



New South Wales

Transport Administration Amendment (Rail Agencies) Act 2003 No 96

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New South Wales

Transport Administration Amendment (Rail Agencies) Act 2003 No 96

Act No 96, 2003

An Act with respect to the organisation of rail services in the State, the ownership of rail infrastructure facilities in the State and the constitution of new State rail agencies and the winding up and dissolution of others; and for other purposes. [Assented to 10 December 2003]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Transport Administration Amendment (Rail Agencies) Act 2003*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Transport Administration Act 1988 No 109

The *Transport Administration Act 1988* is amended as set out in Schedules 1 and 2.

4 Amendment of Acts and instruments

The Acts and instruments specified in Schedule 3 are amended as set out in that Schedule.

Schedule 1 Amendment of Transport Administration Act 1988

(Section 3)

[1] Long title

Insert “Rail Corporation New South Wales, Transport Infrastructure Development Corporation,” before “the State Rail Authority”.

[2] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

access purchaser means a person who has contracted with a rail infrastructure owner in respect of the operation of rolling stock.

country rail area means that part of the NSW rail network not within the metropolitan rail area.

metropolitan rail area—see section 3A.

NSW rail access undertaking means:

- (a) if an undertaking referred to in section 99C is in force under the *Trade Practices Act 1974* of the Commonwealth, that undertaking, or
- (b) in any other case, an access undertaking in force under Schedule 6AA.

NSW rail network means the railway lines vested in or owned by a rail infrastructure owner (including passing loops and turnouts from those lines and loops and associated rail infrastructure facilities that are so vested or owned).

rail infrastructure facilities:

- (a) includes railway track, associated track structures, over track structures, cuttings, drainage works, track support earthworks and fences, tunnels, bridges, level crossings, service roads, signalling systems, train control systems, communication systems, overhead power supply systems, power and communication cables, and associated works, buildings, plant, machinery and equipment, but

- (b) does not include any stations, platforms, rolling stock, rolling stock maintenance facilities, office buildings or housing, freight centres or depots, private sidings or spur lines connected to premises not vested in or owned by a rail infrastructure owner.

rail infrastructure owner means the person in whom ownership of rail infrastructure facilities is vested by or under this Act, and includes, in the case of any rail infrastructure facilities that are managed or controlled by Transport Infrastructure Development Corporation for the purposes of exercising its functions under this Act, Transport Infrastructure Development Corporation.

rail operator means a person who is responsible for the operation or moving, by any means, of any rolling stock on a railway track.

RailCorp means Rail Corporation New South Wales constituted under this Act.

rolling stock means any vehicle that operates on or uses a railway track, but does not include a vehicle designed to operate both on and off a railway track or tracks when the vehicle is not operating on a railway track or tracks.

Transport Infrastructure Development Corporation (or *TIDC*) means Transport Infrastructure Development Corporation constituted under this Act.

[3] Section 3 (1), definition of “Authority”

Omit “the State Rail Authority,”.

[4] Section 3 (1), definition of “Rail Corporation”

Omit the definition.

[5] Section 3 (1), definition of “RIC access undertaking”

Omit the definition.

[6] Section 3 (4)

Insert after section 3 (3):

- (4) Words and expressions used in this Act have the same meanings as they have in the *State Owned Corporations Act 1989*.

[7] Section 3A

Insert after section 3:

3A Metropolitan rail area

- (1) For the purposes of this Act, the *metropolitan rail area* is the land shown or described as being within the metropolitan rail area on the metropolitan rail area map presented to the Speaker of the Legislative Assembly (by or on behalf of the Member of the Assembly who introduced the Bill for this Act) when the Bill was introduced into the Assembly, and also lodged in the office of the Ministry of Transport, as amended or replaced under this section.
- (2) The Minister may, by notice published in the Gazette, amend or replace the metropolitan rail area map, but only for one or more of the following purposes:
 - (a) to provide a more detailed description of the land,
 - (b) to alter the boundaries of the land for the purposes of the effective management of rail infrastructure facilities in the State.
- (3) The metropolitan rail area map may consist of one or more maps.

[8] Parts 2 and 2A

Omit Part 2. Insert instead:

Part 2 Rail Corporation New South Wales

Division 1 Constitution of RailCorp as statutory SOC

4 Establishment of RailCorp as statutory State owned corporation

- (1) There is constituted by this Act a corporation with the corporate name of Rail Corporation New South Wales.
- (2) The *State Owned Corporations Act 1989* is amended by inserting in Schedule 5, in alphabetical order, the words “Rail Corporation New South Wales”.

Note. The *State Owned Corporations Act 1989* contains many provisions that apply to RailCorp as a statutory State owned corporation. In particular, Part 3 contains provisions relating to their status, the application of the *Corporations Act 2001* of the Commonwealth, the issue of shares to the Treasurer and another Minister, the board of directors, the chief executive officer, the employment of staff, the giving of directions by the portfolio Minister (including directions as to the performance of non-commercial activities or the carrying out of public sector policies), the memorandum and articles, tax-equivalent payments, government guarantees, the sale or disposal of assets and legal capacity. Part 4 deals with the accountability of State owned corporations (including annual reports and accounts). Part 5 deals with miscellaneous matters (including the duties and liabilities of directors and the application of public sector legislation).

Division 2 Objectives of RailCorp

5 Objectives of RailCorp

- (1) The principal objectives of RailCorp are:
 - (a) to deliver safe and reliable railway passenger services in New South Wales in an efficient, effective and financially responsible manner, and
 - (b) to ensure that the part of the NSW rail network vested in or owned by RailCorp enables safe and reliable railway passenger and freight services to be provided in an efficient, effective and financially responsible manner.

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- (2) The other objectives of RailCorp are as follows:
- (a) to maintain reasonable priority and certainty of access for railway passenger services,
 - (b) to promote and facilitate access to the part of the NSW rail network vested in or owned by RailCorp,
 - (c) to be a successful business and, to that end:
 - (i) to operate at least as efficiently as any comparable business, and
 - (ii) to maximise the net worth of the State's investment in the Corporation,
 - (d) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates,
 - (e) where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*,
 - (f) to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates.
- (3) The other objectives of RailCorp are of equal importance, but are not as important as the principal objectives of the corporation.
- (4) Section 20E of the *State Owned Corporations Act 1989* does not apply to RailCorp.

Division 3 Functions of RailCorp

6 Railway passenger services

- (1) RailCorp is to operate railway passenger services.
- (2) RailCorp is to continue to operate the railway passenger services which were provided by the State Rail Authority immediately before the commencement of this section.
- (3) Subsection (2) does not limit the power of RailCorp:
 - (a) to establish any new railway passenger service, or
 - (b) to alter or discontinue any of its railway passenger services.

- (4) The operation of a railway passenger service by RailCorp is subject to the requirements of the *Rail Safety Act 2002*.

7 Rail infrastructure functions

RailCorp is to hold, manage, maintain and establish rail infrastructure facilities vested in or owned by it on behalf of the State.

Note. Schedules 6A and 6B (see section 98) contain provisions relating to the rights and liabilities of rail infrastructure owners.

8 Metropolitan rail area access functions

RailCorp is to provide persons with access under any current NSW rail access undertaking to the part of the NSW rail network vested in or owned by RailCorp.

Note. As a rail infrastructure owner, RailCorp may enter into rail access undertakings in relation to that part of the NSW rail network that is vested in it or that it owns. Section 99C and Schedule 6AA contain general provisions relating to rail access.

9 Other transport services

RailCorp may operate other transport services, including bus services, whether or not in connection with its railway services.

10 Other functions of RailCorp

- (1) RailCorp has the functions conferred or imposed on it by or under this or any other Act or law.
- (2) RailCorp may:
- (a) provide goods, services or facilities to the rail industry, and
 - (b) without limiting paragraph (a), act as an agent for or provide services to another rail infrastructure owner or rail operator, whether or not the agency or services are for purposes related to its principal functions, and
 - (c) conduct any business (whether or not related to its principal functions) that it considers will further its objectives, and
 - (d) provide services or facilities that are ancillary to or incidental to its principal functions.

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- (3) RailCorp may, with the consent of the Minister, act as an agent for a body constituted under this Act (other than the State Transit Authority, the Roads and Traffic Authority or the Independent Transport Safety and Reliability Regulator) without obtaining the consent of that body.

11 Acquisition of land by RailCorp

- (1) RailCorp may, for any purposes of RailCorp, acquire land (including an interest in land) by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.
- (2) The other purposes for which land may be acquired under subsection (1) include for the purposes of a future sale, lease or disposal, that is, to enable RailCorp to exercise its functions in relation to land under this Act.
- (3) For the purposes of the *Public Works Act 1912*, any such acquisition of land is taken to be an authorised work and RailCorp is, in relation to that authorised work, taken to be the Constructing Authority.
- (4) RailCorp may not give a proposed acquisition notice under the *Land Acquisition (Just Terms Compensation) Act 1991* without the approval of the portfolio Minister.
- (5) Any such acquisition is not void merely because it is expressed to be for the purposes of RailCorp or for the purposes of this Act.
- (6) Part 3 of the *Public Works Act 1912* does not apply in respect of works constructed for the purposes of this section.

12 Effect of Division

This Division does not limit the functions of RailCorp apart from this Division, but is subject to the provisions of the *State Owned Corporations Act 1989*, this Act and any other Act or law.

Division 4 Management of RailCorp

13 Board of directors of RailCorp

- (1) The board of directors of RailCorp is to be appointed by the voting shareholders. The voting shareholders are to consult with the portfolio Minister on the persons (other than the chief executive officer) recommended for appointment as directors.
- (2) The board is to consist of not fewer than 3 and not more than 7 directors.
- (3) The person for the time being holding office as chief executive officer of RailCorp is to be a director of the board.
- (4) One director of the board is to be a person recommended by a selection committee comprising:
 - (a) 2 persons nominated by the portfolio Minister, and
 - (b) 2 persons nominated by the Labor Council of New South Wales,being a person selected by the committee from a panel of 3 persons nominated by the Labor Council.
- (5) The procedures for constituting a selection committee for the purposes of subsection (4), for making nominations and for determining other matters relating to the selection process are to be determined by the regulations or (subject to the regulations) by the voting shareholders.
- (6) The other directors of the board (other than the chief executive officer of RailCorp) must each or together have such expertise (including engineering and rail safety expertise) as the voting shareholders, after consultation with the portfolio Minister, consider necessary in order to realise the objectives of RailCorp.
- (7) Subject to subsection (8), section 20J of and Schedule 8 to the *State Owned Corporations Act 1989* have effect with respect to the board of RailCorp and its constitution and procedure.
- (8) Section 20J (2), (3), (4) and (5) of, and clause 4 of Schedule 8 to, the *State Owned Corporations Act 1989* do not apply with respect to the board of RailCorp.
- (9) Clause 7 of Schedule 8 to the *State Owned Corporations Act 1989* does not apply with respect to the chief executive officer of RailCorp.

14 Chief executive officer

- (1) The chief executive officer of RailCorp is to be appointed by the board of RailCorp after consultation with the voting shareholders and the portfolio Minister.
- (2) The chief executive officer is to hold office for the period (not exceeding 5 years) that is specified in the chief executive officer's instrument of appointment.
- (3) The board may remove a person from office as chief executive officer, at any time, for any or no reason and without notice, but only after consultation with the voting shareholders and the portfolio Minister.
- (4) The chief executive officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the board may determine after consultation with the voting shareholders.
- (5) The board may, after consultation with the voting shareholders, fix the conditions of employment of the chief executive officer in so far as they are not fixed by or under any other Act or law.
- (6) The contract of employment of the chief executive officer must include performance criteria for the purpose of reviews of the chief executive officer's performance.
- (7) The board must require the chief executive officer to enter into a performance agreement and must review the chief executive officer's performance at least annually.
- (8) The *Public Sector Employment and Management Act 2002* (Chapter 5 included) does not apply to the chief executive officer.
- (9) Section 20K (2) and (4) of, and Schedule 9 to, the *State Owned Corporations Act 1989* do not apply to or in respect of the chief executive officer.
- (10) The provisions of this section are in addition to and (except to the extent to which this section provides) do not derogate from the provisions of the *State Owned Corporations Act 1989*.

15 Acting chief executive officer

- (1) The board of RailCorp may, from time to time, appoint a person to act in the office of chief executive officer during the illness or absence of the chief executive officer of RailCorp.
- (2) The board may remove a person from office as acting chief executive officer, at any time, for any or no reason and without notice.
- (3) A person, while acting in the office of chief executive officer:
 - (a) has all the functions of the chief executive officer and is taken to be the chief executive officer, and
 - (b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the board may determine.
- (4) For the purposes of this section, a vacancy in the office of chief executive officer is regarded as an absence from office of the chief executive officer.
- (5) The board is not to appoint a person to act in the office of chief executive officer during any vacancy in that office except after consultation with the voting shareholders and the portfolio Minister.
- (6) The provisions of this section are in addition to and (except to the extent to which this section provides) do not derogate from the provisions of the *State Owned Corporations Act 1989*.

16 Ministerial directions

- (1) The Minister may give the board of RailCorp a written direction in relation to RailCorp's functions if the Minister decides that this action is warranted on grounds involving urgency or public safety.
- (2) The board of directors and the chief executive officer of RailCorp must ensure that RailCorp complies with any such direction.
- (3) Section 20P (4)–(6) of the *State Owned Corporations Act 1989* apply to a direction given under this section in the same way as they apply to a direction given under that section.
- (4) If the Minister considers that compliance with a direction under this section may cause a significant variation in the

approved financial outcomes of RailCorp, the direction must be given in consultation with the Treasurer.

- (5) The Minister's power to give directions to RailCorp under this section is in addition to any power of the Minister to give directions under section 20N, 20O or 20P of the *State Owned Corporations Act 1989*. Except as provided by subsection (3), those sections of that Act do not apply to a direction of the Minister if the direction states that it is being given under this section.

Division 5 General

17 Foundation charter of RailCorp

For the purposes of the *State Owned Corporations Act 1989*, the foundation charter of RailCorp is this Part of this Act (but not the remainder of this Act).

Note. Section 3 of the *State Owned Corporations Act 1989* defines the foundation charter of a statutory SOC as the whole of any Act by which a SOC is established for the purposes of the SOC Act and, in particular, for the purpose of the provisions relating to the legal capacity of statutory SOCs and assumptions that they have complied with that Act and their foundation charter.

17A Restrictions relating to shareholdings

- (1) The portfolio Minister of RailCorp must not be, and is not eligible for nomination as, a shareholder of RailCorp. However, the portfolio Minister may attend meetings of the shareholders of RailCorp.
- (2) Shares in RailCorp may not be sold or otherwise disposed of except to eligible Ministers.

17B Dividends and tax-equivalents

- (1) Section 20S of the *State Owned Corporations Act 1989* does not apply to RailCorp.
- (2) The Treasurer may, by notice in writing to RailCorp, suspend the obligation of RailCorp, or any subsidiary of RailCorp, to pay amounts under section 20T of the *State Owned Corporations Act 1989*, either generally or for a specified period.
- (3) A suspension under subsection (2) may be subject to conditions and may be revoked or varied by the Treasurer.

17C Statement of corporate intent

- (1) The board of RailCorp must prepare and submit to the voting shareholders and portfolio Minister a draft written statement of corporate intent not later than one month after the commencement of each financial year of the corporation.
- (2) The statement of corporate intent must include:
 - (a) performance benchmarks for the rail services and rail infrastructure facilities provided by RailCorp, as agreed by the board and the portfolio Minister, and included in a rail performance agreement between the Minister and RailCorp, and
 - (b) financial and any other performance benchmarks, as agreed by the board and the voting shareholders after consultation with the portfolio Minister.
- (3) The board must consider any comments on the draft statement of corporate intent that are made to it by the voting shareholders or the portfolio Minister within 2 months after the commencement of the financial year of RailCorp.
- (4) The board must consult in good faith with the voting shareholders and the portfolio Minister following communication to it of the comments, make such changes to the statement:
 - (a) in relation to the performance benchmarks agreed under subsection (2) (a) (the *rail performance benchmarks*), as are agreed between the board and the portfolio Minister, and
 - (b) in relation to the remainder of the statement, as are agreed between the board and the voting shareholders,and deliver the completed written statement to the voting shareholders and portfolio Minister within 3 months after the commencement of the financial year.
- (5) The statement may not, before it is laid before both Houses of Parliament, be published or made available to the public without the prior approval of the board and the voting shareholders.
- (6) The statement, other than the rail performance benchmarks, may be modified at any time by the board with the agreement

of the voting shareholders after consultation with the portfolio Minister.

- (7) The rail performance benchmarks may be modified at any time by the board with the agreement of the portfolio Minister after consultation with the Independent Transport Safety and Reliability Regulator.
- (8) If the board, by written notice to the voting shareholders and the portfolio Minister, proposes a modification of the statement (other than the rail performance benchmarks), the board may, within 14 days, make the modification unless the voting shareholders, by written notice to the board, direct the board not to make it.
- (9) The voting shareholders may, from time to time, by written notice to the board, direct the board to include in, or omit from, a statement of corporate intent any specified matters, other than matters relating to the rail performance benchmarks.
- (10) Before giving a direction under this section, the voting shareholders are to consult with the portfolio Minister and the board as to the matters to be referred to in the notice.
- (11) RailCorp is required to comply with any such direction.
- (12) At any particular time, the statement of corporate intent for RailCorp is the completed statement, with any modifications or deletions made in accordance with this section or Part 4 of the *State Owned Corporations Act 1989*.
- (13) The *State Owned Corporations Act 1989* (other than section 21 of that Act) applies to a statement of corporate intent for RailCorp in the same way that it applies to a statement of corporate intent under that Act.

17D Payments to RailCorp

All fines and penalties recovered for offences under the regulations under section 91, or under regulations under section 95 of the *Rail Safety Act 2002* in connection with railway services operated by RailCorp (but only if proceedings or penalty notices for the offences were instituted or issued by RailCorp or an employee of RailCorp), must be paid to RailCorp.

17E Exemption from State taxes

- (1) State tax is not chargeable in respect of any matter or thing done by RailCorp in the exercise of its functions during the period of 12 months commencing on the commencement of this section.
- (2) The regulations under this Act may, on the recommendation of the Minister and with the approval of the Treasurer, provide that State tax is not chargeable in respect of any matter or thing, or classes of matters or things, prescribed by the regulations and done by RailCorp in the exercise of its functions after the end of that period.
- (3) The provisions of this section are in addition to and do not derogate from the provisions of the *State Owned Corporations Act 1989*.
- (4) In this section:
State tax means duty under the *Duties Act 1997* or any other tax, duty, fee or charge imposed by any Act or law of the State, other than pay-roll tax.

17F Appeals to Transport Appeal Boards

- (1) Regulations made under section 20M of the *State Owned Corporations Act 1989* with respect to the staff of RailCorp may provide for appeals by members of staff in connection with their employment to a Transport Appeal Board constituted under the *Transport Appeal Boards Act 1980*.
- (2) This section does not limit the operation of section 20M of the *State Owned Corporations Act 1989*.

Part 2A Transport Infrastructure Development Corporation

Division 1 Interpretation

18 Definitions

- (1) In this Part:

develop a railway system or develop a transport project includes:

- (a) carry out development (within the meaning of the *Environmental Planning and Assessment Act 1979*) or an activity (within the meaning of Part 5 of that Act) for the purposes of a railway system or other transport project,
- (b) manage any such development,
- (c) finance any such development,
- (d) maintain any such development,
- (e) facilitate any such development,
- (f) carry out any function ancillary to any such development.

railway means a guided system designed to transport passengers or freight or both (whether or not passengers, freight or both are being transported) on a railway track, together with its infrastructure and associated sidings, and includes a heavy railway, light railway, inclined railway, monorail or tramway.

railway system includes a railway, rail infrastructure facilities, stations, platforms, maintenance facilities, depots and any other transport interchanges, works, structures and facilities associated with or incidental to the railway or rail infrastructure facilities.

- (2) In this Part, a reference to a railway system or other transport project includes a reference to part of a system or part of a project.

Division 2 Constitution of Transport Infrastructure Development Corporation as statutory SOC

18A Establishment of Transport Infrastructure Development Corporation as statutory State owned corporation

- (1) There is constituted by this Act a corporation with the corporate name of Transport Infrastructure Development Corporation.
- (2) The *State Owned Corporations Act 1989* is amended by inserting in Schedule 5, in alphabetical order, the words "Transport Infrastructure Development Corporation".

Note. The *State Owned Corporations Act 1989* contains many provisions that apply to Transport Infrastructure Development Corporation as a statutory State owned corporation. In particular, Part 3 contains provisions relating to their status, the application of the *Corporations Act 2001* of the Commonwealth, the issue of shares to the Treasurer and another Minister, the board of directors, the chief executive officer, the employment of staff, the giving of directions by the portfolio Minister (including directions as to the performance of non-commercial activities or the carrying out of public sector policies), the memorandum and articles, tax-equivalent payments, government guarantees, the sale or disposal of assets and legal capacity. Part 4 deals with the accountability of State owned corporations (including annual reports and accounts). Part 5 deals with miscellaneous matters (including the duties and liabilities of directors and the application of public sector legislation).

Division 3 Objectives of Transport Infrastructure Development Corporation

18B Objectives of Transport Infrastructure Development Corporation

- (1) The principal objectives of Transport Infrastructure Development Corporation are:
 - (a) to develop major railway systems, and
 - (b) to develop other major transport projects,in an efficient, effective and financially responsible manner.
- (2) The other objectives of Transport Infrastructure Development Corporation are as follows:
 - (a) to be a successful business and, to that end:
 - (i) to operate at least as efficiently as any comparable business, and

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- (ii) to maximise the net worth of the State's investment in the Corporation,
 - (b) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates,
 - (c) where its activities affect the environment, to conduct its operations in compliance with the principles of ecologically sustainable development contained in section 6 (2) of the *Protection of the Environment Administration Act 1991*,
 - (d) to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates.
- (3) The other objectives of Transport Infrastructure Development Corporation are of equal importance, but are not as important as the principal objectives of the corporation.
 - (4) Section 20E of the *State Owned Corporations Act 1989* does not apply to Transport Infrastructure Development Corporation.

Division 4 Functions of Transport Infrastructure Development Corporation

18C Development of railway systems and other transport projects

The principal functions of Transport Infrastructure Development Corporation are:

- (a) to develop major railway systems, and
- (b) to develop other major transport projects, including facilitating their development by other persons.

18D Other functions of Transport Infrastructure Development Corporation

- (1) Transport Infrastructure Development Corporation has the functions conferred or imposed on it by or under this or any other Act or law.
- (2) Transport Infrastructure Development Corporation may exercise the following functions:
 - (a) hold, manage, maintain and establish assets associated with major railway systems or other major transport

projects developed or proposed to be developed by Transport Infrastructure Development Corporation,

- (b) provide goods and services to the rail industry,
- (c) conduct any business (whether or not related to its principal functions) that it considers will further its objectives,
- (d) provide facilities or services that are ancillary to or incidental to its principal functions.

18E Functions relating to development projects

- (1) Transport Infrastructure Development Corporation may not undertake the development of a major railway system or other major transport project except with the consent of the portfolio Minister and the voting shareholders of the Corporation.
- (2) Transport Infrastructure Development Corporation must undertake the development of a major railway system or other major transport project commenced (but not completed) before the commencement of this section if directed to do so by the portfolio Minister with the concurrence of the Treasurer.
- (3) The portfolio Minister's power to give a direction to Transport Infrastructure Development Corporation under subsection (2) is in addition to any power of the portfolio Minister to give directions under section 20N, 20O or 20P of the *State Owned Corporations Act 1989*. Those sections of that Act do not apply to a direction of the Minister if the direction states that it is being given under this section.

18F Acquisition of land by Transport Infrastructure Development Corporation

- (1) Transport Infrastructure Development Corporation may, for any purposes of the Corporation, acquire land (including an interest in land) by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

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- (2) The other purposes for which land may be acquired under subsection (1) include for the purposes of a future sale, lease or disposal, that is, to enable Transport Infrastructure Development Corporation to exercise its functions in relation to land under this Act.
 - (3) For the purposes of the *Public Works Act 1912*, any such acquisition of land is taken to be for an authorised work and Transport Infrastructure Development Corporation is, in relation to that authorised work, taken to be the Constructing Authority.
 - (4) Transport Infrastructure Development Corporation may not give a proposed acquisition notice under the *Land Acquisition (Just Terms Compensation) Act 1991* without the approval of the portfolio Minister.
 - (5) Any such acquisition is not void merely because it is expressed to be for the purposes of Transport Infrastructure Development Corporation or for the purposes of this Act.
 - (6) Part 3 of the *Public Works Act 1912* does not apply in respect of works constructed for the purposes of this section.

18G Effect of Division

This Division does not limit the functions of Transport Infrastructure Development Corporation apart from this Division, but is subject to the provisions of the *State Owned Corporations Act 1989*, this Act and any other Act or law.

Division 5 Management of Transport Infrastructure Development Corporation

18H Board of directors of Transport Infrastructure Development Corporation

- (1) The board of directors of Transport Infrastructure Development Corporation is to be appointed by the voting shareholders. The voting shareholders are to consult with the portfolio Minister on the persons (other than the chief executive officer) recommended for appointment as directors.
- (2) The board is to consist of not fewer than 3 and not more than 7 directors.

- (3) The person for the time being holding office as chief executive officer of Transport Infrastructure Development Corporation is to be a director of the board.
- (4) The person for the time being holding office as chief executive officer of RailCorp is to be a director of the board.
- (5) The directors of the board (other than the chief executive officers of RailCorp and Transport Infrastructure Development Corporation) must each or together have such expertise (including engineering and rail safety expertise) as the voting shareholders, after consultation with the portfolio Minister, consider necessary in order to realise the objectives of Transport Infrastructure Development Corporation.
- (6) Subject to subsection (7), section 20J of and Schedule 8 to the *State Owned Corporations Act 1989* have effect with respect to the board of Transport Infrastructure Development Corporation and its constitution and procedure.
- (7) Section 20J (2), (3), (4) and (5) of, and clause 4 of Schedule 8 to, the *State Owned Corporations Act 1989* do not apply with respect to the board of Transport Infrastructure Development Corporation.
- (8) Clause 7 of Schedule 8 to the *State Owned Corporations Act 1989* does not apply with respect to the chief executive officer of RailCorp or the chief executive officer of Transport Infrastructure Development Corporation.

18I Chief executive officer

- (1) The chief executive officer of Transport Infrastructure Development Corporation is to be appointed by the board of the Corporation after consultation with the voting shareholders and the portfolio Minister.
- (2) The chief executive officer is to hold office for the period (not exceeding 5 years) that is specified in the chief executive officer's instrument of appointment.
- (3) The board may remove a person from office as chief executive officer, at any time, for any or no reason and without notice, but only after consultation with the voting shareholders and the portfolio Minister.

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- (4) The chief executive officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the board may determine after consultation with the voting shareholders.
 - (5) The board may, after consultation with the voting shareholders, fix the conditions of employment of the chief executive officer in so far as they are not fixed by or under any other Act or law.
 - (6) The contract of employment of the chief executive officer must include performance criteria for the purpose of reviews of the chief executive officer's performance.
 - (7) The board must require the chief executive officer to enter into a performance agreement and must review the chief executive officer's performance at least annually.
 - (8) The *Public Sector Employment and Management Act 2002* (Chapter 5 included) does not apply to the chief executive officer.
 - (9) Section 20K (2) and (4) of, and Schedule 9 to, the *State Owned Corporations Act 1989* do not apply to or in respect of the chief executive officer.
 - (10) The provisions of this section are in addition to and (except to the extent to which this section provides) do not derogate from the provisions of the *State Owned Corporations Act 1989*.

18J Acting chief executive officer

- (1) The board of Transport Infrastructure Development Corporation may, from time to time, appoint a person to act in the office of chief executive officer during the illness or absence of the chief executive officer of the Corporation.
- (2) The board may remove a person from acting as chief executive officer, at any time, for any or no reason and without notice.
- (3) A person, while acting in the office of chief executive officer:
 - (a) has all the functions of the chief executive officer and is taken to be the chief executive officer, and

- (b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the board may determine.
- (4) For the purposes of this section, a vacancy in the office of chief executive officer is regarded as an absence from office of the chief executive officer.
- (5) The board is not to appoint a person to act in the office of chief executive officer during any vacancy in that office except after consultation with the voting shareholders and the portfolio Minister.
- (6) The provisions of this section are in addition to and (except to the extent to which this section provides) do not derogate from the provisions of the *State Owned Corporations Act 1989*.

Division 6 General

18K Foundation charter of Transport Infrastructure Development Corporation

For the purposes of the *State Owned Corporations Act 1989*, the foundation charter of Transport Infrastructure Development Corporation is this Part of this Act (but not the remainder of this Act).

Note. Section 3 of the *State Owned Corporations Act 1989* defines the foundation charter of a statutory SOC as the whole of any Act by which a SOC is established for the purposes of the SOC Act and, in particular, for the purpose of the provisions relating to the legal capacity of statutory SOC's and assumptions that they have complied with that Act and their foundation charter.

18L Restrictions relating to shareholdings

- (1) The portfolio Minister of Transport Infrastructure Development Corporation must not be, and is not eligible for nomination as, a shareholder of the Corporation. However, the portfolio Minister may attend meetings of the shareholders of the Corporation.
- (2) Shares in Transport Infrastructure Development Corporation may not be sold or otherwise disposed of except to eligible Ministers.

18M Dividends and tax-equivalents

- (1) Section 20S of the *State Owned Corporations Act 1989* does not apply to Transport Infrastructure Development Corporation.
- (2) The Treasurer may, by notice in writing to Transport Infrastructure Development Corporation, suspend the obligation of Transport Infrastructure Development Corporation, or any subsidiary of Transport Infrastructure Development Corporation, to pay amounts under section 20T of the *State Owned Corporations Act 1989*, either generally or for a specified period.
- (3) A suspension under subsection (2) may be subject to conditions and may be revoked or varied by the Treasurer.

18N Statement of corporate intent

- (1) The board of Transport Infrastructure Development Corporation must prepare and submit to the voting shareholders and portfolio Minister a draft written statement of corporate intent not later than one month after the commencement of each financial year of the corporation.
- (2) The statement of corporate intent must include:
 - (a) performance benchmarks for the rail services and rail infrastructure facilities and other transport development provided by Transport Infrastructure Development Corporation, as agreed by the board and the portfolio Minister, and included in a performance agreement between the Minister and Transport Infrastructure Development Corporation, and
 - (b) financial and any other performance benchmarks, as agreed by the board and the voting shareholders after consultation with the portfolio Minister.
- (3) The board must consider any comments on the draft statement of corporate intent that are made to it by the voting shareholders or the portfolio Minister within 2 months after the commencement of the financial year of Transport Infrastructure Development Corporation.

- (4) The board must consult in good faith with the voting shareholders and the portfolio Minister following communication to it of the comments, make such changes to the statement:
 - (a) in relation to the performance benchmarks agreed under subsection (2) (a) (the *development performance benchmarks*), as are agreed between the board and the portfolio Minister, and
 - (b) in relation to the remainder of the statement, as are agreed between the board and the voting shareholders,and deliver the completed written statement to the voting shareholders and portfolio Minister within 3 months after the commencement of the financial year.
- (5) The statement may not, before it is laid before both Houses of Parliament, be published or made available to the public without the prior approval of the board and the voting shareholders.
- (6) The statement, other than the development performance benchmarks, may be modified at any time by the board with the agreement of the voting shareholders after consultation with the portfolio Minister.
- (7) The development performance benchmarks may be modified at any time by the board with the agreement of the portfolio Minister after consultation with the Independent Transport Safety and Reliability Regulator.
- (8) If the board, by written notice to the voting shareholders and the portfolio Minister, proposes a modification of the statement (other than the development performance benchmarks), the board may, within 14 days, make the modification unless the voting shareholders, by written notice to the board, direct the board not to make it.
- (9) The voting shareholders may, from time to time, by written notice to the board, direct the board to include in, or omit from, a statement of corporate intent any specified matters, other than matters relating to the development performance benchmarks.
- (10) Before giving a direction under this section, the voting shareholders are to consult with the portfolio Minister and the board as to the matters to be referred to in the notice.

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- (11) The corporation is required to comply with any such direction.
 - (12) At any particular time, the statement of corporate intent for Transport Infrastructure Development Corporation is the completed statement, with any modifications or deletions made in accordance with this section or Part 4 of the *State Owned Corporations Act 1989*.
 - (13) The *State Owned Corporations Act 1989* (other than section 21 of that Act) applies to a statement of corporate intent for Transport Infrastructure Development Corporation in the same way that it applies to a statement of corporate intent under that Act.

180 Exemption from State taxes

- (1) State tax is not chargeable in respect of any matter or thing, or any matter or thing of a class, certified by the portfolio Minister, with the approval of the Treasurer, as being or having been done for the purpose of or a purpose connected with or arising out of the principal functions of Transport Infrastructure Development Corporation.
- (2) In this section:

State tax means duty under the *Duties Act 1997* or any other tax, duty, fee or charge imposed by any Act or law of the State, other than pay-roll tax.

[9] Part 2B, heading

Omit the existing heading to Part 2A. Insert instead:

Part 2B Rail Infrastructure Corporation

[10] New Part 2B

Omit Division 1 and the heading to Division 2.

[11] Section 19D Objectives of RIC

Omit “NSW rail network” wherever occurring in section 19D (1) and (2) (a).

Insert instead “part of the NSW rail network vested in or owned by Rail Infrastructure Corporation”.

[12] Section 19D (2) (a)

Omit “RIC”. Insert instead “NSW rail”.

[13] Section 19E Functions of RIC

Omit section 19E (2) (b). Insert instead:

- (b) to provide persons with access under the current NSW rail access undertaking to the part of the NSW rail network vested in or owned by Rail Infrastructure Corporation.

[14] Section 19E (2A), (4A), (4B) and (5)

Omit the subsections.

[15] Section 19E (4) (b)

Omit “objectives, and”. Insert instead “objectives.”.

[16] Section 19E (4) (c)

Omit the paragraph.

[17] Section 19E (6)

Omit “NSW rail network” wherever occurring.

Insert instead “the part of the NSW rail network vested in or owned by Rail Infrastructure Corporation”.

[18] Section 19E (7)

Omit “subsections (4B) and (5A)”. Insert instead “subsection (5A)”.

[19] Section 19F

Omit the section.

[20] Sections 19FB and 19FC

Omit the sections.

[21] New Part 2B, Division 4, heading

Omit the heading.

[22] Sections 19J and 19K

Omit the sections.

[23] Section 19L Restriction on sale of shares

Omit “a Rail Corporation”.

Insert instead “Rail Infrastructure Corporation”.

[24] Section 19M

Omit the section.

[25] Section 19N Foundation charter of Rail Infrastructure Corporation for purposes of SOC Act

Omit “a Rail Corporation”.

Insert instead “Rail Infrastructure Corporation”.

[26] Section 19P Portfolio Minister not to be shareholder of Rail Infrastructure Corporation

Omit “a Rail Corporation”.

Insert instead “Rail Infrastructure Corporation”.

[27] Section 19P

Omit “the Rail Corporation”.

Insert instead “Rail Infrastructure Corporation”.

[28] Section 19R Chief executive officer

Omit section 19R (1). Insert instead:

- (1) The chief executive officer of Rail Infrastructure Corporation is to be appointed by the board with the concurrence of the voting shareholders and the Minister.

[29] Section 19R (2)

Omit “, in the case of Rail Infrastructure Corporation,”.

[30] Section 19R (4A)

Insert after section 19R (4):

- (4A) The chief executive officer of Rail Infrastructure Corporation may delegate any functions of the chief executive officer to any person of a class approved by the board of the Corporation.

[31] Section 19S Acting chief executive officer

Insert “of Rail Infrastructure Corporation” after “chief executive officer” where secondly occurring in section 19S (1).

[32] Section 19S (5) and 19T

Omit “a Rail Corporation” wherever occurring.

Insert instead “Rail Infrastructure Corporation”.

[33] Section 19T Dividends

Omit “Rail Corporation’s” from section 19T (1).

Insert instead “Rail Infrastructure Corporation’s”.

[34] Section 19T (4)

Insert after section 19T (3):

- (4) Rail Infrastructure Corporation is not required to comply with this section, or section 20S of the *State Owned Corporations Act 1989*, after 1 July 2004.

[35] Section 38 Functions of ensuring provision of appropriate passenger services

Omit “the State Rail Authority” from section 38 (3).

Insert instead “RailCorp”.

[36] Section 38 (3)

Omit “such Authority”.

[37] Section 42A [as inserted by the Transport Legislation Amendment (Safety and Reliability) Act 2003]

Omit paragraph (a) of the definition of *transport authority*. Insert instead:

- (a) RailCorp, or

[38] Part 7, Division 1

Omit the Division.

[39] Part 8, Division 1

Omit the Division.

[40] Section 83

Omit the section.

[41] Part 8, Division 5, heading

Omit “State Rail Authority”. Insert instead “**RailCorp**”.

[42] Section 84 Definitions

Insert in alphabetical order:

Authority means the State Transit Authority or RailCorp.

[43] Section 85 Orders fixing charges

Omit “the State Rail Authority” from section 85 (1).

Insert instead “RailCorp”.

[44] Section 85 (1)

Omit “the Authority”. Insert instead “RailCorp”.

[45] Section 85 (3)

Omit “The State Rail Authority”. Insert instead “RailCorp”.

[46] Section 86 Ministerial supervision of orders fixing charges

Omit “The State Rail Authority and the State Transit Authority shall” from section 86 (1).

Insert instead “An Authority must”.

[47] Section 86 (2)

Omit the subsection. Insert instead:

- (2) When making an order determining the charges for passenger services, an Authority must have regard to any pricing policies approved by the Minister and notified to the Authority.

[48] Sections 86 (3) and 88 (5)

Omit “section 13 or 29” wherever occurring.

Insert instead “section 29 of this Act or section 20P of the *State Owned Corporations Act 1989*”.

[49] Section 88 Free or subsidised railway, bus or ferry travel

Omit “the State Rail Authority or the State Transit Authority” from section 88 (1).

Insert instead “an Authority”.

[50] Part 9, Divisions 1–1C

Omit Division 1 of Part 9. Insert instead:

Division 1 Definitions

89 Definitions

In this Part:

rail authority means RailCorp, Rail Infrastructure Corporation, Transport Infrastructure Development Corporation or any other person or body prescribed by the regulations.

railway system has the same meaning as it has in Part 2A.

State rail operator means RailCorp or any other person or body prescribed by the regulations.

Division 1A Miscellaneous provisions relating to rail authorities

90 State rail operators not common carriers

- (1) A State rail operator is not a common carrier.
- (2) Subsection (1) does not affect any contract or arrangement for the carriage of passengers or freight between a State rail operator and any other person in which the operator accepts the risk and liability of a common carrier.

91 Regulations relating to railway and other transport services

- (1) The regulations may make provision for or with respect to the railway and other transport services operated by a State rail operator.
- (2) In particular, the regulations may make provision for or with respect to the following matters:
 - (a) the terms and conditions on which:
 - (i) passengers are carried, and
 - (ii) passengers' luggage and freight are collected, received, kept, carried or delivered,
 - (b) the use of and access to facilities or property owned by or under the control of a State rail operator,
 - (c) the protection and preservation of facilities or property owned by or under the control of a State rail operator,
 - (d) security, safety and order on railways and trains,
 - (e) the sale or other disposal of unclaimed goods and luggage in the possession of a State rail operator and the disposal of the proceeds of any such sale,
 - (f) the standing or parking of vehicles on land vested in a State rail operator.

92 Limitation of compensation in respect of damage to property by fire

In any action brought against a rail authority for damages or compensation in respect of loss of or damage or injury to property (whether sustained before or after the commencement of this section) because of fire alleged to have been caused by:

- (a) any act or thing done or omitted to be done by the rail authority in the operation of its railway services or in the exercise of its functions under this Act, or
- (b) any person for whose act or omission the rail authority is liable,

the maximum sum recoverable is \$50,000 or such other amount as may be prescribed by the regulations.

93 Search of vehicles and luggage on certain railway premises

- (1) An authorised officer may:
 - (a) stop any vehicle or person on any land that is vested in or under the control of a State rail operator and that is used for the receipt, dispatch or delivery of any luggage or freight, and
 - (b) search any such vehicle or any luggage or other article on that vehicle or in the possession of any such person, and
 - (c) require any such person to produce consignment notes, delivery dockets or other documents relating to the receipt, dispatch, delivery or ownership of any such luggage or article, and
 - (d) seize any such luggage or article that the authorised officer has reasonable grounds for suspecting has been stolen.
- (2) The power of an authorised officer to search includes the power to open any part of the vehicle or any luggage or other article on the vehicle or in the possession of the person.
- (3) Any person who:
 - (a) obstructs or hinders an authorised officer when exercising any power under this section, or
 - (b) does not comply with any reasonable requirement made for the purposes of this section by an authorised officer,is guilty of an offence.

Maximum penalty: 20 penalty units.

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- (4) An authorised officer must produce his or her authority if requested to do so by any person required to comply with a requirement made by that officer for the purposes of this section.
- (5) No personal liability is incurred by an authorised officer for any act done or omitted in good faith under this section.
- (6) In this section:
- authorised officer* means an officer of a State rail operator, or a person employed in the transit police service, appointed in writing by the chief executive officer of the State rail operator to be an authorised officer.
- authority* means the written instrument by which an authorised officer is appointed.

94 Transfers of assets, rights and liabilities

- (1) The Minister may, by order in writing, direct that the assets, rights or liabilities of a specified rail authority, or any subsidiary of a rail authority, that are specified or referred to in the order, be transferred to another rail authority, a subsidiary of a rail authority, a State owned corporation, the Crown or any other person or body acting on behalf of the Crown.
- (2) The Minister may, by further order under this section, further direct the transfer any assets, rights or liabilities previously transferred under this section.
- (3) An order under this section may be subject to specified terms and conditions.
- (4) Schedule 4 applies to the transfer of assets, rights and liabilities under this section.
- (5) Words and expressions used in this section have the same meanings as they have in Schedule 4.
- (6) In this section:
- rail authority* includes the State Rail Authority, the Transport Administration Corporation, the Director-General and any other person or body prescribed by the regulations.

95 Transfer of staff

Schedule 6 has effect.

96 Person may be a member of one or more boards or CEO of more than one authority

Nothing in this or any other Act prevents a person from being a member of the board of one or more rail authorities or the chief executive officer of one or more rail authorities.

Division 1B Miscellaneous provisions relating to rail infrastructure, rail access and network control

97 Additional facilities may be treated as rail infrastructure facilities

The Minister may, by order in writing, direct that specified facilities that are vested in or owned by a rail infrastructure owner are to be treated as rail infrastructure facilities for the purposes of this Act or the regulations.

98 Powers of rail authorities relating to rail infrastructure facilities and land

Schedules 6A (Powers relating to rail infrastructure facilities and land) and 6B (Special provisions for underground rail facilities) have effect.

99 Maintenance of railway lines

A rail infrastructure owner is not required to maintain a railway line on which no services are operated.

99A Closure and disposal of railway lines

- (1) A rail infrastructure owner must not, unless authorised by an Act of Parliament, close a railway line.
- (2) For the purposes of this section, a railway line is closed if the land concerned is sold or otherwise disposed of or the railway tracks and other works concerned are removed.

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- (3) For the purposes of this section, a railway line is not closed merely because a rail infrastructure owner has entered into a lease or other arrangement in respect of it pursuant to an agreement entered into by the Commonwealth and the State.

99B Closure of level-crossings, bridges and other structures

- (1) A rail infrastructure owner may, with the approval of the Minister, close any level-crossing, bridge or other structure for crossing or passing over or under any railway track if both the level-crossing, bridge or other structure and the railway track are owned by the owner.
- (2) A rail infrastructure owner must notify the Minister of any proposal by it to close a level-crossing, bridge or other structure for crossing or passing over or under a railway track.
- (3) A rail infrastructure owner must, before closing any such level-crossing, bridge or other structure:
- (a) cause a notice of the proposed closure to be published in the Gazette, and
 - (b) notify the Roads and Traffic Authority and the council of the area concerned of the proposed closure.
- (4) On the closure of any such level-crossing, bridge or other structure, all rights, easements and privileges in relation to that level-crossing, bridge or other structure are extinguished.

99C NSW rail access undertakings

- (1) A rail infrastructure owner may give written undertakings from time to time to the Australian Competition and Consumer Commission, in connection with the provision of access to that part of the NSW rail network vested in or owned by the owner, under section 44ZZA of the *Trade Practices Act 1974* of the Commonwealth.
- (2) Any such undertaking is not to be given, and (once given) is not to be withdrawn or varied, except with the approval of the Minister given with the concurrence of the Premier.
- (3) Clauses 2, 3 and 4 of Schedule 6AA apply to any such undertaking in the same way as they apply to an access undertaking referred to in clause 1 of that Schedule.
- (4) In exercising its functions, a rail authority must act in accordance with the current NSW rail access undertaking.

- (5) Schedule 6AA (Access undertakings) has effect.

99D Network control

- (1) For the purposes of this section, *network control* with respect to any part of the NSW rail network is:
- (a) service planning (namely, the timetabling of rolling stock, including standard working and daily timetables and planning the occupation of railway track for maintenance and other service requirements), and
 - (b) real time control (namely, the actual control of the movement of rolling stock, including train signalling and incident management).

Network control includes any aspect of the control of the network that is declared by the regulations to be network control, but does not include anything declared by the regulations not to be network control.

- (2) The Minister may, by order published in the Gazette, designate a rail authority or any person prescribed by the regulations as the body responsible for network control (or any specified aspect of network control) with respect to any specified part of the NSW rail network.
- (3) To the extent that responsibility for network control, or any aspect of network control, with respect to any part of the NSW rail network is not covered by an order under this section the rail infrastructure owner in whom that part of the NSW rail network is vested in or who owns that part is responsible for network control or that aspect.
- (4) The exercise of the functions of a rail authority is subject to an order under this section.
- (5) A body responsible for network control must:
- (a) give priority to rail passenger services, and
 - (b) subject to giving priority to those services, promote and facilitate access to the part of the NSW rail network for which it is responsible in accordance with the current NSW rail access undertaking.
- (6) The Minister may, by order published in the Gazette, amend or revoke an order made under this section.

Division 1C Delegation by Minister

99E Delegation by Minister

The Minister may delegate to the Director-General or the Chief Executive of the State Transit Authority or the chief executive officer of a rail authority any function of the Minister under this Act, other than this power of delegation.

[51] Section 107 Definition of “transport authority”

Omit section 107 (a).

[52] Section 107 (2)

Insert at the end of section 107:

- (2) In sections 111, 113 and 115, a reference to a transport authority includes a reference to RailCorp and Transport Infrastructure Development Corporation.

[53] Section 112 Personal liability of certain persons

Omit “the State Rail Authority,” from the definition of *member of a transport authority* in section 112 (2).

[54] Section 112 (2)

Omit “the State Rail Authority Board and” from the definition of *transport authority*.

[55] Section 116 Liability of vehicle owner for parking offences on Authority’s land

Omit “the State Rail Authority” from the definition of *parking offence* in section 116 (7).

Insert instead “RailCorp, Transport Infrastructure Development Corporation”.

[56] Section 122 Definitions

Omit “the SRA” from the definition of *rail authority*.

Insert instead “RailCorp, TIDC”.

[57] Part 9, Division 7

Insert after Division 6:

Division 7 State Rail Authority

128 State Rail Authority

Schedule 8 has effect.

[58] Schedule 1, heading

Omit “**State Rail Authority Board and**”.

[59] Schedule 1

Omit “a Board” wherever occurring. Insert instead “the Board”.

[60] Schedule 1

Omit “appropriate Chief Executive” wherever occurring.

Insert instead “Chief Executive”.

[61] Schedule 1, clause 1 Definitions

Omit the definition of *appropriate Chief Executive*.

[62] Schedule 1, clause 1

Omit “State Rail Authority Board or” from the definition of *Board*.

[63] Schedule 1, clause 1

Insert in alphabetical order:

Chief Executive means the Chief Executive of the State Transit Authority.

[64] Schedule 1, clause 4 Deputies

Omit “of an Authority” from clause 4 (1).

[65] Schedule 1, clause 15 Transaction of business outside meetings by telephone or other means

Omit “A Board” wherever occurring in clause 15 (1) and (2).

Insert instead “The Board”.

[66] Schedule 2 Provisions relating to Chief Executives

Omit “the Chief Executive of the State Rail Authority,” from the definition of *Chief Executive* in clause 1.

[67] Schedule 4

Omit “Sections 19J, 19K and 19AH”. Insert instead “Section 94”.

[68] Schedule 4, clause 1 Definitions

Omit the definitions of *Rail Access Corporation*, *Rail Corporation*, *Rail Services Australia* and *RSA*.

[69] Schedule 4, clause 1

Insert in alphabetical order:

rail authority has the same meaning as it has in section 94.

[70] Schedule 4, clause 2 Application and interpretation

Omit clause 2 (1) (a)–(c). Insert instead:

- (a) an order under section 94 transferring assets, rights or liabilities of a rail authority to another rail authority or a subsidiary of a rail authority, a State owned corporation, the Crown or a person or body acting on behalf of the Crown,

[71] Schedule 4, clause 8 Transfer of interest in land

Omit clause 8 (1). Insert instead:

- (1) An order to which this Schedule applies may transfer an interest in respect of land vested in the transferor without transferring the whole of the interests of the transferor in that land.

[72] Schedule 6 Transfer of certain staff

Omit “Sections 19M and 58A”. Insert instead “Section 95”.

[73] Schedule 6, clause 1 [as amended by the Transport Legislation Amendment (Safety and Reliability) Act 2003]

Omit “the State Rail Authority” from the definition of *former RIC staff*.

Insert instead “another transport authority”.

[74] Schedule 6, clause 1

Insert in alphabetical order:

former Railcorp staff means the members of staff of RailCorp who, after the commencement of clause 11C or 11D, are transferred to the SRA or RIC by an order made under this Schedule.

former TIDC staff means the members of staff of TIDC who, after the commencement of clause 11C or 11D, are transferred to the SRA or RIC by an order made under this Schedule.

[75] Schedule 6, clause 1 [as amended by the Transport Legislation Amendment (Safety and Reliability) Act 2003]

Omit “the Rail Infrastructure Corporation” from paragraph (b) of the definition of *former SRA staff*.

Insert instead “another transport authority”.

[76] Schedule 6, clause 1 [as amended by the Transport Legislation Amendment (Safety and Reliability) Act 2003]

Omit “or Rail Infrastructure Corporation” from the definition of *transport authority*.

Insert instead “, Rail Infrastructure Corporation, RailCorp or Transport Infrastructure Development Corporation”.

[77] Schedule 6, clause 1A Transport Appeal Boards Act 1980 not to apply to RIC or TIDC

Omit “a Rail Corporation”.

Insert instead “Rail Infrastructure Corporation or Transport Infrastructure Development Corporation”.

[78] Schedule 6, clause 4 Preservation of SRA enterprise agreements

Insert after clause 4 (2):

- (3) This clause does not apply to or in respect of staff transferred under Part 3.

[79] Schedule 6, clauses 11A–11D

Insert after clause 11:

11A Transfer of SRA staff and RIC staff to RailCorp

- (1) The Minister may, by order in writing, provide that such SRA staff as are specified or described in the order are transferred to RailCorp.
- (2) The Minister may, by order in writing, provide that such RIC staff as are specified or described in the order are transferred to RailCorp.
- (3) A person who is the subject of an order under this clause is taken for all purposes as having become an employee of RailCorp, in accordance with the terms of the order, on the day specified in the order.

11B Transfer of SRA staff and RIC staff to Transport Infrastructure Development Corporation

- (1) The Minister may, by order in writing, provide that such SRA staff as are specified or described in the order are transferred to Transport Infrastructure Development Corporation.
- (2) The Minister may, by order in writing, provide that such RIC staff as are specified or described in the order are transferred to Transport Infrastructure Development Corporation.
- (3) A person who is the subject of an order under this clause is taken for all purposes as having become an employee of Transport Infrastructure Development Corporation, in accordance with the terms of the order, on the day specified in the order.

11C Transfer of RailCorp and TIDC staff to SRA

- (1) The Minister may, by order in writing, provide that such RailCorp staff as are specified or described in the order are transferred to the SRA.
- (2) The Minister may, by order in writing, provide that such Transport Infrastructure Development Corporation staff as are specified or described in the order are transferred to the SRA.

- (3) A person who is the subject of an order under this clause is taken for all purposes as having become an employee of the SRA, in accordance with the terms of the order, on the day specified in the order.

11D Transfer of RailCorp and TIDC staff to RIC

- (1) The Minister may, by order in writing, provide that such RailCorp staff as are specified or described in the order are transferred to RIC.
- (2) The Minister may, by order in writing, provide that such Transport Infrastructure Development Corporation staff as are specified or described in the order are transferred to RIC.
- (3) A person who is the subject of an order under this clause is taken for all purposes as having become an employee of RIC, in accordance with the terms of the order, on the day specified in the order.

[80] Schedule 6, clause 13 [as amended by the Transport Legislation Amendment (Safety and Reliability) Act 2003]

Insert “former RailCorp staff, former TIDC staff,” after “former RIC staff,” wherever occurring.

[81] Schedule 6, clause 14 [as amended by the Transport Legislation Amendment (Safety and Reliability) Act 2003]

Insert “, RailCorp or TIDC” after “RIC” wherever occurring.

[82] Schedule 6, clause 15 [as amended by the Transport Legislation Amendment (Safety and Reliability) Act 2003]

Insert “RailCorp, TIDC,” after “SRA,” in clause 15 (2).

[83] Schedule 6, clause 17 Applications for transfer by former SRA, RIC, RailCorp or TIDC staff

Omit “or the RIC” from clause 17 (3).

Insert instead “, the RIC, RailCorp or TIDC”.

[84] Schedule 6, clause 18

Insert after clause 17:

18 Personal information about employees

The SRA is not required to comply with the *Privacy and Personal Information Protection Act 1998* in respect of the disclosure of information about employees, transferred or proposed to be transferred under this Schedule, to the new or proposed employer of those employees.

[85] Schedule 6A, heading

Omit “of RIC”.

[86] Schedule 6A, clause 1 Definitions

Omit the clause. Insert instead:

1 Definitions

In this Schedule:

operator means a rail operator and includes the State Rail Authority.

operator building means a building owned by, vested in or under the control of a railway operator but does not include any building of which the operator is the lessor.

operator land means land owned by, vested in or under the control of a rail operator but does not include any land of which the operator is the lessor.

owner means a rail infrastructure owner.

[87] Schedule 6A, clauses 2–2E

Omit clause 2. Insert instead:

2 Ownership of country rail infrastructure facilities

- (1) This clause applies to rail infrastructure facilities situated in the country rail area.
- (2) RIC is the owner of all rail infrastructure facilities installed in or on land, in or on rivers and other waterways and in or on the beds of rivers and waterways by RIC and of all rail

infrastructure facilities vested in or transferred to RIC (whether or not the place on which the facilities are situated is owned by RIC).

- (3) This clause is subject to any interest of Transport Infrastructure Development Corporation in rail infrastructure facilities.

2A Ownership of rail infrastructure facilities in metropolitan rail area

- (1) This clause applies to rail infrastructure facilities situated in the metropolitan rail area.
- (2) RailCorp is the owner of all rail infrastructure facilities installed in or on land, in or on rivers and other waterways and in or on the beds of rivers and waterways by RailCorp and of all rail infrastructure facilities vested in or transferred to RailCorp (whether or not the place on which the facilities are situated is owned by RailCorp).
- (3) This clause is subject to any interest of Transport Infrastructure Development Corporation in rail infrastructure facilities.

2B Provisions relating to vesting of rail infrastructure facilities in RailCorp

- (1) On the commencement of this clause (the *transfer day*), the rail infrastructure facilities (and any associated assets, rights and liabilities) situated in the metropolitan rail area and vested in or owned by RIC immediately before the transfer day (the *metropolitan rail infrastructure facilities*) are vested in RailCorp.
- (2) On the transfer day, the following provisions have effect:
 - (a) all proceedings relating to the metropolitan rail infrastructure facilities commenced before the transfer day by or against Rail Infrastructure Corporation or a predecessor of Rail Infrastructure Corporation and pending immediately before the transfer day are taken to be proceedings pending by or against RailCorp,
 - (b) any act, matter or thing done or omitted to be done in relation to the metropolitan rail infrastructure facilities before the transfer day by, to or in respect of Rail Infrastructure Corporation is (to the extent that that act,

matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of RailCorp,

- (c) a reference in any Act, in any instrument made under any Act or in any document of any kind to Rail Infrastructure Corporation is, to the extent that it relates to the metropolitan rail infrastructure facilities, but subject to the regulations, to be read as or including a reference to RailCorp.
- (3) The Minister may, by order in writing, declare that a specified right, asset or liability is not vested in RailCorp by the operation of this clause.
- (4) The operation of clauses 2, 2A and this clause is not to be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of the metropolitan rail infrastructure facilities, or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of the metropolitan rail infrastructure facilities.
- (5) Words and expressions used in this clause have the same meanings as they have in Schedule 4.

2C Changes in ownership of rail infrastructure facilities arising from changes to areas

- (1) If, as a result of a replacement or an alteration of the metropolitan rail area map under section 3A, rail infrastructure facilities are transferred from the metropolitan rail area to the country rail area or from the country rail area to the metropolitan rail area:
 - (a) the rail infrastructure facilities (and any associated assets, rights and liabilities) vest in the owner of rail infrastructure facilities in the area to which the rail infrastructure facilities are transferred (the *new owner*) on the day the notice is published in the Gazette under that section, or on such later day as may be specified in the notice (the *transfer day*), and

- (b) all proceedings relating to the rail infrastructure facilities (and any associated assets, rights and liabilities) commenced before the transfer day by or against the original owner or a predecessor of the original owner and pending immediately before the transfer day are taken to be proceedings pending by or against the new owner, and
 - (c) any act, matter or thing done or omitted to be done in relation to the rail infrastructure facilities (and any associated assets, rights and liabilities) before the transfer day by, to or in respect of the original owner is (to the extent that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the new owner, and
 - (d) a reference in any Act, in any instrument made under any Act or in any instrument of any kind to the original owner is (to the extent that it relates to the rail infrastructure facilities), but subject to the regulations, to be read as or including a reference to the new owner.
- (2) The Minister may, by order in writing, declare that a specified right, asset or liability is not vested in the new owner by the operation of this clause.
- (3) The operation of section 3A (2) and this clause is not to be regarded:
- (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of the rail infrastructure facilities, or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any rights or liabilities of the original owner.

2D General powers

An owner may, subject to this Act, the current NSW rail access undertaking and the *State Owned Corporations Act 1989*, sell or otherwise deal with rail infrastructure facilities that it owns.

2E Powers relating to operator land and buildings

An owner may, subject to this Act, inspect, operate, repair, replace, maintain, remove, extend, expand, alter, connect, disconnect, improve or do any other thing that is necessary or appropriate to any of its rail infrastructure facilities that are situated on operator land or on or in an operator building to ensure that, in the opinion of the owner, the rail infrastructure facilities are established, held and managed in an efficient, safe and reliable manner.

[88] Schedule 6A, clause 3 Entry on to land

Omit “RIC” where firstly occurring in clause 3 (1) and where occurring in clause 3 (4).

Insert instead “An owner”.

[89] Schedule 6A, clause 3 (1)

Omit “SRA land or a SRA building”.

Insert instead “operator land or an operator building, or land adjacent to railway land,”.

[90] Schedule 6A, clause 3 (1) (a), (b) and (c), (3) and (5)

Omit “RIC” wherever occurring. Insert instead “the owner”.

[91] Schedule 6A, clause 3 (1) (b)

Omit “RIC’s”. Insert instead “the owner’s”.

[92] Schedule 6A, clause 3 (2)

Omit “SRA land”. Insert instead “operator land”.

[93] Schedule 6A, clause 3 (2)

Omit “RIC”. Insert instead “the owner with the operator’s consent”.

[94] Schedule 6A, clause 3 (3)

Omit “SRA land and SRA buildings”.

Insert instead “operator land and operator buildings”.

[95] Schedule 6A, clause 3 (4)

Omit “SRA land or SRA building” wherever occurring.

Insert instead “operator land or operator building”.

[96] Schedule 6A, clause 3 (4)

Insert “, rubbish and unused excavated material” after “construction equipment”.

[97] Schedule 6A, clause 3 (5)

Omit “SRA land or a SRA building”.

Insert instead “operator land or an operator building”.

[98] Schedule 6A, clause 3 (6)

Insert after clause 3 (5):

(6) In this clause:

land adjacent to railway land means land that is adjacent to or adjoins land owned or occupied by a rail operator, or land in or on which rail infrastructure facilities are situated in which an owner has an interest by way of easements or stratum parcel.

[99] Schedule 6A, clause 4 Certificates of authority

Omit “RIC” where firstly occurring in clause 4 (1).

Insert instead “An owner”.

[100] Schedule 6A, clause 4 (1)

Omit “RIC” where secondly occurring.

Insert instead “the owner”.

[101] Schedule 6A, clause 5 Party to access agreement with owner authorised to enter operator land

Omit “SRA land” wherever occurring. Insert instead “operator land”.

[102] Schedule 6A, clause 5 (3)

Omit “RIC” where firstly occurring. Insert instead “the owner”.

[103] Schedule 6A, clause 5 (3)

Omit “RIC access undertaking”.

Insert instead “NSW rail access undertaking”.

[104] Schedule 6A, clause 6 Exercise of powers of entry

Omit “SRA” where firstly, secondly, thirdly, fifthly and sixthly occurring.

Insert instead “operator”.

[105] Schedule 6A, clause 6 (1)

Omit “RIC” where firstly occurring. Insert instead “an owner”.

[106] Schedule 6A, clause 6 (1) (b)

Omit “RIC” wherever occurring. Insert instead “the owner”.

[107] Schedule 6A, clause 6 (1) (b)

Omit “SRA”. Insert instead “the operator”.

[108] Schedule 6A, clause 6 (3)

Omit “RIC”. Insert instead “an owner”.

[109] Schedule 6A, clause 6 (4)

Insert after clause 6 (3):

- (4) This clause does not apply if the owner and the operator are the same person.

[110] Schedule 6A, clause 7 Compensation

Omit “RIC” from clause 7 (1) and where firstly occurring in clause 7 (2) and (7).

Insert instead “An owner”.

[111] Schedule 6A, clause 7 (2), (3), (5), (6), (7), (8)

Omit “the SRA” where firstly occurring.

Insert instead “an operator”.

[112] Schedule 6A, clause 7 (2)

Omit “SRA” where secondly, thirdly and fifthly occurring.

Insert instead “operator”.

[113] Schedule 6A, clause 7 (2)

Omit “RIC” where secondly and thirdly occurring.

Insert instead “the owner”.

[114] Schedule 6A, clause 7 (2)

Omit “a SRA building”. Insert instead “an operator building”.

[115] Schedule 6A, clause 7 (3)

Omit “RIC” where firstly occurring. Insert instead “an owner”.

[116] Schedule 6A, clause 7 (3)

Omit “RIC” where secondly and thirdly occurring.

Insert instead “the owner”.

[117] Schedule 6A, clause 7 (5), (6) and (8)

Omit “RIC” wherever occurring.

Insert instead “an owner”.

[118] Schedule 6A, clause 7 (5)

Omit “a SRA building”. Insert instead “an operator building”.

[119] Schedule 6A, clause 7 (5)

Omit “SRA” where thirdly occurring.

Insert instead “operator”.

[120] Schedule 6A, clause 7 (7)

Omit “the SRA” where secondly and thirdly occurring.

Insert instead “an operator”.

[121] Schedule 6A, clause 7 (7)

Omit “RIC” where secondly occurring.

Insert instead “an owner”.

[122] Schedule 6A, clause 7 (8)

Omit “SRA land or a SRA building”.

Insert instead “operator land or an operator building”.

[123] Schedule 6A, clause 7 (9)

Insert after clause 7 (8):

- (9) This clause does not apply if the owner and the operator are the same person.

[124] Schedule 6A, clause 8 Protection of rail infrastructure facilities

Omit “SRA land (or any SRA land on which a SRA building” from clause 8 (1).

Insert instead “operator land (or any operator land on which an operator building”.

[125] Schedule 6A, clause 8 (1)

Omit “RIC” where firstly occurring. Insert instead “an owner”.

[126] Schedule 6A, clause 8 (1)

Omit “RIC” wherever occurring (except where firstly occurring).

Insert instead “the owner”.

[127] Schedule 6A, clause 8 (1)

Omit “the SRA” wherever occurring. Insert instead “the operator”.

[128] Schedule 6A, clause 8 (1) (d) and (e)

Omit “RIC’s” wherever occurring. Insert instead “the owner’s”.

[129] Schedule 6A, clause 8 (1) (d)

Omit “SRA land”. Insert instead “operator land”.

- [130] Schedule 6A, clause 8 (1) (e)**
Omit “SRA land or SRA buildings”.
Insert instead “operator land or operator buildings”.
- [131] Schedule 6A, clause 8 (3)**
Omit “the SRA” where firstly occurring. Insert instead “an owner”.
- [132] Schedule 6A, clause 8 (3)**
Omit “SRA in relation to SRA land and buildings”.
Insert instead “operator in relation to the operator’s land and buildings”.
- [133] Schedule 6A, clause 8 (4)**
Omit “RIC”. Insert instead “an owner”.
- [134] Schedule 6A, clause 8 (4)**
Omit “SRA” wherever occurring. Insert instead “operator”.
- [135] Schedule 6A, clause 8 (5)**
Omit “RIC that are situated in or on SRA land or a SRA building”
wherever occurring.
Insert instead “an owner that are situated in or on operator land or an
operator building”.
- [136] Schedule 6A, clause 8 (5) (b)**
Omit “RIC’s”. Insert instead “the owner’s”.
- [137] Schedule 6A, clause 8 (5) (b) and (6)**
Omit “RIC” where secondly occurring in clause 8 (5) (b) and where
occurring in clause 8 (6).
Insert instead “the owner”
- [138] Schedule 6A, clause 8 (7)**
Omit “RIC in writing, the Corporation”.
Insert instead “the owner in writing, the owner”.

[139] Schedule 6A, clause 8 (8)

Insert after clause 8 (7):

- (8) This clause does not apply if the owner and the operator are the same person.

[140] Schedule 6A, clause 9 Compensation to owners for damage

Omit “RIC” where firstly occurring in clause 9 (1).

Insert instead “an owner”.

[141] Schedule 6A, clause 9 (1)

Omit “RIC” where secondly, thirdly and fourthly occurring.

Insert instead “the owner”.

[142] Schedule 6A, clause 9 (2) and (4)

Omit “RIC” where occurring in clause 9 (2) and where firstly occurring in clause 9 (4).

Insert instead “An owner”.

[143] Schedule 6A, clause 9 (4)

Omit “RIC” where secondly occurring. Insert instead “the owner”.

[144] Schedule 6A, clause 10 Owners have certain rights under operator agreements relating to works and facilities on operator land

Omit “the SRA” where firstly and secondly occurring in clause 10 (1).

Insert instead “an operator”.

[145] Schedule 6A, clause 10 (1)

Omit “this Schedule”.

Insert instead “Schedule 1 [145] to the *Transport Administration Amendment (Rail Agencies) Act 2003*”.

[146] Schedule 6A, clause 10 (1)

Omit “SRA land or in an SRA building”.

Insert instead “operator land or in an operator building”.

- [147] Schedule 6A, clause 10 (1)**
Omit “the SRA” where fifthly and sixthly occurring.
Insert instead “the owner”.
- [148] Schedule 6A, clause 10 (2)**
Omit “RIC” where firstly occurring. Insert instead “An owner”.
- [149] Schedule 6A, clause 10 (2)**
Omit “the SRA” where firstly occurring. Insert instead “an operator”.
- [150] Schedule 6A, clause 10 (2)**
Omit “RIC” where secondly and thirdly occurring.
Insert instead “the owner”.
- [151] Schedule 6A, clause 10 (2)**
Omit “the SRA” where secondly occurring. Insert instead “the operator”.
- [152] Schedule 6A, clause 10 (5)**
Omit the subclause. Insert instead:
(5) In this clause, *operator land* or *operator building* includes any land or building of which the operator is the lessor.
- [153] Schedule 6A, clause 11 Connections to NSW rail network**
Omit “RIC” from clause 11 (1) (a). Insert instead “the owner concerned”.
- [154] Schedule 6A, clause 11 (1)**
Omit “SRA” wherever occurring. Insert instead “operator”.
- [155] Schedule 6A, clause 11 (2) and (4)**
Omit “RIC” where firstly occurring. Insert instead “An owner”.
- [156] Schedule 6A, clause 11 (2)**
Omit “RIC” where secondly, thirdly and fourthly occurring.
Insert instead “the owner”.

[157] Schedule 6A, clause 11 (3)

Omit “The SRA”. Insert instead “An operator”.

[158] Schedule 6A, clause 11 (3)

Omit “SRA” where secondly, thirdly and fourthly occurring.

Insert instead “operator”.

[159] Schedule 6A, clause 11 (4)

Omit “the SRA”. Insert instead “an operator”.

[160] Schedule 6A, clause 12 Settlement of disputes

Omit “RIC and the SRA” where firstly occurring in clause 12 (1).

Insert instead “an owner and an operator”.

[161] Schedule 6A, clause 12 (1)

Omit “RIC and the SRA” where secondly occurring.

Insert instead “the owner and the operator”.

[162] Schedule 6A, clause 12 (2)

Omit “RIC and the SRA”.

Insert instead “the owner and operator”.

[163] Schedule 6A, clause 12 (4)

Omit “SRA” wherever occurring. Insert instead “operator”.

[164] Schedule 6A, clause 12 (4) (b)

Omit “RIC” wherever occurring. Insert instead “the owner”.

[165] Schedule 6A, clause 12 (6)

Omit “RIC and the SRA” where firstly occurring.

Insert instead “An owner and operator”.

[166] Schedule 6A, clause 12 (6)

Omit “RIC and the SRA” where secondly occurring.

Insert instead “the owner and operator”.

[167] Schedule 6A, clause 14 Council approval not required for work on new or existing rail infrastructure facilities

Omit “RIC” wherever occurring in clause 14 (1).

Insert instead “an owner”.

[168] Schedule 6A, clause 14 (3)

Omit “RIC” wherever occurring. Insert instead “the owner”.

[169] Schedule 6A, clause 15 Regulations concerning land and rail infrastructure facilities

Omit “the SRA and RIC” from clause 15 (a).

Insert instead “an operator and an owner”.

[170] Schedule 6A, clause 15 (a)

Omit “SRA” where secondly, thirdly and fourthly occurring.

Insert instead “operator”.

[171] Schedule 6A, clause 15 (a)

Omit “RIC” where secondly occurring. Insert instead “the owner”.

[172] Schedule 6A, clause 15 (b)

Omit “RIC”. Insert instead “an owner”.

[173] Schedule 6A, clause 16

Insert after clause 15:

16 Powers of entry under other Acts onto owner or operator land

- (1) This clause applies to an officer of a public or local authority who is entitled, under any other Act or law, to enter operator or owner land or an operator or owner building.

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- (2) Despite the operation of any other Act or law, the operator or owner may refuse entry to the land or building, or grant entry subject to conditions, if of the opinion that it is necessary to do so in the interests of public safety or the safety of the officer or other persons.
 - (3) The Director-General may direct that entry be granted, despite any decision of an owner or operator under this clause.
 - (4) This clause does not apply to or in respect of a police officer investigating an offence or otherwise acting in the course of his or her duties or an officer of the Independent Transport Safety and Reliability Regulator.

[174] Schedule 6AA, heading

Omit “**RIC access**”.

Insert instead “**Access**”.

[175] Schedule 6AA

Omit “19FC”. Insert instead “99C (5)”.

[176] Schedule 6AA, clause 1 Preparation of access undertaking

Omit “Rail Infrastructure Corporation” from subclause (1).

Insert instead “A rail infrastructure owner”.

[177] Schedule 6AA, clauses 1, 3 (1) and 7

Omit “the NSW rail network” wherever occurring.

Insert instead “the part of the NSW rail network that is vested in or owned by the rail infrastructure owner”.

[178] Schedule 6AA, clauses 1 (2) and 7

Omit “Rail Infrastructure Corporation” wherever occurring.

Insert instead “a rail infrastructure owner”.

[179] Schedule 6AA, clauses 3 (1) (b) and 6 (2)

Omit “Rail Infrastructure Corporation” wherever occurring.

Insert instead “the rail infrastructure owner”.

[180] Schedule 6AA, clause 5 Access undertaking to be submitted for Minister's approval

Omit "Rail Infrastructure Corporation's" from clause 5 (1) (b).

Insert instead "the rail infrastructure owner's".

[181] Schedule 6B Special provisions for underground rail facilities

Omit "the SRA" from the definition of *rail authority* in clause 1 (1).

Insert instead "RailCorp, TIDC".

[182] Schedule 6B, clause 1 Interpretation

Omit the definition of *rail infrastructure facilities* from clause 1 (1).

[183] Schedule 7 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

*Transport Administration Amendment (Rail Agencies)
Act 2003*

[184] Schedule 7

Insert in appropriate order with appropriate Part and clause numbers:

**Part Provisions consequent on enactment of
Transport Administration Amendment
(Rail Agencies) Act 2003**

Definition

In this Part:

the amending Act means the *Transport Administration Amendment (Rail Agencies) Act 2003*.

RailCorp may act as agent of other rail authorities

For the purposes of giving effect to a transfer of assets, rights or liabilities to RailCorp under this Act (as amended by the amending Act), or the vesting of rail infrastructure facilities in RailCorp under this Act (as amended by the amending Act), RailCorp may act as the agent of the SRA or RIC.

Rail authorities may enter into arrangements for joint facilities and other matters

- (1) For the purposes of giving effect to the amending Act, a rail authority may make and enter into contracts, leases, licences or other arrangements with another rail authority or any other person with respect to the provision of services or the supply of goods jointly to both rail authorities or to one of the authorities.
- (2) Any such contract, lease, licence or other arrangement may apply to the provision of services or the supply of goods by either of the authorities or by any other person.
- (3) Any such contract, lease, licence or other arrangement may be entered into, and has effect, despite any requirement for consent under any other contract, lease, licence or arrangement between a rail authority and any other person.
- (4) The operation of this clause is not to be regarded:
 - (a) as a breach of a contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment of assets, rights or liabilities, or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument.
- (5) Nothing in this clause limits any other power of a rail authority to enter into any contract, lease, licence or other arrangement with another rail authority or any other person.
- (6) In this clause:

rail authority means the State Rail Authority, RailCorp, Rail Infrastructure Corporation or Transport Infrastructure Development Corporation.

Rights of staff who join RailCorp or Transport Infrastructure Development Corporation

- (1) This clause applies to an employee of the SRA or Rail Infrastructure Corporation who changes (other than by transfer under Schedule 6) from that employment to

employment with RailCorp or Transport Infrastructure Development Corporation within 2 years of the commencement of this clause.

- (2) Clauses 13 and 14 of Schedule 6 apply to an employee in the same way as they apply to an employee transferred to RailCorp or Transport Infrastructure Development Corporation under that Schedule.
- (3) The SRA is not required to comply with the *Privacy and Personal Information Protection Act 1998* in respect of the disclosure of information about employees referred to in subclause (1) to the new or proposed employer of those employees.

Rail access

- (1) A rail access agreement entered into by Rail Infrastructure Corporation, and in force immediately before the commencement of this clause:
 - (a) continues in force, and
 - (b) to the extent that it relates to rail infrastructure facilities vested in RailCorp by the amending Act, is taken to have been entered into by RailCorp.
- (2) For the purposes of any such agreement, RailCorp may act as the agent of Rail Infrastructure Corporation under the agreement and may exercise any of the functions of Rail Infrastructure Corporation under that agreement.
- (3) Nothing in this clause prevents the variation, termination or replacement of a rail access agreement continued by this clause.
- (4) In this clause, *rail access agreement* means an agreement entered into by Rail Infrastructure Corporation pursuant to the NSW Rail Access Regime or the RIC access undertaking, that permits a person to operate rolling stock on the NSW rail network.

Orders fixing train fares and travel terms and conditions

An order made by the State Rail Authority under section 85, and in force immediately before the commencement of this clause, is taken to have been made by RailCorp under that section and that section applies accordingly.

Saving of existing free or concessional travel arrangements

Any free or concessional travel pass issued by the State Rail Authority under section 88 before the commencement of this clause, and in force immediately before the commencement of this clause, is taken to have been issued by RailCorp under that section and that section applies accordingly.

Saving of tickets

Any ticket issued by or on behalf of the State Rail Authority, and valid immediately before the commencement of this clause, is taken to have been issued by RailCorp and continues (if otherwise valid) to be a valid ticket.

Saving of regulations

A regulation made under section 99, and in force before the commencement of this clause, is taken to have been made under section 91 as inserted by the amending Act.

Penalty notices

Nothing in the amending Act affects the validity of a penalty notice (whether under this or any other Act or law) issued by or on behalf of the State Rail Authority before the commencement of this clause.

Previous transfers of assets, rights and liabilities

Nothing in this Schedule affects the transfer, before the commencement of this clause, of any assets, rights or liabilities under this Act and Schedule 4 continues to apply to or in respect of any such transfer.

Previous transfers of staff of SRA or RIC

Nothing in this Schedule affects the transfer, before the commencement of this clause, of any staff of the State Rail Authority or Rail Infrastructure Corporation under this Act and Schedule 6 continues to apply to or in respect of any such transfer.

Saving of Rail Safety Act 2002

Nothing in the amending Act affects the operation of the *Rail Safety Act 2002*.

References to SRA

- (1) Except as provided by the regulations, a reference in any Act, in any instrument made under any Act or in any document of any kind to the State Rail Authority is, to the extent that it relates:
 - (a) to the metropolitan rail area or the exercise of functions relating to railway passenger services in this State, to be read as or including a reference to RailCorp, or
 - (b) to its responsibility for network control, to be read as or including a reference to the person having responsibility for the network control under this Act, or
 - (c) to the development of a railway system or other transport project undertaken by Transport Infrastructure Development Corporation under section 18E (2), to be read as or including a reference to Transport Infrastructure Development Corporation.
- (2) This clause has effect subject to any transfers of assets, rights or liabilities under this Act.

Existing development applications and other matters

- (1) This clause applies to a development application or matter relating to:
 - (a) rail infrastructure facilities or other assets transferred to RailCorp from the State Rail Authority or Rail Infrastructure Corporation under this Act, or
 - (b) a function conferred on RailCorp under this Act that was, immediately before the commencement of this clause, conferred on the State Rail Authority or Rail Infrastructure Corporation, or
 - (c) the development of a railway system or other transport project undertaken by Transport Infrastructure Development Corporation under section 18E (2) (a *transferred development*).
- (2) A development application relating to a matter referred to in subclause (1) (a) or (b) made by the State Rail Authority or Rail Infrastructure Corporation under the *Environmental Planning and Assessment Act 1979* before the

commencement of this clause, and not finally determined before that commencement, is taken to have been made by RailCorp.

- (3) A development application relating to a transferred development made by the State Rail Authority or Rail Infrastructure Corporation under the *Environmental Planning and Assessment Act 1979* before the commencement of this clause, and not finally determined before that commencement, is taken to have been made by Transport Infrastructure Development Corporation.
- (4) For the purposes of Part 5 of the *Environmental Planning and Assessment Act 1979*, RailCorp is taken to be the determining authority in respect of any matter (other than a matter relating to a transferred development) not finally determined under that Part before the commencement of this clause in which the State Rail Authority or Rail Infrastructure Corporation was the determining authority.
- (5) For the purposes of Part 5 of the *Environmental Planning and Assessment Act 1979*, Transport Infrastructure Development Corporation is taken to be the determining authority in respect of any matter relating to a transferred development not finally determined under that Part before the commencement of this clause in which the State Rail Authority or Rail Infrastructure Corporation was the determining authority.
- (6) Transport Infrastructure Development Corporation is, subject to the regulations, taken to be the holder of any development approval under the *Environmental Planning and Assessment Act 1979* relating to a transferred development and in force immediately before the commencement of this clause.

IPART determinations

- (1) For the purposes of the *Independent Pricing and Regulatory Tribunal Act 1992*, a determination of the pricing for transport services provided by the State Rail Authority, in force immediately before the commencement of this clause, extends to transport services operated by RailCorp.
- (2) Nothing in this clause prevents any such determination from being revoked, or a further determination being issued for RailCorp.

Timetable for first statements of corporate intent

A period within which any matter is required to be done under this Act in relation to a statement of corporate intent, in connection with the first statement of corporate intent of RailCorp or Transport Infrastructure Development Corporation, may be extended by the voting shareholders of the Corporation concerned.

Licences and other authorisations

- (1) This clause applies to a licence, permit, approval or other authorisation granted to the State Rail Authority or Rail Infrastructure Corporation under any of the following Acts or under a regulation under any of those Acts, and in force immediately before the commencement of this clause:
 - (a) *Dangerous Goods Act 1975*,
 - (b) *Environmental Planning and Assessment Act 1979*,
 - (c) *Home Building Act 1989*,
 - (d) *Occupational Health and Safety Act 2000*,
 - (e) *Protection of the Environment Operations Act 1997*,
 - (f) *Sydney Harbour Foreshore Authority Act 1998*,
 - (g) *Sydney Water Act 1994*,
 - (h) any other Act prescribed by the regulations.
- (2) An authorisation is, to the extent that it relates to former SRA or RIC functions or former RIC infrastructure, taken to be held by RailCorp on the same terms and conditions as the State Rail Authority or Rail Infrastructure Corporation held the authorisation immediately before the commencement of this clause.
- (3) The regulations may exempt an authorisation from the operation of this clause.
- (4) Nothing in this clause prevents an authorisation from being varied, cancelled or replaced.
- (5) In this clause:

former RIC infrastructure means rail infrastructure facilities vested in or owned by RailCorp that, immediately before the commencement of clause 2B of Schedule 6A, were vested in or owned by RIC.

former SRA or RIC functions means a function conferred on RailCorp under Part 2, as inserted by the amending Act, that was, immediately before the commencement of that Part, conferred on the State Rail Authority or Rail Infrastructure Corporation.

[185] Schedule 8

Insert after Schedule 7:

Schedule 8 State Rail Authority

(Section 128)

Part 1 Constitution and functions of State Rail Authority

1 Constitution of SRA

- (1) The corporation constituted under section 4 immediately before the commencement of this clause is continued by this clause with the corporate name of the State Rail Authority of New South Wales.
- (2) The State Rail Authority:
 - (a) has the functions conferred or imposed on it by or under this or any other Act, and
 - (b) is, for the purposes of any Act, a statutory body representing the Crown.

2 Objectives of State Rail Authority

The objectives of the State Rail Authority are as follows:

- (a) to manage its assets, rights and liabilities effectively and responsibly,
- (b) to minimise the risk exposure of the State arising from its activities,
- (c) to achieve the efficient and timely winding up of residual business activities.

3 Functions of State Rail Authority

- (1) The State Rail Authority has the following functions:
 - (a) to facilitate the transfer of its staff, assets, rights and liabilities to RailCorp, Rail Infrastructure Corporation and other bodies under this Act,
 - (b) to hold on behalf of the State, retain, transfer or dispose of assets, rights and liabilities,
 - (c) to carry on any business or activity that relates to its assets, rights and liabilities or that is ancillary to those assets, rights or liabilities,
 - (d) to acquire and develop any land,
 - (e) to make and enter contracts or arrangements for the carrying out of works or the performance of services or the supply of goods or materials,
 - (f) to make and enter contracts or arrangements with any person for the operation by that person, on such terms as may be agreed on, of any of the Authority's services or businesses,
 - (g) to appoint agents and act as agent for other persons,
 - (h) to do any other thing that is supplemental or incidental to the exercise of its functions,
 - (i) any other functions conferred or imposed on it by or under this or any other Act.
- (2) The State Rail Authority may exercise its functions within or outside New South Wales.

4 Sale, lease or other disposal of land

- (1) The State Rail Authority may, with the approval of the Minister, sell, lease or otherwise dispose of any of its land.
- (2) Despite subclause (1), the approval of the Minister is not required:
 - (a) for any lease for a term not exceeding 5 years, or
 - (b) for a sale, lease or other disposal of land not exceeding such value, or in such circumstances, as the Minister may determine from time to time.

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- (3) The Minister may delegate the power of approval under this clause to the Chief Executive of the State Rail Authority, a member of staff of the Ministry of Transport or a person of a class prescribed by the regulations.

Part 2 Management of State Rail Authority

5 Old Board to continue for limited period

- (1) The State Rail Authority Board, as constituted under Part 2 of this Act immediately before the commencement of this clause, continues in force and may exercise any functions that it was entitled to exercise immediately before that commencement.
- (2) Sections 9 and 13 and Schedule 1, as in force before the commencement of this clause, continue to have effect in relation to the State Rail Authority Board.
- (3) Subclauses (1) and (2) cease to have effect 6 months after that commencement or on such later day as may be prescribed by the regulations.
- (4) A person who, immediately before subclause (1) ceases to have effect, held the office of a member of the State Rail Authority Board, ceases to hold that office on the date subclause (1) ceases to have effect and is not entitled to any remuneration or compensation because of that loss of office.

6 Chief Executive of State Rail Authority

- (1) The Governor may appoint a Chief Executive of the State Rail Authority.
- (2) The employment of the Chief Executive is subject to Part 3.1 of the *Public Sector Employment and Management Act 2002*, but is not subject to Chapter 2 of that Act.
- (3) The person who held office as Chief Executive immediately before the commencement of this clause is taken to have been duly appointed under this clause as Chief Executive:
- (a) for the remainder of the term for which the person was appointed under that Part, and
 - (b) on the same terms and conditions.

7 Acting Chief Executive

- (1) The Minister may, from time to time, appoint a person to act in the absence or illness of the Chief Executive, and the person, while so acting, has all the functions of the Chief Executive and is taken to be the Chief Executive.
- (2) The Minister may, at any time, remove any person from an office to which the person was appointed under this clause.
- (3) A person while acting in the office of Chief Executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (4) For the purposes of this clause, a vacancy in the office of Chief Executive is to be regarded as an absence from office of the Chief Executive.

8 Chief Executive to manage and control affairs of State Rail Authority

- (1) The affairs of the State Rail Authority are to be managed and controlled by the Chief Executive of the Authority.
- (2) Any act, matter or thing done in the name of, or on behalf of, the State Rail Authority by the Chief Executive is taken to have been done by the Authority.
- (3) The Chief Executive is, in the exercise of the Chief Executive's functions, subject to the direction and control of the Minister.
- (4) Until clause 5 (1) ceases to have effect, the Chief Executive is to manage and control the affairs of the State Rail Authority in accordance with the policies of the State Rail Authority Board.

9 Ministerial control

The State Rail Authority (and its Chief Executive) are, in the exercise of their functions, subject to the direction and control of the Minister.

10 Delegation of functions of SRA

- (1) The State Rail Authority may delegate to an authorised person any of the functions of the Authority, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by the State Rail Authority if the delegate is authorised in writing to do so by the Authority.
- (3) In this section, *authorised person* means:
 - (a) an officer of the State Rail Authority, or
 - (b) a person of a class prescribed by the regulations or approved by the Minister.
- (4) A delegation by the State Rail Authority, and in force immediately before the commencement of this clause, continues in force (but may be revoked or amended) to the extent that it relates to functions of the Authority re-enacted in this Schedule.

11 Staff of State Rail Authority

- (1) The State Rail Authority may employ such staff as it requires to exercise its functions.
- (2) The State Rail Authority may fix the salary, wages and conditions of employment of its staff in so far as they are not fixed by or under any other Act or law.
- (3) Sections 66–68 and Schedule 5 apply to the State Rail Authority and to staff of the State Rail Authority.
- (4) Any members of staff of the State Rail Authority employed immediately before the commencement of this clause are taken to be members of staff employed under this Schedule.
- (5) This clause does not prevent a member of staff of the State Rail Authority from being transferred under this Act.

12 Regulations relating to staff

- (1) The regulations may make provision for or with respect to the employment of the staff of the State Rail Authority, including the conditions of employment and the discipline of any such staff.

- (2) Any such regulations relating to the conditions of employment or the discipline of staff:
 - (a) have effect subject to any relevant award made by a competent industrial tribunal and to any industrial agreement to which the State Rail Authority is a party, and
 - (b) have effect despite any determination of the State Rail Authority under clause 11, and
 - (c) may provide for appeals by members of staff in connection with their employment, including appeals to a Transport Appeal Board constituted under the *Transport Appeal Boards Act 1980*, and
 - (d) have effect subject to Part 3.1 of the *Public Sector Employment and Management Act 2002*.
- (3) Any regulations in force under section 58 immediately before the commencement of this clause continue in force and are taken to have been made under this clause.

Part 3 Financial provisions

13 State Rail Authority Fund

The State Rail Authority Fund established under section 69 immediately before the commencement of this clause is continued.

14 Payments into and from State Rail Authority Fund

- (1) There is to be paid into the State Rail Authority Fund:
 - (a) all money received by or on account of the State Rail Authority, and
 - (b) all money advanced to the State Rail Authority by the Treasurer or appropriated by Parliament for the purposes of the Authority, and
 - (c) all other money required by or under this or any other Act to be paid into the Fund.

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- (2) There is to be paid from the State Rail Authority Fund:
- (a) all payments made on account of the State Rail Authority or otherwise required to meet expenditure incurred in relation to the functions of the Authority, and
 - (b) all other payments required by or under this or any other Act to be paid from the Fund.

15 Payment of dividend to Treasurer

- (1) The State Rail Authority must pay to the Treasurer, out of any surplus for a financial year, a dividend determined by the Minister.
- (2) The Minister must not make a determination under this clause unless:
 - (a) the Minister has had regard to the advice of the State Rail Authority on the financial affairs of the Authority and any recommendation with respect to the determination, and
 - (b) the Treasurer approves of the determination.

16 Financial duties generally

Sections 81 and 82 apply to the State Rail Authority.

17 Minister may direct payments into or from different Funds

Any money required by or under this or any other Act to be paid into either the State Rail Authority Fund or the State Transit Authority Fund must, if the Minister so directs, be paid into the other Fund.

Part 4 Miscellaneous

18 Application of miscellaneous provisions

- (1) Sections 109, 110, 111, 112, 113 and 115 apply to the State Rail Authority, the Chief Executive of the Authority, the State Rail Authority Board or a person acting under the direction of any of them in the same way as they apply to or in respect of an Authority, a transport authority, a member of a transport authority or a person acting under the direction of a transport authority or a member of a transport authority.

- (2) Schedule 6B applies to the State Rail Authority in the same way that it applies to a rail authority.

19 Dissolution of SRA and subsidiaries

- (1) The Governor may, by proclamation published in the Gazette, appoint a day on which the State Rail Authority is to be dissolved.
- (2) On that day, the State Rail Authority, and each State Rail Authority subsidiary, are dissolved and any assets, rights and liabilities of the Authority and any subsidiary become assets, rights and liabilities of the Crown.
- (3) Section 94 and Schedule 4 apply to the assets, rights and liabilities vested in the Crown under this clause in the same way as they apply to the assets, rights and liabilities of a rail authority.
- (4) Despite subclause (3), the Minister may not transfer an asset, right or liability vested in the Crown under this clause, except with the concurrence of the Treasurer.
- (5) Regulations of a savings and transitional nature may be made consequent on the dissolution of the State Rail Authority and any subsidiary of the Authority.

20 Chief Executive of SRA

The person who, immediately before the dissolution of the State Rail Authority held office as Chief Executive of the Authority ceases to hold that office and is not entitled to any remuneration or compensation because of the loss of that office.

21 References to SRA

- (1) On the dissolution of the State Rail Authority, a reference in any other Act or instrument made under any other Act or in any other instrument of any kind to the State Rail Authority is, except as provided by the regulations, taken to be a reference to RailCorp.
- (2) This clause has effect subject to any transfers of assets, rights and liabilities under this Act.

22 Previous transfers of assets, rights and liabilities of SRA

Nothing in this Schedule affects the transfer, before the dissolution of the State Rail Authority, of any assets, rights or liabilities of the State Rail Authority under this Act and Schedule 4 continues to apply to or in respect of any such transfer.

23 Previous transfers of staff of SRA

Nothing in this Schedule affects the transfer, before the dissolution of the State Rail Authority, of any staff of the State Rail Authority under this Act and Schedule 6 continues to apply to or in respect of any such transfer.

Schedule 2 Amendments relating to dissolution of Rail Infrastructure Corporation

(Section 3)

[1] Long title

Omit “, Rail Infrastructure Corporation”.

[2] Section 3 Definitions

Omit the definition of *Rail Infrastructure Corporation* from section 3 (1).

[3] Part 2B [as renumbered by the Transport Administration Amendment (Rail Agencies) Act 2003]

Omit the Part.

[4] Section 89 [as inserted by the Transport Administration Amendment (Rail Agencies) Act 2003]

Omit “, Rail Infrastructure Corporation” from the definition of *rail authority*.

[5] Section 122 Definitions

Omit “, RIC” from the definition of *rail authority*.

[6] Part 9, Division 8

Insert after Division 7:

Division 8 Dissolution of Rail Infrastructure Corporation

129 Dissolution of Rail Infrastructure Corporation

Schedule 9 has effect.

[7] Schedule 6 Transfer of certain staff

Omit clauses 10, 11, 11A (2), 11B (2) and 11D.

[8] Schedule 6, clause 14 [as amended by the Transport Administration Amendment (Rail Agencies) Act 2003]

Omit “RIC,” wherever occurring.

[9] Schedule 6, clause 17

Omit the clause.

[10] Schedule 6A, clause 2 [as inserted by the Transport Administration Amendment (Rail Agencies) Act 2003]

Omit clause 2.

[11] Schedule 6A, clause 2A Ownership of rail infrastructure facilities [as inserted by the Transport Administration Amendment (Rail Agencies) Act 2003]

Omit clause 2A (1).

[12] Schedule 6A, clause 13

Omit the clause.

[13] Schedule 6B Special provisions for underground rail facilities

Omit “, RIC” from the definition of *rail authority* in clause 1.

[14] Schedule 9

Insert after Schedule 8:

Schedule 9 Dissolution of Rail Infrastructure Corporation

(Section 129)

1 Dissolution of Rail Infrastructure Corporation and subsidiaries

- (1) Rail Infrastructure Corporation, and each Rail Infrastructure Corporation subsidiary, are dissolved and any assets, rights and liabilities of the Corporation and any subsidiary become assets, rights and liabilities of the Crown.
- (2) Section 94 and Schedule 4 apply to the assets, rights and liabilities vested in the Crown under this clause in the same way as they apply to the assets, rights and liabilities of a rail authority.
- (3) Despite subclause (2), the Minister may not transfer an asset, right or liability vested in the Crown under this clause, except with the concurrence of the Treasurer.

- (4) Part 3 (including clauses 11, 11A (2) and 11B (2)) of Schedule 6 applies to any staff of the Rail Infrastructure Corporation immediately before the dissolution.
- (5) Regulations of a savings and transitional nature may be made consequent on the dissolution of the Rail Infrastructure Corporation and any subsidiary of the Corporation.
- (6) This clause is subject to clause 4.

2 Chief executive officer of Rail Infrastructure Corporation

The person who, immediately before the dissolution of Rail Infrastructure Corporation held office as chief executive officer of the Corporation ceases to hold that office and is not entitled to any remuneration or compensation because of the loss of that office.

3 Provisions relating to vesting of rail infrastructure facilities in RailCorp

- (1) On the dissolution of Rail Infrastructure Corporation (the *transfer day*), the rail infrastructure facilities (and any associated assets, rights and liabilities) vested in or owned by RIC immediately before the transfer day (the *country rail infrastructure facilities*) are vested in RailCorp.
- (2) On the transfer day, the following provisions have effect:
 - (a) all proceedings relating to the country rail infrastructure facilities commenced before the transfer day by or against Rail Infrastructure Corporation or a predecessor of Rail Infrastructure Corporation and pending immediately before the transfer day are taken to be proceedings pending by or against RailCorp,
 - (b) any act, matter or thing done or omitted to be done in relation to the country rail infrastructure facilities before the transfer day by, to or in respect of Rail Infrastructure Corporation is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of RailCorp,

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- (c) a reference in any Act, in any instrument made under any Act or in any document of any kind to Rail Infrastructure Corporation is, to the extent that it relates to the country rail infrastructure facilities, but subject to the regulations, to be read as or including a reference to RailCorp.
- (3) The Minister may, by order in writing, declare that a specified right, asset or liability is not vested in RailCorp by the operation of this clause.
- (4) The operation of this clause, is not to be regarded:
- (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of the country rail infrastructure facilities, or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of the country rail infrastructure facilities.
- (5) Words and expressions used in this clause have the same meanings as they have in Schedule 4.

4 Previous transfers of assets, rights and liabilities of Rail Infrastructure Corporation

Nothing in this Schedule affects the transfer, before the dissolution of Rail Infrastructure Corporation, of any assets, rights or liabilities of Rail Infrastructure Corporation under this Act and Schedule 4 continues to apply to or in respect of any such transfer.

5 Previous transfers of staff of Rail Infrastructure Corporation

Nothing in this Schedule affects the transfer, before the dissolution of Rail Infrastructure Corporation, of any staff of Rail Infrastructure Corporation under this Act and Schedule 6 continues to apply to or in respect of any such transfer.

6 Rail access agreements

- (1) A rail access agreement entered into by Rail Infrastructure Corporation, and in force immediately before the commencement of this clause continues in force and is taken to have been entered into by RailCorp.
- (2) Nothing in this clause prevents the variation, termination or replacement of a rail access agreement continued by this clause.
- (3) In this clause, *rail access agreement* means an agreement entered into by Rail Infrastructure Corporation pursuant to the NSW Rail Access Regime or the RIC access undertaking, that permits a person to operate rolling stock on the NSW rail network.

7 Saving of Rail Safety Act 2002

Nothing in this Schedule affects the operation of the *Rail Safety Act 2002*.

8 Licences and other authorisations

- (1) This clause applies to a licence, permit, approval or other authorisation granted to Rail Infrastructure Corporation under any of the following Acts or under a regulation under any of those Acts, and in force immediately before the commencement of this clause:
 - (a) *Dangerous Goods Act 1975*,
 - (b) *Environmental Planning and Assessment Act 1979*,
 - (c) *Home Building Act 1989*,
 - (d) *Occupational Health and Safety Act 2000*,
 - (e) *Protection of the Environment Operations Act 1997*,
 - (f) *Sydney Harbour Foreshore Authority Act 1998*,
 - (g) *Sydney Water Act 1994*,
 - (h) any other Act prescribed by the regulations.
- (2) An authorisation is, to the extent that it relates to former RIC infrastructure, taken to be held by RailCorp on the same terms and conditions as Rail Infrastructure Corporation held the authorisation immediately before the commencement of this clause.

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- (3) The regulations may exempt an authorisation from the operation of this clause.
 - (4) Nothing in this clause prevents an authorisation from being varied, cancelled or replaced.
 - (5) In this clause:
former RIC infrastructure means rail infrastructure facilities vested in or owned by RailCorp that, immediately before the commencement of this clause, were vested in or owned by RIC.

Schedule 3 Amendment of other Acts and instruments (Section 4)

3.1 Conveyancing (General) Regulation 2003

[1] Clause 51 Easements in gross

Insert after clause 51 (1) (m):

- (n) Rail Corporation New South Wales,
- (o) Transport Infrastructure Development Corporation.

[2] Clause 52 Imposition of restrictions or public positive covenants on certain land vested in prescribed authorities

Insert after clause 52 (g):

- (h) Rail Corporation New South Wales,
- (i) Transport Infrastructure Development Corporation.

[3] Clause 53 Regulation of use of land not held by a prescribed authority

Insert after clause 53 (f):

- (g) Rail Corporation New South Wales,
- (h) Transport Infrastructure Development Corporation.

3.2 Conveyancing (Sale of Land) Regulation 2000

Schedule 3 Prescribed warranties

Omit “the State Rail Authority or Rail Access Corporation” from clause 1 of Part 3.

Insert instead “Rail Corporation New South Wales, Transport Infrastructure Development Corporation or Rail Infrastructure Corporation”.

3.3 Electricity Supply Act 1995 No 94

[1] Section 106 Regulations

Omit “a Rail Corporation within the meaning of the *Transport Administration Act 1988* or the State Rail Authority” from section 106 (2A).

Insert instead “Rail Corporation New South Wales, Transport Infrastructure Development Corporation or Rail Infrastructure Corporation”.

[2] Dictionary

Omit “Rail Corporation within the meaning of the *Transport Administration Act 1988*” from the definition of *rail network electricity system*.

Insert instead “Rail Corporation New South Wales, Rail Infrastructure Corporation”.

3.4 First State Superannuation Act 1992 No 100

Schedule 1 Employers

Insert at the end of Schedule 1:

Rail Corporation New South Wales

Transport Infrastructure Development Corporation

3.5 Government Telecommunications Act 1991 No 77

Section 32 Establishment of the Board

Omit “the State Rail Authority” from section 32 (3) (f).

Insert instead “Rail Corporation New South Wales”.

3.6 Impounding Act 1993 No 31

[1] Dictionary, definition of “area of operations”

Omit “State Rail Authority, land owned by or under the control of the Authority”.

Insert instead “Rail Corporation New South Wales, land owned by or under the control of the Corporation”.

[2] Dictionary, definition of “impounding authority”

Omit “State Rail Authority”.

Insert instead “Rail Corporation New South Wales”.

3.7 Independent Pricing and Regulatory Tribunal Act 1992 No 39

Schedule 1 Government agencies for which Tribunal has standing reference

Omit “State Rail Authority”.

Insert instead “Rail Corporation New South Wales”.

3.8 Liquor Act 1982 No 147

[1] Section 6 Application of Act

Omit “State Rail Authority as are determined by that Authority” from section 6 (1) (b).

Insert instead “Rail Corporation New South Wales as are determined by the Corporation”.

[2] Section 19 Governor’s licences

Omit “the State Rail Authority” from section 19 (5) (a).

Insert instead “Rail Corporation New South Wales”.

3.9 Local Government Act 1993 No 30

[1] Section 555 What land is exempt from all rates?

Insert “, Rail Corporation New South Wales or Transport Infrastructure Development Corporation,” after “Rail Infrastructure Corporation” in section 555 (1) (g1).

[2] Section 600 Rebates in respect of certain land vested in public bodies

Insert “Rail Corporation New South Wales, Transport Infrastructure Development Corporation,” after “State Rail Authority,” in the definition of *public body* in section 600 (9).

[3] Section 742 Dispute resolution

Omit “the State Rail Authority” from section 742 (7).

Insert instead “Rail Corporation New South Wales”.

3.10 Passenger Transport Act 1990 No 39

Section 5 Crown bound by Act

Omit “the State Rail Authority” from section 5 (2).

Insert instead “Rail Corporation New South Wales”.

3.11 Pipelines Act 1967 No 90

Section 3 Definitions

Insert “Rail Corporation New South Wales, Transport Infrastructure Development Corporation,” after “State Rail Authority of New South Wales,” in the definition of *statutory body representing the Crown* in section 3 (1).

3.12 Public Finance and Audit Regulation 2000

Clause 17 Definitions of “authority” and “officer of an authority”

Omit clause 17 (7) (b). Insert instead:

- (b) an employee of Rail Corporation New South Wales,
- (b1) an employee of Transport Infrastructure Development Corporation,

3.13 Railway Construction (East Hills to Campbelltown) Act 1983 No 111

Section 2 Interpretation

Omit “the State Rail Authority” from the definition of *the Authority* in section 2 (1).

Insert instead “Rail Corporation New South Wales”.

3.14 Railway Construction (Maldon to Port Kembla) Act 1983 No 112

Section 2 Interpretation

Omit “the State Rail Authority” from the definition of *the Authority* in section 2 (1).

Insert instead “Rail Corporation New South Wales”.

3.15 Roads Act 1993 No 33

[1] Section 94 Roads authority may carry out drainage work across land adjoining public road etc

Insert “Rail Corporation New South Wales, Transport Infrastructure Development Corporation or” before “Rail Infrastructure Corporation” in section 94 (2).

[2] Section 94 (2A)

Omit “Part 2A of”.

[3] Section 211

Omit the section. Insert instead:

211 Contributions to RTA by Rail Corporation New South Wales and State Transit Authority

Rail Corporation New South Wales and the State Transit Authority must pay such amounts to the RTA as the RTA determines from time to time as contributions in relation to:

- (a) in the case of Rail Corporation New South Wales—the movement of rolling stock over railway lines vested in or owned by the Corporation on the Sydney Harbour Bridge, and
- (b) in the case of the State Transit Authority—the carriage of passengers across the Sydney Harbour Bridge.

3.16 Rural Fires Act 1997 No 65

[1] Section 27 Permission of RailCorp, RIC or TIDC required

Insert “, Rail Corporation New South Wales, Transport Infrastructure Development Corporation” after “the State Rail Authority”.

[2] Section 100A Definitions

Insert “Rail Corporation New South Wales, Transport Infrastructure Development Corporation,” after “State Rail Authority,” in paragraph (c) of the definition of *managed land* in section 100A (1).

[3] Dictionary, definition of “managed land”

Insert “, Rail Corporation New South Wales, Transport Infrastructure Development Corporation” after “State Rail Authority” in paragraph (c).

3.17 Security Industry Regulation 1998

[1] Clause 5 Exemptions: section 6

Omit “State Rail Authority” from clause 5 (a) wherever occurring.

Insert instead “Rail Corporation New South Wales”.

[2] Clause 5 (a)

Omit “revenue protection officers”.

Insert instead “transit security officers”.

3.18 State Authorities Non-contributory Superannuation Act 1987 No 212

Schedule 1 Employers

Insert at the end of Part 1:

Rail Corporation New South Wales

Transport Infrastructure Development Corporation

3.19 State Authorities Superannuation Act 1987 No 211

Schedule 1 Employers

Insert at the end of Part 1:

Rail Corporation New South Wales

Transport Infrastructure Development Corporation

3.20 State Development and Industries Assistance Act 1966 No 10

Section 20 Ministerial Corporation's powers to make grants and pay subsidies

Insert “, Rail Corporation New South Wales” after “State Rail Authority”
in section 20 (1) (b).

3.21 Superannuation Act 1916 No 28

Schedule 3 List of Employers

Insert at the end of Part 1:

Rail Corporation New South Wales

Transport Infrastructure Development Corporation

3.22 Transport Appeal Boards Act 1980 No 104

[1] Section 4 Definitions

Insert “, Rail Corporation New South Wales” after “State Rail Authority”
in the definition of *Authority* in section 4 (1).

[2] Section 11A Nature of proceedings for promotion appeals

Omit “under the *Transport Administration Act 1988*” from section
11A (1).

Insert instead “conferring the right to make the appeal”.

[3] Section 30 Supply of copies of statements and other things to appellant

Omit “the State Rail Authority or the State Transit Authority” wherever
occurring in section 30 (1) and (3).

Insert instead “an Authority”.

[4] Section 31 Reference of certain matters to Chairperson or Vice- Chairperson for investigation

Omit “the State Rail Authority or the State Transit Authority” from
section 31 (1).

Insert instead “an Authority”.

[5] Section 31 (2)

Omit “The State Rail Authority or the State Transit Authority”.

Insert instead “An Authority”.

[6] Schedule 1 Members of a Board

Omit “the State Rail Authority or the State Transit Authority” wherever occurring in clause 4 (1).

Insert instead “an Authority”.

3.23 Water Act 1912 No 44

[1] Section 12 Licence

Omit “the State Rail Authority” from section 12 (3).

Insert instead “Rail Corporation New South Wales”.

[2] Section 14 Renewal

Omit “State Rail Authority” from section 14 (1B).

Insert instead “Rail Corporation New South Wales”.

3.24 Water (Part 2—General) Regulation 1997

Clause 27 Public authorities

Omit “State Rail Authority”.

Insert instead “Rail Corporation New South Wales”.

3.25 Water (Part 5—Bore Licences) Regulation 1995

Clause 8 Prescribed public authorities: sec 116A

Omit “State Rail Authority”.

Insert instead “Rail Corporation New South Wales”.

[Second reading speech made in—
Legislative Assembly on 12 November 2003
Legislative Council on 2 December 2003]

BY AUTHORITY