

Transport Administration Amendment (Rail Agencies) Act 2003 No 96

[2003-96]



New South Wales

Status Information

Currency of version

Historical version for 1 July 2005 to 31 December 2008 (accessed 28 July 2024 at 10:21)

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Provisions in force

Some, but not all, of the provisions displayed in this version of the legislation have commenced.

Notes—

- **Does not include amendments by**
[Rail Safety Act 2008 No 97](#) (not commenced — to commence on 1.1.2009)

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Transport Administration Amendment (Rail Agencies) Act 2003 No 96



New South Wales

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.

1 Name of Act

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

2 Commencement

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

3 Amendment of **Transport Administration Act 1988 No 109**

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

4 (Repealed)

Schedule 1 (Repealed)

Schedule 2 Amendments relating to dissolution of Rail Infrastructure Corporation

(Section 3)

[1] Long title

Omit “, Rail Infrastructure Corporation”.

[2] Section 3 Definitions

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

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

Omit the Part.

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

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

[5] Section 122 Definitions

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

[6] Part 9, Division 8

Insert after Division 7:

Division 8 Dissolution of Rail Infrastructure Corporation

129 Dissolution of Rail Infrastructure Corporation

Schedule 9 has effect.

[7] Schedule 6 Transfer of certain staff

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

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

Omit “RIC,” wherever occurring.

[9] Schedule 6, clause 17

Omit the clause.

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

Omit clause 2.

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

Omit clause 2A (1).

[12] Schedule 6A, clause 13

Omit the clause.

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

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

[14] Schedule 9

Insert after Schedule 8:

Schedule 9 Dissolution of Rail Infrastructure Corporation

(Section 129)

1 Dissolution of Rail Infrastructure Corporation and subsidiaries

- (1) Rail Infrastructure Corporation, and each Rail Infrastructure Corporation subsidiary, are dissolved and any assets, rights and liabilities of the Corporation and any subsidiary become assets, rights and liabilities of the Crown.
- (2) Section 94 and Schedule 4 apply to the assets, rights and liabilities vested in the Crown under this clause in the same way as they apply to the assets, rights and liabilities of a rail authority.
- (3) Despite subclause (2), the Minister may not transfer an asset, right or liability vested in the Crown under this clause, except with the concurrence of the Treasurer.
- (4) Part 3 (including clauses 11, 11A (2) and 11B (2)) of Schedule 6 applies to any staff of the Rail Infrastructure Corporation immediately before the dissolution.
- (5) Regulations of a savings and transitional nature may be made consequent on the dissolution of the Rail Infrastructure Corporation and any subsidiary of the Corporation.
- (6) This clause is subject to clause 4.

2 Chief executive officer of Rail Infrastructure Corporation

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

3 Provisions relating to vesting of rail infrastructure facilities in RailCorp

- (1) On the dissolution of Rail Infrastructure Corporation (the **transfer day**), the rail infrastructure facilities (and any associated assets, rights and liabilities) vested in or owned by RIC immediately before the transfer day (the **country rail infrastructure facilities**) are vested in RailCorp.
- (2) On the transfer day, the following provisions have effect:
 - (a) all proceedings relating to the country rail infrastructure facilities

commenced before the transfer day by or against Rail Infrastructure Corporation or a predecessor of Rail Infrastructure Corporation and pending immediately before the transfer day are taken to be proceedings pending by or against RailCorp,

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

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

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

5 Previous transfers of staff of Rail Infrastructure Corporation

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

6 Rail access agreements

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

7 Saving of Rail Safety Act 2002

Nothing in this Schedule affects the operation of the [Rail Safety Act 2002](#).

8 Licences and other authorisations

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

replaced.

(5) In this clause:

former RIC infrastructure means rail infrastructure facilities vested in or owned by RailCorp that, immediately before the commencement of this clause, were vested in or owned by RIC.

Schedule 3 (Repealed)