

Melbourne City Link (Amendment) Bill

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EXPLANATORY MEMORANDUM

- Clause 1 sets out the purposes of the Bill. These are—
- (a) to enable the registration of vehicles for tolling purposes to be limited to specified toll zones rather than all toll zones;
 - (b) to provide for infringement notices to be issued in respect of toll administration offences, as an alternative to prosecution by summons;
 - (c) to spell out the obligations of the bodies that collect tolls in relation to the keeping of accurate records of tolling and of the registration and exemption of vehicles for tolling purposes.
- Clause 2 provides that the Bill will come into operation on the day after it receives Royal Assent.
- Clause 3 defines the "Principal Act" as the **Melbourne City Link Act 1995**.
- Clause 4 amends the definition of "enforcement officer" in section 3 of the Principal Act. The amendment extends the scope of the definition to include persons authorised to take enforcement action in respect of toll administration offences under the proposed new section 116(1A) (see clause 11).
- Clause 5 amends section 73, 73A, 73D and 77 of the Principal Act.
- This is to enable a relevant corporation (a body authorised to charge tolls on vehicles using the City Link or the Exhibition Street Extension) to limit the tolling registration of a vehicle to one or more specified toll zones. Currently, tolling registration under the Principal Act is for all toll zones and is priced accordingly. The amendment allows relevant corporations to register a vehicle for specified parts of the toll roads.

To this end, it is proposed to amend the following sections—

- section 73—amends the definition of the offence of toll evasion to include driving a vehicle on a toll zone for which the vehicle is not registered;
- section 73A—confers discretion on relevant corporations to register vehicles for particular toll zones;
- section 73D—if a relevant corporation agrees to register a vehicle for tolling purposes, it must tell the applicant for which toll zones the vehicle is registered;
- section 77—reporting of alleged toll evasion by a relevant corporation to the enforcement agency.

Clause 6 inserts a new section 80A into the Principal Act. Under section 80A, an enforcement officer may issue an infringement notice against certain "relevant agencies", that is, the companies directly engaged in collecting tolls for use of the Melbourne City Link or the Exhibition Street Extension.

The toll administration offences for which an enforcement officer may issue an infringement notice instead of a summons are—

- section 90A(2)—unauthorised use or disclosure of restricted tolling information;
- section 92(1) (as amended by clause 10)—failure to keep correct records of tolling, tolling registration and tolling exemption;
- section 92(3)—preventing an authorised person from carrying out inspections of records required by or created for the purposes of Part 4 of the Principal Act. Records required by or created for the purpose of Part 4 include the records of registration of vehicles as required by section 92(1), and records of the use or disclosure of restricted tolling information as required by section 90E of the Principal Act.

The option of issuing an infringement notice is in addition to the existing option of prosecution by summons.

- Clause 7 amends section 82 of the Principal Act to fix a penalty of \$2000 for infringement notices issued in respect of toll administration offences. The maximum fine that a Court can impose for a toll administration offence is \$10 000.
- Clause 8 amends section 86 of the Principal Act to apply the PERIN ("Penalty Enforcement by Registration of Infringement Notice") procedure to infringement notices for toll administration offences.
- Clause 9 amends section 89 of the Principal Act to enable evidentiary certificates issued by a relevant corporation to certify that a vehicle was or was not registered in respect of a particular toll zone. This amendment is consequential on the amendments to be made by clause 5.
- Clause 10 substitutes section 92(1) of the Principal Act to clarify standards in respect of the records required by that provision, and to restore consistency between the toll evasion, evidentiary and record-keeping provisions of the Principal Act.

In 1998, section 73 of the Principal Act was amended to alter the obligations of toll road users. Instead of being required to pay tolls in a manner to be prescribed by regulations, the amendments required motorists to register their vehicles for tolling purposes. Corresponding amendments were made to section 89(4) of the Act, which enables the records of relevant corporations to be used as evidence in civil proceedings and in prosecutions relating to tolling. In the absence of other evidence, Courts must accept a certificate from a relevant corporation about matters that can be determined or calculated from their records as proof of the matters stated in the certificate.

Section 92(1) currently requires relevant corporations to maintain "proper records about the payment or non-payment of tolls", with a fine of up to \$10 000 for breach. The proposed new section 92(1) will set more specific standards in relation to the keeping of accurate records, and will ensure that record-keeping obligations are consistent with the toll evasion and evidentiary provisions of the Principal Act.

Clause 11 enables persons authorised by the Minister to take enforcement action in relation to toll administration offences. Persons authorised by the Minister carry out inspections of relevant corporation records under section 92(2) of the Principal Act.