**Information Notice**

**Act Title** **Transport Integration Act 2010**

**Information Title:** **Retrospective Commencement**

**Version:** **020**

The insertion of Part 10 of the **Transport Integration Act 2010** by section 4 of the **Transport Legislation Amendment (Public Transport Development Authority) Act 2011**, No. 61/2011 came into operation on 15 December 2011.

Section 4 reads as follows:

4 New Part 10 inserted

After Part 9 of the **Transport Integration Act 2010** **insert**—

"Part 10—Transport Legislation Amendment (Public Transport Development Authority) Act 2011

Division 1—Preliminary

240 Purpose of Part

The purpose of this Part is to facilitate the establishment of the Public Transport Development Authority.

241 Definitions

(1) In this Part—

***allocation statement*** means an allocation statement given under section 242, 243, 244, 245, 246 or 247 and includes a statement that has been amended under the relevant section;

***former relevant transferor instrument*** means an instrument (including a legislative instrument other than this Act) or an oral agreement subsisting immediately before the relevant date—

(a) to which the relevant transferor was a party; or

(b) that was given to, or in favour of, the relevant transferor; or

(c) that refers to the relevant transferor; or

(d) under which—

(i) money is, or may become, payable to the relevant transferor; or

(ii) other property is to be, or may become liable to be, transferred to or by the relevant transferor;

***former relevant transferor property means property, rights or*** liabilities of the relevant transferor that, under this Part, have vested in, or become liabilities of, the relevant transferee;

***instrument*** includes a document and an oral agreement;

***liabilities*** means all liabilities, duties and obligations, whether actual, contingent or prospective;

***Metlink*** means Metlink Victoria Pty Ltd (ACN 105 274 904);

***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;

***Public Transport Ticketing Body*** has the same meaning as it has in section 2(1) of the **Transport (Compliance and Miscellaneous) Act 1983**;

***relevant date***, in relation to an allocation statement or property, rights or liabilities allocated under such a statement, means the date fixed by the Minister under subsection (2) for the purposes of that statement;

***relevant transferee*** means—

(a) in respect of an allocation statement given under section 242, the Public Transport Development Authority, the Secretary on behalf of the Crown, Victorian Rail Track or V/Line Corporation as specified in the allocation statement;

(b) in respect of an allocation statement given under section 243, the Public Transport Development Authority or the Secretary on behalf of the Crown as specified in the allocation statement;

(c) in respect of an allocation statement given under section 244, the Public Transport Development Authority;

(d) in respect of an allocation statement given under section 245, the Public Transport Development Authority;

(e) in respect of an allocation statement given under section 246, the Public Transport Development Authority or the Secretary on behalf of the Crown as specified in the allocation statement;

(f) in respect of an allocation statement given under section 247, the Public Transport Development Authority;

***relevant transferor*** means—

(a) in respect of an allocation statement given under section 242, the Director of Public Transport on behalf of the Crown;

(b) in respect of an allocation statement given under section 243, the Public Transport Ticketing Body;

(c) in respect of an allocation statement given under section 244, Victorian Rail Track;

(d) in respect of an allocation statement given under section 245, V/Line Corporation;

(e) in respect of an allocation statement given under section 246, Metlink;

(f) in respect of an allocation statement given under section 247, the Secretary on behalf of the Crown;

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

(2) The Minister, by notice published in the Government Gazette, may fix the relevant date for the purposes of an allocation statement.

Division 2—Transfer of Property, Rights and Liabilities and Staff

242 Minister may direct transfer of Director of Public Transport property, rights and liabilities held on behalf of the Crown

(1) The Minister may give a direction in writing to the Director of Public Transport directing the Director of Public Transport on behalf of the Crown to transfer, in accordance with the direction, any property, rights and liabilities of a kind specified in the direction to—

(a) the Public Transport Development Authority; or

(b) the Secretary on behalf of the Crown; or

(c) Victorian Rail Track; or

(d) V/Line Corporation.

(2) A direction under subsection (1) may include directions as to the method of valuation to be used by the Director of Public Transport for the purposes of determining the value of property, rights and liabilities to be transferred.

(3) Within the time period specified in a direction under subsection (1), the Director of Public Transport must give to the Minister a statement containing the information required by the Minister relating to the property, rights and liabilities of the Director of Public Transport on behalf of the Crown to which the direction relates, as at the date specified by the Minister for the purposes of this section.

(4) Unless the relevant transferor otherwise agrees, the time period specified in a direction under subsection (1) must not be less than 45 days.

(5) A statement under this section—

(a) must give the value of the property, rights and liabilities of the Director of Public Transport on behalf of the Crown to be transferred; and

(b) must allocate the property, rights and liabilities of the Director of Public Transport on behalf of the Crown shown in the statement in accordance with the directions of the Minister; and

(c) must be signed by the Director of Public Transport.

(6) If a statement under this section is approved by the Minister—

(a) the Minister must sign the statement; and

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

(7) The Minister may at any time direct the Director of Public Transport to amend a statement given to him or her under this section as specified in the direction.

(8) An allocation statement under this section may be amended by writing signed by the Minister.

(9) An amendment under subsection (8) to an allocation statement made after the relevant date in relation to that statement may be made with effect from that relevant date if the Minister is satisfied that the amendment does not adversely affect any property, rights or liabilities of a person other than the Director of Public Transport on behalf of the Crown, or as the case may be, the Public Transport Development Authority, the Secretary on behalf of the Crown, Victorian Rail Track or V/Line Corporation in relation to that statement.

243 Minister may direct transfer of Public Transport Ticketing Body property, rights and liabilities

(1) The Minister may give a direction in writing to the Public Transport Ticketing Body directing the Public Transport Ticketing Body to transfer, in accordance with the direction, any property, rights and liabilities of a kind specified in the direction to—

(a) the Public Transport Development Authority; or

(b) the Secretary on behalf of the Crown.

(2) A direction under subsection (1) may include directions as to the method of valuation to be used by the Public Transport Ticketing Body for the purposes of determining the value of property, rights and liabilities to be transferred.

(3) Within the time period specified in a direction under subsection (1), the Public Transport Ticketing Body must give to the Minister a statement containing the information required by the Minister relating to the property, rights and liabilities of the Public Transport Ticketing Body to which the direction relates, as at the date specified by the Minister for the purposes of this section.

(4) Unless the relevant transferor otherwise agrees, the time period specified in a direction under subsection (1) must not be less than 45 days.

(5) A statement under this section—

(a) must give the value of the property, rights and liabilities of the Public Transport Ticketing Body to be transferred; and

(b) must allocate the property, rights and liabilities of the Public Transport Ticketing Body shown in the statement in accordance with the directions of the Minister; and

(c) must be signed by the chief executive officer of the Public Transport Ticketing Body.

(6) If a statement under this section is approved by the Minister—

(a) the Minister must sign the statement; and

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

(7) The Minister may at any time direct the Public Transport Ticketing Body to amend a statement given to him or her under this section as specified in the direction.

(8) An allocation statement under this section may be amended by writing signed by the Minister.

(9) An amendment under subsection (8) to an allocation statement made after the relevant date in relation to that statement may be made with effect from that relevant date if the Minister is satisfied that the amendment does not adversely affect any property, rights or liabilities of a person other than the Public Transport Ticketing Body, or as the case may be, the Public Transport Development Authority or the Secretary on behalf of the Crown in relation to that statement.

244 Minister may direct transfer of Victorian Rail Track property, rights and liabilities

(1) The Minister may give a direction in writing to Victorian Rail Track directing Victorian Rail Track to transfer, in accordance with the direction, any property, rights and liabilities of a kind specified in the direction to the Public Transport Development Authority.

(2) A direction under subsection (1) may include directions as to the method of valuation to be used by Victorian Rail Track for the purposes of determining the value of property, rights and liabilities to be transferred.

(3) Within the time period specified in a direction under subsection (1), Victorian Rail Track must give to the Minister a statement containing the information required by the Minister relating to the property, rights and liabilities of Victorian Rail Track to which the direction relates, as at the date specified by the Minister for the purposes of this section.

(4) Unless Victorian Rail Track otherwise agrees, the time period specified in a direction under subsection (1) must not be less than 45 days.

(5) A statement under this section—

(a) must give the value of the property, rights and liabilities of Victorian Rail Track to be transferred; and

(b) must allocate the property, rights and liabilities of Victorian Rail Track shown in the statement in accordance with the directions of the Minister; and

(c) must be signed by the chief executive officer of Victorian Rail Track.

(6) If a statement under this section is approved by the Minister—

(a) the Minister must sign the statement; and

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

(7) The Minister may at any time direct Victorian Rail Track to amend a statement given to him or her under this section as specified in the direction.

(8) An allocation statement under this section may be amended by writing signed by the Minister.

(9) An amendment under subsection (8) to an allocation statement made after the relevant date in relation to that statement may be made with effect from that relevant date if the Minister is satisfied that the amendment does not adversely affect any property, rights or liabilities of a person other than Victorian Rail Track or the Public Transport Development Authority in relation to that statement.

245 Minister may direct transfer of V/Line Corporation property, rights and liabilities

(1) The Minister may give a direction in writing to V/Line Corporation directing V/Line Corporation to transfer, in accordance with the direction, any property, rights and liabilities of a kind specified in the direction to the Public Transport Development Authority.

(2) A direction under subsection (1) may include directions as to the method of valuation to be used by V/Line Corporation for the purposes of determining the value of property, rights and liabilities to be transferred.

(3) Within the time period specified in a direction under subsection (1), V/Line Corporation must give to the Minister a statement containing the information required by the Minister relating to the property, rights and liabilities of V/Line Corporation to which the direction relates, as at the date specified by the Minister for the purposes of this section.

(4) Unless V/Line Corporation otherwise agrees, the time period specified in a direction under subsection (1) must not be less than 45 days.

(5) A statement under this section—

(a) must give the value of the property, rights and liabilities of V/Line Corporation to be transferred; and

(b) must allocate the property, rights and liabilities of V/Line Corporation shown in the statement in accordance with the directions of the Minister; and

(c) must be signed by the chief executive officer of V/Line Corporation.

(6) If a statement under this section is approved by the Minister—

(a) the Minister must sign the statement; and

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

(7) The Minister may at any time direct V/Line Corporation to amend a statement given to him or her under this section as specified in the direction.

(8) An allocation statement under this section may be amended by writing signed by the Minister.

(9) An amendment under subsection (8) to an allocation statement made after the relevant date in relation to that statement may be made with effect from that relevant date if the Minister is satisfied that the amendment does not adversely affect any property, rights or liabilities of a person other than V/Line Corporation or the Public Transport Development Authority in relation to that statement.

246 Transfer of Metlink property, rights and liabilities

(1) If Metlink and the Secretary enter into an agreement which includes a provision expressed to be a transfer provision for the purposes of this section, the Secretary may in accordance with the agreement give the Minister a statement approved by the Minister relating to the transfer of property, rights and liabilities specified in the agreement to—

(a) the Public Transport Development Authority; or

(b) the Secretary on behalf of the Crown.

(2) A statement under this section—

(a) must allocate the property, rights and liabilities of Metlink shown in the statement in accordance with the agreement; and

(b) must be signed by the Secretary.

(3) If a statement under this section is approved by the Minister—

(a) the Minister must sign the statement; and

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

(4) An allocation statement under this section may be amended by writing signed by the Minister.

(5) An amendment under subsection (4) to an allocation statement made after the relevant date in relation to that statement may be made with effect from that relevant date if the Minister is satisfied that the amendment is in accordance with the agreement between Metlink and the Secretary and does not adversely affect any property, rights or liabilities of a person other than Metlink, or as the case may be, the Public Transport Development Authority or the Secretary on behalf of the Crown in relation to that statement.

247 Minister may direct transfer of Secretary property, rights and liabilities held on behalf of the Crown

(1) The Minister may give a direction in writing to the Secretary directing the Secretary to transfer, in accordance with the direction, any property, rights and liabilities held by the Secretary on behalf of the Crown of a kind specified in the direction to the Public Transport Development Authority.

(2) A direction under subsection (1) may include directions as to the method of valuation to be used by the Secretary for the purposes of determining the value of property, rights and liabilities to be transferred.

(3) Within the time period specified in a direction under subsection (1), the Secretary must give to the Minister a statement containing the information required by the Minister relating to the property, rights and liabilities held by the Secretary on behalf of the Crown to which the direction relates, as at the date specified by the Minister for the purposes of this section.

(4) Unless the Secretary otherwise agrees, the time period specified in a direction under subsection (1) must not be less than 45 days.

(5) A statement under this section—

(a) must give the value of the property, rights and liabilities held by the Secretary on behalf of the Crown to be transferred; and

(b) must allocate the property, rights and liabilities held by the Secretary on behalf of the Crown shown in the statement in accordance with the directions of the Minister; and

(c) must be signed by the Secretary.

(6) If a statement under this section is approved by the Minister—

(a) the Minister must sign the statement; and

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

(7) The Minister may at any time direct the Secretary to amend a statement given to him or her under this section as specified in the direction.

(8) An allocation statement under this section may be amended by writing signed by the Minister.

(9) An amendment under subsection (8) to an allocation statement made after the relevant date in relation to that statement may be made with effect from that relevant date if the Minister is satisfied that the amendment does not adversely affect any property, rights or liabilities of a person other than the Secretary on behalf of the Crown or the Public Transport Development Authority in relation to that statement.

248 Property, rights and liabilities allocated in accordance with direction

On the relevant date—

(a) all property and rights of the relevant transferor, wherever located, that are allocated under an allocation statement, vest in the relevant transferee in accordance with the statement;

(b) all liabilities of the relevant transferor, wherever located, that are allocated under an allocation statement, become liabilities of the relevant transferee in accordance with the statement.

249 Allocation of property and rights subject to encumbrances

Unless an allocation statement otherwise provides, where, under this Part, property and rights vest in, or liabilities become liabilities of, the relevant transferee in accordance with an allocation statement—

(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 relevant transferor was entitled in respect of those liabilities immediately before they ceased to be liabilities of the relevant transferor vest in the relevant transferee.

250 Certificate of chief executive officer

(1) A certificate signed by the chief executive officer of the relevant transferor certifying that property, rights or liabilities of the relevant transferor specified in the certificate have been allocated is, unless revoked under subsection (2), admissible as evidence and, in the absence of evidence to the contrary is proof—

(a) that the property, rights or liabilities so specified are the property, rights and liabilities to which the allocation statement applies; and

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

(2) If the Minister so directs the chief executive officer of the relevant transferor in writing, the chief executive officer must revoke a certificate given under subsection (1) by issuing another certificate in place of the first certificate.

(3) The chief executive officer of the relevant transferor—

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

(b) must make the register reasonably available for inspection by the relevant transferee or other interested person.

(4) If the relevant transferor is the Director of Public Transport on behalf of the Crown, a reference in this section to the chief executive officer of the relevant transferor is to be construed as a reference to the Director of Public Transport.

(5) This section does not apply if the relevant transferor is Metlink.

251 Certificate of Secretary—Metlink property, rights or liabilities

(1) A certificate signed by the Secretary certifying that property, rights or liabilities of Metlink specified in the certificate have been allocated is, unless revoked under subsection (2), admissible as evidence and, in the absence of evidence to the contrary is proof—

(a) that the property, rights or liabilities so specified are the property rights and liabilities to which the allocation statement applies; and

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

(2) If the Minister so directs the Secretary in writing, the Secretary must revoke a certificate given under subsection (1) by issuing another certificate in place of the first certificate.

(3) The Secretary—

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

(b) must make the register reasonably available for inspection by the relevant transferee or other interested person.

252 Value of allocated property, rights or liabilities

If the relevant allocation statement gives the value of property, rights or liabilities of the relevant transferor that are allocated to the relevant transferee, the value to the relevant transferee of the property, rights or liabilities is the value so given.

253 Substitution of party to agreement

Where, under an allocation statement, the rights and liabilities of the relevant transferor under an agreement are allocated to the relevant transferee—

(a) the relevant transferee becomes, on the relevant date, a party to the agreement in place of the relevant transferor; and

(b) on and after the relevant date, the agreement has effect as if the relevant transferee had always been a party to the agreement.

254 Former relevant transferor instruments

Unless an allocation statement otherwise provides, each former relevant transferor instrument relating to former relevant transferor property continues to have effect according to its tenor on and after the relevant date in relation to that property as if a reference in the instrument to the relevant transferor were a reference to the relevant transferee.

255 Proceedings

Unless an allocation statement otherwise provides, if, immediately before the relevant date, proceedings relating to former relevant transferor property (including arbitration proceedings) to which the relevant transferor was a party were pending or existing in any court or tribunal, then, on and after that date, the relevant transferee is substituted for the relevant transferor as a party to the proceedings and has the same rights in the proceedings as the relevant transferor had.

256 Interests in land

Without limiting this Part and despite anything to the contrary in any other Act or law if, immediately before the relevant date, the relevant transferor is, in relation to former relevant transferor property, the registered proprietor of an interest in land under the **Transfer of Land Act 1958**, then on and after that date—

(a) the relevant transferee is to be taken to be the registered proprietor of that interest in land; and

(b) the relevant transferee has the same rights and remedies in respect of that interest as the relevant transferor had.

257 Easements

If the relevant transferee acquires any right in the nature of an easement (whether as a result of an allocation under this Part or otherwise), that right must be taken to be an easement even though there is no land vested in the relevant transferee which is benefited or capable of being benefited by that right.

258 Amendment of Register

(1) The Registrar of Titles, on being requested to do so and on delivery of any relevant certificate of title or instrument and certificate of the chief executive officer of the relevant transferor of former relevant transferor property, must make any amendments in the Register that are necessary because of the operation of this Part.

(2) Despite subsection (1), it is not necessary to produce a certificate of title in the case of a request for amendment of the Register in relation to property that is an easement registered under the **Transfer of Land Act 1958**.

(3) If the relevant transferor is—

(a) the Director of Public Transport on behalf of the Crown, the reference in subsection (1) to the chief executive officer of the relevant transferor is to be construed as a reference to the Director of Public Transport;

(b) if the relevant transferor is Metlink, the reference in subsection (1) to the chief executive officer of the relevant transferor is to be construed as a reference to the Secretary.

259 Taxes

No stamp duty or other tax is chargeable under any Act in respect of anything effected by or 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 relevant transferor.

260 Evidence

(1) Documentary or other evidence that would have been admissible for or against the interests of the relevant transferor in relation to former relevant transferor property if this Division had not been enacted is admissible for or against the interests of the relevant transferee.

(2) The **Evidence Act 2008** applies with respect to the books of account of the relevant transferor and to entries made in those books of account before the relevant date, whether or not they relate to former relevant transferor property, as if those books of account and entries were business records.

261 Transfer of employees of Public Transport Ticketing Body to the Public Transport Development Authority

(1) This section applies to an employee of the Public Transport Ticketing Body who is not employed under Part 3 of the **Public Administration Act 2004**.

(2) If as a result of an allocation statement it is necessary to transfer any employees from the Public Transport Ticketing Body to the Public Transport Development Authority, the chief executive officer of the Public Transport Ticketing Body must list in writing the persons who were employed by the Public Transport Ticketing Body before the relevant date and who the chief executive officer of the Public Transport Ticketing Body determines should be transferred to the Public Transport Development Authority.

(3) An employee who is listed under subsection (2) is transferred under this section and is to be regarded as—

(a) being employed by the Public Transport Development Authority with effect from the relevant date;

(b) having been so employed on the same terms and conditions as those that applied to the person immediately before the relevant date;

(c) having accrued an entitlement to benefits in connection with that employment that is equivalent to the entitlement that the person had accrued immediately before the relevant date.

(4) The service of an employee transferred under this section is to be regarded for all purposes as having been continuous with the service of the employee immediately before the relevant date.

(5) An employee transferred under this section is not entitled to receive any payment or other benefit by reason only of having ceased to be employed by the Public Transport Ticketing Body because of the operation of this Part.

(6) A certificate purporting to be signed by the Secretary certifying that a person named in the certificate was, with effect from the relevant date, employed by virtue of this section by the Public Transport Development Authority, is admissible in evidence in any proceedings as evidence of the matters stated in it.

(7) The superannuation entitlements of any person who is transferred under this section are to be taken not to be affected by that person being transferred.

(8) Nothing in this section prevents—

(a) any of the terms and conditions of employment of a person transferred under this section from being altered by or under any law, award or agreement with effect from any time after the relevant date; or

(b) a person transferred under this section from resigning or being dismissed at any time after the relevant date in accordance with the then existing terms and conditions of his or her employment with the Public Transport Development Authority.

262 Transfer of employees of Metlink to the Public Transport Development Authority

(1) This section applies to an employee of Metlink who accepts an offer of employment made by the Public Transport Development Authority.

(2) If as a result of an allocation statement it is necessary to transfer any employees from Metlink to the Public Transport Development Authority, the chief executive officer of Metlink must list in writing the persons who were employed by Metlink before the relevant date and who the chief executive officer of Metlink determines have accepted an offer of employment made by the Public Transport Development Authority and should be transferred to the Public Transport Development Authority.

(3) An employee who is listed under subsection (2) is transferred under this section and is to be regarded as—

(a) being employed by the Public Transport Development Authority with effect from the relevant date;

(b) having been so employed on the same terms and conditions as those that applied to the person immediately before the relevant date;

(c) having accrued an entitlement to benefits in connection with that employment that is equivalent to the entitlement that the person had accrued immediately before the relevant date.

(4) The service of an employee transferred under this section is to be regarded for all purposes as having been continuous with the service of the employee immediately before the relevant date.

(5) An employee transferred under this section is not entitled to receive any payment or other benefit by reason only of having ceased to be employed by Metlink because of the operation of this Part.

(6) A certificate purporting to be signed by the Secretary certifying that a person named in the certificate was, with effect from the relevant date, employed by virtue of this section by the Public Transport Development Authority, is admissible in evidence in any proceedings as evidence of the matters stated in it.

(7) The superannuation entitlements of any person who is transferred under this section are to be taken not to be affected by that person being transferred.

(8) Nothing in this section prevents—

(a) any of the terms and conditions of employment of a person transferred under this section from being altered by or under any law, award or agreement with effect from any time after the relevant date; or

(b) a person transferred under this section from resigning or being dismissed at any time after the relevant date in accordance with the then existing terms and conditions of his or her employment with the Public Transport Development Authority.

263 Validity of things done under this Part

(1) Nothing effected or to be 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 person 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 obligation or any provision in any agreement, arrangement or understanding including, but not limited to, any provision or obligation prohibiting, restricting or regulating the assignment, transfer, sale or disposal of any property or the disclosure of any information; or

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

(d) is to be regarded as giving rise to any remedy for a party to a contract or an instrument or as causing or permitting the termination of any contract or instrument because of a change in the beneficial or legal ownership of any asset, right or liability; or

(e) is to be regarded as causing any contract or instrument to be void or otherwise unenforceable; or

(f) is to be regarded as frustrating any contract; or

(g) releases any surety or other obligor wholly or in part from any obligation.

(2) In this section ***Act*** does not include the **Charter of Human Rights and Responsibilities Act 2006**.

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Section 4 of the **Transport Legislation Amendment (Public Transport Development Authority) Act 2011** was amended by section 3(Schedule item 55) of the **Statute Law Revision Act 2012**, No. 43/2012. Section 3(Schedule item 55) is deemed to have come into operation on 14 December 2011.

Schedule item 55 reads as follows:

55 Transport Legislation Amendment (Public Transport Development Authority) Act 2011

In section 4, for "After Part 9" **substitute** "After Part 8".