



ANNO VICESIMO PRIMO

# GEORGII V REGIS.

A.D. 1930.

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## No. 1979.

An Act to approve and ratify and provide for carrying out an Agreement relating to the Working of certain Border Railways, and matters incidental thereto, entered into between the Governments of the States of Victoria and South Australia, and for other purposes.

[Assented to, November 20th, 1930.]

**W**HEREAS the period of fifteen years limited by clause 11 of the agreement (hereinafter called "the original Agreement") set out in the Schedule to the South Australian and Victorian Border Railways Act, 1912, expired on the thirtieth day of June one thousand nine hundred and thirty: AND WHEREAS upon the expiration of the said period sections 12 and 13 of the said Act ceased to have any effect with respect to the operation of the train services on the parts within this State of the Railways (hereinafter called "the connecting railways") constructed in pursuance of the original agreement: AND WHEREAS with a view to making provision for the operation of the train services on the said parts of the connecting railways the Governments of the States of Victoria and South Australia have entered into the agreement (hereinafter called "the new Agreement") set out in the Schedule to this Act, subject to approval by the respective Parliaments of the said States: AND WHEREAS notwithstanding the fact that the hereinbefore recited sections of the said South Australian and Victorian Border Railways Act, 1912, have ceased to have effect as aforesaid The Victorian Railways Commissioners since the said thirtieth day of June one thousand nine hundred and thirty in anticipation of the making of the new Agreement and the approval and ratification thereof by the respective Parliaments of the said States have operated the train services

Preamble.

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services on the said parts of the connecting railways: AND WHEREAS it is desirable to approve and ratify the new Agreement and to provide for carrying out the provisions thereof: AND WHEREAS it is also desirable to ratify and confirm the conduct of The Victorian Railways Commissioners in operating the train services on the said parts of the connecting railways—BE it therefore Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

**Short title.**

**1.** This Act may be cited as the “South Australian and Victorian Border Railways Agreement Act, 1930”.

**Commencement  
of Act.**

**2.** (1) This Act shall not come into force until an Act approving and ratifying the new Agreement, and providing for the carrying out by the State of Victoria of the provisions thereof, so far as such provisions are to be carried out by that State, has been passed by the Parliament of that State, and has been assented to by the Governor thereof.

(2) When such Act of the Parliament of Victoria has been passed and assented to as aforesaid, the Governor may, by proclamation, fix the day when this Act shall come into force, such day not being earlier than the date when the said Act of the Parliament of Victoria is to come into force, and this Act shall come into force accordingly.

**Repeal of Act  
1097 of 1912.**

**3.** The South Australian and Victorian Border Railways Act, 1912, is hereby repealed.

**Interpretation.**

**4.** In this Act, except where some other meaning is clearly intended—

“The new Agreement” means the Agreement set out in the Schedule to this Act:

“The original Agreement” means the Agreement set out in the Schedule to the South Australian and Victorian Border Railways Act, 1912:

“The Commissioner” means the South Australian Railways Commissioner:

“The connecting railways” means—

(a) the railway on the five feet three inches gauge from Puralka (previously called Mumbannar), in Victoria, to Mount Gambier, in South Australia, connecting with the railway constructed from Heywood in Victoria to Puralka and with the railway from Wolseley in South Australia to Mount Gambier; and

(b) the railway on the said gauge, from Pinnaroo in South Australia to Murrayville in Victoria, connecting with the railway from Taillem Bend in South Australia to Pinnaroo, and with the railway from Ouyen in Victoria to Murrayville.

**5.** (1) The

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5. (1) The new Agreement is hereby approved and ratified and shall be deemed and taken to be part of this Act, and all such things as may be necessary for carrying out the provisions thereof, so far as such provisions are to be carried out by this State, may and shall be done or suffered by the Commissioner.

Ratification of  
new Agreement.

(2) The conduct of The Victorian Railways Commissioners in operating the train services on the parts within this State of the connecting railways from the said thirtieth day of June, one thousand nine hundred and thirty, down to the date of the coming into force of this Act is hereby ratified and confirmed, and for all purposes shall be deemed to be authorised by this Act.

6. The Commissioner shall at all times maintain, and keep open for traffic, such parts of the connecting railways as are situated within this State.

Connecting railways  
in South Australia  
to be maintained  
by this State.

7. During the period while the new Agreement is in operation The Victorian Railways Commissioners—

Victorian  
authorities em-  
powered to work  
the parts of the  
said railways  
within this State.

(a) may operate the train services on such parts of the connecting railways as are situated within this State ;

(b) may collect and enforce the payment of rates for services rendered on or in connection with the said parts of the connecting railways ; and

(c) for the purposes aforesaid, shall have, exercise, and enjoy all the powers, authorities, privileges, and immunities, and shall perform and be subject to the duties and obligations (subject, however, in every case to the same conditions) of this State and of the Commissioner under the laws for the time being in force in this State.

8. (1) During the period while the new Agreement is in operation, all laws, by-laws, and regulations for the time being in force on or in respect of the other railways vested in the Commissioner shall be in force on and in respect of such parts of the connecting railways as are situated within this State, and may be enforced in all courts and tribunals of this State.

Laws, by-laws, &c.,  
to be in force:

(2) Penalties imposed by such laws, by-laws, and regulations, may be recovered summarily.

(3) Such penalties may be recovered by any person appointed in that behalf by The Victorian Railways Commissioners and approved by the Commissioner. The production of a document, purporting to be signed by the said Commissioners and by the Commissioner, appointing and approving a person therein named to recover such penalties, shall be sufficient evidence that the person therein named has been duly appointed and approved as aforesaid, and shall be evidence that the person producing such document is the person thereby appointed and approved.

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Tolls, charges, &c.  
Cf. 1097, 1912.  
s. 14.

**9.** The Commissioner or, while they are working such parts of the connecting railways as are situated within this State, The Victorian Railways Commissioners may demand for the use of the said parts of the connecting railways, and for the carriage of goods, stock, minerals, mails, parcels, and passengers thereon, and for loading and unloading goods, minerals, mails, and stock such freights, tolls, fares, charges, and rates as are from time to time fixed by the Commissioner in manner prescribed by any Act or Acts under which he may fix freights, tolls, charges, rates, and fares in respect of the other railways under his control.

Appropriation of  
tolls, &c.  
Ibid., s. 15.

**10.** Subject to the provisions of the new Agreement, all fares, freights, tolls, rents, dues, charges, rates, and sums of money which are received and levied under the authority of this Act shall be paid, in such manner as the Governor prescribes, to the Treasurer of this State for the public purposes of this State.

The South Aus-  
tralian Railways  
Commissioner may  
run trains between  
the Victorian border  
and Serviceton, in  
Victoria.

**11.** The Commissioner, with the consent of The Victorian Railways Commissioners—

- (a) may operate the train services on the railway (known in Victoria as the Dimboola and South Australian Border Railway) situated in Victoria between the South Australian and Victorian border and Serviceton; and
- (b) for the purpose aforesaid shall have, exercise, and enjoy all the powers, authorities, privileges, and immunities, and shall perform and be subject to the duties and obligations (subject, however, in every case to the same conditions) of the State of Victoria and of The Victorian Railways Commissioners under the laws for the time being in force in the State of Victoria.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

-A. HORE-RUTHVEN, Governor.

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**THE SCHEDULE.**

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AGREEMENT made the twenty-first day of September, one thousand nine hundred and thirty BETWEEN the STATE OF VICTORIA of the one part and the STATE OF SOUTH AUSTRALIA of the other part WHEREBY IT IS MUTUALLY AGREED as follows:—

1. (1) In this Agreement—

Interpretation.

The singular number includes the plural and the plural number includes the singular ;

“ Conveyance of traffic ” includes conveyance, loading, and unloading, and all other services rendered in connection with traffic ;

“ Railways Commissioner ” means the Railways Commissioner or Commissioners, or other the person or authority who (according to the requirements of the context), under the laws for the time being of the particular State, carries out the construction, or the working of, or in whom are vested, the State railways of such State ;

“ Rate ” includes rate, fare, freight, toll, and any other charge for any services rendered on or in connection with a railway ;

“ State ” means the State of Victoria or the State of South Australia ;

“ Traffic ” includes passenger, goods, stock, mineral, parcel, mail, and all other traffic, and all other services rendered on or in connection with a railway ;

“ The connecting railways ” means—

(a) the railway on the five feet three inches gauge from Puralka (previously called Mumbannar) in Victoria to Mount Gambier in South Australia, connecting with the railway constructed from Heywood in Victoria to Puralka and with the railway from Wolseley in South Australia to Mount Gambier ; and

(b) the railway on the said gauge, from Pinnaroo in South Australia to Murrayville in Victoria, connecting with the railway from Tailern Bend in South Australia to Pinnaroo, and with the railway from Ouyen in Victoria to Murrayville.

(2) In this Agreement, except where inconsistent with the context or some other meaning is clearly intended, the term “ railway ” includes—

(a) the railway referred to, and

(b) all works and conveniences connected with and used for the purposes of such railway, and

(c) all works and conveniences connected with and used for the purposes of such railway and any other railway or railways.

2. Each of the said States shall, at all times, at its own expense maintain such parts of the connecting railways as lie within its own territory in good repair and open for traffic.

Each State to maintain railways within its own territory.

3. Until this agreement is determined by notice as hereinafter provided—

Train services on connecting railways.

(1) The ordinary train services on the connecting railways shall be such as are from time to time agreed upon between the Railways Commissioners of the said States.

(2) The said train services shall be operated by the Victorian Railways Commissioner.

(3) The cost incurred by the Victorian Railways Commissioner in operating the said train services shall be apportioned between the said States on the basis of the mileage run in the respective States.

(4) The

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- (4) The Commissioners of the said States shall determine by agreement what expenditure shall be taken into account in reckoning the cost incurred by the Victorian Railways Commissioner in operating the said train services and failing agreement the expenditure so to be taken into account shall be decided by arbitration as provided in clause 8 of this agreement but in any event interest at the average rate debited to the Victorian Railways Commissioner by the Treasurer of Victoria on Victorian rolling-stock from time to time used for the purposes of the said train services shall be taken into account in reckoning the cost of operating the said services.
- (5) The conditions upon and subject to which a special train may be run on either of the connecting railways and the mode of reckoning the working expenses of and the revenue derived from running any such train and of apportioning the said working expenses and revenue between the said States shall respectively be determined from time to time by agreement between the Railways Commissioners of the said State.

Competitive rates  
not to be charged.

4. At all times, Victorian rates shall apply on the Victorian side of the boundary between the said States and South Australian rates on the South Australian side of the said boundary, but the Railways Commissioner of one State shall not at any time, in respect of the conveyance of any traffic from or to the starting point of either of the connecting railways or on, or on and from, or to and on, either of the said railways, allow any rebate, allowance, or consideration of any description, or charge any rate lower or higher than the mileage scale of rates then in general operation throughout such State, which may have the effect of—

- (a) inducing traffic, either directly or indirectly, from the other State, or  
(b) preventing or discouraging traffic, either directly or indirectly, from going into the other State.

Provided that—

- i. the Railways Commissioner of a State may continue to charge, in respect of the conveyance of traffic on any railway, any rates which were charged on the first day of September nineteen hundred and twenty-nine, in respect of the conveyance of similar traffic on such railway,
- ii. nothing in this agreement shall affect the agreement signed the twenty-fourth day of May nineteen hundred and five, and made between the Railways Commissioners of the States of New South Wales, Victoria, and South Australia, or prevent the Railways Commissioners of the States from making and giving effect to any other agreement of a similar nature, and
- iii. unless and until otherwise agreed between the Victorian and South Australian Railways Commissioners, the exemptions specified in sub-clauses (1), (2), and (3) of clause (b) of the said agreement signed the twenty-fourth day of May nineteen hundred and five shall apply in respect of traffic conveyed from or to the starting point of either of the connecting railways, or on, or on and from, or to and on either of the said railways.

Necessary powers  
for working of the  
railways to be con-  
ferred by legis-  
lation.

5. The State of South Australia shall by legislation authorise the State of Victoria and its Railways Commissioner—

- (a) during the period whilst this agreement is in force to operate the train services on such parts of the connecting railways as lie within the State of South Australia ;
- (b) during the said period, to collect and enforce the payment of rates for services on such parts, and
- (c) for those purposes to have exercise and enjoy all the powers authorities privileges and immunities and to perform and be subject to the duties and obligations (subject however in every case to the same conditions) of the State of South Australia and its Railways Commissioner under the laws for the time being in force in the State of South Australia.

6. (1) All

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6. (1) All revenue derived from the connecting railways shall be paid to the Commissioner for the State wherein the revenue was earned.

Allocation of revenue from connecting railways.

(2) For the purposes of this clause the revenue earned in each State shall be deemed to be that portion of the total revenue derived from the said railways which constitutes the consideration for the conveyance of traffic in that State.

7. This agreement may be determined by twelve calendar months' notice in writing given by the Premier of either State to the Premier of the other State.

Agreement may be determined.

8. (1) If any question or difference arises between the said States, or between the Railways Commissioners of the said States, touching this agreement, or the construction of this agreement, or the rights, duties, or obligations under this agreement of a State or the Railways Commissioner thereof, or as to any other matter in anywise arising out of or connected with or incidental to any of the subject matters of this agreement, the same shall be referred to a single arbitrator agreed upon by the Governors of the said States, or if the said Governors do not agree upon a single arbitrator within fourteen days after notice in writing given by one of them to the other of his desire so to agree, then to three arbitrators one to be appointed by the Governor of each of the said States, and the third to be appointed by writing signed by the two appointed as aforesaid before the reference is entered upon; and the decision of such single arbitrator (if only one) or of such three arbitrators, or any two of them, shall be binding and final and not subject to any appeal or to be questioned in any manner whatsoever. If the Governor of a State fails to appoint an arbitrator within fourteen days after the Governor of the other State has appointed an arbitrator, and caused notice in writing to be given to the Governor of the first mentioned State requiring him to appoint an arbitrator, then upon such failure the Governor making the request may appoint another arbitrator to act on behalf of the State the Governor of which has so failed to appoint, and the arbitrator so appointed may proceed and act in all respects as if he had been appointed by the Governor so failing to make such appointment.

Arbitration.

(2) This agreement shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1928 of the State of Victoria, and of the Arbitration Act 1891 of the State of South Australia, and each of those Acts shall, within its own State, apply to the arbitration and all matters incidental thereto or consequent thereon.

IN WITNESS whereof the Honorable Edmond John Hogan (Premier of the State of Victoria) for and on behalf of the State of Victoria, and the Honorable Lionel Laughton Hill (Premier of the State of South Australia) for and on behalf of the State of South Australia, have hereunto set their hands and seals the day and year first above written.

SIGNED SEALED AND DELIVERED by the  
abovenamed THE HONORABLE EDMOND  
JOHN HOGAN in the presence of  
H. A. PITT } E. J. HOGAN.

SIGNED SEALED AND DELIVERED by the  
abovenamed THE HONORABLE LIONEL  
LAUGHTON HILL in the presence of  
H. BLINMAN } L. L. HILL.