

Canadian
Transportation
Agency



Office
des transports
du Canada

Guide to Railway Operation Compensation



**Rail Infrastructure Directorate
Rail and Marine Branch**



INTRODUCTION

On July 1, 1996, the *Railway Act* was abolished, and provisions relating to rail transportation were included in the *Canada Transportation Act* (the CTA). This legislation created the Canadian Transportation Agency (the Agency), a quasi-judicial body, to replace the National Transportation Agency. Among other duties, the Agency is responsible for resolving issues arising between railway companies under its jurisdiction and other interested parties, such as utility companies, road authorities, municipalities, landowners and other railways.

In addition, the Agency is responsible for certain provisions of other legislation such as the *Railway Safety Act* (the RSA).

This guide refers to specific sections of the RSA and is designed for the owners, lessees or occupiers of a) land adjoining the land on which a line of railway is situated; b) buildings or other structures on that land; or c) mines or other works operated on that land. It covers compensation they are entitled to for any losses they suffered because of the railway.

LEGISLATION

Section 24 of the RSA refers to specific railway activities on land adjoining the land on which the railway is situated that may threaten safe railway operations. These activities may include the control of the construction, alteration or maintenance of buildings or structures; the control of the construction, alteration or operation of a mine; the control of the construction, alteration or maintenance of drainage systems; the control of the storage of specified materials; the clearing of sight lines or the removal of weeds; and the prevention of unauthorized access to railway lands. Section 25 of the RSA allows railway companies to access land adjoining their railway under certain circumstances. These circumstances include where no other reasonable access to railway land is available to allow the railway to carry out its railway works or remove obstructions; when a railway must deal with a fire on those lands; when brush clearing is required for sight lines; or when a snow fence must be erected or maintained.

If an owner, lessee or occupier as set out above suffers a loss resulting from any such activities carried out by a railway company, they are entitled to compensation from the railway company pursuant to subsections 24(2) and 25(3). When parties cannot agree on the compensation that should be paid, any party may ask the Agency to determine the appropriate compensation.

APPLICATION

If you need an Agency determination on the appropriate compensation that should be paid, you may submit a written application to the following address:

Secretary
Canadian Transportation Agency
Ottawa, Ontario K1A 0N9

If you wish to hand deliver or courier your application, please use the following address:

Secretary
Canadian Transportation Agency
15 Eddy Street
17th Floor, Mailroom
Gatineau, Quebec J8X 4B3

Fax: (819) 997-6727

In addition, a copy of the application should be sent to each of the parties involved.

PROCESS

In accordance with its General Rules, after receiving an application, the Agency ensures that each interested party has the opportunity to comment on the application and any disputed issues. In general, the Agency invites the other interested parties to comment within 30 days, and then allows the applicant 10 days to comment. The Agency reviews all material submitted, makes the final decision or determination, and issues the necessary decisions or orders.

The Agency must process all applications within 120 days of receiving the originating documents, unless the parties to the application agree to an extension.

Parties are encouraged to continue any negotiations even though an application may be before the Agency.

DECISIONS AND APPEALS

Any Agency decision is subject to the following conditions:

- ◆ it is binding upon the parties and remains in effect until it is amended or rescinded;
- ◆ it may be reviewed by the Agency, if there are new facts or circumstances;
- ◆ it may be appealed to the Federal Court on a matter of law or jurisdiction, within 30 days of the order or decision; and
- ◆ it may be appealed to the Governor in Council at any time.

CONFIDENTIALITY

All documents filed with the Agency become part of the public record and may be made available for public viewing. However, in accordance with the Agency's General Rules, a claim for confidentiality can be made.

SAFETY

Authority to determine compensation as set out in this document does not relieve the parties of any safety obligations under the RSA. Transport Canada is responsible for safety matters under the RSA. For information on RSA requirements, contact a Transport Canada Surface Regional Office at one of the following numbers:

Atlantic Region: (506) 851-7315

Quebec Region: (514) 283-5722

Ontario Region: (416) 973-9810

Prairie and Northern Region: (204) 983-4214

Pacific Region (B.C.): (604) 666-0011

OTHER AVAILABLE DOCUMENTS

- ◆ Agency General Rules
- ◆ *Determining Net Salvage Value*
- ◆ *Environmental Assessment Procedures*
- ◆ *Guidelines on Apportionment of Costs of Grade Separation*
- ◆ *Guide to Certificates of Fitness*
- ◆ *Guide to Private (Farm) Crossings of Railways*
- ◆ *Guide to Railway Charges for the Maintenance and Construction of Road Crossings*
- ◆ *Guide to Railway Crossings of Other Railways*
- ◆ *Guide to Railway Line Construction*
- ◆ *Guide to Railway Works Cost Apportionment*
- ◆ *Guide to Relocation of Railway Lines in Urban Areas*
- ◆ *Guide to Road Crossings of Railways*
- ◆ *Guide to Utility Crossings of Railways*
- ◆ Railway Safety Management Systems Regulations
- ◆ Railway Third Party Liability Insurance Coverage Regulations
- ◆ *Resolving Disputes Through Mediation*
- ◆ *The Canada Transportation Act and the Rail and Marine Transportation Branch*
- ◆ *The Rail Infrastructure Directorate: A Guide*
- ◆ *Transfer and Discontinuance of Railway Line Operations and Railway Track Determinations*

The above are available in alternate formats.

FOR MORE INFORMATION

For more information or copies of the above documents, please contact one of the following staff members of the Rail Infrastructure Directorate:

Director
(819) 953-0327

Manager, Approvals and Determinations
(819) 953-0365

Manager, Engineering and Environmental Services
(819) 953-2117

Fax: (819) 953-8353

Toll Free: 1-888-222-2592

TTY: 1-800-669-5575 or (819) 953-9705



For more information on the *Canada Transportation Act*, the Agency and its responsibilities, or Agency decisions and orders, you can access the Agency's Web site at www.cta.gc.ca.

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