Western Australia

# Rail Freight System Act 2000

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# Defined terms

Western Australia

# Rail Freight System Act 2000

**An Act to provide for —**

- **the disposal of the State rail freight business and things associated with that business and the assignment of things to give effect to a disposal;**
- **the identification of railway land corridors and the management of them,**

**to amend [1] or modify the operation of —**

- **the *Railways (Access) Act 1998* [2];**
- **the *Government Railways Act 1904*;**
- **the *Hire-Purchase Act 1959*;**
- **the *Land Administration Act 1997*;**
- **the *National Rail Corporation Agreement Act 1992* [3]; and**
- **the *Planning and Development Act 2005*,**

**and for related purposes.**

*[Long title amended: No. 31 of 2003 s. 170; No. 38 of 2005 s. 15.]*

# Part 1 — Preliminary

## 1. Short title

This Act may be cited as the *Rail Freight System Act 2000*.

## 2. Commencement

(1) Except as otherwise stated in this section, this Act comes into operation on a day fixed by proclamation.

(2) Part 5 Divisions 1 and 6 come into operation on a day fixed by proclamation, being a day that is after the day fixed under subsection (1).

(3) If the day fixed under subsection (2) is after the day on which a provision would come into operation under subsection (5) or (7), the provision comes into operation on the day fixed under subsection (2) and the subsection fixing when it would otherwise come into operation does not apply.

(4) If the day fixed under subsection (1) is after the day on which section 91(1)(b) would come into operation under subsection (6), section 91(1)(b) comes into operation on the day fixed under subsection (1) and subsection (6) does not apply.

(5) Section 91(1)(a) comes into operation immediately after section 43(2) of the *Railways (Access) Act 1998*[2] comes into operation.

(6) Section 91(1)(b) comes into operation immediately after section 43(2) of the *Railways (Access) Act 1998*[2] comes into operation.

(7) Section 93 comes into operation immediately after section 43(7) of the *Railways (Access) Act 1998*[2] comes into operation.

### 3. Terms used

In this Act, unless the contrary intention appears —

***Authority*** has the meaning given by section 2 of the *Government Railways Act 1904*;

***Authority's rail freight business*** means the business and operations of the Authority involved in the carriage of freight by rail and the provision and maintenance of facilities for the operation of railways for the carriage of freight, and it includes the carriage of freight by road and other activities of the Authority that the business and operations involve;

***corridor land*** means land that is designated as corridor land under Part 3;

***corridor land order*** means an order made under Part 3 to designate land as corridor land or land other than corridor land (whether or not the order has come into operation).

*[Section 3 amended: No. 31 of 2003 s. 171.]*

### 4. Land etc. belonging to State, references to

A reference in this Act to any land or thing belonging to the State includes a reference to any land or thing belonging to the State whether held by the Authority, any other State agency, or otherwise.

*[Section 4 amended: No. 31 of 2003 s. 172.]*

### 5. Disposing of land etc. belonging to State, references to

For the purposes of this Act, requiring any land or thing belonging to the State to be conveyed to a different holder in such a way that it would still belong to the State is to be regarded as disposing of it, and accordingly a power to dispose of any land or thing belonging to the State includes a power to give the holder of the land or thing a requirement of that kind.

### 6. Things on land, meaning of

Anything that is placed in, on, or over, or is buried in, land is on that land for the purposes of this Act.

### 7. Property in things on land

Anything that is on land which, or an interest in which, is capable of being disposed of under Part 2 or any other corridor land —

(a) is not a part of the land, regardless of whether it is of the nature of a fixture; and

(b) is capable of being assigned separately from the land; and

(c) is capable of being removed from the land by, or with the authority of, the owner of that thing.

### 8. Government railways, effect on of disposals etc. under this Act

(1) If anything that is part of a Government railway is disposed of under Part 2, it ceases to be part of a Government railway when the right to occupy or possess it passes.

(2) If land that becomes corridor land or anything on it is part of a Government railway the land or thing ceases to be part of a Government railway upon the land becoming corridor land unless the Minister orders otherwise under subsection (3).

(3) Before land becomes corridor land, the Minister may, in writing, order that anything described in the order that is on the land does not cease to be part of a Government railway because of the land becoming corridor land.

(4) The Minister is to give a copy of an order under subsection (3) to the Authority.

(5) Nothing in this section prevents anything that has ceased to be part of a Government railway from again being part of a

Government railway except that corridor land cannot be part of a Government railway.

(6) In this section —

***Government railway*** means a railway or Government railway for the purposes of the *Government Railways Act 1904*.

(7) In this section a reference to being part of a Government railway includes a reference to being a Government railway.

*[Section 8 amended: No. 31 of 2003 s. 173; No. 19 of 2010 s. 51.]*

## 9. Relationship with other Acts

(1) If anything in this Act or regulations made under it is inconsistent with anything in —

(a) the *Rail Safety National Law (WA)* or subsidiary legislation made under it; or

(b) the *Railways (Access) Act 1998* [2] or subsidiary legislation made under it,

the legislation described in paragraph (a) or (b) prevails.

(2) Nothing in this Act affects —

(a) a right conferred under section 34 of the *Dampier to Bunbury Pipeline Act 1997* before the commencement of this Part, whether or not the right has been assigned or the period for which it is to apply has been extended; or

(b) the provisions of the *Dampier to Bunbury Pipeline Act 1997* in so far as they relate to a right described in paragraph (a); or

(c) a right conferred under the *Energy Coordination Act 1994*, before the commencement of this Part, on the holder of a licence referred to in section 11D(1)(a) of that Act.

(3) A reference in subsection (2) to a right conferred before the commencement of this Part includes a reference to a right subsequently conferred to the extent that it is in continuation of, and the same as, the former right.

Note for this section:

See also the *Rail Freight System (Acquisition and Reorganisation) Act 2026* section 38.

*[Section 9 amended: No. 18 of 2010 s. 269; No. 21 of 2015 s. 50; No. 7 of 2024 s. 58; No. 21 of 2026 s. 47.]*

## 10. Act binds Crown

This Act binds the Crown in right of the State and, subject to the limits of the legislative power of the State, the Crown in all its other capacities.

# Part 2 — Disposal and related matters

## Division 1 — Disposal, generally

### 11. Proposals for disposal of rail freight business

(1) The Minister may prepare and submit to the Treasurer a proposal to dispose of the Authority's rail freight business, and anything associated with that business, in whole or in part.

(2) The power given by subsection (1) extends to —

(a) any of the Authority's rail freight business that was not included in an earlier proposal under that subsection, whether or not it was established after the earlier proposal was made; and

(b) anything associated with any business to which the power extends; and

(c) anything associated with any business that has been disposed of in accordance with an earlier proposal under that subsection.

(3) The power given by subsection (1) is limited to things belonging to the State.

(4) The proposal prepared by the Minister is to include an unambiguous description of the business and other things that are to be disposed of.

*[Section 11 amended: No. 31 of 2003 s. 189(2).]*

### 12. Limitations on disposal of land

(1) A proposal to dispose of land cannot be approved by the Treasurer until a corridor land order has been published in the *Gazette* under Part 3.

(2) A proposal to dispose of land that is, or is to be, corridor land cannot be approved if the interest to be disposed of is greater than a leasehold interest.

(3) A proposal to dispose of standard gauge corridor land to a person can be approved only if the person is a company that —

(a) as its main business, provides and maintains or is to provide and maintain facilities for the operation of railways; and

(b) is not involved in providing train services; and

(c) has provisions in its constitution to prevent the disclosure of confidential information obtained in the course of its business to —

(i) a person providing train services; or

(ii) a person controlling, or controlled by, a person providing train services,

except if the disclosure is required by law.

(4) For the purpose of subsection (3), a company is involved in providing train services if —

(a) it provides the train services itself; or

(b) it controls a body that provides train services; or

(c) it is controlled by a body that provides train services on standard gauge corridor land; or

(d) it delegates any control over the management of any of its business to a person providing train services; or

(e) any of its directors is also a director of a company that provides train services.

(5) A body that, under the *Corporations Act 2001* of the Commonwealth, is a subsidiary of another body is, for the purposes of subsection (3) or (4), controlled by that other body.

(6) A proposal to dispose of standard gauge corridor land between Koolyanobbing and Esperance is to ensure that, if the holder of the land has a contract under which more than 3 million tonnes

of freight per year are to be carried on the track between Kalgoorlie and Esperance —

(a) the railway track on the land is, within 2 years after the disposal or the making of the contract (whichever is later), improved over the whole length of the track between Koolyanobbing and Esperance to a standard suitable to allow rolling stock of a 23 t axle load to travel along it at a maximum speed of 80 km per hour for an average speed of 60 km per hour; and

(b) the track is maintained to at least that standard over that length of track during the term of the disposal.

(7) A proposal to dispose of standard gauge corridor land between Kwinana and Parkeston is to ensure that —

(a) the railway track on the land is improved over the whole length of the track between those places to a standard suitable to allow —

(i) trains that are each 1800 m long to cross at all crossing loops existing at the time of the disposal; and

(ii) rolling stock of a 21 t axle load to travel along it at a maximum speed of 115 km per hour; and

(iii) rolling stock of a 25 t axle load to travel along it at a maximum speed of 80 km per hour,

and those improvements are carried out in accordance with any program developed by the holder of the land in co-operation with the Australian Rail Track Corporation Limited (ACN 081 455 754); and

(b) the track is maintained to at least that standard over that length of track during the term of the disposal.

(8) A proposal to dispose of standard gauge corridor land on which there is railway track between Kalgoorlie and Leonora is to ensure that, over that length of track and during the term of the disposal, the track is maintained to at least the same standards as

to train length, axle load, and speed, as existed at the time of disposal.

(9) If a subsection of this section requires a particular standard and another subsection requires a different standard in relation to the same matter, the proposal is to provide for the more stringent standard.

(10) In this section —

***company*** has the same meaning as it has in the *Corporations Act 2001* of the Commonwealth;

***confidential information*** means information that, if not disclosed by the company, would not be otherwise publicly available;

***director*** has the meaning given by section 9 of the *Corporations Act 2001* of the Commonwealth;

***involved in providing train services***, in subsection (3), has the meaning given by subsection (4);

***standard gauge corridor land*** means land that is, or is to be, corridor land on which there is railway track of a nominal gauge of 1435 mm for rail transit between Kwinana, Fremantle, Leonora, Esperance, Kalgoorlie, Parkeston, and all intermediate locations;

***to control*** includes the meaning given by subsection (5);

***train services*** means the business and operations involved in the carriage of freight or passengers by rail, and does not include the business and operations involved in the provision and maintenance of facilities for the operation of railways.

*[Section 12 amended: No. 10 of 2001 s. 163.]*

## 13. Agreements to give effect to proposals for disposals

(1) The Minister may enter into any agreement on behalf of the State to give effect to a proposal under section 11 that is approved by the Treasurer.

(2) If the agreement is for the disposal to a person of standard gauge corridor land as defined in section 12, it is to contain provisions to ensure that —

(a) while holding the land the person continues to be a person in respect of whom approval could be given under section 12(3) (in this subsection called an ***eligible company***); and

(b) any person holding the land as the person's successor or assignee is, and while holding the land continues to be, an eligible company.

### 14. Agreements under s. 13, content of

Without limiting the other things that an agreement under section 13 may deal with —

(a) an agreement under that section for the disposal of anything necessary for, or associated with, the operation of a railway for the carriage of freight may include provisions about the continued availability of that thing for that purpose, and its being maintained in a condition suitable for that purpose; and

(b) an agreement under that section for the disposal of any business may include provisions about the continuation of, and the nature and extent of, the services provided through the business.

### 15. *Land Administration Act 1997* s. 18, operation of affected

Approval under section 18 of the *Land Administration Act 1997* is not required for anything that is contained in, or done to give effect to, an agreement entered into under section 13 of this Act unless that approval is required because of section 178(5) of that Act.

### 16. Authority's functions

(1) It is a function of the Authority —

(a) to facilitate the Minister's entering into an agreement under section 13 and the fulfilment of the State's obligations under it; and

(b) to deal with incidental and related matters.

(2) The Authority may enter into an agreement in order to provide for —

(a) the Authority or any other person to have access to anything disposed of under this Act;

(b) any person to have access to anything that is under the management and control of the Authority as provided by section 13 of *Government Railways Act 1904*;

(c) the sharing of facilities or the joint use of services to enable the Authority to effectively perform its functions under the *Government Railways Act 1904* and to enable another party to the agreement to effectively operate freight services as the agreement contemplates.

(3) The Authority may do anything else necessary or convenient to be done for the purpose of performing a function under this Act.

(4) This section does not limit any power that the Authority has under the *Government Railways Act 1904*.

(5) The Minister may direct the Authority —

(a) to allow the whole or part of its functions under this Act to be performed on its behalf by; and

(b) in performing its functions under this Act, to act in accordance with any instructions of,

a committee of persons appointed by the Minister and given responsibility for matters to do with the administration of this Act.

*[Section 16 amended: No. 31 of 2003 s. 189(1).]*

*[**17.** Deleted: No. 31 of 2003 s. 174.]*

**18. Auditor General may disclose information**

Despite section 46(2) of the *Auditor General Act 2006*, the Auditor General may for the purpose of facilitating a disposal under this Part, disclose to any person, or provide any person with access to, information in his or her possession or under his or her control.

*[Section 18 amended: No. 77 of 2006 Sch. 1 cl. 144.]*

**19. Effect of this Part on contracts etc.**

The operation of a provision of this Part is not to be regarded as —

(a) a breach of contract or confidence or any other civil wrong; or

(b) a breach of a contractual provision prohibiting, restricting, or regulating the assignment or transfer of assets or liabilities or the disclosure of information; or

(c) giving rise to a remedy by a party to an instrument, or causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset or liability; or

(d) causing any contract or instrument to be void or otherwise unenforceable; or

(e) releasing, or allowing the release of, any surety.

**20. Indemnities and guarantees, provision of by State**

(1) The Treasurer may, in the name and on behalf of the State, give any indemnity or guarantee in respect of a matter arising under or related to —

(a) an agreement under section 13; or

(b) the assignment of anything in accordance with an agreement under section 13.

(2) The payment of any money under an indemnity or guarantee given under subsection (1) is to be made by the Treasurer and charged to the Consolidated Account, which this section appropriates to the necessary extent.

*[Section 20 amended: No. 77 of 2006 s. 4.]*

### 21. Regulations

Regulations may provide for —

(a) anything for which it is necessary or convenient to make provision in order to give effect to an agreement under section 13;

(b) anything that it is necessary or convenient to deal with as a consequence of anything in, or anything done under, this Part.

## Division 2 — Assignment and related matters

### 22. Terms used

In this Division, unless the contrary intention appears —

***asset*** means property of any kind whether tangible, intangible, real, or personal and, without limiting that meaning, includes —

(a) any chose in action or goodwill; or

(b) any right, interest, or claim of any kind,

whether arising from, accruing under, created or evidenced by or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent or prospective;

***assignee*** means the person specified in a transfer order as —

(a) the person to whom anything is assigned; or

(b) the person a reference to whom has to be treated as being substituted for a reference to the Authority in an agreement or instrument in order to give effect to section 24(1)(b);

***liability*** means any liability, duty or obligation —

(a) whether actual, contingent or prospective, liquidated or unliquidated; or

(b) whether owed alone or jointly or jointly and severally with any other person;

***right*** means any right, power, privilege or immunity whether actual, contingent or prospective, but does not include any privilege or immunity enjoyed as an agent of the Crown except in so far as it relates to anything done or omitted to be done before the transfer time;

***transfer order*** means an order under section 23, as amended under that section or corrected under section 29 if applicable;

***transfer time*** means the transfer time specified in a transfer order.

*[Section 22 amended: No. 31 of 2003 s. 189(1).]*

## 23. Transfer orders

(1) To give effect to an agreement under section 13, the Minister may make and publish in the *Gazette* an order that —

(a) specifies a time, being not before the day the order is published, to be the transfer time for that order; and

(b) specifies any asset or liability that, by operation of section 24, is to be assigned to the person specified in the order; and

(c) specifies proceedings in which the person specified in the order is to be substituted for the Authority as a party; and

(d) specifies any agreement or instrument relating to anything assigned that, by operation of section 24, is to have effect as if, unless otherwise expressly specified in the order, references to the assignee were substituted for references in it to the Authority.

(2) If the transfer time is specified by reference to when anything is done, the Minister is to cause notice to be published in the *Gazette* of the time when that thing was done.

(3) The transfer order may specify things by reference to schedules which —

(a) need not be published in the *Gazette*; but

(b) must be available for public inspection,

and anyone or anything specified in a schedule is to be taken to be specified in the order.

(4) Anyone or anything may be specified in a transfer order by describing the person or thing as a member of a class.

(5) Before a transfer order is made specifying anything by reference to a schedule, a copy of which will be required to be delivered to a relevant official under section 28, the Minister is to consult as to the form and content of the schedule with the relevant official (or each relevant official if there is more than one).

(6) The transfer order, or a schedule to which it refers, may, with the consent of the assignee, be amended by the Minister, by further order published in the *Gazette*, but no such amendment may be made after the transfer time.

*[Section 23 amended: No. 31 of 2003 s. 189(1).]*

### 24. Transfer orders, consequences of

(1) If a transfer order is made then, except as may be otherwise agreed between the Minister and the assignee —

(a) at the transfer time —

(i) an asset that is specified is, by operation of this section, assigned to the assignee; and

(ii) a liability that is specified is, by operation of this section, assigned to and becomes a liability of the assignee; and

(iii) the assignee is, by operation of this section, substituted for the Authority as a party to any specified proceedings;

and

(b) an agreement or instrument that is specified has effect, by operation of this section, as if, unless otherwise expressly specified, a reference to the assignee were, at the transfer time, substituted for a reference to the Authority in the agreement or instrument; and

(c) any proceedings or remedy that might have been commenced by, or available against or to, the Authority in relation to an asset or liability assigned by paragraph (a) may be commenced by, or are available against or to, the assignee of the asset or liability; and

(d) anything relating to an asset or liability assigned by paragraph (a) that was done or omitted to be done by, to, or in respect of, the Authority before the assignment and is of any effect is to be taken to have been done or omitted by, to, or in respect of, the assignee of the asset or liability.

(2) In subsection (1) —

***specified*** means specified in the transfer order.

*[Section 24 amended: No. 31 of 2003 s. 189(1).]*

## 25. Transfer order etc., completion of transactions for

If section 24 cannot, to any extent, have effect as described in this Division (whether because a matter is governed otherwise than by the law of the State, or for any other reason), the Minister and the Authority are each to take all practicable steps for the purpose of securing that the effect sought to be achieved by the transfer order and this Division is achieved as soon as possible after the transfer time.

*[Section 25 amended: No. 31 of 2003 s. 189(1).]*

### 26. Certain instruments as to Authority's internal arrangements may be specified in transfer order

(1) An instrument that provides for arrangements between different parts of the Authority's business and operations may be specified in a transfer order as if it created contractual rights and liabilities.

(2) An instrument specified as described in subsection (1) is to be regarded as if its provisions were contractual provisions between different legal entities.

(3) The definitions of ***liability*** and ***right*** in section 22 include contractual liabilities and rights that are to be regarded as arising because of subsection (2), and those liabilities and rights are accordingly assignable under this Division.

*[Section 26 amended: No. 31 of 2003 s. 189(2).]*

### 27. Records, arrangements for delivery of etc.

The Authority and an assignee are to make arrangements for the delivery or sharing of, and access to, registers, papers, documents, minutes, receipts, books of account and other records (however compiled, recorded, or stored) relating to any asset, liability, proceedings, agreement, or instrument specified under section 23(1) in a transfer order.

*[Section 27 amended: No. 31 of 2003 s. 189(1).]*

### 28. Registration of documents to show effect of transfer orders etc.

(1) The Minister is to cause a copy of each transfer order, any schedule to which it refers, and any notice under section 23(2) relating to the transfer time, to be delivered to each relevant official and the Authority.

(2) The relevant officials are to take notice of this Part, any transfer order, including a schedule to which the order refers, and any notice under section 23(2), and are to record and register in the

appropriate manner the documents necessary to show the effect of the transfer order and this Part.

(3) In this section —

***relevant official*** means the Registrar of Titles, the Registrar of Deeds and Transfers, the Minister administering the *Mining Act 1978* or any other person authorised by a written law to record and give effect to the registration of documents relating to transactions affecting relevant property;

***relevant property*** means property of a kind affected by the transfer order, whether it is an estate or interest in land or any other property.

*[Section 28 amended: No. 31 of 2003 s. 189(1); No. 47 of 2011 s. 16.]*

## 29. Error in transfer order, correcting

(1) The Minister may by order published in the *Gazette* make any provision that is necessary to correct any error in a transfer order or a schedule to which a transfer order refers.

(2) An order under this section may be made so as to have effect from the transfer time under the transfer order.

(3) To the extent that a provision of an order under this section has effect before the day of its publication in the *Gazette*, section 24 does not, as a result of that provision, operate so as —

(a) to affect, in a manner prejudicial to any person (other than the State, the Authority, the assignee, or a Minister, officer or agency of the State), the rights of that person existing before the day of publication; or

(b) to impose liabilities on any person (other than the State, the Authority, the assignee, or a Minister, officer or agency of the State), in respect of anything done or omitted to be done before the day of publication.

*[Section 29 amended: No. 31 of 2003 s. 189(1).]*

### 30. Proceeds of disposals, application of

The proceeds of any disposal under this Part are to be applied by paying them to the Treasurer or otherwise as the Treasurer determines.

# Part 3 — Railway corridors

## Division 1 — Preliminary and administrative matters

### 31. Term used: Authority land

In this Part, unless the contrary intention appears —

***Authority land*** means —

(a) land that is, or is part of, a Government railway as defined in section 2 of the *Government Railways Act 1904*; or

(b) other land that is used by or under the control of the Authority.

*[Section 31 amended: No. 31 of 2003 s. 175.]*

### 32. Authority's powers for purposes of this Act

The Authority may do anything necessary for, or incidental to, the performance of its functions under this Act.

*[Section 32 inserted: No. 31 of 2003 s. 176.]*

### 33. Guidelines for Authority

(1) The Minister may give the Authority written guidelines about how it is to perform its functions under this Part.

(2) In performing its functions under this Part, the Authority is required to have regard to any relevant guidelines given to it under subsection (1) by the Minister.

(3) This section does not limit the directions that the Minister may give the Authority under the *Public Transport Authority Act 2003* section 27 or the effect of a direction under that section.

*[Section 33 inserted: No. 31 of 2003 s. 177.]*

## Division 2 — Ordering land to be, or be no longer, corridor land

### 34. Authority land, designating as corridor land or land other than corridor land

The Minister may, by order notice of which is published in the *Gazette*, designate Authority land identified by the order as corridor land or land other than corridor land.

*[Section 34 inserted: No. 31 of 2003 s. 178.]*

### 35. Corridor land, descriptions of and orders as to

(1) For the purpose of assisting the Minister to prepare a proposal under section 11 that includes a proposal to dispose of land, the Authority is to give to the Minister a description of the land sufficient to identify it.

(2) If any of the land is not land in respect of which a corridor land order has been published in the *Gazette* under this Part, the Minister, by order notice of which is published in the *Gazette*, is to designate the land as corridor land or land other than corridor land.

*[Section 35 amended: No. 31 of 2003 s. 179 and 189(1).]*

### 36. Land other than Authority land, designating as corridor land

If the State makes any land that is not Authority land available to be corridor land, the Minister may, by order notice of which is published in the *Gazette*, designate the land as corridor land.

*[Section 36 inserted: No. 31 of 2003 s. 180.]*

### 37. Land may be ordered to be no longer corridor land

(1) The Minister may, by order notice of which is published in the *Gazette*, cancel the designation as corridor land of any land that is no longer required to be corridor land.

(2) Land the designation of which is cancelled by the order becomes part of a Government railway for the purposes of the *Government Railways Act 1904*.

*[Section 37 amended: No. 31 of 2003 s. 187.]*

### 38. Identifying land in an order

An order under this Division may identify land by reference to a schedule that is not published in the *Gazette* but is available for public inspection.

### 39. Errors in order, correcting

(1) The Minister may by order published in the *Gazette* make any provision that is necessary to correct any error in an order under this Division (in this section called the ***initial order***) or a schedule to which it refers.

(2) Subsection (1) applies whether the initial order was made by the Minister or not.

(3) An order under this section may be made so as to have effect from the time when the initial order had effect.

(4) To the extent that a provision of an order under this section has effect before the day of its publication in the *Gazette*, it does not operate so as —

(a) to affect, in a manner prejudicial to any person (other than the State, the Authority, or a Minister, officer or agency of the State), the rights of that person existing before the day of publication; or

(b) to impose liabilities on any person (other than the State, the Authority, or a Minister, officer or agency of the State), in respect of anything done or omitted to be done before the day of publication.

*[Section 39 amended: No. 31 of 2003 s. 181, 187 and 189(1).]*

### 40. When order comes into operation

(1) An order under this Division comes into operation at the beginning of the day on which notice of it is published in the *Gazette* unless the order specifies another time when it is to come into operation.

(2) If the time when an order is to come into operation is specified by reference to when anything is done, the Minister is to cause notice to be published in the *Gazette* of the time when that thing was done.

(3) Nothing in subsection (1) limits section 39(3).

### 41. Notation on title to corridor land

(1) After making an order under this Division, the Minister is to cause a copy of the order and any schedule to which it refers to be delivered to each relevant official and the Authority.

(2) The person delivering a copy of the order to a relevant official is to also provide the relevant official with any further information requested by the relevant official, in the form, if any, specified in the request.

*[(3) deleted]*

(4) Each relevant official is to make any entry in, or endorse or note, any relevant title, plan, map, land register or record to give a person searching the title to that land notice that it is corridor land or that the designation of the land as corridor land has been cancelled.

(5) A statement in writing signed by the chief executive officer of the Authority that land is corridor land is evidence of the fact stated.

(6) In this section —

***relevant official*** means —

(a) the Registrar of Titles; or

(b) the Registrar of Deeds and Transfers; or

(c) the Minister administering the *Mining Act 1978*,

according to which, if any, of them has responsibility for a register relating to the affected land.

*[Section 41 amended: No. 31 of 2003 s. 182 and 189(1); No. 47 of 2011 s. 16.]*

## Division 3 — Dealing with corridor land and things on it

### 42. Authority's functions as to corridor land and certain things on it

(1) The Authority may, for the purposes of facilitating the use of corridor land for the carriage of freight by rail or for any other purpose that is compatible with that use —

(a) dispose of an interest in corridor land that is no greater than a leasehold interest and, if it is for a term, is not for a term that is, or is capable of being, more than 50 years;

(b) dispose of anything, or an interest in anything, belonging to the State that is on corridor land, is associated with the provision of a rail freight service, and is not part of a Government railway for the purposes of the *Government Railways Act 1904*;

(c) generally manage, and do anything else in relation to —

(i) corridor land; and

(ii) anything belonging to the State that is on corridor land, is associated with the provision of a rail freight service, and is not part of a Government railway for the purposes of the *Government Railways Act 1904*.

(2) For the purposes of the restriction in subsection (1)(a), any term for which there is an option to renew an interest is to be regarded as part of the term of the interest.

(2A) Subsection (1) is subject to the *Rail Freight System (Acquisition and Reorganisation) Act 2026* section 11(1).

(3) The powers given by subsection (1) apply to land and things belonging to the State even if they are not held by the Authority but before exercising powers in respect of land that is in the DBNGP corridor (as defined in Part 4 of the *Dampier to Bunbury Pipeline Act 1997*), or anything on that land, the Authority is required to consult with the DBNGP Land Access Minister (as defined in that Part).

(4) Without limiting what else the Authority may do, the Authority may do, in relation to former Government railway land or anything on it that is associated with the provision of a rail freight service and is not part of a Government railway for the purposes of the *Government Railways Act 1904*, anything that the Authority could have done had the land not become corridor land.

(5) Without limiting what else the Authority may do, Part VI of the *Public Works Act 1902* applies, so far as it is consistent with the other provisions of this Act for it to do so, as if —

(a) a reference in it to a railway referred to a railway that is on corridor land; and

(b) in relation to a railway that is on corridor land, a reference to the Minister referred to the Minister responsible for the administration of this Act,

but the regulations may modify or exclude the application of any provision of that Part under this subsection.

(6) Nothing in subsection (1)(b) or (c)(ii) or subsection (4) or (5) limits the power of the Authority to dispose of, manage, or do anything else in relation to, anything, whether or not it is on corridor land or former Government railway land, if it belongs to the Authority.

(7) In this section —

***former Government railway land*** means corridor land that was, before it became corridor land, part of a Government railway for the purposes of the *Government Railways Act 1904*.

*[Section 42 amended: No. 31 of 2003 s. 183, 188 and 189(1); No. 21 of 2026 s. 48.]*

### 43. Authority to fulfil State's obligations under s. 13 agreement

The Authority is to perform any function given by this Act as may be necessary to fulfil the State's obligations under an agreement under section 13.

*[Section 43 amended: No. 31 of 2003 s. 188.]*

### 44. Other persons to convey property disposed of by Authority

Any other person holding anything disposed of, or anything an interest in which is disposed of, under this Part by the Authority is to convey what it was that the Authority disposed of.

*[Section 44 amended: No. 31 of 2003 s. 184 and 188.]*

## Division 4 — Regulatory and other matters to do with corridor land

### 45. *Dividing Fences Act 1961*, application of to corridor land

The *Dividing Fences Act 1961* does not apply to a fence separating corridor land from any other land, whether the other land is also corridor land or not.

### 46. Corridor land not subject to certain rates or taxes

(1) Except as stated in subsection (3), corridor land is exempt from —

(a) any rate under the *Local Government Act 1995*; and

(b) any other rate, tax, or charge specified by the Treasurer by an order published in the *Gazette* under this section.

(2) The Treasurer may, by order published in the *Gazette* under this section, amend or revoke a previous order under this section.

(3) Subsection (1) does not exempt corridor land from a rate under the *Local Government Act 1995* to the extent that, under that Act, the land is rateable in the hands of a lessee or tenant who holds a lease or other form of tenancy over the land other than for the purposes of facilitating the use of corridor land for the carriage of freight by rail.

*[Section 46 amended: No. 31 of 2003 s. 185.]*

### 47. No construction on corridor land without consent

(1) Despite anything in any Act, a person is not to construct anything on corridor land unless the Authority has agreed in writing or the regulations state that the agreement of the Authority to the construction is not required.

(2) An agreement under subsection (1) is to give the Authority, in addition to any other remedies that may be specified, the right to remove whatever is to be constructed, and any material used in connection with it, from the corridor land if any other party to the agreement breaches it.

*[Section 47 amended: No. 31 of 2003 s. 188.]*

### 48. Restrictions on use etc. of corridor land

(1) Corridor land is subject to restrictions under this section.

(2) The restrictions are —

(a) that the land is not to be used in a way that is inconsistent with anything that is on, or is being done on, the land in accordance with rights conferred by the Authority under this Part; and

(b) that, unless the approval in writing of the Authority has been obtained first or the regulations state that the approval of the Authority under this paragraph is not required —

(i) the land is not to be used; and

(ii) statutory powers under any other written law are not to be exercised on or in respect of the land,

in a way or to an extent that could reasonably be expected to materially interfere with the exercise in the future of rights that have been, or might in the future be, conferred by the Authority under this Part; and

(c) such other restrictions, if any, as are prescribed by the regulations.

(3) The Authority may refuse to give approval under subsection (2)(b) on the grounds of the likelihood of, or the extent of, the interference referred to in that provision or on any other grounds that the Authority thinks relevant.

*[Section 48 amended: No. 31 of 2003 s. 188.]*

## 49. Delegation by Authority

(1) The Authority may, by an instrument of delegation signed by its chief executive officer, delegate to a person having an interest in corridor land, either generally or as otherwise provided in the instrument —

(a) the power of approval given by section 48(2)(b); or

(b) any power or duty given to the Authority by regulations referred to in section 48(2)(c) in respect of the land.

(2) A power or duty in respect of land cannot be delegated under subsection (1) if the land is in the DBNGP corridor (as defined in Part 4 of the *Dampier to Bunbury Pipeline Act 1997*).

*[Section 49 amended: No. 31 of 2003 s. 186 and 188.]*

## 50. Regulations, specific subjects for

(1) Without limiting the regulations that may be made for the purposes of section 48(2)(c), the regulations may —

(a) make provision for the protection of the corridor land and things on it;

(b) make provision for restricting or prohibiting entry onto corridor land or places or things on it, which may include provisions to do with the erection, maintenance, or removal of gates across public thoroughfares on corridor land;

(c) make provision for the temporary closure or restriction on the use of a public thoroughfare, bridge, or other structure on or adjacent to corridor land for maintenance or in other circumstances.

(2) The regulations may make it an offence to contravene a restriction under section 48, and may prescribe a fine of not more than $10 000 in respect of the offence.

(3) Regulations may make provision as to operational and technical matters arising from corridor land being land that is in the DBNGP corridor (as defined in Part 4 of the *Dampier to Bunbury Pipeline Act 1997*).

### 51. Protecting corridor land etc., use of entry powers for

A person authorised by the Authority to exercise the powers of entry given by this Division, or any of them, may exercise those powers for doing things for the protection of corridor land and things on it.

*[Section 51 amended: No. 31 of 2003 s. 188.]*

### 52. Assistants etc., entry by

Entry under this Division may be made with such assistants and equipment as are considered necessary for the purpose for which entry is required.

### 53. Entering property, general procedure for

(1) Except in an emergency or if the entry is authorised by the warrant of a justice, entry by or on behalf of the Authority on to any land, premises or thing is not lawful unless —

(a) the consent of the owner or occupier has been obtained; or

(b) notice has been given under section 54.

(2) If notice has been given under section 54, a person authorised by the Authority to do so may lawfully enter the land, premises or thing without the consent of the owner or occupier unless the owner or occupier or a person authorised by the owner or occupier objects to the entry.

*[Section 53 amended: No. 31 of 2003 s. 188.]*

### 54. Notice of intended entry

(1) A notice of an intended entry is to be given to the owner or occupier of the land, premises or thing that is to be entered.

(2) The notice is to specify the purpose for which the entry is required and continues to have effect for so long as that requirement continues.

(3) The notice is to be given not less than 24 hours before the power of entry is exercised.

(4) Successive entries for the purpose specified in the notice are to be regarded as entries to which that notice relates.

### 55. Entry under warrant

(1) In the circumstances described in subsection (2), a justice may by warrant authorise the Authority, by its authorised persons, together with such other persons as are named or described in the warrant, or a police officer, to enter any land, premises or thing using such force as is necessary.

(2) A warrant may be granted under subsection (1) where a justice is satisfied that the entry is reasonably required but —

(a) entry has been refused or is opposed or prevented; or

(b) entry cannot be obtained; or

(c) notice cannot be given under section 54 without unreasonable difficulty or without unreasonably delaying entry.

(3) A warrant granted under subsection (1) —

(a) is to be in the prescribed form; and

(b) is to specify the purpose for which the land, premises or thing may be entered; and

(c) continues to have effect until the purpose for which it was granted has been satisfied.

*[Section 55 amended: No. 31 of 2003 s. 188.]*

### 56. Entry in an emergency

(1) In an emergency the Authority, by its authorised persons, may lawfully enter any land, premises or thing immediately and without notice and do what it considers appropriate to deal with the emergency.

(2) For the purposes of this section, an emergency exists where the Authority is of the opinion that the circumstances are such that compliance with the requirements for obtaining entry other than under this section would be impractical or unreasonable because of, or because of the imminent risk of —

(a) injury or illness to any person; or

(b) a natural or other disaster or emergency; or

(c) such other occurrence as is prescribed for the purposes of this section.

(3) A person exercising the power of entry given by subsection (1) may use reasonable force.

(4) The power of entry given by subsection (1) may be exercised at any time while the emergency exists and for so long subsequently as is reasonably required.

(5) Although notice of an intended entry under this section is not generally required, the Authority is to give notice of an intended entry of land under this section to the owner or occupier of the land where it is practicable to do so.

*[Section 56 amended: No. 31 of 2003 s. 188.]*

### 57. Purpose of entry to be given on request

A person who enters or who has entered any land, premises or thing on behalf of the Authority is to give particulars of the authority for that entry on being requested to do so.

*[Section 57 amended: No. 31 of 2003 s. 188.]*

# Part 4 — Miscellaneous

## 58. Civil penalty, agreements etc. may provide for

(1) An agreement under section 13 or an instrument under which a person holds an interest in corridor land under Part 3 may provide for a party to be liable to pay an amount determined under the agreement or instrument, by way of civil penalty, in respect of a breach of the agreement or instrument.

(2) The agreement or instrument may provide for an increase in the amount of the civil penalty because of each day or part of a day during which a breach continues.

(3) A civil penalty provided for in accordance with this section is recoverable even though no damage may have been suffered or the penalty may be unrelated to the extent of any damage suffered.

## 59. Regulations

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

# Part 5 — Amendments to, or modification of, other Acts

*[Divisions 1-3 (s. 60-95) omitted under the Reprints Act 1984 s. 7(4)(e).]*

## Division 4 — *Land Administration Act 1997*

### 96. Act amended or modified

The amendments or modifications in this Division are to the *Land Administration Act 1997*.

*[**97-99.** Omitted under the Reprints Act 1984 s. 7(4)(e).]*

### 100. Sections 187-191 not to apply

Sections 187 to 191 do not apply to or in relation to corridor land.

### 101. Taking of land to be as if for conferral of rights

When applying the *Land Administration Act 1997*, the taking of land for the purpose of dealing with it as corridor land under this Act is to be regarded as being for the purpose of, and the land is to be regarded as being required for the purpose of, the grant of interests in the land under this Act, whether or not interests have already been granted under this Act in respect of the land.

*[Divisions 5 and 6 (s. 102-104) omitted under the Reprints Act 1984 s. 7(4)(e).]*

## Division 7 — *Planning and Development Act 2005*

*[Heading amended: No. 38 of 2005 s. 15.]*

### 105. Sections 136 and 147 not to apply

Sections 136 and 147 of the *Planning and Development Act 2005* do not apply to —

(a) a disposal of an interest in corridor land; or

(b) a disposal under Part 2; or

(c) any conveyance to give effect to a disposal described in paragraph (a) or (b).

*[Section 105 amended: No. 38 of 2005 s. 15; No. 21 of 2026 s. 49.]*

# Notes

This is a compilation of the *Rail Freight System Act 2000* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

## Compilation table

| Short title | Number and year | Assent | Commencement |
|---|---|---|---|
| *Rail Freight System Act 2000* | 13 of 2000 | 8 Jun 2000 | s. 1 and 2: 8 Jun 2000;<br>Act other than s. 1 and 2, Pt. 5 Div. 1 and 6 and s. 91(1)(a) and (b) and 93: 30 Jun 2000 (see s. 2(1) and *Gazette* 30 Jun 2000 p. 3397);<br>Pt. 5 Div. 1 and 6: 1 Jul 2000 (see s. 2(2) and *Gazette* 30 Jun 2000 p. 3397);<br>s. 91(1)(a) and (b) and 93: 1 Sep 2001 (see s. 2(5)-(7) and *Gazette* 28 Aug 2001 p. 4795) |
| *Railways (Access) Amendment Act 2000* s. 13 | 55 of 2000 | 28 Nov 2000 | 28 Nov 2000 (see s. 2) |
| *Corporations (Consequential Amendments) Act 2001* Pt. 46 | 10 of 2001 | 28 Jun 2001 | 15 Jul 2001 (see s. 2 and *Gazette* 29 Jun 2001 p. 3257 and Cwlth *Gazette* 13 Jul 2001 No. S285) |
| *Public Transport Authority Act 2003* Pt. 8 Div. 4 [4] | 31 of 2003 | 26 May 2003 | 1 Jul 2003 (see s. 2(1) and *Gazette* 27 Jun 2003 p. 2384) |
| **Reprint 1: The *Rail Freight System Act 2000* as at 21 Jan 2005** (includes amendments listed above) | | | |
| *Planning and Development (Consequential and Transitional Provisions) Act 2005* s. 15 | 38 of 2005 | 12 Dec 2005 | 9 Apr 2006 (see s. 2 and *Gazette* 21 Mar 2006 p. 1078) |
| *Financial Legislation Amendment and Repeal Act 2006* s. 4 and Sch. 1 cl. 144 | 77 of 2006 | 21 Dec 2006 | 1 Feb 2007 (see s. 2(1) and *Gazette* 19 Jan 2007 p. 137) |
| *Rail Safety Act 2010* Pt. 11 Div. 4 | 18 of 2010 | 28 Jun 2010 | 1 Feb 2011 (see s. 2(b) and *Gazette* 28 Jan 2011 p. 241) |

| Short title | Number and year | Assent | Commencement |
|---|---|---|---|
| *Standardisation of Formatting Act 2010* s. 51 | 19 of 2010 | 28 Jun 2010 | 11 Sep 2010 (see s. 2(b) and *Gazette* 10 Sep 2010 p. 4341) |
| *Statutes (Repeals and Minor Amendments) Act 2011* s. 16 | 47 of 2011 | 25 Oct 2011 | 26 Oct 2011 (see s. 2(b)) |
| **Reprint 2: The *Rail Freight System Act 2000* as at 3 Feb 2012** (includes amendments listed above) | | | |
| *Rail Safety National Law (WA) Act 2015* Pt. 5 | 21 of 2015 | 17 Sep 2015 | 2 Nov 2015 (see s. 2(b) and *Gazette* 16 Oct 2015 p. 4149) |
| *Rail Safety National Law Application Act 2024* s. 58 | 7 of 2024 | 26 Mar 2024 | 1 Oct 2024 (see s. 2(b) and SL 2024/193 cl. 2) |
| *Rail Freight System (Acquisition and Reorganisation) Act 2026* Pt. 5 | 21 of 2026 | 16 Nov 2026 | 16 Nov 2026 (see s. 2) |

## Other notes

[1] The provisions in this Act amending other Acts have been omitted under the *Reprints Act 1984* s. 7(4)(e).

[2] Formerly referred to the *Government Railways (Access) Act 1998* the short title of which was changed to the *Railways (Access) Act 1998* by s. 62 of this Act. The reference was changed under the *Reprints Act 1984* s. 7(3)(gb).

[3] Repealed by the *National Rail Corporation Agreement Repeal Act 1999*.

[4] The *Public Transport Authority Act 2003* Pt. 7 Div. 3, 5, and 6 deal with transitional matters.

# Defined terms

*[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]*

| Defined term | Provision(s) |
|---|---|
| asset | 22 |
| assignee | 22 |
| Authority | 3 |
| Authority land | 31 |
| Authority's rail freight business | 3 |
| company | 12(10) |
| confidential information | 12(10) |
| corridor land | 3 |
| corridor land order | 3 |
| director | 12(10) |
| eligible company | 13(2) |
| former Government railway land | 42(7) |
| Government railway | 8(6) |
| initial order | 39(1) |
| involved in providing train services | 12(10) |
| liability | 22 |
| relevant official | 28(3), 41(6) |
| relevant property | 28(3) |
| right | 22 |
| specified | 24(2) |
| standard gauge corridor land | 12(10) |
| to control | 12(10) |
| train services | 12(10) |
| transfer order | 22 |
| transfer time | 22 |

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