

[Act 1996 No 128]



New South Wales

Transport Administration Amendment (Light Rail) Bill 1996

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Transport Administration Act 1988*:
- to expand the functions of the Director-General of the Department of Transport with respect to the provision of appropriate passenger services in order to facilitate the development and operation of light rail services, and
 - to confer additional powers on the Director-General, including powers in relation to the acquisition and disposal of land, to enable the Director-General to exercise his or her light rail and other functions effectively, and
 - to make special provision for the development and operation of light rail systems and matters incidental to the construction and operation of such systems, and

* Amended in committee—see table at end of volume.

- (b) to make consequential amendments to the *Local Government Act 1993*, the *Motor Accidents Act 1988*, the *Rail Safety Act 1993*, the *Roads Act 1993* and the *Traffic Act 1909*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Transport Administration Act 1988* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments of Acts set out in Schedule 2.

Schedule 1 Amendment of Transport Administration Act 1988

Provisions relating to functions of Director-General and light rail

Schedule 1 [4] inserts provisions to confirm the functions of the Director-General of the Department of Transport in relation to light rail services.

Schedule 1 [11] inserts Division 2A into Part 9 of the Principal Act.

Subdivision 1 (proposed sections 104A–104K) of the Division deals with general matters relating to the functions of the Director-General.

The term *functions* is defined so as to cover all of the Director-General's transport functions. (See proposed section 104A.) Provision is made to enable the functions of the Director-General to be exercised through the proposed Transport Administration Corporation (or through joint ventures or other associations). The ability of the Director-General to exercise functions in his or her own capacity, and to enter contracts on behalf of the Crown, is preserved. (See proposed sections 104B and 104C.)

Provision is made for the establishment of the Transport Administration Corporation as a statutory body representing the Crown. The Corporation is taken to be part of the Department of Transport and is under the management and control of the Director-General. (See proposed section 104D.)

The current provision conferring power on the Director-General to enter into contracts (section 43 of the Principal Act) is repealed and re-enacted in substantially the same form in the new Subdivision. (See Schedule 1 [6] and proposed section 1ME.)

Provisions are inserted conferring powers on the Director-General in relation to the sale, lease or other disposal of land, the compulsory acquisition of land and the exercise of other functions concerning land. (See proposed sections 104F-104I.)

The Director-General is given specific annual reporting functions with respect to activities and objectives concerning passenger transport facilities (including light rail). (See proposed section 104J.)

A power is inserted to enable the making of regulations relating to passenger transport facilities (including light rail). (See proposed section 104K.)

Subdivision 2 (proposed sections 104L–104U) of Division 2A contains special provisions dealing with light rail. Definitions are provided for the purposes of the Subdivision. (See proposed section 104L.)

Light rail service is defined to ensure that it includes all forms of light rail vehicle passenger services. (See proposed section 104M.)

Light rail system is defined as a light rail service provided over a route declared by the regulations on the recommendation of both the Minister for Transport and the Minister for Roads, including vehicles and associated infrastructure. (See proposed section 104N.)

The Director-General is authorised to develop and operate light rail systems or to facilitate their development and operation by others. (See proposed section 104O.)

Provision is made for the application of Part 5 (instead of Part 4) of the *Environmental Planning and Assessment Act 1979* to the development of light rail systems. If an EIS is required, the approval of the Minister for Urban Affairs and Planning will be necessary. (See proposed section 104P.)

Local government building and subdivision approvals will not be required for light rail systems. (See proposed section 104Q.)

Provision is made concerning the creation of easements, rights of way and restrictions on the use of land for the purposes of the development and operation of light rail systems. Compensation will not be payable for the compulsory acquisition of interests in land that consist of easements for the support of catenaries for a light rail system (that is, the overhead conductor-wires) from buildings, structures or land or for interests under, on or over a public road. (See proposed section 104R.)

Land used for the purposes of construction and operation of a light rail system will be exempt from the payment of rates and land tax. However, this exemption does not extend to land used for administrative offices, workshops or similar facilities or other purposes prescribed by the regulations. (See proposed section 104S.)

Regulations may be made to exempt any matter concerning the development of a light rail system from the payment of stamp duty under the *Stamp Duties Act 1920*. (See proposed section 104T.)

The Director-General or persons authorised by the Director-General are authorised to alter the position of conduits used for the conveyance of substances, energy or signals in order to facilitate the development or operation of light rail systems. (See proposed section 104U.)

Consequential and other provisions

Schedule 1 [1]-[3] make consequential amendments relating to the functions of the Director-General.

Schedule 1 [5] makes an amendment by way of statute law revision.

Schedule 1 [7] and [8] provide for a representative of light rail operators on the Public Transport Authority.

Schedule 1 [9] and [10] make amendments concerning payment of penalties recovered for offences that are consequential on the re-location of provisions dealing with certain railway offences from the Principal Act to the *Rail Safety Act 1993* and other changes.

Schedule 1 [12] enables the making of regulations of a savings, transitional or other nature in consequence of the enactment of the proposed Act.

Schedule 1 [13] terminates an agreement between the Sydney City Council and certain government agencies relating to the use of roads by the Ultimo/Pymont light rail system that has been superseded by the new arrangements for light rail provided by the proposed Act. Provision is made to re-vest the public roads involved in the Sydney City Council.

Schedule 2 Amendment of other Acts

The *Local Government Act 1993* is amended to exempt the owner or operator of a light rail system from a provision dealing with the imposition of an annual charge in respect of a rail, pipe, wire, pole, cable, tunnel or structure laid, erected, suspended, constructed or placed on, under or over a public place in relation to the operation of that system. The regulations may exclude a matter from the exemption.

The definition of *motor vehicle* in the *Motor Accidents Act 1988* is amended to make it clear that the definition extends to light rail vehicles and, consequently, that the third party insurance scheme provided for by that Act extends to vehicles on light rail systems.

The *Rail Safety Act 1993* is amended:

- to provide that if the Director-General of the Department of Transport is the owner or operator of a railway, the functions of the Director-General under that Act in relation to the railway concerned are to be exercised by the Minister, and
- to make it a condition of the accreditation of the owner or operator of a railway that third-party policies required under the *Motor Accidents Act 1988* have been issued for vehicles on a light rail system, and
- to make provision for offences relating to the failure to pay fares on a railway and relating to the control of trains, their drivers and passengers on railways (the offences having been re-located from the *Transport Administration Act 1988* and extended to light rail).

The *Roads Act 1993* is amended:

- to make it clear that the right of passage along public roads by members of the public extends to the right of passage of members of the public in a light rail or other railway vehicle, and
- to require that a roads authority must not take action that prevents or obstructs the passage of a light rail vehicle along a declared light rail route without the prior consent of the Director-General of the Department of Transport, and
- to specify that, in the case of works or other action in connection with a light rail system that requires the consent of a roads authority, that consent is not required (if the roads authority is not the **RTA**) but that the work or other action must not be carried out or taken unless the consent of the RTA has been obtained, and
- to authorise the RTA (in place of the relevant roads authority, if it is not the RTA) to give directions, impose requirements or exercise other functions of a roads authority under the Act in connection with the development or operation of a light rail system, and
- to make consequential amendments.

The *Traffic Act 1909* is amended to make it clear that light rail vehicles are included in the definitions of ***motor vehicle*** and ***vehicle*** in that Act with the effect that the offence provisions of and under that Act relating to the operation of motor vehicles and vehicles apply to light rail vehicles and their drivers. However, specific provision is made that light rail vehicles are not required to be registered under that Act nor are their drivers required to be licensed. (Accreditation requirements in relation to light rail vehicles and their drivers are contained in the *Rail Safety Act 1993*.) In addition, the *Traffic Act 1909* is amended to enable the Director-General of the Department of Transport and a light rail operator to remove dangers and obstructions on a public street used by a light rail system. The Director-General or a person authorised by the Director-General will also be authorised to tow-away unattended vehicles that are obstructing the passage of a light rail vehicle.