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Transport Integration Act 2010

TRANSPORT RESTRUCTURING ORDER (V/LINE CORPORATION) NO. 2/2021

Order in Council

This Order may be cited as the Transport Restructuring Order (V/Line Corporation) No. 2/2021.

The Governor in Council, under Division 1 of Part 4B of the **Transport Integration Act 2010**, makes the following Order –

1. Commencement

This Order comes into operation on 1 July 2021.

2. Definitions

A term used in this Order has the same meaning as that term has in the **Transport Integration Act 2010**, unless the context otherwise requires.

3. Objective

The objectives of this Order are:

- (a) to alter the constitution and membership of the V/Line Corporation, a sector transport agency; and
- (b) to vary the **Transport Integration Act 2010**, or to apply that Act with modifications, as it applies to the V/Line Corporation, by reason of the alteration to the constitution and membership;
- (c) for the V/Line Corporation to otherwise continue as the same entity, with its property, rights and liabilities unaffected by this Order; and
- (d) for the V/Line Corporation to otherwise continue as a Transport Corporation within the meaning of the **Transport Integration Act 2010**.

4. V/Line Corporation continues as the same body corporate

To avoid doubt, nothing in this Order affects the existence and continuation of V/Line Corporation as the body corporate established as V/Line Passenger Corporation under section 14 of the **Rail Corporations Act 1996** and continued as V/Line Corporation by section 128 of the **Transport Integration Act 2010**.

Note: The object and functions of V/Line Corporation, set out in sections 131 and 132 of the **Transport Integration Act 2010**, are not affected by this Order.

5. Alteration to the constitution and membership of V/Line Corporation

5.1. Altered membership of V/Line Corporation

- (1) V/Line Corporation consists of one member, to be appointed in accordance with section 147 of the **Transport Integration Act 2010** as applied and modified by this Order, as Chief Executive Officer of V/Line Corporation.
- (2) The Chief Executive Officer of V/Line Corporation is responsible for the management of the affairs of V/Line Corporation.

Note: The functions of V/Line Corporation are set out in section 132 of the **Transport Integration Act 2010**.

5.2. Modified application of section 147 of the Transport Integration Act 2010

- (1) Section 147 of the **Transport Integration Act 2010** applies to V/Line Corporation, modified as it applies to V/Line Corporation as specified in this clause.
- (2) Each references in section 147 to ‘chief executive officer’ is to be construed as if it included a reference to the Chief Executive Officer of V/Line Corporation, except in section 147(3) which is taken to be omitted for the purposes of this Order.

Note: Section 147(3) has no application to V/Line Corporation, as V/Line Corporation will have no directors by operation of this Order.

SPECIAL

- (3) Section 147(1) applies to V/Line Corporation as if it read –
- (1) The Minister, after consultation with the Treasurer, may appoint a person to the office of Chief Executive Officer of V/Line Corporation and may at any time remove or suspend a person from that office.
- (4) Section 147(2) applies to V/Line Corporation as if it included a requirement that a period of appointment, being a period of no more than 5 years, be specified in the instrument of appointment.
- (5) Sections 147(4), (5) and (6) apply to V/Line Corporation as if:
- (a) the reference to ‘the board of directors’ in section 147(5) was a reference to ‘the Minister, after consultation with the Treasurer,’;
- (b) any other reference to ‘the board of directors’ or ‘the chairperson of the board of the directors’ was a reference to ‘the Minister’.
- (6) Section 147(7) applies to V/Line Corporation as if the reference to ‘the board of directors of a Transport Corporation’ were a reference to the Chief Executive Officer of V/Line Corporation.

5.3. Application of Public Administration Act 2004

The **Public Administration Act 2004** (other than Part 3 of that Act) applies to the Chief Executive Officer of V/Line Corporation in respect of the office of the Chief Executive Officer of V/Line Corporation.

5.4. Consequential disapplication of membership provisions in the Transport Integration Act 2010

Sections 143, 144, 145, 146, 148, 150, 151, 155, 157 are to be construed as if any reference to a Transport Corporation did not include V/Line Corporation.

Note: The effect of Clause 5.4 is that the specified provisions in the **Transport Integration Act 2010** do not apply to V/Line Corporation, consequential to the change in the constitution and membership of V/Line Corporation effected by this Order.

6. Consequential modified application of other provisions in Division 4 of Part 6 of the Transport Integration Act 2010 to V/Line Corporation

6.1. Modified application of certain provisions

- (1) Section 149 of the **Transport Integration Act 2010** is modified as it applies to V/Line Corporation as if it read –

149 Validity of acts or decisions

An act or decision of V/Line Corporation is not invalid only–

- (a) because of a vacancy in the office of the Chief Executive Officer; or
- (b) because of a defect or irregularity in, or in connection with, the appointment of the Chief Executive Officer or an acting Chief Executive Officer; or
- (c) in the case of a person appointed or directed to act as the Chief Executive Officer, on the grounds that the occasion for the person so acting had not arisen or had ceased.
- (2) Section 153 of the **Transport Integration Act 2010** applies to V/Line Corporation as if in section 153(1), the reference to ‘the Head, Transport for Victoria’ were a reference to ‘the Secretary or the Head, Transport for Victoria’.
- (3) Section 161 of the **Transport Integration Act 2010** applies to V/Line Corporation as if the reference to ‘the board of directors’ were a reference to ‘the Chief Executive Officer’.

6.2. Modified application of financial and strategic reporting provisions

(1) In this clause –

applicable reporting provisions means the following provisions under the **Transport Integration Act 2010** –

- (a) section 162;
 - (b) section 163;
 - (c) section 164(1);
 - (d) section 165;
 - (e) section 167;
 - (f) section 168; and
 - (g) section 169.
- (2) The applicable reporting provisions apply to V/Line Corporation, modified as if–
- (a) except as provided in paragraphs (b) and (c) of this clause, a reference in the applicable reporting provisions to ‘the board of directors of’ were omitted from the provisions; and
 - (b) a reference in in sections 165(5)(a) and 165(5)(b) to ‘the board of directors’ were a reference to ‘V/Line Corporation’; and
 - (c) references to ‘the board of directors’ in section 165(8) (where secondly and thirdly occurring) were references to ‘V/Line Corporation’.
- (3) Without limiting the generality of subclause (2), sections 165(13), 167(3) and 169(3) are applied to V/Line Corporation, further modified as if each reference to ‘the Victorian Ports Corporation (Melbourne), the Port of Hastings Development Authority and the Victorian Regional Channels Authority’ included a reference to ‘V/Line Corporation’.

Note: Provisions in the **Transport Integration Act 2010** that apply to V/Line Corporation, whether by name or in its capacity as a Transport Corporation or a sector transport agency or otherwise, that are not referred to in this Order continue to apply, unaffected by this Order.

6.3. Saving of V/Line Corporation functions and acts

Save to the extent expressly provided in this Order, this Order does not limit the capacity of V/Line Corporation to perform or exercise functions, powers or duties conferred on it by or under any Act, or affect any act lawfully done by the V/Line Corporation.

6.4. Severability of any provision or part of this Order

If any provision or part of this Order is invalid, the invalid provision or part is severed, and the Order otherwise continues to apply.

Dated 29 June 2021

Responsible Minister:

HON. BEN CARROLL MP

Minister for Public Transport

SAMUAL WALLACE
Acting Clerk of the Executive Council

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