

Railways (Access) Act 1998

Railways (Access) Amendment Code 2011

Made by the Minister under section 4 of the Act.

1. Citation

This Code is the *Railways (Access) Amendment Code 2011*.

2. Commencement

This Code comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Code is published in the *Gazette*;
- (b) the rest of the Code — on the day after that day.

3. Code amended

This Code amends the *Railways (Access) Code 2000*.

4. Schedule 4 clause 1 amended

In Schedule 4 clause 1 in the definition of *operating costs*:

- (a) in paragraph (b) delete “cycle,” and insert:

cycle; and
- (b) after paragraph (b) insert:
 - (c) payments made in respect of any lease or licence that the railway owner or an associate of the railway owner holds over any land, but only to the extent that the Regulator determines that those payments relate to land used for constructing, maintaining or operating the relevant railway and are not capital costs under clause 2(5),

5. Schedule 4 clause 2 amended

- (1) Delete Schedule 4 clause 2(2) and (2a) and insert:
- (2) For the purposes of this clause, railway infrastructure includes a cutting or embankment made for any reason after the commencement of this Code.
- (2) In Schedule 4 clause 2(3) delete “The costs referred to in the definition in subclause (1)” and insert:

Capital costs (other than capital costs under subclause (5))

- (3) After Schedule 4 clause 2(4) insert:
- (5) Capital costs include amounts for the amortisation of —
- (a) the costs incurred by the railway owner or an associate of the railway owner to acquire any interest in land; and
 - (b) any other costs incurred by the railway owner or an associate of the railway owner in relation to the acquisition of any interest in land (for example, costs in connection with Aboriginal heritage or native title issues or other transaction costs),

but only to the extent that the Regulator determines that those amounts relate to the acquisition after the commencement of this Code of an interest in land used for constructing, maintaining or operating the relevant railway.

C. PORTER, Treasurer.
