



Province of Alberta

## **RAILWAY (ALBERTA) ACT**

Revised Statutes of Alberta 2000  
Chapter R-4

Current as of November 1, 2010

Office Consolidation

© Published by Alberta Queen's Printer

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Regulations

The following is a list of the regulations made under the *Railway (Alberta) Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Railway (Alberta) Act</b>		
Heritage Railway.....	352/2009	
Industrial Railway .....	338/2009	
Public Railway .....	177/2002 .....	221/2004, 338/2009, 352/2009, 131/2012, 110/2013, 132/2017

# **RAILWAY (ALBERTA) ACT**

## Chapter R-4

### *Table of Contents*

- 1 Definitions
- 2 Application of railway legislation

### **Part 1 Approvals Governing Railways**

- 3 Initial construction of public railway
- 4 Subsequent construction re public railway
- 5 Construction re industrial railway
- 6 Construction re track crossing track
- 6.1 Road authority
- 7 Construction re highway crossing track
- 8 Expropriation re construction
- 9 Overriding objections re construction
- 10 Operation of railway
- 11 Granting of approvals
- 12 Certification by professional engineers and other experts
- 13 Cancellation of approval

### **Part 2 Operation of Railways**

#### **Division 1 All Railways**

- 14 Operations to be conducted safely
- 15 Obstructing navigation
- 16 Drainage
- 17 Fires
- 18 Highway crossing
- 19 Crossings re land owners
- 20 Crossings re private roads

- 21 Fences re land owners
- 22 Snow fences
- 23 Abandonment of services

**Division 2  
Public Railways**

- 24 Common carrier
- 25 Interchange of goods and commodities
- 26 Tariffs of rates
- 27 Limitation of liability
- 28 Transactions re approvals
- 29 Right of entry

**Division 3  
Regulations, Codes and Rules**

- 30 Regulations
- 31 Adoption of codes, etc.
- 32 Specific application of regulations, etc.
- 33 Operating rules governing specific railways

**Part 3  
Compliance, Accidents and  
Administrative Penalties**

- 34 Purpose of inspections
- 35 Inspection of railways
- 36 Production of documents, etc.
- 37 Directions of railway safety officer
- 38 Accidents
- 39 Railway operator's powers re accident
- 40 Hindering officer
- 41 Administrative penalties

**Part 4  
Reviews and Judicial Relief**

- 42 Interpretation
- 43 Application for review or hearing by Board
- 44 Conduct of review or hearing by Board
- 45 Decision of Board
- 46 Procedure before Board
- 47 Board decision is final
- 48 Appeal re jurisdiction, etc.
- 49 Reconsideration of railway safety officer's order
- 50 Judicial relief

**Part 5**  
**General Matters**

- 51** Staff
- 52** Delegation of power
- 53** Service of documents
- 54** Federal-provincial co-operation
- 55** Offence
- 56** Regulations

**Transitional Provisions, Consequential Amendments,  
Repeals and Coming into Force**

- 57,57.1** Transitional
- 58-61** Consequential amendments
- 62** Repeals
- 63** Coming into force

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

**Definitions**

**1** In this Act,

- (a) “amusement railway” means a railway
  - (i) that is operated wholly within the confines of an amusement, historical or similar park or site, or
  - (ii) that is operated wholly or in part outside the confines of an amusement, historical or similar park or site,  
  
for the sole purpose of providing rides to individuals on rolling stock and is not operated for the purposes of transporting goods or commodities for a toll or a fee or of being a common carrier;
- (b) “approval” means an approval granted under this Act and includes an amendment to the approval;
- (c) “Board” means the Alberta Transportation Safety Board;
- (d) “code” means a code or standard or body of rules or regulations referred to in section 31;
- (d.1) “heritage railway” means a railway that
  - (i) is operated wholly or in part within the confines of an historical park or similar park or site,

- (ii) is comprised of rolling stock and structural facilities, any of which was manufactured in 1965 or earlier,
  - (iii) operates at a speed not exceeding a maximum of 30 kilometres per hour,
  - (iv) travels no further than 240 kilometres in a day, and  
is operated for the sole purpose of providing rides to individuals and is not operated for the purposes of transporting goods or commodities for a toll or a fee or of being a common carrier;
- (e) “highway” means a highway as defined in the *Traffic Safety Act*;
- (f) “industrial railway” means a railway that
- (i) transports only goods or commodities that are manufactured, refined or otherwise produced, processed or handled by the person who operates the railway or on whose behalf the railway is operated, and
  - (ii) is operated wholly or in part within the confines of the industrial site on which goods or commodities are manufactured, refined or otherwise produced, processed or handled,
- and is not operated for the purposes of transporting goods or commodities for a toll or a fee or of being a common carrier;
- (g) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (h) “operating rules” means operating rules referred to in section 33;
- (i) “public railway” means a railway that is operated for the purposes of transporting individuals, goods and commodities or any one or more of them for a toll or fee, but does not include, unless otherwise ordered by the Board,
- (i) an amusement railway,
  - (ii) an industrial railway, or
  - (iii) a heritage railway;

- (j) “railway” means an undertaking that is operated for the purposes of transporting individuals, goods and commodities or any one or more of them by means of rolling stock operated on track, but does not include an urban rail transit system;
- (k) “Railway Administrator” means a person designated under section 51 as the Railway Administrator;
- (l) “railway legislation” means this Act, any regulations made under this Act and any code declared in force under section 31;
- (m) “railway safety officer” means a person designated as a railway safety officer under section 51 and includes any person authorized by the Railway Administrator to carry out duties or functions on behalf of or in the place of a railway safety officer;
- (n) “rolling stock” means
  - (i) any locomotive or railway car that operates on track, and
  - (ii) any other vehicle that by design or by the way it is equipped is capable of being operated on track;
- (o) “structural facilities” means, in respect of a railway, bridges, tunnels, overpasses, culverts, crossings and similar structures;
- (o.1) “terrorist activity” means terrorist activity within the meaning of the *Criminal Code* (Canada);
- (p) “track” means railway track and includes any land or right of way on which the railway track is located and any signals and apparatus used in respect of the operation of the railway track;
- (q) “urban rail transit system” means any undertaking that is a street railway, tramway, light rail transit railway or similar undertaking the purpose of which is to transport the general public within an urban area.

RSA 2000 cR-4 s1;RSA 2000 cT-6 s210;  
2002 c32 s14;2006 c28 s2

#### **Application of railway legislation**

**2(1)** Where a person owns or is otherwise responsible for the control, management or operation of both rolling stock and track,

- (a) the railway legislation as it relates to both rolling stock and track applies to that person, and
  - (b) any reference in the railway legislation to the operator of a railway is a reference to that person in that person's capacity as the operator of both rolling stock and track.
- (2)** Where a person owns or is otherwise responsible for the control, management or operation of rolling stock but does not own and is not otherwise responsible for the control, management or operation of track,
- (a) the railway legislation as it relates to rolling stock applies to that person, and
  - (b) any reference in the railway legislation to the operator of a railway is a reference to that person in that person's capacity as the operator of rolling stock.
- (3)** Where a person owns or is otherwise responsible for the control, management or operation of track but does not own and is not otherwise responsible for the control, management or operation of rolling stock,
- (a) the railway legislation as it relates to track applies to that person, and
  - (b) any reference in the railway legislation to the operator of a railway is a reference to that person in that person's capacity as the operator of track.
- (4)** Where a person owns or is otherwise responsible for the control, management or operation of structural facilities,
- (a) the railway legislation as it relates to the structural facilities applies to that person, and
  - (b) any reference in the railway legislation to the operator of a railway is a reference to that person in that person's capacity as the operator of the structural facilities.
- (5)** The railway legislation does not apply to
- (a) rolling stock or track that is not full size;
  - (b) structural facilities used in respect of rolling stock or track referred to in clause (a);
  - (c) the operator of a railway with respect to the operation of rolling stock or track referred to in clause (a);



(d) a railway with respect to the operation of rolling stock or track referred to in clause (a).

**(6)** For the purposes of this section,

(a) a reference to rolling stock or track that is not full size is, subject to the regulations, a reference,

(i) in the case of rolling stock, to rolling stock that operates on track that is less than standard gauge in width, and

(ii) in the case of track, to track that is less than standard gauge in width,

and

(b) a reference in clause (a) to standard gauge is a reference to standard gauge as that term is commonly understood within the railway industry in Canada.

1998 cR-4.1 s2

## **Part 1**

### **Approvals Governing Railways**

#### **Initial construction of public railway**

**3** A person shall not construct any track or any structural facilities on any land for the purposes of constructing or developing a public railway unless the Railway Administrator has granted to the person who is to be the operator of the railway an approval to carry out that construction on that land.

1998 cR-4.1 s3

#### **Subsequent construction re public railway**

**4** Where a person wishes to construct any track or structural facilities in respect of a public railway on land that is not already included in an existing approval, that person shall not construct that track or those structural facilities on that land unless the Railway Administrator has granted to the operator of the railway an approval to carry out that construction on that land.

1998 cR-4.1 s4

#### **Construction re industrial railway**

**5** Where a person wishes to construct any track or structural facilities in respect of an industrial railway on land that the industrial railway intends to acquire by means of expropriation, that person shall not construct that track or those structural facilities on that land unless the Railway Administrator has granted to the

operator of the railway an approval to carry out that construction on that land.

1998 cR-4.1 s5

#### **Construction re track crossing track**

**6** A person shall not at rail level construct the track

(a) of any railway so that the track crosses, intersects, joins or unites with

(i) the track of any other railway, or

(ii) the track of any urban rail transit system,

or

(b) of any urban rail transit system so that the track crosses, intersects, joins or unites with the track of any railway

unless the Railway Administrator has granted to the operator of the railway or of the urban rail transit system, as the case may be, an approval to carry out that construction.

1998 cR-4.1 s6

#### **Road authority**

**6.1** In sections 7 and 7.1, “road authority” means the person who owns or is otherwise responsible for the direction, control and management of the highway.

2005 c16 s2

#### **Construction re highway crossing track**

**7(1)** A person shall not, in respect of any railway,

(a) construct track on, across, over or under a highway unless the Railway Administrator has granted to the operator of the railway an approval to carry out that construction, or

(b) construct a highway on, across, over or under track unless the Railway Administrator has granted to the road authority an approval to carry out that construction.

**(2)** Where, in respect of any railway,

(a) tracks are located on, across, over or under a highway, and

(b) a person wishes to replace any structure or method by which the tracks are located on, across, over or under the highway with another structure or method,

a person shall not change the existing structure or method with a different structure or method unless the Railway Administrator has granted to the operator of the railway an approval to do so.

(3) Where the operator of the railway is unable to agree with the road authority as to the apportionment of costs associated with the construction, the operator of the railway or the road authority may apply to the Land Compensation Board to apportion the costs.

RSA 2000 cR-4 s7;2005 c16 s3

### Expropriation re construction

**8(1)** For the purposes of constructing track or structural facilities in respect of a public railway, the operator of the railway may expropriate land in accordance with the *Expropriation Act*.

(2) For the purposes of constructing track or structural facilities in respect of an industrial railway on land that the operator of that railway does not own or otherwise have the right to use under an agreement with the owner of that land, that operator may, if the Board grants to that operator an approval to proceed under the *Expropriation Act*, expropriate land in accordance with the *Expropriation Act*.

(3) Where an approval is required before any construction or work may be carried out under the railway legislation, a person shall not expropriate land for the purposes of that construction or work until the Railway Administrator has granted that approval.

1998 cR-4.1 s8

### Overriding objections re construction

**9(1)** Where

- (a) construction or work is being carried out pursuant to an approval granted under section 3, 4, 5, 6 or 7 or subsection (2) of this section, and
- (b) the Railway Administrator is of the opinion that the construction or work is not being carried out in accordance with the railway legislation or that approval,

the Railway Administrator may at any time give notice to the operator of the railway or the person carrying out the construction or work to stop the construction or work.

(2) Where the Railway Administrator gives a notice under subsection (1), the person carrying out the construction or work shall stop carrying out the construction or work and shall not recommence the construction or work until the Railway Administrator grants an approval to do so.

1998 cR-4.1 s9

**Operation of railway**

**10(1)** An operator of a railway shall not do the following:

- (a) permit track that has been constructed pursuant to an approval to be put into operation until the Railway Administrator grants an approval to the operator authorizing the track to be put into operation;
- (b) operate rolling stock without being authorized to do so by an approval for that purpose that is granted by the Railway Administrator.

(2) Notwithstanding subsection (1), a person may operate rolling stock on a track without an approval under subsection (1) for the purposes of

- (a) carrying out construction or work in respect of a railway, or
- (b) carrying out tests, analyses or other assessments respecting the technical operation of rolling stock, track or structural facilities.

RSA 2000 cR-4 s10;2002 c18 s2

**Granting of approvals**

**11(1)** A person who wishes to obtain an approval granted by the Railway Administrator must apply to the Railway Administrator for the approval.

(2) For the purposes of considering an application for an approval, the Railway Administrator may require the applicant to provide to the Railway Administrator any material that the Railway Administrator considers appropriate in order for the Railway Administrator to determine whether to grant the approval.

(3) When granting an approval, the Railway Administrator may make the approval subject to any terms, conditions or restrictions that the Railway Administrator considers appropriate in the circumstances.

(4) The Railway Administrator shall not grant an approval with respect to the construction of any track or structural facilities unless

the person applying for the approval has provided to the Railway Administrator

- (a) copies of the plans and other technical information requested by the Railway Administrator that relate to that construction;
- (b) a certificate given by that person that the proposed construction and the proposed track or structural facilities, as the case may be, meet the requirements of the railway legislation;
- (c) a certificate given by that person that the owners of land that is located adjacent to the right of way or proposed right of way on which the track is to be constructed have, subject to the regulations, been given notice informing the owners of that land of the proposed construction.

(5) The Railway Administrator may grant an approval where the Railway Administrator is satisfied that the criteria provided for in the railway legislation have been met with respect to any matter for which an approval is being applied for.

1998 cR-4.1 s11

#### **Certification by professional engineers and other experts**

**12(1)** The Railway Administrator may require the applicant for an approval to provide to the Railway Administrator prior to the granting of the approval a certificate of a professional engineer or any other person having special, technical or other knowledge relating to the matter for which the approval is being applied for.

(2) Where the Railway Administrator requires a certificate under subsection (1), the Railway Administrator may give directions as to the matters that the Railway Administrator wishes to have certified.

1998 cR-4.1 s12

#### **Cancellation of approval**

**13(1)** Where the Railway Administrator is of the opinion that a person to whom an approval has been granted is failing to comply with or has failed to comply with

- (a) the approval or any term, condition or restriction to which the approval is subject, or
- (b) any railway legislation or operating rules,

the Railway Administrator may cancel or suspend the approval in whole or in part on 14 days' written notice to that person.

(2) Notwithstanding that a 14-day notice period is prescribed under subsection (1), if a railway safety officer is of the opinion that the safety of the public or persons employed by or acting on behalf of the operator of the railway is in jeopardy by reason of the failure to comply referred to in subsection (1), the Railway Administrator may cancel or suspend the approval in whole or in part effective at the time of giving to the person the notice under subsection (1).

(3) On the cancellation or suspension of an approval, any person carrying out any activity that was authorized or otherwise carried out pursuant to the approval shall cease to carry out that activity except as otherwise directed or authorized by the Railway Administrator.

(4) Where an approval is cancelled or suspended only in part, any person carrying out any activity that was authorized or otherwise carried out pursuant to the portion of the approval that was cancelled or suspended shall cease to carry out that activity except as otherwise directed or authorized by the Railway Administrator.

1998 cR-4.1 s13

## **Part 2 Operation of Railways**

### **Division 1 All Railways**

#### **Operations to be conducted safely**

**14** The operator of a railway shall

(a) ensure that

(i) the track and the structural facilities are constructed, used and maintained in accordance with the railway legislation and the operating rules, if any, and the approvals granted in respect of the track and the structural facilities, and

(ii) the rolling stock is maintained and operated in accordance with the railway legislation and the operating rules, if any, and the approvals granted in respect of the operation of the rolling stock,

and

(b) generally maintain and operate the rolling stock, track and structural facilities in such a manner that the rolling stock, track and structural facilities are safe to be used for the purposes for which they are intended and are not a danger

to the public or persons employed by or acting on behalf of the operator of the railway.

1998 cR-4.1 s14

#### **Obstructing navigation**

**15** A person shall not, in respect of any railway,

- (a) construct, repair, maintain or remove track or structural facilities, or
- (b) operate rolling stock,

in such a manner so as to obstruct or impede the free navigation of or on a river, stream, canal or body of water.

1998 cR-4.1 s15

#### **Drainage**

**16** A person carrying out the construction, repair, maintenance or removal of any track or structural facility in respect of any railway shall ensure that there is constructed and maintained,

- (a) in the case of track, along each side of, across and under the track, and
- (b) in the case of a structural facility, as are necessary for the structural facility,

proper and adequate ditches and drains that are connected with ditches, drains, drainage works and watercourses on the land over which the track crosses or on which the structural facility is located so as to provide sufficient outlet to drain and carry off water in such a manner that the existing natural drainage and any existing artificial drainage of the land is not obstructed or impeded.

1998 cR-4.1 s16

#### **Fires**

**17(1)** The operator of a railway shall at all times maintain and keep the rights of way and track free from dead or dry grass, weeds and any other unnecessary combustible matter.

**(2)** Subject to the regulations, when damage is caused by a fire started by or arising out of the operation of rolling stock, track or structural facilities or any other operations carried out by the operator of the railway with respect to the railway, the operator of the railway is liable for the damage caused by that fire.

**(3)** For the purposes of subsection (2), the operator of a railway

- (a) has an insurable interest in all property on or along the rights of way for any damage for which the operator of the railway may be liable, and
- (b) may procure insurance on the operator's behalf in respect of that property.

1998 cR-4.1 s17

**Highway crossing**

**18** Where construction is carried out to lay track on, across, over or under a highway, the person carrying out the construction shall

- (a) carry out the construction so as to allow vehicles using the highway adequate passage, and
- (b) on completion of the construction restore the highway to as good condition as the highway was in immediately before the construction was commenced.

1998 cR-4.1 s18

**Crossings re land owners**

**19(1)** Where

- (a) a person owns land that is located on both sides of a right of way for track, and
- (b) if it were not for that right of way, that land would be joined together forming a single area of land,

the operator of the railway shall, on the request of the owner of the land, provide a crossing across the right of way and any track located on the right of way that is appropriate for the intended use of the crossing by the owner of the land.

**(2)** A crossing that is provided under this section shall remain in place until the owner of the land notifies the operator of the railway that the crossing is no longer required or the crossing is removed pursuant to an agreement between the owner of the land and the operator of the railway.

**(3)** For the purposes of this section, if

- (a) the right of way existed before the owner of the land acquired the land on both sides or either side of the right of way, the owner of the land is responsible for the costs of constructing, maintaining, repairing and removing the crossing, or
- (b) the owner of the land acquired that land before the right of way that separated that land came into existence, the



operator of the railway is responsible for the costs of constructing, maintaining, repairing and removing the crossing.

**(4)** Nothing in this section shall be construed so as to require an operator of an industrial site referred to in section 1(f)(ii) to provide a crossing across the industrial site.

1998 cR-4.1 s19

### **Crossings re private roads**

**20(1)** In this section,

- (a) “private road” means
- (i) a road that is not a highway, or
  - (ii) a highway that is not owned or otherwise under the direction, control and management of the Crown in right of Alberta or Canada, a Minister or a municipality and is designated as a private road by the Minister,

and

- (b) any reference to an owner of or a person who owns a private road is a reference to the person who owns or otherwise has the direction, control and management of a private road.

**(2)** Where

- (a) a person owns a private road that is located on both sides of a right of way for track, and
- (b) if it were not for that right of way, that private road would be joined together forming a continuous road,

the operator of the railway shall, on the request of the owner of the private road, provide a crossing across the right of way and any track located on the right of way that is appropriate for the intended use of the crossing by the owner of the private road.

**(3)** A crossing that is provided under this section shall remain in place until the owner of the private road notifies the operator of the railway that the crossing is no longer required or the crossing is removed pursuant to an agreement between the owner of the private road and the operator of the railway.

**(4)** For the purposes of this section, if

- (a) the right of way existed before the private road existed on both sides or either side of the right of way, the owner of the private road is responsible for the costs of constructing, maintaining, repairing and removing the crossing, or
  - (b) the private road was in existence before the right of way that separated that road came into existence, the operator of the railway is responsible for the costs of constructing, maintaining, repairing and removing the crossing.
- (5) A person shall not construct a crossing under this section unless the Railway Administrator has granted an approval for the construction of the crossing.
- (6) Nothing in this section shall be construed so as to require an operator of an industrial site referred to in section 1(f)(ii) to provide a crossing across the industrial site.

RSA 2000 cR-4 s20;2002 c18 s2;2005 c16 s5

#### **Fences re land owners**

- 21(1)** Where a person owns land that abuts on a right of way for track, the operator of the railway shall, on the request of the owner of the land, provide a fence along the right of way that is appropriate for the intended use of the fence by the owner of the land.
- (2) For the purposes of this section, if
- (a) the right of way existed before the owner of the land acquired the land that abuts on the right of way, the owner of the land is responsible for the costs of constructing, maintaining and repairing the fence, or
  - (b) the owner of the land acquired the land that abuts on the right of way before the right of way came into existence, the operator of the railway is responsible for the costs of constructing the fence and the owner of the land is responsible for the costs of maintaining and repairing the fence.
- (3) Where the owner of the land no longer has need for the fence provided under this section, the owner of the land, unless otherwise agreed to between the owner of the land and the operator of the railway, may on notice to the operator of the railway remove the fence at the expense of the owner of the land.

(4) Nothing in this section shall be construed so as to require an operator of an industrial site referred to in section 1(f)(ii) to provide a fence along a boundary of the industrial site.

1998 cR-4.1 s21

### **Snow fences**

**22(1)** The operator of a railway may, on or after a date specified in the regulations, enter on any land that is adjacent to any track and erect and maintain snow fences for the purpose of protecting the track from drifting snow.

(2) The operator of a railway that erects snow fences under subsection (1) shall remove those snow fences on or before a date specified in the regulations.

(3) The operator of a railway that erects snow fences under subsection (1) shall pay to the owner of the land on which snow fences are erected compensation for any damages suffered by the owner of the land arising out of the erection and maintenance of the snow fences.

(4) Where the operator of the railway and the owner of the land are unable to come to an agreement with respect to the damages, the owner of the land may apply to the Surface Rights Board for a determination as to the amount of damages payable.

1998 cR-4.1 s22

### **Abandonment of services**

**23(1)** In this section, “services” means one or more of the following:

- (a) the operation of rolling stock;
- (b) the operation of track;
- (c) the accepting of goods or commodities for transportation by means of rolling stock.

(2) An operator of a public railway or industrial railway who intends to cease providing a service shall, prior to the cessation of that service, give notice of the cessation of service to the Railway Administrator in accordance with the regulations.

(3) With respect to the cessation of a service that is provided by a public railway, the operator of the public railway shall, prior to the cessation of that service and in addition to giving notice under subsection (2), notify the public and the shippers of goods or commodities on that railway of the cessation of the service in accordance with the regulations.

RSA 2000 cR-4 s23;2002 c18 s2

## Division 2 Public Railways

### Common carrier

**24** An operator of a public railway is a common carrier and shall, as is reasonably within the capabilities of the rolling stock, track, structural facilities and equipment of the operator, provide to all persons adequate and suitable facilities

- (a) for the receiving, forwarding and delivering of goods and commodities on and from railways;
- (b) for the interchange of goods and commodities between railways;
- (c) for the return of rolling stock;
- (d) for the junction of private sidings and the track of industrial railways with the track of the public railway;
- (e) for the receiving, forwarding and delivering of goods and commodities on and from private sidings and industrial railways referred to in clause (d).

1998 cR-4.1 s24

### Interchange of goods and commodities

**25(1)** Where

- (a) there is an interchange of goods and commodities between a public railway governed under this Act and a railway that is not governed under this Act, and
- (b) the operators of those railways cannot agree as to the interchange of the goods and commodities,

the operator of the public railway governed under this Act may submit to the jurisdiction of the Canadian Transportation Agency or any successor to that Agency for the purpose of determining all matters respecting the interchange.

**(2)** The Board may, for the purposes of subsection (1), assist or work in conjunction with or act on behalf of the Canadian Transportation Agency or any successor to that Agency in determining any matter respecting the interchange of goods and commodities.

1998 cR-4.1 s25

**Tariffs of rates**

**26(1)** The operator of a public railway shall, subject to the regulations,

- (a) establish a tariff of rates for the services that the operator provides to the shippers and the general public, and
- (b) post the tariff of rates in a public place in an office operated by that operator or make that tariff of rates available to the public for inspection at an office operated by that operator.

**(2)** The operator of a public railway shall, at the request of a shipper, provide to the shipper the operator's tariff of rates for the shipping of that shipper's goods and commodities by that operator.

**(3)** The operator of a public railway may enter into an agreement with a shipper respecting tariffs, rates and the provision of services concerning the transportation of goods and commodities, and the terms of the agreement may be kept confidential.

1998 cR-4.1 s26

**Limitation of liability**

**27** The operator of a public railway shall not, except as permitted by regulation, limit or restrict the operator's liability to a shipper for the transportation of goods and commodities except by means of an agreement between that operator and the shipper or an association or other body representing shippers.

1998 cR-4.1 s27

**Transactions re approvals**

**28(1)** An approval granted to a person in respect of a public railway is not transferrable from that person to another person.

**(2)** Notwithstanding subsection (1), with the approval of the Railway Administrator, an approval granted to a person in respect of a public railway may be capitalized, sold, assigned, leased or amalgamated or otherwise transferred in whole or in part.

**(3)** Where

- (a) approvals have been granted in respect of a public railway,
- (b) in fact or in the opinion of the Railway Administrator the controlling interest in the ownership of the public railway has been acquired directly or indirectly by one or more other persons from the previous owner or owners of that controlling interest, and

- (c) the Railway Administrator is of the opinion that there is a question as to the continued safe operation of the rolling stock, track or structural facilities arising out of the change in ownership of that controlling interest,

the Railway Administrator may do either of the things referred to in subsection (4).

**(4)** If subsection (3) applies, the Railway Administrator may

- (a) impose terms, conditions or restrictions with respect to those approvals that the Railway Administrator considers appropriate to provide for the continued safe operation of the rolling stock, track and structural facilities, or
- (b) suspend those approvals until the Railway Administrator is satisfied as to the continued safe operation of the rolling stock, track and structural facilities.

1998 cR-4.1 s28

#### **Right of entry**

**29(1)** For the purposes of constructing, maintaining or repairing rolling stock, track or structural facilities of a public railway, the operator of the public railway and any person employed by or on behalf of that operator may, without taking title to the land,

- (a) enter on any land that is adjacent to or in close proximity to the railway, and
- (b) occupy and use that land for so long as is necessary to carry out the construction, maintenance or repair.

**(2)** Any person exercising any powers under this section shall do so in a reasonable manner.

**(3)** Where any person exercises any power under this section, the owner of the land or other person having possession of the land may apply to the Surface Rights Board for compensation with respect to the exercise of those powers.

**(4)** With the approval of the Railway Administrator granted pursuant to an application made by the operator of an industrial railway, that operator may exercise the powers and be subject to the obligations of an operator of a public railway under this section.

1998 cR-4.1 s29

### Division 3 Regulations, Codes and Rules

#### Regulations

**30** The Minister may make regulations

- (a) governing the standards and specifications respecting rolling stock, track and structural facilities and other equipment and apparatus used in respect of rolling stock, track and structural facilities;
- (b) governing the construction, maintenance, repair and removal of track and structural facilities;
- (c) governing the permanent fencing, temporary fencing and snow fencing of rights of way and structural facilities and the apportionment of costs with respect to that fencing;
- (d) governing crossings of track and the use of those crossings;
- (e) governing the installation and use of signage, warning signals, barriers, operating signals and other similar apparatus;
- (f) governing the qualifications of persons operating rolling stock and of persons carrying out functions respecting the operation of track and of other equipment and matters ancillary to the operation of rolling stock;
- (g) governing the material to be provided in respect of an application for an approval;
- (h) governing the criteria to be met in order for an approval to be granted or renewed;
- (h.1) requiring an applicant for an approval or an operator of a railway to have a safety management system and plan, and respecting the nature of such systems and plans;
- (h.2) governing the term for which an approval may be granted or renewed;
- (i) requiring the amounts of insurance or other security to be provided by or in respect of holders of approvals, persons carrying out construction in respect of a railway and persons operating rolling stock or track;
- (j) for the purposes of section 17, respecting damages caused by or arising out of fires and the liability for those damages;

- (k) governing tariffs, rates and the provision of services in respect of public railways;
- (l) for the purposes of section 27, limiting or restricting the liability of operators of public railways with respect to the transportation of goods and commodities;
- (m) providing for and governing a process for the resolution of disputes between shippers of goods or commodities and the operators of public railways with respect to tariffs, rates and the provision of services;
- (n) governing the reporting of accidents and other incidents;
- (o) governing the cessation of services;
- (p) requiring any information to be provided to the Board, the Railway Administrator and railway safety officers and governing the use of that information;
- (q) for the purposes of section 41, respecting the form and contents of notices of administrative penalties;
- (r) prescribing the amounts, or the manner of determining the amounts, of the administrative penalties that may be imposed by the Railway Administrator, not to exceed \$10 000 for each contravention;
- (s) prescribing the amounts, or the manner of determining the amounts, of the administrative penalties that may be imposed by a railway safety officer, not to exceed \$5000 for each contravention;
- (t) prescribing limitation periods for the giving of notices of administrative penalties;
- (u) respecting any other matter necessary for the administration of the system of administrative penalties;
- (v) for the purposes of section 2, prescribing, defining or otherwise describing what does or does not constitute full size rolling stock or track;
- (w) repealed 2002 c18 s2;
- (x) for the purposes of conducting proceedings before the Surface Rights Board or the Land Compensation Board with respect to matters under this Act,
  - (i) prescribing the provisions of the *Surface Rights Act* and the *Expropriation Act* that apply in whole or in part,



- (ii) defining terms used in this Act that are not otherwise defined under this Act,
- (iii) modifying any provision prescribed under subclause (i), and
- (iv) generally governing proceedings before the Surface Rights Board or the Land Compensation Board;
- (y) for the purposes of this Act, defining owners of land to include persons who do not own the fee simple estate in the land;
- (z) respecting the measures that are to be taken by an operator of a railway to secure the railway against the threat of terrorist activity including, without limitation, the filing with the Railway Administrator of plans to ensure the security of the railway operation.

RSA 2000 cR-4 s30;2002 c18 s2;  
2002 c32 s14;2005 c16 s6

#### **Adoption of codes, etc.**

##### **31** If

- (a) a code or standard or a body of rules or regulations has been published by a government, association or person,
- (b) there is authority under section 30 to make regulations governing or respecting the same subject-matter as is dealt with under that code or standard or body of rules or regulations, and
- (c) copies of that code or standard or body of rules or regulations are generally available,

the Minister, in addition to or instead of making a regulation under section 30, may by regulation declare that code or standard or body of rules or regulations in force in whole or in part or with any variations or modifications as the Minister prescribes.

1998 cR-4.1 s31

#### **Specific application of regulations, etc.**

**32** Where the Minister makes a regulation under section 30 or by regulation declares a code in force under section 31, the Minister may provide in the regulation that the regulation or code applies only in respect of

- (a) a specific railway, class of railways, operator of a railway or class of operators of railways, or

- (b) a specific portion of a railway.

1998 cR-4.1 s32

**Operating rules governing specific railways**

**33(1)** The operator of a railway may submit to the Railway Administrator for the Railway Administrator's approval a set of operating rules governing the operation of the rolling stock and track operated by that operator.

**(2)** The Railway Administrator shall not approve a set of operating rules or any particular operating rule submitted under this section if in the opinion of the Railway Administrator

- (a) those operating rules or a particular operating rule would not provide for the safe operation of rolling stock or track, or
- (b) it would otherwise not be in the public interest to approve the set of operating rules or a particular operating rule.

**(3)** Where the Railway Administrator grants an approval of operating rules with respect to a specific railway, the operator of the railway shall, while the operating rules are in force, operate that operator's rolling stock and track in accordance with those operating rules.

**(4)** The Railway Administrator may at any time rescind the approval granted in respect of a set of operating rules or any particular operating rule and on the operator's being notified in writing of the rescinding of the approval, that set of operating rules or particular operating rule is no longer in force.

**(5)** Where the Railway Administrator approves operating rules under this section with respect to the operator of a specific railway, the Railway Administrator may, during the time that those operating rules are in force, by order suspend the operation in whole or in part of any regulation made under section 30 or code declared in force under section 31 as that regulation or code applies to that specific operator.

**(6)** With respect to a railway for which operating rules are in force under this section, where a conflict exists between those operating rules and any regulation made under section 30 or code declared in force under section 31, those operating rules prevail while they remain in force.

1998 cR-4.1 s33

### Part 3

## Compliance, Accidents and Administrative Penalties

#### Purpose of inspections

**34** A railway safety officer may carry out inspections under sections 35 and 36 for the purposes of

- (a) administering the railway legislation and the approvals;
- (b) fostering compliance with the railway legislation and the approvals;
- (c) fostering compliance with operating rules;
- (d) fostering the safe operation of rolling stock, track and structural facilities;
- (e) fostering the maintenance of track and structural facilities so that they are safe;
- (f) fostering, with respect to the operation of railways, the safety of the general public and of persons employed by or acting on behalf of operators of railways.

1998 cR-4.1 s34

#### Inspection of railways

**35(1)** A railway safety officer may carry out inspections of the following:

- (a) any rolling stock;
- (b) anything transported on rolling stock;
- (c) any track;
- (d) any structural facility;
- (e) any record, document, object or thing that relates to the operation of a railway.

**(2)** A railway safety officer, in carrying out an inspection under subsection (1), may do one or more of the following:

- (a) enter on or into any track, structural facility, rolling stock, building or any other property associated with or operated by the operator of the railway;
- (b) ride on any rolling stock;

- (c) make inquiries of any person who is employed by or who carries out any duties or functions for or in respect of the operator of the railway;
- (d) perform or cause to be performed tests or examinations of anything that may be inspected under subsection (1).

1998 cR-4.1 s35

**Production of documents, etc.**

**36(1)** A person who is subject to an inspection carried out under section 35 shall, when requested to do so by a railway safety officer, produce for inspection within a reasonable period of time any record, document, object or thing that relates to the matter being inspected.

**(2)** A railway safety officer may remove the record, document, object or thing being inspected and make copies or take photographs of it.

**(3)** Where a railway safety officer removes a record, document, object or thing under subsection (2), the railway safety officer

- (a) may retain possession of the record, document, object or thing only for the period of time that is reasonably required to make the copies or take photographs of it, and
- (b) shall, on having made the copies or having taken the photographs, return the record, document, object or thing to the person from whom it was taken.

**(4)** Notwithstanding subsection (3), when, on inspecting a record, document, object or thing, a railway safety officer is of the opinion that for the purposes of this Part the railway safety officer must retain possession of the record, document, object or thing for a longer period of time than that permitted under subsection (3), the railway safety officer may retain possession of the record, document, object or thing for a longer period of time if the railway safety officer gives a receipt for the record, document, object or thing to the person from whom it was taken.

**(5)** Where a railway safety officer retains possession of a record, document, object or thing pursuant to subsection (4), the railway safety officer shall, once the record, document, object or thing has served the purposes for which it was retained, forthwith return the record, document, object or thing to the person from whom it was taken.

**(6)** If a railway safety officer retains possession of a record, document, object or thing under subsection (4), the railway safety officer shall, where requested to do so by the person from whom

the record, document, object or thing was taken and if practicable to do so, provide to that person a copy or a photograph of that record, document, object or thing.

1998 cR-4.1 s36

#### **Directions of railway safety officer**

**37(1)** Where a railway safety officer carries out an inspection, the railway safety officer may do one or more of the following:

- (a) order the cessation of
  - (i) any activity carried out in respect of a railway,
  - (ii) the operation of any rolling stock,
  - (iii) the operation of any track, or
  - (iv) the use of any structural facility,where the railway safety officer is of the opinion that that activity, operation or use is a danger to the safety of the public or persons employed by or acting on behalf of the operator of the railway;
- (b) order that any rolling stock or track or any equipment used in respect of the rolling stock or track be removed from service, where the railway safety officer is of the opinion that the operation of the rolling stock, track or equipment is a danger to the safety of the public or persons employed by or acting on behalf of the operator of the railway;
- (c) issue directions restricting the speed or otherwise respecting the speed at which rolling stock or a specific item or type of rolling stock may be operated generally or over a specific portion of track;
- (d) issue directions requiring repairs or maintenance to be carried out on rolling stock, track or structural facilities so that the rolling stock, track or structural facilities conform to the requirements of the railway legislation and any approvals granted to the operator of the railway;
- (e) suspend any person engaged in any activity concerning the operation of any rolling stock, track, structural facility or equipment from engaging in that activity where the railway safety officer is of the opinion that the activity is a danger to the safety of the public or persons employed by or acting on behalf of the operator of the railway;
- (f) issue directions requiring any procedure or practice respecting the operation of any rolling stock, track,

structural facility or equipment to be stopped or changed so that the procedure or practice, in the opinion of the railway safety officer, will conform to the requirements of the railway legislation and be carried out in a safe manner.

(2) Any order or direction given under this section may be given to the operator of a railway or any person employed by or acting on behalf of the operator of the railway.

1998 cR-4.1 s37

### Accidents

**38(1)** The operator of a railway shall

- (a) keep a record of every accident involving rolling stock, and
- (b) forthwith report to the Railway Administrator any accident involving any rolling stock that is reportable pursuant to the regulations.

(2) Whether or not an accident is reportable pursuant to the regulations, the Railway Administrator and any railway safety officer may, with respect to any accident involving rolling stock,

- (a) enter on and proceed across any property for the purpose of gaining access to where the accident occurred,
- (b) enter on any property on which the accident occurred or on which rolling stock or any goods or commodities being transported came to rest, and
- (c) carry out an investigation into the accident and its causes.

(3) In carrying out an investigation under this section, the Railway Administrator or any railway safety officer may

- (a) exercise any powers and carry out any functions that a railway safety officer may exercise or carry out under sections 35, 36 and 37, and
- (b) take possession of and remove any rolling stock, goods or commodities being transported on the rolling stock, any equipment and any track or structural facilities involved in the accident for the purposes of conducting tests, analyses and other assessments and carrying out the investigation.

1998 cR-4.1 s38

**Railway operator's powers re accident**

**39(1)** For the purposes of dealing with an accident involving rolling stock, the operator of the railway and any person employed by or on behalf of that operator may

- (a) enter on and proceed across any property for the purpose of gaining access to where the accident occurred,
- (b) enter on any property on which the accident occurred or on which rolling stock or any goods or commodities being transported came to rest, and
- (c) carry out the work that is appropriate to deal with the accident and to remove the rolling stock and any goods or commodities.

**(2)** A person exercising any powers under this section shall do so in a reasonable manner.

**(3)** Section 29(3) applies in respect of any powers exercised under this section.

1998 cR-4.1 s39

**Hindering officer**

**40** A person shall not

- (a) hinder, molest or interfere with the Railway Administrator or a railway safety officer doing anything, or
- (b) prevent or attempt to prevent the Railway Administrator or a railway safety officer from doing anything,

that the Railway Administrator or the railway safety officer is authorized to do by or pursuant to the railway legislation.

1998 cR-4.1 s40

**Administrative penalties**

**41(1)** Where the Railway Administrator is of the opinion that an operator of a railway or a person employed by or acting on behalf of an operator of a railway has failed to comply with

- (a) the railway legislation, an operating rule or an approval,
- (b) any order made or direction given by the Board, or
- (c) any order made or direction given by the Railway Administrator or a railway safety officer,

the Railway Administrator may act under subsection (2).

**(2)** If subsection (1) applies, the Railway Administrator may, subject to the regulations, by notice in writing given to that operator or person, require that operator or person to pay to the Government an administrative penalty in the amount set out in the notice, not to exceed \$10 000,

- (a) for the failure to comply, or
- (b) for each day or part of a day that the failure to comply occurs or continues.

**(3)** Where a railway safety officer is of the opinion that an operator of a railway or a person employed by or acting on behalf of an operator of a railway has failed to comply with

- (a) the railway legislation, an operating rule or an approval that governs the operation of rolling stock, track or a structural facility, or
- (b) an order made or direction given by a railway safety officer under section 37,

the railway safety officer may act under subsection (4).

**(4)** If subsection (3) applies, the railway safety officer may, subject to the regulations, by notice in writing given to that operator or person, require that operator or person to pay to the Government an administrative penalty in the amount set out in the notice, not to exceed \$5000,

- (a) for the failure to comply, or
- (b) for each day or part of a day that the failure to comply occurs or continues.

**(5)** An operator of a railway or other person who pays an administrative penalty in respect of a failure to comply may not be charged under this Act with an offence in respect of that failure to comply.

**(6)** Where a person fails to pay an administrative penalty in accordance with a notice under subsection (2) or (4), the Government may recover the amount owing in respect of the penalty by an action in debt.



## **Part 4**

### **Reviews and Judicial Relief**

#### **Interpretation**

**42(1)** In this Part, “affected person” means

- (a) a person who has applied to the Railway Administrator for an approval;
- (b) a person who has been granted an approval by the Railway Administrator;
- (c) a person to whom an order or a direction has been given or who is subject to an order made or direction given by the Railway Administrator;
- (d) a person who owns or has an interest in land where that land or the use of that land is or may be affected by any expropriation that is or may be carried out or any construction that is or may be carried out pursuant to an approval referred to in section 3, 4 or 5;
- (e) any person whom the Board, in its discretion, accepts as an affected person.

**(2)** In this Part, a reference to any action taken by the Railway Administrator is a reference to the fact that the Railway Administrator has done one or more of the following:

- (a) refused to grant an approval;
- (b) granted an approval;
- (c) cancelled or suspended an approval in whole or in part;
- (d) imposed, removed or altered any term, condition or restriction to which an approval is subject;
- (e) given an order or direction under the railway legislation;
- (f) imposed an administrative penalty under the railway legislation.

1998 cR-4.1 s42

#### **Application for review or hearing by Board**

**43(1)** Where an action is taken by the Railway Administrator, the affected person in respect of whom the action was taken may apply to the Board for a review of the action taken by the Railway Administrator within 30 days of the date the action was taken.

(2) With respect to any matter under the railway legislation other than an action taken by the Railway Administrator, an affected person may, with the consent of the Board, apply to the Board for a hearing into the matter.

RSA 2000 cR-4 s43;2005 c16 s7

#### **Conduct of review or hearing by Board**

**44(1)** On receiving an application under section 43(1) for a review of an action taken by the Railway Administrator, the Board shall conduct a review of that action.

(2) On receiving an application under section 43(2) for a hearing in respect of a matter other than an action taken by the Railway Administrator, the Board may conduct a hearing into the matter.

(3) Whether or not an affected person has made an application for a review or a hearing, the Board may conduct a review of an action taken by the Railway Administrator or conduct a hearing into any other matter under the railway legislation where

- (a) the Board is of the opinion that a review or a hearing should be conducted, or
- (b) the Railway Administrator has requested the Board to conduct a review or a hearing.

1998 cR-4.1 s44

#### **Decision of Board**

**45(1)** On conducting a review of an action taken by the Railway Administrator, the Board may make an order doing one or more of the following:

- (a) confirming the action taken by the Railway Administrator;
- (b) varying the action taken by the Railway Administrator;
- (c) rescinding the action taken by the Railway Administrator.

(2) In making an order under subsection (1), the Board may

- (a) make any decision or take any action that the Railway Administrator or a railway safety officer may make or take under the railway legislation,
- (b) make the order subject to any terms, conditions or restrictions, and
- (c) give any direction,

that the Board considers appropriate in the circumstances.

(3) Where the Board hears a matter other than an action taken by the Railway Administrator, the Board may make any order and make the order subject to any terms, conditions or restrictions that the Board considers appropriate in the circumstances.

1998 cR-4.1 s45

#### **Procedure before Board**

**46(1)** For the purposes of conducting reviews and hearings before the Board,

- (a) the chair and the other members of the Board have the same power as is vested in the Court of Queen's Bench for the trial of civil actions
  - (i) to summon and enforce the attendance of witnesses,
  - (ii) to compel witnesses to give evidence on oath or otherwise,
  - (iii) to compel witnesses to give evidence in person or otherwise, and
  - (iv) to compel witnesses to produce any record, object or thing that relates to the matter being heard;
- (a.1) a quorum of the Board is 3 members;
- (b) a person appearing before the Board may be represented by legal counsel;
- (c) the Board may take evidence under oath;
- (d) any member or officer of the Board may administer oaths for the purpose of taking evidence;
- (e) the Board may grant interim relief and stays in respect of the proceedings before the Board;
- (f) the Board may reconsider any decision made by the Board.

(2) With respect to reviews and hearings before the Board, the Board may make rules

- (a) governing notices to be given in respect of a review or hearing;
- (b) governing the procedure before the Board;
- (c) governing adjournments of matters before the Board;

- (d) governing the attendance of witnesses;
- (e) governing the applicability of the rules of evidence in judicial proceedings to hearings before the Board;
- (f) governing the receiving and recording of evidence;
- (g) empowering the Board to proceed when a party to the review or hearing fails to appear at or attend the review or hearing;
- (h) governing the interim relief and stays that may be granted;
- (i) providing for majority and minority decisions;
- (j) empowering the Board to consider a matter without conducting a formal or summary hearing and governing the procedure to be used in those circumstances;
- (k) governing the applicability of the *Alberta Rules of Court*;
- (l) providing for the issuing and publication of decisions of the Board;
- (m) governing the reconsideration of decisions made by the Board;
- (n) governing the destruction of any evidence and records of testimony after the expiration of any appeal period;
- (o) governing costs.

**(3)** Where the Railway Administrator is summoned to attend a review or hearing before the Board, the Railway Administrator may in writing designate an employee of the Government who

- (a) is under the administration of the Minister, and
- (b) is, in the opinion of the Railway Administrator, knowledgeable in respect of the subject-matter in respect of which the review or hearing is being conducted,

to attend the review or hearing on behalf of the Railway Administrator, and that designated person is deemed to have been the person summoned to attend the review or hearing.

**(4)** The *Regulations Act* does not apply to rules made under subsection (2).

**Board decision is final**

**47** Subject to section 48, every decision or order of the Board is final.

1998 cR-4.1 s47

**Appeal re jurisdiction, etc.**

**48(1)** An appeal lies from the decision of the Board to the Court of Appeal on a question of jurisdiction or on a question of law.

**(2)** An appeal under this section shall not be commenced at any time after 30 days expires from the day that the Board served written notice of its decision on the person who is the subject of that decision.

**(3)** The Board is entitled to be represented at an appeal conducted pursuant to this section and to make representations in respect of any matter before the Court that is related to the appeal.

1998 cR-4.1 s48

**Reconsideration of railway safety officer's order**

**49(1)** In this section, "order" means

- (a) an order made or direction given or any action taken under section 37 or in respect of an investigation carried out under section 38, or
- (b) an administrative penalty imposed under section 41.

**(2)** Where a railway safety officer makes an order, the person to whom or in respect of whom the order is made may apply to the Railway Administrator to have the Railway Administrator reconsider the order made by the railway safety officer.

**(3)** On receiving an application under subsection (2), the Railway Administrator shall reconsider the order made by the railway safety officer.

**(4)** On reconsidering an order made by a railway safety officer, the Railway Administrator may do one or more of the following:

- (a) confirm, vary, modify, reverse or rescind the order;
- (b) make any order that the railway safety officer may make.

**(5)** In reconsidering an order, the Railway Administrator may do so by conducting a summary hearing or without conducting any hearing into the matter.

1998 cR-4.1 s49

**Judicial relief**

**50(1)** The following applications for relief may be made to the Court of Queen's Bench:

- (a) where a person fails to comply with
  - (i) the railway legislation or an operating rule,
  - (ii) an approval granted by the Railway Administrator, or
  - (iii) any action taken or order made or direction given by the Railway Administrator,

the Railway Administrator may apply to the Court for an order directing the person to comply, as the case may be, with the railway legislation, the operating rule, the approval or the action taken or the order made or direction given by the Railway Administrator;

- (b) where, pursuant to an order made or direction given by the Railway Administrator, any rolling stock, track, structural facility or equipment is taken out of service or required to be taken out of service, the operator of the railway may apply to the Court for an order rescinding the order or direction of the Railway Administrator;
- (c) where, pursuant to an order made or direction given by the Railway Administrator in respect of an investigation carried out under section 38, the Railway Administrator takes possession of or removes or proposes to take possession of or remove any rolling stock, track, goods, commodities, equipment or structural facility, the operator of the railway may apply to the Court for an order
  - (i) prohibiting the Railway Administrator from taking possession of or removing one or more of those items, or
  - (ii) requiring the Railway Administrator to return one or more of those items to the operator;
- (d) where the Railway Administrator or a railway safety officer has been, or has reasonable grounds to believe that the Railway Administrator or a railway safety officer will be, hindered by or interfered with by a person in the carrying out of a duty or function under the railway legislation, the Railway Administrator may apply to the Court for an order prohibiting the person from hindering or interfering with the Railway Administrator or a railway safety officer.

(2) Repealed 2009 c53 s156.

(3) On the filing of an application with the clerk of the Court of Queen's Bench, the Court may, if it considers it necessary in the circumstances, hear an interim application on 2 days' notice and make an interim order granting the relief that the Court considers appropriate pending the determination of the application.

(4) An interim application under subsection (3) may be made ex parte if the Court considers it appropriate in the circumstances.

(5) On hearing an application, the Court may do one or more of the following:

- (a) grant the relief being applied for;
- (b) dismiss the application;
- (c) give any directions or grant an order subject to any terms or conditions that the Court considers appropriate in the circumstances;
- (d) award costs in respect of the matter.

RSA 2000 cR-4 s50;2009 c53 s156

## Part 5 General Matters

### Staff

**51(1)** In accordance with the *Public Service Act*, there may be appointed officers and employees as may be required for the administration of the railway legislation.

(2) The Minister may

- (a) designate a person as the Railway Administrator, and
- (b) designate persons as railway safety officers.

(3) The Railway Administrator may carry out any duty, perform any function and exercise any power that may be carried out, performed or exercised by a railway safety officer.

(4) Any reference in the railway legislation to an employee of the Government includes a reference to any person who is not an employee of the Government but who, pursuant to an agreement with the Government, is carrying out any duties or functions of or on behalf of the Government, the Railway Administrator or a railway safety officer under the railway legislation.

1998 cR-4.1 s51

**Delegation of power**

**52(1)** The Railway Administrator may in writing authorize an employee of the Government to do any act or thing, other than granting approvals or carrying out reviews of the actions of a railway safety officer, that the Railway Administrator is empowered to do under the railway legislation.

**(2)** The Railway Administrator may in writing authorize

- (a) an employee of the Government,
- (b) a peace officer, or
- (c) a person who in the opinion of the Railway Administrator has special, technical or other knowledge,

to carry out inspections and investigations on behalf of the railway safety officer.

**(3)** An authorization made under this section may be

- (a) general or applicable to a particular case, and
- (b) conditional or unconditional.

**(4)** When an authorization

- (a) purports to be signed by the person giving the authorization, and
- (b) states that the person named in it is authorized to do the act or thing set out in the authorization,

that authorization or a copy of it shall be admitted in evidence as proof, in the absence of evidence to the contrary, of that person's authorization to do the act or thing without proof of the signature or official character of the person signing the authorization.

**(5)** Notwithstanding that the Railway Administrator has given an authorization under this section, the Railway Administrator may do the act or thing in respect of which the authorization was given.

1998 cR-4.1 s52

**Service of documents**

**53(1)** Any order, direction, decision, notice or document given or made under the railway legislation by the Board, the Railway Administrator or a railway safety officer may be served on the person to whom it is directed by

- (a) personal service, or



- (b) by being
  - (i) sent by registered or certified mail addressed to the latest address of that person, or
  - (ii) transmitted by electronic means to that person at the latest number or electronic address at which the transmission can be received,

that is shown on the records of the Railway Administrator or the Registrar of Corporations.

**(2)** An electronic means may be used under subsection (1)(b)(ii) only if it produces for the person receiving the electronic message at least a printed image of the contents of the order, direction, decision, notice or document that is being served.

1998 cR-4.1 s53

#### **Federal-provincial co-operation**

**54** Where a railway operated under this Act is involved in any matter with a railway operated under federal legislation,

- (a) the Board may perform any function or duty and exercise any power under federal legislation where the Board is authorized to do so by a federal agency or by or pursuant to the federal legislation;
- (b) the Board may act in conjunction with a federal agency when the Board is acting under clause (a);
- (c) the Railway Administrator may, if authorized by the Minister, perform any function or duty and exercise any power under federal legislation where the Railway Administrator is authorized to do so by a federal agency or by or pursuant to the federal legislation;
- (d) the Railway Administrator may, if authorized by the Minister, act in conjunction with a federal agency when the Railway Administrator is acting under clause (c);
- (e) a federal agency may, if authorized by the Minister, perform any function or duty and exercise any power under the railway legislation that the Board, the Railway Administrator or a railway safety officer may perform or exercise under the railway legislation;
- (f) the Board, the Railway Administrator or a railway safety officer may, if authorized by the Minister, act in conjunction with a federal agency that is acting under clause (e).

1998 cR-4.1 s54

**Offence**

**55(1)** A person who does one or more of the following is guilty of an offence:

- (a) contravenes any provision of the railway legislation;
- (b) fails to comply with any order or direction given by the Board, the Railway Administrator or a railway safety officer;
- (c) contravenes an operating rule;
- (d) if an approval has not been granted or has been cancelled or suspended, carries out any activity for which that approval is required.

**(2)** Where a person is guilty of an offence referred to in subsection (1),

- (a) in the case of an individual, that individual is subject to a fine of not more than \$10 000, and where the offence is a continuing offence, a further fine of not more than \$2000 for each day or part of a day during which the offence continues, and
- (b) in the case of a corporation, that corporation is subject to a fine of not more than \$20 000, and where the offence is a continuing offence, a further fine of not more than \$4000 for each day or part of a day during which the offence continues.

1998 cR-4.1 s55

**Regulations**

**56(1)** The Lieutenant Governor in Council may make regulations for any matter that the Minister considers is not provided for or is insufficiently provided for in this Act.

**(2)** A regulation made under subsection (1) is repealed on the earliest of the following:

- (a) the coming into force of an amendment to a statute that provides for the matter dealt with in the regulation;
- (b) the coming into force of a regulation that repeals the regulation made under subsection (1);
- (c) the expiration of 2 years from the day that the regulation made under subsection (1) came into force.

(3) The repeal of a regulation under subsection (2)(b) or (c) does not affect anything done, incurred or acquired under the authority of that regulation before the repeal of that regulation.

(4) A regulation shall not be made under subsection (1) after the expiration of 3 years from the day that this section came into force, but any regulation made under subsection (1) that is in force on the expiration of that 3-year period remains in force until repealed under subsection (2).

(5) A regulation shall not be made under subsection (1) altering the provisions of subsection (2) or extending the 3-year period provided for under subsection (4).

1998 cR-4.1 s56

### **Transitional Provisions, Consequential Amendments, Repeals and Coming into Force**

#### **Transitional**

**57(1)** In this section, “previous Act” means the *Railway Act*, RSA 1980 cR-4.

(2) Any railway as defined in the previous Act that is in existence on the coming into force of this Act is deemed to be a railway under this Act and the operator of that railway is deemed to have been granted the necessary approvals to operate under this Act.

(3) Any farm crossing that was provided under section 143 of the previous Act and that is in existence on the coming into force of this Act shall continue under this Act subject to the terms pursuant to which the crossing was provided or to an agreement between the operator of the railway and the owner of the land being served by the crossing.

(4) The Minister may make regulations

- (a) respecting the transition of any matter from the previous Act or the *Central Western Railway Corporation Act* to this Act;
- (a.1) prescribing the term of an approval that is deemed to have been granted by virtue of the operation of subsection (2);
- (b) to deal with any difficulty or impossibility resulting from the transition from the previous Act or the *Central Western Railway Corporation Act* to this Act.

RSA 2000 cR-4 s57;2002 c18 s2

**Transitional**

**57.1(1)** An operator of a public railway that is operating rolling stock on the date this section comes into force must be in compliance with section 10(1)(b) not later than 3 months after the date this section comes into force.

**(2)** An operator of an industrial railway or amusement railway that is operating rolling stock on the date this section comes into force must be in compliance with section 10(1)(b) not later than 12 months after the date this section comes into force.

**(3)** This section does not apply to the Central Western Railway Corporation.

2002 c18 s2

**58 to 61** *(These sections make consequential amendments to other Acts. The amendments have been incorporated into those Acts.)*

**Repeals**

**62** The following are repealed on Proclamation:

- (a) the *Railway Act*;
- (b) the *Central Western Railway Corporation Act*.

1998 cR-4.1 s61

*(NOTE: RSA 2000 cR-3 and 1984 c71 proclaimed repealed September 1, 2002.)*

**Coming into force**

**63** This Act comes into force on Proclamation.

1998 cR-4.1 s62

*(NOTE: Proclaimed in force September 1, 2002.)*









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