



# **Surat Basin Rail (Infrastructure Development and Management) Act 2012**

**Current as at 9 November 2014**





Queensland

# Surat Basin Rail (Infrastructure Development and Management) Act 2012

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# Surat Basin Rail (Infrastructure Development and Management) Act 2012

**An Act to provide for the development and management of a railway within the Surat Basin rail corridor land in a safe, effective and efficient way and for related purposes**

## **Part 1 Preliminary**

### **Division 1 Introduction**

#### **1 Short title**

This Act may be cited as the *Surat Basin Rail (Infrastructure Development and Management) Act 2012*.

#### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

#### **3 Object of Act and its achievement**

- (1) The object of this Act is to facilitate the development and operation of the railway.
- (2) The object is intended to be achieved primarily by—
  - (a) providing that particular provisions of the *Land Title Act 1994* and the *Property Law Act 1974* do not apply to a railway lease declared under part 2 to be an exempt lease; and
  - (b) providing a framework to—

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- (i) allow the railway to be constructed and maintained in an effective and efficient way; and
  - (ii) allow railway operators to operate rolling stock on the railway in an effective and efficient way; and
  - (iii) allow railway managers to manage rail transport infrastructure in an effective and efficient way; and
  - (iv) allow the railway to be managed and operated in an effective and efficient way; and
- (c) providing for the safety of the railway and persons at, on or near the railway by imposing requirements and establishing offences directed at ensuring the safety.

## **Division 2                      Interpretation**

### **4                      Definitions**

The dictionary in the schedule defines particular words used in this Act.

### **5                      Meaning of *railway***

*Railway* means the railway and rail transport infrastructure situated, or proposed to be situated, within the Surat Basin rail corridor land.

### **6                      Meaning of *railway works***

*Railway works* means works for constructing, maintaining, altering or operating the railway.

### **7                      Meaning of *Surat Basin rail corridor land***

*Surat Basin rail corridor land* means land that is—

- (a) within the area declared as the Surat Basin Infrastructure Corridor State Development Area under

the *State Development and Public Works Organisation Act 1971*; and

- (b) owned by the Coordinator-General; and
- (c) prescribed under a regulation to be Surat Basin rail corridor land.

## Part 2 Exempt leases

### 8 Declaration of exempt lease

- (1) The Minister may, by written instrument, declare a railway lease to be an exempt lease.
- (2) As soon as practicable after making the instrument, the Minister must give a copy of it to the railway lessee.
- (3) Within 21 days after making the instrument, the Minister must publish a gazette notice setting out the declaration contained in the instrument.
- (4) Failure to comply with subsection (2) or (3) does not affect the validity of the instrument.

### 9 Non-application of provisions of Land Title Act 1994 and Property Law Act 1974

The following provisions do not apply to a lease declared to be an exempt lease under section 8—

- (a) the *Land Title Act 1994*, section 67(3)(a);
- (b) the *Property Law Act 1974*, section 121 and part 8, division 3.

## **Part 3**                      **Entering land and carrying out activities for railway works or investigations of land**

### **Division 1**                **Interpretation**

#### **10**        **Definitions for pt 3**

In this part—

*associated person*—

- (a) of the Coordinator-General, means any of the following—
  - (i) a person who is an agent of, or contractor for, the Coordinator-General, and engaged in writing by the Coordinator-General to carry out activities under sections 20 or 22;
  - (ii) an employee of, or a contractor for, an agent or contractor mentioned in subparagraph (i);
  - (iii) if a person mentioned in subparagraph (i) is a corporation—the corporation's chief executive, secretary or directors; and
- (b) of an authorised person, means any of the following—
  - (i) if the authorised person is a corporation—the corporation's chief executive, secretary or directors;
  - (ii) the authorised person's employees or partners who are individuals;
  - (iii) a person who is an agent of, or contractor for, the authorised person, and engaged in writing for the purposes of the authorised person's authority;
  - (iv) an employee of, or a contractor for, an agent or contractor mentioned in subparagraph (iii);

- (v) if a person mentioned in subparagraph (iii) is a corporation—the corporation’s chief executive, secretary or directors.

*authorised person* means a person who holds a works authority or an investigation authority.

*investigation authority* see section 15(1)(a).

*works authority* see section 14(1)(a).

## **Division 2                      Applications for works authority or investigation authority**

### **11            Operation of div 2**

This division provides for the railway licensee, railway lessee or a railway manager to apply for a works authority or investigation authority.

### **12            How to apply for works authority or investigation authority**

- (1) The railway licensee, railway lessee or a railway manager may apply to the Coordinator-General for an authority—
  - (a) to enter land adjacent to the Surat Basin rail corridor land, and carry out activities mentioned in section 20, for carrying out railway works; or
  - (b) to enter any land, and carry out activities mentioned in section 22, for investigating the potential suitability of land as an expansion or realignment of the Surat Basin rail corridor land.
- (2) The applicant must consult with the owner or occupier of the land about the proposed entry before applying for the authority.
- (3) The application must state—
  - (a) the land proposed to be entered under the authority; and

- (b) the purpose of the authority; and
- (c) details of the nature of the activities proposed to be conducted on the land; and
- (d) the period for which the authority is sought; and
- (e) details of the applicant's consultation with the owner or occupier of the land.

### **13 Additional information for application**

- (1) The Coordinator-General may—
  - (a) make inquiries to decide the application; and
  - (b) ask the applicant to give the Coordinator-General additional information the Coordinator-General considers relevant to decide the application.
- (2) To decide the application, the Coordinator-General may consider any information the Coordinator-General considers relevant.

### **14 Granting works authority**

- (1) The Coordinator-General may, for an application under section 12(1)(a), decide to—
  - (a) grant an authority (a *works authority*), with or without conditions; or
  - (b) refuse to grant the works authority.
- (2) The Coordinator-General must not grant the works authority unless satisfied the applicant has made reasonable efforts to consult with the owner or occupier of the land to be entered under the authority.
- (3) If the Coordinator-General refuses to grant the works authority, the Coordinator-General must give the applicant written reasons for the decision.

- (4) Without limiting subsection (1)(a), a condition may require the applicant to give a bond or security deposit to the Coordinator-General.
- (5) The works authority must be only for the part of the land the Coordinator-General is satisfied is reasonably necessary for carrying out railway works.
- (6) The works authority remains in force, unless cancelled, for the term of not more than 3 years stated in the authority.

## 15 Granting investigation authority

- (1) The Coordinator-General may, for an application under section 12(1)(b), decide to—
  - (a) grant an authority (an *investigation authority*), with or without conditions; or
  - (b) refuse to grant the investigation authority.
- (2) The Coordinator-General must not grant the investigation authority unless satisfied the applicant has made reasonable efforts to consult with the owner or occupier of the land to be entered under the authority.
- (3) If the Coordinator-General refuses to grant the investigation authority, the Coordinator-General must give the applicant written reasons for the decision.
- (4) Without limiting subsection (1)(a), a condition may require the applicant to give a bond or security deposit to the Coordinator-General.
- (5) The investigation authority must be only for the part of the land the Coordinator-General is satisfied is reasonably necessary for investigating the potential suitability of the land.
- (6) The investigation authority remains in force, unless cancelled, for the term of not more than 1 year stated in the authority.

## **16 Requirements of works authority and investigation authority**

A works authority and investigation authority must be written and state all of the following—

- (a) the name of the authorised person for the authority;
- (b) the land to which it applies;
- (c) the purpose for which it is granted;
- (d) when it expires;
- (e) for a works authority, the powers mentioned in section 20 that the authorised person may exercise under the authority;
- (f) for an investigation authority, the powers mentioned in section 22 that the authorised person may exercise under the authority;
- (g) the conditions, if any, imposed on the authority.

## **17 Declaration about works authority and investigation authority**

It is declared that—

- (a) the grant of a works authority or investigation authority is not an indication of a commitment or approval by the State, the Coordinator-General or other person to any proposal and, in particular, does not commit the State to acquiring any land; and
- (b) a person is not an employee or agent of the State merely because the person is an authorised person.

## **18 Complying with conditions of works authority or investigation authority**

An authorised person, or an associated person of the authorised person, must comply with each condition of the authorised person's works authority or investigation authority,

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unless the authorised person or associated person has a reasonable excuse.

Maximum penalty—200 penalty units.

## **19 Cancellation of works authority or investigation authority**

- (1) The Coordinator-General may cancel an authorised person's works authority or investigation authority if the Coordinator-General is reasonably satisfied that—
  - (a) the authorised person has not complied with this Act or a condition of the authority; or
  - (b) an associated person of the authorised person has not complied with this Act or a condition of the authority.
- (2) The Coordinator-General must, as soon as practicable, give the authorised person written notice of the cancellation.
- (3) The authorised person must, as soon as practicable after receiving the notice—
  - (a) inform all associated persons of the authorised person about the cancellation of the authority; and
  - (b) stop all activities being carried out under the authority; and
  - (c) give any identification issued by the authorised person under section 28 to the Coordinator-General.

## **Division 3 Powers for entering land and carrying out activities for railway works or investigations**

### **20 Coordinator-General or associated person may enter land and carry out railway works**

- (1) The Coordinator-General, or an associated person authorised in writing by the Coordinator-General, may enter the Surat

Basin rail corridor land and land adjacent to that land for carrying out railway works.

- (2) The Coordinator-General or associated person may, to the extent reasonably necessary or convenient to achieve the purpose of the entry under subsection (1), do any of the following—
- (a) on the land, make an inspection, investigation, valuation or survey, or take levels;
  - (b) dig and bore into the land to find out the nature of the soil or substrata of the land, and mark the lines of any works on the land;
  - (c) attach or set up on the land trigonometrical stations, survey pegs, marks or poles and inspect, alter, remove, reinstate and repair the land;
  - (d) occupy the land;
  - (e) on the occupied land—
    - (i) construct or place plant, machinery, equipment or goods; or
    - (ii) erect workshops, sheds and other buildings, including buildings for providing housing and other amenities for officers or employees and their dependants; or
    - (iii) make roads, cuttings and excavations; or
    - (iv) manufacture and work materials of all kinds; or
    - (v) deposit clay, earth, gravel, sand, stone, timber, wood, and other material; or
    - (vi) take clay, earth, gravel, sand, stone, timber, wood, and other material; or
    - (vii) demolish, destroy, and remove plant, machinery, equipment, goods, workshops, sheds, buildings or roads.
- (3) The power to enter land under this section includes power—
- (a) to enter and re-enter the land; and

- (b) to remain on the land for the period necessary to achieve the purpose of the entry; and
- (c) to take assistants, vehicles, materials, equipment and things necessary to achieve the purpose of the entry.

**21 Authorised person or associated person may enter land and carry out railway works**

An authorised person under a works authority, or an associated person of the authorised person, may enter the land to which the authority applies and, for carrying out railway works, exercise the powers stated in the authority.

**22 Coordinator-General or associated person may enter land and investigate the land**

- (1) The Coordinator-General, or an associated person authorised in writing by the Coordinator-General, may enter any land to investigate the land's potential suitability for an expansion or realignment of the Surat Basin rail corridor land.
- (2) The Coordinator-General or associated person may, to the extent reasonably necessary or convenient to achieve the purpose of the entry under subsection (1), do any of the following—
  - (a) do anything on the land;
  - (b) bring anything onto the land;
  - (c) temporarily leave machinery, equipment or other items on the land.
- (3) The power to enter land under this section includes power—
  - (a) to enter and re-enter the land; and
  - (b) to remain on the land for the period necessary to achieve the purpose of the entry; and
  - (c) to take assistants, vehicles, materials, equipment and things necessary to achieve the purpose of the entry.

**23 Authorised person or associated person may enter land and investigate the land**

An authorised person under an investigation authority, or an associated person of the authorised person, may enter the land to which the authority applies and, for investigating the land, exercise the powers stated in the authority.

**Division 4 Requirements for entering land**

**24 Entry to land by notice or agreement**

- (1) The Coordinator-General must, before the Coordinator-General or an associated person of the Coordinator-General enters someone else's land—
  - (a) give at least 7 days written notice of the entry to the land's owner or occupier; or
  - (b) obtain the written agreement of the land's owner or occupier to the entry.
- (2) An authorised person must, before the authorised person or an associated person of the authorised person enters someone else's land—
  - (a) give at least 7 days written notice of the entry to the land's owner or occupier; or
  - (b) obtain the written agreement of the land's owner or occupier to the entry.
- (3) The notice must state all of the following—
  - (a) the use intended to be made of the land;
  - (b) a general outline of the activities intended to be carried out on the land;
  - (c) the approximate period during which the activities are expected to be carried out;
  - (d) the notice is not an indication of a commitment or approval by the State, the Coordinator-General or other

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- person to any proposal and, in particular, does not commit the State to acquiring any land;
- (e) the owner or occupier may claim compensation under section 27 by giving a notice;
  - (f) the person who the owner or occupier must give a notice to under section 27.
- (4) Also, if the person entering the land is the Coordinator-General or an associated person of the Coordinator-General, the notice must—
- (a) be attached to—
    - (i) for an entry under section 20, a copy of section 20; or
    - (ii) for an entry under section 22, a copy of section 22; and
  - (b) for an entry by an associated person—state that the person is an associated person of the Coordinator-General.
- (5) In addition, if the person entering the land is an authorised person or an associated person of the authorised person, the notice must—
- (a) be attached to a copy of the works authority or investigation authority; and
  - (b) state the following—
    - (i) that the Coordinator-General has given the authorised person a works authority or investigation authority for an area that is part of or includes the land;
    - (ii) for an entry by an associated person—that the person is an associated person of the authorised person.
- (6) The person entering the land need not comply with this section for carrying out—
- (a) urgent remedial action on the railway; or

- (b) maintenance on a road.
- (7) However, if urgent remedial action is required, the person entering the land must give the land's owner or occupier as much oral notice as is practicable.

## **25 Care to be taken in entering land**

- (1) This section applies if the Coordinator-General, an authorised person or associated person enters land to—
  - (a) carry out railway works; or
  - (b) investigate the potential suitability of the land for an expansion or realignment of the Surat Basin rail corridor land.
- (2) The Coordinator-General, authorised person or associated person—
  - (a) must take as much care as is practicable to minimise damage to the land or inconvenience to the land's owner or occupier; and
  - (b) may do anything necessary or desirable to minimise the damage or inconvenience.

## **26 Liability to pay compensation**

- (1) This section applies if the Coordinator-General, an authorised person or associated person—
  - (a) enters land and carries out railway works on the land; or
  - (b) enters land and carries out an investigation on the land.
- (2) The Coordinator-General is liable to compensate the land owner or occupier for any loss or damage suffered by the owner or occupier arising from the entry onto the land, and activities mentioned in subsection (1), of the Coordinator-General or an associated person of the Coordinator-General.
- (3) The authorised person is liable to compensate the land owner or occupier for any loss or damage suffered by the owner or

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occupier arising from the entry onto the land, and activities mentioned in subsection (1), of the authorised person or an associated person of the authorised person.

## **27 Claiming compensation**

- (1) An owner or occupier of land entered under this part may, by written notice—
  - (a) claim compensation for loss or damage caused by—
    - (i) the entry and railway works carried out on the land; or
    - (ii) the entry and investigation carried out on the land; or
  - (b) claim compensation for the taking or use of materials; or
  - (c) require works in restitution for the damage; or
  - (d) require works in restitution for the damage and then claim compensation for any loss or damage not restituted.
- (2) The owner or occupier must give the notice—
  - (a) for an entry by the Coordinator-General or an associated person of the Coordinator-General—to the Coordinator-General; or
  - (b) for an entry by an authorised person or associated person of the authorised person under a works authority—to the Coordinator-General; or
  - (c) for an entry by an authorised person or associated person of the authorised person under an investigation authority—to the authorised person.
- (3) The notice must be given—
  - (a) within 1 year after the railway works or investigation of the land is completed; or
  - (b) at a later time allowed by the Coordinator-General.
- (4) The claim for compensation may be made—

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- (a) whether or not the act or omission giving rise to the claim was authorised under division 3 or a works authority or investigation authority; and
  - (b) whether or not the person who made the entry, carried out the railway works or carried out the investigation took steps to prevent the loss or damage; and
  - (c) even though the loss or damage was caused, or contributed to, by an associated person of the Coordinator-General or an authorised person.
- (5) The amount of compensation for loss or damage caused by an entry to carry out railway works is—
- (a) the amount agreed between the Coordinator-General and the person; or
  - (b) if the person and Coordinator-General can not agree within a reasonable time—the amount decided by the Land Court.
- (6) The amount of compensation for loss or damage caused by an entry to investigate land is—
- (a) the amount agreed between the parties; or
  - (b) if the parties can not agree within a reasonable time—the amount decided by the Land Court.

## **Division 5                      Miscellaneous provisions**

### **28            Coordinator-General or authorised person to issue associated person with identification**

- (1) The Coordinator-General must issue an associated person of the Coordinator-General with identification before the associated person enters someone else's land and carries out activities under division 3.
- (2) An authorised person must issue an associated person of the authorised person with identification before the associated

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person enters someone else's land and carries out activities under a works authority or investigation authority.

Maximum penalty—10 penalty units.

- (3) The identification for an associated person of the Coordinator-General must—
  - (a) state the name of the person to whom the identification is issued; and
  - (b) state that, for this Act, the person is an associated person of the Coordinator-General; and
  - (c) state the capacity in which the associated person is an associated person; and
  - (d) be signed by or for the Coordinator-General; and
  - (e) be signed by the associated person; and
  - (f) state an expiry date.
- (4) The identification for an associated person of an authorised person must—
  - (a) state the names of the authorised person and the person to whom the identification is issued; and
  - (b) state that, for this Act, the person is an associated person of the holder of a works authority or investigation authority; and
  - (c) state the capacity in which the associated person is an associated person; and
  - (d) be signed by or for the authorised person; and
  - (e) be signed by the associated person; and
  - (f) state an expiry date.

## **29 Owner or occupier may inspect authority or identification**

- (1) This section applies if a person who claims to be or appears to be the owner or occupier of land asks an individual who has entered, is entering or is about to enter land under this part—

- (a) for identification; or
  - (b) about the person's authority to enter the land.
- (2) If the request is made of an authorised person, the authorised person must immediately state the authorised person's name and show the other person a copy of the authorised person's works authority or investigation authority.

Maximum penalty—10 penalty units.

- (3) If the request is made of an associated person of the Coordinator-General or an authorised person, the associated person must immediately state his or her name and show the other person the associated person's identification.

Maximum penalty—10 penalty units.

### **30 Return of identification**

- (1) This section applies to a person who stops being an associated person of the Coordinator-General or an authorised person.
- (2) The person must return the identification issued under section 28 to the Coordinator-General or authorised person within 21 days after the person stops being an associated person, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

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## **Part 4**                      **Roads, crossings and watercourses**

### **Division 1**                **General provisions about roads and crossings**

#### **31**      **Altering road levels**

- (1) In constructing or managing the railway, a railway manager may alter the level of a road or require the authority responsible for the road to alter its level.
- (2) Unless the railway manager and the authority responsible for the road agree, the railway manager must pay all reasonable expenses incurred by the authority in altering the road level.
- (3) A person whose land is directly affected by the alteration may claim compensation from the railway manager.
- (4) The amount of compensation is—
  - (a) the amount agreed between the parties; or
  - (b) if the parties can not agree within a reasonable time—the amount decided by a court with jurisdiction for the recovery of the amount of compensation.

#### **32**      **Maintaining roads crossing railways**

- (1) A railway manager must maintain—
  - (a) a part of the railway on a road; and
  - (b) the surface of the road, in a character in keeping with the road—
    - (i) between the rails; and
    - (ii) outside the outermost rails to a distance of 2m.
- (2) If a part of the railway is built by way of a bridge or other structure over or under a road, the authority that maintained

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the road before the railway was built must continue to maintain the road over or under the bridge or structure.

- (3) If there is no railway manager, the railway licensee or railway lessee must comply with subsection (1).
- (4) If there is no railway manager, railway licensee and railway lessee, the authority that maintained the road before the railway was built must comply with subsection (1)(b).

### **33 Extending roads through or over Surat Basin rail corridor land**

- (1) A local government must apply to the Coordinator-General to obtain the Coordinator-General's written approval to construct, maintain and operate a road on the Surat Basin rail corridor land by way of—
  - (a) a bridge or other structure over a part of the railway; or
  - (b) a bridge or other structure that allows the road to pass under a part of the railway; or
  - (c) a crossing at the same level as a part of the railway.

*Example for paragraph (c)—*

a level crossing

- (2) The Coordinator-General must consider the application and may decide to—
  - (a) grant the approval, with or without conditions; or
  - (b) refuse to grant the approval.
- (3) Without limiting subsection (2), a condition of the approval may provide for the future expansion or realignment of the railway on the Surat Basin rail corridor land.

*Example—*

A condition may provide that the length of a bridge over the railway be long enough to allow for an additional track to be laid in the future.

- (4) Before deciding the application, the Coordinator-General must consult with a railway manager and the railway licensee or railway lessee.

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- (5) The Coordinator-General must give the local government written notice of the Coordinator-General's decision on the application.
  - (6) If the approval is granted—
    - (a) the Coordinator-General must immediately give a copy of the approval to the registrar of titles; and
    - (b) the registrar of titles must record the approval in the freehold land register for the Surat Basin rail corridor land; and
    - (c) a railway manager, the railway licensee and railway lessee may continue to use the land under the approval other than any land excluded by a condition of the approval; and
    - (d) the Coordinator-General, a railway manager, the railway licensee and railway lessee and their agents or employees do not have any duty or liability for the road or its use or operation.
  - (7) Once the road is used, it is taken to be—
    - (a) a road under the local government's control; and
    - (b) a road under any Act about the use of vehicles on a road.
  - (8) Unless the Coordinator-General and the local government otherwise agree—
    - (a) the local government is responsible for maintaining the road and the bridge, structure or crossing; and
    - (b) if the road stops being used—the local government is responsible for the cost of taking the bridge, structure or crossing away and restoring the part of the railway on the land.

### **34 Impact of change of management of local government road on the railway**

- (1) A local government must apply to the Coordinator-General to obtain the Coordinator-General's written approval to make a

change to the management of a local government road that, if made—

- (a) would require works to be carried out on the railway; or
  - (b) would have a significant adverse impact on the safety and operational integrity of the railway.
- (2) The Coordinator-General—
- (a) must consider the application within—
    - (i) 30 days after receiving it; or
    - (ii) the longer period notified to the local government by the Coordinator-General, in writing, before the end of the 30 days; and
  - (b) may decide to—
    - (i) approve the proposed change, with or without conditions; or
    - (ii) refuse to approve the proposed change.
- (3) The Coordinator-General must give the local government written notice of the Coordinator-General's decision on the application.
- (4) The Coordinator-General is taken to have approved the proposed change if the Coordinator-General does not within 30 days of receiving the application—
- (a) decide the application; or
  - (b) give the local government a notice under subsection (3).
- (5) This section does not apply if the Coordinator-General has considered the change to the management of the local government road as part of the Coordinator-General's consideration of an application for a development approval.
- (6) In this section—

***development approval*** means a development approval under the *Sustainable Planning Act 2009*.

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### **35 Closing railway crossings**

- (1) A railway manager may temporarily close or regulate a railway crossing if satisfied it is necessary because of an immediate threat to—
  - (a) the safety of the railway; or
  - (b) the public using it or who may use it.
- (2) If the manager decides to close or regulate a crossing, the manager must, as soon as practicable after its closure or regulation—
  - (a) notify the authority responsible for the crossing of its closure or regulation, unless the authority has agreed that notification is unnecessary; and
  - (b) if there is a relevant person for the crossing—
    - (i) notify the relevant person of its closure or regulation, unless the relevant person has agreed that notification is unnecessary; and
    - (ii) notify the relevant person that the person may apply under section 60 for an internal review of the decision; and
    - (iii) give the relevant person written reasons for the decision.
- (3) A relevant person for the crossing may, by written notice given to the railway manager, claim compensation for loss or damage directly suffered by the relevant person and arising from the closure or regulation of the crossing.
- (4) The notice under subsection (3) must be given—
  - (a) within 1 year after the closure or regulation ends; or
  - (b) at a later time allowed by the Coordinator-General.
- (5) The amount of compensation for the loss or damage is—
  - (a) the amount agreed between the parties; or
  - (b) if the parties can not agree within a reasonable time—the amount decided by a court with jurisdiction

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for the recovery of the amount of compensation claimed.

(6) In this section—

*relevant person*, for a railway crossing, means—

- (a) a grantee of an easement for the railway crossing; or
- (b) a grantee of a licence to use the railway crossing.

## **Division 2                      Public use of Surat Basin rail corridor land**

### **36            No presumption of dedication of roads**

If the public uses part of the Surat Basin rail corridor land as a road or otherwise for access purposes, the land is not taken to have been dedicated for use as a road even though the use is authorised or allowed by the Coordinator-General, the railway licensee, the railway lessee or a railway manager.

### **37            Level crossings**

(1) Pedestrians and drivers of vehicles must give way to—

- (a) a railway operator's rolling stock on railway tracks at a level crossing; and
- (b) a railway manager's rail vehicle on railway tracks at a level crossing.

(2) If an accident happens at a level crossing because a person does not comply with subsection (1)—

- (a) the railway operator and railway manager are not liable for any injury or damage caused in the accident; and
- (b) the person must pay the railway operator or railway manager the cost of any damage caused to property of the operator or manager.

- (3) However, subsection (2) does not apply if the railway operator or railway manager, or an agent or employee of the operator or manager, were negligent in relation to the accident.

## **Division 3                      Watercourses**

### **38                      Approvals to divert or construct watercourses**

- (1) To carry out railway works, a railway manager may, with the Coordinator-General's written approval—
- (a) divert a watercourse; or
  - (b) construct a watercourse, whether temporary or permanent.
- (2) In deciding whether to approve the diversion or construction of a watercourse, the Coordinator-General must consider—
- (a) for the diversion of a watercourse—
    - (i) the effect the works for the diversion would have on the watercourse's physical integrity and flow characteristics; and
    - (ii) the impact of the diversion on land adjacent to the watercourse; and
  - (b) for the construction of a watercourse—the impact of the construction on land adjacent to the watercourse.
- (3) Subsection (2) does not limit the matters the Coordinator-General may consider.
- (4) The approval may be given with or without conditions.

### **39                      Cancellation of approval**

- (1) The Coordinator-General may cancel a person's approval under section 38 if the Coordinator-General is reasonably satisfied that the person has not complied with a condition of the approval.

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- (2) The Coordinator-General must, as soon as practicable, give the person written notice of the cancellation.
- (3) The person must, as soon as practicable after receiving notice of the cancellation, stop all activities being carried out under the approval.

#### **40 Coordinator-General may enter land and carry out activities for watercourses**

- (1) If the Coordinator-General considers that water from a watercourse has collected and obstructs, or is likely to collect and obstruct, traffic on the railway, the Coordinator-General, or a person authorised under this section by the Coordinator-General, may—
  - (a) enter the land on which the watercourse is situated; and
  - (b) take the action that the Coordinator-General considers necessary or desirable to reduce or prevent the collection of water.
- (2) Before acting under subsection (1), the Coordinator-General may, by written notice, require the owner of the land on which the watercourse is situated to take the action that the Coordinator-General considers necessary or desirable to reduce or prevent the collection of water.
- (3) The owner must comply with the notice, unless the owner has a reasonable excuse.  
Maximum penalty—200 penalty units.
- (4) If the owner does not comply with the notice, the Coordinator-General may exercise the powers mentioned in subsection (1).
- (5) The owner is liable to pay the Coordinator-General the costs incurred because of the exercise of the powers.
- (6) This section applies—
  - (a) even if the water collected, or was likely to collect, as a result of action authorised under an Act; or

- (b) whether the water collects, or was likely to collect, permanently, temporarily or intermittently.

#### **41 Notice for entry to land under s 40**

- (1) Before the Coordinator-General or a person authorised under section 40 enters someone else's land, the Coordinator-General or the person must—
  - (a) give at least 7 days written notice of the entry to the land's owner or occupier; or
  - (b) obtain the written agreement of the land's owner or occupier to the entry.
- (2) The Coordinator-General or person need not comply with subsection (1) for—
  - (a) urgent remedial action on the railway; or
  - (b) maintenance on a road.
- (3) However, if urgent remedial action is required, the Coordinator-General or person must give the land's owner or occupier as much oral notice as is practicable.

## **Part 5 Declaration of common areas and carrying out works near the railway**

### **Division 1 Minister may declare common areas**

#### **42 Common areas for particular roads**

- (1) This section applies if the route of the Surat Basin rail corridor land—
  - (a) is interrupted by a relevant road; and

- (b) continues on the other side of the relevant road.
- (2) The Minister may, by gazette notice, declare the part of the relevant road where it interrupts the route to be a common area (***common area***) for the relevant road and the route of the Surat Basin rail corridor land.
- (3) If the Minister declares a common area—
- (a) a railway manager may construct, maintain and operate the railway on the common area in a way consistent with its use as a relevant road; and
- Examples for use as a relevant road—*
- a level crossing
  - a bridge or other structure over the road
  - a bridge or other structure that allows the railway to pass under the road
- (b) the railway licensee may use and occupy the common area for the period that it holds a railway licence in a way consistent with its use as a relevant road and the railway licence; and
- (c) the railway lessee may use and occupy the common area for the period that it holds the railway lease in a way consistent with its use as a relevant road and the railway lease; and
- (d) the relevant person for the relevant road may construct, maintain and operate the relevant road on the common area in a way consistent with its use for the railway; and
- (e) the relevant person for the relevant road and the relevant person's agents or employees do not have any liability for the railway or its use or operation on the common area.
- (4) After a common area is declared—
- (a) the Coordinator-General must give a copy of the gazette notice to the registrar of titles promptly after the gazette notice is published; and

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- (b) the registrar of titles must record the declaration in the appropriate register for the Surat Basin rail corridor land.
- (5) If the railway on a common area is not used, or stops being used, the railway lessee or railway licensee is liable for the cost of removing the rail transport infrastructure from the common area and restoring the road, unless the Coordinator-General and the railway lessee or railway licensee otherwise agree.
- (6) The Coordinator-General must consult with the relevant person for the relevant road before entering into an agreement mentioned in subsection (5).
- (7) In this section—
- relevant person* see the *Transport Infrastructure Act 1994*, section 249.
- relevant road* means—
- (a) a stock route; or
- (b) a relevant road under the *Transport Infrastructure Act 1994*, section 249.

### 43 Common areas for non-tidal boundary watercourses

- (1) This section applies if the route of the Surat Basin rail corridor land—
- (a) is interrupted by a non-tidal boundary watercourse; and
- (b) continues on the other side of the non-tidal boundary watercourse.
- (2) The Minister may, by gazette notice, declare the part of the non-tidal boundary watercourse where it interrupts the Surat Basin rail corridor land to be a common area (*common area*) for the non-tidal boundary watercourse and the Surat Basin rail corridor land.
- (3) If the Minister declares a common area—

- (a) the Coordinator-General, a railway manager, or a person authorised by the Coordinator-General under this section, may in the common area—
    - (i) survey and resurvey a watercourse crossing; and
    - (ii) construct, augment, improve, maintain, operate and replace a watercourse crossing; and
    - (iii) name and number a watercourse crossing; and
  - (b) the railway licensee may use and occupy the common area for the period that it holds the railway licence in a way consistent with the railway licence; and
  - (c) the railway lessee may use and occupy the common area for the period that it holds the railway lease in a way consistent with the railway lease.
- (4) After a common area is declared—
- (a) the Coordinator-General must give a copy of the gazette notice to the registrar of titles promptly after the gazette notice is published; and
  - (b) the registrar of titles must record the declaration in the appropriate register for the Surat Basin rail corridor land.
- (5) If the railway on a common area is not used, or stops being used, the railway lessee or railway licensee is liable for the cost of removing rail transport infrastructure from the common area and restoring the non-tidal boundary watercourse, unless the Coordinator-General and the railway lessee or railway licensee otherwise agree.
- (6) A declaration under this section does not remove or diminish any existing right the State or a person may have in relation to a non-tidal boundary watercourse in the common area including the rights of an owner or occupier of land adjoining the Surat Basin rail corridor land mentioned in the *Land Act 1994*, section 13A.
- (7) In this section—

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*non-tidal boundary watercourse* means land that is the property of the State under the *Land Act 1994*, section 13A(1) or (2).

*watercourse crossing* means rail transport infrastructure that is, or is proposed to be, situated over, under, on or in a non-tidal boundary watercourse.

## **Division 2                      Works near the railway**

### **44            Approval to carry out works near the railway**

- (1) A person must not, without the Coordinator-General's written approval, carry out works near the railway if the works threaten, or are likely to threaten, the railway's safety or operational integrity.
- (2) The Coordinator-General may give the person a written approval if the Coordinator-General reasonably believes the works do not threaten, or are not likely to threaten, the railway's safety or operational integrity.
- (3) However, before giving an approval under this section the Coordinator-General must consult with a railway manager and the railway licensee or railway lessee.
- (4) It is declared that the Coordinator-General's approval under this section does not affect any requirement under another Act that the person must comply with to carry out the works.
- (5) This section binds all persons, including the State.

### **45            Power to require works to stop**

- (1) Subsection (2) applies if the Coordinator-General reasonably believes a person is carrying out, or proposes to carry out, works near the railway that threaten, or are likely to threaten, the railway's safety or operational integrity.
- (2) The Coordinator-General may give the person a written direction to stop, alter or not start the works.

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- (3) The person must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (4) If works are carried out without an approval under section 44 or contrary to a direction under subsection (2), the Coordinator-General may, by written notice, require the owner of the land where the works are situated to alter, demolish or take away the works within a stated reasonable period.

- (5) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- (6) If the person does not comply with the requirement, the Coordinator-General may—

- (a) alter, demolish or take away the works; or
- (b) alter, demolish or take away the works and recover the cost of doing so from the land's owner as a debt payable by the owner.

- (7) Before giving a direction under subsection (2) or a notice under subsection (4), the Coordinator-General must consult with a railway manager and the railway licensee or railway lessee.

- (8) For this section, a person authorised by the Coordinator-General may enter land and inspect works—

- (a) after giving 3 days written notice of the entry to the land's owner or occupier; or
- (b) with the written agreement of the land's owner or occupier to the entry; or
- (c) without notice or approval, if the Coordinator-General reasonably believes there is an immediate and significant threat to the railway's safety or operational integrity.

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- (9) If a person enters land under subsection (8)(c), the Coordinator-General must give the land's owner or occupier as much oral notice as is practicable.
  - (10) This section binds all persons, including the State.

#### **46 Registration of notice about nature of works**

- (1) This section applies if the Coordinator-General reasonably believes works near the railway that may be conducted on land are likely to threaten the safety or operational integrity of the railway.
- (2) The Coordinator-General may give the registrar of titles a signed notice—
  - (a) identifying the land; and
  - (b) identifying the nature of works that may be conducted on the land the Coordinator-General reasonably believes is likely to threaten the safety or operational integrity of the railway; and
  - (c) stating that the owner of the land must obtain the Coordinator-General's written approval under section 44 before conducting works of that nature on the land.
- (3) The registrar of titles must ensure a notice appears in the appropriate register so that a search of the register will show that an owner of the land must obtain the Coordinator-General's written approval under section 44 before conducting works of the nature identified in the notice on the land.
- (4) No fee is payable for registration of the notice.

## Part 6 Giving or requiring information

### 47 Coordinator-General may give information to corresponding authority

- (1) For the transport of dangerous goods on or over the Surat Basin rail corridor land, the Coordinator-General may give to a corresponding authority—
  - (a) information about action taken by the Coordinator-General under this Act; or
  - (b) information obtained under this Act.
- (2) Subsection (1) does not apply if the Coordinator-General or the corresponding authority would otherwise be required to maintain confidentiality about the information under an Act.
- (3) In this section—

*corresponding authority* means—

- (a) a government entity of the Commonwealth or another State responsible for administering a corresponding law to the *Transport Infrastructure Act 1994* or the *Transport (Rail Safety) Act 2010*; or
- (b) an entity prescribed under a regulation as a corresponding authority for this Act.

*dangerous goods* see the *Transport Infrastructure Act 1994*, schedule 6.

### 48 Power to require information from local governments

- (1) The Coordinator-General may, by written notice given to a local government, require the local government to give to the Coordinator-General, or to a person stated in the notice, information on a particular issue relevant to—
  - (a) the discharge of the Coordinator-General's functions or the exercise of powers under this Act; or

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- (b) the discharge of the local government's functions or exercise of powers under the *Sustainable Planning Act 2009*.
- (2) The notice must state a reasonable period within which the notice is to be complied with and may state the way in which it is to be complied with.
- (3) The local government must comply with the notice.
- (4) However, the local government may appeal to the Minister against the notice and, if the local government appeals, the local government only has to comply with the notice if, and to the extent that, the Minister directs.

## Part 7                      General offence provisions

### 49            **Trespassing on railway**

A person must not intentionally or recklessly trespass on the railway.

Maximum penalty—40 penalty units.

### 50            **Interfering with railway**

- (1) A person in or on the Surat Basin rail corridor land must not interfere with the railway unless—
- (a) the person has the written approval of a relevant person under this section; or
- (b) the interference is permitted or authorised under section 44 or under a right of access under section 33 or the *Transport (Rail Safety) Act 2010*; or
- (c) the interference is otherwise approved, authorised or permitted under this Act or another Act.

Maximum penalty—160 penalty units.

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- (2) A person in or on the Surat Basin rail corridor land must not attempt to interfere with the railway unless subsection (1)(a), (b) or (c) applies to the person.  
Maximum penalty—80 penalty units.
- (3) An approval may be subject to a reasonable condition.
- (4) The person must comply with the condition.  
Maximum penalty—40 penalty units.
- (5) Subsections (1) and (2) do not apply to a person who carries out urgent maintenance of the railway.
- (6) If a relevant person decides to refuse to give an approval or gives an approval subject to a condition, the relevant person must give the person a notice stating the reasons for the decision.
- (7) If the relevant person is a railway manager, the notice must also state that the person may apply under section 60 for an internal review of the decision.
- (8) If a railway manager gives an approval under this section, the railway manager must give the Coordinator-General written notice of the approval.
- (9) The notice must include details of the works or other thing to which the approval relates.
- (10) An approval given by a railway manager under this section is of no effect to the extent the approval—
  - (a) is inconsistent with an approval given by the Coordinator-General under this section or section 44; or
  - (b) is for works for which the Coordinator-General has given a direction under section 45(2) or a notice under section 45(4); or
  - (c) is for works or another thing for which the Coordinator-General has refused to give an approval under this section.
- (11) This section binds all persons, including the State.
- (12) In this section—

*interfere with*, the railway, means—

- (a) carry out works in or on the Surat Basin rail corridor land; or
- (b) carry out works in or on a railway crossing or watercourse crossing; or
- (c) otherwise interfere with the railway or its operation.

*relevant person* means—

- (a) a railway manager; or
- (b) if there is no railway manager—the Coordinator-General.

*watercourse crossing* see section 43(7).

## 51 Rectifying unauthorised interference

- (1) If a person contravenes section 50(1) by interfering with the railway, a railway manager may, by written notice, require the person to rectify the interference within a stated reasonable period.
- (2) The person must comply with the requirement, unless the person has a reasonable excuse.  
Maximum penalty—40 penalty units.
- (3) If the person does not comply with the requirement, the railway manager may rectify the interference.
- (4) The person must pay the railway manager's costs of—
  - (a) rectifying the interference; or
  - (b) altering the construction, maintenance or operation of the railway because of the interference.
- (5) In this section—

*rectify the interference* means—

- (a) alter, dismantle or take away any works; or
- (b) fix any damage caused by the interference.

## **52 Altering watercourse to adversely affect the railway**

- (1) A person must not, without a reasonable excuse, alter a watercourse in a way that adversely affects the railway.

Maximum penalty—40 penalty units.

- (2) A person must not, without a reasonable excuse, attempt to alter a watercourse in a way that adversely affects the railway.

Maximum penalty—20 penalty units.

- (3) In this section—

*alter* includes damage and interfere with.

## **53 Altering materials or railway works**

- (1) A person must not, without a reasonable excuse, alter any naturally occurring materials, stockpile of material or railway works on the railway.

Maximum penalty—200 penalty units.

- (2) A person must not, without a reasonable excuse, attempt to alter any naturally occurring materials, stockpile of material or railway works on the railway.

Maximum penalty—100 penalty units.

- (3) A person must not deposit rubbish or abandon goods or materials on the railway other than at places approved by, and under conditions fixed by, a relevant person for the railway.

Maximum penalty—200 penalty units.

- (4) In this section—

*alter* includes damage, interfere with and remove.

*relevant person*, for the railway, means—

- (a) a railway manager; or  
(b) the Coordinator-General.

**54 Pretending to be an authorised person or associated person**

A person must not pretend to be—

- (a) an authorised person; or
- (b) an associated person of the Coordinator-General; or
- (c) an associated person of an authorised person.

Maximum penalty—80 penalty units.

**Part 8 Relationship with other Acts**

**Division 1 Transport noise corridors under Building Act 1975**

**55 Application of provisions of Building Act 1975**

The *Building Act 1975*, chapter 8B, parts 1 and 3 (the *applied provisions*) applies to the Surat Basin rail corridor land and land adjoining it as if—

- (a) a reference to railway land in the applied provisions included a reference to the Surat Basin rail corridor land; and
- (b) a reference to the transport chief executive in the applied provisions were a reference to the Coordinator-General.

**56 Recording of information for land in transport noise corridor**

- (1) The Coordinator-General may give the registrar of titles a written notice about land within a transport noise corridor.
- (2) The notice must include particulars of the land.

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- (3) If the Coordinator-General acts under subsection (1), the registrar of titles must—
  - (a) keep a record to show the land to which the notice relates is land within a transport noise corridor; and
  - (b) keep the record in a way that a search of the register kept by the registrar under any Act relating to title to land will show the land is within a transport noise corridor.
- (4) Subsection (5) applies if land for which a notice is given under subsection (1) is no longer within a transport noise corridor.
- (5) As soon as practicable after becoming aware the land is no longer within the transport noise corridor, the Coordinator-General must give the registrar of titles written notice of the fact.
- (6) On receiving the notice, the registrar of titles must remove the record mentioned in subsection (3) from the registrar's records.
- (7) No fee is payable to the registrar for keeping or removing a record under this section.
- (8) In this section—

*transport noise corridor* means a transport noise corridor designated under the *Building Act 1975*, chapter 8B, part 3.

## **Division 2                      Easements under Land Title Act 1994**

### **57            Grant and registration of easements**

- (1) The railway lessee may grant an easement that burdens the railway lease.
- (2) The instrument creating the easement may be registered under the *Land Title Act 1994*, section 83.
- (3) For the *Land Title Act 1994*, section 83(1)(b)(i), a reference to the registered owner is taken to include the railway lessee.

- (4) This section does not prevent—
- (a) the Coordinator-General from granting or registering an easement that burdens a lot of the land subject to the railway lease; or
  - (b) the railway lessee from registering more than 1 instrument creating an easement that burdens the railway lease.
- (5) It is declared that—
- (a) an easement over the railway lease ends when the railway lease ends; and
  - (b) this section only applies to a lot that is the Surat Basin rail corridor land and a lot that adjoins the Surat Basin rail corridor land.

## **Division 3                      Transport Infrastructure Act 1994**

### **58            Non-application of provisions of Transport Infrastructure Act 1994**

The *Transport Infrastructure Act 1994*, chapters 7 and 16 do not apply to—

- (a) railway works that are carried out, or are to be carried out, under this Act; or
- (b) investigations for the expansion or realignment of the Surat Basin rail corridor land that are carried out, or are to be carried out, under this Act; or
- (c) the Surat Basin rail corridor land; or
- (d) the railway.



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## Part 10                      Reviews

### 60      Internal review of decisions

- (1) A person whose interests are affected by a decision made by a railway manager under section 35 or 50 may ask the Coordinator-General to review the decision.
- (2) The *Transport Planning and Coordination Act 1994*, part 5, division 2 (the ***applied provisions***) applies to the review as if—
  - (a) a reference to a transport Act in the applied provisions included a reference to this Act; and
  - (b) a reference to the chief executive in the applied provisions were a reference to the Coordinator-General.

### 61      External review of decisions

- (1) If the reviewed decision is not the decision sought by the applicant for the review, the Coordinator-General must give the applicant an information notice for the reviewed decision.
- (2) The applicant may apply, as provided under the QCAT Act, to QCAT for a review of the reviewed decision.

*Note—*

The QCAT Act, section 22(3) provides that QCAT may stay the operation of the reviewed decision, either on application by a person or on its own initiative.

- (3) In this section—

***information notice***, means a written notice stating that the person may—

- (a) ask for the reviewed decision to be reviewed by QCAT; and
- (b) apply for the reviewed decision to be stayed under the QCAT Act.

***reviewed decision*** means the Coordinator-General's decision on a review under section 60.

## **Part 11                      Legal proceedings**

### **Division 1                      Evidence**

#### **62                      No need to prove authority**

In a proceeding for an offence against this Act, a person who is granted a works authority or investigation authority must be presumed to be an authorised person unless a party to the proceeding, by reasonable notice, requires proof of it.

#### **63                      Conduct of company directors, employees or agents**

- (1) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of a corporation about particular conduct, it is enough to show—
  - (a) the conduct was engaged in by a representative of the corporation within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (2) Conduct engaged in for a corporation by a representative of the corporation within the scope of the representative's actual or apparent authority is taken, in a proceeding for an offence against this Act, to have been engaged in also by the corporation unless the corporation establishes it took reasonable precautions and exercised appropriate diligence to avoid the conduct.
- (3) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of an individual about particular conduct, it is enough to show—
  - (a) the conduct was engaged in by a representative of the individual within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.

- (4) Conduct engaged in for an individual by a representative of the individual within the scope of the representative's actual or apparent authority is taken, in a proceeding for an offence against this Act, to have been engaged in also by the individual unless the individual establishes the individual took reasonable precautions and exercised appropriate diligence to avoid the conduct.
- (5) In this section—
- engaging* in conduct includes failing to engage in conduct.
- representative* means—
- (a) for a corporation—an executive officer, employee or agent of the corporation; or
- (b) for an individual—an employee or agent of the individual.
- state of mind* of a person includes—
- (a) the person's knowledge, intention, opinion, belief or purpose; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

## **64 Other evidentiary aids**

A statement in a complaint for an offence against this Act that the matter of the complaint came to the knowledge of the complainant on a stated day is evidence of when the matter came to the complainant's knowledge.

## **Division 2 Offence proceedings**

### **65 Summary offences**

An offence against this Act is a summary offence.

**66 Limitation on time for starting proceeding for summary offence**

A summary proceeding under the *Justices Act 1886* for a summary offence must start within the later of the following periods to end—

- (a) 1 year after the commission of the offence; or
- (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the commission of the offence.

## **Part 12 Miscellaneous provisions**

**67 Recovery of cost of damage**

- (1) This section applies if a person intentionally, recklessly or negligently damages railway works on the railway.
- (2) The person is liable to pay the relevant person for the railway works the cost of repairing the damage.
- (3) However, if the damage is caused by the driver of a vehicle whose identity is unknown, or who can not be located, the registered operator of the vehicle is liable for the costs of repairing the damage, unless the vehicle was being used without the registered operator's knowledge or permission.
- (4) Subsections (2) and (3) apply, whether or not the damage establishes, or relates to, an offence against this Act.
- (5) However, if—
  - (a) a court finds a person guilty of an offence against this Act; and
  - (b) in committing the offence, the person damaged works; the court may, as well as imposing a penalty, order the person to pay an amount towards the cost of repairing the damage.
- (6) In this section—

*registered operator* means the person in whose name the vehicle is registered.

*relevant person*, for railway works, means—

- (a) if the railway works are or were carried out by or for a railway manager—the railway manager; or
- (b) otherwise—the Coordinator-General.

*repairing* includes replacing and reconstructing.

## 68 **Amounts payable to Coordinator-General are debts owing to the State**

An amount payable by a person to the Coordinator-General under this Act is a debt owing to the State.

## 69 **Disposal of fees, penalties and other amounts**

All fees, penalties and other amounts received or recovered under this Act are to be paid to the consolidated fund.

## 70 **Delegations**

(1) The Coordinator-General may delegate his or her functions under this Act to—

- (a) a person appointed or employed under the *State Development and Public Works Organisation Act 1971*, section 5, 7A, 14 or 15; or
- (b) an appropriately qualified public service employee; or
- (c) an appropriately qualified employee of a local body.

(2) In this section—

*appropriately qualified* includes having the qualifications, experience or standing appropriate for the functions.

*function* includes power.

*local body* means—

- (a) a government owned corporation; or

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- (b) a statutory body as defined under the *Statutory Bodies Financial Arrangements Act 1982*; or
- (c) another body established under an Act; or
- (d) a corporation whose shares are wholly owned by—
  - (i) the State; or
  - (ii) the State and 1 or more local governments; or
  - (iii) 1 or more local governments; or
- (e) a corporation whose shares are entirely owned by a corporation of the type mentioned in paragraph (d).

## **71 Review of Act**

- (1) The Minister must review the operation of this Act no later than 10 years after the commencement of this section.
- (2) The Minister must, as soon as practicable after the review is finished, table in the Legislative Assembly a report on the outcome of the review.

## **72 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may provide—
  - (a) for fees payable under this Act and the matters for which they are payable; and
  - (b) for a maximum penalty of 20 penalty units for contravention of a regulation.

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# Schedule                      Dictionary

## section 4

***accredited rail infrastructure manager*** means a rail infrastructure manager under the *Transport (Rail Safety) Act 2010* who is accredited under that Act.

***appropriate register*** means—

- (a) for freehold land—the freehold land register; or
- (b) for other land—the appropriate register for the land under the *Land Act 1994*.

***associated person***, of the Coordinator-General or an authorised person, see section 10.

***authorised person*** see section 10.

***carry out***, for railway works, means do anything on land that is reasonably necessary or desirable for the works, including, for example, temporarily occupy or use the land.

***Coordinator-General*** means the Coordinator-General under the *State Development and Public Works Organisation Act 1971*.

***employee***, of a railway manager or railway operator, means—

- (a) an employee of, or a contractor for, the railway manager or railway operator; or
- (b) an employee of a contractor mentioned in paragraph (a); or
- (c) an individual who performs work for the railway manager or railway operator without payment, while the individual is performing that work.

*Example for paragraph (c)—*

An individual does work as a volunteer for an organisation of which the individual is a member. The organisation is a railway manager. The volunteer is an employee of the railway manager while the volunteer is performing work for the manager.

**investigation authority** see section 15(1)(a).

**land** includes—

- (a) a reserve within the meaning of the *Land Act 1994* or a road; and
- (b) land within the beds or banks of a watercourse or inundated land; and
- (c) the airspace above, and the land below, the surface.

**maintain** includes repair.

**maintenance** includes—

- (a) rehabilitation; and
- (b) replacement; and
- (c) repair; and
- (d) recurrent servicing; and
- (e) preventive and remedial action; and
- (f) removal; and
- (g) alteration; and
- (h) maintaining systems and services for rail transport infrastructure.

**occupier**, of land, means—

- (a) the person in actual occupation of the land; or
- (b) if there is no person in actual occupation—the person entitled to possession of the land;

and, for a watercourse or reserve, includes the person responsible for the care and management of the watercourse or reserve.

**on**, the railway, road or other land, includes over or under the railway, road or land.

**owner**, of land, includes—

- (a) the person who has lawful control of the land, on trust or otherwise; and

- 
- (b) the person who is entitled to receive the rents and profits of the land.

***rail transport infrastructure*** means facilities necessary for operating the railway, including—

- (a) railway track and works built for the railway, including any of the following—
- cuttings
  - drainage works
  - excavations
  - land fill
  - track support earthworks; and
- (b) any of the following things that are associated with the railway's operation—
- bridges
  - communication systems
  - machinery and other equipment
  - marshalling yards
  - notice boards, notice markers and signs
  - overhead electrical power supply systems
  - over-track structures
  - platforms
  - power and communication cables
  - service roads
  - signalling facilities and equipment
  - stations
  - survey stations, pegs and marks
  - train operation control facilities
  - tunnels
  - under-track structures; and

Schedule

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- (c) pedestrian facilities, including footpath paving, for the railway; and
- (d) any of the following—
  - (i) freight centres or depots; or
  - (ii) maintenance depots; or
  - (iii) office buildings or housing; or
  - (iv) rolling stock or other vehicles that operate on the railway; or
  - (v) workshops; or
  - (vi) any railway track, works or other thing that is part of anything mentioned in paragraphs (i) to (v).

**railway** see section 5.

**railway crossing** means a level crossing, bridge or other structure used to cross over or under the railway.

**railway lease** means a lease—

- (a) that is granted over the Surat Basin rail corridor land or a part of the land; and
- (b) that is primarily for the purpose of constructing or operating the railway; and
- (c) for which the lessor is—
  - (i) the Coordinator-General; or
  - (ii) the State.

**railway lessee** means the lessee of a railway lease.

**railway licence** means a licence—

- (a) that is granted by the Coordinator-General or the State in relation to the use of the Surat Basin rail corridor land or a part of the land; and
- (b) that is primarily for the purpose of constructing the railway.

**railway licensee** means the licensee under a railway licence.

**railway manager** means a person who is an accredited rail infrastructure manager for railway operations relating to the railway.

**railway operations** see under the *Transport (Rail Safety) Act 2010*, section 9.

**railway operator** means a person who operates rolling stock on the railway.

**railway works** see section 6.

**registrar of titles** means a public official or authority responsible for registering title to land and dealings affecting land.

**road** see the *Transport Infrastructure Act 1994*, schedule 6, definition *road*, paragraphs (c), (ca) and (d).

**rolling stock** means a vehicle, including, for example, a train, that operates on the railway and is used, or is proposed to be used, for either—

- (a) transporting freight on the railway; or
- (b) maintenance work, or other work, associated with the railway.

**Surat Basin rail corridor land** see section 7.

**vehicle** includes any type of transport that moves on wheels and a hovercraft but does not include a train or tram.

**watercourse** includes a lake, spring, stream or swale.

**works** includes activities.

**works authority** see section 14(1)(a).

## 1 Index to endnotes

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## 2 Key

### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amd	= amendment	prov	= provision
t			
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renu	= renumbered
		m	
ins	= inserted	rep	= repealed
lap	= lapsed	(retro	= retrospectively
		)	
notf	= notified	rv	= revised version
d			
num	= numbered	s	= section
o in	= order in council	sch	= schedule
c			

<b>Key</b>	<b>Explanation</b>	<b>Key</b>	<b>Explanation</b>
<b>om</b>	= omitted	<b>sdiv</b>	= subdivision
<b>orig</b>	= original	<b>SIA</b>	= Statutory Instruments Act 1992
<b>p</b>	= page	<b>SIR</b>	= Statutory Instruments Regulation 2012
<b>para</b>	= paragraph	<b>SL</b>	= subordinate legislation
<b>prec</b>	= preceding	<b>sub</b>	= substituted
<b>pres</b>	= present	<b>unnu</b>	= unnumbered
		<b>m</b>	
<b>prev</b>	= previous		

### 3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email [legislation.queries@oqpc.qld.gov.au](mailto:legislation.queries@oqpc.qld.gov.au).

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

<b>Current as at</b>	<b>Amendments included</b>	<b>Notes</b>
9 November 2014	none	RA s 42A

### 4 List of legislation

**Surat Basin Rail (Infrastructure Development and Management) Act 2012 No. 32**

Endnotes

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date of assent 8 November 2012

ss 1–2 commenced on date of assent

remaining provisions commenced 9 November 2014 (2013 SL No. 210)

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