

Transport (Amendment) Act 1993

No. 120 of 1993

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Victoria

No. 120 of 1993

Transport (Amendment) Act 1993

[Assented to 7 December 1993]

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purposes*

The main purpose of this Act is to make miscellaneous amendments to the **Transport Act 1983** and the **Road Safety Act 1986**. It amends the **Limitation of Actions Act 1958** to prevent persons being able to acquire by adverse possession title to any land of the Public Transport Corporation. It also amends the **Crimes Act 1958** to regulate the obtaining of certain information from the Roads Corporation by law enforcement agencies.

Transport (Amendment) Act 1993
Act No. 120/1993

2. Commencement

- (1) This Part and sections 56, 58, 60, 61 (2), 65 to 71 and 73 to 79 come into operation on the day on which this Act receives the Royal Assent.
- (2) Part 2 and sections 57, 59, 61 (1), 62 and 63 come into operation on 19 December 1993.
- (3) Subject to sub-section (4), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (4) If a provision referred to in sub-section (3) does not come into operation before 30 May 1994, it comes into operation on that day.

No. 9921.
Reprinted to
No. 81/1990.
Subsequently
amended by
Nos 49/1991,
78/1991,
79/1991,
80/1992 and
85/1992.

3. Principal Act

In this Act, the **Transport Act 1983** is called the Principal Act.

PART 2—VEHICLE LICENSING AND REGULATION

4. Definitions (section 2)

- (1) In section 2 (1) of the Principal Act the definition of “Melbourne metropolitan area” is **repealed**.
- (2) Section 2 (3) of the Principal Act is **repealed**.

5. Definitions (section 86)

In section 86 (1) of the Principal Act—

- (a) in the definition of “commercial passenger vehicle” **omit** “or for any consideration or in the course of any trade or business whatsoever”;
- (b) in paragraph (a) of the definition of “operate” **omit** “or for any consideration or in the course of any trade or business whatsoever”;

- (c) after the definition of "recreation vehicle"
insert—

"restricted hire vehicle" means a commercial passenger vehicle which is licensed to operate solely after the vehicle has been hired from the place or places specified in the licence granted in respect of it and which—

(a) is—

- (i) a classic and historic motor car; or
- (ii) a veteran motor car; or
- (iii) a vintage motor car—

within the meaning of Part 4 of the **Motor Car Traders Act 1986**; or

- (b) because of the nature of its construction or the manner in which it is equipped is capable of providing a passenger transport service of a kind that no other category of vehicle licensed in accordance with Division 5 is capable of providing; or

- (c) was manufactured more than 25 years before the date of the application for a licence in respect of it and which is of a category of vehicle that the Minister, by notice published in the Government Gazette, declares to be a category of vehicle to which this paragraph applies;';

- (d) the definition of "Tribunal" is **repealed**.

6. *Operation of motor vehicle as a commercial passenger vehicle*

- (1) In section 87 (1) of the Principal Act, omit "or for any consideration or in the course of any trade or business whatsoever".
- (2) In section 87 (4) of the Principal Act, omit "or for consideration".

7. Omission of reference to Tribunal

In section 89 (2) of the Principal Act, paragraph (c) is repealed.

8. Abolition of Road Transport Licensing Tribunal

(1) Division 4 of Part VI of the Principal Act is repealed.

(2) On the commencement of this section—

- (a) the Road Transport Licensing Tribunal is abolished and its members go out of office; and
- (b) all rights, property and assets that, immediately before that commencement, were vested in that Tribunal are, by force of this sub-section, vested in the Roads Corporation; and
- (c) all debts, liabilities and obligations of that Tribunal existing immediately before that commencement shall become, by force of this sub-section, debts, liabilities and obligations of the Roads Corporation; and
- (d) the Roads Corporation shall, by force of this sub-section, be substituted as a party to any proceedings pending in any court or tribunal to which that Tribunal was a party immediately before that commencement; and
- (e) the Roads Corporation shall, by force of this sub-section, be substituted as a party to any arrangement or contract entered into by or on behalf of that Tribunal as a party and in force immediately before that commencement; and
- (f) any reference to that Tribunal in any Act or in any proclamation, Order in Council, rule, regulation, order, agreement, instrument, deed or other document whatsoever shall, so far as it relates to any period after that commencement and if not inconsistent with the context or subject-matter, be construed as a reference to the Roads Corporation.

9. *Application for commercial passenger vehicle licence*

In section 140 of the Principal Act for sub-section (1) substitute—

“(1) An application for a commercial passenger vehicle licence must—

- (a) be in the form approved by the Roads Corporation; and
- (b) contain the particulars required by the Roads Corporation.”.

10. *New section 141B inserted*

After section 141A of the Principal Act insert—

‘141B. *Restricted hire vehicles*

- (1) If an application for a commercial passenger vehicle licence is made in respect of a vehicle which is to operate as a restricted hire vehicle (in this Division referred to as a “restricted hire vehicle licence”), the provisions of sections 142 and 143 do not apply in respect of the application and the licence.
- (2) Subject to this Division, the Roads Corporation must not grant an application for a restricted hire vehicle licence unless satisfied that the applicant is a fit and proper person to hold such a licence.
- (3) A restricted hire vehicle licence is not transferable to any other person.’

11. *Hearing of applications*

- (1) In section 142 (1) (aa) of the Principal Act after “taxi-cab” insert “or restricted hire vehicle”.

- (2) In section 142 (2) of the Principal Act omit "or if there are any objections to the application upon which the application will be considered by the Tribunal".
- (3) In section 142 (3) of the Principal Act omit "and that the person proposes to appear and give evidence before the Tribunal in accordance with the provisions of this Part".
- (4) Section 142 (4) of the Principal Act is repealed.
- (5) In section 142 (5) of the Principal Act, omit "for the purpose of providing a forum in which those persons may discuss their respective reasons for the application or objection and where possible resolve the matter".
- (6) In section 142 (6) of the Principal Act for "refer the application and any notice of objection to the granting of the application to the Tribunal for determination" substitute "determine the application".
- (7) Section 142 (7) of the Principal Act is repealed.

12. *Matters to be taken into consideration before grant or refusal of licence*

- (1) In section 143 (1) and (2) of the Principal Act omit "or the Tribunal as the case may be" (wherever occurring).
- (2) In section 143 (3) of the Principal Act omit "or the Tribunal".

13. *New section 143C inserted*

After section 143B of the Principal Act insert—

"143C. *Review by AAT of refusal to grant licence*

An applicant may apply to the Administrative Appeals Tribunal for review of a decision by the Roads Corporation to refuse to grant an application for a commercial passenger vehicle licence other than an application in respect of a vehicle which is to operate as a public commercial passenger vehicle."

14. Conditions

(1) In section 144 (1) of the Principal Act—

- (a)** for “The” substitute “Subject to sub-section (1AA), the”;
- (b)** in paragraph (b) (i) omit “and the appropriate industrial awards applicable to such persons”;
- (c)** in paragraph (d) omit “or the Tribunal”.

(2) In section 144 of the Principal Act, after sub-section (1) insert—

“(1AA) Sub-section (1) applies in respect of a restricted hire vehicle licence as if in paragraph (c) for the expression “owner or a person employed by the owner” there were substituted the expression “licence holder or a person employed by the licence holder”.

(3) In section 144 of the Principal Act, after sub-section (1B) insert—

“(1C) The Roads Corporation may give consent for the purposes of sub-section (1) (c) by notice published in the Government Gazette relating to all commercial passenger vehicles or to a specified commercial passenger vehicle or a specified class of commercial passenger vehicle.”.

(4) In section 144 (2) of the Principal Act—

- (a)** omit “or the Tribunal as the case may be” (where twice occurring);
- (b)** for paragraph (d) substitute—
 - “(d) that reasonable fares or hiring rates shall be charged—
 - (i) in the case of taxi-cabs, as determined by the Secretary to the Department of Transport; and
 - (ii) in all other cases, as specified in the conditions;”.

15. Cancellation or alteration of licences

- (1) In section 146 (3) of the Principal Act **omit** “or if there are any objections to the proposal or application the objections and the proposal or the application will be considered by the Tribunal”.
- (2) In section 146 (4) of the Principal Act **omit** “and that the person proposes to appear and give evidence before the Tribunal in accordance with the provisions of this Part”.
- (3) Section 146 (5) of the Principal Act is **repealed**.
- (4) In section 146 (6) of the Principal Act **omit** “for the purpose of providing a forum in which those persons may discuss their respective reasons for the application or objection and where possible resolve the matter”.
- (5) In section 146 (7) of the Principal Act for “refer the application and any notice of objection to the granting of the application to the Tribunal for determination” **substitute** “determine the application”.
- (6) Section 146 (8) of the Principal Act is **repealed**.

16. Power to cancel or vary restricted hire vehicle licences

In section 146A of the Principal Act after “taxi-cab licence” **insert** “or a restricted hire vehicle licence”.

17. New section 146C inserted

After section 146B of the Principal Act **insert**—

“146C. Review by AAT of licence cancellation, etc.

The holder of a commercial passenger vehicle licence may apply to the Administrative Appeals Tribunal for review of a decision by the Roads Corporation—

- (a) to suspend the licence under section 143A (11) or 147A (3); or

- (b) to cancel the licence under section 143A (11), 144 (1B), 146 (1) or 147A (3); or
- (c) to alter the conditions attached to the licence or alter the route or area in respect of which it was granted under section 146 (1) or 146B."

18. Duration of licences

In section 147 of the Principal Act—

- (a) sub-sections (1) and (2) are **repealed**;
- (b) in sub-section (3) for "Notwithstanding the provisions of sub-section (1) where" **substitute** "Where".

19. Annual licence fees

- (1) In section 147A (2) of the Principal Act **omit** "or vehicles licensed to carry six or more passengers".
- (2) In section 147A (3) of the Principal Act for "the annual licence fee or an inspection fee" **substitute** "any fee required to be paid in respect of the licence or the vehicle by or under this Act".

20. Setting of fees

- (1) In section 147B (1) (a) of the Principal Act—
 - (a) after "149 (1A) (b)" **insert** ", 150 (3), 151 (2), 152, 154 (2), 156 (1A),";
 - (b) for "and 164 (1A)" **substitute** "164 (1A), 174 (2), 174 (3), 174B (2), 182 (3) and 190 (d)".
- (2) In section 147B (1) (b) of the Principal Act after "vehicles" **insert** "or any other thing done by the Roads Corporation in relation to a commercial passenger vehicle or a commercial passenger vehicle licence including, without limiting the generality of this paragraph, the fee to be paid for the issue of a replacement licence if a licence is lost, destroyed or mutilated".

21. *Renewal of commercial passenger vehicle licence*

Section 148 of the Principal Act is **repealed**.

22. *Transfers of licences*

- (1) In section 149 (1) of the Principal Act after “other than” **insert** “a restricted hire vehicle licence or”.
- (2) In section 149 (4) of the Principal Act, for paragraphs (a) and (b) **substitute**—
 - “(a) in the form approved by the Roads Corporation; and
 - (b) containing the particulars required by the Roads Corporation; and”.

23. *Assignments*

- (1) In section 150 (3) of the Principal Act for “prescribed fee” **substitute** “appropriate application fee determined under section 147B”.
- (2) Section 150 (7) of the Principal Act is **repealed**.

24. *Vehicle substitutions*

- (1) For section 151 (2) of the Principal Act **substitute**—
 - “(2) The application must be accompanied by the appropriate application fee determined under section 147B.”.
- (2) In section 152 of the Principal Act—
 - (a) for “prescribed fee” **substitute** “appropriate application fee determined under section 147B”;
 - (b) **omit** “for the remainder of the period for which the licence was originally granted”.

25. *Cancellation of licence for vehicles*

In section 153 of the Principal Act for sub-sections (2) and (3) **substitute**—

- “(2) The owner of a licensed vehicle may apply to the Administrative Appeals Tribunal for review of a

decision by the Roads Corporation to cancel the licence under sub-section (1).”.

26. *Temporary permit*

In section 154 (2) of the Principal Act for “such fee not exceeding \$200 as is prescribed” **substitute** “the appropriate fee determined under section 147B”.

27. *Goods vehicle used as passenger vehicle to be licensed*

In section 155 (1) of the Principal Act **omit** “or for any consideration or in the course of any trade or business whatsoever”.

28. *Driver's certificate*

(1) In section 156 (1) of the Principal Act, for “prescribed form” **substitute** “form approved by the Roads Corporation”.

(2) In section 156 of the Principal Act after sub-section (1) **insert—**

“(1A) The application must be accompanied by the appropriate application fee determined under section 147B.”.

29. *Revocation or suspension of licence, permit or certificate*

(1) In section 157 (2) (a) of the Principal Act **omit** “or the Tribunal as the case may be”.

(2) In section 157 (3) of the Principal Act **omit** “to appear before the Tribunal”.

(3) Section 157 (4) of the Principal Act is **repealed**.

30. *General penalty*

(1) In section 160 (1) of the Principal Act for paragraphs (a), (b) and (c) **substitute—**

“(a) in the case of a first offence, to a penalty of not more than 5 penalty units; and

(b) in the case of a second or any subsequent offence, to a penalty of not more than 10 penalty units.”.

(2) Section 160 (2) of the Principal Act is **repealed**.

31. Regulations

(1) In section 162 (1) of the Principal Act—

(a) paragraph (g) (iv) is **repealed**;

(b) paragraph (h) is **repealed**;

(c) paragraph (l) is **repealed**;

(d) in paragraph (o) omit “the fees to be paid upon such assignments,”.

(2) In section 162 (2) (c) of the Principal Act for “8” **substitute** “20”.

32. Private omnibus licences

(1) In section 164 (1) of the Principal Act, for “prescribed form and manner” **substitute** “form and manner approved by the Roads Corporation”.

(2) In section 164 (2) of the Principal Act—

(a) in paragraph (a) for “prescribed form” **substitute** “form approved by the Roads Corporation”;

(b) in paragraph (c) for “prescribed form and manner” **substitute** “form and manner approved by the Roads Corporation”.

33. Regulations (private omnibuses)

In section 166 (1) of the Principal Act, paragraphs (c) and (d) are **repealed**.

34. Application for tow truck licence

(1) In section 172 (1) of the Principal Act—

(a) for “prescribed fee” (where first occurring) **substitute** “appropriate application fee determined under section 147B”;

- (b) for “prescribed fee” (where secondly occurring) **substitute** “application fee”;
 - (c) **omit** “or a renewal of that tow truck licence”.
- (2) For section 172 (1A) of the Principal Act **substitute**—
- “(1A) The Roads Corporation may, in relation to an application for a tow truck licence, determine that the application fee be paid by instalments and determine the number of instalments, the amount of each instalment and, except for the first instalment, the date by which each instalment must be paid.”.
- (3) In section 172 (2) of the Principal Act—
- (a) **omit** “other than for a renewal”;
 - (b) **omit** “or if there are any objections to the application upon which the application will be considered by the Tribunal”.
- (4) In section 172 (3) of the Principal Act **omit** “and that the person proposes to appear and give evidence before the Tribunal in accordance with the provisions of this Part”.
- (5) Section 172 (4) of the Principal Act is **repealed**.
- (6) In section 172 (5) of the Principal Act **omit** “for the purpose of providing a forum in which those persons may discuss their respective reasons for the application or objection and where possible resolve the matter”.
- (7) In section 172 (6) of the Principal Act for “refer the application and any notice of objection to the granting of the application to the Tribunal for determination” **substitute** “determine the application”.
- (8) Section 172 (7) of the Principal Act is **repealed**.

35. Granting of tow truck licences

- (1) In section 173 (1) of the Principal Act—
- (a) **omit** “or the Tribunal”;
 - (b) **omit** “or renew”;

- (c) in paragraphs (a) and (b) omit "or renewal".
- (2) In section 173 (2) of the Principal Act—
 - (a) omit "or the Tribunal";
 - (b) omit "or renew";
 - (c) omit "or renewal".

36. *New section 173A inserted*

After section 173 of the Principal Act insert—

"173A. Review by AAT of refusal to grant tow truck licence

An applicant may apply to the Administrative Appeals Tribunal for review of a decision by the Roads Corporation to refuse to grant an application for a tow truck licence."

37. *Form and duration of tow truck licences*

- (1) In section 174 (1) of the Principal Act—
 - (a) for paragraphs (a) and (b) substitute—

“(a) be in the form approved by the Roads Corporation; and

(b) contain the particulars required by the Roads Corporation; and”;
 - (b) in paragraph (c)—
 - (i) omit "or the Tribunal";
 - (ii) omit "or renewal";
 - (c) paragraph (d) is repealed.
- (2) In section 174 (2) of the Principal Act—
 - (a) for "prescribed fee" substitute "appropriate application fee determined under section 147B";
 - (b) omit "for the remainder of the period for which the licence was originally granted".

(3) For section 174 (3) of the Principal Act **substitute**—

- “(3) The holder of a tow truck licence must pay the appropriate annual licence fee determined under section 147B in respect of every tow truck for which the holder has a licence.
- (4) The Roads Corporation may suspend or cancel a tow truck licence if the holder of the licence fails to pay any fee required to be paid in respect of the licence or the tow truck by or under this Act.”.

38. *Alteration or cancellation of licence conditions*

Section 174A (2) of the Principal Act is **repealed**.

39. *New section 174AB inserted*

After section 174A of the Principal Act **insert**—

“174AB. *Review by AAT of tow truck licence cancellation, etc.*

The holder of a tow truck licence may apply to the Administrative Appeals Tribunal for review of a decision by the Roads Corporation—

- (a) to suspend or cancel the licence under section 174 (4), 175 (1A) or 181; or
- (b) to alter or cancel any of the conditions attached to the licence under section 174A (1).”.

40. *Temporary permit*

In section 174B (2) of the Principal Act for “A prescribed fee” **substitute** “The appropriate fee determined under section 147B”.

41. *Conditions of tow truck licence*

In section 175 (1) of the Principal Act—

- (a) paragraph (f) is **repealed**;
- (b) in paragraph (j) **omit** “or the Tribunal”.

42. *Drivers’ certificates*

Section 179 of the Principal Act is **repealed**.

43. *Power to revoke or suspend tow truck licences*

(1) In section 181 (1) of the Principal Act—

- (a) **omit** “or a driver’s certificate”;
- (b) **omit** “or certificate”;
- (c) **omit** “or driver’s certificate”.

(2) In section 181 (2) of the Principal Act—

- (a) **omit** “or driver’s certificate” (where twice occurring);
- (b) in paragraph (a) **omit** “or the driver’s certificate”;
- (c) in paragraph (b) **omit** “or certificate”.

(3) In section 181 (2A) of the Principal Act for “prescribed fee for the grant or renewal” **substitute** “application fee for the grant”.

(4) In section 181 (3) of the Principal Act **omit** “appear before the Tribunal to”.

(5) In section 181 of the Principal Act, sub-sections (4), (5) and (6) are **repealed**.

44. *Transfer of tow truck licences*

(1) In section 182 (1A) (b) of the Principal Act **omit** “or the Tribunal”.

(2) In section 182 (3) of the Principal Act—

- (a) in paragraph (a) for sub-paragraphs (i) and (ii) **substitute—**

“(i) in the form approved by the Roads Corporation; and

- (ii) containing the particulars required by the Roads Corporation; and”;
- (b) for paragraph (b) **substitute—**
“(b) the appropriate application fee determined under section 147B.”.

45. Penalties

In section 184 (2A) of the Principal Act **omit** “or driver’s certificate”.

46. Regulations

In section 185 (1) of the Principal Act—

- (a) in paragraph (d) for “or renewal of tow truck licences and applications for drivers’ certificates” **substitute** “of tow truck licences”;
- (b) paragraphs (da), (e), (ea), (f), (g), (h), (ha) and (i) **are repealed.**

47. Removal of requirement for commercial goods vehicles to be licensed

Sections 186 and 187 of the Principal Act **are repealed.**

48. Restriction on the carriage of certain goods

In section 188 (1) of the Principal Act **omit** “in respect of which a licence has been granted under this Division”.

49. Permits

In section 189 (1) of the Principal Act—

- (a) **omit** “licensed under this Division”;
- (b) **omit** “not permitted by the licence and”.

50. Form and duration of permits

In section 190 of the Principal Act—

(a) for paragraphs (a) and (b) **substitute—**

“(a) be in the form approved by the Roads Corporation; and

(b) contain the particulars required by the Roads Corporation; and”;

(b) in paragraph (d) for “prescribed fee” **substitute** “appropriate application fee determined under section 147B”.

51. *Removal of requirement for inter-state vehicles to have permit*

Section 191 of the Principal Act is **repealed**.

52. *Transfer of registration*

In section 193 of the Principal Act—

(a) paragraph (a) is **repealed**;

(b) in paragraph (b) **omit** “other licence or”.

53. *Offences*

(1) In section 194 (1) (b) of the Principal Act **omit** “licence or”.

(2) In section 194 (3) of the Principal Act—

(a) **omit** “licensed under this Division”;

(b) **omit** “licence or”.

54. *Regulations*

In section 197 (1) of the Principal Act—

(a) in paragraph (h)—

(i) **omit** “licences and” (where first occurring);

(ii) **omit** “and applications for the transfer of such licences and permits”;

(b) paragraphs (k), (ka) and (l) are **repealed**.

55. *Transitional provisions (Part 2)*

- (1) Any application to or proceedings before the Road Transport Licensing Tribunal under the Principal Act that had not been finally determined by the Tribunal immediately before the commencement of section 8 shall be determined by the Roads Corporation in accordance with the Principal Act as amended by this Part.
- (2) If under sub-section (1) the Roads Corporation determines an application or proceedings, any thing done or any requirement complied with in relation to the application or proceedings before the commencement of section 8 must, so far as consistent with the provisions of the Principal Act as amended by this Part, be taken to have been done or complied with for the purposes of the determination by the Roads Corporation and the Roads Corporation may have regard to any record of the Road Transport Licensing Tribunal in relation to the application or proceedings.
- (3) The Principal Act as amended by this Part applies to—
 - (a) any application for or in relation to a commercial passenger vehicle licence made but not finally determined before that commencement;
 - (b) any commercial passenger vehicle licence in force immediately before that commencement and any such licence may be suspended, cancelled or transferred or have any condition of or attached to it altered in accordance with the provisions of the Principal Act as amended by this Part or have the route or area in respect of which it was granted altered in accordance with those provisions.
- (4) A commercial passenger vehicle licence in force immediately before the commencement of this Part does not cease to have effect at the end of the period specified in it but, subject to the Principal Act as amended by this Part, continues in force as if it had been granted after that commencement.

(5) If—

- (a) a commercial passenger vehicle licence is in force immediately before the commencement of this Part in respect of a vehicle classified before that commencement by the Roads Corporation under section 145 of the Principal Act as a special purpose vehicle; and
- (b) that licence would have been granted as a restricted hire vehicle licence had it been granted after that commencement—

the Principal Act as amended by this Part applies to that licence as if it were a restricted hire vehicle licence.

PART 3—AMENDMENT OF ROAD SAFETY ACT

No. 127/1986.
 Reprinted to
 No. 66/1990.
 Subsequently
 amended by
 Nos 19/1991,
 49/1991,
 89/1991,
 13/1992,
 41/1992 and
 1/1993.

56. *Information to be given to applicants for registration, etc.*

In section 9 of the Road Safety Act 1986 after sub-section (1) insert—

- “(1A) The Corporation must ensure that an applicant for registration, renewal of registration or transfer of registration of a motor vehicle or trailer is informed at the time of making the application that any information given or document submitted in connection with the application, or a copy of such a document, may be given to a law enforcement agency within the meaning of Subdivision (29B) of Division 1 of Part III of the Crimes Act 1958 in accordance with that Subdivision.”.

57. *New section 15A inserted*

After section 15 of the Road Safety Act 1986 insert—

“15A. *Suspension or cancellation of vehicle tester authorisations*

- (1) The Corporation may, in accordance with the regulations, suspend for 30

days or more or cancel an authorisation granted to a person under regulations made under item 9 of Schedule 2 if it is of the opinion that—

- (a) the person has ceased to be a fit and proper person to hold the authorisation; or
 - (b) the person's premises are no longer suitably equipped to carry out examinations and tests; or
 - (c) none of the person's employees is qualified to carry out examinations and tests; or
 - (d) any provision of the regulations which applies in respect of authorised persons and the testing of vehicles has not been complied with.
- (2) The Corporation may, in accordance with the regulations, immediately suspend until the charge has been determined an authorisation granted to a person under regulations made under item 9 of Schedule 2 if the person is charged with—
- (a) an offence involving violence or the threat of violence; or
 - (b) theft or an offence involving deception or fraud; or
 - (c) an offence against paragraph (e) or (f) of section 61 (1); or
 - (d) an offence involving the risk of injury to the public—

and may, in accordance with the regulations, cancel the authorisation if the person is convicted of any such offence.

- (3) The Corporation may, in accordance with the regulations, suspend for 3 months an authorisation granted to a person under regulations made under item 9 of Schedule 2 if the person incurs 12 or more demerit points within any 3 year period.
- (4) The circumstances in which demerit points are incurred or cancelled and the number of points incurred are as prescribed.
- (5) The holder of an authorisation granted under regulations made under item 9 of Schedule 2 may appeal to the Magistrates' Court against a decision of the Corporation to suspend or cancel that authorisation.
- (6) An appeal against a decision of the Corporation made under sub-section (3) may only be made on either or both of the following grounds:
 - (a) that demerit points have been recorded against the appellant in error or because of wrongful or mistaken identity;
 - (b) that a miscalculation has been made in assessing the total number of demerit points incurred by the appellant.
- (7) The giving, in accordance with the regulations, of a notice of appeal against a decision of the Corporation made under sub-section (3) stays the suspension of the authorisation pending the determination of the appeal.
- (8) On an appeal under this section the Magistrates' Court must—

- (a) re-determine the matter of the suspension or cancellation; and
 - (b) hear any relevant evidence tendered by the appellant or the Corporation; and
 - (c) without limiting its discretion, take into consideration anything that the Corporation ought to have considered.
- (9) On an appeal against a decision of the Corporation made under sub-section (3) the Magistrates' Court may—
- (a) in allowing the appeal, give to the Corporation any directions it thinks proper for the amendment of any demerits register kept by the Corporation; or
 - (b) in dismissing the appeal, order that the suspension take effect from a date specified in the order.
- (10) Every decision of the Magistrates' Court on an appeal under this section is final and conclusive and must be given effect to by the Corporation.”.

58. *New section 23A inserted*

After section 23 of the **Road Safety Act 1986** insert—

“23A. *Information to be given to applicants for licences or permits*

The Corporation must ensure that an applicant for a driver licence, a learner permit or a tractor permit is informed at the time of making the application that any information given or document submitted in connection with the application, or a copy of such a document, may be given to a law

enforcement agency within the meaning of Subdivision (29B) of Division 1 of Part III of the **Crimes Act 1958** in accordance with that Subdivision.”.

59. Removal of requirement for driving instructor licence

Section 33 of the **Road Safety Act 1986** is repealed.

60. Restriction on divulging of information

In section 92 of the **Road Safety Act 1986**—

- (a) in sub-section (1) for “a delegate of the Corporation” substitute “the Corporation, a person who is or has been employed by, or engaged to provide services for, the Corporation or a person who is or has been employed by, or engaged to provide services for, a person or body engaged to provide services for the Corporation”;
- (b) in paragraph (a) of sub-section (1)—
 - (i) after “Corporation” insert “or other person or body for whom he or she is engaged to provide services”;
 - (ii) after “Minister” insert “given in accordance with sub-section (3) or under section 456C (1) of the **Crimes Act 1958**”;
- (c) in the penalty set out at the foot of sub-section (1) for “10” substitute “100”;
- (d) after sub-section (2) insert—
 - “(3) The Minister must not give a direction under paragraph (a) of sub-section (1) for the divulging of the contents of any record containing any particulars likely to lead to the identification of the person to whom the record relates.
 - (4) Nothing in sub-section (3) limits the power of the Minister under Subdivision (29B) of Division 1 of Part III of the **Crimes Act 1958**.”.

61. Subject-matter for regulations

- (1) In item 9 of Schedule 2 to the **Road Safety Act 1986** omit “; the grounds on which those authorisations may be cancelled or suspended and the procedure to be followed in those cases; conferring jurisdiction on the Tribunal to cancel or suspend those authorisations”.
- (2) In item 22 of Schedule 2 to the **Road Safety Act 1986** omit “and the destruction of the negatives”.

62. Consequential amendment

In section 3 (1) of the **Road Safety Act 1986** the definition of “Tribunal” is repealed.

63. Transitional provisions (Part 3)

- (1) The amendments of the **Road Safety Act 1986** made by sections 57 and 61 (1) apply to an authorisation referred to in item 9 of Schedule 2 to that Act that was in force immediately before the commencement of those sections and any such authorisation may be cancelled or suspended in accordance with that Act as amended by those sections.
- (2) Any proceedings before the Road Transport Licensing Tribunal under the **Road Safety Act 1986** in relation to an authorisation referred to in item 9 of Schedule 2 to that Act that had not been finally determined by the Tribunal immediately before the commencement of sections 57 and 61 (1) shall be determined by the Roads Corporation in accordance with that Act as amended by those sections.
- (3) If under sub-section (2) the Roads Corporation determines any proceedings, any thing done or any requirement complied with in relation to the proceedings before the commencement of sections 57 and 61 (1) must, so far as consistent with the provisions of the **Road Safety Act 1986** as amended by those sections and the regulations made under that Act, be taken to have been done or complied with for the purposes of the determination by the Roads

Corporation and the Roads Corporation may have regard to any record of the Road Transport Licensing Tribunal in relation to the proceedings.

PART 4—OTHER AMENDMENTS TO TRANSPORT ACT

64. *Repeal of certain provisions giving re-entry rights*

Sections 23, 24 and 25 of the Principal Act are repealed.

65. *Automated fare collection system*

- (1) In section 56 (1) of the Principal Act, after paragraph (m) insert—

“(ma) prohibiting entry onto any specified land or premises the property of the Public Transport Corporation by persons not holding a ticket authorising that entry;”.

- (2) In section 221 of the Principal Act—

- (a) in sub-section (1) in the definition of “ticket”—

(i) after “a journey” insert “or land or premises the property of the Public Transport Corporation”;

(ii) after “make that journey” insert “or be on that land or those premises”;

- (b) in sub-section (2)—

(i) after “carriage” insert “, or be on land or premises for entry to which a ticket is required,”;

(ii) in paragraph (a) after “journey” insert “or entering that land or those premises”;

(iii) in paragraph (b) after “journey” insert “or being on that land or those premises”;

(iv) in paragraph (c) after “journey” insert “or on leaving that land or those premises”;

- (c) in sub-section (3)—
 - (i) after “carriage” insert “, or is on land or premises for entry to which a ticket is required,”;
 - (ii) after “that journey” insert “or entry”;
- (d) in sub-section (4)—
 - (i) after “carriage” insert “, or is on land or premises for entry to which a ticket is required,”;
 - (ii) after “that journey” (wherever occurring) insert “or entry”;
- (e) in sub-section (4A)—
 - (i) after “carriage” (where first occurring) insert “or is on land or premises for entry to which a ticket is required”;
 - (ii) after “carriage” (where secondly occurring) insert “or entry to that land or premises”;
- (f) in sub-section (5) (b) after “carriage” insert “or entry to land or premises”;
- (g) after sub-section (6) insert—
 - “(7) Subject to sub-section (8), the Public Transport Corporation or a person employed by, or engaged in providing services for, that Corporation must not—
 - (a) except at the direction of the Minister, divulge to any person the contents of any record relating to the movement of a person into or out of or within a carriage or any land or premises the property of that Corporation for entry to which a ticket is required; or
 - (b) use, other than for the purposes of this Act or the regulations, his or her knowledge of any such record; or
 - (c) reveal at any time (including a time after a person has ceased to be employed by, or to be engaged in providing services for, that

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Corporation); any information gained in an official capacity in relation to a matter referred to in paragraph (a).

Penalty: 50 penalty units.

(8) Sub-section (7) does not prevent the divulging, use or revealing of information—

(a) in connection with the administration of this Act or the regulations; or

(b) for the purposes of any legal proceedings arising out of this Act or the regulations, or of any report of such proceedings.”

(3) In section 230 of the Principal Act, after sub-section (3) insert—

“(3A) A certificate purporting to be under the hand of an officer of the Public Transport Corporation authorised to sign that certificate by the Chief Executive of the Corporation certifying as to any matter which appears in or can be calculated from the records kept by or on behalf of the Corporation in connection with any ticketing system operated by it or on its behalf 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.”

66. Penalties

- (1) In section 56 (3) (h) of the Principal Act, for “8” substitute “20”.
- (2) Section 56 (5) of the Principal Act is **repealed**.
- (3) In section 218 (3) of the Principal Act, at the foot of the sub-section for “5” substitute “10”.
- (4) In section 218A (3) of the Principal Act, at the foot of the sub-section for “5” substitute “10”.
- (5) In section 221 (3) of the Principal Act, at the foot of the sub-section for “2” substitute “5”.

- (6) In section 221 (4) of the Principal Act, at the foot of the sub-section for "2" **substitute "5"**.
- (7) In section 221 (4A) of the Principal Act, at the foot of the sub-section for "2" **substitute "5"**.
- (8) In section 221 (5) of the Principal Act, at the foot of the sub-section for "5" **substitute "10"**.
- (9) In section 222 (1) of the Principal Act, at the foot of the sub-section for "2" **substitute "5"**.
- (10) In section 222 (3) of the Principal Act, at the foot of the sub-section for "2" **substitute "5"**.
- (11) In section 223 of the Principal Act, at the foot of the section—
 - (a) for "2" **substitute "5"**;
 - (b) for "3" **substitute "10"**.
- (12) In section 225A of the Principal Act, at the foot of the section for "5" **substitute "10"**.

67. New section 218B inserted

After section 218A of the Principal Act **insert—**

'218B. Power to require names and addresses

- (1) In this section "**authorised officer**" means an authorised officer within the meaning of section 218.
- (2) An authorised officer or a member of the police force may request a person to state his or her name and address if the officer or member believes on reasonable grounds that the person has committed or is about to commit an offence against this Act or the regulations.
- (3) An authorised officer or member of the police force who makes a request under sub-section (2) must inform the

person of the grounds for his or her belief in sufficient detail to allow the person to understand the nature of the offence or suspected offence.

- (4) A person must not, in response to a request made by an authorised officer or member of the police force in accordance with this section—
- (a) refuse or fail to comply with the request; or
 - (b) state a name that is false in a material particular; or
 - (c) state an address other than the full and correct address of his or her ordinary place of residence or business.

Penalty applying to this sub-section: 5 penalty units.

- (5) A person who is requested by an authorised officer or a member of the police force to state his or her name and address may request the officer or member to state, orally or in writing, his or her name and place of duty and to produce his or her authority.
- (6) An authorised officer or member of the police force must not, in response to a request under sub-section (5)—
- (a) refuse or fail to comply with the request; or
 - (b) state a name that is false in a material particular; or
 - (c) state as his or her place of duty an address other than the full and correct address of his or her ordinary place of duty; or
 - (d) refuse to comply with the request in writing if requested to do so.

Penalty applying to this sub-section: 5
penalty units.’.

68. *Offence to cross railway while boom gates or warning lights are operating*

In section 222 (3) of the Principal Act, after paragraph (c) **insert—**

“(ca) cross or attempt to cross a line of railway at a place provided as a crossing place for vehicles if a wig-wag, alternating red light or boom barrier installation is operating at the crossing;”.

69. *Graffiti*

In section 223A of the Principal Act in the definition of “property of the Public Transport Corporation” after paragraph (a) **insert—**

“(ab) any equipment installed by or on behalf of that Corporation on any land or premises of that Corporation; and”.

70. *Repeal of spent provisions*

- (1) Section 241 of the Principal Act is **repealed**.
- (2) Section 253 of the Principal Act is **repealed**.
- (3) Section 14 of the **Transport (Amendment) Act 1992** is **repealed**.

71. *Fencing of tourist railways*

In section 249 of the Principal Act—

(a) after “249.” **insert “(1)”;**

(b) at the end of the section **insert—**

“(2) Despite any Act or rule of law to the contrary, a person operating a tourist railway under an Order made under section 247 (1) must not, unless the Minister so directs, be required to fence or contribute to the fencing of any portion of the railway and is not liable

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for any damage which may be caused by reason of the railway not being fenced in or fenced off but that person may erect and maintain such fences in connection with the railway as the person thinks proper.”.

72. *New section 249B inserted*

After section 249A of the Principal Act insert—

“249B. *Regulations with respect to non-PTC services*

- (1) The Governor in Council may make regulations for or with respect to any matter or thing necessary to be prescribed for or in relation to the operation, and maintenance of safety in connection with the operation, of any railway or tramway in Victoria that is not being operated by the Public Transport Corporation.
- (2) Section 56 (3) applies to regulations made under this section in the same manner as it applies to regulations made under Part III.”.

73. *New section 255 inserted*

After section 254 of the Principal Act insert—

“255. *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 from entertaining actions relating to damage caused by reason of a tourist railway operated by a person under an Order

made under section 247 (1) not being fenced in or fenced off.”.

74. Provisions applying to the Board of PTC

In Schedule 1 to the Principal Act—

(a) in clause 1 after sub-clause (3) **insert—**

“(3A) The office of a member of the Board becomes vacant if the member—

(a) without the Board’s approval, fails to attend 3 consecutive meetings of the Board; or

(b) attains the age of 72; or

(c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or

(d) is convicted of an indictable offence or of an offence which, if committed in Victoria, would be an indictable offence.

(3B) The Minister must remove from office any member of the Board who is convicted of an offence relating to his or her duties as a member of the Board.”;

(b) in clause 4—

(i) in sub-clause (1) (a) for “at a meeting of” **substitute** “by”;

(ii) in sub-clause (5) for “After a disclosure is made by a member, he or she” **substitute** “After becoming aware of the existence of the conflict of interest in relation to a matter, the member”;

(c) after clause 6 insert—

“7. Duties of Board members

- (1) A member of the Board must at all times act honestly in the performance of the functions of his or her office, whether within or outside the State.
- (2) A member of the Board must at all times exercise a reasonable degree of care and diligence in the performance of his or her functions, whether within or outside the State.
- (3) A member or former member of the Board must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the Board to gain, directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to the Corporation.
- (4) A member of the Board must not, whether within or outside the State, make improper use of his or her position as a member of the Board to gain, directly or indirectly, an advantage for himself or herself or for any other person or to cause detriment to the Corporation.
- (5) This clause has effect in addition to, and not in derogation of, any Act or law relating to the criminal or civil liability of a member of the governing body of a corporation and does not prevent the institution of any criminal or civil proceedings in respect of such a liability.

8. Minister may bring proceedings

If a person contravenes clause 7 the Minister, in the name of the Corporation, may recover from the person as a debt due to the Corporation by action in a court of competent jurisdiction either or both of the following:

- (a) if that person, or any other person, made a profit as a result of the contravention, an amount equal to that profit;
- (b) if the Corporation has suffered loss or damage as a result of the contravention, an amount equal to that loss or damage.

9. Corporation not to make loans to Board members

- (1) The powers of the Corporation do not include a power, whether directly or indirectly—
 - (a) to make a loan to a member of the Board, a spouse of such a member, or a relative (as defined in the Corporations Law) of such a member or spouse; or
 - (b) to give a guarantee or provide security in connection with a loan made or to be made by another person to a member, spouse or relative referred to in paragraph (a).
- (2) Nothing in sub-clause (1) prohibits the Corporation entering into an agreement or arrangement with a person referred to in sub-clause (1) if similar agreements or arrangements

are entered into by the Corporation with members of the public on the same terms and conditions.”.

75. *Affixing of seal*

In clause 3 (1) of Schedule 1A to the Principal Act—

- (a) after “2” insert “persons who are”;
- (b) after “Corporation” (where lastly occurring) insert “or members of the Board”;
- (b) for “officers” (where secondly occurring) substitute “persons”.

76. *Minor amendment*

In section 221 (2) (a) of the Principal Act after “ticket,” insert “and”.

PART 5—MISCELLANEOUS

No. 6295.
 Reprinted to
 No. 57/1989.

77. *New section 7A inserted in Limitation of Actions Act*

After section 7 of the **Limitation of Actions Act 1958** insert—

“7A. *No title by adverse possession against PTC*

Despite any rule of law or provision made by or under this or any other Act but without limiting section 7, the right, title or interest of the Public Transport Corporation established under the **Transport Act 1983** to or in any land is not, and must be taken never to have been, affected by reason only of any possession of that land adverse to that Corporation, irrespective of the period of that possession.”.

78. New section 37 inserted in *Limitation of Actions Act*

After section 36 of the **Limitation of Actions Act 1958** insert—

“37. 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 from entertaining an action brought in respect of any land by any person in possession of that land adverse to the Public Transport Corporation established under the **Transport Act 1983**.”.

79. Insertion of Subdivision (29B) in Division 1 of Part III of *Crimes Act*

Before Subdivision (30) of Division 1 of Part III of the **Crimes Act 1958** insert—

“(29B) Obtaining information from Roads Corporation

No. 6231.
Reprinted to
No. 49/1991.
Subsequently
amended by
Nos 65/1991,
81/1991,
13/1992,
12/1993,
41/1993 and
60/1993.

456A. Definitions

In this Subdivision—

“law enforcement agency” means—

- (a) the police force of Victoria or of any other State or of the Northern Territory of Australia; or
- (b) the Australian Federal Police; or
- (c) the National Crime Authority established by the National Crime Authority Act 1984 of the Commonwealth; or

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(d) any other authority or person responsible for the enforcement of the laws of—

- (i) Victoria or any other State; or
- (ii) the Commonwealth; or
- (iii) the Northern Territory of Australia;

“relevant offence”, in relation to a document, means—

- (a) the serious offence in connection with the investigation or prosecution of which the document was sought; or
- (b) any other serious offence in respect of which the document has probative value;

“Roads Corporation” means the Roads Corporation established under Part II of the **Transport Act 1983**;

“serious offence” means—

- (a) an indictable offence which, by virtue of any enactment, is punishable on first conviction with imprisonment for life or for a term of 90 months or more; or
- (b) an offence which, if committed in Victoria, would be an indictable offence referred to in paragraph (a); or
- (c) an offence against the laws of the Commonwealth

which, by virtue of any enactment, is punishable on first conviction with imprisonment for life or for a term of 90 months or more.

456B. Application to Minister administering Road Safety Act

(1) A law enforcement agency may apply to the Minister administering the **Road Safety Act 1986** for a copy of any document in the possession of the Roads Corporation in connection with the administration of that Act or the regulations made under that Act.

(2) An application under sub-section (1)—

(a) may only be made in respect of a document—

(i) the original of which came into existence on or after the commencement of section 79 of the **Transport (Amendment) Act 1993**; and

(ii) that is required by the law enforcement agency in connection with the investigation or prosecution of a serious offence; and

(b) must be made by—

(i) in the case of a law enforcement agency referred to in paragraph (a) or (b) of the definition of that term in section 456A, an officer of or above the rank of

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Commander or a rank equivalent to Commander;

- (ii) in the case of any other law enforcement agency, by the chief executive officer (by whatever name called) of the agency.

456C. Release of information by Roads Corporation

- (1) The Minister administering the **Road Safety Act 1986** may grant an application under section 456B (1) and give an appropriate direction to the Roads Corporation if satisfied—

- (a) that the document is required by the law enforcement agency in connection with the investigation or prosecution of a serious offence; and

- (b) that appropriate arrangements are in place to ensure—

- (i) that the document or a copy of it is not given to any other person or body; and

- (ii) that the document is not used for any purpose other than investigating or prosecuting a relevant offence; and

- (iii) that the document, and any copy of it, is returned or destroyed in accordance with section 456D (2).

- (2) The Roads Corporation—

- (a) must comply with any direction given to it by the Minister under sub-section (1); and

- (b) must keep a record of the giving of any document to a law enforcement agency at the direction of the Minister under sub-section (1).

456D. *Provisions applying to law enforcement agency*

- (1) A law enforcement agency to which a document is given by the Roads Corporation in accordance with this Subdivision must ensure—
 - (a) that the document or a copy of it is not given to any other person or body; and
 - (b) that the document is not used for any purpose other than investigating or prosecuting a relevant offence; and
 - (c) that the document, and any copy of it, is returned or destroyed in accordance with sub-section (2).
- (2) A law enforcement agency must return to the Roads Corporation any original document given to the agency by the Roads Corporation in accordance with this Subdivision and destroy any copy document given to the agency by the Roads Corporation in accordance with this Subdivision, and any copy of such an original or copy document, at the end of the period of 6 months after the document was given to it if within that period—
 - (a) the person to whom the document relates has not been charged with a relevant offence; or
 - (b) that person has been so charged but the charge is not proceeded

with or the person is not found guilty of a relevant offence.

- (3) The Chief Commissioner, in the case of a law enforcement agency referred to in paragraph (a) or (b) of the definition of that term in section 456A, or the chief executive officer (by whatever name called) of the agency in any other case must ensure that sub-section (2) is complied with.

456E. Offence

A member of, or person employed by, a law enforcement agency who—

- (a) gives to any person or body, other than another member of, or person employed by, the agency, a document, or a copy of a document, given to the agency by the Roads Corporation in accordance with this Subdivision; or
- (b) uses a document or copy document referred to in paragraph (a) for any purpose other than investigating or prosecuting a relevant offence; or
- (c) fails to return or destroy any document required by section 456D (2) to be returned or destroyed; or
- (d) uses or makes, or causes or permits to be used or made, any copy of a document required by section 456D (2) to be returned or destroyed—

is guilty of a summary offence punishable on conviction by a level 10 fine.

456F. Delegation

- (1) The Minister administering the **Road Safety Act 1986** may, by instrument, delegate to the Chief Executive of the Roads Corporation any power of that Minister under this Subdivision, other than this power of delegation.
- (2) Despite anything to the contrary in the **Road Safety Act 1986** or any other Act, a power referred to in sub-section (1) cannot be delegated otherwise than in accordance with this section.’.

NOTES

1. *Minister's second reading speech—*

Legislative Assembly: 28 October 1993

Legislative Council: 23 November 1993

2. The long title for the Bill for this Act was “A Bill to amend the **Transport Act 1983**, the **Road Safety Act 1986**, the **Limitation of Actions Act 1958**, the **Crimes Act 1958** and the **Transport (Amendment) Act 1992** and for other purposes.”.

3. **Constitution Act 1975:**

Section 85 (5) statement:

Legislative Assembly: 28 October 1993

Legislative Council: 23 November 1993

Absolute majorities:

Legislative Assembly: 19 November 1993

Legislative Council: 25 November 1993

4. Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)