



New South Wales

# Transport Administration Amendment (Rail Agencies) Bill 2003

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are as follows:

- (a) to constitute Rail Corporation New South Wales (***RailCorp***), a statutory State owned corporation, and to confer on it the rail passenger functions and other transport-related functions of the State Rail Authority (the ***SRA***),
- (b) to vest State rail infrastructure facilities situated within the metropolitan rail area in RailCorp instead of Rail Infrastructure Corporation (***RIC***) (which currently owns all State rail infrastructure facilities), leaving ***RIC*** with ownership of those facilities within the country rail area,
- (c) to constitute Transport Infrastructure Development Corporation (***TIDC***), a statutory State owned Corporation, and to confer on it functions relating to the development of major railway and other major transport projects,

- (d) to provide for the continuation of the State Rail Authority to exercise functions relating to its residual assets, rights and liabilities and for the dissolution of the Authority at a later time,
- (e) to provide for the dissolution of RIC at a later time,
- (f) to make consequential amendments and provision of a savings and transitional nature consequent on the proposed Act.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Transport Administration Act 1988* set out in Schedules 1 and 2.

**Clause 4** is a formal provision that gives effect to the amendments to the Acts and instruments specified in Schedule 3 as set out in that Schedule.

## Schedule 1 Amendment of Transport Administration Act 1988

**Schedule 1 [8]** omits Part 2 which establishes the SRA and inserts proposed Parts 2 and 2A, which establish RailCorp and TIDC and contain the following provisions:

### Part 2 Rail Corporation New South Wales

#### Division 1 Constitution of RailCorp as statutory SOC

Proposed section 4 establishes RailCorp as a statutory State owned corporation under the *State Owned Corporations Act 1989* (the *SOC Act*). As a result, the provisions of that Act relating to functions, constitutions and other matters relating to such corporations will, except as provided by the proposed Part, apply to RailCorp.

#### Division 2 Objectives of RailCorp

Proposed section 5 confers on RailCorp its principal objectives of delivering safe and reliable railway passenger services in New South Wales in an efficient, effective and financially responsible manner and of ensuring that the part of the NSW rail network vested in or owned by it enables safe and reliable passenger and freight services to be provided in an efficient, effective and financially responsible manner. Other objectives, including maintaining reasonable priority

and certainty of access for railway passenger services and promoting and facilitating access to the part of the NSW rail network vested in or owned by RailCorp, are also conferred on RailCorp.

### **Division 3 Functions of RailCorp**

Proposed section 6 confers on RailCorp the function of operating railway passenger services, including services previously operated by the SRA.

Proposed section 7 requires RailCorp to hold, manage, maintain and establish rail infrastructure facilities vested in or owned by RailCorp. Previously RIC had this function for all rail infrastructure facilities in this State.

Proposed section 8 requires RailCorp to provide persons with access to the part of the NSW rail network vested in or owned by RailCorp under any current NSW rail access undertaking.

Proposed section 9 enables RailCorp to operate other transport services, including bus services, whether or not in connection with its railway services.

Proposed section 10 confers other functions on RailCorp, including providing goods, services and facilities to the rail industry and providing facilities and services that are ancillary to or incidental to its principal functions.

Proposed section 11 confers on RailCorp power to acquire land by agreement or by compulsory process under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Proposed section 12 makes it clear that the proposed Division does not limit the other functions of RailCorp, but is subject to the SOC Act, the proposed Act and any other Act or law.

### **Division 4 Management of RailCorp**

Proposed section 13 provides for the appointment of a board of directors of RailCorp by the Treasurer and a Minister nominated as a voting shareholder under the SOC Act (the *voting shareholders*). The voting shareholders are to consult with the portfolio Minister (currently the Minister for Transport Services). The board is to have not fewer than 3 and not more than 7 directors, of whom one is to be the person holding the office of chief executive officer of RailCorp and one is to be an employee representative. The others must have expertise necessary in order to realise RailCorp's objectives (including engineering and rail safety expertise).

Proposed section 14 provides for the chief executive officer of RailCorp to be appointed by the board of RailCorp after consultation with the voting shareholders and the portfolio Minister.

Proposed section 15 enables the board to appoint an acting chief executive officer to act during the illness or absence of the chief executive officer of RailCorp.

Proposed section 16 enables the Minister to give a direction to the board of RailCorp if the Minister decides it is warranted on grounds involving urgency or public safety. The Minister must consult with the Treasurer if the Minister considers that compliance with the direction may cause a significant variation in the approved financial outcomes of RailCorp. This power is to be in addition to the Minister's powers to give directions under the SOC Act.

### **Division 5 General**

Proposed section 17 makes the proposed Part the foundation charter of RailCorp for the purposes of provisions of the SOC Act relating to the legal capacity of statutory State owned corporations and assumptions that they have complied with their foundation charter.

Proposed section 17A prohibits the portfolio Minister from being a shareholder of RailCorp and limits the sale of shares in RailCorp to eligible Ministers under the SOC Act.

Proposed section 17B removes the obligation of RailCorp to have a share dividend scheme as required by the SOC Act and enables the Treasurer to suspend the obligation of RailCorp to pay tax-equivalents under the SOC Act.

Proposed section 17C requires the board of RailCorp to prepare an annual statement of corporate intent. The board must consult with the portfolio Minister about its annual statement of corporate intent (in addition to consulting with the voting shareholders). The statement of corporate intent must include rail performance benchmarks agreed by the board and the portfolio Minister. They may be modified by the board with the agreement of the portfolio Minister after consultation with the Independent Transport Safety and Reliability Regulator. The board may modify the statement (other than the rail performance benchmarks) with the agreement of the voting shareholders and may be directed by them to amend the statement (other than the rail performance benchmarks).

Proposed section 17D provides that fines and penalties for certain rail-related offences are to be paid to RailCorp.

Proposed section 17E exempts RailCorp from liability for State taxes in the first 12 months after the commencement of the proposed section and enables regulations to be made with respect to further exemptions after that period.

Proposed section 17F enables regulations to be made conferring on staff the right of appeal to a Transport Appeal Board under the *Transport Appeal Boards Act 1980*.

## **Part 2A Transport Infrastructure Development Corporation**

### **Division 1 Interpretation**

Proposed section 18 defines words and expressions used in the proposed Part.

### **Division 2 Constitution of Transport Infrastructure Development Corporation as statutory SOC**

Proposed section 18A establishes TIDC as a statutory State owned corporation under the SOC Act. As a result, the provisions of that Act relating to functions, constitutions and other matters relating to such corporations will, except as provided by the proposed Part, apply to TIDC.

### **Division 3 Objectives of Transport Infrastructure Development Corporation**

Proposed section 18B confers on TIDC its principal objectives of developing major railway systems and other major transport projects in an efficient, effective and financially responsible manner. Other objectives, including being a successful business and exhibiting a sense of social responsibility by having regard to the interests of the community in which it operates, are also conferred on TIDC.

### **Division 4 Functions of Transport Infrastructure Development Corporation**

Proposed section 18C confers on TIDC the function of developing major railway systems and other major transport projects, including facilitating their development by other persons.

Proposed section 18D confers other functions on TIDC, including holding, managing, maintaining and establishing assets associated with systems it develops or proposes to develop and providing goods and services to the rail industry.

Proposed section 18E prohibits TIDC from undertaking the development of a major railway or other major transport project without the consent of the portfolio Minister and the voting shareholders. TIDC must undertake the development of an existing partially completed major railway system or other major transport project if directed to do so by the Minister with the concurrence of the Treasurer.

Proposed section 18F confers on TIDC power to acquire land by agreement or by compulsory process under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Proposed section 18G makes it clear that the proposed Division does not limit the other functions of TIDC, but is subject to the SOC Act, the proposed Act and any other Act or law.

### **Division 5 Management of Transport Infrastructure Development Corporation**

Proposed section 18H provides for the appointment of a board of directors of TIDC by the voting shareholders. The voting shareholders are to consult with the portfolio Minister. The board is to have not fewer than 3 and not more than 7 directors, of whom one is to be the person holding office as the chief executive officer of RailCorp and one of whom is to be the person holding office as the chief executive officer of TIDC. The others must have expertise necessary to realise TIDC's objectives (including engineering and rail safety expertise).

Proposed section 18I provides for the chief executive officer of TIDC to be appointed by the board.

Proposed section 18J enables the board to appoint an acting chief executive officer to act during the illness or absence of the chief executive officer of TIDC.

### **Division 6 General**

Proposed section 18K makes the proposed Part the foundation charter of TIDC for the purposes of provisions of the SOC Act relating to the legal capacity of statutory State owned corporations and assumptions that they have complied with their foundation charter.

Proposed section 18L prohibits the portfolio Minister from being a shareholder of TIDC and limits the sale of shares in the Corporation to eligible Ministers under the SOC Act.

Proposed section 18M removes the obligation of TIDC to have a share dividend scheme as required by the SOC Act and enables the Treasurer to suspend the obligation of TIDC to pay tax-equivalents under the SOC Act.

Proposed section 18N requires the board of TIDC to prepare an annual statement of corporate intent. The board must consult with the portfolio Minister about its annual statement of corporate intent (in addition to consulting with the voting shareholders). The statement of corporate intent must include development performance benchmarks agreed by the board and the portfolio Minister. They may be modified by the board with the agreement of the portfolio Minister after consultation with the Independent Transport Safety and Reliability Regulator. The board may modify the statement (other than the development performance benchmarks) with the agreement of the voting shareholders and may be directed by them to amend the statement (other than the development performance benchmarks).

Proposed section 180 exempts TIDC from liability for State taxes in respect of any matter or thing certified by the portfolio Minister, with the approval of the Treasurer, as having been done for the purpose of or a purpose connected with or arising out of the principal functions of TIDC.

**Schedule 1 [1], [3], [6], [9], [10], [21], [48] and [56]** make amendments consequential on the amendment made by **Schedule 1 [8]**.

**Schedule 1 [2]** defines words and expressions used in provisions inserted or amended by the proposed Act.

**Schedule 1 [4], [23], [25]–[29] and [31]–[33]** omit references to Rail Corporations, and make other consequential amendments, as this term will no longer be used in the Principal Act, and provisions that formerly applied to rail corporations will apply only to RIC (other corporations that were formerly referred to as Rail Corporations have been dissolved).

**Schedule 1 [5] and [12]** make amendments consequential on the change of terminology from “RIC access undertaking” to “NSW rail access undertaking” as a result of the vesting of rail infrastructure facilities in more than one body by the proposed Act and the consequent sharing of functions relating to access to them in this State.

**Schedule 1 [7]** defines the metropolitan rail area and provides for its amendment.

**Schedule 1 [11]** limits the principal objectives of RIC to ensure that the NSW rail network enables safe and reliable passenger and freight services to the part of the NSW rail network vested in or owned by RIC.

**Schedule 1 [13]** limits the functions of RIC to provide access to the NSW rail network to the part of the NSW rail network vested in or owned by RIC.

**Schedule 1 [15], [16] and [18]–[20]** omit provisions relating to rail infrastructure facilities, rail access and network control that currently apply to RIC but will now apply to RailCorp and other rail infrastructure owners and are to be re-enacted in proposed Divisions 1A and 1B of Part 9. **Schedule 1 [14]** makes a consequential amendment.

**Schedule 1 [17]** limits the obligation of RIC to report annually about the capacity of the NSW rail network to the part vested in or owned by RIC.

**Schedule 1 [22]** omits provisions relating to the transfer of assets, rights and liabilities from the SRA. Provisions relating generally to such transfers are included in proposed Division 1A of Part 9.

**Schedule 1 [24]** omits provisions relating to the transfer of staff from the SRA. A provision relating generally to such transfers is included in proposed Division 1A of Part 9.

**Schedule 1 [30]** enables the chief executive officer of RIC to delegate functions to a person of a class approved by the board of RIC.

**Schedule 1 [34]** provides that RIC is not required to have a share dividend scheme after 1 July 2004.

**Schedule 1 [35]** requires RailCorp to consult with the Director-General of the Ministry of Transport on a regular basis in connection with the provision of passenger services and before making any major changes, or initiating any major action, affecting passenger services. **Schedule 1 [36]** makes a consequential amendment.

**Schedule 1 [37]** enables the Independent Transport Safety and Reliability Regulator to monitor, audit and carry out other functions in relation to RailCorp.

**Schedule 1 [38]–[40], [51], [53] and [54]** omit provisions relating to the SRA. Provisions relating to the SRA, in so far as they are applicable to its reduced functions as a result of the constitution of RailCorp by the proposed Act, are to be re-enacted in proposed Schedule 8 to the Principal Act.

**Schedule 1 [42]** includes RailCorp as an Authority for the purposes of provisions regulating the fixing of train fares and other charges.

**Schedule 1 [43]** enables RailCorp to fix charges (including train fares) by order made by RailCorp. **Schedule 1 [41], [44] and [45]** make consequential amendments.

**Schedule 1 [46] and [47]** apply to RailCorp requirements for notifying the Minister of changes to charges for passenger services, and to have regard to pricing policies approved by the Minister.

**Schedule 1 [49]** enables RailCorp to issue free travel passes and concessional travel passes.

**Schedule 1 [50]** omits Division 1 of Part 9 and inserts proposed Divisions 1, 1A 1B and 1C. The proposed Divisions re-enact provisions in the Principal Act that currently apply only to SRA or RIC and applies them to the new bodies constituted by the proposed Act and RIC according to the functions conferred on them by the proposed Act. Some new provisions are also inserted. The proposed Divisions contain the following provisions:

#### **Division 1 Definitions**

Proposed section 89 defines *rail authority* (meaning RailCorp, RIC, TIDC or any other person or body prescribed by the regulations) and *State rail operator* (meaning RailCorp or any other person or body prescribed by the regulations) for the purposes of the new Divisions.



### **Division 1A Miscellaneous provisions relating to rail authorities**

Proposed section 90 provides that a State rail operator is not a common carrier but does not prevent any such operator from accepting the risk and liability of a common carrier under a contract or arrangement for the carriage of passengers or freight.

Proposed section 91 enables regulations to be made with respect to the railway and other transport services operated by a State rail operator.

Proposed section 92 limits the sum that may be recovered from a rail authority in an action for damages or compensation in respect of loss of or damage or injury to property caused by fire to \$50,000 or such other amount as may be prescribed by the regulations.

Proposed section 93 confers on authorised officers powers relating to vehicles or persons on land 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, including power to stop and search, to require freight documents to be produced and to seize items that the officer reasonably suspects may be stolen. It will be an offence to obstruct or hinder an authorised officer or not to comply with a reasonable requirement made by an authorised officer.

Proposed section 94 is a new provision that enables the Minister, by order in writing, to transfer rights, assets and liabilities of a rail authority (including the SRA and the Transport Administration Corporation) 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. It replaces other provisions that referred to specific authorities. Schedule 4 of the Principal Act contains savings and transitional and other provisions applying to such a transfer.

Proposed section 95 is a new provision that gives effect to Schedule 6. The effect of this is to enable the Minister, by order in writing, to transfer staff from one transport authority to another transport authority.

Proposed section 96 makes it clear that a person may be 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**

Proposed section 97 enables the Minister, by order in writing, to direct that specified facilities are to be treated as rail infrastructure facilities.

Proposed section 98 is a formal provision that gives effect to Schedules containing provisions relating to the rights and obligations of owners of rail infrastructure facilities, rail operators and other persons with respect to rail infrastructure facilities.

Proposed section 99 makes it clear that a rail infrastructure owner is not required to maintain a railway line on which no services are operated.

Proposed section 99A prohibits a rail infrastructure owner from closing a railway line unless authorised by an Act of Parliament.

Proposed section 99B contains requirements relating to any closure of a level-crossing, bridge or other structure for crossing or passing over or under any railway track by a rail infrastructure owner.

Proposed section 99C enables rail infrastructure owners to give written undertakings to the Australian Competition and Consumer Commission in connection with access to that part of the NSW rail network vested in or owned by them. It also requires rail authorities to act in accordance with the current NSW rail access undertaking and gives effect to provisions relating to rail access undertakings contained in Schedule 6AA to the Principal Act.

Proposed section 99D makes a rail infrastructure owner responsible for network control (that is, service planning and control of rolling stock movements) with respect to the part of the NSW rail network vested in or owned by the owner. The Minister may, by order published in the Gazette, designate another rail operator as the body responsible for network control for the whole network or a specified part of it.

#### **Division 1C Delegation by Minister**

Proposed section 99E enables the Minister to delegate functions to the Chief Executive of the State Transit Authority or the chief executive officer of a rail authority.

**Schedule 1 [52]** applies provisions applying to the RTA and the STA and relating to resolution of disputes between transport authorities, validating the exercise of functions in contravention of a Ministerial direction and enabling unpaid fees and charges to be recovered as debts, to RailCorp and TIDC.

**Schedule 1 [55]** applies provisions relating to the liability of the owner of a vehicle for a parking offence to offences committed on RailCorp land instead of SRA land and also extends the provisions to TIDC land.

**Schedule 1 [57]** is a formal provision that gives effect to proposed Schedule 8 to the Principal Act which contains provisions relating to the SRA.

**Schedule 1 [58]–[65]** remove references to the State Rail Authority Board in provisions relating to the constitution of the Boards of Authorities under the Principal Act.

**Schedule 1 [66]** removes a reference to the Chief Executive of the SRA in a provision relating to the Chief Executives of Authorities under the Principal Act.

**Schedule 1 [67]** makes an amendment consequential on proposed section 94, inserted by **Schedule 1 [50]**.

**Schedule 1 [68]** omits unnecessary definitions.

**Schedule 1 [70]** applies the provisions of Schedule 4 of the Principal Act to an order transferring assets, rights and liabilities under proposed section 94. The effect of this is to vest those assets, rights and liabilities in the transferee and to apply savings and transitional provisions in respect of the transfer. **Schedule 1 [69] and [71]** make consequential amendments.

**Schedule 1 [79]** enables the Minister, by order in writing, to transfer SRA and RIC staff to RailCorp and TIDC or to transfer Railcorp or TIDC staff to the SRA or RIC. **Schedule 1 [72]–[78]** make consequential amendments.

**Schedule 1 [80]** enables service with the previous rail employer by transferred staff to be counted as service (for purposes including the accrual of leave) with the new employer.

**Schedule 1 [81]** continues rights to extended leave of former SRA staff who are transferred to RailCorp or TIDC.

**Schedule 1 [82]** prevents a person who is transferred from having any claim to any payment or benefit because of the transfer or any claim to dual benefits.

**Schedule 1 [83]** enables former SRA or RIC employees transferred to RailCorp or TIDC to apply for SRA or RIC positions limited to internal applicants.

**Schedule 1 [84]** removes the requirement for a transport authority to comply with the *Privacy and Personal Information Protection Act 1998* in respect of the disclosure of information about transferred employees to their new employer or proposed employer.

**Schedule 1 [85]** omits a reference to RIC in provisions that formerly applied to RIC as the only rail infrastructure owner in the State but will now apply to all rail infrastructure owners in the State.

**Schedule 1 [86]** inserts definitions.

**Schedule 1 [87]** vests the rail infrastructure facilities in the metropolitan rail area, currently held by RIC, in RailCorp. Rail infrastructure facilities in the country rail area will continue to be vested in RIC. The vesting of both is subject to any interest of TIDC. Each rail infrastructure owner will have power to sell or

otherwise deal with its rail infrastructure facilities. Each rail infrastructure owner will have power to inspect, operate, repair, replace, maintain, remove, extend, expand, alter, connect, disconnect, improve or do other necessary things with respect to rail infrastructure facilities situated on land of a railway operator.

**Schedule 1 [88]–[98]** extend provisions conferring powers of entry on to land on RIC to all rail infrastructure owners.

**Schedule 1 [99] and [100]** extend provisions relating to the issue of certificates of authority for the purpose of exercising powers to officers or employees of all rail infrastructure owners.

**Schedule 1 [101]–[103]** extend provisions conferring the right to access to rail infrastructure facilities on land of all rail operators affected by the agreement.

**Schedule 1 [104]–[109]** extend requirements for the exercise of powers of entry on to land to all rail infrastructure owners.

**Schedule 1 [110]–[123]** extend the obligation to compensate for damage caused by the exercise of powers relating to rail infrastructure facilities to all rail infrastructure owners.

**Schedule 1 [124]–[139]** extend the covenant with respect to not damaging or interfering with rail infrastructure facilities and requirements relating to obstruction and notification of any proposed work or sale or disposal of land on which facilities are situated to all rail infrastructure owners. The amendments also extend to all rail infrastructure owners rights with respect to the removal of structures or works that may interfere with or threaten the operation of rail infrastructure facilities.

**Schedule 1 [140]–[143]** extend the right to compensation for damage or interference with rail infrastructure facilities to all rail infrastructure owners.

**Schedule 1 [144]–[152]** extend rights under previous agreements relating to works or facilities situated on land of rail operators to all rail infrastructure owners.

**Schedule 1 [153]–[159]** extend the requirement for a person who proposes to connect railway track to the NSW rail network to obtain consent from RIC to a requirement to obtain consent from the rail infrastructure owner concerned.

**Schedule 1 [160]–[166]** extend provisions enabling the Minister to settle disputes to all disputes between rail operators and rail infrastructure owners.

**Schedule 1 [167] and [168]** extend exemptions from requirements to obtain council approval for certain works to all rail infrastructure owners.

**Schedule 1 [169]–[172]** enable regulations to be made in relation to obligations of rail infrastructure owners and rail operators to enter memorandums of understanding concerning the management of certain land and the use of rail infrastructure facilities.

**Schedule 1 [173]** enables a rail operator or rail infrastructure owner to refuse entry to land to an officer of a public or local authority (other than a police officer or an officer of the Independent Transport Safety and Reliability Regulator) who is authorised to enter under another Act or law if the operator or owner is of the opinion that refusal is necessary in the interests of public safety or the safety of the officer or other persons. The Director-General may direct that entry be granted despite the refusal.

**Schedule 1 [174]–[180]** extend provisions applying to the preparation of, and requirements for, access undertakings to all rail infrastructure owners. Currently they apply only to RIC.

**Schedule 1 [181] and [182]** apply provisions relating to underground rail facilities to RailCorp and TIDC, in place of the SRA.

**Schedule 1 [183]** enables savings and transitional regulations to be made as a consequence of the proposed Act.

**Schedule 1 [184]** inserts savings and transitional provisions consequential on the enactment of the proposed Act.

**Schedule 1 [185]** inserts proposed Schedule 8 relating to the SRA. The proposed Schedule contains the following Parts:

**Part 1 Constitution and functions of State Rail Authority**

The proposed Part (proposed clauses 1–4) continues the SRA and re-enacts provisions setting out its objectives and functions. The objectives of the SRA include managing its assets, rights and liabilities effectively and responsibly. Its functions include facilitating the transfer of its staff, assets, rights and liabilities to RailCorp, RIC and other rail authorities. Its current power to sell, lease or otherwise dispose of land is re-enacted.

**Part 2 Management of State Rail Authority**

The proposed Part (proposed clauses 5–12) re-enacts provisions relating to the management and staff of the SRA, with certain changes. There will be no provision for a Board of the SRA. The current Board of the SRA is to continue to hold office for 6 months. The SRA will be managed and controlled by the Chief Executive who is to be the Chief Executive of the SRA immediately before the provision commences. The SRA will be subject to Ministerial direction and control. The SRA may delegate its functions and employ staff. The employment of current staff (subject to any transfers) is continued, as are the current regulations relating to employment of SRA staff.

### **Part 3 Financial provisions**

The proposed Part (proposed clauses 13–17) re-enacts financial provisions currently applying to the SRA and continues the State Rail Authority Fund. It also applies provisions relating to the SRA's financial duties and its financial year.

### **Part 4 Miscellaneous**

The proposed Part (proposed clauses 18–23) contains miscellaneous provisions. It applies provisions applying to Authorities generally under the Principal Act to the SRA. The proposed Part also provides for the SRA to be dissolved on a day appointed by Proclamation by the Governor published in the Gazette. On dissolution, the assets, rights and liabilities of the SRA vest in the Crown but may be transferred under the Principal Act. Staff of the SRA may also be transferred. Savings and transitional provisions relating to the Chief Executive, references to the SRA and previous transfers of assets, rights and liabilities are also contained in the proposed Part.

## **Schedule 2 Amendments relating to dissolution of RIC**

**Schedule 2 [1], [2], [3], [8], [10] and [13]** omit provisions relating to RIC.

**Schedule 2 [4], [5], [8] and [13]** omit references to RIC.

**Schedule 2 [6]** is a formal provision giving effect to proposed Schedule 9.

**Schedule 2 [10] and [11]** remove provisions relating to rail infrastructure facilities vested in or owned by RIC.

**Schedule 2 [14]** inserts proposed Schedule 9 relating to the dissolution of RIC. The proposed Schedule dissolves RIC and its subsidiaries and vests the assets, rights and liabilities of RIC (other than rail infrastructure facilities) in the Crown. The assets, rights and liabilities may be transferred under the Principal Act with the consent of the Treasurer. Staff of RIC may also be transferred. Savings and transitional provisions relating to the Chief Executive, references to RIC, previous transfers of assets, rights and liabilities, development applications and other matters are also contained in the proposed Schedule. The proposed Schedule also vests RIC'S rail infrastructure facilities in RailCorp and makes provision of a savings and transitional nature in relation to the vesting of RIC's rail infrastructure facilities in RailCorp and rail access agreements previously entered into by RIC.

### **Schedule 3 Amendment of other Acts and instruments**

**Schedule 3.1** amends the *Conveyancing (General) Regulation 2003* to apply provisions relating to easements in gross and the imposition of restrictions and covenants on land by public authorities to RailCorp and TIDC.

**Schedule 3.2** amends the *Conveyancing (Sale of Land) Regulation 2000* to replace a reference to the SRA in provisions referring to adverse proposals by statutory authorities with references to RailCorp, TIDC and RIC.

**Schedule 3.3** amends the *Electricity Supply Act 1995* to enable regulations under that Act to be made exempting RailCorp, TIDC and RIC from certain provisions under that Act.

**Schedule 3.4** amends the *First State Superannuation Act 1992* to make RailCorp and TIDC employers for the purposes of the superannuation scheme under that Act.

**Schedule 3.5** amends the *Government Telecommunications Act 1991* to replace a reference to the Minister responsible for the State Rail Authority (for the purposes of nominating a Board member) with a reference to the Minister responsible for RailCorp.

**Schedule 3.6** amends the *Impounding Act 1993* to include RailCorp (instead of the SRA) as an impounding authority under that Act and to make another consequential amendment.

**Schedule 3.7** amends the *Independent Pricing and Regulatory Tribunal Act 1992* to include RailCorp (instead of the SRA) as an agency for which the Independent Pricing and Regulatory Tribunal has a standing reference in relation to prices and other matters.

**Schedule 3.8** amends the *Liquor Act 1982* to exclude that Act from applying to the sale of liquor on trains under the control of RailCorp and to replace a reference to the SRA with a reference to RailCorp.

**Schedule 3.9** amends the *Local Government Act 1993* to extend the rate exemption for rail infrastructure facilities owned by RIC to those owned by RailCorp and TIDC, to include RailCorp and TIDC as public bodies entitled to rate rebates and to apply dispute resolution provisions to RailCorp.

**Schedule 3.10** amends the *Passenger Transport Act 1990* to replace a reference to passenger services operated by the SRA with a reference to RailCorp.

**Schedule 3.11** amends the *Pipelines Act 1967* to make RailCorp and TIDC statutory bodies representing the Crown for the purposes of that Act.

**Schedule 3.12** amends the *Public Finance and Audit Regulation 2000* to enable an officer of RailCorp or TIDC to commit and incur expenditure and to authorise payments of accounts for the Corporation concerned.

**Schedule 3.13** amends the *Railway Construction (East Hills to Campbelltown) Act 1983* to make RailCorp (instead of the SRA) the Authority responsible under that Act for carrying out works under that Act.

**Schedule 3.14** amends the *Railway Construction (Maldon to Port Kembla) Act 1983* to make RailCorp (instead of the SRA) the Authority responsible under that Act for carrying out works under that Act.

**Schedule 3.15** amends the *Roads Act 1993* to extend the prohibition on road authorities carrying out drainage works on rail infrastructure facilities to those owned by RailCorp and TIDC as well as those owned by RIC. It also re-enacts a provision so as to confer on RailCorp (instead of RIC) the obligation to pay amounts to the RTA for the movement of rolling stock on and across the Sydney Harbour Bridge.

**Schedule 3.16** amends the *Rural Fires Act 1997* to apply provisions relating to land vested in or under the control of public authorities to RailCorp and TIDC, in addition to RIC.

**Schedule 3.17** amends the *Security Industry Regulation 1998* to exempt RailCorp transit security officers from the *Security Industry Act 1997*.

**Schedule 3.18** amends the *State Authorities Non-contributory Superannuation Act 1987* to make RailCorp and TIDC employers for the purposes of the superannuation scheme under that Act.

**Schedule 3.19** amends the *State Authorities Superannuation Act 1987* to make RailCorp and TIDC employers for the purposes of the superannuation scheme under that Act.

**Schedule 3.20** amends the *State Development and Industries Assistance Act 1966* to include RailCorp as a body to which subsidies may be granted under that Act.

**Schedule 3.21** amends the *Superannuation Act 1916* to make RailCorp and TIDC employers for the purposes of the superannuation scheme under that Act.

**Schedule 3.22** amends the *Transport Appeal Boards Act 1980* as a consequence of amendments enabling the conferral of appeal rights on officers of RailCorp.

**Schedule 3.23** amends the *Water Act 1912* to extend provisions enabling licences to be granted for more than 10 years to RailCorp (instead of the SRA).

**Schedule 3.24** amends the *Water (Part 2—General) Regulation 1997* to extend certain provisions relating to public authorities to RailCorp (instead of the SRA).



Transport Administration Amendment (Rail Agencies) Bill 2003

Explanatory note

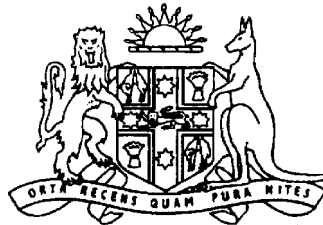
---

**Schedule 3.25** amends the *Water (Part 5—Bore Licences) Regulation 1995* to extend certain provisions relating to public authorities to RailCorp (instead of the SRA).

Transport Administration Amendment (Rail Agencies) Bill 2003

Explanatory note

---



New South Wales

# Transport Administration Amendment (Rail Agencies) Bill 2003

## Contents

---

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Transport Administration Act 1988 No 109	2
4 Amendment of Acts and instruments	2
Schedule 1 Amendment of Transport Administration Act 1988	3
Schedule 2 Amendments relating to dissolution of Rail Infrastructure Corporation	74
Schedule 3 Amendment of other Acts and instruments	80

Transport Administration Amendment (Rail Agencies) Bill 2003

Contents

---

Page

---

Contents page 2



New South Wales

## **Transport Administration Amendment (Rail Agencies) Bill 2003**

No. , 2003

---

### **A Bill for**

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.

---

---

<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Transport Administration Amendment (Rail Agencies) Act 2003</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3 Amendment of Transport Administration Act 1988 No 109</b>	8
The <i>Transport Administration Act 1988</i> is amended as set out in Schedules 1 and 2.	9 10
<b>4 Amendment of Acts and instruments</b>	11
The Acts and instruments specified in Schedule 3 are amended as set out in that Schedule.	12 13

---

## 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.



---

<b>[6] Section 3 (4)</b>	1
Insert after section 3 (3):	2
(4) Words and expressions used in this Act have the same meanings as they have in the <i>State Owned Corporations Act 1989</i> .	3 4 5
<b>[7] Section 3A</b>	6
Insert after section 3:	7
<b>3A Metropolitan rail area</b>	8
(1) For the purposes of this Act, the <i>metropolitan rail area</i> 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.	9 10 11 12 13 14 15 16
(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:	17 18 19
(a) to provide a more detailed description of the land,	20
(b) to alter the boundaries of the land for the purposes of the effective management of rail infrastructure facilities in the State.	21 22 23
(3) The metropolitan rail area map may consist of one or more maps.	24 25

---

<b>[8] Parts 2 and 2A</b>	1
Omit Part 2. Insert instead:	2
<b>Part 2 Rail Corporation New South Wales</b>	3
<b>Division 1 Constitution of RailCorp as statutory SOC</b>	4
<b>4 Establishment of RailCorp as statutory State owned corporation</b>	5
(1) There is constituted by this Act a corporation with the corporate name of Rail Corporation New South Wales.	7
(2) The <i>State Owned Corporations Act 1989</i> is amended by inserting in Schedule 5, in alphabetical order, the words "Rail Corporation New South Wales".	9
<b>Note.</b> The <i>State Owned Corporations Act 1989</i> 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 <i>Corporations Act 2001</i> 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).	12
<b>Division 2 Objectives of RailCorp</b>	16
<b>5 Objectives of RailCorp</b>	26
(1) The principal objectives of RailCorp are:	27
(a) to deliver safe and reliable railway passenger services in New South Wales in an efficient, effective and financially responsible manner, and	28
(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.	29

- 
- (2) The other objectives of RailCorp are as follows: 1
- (a) to maintain reasonable priority and certainty of access 2  
for railway passenger services, 3
  - (b) to promote and facilitate access to the part of the NSW 4  
rail network vested in or owned by RailCorp, 5
  - (c) to be a successful business and, to that end: 6
    - (i) to operate at least as efficiently as any 7  
comparable business, and 8
    - (ii) to maximise the net worth of the State's 9  
investment in the Corporation, 10
  - (d) to exhibit a sense of social responsibility by having 11  
regard to the interests of the community in which it 12  
operates, 13
  - (e) where its activities affect the environment, to conduct 14  
its operations in compliance with the principles of 15  
ecologically sustainable development contained in 16  
section 6 (2) of the *Protection of the Environment 17  
Administration Act 1991*, 18
  - (f) to exhibit a sense of responsibility towards regional 19  
development and decentralisation in the way in which it 20  
operates. 21
- (3) The other objectives of RailCorp are of equal importance, but 22  
are not as important as the principal objectives of the 23  
corporation. 24
- (4) Section 20E of the *State Owned Corporations Act 1989* does 25  
not apply to RailCorp. 26

### **Division 3 Functions of RailCorp** 27

#### **6 Railway passenger services** 28

- (1) RailCorp is to operate railway passenger services. 29
- (2) RailCorp is to continue to operate the railway passenger 30  
services which were provided by the State Rail Authority 31  
immediately before the commencement of this section. 32
- (3) Subsection (2) does not limit the power of RailCorp: 33
  - (a) to establish any new railway passenger service, or 34
  - (b) to alter or discontinue any of its railway passenger 35  
services. 36

---

(4)	The operation of a railway passenger service by RailCorp is subject to the requirements of the <i>Rail Safety Act 2002</i> .	1 2
<b>7</b>	<b>Rail infrastructure functions</b>	3
	RailCorp is to hold, manage, maintain and establish rail infrastructure facilities vested in or owned by it on behalf of the State.	4 5 6
	<b>Note.</b> Schedules 6A and 6B (see section 98) contain provisions relating to the rights and liabilities of rail infrastructure owners.	7 8
<b>8</b>	<b>Metropolitan rail area access functions</b>	9
	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.	10 11 12
	<b>Note.</b> 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.	13 14 15 16
<b>9</b>	<b>Other transport services</b>	17
	RailCorp may operate other transport services, including bus services, whether or not in connection with its railway services.	18 19 20
<b>10</b>	<b>Other functions of RailCorp</b>	21
(1)	RailCorp has the functions conferred or imposed on it by or under this or any other Act or law.	22 23
(2)	RailCorp may:	24
(a)	provide goods, services or facilities to the rail industry, and	25 26
(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	27 28 29 30
(c)	conduct any business (whether or not related to its principal functions) that it considers will further its objectives, and	31 32 33
(d)	provide services or facilities that are ancillary to or incidental to its principal functions.	34 35

- 
- (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.

---

<b>Division 4</b>	<b>Management of RailCorp</b>	1
<b>13</b>	<b>Board of directors of RailCorp</b>	2
(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.	3 4 5 6
(2)	The board is to consist of not fewer than 3 and not more than 7 directors.	7 8
(3)	The person for the time being holding office as chief executive officer of RailCorp is to be a director of the board.	9 10
(4)	One director of the board is to be a person recommended by a selection committee comprising:	11 12
	(a) 2 persons nominated by the portfolio Minister, and	13
	(b) 2 persons nominated by the Labor Council of New South Wales,	14 15
	being a person selected by the committee from a panel of 3 persons nominated by the Labor Council.	16 17
(5)	The members of the selection committee and the nominees of the Labor Council for the panel are to be representatives of industrial organisations of employees that have members employed in the public sector of the rail industry.	18 19 20 21
(6)	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.	22 23 24 25 26
(7)	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.	27 28 29 30 31 32
(8)	Subject to subsection (9), section 20J of and Schedule 8 to the <i>State Owned Corporations Act 1989</i> have effect with respect to the board of RailCorp and its constitution and procedure.	33 34 35

- |           |  |                      |
|-----------|--|----------------------|
| (9)       | Section 20J (2), (3), (4) and (5) of, and clause 4 of Schedule 8 to, the <i>State Owned Corporations Act 1989</i> do not apply with respect to the board of RailCorp.  | 1<br>2<br>3          |
| (10)      | Clause 7 of Schedule 8 to the <i>State Owned Corporations Act 1989</i> does not apply with respect to the chief executive officer of RailCorp.   | 4<br>5<br>6          |
| <b>14</b> | <b>Chief executive officer</b>   | 7                    |
| (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.  | 8<br>9<br>10         |
| (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.   | 11<br>12<br>13       |
| (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. | 14<br>15<br>16<br>17 |
| (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.               | 18<br>19<br>20<br>21 |
| (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.                | 22<br>23<br>24<br>25 |
| (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.   | 26<br>27<br>28       |
| (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.  | 29<br>30<br>31       |
| (8)       | The <i>Public Sector Employment and Management Act 2002</i> (Chapter 5 included) does not apply to the chief executive officer.  | 32<br>33<br>34       |
| (9)       | Section 20K (2) and (4) of, and Schedule 9 to, the <i>State Owned Corporations Act 1989</i> do not apply to or in respect of the chief executive officer.  | 35<br>36<br>37       |

- (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*. 1  
2  
3  
4

**15 Acting chief executive officer** 5

- (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. 6  
7  
8
- (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. 9  
10  
11
- (3) A person, while acting in the office of chief executive officer: 12  
(a) has all the functions of the chief executive officer and is taken to be the chief executive officer, and 13  
14  
(b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the board may determine. 15  
16  
17
- (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. 18  
19  
20
- (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. 21  
22  
23  
24
- (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*. 25  
26  
27  
28

**16 Ministerial directions** 29

- (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. 30  
31  
32  
33
- (2) The board of directors and the chief executive officer of RailCorp must ensure that RailCorp complies with any such direction. 34  
35  
36



- 
- (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.

1  
2  
3
  - (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.

4  
5  
6  
7
  - (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.

8  
9  
10  
11  
12  
13  
14

**Division 5      General** 15

**17      Foundation charter of RailCorp** 16

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). 17  
18  
19

**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. 20  
21  
22  
23  
24  
25

**17A      Restrictions relating to shareholdings** 26

- (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.

27  
28  
29  
30
- (2) Shares in RailCorp may not be sold or otherwise disposed of except to eligible Ministers.

31  
32

**17B      Dividends and tax-equivalents** 33

- (1) Section 20S of the *State Owned Corporations Act 1989* does not apply to RailCorp.

34  
35
- (2) The Treasurer may, by notice in writing to RailCorp, suspend the obligation of RailCorp, or any subsidiary of RailCorp, to

36  
37

- 
- pay amounts under section 20T of the *State Owned Corporations Act 1989*, either generally or for a specified period. 1  
2  
3
- (3) A suspension under subsection (2) may be subject to conditions and may be revoked or varied by the Treasurer. 4  
5
- 17C Statement of corporate intent** 6
- (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. 7  
8  
9  
10
- (2) The statement of corporate intent must include: 11
- (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 12  
13  
14  
15  
16
- (b) financial and any other performance benchmarks, as agreed by the board and the voting shareholders after consultation with the portfolio Minister. 17  
18  
19
- (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. 20  
21  
22  
23
- (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: 24  
25  
26  
27
- (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 28  
29  
30  
31
- (b) in relation to the remainder of the statement, as are agreed between the board and the voting shareholders, 32  
33
- and deliver the completed written statement to the voting shareholders and portfolio Minister within 3 months after the commencement of the financial year. 34  
35  
36

- 
- |      |   |                                  |
|------|---|----------------------------------|
| (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.  | 1<br>2<br>3<br>4                 |
| (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.   | 5<br>6<br>7<br>8                 |
| (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.   | 9<br>10<br>11<br>12              |
| (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. | 13<br>14<br>15<br>16<br>17<br>18 |
| (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.  | 19<br>20<br>21<br>22<br>23       |
| (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.   | 24<br>25<br>26                   |
| (11) | RailCorp is required to comply with any such direction.   | 27                               |
| (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 <i>State Owned Corporations Act 1989</i> .   | 28<br>29<br>30<br>31             |
| (13) | The <i>State Owned Corporations Act 1989</i> (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.   | 32<br>33<br>34<br>35             |

<b>17D</b>	<b>Payments to RailCorp</b>	1
	All fines and penalties recovered for offences under the regulations under section 91, or under regulations under section 95 of the <i>Rail Safety Act 2002</i> 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.	2 3 4 5 6 7 8
<b>17E</b>	<b>Exemption from State taxes</b>	9
(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.	10 11 12 13
(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.	14 15 16 17 18 19
(3)	The provisions of this section are in addition to and do not derogate from the provisions of the <i>State Owned Corporations Act 1989</i> .	20 21 22
(4)	In this section:  <i>State tax</i> means duty under the <i>Duties Act 1997</i> or any other tax, duty, fee or charge imposed by any Act or law of the State, other than pay-roll tax.	23 24 25 26
<b>17F</b>	<b>Appeals to Transport Appeal Boards</b>	27
(1)	Regulations made under section 20M of the <i>State Owned Corporations Act 1989</i> 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 <i>Transport Appeal Boards Act 1980</i> .	28 29 30 31 32
(2)	This section does not limit the operation of section 20M of the <i>State Owned Corporations Act 1989</i> .	33 34

---

## 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.

---

<b>Division 2</b>	<b>Constitution of Transport Infrastructure Development Corporation as statutory SOC</b>	1 2
<b>18A</b>	<b>Establishment of Transport Infrastructure Development Corporation as statutory State owned corporation</b>	3 4
(1)	There is constituted by this Act a corporation with the corporate name of Transport Infrastructure Development Corporation.	5 6 7
(2)	The <i>State Owned Corporations Act 1989</i> is amended by inserting in Schedule 5, in alphabetical order, the words “Transport Infrastructure Development Corporation”.	8 9 10
	<b>Note.</b> The <i>State Owned Corporations Act 1989</i> 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 <i>Corporations Act 2001</i> 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).	11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
<b>Division 3</b>	<b>Objectives of Transport Infrastructure Development Corporation</b>	26 27
<b>18B</b>	<b>Objectives of Transport Infrastructure Development Corporation</b>	28 29
(1)	The principal objectives of Transport Infrastructure Development Corporation are:	30 31
(a)	to develop major railway systems, and	32
(b)	to develop other major transport projects,	33
	in an efficient, effective and financially responsible manner.	34
(2)	The other objectives of Transport Infrastructure Development Corporation are as follows:	35 36
(a)	to be a successful business and, to that end:	37
(i)	to operate at least as efficiently as any comparable business, and	38 39

- 
- (ii) to maximise the net worth of the State's investment in the Corporation, 1  
2
  - (b) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates, 3  
4  
5
  - (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*, 6  
7  
8  
9  
10
  - (d) to exhibit a sense of responsibility towards regional development and decentralisation in the way in which it operates. 11  
12  
13
  - (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. 14  
15  
16
  - (4) Section 20E of the *State Owned Corporations Act 1989* does not apply to Transport Infrastructure Development Corporation. 17  
18  
19

**Division 4      Functions of Transport Infrastructure Development Corporation** 20  
21

**18C    Development of railway systems and other transport projects** 22

The principal functions of Transport Infrastructure Development Corporation are: 23  
24

- (a) to develop major railway systems, and 25
  - (b) to develop other major transport projects, 26
- including facilitating their development by other persons. 27

**18D    Other functions of Transport Infrastructure Development Corporation** 28  
29

- (1) Transport Infrastructure Development Corporation has the functions conferred or imposed on it by or under this or any other Act or law. 30  
31  
32
- (2) Transport Infrastructure Development Corporation may exercise the following functions: 33  
34
  - (a) hold, manage, maintain and establish assets associated with major railway systems or other major transport 35  
36

	projects developed or proposed to be developed by Transport Infrastructure Development Corporation,	1 2
	(b) provide goods and services to the rail industry,	3
	(c) conduct any business (whether or not related to its principal functions) that it considers will further its objectives,	4 5 6
	(d) provide facilities or services that are ancillary to or incidental to its principal functions.	7 8
<b>18E</b>	<b>Functions relating to development projects</b>	9
	(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.	10 11 12 13 14
	(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.	15 16 17 18 19 20
	(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 <i>State Owned Corporations Act 1989</i> . 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.	21 22 23 24 25 26 27
<b>18F</b>	<b>Acquisition of land by Transport Infrastructure Development Corporation</b>	28 29
	(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 <i>Land Acquisition (Just Terms Compensation) Act 1991</i> .	30 31 32 33 34



- (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. 1  
2  
3  
4  
5
- (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. 6  
7  
8  
9  
10
- (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. 11  
12  
13  
14
- (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. 15  
16  
17
- (6) Part 3 of the *Public Works Act 1912* does not apply in respect of works constructed for the purposes of this section. 18  
19
- 18G Effect of Division** 20

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. 21  
22  
23  
24
- Division 5 Management of Transport Infrastructure Development Corporation** 25  
26
- 18H Board of directors of Transport Infrastructure Development Corporation** 27  
28

  - (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. 29  
30  
31  
32  
33
  - (2) The board is to consist of not fewer than 3 and not more than 7 directors. 34  
35

- (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. 1  
2  
3
  - (4) The person for the time being holding office as chief executive officer of RailCorp is to be a director of the board. 4  
5
  - (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  
7  
8  
9  
10  
11  
12
  - (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. 13  
14  
15  
16
  - (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. 17  
18  
19  
20
  - (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. 21  
22  
23  
24
- 18I Chief executive officer** 25
- (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. 26  
27  
28  
29
  - (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. 30  
31  
32
  - (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. 33  
34  
35  
36

- 
- (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.

1  
2  
3  
4
  - (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.

5  
6  
7  
8
  - (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.

9  
10  
11
  - (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.

12  
13  
14
  - (8) The *Public Sector Employment and Management Act 2002* (Chapter 5 included) does not apply to the chief executive officer.

15  
16  
17
  - (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.

18  
19  
20
  - (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*.

21  
22  
23  
24

**18J Acting chief executive officer** 25

- (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.

26  
27  
28  
29
- (2) The board may remove a person from acting as chief executive officer, at any time, for any or no reason and without notice.

30  
31  
32
- (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

33  
34  
35

- (b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the board may determine. 1  
2  
3
- (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. 4  
5  
6
- (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. 7  
8  
9  
10
- (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*. 11  
12  
13  
14

**Division 6 General** 15

**18K Foundation charter of Transport Infrastructure Development Corporation** 16  
17

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). 18  
19  
20  
21

**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. 22  
23  
24  
25  
26  
27

**18L Restrictions relating to shareholdings** 28

- (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. 29  
30  
31  
32  
33
- (2) Shares in Transport Infrastructure Development Corporation may not be sold or otherwise disposed of except to eligible Ministers. 34  
35  
36

---

<b>18M</b>	<b>Dividends and tax-equivalents</b>	1
(1)	Section 20S of the <i>State Owned Corporations Act 1989</i> does not apply to Transport Infrastructure Development Corporation.	2 3 4
(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 <i>State Owned Corporations Act 1989</i> , either generally or for a specified period.	5 6 7 8 9 10 11
(3)	A suspension under subsection (2) may be subject to conditions and may be revoked or varied by the Treasurer.	12 13
<b>18N</b>	<b>Statement of corporate intent</b>	14
(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.	15 16 17 18 19
(2)	The statement of corporate intent must include:	20
(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	21 22 23 24 25 26 27
(b)	financial and any other performance benchmarks, as agreed by the board and the voting shareholders after consultation with the portfolio Minister.	28 29 30
(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.	31 32 33 34 35

- 
- (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.

---

(11)	The corporation is required to comply with any such direction.	1 2
(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 <i>State Owned Corporations Act 1989</i> .	3 4 5 6 7
(13)	The <i>State Owned Corporations Act 1989</i> (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.	8 9 10 11 12
<b>180</b>	<b>Exemption from State taxes</b>	13
(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.	14 15 16 17 18 19
(2)	In this section: <i>State tax</i> means duty under the <i>Duties Act 1997</i> or any other tax, duty, fee or charge imposed by any Act or law of the State, other than pay-roll tax.	20 21 22 23
<b>[9]</b>	<b>Part 2B, heading</b>	24
	Omit the existing heading to Part 2A. Insert instead:	25
	<b>Part 2B Rail Infrastructure Corporation</b>	26
<b>[10]</b>	<b>New Part 2B</b>	27
	Omit Division 1 and the heading to Division 2.	28
<b>[11]</b>	<b>Section 19D Objectives of RIC</b>	29
	Omit “NSW rail network” wherever occurring in section 19D (1) and (2) (a).	30 31
	Insert instead “part of the NSW rail network vested in or owned by Rail Infrastructure Corporation”.	32 33

---

<b>[12] Section 19D (2) (a)</b>	1
Omit “RIC”. Insert instead “NSW rail”.	2
<b>[13] Section 19E Functions of RIC</b>	3
Omit section 19E (2) (b). Insert instead:	4
(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.	5 6 7 8
<b>[14] Section 19E (2A), (4A), (4B) and (5)</b>	9
Omit the subsections.	10
<b>[15] Section 19E (4) (b)</b>	11
Omit “objectives, and”. Insert instead “objectives.”.	12
<b>[16] Section 19E (4) (c)</b>	13
Omit the paragraph.	14
<b>[17] Section 19E (6)</b>	15
Omit “NSW rail network” wherever occurring.	16
Insert instead “the part of the NSW rail network vested in or owned by Rail Infrastructure Corporation”.	17 18
<b>[18] Section 19E (7)</b>	19
Omit “subsections (4B) and (5A)”. Insert instead “subsection (5A)”.	20
<b>[19] Section 19F</b>	21
Omit the section.	22
<b>[20] Sections 19FB and 19FC</b>	23
Omit the sections.	24
<b>[21] New Part 2B, Division 4, heading</b>	25
Omit the heading.	26



---

<b>[22] Sections 19J and 19K</b>	1
Omit the sections.	2
<b>[23] Section 19L Restriction on sale of shares</b>	3
Omit “a Rail Corporation”.	4
Insert instead “Rail Infrastructure Corporation”.	5
<b>[24] Section 19M</b>	6
Omit the section.	7
<b>[25] Section 19N Foundation charter of Rail Infrastructure Corporation for purposes of SOC Act</b>	8 9
Omit “a Rail Corporation”.	10
Insert instead “Rail Infrastructure Corporation”.	11
<b>[26] Section 19P Portfolio Minister not to be shareholder of Rail Infrastructure Corporation</b>	12 13
Omit “a Rail Corporation”.	14
Insert instead “Rail Infrastructure Corporation”.	15
<b>[27] Section 19P</b>	16
Omit “the Rail Corporation”.	17
Insert instead “Rail Infrastructure Corporation”.	18
<b>[28] Section 19R Chief executive officer</b>	19
Omit section 19R (1). Insert instead:	20
(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.	21 22 23
<b>[29] Section 19R (2)</b>	24
Omit “, in the case of Rail Infrastructure Corporation,”.	25

---

<b>[30] Section 19R (4A)</b>	1
Insert after section 19R (4):	2
(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.	3 4 5 6
<b>[31] Section 19S Acting chief executive officer</b>	7
Insert “of Rail Infrastructure Corporation” after “chief executive officer” where secondly occurring in section 19S (1).	8 9
<b>[32] Section 19S (5) and 19T</b>	10
Omit “a Rail Corporation” wherever occurring.	11
Insert instead “Rail Infrastructure Corporation”.	12
<b>[33] Section 19T Dividends</b>	13
Omit “Rail Corporation’s” from section 19T (1).	14
Insert instead “Rail Infrastructure Corporation’s”.	15
<b>[34] Section 19T (4)</b>	16
Insert after section 19T (3):	17
(4) Rail Infrastructure Corporation is not required to comply with this section, or section 20S of the <i>State Owned Corporations Act 1989</i> , after 1 July 2004.	18 19 20
<b>[35] Section 38 Functions of ensuring provision of appropriate passenger services</b>	21 22
Omit “the State Rail Authority” from section 38 (3).	23
Insert instead “RailCorp”.	24
<b>[36] Section 38 (3)</b>	25
Omit “such Authority”.	26
<b>[37] Section 42A [as inserted by the Transport Legislation Amendment (Safety and Reliability) Act 2003]</b>	27 28
Omit paragraph (a) of the definition of <i>transport authority</i> . Insert instead:	29
(a) RailCorp, or	30

---

<b>[38] Part 7, Division 1</b>	1
Omit the Division.	2
<b>[39] Part 8, Division 1</b>	3
Omit the Division.	4
<b>[40] Section 83</b>	5
Omit the section.	6
<b>[41] Part 8, Division 5, heading</b>	7
Omit “State Rail Authority”. Insert instead “RailCorp”.	8
<b>[42] Section 84 Definitions</b>	9
Insert in alphabetical order:	10
<i>Authority</i> means the State Transit Authority or RailCorp.	11
<b>[43] Section 85 Orders fixing charges</b>	12
Omit “the State Rail Authority” from section 85 (1).	13
Insert instead “RailCorp”.	14
<b>[44] Section 85 (1)</b>	15
Omit “the Authority”. Insert instead “RailCorp”.	16
<b>[45] Section 85 (3)</b>	17
Omit “The State Rail Authority”. Insert instead “RailCorp”.	18
<b>[46] Section 86 Ministerial supervision of orders fixing charges</b>	19
Omit “The State Rail Authority and the State Transit Authority shall” from section 86 (1).	20 21
Insert instead “An Authority must”.	22

---

<b>[47] Section 86 (2)</b>	1
Omit the subsection. Insert instead:	2
(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.	3 4 5 6
<b>[48] Sections 86 (3) and 88 (5)</b>	7
Omit “section 13 or 29” wherever occurring.	8
Insert instead “section 29 of this Act or section 20P of the <i>State Owned Corporations Act 1989</i> ”.	9 10
<b>[49] Section 88 Free or subsidised railway, bus or ferry travel</b>	11
Omit “the State Rail Authority or the State Transit Authority” from section 88 (1).	12 13
Insert instead “an Authority”.	14
<b>[50] Part 9, Divisions 1–1C</b>	15
Omit Division 1 of Part 9. Insert instead:	16
<b>Division 1 Definitions</b>	17
<b>89 Definitions</b>	18
In this Part:	19
<i>rail authority</i> means RailCorp, Rail Infrastructure Corporation, Transport Infrastructure Development Corporation or any other person or body prescribed by the regulations.	20 21 22 23
<i>railway system</i> has the same meaning as it has in Part 2A.	24
<i>State rail operator</i> means RailCorp or any other person or body prescribed by the regulations.	25 26

---

<b>Division 1A</b>	<b>Miscellaneous provisions relating to rail authorities</b>	1
		2
<b>90</b>	<b>State rail operators not common carriers</b>	3
(1)	A State rail operator is not a common carrier.	4
(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.	5 6 7 8
<b>91</b>	<b>Regulations relating to railway and other transport services</b>	9
(1)	The regulations may make provision for or with respect to the railway and other transport services operated by a State rail operator.	10 11 12
(2)	In particular, the regulations may make provision for or with respect to the following matters:	13 14
(a)	the terms and conditions on which:	15
(i)	passengers are carried, and	16
(ii)	passengers' luggage and freight are collected, received, kept, carried or delivered,	17 18
(b)	the use of and access to facilities or property owned by or under the control of a State rail operator,	19 20
(c)	the protection and preservation of facilities or property owned by or under the control of a State rail operator,	21 22
(d)	security, safety and order on railways and trains,	23
(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,	24 25 26
(f)	the standing or parking of vehicles on land vested in a State rail operator.	27 28
<b>92</b>	<b>Limitation of compensation in respect of damage to property by fire</b>	29 30
	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:	31 32 33 34 35

- 
- (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 1  
2  
3
  - (b) any person for whose act or omission the rail authority is liable, 4  
5
- the maximum sum recoverable is \$50,000 or such other amount as may be prescribed by the regulations. 6  
7

**93 Search of vehicles and luggage on certain railway premises 8**

- (1) An authorised officer may: 9
  - (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 10  
11  
12  
13
  - (b) search any such vehicle or any luggage or other article on that vehicle or in the possession of any such person, and 14  
15  
16
  - (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 17  
18  
19  
20
  - (d) seize any such luggage or article that the authorised officer has reasonable grounds for suspecting has been stolen. 21  
22  
23
- (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. 24  
25  
26
- (3) Any person who: 27
  - (a) obstructs or hinders an authorised officer when exercising any power under this section, or 28  
29
  - (b) does not comply with any reasonable requirement made for the purposes of this section by an authorised officer, 30  
31

is guilty of an offence. 32

Maximum penalty: 20 penalty units. 33

- 
- (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. 1  
2  
3  
4
- (5) No personal liability is incurred by an authorised officer for any act done or omitted in good faith under this section. 5  
6
- (6) In this section: 7
- 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. 8  
9  
10  
11
- authority* means the written instrument by which an authorised officer is appointed. 12  
13
- 94 Transfers of assets, rights and liabilities** 14
- (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. 15  
16  
17  
18  
19  
20  
21
- (2) The Minister may, by further order under this section, further direct the transfer any assets, rights or liabilities previously transferred under this section. 22  
23  
24
- (3) An order under this section may be subject to specified terms and conditions. 25  
26
- (4) Schedule 4 applies to the transfer of assets, rights and liabilities under this section. 27  
28
- (5) Words and expressions used in this section have the same meanings as they have in Schedule 4. 29  
30
- (6) In this section: 31
- rail authority* includes the State Rail Authority, the Transport Administration Corporation, the Director-General and any other person or body prescribed by the regulations. 32  
33  
34

---

<b>95</b>	<b>Transfer of staff</b>	1
	Schedule 6 has effect.	2
<b>96</b>	<b>Person may be a member of one or more boards or CEO of more than one authority</b>	3
	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.	4 5 6 7
<b>Division 1B</b>	<b>Miscellaneous provisions relating to rail infrastructure, rail access and network control</b>	8 9 10
<b>97</b>	<b>Additional facilities may be treated as rail infrastructure facilities</b>	11 12
	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.	13 14 15 16
<b>98</b>	<b>Powers of rail authorities relating to rail infrastructure facilities and land</b>	17 18
	Schedules 6A (Powers relating to rail infrastructure facilities and land) and 6B (Special provisions for underground rail facilities) have effect.	19 20 21
<b>99</b>	<b>Maintenance of railway lines</b>	22
	A rail infrastructure owner is not required to maintain a railway line on which no services are operated.	23 24
<b>99A</b>	<b>Closure and disposal of railway lines</b>	25
(1)	A rail infrastructure owner must not, unless authorised by an Act of Parliament, close a railway line.	26 27
(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.	28 29 30



- 
- (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. 1  
2  
3  
4
- 99B Closure of level-crossings, bridges and other structures** 5
- (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. 6  
7  
8  
9  
10
- (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. 11  
12  
13
- (3) A rail infrastructure owner must, before closing any such level-crossing, bridge or other structure: 14  
15
- (a) cause a notice of the proposed closure to be published in the Gazette, and 16  
17
- (b) notify the Roads and Traffic Authority and the council of the area concerned of the proposed closure. 18  
19
- (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. 20  
21  
22
- 99C NSW rail access undertakings** 23
- (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. 24  
25  
26  
27  
28  
29
- (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. 30  
31  
32
- (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. 33  
34  
35
- (4) In exercising its functions, a rail authority must act in accordance with the current NSW rail access undertaking. 36  
37

(5) Schedule 6AA (Access undertakings) has effect. 1

**99D Network control** 2

(1) For the purposes of this section, *network control* with respect 3  
to any part of the NSW rail network is: 4

(a) service planning (namely, the timetabling of rolling 5  
stock, including standard working and daily timetables 6  
and planning the occupation of railway track for 7  
maintenance and other service requirements), and 8

(b) real time control (namely, the actual control of the 9  
movement of rolling stock, including train signalling 10  
and incident management). 11

Network control includes any aspect of the control of the 12  
network that is declared by the regulations to be network 13  
control, but does not include anything declared by the 14  
regulations not to be network control. 15

(2) The Minister may, by order published in the Gazette, 16  
designate a rail authority or any person prescribed by the 17  
regulations as the body responsible for network control (or 18  
any specified aspect of network control) with respect to any 19  
specified part of the NSW rail network. 20

(3) To the extent that responsibility for network control, or any 21  
aspect of network control, with respect to any part of the NSW 22  
rail network is not covered by an order under this section the 23  
rail infrastructure owner in whom that part of the NSW rail 24  
network is vested in or who owns that part is responsible for 25  
network control or that aspect. 26

(4) The exercise of the functions of a rail authority is subject to 27  
an order under this section. 28

(5) A body responsible for network control must: 29

(a) give priority to rail passenger services, and 30

(b) subject to giving priority to those services, promote and 31  
facilitate access to the part of the NSW rail network for 32  
which it is responsible in accordance with the current 33  
NSW rail access undertaking. 34

(6) The Minister may, by order published in the Gazette, amend 35  
or revoke an order made under this section. 36

---

<b>Division 1C</b>	<b>Delegation by Minister</b>	1
<b>99E</b>	<b>Delegation by Minister</b>	2
	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.	3 4 5 6
<b>[51]</b>	<b>Section 107 Definition of “transport authority”</b>	7
	Omit section 107 (a).	8
<b>[52]</b>	<b>Section 107 (2)</b>	9
	Insert at the end of section 107:	10
	(2) In sections 111, 113 and 115, a reference to a transport authority includes a reference to RailCorp and Transport Infrastructure Development Corporation.	11 12 13
<b>[53]</b>	<b>Section 112 Personal liability of certain persons</b>	14
	Omit “the State Rail Authority,” from the definition of <i>member of a transport authority</i> in section 112 (2).	15 16
<b>[54]</b>	<b>Section 112 (2)</b>	17
	Omit “the State Rail Authority Board and” from the definition of <i>transport authority</i> .	18 19
<b>[55]</b>	<b>Section 116 Liability of vehicle owner for parking offences on Authority’s land</b>	20 21
	Omit “the State Rail Authority” from the definition of <i>parking offence</i> in section 116 (7).	22 23
	Insert instead “RailCorp, Transport Infrastructure Development Corporation”.	24 25
<b>[56]</b>	<b>Section 122 Definitions</b>	26
	Omit “the SRA” from the definition of <i>rail authority</i> .	27
	Insert instead “RailCorp, TIDC”.	28

<b>[57] Part 9, Division 7</b>	1
Insert after Division 6:	2
<b>Division 7 State Rail Authority</b>	3
<b>128 State Rail Authority</b>	4
Schedule 8 has effect.	5
<b>[58] Schedule 1, heading</b>	6
Omit “ <b>State Rail Authority Board and</b> ”.	7
<b>[59] Schedule 1</b>	8
Omit “a Board” wherever occurring. Insert instead “the Board”.	9
<b>[60] Schedule 1</b>	10
Omit “appropriate Chief Executive” wherever occurring.	11
Insert instead “Chief Executive”.	12
<b>[61] Schedule 1, clause 1 Definitions</b>	13
Omit the definition of <i>appropriate Chief Executive</i> .	14
<b>[62] Schedule 1, clause 1</b>	15
Omit “State Rail Authority Board or” from the definition of <i>Board</i> .	16
<b>[63] Schedule 1, clause 1</b>	17
Insert in alphabetical order:	18
<i>Chief Executive</i> means the Chief Executive of the State Transit Authority.	19 20
<b>[64] Schedule 1, clause 4 Deputies</b>	21
Omit “of an Authority” from clause 4 (1).	22
<b>[65] Schedule 1, clause 15 Transaction of business outside meetings by telephone or other means</b>	23 24
Omit “A Board” wherever occurring in clause 15 (1) and (2).	25
Insert instead “The Board”.	26

---

<b>[66] Schedule 2 Provisions relating to Chief Executives</b>	1
Omit “the Chief Executive of the State Rail Authority,” from the definition of <i>Chief Executive</i> in clause 1.	2 3
<b>[67] Schedule 4</b>	4
Omit “Sections 19J, 19K and 19AH”. Insert instead “Section 94”.	5
<b>[68] Schedule 4, clause 1 Definitions</b>	6
Omit the definitions of <i>Rail Access Corporation, Rail Corporation, Rail Services Australia</i> and <i>RSA</i> .	7 8
<b>[69] Schedule 4, clause 1</b>	9
Insert in alphabetical order:	10
<i>rail authority</i> has the same meaning as it has in section 94.	11
<b>[70] Schedule 4, clause 2 Application and interpretation</b>	12
Omit clause 2 (1) (a)–(c). Insert instead:	13
(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,	14 15 16 17 18
<b>[71] Schedule 4, clause 8 Transfer of interest in land</b>	19
Omit clause 8 (1). Insert instead:	20
(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.	21 22 23 24
<b>[72] Schedule 6 Transfer of certain staff</b>	25
Omit “Sections 19M and 58A”. Insert instead “Section 95”.	26
<b>[73] Schedule 6, clause 1 [as amended by the Transport Legislation Amendment (Safety and Reliability) Act 2003]</b>	27 28
Omit “the State Rail Authority” from the definition of <i>former RIC staff</i> .	29
Insert instead “another transport authority”.	30

---

<b>[74] Schedule 6, clause 1</b>	1
Insert in alphabetical order:	2
<i>former Railcorp staff</i> 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.	3 4 5 6
<i>former TIDC staff</i> 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.	7 8 9
<b>[75] Schedule 6, clause 1 [as amended by the Transport Legislation Amendment (Safety and Reliability) Act 2003]</b>	10 11
Omit “the Rail Infrastructure Corporation” from paragraph (b) of the definition of <i>former SRA staff</i> .	12 13
Insert instead “another transport authority”.	14
<b>[76] Schedule 6, clause 1 [as amended by the Transport Legislation Amendment (Safety and Reliability) Act 2003]</b>	15 16
Omit “or Rail Infrastructure Corporation” from the definition of <i>transport authority</i> .	17 18
Insert instead “, Rail Infrastructure Corporation, RailCorp or Transport Infrastructure Development Corporation”.	19 20
<b>[77] Schedule 6, clause 1A Transport Appeal Boards Act 1980 not to apply to RIC or TIDC</b>	21 22
Omit “a Rail Corporation”.	23
Insert instead “Rail Infrastructure Corporation or Transport Infrastructure Development Corporation”.	24 25
<b>[78] Schedule 6, clause 4 Preservation of SRA enterprise agreements</b>	26
Insert after clause 4 (2):	27
(3) This clause does not apply to or in respect of staff transferred under Part 3.	28 29

---

<b>[79] Schedule 6, clauses 11A–11D</b>	1
Insert after clause 11:	2
<b>11A Transfer of SRA staff and RIC staff to RailCorp</b>	3
(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.	4 5 6
(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.	7 8 9
(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.	10 11 12 13
<b>11B Transfer of SRA staff and RIC staff to Transport Infrastructure Development Corporation</b>	14 15
(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.	16 17 18
(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.	19 20 21
(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.	22 23 24 25 26
<b>11C Transfer of RailCorp and TIDC staff to SRA</b>	27
(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.	28 29 30
(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.	31 32 33 34

(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.	1 2 3 4
<b>11D</b>	<b>Transfer of RailCorp and TIDC staff to RIC</b>	5
(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.	6 7 8
(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.	9 10 11
(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.	12 13 14 15
<b>[80]</b>	<b>Schedule 6, clause 13 [as amended by the Transport Legislation Amendment (Safety and Reliability) Act 2003]</b>	16 17
	Insert “former RailCorp staff, former TIDC staff,” after “former RIC staff,” wherever occurring.	18 19
<b>[81]</b>	<b>Schedule 6, clause 14 [as amended by the Transport Legislation Amendment (Safety and Reliability) Act 2003]</b>	20 21
	Insert “, RailCorp or TIDC” after “RIC” wherever occurring.	22
<b>[82]</b>	<b>Schedule 6, clause 15 [as amended by the Transport Legislation Amendment (Safety and Reliability) Act 2003]</b>	23 24
	Insert “RailCorp, TIDC,” after “SRA,” in clause 15 (2).	25
<b>[83]</b>	<b>Schedule 6, clause 17 Applications for transfer by former SRA, RIC, RailCorp or TIDC staff</b>	26 27
	Omit “or the RIC” from clause 17 (3).	28
	Insert instead “, the RIC, RailCorp or TIDC”.	29



---

<b>[84] Schedule 6, clause 18</b>	1
Insert after clause 17:	2
<b>18 Personal information about employees</b>	3
The SRA is not required to comply with the <i>Privacy and Personal Information Protection Act 1998</i> 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.	4 5 6 7 8
<b>[85] Schedule 6A, heading</b>	9
Omit “of RIC”.	10
<b>[86] Schedule 6A, clause 1 Definitions</b>	11
Omit the clause. Insert instead:	12
<b>1 Definitions</b>	13
In this Schedule:	14
<i>operator</i> means a rail operator and includes the State Rail Authority.	15 16
<i>operator building</i> 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.	17 18 19
<i>operator land</i> 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.	20 21 22
<i>owner</i> means a rail infrastructure owner.	23
<b>[87] Schedule 6A, clauses 2–2E</b>	24
Omit clause 2. Insert instead:	25
<b>2 Ownership of country rail infrastructure facilities</b>	26
(1) This clause applies to rail infrastructure facilities situated in the country rail area.	27 28
(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	29 30 31

---

infrastructure facilities vested in or transferred to RIC (whether or not the place on which the facilities are situated is owned by RIC).	1 2 3
(3) This clause is subject to any interest of Transport Infrastructure Development Corporation in rail infrastructure facilities.	4 5 6
<b>2A Ownership of rail infrastructure facilities in metropolitan rail area</b>	7 8
(1) This clause applies to rail infrastructure facilities situated in the metropolitan rail area.	9 10
(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).	11 12 13 14 15 16
(3) This clause is subject to any interest of Transport Infrastructure Development Corporation in rail infrastructure facilities.	17 18 19
<b>2B Provisions relating to vesting of rail infrastructure facilities in RailCorp</b>	20 21
(1) On the commencement of this clause (the <i>transfer day</i> ), 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 <i>metropolitan rail infrastructure facilities</i> ) are vested in RailCorp.	22 23 24 25 26 27
(2) On the transfer day, the following provisions have effect:	28
(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,	29 30 31 32 33 34
(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,	35 36 37 38

matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of RailCorp,	1
	2
(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
	4
	5
	6
	7
	8
(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.	9
	10
	11
(4) The operation of clauses 2, 2A and this clause is not to be regarded:	12
	13
(a) as a breach of contract or confidence or otherwise as a civil wrong, or	14
	15
(b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of the metropolitan rail infrastructure facilities, or	16
	17
	18
(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.	19
	20
	21
	22
	23
(5) Words and expressions used in this clause have the same meanings as they have in Schedule 4.	24
	25
<b>2C Changes in ownership of rail infrastructure facilities arising from changes to areas</b>	26
	27
(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:	28
	29
	30
	31
	32
(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 <i>new owner</i> ) 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 <i>transfer day</i> ), and	33
	34
	35
	36
	37
	38
	39

- (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 1  
2  
3  
4  
5  
6  
7
- (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 8  
9  
10  
11  
12  
13  
14
- (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. 15  
16  
17  
18  
19
- (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. 20  
21  
22
- (3) The operation of section 3A (2) and this clause is not to be regarded: 23  
24
  - (a) as a breach of contract or confidence or otherwise as a civil wrong, or 25  
26
  - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of the rail infrastructure facilities, or 27  
28  
29
  - (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. 30  
31  
32

## 2D General powers 33

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. 34  
35  
36  
37

**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)** 1  
Omit “SRA land or SRA building” wherever occurring. 2  
Insert instead “operator land or operator building”. 3
- [96] Schedule 6A, clause 3 (4)** 4  
Insert “, rubbish and unused excavated material” after “construction 5  
equipment”. 6
- [97] Schedule 6A, clause 3 (5)** 7  
Omit “SRA land or a SRA building”. 8  
Insert instead “operator land or an operator building”. 9
- [98] Schedule 6A, clause 3 (6)** 10  
Insert after clause 3 (5): 11  
(6) In this clause: 12  
*land adjacent to railway land* means land that is adjacent to 13  
or adjoins land owned or occupied by a rail operator, or land 14  
in or on which rail infrastructure facilities are situated in 15  
which an owner has an interest by way of easements or 16  
stratum parcel. 17
- [99] Schedule 6A, clause 4 Certificates of authority** 18  
Omit “RIC” where firstly occurring in clause 4 (1). 19  
Insert instead “An owner”. 20
- [100] Schedule 6A, clause 4 (1)** 21  
Omit “RIC” where secondly occurring. 22  
Insert instead “the owner”. 23
- [101] Schedule 6A, clause 5 Party to access agreement with owner 24  
authorised to enter operator land** 25  
Omit “SRA land” wherever occurring. Insert instead “operator land”. 26
- [102] Schedule 6A, clause 5 (3)** 27  
Omit “RIC” where firstly occurring. Insert instead “the owner”. 28

---

<b>[103] Schedule 6A, clause 5 (3)</b>	1
Omit “RIC access undertaking”.	2
Insert instead “NSW rail access undertaking”.	3
<b>[104] Schedule 6A, clause 6 Exercise of powers of entry</b>	4
Omit “SRA” where firstly, secondly, thirdly, fifthly and sixthly occurring.	5
Insert instead “operator”.	6
<b>[105] Schedule 6A, clause 6 (1)</b>	7
Omit “RIC” where firstly occurring. Insert instead “an owner”.	8
<b>[106] Schedule 6A, clause 6 (1) (b)</b>	9
Omit “RIC” wherever occurring. Insert instead “the owner”.	10
<b>[107] Schedule 6A, clause 6 (1) (b)</b>	11
Omit “SRA”. Insert instead “the operator”.	12
<b>[108] Schedule 6A, clause 6 (3)</b>	13
Omit “RIC”. Insert instead “an owner”.	14
<b>[109] Schedule 6A, clause 6 (4)</b>	15
Insert after clause 6 (3):	16
(4) This clause does not apply if the owner and the operator are the same person.	17 18
<b>[110] Schedule 6A, clause 7 Compensation</b>	19
Omit “RIC” from clause 7 (1) and where firstly occurring in clause 7 (2) and (7).	20 21
Insert instead “An owner”.	22
<b>[111] Schedule 6A, clause 7 (2), (3), (5), (6), (7), (8)</b>	23
Omit “the SRA” where firstly occurring.	24
Insert instead “an operator”.	25

- [112] Schedule 6A, clause 7 (2)** 1  
Omit “SRA” where secondly, thirdly and fifthly occurring. 2  
Insert instead “operator”. 3
- [113] Schedule 6A, clause 7 (2)** 4  
Omit “RIC” where secondly and thirdly occurring. 5  
Insert instead “the owner”. 6
- [114] Schedule 6A, clause 7 (2)** 7  
Omit “a SRA building”. Insert instead “an operator building”. 8
- [115] Schedule 6A, clause 7 (3)** 9  
Omit “RIC” where firstly occurring. Insert instead “an owner”. 10
- [116] Schedule 6A, clause 7 (3)** 11  
Omit “RIC” where secondly and thirdly occurring. 12  
Insert instead “the owner”. 13
- [117] Schedule 6A, clause 7 (5), (6) and (8)** 14  
Omit “RIC” wherever occurring. 15  
Insert instead “an owner”. 16
- [118] Schedule 6A, clause 7 (5)** 17  
Omit “a SRA building”. Insert instead “an operator building”. 18
- [119] Schedule 6A, clause 7 (5)** 19  
Omit “SRA” where thirdly occurring. 20  
Insert instead “operator”. 21
- [120] Schedule 6A, clause 7 (7)** 22  
Omit “the SRA” where secondly and thirdly occurring. 23  
Insert instead “an operator”. 24



---

<b>[121] Schedule 6A, clause 7 (7)</b>	1
Omit “RIC” where secondly occurring.	2
Insert instead “an owner”.	3
<b>[122] Schedule 6A, clause 7 (8)</b>	4
Omit “SRA land or a SRA building”.	5
Insert instead “operator land or an operator building”.	6
<b>[123] Schedule 6A, clause 7 (9)</b>	7
Insert after clause 7 (8):	8
(9) This clause does not apply if the owner and the operator are the same person.	9 10
<b>[124] Schedule 6A, clause 8 Protection of rail infrastructure facilities</b>	11
Omit “SRA land (or any SRA land on which a SRA building” from clause 8 (1).	12 13
Insert instead “operator land (or any operator land on which an operator building”.	14 15
<b>[125] Schedule 6A, clause 8 (1)</b>	16
Omit “RIC” where firstly occurring. Insert instead “an owner”.	17
<b>[126] Schedule 6A, clause 8 (1)</b>	18
Omit “RIC” wherever occurring (except where firstly occurring).	19
Insert instead “the owner”.	20
<b>[127] Schedule 6A, clause 8 (1)</b>	21
Omit “the SRA” wherever occurring. Insert instead “the operator”.	22
<b>[128] Schedule 6A, clause 8 (1) (d) and (e)</b>	23
Omit “RIC’s” wherever occurring. Insert instead “the owner’s”.	24
<b>[129] Schedule 6A, clause 8 (1) (d)</b>	25
Omit “SRA land”. Insert instead “operator land”.	26

<b>[130] Schedule 6A, clause 8 (1) (e)</b>	1
Omit "SRA land or SRA buildings".	2
Insert instead "operator land or operator buildings".	3
<b>[131] Schedule 6A, clause 8 (3)</b>	4
Omit "the SRA" where firstly occurring. Insert instead "an owner".	5
<b>[132] Schedule 6A, clause 8 (3)</b>	6
Omit "SRA in relation to SRA land and buildings".	7
Insert instead "operator in relation to the operator's land and buildings".	8
<b>[133] Schedule 6A, clause 8 (4)</b>	9
Omit "RIC". Insert instead "an owner".	10
<b>[134] Schedule 6A, clause 8 (4)</b>	11
Omit "SRA" wherever occurring. Insert instead "operator".	12
<b>[135] Schedule 6A, clause 8 (5)</b>	13
Omit "RIC that are situated in or on SRA land or a SRA building" wherever occurring.	14 15
Insert instead "an owner that are situated in or on operator land or an operator building".	16 17
<b>[136] Schedule 6A, clause 8 (5) (b)</b>	18
Omit "RIC's". Insert instead "the owner's".	19
<b>[137] Schedule 6A, clause 8 (5) (b) and (6)</b>	20
Omit "RIC" where secondly occurring in clause 8 (5) (b) and where occurring in clause 8 (6).	21 22
Insert instead "the owner"	23
<b>[138] Schedule 6A, clause 8 (7)</b>	24
Omit "RIC in writing, the Corporation".	25
Insert instead "the owner in writing, the owner".	26

---

<b>[139] Schedule 6A, clause 8 (8)</b>	1
Insert after clause 8 (7):	2
(8) This clause does not apply if the owner and the operator are the same person.	3 4
<b>[140] Schedule 6A, clause 9 Compensation to owners for damage</b>	5
Omit “RIC” where firstly occurring in clause 9 (1).	6
Insert instead “an owner”.	7
<b>[141] Schedule 6A, clause 9 (1)</b>	8
Omit “RIC” where secondly, thirdly and fourthly occurring.	9
Insert instead “the owner”.	10
<b>[142] Schedule 6A, clause 9 (2) and (4)</b>	11
Omit “RIC” where occurring in clause 9 (2) and where firstly occurring in clause 9 (4).	12 13
Insert instead “An owner”.	14
<b>[143] Schedule 6A, clause 9 (4)</b>	15
Omit “RIC” where secondly occurring. Insert instead “the owner”.	16
<b>[144] Schedule 6A, clause 10 Owners have certain rights under operator agreements relating to works and facilities on operator land</b>	17 18
Omit “the SRA” where firstly and secondly occurring in clause 10 (1).	19
Insert instead “an operator”.	20
<b>[145] Schedule 6A, clause 10 (1)</b>	21
Omit “this Schedule”.	22
Insert instead “Schedule 1 [145] to the <i>Transport Administration Amendment (Rail Agencies) Act 2003</i> ”.	23 24
<b>[146] Schedule 6A, clause 10 (1)</b>	25
Omit “SRA land or in an SRA building”.	26
Insert instead “operator land or in an operator building”.	27

- [147] **Schedule 6A, clause 10 (1)** 1  
Omit “the SRA” where fifthly and sixthly occurring. 2  
Insert instead “the owner”. 3
- [148] **Schedule 6A, clause 10 (2)** 4  
Omit “RIC” where firstly occurring. Insert instead “An owner”. 5
- [149] **Schedule 6A, clause 10 (2)** 6  
Omit “the SRA” where firstly occurring. Insert instead “an operator”. 7
- [150] **Schedule 6A, clause 10 (2)** 8  
Omit “RIC” where secondly and thirdly occurring. 9  
Insert instead “the owner”. 10
- [151] **Schedule 6A, clause 10 (2)** 11  
Omit “the SRA” where secondly occurring. Insert instead “the operator”. 12
- [152] **Schedule 6A, clause 10 (5)** 13  
Omit the subclause. Insert instead: 14  
(5) In this clause, *operator land* or *operator building* includes 15  
any land or building of which the operator is the lessor. 16
- [153] **Schedule 6A, clause 11 Connections to NSW rail network** 17  
Omit “RIC” from clause 11 (1) (a). Insert instead “the owner concerned”. 18
- [154] **Schedule 6A, clause 11 (1)** 19  
Omit “SRA” wherever occurring. Insert instead “operator”. 20
- [155] **Schedule 6A, clause 11 (2) and (4)** 21  
Omit “RIC” where firstly occurring. Insert instead “An owner”. 22
- [156] **Schedule 6A, clause 11 (2)** 23  
Omit “RIC” where secondly, thirdly and fourthly occurring. 24  
Insert instead “the owner”. 25

---

<b>[157] Schedule 6A, clause 11 (3)</b>	1
Omit “The SRA”. Insert instead “An operator”.	2
<b>[158] Schedule 6A, clause 11 (3)</b>	3
Omit “SRA” where secondly, thirdly and fourthly occurring.	4
Insert instead “operator”.	5
<b>[159] Schedule 6A, clause 11 (4)</b>	6
Omit “the SRA”. Insert instead “an operator”.	7
<b>[160] Schedule 6A, clause 12 Settlement of disputes</b>	8
Omit “RIC and the SRA” where firstly occurring in clause 12 (1).	9
Insert instead “an owner and an operator”.	10
<b>[161] Schedule 6A, clause 12 (1)</b>	11
Omit “RIC and the SRA” where secondly occurring.	12
Insert instead “the owner and the operator”.	13
<b>[162] Schedule 6A, clause 12 (2)</b>	14
Omit “RIC and the SRA”.	15
Insert instead “the owner and operator”.	16
<b>[163] Schedule 6A, clause 12 (4)</b>	17
Omit “SRA” wherever occurring. Insert instead “operator”.	18
<b>[164] Schedule 6A, clause 12 (4) (b)</b>	19
Omit “RIC” wherever occurring. Insert instead “the owner”.	20
<b>[165] Schedule 6A, clause 12 (6)</b>	21
Omit “RIC and the SRA” where firstly occurring.	22
Insert instead “An owner and operator”.	23

- [166] Schedule 6A, clause 12 (6)** 1  
Omit “RIC and the SRA” where secondly occurring. 2  
Insert instead “the owner and operator”. 3
- [167] Schedule 6A, clause 14 Council approval not required for work on new or existing rail infrastructure facilities** 4  
Omit “RIC” wherever occurring in clause 14 (1). 5  
Insert instead “an owner”. 6
- [168] Schedule 6A, clause 14 (3)** 7  
Omit “RIC” wherever occurring. Insert instead “the owner”. 8
- [169] Schedule 6A, clause 15 Regulations concerning land and rail infrastructure facilities** 9  
Omit “the SRA and RIC” from clause 15 (a). 10  
Insert instead “an operator and an owner”. 11
- [170] Schedule 6A, clause 15 (a)** 12  
Omit “SRA” where secondly, thirdly and fourthly occurring. 13  
Insert instead “operator”. 14
- [171] Schedule 6A, clause 15 (a)** 15  
Omit “RIC” where secondly occurring. Insert instead “the owner”. 16
- [172] Schedule 6A, clause 15 (b)** 17  
Omit “RIC”. Insert instead “an owner”. 18
- [173] Schedule 6A, clause 16** 19  
Insert after clause 15: 20
- 16 Powers of entry under other Acts onto owner or operator land** 21  
(1) This clause applies to an officer of a public or local authority 22  
who is entitled, under any other Act or law, to enter operator 23  
or owner land or an operator or owner building. 24  
25  
26

---

(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.	1 2 3 4 5
(3)	The Director-General may direct that entry be granted, despite any decision of an owner or operator under this clause.	6 7
(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.	8 9 10 11
<b>[174]</b>	<b>Schedule 6AA, heading</b>	12
	Omit “ <b>RIC access</b> ”.	13
	Insert instead “ <b>Access</b> ”.	14
<b>[175]</b>	<b>Schedule 6AA</b>	15
	Omit “19FC”. Insert instead “99C (5)”.	16
<b>[176]</b>	<b>Schedule 6AA, clause 1 Preparation of access undertaking</b>	17
	Omit “Rail Infrastructure Corporation” from subclause (1).	18
	Insert instead “A rail infrastructure owner”.	19
<b>[177]</b>	<b>Schedule 6AA, clauses 1, 3 (1) and 7</b>	20
	Omit “the NSW rail network” wherever occurring.	21
	Insert instead “the part of the NSW rail network that is vested in or owned by the rail infrastructure owner”.	22 23
<b>[178]</b>	<b>Schedule 6AA, clauses 1 (2) and 7</b>	24
	Omit “Rail Infrastructure Corporation” wherever occurring.	25
	Insert instead “a rail infrastructure owner”.	26
<b>[179]</b>	<b>Schedule 6AA, clauses 3 (1) (b) and 6 (2)</b>	27
	Omit “Rail Infrastructure Corporation” wherever occurring.	28
	Insert instead “the rail infrastructure owner”.	29

---

<b>[180]</b>	<b>Schedule 6AA, clause 5 Access undertaking to be submitted for Minister's approval</b>	1 2
	Omit "Rail Infrastructure Corporation's" from clause 5 (1) (b).	3
	Insert instead "the rail infrastructure owner's".	4
<b>[181]</b>	<b>Schedule 6B Special provisions for underground rail facilities</b>	5
	Omit "the SRA" from the definition of <i>rail authority</i> in clause 1 (1).	6
	Insert instead "RailCorp, TIDC".	7
<b>[182]</b>	<b>Schedule 6B, clause 1 Interpretation</b>	8
	Omit the definition of <i>rail infrastructure facilities</i> from clause 1 (1).	9
<b>[183]</b>	<b>Schedule 7 Savings, transitional and other provisions</b>	10
	Insert at the end of clause 2 (1):	11
	<i>Transport Administration Amendment (Rail Agencies) Act 2003</i>	12 13
<b>[184]</b>	<b>Schedule 7</b>	14
	Insert in appropriate order with appropriate Part and clause numbers:	15
<b>Part</b>	<b>Provisions consequent on enactment of Transport Administration Amendment (Rail Agencies) Act 2003</b>	16 17 18
	<b>Definition</b>	19
	In this Part:	20
	<i>the amending Act</i> means the <i>Transport Administration Amendment (Rail Agencies) Act 2003</i> .	21 22
	<b>RailCorp may act as agent of other rail authorities</b>	23
	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.	24 25 26 27 28



---

**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.

<b>Saving of existing free or concessional travel arrangements</b>	1
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.	2 3 4 5 6
<b>Saving of tickets</b>	7
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.	8 9 10 11
<b>Saving of regulations</b>	12
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.	13 14 15
<b>Penalty notices</b>	16
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.	17 18 19 20
<b>Previous transfers of assets, rights and liabilities</b>	21
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.	22 23 24 25
<b>Previous transfers of staff of SRA or RIC</b>	26
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.	27 28 29 30 31
<b>Saving of Rail Safety Act 2002</b>	32
Nothing in the amending Act affects the operation of the <i>Rail Safety Act 2002</i> .	33 34

---

**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.  | 1<br>2<br>3                            |
| (3) | A development application relating to a transferred development made by the State Rail Authority or Rail Infrastructure Corporation under the <i>Environmental Planning and Assessment Act 1979</i> 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<br>5<br>6<br>7<br>8<br>9<br>10       |
| (4) | For the purposes of Part 5 of the <i>Environmental Planning and Assessment Act 1979</i> , 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.                   | 11<br>12<br>13<br>14<br>15<br>16<br>17 |
| (5) | For the purposes of Part 5 of the <i>Environmental Planning and Assessment Act 1979</i> , 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. | 18<br>19<br>20<br>21<br>22<br>23<br>24 |
| (6) | Transport Infrastructure Development Corporation is, subject to the regulations, taken to be the holder of any development approval under the <i>Environmental Planning and Assessment Act 1979</i> relating to a transferred development and in force immediately before the commencement of this clause.   | 25<br>26<br>27<br>28<br>29             |
|     | <b>IPART determinations</b>  | 30                                     |
| (1) | For the purposes of the <i>Independent Pricing and Regulatory Tribunal Act 1992</i> , 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.   | 31<br>32<br>33<br>34<br>35             |
| (2) | Nothing in this clause prevents any such determination from being revoked, or a further determination being issued for RailCorp.   | 36<br>37<br>38                         |

<b>Timetable for first statements of corporate intent</b>	1
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.	7
<b>Licences and other authorisations</b>	8
(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:	13
(a) <i>Dangerous Goods Act 1975,</i>	14
(b) <i>Environmental Planning and Assessment Act 1979,</i>	15
(c) <i>Home Building Act 1989,</i>	16
(d) <i>Occupational Health and Safety Act 2000,</i>	17
(e) <i>Protection of the Environment Operations Act 1997,</i>	18
(f) <i>Sydney Harbour Foreshore Authority Act 1998,</i>	19
(g) <i>Sydney Water Act 1994,</i>	20
(h) any other Act prescribed by the regulations.	21
(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.	27
(3) The regulations may exempt an authorisation from the operation of this clause.	29
(4) Nothing in this clause prevents an authorisation from being varied, cancelled or replaced.	31
(5) In this clause:	32
<b><i>former RIC infrastructure</i></b> 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.	36

---

*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
- (1) The State Rail Authority has the following functions: 2
- (a) to facilitate the transfer of its staff, assets, rights and liabilities to RailCorp, Rail Infrastructure Corporation and other bodies under this Act, 3  
4  
5
  - (b) to hold on behalf of the State, retain, transfer or dispose of assets, rights and liabilities, 6  
7
  - (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, 8  
9  
10
  - (d) to acquire and develop any land, 11
  - (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, 12  
13  
14
  - (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, 15  
16  
17  
18
  - (g) to appoint agents and act as agent for other persons, 19
  - (h) to do any other thing that is supplemental or incidental to the exercise of its functions, 20  
21
  - (i) any other functions conferred or imposed on it by or under this or any other Act. 22  
23
- (2) The State Rail Authority may exercise its functions within or outside New South Wales. 24  
25
- 4 Sale, lease or other disposal of land** 26
- (1) The State Rail Authority may, with the approval of the Minister, sell, lease or otherwise dispose of any of its land. 27  
28
- (2) Despite subclause (1), the approval of the Minister is not required: 29  
30
- (a) for any lease for a term not exceeding 5 years, or 31
  - (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. 32  
33  
34



- 
- (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. 1  
2  
3  
4

## **Part 2 Management of State Rail Authority** 5

### **5 Old Board to continue for limited period** 6

- (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. 7  
8  
9  
10  
11
- (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. 12  
13  
14
- (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. 15  
16  
17
- (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. 18  
19  
20  
21  
22

### **6 Chief Executive of State Rail Authority** 23

- (1) The Governor may appoint a Chief Executive of the State Rail Authority. 24  
25
- (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. 26  
27  
28
- (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: 29  
30  
31
- (a) for the remainder of the term for which the person was appointed under that Part, and 32  
33
- (b) on the same terms and conditions. 34

<b>7</b>	<b>Acting Chief Executive</b>	1
(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 3 4 5
(2)	The Minister may, at any time, remove any person from an office to which the person was appointed under this clause.	6 7
(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.	8 9 10 11
(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.	12 13 14
<b>8</b>	<b>Chief Executive to manage and control affairs of State Rail Authority</b>	15 16
(1)	The affairs of the State Rail Authority are to be managed and controlled by the Chief Executive of the Authority.	17 18
(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.	19 20 21
(3)	The Chief Executive is, in the exercise of the Chief Executive's functions, subject to the direction and control of the Minister.	22 23 24
(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.	25 26 27 28
<b>9</b>	<b>Ministerial control</b>	29
	The State Rail Authority (and its Chief Executive) are, in the exercise of their functions, subject to the direction and control of the Minister.	30 31 32

<b>10</b>	<b>Delegation of functions of SRA</b>	1
(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 3 4
(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.	5 6 7
(3)	In this section, <i>authorised person</i> means:	8
	(a) an officer of the State Rail Authority, or	9
	(b) a person of a class prescribed by the regulations or approved by the Minister.	10 11
(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.	12 13 14 15 16
<b>11</b>	<b>Staff of State Rail Authority</b>	17
(1)	The State Rail Authority may employ such staff as it requires to exercise its functions.	18 19
(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.	20 21 22
(3)	Sections 66–68 and Schedule 5 apply to the State Rail Authority and to staff of the State Rail Authority.	23 24
(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.	25 26 27
(5)	This clause does not prevent a member of staff of the State Rail Authority from being transferred under this Act.	28 29
<b>12</b>	<b>Regulations relating to staff</b>	30
(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.	31 32 33 34

- 
- (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.

---

(2)	There is to be paid from the State Rail Authority Fund:	1
(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	2 3 4 5
(b)	all other payments required by or under this or any other Act to be paid from the Fund.	6 7
<b>15</b>	<b>Payment of dividend to Treasurer</b>	8
(1)	The State Rail Authority must pay to the Treasurer, out of any surplus for a financial year, a dividend determined by the Minister.	9 10 11
(2)	The Minister must not make a determination under this clause unless:	12 13
(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	14 15 16 17
(b)	the Treasurer approves of the determination.	18
<b>16</b>	<b>Financial duties generally</b>	19
	Sections 81 and 82 apply to the State Rail Authority.	20
<b>17</b>	<b>Minister may direct payments into or from different Funds</b>	21
	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.	22 23 24 25
<b>Part 4</b>	<b>Miscellaneous</b>	26
<b>18</b>	<b>Application of miscellaneous provisions</b>	27
(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.	28 29 30 31 32 33 34

(2)	Schedule 6B applies to the State Rail Authority in the same way that it applies to a rail authority.	1 2
<b>19</b>	<b>Dissolution of SRA and subsidiaries</b>	3
(1)	The Governor may, by proclamation published in the Gazette, appoint a day on which the State Rail Authority is to be dissolved.	4 5 6
(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.	7 8 9 10
(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.	11 12 13 14
(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.	15 16 17
(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.	18 19 20
<b>20</b>	<b>Chief Executive of SRA</b>	21
	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.	22 23 24 25 26
<b>21</b>	<b>References to SRA</b>	27
(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.	28 29 30 31 32
(2)	This clause has effect subject to any transfers of assets, rights and liabilities under this Act.	33 34

---

**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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11

---

<b>Schedule 2 Amendments relating to dissolution of Rail Infrastructure Corporation</b>	1
	2
(Section 3)	3
<b>[1] Long title</b>	4
Omit “, Rail Infrastructure Corporation”.	5
<b>[2] Section 3 Definitions</b>	6
Omit the definition of <i>Rail Infrastructure Corporation</i> from section 3 (1).	7
<b>[3] Part 2B [as renumbered by the Transport Administration Amendment (Rail Agencies) Act 2003]</b>	8
	9
Omit the Part.	10
<b>[4] Section 89 [as inserted by the Transport Administration Amendment (Rail Agencies) Act 2003]</b>	11
	12
Omit “, Rail Infrastructure Corporation” from the definition of <i>rail authority</i> .	13
	14
<b>[5] Section 122 Definitions</b>	15
Omit “, RIC” from the definition of <i>rail authority</i> .	16
<b>[6] Part 9, Division 8</b>	17
Insert after Division 7:	18
<b>Division 8 Dissolution of Rail Infrastructure Corporation</b>	19
	20
<b>129 Dissolution of Rail Infrastructure Corporation</b>	21
Schedule 9 has effect.	22
<b>[7] Schedule 6 Transfer of certain staff</b>	23
Omit clauses 10, 11, 11A (2), 11B (2) and 11D.	24
<b>[8] Schedule 6, clause 14 [as amended by the Transport Administration Amendment (Rail Agencies) Act 2003]</b>	25
	26
Omit “RIC,” wherever occurring.	27



---

<b>[9] Schedule 6, clause 17</b>	1
Omit the clause.	2
<b>[10] Schedule 6A, clause 2 [as inserted by the Transport Administration Amendment (Rail Agencies) Act 2003]</b>	3
	4
Omit clause 2.	5
<b>[11] Schedule 6A, clause 2A Ownership of rail infrastructure facilities [as inserted by the Transport Administration Amendment (Rail Agencies) Act 2003]</b>	6
	7
	8
Omit clause 2A (1).	9
<b>[12] Schedule 6A, clause 13</b>	10
Omit the clause.	11
<b>[13] Schedule 6B Special provisions for underground rail facilities</b>	12
Omit “, RIC” from the definition of <i>rail authority</i> in clause 1.	13
<b>[14] Schedule 9</b>	14
Insert after Schedule 8:	15
<b>Schedule 9 Dissolution of Rail Infrastructure Corporation</b>	16
	17
	18
(Section 129)	
<b>1 Dissolution of Rail Infrastructure Corporation and subsidiaries</b>	19
(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.	20
	21
	22
	23
(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.	24
	25
	26
	27
(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.	28
	29
	30

- (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. 1  
2  
3
- (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. 4  
5  
6
- (6) This clause is subject to clause 4. 7
- 2 Chief executive officer of Rail Infrastructure Corporation 8**
- 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. 9  
10  
11  
12  
13
- 3 Provisions relating to vesting of rail infrastructure facilities in RailCorp 14**
- (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. 15  
16  
17  
18  
19  
20
- (2) On the transfer day, the following provisions have effect: 21
- (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, 22  
23  
24  
25  
26  
27
- (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, 28  
29  
30  
31  
32  
33

---

(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.	1 2 3 4 5 6
(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.	7 8 9
(4)	The operation of this clause, is not to be regarded:	10
(a)	as a breach of contract or confidence or otherwise as a civil wrong, or	11 12
(b)	as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of the country rail infrastructure facilities, or	13 14 15
(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.	16 17 18 19 20
(5)	Words and expressions used in this clause have the same meanings as they have in Schedule 4.	21 22
<b>4</b>	<b>Previous transfers of assets, rights and liabilities of Rail Infrastructure Corporation</b>	23 24
	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.	25 26 27 28 29
<b>5</b>	<b>Previous transfers of staff of Rail Infrastructure Corporation</b>	30
	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.	31 32 33 34

- 6 Rail access agreements** 1
- (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  
3  
4  
5
- (2) Nothing in this clause prevents the variation, termination or replacement of a rail access agreement continued by this clause. 6  
7  
8
- (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. 9  
10  
11  
12  
13
- 7 Saving of Rail Safety Act 2002** 14
- Nothing in this Schedule affects the operation of the *Rail Safety Act 2002*. 15  
16
- 8 Licences and other authorisations** 17
- (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: 18  
19  
20  
21  
22
- (a) *Dangerous Goods Act 1975*, 23
- (b) *Environmental Planning and Assessment Act 1979*, 24
- (c) *Home Building Act 1989*, 25
- (d) *Occupational Health and Safety Act 2000*, 26
- (e) *Protection of the Environment Operations Act 1997*, 27
- (f) *Sydney Harbour Foreshore Authority Act 1998*, 28
- (g) *Sydney Water Act 1994*, 29
- (h) any other Act prescribed by the regulations. 30
- (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. 31  
32  
33  
34  
35

- 
- (3) The regulations may exempt an authorisation from the operation of this clause. 1  
2
- (4) Nothing in this clause prevents an authorisation from being varied, cancelled or replaced. 3  
4
- (5) In this clause: 5
- former RIC infrastructure* means rail infrastructure facilities 6  
vested in or owned by RailCorp that, immediately before the 7  
commencement of this clause, were vested in or owned by 8  
RIC. 9

---

<b>Schedule 3 Amendment of other Acts and instruments</b>	1
(Section 4)	2
<b>3.1 Conveyancing (General) Regulation 2003</b>	3
<b>[1] Clause 51 Easements in gross</b>	4
Insert after clause 51 (1) (m):	5
(n) Rail Corporation New South Wales,	6
(o) Transport Infrastructure Development Corporation.	7
<b>[2] Clause 52 Imposition of restrictions or public positive covenants on certain land vested in prescribed authorities</b>	8
Insert after clause 52 (g):	10
(h) Rail Corporation New South Wales,	11
(i) Transport Infrastructure Development Corporation.	12
<b>[3] Clause 53 Regulation of use of land not held by a prescribed authority</b>	13
Insert after clause 53 (f):	15
(g) Rail Corporation New South Wales,	16
(h) Transport Infrastructure Development Corporation.	17
<b>3.2 Conveyancing (Sale of Land) Regulation 2000</b>	18
<b>Schedule 3 Prescribed warranties</b>	19
Omit “the State Rail Authority or Rail Access Corporation” from clause 1 of Part 3.	20
Insert instead “Rail Corporation New South Wales, Transport Infrastructure Development Corporation or Rail Infrastructure Corporation”.	22
	23
	24

---

<b>3.3 Electricity Supply Act 1995 No 94</b>	1
<b>[1] Section 106 Regulations</b>	2
Omit “a Rail Corporation within the meaning of the <i>Transport Administration Act 1988</i> or the State Rail Authority” from section 106 (2A).	3 4 5
Insert instead “Rail Corporation New South Wales, Transport Infrastructure Development Corporation or Rail Infrastructure Corporation”.	6 7 8
<b>[2] Dictionary</b>	9
Omit “Rail Corporation within the meaning of the <i>Transport Administration Act 1988</i> ” from the definition of <i>rail network electricity system</i> .	10 11 12
Insert instead “Rail Corporation New South Wales, Rail Infrastructure Corporation”.	13 14
<b>3.4 First State Superannuation Act 1992 No 100</b>	15
<b>Schedule 1 Employers</b>	16
Insert at the end of Schedule 1:	17
Rail Corporation New South Wales	18
Transport Infrastructure Development Corporation	19
<b>3.5 Government Telecommunications Act 1991 No 77</b>	20
<b>Section 32 Establishment of the Board</b>	21
Omit “the State Rail Authority” from section 32 (3) (f).	22
Insert instead “Rail Corporation New South Wales”.	23
<b>3.6 Impounding Act 1993 No 31</b>	24
<b>[1] Dictionary, definition of “area of operations”</b>	25
Omit “State Rail Authority, land owned by or under the control of the Authority”.	26 27
Insert instead “Rail Corporation New South Wales, land owned by or under the control of the Corporation”.	28 29

---

---

<b>[2] Dictionary, definition of “impounding authority”</b>	1
Omit “State Rail Authority”.	2
Insert instead “Rail Corporation New South Wales”.	3
<b>3.7 Independent Pricing and Regulatory Tribunal Act 1992 No 39</b>	4
<b>Schedule 1 Government agencies for which Tribunal has standing reference</b>	5 6
Omit “State Rail Authority”.	7
Insert instead “Rail Corporation New South Wales”.	8
<b>3.8 Liquor Act 1982 No 147</b>	9
<b>[1] Section 6 Application of Act</b>	10
Omit “State Rail Authority as are determined by that Authority” from section 6 (1) (b).	11 12
Insert instead “Rail Corporation New South Wales as are determined by the Corporation”.	13 14
<b>[2] Section 19 Governor’s licences</b>	15
Omit “the State Rail Authority” from section 19 (5) (a).	16
Insert instead “Rail Corporation New South Wales”.	17
<b>3.9 Local Government Act 1993 No 30</b>	18
<b>[1] Section 555 What land is exempt from all rates?</b>	19
Insert “, Rail Corporation New South Wales or Transport Infrastructure Development Corporation,” after “Rail Infrastructure Corporation” in section 555 (1) (g1).	20 21 22
<b>[2] Section 600 Rebates in respect of certain land vested in public bodies</b>	23 24
Insert “Rail Corporation New South Wales, Transport Infrastructure Development Corporation,” after “State Rail Authority,” in the definition of <i>public body</i> in section 600 (9).	25 26 27



---

<b>[3] Section 742 Dispute resolution</b>	1
Omit “the State Rail Authority” from section 742 (7).	2
Insert instead “Rail Corporation New South Wales”.	3
<b>3.10 Passenger Transport Act 1990 No 39</b>	4
<b>Section 5 Crown bound by Act</b>	5
Omit “the State Rail Authority” from section 5 (2).	6
Insert instead “Rail Corporation New South Wales”.	7
<b>3.11 Pipelines Act 1967 No 90</b>	8
<b>Section 3 Definitions</b>	9
Insert “Rail Corporation New South Wales, Transport Infrastructure Development Corporation,” after “State Rail Authority of New South Wales,” in the definition of <i>statutory body representing the Crown</i> in section 3 (1).	10 11 12 13
<b>3.12 Public Finance and Audit Regulation 2000</b>	14
<b>Clause 17 Definitions of “authority” and “officer of an authority”</b>	15
Omit clause 17 (7) (b). Insert instead:	16
(b) an employee of Rail Corporation New South Wales,	17
(b1) an employee of Transport Infrastructure Development Corporation,	18 19
<b>3.13 Railway Construction (East Hills to Campbelltown) Act 1983 No 111</b>	20 21
<b>Section 2 Interpretation</b>	22
Omit “the State Rail Authority” from the definition of <i>the Authority</i> in section 2 (1).	23 24
Insert instead “Rail Corporation New South Wales”.	25

---

<b>3.14 Railway Construction (Maldon to Port Kembla) Act 1983</b>	1
<b>No 112</b>	2
<b>Section 2 Interpretation</b>	3
Omit “the State Rail Authority” from the definition of <i>the Authority</i> in section 2 (1).	4 5
Insert instead “Rail Corporation New South Wales”.	6
<b>3.15 Roads Act 1993 No 33</b>	7
<b>[1] Section 94 Roads authority may carry out drainage work across land adjoining public road etc</b>	8 9
Insert “Rail Corporation New South Wales, Transport Infrastructure Development Corporation or” before “Rail Infrastructure Corporation” in section 94 (2).	10 11 12
<b>[2] Section 94 (2A)</b>	13
Omit “Part 2A of”.	14
<b>[3] Section 211</b>	15
Omit the section. Insert instead:	16
<b>211 Contributions to RTA by Rail Corporation New South Wales and State Transit Authority</b>	17 18
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:	19 20 21
(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	22 23 24 25
(b) in the case of the State Transit Authority—the carriage of passengers across the Sydney Harbour Bridge.	26 27
<b>3.16 Rural Fires Act 1997 No 65</b>	28
<b>[1] Section 27 Permission of RailCorp, RIC or TIDC required</b>	29
Insert “, Rail Corporation New South Wales, Transport Infrastructure Development Corporation” after “the State Rail Authority”.	30 31

---

<b>[2] Section 100A Definitions</b>	1
Insert “Rail Corporation New South Wales, Transport Infrastructure Development Corporation,” after “State Rail Authority,” in paragraph (c) of the definition of <i>managed land</i> in section 100A (1).	2 3 4
<b>[3] Dictionary, definition of “managed land”</b>	5
Insert “, Rail Corporation New South Wales, Transport Infrastructure Development Corporation” after “State Rail Authority” in paragraph (c).	6 7
<b>3.17 Security Industry Regulation 1998</b>	8
<b>[1] Clause 5 Exemptions: section 6</b>	9
Omit “State Rail Authority” from clause 5 (a) wherever occurring.	10
Insert instead “Rail Corporation New South Wales”.	11
<b>[2] Clause 5 (a)</b>	12
Omit “revenue protection officers”.	13
Insert instead “transit security officers”.	14
<b>3.18 State Authorities Non-contributory Superannuation Act 1987 No 212</b>	15 16
<b>Schedule 1 Employers</b>	17
Insert at the end of Part 1:	18
Rail Corporation New South Wales	19
Transport Infrastructure Development Corporation	20
<b>3.19 State Authorities Superannuation Act 1987 No 211</b>	21
<b>Schedule 1 Employers</b>	22
Insert at the end of Part 1:	23
Rail Corporation New South Wales	24
Transport Infrastructure Development Corporation	25

---

<b>3.20 State Development and Industries Assistance Act 1966 No 10</b>	1 2
<b>Section 20 Ministerial Corporation's powers to make grants and pay subsidies</b>	3 4
Insert “, Rail Corporation New South Wales” after “State Rail Authority” in section 20 (1) (b).	5 6
<b>3.21 Superannuation Act 1916 No 28</b>	7
<b>Schedule 3 List of Employers</b>	8
Insert at the end of Part 1:	9
Rail Corporation New South Wales	10
Transport Infrastructure Development Corporation	11
<b>3.22 Transport Appeal Boards Act 1980 No 104</b>	12
<b>[1] Section 4 Definitions</b>	13
Insert “, Rail Corporation New South Wales” after “State Rail Authority” in the definition of <i>Authority</i> in section 4 (1).	14 15
<b>[2] Section 11A Nature of proceedings for promotion appeals</b>	16
Omit “under the <i>Transport Administration Act 1988</i> ” from section 11A (1).	17 18
Insert instead “conferring the right to make the appeal”.	19
<b>[3] Section 30 Supply of copies of statements and other things to appellant</b>	20 21
Omit “the State Rail Authority or the State Transit Authority” wherever occurring in section 30 (1) and (3).	22 23
Insert instead “an Authority”.	24
<b>[4] Section 31 Reference of certain matters to Chairperson or Vice- Chairperson for investigation</b>	25 26
Omit “the State Rail Authority or the State Transit Authority” from section 31 (1).	27 28
Insert instead “an Authority”.	29

---

<b>[5] Section 31 (2)</b>	1
Omit “The State Rail Authority or the State Transit Authority”.	2
Insert instead “An Authority”.	3
<b>[6] Schedule 1 Members of a Board</b>	4
Omit “the State Rail Authority or the State Transit Authority” wherever occurring in clause 4 (1).	5 6
Insert instead “an Authority”.	7
<b>3.23 Water Act 1912 No 44</b>	8
<b>[1] Section 12 Licence</b>	9
Omit “the State Rail Authority” from section 12 (3).	10
Insert instead “Rail Corporation New South Wales”.	11
<b>[2] Section 14 Renewal</b>	12
Omit “State Rail Authority” from section 14 (1B).	13
Insert instead “Rail Corporation New South Wales”.	14
<b>3.24 Water (Part 2—General) Regulation 1997</b>	15
<b>Clause 27 Public authorities</b>	16
Omit “State Rail Authority”.	17
Insert instead “Rail Corporation New South Wales”.	18

---

<b>3.25 Water (Part 5—Bore Licences) Regulation 1995</b>	1
<b>Clause 8 Prescribed public authorities: sec 116A</b>	2
Omit “State Rail Authority”.	3
Insert instead “Rail Corporation New South Wales”.	4