to the extent only that that complaint or proceeding applies to the individual named in the complaint, as at 23 March 2007, as the person on whose behalf the complaint was lodged; or

(b) any proceeding that was completed or in which judgment was given before the commencement day.

(6) In this section—

***commencement day*** means the date of commencement of section 23 of the **Transport Legislation Amendment Act 2007**;

***overseas student*** means a person holding a visa under the Migration Act 1958 of the Commonwealth which allows the person, whether expressly or otherwise, to study in Victoria but does not include a person who is—

- (a) an Australian citizen; or
- (b) a permanent resident of Australia; or
- (c) a student with refugee status; or
- (d) an overseas exchange student; or
- (e) in receipt of an Australian Development Scholarship from the Commonwealth Government.

Ss 220DB–  
220DE  
inserted by  
No. 80/2013  
s. 8,  
repealed by  
No. 71/2016  
s. 7.

\* \* \* \* \*

S. 221  
(Heading)  
inserted by  
No. 95/2005  
s. 24(a).

## 221 Information not to be disclosed

S. 221(1)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 2.2),  
120/1993  
s. 65(2)(a)(i)(ii),  
60/1994  
s. 25(1),  
68/1995  
s. 47(1),  
104/1997  
s. 35(1),  
98/1998  
s. 25(d),  
45/1999  
s. 25(1),  
30/2000 s. 24,  
repealed by  
No. 101/2003  
s. 17(10)(a).

\* \* \* \* \*

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VII—Prosecutions, enforcement and penalties and other matters

*	*	*	*	*	S. 221(1A) inserted by No. 98/1998 s. 34, amended by No. 45/1999 s. 26(a)(i)(ii), repealed by No. 95/2005 s. 24(b) <sup>11</sup> .
*	*	*	*	*	S. 221(1B) inserted by No. 98/1998 s. 34, amended by No. 45/1999 s. 26(b), repealed by No. 95/2005 s. 24(b) <sup>12</sup> .
*	*	*	*	*	S. 221(2) amended by Nos 120/1993 s. 65(2)(b)(i)– (iv), 76, 101/2003 s. 17(10)(b), repealed by No. 95/2005 s. 24(b).
*	*	*	*	*	S. 221(3) amended by Nos 120/1993 ss 65(2)(c)(i) (ii), 66(5), 101/2003 s. 17(10)(c), repealed by No. 95/2005 s. 24(b).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VII—Prosecutions, enforcement and penalties and other matters

S. 221(4) amended by Nos 25/1989 s. 47(a), 120/1993 ss 65(2)(d)(i) (ii), 66(6), 101/2003 s. 17(10)(d), repealed by No. 95/2005 s. 24(b).	*	*	*	*	*
S. 221(4A) inserted by No. 100/1986 s. 35, amended by Nos 25/1989 s. 47(b), 120/1993 ss 65(2)(e)(i) (ii), 66(7) 101/2003 s. 17(10)(d), 110/2004 s. 55(1), repealed by No. 95/2005 s. 24(b).	*	*	*	*	*
S. 221(4B) inserted by No. 110/2004 s. 55(2), repealed by No. 28/2007 s. 3(Sch. item 66.2).	*	*	*	*	*
S. 221(5) amended by Nos 120/1993 ss 65(2)(f), 66(8), 101/2003 s. 17(10)(b), repealed by No. 95/2005 s. 24(b).	*	*	*	*	*

S. 221(6)  
amended by  
Nos 25/1989  
s. 47(c),  
44/1989  
s. 40(Sch. 1  
item 19.1),  
68/1995  
s. 47(2),  
104/1997  
s. 35(2),  
45/1999  
s. 25(2),  
101/2003  
s. 17(10)(e),  
repealed by  
No. 95/2005  
s. 24(b).

- S. 221(7)  
inserted by  
No. 120/1993  
s. 65(2)(g),  
amended by  
Nos 68/1995  
s. 47(3)(a),  
104/1997  
s. 35(3)(a)(b),  
45/1999  
s. 25(2),  
34/2003  
s. 11(1),  
101/2003  
s. 17(10)(f),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
15(c)), 61/2011  
s. 25(Sch. 1  
item 13.11(a)),  
3/2017  
s. 50(Sch. 1  
item 10.7).

- S. 221(7)(a)**  
amended by  
**No. 104/1997**  
**s. 35(3)(b).**

Transport (Compliance and Miscellaneous) Act 1983

No. 9921 of 1983

Part VII—Prosecutions, enforcement and penalties and other matters

S. 221(7)(b)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.11(b)).

(b) use, other than for the purposes of this Act or the regulations, their knowledge of any such record; or

S. 221(7)(c)  
amended by  
Nos 68/1995  
s. 47(3)(b),  
104/1997  
s. 35(3)(b),  
101/2003  
s. 17(10)(f),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
15(c)), 61/2011  
s. 25(Sch. 1  
item 13.11(c)),  
3/2017  
s. 50(Sch. 1  
item 10.7).

(c) reveal at any time (including a time after a person has ceased to be employed by, or to be engaged in providing services for, that company or has ceased to be the Secretary, the Head, Transport for Victoria, the Director of Public Transport or a director, member of staff or the Chief Executive Officer of the Public Transport Development Authority or an authorised officer) any information gained in an official capacity in relation to a matter referred to in paragraph (a).

Penalty: 50 penalty units.

S. 221(8)  
inserted by  
No. 120/1993  
s. 65(2)(g).

(8) Subsection (7) does not prevent the divulging, use or revealing of information—

(a) in connection with the administration of this Act or the regulations; or

(b) for the purposes of any legal proceedings arising out of this Act or the regulations, or of any report of such proceedings.

S. 221(9)  
inserted by  
No. 34/2003  
s. 11(2).

(9) Subsection (7) also does not prevent the divulging, use or revealing of information to a person—

(a) who the Secretary or the Head, Transport for Victoria certifies in writing—

(i) is a public transport industry ombudsman; and

S. 221(9)(a)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
15(d)), 61/2011  
s. 25(Sch. 2  
item 5.1),  
3/2017  
s. 50(Sch. 1  
item 10.8).



- (ii) has an appropriate privacy protection policy in operation in relation to any information of the nature of the information that is to be divulged to, used by, or revealed to, the person; and
- (b) who states in writing that the information is needed to investigate or otherwise deal with a complaint concerning public transport made to the person.

**221AA Regulations concerning entitlement to use public transport services**

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

- (a) regulating entitlement to use a public transport service including, for example—
  - (i) regulating or specifying methods of obtaining that entitlement and proving that such an entitlement exists;
  - (ii) regulating the use of tickets or other means by which proof of such entitlements may be made, including specifying the circumstances in which it or they, or anything that is claimed to be a ticket or other proof, is, or are, to be surrendered;

\* \* \* \* \*

- (b) deeming the existence of contracts, or the elements of contracts, between providers, sellers (whether retail or otherwise), buyers or users of entitlements to use a public transport service, or providers of a public

S. 221AA  
inserted by  
No. 101/2003  
s. 13,  
substituted by  
No. 95/2005  
s. 25.

S. 221AA  
(1)(a)(iii)–(ix)  
inserted by  
No. 80/2013  
s. 9,  
repealed by  
No. 71/2016  
s. 8.

transport service, in relation to those entitlements, and regulating or specifying the contents of those contracts;

**Example**

Under a particular ticketing system a person may be able to buy a ticket to use a tram operated by a passenger transport company from an agency that is independent of the company, and then to give that ticket to a person who uses it to travel on the tram. Paragraph (b) enables the making of a regulation that could deem a contract to exist between the passenger transport company and the person on the tram.

- (c) ensuring that those using, or who have used, public transport services are, or were at the time of use, entitled to do so including, for example—
  - (i) providing for the ascertainment of whether a person using, or who has used, a public transport service was entitled to do so, and providing for the inspection, reading and testing (by whatever means, including mechanical means), whether before, during or after the use, of tickets or other proof of entitlement;
  - (ii) providing for the inspection of any documents that are required to show that the correct amount has been paid for a particular entitlement;
- (d) generally prescribing any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to ensure that users of public transport services fairly contribute to the cost of providing the services.

(2) The regulations—

- (a) may be of general or of specially limited application; and
- (b) may differ according to differences in time, place or circumstance; and
- (c) may require a matter affected by the regulations to be—
  - (i) in accordance with a specified standard or specified requirement; or
  - (ii) approved by or to the satisfaction of a specified person or a specified class of person; or
  - (iii) as specified in both subparagraphs (i) and (ii); and
- (d) may apply, adopt or incorporate any matter contained in any document whether—
  - (i) wholly or partially or as amended by the regulations; or
  - (ii) as in force at a particular time or as in force from time to time; and
- (e) may confer a discretionary authority or impose a duty on a specified person or a specified class of person; and
- (f) may provide in a specified case or class of case for the exemption of people or things from any of the provisions of this Act or the regulations, whether unconditionally or on specified conditions, and either wholly or to such an extent as is specified; and

- (g) may impose a penalty not exceeding  
20 penalty units for a contravention of the  
regulations.

Pt 7 Div. 4AA  
(Heading and  
ss 221A–  
221S)  
inserted by  
No. 45/1999  
s. 27.

## **Division 4AA—Authorisation of persons for the purposes of enforcement**

S. 221A  
inserted by  
No. 45/1999  
s. 27,  
substituted by  
No. 101/2003  
s. 18,  
amended by  
Nos 47/2006  
s. 16, 34/2011  
s. 63.

### **221A Authorisation of Departmental authorised officers**

The Secretary may authorise a person who is  
employed or engaged by the Department to act as  
an authorised officer for the purposes of this Part.

S. 221AB  
inserted by  
No. 101/2003  
s. 18,  
amended by  
No. 95/2005  
s. 27(1)(2) (ILA  
s. 39B(1)).

### **221AB Authorisation of other authorised officers**

S. 221AB(1)  
amended by  
Nos 47/2006  
s. 17(a),  
34/2011 s. 64.

- (1) The Secretary may authorise a person who is  
employed or engaged by a passenger transport or  
bus company to act as an authorised officer for the  
purposes of this Part.

S. 221AB(2)  
inserted by  
No. 95/2005  
s. 27(1)(2),  
amended by  
Nos 47/2006  
s. 17(b),  
34/2011 s. 64.

- (2) The Secretary may authorise a person who is  
employed or engaged by the Bus Association  
Victoria to act as an authorised officer for the  
purposes of this Part.

**221B Application for authorisation**

S. 221B  
inserted by  
No. 45/1999  
s. 27.

- (1) A person may apply to the Secretary for authorisation under section 221AB to act as an authorised officer.

S. 221B(1)  
substituted by  
No. 101/2003  
s. 19(1),  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
16(a)), 34/2011  
s. 65(1).

- (2) An application—

- (a) must be in the manner and form determined by the Secretary;

S. 221B(2)(a)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
16(b)), 34/2011  
s. 65(1).

- (b) must be accompanied by—

- (i) the prescribed application fee, if any;  
(ii) any other things that are prescribed.

- (3) The Secretary may require an applicant—

S. 221B(3)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
16(c)), 34/2011  
s. 65(2).

- (a) to furnish his or her date of birth, address and any further information specified by the Secretary; or

S. 221B(3)(a)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
16(c)), 34/2011  
s. 65(2).

- (b) to verify, by statutory declaration, information furnished for the purposes of the application.

## 221C Qualification requirements

S. 221C  
(Heading)  
inserted by  
No. 101/2003  
s. 19(2).

S. 221C  
inserted by  
No. 45/1999  
s. 27,  
amended by  
Nos 101/2003  
s. 19(3)(4),  
95/2005  
s. 27(1)(4) (ILA  
s. 39B(1)).

S. 221C(1)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
17(a)), 34/2011  
s. 66.

S. 221C(1)(a)  
amended by  
No. 95/2005  
s. 28.

S. 221C(1)(c)  
amended by  
Nos 95/2005  
s. 28, 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
17(a)), 34/2011  
s. 66.

S. 221C(1)(d)  
amended by  
Nos 95/2005  
s. 27(1)(3),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
17(a)), 34/2011  
s. 66.

- (1) The Secretary may only give a person an authorisation to act as an authorised officer if the Secretary is satisfied that the person—
  - (a) is competent to exercise the functions conferred on an authorised officer by this Part; and
  - (b) is of good repute, having regard to character, honesty and integrity; and
  - (c) has agreed in writing to exercise the functions conferred on an authorised officer by this Part according to performance criteria established from time to time by the Secretary; and
  - (d) in the case of a person who is employed or engaged by a passenger transport company or bus company, is employed or engaged by a passenger transport company or bus company that is accredited by the Secretary under Division 4A.

- (2) In addition, in the case of a person who is employed or engaged by the Bus Association Victoria, the Secretary may only give the person an authorisation to act as an authorised officer if the Bus Association Victoria is accredited by the Secretary under Division 4A.

S. 221C(2)  
inserted by  
No. 95/2005  
s. 27(1)(4),  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
17(b)), 34/2011  
s. 66.

#### **221CA Time limits on section 221AB authorisations**

S. 221CA  
inserted by  
No. 101/2003  
s. 20.

- (1) In giving a person an authorisation under section 221AB, the Secretary must specify the period for which the authorisation remains valid.
- (2) The Secretary must not specify a period that is greater than the maximum (if any) specified by the regulations for the purposes of this section.

S. 221CA(1)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
18(a)), 34/2011  
s. 67.

S. 221CA(2)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
18(b)), 34/2011  
s. 67.

#### **221CB Scope of authorisation may be limited**

S. 221CB  
inserted by  
No. 95/2005  
s. 29.

- (1) The Secretary may at any time limit the scope of an authorisation given to a person by—
- (a) specifying that the person may only exercise specified powers or functions under the authorisation; or
- (b) specifying that the person may not exercise specified powers or functions under the authorisation.

S. 221CB(1)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
19(a)), 34/2011  
s. 68.

S. 221CB(2)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
19(b)), 34/2011  
s. 68.

- (2) If the Secretary limits the scope of a person's authorisation, he or she must give the person written details of the limitations that apply to the authorisation.
- (3) A limitation on a person's authorisation under this section only takes effect when the person receives the details required by subsection (2).

S. 221CC  
inserted by  
No. 95/2005  
s. 29.

#### **221CC Non-compliance with a limit**

A person whose authorisation is subject to a limit imposed under section 221CB must not knowingly exercise, or attempt to exercise, a power or function in contravention of the limit.

Penalty: 10 penalty units

S. 221D  
inserted by  
No. 45/1999  
s. 27.

#### **221D Conditions of authorisation**

S. 221D(1)  
amended by  
No. 101/2003  
s. 21(1)(a).

- (1) An authorisation is subject to—
  - (a) any prescribed condition;

S. 221D(1)(b)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
20(a)), 34/2011  
s. 69.

- (b) any other condition imposed by the Secretary.

S. 221D(2)  
amended by  
Nos 101/2003  
s. 21(1)(b),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
20(b)), 34/2011  
s. 69.

- (2) Particulars of an authorisation and of the conditions to which it is subject are to be given by the Secretary to the person authorised.



**221E Change of conditions**

S. 221E  
inserted by  
No. 45/1999  
s. 27.

- (1) The Secretary may at any time vary or revoke a condition of an authorisation or impose a new condition.

S. 221E(1)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
21(a)), 34/2011  
s. 70.

- (2) Particulars of any action taken under subsection (1) are to be given in writing by the Secretary to the person authorised.

S. 221E(2)  
amended by  
Nos 101/2003  
s. 21(2),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
21(b)), 34/2011  
s. 70.

**221F Non-compliance with a condition**

A person authorised under this Part must comply with any condition to which his or her authorisation is subject.

S. 221F  
inserted by  
No. 45/1999  
s. 27,  
amended by  
No. 101/2003  
s. 21(3).

Penalty: 10 penalty units.

**221FA Clarification of places in which certain authorised officers may operate**

S. 221FA  
inserted by  
No. 95/2005  
s. 30.

A person authorised under section 221AB may exercise the powers of an authorised officer in, on or in relation to—

- (a) any vehicle owned or operated by, or on behalf of, a passenger transport company or a bus company; or
- (b) any land, building or other property of a passenger transport company or a bus company—

regardless of whether or not he or she is employed or engaged by that company.

## **221G Application for renewal of authorisation**

S. 221G  
inserted by  
No. 45/1999  
s. 27.

S. 221G(1)  
substituted by  
No. 101/2003  
s. 21(4),  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
22(a)), 34/2011  
s. 71.

- (1) A person authorised under section 221AB may apply to the Secretary for the renewal of his or her authorisation.

- (2) A renewal application—

S. 221G(2)(a)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
22(b)), 34/2011  
s. 71.

- (a) must be made in the manner and form determined by the Secretary;

- (b) must be accompanied by—

- (i) the prescribed renewal application fee, if any;

- (ii) any other things that are prescribed.

S. 221G(3)  
amended by  
No. 25/2005  
s. 10(1).

- (3) A renewal application must be made not later than 60 days before the expiry of the authorisation.

S. 221G(4)  
substituted by  
No. 25/2005  
s. 10(2),  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
22(c)), 34/2011  
s. 71.

- (4) Despite subsection (3), the Secretary may consider a renewal application made later than the time applying under subsection (3).

- |  |  |
|--|--|
| (4A) If the regulations prescribe a late renewal application fee, the Secretary may only consider a renewal application made later than the time for applying under subsection (3) if the applicant pays that fee. | S. 221G(4A)<br>inserted by<br>No. 25/2005<br>s. 10(2),<br>amended by<br>Nos 47/2006<br>s. 31(1)(Sch. 1<br>Pt 1 item<br>22(d)), 34/2011<br>s. 71. |
| (5) The Secretary may refuse to consider a renewal application made earlier than 90 days before the expiry of the authorisation.   | S. 221G(5)<br>amended by<br>Nos 25/2005<br>s. 10(3),<br>47/2006<br>s. 31(1)(Sch. 1<br>Pt 1 item<br>22(e)), 34/2011<br>s. 71.                     |

## **221H Renewal of authorisation**

- |  |   |
|--|---|
| (1) The Secretary may renew or refuse to renew an authorisation.   | S. 221H<br>inserted by<br>No. 45/1999<br>s. 27.   |
| (1A) The Secretary must not renew an authorisation of a person unless the Secretary is satisfied that the person meets the requirements of section 221C(1)(a) and (b). | S. 221H(1)<br>amended by<br>Nos 101/2003<br>s. 21(5)(a),<br>47/2006<br>s. 31(1)(Sch. 1<br>Pt 1 item<br>23(a)), 34/2011<br>s. 72(1). |
| (2) On renewing an authorisation the Secretary may—<br><br>(a) renew it as then in force; or   | S. 221H(1A)<br>inserted by<br>No. 26/2009<br>s. 5(1),<br>amended by<br>No. 34/2011<br>s. 72(2).                                     |
|  | S. 221H(2)<br>amended by<br>Nos 47/2006<br>s. 31(1)(Sch. 1<br>Pt 1 item<br>23(b)), 34/2011<br>s. 72(1).                             |

- (b) vary or revoke any of the conditions to which the authorisation is subject; or
- (c) impose a new condition on the authorisation.

S. 221H(3)  
amended by  
Nos 101/2003  
s. 21(5)(b),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
23(c)), 34/2011  
s. 72(1).

- (3) Particulars of the renewal of an authorisation and of the conditions to which it is subject are to be given in writing by the Secretary to the authorised officer.

S. 221H(4)  
amended by  
Nos 25/2005  
s. 11, 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
23(d)), 34/2011  
s. 72(1).

- (4) A renewed authorisation remains in force for a period determined by the Secretary not exceeding 3 years unless the authorisation is sooner revoked.

S. 221H(5)  
amended by  
Nos 101/2003  
s. 21(5)(c),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
23(e)), 34/2011  
s. 72(2).

- (5) If the Secretary refuses to renew an authorisation, the Secretary must notify the person who applied for the renewal in writing of the refusal and the reasons for it.

S. 221I  
inserted by  
No. 45/1999  
s. 27.

## **221I Issue of identity cards**

S. 221I(1)  
substituted by  
No. 101/2003  
s. 21(6),  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
24(a)), 34/2011  
s. 73.

- (1) The Secretary must issue an identity card to any person authorised to act as an authorised officer.

- |   |  |
|---|--|
| <p>(1A) Despite subsection (1), the Secretary must not issue an identity card to a person authorised under section 221AB unless the person has paid the fee (if any) specified by the regulations for the purposes of this section.</p> | <p>S. 221(1A) inserted by No. 101/2003 s. 21(6), amended by Nos 47/2006 s. 31(1)(Sch. 1 Pt 1 item 24(b)), 34/2011 s. 73.</p> |
| <p>(1B) A person must not act or purport to act as an authorised officer unless he or she has been issued with an identity card under this section.</p> <p>Penalty: 10 penalty units.</p>   | <p>S. 221(1B) inserted by No. 101/2003 s. 21(6).</p>   |
| <p>(2) An identity card under subsection (1) must—</p> <p style="margin-left: 40px;">(a) contain a photograph of the authorised officer; and</p>  | <p>S. 221(2)(a) amended by No. 101/2003 s. 21(7)(a).</p>   |
| <p style="margin-left: 40px;">(b) contain the signature of the authorised officer; and</p>  | <p>S. 221(2)(b) amended by No. 101/2003 s. 21(7)(a).</p>   |
| <p style="margin-left: 40px;">(c) be signed by an officer of the Department authorised by the Secretary to do so either generally or in any particular case.</p>  | <p>S. 221(2)(c) amended by Nos 47/2006 s. 31(1)(Sch. 1 Pt 1 item 24(c)), 34/2011 s. 73.</p>                                  |
| <p>(3) A person issued with an identity card under this section must produce it on being requested to do so.</p> <p>Penalty: 5 penalty units.</p>   | <p>S. 221(3) amended by No. 101/2003 s. 21(7)(b).</p>  |
| <p>(4) Subject to subsection (1B), any action taken or thing done by an authorised officer is not invalidated by his or her failure to produce his or her identity card.</p>  | <p>S. 221(4) amended by No. 101/2003 s. 21(7)(c)(i)(ii).</p>   |

S. 221I(5)  
inserted by  
No. 101/2003  
s. 21(8).

- (5) Subsections (3) and (4) apply regardless of whether or not the person is exercising a power under this Act or under any other Act.

S. 221J  
(Heading)  
inserted by  
No. 101/2003  
s. 21(9).

## **221J Inquiry into conduct of authorised officer**

S. 221J  
inserted by  
No. 45/1999  
s. 27.

S. 221J(1)  
amended by  
Nos 101/2003  
s. 21(10)(a),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
25(a)), 34/2011  
s. 74(1).

- (1) The Secretary may hold an inquiry for the purpose of determining whether a circumstance referred to in section 221L has occurred in relation to a person authorised under section 221AB.

S. 221J(2)  
amended by  
Nos 101/2003  
s. 21(10)(b),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
25(b)), 34/2011  
s. 74(2).

- (2) Whilst the Secretary is conducting an inquiry under subsection (1), the Secretary may immediately suspend a person's authorisation during the period of the inquiry if the Secretary—

- (a) considers it necessary to do so in the interest of personal safety of passengers; or
- (b) believes, on reasonable grounds, that the person has not exercised his or her power as an authorised officer in an appropriate manner.

S. 221J(2)(b)  
amended by  
No. 101/2003  
s. 21(10)(c).

S. 221J(3)  
amended by  
Nos 101/2003  
s. 21(10)(d),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
25(c)), 34/2011  
s. 74(2).

- (3) If, following the inquiry, the Secretary is satisfied that a circumstance referred to in section 221L has occurred in relation to the person, the Secretary may—
- (a) reprimand the person;

- (b) warn the person that should the circumstance occur again in relation to him or her, the person's authorisation may be revoked;
- (c) impose one or more new conditions on the authorisation;
- (d) suspend the authorisation for a specified period or until a specified event or until a further determination made by the Secretary;
- (e) revoke the authorisation immediately or with effect from a specified later date.

S. 221J(3)(d) amended by Nos 47/2006 s. 31(1)(Sch. 1 Pt 1 item 25(c)), 34/2011 s. 74(2).

**221K Effect of suspension**

A person whose authorisation is suspended under section 221J is not authorised during the period of suspension.

S. 221K inserted by No. 45/1999 s. 27, amended by No. 101/2003 s. 21(11).

**221L Revocation of authorisation**

The Secretary may at any time, by written notice served on a person authorised under section 221AB, revoke an authorisation if satisfied that—

S. 221L inserted by No. 45/1999 s. 27, amended by Nos 101/2003 s. 21(12)(a)(b), 47/2006 s. 31(1)(Sch. 1 Pt 1 item 26), 34/2011 s. 75.

- (a) the person has on any occasion in exercising his or her functions acted unreasonably or abused his or her power; or
- (ab) the person is not competent to exercise the functions conferred on the person as an authorised officer by this Part; or

S. 221L(a) amended by No. 101/2003 s. 21(12)(c).

S. 221L(ab) inserted by No. 26/2009 s. 5(2).

S. 221L(ac)  
inserted by  
No. 26/2009  
s. 5(2).

(ac) the person is not of good repute, having regard to character, honesty and integrity; or

S. 221L(b)  
amended by  
Nos 101/2003  
s. 21(12)(d),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 26),  
34/2011 s. 75.

(b) the person has been convicted or found guilty of an offence of a kind that, in the opinion of the Secretary, renders it inappropriate that he or she continue as an authorised officer; or

S. 221L(c)  
amended by  
No. 101/2003  
s. 21(12)(c).

(c) the person has, in connection with the granting of the authorisation, given false or misleading information;

S. 221L(d)  
amended by  
No. 101/2003  
s. 21(12)(c).

(d) the person has not complied with a condition to which his or her authorisation is subject.

S. 221M  
inserted by  
No. 45/1999  
s. 27.

## **221M Tribunal reviews**

S. 221M(1)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 27),  
34/2011 s. 76.

(1) A person may apply to the Tribunal for review of a decision of the Secretary in relation to—

S. 221M(1)(a)  
amended by  
No. 101/2003  
s. 21(13)(a).

(a) an application for an authorisation or renewal of an authorisation by that person; or

S. 221M(1)(b)  
amended by  
No. 101/2003  
s. 21(13)(a).

(b) that person's authorisation; or

(c) that person.



(2) An application for review must be made within 28 days after the later of—

- (a) the day on which the decision is made;
- (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

S. 221M(2)(b)  
amended by  
No. 101/2003  
s. 21(13)(b).

**221N Authorisations cease to exist in certain circumstances**

An authorisation under section 221AB ceases to exist by force of this section if—

S. 221N  
inserted by  
No. 45/1999  
s. 27,  
amended by  
No. 101/2003  
s. 21(14)(a).

- (a) the passenger transport company or bus company by which the authorised officer is employed or engaged ceases to be accredited under Division 4A; or

S. 221N(a)  
amended by  
Nos 101/2003  
s. 21(14)(b)  
(i)(ii), 95/2005  
s. 27(1)(5)(a).

- (b) the authorised officer ceases to be employed or engaged by a passenger transport company or bus company that is accredited under Division 4A; or

S. 221N(b)  
amended by  
Nos 101/2003  
s. 21(14)(b)  
(i)(ii), 95/2005  
s. 27(1)(5)(b).

- (c) in the case of an authorisation granted under section 221AB(2)—

S. 221N(c)  
inserted by  
No. 95/2005  
s. 27(1)(5)(c).

- (i) the Bus Association Victoria ceases to be accredited under Division 4A; or
  - (ii) the authorised officer ceases to be employed or engaged by the Bus Association Victoria.

## **221O Return of identity cards**

S. 221O  
inserted by  
No. 45/1999  
s. 27.

S. 221O(1)  
amended by  
Nos 101/2003  
s. 21(15),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
28(a)), 34/2011  
s. 77(1).

(1) If a person's authorisation under section 221AB—

S. 221O(1)(a)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
28(a)), 34/2011  
s. 77(1).

(a) is revoked by the Secretary under  
section 221L; or

(b) ceases to exist by force of section 221N—  
the person must immediately deliver to the  
Secretary the identity card issued to him or her  
under section 221I(1).

Penalty: 10 penalty units.

S. 221O(2)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
28(b)), 34/2011  
s. 77(2).

(2) If an identity card issued to a person under  
section 221I(1)—

(a) becomes illegible; or

(b) is altered; or

(c) is defaced—

the person issued with that identity card must  
immediately deliver the identity card to the  
Secretary.

Penalty: 10 penalty units.

**221P Lost, stolen or destroyed identity cards to be reported**

If an identity card issued under section 221I to a person authorised under section 221AB is lost, stolen or destroyed, the person issued with that identity card must immediately notify, in writing, the Secretary of that fact.

Penalty: 10 penalty units.

S. 221P  
inserted by  
No. 45/1999  
s. 27,  
amended by  
Nos 101/2003  
s. 21(16),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 29),  
34/2011 s. 78.

**221Q Replacement of identity cards**

The Secretary, on the payment of the prescribed fee (if any), may issue a new identity card to a person authorised under section 221AB if the Secretary is satisfied that the identity card issued to that person under section 221I(1)—

- (a) is illegible;
- (b) has been altered or defaced; or
- (c) has been lost, stolen or destroyed.

S. 221Q  
inserted by  
No. 45/1999  
s. 27,  
amended by  
Nos 101/2003  
s. 21(17),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 30),  
34/2011 s. 79.

**221R Offence to falsely represent oneself as an authorised officer**

A person must not falsely represent himself or herself to be an authorised officer.

Penalty: 10 penalty units.

S. 221R  
(Heading)  
inserted by  
No. 101/2003  
s. 21(18).  
S. 221R  
inserted by  
No. 45/1999  
s. 27,  
amended by  
No. 101/2003  
s. 21(19).

## **221S Application by proposed employee**

S. 221S  
inserted by  
No. 45/1999  
s. 27.

S. 221S(1)  
amended by  
Nos 95/2005  
s. 27(1)(6),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
31(a)), 69/2007  
s. 40(3),  
34/2011  
s. 80(1).

- (1) A person who is seeking, or proposing to seek, to become employed or engaged by a passenger transport company or bus company or by the Bus Association Victoria may apply to the Secretary for a certificate as to whether or not, in the opinion of the Secretary, that person meets the criteria specified in section 221C(1)(a) and (b).

- (2) An application—

S. 221S(2)(a)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
31(b)), 34/2011  
s. 80(2).

- (a) must be made in the manner and form determined by the Secretary;

- (b) must be accompanied by—

- (i) the prescribed application fee, if any;  
(ii) any other things that are prescribed.

S. 221S(3)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
31(c)), 34/2011  
s. 80(1).

- (3) The Secretary may require an applicant—

S. 221S(3)(a)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
31(c)), 34/2011  
s. 80(1).

- (a) to furnish further information specified by the Secretary; or

- (b) to verify, by statutory declaration, information furnished for the purposes of the application.

\* \* \* \*

S. 221T  
inserted by  
No. 34/2003  
s. 12,  
amended by  
No. 101/2003  
s. 21(20),  
repealed by  
No. 82/2012  
s. 297.

## Division 4AAA—Transport safety offences

Pt 7  
Div. 4AAA  
(Heading and  
ss 221U–  
221Zl)  
inserted by  
No. 9/2006  
s. 122.

### Subdivision 1—Interpretation

#### 221U Definitions

S. 221U  
inserted by  
No. 9/2006  
s. 122.

In this Division—

*authorised person* means—

S. 221U def. of  
*authorised  
person*  
amended by  
Nos 43/2011  
s. 61, 61/2011  
s. 25(Sch. 2  
item 5.2(a)),  
37/2014  
s. 10(Sch.  
item 171.17),  
3/2017  
s. 50(Sch. 1  
item 10.9(a)).

- (a) a person employed by a passenger transport company or a bus company who has duties in relation to the operation of a road vehicle or a rail vehicle operated by the passenger transport company or bus company; or
- (b) a police officer; or
- (ba) a protective services officer on duty at a designated place; or
- (c) an authorised officer; or
- (d) a transport safety officer; or
- (e) any other person appointed in writing by a passenger transport company, a rail freight operator, Rail Track, the Head, Transport for Victoria or the

Secretary for the purposes of this  
Division;

***bicycle*** means a vehicle with one or more wheels  
that is built to be propelled by human power  
through a belt, chain or gears (whether or not  
it has an auxiliary motor), and—

- (a) includes a pedicab, penny-farthing,  
scooter, tricycle and unicycle;
- (b) does not include a wheelchair, wheeled  
recreational device, wheeled toy, or any  
vehicle with an auxiliary motor capable  
of generating a power output over  
200 watts (whether or not the motor is  
operating);

***commercial passenger vehicle*** has the same  
meaning as in section 86(1);

***container weight declaration*** for a freight  
container means a declaration that states, or  
that purports to state, the weight of the  
container and its contents;

***freight container*** has the same meaning as in the  
**Road Safety Act 1986;**

***level crossing*** means—

- (a) an area where a road and railway tracks  
cross at substantially the same level,  
whether or not there is a level crossing  
sign on the road at all or any of the  
entrances to the area; or
- (b) an area where a road and tramway  
tracks cross at substantially the same  
level and that has a level crossing sign  
on the road at each entrance to the area;

**Note**

Rule 120 of the Road Safety Road Rules 2009  
includes diagrams of level crossing signs.

S. 221U def. of  
*level crossing*  
amended by  
No. 75/2010  
s. 24(1).

***operator***, in relation to a vehicle, means a person who is responsible for controlling or directing the operations of the vehicle in connection with a business for, or involving, the transport of goods or passengers by road but does not include a person who merely—

- (a) arranges for the registration of the vehicle; or
- (b) maintains, or arranges for the maintenance of, the vehicle;

***private omnibus*** means a motor vehicle that is used for operating a community and private bus service within the meaning of the **Bus Safety Act 2009**;

S. 221U def. of *private omnibus* amended by No. 13/2009 s. 92(8) (as amended by No. 6/2010 s. 203(1)(Sch. 6 item 4.5)).

***rail premises*** means any land, building, premises or structure owned, occupied or leased by—

- (a) a passenger transport company or the Secretary on behalf of the Crown or the Head, Transport for Victoria or the Public Transport Development Authority in connection with their capacity as providers of passenger services; or
- (b) a rail freight operator in connection with its capacity as a provider of a rail freight service; or
- (c) Rail Track;

S. 221U def. of *rail premises* amended by Nos 61/2011 s. 25(Sch. 2 item 5.2(b)), 3/2017 s. 50(Sch. 1 item 10.9(b)).

***railway track*** means a railway used by a passenger transport company, rail freight operator or the Secretary on behalf of the Crown or the Head, Transport for Victoria or the Public Transport Development

S. 221U def. of *railway track* amended by Nos 61/2011 s. 25(Sch. 2 item 5.2(b)), 3/2017 s. 50(Sch. 1 item 10.9(b)).

Authority to operate a railway for the carriage of passengers or freight;

***rail vehicle*** means a vehicle that operates on or uses a railway track for the carriage of passengers or freight and includes a train, carriage and wagon;

***road vehicle*** means any vehicle propelled by any form of motive power that is used or intended for use by a passenger transport company, bus company or rail freight operator for the carriage of passengers or freight on any road and includes—

- (a) a tram that operates on or uses a tramway track;
- (b) a commercial passenger vehicle that is not a taxi-cab;
- (c) a private omnibus;

***taxi-cab*** has the same meaning as in section 86(1);

***tramway track*** means a railway used by a passenger transport company or the Secretary on behalf of the Crown or the Head, Transport for Victoria or the Public Transport Development Authority to operate a tramway for the carriage of passengers;

***vehicle*** means a conveyance that is designed to be propelled or drawn by any means, whether or not capable of being so propelled or drawn, and includes—

- (a) a motor vehicle;
- (b) a trailer;
- (c) a tram;
- (d) a train;
- (e) a bicycle;

S. 221U def. of  
*tramway track*  
amended by  
Nos 61/2011  
s. 25(Sch. 2  
item 5.2(b)),  
3/2017  
s. 50(Sch. 1  
item 10.9(b)).



- (f) an air-cushion vehicle;
  - (g) an animal that is being ridden or is drawing a vehicle;
  - (h) a combination of motor vehicles consisting of a motor vehicle connected to one or more vehicles—
- but does not include—

- (i) a wheelchair other than a motorised wheelchair capable of a speed of 10 kilometres per hour or more; or
- (j) a wheeled recreational device; or
- (k) a wheeled toy;

***wheeled recreational device*** means a wheeled device, built to transport a person, propelled by human power or gravity, and ordinarily used for recreation or play, and—

- (a) includes rollerblades, rollerskates, a skateboard or similar wheeled device;
- (b) does not include a golf buggy, pram, stroller or trolley, or a bicycle, wheelchair or wheeled toy;

***wheeled toy*** means a child's pedal car, scooter or tricycle or a similar toy.

#### **221V Exclusion of mistake of fact defence**

- (1) This section applies if a provision of this Division states that a person does not have the benefit of the mistake of fact defence for an offence.
- (2) It is not a defence to a charge for the offence for the person to prove that, at or before the time of the conduct constituting the offence, the person was under a mistaken but honest and reasonable belief about facts which, had they existed, would

**S. 221V  
inserted by  
No. 9/2006  
s. 122.**

have meant that the conduct would not have constituted an offence.

S. 221W  
inserted by  
No. 9/2006  
s. 122.

**221W Statement that mistake of fact defence does not apply not to affect other offences**

A statement in this Division that a person does not have the benefit of the mistake of fact defence is solely intended for the purposes of this Division, and it is not intended to affect the question of whether that defence is, or is not, available to a person in relation to any offence outside this Division.

**Subdivision 2—Offences**

S. 221X  
inserted by  
No. 9/2006  
s. 122.

**221X Overdimensional vehicles crossing tracks**

S. 221X(1)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

(1) A person must not, without the written permission of the Public Transport Development Authority, drive or attempt to drive or convey across a railway track—

S. 221X(1)(a)  
amended by  
No. 75/2010  
s. 24(2).

- (a) a vehicle with a mass limit that exceeds a mass limit for that vehicle under the Road Safety (Vehicles) Regulations 2009; or
- (b) a vehicle which, either by itself or in combination with any load carried by it, exceeds—
  - (i) the maximum allowable length; or
  - (ii) the maximum allowable height (when measured from the highest surface of the track to be crossed); or

- (iii) the maximum allowable width—  
specified by notice under section 221ZA; or
- (c) a vehicle which may obstruct, displace or  
interfere with—
  - (i) the track to be crossed; or
  - (ii) any overhead power line of a rolling  
stock operator in the vicinity of the  
track.

Penalty: 20 penalty units.

- (2) A person must not, without the written permission  
of the Public Transport Development Authority,  
drive or attempt to drive or convey across a  
tramway track—
- (a) a vehicle with a mass limit that exceeds a  
mass limit for that vehicle under the Road  
Safety (Vehicles) Regulations 2009; or
- (b) a vehicle which, either by itself or in  
combination with any load carried by it,  
exceeds—
  - (i) the maximum allowable length; or
  - (ii) the maximum allowable height (when  
measured from the highest surface of  
the track to be crossed); or
  - (iii) the maximum allowable width—  
specified by notice under section 221ZA; or
- (c) a vehicle which may obstruct, displace or  
interfere with the track to be crossed or with  
any overhead power line or support wires of  
a rolling stock operator in the vicinity of the  
track.

S. 221X(2)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

S. 221X(2)(a)  
amended by  
No. 75/2010  
s. 24(2).

Penalty: 20 penalty units.

- (3) A person charged with an offence under subsection (1) or (2) does not have the benefit of the mistake of fact defence.

**Note**

Section 221V sets out how subsection (3) operates.

S. 221X(4)  
amended by  
No. 75/2010  
s. 24(2).

- (4) If a vehicle that exceeds a mass limit for that vehicle under the Road Safety (Vehicles) Regulations 2009 is driven or attempted to be driven or conveyed—

- (a) across a railway track in contravention of subsection (1); or
- (b) across a tramway track in contravention of subsection (2)—

the person charged with an offence under subsection (1) or (2) has the benefit of the reasonable steps defence so far as it relates to reliance on the weight stated in a container weight declaration.

**Note**

Section 221Z sets out how this defence operates.

S. 221X(5)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

- (5) The Public Transport Development Authority may grant permission under subsection (1) or (2) and may impose conditions on that permission.

S. 221X(6)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

- (6) A person must comply with any conditions imposed by the Public Transport Development Authority in granting permission under subsection (1) or (2).

Penalty: 20 penalty units.

- (7) The fee for the granting of permission is the fee specified by notice under section 221ZA.

- (8) If, in the Public Transport Development Authority's opinion, one or more of the Department's employees or passenger transport company, rail freight operator or Rail Track employees or agents must, in the interests of safety, be present when the vehicle crosses the railway track or the tramway track the Public Transport Development Authority may, in addition to the fee referred to in subsection (6) impose the further charge specified by notice under section 221ZA.
- (9) The Public Transport Development Authority may—
- (a) refund, in whole or in part, any fee or charge paid, under this section; or
  - (b) waive, in whole or in part, any fee or charge payable, under this section.

S. 221X(8)  
amended by  
Nos 61/2011  
s. 25(Sch. 1  
item 13.12),  
61/2011  
s. 25(Sch. 1  
item 13.6).

S. 221X(9)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

**221Y Operators of overdimensional vehicles crossing tracks without permission also guilty of offence**

S. 221Y  
inserted by  
No. 9/2006  
s. 122.

- (1) If a vehicle is driven or attempted to be driven or conveyed—
- (a) across a railway track in contravention of section 221X(1); or
  - (b) across a tramway track in contravention of section 221X(2); or
  - (c) not in accordance with a condition imposed by the Public Transport Development Authority on a permission under section 221X(1) or (2)—

S. 221Y(1)(c)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

the operator of the vehicle is guilty of an offence and is liable to a penalty not exceeding 20 penalty units.

- (2) A person charged with an offence under this section does not have the benefit of the mistake of fact defence.

**Note**

Section 221V sets out how subsection (2) operates.

S. 221Y(3)  
amended by  
No. 75/2010  
s. 24(2).

- (3) If a vehicle that exceeds a mass limit for that vehicle under the Road Safety (Vehicles) Regulations 2009 is driven or attempted to be driven or conveyed—
- (a) across a railway track in contravention of section 221X(1); or
  - (b) across a tramway track in contravention of section 221X(2)—

the person charged with an offence under subsection (1)(a) or (b) has the benefit of the reasonable steps defence so far as it relates to reliance on the weight stated in a container weight declaration.

**Note**

Section 221Z sets out how this defence operates.

S. 221Z  
inserted by  
No. 9/2006  
s. 122.

**221Z Reasonable steps defence—reliance on container weight declaration**

- (1) This section applies if—
- (a) a person is charged with an offence under section 221X(1) or (2); or
  - (b) the operator of a vehicle is charged with an offence under section 221Y(1)(a) or (b)—
- and the person or operator has (as the case requires) the benefit, under section 221X(4) or 221Y(3), of the reasonable steps defence so far as it relates to reliance on the weight stated in a container weight declaration.

(2) To the extent that the weight of a freight container and its contents is relevant to the offence, the person charged may rely on the weight stated in the relevant container weight declaration, unless it is established that the person knew, or ought reasonably to have known, that—

- (a) the stated weight was lower than the actual weight; or
- (b) the distributed weight of the container and its contents, together with—
  - (i) the mass or location of any other load; or
  - (ii) the mass of the vehicle or any part of it—

would result in the breach of a mass limit under the Road Safety (Vehicles) Regulations 2009.

**221ZA Specification of vehicle limits and fees for  
overdimensional vehicles crossing tracks**

S. 221Z(2)(b)  
amended by  
No. 75/2010  
s. 24(2).

S. 221ZA  
inserted by  
No. 9/2006  
s. 122.

(1) The Public Transport Development Authority, by notice published in the Government Gazette, may specify—

- (a) the maximum allowable length, height or width for a vehicle either by itself or in combination with any load carried by it for the purposes of section 221X(1) or (2);
- (b) the fee payable for the granting of permission under section 221X;

S. 221ZA(1)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

- (c) the further charge payable for the purposes of section 221X(8).
- (2) The further charge specified by notice under this section for the purposes of section 221X(8) may differ according to differences in time, place or circumstance.

S. 221ZB  
inserted by  
No. 9/2006  
s. 122.

#### **221ZB Animals on railway tracks**

A person must not take or attempt to take an animal across railway tracks at a pedestrian or level crossing—

- (a) when warning signals or devices are operating at the crossing; or
- (b) when gates at the crossing are closed or locked; or
- (c) when a rail vehicle is entering the crossing; or
- (d) when a rail vehicle can be seen or heard approaching and there would be a danger of a collision with the animal if it entered the crossing; or
- (e) if the crossing or the path beyond the crossing is blocked; or
- (f) when directed not to do so by an authorised person.

Penalty: 20 penalty units.

S. 221ZC  
inserted by  
No. 9/2006  
s. 122.

#### **221ZC Placing things on tracks**

A person must not place any thing on a railway track or a tramway track unless the person is driving a vehicle and places the vehicle on a railway track or tramway track in the normal course of driving.

Penalty: 20 penalty units.



**221ZD Mounting a place not intended for travel etc.**

S. 221ZD  
inserted by  
No. 9/2006  
s. 122.

- (1) A person must not, without reasonable excuse, mount or attempt to mount a part of a locomotive, rail vehicle or road vehicle not intended for the purpose of travel by passengers.

Penalty: 15 penalty units.

**Example**

Mounting roof of a rail vehicle or road vehicle, leading brake van of a rail vehicle, brake van of a rail vehicle, driver's cabin of a road vehicle, coupling or communication platform of a rail vehicle.

- (2) A person must not, without reasonable excuse, walk or climb on any part of rail premises not intended for use by passengers or the public.

Penalty: 15 penalty units.

**221ZE Travelling in a place not intended for travel etc.**

S. 221ZE  
inserted by  
No. 9/2006  
s. 122.

- (1) A person must not, without reasonable excuse, travel or attempt to travel on a part of a locomotive, rail vehicle or road vehicle not intended for the purpose of travel.

Penalty: 20 penalty units.

**Example**

Travelling on the roof of a rail vehicle or road vehicle, leading brake van of a rail vehicle, brake van of a rail vehicle, driver's cabin of a road vehicle, coupling or communication platform of a rail vehicle.

- (2) A rider of a bicycle or a person in or on a wheeled recreational device or wheeled toy must not attach or attempt to attach himself or herself or another person or the bicycle, wheeled recreational device or wheeled toy to the exterior of a rail vehicle or road vehicle for any purpose.

Penalty: 20 penalty units.

**Example**

A bicycle rider attached to a tram to enable the rider and the bicycle to be pulled along behind the tram.

S. 221ZF  
inserted by  
No. 9/2006  
s. 122.

**221ZF Applying brake or emergency device**

A person must not, without reasonable excuse—

- (a) apply any brake or make use of any emergency device fitted to a rail vehicle or road vehicle; or
- (b) make use of any emergency device on rail premises.

Penalty: 20 penalty units.

**Example**

Emergency devices include an emergency button on a station communication board or on an escalator.

S. 221ZG  
inserted by  
No. 9/2006  
s. 122.

**221ZG Stopping a rail vehicle or road vehicle**

A person must not, without reasonable excuse, cause or attempt to cause a rail vehicle or road vehicle in motion to be stopped.

Penalty: 20 penalty units.

## **221ZH Operating equipment**

S. 221ZH  
inserted by  
No. 9/2006  
s. 122.

- (1) A person must not, without the permission of an authorised person—

S. 221ZH(1)  
amended by  
No. 61/2011  
s. 25(Sch. 1  
item 13.6).

- (a) move or attempt to move;
- (b) interfere or attempt to interfere with;
- (c) tamper or attempt to tamper with;
- (d) operate or attempt to operate—

any equipment, rail vehicle or road vehicle, owned or operated by a passenger transport company, bus company or the Public Transport Development Authority in connection with the operation of a passenger service.

Penalty: 20 penalty units.

- (2) A person must not, without the permission of an authorised person—

- (a) move or attempt to move;
- (b) interfere or attempt to interfere with;
- (c) tamper or attempt to tamper with;
- (d) operate or attempt to operate—

any equipment, rail vehicle, owned or operated by a rail freight operator in connection with its rail freight service or by Rail Track.

Penalty: 20 penalty units.

## **221ZI Permitting drainage**

S. 221ZI  
inserted by  
No. 9/2006  
s. 122.

A person must not cause or permit drainage or sewage to flow or empty from any premises occupied by the person onto land or premises the property of Rail Track.

Penalty: 20 penalty units.

Pt 7 Div. 4AB  
(Heading)  
inserted by  
No. 63/1999  
s. 13(3).

## Division 4AB—Further offences

S. 222  
amended by  
Nos 100/1986  
s. 36(1),  
44/1989  
s. 40(Sch. 1  
items 2.2,  
19.1),  
120/1993  
ss 66(9)(10),  
68, 68/1995  
s. 48, 98/1998  
s. 25(e),  
30/2000 s. 25,  
54/2001 s. 20,  
45/2005 s. 26,  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 32),  
repealed by  
No. 9/2006  
s. 123.

\* \* \* \*

S. 222A  
inserted by  
No. 45/2005  
s. 27 (as  
amended by  
No. 95/2005  
s. 20),  
amended by  
No. 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 33),  
repealed by  
No. 95/2005  
s. 42.

\* \* \* \*

S. 222B  
inserted by  
No. 69/2007  
s. 24.

### 222B Interference with prescribed equipment

S. 222B(1)  
amended by  
No. 61/2011  
s. 29(2).

- (1) A person must not—
- (a) move or attempt to move; or
  - (b) interfere with or attempt to interfere with; or

(c) tamper or attempt to tamper with—

any prescribed equipment or equipment in a prescribed class of equipment owned by the Public Transport Development Authority or operated by or on behalf of the Public Transport Development Authority.

Penalty: 20 penalty units.

- (2) Subsection (1) does not apply to anything done by any person acting on behalf of, or with the permission of, the Public Transport Development Authority.

S. 222B(2)  
amended by  
No. 61/2011  
s. 29(2).

**223 Offence to trespass on land or premises of Roads Corporation or Rail Track**

A person must not wilfully trespass on any land or premises owned or occupied by the Roads Corporation or Rail Track.

Penalty: 20 penalty units.

S. 223  
amended by  
Nos 100/1986  
s. 37, 44/1989  
s. 40(Sch. 1  
item 2.2),  
81/1990  
s. 7(7),  
120/1993  
s. 66(11)(a)(b),  
30/2000 s. 26,  
substituted by  
No. 9/2006  
s. 124,  
amended by  
No. 69/2007  
s. 40(4).

\* \* \* \* \*

S. 223A  
inserted by  
No. 81/1990  
s. 3,  
amended by  
Nos 120/1993  
s. 69, 46/1998  
s. 7(Sch. 1),  
98/1998 s. 35  
(1)(a)(b)(2),  
54/2001 s. 21,  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 34),  
repealed by  
No. 59/2007  
s. 28(1).

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VII—Prosecutions, enforcement and penalties and other matters

S. 223B inserted by No. 81/1990 s. 3, amended by No. 98/1998 s. 35(1)(a)(c), repealed by No. 59/2007 s. 28(1).	*	*	*	*	*
S. 223C inserted by No. 81/1990 s. 3, amended by No. 98/1998 s. 35(3), repealed by No. 59/2007 s. 28(1).	*	*	*	*	*
S. 223D inserted by No. 81/1990 s. 3, amended by No. 98/1998 s. 35(4), repealed by No. 59/2007 s. 28(1).	*	*	*	*	*
S. 223E inserted by No. 81/1990 s. 3, amended by Nos 30/2000 s. 27, 47/2006 s. 60, 48/2006 s. 42(Sch. items 36.1– 36.4), repealed by No. 59/2007 s. 28(1).	*	*	*	*	*

---

\* \* \* \* \*

**S. 223F**  
inserted by  
No. 81/1990  
s. 3,  
amended by  
No. 49/1991  
s. 119(7)  
(Sch. 4  
item 20),  
repealed by  
No. 59/2007  
s. 28(1).

**224 Offence to provide false or misleading information**

**S. 224**  
amended by  
No. 44/1989  
s. 40(Sch. 1  
item 17),  
repealed by  
No. 37/1996  
s. 10, new  
s. 224  
inserted by  
No. 95/2005  
s. 43.

- (1) A person must not either deliberately or recklessly—
- (a) provide any information under this Act that is false or misleading in a material detail; or
  - (b) provide under this Act any document that is false or misleading in a material detail; or
  - (c) make any representation under this Act that provides a false or misleading impression of a material detail; or
  - (d) fail to include any material matter in any information or document provided under this Act if the failure causes the information or document to be false or misleading; or
  - (e) engage in conduct, or a course of conduct, for a purpose that is relevant to this Act, if that conduct is misleading or deceptive, or is likely to mislead or deceive.

Penalty: 300 penalty units, in the case of a corporation;

Level 9 imprisonment (6 months maximum) or 60 penalty units or both, in any other case.

- (2) Subsection (1) does not apply to any conduct that is an offence under section 220AA (providing false information in relation to an entitlement to use a public transport service).
- (3) Subsection (1)(b) does not apply if, at the time the person provided the document to the person or body to whom the document was provided, the person either—
  - (a) informed that person or body that the record contained a material detail that was false or misleading and specified in what respect it was false or misleading; or
  - (b) took all reasonable steps to provide that person or body with that information.
- (4) A reference in this section to "under this Act" or "relevant to this Act" is to be read as including a reference to any purpose associated with this Act or the regulations, and regardless of whether the information, document, representation or conduct was required to be provided, or was provided voluntarily.

S. 225  
amended by  
Nos 100/1986  
s. 38, 44/1989  
s. 40(Sch. 1  
item 19.1),  
60/1994  
s. 25(2),  
28/1996  
s. 4(j), 45/1999  
s. 28, 101/2003  
s. 21(21)(22),  
substituted by  
No. 95/2005  
s. 45 (as  
amended by  
No. 47/2006  
s. 34).

## **225 Offence to assault or obstruct officers etc.**

- (1) In this section—



---

*officer* means—

S. 225(1)  
def. of  
*officer*  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 12.3).

- (a) any officer or agent of the Roads Corporation or of the Department, or an authorised officer, who is acting in the execution of his or her duty under this or any other Act, or under regulations made under this Act;
- (b) a person employed by a passenger transport company or a bus company who has duties in relation to the issue, inspection or collection of tickets for, or the operation of, a vehicle operated by the company who is acting in the execution of his or her duties;
- (c) any other person appointed in writing by a passenger transport company, a bus company, a rail freight operator, Rail Track or the Secretary for the purposes of the regulations who is acting in the execution of his or her duties in relation to the appointment;

*officer's assistant* means any person lawfully assisting an officer in the execution of his or her duty under this or any other Act, or under regulations made under this Act.

- (2) A person must not, without reasonable excuse, assault or incite or encourage any other person to assault an officer or an officer's assistant.

Penalty: 300 penalty units, in the case of a corporation;

Level 9 imprisonment (6 months maximum) or 60 penalty units or both, in any other case.

(3) A person must not, without reasonable excuse—

(a) resist, obstruct, hinder or refuse to comply with a lawful request or direction of; or

(b) incite or encourage any other person to resist, obstruct, hinder or refuse to comply with a lawful request or direction of—

an officer or an officer's assistant.

Penalty: 300 penalty units, in the case of a corporation;

60 penalty units, in any other case.

S. 225A  
inserted by  
No. 81/1990  
s. 5,  
amended by  
Nos 120/1993  
s. 66(12),  
60/1994  
s. 25(2),  
28/1996 s. 4(j),  
45/1999 s. 29,  
101/2003  
s. 21(21),  
repealed by  
No. 95/2005  
s. 44.

\* \* \* \* \*

S. 225B  
inserted by  
No. 81/1990  
s. 5,  
amended by  
Nos 60/1994  
s. 25(3)(a)(b),  
28/1996 s. 4(j),  
substituted by  
No. 95/2005  
s. 46.

## **225B Offence to impersonate an officer**

A person must not, directly or indirectly, falsely represent himself, herself or itself to be—

S. 225B(a)  
amended by  
No. 6/2010  
s. 199(3)  
(Sch. 3  
item 12.2).

(a) an officer of the Department or the Roads Corporation; or

- (b) an authorised officer (within the meaning of any provision of this Act); or
- (c) a person who is authorised to exercise a power or to carry out a function under this Act.

Penalty: 300 penalty units, in the case of a corporation;

Level 9 imprisonment (6 months maximum) or 60 penalty units or both, in any other case.

#### **225C Offence to offer, give, solicit or accept a bribe**

- (1) In this section—

*bribe* means anything that provides, or that would provide, a benefit or an advantage to an officer or to anyone known to an officer;

*officer* means any officer of the Department, or an authorised officer.

- (2) A person must not, directly or indirectly, give, offer to give, cause to be given or attempt to give any bribe to an officer for the purpose of inducing the officer to forgo his or her duty, or to carry out his or her duty in a manner that he or she would not usually carry it out.

Penalty: 300 penalty units, in the case of a corporation;

60 penalty units, in any other case.

- (3) An officer must not, directly or indirectly, solicit or accept, or attempt to solicit or accept, any bribe for the purpose of inducing him or her to forgo his or her duty, or to carry out his or her duty in a manner that he or she would not usually carry it out.

Penalty: Level 9 imprisonment (6 months maximum) or 60 penalty units or both.

S. 225C  
inserted by  
No. 81/1990  
s. 5,  
amended by  
Nos 60/1994  
s. 25(4),  
28/1996 s. 4(j),  
substituted by  
No. 95/2005  
s. 47.

S. 226  
substituted by  
No. 27/2014  
s. 143.

**226 Criminal liability of officers of bodies corporate—  
failure to exercise due diligence**

- (1) If a body corporate commits an offence against a provision specified in subsection (2), an officer of the body corporate also commits an offence against the provision if the officer failed to exercise due diligence to prevent the commission of the offence by the body corporate.
- (2) For the purposes of subsection (1), the following provisions are specified—
  - (a) section 131;
  - (b) section 131A(1);
  - (c) section 133B;
  - (d) section 135F(5);
  - (e) section 137(3);
  - (f) section 137A(4);
  - (g) section 137C;
  - (h) section 144(1A) or (4);
  - (i) section 150A(1);
  - (j) section 158(1) or (3);
  - (k) section 158AA;
  - (l) section 158AB(1);
  - (m) section 158B(1), (2) or (4);
  - (n) section 169WA(2);
  - (o) section 224(1);
  - (p) section 225(2) or (3);
  - (q) section 225B;
  - (r) section 225C(2);
  - (s) section 228DA;

- (t) section 228DB;
- (u) section 228G;
- (v) section 228H(1), (4) or (6);
- (w) section 228QA(6);

S. 226(2)(w)  
amended by  
No. 35/2014  
s. 38(a).

- (x) section 228RY(6).

S. 226(2)(x)  
inserted by  
No. 35/2014  
s. 38(b).

- (3) In determining whether an officer of a body corporate failed to exercise due diligence, a court may have regard to—
  - (a) what the officer knew, or ought reasonably to have known, about the commission of the offence by the body corporate; and
  - (b) whether or not the officer was in a position to influence the body corporate in relation to the commission of the offence by the body corporate; and
  - (c) what steps the officer took, or could reasonably have taken, to prevent the commission of the offence by the body corporate; and
  - (d) any other relevant matter.
- (4) Without limiting any other defence available to the officer, an officer of a body corporate may rely on a defence that would be available to the body corporate if it were charged with the offence with which the officer is charged and, in doing so, the officer bears the same burden of proof that the body corporate would bear.

(5) An officer of a body corporate may commit an offence against a provision specified in subsection (2) whether or not the body corporate has been prosecuted for, or found guilty of, an offence against that provision.

(6) In this section—

*body corporate* has the same meaning as corporation has in section 57A of the Corporations Act;

*officer* in relation to a body corporate means—

- (a) a person who is an officer (as defined by section 9 of the Corporations Act) of the body corporate; or
- (b) a person (other than a person referred to in paragraph (a)), by whatever name called, who is concerned in, or takes part in, the management of the body corporate.

S. 226A  
inserted by  
No. 43/2013  
s. 30.

**226A Criminal liability of officers of bodies corporate—  
failure to exercise due diligence (evidential burden  
of proof)**

- (1) Subject to subsection (3), if a body corporate commits an offence against a provision specified in subsection (2), an officer of the body corporate also commits an offence against the provision.
- (2) For the purposes of subsection (1), the following provisions are specified—
  - (a) section 144C(2);
  - (b) section 144D.
- (3) An officer of a body corporate does not commit an offence against a provision specified in subsection (2) if—

- (a) the officer presents or points to evidence that suggests a reasonable possibility that the officer exercised due diligence to prevent the commission of the offence by the body corporate; and
  - (b) the contrary is not proved (beyond reasonable doubt) by the prosecution.
- (4) In determining whether an officer of a body corporate exercised due diligence, a court may have regard to—
  - (a) what the officer knew, or ought reasonably to have known, about the commission of the offence by the body corporate; and
  - (b) whether or not the officer was in a position to influence the body corporate in relation to the commission of the offence by the body corporate; and
  - (c) what steps the officer took, or could reasonably have taken, to prevent the commission of the offence by the body corporate; and
  - (d) any other relevant matter.
- (5) Without limiting any other defence available to the officer, an officer of a body corporate may rely on a defence that would be available to the body corporate if it were charged with the offence with which the officer is charged and, in doing so, the officer bears the same burden of proof that the body corporate would bear.
- (6) An officer of a body corporate may commit an offence against a provision specified in subsection (2) whether or not the body corporate has been prosecuted for, or found guilty of, an offence against that provision.

(7) In this section—

*body corporate* has the same meaning as corporation has in section 57A of the Corporations Act;

*officer* in relation to a body corporate means—

- (a) a person who is an officer (as defined by section 9 of the Corporations Act) of the body corporate; or
- (b) a person (other than a person referred to in paragraph (a)), by whatever name called, who is concerned in, or takes part in, the management of the body corporate.

S. 227  
substituted by  
No. 71/2006  
s. 17.

**227 Offences by unincorporated bodies, partnerships etc.**

Where this Act provides that a person, being a partnership or an unincorporated body or association, is guilty of an offence, that reference to the person—

- (a) in the case of a partnership—is to be read as a reference to each member of the partnership; and
- (b) in the case of an unincorporated body or association—is to be read as a reference to each member of the committee of management of the body or association.

S. 227A  
inserted by  
No. 47/2006  
s.18.

**227A Power of court to require attendance at approved public transport education program**

- (1) If a person is charged with an offence under this Act, or under regulations made under this Act, and on the hearing of the charge the court considers it appropriate in view of the person's circumstances, the court may order the person to undertake a program approved under subsection (2).



- (2) For the purposes of this section, the Secretary may approve programs that educate users of public transport and other persons about issues relating to public transport, including but not limited to—

**S. 227A(2)**  
amended by  
No. 34/2011  
s. 81.

- (a) public transport safety;
- (b) the comfort, amenity and convenience of passengers on public transport;
- (c) the revenue implications of fare evasion for public transport operators and the State;
- (d) the obligations of passengers and other persons in relation to public transport;
- (e) the enforcement obligations of authorised officers;
- (f) the providers of public transport in Victoria;
- (g) any other matter related to public transport that the Secretary considers appropriate.

**S. 227A(2)(g)**  
amended by  
No. 34/2011  
s. 81.

## **228 General penalty**

A person who is guilty of an offence against this Act for which a specific penalty is not prescribed by another provision of this Act is liable to a penalty not exceeding 10 penalty units.

## **Division 4A—Accreditation of passenger transport companies**

**Pt 7 Div. 4A**  
(Heading and  
ss 228A–  
228R)  
inserted by  
No. 104/1997  
s. 37.

### **228AA Objective**

The objective of this Division is that the authorised officer management systems provided by passenger transport companies, bus companies and the Bus Association Victoria be provided in a manner that promotes the safety, comfort, amenity and convenience of persons using the services

**S. 228AA**  
inserted by  
No. 47/2006  
s. 19.

provided by the bodies and other persons,  
particularly children and other vulnerable persons.

S. 228AB  
inserted by  
No. 47/2006  
s. 19.

#### **228AB Definition**

In this Division, *authorised officer management system* means a system for the management of authorised officers that includes—

- (a) education and training relating to—
  - (i) the use of enforcement powers;
  - (ii) behaviour by authorised officers toward members of the public, particularly children and other vulnerable persons;
- (b) the reporting requirements and supervision of authorised officers;
- (c) any matter prescribed in the regulations for this purpose.

S. 228A  
inserted by  
No. 104/1997  
s. 37 (as  
amended by  
Nos 98/1998  
s. 40(3),  
45/1999  
s. 39(a)(i)(ii)).

#### **228A Application for accreditation**

S. 228A(1)  
substituted by  
No. 101/2003  
s. 22(1),  
amended by  
Nos 95/2005  
s. 27(1)(7),  
47/2006  
s. 20(1),  
34/2011  
s. 82(1).

- (1) A passenger transport company or bus company or the Bus Association Victoria may apply to the Secretary for accreditation to employ or engage people authorised under section 221AB to act as authorised officers.

- (2) An application—

S. 228A(2)(a)  
amended by  
Nos 47/2006  
s. 20(2)(a),  
34/2011  
s. 82(1).

- (a) must be made in the manner and form determined by the Secretary;

- |   |  |
|---|--|
| (b) must be accompanied by—   | S. 228A(2)(b)<br>substituted by<br>No. 47/2006<br>s. 20(2)(b).                                   |
| (i) the application fee, if any, determined<br>by the Secretary and published in the<br>Government Gazette;   | S. 228A<br>(2)(b)(i)<br>amended by<br>No. 34/2011<br>s. 82(2).                                   |
| (ii) a detailed description of the applicant's<br>authorised officer management system;   |  |
| (iii) any other information or thing<br>determined by the Secretary.  | S. 228A<br>(2)(b)(iii)<br>amended by<br>No. 34/2011<br>s. 82(2).                                 |
| (2A) The Secretary must notify in writing all passenger<br>transport companies, bus companies and the Bus<br>Association Victoria of any determination made<br>by the Secretary under subsection (2). | S. 228A(2A)<br>inserted by<br>No. 47/2006<br>s. 20(3),<br>amended by<br>No. 34/2011<br>s. 82(2). |
| (3) The Secretary may require an applicant for<br>accreditation—  | S. 228A(3)<br>amended by<br>Nos 47/2006<br>s. 20(4),<br>34/2011<br>s. 82(2).                     |
| (a) to furnish further information specified by<br>the Secretary; or  | S. 228A(3)(a)<br>amended by<br>Nos 47/2006<br>s. 20(4),<br>34/2011<br>s. 82(2).                  |
| (b) to verify, by statutory declaration,<br>information furnished for the purposes of the<br>application.   |  |

S. 228B  
(Heading)  
inserted by  
No. 47/2006  
s. 21(1),  
amended by  
No. 34/2011  
s. 83(1).

## **228B Matters to be considered by Secretary**

In determining whether to give an accreditation,  
the Secretary must consider—

S. 228B  
inserted by  
No. 104/1997  
s. 37 (as  
amended by  
No. 45/1999  
s. 39(b)),  
amended by  
Nos 47/2006  
s. 21(2)(a),  
34/2011  
s. 83(2).

- (a) whether the authorised officer management  
system that the applicant proposes to have in  
place is effective and appropriate; and

S. 228B(a)  
amended by  
No. 101/2003  
s. 22(2),  
substituted by  
No. 47/2006  
s. 21(2)(b).

- (b) any matters that are prescribed.

S. 228C  
inserted by  
No. 104/1997  
s. 37.

## **228C Giving or refusal of accreditation**

S. 228C(1)  
amended by  
Nos 47/2006  
s. 21(3)(a),  
34/2011  
s. 84(1).

- (1) The Secretary may give or refuse to give an  
accreditation.

S. 228C(2)  
amended by  
Nos 47/2006  
s. 21(3)(b),  
34/2011  
s. 84(2).

- (2) If the Secretary refuses to give an accreditation,  
the Secretary must notify the applicant in writing  
of the refusal and the reasons for it.

- (3) If the Secretary gives accreditation to the Bus Association Victoria, a reference in this Division to an accredited company is to be read as including a reference to that Association.

S. 228C(3)  
inserted by  
No. 95/2005  
s. 27(1)(8),  
amended by  
Nos 47/2006  
s. 21(3)(c),  
34/2011  
s. 84(1).

#### **228D Conditions of accreditation**

S. 228D  
inserted by  
No. 104/1997  
s. 37.

- (1) An accreditation is subject to—  
(a) any prescribed condition;  
(b) any condition imposed by the Secretary.

S. 228D(1)(b)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
35(a)), 34/2011  
s. 85.

- (2) Particulars of an accreditation and of the conditions to which it is subject are to be given in writing by the Secretary to the accredited company.

S. 228D(2)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
35(b)), 34/2011  
s. 85.

#### **228DA Accredited companies must comply with conditions**

A passenger transport company or bus company or the Bus Association Victoria must not do, or omit to do, anything that is in breach of a condition to which its accreditation is subject.

Penalty: 100 penalty units.

S. 228DA  
(Heading)  
inserted by  
No. 95/2005  
s. 27(1)(9).  
S. 228DA  
inserted by  
No. 104/1997  
s. 37 (as  
amended by  
No. 45/1999  
s. 40),  
amended by  
No. 95/2005  
s. 27(1)(7).

S. 228DB  
inserted by  
No. 47/2006  
s. 22.

**228DB Offence to employ or engage authorised officer  
without accreditation under this Division**

A passenger transport company, a bus company or the Bus Association Victoria must not employ or engage a person to act as an authorised officer without being accredited to do so under this Division.

Penalty: 300 penalty units.

S. 228E  
inserted by  
No. 104/1997  
s. 37.

**228E Change of conditions etc.**

S. 228E(1)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
36(a)), 34/2011  
s. 86(1).

- (1) The Secretary may at any time vary or revoke a condition of an accreditation referred to in section 228D(1)(b) or impose a new condition.

S. 228E(2)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
36(b)), 34/2011  
s. 86(1).

- (2) The Secretary may act under subsection (1)—  
(a) of his or her own initiative; or  
(b) on the written application of the accredited company.

S. 228E(3)  
amended by  
No. 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
36(c)), 34/2011  
s. 86(2).

- (3) Except where the Secretary considers it necessary to take action in the interests of public safety, the Secretary must, before taking action under subsection (2)(a), give the accredited company written notice of the intended action and allow it to make written representations about the intended action within 10 working days.

S. 228E(4)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
36(d)), 34/2011  
s. 86(1).

- (4) Particulars of any action taken under subsection (1) are to be given in writing by the Secretary to the accredited company.

**228F Duration of accreditation**

S. 228F  
inserted by  
No. 104/1997  
s. 37.

- (1) An accreditation remains in force for the period specified by the Secretary.

S. 228F(1)  
substituted by  
No. 25/2005  
s. 12,  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
37(a)), 34/2011  
s. 87.

- (1A) The Secretary must not specify a period that is greater than the maximum (if any) specified by the regulations for the purposes of this section.

S. 228F(1A)  
inserted by  
No. 25/2005  
s. 12,  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
37(b)), 34/2011  
s. 87.

- (2) The Secretary may give a temporary accreditation for a period of less than 12 months.

S. 228F(2)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
37(c)), 34/2011  
s. 87.

S. 228G  
(Heading)  
inserted by  
No. 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
38(1)),  
amended by  
No. 34/2011  
s. 88(1).  
S. 228G  
inserted by  
No. 104/1997  
s. 37 (as  
amended by  
No. 45/1999  
s. 39(c)),  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
38(2)), 34/2011  
s. 88(2).

## **228G Requirement to notify Secretary about charges, etc.**

If at any time while an accreditation is in force—

S. 228G(a)  
amended by  
No. 101/2003  
s. 22(3).

- (a) the accredited company becomes aware that an authorised officer employed or engaged by it has been convicted or found guilty of an offence or has been charged with an offence and the charge has not been finally disposed of; and

S. 228G(b)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
38(2)), 34/2011  
s. 88(2).

- (b) particulars of that conviction, finding or charge have not previously been given by the accredited company to the Secretary—

the accredited company must immediately notify the Secretary of the particulars of that conviction, finding or charge.

Penalty: 10 penalty units.



## 228H Notifications

S. 228H  
inserted by  
No. 104/1997  
s. 37,  
substituted by  
No. 47/2006  
s. 23.

- (1) A company that holds an accreditation (other than a temporary accreditation) must notify the Secretary (in writing) of any relevant incident or occurrence within 48 hours after the incident or occurrence took place.

S. 228H(1)  
amended by  
Nos 34/2011  
s. 89(1),  
49/2011  
s. 5(1).

Penalty: 50 penalty units.

### Note

See section 44(3) of the **Interpretation of Legislation Act 1984** which addresses the situation where a time period ends on a weekend or public holiday.

Note to  
s. 228H(1)  
inserted by  
No. 49/2011  
s. 5(2).

- (2) The Secretary may request a report from a company that holds an accreditation (other than a temporary accreditation) under this Division on any matter related to the authorised officers employed or engaged by the company.

S. 228H(2)  
amended by  
No. 34/2011  
s. 89(1).

- (3) A request by the Secretary under subsection (2) must specify a reasonable period within which the report must be received by the Secretary.

S. 228H(3)  
amended by  
No. 34/2011  
s. 89(2).

- (4) A company that receives a request under subsection (2) must comply with that request within the period specified by the Secretary under subsection (3).

S. 228H(4)  
amended by  
Nos 69/2007  
s. 40(5)(a),  
34/2011  
s. 89(1).

Penalty: 50 penalty units.

S. 228H(5)  
amended by  
No. 34/2011  
s. 89(3).

- (5) The Secretary may request further information relating to—

S. 228H(5)(a)  
amended by  
No. 69/2007  
s. 40(5)(b).

- (a) the incident or occurrence to which a notification under subsection (1) relates; or

S. 228H(5)(b)  
amended by  
No. 34/2011  
s. 89(3).

- (b) a report provided to the Secretary under subsection (4)—

and may specify a reasonable period within which the further information must be received by the Secretary.

- (6) A company must comply with any request for further information under subsection (5) within the period (if any) specified in that request.

Penalty: 50 penalty units.

S. 228H(7)  
amended by  
No. 34/2011  
s. 89(1).

- (7) In this section, *relevant incident or occurrence* means an incident or occurrence that is determined by the Secretary to be an incident or occurrence to which this section applies.

S. 228H(8)  
amended by  
No. 34/2011  
s. 89(2).

- (8) The Secretary must cause to be published in the Government Gazette any determination made by the Secretary for the purpose of the definition of *relevant incident or occurrence*.

S. 228H(9)  
amended by  
No. 34/2011  
s. 89(2).

- (9) The Secretary must notify in writing any company that holds an accreditation under this Division of any determination made by the Secretary for the purpose of the definition of *relevant incident or occurrence*.

**228HA Audit of certain books and records of accredited companies for compliance purposes**

S. 228HA  
(Heading)  
inserted by  
No. 47/2006  
s. 24(1).

S. 228HA  
inserted by  
No. 104/1997  
s. 37 (as  
amended by  
No. 45/1999  
s. 41).

- (1) An accredited company must keep books and records relating to the following—
- (a) any condition to which its accreditation is subject and its compliance with that condition;
  - (b) the scope and operation of its authorised officer management system;
  - (c) any notification, report or information provided by it under this Division;
  - (d) any correspondence with the Secretary in relation to its accreditation, its authorised officer management system or any authorised officer employed or engaged by it;
  - (e) any other prescribed matter.

S. 228HA(1)  
substituted by  
No. 47/2006  
s. 24(2).

S. 228HA(1)(d)  
amended by  
No. 34/2011  
s. 90.

Penalty: 50 penalty units.

- (2) The Secretary may audit all books and records referred to in subsection (1) and may take copies of any books or records.
- (2A) The Secretary may authorise an officer of the Department or any other suitably qualified person to conduct an audit under this section.

S. 228HA(2)  
amended by  
Nos 47/2006  
s. 24(3)(a)–(c),  
34/2011 s. 90.

S. 228HA(2A)  
inserted by  
No. 47/2006  
s. 24(4),  
amended by  
No. 34/2011  
s. 90.

S. 228HA(2B)  
inserted by  
No. 47/2006  
s. 24(4).

(2B) A person authorised under subsection (2A) may—

- (a) enter any premises in which the person reasonably believes a book or record is kept for the purpose of subsection (1); and
- (b) inspect any such book or record; and
- (c) make copies of, or take extracts from, any such book or record.

S. 228HA(3)  
substituted by  
No. 47/2006  
s. 24(5),  
amended by  
No. 34/2011  
s. 90.

- (3) If an audit is conducted as a result of a notification, or the provision of a report, under section 228H, the Secretary may charge a fee that covers the reasonable costs of conducting that audit.

S. 228I  
inserted by  
No. 104/1997  
s. 37 (as  
amended by  
No. 45/1999  
s. 39(d)).

## 228I Application for renewal of accreditation

S. 228I(1)  
amended by  
Nos 47/2006  
s. 25(1)(a),  
34/2011  
s. 91(1).

- (1) An accredited company (other than the holder of a temporary accreditation) may apply to the Secretary for renewal of the accreditation.

S. 228I(2)  
amended by  
Nos 47/2006  
s. 25(1)(b),  
34/2011  
s. 91(1).

- (2) The holder of a temporary accreditation may, within the period of 2 years beginning at the commencement of section 37 of the **Rail Corporations (Amendment) Act 1997**, apply to the Secretary for renewal of the temporary accreditation.

S. 228I(3)(a)  
amended by  
Nos 47/2006  
s. 25(2)(a),  
34/2011  
s. 91(2).

- (3) A renewal application—
- (a) must be made in the manner and form determined by the Secretary;

- |  |  |
|--|--|
| (b) must be accompanied by—  | S. 228(3)(b)<br>substituted by<br>No. 47/2006<br>s. 25(2)(b).  |
| (i) the application fee, if any, determined<br>by the Secretary and published in the<br>Government Gazette; and  | S. 228(3)(b)(i)<br>amended by<br>No. 34/2011<br>s. 91(2).  |
| (ii) any other information or thing<br>determined by the Secretary.  | S. 228(3)(b)(ii)<br>amended by<br>No. 34/2011<br>s. 91(2).   |
| (4) A renewal application must be made not later than<br>60 days before the expiry of the accreditation.   | S. 228(4)<br>amended by<br>No. 25/2005<br>s. 13(1).  |
| (5) Despite subsection (4), the Secretary may consider<br>a renewal application made later than the time<br>applying under subsection (4).   | S. 228(5)<br>substituted by<br>No. 25/2005<br>s. 13(2),<br>amended by<br>Nos 47/2006<br>s. 25(3)(a),<br>34/2011<br>s. 91(1). |
| (5A) If the regulations prescribe a late renewal<br>application fee, the Secretary may only consider a<br>renewal application made later than the time for<br>applying under subsection (4) if the applicant pays<br>that fee. | S. 228(5A)<br>inserted by<br>No. 25/2005<br>s. 13(2),<br>amended by<br>Nos 47/2006<br>s. 25(3)(b),<br>34/2011<br>s. 91(1).   |
| (6) The Secretary may refuse to consider a renewal<br>application made earlier than 90 days before the<br>expiry of the accreditation.   | S. 228(6)<br>amended by<br>No. 25/2005<br>s. 13(3),<br>amended by<br>Nos 47/2006<br>s. 25(3)(c),<br>34/2011<br>s. 91(1).     |

## **228J Renewal of accreditation**

S. 228J  
inserted by  
No. 104/1997  
s. 37.

- (1) The Secretary may renew or refuse to renew an accreditation.

S. 228J(1)  
amended by  
Nos 47/2006  
s. 26(1),  
34/2011  
s. 92(1).

- (1A) In renewing or refusing to renew any accreditation under subsection (1), the Secretary must have regard to—

S. 228J(1A)  
inserted by  
No. 47/2006  
s. 26(2),  
amended by  
No. 34/2011  
s. 92(2).

- (a) the applicant's authorised officer management system; and
- (b) the applicant's compliance with the conditions of the applicant's accreditation; and
- (c) the conduct of authorised officers employed or engaged by the company, including whether the authorised officers have complied with conditions to which their authorisations are subject; and

S. 228J(1A)(d)  
amended by  
No. 34/2011  
s. 92(2).

- (d) any other matter determined by the Secretary and published in the Government Gazette.

S. 228J(1B)  
inserted by  
No. 47/2006  
s. 26(2),  
amended by  
No. 34/2011  
s. 92(2).

- (1B) The Secretary must notify each company in writing of any determination made by the Secretary under subsection (1A)(d).

S. 228J(2)  
amended by  
Nos 47/2006  
s. 26(3)(a),  
34/2011  
s. 92(1).

- (2) On renewing an accreditation the Secretary may—
- (a) renew it as then in force; or
  - (b) vary or revoke any of the conditions to which the accreditation is subject; or

- |   |   |
|---|---|
| (c) impose a new condition on the accreditation (including conditions relating to the authorised officer management system of the company).   | S. 228J(2)(c) amended by No. 47/2006 s. 26(3)(b).             |
| (3) Particulars of the renewal of an accreditation and of the conditions to which it is subject are to be given in writing by the Secretary to the accredited company.                          | S. 228J(3) amended by Nos 47/2006 s. 26(4), 34/2011 s. 92(1). |
| (4) A renewed accreditation remains in force for 5 years unless—<br>(a) the accreditation is sooner cancelled or surrendered; or<br>(b) that period is shortened under section 228N(3)(b)(iii). | S. 228J(4) amended by No. 25/2005 s. 14.                      |
| (5) If the Secretary refuses to renew an accreditation, the Secretary must notify the accredited company in writing of the refusal and the reasons for it.                                      | S. 228J(5) amended by Nos 47/2006 s. 26(5), 34/2011 s. 92(2). |

**228K Nature of accreditation**

- |   |   |
|---|---|
| (1) An accreditation—<br>(a) is personal to the accredited company;<br>(b) is not capable of being transferred or assigned to any other person or, subject to subsection (3), otherwise dealt with by the accredited company;<br>(c) does not vest by operation of law in any other person. | S. 228K inserted by No. 104/1997 s. 37. |
| (2) A purported transfer or assignment of an accreditation and any other purported dealing by the accredited company with an accreditation (otherwise than under and in accordance with subsection (3)) is of no effect.  |   |

S. 228K(3)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 39),  
34/2011 s. 93.

(3) An accredited company may, with the consent of the Secretary and in accordance with the regulations, surrender an accreditation.

(4) This section has effect despite anything in any Act or rule of law to the contrary.

S. 228L  
inserted by  
No. 104/1997  
s. 37 (as  
amended by  
No. 45/1999  
s. 39(e)),  
amended by  
No. 95/2005  
s. 27(1)(10),  
repealed by  
No. 95/2005  
s. 44.

\* \* \* \* \*

S. 228M  
(Heading)  
inserted by  
No. 47/2006  
s. 27(1),  
amended by  
No. 34/2011  
s. 94(1).

#### **228M Secretary not liable for giving accreditation**

No liability attaches to the Secretary for giving an accreditation to any passenger transport company or bus company or the Bus Association Victoria under this Division.

S. 228M  
inserted by  
No. 104/1997  
s. 37 (as  
amended by  
No. 45/1999  
s. 39(f)),  
amended by  
Nos 95/2005  
s. 27(1)(11),  
47/2006  
s. 27(2),  
34/2011  
s. 94(2).



## **228N Supervision of accredited companies**

- |   |   |
|---|---|
|   | <b>S. 228N</b><br>inserted by<br>No. 104/1997<br>s. 37 (as<br>amended by<br>No. 45/1999<br>ss 39(g)(h)<br>(i)(ii), 42). |
| (1) The Secretary may hold an inquiry for the purpose of determining whether proper cause exists for taking action against a passenger transport company or bus company or the Bus Association Victoria that is, or has been, an accredited company.    | <b>S. 228N(1)</b><br>amended by<br>Nos 95/2005<br>s. 27(1)(11),<br>47/2006<br>s. 28(1),<br>34/2011<br>s. 95(1).         |
| (2) There is proper cause for taking action against a passenger transport company or bus company or the Bus Association Victoria that is, or has been, an accredited company if—  | <b>S. 228N(2)</b><br>amended by<br>No. 95/2005<br>s. 27(1)(11).   |
| (a) the company has failed to maintain an effective and appropriate authorised officer management system; or  | <b>S. 228N(2)(a)</b><br>amended by<br>No. 101/2003<br>s. 22(2),<br>substituted by<br>No. 47/2006<br>s. 28(2).           |
| (aa) the company has failed to comply with section 228H; or   | <b>S. 228N(2)(aa)</b><br>inserted by<br>No. 47/2006<br>s. 28(2).  |
| (ab) the company does, or omits to do, anything that is in breach of a condition to which its accreditation is subject; or  |   |
| (b) the company obtained the accreditation improperly.  |   |
| (3) If, following an inquiry, the Secretary is satisfied that proper cause for taking action against the passenger transport company or bus company or the Bus Association Victoria exists, the Secretary has power to do one or more of the following— | <b>S. 228N(3)</b><br>amended by<br>Nos 95/2005<br>s. 27(1)(11),<br>47/2006<br>s. 28(3)(a),<br>34/2011<br>s. 95(2).      |
| (a) reprimand the company;  |   |

(b) if the company is accredited—

(i) warn the company that should further proper cause for taking action be found to exist, the company may be disqualified from holding an accreditation;

S. 228N  
(3)(b)(ii)  
amended by  
No. 47/2006  
s. 28(3)(b).

(ii) impose one or more new conditions on the accreditation (including conditions relating to the authorised officer management system of the company);

(iii) shorten the period for which the accreditation is to remain in force;

S. 228N  
(3)(b)(iv)  
amended by  
Nos 47/2006  
s. 28(3)(a),  
34/2011  
s. 95(2).

(iv) suspend the accreditation for a specified period or until a specified event or until a further determination made by the Secretary;

(v) cancel the accreditation immediately or with effect from a specified later date;

(c) disqualify the company from holding an accreditation—

(i) until a specified event; or

S. 228N  
(3)(c)(ii)  
amended by  
Nos 47/2006  
s. 28(3)(a),  
34/2011  
s. 95(2).

(ii) until a further determination made by the Secretary.

S. 228N(4)  
amended by  
Nos 47/2006  
s. 28(4),  
34/2011  
s. 95(1).

(4) The Secretary may exercise the powers conferred by this section in relation to conduct occurring before or after the commencement of section 37 of the **Rail Corporations (Amendment) Act 1997**.

- (5) If the Bus Association Victoria is, or was, given accreditation, a reference to a company in this section is to be read as including a reference to that Association.

S. 228N(5)  
inserted by  
No. 95/2005  
s. 27(1)(12).

## **228O Procedure and powers**

S. 228O  
inserted by  
No. 104/1997  
s. 37.

- (1) In exercising his or her powers under section 228N, the Secretary—
- (a) must act fairly and according to equity and good conscience without regard to technicalities or legal forms;
  - (b) is not required to conduct himself or herself in a formal manner;
  - (c) is not bound by rules or practice as to evidence but may inform himself or herself in relation to any matter in any manner that he or she thinks fit.
- (2) For the purpose of and in connection with any inquiry under section 228N, the Secretary has the powers conferred by sections 14, 15, 16, 20, 20A and 21A of the **Evidence (Miscellaneous Provisions) Act 1958**, as in force immediately before their repeal, on a board appointed by the Governor in Council and those sections apply as if the Secretary were the sole member of the board.
- (3) Subject to this Division and the regulations, the procedure of the Secretary on or in connection with an inquiry under section 228N is in his or her discretion.

S. 228O(1)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
40(a)), 34/2011  
s. 96(1).

S. 228O(2)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
40(b)), 69/2009  
s. 54(Sch. Pt 2  
item 53),  
34/2011  
s. 96(2),  
67/2014  
s. 147(Sch. 2  
item 38).

S. 228O(3)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
40(c)), 34/2011  
s. 96(1).

## **228P Immediate power of suspension**

S. 228P  
inserted by  
No. 104/1997  
s. 37 (as  
amended by  
No. 45/1999  
s. 39(i)).

S. 228P(1)  
amended by  
Nos 95/2005  
s. 27(1)(13),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
41(a)), 34/2011  
s. 97(1).

- (1) The Secretary may, subject to and in accordance with the regulations, without holding an inquiry under section 228N, immediately suspend an accreditation under this Division if the Secretary considers it necessary to do so in the interests of public safety.

S. 228P(2)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
41(b)), 34/2011  
s. 97(2).

- (2) A suspension under this section may be for a specified period or until a specified event or until a further determination made by the Secretary.

S. 228P(3)  
amended by  
Nos 95/2005  
s. 27(1)(14),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
41(c)), 34/2011  
s. 97(1).

- (3) A company or association whose accreditation has been suspended under this section may, by notice served on the Secretary, require the Secretary to hold an inquiry under section 228N.

S. 228P(4)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
41(d)), 34/2011  
s. 97(2).

- (4) The Secretary must commence an inquiry under section 228N within 7 days after the service on him or her of a notice under subsection (3).
- (5) If an inquiry is held under section 228N, a suspension under this section, if then still in effect, ceases to have effect on the completion of that inquiry.

- (6) Nothing in this section limits any power of the Secretary under section 228N.

S. 228P(6)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
41(e)), 34/2011  
s. 97(2).

**228Q Effect of suspension, cancellation or failure to renew**

- (1) A company or association whose accreditation is suspended is not accredited during the period of suspension.
- (2) If—
- (a) a person who is employed or engaged by a company or association is authorised under section 221AB to act as an authorised officer; and
  - (b) the accreditation of the company or association is suspended, cancelled or not renewed while that person is so employed or engaged—

S. 228Q  
inserted by  
No. 104/1997  
s. 37 (as  
amended by  
No. 45/1999  
s. 39(j)),  
amended by  
No. 95/2005  
s. 27(1)(14),  
substituted by  
No. 47/2006  
s. 29.

the person ceases to be authorised under section 221AB during the period of suspension or cancellation or until the accreditation is renewed.

- (3) Subsection (2) does not apply to a person who is authorised under section 221AB to act as an authorised officer if—
- (a) the person is employed or engaged by more than one company or association and at least one such company or association continues to be the holder of an accreditation under this Division; or
  - (b) the person is employed or engaged by another accredited company or association within 30 days following the day on which the accreditation of the company or association by whom he or she was

employed or engaged was suspended,  
cancelled or not renewed.

S. 228QA  
inserted by  
No. 49/2011  
s. 6.

#### **228QA Improvement notices**

- (1) This section applies if the Secretary believes on reasonable grounds—
  - (a) a passenger transport company is contravening a condition of accreditation; and
  - (b) the contravention is occurring, or has occurred, in circumstances that make it likely the contravention will continue or be repeated.
- (2) The Secretary may serve on the passenger transport company an improvement notice requiring the company to remedy the contravention or likely contravention, or the matters or activities causing the contravention or likely contravention, within the period of time specified in the notice.
- (3) An improvement notice must—
  - (a) state the basis for the Secretary's belief on which the service of the notice is based; and
  - (b) specify the condition or provision that the Secretary believes has been or is likely to be contravened; and
  - (c) specify a date (with or without time) by which the passenger transport company is required to remedy the contravention or likely contravention or the matters or activities causing the contravention or likely contravention that the Secretary considers reasonable having regard to the objective of accreditation and the nature of the contravention or likely contravention; and

- (d) set out the penalty for failing to comply with the notice; and
  - (e) include a statement of the effect of section 228QC (proceedings for offences not affected by improvement notices); and
  - (f) state that the notice is served under this section; and
  - (g) state how the passenger transport company may seek review of the service of the notice.
- (4) An improvement notice may include directions concerning the measures to be taken to remedy the contravention or likely contravention, or the matters or activities causing the contravention or likely contravention, to which the notice relates.
- (5) Without limiting subsection (4), an improvement notice may include—
- (a) a direction that, if the passenger transport company has not remedied the contravention, likely contravention, matters or activities (as the case may be) by the date and time (if any) specified in the notice, an activity to which the notice relates is to cease until the Secretary has certified in writing that the contravention or likely contravention has, or the matters or activities have, been remedied; and
  - (b) interim directions, or interim conditions, on the carrying out of any activities to which the notice relates that the Secretary considers necessary to promote the safety, comfort, amenity or convenience of persons using the services provided by the company.

- (6) A passenger transport company on whom an improvement notice is served must comply with the notice.

Penalty: 100 penalty units.

S. 228QB  
inserted by  
No. 49/2011  
s. 6.

#### **228QB Formal irregularities or defects in notice**

An improvement notice is not invalid merely because of—

- (a) a formal defect or irregularity in the notice unless the defect or irregularity causes or is likely to cause substantial injustice; or
- (b) a failure to use the correct name of the passenger transport company on whom the notice is served if the notice sufficiently identifies the company and is served in accordance with section 251.

S. 228QC  
inserted by  
No. 49/2011  
s. 6.

#### **228QC Proceedings for offences not affected by improvement notices**

The service of an improvement notice does not affect any proceedings for an offence against this Act or the regulations in connection with any matter in respect of which the notice was served.

S. 228R  
inserted by  
No. 104/1997  
s. 37 (as  
amended by  
Nos 101/1998  
s. 31, 45/1999  
s. 39(k)(i)(iii)  
(iv)).

#### **228R Tribunal reviews**

S. 228R(1)  
amended by  
Nos 95/2005  
s. 27(1)(14),  
47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 42),  
34/2011 s. 98.

- (1) A company or association may apply to the Tribunal for review of a decision of the Secretary under this Division in relation to—



- |   |  |
|---|--|
| (a) an application for accreditation or renewal of accreditation by that company or association;<br>or                | S. 228R(1)(a)<br>amended by<br>Nos 63/1999<br>s. 13(4),<br>95/2005<br>s. 27(1)(15)(a). |
| (ab) the service of an improvement notice for a contravention by that company of a condition of its accreditation; or | S. 228R(1)(ab)<br>inserted by<br>No. 49/2011<br>s. 7.                                  |
| (b) that company's or association's accreditation;<br>or  | S. 228R(1)(b)<br>amended by<br>No. 95/2005<br>s. 27(1)(15)(b).                         |
| (c) that company or association.  | S. 228R(1)(c)<br>amended by<br>No. 95/2005<br>s. 27(1)(15)(a).                         |
- (2) An application for review must be made within 28 days after the later of—
- |  |   |
|--|---|
| (a) the day on which the decision is made;   |   |
| (b) if, under the <b>Victorian Civil and Administrative Tribunal Act 1998</b> , the company or association requests a statement of reasons for the decision, the day on which the statement of reasons is given to the company or association or it is informed under section 46(5) of that Act that a statement of reasons will not be given. | S. 228R(2)(b)<br>amended by<br>No. 95/2005<br>s. 27(1)(16). |

Pt 7  
Div. 4ABA  
(Heading and  
ss 228RA–  
228RZI)  
inserted by  
No. 35/2014  
s. 37.

## **Division 4ABA—Enforcement of commercial passenger vehicle laws**

### **Subdivision 1—Interpretation**

S. 228RA  
inserted by  
No. 35/2014  
s. 37.

#### **228RA Definitions**

In this Division—

*accredited person* means—

- (a) a person who holds an accreditation under Division 4 of Part VI; or

#### **Example**

An accredited operator of a taxi-cab or an accredited taxi-cab network service provider.

- (b) a person who holds a driver accreditation;

*civil penalty provision* means section 144E;

*commercial passenger vehicle* has the same meaning as in Part VI;

*commercial passenger vehicle law* means—

- (a) Part VI or regulations made under or for the purposes of that Part; or
- (b) section 216; or
- (c) this Division or regulations made under or for the purposes of this Division; or
- (d) section 81, 82, 83 or 83A of the **Crimes Act 1958** but only in respect of conduct that constitutes or could constitute a contravention of any those sections and that arises out of—
  - (i) the hiring out of a taxi-cab; or

- (ii) the processing of, or failure to process, payments for a taxi-cab fare; or
- (iii) the making of, or failing to make, a payment under a driver agreement; or
- (iv) the imposition of a taxi non-cash payment surcharge;

***commercial passenger vehicle premises*** means a building or facility used in connection with the provision of—

- (a) commercial passenger vehicle services; or
- (b) taxi-cab network services; or
- (c) non-cash payment processing services—

but does not include residential premises;

***compliance and investigative purposes*** means purposes related to ascertaining whether a commercial passenger vehicle law has been or is being complied with, including whether—

- (a) an offence has been committed against a provision of a commercial passenger vehicle law; or
- (b) a civil penalty provision has been breached;

***driver accreditation*** means an accreditation under Division 6 of Part VI;

***driver agreement*** has the meaning given by section 162J;

*information* has the same meaning as in the  
**Electronic Transactions (Victoria)  
Act 2000;**

*non-cash payment processing device* means a  
device—

- (a) used, or intended to be used, to process  
a taxi non-cash payment transaction; or
- (b) that enables a taxi non-cash payment  
transaction to be processed;

**Examples**

EFTPOS machine, smartphone, computer tablet.

*non-cash payment processing service* means a  
service that facilitates the processing of a  
taxi non-cash payment transaction but does  
not include a service relating to a fee or  
charge imposed in respect of the use of a  
credit card, charge card or debit card  
levied—

- (a) in compliance with a standard in force  
under section 18 of the Payment  
Systems (Regulation) Act 1998 of the  
Commonwealth by a participant in a  
designated payment processing system  
within the meaning of that Act in their  
capacity as participant in such a system;  
or
- (b) by a person who acts consistently with  
a voluntary undertaking given by the  
person to, and accepted by, the Reserve  
Bank of Australia;

*operate*, in relation to a commercial passenger  
vehicle (other than a taxi-cab), means carry  
passengers for hire or reward;

*operator*, in relation to a taxi-cab, has the same  
meaning as in Part VI;

***retention period***, in relation to a thing seized under this Division, means a period of 90 days after the seizure of the thing;

***specified person*** has the meaning given by section 228RB;

***taxi-cab*** has the same meaning as in Part VI;

***taxi-cab network service*** has the same meaning as in Division 4 of Part VI;

***taxi-cab network service provider*** means a person who provides a taxi-cab network service;

***taxi non-cash payment surcharge*** has the same meaning as in Part VI;

***taxi non-cash payment transaction*** has the same meaning as in Part VI;

***taxi compliance officer*** means a person appointed under section 228RC;

***TSC Commissioner*** means a *Commissioner* within the meaning of section 115A of the **Transport Integration Act 2010**.

**228RB Meaning of *specified person***

- (1) A ***specified person*** is a person who is—
  - (a) an accredited person; or
  - (b) a holder of a commercial passenger vehicle licence (within the meaning of Part VI).
- (2) A ***specified person*** includes a person who the TSC, or a taxi compliance officer, believes, on reasonable grounds, may be able to provide information, documents or assistance to the TSC or the officer for compliance and investigative purposes.

S. 228RB  
inserted by  
No. 35/2014  
s. 37.

## **Subdivision 2—Taxi compliance officers**

**S. 228RC**  
inserted by  
**No. 35/2014**  
**s. 37.**

### **228RC Appointment**

- (1) The TSC, by instrument, may appoint as a taxi compliance officer any person who is suitably qualified or trained to exercise the powers of a taxi compliance officer under a commercial passenger vehicle law.
- (2) An appointment under this section is for a term, and subject to the conditions, specified in the instrument.
- (3) Without limiting the conditions to which the appointment of a taxi compliance officer may be subject, a condition may specify one or more of the following—
  - (a) the functions and powers under a commercial passenger vehicle law that may not be performed and exercised by the taxi compliance officer;
  - (b) the only functions and powers under a commercial passenger vehicle law that may be performed and exercised by the taxi compliance officer;
  - (c) the circumstances or manner in which a function or power under a commercial passenger vehicle law may be performed or exercised by the taxi compliance officer.
- (4) To avoid doubt, a taxi compliance officer is an officer of the State.

**S. 228RD**  
inserted by  
**No. 35/2014**  
**s. 37.**

### **228RD Identity cards**

- (1) The TSC must issue an identity card to a taxi compliance officer appointed under section 228RC.

(2) An identity card must—

- (a) state the taxi compliance officer's name and their appointment as a taxi compliance officer; and
- (b) contain a photograph of the taxi compliance officer; and
- (c) include any other matter that is prescribed.

**228RE Return of identity cards**

If a person to whom an identity card has been issued ceases to be a taxi compliance officer, the person must return the identity card to the TSC as soon as practicable.

Penalty: 10 penalty units.

S. 228RE  
inserted by  
No. 35/2014  
s. 37.

**228RF Production of identity card**

- (1) A taxi compliance officer must produce his or her identity card for inspection—
  - (a) before exercising a power under a commercial passenger vehicle law; or
  - (b) if asked to do so by any person at any time during the exercise of a power under a commercial passenger vehicle law.
- (2) However, a taxi compliance officer need not produce his or her identity card when asked to do so if—
  - (a) the officer reasonably believes that the production of his or her identity card would—
    - (i) affect the safety or welfare of any person; or
    - (ii) frustrate the effective exercise of a power under a commercial passenger vehicle law; or

S. 228RF  
inserted by  
No. 35/2014  
s. 37.

(b) the request to produce his or her identity card is made by a person to whom the officer has already produced that identity card on the same day before exercising a power under a commercial passenger vehicle law.

(3) Any action taken or thing done by a taxi compliance officer under a commercial passenger vehicle law is not invalidated by his or her failure to produce his or her identity card.

S. 228RG  
inserted by  
No. 35/2014  
s. 37.

#### **228RG Taxi compliance officers subject to TSC's direction**

- (1) The TSC may give a direction to a taxi compliance officer in relation to that officer's performance or exercise of a function or power under a commercial passenger vehicle law.
- (2) A direction under subsection (1) may be of a general nature or may relate to a specified matter or class of matter.

S. 228RH  
inserted by  
No. 35/2014  
s. 37.

#### **228RH Offence to impersonate a taxi compliance officer**

A person who is not a taxi compliance officer must not, in any way, hold himself or herself out to be a taxi compliance officer.

Penalty: 60 penalty units.

### **Subdivision 3—Powers of entry**

S. 228RI  
inserted by  
No. 35/2014  
s. 37.

#### **228RI Power of entry**

- (1) A taxi compliance officer may—
- (a) enter, without consent, for a restricted purpose—
- (i) any commercial passenger vehicle that is not at commercial passenger vehicle premises or residential premises if the operator or driver of the vehicle is present; or



- (ii) any commercial passenger vehicle premises, at any time during which commercial passenger vehicle operations or other related activities are being carried out or are usually carried out at the premises; or
    - (iii) any commercial passenger vehicle at commercial passenger vehicle premises, at any time during which commercial passenger vehicle operations or other related activities are being carried out or are usually carried out at the premises; or
  - (b) for compliance and investigative purposes, enter any commercial passenger vehicle premises at any time if the person with control or management of the premises, or the occupier of the premises, consents to the entry of those premises; or
  - (c) for compliance and investigative purposes, enter any commercial passenger vehicle at any time if the operator or driver of the vehicle consents to the entry.
- (2) A taxi compliance officer may also enter any commercial passenger vehicle premises or commercial passenger vehicle if the entry is authorised by a search warrant.
- (3) For the purposes of subsection (1), a ***restricted purpose*** is a purpose related to ascertaining whether a commercial passenger vehicle law has been or is being complied with, including whether an offence has been committed against a provision of a commercial passenger vehicle law or whether a civil penalty provision has been breached, but only in relation to—

- (a) a commercial passenger vehicle or equipment on or in, or that is ordinarily on or in, a commercial passenger vehicle; or

**Examples**

Examples of equipment on or in, or that are ordinarily on or in, a commercial passenger vehicle are a security camera, an emergency warning device, a driver protection screen and a taximeter.

- (b) payments made or due under a driver agreement if the taxi compliance officer believes on reasonable grounds that it is necessary to do so in order to prevent the concealment, loss or destruction of evidence of a breach of the conditions of a driver agreement; or
- (c) payments and fees and charges for the hiring of a taxi-cab, but only if the taxi compliance officer believes on reasonable grounds that it is necessary to do so to prevent the concealment, loss or destruction of evidence of non-compliance with a commercial passenger vehicle law.

S. 228RJ  
inserted by  
No. 35/2014  
s. 37.

**228RJ Requirements applying to entry when persons not present**

- (1) This section applies if a taxi compliance officer enters commercial passenger vehicle premises or a commercial passenger vehicle at commercial passenger vehicle premises under section 228RI(1)(a)(ii) or (iii) without the person with control or management of commercial passenger vehicle premises, or the occupier of the premises, being present.
- (2) The taxi compliance officer must, on leaving the commercial passenger vehicle or commercial passenger vehicle premises, leave a notice setting out—

- (a) the time of entry; and
  - (b) the purpose of entry; and
  - (c) a description of things done while in the vehicle or on the premises; and
  - (d) the time of departure; and
  - (e) the procedure for contacting the TSC for further details of the entry.
- (3) This section does not apply to entry into a commercial passenger vehicle or onto commercial passenger vehicle premises by a taxi officer authorised by a search warrant.

**228RK Notification of entry without prior notice to any person**

S. 228RK  
inserted by  
No. 35/2014  
s. 37.

- (1) This section applies if a taxi compliance officer—
- (a) enters a commercial passenger vehicle under section 228RI(1)(a)(i) without giving prior notice to the operator or driver of the vehicle; or
  - (b) enters commercial passenger vehicle premises or a commercial passenger vehicle at commercial passenger vehicle premises under section 228RI(1)(a)(ii) or (iii) without giving prior notice to the person with control or management of commercial passenger vehicle premises or the occupier of the premises.
- (2) A taxi compliance officer must, as soon as practicable after entering the commercial passenger vehicle, take all reasonable steps to notify the operator and driver of the vehicle of that officer's entry.
- (3) The taxi compliance officer must, as soon as practicable after entry onto commercial passenger vehicle premises, take all reasonable steps to

notify the person with control or management of the premises, or the occupier of the premises, of that officer's entry.

S. 228RL  
inserted by  
No. 35/2014  
s. 37.

## **228RL Procedure for entry with consent**

- (1) This section applies if—
  - (a) a taxi compliance officer intends to ask a person with control or management of commercial passenger vehicle premises, or the occupier of the premises, to consent to that officer entering the premises in accordance with section 228RI(1)(b); or
  - (b) a taxi compliance officer intends to ask the operator or driver of a commercial passenger vehicle to consent to that officer entering the vehicle in accordance with section 228RI(1)(c).
- (2) Before asking for the consent, the officer must inform the person—
  - (a) of the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the officer may ask the person to sign an acknowledgment of the consent.
- (4) The acknowledgment must state—
  - (a) that the person has been informed—
    - (i) of the purpose of the entry; and
    - (ii) that the person is not required to consent; and
  - (b) the purpose of the entry; and
  - (c) that the person gives the officer consent to enter the place or vehicle and exercise powers under this Division; and
  - (d) the time and date the consent was given.

- (5) If the person signs the acknowledgment, the taxi compliance officer must immediately give a copy to the person.
- (6) If, in any proceeding, an acknowledgment of the consent is not produced to the court, it must be presumed, until the contrary is proved, that no person consented to the entry by a taxi compliance officer and the exercise of powers by that officer under this Division.

#### **Subdivision 4—Inspection, inquiry, search and seizure powers**

##### **228RM General inspection, inquiry and search powers**

**S. 228RM  
inserted by  
No. 35/2014  
s. 37.**

- (1) A taxi compliance officer who enters or proposes to enter a commercial passenger vehicle or enters commercial passenger vehicle premises under this Division may, for the purpose for which entry is effected, do any of the following—
  - (a) search and inspect—
    - (i) the premises; or
    - (ii) the vehicle; or
    - (iii) a non-cash payment processing device;
  - (b) make copies, tests or sketches in connection with any inspection or inquiry;
  - (c) take photographs or film, videotape or otherwise record images or record sound in connection with any inspection or inquiry;
  - (d) search for and inspect relevant documents;
  - (e) require a person at the commercial passenger vehicle premises to produce to the officer any relevant documents in the person's custody or under the person's control;

- (f) make copies of, or take extracts from, any document kept at the commercial passenger vehicle premises;
  - (g) require the following persons to give the officer reasonable help to exercise the officer's powers under paragraphs (a) to (f) or (h)—
    - (i) a person at the commercial passenger vehicle premises;
    - (ii) the operator or driver of a commercial passenger vehicle;
  - (h) exercise any other power conferred on the officer by this Act.
- (2) In doing any thing referred to in subsection (1), a taxi compliance officer may be assisted by any person.
- (3) A film, photograph, videotape or image taken under subsection (1)(c) of a commercial passenger vehicle, or of any part of a commercial passenger vehicle, is not inadmissible as evidence by reason only of the fact that it includes the likeness of one or more of the commercial passenger vehicle's passengers if the capturing of that likeness does not appear to have been the main reason for the taking of the film, photograph, videotape or image.
- (4) A person required to give reasonable help under subsection (1)(g) must not, without reasonable excuse, fail to comply with the requirement.

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

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

(5) In this section—

*reasonable help* includes—

- (a) assistance to enable the taxi compliance officer to find and gain access to—
  - (i) electronically stored material and information at the commercial passenger vehicle premises or on or in the commercial passenger vehicle; or
  - (ii) equipment that is on or in, or that is ordinarily on or in, a commercial passenger vehicle; and
- (b) running the engine of a commercial passenger vehicle; and
- (c) operate equipment on or in a commercial passenger vehicle; and
- (d) operate a non-cash payment processing device.

### **Subdivision 5—Search warrants**

#### **228RN Search warrant**

- (1) A taxi compliance officer may apply to a magistrate for the issue of a search warrant for a place, commercial passenger vehicle or non-cash payment processing device if the taxi compliance officer believes on reasonable grounds that there is, or may be within the next 72 hours, in the place, or in or on the vehicle or device, evidence of—
  - (a) the commission of an offence against a commercial passenger vehicle law; or
  - (b) a breach of a civil penalty provision.

**S. 228RN  
inserted by  
No. 35/2014  
s. 37.**

- (2) If a magistrate is satisfied that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, in a place, or in or on a commercial passenger vehicle or non-cash payment processing device, evidence of the commission of an offence against commercial passenger vehicle law or a breach of a civil penalty provision, the magistrate may issue a search warrant authorising a taxi compliance officer named in the warrant and any assistants the taxi compliance officer considers necessary—
- (a) to enter the place named or described in the warrant; or
  - (b) to inspect a commercial passenger vehicle or non-cash payment processing device named or described in the warrant; or
  - (c) to search for and seize any thing named or described in the warrant.
- (3) In addition to any other requirement, a search warrant issued under this section must—
- (a) state the offence or civil penalty breach suspected; and
  - (b) state the name or describe the place to be searched or commercial passenger vehicle or non-cash payment processing device to be inspected; and
  - (c) include a description of the thing or information for which the search is to be made; and
  - (d) state any conditions to which the warrant is subject; and
  - (e) state whether entry is authorised to be made at any time or during stated hours; and



- (f) state a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.
- (4) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the form set out in the regulations under that Act.
- (5) Despite section 78 of the **Magistrates' Court Act 1989**, a search warrant must not authorise a taxi compliance officer to arrest a person.
- (6) Subject to any provision to the contrary in this Division, the rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

**228RO Seizure of things not mentioned in the warrant**

S. 228RO  
inserted by  
No. 35/2014  
s. 37.

A search warrant authorises the taxi compliance officer executing the warrant, in addition to the seizure of any thing of the kind described in the warrant, to seize any thing which is not of the kind described in the warrant if—

- (a) the taxi compliance officer believes, on reasonable grounds, that the thing will afford evidence about—
  - (i) the commission of an offence against a commercial passenger vehicle law; or
  - (ii) the breach of a civil penalty provision; and
- (b) in the case of seizure, the taxi compliance officer believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent—
  - (i) its concealment, loss or destruction; or

- (ii) its use in the commission of an offence against a commercial passenger vehicle law or breach of a civil penalty provision.

**Note**

A thing would include a document which is defined in the **Interpretation of Legislation Act 1984**.

S. 228RP  
inserted by  
No. 35/2014  
s. 37.

**228RP Announcement before entry**

- (1) Before executing a search warrant, the taxi compliance officer named in the warrant or a person assisting the taxi compliance officer must—
  - (a) announce that he or she is authorised by the warrant to enter the place or commercial passenger vehicle named or described in the warrant; and
  - (b) give any person at the place or in control of the vehicle an opportunity to allow entry to the place or into the vehicle.
- (2) The taxi compliance officer or a person assisting the taxi compliance officer need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the place or into the vehicle is required to ensure—
  - (a) the safety of any person; or
  - (b) that the effective execution of the search warrant is not frustrated.

S. 228RQ  
inserted by  
No. 35/2014  
s. 37.

**228RQ Copy of warrant to be given to occupier**

- (1) This section applies if—
  - (a) the occupier or another person who apparently represents the occupier is present at any place to which a search warrant applies when the warrant is being executed; or

- (b) the operator or driver of a commercial passenger vehicle to which a search warrant applies is present when the warrant is being executed.
- (2) The taxi compliance officer must—
  - (a) identify himself or herself to that person by producing his or her identity card for inspection by that person; and
  - (b) give to that person a copy of the execution copy of the warrant.

### **Subdivision 6—Ancillary investigatory powers**

#### **228RR Use or seizure of electronic equipment**

- (1) If—
  - (a) a thing found at any commercial passenger vehicle premises or other place or on or in a commercial passenger vehicle is or includes a disk, tape or other device for the storage, receipt, generation, transmission or retrieval of information or is a non-cash payment processing device (the *applicable device*); and
  - (b) equipment at the commercial passenger vehicle premises or place or on or in the vehicle may be used with the applicable device; and
  - (c) a taxi compliance officer believes on reasonable grounds that the information stored on the applicable device is relevant to determine whether a relevant breach has occurred—

the taxi compliance officer, or a person assisting the taxi compliance officer, may operate, or may require the occupier or an employee of the occupier of the premises or place or the operator

S. 228RR  
inserted by  
No. 35/2014  
s. 37.

or driver of the vehicle to operate, the equipment to access the information.

- (2) If the taxi compliance officer, or a person assisting the taxi compliance officer, finds that an applicable device at the commercial passenger vehicle premises or place or in the commercial passenger vehicle contains information, or has sent, transmitted or generated information, of the kind referred to in subsection (1)(c), he or she may—
  - (a) put the information in documentary form and seize the documents so produced; or
  - (b) copy the information to another disk, tape or storage device and remove that disk, tape or storage device from the commercial passenger vehicle premises or place or vehicle; or
  - (c) if it is not practicable to put the information in documentary form nor to copy the information, seize either or both of the following—
    - (i) the applicable device;
    - (ii) the equipment (if any) that enables the information to be accessed.
- (3) A taxi compliance officer, or a person assisting a taxi compliance officer, must not operate or seize equipment for the purpose mentioned in this section unless the taxi compliance officer or person assisting believes on reasonable grounds that the operation or seizure of the equipment can be carried out without damage to the equipment.

(4) In this section—

***relevant breach*** means—

- (a) the commission of an offence against a commercial passenger vehicle law; or
- (b) a breach of a civil penalty provision; or
- (c) a breach of the conditions or restrictions of an accreditation of an accredited person; or
- (d) a breach of a condition of a licence to operate a commercial passenger vehicle.

**228RS Use of equipment to examine or process things**

S. 228RS  
inserted by  
No. 35/2014  
s. 37.

- (1) Without limiting section 228RM, a taxi compliance officer exercising a power under this Division may bring to, onto, or into commercial passenger vehicle premises or a place, or to a commercial passenger vehicle, any equipment reasonably necessary for the examination or processing of things found at the premises or place or on or in the vehicle in order to determine whether they are things that may be seized.
- (2) The taxi compliance officer, or a person assisting the officer, may operate equipment already at commercial passenger vehicle premises or a place or on or in a commercial passenger vehicle to carry out the examination or processing of a thing found in or at the premises or place to determine whether it is a thing that may be seized, if the officer or person assisting believes on reasonable grounds that—
  - (a) the equipment is suitable for the examination or the processing; and
  - (b) the examination or processing can be carried out without damage to the equipment.

## Subdivision 7—Seized things

S. 228RT  
inserted by  
No. 35/2014  
s. 37.

### 228RT Receipt for seized things

- (1) If a taxi compliance officer seizes a thing at a place or from a commercial passenger vehicle under this Division, the officer must give a receipt for the thing to the person in charge of the thing at the place or vehicle from which it was taken.
- (2) A receipt must—
  - (a) identify the thing seized; and
  - (b) state the name of the taxi compliance officer who seized the thing and the reason why the thing was seized.
- (3) If for any reason it is not practicable for a taxi compliance officer to comply with subsection (1), the taxi compliance officer may—
  - (a) leave the receipt at the place, or affix the receipt on the commercial passenger vehicle, in a conspicuous position and in a reasonably secure way; or
  - (b) send the receipt, by post, to the person in charge of the place or commercial passenger vehicle from where the thing was seized.
- (4) In this section—

***person in charge*** means—

  - (a) in relation to a place, the occupier or another person who apparently represents the occupier who is present at the place;
  - (b) in relation to a commercial passenger vehicle, the operator or driver of the vehicle.

**228RU Copies of certain seized things to be given**

S. 228RU  
inserted by  
No. 35/2014  
s. 37.

- (1) If, under this Division, a taxi compliance officer seizes—
  - (a) a document; or
  - (b) a thing that can be readily copied; or
  - (c) a storage device containing information that can be readily copied—the taxi compliance officer must give a copy of the document, thing or information to the owner or custodian of the document, thing or device as soon as practicable after the seizure.
- (2) Subsection (1) does not apply if the taxi compliance officer is unable to discover the identity of the owner or custodian of any document, thing or device seized.

**228RV Return of seized things**

S. 228RV  
inserted by  
No. 35/2014  
s. 37.

- (1) If a taxi compliance officer seizes a thing under this Division, the taxi compliance officer must take reasonable steps to return the thing to the person from whom it was seized if the reason for its seizure no longer exists.
- (2) If the thing has not been returned before the end of the retention period, the taxi compliance officer must take reasonable steps to return it unless—
  - (a) proceedings have commenced within the retention period and those proceedings (including any appeal) have not been completed; or
  - (b) the Magistrates' Court makes an order under section 228RW extending the retention period; or
  - (c) the thing has been forfeited to the State under section 228RX.

S. 228RW  
inserted by  
No. 35/2014  
s. 37.

### **228RW Magistrates' Court may extend period**

- (1) A taxi compliance officer may apply to the Magistrates' Court in respect of a thing seized from a place or a commercial passenger vehicle under this Division within the retention period or within a period extended by the Court under this section for an extension of that period.
- (2) The Magistrates' Court may order such an extension if satisfied that retention of the thing is necessary—
  - (a) for the purposes of an investigation into whether an offence has been committed against a commercial passenger vehicle law or a breach of a civil penalty provision has occurred; or
  - (b) to enable evidence of an offence against a commercial passenger vehicle law to be obtained for the purposes of a prosecution.
- (3) The Court may adjourn an application to enable notice of the application to be given to any person.

S. 228RX  
inserted by  
No. 35/2014  
s. 37.

### **228RX Forfeiture of seized thing**

- (1) Any thing that a taxi compliance officer has seized and retained under this Division is forfeited to the State if the taxi compliance officer—
  - (a) cannot find the thing's owner despite making reasonable enquiries; or
  - (b) cannot return the thing to the owner despite making reasonable efforts; or
  - (c) considers it necessary to retain the thing to prevent the commission of an offence against a commercial passenger vehicle law or a breach of a civil penalty provision.



- (2) If a thing is forfeited to the State under subsection (1)(c), the taxi compliance officer must notify (in writing) the owner accordingly, setting out how the owner may seek review of the decision to forfeit the thing, unless the taxi compliance officer cannot find the owner despite making reasonable enquiries.

### **Subdivision 8—Directions**

#### **228RY Power to require production of information or documents and related items**

S. 228RY  
inserted by  
No. 35/2014  
s. 37.

- (1) A TSC Commissioner or taxi compliance officer may, for compliance and investigative purposes, direct a specified person or a provider of a non-cash payment processing service to provide to him or her—
- (a) any information or document required to be kept under a commercial passenger vehicle law; or
  - (b) any information or document, device (including a non-cash payment processing device) or other thing in the person's possession or control relating to—
    - (i) taxi operations; or
    - (ii) the provision of taxi-cab network services; or
    - (iii) the provision of a non-cash payment processing service; or
    - (iv) a taxi non-cash payment surcharge.
- (2) The direction must state where, to whom and how the information, document, device or other thing is to be produced.

- (3) Without limiting subsection (2), a direction may—
- (a) specify a period to which it applies; or
  - (b) require that a document produced is a copy of the original; or
  - (c) require that a document that is produced in electronic form is accompanied by sufficient information to enable the TSC Commissioner or taxi compliance officer to access the document.
- (4) In giving a direction, the TSC Commissioner or taxi compliance officer may specify particular information or a particular document, device, or other thing, or particular class of information or document, device or other thing.
- (5) The TSC Commissioner or taxi compliance officer may do any or all of the following—
- (a) inspect any document, device or other thing that is produced;
  - (b) copy or put into printable form any document or copy any device or other thing that is produced;
  - (c) seize and remove any document, device or other thing that is produced that the TSC Commissioner or taxi compliance officer believes on reasonable grounds provides, or may on further inspection provide, evidence of a contravention of a commercial passenger vehicle law or breach of a civil penalty provision.

S. 228RY(5)(a)  
amended by  
No. 21/2015  
s. 3(Sch. 1  
item 55.3).

- (6) A person must not refuse or fail to comply with a direction under subsection (1) unless the person has a reasonable excuse.

Penalty: In the case of a natural person,  
60 penalty units;  
In the case of a body corporate,  
300 penalty units.

**228RZ Manner in which directions under section 228RY may be given**

S. 228RZ  
inserted by  
No. 35/2014  
s. 37.

- (1) A TSC Commissioner or taxi compliance officer may give a direction under section 228RY orally or in writing.
- (2) If giving a direction orally, the TSC Commissioner or taxi compliance officer giving the direction—
- (a) must state whether it is to be complied with immediately or within a specified period; and
  - (b) must warn the person to whom the direction is given that it is an offence under section 228RY(6) to fail to comply with a direction.
- (3) If giving a direction in writing, the TSC Commissioner or taxi compliance officer must ensure that the direction—
- (a) states the period within which it is to be complied with; and
  - (b) states that it is an offence under section 228RY(6) to fail to comply with a direction.
- (4) A written direction may be given to, or sent by post to, the person to whom it is directed.

## **Subdivision 9—Miscellaneous provisions relating to enforcement powers**

S. 228RZA  
inserted by  
No. 35/2014  
s. 37.

### **228RZA Use of force**

A power conferred by this Division to enter a place or a commercial passenger vehicle, or to do anything at any place or in any commercial passenger vehicle, may not be exercised unless the taxi compliance officer proposing to exercise the power uses no more force than is reasonably necessary to effect the entry or do the thing for which entry is effected.

S. 228RZB  
inserted by  
No. 35/2014  
s. 37.

### **228RZB Manner in which taxi compliance officers must exercise powers**

In exercising powers under this Division, a taxi compliance officer must—

- (a) cause as little inconvenience as possible; and
- (b) not remain at any place or in any commercial passenger vehicle longer than is reasonably necessary.

S. 228RZC  
inserted by  
No. 35/2014  
s. 37.

### **228RZC Compensation for damage caused during exercise of powers under this Division**

- (1) The TSC must pay compensation for any damage caused by a taxi compliance officer, or a person assisting a taxi compliance officer, in exercising (or purporting to exercise) any power conferred by this Division.
- (2) However, the TSC is not liable to pay compensation to a person for any damage caused during any inspection or search conducted under Subdivision 4, or under a search warrant executed in accordance with Subdivision 5, if—

- (a) the thing that was the object of the inspection or search is found and that thing provides evidence of—
    - (i) the commission of an offence against a commercial passenger vehicle law; or
    - (ii) a breach of a civil penalty provision; or
    - (iii) non-compliance with a commercial passenger vehicle law; and
  - (b) the damage caused was no more than was reasonably necessary in inspecting, or searching for, the thing.
- (3) In determining the amount of compensation payable in relation to any damage caused to electronic equipment, regard is to be had to whether the occupier of the place and the employees and agents of the occupier, if they were available at the time, or operator or driver of the commercial passenger vehicle, had provided any warning or guidance as to the operation of the equipment that was appropriate in the circumstances.

**228RZD Abrogation of privilege against self-incrimination**

S. 228RZD  
inserted by  
No. 35/2014  
s. 37.

- (1) A person is not excused from complying with a direction given under this Division on the ground that complying with the direction may result in information being provided that—
  - (a) might incriminate the person; or
  - (b) may make the person liable to a penalty.
- (2) Relevant information—
  - (a) is not admissible in evidence against the person in a criminal proceeding or a proceeding for the imposition of a civil penalty other than in a proceeding in respect of the provision of false information; or

- (b) must not be used in any action, proceeding or process that may make the person liable to a penalty.
- (3) In subsection (2) ***relevant information*** means—
  - (a) information obtained from a natural person under a direction given under this Division; and
  - (b) any information, document or thing obtained as a direct result or indirect consequence of information disclosed or provided by a natural person under paragraph (a).
- (4) Despite subsection (2), any information obtained from a person under this Division that is contained in any document or item that the person is required to keep under a commercial passenger vehicle law—
  - (a) is admissible in evidence against the person in—
    - (i) a criminal proceeding; or
    - (ii) a proceeding for the imposition of a civil penalty; or
  - (b) may be used in any action, proceeding or process that may make a person liable to a penalty.

S. 228RZE  
inserted by  
No. 35/2014  
s. 37.

**228RZE**

**Legal professional privilege not abrogated**

Nothing in this Division requires a person to produce a document that would disclose information or otherwise provide information that is the subject of legal professional privilege.

---

## Subdivision 10—Review of decisions

### 228RZF Reviewable decisions

S. 228RZF  
inserted by  
No. 35/2014  
s. 37.

- (1) The following Table sets out—
- (a) decisions made under this Division that are reviewable in accordance with this Subdivision (*reviewable decisions*); and
  - (b) who is eligible to apply for review of a reviewable decision (the *eligible person* in relation to the reviewable decision).
- (2) To avoid doubt, sections 4 and 5 of the **Victorian Civil and Administrative Tribunal Act 1998** apply for the purposes of this Division.

#### Note

Under section 4 of that Act, a person makes a decision if the person refuses to make a decision or an instrument, imposes a condition or restriction or does or refuses to do any other act or thing. Section 5 of that Act sets out when a person's interests are affected by a decision.

**Table**

<i>Item</i>	<i>Provision under which reviewable decision is made</i>	<i>Eligible person in relation to reviewable decision</i>
1	Section 228RX (forfeiture of seized things)	The owner of the thing forfeited.

### 228RZG Review by TSC

S. 228RZG  
inserted by  
No. 35/2014  
s. 37.

- (1) An eligible person—
- (a) in relation to a reviewable decision made by a taxi compliance officer may, within 28 days after the decision was made, apply to the TSC for a review of the decision; and

- (b) in relation to a reviewable decision, other than a decision made by a taxi compliance officer, may apply to the TSC for review of the decision within—
    - (i) 28 days after the day on which the decision first came to the eligible person's notice; or
    - (ii) such longer period as the TSC allows.
- (2) The application must be in the form approved (in writing) by the TSC.
- (3) If an application is made to the TSC in accordance with this section, the TSC must make a decision—
  - (a) to affirm or vary the reviewable decision; or
  - (b) to set aside the reviewable decision and substitute another decision that the TSC considers appropriate.
- (4) The TSC must give a written notice to the applicant setting out—
  - (a) the TSC's decision under subsection (3) and the reasons for the decision; and
  - (b) the findings on material questions of fact that led to the decision, referring to the evidence or other material on which those findings were based—and must do so within 28 days after the application is made.
- (5) If the TSC has not notified an applicant of a decision in accordance with subsection (4), the TSC is taken to have made a decision to affirm the reviewable decision.



- (6) An application under this section does not affect the operation of the reviewable decision or prevent the taking of any action to implement it unless the TSC, on its own initiative or on the application of the applicant for review, stays the operation of the decision pending the determination of the review.
- (7) The TSC must make a decision on an application for a stay within 24 hours after the making of the application.
- (8) If the TSC has not made a decision in accordance with subsection (7), the TSC is taken to have made a decision to grant a stay.
- (9) The TSC may attach any conditions to a stay of the operation of a reviewable decision that it considers appropriate.

**228RZH      Review by VCAT**

**S. 228RZH  
inserted by  
No. 35/2014  
s. 37.**

- (1) A person may apply to VCAT for review of a reviewable decision made by the TSC if the person is an eligible person in relation to the reviewable decision.
- (2) The application for review must be lodged with the Tribunal within 28 days after—
  - (a) notice of the decision was given; or
  - (b) if, under section 45 of the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision—the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

## **Subdivision 11—Regulations**

**S. 228RZI**  
inserted by  
**No. 35/2014**  
s. 37.

### **228RZI**

#### **Regulations**

- (1) The Governor in Council may make regulations for or with respect to—
  - (a) requiring persons who provide non-cash payment processing services to keep—
    - (i) records of or in relation to taxi non-cash payment surcharges levied by the persons; and
    - (ii) records of or in relation to the operation and programming of non-cash payment processing devices; and
    - (iii) records relating to the retention and storage of information, data and electronic communications relating to taxi non-cash payment surcharges; and
    - (iv) records of or in relation to the structure of, setting of, receipt of, and commercial arrangements supporting, taxi non-cash payment surcharges; and
  - (b) any other matter or thing required or permitted by this Division to be prescribed or necessary to be prescribed to give effect to this Division.
- (2) Regulations made under this section—
  - (a) may be of general or limited application; and
  - (b) may differ according to differences in time, place or circumstance; and
  - (c) may prescribe penalties of not more than 20 penalty units for any contravention of the regulations; and

- (d) may confer a power or discretionary authority on a person or a class of person; and
- (e) may apply, adopt or incorporate (with or without modification) any matter contained in a document as in force at the time the regulations are made or at any time before then; and
- (f) may provide for the exemption of a specified person or thing or a specified class of person or thing from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VII—Prosecutions, enforcement and penalties and other matters

Pt 7 Div. 4B  
(Heading and  
ss 228S–  
228ZZS)  
inserted by  
No. 9/2006  
s. 125 (as  
amended by  
No. 47/2006  
ss 46–49,  
53(2)),  
amended by  
Nos 69/2007  
ss 25–36,  
40(6), 13/2009  
ss 96–100 (as  
amended by  
Nos 6/2010  
s. 203(1)(Sch.  
6 item 4.5),  
19/2010 s. 65),  
45/2009 ss 14,  
15, 68/2009  
s. 97(Sch.  
items 124.22–  
124.24),  
19/2010 ss 4–  
7, 69, 70, 81,  
65/2010  
ss 397–417A  
(as amended  
by No.  
78/2011 ss 40,  
41), 66/2012  
ss 29, 30, 32,  
82/2012 s. 297,  
23/2013  
ss 109–120,  
36/2013  
ss 89–91,  
repealed by  
No. 27/2014  
s. 144.<sup>13</sup>

\* \* \* \* \*

## **Division 5—Prosecutions and evidentiary provisions**

### **229 Prosecutions**

- (1) A proceeding for an offence against this Act or the regulations may only be brought by a police officer, a protective services officer who, at the time of the alleged offence, was on duty at a designated place or a person authorised by the Secretary, the licensing authority or the Roads Corporation either generally or in a particular case.
- (1AA) Despite anything to the contrary in subsection (1), a proceeding for a ticket offence may be brought by a person who is employed or engaged by a passenger transport company or a bus company or, if it is accredited under Division 4A, the Bus Association Victoria and who is authorised in writing by the Secretary either generally or in a particular case for the purposes of this section.
- S. 229(1) amended by Nos 100/1986 s. 41(a), 25/1989 s. 48(a), 44/1989 s. 40(Sch. 1 item 2.1), substituted by No. 60/1994 s. 26(1), amended by Nos 30/2000 s. 28(1), 47/2006 s. 31(1)(Sch. 1 Pt 1 item 43(a)), 43/2011 s. 62, 61/2011 s. 25(Sch. 1 item 13.13), 43/2013 s. 51, 37/2014 s. 10(Sch. item 171.18).
- S. 229(1AA) inserted by No. 98/1998 s. 36(1) (as amended by No. 45/1999 s. 43(4)), amended by Nos 95/2005 s. 27(1)(17), 47/2006 s. 31(1)(Sch. 1 Pt 1 item 43(b)), 34/2011 s. 99.

S. 229(1A)  
inserted by  
No. 100/1986  
s. 41(b),  
amended by  
Nos 25/1989  
s. 48(b),  
44/1989  
s. 40(Sch. 1  
item 2.1),  
substituted by  
Nos 60/1994  
s. 26(1),  
45/1999 s. 30,  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.25).

(1A) A proceeding for any other summary offence or for an indictable offence that may be heard and determined summarily may—

S. 229(1A)(a)  
amended by  
Nos 30/2000  
s. 28(2),  
43/2011 s. 62,  
37/2014  
s. 10(Sch.  
item 171.18).

(a) if the offence is alleged to have been committed on property owned or occupied by the Roads Corporation, only be brought by a police officer, a protective services officer who, at the time of the alleged offence, was on duty at a designated place or a person authorised by that Corporation either generally or in a particular case; or

S. 229(1A)(b)  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item  
43(c)), 43/2011  
s. 62, 61/2011  
s. 25(Sch. 2  
item 5.1),  
37/2014  
s. 10(Sch.  
item 171.18).

(b) if the offence is alleged to have been committed on public transport property of a passenger transport company, only be brought by a police officer, a protective services officer who, at the time of the alleged offence, was on duty at a designated place or a person authorised in writing by the Secretary either generally or in a particular case for the purposes of this section.

S. 229(1B)  
inserted by  
No. 60/1994  
s. 26(1),  
amended by  
Nos 98/1998  
s. 36(2),  
68/2009  
s. 97(Sch.  
item 124.26).

(1B) Without limiting section 328 of the **Criminal Procedure Act 2009**, the person bringing a proceeding under subsection (1), (1AA) or (1A) may appear—

- |   |   |
|---|---|
| <p>(a) by another person authorised by the Secretary, the licensing authority or the Roads Corporation (as the case requires) under this section; or</p>  | <p>S. 229(1B)(a) amended by Nos 30/2000 s. 28(3), 47/2006 s. 31(1)(Sch. 1 Pt 1 item 43(d)), 61/2011 s. 25(Sch. 1 item 13.13), 43/2013 s. 51.</p>          |
| <p>(b) even if the informant is not a police officer, by a police prosecutor.</p>   | <p>S. 229(1B)(b) amended by No. 37/2014 s. 10(Sch. item 171.18).</p>  |
| <p>(2) In proceedings for an offence against this Act or the regulations it shall be presumed, in the absence of evidence to the contrary, that the person bringing the proceedings was authorized to bring the proceedings.</p>  |   |
| <p>(3) Except as otherwise provided by or pursuant to this Act, all penalties recovered in relation to an offence against this Act or the regulations for which the proceeding was brought by a person authorised by the Roads Corporation shall be paid into the general fund of that Corporation.</p> | <p>S. 229(3) amended by Nos 44/1989 s. 40(Sch. 1 item 9), 60/1994 s. 26(2), 30/2000 s. 28(4)(a)(b).</p>   |
| <p>*                    *                    *                    *</p>   | <p>S. 229(4) inserted by No. 9984 s. 5(g), repealed by No. 100/1986 s. 3(22).</p>   |
| <p>*                    *                    *                    *</p>   | <p>S. 229A inserted by No. 9/2006 s. 126, amended by Nos 68/2009 s. 97(Sch. item 124.27), 66/2012 s. 31, repealed by No. 27/2014 s. 145.<sup>14</sup></p> |

S. 229B  
inserted by  
No. 9/2006  
s. 126,  
repealed by  
No. 27/2014  
s. 146.

\* \* \* \* \*

## 230 Evidentiary provisions

S. 230(1)  
amended by  
Nos 100/1986  
s. 42(a),  
44/1989  
s. 40(Sch. 1  
item 2.1),  
30/2000  
s. 29(1)(a)(b).

- (1) On the prosecution of any person for stealing any property in or from any vehicle owned or leased by the Roads Corporation or premises owned or occupied by that Corporation or for receiving or having in his possession any property suspected of being so stolen—
  - (a) evidence may be given of any writing or marks on the property or on any package or container in which the property was enclosed or on any label attached to the property or that package or container without producing or giving notice to produce the original writing or marks; and
  - (b) a document purporting to be a consignment note, tally note, bill of lading, shipping or railway receipt, delivery order, specification, schedule, packing list or invoice relating to the property shall be admissible in evidence and, in the absence of evidence to the contrary, shall be proof of the particulars contained in the document.

S. 230(2)  
amended by  
Nos 100/1986  
s. 42(b),  
44/1989  
s. 40(Sch. 1  
items 2.1, 8.1,  
13), 81/1990  
s. 6, 98/1998  
s. 37(1)(a)(b),  
45/1999  
s. 31(1)(a)(b),  
30/2000  
s. 29(2)(a)(b).

- (2) A certificate purporting to be under the hand of the Chief Executive of the Roads Corporation, a passenger transport company, a bus company or a rail corporation certifying that any land, buildings or other property (whether real or personal) described in the certificate is vested in, occupied by or operated by or on behalf of the Roads Corporation, that company or the rail corporation (as the case requires) shall be admissible in evidence in any proceedings and, in the absence of



---

evidence to the contrary, shall be proof of the matters stated in the certificate.

- (3) In any prosecution or legal proceedings under this or any other Act, under regulations made under this Act or under regulations or by-laws made under any other Act a statement (whether oral or in writing) by an officer of the Roads Corporation (being an officer authorized to make the statement by the Chief Executive of that Corporation) that—

**S. 230(3)**  
amended by  
Nos 10087  
s. 3(1)(Sch. 1  
item 287),  
44/1989  
s. 40(Sch. 1  
items 12, 13,  
17).

- (a) a road is a State highway, main road, tourists' road, forest road, freeway, stock route or metropolitan bridge; or
- (b) a place road structure or thing is or forms part of the West Gate Bridge—

shall be sufficient evidence of that fact until the contrary is shown.

- (3A) A certificate purporting to be under the hand of a person who is employed or engaged by a passenger transport company, a bus company or a rail corporation authorised to sign that certificate by the chief executive of that company or the rail corporation (as the case requires), certifying as to any matter which appears in or can be calculated from the records kept by or on behalf of that company or rail corporation (as the case requires) in connection with any ticketing system operated by it or on its behalf is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof of the matters stated in the certificate.

**S. 230(3A)**  
inserted by  
No. 120/1993  
s. 65(3),  
amended by  
Nos 98/1998  
s. 37(2)(a)(b),  
45/1999  
s. 31(2)(a)–(c),  
substituted by  
No. 30/2000  
s. 29(3).

S. 230(4)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
items 2.1, 8.1,  
13), 60/1994  
s. 27(a)–(c),  
28/1996  
s. 4(j), 98/1998  
s. 37(3)(a)(b),  
45/1999  
s. 31(3)(a)(b),  
substituted by  
No. 30/2000  
s. 29(4),  
amended by  
Nos 47/2006  
s. 31(1)(Sch. 1  
Pt 1 item 44),  
61/2011  
s. 25(Sch. 1  
item 13.14),  
3/2017  
s. 50(Sch. 1  
item 10.10).

- (4) Any notice, statement, certificate or other document purporting to be under the hand of the Secretary, the Head, Transport for Victoria, the Chief Executive Officer of the Public Transport Development Authority or the Chief Executive of the Roads Corporation or of an officer of the Department or a director or member of staff of that Authority or of that Corporation or of a person who is employed or engaged by a passenger transport company, a bus company or a rail corporation authorised to sign that notice, statement, certificate or other document by the Secretary, the Head, Transport for Victoria, the Chief Executive Officer of the Public Transport Development Authority or the Chief Executive of the Roads Corporation or of the passenger transport company, the bus company or the rail corporation (as the case requires) shall be admissible in evidence in any proceedings and, in the absence of evidence to the contrary, shall be proof of the matters therein set forth.

S. 230(5)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
items 2.1, 8.1,  
13), 98/1998  
s. 37(4)(a)(b),  
45/1999  
s. 31(4)(a)(b),  
30/2000  
s. 29(5)(a)(b).

- (5) Any minute or record of the proceedings of the Roads Corporation, a passenger transport company, a bus company or a rail corporation or a copy of such a minute or record certified as correct under the hand of the Chief Executive of that Corporation or that company or the rail corporation (as the case requires) shall be presumed to be correct until the contrary is shown.
- (6) A document purporting to be a minute or record or copy referred to in subsection (5) shall, until the contrary is shown, be deemed to be such a minute or record or copy.

(7) A certificate purporting to be issued by—

S. 230(7)  
inserted by  
No. 9984  
s. 5(h),  
repealed by  
No. 100/1986  
s. 3(22),  
new s. 230(7)  
inserted by  
No. 69/2007  
s. 4,  
amended by  
No. 61/2011  
s. 29(3) (as  
amended by  
No. 66/2012  
s. 33(2)).

(a) the Public Transport Development  
Authority; or

S. 230(7)(a)  
amended by  
No. 61/2011  
s. 29(2).

(b) the Chief Executive Officer of the Public  
Transport Development Authority; or

S. 230(7)(b)  
amended by  
No. 61/2011  
s. 29(3) (as  
amended by  
No. 66/2012  
s. 33(2)).

(c) an officer, employee or agent of the Public  
Transport Development Authority authorised  
for that purpose by the Chief Executive  
Officer of the Public Transport Development  
Authority—

S. 230(7)(c)  
amended by  
No. 61/2011  
s. 29(3) (as  
amended by  
No. 66/2012  
s. 33(2)).

certifying as to any matter relating to a smartcard  
issued by or on behalf of the Public Transport  
Development Authority that appears in or can be  
calculated from the records kept by the Public  
Transport Development Authority is admissible in  
evidence in any proceedings (other than  
proceedings for a ticket offence) and, in the  
absence of evidence to the contrary, is proof of  
that matter.

S. 230A  
inserted by  
No. 9/2006  
s. 127,  
amended by  
Nos 19/2010  
s. 79, 23/2013  
s. 121,  
repealed by  
No. 27/2014  
s. 147.

\* \* \* \*

S. 230AB  
inserted by  
No. 69/2007  
s. 5.

#### **230AB Evidentiary provision—smartcards**

- (1) If a fact relating to a smartcard is relevant in proceedings relating to a ticket offence, evidence of that fact as indicated or determined by a prescribed device that was used in the prescribed manner (if any) or by a printed document that was produced by a prescribed process is admissible in evidence in those proceedings.
- (2) For the purposes of this section, a fact relates to a smartcard if it relates to—
  - (a) the smartcard itself, including its type, identifying numbers and manner of acquisition; or
  - (b) the holder of the smartcard; or
  - (c) the existence, or possible existence, of an entitlement to use a public transport service; or
  - (d) the use of the smartcard.

S. 230AC  
inserted by  
No. 69/2007  
s. 5.

#### **230AC Certificate of authorised officer who operated hand held reader**

- (1) A certificate purporting to be issued by an authorised officer who used a hand held reader to copy or transfer information from a smartcard produced to the authorised officer for inspection certifying as to the information copied or transferred from the smartcard in relation to all or any of the following matters—

- (a) the card number;
- (b) the card type;
- (c) the name of the card holder (if applicable);
- (d) the use of the card;
- (e) the entitlement to use a public transport service—

is admissible in evidence in any proceedings relating to a ticket offence.

- (2) Subject to section 230AF, if a certificate is issued under subsection (1) in respect of a smartcard, it is presumed for the purposes of any proceedings relating to a ticket offence that the smartcard had accurately recorded and discharged the information copied or transferred from it by the hand held reader.

**230AD Certificate in respect of prescribed devices and processes**

A certificate purporting to be issued by a person authorised by the Public Transport Development Authority or the Chief Executive Officer of the Public Transport Development Authority certifying that—

- (a) at all relevant times the prescribed devices specified in the certificate had operated correctly and had indicated or determined the facts (if any) stated in the certificate; or
- (b) at all relevant times, the printed documents specified in the certificate had been produced by a prescribed process—

is admissible in evidence in any proceedings relating to a ticket offence.

S. 230AD  
inserted by  
No. 69/2007  
s. 5,  
amended by  
No. 61/2011  
s. 29(2)(3) (as  
amended by  
No. 66/2012  
s. 33(2)).

S. 230AE  
inserted by  
No. 69/2007  
s. 5.

## **230AE Notice by informant**

S. 230AE(1)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.28).

- (1) If the informant in proceedings relating to a ticket offence serves on the accused, by the required time, a copy of a certificate referred to in section 230AC, the certificate is conclusive proof of—
  - (a) the facts and matters stated in that certificate; and
  - (b) the fact that the hand held reader used was a prescribed device; and
  - (c) the fact that the hand held reader was used in the prescribed manner (if any); and
  - (d) the fact that the hand held reader had operated correctly.

S. 230AE(2)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.28).

- (2) If the informant in proceedings relating to a ticket offence serves on the accused, within the required time, a notice setting out the presumptions set out in section 230AC(2), the facts that are the subject of the presumptions are to be taken to have been conclusively proved.

S. 230AE(3)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.28).

- (3) If the informant in proceedings relating to a ticket offence serves on the accused, within the required time, copy of a certificate referred to in section 230AD, the certificate is conclusive proof—
  - (a) that the person giving the certificate was authorised to do so; and
  - (b) in the case of a certificate under section 230AD(a) of—
    - (i) the fact that at all relevant times the prescribed devices specified in the certificate had operated correctly; and

- (ii) the facts (if any) stated in the certificate as indicated or determined by the prescribed devices; and
- (c) in the case of a certificate under section 230AD(b) of—
  - (i) the fact that at all relevant times the printed documents specified in the certificate had been produced by a prescribed process; and
  - (ii) the facts indicated or determined by the printed documents.
- (4) This section is subject to section 230AF.
- (5) In this section *required time* means no less than 56 days before the hearing for the relevant ticket offence.

**230AF Notice by accused**

S. 230AF  
(Heading)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.29).  
S. 230AF  
inserted by  
No. 69/2007  
s. 5.

- (1) The accused in any proceedings relating to a ticket offence may give notice in writing to the informant not less than 28 days before the hearing, or any shorter period ordered by the court or agreed to by the informant, that—
  - (a) he or she requires the person giving a certificate referred to in section 230AD to be called as a witness; or

S. 230AF(1)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.30).

- (b) he or she intends to adduce evidence in rebuttal of any fact or matter—
- (i) stated in a certificate referred to in section 230AC or 230AD; or
  - (ii) referred to in section 230AE(1) or 230AE(3); or
- (c) he or she intends to adduce evidence in rebuttal of any fact that is the subject of a presumption set out in section 230AC(2).
- S. 230AF(2)**  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.30).
- (2) A notice under subsection (1) must specify any fact or matter with which issue is taken and indicate the nature of any expert evidence that the accused intends to have adduced at the hearing.
- S. 230AF(3)**  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.30).
- (3) The accused may not, except with the leave of the court, introduce expert evidence at the hearing if the nature of that evidence was not indicated in a notice under subsection (1).
- S. 230AF(4)**  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.31).
- (4) Subject to subsection (7), if an accused gives a notice to the informant in accordance with subsection (1)(a), the certificate remains admissible as evidence of the facts or matters contained in the certificate or referred to in section 230AE(3) but ceases to be conclusive proof of those facts or matters.
- S. 230AF(5)**  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.31).
- (5) Despite any order under subsection (7), if an accused gives a notice to the informant under subsection (1)(b) in relation to a fact or matter contained in a certificate or referred to in section 230AE(1) or 230AE(3), the certificate—
- (a) remains admissible as evidence of that fact or matter but ceases to be conclusive proof of that fact or matter; and



(b) remains admissible as conclusive proof of the facts or matters contained in the certificate or referred to in section 230AE(1) or 230AE(3) that are not specified in the notice.

(6) If an accused gives notice to the informant under subsection (1)(c) in relation to a fact set out in section 230AC(2), that fact ceases to be presumed and ceases to be taken to be conclusively proved but the certificate if admitted in evidence is deemed to be evidence of that fact.

S. 230AF(6)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.31).

(7) If an accused gives notice to the informant in accordance with subsection (1)(a) that he or she requires the person giving a certificate referred to in section 230AD to be called as a witness and the court is satisfied that that person—

S. 230AF(7)  
amended by  
No. 68/2009  
s. 97(Sch.  
item 124.31).

(a) is dead; or

(b) is unfit by reason of his or her bodily or mental condition to testify as a witness; or

(c) has ceased to be a person authorised by the Public Transport Development Authority or the Chief Executive Officer of the Public Transport Development Authority or is out of Victoria and it is not reasonably practicable to secure his or her attendance; or

S. 230AF(7)(c)  
amended by  
No. 61/2011  
s. 29(2)(3) (as  
amended by  
No. 66/2012  
s. 33(2)).

(d) cannot with reasonable diligence be found—

the court must order that section 230AE has effect as if the notice had not been given.

**230AG Informant may adduce evidence in relation to ticket offence**

S. 230AG  
inserted by  
No. 69/2007  
s. 5.

(1) Nothing in section 230AE prevents the informant adducing evidence to explain any fact or matter contained in a certificate referred to in that section.

- (2) If an informant adduces evidence as provided in subsection (1), the certificate remains admissible in evidence but ceases to be conclusive proof of that fact or matter only.

S. 230AH  
inserted by  
No. 69/2007  
s. 5.

## **230AH Regulations**

- (1) The Governor in Council may make regulations for or with respect to—
- (a) prescribing devices for the purposes of sections 230AB, 230AD and 230AE and the manner of using (including testing) those devices; and
  - (b) the processes for loading information onto a prescribed device or a prescribed computer system, copying or transferring information between prescribed devices or between a prescribed device and a prescribed computer system, storing of information by a prescribed device or prescribed computer system and producing a printed record of information stored by a prescribed device or prescribed computer system; and
  - (c) generally prescribing any other matter or thing required or permitted by this Division to be prescribed or necessary to be prescribed to give effect to this Division.
- (2) The regulations—
- (a) may be of general or of specially limited application; and
  - (b) may differ according to differences in time, place or circumstance; and
  - (c) may require a matter affected by the regulations to be—
    - (i) in accordance with a specified standard or specified requirement; or

S. 230AH(1)(b)  
substituted by  
No. 75/2010  
s. 24(3).

- (ii) approved by or to the satisfaction of a specified person or a specified class of person; or
- (iii) as specified in both subparagraphs (i) and (ii); and
- (d) may apply, adopt or incorporate any matter contained in any document whether—
  - (i) wholly or partially or as amended by the regulations; or
  - (ii) as in force at a particular time or as in force from time to time; and
- (e) may confer a discretionary authority or impose a duty on a specified person or a specified class of person.

## **Division 6—Sentences in relation to relevant transport laws**

Pt 7 Div. 6  
(Heading)  
amended by  
Nos 68/2009  
s. 97(Sch.  
item 124.32),  
19/2010 s. 80.

Pt 7 Div. 6  
(Heading and  
ss 230B–  
230F)  
inserted by  
No. 9/2006  
s. 127.

### **230AI Definitions**

S. 230AI  
inserted by  
No. 19/2010  
s. 8.

In this Division—

*relevant authorised officer* means an authorised officer authorised by the Secretary under section 221A;

S. 230AI  
def. of  
*relevant authorised officer*  
amended by  
No. 34/2011  
s. 100.

S. 230AI  
def. of  
*relevant law*  
amended by  
No. 27/2014  
s. 148.

*relevant law* means—

\* \* \* \* \*

- (b) Division 4 or 5 of Part VI; or
- (c) any regulations made under this Act for the purposes of Division 4 or 5 of Part VI.

S. 230B  
inserted by  
No. 9/2006  
s. 127.

## **230B Commercial benefits penalty order**

S. 230B(1)  
substituted by  
No. 19/2010  
s. 9(1).

- (1) A court that finds a person guilty of an offence against a relevant law may, on application by any of the following, make an order under this section—

- (a) the prosecutor; or

S. 230B(1)(b)  
repealed by  
No. 27/2014  
s. 149(1).

\* \* \* \* \*

- (c) the licensing authority.

- (2) The court may make a commercial benefits penalty order requiring the person to pay, as a fine, an amount not exceeding 3 times the amount estimated by the court to be the gross commercial benefit that—

- (a) was obtained or obtainable, by the person or by an associate of the person, from the commission of the offence; and

S. 230B(2)(b)  
amended by  
Nos 19/2010  
s. 9(2),  
27/2014  
s. 149(2).

- (b) in the case of a journey that was interrupted or not commenced because of action taken by a relevant authorised officer in connection with the commission of the offence—would have been obtained or obtainable, by the person or by an associate of the person, from

the commission of the offence had the journey been completed.

- (3) In estimating the gross commercial benefit that was or would have been obtained or obtainable from the commission of the offence, the court may take into account—
- (a) benefits of any kind, whether monetary or otherwise; and
  - (b) monetary savings or a reduction in any operating or capital expenditure of any kind achieved because of the commission of the offence; and
  - (c) any other matter that it considers relevant.
- (4) However, in estimating the gross commercial benefit that was or would have been obtained or obtainable from the commission of the offence, the court is required to disregard any costs, expenses or liabilities incurred by the person or by an associate of the person.
- (5) Nothing in this section prevents the court from ordering payment of an amount that is—
- (a) less than 3 times the estimated gross commercial benefit; or
  - (b) less than the estimated gross commercial benefit.

S. 230B(3)(c)  
substituted by  
No. 27/2014  
s. 149(3).

### **230C Supervisory intervention order**

S. 230C  
inserted by  
No. 9/2006  
s. 127.

- (1) A court that finds a person guilty of an offence against a relevant law may, on application by any of the following, make an order under this section—

S. 230C(1)  
substituted by  
No. 19/2010  
s. 10(1).

S. 230C(1)(b)  
repealed by  
No. 27/2014  
s. 150(1).

(a) the prosecutor; or

\* \* \* \*

(c) the licensing authority.

S. 230C(2)  
substituted by  
No. 19/2010  
s. 10(2).

(2) The court may make a supervisory intervention order requiring the person (at the person's own expense and for a specified period not exceeding one year) to do all or any of the following—

(a) to do specified things that the court considers will improve the person's compliance with a relevant law or specified aspects of a relevant law, including (for example) the following—

- (i) appointing or removing staff to or from particular activities or positions;
- (ii) training and supervising staff;
- (iii) obtaining expert advice as to maintaining appropriate compliance;
- (iv) installing monitoring, compliance, managerial or operational equipment;
- (v) implementing monitoring, compliance, managerial or operational practices, systems or procedures;

(b) to conduct specified monitoring, compliance, managerial or operational practices, systems or procedures subject to the direction of one or more of the following as specified in the order—

S. 230C  
(2)(b)(i)  
repealed by  
No. 27/2014  
s. 150(2)(a).

\* \* \* \*

(ii) the licensing authority; or

(iii) a person nominated by the licensing authority (as the case requires);

**S. 230C  
(2)(b)(iii)  
amended by  
No. 27/2014  
s. 150(2)(b).**

(c) to furnish compliance reports to one or more of the following as specified in the order—

\*                      \*                      \*                      \*                      \*

**S. 230C  
(2)(c)(i)  
repealed by  
No. 27/2014  
s. 150(3).**

(ii) the licensing authority;

(iii) the court;

(d) to appoint a person to have responsibilities—

(i) to assist the person in improving compliance with a relevant law or specified aspects of a relevant law; and

(ii) to monitor the person's performance in complying with a relevant law or specified aspects of a relevant law and in complying with the requirements of the order; and

(iii) to furnish compliance reports to one or more of the following as specified in the order—

\*                      \*                      \*                      \*                      \*

**S. 230C  
(2)(d)(iii)(A)  
repealed by  
No. 27/2014  
s. 150(4).**

(B) the licensing authority;

(C) the court.

(3) The court may specify matters that are to be dealt with in compliance reports and the form, manner and frequency in which compliance reports are to be prepared and furnished.

- 
- (4) The court may require that compliance reports or aspects of compliance reports be made public, and may specify the form, manner and frequency in which they are to be made public.
- S. 230C(4A) inserted by No. 19/2010 s. 10(3).
- (4A) A court may only make an order under this section against a person if the court considers the person to be a systematic or persistent offender against the relevant law.
- S. 230C(5) amended by No. 19/2010 s. 10(4)(a).
- (5) The court may only make a supervisory order if it is satisfied that the order is capable of improving the person's ability or willingness to comply with the relevant law, having regard to—
- S. 230C(5)(a) amended by No. 19/2010 s. 10(4)(a).
- (a) the offences against a relevant law of which the person has been previously found guilty; and
- S. 230C(5)(b) amended by No. 19/2010 s. 10(4)(a).
- (b) the offences against a relevant law for which the person has been proceeded against by way of unwithdrawn infringement notices; and
- S. 230C(5)(c) amended by No. 19/2010 s. 10(4)(b).
- (c) any other offences or other matters that the court considers to be relevant to the conduct of the person in connection with—
- S. 230C (5)(c)(i) repealed by No. 27/2014 s. 150(5).
- \* \* \* \* \*
- (ii) the use of a commercial passenger vehicle for the purpose of carrying passengers for hire or reward; or
- (iii) the use of a taxi-cab for plying for trade for the purpose referred to in subparagraph (ii); or
- (iv) the provision of taxi-cab network services (within the meaning of section 130A(1)).



(6) The order may direct that any other penalty or sanction imposed for the offence by the court is suspended until the court determines that there has been a substantial failure to comply with the order.

(7) A court that has power to make supervisory intervention orders may revoke or amend a supervisory intervention order on the application of—

\* \* \* \* \*

S. 230C(7)(a)  
repealed by  
No. 27/2014  
s. 150(6).

(ab) the licensing authority; or

S. 230C(7)(ab)  
inserted by  
No. 19/2010  
s. 10(5).

(b) the person in respect of whom the order was made, but in that case only if the court is satisfied that there has been a change of circumstances warranting revocation or amendment.

(8) In this section—

***compliance report***, in relation to a person in respect of whom a supervisory intervention order is made, means a report relating to—

S. 230C(8)  
def. of  
***compliance  
report***  
amended by  
No. 27/2014  
s. 150(7).

(a) the performance of the person in complying with—

(i) a relevant law or specified aspects of a relevant law specified in the order; and

(ii) the requirements of the order; and

(b) without limiting the above—

- (i) things done by the person to ensure that any failure by the person to comply with the relevant law or the specified aspects of the relevant law does not continue; and
- (ii) the results of those things having been done.

S. 230D  
inserted by  
No. 9/2006  
s. 127.

### **230D Contravention of supervisory intervention order**

A person who is subject to a requirement of a supervisory intervention order must not engage in conduct that results in contravention of the requirement.

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

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

S. 230DA  
inserted by  
No. 69/2007  
s. 37.

### **230DA Exclusion orders**

S. 230DA(1)  
substituted by  
No. 19/2010  
s. 11(1).

- (1) A court that finds a person guilty of an offence against a relevant law may make an order under this section on application by—

(a) the prosecutor; or

S. 230DA(1)(b)  
repealed by  
No. 27/2014  
s. 151(1).

\* \* \* \*

(c) the licensing authority.

- (2) For the purpose of restricting opportunities for the person to commit or be involved in the commission of further offences against relevant laws, the court may, if it considers it appropriate to do so, make an exclusion order prohibiting the person, for a specified period, from—

**S. 230DA(2)**  
substituted by  
No. 19/2010  
s. 11(2).

\* \* \* \* \*

**S. 230DA(2)(a)**  
repealed by  
No. 27/2014  
s. 151(2).

- (b) being an operator of a taxi-cab or being an operator of a particular type of taxi-cab (other than for the purpose of transferring a taxi-cab licence or assigning the right to operate the taxi-cab); or

- (c) operating a commercial passenger vehicle (other than a taxi-cab) or operating a particular type of commercial passenger vehicle (other than a taxi-cab); or

- (d) providing a taxi-cab network service (within the meaning of section 130A(1)) or providing a particular type of taxi-cab network service; or

- (e) being a director, secretary or officer concerned in the management of a body corporate involved in the carrying out, in the State, of any of the activities referred to in paragraphs (b), (c) and (d); or

**S. 230DA(2)(e)**  
amended by  
No. 27/2014  
s. 151(3).

- (f) being involved in the carrying out, in the State, of any of the activities referred to in paragraphs (b), (c) and (d) except by—

**S. 230DA(2)(f)**  
amended by  
No. 27/2014  
s. 151(4)(a).

- (i) driving a commercial passenger vehicle (other than a taxi-cab); or

**S. 230DA(2)(f)(i)**  
amended by  
No. 27/2014  
s. 151(4)(b).

- (ii) operating a taxi-cab.

S. 230DA(2A)  
inserted by  
No. 19/2010  
s. 11(2).

(2A) The court may only make an order under this section if it considers the person to be a systematic or persistent offender against the relevant law.

(3) The court may only make an order under this section if it is satisfied that the person should not continue the things the subject of the proposed order and that a supervisory intervention order under section 230C is not appropriate, having regard to—

S. 230DA(3)(a)  
amended by  
No. 27/2014  
s. 151(5)(a).

(a) the offences against a relevant law of which the person has previously been found guilty; and

S. 230DA(3)(b)  
amended by  
No. 27/2014  
s. 151(5)(b).

(b) any other offences or other matters that the court considers to be relevant to the conduct of the person in connection with the operation of a taxi-cab or hire car.

(4) A court that has power to make an exclusion order may revoke or amend the exclusion order on the application of—

S. 230DA(4)(a)  
repealed by  
No. 27/2014  
s. 151(6).

\* \* \* \* \*

S. 230DA  
(4)(ab)  
inserted by  
No. 19/2010  
s. 11(3).

(ab) the licensing authority; or

(b) the person in respect of whom the order was made, but in that case only if the court is satisfied that there has been a change of circumstances warranting the revocation or amendment.

**230DB Corporations Act displacement**

Section 230DA is declared to be a Corporations legislation displacement provision for the purposes of section 5G of the Corporations Act in relation to the provisions of Chapter 2D of that Act.

S. 230DB  
inserted by  
No. 69/2007  
s. 37.

**Note**

Section 5G of the Corporations Act provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision, any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not apply to the extent necessary to avoid the inconsistency.

**230DC Contravention of exclusion order**

A person who is subject to an exclusion order must not engage in conduct that results in a contravention of the order.

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

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

S. 230DC  
inserted by  
No. 69/2007  
s. 37.

**230E Release on the giving of a safety undertaking**

- (1) If a court convicts a person or finds a person guilty of an offence against a relevant law the court may (with or without recording a conviction) adjourn the proceeding for a period of up to 2 years and make an order for the release of the offender on the offender giving an undertaking with specified conditions.

S. 230E  
inserted by  
No. 9/2006  
s. 127.

S. 230E(1)  
amended by  
No. 19/2010  
s. 12(1).

(2) An undertaking must specify the following conditions—

S. 230E(2)(b)  
amended by  
No. 19/2010  
s. 12(2).

(a) that the offender appears before the court if called on to do so during the period of the adjournment and, if the court so specifies, at the time to which the further hearing is adjourned;

(b) that the offender does not commit, during the period of the adjournment, any offence against a relevant law;

(c) that the offender observes any special conditions imposed by the court.

(3) Without limiting subsection (2)(c), the court may impose on an offender special conditions that the offender—

S. 230E(3)(a)  
amended by  
Nos 19/2010  
s. 12(3),  
22/2013  
s. 96(1),  
27/2014 s. 152.

(a) engage a consultant, who is approved in writing by the National Rail Safety Regulator or licensing authority, to advise on or assist with safety matters; and

(b) develop and implement a systematic approach to managing risks to safety that arise or may arise in the conduct of the offender's undertaking; and

S. 230E(3)(c)  
amended by  
Nos 19/2010  
s. 12(3),  
22/2013  
s. 96(1),  
27/2014 s. 152.

(c) arrange for the carrying out of an audit of the offender's undertaking in relation to safety by an independent person who is approved in writing by the National Rail Safety Regulator or licensing authority.

- (4) An offender who has given an undertaking under this section may be called on to appear before the court—
- (a) by order of the court; or
  - (b) by notice issued by the proper officer (within the meaning of section 72(4) of the **Sentencing Act 1991**) of the court.
- (5) An order or notice under subsection (4) must be served on the offender not less than 4 days before the time specified in it for the appearance.
- (6) If the court is satisfied at the time to which a further hearing of a proceeding is adjourned that the offender has observed the conditions of the undertaking, it must discharge the offender without any further hearing of the proceeding.
- (7) The court may make an order under this section in relation to an offender in addition to or instead of—
- (a) imposing a penalty on the offender; or
  - (b) making any other order that the court may make in relation to the offence.
- (8) In this section—
- National Rail Safety Regulator*** means the Regulator within the meaning of the Rail Safety National Law (Victoria);
- relevant law*** includes the Rail Safety National Law (Victoria).

S. 230E(8)  
inserted by  
No. 22/2013  
s. 96(2).

S. 230F  
(Heading)  
amended by  
No. 65/2011  
s. 107(Sch.  
item 14.1).

S. 230F  
inserted by  
No. 9/2006  
s. 127,  
amended by  
Nos 65/2011  
s. 107(Sch.  
items 14.2,  
14.3), 32/2013  
s. 45, 80/2013  
s. 10.

S. 230F(ab)  
inserted by  
No. 65/2011  
s. 107(Sch.  
item 14.4).

S. 230F(b)  
amended by  
No. 27/2014  
s. 153.

S. 230F(c)  
amended by  
No. 65/2011  
s. 107(Sch.  
item 14.5).

S. 230FA  
inserted by  
No. 19/2010  
s. 13.

S. 230FA(1)  
amended by  
No. 27/2014  
s. 154(1).

## **230F Variation or contravention of orders under section 230E**

Section 78 and Divisions 1 and 2 of Part 3C of the **Sentencing Act 1991** (and any definitions in that Act of terms used in that section or Divisions 1 and 2 of that Part) apply to an order under section 230E for the release of an offender as though they were incorporated into this Act and as though—

- (a) a reference to Subdivision (2) or (3) were instead a reference to section 230E; and
- (ab) a reference to section 72 or 75 were a reference to section 230E; and
- (b) a reference to a prescribed person, a member of a prescribed class of persons, the informant or a police prosecutor were instead a reference to the licensing authority; and
- (c) the reference in section 83AC of the **Sentencing Act 1991** to a level 10 fine were instead a reference to a fine not exceeding 10 penalty units for a natural person or 50 penalty units for a body corporate; and
- (d) any other necessary modifications were made.

## **230FA Adverse publicity order**

- (1) A court that finds a person guilty of an offence—
  - (a) against a relevant law; or



- (b) under Division 4 or 5 of Part VI or any regulations made under this Act for the purposes of either of those Divisions—  
may, on the application of the prosecutor or the licensing authority, make an order under this section.
- (2) The court may make an adverse publicity order requiring the offender to do all or any of the following—
  - (a) to take either or both of the following actions within the period specified in the order—
    - (i) to publicise, in the way specified in the order, the offence, its consequences, the penalty imposed and any other related matter;
    - (ii) to notify a specified person or specified class of persons, in the way specified in the order, of the offence, its consequences, the penalty imposed and any other related matter; and
  - (b) to give, the licensing authority within 7 days after the end of the period specified in the order, evidence that the action or actions were taken by the offender in accordance with the order.
- (3) The court may make an order under this section in addition to—
  - (a) imposing a penalty on the offender; or
  - (b) making any other order that the court may make in relation to the offence.
- (4) This section does not limit a court's powers under any other provision of this Act.

S. 230FA(2)(b)  
amended by  
No. 27/2014  
s. 154(2).

Pt 7 Div. 7  
(Heading and  
ss 230G–  
230J)  
inserted by  
No. 9/2006  
s. 127 (as  
amended by  
No. 47/2006  
ss 50, 51).

## Division 7—Other matters

### Subdivision 1—Interpretation

S. 230G  
inserted by  
No. 9/2006  
s. 127 (as  
amended by  
No. 47/2006  
s. 50).

#### 230G Definitions

In this Subdivision—

*improvement or prohibition notice contravention provision* means section 228ZE(1)  
or 228ZK(1);

*relevant rail protection law* means—

- (a) section 93B or 93C(1) of the **Electricity Industry Act 2000**;
- (b) section 149B or 149C(1) of the **Gas Industry Act 2001**;
- (c) section 48E or 48F of the **Road Management Act 2004**;
- (d) section 137B(1) or 137C(1) of the **Water Act 1989**;

\* \* \* \*

S. 230G def. of  
*relevant rail  
safety duty  
law*  
amended by  
No. 27/2014  
s. 155.

*relevant rail safety duty law* means—

- (a) section 93A(1) or (2) of the **Electricity Industry Act 2000**;
- (b) section 149A(1) or (2) of the **Gas Industry Act 2001**;
- (c) section 48B, 48C or 48D of the **Road Management Act 2004**;
- (d) section 137A(1) or (2) of the **Water Act 1989**;

\* \* \* \*

## Subdivision 2—Liability

\* \* \* \* \*

S. 230H  
inserted by  
No. 9/2006  
s. 127,  
repealed by  
No. 27/2014  
s. 156.

### 230I Interaction with the Occupational Health and Safety Act 2004

S. 230I  
inserted by  
No. 9/2006  
s. 127.

- (1) If a provision of the **Occupational Health and Safety Act 2004** or the regulations made under that Act applies to an activity in respect of which a duty under a relevant rail safety duty law is imposed, that provision continues to apply, and must be observed in addition to the relevant rail safety duty law.

#### Note

See also section 51 of the **Interpretation of Legislation Act 1984**.

- (2) If a relevant rail safety duty law is inconsistent with a provision of the **Occupational Health and Safety Act 2004** or the regulations made under that Act, the **Occupational Health and Safety Act 2004** or the regulations made under it prevail to the extent of the inconsistency.
- (3) Compliance with a relevant rail safety duty law, or with any requirement imposed under a relevant rail safety duty law, is not in itself a defence in any proceedings for an offence against the **Occupational Health and Safety Act 2004** or the regulations made under that Act.
- (4) Evidence of a relevant contravention of a relevant rail safety duty law is admissible in any proceedings for an offence against the **Occupational Health and Safety Act 2004** or the regulations made under that Act.

S. 230J  
inserted by  
No. 9/2006  
s. 127 (as  
amended by  
No. 47/2006  
s. 51).

**230J Offences by bodies corporate, officers of bodies corporate, partnerships etc.**

S. 230J(1)  
amended by  
No. 23/2013  
s. 122.

- (1) Divisions 1 to 3 of Part 9 of the **Rail Safety (Local Operations) Act 2006** apply to the commission of an offence against a relevant rail protection law or an improvement or prohibition notice contravention provision in the same way as those Divisions apply to the commission of an offence against a provision of the **Rail Safety (Local Operations) Act 2006** (other than an offence against a provision in Division 2 or 3 of Part 3 of that Act).

S. 230J(2)  
amended by  
No. 23/2013  
s. 122.

- (2) Divisions 1 to 3 of Part 9 of the **Rail Safety (Local Operations) Act 2006** apply to the commission of an offence against a relevant rail safety duty law in the same way as those Divisions apply to the commission of an offence against a provision of Division 2 or 3 of Part 3 of the **Rail Safety (Local Operations) Act 2006** or regulations made under that Act for the purposes of Division 2 or 3 of Part 3 of that Act.

---

## Part VIIA—Enforcement and related powers for the Port of Melbourne

Pt 7A  
(Headings  
and ss 230K–  
230ZE)  
inserted by  
No. 93/2009  
s. 15.

### Division 1—Preliminary

#### 230K Definitions

In this Part—

*Hazardous port activity provision* means a provision of the **Port Services Act 1995** or regulations made under that Act as to hazardous port activities, within the meaning of that Act;

*port safety infringement* means an offence against a port safety infringement law that is prescribed for the purposes of Division 4A;

*port safety infringement law* means a provision of—

- (a) Division 3 or 4 of Part 5B of the **Port Services Act 1995**; or
- (b) any regulations made under section 98(1)(ca) to (cd) of that Act.

S. 230K  
inserted by  
No. 93/2009  
s. 15,  
substituted by  
No. 19/2010  
s. 14.

#### 230L Appointment

- (1) The Secretary, by instrument, may appoint as a port safety officer for the port of Melbourne, a person—
  - (a) who is employed in the Department under Part 3 of the **Public Administration Act 2004**; or
  - (b) who is an employee of the Victorian Ports Corporation (Melbourne).

S. 230L  
inserted by  
No. 93/2009  
s. 15.

S. 230L(1)(b)  
amended by  
No. 10/2016  
s. 179(Sch. 1  
item 9).

- (2) When appointing a person under this section the Secretary must appoint a person who is suitably qualified or trained to be a port safety officer.
- (3) An appointment under this section is for the term, and subject to the conditions, specified in the instrument of appointment.
- (4) Without limiting the conditions to which an appointment under this section may be subject, an appointment may be subject to one or more of the following conditions—
  - (a) that the person appointed may only exercise the functions and powers specified in the instrument of appointment;
  - (b) that the functions and powers that the person may exercise under the appointment are subject to the conditions specified in the instrument of appointment.

S. 230M  
inserted by  
No. 93/2009  
s. 15.

#### **230M Identity cards**

- (1) The Secretary must issue an identity card to a port safety officer.
- (2) An identity card must—
  - (a) contain the name of the port safety officer to whom it is issued; and
  - (b) identify the port safety officer to whom it is issued as a port safety officer; and
  - (c) contain a photograph of the port safety officer.

S. 230N  
inserted by  
No. 93/2009  
s. 15.

#### **230N Return of identity cards**

If a person to whom an identity card has been issued ceases to be a port safety officer, the person must return the identity card to the Secretary as soon as practicable.

Penalty: 5 penalty units.

### **230O Production of identity card**

**S. 230O**  
inserted by  
No. 93/2009  
s. 15.

- (1) A port safety officer must produce his or her identity card for inspection—
  - (a) before exercising a power under Division 2 or Division 3; or
  - (b) if asked to do so by any person at any time during the exercise of a power under Division 2 or Division 3.
- (2) However, a port safety officer need not produce his or her identity card when asked to do so if—
  - (a) the officer reasonably believes that the production of his or her identity card would—
    - (i) affect the safety or welfare of any person; or
    - (ii) frustrate the effective exercise of a power under Division 2 or Division 3; or
  - (b) the request to produce his or her identity card is made by a person to whom the officer has already produced that identity card on the same day before exercising a power under Division 2 or Division 3.
- (3) Any action taken or thing done by a port safety officer under Division 2 or Division 3 is not invalidated by his or her failure to produce his or her identity card.

## **Division 2—Powers of entry and search of vessels**

### **230P Power to enter and inspect vessels**

**S. 230P**  
inserted by  
No. 93/2009  
s. 15.

- (1) For the purpose of determining whether a hazardous port activity provision is being complied with, a port safety officer may enter a vessel that is in port of Melbourne waters.

- (2) Without limiting subsection (1), a port safety officer who enters a vessel under subsection (1) may, for the purpose set out in that subsection, do any one or more of the following—
- (a) inspect the vessel; or
  - (b) seize anything found on the vessel that the port safety officer believes on reasonable grounds to be connected with a contravention of a hazardous port activity provision; or
  - (c) take samples, photographs or film, videotape or otherwise record images or record sound in connection with the inspection; or
  - (d) search for and inspect relevant documents; or
  - (e) require any person in or on the vessel to produce to the port safety officer any document that is required to be kept for the purpose set out in subsection (1) and that is located in or on the vessel and that is in the person's custody or possession or under the person's control; or
  - (f) make copies of, or take extracts from, any document that is required to be kept for the purpose set out in subsection (1) and that is kept in or on the vessel; or
  - (g) exercise any other power under this Act conferred on the port safety officer for those purposes.
- (3) This section does not authorise the use of force, but the port safety officer may open unlocked doors, panels, objects or other things, or open unlocked places.



**230Q Production of identity card by port safety officers before vessel searches**

S. 230Q  
inserted by  
No. 93/2009  
s. 15.

- (1) This section applies if—
  - (a) a port safety officer wishes to inspect a vessel under this Division; and
  - (b) the master or operator of the vessel, or another person apparently in charge of the vessel, is present in, on or near the vessel.
- (2) Before starting to inspect the vessel, the port safety officer must identify himself or herself to the person by producing his or her identity card for inspection by the person.

**230R Consent not needed for inspections**

S. 230R  
inserted by  
No. 93/2009  
s. 15.

A port safety officer may exercise a power under this Division at any time, and without the consent of the master or owner of the vessel, or other person apparently in charge of the vessel, or any other person.

**Division 3—Powers of entry and search of premises**

**230S Entry of premises with consent**

S. 230S  
inserted by  
No. 93/2009  
s. 15.

- (1) A port safety officer may enter premises on port of Melbourne land, with the consent of the occupier of the premises, if the port safety officer believes on reasonable grounds that the entry is necessary because a person has contravened a hazardous port activity provision.
- (2) A port safety officer must not exercise a power under subsection (1) in any part of the premises that is used for residential purposes.

- (3) A port safety officer must not exercise a power under subsection (1) unless, before asking for the consent of the occupier, the port safety officer—
  - (a) has produced his or her identity card for inspection; and
  - (b) has informed the occupier—
    - (i) of the purpose of the entry and inspection; and
    - (ii) of the powers that the port safety officer may exercise on entry; and
    - (iii) that the occupier is not required to consent.
- (4) If an occupier consents to the exercise of a power under subsection (1), the port safety officer who requested consent must, before entering the premises, ask the occupier to sign an acknowledgment of the consent.
- (5) An acknowledgment must state—
  - (a) that the occupier has been informed—
    - (i) of the purpose of the entry and inspection; and
    - (ii) of the powers that the port safety officer may exercise on entry; and
    - (iii) that the occupier is not required to consent; and
  - (c) the purpose of the entry; and
  - (d) that the occupier has consented to the entry and the exercise of the powers; and
  - (e) the date and time that the occupier consented.

- (6) If an occupier consents to the seizure or taking of any thing during an inspection under this section, the port safety officer must, before seizing or taking the thing, ask the occupier to sign an acknowledgment stating—
  - (a) that the occupier has consented to the seizure or taking of the thing; and
  - (b) the date and time that the occupier consented.
- (7) An occupier who signs an acknowledgment under this section must immediately be given a copy of the signed acknowledgment.
- (8) If, in any proceeding, an acknowledgment is not produced to the court or a tribunal, it must be presumed, until the contrary is proved, that the occupier did not consent to the entry and exercise of powers or to the seizure or the taking of the thing.

**230T Entry of premises without consent**

S. 230T  
inserted by  
No. 93/2009  
s. 15.

- (1) A port safety officer may enter premises on port of Melbourne land if the port safety officer believes on reasonable grounds that the entry is necessary because a person has contravened a hazardous port activity provision.
- (2) A port safety officer—
  - (a) must not exercise a power under subsection (1) in any part of the premises that is used for residential purposes; and
  - (b) must not exercise a power under subsection (1) except—
    - (i) when the premises are open for business; or
    - (ii) when hazardous port activities are being carried out on the premises.

- (3) If a port safety officer exercises a power of entry under this section without the owner or occupier being present the port safety officer must, on leaving the premises, leave a notice setting out—
- (a) the time of entry; and
  - (b) the purpose of entry; and
  - (c) a description of things done while on the premises; and
  - (d) the time of departure; and
  - (e) the procedure for contacting the port authority for further details of the entry.

S. 230U  
inserted by  
No. 93/2009  
s. 15.

**230U Powers that may be exercised on entry**

A port safety officer who enters premises under section 230S or 230T may do any one or more of the following—

- (a) inspect the premises; or
- (b) seize any thing found at the premises that the port safety officer believes on reasonable grounds to be connected with a contravention of a hazardous port activity provision; or
- (c) take samples, photographs or film, videotape or otherwise record images or record sound in connection with the inspection; or
- (d) search for and inspect relevant documents; or
- (e) require any person at the premises to produce to the port safety officer any document that is required to be kept for the purpose for which the inspection is being made and that is located at the premises and that is in the person's custody or possession or under the person's control; or

- (f) make copies of, or take extracts from, any document that is required to be kept for the purpose for which the inspection is being made and that is kept at the premises; or
- (g) exercise any other power under this Act conferred on the port safety officer for those purposes.

**230V Securing a site**

S. 230V  
inserted by  
No. 93/2009  
s. 15.

- (1) A port safety officer may take all reasonable steps to secure the perimeter of any area of land entered under this Division if he or she believes on reasonable grounds that it is necessary—
  - (a) for the purpose of ascertaining whether an offence against a hazardous port activity provision has been committed; or
  - (b) to preserve evidence relating to the commission of an offence against a hazardous port activity provision.
- (2) The perimeter of an area secured under this section may be secured for a period that the port safety officer considers appropriate or the Secretary specifies.

**230W Offence to enter secured site**

S. 230W  
inserted by  
No. 93/2009  
s. 15.

A person must not enter a site the perimeter of which has been secured under section 230V unless the person has a reasonable excuse.

Penalty: 60 penalty units.

## **Division 4—Provisions as to use of or seizure of equipment or goods**

**S. 230X**  
inserted by  
No. 93/2009  
s. 15.

### **230X Use of equipment to examine or process things**

- (1) A port safety officer may bring on to any premises or vessel at which the port safety officer is exercising a power under Division 2 or Division 3 any equipment reasonably necessary for the examination or processing of things found at the premises or on the vessel in order to determine whether they are things that may be seized.
- (2) The port safety officer may operate equipment already at the premises to carry out the examination or processing of a thing found at the premises in order to determine whether it is a thing that may be seized, if the port safety officer believes on reasonable grounds that—
  - (a) the equipment is suitable for the examination or processing; and
  - (b) the examination or processing can be carried out without damage to the equipment or the thing.

**S. 230Y**  
inserted by  
No. 93/2009  
s. 15.

### **230Y Copies of certain things seized to be given**

- (1) If, in exercising a power under Division 2 or Division 3, a port safety officer seizes—
  - (a) a document; or
  - (b) a thing that can be readily copied; or
  - (c) a storage device that contains information that can be readily copied—

the port safety officer must give a copy of the document, thing or information to the owner or the custodian of the document, thing or device as soon as practicable after the seizure.

- (2) Subsection (1) does not apply if the port safety officer is unable to discover the identity of the owner or custodian of the document, thing or device.
- (3) If it is not practicable to comply with subsection (1) in respect of a document, thing or device before the port safety officer finishes the search, the port safety officer must give a receipt for it to the person from whom it is seized and removed.

**230Z Access to seized things**

S. 230Z  
inserted by  
No. 93/2009  
s. 15.

- (1) If a thing is seized under Division 2 or Division 3, the port safety officer who seized the thing must, if practicable, allow the person who would normally be entitled to possession of it reasonable access to it while it remains in the possession, or under the control, of the port safety officer.
- (2) This section does not apply if the port safety officer has given the person an accurate copy of the thing.

**230ZA Retention and return of seized documents or things**

S. 230ZA  
inserted by  
No. 93/2009  
s. 15.

- (1) If a port safety officer seizes a document or other thing under this Part, the port safety officer must take reasonable steps to return the document or thing to the person from whom it was seized if the reason for its seizure no longer exists.
- (2) If the document or thing seized has not been returned within 3 months after it was seized, the port safety officer must take reasonable steps to return it unless—
  - (a) proceedings for the purpose for which the document or thing was seized or retained have commenced within that 3 month period and those proceedings (including any appeal) have not been completed; or

- (b) the Magistrates' Court makes an order under section 230ZB extending the period during which the document or thing may be retained.

S. 230ZB  
inserted by  
No. 93/2009  
s. 15.

**230ZB Magistrates' Court may extend 3 month period**

- (1) A port safety officer may apply to the Magistrates' Court within 3 months after seizing a document or thing under Division 2 or Division 3 for an extension (not exceeding 3 months) of the period for which the port safety officer may retain the document or thing but so that the total period of retention does not exceed 12 months.
- (2) The Magistrates' Court may order such an extension if it is satisfied that the total period of retention of the document or thing does not exceed 12 months and that retention of the document or thing is necessary—
  - (a) for the purpose of an investigation into whether a contravention of a hazardous port activity provision; or
  - (b) to enable evidence of a contravention of a hazardous port activity provision to be obtained for the purpose of a proceeding under such a hazardous port activity provision.
- (3) The Magistrates' Court may adjourn an application to enable notice of the application to be given to any person.



## **Division 4A—Port safety infringement notices**

Pt 7A Div. 4A  
(Heading and  
ss 230ZBA,  
230ZBB)  
inserted by  
No. 19/2010  
s. 15.

### **230ZBA Port safety infringements**

S. 230ZBA  
inserted by  
No. 19/2010  
s. 15.

- (1) A port safety officer who has reason to believe that a person has committed a port safety infringement may serve a port safety infringement notice on that person.
- (2) An offence referred to in subsection (1) for which a port safety infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.
- (3) The penalty for the purposes of this section in respect of any port safety infringement is the amount prescribed in respect of that infringement.

### **230ZBB Regulations**

S. 230ZBB  
inserted by  
No. 19/2010  
s. 15.

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

- (a) prescribing port safety infringements for which a port safety infringement notice may be served; and
- (b) in addition to the requirements of section 13 of the **Infringements Act 2006**, any particulars, not inconsistent with that Act, to be contained in a port safety infringement notice; and
- (c) the form of a withdrawal notice; and
- (d) the method of service of a withdrawal notice; and
- (e) the penalties for any port safety infringement; and

- (f) the form of the document setting out particulars of prior convictions; and
- (g) the form of notices to be endorsed on the document setting out particulars of prior convictions; and
- (h) generally prescribing any other matter or thing required or permitted by this Division to be prescribed or necessary to be prescribed to give effect to this Division.

### **Division 5—General**

S. 230ZC  
inserted by  
No. 93/2009  
s. 15.

#### **230ZC Requirement to assist port safety officer during entry**

- (1) A port safety officer who is exercising a power under and in accordance with Division 2 or 3 may require the occupier of the premises or master of a vessel—
  - (a) to produce documents to the port safety officer; and
  - (b) to give reasonable assistance to the port safety officer.
- (2) Without limiting subsection (1), the port safety officer may direct the person to find and gain access to electronically stored information.
- (3) A person to whom a direction is given under this section must not refuse or fail to comply with a direction under subsection (1) unless the person has a reasonable excuse.

Penalty: 60 penalty units.

- (4) In proceedings for an offence against subsection (3), it is a reasonable excuse if the direction was unreasonable.

- (5) In proceedings for an offence against subsection (3), it is a defence if the person charged proves on the balance of probabilities that the direction or its subject-matter was outside the scope of the business or other activities of the person.

**230ZD Protection against self-incrimination**

S. 230ZD  
inserted by  
No. 93/2009  
s. 15.

- (1) It is a reasonable excuse for a natural person to refuse or fail to give information or do any other thing that the person is required to do by or under this Part, if the giving of the information or the doing of that other thing would tend to incriminate the person.
- (2) Despite subsection (1), it is not a reasonable excuse for a natural person to refuse or fail to produce a document that the person is required to produce by or under this Part, if the production of the document would tend to incriminate the person.

**230ZE Persons who may bring proceedings**

S. 230ZE  
inserted by  
No. 93/2009  
s. 15.

- (1) A port safety officer may bring proceedings for an offence against a hazardous port activity provision.
- (2) A port safety officer may conduct before a court any proceedings for an offence against a hazardous port activity provision.

## Part VIII—Miscellaneous and transitional

### Division 1—Transfer of powers functions assets liabilities and staff

#### 231 Definitions

In this Division—

S. 231 def. of  
*existing  
securities*  
amended by  
No. 44/1989  
s. 26(a).

*existing securities* means debentures, stock, bonds  
or other securities issued by a former  
Authority and in existence immediately  
before 1 July 1989;

S. 231 def. of  
*former  
Authority*  
substituted by  
No. 44/1989  
s. 26(b).

*former Authority* means—

- (a) the Metropolitan Transit Authority; or
- (b) the Road Construction Authority; or
- (c) the Road Traffic Authority; or
- (d) the State Transport Authority;

S. 231 def. of  
*relevant  
former  
Authority*  
substituted by  
No. 44/1989  
s. 26(c).

*relevant former Authority* means, in relation to—

- (a) the Roads Corporation—the Road  
Construction Authority and the Road  
Traffic Authority; and
- (b) the Public Transport Corporation—the  
Metropolitan Transit Authority and the  
State Transport Authority;

S. 231 def. of  
*relevant  
successor  
Authority*  
repealed by  
No. 44/1989  
s. 26(d).

\* \* \* \* \*

***relevant successor Corporation*** means, in relation to—

S. 231 def. of *relevant successor Corporation* inserted by No. 44/1989 s. 26(d).

- (a) the Road Construction Authority and the Road Traffic Authority—the Roads Corporation; and
- (b) the Metropolitan Transit Authority and the State Transport Authority—the Public Transport Corporation;

***State Employees Retirement Benefits Fund*** means the State Employees Retirement Benefits Fund established under the **State Employees Retirement Benefits Act 1979**;

***Superannuation Fund*** means the Superannuation Fund under the **State Superannuation Act 1988**;

S. 231 def. of *Superannuation Fund* amended by No. 50/1988 s. 93(2)(Sch. 2 Pt 2 item 60).

***transferred officer*** means a person who was immediately before 1 July 1989 employed in a former Authority and who by reason of the operation of section 241 becomes employed on and from the appointed day in a Corporation.

S. 231 def. of *transferred officer* amended by No. 44/1989 s. 26(e)(a)(b).

## **232 Abolition of former Authorities**

On 1 July 1989—

S. 232 amended by No. 44/1989 s. 27(a).

- (a) the former Authorities shall be abolished and the members thereof shall go out of office; and
- (b) the relevant successor Corporations shall become and be the successors in law of the relevant former Authorities.

S. 232(b) amended by No. 44/1989 s. 27(b).

S. 233  
amended by  
No. 44/1989  
s. 28(1)(a).

### **233 Transfer of property liabilities contracts debts causes of actions leases etc. to Corporation**

Without affecting the generality of section 232 the following provisions shall have effect on and from 1 July 1989:

S. 233(a)  
amended by  
No. 44/1989  
s. 28(1)(b).

(a) All real and personal property whatsoever including without affecting the generality of the foregoing all land buildings undertakings machinery and plant and all choses in action and all moneys and all interests rights benefits and advantages appurtenant to connected with or relating to all or any of the same vested in a former Authority shall be vested in the relevant successor Corporation for the appropriate purpose under this Act;

S. 233(b)  
amended by  
No. 44/1989  
s. 28(1)(b).

(b) All liabilities of a former Authority in respect of all outstanding principal moneys together with outstanding and future interest thereon lawfully advanced to or borrowed by the former Authority shall be transferred to and be borne and discharged by the relevant successor Corporation;

S. 233(c)  
amended by  
No. 44/1989  
s. 28(1)(a)–(c).

(c) All contracts deeds bonds agreements arrangements and other instruments lawfully made or entered into by or on behalf of or in relation to a former Authority and in force immediately before 1 July 1989 shall be as binding and of as full force and effect in favour of or against or in relation to the relevant successor Corporation as they would have been in favour of or against or in relation to the former Authority if the **Transport (Amendment) Act 1989** had not been passed and may be enforced as fully and effectually as if the same had been made or entered into by or on behalf of or in

relation to the relevant successor Corporation;

- (d) All debts lawfully incurred by or owing by or to a former Authority and due and owing immediately before 1 July 1989 shall be deemed to have been incurred by or owing by or to the relevant successor Corporation and may be recovered from or by the relevant successor Corporation accordingly; **S. 233(d) amended by No. 44/1989 s. 28(1)(a)(b).**
- (e) All actions causes of action proceedings and claims for compensation (including any claim for arbitration thereon or appeal therefrom or proceeding thereunder or matter arising thereout) immediately before 1 July 1989 pending or existing by or against a former Authority shall not abate or be discontinued or be in any way prejudicially affected by reason of this Part but may be continued prosecuted and enforced by or against the relevant successor Corporation as they might have been by or against the former Authority if the **Transport (Amendment) Act 1989** had not been passed and not further or otherwise; **S. 233(e) amended by No. 44/1989 s. 28(1)(a)–(c).**
- (f) Any penalty forfeiture or punishment incurred or imposed by or under any Act repealed by this Act may be imposed enforced or recovered by or against the relevant successor Corporation in like manner and to the like extent as the same might have been imposed enforced or recovered by or against the relevant former Authority if the **Transport (Amendment) Act 1989** had not been passed, and any proceeding or remedy in respect thereof may be instituted continued or enforced by or against the relevant successor Corporation; **S. 233(f) amended by No. 44/1989 s. 28(1)(b)(c).**

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VIII—Miscellaneous and transitional

---

S. 233(g)  
amended by  
No. 44/1989  
s. 28(1)(a)(b).

(g) All authorities charges assignments mortgages indemnities and notices made given or granted or issued by or to or in relation to or at the instance of a former Authority and subsisting immediately before 1 July 1989 shall unless the same are sooner suspended cancelled or revoked continue in force for the period for which they were made given or granted or issued and shall be deemed to have been made given granted or issued by or to or in relation to or at the instance of the relevant successor Corporation;

S. 233(h)  
amended by  
No. 44/1989  
s. 28(1)(a)(b).

(h) All proclamations Orders in Council by-laws and other instruments made in relation to a former Authority and in force immediately before 1 July 1989 shall so far as they relate to matters continued in force or operation by this Act remain, subject to this Act, in full force and operation in relation to the relevant successor Corporation;

S. 233(i)  
amended by  
No. 44/1989  
s. 28(1)(a)(b).

(i) All funds vested in or held by or in relation to a former Authority immediately before 1 July 1989 for any particular purpose or subject to any Act or enactment or particular trusts shall be transferred to and vested in or held by or in relation to the relevant successor Corporation for the like purposes and subject to the like Act enactment or trusts, and no right interest or claim in or with respect to any such fund shall abate or be in any way prejudicially affected by reason of that transfer;



(j) All other acts matters and things of a continuing nature made done or commenced by or on behalf of or in relation to a former Authority and immediately before 1 July 1989 of any force or effect or capable of acquiring any force or effect by virtue of any Act shall be deemed and taken to have been made done or commenced by or on behalf of or in relation to the relevant successor Corporation and shall have effect and may be continued and completed by or on behalf of or in relation to the relevant successor Corporation accordingly; and

S. 233(j)  
amended by  
No. 44/1989  
s. 28(1)(a)(b).

(k) Any reference to a former Authority in any Act proclamation Order in Council rule regulation by-law notice demand order legal or other proceeding deed contract lease mortgage agreement instrument document or any writing of any kind whatsoever shall, so far as relates to any period after 1 July 1989, if not inconsistent with the context or subject-matter be deemed and taken to refer to the relevant successor Corporation.

S. 233(k)  
amended by  
No. 44/1989  
s. 28(1)(a)(b).

\* \* \* \* \*

Ss 234–242  
repealed.<sup>15</sup>

## **243 Contributors to State Employees Retirement Benefits Fund**

(1) A transferred officer who was immediately before 1 July 1989 a contributor to the State Employees Retirement Benefits Fund shall on and after 1 July 1989, for so long as he is employed in a Corporation, continue to be a contributor to that Fund.

S. 243(1)  
amended by  
No. 44/1989  
s. 34(a)(b).

S. 243(2)  
amended by  
No. 44/1989  
s. 34(b).

- (2) A transferred officer who continues to be a contributor to the State Employees Retirement Benefits Fund under subsection (1) shall for so long as he is employed in a Corporation, be deemed to be a permanent employee within the meaning of the **State Employees Retirement Benefits Act 1979** and the provisions of that Act shall apply as if that person had continued in employment with the former Authority in which he was employed.

#### 244 Contributors to Superannuation Fund

S. 244(1)  
amended by  
No. 44/1989  
s. 35(a)(b).

- (1) A transferred officer who was immediately before 1 July 1989 a contributor to the Superannuation Fund shall on and after 1 July 1989, for so long as he is employed in a Corporation, continue to be a contributor to that Fund.

S. 244(2)  
amended by  
Nos 50/1988  
s. 93(2)(Sch. 2  
Pt 2 item 59),  
44/1989  
s. 35(b).

- (2) A transferred officer who continues to be a contributor to the Superannuation Fund under subsection (1) shall, for so long as he is employed in a Corporation, be deemed to be an officer within the meaning of the **State Superannuation Act 1988** and the provisions of the Act shall apply as if that person had continued in employment with the former Authority in which he was employed.

S. 244A  
inserted by  
No. 44/1989  
s. 36.

#### 244A Members of Transport Superannuation Fund

A transferred officer who was immediately before 1 July 1989 a member of the Transport Superannuation Fund continues, on and after 1 July 1989 for as long as he or she is employed in a Corporation, to be a member of that Fund.

## 245 Contributors to other funds

- (1) A transferred officer who was immediately before 1 July 1989 a contributor to or member of a superannuation fund or arrangement, other than the State Employees Retirement Benefits Fund, the Superannuation Fund or the Transport Superannuation Fund, shall on and after 1 July 1989, for so long as he is employed in a Corporation, continue to be a contributor to or member of that Fund.
- (2) The terms and conditions of a superannuation fund or arrangement to which a transferred officer under subsection (1) continues to contribute or of which he continues to be a member shall, for so long as the transferred officer is employed in a Corporation, apply to that transferred officer as if he had continued in employment with the former Authority with which he had been employed.

S. 245(1)  
amended by  
No. 44/1989  
s. 37(a)–(c).

S. 245(2)  
amended by  
Nos 10087  
s. 3(1)(Sch. 1  
item  
289(a)(b)),  
44/1989  
s. 37(b).

## 246 Country Roads Board

- (1) A person—
- (a) who was appointed or employed as an officer or employee of the Country Roads Board under section 109N of the **Country Roads Act 1958** as in force immediately before the coming into operation of Schedule 11; and
  - (b) who occupies a position in the Country Roads Board by reason of which he would become eligible to contribute to the State Employees Retirement Benefits Fund but who has not on the coming into operation of this section commenced contributing to that Fund—

may notwithstanding anything to the contrary in the **State Employees Retirement Benefits Act 1979** elect not to contribute to that Fund.

S. 246(3)  
amended by  
No. 44/1989  
s. 38.

- (2) An election under subsection (1) may be made at any time between the coming into operation of this section and 30 June 1983.
- (3) A person to whom subsection (1) applies, who does not make an election under that subsection shall on and from 30 June 1983 be deemed to be a permanent employee within the meaning of the **State Employees Retirement Benefits Act 1979** for so long as he is employed in a Corporation and the provisions of that Act shall apply accordingly.
- (4) In this section the *Country Roads Board* means the Country Roads Board established by the **Country Roads Act 1958** as in force immediately before the coming into operation of Schedule 11.

Pt 8 Div. 1A  
(Heading and  
s. 246A)  
inserted by  
No. 106/1997  
s. 24.

## Division 1A—Transitional provisions

S. 246A  
inserted by  
No. 106/1997  
s. 24.

### 246A Transport Acts (Amendment) Act 1997

- (1) Despite the repeal of Division 6 of Part 6 by section 21(1) of the **Transport Acts (Amendment) Act 1997**, that Division continues to apply with respect to a private omnibus licence granted under it or any corresponding previous enactment and in force immediately before that repeal.
- (2) A licence referred to in subsection (1) continues in force despite the repeal of Division 6 of Part 6 but may be suspended, revoked or cancelled in accordance with this Act as in force immediately before that repeal and, unless sooner revoked or cancelled, expires on the date on which, by force of section 40(3) of the **Public Transport Competition Act 1995**, it is to be taken to expire for the purposes of section 40(2) of that Act.

**246B Rail Corporations (Further Amendment) Act 1998**

On the repeal of section 6A(2) by section 21(1) of the **Rail Corporations (Further Amendment) Act 1998**, any property vested by force of that section in the Secretary and his or her successors immediately before that repeal vests in the Crown by force of this section.

S. 246B  
inserted by  
No. 98/1998  
s. 38.

**246C Rail Corporations and Transport Acts  
(Amendment) Act 1999**

- (1) Subject to subsection (3) and (4), any officer or employee of the Public Transport Corporation who, immediately before their transfer under Division 3 of Part 3 of the **Rail Corporations Act 1996** to another passenger transport company, was authorised under section 211, 218B, 221 or 229 continues, on and from that transfer, to be authorised under that provision, for a period of 12 months after the date of that transfer or until they cease to be an employee of a passenger transport company (whichever occurs sooner).
- (2) Subject to subsection (3), a person employed in the Department under Part 3 of the **Public Sector Management and Employment Act 1998** who, immediately before their employment under that Part, was an officer of the Public Transport Corporation authorised under section 211, 218B, 221 or 229 continues, on and from their date of employment under that Part, to be authorised under those provisions, for a period of 12 months after that date or until they cease to be employed in the Department under that Part (whichever occurs sooner).
- (3) The Secretary may at any time, in writing, revoke or suspend an authorisation that has continued by force of this section.

S. 246C  
inserted by  
No. 45/1999  
s. 32.

- (4) On or after the transfer of a person to whom subsection (1) applies, an authorisation of that person—
  - (a) under section 211 ceases to be an authorisation in relation to a transport infringement; and
  - (b) under section 229 is only with respect to a ticket offence.

S. 246CAA  
inserted by  
No. 47/2006  
s. 61.

**246CAA Rail Safety Act 2006—Authorised officers for drug and alcohol testing**

- (1) A person who, immediately before the relevant date, was an authorised officer appointed by the Secretary under section 100A is, on the relevant date, deemed to be appointed under section 228T—
  - (a) as a transport safety officer; and
  - (b) subject to the same restrictions that applied to his or her appointment under section 100A.
- (2) Despite section 228U, the Safety Director is not required to issue a person referred to in subsection (1) an identity card.
- (3) However, section 228W applies to a person referred to in subsection (1) as if a reference in that section to an identity card were a reference to the certificate issued to the person by the Secretary under section 100A(4).
- (4) In this section—

***relevant date*** means the day on which section 125 of the **Rail Safety Act 2006** comes into operation.

## Division 1B—Validation

Pt 8 Div. 1B  
(Heading and  
ss 246CA–  
246CZD)  
inserted by  
No. 25/2005  
s. 15.

### 246CA Definitions

S. 246CA  
inserted by  
No. 25/2005  
s. 15.

In this Division—

**MTA** means the Metropolitan Transit Authority established under section 15 (as in force before 1 July 1989);

**PTC** means the Public Transport Corporation established under section 13 (as substituted by section 9 of the **Transport (Amendment) Act 1989** and in force before 30 June 2003);

**STA** means the State Transport Authority established under section 13 (as in force before 1 July 1989).

### 246CB Authorized officers for the purposes of sections 212 and 213 appointed by MTA and STA

S. 246CB  
inserted by  
No. 25/2005  
s. 15.

- (1) Anything done or that is purported to have been done by a relevant person under section 212 or 213 during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorized officer by the Managing Director of the MTA or STA (as the case requires) under section 212(2) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.
- (2) In addition, the relevant person is deemed to have been validly appointed as an authorized officer under section 212(2) during the relevant period.

(3) In this section—

***relevant period*** means the period beginning on 1 July 1983 and ending on 30 June 1989;

**Notes**

- 1 1 July 1983 is the day on which section 212 came into operation. See section 1(2)(c).
- 2 30 June 1989 is the day before the day on which section 40 of and items 12, 13, and 19.1 of Schedule 1 to, the **Transport (Amendment) Act 1989** (No. 44/1989) came into operation. Those provisions substituted references to the PTC and the Chief Executive of the PTC.

***relevant person*** means an officer of the MTA or STA whom the Managing Director of the MTA or STA (as the case requires) purportedly appointed to be an authorized officer under section 212(2) during the relevant period.

S. 246CC  
inserted by  
No. 25/2005  
s. 15.

**246CC Authorised officers for the purposes of Division 2 of Part VII appointed by PTC**

- (1) Anything done or that is purported to have been done by a relevant person under section 212 or 213 during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorized officer by the Chief Executive of the PTC under section 212(2) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.
- (2) In addition, the relevant person is deemed to have been validly appointed as an authorized officer under section 212(2) during the relevant period.



(3) In subsections (1) and (2)—

***relevant period*** means the period beginning on  
1 July 1989 and ending on 7 August 1990;

**Notes**

- 1 1 July 1989 is the day on which section 40 of and items 12, 13, and 19.1 of Schedule 1 to, the **Transport (Amendment) Act 1989** (No. 44/1989) came into operation. Those provisions substituted references to the PTC and the Chief Executive of the PTC.
- 2 7 August 1990 is the day before the day on which section 42 of the **Crimes Legislation (Miscellaneous Amendments) Act 1989** (No. 25/1989) came into operation. That section substituted new sections 211 to 215.

***relevant person*** means an officer of the PTC whom the Chief Executive of the PTC purportedly appointed to be an authorized officer under section 212(2) during the relevant period.

- (4) Anything done or that is purported to have been done by a relevant person under Division 2 of Part VII during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorised officer by the Chief Executive of the PTC or the PTC (as the case requires) under section 211 has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.
- (5) In addition, the relevant person is deemed to have been validly appointed as an authorised officer under section 211 during the relevant period.

(6) In subsections (4) and (5)—

***relevant period*** means the period beginning on 8 August 1990 and ending on 30 May 2000;

**Notes**

- 1 8 August 1990 is the day on which section 42 of the **Crimes Legislation (Miscellaneous Amendments) Act 1989** (No. 25/1989) came into operation. That section inserted a new section 211 which contained a new definition of ***authorised officer***.
- 2 30 May 2000 is the day before the day on which section 18 of the **Transport (Amendment) Act 2000** (No. 30/2000) came into operation. That section amended the definition of ***authorised officer*** in section 211(1) to take out references to the PTC.

***relevant person*** means an officer of the PTC whom the Chief Executive of the PTC, or the PTC, (as the case requires) purportedly appointed to be an authorised officer under section 211 during the relevant period.

S. 246CD  
inserted by  
No. 25/2005  
s. 15.

**246CD Authorised officers for the purposes of section Division 2 of Part II appointed by Secretary**

- (1) Anything done or that is purported to have been done by a relevant person under Division 2 of Part VII during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorised officer by the Secretary under section 211(1) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.
- (2) In addition, the relevant person is deemed to have been validly appointed as an authorised officer under section 211(1) during the relevant period.

(3) In subsections (1) and (2)—

***relevant period*** means the period beginning on 23 November 1995 and ending on 2 December 2003;

**Notes**

- 1 23 November 1995 is the day on which section 45 of the **Public Transport Competition Act 1995** (No. 68/1995) came into operation. That section amended the definition of ***authorised officer*** to empower the Secretary to appoint authorised officers.
- 2 2 December 2003 is the day before the day on which section 15(2) of the **Transport (Rights and Responsibilities) Act 2003** (No. 101/2003) came into operation. That section repealed section 211 on 3 December 2003.

***relevant person*** means a person whom the Secretary purportedly appointed to be an authorised officer under section 211(1) during the relevant period.

- (4) Anything done or that is purported to have been done by a relevant person under section 212 or 213 during the relevant period that would have been validly or lawfully done had—
- (a) that relevant person been validly authorised to act as an authorised officer by the Secretary under section 221A or 221AB (as the case requires) for the purposes of Part VII; and
  - (b) in the case of a purported authorisation under section 221AB, regulations been in force under this Act during the relevant period prescribing—
    - (i) a period for the purposes of each of sections 221H(4), 228F(1) and 228J(4); and

(ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and

(iii) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised, and in the case of a purported authorisation under section 221AB, such regulations had been in force.

(5) In addition, the relevant person is deemed to be, and have always been, validly authorised to act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

(6) In subsections (4) and (5)—

***relevant period*** means the period beginning on 3 December 2003 and ending on the day section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation;

**Note**

3 December 2003 is the day on which section 15(1) of the **Transport (Rights and Responsibilities) Act 2003** (No. 101/2003) came into operation.

That section inserted a new definition of ***authorised officer*** into section 208.

***relevant person*** means a person whom the Secretary purportedly authorised to, during the relevant period, act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

---

**246CE Authorized officer for the purposes of section 218  
appointed by the MTA or STA**

S. 246CE  
inserted by  
No. 25/2005  
s. 15.

- (1) Anything done or that is purported to have been done by a relevant person under section 218 during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorized officer by the Managing Director of the MTA or STA, or the MTA or STA, (as the case requires) under section 218(1) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.
- (2) In addition, the relevant person is deemed to have been validly appointed as an authorized officer under section 218(1) during the relevant period.
- (3) In this section—

***relevant period*** means the period beginning on 1 July 1983 and ending on 30 June 1989;

**Notes**

- 1 1 July 1983 is the day on which section 218 came into operation. See section 1(2)(c).
- 2 30 June 1989 is the day before the day on which section 40 of, and item 23 of Schedule 1 to, the **Transport (Amendment) Act 1989** (No. 44/1989) came into operation. Those provisions substituted a new section 218(1).

***relevant person*** means an officer of the MTA or the STA whom the Managing Director of the MTA or STA, or the MTA or STA, (as the case requires) purportedly appointed to be an authorized officer under section 218(1) during the relevant period.

S. 246CF  
inserted by  
No. 25/2005  
s. 15.

**246CF Authorized officer for the purposes of section 218  
or 218B appointed by the PTC under section 218(1)**

- (1) Anything done or that is purported to have been done by a relevant person under section 218 or 218B during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorized officer by the PTC under section 218(1) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.
- (2) In addition, the relevant person is deemed to have been validly appointed as an authorized officer under section 218(1) during the relevant period.
- (3) In this section—

*relevant period* means the period beginning on 1 July 1989 and ending on 30 May 2000;

Note to  
s. 246CF(3)  
def. of  
*relevant  
period*  
amended by  
No. 9/2006  
s. 129.

**Notes**

- 1 1 July 1989 is the day on which section 40 of, and item 23 of Schedule 1 to, the **Transport (Amendment) Act 1989** (No. 44/1989) came into operation. Those provisions substituted a new section 218(1).
- 2 30 May 2000 is the day before the day on which section 19 of the **Transport (Amendment) Act 2000** (No. 30/2000) came into operation. That section repealed section 218.

*relevant person* means an officer of the PTC whom the PTC purportedly appointed to be an authorized officer under section 218(1) during the relevant period.

---

**246CG Authorised officers for the purposes of section 218B  
appointed by PTC under that section**

S. 246CG  
inserted by  
No. 25/2005  
s. 15.

- (1) Anything done or that is purported to have been done by a relevant person under section 218B during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorized officer by the PTC under section 218B(1), has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.
- (2) In addition, the relevant person is deemed to have been validly appointed as an authorized officer under section 218B(1) during the relevant period.
- (3) In this section—

***relevant period*** means the period beginning on 7 December 1993 and ending on 30 May 2000;

**Notes**

- 1 7 December 1993 is the day on which section 67 of the **Transport (Amendment) Act 1993** (No. 120/1993) came into operation. That section inserted a new section 218B(1).
- 2 30 May 2000 is the day before the day on which section 19 of the **Transport (Amendment) Act 2000** (No. 30/2000) came into operation. That section repealed section 218.

***relevant person*** means an officer of the PTC whom the PTC purportedly appointed to be an authorized officer under section 218B(1) during the relevant period.

S. 246CH  
inserted by  
No. 25/2005  
s. 15.

---

**246CH Authorised officers for the purposes of section 218B  
by Secretary**

- (1) Anything done or that is purported to have been done by a relevant person under section 218B during the relevant period that would have been validly or lawfully done had that relevant person been validly appointed as an authorised officer by the Secretary under section 218B(1) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so appointed.
- (2) In addition, the relevant person is deemed to have been validly appointed as an authorised officer under section 218B(1) during the relevant period.
- (3) In subsections (1) and (2)—

*relevant period* means the period beginning on 23 November 1995 and ending on 2 December 2003;

**Notes**

- 1 23 November 1995 is the day on which section 46 of the **Public Transport Competition Act 1995** (No. 68/1995) came into operation. That section amended the definition of *authorised officer* to empower the Secretary to appoint authorised officers for the purposes of the section.
- 2 2 December 2003 is the day before the day section 17(5) of the **Transport (Rights and Responsibilities) Act 2003** (No. 101/2003) came into operation. That section repealed section 218B(1) on 3 December 2003.

*relevant person* means a person whom the Secretary purportedly appointed to be an authorised officer under section 218B(1) during the relevant period.



- (4) Anything done or that is purported to have been done by a relevant person under section 218B during the relevant period that would have been validly or lawfully done had—
- (a) that relevant person been validly authorised to act as an authorised officer by the Secretary under section 221A or 221AB (as the case requires) for the purposes of Part VII; and
  - (b) in the case of a purported authorisation under section 221AB, regulations been in force under this Act during the relevant period prescribing—
    - (i) a period for the purposes of each of sections 221H(4), 228F(1) and 228J(4); and
    - (ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and
    - (iii) a late renewal application fee for the purposes of section 228I(5)—
- has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised, and in the case of a purported authorisation under section 221AB, such regulations had been in force.
- (5) In addition, the relevant person is deemed to be, and have always been, validly authorised to act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

(6) In subsections (4) and (5)—

***relevant period*** means the period beginning on 3 December 2003 and ending on the day section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation;

**Note**

3 December 2003 is the day on which section 15(1) of the **Transport (Rights and Responsibilities) Act 2003** (No. 101/2003) came into operation. That section inserted a new definition of ***authorised officer*** into section 208.

***relevant person*** means a person whom the Secretary purportedly authorised to, during the relevant period, act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

S. 246CI  
inserted by  
No. 25/2005  
s. 15.

**246CI Officers of the MTA and STA authorized for the purposes of section 219(2) or (4)**

- (1) Anything done or that is purported to have been done by a relevant person under section 219(2) or (4) during the relevant period that would have been validly or lawfully done had that person been validly authorized under the relevant subsection by the MTA or STA to do the thing provided for by the relevant subsection, has, and is deemed always to have had, the same force and effect as it would have had if that officer had been so authorized.
- (2) In addition, the relevant person is deemed to have been validly authorized under section 219(2) or (4) (as the case requires) during the relevant period.

(3) In this section—

***relevant period*** means the period beginning on 17 December 1986 and ending on 30 June 1989;

**Notes**

- 1 17 December 1986 is the day on which section 33(b) of the **Transport (Amendment) Act 1986** (No. 100/1986) came into operation. That section inserted section 219(2) and (4).
- 2 30 June 1989 is the day before the day on which section 40 of, and items 18 and 19 of Schedule 1 to, the **Transport (Amendment) Act 1989** (No. 44/1989) came into operation. Those provisions substituted references to the PTC.

***relevant person*** means an officer of the MTA or STA whom the MTA or STA (as the case requires) purportedly authorized under section 219(2) or (4) to do the thing provided for under the relevant subsection during the relevant period.

**246CJ Officers of the PTC authorised for the purposes of section 219(2), (4) or (7)**

S. 246CJ  
inserted by  
No. 25/2005  
s. 15.

- (1) Anything done or that is purported to have been done by a relevant person under section 219(2) or (4) during the relevant period that would have been validly or lawfully done had that relevant person been validly authorized under the relevant subsection by the PTC to do the thing provided for by the relevant subsection, has, and is deemed always to have had, the same force and effect as it would have had if that person had been so authorized.
- (2) In addition, the relevant person is deemed to have been validly authorized under section 219(2) or (4) (as the case requires) during the relevant period.

(3) In subsections (1) and (2)—

***relevant period*** means the period beginning on 1 July 1989 and ending on 31 December 1997;

**Notes**

- 1 1 July 1989 is the day on which section 40 of, and items 18 and 19 of Schedule 1 to, the **Transport (Amendment) Act 1989** (No. 44/1989) came into operation. Those provisions substituted references to the PTC.
- 2 31 December 1997 is the day before the day on which section 10 of the **Transport (Rail Safety) Act 1996** (No. 28/1996) came into operation. That section substituted a new section 219.

***relevant person*** means an officer of the PTC whom the PTC purportedly authorized under section 219(2) or (4) to do the thing provided for under the relevant subsection during the relevant period.

- (4) Anything done or that is purported to have been done by a relevant person under section 219(7) during the relevant period that would have been validly or lawfully done had that relevant person been validly authorised under that subsection by the PTC to do the thing provided for by that subsection, has, and is deemed always to have had, the same force and effect as it would have had if that person had been so authorised.
- (5) In addition, the relevant person is deemed to have been validly authorized under section 219(7) during the relevant period.

(6) In subsections (4) and (5)—

***relevant period*** means the period beginning on  
1 January 1998 and ending on 29 June 2003;

**Notes**

- 1 1 January 1998 is the day on which section 10 of the **Transport (Rail Safety) Act 1996** (No. 28/1996) came into operation. That section substituted a new section 219.
- 2 29 June 2003 is the day before the day on which section 19(2) of the **Transport (Further Amendment) Act 2001** (No. 54/2001) came into operation. That section repealed section 219(7).

***relevant person*** means an officer of the PTC whom the PTC purportedly authorised under section 219(7) to do the thing provided for under that subsection during the relevant period.

**246CK Officers of the PTC authorised for the purposes of section 219A**

**S. 246CK  
inserted by  
No. 25/2005  
s. 15.**

- (1) Anything done or that is purported to have been done by a relevant person under section 219A during the relevant period that would have been validly or lawfully done had that relevant person been validly authorised under section 219A(2) by the PTC to do the thing provided for by that section, has, and is deemed always to have had, the same force and effect as it would have had if that person had been so authorised.
- (2) In addition, the relevant person is deemed to have been validly authorized under section 219A(2) during the relevant period.

(3) In subsections (1) and (2)—

***relevant period*** means the period beginning on  
1 January 1998 and ending on 29 June 2003;

**Notes**

- 1 1 January 1998 is the day on which section 10 of the **Transport (Rail Safety) Act 1996** (No. 28/1996) came into operation. That section substituted a new section 219A.
- 2 30 May 2000 is the day before the day on which section 22 of the **Transport (Amendment) Act 2000** (No. 30/2000) came into operation. That section repealed section 219A.

***relevant person*** means an officer of the PTC whom the PTC purportedly authorised under section 219A(2) to do the thing provided for under that subsection during the relevant period.

S. 246CL  
inserted by  
No. 25/2005  
s. 15.

**246CL Relevant employees and authorised officers for the purposes of section 219**

- (1) Anything done or that is purported to have been done by a relevant person under section 219 during the relevant period that would have been validly or lawfully done had that relevant person been validly authorised as a relevant employee by the Secretary under section 219(1A)(b) for the purposes of section 219 has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised.
- (2) In addition, the relevant person is deemed to have been validly authorised as an authorised officer under section 219(1A)(b) for the purposes of section 219 during the relevant period.

(3) In subsections (1) and (2)—

***relevant period*** means the period beginning on 23 December 1999 and ending on 3 December 2003;

**Notes**

- 1 23 December 1999 is the day on which section 10 of the **Rail Corporations and Transport Acts (Miscellaneous Amendments) Act 1999** (No. 63/1999) came into operation. That section inserted section 219(1A).
- 2 2 December 2003 is the day before the day on which section 17(5) of the **Transport (Rights and Responsibilities) Act 2003** (No. 101/2003) came into operation. That section repealed section 219(1A).

***relevant person*** means a person whom the Secretary purportedly authorised to be a relevant employee under section 219(1A)(b) during the relevant period.

- (4) Anything done or that is purported to have been done by a relevant person under section 219 during the relevant period that would have been validly or lawfully done had—
- (a) that relevant person been validly authorised to act as an authorised officer by the Secretary under section 221A or 221AB (as the case requires) for the purposes of Part VII; and
  - (b) in the case of a purported authorisation under section 221AB, regulations been in force under this Act during the relevant period prescribing—
    - (i) a period for the purposes of each of sections 221H(4), 228F(1) and 228J(4); and

(ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and

(iii) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised, and in the case of a purported authorisation under section 221AB, such regulations had been in force.

(5) In addition, the relevant person is deemed to be, and have always been, validly authorised to act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

(6) In subsections (4) and (5)—

***relevant period*** means the period beginning on 3 December 2003 and ending on the day section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation;

**Note**

3 December 2003 is the day on which section 15(1) of the **Transport (Rights and Responsibilities) Act 2003** (No. 101/2003) came into operation.

That section inserted a new definition of ***authorised officer*** into section 208.

***relevant person*** means a person whom the Secretary purportedly authorised to, during the relevant period, act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.



---

**246CM Authorised persons for the purposes of  
section 219AA**

**S. 246CM  
inserted by  
No. 25/2005  
s. 15.**

- (1) Anything done or that is purported to have been done by a relevant person under section 219AA during the relevant period that would have been validly or lawfully done had—
- (a) that relevant person been—
    - (i) validly authorised as an authorised person by the Secretary under section 219AA(1) for the purposes of section 219AA; and
    - (ii) given an authorisation by the Secretary under Division 4AA of Part VII for the purposes of section 219AA; and
  - (b) regulations been in force under this Act during the relevant period prescribing—
    - (i) a period for the purposes of each of sections 221C(1), 221H(4), 228F(1) and 228J(4); and
    - (ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and
    - (iii) a late renewal application fee for the purposes of section 228I(5)—
- has, and is deemed always to have had, the same force and effect as it would have had if—
- (c) that relevant person had been so authorised and given such an authorisation; and
  - (d) such regulations had been in force; and
  - (e) the authorisation had been given for a period that did not exceed the period prescribed under section 221C(1).

(2) In addition, the relevant person is deemed to have been validly authorised as an authorised person under section 219AA(1) for the purposes of section 219AA during the relevant period.

(3) In this section—

***relevant period*** means the period beginning on 24 August 1999 and ending on 2 December 2003;

**Notes**

- 1 24 August 1999 is the day on which section 32 of the **Rail Corporations (Further Amendment) Act 1998** (No. 98/1998) came into operation. That section inserted section 219AA.
- 2 2 December 2003 is the day before the day section 17(8) of the **Transport (Rights and Responsibilities) Act 2003** (No. 101/2003) came into operation. That section repealed section 219AA.

***relevant person*** means a person—

- (a) whom the Secretary purportedly authorised to be an authorised person under section 219AA(1) for the purposes of section 219AA during the relevant period; and
- (b) to whom the Secretary purportedly gave an authorisation under Division 4AA of Part VII for the purposes of section 219AA that existed during the relevant period.

S. 246CN  
inserted by  
No. 25/2005  
s. 15.

**246CN Authorised persons, authorised officers and relevant employees for the purposes of section 220**

- (1) Anything done or that is purported to have been done by a relevant person under section 220 during the relevant period that would have been validly or lawfully done had—

- (a) that relevant person been—
    - (i) validly authorised, as the case requires, as an authorised person or relevant employee by the Secretary under section 220(1) for the purposes of section 220; and
    - (ii) given an authorisation by the Secretary under Division 4AA of Part VII for the purposes of section 220; and
  - (b) regulations been in force under this Act during the relevant period prescribing—
    - (i) a period for the purposes of each of sections 221C(1), 221H(4), 228F(1) and 228J(4); and
    - (ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and
    - (iii) a late renewal application fee for the purposes of section 228I(5)—
- has, and is deemed always to have had, the same force and effect as it would have had if—
- (c) that relevant person had been so authorised and given such an authorisation; and
  - (d) such regulations had been in force; and
  - (e) the authorisation had been given for a period that did not exceed the period prescribed under section 221C(1).
- (2) In addition, the relevant person is deemed to have been validly authorised as an authorised person or relevant employee (as the case requires) under section 220(1) for the purposes of section 220 during the relevant period.

(3) In subsections (1) and (2)—

***relevant period*** means the period beginning on 24 August 1999 and ending on 2 December 2003;

**Notes**

- 1 24 August 1999 is the day on which section 24(1) of the **Rail Corporations and Transport Acts (Amendment) Act 1999** (No. 45/1999) came into operation. That section substituted a new section 220(1).
- 2 2 December 2003 is the day before the day section 17(9) of the **Transport (Rights and Responsibilities) Act 2003** (No. 101/2003) came into operation. That section repealed section 220(1).

***relevant person*** means a person—

- (a) whom the Secretary purportedly authorised to be, as the case requires, an authorised person or relevant employee under section 220(1) for the purposes of section 220 during the relevant period; and
  - (b) to whom the Secretary purportedly gave an authorisation under Division 4AA of Part VII for the purposes of section 220 that existed during the relevant period.
- (4) Anything done or that is purported to have been done by a relevant person under section 220 during the relevant period that would have been validly or lawfully done had—
- (a) that relevant person been validly authorised to act as an authorised officer by the Secretary under section 221A or 221AB (as the case requires) for the purposes of Part VII; and

(b) in the case of a purported authorisation under section 221AB, regulations been in force under this Act during the relevant period prescribing—

- (i) a period for the purposes of each of sections 221H(4), 228F(1) and 228J(4); and
- (ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and
- (iii) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised, and in the case of a purported authorisation under section 221AB, such regulations had been in force.

- (5) In addition, the relevant person is deemed to be, and have always been, validly authorised to act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.
- (6) In subsections (4) and (5)—

***relevant period*** means the period beginning on 3 December 2003 and ending on the day section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation;

**Note**

3 December 2003 is the day on which section 15(1) of the **Transport (Rights and Responsibilities) Act 2003** (No. 101/2003) came into operation. That section inserted a new definition of ***authorised officer*** into section 208.

***relevant person*** means a person whom the Secretary purportedly authorised to, during the relevant period, act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

S. 246CO  
inserted by  
No. 25/2005  
s. 15.

**246CO Authorized persons for the purposes of section 221 authorized by MTA or STA**

- (1) Anything done or that is purported to have been done by a relevant person under section 221 during the relevant period that would have been validly or lawfully done had that relevant person been validly authorized as an authorized person by the MTA or the STA (as the case requires) under section 221(1)(c) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorized.
- (2) In addition, the relevant person is deemed to have been validly authorized as an authorized person under section 221(1)(c) during the relevant period.
- (3) In this section—

***relevant period*** means the period beginning on 1 July 1983 and ending on 30 June 1989;

**Notes**

- 1 1 July 1983 is the day on which section 221 came into operation. See section 1(2)(c).
- 2 30 June 1989 is the day before the day on which section 40 of, and item 2.2 of Schedule 1 to, the **Transport (Amendment) Act 1989** (No. 44/1989) came into operation. Those provisions substituted new references to the PTC.

***relevant person*** means a person whom the MTA or the STA purportedly authorized to be an authorized person under section 221(1)(c) during the relevant period.

---

**246CP Authorized persons for the purposes of section 221  
authorized by PTC**

S. 246CP  
inserted by  
No. 25/2005  
s. 15.

- (1) Anything done or that is purported to have been done by a relevant person under section 221 during the relevant period that would have been validly or lawfully done had that relevant person been validly authorized as an authorized person by the PTC under section 221(1)(c) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorized.
- (2) In addition, the relevant person is deemed to have been validly authorized as an authorized person under section 221(1)(c) during the relevant period.
- (3) In this section—

***relevant period*** means the period beginning on 1 July 1989 and ending on 30 May 2000;

**Notes**

- 1 1 July 1989 is the day on which section 40 of, and item 2.2 of Schedule 1 to, the **Transport (Amendment) Act 1989** (No. 44/1989) came into operation. Those provisions substituted new references to the PTC.
- 2 30 May 2000 is the day before the day on which section 24 of the **Transport (Amendment) Act 2000** (No. 30/2000) came into operation. That section substituted section 221(1)(c).

***relevant person*** means a person whom the PTC purportedly authorized to be an authorized person under section 221(1)(c) during the relevant period.

S. 246CQ  
inserted by  
No. 25/2005  
s. 15.

---

**246CQ Authorized persons for the purposes of section 221  
authorised by the Secretary**

- (1) Anything done or that is purported to have been done by a relevant person under section 221 during the relevant period that would have been validly or lawfully done had that relevant person been validly authorised as an authorized person by the Secretary under section 221(1)(c) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised.
- (2) In addition, the relevant person is deemed to have been validly authorised as an authorized person under section 221(1)(c) during the relevant period.
- (3) In this section—

*relevant period* means the period beginning on 23 November 1995 and ending on 23 August 1999;

**Notes**

- 1 23 November 1995 is the day on which section 47(1) of the **Public Transport Competition Act 1995** (No. 68/1995) came into operation. Section 47(1) amended section 221(1)(c) to empower the Secretary to authorise persons as authorized persons for the purposes of section 221.
- 2 23 August 1999 is the day before the day on which section 37 of the **Rail Corporations (Amendment) Act 1997** (No. 104/1997) and section 27 of the **Rail Corporations and Transport Acts (Amendment) Act 1999** (No. 45/1999) came into operation. Those sections inserted Divisions 4A and 4AA into Part VII.

*relevant person* means a person whom the Secretary purportedly authorised to be an authorized person under section 221(1)(c) during the relevant period.



- (4) Anything done or that is purported to have been done by a relevant person under section 221 during the relevant period that would have been validly or lawfully done had—
- (a) that relevant person been—
    - (i) validly authorised as an authorized person by the Secretary under section 221(1)(c) for the purposes of section 221; and
    - (ii) given an authorisation by the Secretary under Division 4AA of Part VII for the purposes of section 221; and
  - (b) regulations been in force under this Act during the relevant period prescribing—
    - (i) a period for the purposes of each of sections 221C(1), 221H(4), 228F(1) and 228J(4); and
    - (ii) a number of days for the purposes of each sections 221G(3) and 228I(4); and
    - (iii) a late renewal application fee for the purposes of section 228I(5)—
- has, and is deemed always to have had, the same force and effect as it would have had if—
- (c) that relevant person had been so authorised and given such an authorisation; and
  - (d) such regulations had been in force; and
  - (e) the authorisation had been given for a period that did not exceed the period prescribed under section 221C(1).
- (5) In addition, the relevant person is deemed to have been validly authorised as an authorized person under section 221(1)(c) for the purposes of section 221 during the relevant period.

(6) In subsections (4) and (5)—

***relevant period*** means the period beginning on 24 August 1999 and ending on 2 December 2003;

**Notes**

- 1 24 August 1999 is the day on which section 37 of the **Rail Corporations (Amendment) Act 1997** (No. 104/1997) and section 27 of the **Rail Corporations and Transport Acts (Amendment) Act 1999** (No. 45/1999) came into operation. Those sections inserted Divisions 4A and 4AA into Part VII.
- 2 2 December 2003 is the day before the day section 17(10) of the **Transport (Rights and Responsibilities) Act 2003** (No. 101/2003) came into operation. That section repealed section 221(1).

***relevant person*** means a person—

- (a) whom the Secretary purportedly authorised to be an authorized person under section 221(1)(c) during the relevant period; and
  - (b) to whom the Secretary purportedly gave an authorisation under Division 4AA of Part VII for the purposes of section 221 that existed during the relevant period.
- (7) Anything done or that is purported to have been done by a relevant person under section 221 during the relevant period that would have been validly or lawfully done had—
- (a) that relevant person been validly authorised to act as an authorised officer by the Secretary under section 221A or 221AB (as the case requires) for the purposes of Part VII; and

(b) in the case of a purported authorisation under section 221AB, regulations been in force under this Act during the relevant period prescribing—

- (i) a period for the purposes of each of sections 221H(4), 228F(1) and 228J(4); and
- (ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and
- (iii) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised, and in the case of a purported authorisation under section 221AB, such regulations had been in force.

- (8) In addition, the relevant person is deemed to be, and have always been, validly authorised to act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.
- (9) In subsections (7) and (8)—

***relevant period*** means the period beginning on 3 December 2003 and ending on the day section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation;

**Note**

3 December 2003 is the day on which section 15(1) of the **Transport (Rights and Responsibilities) Act 2003** (No. 101/2003) came into operation. That section inserted a new definition of ***authorised officer*** into section 208.

*relevant person* means a person whom the Secretary purportedly authorised to, during the relevant period, act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

S. 246CR  
inserted by  
No. 25/2005  
s. 15.

**246CR Authorised officers for the purposes of section 221AA**

- (1) Anything done or that is purported to have been done by a relevant person under section 221AA during the relevant period that would have been validly or lawfully done had—
  - (a) that relevant person been validly authorised to act as an authorised officer by the Secretary under section 221A or 221AB (as the case requires) for the purposes of Part VII; and
  - (b) in the case of a purported authorisation under section 221AB, regulations been in force under this Act during the relevant period prescribing—
    - (i) a period for the purposes of each of sections 221H(4), 228F(1) and 228J(4); and
    - (ii) a number of days for the purposes of each of sections 221G(3) and 228I(4); and
    - (iii) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised, and in the case of a purported authorisation under section 221AB, such regulations had been in force.

(2) In addition, the relevant person is deemed to be, and have always been, validly authorised to act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

(3) In this section—

*relevant period* means the period beginning on 3 December 2003 and ending on the day section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation;

**Note**

3 December 2003 is the day section 15(1) of the **Transport (Rights and Responsibilities) Act 2003** (No. 101/2003) came into operation. That section inserted a new definition of *authorised officer* into section 208.

*relevant person* means a person whom the Secretary purportedly authorised to, during the relevant period, act as an authorised officer under section 221A or 221AB (as the case requires) for the purposes of Part VII.

**246CS Examples of things validated**

Without limiting sections 246CB to 246CR, those sections apply with respect to the following—

- (a) the issue and service of ticket and transport infringement notices under section 212 during the period beginning on 24 August 1999 and ending on the day section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation;

S. 246CS  
inserted by  
No. 25/2005  
s. 15.

- (b) the request of a person to state his or her name and address and the request of a person to provide evidence of the correctness of that name or address under section 218B as in force from time to time;
- (c) the arrest without a warrant of a person under section 219 as in force from time to time;
- (d) the detention of a person under section 219AA while that section was in force;
- (e) the summary removal of persons and their property (if any), under section 220 (as in force from time to time), from—
  - (i) any vehicle owned or operated by or on behalf of a passenger transport company; or
  - (ii) any premises or property of a passenger transport company;
- (f) the request, under section 221 (as in force from time to time), of a person who has made a journey in a carriage or was on land or premises for which a ticket was required to produce a ticket that is valid for that journey or entry;
- (g) the request, under section 221 (as in force from time to time), of a person who has made a journey in a carriage or was on land or premises for which a ticket was required to produce a ticket that is valid for that journey or entry;

- (h) the request, under section 221AA (as in force from time to time), of a person who has just left a carriage, or land or premises for entry to which a ticket is required, to produce for inspection the ticket that the person used for the journey, or to be on the land or premises.

**246CT Accreditations under Division 4A of Part VII**

S. 246CT  
inserted by  
No. 25/2005  
s. 15.

- (1) An accreditation (other than a temporary accreditation) that is given or purportedly given by the Secretary under section 228C during the relevant period that would have been validly and lawfully given had regulations been in force under this Act prescribing a period for the purposes of section 228F(1) has, and is deemed always to have had, the same force and effect as it would have had if such regulations had been in force.
- (2) An accreditation renewed or purportedly renewed by the Secretary under section 228J during the relevant period that would have been validly and lawfully renewed had regulations been in force under this Act prescribing—
- (a) a period for the purposes of section 228J(4); and
  - (b) a number of days for the purposes of section 228I(4); and
  - (c) a late renewal application fee for the purposes of section 228I(5)—

has, and is deemed always to have had, the same force and effect as it would have had if such regulations had been in force.

(3) In this section—

***relevant period*** means the period beginning on 24 August 1999 and ending on the day section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation.

**Note**

24 August 1999 is the day on which section 37 of the **Rail Corporations (Amendment) Act 1997** (No. 104/1997) came into operation. That section inserted Division 4A into Part VII.

S. 246CU  
inserted by  
No. 25/2005  
s. 15.

**246CU Prosecutorial authorisations by the MTA or STA**

- (1) Anything done or that is purported to have been done by a relevant person under section 229(1) or 229(1A) (as the case requires) during the relevant period that would have been validly or lawfully done had that relevant person been validly authorized by the MTA or STA, under section 229(1) has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorized.
- (2) In addition, the relevant person is deemed to have been validly authorized to do the thing under section 229(1) or 229(1A) during the relevant period.
- (3) In this section—

***relevant period*** means—

- (a) in relation to anything done or that is purported to have been done by a relevant person under section 229(1), the period beginning on 1 July 1983 and ending on 30 June 1989;

**Notes**

- 1 1 July 1983 is the day on which section 229 came into operation. See section 1(2)(c).



2 30 June 1989 is the day before the day on which section 40 of, and item 2.1 of Schedule 1 to, the **Transport (Amendment) Act 1989** (No. 44/1989) came into operation. Those provisions substituted new references to the PTC.

- (b) in relation to anything done or that is purported to have been done by a relevant person under section 229(1A), the period beginning on 12 January 1987 and ending on 30 June 1989;

**Notes**

- 1 12 January 1987 is the day on which section 41(b) of the **Transport (Amendment) Act 1986** (No. 100/1986) came into operation. That section inserted section 229(1A).
- 2 30 June 1989 is the day before the day on which section 40 of, and item 2.1 of Schedule 1 to, the **Transport (Amendment) Act 1989** (No. 44/1989) came into operation. Those provisions substituted new references to the PTC.

***relevant person*** means—

- (a) in relation to anything done or that is purported to have been done under section 229(1), a person whom the MTA or STA purportedly authorized under that section to do the thing under that subsection during the relevant period;
- (b) in relation to anything done or that is purported to have been done under section 229(1A), an officer of the MTA or STA whom the MTA or STA (as the case requires) purportedly authorized under 229(1) to do the thing under section 229(1A) during the relevant period.

S. 246CV  
inserted by  
No. 25/2005  
s. 15.

## 246CV Prosecutorial authorisations by the PTC

- (1) Anything done or that is purported to have been done by a relevant person under a relevant prosecutorial provision during the relevant period that would have been validly or lawfully done had that relevant person been validly authorised by the PTC, under that provision, to do that thing has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised.
- (2) In addition, the relevant person is deemed to have been validly authorised to do the thing under the relevant prosecutorial provision during the relevant period.
- (3) In this section—

*relevant period* means—

- (a) in relation to anything done or that is purported to have been done under section 229(1), the period beginning on 1 July 1989 and ending on 30 May 2000;

### Notes

- 1 1 July 1989 is the day on which section 40 of, and item 2.1 of Schedule 1 to, the **Transport (Amendment) Act 1989** (No. 44/1989) came into operation. Those provisions substituted new references to the PTC.
- 2 30 May 2000 is the day before the day on which section 28(1) of the **Transport (Amendment) Act 2000** (No. 30/2000) came into operation. That section removed references to the PTC.

- (b) in relation to anything done or that is purported to have been done under section 229(1A), the period beginning on 1 July 1989 and ending on 30 May 2000;

**Notes**

- 1 1 July 1989 is the day on which section 40 of, and item 2.1 of Schedule 1 to, the **Transport (Amendment) Act 1989** (No. 44/1989) came into operation. That section substituted new references to the PTC.
- 2 30 May 2000 is the day before the day on which section 28(2) of the **Transport (Amendment) Act 2000** (No. 30/2000) came into operation. That section removed references to the PTC.

- (c) in relation to anything done or that is purported to have been done under section 229(1B)(a), the period beginning on 15 June 1994 and ending on 30 May 2000;

**Notes**

- 1 15 June 1994 is the day on which section 26(1) of the **Transport (Further Amendment) Act 1994** (No. 60/1994) came into operation. That section inserted section 229(1B).
- 2 30 May 2000 is the day before the day on which section 28(3) of the **Transport (Amendment) Act 2000** (No. 30/2000) came into operation. That section removed references to the PTC.

***relevant person*** means—

- (a) in relation to anything done or that is purported to have been done under section 229(1), a person whom the PTC purportedly authorised under that

subsection to do the thing under that subsection during the relevant period;

- (b) in relation to anything done or that is purported to have been done under section 229(1A) during the period beginning on 1 July 1989 and ending on 14 June 1994 within the relevant period, a person whom the PTC purportedly authorised under section 229 to do the thing under section 229(1A) during that period;

**Notes**

- 1 1 July 1989 is the day on which section 40 of, and item 2.1 of Schedule 1 to, the **Transport (Amendment) Act 1989** (No. 44/1989) came into operation. That section substituted new references to the PTC.
- 2 14 June 1994 is the day before the day on which section 26(1) of the **Transport (Further Amendment) Act 1994** (No. 60/1994) came into operation. That section substituted a new section 229(1A).

- (c) in relation to anything done or that is purported to have been done under section 229(1A) during the period beginning on 15 June 1994 and ending on 30 May 2000 within the relevant period, a person whom the PTC purportedly authorised under that subsection to do the thing under that subsection during that period;

**Notes**

- 1 15 June 1994 is the day on which section 26(1) of the **Transport (Further Amendment) Act 1994** (No. 60/1994) came into operation. That section substituted a new section 229(1A).

- 2 30 May 2000 is the day before the day on which section 28(3) of the **Transport (Amendment) Act 2000** (No. 30/2000) came into operation. That section removed references to the PTC.

- (d) in relation to anything done or that is purported to have been done under section 229(1B), a person whom the PTC purportedly authorised under that subsection to do the thing under that section;

*relevant prosecutorial provision* means section 229(1), 229(1A) or 229(1B)(a) as in force from time to time during the relevant period.

**246CW Prosecutorial authorisations by the Secretary**

S. 246CW  
inserted by  
No. 25/2005  
s. 15.

- (1) Anything done or that is purported to have been done by a relevant person under a relevant prosecutorial provision during the relevant period that would have been validly or lawfully done had that relevant person been validly authorised by the Secretary, under that provision, to do that thing has, and is deemed always to have had, the same force and effect as it would have had if that relevant person had been so authorised.
- (2) In addition, the relevant person is deemed to be, and always have been, validly authorised to do the thing under the relevant prosecutorial provision.
- (3) In this section—

*relevant period* means—

- (a) in relation to anything done or that is purported to have been done under section 229(1), the period beginning on 15 June 1994 and ending on the day section 15 of the **Transport**

**Legislation (Further Amendment)**  
**Act 2005** comes into operation;

**Note**

15 June 1994 is the day on which section 26(1) of the **Transport (Further Amendment) Act 1994** (No. 60/1994) came into operation. That section substituted section 229(1) and empowered the Secretary to authorise persons.

- (b) in relation to anything done or that is purported to have been done under section 229(1AA), the period beginning on 24 August 1999 and ending on the day section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation;

**Note**

24 August 1999 is the day on which section 36(1) of the **Rail Corporations (Further Amendment) Act 1998** (No. 981998) came into operation. That section inserted section 229(1AA).

- (c) in relation to anything done or that is purported to have been done under section 229(1A), the period beginning on 24 August 1999 and ending on the day section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation;

**Note**

24 August 1999 is the day on which section 30 of the **Rail Corporations and Transport Acts (Amendment) Act 1999** (No. 45/1999) came into operation. That section substituted section 229(1A) and empowered the Secretary to authorise persons.

- (d) in relation to anything done or that is purported to have been done under section 229(1B)(a), the period beginning on 15 June 1994 and ending on the day section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation;

**Note**

15 June 1994 is the day on which section 26(1) of the **Transport (Further Amendment) Act 1994** (No. 60/1994) came into operation. That section inserted section 229(1B).

***relevant prosecutorial provision*** means section 229(1), 229(1AA), 229(1A) or 229(1B) as in force from time to time during the relevant period;

***relevant person*** means—

- (a) in relation to anything done or that is purported to have been done under section 229(1), a person whom the Secretary purportedly authorised under that subsection to do the thing under that subsection during the relevant period;
- (b) in relation to anything done or that is purported to have been done under section 229(1AA), a person who is employed or engaged by a passenger transport company or a bus company whom the Secretary purportedly authorised under that subsection to do the thing under that subsection during the relevant period;

- (c) in relation to anything done or that is purported to have been done under section 229(1A), a person whom the Secretary purportedly authorised under that subsection to do the thing under that subsection during the relevant period;
- (d) in relation to anything done or that is purported to have been done under section 229(1B)(a), a person whom the Secretary purportedly authorised under that section to do the thing under that subsection during the relevant period.

S. 246CX  
inserted by  
No. 25/2005  
s. 15.

**246CX Only things done or purported to have been done under a purported authorisation and appointment validated**

- (1) Despite anything to the contrary in this Division, sections 246CB to 246CR and sections 246CU to 246CW are deemed to only validate things done or purported to have been done by a person under a purported authorisation or appointment—
  - (a) during the period for which that person was purportedly authorised or appointed under the purported authorisation or appointment; and
  - (b) that the purported authorisation or appointment purported to authorise to be done.
- (2) In this section, *purported authorisation or appointment* means an authorisation or appointment referred to in sections 246CB to 246CR and sections 246CU to 246CW.



## 246CY Evidence

S. 246CY  
inserted by  
No. 25/2005  
s. 15.

- (1) Every relevant person who, during the relevant period, was purported to be authorised under section 230(4) (as in force from time to time) by a relevant authority to sign a notice, statement, certificate or other document, is deemed to be, and always to have been, validly authorised by the relevant authority to sign that notice, statement, certificate or other document.

- (2) In this section—

*relevant authority* means—

- (a) in relation to an officer of the MTA or STA, the Managing Director of that Authority;
- (b) in relation to an officer of the PTC, the Chief Executive of the PTC;
- (c) in the case of an officer of the Department, the Secretary;
- (d) in the case of a person who is employed or engaged by a passenger transport company, a bus company, or a rail corporation, the chief executive of the passenger transport company, bus company, or rail corporation (as the case requires);

*relevant period* means the period beginning on 1 July 1983 and ending on the day section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation;

### Note

1 July 1983 is the day on which section 230 came into operation. See section 1(2)(c).

*relevant person* means—

- (a) an officer of the MTA or STA;
- (b) an officer of the PTC;
- (c) an officer of the Department;
- (d) a person who is employed or engaged by a passenger transport company, a bus company, or a rail corporation.

S. 246CZ  
inserted by  
No. 25/2005  
s. 15.

**246CZ Delegations generally in relation to authorisations**

- (1) Every exercise or purported exercise of a power of authorisation under an instrument of delegation executed under a relevant delegation provision during the period beginning on 1 July 1983 and ending on the day section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation is deemed to have, and always to have had, the same force and effect as it would have had if the exercise or purported exercise of that power had been validly and lawfully exercised by the relevant authority.

- (2) In subsection (1)—

*power of authorisation* means a power conferred under a relevant authorisation provision to, as the case requires—

- (a) appoint or authorise a person or an officer of the MTA, STA or PTC to be an authorised officer or authorized person under that provision; or
- (b) give an authorisation under that provision;

***relevant authorisation provision*** means—

- (a) section 211(1), 212(2), 218(1), 218B(1), 219(1A), (2), (4) or (7), 219A(2), 219AA(1), 220(1) or 221(1)(c);
- (b) 221A, 221AB, 221C(1) or 221H;

***relevant authority*** means—

- (a) in the case of section 211(1) (as in force during the relevant periods as defined in sections 246CC(6) and 246CD(3)), the Chief Executive of the PTC, the PTC or the Secretary;
- (b) in the case of section 212(2) (as in force during the relevant periods as defined in sections 246CB(3) and 246CC(3)), the Managing Director of the MTA or STA or the Chief Executive of the PTC;
- (c) in the case of section 218(1) (as in force during the relevant periods as defined in sections 246CE(3) and 246CF(3)), the Managing Director of the MTA, the Managing Director of the STA, the MTA, STA or the PTC;
- (d) in the case of section 218B(1) (as in force during the relevant periods as defined in section 246CG(3) and 246CH(3)), the PTC or the Secretary;
- (e) in the case of section 219(2), (4) or (7) (as in force during the relevant periods as defined in section 246CI(3), 246CJ(3) and (6)), the MTA, STA or PTC;

- (f) in the case of section 219A(2) (as in force during the relevant period as defined in section 246CK(3)), the PTC;
- (g) in the case of section 219(1A) (as in force during the relevant period as defined in section 246CL(3)), the Secretary;
- (h) in the case of section 219AA(1) (as in force during the relevant period as defined in section 246CM(3)), the Secretary;
- (i) in the case of section 220(1) (as in force during the relevant period as defined in section 246CN(3)), the Secretary;
- (j) in the case of section 221(1)(c) (as in force during the relevant periods as defined in sections 246CO(3), 246CP(3) and 246CQ(3) and (6)), the MTA, STA, PTC or the Secretary;
- (k) in the case of sections 221A, 221AB, 221C(1) and 221H (as in force from time to time), the Secretary;

***relevant delegation provision*** means section 6B or section 32(1A), (2), (3) or (3A) (as in force from time to time during the relevant period).

S. 246CZA  
inserted by  
No. 25/2005  
s. 15.

#### **246CZA Delegations generally in relation to accreditations**

- (1) Every exercise or purported exercise of a power of accreditation under an instrument of delegation executed under a relevant delegation provision during the period beginning on 24 August 1999 and ending on the day section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation is deemed to have, and always to have had, the same force and effect as it would have had if the exercise or purported

exercise of that power had been validly and lawfully exercised by the Secretary.

(2) In subsection (1)—

***power of accreditation*** means a power conferred under a relevant accreditation provision;

***relevant accreditation provision*** means a provision of Division 4A of Part VII which confers a function or power on the Secretary;

***relevant delegation provision*** means section 6B or 32(1A).

**246CZB Incorrect delegations purportedly under section 6B**

S. 246CZB  
inserted by  
No. 25/2005  
s. 15.

(1) Every instrument of delegation executed by the Secretary under section 6B during the relevant period delegating or purportedly delegating the Secretary's—

(a) power of authorisation under a relevant authorisation provision; or

(b) power of accreditation under a relevant accreditation provision—

that would have been a valid and lawful instrument had that instrument been executed under section 32(1A) has and is deemed always to have had the same force and effect as it would have had if that instrument had been validly and lawfully executed under section 32(1A).

(2) In this section—

***relevant accreditation provision*** means a provision of Division 4A of Part VII which confers a function or power on the Secretary;

***relevant authorisation provision*** means any of the following provisions as in force during the relevant period—

(a) section 211(1), 218(1), 219(1A)(b),  
219(2), (4), (7), 219A(2), 219AA(1),  
220(1), 221(1)(c) or 221C(1);

(b) section 221A, 221AB or 221H;

*relevant period* means the period beginning on  
1 September 1994 and ending on the day  
section 15 of the **Transport Legislation  
(Further Amendment) Act 2005** comes into  
operation.

**Note**

1 September 1994 is the day on which section 6 of the  
**Transport (Further Amendment) Act 1994**  
(No. 60/1994) came into operation. That section  
inserted section 6B.

S. 246CZC  
inserted by  
No. 25/2005  
s. 15.

**246CZC No proceedings may be brought**

- (1) Proceedings (whether criminal or civil) and  
including proceedings—
- (a) seeking damages or compensation; or
  - (b) seeking the grant of any relief or remedy in  
the nature of certiorari, prohibition,  
mandamus or quo warranto, or the grant of a  
declaration of right or an injunction; or
  - (c) seeking a writ of habeas corpus; or
  - (d) seeking any order under the **Administrative  
Law Act 1978**—

may not be brought in respect of any matter or  
thing that, by reason of the operation of  
sections 246CA to 246CZB, is deemed to be valid  
or lawful or to have been validly or lawfully done.

- (2) Despite subsection (1), a criminal proceeding may  
be brought that relies on a matter or thing that, by  
reason of the operation of sections 246CA  
to 246CZB, is deemed to be valid or lawful or to  
have been validly or lawfully done.

---

**246CZD Preservation of rights only in certain proceedings**

S. 246CZD  
inserted by  
No. 25/2005  
s. 15.

- (1) Subject to subsection (2), this Division affects the rights of parties in any proceeding (whether criminal or civil) commenced, and not finally disposed of, before the day on which section 15 of the **Transport Legislation (Further Amendment) Act 2005** comes into operation.
- (2) Nothing in this Division is to be taken to—
  - (a) affect the rights of the parties in the proceeding known as *Arachichi v Clark* heard and determined in the Magistrates' Court at Melbourne on 14 February 2005; or
  - (b) the rights of the parties in the proceeding known as *Clark v National Express Group Australia (Swanston Trams) Pty Ltd* (ABN 25 087 494 997) (CI 03 70091 of 2003) in the County Court.

**Division 1C—Wheelchair accessible taxi-cab fixed term licence fee instalment amounts**

Pt 8 Div. 1C  
(Heading and  
ss 246CZE–  
246CZH)  
inserted by  
No. 35/2014  
s. 45.

**246CZE Definitions**

S. 246CZE  
inserted by  
No. 35/2014  
s. 45.

In this Division—

**2010 Order** means the Order made under section 143A dated 17 June 2010 and published in the Government Gazette (No. S246) on 28 June 2010 and includes the Rules set out in Appendix 1 to the Order;

**2014 amending Order** means the Order made under section 143A dated 16 February 2014 and published in the Government Gazette (No. S44) on 17 February 2014;

***new taxi-cab licence*** has the same meaning as in Part VI;

***taxi-cab*** has the same meaning as in Part VI;

***taxi-cab licence*** has the same meaning as in Part VI;

***WAT fixed term licence*** means a taxi-cab licence granted under section 143A(2) and in accordance with the 2010 Order in respect of a wheelchair accessible taxi-cab;

***wheelchair accessible taxi-cab*** means a taxi-cab that has been constructed or modified so that it can accommodate and secure one or more occupied wheelchairs.

S. 246CZF  
inserted by  
No. 35/2014  
s. 45.

**246CZF Instalment amounts for licence fees for WAT fixed term licences changed**

- (1) This section applies despite anything to the contrary in section 143A or the 2010 Order but subject to section 246CZG.
- (2) The third and subsequent instalment amounts payable in respect of a licence fee for a WAT fixed term licence in accordance with section 143A and the 2010 Order are taken to be substituted with the instalment amounts set out in the following Table—

**Table**

<i>Instalment</i>	<i>Instalment amount</i>
Third	\$18 400 less the amount of the annual licence fee payable under section 147A(1) for the licence in the year the third instalment is payable
Fourth	\$18 400 less the amount of the annual licence fee payable under section 147A(1) for the licence in the year the fourth instalment is payable



Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VIII—Miscellaneous and transitional

---

<i>Instalment</i>	<i>Instalment amount</i>
Fifth to tenth	The appropriate wheelchair accessible taxi-cab annual licence fee for the Zone specified in the licence set out in the Table in section 147A(2B)

---

**Note**

Under rule 15.3.2 of the Rules set out in Appendix 1 to the 2010 Order, the licence fee for a WAT fixed term licence is payable in 10 annual instalments.

- (3) Each instalment amount set out in the Table in subsection (2) is taken to be payable as follows—
- (a) for the third instalment amount, on the third anniversary of the day on which the applicable WAT fixed term licence was granted;
  - (b) for the fourth instalment amount, on the fourth anniversary of the day on which the applicable WAT fixed term licence was granted;
  - (c) for the fifth to the tenth instalment amount, on the relevant anniversary of the day on which the applicable WAT fixed term licence was granted.

**Example**

For the seventh instalment, the relevant anniversary is the seventh anniversary of the day on which the applicable WAT fixed term licence was granted.

- (4) To avoid doubt—
- (a) rule 16.4 of the Rules set out in Appendix 1 to the 2010 Order applies in relation to the payment of the instalment amounts set out in the Table in subsection (2); and

- (b) this section does not affect any right a holder of a WAT fixed term licence has to apply under section 146AAA to have that licence converted into a new taxi-cab licence.

S. 246CZG  
inserted by  
No. 35/2014  
s. 45.

#### **246CZG Set off of excess licence fee payments**

- (1) This section applies if a holder of a WAT fixed term licence has, before the commencement of section 45 of the **Transport Legislation Amendment (Further Taxi Reform and Other Matters) Act 2014**, paid a third or fourth instalment amount in respect of the licence fee for the WAT fixed term licence they hold that is greater than the amount set out in the Table in section 246CZF(2) for that instalment amount (an *excess amount*).
- (2) The excess amount is taken to be an amount that is to the credit of the holder of the WAT fixed term licence and must be set off against the next instalment amount that is payable by the holder in respect of the licence fee for the WAT fixed term licence.

S. 246CZH  
inserted by  
No. 35/2014  
s. 45.

#### **246CZH Revocation of 2014 amending Order**

- (1) The 2014 amending Order is taken to have been revoked on 17 February 2014.
- (2) To avoid doubt, the 2010 Order is taken to have not been amended by paragraph 6 of the 2014 amending Order.

### **Division 2—Miscellaneous**

S. 246D  
inserted by  
No. 45/1999  
s. 33.

#### **246D Temporary authorisations for the purposes of Division 4AA of Part VII**

- (1) Despite anything to the contrary in Division 4AA of Part VII, the Secretary may, in writing, temporarily authorise under a relevant provision a person employed or engaged by a passenger

transport company or bus company for a period not extending beyond the first anniversary of the commencement of section 32 of the **Rail Corporations and Transport Acts (Amendment) Act 1999**.

- (2) Without limiting subsection (1), the Secretary may give a temporary authorisation to a person—
  - (a) without any application having been made by the person for an authorisation; and
  - (b) without any need to be satisfied of any matter referred to in section 221C(2); and
  - (c) without any need to issue to the person an identity card under section 221I(1).
- (3) A temporary authorisation given under subsection (1) remains in force for the period for which it is given unless—
  - (a) it is sooner revoked, in writing, by the Secretary; or
  - (b) the person authorised under the relevant provision ceases to be an employee or engaged by a passenger transport company or bus company before the expiry of that period.
- (4) The Secretary may at any time, in writing, suspend an authorisation given under subsection (1).
- (5) In this section, *relevant provision* has the same meaning as in section 221A.

**246E Temporary authorisation for the purposes of sections 211 and 218B**

- (1) Despite anything to the contrary in section 211 or 218B, the Secretary may, in writing, temporarily authorise under either or both provisions a person employed or engaged by a

S. 246E  
inserted by  
No. 45/1999  
s. 33.

passenger transport company or bus company for a period not extending beyond the first anniversary of the commencement of section 32 of the **Rail Corporations and Transport Acts (Amendment) Act 1999**.

- (2) Without limiting subsection (1), the Secretary may give a temporary authorisation to a person—
- (a) without any need to be satisfied of any matter referred to in section 211(3) or 218B(1B) (as the case requires); and
  - (b) without any need to issue to the person an identity card under section 211(4) or 218B(1C) (as the case requires).
- (3) A temporary authorisation given under subsection (1) remains in force for the period for which it is given unless—
- (a) it is sooner revoked, in writing, by the Secretary; or
  - (b) the person ceases to be an employee or engaged by a passenger transport company or bus company before the expiry of that period.
- (4) The Secretary may at any time, in writing, suspend an authorisation given under subsection (1).

S. 247  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 14),  
28/1996 s. 11,  
repealed by  
No. 79/2010  
s. 33.

\* \* \* \*

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VIII—Miscellaneous and transitional

	*	*	*	*	*	S. 248 amended by Nos 44/1989 s. 40(Sch. 1 items 19.1, 19.2), 104/1997 s. 38, repealed by No. 79/2010 s. 33.
<b>249 Roads Corporation need not fence</b>						S. 249 (Heading) inserted by No. 6/2010 s. 199(3) (Sch. 3 item 12.4). S. 249 amended by Nos 44/1989 s. 40(Sch. 1 item 24(a)(b) (i)–(iii)), 120/1993 s. 71(a).
(1) Notwithstanding any Act or rule of law to the contrary, the Roads Corporation shall not, unless the Minister so directs, be required to fence or contribute to the fencing of any portion of a railway, tramway or road and shall not be liable for any damage which may be caused by reason of any railway, tramway or road not being fenced in or fenced off but the Roads Corporation may erect and maintain such fences in connexion therewith as it thinks proper.						S. 249(1) amended by Nos 54/2001 s. 25(Sch. item 1.65), 6/2010 s. 199(3) (Sch. 3 item 12.2).
	*	*	*	*	*	S. 249(2) inserted by No. 120/1993 s. 71(b), repealed by No. 79/2010 s. 33.

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VIII—Miscellaneous and transitional

S. 249A  
inserted by  
No. 127/1986  
s. 102(Sch. 4  
item 28.19),  
amended by  
No. 11/2002  
s. 3(Sch. 1  
item 62.2),  
repealed by  
No. 12/2004  
s. 137(11).

\* \* \* \*

S. 249B  
inserted by  
No. 120/1993  
s. 72.

**249B Regulations with respect to services operated by a passenger transport company etc.**

S. 249B(1)  
amended by  
Nos 30/2000  
s. 30, 13/2009  
s. 101 (as  
amended by  
No. 6/2010  
s. 203(1)(Sch. 6  
item 4.5)).

- (1) The Governor in Council may make regulations for or with respect to any matter or thing necessary to be prescribed for or in relation to the operation, and maintenance of safety in connection with the operation, of any railway, tramway or bus service in Victoria that is being operated by a passenger transport company, a rail freight operator or an operator of a bus service.
- (2) Section 56(3) applies to regulations made under this section in the same manner as it applies to regulations made under Part III.

S. 249C  
inserted by  
No. 98/1998  
s. 39,  
expired by  
force of  
s. 249C(2).

\* \* \* \*

S. 250  
amended by  
Nos 9/2006  
s. 128(1),  
23/2013 s. 123.

**250 Service of documents on natural persons**

A document required or permitted by this Act or the **Rail Safety (Local Operations) Act 2006** to be served on a person other than a corporation shall be served—

- (a) by delivering the document to that person personally;

- (b) by prepaying and posting the document as a letter addressed to that person at his last known place of residence or business or, if he is carrying on business at two or more places, at one of those places;
- (c) by leaving the document at the last known place of residence of that person with some person apparently a resident of that place and apparently not less than sixteen years of age; or
- (d) by leaving the document at the last known place of business of that person, or if he is carrying on business at two or more places, at one of those places, with some person apparently in the service of that person and apparently not less than sixteen years of age.

**251 Service of documents on corporations**

A document required by this Act or the **Rail Safety (Local Operations) Act 2006** to be served upon a person, being a corporation, shall be served—

- (a) by prepaying and posting the document as a letter addressed to the corporation at its last known place of business or, if it is carrying on business at two or more places, at one of those places; or
- (b) by leaving it at that place, or at one of those places, with some person apparently in the service of the corporation and apparently not less than sixteen years of age.

**S. 251**  
amended by  
**Nos 9/2006**  
**s. 128(2),**  
**23/2013 s. 124.**

S. 251A  
inserted by  
No. 45/1999  
s. 34.

**251A Sale of lost property found in or on public transport property**

- (1) A person who finds lost property in or on any public transport property of a passenger transport company must deliver the lost property to that passenger transport company.

Penalty: 5 penalty units.

- (2) A passenger transport company may sell or dispose of—
- (a) any lost property which is not claimed and removed by the owner or the person in charge of the lost property; or
  - (b) any goods left on a passenger transport company's premises, after a reasonable attempt has been made to contact the owner or person to whom the goods were consigned.
- (3) A passenger transport company may sell or dispose of—
- (a) any goods or lost property likely to deteriorate immediately; and
  - (b) all other goods or lost property after the expiry of 60 days from the date the lost property was found or the goods were not claimed.
- (4) If goods or lost property are sold by a passenger transport company under this section, the passenger transport company may deduct from the proceeds of the sale the expenses of the sale and any amounts for freight, storage and other charges.
- (5) The balance of the proceeds of the sale under this section of any goods or lost property, after deduction of any amounts authorised by subsection (4) to be deducted from those

S. 251A(5)  
amended by  
No. 44/2008  
s. 115.



proceeds, must be dealt with as unclaimed money in accordance with Part 3 of the **Unclaimed Money Act 2008**.

- (6) A purchaser of goods or lost property sold under this section has good title in relation to those goods or lost property.
- (7) In this section—

*goods* means any goods delivered to a passenger transport company to be carried as freight and which are not claimed and removed by or on behalf of the owner or the person to whom the goods were consigned;

*lost property* means any thing that appears to have been accidentally or deliberately abandoned by the owner or person in charge of it in or on any public transport property of a passenger transport company but does not include litter within the meaning of the **Environment Protection Act 1970**.

S. 251A(7)  
def. of  
*lost property*  
amended by  
No. 37/2002  
s. 51(2).

## **251B Nuisances and noise emissions**

S. 251B  
inserted by  
No. 45/1999  
s. 34.

- (1) Any noise emanating from rolling stock—
- (a) whilst the rolling stock is travelling on a railway track or tramway track; or
- (b) whilst the rolling stock is entering or exiting a siding, yard, depot or workshop; or
- (c) whilst the rolling stock is in a siding, yard, depot or workshop and is—
- (i) powering up to commence to be used in connection with the provision of a passenger service; or
- (ii) shutting down after being used in connection with the provision of a passenger service—
- does not constitute a nuisance.

- (2) Nothing in the **Environment Protection Act 1970** or the **Local Government Act 1989** or any subordinate instrument within the meaning of the **Interpretation of Legislation Act 1984** made under either of those Acts applies in respect of noise emanating from rolling stock—
- (a) whilst the rolling stock is travelling on a railway track or tramway track; or
  - (b) whilst the rolling stock is entering or exiting a siding, yard, depot or workshop; or
  - (c) whilst the rolling stock is in a siding, yard, depot or workshop and is—
    - (i) powering up to commence to be used in connection with the provision of a passenger service; or
    - (ii) shutting down after being used in connection with the provision of a passenger service.
- (3) In this section—

***rolling stock*** means any vehicle, used by a passenger transport company for the provision of a passenger service, that operates on or uses a railway track or tramway track including a locomotive, carriage, rail car, rail motor, light rail vehicle, train, tram, light inspection vehicle, road/rail vehicle, trolley and wagon but not including a vehicle designed to operate both on and off a railway or tramway track when the vehicle is not operating on a railway or tramway track.

## **252 Determination of differences**

- (1) Where any difference (whether or not arising out of the construction of this Act or any other Act) arises between the Roads Corporation and any government department, municipality or body constituted by or under any Act touching or relating to the carrying out or exercise of the duties, powers, privileges or authorities of the Roads Corporation or any of those bodies, the difference may be determined by the Governor in Council.
- (2) The determination of any difference by the Governor in Council under this section shall be final and conclusive upon the parties thereto.

\* \* \* \* \*

S. 252(1)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
items 2.1, 8.1),  
54/2001 s. 22,  
6/2010  
s. 199(3)  
(Sch. 3  
item 12.2).

S. 252(3)  
inserted by  
No. 9984  
s. 5(i),  
repealed by  
No. 100/1986  
s. 3(22).

## **253 Revocation of reservations for tramways purposes**

- (1) The Order in Council specified in Schedule 9 is revoked to the extent that it applies to the land shown hatched on the plan numbered LEGL./97-215 and lodged in the Central Plan Office.
- (2) Crown grant Volume 600 Folio 902 is revoked to the extent that it applies to the land shown hatched on the plan referred to in subsection (1).
- (3) On the revocation of the Order in Council specified in Schedule 9 to the extent that it relates to the land shown hatched on the plan referred to in subsection (1)—

S. 253  
repealed by  
No. 120/1993  
s. 70(2),  
new s. 253  
inserted by  
No. 106/1997  
s. 26.

- (a) the land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
- (b) the appointment of any committee of management is revoked to the extent that it applies to the land; and
- (c) any regulations made under section 13 of the **Crown Land (Reserves) Act 1978** are revoked to the extent that they apply to the land.

S. 253A  
inserted by  
No. 106/1997  
s. 26.

**253A Revocation of part of Melbourne Park Reservation for tramways purposes**

- (1) The deemed temporary reservation of land under Part 5 of the **Melbourne and Olympic Parks Act 1985** is revoked to the extent that it applies to the land shown cross-hatched on the plan numbered LEGL./97-215 and lodged in the Central Plan Office.
- (2) Despite anything to the contrary in the **Melbourne and Olympic Parks Act 1985** and the **Crown Land (Reserves) Act 1978**, on the revocation of that part of the deemed temporary reservation shown cross-hatched on the plan referred to in subsection (1)—
  - (a) the land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
  - (b) the appointment of the Melbourne and Olympic Parks Trust to manage Melbourne Park is revoked to the extent that it applies to the land; and

- (c) any regulations made under section 13 of the **Crown Land (Reserves) Act 1978** are revoked to the extent that they apply to the land.

**253B Further revocation of reservations for tramways purposes**

S. 253B  
inserted by  
No. 99/1998  
s. 12.

- (1) The Order in Council specified in Schedule 10 is revoked to the extent that it applies to the land shown hatched on the plan numbered LEGL./98-75 and lodged in the Central Plan Office.
- (2) Crown grant Volume 600 Folio 902 is revoked to the extent that it applies to the land shown hatched on the plan referred to in subsection (1).
- (3) On the revocation of the Order in Council specified in Schedule 10 to the extent that it applies to the land shown hatched on the plan referred to in subsection (1)—
  - (a) the land is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
  - (b) the appointment of any committee of management is revoked to the extent that it applies to the land; and
  - (c) any regulations made under section 13 of the **Crown Land (Reserves) Act 1978** are revoked to the extent that they apply to the land.

**253C Re-reservation of certain land for Yarra Park**

S. 253C  
inserted by  
No. 99/1998  
s. 12.

- (1) The land shown cross-hatched on the plan numbered LEGL./98-75 and lodged in the Central Plan Office is deemed to be permanently reserved under the **Crown Land (Reserves) Act 1978** for

the purposes for which the land described in Schedule 10 is reserved.

- (2) Crown grant Volume 600 Folio 902 is deemed to include the land shown cross-hatched on the plan referred to in subsection (1).
- (3) The committee of management appointed in respect of the land described in Schedule 10 is deemed to be appointed committee of management of the land shown cross-hatched on the plan referred to in subsection (1).
- (4) Any regulations made under section 13 of the **Crown Land (Reserves) Act 1978** in respect of the land described in Schedule 10 extend and apply to the land shown cross-hatched on the plan referred to in subsection (1).

S. 253D  
inserted by  
No. 99/1998  
s. 12.

#### **253D Registrar of Titles to make necessary amendments**

The Registrar of Titles must make any amendments to the Register kept under the **Transfer of Land Act 1958** that are necessary because of the operation of any provision of sections 253 to 253C.

#### **254 Acts etc. deemed performed by Road Traffic Authority**

S. 254(1)(2)  
repealed by  
No. 10087  
s. 4(1)(Sch. 2).

\* \* \* \* \*

- (3) All developmental roads within the meaning of the **Country Roads Act 1958** in existence immediately before the appointed day shall on that day cease to be developmental roads.
- (4) Subsection (5) applies to any act matter or thing which before the appointed day was required to be done or performed by, on behalf of or in relation to the Chief Commissioner of Police and which as

a result of the operation of this Act is required on and after the appointed day to be done or performed by, on behalf of or in relation to the Road Traffic Authority.

- (5) Any act matter or thing of a continuing nature to which this subsection applies done or performed before the appointed day by, on behalf of or in relation to the Chief Commissioner of Police shall be deemed to have been done or performed by, on behalf of or in relation to the Road Traffic Authority.

**254A Repeal of Part IIA**

Part IIA is **repealed**.

S. 254A  
inserted by  
No. 54/2002  
s. 4.

**254B Transitional provision—Effect of repeal of Part IIA**

Despite the commencement of section 4 of the **Transport (Highway Rule) Act 2002** and without limiting the **Interpretation of Legislation Act 1984**, Part IIA, as in force before the commencement of that section, continues to apply to any cause of action arising before that commencement.

S. 254B  
inserted by  
No. 54/2002  
s. 4.

\* \* \* \* \*

S. 255  
repealed by  
No. 10087  
s. 4(1)(Sch. 2),  
new s. 255  
inserted by  
No. 120/1993  
s. 73,  
repealed by  
No. 79/2010  
s. 33.

**255A Supreme Court—limitation of jurisdiction**

It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the bringing before the Supreme Court of an action of a kind referred to in section 96(12), 97(7) or 98(10).

S. 255A  
inserted by  
No. 60/1994  
s. 28.

S. 255B  
inserted by  
No. 106/1997  
s. 36.

**255B Supreme Court—limitation of jurisdiction**

It is the intention of clause 26A(3) of Schedule 5 to alter or vary section 85 of the **Constitution Act 1975**.

S. 255C  
inserted by  
No. 14/2000  
s. 34.

**255C Supreme Court—limitation of jurisdiction**

It is the intention of sections 96(12) and 98(10), as amended by section 31 of the **Road Safety (Amendment) Act 2000**, to alter or vary section 85 of the **Constitution Act 1975**.

S. 255D  
inserted by  
No. 94/2001  
s. 21.

**255D Supreme Court—limitation of jurisdiction**

It is the intention of section 96B(5) to alter or vary section 85 of the **Constitution Act 1975**.

S. 255E  
inserted by  
No. 32/2002  
s. 22.

**255E Supreme Court—limitation of jurisdiction**

It is the intention of section 189(7) to alter or vary section 85 of the **Constitution Act 1975**.

S. 255F  
inserted by  
No. 54/2002  
s. 5.

**255F Supreme Court—limitation of jurisdiction**

It is the intention of section 37A to alter or vary section 85 of the **Constitution Act 1975**.

**256 Regulations**

(1) The Governor in Council may make regulations for or with respect to any matter or thing that by this Act is authorized or required or permitted to be prescribed or that is necessary to be prescribed for carrying this Act into effect, including prescribing—

S. 256(1)(a)  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 2.1),  
54/2001 s. 23,  
6/2010  
s. 199(3)  
(Sch. 3  
item 12.2).

(a) fees to be charged for the supply of any equipment, goods or materials by the Roads Corporation -or for the supply of any service by the Roads Corporation;



Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Part VIII—Miscellaneous and transitional

*	*	*	*	*	<p>S. 256(1) (b)–(d) amended by No. 44/1989 s. 40(Sch. 1 items 7.1, 25), repealed by No. 85/1992 s. 9(1)(g).</p>
---	---	---	---	---	--

(e) forms to be used for the purposes of this Act;

*	*	*	*	*	<p>S. 256(1)(f)(g) repealed by No. 85/1992 s. 9(1)(g).</p>
---	---	---	---	---	--

*	*	*	*	*	<p>S. 256(1)(h) amended by No. 44/1989 s. 40(Sch. 1 item 2.1), repealed by No. 85/1992 s. 9(1)(g).</p>
---	---	---	---	---	--

*	*	*	*	*	<p>S. 256(1)(i) repealed by No. 85/1992 s. 9(1)(g).</p>
---	---	---	---	---	---

(2) Where any form is prescribed by regulations made under this Act, any form in or to the like effect of the prescribed form shall be sufficient in law.

*	*	*	*	*	<p>S. 256(3) inserted by No. 9984 s. 5(j), repealed by No. 100/1986 s. 3(22), new s. 256(3) inserted by No. 44/1989 s. 43, repealed by No. 16/1998 s. 10(6).</p>
---	---	---	---	---	--

S. 256(4)  
inserted by  
No. 44/1989  
s. 43,  
repealed by  
No. 16/1998  
s. 10(6).

\* \* \* \*

Pt 8 Div. 3  
(Heading and  
ss 257–263)  
inserted by  
No. 54/2001  
s. 26.

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

S. 257  
inserted by  
No. 54/2001  
s. 26.

#### **257 Definitions**

In this Division, *appointed day* means the day on which section 9 of the **Transport (Further Amendment) Act 2001** comes into operation.

S. 258  
inserted by  
No. 54/2001  
s. 26.

#### **258 Transfer of rights and liabilities etc. of PTC to the Secretary on behalf of the Crown**

(1) On the appointed day—

- (a) the offices of the Administrator of the Public Transport Corporation and the Deputy Administrator of the Public Transport Corporation are abolished and the person holding each office goes out of office; and
- (b) all rights, property and assets that, immediately before the appointed day were vested in the Public Transport Corporation, vest in the Secretary, on behalf of the Crown; and
- (c) all debts, liabilities and obligations of the Public Transport Corporation existing immediately before the appointed day, become debts, liabilities and obligations of the Secretary, on behalf of the Crown; and
- (d) the Secretary, on behalf of the Crown, is substituted as a party to any proceedings pending in any court or tribunal to which the

- Public Transport Corporation was a party immediately before the appointed day; and
- (e) the Secretary, on behalf of the Crown, is substituted as a party to any arrangement or contract entered into by or on behalf of the Public Transport Corporation and in force immediately before the appointed day; and
  - (f) any reference to the Public Transport Corporation in any Act or in any proclamation, Order in Council, rule, regulation, order, agreement, instrument, deed or other document, so far as it relates to any period after the appointed day, and if not inconsistent with the context or subject-matter, must be construed as a reference to the Secretary, on behalf of the Crown.
- (2) Nothing effected under subsection (1) or done or suffered under subsection (1)—
- (a) is to be regarded as placing any person in breach of contract or confidence or as otherwise making any person guilty of a civil wrong;
  - (b) is to be regarded as placing any person in breach of, or as constituting a default under any Act or other law or obligation or any provision in any agreement or understanding, including, but not limited to, any provision or obligation prohibiting or restricting or regulating the assignment, transfer, sale or disposal of any property or the disclosure of any information;
  - (c) is to be regarded as fulfilling any condition that allows a person to exercise a power, right or remedy in respect of or to terminate any agreement or obligation; or

- (d) is to be regarded as giving rise to any remedy for a party to a contract or an instrument or as causing or permitting the termination of any contract or instrument because of a change in the beneficial or legal ownership of any asset, right or liability; or
- (e) is to be regarded as causing any contract or instrument to be void or otherwise unenforceable; or
- (f) is to be regarded as frustrating any contract; or
- (g) releases any surety or other obligor wholly or in part from any obligation.

S. 259  
inserted by  
No. 54/2001  
s. 26.

#### **259 List of staff to be transferred**

The Secretary must list in writing the officers and employees of the Public Transport Corporation employed by the Public Transport Corporation immediately before the appointed day who are to be employed under Part 3 of the **Public Sector Management and Employment Act 1998**.

S. 260  
inserted by  
No. 54/2001  
s. 26.

#### **260 Transfer of staff of PTC**

- (1) A person listed under section 259 (*transferred employee*) is to be regarded as—
  - (a) having been employed under Part 3 of the **Public Sector Management and Employment Act 1998**, with effect from the appointed day; and
  - (b) having been so employed on the same terms and conditions as those that applied to the person immediately before the appointed day as an officer or employee of the Public Transport Corporation; and

- (c) having accrued an entitlement to benefits in connection with that employment under Part 3 of the **Public Sector Management and Employment Act 1998** that is equivalent to the entitlement that the person had accrued, as an officer or employee of the Public Transport Corporation, immediately before the appointed day.
- (2) The service of a transferred employee as an employee under Part 3 of the **Public Sector Management and Employment Act 1998** is to be regarded for all purposes as having been continuous with the service of the transferred employee, immediately before the appointed day, as an officer or employee of the Public Transport Corporation.
- (3) A transferred employee is not entitled to receive any payment or other benefit by reason only of having ceased to be an officer or employee of the Public Transport Corporation because of the operation of this Division.
- (4) A certificate purporting to be signed by the Secretary certifying that a person named in the certificate was, with effect from the appointed day, employed, by virtue of this section, under Part 3 of the **Public Sector Management and Employment Act 1998**, is admissible in evidence in any proceedings and is conclusive proof of the matters stated in it.
- (5) The superannuation entitlements of any person who is a transferred employee are to be taken not to be affected by that person becoming a transferred employee.

(6) Nothing in this section prevents—

- (a) any of the terms and conditions of employment of a transferred employee from being altered by or under any law, award or agreement with effect from any time after the appointed day; or
- (b) a transferred employee from resigning or being dismissed at any time after that commencement in accordance with the then existing terms and conditions of his or her employment under Part 3 of the **Public Sector Management and Employment Act 1998**.

S. 261  
inserted by  
No. 54/2001  
s. 26.

**261 Savings provision—assignments**

- (1) The commencement of section 12 of the **Transport (Further Amendment) Act 2001** does not affect any assignment made under the former section before that commencement.
- (2) In this section, *the former section* means section 40 as in force before its repeal.

S. 262  
inserted by  
No. 54/2001  
s. 26.

**262 Savings provision—guarantees**

- (1) The commencement of section 16 of the **Transport (Further Amendment) Act 2001** does not affect the execution, validity, amendment or assignment of any guarantee effected under the former section 77 before that commencement.
- (2) In this section, *the former section 77* means section 77 as in force before the commencement of section 16 of the **Transport (Further Amendment) Act 2001**.

---

**263 Transitional provision—Power to amend or grant further guarantee on assignment of contract**

S. 263  
inserted by  
No. 54/2001  
s. 26(as  
amended by  
No. 32/2002  
s. 24(a)).

(1) Where—

- (a) the rights and liabilities of a person under the relevant contract are assigned with the approval of the Treasurer to another person or transferred to another person (whether by way of allocation or by any other operation of law); and
- (b) the obligations of the first-mentioned person under the relevant contract have been guaranteed under section 77 (as in force before the commencement of section 16 of the **Transport (Further Amendment) Act 2001**)—

the Treasurer may give a guarantee, in favour of any person, guaranteeing the due performance of any obligations of the second-mentioned person arising under the contract (whether or not the second-mentioned person is the Secretary).

(2) Where—

- (a) the rights and liabilities of a person under the relevant contract are assigned with the approval of the Treasurer to another person or transferred to another person (whether by way of allocation or by any other operation of law); and
- (b) the obligations of the first-mentioned person under the relevant contract have been guaranteed under section 77 (as in force before the commencement of section 16 of the **Transport (Further Amendment) Act 2001**)—

the Treasurer may amend any guarantee under section 77 (as so in force) so that it extends to guaranteeing the due performance of any

obligations of the second-mentioned person under the relevant contract (whether or not the second-mentioned person is the Secretary).

- (3) In this section *relevant contract* means the service contract entered into between the former Corporation and OneLink Transit Systems Pty Ltd ACN 059 733 443 with effect from 24 May 1994 as amended, varied and restated from time to time.

Pt 8 Div. 4  
(Heading and  
ss 264–267)  
inserted by  
No. 101/2003  
s. 23.

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

S. 264  
inserted by  
No. 101/2003  
s. 23.

### **264 Commencement date**

In this Division, *commencement date* means the date of commencement of Division 3 of Part 3 of the **Transport (Rights and Responsibilities) Act 2003**.

S. 265  
inserted by  
No. 101/2003  
s. 23.

### **265 Continuation of Departmental authorisations**

A person who, immediately before the commencement date, held an appointment by the Secretary as an authorised officer under—

- (a) paragraph (a) of the definition of *authorised officer* in section 211; or
- (b) paragraph (b) of that definition by virtue of being a person described in paragraph (b)(ii) of that definition—

is deemed to have been appointed as an authorised officer by the Secretary under section 221A.

S. 266  
inserted by  
No. 101/2003  
s. 23.

### **266 Continuation of Roads Corporation authorisations**

A person who, immediately before the commencement date, held an appointment by the Roads Corporation under section 211 as an authorised officer is deemed to be an officer of the Roads Corporation appointed in writing by



that Corporation under section 212(1A) to issue transport infringement notices.

**267 Continuation of passenger transport and bus company employee authorisations**

S. 267  
inserted by  
No. 101/2003  
s. 23.

- (1) This section applies to a person who, immediately before the commencement date—
  - (a) was employed or engaged by a passenger transport or bus company; and
  - (b) was—
    - (i) an authorised officer under section 211 or 218B appointed by the Secretary; or
    - (ii) an authorised person under section 219AA or 220; or
    - (iii) an authorized person under section 221.
- (2) The person is deemed to have been authorised by the Secretary under section 221AB to act as an authorised officer.
- (3) The expiry date and any conditions applying to the person's authorisation immediately before the commencement date continue to apply to the authorisation.

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

Pt 8 Div. 5  
(Heading and  
ss 268–271)  
inserted by  
No. 47/2006  
s. 30.

**268 Definitions**

S. 268  
inserted by  
No. 47/2006  
s. 30.

*appointed day* means the day on which section 10 of the **Transport Legislation (Further Amendment) Act 2006** comes into operation;

*driver accreditation* has the same meaning as in Part VI;

*old driver's certificate* means a certificate, in force immediately before the appointed day, under section 156, as in force immediately before the appointed day.

S. 269  
inserted by  
No. 47/2006  
s. 30.

## **269 Old certificates deemed to be accreditations**

- (1) An old driver's certificate is deemed to be, on and from the appointed day, a driver accreditation.
- (2) An old driver's certificate that is deemed to be a driver accreditation under subsection (1)—
  - (a) is subject to any conditions to which the certificate was subject immediately before the appointed day, and any such conditions may be dealt with as if they were imposed under Division 6 of Part VI; and
  - (b) remains in force for the remainder of the term that applied to the certificate immediately before the appointed day, unless, before the end of that term, the accreditation is suspended or cancelled under Division 6 of Part VI; and
  - (c) except where this section indicates a contrary intention, the provisions of Division 6 of Part VI apply accordingly.
- (3) Despite subsection (1), if a person who is the holder of an old driver's certificate is a person who has been found guilty of a category 1 offence, or is subject to the reporting obligations, or an order referred to in section 169(2)(c), the person is not deemed to be the holder of a driver accreditation.
- (4) Subsection (3) does not apply if the holder of the certificate can demonstrate to the satisfaction of the Director, having regard to the public care objective under Division 6 of Part VI, that it is appropriate for that person to be deemed to be the holder of such an accreditation.

- (5) A person referred to in subsection (3) may apply to VCAT for an order that his or her old driver's certificate be deemed to be a driver accreditation under this section.
- (6) If VCAT makes an order under subsection (5), subsection (2) applies to the deemed driver accreditation.
- (7) At least 28 days before the appointed day the Director must give each holder of an old driver's certificate to whom subsection (3) applies written notice of the effect of subsections (3), (4), (5) and (6) and allow the person 28 days in which to provide the Director with information for the purposes of subsection (4).

**270 Saving of accreditations granted by Secretary**

Despite the commencement of section 21 of the **Transport Legislation (Further Amendment) Act 2006**, an accreditation under Division 4A of Part VII (and any condition to which the accreditation is subject) granted by the Secretary and in force immediately before that commencement is deemed to continue in force as if the accreditation were granted by the Director.

S. 270  
inserted by  
No. 47/2006  
s. 30.

**271 Saving of agreements etc.**

- (1) Any reference to the Secretary in any relevant agreement, instrument, deed or other document, so far as it relates to any period after the commencement of section 31(1) of the **Transport Legislation (Further Amendment) Act 2006** and if not inconsistent with the context or subject-matter, must be construed as a reference to the Director.

S. 271  
inserted by  
No. 47/2006  
s. 30.

S. 271(1A)  
inserted by  
No. 69/2007  
s. 38.

(1A) An instrument of delegation made by the Secretary under section 32(1A) and in force immediately before the commencement of section 31(1) of the **Transport Legislation (Further Amendment) Act 2006** is on that commencement deemed to be an instrument of delegation made by the Director under section 9(7) to the extent that a power delegated under that instrument is a power under a relevant section or a power conferred on a licensing authority by or under this Act.

(2) In this section—

*relevant agreement, instrument, deed or other document* means any agreement, instrument, deed or other document—

- (a) entered into under a relevant section of this Act or the **Public Transport Competition Act 1995**; and
- (b) in force immediately before the commencement of section 31(1) of the **Transport Legislation (Further Amendment) Act 2006**;

*relevant section* means a section of this Act or the **Public Transport Competition Act 1995** in which a reference to "Secretary" was amended by the **Transport Legislation (Further Amendment) Act 2006** to be a reference to "Director".

---

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

Pt 8 Div. 6  
(Heading and  
ss 272, 273)  
inserted by  
No. 71/2006  
s. 18.

**272 Taxi-cab accreditation**

S. 272  
inserted by  
No. 71/2006  
s. 18.

- (1) Subject to this section, a person who holds a taxi-cab licence immediately before the commencement of Part 2 of the **Transport (Taxi-cab Accreditation and Other Amendments) Act 2006** is deemed, for the period of 2 years after that commencement, to be accredited under Division 4 of Part VI as a taxi-cab licence holder.
- (2) Subject to this section, a person who immediately before the commencement of Part 2 of the **Transport (Taxi-cab Accreditation and Other Amendments) Act 2006**—
- (a) holds a licence to operate a taxi-cab the right to operate a vehicle under which has not been assigned to another person under section 150; or
  - (b) is a person to whom the right to operate a vehicle under a taxi-cab licence is assigned under section 150—

S. 272(1)  
amended by  
No. 69/2007  
s. 39(1).

is deemed, for the period of 2 years after that commencement, to be accredited under Division 4 of Part VI as a taxi-cab operator.

**(2A) If—**

- (a) an application for the grant of a taxi-cab licence under section 143 or 143A; or
- (b) an application under section 149 for authority to transfer a taxi-cab licence; or

S. 272(2A)  
inserted by  
No. 69/2007  
s. 39(2).

- (c) an application under section 150 for authority to assign the right to operate a vehicle under a taxi-cab licence—

is made but not determined before the commencement of Part 2 of the **Transport (Taxi-cab Accreditation and Other Amendments) Act 2006**, the application must be considered and determined in accordance with this Act as in force immediately before that commencement.

S. 272(2B)  
inserted by  
No. 69/2007  
s. 39(2).

- (2B) Subject to this section, a person who holds a taxi-cab licence—
- (a) that was granted to the person in response to an application to which subsection (2A)(a) applies; or
- (b) that was transferred to the person in response to an application to which subsection (2A)(b) applies—

is deemed for the period commencing on the date of the grant or transfer of the taxi-cab licence (as the case requires) and ending 2 years after the commencement of Part 2 of the **Transport (Taxi-cab Accreditation and Other Amendments) Act 2006** to be accredited under Division 4 of Part VI as a taxi-cab licence holder.

S. 272(2C)  
inserted by  
No. 69/2007  
s. 39(2).

- (2C) Subject to this section, a person to whom the right to operate a vehicle under a taxi-cab licence is assigned under an assignment for which an authority was given in response to an application to which subsection (2A)(c) applies is deemed for the period commencing on the date that the authority was given and ending 2 years after the commencement of Part 2 of the **Transport (Taxi-cab Accreditation and Other Amendments) Act 2006** to be accredited under Division 4 of Part VI as a taxi-cab operator.

(2D) Subject to this section, if, before a taxi-cab licence is granted or transferred to a person in response to an application to which subsection (2A)(a) or (2A)(b) applies, the licensing authority determines on reasonable grounds that the person does not intend to assign the right to operate a vehicle under the licence to another person—

S. 272(2D)  
inserted by  
No. 69/2007  
s. 39(2).

(a) the licensing authority may determine that the person is to be accredited as a taxi-cab operator; and

(b) if a determination under paragraph (a) is made and notified in writing to the person, the person is deemed for the period commencing on the date that the licence was granted or transferred and ending 2 years after the commencement of Part 2 of the **Transport (Taxi-cab Accreditation and Other Amendments) Act 2006** to be accredited under Division 4 of Part VI as a taxi-cab operator.

(3) To avoid doubt, Division 4 of Part VI applies to a deemed accreditation under subsection (1), (2), (2B), (2C) or (2D) and that accreditation may be cancelled, suspended, surrendered or otherwise dealt with (including by the variation, revocation or imposition of a condition, restriction or other limitation) in accordance with that Division.

S. 272(3)  
amended by  
No. 69/2007  
s. 39(3).

(4) The licensing authority may at any time during the period of a deemed accreditation of a person under subsection (1), (2), (2B), (2C) or (2D), by written notice served on that person, require that person to apply for accreditation under Division 4 of Part VI as a taxi-cab licence holder or taxi-cab operator (as the case requires) on or before the date specified in the notice, which must not be earlier than 28 days after the day on which the notice is served.

S. 272(4)  
amended by  
No. 69/2007  
s. 39(3).

- (5) If a person on whom a notice is served under subsection (4) does not apply for accreditation under Division 4 of Part VI as a taxi-cab licence holder or taxi-cab operator (as the case requires) on or before the date specified in the notice, the licensing authority may serve on that person a notice cancelling the deemed accreditation with effect from the date specified in the notice, which must not be earlier than 7 days after the day on which the notice is served.

S. 273  
inserted by  
No. 71/2006  
s. 18.

### 273 Assignments

The amendments of section 150 of this Act made by Division 2 of Part 3 of the **Transport (Taxi-cab Accreditation and Other Amendments) Act 2006** only apply to—

- (a) applications made under subsection (1) of that section on or after the commencement of that Division; and
- (b) assignments made under that section on or after that commencement in reliance on an authority granted on an application referred to in paragraph (a).

Pt 8 Div. 7  
(Heading and  
s. 274)  
inserted by  
No. 85/2008  
s. 16.

## Division 7—Transitional provisions—Transport Legislation Amendment (Driver and Industry Standards) Act 2008

S. 274  
inserted by  
No. 85/2008  
s. 16.

### 274 Accreditations

- (1) The amendments made to this Act by sections 4, 5, 6, 7, 8, 9, 11 and 15 of the **Transport Legislation Amendment (Driver and Industry Standards) Act 2008** apply to any application for accreditation or renewal of accreditation under Division 4 of Part VI that was made but not finally decided or withdrawn immediately before the commencement of section 16 of that Act.



- (2) The Director must—
- (a) immediately after the commencement of section 16 of the **Transport Legislation Amendment (Driver and Industry Standards) Act 2008**, notify each person who has made an application for accreditation that was not finally decided or withdrawn immediately before that commencement that his or her application will be assessed in accordance with this Act as amended by that 2008 Act; and
  - (b) give each person so notified 28 days to—
    - (i) withdraw his or her application if the person wishes to do so; or
    - (ii) provide the Director with relevant information.
- (3) The amendments made to this Act by sections 4, 5, 6, 7, 8, 9, 11 and 15 of the **Transport Legislation Amendment (Driver and Industry Standards) Act 2008** apply to any accreditation that was held or deemed to be held by a person immediately before the commencement of section 16 of that Act.

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

Pt 8 Div. 8  
(Heading and  
ss 275, 276)  
inserted by  
No. 45/2009  
s. 16.

**275 Transitional provision—direction to provide reasonable assistance**

S. 275  
inserted by  
No. 45/2009  
s. 16.

Despite the commencement of section 14 of the **Statute Law Amendment (Charter of Human Rights and Responsibilities) Act 2009**, section 228ZL(4) as in force immediately before that commencement continues to apply to

proceedings for an offence against section 228ZL commenced but not completed before that commencement.

S. 276  
inserted by  
No. 45/2009  
s. 16.

**276 Transitional provision—direction to state name and address**

Despite the commencement of section 15 of the **Statute Law Amendment (Charter of Human Rights and Responsibilities) Act 2009**, section 228ZN(4) as in force immediately before that commencement continues to apply to proceedings for an offence against section 228ZN commenced but not completed before that commencement.

Pt 8 Div. 9  
(Heading and  
ss 277–318)  
inserted by  
No. 34/2011  
s. 101.

**Division 9—Transitional provisions—Part 2 of the Transport Legislation Amendment (Taxi Services Reform and Other Matters) Act 2011**

**Subdivision 1—Preliminary**

S. 277  
inserted by  
No. 34/2011  
s. 101.

**277 Definitions**

In this Division—

*commencement day* means the day on which section 101 of the **Transport Legislation Amendment (Taxi Services Reform and Other Matters) Act 2011** comes into operation;

*former DPT property* means property, and related rights or related liabilities, of the Director that, under Subdivision 2, have vested in, or become liabilities of, the Secretary;

*former DPT property instrument* means an instrument relating to former DPT property subsisting immediately before the relevant date—

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

***former relevant DPT agreement*** means an agreement subsisting immediately before the relevant date—

- (a) to which the Director was a party; and
- (b) that was entered into by the Director for the purposes of performing a function or exercising a power under Part VI or in relation to or for the purposes of the provision of commercial passenger vehicle services by the Director or another person;

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

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

***relevant agreement liabilities*** means liabilities of the Director under an agreement subsisting immediately before the relevant date—

- (a) to which the Director was a party; and

- (b) that was entered into by the Director for the purposes of performing a function or exercising a power under Part VI or in relation to or for the purposes of the provision of commercial passenger vehicle services by the Director or another person;

***relevant agreement rights*** means rights of the Director under an agreement subsisting immediately before the relevant date—

- (a) to which the Director was a party; and
- (b) that was entered into by the Director for the purposes of performing a function or exercising a power under Part VI or in relation to or for the purposes of the provision commercial passenger vehicle services by the Director or another person;

***relevant date***, in relation to an allocation statement under section 278 or property, rights or liabilities allocated under such a statement, means the date fixed by the Minister under section 278(7) for the purposes of that statement;

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

## **Subdivision 2—Property transfers**

### **278 Minister may direct transfer of DPT property etc. to Secretary**

**S. 278  
inserted by  
No. 34/2011  
s. 101.**

- (1) The Minister may give a direction in writing to the Director directing the Director to transfer to the Secretary, in accordance with the direction—
  - (a) property and related rights and related liabilities of the Director of a specified kind;
  - (b) relevant agreement rights and relevant agreement liabilities of a specified kind.
- (2) The Director must give to the Minister a statement containing the information required by the Minister relating to the property and related rights and related liabilities of the Director, and relevant agreement rights and relevant agreement liabilities to which the direction relates, as at the date specified by the Minister for the purposes of this section.
- (3) A statement under this section—
  - (a) must allocate the property and related rights and related liabilities of the Director, relevant agreement rights and relevant agreement liabilities shown in the statement in accordance with the directions of the Minister; and
  - (b) must be signed by the Director.
- (4) If a statement under this section is approved by the Minister—
  - (a) the Minister must sign the statement; and
  - (b) the statement is an allocation statement for the purposes of this Division.
- (5) The Minister may at any time direct the Director to amend a statement given to him or her under this section as specified in the direction.

- (6) An allocation statement under this section may be amended by writing signed by the Minister.
- (7) The Minister, by notice published in the Government Gazette, may fix a relevant date for the purposes of an allocation statement under this section.
- (8) In this section, *statement* and *allocation statement* include a statement or allocation statement amended in accordance with this section.

S. 279  
inserted by  
No. 34/2011  
s. 101.

**279 Property etc. transferred in accordance with direction**

On the relevant date—

- (a) all property and related rights of the Director wherever located, that are allocated under an allocation statement in accordance with a direction of the Minister under section 278, vest in the Secretary in accordance with the statement;
- (b) all liabilities of the Director related to property, wherever located, that are allocated under an allocation statement in accordance with a direction of the Minister under section 278, become liabilities of the Secretary in accordance with the statement;
- (c) all relevant agreement rights, wherever located, that are allocated under an allocation statement in accordance with a direction of the Minister under section 278, vest in the Secretary in accordance with the statement;
- (d) all relevant agreement liabilities, wherever located, that are allocated under an allocation statement in accordance with a direction of the Minister under section 278, become liabilities of the Secretary in accordance with the statement.

**280 Allocation of property etc. subject to encumbrances**

S. 280  
inserted by  
No. 34/2011  
s. 101.

Unless an allocation statement under this Subdivision otherwise provides, if, under this Subdivision—

- (a) property and related rights and relevant agreement rights vest in; or
- (b) liabilities related to property and relevant agreement liabilities become liabilities of—

the Secretary in accordance with a direction under section 278—

- (c) the property and related rights and relevant agreement rights so vested are subject to the encumbrances (if any) to which they were subject immediately before so vesting; and
- (d) the rights to which the Director was entitled in respect of those liabilities immediately before they ceased to be liabilities of the Director vest in the Secretary.

**281 Substitution of party to agreement**

S. 281  
inserted by  
No. 34/2011  
s. 101.

If, under an allocation statement, rights and liabilities related to property of the Director under an agreement and relevant agreement rights and relevant agreement liabilities are allocated to the Secretary in accordance with a direction under section 278—

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

S. 282  
inserted by  
No. 34/2011  
s. 101.

## 282 Former DPT instruments and agreements

- (1) Each former DPT instrument relating to former DPT property continues to have effect according to its tenor on and after the relevant date in relation to that property as if a reference in the instrument to the Director were a reference to the Secretary.
- (2) Each former relevant DPT agreement continues to have effect according to its tenor on and after the relevant date as if a reference in the agreement to the Director were a reference to the Secretary.

S. 283  
inserted by  
No. 34/2011  
s. 101.

## 283 Proceedings

Unless an allocation statement otherwise provides, if, immediately before the relevant date, proceedings relating to former DPT property or a former relevant DPT agreement (including arbitration proceedings) to which the Director was a party were pending or existing in any court or tribunal, then, on and after that date, the Secretary is substituted for the Director as a party to the proceedings and has the same rights in the proceedings as the Director had.

S. 284  
inserted by  
No. 34/2011  
s. 101.

## 284 Interests in land

Without prejudice to the generality of this Subdivision and despite anything to the contrary in any other Act (other than the **Charter of Human Rights and Responsibilities Act 2006**) or law if, immediately before the relevant date, the Director is, in relation to former DPT property, the registered proprietor of an interest in land under the **Transfer of Land Act 1958**, then on and after that date—

- (a) the Secretary, on behalf of the Crown, is to be taken to be the registered proprietor of that interest in land; and



(b) the Secretary, on behalf of the Crown, has the same rights and remedies in respect of that interest as the Director had.

**285 Action by Registrar of Titles**

The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or other instrument, must make any amendments in the Register that are necessary because of the operation of this Subdivision.

S. 285  
inserted by  
No. 34/2011  
s. 101.

**286 Taxes**

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

S. 286  
inserted by  
No. 34/2011  
s. 101.

**287 Evidence**

Documentary or other evidence that would have been admissible for or against the interests of the Director in relation to former DPT property or a former relevant DPT agreement if this Subdivision had not been enacted is admissible for or against the interests of the Secretary.

S. 287  
inserted by  
No. 34/2011  
s. 101.

**288 Validity of things done under this Subdivision**

Nothing effected or to be effected by this Subdivision or done or suffered under this Subdivision—

(a) is to be regarded as placing any person in breach of contract or confidence or as otherwise making any person guilty of a civil wrong; or

S. 288  
inserted by  
No. 34/2011  
s. 101.

- (b) is to be regarded as placing any person in breach of, or as constituting a default under, any Act (other than the **Charter of Human Rights and Responsibilities Act 2006**) or other law or obligation or any provision in any agreement, arrangement or understanding including, but not limited to, any provision or obligation prohibiting, restricting or regulating the assignment, transfer, sale or disposal of any property or the disclosure of any information; or
- (c) is to be regarded as fulfilling any condition that allows a person to exercise a power, right or remedy in respect of or to terminate any agreement or obligation; or
- (d) is to be regarded as giving rise to any remedy for a party to a contract or an instrument or as causing or permitting the termination of any contract or instrument because of a change in the beneficial or legal ownership of any relevant property; or
- (e) is to be regarded as causing any contract or instrument to be void or otherwise unenforceable; or
- (f) is to be regarded as frustrating any contract; or
- (g) releases any surety or other obligor wholly or in part from any obligation.

### **Subdivision 3—Administrative and regulatory function transfers**

#### **289 General transitional provisions**

- (1) This Subdivision does not affect or take away from the **Interpretation of Legislation Act 1984**.
- (2) This Subdivision applies despite anything to the contrary in any other provision of this Act.

S. 289  
inserted by  
No. 34/2011  
s. 101.

#### **290 Regulatory instruments**

- (1) On the commencement day, every regulatory instrument in force immediately before that day is taken to be a regulatory instrument made, given, granted or issued (as the case may be) by the Secretary.

S. 290  
inserted by  
No. 34/2011  
s. 101.

- (2) In this section—

*regulatory instrument* means—

- (a) a certificate of accreditation under Division 4 of Part VI;
- (b) a licence in respect of a public commercial passenger vehicle (within the meaning of section 86(1));
- (c) a hire car licence (within the meaning of section 86(1));
- (d) a restricted hire vehicle licence (within the meaning of section 86(1));
- (e) a special purpose vehicle licence (within the meaning of section 86(1));
- (f) a taxi-cab licence (within the meaning of section 86(1));
- (g) a notice published in the Government Gazette under section 142(1A) specifying an area for the purposes of section 142(1)(b);

- (h) a temporary permit under section 154;
- (i) a notice published in the Government Gazette under section 158A(5) specifying a place for the purposes of section 158A;
- (j) a specification under section 167(1A);
- (k) a driver accreditation issued under section 169D;
- (l) an accreditation under Division 4A of Part VII;
- (m) a temporary accreditation under section 228F;
- (n) a request under section 228H(2) or (5);
- (o) an authorisation under section 134A, 149, 150, 151, 152, 154, 158B, 216, 217, 221A, 221AB or 228HA;
- (p) a notice published in the Government Gazette under regulation 5 or 7 of the Transport (Taxi-Cab Licences—Market and Trading) Regulations 2005.

S. 291  
inserted by  
No. 34/2011  
s. 101.

## **291 Pending applications for accreditation**

- (1) This section applies to an application for accreditation made under section 132 before the commencement day in respect of which the Director has not made a decision whether to approve or refuse to approve the application before that day.
- (2) On and after the commencement day, the Secretary may make the decision, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

**292 Variations, revocations, or imposition of new conditions, restrictions or other limitations on accreditations**

S. 292  
inserted by  
No. 34/2011  
s. 101.

- (1) This section applies if the Director has—
  - (a) before the commencement day begun the process under section 133A to—
    - (i) vary or revoke a condition, restriction or other limitation imposed by the Director on an accreditation; or
    - (ii) impose a new condition, restriction or other limitation on an accreditation; and
  - (b) not completed that process before that day.
- (2) On and after the commencement day, the Secretary may complete that process and for that purpose, anything done before that day by the Director for the purpose of making a decision to—
  - (a) vary or revoke a condition, restriction or other limitation imposed by the Director on an accreditation; or
  - (b) impose a new condition, restriction or other limitation on an accreditation—

is taken to have been done by the Secretary.

**293 Disciplinary action taken against accredited persons**

S. 293  
inserted by  
No. 34/2011  
s. 101.

- (1) This section applies if the Director—
  - (a) has, before the commencement day, served a notice on an accredited person under section 135B; and
  - (b) has not decided whether to exercise a power under Subdivision 6 of Division 4 of Part VI in respect of that person before that day.
- (2) On and after the commencement day, the Secretary may make that decision and for that purpose, anything done under Subdivision 6 of

Division 4 of Part VI before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

S. 294  
inserted by  
No. 34/2011  
s. 101.

#### **294 Surrender of accreditations**

- (1) This section applies to an application made under section 137B before the commencement day in respect of which the Director has not made a decision as to whether to consent to the surrender before that day.
- (2) On and after the commencement day, the Secretary may make the decision, and for that purpose, anything done before that day by the Director for the purpose of deciding whether to consent to the surrender is taken to have been done by the Secretary.

S. 295  
inserted by  
No. 34/2011  
s. 101.

#### **295 Application for commercial passenger vehicle licences**

- (1) This section applies to an application made under section 139(2) for the grant of a commercial passenger vehicle licence before the commencement day in respect of which the Director has not made a decision whether to approve or refuse to approve the application before that day.
- (2) On and after the commencement day, the Secretary may make the decision under section 139(2) in respect of the application, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

S. 296  
inserted by  
No. 34/2011  
s. 101.

#### **296 Cancellation or alteration of licences**

- (1) This section applies to an application made under section 146 before the commencement day by a licence holder for—

- (a) the cancellation of the licence; or
- (b) the alteration to the conditions attached to the licence; or
- (c) the alteration to the route or area in respect of which the licence was granted—

and in respect of which the Director has not made a decision whether to approve or refuse to approve the application before that day.

- (2) On and after the commencement day, the Secretary may make the decision, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

#### **297 Transfer of licences**

**S. 297**  
inserted by  
No. 34/2011  
s. 101.

- (1) This section applies to an application made under section 149 for the transfer of a commercial passenger vehicle licence before the commencement day in respect of which the Director has not made a decision whether to authorise the transfer of the licence before that day.
- (2) On and after the commencement day, the Secretary may make the decision to authorise or not authorise that transfer, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

#### **298 Assignments**

**S. 298**  
inserted by  
No. 34/2011  
s. 101.

- (1) This section applies to an application made under section 150 for authority to assign the right to operate a taxi-cab under a licence before the commencement day in respect of which the Director has not made a decision whether to grant or refuse to grant the application before that day.

- (2) On and after the commencement day, the Secretary may make the decision, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

S. 299  
inserted by  
No. 34/2011  
s. 101.

**299 Substitution of vehicle where licensed vehicle undergoing repair**

- (1) This section applies to an application made under section 151 by an owner of a licensed vehicle to use a substitute vehicle before the commencement day in respect of which the Director has not made a decision whether to authorise that use before that day.
- (2) On and after the commencement day, the Secretary may make the decision, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

S. 300  
inserted by  
No. 34/2011  
s. 101.

**300 Substitution of licensed vehicle**

- (1) This section applies to an application made under section 152 by an owner of a licensed vehicle to substitute a vehicle for the licensed vehicle before the commencement day in respect of which the Director has not made a decision whether to authorise that substitution before that day.
- (2) On and after the commencement day, the Secretary may make the decision, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

S. 301  
inserted by  
No. 34/2011  
s. 101.

**301 Cancellation of licence for vehicles**

- (1) This section applies if the Director has, before the commencement day, notified, under section 153, the owner of a licensed vehicle that the Director proposes to cancel the licence issued in respect of the vehicle but has not done so before that day.



- (2) On and after the commencement day, the Secretary may cancel that licence in accordance with that notice, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

**302 Revocation or suspension of licence, permit or certificate**

S. 302  
inserted by  
No. 34/2011  
s. 101.

- (1) This section applies if the Director has, before the commencement day, notified, under section 157, the holder of a licence or permit granted under Division 5 of Part VI that the authority proposes to suspend or revoke the licence or permit but has not done so before that day.
- (2) On and after the commencement day, the Secretary may suspend or revoke the licence or permit in accordance with section 157, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

**303 Application for driver accreditation**

S. 303  
inserted by  
No. 34/2011  
s. 101.

- (1) This section applies to an application made by a person under section 166 for the issue of a driver accreditation before the commencement day in respect of which the Director has not made a decision whether to accredit the person before that day.
- (2) On and after the commencement day, the Secretary may make the decision, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

S. 304  
inserted by  
No. 34/2011  
s. 101.

### **304 Application for renewal of driver accreditation**

- (1) This section applies to an application made by a holder of a driver accreditation under section 168 for the renewal of the driver accreditation before the commencement day in respect of which the Director has not made a decision whether to renew the accreditation before that day.
- (2) On and after the commencement day, the Secretary may make the decision, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

S. 305  
inserted by  
No. 34/2011  
s. 101.

### **305 Actions Director may take in relation to holders of driver accreditations**

- (1) This section applies if the Director—
  - (a) has, in accordance with section 169F, considered taking action in relation to a holder of a driver accreditation under section 169I(1) and given the holder a notice in accordance with section 169G before the commencement day; and
  - (b) has not taken action under section 169I in relation to the holder before that day.
- (2) On and after the commencement day, the Secretary may take that action and complete the process specified in Division 6 of Part VI in respect of that action, and for that purpose, anything done before that day by the Director for the purpose of taking that action is taken to have been done by the Secretary.

**306 Pending applications for authorisations**

- (1) This section applies to an application for authorisation made under section 221B before the commencement day in respect of which the Director has not made a decision whether to give the authorisation before that day.
- (2) On and after the commencement day, the Secretary may make the decision under Division 4AA of Part VII, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

S. 306  
inserted by  
No. 34/2011  
s. 101.

**307 Pending applications for renewal of authorisations**

- (1) This section applies to an application for the renewal of an authorisation made under section 221G before the commencement day in respect of which the Director has not made a decision whether to renew the authorisation before that day.
- (2) On and after the commencement day, the Secretary may make the decision under Division 4AA of Part VII, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

S. 307  
inserted by  
No. 34/2011  
s. 101.

**308 Identity cards of authorised officers**

On the commencement day, every identity card issued to an authorised officer under section 221I before that day and who is an authorised officer immediately before that day is taken to be an identity card issued by the Secretary.

S. 308  
inserted by  
No. 34/2011  
s. 101.

**309 Inquiries into conduct of authorised officers**

- (1) This section applies if the Director has—
  - (a) before the commencement day commenced an inquiry under section 221J; and

S. 309  
inserted by  
No. 34/2011  
s. 101.

S. 309(1)(b)  
amended by  
No. 43/2012  
s. 3(Sch.  
item 53).

(b) not completed that inquiry before that day.

- (2) On and after the commencement day, the Secretary may continue with the inquiry and for that purpose, anything done under by the Director under section 221J before that day, is taken to have been done by the Secretary.

S. 310  
inserted by  
No. 34/2011  
s. 101.

### **310 Pending applications for a certificate**

- (1) This section applies to an application for a certificate made under section 221S before the commencement day in respect of which the Director has not made a decision whether to give that certificate before that day.
- (2) On and after the commencement day, the Secretary may make the decision under section 221S, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

S. 311  
inserted by  
No. 34/2011  
s. 101.

### **311 Pending applications for accreditation**

- (1) This section applies to an application for accreditation made under section 228A before the commencement day in respect of which the Director has not made a decision whether to give the accreditation before that day.
- (2) On and after the commencement day, the Secretary may make the decision under section 228C, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

**312 Change of accreditation conditions on application of accredited company**

S. 312  
inserted by  
No. 34/2011  
s. 101.

- (1) This section applies if an accredited company has made an application under section 228E before the commencement day for the Director to vary or revoke a condition of accreditation, or impose a new condition, and the Director has not made a decision on that application before that day.
- (2) On and after the commencement day, the Secretary may make the decision, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

**313 Change of accreditation conditions on initiative of Director**

S. 313  
inserted by  
No. 34/2011  
s. 101.

- (1) This section applies if—
  - (a) before the commencement day the Director forms an intention to vary or revoke a condition of accreditation, or impose a new condition, under section 228E; and
  - (b) the Director has not made that decision to do so before that day.
- (2) On and after the commencement day, the Secretary may make the decision, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

**314 Pending applications for renewal of authorisations**

S. 314  
inserted by  
No. 34/2011  
s. 101.

- (1) This section applies to an application for the renewal of an accreditation made under section 228I before the commencement day in respect of which the Director has not made a decision whether to renew or refuse to renew the accreditation before that day.

- (2) On and after the commencement day, the Secretary may make the decision under section 228J, and for that purpose, anything done before that day by the Director for the purpose of making that decision is taken to have been done by the Secretary.

S. 315  
inserted by  
No. 34/2011  
s. 101.

### **315 Supervision of accredited companies**

- (1) This section applies if—
- (a) the Director has, before the commencement day, commenced an inquiry under section 228N for the purpose of determining whether proper cause exists for taking action against a passenger transport or bus company or the Bus Association of Victoria that is or has been an accredited company (the *relevant entity*); and
  - (b) has not completed that inquiry before that day.
- (2) Despite anything to the contrary in this Act, on and after the commencement day, the Director may complete that inquiry and exercise the powers conferred on the Secretary—
- (a) under section 228O for the purpose of that inquiry; and
  - (b) under section 228N(3) following the inquiry in relation to the relevant entity.
- (3) For the purposes of subsection (2), every reference in sections 228N and 228O to the Secretary is to be read as a reference to the Director.
- (4) Anything done by the Director under section 228N(3) is, on the day after it is done, taken to be done by the Secretary.

### **316 Proceedings**

S. 316  
inserted by  
No. 34/2011  
s. 101.

- (1) On the commencement day, the Secretary is, by force of this section, substituted as a party to any proceeding pending in any court or tribunal in respect of a matter arising under Part VI or Division 4AA or 4A of Part VII to which the Director was a party immediately before that day.
- (2) On the commencement day, every order made by a court or tribunal in a proceeding (whether pending or otherwise) in respect of a matter arising under Part VI or Division 4AA or 4A of Part VII before that day applying to the Director that has not been abided by or complied with by the Director before that day is taken to be an order applying to the Secretary.

### **317 References to the Director—certain statutory instruments**

S. 317  
inserted by  
No. 34/2011  
s. 101.

On and after the commencement day, every reference to the Director in any Ministerial Order, licence, permit, accreditation, authorisation, certificate, notice, direction or other document (however described) given, made, issued, granted, served or published under Part VI or Division 4AA or Division 4A of Part VII must be, unless the context otherwise requires, construed as a reference to the Secretary.

### **318 Transitional regulations**

S. 318  
inserted by  
No. 34/2011  
s. 101.

- (1) The Governor in Council may make regulations in relation to matters of a savings or transitional nature consequent on the enactment of Part 2 of the **Transport Legislation Amendment (Taxi Services Reform and Other Matters) Act 2011**.
- (2) A provision of regulations under this section may be retrospective in operation to the commencement day or a day after the commencement day.

- (3) Regulations under this clause have effect despite anything to the contrary in any Act other than this Act or in any subordinate instrument.

Pt 8 Div. 10  
(Heading and  
ss 319–350)  
inserted by  
No. 34/2011  
s. 125.

## **Division 10—Transitional provisions—Part 3 of the Transport Legislation Amendment (Taxi Services Reform and Other Matters) Act 2011**

### **Subdivision 1—Preliminary**

S. 319  
inserted by  
No. 34/2011  
s. 125.

#### **319 Definitions**

In this Division—

*commencement day* means the day on which section 125 of the **Transport Legislation Amendment (Taxi Services Reform and Other Matters) Act 2011** comes into operation;

*former property* means property, and related rights or related liabilities, of the Secretary that, under Subdivision 2, have vested in, or become liabilities of, the TSC;

*former property instrument* means an instrument relating to former property subsisting immediately before the relevant date—

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



***former relevant agreement*** means an agreement subsisting immediately before the relevant date—

- (a) to which the Secretary was a party; and
- (b) that was entered into by the Secretary for the purposes of performing a function or exercising a power under Part VI or in relation to or for the purposes of the provision of commercial passenger vehicle services by the Secretary or another person;

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

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

***relevant agreement liabilities*** means liabilities of the Secretary under an agreement subsisting immediately before the relevant date—

- (a) to which the Secretary was a party; and
- (b) that was entered into by the Secretary for the purposes of performing a function or exercising a power under Part VI or in relation to or for the purposes of the provision of commercial passenger vehicle services by the Secretary or another person;

***relevant agreement rights*** means rights of the Secretary under an agreement subsisting immediately before the relevant date—

- (a) to which the Secretary was a party; and

- (b) that was entered into by the Secretary for the purposes of performing a function or exercising a power under Part VI or in relation to or for the purposes of the provision of commercial passenger vehicle services by the Secretary or another person;

***relevant date***, in relation to an allocation statement under section 320 or property, rights or liabilities allocated under such a statement, means the date fixed by the Minister under section 320(7) for the purposes of that statement;

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

***TSC*** means the Taxi Services Commission.

## **Subdivision 2—Property transfers**

### **320 Minister may direct transfer of property of Secretary etc. to TSC**

S. 320  
inserted by  
No. 34/2011  
s. 125.

- (1) The Minister may give a direction in writing to the Secretary directing the Secretary to transfer to the TSC, in accordance with the direction—
  - (a) property and related rights and related liabilities of the Secretary of a specified kind;
  - (b) relevant agreement rights and relevant agreement liabilities of a specified kind.
- (2) The Secretary must give to the Minister a statement containing the information required by the Minister relating to the property and related rights and related liabilities of the Secretary, relevant agreement rights and relevant agreement liabilities to which the direction relates, as at the

date specified by the Minister for the purposes of this section.

- (3) A statement under this section—
  - (a) must allocate the property and related rights and related liabilities of the Secretary, relevant agreement rights and relevant agreement liabilities shown in the statement in accordance with the directions of the Minister; and
  - (b) must be signed by the Secretary.
- (4) If a statement under this section is approved by the Minister—
  - (a) the Minister must sign the statement; and
  - (b) the statement is an allocation statement for the purposes of this Division.
- (5) The Minister may at any time direct the Secretary to amend a statement given to him or her under this section as specified in the direction.
- (6) An allocation statement under this section may be amended by writing signed by the Minister.
- (7) The Minister, by notice published in the Government Gazette, may fix a relevant date for the purposes of an allocation statement under this section.
- (8) In this section, *statement* and *allocation statement* include a statement or allocation statement amended in accordance with this section.

**321 Property etc. transferred in accordance with direction**

On the relevant date—

- (a) all property and related rights of the Secretary wherever located, that are allocated under an allocation statement in

S. 321  
inserted by  
No. 34/2011  
s. 125.

- accordance with a direction of the Minister under section 320, vest in the TSC in accordance with the statement;
- (b) all liabilities of the Secretary related to property, wherever located, that are allocated under an allocation statement in accordance with a direction of the Minister under section 320, become liabilities of the TSC in accordance with the statement;
  - (c) all relevant agreement rights, wherever located, that are allocated under an allocation statement in accordance with a direction of the Minister under section 320, vest in the TSC in accordance with the statement;
  - (d) all relevant agreement liabilities, wherever located, that are allocated under an allocation statement in accordance with a direction of the Minister under section 320, become liabilities of the TSC in accordance with the statement.

S. 322  
inserted by  
No. 34/2011  
s. 125.

### **322 Allocation of property etc. subject to encumbrances**

Unless an allocation statement under this Subdivision otherwise provides, if, under this Subdivision—

- (a) property and related rights and relevant agreement rights vest in; or
  - (b) liabilities related to property and relevant agreement liabilities become liabilities of—
- the TSC in accordance with a direction under section 320—
- (c) the property and related rights and relevant agreement rights so vested are subject to the encumbrances (if any) to which they were subject immediately before so vesting; and

- (d) the rights to which the Secretary was entitled in respect of those liabilities immediately before they ceased to be liabilities of the Secretary vest in the TSC.

### **323 Substitution of party to agreement**

S. 323  
inserted by  
No. 34/2011  
s. 125.

If, under an allocation statement, rights and liabilities related to property of the Secretary under an agreement and relevant agreement rights and relevant agreement liabilities are allocated to the TSC in accordance with a direction under section 320—

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

### **324 Former Secretary instruments and agreements**

S. 324  
inserted by  
No. 34/2011  
s. 125.

- (1) Each former instrument relating to former property continues to have effect according to its tenor on and after the relevant date in relation to that property as if a reference in the instrument to the Secretary were a reference to the TSC.
- (2) Each former relevant agreement continues to have effect according to its tenor on and after the relevant date as if a reference in the agreement to the Secretary were a reference to the TSC.

### **325 Proceedings**

S. 325  
inserted by  
No. 34/2011  
s. 125.

Unless an allocation statement otherwise provides, if, immediately before the relevant date, proceedings relating to former property or a former relevant agreement (including arbitration proceedings) to which the Secretary was a party were pending or existing in any court or tribunal, then, on and after that date, the TSC is substituted

for the Secretary as a party to the proceedings and has the same rights in the proceedings as the Secretary had.

S. 326  
inserted by  
No. 34/2011  
s. 125.

### 326 Interests in land

Without prejudice to the generality of this Subdivision and despite anything to the contrary in any other Act (other than the **Charter of Human Rights and Responsibilities Act 2006**) or law if, immediately before the relevant date, the Secretary is, in relation to former property, the registered proprietor of an interest in land under the **Transfer of Land Act 1958**, then on and after that date—

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

S. 327  
inserted by  
No. 34/2011  
s. 125.

### 327 Action by Registrar of Titles

The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or other instrument, must make any amendments in the Register that are necessary because of the operation of this Subdivision.

S. 328  
inserted by  
No. 34/2011  
s. 125.

### 328 Taxes

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

### 329 Evidence

Documentary or other evidence that would have been admissible for or against the interests of the Secretary in relation to former property or a former relevant agreement if this Subdivision had not been enacted is admissible for or against the interests of the TSC.

S. 329  
inserted by  
No. 34/2011  
s. 125.

### 330 Validity of things done under this Subdivision

Nothing effected or to be effected by this Subdivision or done or suffered under this Subdivision—

S. 330  
inserted by  
No. 34/2011  
s. 125.

- (a) is to be regarded as placing any person in breach of contract or confidence or as otherwise making any person guilty of a civil wrong; or
- (b) is to be regarded as placing any person in breach of, or as constituting a default under, any Act (other than the **Charter of Human Rights and Responsibilities Act 2006**) or other law or obligation or any provision in any agreement, arrangement or understanding including, but not limited to, any provision or obligation prohibiting, restricting or regulating the assignment, transfer, sale or disposal of any property or the disclosure of any information; or
- (c) is to be regarded as fulfilling any condition that allows a person to exercise a power, right or remedy in respect of or to terminate any agreement or obligation; or
- (d) is to be regarded as giving rise to any remedy for a party to a contract or an instrument or as causing or permitting the termination of any contract or instrument because of a change in the beneficial or legal ownership of any relevant property; or

- (e) is to be regarded as causing any contract or instrument to be void or otherwise unenforceable; or
- (f) is to be regarded as frustrating any contract; or
- (g) releases any surety or other obligor wholly or in part from any obligation.

### **Subdivision 3—Administrative and regulatory function transfers**

S. 331  
inserted by  
No. 34/2011  
s. 125.

#### **331 General transitional provisions**

- (1) This Subdivision does not affect or take away from the **Interpretation of Legislation Act 1984**.
- (2) This Subdivision applies despite anything to the contrary in any other provision of this Act.

S. 332  
inserted by  
No. 34/2011  
s. 125.

#### **332 Regulatory instruments**

- (1) On the commencement day, every regulatory instrument in force immediately before that day is taken to be a regulatory instrument made, given, granted or issued (as the case may be) by the TSC as the licensing authority.
- (2) In this section—

*regulatory instrument* means—

- (a) a certificate of accreditation under Division 4 of Part VI;
- (b) a licence in respect of a public commercial passenger vehicle (within the meaning of section 86(1));
- (c) a hire car licence (within the meaning of section 86(1));
- (d) a restricted hire vehicle licence (within the meaning of section 86(1));



- (e) a special purpose vehicle licence (within the meaning of section 86(1));
- (f) a taxi-cab licence (within the meaning of section 86(1));
- (g) a notice published in the Government Gazette under section 142(1A) specifying an area for the purposes of section 140(1)(b);
- (h) a temporary permit under section 154;
- (i) a notice published in the Government Gazette under section 158A(5) specifying a place for the purposes of section 158A;
- (j) a specification under section 167(1A);
- (k) a driver accreditation issued under section 169D;
- (l) an authorisation under section 134A, 149, 150, 151, 152, 154 or 158B;
- (m) a notice published in the Government Gazette under regulation 5 or 7 of the Transport (Taxi-Cab Licences—Market and Trading) Regulations 2005.

### **333 Pending applications for accreditation**

- (1) This section applies to an application for accreditation made under section 132 before the commencement day in respect of which the Secretary has not made a decision whether to approve or refuse to approve the application before that day.
- (2) On and after the commencement day, the TSC may make the decision, and for that purpose, anything done before that day by the Secretary for the purpose of making that decision is taken to have been done by the TSC.

S. 333  
inserted by  
No. 34/2011  
s. 125.

S. 334  
inserted by  
No. 34/2011  
s. 125.

**334 Variations, revocations, or imposition of new conditions, restrictions or other limitations on accreditations**

- (1) This section applies if the Secretary has—
  - (a) before the commencement day begun the process under section 133A to—
    - (i) vary or revoke a condition, restriction or other limitation imposed by the Secretary on an accreditation; or
    - (ii) impose a new condition, restriction or other limitation on an accreditation; and
  - (b) not completed that process before that day.
- (2) On and after the commencement day, the TSC may complete that process and for that purpose, anything done before that day by the Secretary for the purpose of making a decision to—
  - (a) vary or revoke a condition, restriction or other limitation imposed by the Secretary on an accreditation; or
  - (b) impose a new condition, restriction or other limitation on an accreditation—

is taken to have been done by the TSC.

S. 335  
inserted by  
No. 34/2011  
s. 125.

**335 Disciplinary action taken against accredited persons**

- (1) This section applies if the Secretary—
  - (a) has, before the commencement day, served a notice on an accredited person under section 135B; and
  - (b) has not decided whether to exercise a power under Subdivision 6 of Division 4 of Part VI in respect of that person before that day.
- (2) On and after the commencement day, the TSC may make that decision and for that purpose, anything done under Subdivision 6 of Division 4

of Part VI before that day by the Secretary for the purpose of making that decision is taken to have been done by the TSC.

**336 Surrender of accreditations**

S. 336  
inserted by  
No. 34/2011  
s. 125.

- (1) This section applies to an application made under section 137B before the commencement day in respect of which the Secretary has not made a decision as to whether to consent to the surrender before that day.
- (2) On and after the commencement day, the TSC may make the decision, and for that purpose, anything done before that day by the Secretary for the purpose of deciding whether to consent to the surrender is taken to have been done by the TSC.

**337 Application for commercial passenger vehicle licences**

S. 337  
inserted by  
No. 34/2011  
s. 125.

- (1) This section applies to an application made under section 139(2) for the grant of a commercial passenger vehicle licence before the commencement day in respect of which the Secretary has not made a decision whether to approve or refuse to approve the application before that day.
- (2) On and after the commencement day, the TSC may make the decision under section 139(2) in respect of the application, and for that purpose, anything done before that day by the Secretary for the purpose of making that decision is taken to have been done by the TSC.

**338 Cancellation or alteration of licences**

S. 338  
inserted by  
No. 34/2011  
s. 125.

- (1) This section applies to an application made under section 146 before the commencement day by a licence holder for—
  - (a) the cancellation of the licence; or

- (b) the alteration to the conditions attached to the licence; or
- (c) the alteration to the route or area in respect of which the licence was granted—

and in respect of which the Secretary has not made a decision whether to approve or refuse to approve the application before that day.

- (2) On and after the commencement day, the TSC may make the decision, and for that purpose, anything done before that day by the Secretary for the purpose of making that decision is taken to have been done by the TSC.

S. 339  
inserted by  
No. 34/2011  
s. 125.

### **339 Transfer of licences**

- (1) This section applies to an application made under section 149 for the transfer of a commercial passenger vehicle licence before the commencement day in respect of which the Secretary has not made a decision whether to authorise the transfer of the licence before that day.
- (2) On and after the commencement day, the TSC may make the decision to authorise or not authorise that transfer, and for that purpose, anything done before that day by the Secretary for the purpose of making that decision is taken to have been done by the TSC.

S. 340  
inserted by  
No. 34/2011  
s. 125.

### **340 Assignments**

- (1) This section applies to an application made under section 150 for authority to assign the right to operate a taxi-cab under a licence before the commencement day in respect of which the Secretary has not made a decision whether to grant or refuse to grant the application before that day.

- (2) On and after the commencement day, the TSC may make the decision, and for that purpose, anything done before that day by the Secretary for the purpose of making that decision is taken to have been done by the TSC.

**341 Substitution of vehicle where licensed vehicle undergoing repair**

S. 341  
inserted by  
No. 34/2011  
s. 125.

- (1) This section applies to an application made under section 151 by an owner of a licensed vehicle to use a substitute vehicle before the commencement day in respect of which the Secretary has not made a decision whether to authorise that use before that day.
- (2) On and after the commencement day, the TSC may make the decision, and for that purpose, anything done before that day by the Secretary for the purpose of making that decision is taken to have been done by the TSC.

**342 Substitution of licensed vehicle**

S. 342  
inserted by  
No. 34/2011  
s. 125.

- (1) This section applies to an application made under section 152 by an owner of a licensed vehicle to substitute a vehicle for the licensed vehicle before the commencement day in respect of which the Secretary has not made a decision whether to authorise that substitution before that day.
- (2) On and after the commencement day, the TSC may make the decision, and for that purpose, anything done before that day by the Secretary for the purpose of making that decision is taken to have been done by the TSC.

**343 Cancellation of licence for vehicles**

S. 343  
inserted by  
No. 34/2011  
s. 125.

- (1) This section applies if the Secretary has, before the commencement day, notified, under section 153, the owner of a licensed vehicle that the Secretary proposes to cancel the licence issued

in respect of the vehicle but has not done so before that day.

- (2) On and after the commencement day, the TSC may cancel that licence in accordance with that notice, and for that purpose, anything done before that day by the Secretary for the purpose of making that decision is taken to have been done by the TSC.

S. 344  
inserted by  
No. 34/2011  
s. 125.

### **344 Revocation or suspension of licence, permit or certificate**

- (1) This section applies if the Secretary has, before the commencement day, notified, under section 157, the holder of a licence or permit granted under Division 5 of Part VI that the authority proposes to suspend or revoke the licence or permit but has not done so before that day.
- (2) On and after the commencement day, the TSC may suspend or revoke the licence or permit in accordance with section 157, and for that purpose, anything done before that day by the Secretary for the purpose of making that decision is taken to have been done by the TSC.

S. 345  
inserted by  
No. 34/2011  
s. 125.

### **345 Application for driver accreditation**

- (1) This section applies to an application made by a person under section 166 for the issue of a driver accreditation before the commencement day in respect of which the Secretary has not made a decision whether to accredit the person before that day.
- (2) On and after the commencement day, the TSC may make the decision, and for that purpose, anything done before that day by the Secretary for the purpose of making that decision is taken to have been done by the TSC.

**346 Application for renewal of driver accreditation**

S. 346  
inserted by  
No. 34/2011  
s. 125.

- (1) This section applies to an application made by a holder of a driver accreditation under section 168 for the renewal of the driver accreditation before the commencement day in respect of which the Secretary has not made a decision whether to renew the accreditation before that day.
- (2) On and after the commencement day, the TSC may make the decision, and for that purpose, anything done before that day by the Secretary for the purpose of making that decision is taken to have been done by the TSC.

**347 Actions Secretary may take in relation to holders of driver accreditations**

S. 347  
inserted by  
No. 34/2011  
s. 125.

- (1) This section applies if the Secretary—
  - (a) has, in accordance with section 169F, considered taking action in relation to a holder of a driver accreditation under section 169I(1) and given the holder a notice in accordance with section 169G before the commencement day; and
  - (b) has not taken action under section 169I in relation to the holder before that day.
- (2) On and after the commencement day, the TSC may take that action and complete the process specified in Division 6 of Part VI in respect of that action, and for that purpose, anything done before that day by the Secretary for the purpose of taking that action is taken to have been done by the TSC.

**348 Proceedings**

S. 348  
inserted by  
No. 34/2011  
s. 125.

- (1) On the commencement day, the TSC is, by force of this section, substituted as a party to any proceeding pending in any court or tribunal in respect of a matter arising under Part VI to which

the Secretary was a party immediately before that day.

- (2) On the commencement day, every order made by a court or tribunal in a proceeding (whether pending or otherwise) in respect of a matter arising under Part VI before that day applying to the Secretary that has not been abided by or complied with by the Secretary before that day is taken to be an order applying to the TSC.

S. 349  
inserted by  
No. 34/2011  
s. 125.

### **349 References to the Secretary—certain statutory instruments**

On and after the commencement day, every reference to the Secretary in any Ministerial Order, licence, permit, accreditation, authorisation, certificate, notice, direction or other document (however described) given, made, issued, granted, served or published under Part VI must be, unless the context otherwise requires, construed as a reference to the TSC.

S. 350  
inserted by  
No. 34/2011  
s. 125.

### **350 Transitional regulations**

- (1) The Governor in Council may make regulations in relation to matters of a savings or transitional nature consequent on the enactment of Part 3 of the **Transport Legislation Amendment (Taxi Services Reform and Other Matters) Act 2011**.
- (2) A provision of regulations under this section may be retrospective in operation to the commencement day or a day after the commencement day.
- (3) Regulations under this clause have effect despite anything to the contrary in any Act other than this Act or in any subordinate instrument.



---

**Division 11—Transitional provisions—Transport  
Legislation Amendment (Further Taxi Reform and  
Other Matters) Act 2014**

Pt 8 Div. 11  
(Heading and  
ss 351–355)  
inserted by  
No. 35/2014  
s. 41.

**351 Definitions**

S. 351  
inserted by  
No. 35/2014  
s. 41.

In this Division—

*commencement day* means the day on which  
section 39 of the **Transport Legislation  
Amendment (Further Taxi Reform and  
Other Matters) Act 2014** comes into  
operation;

*general fund* means the general fund established  
under section 79VE of the **Transport  
Integration Act 2010**;

*money standing to the credit of the old fund*  
includes money that is income from the  
investment of money standing to the credit of  
the old fund and that is the proceeds of sale  
of any investment;

*old fund* means the Public Transport Fund  
established under section 11 as in force  
immediately before the commencement day;

*specified day* means the day specified in an Order  
under section 353(1).

**352 Continuation of Public Transport Fund**

S. 352  
inserted by  
No. 35/2014  
s. 41.

- (1) On and after the commencement day, the old fund  
continues despite the repeal of section 11.
- (2) While the old fund is continued under this  
section—
  - (a) section 11 continues in force as if it had not  
been repealed; and

(b) section 12(4) continues in force as if it had not been amended by section 40 of the **Transport Legislation Amendment (Further Taxi Reform and Other Matters) Act 2014**.

(3) Nothing in this section affects the abolition of the old fund in accordance with section 354.

S. 353  
inserted by  
No. 35/2014  
s. 41.

### **353 Specification of money to be transferred**

(1) While the old fund is continued under section 352, the Governor in Council, on the recommendation of the Minister and Treasurer, by Order published in the Government Gazette, may specify—

- (a) an amount of money standing to the credit of the old fund that is to be transferred to the general fund; and
- (b) the day on which the amount of money specified under paragraph (a) is to be transferred (the *specified day*).

(2) The amount of money specified under an Order under subsection (1) may be—

- (a) an amount specified in the Order; or
- (b) an amount that can be determined—
  - (i) through the application of a formula or methodology specified in the Order; or
  - (ii) by reference to the basis on which it was paid or is payable into the old fund.

S. 354  
inserted by  
No. 35/2014  
s. 41.

### **354 Transfer of money and abolition of old fund**

(1) On the specified day—

- (a) the amount of money specified under an Order under section 353(1) is paid out of the old fund and forms part of the general fund; and

- (b) all other money standing to the credit of the old fund forms part of the Consolidated Fund; and
  - (c) the old fund is abolished.
- (2) In addition—
- (a) all amounts that are received on and after the specified day under agreements, leases or licences to which the Crown, or another person on behalf of the Crown, is a party relating to, or connected with, passenger services or other transport services that would have been payable into the old fund before its abolition must be paid into the Consolidated Fund; and
  - (b) all amounts allocated to the Crown on and after the specified day in accordance with any agreement referred to in section 34(2A)(a) of the **Transport Integration Act 2010** that would have been payable into the old fund before its abolition must be paid into the Consolidated Fund.

### **355 References to old fund**

- (1) A reference to the old fund in any Act, subordinate instrument, agreement, lease, licence or other document to the extent that it relates to any money specified in an Order under section 353(1)(a) is taken to be a reference to the general fund, unless the contrary intention appears.
- (2) A reference to the old fund in any Act, subordinate instrument, agreement, lease, licence or other document to the extent that it relates to any money to which section 354(1)(b) applies is taken to be a reference to the Consolidated Fund, unless the contrary intention appears.

S. 355  
inserted by  
No. 35/2014  
s. 41.

Pt 8 Div. 12  
(Heading and  
ss 356, 357)  
inserted by  
No. 71/2016  
s. 9.

## **Division 12—Transitional provisions—Transport (Compliance and Miscellaneous) Amendment (Abolition of the Penalty Fares Scheme) Act 2016**

S. 356  
inserted by  
No. 71/2016  
s. 9.

### **356 Continuation of protection for persons who have paid on-the-spot penalty fares**

Section 212AA(7) as in force immediately before the commencement of section 6 of the **Transport (Compliance and Miscellaneous) Amendment (Abolition of the Penalty Fares Scheme) Act 2016** continues to apply to a person who has paid an on-the-spot penalty fare before that commencement.

S. 357  
inserted by  
No. 71/2016  
s. 9.

### **357 Allocation of on-the-spot penalty fares**

Section 220DD as in force immediately before the commencement of section 7 of the **Transport (Compliance and Miscellaneous) Amendment (Abolition of the Penalty Fares Scheme) Act 2016** continues to apply to—

- (a) any amount of an on-the-spot penalty fare received by an authorised officer or other person under section 212AA (as in force before its repeal) before that commencement that has not been dealt with by the officer or person in accordance with section 220DD before that commencement; and
- (b) any amount of an on-the-spot penalty fare received by the Public Transport Development Authority under Part VII before that commencement that has not been dealt with by it in accordance with section 220DD before that commencement.

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

---

## Schedules

*	*	*	*	*	<b>Sch. 1</b> inserted by No. 85/1992 s. 10, amended by Nos 120/1993 s. 74(a)–(c), 17/1995 s. 24(c), 42/1995 s. 224(Sch. 2 item 43.1), 68/1995 s. 41(2), 46/1998 s. 7(Sch. 1), repealed by No. 47/1998 s. 16(7).
*	*	*	*	*	<b>Sch. 1A</b> amended by Nos 100/1986 ss 3(22), 43(a)–(c), 44/1989 s. 40(Sch. 1 item 26), 81/1990 s. 7(8), 85/1992 s. 9(1)(h), 120/1993 s. 75(a)–(c), 42/1995 s. 224(Sch. 2 item 43.2) 46/1998 s. 7(Sch. 1), 47/1998 s. 16(8), 108/2004 s. 117(1) (Sch. 3 item 208.3), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 10).

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

Sch. 2 amended by Nos 9984 s. 5(k), 10220 s. 15, 100/1986 s. 3(22), 44/1989 s. 40(Sch. 1 item 27.1(a)– (d)), 76/1991 s. 15(4)(a)(b), 54/2001 s. 25(Sch. item 1.66) (as amended by No. 32/2002 s. 24(b)(ii)), repealed by No. 6/2010 s. 199(3) (Sch. 3 item 11).	*	*	*	*	*
Sch. 3 amended by Nos 44/1989 s. 40(Sch. 1 item 28.1(a)– (c)), 25/1998 s. 166(1), repealed by No. 30/2000 s. 31.	*	*	*	*	*
Sch. 4 amended by Nos 12/1989 s. 4(1)(Sch. 2 item 120.9) (as amended by No. 13/1990 s. 38(3)(a)), 44/1989 s. 40(Sch. 1 item 29), 99/1994 s. 27, 99/1998 s. 15(2), repealed by No. 12/2004 s. 137(7).	*	*	*	*	*

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

*	*	*	*	*	<p>Sch. 5 amended by Nos 10087 s. 3(1)(Sch. 1 items 290– 293), 100/1986 s. 44(a)–(m), 41/1987 s. 103(Sch. 4 item 65.1), 12/1989 s. 4(1)(Sch. 2 items 120.10– 120.47) (as amended by No. 13/1990 s. 38(3)(b)– (e)), 18/1989 s. 13(Sch. 2 item 90(b)), 44/1989 ss 39(1)(g)–(i), 40(Sch. 1 item 30(a)– (d)), 57/1989 s. 3(Sch. item 202.17), 130/1993 s. 122(Sch. 4 items 14.1– 14.3), 53/1994 s. 34(Sch. 1 items 9.1–9.6), 79/1995 s. 39, 106/1997 s. 35(2), 25/1998 s. 166(2), 99/1998 s. 13, 69/2000 s. 63, 54/2001 s. 24, 20/2003 s. 30, 12/2004 s. 137 (12)–(16), repealed by No. 74/2007 s. 85.</p>
*	*	*	*	*	<p>Sch. 6 repealed by No. 100/1986 s. 17(2).</p>

S. 150.  
Sch. 7  
amended by  
Nos 44/1989  
s. 40(Sch. 1  
item 31),  
60/1994  
s. 15(3)(a)(b).

## Schedule 7—Covenants to be included in deed of assignment

The assignee hereby covenants with the assignor to submit the licensed vehicle for inspection when required by the licensing authority within the meaning of Division 5 of Part VI of the **Transport Act 1983** or an officer or inspector of the licensing authority.

The assignor hereby covenants with the assignee—

- (a) that at all times during the currency of this agreement he shall make all necessary applications to the licensing authority for renewal of the licence the rights under which are assigned by this agreement and shall pay the fees for such renewal and any amount payable by way of seating tax;
- (b) to return to the licensing authority for safe keeping the licence and allow all the endorsements required to be made thereon by or under the **Transport Act 1983**;
- (c) to apply to the licensing authority as required by or under this Act for authority to assign the rights under the licence.

Sch. 8  
amended by  
SG (No. 26)  
6.6.90 p. 1,  
GGs 23.12.93  
p. 3416,  
11.8.94  
p. 2225,  
22.12.94  
p. 3444,  
repealed by  
No. 16/1998  
s. 9.

\* \* \* \* \*



Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Schedule 9—Partial revocation of reservation on Yarra Park Land

## Schedule 9—Partial revocation of reservation on Yarra Park Land

Situation and area of land:	At East Melbourne, City of Melbourne, 63.64 hectares less authorised excisions.
Instrument and date of reservation:	Order in Council dated 9 June 1873
Description of land by reference to Government Gazette:	Government Gazettes dated 12 February 1864, page 350 and 13 June 1873, page 1059
Particulars of registration of Crown grant:	Crown grant Volume 600 Folio 902
Purpose of reservation:	Yarra Park
Extent of revocation:	Land shown hatched on the plan numbered LEGL./97-215 and lodged at the Central Plan Office.

Sch. 9 substituted by No. 10085 s. 7, amended by Nos 10178 s. 9(a)(b), 10220 s. 17(a)(i)–(vi)(b), substituted by No. 111/1986 s. 180(2) (Sch. 2 item 2(h)), repealed by No. 127/1986 s. 102(Sch. 4 item 28.20), new Sch. 9 inserted by No. 106/1997 s. 27.

Transport (Compliance and Miscellaneous) Act 1983  
No. 9921 of 1983  
Schedule 10—Partial revocation of reservation on Yarra Park Land

Sch. 10  
amended by  
Nos 100/1986  
s. 36(2),  
44/1989  
s. 39(1)(j)(k),  
repealed by  
No. 25/1989  
s. 49,  
new Sch. 10  
inserted by  
No. 99/1998  
s. 14.

## Schedule 10—Partial revocation of reservation on Yarra Park Land

Situation and area of land:	At East Melbourne, City of Melbourne, 63·64 hectares less authorised excisions.
Instrument and date of reservation:	Order in Council dated 9 June 1873
Description of land by reference to Government Gazette:	Government Gazettes dated 12 February 1864, page 350 and 13 June 1873, page 1059
Particulars of registration of Crown grant:	Crown grant Volume 600 Folio 902
Purpose of reservation:	Public recreation (Yarra Park)
Extent of revocation:	Land shown hatched on the plan numbered LEGL./98-75 and lodged at the Central Plan Office.

Schs 11, 12  
repealed.<sup>16</sup>

\* \* \* \* \*

## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

Section 246 on 5 May 1983: section 1(2)(a); rest of Act (*except* sections 167–170) on 1 July 1983: section 1(2)(c); sections 167–170 never proclaimed, repealed by No. 106/1997 section 22(1).

The title of this Act was changed from the **Transport Act 1983** to the **Transport (Compliance and Miscellaneous) Act 1983** by section 199(1) of the **Transport Integration Act 2010**, No. 6/2010.

### INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

#### Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

#### References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

#### Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

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

---

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

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

---

## 2 Table of Amendments

This publication incorporates amendments made to the **Transport (Compliance and Miscellaneous) Act 1983** by Acts and subordinate instruments.

---

### **Transport (Compliance and Miscellaneous) Act 1983, No. 9921/1983**

<i>Assent Date:</i>	23.6.83
<i>Commencement Date:</i>	S. 249C(2) inserted on 29.4.99 by No. 98/1998 s. 39: Government Gazette 29.4.99 p. 967; s. 143AA(5) inserted on 30.6.14 by No. 13/2013 s. 9: s. 2(4)
<i>Note:</i>	S. 249C(2) provided that s. 249C expired on 1.1.08; s. 143AA(5) provided that s. 143AA expired on 30.6.17
<i>Current State:</i>	All of Act in operation

### **Transport (Borrowing Agency) Act 1983, No. 9984/1983** (as amended by No. 100/1986)

<i>Assent Date:</i>	6.12.83
<i>Commencement Date:</i>	All of Act ( <i>except</i> s. 6) on 6.12.83: s. 2(1); s. 6 never proclaimed, repealed by No. 100/1986
<i>Current State:</i>	All of Act in operation

### **Grain Handling Improvement Authorities (Abolition) Act 1984, No. 10049/1984**

<i>Assent Date:</i>	8.5.84
<i>Commencement Date:</i>	8.5.84
<i>Current State:</i>	All of Act in operation

### **Transport (Traffic Infringement Notices) Act 1984, No. 10085/1984**

<i>Assent Date:</i>	22.5.84
<i>Commencement Date:</i>	1.3.85: Government Gazette 20.2.85 p. 367
<i>Current State:</i>	All of Act in operation

### **Statute Law Revision Act 1984, No. 10087/1984**

<i>Assent Date:</i>	22.5.84
<i>Commencement Date:</i>	S. 3(1)(Sch. 1 items 290–304) on 1.7.83: s. 3(2)(y); ss 3(1)(Sch. 1 items 271–289), 4(1)(Sch. 2) on 22.5.84: s. 2
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Transport (Compliance and Miscellaneous) Act 1983</b>

### **Dangerous Goods (Road Transport) Act 1984, No. 10159/1984**

<i>Assent Date:</i>	20.11.84
<i>Commencement Date:</i>	S. 48 never proclaimed, repealed by No. 10189/1985
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Transport (Compliance and Miscellaneous) Act 1983</b>

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

---

**Motor Car (Amendment) Act 1985, No. 10178/1985**

*Assent Date:* 14.5.85  
*Commencement Date:* S. 9 on 1.7.85: Government Gazette 19.6.85 p. 2336  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Dangerous Goods Act 1985, No. 10189/1985**

*Assent Date:* 30.7.85  
*Commencement Date:* S. 6(Sch. 1 items 8, 9) on 1.10.85: Government Gazette 1.10.85 p. 3803  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Amendment) Act 1985, No. 10220/1985**

*Assent Date:* 3.12.85  
*Commencement Date:* S. 15 on 1.7.83: s. 2(2); rest of Act on 4.12.85: Government Gazette 4.12.85 p. 4458  
*Current State:* All of Act in operation

**Magistrates (Summary Proceedings) (Amendment) Act 1985, No. 10249/1985**

*Assent Date:* 10.12.85  
*Commencement Date:* S. 11(a)(b) on 1.4.86; s. 11(c)(d) on 1.10.86: Government Gazette 5.3.86 p. 581  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Courts Amendment Act 1986, No. 16/1986**

*Assent Date:* 22.4.86  
*Commencement Date:* S. 30(Sch. items) on 1.7.86: Government Gazette 25.6.86 p. 2180  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Amendment) Act 1986, No. 100/1986** (as amended by Nos 18/1989, 44/1989)

*Assent Date:* 16.12.86  
*Commencement Date:* Ss 5, 42(b) on 23.6.83: s. 2(2); ss 1, 2, 4, 6–30(1), 31–41(a), 42–44 on 17.12.86: Government Gazette 17.12.86 p. 4744; ss 3, 41(b) on 12.1.87: Government Gazette 23.12.86 p. 4777; s. 30(2)–(4) on 1.1.88: Government Gazette 16.12.87 p. 3392  
*Current State:* All of Act in operation

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

---

**Transport Accident Act 1986, No. 111/1986**

*Assent Date:* 16.12.86  
*Commencement Date:* S. 180(2)(Sch. 2 item 2) on 1.2.87: Government Gazette 28.1.87 p. 180  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Land Acquisition and Compensation Act 1986, No. 121/1986**

*Assent Date:* 23.12.86  
*Commencement Date:* 29.11.87: Government Gazette 25.11.87 p. 3224  
*Current State:* All of Act in operation

**Port Authorities (Amendment) Act 1986, No. 123/1986**

*Assent Date:* 23.12.86  
*Commencement Date:* S. 31 on 19.12.78: s. 2(2); rest of Act on 23.12.86: Government Gazette 23.12.86 p. 4775  
*Current State:* All of Act in operation

**Road Safety Act 1986, No. 127/1986** (as amended by No. 78/1987)

*Assent Date:* 23.12.86  
*Commencement Date:* S. 102 on 1.3.87: Government Gazette 25.2.87 p. 445; Sch. 4 items 28.2, 28.3, 28.5–28.12, 28.13 (except (a)(d)), 28.17, 28.18 on 1.7.87: Special Gazette (No. 27) 25.6.87 p. 1; Sch. 4 items 28.1, 28.4, 28.13(a)(d), 28.13A, 28.14, 28.15, 28.15A, 28.16(a)(b), 28.19, 28.20 on 1.3.88: Government Gazette 30.12.87 p. 3540  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Planning Appeals (Amendment) Act 1987, No. 9/1987**

*Assent Date:* 28.4.87  
*Commencement Date:* 1.8.87: Government Gazette 29.7.87 p. 1992  
*Current State:* All of Act in operation

**Chattel Securities Act 1987, No. 15/1987**

*Assent Date:* 12.5.87  
*Commencement Date:* 1.8.87: Government Gazette 29.7.87 p. 1992  
*Current State:* All of Act in operation

**Conservation, Forests and Lands Act 1987, No. 41/1987**

*Assent Date:* 19.5.87  
*Commencement Date:* S. 103(Sch. 4 item 65.1) on 1.7.87: Government Gazette 24.6.87 p. 1694  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Planning and Environment Act 1987, No. 45/1987**

*Assent Date:* 27.5.87  
*Commencement Date:* S. 205(Sch. items 138, 139) on 16.2.88:  
Government Gazette 10.2.88 p. 218  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Transport Accident (Amendment) Act 1988, No. 32/1988**

*Assent Date:* 17.5.88  
*Commencement Date:* Ss 4(3), 35 on 16.12.86: s. 2(2); ss 34, 36, 37 on  
1.3.88: s. 2(3); rest of Act on 24.5.88: Special  
Gazette (No. 37) 24.5.88 p. 1  
*Current State:* All of Act in operation

**State Superannuation Act 1988, No. 50/1988**

*Assent Date:* 24.5.88  
*Commencement Date:* S. 93(3) on 1.7.87: s. 2(1); s. 93(4) on 27.11.87:  
s. 2(2); Pt 1, Pt 6 Div. 2, s. 91 on 1.1.88: s. 2(3);  
rest of Act on 1.7.88: Government Gazette 1.6.88  
p. 1487  
*Current State:* All of Act in operation

**Marine Act 1988, No. 52/1988**

*Assent Date:* 31.5.88  
*Commencement Date:* All of Act (*except* s. 159(4)) on 20.12.88: Special  
Gazette (No. 105) 20.12.88 p. 1; s. 159(4) on  
1.7.89: Government Gazette 28.6.89 p. 1558  
*Current State:* All of Act in operation

**Local Government (Consequential Provisions) Act 1989, No. 12/1989** (as amended  
by No. 13/1990)

*Assent Date:* 9.5.89  
*Commencement Date:* S. 4(1)(Sch. 2 items 120.1–120.4, 120.6–120.8,  
120.10–120.31, 120.35, 120.36, 120.38–120.44,  
120.47) on 1.11.89: Government Gazette 1.11.89  
p. 2798; Sch. 2 items 120.5, 120.9, 120.32–120.34,  
120.37, 120.45, 120.46 on 1.10.92: Government  
Gazette 23.9.92 p. 2789  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Transfer of Land (Computer Register) Act 1989, No. 18/1989**

*Assent Date:* 16.5.89  
*Commencement Date:* 3.2.92: Government Gazette 18.12.91 p. 3488  
*Current State:* All of Act in operation



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

---

**Crimes Legislation (Miscellaneous Amendments) Act 1989, No. 25/1989**  
(as amended by No. 34/1990)

*Assent Date:* 6.6.89  
*Commencement Date:* Ss 40, 43–48 on 20.12.89: Government Gazette 20.12.89 p. 3290; ss 41, 42, 49 on 8.8.90: Government Gazette 8.8.90 p. 2416  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Amendment) Act 1989, No. 44/1989**

*Assent Date:* 6.6.89  
*Commencement Date:* Ss 16, 39(3), Sch. 2 items 42.1, 42.11, 42.12 on 6.6.89: s. 2(2); s. 39(2) on 16.12.86: s. 2(3); s. 42(1) on 1.11.89: s. 2(4); s. 42(2) on 1.11.89: s. 2(5); s. 42(3) on 11.11.89: s. 2(6); rest of Act on 1.7.89: s. 2(1)  
*Current State:* All of Act in operation

**Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989**  
(as amended by No. 25/1989)

*Assent Date:* 14.6.89  
*Commencement Date:* Ss 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217  
*Current State:* All of Act in operation

**Water (Consequential Amendments) Act 1989, No. 81/1989**

*Assent Date:* 5.12.89  
*Commencement Date:* 1.11.90: Government Gazette 15.8.90 p. 2473  
*Current State:* All of Act in operation

**Transport (Anti-Graffiti) Act 1990, No. 81/1990**

*Assent Date:* 11.12.90  
*Commencement Date:* S. 7(1)(2)(5)(7)–(9) on 6.6.89: s. 2(2); s. 7(3) on 23.12.86: s. 2(3); rest of Act on 6.3.91: Government Gazette 6.3.91 p. 483  
*Current State:* All of Act in operation

**Sentencing Act 1991, No. 49/1991**

*Assent Date:* 25.6.91  
*Commencement Date:* 22.4.92: Government Gazette 15.4.92 p. 898  
*Current State:* All of Act in operation

**National Rail Corporation (Victoria) Act 1991, No. 76/1991**

*Assent Date:* 3.12.91  
*Commencement Date:* S. 15 on 1.1.92: Government Gazette 18.12.91 p. 3488  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Transport (Car Pooling) Act 1991, No. 79/1991**

*Assent Date:* 3.12.91  
*Commencement Date:* 11.12.91: Government Gazette 11.12.91 p. 3404  
*Current State:* All of Act in operation

**Public Sector Management Act 1992, No. 68/1992**

*Assent Date:* 19.11.92  
*Commencement Date:* S. 114(Sch. 7 item 4) on 24.11.92: Special Gazette (No. 62) 24.11.92 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Treasury Corporation of Victoria Act 1992, No. 80/1992**

*Assent Date:* 24.11.92  
*Commencement Date:* 1.1.93: Special Gazette (No. 69) 23.12.92 p. 1  
*Current State:* All of Act in operation

**Transport (Amendment) Act 1992, No. 85/1992**

*Assent Date:* 24.11.92  
*Commencement Date:* Ss 1, 2 on 24.11.92: s. 2(1); rest of Act on 1.12.92: Special Gazette (No. 65) 1.12.92 p. 1  
*Current State:* All of Act in operation

**Transport (Amendment) Act 1993, No. 120/1993** (as amended by No. 60/1994)

*Assent Date:* 7.12.93  
*Commencement Date:* Pt 1 (ss 1–3), ss 56, 58, 60, 61(2), 65–71, 73–79 on 7.12.93: s. 2(1); Pt 2 (ss 4–55), ss 57, 59, 61(1), 62, 63 on 19.12.93: s. 2(2); rest of Act on 30.5.94: s. 2(4)  
*Current State:* All of Act in operation

**Electricity Industry Act 1993, No. 130/1993**

*Assent Date:* 14.12.93  
*Commencement Date:* S. 122(Sch. 4 items 14.1–14.3) on 3.1.94: Special Gazette (No. 97) 23.12.93 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Financial Management Act 1994, No. 18/1994**

*Assent Date:* 10.5.94  
*Commencement Date:* Pt 1 (ss 1–8), ss 60, 61 on 10.5.94: s. 2(1); rest of Act on 1.7.94: s. 2(2)  
*Current State:* All of Act in operation

**Financial Management (Consequential Amendments) Act 1994, No. 31/1994**  
(as amended by No. 75/1994)

*Assent Date:* 31.5.94  
*Commencement Date:* S. 4(Sch. 2 item 93) on 1.1.95: Government Gazette 28.7.94 p. 2055; s. 3(Sch. 1 item 60) never proclaimed, repealed by No. 75/1994  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Electricity Industry (Amendment) Act 1994, No. 53/1994** (as amended by No. 110/1994)

*Assent Date:* 15.6.94  
*Commencement Date:* S. 34 on 3.10.94: Special Gazette (No. 64) 27.9.94 p. 1; Sch. 1 items 9.1–9.6 on 3.10.94: s. 2(4A)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Further Amendment) Act 1994, No. 60/1994<sup>17</sup>**

*Assent Date:* 15.6.94  
*Commencement Date:* Ss 1–4, 8–11, 13–21, 24–27, 29, 31 on 15.6.94: s. 2(1); ss 12, 22, 23, 28 on 1.1.95: s. 2(4); s. 30 on 19.12.93: s. 2(5); ss 5–7 on 1.9.94: Special Gazette (No. 58) 30.8.94 p. 1  
*Current State:* All of Act in operation

**Financial Management (Amendment) Act 1994, No. 75/1994**

*Assent Date:* 22.11.94  
*Commencement Date:* S. 7(6) on 10.5.94: s. 2(1); rest of Act on 1.1.95: s. 2(2)  
*Current State:* All of Act in operation

**Employee Relations (Amendment) Act 1994, No. 82/1994**

*Assent Date:* 29.11.94  
*Commencement Date:* S. 13(Sch. 2 item 9) on 11.5.95: Government Gazette 11.5.95 p. 1093—see **Interpretation of Legislation Act 1984**  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Borrowing and Investment Powers (Public Transport Corporation) Act 1994, No. 85/1994**

*Assent Date:* 6.12.94  
*Commencement Date:* 6.12.94  
*Current State:* All of Act in operation

**Local Government (Amendment) Act 1994, No. 99/1994**

*Assent Date:* 13.12.94  
*Commencement Date:* S. 27 on 13.12.94: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Water Industry Act 1994, No. 121/1994**

*Assent Date:* 20.12.94  
*Commencement Date:* Ss 1, 2 on 20.12.94: s. 2(1); rest of Act on 1.1.95: Special Gazette (No. 105) 23.12.94 p. 1  
*Current State:* All of Act in operation

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

---

**Road Safety (Amendment) Act 1995, No. 7/1995**

*Assent Date:* 19.4.95  
*Commencement Date:* 19.4.95  
*Current State:* All of Act in operation

**Transport (Tow Truck Reform) Act 1995, No. 17/1995**

*Assent Date:* 9.5.95  
*Commencement Date:* Ss 1, 2, 3(b)–(d), 7, 8(b)(c), 9, 10, 12, 17–19, 20(4), 22–24 on 9.5.95: s. 2(1); ss 3(a)(e)–(g), 4–6, 8(a), 11, 13–16, 20(1)–(3) on 1.10.95: s. 2(2); s. 21 on 2.10.95: s. 2(3)  
*Current State:* All of Act in operation

**Equal Opportunity Act 1995, No. 42/1995**

*Assent Date:* 14.6.95  
*Commencement Date:* S. 224 on 5.10.95: Government Gazette 28.9.95 p. 2731; Sch. 2 items 43.1, 43.2 on 1.1.96: Government Gazette 21.12.95 p. 3571  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Road Safety (Miscellaneous Amendments) Act 1995, No. 58/1995** (as amended by No. 28/1996)

*Assent Date:* 20.6.95  
*Commencement Date:* S. 20 on 1.1.95: s. 2(3); ss 19, 21–25, 27 on 6.7.95; s. 26 on 1.11.95: Government Gazette 6.7.95 p. 1698  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Public Transport Competition Act 1995, No. 68/1995**

*Assent Date:* 17.10.95  
*Commencement Date:* Pt 1 (ss 1–4) on 17.10.95: s. 2(1); ss 40–42, 45–48 on 23.11.95: Government Gazette 23.11.95 p. 3234; rest of Act on 17.4.96: s. 2(3)  
*Current State:* All of Act in operation

**Electricity Industry (Further Amendment) Act 1995, No. 79/1995**

*Assent Date:* 28.11.95  
*Commencement Date:* S. 39 on 7.12.95: Government Gazette 7.12.95 p. 3379—see **Interpretation of Legislation Act 1984**  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Miscellaneous Acts (Omnibus Amendments) Act 1995, No. 100/1995**

*Assent Date:* 5.12.95  
*Commencement Date:* Ss 60, 61 on 1.1.95: s. 2(3); s. 62 on 1.10.95: s. 2(4); s. 59 on 5.12.95: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Melbourne City Link Act 1995, No. 107/1995**

*Assent Date:* 12.12.95  
*Commencement Date:* Ss 121, 122 on 14.12.95: Special Gazette (No. 120) 14.12.95 p. 3  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Rail Safety) Act 1996, No. 28/1996**

*Assent Date:* 22.10.96  
*Commencement Date:* Ss 3–10, 12, 16(1) on 1.1.98: s. 2(4); s. 11 on 1.1.99: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Road Safety (Amendment) Act 1996, No. 37/1996**

*Assent Date:* 6.11.96  
*Commencement Date:* S. 10 on 21.11.96: Government Gazette 21.11.96 p. 2971; s. 9 on 1.7.97 s. 2(4)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Commonwealth Powers (Industrial Relations) Act 1996, No. 59/1996**

*Assent Date:* 12.12.96  
*Commencement Date:* S. 10(Sch. 2 item 23) on 1.1.97: Special Gazette (No. 146) 23.12.96 p. 15  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Rail Corporations Act 1996, No. 79/1996**

*Assent Date:* 17.12.96  
*Commencement Date:* S. 58 on 1.3.97: Special Gazette (No. 11) 28.1.97 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Port Services (Amendment) Act 1997, No. 63/1997**

*Assent Date:* 5.11.97  
*Commencement Date:* S. 10(4)(Sch. item 4) on 10.12.97: Government Gazette 4.12.97 p. 3290  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Rail Corporations (Amendment) Act 1997, No. 104/1997** (as amended by Nos 98/1998, 101/1998, 45/1999)

*Assent Date:* 16.12.97  
*Commencement Date:* Ss 31, 32, 38 on 31.3.98: Special Gazette (No. 23) 31.3.98 p. 1; ss 33–35 on 29.4.99: Government Gazette 29.4.99 p. 967; s. 37 on 24.8.99: Government Gazette 19.8.99 p. 1901  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Acts (Amendment) Act 1997, No. 106/1997**

*Assent Date:* 16.12.97  
*Commencement Date:* Ss 35(2), 36 on 16.12.97: s. 2(1); ss 26, 27 on 17.3.98: Government Gazette 12.3.98 p. 520; ss 3–25 on 1.7.98: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Acts (Amendment) Act 1998, No. 16/1998**

*Assent Date:* 28.4.98  
*Commencement Date:* Pt 3 (ss 8–10) on 28.4.98: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Electricity Safety Act 1998, No. 25/1998**

*Assent Date:* 12.5.98  
*Commencement Date:* S. 166 on 1.7.98: Special Gazette (No. 65) 30.6.98 p. 2  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

*Assent Date:* 26.5.98  
*Commencement Date:* S. 7(Sch. 1) on 1.7.98: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Rail Corporations (Amendment) Act 1998, No. 47/1998**

*Assent Date:* 26.5.98  
*Commencement Date:* Ss 15, 16 on 23.12.99: Government Gazette 23.12.99 p. 2764  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Melbourne City Link (Exhibition Street Extension) Act 1998, No. 50/1998**

*Assent Date:* 2.6.98  
*Commencement Date:* 2.6.98: s. 2  
*Current State:* All of Act in operation

**Tribunals and Licensing Authorities (Miscellaneous Amendments) Act 1998, No. 52/1998** (as amended by No. 101/1998)

*Assent Date:* 2.6.98  
*Commencement Date:* S. 311(Sch. 1 items 96.1–96.26) on 1.7.98: Government Gazette 18.6.98 p. 1512  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

*Assent Date:* 17.11.98  
*Commencement Date:* S. 24(Sch. item 59) on 1.1.99: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Rail Corporations (Further Amendment) Act 1998, No. 98/1998** (as amended by No. 45/1999)

*Assent Date:* 24.11.98  
*Commencement Date:* Ss 17–19, 22, 25, 26 on 1.1.99: Government Gazette 24.12.98 p. 3204; ss 20, 21, 23, 24, 34, 35, 37–39 on 29.4.99: Government Gazette 29.4.99 p. 967; ss 27–32, 36 on 24.8.99: Government Gazette 19.8.99 p. 1901  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Amendment) Act 1998, No. 99/1998**

*Assent Date:* 24.11.98  
*Commencement Date:* Ss 1, 2, 12–14 on 24.11.98: s. 2(1); ss 3–11, 15 on 8.12.98: Special Gazette (No. 145) 8.12.98 p. 1  
*Current State:* All of Act in operation

**Melbourne City Link (Amendment) Act 1998, No. 102/1998**

*Assent Date:* 1.12.98  
*Commencement Date:* Ss 38–41 on 1.12.98: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Acts (Further Amendment) Act 1999, No. 6/1999**

*Assent Date:* 28.4.99  
*Commencement Date:* S. 10 on 28.4.99: s. 2(1); ss 8, 9 on 1.7.00: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Rail Corporations and Transport Acts (Amendment) Act 1999, No. 45/1999**

*Assent Date:* 8.6.99  
*Commencement Date:* Ss 16–34 on 24.8.99: Government Gazette 19.8.99 p. 1901  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Rail Corporations and Transport Acts (Miscellaneous Amendments) Act 1999, No. 63/1999**

*Assent Date:* 21.12.99  
*Commencement Date:* S. 13 on 22.12.99: s. 2(1); ss 10, 11, 12(1)(b)–(g)(2) on 23.12.99: Government Gazette 23.12.99 p. 2764; s. 12(1)(a) on 1.1.01: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Road Safety (Amendment) Act 2000, No. 14/2000**

*Assent Date:* 18.4.00  
*Commencement Date:* Ss 31–34 on 1.12.00: s. 2(4)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Amendment) Act 2000, No. 30/2000**

*Assent Date:* 30.5.00  
*Commencement Date:* 31.5.00: s. 2  
*Current State:* All of Act in operation

**Transport (Miscellaneous Amendments) Act 2000, No. 65/2000**

*Assent Date:* 8.11.00  
*Commencement Date:* 9.11.00: s. 2  
*Current State:* All of Act in operation

**Electricity Industry Legislation (Miscellaneous Amendments) Act 2000, No. 69/2000**

*Assent Date:* 21.11.00  
*Commencement Date:* S. 63 on 1.1.01: s. 2(4)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Statute Law Revision Act 2000, No. 74/2000**

*Assent Date:* 21.11.00  
*Commencement Date:* S. 3(Sch. 1 item 130) on 22.11.00: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**



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

---

**Melbourne City Link (Miscellaneous Amendments) Act 2000, No. 81/2000**

*Assent Date:* 28.11.00  
*Commencement Date:* S. 45 on 31.12.02: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Statute Law Amendment (Authorised Deposit-taking Institutions) Act 2001, No. 11/2001**

*Assent Date:* 8.5.01  
*Commencement Date:* S. 3(Sch. item 80) on 1.6.01: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Corporations (Consequential Amendments) Act 2001, No. 44/2001**

*Assent Date:* 27.6.01  
*Commencement Date:* S. 3(Sch. item 115) on 15.7.01: s. 2  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Further Amendment) Act 2001, No. 54/2001** (as amended by No. 32/2002)

*Assent Date:* 2.10.01  
*Commencement Date:* Ss 15, 17 on 20.6.03: Government Gazette 19.6.03 p. 1434; ss 4–13, 16, 18–27, Sch. items 1.1–1.66 on 30.6.03: s. 2(5); s. 14 repealed on 29.6.03: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Drugs, Poisons and Controlled Substances (Amendment) Act 2001, No. 61/2001**

*Assent Date:* 23.10.01  
*Commencement Date:* S. 16(3) on 1.1.02: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Essential Services Commission Act 2001, No. 62/2001**

*Assent Date:* 23.10.01  
*Commencement Date:* S. 96 on 1.1.02: s. 2  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Alcohol and Drug Controls) Act 2001, No. 94/2001**

*Assent Date:* 11.12.01  
*Commencement Date:* 30.6.02: s. 2(2)  
*Current State:* All of Act in operation

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

---

**Statute Law (Further Revision) Act 2002, No. 11/2002**

*Assent Date:* 23.4.02  
*Commencement Date:* S. 3(Sch. 1 item 62) on 24.4.02: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Further Miscellaneous Amendments) Act 2002, No. 32/2002**

*Assent Date:* 12.6.02  
*Commencement Date:* Ss 6(1), 9 on 9.5.02: s. 2(3); ss 3–5, 6(2), 7, 8, 10–16, 18–23 on 13.6.02: s. 2(1); s. 17 on 30.6.03: s. 2(5)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Criminal Justice Legislation (Miscellaneous Amendments) Act 2002, No. 35/2002**

*Assent Date:* 18.6.02  
*Commencement Date:* S. 28(Sch. item 7) on 19.6.02: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Environment Protection (Resource Efficiency) Act 2002, No. 37/2002**

*Assent Date:* 18.6.02  
*Commencement Date:* S. 51(2) on 19.6.02: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Highway Rule) Act 2002, No. 54/2002**

*Assent Date:* 4.11.02  
*Commencement Date:* Ss 3, 5 on 5.11.02: s. 2(1); s. 4 on 1.1.05: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Port Services (Port of Melbourne Reform) Act 2003, No. 23/2003**

*Assent Date:* 13.5.03  
*Commencement Date:* S. 30 on 3.11.03: Government Gazette 30.10.03 p. 2744  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Miscellaneous Amendments) Act 2003, No. 34/2003**

*Assent Date:* 27.5.03  
*Commencement Date:* Ss 3–13 on 28.5.03: s. 2(1); s. 16(1) on 15.7.03: Special Gazette (No. 138) 15.7.03 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Road Safety (Heavy Vehicle Safety) Act 2003, No. 44/2003**

*Assent Date:* 11.6.03  
*Commencement Date:* Ss 7, 8 on 1.7.03: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Victorian Urban Development Authority Act 2003, No. 59/2003**

*Assent Date:* 16.6.03  
*Commencement Date:* S. 124 on 1.8.03: Government Gazette 31.7.03 p. 2125  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Non-Emergency Patient Transport Act 2003, No. 69/2003**

*Assent Date:* 14.10.03  
*Commencement Date:* S. 68 on 1.2.06: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Road Safety (Amendment) Act 2003, No. 94/2003**

*Assent Date:* 25.11.03  
*Commencement Date:* Ss 28, 30–33 on 26.11.03: s. 2(1); s. 29 on 1.1.05: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Rights and Responsibilities) Act 2003, No. 101/2003** (as amended by No. 110/2004)

*Assent Date:* 2.12.03  
*Commencement Date:* Ss 3–5, 7–23 on 3.12.03: s. 2(1); s. 6 on 1.7.05: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Road Management Act 2004, No. 12/2004**

*Assent Date:* 11.5.04  
*Commencement Date:* Ss 136, 137 on 1.7.04: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Legislation (Miscellaneous Amendments) Act 2004, No. 49/2004**

*Assent Date:* 16.6.04  
*Commencement Date:* Ss 46–48 on 17.6.04: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Public Administration Act 2004, No. 108/2004**

*Assent Date:* 21.12.04  
*Commencement Date:* S. 117(1)(Sch. 3 item 208) on 5.4.05: Government Gazette 31.3.05 p. 602  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Legislation (Amendment) Act 2004, No. 110/2004**

*Assent Date:* 21.12.04  
*Commencement Date:* Ss 46–52, 54, 55 on 22.12.04: s. 2(1); s. 53 on 1.1.06: s. 2(10)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Magistrates' Court (Judicial Registrars and Court Rules) Act 2005, No. 19/2005**

*Assent Date:* 24.5.05  
*Commencement Date:* S. 11(3) on 25.5.05: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Legislation (Further Amendment) Act 2005, No. 25/2005**

*Assent Date:* 31.5.05  
*Commencement Date:* Ss 9(1)–(6), 10–15 on 31.5.05: s. 2(1); s. 9(7)–(9) on 1.1.06: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Tobacco (Amendment) Act 2005, No. 45/2005 (as amended by No. 95/2005)**

*Assent Date:* 16.8.05  
*Commencement Date:* Ss 26, 27 on 1.3.06: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Crimes (Homicide) Act 2005, No. 77/2005**

*Assent Date:* 22.11.05  
*Commencement Date:* S. 8(5) on 23.11.05: s. 2  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Transport Legislation (Further Miscellaneous Amendments) Act 2005,  
No. 95/2005** (as amended by No. 47/2006)

*Assent Date:* 29.11.05  
*Commencement Date:* Ss 26–33, 36(1)(2), 37–39 on 30.11.05: s. 2(1);  
s. 12(3) on 13.12.05: Special Gazette (No. 254)  
13.12.05 p. 1; s. 35 on 10.2.06: Government Gazette  
9.2.06 p. 208; s. 40 on 26.7.06: s. 2(1A); ss 21–25, 34  
on 31.7.06: Government Gazette 6.7.06 p. 1391; ss 41,  
43–47 on 8.8.06: Special Gazette (No. 199) 8.8.06  
p. 1; s. 42 on 30.6.08: s. 2(6)  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Health Professions Registration Act 2005, No. 97/2005**

*Assent Date:* 7.12.05  
*Commencement Date:* S. 182(Sch. 4 item 50) on 1.7.07: s. 2(3)  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Rail Safety Act 2006, No. 9/2006** (as amended by No. 47/2006)

*Assent Date:* 4.4.06  
*Commencement Date:* S. 129 on 5.4.06: s. 2(2); ss 111–121, 124–128 on  
1.8.06: Special Gazette (No. 181) 25.7.06 p. 1; s. 122  
on 1.1.07: s. 2(4); s. 123 on 30.6.08: s. 2(5)  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Transport Legislation (Safety Investigations) Act 2006, No. 10/2006**

*Assent Date:* 4.4.06  
*Commencement Date:* Ss 3, 4 on 1.8.06: Government Gazette 27.7.06 p. 1534  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006**

*Assent Date:* 13.6.06  
*Commencement Date:* Ss 74–77 on 1.7.06: Government Gazette 29.6.06  
p. 1315  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

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

---

**Transport Legislation (Further Amendment) Act 2006, No. 47/2006** (as amended by No. 71/2006)

<i>Assent Date:</i>	25.7.06
<i>Commencement Date:</i>	Ss 3–7, 15, 30 on 26.7.06: s. 2(1); ss 54–60 on 1.8.06: s. 2(3); s. 61 on 1.8.06: s. 2(4); ss 16, 17, 20(1)(2)(a)(4), 21(1)(2)(a)(3), 24(3)(a), 25(1)(2)(a)(3), 26(1)(3)(a)(4)(5), 27, 28(1)(3)(a)(4), 31(1)(2), Sch. 1 on 8.8.06: Special Gazette (No. 199) 8.8.06 p. 1; ss 18, 19, 20(2)(b)(3), 21(2)(b), 22, 23, 24(1)(2)(3)(b)(c)(4)(5), 25(2)(b), 26(2)(3)(b), 28(2)(3)(b), 29 on 30.3.07: Government Gazette 29.3.07 p. 532; ss 8–14 on 1.7.07: s. 2(6)
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Transport (Compliance and Miscellaneous) Act 1983</b>

**Children, Youth and Families (Consequential and Other Amendments) Act 2006, No. 48/2006**

<i>Assent Date:</i>	15.8.06
<i>Commencement Date:</i>	S. 42(Sch. item 36) as at 23.4.07: s. 2(3)
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Transport (Compliance and Miscellaneous) Act 1983</b>

**Transport (Taxi-cab Accreditation and Other Amendments) Act 2006, No. 71/2006** (as amended by No. 69/2007)

<i>Assent Date:</i>	19.9.06
<i>Commencement Date:</i>	Ss 13, 14, 16–18 on 20.9.06: s. 2(1); ss 3–12, 15 on 31.12.07: s. 2(4); s. 19 on 31.12.09: s. 2(5)
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Transport (Compliance and Miscellaneous) Act 1983</b>

**Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006**

<i>Assent Date:</i>	10.10.06
<i>Commencement Date:</i>	S. 26(Sch. item 103) on 11.10.06: s. 2(1)
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Transport (Compliance and Miscellaneous) Act 1983</b>

**Water (Governance) Act 2006, No. 85/2006**

<i>Assent Date:</i>	17.10.06
<i>Commencement Date:</i>	S. 173(Sch. 1 item 14) on 1.7.07: s. 2(3)
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Transport (Compliance and Miscellaneous) Act 1983</b>

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

---

**Statute Law Revision Act 2007, No. 28/2007**

*Assent Date:* 26.6.07  
*Commencement Date:* S. 3(Sch. item 66) on 27.6.07: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Accident Towing Services Act 2007, No. 30/2007**

*Assent Date:* 24.7.07  
*Commencement Date:* Ss 225–232 on 1.1.09: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Education and Training Reform Miscellaneous Amendments Act 2007, No. 58/2007**

*Assent Date:* 27.11.07  
*Commencement Date:* S. 55 on 28.11.07: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Graffiti Prevention Act 2007, No. 59/2007**

*Assent Date:* 27.11.07  
*Commencement Date:* S. 28(1) on 17.4.08: Government Gazette 17.4.08 p. 742  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Legislation Amendment Act 2007, No. 69/2007**

*Assent Date:* 11.12.07  
*Commencement Date:* S. 38 on 7.8.06: s. 2(4); s. 40(5) on 30.3.07: s. 2(6); s. 40(2) on 1.7.07: s. 2(5); ss 6–8, 11, 13–20, 22–32, 34–37, 39, 40(1)(3)(4)(6) on 12.12.07: s. 2(1); ss 10, 12, 21 on 31.3.08: Government Gazette 28.2.08 p. 369: s. 9 on 1.7.08: s. 2(3); ss 3–5, 33 on 1.1.09: s. 2(13)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Road Legislation Further Amendment Act 2007, No. 74/2007**

*Assent Date:* 18.12.07  
*Commencement Date:* Ss 80–85 on 19.12.07: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Motor Car Traders Amendment Act 2008, No. 4/2008**

*Assent Date:* 4.3.08  
*Commencement Date:* S. 32(Sch. item 33) on 1.12.08: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Unclaimed Money Act 2008, No. 44/2008**

*Assent Date:* 26.8.08  
*Commencement Date:* S. 115 on 1.1.09: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Legislation Amendment (Driver and Industry Standards) Act 2008, No. 85/2008**

*Assent Date:* 11.12.08  
*Commencement Date:* Ss 3-16 on 12.12.08: s. 2  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Bus Safety Act 2009, No. 13/2009** (as amended by Nos 6/2010, 19/2010)

*Assent Date:* 7.4.09  
*Commencement Date:* Ss 91, 92(5)–(8), 94–101 on 31.12.10: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Legislation Miscellaneous Amendments Act 2009, No. 17/2009**

*Assent Date:* 12.5.09  
*Commencement Date:* Ss 28, 29 on 13.5.09: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Legislation General Amendments Act 2009, No. 26/2009**

*Assent Date:* 17.6.09  
*Commencement Date:* Ss 3–5 on 31.7.09: Special Gazette (No. 259) 28.7.09 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Road Legislation Amendment Act 2009, No. 28/2009**

*Assent Date:* 17.6.09  
*Commencement Date:* S. 87 on 18.6.09: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**



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

---

**Statute Law Amendment (Charter of Human Rights and Responsibilities)  
Act 2009, No. 45/2009**

*Assent Date:* 5.8.09  
*Commencement Date:* Ss 14–16 on 6.8.09: s. 2  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Criminal Procedure Amendment (Consequential and Transitional Provisions)  
Act 2009, No. 68/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 97(Sch. item 124) on 1.1.10: Government Gazette  
10.12.09 p. 3215  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Statute Law Amendment (Evidence Consequential Provisions) Act 2009,  
No. 69/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 54(Sch. Pt 2 item 53) on 1.1.10: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Serious Sex Offenders (Detention and Supervision) Act 2009, No. 91/2009**

*Assent Date:* 15.12.09  
*Commencement Date:* S. 219(Sch. 3 item 5) on 1.1.10: Government Gazette  
24.12.09 p. 3397  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Transport Legislation Amendment (Hoon Boating and Other Amendments)  
Act 2009, No. 93/2009**

*Assent Date:* 15.12.09  
*Commencement Date:* Ss 36, 49(4) on 17.12.09: Government Gazette  
17.12.09 p. 3339; s. 15 on 1.11.10: Government  
Gazette 21.10.10 p. 2531  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Transport Integration Act 2010, No. 6/2010**

*Assent Date:* 2.3.10  
*Commencement Date:* Ss 24(5)(Sch. 1 item 16), 199(1)(3)(Sch. 3) on 1.7.10:  
Special Gazette (No. 256) 30.6.10 p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

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

---

**Equal Opportunity Act 2010, No. 16/2010** (as amended by No. 29/2011)

*Assent Date:* 27.4.10  
*Commencement Date:* S. 209(Sch. item 9) on 1.8.11: s. 2(4)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Legislation Amendment (Compliance, Enforcement and Regulation) Act 2010, No. 19/2010** (as amended by No. 29/2011)

*Assent Date:* 18.5.10  
*Commencement Date:* Ss 18, 77–79, 81 on 22.5.10: Government Gazette 20.5.10 p. 988; ss 72–74 on 11.6.10: Government Gazette 10.6.10 p. 1149; ss 4–13, 17, 19–33, 75, 76, 80 on 30.6.10: Government Gazette 10.6.10 p. 1149; ss 69, 70 on 31.12.10: Government Gazette 10.6.10 p. 1149; ss 3, 14, 15 on 1.5.11: Special Gazette (No. 125) 19.4.11 p. 1; ss 34, 67, 68 on 1.7.11: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

*Assent Date:* 17.8.10  
*Commencement Date:* S. 56 on 1.9.10: Special Gazette (No. 337) 24.8.10 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Firearms and Other Acts Amendment Act 2010, No. 52/2010**

*Assent Date:* 7.9.10  
*Commencement Date:* S. 34 on 1.11.10: Government Gazette 28.10.10 p. 2583  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Marine Safety Act 2010, No. 65/2010** (as amended by No. 78/2011)

*Assent Date:* 28.9.10  
*Commencement Date:* Ss 394–417A on 1.7.12: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Road Legislation Miscellaneous Amendments Act 2010, No. 75/2010**

*Assent Date:* 19.10.10  
*Commencement Date:* S. 24(3) on 25.10.10: Government Gazette 21.10.10 p. 2531; s. 24(1)(2) on 1.11.10: Government Gazette 21.10.10 p. 2531  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Tourist and Heritage Railways Act 2010, No. 79/2010**

*Assent Date:* 19.10.10  
*Commencement Date:* S. 33 on 1.10.11: Special Gazette (No. 298) 22.9.11 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Statute Law Revision Act 2011, No. 29/2011**

*Assent Date:* 21.6.11  
*Commencement Date:* S. 3(Sch. 1 item 98) on 22.6.11: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Legislation Amendment (Taxi Services Reform and Other Matters) Act 2011, No. 34/2011** (as amended by No. 43/2013)

*Assent Date:* 5.7.11  
*Commencement Date:* Ss 9, 15(1), 52–58 on 19.7.11: Special Gazette (No. 236) 19.7.11 p. 1; ss 8, 10–14, 15(2), 16–51, 59–101 on 1.8.11: Special Gazette (No. 236) 19.7.11 p. 1; ss 122–125 on 1.7.13: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Accident Towing Services Amendment Act 2011, No. 40/2011**

*Assent Date:* 6.9.11  
*Commencement Date:* S. 22 on 7.9.11: s. 2  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Justice Legislation Amendment (Protective Services Officers) Act 2011, No. 43/2011**

*Assent Date:* 6.9.11  
*Commencement Date:* Ss 55–62 on 28.11.11: Special Gazette (No. 379) 22.11.11 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Legislation Amendment (Public Transport Safety) Act 2011, No. 49/2011**

*Assent Date:* 22.9.11  
*Commencement Date:* Ss 4–14 on 5.10.11: Special Gazette (No. 313) 4.10.11 p. 1 (see Erratum: Special Gazette (No. 315) 4.10.11 p. 1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Transport Legislation Amendment (Public Transport Development Authority) Act 2011, No. 61/2011** (as amended by No. 66/2012)

*Assent Date:* 15.11.11  
*Commencement Date:* Ss 23(5), 24(2)(3), 25 on 15.12.11: Special Gazette (No. 407) 13.12.11 p. 1; ss 23(1)–(4), 24(1), Sch. 1 items 13.1(a)(c), 13.2–13.5, 13.7–13.14, Sch. 2 item 5 on 2.4.12: Special Gazette (No. 101) 27.3.12 p. 1; Sch. 1 items 13.1(b), 13.6 on 1.7.12: s. 2(3); s. 29 on 1.1.13: Special Gazette (No. 444) 19.12.12 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Sentencing Amendment (Community Correction Reform) Act 2011, No. 65/2011**

*Assent Date:* 22.11.11  
*Commencement Date:* S. 107(Sch. item 14) on 16.1.12: Special Gazette (No. 423) 21.12.11 p. 3  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Associations Incorporation Reform Act 2012, No. 20/2012**

*Assent Date:* 1.5.12  
*Commencement Date:* S. 226(Sch. 5 item 23) on 26.11.12: Special Gazette (No. 384) 20.11.12 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Statute Law Revision Act 2012, No. 43/2012**

*Assent Date:* 27.6.12  
*Commencement Date:* S. 3(Sch. item 53) on 28.6.12: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Working with Children Amendment Act 2012, No. 61/2012**

*Assent Date:* 23.10.12  
*Commencement Date:* Ss 19, 20 on 31.12.12: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Legislation Amendment (Marine Drug and Alcohol Standards Modernisation and Other Matters) Act 2012, No. 66/2012**

*Assent Date:* 7.11.12  
*Commencement Date:* Ss 29, 30 on 8.11.12; ss 31, 32 on 1.12.12: Special Gazette (No. 373) 7.11.12 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Integrity and Accountability Legislation Amendment Act 2012, No. 82/2012**

*Assent Date:* 18.12.12  
*Commencement Date:* S. 297 on 10.2.13: Special Gazette (No. 32) 6.2.13 p. 2  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Co-operatives National Law Application Act 2013, No. 9/2013**

*Assent Date:* 13.3.13  
*Commencement Date:* S. 42(Sch. 2 item 18) on 3.3.14: Special Gazette (No. 46) 18.2.14 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Rail Safety National Law Application Act 2013, No. 22/2013** (as amended by No. 27/2014)

*Assent Date:* 23.4.13  
*Commencement Date:* Ss 90, 91(1), 92–96 on 19.5.14: Special Gazette (No. 148) 13.5.14 p. 2; s. 91(2) never proclaimed, repealed by No. 27/2014 s. 157(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Legislation Amendment (Rail Safety Local Operations and Other Matters) Act 2013, No. 23/2013** (as amended by No. 27/2014)

*Assent Date:* 23.4.13  
*Commencement Date:* Ss 106, 107, 109–124 on 19.5.14: Special Gazette (No. 148) 13.5.14 p. 1; s. 108 never proclaimed, repealed by No. 27/2014 s. 158  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Sentencing Amendment (Abolition of Suspended Sentences and Other Matters) Act 2013, No. 32/2013**

*Assent Date:* 4.6.13  
*Commencement Date:* S. 45 on 5.6.13: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Marine (Domestic Commercial Vessel National Law Application) Act 2013, No. 36/2013**

*Assent Date:* 18.6.13  
*Commencement Date:* Ss 89–91 on 1.7.13: Special Gazette (No. 226) 25.6.13 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013, No. 43/2013** (as amended by No. 35/2014)

*Assent Date:* 28.6.13  
*Commencement Date:* Ss 46–52 on 1.7.13: s. 2(2); ss 23, 24(1), 26, 27, 28(2), 30 on 1.2.14: Special Gazette (No. 17) 28.1.14 p. 1; ss 3–18, 19(2), 20–22, 24(2)–(7), 25, 28(1), 29, 32 on 30.6.14: s. 2(4); s. 19(1) never proclaimed, repealed by No. 35/2014 s. 49  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Statute Law Revision Act 2013, No. 70/2013**

*Assent Date:* 19.11.13  
*Commencement Date:* S. 4(Sch. 2 item 52) on 1.12.13: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Compliance and Miscellaneous) Amendment (On-the-Spot Penalty Fares) Act 2013, No. 80/2013**

*Assent Date:* 17.12.13  
*Commencement Date:* Ss 4–10 on 1.7.14: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Safety Schemes Compliance and Enforcement) Act 2014, No. 27/2014**

*Assent Date:* 8.4.14  
*Commencement Date:* Ss 137–156 on 19.5.14: Special Gazette (No. 148) 13.5.14 pp 1, 2  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Legislation Amendment (Further Taxi Reform and Other Matters) Act 2014, No. 35/2014<sup>18</sup>**

*Assent Date:* 13.5.14  
*Commencement Date:* Ss 45, 46 on 14.5.14: s. 2(1); ss 4–21, 25–31, 36–44 on 30.6.14: Special Gazette (No. 188) 17.6.14 p. 1; ss 22–24, 32–35 on 30.9.14: Special Gazette (No. 330) 23.9.14 p. 2  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014**

*Assent Date:* 3.6.14  
*Commencement Date:* S. 10(Sch. item 171) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

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

---

**Road Safety Amendment Act 2014, No. 49/2014**

*Assent Date:* 1.7.14  
*Commencement Date:* S. 61(3)(4) on 2.7.14; s. 2(1); s. 61(1)(2) on 1.7.15:  
s. 2(4)  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Criminal Organisations Control and Other Acts Amendment Act 2014,  
No. 55/2014**

*Assent Date:* 26.8.14  
*Commencement Date:* S. 153 on 31.10.14: Special Gazette (No. 330) 23.9.14:  
p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Privacy and Data Protection Act 2014, No. 60/2014**

*Assent Date:* 2.9.14  
*Commencement Date:* S. 140(Sch. 3 item 46) on 17.9.14: Special Gazette  
(No. 317) 16.9.14 p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Inquiries Act 2014, No. 67/2014**

*Assent Date:* 23.9.14  
*Commencement Date:* S. 147(Sch. 2 item 38) on 15.10.14: Special Gazette  
(No. 364) 14.10.14 p. 2  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Statute Law Revision Act 2015, No. 21/2015**

*Assent Date:* 16.6.15  
*Commencement Date:* S. 3(Sch. 1 item 55) on 1.8.15: s. 2(1)  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

**Delivering Victorian Infrastructure (Port of Melbourne Lease Transaction)  
Act 2016, No. 10/2016**

*Assent Date:* 22.3.16  
*Commencement Date:* S. 179(Sch. 1 item 9) on 1.11.16: Special Gazette  
(No. 325) 25.10.16 p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Transport (Compliance and  
Miscellaneous) Act 1983**

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

---

**Transport (Compliance and Miscellaneous) Amendment (Public Safety) Act 2016, No. 33/2016**

*Assent Date:* 15.6.16  
*Commencement Date:* S. 3 on 16.6.16: s. 2  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Crimes Amendment (Sexual Offences) Act 2016, No. 47/2016**

*Assent Date:* 6.9.16  
*Commencement Date:* S. 46 on 1.7.17: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport (Compliance and Miscellaneous) Amendment (Abolition of the Penalty Fares Scheme) Act 2016, No. 71/2016**

*Assent Date:* 29.11.16  
*Commencement Date:* Ss 3–9 on 1.1.17: Special Gazette (No. 389) 20.12.16 p. 2  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Transport Integration Amendment (Head, Transport for Victoria and Other Governance Reforms) Act 2017, No. 3/2017**

*Assent Date:* 14.2.17  
*Commencement Date:* S. 50(Sch. 1 item 10) on 12.4.17: Special Gazette (No. 117) 12.4.17 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

**Small Business Commission Act 2017, No. 16/2017**

*Assent Date:* 10.5.17  
*Commencement Date:* Ss 24–28 on 1.7.17: Special Gazette (No. 216) 27.6.17 p. 1  
*Current State:* This information relates only to the provision/s amending the **Transport (Compliance and Miscellaneous) Act 1983**

---

Special Gazette (No. 26) 6 June 1990 page 1  
Government Gazette 23 December 1993 page 3416  
Government Gazette 11 August 1994 page 2225  
Government Gazette 22 December 1994 page 3444

---



### 3 Amendments Not in Operation

This publication does not include amendments made to the **Transport (Compliance and Miscellaneous) Act 1983** by the following Act/s.

---

#### **Transport (Compliance and Miscellaneous) Act 1983, No. 9921/1983**

<i>Assent Date:</i>	23.6.83
<i>Commencement Date:</i>	S. 162E(4) inserted on 30.6.14 by No. 13/2013 s. 28(1): s. 2(4)
<i>Note:</i>	S. 162E(4) provides that s. 162E(1) expires on 30.6.19
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Transport (Compliance and Miscellaneous) Act 1983</b>

#### **Heavy Vehicle National Law Application Act 2013, No. 30/2013**

<i>Assent Date:</i>	4.6.13
<i>Commencement Date:</i>	S. 60(Sch. item 17) not yet proclaimed
<i>Current State:</i>	This information relates only to the provision/s amending the <b>Transport (Compliance and Miscellaneous) Act 1983</b>

---

At the date of this publication, the following provisions amending the **Transport (Compliance and Miscellaneous) Act 1983** were Not in Operation:

**Amending Act/s:**

**Transport (Compliance and Miscellaneous) Act 1983,  
No. 9921/1983**

#### **162E Exercise of regulatory functions**

- (4) Subsection (1) expires on the fifth anniversary of the day on which section 28(1) of the **Transport Legislation Amendment (Foundation Taxi and Hire Car Reforms) Act 2013** comes into operation.
-

**Heavy Vehicle National Law Application Act 2013,  
No. 30/2013**

**Schedule**

**17 Transport (Compliance and Miscellaneous)  
Act 1983**

- 17.1 In section 86(1) in the definition of *owner*, in paragraph (c) for "agreement;" **substitute** "agreement; and".
- 17.2 In section 86(1) in the definition of *owner*, after paragraph (c) **insert**—
- "(d) any person in whose name a commercial goods vehicle is registered under the Heavy Vehicle National Law (Victoria) or any law of any State or Territory of the Commonwealth corresponding to that law but does not include an unpaid vendor of any such vehicle under a hire-purchase agreement;".
- 17.3 Section 217A is **repealed**.

#### 4 Explanatory details

<sup>1</sup> S. 2(1) def. of *mandatory marine safety decision*: The amendment proposed by section 137(1)(b)(iv) of the **Transport (Safety Schemes Compliance and Enforcement) Act 2014**, No. 27/2014 is not included in this publication because paragraph (c)(ii) is not part of this definition.

Section 137(1)(b)(iv) reads as follows:

##### 137 Definitions

(1) In section 2(1) of the **Transport (Compliance and Miscellaneous) Act 1983**—

(b) in the definition of *mandatory marine safety decision*—

(iv) in paragraph (c)(ii), for "section 228ZZL" substitute "section 64 of the **Transport (Safety Schemes Compliance and Enforcement) Act 2014**";

<sup>2</sup> S. 37A(2) (*repealed*): The amendment proposed by section 117(1) (Schedule 3 item 208.2) of the **Public Administration Act 2004**, No. 108/2004 is not included in this publication as section 37A(2) was repealed by section 254A of the **Transport Act 1983**, No. 9921/1983.

<sup>3</sup> Pt 5 (Heading and ss 82–85) amended by Nos 10220 s. 4(a)–(c), 50/1988 s. 93(2)(Sch. 2 Pt 2 item 59), 52/1988 s. 161(Sch. 6 items 14.2, 14.3), 44/1989 s. 40(Sch. 1 item 2.1), 68/1992 s. 114(Sch. 7 item 4), 85/1992 s. 9(1)(e), 82/1994 s. 13(Sch. 2 item 9), 28/1996 s. 4(j), 59/1996 s. 10(Sch. 2 item 23), 79/1996 s. 58(2), 16/1998 s. 10(2)–(4), 46/1998 s. 7(Sch. 1), repealed by No. 30/2000 s. 13.

<sup>4</sup> S. 93 (*repealed*): The amendments proposed by section 182(Schedule 4 item 50) of the **Health Professions Registration Act 2005**, No. 97/2005 are not included in this publication because section 93 was repealed before these amendments came into operation.

<sup>5</sup> Pt 6 Div. 3 (sections 103–129Y) (*repealed*): The proposed repeal of sections 125 and 129R(3) by section 44 of the **Transport Legislation (Further Miscellaneous Amendments) Act 2005**, No. 95/2005 is not included in this publication due to the earlier repeal of sections 125 and 129R(3) by section 119 of the **Rail Safety Act 2006**, No. 9/2006.

<sup>6</sup> Pt 6 Div. 5: Section 55 of the **Transport (Amendment) Act 1993**, No. 120/1993 (as amended by No. 60/1994 s. 30) reads as follows:

**55 Transitional provisions (Part 2)**

- (1) Any application to or proceedings before the Road Transport Licensing Tribunal under the Principal Act that had not been finally determined by the Tribunal immediately before the commencement of section 8 shall be determined by the Roads Corporation in accordance with the Principal Act as amended by this Part.
- (2) If under subsection (1) the Roads Corporation determines an application or proceedings, any thing done or any requirement complied with in relation to the application or proceedings before the commencement of section 8 must, so far as consistent with the provisions of the Principal Act as amended by this Part, be taken to have been done or complied with for the purposes of the determination by the Roads Corporation and the Roads Corporation may have regard to any record of the Road Transport Licensing Tribunal in relation to the application or proceedings.
- (3) The Principal Act as amended by this Part applies to—
  - (a) any application for or in relation to a commercial passenger vehicle licence made but not finally determined before that commencement;
  - (b) any commercial passenger vehicle licence in force immediately before that commencement and any such licence may be suspended, cancelled or transferred or have any condition of or attached to it altered in accordance with the provisions of the Principal Act as amended by this Part or have the route or area in respect of which it

was granted altered in accordance with those provisions.

- (4) A commercial passenger vehicle licence in force immediately before the commencement of this Part does not cease to have effect at the end of the period specified in it but, subject to the Principal Act as amended by this Part, continues in force as if it had been granted after that commencement.
- (5) If—
- (a) a commercial passenger vehicle licence is in force immediately before the commencement of this Part in respect of a vehicle classified before that commencement by the Roads Corporation under section 145 of the Principal Act as a special purpose vehicle; and
  - (b) that licence would have been granted as a restricted hire vehicle licence had it been granted after that commencement—
- the Principal Act as amended by this Part applies to that licence as if it were a restricted hire vehicle licence.
- (6) A tow truck licence in force immediately before the commencement of this Part does not cease to have effect at the end of the period specified in it but, subject to the Principal Act as amended by this Part, continues in force as if it had been granted after that commencement.

<sup>7</sup> S. 157(4): Section 31 of the **Transport (Further Amendment) Act 1994**, No. 60/1994 reads as follows:

### **31 Transitional provisions**

- (1) Nothing in this Act affects the validity of—
- (a) any contract for the provision of transport services entered into by the Public Transport Corporation with any person or body before

the commencement of section 6 of the  
**Transport (Further Amendment)  
Act 1994**; or

- (b) the tendering process conducted in relation to a contract referred to in paragraph (a); or
  - (c) any assignment by the Public Transport Corporation to the Secretary of the Department of Transport of its rights and liabilities under a contract referred to in paragraph (a).
- (2) Any application to or proceeding before the Roads Corporation in respect of a vehicle which is, or is to operate as, a taxi-cab or in respect of the owner or driver of such a vehicle or in respect of the holder of a taxi-cab licence that had not been finally determined by the Roads Corporation before the passing of this Act shall be determined by the Secretary in accordance with the Principal Act as amended by this Act.
- (3) If under subsection (2) the Secretary determines an application or proceeding, any thing done or any requirement complied with in relation to the application or proceeding before the passing of this Act must, so far as consistent with the provisions of the Principal Act as amended by this Act, be taken to have been done or complied with for the purposes of the determination by the Secretary and the Secretary may have regard to any record of the Roads Corporation in relation to the application or proceeding.
- (4) The Principal Act as amended by this Act applies to—
- (a) any application for or in relation to a commercial passenger vehicle licence in respect of a vehicle which is, or is to

- operate as, a taxi-cab made but not finally determined before the passing of this Act;
- (b) any commercial passenger vehicle licence in force immediately before that passing in respect of a vehicle which is, or is to operate as, a taxi-cab and any such licence may be assigned, suspended, cancelled, revoked or transferred or have any condition of or attached to it altered in accordance with the provisions of the Principal Act as amended by this Act or have the route or area in respect of which it was granted altered in accordance with those provisions.
- (5) A private omnibus licence in force immediately before the commencement of section 20 does not cease to have effect at the end of the period of 1 year after it was granted or renewed but, subject to the Principal Act as amended by this Act, continues in force as if it had been granted after that commencement.
- (6) Section 157 of the Principal Act as amended by section 18 of this Act applies only with respect to licences or permits that are suspended or revoked after the commencement of section 11 of this Act.
- (7) The provisions of this section are additional to, and do not limit, the provisions of the  
**Interpretation of Legislation Act 1984.**

<sup>8</sup> Pt 6 Div. 8 (Heading and ss 171–185) amended by Nos 10087 s. 3(1)(Sch. 1 items 278–280), 10220 ss 6–10, 100/1986 ss 22–25, 26(1)(2) (as amended by No. 44/1989 s. 39(2)(b)), 27–30, 31(a) (as amended by No. 44/1989 s. 39(2)(c)) (b)–(e), 127/1986 s. 102(Sch. 4 items 28.10, 28.11), 44/1989 ss 39(1)(e), 40(Sch. 1 items 3.2, 6.2, 13), 57/1989 s. 3(Sch. items 202.6, 202.7), 120/1993 ss 34–46, 60/1994 s. 21, 17/1995 ss 4–18, 21(1), 100/1995 s. 62, 28/1996 s. 16(1)(c), 106/1997 ss 6–20, 52/1998 s. 311(Sch. 1 items 96.16–96.26), 99/1998 s. 15(1), 102/1998 s. 39–41, 32/2002 ss 15–19, 34/2003 ss 9, 10, 13(d), 110/2004 s. 52, 95/2005 s. 36, 47/2006 s. 31(Sch. 1 Pt 1 item 9), 74/2007 ss 82–84, repealed by No. 30/2007 s. 231.

<sup>9</sup> S. 213 (*repealed*): The amendment proposed by Schedule 4 item 28.16(c) of the **Road Safety Act 1986**, No. 127/1986 is not included in this publication because section 213 was substituted by section 42 of the **Crimes Legislation (Miscellaneous Amendments) Act 1989**, No. 25/1989 prior to this amendment coming into operation.

<sup>10</sup> S. 215B(1) (*repealed*): The amendment proposed by section 10(Schedule item 171.5) of the **Victoria Police Amendment (Consequential and Other Matters) Act 2014**, No. 37/2014 is not included in this publication due to the earlier repeal of Division 2A of Part 7 by section 142 of the **Transport (Safety Schemes Compliance and Enforcement) Act 2014**, No. 27/2014.

Schedule item 171.5 reads as follows:

**171 Transport (Compliance and Miscellaneous)  
Act 1983**

171.5 In sections 212(1)(a) and (1B)(a), 214A,  
215(2)(ba) and 215B(1), for "member of the  
police force" **substitute** "police officer".

<sup>11</sup> S. 221(1A) (*repealed*): The amendment proposed by section 31(1) (Schedule 1 Part 1 item 15(a)) of the **Transport Legislation (Further Amendment) Act 2006**, No. 47/2006 is not included in this publication due to the earlier repeal of section 221(1A) by section 24(b) of the **Transport Legislation (Further Miscellaneous Amendments) Act 2005**, No. 95/2005.

<sup>12</sup> S. 221(1B) (*repealed*): The amendment proposed by section 31(1) (Schedule 1 Part 1 item 15(b)) of the **Transport Legislation (Further Amendment) Act 2006**, No. 47/2006 is not included in this publication due to the earlier repeal of section 221(1B) by section 24(b) of the **Transport Legislation (Further Miscellaneous Amendments) Act 2005**, No. 95/2005.

<sup>13</sup> Pt 7 Div. 4B (Heading and ss 228S–228ZZS) (*repealed*): The amendment proposed by section 10(Schedule item 171.18) of the **Victoria Police Amendment (Consequential and Other Matters) Act 2014**, No. 37/2014 is not included in this publication due to the earlier repeal of Division 4B of Part 7 by section 144 of the **Transport (Safety Schemes Compliance and Enforcement) Act 2014**, No. 27/2014.



Schedule item 171.18 reads as follows:

**171 Transport (Compliance and Miscellaneous)  
Act 1983**

171.18 In sections 228ZNA(1), 228ZZPA(1A), 229(1),  
(1A)(a) and (b) and (1B)(b) and 229A(4)(b),  
for "member of the police force" **substitute**  
"police officer".

<sup>14</sup> S. 229A(4)(b) (*repealed*): The amendment proposed by section 10(Schedule item 171.18) of the **Victoria Police Amendment (Consequential and Other Matters) Act 2014**, No. 37/2014 is not included in this publication due to the earlier repeal of section 229A by section 145 of the **Transport (Safety Schemes Compliance and Enforcement) Act 2014**, No. 27/2014.

Schedule item 171.18 reads as follows:

**171 Transport (Compliance and Miscellaneous)  
Act 1983**

171.18 In sections 228ZNA(1), 228ZZPA(1A), 229(1),  
(1A)(a) and (b) and (1B)(b) and 229A(4)(b),  
for "member of the police force" **substitute**  
"police officer".

<sup>15</sup> Ss 234–242:

S. 234 repealed by No. 100/1986 s. 3(22), new s. 234 inserted by No. 44/1989 s. 29, repealed by No. 85/1992 s. 9(1)(f).

Ss 235–237 repealed by No. 100/1986 s. 3(22).

S. 238 amended by No. 10087 s. 3(1)(Sch. 1 item 288), repealed by No. 100/1986 s. 3(22).

S. 239 substituted by No. 44/1989 s. 30, repealed by No. 85/1992 s. 9(1)(f).

S. 240 substituted by No. 44/1989 s. 31, repealed by No. 85/1992 s. 9(1)(f).

S. 241 amended by No. 44/1989 s. 32(a)(b), repealed by No. 120/1993 s. 70(1).

S. 242 repealed by No. 44/1989 s. 33.

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

---

<sup>16</sup> Schs 11, 12:

Sch. 11 repealed by No. 10087 s. 4(1)(Sch. 2).

Sch. 12 amended by Nos 10049 s. 6, 10087 s. 3(1)(Sch. 1 items 294–304), repealed by No. 10087 s. 4(1)(Sch. 2).

<sup>17</sup> Table of Amendments: **Transport (Further Amendment) Act 1994**, No. 60/1994: See note 7.

<sup>18</sup> Table of Amendments: The amendment to section 212AA(5) proposed by section 46(4) of the **Transport Legislation Amendment (Further Tax Reform and Other Matters) Act 2014**, No. 35/2014 is not included in this publication as section 212AA was not part of this Act when section 46(4) came into operation.

Section 46(4) reads:

**46 Statute law revision**

- (4) In section 212AA(5) of the Principal Act, for "pay" **substitute** "to pay".