

RAILWAYS (TASMANIA) ACT 1975

No. 70 of 1975

An Act relating to the Acquisition by Australia, with the consent of Tasmania, of the Railways of Tasmania and to the Construction and Extension by Australia, with the consent of Tasmania, of Railways in Tasmania, and for purposes connected therewith.

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

- Short title. 1. This Act may be cited as the *Railways (Tasmania) Act 1975*.¹
- Commence- 2. (1) Subject to sub-section (2), this Act shall come into operation
ment. on 1 July 1975.
- (2) This Act shall not come into operation unless an Act of the Par-
liament of Tasmania approving the Agreement has come into force on or
before 1 July 1975.
- Interpret- 3. (1) In this Act, unless the contrary intention appears—
ation. “Agreement” means the agreement a copy of which is set out in the
 Schedule;
 “proceeding” includes any action;
 “property” includes cash, rights and interests of any kind (including
 contractual rights) and things in action.
- (2) Expressions used in this Act that are defined by clause 1 of the
Agreement have the same respective meanings as those expressions have
in the Agreement.
- Approval of 4. The Agreement is approved.
Agreement.
- Vesting of 5. Any land and other property to which the Australian Commission
property. is entitled on the commencement date under clause 4 of the Agreement
 shall, by force of this section, vest in the Australian Commission on that
 date.
- Hydro- 6. The Hydro-Electric Commission of Tasmania is not entitled to
Electric construct or erect works, or to maintain, repair or use works constructed
Commission or erected, on land of the Australian Commission except in accordance
to exercise with sub-clause (3) of clause 4 of the Agreement.
powers only
in
accordance
with the
Agreement.

7. (1) Subject to this section, the Australian Commission shall, on and after the declared date, be subject to all liabilities and obligations incurred by Tasmania or the Tasmanian Commission before that date in connexion with the administration, maintenance and operation of the railways and of any services (including passenger and freight road services) that are incidental or supplementary to, or are operated in association with, the railways, to the extent to which those liabilities and obligations are not discharged before that date.

Transfer of liabilities.

(2) The obligations to which the Australian Commission is subject under sub-section (1) in relation to the maintenance and repair of the surface of any roadway do not extend beyond the obligations of the Australian Commission under section 68 of the *Australian National Railways Act 1917-1975*.

8. (1) Where any laws of Tasmania referred to in paragraph (b) of sub-clause (2) of clause 2 of the Agreement, as purporting to have the effect referred to in that paragraph by virtue of legislation of Tasmania enacted in accordance with that paragraph, cannot, by reason of section 52 of the Constitution, have that effect as laws of Tasmania, the provisions of those laws shall have that effect by virtue of, and in accordance with, the *Commonwealth Places (Application of Laws) Act 1970-1973*.

Application of State laws.

(2) It is the intention of the Parliament that nothing contained in a law of Australia shall prevent any law of Tasmania from having effect, as a law of Tasmania, as referred to in paragraph (b) of sub-clause (2) of clause 2 of the Agreement.

(3) Paragraph 4 (2) (a) of the *Commonwealth Places (Application of Laws) Act 1970-1973* does not apply in relation to the application of laws of Tasmania in accordance with sub-section (1) of this section.

9. (1) A proceeding shall not be instituted during the interim period by or against the Australian Commission in respect of land or other property that vests in the Australian Commission by this Act if, by virtue of a law of Tasmania, the proceeding may be instituted by or against Tasmania or the Tasmanian Commission but, if any proceeding instituted before or during the interim period by or against Tasmania or the Tasmanian Commission in respect of such land or other property is not completed before the declared date, the court in which the proceeding was or is instituted shall, on or after that date, substitute the Australian Commission for Tasmania or the Tasmanian Commission as the plaintiff or defendant, as the case may be, in the proceeding.

Pending proceedings.

(2) Where a proceeding in respect of a liability or obligation to which the Australian Commission is made subject by this Act was or is instituted against the Tasmanian Commission before or during the interim period but was not or is not completed before the declared date, the court in which the proceeding was or is instituted shall, on or after

that date, substitute the Australian Commission for the Tasmanian Commission as the defendant in the proceeding.

(3) In this section, a reference to the plaintiff or the defendant in relation to a proceeding by way of a cross-proceeding is a reference to the plaintiff or the defendant, as the case may be, in the cross-proceeding.

Commission authorized to operate railways in Tasmania.

10. On and after the declared date, the Australian Commission may—

- (a) administer, maintain and operate in Tasmania the railways and services acquired under the Agreement; and
- (b) construct and extend railways in Tasmania in accordance with the Agreement and administer, maintain and operate railways so constructed or extended and services (including passenger and freight road services) incidental or supplementary to, or associated with, those railways.

Transfer of employees.

11. The Australian Commission shall, not later than the declared date, in pursuance of section 46 of the *Australian National Railways Act 1917-1975*, appoint as officers or engage as employees, with effect from that date, the persons who are, by clause 12 of the Agreement, to be transferred to the employment of the Australian Commission on that date.

Certificates.

12. (1) A certificate in writing signed by—

- (a) the Minister or his delegate; and
- (b) the State Minister or his delegate,

stating that the right, title and interest of Tasmania or of the Tasmanian Commission in land referred to in the certificate vested in the Commission on the commencement date is admissible in evidence in any proceeding and is conclusive evidence of the matters stated in the certificate.

(2) A certificate in writing signed by—

- (a) the Minister or his delegate; and
- (b) the State Minister or his delegate,

in relation to any other matters arising under this Act or the Agreement is admissible in evidence in any proceeding and is *prima facie* evidence of the matters stated in the certificate.

(3) A reference in this section to a delegate of the Minister or of the State Minister is a reference to a person appointed by the Minister or by the State Minister as the case may be, as the delegate of the Minister or of the State Minister for the purposes of the Agreement.

(4) A document purporting to be a certificate given under this section shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

13. Australia and the Australian Commission shall perform and observe any provisions of the Agreement that are required to be performed or observed by Australia and the Australian Commission, respectively.

Australia and Commission to carry out Agreement.

14. The Agreement has effect notwithstanding anything in any other Act, and nothing in any other Act prevents the carrying out or performance of any of the provisions of the Agreement.

Agreement not affected by other Acts.

15. Section 55 of the *Australian National Railways Act 1917-1975* has effect as if any land and other property that became vested in the Australian Commission by virtue of this Act became so vested under section 16 of that Act.

Capital of Commission.

16. The Consolidated Revenue Fund is appropriated to the extent necessary for the purpose of the payment to Tasmania of \$5,000,000 in accordance with clause 14 of the Agreement.

Appropriation.

17. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act or the Agreement.

Regulations.

THE SCHEDULE

Section 3

AN AGREEMENT made the 23 day of May One thousand nine hundred and seventy-five between THE COMMONWEALTH OF AUSTRALIA (in this agreement called "Australia") of the one part and THE STATE OF TASMANIA (in this agreement called "the State") of the other part.

WHEREAS:—

- (a) Provision is made by paragraphs (xxxiii) and (xxxiv) of section 51 of the Commonwealth of Australia Constitution for the Parliament of Australia to make laws with respect to the acquisition, with the consent of a State, of any railways of the State on terms arranged between Australia and the State, and for railway construction and extension in any State with the consent of that State.
- (b) The railways of the State are vested in and operated by the Transport Commission pursuant to the Transport Act 1938 as amended.
- (c) Australia and the State desire—
 - (i) that pursuant to paragraph (xxxiii) of section 51 of the Constitution the railways shall be acquired by Australia on the first day of July 1975, with the consent of the State, on the terms contained in this agreement to the intent that on that date the railways shall be vested in the Australian National Railways Commission;
 - (ii) that the Transport Commission shall administer, maintain and operate the railways in accordance with the provisions of this agreement until a date to be declared; and
 - (iii) that the Australian National Railways Commission shall assume full administration, maintenance and control of the railways on the declared date.

THE SCHEDULE—continued

NOW IT IS HEREBY AGREED as follows:—

PART I—PRELIMINARY

Interpretation

1. (1) In this agreement, unless the contrary intention appears—
- “arbitration” means arbitration pursuant to clause 20;
 - “Australian National Railways” means the railways of the Australian Commission;
 - “clause” means a clause of this agreement;
 - “commencement date” means the first day of July 1975;
 - “declared date” means the date to be declared as provided in clause 13;
 - “interim period” means the period beginning on the commencement date and ending on the day immediately preceding the declared date;
 - “interest”, in relation to land, means—
 - (a) a legal or equitable estate or interest in the land; or
 - (b) a right, power or privilege over, or in connection with, the land;
 - “land” includes an interest in land;
 - “land and other property”, in relation to the railways and services, includes all land, railway lines, bridges, culverts, wharves, buildings, structures, roads, depot and barrack facilities for employees, facilities for storage, servicing and maintenance of rolling stock, signalling, road protection and communication facilities, locomotives, wagons, carriages and other rolling stock and vehicles, including road and shunting vehicles, cranes, weighbridges, machinery, plant, equipment, tools and other works, matters and things used, associated, or connected with or appurtenant to the railways or services or necessary for the efficient operation and maintenance thereof;
 - “party” means a party to this agreement and “the parties” means the two parties to this agreement;
 - “railways” means the railways operated by the Tasmanian Commission;
 - “Schedule” means the Schedule to this agreement;
 - “services” means services (including passenger and freight road services) that are incidental or supplementary to, or are operated in association with, the railways;
 - “the Australian Railways Act” means the Australian National Railways Act 1917-1975;
 - “the Australian Commission” means the Australian National Railways Commission, being the body corporate established by the Australian Railways Act;
 - “the Australian Shipping Commission” means the body corporate established by the Australian Shipping Commission Act 1956-1974;
 - “the Australian Superannuation Fund” means the Fund established under the Superannuation Act 1922 as amended, or any fund established by any Act substituted for that Act;
 - “the Australian Minister” means the Minister who has for the time being the administration of the Australian Railways Act;
 - “the Retirement Benefits Fund” means the Fund established under the Retirement Benefits Act 1970 of the State;
 - “the State Retirement Benefits Fund Board” means the Retirement Benefits Fund Board which administers the State Retirement Benefits Fund;
 - “the State Minister” means the Minister who has for the time being the administration of the Transport Act;
 - “the State Superannuation Fund” means the Fund established under the Superannuation Act 1938 as amended of the State;
 - “the State Superannuation Board” means the Superannuation Fund Board, which administers the State Superannuation Fund;
 - “the Tasmanian Commission” means the Transport Commission, being the body corporate constituted by the Transport Act; and
 - “the Transport Act” means the Transport Act 1938 as amended of the State.

THE SCHEDULE—continued

(2) Where in this agreement a Minister is referred to, the reference shall be deemed to include any other Minister of the Australian Government or of the State Government, as the case may be, who is for the time being acting for or on behalf of the relevant Minister.

(3) Where in this agreement an Act, or an Act as amended, is referred to, the reference shall mean that Act as amended from time to time, or any Act substituted for that Act, and, where appropriate or necessary, shall include all regulations, by-laws and proclamations from time to time made under the Act or the substituted Act, as the case may be.

(4) A reference in this agreement to property other than land shall be construed as including a reference to—

- (a) any interest or right (including a contractual right) or a thing in action in relation to property other than land; and
- (b) cash in hand and in bank.

(5) Headings and marginal notes in this agreement shall not affect its meaning.

2. (1) This agreement, other than this clause, shall have no force or effect until the Prime Minister of Australia and the Premier of the State have jointly certified that the Parliament of Australia and the Parliament of the State have enacted such legislation as is necessary to enable this agreement to enter into force, whether or not that legislation has come into operation.

Approving and
implementing
legislation

(2) The parties will take all practicable steps to seek the enactment, as soon as possible, of legislation as follows:

- (a) legislation by the Parliament of Australia and the Parliament of the State to approve this agreement and to make such provision as shall be necessary or appropriate on the parts of those Parliaments respectively for the implementation of this agreement including legislation—
 - (i) vesting in the Australian Commission on the commencement date land and other property to which the Australian Commission is entitled under this agreement;
 - (ii) authorising and requiring Australia, the State and their respective Authorities and Instrumentalities to perform and observe the provisions of this agreement on their part to be performed and observed;
 - (iii) providing to the effect that a joint certificate given by the Australian Minister and the State Minister, or their respective delegates, that the right, title and interest of the State or the Tasmanian Commission in the land referred to in the certificate vested in the Australian Commission under legislation enacted pursuant to this agreement is conclusive evidence that such right, title and interest so vested;
 - (iv) providing to the effect that a joint certificate by the Australian Minister and the State Minister, or their respective delegates, given in relation to any matters not referred to in sub-paragraph (iii) arising under the legislation or this agreement, is admissible in evidence in any action or proceeding and shall be *prima facie* evidence of the matters stated in the certificate for the purposes of such an action or proceeding; and
 - (v) authorising the making of regulations or by-laws that are necessary or convenient for carrying out or giving effect to this agreement and to the legislation for the implementation of this agreement;
- (b) legislation by the Parliament of the State to the effect that the laws of the State that, but for this agreement, would have applied at any time during interim period to and in relation to the administration, maintenance and operation of the railways or services have the effect, and shall be deemed to be expressed to have the effect, in relation to the administration, maintenance and operation of those railways or services that they would have if this agreement had not been made;
- (c) legislation by the Parliament of Australia to the effect that—
 - (i) to the extent that the laws of the State referred to in paragraph (b) of this subclause, as purporting to have the effect referred to in that paragraph by virtue of legislation of the State enacted in accordance with that paragraph, cannot, by reason of section 52 of the Constitution, have that effect as laws of the State,

THE SCHEDULE—continued

the provisions of those laws shall have that effect by virtue of, and in accordance with, the Commonwealth Places (Application of Laws) Act 1970 as amended of the Parliament of Australia;

- (ii) it is the intention of the Parliament of Australia that nothing contained in a law of Australia shall prevent any law of the State from having effect, as a law of the State, as referred to in paragraph (b) of this sub-clause; and
- (iii) paragraph (a) of sub-section (2) of section 4 of the Commonwealth Places (Application of Laws) Act 1970 as amended does not apply in relation to the application of laws of the State in accordance with sub-paragraph (i) of this paragraph;
- (d) legislation by the Parliament of the State discharging the State and the Tasmanian Commission on and after the declared date from all liabilities and obligations incurred in connection with the administration, maintenance and operation of the railways and services before the declared date to the extent that those liabilities and obligations have not been discharged before that date;
- (e) legislation by the Parliament of Australia making the Australian Commission subject on and after the declared date to all the liabilities and obligations to which paragraph (d) of this sub-clause relates, and requiring the substitution of the Australian Commission for the State or the Tasmanian Commission in any action or proceeding pending at the declared date in respect of such liabilities or obligations;
- (f) legislation by the Parliament of Australia and the Parliament of the State under which an action or proceeding in respect of land or other property that vests in the Australian Commission pursuant to this agreement shall be instituted or continued during the interim period by or against the State or the Tasmanian Commission as if that land or other property had not so vested, and that after that period any such action or proceeding that is not completed shall be continued by or against the Australian Commission;
- (g) legislation by the Parliament of the State giving the Australian Commission a general power to administer, maintain and operate in the State railways constructed or acquired by Australia or the Australian Commission and any services that are incidental, or supplementary to, or are operated in association with, such railways;
- (h) legislation by the Parliament of the State giving a general consent to the construction and extension of railways by Australia and the Australian Commission in the State; and
- (j) legislation by the Parliament of the State referring to the Parliament of Australia the matter of the administration, maintenance and operation in the State of the railways and services vested in the Australian Commission pursuant to this agreement, of any railways constructed or extended in the State by Australia or the Australian Commission and of any services incidental or supplementary to, or associated with, those last mentioned railways.

Compliance with agreement

3. Each party, so far as its power extends, will provide for and secure compliance with this agreement in accordance with the legislation by which it is approved and is to be implemented.

PART II—TRANSFER AND INTERIM ADMINISTRATION, MAINTENANCE AND OPERATION OF RAILWAYS

Assets

4. (1) In consideration of the financial arrangements between the parties contained in this agreement, subject to sub-clauses (2) and (3) of this clause, the Australian Commission shall, on the commencement date, be entitled to the right, title and interest of the Crown in right of the State and of the Tasmanian Commission in all land and other property used or held for use or intended or reserved for the purposes of the railways and services and, in the case of land (not being an interest in land in which an estate in fee simple or a Crown Lease is held by a person other than the Crown or the Tasmanian Commission), without reservation of minerals to the Crown in right of the State and unlimited as to depth;

(2) The property to which the Australian Commission is entitled under sub-clause (1) of this clause shall not include—

- (a) land consisting of—

THE SCHEDULE—continued

- (i) roads within the meaning of the Roads and Jetties Act 1935 as amended of the State; and
- (ii) roads over which there is, otherwise than as provided in sub-paragraph (i), a public right of way,
- but not so as to prevent the exercise by the Australian Commission over such roads of any rights, powers or privileges that the Australian Commission has under the Australian Railways Act;
- (b) land and cottages thereon vested in the Tasmanian Commission which are separated from a line of railway by land which is not vested in the Tasmanian Commission;
- (c) cottages and the curtilages thereof forming part of other land vested in the Tasmanian Commission which have been sold; and
- (d) the plant, equipment and materials in the Launceston Precision Tool Annexe building referred to in clause 19.
- (3) (a) Subject to this sub-clause, the Hydro-Electric Commission of the State may, subject to the duties at the date of this agreement similar to those specified in Section 46 of the Hydro-Electric Commission Act 1944 as amended, in relation to land vested in the Australian Commission pursuant to this agreement, maintain, repair and use works constructed or erected by the Hydro-Electric Commission before the date of this agreement for the purpose of generating, transmitting or distributing electrical energy.
- (b) Nothing in this sub-clause shall entitle the Hydro-Electric Commission to break up, excavate and open up the surface or substratum of any part of a railway without the consent of the Australian Commission.
- (c) Subject to the consent of the Australian Commission, the Hydro-Electric Commission may extend existing works or carry out further works on, under, or above a railway for the purpose of generating, transmitting or distributing electrical energy, and if consent is withheld the matter may be referred to arbitration.
- (d) Any work done by the Hydro-Electric Commission pursuant to this clause shall be executed under the supervision of the Australian Commission and in accordance with all reasonable requests and directions of the Australian Commission.
5. (1) Subject to this agreement the Tasmanian Commission will, during the interim period continue to administer, maintain and operate the railways and services, but in so doing will comply with any directions of the Australian Commission, including directions relating to the services to be provided and fares and freight rates to be charged.
- (2) During the interim period the Tasmanian Commission will not—
- (a) deal with any land or other property to be vested in the Australian Commission pursuant to this agreement; or
- (b) acquire additional land or other property for the purpose of the railways or services,
- except as agent for the Australian Commission and after receiving prior general or specific directions or consent in writing regarding the matter from the Australian Commission.
6. When so requested by the State, the Australian Minister or his delegate will consult with the State on matters regarding the operation of the existing and new railways within the State which the State considers to be of concern to the State.
7. (1) Subject to the provisions of this clause, the Australian Commission will, if so requested by the State, continue to grant the concessional rates and concessional charges granted by the Tasmanian Commission in respect of the railways at the date of this agreement.
- (2) The State will, both during and after the interim period, maintain its proportion of any costs existing at the date of this agreement as a contribution to such concessional rates and charges as it contributed to before the date of this agreement.
8. If after consultation between the Australian Commission and the State there is a dispute regarding cessation of any railway service, or payments to be made for concessions which are granted by the Tasmanian Commission at the date of this agreement and are to be continued by the Australian Commission pursuant to this agreement, the matter shall be determined by arbitration.

Interim
administration,
maintenance and
operation of
railways and
services

Consultation
regarding
operation of
railways

Rates and
Charges

Disputes
regarding
cessation of
services or
concessions

THE SCHEDULE—continued

State
representation
on the Australian
Commission and
the Shipping
Commission

9. The State shall be entitled to nominate—

- (a) a representative to be appointed as a part-time Commissioner of the Australian Commission for an initial term of five years, subject to the provisions of the Australian Railways Act; and
- (b) a representative to be appointed as a part-time Commissioner of the Australian Shipping Commission for one term of five years subject to the provisions of the Australian Shipping Commission Act 1956-1974,

and subject, in each case, to the acceptance of the nominee by the Australian Minister.

Additional
provisions
regarding land
and minerals

10. (1) The State will, without cost to the State and free of compensation, grant to Australia or the Australian Commission an estate in fee simple, without reservation of minerals and unlimited as to depth, in any Crown land that is certified by the Australian Minister or his delegate to be required for or in connection with the construction, extension, administration, maintenance or operation of any new or existing railways of Australia or the Australian Commission, including any leased lands of the Crown which have become Crown land by virtue of—

- (a) the surrender by the lessees of their estates in the land to the Crown; or
- (b) the surrender of those estates to the Crown after they have been acquired by Australia or the Australian Commission.

(2) The State will, also without cost to the State and free of compensation, grant to Australia or the Australian Commission the right to take any stone, soil, and gravel in or on any Crown land or lands leased by the Crown from which the State has a right to take the same, that are certified by the Australian Minister or his delegate to be required for or in connection with the construction, extension, maintenance or operation of any new or existing railways of Australia or the Australian Commission.

(3) For the purposes of this clause “Crown land” has the same meaning as in the Crown Lands Act 1935 as amended of the State.

(4) Australia or the Australian Commission will arrange for such surveys as either of them consider necessary in respect of land comprised in the railways, and the Tasmanian Commission will give reasonable assistance in the carrying out of the surveys.

(5) Australia or the Australian Commission will give to the State the right of first refusal in respect of any land to be vested in the Australian Commission pursuant to this agreement and no longer required for the purposes of Australia, the Australian Commission, or any other Authority or Instrumentality of Australia, on such terms and conditions as shall be agreed between the parties, and having regard to the basis on which the relevant land was vested in the Australian Commission.

Taxes regarding
services

11. Australia or the Australian Commission shall not be liable to pay to the State any fees, taxes or other charges in connection with the operation of services.

PART III—EMPLOYEES

Transfer of
Employees

12. (1) The Tasmanian Commission will as soon as practicable, in consultation with Australia and the Australian Commission, identify those positions the occupants of which are, at the date of this agreement, engaged in the administration, maintenance, or operation of the railways and services, and on the declared date all relevant employees will be transferred to the employment of the Australian Commission.

(2) Where an employee is engaged in work in respect of the railways and services provided by the Tasmanian Commission, other than those to which the Australian Commission shall be entitled under this agreement, his future employment shall be determined by agreement between him, the Tasmanian Commission, Australia and the Australian Commission.

Declared date

13. When action has been completed pursuant to clause 12 the Australian Minister will, in consultation with the State Minister, declare in the Australian Government Gazette the date on which all relevant employees of the Tasmanian Commission shall be transferred to the Australian Commission, being the date on which the Australian Commission shall assume full administration, maintenance and operation of the railways and services.

THE SCHEDULE—continued

PART IV—FINANCIAL ARRANGEMENTS

14. Australian will pay to the State the sum of Five million dollars (\$5,000,000) before the commencement date subject to this agreement coming into force. Payment
15. On the commencement date— Debts and Liabilities
- (a) the debts specified in the Schedule shall be taken over from the State by Australia to the intent and effect that—
- (i) on and from that date the State shall be completely freed and discharged from all liability whether in respect of principal, interest, sinking fund contribution or otherwise, which liability shall, as between Australia and the State and for all other purposes, be assumed by Australia; and
- (ii) this provision shall not affect the obligations of the State in relation to the payment of sinking fund contributions in the year ending on the thirtieth day of June 1976 under the Financial Agreement between Australia and the States;
- (b) the State shall be completely freed and discharged from all liability under clauses 9 and 11 of an Agreement dated the fifth day of October 1971 between the parties contained in the Schedule to the Railway Agreement (Tasmania) Act 1971; and
- (c) the Australian Commission will accept financial responsibility for all liabilities other than the liabilities referred to in paragraphs (a) and (b) of this clause incurred before the commencement date and not then satisfied by the Tasmanian Commission in relation to the railways and services.
16. Subject to the provisions of this clause, during the interim period— Revenue from, and costs of operation of, railways and services
- (a) the State shall be entitled to receive the revenue from the operation of the railways and services and will bear the costs of the administration, maintenance and operation of the railways and services, excluding from those costs the charges relating to the debts in respect of which the State will be freed and discharged as a result of the take-over by Australia of the debt referred to in paragraph (a) of clause 15;
- (b) the Australian Commission shall be entitled to receive any surplus of revenue over the costs ascertained in accordance with paragraph (a) of this sub-clause and will bear any excess of those costs over revenue;
- (c) payments made by the Tasmanian Commission in respect of annual leave, long service leave (permanent employees), long service leave (casual employees), sick leave, retirement and death gratuities, worker's compensation and the employer contributions towards the State Superannuation Fund and the Retirement Benefits Fund (including any such amounts payable on or before the thirtieth day of June 1975 and which have not been paid by that date), shall continue to be charged as current expenditure and shall be taken into account for the purpose of ascertaining the cost of administration, maintenance and operation of the railways and services.
17. The State will, in respect of contributions to the State Superannuation Fund and the Retirement Benefits Fund made by employees to be transferred to the Australian Commission pursuant to this agreement, transfer appropriate investments to the Australian Superannuation Fund to be agreed between the parties, the Superannuation Board of Australia, or any substituted body, the State Superannuation Board and the State Retirement Benefits Fund Board in accordance with the following principles: Transfer of investments to Australian Superannuation Fund
- (a) the investments transferred shall be related to an equitable division of the total investments of the State Superannuation Fund and the Retirement Benefits Fund; and
- (b) the transfer of investments shall not operate to disadvantage the employees to be transferred or the contributors to the Australian Superannuation Fund.
18. (1) As soon as practicable after the commencement date the Tasmanian Commission will prepare a statement of such of the assets and liabilities of the Tasmanian Commission in relation to the railways and services as exist at that date and can be ascertained. Accounts, information etc.
- (2) The Tasmanian Commission will, during the interim period, keep such financial and other records regarding the administration, maintenance and operation of the railways and services and submit such statements of accounts audited by the State Auditor-General as the Australian Minister or his delegate shall reasonably require.

THE SCHEDULE—continued

(3) The Auditor-General may at his discretion submit reports on the audit referred to in sub-clause (2) of this clause stating whether any financial statements of the Tasmanian Commission in respect of the interim period are based on proper accounts and records and are in agreement with those accounts and records, and he may include in the reports reference to such other matters arising out of the audits and financial statements as he considers should be reported to Australia.

(4) The Tasmanian Commission will, during and after the interim period, permit access by Australia or the Australian Commission, or give or deliver to Australia or the Australian Commission, such financial and other reports, estimates, accounts and other records, documents and information regarding the administration, maintenance and operation of the railways and services, when and in such manner as Australia or the Australian Commission shall reasonably require.

PART V—LAUNCESTON PRECISION TOOL ANNEXE

Removal of
plant, equipment
and materials

19. (1) The State will move the plant, equipment and materials from the Precision Tool Annexe building at Launceston operated by the Tasmanian Commission within ten years from the commencement date, or within such extended period as may be agreed between the parties.

(2) Until the plant, equipment and materials are so moved, the Tasmanian Commission shall be entitled to occupy and have access to the Annexe building upon such terms and conditions as shall be agreed between the Australian Commission and the Tasmanian Commission, including a provision that the Tasmanian Commission shall be responsible for the upkeep and maintenance of the building during such occupation.

PART VI—MISCELLANEOUS

Arbitration

20. (1) Where a reference to arbitration is provided for in this agreement the matter under reference shall be determined, as soon as practicable, by an independent arbitrator acceptable to Australia and the State.

(2) The arbitrator shall not perform his functions as an arbitrator under any law relating to arbitration, but shall act as an independent expert or adjudicator.

SCHEDULE

Clause 15

DEBTS TO BE TAKEN OVER BY AUSTRALIA

Interest Rate	Maturity date	Amounts of Debt (In Thousands of Dollars)
5.00%	April 1976	6,000
5.00%	October 1976	14,000
5.00%	July 1977	2,000
5.80%	May 1979	1,000
5.80%	November 1981	8,000
5.00%	October 1984	3,000
5.25%	July 1989	8,000
8.50%	October 1993	8,832
6.00%	July 2005	12,500
Total		63,332

This total shall be reduced—

- (a) by a sum to be agreed between the Australian Treasurer and the State Treasurer as representing the portion of the debts in this Schedule which is in respect of the land and cottages thereon and the cottages and curtilages thereof referred to in paragraphs (b) and (c) of sub-clause (2) of clause 4; and
- (b) in such a manner as not to alter the average of the rates of interest specified in this Schedule.

THE SCHEDULE—continued

IN WITNESS WHEREOF this agreement has been executed on behalf of the parties respectively as at the day and year first above written.

SIGNED by the Honourable EDWARD
GOUGH WHITLAM, Prime Minister of
Australia, in the presence of: } E. G. WHITLAM
P. WARN

SIGNED by the Honourable WILLIAM
ARTHUR NEILSON, Premier of Tasmania,
in the presence of: } W. A. NEILSON
JOHN DRISCOLL
Crown Solicitor Hobart

NOTE

1. Act No. 70, 1975; assented to 19 June 1975.