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The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purposes

The main purposes of this Act are—

(a) to amend the Public Administration Act 2004 in relation to—

(i) employer powers (including in emergency situations);

(ii) employee mobility;
(iii) employee misconduct;
(iv) the powers of the Public Sector Standards Commissioner;

(b) to amend the Ombudsman Act 1973 in relation to the Ombudsman's jurisdiction in respect of the Director, Police Integrity and the Office of Police Integrity;

(c) to amend the Project Development and Construction Management Act 1994—

(i) to create the Secretary to the Department of Innovation, Industry and Regional Development as a body corporate;

(ii) to abolish the body corporate named Secretary to the Department of Transport;

(iii) to provide for the transfer of certain matters from the Secretary to the Department of Transport body corporate to the Secretary to the Department of Innovation, Industry and Regional Development body corporate;

(d) to make consequential amendments to the Planning and Environment Act 1987.

2 Commencement

(1) This Part, Part 3, sections 18(1), 19(1), 20, 23, 24(1) and 25 and Part 6 come into operation on the day after the day on which this Act receives the Royal Assent.

(2) Subject to subsection (3), sections 18(2), 19(2), 19(3), 21, 22 and 24(2) come into operation on a day to be proclaimed.
(3) If sections 18(2), 19(2), 19(3), 21, 22 and 24(2) do not come into operation before 30 June 2009, they come into operation on that day.

(4) Subject to subsection (5), the remaining provisions of this Act come into operation on a day or days to be proclaimed.

(5) If a provision referred to in subsection (4) does not come into operation before 1 October 2009, it comes into operation on that day.
PART 2—AMENDMENTS TO PUBLIC ADMINISTRATION ACT 2004

3 Definition of misconduct

In section 4 of the Public Administration Act 2004 insert the following definition—

"misconduct includes—

(a) a contravention of a provision of this Act, the regulations or a binding code of conduct;

(b) improper conduct in an official capacity;

(c) a contravention, without reasonable excuse, of a lawful direction given to the employee as an employee by a person authorised (whether under this Act or otherwise) to give the direction;

(d) a refusal by an employee to perform duties assigned to the employee under Part 3 or Part 7A;

(e) an employee making improper use of his or her position for personal gain;

(f) an employee making improper use of information acquired by him or her by virtue of his or her position to gain personally or for anyone else financial or other benefits or to cause detriment to the public service or the public sector;".

4 Employment

Section 20(2) of the Public Administration Act 2004 is repealed.
5 Repeal of section 21 (Probation)

Section 21 of the Public Administration Act 2004 is repealed.

6 New section 22 substituted

For section 22 of the Public Administration Act 2004 substitute—

"22 Dealing with unsatisfactory performance, misconduct and serious misconduct

The regulations may—

(a) establish procedures for dealing with allegations of unsatisfactory performance, misconduct and serious misconduct; and

(b) empower the imposition of penalties for misconduct or serious misconduct which may include reduction in salary or classification or both, suspension or dismissal."

7 New section 25A inserted

After section 25 of the Public Administration Act 2004 insert—

"25A Remuneration of executives

The approval of the Premier is required in respect of the remuneration to be paid to the following classes of executives—

(a) public service body Heads;

(b) persons holding an office which is a declared authority;

(c) a prescribed class of executives."
8 Employee mobility

In the heading to Division 6 of Part 3 for "Transfer of employees" substitute "Mobility of employees".

9 Transfers at direction

(1) In the heading to section 28 of the Public Administration Act 2004 after "Head" insert "or public entity".

(2) After section 28(1) of the Public Administration Act 2004 insert—

"(1A) If a public entity considers it appropriate to do so, it may, with the approval of the Head of a public service body, transfer an employee of the public entity to duties in that public service body on terms and conditions of employment that are no less favourable overall.

(1B) A transfer under this section may be permanent or for a fixed term."

10 Machinery of Government transfers

(1) For section 30(1) of the Public Administration Act 2004 substitute—

"(1) This section applies if a function is transferred—

(a) from one public service body to another public service body; or

(b) from a public service body to a public entity; or

(c) from a public entity to a public service body."
(1A) On the transfer of the function, the Premier may, in writing, declare that any employee necessary to carry out, or support the carrying out of, that function is transferred to duties in the public service body or public entity to which the function was transferred on terms and conditions of employment that are no less favourable overall.

(1B) A transfer under this section may be permanent or for a fixed term."

(2) In sections 30(2) and 30(3) of the Public Administration Act 2004 for "(1)" substitute "(1A)".

11 New section 31 substituted and 31A inserted

For section 31 of the Public Administration Act 2004 substitute—

"31 Transfer does not affect employment continuity

(1) This section applies to a transfer of—

(a) an employee of a public service body—

(i) to other duties in a public service body; or

(ii) to duties in another public service body or a public entity; or

(b) an employee of a public entity to duties in a public service body.

(2) This section applies whether the transfer is made under section 28, 29 or 30 or at the initiative of the employee or otherwise.

(3) The transfer of the employee does not constitute a resignation or termination of employment and the post-transfer service is to be regarded as continuous with the pre-transfer service.

s. 11
31A Assignment of duties to employees

A public service body Head may assign to an employee in the public service body duties consistent with his or her employment classification, skills and capabilities.”.

12 Termination of employment

(1) For section 33(1)(d) of the Public Administration Act 2004 substitute—

"(d) on the ground of serious misconduct; or".

(2) Section 33(1)(f) of the Public Administration Act 2004 is repealed.

13 Promotion of public sector values

After section 66(6) of the Public Administration Act 2004 insert—

"(7) The Public Sector Standards Commissioner may make recommendations to a public service body Head or a public entity Head on the steps that should be taken to change or introduce processes in relation to the public service body or public entity in order to promote or comply with public sector employment principles, standards or codes of conduct.

(8) If the public service body Head or public entity Head does not adopt, or decide to adopt, a recommendation made under subsection (7) within 14 days after being advised of the recommendation, he or she must, within 7 days after the end of that period, provide the Public Sector Standards Commissioner with a written statement of reasons for not adopting the recommendation.".
14 New Part 7A inserted

After Part 7 of the Public Administration Act 2004 insert—

"PART 7A—EMPLOYER POWERS IN EMERGENCY SITUATIONS

105A Declaration of emergency situation

(1) The Premier may declare that an emergency situation exists for the purposes of this Part if the Premier is satisfied that—

(a) circumstances exist that may cause a serious risk to public health; or

(b) an emergency exists that has been or is expected to be the subject of a declaration of a state of emergency; or

(c) an emergency situation otherwise exists which warrants the making of the declaration; or

(d) the declaration is necessary to assist the Victorian community or any part of the Victorian community to recover from a situation referred to in paragraph (a), (b) or (c).

(2) The Premier must consult with the Minister administering the Public Health and Wellbeing Act 2008 and the Chief Health Officer under that Act before making a declaration on the ground that circumstances exist that may cause a serious risk to public health.
(3) Before making any declaration under this section, the Premier—

(a) must consult with the Co-ordinator in Chief and the State Co-ordinator under the **Emergency Management Act 1986**; and

(b) may consult with any other persons who the Premier considers it appropriate to consult.

(4) Immediately on the making of a declaration under this section, an emergency situation exists for the purposes of this Part.

(5) The Premier must cause a notice of the making of a declaration under this section to be published in the Government Gazette as soon as practicable after it is made.

(6) In this section a **declaration of a state of emergency** means—

(a) a declaration of a state of emergency under section 198 of the **Public Health and Wellbeing Act 2008**;

(b) a declaration of a state of disaster under the **Emergency Management Act 1986**;

(c) a proclamation under Part 6 of the **Electricity Industry Act 2000**;

(d) a proclamation under Part 9 of the **Gas Industry Act 2001**;

(e) a proclamation under the **Fuel Emergency Act 1977** declaring that a state of emergency exists in relation to fuel;
(f) a declaration of a vital state project as referred to in the Vital State Projects Act 1976;

(g) a declaration of a vital industry under the Vital State Industries (Works and Services) Act 1992;

(h) a prescribed proclamation or declaration.

105B Period of operation of declaration

A declaration that an emergency situation exists remains in force for the period, not exceeding one month, specified in the notice unless it is sooner revoked or extended under this Part.

105C Variation, extension or revocation of declaration

(1) The Premier may by declaration vary or revoke or extend a declaration under section 105A.

(2) A declaration may be extended (or extended with variations) by another declaration for further periods not exceeding one month each but, subject to subsection (5), the total period that the declaration continues in force cannot exceed 6 months.

(3) Sections 105A(2) and 105A(3) apply to the making of a declaration under this section varying or extending a declaration in the same way as they apply to the making of a declaration under section 105A.

(4) A declaration under this section takes effect immediately on its making.
(5) The Premier must cause a notice of the making of a declaration under this section to be published in the Government Gazette as soon as practicable after it is made.

(6) The total period that the declaration continues in force can be extended beyond 6 months if each House of Parliament, by resolution, agrees to the extension before the declaration ceases to have effect.

105D Report to Parliament

(1) If a declaration that an emergency situation exists is made under this Part, the Premier must cause a report on the emergency situation and any action taken under section 105E(2) to be presented to each House of Parliament—

(a) if that House is then sitting, as soon as practicable after the declaration is made; and

(b) if that House is not then sitting, as soon as practicable after the next meeting of that House.

(2) The report must set out the reasons for making the declaration.

105E Powers of public sector body Heads in emergency situations

(1) This section applies if a declaration that an emergency situation exists is in force under this Part.

(2) A public sector body Head may take all or any of the following actions—

(a) assign any duties to an employee;

(b) require an employee to perform duties with another public sector body;
(c) require an employee to perform duties at a place other than his or her usual place of work;

(d) direct an employee not to attend for duty.

(3) An employee must comply with an action taken under subsection (2), but otherwise remains entitled to terms and conditions of employment that are no less favourable than those applying to his or her employment before the action was taken.

(4) Nothing in this section affects any right or duty that an employee has under any other law.

Example

An employee would still be required to comply with a duty under section 25 of the Occupational Health and Safety Act 2004 to take reasonable care for his or her own health and safety.

__________________

15 Transitional provision inserted

After clause 13 of Schedule 2 to the Public Administration Act 2004 insert—

"14 Public Administration Amendment Act 2009

Any instrument of delegation of a power under section 20(2) existing immediately before the commencement of section 4 of the Public Administration Amendment Act 2009 continues in effect after that commencement as if the delegation of the power referred to section 20(1)."

_________________
PART 3—AMENDMENTS TO OMBUDSMAN ACT 1973

16 Functions and jurisdiction of Ombudsman

(1) After section 13(3) of the Ombudsman Act 1973 insert—

"(3AA) To avoid doubt, section 13(3)(aa) does not apply and is taken never to have applied to the Director, Police Integrity or the Office of Police Integrity."

(2) After section 13(3A)(b) of the Ombudsman Act 1973 insert—

"(ba) in respect of an administrative action taken by that member in the course of the secondment of that member to the Office of Police Integrity; or"

17 New Part VII inserted

After Part VI of the Ombudsman Act 1973 insert—

"PART VII—SAVING AND TRANSITIONAL PROVISIONS"

33 Validity of certain actions taken by Ombudsman

(1) Without limiting the effect of section 13(3AA), the following actions are taken to be and always to have been valid to the extent (if any) that they were not authorised because of the effect of section 13(3)(aa) as in force before the commencement day—

(a) any inquiry or investigation commenced or undertaken by the Ombudsman into the Director, Police Integrity or the Office of Police
(b) any act or action taken or decision made by, or on behalf of, the Ombudsman concerning—

(i) any inquiry or investigation commenced or undertaken by the Ombudsman into the Director, Police Integrity or the Office of Police Integrity before the commencement day; or

(ii) any complaint received by the Ombudsman concerning the Director, Police Integrity or the Office of Police Integrity before the commencement day.

(2) Without limiting the effect of section 13(3AA), any enquiry into or investigation by the Ombudsman into the Director, Police Integrity or the Office of Police Integrity may relate to conduct that occurred before the commencement day.

(3) In this section commencement day means the date of commencement of section 16 of the Public Administration Amendment Act 2009.

"..."
PART 4—AMENDMENTS TO PROJECT DEVELOPMENT AND CONSTRUCTION MANAGEMENT ACT 1994

18 Purposes

(1) In section 1 of the Project Development and Construction Management Act 1994 for paragraphs (da) and (db) substitute—

"(da) to establish the Secretary to the Department of Innovation, Industry and Regional Development as a body corporate;

(db) to provide for the transfer of certain matters from the Secretary to the Department of Transport to the Secretary to the Department of Innovation, Industry and Regional Development;"

(2) In section 1 of the Project Development and Construction Management Act 1994 paragraph (c) is repealed.

19 Definitions

(1) In section 3(1) of the Project Development and Construction Management Act 1994 insert the following definition—

"Secretary to the Department of Innovation, Industry and Regional Development means the body corporate established under section 41A;"

(2) In section 3(1) of the Project Development and Construction Management Act 1994, the definition of Secretary to the Department of Infrastructure is repealed.

(3) Section 3(2) of the Project Development and Construction Management Act 1994 is repealed.
20 New Part 5A inserted

After Part 5 of the Project Development and Construction Management Act 1994 insert—

PART 5A—THE SECRETARY TO THE DEPARTMENT OF INNOVATION, INDUSTRY AND REGIONAL DEVELOPMENT

41A The Secretary is a body corporate

(1) The person who is for the time being the Department Head (within the meaning of the Public Administration Act 2004) of the Department of Innovation, Industry and Regional Development and the successors in office of that person are a body corporate under the name "Secretary to the Department of Innovation, Industry and Regional Development" which, by that name—

(a) has perpetual succession;
(b) has an official seal;
(c) may sue and be sued;
(d) may acquire, hold and dispose of real and personal property;
(e) may do and suffer all things that a body corporate may, by law, do and suffer.

(2) The official seal of the Secretary to the Department of Innovation, Industry and Regional Development must be kept as directed by the Secretary and must not be used except as authorised by the Secretary.

(3) All courts must take judicial notice of the official seal of the Secretary to the Department of Innovation, Industry and Regional Development on a document and, until the contrary is proved, must presume that the seal was properly affixed.
41B Functions of the Secretary to the Department of Innovation, Industry and Regional Development

(1) The Secretary to the Department of Innovation, Industry and Regional Development has the following functions—

(a) by agreement, to facilitate and manage public construction for departments and public bodies;

(b) in relation to public construction—

(i) to provide consultancies, information and advice to departments and public bodies;

(ii) to provide advice and information to the Minister;

(c) by agreement, to facilitate and manage construction for other persons or bodies.

(2) In addition to subsection (1), the Secretary to the Department of Innovation, Industry and Regional Development has any functions conferred on the Secretary to the Department of Innovation, Industry and Regional Development under Part 3.

(3) In addition to subsections (1) and (2), the Secretary to the Department of Innovation, Industry and Regional Development has any functions conferred on the Secretary to the Department of Innovation, Industry and Regional Development under Part 9A of the Planning and Environment Act 1987.

(4) The Secretary to the Department of Innovation, Industry and Regional Development may perform its functions within or outside Victoria.
41C Powers of the Secretary to the Department of Innovation, Industry and Regional Development

(1) The Secretary to the Department of Innovation, Industry and Regional Development has all the powers necessary to perform its functions under section 41B(1).

(2) Without limiting subsection (1), the Secretary to the Department of Innovation, Industry and Regional Development may, in the performance of its functions under section 41B(1)—

(a) enter into any agreements or arrangements with any person or body;

(b) enter into agreements or arrangements for the provision by the Secretary to the Department of Innovation, Industry and Regional Development of administration, management or information systems or services;

(c) do all things necessary or convenient to be done to give effect to the agreements and arrangements referred to in paragraphs (a) and (b);

(d) with the approval of the Treasurer, form, participate in the formation of, or be a member of a body corporate, association, partnership, trust or other body and enter into a joint venture with any other person.
(3) The Secretary to the Department of Innovation, Industry and Regional Development has any powers conferred under Part 3 to perform the functions conferred on the Secretary to the Department of Innovation, Industry and Regional Development under that Part.

(4) The Secretary to the Department of Innovation, Industry and Regional Development has any powers conferred on the Secretary to the Department of Innovation, Industry and Regional Development under Part 9A of the Planning and Environment Act 1987.

(5) The Secretary to the Department of Innovation, Industry and Regional Development may exercise its powers within or outside Victoria.

41D Secretary to the Department of Innovation, Industry and Regional Development is subject to Ministerial control

In the exercise of powers and functions the Secretary to the Department of Innovation, Industry and Regional Development is subject to the direction and control of the Minister.

41E Department Head's powers are not affected

The powers and functions of the person who for the time being constitutes the Secretary to the Department of Innovation, Industry and Regional Development are in addition to, and do not affect, that person's powers and functions as a Department Head under the Public Administration Act 2004.
41F Delegation

The Secretary to the Department of Innovation, Industry and Regional Development may by instrument delegate any of the powers conferred on the Secretary to the Department of Innovation, Industry and Regional Development under this Part or the regulations (other than this power of delegation) to—

(a) any employee or class of employees employed in the Department of Innovation, Industry and Regional Development; or

(b) the holder of any office or position in that Department.

21 Repeal of Part 5

Part 5 of the Project Development and Construction Management Act 1994 is repealed.

22 New section 79 inserted

After section 78 of the Project Development and Construction Management Act 1994 insert—

'S9 Secretary DOT body dissolved

On the repeal of Part 5 by the Public Administration Amendment Act 2009, the body corporate known as "Secretary to the Department of Transport" is dissolved.'
23 New Part 10 inserted

After Part 9 of the Project Development and Construction Management Act 1994 insert—

"PART 10—TRANSFER OF DESIGNATED FUNCTIONS

80 Definitions

In this Part—

allocation statement means an allocation statement made under section 82;

designated function means—

(a) a function conferred on the Secretary DOT body corporate under Part 3 or Part 5 before the relevant date; or

(b) a function conferred on the Secretary DOT body corporate under Part 9A of the Planning and Environment Act 1987 before the relevant date;

former Secretary of Transport property means property, rights or liabilities of the Secretary DOT body corporate that, under this Part, have vested in or become liabilities of the Secretary DIIRD body corporate;

instrument includes a document and an oral agreement;

liabilities means all liabilities, duties and obligations, whether actual, contingent or prospective;
property means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description;

relevant date means a date fixed by the Ministers under section 81 as the relevant date for an allocation statement;

relevant Ministers means—
(a) the Minister administering the Transport Act 1983; and
(b) the Minister administering the Docklands Act 1991;

rights means all rights, powers, privileges and immunities, whether actual, contingent or prospective;

Secretary DIIRD body corporate means the body corporate constituted under section 41A;

Secretary DOT body corporate means the body corporate constituted under section 35;

Secretary DOT instrument means an instrument (including a legislative instrument other than this Act) subsisting immediately before the relevant date—
(a) to which the Secretary DOT body corporate was a party; or
(b) that was given to or in favour of the Secretary DOT body corporate; or
(c) that refers to the Secretary DOT body corporate; or

(d) under which—

(i) money is, or may become, payable to or by the Secretary DOT body corporate; or

(ii) other property is to be, or may become liable to be, transferred to or by the Secretary DOT body corporate.

81 Ministers may fix relevant date

The relevant Ministers, by notice published in the Government Gazette, may fix the relevant date for the purposes of an allocation statement under section 82.

82 Secretaries to prepare allocation statement or statements

(1) The Department Head of the Department of Transport and the Department Head of the Department of Innovation, Industry and Regional Development must give to the relevant Ministers and the Treasurer within the period approved by the relevant Ministers and the Treasurer, a statement or statements approved by the Treasurer and the relevant Ministers relating to the property, rights and liabilities of the Secretary DOT body corporate in relation to a designated function as at the relevant date.
(2) A statement under this section in relation to a designated function—

(a) must allocate to the Secretary DIIRD body corporate all the property, rights and liabilities of the Secretary DOT body corporate which relate to the function; and

(b) must be signed by the Department Head of the Department of Transport and the Department Head of the Department of Innovation, Industry and Regional Development.

(3) If a statement under this section is approved by the Treasurer and the relevant Ministers—

(a) the Treasurer and the relevant Ministers must sign the statement; and

(b) the statement is an allocation statement for the purposes of this Part.

(4) The Treasurer and the relevant Ministers may at any time direct the Department Head of the Department of Transport and the Department Head of the Department of Innovation, Industry and Regional Development to amend a statement given to them under this section as specified in the direction.

(5) An allocation statement under this section may be amended by writing signed by the Treasurer and the relevant Ministers.

(6) In this section, statement and allocation statement include a statement or allocation statement amended in accordance with this section.
83 Certificate of Department Head of the Department of Transport

(1) A certificate signed by the Department Head of the Department of Transport certifying that property, rights or liabilities of the Secretary DOT body corporate specified in the certificate have been allocated under an allocation statement to the Secretary DIIRD body corporate is, unless revoked under subsection (2), conclusive evidence—

(a) that the property, rights or liabilities have been so allocated; and

(b) that the property, rights or liabilities vested in or became the property, rights or liabilities of the Secretary DIIRD body corporate on the relevant date.

(2) If the Treasurer and the relevant Ministers so direct the Department Head of the Department of Transport in writing, the Department Head must revoke a certificate given under subsection (1) by issuing another certificate or certificates in place of the first certificate.

(3) The Department Head of the Department of Transport—

(a) must keep a register of certificates issued under this section; and

(b) must make the register reasonably available for inspection by the Secretary DIIRD body corporate or any other interested person.
84 Effect of transfer on nomination order

If an allocation statement relates to a nominated project, on and after the relevant date—

(a) in any nomination order in force as at that relevant date for the nominated project, a reference to the Secretary DOT body corporate as the facilitating agency for the nominated project must be construed as a reference to the Secretary DIIRD body corporate as the facilitating agency for that project; and

(b) the Secretary DIIRD body corporate is deemed to be the facilitating agency for that project; and

(c) unless revoked, amended or varied in accordance with this Act, any other provision of the nomination order and any application order in force as at the relevant date relating to that project continues to apply to that project.

85 Property transferred to Secretary DIIRD body corporate

On the relevant date—

(a) all property and rights of the Secretary DOT body corporate that are allocated under an allocation statement to the Secretary DIIRD body corporate vest in the Secretary DIIRD body corporate; and

(b) all liabilities of the Secretary DOT body corporate that are allocated under an allocation statement to the Secretary DIIRD body corporate become liabilities of the Secretary DIIRD body corporate.
86 Allocation of property etc. subject to encumbrances

Unless an allocation statement otherwise provides, if, under this Part, property and rights vest in the Secretary DIIRD body corporate or liabilities become liabilities of the Secretary DIIRD body corporate—

(a) the property and rights so vested are subject to the encumbrances (if any) to which they were subject immediately before so vesting; and

(b) the rights to which the Secretary DOT body corporate was entitled in respect of those liabilities immediately before they ceased to be liabilities of that body corporate vest in the Secretary DIIRD body corporate.

87 Substitution of party to agreement

If, under an allocation statement, the rights and liabilities of the Secretary DOT body corporate under an agreement are allocated to the Secretary DIIRD body corporate—

(a) the Secretary DIIRD body corporate becomes, on the relevant date, a party to the agreement in place of the Secretary DOT body corporate; and

(b) on and after the relevant date, the agreement has effect as if the Secretary DIIRD body corporate had always been a party to the agreement.
88 Secretary DOT instruments
Each Secretary DOT instrument relating to former Secretary of Transport property allocated to the Secretary DIIRD body corporate under an allocation statement continues to have effect according to its tenor on and after the relevant date as if a reference in the instrument to the Secretary DOT body corporate were a reference to the Secretary DIIRD body corporate.

89 Proceedings
If, immediately before the relevant date for an allocation statement, proceedings relating to former Secretary of Transport property (including arbitration proceedings) allocated to the Secretary DIIRD body corporate under the allocation statement, to which the Secretary DOT body corporate was a party were pending or existing in any court or tribunal, then, on and after that date, the Secretary DIIRD body corporate is substituted for the Secretary DOT body corporate as a party to the proceedings and has the same rights in the proceedings as the Secretary DOT body corporate had.

90 Interests in land
If, immediately before the relevant date for an allocation statement, the Secretary DOT body corporate is, in relation to former Secretary of Transport property, the registered proprietor of an interest in land under the Transfer of Land Act 1958 that is allocated to the Secretary DIIRD body corporate under the allocation statement, then on and after that date—
(a) the Secretary DIIRD body corporate is deemed to be the registered proprietor of that interest in land; and

(b) the Secretary DIIRD body corporate has the same rights and remedies in respect of that interest as the Secretary DOT body corporate had.

91 **Action by Registrar of Titles**

On being requested to do so and on delivery of any relevant instrument or document, the Registrar of Titles must make any recordings in the Register that are necessary because of the operation of this Part.

92 **Taxes**

No duty or other tax is chargeable under any Act in respect of anything done under this Part or in respect of any act or transaction connected with or necessary to be done by reason of this Part, including a transaction entered into or an instrument made, executed, lodged or given, for the purpose of, or connected with the transfer of property, rights or liabilities of the Secretary DOT body corporate.

93 **Evidence**

(1) Documentary or other evidence that would have been admissible for or against the interests of the Secretary DOT body corporate in relation to former Secretary of Transport property if this Part had not been enacted, is admissible for or against the interests of the Secretary DIIRD body corporate, if the property is allocated to that body under an allocation statement.
(2) Division 3A of Part III of the Evidence Act 1958 continues to apply with respect to the books of account of the Secretary DOT body corporate and to entries made in those books of account before the relevant date, whether or not they relate to former Secretary of Transport property.

(3) In subsection (2), books of account has the same meaning as in Division 3A of Part III of the Evidence Act 1958.

94 Validity of things done under this Part

(1) Nothing effected by this Part or done or suffered under this Part—

(a) is to be regarded as placing any person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or

(b) is to be regarded as placing any person in breach of or as constituting a default under any Act or other law or any provision in any agreement, arrangement or understanding including, without limiting the generality of the foregoing, any provision prohibiting, restricting or regulating the assignment or transfer of any property or the disclosure of any information; or

(c) is to be regarded as fulfilling any condition which allows a person to exercise a right or remedy in respect of or to terminate any agreement or obligation; or

(d) releases any surety or other obligor wholly or in part from any obligation.
s. 23

(2) In this section Act does not include the Charter of Human Rights and Responsibilities.

"__________________".
PART 5—AMENDMENTS TO PLANNING AND ENVIRONMENT ACT 1987

24 Definitions

(1) In section 201E of the Planning and Environment Act 1987 for the definition of Secretary substitute—

"Secretary" means—

(a) the body corporate established under section 41A of the Project Development and Construction Management Act 1994; or

(b) the body corporate established under section 35 of the Project Development and Construction Management Act 1994.".

(2) In section 201E of the Planning and Environment Act 1987, in the definition of Secretary, paragraph (b) is repealed.

25 Delegation

In section 201G of the Planning and Environment Act 1987 for "officer or class of officers of the Department" substitute "person employed in the Department or the holder of any office or position in the Department".
PART 6—REPEAL OF AMENDING ACT

26 Repeal of amending Act

This Act is repealed on 1 October 2010.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the Interpretation of Legislation Act 1984).
ENDNOTES

† Minister's second reading speech—
Legislative Assembly: 29 October 2008
Legislative Council: 13 November 2008

The long title for the Bill for this Act was "A Bill for an Act to amend the Public Administration Act 2004, the Ombudsman Act 1973, the Project Development and Construction Management Act 1994 and the Planning and Environment Act 1987 and for other purposes."