

# Transport (Amendment) Bill (No. 2)

No.

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# LEGISLATIVE ASSEMBLY

Read 1° 29 October 1986

*(Brought in by Mr Roper and Mr Fordham)*

(No. 2)

## A BILL

to amend the *Transport Act* 1983 and for other purposes.

### **Transport (Amendment) Act 1986**

The Parliament of Victoria enacts as follows:

#### PART 1—PRELIMINARY

##### **Purpose.**

- 5 1. The purpose of this Act is to generally amend the *Transport Act* 1983 and, in particular, to—
- (a) abolish the Victoria Transport Borrowing Agency; and
  - (b) improve the regulation of commercial passenger vehicles and tow trucks; and
  - 10 (c) introduce an additional method of granting taxi-cab licences; and
  - (d) strengthen enforcement provisions relating to offences occurring on railway property.

No. 9921  
amended by No.  
9984, 10049,  
10085, 10087,  
10159, 10178,  
10085, 10087,  
10189, 10220,  
10249 and 16/86

**Commencement.**

2. (1) This Act (other than sections 5 and 42 (b)) comes into operation on a day or days to be proclaimed.

(2) Sections 5 and 42 (b) are deemed to have come into operation on 23 June 1983.

5

**PART 2—GENERAL AMENDMENTS****Abolition of the Victoria Transport Borrowing Agency.**

3. (1) In this section—

“**Agency**” means the Victorian Public Authorities Finance Agency.

10

“**appointed day**” means the date of the commencement of this section.

“**former Agency**” means the Victoria Transport Borrowing Agency.

(2) On the appointed day the former Agency is abolished and the Agency becomes the successor in law to the former Agency.

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(3) Without affecting the generality of sub-section (2), on the appointed day—

(a) all rights and assets that, immediately before the appointed day, were vested in the former Agency, vest in the Agency; and

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(b) all duties, liabilities and obligations of the former Agency existing immediately before the appointed day become duties, liabilities and obligations of the Agency; and

(c) the Agency is substituted as a party to any proceedings pending in any court to which the former Agency was a party immediately before the appointed day; and

25

(d) the Agency is substituted as a party to any contract or arrangement entered into by or on behalf of the former Agency as a party and in force immediately before the appointed day; and

30

(e) any reference, express or implied, to the former Agency or to the Chairman of the former Agency in any Act, proclamation, Order in Council, rule, regulation, order, agreement, instrument, deed, certificate of title, mortgage, guarantee or other document so far as it relates to any period after the appointed day is to be construed as a reference to the Agency or the Chairman of the Agency respectively, unless the contrary intention appears; and

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(f) the members of the former Agency cease to hold office.

40

(4) Any guarantee in respect of any duty, liability or obligation of the former Agency existing immediately before the appointed day remains in full force and effect notwithstanding the transfer of the duty, liability or obligation to the Agency.

5 (5) The transfer of any duty, liability or obligation from the former Agency to the Agency does not constitute an event of default under any agreement involving the borrowing of money or the obtaining of financial accommodation.

10 (6) The Agency must cause to be prepared a statement of accounts of the former Agency for the period from 1 July, 1986 to the day prior to the appointed day.

15 (7) The statement of accounts prepared under sub-section (6) must comply with sections 14 (2), (3) and (4) of the *Victorian Public Authorities Finance Act 1984* and must accompany the next statement of accounts submitted by the Agency to the Treasurer under section 14 (5) of that Act.

20 (8) Notwithstanding anything in the *Transport Act 1983*, on the appointed day all Victoria Transport Bonds and all Victoria Transport Inscribed Stock are cancelled and all indebtedness under those securities is extinguished.

(9) This cancellation does not constitute an event on which money secured by the securities becomes payable.

25 (10) Notwithstanding anything in the *Transport Act 1983* or in the *Victorian Public Authorities Finance Act 1984*, a person who holds a security cancelled by sub-section (8)—

(a) is entitled to be issued by the Agency with a replacement security under section 20 of the *Victorian Public Authorities Finance Act 1984*—

30 (i) having the same maturity date; and  
(ii) bearing the same principal sum; and  
(iii) bearing the same rate of interest payable on the same dates—

as the cancelled security; and

35 (b) has the same rights and benefits pending the issue of the replacement security as the person would have if the new security had been issued.

(11) An associated Authority under the *Transport Act 1983* must pay to the Agency—

40 (a) all sums that the Agency requires to meet payments of principal and interest on replacement securities issued by the Agency; and

(b) any sum determined by the Agency to defray any costs and expenses incurred by the Agency in issuing replacement securities.

(12) The due payment by an associated Authority of all sums referred to in sub-section (11) to the Agency is guaranteed by the Government of Victoria.

(13) Any sums required by the Treasurer to fulfil this guarantee are to be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly) and any sums received or recovered by the Treasurer in respect of any sum so paid by the Treasurer are to be paid into the Consolidated Fund. 5

(14) On the appointed day, any indebtedness of the State Transport Authority, the Metropolitan Transit Authority, the Road Traffic Authority or the Road Construction Authority to the Government of Victoria, the former Agency or the Agency for money borrowed, or financial accommodation obtained, by the Authority is extinguished. 10

(15) The amount of the debts of each Authority extinguished by sub-section (14) is deemed to represent equity held by the Government of Victoria in each Authority. 15

(16) Upon the Agency assuming all the rights, duties, liabilities and obligations of the State Transport Authority, the Metropolitan Transit Authority, the Road Traffic Authority or the Road Construction Authority under any lease, loan or other transaction under which financial accommodation was provided to the Authority, the amount of any indebtedness assumed is deemed to represent equity held by the Government of Victoria in the Authority. 20

(17) In section 52 of the *Transport Act* 1983—

(a) in sub-section (1), for “Metropolitan Transit Authority” substitute “Victorian Public Authorities Finance Agency”; 25

(b) in sub-section (2)—

(i) after paragraph (a), insert “or assumed by the Victorian Public Authorities Finance Agency or principal money borrowed or financial accommodation obtained by the Agency to refinance the repayment”; 30

(ii) after paragraph (b), insert “or financial accommodation obtained”;

(iii) in paragraph (c), after “Authority” insert “or the Victorian Public Authorities Finance Agency” and after “advanced” insert “or financial accommodation obtained”; 35

(c) in sub-section (3), for “Metropolitan Transit Authority” (wherever occurring) substitute “Victorian Public Authorities Finance Agency”. 40

(18) In section 53 of the *Transport Act* 1983, for “Metropolitan Transit Authority” substitute “Victorian Public Authorities Finance Agency”.

(19) For sections 76 (1) and (2) of the *Transport Act* 1983, substitute—

5 “(1) An Authority may, with the approval of the Treasurer, obtain financial accommodation for a period not exceeding 12 months by way of overdraft of account at any bank or other financial institution in Australia.

(2) An Authority may, with the approval of the Treasurer, deposit money with, and borrow money from, the Cash Management Account established by section 7 of the *Public Account Act* 1958.”.

10 (20) After section 81 of the *Transport Act* 1983, insert—

**Disposal of assets in exchange for lease.**

15 “81A. An Authority may, with the approval of the Treasurer and the Minister, dispose of any real or personal property under an arrangement by which the Authority is to take a lease of the property disposed of or of any other real or personal property.”

(21) Section 6 of the *Transport (Borrowing Agency) Act* 1983 is repealed.

(22) The provisions of the *Transport Act* 1983 listed in the Schedule are repealed or amended as specified.

20 **Clarification of voting entitlement.**

4. In section 2 (1) of the *Transport Act* 1983, in the definition of “Officer”, after “Transport or” insert “in or by”.

**Clarification of rights of union officers re-entering Authority.**

25 5. In section 24 (1) of the *Transport Act* 1983, for all words after “may be)” substitute—

“(a) in a position corresponding with or higher than that held in the Authority or the former Authority immediately before the appointment to the union or association; and

30 (b) as if the whole period of service in the union or association had been service with the Authority or the former Authority.”.

**Authorities not to be responsible for surplus land disposed of in any way.**

35 6. In section 47 (6) of the *Transport Act* 1983, for “sale of” substitute “State Transport Authority or the Metropolitan Transit Authority divesting itself, or being divested, of its interest in”.

**Power to regulate alteration of tickets and to regulate dangerous activities on West Gate Bridge.**

7. In section 56 of the *Transport Act* 1983—

(a) in sub-section (1) (o), after “counterfeiting” insert “or alteration”;

5

(b) after sub-section (2) (y), insert—

(ya) prohibiting or regulating jumping or rappelling from or on to the West Gate Bridge by any means.”.

**Scope for ministerial determinations widened.**

8. In the *Transport Act* 1983, in sections 89, 120 (3) (a), 143 (3), 173 (1), 189 (2) and 201 (c) omit “of policy” (wherever occurring).

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**Amendment to the operation of the Road Transport Licensing Tribunal.**

9. For section 127 (1) of the *Transport Act* 1983, substitute—

“(1) Where a question of law arises in an application to, or proceedings before, the Tribunal, the Tribunal may reserve the question in the form of a special case stated for the opinion of the Supreme Court.”.

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**PART 3—COMMERCIAL PASSENGER VEHICLES**

**Application fees for commercial passenger vehicle licences.**

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10. In section 140 of the *Transport Act* 1983—

(a) after “140.” insert “(1)”;

(b) at the end of the section insert—

“(2) An application for a commercial passenger vehicle licence must be accompanied by the appropriate application fee determined under section 147B.”.

25

**Amendment to method of hearing objections.**

11. In section 142 of the *Transport Act* 1983—

(a) in sub-section (2), for “14” substitute “28”;

(b) in sub-section (3)—

30

(i) after “an application” insert “or any person on behalf of an unincorporated association interested in an application”;

(ii) for “14” substitute “28”;

(iii) for “he” (wherever occurring) substitute “the person”;

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(c) in sub-section (5), for “has objected to” substitute “is interested in”;



(d) after sub-section (6), insert—

“(7) If all objections to the granting of an application are withdrawn, the Tribunal must refer the application to the Authority for determination.”.

**5 Insertion of sections 143A and 143B into the *Transport Act 1983*.**

**12.** (1) After section 143 of the *Transport Act 1983*, insert—

**Power to make Orders for the granting of taxi-cab licences in taxi-cab zones.**

10 “143A. (1) The Governor in Council may, by Order published in the *Government Gazette*—

(a) proclaim an area or areas as a taxi-cab zone or zones;

(b) fix the maximum number of additional taxi-cab licences that may be granted by the Authority in respect of a proclaimed taxi-cab zone over a specified period of time;

15 (c) specify the method to be adopted for granting licences under this section, including whether licence fees are to be determined by tender or are to be a fixed price;

20 (d) specify the classes of people and the qualifications of people eligible to apply and the procedures to be followed for the granting of licences under this section;

(e) specify the particulars that must be included in an application for a licence under this section;

(f) specify the date by which applications for licences under this section must be lodged with the Authority;

25 (g) provide that all applications for taxi-cab licences to operate in a proclaimed zone made before a specified time are to lapse.

(2) Subject to an Order, on the application of—

(a) the owner; or

30 (b) a person who intends to become the owner—

of a taxi-cab, the Authority may grant the owner or intending owner a licence to operate a taxi-cab.

(3) If an Order specifies that a fixed price method be adopted for granting licences, the Order must also specify the price.

35 (4) A fee must be paid for a licence to operate a taxi-cab under this section.

(5) If the fixed price method is adopted for granting licences, the fixed price is the licence fee payable.

40 (6) If the tender method is adopted for granting licences, the amount specified in the tender is the licence fee payable.

(7) An application for a licence under this section must be accompanied by—

- (a) any particular required by the Order; and
- (b) the appropriate application fee determined under section 147B.

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(8) The Authority may grant taxi-cab licences to applicants under this section at any time within one year of the closing date for applications.

(9) On granting a licence, the Authority may give to the licence holder a certificate evidencing the grant of the licence.

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(10) The Authority may allow a licence fee to be paid by instalments and may issue a certificate evidencing the grant of the licence on the payment of the first instalment.

(11) The Authority may suspend or cancel a licence if an instalment is not paid by the due date.

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(12) Sections 140, 141, 142 and 143 (1) do not apply to the application for, and the granting of, licences under this section.”.

**Sections not applicable to taxi-cabs.**

“143B. Sections 147 (1), 148 and 155 do not apply to taxi-cabs or taxi-cab licences.”.

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**Licences to be used within 90 days of grant and offence not to keep commercial passenger vehicle in safe condition.**

13. After section 144 (1) of the *Transport Act* 1983, insert—  
“; and

- (d) that if the licence holder does not commence to operate a commercial passenger vehicle service within 90 days of being sent notice by the Authority that it has granted the licence, the Authority may cancel the licence.

25

(1A) A person who breaches the licence condition implied by sub-section (1) (a) is guilty of an offence.

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Penalty: 10 penalty units for a first offence;  
20 penalty units for a subsequent offence.

(1B) The Authority may cancel a licence if the licence condition implied by sub-section (1) (d) is breached.”.

**Power to Authority to change licence.**

14. In section 145 of the *Transport Act* 1983, after “granted” insert “and may at any time during the currency of a licence change the classification of a vehicle and the type of licence”.

**5 Changes to procedures for dealing with cancellation and alteration of licences.**

15. In section 146 of the *Transport Act* 1983—

- 10 (a) in sub-section (1), for “owner of the vehicle in respect of which that licence was granted” (wherever occurring) substitute “licence holder”;
- (b) in sub-section (3), for “14” substitute “28”;
- (c) in sub-section (4)—
- 15 (i) after “an application” insert “or any person on behalf of an unincorporated association interested in an application”;
- (ii) for “14” substitute “28”;
- (iii) for “he” (wherever occurring) substitute “the person”;
- (d) in sub-section (6), for “has objected to” substitute “is interested in”;
- 20 (e) after sub-section (7), insert—
- “(8) If all objections to a proposal or application are withdrawn, the Tribunal must refer the proposal or application to the Authority for determination.”.

**Insertion of sections 146A and 146B into the *Transport Act* 1983.**

25 16. After section 146 of the *Transport Act* 1983, insert—

**Power to vary taxi-cab licences.**

“146A. Section 146 (other than sub-section (1)) does not apply if the Authority exercises its powers under section 146 (1) in respect of a taxi-cab licence, regardless of when the licence was granted.”.

**30 Power to vary public commercial passenger vehicle licence.**

35 “146B. Upon the application of the holder of a commercial passenger vehicle licence in respect of a vehicle which operates as a public commercial passenger vehicle, the Authority may vary any licence condition except a condition relating to routes or school contract operations.”.

**Insertion of sections 147A and 147B into the *Transport Act 1983*.**

17. After section 147 of the *Transport Act 1983*, insert—

**Annual licence fees.**

“147A. (1) The holder of a commercial passenger vehicle licence must pay the appropriate annual licence fee determined under section 147B in respect of every commercial passenger vehicle for which the holder has a licence. 5

(2) Sub-section (1) does not apply to vehicles licensed to operate solely as public commercial passenger vehicles.

(3) The Authority may suspend or cancel a commercial passenger vehicle licence if the holder of the licence fails to pay the annual licence fee or an inspection fee.” 10

**Setting of fees.**

“147B. (1) The Authority may determine—

(a) the fees payable under sections 140 (2), 143A (7) (b), 147A (1), 149 (1A) (b) and 164 (1A); and 15

(b) fees to be paid for inspections of commercial passenger vehicles.

(2) The Authority must obtain the approval of the Minister for any fee determined by the Authority. 20

(3) Fees take effect upon publication in the *Government Gazette* or upon any later date specified in a notice accompanying the publication of the fees in the *Government Gazette*.”

**Changes to transfer of licence provisions.**

18. (1) In section 149 of the *Transport Act 1983*— 25

(a) after sub-section (1), insert—

“(1A) The application must be accompanied by—

(a) a copy of the transfer agreement signed by the applicant and the intended transferee; and

(b) the appropriate application fee determined under section 147B.”; 30

(b) in sub-section (2), for all words after “unless” substitute—

“(a) the applicant has obtained the approval of the appropriate Authority; and

(b) the Authority is satisfied that the transfer is in the general interests of the public.”; 35

(c) after sub-section (3) (b), insert—

“; or

(c) where the licence is subject to a condition that it must not be transferred for a specified time after it is issued, that there are special circumstances warranting the transfer within the period of time covered by the condition.”;

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(d) for sub-sections (4) and (5) substitute—

“(4) Where the Authority has authorized the transfer of a licence, the licence must be transferred by the Authority upon it receiving a transfer—

10

(a) in the prescribed form;

(b) containing the prescribed particulars; and

(c) executed by the transferor and transferee.”.

(2) Schedule 6 of the *Transport Act* 1983 is repealed.

**Amendment to grounds for revocation or suspension of licence.**

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19. In section 157 (1) of the *Transport Act* 1983—

(a) before “applicable” insert “or the regulations made under those Acts”;

(b) before “, the licence” (where last occurring) insert “or the regulations”.

20

**Amendment to powers to regulate commercial passenger vehicles.**

20. In section 162 (1) of the *Transport Act* 1983—

(a) after paragraph (a), insert—

25

“(aa) empowering an officer of the Authority to exempt particular commercial passenger vehicles or classes of those vehicles from any of the provisions made under paragraph (a);”;

(b) after paragraph (c), insert—

“(ca) appointing stands and feeder ranks for commercial passenger vehicles;”;

30

(c) in paragraph (g), after “class” insert “(including motor vehicles operating under a special licence under section 155)”;

(d) after paragraph (g), insert—

35

“(ga) prohibiting or regulating the use of commercial passenger vehicles in hazardous areas;”;

(e) after paragraph (i), insert—

“(ia) specifying, in relation to the granting of taxi-cab licences under section 143A—

40

(i) the classes of people and the qualifications of people eligible to apply for licences; and

- (ii) the procedures to be followed for the granting of licences;”;
- (f) in paragraph (m), omit all words after “licences”;
- (g) after paragraph (o), insert—  
 “(oa) prohibiting or regulating smoking in vehicles;”.

5

#### **Fees for grant or renewal of private omnibus licences.**

21. After section 164 (1) of the *Transport Act* 1983, insert—

“(1A) An application for the grant or renewal of a private omnibus licence must be accompanied by the appropriate application fee determined under section 147B.”.

10

#### **PART 4—TOW TRUCKS**

#### **Amendment of definition of “damaged motor car”.**

22. In section 86 (1) of the *Transport Act* 1983, in the definition of “Damaged motor vehicle”, after “vehicle damaged” insert “or disabled”.

15

#### **Towing provisions not to apply to automotive wreckers.**

23. For section 171 (2) of the *Transport Act* 1983, substitute—

“(2) A motor vehicle only operates as a tow truck for the purposes of this Division if it lifts and carries or tows a motor vehicle—

- (a) for hire or reward or for any consideration; or
- (b) in the course of any trade or business other than automotive wrecking; or
- (c) from the scene of an accident in the course of the trade or business of automotive wrecking.”.

20

#### **Changes to procedures for dealing with objections to applications for licences.**

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24. In section 172 of the *Transport Act* 1983—

- (a) in sub-section (2), for “14” substitute “28”;
- (b) in sub-section (3)—
  - (i) after “an application” insert “or any person on behalf of an unincorporated association interested in an application”;
  - (ii) for “14” substitute “28”;
  - (iii) for “he” (wherever occurring) substitute “the person”;
- (c) in sub-section (5), for “has objected to” substitute “is interested in”;

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35

(d) after sub-section (6), insert—

“(7) If all objections to an application are withdrawn, the Tribunal must refer the application to the Authority for determination.”.

**5 Insertion of power to issue temporary licences and permits.**

25. (1) After section 174 (2) of the *Transport Act* 1983 insert—

“(3) The Authority may grant a tow truck licence for a period less than that specified in sub-section (1) if the licence is granted temporarily for a particular purpose of limited duration.”.

10 (2) After section 174A of the *Transport Act* 1983 insert—

**Temporary permit.**

15 “174B. (1) The Authority, or any person authorized in that behalf by the Authority in writing (whether generally or in any particular case), may grant to the holder of a tow truck licence a permit authorizing the holder to temporarily operate a tow truck in any manner not specified in the licence or contrary to any manner specified in the licence.

(2) A prescribed fee must be paid for each permit granted under sub-section (1).”.

**20 Licences to be used within 90 days.**

26. After section 175 (1) (i) of the *Transport Act* 1983, insert—

“; and

25 (j) that if the licence holder does not commence to operate a tow truck service within 90 days of being sent notice by the Authority that it has granted the licence, the Authority may cancel the licence.

(1A) The Authority may cancel a licence if the licence condition implied by sub-section (1) (j) is breached.”.

**Cost of unauthorized quotes not recoverable.**

30 27. (1) For section 176 (2) of the *Transport Act* 1983, substitute—

“(2) A person cannot sue for or recover any sum or charge for—

(a) commencing or carrying out any unauthorized repair work referred to in sub-section (1); or

35 (b) preparing, without the approval in writing of the owner of the motor vehicle or the owner’s authorized agent, any quotation to repair a damaged motor vehicle.

(3) If any sum or charge referred to in sub-section (2) is recovered, the person on whose behalf it is recovered is guilty of an offence against this Division unless the person repays it forthwith.”

(2) In section 177 of the *Transport Act* 1983, after “motor vehicle” (where first occurring) insert “or for the preparation of a quotation to repair a damaged motor vehicle”. 5

**Court to be able to order repayment of excessive charges.**

28. After section 178 (2) of the *Transport Act* 1983, insert—

“(3) If a court finds a charge against a person under sub-section (2) proved, the court may order that person to refund any sum paid in excess of the sums described in sub-section (2).” 10

**Grounds for revocation or suspension of licences widened.**

29. In section 181 (1) of the *Transport Act* 1983—

(a) after “or certificate” insert “or the provisions of this Act or the *Road Safety Act* 1986 or the regulations made under those Acts”; 15

(b) after “breach of the conditions” insert “or the provisions of this Act or the *Road Safety Act* 1986 or the regulations”.

**Insertion of section 183A and increase in penalties.**

30. (1) After section 183 of the *Transport Act* 1983, insert— 20

**Offence to attend accident without authorization.**

“183A. A tow truck driver who, and the owner of any tow truck whose driver, without first having obtained authorization from, and been given a job number by, the Allocation Centre—

(a) attends the scene of an accident in order to tow or offer to tow a damaged motor vehicle; 25

(b) tows a damaged motor vehicle from the scene of an accident; or

(c) attempts to obtain an authority to tow a damaged motor vehicle from the scene of an accident— 30

within a controlled area is guilty of an offence against this Division.”.

(2) In section 184 (1) of the *Transport Act* 1983—

(a) in paragraph (a), for “2” substitute “10”;

(b) in paragraph (b), for “1 penalty unit” substitute “4 penalty units” and for “not more than 4” substitute “not more than 15”; 35

(c) in paragraph (c), for “2” substitute “8” and for “not more than 8” substitute “not more than 20”.



(3) After section 184 (2) of the *Transport Act* 1983, insert—

“(2A) If an owner or driver is convicted of an offence under section 183A, in addition to the penalties specified in sub-section (1), the court may—

- 5           (a) in the case of a second offence, suspend for 3 months;  
            (b) in the case of a third or subsequent offence, revoke—  
any tow truck licence or driver’s certificate held by the owner or driver.”.

(4) In section 185 (2) (c) of the *Transport Act* 1983, for “8” substitute “30”.

## 10 **Amendment to method of fixing tow truck charges.**

31. (1) After section 184 of the *Transport Act* 1983, insert—

### **Fixing of tow truck charges.**

15 “184A. (1) The Authority may determine the amounts that may be charged by operators of tow trucks for the towing and storage of damaged motor vehicles.

(2) Before making a determination under sub-section (1), the Authority—

- 20           (a) must publish a notice in a newspaper widely circulating throughout Victoria stating that the Authority intends to make a determination under sub-section (1) and calling for submissions from the public by a day not less than 21 days after the day the notice is published; and  
            (b) must consider all submissions received on or before the closing date for submissions.

25 (3) A determination made under sub-section (1) takes effect upon it being published in the *Government Gazette* or upon any later date specified in a notice accompanying the publication of the determination in the *Government Gazette*.”.

(2) In section 175 (1) (e) of the *Transport Act* 1983—

- 30           (a) for “prescribed charges” substitute “charges determined under section 184A”;  
            (b) for “are prescribed” substitute “are determined”.

(3) In section 178 (2) of the *Transport Act* 1983—

- 35           (a) for “prescribed sum” substitute “sum determined under section 184A”;  
            (b) for “is prescribed” substitute “are determined”.

(4) Section 185 (1) (a) (vi) of the *Transport Act* 1983 is repealed.

**Amendment to regulation-making powers.**

32. In section 185 (1) of the *Transport Act 1983*—

(a) in paragraph (a) (v), omit “for the purpose of towing or offering to tow a damaged motor vehicle”;

(b) in paragraph (a) (viii), omit “and”;

(c) after paragraph (a) (ix), insert—

“; and

(x) providing for the suspension of the operators of tow trucks from the Accident Allocation Roster for offences against the Allocation Scheme;”;

(d) after paragraph (d), insert—

“(da) prescribing fees for applications for tow truck licences and drivers’ certificates;”;

(e) after paragraph (e), insert—

“(ea) prescribing the fees not exceeding \$200 to be paid for temporary permits;”.

**PART 5—ENFORCEMENT PROVISIONS****Amendments to powers of officers.**

33. In section 218 of the *Transport Act 1983*—

(a) for sub-section (1) (b), substitute—

“(b) “authorized officer”, in relation to an Authority, means an officer of the Authority appointed in writing by the Authority either—

(i) generally;

(ii) for a particular case;

(iii) for particular areas of land; or

(iv) for particular types of premises—

for the purposes of this section.’;

(b) for sub-section (2) (a), substitute—

“(a) stop any vehicle or person on any land or premises owned or occupied by the Authority if the authorized officer believes, on reasonable grounds, that the vehicle or person may be involved in an offence against this Act or the regulations made under this Act;”;

(c) in section (2) (c), for “examination.” substitute “examination;”;

(d) after sub-section (2) (c), insert—

“(d) take and impound any goods or property found on the inspection, search or examination which the authorized officer suspects, on reasonable grounds, of having been stolen or unlawfully obtained from the Authority or

from any land or premises owned or occupied by the Authority.”;

(e) in sub-section (3), after “person who” insert “, being the driver or person in charge of a vehicle, or being a person, found in the circumstances described in sub-section (2) (a) -”;

(f) for sub-section (3) (a), substitute—

“(a) refuses or fails to stop when directed to do so by an authorized officer;”

(g) in sub-section (3) (d), omit “or” (where last occurring);

(h) after sub-section (3) (d), insert—

“(da) refuses to hand over any goods or property requested by an authorized officer exercising power under sub-section (2) (d); or”;

(i) after sub-section (3), insert—

#### **False reports to authorized officer.**

“218A. (1) In this section, “authorized officer” has the same meaning as in section 218.

(2) A person must not give information to an authorized officer concerning any matter within the jurisdiction of the authorized officer that the person knows or believes is false.

Penalty: 5 penalty units.”.

#### **Amendment to powers of arrest.**

34. In section 219 of the *Transport Act* 1983—

(a) after “219.” insert “(1)”;

(b) for all words after “regulations” substitute—

“ and must—

(a) give the person into the charge of an officer authorized under sub-section (2) or a member of the police force, who must convey the person as soon as is practicable before a justice or court to be dealt with according to law; or

(b) if the officer is an officer authorized under sub-section (2), convey the person as soon as is practicable before a justice or court to be dealt with according to law.

(2) The State Transport Authority and the Metropolitan Transit Authority may authorize, in writing, officers to convey people seized and detained under sub-section (1) before a justice or court.

(3) An officer of the State Transport Authority or the Metropolitan Transit Authority may, if so authorized, seize and detain any person found on property owned or occupied by the Authorities whom the

officer believes, on reasonable grounds, to be a person against whom a warrant of apprehension or of commitment has been issued, and must take that person as soon as is practicable to a member of the police force.

(4) The State Transport Authority and the Metropolitan Transit Authority may authorize, in writing, officers to seize and detain people under sub-section (3). 5

(5) An authority may be general or specific.”.

**Power to remove property of offenders.**

35. In section 220 of the *Transport Act 1983*— 10

- (a) in sub-section (1), for “him” substitute “the person and any property of the person”;
- (b) in sub-section (2), after “person” insert “or the property of the person”;
- (c) in sub-section (3) (a), after “removed” insert “or has any property removed”. 15

**Power to request proof of eligibility for concessions.**

36. After section 221 (4) of the *Transport Act 1983*, insert—

“(4A) An authorized person may require any person who makes a journey in a carriage and who claims or takes the benefit of an exemption or concessional deduction from the payment of a toll, fare or charge in respect of a journey in a carriage to produce evidence of the person’s entitlement to the exemption or concession. 20

Penalty: 2 penalty units.”.

**Additional offences. 25**

37. (1) After section 222 (2) of the *Transport Act 1983*, insert—

“(3) A person must not—

- (a) without reasonable excuse, enter or attempt to enter, board or attempt to board, or leave or attempt to leave a carriage while it is in motion; 30
- (b) without reasonable excuse, protrude any part of his or her body from an open door or window of a carriage while it is in motion;
- (c) cross or attempt to cross a line of railway elsewhere than at a place provided as a crossing place; 35
- (d) cross or attempt to cross a line of railway at a place provided as a crossing place for pedestrians if a wig-wag, alternating red light or boom barrier installation is operating at an immediately adjacent vehicular crossing;

(e) without reasonable excuse, place his or her feet on any part of a carriage other than the floor, or on any part of the furniture of an Authority, unless the part is specifically designed for the placing of feet.

5 Penalty: 2 penalty units.”.

(2) Paragraphs (e), (f), (g), (h) and (i) of Schedule 10 of the *Transport Act 1983* are repealed.

#### **Widening of trespass provision**

10 38. In section 223 of the *Transport Act 1983* for “the property of” substitute “owned or occupied by”.

#### **Increased penalty for hindering officers, etc.**

39. In section 225 of the *Transport Act 1983*—

(a) after “other Act” (wherever occurring) insert “or regulations made under this Act”;

15 (b) for “10” substitute “25” and for “two” substitute “6”.

#### **PART 6—OTHER GENERAL AMENDMENTS.**

#### **Repeal of table of provisions.**

40. Section 1 (3) of the *Transport Act 1983* is repealed.

#### **20 Amendment to regulation-making powers for commercial goods vehicles.**

41. In section 197 of the *Transport Act 1983*—

(a) after sub-section (1) (k), insert—

“(ka) prescribing fees for the inspection of commercial goods vehicles;”;

25 (b) after sub-section (2) (a), insert—

“(aa) may exempt specified people or vehicles or specified classes of people or vehicles from complying with the regulations or provisions of the regulations, and may make exemptions conditional or unconditional;”.

#### **30 Clarification and widening of prosecution provision.**

42. In section 229 of the *Transport Act 1983*—

(a) in sub-section (1), after “regulations” insert “or for any summary offence or any indictable offence triable summarily and committed on any property owned or occupied by an Authority”;

35

(b) after sub-section (1), insert—

“(1A) On the hearing of any proceedings for an offence under sub-section (1), the prosecution may be conducted by—

- (a) the person bringing the proceedings; 5
- (b) any other officer of an Authority authorized by an Authority under sub-section (1); or
- (c) any solicitor or counsel briefed by an Authority.”.

**Widening of evidentiary provisions.**

43. In section 230 of the *Transport Act 1983*— 10

(a) in sub-section (1), after “vehicle” insert “owned or leased by an Authority” and for “the property of” substitute “owned or occupied by”;

(b) in sub-section (2), after “vested in” insert “, or occupied by,”. 15

**Additional provisions relating to Managing Directors of Authorities.**

44. In Schedule 1 of the *Transport Act 1983*—

(a) before clause 4 of Part II., insert—

**Managing Director.**

“3A. (1) The Governor in Council may appoint a person to the office of Managing Director of an Authority and may at any time remove or suspend a person (including a person occupying that office under section 240) from that office. 20

(2) The Managing Director of an Authority may resign from the office of Managing Director by writing signed by the Managing Director and delivered to the Governor in Council. 25

(3) Where the Managing Director of an Authority is unable, whether by reason of illness, suspension, absence or otherwise to perform the duties of the office of Managing Director, the Minister may appoint another person (whether a member of the Authority or not) to act in the place of the Managing Director during the period of inability. 30

(4) A person appointed under this clause to act in the place of the Managing Director of an Authority while so acting— 35

(a) has all the rights and powers and must perform all the duties of the Managing Director of the Authority; and

(b) is to be paid the remuneration (if any) and travelling or other allowances fixed by the Minister from time to time having regard to the rate of 40

remuneration and other allowances for the time being payable to the Managing Directors of the Authorities.”;

(b) in clause 10, after “10.” insert “(1)”;

5 (c) after clause 10, insert—

“(2) All courts must take judicial notice of the common seal of an Authority affixed to any document.”.

#### Amendments to Schedule 5.

45. In Schedule 5 of the *Transport Act 1983*—

10 (a) in clauses 1 (1), (2), (3), (6) and (7) for “Minister” (wherever occurring) substitute “Road Construction Authority”;

(b) in clause 1 (4), for “Minister” (where first occurring) substitute “Road Construction Authority”;

15 (c) in clause 1 (5), for “Minister” (where first occurring) substitute “Road Construction Authority”;

(d) in clause 1 (7), for “him” substitute “the Authority”;

(e) in clause 2 (1), for “Subject to the approval of the Minister, the” substitute “The”;

20 (f) in clause 3 (1)—  
(i) for “The Minister” substitute “The Road Construction Authority”;

(ii) for the phrase beginning “and the Road” and ending “making of” substitute “or making”;

25 (g) in clause 3 (1) (a)—  
(i) for “Minister” substitute “Road Construction Authority”;

(ii) omit “the intention of the Road Construction Authority”;

(h) in clause 3 (1) (b), omit “the Minister or”;

30 (i) in clause 3 (2), for “seek the approval of the Minister to the making of” substitute “declare a road to be a main road or to make”;

(j) in clause 5 (5), after “maintenance on main roads” insert “or State highways”;

35 (k) in clauses 11 (1) and 12 (1), for the phrase beginning “maximum” and ending “authorities” substitute “rate fixed by section 2 of the *Penalty Interest Rates Act 1983*”;

(l) in clause 18, for “or main road” (wherever occurring) substitute “main road or tourists’ road”;

40 (m) after clause 21 (4), insert—

“(4A) The Registrar of Titles may cause to be noted on any certificate of title relating to land affected by any

removal, destruction or blocking of a means of access under sub-clause (4) the removal, destruction or blocking of the means of access.”.

**Amendment to Schedule 8.**

46. In Schedule 8, in Part B, in the item relating to undressed sawn 5  
hardwood in Column 2, for “sawmill” substitute “place”.

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## SCHEDULE

Repeals and Amendments to the *Transport Act* 1983 resulting from the abolition of the Victoria Transport Borrowing Agency.

## PART 1—REPEALS

Sections 11, 12, 22, 32 (3), 42 (1A), 56 (6), 57, 68, 68A (1), 69, 70, 71, 72, 73, 74, 75, 78, 229 (4), 230 (7), 234, 235, 236, 237, 238, 252 (3) and 256 (3) and Part I. of Schedule 1 and clause 7 of Schedule 2 are repealed.

## PART 2—AMENDMENTS

*Section or Provision Extent of Amendment*

2 (1)	Omit the definition of "Agency".
27	Omit "and the Agency".
27 (b) (i)	Omit "or the Agency (as the case may be)".
29	Omit "or the Agency" and " or Agency" (wherever occurring).
30	Omit "or the Chairman of the Agency", "or Chairman of the Agency" and "or Agency (as the case may be)" (wherever occurring).
31 (1)	Omit "and the Agency".
31 (2)	Omit "or the Agency".
	In the heading of Part III., omit "AND THE AGENCY".
38 (1)	Omit "and the Agency".
38 (2)	Omit "or the Agency".
39 (1)	Omit "or the Agency".
67 (3) (d)	Omit "(or, in the case of the Agency, the Chairman of the Agency)".
68A (2)	Before "Agency" insert "Victorian Public Authorities Finance" and for "this Act" substitute "the <i>Victorian Public Authorities Finance Act</i> 1984".
76 (4)	Omit "or the Agency".
77	Omit "or the Agency" (wherever occurring).
79	Before "Authority" insert "associated" and omit "and the Agency".
80	For this section, substitute— "80. An associated Authority may secure any borrowing by it in any manner approved by the Treasurer."
Schedule 2	In the heading, omit "AND THE AGENCY".

