

NORTHERN TERRITORY OF AUSTRALIA

AUSTRALASIA RAILWAY CORPORATION AMENDMENT ACT 2000

No. 38 of 2000

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NORTHERN TERRITORY OF AUSTRALIA

No. 38 of 2000

AN ACT

to amend the *AustralAsia Railway Corporation Act*

[Assented to 13 July 2000]
[Second reading 18 May 2000]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *AustralAsia Railway Corporation Amendment Act 2000*.

2. Commencement

The provisions of this Act come into operation on the date, or respective dates, fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *AustralAsia Railway Corporation Act* is in this Act referred to as the Principal Act.

4. Definitions

Section 3 of the Principal Act is amended—

(a) by inserting before the definition of "Corporation" the following:

" 'Chairperson' means the Chairperson of the Corporation;

'Concession Deed' means the Concession Deed in respect of the construction, operation and maintenance of the Railway entered into by South Australia, the Territory, the Corporation and the successful consortium as amended and in force from time to time;";
and

- (b) by omitting the definitions of "corridor" and "Chairperson" and substituting the following:

'corridor' means the land leased by the Corporation for the construction, operation and maintenance of the railway from Tarcoola in South Australia to Darwin in the Territory;".

5. Functions of Corporation

Section 17 of the Principal Act is amended by inserting after paragraph (p) the following:

"(pa) to co-ordinate consideration of applications in connection with the construction or operation of the Railway or both;".

6. Powers of Corporation

Section 18 of the Principal Act is amended –

- (a) by inserting after subsection (2)(a) the following:

"(aa) enter into the Concession Deed and other arrangements in respect of the Project with all or any of South Australia, the Territory, the Commonwealth and the successful consortium;

(ab) take and enforce security for performance by the successful consortium of its obligations under the Concession Deed;";

- (b) by omitting subsection (2)(g) and substituting the following:

"(g) improve real property in which the Corporation holds an interest (whether as owner or otherwise) or that is under the Corporation's control;"; and

- (c) by inserting after subsection (2)(n) the following:

"(na) give security for the repayment of money borrowed by the Corporation;".

7. Bank accounts

Section 23 of the Principal Act is amended by omitting "a bank or banks" and substituting "one or more authorised deposit-taking institutions within the meaning of section 5(1) of the *Banking Act 1959* of the Commonwealth".

8. Corporation to pay taxes, rates and duties other than stamp duty

Section 28 of the Principal Act is amended—

- (a) by omitting "Nothing" and substituting "(1) Subject to subsection (2), nothing"; and
- (b) by adding at the end the following:

"(2) The Corporation is not liable to pay stamp duty imposed by the *Stamp Duty Act* that, but for this subsection, would have been payable under an Act by the Corporation."

9. Repeal and substitution

Section 28A of the Principal Act is repealed and the following substituted:

"28A. Extent of Territory's financial commitment

"(1) The Minister is authorised, on behalf of the Territory, to make available at times determined by the Minister funds up to a total of \$165 million for all or any of the following purposes:

- (a) the performance of certain works in connection with the Project;
- (b) the giving by the Territory of a guarantee in respect of a debt incurred by the successful consortium in connection with the Project;
- (c) the provision by the Territory of a loan to the successful consortium in connection with the Project.

"(2) The limit on the funds that may be made available under subsection (1) does not apply to funds for any of the following purposes:

- (a) the payment of the costs of acquiring land for the Project and any compensation paid in relation to that land;
- (b) the payment of the costs and expenses associated with the administration of the Corporation and the Project;
- (c) the payment of interest and costs that may be payable in respect of the debt or the giving of the guarantee referred to in subsection (1)(b);

- (d) the giving by the Territory of a guarantee in connection with the performance by the Corporation of its obligations under a contract entered into by the Corporation in connection with the Project;
- (e) the payment of costs and expenses of a non-capital nature not referred to in paragraph (a), (b), (c) or (d);
- (f) the payment of any other costs and expenses that may be prescribed by regulation for the purposes of this subsection.

"(3) The amount required for the purposes of subsection (1) is to be provided from the public moneys of the Territory."

10. New Part

The Principal Act is amended by inserting after Part 4A the following:

"PART 4B – CIVIL PENALTIES

"28B. Civil penalties may be payable by successful consortium

"(1) An agreement to which the Corporation and the successful consortium are parties may provide that, if the successful consortium is in breach of an obligation under the agreement, the successful consortium is required to pay to the Corporation by way of a civil penalty for the breach the amount determined in accordance with the agreement.

"(2) The agreement may also provide that the amount of such a civil penalty is to increase over the period during which the breach of the obligation continues by a further amount determined in accordance with the agreement.

"(3) A civil penalty provided for in accordance with this section is a debt due to the Corporation by the successful consortium –

- (a) despite that neither the Corporation nor any other person (whether a party to the agreement or not) suffered damage as a result of the breach; and
 - (b) despite that the amount of the civil penalty is unrelated to the extent of any damage that the Corporation or any other person (whether a party to the agreement or not) may have suffered as a result of the breach."
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