Australian Land Transport Development Act 1988

Act No. 154 of 1988 as amended

This compilation was prepared on 28 July 2005 taking into account amendments up to Act No. 94 of 2005

The text of any of those amendments not in force on that date is appended in the Notes section

The operation of amendments that have been incorporated may be affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing, Attorney-General’s Department, Canberra
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An Act to govern payments for the purposes of the development and maintenance of land transport systems, and for related purposes

Part I—Preliminary

1 Short title [see Note 1]

This Act may be cited as the Australian Land Transport Development Act 1988.

2 Commencement

This Act commences on 1 January 1989.

3 Interpretation

(1) In this Act, unless the contrary intention appears:

approved organisation means:
(a) an approved research organisation; or
(b) an approved road safety organisation.

approved railway authority means an authority in respect of which a declaration under subsection 7(3) is in force.

approved research organisation means an organisation in respect of which a declaration under subsection 8(1) is in force.

approved road safety organisation means an organisation in respect of which a declaration under subsection 8(2) is in force.

AusLink transition time means the commencement of Parts 3 to 8 of the AusLink (National Land Transport) Act 2005.

capital railway project means a project by way of capital expenditure in relation to an interstate mainline railway, and includes:
(a) the construction of an interstate mainline railway; or
(b) the acquisition of rolling stock for use on an interstate mainline railway.
construction in relation to a railway or road, includes:
(a) the reconstruction or realignment of the railway or road;
(b) the bringing of the railway or road to a higher standard;
(c) investigation and associated engineering studies in connection with:
   (i) the construction, reconstruction or realignment of the railway or road;
   (ii) the bringing of the railway or road to a higher standard; or
   (iii) the planning of alternative routes for the railway or road;
(d) the acquisition of land for the purpose of:
   (i) constructing, reconstructing or realigning the railway or road; or
   (ii) bringing the railway or road to a higher standard; and
(e) the doing of any other thing in relation to a matter specified in paragraph (a) or (b) approved by the Minister, in writing, for the purposes of this definition; but does not include the maintenance of the railway or road.

existing Fund means:
(a) the Australian Bicentennial Road Development Trust Fund established by section 7 of the Australian Bicentennial Road Development Trust Fund Act 1982; or
(b) the Australian Land Transport Trust Fund established by section 11 of the Australian Land Transport (Financial Assistance) Act 1985.

government authority means:
(a) a local government body;
(b) an authority of a State, being an incorporated body but not being a local government body, that is responsible for:
   (i) the construction or maintenance of roads in, or in an area of, the State; or
   (ii) the provision of railway services over a railway in the State.

interstate mainline railway means a railway, or a proposed railway, in respect of which a declaration under subsection 7(1) is in force.
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local road means:
(a) a road that is not a national highway, a national arterial road or a State arterial road; or
(b) a path for the use of persons riding bicycles, being a path that is not associated with a road.

maintenance, in relation to a road, includes works and repairs to keep the road in a safe and trafficable condition.

national arterial road means a road or proposed road in respect of which a declaration under subsection 5(1) is in force.

national highway means a road or proposed road in respect of which a declaration under subsection 4(1) or (2) is in force.

organisation includes an association, authority, body or institution, whether incorporated or unincorporated, and whether or not constituting or forming part of a Department of State of the Commonwealth or of a State.

payment under this Act includes the following:
(a) a payment made out of the Australian Land Transport Development Reserve;
(b) a payment made out of the Australian Land Transport Development Account;

before the AusLink transition time.

Note: The Australian Land Transport Development Reserve existed under the Act until 1 July 1999, when it was replaced by the Australian Land Transport Development Account (a special account by force of the Financial Management Legislation Amendment Act 1999). That account was abolished by the AusLink (National Land Transport—Consequential and Transitional Provisions) Act 2005.

provincial cities and rural highways road means a road or a proposed road in respect of which a declaration under subsection 7A(1) is in force.

railway includes:
(a) railway signs;
(b) railway control equipment;
(c) railway lighting equipment;
(d) a bridge or tunnel associated with a railway, including a bridge or tunnel for the use of pedestrians; and
(e) any other thing associated with a railway approved by the Minister in writing for the purposes of this definition.

*road* includes:
(a) a traffic sign;
(b) traffic control equipment;
(c) street lighting equipment;
(d) a vehicular ferry;
(e) a bridge or tunnel, including a bridge or tunnel for the use of pedestrians;
(f) a path for the use of persons riding bicycles;
(g) a ramp provided to facilitate the launching of boats;
(h) vehicular access from a road to a ramp referred to in paragraph (g), and
(j) any other thing approved by the Minister in writing for the purposes of this definition; associated with a road.

*State* includes the Northern Territory or the Australian Capital Territory.

*State arterial road* means a road, or proposed road, in respect of which a declaration under subsection 6(1) is in force.

*urban public transport project* means a project in respect of which a declaration under subsection 7C(1) is in force.

(2) An amount paid by a State to a government authority for a particular purpose and expended by that authority for that purpose shall, for the purposes of this Act, be taken to have been expended by the State for that purpose.

(3) For the purposes of this Act, where an amount is expended by a State or a government authority by way of the payment of wages and an amount of tax is paid by the State or the authority (whether by way of a payment of moneys, the crediting of an account or otherwise) on those wages, being a tax imposed by a law of the State upon employers on wages paid by them, the amount of tax shall be taken to be a part of those wages.

(4) In subsection (3), *wages* includes payments in the nature of wages.
(5) Subject to subsection (3), for the purposes of this Act, money paid or credited by a State to a trust account or other account in the Treasury of the State shall not, merely because of its having been so paid or credited, be taken to have been expended by the State.

(6) Where an approved organisation is, or is part of, a Department of State of a State:
   (a) a reference in this Act to the payment of an amount under this Act to the approved organisation is a reference to the payment of the amount under this Act to the State by way of the grant of financial assistance;
   (b) a reference in this Act to expenditure by the approved organisation is a reference to expenditure by the State; and
   (c) a reference in this Act to an act or thing done or to be done by the organisation arising out of such a payment or expenditure is a reference to an act or thing done or to be done by the State arising out of such a payment or expenditure.

(7) For the purposes of this Act, a notification or request shall be taken to have been given to a State if it is given to the appropriate Minister of the State.

(8) Unless the contrary intention appears:
   (a) a reference in this Act to a road includes a reference to a part of a road; and
   (b) a reference in this Act to a railway includes a reference to a part of a railway.
Part 2—Payments under this Act

15 Payments under this Act

(1) Subject to subsection (2) and section 19, the Minister may authorise payments under this Act of the following kinds:

(a) to a State, by way of the grant of financial assistance to the State, for expenditure by the State on:
   (i) projects for the construction of:
      (A) national highways; or
      (B) national arterial roads;
   and programs for the maintenance of national highways, being projects or programs approved under subsection 26(3);
   (iii) capital railway projects and urban public transport projects approved under subsection 26(3);
   (iv) projects for the construction of provincial cities and rural highways roads approved under subsection 26(3); and
   (v) a project, or program of projects, approved under subsection 26(3), for:
      (A) the road safety improvement of black spots; or
      (B) the implementation of road safety measures;

(b) to an approved railway authority for expenditure by the authority on capital railway projects approved under subsection 26(3);

(c) to an approved research organisation for expenditure by the organisation in arranging, assisting or carrying out programs of research relating to land transport approved under subsection 26(3); and

(d) to an approved road safety organisation for expenditure by the organisation in arranging, assisting or carrying out programs of activities relating to road safety approved under subsection 26(3).

(2) An amount may not be paid under this Act to a State in relation to a project or program referred to in subparagraph (1)(a)(v) unless
the State has given to the Minister an undertaking that it will implement road safety initiatives identified by the Minister.

19 Reallocation of funds

If:

(a) an amount has been paid under this Act to a State for a particular purpose or project; and

(b) the Minister considers, having regard to the policies of the Commonwealth in relation to land transport, that it is appropriate to do so;

the Minister may authorise the amount (or a specified part of the amount) to be used by the State for another purpose or project set out in section 15 and specified by the Minister.

22 Time for payments

Payments under this Act shall be made at such times, and in such amounts, as the Minister approves.

23 Statement accompanying payment

A payment made under this Act must be accompanied by a statement requiring that the payment be expended in arranging, assisting or carrying out a specified project or program, or a specified class of projects or programs, approved under subsection 26(3).

24 Condition of payment

A payment of an amount under this Act to a State, authority or approved organisation is subject to the condition that the State, authority or organisation will expend the amount as required by the statement under section 23 that accompanied the payment.
Part III—Approval of projects and programs

26 Closing off the Act to new approvals

No new approvals

(1) The Minister must not grant an approval of a project or program under this Act on or after the AusLink transition time.

Certain approvals under this Act continue in force

(2) If:

(a) immediately before the AusLink transition time, an approval was in force under subsection 26(3) of this Act, as then in force; and

(b) the approval is not an approval that is taken to be an approval granted under the AusLink (National Land Transport) Act 2005 by item 2 of Schedule 2 to the AusLink (National Land Transport—Consequential and Transitional Provisions) Act 2005;

then the approval continues in force, and may be dealt with, on and after the AusLink transition time, as if section 26 of this Act, as in force immediately before the AusLink transition time, had not been repealed.

(3) A reference in this Act to a project or program approved under subsection 26(3) of this Act is a reference to a project or program for which an approval continues in force under subsection (2).

Certain declarations under this Act continue in force

(4) If, immediately before the AusLink transition time, a declaration was in force under subsection 4(1), 4(2), 5(1), 6(1), 7(1), 7(3), 7A(1), 7B(1), 7B(2), 7C(1), 8(1) or 8(2) of this Act, as then in force, then the declaration continues in force, and may be dealt with, on and after the AusLink transition time, as if sections 4, 5, 6, 7, 7A, 7B, 7C and 8 of this Act, as in force immediately before the AusLink transition time, had not been repealed.
27 Variation of projects etc.

(1) Subject to subsection (2), the Minister may, in accordance with procedures determined by the Minister:
   (a) approve a variation of a project or program approved under subsection 26(3);
   (b) approve a variation of the estimated cost of a project or program approved under subsection 26(3); or
   (c) approve a variation of the costs in relation to a project or program approved under subsection 26(3) that are to be met by payments under this Act.

(2) The Minister shall not approve a variation under subsection (1) if the Minister considers:
   (a) that the approval of the variation would not be consistent with the purposes of this Act; or
   (b) that, having regard to the cost of projects and programs, and other expenditure to be met by payments under this Act, the approval of the variation would result in the costs in relation to a project or program that are to be met by payments under this Act being such that they could not be met by payments made in accordance with section 15.

28 Allocations of payments to local government bodies

(1) Money expended by a State by way of funding government authorities to carry out the construction or maintenance of local roads shall not be taken to have been expended in accordance with this Act unless the money is allocated by the State between local government bodies and government authorities that are not local government bodies in accordance with:
   (a) where the State has formulated principles for the purposes of this subsection and the Minister has approved those principles—those principles; or
   (b) in any other case—principles determined by the Minister.
(2) The Minister shall not determine principles for the purposes of subsection (1) in relation to a State unless and until:

(a) the appropriate Minister of the State has informed the Minister that the State does not propose to formulate principles for the purposes of that subsection; or

(b) the Minister has, by notice in writing, requested the appropriate Minister of the State to arrange for the formulation of such principles within a specified time and, within that time, the State has not formulated such principles or has not formulated such principles that the Minister is prepared to approve.

(3) A State may, with the approval of the Minister, vary principles formulated by the State for the purposes of subsection (1).

(4) The Minister may vary principles determined by the Minister for the purposes of subsection (1).
Part IV—Conditions of payments

28A Manner of application of this Part to different payments under this Act

(1) The provisions of this Part apply to all payments under paragraph 15(1)(a), (b), (c) or (d).

(2) Subject to subsection (3), the provisions of this Part apply in respect of payments under paragraph 15(1)(ba), as in force immediately before the AusLink transition time, in respect of projects of approved railway authorities:

(a) as if, so far as assets acquired under those projects are concerned, paragraph 32(1)(n) were omitted; and

(b) as if section 31 and paragraph 32(1)(p) were omitted.

(3) If an approved railway authority to which payment is made under paragraph 15(1)(ba), as in force immediately before the AusLink transition time, is a company incorporated under the Corporations Act 2001, the obligations of the authority and of its directors and of officers under subsection (2) apply only to the extent that those obligations are consistent with obligations of the authority and of its directors and officers under that Act.

29 Minister may require information to be furnished

(1) In addition to the conditions specified in any other provision of this Act, a payment of an amount to a State, approved railway authority or approved organisation under this Act is subject to the condition that the appropriate Minister of the State, the authority or the organisation, as the case may be, will comply with any requirement made in accordance with subsection (2).

(2) The Minister may, by notice in writing, require the appropriate Minister of a State, an approved railway authority or an approved organisation to furnish to the Minister, within the time specified in the notice, such information relevant to the operation of, or to a matter arising under, this Act as is specified in the notice.
Part IV  Conditions of payments

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30  Statements of expenditure etc. to be furnished

(1) In addition to the conditions specified in any other provision of this Act, payment of an amount to a State, approved railway authority or approved organisation under this Act is subject to the following conditions:

(a) that the State, authority or organisation will give to the Minister:

(i) as soon as practicable after 30 June in each year, a statement, in accordance with a form approved by the Minister, as to:

(A) the expenditure by the State, authority or organisation during that year out of that amount; and

(B) any sum set aside during that year out of that amount for expenditure by the State, authority or organisation but not expended during that year; and

(ii) a report by the appropriate person stating:

(A) whether the statement is in the form approved by the Minister;

(B) whether, in the person’s opinion, the statement is based on proper accounts and records;

(C) whether the statement is in agreement with the accounts and records; and

(D) whether, in the person’s opinion, the expenditure of money has been in accordance with this Act;

(b) that, if the Minister informs the Treasurer of the State or, in the case of an authority or organisation, a responsible officer of the authority or organisation, that the Minister is satisfied that the State, authority or organisation has failed, with respect to that amount, to fulfil the condition specified in paragraph (a), the State, authority or organisation, as the case may be, will repay that amount, or such part of that amount as the Minister specifies, to the Commonwealth.
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(2) In this section:

appropriate person means:
   (a) in relation to a State or to an authority or organisation whose accounts are required by law to be audited by the Auditor-General of a State—the Auditor-General of the State;
   (b) in relation to an authority or organisation whose accounts are required by law to be audited by the Auditor-General of the Commonwealth—the Auditor-General of the Commonwealth; or
   (c) in any other case—a qualified accountant.

qualified accountant means:
   (a) a person who is registered as a company auditor or a public accountant under a law in force in a State; or
   (b) a member of the Institute of Chartered Accountants in Australia or of the Australian Society of Accountants.

31 Condition relating to expenditure of moneys paid under this Act

In addition to the conditions specified in any other provision of this Act, a payment to a State, approved railway authority or approved organisation under this Act is subject to the condition that, if any amount or amounts paid to the State, authority or organisation under this Act has not or have not been wholly expended or otherwise dealt with in accordance with this Act, the State, authority or organisation, as the case may be, will, on demand by the Minister, pay to the Commonwealth an amount specified by the Minister, being an amount not exceeding so much of the sum of the amount or amounts so paid to the State, authority or organisation as has not been so expended or otherwise dealt with.

32 Additional conditions with respect to approved projects and programs

(1) In addition to the conditions specified in any other provision of this Act, a payment of an amount to a State or approved railway authority under this Act is subject to the following conditions:
   (a) in the case of a State—that, where amounts paid to the State are required by virtue of this Act to be expended on the carrying out of:
(i) a project for the construction of a national highway, or of a national arterial road (other than a national arterial road the construction of which was commenced before the commencement of this Act) or of a provincial cities and rural highways road (other than a provincial cities and rural highways road the construction of which was commenced before the commencement of the Australian Centennial Roads Development Amendment Act 1990), being a project that will involve:

(A) the construction, reconstruction or realignment of the road; or

(B) the bringing of the road to a higher standard; or

(ii) a program for the maintenance of a national highway, being a program involving works the estimated cost of which exceeds $2,000,000 and that have been declared, in writing, by the Minister to be works in relation to which tenders are to be called;

the State will invite, and deal with, tenders for particular works involved in the activities referred to in sub-subparagraph (i)(A) or (B) or in the works referred to in subparagraph (ii), other than exempt works of the State, in accordance with procedures approved by the Minister;

(b) that, where amounts paid to the State or authority are required by virtue of this Act to be expended in relation to a capital railway project or an urban public transport project, being a project that will involve the performance of works, or the purchase of goods, for which it is appropriate to invite tenders, the State or authority will invite, and deal with, tenders for those works or goods in accordance with procedures approved by the Minister;

(c) in the case of a State—that the State will, if requested by the Minister to do so, enter into an arrangement with the Minister for the setting up of a committee of persons representing both the Minister and the appropriate Minister of the State to carry out planning and give advice to both Ministers in connection with this Act in so far as it relates to the State;

(d) that the State or authority will ensure that signs are displayed and maintained in accordance with requirements notified to the State or authority from time to time by the Minister, being signs that indicate that a project or program or the
construction or maintenance of a road is being or has been funded by the Commonwealth;

(e) that the State or authority will ensure that such other recognition of the extent to which a project or program or the construction or maintenance of a road is being or has been funded by the Commonwealth will be given by the State or authority in accordance with requirements notified to the State or authority from time to time by the Minister;

(f) in the case of a State—that the State will comply with such requirements as are notified to the State from time to time by the Minister prohibiting (either unconditionally or subject to a condition requiring the Minister’s approval to be given) the display of signs (other than traffic signs) near national highways, or national arterial roads, in respect of which any payment has been made under this Act;

(g) in the case of a State—that, where the amounts paid to the State are required by virtue of this Act to be expended on projects for the construction of national highways, the State will give to the Minister as soon as practicable after 30 June in each year, a certificate by a person approved by the Minister for the purposes of this paragraph certifying that, in the opinion of the person, work that has been carried out during that year on those projects has been carried out in accordance with the standards (if any) applicable to that work in accordance with section 38;

(h) in the case of a State—that the State will:

(i) develop and implement quality systems for the purposes of projects and programs relating to national highways (including pavement management systems), national arterial roads, or provincial cities and rural highways roads; and

(ii) permit, at all reasonable times, a person authorised by the Minister to assess or monitor those systems and inspect any records, documents or other information that the person may reasonably request to inspect for that purpose;

(j) that the State or authority will, at all reasonable times, permit a person authorised by the Minister:

(i) to inspect any work involved in the carrying out of a project or program approved under subsection 26(3); and
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(ii) to inspect and make copies of, or take extracts from, any plans, designs, tenders, records or other documents relating to a project or program approved under subsection 26(3);

(k) in the case of a State—that the State will make satisfactory provision for:

(i) the maintenance of the national arterial roads in the State; and

(ii) the provision and maintenance of roads connecting the national highways and national arterial roads in the State with other roads in the State;

(m) in the case of a State—that the State will not, without the written consent of the Minister, cause or permit a toll or fee to be charged for the right to travel in a vehicle on or over a road that is, or any part of which is, a national highway, or a national arterial road, or a provincial cities and rural highways road, in respect of which any payment has been made under this Act;

(n) if an asset acquired by the State or approved railway authority or by a government authority that is not a local government body for a purpose in respect of which an amount was paid to the State or approved railway authority:

(i) under this Act;

(ii) out of an existing Fund; or

(iii) under the *States Grants (Roads) Act 1977*, the *Roads Grants Act 1980* or the *Roads Grants Act 1981*;

or any interest in such an asset, is sold or otherwise disposed of after the commencement of this Act, the State or approved railway authority will either pay to the Commonwealth an amount equal to the proceeds of the sale or disposal or to the market value of the asset, whichever is the higher, or ensure that those proceeds are expended:

(iv) in the case of a State—on the construction or maintenance of roads or on capital railway projects; or

(v) in the case of an approved railway authority—on capital railway projects;

(na) in the case of a State—that, where amounts paid to the State are required by virtue of this Act to be expended on the carrying out of a project or program for:

(i) the road safety improvement of black spots; or
(ii) road safety measures;
the State will give to the Minister an undertaking that it will implement road safety initiatives identified by the Minister;
(p) that, if the Minister informs the Treasurer of the State or, in the case of an authority, a responsible officer of the authority, that the Minister is satisfied that the State or authority has failed to fulfil a condition specified in a preceding paragraph of this subsection or in section 29, the State or authority will repay to the Commonwealth the amount paid to it, or such part of that amount as the Minister specifies.

(2) In this section **exempt works**, in relation to a State, means:
(a) works determined by the Minister to be works the whole of which:
   (i) are urgently required by reason of an emergency;
   (ii) are of such a minor nature that the invitation of tenders for those works would involve undue additional cost;
   (iii) are of a kind for which it is not practicable to prepare adequate tender specifications; or
   (iv) are of a kind for which competitive tenders are unlikely to be received; or
(b) works carried out by a public utility.

(3) Paragraph 32(1)(n) does not apply:
(a) to the sale or other disposal to the National Rail Corporation Limited of an asset; or
(b) to the granting to the National Rail Corporation Limited of a lease of an asset having a term of at least 20 years; in accordance with subclause 5(5) of the Agreement set out in the Schedule to the National Rail Corporation Agreement Act 1992.
Part V—Miscellaneous

33 Deduction of amounts repayable
The Minister may deduct from an amount payable under this Act to a State, authority or organisation any amount repayable by the State, authority or organisation under this Act.

36 Money deemed to have been expended on national highway projects
(1) Subject to subsection (2), a State may, for the purposes of this Act, treat money expended by the State, in a financial year, for the purpose of meeting administrative costs incurred directly in connection with the construction or maintenance of national highways in the State, not being administrative costs incurred in respect of particular works involved in the carrying out of any project or program approved under subsection 26(3), as having been expended in that year by the State on such a project or program.

(2) Money treated as having been expended on a project or program in a year by virtue of subsection (1):
(a) shall not include any money treated, by virtue of that subsection, as having been expended on any other project or program; and
(b) shall not exceed, in the aggregate, 4% of the money otherwise expended on that project or program since its commencement.

37 Minister may issue guidelines
(1) The Minister may:
(a) after consultation with each of the States, determine guidelines for the distribution by each State to government authorities in the State of money paid under this Act for expenditure by the State on the construction or maintenance of State arterial roads; and
(b) determine guidelines for the administration of programs or projects approved under subsection 26(3).

(2) The States must comply with those guidelines.

38 Standards for national highways

(1) For the purpose of ensuring that this Act is conducive to the construction and maintenance of national highways that are of an adequate standard, the Minister may, from time to time:

(a) request a State to furnish such information as the Minister specifies relating to the use or likely use of national highways, including the effect on the likely use of national highways of works that the State is carrying out or proposes to carry by way of the construction or maintenance of other roads in the State;

(b) after consultation with a State, notify to the State works, or classes of works, by way of the construction or maintenance of the national highways in the State that the Minister considers necessary to be carried out;

(c) notify to a State the order in which the Minister considers that works in connection with national highways in the State should be carried out; and

(d) notify to a State standards, applicable either generally or otherwise as specified in the notification, that the Minister considers necessary to be observed in connection with the construction or maintenance of national highways.

(2) The Minister may revoke or vary a request or notification given under subsection (1).

39 Delegations

The Minister may, by signed instrument, delegate to a person appointed or engaged under the Public Service Act 1999 all or any of his or her powers or functions under sections 22, 26, 27 and 29, paragraphs 32(1)(d), (e), (h) and (j), subsection 32(2) and section 38.
Section 41

41 Report to Parliament

As soon as practicable after 30 June in each financial year in which payments have been made under this Act, the Minister must cause a report to be tabled in each House of the Parliament on the operation of this Act during that financial year.
Notes to the Australian Land Transport Development Act 1988

Note 1

The Australian Land Transport Development Act 1988 as shown in this compilation comprises Act No. 154, 1988 amended as indicated in the Tables below.

For application, saving or transitional provisions made by the Corporations (Repeals, Consequential and Transitionals) Act 2001, see Act No. 55, 2001.

All other relevant information pertaining to application, saving or transitional provisions prior to 6 July 2005 is not included in this compilation. For subsequent information see Table A.

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<td>(item 200): 5 Dec 1999 (see Gazette 1999, No. S584)</td>
<td>(c)</td>
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<tr>
<td>AusLink (National Land Transport—Consequential and Transitional Provisions) Act 2005</td>
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<td>6 July 2005</td>
<td>Schedules 1 and 2: 28 July 2005 (see s. 2(1) and F2005L02026) Remainder: Royal Assent</td>
<td>Sch. 2 [see Table A]</td>
</tr>
</tbody>
</table>
Notes to the  *Australian Land Transport Development Act 1988*  

**Act Notes**  

(a) The *Australian Land Transport Development Act 1988* was amended by the Schedule (items 4–8) only of the *Transport and Communications Amendment Act (No. 2) 1993*, subsections 2(1) and (9) of which provide as follows:

1. Subject to subsections (2) to (10) (inclusive), this Act commences on the day on which it receives the Royal Assent.
2. The amendments contained in items 4, 5, 6 and 7 of the Schedule are taken to have commenced on 1 July 1992.

(b) The *Australian Land Transport Development Act 1988* was amended by Schedule 2 (items 347–367) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:

2. Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.

(c) The *Australian Land Transport Development Act 1988* was amended by Schedule (item 200) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provides as follows:

1. In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
2. Subject to this section, this Act commences at the commencing time.

(d) The *Australian Land Transport Development Act 1988* was amended by Schedule 3 (items 54–56) only of the *Corporations (Repeals, Consequential and Transitional) Act 2001*, subsection 2(3) of which provides as follows:

3. Subject to subsections (4) to (10), Schedule 3 commences, or is taken to have commenced, at the same time as the *Corporations Act 2001*.
Table of Amendments

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| S. 31              | am. No. 152, 1997; No. 94, 2005 |
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| S. 34              | am. No. 152, 1997  
rep. No. 94, 2005 |
| S. 35              | rep. No. 152, 1997  
rs. No. 3, 1991  
am. No. 152, 1997; No. 94, 2005 |
| S. 37              | rs. No. 3, 1991  
am. No. 152, 1997; No. 94, 2005 |
| S. 39              | am. No. 146, 1999 |
| S. 40              | am. No. 152, 1997  
rep. No. 118, 1999 |
| S. 41              | ad. No. 3, 1991  
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Table A

Application, saving or transitional provisions


Schedule 2

1 Definition of transition time

In this Schedule:

transition time means the commencement of this Schedule.

2 Determination of what approvals become approvals under the AusLink (National Land Transport) Act 2005

(1) The Minister may, in writing, determine:

   (a) that specified approvals of projects or programs (each of which is a carried over approval) that are in force under subsection 26(3) of the Australian Land Transport Development Act 1988 immediately before the transition time are to be taken, after that time, to be approvals properly granted under the AusLink (National Land Transport) Act 2005; and

   (b) for each of those carried over approvals—whether the approval is to be taken to be an approval of an AusLink National Project, an AusLink Transport Development and Innovation Project or anAusLink Black Spot Project (within the meaning of the AusLink (National Land Transport) Act 2005).

(2) The determination has effect accordingly.

(3) The Minister may, in writing, vary the determination to correct an error.

(4) The Minister cannot vary the determination except as permitted by subitem (3) and cannot revoke the determination.

(5) For the purposes of the AusLink (National Land Transport) Act 2005, an amount paid under the Australian Land Transport Development Act 1988 before the transition time in respect of a project or program to which a carried over approval relates is to be counted towards the
Notes to the  Australian Land Transport Development Act 1988

Table A

maximum funding amount that may be provided under the AusLink (National Land Transport) Act 2005 for the project or program.

(6) The determination under subitem (1), or an instrument varying the determination, is a legislative instrument for the purposes of the Legislative Instruments Act 2003, but neither section 42 nor Part 6 of that Act applies to the instrument.

3 Appropriation

$1,371,489,000 is appropriated out of the Consolidated Revenue Fund in respect of the financial year ending on 30 June 2005, for the purpose of:

(a) making payments under the AusLink (National Land Transport) Act 2005 during so much of that year as occurs after the transition time; and

(b) making payments under the Australian Land Transport Development Act 1988 during so much of that year as occurs after the transition time.

4 Final charge rate determination

(1) Despite the amendments made by Schedule 1 to this Act, section 10 of the Australian Land Transport Development Act 1988, as in force immediately before the transition time, continues to have effect after the transition time for the purpose of the making of a determination under that section in respect of the financial year ending on 30 June 2005.

(2) A determination under section 10 of the Australian Land Transport Development Act 1988, as that section continues to have effect under subitem (1), has effect for the purposes of that Act as in force from 1 July 2004 to the transition time.