

# Transport (Amendment) Bill

## EXPLANATORY MEMORANDUM

### Purposes

*Clause 1* provides that the purposes of the Act are—

- (a) to reduce the number of Transport Authorities; and
- (b) to make other miscellaneous amendments to the *Transport Act 1983*; and
- (c) to make consequential amendments to the *Transport Act 1983* and other legislation.

### Commencement

*Clause 2* provides that the Act comes into operation on 1 July 1989 excepting sections 16 and 39 (2), 39 (3) and 42 and items 41.1, 41.11 and 41.12 of Schedule 2. Those provisions come into operation on the day the Act receives the Royal Assent excepting that section 39 (2) is deemed to have come into operation on 16 December 1986, and the provisions of section 42 come into operation when the provisions they amend come into operation.

### Principal Act

*Clause 3* provides that the Principal Act is the *Transport Act 1983*.

### Definitions

*Clause 4*—

- (a) omits the definitions of “Authority”, “Metropolitan Transit Authority”, “Road Traffic Authority” and “State Transport Authority”; and
- (b) inserts new definitions of “Corporation” and “Public Transport Corporation”; and
- (c) substitutes a new definition of “Roads Corporation” for the definition of “Road Construction Authority”; and
- (d) makes consequential amendments to the definitions of “Ancillary works”, “Maintenance”, “Officer” and “Permanent improvements” consequent upon the establishment of the Roads Corporation and the abolition of the Road Construction Authority.

### Ministry of Transport

*Clause 5* amends the Principal Act to provide that the Ministry of Transport shall include any Deputy Directors-General of Transport from time to time appointed.

### Repeal of sections 5 and 6

*Clause 6* repeals sections 5 and 6 of the Principal Act.

### **New section 7A inserted**

*Clause 7* inserts a new section 7A in the Principal Act to provide that the Director-General of Transport—

- (a) is subject to the general direction and control of the Minister; and
- (b) must comply with any specific direction given by the Minister.

### **Victorian Transport Directorate**

*Clause 8* makes a consequential amendment to the Principal Act to provide that the Chief Executive of each of the Corporations is a member of the Victorian Transport Directorate.

### **Establishment of the Corporations— Substitution of Division 3**

*Clause 9* substitutes a new Division 3 of Part II of the Principal Act to establish the Public Transport Corporation and the Roads Corporation.

Section 13 establishes the Public Transport Corporation as a corporation sole consisting of a Chief Executive of the Corporation.

Section 14 provides for the functions of the Public Transport Corporation and the objects it must have regard to in the exercise of its functions.

Section 15 establishes the Roads Corporation as a Corporation sole consisting of a Chief Executive of the Corporation.

Section 16 provides for the functions of the Roads Corporation which include functions, etc. conferred by the *Chattel Securities Act 1987*, the *Road Safety Act 1986* and any other Act, and also provides for the objects the Corporation must have regard to in the exercise of its functions.

### **Repeal of section 26**

*Clause 10* repeals section 26 of the Principal Act.

### **Official seal**

*Clause 11* amends the Principal Act to provide that a Corporation has an official seal.

### **Repeal of section 28**

*Clause 12* repeals section 28 of the Principal Act.

### **Exemption from liability**

*Clause 13* amends the Principal Act to provide that the Chief Executive or an officer of a Corporation is exempt from liability for the purposes of section 29.

### **New Section 30 substituted— Management of Corporations**

*Clause 14* substitutes a new section 30 in the Principal Act to provide that—

- (a) the Chief Executive of a Corporation is responsible for the management of the affairs of the Corporation; and
- (b) the Minister must appoint a Board to advise the Chief Executive of each Corporation consisting of the Chief Executive and other members as provided; and

- (c) only a person who is an officer of the Corporation or a person performing duties for a union or association which represents the officers of the Corporation is entitled to be an elected member of a Board; and
- (d) the Chief Executive of the Corporation is the Chairperson of the Board of that Corporation; and
- (e) the Minister must determine the terms of reference of each Board; and
- (f) the Minister must, for each member of a Board other than the Chairperson, determine remuneration, travelling and other allowances of the member and all other terms and conditions of appointment.

**Power of Minister and Director-General to give directions**

*Clause 15* substitutes a new section 31 (1) of the Principal Act to provide that a Corporation must exercise its powers and discharge its duties subject to the general direction and control of the Minister or the Director-General, and to any specific directions given by the Minister or the Director-General. The clause also makes a consequential amendment to section 31 (2) of the Principal Act.

**Delegation**

*Clause 16* amends section 32 (1) of the Principal Act to enable the Minister to delegate his powers under section 98 of the *Road Safety Act 1986*. The clause also makes consequential amendments to section 32 (1) of the Principal Act.

**Standing Committees**

*Clause 17* amends the Principal Act to provide that the existing Authority Standing Committees established under section 33 (1) of the Principal Act are abolished and that the members go out of office on 1 July 1989. The Principal Act retains the provision enabling the establishment of Standing Committees for the Corporations. The clause also makes consequential amendments to section 33 of the Principal Act.

**New section 34 substituted—establishment of Workshops Board and abolition of old Board**

*Clause 18* substitutes a new section 34 in the Principal Act to—

- (a) establish the Workshops Board; and
- (b) provide for the membership of the Board; and
- (c) provide that the Board may regulate its own procedure; and
- (d) provide that the Board is responsible to the Public Transport Corporation for advice on the administration and management of various workshops.

The clause also provides that the Workshops Management Board is abolished and that members of that Board, other than elected members who are deemed to be elected members of the Board for the remainder of their term in respect of the old Board, go out of office.

**New Sections 40 and 41 substituted— further particular powers of the Corporations**

*Clause 19* substitutes new sections 40 and 41 of the Principal Act.

Section 40 provides that the powers of the Public Transport Corporation include the powers set out in Schedule 3 of the Principal Act.

Section 41 provides that the powers of the Roads Corporation include the powers set out in Schedule 4 of the Principal Act.

### **Acquisition of land**

*Clause 20* amends section 42 (2) (b) of the Principal Act to provide that the Public Transport Corporation or the Roads Corporation (as the case requires) is the Authority for the purposes of the *Land Acquisition and Compensation Act 1986*. The clause also makes a further consequential amendment to section 42 (2A) of the Principal Act.

### **New section 49 substituted**

*Clause 21* substitutes a new section 49 of the Principal Act to provide that the Public Transport Corporation is not a common carrier.

### **Provisions with respect to roads**

*Clause 22* amends section 55 (2) of the Principal Act to provide that Schedule 5 of the Act concerning roads does not confer a power on the Public Transport Corporation.

### **Borrowing powers**

*Clause 23* substitutes a new section 68A (3) of the Principal Act to make a statute law revision amendment and a consequential amendment.

### **Licensing**

*Clause 24* amends section 86 (1) of the Principal Act by—

- (a) omitting the definitions of “Appropriate Authority” and “Authority”; and
- (b) making consequential amendments to the definitions of “Carrying capacity” and “Public commercial passenger vehicle”.

### **Determinations of policy**

*Clause 25* amends the Principal Act by making consequential amendments to section 89 (2).

### **Definitions**

*Clause 26* amends section 231 of the Principal Act by—

- (a) amending the definition of “Existing securities”; and
- (b) substituting a new definition of “Former Authority”; and
- (c) substituting a new definition of “Relevant former Authority”; and
- (d) substituting a new definition of “Relevant successor Corporation” for the definition of “Relevant successor Authority”; and
- (e) making a consequential amendment to the definition of “Transferred Officer”.

The clause makes appropriate consequential and machinery changes to these definitions as part of the transition from the Authorities previously established under the Act to the Corporations established by the Act which take their place.

### **Abolition of former authorities**

*Clause 27* amends section 232 of the Principal Act to abolish the former Authorities as defined in section 231 as amended by clause 25 (i.e. the State Transport Authority, the Metropolitan Transit Authority, the Road Construction Authority and the Road Traffic Authority) and to provide that the successor Corporations (the Public Transport Corporation and the Roads Corporation) become the successors in law of those Authorities.

### **Transfer of property etc.**

*Clause 28* amends section 233 of the Principal Act to ensure the Corporations assume the property, liabilities, contracts, debts etc. of the Authorities. The clause extends the assumption of these matters to those relating to an “abolished Authority” meaning the previous “former Authorities” under the Principal Act (i.e. the Victorian Railways Board, the Railway Construction and Property Board, the Melbourne and Metropolitan Tramways Board, the Melbourne Underground Rail Loop Authority, the Country Roads Board, the Transport Regulation Board and the Road Safety and Traffic Authority).

### **New section 234 inserted— Audit**

*Clause 29* inserts a new section 234 in the Principal Act to provide that a relevant successor Corporation must cause a statement of accounts of former Authorities to be prepared which must be audited by the Auditor-General, submitted to the Minister and laid before Parliament in accordance with the section.

### **New section 239 substituted**

*Clause 30* substitutes a new section 239 in the Principal Act to provide that Deputy Directors-General and Assistant Directors-General shall on and from 1 July 1989 be employed in the Ministry with remuneration and conditions of employment no less favourable than those applying before that date, for the remainder of the original term and with the benefit of all rights accrued immediately before that date.

### **New section 240 substituted**

*Clause 31* substitutes a new section 240 in the Principal Act to provide that Managing Directors of former Authorities shall on and from 1 July 1989 be employed in the relevant successor Corporation with remuneration and conditions of employment no less favourable than those applying before that date, for the remainder of the original term and with the benefit of all rights accrued immediately before that date.

### **Continuation of rights of staff**

*Clause 32* amends section 241 of the Principal Act to provide that a person employed—

- (a) by a former Authority (other than under the *Public Service Act 1974*) before 1 July 1989, is from that date employed by the successor Corporation on terms and conditions no less favourable than those upon which the person was employed immediately before 1 July 1989 with the benefit of all rights accrued before that day preserved;
- (b) under the *Public Service Act 1974* in a former Authority is from 1 July 1989, still employed under that Act in the successor Corporation on terms and conditions no less favourable than those upon which the person was employed immediately before 1 July 1989 with the benefit of all rights accrued before that day preserved.

### **Repeal of section 242**

*Clause 33* repeals section 242 of the Principal Act.

### **Contributors to State Employees Retirement Benefits Fund**

*Clause 34* makes consequential amendments to section 243 of the Principal Act.

### **Contributors to Superannuation Fund**

*Clause 35* makes consequential amendments to section 244 of the Principal Act.

### **New section 244A inserted—Transport Superannuation Fund**

*Clause 36* inserts a new section 244A in the Principal Act to provide that a transferred officer who was immediately before 1 July 1989 a member of the Transport Superannuation Fund continues to be a member of that Fund after 1 July 1989 for as long as the person is employed in a Corporation.

### **Contributors to other funds**

*Clause 37* makes consequential amendments to section 245 of the Principal Act.

### **Country Roads Board**

*Clause 38* makes a consequential amendment to section 246 (3) of the Principal Act.

### **Statute law revision**

*Clause 39* makes statute law revision amendments to the Principal Act, to the *Transport (Amendment) Act* 1986 and also to section 13 of the *Chattel Securities Act* 1987 consequent upon the enactment of the *Marine Act* 1988.

### **Consequential amendments to Principal Act**

*Clause 40* and Schedule 1 make consequential amendments to the Principal Act required as a result of the establishment of the Corporations. Item 26 of the Schedule substitutes a new Schedule 1 of the Principal Act to provide for the appointment, etc. of a Chief Executive of a Corporation, the conditions of office of a Chief Executive, the custody and use, etc. of the official seal of a Corporation and other matters.

### **Consequential amendments to other Acts**

*Clause 41* and Schedule 2 make consequential amendments to other Acts.

### **Further consequential amendments to other Acts**

*Clause 42* makes consequential amendments to Bills currently before Parliament.

### **Disallowance of regulations**

*Clause 43* amends section 256 of the Principal Act to allow the disallowance of regulations by either House of Parliament.