

Transport Acts (Amendment) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

- Clause 1 states the purpose of the Act.
- Clause 2 provides for the commencement of the Act. It states that Parts 1 and 4 operate on the date of the Royal Assent. Sub-clause (2) states that the remaining provisions of the Act come into effect on a day or days to be proclaimed. The effect of sub-clause (3) is that if a provision has not been proclaimed to come into operation before 1 July 1998 it will come into operation on that day.

PART 2—AMENDMENT OF TRANSPORT ACT 1983

- Clause 3 inserts a definition of "business day" in section 2(1) of the **Transport Act 1983**.
- Clause 4 extends the definitions of "level 1 offence" and "level 2 offence" in section 86(1) of the **Transport Act 1983**.
- Clause 5 makes a minor consequential amendment to section 147B(1)(a).
- Clause 6 changes the meaning of heavy accident towing so that it now applies to vehicles with a gross vehicle mass of 4 tonnes or more. Previously a heavy accident tow truck could not undertake accident towing of a vehicle with a gross vehicle mass less than 4.5 tonnes.
- Clause 7 is consequential on the changes made by Clause 4 and contains a restriction on who may hold a towing licence
- Clause 8 inserts new sections 172O-172Q in the **Transport Act 1983**.

Section 172O permits accident towing licence entitlements which were transferred before 1 October 1995 in accordance section 174D to be transferred back to the licences in respect of which the entitlements were originally held and that the licensing authority must reissue those licences in that event.

Section 172P gives the licensing authority the power to declare an area to be a self-management area in which all accident towing must be conducted in accordance with regulations made for that area.

Section 172Q defines offences connected with self-managed areas.

- Clause 9 corrects an oversight whereby the Act prohibited passengers from being carried in vehicles which are being towed by accident or heavy accident tow trucks but not tow trucks which hold trade towing licences.
- Clause 10 makes changes concerning storage charges for damaged vehicles.
- Clause 11 substitutes new section 176A–176G in place of the existing section 176A. The new sections introduce more rigorous requirements for repairers to possess a valid authority to tow form for any damaged vehicle which they are repairing and will facilitate detection of illegal accident tows.
- Clause 12 inserts sub-section (6) into section 177 providing that a tow truck driver who is lawfully at an accident scene may enter into an agreement with a person to store a vehicle at the authorised depot of the tow truck.
- Clause 13 amends section 177C to provide that it is a defence to a charge under section 177 relating to failing to release a vehicle if the person charged is owed money for storage charges.
- Clause 14 inserts new section 177D requiring the holder of a tow truck licence to give notices about storage charges to the owner of a vehicle that has been towed to the tow truck depot from an accident scene.
- Clause 15 has the effect through sub-clauses (1) and (2) of extending the licensing authority's powers of suspension to include accident towing driver authorities. Sub-clause (3) makes a consequential amendment to section 182G.
- Clause 16 amends section 181B to the effect that demerit points are also recorded against a person who is not an authority holder and apply if the person obtains an authority. In addition, a period of

suspension applies beyond the expiry date of an authority. Provision is also made so that where demerit points are incurred in respect of a tow truck licence, those points continue to apply notwithstanding the transfer of the licence to another person.

- Clause 17 inserts new section 182A(4B) which permits the driver or passenger in a damaged or disabled vehicle that is outside the controlled area to accompany the driver of an accident tow truck travelling to the vehicle to tow it.
- Clause 18 makes a statute law revision amendment.
- Clause 19 amends section 183B to make it clear that a job number given by an accident allocation centre only authorises the towing of one damaged vehicle from the accident scene.
- Clause 20 inserts a new regulation making power in section 185 which will enable the making of regulations to generally regulate and control the operation of tow trucks for accident towing in a self-management area.
- Clause 21 repeals the provisions of the **Transport Act 1983** relating to private omnibuses.
- Clause 22 repeals the provisions of the **Transport Act 1983** relating to hire and drive omnibuses.
- Clause 23 amends section 156 of the **Transport Act 1983** to enable a driver's certificate to be issued under that Act to a person proposing to drive a private bus operating under the **Public Transport Competition Act 1995**.
- Clause 24 inserts transitional provisions in Part VIII of the **Transport Act 1983**. The effect is to allow a person who already holds a private omnibus licence to continue to operate under that licence for an interim period despite the repeal of the licensing provisions.
- Clause 25 amends section 56(2)(r) of the **Transport Act 1983** by adding power to make regulations providing for the recovery of the cost and storage of abandoned vehicles.
- Clause 26 inserts new sections 253 and 253A into the **Transport Act 1983**. The new sections will make small excisions from Yarra

and Melbourne Parks, which are crown land reserves under the **Crown Land (Reserves) Act 1978**. The land is to be made available to the Public Transport Corporation for the relocation of the Wattle Park (Swan Street) tram line. The land to be excised are strips along the South edge of the Richmond to Melbourne railway line and the North side of the National Tennis Centre.

Clause 27 inserts a new Schedule 9 into the **Transport Act 1983**. This sets out the details of the portion of the Yarra Park reserve and associated Crown Grant to be revoked by clause 26 (proposed new section 253).

PART 3—AMENDMENT OF PUBLIC TRANSPORT COMPETITION ACT 1995

Clause 28 amends the definitions contained in section 3 of the **Public Transport Competition Act 1995**, adding definitions of "courtesy service", "hire and drive service", and "private bus service".

Clause 29 inserts section 3A which has the effect of applying most of the provisions of the Act relating to road transport passenger services to operators of a courtesy service, hire and drive service, or private bus service.

Clause 30 contains two provisions relating to conditions of accreditation.

Sub-clause (1A) makes it clear that the requirement in section 10, that an operator may only engage a driver with a driver's authority or a driver's certificate, does not extend to a courtesy service, or a hire and drive service.

Sub-clause (1B) enables an annual accreditation fee to be set by regulation.

Clause 31 makes a number of changes to the provisions governing driver authorities.

The effect of sub-clause (1) is to amend section 10(1)(a) and thereby permit a person with a driver's certificate granted under the **Transport Act 1983** (regardless of the issue date) to use that certificate instead of having to obtain a driver's authority under the Act.

Sub-clause (2) enables the Secretary to require an applicant to use the provisions of the **Transport Act 1983** relating to driver's certificates instead of the provisions under which an applicant may apply for a driver's authority.

Clause 32 contains transitional provisions.

Clause 33 contains transitional provisions.

PART 4—REPEAL OF SPENT ACTS

Clause 34 repeals the **South Australian and Victorian Border Railways Act 1930**.

Clauses 35 and 36 repeal the **King-street Bridge Act 1957** and contain savings provisions and other provisions consequential on the repeal of the Act.

Clause 37 repeals the **Railways (Standardization Agreement) Act 1958** and contains savings provisions consequential on the repeal of the Act.

