



Nation Building Program (National Land Transport) Amendment Act 2009

No. 56, 2009

An Act to amend the *AusLink (National Land Transport) Act 2005*, and for related purposes

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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Nation Building Program (National Land Transport) Amendment Act 2009

No. 56, 2009

An Act to amend the *AusLink (National Land Transport) Act 2005*, and for related purposes

[Assented to 26 June 2009]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Nation Building Program (National Land Transport) Amendment Act 2009*.

2 Commencement

This Act commences on the day after it receives the Royal Assent.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Amendments

AusLink (National Land Transport) Act 2005

1 Section 1

Omit “*AusLink (National Land Transport) Act 2005*”, substitute “*Nation Building Program (National Land Transport) Act 2009*”.

Note: This item amends the short title of the Act. If another amendment of the Act is described by reference to the Act’s previous short title, that other amendment has effect after the commencement of this item as an amendment of the Act under its amended short title (see section 10 of the *Acts Interpretation Act 1901*).

2 Subsection 4(1) (definition of *approved funding recipient*)

Omit “an AusLink National Project, an AusLink Transport Development and Innovation Project, an AusLink Strategic Regional Project or an AusLink Black Spot Project”, substitute “a Nation Building Program National Project, a Nation Building Program Transport Development and Innovation Project, a Nation Building Program Off-Network Project or a Nation Building Program Black Spot Project”.

3 Subsection 4(1) (definition of *approved purposes*)

Omit “an AusLink National Project, an AusLink Transport Development and Innovation Project, an AusLink Strategic Regional Project or an AusLink Black Spot Project”, substitute “a Nation Building Program National Project, a Nation Building Program Transport Development and Innovation Project, a Nation Building Program Off-Network Project or a Nation Building Program Black Spot Project”.

4 Subsection 4(1) (definition of *AusLink Black Spot Project*)

Repeal the definition.

5 Subsection 4(1) (definition of *AusLink National Project*)

Repeal the definition.

6 Subsection 4(1) (definition of *AusLink Roads to Recovery funding period*)

Repeal the definition.

7 Subsection 4(1) (definition of *AusLink Roads to Recovery List*)

Repeal the definition.

8 Subsection 4(1) (definition of *AusLink Strategic Regional Project*)

Repeal the definition.

9 Subsection 4(1) (definition of *AusLink Transport Development and Innovation Project*)

Repeal the definition.

10 Subsection 4(1)

Insert:

Nation Building Program Black Spot Project has the meaning given by section 69.

11 Subsection 4(1)

Insert:

Nation Building Program National Project has the meaning given by section 8.

12 Subsection 4(1)

Insert:

Nation Building Program Off-Network Project has the meaning given by section 52.

13 Subsection 4(1)

Insert:

Nation Building Program Roads to Recovery funding period means the period starting on 1 July 2009 and ending on 30 June 2014.

14 Subsection 4(1)

Insert:

Nation Building Program Roads to Recovery List means the list in force, immediately before the commencement of this definition, under subsection 87(1) of this Act for the period starting on 1 July 2009 and ending on 30 June 2014.

15 Subsection 4(1)

Insert:

Nation Building Program Transport Development and Innovation Project has the meaning given by section 28.

16 Subsection 4(1) (paragraphs (a) and (b) of the definition of *project approval instrument*)

Omit “an AusLink”, substitute “a Nation Building Program”.

17 Subsection 4(1) (paragraph (c) of the definition of *project approval instrument*)

Omit “an AusLink Strategic Regional Project”, substitute “a Nation Building Program Off-Network Project”.

18 Subsection 4(1) (paragraph (d) of the definition of *project approval instrument*)

Omit “an AusLink”, substitute “a Nation Building Program”.

19 Part 3 (heading)

Repeal the heading, substitute:

**Part 3—Nation Building Program National
Projects**

20 Division 1 of Part 3 (heading)

Repeal the heading, substitute:

Division 1—Approval of projects as Nation Building Program National Projects

21 Section 8

Omit “An *AusLink*”, substitute “A *Nation Building Program*”.

Note: The heading to section 8 is altered by omitting “an *AusLink*” and substituting “a *Nation Building Program*”.

22 Subsection 9(1)

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

Note: The heading to section 9 is altered by omitting “*AusLink*” and substituting “*Nation Building Program*”.

23 Sections 10 and 11

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

24 Subsection 12(1)

Omit “*AusLink*”, substitute “*Nation Building Program*”.

25 Subsections 12(3) and (4)

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

26 Subsections 13(1), (2) and (3)

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

27 Section 14

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

28 Subsection 15(1)

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

29 Subsection 16(1)

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

Note: The heading to section 16 is altered by omitting “*AusLink*” and substituting “*Nation Building Program*”.

30 Subsection 17(1)

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

31 Section 18

Before “The”, insert “(1)”.

32 Section 18

Omit “an AusLink”, substitute “a Nation Building Program”.

33 At the end of section 18

Add:

- (2) A funding agreement may specify a condition by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

34 Paragraph 24(1)(c)

Omit “, the work”.

35 Subparagraphs 24(1)(c)(i) and (ii)

Before “is”, insert “the work”.

36 Subparagraphs 24(1)(c)(iii) and (iv)

Before “is of”, insert “the work”.

37 Subparagraph 24(1)(c)(v)

Before “will”, insert “the work”.

38 At the end of paragraph 24(1)(c)

Add:

- ; or (vi) the cost of the work is less than an amount prescribed by the regulations for the purposes of this subparagraph.

39 Subsections 25(2) and (4)

Omit “AusLink”, substitute “Nation Building Program”.

40 At the end of section 27

Add:

- (5) Despite subsection 14(2) of the *Legislative Instruments Act 2003*, an instrument determining or varying conditions may make provision in relation to a matter by applying, adopting or

incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

41 Part 4 (heading)

Repeal the heading, substitute:

**Part 4—Nation Building Program Transport
Development and Innovation Projects**

42 Division 1 of Part 4 (heading)

Repeal the heading, substitute:

**Division 1—Approval of projects as Nation Building
Program Transport Development and Innovation
Projects**

43 Section 28

Omit “An *AusLink*”, substitute “A *Nation Building Program*”.

Note: The heading to section 28 is altered by omitting “an *AusLink*” and substituting “a *Nation Building Program*”.

44 Subsection 29(1)

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

Note: The heading to section 29 is altered by omitting “*AusLink*” and substituting “*Nation Building Program*”.

45 Section 30

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

46 Section 31

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

47 Paragraph 31(c)

Omit “*AusLink*”, substitute “*Nation Building Program*”.

48 Subsection 32(1)

Omit “*AusLink*”, substitute “*Nation Building Program*”.

49 Subsections 32(3) and (4)

Omit “an AusLink”, substitute “a Nation Building Program”.

50 Subsections 33(1), (2) and (3)

Omit “an AusLink”, substitute “a Nation Building Program”.

51 Section 34

Omit “an AusLink”, substitute “a Nation Building Program”.

52 Subsection 35(1)

Omit “an AusLink”, substitute “a Nation Building Program”.

53 Subsection 36(1)

Omit “an AusLink”, substitute “a Nation Building Program”.

Note: The heading to section 36 is altered by omitting “**AusLink**” and substituting “**Nation Building Program**”.

54 Subsection 37(1)

Omit “an AusLink”, substitute “a Nation Building Program”.

55 Section 38

Before “The”, insert “(1)”.

56 Section 38

Omit “an AusLink”, substitute “a Nation Building Program”.

57 At the end of section 38

Add:

- (2) A funding agreement may specify a condition by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

58 At the end of section 44

Add:

- (5) Despite subsection 14(2) of the *Legislative Instruments Act 2003*, an instrument determining or varying conditions may make provision in relation to a matter by applying, adopting or

incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

59 Part 5 (heading)

Repeal the heading, substitute:

Part 5—Nation Building Program funding for land transport research entities

60 Section 50

Before “The”, insert “(1)”.

61 At the end of section 50

Add:

- (2) A funding agreement may specify a condition by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

62 Part 6 (heading)

Repeal the heading, substitute:

Part 6—Nation Building Program Off-Network Projects

63 Division 1 of Part 6 (heading)

Repeal the heading, substitute:

Division 1—Approval of projects as Nation Building Program Off-Network Projects

64 Section 52

Omit “An *AusLink Strategic Regional Project*”, substitute “A *Nation Building Program Off-Network Project*”.

Note: The heading to section 52 is altered by omitting “an **AusLink Strategic Regional Project?**” and substituting “a **Nation Building Program Off-Network Project?**”.

65 Subsection 53(1)

Omit “an AusLink Strategic Regional Project”, substitute “a Nation Building Program Off-Network Project”.

Note: The heading to section 53 is altered by omitting “**AusLink Strategic Regional Projects**” and substituting “**Nation Building Program Off-Network Projects**”.

66 Sections 54 and 55

Omit “an AusLink Strategic Regional Project”, substitute “a Nation Building Program Off-Network Project”.

67 Paragraph 55(a)

Omit “regional industries”, substitute “industries”.

68 Paragraph 55(b)

Repeal the paragraph.

69 Paragraph 55(e)

Omit “regional”.

70 Subsection 56(1)

Omit “AusLink Strategic Regional Projects”, substitute “Nation Building Program Off-Network Projects”.

71 Subsections 56(3) and (4)

Omit “an AusLink Strategic Regional Project”, substitute “a Nation Building Program Off-Network Project”.

72 Subsections 57(1), (2) and (3)

Omit “an AusLink Strategic Regional Project”, substitute “a Nation Building Program Off-Network Project”.

73 Section 58

Omit “an AusLink Strategic Regional Project”, substitute “a Nation Building Program Off-Network Project”.

74 Subsection 59(1)

Omit “an AusLink Strategic Regional Project”, substitute “a Nation Building Program Off-Network Project”.

75 Subsection 60(1)

Omit “an AusLink Strategic Regional Project”, substitute “a Nation Building Program Off-Network Project”.

Note: The heading to section 60 is altered by omitting “**AusLink Strategic Regional Projects**” and substituting “**Nation Building Program Off-Network Projects**”.

76 Subsection 61(1)

Omit “an AusLink Strategic Regional Project”, substitute “a Nation Building Program Off-Network Project”.

77 Subsections 62(1) and (2)

Omit “an AusLink Strategic Regional Project”, substitute “a Nation Building Program Off-Network Project”.

78 At the end of section 62

Add:

- (3) A funding agreement may specify a condition by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

79 At the end of section 68

Add:

- (5) Despite subsection 14(2) of the *Legislative Instruments Act 2003*, an instrument determining or varying conditions may make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

80 Part 7 (heading)

Repeal the heading, substitute:

Part 7—Nation Building Program Black Spot Projects

81 Division 1 of Part 7 (heading)

Repeal the heading, substitute:

Division 1—Approval of projects as Nation Building Program Black Spot Projects

82 Section 69

Omit “An *AusLink*”, substitute “A *Nation Building Program*”.

Note: The heading to section 69 is altered by omitting “an *AusLink*” and substituting “a *Nation Building Program*”.

83 Subsection 70(1)

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

Note: The heading to section 70 is altered by omitting “*AusLink*” and substituting “*Nation Building Program*”.

84 Section 71

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

85 Paragraph 71(c)

Omit “injury; and”, substitute “injury.”.

86 Paragraph 71(d)

Repeal the paragraph.

87 Section 72

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

88 Subsection 73(1)

Omit “*AusLink*”, substitute “*Nation Building Program*”.

89 Subsections 73(3) and (4)

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

90 Subsections 74(1) and (2)

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

91 Section 75

Omit “an *AusLink*”, substitute “a *Nation Building Program*”.

92 Subsection 76(1)

Omit “an AusLink”, substitute “a Nation Building Program”.

93 Subsection 77(1)

Omit “an AusLink”, substitute “a Nation Building Program”.

Note: The heading to section 77 is altered by omitting “AusLink” and substituting “Nation Building Program”.

94 Subsection 78(1)

Omit “an AusLink”, substitute “a Nation Building Program”.

95 Section 79

Before “The”, insert “(1)”.

96 Section 79

Omit “an AusLink”, substitute “a Nation Building Program”.

97 At the end of section 79

Add:

- (2) A funding agreement may specify a condition by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

98 At the end of section 86

Add:

- (5) Despite subsection 14(2) of the *Legislative Instruments Act 2003*, an instrument determining or varying conditions may make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

99 Part 8 (heading)

Repeal the heading, substitute:

Part 8—Nation Building Program Roads to Recovery Program

100 Subsection 87(1)

Repeal the subsection.

Note: The heading to section 87 is replaced by the heading “**Nation Building Program Roads to Recovery List**”.

101 Subsection 87(2)

Omit “(2) The AusLink”, substitute “The Nation Building Program”.

102 Paragraph 87(2)(a)

Omit “AusLink”, substitute “Nation Building Program”.

103 Subsection 87(3)

Repeal the subsection.

104 Paragraph 88(1)(a)

Omit “an AusLink”, substitute “a Nation Building Program”.

Note: The heading to section 88 is altered by omitting “**AusLink**” and substituting “**Nation Building Program**”.

105 Paragraphs 88(2)(a) and (2A)(a)

Omit “an AusLink”, substitute “a Nation Building Program”.

106 Paragraph 88(2A)(a)

Omit “subparagraph 87(2)(b)(ii)”, substitute “subparagraph 87(b)(ii)”.

107 After subsection 88(2A)

Insert:

(2B) If an amount is specified in a Nation Building Program Roads to Recovery List in relation to a person or body, the Minister may, in writing, vary the List to increase that amount.

108 Subsections 88(3) and (4)

Omit “an AusLink”, substitute “a Nation Building Program”.

109 Subsection 88(4)

After “(2A)”, insert “, (2B)”.

110 Subsections 88(5) and (6)

Omit “an AusLink”, substitute “a Nation Building Program”.

111 Subsection 89(1)

Omit “an AusLink” (wherever occurring), substitute “a Nation Building Program”.

Note: The heading to section 89 is altered by omitting “**AusLink**” and substituting “**Nation Building Program**”.

112 At the end of section 90

Add:

- (7) Despite subsection 14(2) of the *Legislative Instruments Act 2003*, an instrument determining or varying conditions may make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.

Part 2—Application and transitional provisions

113 Definitions

In this Part:

new law means the *Nation Building Program (National Land Transport) Act 2009*.

old law means the *AusLink (National Land Transport) Act 2005*.

114 Application—public tenders for certain work

The amendments made by items 34 to 38 apply in relation to projects approved on or after the commencement of those items.

115 Transitional—National Land Transport Network

- (1) An instrument in force under section 5 of the old law immediately before the commencement of this item has effect, on and after that commencement, as if it were an instrument in force under section 5 of the new law.
- (2) Subitem (1) does not prevent a variation of that instrument on or after the commencement of this item.

116 Transitional—National Projects

Part 3 instruments

- (1) An instrument in force under Part 3 of the old law immediately before the commencement of this item in relation to a project that was an AusLink National Project has effect, on and after that commencement, as if:
 - (a) that project were a Nation Building Program National Project; and
 - (b) that instrument were in force under Part 3 of the new law in relation to that Nation Building Program National Project.
- (2) Subitem (1) does not prevent a variation or revocation of that instrument on or after the commencement of this item.

Funding agreement

- (3) A funding agreement in force in relation to the AusLink National Project immediately before the commencement of this item has effect, on and after that commencement, as if it were a funding agreement in force in relation to the Nation Building Program National Project.
- (4) Subitem (3) does not prevent a variation or termination of that agreement on or after the commencement of this item.

Funding conditions

- (5) The conditions that applied under section 18 of the old law to a payment of Commonwealth funding for the AusLink National Project that was made before the commencement of this item continue to apply on and after that commencement.

117 Transitional—Transport Development and Innovation Projects

Part 4 instruments

- (1) An instrument in force under Part 4 of the old law immediately before the commencement of this item in relation to a project that was an AusLink Transport Development and Innovation Project has effect, on and after that commencement, as if:
 - (a) that project were a Nation Building Program Transport Development and Innovation Project; and
 - (b) that instrument were in force under Part 4 of the new law in relation to that Nation Building Program Transport Development and Innovation Project.
- (2) Subitem (1) does not prevent a variation or revocation of that instrument on or after the commencement of this item.

Funding agreement

- (3) A funding agreement in force in relation to the AusLink Transport Development and Innovation Project immediately before the commencement of this item has effect, on and after that commencement, as if it were a funding agreement in force in relation to the Nation Building Program Transport Development and Innovation Project.
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- (4) Subitem (3) does not prevent a variation or termination of that agreement on or after the commencement of this item.

Funding conditions

- (5) The conditions that applied under section 38 of the old law to a payment of Commonwealth funding for the AusLink Transport Development and Innovation Project that was made before the commencement of this item continue to apply on and after that commencement.

118 Transitional—land transport research entities

Part 5 instruments

- (1) An instrument in force under Part 5 of the old law immediately before the commencement of this item has effect, on and after that commencement, as if it were an instrument in force under Part 5 of the new law.
- (2) Subitem (1) does not prevent a variation or revocation of that instrument on or after the commencement of this item.

Funding agreement

- (3) A funding agreement in force for the purposes of Part 5 of the old law immediately before the commencement of this item has effect, on and after that commencement, as if it were a funding agreement in force for the purposes of Part 5 of the new law.
- (4) Subitem (3) does not prevent a variation or termination of that agreement on or after the commencement of this item.

Funding conditions

- (5) The conditions that applied under section 50 of the old law to a payment of funding under Part 5 of the old law that was made before the commencement of this item continue to apply on and after that commencement.

119 Transitional—Strategic Regional Projects

Part 6 instruments

- (1) An instrument in force under Part 6 of the old law immediately before the commencement of this item in relation to a project that was an
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Schedule 1 Amendments

Part 2 Application and transitional provisions

AusLink Strategic Regional Project has effect, on and after that commencement, as if:

- (a) that project were a Nation Building Program Off-Network Project; and
 - (b) that instrument were in force under Part 6 of the new law in relation to that Nation Building Program Off-Network Project.
- (2) Subitem (1) does not prevent a variation or revocation of that instrument on or after the commencement of this item.

Funding agreement

- (3) A funding agreement in force in relation to the AusLink Strategic Regional Project immediately before the commencement of this item has effect, on and after that commencement, as if it were a funding agreement in force in relation to the Nation Building Program Off-Network Project.
- (4) Subitem (3) does not prevent a variation or termination of that agreement on or after the commencement of this item.

Funding conditions

- (5) The conditions that applied under section 62 of the old law to a payment of Commonwealth funding for the AusLink Strategic Regional Project that was made before the commencement of this item continue to apply on and after that commencement.

120 Transitional—Black Spot Projects

Part 7 instruments

- (1) An instrument in force under Part 7 of the old law immediately before the commencement of this item in relation to a project that was an AusLink Black Spot Project has effect, on and after that commencement, as if:
- (a) that project were a Nation Building Program Black Spot Project; and
 - (b) that instrument were in force under Part 7 of the new law in relation to that Nation Building Program Black Spot Project.

- (2) Subitem (1) does not prevent a variation or revocation of that instrument on or after the commencement of this item.

Funding agreement

- (3) A funding agreement in force in relation to the AusLink Black Spot Project immediately before the commencement of this item has effect, on and after that commencement, as if it were a funding agreement in force in relation to the Nation Building Program Black Spot Project.
- (4) Subitem (3) does not prevent a variation or termination of that agreement on or after the commencement of this item.

Funding conditions

- (5) The conditions that applied under section 79 of the old law to a payment of Commonwealth funding for the AusLink Black Spot Project that was made before the commencement of this item continue to apply on and after that commencement.

121 Transitional—Roads to Recovery Program

1 July 2005 to 30 June 2009 funding period

- (1) The old law, as in force immediately before the commencement of this item, continues to apply on and after that commencement in relation to a payment made under Part 8 of the old law during the AusLink Roads to Recovery funding period starting on 1 July 2005.

Note: For example, this means that the conditions determined under section 90 of the old law would continue to apply to such a payment and amounts would be able to be recovered under section 92 of the old law.

1 July 2009 to 30 June 2014 funding period

- (2) The Nation Building Program Roads to Recovery List has effect as if the amounts of Commonwealth funding specified in it were amounts to be provided under the Nation Building Program Roads to Recovery Program during the Nation Building Program Roads to Recovery funding period.
- (3) Conditions determined under section 90 of the old law before the commencement of this item to apply in relation to payments to be made under Part 8 of the old law during the period starting on 1 July 2009 and ending on 30 June 2014 continue to apply on and after that

Schedule 1 Amendments

Part 2 Application and transitional provisions

commencement as if they had been determined under section 90 of the new law to apply to payments under Part 8 of the new law during that period.

- (4) Subitem (3) does not prevent a variation or revocation of those conditions on or after the commencement of this item.
- (5) A notice in force under subsection 91(1) or (2) of the old law immediately before the commencement of this item in relation to a payment to be made to a person or body under Part 8 of the old law during the period starting on 1 July 2009 and ending on 30 June 2014 has effect, on and after that commencement, as if it were a notice in force under subsection 91(1) or (2) of the new law in relation to a payment to the person or body under Part 8 of the new law during that period.
- (6) Subitem (5) does not prevent the revocation of an exemption, or the variation or revocation of a replacement condition, on or after the commencement of this item.

122 Transitional regulations

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments made by this Act.

*[Minister's second reading speech made in—
House of Representatives on 13 May 2009
Senate on 15 June 2009]*