

House of Assembly—No 124

As laid on the table and read a first time, 10 April 2024

South Australia

**Passenger Transport (Public Transport
Infrastructure) Amendment Bill 2024**

A BILL FOR

An Act to amend the *Passenger Transport Act 1994*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Passenger Transport (Public Transport Infrastructure) Amendment Act 2024*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

Part 2—Amendment of *Passenger Transport Act 1994*

3—Insertion of section 24AA

After section 24 insert:

24AA—Special powers in relation to major public facilities

- (1) Subject to a prescribed agreement to the contrary, if infrastructure for regular passenger services has been constructed or installed at a major public facility or at a related public place for a major public facility—
 - (a) the Minister may maintain, remove, extend, alter or replace the infrastructure without obtaining the consent of any owner or occupier of the land; and
 - (b) despite section 23, the *Land Acquisition Act 1969* does not apply in respect of the performance of any functions of the Minister under paragraph (a) and no compensation is payable by the Crown or the Minister in respect of the performance of such functions; and
 - (c) despite any other law, the infrastructure does not merge with the land to which it is affixed and may be dealt with and disposed of as personal property.

Notes—

It is not a requirement that works under paragraph (a) take place within the existing footprint of the infrastructure that has been constructed or installed.

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Except as specified in this section, relevant laws (such as the *Planning, Development and Infrastructure Act 2016* and the *Work Health and Safety Act 2012*) will continue to apply where the Minister exercises functions under paragraph (a).

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- (2) The Minister must, unless satisfied that circumstances of urgency exist, give notice in writing to the owner or occupier of the land at least 7 days before undertaking works referred to in subsection (1)(a).

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- (3) The Minister may, in connection with the exercise of functions under this section on any land, give notice in writing to an owner or occupier of the land directing them to take specified action that is reasonably required to facilitate the exercise of those functions.

- (4) A person given a direction under subsection (3) must not refuse or fail to comply with the direction.

Maximum penalty: \$100 000.

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- (5) If the Minister is satisfied that works carried out under this section have caused damage to property (not being damage that is, in the opinion of the Minister, of a trivial nature and not being property that forms part of the infrastructure for regular passenger services), the Minister must make reasonable efforts to make good the damage.

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- (6) A person who, without lawful authority, hinders or obstructs—

- (a) a person exercising functions under this section; or
- (b) the operation of public transport services at infrastructure for regular passenger services within the ambit of this section; or
- (c) the public's access to public transport services at infrastructure for regular passenger services within the ambit of this section,

is guilty of an offence.

Maximum penalty:

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- (a) in the case of a body corporate—\$100 000;
- (b) in the case of an individual—Division 4 fine.

- (7) Where an offence against subsection (6) is committed by a person by reason of a continuing act or omission—

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- (a) the person is liable, in addition to the penalty otherwise applicable to the offence, to a penalty for each day during which the act or omission continues of not more than an amount equal to one-fifth of the maximum penalty prescribed for the offence; and

(b) if the act or omission continues after the person is convicted of the offence, the person is guilty of a further offence against that provision and liable, in addition to the penalty otherwise applicable to the further offence, to a penalty for each day during which the act or omission continues after that conviction of not more than an amount equal to one-fifth of the maximum penalty prescribed for the offence.

(8) The Registrar-General must, at the written request of the Minister, note the existence of infrastructure for regular passenger services within the ambit of this section against the relevant instrument of title or—

(a) in the case of land that has not been brought under the provisions of the *Real Property Act 1886*, against the land; or

(b) in the case of land that is subject to a lease or agreement to purchase under the *Crown Land Management Act 2009*, against the lease or agreement.

(9) A notation under subsection (8)—

(a) does not give rise to an interest in land; and

(b) does not give rise to rights under the *Real Property Act 1886* (but is not discharged by the exercise of a power of sale or foreclosure under that Act or any other Act); and

(c) may subsequently be varied or revoked by the Registrar-General at the written request of the Minister.

(10) If the Minister requests the Registrar-General to make a notation under subsection (8) or to vary or revoke a notation under subsection (9)(c), the Minister will, in accordance with any requirements of the Registrar-General, furnish the Registrar-General with any map or plan required by the Registrar-General to define the extent of the infrastructure to which the notation relates.

(11) This section has effect notwithstanding the provisions of the *Real Property Act 1886*.

(12) In this section—

infrastructure for regular passenger services means any facility or other form of infrastructure that is, in the opinion of the Minister, reasonably required or warranted for the provision or operation of regular passenger services (whether or not other passenger transport services also use the infrastructure), including (without limitation) buildings, structures, notices or signs, roads, pathways and parking areas;

major public facility means any of the following:

(a) a major retail shopping centre;

(b) a private hospital;

(c) a university or other tertiary education facility;

- (d) any other facility, or facility of a class, prescribed by the regulations;

major retail shopping centre means a retail shopping centre where the total of the lettable areas of all the retail shops (whether leased or available for lease) in the retail shopping centre is 30 000 m² or more;

owner, in relation to land, means—

- (a) the holder of an estate in fee simple in that land; or
(b) where the land is subject to a registered estate or interest conferring a right to possession—the proprietor of that estate or interest; or
(c) where the land consists of a registered easement or right of way—the proprietor of the easement or right of way; or
(d) where the land is not alienated from the Crown—the Minister or instrumentality of the Crown that has the care, control and management of the land;

prescribed agreement means a written agreement entered into after the commencement of this section between the Minister and the owner or occupier, for the time being, of land within the ambit of subsection (1);

public place means a place (including a place on private land) to which the public has access;

related public place for a major public facility means parking areas, roads and other areas that are, in the opinion of the Minister, public places in the vicinity of the major public facility that are used by persons attending the facility (whether or not those places are owned by the same person who owns the major public facility and whether or not those areas are also used by persons attending other places or facilities);

retail shop and **retail shopping centre** have the same respective meanings as in the *Retail and Commercial Leases Act 1995*.