

Version No. 069
Melbourne City Link Act 1995
No. 107 of 1995

Version incorporating amendments as at 1 July 2008

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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1 Purposes

The main purposes of this Act are—

- (a) to ratify the Agreement for the Melbourne City Link Project; and

* * * * *

S. 1(b)
repealed by
No. 81/2000
s. 3(a).

- (c) to give the Link corporation certain powers in relation to certain roads; and

S. 1(c)
substituted by
No. 81/2000
s. 3(b).

- (d) to empower the fixing, charging and collection of tolls in relation to the use of vehicles on toll zones.

2 Commencement

- (1) Parts 1 and 2 and Schedules 1 and 2 come into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to subsection (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.

- (3) If a provision referred to in subsection (2) does not come into operation within the period of 12 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

3 Definitions

In this Act—

S. 3 def. of *authorised officer* repealed by No. 81/2000 s. 4(2).

* * * * *

S. 3 def. of *arterial road* inserted by No. 12/2004 s. 162(1).

arterial road has the same meaning as in the **Road Management Act 2004**;

S. 3 def. of *authorised police officer* inserted by No. 102/1998 s. 4(a).

authorised police officer means the Chief Commissioner of Police and any member of the police force of the rank of inspector or above who is appointed by the Chief Commissioner to be an authorised police officer for the purposes of Division 3 of Part 4;

S. 3 def. of *Authority* repealed by No. 81/2000 s. 4(1).

* * * * *

S. 3 def. of *Burnley office site* inserted by No. 13/2002 s. 3.

Burnley office site means all the land in Crown Allotment 1C of 39A, Parish of Jika Jika, City of Richmond;

S. 3 def. of *Central Plan Office* amended by No. 50/1998 s. 4(b).

Central Plan Office means the Central Plan Office of the Department of Natural Resources and Environment;

Crown land includes a stratum of Crown land;
Council has the same meaning as in the **Local Government Act 1989**;

Customer service site means the land shown hatched on sheets 1 and 2 of the plan numbered LEGL./98–74 and lodged in the Central Plan Office but does not include any part of that land which is part of the Link road;

S. 3 def. of *Customer service site* inserted by No. 102/1998 s. 4(a).

* * * * *

S. 3 def. of *Director* inserted by No. 78/2001 s. 3, repealed by No. 49/2004 s. 4(1).

electricity corporation means VENCORP or SEC within the meaning of the **Electricity Industry Act 2000**;

S. 3 def. of *electricity corporation* amended by No. 35/1997 s. 31(2), substituted by No. 69/2000 s. 59(a).

enforcement agency means the Chief Commissioner of Police or, if another person is prescribed by the regulations to be the enforcement agency with respect to all or any part of the enforcement agency's functions, that other person in respect of those functions;

S. 3 def. of *enforcement agency* substituted by No. 102/1998 s. 4(b).

enforcement officer means a person authorised by an enforcement agency under section 79 and includes, in relation to an infringement notice issued under section 80A, a person authorised under section 116(1A);

S. 3 def. of *enforcement officer* amended by No. 4/2000 s. 4.

ESEP project document has the same meaning as in the Extension Agreement;

S. 3 def. of *ESEP project document* inserted by No. 50/1998 s. 4(a).

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s. 3

S. 3 def. of
*Extension
corporation*
inserted by
No. 50/1998
s. 4(a).

Extension corporation means the person who, for
the time being, is the Extension corporation
under section 12A;

S. 3 def. of
*Extension
operator*
inserted by
No. 50/1998
s. 4(a).

Extension operator means the person who, for the
time being, is the Extension operator under
section 12B;

S. 3 def. of
*Extension
Project area*
inserted by
No. 39/1997
s. 4(1),
repealed by
No. 81/2000
s. 4(3).

* * * * *

S. 3 def. of
*Extension
road*
inserted by
No. 50/1998
s. 4(a),
substituted by
No. 102/1998
s. 4(c).

Extension road means land declared under
section 93H to be a road and includes any
part of that land;

S. 3 def. of
*Exhibition
Street
Extension
Project*
inserted by
No. 39/1997
s. 4(1).

Exhibition Street Extension Project has the
meaning given by section 93A;

S. 3 def. of
leased land
amended by
No. 39/1997
s. 4(2)(a).

land includes a stratum of land;

leased land means land which is the subject of a
lease granted under section 60 or 93G;

<i>lessee</i> means a person who is for the time being the lessee under a lease granted under section 60 or 93G;	S. 3 def. of <i>lessee</i> amended by No. 39/1997 s. 4(2)(b).
<i>licence holder</i> means a person who is, for the time being, the holder of a licence issued under section 20E;	S. 3 def. of <i>licence holder</i> inserted by No. 78/2001 s. 3.
<i>licence plate number</i> , in relation to a vehicle, means the registration number of the vehicle assigned by the relevant vehicle registration authority;	S. 3 def. of <i>licence plate number</i> inserted by No. 102/1998 s. 4(a).
<i>licensed area</i> means land which is the subject of a licence issued under section 20E;	S. 3 def. of <i>licensed area</i> inserted by No. 78/2001 s. 3.
<i>licensed land</i> means land which was the subject of a licence issued under section 56 as in force at any time before the commencement of section 10 of the Melbourne City Link (Miscellaneous Amendments) Act 2000 ;	S. 3 def. of <i>licensed land</i> substituted by No. 81/2000 s. 4(4)(a).
<i>licensee</i> means a person who was the holder of a licence issued under section 56 as in force at any time before the commencement of section 10 of the Melbourne City Link (Miscellaneous Amendments) Act 2000 ;	S. 3 def. of <i>licensee</i> substituted by No. 81/2000 s. 4(4)(b).
<i>Link control site</i> means the land shown hatched on the plan numbered LEGL/.97–60 and lodged in the Central Plan Office but does not include any part of that land which is part of the Link road;	S. 3 def. of <i>Link control site</i> substituted by No. 39/1997 s. 4(3).
<i>Link corporation</i> means the person who, for the time being, is the Link corporation under section 10;	

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s. 3

S. 3 def. of
Link operator
inserted by
No. 102/1998
s. 4(a).

Link operator means the person who, for the time
being, is the Link operator under section 11;

S. 3 def. of
Link road
amended by
Nos 39/1997
s. 4(4),
50/1998
s. 4(c),
substituted by
No. 102/1998
s. 4(d).

Link road means land declared under section 61
to be a road and includes any part of that
land;

S. 3 def. of
Link Upgrade Project
inserted by
No. 81/2006
s. 66.

Link Upgrade Project has the same meaning that
it has in Schedule 5A to the **Road
Management Act 2004**;

S. 3 def. of
Project area
repealed by
No. 81/2000
s. 4(1).

* * * * *

S. 3 def. of
*public
authority*
amended by
Nos 91/1997
s. 47, 69/2000
s. 59(b),
32/2001
s. 36(a).

public authority means any of the following—

- (a) a public statutory authority;
- (b) a State business corporation or a State
body within the meaning of the **State
Owned Enterprises Act 1992**;

* * * * *

- (e) an electricity corporation;

* * * * *

- (g) the holder of a licence issued under
Division 1 of Part 2 of the **Water
Industry Act 1994**;

public body means any of the following—

- (a) a public authority;
- (b) a generation company, distribution company or transmission company within the meaning of section 3 of the **Electricity Industry Act 2000**;
- (ba) a gas distribution company or a gas transmission company within the meaning of the **Gas Industry Act 2001**;
- (c) a Council;
- (d) a committee of management under the **Crown Land (Reserves) Act 1978**;
- (e) the holder of a licence under the **Pipelines Act 2005**;
- (f) the Corporation within the meaning of the **National Rail Corporation (Victoria) Act 1991**;
- (g) a passenger transport company within the meaning of the **Transport Act 1983**;

S. 3 def. of *public body* amended by Nos 104/1997 s. 52, 50/1998 s. 4(d)(i)(ii), 69/2000 s. 59(c), 32/2001 s. 36(b), 61/2005 s. 218.

public statutory authority means any body (including any trust) established by or under an Act for a public purpose;

relevant corporation—

- (a) for the purposes of Part 4 (except sections 70 and 71)—
 - (i) in relation to the Link road or the Extension road, means the Link Corporation if no notice under section 69A(1) is in effect; and

S. 3 def. of *relevant corporation* inserted by No. 102/1998 s. 4(a).

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s. 3

(ii) if a notice under section 69A(1) has taken effect and no notice under section 69A(2) is in effect—

(A) in relation to the Link road, means the Link corporation; and

(B) in relation to the Extension road, means the Extension corporation; and

(b) for the purposes of the rest of this Act (including sections 70 and 71)—

(i) in relation to the Link road, means the Link corporation; and

(ii) in relation to the Extension road, means the Extension corporation;

S. 3 def. of *reserved land* inserted by No. 78/2001 s. 3.

reserved land means land that, by the operation of Part 2A, is or is deemed to be temporarily reserved under section 4(1) of the **Crown Land (Reserves) Act 1978** for public purposes, being, in particular, the purposes of the Project;

S. 3 def. of *reserved project land* repealed by No. 81/2000 s. 4(1).

* * * * *

S. 3 def. of *restricted access area* repealed by No. 81/2000 s. 4(1).

* * * * *

S. 3 def. of *restricted tolling information* inserted by No. 102/1998 s. 4(a).

restricted tolling information has the meaning given by section 90;

Roads Corporation has the same meaning as in the **Transport Act 1983**;

S. 3 def. of *Roads Corporation* inserted by No. 49/2004 s. 4(2).

* * * * *

S. 3 def. of *Secretary* inserted by No. 81/2000 s. 4(6), repealed by No. 49/2004 s. 4(1).

* * * * *

S. 3 def. of *State highway* inserted by No. 50/1998 s. 4(a), repealed by No. 12/2004 s. 162(2).

stratum of Crown land means a stratum of land which is Crown land;

stratum of land means a part of land consisting of a space of any shape, below on or above the surface of the land, or partly below and partly above the surface of the land, all the dimensions of which are limited;

* * * * *

S. 3 def. of *temporary construction site* repealed by No. 81/2000 s. 4(1).

the Agreement means the agreement for the Melbourne City Link Project, a copy of which was set out in Schedule 1 to this Act as enacted, and the exhibits to that agreement, or, if all or any of the provisions of that agreement or those exhibits are added to, substituted, cancelled or varied (whether

S. 3 def. of *the Agreement* amended by Nos 21/1996 s. 3, 50/1998 s. 4(e), 81/2000 s. 4(5)(a).

or not the addition, substitution, cancellation or variation is effected by way of the Integration and Facilitation Agreement or otherwise), that agreement and those exhibits as so varied¹;

S. 3 def. of
*the Extension
Agreement*
inserted by
No. 50/1998
s. 4(a),
amended by
No. 81/2000
s. 4(5)(b).

the Extension Agreement means the agreement for the Exhibition Street Extension Project, and the exhibit to that agreement, a copy of which was set out in Schedule 6 to this Act as enacted by section 40 of the **Melbourne City Link (Exhibition Street Extension) Act 1998** or, if all or any of the provisions of that agreement, or that exhibit, are added to, substituted, cancelled or varied (whether or not the addition, substitution, cancellation or variation is effected by way of the Integration and Facilitation Agreement or otherwise) that agreement and exhibit as so varied;

S. 3 def. of
*the Integration
and
Facilitation
Agreement*
inserted by
No. 50/1998
s. 4(a),
amended by
No. 81/2000
s. 4(5)(c).

the Integration and Facilitation Agreement means the agreement for integrating and facilitating the Project and the Exhibition Street Extension Project, a copy of which was set out in Schedule 5 to this Act as enacted by section 40 of the **Melbourne City Link (Exhibition Street Extension) Act 1998**, or, if all or any of the provisions of that agreement are added to, substituted, cancelled or varied, that agreement as so varied;

the Project has the meaning given by section 6;

S. 3 def. of
toll zone
substituted by
No. 102/1998
s. 4(e).

toll zone means a toll zone specified under section 71(1)(a);

vehicle has the same meaning as *motor vehicle* has in the **Road Safety Act 1986**.

4 Objects of Act

The objects of this Act are—

- * * * * *
- (b) to authorise and facilitate the operation and management of the Link road and the tolling of the use of vehicles on the Link road by the Link corporation; and
- (c) to grant a concession to Transurban City Link Limited A.C.N. 070 810 678 in accordance with the Agreement; and
- (d) to authorise and facilitate the operation and management of the Extension road and the tolling of the use of vehicles on the Extension road by the Extension corporation; and
- (e) to grant a concession to City Link Extension Pty Ltd A.C.N. 082 058 615 in accordance with the Extension Agreement.
- * * * * *
- S. 4(a) repealed by No. 81/2000 s. 5.
- S. 4(c) amended by No. 50/1998 s. 5.
- S. 4(d) inserted by No. 50/1998 s. 5.
- S. 4(e) inserted by No. 50/1998 s. 5.
- S. 5 repealed by No. 81/2000 s. 6.

6 The Project

- (1) In this Act a reference to the Project is a reference to the project, as described in the Agreement, for—
- (a) a southern link involving a freeway link connecting the West Gate Freeway east of Kingsway to the South Eastern Arterial incorporating road tunnels passing under Kings Domain and the Yarra River and South Richmond and upgrading of part of the
- S. 6 amended by No. 81/2006 s. 67 (ILA s. 39B(1)).

s. 6B

South Eastern Arterial west of Toorak Road;
and

- (b) a western link involving upgrading of part of the Tullamarine Freeway, from near Bulla Road to Flemington Road and a link from Flemington Road to Footscray Road and to the West Gate Freeway.

S. 6(2)
inserted by
No. 81/2006
s. 67.

- (2) In this Act, a reference to the Project includes a reference to the Link Upgrade Project.

S. 6A
inserted by
No. 78/2001
s. 4,
repealed by
No. 49/2004
s. 5(1).

* * * * *

S. 6B
(Heading)
amended by
No. 95/2005
s. 3(1)(a).

6B Functions and powers of Roads Corporation

S. 6B
inserted by
No. 78/2001
s. 4.

S. 6B(1)
amended by
No. 49/2004
s. 5(2).

- (1) The Roads Corporation has the following functions—
- (a) on behalf of the Crown, to administer and manage contractual arrangements between the Crown and the Link corporation and between the Crown and the Extension corporation;
 - (b) to make recommendations regarding those contractual arrangements to the Minister;
 - (c) to manage the responsibilities of the Crown in relation to the completion of the construction of the Project and the Exhibition Street Extension Project;

s. 6B

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- (d) to manage the responsibilities of the Crown in relation to the operation of the Project and the Exhibition Street Extension Project;
 - (e) to make recommendations to the Minister on public safety issues relating to the Project and the Exhibition Street Extension Project;
 - (f) to manage, on behalf of the Crown, regulatory issues arising from the operation of the Link road and the operation of the Extension road;
 - (g) to undertake any other function conferred on the Roads Corporation by or under this or any other Act.
- * * * * *
- (3) The Roads Corporation must comply with any directions given by the Minister, including any direction relating to the provision of information or reports concerning the exercise of its powers and the performance of its functions.
- * * * * *
- * * * * *

S. 6B(1)(g)
 amended by
 No. 49/2004
 s. 5(2).

S. 6B(2)
 repealed by
 No. 49/2004
 s. 5(3).

S. 6B(3)
 amended by
 No. 49/2004
 s. 5(4)(a)(b).

S. 7
 amended by
 No. 50/1998
 s. 6(1)(2),
 repealed by
 No. 81/2000
 s. 6.

Ss 8, 9
 repealed by
 No. 81/2000
 s. 6.

S. 10(1)
amended by
No. 13/2002
s. 4.

10 Link corporation

- (1) Subject to this section, the Link corporation for the purposes of this Act is CityLink Melbourne Limited A.C.N. 070 810 678.
- (2) If the person who is, for the time being, the Link corporation agrees to the declaration of another person as the Link corporation in its place, the Governor in Council may, by Order published in the Government Gazette, declare that other person to be the Link corporation for the purposes of this Act.
- (3) If, under the Master Security Deed within the meaning of the Agreement, a person is entitled to nominate the appointment of another person in the place of the Link corporation, the Minister may, by Order published in the Government Gazette, declare that other person to be the Link corporation for the purposes of this Act.
- (4) If the Agreement is terminated, the Governor in Council may, by Order published in the Government Gazette—
 - (a) declare that the person who, immediately before the termination, was the Link corporation has ceased to be the Link corporation; and
 - (b) declare a person specified in the Order to be the Link corporation for the purposes of this Act.
- (5) An Order under this section takes effect on the day that it is published in the Government Gazette, or if a later day is specified in the Order, on that later day.
- (6) The person who is for the time being the Link corporation is not a public authority within the meaning of any Act or enactment by reason only that it is the Link corporation.

11 Link operator

- (1) Subject to this section, the Link operator for the purposes of this Act is TransLink Operations Pty Ltd A.C.N. 069 691 514.
- (2) If the person who is, for the time being, the Link corporation agrees to the declaration of another person as the Link operator, the Governor in Council may, by Order published in the Government Gazette, declare that other person to be the Link operator for the purposes of this Act.
- (3) If, under the Master Security Deed within the meaning of the Agreement, a person is entitled to nominate the appointment of another person in the place of the Link operator, the Minister may, by Order published in the Government Gazette, declare that other person to be the Link operator for the purposes of this Act.
- (4) If the Agreement is terminated, the Governor in Council may, by Order published in the Government Gazette—
 - (a) declare that the person who, immediately before the termination, was the Link operator has ceased to be the Link operator; and
 - (b) declare a person specified in the Order to be the Link operator for the purposes of this Act.
- (5) An Order under this section takes effect on the day that it is published in the Government Gazette, or if a later day is specified in the Order, on that later day.
- (6) The person who is for the time being the Link operator is not a public authority within the meaning of any Act or enactment by reason only that it is the Link operator.

S. 11(1)
amended by
No. 95/2005
s. 3(1)(b).

12 Powers of delegation or sub-delegation

- (1) The Link corporation may by instrument delegate to the Link operator referred to in section 11—
- (a) any road operation and management powers within the meaning of section 62 conferred on the Link corporation;
 - (b) any of its powers and functions under Part 4, except section 71;
 - (c) any of its powers and functions under the regulations made under section 56 of the **Transport Act 1983** or under the regulations made under section 132 of the **Road Management Act 2004**;
 - (d) any of its powers and functions under section 183B(4) of the **Transport Act 1983**.

S. 12(1)(c)
amended by
No. 12/2004
s. 162(3).

S. 12(1)(d)
repealed by
No. 50/1998
s. 7(1), new
s. 12(1)(d)
inserted by
No. 102/1998
s. 5(1).

S. 12(1A)
inserted by
No. 50/1998
s. 7(2).

- (1A) The Link corporation may, by instrument, sub-delegate to the Link operator or the Extension operator all or any of the following powers—
- (a) any road operation and management powers within the meaning of section 93I conferred on the Extension corporation, and, which have been delegated by the Extension corporation to the Link corporation;
 - (b) any of the Extension corporation's powers under Part 4 (except the power to fix tolls), which have been delegated by the Extension corporation to the Link corporation;

S. 12(1A)(b)
amended by
No. 102/1998
s. 24(a).

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- (c) any of the Extension corporation's powers and functions under regulations made under section 56 of the **Transport Act 1983** or under the regulations made under section 132 of the **Road Management Act 2004**, which have been delegated by the Extension corporation to the Link corporation;
- (d) any of the Extension corporation's powers and functions under section 183B(4) of the **Transport Act 1983**, which have been delegated by the Extension corporation to the Link corporation.
- (2) If the Link corporation delegates or sub-delegates any power or function under this section, the Link corporation must publish a notice of that delegation or sub-delegation in the Government Gazette.
- 12A Extension corporation**
- (1) Subject to this section, the Extension corporation for the purposes of this Act is City Link Extension Pty Ltd A.C.N. 082 058 615.
- (2) If the person who is, for the time being, the Extension corporation agrees to the declaration of another person as the Extension corporation in its place, the Governor in Council may, by Order published in the Government Gazette, declare that other person to be the Extension corporation for the purposes of this Act.
- (3) If, under the Master Security Deed within the meaning of the Extension Agreement, a person is entitled to nominate the appointment of another person in the place of the Extension corporation, the Minister may, by Order published in the Government Gazette, declare that other person to

S. 12(1A)(c)
amended by
No. 12/2004
s. 162(3).

S. 12(1A)(d)
inserted by
No. 102/1998
s. 5(2).

S. 12(2)
amended by
No. 50/1998
s. 7(3)(a)(b).

S. 12A
inserted by
No. 50/1998
s. 8.

be the Extension corporation for the purposes of this Act.

- (4) If the Extension Agreement is terminated, the Governor in Council may, by Order published in the Government Gazette—
 - (a) declare that the person who, immediately before the termination, was the Extension corporation has ceased to be the Extension corporation; and
 - (b) declare a person specified in the Order to be the Extension corporation for the purposes of this Act.
- (5) An Order under this section takes effect on the day that it is published in the Government Gazette, or if a later day is specified in the Order, on that later day.
- (6) The person who is for the time being the Extension corporation is not a public authority within the meaning of any Act or enactment by reason only that that person is the Extension corporation.

S. 12B
inserted by
No. 50/1998
s. 8.

12B Extension operator

- (1) Subject to this section, the Extension operator for the purposes of this Act is TransLink Operations Pty Ltd A.C.N. 069 691 514.
- (2) If the person who is, for the time being, the Extension operator agrees to the declaration of another person as the Extension operator, the Governor in Council may, by Order published in the Government Gazette, declare that other person to be the Extension operator for the purposes of this Act.

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- (3) If, under the Master Security Deed within the meaning of the Extension Agreement, a person is entitled to nominate the appointment of another person in the place of the Extension operator, the Minister may, by Order published in the Government Gazette, declare that other person to be the Extension operator for the purposes of this Act.
 - (4) If the Extension Agreement is terminated, the Governor in Council may, by Order published in the Government Gazette—
 - (a) declare that the person who, immediately before the termination, was the Extension operator has ceased to be the Extension operator; and
 - (b) declare a person specified in the Order to be the Extension operator for the purposes of this Act.
 - (5) An Order under this section takes effect on the day that it is published in the Government Gazette, or if a later day is specified in the Order, on that later day.
 - (6) The person who is for the time being the Extension operator is not a public authority within the meaning of any Act or enactment by reason only that that person is the Extension operator.

12C Powers of delegation of Extension corporation

- (1) The Extension corporation may, by instrument, delegate to—
 - (a) the Link corporation; or
 - (b) the Extension operator—all or any of the following powers—

S. 12C
inserted by
No. 50/1998
s. 8.

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- (c) any road operation and management powers within the meaning of section 93I conferred on the Extension corporation;
- S. 12C(1)(d) amended by No. 102/1998 s. 24(a).
- (d) any of its powers and functions under Part 4 (except the power to fix tolls);
- S. 12C(1)(e) amended by No. 12/2004 s. 162(3).
- (e) any of its powers and functions under the regulations made under section 56 of the **Transport Act 1983** or under the regulations made under section 132 of the **Road Management Act 2004**;
- S. 12C(1)(f) inserted by No. 102/1998 s. 5(3).
- (f) any of its powers and functions under section 183B(4) of the **Transport Act 1983**.
- (2) If the Extension corporation delegates any power or function under this section, the Extension corporation must publish a notice of that delegation in the Government Gazette.

13 Act to bind Crown

This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

PART 2—RATIFICATION OF AGREEMENTS

Pt 2
(Heading)
substituted by
No. 50/1998
s. 9.

14 Ratification of the Agreement

- (1) The Agreement is ratified and takes effect as if it had been enacted in this Act.
- (2) The Minister—
 - (a) is deemed to have been authorised to enter into, for and on behalf of the State, any Project Document within the meaning of the Agreement that was entered into by the Minister before the commencement of this section; and
 - (b) may, with the approval of the Treasurer, enter into, for and on behalf of the State, any other Project Document within the meaning of the Agreement.
- (3) The Government, its Ministers and its public authorities, will do all things necessary and practicable to ensure that the State and all its public authorities facilitate the implementation of the Agreement and to enable the State to discharge its obligations under the Agreement.
- (4) Any amount that the State is required to pay under or arising out of the Agreement, or an agreement referred to in subsection (2), is payable from the Consolidated Fund which is, to the necessary extent, appropriated accordingly.

15 Variation of the Agreement^{2, 3, 4}

- (1) Any 2 or more of the persons who are parties to the Agreement, or any part of it, may, from time to time, by agreement in writing and, if the State is not one of those persons, with the consent of the Minister, vary all or any of the provisions of the Agreement that affect those persons.

S. 15(1)
substituted by
No. 21/1996
s. 4(1).

Melbourne City Link Act 1995
No. 107 of 1995
Part 2—Ratification of Agreements

s. 15

S. 15(1A)
inserted by
No. 21/1996
s. 4(1).

(1A) All or any of the provisions of the Agreement may be varied from time to time in accordance with the terms of the Agreement.

S. 15(1AAA)
inserted by
No. 50/1998
s. 10.

(1AAA) The Agreement is varied in accordance with the terms of the Integration and Facilitation Agreement and, if there is any variation of the Integration and Facilitation Agreement, in accordance with the terms of that variation, and the following subsections of this section do not apply to any such variation.

S. 15(1AA)
inserted by
No. 39/1997
s. 5(1).

(1AA) A power under this section to vary the provisions of the Agreement extends to any agreement or variation necessary or convenient for purposes related to the implementation of the Exhibition Street Extension Project or the integration of that Project with the Project within the meaning of section 6.

S. 15(1B)
inserted by
No. 21/1996
s. 4(1).

(1B) The Minister must cause to be published in the Government Gazette a notice of an agreement under subsection (1) or a variation under subsection (1A), specifying the place or places at which a person may inspect the agreement or a statement of the variation.

S. 15(1C)
inserted by
No. 21/1996
s. 4(1).

(1C) An agreement or variation under subsection (1) or (1A) comes into operation—

- (a) when the notice under subsection (1B) is published in the Government Gazette; or
- (b) if a later day is specified in the agreement or in the statement of the variation, on that later day.

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- (2) The Minister must cause a copy of each agreement under subsection (1) and a statement of each variation under subsection (1A) as published under subsection (1B) to be laid before each House of the Parliament within 6 sitting days of the House next following the making of the agreement or variation.
- (2A) The Minister must cause a copy of each agreement under subsection (1) and a statement of each variation under subsection (1A) as published under subsection (1B) to be sent to the Government Printer as soon as practicable after the making of the agreement or variation.
- (3) An agreement or variation referred to in subsection (1) or (1A) may be revoked wholly or in part by resolution of either House of the Parliament passed within 6 sitting days of the House after a copy of the agreement or the statement of the variation is laid before that House.
- (4) If an agreement or variation referred to in subsection (1) or (1A) is revoked wholly or in part under subsection (3)—
- (a) a provision of the Agreement that had been cancelled or revoked by the agreement or variation, or by the part of the agreement or variation that is revoked, is revived as from the beginning of the day on which the agreement or variation, or part, was revoked; and
- (b) a provision of the Agreement that had been varied (otherwise than by cancellation or revocation) by the agreement or variation, or by the part of the agreement or variation that is revoked, takes effect without that variation as from the beginning of the day on which the agreement or variation, or part, was
- S. 15(2)**
amended by
No. 21/1996
s. 4(2)(a)(i)(ii).
- S. 15(2A)**
inserted by
No. 81/2000
s. 7(1).
- S. 15(3)**
amended by
No. 21/1996
s. 4(2)(b)(i)(ii).
- S. 15(4)**
substituted by
No. 21/1996
s. 4(3).
- S. 15(4)(a)**
amended by
No. 39/1997
s. 5(2).
- S. 15(4)(b)**
amended by
No. 39/1997
s. 5(2).

s. 15A

revoked as if the variation had not been made.

S. 15(5)
inserted by
No. 21/1996
s. 4(3),
amended by
No. 39/1997
s. 5(2).

- (5) The Minister must cause to be published in the Government Gazette a notice of the revocation of an agreement or variation, or part of an agreement or variation.

S. 15(5A)
inserted by
No. 81/2006
s. 68.

- (5A) For the avoidance of doubt—
- (a) an agreement may be entered into, and is deemed always to have been authorised to be entered into, under subsection (1) in relation to the Link Upgrade Project; and
 - (b) a variation may be made, and is deemed always to have been authorised to be made, under subsection (1A) in relation to the Link Upgrade Project.

S. 15(6)
inserted by
No. 21/1996
s. 4(3).

- (6) In this section, *vary* includes amend, add to, substitute, cancel or revoke.

S. 15A
inserted by
No. 50/1998
s. 11.

15A Ratification of the Integration and Facilitation Agreement

- (1) The Integration and Facilitation Agreement is ratified and takes effect as if it had been enacted in this Act.
- (2) The Minister is deemed to have been authorised, for and on behalf of the State, to enter into the Integration and Facilitation Agreement.
- (3) The Government, its Ministers and its public authorities, will do all things necessary and practicable to ensure that the State and all its public authorities facilitate the implementation of the Integration and Facilitation Agreement and to enable the State to discharge its obligations under the Integration and Facilitation Agreement.

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- (4) Any amount that the State is required to pay under or arising out of the Integration and Facilitation Agreement is payable from the Consolidated Fund which is, to the necessary extent, appropriated accordingly.

15B Variation of the Integration and Facilitation Agreement^{5, 6}

S. 15B
inserted by
No. 50/1998
s. 11.

- (1) Any 2 or more persons who are parties to the Integration and Facilitation Agreement or any part of that agreement may, from time to time, by agreement in writing and, if the State is not one of those persons, with the consent of the Minister, vary all or any of the provisions of the Integration and Facilitation Agreement that affect those persons.
- (2) All or any of the provisions of the Integration and Facilitation Agreement may be varied from time to time in accordance with the terms of the Integration and Facilitation Agreement.
- (3) The Minister must cause to be published in the Government Gazette a notice of an agreement under subsection (1) or a variation under subsection (2), specifying the place or places at which a person may inspect that agreement or a statement of the variation.
- (4) An agreement or variation under subsection (1) or (2) comes into operation—
- (a) when the notice under subsection (3) is published in the Government Gazette; or
 - (b) if a later day is specified in the agreement or in the statement of the variation, on that later day.

s. 15B

S. 15B(5A)
inserted by
No. 81/2000
s. 7(2).

(5) The Minister must cause a copy of each agreement under subsection (1) and a statement of each variation under subsection (2) as published under subsection (3) to be laid before each House of the Parliament within 6 sitting days of the House next following the making of the agreement or variation.

(5A) The Minister must cause a copy of each agreement under subsection (1) and a statement of each variation under subsection (2) as published under subsection (3) to be sent to the Government Printer as soon as practicable after the making of the agreement or variation.

(6) An agreement or variation referred to in subsection (1) or (2) may be revoked wholly or in part by resolution of either House of the Parliament passed within 6 sitting days of the House after a copy of the agreement or the statement of the variation is laid before that House.

(7) If an agreement or variation referred to in subsection (1) or (2) is revoked wholly or in part under subsection (6)—

(a) a provision of the Integration and Facilitation Agreement, the Agreement or the Extension Agreement that had been cancelled or revoked by the agreement or variation, or by the part of the agreement or variation that is revoked, is revived as from the beginning of the day on which the agreement or variation, or part, was revoked; and

(b) a provision of the Integration and Facilitation Agreement, the Agreement or the Extension Agreement that had been varied (otherwise than by cancellation or revocation) by the agreement or variation, or by the part of the agreement or variation that is revoked, takes

effect without that variation as from the beginning of the day on which the agreement or variation, or part, was revoked as if the variation had not been made.

(8) The Minister must cause to be published in the Government Gazette a notice of the revocation of an agreement or variation, or part of an agreement or variation.

(8A) For the avoidance of doubt—

(a) an agreement may be entered into, and is deemed always to have been authorised to be entered into, under subsection (1) in relation to the Link Upgrade Project; and

(b) a variation may be made, and is deemed always to have been authorised to be made, under subsection (2) in relation to the Link Upgrade Project.

(9) In this section, *vary* includes amend, add to, substitute, cancel or revoke.

S. 15B(8A)
inserted by
No. 81/2006
s. 70.

15C Ratification of the Extension Agreement

(1) The Extension Agreement is ratified and takes effect as if it had been enacted in this Act.

(2) The Minister—

(a) is deemed to have been authorised to enter into, for and on behalf of the State, any ESEP project document that was entered into by the Minister before the commencement of section 11 of the **Melbourne City Link (Exhibition Street Extension) Act 1998**; and

(b) may, with the approval of the Treasurer, enter into, for and on behalf of the State, any other ESEP project document.

S. 15C
inserted by
No. 50/1998
s. 11.

- (3) The Government, its Ministers and its public authorities, will do all things necessary and practicable to ensure that the State and all its public authorities facilitate the implementation of the Extension Agreement and any ESEP project document and to enable the State to discharge its obligations under the Extension Agreement and any ESEP project document.
- (4) Any amount that the State is required to pay under or arising out of the Extension Agreement, or any agreement referred to in subsection (2), is payable from the Consolidated Fund which is, to the necessary extent, appropriated accordingly.

S. 15D
inserted by
No. 50/1998
s. 11.

15D Variation of the Extension Agreement^{7, 8}

- (1) Any 2 or more persons who are parties to the Extension Agreement, or any part of that agreement may, from time to time, by agreement in writing and, if the State is not one of those persons, with the consent of the Minister, vary all or any of the provisions of the Extension Agreement that affect those persons.
- (2) All or any of the provisions of the Extension Agreement may be varied from time to time in accordance with the terms of the Extension Agreement.
- (3) The Extension Agreement is varied in accordance with the terms of the Integration and Facilitation Agreement and, if there is any variation of the Integration and Facilitation Agreement, the Extension Agreement is varied in accordance with the terms of that variation, and the following subsections of this section do not apply to any such variation.

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- (4) The Minister must cause to be published in the Government Gazette a notice of an agreement under subsection (1) or a variation under subsection (2), specifying the place or places at which a person may inspect the agreement or a statement of the variation.
- (5) An agreement or variation under subsection (1) or (2) comes into operation—
- (a) when the notice under subsection (4) is published in the Government Gazette; or
 - (b) if a later day is specified in the agreement or in the statement of the variation, on that later day.
- (6) The Minister must cause a copy of each agreement under subsection (1) and a statement of each variation under subsection (2) as published under subsection (4) to be laid before each House of the Parliament within 6 sitting days of the House next following the making of the agreement or variation.
- (6A) The Minister must cause a copy of each agreement under subsection (1) and a statement of each variation under subsection (2) as published under subsection (4) to be sent to the Government Printer as soon as practicable after the making of the agreement or variation.
- (7) An agreement or variation referred to in subsection (1) or (2) may be revoked wholly or in part by resolution of either House of the Parliament passed within 6 sitting days of the House after a copy of the agreement or the statement of the variation is laid before that House.

S. 15D(6A)
inserted by
No. 81/2000
s. 7(3).

s. 15D

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- (8) If an agreement or variation referred to in subsection (1) or (2) is revoked wholly or in part under subsection (7)—
- (a) a provision of the Extension Agreement that had been cancelled or revoked by the agreement or variation, or by the part of the agreement or variation that is revoked, is revived as from the beginning of the day on which the agreement or variation, or part, was revoked; and
 - (b) a provision of the Extension Agreement that had been varied (otherwise than by cancellation or revocation) by the agreement or variation, or by the part of the agreement or variation that is revoked, takes effect without that variation as from the beginning of the day on which the agreement or variation, or part, was revoked as if the variation had not been made.
- (9A) For the avoidance of doubt—
- (a) an agreement may be entered into, and is deemed always to have been authorised to be entered into, under subsection (1) in relation to the Link Upgrade Project; and
 - (b) a variation may be made, and is deemed always to have been authorised to be made, under subsection (2) in relation to the Link Upgrade Project.
- (9) The Minister must cause to be published in the Government Gazette a notice of the revocation of an agreement or variation, or part of an agreement or variation.
- (10) In this section, *vary* includes amend, add to, substitute, cancel or revoke.

S. 15D(9A)
inserted by
No. 81/2006
s. 71.

16 Agreements to prevail if inconsistent with Act

- (1) If a provision of the Agreement, the Integration and Facilitation Agreement or the Extension Agreement is inconsistent with a provision of this Act—
- (a) the provision of the Agreement, the Integration and Facilitation Agreement or the Extension Agreement (as the case requires) prevails; and
- (b) the application of this Act is modified accordingly.
- (2) Nothing in this section derogates from the operation of sections 14, 15A, 15C and 98 and Division 8 of Part 2B.

S. 16(1)
inserted by
No. 50/1998
s. 12(1)(a).

S. 16(1)(a)
amended by
No. 50/1998
s. 12(1)(b).

S. 16(2)
amended by
Nos 50/1998
s. 12(2),
81/2006 s. 69.

17 Modification of law of Victoria

If a provision of the Agreement, the Integration and Facilitation Agreement or the Extension Agreement is inconsistent with a provision of an enactment or any other law of Victoria, the provision of the Agreement, the Integration and Facilitation Agreement or the Extension Agreement (as the case requires) prevails and the provision of the enactment or other law of Victoria is, to the extent of the inconsistency, modified accordingly.

S. 17
amended by
No. 50/1998
s. 13(a)(b).

18 Enforcement of Agreements

- (1) The Agreement may be enforced only by or on behalf of the State or another party to it or a successor or assign of another party.
- (1A) The Integration and Facilitation Agreement may be enforced only by or on behalf of the State or another party to it or a successor or assign of another party.

S. 18(1A)
inserted by
No. 50/1998
s. 14(1).

s. 18A

S. 18(1B)
inserted by
No. 50/1998
s. 14(1).
S. 18(2)
substituted by
No. 50/1998
s. 14(2).

- (1B) The Extension Agreement may be enforced only by or on behalf of the State or another party to it or a successor or assign of another party.
- (2) Neither the State nor a public authority is liable for the acts or omissions of—
- (a) any other party to—
 - (i) the Agreement; or
 - (ii) the Integration and Facilitation Agreement; or
 - (iii) the Extension Agreement; or
 - (b) a licensee or a licence holder in relation to the Project.

S. 18(2)(b)
amended by
No. 78/2001
s. 5.

S. 18A
inserted by
No. 81/2000
s. 8.

18A Publication of agreements as amended

S. 18A(1)
amended by
No. 110/2004
s. 4.

- (1) If an agreement under this Act has been varied, the Government Printer must reprint the agreement as so varied at the same time that this Act is reprinted.

S. 18A(2)
substituted by
No. 110/2004
s. 5.

- (2) A document purporting to be printed by the Government Printer and to be a copy of a reprint of an agreement made in accordance with subsection (1) is, on the mere production of the document, admissible as evidence of the agreement before all courts or persons acting judicially within Victoria.

- (3) In this section—

agreement means any of the following—

- (a) the Agreement;
- (b) the Extension Agreement;

(c) the Integration and Facilitation Agreement—

but does not include an exhibit to such an agreement;

vary includes amend, add to, substitute, cancel or revoke.

18B Agreement as evidence

S. 18B
inserted by
No. 81/2000
s. 8.

(1) A document purporting to be certified by the Roads Corporation as a copy of an exhibit to an agreement or a variation to an agreement under this Act is admissible as evidence of the exhibit or variation (as the case may be) before all courts or persons acting judicially within Victoria.

S. 18B(1)
amended by
Nos 49/2004
s. 5(5),
110/2004 s. 6.

(2) In this section

agreement means any of the following—

- (a) the Agreement;
- (b) the Extension Agreement;
- (c) the Integration and Facilitation Agreement—

but does not include an exhibit to such an agreement;

vary includes amend, add to, substitute, cancel or revoke.

s. 19

S. 19
amended by
No. 50/1998
s. 15.

19 Specific performance

For the avoidance of doubt, it is declared that section 23(1) of the **Crown Proceedings Act 1958** authorises the granting and enforcement of a decree of specific performance against the Crown in respect of the obligations of the State under the Agreement, the Integration and Facilitation Agreement and the Extension Agreement.

S. 20
substituted by
No. 13/2002
s. 5.

20 Restrictions on acquisition of units in Trust

Schedule 2 applies in respect of units in the Trust constituted under the Unit Trust Deed entered into on 15 November 2001 by Transurban Infrastructure Management Limited ACN 098 147 678.

PART 2A—RESERVATION OF LAND FOR THE PROJECT

Pt 2A
(Heading and
ss 20A–20G)
inserted by
No. 78/2001
s. 6.

Division 1—Land to be reserved

**20A Revocation of existing reservations of certain land
and re-reservation of that land for the Project**

S. 20A
inserted by
No. 78/2001
s. 6.

- (1) On the coming into operation of section 6 of the **Melbourne City Link (Further Amendment) Act 2001**, the Order in Council specified in item 1 of Schedule 8 is revoked in so far as it relates to the land shown hatched on the plan numbered LEGL./01–111 and lodged in the Central Plan Office.
- (2) On the coming into operation of section 6 of the **Melbourne City Link (Further Amendment) Act 2001**, the Order in Council specified in item 2 of Schedule 8 is revoked in so far as it relates to the land shown hatched on the plan numbered LEGL./01–113 lodged in the Central Plan Office.
- (3) Despite anything to the contrary in the **Crown Land (Reserves) Act 1978**, on the revocation of an Order in Council specified in Schedule 8 in so far as it relates to the land shown on a plan referred to in subsection (1) or (2)—
 - (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 in so far as it applies to the land; and
- (c) any regulations made under section 13 of the **Crown Land (Reserves) Act 1978** are revoked in so far as they apply to the land; and
- (d) the land is deemed to be temporarily reserved under section 4(1) of the **Crown Land (Reserves) Act 1978** for public purposes, being, in particular, the purposes of the Project, and the reservation may be amended, revoked and otherwise dealt with in accordance with that Act.

S. 20AA
inserted by
No. 13/2002
s. 6.

20AA Further revocation of existing reservations of land and re-reservation of that land for the Project

- (1) On the coming into operation of section 6 of the **Melbourne City Link (Further Miscellaneous Amendments) Act 2002**, the Order in Council specified in item 1 of Schedule 9 is revoked in so far as it relates to the land shown hatched on the plan numbered LEGL./02–016 and lodged in the Central Plan Office.
- (2) On the coming into operation of section 6 of the **Melbourne City Link (Further Miscellaneous Amendments) Act 2002**, the Order in Council specified in item 2 of Schedule 9 is revoked in so far as it relates to the land shown hatched on the plan numbered LEGL./02–017 and lodged in the Central Plan Office.

- (3) Despite anything to the contrary in the **Crown Land (Reserves) Act 1978**, on the revocation of the Orders in Council specified in items 1 and 2 of Schedule 9 in so far as they relate to the land shown on the plans referred to in subsections (1) and (2)—
- (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 in so far as it applies to the land; and
 - (c) any regulations made under section 13 of the **Crown Land (Reserves) Act 1978** are revoked in so far as they apply to the land; and
 - (d) the land is deemed to be temporarily reserved under section 4(1) of the **Crown Land (Reserves) Act 1978** for public purposes, being, in particular, the purposes of the Project, and the reservation may be amended, revoked and otherwise dealt with in accordance with that Act.

20B Surrender and reservation of certain land for the purposes of the Project

S. 20B
inserted by
No. 78/2001
s. 6.

- (1) On the coming into operation of section 6 of the **Melbourne City Link (Further Amendment) Act 2001**, the land shown hatched and cross-hatched on the plans numbered LEGL./01-112, LEGL./01-117, LEGL./01-118, LEGL./01-119, LEGL./01-120, LEGL./01-121 and LEGL./01-122 and lodged in the Central Plan Office is surrendered to the Crown.

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- (2) On the coming into operation of section 6 of the **Melbourne City Link (Further Amendment) Act 2001**, the land shown hatched and cross-hatched on the plans referred to in subsection (1)—
- (a) is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
 - (b) is deemed to be temporarily reserved under section 4(1) of the **Crown Land (Reserves) Act 1978** for public purposes, being in particular, the purposes of the Project, and the reservation may be amended, revoked and otherwise dealt with in accordance with that Act.
- (3) Despite the coming into operation of section 6 of the **Melbourne City Link (Further Amendment) Act 2001**, if any of the land shown hatched and cross-hatched on the plans referred to in subsection (1) is—
- (a) a declared road (within the meaning of the **Transport Act 1983**), that land is deemed to continue to be such a declared road; and
 - (b) a public highway (within the meaning of the **Local Government Act 1989**), that land is deemed to continue to be such a public highway.

S. 20BA
inserted by
No. 13/2002
s. 7.

20BA Surrender and reservation of land for the purposes of the Project

- (1) On the coming into operation of section 7 of the **Melbourne City Link (Further Miscellaneous Amendments) Act 2002**, the land shown cross-hatched on the plans numbered LEGL./02–016 and LEGL./02–017 and lodged in the Central Plan Office is surrendered to the Crown.

- (2) On the coming into operation of section 7 of the **Melbourne City Link (Further Miscellaneous Amendments) Act 2002**, the land shown on the plans referred to in subsection (1)—
- (a) is deemed to be unalienated land of the Crown, freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests; and
 - (b) is deemed to be temporarily reserved under section 4(1) of the **Crown Land (Reserves) Act 1978** for public purposes, being, in particular, the purposes of the Project, and the reservation may be amended, revoked and otherwise dealt with in accordance with that Act.

20C Reservation of land for the purposes of the Project

Without limiting section 5 of the **Crown Land (Reserves) Act 1978**, land may be reserved under that section for public purposes, being, in particular, the purposes of the Project.

S. 20C
inserted by
No. 78/2001
s. 6.

Division 2—Management of reserved land and other matters

20D Committees of management of reserved land

The Minister administering the **Crown Land (Reserves) Act 1978** must consult with the Minister administering this Act before appointing a committee of management under the **Crown Land (Reserves) Act 1978** for reserved land.

S. 20D
inserted by
No. 78/2001
s. 6.

20E Issue of licences in respect of reserved land

- (1) This section applies despite anything to the contrary in the **Crown Land (Reserves) Act 1978** or the **Land Act 1958**.

S. 20E
inserted by
No. 78/2001
s. 6.

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- (2) The Minister, after consultation with the Minister administering the **Crown Land (Reserves) Act 1978**—
- (a) may issue a licence in accordance with the Agreement—
 - (i) to enter and use the whole or any part of reserved land, in accordance with the Agreement;
 - (ii) to the person entitled to the issue of the licence; and
 - (b) may impose conditions, subject to and in accordance with the Agreement, on the licence.
- (3) The term of a licence must be in accordance with the Agreement.
- (4) A licence may be amended at any time with the agreement of the licensee.
- (5) A licence may be—
- (a) terminated in whole or in part before the end of the term of the licence; or
 - (b) renewed—
- in accordance with the terms of the Agreement.

S. 20F
inserted by
No. 78/2001
s. 6.

20F Certain Acts not to apply to licensed areas

- (1) In this section *excluded Act* means—
- (a) the **Building Act 1993**;
 - (b) the **South Melbourne Land Act 1986**;
 - (c) the **Extractive Industries Development Act 1995**;
 - (d) the **Mineral Resources (Sustainable Development) Act 1990**.

S. 20F(1)(d)
amended by
No. 63/2006
s. 61(Sch.
item 21.1).

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- (2) An excluded Act does not apply to or in relation to the whole or any part of a licensed area and anything done on that land on and from the date that the licence is issued under section 20E until the licence is terminated in respect of that land.

20G Action by Registrar of Titles

On being requested to do so and on delivery of any relevant instrument or document (but without production of a duplicate Crown grant or certificate of title), the Registrar of Titles must make any recordings in the Register that are necessary because of the operation of this Part.

S. 20G
inserted by
No. 78/2001
s. 6.

Pt 2B
(Heading and
ss 21–56ZL)
inserted by
No. 81/2006
s. 72.

PART 2B—LINK UPGRADE PROJECT

Division 1—Introductory

New s. 21
inserted by
No. 81/2006
s. 72.

21 Definitions

(1) In this Part—

approved Utility agreement means a Utility agreement that is approved by the Roads Corporation under section 52;

construction permit means a construction permit issued under Division 4;

decision-maker, in Division 7, means—

- (a) the Minister and the Utility Minister; or
- (b) a person appointed under section 56ZA;

Link Upgrade area has the same meaning as it has in Schedule 5A to the **Road Management Act 2004**;

Link Upgrade construction area means land for which a construction permit is issued;

Link Upgrade construction work means work for the construction of the Link Upgrade Project;

Link Upgrade licensed land means land that is the subject of a licence issued under Division 3;

MI Redevelopment Project has the same meaning as it has in Schedule 5A to the **Road Management Act 2004**;

notified Utility infrastructure means Utility infrastructure—

- (a) that is identified under section 54; or
- (b) that has been notified under section 56;

rectification includes repair, replacement and reinstatement;

reserved Link Upgrade land means land that under Schedule 5A to the **Road Management Act 2004** is deemed to be temporarily reserved under section 4(1) of the **Crown Land (Reserves) Act 1978** for public purposes, being, in particular, the purposes of the Link Upgrade Project;

unnotified Utility infrastructure means Utility infrastructure—

- (a) that has not been identified under section 54; or
- (b) that has not been notified under section 56;

Utility means—

- (a) a utility within the meaning of the **Road Management Act 2004**; or
- (b) the Director of Public Transport under the **Transport Act 1983**; or
- (c) any person who manages rail infrastructure within the meaning of Division 3 of Part VI of the **Transport Act 1983**; or
- (d) any person who operates rolling stock within the meaning of Division 3 of Part VI of the **Transport Act 1983**;

Utility agreement means an agreement entered into under section 49 and, if that agreement is amended under section 53, that agreement as so amended;

Utility infrastructure means any part of the supply, distribution or reticulation network operated or managed by a Utility, including—

- (a) poles, pipes, cables, wires, conduits and tunnels; and
- (b) rail infrastructure and tram infrastructure (both within the meaning of the **Rail Corporations Act 1996**);

Utility Minister in relation to a Utility, means the Minister for the time being administering any Act—

- (a) under which a Utility is authorised to provide an infrastructure service; or
- (b) that regulates the provision by the Utility of an infrastructure service;

works has the same meaning as it has in the **Road Management Act 2004**.

- (2) The Premier may determine a Minister as the Utility Minister for a Utility and if a determination is made that Minister is deemed to be the Utility Minister for that Utility for the purposes of this Part.

Division 2—General powers of Roads Corporation

22 Roads Corporation appointed committee of management

New s. 22
inserted by
No. 81/2006
s. 72.

- (1) VicRoads is deemed to be the committee of management under the **Crown Land (Reserves) Act 1978** of reserved Link Upgrade land.
- (2) The provisions of sections 15(2), 15(3), 15(4), 15(7), 15(8) and 15(9) of the **Crown Land (Reserves) Act 1978** do not apply to the Roads Corporation as committee of management.
- (3) In addition to the powers conferred on committees of management under the **Crown Land (Reserves) Act 1978**, the Roads Corporation as committee of management has all the powers necessary to give effect to this Act.
- (4) For the purposes of this section, the **Crown Land (Reserves) Act 1978** applies as if a reference to the Minister under that Act were a reference to the Minister administering this Act.

23 Temporary access to Crown land

New s. 23
inserted by
No. 81/2006
s. 72.

- (1) The Roads Corporation may, with the approval of the Minister administering section 12 of the **Land Act 1958** given after consultation with any other Minister concerned with the management or use of the land use any Crown land for the purposes of the Link Upgrade Project.
- (2) If any Crown land proposed to be so used by the Roads Corporation is reserved under the **Crown Land (Reserves) Act 1978** for a purpose that is inconsistent with that use, the Roads Corporation must not use the land unless the reservation is revoked.

Division 3—Licences

New s. 24
inserted by
No. 81/2006
s. 72.

24 Application

This Division applies despite anything to the contrary in section 175A of the **Water Industry Act 1994**, the **Land Act 1958**, the **Crown Land (Reserves) Act 1978** or any other Act.

New s. 25
inserted by
No. 81/2006
s. 72.

25 Roads Corporation may issue licence for purposes of Link Upgrade Project

- (1) The Roads Corporation may issue a licence in accordance with the Agreement to enter and use the whole or part of any reserved Link Upgrade land in accordance with the Agreement.
- (2) A licence under subsection (1) may only be issued to a person entitled under the Agreement to the issue of a licence.

New s. 26
inserted by
No. 81/2006
s. 72.

26 Term of licence

The term of the licence must be in accordance with the Agreement.

New s. 27
inserted by
No. 81/2006
s. 72.

27 Conditions of licence—general

- (1) The Roads Corporation may impose conditions on a licence subject to and in accordance with the Agreement.
- (2) A licence that is inconsistent with the Agreement is invalid only to the extent of the inconsistency.

New s. 28
inserted by
No. 81/2006
s. 72.

28 Conditions on licence over stratum of land

- (1) Subject to section 27, in imposing conditions on a licence over a stratum of land, the Roads Corporation must have regard to the following matters—

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- (a) that reasonable access to and use of the stratum and other land be provided for; and
 - (b) that the rights of the registered proprietor, lessee or licensee of other land not be interfered with; and
 - (c) that the rights of support of the stratum or of other land or of any building or structure erected or to be erected on those lands be provided for; and
 - (d) that the making and removal of improvements by the licensee be provided for; and
 - (e) that any necessary rights for the passage or provision of services (including drainage, sewerage or the supply of water, gas, electricity or telecommunications) to or through the stratum, where those rights are necessary for the reasonable enjoyment of the stratum or of other land, be provided for.
- (2) The issuing of a licence under this Division of a stratum of land is conclusive proof of compliance with subsections (1)(a), (1)(b), (1)(c), (1)(d) and (1)(e) with respect to the licence.

29 Ability to mortgage licence

The licensee may only mortgage, charge, assign or otherwise encumber the licensee's interest in the licence in accordance with the terms of the Agreement.

New s. 29
inserted by
No. 81/2006
s. 72.

30 Amendment of licence

A licence may be amended at any time with the agreement of the licensee.

New s. 30
inserted by
No. 81/2006
s. 72.

New s. 31
inserted by
No. 81/2006
s. 72.

31 Termination of licence

A licence may be terminated in whole or in part before the end of the term of the licence in accordance with the Agreement.

New s. 32
inserted by
No. 81/2006
s. 72.

32 Renewal of licence

A licence may be renewed in accordance with the terms of the Agreement.

New s. 33
inserted by
No. 81/2006
s. 72.

33 Act to apply as if Link Upgrade licensed land were leased land

- (1) On the issue under this Division of a licence in respect of land—
 - (a) this Act (except section 99) applies to that land as if any reference in this Act to leased land or land leased under section 60 included a reference to that land; and
 - (b) section 62 applies to that land as if any reference in that section to the grant of a lease under section 60 were a reference to the issue of a licence under this Division in respect of that land.
- (2) This section ceases to apply to land on the termination of the licence in respect of the land.

Division 4—Construction permits

New s. 34
inserted by
No. 81/2006
s. 72.

34 Construction permit

- (1) The Roads Corporation may issue a construction permit in accordance with the Agreement to any person who is entitled under the Agreement to the issue of a construction permit.
- (2) A construction permit authorises the carrying out of works for the purposes of the Link Upgrade Project over land to which the permit applies.

35 Land to which permit can apply

A construction permit may be issued under this Division over the following land—

- (a) leased land;
- (b) reserved Link Upgrade project land;
- (c) land which is temporarily occupied by the Roads Corporation for the purposes of the M1 Redevelopment Project under Part 9 of the **Land Acquisition and Compensation Act 1986**;
- (d) Crown land which the Roads Corporation is permitted to use under section 23;
- (e) land vested in the Roads Corporation;
- (f) land that is available land within the meaning of clause 11 of Schedule 3 to the **Road Management Act 2004**.

New s. 35
inserted by
No. 81/2006
s. 72.

36 Conditions on permit

- (1) The Roads Corporation may impose conditions on a construction permit subject to and in accordance with the Agreement.
- (2) A construction permit does not authorise any activity on land referred to in section 35(c) that would be inconsistent with Part 9 of the **Land Acquisition and Compensation Act 1986**.
- (3) A construction permit that is inconsistent with the Agreement is invalid only to the extent of the inconsistency.

New s. 36
inserted by
No. 81/2006
s. 72.

37 Cancellation of permit

- (1) The Roads Corporation may cancel a construction permit.
- (2) A construction permit is cancelled to the extent that it relates to land if that land ceases to be land for which a construction permit may be issued.

New s. 37
inserted by
No. 81/2006
s. 72.

Division 5—Statutory powers and exemptions

New s. 38
inserted by
No. 81/2006
s. 72.

38 Application of planning laws

- (1) This section applies to a use or development of land that is authorised by or under this Act or the Agreement or a construction permit for the purposes of the Link Upgrade Project.
- (2) Nothing in a planning scheme under the **Planning and Environment Act 1987** that applies to the Link Upgrade area—
 - (a) requires a permit under that Act for the use or development; or
 - (b) prevents the use or development.

New s. 39
inserted by
No. 81/2006
s. 72.

39 Approvals of public bodies not required

- (1) Subject to Division 7, but despite anything to the contrary in any other enactment or law, a permit, licence, consent, approval or other authority is not required from any person or body, other than the Roads Corporation (in accordance with the Agreement) or the Environment Protection Authority, for the carrying out of works for the purposes of the Link Upgrade Project.
- (2) Nothing in this section derogates from any requirement relating to standards of construction and safety that may apply under any other Act, including—
 - (a) the **Occupational Health and Safety Act 2004**; and
 - (b) the **Rail Safety Act 2006**; and
 - (c) section 99A of the **Road Safety Act 1986**.

40 Application of Building Act 1993

The **Building Act 1993** does not apply to or in relation to land for which a construction permit has been issued or to anything done on that land.

New s. 40
inserted by
No. 81/2006
s. 72.

41 Application of mineral resources and extractive industry Acts

- (1) The **Mineral Resources (Sustainable Development) Act 1990** does not apply to or in relation to land for which a construction permit has been issued or to anything done on that land.
- (2) The **Extractive Industries Development Act 1995** does not apply to or in relation to land for which a construction permit has been issued or to anything done on that land.

New s. 41
inserted by
No. 81/2006
s. 72.

42 Application of South Melbourne Land Act 1986

The **South Melbourne Land Act 1986** does not apply to or in relation to land for which a construction permit has been issued or to anything done on that land.

New s. 42
inserted by
No. 81/2006
s. 72.

43 Application of Heritage Act 1995

- (1) The Minister administering the **Heritage Act 1995**, by Order published in the Government Gazette, may exempt any registered building or registered land or other building or any part of the Link Upgrade area from the operation of that Act.
- (2) On the making of an Order under subsection (1), the **Heritage Act 1995** ceases to apply to the building or land in respect of which the Order is made and any registered building or registered land ceases to be registered under that Act.

New s. 43
inserted by
No. 81/2006
s. 72.

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- (3) An Order under subsection (1) may be made subject to any conditions specified in the Order including—
- (a) a condition requiring specified things to be done to the satisfaction of the Minister administering the **Heritage Act 1995**; and
 - (b) a condition providing that any use or development of land is conditional on an agreement being entered into with that Minister.
- (4) Any person who fails to comply with a condition of any Order or an agreement made under an Order is guilty of an offence and liable to a penalty not exceeding 1500 penalty units or 2 years imprisonment.
- (5) The Minister administering the **Heritage Act 1995** may revoke or amend an Order made under subsection (1).
- (6) On the revocation of an Order made under subsection (1)—
- (a) the **Heritage Act 1995** again applies to any building or land affected by the Order; and
 - (b) in the case of a building or land affected by the Order that was previously registered under that Act, that Act applies as if that building or land had not been registered.

Division 6—Road operation and management

44 Management of roads specified in Order

- (1) This section applies to any road specified in an Order under Division 3 of Part 5 of Schedule 5A to the **Road Management Act 2004**.

New s. 44
inserted by
No. 81/2006
s. 72.

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- (2) The Link corporation is deemed to be the responsible road authority for the road for the purposes of—
- (a) the **Road Management Act 2004** and any regulations under that Act; and
 - (b) the **Road Safety Act 1986** and any regulations under that Act; and
 - (c) this Act and the regulations—
- as if the road were part of the Link road.

45 Management of other roads

New s. 45
inserted by
No. 81/2006
s. 72.

- (1) The Minister may from time to time declare that the Link corporation or the holder of a construction permit is to be the responsible road authority for a road or part of a road on land in the Link Upgrade area or on any land to which a construction permit applies.
- (2) The Minister must cause a notice of a declaration under subsection (1) to be published in the Government Gazette.
- (3) On the publication of a notice of a declaration under subsection (1), the Link corporation or the holder of the construction permit (as the case requires) is deemed to be the responsible road authority under the **Road Management Act 2004** for the road or part of a road specified in the declaration.
- (4) The **Road Management Act 2004** (except Division 4 of Part 4 and Schedule 7) applies to a road or part of a road specified in a declaration under subsection (1) as if any reference in that Act to the Link road were a reference to the road or part of a road specified in the declaration.
- (5) The Minister may at any time revoke a declaration under subsection (1).

- (6) The Minister must cause a notice of a revocation of a declaration under subsection (1) to be published in the Government Gazette.
- (7) On the publication of the notice of revocation of a declaration under this section, the Link corporation or the holder of the construction permit (as the case requires) ceases to be the responsible road authority for the road or part of a road specified in the declaration.

Division 7—Interface with Utilities

Subdivision 1—Introduction

New s. 46
inserted by
No. 81/2006
s. 72.

46 Certain powers of Utilities not affected

Nothing in this Part affects any power of a Utility—

- (a) to respond to and deal with an emergency; or
- (b) to use a vehicle on any road in the Link Upgrade area.

Subdivision 2—Consent of Link corporation

New s. 47
inserted by
No. 81/2006
s. 72.

47 Utility to obtain consent of Link corporation

- (1) A Utility must obtain the written consent of the Link corporation before carrying out or causing the carrying out of works on Utility infrastructure, or for the construction of new Utility infrastructure, in, on, over or under land in the Link Upgrade construction area.
- (2) The Link corporation must not unreasonably delay or refuse its consent under this section.
- (3) A consent under this section may be granted on such reasonable conditions as the Link corporation thinks fit.

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- (4) This section does not apply to Utility infrastructure if—
- (a) an approved Utility agreement provides for access by the Utility to the Link Upgrade construction area to carry out works in relation to that Utility infrastructure; or
 - (b) the work is being carried out under a determination made under Subdivision 7.
- (5) This section applies in addition to the requirements of and despite anything to the contrary in any other Act or law.

48 Utility may refer matter to Ministers for determination

New s. 48
inserted by
No. 81/2006
s. 72.

A Utility may refer the matter to the Minister and the Utility Minister for determination under Subdivision 7 if—

- (a) the Link corporation refuses or unreasonably delays giving its consent under section 47; or
- (b) the Utility objects to any condition imposed by the Link corporation on that consent.

Subdivision 3—Agreements between Link corporation and Utility

49 Agreements in relation to Link Upgrade construction area

New s. 49
inserted by
No. 81/2006
s. 72.

- (1) The Link corporation may enter into an agreement with a Utility under this Subdivision in relation to Utility infrastructure or any works affecting Utility infrastructure constructed or to be constructed in, on, over or under the Link Upgrade construction area.
- (2) Nothing in this section prevents any additional person from being a party to a Utility agreement.

New s. 50
inserted by
No. 81/2006
s. 72.

50 What can a Utility agreement provide for?

- (1) A Utility agreement may only provide for the following matters—
 - (a) the means of minimising disruption to the Utility infrastructure and the services provided by the Utility infrastructure;
 - (b) the respective rights of the Link corporation and the Utility to have access to the Utility infrastructure;
 - (c) the respective rights of the Link corporation and the Utility to carry out works affecting the Utility infrastructure;
 - (d) the relocation and rectification of Utility infrastructure;
 - (e) the standards (including safety, operational and accreditation standards) that are to apply to the relocation or rectification of Utility infrastructure;
 - (f) the costs of any relocation or rectification of the Utility infrastructure and how those costs are to be apportioned between the Link corporation and the Utility;
 - (g) the certification by the Utility of works affecting Utility infrastructure;
 - (h) the compensation to be paid for—
 - (i) any disruption to the functions performed by the Utility; or
 - (ii) any disruption to the functions or obligations of the Link corporation; or
 - (iii) any pecuniary loss sustained or any expense incurred by the Utility as a direct, natural and reasonable consequence of the issue of the construction permit under Division 4.

- (2) An agreement that provides for any other matter is not a Utility agreement for the purposes of this Subdivision.

51 Requirements for Utility agreements

New s. 51
inserted by
No. 81/2006
s. 72.

- (1) A Utility agreement must be in writing.
- (2) A Utility agreement must not be inconsistent with—
- (a) this Act; or
 - (b) the Agreement; or
 - (c) the Integration and Facilitation Agreement;
or
 - (d) the Exhibition Street Extension Agreement.
- (3) A Utility agreement that does not comply with subsection (2) is of no effect to the extent of the inconsistency.
- (4) If a Utility agreement provides for standards in relation to a matter in accordance with section 50(1)(e), those standards are to apply in relation to that matter despite anything to the contrary in any other Act or law, once the Utility agreement takes effect.

52 Utility agreements must be approved by the Roads Corporation

New s. 52
inserted by
No. 81/2006
s. 72.

A Utility agreement is of no effect unless it is approved by the Roads Corporation.

53 Utility agreement may be amended

New s. 53
inserted by
No. 81/2006
s. 72.

- (1) An approved Utility agreement may be amended by agreement between the Link corporation and the Utility.
- (2) An amendment of an approved Utility agreement is of no effect unless it is approved by the Roads Corporation.

- (3) In this section, *amended* includes varied, added to, substituted, cancelled or revoked.

Subdivision 4—Notified Utility infrastructure

54 Duty to identify Utility infrastructure

New s. 54
inserted by
No. 81/2006
s. 72.

Before Link Upgrade construction work commences on land in the Link Upgrade construction area, the Link corporation must take all reasonable steps to identify all Utility infrastructure in, on, over or under that land that may be affected by the Link Upgrade construction work.

55 Link corporation to give notice

New s. 55
inserted by
No. 81/2006
s. 72.

- (1) Before Link Upgrade construction work commences on land in the Link Upgrade construction area, the Link corporation must give notice of the proposed Link Upgrade construction work in accordance with this section.
- (2) The notice must—
- (a) be published in the Government Gazette; and
 - (b) be given in writing to each Utility that the Link corporation is aware owns or operates Utility infrastructure in the Link Upgrade construction area.
- (3) The notice must require Utilities with Utility infrastructure in the Link Upgrade construction area to notify the Link corporation in writing within 30 business days after the publication or giving of the notice (whichever is the later)—
- (a) setting out the nature and location of the Utility infrastructure; and
 - (b) stating whether or not the Utility believes that the Utility infrastructure will be affected by the Link Upgrade construction work.

- (4) The Link corporation is not required to give a notice to a Utility under subsection (2)(b) in relation to particular Utility infrastructure if an approved Utility agreement exists with that Utility in relation to that Utility infrastructure.

56 Duty of Utility to give notice

New s. 56
inserted by
No. 81/2006
s. 72.

A Utility must, within the time required in the notice given under section 55, give notice in writing to the Link corporation—

- (a) setting out the nature and location of the Utility infrastructure of the Utility in the Link Upgrade construction area; and
- (b) stating whether or not the Utility believes that the Utility infrastructure will be affected by the Link Upgrade construction work.

56A Copies of notices to be given to Roads Corporation

S. 56A
inserted by
No. 81/2006
s. 72.

- (1) The Link corporation must give the Roads Corporation a copy of each notice given under section 55 as soon as practicable and not more than 7 days after the notice is given.
- (2) The Link corporation must give the Roads Corporation a copy of each notice received by the Link corporation under section 56 as soon as practicable and not more than 7 days after receiving that notice.

56B Link corporation to consult and seek agreement

S. 56B
inserted by
No. 81/2006
s. 72.

- (1) After complying with section 55 and before Link Upgrade construction work commences on land in the Link Upgrade construction area, the Link corporation must consult with any Utility that the Link corporation is aware owns or operates Utility infrastructure in the Link Upgrade construction area that may be affected by the Link Upgrade construction work.

s. 56C

- (2) In consulting under subsection (1), the Link corporation and the Utility must make all reasonable efforts to reach agreement in accordance with Subdivision 3.
- (3) This section does not apply to Utility infrastructure if the Link corporation has already reached an agreement with the Utility under Subdivision 3 in respect of that Utility infrastructure.

S. 56C
inserted by
No. 81/2006
s. 72.

56C Referral to Ministers for determination if no agreement

If an agreement has not been reached with a Utility under Subdivision 3 within 50 business days after the Utility gives notice to the Link corporation under section 56, the Link corporation may refer the matters under negotiation to the Minister and the Utility Minister for determination under Subdivision 7.

S. 56D
inserted by
No. 81/2006
s. 72.

56D Power of Minister to direct Utility

- (1) The Minister, after consultation with the Utility Minister, may direct a Utility to carry out works in the Link Upgrade construction area.
- (2) The Minister may only give a direction under subsection (1) if it is necessary to implement the matters provided for in an approved Utility agreement or a determination under Subdivision 7.
- (3) Without limiting subsection (1), a direction under this section may specify a period within which works required under the approved Utility agreement or determination must be performed even if this is a different period from any period provided for in the approved Utility agreement or determination.

56E Direction to Link corporation

S. 56E
inserted by
No. 81/2006
s. 72.

- (1) The Link corporation may apply to the Minister for a direction under this section if—
 - (a) a Utility has not completed the works required by a direction under section 56D within the period specified in the direction; or
 - (b) the Link corporation believes on reasonable grounds that the works required by a direction under section 56D will not be completed within the period specified in the direction.
- (2) On an application under this section, the Minister, after consultation with the Utility Minister, may direct the Link corporation to carry out or complete the works required by the relevant direction under section 56D.
- (3) Without limiting subsection (2), a direction under this section may specify a period within which the works must be performed even if this is a different period from any period provided for in the approved Utility agreement or determination or the relevant direction under section 56D.
- (4) If the Link corporation complies under a direction under this section with a requirement imposed on a Utility or any other person, the Utility or other person is not required to comply with that requirement.

56F Requirements for directions

S. 56F
inserted by
No. 81/2006
s. 72.

- (1) A direction under section 56D or 56E must be in writing.
- (2) A direction must not cause unreasonable delay or add unreasonable cost to the Link Upgrade Project.

s. 56G

- (3) Subject to this section, a direction must not be inconsistent with—
- (a) this Act; or
 - (b) the Agreement; or
 - (c) the Integration and Facilitation Agreement; or
 - (d) the Exhibition Street Extension Agreement.

S. 56G
inserted by
No. 81/2006
s. 72.

56G Direction to prevail over requirement to consent

- (1) A direction under section 56D or 56E prevails over any provision of any other Act or law that requires the Utility to consent to the carrying out of the work that is subject to the direction.
- (2) If a direction provides for compliance with a standard in relation to a matter, that standard applies in relation to that matter despite anything to the contrary in any other Act or law.

Subdivision 5—Unnotified Utility infrastructure

S. 56H
inserted by
No. 81/2006
s. 72.

56H Duties of Link corporation

If the Link corporation or the holder of a construction permit discovers unnotified Utility infrastructure while Link Upgrade construction work is being carried out, the Link corporation must—

- (a) take all reasonable steps to identify the Utility that owns or operates that Utility infrastructure; and
- (b) give notice of the Utility infrastructure to—
 - (i) the Road Corporation; and
 - (ii) the relevant Utility Minister.

56I Link corporation to give notice

S. 56I
inserted by
No. 81/2006
s. 72.

- (1) If the Link corporation has identified the Utility that owns or operates unnotified Utility infrastructure, the Link corporation must give the Utility notice of the Link Upgrade construction work in accordance with this section.
- (2) The notice must—
 - (a) be in writing; and
 - (b) request the Utility to advise the Link corporation within 2 business days as to whether the Utility infrastructure is still operational or, if it is not operational, whether it is redundant; and
 - (c) request the Utility within 2 business days—
 - (i) to agree to authorise the Link corporation to remove the Utility infrastructure, if it is redundant; or
 - (ii) to agree to the relocation of the Utility infrastructure; or
 - (iii) to request the Link corporation to preserve the Utility infrastructure and agree to pay any costs incurred by the Link corporation as a result of any delay caused by preserving that infrastructure.

56J Utility agreement may be entered into

S. 56J
inserted by
No. 81/2006
s. 72.

The Link corporation and the Utility may enter into an agreement under Subdivision 3 with respect to any matter referred to in section 56I(2)(c).

s. 56K

S. 56K
inserted by
No. 81/2006
s. 72.

56K Notice to Minister if Utility cannot be found or fails to respond

The Link corporation may notify the Minister and the Roads Corporation if—

- (a) a Utility fails to comply with a request under section 56I within 2 business days after being given a notice under that section; or
- (b) the Link corporation is unable to identify the Utility that owns or operates unnotified Utility infrastructure within 2 business days after the discovery of the infrastructure.

S. 56L
inserted by
No. 81/2006
s. 72.

56L Minister may direct Utility to carry out works

- (1) The Minister, after consultation with the Utility Minister, may direct a Utility that is given notice under section 56I to carry out works in the Link Upgrade construction area.
- (2) The Minister must give a direction under subsection (1) if it is necessary to give effect to—
 - (a) the Agreement; or
 - (b) the Integration and Facilitation Agreement; or
 - (c) the Exhibition Street Extension Agreement.
- (3) This section does not apply to the carrying out of works if an approved Utility agreement exists in respect of those works.
- (4) A direction under this section may specify—
 - (a) the manner in which and the standard to which the direction must be complied with; and
 - (b) the period (being not less than 28 days) within which the direction must be complied with.

- (5) If a direction under this section provides for compliance with a standard in relation to a matter that standard is to apply in relation to that matter despite anything to the contrary in any other Act or law.

56M Direction to Link corporation after notice to Minister

S. 56M
inserted by
No. 81/2006
s. 72.

- (1) The Minister, after consultation with the Utility Minister, may give a direction under this section if—
- (a) the Link corporation has given the Minister notice under section 56K; and
 - (b) the Minister considers that a delay in relocating or reinstating the Utility infrastructure—
 - (i) would be contrary to the public interest; or
 - (ii) would, in all the circumstances, be unreasonable.
- (2) A direction under subsection (1)—
- (a) may direct the Link corporation to relocate, rectify or otherwise deal with the Utility infrastructure; and
 - (b) may direct the Link corporation to comply with specified standards (including safety, operational and accreditation standards) that are to apply to the relocation or rectification of the Utility infrastructure; and
 - (c) may direct the Link corporation to comply with any safety or technical requirements imposed by law in respect of the carrying out of the required works (including any requirements imposed on the Utility or any other person specified in the direction in

respect of those works) that are not inconsistent with—

- (i) the Agreement; or
 - (ii) the Integration and Facilitation Agreement; or
 - (iii) the Exhibition Street Extension Agreement; and
- (d) must direct the Link corporation to take reasonable care and take all reasonable steps to minimise damage to the Utility infrastructure and disruption to the infrastructure services.
- (3) If a direction directs the Link corporation, under subsection (2)(b), to comply with specified standards in relation to a matter, those standards are to apply in relation to that matter despite anything to the contrary in any other Act or law.

S. 56N
inserted by
No. 81/2006
s. 72.

56N Direction to Link corporation after application to Minister

- (1) The Link corporation may apply to the Minister for a direction under this section if—
- (a) a Utility has not completed the works required by a direction under section 56L within the period specified in the direction; or
 - (b) the Link corporation believes on reasonable grounds that the works required by a direction under section 56L will not be completed within the period specified in the direction.
- (2) On an application under this section, the Minister, after consultation with the Utility Minister, may direct the Link corporation to carry out or complete the works required by the relevant direction under section 56L.

- (3) Without limiting subsection (2), a direction under this section may specify a period within which the works must be performed even if this is a different period from any period provided for in the relevant direction under section 56L.
- (4) If the Link corporation complies under a direction under this section with a requirement imposed on a Utility or any other person, the Utility or other person is not required to comply with that requirement.

56O Requirements for directions

S. 56O
inserted by
No. 81/2006
s. 72.

- (1) A direction under section 56L, 56M or 56N must be in writing.
- (2) The Minister must ensure that a direction under section 56L, 56M or 56N does not cause unreasonable delay or add unreasonable cost to the Link Upgrade Project.
- (3) Subject to this section, a direction under section 56L, 56M or 56N must not be inconsistent with—
 - (a) this Act; or
 - (b) the Agreement; or
 - (c) the Integration and Facilitation Agreement; or
 - (d) the Exhibition Street Extension Agreement.

56P Direction to prevail over requirement to consent

S. 56P
inserted by
No. 81/2006
s. 72.

A direction under section 56M or 56N prevails over any provision of any other Act that requires the Utility to consent to the carrying out of the work that is subject to the direction.

Subdivision 6—Liability for costs

S. 56Q
inserted by
No. 81/2006
s. 72.

56Q Link corporation to be liable for certain relocation and rectification costs

Subject to this Subdivision, the Link corporation is liable to pay the fair and reasonable costs of relocating or rectifying any Utility infrastructure that is affected by the Link Upgrade construction work.

S. 56R
inserted by
No. 81/2006
s. 72.

56R Standard to apply to relocation or rectification

- (1) For the purposes of section 56Q, the standard applied to the relocation or rectification must result in the Utility infrastructure having the same or a similar technical capability and having at least the same remaining life as it had before it was affected.
- (2) If new Utility infrastructure is required to meet the standard referred to in subsection (1), the Link corporation is liable for the cost of that new infrastructure.

S. 56S
inserted by
No. 81/2006
s. 72.

56S Utility liable for differential if it requests upgrade

If a Utility requests that a higher standard than the standard required by section 56R should apply to the relocation or rectification of Utility infrastructure, the Utility is liable to pay the difference in cost between the lower and higher standard.

S. 56T
inserted by
No. 81/2006
s. 72.

56T Utility liable for delay costs

- (1) If the failure of a Utility to notify the Link corporation of Utility infrastructure caused the Link corporation to incur costs as a result of a delay in carrying out Link Upgrade construction work, the Utility is liable to pay those costs to the Link corporation.

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- (2) A Utility is liable for costs under this section on the basis that the Link corporation makes all reasonable efforts to mitigate its loss.
 - (3) If the Link corporation does not make all reasonable efforts to mitigate its loss, the Utility is only liable for the costs that would have been incurred if the Link corporation had made all reasonable efforts to mitigate its loss.

56U Limitation of liability

Except as provided in this Division, the Link corporation is not liable to pay damages or other compensation to the Utility or any other person as a result of any effect of the Link Upgrade Project on—

- (a) the Utility infrastructure of the Utility; or
- (b) the provision of infrastructure services by the Utility using Utility infrastructure.

S. 56U
inserted by
No. 81/2006
s. 72.

56V Dispute as to cost of relocation or rectification

- (1) If a dispute arises between the Link corporation and a Utility as to the cost of relocation or rectification of Utility infrastructure, the Link corporation or the Utility may refer the matter to the Minister and the Utility Minister for determination under Subdivision 7.
- (2) The person referring the matter for determination must notify the Roads Corporation of that referral.

S. 56V
inserted by
No. 81/2006
s. 72.

56W Certification of work

- (1) On completion by the Link corporation of any work of relocation or rectification of Utility infrastructure under Subdivision 5, the Utility must assess the work and—
 - (a) if it is satisfied that the work is satisfactory and complete, certify that fact to the Link corporation; or

S. 56W
inserted by
No. 81/2006
s. 72.

- (b) if it is not satisfied that the work is satisfactory or complete, notify the Link corporation that more work is required.
- (2) The notice under subsection (1)(b) must specify as clearly as possible the work that is required.
- (3) If the Utility does not give a certificate or notice under subsection (1) within 14 days after the Link corporation notifies it of the completion of the work, the Utility is deemed to be satisfied with the work.
- (4) If the Utility gives a notice under subsection (1)(b), the Link corporation must complete the further work required in the notice within the period of 30 days after receipt of the notice or any longer period specified in the notice.
- (5) This section does not apply if the Link corporation is unable to identify the Utility that owns or operates the Utility infrastructure.

S. 56X
inserted by
No. 81/2006
s. 72.

56X Referral of matters by Utilities to Ministers for determination

The Utility may refer the matter to the Minister and the Utility Minister for determination under Subdivision 7 if the Link corporation does not complete the further work to the Utility's satisfaction within the specified time under section 56W.

S. 56Y
inserted by
No. 81/2006
s. 72.

56Y Referral of matters by Link corporation to Ministers for determination

The Link corporation may refer the matter to the Minister and the Utility Minister for determination under Subdivision 7 if the Utility refuses to certify the work on the completion of the further work under section 56W or unreasonably delays giving that certification.

56Z Link corporation no longer liable if work satisfactory

S. 56Z
inserted by
No. 81/2006
s. 72.

The Link corporation ceases to be liable to carry out any further work in respect of a specific work of relocation or rectification if—

- (a) a certificate is given under section 56W in respect of the work; or
- (b) the work is deemed under that section to be satisfactory; or
- (c) the work is determined under Subdivision 7 to be satisfactory.

Subdivision 7—Dispute resolution

56ZA Who can determine matters referred to the Ministers?

S. 56ZA
inserted by
No. 81/2006
s. 72.

On the referral of a matter to them under this Division, the Minister and the Utility Minister must—

- (a) determine the matter; or
- (b) appoint a person to determine the matter.

56ZB What must be considered in determining a matter?

S. 56ZB
inserted by
No. 81/2006
s. 72.

In determining a matter, the decision-maker—

- (a) must have regard to—
 - (i) any submission (whether written or oral) of the Link corporation or the Utility; and
 - (ii) in the case of a matter referred under section 56C, the public interest in minimising the disruption of the services provided by the Utility; and
- (b) may have regard to any other information or material that the decision-maker thinks fit.

s. 56ZC

S. 56ZC
inserted by
No. 81/2006
s. 72.

56ZC Requirements for determinations

- (1) A determination under this Subdivision must be in writing.
- (2) The decision-maker must ensure that the determination does not cause unreasonable delay or add unreasonable cost to the Link Upgrade Project.
- (3) Subject to this section, a determination must not be inconsistent with—
 - (a) this Act; or
 - (b) the Agreement; or
 - (c) the Integration and Facilitation Agreement; or
 - (d) the Exhibition Street Extension Agreement.

S. 56ZD
inserted by
No. 81/2006
s. 72.

56ZD Determination to prevail over inconsistent laws

If there is any inconsistency between a determination under this Subdivision and any other Act or law, the determination prevails to the extent of the inconsistency.

Division 8—Emergency orders

S. 56ZE
inserted by
No. 81/2006
s. 72.

56ZE Emergency orders

- (1) The Roads Corporation may make an emergency order if the Roads Corporation is of the opinion that the order is necessary because of a danger to life or property arising out of the carrying out of works for the Link Upgrade Project on land in the Link Upgrade construction area.

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- (2) An emergency order may require any person to do any one or more of the following things within a specified time or times—
- (a) to evacuate the land or any part of the land;
 - (b) to stop the carrying out of works for the Link Upgrade Project on the land or any part of the land;
 - (c) to carry out works to make any part of the Link Upgrade Project safe or to secure the land or any part of the land from access.
- (3) An emergency order must be in writing and may include any conditions that the Roads Corporation thinks fit.

56ZF Service of emergency order

S. 56ZF
inserted by
No. 81/2006
s. 72.

The Roads Corporation must cause an emergency order under section 56ZE to be served on—

- (a) the Link corporation; and
 - (b) the Minister; and
 - (c) any person to whom it is directed—
- without delay after it is made.

56ZG Period of operation of emergency order

S. 56ZG
inserted by
No. 81/2006
s. 72.

An emergency order remains in force until—

- (a) it is complied with; or
- (b) it is cancelled in writing by the Roads Corporation.

s. 56ZH

S. 56ZH
inserted by
No. 81/2006
s. 72.

56ZH Offence to fail to comply with emergency order

- (1) A person to whom an emergency order is directed under this Division must comply with the emergency order.

Penalty: 60 penalty units in the case of a natural person;
300 penalty units in the case of a corporation.

- (2) It is a defence to a prosecution of a person for an offence under this section if—
- (a) the person took all reasonable steps to comply with the emergency order; or
 - (b) the person had a reasonable excuse for failing to comply with the emergency order.

S. 56ZI
inserted by
No. 81/2006
s. 72.

56ZI Request for police assistance

The Roads Corporation may request the assistance of a member of the police force to evacuate an area that is subject to an emergency order.

Division 9—Actions by public bodies

S. 56ZJ
inserted by
No. 81/2006
s. 72.

56ZJ Bodies may be required to act

- (1) The Governor in Council, by Order published in the Government Gazette, may require a Department Head (within the meaning of the **Public Administration Act 2004**), a public statutory authority or a Council—
- (a) to carry out their functions in relation to the Link Upgrade area or anything done or to be done in the Link Upgrade area; and
 - (b) to carry out those functions within a period specified in the Order.
- (2) The Department Head, authority or Council must comply with the requirement.

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- (3) A requirement made under subsection (1) cannot vary a time or time limit prescribed by or under an Act.

Division 10—Revocation of reservation and interim operation

56ZK Revocation of reservation on termination of licence

S. 56ZK
inserted by
No. 81/2006
s. 72.

- (1) The Minister, after consultation with the Minister administering the **Crown Land (Reserves) Act 1978**, may recommend to the Governor in Council that the temporary reservation of land that was licensed under Division 2 be revoked on the termination of the licence as to that land.
- (2) After receiving the Minister's recommendation, the Governor in Council may, by Order published in the Government Gazette, revoke the reservation of the land.
- (3) An Order under subsection (2) has effect on the day that it is published in the Government Gazette.
- (4) On an Order under subsection (2) taking effect—
- (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) if any part of the land is or is being used as a road—
 - (i) that part of the land ceases to be a road; and
 - (ii) all rights, easements and privileges existing or claimed in that part of the land either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or

operation of law or otherwise, cease;
and

- (c) if any part of the land is the bed, soil and banks of a river, all rights, easements and privileges existing or claimed in that part of the land either in the public or by any body or person as incident to any express or implied grant, or past dedication or supposed dedication or by user or operation of law or otherwise, cease; and
 - (d) the appointment of the Roads Corporation as committee of management is revoked to the extent that it applies to the land.
- (5) Nothing in subsection (4) affects or extinguishes any right or interest created by operation of—
- (a) the Agreement; or
 - (b) the Integration and Facilitation Agreement; or
 - (c) the Exhibition Street Extension Agreement.

S. 56ZL
inserted by
No. 81/2006
s. 72.

56ZL Interim operation

- (1) Subject to this section, if a temporary reservation of land is revoked under section 56ZK—
 - (a) this Act applies to that land as if any reference in this Act to leased land or land leased under section 60 included a reference to that land; and
 - (b) section 62 applies to that land as if any reference in that section to the grant of a lease under section 60 were a reference to the revocation under section 56ZK of the reservation in respect of that land.
- (2) The Minister may by Order published in the Government Gazette declare that this section no longer applies to that land.

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- (3) An Order under subsection (2) may direct that the land be vested in the Roads Corporation.
 - (4) On the publication of an Order under subsection (2) in relation to land—
 - (a) if the Order so directs, the land vests in fee simple in the Roads Corporation; and
 - (b) this section ceases to apply to the land.
 - (5) Unless it has already ceased to apply under subsection (4), this section ceases to apply to land on the grant of a lease of that land under section 60.
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Melbourne City Link Act 1995
 No. 107 of 1995
 Part 3—Leased Land

s. 21

Pt 3 (Heading)
 substituted by
 No. 81/2006
 s. 73.

PART 3—LEASED LAND

Pt 3 Div. 1
 (Heading and
 ss 21–24)
 amended by
 Nos 102/1998
 s. 6(1),
 13/2002 s. 8,
 repealed by
 No. 81/2000
 s. 9(1).

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Pt 3 Div. 2
 (Heading and
 ss 25–32)
 amended by
 Nos 21/1996
 s. 5, 39/1997
 ss 7, 8,
 50/1998 ss 16,
 17, 102/1998
 s. 7,
 repealed by
 No. 81/2000
 s. 9(2).

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Pt 3 Div. 2A
 (Heading and
 ss 32A–32I)
 inserted by
 No. 21/1996
 s. 6,
 amended by
 No. 109/1997
 s. 533(Sch. 2
 item 8),
 repealed by
 No. 81/2000
 s. 9(3).

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Pt 3 Div. 3
 (Heading and
 ss 33–37)
 amended by
 Nos 21/1996
 s. 7, 39/1997
 s. 9(a)–(d),
 50/1998 s. 18,
 repealed by
 No. 81/2000
 s. 9(4).

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Melbourne City Link Act 1995
 No. 107 of 1995
 Part 3—Leased Land

s. 38

*	*	*	*	*	<p>Pt 3 Div. 4 (Heading and ss 38–43) amended by Nos 39/1997 s. 10(1)(2), 46/1998 s. 7(Sch. 1), repealed by No. 81/2000 s. 9(5).</p>
*	*	*	*	*	<p>Pt 3 Div. 5 (Heading and ss 44, 44A) amended by No. 39/1997 ss 10(3)(4), 11, repealed by No. 81/2000 s. 9(6).</p>
*	*	*	*	*	<p>Pt 3 Div. 6 (Heading and ss 45–51) repealed by No. 81/2000 s. 9(7).</p>
*	*	*	*	*	<p>Pt 3 Div. 7 (Heading and ss 52–54) repealed by No. 81/2000 s. 9(8).</p>

Division 8—Powers over land

Pt 3 Div. 8
(Heading)
 amended by
 No. 81/2000
 s. 10(1).

*	*	*	*	*	<p>S. 55 repealed by No. 81/2000 s. 10(2).</p>
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s. 57

S. 56
amended by
No. 39/1997
s. 12(1),
repealed by
No. 81/2000
s. 10(2).

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57 Approvals not required

- (1) Except to the extent that an agreement or determination under Division 6 otherwise provides, a permit, licence, consent, approval or other authority is not required from a public body, other than the Authority and the Environment Protection Authority, for the carrying out of works for the purposes of the Project.
- (2) Nothing in this section derogates from any requirement relating to standards of construction and safety which may apply under any other Act.

S. 58
amended by
No. 86/1998
s. 21(1)(a)(b),
repealed by
No. 81/2000
s. 10(2).

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S. 59
amended by
No. 39/1997
s. 12(2),
repealed by
No. 81/2000
s. 10(2).

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60 Leasing powers

S. 60(1)
amended by
Nos 81/2000
s. 11(1)(a),
13/2002
s. 9(1)(a).

- (1) The Governor in Council, on behalf of the Crown, subject to and in accordance with the terms of the Agreement and on the recommendation of the Minister—

S. 60(1)(a)
amended by
Nos 81/2000
s. 11(1)(b),
13/2002
s. 9(1)(b).

- (a) may grant a lease of that part of any Crown land which is required for the purposes of managing any roadway and ancillary works constructed on the land and for any other

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- purposes (not inconsistent with those purposes) approved by the Governor in Council to the person or persons entitled to such a lease in accordance with the terms of the Agreement; and
- (b) may impose conditions on the lease, having regard (among other things) to the following matters in the case of a lease over a stratum of Crown land—
- (i) that reasonable access to and use of the stratum and other land be provided for; and
 - (ii) that the rights of the registered proprietor, lessee or licensee of other land not be interfered with; and
 - (iii) that the rights of support of the stratum or of other land or of any building or structure erected or to be erected on those lands be provided for; and
 - (iv) that the making or maintenance of improvements by the lessee be provided for; and
 - (v) that any necessary rights for the passage or provision of services (including drainage, sewerage or the supply of water, gas, electricity or telephone) to or through the stratum, where those rights are necessary for the reasonable enjoyment of the stratum or of other land be provided for.
- (2) The granting of a lease under this section of a stratum of land is conclusive proof of compliance with subsection (1)(b)(i), (ii), (iii), (iv) and (v) with respect to the lease.
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Melbourne City Link Act 1995
No. 107 of 1995
Part 3—Leased Land

s. 60

S. 60(3)
repealed by
No. 102/1998
s. 8,
new s. 60(3)
inserted by
No. 13/2002
s. 9(2).

(3) The Minister must not make a recommendation under subsection (1) recommending the granting of a lease of land that is wholly or partly for a purpose that is not the purpose of managing a roadway and ancillary works constructed on the land, unless the Minister has first consulted with the Minister administering Part IX of the **Land Act 1958**.

(4) The lessee may only mortgage, charge, assign or otherwise encumber the lessee's interest in the lease in accordance with the terms of the Agreement.

(5) The term of a lease must be in accordance with the Agreement.

(6) A lease may be amended at any time with the consent of the lessee.

(7) A lease may be—

(a) terminated before the end of the term of the lease; or

(b) renewed—

in accordance with the terms of the Agreement.

S. 60(8)
inserted by
No. 81/2000
s. 11(2).

(8) This section has effect despite anything to the contrary in section 175A of the **Water Industry Act 1994** or any other Act.

S. 60(9)
inserted by
No. 13/2002
s. 9(3).

(9) The Minister must cause a copy of each lease under this section for an approved purpose to be laid before each House of Parliament within 6 sitting days of the House next following the making of the lease.

S. 60(10)
inserted by
No. 13/2002
s. 9(3).

(10) If a sub-lease is entered into of land leased under this section for an approved purpose, the person giving the sub-lease must ensure that, immediately on the sub-lease being entered into, a copy is given to the Minister.

(11) The Minister must cause a copy of a sub-lease given to him or her under subsection (10) to be laid before each House of the Parliament within 6 sitting days of the House next following the giving of the copy of the sub-lease to the Minister.

S. 60(11)
inserted by
No. 13/2002
s. 9(3).

(12) In subsections (9) and (10), *approved purpose*, in relation to a lease of land under this section, means a purpose other than the purpose of managing any roadway and ancillary works constructed on the land.

S. 60(12)
inserted by
No. 13/2002
s. 9(3).

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S. 60A
inserted by
No. 102/1998
s. 9,
repealed by
No. 81/2000
s. 12.

61 Declaration of Link road

S. 61
substituted by
No. 102/1998
s. 10.

(1) The Minister may, from time to time declare any part of any land leased under section 60 to be a road.

S. 61(1)
substituted by
No. 81/2000
s. 13.

(2) A declaration under subsection (1) must state whether the road or any part of the road is to be treated as a freeway or an arterial road.

S. 61(2)
amended by
No. 12/2004
s. 162(4).

(2A) A declaration made under subsection (2) before the commencement of section 162 of the **Road Management Act 2004** stating that a road or part of a road is to be treated as a freeway or a State highway is to be construed as stating that a road or part of a road is to be treated as a freeway or an arterial road.

S. 61(2A)
inserted by
No. 12/2004
s. 162(5).

(3) The Minister must cause a notice of a declaration under subsection (1) to be published in the Government Gazette.

(4) On the publication of a notice of a declaration under subsection (3), the road specified in the declaration is deemed to be—

S. 61(4)(a)
amended by
No. 12/2004
s. 162(6),
substituted by
No. 24/2005
s. 22.

(a) a freeway or an arterial road within the meaning of the **Road Management Act 2004**, as stated in the declaration under subsection (1); and

(b) a road open to and for use by the public for passage with vehicles; and

(c) a highway within the meaning of the **Road Safety Act 1986**.

S. 61(5)
amended by
No. 12/2004
s. 162(7).

(5) This section does not affect the grant or operation of a lease despite anything to the contrary in Schedule 5 of the **Road Management Act 2004**.

62 Road operation and management powers in relation to leased land

S. 62(1)
amended by
Nos 50/1998
s. 19, 86/1998
s. 21(2)(a),
59/2003
s. 121(1),
12/2004
s. 162(8).

(1) If the Agreement, or another agreement made under the terms of the Agreement, provides for road operation and management powers in respect of land leased under section 60 to be conferred on the Link corporation, then, despite anything to the contrary in the **Transport Act 1983** or the regulations under that Act or the **Local Government Act 1989** or the regulations under that Act or the **Docklands Act 1991** or the regulations under that Act or the **Road Management Act 2004** or the regulations under that Act, on and from the grant of a lease under section 60—

(a) the Link corporation or any officer or employee of the Link corporation authorised by the Link corporation may exercise those powers in respect of the leased land; and

(b) the Roads Corporation and any Council and the Victorian Urban Development Authority must not exercise those powers in respect of the leased land.

S. 62(1)(b)
amended by
Nos 86/1998
s. 21(2)(b),
59/2003
s. 121(2).

(2) In this section *road operation and management powers* means—

S. 62(2)
substituted by
No. 102/1998
s. 11.

(a) if by a declaration under section 61 the land is to be treated as a freeway, powers relating to the operation and maintenance of, and traffic management of a kind applicable to, a freeway, including those powers which apply to a freeway by virtue of the fact that it is a declared road; and

(b) if by a declaration under section 61 the land is to be treated as an arterial road, powers relating to the operation and maintenance of, and traffic management of a kind applicable to, an arterial road including those powers which apply to an arterial road by virtue of the fact that it is a declared road.

S. 62(2)(b)
amended by
No. 110/2004
s. 7.

* * * * *

S. 63
repealed by
No. 81/2000
s. 14.

Division 9—Other provisions relating to buildings and land

64 Certain Acts not to apply

(1) In this section *excluded Act* means—

- (a) the **Building Act 1993**;
- (b) the **South Melbourne Land Act 1986**;
- (c) the **Extractive Industries Act 1966**;
- (d) the **Extractive Industries Development Act 1995**;

s. 64A

S. 64(1)(e)
amended by
No. 63/2006
s. 61(Sch.
item 21.2).

(e) the **Mineral Resources (Sustainable
Development) Act 1990**.

S. 64(2)
repealed by
No. 81/2000
s. 15(1).

* * * * *

S. 64(3)
amended by
No. 39/1997
s. 13.

(3) An excluded Act does not apply to or in relation to any part of any leased land and anything done on any part of that leased land on and from the date on which the lease of that land is granted under section 60 or 93G until that lease is terminated in respect of that land.

S. 64(4)
inserted by
No. 102/1998
s. 6(2),
amended by
Nos 13/2002
s. 10, 81/2000
s. 15(2).

(4) Despite subsection (3), the **Building Act 1993** applies to and in relation to the Link control site, the Customer service site and the Burnley office site.

S. 64A
inserted by
No. 81/2000
s. 16.

**64A Power to revoke reservations under the Crown
Land (Reserves) Act 1978**

If any land has been deemed to be temporarily reserved under section 4(1) of the **Crown Land (Reserves) Act 1978** for public purposes, being, in particular, the purposes of the Project, by any provision of this Act as in force at any time before the commencement of section 16 of the **Melbourne City Link (Miscellaneous Amendments) Act 2000**, for the avoidance of doubt it is declared that the reservation may be revoked under the **Crown Land (Reserves) Act 1978**.

65 Action by Registrar of Titles

On being requested to do so and on delivery of any relevant instrument or document (but without production of a duplicate Crown grant or certificate of title), the Registrar of Titles must, as soon as practicable register any lease made in accordance with the Agreement.

S. 65 amended by No. 50/1998 s. 20, repealed by No. 81/2000 s. 17(1), new s. 65 inserted by No. 81/2006 s. 74.

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S. 66 repealed by No. 81/2000 s. 17(2).

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Pt 3 Div. 10 (Heading) repealed by No. 81/2000 s. 17(3).

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S. 67 amended by Nos 39/1997 s. 14(1)(2), 85/1998 s. 24(Sch. item 41), repealed by No. 81/2000 s. 18.

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S. 68 repealed by No. 81/2000 s. 19.

PART 4—TOLLS

Division 1—Definitions

Pt 4 Div. 1
(Heading)
inserted by
No. 102/1998
s. 32(a).

69 Definitions

In this Part—

S. 69
(Heading)
inserted by
No. 110/2004
s. 8(1)(a)(i).

business day means a day that is not—

S. 69 def. of
business day
inserted by
No. 102/1998
s. 12.

- (a) a Saturday or a Sunday; or
- (b) a day that is appointed as a public holiday or public half-holiday throughout the whole of Victoria under the **Public Holidays Act 1993**;

day means the period between midnight of
2 successive days;

S. 69 def. of
day
inserted by
No. 102/1998
s. 12.

owner, in relation to a vehicle, means—

S. 69 def. of
owner
amended by
Nos 57/1998
s. 28(4),
92/2001
s. 32(1).

- (a) the person in whose name the vehicle is registered, at the time of the offence, under the **Road Safety Act 1986** or a corresponding Act of the Commonwealth or of another State or Territory of the Commonwealth; or
- (b) if the Roads Corporation has received notice of transfer of registration under the regulations under the **Road Safety Act 1986**, the person whose name is disclosed in the records kept by the Roads Corporation as being entitled to possession of the vehicle at the time of the offence; or

-
- (c) if the vehicle is not registered under the **Road Safety Act 1986** or a corresponding Act of the Commonwealth or of another State or Territory of the Commonwealth, the person whose name is disclosed in the records kept by the Roads Corporation or the corresponding body under a corresponding Act as being the owner of or entitled to possession of the vehicle at the time of the offence; or
- (ca) if the vehicle displays a number plate—
- (i) the person who, at the time at which the registration number borne by that number plate was last assigned by the Roads Corporation or the corresponding body under a corresponding Act, was the person in whose name the motor vehicle, to which that registration number was assigned, was registered under the **Road Safety Act 1986** or a corresponding Act of the Commonwealth or of another State or Territory of the Commonwealth, whether or not that vehicle is the same as the vehicle involved in the offence; or
 - (ii) the person whose name is disclosed in the records kept by the Roads Corporation or the corresponding body under a corresponding Act as being entitled, or last entitled, to use or possess that number plate at the time of the offence; or
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- (d) if the motor vehicle displays a general identification mark by means of a special identification plate issued under the regulations under the **Road Safety Act 1986**, the person to whom the mark is assigned at the time of the offence;

S. 69 def. of *relevant agency* inserted by No. 102/1998 s. 12.

relevant agency means—

- (a) the Link corporation; or
- (b) the Link operator; or
- (c) the Extension corporation; or
- (d) the Extension operator; or
- (e) the enforcement agency;

S. 69 def. of *start-up period* inserted by No. 102/1998 s. 12, repealed by No. 13/2002 s. 11(1).

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S. 69 def. of *taxi-cab* inserted by No. 49/2004 s. 6.

taxi-cab has the same meaning as in section 86(1) of the **Transport Act 1983**;

S. 69 def. of *tollway* inserted by No. 49/2004 s. 6.

tollway means a road or part of a road in Australia in respect of which a toll or charge for the use of that road or part of that road is payable;

S. 69 def. of *tollway billing arrangement* inserted by No. 49/2004 s. 6, amended by No. 110/2004 s. 8(1)(a)(ii).

tollway billing arrangement means an agreement or arrangement between a person and a tollway operator (or an agent of a tollway operator) relating to the payment of tolls for the use of a vehicle in a tollway;

tollway operator means a person, other than the Link corporation or Extension corporation, who—

S. 69 def. of *tollway operator* inserted by No. 49/2004 s. 6, amended by No. 14/2007 s. 17.

- (a) operates a tollway under a law of Victoria or of another State or Territory, or under an agreement between that person and the State or another State or Territory; and
- (b) is empowered or entitled, under that law or agreement, to levy or impose a toll or charge for the use of the tollway—

but does not include the Freeway Corporation within the meaning of the **EastLink Project Act 2004** unless a Link roaming agreement (within the meaning of section 93AA) is in force;

trip means the driving of a vehicle in one direction in one toll zone or more than one toll zones, uninterrupted by exit from the road on which the zone is or zones are and subsequent re-entry to that road, disregarding travel directly between the southern link and the western link as referred to in section 6.

S. 69 def. of *trip* inserted by No. 102/1998 s. 12.

69A Declaration as to relevant corporations

S. 69A inserted by No. 102/1998 s. 13.

- (1) The Link corporation or the Extension corporation, by notice published in the Government Gazette, may declare that for the purposes of the whole of this Part—
 - (a) the Link corporation is to be the relevant corporation in relation to the Link road; and
 - (b) the Extension corporation is to be the relevant corporation in relation to the Extension road.

- (2) At any time after the publication of a notice under subsection (1), the Link Corporation and the Extension Corporation, by notice published in the Government Gazette, may jointly declare that for the purposes of this Part (except sections 70 and 71) the Link corporation is to be the relevant corporation in relation to both the Link road and the Extension road.
- (3) A notice under subsection (1) or (2) takes effect one month after the day on which it is published in the Government Gazette or, if a later day is specified in the notice, on that later day.

Pt 4 Div. 2
(Heading)
inserted by
No. 102/1998
s. 32(b).

Division 2—Fixing and enforcement of tolls

S. 70
(Heading)
inserted by
No. 110/2004
s. 8(1)(b)(i).

70 Relevant corporation may fix, charge and collect tolls and toll administration fees

S. 70
amended by
Nos 102/1998
ss 14(1)(a)(b),
24(b), 94/2003
s. 42 (ILA
s. 39B(1)).

S. 70(1)
amended by
No. 110/2004
s. 8(1)(b)(ii).

- (1) The relevant corporation may fix, charge and collect tolls for the use of vehicles in a toll zone and toll administration fees but may do so only in accordance with this Act and the Agreement or the Extension Agreement (as the case requires).
- (2) The tolling system that complies with the Agreement, the Integration and Facilitation Agreement or the Extension Agreement (as the case requires) is not a surveillance device within the meaning of the **Surveillance Devices Act 1999**.

S. 70(2)
inserted by
No. 94/2003
s. 42.

71 Fixing of tolls and toll administration fees

- S. 71
(Heading)
inserted by
No. 110/2004
s. 8(4)(a).**
- (1) The relevant corporation in accordance with this Act and the Agreement or the Extension Agreement (as the case requires), by notice published in the Government Gazette—
- S. 71(1)
amended by
No. 102/1998
s. 14(2)(a).**
- (a) may specify toll zones on the Link road or the Extension road; and
- S. 71(1)(a)
amended by
No. 102/1998
s. 14(2)(b).**
- (b) may fix tolls which are payable in respect of the use of vehicles on toll zones.
- (1A) If the Agreement or the Extension Agreement (as the case requires) expressly provides for the fixing of a toll administration fee under this subsection, the relevant corporation, in accordance with this Act and the Agreement or the Extension Agreement (as the case requires), may, by notice published in the Government Gazette, fix toll administration fees that are payable to it and specify the circumstances in which they are payable.
- S. 71(1A)
inserted by
No. 110/2004
s. 8(2).**
- (2) A notice under subsection (1) may specify different tolls in respect of different cases or classes of cases including different zones or groups of zones, different classes of vehicles and the use of vehicles at different times or any combination of these.
- (2A) A notice under subsection (1A) may specify different toll administration fees in respect of different cases or classes of cases including different zones or groups of zones, different classes of vehicles and different toll payment methods or any combination of these.
- S. 71(2A)
inserted by
No. 110/2004
s. 8(3).**

s. 72

S. 71(3)
amended by
No. 110/2004
s. 8(4)(b).

(3) A notice under subsection (1) or (1A) takes effect on the day that it is published in the Government Gazette or, if a later day is specified in the notice, on that later day.

S. 71(4)
amended by
Nos 102/1998
s. 14(3),
110/2004
s. 8(4)(b)(c)
(i)(ii).

(4) In any proceedings under this Part, the production of a Government Gazette purporting to contain a notice under subsection (1) or (1A) is evidence of the valid publication of the notice and of the fixing of the toll or toll administration fee in accordance with this Act and the Agreement or the Extension Agreement (as the case requires).

S. 72
(Heading)
inserted by
No. 110/2004
s. 9(1).

72 Liability to pay toll and toll administration fees

S. 72(1)
amended by
No. 102/1998
s. 24(b)(c),
substituted by
No. 110/2004
s. 9(2).

(1) Subject to this Part, a person who is the driver of a vehicle used in a toll zone is liable to pay to the relevant corporation—

- (a) the toll charged by the relevant corporation for that use; and
- (b) the relevant toll administration fee charged by the relevant corporation.

S. 72(2)
amended by
No. 102/1998
s. 24(b).

(2) Subject to subsection (3), the owner of a vehicle used in a toll zone is deemed to be the driver of that vehicle for the purposes of subsection (1).

S. 72(3)
amended by
No. 102/1998
s. 24(b)(c).

(3) The owner of a vehicle is not liable under subsection (2) to pay a toll for the use of the vehicle in a toll zone if within 28 days after being notified of the non-payment of the toll the owner supplies to the relevant corporation in a sworn statement in writing or a statutory declaration—

- (a) the name and address of the person who was the driver of the vehicle at the relevant time; or

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- (b) a statement that the vehicle was a stolen vehicle at the relevant time; or
- (c) a statement that the number plates displayed on the vehicle at the relevant time were stolen.
- (4) In any proceedings for the recovery of a toll, a statement or declaration purporting to be made under subsection (3) is evidence that the person named in the statement or declaration was driving the vehicle at all the relevant times relating to the matter named in the statement or declaration, if the proceedings are—
- (a) against the person named in the statement or declaration; and
- (b) in respect of the matter named in the statement or declaration.
- (5) This section does not apply in respect of the use in a toll zone of a vehicle covered by a tollway billing arrangement.

S. 72(3)(b) amended by No. 92/2001 s. 32(2).

S. 72(3)(c) inserted by No. 92/2001 s. 32(2).

S. 72(4) inserted by No. 81/2000 s. 20, amended by No. 110/2004 s. 9(3).

S. 72(4)(a) amended by No. 110/2004 s. 9(3).

S. 72(4)(b) amended by No. 110/2004 s. 9(3).

S. 72(5) inserted by No. 49/2004 s. 7.

72A Exemptions from toll administration fee

Despite section 72, a toll administration fee is not payable in respect of a vehicle—

- (a) that is registered with the relevant corporation; or
- (b) that under the regulations is exempt from the payment of tolls; or
- (c) that is used in a toll zone in accordance with a tollway billing arrangement.

S. 72A inserted by No. 110/2004 s. 10.

s. 72B

S. 72B
inserted by
No. 110/2004
s. 10.

72B Charge of toll

- (1) A relevant corporation may demand payment of a toll for the use of a vehicle in a toll zone and any relevant toll administration fee from—
 - (a) the owner of the vehicle; and
 - (b) the person named as the driver of the vehicle at the time of the trip in a sworn statement or statutory declaration supplied to the relevant corporation under section 72(3).
- (2) A demand—
 - (a) must be in writing; and
 - (b) must identify separately each use for which a toll or toll administration fee is payable.

S. 73
substituted by
No. 102/1998
s. 15.

73 Offence to drive unregistered vehicle in toll zone

S. 73(1)
amended by
No. 4/2000
s. 5(1).

- (1) A person must not drive a vehicle in a toll zone unless the vehicle is registered under this Part in respect of that toll zone by the relevant corporation at that time.

Penalty: 5 penalty units.

- (2) If during the course of a trip a person commits an offence against subsection (1), the person is guilty of only one offence against that subsection, regardless of how many toll zones the person drives in during the course of that trip.
- (3) In a proceeding for an offence against subsection (1), it is a defence to the charge for the driver to prove that he or she believed on reasonable grounds, at the time the offence is alleged to have been committed, that the vehicle—

S. 73(3)
amended by
Nos 4/2000
s. 5(2),
49/2004
s. 8(1).

-
- (a) was registered under this Part in respect of the relevant toll zone by the relevant corporation; or
- (b) was covered by a tollway billing arrangement.
- (3A) In a proceeding for an offence against subsection (1), it is a defence to the charge for the driver to prove—
- (a) that he or she received, or was issued, an invoice in respect of the trip that is the subject of the charge; and
- (b) that the invoice was paid in full (even though it may also have related to trips other than the trip that is the subject of the charge) in any manner, and within the time, permitted by the invoice.
- (3B) In subsection (3A), *invoice* means a request for the payment of a toll in respect of the trip and any associated toll administration fee.
- (4) Despite anything to the contrary in this or any other Act—
- (a) only one criminal proceeding may be commenced in respect of an offence constituted by the driving of any one vehicle in a toll zone on any one day; and
- (b) only one infringement notice may be issued in respect of an offence constituted by the driving of any one vehicle in a toll zone on any one day—
- regardless of how many toll zones the vehicle is driven in during the course of that day and how many trips the vehicle makes during the course of that day and how many different people drive the vehicle during the course of that day.

s. 73A

S. 73(4A)
inserted by
No. 45/1999
s. 48(1),
amended by
No. 49/2004
s. 8(2)(a)(b).

(4A) For the purposes of subsection (4), a criminal proceeding commenced against, or an infringement notice served, on a person in respect of an offence against subsection (1) is to be disregarded if the charge or infringement notice is withdrawn.

(5) Subsection (1) does not apply in respect of a vehicle if it is exempted, in accordance with the regulations, from the requirement to be registered under this Part.

(6) Subsection (1) does not apply in respect of a vehicle that under the regulations is exempt from the payment of tolls.

S. 73(7)
inserted by
No. 49/2004
s. 8(3).

(7) Subsection (1) does not apply in respect of a vehicle covered by a tollway billing arrangement.

S. 73(8)
inserted by
No. 110/2004
s. 11(2).

(8) On a person being found guilty of an offence under subsection (1), any debt that arose under section 72 as a result of the person driving in the toll zone on the day of the offence in the vehicle that was the subject of the offence is extinguished.

S. 73A
inserted by
No. 102/1998
s. 15.

73A Registration of vehicles

(1) A relevant corporation must establish and maintain a register of vehicles.

(2) A relevant corporation may register a vehicle—

(a) for a specified period; or

(b) until the happening of a specified event; or

(c) for an unlimited period; or

S. 73A(2)(c)
amended by
No. 4/2000
s. 5(3).

(d) in respect of all toll zones or a specified toll zone or toll zones.

S. 73A(2)(d)
inserted by
No. 4/2000
s. 5(3).

-
- (3) A person may seek the registration under this Part of a vehicle or more than one vehicle by application made to the relevant corporation in writing or orally or partly in writing and partly orally.
 - (4) A relevant corporation may, in accordance with this Part, cancel or suspend the registration of a vehicle.

73B On-going registration

S. 73B
inserted by
No. 102/1998
s. 15.

- (1) Without limiting its discretion otherwise to do so, a relevant corporation may refuse to register a vehicle unless the vehicle is the subject of an agreement that is wholly or partly in writing between the relevant corporation and the person seeking registration.
- (2) Without limiting the matters about which an agreement referred to in subsection (1) may provide, it may—
 - (a) be expressed as having force for a specified period or until the happening of a specified event or for an unlimited period; and
 - (b) contain specified terms including conditions of use and procedures to be followed to settle disputes that arise under the agreement; and
 - (c) specify the circumstances in which, and procedure by which, the agreement, or the registration under this Part of a vehicle that is the subject of the agreement, may be cancelled or suspended.
- (3) The agreement by a relevant corporation to register a vehicle under this Part is sufficient consideration on the part of the relevant corporation for an agreement referred to in subsection (1).

s. 73C

73C Temporary registration

S. 73C
inserted by
No. 102/1998
s. 15.

S. 73C(1)
amended by
No. 54/2001
s. 45(1).

- (1) A relevant corporation may register a vehicle for a specified period of up to 14 days without an agreement of a kind referred to in section 73B(1) being in force in respect of the vehicle.

S. 73C(2)
amended by
No. 81/2000
s. 21,
substituted by
No. 54/2001
s. 45(2).

- (2) Registration in accordance with this section may be granted subject to conditions of use notified to the person seeking the registration either orally or in writing or partly orally and in writing.

S. 73C(2A)
inserted by
No. 54/2001
s. 45(2),
substituted by
No. 13/2002
s. 12 (as
amended by
No. 32/2002
s. 26).

- (2A) If registration is sought on a particular day for a period of 24 hours, the commencement of the registration may be back-dated to a time not earlier than the beginning of the day that is 3 days before the day on which registration is sought.

S. 73C(2B)
inserted by
No. 13/2002
s. 12 (as
amended by
No. 32/2002
s. 26).

- (2B) If registration is sought for a specified period (other than a period of 24 hours) and is sought—
- (a) before the end of that specified period or within the period of 2 days immediately following the end of that specified period; or
 - (b) not later than 6 days after the beginning of that specified period—
- (whichever is the earlier), the commencement of registration may be back-dated to a time not earlier than the beginning of that specified period.
- (3) The agreement by a relevant corporation to register a vehicle under this Part is sufficient consideration on the part of the relevant corporation for an arrangement entered into in accordance with this section.
-

73D Information to be given in relation to registration

(1) If a relevant corporation agrees to register a vehicle under this Part, it must give the following information to the person who sought the registration—

S. 73D
inserted by
No. 102/1998
s. 15.

(a) confirmation that the vehicle has been, or will be at a specified time, registered or of the circumstances in which the vehicle becomes registered;

S. 73D(1)(a)
amended by
No. 78/2001
s. 7(a).

(b) the whole or that part of the licence plate number of the vehicle that is stated to the relevant corporation by that person;

S. 73D(1)(b)
substituted by
No. 78/2001
s. 7(b).

(c) an identifying number, or combination of letters and numbers, for the registration;

(d) except in the case of a registration in accordance with section 73C, the conditions of use, if any;

(e) except in the case of a registration in accordance with section 73C, information about how the registration may be cancelled or suspended;

(f) in the case of registration in accordance with section 73C—

S. 73D(1)(f)
substituted by
No. 78/2001
s. 7(c).

(i) the period to which the registration applies; or

(ii) if the period to which the registration applies cannot be determined at the time the information is given, information which enables the person to determine the period to which the registration applies;

(g) the toll zone or zones in respect of which the vehicle has been or will be registered.

S. 73D(1)(g)
inserted by
No. 4/2000
s. 5(4).

s. 73E

S. 73D(2)(a)
amended by
No. 4/2000
s. 5(5).

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- (2) The information referred to in subsection (1) is required to be given—
- (a) orally or in writing, in the case of information referred to in paragraph (a), (b), (c), (f) or (g) of that subsection; and
 - (b) in writing, in the case of any other information.
- (3) The relevant corporation must give any information referred to in subsection (1) that it has not given to the person seeking registration before registering a vehicle to that person—
- (a) as soon as is practicable after registering the vehicle; and
 - (b) in the case of information required to be given in writing, by sending a notice containing that information to that person by post to an address nominated by that person within 5 business days after the date the registration is effected.

Penalty: 100 penalty units.

S. 73E
inserted by
No. 102/1998
s. 15.

73E Cancellation or suspension of registration

- (1) If a relevant corporation cancels or suspends the registration under this Part of a vehicle, it must do so—
- (a) by any method stated for that purpose in an agreement relating to the vehicle; or
 - (b) by giving notice of the cancellation or suspension in one of the following ways—
 - (i) by personal service of written notice on the person who sought the registration;

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- (ii) by personal service of written notice at the last address given to the relevant corporation by the person who sought the registration on a person who appears to be at least 16 years of age;
 - (iii) by written notice posted to the last address given to the relevant corporation by the person who sought the registration;
 - (iv) by written notice posted to the address of the owner of the vehicle to which the registration applies;
 - (v) if the person who sought the registration is a corporation—
 - (A) by personal service of written notice at the registered office of the corporation on a person who appears to be at least 16 years of age; or
 - (B) by written notice posted to the registered office of the corporation.
- (2) A person is deemed to have been given a notice of cancellation or suspension—
- (a) under subsection (1)(b)(ii) on the next business day after the notice was served; or
 - (b) under subsection (1)(b)(iii), (iv) or (v)(B) on the third business day after the envelope containing the notice was posted; or
 - (c) under subsection (1)(b)(v)(A) on the day the notice was served.

74 Offence to tamper with prescribed devices

A person must not, without just cause, tamper or interfere with a prescribed tolling device or any part of a prescribed tolling device in a manner—

- (a) that causes incorrect information to be recorded or transmitted; or
- (b) that prevents or interferes with the recording or transmission of information—

in respect of the use of a toll zone by a vehicle in which that device is or may be situated.

Penalty: 10 penalty units.

S. 75 substituted by No. 102/1998 s. 16, amended by No. 54/2001 s. 46 (ILA s. 39B(1)).

75 Offence to fraudulently induce registration

- (1) A person must not by fraudulent or collusive means, or by false representation, induce a relevant corporation to register a vehicle under this Part.

Penalty: 10 penalty units.

S. 75(2) inserted by No. 54/2001 s. 46.

- (2) A person who seeks the right to drive a vehicle on a tollway must not make a false representation to a relevant corporation in seeking to do so.

Penalty: 10 penalty units.

76 Court to require payment of toll and costs

S. 76(1) amended by No. 102/1998 s. 17(1)(a)(b).

- (1) If a charge against a person for an offence against section 73 is found proven, whether or not a conviction is recorded or a penalty imposed for that offence, the court must make an order requiring the person to pay to the relevant corporation the prescribed administrative costs, if any.

- (2) An amount required to be paid under an order made under subsection (1) must be taken to be a judgment debt due by the person to the relevant corporation and payment of any amount remaining unpaid under the order may be enforced in the court by which it was made.

S. 76(2)
amended by
No. 102/1998
s. 17(2).

77 Relevant corporation or authorised person may notify enforcement agency of non-payment of toll

- (1) If the relevant corporation, or a person authorised by the relevant corporation for the purposes of this section, believes, on reasonable grounds, that a vehicle that is not registered under this Part in respect of a particular toll zone has been driven in that toll zone in contravention of this Part, the relevant corporation or authorised person may do any or all of the following at any time—

S. 77(1)
amended by
Nos 102/1998
s. 18(1)(a)–(c),
45/1999
s. 48(2)(a)(b),
4/2000
s. 5(6)(a)(b),
110/2004
s. 11(3).

- (a) send a request for payment of the toll and toll administration fee payable in respect of the use of the vehicle in the toll zone to any person who appears to be liable to pay the toll and fee; or

S. 77(1)(a)
substituted by
No. 102/1998
s. 18(1)(d),
amended by
No. 4/2000
s. 5(6)(c),
substituted by
Nos 81/2000
s. 22(1),
110/2004
s. 11(3).

- (b) notify the enforcement agency of that belief and request the enforcement agency—

S. 77(1)(b)
amended by
Nos 102/1998
s. 18(1)(e),
49/2004 s. 9,
substituted by
No. 110/2004
s. 11(3).

- (i) to send a request for payment of the toll and toll administration fee payable in respect of the use of the vehicle in the toll zone to any person who appears to be liable to pay the toll and fee; or

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- (ii) to serve an infringement notice under this Part on the owner of the vehicle involved in the offence or, if a sworn statement or statutory declaration has been supplied to the relevant corporation under section 72(3) in respect of that use, on the person named in the statement or declaration as the driver of the vehicle at the time of the use; or
- (iii) to commence proceedings in respect of that offence under this Part.

S. 77(1)(c)
amended by
No. 102/1998
s. 18(1)(f),
repealed by
No. 110/2004
s. 11(3).

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S. 77(1A)
inserted by
No. 81/2000
s. 22(2) (as
amended by
No. 54/2001
s. 47(1)).

(1A) If the relevant corporation or a person authorised by the relevant corporation for the purposes of this section, believes, on reasonable grounds, that a vehicle that is not registered under this Part has, in respect of a particular toll zone, been driven in that toll zone in contravention of this Part, the relevant corporation may notify the enforcement agency of that belief and request the enforcement agency to send a notice of the requirement to be registered under this Part in respect of that toll zone to the owner of the vehicle concerned.

S. 77(2)
amended by
Nos 102/1998
s. 18(3)(a)(b),
45/1999
s. 48(3).

(2) Nothing in subsection (1) requires the relevant corporation or an authorised person to notify the enforcement agency of an offence under this Part.

78 Disputes in relation to payment of tolls

- (1) If a relevant corporation or a person authorised by a relevant corporation for the purposes of section 77 has made a request under section 77(1)(b)(i), the enforcement agency may send, by post, a request for payment of the toll and toll administration fee payable in respect of the use of the vehicle in the toll zone to the person who appears to be liable to pay the toll and fee.

S. 78(1) amended by Nos 102/1998 s. 18(4)(a)–(c), 45/1999 s. 48(4), substituted by No. 81/2000 s. 23 (as amended by No. 54/2001 s. 47(2)), amended by Nos 110/2004 s. 11(4)(a)(b), 95/2005 s. 3(1)(c).

- (1A) If a relevant corporation or a person authorised by a relevant corporation for the purposes of section 77 has made a request under section 77(1A), the enforcement agency may send, by post, a notice of the requirement to be registered under this Part in respect of the toll zone to the owner of the vehicle concerned.

S. 78(1A) inserted by No. 81/2000 s. 23 (as amended by No. 54/2001 s. 47(2)).

- (2) If a dispute resolution process set out in an agreement referred to in section 73B(1) or established by the relevant corporation relating to the registration, or non-registration, at a particular time of a vehicle under this Part is in progress, proceedings (other than civil proceedings) cannot be commenced under this Part relating to the non-registration of the vehicle at that time.

S. 78(2) amended by No. 102/1998 s. 18(6)(a)(b).

79 Enforcement agency may authorise persons

- (1) An enforcement agency may authorise any person to carry out functions for the purposes of this Part.
- (2) An authorisation must be in writing.

80 Power to serve a notice

S. 80(1)
amended by
No. 102/1998
s. 19(1)(a).

- (1) If an enforcement officer has reason to believe that a person has committed an offence against section 73, he or she may cause an infringement notice to be served on that person.

S. 80(2)
amended by
Nos 102/1998
s. 19(1)(b),
49/2004 s. 10,
95/2005
s. 3(1)(d),
substituted by
No. 32/2006
s. 84(1).

- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

S. 80(2A)
inserted by
No. 81/2006
s. 27(1).

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

S. 80(2A)(a)
substituted by
No. 81/2006
s. 27(2)(a).

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

S. 80(2A)(b)
amended by
Nos 14/2007
s. 6(1),
81/2006
s. 27(2)(b)(as
substituted by
No. 14/2007
s. 6(8)).

- (b) the driver of that vehicle as shown in a statement or declaration supplied in accordance with section 72(3).

S. 80(3)
inserted by
No. 102/1998
s. 19(2).

- (3) An enforcement officer may cause to be served together with an infringement notice a notice containing information about the requirements arising under this Act in relation to the use of a vehicle in a toll zone.

80A Toll administration infringement notice

- (1) If an enforcement officer has reason to believe that a relevant agency (other than the enforcement agency) has committed an offence against section 90A(2) or 92(1) or (3), he or she may cause an infringement notice to be served on that relevant agency.
- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.

S. 80A inserted by No. 4/2000 s. 6.

S. 80A(2) substituted by No. 32/2006 s. 84(2).

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S. 81 amended by No. 102/1998 s. 19(3), repealed by No. 32/2006 s. 84(3).

82 Prescribed penalty

- (1) The penalty for an offence for which an infringement notice is issued under section 80 is \$100.
- (2) The prescribed penalty for an offence for which an infringement notice is issued under section 80A is \$2000.

S. 82 amended by Nos 102/1998 s. 20, 4/2000 s. 7(1)(2) (ILA s. 39B(1)).

S. 82(1) amended by No. 102/1998 s. 20, substituted by Nos 13/2002 s. 13(1), 110/2004 s. 11(5).

S. 82(2) inserted by No. 4/2000 s. 7(2).

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S. 82(3) inserted by No. 13/2002 s. 13(2), repealed by No. 110/2004 s. 11(6).

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S. 83
 amended by
 Nos 102/1998
 s. 24(d),
 49/2004 s. 11,
 21/2005
 s. 58(1)(a),
 repealed by
 No. 32/2006
 s. 84(3).

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84 Payment of penalty and other amounts

S. 84(1)
 amended by
 Nos 102/1998
 s. 24(e),
 110/2004
 s. 11(7),
 substituted by
 No. 32/2006
 s. 85(1).

- (1) In addition to and without limiting Division 5 of Part 2 of the **Infringements Act 2006**—
- (a) if the person pays the penalty shown in the infringement notice; or
 - (b) if the enforcement officer allows, at any time before the service of a summons in respect of the offence—

any debt that arose under section 72 as a result of the person driving in the toll zone on the day of the offence in the vehicle that was the subject of the offence is extinguished.

S. 84(2)
 repealed by
 No. 32/2006
 s. 85(2).

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S. 84(3)(4)
 repealed by
 No. 102/1998
 s. 24(f).

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85 Notice not to prejudice further proceedings

S. 85(1)
 amended by
 No. 102/1998
 s. 24(g),
 repealed by
 No. 32/2006
 s. 85(2).

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- (2) If proceedings have been taken or continued for an alleged offence because the person has not paid the penalty specified in the infringement notice and a conviction is imposed by the court, the conviction must not be taken to be a conviction for any purpose except in relation to—
- (a) the making of the conviction itself; and
 - (b) subsequent proceedings which may be taken in respect of the conviction itself, including proceedings by way of appeal.

S. 85(2)
amended by
No. 102/1998
s. 24(h).

86 Application of Infringements Act procedure

S. 86
(Heading)
inserted by
No. 32/2006
s. 85(3).
S. 86
substituted by
No. 102/1998
s. 21.

- (1) The procedure set out in the **Infringements Act 2006** or in Schedule 3 to the **Children, Youth and Families Act 2005** may be used instead of commencing a proceeding against—
- (a) a person for an offence against section 73(1) of this Act; or
 - (b) a relevant agency (other than the enforcement agency) for an offence against section 90A(2) or 92(1) or (3) of this Act.
- (2) The **Infringements Act 2006** or the **Children, Youth and Families Act 2005**, as the case may be, as modified by subsection (3) or (4), applies for the purposes of subsection (1).

S. 86(1)
substituted by
No. 4/2000
s. 8(1),
amended by
Nos 21/2005
s. 58(1)(b),
32/2006
s. 85(4)(a),
48/2006
s. 42(Sch.
item 26.1(a)).

S. 86(2)
amended by
Nos 21/2005
s. 58(1)(c),
32/2006
s. 85(4)(b),
48/2006
s. 42(Sch.
item 26.1(b)).

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S. 86(3)
amended by
No. 4/2000
s. 8(2),
substituted by
No. 32/2006
s. 85(5).

(3) The **Infringements Act 2006** applies as if an infringement notice under this Part were an infringement notice served in respect of a lodgeable infringement offence within the meaning of that Act.

S. 86(4)
inserted by
No. 21/2005
s. 58(2),
amended by
No. 48/2006
s. 42(Sch.
item 26.1(c)(f)).

(4) The **Children, Youth and Families Act 2005** applies as if—

S. 86(4)(a)
amended by
No. 48/2006
s. 42(Sch.
item
26.1(c)(ii)).

(a) an infringement notice under this Part were an infringement notice within the meaning of Schedule 3 to that Act;

(b) an offence referred to in subsection (1) were a prescribed offence within the meaning of that Schedule;

(c) the prescribed penalty for the offence stated in the infringement notice were the infringement penalty for the purposes of that Schedule.

87 Offences detected by prescribed tolling device

S. 87(1)
amended by
Nos 102/1998
s. 22(1)(a)(i),
92/2001
s. 32(3),
substituted by
No. 81/2006
s. 28(1).

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

S. 87(2)
amended by
No. 102/1998
s. 22(1)(a)(ii),
repealed by
No. 81/2006
s. 28(2).

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S. 87(3)
amended by
Nos 94/2003
s. 43, 49/2004
s. 12, 21/2005
s. 58(3)(a),
32/2006
s. 85(6)(a),
48/2006
s. 42(Sch.
item 26.2),
14/2007
s. 6(2)–(4),
repealed by
No. 81/2006
s. 28(2).

(3AA) A person must not in a statement given under subsection (3) to an enforcement official provide information that the person knows to be false or misleading.

S. 87(3AA)
inserted by
No. 14/2007
s. 6(5).

Penalty: 60 penalty units.

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S. 87(3A)
inserted by
No. 94/2003
s. 43(3),
amended by
Nos 49/2004
s. 12(3),
21/2005
s. 58(3)(b),
32/2006
s. 85(6)(b),
repealed by
No. 81/2006
s. 28(2).

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S. 87(4)
amended by
Nos 94/2003
s. 43(4),
49/2004
s. 12(4),
14/2007
s. 6(6),
repealed by
No. 81/2006
s. 28(2).

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S. 87(5)
 amended by
 Nos 94/2003
 s. 43(4),
 49/2004
 s. 12(4)(5),
 95/2005
 s. 3(1)(e),
 14/2007
 s. 6(6),
 repealed by
 No. 81/2006
 s. 28(2).

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S. 87(6)
 inserted by
 No. 49/2004
 s. 12(6).

- (6) This section does not apply if the vehicle driven in a toll zone contrary to section 73(1) is a taxi-cab and an infringement notice is served, in accordance with section 80(2)(b)(ii), on the person allegedly driving the taxi-cab at the time of the offence and that infringement notice—
- (a) is not withdrawn; or
 - (b) is withdrawn and proceedings are taken against that person.

S. 87(7)
 inserted by
 No. 110/2004
 s. 12,
 repealed by
 No. 81/2006
 s. 28(2).

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S. 87A
 inserted by
 No. 110/2004
 s. 13,
 substituted by
 No. 24/2005
 s. 23.

87A Extension of time if no actual notice for offence to drive unregistered vehicle in toll zone

S. 87A(1)
 amended by
 Nos 21/2005
 s. 58(3)(c) (as
 amended by
 No. 24/2005
 s. 31(3)),
 32/2006
 s. 85(7)(a),
 48/2006
 s. 42(Sch.
 item 26.3).

- (1) If an infringement notice for an offence against section 73(1) is not served by delivering it personally to the person to whom it was issued, and that person is not in fact aware that it had been issued, the person may apply to an infringements registrar (within the meaning of the **Infringements Act 2006**) or a registrar (within the meaning of Schedule 3 to the **Children,**

Youth and Families Act 2005) of the Children's Court, as the case may be, to have an extension of time of 28 days to deal with the notice in accordance with this Act.

- (2) An application under subsection (1) must—
- (a) be made within 14 days of the applicant becoming aware of the notice; and
 - (b) be filed with the registrar; and
 - (c) be accompanied by a sworn statement in writing or by a statutory declaration setting out the grounds on which the extension is sought.
- (3) If an application is made under subsection (1) to an infringements registrar within the meaning of the **Infringements Act 2006**, the registrar must—
- (a) refer the application to the Magistrates' Court constituted by a magistrate; and
 - (b) cause a notice of the time and place of the hearing of the application to be given or sent to—
 - (i) the person who served the infringement notice on the applicant or caused it to be served; and
 - (ii) the applicant.
- (4) The Magistrates' Court or a registrar (within the meaning of Schedule 3 to the **Children, Youth and Families Act 2005**) of the Children's Court, as the case may be, may only grant an extension of time if satisfied that the person was not in fact aware, more than 14 days before making an application under subsection (1), that the infringement notice had been issued.

S. 87A(3)
amended by
No. 32/2006
s. 85(7)(b).

S. 87A(4)
amended by
Nos 21/2005
s. 58(3)(d) (as
amended by
No. 24/2005
s. 31(3),
48/2006
s. 42(Sch.
item 26.3)).

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(5) On the granting of the extension of time—

S. 87A(5)(a)
amended by
Nos 21/2005
s. 58(3)(e) (as
amended by
No. 24/2005
s. 31(3)),
32/2006
s. 85(7)(c),
48/2006
s. 42(Sch.
item 26.3),
9/2008
s. 42(1)(a).

- (a) the infringement notice continues to have effect, unless withdrawn under section 18 of the **Infringements Act 2006**, despite the doing of any thing or the taking of any step in relation to it under the **Infringements Act 2006** or Schedule 3 to the **Children, Youth and Families Act 2005** before the extension of time was granted, but if an enforcement order had been made in relation to it before the extension of time was granted and the person does not take a relevant action in relation to the notice within the extended period, the notice ceases to have effect at the end of that period; and

S. 87A(5)(b)
repealed by
No. 9/2008
s. 42(1)(b).

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S. 87A(5)(c)
substituted by
No. 9/2008
s. 42(1)(c).

- (c) the period specified in the infringement notice as the period for payment of the infringement penalty does not apply and the extended period becomes the period in which payment of the infringement penalty must be made; and

S. 87A(5)(d)
amended by
Nos 21/2005
s. 58(3)(e) (as
amended by
No. 24/2005
s. 31(3)),
32/2006
s. 85(7)(c),
48/2006 ss 38,
42(Sch. item
26.3).

- (d) any fine or part of a fine within the meaning of the **Infringements Act 2006** or infringement penalty or part of an infringement penalty and prescribed costs within the meaning of Schedule 3 to the **Children, Youth and Families Act 2005** that has been paid in relation to the infringement notice must be refunded (and the Consolidated Fund is, to the necessary extent, appropriated accordingly) if the person takes a relevant action in relation to the notice within the extended period; and

- (e) any of the procedures set out in the **Infringements Act 2006** or Schedule 3 to the **Children, Youth and Families Act 2005** that are being used for the enforcement of the infringement penalty within the meaning of that Act or that Schedule, as the case requires, must be discontinued and any enforcement order made, or warrant issued, under that Act or that Schedule, as the case requires, ceases to have effect if the person takes a relevant action in relation to the notice within the extended period.

S. 87A(5)(e) amended by Nos 21/2005 s. 58(3)(e) (as amended by No. 24/2005 s. 31(3)), 32/2006 s. 85(7)(c)(d), 48/2006 s. 42(Sch. item 26.3), 9/2008 s. 42(1)(d).

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S. 87A(5)(f) amended by Nos 21/2005 s. 58(3)(e) (as amended by No. 24/2005 s. 31(3)), 32/2006 s. 85(7)(c), 48/2006 s. 42(Sch. item 26.3), repealed by No. 9/2008 s. 42(1)(e).

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S. 87A(5)(g) repealed by No. 9/2008 s. 42(1)(e).

- (6) For the purposes of subsection (5) a person who is granted an extension of time as referred to in subsection (1) only takes a relevant action in relation to an infringement notice if the person—

- (a) pays the whole of the penalty shown on the infringement notice; or
(b) gives a statement under section 84BE of the **Road Safety Act 1986** to an enforcement official within the meaning of Part 6AA of that Act; or

S. 87A(6)(b) amended by No. 14/2007 s. 6(7), substituted by No. 9/2008 s. 42(2).

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S. 87A(6)(c)
amended by
No. 21/2005
s. 58(3)(f) (as
amended by
No. 24/2005
s. 31(3)),
substituted by
No. 32/2006
s. 85(7)(e),
amended by
No. 48/2006
s. 42(Sch.
item 26.3),
substituted by
No. 9/2008
s. 42(2).

S. 87A(6)(d)
inserted by
No. 32/2006
s. 85(7)(e).

S. 87A(6)(e)
inserted by
No. 32/2006
s. 85(7)(e).

S. 87A(7)
amended by
Nos 21/2005
s. 58(3)(f)(g)
(as amended
by No.
24/2005
s. 31(3)),
32/2006
s. 85(7)(f),
48/2006
s. 42(Sch.
item 26.3),
9/2008
s. 42(3).

- (c) elects to have the matter heard and determined in the Magistrates' Court under Part 2 of the **Infringements Act 2006** or, in the case of a child, elects to have the matter heard and determined in the Children's Court; or
- (d) is offered a payment plan in accordance with the **Infringements Act 2006** and the enforcement agency under that Act or the Secretary (as the case may be) receives the first payment under that plan from the person; or
- (e) in the case of a person who applies under section 22 of the **Infringements Act 2006** for an internal review, is notified of a decision in accordance with section 25(1)(b), (c) or (d) of that Act or section 25(2) of that Act.
- (7) If the Magistrates' Court or a registrar (within the meaning of Schedule 3 to the **Children, Youth and Families Act 2005**) of the Children's Court, as the case may be, grants an extension of time as referred to in subsection (1), an infringement notice may be withdrawn under section 18 of the **Infringements Act 2006** even though the infringement penalty has been lodged with an infringements registrar under Part 4 of the **Infringements Act 2006** or registered under Schedule 3 to the **Children, Youth and Families Act 2005**, as the case requires.

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S. 87A(8)
repealed by
No. 9/2008
s. 42(4).

(9) Despite anything to the contrary in this section or the **Infringements Act 2006**, the 28 day extension period under this section is suspended and no step may be taken in the enforcement of an infringement notice to which this section applies if a person has—

S. 87A(9)
inserted by
No. 32/2006
s. 85(8).

- (a) applied for an internal review under section 22 of that Act which has not been determined, until the application is determined and the applicant notified of the outcome; or
- (b) applied for a payment plan under section 46 of that Act, until—
 - (i) the person is notified that his or her application for a payment plan has been refused; or
 - (ii) in the case of a payment plan that has been offered, the payment plan is cancelled under section 48(2) of that Act; or
 - (iii) in the case of a payment plan that has commenced—
 - (A) the payment plan is cancelled under section 49(2)(b) of that Act; or
 - (B) the infringement penalty in respect of that infringement notice is removed from the payment plan under section 49(2)(a) of that Act; or

- (C) the person receives written notice under section 52(2) of that Act advising the person that he or she is in default.

S. 88
substituted by
No. 102/1998
s. 23.

88 Proof that vehicle driven in toll zone

Without prejudice to any other method of proving the relevant fact, if the fact that a vehicle was driven in a toll zone is relevant in proceedings for an offence against section 73(1) or for the recovery of a debt, evidence of that fact as indicated or determined by—

- (a) a prescribed tolling device that was used in the prescribed manner; or
- (b) an image or message produced by a prescribed process—

is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof of the fact.

89 General evidentiary provisions

S. 89(1)
amended by
No. 102/1998
s. 22(1)(b).

- (1) A certificate in the prescribed form purporting to be issued by the enforcement agency certifying as to any matter related to a toll which appears in or can be calculated from the records kept by the enforcement agency is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof of that matter.

S. 89(2)
amended by
Nos 50/1998
s. 21, 102/1998
s. 22(1)(b)(c),
92/2001
s. 32(4).

- (2) A certificate in the prescribed form purporting to be issued by the Roads Corporation or the Department of Infrastructure or an authorised person certifying that on a particular date a vehicle was registered under the **Road Safety Act 1986** in the name of a particular person is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof that, on that date, the person was the owner of the vehicle.

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- (3) A certificate or document which purports to have been issued under an Act of the Commonwealth or another State or a Territory corresponding to the **Road Safety Act 1986** certifying that on a particular date a vehicle was registered under that Act in the name of a particular person is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof that, on that date, the person was the owner of the vehicle.
- S. 89(3) amended by No. 102/1998 s. 22(1)(b).
- (3A) A certificate containing the prescribed particulars purporting to be issued by the Roads Corporation or the Department of Infrastructure or an authorised person certifying that on a particular date—
- S. 89(3A) inserted by No. 92/2001 s. 32(5).
- (a) a particular registration number was assigned to a particular vehicle; or
- (b) a particular person was entitled, or last entitled, to use or possess a number plate bearing a particular registration number—
- is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof that on that date that registration number was assigned to that vehicle or that person was entitled, or last entitled, to use or possess that number plate, as the case requires.
- (3B) A certificate or document which purports to have been issued under any Act of the Commonwealth or of another State or Territory of the Commonwealth corresponding to the **Road Safety Act 1986** certifying that on a particular date—
- S. 89(3B) inserted by No. 92/2001 s. 32(5).
- (a) a particular registration number was assigned under the corresponding Act to a particular vehicle; or

- (b) a particular person was entitled, or last entitled, under the corresponding Act to use or possess a number plate bearing a particular registration number—

is admissible in evidence in any proceedings and, in the absence of evidence to the contrary, is proof that on that date that registration number was assigned to that vehicle or that person was entitled, or last entitled, to use or possess that number plate, as the case requires.

S. 89(4)
substituted by
No. 102/1998
s. 22(2).

- (4) A certificate in the prescribed form purporting to be issued by a relevant corporation, or a person authorised by a relevant corporation, certifying—

S. 89(4)(a)
amended by
No. 4/2000
s. 9.

- (a) that a specified vehicle was, or was not, registered under this Part in respect of a specified toll zone at a specified time; or
- (b) that the relevant corporation was, or was not, a party to an agreement relating to the use of a specified vehicle in a toll zone at a specified time; or
- (c) that an agreement between a person and the relevant corporation relating to the use of a specified vehicle in a toll zone—
- (i) existed, or did not exist, at a specified time; or
 - (ii) contained, or did not contain, specified terms; or

S. 89(4)(ca)
inserted by
No. 49/2004
s. 13.

- (ca) that a specified vehicle was, or was not, covered by a tollway billing arrangement at a specified time; or
- (d) that a prescribed tolling device was used in the prescribed manner; or
- (e) that an image or message was produced by a prescribed process; or

(f) as to any other matter that appears in, or that can be determined or calculated from, the records kept by the relevant corporation—

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.

(5) In this section—

authorised person means a person who is authorised or who is the holder of a position authorised for the purposes of this section by the Roads Corporation.

S. 89(5)
inserted by
No. 92/2001
s. 32(6).

Division 3—Restrictions on the disclosure and use of certain information

Pt 4 Div. 3
(Heading)
inserted by
No. 102/1998
s. 25.

90 Meaning of *restricted tolling information*

In this section *restricted tolling information* means any information obtained from the records prepared by, or for, a relevant agency in performing its obligations, exercising its rights or carrying out its functions under this Act, the regulations, the **Transport Act 1983**, the regulations under that Act, the **Road Management Act 2004** and the regulations under that Act, the Agreement or the Extension Agreement in relation to—

S. 90
substituted by
No. 102/1998
s. 25,
amended by
No. 12/2004
s. 162(9).

- (a) any of the following details concerning a toll zone—
- (i) the payment or non-payment by any particular person of a toll;
 - (ii) the name and address of any person using the toll zone;

- (iii) the licence plate number of any vehicle using the toll zone or registered under this Part;
 - (iv) the registration by a relevant vehicle registration authority, or the ownership, of any vehicle using the toll zone;
 - (v) any other identifying information in relation to the use of a vehicle in the toll zone or to any person using the toll zone;
- (b) whether or not a relevant corporation has registered a vehicle under this Part;
 - (c) the name of, address of, or any other identifying information in relation to, a person who sought the registration of a vehicle under this Part;
 - (d) any information concerning any amount that has been paid, or that is due, or that stands to the credit of a person, in respect of any registration of a vehicle under this Part;
 - (e) any other information of a personal nature or that has commercial sensitivity for the person about whom it is kept;
 - (f) any information relating to any other matter of a class specified by the regulations for the purposes of this section.

S. 90A
inserted by
No. 102/1998
s. 25.

90A Tolling information not to be disclosed or used except in specified circumstances

- (1) This section applies to—
 - (a) a relevant agency; and
 - (b) any person who is or was employed by, or who is or was engaged to provide services for, a relevant agency; and

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- (c) a person who is or was employed by, or who is or was engaged to provide services for, a person who is or was employed by, or who is or was engaged to provide services for, a relevant agency; and
- (d) any person who possesses any restricted tolling information (regardless of how, or from whom, the person obtained possession of the information).
- (2) A person to whom this section applies must not disclose or use restricted tolling information unless the disclosure or use—
- (a) is reasonably necessary to enable the collection of tolls, or the taking of enforcement action, under this Act; or
- (aa) is reasonably necessary—
- (i) to investigate whether or not there has been any loss, theft or misuse of prescribed tolling devices; or
- (ii) to take any enforcement action in relation to any theft or misuse of a prescribed tolling device; or
- (ab) is reasonably necessary, either, to investigate whether or not there has been any breach of, or to enforce—
- (i) any provision of the **Dangerous Goods Act 1985**, or regulations made under that Act; or
- (ii) any provision of the **Transport Act 1983**, or regulations made under that Act; or
- (ia) any provision of the **Road Management Act 2004**, or regulations made under that Act; or
- S. 90A(2)(aa) inserted by No. 81/2000 s. 24.
- S. 90A(2)(ab) inserted by No. 81/2000 s. 24.
- S. 90A(2)(ab)(ia) inserted by No. 12/2004 s. 162(10).

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- (iii) any provision of the **Road Transport (Dangerous Goods) Act 1995**, or regulations made under that Act or the applied provisions within the meaning of that Act; or
- (iv) any provision of Part 9A of the **Environment Protection Act 1970**, or regulations made under that Act—
which relates to the transport of dangerous goods or waste on the Link road or Extension road; or
- (b) is made with the consent of the person to whom the information relates; or
- (c) is made at the direction of the Minister; or
- (d) is made in circumstances in which the person believes on reasonable grounds that the disclosure or use is necessary to prevent or lessen a serious and imminent threat to the life or health of one or more people; or
- (e) is made to, or by, a person authorised by the Minister under section 92(2) for the purposes of an inspection by that person under that section; or
- (f) is made to, or by, the Ombudsman to enable the Ombudsman to fulfil her or his duties; or
- (g) involves information of a class specified by the regulations for the purposes of this section; or
- (h) is made during the course of legal proceedings; or
- (i) is authorised by section 90B or 90D or is otherwise authorised by this Act or any other law.

Penalty: 100 penalty units.

(3) In addition, a relevant agency may—

S. 90A(3)
substituted by
No. 49/2004
s. 14.

(a) disclose or use restricted tolling information for the purpose of performing its obligations, exercising its rights or carrying out its functions under this Act, the regulations, the **Transport Act 1983**, the regulations under that Act, the **Road Management Act 2004** and the regulations under that Act, the Agreement or the Extension Agreement; or

S. 90A(3)(a)
amended by
No. 12/2004
s. 162(11).

(b) disclose to a tollway operator restricted tolling information relating to—

(i) the date and time of use of a toll zone by any vehicle; or

(ii) the toll payable for the use of a toll zone by any vehicle; or

(iii) the licence plate number or category of any vehicle using a toll zone; or

(iv) any vehicle transponder carried in any vehicle using a toll zone; or

(c) disclose to a tollway operator restricted tolling information relating to—

(i) the licence plate number or category of any vehicle registered under this Part; or

(ii) any vehicle transponder issued in respect of any vehicle registered under this Part.

(3A) A tollway operator to whom restricted tolling information is disclosed under subsection (3)(b) may use that information to do either or both of the following—

S. 90A(3A)
inserted by
No. 49/2004
s. 14.

s. 90B

- (a) bill and charge a party to a tollway billing arrangement for the use in a toll zone of a vehicle covered by that arrangement;
- (b) enable the Link corporation or Extension corporation to be credited with the toll payable for such a use.

S. 90A(3B)
inserted by
No. 49/2004
s. 14.

- (3B) A tollway operator to whom restricted tolling information is disclosed under subsection (3)(c) may use that information to be credited with a payment by the Link corporation or Extension corporation in respect of the use in a tollway of a vehicle registered under this Part.
- (4) The Minister must not, under subsection (2)(c), direct the disclosure or use of any information that contains details that are likely to lead to the identification of the person to whom the information relates.

S. 90B
(Heading)
inserted by
No. 49/2004
s. 15(1).
S. 90B
inserted by
No. 102/1998
s. 25.

90B Disclosure and use of information for enforcement of criminal law and certain road safety laws

- (1) In this section—

S. 90B(1)
def. of
*authorised
Roads
Corporation
officer*
inserted by
No. 49/2004
s. 15(2).

authorised Roads Corporation officer means an officer of the Roads Corporation authorised under subsection (1A);

S. 90B(1)
def. of
*enforcement
of a relevant
road safety
law*
inserted by
No. 49/2004
s. 15(2).

enforcement of a relevant road safety law means any activity in relation to—

- (a) investigating whether an offence against a relevant road safety law has been committed;

- (b) prosecuting an offence against a relevant road safety law;
- (c) detecting, or preventing, the commission of an offence against a relevant road safety law;

enforcement of the criminal law means any activity in relation to—

- (a) investigating or prosecuting an indictable offence;
- (b) investigating whether an indictable offence has been committed;
- (c) investigating or monitoring any person who is reasonably suspected of planning to commit, being in the process of committing, or having committed, an indictable offence;
- (d) detecting, or preventing, the commission of indictable offences;
- (e) any other enforcement activity that relates to indictable offences;

indictable offence includes any offence committed outside Victoria that would have been an indictable offence if committed in Victoria.

relevant road safety law means—

- (a) section 64 of the **Road Safety Act 1986**; or
- (b) section 65 of the **Road Safety Act 1986**; or
- (c) rule 152(1) of the **Road Rules** within the meaning of the Road Safety (Road Rules) Regulations 1999; or

S. 90B(1)
def. of
***relevant road
safety law***
inserted by
No. 49/2004
s. 15(2),
amended by
No. 110/2004
s. 14.

s. 90B

- (d) regulation 222(6) of the Road Safety (Vehicles) Regulations 1999; or
- (da) regulation 801 of the Road Safety (Vehicles) Regulations 1999; or
- (e) regulation 802(1) of the Road Safety (Vehicles) Regulations 1999; or
- (f) regulation 808(1) of the Road Safety (Vehicles) Regulations 1999; or
- (g) regulation 809(1) of the Road Safety (Vehicles) Regulations 1999;

S. 90B(1A)
inserted by
No. 49/2004
s. 15(3).

(1A) The Roads Corporation may, in writing, authorise an officer of the Roads Corporation to be an authorised Roads Corporation officer for the purposes of this section.

S. 90B(2)
substituted by
No. 49/2004
s. 15(4).

- (2) A person to whom section 90A applies may disclose restricted tolling information to a member of the police force or an authorised Roads Corporation officer if—
- (a) an authorised police officer has certified in writing that the disclosure is reasonably necessary for the enforcement of the criminal law or the enforcement of a relevant road safety law; or
 - (b) the Roads Corporation has certified in writing that the disclosure is reasonably necessary for the enforcement of a relevant road safety law.

S. 90B(3)
amended by
No. 49/2004
s. 15(5)(a)(b).

(3) If information is disclosed to a member of the police force or an authorised Roads Corporation officer under subsection (2), the member or officer must not use that information, or disclose the information to any other person, unless—

- (a) the member or officer believes the use or disclosure is reasonably necessary for the enforcement of the criminal law or the enforcement of a relevant road safety law; or
 - (b) the use or disclosure is otherwise authorised under this Division.
- (4) A certificate under subsection (2) may be given in an electronic form (for example, electronic mail).

S. 90B(3)(a)
amended by
No. 49/2004
s. 15(5)(b)(c).

90C Records of disclosure and use by the police

S. 90C
inserted by
No. 102/1998
s. 25.

- (1) The Chief Commissioner of Police must ensure that there are created in relation to—
- (a) certificates that are issued by authorised police officers for the purposes of section 90B; and
 - (b) the disclosure or use of restricted tolling information by members of the police force—
- any records that are reasonably required by the Ombudsman, after consultation with the Chief Commissioner, to enable the Ombudsman to carry out the Ombudsman's functions in relation to this Division.
- (2) The Chief Commissioner of Police must also ensure—
- (a) that the records—
 - (i) are created in the form and manner, and within the time; and
 - (ii) are kept in the manner—
- reasonably required by the Ombudsman after consultation with the Chief Commissioner of Police; and

(b) that any record created under this section is retained in the records of the police force for a period of 2 years (or any other period specified by the regulations for the purposes of this section) after the date the record was made.

(3) This section does not apply to the disclosure or use of restricted tolling information by members of the police force for the purpose of taking enforcement action under this Act.

S. 90CA
inserted by
No. 49/2004
s. 16.

90CA Records of disclosure and use by authorised Roads Corporation officers

- (1) The Roads Corporation must ensure that there are created in relation to—
- (a) certificates that are issued by the Roads Corporation for the purposes of section 90B; and
 - (b) the disclosure or use of restricted tolling information by authorised Roads Corporation officers within the meaning of that section—

any records that are reasonably required by the Ombudsman, after consultation with the Roads Corporation, to enable the Ombudsman to carry out the Ombudsman's functions in relation to this Division.

- (2) The Roads Corporation must also ensure—
- (a) that the records—
 - (i) are created in the form and manner, and within the time; and
 - (ii) are kept in the manner—reasonably required by the Ombudsman after consultation with the Roads Corporation; and

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- (b) that any record created under this section is retained in the records of the Roads Corporation for a period of 2 years (or any other period specified by the regulations for the purposes of this section) after the date the record was made.

90D Disclosure or use for purposes of court orders etc.

S. 90D
inserted by
No. 102/1998
s. 25.

- (1) A person to whom section 90A applies may disclose restricted tolling information to a court, the sheriff, a person or body acting on behalf of the State of Victoria or a law enforcement agency to enable the court, sheriff, person, body or agency to make, enforce or execute a court order or judgment in relation to an offence against this Part or a liability arising under this Part.
- (2) If information is disclosed under subsection (1), the court, sheriff, person, body or agency may disclose or use that information to make, enforce or execute any court order or judgment (even if the order or judgment does not relate to an offence against this Part or a liability arising under this Part).

90E Records of disclosure or use of restricted tolling information to be kept

S. 90E
inserted by
No. 102/1998
s. 25.

- (1) A relevant agency—
- (a) must record the following details of each disclosure or use of restricted tolling information that the relevant agency makes—
- (i) the name of the person who disclosed or used the information; and
- (ii) the date the disclosure or use was made; and

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- (iii) in the case of a disclosure of the information, the person or body to whom the disclosure was made; and
 - (iv) in the case of a use of the information, a brief description of how the information was used; and
 - (v) the authority (for example, the relevant section of this Act) under which the disclosure or use was made; and
 - (vi) if the authority under which the disclosure or use was made involved a document (for example, a warrant, certificate of an authorised police officer or a consent), a copy of that document; and
- (b) must make the record as soon as is practicable, and in any case not later than 5 business days after, the disclosure or use occurs; and
- (c) must retain the record—
- (i) in a form that enables the record to be readily inspected; and
 - (ii) for a period of 2 years (or any other period specified by the regulations for the purposes of this section) after the date the record was made.

Penalty: 100 penalty units.

- (2) Subsection (1) does not apply to any of the following—
- (a) any disclosure or use that is reasonably necessary to enable the collection of tolls, the registration of a vehicle under this Part or the taking of enforcement action, under this Act;

- (b) any disclosure or use of restricted tolling information by a relevant agency for the purpose of performing its obligations, exercising its rights or carrying out its functions under this Act, the regulations, the **Transport Act 1983**, the regulations under that Act, the **Road Management Act 2004** and the regulations under that Act, the Agreement or the Extension Agreement;
- (c) any disclosure or use that is made under section 90D.
- (3) A relevant agency must not, in purporting to comply with this section, make any record, or any entry in any record, that the agency knows is false or misleading.

S. 90E(2)(b)
amended by
No. 12/2004
s. 162(12).

Penalty: 100 penalty units.

90F Application of Division to enforcement agency

S. 90F
inserted by
No. 102/1998
s. 25.

- (1) Despite anything to the contrary in this Division, it does not operate to create an offence with respect to any conduct engaged in by a person who is a member of the force within the meaning of the **Police Regulation Act 1958**.
- (2) Nothing in subsection (1) prevents conduct, which would have constituted an offence against this Division if the person who engaged in it had not been a member of the force at the time of engaging in it, from constituting a breach of discipline within the meaning of the **Police Regulation Act 1958**.

91 Roads Corporation can disclose certain information

S. 91
substituted by
No. 102/1998
s. 25.

- (1) Despite anything to the contrary in section 92(2) of the **Road Safety Act 1986**, the Roads Corporation or a relevant person within the meaning of that section may disclose information about the registration under that Act or ownership of any vehicle for the purposes of this Part—

s. 92

S. 91(1)(aa)
inserted by
No. 110/2004
s. 15(1)(a).

- (a) to the enforcement agency; or
- (aa) to a relevant corporation for the purposes of section 72B or 77(1)(a); or

S. 91(1)(b)
amended by
No. 110/2004
s. 15(1)(b).

- (b) to a person who is employed by, or who is engaged to provide services for, the Roads Corporation, relevant person, relevant corporation or the enforcement agency.

S. 91(2)
amended by
No. 110/2004
s. 15(2).

- (2) The Roads Corporation or a relevant person may disclose the information under subsection (1)(a) or (1)(b) even if it has not entered into a confidentiality agreement under section 92 of the **Road Safety Act 1986** with the enforcement agency or person.

S. 91(3)
inserted by
No. 110/2004
s. 15(3).

- (3) Sections 92(4), 92(5), 92(6) and 92(7) of the **Road Safety Act 1986** apply to a disclosure under subsection (1)(aa) as if it were a disclosure under section 92 of that Act.

Pt 4 Div. 4
(Heading)
inserted by
No. 102/1998
s. 32(c).

Division 4—Records

92 Relevant corporation to keep proper records

S. 92(1)
amended by
No. 102/1998
s. 24(i),
substituted by
No. 4/2000
s. 10.

- (1) A relevant corporation must keep records that correctly record or enable it to be determined or calculated—
 - (a) whether or not the relevant corporation has registered a vehicle under section 73A and, if it has so registered a vehicle—
 - (i) the period of that registration;
 - (ii) the toll zone or zones in respect of which the vehicle is registered;

- (iii) in the case of registration in accordance with section 73C, the conditions of use notified to the person who sought the registration and the manner in which those conditions were notified to that person;
- (b) whether, and if so what, information has been given under section 73D(1) to a person who sought registration of a vehicle;
- (c) any cancellation or suspension by the relevant corporation of a registration and the date and time on which that cancellation or suspension came into operation;
- (d) whether or not an agreement referred to in section 73B existed or exists between the relevant corporation and a person and, if so, the period for which that agreement had or has force and the terms of that agreement;
- (e) any toll, fee or charge that has been paid, or that is due, to the relevant corporation under this Part and any amount that stands to the credit of a person in respect of any vehicle registered under this Part;
- (f) whether or not a vehicle is exempted under section 73(5) from the requirement to be registered under this Part and any conditions of that exemption.

Penalty: 100 penalty units.

- (2) A person authorised by the Minister may enter the offices of a relevant agency during ordinary business hours to inspect its records required by, or created for the purposes of, this Part.

S. 92(2)
substituted by
No. 102/1998
s. 26(1).

s. 93

S. 92(3)
amended by
No. 102/1998
s. 26(2).

- (3) A relevant agency must not prevent a person authorised under subsection (2) from carrying out an inspection under that subsection.

Penalty: 100 penalty units.

93 Destruction of records

S. 93(1)
amended by
No. 102/1998
s. 24(i).

- (1) A relevant corporation must cause any records it holds in relation to the non-payment of a toll to be destroyed within 2 years after the creation of the records or within any shorter or longer period prescribed by the regulations.

Penalty: 100 penalty units.

- (2) Subsection (1) does not apply to records which do not identify any person or vehicle.

S. 93(3)
inserted by
No. 81/2000
s. 25.

- (3) Subsection (1) does not apply to records which are required for legal proceedings, being proceedings which commenced before the date on which, under subsection (1), the records would be required to be destroyed.

PART 4A—EXHIBITION STREET EXTENSION PROJECT

Pt 4A
(Headings
and ss 93A–
93J)
inserted by
No. 39/1997
s. 6.

**Division 1—Exhibition Street Extension Project and
Extension Project area**

93A Exhibition Street Extension Project

S. 93A
inserted by
No. 39/1997
s. 6,
amended by
No. 50/1998
s. 22.

In this Act a reference to the Exhibition Street Extension Project is a reference to the project for a road connection from Exhibition Street to the southern link of the Project across or above the Jolimont rail yards and along Batman Avenue to the interchange of the South Eastern Freeway with Punt Road and includes the ESEP Project as defined in the Extension Agreement.

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S. 93B
inserted by
No. 39/1997
s. 6,
repealed by
No. 81/2000
s. 26(1).

* * * * *

Pt 4A Div. 2
(Heading and
ss 93C–93F)
inserted by
No. 39/1997
s. 6,
repealed by
No. 81/2000
s. 26(2).

Division 3—Management of Exhibition Street Extension

93G Lease of land in Extension Project area

S. 93G
inserted by
No. 39/1997
s. 6.

- (1) The Governor in Council, on behalf of the Crown, subject to and in accordance with the Extension Agreement, may grant a lease of any Crown land—

S. 93G(1)
substituted by
No. 50/1998
s. 23(1).

s. 93G

- (a) which forms part of the Extension road; or
- (b) upon which there are works ancillary to the Extension road—

to any person or persons entitled to such a lease in accordance with the Extension Agreement.

S. 93G(1A)
inserted by
No. 50/1998
s. 23(1).

- (1A) In a lease under subsection (1), the Governor in Council may impose conditions, having regard, among other things, to the following matters in relation to a stratum of Crown land—
 - (a) that reasonable access to and use of the stratum and other land be provided for; and
 - (b) that the rights of the registered proprietor, lessee or licensee of other land not be interfered with; and
 - (c) that the rights of support of the stratum or of other land or of any building or other structure erected or to be erected on those lands be provided for; and
 - (d) that the making or maintenance of improvements by the lessee be provided for; and
 - (e) that any necessary rights for the passage or provision of services (including drainage, sewerage or the supply of gas, electricity or telephone) to or through the stratum, where those rights are necessary for the reasonable enjoyment of the stratum or of other land be provided for.

S. 93G(2)
amended by
No. 50/1998
s. 23(2).

- (2) The granting of a lease under this section of a stratum of land is conclusive proof of compliance with subsection (1A)(a), (b), (c), (d) or (e) with respect to the lease.

S. 93G(3)
repealed by
No. 102/1998
s. 27.

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- (4) The lessee may only mortgage, charge, assign or otherwise encumber the lessee's interest in the lease in accordance with the terms of the Extension Agreement. S. 93G(4) amended by No. 50/1998 s. 23(3).
- (5) The term of the lease must be in accordance with the Extension Agreement. S. 93G(5) substituted by No. 50/1998 s. 23(4).
- (6) A lease may be amended at any time with the consent of the lessee.
- (7) A lease may be—
- (a) terminated before the end of the term of the lease; or
 - (b) renewed—
- in accordance with the Extension Agreement.
- * * * * *
- S. 93G(7) amended by No. 50/1998 s. 23(5).
- S. 93GA inserted by No. 102/1998 s. 28, amended by No. 74/2000 s. 3(Sch. 1 item 80), repealed by No. 81/2000 s. 26(3).

93H Declaration of Extension road

S. 93H inserted by No. 39/1997 s. 6, substituted by No. 102/1998 s. 29.

- (1) The Minister may, from time to time declare any part of any land leased under section 93G to be a road. S. 93H(1) substituted by No. 81/2000 s. 27.
- (2) The Minister must cause a notice of a declaration under subsection (1) to be published in the Government Gazette.

s. 93I

(3) On the publication of a notice of a declaration under subsection (2), the road specified in the declaration is deemed to be—

S. 93H(3)(a)
amended by
No. 12/2004
s. 162(6).

(a) an arterial road within the meaning of the **Road Management Act 2004**; and

(b) a road open to and for use by the public for passage with vehicles; and

(c) a highway within the meaning of the **Road Safety Act 1986**.

(4) This section does not affect the grant or operation of a lease despite anything to the contrary in Schedule 5 of the **Road Management Act 2004**.

S. 93H(4)
amended by
No. 12/2004
s. 162(7).

93I Road operation powers

S. 93I
inserted by
No. 39/1997
s. 6,
substituted by
No. 50/1998
s. 24.

(1) If the Extension Agreement, or another agreement made under the terms of the Extension Agreement, provides for road operation and management powers in respect of land leased under section 93G to be conferred on the Extension corporation, then, despite anything to the contrary in the **Transport Act 1983** or the regulations under that Act or the **Local Government Act 1989** or the regulations under that Act or the **Road Management Act 2004** or the regulations under that Act, on and from the grant of the lease under section 93G—

S. 93I(1)
amended by
No. 12/2004
s. 162(8).

(a) the Extension corporation or any officer or employee of the Extension corporation may exercise those powers, in respect of the leased land; and

(b) the Roads Corporation and any Council may not exercise those powers in respect of the leased land.

(2) In this section *road operation and management powers* means powers, relating to the operation and maintenance of, and traffic management of a kind applicable to an arterial road, including those powers, which apply to an arterial road by virtue of the fact that it is a declared road.

S. 93I(2)
amended by
No. 110/2004
s. 7.

* * * * *

S. 93J
inserted by
No. 39/1997
s. 6,
substituted by
No. 50/1998
s. 25,
repealed by
No. 102/1998
s. 24(j).

PART 5—GENERAL

94 Link corporation and others to have same protections and immunities as Roads Corporation

S. 94(1)
amended by
No. 78/2001
s. 8.

- (1) The Link corporation, a licensee, a licence holder and a lessee have the same protections and immunities in carrying out their respective functions under—
- (a) this Act or the regulations; or
 - (b) the **Transport Act 1983** or the regulations under that Act; or
 - (c) the Agreement; or
 - (d) a licence or lease issued or granted under Part 3 of this Act; or
 - (e) an authorisation under Part 9 of the **Land Acquisition and Compensation Act 1986**—

in relation to the construction, operation, maintenance, management and control of the roads referred to in section 58 and the Link road as the Roads Corporation has in carrying out its functions under the **Transport Act 1983** or the regulations under that Act or as a highway authority at law in relation to the construction, operation, maintenance, management or control of highways.

S. 94(2)
substituted by
No. 50/1998
s. 26(1).

- (2) The Link operator, when acting under this Act—
- (a) as a delegate of the Link corporation has the same protections and immunities as the Link corporation has under subsection (1); or
 - (b) under a sub-delegation from the Link corporation has the same protections and immunities as the Link corporation has under subsection (5).

-
- (3) The Extension corporation and a lessee have the same protections and immunities in carrying out their respective functions under—
- (a) this Act or the regulations; or
 - (b) the **Transport Act 1983** or the regulations made under that Act; or
 - (c) the Extension Agreement; or
 - (d) a lease granted under section 93G—
in relation to the operation, maintenance, management and control of the land which is the subject of that lease, as the Roads Corporation has in carrying out its functions under the **Transport Act 1983** or the regulations under that Act or as a highway authority at law in relation to the operation, maintenance, management or control of highways.
- (4) The Extension operator, when acting under this Act—
- (a) as a delegate of the Extension corporation has the same protections and immunities as the Extension corporation has under subsection (3); or
 - (b) under a sub-delegation from the Link corporation has the same protections and immunities as the Link corporation has under subsection (5).
- (5) The Link corporation, when acting under this Act as a delegate of the Extension corporation has the same protections and immunities as the Extension corporation has under subsection (3).

S. 94(3)
inserted by
No. 50/1998
s. 26(1).

S. 94(4)
inserted by
No. 50/1998
s. 26(1).

S. 94(5)
inserted by
No. 50/1998
s. 26(1).

95 Link corporation, licensee and lessee not liable for obstruction of rivers

No action lies against the Link corporation, a licensee or a lessee for or in respect of any obstruction to the navigation of any river occasioned or alleged to be occasioned by—

- (a) the Link road or its associated structures or facilities; or
- (b) any construction work carried out in connection with the Project.

96 Taxes and charges

- (1) No stamp duty or other tax is chargeable under any Act in respect of anything done under Division 2, 3, 4, 5 or 6 of Part 3 or in respect of any act or transaction connected with or necessary to be done by reason of any of those Divisions.
- (2) An amount payable by the State under an indemnity under clause 11.5 of the Agreement or clause 11.5 of the Extension Agreement is payable from the Consolidated Fund which is hereby to the necessary extent appropriated accordingly.
- (3) No land tax is payable by the Link corporation or a licensee, licence holder or lessee in respect of land—

S. 96(2)
amended by
No. 50/1998
s. 27(1).

S. 96(3)
amended by
Nos 81/2000
s. 28, 78/2001
s. 9(1).

- (a) which is or is to be the Link road; or
- (b) which is land leased under section 60; or

S. 96(3)(b)
amended by
No. 50/1998
s. 27(2).

- (c) which is any other kind of land—

and in respect of which under the Agreement land tax is not to be assessed or payable.

-
- (3A) No land tax is payable by the Extension corporation or a lessee in respect of land—
- (a) which is leased land under section 93G; or
- (b) which is any other kind of land—
- and in respect of which under the Extension Agreement land tax is not to be assessed or payable.
- (4) Licensed land and leased land (except the Link control site, the Customer service site and the Burnley office site) and licensed areas are not rateable land within the meaning of section 154 of the **Local Government Act 1989**.
- (5) Section 221 of the **Local Government Act 1989** does not apply in respect of licensed land, licensed areas or leased land.
- (5A) Section 35E of the **Docklands Act 1991** does not apply in respect of licensed land or leased land.
- (6) The Link control site is not rateable land within the meaning of section 154 of the **Local Government Act 1989** for the purpose of the **Water Industry Act 1994** and the **Water Act 1989**.
- * * * * *
- S. 96(3A) inserted by No. 50/1998 s. 27(3).
- S. 96(4) amended by Nos 102/1998 s. 6(3), 78/2001 s. 9(2), 13/2002 s. 14.
- S. 96(5) amended by No. 78/2001 s. 9(3).
- S. 96(5A) inserted by No. 86/1998 s. 21(3), amended by No. 59/2003 s. 121(3).
- S. 96(6) amended by Nos 39/1997 s. 15, 85/2006 s. 171(Sch. 1 item 5.1).
- S. 97 repealed by No. 81/2000 s. 29.

98 Emergency management

- (1) The Link corporation and the Extension Corporation are deemed to be government agencies for the purposes of Part 5 of the **Emergency Management Act 1986**.
- S. 98(1) substituted by No. 50/1998 s. 28.

s. 99

S. 98(2)
substituted by
No. 50/1998
s. 28.

- (2) Subsection (1) does not prevent the Link corporation or the Extension corporation from receiving compensation under section 24 of the **Emergency Management Act 1986** for the taking and use of the corporation's property under that section.
- (3) This section applies despite anything to the contrary in the Agreement.

99 Restrictions on exercise of certain powers

S. 99(1)
substituted by
No. 50/1998
s. 29(1).

- (1) A public body must obtain the consent of—
- (a) the Link corporation before exercising any power affecting land leased under section 60; and
 - (b) the Extension corporation before exercising any power affecting land leased under section 93G.

- (2) Subsection (1) does not apply to—

- (a) an emergency power; or
- (b) a power to use a vehicle on the Link road or the Extension road (as the case requires).

S. 99(2)(b)
amended by
No. 50/1998
s. 29(2).

- (3) The person giving consent under subsection (1) may impose conditions on its consent.

S. 99(3)
amended by
No. 50/1998
s. 29(3).

S. 99(4)
substituted by
No. 50/1998
s. 29(4).

- (4) If—
- (a) consent under subsection (1) is refused or is not given within a reasonable period; or
 - (b) conditions are imposed which are not acceptable to the public body—

the public body may refer the matter to the Minister who may give his or her consent in place of a consent under subsection (1) with or without conditions.

100 Powers of certain bodies extended

A Minister, public statutory authority or Council is deemed to have such powers as are necessary to enable the Minister, authority or Council—

- (a) to comply with any direction under or requirement of this Act or the regulations; and
- (b) to do any other thing which is necessary or convenient to be done for the purposes of the Project or the Exhibition Street Extension Project.

S. 100(b)
amended by
No. 39/1997
s. 16.

* * * * *

S. 101
amended by
Nos 39/1997
s. 17, 46/1998
s. 7(Sch. 1),
repealed by
No. 81/2000
s. 30.

102 Dispute resolution

- (1) The Governor in Council may determine any dispute or question about anything done or proposed to be done under this Act or any other Act and that arises in relation to, or that may affect, the Project or the Exhibition Street Extension Project or the management or operation of the Link road or the Extension road, if the dispute or question arises between any of the following—

S. 102(1)
amended by
Nos 39/1997
s. 18, 50/1998
s. 30.

- (a) a public statutory authority;
- (b) a Department Head within the meaning of the **Public Administration Act 2004**;

S. 102(1)(b)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 128).

- (c) a Council.

- (2) A dispute or question can only be referred for determination under subsection (1) on the joint recommendation of the Minister and the Minister administering the Act under which any body concerned is established or operates.
- (3) The determination has effect despite anything to the contrary in any other Act, and the persons or bodies between which the dispute or question arose are bound by the determination.

103 Limitation on Council powers

- (1) A Council must not exercise its powers under the following provisions of the **Local Government Act 1989** in relation to leased land or licensed land—
 - (a) sections 204, 207A, 207B, 207C, 207D and 207E; and
 - (b) Schedule 10; and
 - (c) Schedule 11.
- (2) A Council must not exercise any of its powers under Division 2 of Part 9 of the **Local Government Act 1989** inconsistently with the functions and powers of the Link corporation or the Extension corporation or a lessee under the **Transport Act 1983** or the regulations under that Act or under the Agreement or the Extension Agreement or a lease granted under Part 3 or Part 4A.
- (3) Section 165 of the **Water Act 1989** applies in relation to—
 - (a) the Link road as if—
 - (i) any reference in those sections to a council were a reference to the Link corporation; and

S. 103(2)
amended by
Nos 39/1997
s. 19, 50/1998
s. 31(1)(a)(b),
81/2000
s. 31(a)–(c).

S. 103(3)
substituted by
No. 50/1998
s. 31(2),
amended by
No. 85/2006
s. 171(Sch. 1
item 5.2).

- (ii) any reference in those sections to a municipal district were a reference to the Link road; and
- (b) the Extension road as if—
 - (i) any reference in those sections to a council were a reference to the Extension corporation; and
 - (ii) any reference in those sections to a municipal district were a reference to the Extension road.

* * * * *

S. 103(4)
inserted by
No. 86/1998
s. 21(4),
substituted by
No. 59/2003
s. 121(4),
repealed by
No. 74/2006
s. 26(1).

104 Limitation on powers to make local laws

- (1) A Council must not make a local law under the **Local Government Act 1989** for or with respect to—

- (a) the use of the Link road or the Extension road; or
- (b) the carrying out of works for the purposes of the Project (including the timing of works for and standards of construction of those works); or
- (c) the carrying out of works by or on behalf of the Extension Corporation for the purposes of the Exhibition Street Extension Project (including the timing of works for and the standards of construction of those works).

S. 104(1)(a)
amended by
No. 50/1998
s. 32(1).

S. 104(1)(b)
amended by
No. 50/1998
s. 32(2).

S. 104(1)(c)
inserted by
No. 50/1998
s. 32(2).

s. 104

(2) Without limiting section 111(2), (3) and (4) of the **Local Government Act 1989**, a local law, whether made before or after the commencement of this section, is inoperative to the extent that—

(a) it makes provision for or with respect to or affecting any matter or thing referred to in subsection (1); or

(b) it is inconsistent with the exercise by the Link corporation, the Extension corporation or a lessee of its powers or functions under this Act or any other Act or under the Agreement or the Extension Agreement, or under a lease granted under this Act.

(3) Without limiting subsection (2), a local law is inoperative to the extent that—

(a) it restricts the capacity to use any road for access to or egress from any land for which a construction permit is issued under Division 4 of Part 2B for the carrying out of works for the purposes of the Link Upgrade Project; or

(b) it has the effect of, or it is exercised in a manner directed at, preventing, hindering or disrupting—

(i) the Link corporation or the holder of a lease granted under section 60 in the performance of an obligation under the Agreement; or

(ii) the Extension corporation or the holder of a lease granted under section 93G in the performance of an obligation under the Extension Agreement—

if the Minister and the Minister administering the **Local Government Act 1989**, by Order published in the Government Gazette, declare it to be inoperative.

S. 104(2)(b)
amended by
Nos 50/1998
s. 32(3)(a)(b),
81/2000
s. 32(a)(i)–(iv).

S. 104(3)(a)
repealed by
No. 81/2000
s. 32(b)(i), new
s. 104(3)(a)
inserted by
No. 81/2006
s. 75.

S. 104(3)(b)
substituted by
No. 50/1998
s. 32(4).

S. 104(3)(b)(i)
amended by
No. 81/2000
s. 32(b)(ii).

Melbourne City Link Act 1995
No. 107 of 1995
Part 5—General

s. 105

*	*	*	*	*	S. 104(4) inserted by No. 86/1998 s. 21(5), substituted by No. 59/2003 s. 121(5), repealed by No. 74/2006 s. 26(2).
*	*	*	*	*	Ss 105–107 repealed by No. 81/2000 s. 33.
*	*	*	*	*	S. 108 amended by No. 50/1998 s. 33, repealed by No. 81/2000 s. 33.
*	*	*	*	*	S. 109 amended by No. 46/1998 s. 7(Sch. 1), repealed by No. 81/2000 s. 33.
*	*	*	*	*	Ss 110–113 repealed by No. 81/2000 s. 33.
*	*	*	*	*	S. 114 amended by No. 50/1998 s. 34, repealed by No. 81/2000 s. 33.

S. 114A
inserted by
No. 102/1998
s. 30.

114A Removal of stationary vehicles

- (1) The relevant corporation, or any person authorised to do so by the relevant corporation, may move or cause to be moved from the Link road or the Extension road any vehicle—
 - (a) that is parked or left standing on that road contrary to any law; or
 - (b) that in the opinion of the relevant corporation or person—
 - (i) is, or is likely to be or to cause, a danger to other road users; or
 - (ii) is causing, or is likely to cause, traffic congestion; or
 - (c) that is disabled or damaged.
- (2) A person acting in accordance with subsection (1)—
 - (a) may enter a vehicle using, if necessary, reasonable force, for the purpose of conveniently or expeditiously moving it; and
 - (b) may move the vehicle to the nearest convenient place.
- (3) In the case of the removal of a vehicle damaged at an accident scene on the Link road or the Extension road, subsections (1) and (2) are not intended to remove any obligation imposed on a person by section 183B of the **Transport Act 1983**.
- (4) A relevant corporation may recover from the owner of a vehicle moved or stored under this section any reasonable costs incurred in moving or storing it.
- (5) In this section *vehicle* includes anything attached to, within, or on, the vehicle.

114B Removal of abandoned property

The relevant corporation may remove any thing on the Link road or the Extension road that appears to have been abandoned.

S. 114B
inserted by
No. 102/1998
s. 30.

115 Certificates for the purposes of evidence

In any proceedings under this Act, a certificate, signed by the Chief Executive Officer of the Melbourne City Link Authority, as constituted immediately before the commencement of section 38 of the **Melbourne City Link (Miscellaneous Amendments) Act 2000**, certifying—

S. 115
amended by
No. 81/2000
s. 34(1).

- (a) that a person was or was not an authorised officer at a particular time; or
- (b) that a licence had or had not been issued to a particular person under this Act or that the Authority or a person authorised by the Authority had a right to occupy land under Part 9 of the **Land Acquisition and Compensation Act 1986**—

is evidence of the facts stated in the certificate.

116 Proceedings

- (1) Proceedings for an offence against Part 4 or regulations under that Part may only be brought by—
 - (a) a member of the police force; or
 - (b) an enforcement officer; or
 - (c) a person authorised by the Minister under subsection (1A).

S. 116(1)(b)
amended by
No. 4/2000
s. 11.

S. 116(1)(c)
inserted by
No. 4/2000
s. 11.

s. 116A

S. 116(1A)
inserted by
No. 4/2000
s. 11.

(1A) The Minister may authorise a person to bring proceedings for an offence against Part 4 or regulations under that Part.

S. 116(2)
repealed by
No. 81/2000
s. 34(2).

* * * * *

S. 116A
inserted by
No. 81/2000
s. 35.

116A Service of notices

- (1) If under this Act or the regulations, a notice is required or permitted to be served on any person, the notice may, unless the contrary intention appears, be served in or out of Victoria—
- (a) by delivering it personally to the person; or
 - (b) by leaving it at the usual or last known place of residence or business of the person with a person apparently over the age of sixteen years and apparently residing at that place or (in the case of a place of business) apparently in charge of or employed at that place; or
 - (c) by sending it by post, addressed to the person at the usual or last known place of residence or business of that person; or
 - (d) if the person has given an address to the enforcement agency or the relevant corporation, by sending it by post to that address.
- (2) This section does not apply to the service of infringement notices under sections 80 and 80A or notices under section 73E.

117 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 Supreme Court—

- (a) reviewing matters or entertaining actions of the kind described in section 39(7) and (8) of the **Planning and Environment Act 1987** (as modified by section 21 of this Act); or
- (b) entertaining actions of the kind described in section 18(2) or 95 or in respect of which a protection or immunity is given under section 94; or
- (c) entertaining actions for compensation in relation to matters in respect of which this Act provides that no compensation is payable; or
- (d) entertaining actions of a kind described in section 207F(3) of the **Local Government Act 1989** as amended by this Act.

117A Supreme Court—limitation of jurisdiction

It is the intention of—

- (a) section 18(2); and
- (b) section 94(2), (3), (4) and (5)—

to alter or vary section 85 of the **Constitution Act 1975**.

S. 117A
inserted by
No. 50/1998
s. 35.

118 Regulations

S. 118(1)
amended by
No. 50/1998
s. 36(2) (ILA
s. 39B(1)).

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

S. 118(1)(a)
amended by
Nos 50/1998
s. 36(1)(a)(i)(ii),
102/1998
s. 31(1)(a).

(a) prescribing requirements with respect to
placing notices on or in the vicinity of the
Link road or the Extension road outside a toll
zone and prescribing the information to be
provided by such notices;

S. 118(1)(b)
amended by
No. 102/1998
s. 24(b).

(b) prescribing as a tolling device any system,
equipment or thing (including any equipment
or thing to be placed in or on a vehicle) for
recording the use of a vehicle in a toll zone;

S. 118(1)(ba)
inserted by
No. 102/1998
s. 31(1)(b).

(ba) prescribing the manner in which such tolling
devices are to be installed, set up, tested,
operated, used, maintained or repaired;

S. 118(1)(bb)
inserted by
No. 102/1998
s. 31(1)(b).

(bb) prescribing the manner in which information
from such tolling devices is to be processed,
stored, transferred, produced, re-configured,
used to produce reports, images or other
forms of information, destroyed or otherwise
handled;

S. 118(1)(c)
amended by
Nos 50/1998
s. 36(1)(b),
102/1998
s. 31(1)(c).

(c) exempting from the payment of tolls vehicles
or classes of vehicles that under the
Agreement or the Extension Agreement may
be exempted from the payment of tolls;

S. 118(1)(ca)
inserted by
No. 102/1998
s. 31(1)(d).

(ca) the exemption by a relevant corporation of
vehicles from the requirement to be
registered under Part 4;

S. 118(1)(d)
repealed by
No. 102/1998
s. 31(1)(e).

* * * * *

(e) prescribing methods of recording the
payment of tolls;

-
- (f) prescribing administrative costs for the purposes of Part 4;
- (g) any other matter or thing required or permitted by this Act to be prescribed to give effect to this Act.
- * * * * *
- (2) The regulations—
- (a) may be of general or limited application;
- (b) may differ according to differences in time, place or circumstances;
- (c) may confer a discretionary authority or impose a duty on a specified person or class of person.
-

S. 118(1)(f)
amended by
No. 102/1998
s. 31(1)(f).

S. 118(1A)
inserted by
No. 102/1998
s. 31(2),
repealed by
No. 13/2002
s. 11(2).

S. 118(2)
inserted by
No. 50/1998
s. 36(2).

Pt 6
(Heading and
ss 119–128)
amended by
No. 50/1998
ss 37, 38,
substituted as
Pt 6 (Heading
and s. 119) by
No. 81/2000
s. 36.

PART 6—TRANSITIONAL PROVISIONS

New s. 119
inserted by
No. 81/2000
s. 36.

119 Effect of agreements—Melbourne City Link (Miscellaneous Amendments) Act 2000

The force and effect of the Agreement, the Extension Agreement and the Integration and Facilitation Agreement are not affected by the coming into operation of section 37 of the **Melbourne City Link (Miscellaneous Amendments) Act 2000**.

New s. 120
inserted by
No. 94/2003
s. 44.

120 Application of amendments made by the Road Safety (Amendment) Act 2003

The amendments to section 87 of this Act made by Part 5 of the **Road Safety (Amendment) Act 2003** apply to offences alleged to have been committed before, on or after the commencement of that Part and irrespective of whether or not a charge was filed or a courtesy letter or infringement notice was served before that commencement.

New s. 121
inserted by
No. 49/2004
s. 17.

121 Transitional provision—Transport Legislation (Miscellaneous Amendments) Act 2004

- (1) Any reference to the Director, Melbourne City Link in any Act or in any proclamation, Order in Council, rule, regulation, order, agreement, instrument, deed or other document whatsoever is, so far as it relates to any period after the commencement of section 5 of the **Transport Legislation (Miscellaneous Amendments) Act**

2004 and if not inconsistent with the context or subject-matter, to be construed as a reference to the Roads Corporation.

- (2) The amendments of section 83 made by section 11 of the **Transport Legislation (Miscellaneous Amendments) Act 2004** applies to any infringement notice issued on or after the commencement of that section of that Act, irrespective of when the infringement was committed.
- (3) The amendments of section 87 made by section 12(1) to (4) of the **Transport Legislation (Miscellaneous Amendments) Act 2004** apply to offences alleged to have been committed before, on or after the commencement of section 12(1) to (4) of that Act and irrespective of whether or not a charge was filed or an infringement notice or courtesy letter was served before that commencement.

122 Transitional provision—Transport Legislation (Amendment) Act 2004

New s. 122
inserted by
No. 110/2004
s.16.

Section 87A inserted by section 13 of the **Transport Legislation (Amendment) Act 2004** applies to any infringement notice irrespective of whether or not it was issued before on or after the commencement of that section 13.

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

S. 123
inserted by
No. 81/2006
s. 29.

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

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

S. 124
inserted by
No. 14/2007
s. 7.

124 Transitional provisions—Road Legislation Amendment Act 2007

- (1) The amendments of section 87 of this Act made by section 6 of the **Road Legislation Amendment Act 2007** apply to offences alleged to have been committed before, on or after the commencement of that section of that Act and so apply irrespective of whether or not before that commencement—
- (a) a charge was filed; or
 - (b) a summons or infringement notice was served; or
 - (c) any step was taken in respect of the offence under the **Infringements Act 2006** or a corresponding previous enactment or under Schedule 2A to the **Children and Young Persons Act 1989**.
- (2) Without limiting section 14 of the **Interpretation of Legislation Act 1984**, nothing in subsection (1) affects any sworn statement or statutory declaration supplied (whether before, on or after the commencement of section 6 of the **Road Legislation Amendment Act 2007**) for the purpose of section 87 of this Act in relation to an offence alleged to have been committed before that commencement and such a statement or declaration has the same effect for that purpose as a statement made under that section as amended

by section 6 of the **Road Legislation
Amendment Act 2007**.

- (3) Nothing in subsection (2) affects any liability for the making of a sworn statement or statutory declaration that is false.
-

Melbourne City Link Act 1995
No. 107 of 1995

Sch. 1

SCHEDULES

Sch. 1
repealed by
No. 81/2000
s. 37(1).

* * * * *

SCHEDULE 2

UNIT TRUST

UNIT HOLDING RESTRICTION

Sch. 2
amended by
No. 21/1996
s. 8(a)(b)(i)(ii),
substituted by
No. 13/2002
s. 15(Sch.
Pt 1).

1.1 Definitions

- (a) In this Schedule, unless the contrary intention appears:
- (1) **Acquire** has the meaning ascribed to it by Divisions 1 and 7 of Part 1.2 of Chapter 1 of the Corporations Law in its form as at 20 October 1995;
 - (2) **Associate** has the meaning ascribed to it by Division 2 of Part 1.2 of Chapter 1 of the Corporations Law in its form as at 20 October 1995;
 - (3) **Entitled** has the meaning ascribed to it by section 609 of the Corporations Law in the form as at 20 October 1995;
 - (4) **Relevant interest** has the meaning ascribed to it by Divisions 1 and 5 of Part 1.2 of Chapter 1 of the Corporations Law in its form as at 20 October 1995,

in each case as if the relevant provisions of the Corporations Law also applied to units in a unit trust;

- (b) Despite anything in clause 1.1 of the Deed, **Substantial Holder** has the meaning ascribed to it in the Concession Deed between the State of Victoria, Transurban City Link Limited, Perpetual Trustee Company Limited and City Link Management Limited with effect from 20 October 1995 as amended up to and including the 15th Amending Deed.

1.2 Restrictions on Acquisition of Units

Except as provided by this Schedule, a person must not acquire, and is not eligible to acquire, Units in the Trust if:

- (a) any person who does not have a relevant interest in any Units or who has a relevant interest in less than 20% of the Units on Issue would immediately after the acquisition, have a relevant interest in 20% or more of the Units on Issue;
- (b) any person who has a relevant interest in 20% or more of the Units on Issue would immediately after the acquisition, have a relevant interest in a greater percentage of Units on Issue than immediately before the acquisition; or
- (c) any person who is entitled to less than 20% of the voting shares in Transurban City Link Limited or less than 20% of the units on issue in the Transurban City Link Unit Trust would, immediately after the acquisition, be entitled to 20% or more of the voting shares in Transurban City Link Limited or 20% or more of the units on issue in the Transurban City Link Unit Trust.

1.3 Exceptions

The restrictions contained in clause 1 do not apply to or in relation to an acquisition of Units to which the State has given its written consent.

1.4 Registration and Divestiture

- (a) No Unit may be issued or, in the case of a paper-based transfer, transferred if the issue or transfer would or might result in or have the effect of causing a contravention of clause 1.2.

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- (b) Where a person has acquired Units in the Trust in such circumstances as might or would result in or have the effect of causing a contravention of clause 1.2 or where the Trustee is aware of a contravention of clause 1.2 or that a person has become or remains a holder of a relevant interest in 20% or more of the Units on Issue or has become or remains a Substantial Holder without the State's prior written consent (*unauthorised holding*), the Trustee must, by notice in writing to the State advise the State of that fact within 7 days of becoming so aware.

If the Trustee chooses to apply, on behalf of the person having the unauthorised holding, to the State for the State's consent to the person becoming and/or remaining a holder of a relevant interest in 20% or more of the Units on Issue or a Substantial Holder it must do so in the same 7 day period.

If the State requires the Trustee to do so (irrespective of whether consent has been sought from the State), the Trustee must, as soon as practicable but no later than 7 days after advice from the State, by notice in writing to the person having an unauthorised holding, require that person to dispose of the Units held by it or any part thereof as soon as practicable but no later than 1 month after the end 7 days after receipt of the advice from the State or such longer period agreed between the Trustee and the State, in order to cease such contravention or unauthorised holding, provided that in the absence of any such requirement by the Trustee, the person concerned is not entitled in any way to set aside or cancel the transaction whereby the person acquired the Units, not to claim any refund or to otherwise recover any money paid in respect thereof.

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In so acting, the Trustee must consult with the directors of the Companies and, while the Units are quoted on the Official List, the Trustee must consult with the ASX, and shall have regard to, without being bound by, the recommendations of those persons.

- (c) If the requirements of any notice to dispose of the Units are not complied with by the person to whom the notice is addressed within the time specified in the notice, the Trustee must cause the Units to be sold on the ASX (or, if they are not Officially Quoted, in such manner as the Trustee may determine) as soon as practicable but no later than 3 months after the end of the 1 month period referred to in paragraph (b) above or such longer period agreed between the Trustee and the State.
 - (d) If the Units sold in accordance with clause 1.4(c) are registered on a branch register, the Trustee may cause such Units to be transmitted to the Register.
 - (e) The Trustee may:
 - (1) appoint a person to execute as transferor a transfer in respect of any Units sold in accordance with the provisions of clause 1.4(c) and to receive and give a good discharge of the purchase money; and
 - (2) register the transfer notwithstanding that proof of title of such Units may not have been delivered to the Trustee.
 - (f) The purchase money less the expenses of any sale made in accordance with the provisions of clause 1.4(c) must be paid to the Unit holder whose Units were sold provided such Unit holder has delivered to the Trustee such proof of title of the Units as the Trustee accepts.
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- (g) Nothing in clause 1.4 renders the Trustee liable or responsible by reason of any person acquiring Units in the Trust in contravention of clause 1.2 or failing to comply with the obligations imposed by clause 1.2.
- (h) The Trustee, before or at any time after issuing any Units or, in the case of a paper-based transfer, rejecting any transfer of Units or at any other time and from time to time, may, by notice in writing to the applicant or issuee or Unit Holder, require such person (or, where such person is a corporation, a competent officer thereof) to furnish to the Trustee such information or evidence (on oath or otherwise verified by law, if the Trustee should so require) as the Trustee may consider likely to be of assistance in determining whether or not such person is eligible to become or to remain a Unit Holder.

1.5 Employees and agents

In this Schedule, a person is, unless the contrary is proved, presumed to have been aware at a particular time of a fact or occurrence of which an employee or agent of the person having duties or acting on behalf of the employer or principal in connection with a matter to which the fact or occurrence relates was aware at the time.

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Sch. 3

Sch. 3
repealed by
No. 81/2000
s. 37(2).

* * * * *

Sch. 4
inserted by
No. 39/1997
s. 20,
amended by
Nos 50/1998
s. 39, 102/1998
s. 33,
repealed by
No. 81/2000
s. 37(3).

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Sch. 5
inserted by
No. 50/1998
s. 40,
repealed by
No. 81/2000
s. 37(4).

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Sch. 6
inserted by
No. 50/1998
s. 40,
repealed by
No. 81/2000
s. 37(5).

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Sch. 7
inserted by
No. 50/1998
s. 40,
repealed by
No. 81/2000
s. 37(6).

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SCHEDULE 8

Sch. 8
inserted by
No. 78/2001
s. 10.

FURTHER REVOCATION OF RESERVATIONS

Item 1

Situation and area of land	Alexandra Park, Parish of South Melbourne, City of Melbourne, County of Bourke, 4-6 acres
Instrument and date of reservation	Order in Council dated 5 August 1913
Description of land by reference to the Government Gazette	Government Gazette dated 13 August 1913, page 3532
Purpose of reservation	Public park for the recreation and amusement of His Majesty's subjects and people
Extent of revocation	Land shown hatched on the plan numbered LEGL./01-111 and lodged in the Central Plan Office

Item 2

Situation and area of land	City of Melbourne, Parish of Melbourne North, County of Bourke, 7 acres more or less
Instrument and date of reservation	Order in Council dated 22 April 1936
Description of land by reference to the Government Gazette	Government Gazette dated 29 April 1936, page 1052
Purpose of reservation	Public purposes
Extent of revocation	Land shown hatched on the plan numbered LEGL./01-113 and lodged in the Central Plan Office

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Sch. 9

Sch. 9
inserted by
No. 13/2002
s. 15(Sch.
Pt 2).

SCHEDULE 9

FURTHER REVOCATION OF RESERVATION

Item 1

Situation and area of land	Alexandra Park, Parish of South Melbourne, City of Melbourne, County of Bourke, 4.6 acres
Instrument and date of reservation	Order in Council dated 5 August 1913
Description of land by reference to the Government Gazette	Government Gazette dated 13 August 1913, page 3532
Purpose of reservation	Public park for the recreation and amusement of His Majesty's subjects and people
Extent of revocation	Land shown hatched on the plan numbered LEGL./02-016 and lodged in the Central Plan Office

Item 2

Situation and area of land	City of Melbourne, Parish of Melbourne, County of Bourke, 7 acres more or less
Instrument and date of reservation	Order in Council dated 22 April 1936
Description of land by reference to the Government Gazette	Government Gazette dated 29 April 1936, page 1052
Purpose of reservation	Public purposes
Extent of revocation	Land shown hatched on the plan numbered LEGL./02-017 and lodged in the Central Plan Office



ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 2 November 1995

Legislative Council: 28 November 1995

The long title for the Bill for this Act was "A Bill to ratify the Agreement for the Melbourne City Link Project, to make further provision for the Melbourne City Link Project, to amend the **Melbourne City Link Authority Act 1994** and certain other Acts and for other purposes."

Constitution Act 1975:

Section 85(5) statement:

Legislative Assembly: 2 November 1995

Legislative Council: 28 November 1995

Absolute majorities:

Legislative Assembly: 23 November 1995

Legislative Council: 30 November 1995

The **Melbourne City Link Act 1995** was assented to on 12 December 1995 and came into operation as follows:

Parts 1, 2 (sections 1–20), Schedules 1, 2 on 12 December 1995: section 2(1); sections 21–26, 28, 29, 31–68, 94–128 on 14.12.95: Special Gazette (No. 120) 14 December 1995 page 3; section 27, Schedule 3 on 4 April 1996: Special Gazette (No. 32) 2 April 1996 page 1; section 30 on 1 June 1996: Special Gazette (No. 58) 28 May 1996 page 1; sections 69–93 on 12 December 1996: section 2(3).

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Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Melbourne City Link Act 1995** by Acts and subordinate instruments.

Melbourne City Link (Amendment) Act 1996, No. 21/1996

Assent Date: 2.7.96
Commencement Date: 2.7.96: s. 2
Current State: All of Act in operation

Electricity Industry (Miscellaneous Amendment) Act 1997, No. 35/1997

Assent Date: 3.6.97
Commencement Date: S. 31(2) on 3.6.97: Special Gazette (No. 58) 3.6.97 p. 1
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Melbourne City Link (Further Amendment) Act 1997, No. 39/1997

Assent Date: 3.6.97
Commencement Date: Ss 1, 2 on 3.6.97: s. 2(1); ss 3, 4(3), 8, 10–12, 14(2), 15 on 12.6.97: Government Gazette 12.6.97 p. 1330; rest of Act on 26.6.97: Government Gazette 26.6.97 p. 1432
Current State: All of Act in operation

Gas Industry (Further Amendment) Act 1997, No. 91/1997

Assent Date: 9.12.97
Commencement Date: S. 47 on 11.12.97: Special Gazette (No. 155) 9.12.97 p. 1
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Rail Corporations (Amendment) Act 1997, No. 104/1997

Assent Date: 16.12.97
Commencement Date: S. 52 on 31.3.98: Special Gazette (No. 23) 31.3.98 p. 1
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Residential Tenancies Act 1997, No. 109/1997

Assent Date: 23.12.97
Commencement Date: S. 533(Sch. 2 item 8) on 1.7.98: Government Gazette 18.6.98 p. 1512
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

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 **Melbourne City Link Act 1995**

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Melbourne City Link (Exhibition Street Extension) Act 1998, No. 50/1998

Assent Date: 2.6.98
Commencement Date: 2.6.98
Current State: All of Act in operation

Road Safety (Amendment) Act 1998, No. 57/1998

Assent Date: 13.10.98
Commencement Date: S. 28(4) on 1.5.99: Government Gazette 18.3.99
p. 665
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

Transfer of Land (Single Register) Act 1998, No. 85/1998

Assent Date: 17.11.98
Commencement Date: S. 24(Sch. item 41) on 1.1.99: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

Local Government (Governance and Melton) Act 1998, No. 86/1998

Assent Date: 17.11.98
Commencement Date: S. 21 on 1.7.99: Government Gazette 17.6.99 p. 1406
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

Melbourne City Link (Amendment) Act 1998, No. 102/1998

Assent Date: 1.12.98
Commencement Date: Ss 4–17, 18(1)(3)(4)(6), 19–33 on 1.12.98: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

Rail Corporations and Transport Acts (Amendment) Act 1999, No. 45/1999

Assent Date: 8.6.99
Commencement Date: S. 48 on 8.6.99: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

Melbourne City Link (Amendment) Act 2000, No. 4/2000

Assent Date: 28.3.00
Commencement Date: 29.3.00 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. 59 on 1.1.01: s. 2(4)
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

Statute Law Revision Act 2000, No. 74/2000

Assent Date: 21.11.00
Commencement Date: S. 3(Sch. 1 item 80) on 1.12.98: s. 2(2)(q)
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

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Melbourne City Link (Miscellaneous Amendments) Act 2000, No. 81/2000
(as amended by No. 54/2001)

Assent Date: 28.11.00
Commencement Date: Ss 4(6), 7, 11, 20, 21, 24, 25, 28, 35 on 6.12.00: Special Gazette (No. 183) 5.12.00 p. 15; ss 4(2), 14, 22, 23, 33, 34 on 1.3.02: Special Gazette (No. 37) 26.2.02 p. 1; ss 3, 4(1)(3)–(5), 5, 6, 8–10, 12, 13, 15–19, 26, 27, 29–32, 36, 37 on 31.12.02: s. 2(3)
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Gas Industry Legislation (Miscellaneous Amendments) Act 2001, No. 32/2001

Assent Date: 19.6.01
Commencement Date: S. 36 on 1.9.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Transport (Further Amendment) Act 2001, No. 54/2001

Assent Date: 2.10.01
Commencement Date: Ss 45, 46 on 31.12.01: Special Gazette (No. 226) 11.12.01 p. 2
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Melbourne City Link (Further Amendment) Act 2001, No. 78/2001

Assent Date: 27.11.01
Commencement Date: 1.1.02: Special Gazette (No. 226) 11.12.01 p. 2
Current State: All of Act in operation

Road Safety (Further Amendment) Act 2001, No. 92/2001

Assent Date: 11.12.01
Commencement Date: S. 32 on 21.12.01: Government Gazette 13.12.01 p. 3061
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Melbourne City Link (Further Miscellaneous Amendments) Act 2002, No. 13/2002 (as amended by No. 32/2002)

Assent Date: 30.4.02
Commencement Date: Ss 3–11, 13–15, Sch. on 1.6.02: Special Gazette (No. 89) 28.5.02 p. 1; s. 12 on 25.6.02: Special Gazette (No. 111) 25.6.02 p. 1
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Victorian Urban Development Authority Act 2003, No. 59/2003

Assent Date: 16.6.03
Commencement Date: S. 121 on 1.8.03: Government Gazette 31.7.03 p. 2125
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

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Road Safety (Amendment) Act 2003, No. 94/2003

Assent Date: 25.11.03
Commencement Date: Ss 42–44 on 26.11.03: s. 2(1)
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Road Management Act 2004, No. 12/2004

Assent Date: 11.5.04
Commencement Date: S. 162 on 1.7.04: s. 2(2)
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Transport Legislation (Miscellaneous Amendments) Act 2004, No. 49/2004

Assent Date: 16.6.04
Commencement Date: Ss 4–8, 11, 12(1)–(4), 13–17 on 17.6.04: s. 2(1); ss 9, 10, 12(5)(6) on 4.1.05: s. 2(4)
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 128) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Transport Legislation (Amendment) Act 2004, No. 110/2004

Assent Date: 21.12.04
Commencement Date: Ss 4–7, 14 on 22.12.04: s. 2(1); ss 12, 13, 16 on 1.2.05: s. 2(4); ss 8–11, 15 on 1.7.05: s. 2(3)
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Children and Young Persons (Miscellaneous Amendments) Act 2005, No. 21/2005 (as amended by No. 24/2005)

Assent Date: 31.5.05
Commencement Date: S. 58 on 1.7.05: s. 2(6)
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Road Safety (Further Amendment) Act 2005, No. 24/2005

Assent Date: 31.5.05
Commencement Date: Ss 22, 23 on 1.6.05: s. 2(1)
Current State: This information relates only to the provision/s amending the **Melbourne City Link Act 1995**

Pipelines Act 2005, No. 61/2005

Assent Date: 20.9.05
Commencement Date: S. 218 on 1.4.07: Government Gazette 29.3.07 p. 532
Current State: This information only relates to the provision/s amending the **Melbourne City Link Act 1995**

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**Transport Legislation (Further Miscellaneous Amendments) Act 2005,
No. 95/2005**

Assent Date: 29.11.05
Commencement Date: S. 3 on 30.11.05: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: Ss 84, 85 on 1.7.06: Government Gazette 29.6.06
p. 1315
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

**Children, Youth and Families (Consequential and Other Amendments) Act 2006,
No. 48/2006**

Assent Date: 15.8.06
Commencement Date: S. 38 on 1.9.06: s. 2(2); s. 42(Sch. item 26) on 23.4.07:
s. 2(3)
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

**Mineral Resources Development (Sustainable Development) Act 2006,
No. 63/2006**

Assent Date: 29.8.06
Commencement Date: S. 61(Sch. item 21) on 30.8.06: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

City of Melbourne and Docklands Acts (Governance) Act 2006, No. 74/2006

Assent Date: 10.10.06
Commencement Date: S. 26 on 1.7.07: Government Gazette 28.6.07 p. 1303
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

Road Legislation (Projects and Road Safety) Act 2006, No. 81/2006

Assent Date: 10.10.06
Commencement Date: Ss 27(1), 66–75 on 11.10.06: s. 2(1); ss 27(2)–29 on
1.7.07: s. 2(4)
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

Water (Governance) Act 2006, No. 85/2006

Assent Date: 17.10.06
Commencement Date: S. 173(Sch. 1 item 5) on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

Road Legislation Amendment Act 2007, No. 14/2007

Assent Date: 8.5.07
Commencement Date: Ss 6(1)–(7), 7, 17 on 9.5.07: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

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Infringements and Other Acts Amendment Act 2008, No. 9/2008

Assent Date: 18.3.08

Commencement Date: S. 42 on 1.7.08: Special Gazette (No. 172) 27.6.08 p. 1

Current State: This information relates only to the provision/s
amending the **Melbourne City Link Act 1995**

3. Explanatory Details

¹ S. 3 def. of *the Agreement*: For a comprehensive list of the Exhibits which form part of the Agreement for the Melbourne City Link Project see explanatory details at the end of the "Agreement for the Melbourne City Link".

² S. 15: The Agreement for the Melbourne City Link Project has been varied by further agreements between the parties in accordance with section 15(1) of the Act. For a comprehensive list of the amending agreements see explanatory details at the end of the "Agreement for the Melbourne City Link".

³ S. 15: The Agreement for the Melbourne City Link Project has been varied in accordance with the terms of the Agreement and section 15(1A) of the Act. For a comprehensive list of the Statements of Variation see explanatory details at the end of the "Agreement for the Melbourne City Link".

⁴ S. 15: Section 4(4) of the **Melbourne City Link (Amendment) Act 1996**, No. 21/1996 reads as follows:

4 Variation of the Agreement

- (4) An agreement in writing purporting to be an agreement referred to in section 15 of the **Melbourne City Link Act 1995** that is laid before each House of the Parliament before 1 June 1996 is deemed to be an agreement in writing between the parties to the Agreement within the meaning of that Act as in force before that date, whether or not all those parties are parties to the agreement in writing.

⁵ S. 15B: The Agreement for Integrating and Facilitating the Project and the Exhibition Street Extension Project has been varied by further agreements of the parties in accordance with section 15B(1) of the Act. For a comprehensive list of the amending agreements see explanatory details at the end of the "Agreement for Integrating and Facilitating the Project and the Exhibition Street Extension Project".

⁶ S. 15B: The Agreement for Integrating and Facilitating the Project and the Exhibition Street Extension Project has been varied in accordance with the terms of the Integration and Facilitation Agreement and section 15B(2) of the Act. For a comprehensive list of the Statements of Variation see explanatory details at the end of the "Agreement for Integrating and Facilitating the Project and the Exhibition Street Extension Project".

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⁷ S. 15D: The Agreement for the Exhibition Street Extension Project has been varied by further agreements between the parties in accordance with section 15D(1) of the Act. For a comprehensive list of the amending agreements see explanatory details at the end of the "Agreement for the Exhibition Street Extension Project".

⁸ S. 15D: The Agreement for the Exhibition Street Extension Project has been varied in accordance with the terms of the Extension Agreement and section 15D(2) of the Act. For a comprehensive list of the Statements of Variation see explanatory details at the end of the "Agreement for the Exhibition Street Extension Project".