



# Australian National Railways Commission (Transitional Provisions and Consequential Amendments) Act 1983

No. 141 of 1983

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# **Australian National Railways Commission (Transitional Provisions and Consequential Amendments) Act 1983**

**No. 141 of 1983**

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**An Act to enact certain transitional provisions, to repeal certain Acts and to make certain amendments in consequence of the enactment of the *Australian National Railways Commission Act 1983***

[Assented to 22 December 1983]

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

## **PART I—PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Australian National Railways Commission (Transitional Provisions and Consequential Amendments) Act 1983*.

### **Commencement**

2. This Act shall come into operation on the day fixed under section 2 of the *Australian National Railways Commission Act 1983*.

## **PART II—REPEAL OF THE AUSTRALIAN NATIONAL RAILWAYS ACT 1917**

### **Repeal**

**3.** The following Acts are repealed:

*Commonwealth Railways Act 1917*

*Commonwealth Railways Act 1925*

*Commonwealth Railways Act 1936*

*Commonwealth Railways Act 1950*

*Commonwealth Railways Act 1954*

*Commonwealth Railways Act 1956*

*Commonwealth Railways Act 1968*

*Australian National Railways Act 1975*

*Australian National Railways Amendment Act 1977*

*Australian National Railways Amendment Act 1978*

*Australian National Railways Amendment Act 1980.*

## **PART III—TRANSITIONAL PROVISIONS**

### **Interpretation**

**4. (1)** In this Part—

“former Railways Act” means the *Australian National Railways Act 1917*;

“new Railways Act” means the *Australian National Railways Commission Act 1983*.

**(2)** Expressions used in this Part have, unless the contrary intention appears, the same meanings as those expressions have in the new Railways Act.

### **Application**

**5.** This Part has effect notwithstanding anything contained in the new Railways Act.

### **Commissioners**

**6. (1)** The person who, immediately before the commencement of this Act, held office under the former Railways Act as Chairman continues, after the commencement of this Act, to hold office as Chairman as if he had been appointed to that office on a full-time basis under the new Railways Act and holds that office, subject to the new Railways Act, for the remainder of the period of his appointment under the former Railways Act.

**(2)** Each person who, immediately before the commencement of this Act, held office under the former Railways Act as a Commissioner (other than Chairman) continues, after the commencement of this Act, to hold office as a Commissioner (other than Chairman or Deputy Chairman) as if he had been

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appointed to that office under the new Railways Act and holds that office, subject to the new Railways Act, for the remainder of the period of his appointment under the former Railways Act.

**General Manager**

7. The person who, immediately before the commencement of this Act, held office under the former Railways Act as General Manager continues, after the commencement of this Act, to hold office as General Manager as if he had been appointed to that office under the new Railways Act and holds that office, subject to the new Railways Act, on the terms and conditions on which he held that office immediately before the commencement of this Act.

**Officers and employees**

8. (1) A person who, immediately before the commencement of this Act, was an officer or employee of the Commission continues, after the commencement of this Act, to be an officer or employee of the Commission, as the case may be, as if he had been appointed or employed, as the case may be, under the new Railways Act.

(2) Sub-section (1) does not apply in relation to a person who, on the day immediately preceding the day on which this Act comes into operation, ceased to be an officer or employee of the Commission.

**Determinations of terms and conditions of service and employment**

9. (1) A determination made by the Commission under sub-section 46 (2) of the former Railways Act, and in force immediately before the commencement of this Act, has effect, for the purposes of the new Railways Act, as if it had been made by the Commission under sub-section 38 (1) of the new Railways Act.

(2) A certificate signed by the General Manager, or another person authorized by the Commission, by instrument in writing, for the purposes of this sub-section, that states that—

- (a) a specified document is a true copy of a determination made by the Commission under sub-section 46 (2) of the former Railways Act;
- (b) the terms and conditions of service or employment set out in a determination made by the Commission under sub-section 46 (2) of the former Railways Act were determined with the approval of the Public Service Board;
- (c) the salary for a position referred to in a determination made by the Commission under sub-section 46 (2) of the former Railways Act was determined with the approval of the Minister; or
- (d) a determination made by the Commission under sub-section 46 (2) of the former Railways Act is in force or was in force during a specified period or at a specified time,

is *prima facie* evidence of the matters stated in the certificate.

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(3) A document purporting to be a certificate of the kind referred to in sub-section (2) shall, unless the contrary is established, be deemed to be such a certificate and to have been duly given.

**Chairmen of Promotions Appeal Boards**

10. A person who, immediately before the commencement of this Act, held office under the former Railways Act as Chairman of a Promotions Appeal Board continues, after the commencement of this Act, to hold office as Chairman of a Promotions Appeal Board as if he had been appointed to that office under the new Railways Act and holds that office, subject to the new Railways Act and the by-laws made under that Act, for the remainder of the period of his appointment under the former Railways Act.

**Promotion appeals**

11. Notwithstanding the repeal effected by section 3, sections 53 and 53A of the former Railways Act, and the by-laws made under that Act for the purposes of those sections, continue to have effect, after the commencement of this Act, in relation to an appeal instituted under section 53A of the former Railways Act as if that repeal had not been effected.

**Chairmen of Disciplinary Appeal Boards**

12. A person who, immediately before the commencement of this Act, held office under the former Railways Act as Chairman of a Disciplinary Appeal Board continues, after the commencement of this Act, to hold office as Chairman of a Disciplinary Appeal Board as if he had been appointed to that office under the new Railways Act and holds that office, subject to the new Railways Act and the by-laws made under that Act, for the remainder of the period of his appointment under the former Railways Act.

**Disciplinary appeals**

13. Notwithstanding the repeal effected by section 3, sections 53B, 53C and 53D of the former Railways Act, and the regulations and by-laws made under that Act for the purposes of those sections, continue to have effect, after the commencement of this Act, in relation to an appeal instituted under section 53C of the former Railways Act as if that repeal had not been effected.

**Charges for services**

14. (1) Notwithstanding the repeal effected by section 3, sections 29, 30 and 30A of the former Railways Act continue to have effect in relation to the fixing by the Commission of rates of charges for services until the expiration of the period of 60 days referred to in sub-section 21 (3) of the new Railways Act as if that repeal had not been effected.

(2) Sub-sections 21 (1), (4) and (7) of the new Railways Act do not have effect in relation to the fixing by the Commission of rates of charges for services until the expiration of the period referred to in sub-section (1) of this section.

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**Railways arrangements**

15. An arrangement entered into for the purposes of sub-section 32 (1) of the former Railways Act, and in force immediately before the commencement of this Act, has effect, for the purposes of the new Railways Act, as if it had been entered into for the purposes of section 12 of the new Railways Act.

**Authorities to supply travellers' requisites**

16. An authority granted by the Commission under sub-section 33A (4) of the former Railways Act, and in force immediately before the commencement of this Act, has effect, for the purposes of the new Railways Act, as if it had been granted by the Commission under sub-section 13 (3) of the new Railways Act.

**Investment approvals**

17. An approval given by the Treasurer for the purposes of paragraph 57A (2) (c) of the former Railways Act, and in force immediately before the commencement of this Act, has effect, after the commencement of this Act, as if it had been given by the Treasurer for the purposes of paragraph 63E (1) (c) of the *Audit Act 1901* (as that paragraph applies in relation to the Commission by virtue of sub-section 66 (1) of the new Railways Act).

**Determination of terms and conditions of borrowings from Commonwealth**

18. A determination made by the Minister for Finance under section 57B of the former Railways Act, and in force immediately before the commencement of this Act, has effect, for the purposes of the new Railways Act, as if it had been made by the Minister for Finance under section 61 of the new Railways Act.

**Determinations in relation to stamp duty or similar tax**

19. A determination made by the Treasurer under sub-section 57H (1A) of the former Railways Act, and in force immediately before the commencement of this Act, has effect, for the purposes of the new Railways Act, as if it had been made by the Treasurer under sub-section 67 (2) of the new Railways Act.

**Regulations in relation to liability of Commission to taxation**

20. Regulations made under the former Railways Act by virtue of sub-section 57H (2) of that Act, and in force immediately before the commencement of this Act, have effect, for the purposes of the new Railways Act, as if they had been made under the new Railways Act by virtue of sub-section 67 (4) of that Act.

**Australian National Railways (A.N.R. Stock) Regulations**

21. The Australian National Railways (A.N.R. Stock) Regulations as in force immediately before the commencement of this Act have effect, after the commencement of this Act, as if—

- (a) they had been made under the new Railways Act; and

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- (b) any reference in those regulations to the *Australian National Railways Act 1917* were a reference to the *Australian National Railways Commission Act 1983*.

**References in agreements, &c., to Commonwealth Railways  
Commissioner**

22. Any agreement or instrument subsisting immediately before the commencement of this Act to which the Commonwealth or the Commonwealth Government was a party, or to which the Commonwealth Railways Commissioner was expressed to be a party, has effect, after the commencement of this Act, as if—

- (a) in a case where the Commonwealth Railways Commissioner was expressed to be a party—the Commission were substituted for the Commonwealth Railways Commissioner as a party to the agreement or instrument; and
- (b) any reference in the agreement or instrument to the Commonwealth Railways Commissioner were (except in relation to matters that occurred before the commencement of this Act) a reference to the Commission.

**PART IV—AMENDMENT OF THE LONG SERVICE LEAVE  
(COMMONWEALTH EMPLOYEES) ACT 1976**

**Principal Act**

23. The *Long Service Leave (Commonwealth Employees) Act 1976*<sup>1</sup> is in this Part referred to as the Principal Act.

**Meaning of employment in Government Service**

24. Section 10 of the Principal Act is amended by omitting from sub-section (5) “52A of the *Australian National Railways Act 1917*” and substituting “44 of the *Australian National Railways Commission Act 1983*”.

**PART V—AMENDMENTS OF THE RAILWAY AGREEMENT  
(ADELAIDE TO CRYSTAL BROOK RAILWAY) ACT 1980**

**Principal Act**

25. The *Railway Agreement (Adelaide to Crystal Brook Railway) Act 1980*<sup>2</sup> is in this Part referred to as the Principal Act.

**Interpretation**

26. Section 4 of the Principal Act is amended by omitting the definition of “Australian National Railways Act” and substituting the following definition:

“ ‘Australian National Railways Commission Act’ means the *Australian National Railways Commission Act 1983*.”



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**Construction of railway**

27. Section 9 of the Principal Act is amended by omitting “Australian National Railways Act” and substituting “Australian National Railways Commission Act”.

**Repeal of section 13**

28. Section 13 of the Principal Act is repealed.

**PART VI—AMENDMENT OF THE RAILWAYS (TASMANIA)  
ACT 1975**

**Principal Act**

29. The *Railways (Tasmania) Act 1975*<sup>3</sup> is in this Part referred to as the Principal Act.

**Transfer of liabilities**

30. Section 7 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) After the commencement of the *Australian National Railways Commission Act 1983*, 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 to which the Australian Commission would have been subject under section 68 of the *Australian National Railways Act 1917* if that Act had not been repealed.”.

**PART VII—AMENDMENTS OF THE SEAT OF GOVERNMENT  
RAILWAY ACT 1928**

**Principal Act**

31. The *Seat of Government Railway Act 1928*<sup>4</sup> is in this Part referred to as the Principal Act.

**Interpretation**

32. Section 2 of the Principal Act is amended by omitting the definition of “the Commissioner” and substituting the following definition:

“ ‘the Commission’ means the Australian National Railways Commission;”.

**Occupation and use of land for railway purposes**

33. Section 3 of the Principal Act is amended—

- (a) by omitting “Commissioner” (wherever occurring) and substituting “Commission”; and
- (b) by omitting from sub-section (1) “he” and substituting “it”.

**Repeal of sections 4 and 5**

34. Sections 4 and 5 of the Principal Act are repealed.

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**NOTES**

1. No. 192, 1976, as amended. For previous amendments, see No. 9, 1978; Nos. 52 and 155, 1979; and Nos. 6 and 61, 1981.
2. No. 123, 1980.
3. No. 70, 1975.
4. No. 40, 1928, as amended. For previous amendments, see No. 216, 1973 (as amended by No. 20, 1974).