

Rail Corporations (Amendment) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

- Clause 1 states the purpose of the Act.
- Clause 2 provides for the commencement of the Act.

PART 2—AMENDMENT OF RAIL CORPORATIONS ACT 1996

Division 1—Privatisation of V/Line Freight

- Clause 3 modifies the functions of V/Line Freight.
- Clause 4 repeals Division 1 of Part 2 of the **Rail Corporations Act 1996**.

Division 2—Corporatisation of Metropolitan Train Division of PTC

- Clause 5 inserts new definitions of terms used in the Act.
- Clause 6 inserts a new Division 2A in Part 2 of the **Rail Corporations Act 1996**, which establishes Met Train 1, states its objective and sets out its functions and powers.
- Clause 7 includes Met Train 1 within the definition of "rail corporation" in section 3(1) of the **Rail Corporations Act 1996**.
- Clause 8 inserts a new Division 2B in Part 2 of the **Rail Corporations Act 1996**, which establishes Met Train 2, states its objective and sets out its functions and powers.
- Clause 9 includes Met Train 2 within the definition of "rail corporation" in section 3(1) of the **Rail Corporations Act 1996**.

Division 3—Corporatisation of Metropolitan Tram Division of PTC

- Clause 10 inserts new Division 2C in Part 2 of the **Rail Corporations Act 1996**, which establishes Met Tram 1, states its objective and sets out its functions and powers.
- Clause 11 includes Met Tram 1 in the definition of "rail corporation" in section 3(1) of the **Rail Corporations Act 1996**.
- Clause 12 inserts a new Division 2D in Part 2 of the **Rail Corporations Act 1996**, which establishes Met Tram 2, states its objective and sets out its functions and powers.
- Clause 13 includes Met Tram 2 within the definition of "rail corporation" in section 3(1) of the **Rail Corporations Act 1996**.

Division 4—Transfer of Property

- Clause 14 allows for the making of allocation statements under Part 3 of the **Rail Corporations Act 1996** so that the property of the Public Transport Corporation may be transferred to persons nominated by the Minister, in addition to rail corporations.
- Clause 15 repeals section 39(3) of the **Rail Corporations Act 1996**.

Division 5—Transfer of Staff

- Clause 16 divides Part 3 of the **Rail Corporations Act 1996** into Divisions.
- Clause 17 inserts various definitions in section 39(1) of the **Rail Corporations Act 1996**.
- Clause 18 inserts a new Division 3 in Part 3 of the **Rail Corporations Act 1996**, which provides for the transfer of Public Transport Corporation staff to the new rail corporations and the continuity of employment of transferred staff.

Division 6—Powers of Victorian Rail Track

- Clause 19 inserts various definitions in section 3(1) of the **Rail Corporations Act 1996** and repeals section 3(2) of the **Rail Corporations Act 1996**.

- Clause 20 amends section 11 of the **Rail Corporations Act 1996** to extend the functions and powers of Victorian Rail Track to cover tramways.
- Clause 21 amends section 13 of the **Rail Corporations Act 1996** to exempt Rail Track from any obligation to fence tramways.
- Clause 22 inserts new sections 13A and 13B in the **Rail Corporations Act 1996**, to give Victorian Rail Track powers to break up roads and install or move stopping places in areas where there is rail or (in the case of stopping places) tram infrastructure operated or maintained by Victorian Rail Track.
- Clause 23 inserts new sections 13C to 13F in the **Rail Corporations Act 1996**.

Section 13C allows Victorian Rail Track to, with the approval of the Minister, purchase or compulsorily acquire any land which it may require in connection with carrying out its functions or achieving its objectives. The **Land Acquisition and Compensation Act 1986** will apply.

Section 13D allows Victorian Rail Track, with the approval of the Minister administering section 22A of the **Land Act 1958**, use any Crown land for transport purposes.

Section 13E provides that where land was unalienated Crown land immediately before being vested in Victorian Rail Track, the Governor-in-Council may grant that land to Victorian Rail Track subject to any condition that he or she thinks fit.

Section 13F enables Victorian Rail Track, with the approval of the Minister, to sell or develop surplus land, that is, land vested in Victorian Rail Track but which it not longer requires, or to lease any land. On divesting itself of any land, Victorian Rail Track ceases to have any liability to maintain a railway or tramway bridge on or over the land.

- Clause 24 repeals the definition of "declared railway services" and "office" in section 3(1) and repeals sections 14 to 18 of the **Rail Corporations Act 1996**.

Division 7—Other Amendments

- Clause 25 amends the statement of purposes in section 1 of the **Rail Corporations Act 1996**.
- Clause 26 amends clause 11 of Schedule 1 of the **Rail Corporations Act 1996** so that the requirement for directors to disclose their interests does not apply in relation to contracts of indemnity or insurance in respect of directors' liability.

Division 8—Transitional Provisions

- Clause 27 inserts a new section 60 in the **Rail Corporations Act 1996**, which provides that on the commencement of section 4, V/Line Freight is abolished and all directors and the chief executive office of V/Line Freight go out of office. The Public Transport Corporation becomes its successor in law.
- Clause 28 inserts new section 61 in the **Rail Corporations Act 1996**, which allows the Governor-in-Council to declare that this section applies to a body specified in the order, and that such a person or body is not required to fence or contribute to the fencing of any portion of a railway or tramway, and is not liable for any damage that may be caused by reason of any railway or tramway not being fenced.
- Clause 29 inserts a new clause 62 in the **Rail Corporations Act 1996**, which allows the Governor-in-Council to declare that the section applies to a person or body specified in the order and that such a person or body may open and break up and divert traffic from any road on which there is rail infrastructure or tram infrastructure that it operated or maintained by that person and may take possession of and use the whole or any portion of such a road.
- Clause 30 inserts a new section 63 in the **Rail Corporations Act 1996**, which allows the Governor-in-Council to declare that the section applies to a person or body specified in the order and that such a person or body, after consultation with the Roads Corporation and any relevant municipal council, may install, remove or relocate stopping places and associated facilities for transport services on any road on which there is a tram infrastructure that is operated or maintained by that person.

PART 3—AMENDMENT OF THE TRANSPORT ACT 1983

- Clause 31 inserts in section 2(1) of the **Transport Act 1983** new definitions of terms used in the Act.
- Clause 32 inserts a new section 14A in the **Transport Act 1983**, which withdraws certain functions and powers from the Public Transport Corporation, where another person or body is given that function.
- Clause 33 substitutes Victorian Rail Track for the Public Transport Corporation in section 54 of the **Transport Act 1983**.
- Clause 34 amends sections 211 and 218B of the **Transport Act 1983** and sets out criteria for officers to be authorised under these sections.
- Clause 35 amends section 221 of the **Transport Act 1983**.
- Clause 36 inserts new sections 221A and 221B in the **Transport Act 1983**. These new sections set out criteria for officers to be authorised under section 221 and enable a prospective employee to seek a certificate from the Secretary as to whether or not he or she meets those criteria.
- Clause 37 inserts a new Division 4A in Part VII of the **Transport Act 1983**, which provides for accreditation of passenger transport companies for the purposes of section 221 of the **Transport Act 1983**. A passenger transport company may apply to the Secretary for accreditation for the purposes of section 221. The Secretary must consider the system the applicant has in place for the management of authorised persons. The Secretary may refuse accreditation, or grant accreditation subject to conditions (which may be varied or revoked).

The Secretary may cancel or suspend accreditation. The Secretary may give temporary accreditation for a period of less than 12 months. An accredited company must lodge an annual return with the Secretary. If an accredited company does not comply with these requirements, the accreditation may be suspended or cancelled.

An accredited company may apply for a renewal of its accreditation. Penalties are imposed for giving of false or

misleading information in relation to a renewal. An accreditation is not capable of being transferred or assigned.

The Secretary is given the power to hold an inquiry to determine whether to take action against a company that is, or has been, an accredited company, and the Secretary has powers to take action against the accredited company.

- Clause 38 replaces references to the Public Transport Corporation with references to passenger transport companies and Victorian Rail Track in section 248 of the Transport Act, so that all powers, duties and obligations of these bodies cease while a railway is a tourist railway.

PART 4—AMENDMENT OF OTHER ACTS

- Clause 39 amends the definition of "Authority" in section 4 of the **Border Railways Act 1922** and provides that Victorian Rail Track is the Authority and becomes the successor in law to the Public Transport Corporation for the purposes of the Border Railways Act on the commencement of this section.
- Clause 40 applies relevant provisions of the **Borrowing and Investment Powers Act 1987** to Met Train 1, Met Train 2, Met Tram 1 and Met Tram 2.
- Clause 41 amends section 3 of the **Country Fire Authority Act 1958** so that a "heat engine" does not include any locomotive used on a railway line under the control of Victorian Rail Track.
- Clause 42 amends the **Crimes Act 1958** to remove the reference in Form 21 of Schedule 6 to "property of the Public Transport Corporation".
- Clause 43 amends section 28(2) of the **Docklands Authority Act 1991** so that the Docklands Authority must get the approval of Victorian Rail Track before carrying out works on or to a road, railway or transport facility owned by or under the control of Victorian Rail Track.
- Clause 44 amends section 22 of the **Emergency Management Act 1986** by deeming a rail corporation to be a government agency for the purposes of that Act.

- Clause 45 amends section 3 of the **Essential Services Act 1958** by including in the definition of "essential service" a passenger transport company within the meaning of the **Transport Act 1983** and a rail corporation within the meaning of the **Rail Corporations Act 1996**.
- Clause 46 amends section 5(1)(b) of the **Estate Agents Act 1980** so that Victorian Rail Track is not required to hold a licence under, or observe the requirements of the Act.
- Clause 47 amends section 19(4) of the **Fences Act 1968** so that no liability for contribution towards vermin proof fencing applies to any rail corporation or passenger transport company.
- Clause 48 amends section 3 of the **Historic Buildings Act 1981** to include Victorian Rail Track as a public authority for the purposes of that Act.
- Clause 49 amends section 341(1)(c) of the **Land Act 1958** so that it applies to Victorian Rail Track as well as the Public Transport Corporation, so the Governor-in-Council may declare that the value of Crown land is enhanced by proximity to a railway line or public work of Victorian Rail Track. Section 348 of the **Land Act 1958** is amended so that, like the Public Transport Corporation, where Victorian Rail Track requires any road for the construction of a railway line, building or station it will be entitled to a Crown grant of that land in fee simple. Section 355 is amended so that where Crown Lands are held under lease, a transfer of those lands to Victorian Rail Track may be registered without the requirement for certification that all rent or purchase money and all interest due have been paid.
- Clause 50 amends section 7A of the **Limitation of Actions Act 1958** to extend to Victorian Rail Track immunity from claims of adverse possession.
- Clause 51 amends section 149 of the **Melbourne and Metropolitan Board of Works Act 1958** by providing that passenger transport companies and rail corporations must be notified where any works authorised under the Act, or the **Water Industry Act 1994**, may interfere with any property of the passenger transport company or railway corporation. Section 276(7) is amended so that no permit or licence for pumping may be issued if, in the

opinion of a passenger transport company, it is likely to prejudicially affect the use of its railway lines or interfere with traffic on any such line.

- Clause 52 amends the definition of "public body" in section 3 of the **Melbourne City Link Act 1995** to include a reference to passenger transport companies.
- Clause 53 includes Victorian Rail Track as a public authority within section 3(2) of the **National Parks Act 1975** and replaces the reference to the Public Transport Corporation in section 28 with a reference to Victorian Rail Track.
- Clause 54 amends section 32 of the **Pipelines Act 1967** to require that pipelines over or under railway lines or land reserved for railways or tramways must be constructed to the satisfaction of Victorian Rail Track.
- Clause 55 inserts Victorian Rail Track within the definition of "public authority" in section 23 of the **Survey Co-ordination Act 1958**.
- Clause 56 amends the **Transport Accident Act 1986** so that a person who manages a railway or tramway (defined to be a person who provides access to railway trains or trams to operate on the railway or tramway) must report on accidents. Section 115 of the **Transport Accident Act 1986** is amended to provide that a person must not provide access to a railway or tramway unless there is in force an agreement between that person and the Transport Accident Commission as to the payment of charges under the Act in respect of the operation of trams or trains on that railway or tramway. Section 113 of the **Transport Accident Act 1986** is repealed.
- Clause 57 amends the **Treasury Corporation of Victoria Act 1992** by inserting Met Train 1, Met Train 2, Met Tram 1 and Met Tram 2 into section 36A which defines "public authority" for the purposes of the Act. In addition, Met Train 1, Met Train 2, Met Tram 1 and Met Tram 2 are added to Schedule 1 to the **Treasury Corporation of Victoria Act 1992**.
- Clause 58 amends section 241 of the **Water Act 1989** so that the notice provision in section 234 of that Act applies to Victorian Rail Track if the relevant land is owned by Victorian Rail Track.

Clause 59 amends section 7(6) of the **Wheat Marketing Act 1989** so that the Australian Wheat Board may enter into contracts with any person or body operating rail freight services for the provision of storage, handling, transport or other marketing services for wheat.

