

Queensland



TRANSPORT INFRASTRUCTURE (RAILWAYS) ACT 1991

**Reprinted as in force on 27 May 1994
(includes amendments up to No. 15 of 1994)**

Reprint No. 2

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Information about this reprint

This Act is reprinted as at 27 May 1994. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use different spelling consistent with current legislative drafting practice (s 26(2))
- use standard punctuation consistent with current legislative drafting practice (s 27)
- use aspects of format and printing style consistent with current legislative drafting practice (s 35)
- omit provisions that are no longer required (ss 37 and 39)
- number and renumber provisions and references (s 43)
- correct minor errors (s 44).

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A Table of previous reprints is included in the Endnotes.

Also see Endnotes for—

- **details about when provisions commenced**
- **any provisions that have not commenced and are not incorporated in the reprint**
- **further information about editorial changes made in the reprint, including—**
 - **Table of obsolete and redundant provisions**
 - **Table of corrected minor errors**
 - **Table of renumbered provisions.**

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TRANSPORT INFRASTRUCTURE (RAILWAYS) ACT 1991

[as amended by all amendments that commenced on or before 27 May 1994²]

An Act to consolidate and amend the law relating to railways, to provide for the incorporation of Queensland Railways and for related purposes

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Transport Infrastructure (Railways) Act 1991*³⁻⁹.

Commencement

2.(1) Section 1 and this section commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), this Act is to commence on a day appointed by proclamation.

Definitions

3. In this Act—

“authorised officer” means—

- (a) an inspector who is in uniform; or
- (b) a police officer;

“Board” means the Queensland Railways Board constituted by section 13;

Transport Infrastructure (Railways) Act 1991

“**chairperson**” means the presiding officer of the Board appointed under section 19;

“**chief executive**” means the chief executive appointed under section 35;

“**court of competent jurisdiction**” means the Supreme Court, a District Court, the Land Court or a Magistrates Court that has jurisdiction in actions for the recovery of an amount or compensation claimed;

“**deputy chairperson**” means the deputy presiding officer of the Board appointed under section 19;

“**director**” means a member of the Board appointed under section 18;

“**employee of Queensland Railways**” means any person employed in the service of Queensland Railways;

“**freight**” includes animals and things of every kind conveyed by Queensland Railways;

“**inspector**” means a person who is appointed under section 73 as an inspector;

“**level crossing**” means any place where a railway line crosses a road on the level or where the public is permitted to cross a railway line on the level;

“**obstruct**” includes hinder, resist and attempt to obstruct;

“**previous Corporation**” means the Commissioner for Railways the corporation sole constituted by section 8(1) of the *Railways Act 1914*;

“**Queensland Railways**” means the corporation continued in existence by section 4;

“**railway**” means any part or portion, extension or branch of a railway constructed or worked under this Act or vested in Queensland Railways, and includes all lands, buildings, structures, works, matters and conveniences connected with or appurtenant to a railway, whether of an electrical nature or otherwise;

“**railway line**” means any set of rails, and includes the area within 1.25 m of a line drawn midway between those rails;

“**road**” means any road, street, highway or thoroughfare and any bridge or culvert on a road;

“**rolling stock**” means—

- (a) a vehicle (including a train) designed for movement on a set of rails; or
- (b) a vehicle (including a train) providing motive power for a vehicle mentioned in paragraph (a);

“ticket” means a document or thing that evidences, or is intended to evidence, a person’s right to travel as a passenger on a railway or other transportation system operated by Queensland Railways;

“ticket examiner” means a person included in a class of employees of Queensland Railways declared by the chief executive to be ticket examiners;

“ticket inspector” means an authorised officer, or a ticket examiner, who is in uniform;

“vehicle” means a vehicle within the meaning of section 9 of the *Traffic Act 1949*;

“watercourse” includes any river, stream, ditch, drain or other channel or passage through which water flows.

PART 2—QUEENSLAND RAILWAYS

Queensland Railways

4.(1) The previous Corporation is hereby continued in existence under the name and style Queensland Railways.

(2) Queensland Railways—

- (a) is a body corporate without incorporators; and
- (b) has a seal; and
- (c) may sue and be sued in its corporate name.

(3) All courts and persons acting judicially are to take judicial notice of the imprint of the seal of Queensland Railways appearing on a document and, until the contrary is proved, are to presume that the seal was duly affixed.

Functions of Queensland Railways

5.(1) The functions of Queensland Railways are—

- (a) to establish, maintain and operate or otherwise arrange for safe and efficient freight and passenger transport services whether by railway or otherwise;
- (b) to provide or otherwise arrange for ancillary services or works which in the opinion of the Board are necessary for Queensland Railways to efficiently carry out its functions.

(2) Queensland Railways may exercise its functions in and outside Queensland.

(3) In carrying out its functions Queensland Railways is to apply sound commercial principles.

General powers of Queensland Railways

6.(1) Queensland Railways has power to do all things necessary or convenient to be done, for or in connection with, or incidental to, the performance of its functions and, in particular, has power—

- (a) to enter into contracts; and
- (b) to compound or prove in any court of competent jurisdiction all debts due to it; and
- (c) to acquire, hold, let, lease and dispose of (by exchange, sale or otherwise) real and personal property or any interest in property, whether situated in or outside Queensland; and
- (d) to appoint agents and attorneys, and act as agent for other persons; and
- (e) to engage consultants; and
- (f) to offer and pay rewards; and
- (g) to provide consultancy and project management services; and
- (h) to construct railways or other transportation systems; and
- (i) to erect buildings and structures, carry out works and manufacture plant, machinery, equipment and goods; and

- (j) to increase, reduce or cease any service or operation it provides in the exercise of its powers including the addition of or removal of infrastructure and facilities; and
- (k) to undertake and carry on any business undertaking, transaction or operation commonly undertaken or carried on by providers of transportation and transact and do all or any acts, matters or things incidental or ancillary to the business of transportation; and
- (l) to act in any manner in which or exercise any power or authority that a company, within the meaning of the Corporations Law, may lawfully act or exercise; and
- (m) to take such steps and do such acts and things as are necessary or desirable for the purpose of achieving the objects and purposes of this Act or incidental or ancillary to that purpose.

(2) The powers conferred on Queensland Railways by this section are in addition to and not in derogation of any other power so conferred by this or any other Act.

(3) Queensland Railways may exercise its powers in and outside Queensland.

(4) The power under subsection (1)(j), to cease any service or operation Queensland Railways provides—

- (a) is not to be exercised without the approval of the Board; and
- (b) is to be exercised within limitations set by the Minister from time to time.

Specific powers of Queensland Railways

7.(1) Queensland Railways has power, for or in connection with the performance of its functions—

- (a) to form and participate in the formation, management, supervision or control of the business or operations of any body corporate or association or body (incorporated or unincorporated) or other undertaking; and
- (b) to subscribe for and purchase shares in, and debentures and other securities of, companies; and

- (c) to undertake and carry on or enter into a partnership, trust, joint venture or other arrangement for sharing profits with any person, association or body (incorporated or unincorporated) carrying on any other business that is capable of being conveniently carried on in connection with its other activities or calculated directly or indirectly to enhance the value of or render profitable any of Queensland Railways' property or activities; and
- (d) to become and be a member of any governmental or semi-governmental authority or other body or association, where such membership is calculated directly or indirectly to enhance the value of or render profitable any of Queensland Railways' property or activities; and
- (e) to grant licences in respect of advertising on land or property vested in Queensland Railways; and
- (f) to authorise any person to operate passenger and freight services on its railways.

(2) For the purposes of exercising its power under subsection (1)(d), Queensland Railways may authorise the holder of any office it so specifies to be a member of the authority, body or association or a member of its directorate or other governing body.

(3) Where a licence is granted under subsection (1)(e) the approval of any other body or local authority required to be granted in respect of that advertising is to be taken to have been given.

(4) A person authorised under subsection (1)(f) has the protection and immunity that Queensland Railways has under sections 59, 69 and 70.

Branches and agencies

8.(1) Queensland Railways may establish and maintain branches or agencies at any place in or outside Queensland and may discontinue a branch or agency maintained at any place by it.

(2) Queensland Railways may employ as its agents persons who are in or outside Queensland.

Mode of making contracts

9.(1) Contracts on behalf of Queensland Railways may be made, varied or discharged as follows—

- (a) a contract that, if made by or between private persons would by law be required to be in writing under seal may be made, varied or discharged, in the name and on behalf of Queensland Railways, in writing under the seal of Queensland Railways;
- (b) a contract that, if made by or between private persons would by law be required to be in writing signed by the parties to be charged by it may be made, varied or discharged, in the name and on behalf of Queensland Railways, in writing signed by a person acting under the express or implied authority of Queensland Railways;
- (c) a contract that, if made by or between private persons would be valid although made by parol only and not reduced into writing, may be made, varied and discharged by parol, in the name and on behalf of Queensland Railways, by a person acting under the express or implied authority of Queensland Railways.

(2) Subsection (1) is not to be construed to invalidate a contract made and executed on behalf of Queensland Railways by a duly appointed attorney if that contract would be valid if executed by the attorney on the attorney's own behalf.

Relationship to Crown

10. In the discharge of its functions and duties or the exercise of its powers for the purposes of this Act, Queensland Railways—

- (a) represents the Crown; and
- (b) has all the immunities, rights and privileges of the Crown, except where this Act provides to the contrary; and
- (c) is an agency of the Government.

Custody and affixing of seal

11.(1) The seal of Queensland Railways is to be kept in the custody of

the chairperson or such other person as may be authorised by resolution of the Board.

(2) The seal is to be used only as authorised by the Board.

(3) Queensland Railways may have, for use outside Queensland, seals, each of which is to be a facsimile of the seal.

(4) For the purposes of its use outside Queensland, each facsimile of the seal is to be taken to be the seal and is to be secured and affixed as if it were the seal.

Authentication of documents

12. A document purporting to be made by or on behalf of Queensland Railways, other than a document that requires the seal of Queensland Railways to be affixed, is duly made if it bears the signature of the chairperson or a person authorised by resolution of the Board for that purpose.

PART 3—THE BOARD

Queensland Railways Board

13. There is established by this Act a Queensland Railways Board.

Role of the Board

14.(1) The Board is responsible for the way Queensland Railways performs its functions and exercises its powers.

(2) Without limiting subsection (1), the Board—

- (a) is to make general determinations as to the policy of Queensland Railways and its operations; and
- (b) may determine policy in relation to the administration, management and control of Queensland Railways; and
- (c) may give such directions to and exercise such control over the

chief executive as it considers appropriate; and

- (d) has the other functions and powers given to it by this or another Act.

Board to inform Minister

15. The Board is—

- (a) to consult with the Minister on matters of policy of or affecting Queensland Railways and is to keep the Minister informed of policy determinations made by the Board; and
- (b) to keep the Minister informed of the general conduct of its activities and of any significant development or proposed development in its activities; and
- (c) to supply the Minister or any person nominated by the Minister with such information relating to its activities as the Minister or that person may require.

Ministerial directions

16.(1) Where the Minister is satisfied that it is desirable in the public interest to do so, the Minister may give written directions to the Board with respect to the performance of its functions or the exercise of its powers.

(2) The Board is to comply with any direction given under subsection (1).

(3) Where the Minister gives a direction to the Board under subsection (1), the chief executive is to cause a statement setting out particulars of the direction to be incorporated in the relevant annual report of Queensland Railways.

Board to act on sound commercial principles

17. Subject to this Act, the Board—

- (a) is to perform its functions and duties and exercise its powers in accordance with sound commercial principles; and
- (b) is to earn a rate of return and attain standards of productivity and

service as determined by the Minister from time to time.

Membership of Board

18.(1) The Board is to consist of 7 directors to be appointed by the Governor in Council.

(2) A person recommended under subsection (1) is to have such commercial, managerial or other qualifications as the Minister considers will enable the Board to carry out its functions.

Appointment of chairperson and deputy chairperson

19.(1) The Governor in Council is to appoint 1 of the directors as chairperson and another director as deputy chairperson.

(2) The deputy chairperson is to act as chairperson during—

- (a) any vacancy, or all vacancies, in the office of chairperson; and
- (b) any period, or all periods, when the chairperson is absent from duty or is, for another reason, unable to perform the functions of the office.

Tenure of office

20.(1) A director is to hold office for such term, not exceeding 3 years, as the Governor in Council determines.

(2) A director, if that director is otherwise qualified, is eligible for reappointment as a director.

(3) The Governor in Council may at any time remove a director from office by notification published in the Gazette.

Disqualification from directorship

21.(1) A person who—

- (a) is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankruptcy; or
- (b) has been or is convicted of an indictable offence; or

- (c) is or becomes a patient within the meaning of the *Mental Health Act 1974*;

is not to be capable of being or continuing to be a director.

(2) A person who is a director, officer or employee of any corporation, association or body (whether incorporated or unincorporated) the business of which is wholly or mainly that of transporting freight or passengers and competitive with Queensland Railways is not qualified for appointment as a director and a director who becomes so disqualified for appointment ceases to hold office as a director.

Vacation of office

22. The office of a director becomes vacant if that director—

- (a) dies; or
- (b) becomes incapable of continuing as a director; or
- (c) is absent without prior leave of absence granted by the Board from 3 consecutive meetings of the Board of which due notice has been given to that director; or
- (d) furnishes his or her written resignation to the Minister; or
- (e) ceases to be qualified as a director; or
- (f) is removed from office under section 20(3).

Casual vacancies

23.(1) When a casual vacancy occurs in the office of a director the Governor in Council is to appoint in accordance with this Act another person qualified to be a director.

(2) A person appointed to fill a casual vacancy as a director—

- (a) is to be appointed and hold office for the balance of the term of office of that person's predecessor or until that person sooner vacates that office; and
- (b) if otherwise qualified—is eligible for reappointment as a director.

Remuneration to directors

24.(1) A director is to be paid such fees and allowances in respect of the performance of that director's duties as the Governor in Council may determine from time to time.

(2) Fees and allowances are not to be paid to a director who is an officer of the public sector or the public service for attendance at any meeting of the Board wholly held during ordinary office working hours of that officer.

(3) Each director is to be paid such expenses as are necessarily incurred by that director in the discharge of that director's duties and as the Board approves.

Confidentiality and honesty

25.(1) Before entering upon the duties or exercising or discharging any power or function of a director under this Act, each director is to make a declaration of confidentiality in the form determined by the Minister.

(2) Each director is at all times to act honestly in the exercise of his or her powers and in the discharge of his or her duties under this Act.

Maximum penalty—

(a) if the contravention was committed with intent to deceive or defraud Queensland Railways or creditors of Queensland Railways or creditors of any other person or for any other fraudulent purpose—330 penalty units or imprisonment for 5 years; or

(b) otherwise—85 penalty units.

(3) A director or former director is not to make improper use of information acquired by virtue of his or her position as a director—

(a) to gain, directly or indirectly, an advantage for himself or herself or for any other person; or

(b) to cause detriment to Queensland Railways.

Maximum penalty—330 penalty units or imprisonment for 5 years.

Declaration of pecuniary interests

26.(1) Before the Minister makes a recommendation under section 18(1), the Minister is to require each person the Minister intends to recommend to furnish to the Minister a statutory declaration as to the extent and nature of all pecuniary interests had by that person that stand to benefit directly by the operations or decisions of Queensland Railways.

(2) Each time there is a change in the interests of a director declared under subsection (1), that director is to forthwith furnish to the Minister a further statutory declaration as to the extent and nature of those interests then had by that director.

(3) For the purposes of this section, if a person or the spouse or a member of that person's family ordinarily resident with that person—

- (a) owns shares (whether beneficially or otherwise) in a body corporate that stands to benefit directly by the operation or decisions of Queensland Railways; or
- (b) is a member of a firm that stands to benefit directly by the operation or decisions of Queensland Railways; or
- (c) is a director or employee of a body corporate or is an employee of a firm that, in either case, stands to benefit directly by the operation or decisions of Queensland Railways;

that person is to be taken to have a pecuniary interest that stands to benefit directly by the operation or decisions of Queensland Railways.

Procedure generally

27. Subject to the following provisions of this Part, the Board is to conduct its business in the manner it considers appropriate.

Meetings

28.(1) Subject to subsection (2), the chairperson is to convene meetings of the Board which, in the chairperson's opinion, are necessary for the efficient conduct of its affairs.

(2) If requested to do so in writing by 2 or more other directors, the chairperson is to convene a meeting of the Board.

(3) Subject to subsection (4), notice of every meeting is to be in writing and is to be given to each director at least 7 days prior to the date appointed for that meeting.

(4) Where in the opinion of the chairperson or of 2 or more other directors circumstances constitute an emergency, the chairperson or those other directors may, upon written notice to all the directors, call a meeting of the Board and that meeting may be validly held even though 7 days notice is not given.

(5) The Board is to meet at least once in each quarter of each year.

Quorum

29.(1) Business is not to be conducted at a meeting of the Board unless a quorum is present.

(2) A quorum of the Board is a majority of the total number of directors for the time being.

Presiding officer

30.(1) The chairperson is to preside at all meetings of the Board at which the chairperson is present and, in the absence of the chairperson, the deputy chairperson, if present, is to preside.

(2) If both the chairperson and the deputy chairperson are absent from a meeting, a director elected by the directors present at that meeting (if they constitute a quorum) is to preside.

(3) A director elected to preside at a meeting has and may exercise the powers and is to discharge the functions and perform the duties of the chairperson.

Conduct of affairs

31.(1) The Board is to discharge its functions and exercise its powers by the majority vote of its directors present at a meeting and voting on the business in question.

(2) Where a director, being present at a meeting, abstains from voting that director is to be taken to have voted in the negative.

(3) The person who is duly presiding at a meeting has a deliberative vote and, in the event of an equality of votes, a casting vote.

(4) If all the directors sign a document containing a statement that they are in favour of a resolution in terms set out in the document, that resolution is to be taken to have been passed at a meeting of the directors held on the day on which the document was signed and at the time at which the document was last signed by a director or, if the directors signed the document on different days, on the day on which, and at the time at which, the document was last signed by a director.

(5) For the purposes of subsection (4), 2 or more separate documents containing statements in identical terms each of which is signed by 1 or more directors are together to be taken to constitute 1 document containing a statement in those terms signed by those directors on the respective days on which they signed the separate documents.

Minutes

32.(1) The chairperson is to cause to be kept a record of all decisions of the Board whether made at a duly constituted meeting or by reference in writing and that record is to be presented to the next meeting of the Board for confirmation as to its correctness and is to be signed by the person who is presiding at that subsequent meeting and that record then forms part of the minutes of that meeting.

(2) Every entry in the minute book purporting to be signed in accordance with subsection (1) and every writing purporting to be a copy of or extract from such an entry and to be certified by the chairperson, upon its production in any proceeding, is evidence, and in the absence of evidence to the contrary, conclusive evidence, of the matters contained in it.

Authentication of documents

33. A document or writing made or issued by the Board for the purposes of this Act is sufficiently authenticated if it is made or, as the case may be, signed by the chairperson or a person authorised by resolution of the Board for that purpose.

Disclosure of interests

34.(1) A director who has a direct or indirect pecuniary interest (within the meaning of section 26(3)) in a matter being considered, or about to be considered, by the Board, is, as soon as practicable after the relevant facts come to the director's knowledge, to disclose the nature of the interest at a meeting of the Board.

Maximum penalty—50 penalty units.

(2) A disclosure under subsection (1) is to be recorded in the minutes of the meeting and that director—

- (a) is not to be present during any deliberation of the Board in relation to the matter; and
- (b) is not to take part in any decision of the Board in relation to the matter; and
- (c) is to be disregarded for the purposes of constituting a quorum in respect of the consideration of the matter.

(3) Subsection (1) does not apply in relation to a matter relating to the supply of goods or services for the director if the goods or services are, or are to be, available to members of the public on the same terms and conditions.

(4) Notwithstanding that a director contravenes a provision of this section, that contravention does not invalidate any decision of the Board or the discharge of a function or the exercise of a power by it.

PART 4—STAFF**Appointment of chief executive**

35.(1) The Board is to appoint a person to be the chief executive of Queensland Railways.

(2) The chief executive is to be paid such salary and allowances and employed on such terms and conditions as the Board determines from time to time.

(3) The Board may at any time remove the chief executive from office.

Chief executive to manage Queensland Railways

36.(1) Subject to this Act, to the control and direction of the Board and to any policy determined by the Board, the chief executive is to administer, conduct the business of and manage and control Queensland Railways.

(2) The chief executive is to comply with all written directions issued by the Board regarding the operation of Queensland Railways and inform the Board of any significant happenings.

(3) Any act, matter or thing done in the name of, or on behalf of Queensland Railways by the chief executive is to be taken to have been done by Queensland Railways.

Disqualification from appointment

37. A person who—

- (a) is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankruptcy; or
- (b) has been or is convicted of an indictable offence; or
- (c) is or becomes a patient within the meaning of the *Mental Health Act 1974*; or
- (d) is or becomes a member of the Executive Council or of the Legislative Assembly; or
- (e) is or becomes a director, officer or employee of any corporation, association or body (whether incorporated or unincorporated) the business of which is wholly or mainly that of transporting freight or passengers and competitive with Queensland Railways;

is not capable of being or continuing to be the chief executive.

Vacation of office

38. The office of the chief executive becomes vacant if the chief executive—

- (a) dies; or

- (b) becomes incapable of continuing as the chief executive; or
- (c) furnishes his or her written resignation to the Board; or
- (d) under section 37, ceases to be capable of continuing to be the chief executive; or
- (e) is removed from office under section 35(3); or
- (f) engages in any employment outside the duties of the chief executive under this Act; or
- (g) is absent from duty for a period of 14 days without lawful excuse.

Staff of Queensland Railways

39.(1) Queensland Railways may appoint and employ on salary or wages or engage and employ under contracts such persons as are necessary for the effectual administration of this Act.

(2) Subject to any applicable decision within the meaning of the *Industrial Relations Act 1990*, persons employed by Queensland Railways are to be paid salaries, wages and allowances at such rates and are to be employed under such conditions of employment (including conditions as to leave entitlements) as Queensland Railways determines.

(3) The *Public Service Management and Employment Act 1988* does not apply to any employee of Queensland Railways.

(4) Queensland Railways is to establish an appeal process for the purposes of hearing promotions and disciplinary appeals within Queensland Railways.

PART 5—CORPORATE PLAN

Corporate plan

40.(1) An annual corporate plan is to be prepared incorporating performance targets developed in consultation with the Minister.

(2) The Board, at least 3 months before the beginning of each financial

year is to deliver to the Minister the draft corporate plan for that financial year.

(3) The Minister is to comment on the draft corporate plan within 2 months of receiving it.

(4) The Board is to respond to the Minister's comments and deliver the completed corporate plan to the Minister before the beginning of the financial year concerned.

(5) Each corporate plan is to specify—

- (a) the separate activities of the Queensland Railways; and
- (b) the objectives of each separate activity for the financial year concerned and for the following 4 financial years (or such other number of financial years as the Minister directs); and
- (c) the strategies, policies and budgets for achieving those objectives; and
- (d) targets and criteria for assessing the performance of Queensland Railways.

(6) The Board, as far as practicable, is to ensure that Queensland Railways exercises its functions in accordance with the relevant corporate plan.

Queensland Railways a statutory body

41. Despite section 10, Queensland Railways is to be taken to be a statutory body within the meaning of the *Statutory Bodies Financial Arrangements Act 1982*.

PART 6—CONSTRUCTION, LAND AND ROADS

Power to enter land

42. Queensland Railways, by its authorised agents, may, for the purpose of ascertaining the suitability of any land for the purposes of Queensland Railways—

- (a) enter on, and inspect, the land or any adjacent land; and
- (b) on land so entered, do any act or thing that is necessary or convenient and reasonable for that purpose, including, for example—
 - (i) making surveys and taking levels (including any associated clearing and the placing of survey marks); and
 - (ii) making geotechnical investigations (including drilling for sampling, digging pits and taking samples); and
 - (iii) making environmental surveys (including any associated sampling).

Powers relating to construction and maintenance of railways and other transportation systems

43.(1) Queensland Railways, by its authorised agents, may, for purposes connected with the construction, maintenance, alteration, repair or use of a railway or another transportation system operated or to be operated by Queensland Railways—

- (a) enter on, and occupy, so long as is necessary, any land; and
- (b) on, over or under land so entered or occupied, do any act or thing that is necessary or convenient and reasonable for those purposes, including, for example—
 - (i) surveying, marking and setting out the lines of any work; and
 - (ii) diverting or altering, temporarily or permanently, the course of any watercourse; and
 - (iii) raising or lowering, temporarily or permanently, the level of any watercourse or other body of water; and
 - (iv) placing any plant, machinery, equipment or goods; and
 - (v) taking or depositing sand, clay, stone, earth, gravel, timber, wood or other materials or things; and
 - (vi) felling or lopping trees and clearing or removing other vegetation or undergrowth; and

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- (vii) making cuttings, embankments, excavations or tunnels; and
- (viii) manufacturing or working materials, goods or things; and
- (ix) erecting temporary workshops, sheds or other buildings; and
- (x) constructing roads, bridges or tunnels; and
- (xi) temporarily closing, diverting or narrowing any road; and
- (xii) breaking the surface of any road for the purpose of laying down railway tracks, drains, pipes, cables, wires and other things; and
- (xiii) altering the position of any main, pipe, cable or wire; and
- (xiv) taking water from any watercourse or other body of water; and
- (xv) demolishing, destroying or removing any plant, machinery, equipment, goods, workshop, shed or building placed or erected on the land in pursuance of this subsection.

(2) No stone or slate quarry, brickfield, or other like place, which at the commencement of this Act is commonly worked or used for getting materials for the purpose of selling or disposing of them, is to be taken or used by Queensland Railways either wholly or in part for any of those purposes.

(3) If required to do so by the owner or occupier of the land occupied, Queensland Railways is to separate the land from any adjoining land by a sufficient fence, with the gates that are necessary for the convenient occupation of the adjoining land.

(4) If any difference arises about the necessity for fences or gates, it is sufficient compliance with subsection (3) if Queensland Railways separates the land with the fences and gates that are reasonably necessary for the security of the adjoining land.

(5) In the exercise of its powers under subsection (1), Queensland Railways is not to—

- (a) divert or alter the course of any watercourse or raise or lower the level of any watercourse or other body of water; or
- (b) close, divert or narrow, or break the surface of, a road; or
- (c) alter the position of any water, sewerage or gas main or pipe; or

- (d) alter the position of any electricity or telecommunications cable or wire;

unless it has given reasonable notice, in writing, of its intention to do so to the authority having the care and management of water, the road, main, pipe, cable or wire.

Notification of intended use of power

44.(1) Before exercising its powers under section 42 or 43 in relation to any land, Queensland Railways is to give reasonable notice, in writing, of its intention to do so to—

- (a) the owner of the land; and
- (b) if the land is occupied by a person other than the owner of the land—the occupier of the land.

(2) A notice given under subsection (1) is to specify the purpose for which Queensland Railways intends to exercise its powers.

Queensland Railways to take steps to do as little damage as practicable

45.(1) Queensland Railways is to take all reasonable steps to ensure that, in the exercise of the powers under sections 42 and 43, as little detriment, inconvenience and damage, as is practicable, is caused or done.

(2) Subject to subsection (5), where the owner or occupier of land suffers loss or damage by reason of the exercise, in relation to that land, of any of the powers under section 42 or 43, Queensland Railways is liable to pay to that person—

- (a) from time to time during such period as Queensland Railways is in occupancy or possession of any of that person's land—rent; or
- (b) compensation;

(or both) as is agreed upon between them or, in the absence of agreement, such rent or compensation as is determined by the Land Court.

(3) Compensation under subsection (2) is to include compensation in respect of—

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- (a) damage of a temporary character as well as of a permanent character; and
- (b) the taking of sand, clay, stone, earth, gravel, timber, wood, water and other materials or things.

(4) In this section—

“**owner**”, in relation to land, means a person who—

- (a) owns any legal or equitable estate in the land; or
- (b) has any legal or equitable interest in the land; or
- (c) has any right, power or privilege over, or in connection with, the land.

(5) No compensation is payable for any act or thing done under this section, if—

- (a) authority to do that act or thing is given by any Act, Crown grant or other instrument (except to the extent mentioned in the Act, Crown grant or other instrument); and
- (b) the terms and conditions imposed by that Act, Crown grant or other instrument have been performed.

Accommodation works

46.(1) This section applies to works for the accommodation of the owners and occupiers of lands adjoining a railway.

(2) Subject to subsection (3), Queensland Railways is to construct and at all times maintain such works—

- (a) as are necessary for making good any interruptions caused by the railway to the use of the lands through which the railway is constructed; and
- (b) as are necessary for separating the land taken for the use of the railway from the adjoining lands not taken, and protecting those lands from trespass or the stock of the owners or occupiers of those lands from straying from those lands because of the railway; and
- (c) as will be sufficient at all times to convey the water as clearly

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from the lands lying near or affected by the railway as before the construction of the railway, or as nearly so as is possible.

(3) Queensland Railways' obligations under subsection (2)(b) are to be taken to be discharged at all times during which a fence equal in state and kind to any fence bounding the land adjoining the land taken for the use of the railway when that land was taken, exists or is erected.

(4) Queensland Railways is not required to construct accommodation works in a manner that would prevent or obstruct the working or using of the railway, nor to construct any accommodation works where the owners and occupiers of the lands have agreed to receive and have been paid compensation instead of having accommodation works constructed.

(5) If any difference arises in respect of any kind or number of such accommodation works or the dimensions or sufficiency of them, or in respect of their maintenance, the difference is to be determined by the Land Court, which is also to appoint the time within which those works are to be commenced and completed.

(6) Subject to subsection (8), any owner or occupier of land affected by the railway, who considers the accommodation works constructed by Queensland Railways insufficient for the convenient use of that land, may at any time at the owner's or occupier's own expense, construct further works for that purpose as the owner or occupier considers necessary and as are agreed to by Queensland Railways.

(7) If Queensland Railways so desires, those further accommodation works are to be constructed under the superintendence of the engineer of the railway and according to plans and specifications approved by Queensland Railways.

(8) Queensland Railways is not to require—

- (a) that plans should be adopted which would involve a greater expense than that incurred in the construction of similar works by Queensland Railways; or
- (b) that the plans selected should be executed in a more expensive manner than that adopted in similar cases by Queensland Railways.

(9) Subject to subsection (10), until Queensland Railways has made the accommodation works referred to in subsection (2)(a) and no longer, the

owners and occupiers of those intersected lands and any other persons whose right of way is affected by that intersection, and their respective servants, may at all times freely pass and repass with vehicles and livestock directly (but not otherwise) across the part of the railway made in or through their respective lands solely for the purpose of occupying those lands or for the exercise of their right of way, and so as not to obstruct passage along the railway or to damage it.

(10) If a person referred to in subsection (9) has, in their arrangements with Queensland Railways, received or agreed to receive compensation instead of the accommodation works referred to in subsection (2)(a), that person is not entitled to cross the railway.

(11) A person is not, without reasonable excuse, to fail or refuse to shut and lock any gate, set up at either side of the railway for the accommodation of the owners or occupiers of the adjoining lands, as soon as that person and the vehicles and livestock (if any) under that person's care have passed through it.

Maximum penalty for subsection (11)—2 penalty units.

Land may be taken for the purposes of Act

47.(1) Land required for any of the purposes of this Act, or for any purpose incidental for any of those purposes, may from time to time be taken by Queensland Railways.

(2) For the purposes specified in subsection (1), Queensland Railways is a constructing authority within the meaning of the *Acquisition of Land Act 1967*.

(3) Any land taken by Queensland Railways may be described in the proclamation taking the land or in an annexure to the proclamation in any manner sufficient to identify the land.

Queensland Railways may acquire certain small parcels

48.(1) If—

- (a) land is divided by the land taken so as to leave on any side of the land taken a piece of land of lesser value than the expense of the construction of accommodation works under section 46; and

- (b) the owner of that land has no other land adjoining that piece of land and requires Queensland Railways to construct those works;

Queensland Railways may take that piece of land.

(2) Any dispute about the value of the piece of land, or about what would be the expense of constructing the accommodation works, is to be determined by the Land Court under the *Acquisition of Land Act 1967*.

(3) When the value of the land required or taken is determined, the Court must, if required by either party, determine the value of the severed piece of land and also what would be the expense of constructing the accommodation works.

Land vests in Queensland Railways

49.(1) All land—

- (a) acquired for or on behalf of Queensland Railways; and
- (b) taken under the authority of any Act authorising the taking of land for railway purposes; and
- (c) comprised in a road or part of a road closed under section 56;

vests in Queensland Railways for an estate in fee simple.

(2) Subject to the *Land Act 1962*, the Governor in Council may—

- (a) grant in fee simple to Queensland Railways any Crown land which for the time being is reserved for railway purposes under that or any other Act; and
- (b) issue to Queensland Railways a deed of grant for any land vested absolutely—
 - (i) under the *Railways Act 1914*—in the Commissioner for Railways; or
 - (ii) under this Act—in Queensland Railways;

for an estate in fee simple under subsection (1) or granted in fee simple to Queensland Railways under paragraph (a).

(3) Land reserved for railway purposes and granted to Queensland Railways under subsection (2)(a) upon and by virtue of that grant is absolutely freed from that reservation.

Taking Crown land

50.(1) Queensland Railways, as a constructing authority under the *Acquisition of Land Act 1967*, may take, for any purpose of this Act—

- (a) land; or
- (b) an easement over land;

which is held from the Crown for a lesser estate or interest than fee simple.

(2) Land taken under subsection (1)(a) vests in Queensland Railways for an estate in fee simple, but an easement taken under subsection (1)(b) does not.

(3) The Governor in Council may, subject to the *Land Act 1962*, grant in fee simple to Queensland Railways any land taken under subsection (1)(a) subject to such reservations and conditions as are authorised or prescribed by that Act.

(4) The *Acquisition of Land Act 1967* applies to Queensland Railways with any modification necessary to give effect to subsection (1).

(5) Any reference in the *Acquisition of Land Act 1967* to the Registrar of Titles is taken to be a reference to the person or authority charged with registering instruments evidencing the title to the estate or interest in the land held from the Crown.

Title under repealed Act

51. Where land is or was vested in Queensland Railways or the Commissioner for Railways under—

- (a) this Act; or
- (b) any Act repealed by this Act; or
- (c) any Act repealed by the *Railways Act 1914*;

Queensland Railways is entitled, upon proof that that land has been set out, ascertained, and finally appropriated for the purposes of a railway or other works in connection with a railway, to obtain from the Registrar of Titles a certificate of title in respect of that land without any legal conveyance.

Compensation where land injuriously affected other than by resumption

52.(1) Any person entitled to claim compensation under the *Acquisition of Land Act 1967*, in respect of the taking of any land by Queensland Railways, may claim from Queensland Railways compensation for injurious affection to the land caused by Queensland Railways exercising any of the powers (other than the power to acquire the land) conferred by this Act.

(2) The claimant and Queensland Railways may agree upon the amount of the compensation to be paid under this section or the amount may, upon the reference of either of them, be determined by the Land Court under the *Acquisition of Land Act 1967*, as if the land had been taken by Queensland Railways and the claim for compensation in respect of such taking were limited to compensation for the injurious affection in question.

No presumption of dedication of land

53. Use by the public of any lands of Queensland Railways as a thoroughfare or otherwise for access purposes, whether or not such use is authorised or permitted, is not, as against Queensland Railways, to be presumed to be or construed as dedication by Queensland Railways of those lands or any part of those lands for use as a road.

Railway may be on road or reserve

54.(1) Despite any Act to the contrary, Queensland Railways may, on, over or under any public reserve or road, construct and maintain—

- (a) a railway; and
- (b) open level crossings (with or without cattle grids); and
- (c) all necessary structures for use in connection with a railway.

(2) Queensland Railways is not to exercise its powers under subsection (1) unless it has given reasonable notice, in writing, of its intention to do so to the authority having care and management of the public reserve or road, as the case may be.

(3) No person is entitled to compensation for or on account of any public reserve or road being used for the purposes of subsection (1) or for any

damage or inconvenience arising from the use.

(4) Queensland Railways has the right of ingress and egress in and over all public reserves and roads occupied under subsection (1).

Width of road over which railway passes

55.(1) If a railway is constructed over a road (whether an existing road or a road substituted for it under section 57), the width of the part of the road under the railway bridge or other structure is to be not less than 5 m between the piers or walls of the bridge or structure.

(2) The part of the road mentioned in subsection (1), other than the piers, walls or other railway works, is to be under the control of the relevant authority and maintained by it.

Closure of roads

56.(1) Whenever Queensland Railways considers it necessary that any road or part of a road should be closed, Queensland Railways is to deposit in the office of the relevant local authority a map and description of the road or part of it proposed to be closed, and is to notify in the Gazette—

- (a) that the map and description are there open for inspection; and
- (b) that any person interested may make an objection to that closure by forwarding to Queensland Railways, within 30 days after that publication, a notice of objection.

(2) Queensland Railways is to cause each objection made to be duly considered and it may cause an inquiry to be held into the matter of any objection.

(3) Before any closure is authorised, Queensland Railways is to report to the Minister on the proposed closure and any objections to the closure, and the objectors are to be heard by the Minister if they so desire.

(4) Where the Minister, after hearing the objectors, recommends that the road or part of it be closed, the Governor in Council may, by gazette notice, close the road or part of it and the land comprised in the road that is closed vests in Queensland Railways for an estate in fee simple.

Substituted roads

57.(1) This section applies where a railway is constructed upon or otherwise interferes with a road.

(2) If it is found necessary to cross, cut through, raise, lower, or use any part of a road, so as to render it extraordinarily inconvenient for public traffic, Queensland Railways is, before the commencement of those operations, to cause a sufficient substituted road to be made.

(3) Any person who suffers special damage because of the failure of Queensland Railways to cause a substituted road to be made before it interferes with an existing road may recover the amount of the damage from Queensland Railways with costs by action in any court of competent jurisdiction.

(4) If the existing road can be restored compatibly with the use of the railway, it is, with reasonable expedition, to be restored to a substantial condition.

(5) If the existing road cannot be restored compatibly with the use of the railway, Queensland Railways is, with reasonable expedition, to cause a sufficient substituted road to be put into a permanently substantial condition, equally convenient as the former road or as near to equally convenient as circumstances permit.

(6) The Minister is to determine any question of the sufficiency of a substituted road.

(7) If a road of less width than 20 m is interfered with, the substituted road need not be of greater width but is not (except in the case of a railway crossing over and above that road by means of a bridge or other structure, referred to in section 55) to be of a lesser width than the road interfered with.

(8) Where a road is parallel and contiguous to any part of a line of railway the road may—

- (a) be lessened to not less than 10 m in width; or
- (b) be made of a width of not less than 10 m.

(9) Where a railway crosses a road other than on the level, Queensland Railways is to make convenient ascents and descents and other convenient approaches, with handrails or other fences and such gates as are necessary.

(10) Where it is expedient to alter the levels of any road for the purpose of the construction of a railway, Queensland Railways is to pay all reasonable expenses incurred in connection with that alteration, unless otherwise agreed upon.

(11) The owner of any land prejudicially affected by such alteration of the level of any road within any city or town, the level of which has been fixed under the *Local Government Act 1936*, is entitled to compensation from Queensland Railways, to be agreed on or, failing agreement, to be determined by a court of competent jurisdiction, for all damages sustained by that owner by reason of that alteration.

(12) Queensland Railways is to maintain in good order and repair—

- (a) a railway on a road; and
- (b) the road surface—
 - (i) between the rails; and
 - (ii) outside each rail for a distance of 0.6 m.

(13) The character of maintenance undertaken under subsection (12) is to be in keeping with the road on which the railway has been constructed.

(14) Queensland Railways is to immediately repair any damage occasioned to any sewer, drain, gas or water main, or works for supply of electricity during the construction or maintenance of any railway on a road.

(15) Where it is necessary for Queensland Railways, in complying with this section, to acquire land in respect of the construction of a substituted road, Queensland Railways may dedicate for road purposes any or all of the land acquired.

Agreement for extension of certain roads through or over lands of Queensland Railways

58.(1) Queensland Railways may grant to a local authority, permission to construct, use, maintain, continue, repair, renew and operate a roadway as an extension of any other roadway by means of a bridge, viaduct or other structure and associated works (the “works”) over and across any lands of Queensland Railways.

(2) The local authority permitted under subsection (1) may, under, subject to and in compliance in every respect with the terms, provisions and

conditions of the grant of permission, construct and thereafter at all times during the continuance in force of the grant of permission use, maintain, continue, repair, renew and operate the works over and across the lands of Queensland Railways.

(3) Upon the completion of the construction of the works by the local authority in accordance with the terms, provisions and conditions of the permission granted under subsection (1) they are to be used for the passing and repassing of vehicles and pedestrians and for no other purposes.

(4) If at any time the local authority stops using the works or any part of them for the purposes specified in subsection (3) then, as against Queensland Railways, dedication by Queensland Railways of any of the lands, over and across which the works are or were constructed, for use as a road is not to be presumed because of continued use, for whatever period, of the works by the public for the purposes specified in that subsection or any of those purposes.

(5) The grant of permission under subsection (1) does not derogate from the right of Queensland Railways to use the lands and the airspace above those lands (including the airspace above the works) other than—

- (a) those parts of the lands upon which rest any piers or abutments of the viaduct structure or overbridge or any roadway of the works; and
- (b) the airspace occupied by any of the works; and
- (c) the airspace over and above the works to a height of 5.5 m above the nearest surface of the roadway of the works;

for any purpose for which Queensland Railways might have used those lands and airspace if such permission had not been granted.

(6) Neither Queensland Railways, nor any officer or employee of Queensland Railways, is subject to any duty or liability in respect of the works or the use and operation of the works for a purpose mentioned in subsection (3).

(7) Any duty or liability that Queensland Railways, or any officer or employee of Queensland Railways, would otherwise have is a duty or liability of the local authority.

(8) From such time as, with the consent of the local authority, use of the works, for the purposes specified in subsection (3), commences and for so

long as such use continues the works are to be taken to be—

- (a) a road under the control of the local authority; and
- (b) a road for the purposes of the *Traffic Act 1949* and any other Act relating to the use of vehicles on a road.

(9) Nothing in subsection (8) is to prejudice or affect, or in any way derogate from, the terms, provisions and conditions subject to which any permission is granted under subsection (1).

Level crossings

59.(1) The drivers of all vehicles and all pedestrians are to give way to all rolling stock using railway lines at level crossings.

(2) Subject to subsection (3), where an accident or collision occurs at a level crossing as a result of a failure by a person (the “**driver**”) to comply with subsection (1)—

- (a) Queensland Railways is not liable for any damages in respect of any injury or damage caused, as a result of that accident or collision, to the driver or any other person travelling with the driver; and
- (b) the driver is liable to pay to Queensland Railways the cost of any damage caused to Queensland Railways’ property as a result of that accident or collision.

(3) Subsection (2) does not apply where—

- (a) injury is caused by rolling stock colliding with a vehicle at a level crossing where an electronic warning device has been erected to warn vehicles of the approach from time to time of rolling stock on that level crossing, and it is proven that the warning device malfunctioned and failed to warn of the approach of the rolling stock involved in the collision; or
- (b) in respect of the collision, Queensland Railways or its employees are proven to be negligent.

(4) All warning signs and traffic control devices required to be erected pursuant to the Manual of Uniform Traffic Control Devices (issued under the *Traffic Regulation 1962*) in respect of level crossings and any ancillary electrical wiring are to be erected and maintained at the expense of the

authority responsible for the maintenance of the road.

Private railways and sidings

60.(1) A private railway or siding may be constructed, maintained and worked in connection with a railway.

(2) A private railway or siding is not to be connected to a railway without the written consent of Queensland Railways.

(3) Queensland Railways may, with a person desiring to connect a private railway or siding with a railway, enter into an agreement with respect to its construction, maintenance and working.

(4) Subject to any agreement made under this section, Queensland Railways may close or remove the connection of a private railway siding with the railway, at any time after giving 3 months notice to the owner of the siding.

(5) Upon closing or removing the connection of a private railway or siding with a railway, Queensland Railways may require the owner of that private railway or siding to lift, take up, dismantle, and remove so much of that private railway or siding as is situated upon Queensland Railways' land, and if the owner fails to do so within the time allowed by Queensland Railways, Queensland Railways may, at the risk of the owner, lift, take up, dismantle, and remove it and stack and store all rails and other materials derived from so doing and may recover from the owner all expenses incurred in so doing.

(6) A person desiring to connect a private railway or siding with a railway under arrangements made or proposed to be made under this section may, with prior permission, granted with the consent of the Governor in Council, of the relevant local authority within which any road is situated (or, in the case of a road under the *Transport Infrastructure (Roads) Act 1991*, the chief executive of the department) construct, maintain and work that private line or siding along, over, across (on the level) or under that road.

(7) A private railway or siding to which this section applies may be constructed, maintained and worked along, or over or under any river, stream or other water or watercourse with the prior consent of the Governor in Council.

(8) Where Queensland Railways runs rolling stock over a private railway or siding connected with a railway, that private railway or siding is to be taken to be a railway, and Queensland Railways may exercise its powers and authorities under, and has the protection and immunities of, this Act accordingly.

(9) Unless Queensland Railways expressly accepts liability under arrangements made under this section, Queensland Railways is not to be liable in respect of any matter arising out of the presence on any land, or along, or over, or across, or under any road, or along, or over, or under any river, stream, or other water or watercourse of any private railway or siding connected with a railway or arising out of anything done or omitted to be done by Queensland Railways in respect of the construction or maintenance of that private railway or siding.

(10) This section applies to private railways and sidings connected to a railway indirectly by means of another private railway or siding as well as to private railways or sidings directly connected.

Construction of works on Queensland Railways' land

61.(1) Despite any other Act, no person is to construct any works on, over or under land vested in Queensland Railways without the written approval of Queensland Railways.

(2) Despite any other Act, unless Queensland Railways otherwise agrees, Queensland Railways is not liable for any damage caused by it to any such works constructed on its land where—

- (a) construction of the works was not approved by Queensland Railways; and
- (b) damage is incurred as a consequence of the works having been constructed, maintained or operated otherwise than in accordance with Queensland Railways' approval.

(3) Where Queensland Railways incurs additional expense in carrying out construction of its works by reason that works referred to in subsection (1) had been constructed without the approval of Queensland Railways or were not constructed, maintained or operated in accordance with Queensland Railways' approval, Queensland Railways may recover from the person responsible for the management of those works the

additional expense which becomes a debt due and owing by that person to Queensland Railways.

(4) This section binds the Crown not only in right of the State but also, so far as the legislative power of Parliament extends, the Crown in all its other capacities.

PART 7—ADMINISTRATION

Delegation by Board

62. The Board may delegate—

- (a) the powers of Queensland Railways under this or another Act to the chief executive or an officer or employee of Queensland Railways; and
- (b) its powers under this or another Act to a director or the chief executive.

Delegation by chief executive

63.(1) The chief executive may delegate the chief executive's powers under this or another Act to an officer or employee of Queensland Railways.

(2) The chief executive may also delegate the chief executive's powers under this or another Act to the chief executive of the department.

(3) The chief executive of the department may subdelegate a power delegated to the chief executive under subsection (2) to an officer of the public service employed in the department.

Indemnity

64. Queensland Railways is to indemnify every director, employee and agent of Queensland Railways against all actions, proceedings and claims in relation to—

- (a) acts done, or omitted to be done, by the person without negligence under this Act; or
- (b) acts done, or omitted to be done, by the person in good faith and without negligence for the purposes of this Act.

Reports of accidents to be supplied to Minister and Board

65.(1) Where—

- (a) an accident—
 - (i) resulting in loss of human life or serious injury to any person; or
 - (ii) involving a train carrying passengers; or
- (b) any other serious incident;

occurs on a railway operated by Queensland Railways, the chief executive is to forthwith furnish to the Minister and the Board a written report of the circumstances of the accident or incident, as the case may be.

(2) A report given under subsection (1) is to be in the form the Minister directs by instrument in writing.

Inquiries into accidents

66.(1) Where an accident or incident referred to in section 65(1) occurs on a railway operated by Queensland Railways, the Minister may by instrument in writing, establish a Board of Inquiry to inquire into, and report on, the circumstances of the accident or incident.

(2) In the discharge of its functions, a Board of Inquiry is to inquire into the circumstances and possible causes of the accident or incident and is to make its findings in writing to the Minister.

(3) For the purpose of any such inquiry a Board of Inquiry is to be taken to be a Commission of Inquiry within the meaning of the *Commissions of Inquiry Act 1950* and the provisions of that Act (other than sections 4, 4A, 10(3), 13, 14(1A), 19(2), 19A, 19B, 19C and 26), subject to subsection (4), are to apply accordingly.

(4) Where a provision of the *Commissions of Inquiry Act 1950* is

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inconsistent with a provision of this Act, the provision of this Act, to the extent of the inconsistency, is to prevail.

(5) For the purposes of applying the provisions of the *Commissions of Inquiry Act 1950*, each member of the Board of Inquiry, is to be taken to be a Commissioner and the chairperson is to be taken to be the chairperson within the meaning of that Act.

(6) There shall be payable to a witness who appears before the Board of Inquiry an allowance for expenses being—

- (a) the allowances payable under section 24 of the *Commissions of Inquiry Act 1950*; or
- (b) such other allowances as the chairperson of the Board of Inquiry in special circumstances considers reasonable;

whichever is the greater and that allowance is to be paid by Queensland Railways.

(7) A Board of Inquiry is to be constituted in the manner specified in the instrument by which it is established.

(8) A Board of Inquiry is to consist of 4 members appointed by the Minister of whom—

- (a) 1 is to be an Industrial Magistrate who is to be the chairperson; and
- (b) 1 is to be a person representing employers and principal contractors or employers or principal contractors, as the Minister considers appropriate, in the industry; and
- (c) 1 is to be a person representing employees in the industry; and
- (d) 1 is to be a person who is, in the opinion of the Minister, a safety expert in the industry.

(9) Queensland Railways and the staff of Queensland Railways may authorise persons to represent them at a Board of Inquiry and any person so authorised by them in that behalf may adduce evidence, cross-examine any witness and address the Board of Inquiry.

Service of notices

67.(1) Any summons or notice or any writ or other document in any legal proceeding requiring to be served on Queensland Railways may be served by being given personally to the chief executive or being left at or transmitted through the post by registered letter or certified mail directed to the principal office of Queensland Railways in Brisbane.

(2) Any notice, claim, or other document required to be served on any person under this Act may be—

- (a) sent to the last known place of abode or business of that person by messenger or by post; or
- (b) where the person is absent from the State—served on that person's agent in like manner.

(3) Where in respect of a document to be served under Part 6 the person is not known or has no known agent in the State, the document may be served by the publication of a true abstract of it in the Gazette, and in some newspaper circulating generally in the locality where the land affected is situated, and by serving the document on the Registrar of the Supreme Court.

(4) Where a document is sent by post it must be sent so as to arrive in due course of post on or before the last day on which that document is required to be served.

Cessation of maintenance of closed railway

68.(1) Where under section 6(1)(j) Queensland Railways ceases to operate services on a railway, it is not required to maintain that railway and may—

- (a) dispose of the railway or any part of it or lift, take up, dismantle and remove it; and
- (b) surrender to the Crown or dispose of all or any of the land used in relation to the operation of that railway.

(2) Where Queensland Railways exercises a right under subsection (1), it may make arrangements with the owners and occupiers of lands intersected by that railway releasing Queensland Railways from its obligations, with respect to the maintenance or repair of any bridge or other accommodation

works to which section 46 applies, made in relation to those lands under this Act.

(3) As part of those arrangements Queensland Railways may dispose of, to the owner of any of the intersected or adjoining lands in question, any of the land appurtenant to the railway or the Governor in Council may grant in fee simple or demise to any such owner any land so appurtenant which has been surrendered by Queensland Railways to the Crown.

(4) A demise under subsection (3) may be upon such tenure under the *Land Act 1962* as the Governor in Council considers appropriate in the circumstances.

(5) Where the Governor in Council is satisfied that an owner or occupier of land has refused or failed to make arrangements with Queensland Railways upon just terms, the Governor in Council may release Queensland Railways from the obligations in question upon such terms as the Governor in Council considers appropriate.

(6) Where Queensland Railways under subsection (1) ceases to maintain a railway, it is no longer subject to nor can incur any obligation or liability in respect of any bridge or other works whereby any road is carried across, over or under that railway.

(7) Where subsection (6) applies, the local authority for the relevant Area (or, in the case of a road under the *Transport Infrastructure (Roads) Act 1991*, the chief executive of the department), in respect of that bridge or works is subject to the duties and responsibilities imposed on local authorities by law in respect of bridges and like works comprised in roads, unless Queensland Railways has disposed of the railway to a person upon terms imposing upon that person obligations and liabilities with respect to the maintenance of that bridge or other works.

Limit of damages in respect of animals

69. In any action brought to recover damages or compensation in respect of loss of or injury to any animal whether during carriage by railway or otherwise, incurred on or after the commencement of this Act, judgment is not to be given or entered for an amount more than the prescribed amount, unless in the case of an animal to be carried by railway the owner of it or the consignor acting on the owner's behalf has, previous to consigning it declared its value to be greater than the amount prescribed, and has paid to

Queensland Railways, in addition to the freight, an insurance charge in respect of the declared value of the animal in excess of the amount of Queensland Railways' liability under this section.

Limit of damages in respect of passengers' luggage

70. In any action brought to recover damages or compensation in respect of loss of or damage to any passenger's luggage, judgment is not to be given or entered for an amount more than the prescribed amount unless the owner of the luggage has—

- (a) before entering on the journey; or
- (b) if the owner is not travelling by the same train—before the departure of the train conveying the luggage;

paid to Queensland Railways an insurance charge in addition to declaring the value of the luggage to be in excess of the amount of Queensland Railways' liability under this section.

Removal of vehicles from railway land

71.(1) If any vehicle is parked or left standing on land or property vested in Queensland Railways or under the control or management of Queensland Railways ("**railway land**") in such a position as to interfere with traffic or obstruct other vehicles or in any way to interfere or be likely to interfere with any activity relating to or in connection with the working of the railways and the driver of the vehicle—

- (a) cannot be readily located; or
- (b) fails to remove the vehicle forthwith when required to do so by the chief executive;

the vehicle may be removed by the chief executive to such place, whether within or outside railway land, as the chief executive determines.

(2) The chief executive is to give to the owner of the vehicle, as soon as practicable after removal, notice of the removal and the place to where it was removed unless it is claimed by the owner or a person possessing authority to act for or on behalf of the owner in the meantime.

(3) The notice referred to in subsection (2) is, wherever practicable, to be

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in writing and served upon the owner personally, but if it is not served within 14 days after the removal it may be given by public advertisement in a newspaper circulating in the locality from where the vehicle was removed.

(4) If within 1 month after—

- (a) the vehicle is claimed by the owner or a person possessing authority to act for or on behalf of the owner in a case where a notice is not given under subsection (2) because the vehicle is claimed; or
- (b) the service or advertisement of the notice under subsection (3);

as the case may be, the owner does not pay all expenses in connection with the removal of the vehicle and in an applicable case, the keeping of it at the place to where it was removed, and of serving or advertising the notice in a case of such service or advertisement, and take possession of the vehicle, the vehicle may be sold by public auction (after notice of such sale has been given by advertisement in a newspaper circulating in the locality from where the vehicle was removed) or, where no offer or no reasonable offer is received at such auction, may be otherwise disposed of by direction of the chief executive in such manner and on such terms as the chief executive determines.

(5) The proceeds of a sale or disposal referred to in subsection (4) are to be applied—

- (a) firstly, in payment of the expenses of the sale or disposal; and
- (b) secondly, in payment of the expenses in connection with the removal of the vehicle and the keeping of it at the place to where it was removed, and of serving or advertising the notice in an applicable case; and
- (c) thirdly, in payment of the balance to the owner or, if after reasonable inquiry the owner cannot be found, into the Consolidated Fund.

(6) The authority to deal with a vehicle in any manner specified in this section extends also to the dealing with any goods, equipment or other property contained in, on or attached to the vehicle at the material time, and this section extends and applies to those goods, equipment or other property accordingly.

(7) Where the chief executive, having regard to the expenses associated

with the holding of a public auction and the likely proceeds resulting from the auctioning of the goods, equipment or other property, considers that the holding of a public auction is not warranted, the chief executive may dispense with the holding of a public auction and may dispose of the goods, equipment or other property (unless they are perishables) not earlier than they would have been sold by public auction, in such manner and on such terms as the chief executive determines.

(8) A vehicle that has been removed under subsection (1) is not to be delivered to the owner of it or to a person possessing authority to act for or on behalf of the owner unless—

- (a) the owner or person acting for or on behalf of the owner has applied in writing signed by that person to the chief executive for the release of the vehicle; and
- (b) the applicant has furnished proof to the satisfaction of the chief executive of the applicant's ownership or, in the case of the applicant being a person acting for or on behalf of the owner, has furnished proof to the satisfaction of the chief executive of that person's authority to so act; and
- (c) the applicant has paid all expenses incurred by the chief executive in connection with the removal and keeping of the vehicle and the service or advertisement of any notice served or advertised by the chief executive in relation to the removal or intended sale or disposal of the vehicle; and
- (d) the applicant has signed a receipt for the delivery of the vehicle to the applicant.

(9) A person is not to take or obtain possession of or remove or attempt to remove any vehicle under subsection (1) except in accordance with subsection (8).

Maximum penalty for subsection (9)—20 penalty units.

Disposal of abandoned vehicles and other abandoned property

72.(1) Where there is on any land or property vested in Queensland Railways or under the control or management of Queensland Railways any vehicle or any other property in respect of which there are reasonable grounds for suspecting that it has been abandoned by the person who last

used it (“**abandoned property**”), the chief executive may remove and detain the abandoned property, or cause it to be removed and detained, at a place of safe keeping, and may deal with the abandoned property or cause it to be dealt with in the manner provided by this section.

(2) As soon as practicable after removal of the abandoned property, the chief executive is to cause to be given to the owner of it, if the owner can be ascertained, written notice of the removal and of the place at which the abandoned property is then detained.

(3) The notice is, if practicable, to be served upon the owner personally, but if it is not so served within 14 days after the removal it may be given by public advertisement in a newspaper circulating in the locality in which the abandoned property was found.

(4) If within 1 month after the date of service or advertisement of the notice the owner of the abandoned property or a person acting on the owner’s behalf or a person claiming a right to the possession of the abandoned property has not obtained possession of it in accordance with this section, the chief executive may—

- (a) by notice published in a newspaper circulating in the locality in which the abandoned property was found, advertise that the chief executive will offer the abandoned property for sale by public auction at the place and time stated in the advertisement; and
- (b) at the time on the day stated in the advertisement (which day is not to be earlier than 14 days after the date when the advertisement was first published) and at the place stated in the advertisement, offer the abandoned property for sale by public auction unless the owner of it or a person acting on the owner’s behalf or a person claiming a right to possession of it has sooner obtained possession of the abandoned property in accordance with this section; and
- (c) if no offer or no reasonable offer is received at the auction, dispose of it in such manner and on such terms as the chief executive determines.

(5) The holding of a public auction may be dispensed with if the chief executive considers that the holding of a public auction is not justified, having regard to the expenses associated with the holding of a public auction and the likely proceeds resulting from the auctioning of the abandoned

property.

(6) In a case to which subsection (5) applies, the chief executive may dispose of the abandoned property, not earlier than it would have been sold by public auction, in a way, and on terms, determined by the chief executive.

(7) The proceeds of the sale or disposal of the abandoned property are to be applied as follows—

- (a) firstly, in payment of the expenses of the sale or disposal;
- (b) secondly, in payment of the cost of removal and detention of the abandoned property and the service or advertisement of any notice served or advertised under this section;
- (c) thirdly, in payment of the balance of the proceeds to the owner of the abandoned property or if after reasonable inquiry the owner cannot be ascertained, into the Consolidated Fund.

(8) Where the abandoned property is perishable, the chief executive may deal with and dispose of it in such manner as the chief executive considers appropriate and the proceeds, if any, of its disposal are to be applied in accordance with subsection (7).

(9) Abandoned property that the chief executive has removed and detained under this section is not to be delivered to its owner or to another person acting on the owner's behalf or to a person claiming a right to its possession unless—

- (a) the owner or person acting on the owner's behalf or person claiming a right to its possession has applied in writing signed by that person to the chief executive for the release of the abandoned property; and
- (b) the applicant has furnished proof to the satisfaction of the chief executive of the applicant's ownership or right to possession of the abandoned property and, in the case of the applicant being a person acting on behalf of the owner, has furnished proof to the satisfaction of the chief executive of the applicant's authority to so act; and
- (c) the applicant has paid all expenses incurred by the chief executive in connection with the removal and detention of the abandoned property and the service or advertisement of any notice served or

advertised by the chief executive in relation to the removal and detention or intended sale or disposal of the abandoned property; and

- (d) the applicant has signed a receipt for the delivery of the abandoned property to the applicant.

(10) A person is not to take delivery or obtain possession of or remove or attempt to remove from the detention of the chief executive abandoned property removed and detained under this section except in accordance with subsection (9).

Maximum penalty—20 penalty units.

(11) In this section—

“**abandoned property**” includes any part of the abandoned property.

Inspectors

73.(1) The chief executive may, by writing, appoint employees of Queensland Railways to be inspectors.

(2) A person ceases to be an inspector if the person is no longer an employee of Queensland Railways.

(3) The chief executive may cause an identity card to be issued to an inspector.

(4) The identity card is to—

- (a) contain a recent photograph of the inspector; and
(b) be in a form approved, in writing, by the chief executive.

(5) A person who ceases to be an inspector is, as soon as practicable, to return his or her identity card to the chief executive.

(6) An inspector may exercise a power in relation to a person only if the inspector displays the inspector’s identity card for inspection by the person.

(7) If, for any reason, it is not practicable to comply with subsection (6), the inspector must produce the identity card for inspection by the person at the first reasonable opportunity.

PART 8—OFFENCES AND ENFORCEMENT

Division 1—Interpretation

Meaning of “invalid” ticket

74. For the purposes of this Part, a ticket is invalid—

- (a) after the end of the journey for which the ticket was issued or used; or
- (b) after the expiry time specified on the ticket; or
- (c) if the ticket has been altered or defaced; or
- (d) if a false statement was made to obtain a concession when the ticket was bought or otherwise obtained.

Division 2—Enforcement powers

Power to require name, address and age

75.(1) An authorised officer may require a person to state the person’s name and address if the authorised officer—

- (a) finds the person committing an offence against this Act; or
- (b) finds the person in circumstances that lead, or has information that leads, the authorised officer to suspect, on reasonable grounds, that the person has just committed an offence against this Act.

(2) An authorised officer may also require the person to state the person’s age if the authorised officer suspects, on reasonable grounds, that the person’s age is required for the enforcement of this Act.

(3) When making a requirement under subsection (1) or (2), the authorised officer must warn the person that it is an offence to fail to state the person’s name, address and, if relevant, age unless the person has a reasonable excuse.

(4) The authorised officer may require the person to give evidence of the

correctness of the person's name, address or age if the authorised officer suspects, on reasonable grounds, that the name, address or age given is false.

Power to require production of ticket etc.

76.(1) A ticket inspector may require a person who is travelling by railway to produce to the inspector the person's ticket for the journey.

(2) If a ticket inspector suspects, on reasonable grounds, that a person who is at a railway station has travelled by railway, the inspector may require the person to produce to the inspector the person's ticket for the journey.

(3) If a ticket inspector suspects, on reasonable grounds, that a ticket produced to the inspector by a person is invalid, the inspector may require the person to give it to the inspector.

Power to require person to leave train etc.

77.(1) An authorised officer may require a person to leave a railway, train or other passenger vehicle operated by Queensland Railways if the authorised officer—

- (a) finds the person committing an offence against any of the following provisions—
- section 79 (Offences about obstruction, damage etc.)
 - section 80 (Travelling without paying fare etc.)
 - section 81 (Travelling on invalid ticket etc.)
 - section 82(1) or (2) (Failure to give name, address or age etc.); and
- (b) believes, on reasonable grounds, that the person may continue to commit or immediately repeat the offence.

(2) However, the authorised officer may not require the person to leave a railway, train or other passenger vehicle operated by Queensland Railways if requiring the person to leave could put the person's safety at risk.

(3) If the person fails to leave when required to leave, the authorised

officer may use only the force that is reasonable and necessary to remove the person from the railway, train or other passenger vehicle.

Power to arrest persons

78.(1) This section applies to an offence against either of the following provisions—

- section 79 (Offences about obstruction, damage etc.)
- section 82 (Failure to give name, address or age etc.).

(2) A police officer may arrest a person if—

- (a) the officer—
 - (i) finds a person committing an offence to which this section applies; or
 - (ii) finds a person in circumstances that lead, or has information that leads, the officer to suspect, on reasonable grounds, that the person has just committed an offence against this section; and
- (b) the officer believes on reasonable grounds that a proceeding by way of complaint and summons against the person would be ineffective.

Division 3—Offences

Offences about obstruction, damage etc.

79.(1) A person must not obstruct a person in the exercise of a power under this Act, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(2) A person must not unlawfully destroy, mutilate, deface, take away or alter the position of a survey station, survey peg, mark, pole, stake, noticeboard, notice, distance marker or other thing fixed or set up under this Act.

Maximum penalty—40 penalty units.

(3) A person must not wilfully trespass on a railway.

Maximum penalty—40 penalty units.

(4) A person must not create a disturbance or commit a nuisance while on or in a railway, train or other passenger vehicle operated by Queensland Railways.

Maximum penalty—20 penalty units.

Travelling without paying fare etc.

80.(1) A person must not travel by railway unless—

- (a) before starting the journey, the person—
 - (i) had paid the correct fare and obtained a ticket for the journey; or
 - (ii) if the correct fare could not be paid—had obtained a ticket for the journey from an automatic ticket machine and the cost of the ticket was the closest, lesser cost of ticket to the correct fare that it was possible to obtain from the machine; or
- (b) the person already had a ticket that authorised the person to travel on the journey.

Maximum penalty—20 penalty units.

(2) A person does not commit an offence against subsection (1) if, immediately before the person started on the journey, the railway station at which the person started the journey—

- (a) was not open for business; and
- (b) was not equipped with an automatic ticket machine that was capable of dispensing tickets.

(3) If—

- (a) a person obtains a ticket from an automatic ticket machine before starting on a journey by railway; but
- (b) the cost of the ticket is less than the correct fare for the journey;

the person must, at or before the end of the journey, pay to Queensland Railways the difference between the cost of the ticket and the correct fare for

the journey.

Maximum penalty—20 penalty units.

(4) If—

- (a) a person cannot comply with subsection (1)(a) before starting on a journey by railway because of circumstances mentioned in subsection (2); and
- (b) the person did not already have a ticket that authorised the person to travel by railway on the journey;

the person must, at or before the end of the journey, pay to Queensland Railways the correct fare for the journey.

Maximum penalty—20 penalty units.

(5) A person does not commit an offence against subsection (3) or (4) in relation to a journey if—

- (a) the person was not required by a ticket inspector to produce the person's ticket for the journey during the journey or before the person left the railway station at which the person ended the journey; and
- (b) the railway station at which the person ended the journey was not open for business when the person ended the journey.

(6) However, if at or before the end of a person's journey mentioned in subsection (3) or (4), the person is required by a ticket inspector to produce the person's ticket for the journey, the person must immediately offer to pay the amount of the fare payable under subsection (3) or (4) to the ticket inspector.

Maximum penalty—20 penalty units.

(7) A person must not travel by another transportation system operated by Queensland Railways, including, for example, a bus service, unless before starting the journey, the person—

- (a) had paid the correct fare and obtained a ticket for the journey; or
- (b) already had a ticket that authorised the person to travel on the journey.

Maximum penalty—20 penalty units.

Travelling on invalid ticket etc.

81.(1) A person must not travel, or attempt to travel, by railway or by another transportation system operated by Queensland Railways using an invalid ticket.

(2) A person must not travel, or attempt to travel, by railway in a railway carriage of a higher class to the class shown on the person's ticket for the journey.

Maximum penalty—20 penalty units.

Failure to give name, address or age etc.

82.(1) A person must comply with a requirement under section 75(1), (2) or (4) (Power to require name, address and age), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—8 penalty units.

(2) A person must not state a false name, address or age, or give false evidence of the person's name, address or age, to an authorised officer.

Maximum penalty—60 penalty units.

(3) A person does not commit an offence against subsection (1) if—

- (a)** the authorised officer required the person to state the person's name, address and age on suspicion of the person having committed an offence against this Act; and
- (b)** the person is not proved to have committed an offence.

Failure to produce ticket etc.

83.(1) A person must comply with a requirement under section 76 (Power to require production of ticket etc.), unless the person has a reasonable excuse for not complying with it.

Maximum penalty—20 penalty units.

(2) A person does not commit an offence against subsection (1) by failing to produce a ticket if, immediately before the person started on the journey, the railway station at which the person started the journey—

- (a)** was not open for business; and

- (b) was not equipped with an automatic ticket machine that was capable of dispensing tickets.

Division 4—Prosecution of offences

Offences are summary offences

84. An offence against this Act is a summary offence.

Evidentiary provisions

85.(1) This section applies to a proceeding for an offence against this Act.

(2) It is not necessary to prove—

- (a) the appointment of an inspector or a ticket examiner; or
- (b) the authority of an authorised officer or ticket examiner to do an act under this Act.

Where certain prosecutions may be heard

86.(1) This section applies to an offence against any of the following provisions—

- section 79 (Offences about obstruction, damage etc.)
- section 80 (Travelling without paying fare etc.)
- section 81 (Travelling on invalid ticket etc.).

(2) A complaint of an offence to which this section applies that relates to a journey travelled by a person by railway may be heard at a place appointed for holding Magistrates Courts within any of the districts through which the person travelled during the journey.

(3) This section has effect despite, but does not limit, section 139 (Where summary cases to be heard) of the *Justices Act 1886*.

Queensland Railways not a common carrier

87. Queensland Railways is not a common carrier.

Carriage of dangerous goods

88.(1) In this section—

“**dangerous goods**” means—

- (a) substances classifiable under the classification system specified in section 2 (Classification of Dangerous Goods) of the Code; or
- (b) substances listed in section 9 (List of Explosives) of the Explosives Code; or
- (c) other substances and things declared by regulation to be dangerous goods;

but does not include substances mentioned in paragraph (a) or (b) that are declared by regulation not to be dangerous goods;

“**goods of a dangerous nature**” means substances and things (other than dangerous goods) that, because of their nature, quantity or condition, may endanger the safety of—

- (a) a railway; or
- (b) a person working or travelling on a railway;

“**the Code**” means the publication prescribed by regulation to be the Code;

“**the Explosives Code**” means the publication prescribed by regulation to be the Explosives Code.

(2) A person must not have in the person’s possession or luggage, while travelling by railway, any dangerous goods or goods of a dangerous nature.

Maximum penalty—40 penalty units.

(3) A person does not commit an offence under subsection (2) in relation to dangerous goods if—

- (a) the goods are of a type commonly used for personal, domestic or household use; and
- (b) the quantity of the goods is reasonable having regard to their nature and common use.

(4) A person must not send dangerous goods by railway unless the goods are packed, marked and labelled in the way required by the Code or the Explosives Code.

Maximum penalty—40 penalty units.

(5) A person must not send goods of a dangerous nature by railway unless—

- (a) the goods are marked and labelled to show clearly they are goods of a dangerous nature; and
- (b) the goods are packed, and otherwise marked and labelled, in a way that is reasonable having regard to—
 - (i) the nature and quantity of the goods; and
 - (ii) the safety of the railway and persons working or travelling on it.

Maximum penalty—40 penalty units.

(6) In a proceeding for an offence against subsection (2) or (4), production of a document purporting to be the Code or the Explosives Code is evidence of the Code or the Explosives Code, as the case requires.

Mining under railways

89.(1) A person who owns, leases or occupies mines or minerals lying under or near a railway or land used for railway purposes is not to—

- (a) make—
 - (i) a tunnel or excavation; or
 - (ii) a stockpile of ore, mineral, tailings, overburden, gravel, sand, clay, stone or earth;that may make the railway or land unsafe to use for railway purposes; or
- (b) carry on any mining operations whatever under any land used for railway purposes unless the consent in writing of Queensland Railways has been obtained.

(2) Any lease, licence or other authority granted under any other Act or law to carry on any mining operations in contravention of this section is

void to the extent it contravenes this section.

(3) Any inspector appointed under the *Mines Regulation Act 1964* and any competent person authorised by Queensland Railways may at all reasonable times by day and night—

- (a) enter, inspect, examine and make a survey of any mine and every part of it; and
- (b) make such examination and inquiry as is necessary to ascertain whether subsections (1) and (2) are complied with.

(4) A person is not, in exercising a right under subsection (3), to impede or unnecessarily obstruct the working of the mine.

(5) A person must not wilfully obstruct an inspector or other person in the exercise of a power under this section.

Maximum penalty—2 penalty units.

(6) The owner, agent or manager of a mine must not fail to give to an inspector or other person the reasonable assistance necessary for making an entry, inspection, examination, inquiry or survey under this section in relation to the mine.

Maximum penalty—2 penalty units.

(7) Where the chief executive is of the opinion that any mine has been or is being or is likely to be worked so as to damage a railway or interfere with its stability, the chief executive may order the owner, lessee or occupier of the mine to construct such works and to adopt such means as are in the opinion of the chief executive necessary for making the railway safe and preventing damage to it, and if the order or any part of it is not complied with forthwith, Queensland Railways may comply with it, and recover the expense of doing so from the owner, lessee or occupier by action in any court of competent jurisdiction.

Regulations

90.(1) The Governor in Council may make regulations for the purposes of this Act.

(2) To remove doubt, Queensland Railways may exercise its powers under this Act about a matter about which a regulation may be made under subsection (1).

(3) However, Queensland Railways must not act in a way inconsistent with a regulation made under subsection (1) if it exercises its powers about a matter about which the regulation has been made.

(4) A regulation may impose a penalty not exceeding 20 penalty units for a breach of the regulation.

(5) A regulation may, where a breach of it is a continuing breach, impose a daily penalty for the breach not exceeding 2 penalty units.

PART 10—TRANSITIONAL AND SAVINGS PROVISIONS

References to previous Corporation and Commissioner for Railways

91. A reference in an Act or instrument—

- (a) to the previous Corporation is a reference to Queensland Railways; and
- (b) to the Commissioner for Railways is a reference to the chief executive.

Employment of staff of previous Corporation

92.(1) In this section—

“employee of the previous Corporation” means a person who immediately prior to the commencement of this Act held paid employment with the previous Corporation.

(2) On the commencement of this Act, every employee of the previous Corporation becomes an employee of Queensland Railways on such terms and conditions, subject to any applicable award or industrial agreement, as the Board may determine, but no less favourable than the terms and conditions upon which that person was employed by the previous Corporation immediately before that commencement.

(3) A person who becomes an employee of Queensland Railways under subsection (2)—

- (a) retains all rights accrued or accruing as an employee of the previous Corporation; and
- (b) is entitled to receive annual, sick and long service leave and any similar entitlement accrued or accruing to that person as an employee of the previous Corporation;

and that person's service as an employee of the previous Corporation is to be taken to be service as an employee of Queensland Railways for the purposes of any law under which those rights accrued or were accruing or by which that entitlement is conferred.

(4) A person who becomes an employee of Queensland Railways under subsection (2) is not entitled to claim, both under this Act and any other Act, benefits in respect of the same period of service.

Superannuation entitlements

93. A person who, under section 92, becomes an employee of Queensland Railways—

- (a) retains all entitlements accrued or accruing to that person as a contributor to or member of the superannuation scheme to which that person contributed and was a member of immediately prior to the commencement of this Act; and
- (b) is to continue to contribute to that scheme; and
- (c) is entitled to payments and other benefits from it in respect of that person.

Duty to assist transfer of property etc.

94.(1) The Registrar of Titles and all other persons who are required or authorised to keep a register about dealings with property must, at the request of Queensland Railways, make in the register all entries necessary to record the vesting of property in Queensland Railways by repealed section 8.5(1).

(2) A request made under subsection (1) is not liable to stamp duty and no fees or charges are payable for it.

ENDNOTES**1 Index to Endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 27 May 1994. Future amendments of the Transport Infrastructure (Railways) Act 1991 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Table of previous reprints

Reprint No.	Amendments included	Reprint date
1	to Act No. 97 of 1991	1 June 1992

4 Tables in earlier reprints**TABLES IN EARLIER REPRINTS**

Name of Table	Reprint No.
Corrected minor errors	1

5 List of legislation

Transport Infrastructure (Railways) Act 1991 No. 28

date of assent 5 June 1991

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1991 (proc pubd Gaz 15 June 1991 p 831)

as amended by—

Statute Law (Miscellaneous Provisions) Act 1991 No. 97 s 3 Sch 1

date of assent 17 December 1991

commenced on date of assent

Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 s 3 Sch 2

date of assent 7 December 1992

amendment 20 commenced 5 March 1993 (1993 SL No. 51)

remaining provisions commenced on date of assent

Transport Infrastructure (Railways) Amendment Act 1993 No. 69

date of assent 23 November 1993

commenced on date of assent

Local Government Act 1993 No. 70 s 804 Sch

date of assent 7 December 1993

commenced 26 March 1994 (see s 2(4))

Statute Law (Miscellaneous Provisions) Act 1994 No. 15 s 3 Sch 2

date of assent 10 May 1994

commenced on date of assent

6 List of annotations

Key to abbreviations in list of annotations

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
R1	=	Reprint No. 1
R2	=	Reprint No. 2
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Note—s 95 of the Principal Act (as inserted by the Transport Infrastructure (Railways) Amendment Act 1993, s 2 Sch) required renumbering of certain provisions of the Act. The opportunity has also been taken, under the Reprints Act 1992, to renumber other provisions—see table of renumbered provisions.

Commencement

s 2 amd 1993 No. 69 s 2 Sch

Definitions

prov hdg sub 1993 No. 69 s 3(1)

s 3 amd 1992 No. 68 s 3 Sch 2

def “**authorised officer**” ins 1993 No. 69 s 3(3)

def “**inspector**” ins 1993 No. 69 s 3(3)

def “**local authority**” om 1992 No. 68 s 3 Sch 2

def “**Minister**” om 1992 No. 68 s 3 Sch 2

def “**obstruct**” ins 1993 No. 69 s 3(3)

def “**railway**” sub 1992 No. 68 s 3 Sch 2

def “**rolling stock**” ins 1993 No. 69 s 3(3)

def “**statutory declaration**” om 1992 No. 68 s 3 Sch 2

def “**ticket**” sub 1993 No. 69 s 3(2)–(3)

def “**ticket examiner**” ins 1993 No. 69 s 3(3)

def “**ticket inspector**” ins 1993 No. 69 s 3(3)

Queensland Railways

s 4 amd 1993 No. 69 s 2 Sch

General powers of Queensland Railways

s 6 amd 1993 No. 69 s 2 Sch

Mode of making contracts

s 9 amd 1993 No. 69 s 2 Sch

Relationship to Crown

s 10 amd 1993 No. 69 s 2 Sch

Custody and affixing of seal

s 11 amd 1993 No. 69 ss 4, 2 Sch

Authentication of documents

s 12 amd 1993 No. 69 s 2 Sch

Queensland Railways Board

s 13 amd 1993 No. 69 s 5

Role of the Board

s 14 amd 1993 No. 69 s 2 Sch

Membership of Board

s 18 amd 1992 No. 68 s 3 Sch 2; 1993 No. 69 s 2 Sch

Appointment of chairperson and deputy chairperson

s 19 amd 1992 No. 68 s 3 Sch 2; 1993 No. 69 s 2 Sch

Tenure of office

s 20 amd 1992 No. 68 s 3 Sch 2

Disqualification from directorship

s 21 amd 1993 No. 69 s 2 Sch

Validity of proceedings

s 3.21 om 1993 No. 69 s 2 Sch

Appointment of chief executive

s 35 amd 1993 No. 69 s 2 Sch

Disqualification from appointment

s 37 amd 1993 No. 69 s 2 Sch

Employment of staff of previous Corporation

s 4.6 renum as s 8.5A 1993 No. 69 s 2 Sch

Superannuation entitlements

s 4.7 renum as s 8.5B 1993 No. 69 s 2 Sch

Power to enter land

s 42 amd 1992 No. 68 s 3 Sch 2

Powers relating to construction and maintenance of railways and other transportation systems

prov hdg amd 1993 No. 69 s 6(1)

s 43 amd 1992 No. 68 s 3 Sch 2; 1993 No. 69 s 6(2)

Accommodation works

s 46 amd 1993 No. 69 s 2 Sch

Queensland Railways may acquire certain small parcels

s 48 amd 1992 No. 68 s 3 Sch 2

Taking Crown land

s 50 amd 1992 No. 68 s 3 Sch 2

Queensland Railways property not subject to rates

s 6.11 om 1993 No. 70 s 804 Sch

Width of road over which railway passess 55 sub 1992 No. 68 s 3 Sch 2
 amd 1993 No. 69 s 2 Sch**Closure of roads**

s 56 amd 1993 No. 69 s 7

Substituted roads

s 57 amd 1993 No. 69 s 8; 1993 No. 70 s 804 Sch

Agreement for extension of certain roads through or over lands of Queensland Railways

s 58 amd 1992 No. 68 s 3 Sch 2; 1993 No. 69 s 9

Level crossings

s 59 hdg amd 1993 No. 69 s 2 Sch

Private railways and sidings

s 60 amd 1993 No. 69 s 2 Sch; 1993 No. 70 s 804 Sch

PART 7—ADMINISTRATION

Pt hdg amd 1993 No. 69 s 10

Delegation by Board

s 62 sub 1992 No. 68 s 3 Sch 2; 1993 No. 69 s 11

Delegation by chief executives 63 ins 1992 No. 68 s 3 Sch 2
 amd 1993 No. 69 s 12**Inquiries into accidents**

s 66 amd 1993 No. 69 s 2 Sch

Cessation of maintenance of closed railway

s 68 amd 1993 No. 69 s 2 Sch 2

Removal of vehicles from railway land

s 71 amd 1993 No. 69 s 2 Sch 2

Disposal of abandoned vehicles and other abandoned property

s 72 amd 1992 No. 68 s 3 Sch 2

Inspectors

s 73 amd 1993 No. 69 s 13

PART 8—OFFENCES AND ENFORCEMENT

Pt hdg ins 1993 No. 69 s 15

Division 1—Interpretation**Div hdg** ins 1993 No. 69 s 15**Obstruction and damage****s 7.12** om 1993 No. 69 s 14**Meaning of “invalid” ticket****s 74** ins 1993 No. 69 s 15**Division 2—Enforcement powers****Div hdg** ins 1993 No. 69 s 15**Police officer may require name and address****s 7.13** om 1993 No. 69 s 14**Power to require name, address and age****s 75** ins 1993 No. 69 s 15**Offences****s 7.14** om 1993 No. 69 s 14**Power to require production of ticket etc.****s 76** ins 1993 No. 69 s 15**Power to require person to leave train etc.****s 77** ins 1993 No. 69 s 15
amd 1994 No. 15 s 3 Sch 2**Power to arrest persons****s 78** ins 1993 No. 69 s 15**Division 3—Offences****Div hdg** ins 1993 No. 69 s 15**Offences about obstruction, damage etc.****s 79** ins 1993 No. 69 s 15**Travelling without paying fare etc.****s 80** ins 1993 No. 69 s 15**Travelling on invalid ticket etc.****s 81** ins 1993 No. 69 s 15**Failure to give name, address or age etc.****s 82** ins 1993 No. 69 s 15**Failure to produce ticket etc.****s 83** ins 1993 No. 69 s 15**Division 4—Prosecution of offences****Div hdg** ins 1993 No. 69 s 15**Offences are summary offences****s 84** ins 1993 No. 69 s 15**Evidentiary provisions****s 85** ins 1993 No. 69 s 15

Where certain prosecution may be heard

s 86 ins 1993 No. 69 s 15
amd 1994 No. 15 s 3 Sch 2

Carriage of dangerous goods

s 88 amd 1992 No. 68 s 3 Sch 2
sub 1993 No. 69 s 16

Mining under railways

s 89 amd 1992 No. 68 s 3 Sch 2; 1993 No. 69 s 17

Regulations

s 90 amd 1991 No. 97 s 3 Sch 1; 1993 No. 69 s 2 Sch

PART 10—TRANSITIONAL AND SAVINGS PROVISIONS

Pt hdg ins 1993 No. 69 s 2 Sch

References to previous Corporation and Commissioner for Railways

s 91 amd 1992 No. 68 s 3 Sch 2
sub 1993 No. 69 s 2 Sch

Employment of staff of previous Corporation

s 92 (prev s 4.6) renum 1993 No. 69 s 2 Sch

Superannuation entitlements

s 93 (prev s 4.7) renum 1993 No. 69 s 2 Sch
amd 1993 No. 69 s 2 Sch

Duty to facilitate transfer of property etc.

s 94 sub 1993 No. 69 s 2 Sch

Validation

s 8.7 om R1 (see RA s 38)

Numbering and renumbering of Act

s 95 ins 1993 No. 69 s 2 Sch
om R2 (see RA s 37)

Savings and transitional

s 8.8 om 1992 No. 68 s 3 Sch 2

Lapse of by-laws

s 96 ins 1993 No. 69 s 2 Sch
om R2 (see RA s 37)

Consequential amendments

s 8.9 om R1 (see RA s 40)

Repeals

s 8.10 om R1 (see RA s 40)

7 Table of obsolete and redundant provisionsTABLE OF OBSOLETE AND REDUNDANT PROVISIONS
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
references to Queensland implied	Acts Interpretation Act 1954 s 35
penalty provision permitting fine or imprisonment permits both	Penalties and Sentences Act 1992 s 180A

8 Table of corrected minor errorsTABLE OF CORRECTED MINOR ERRORS
under the Reprints Act 1992 s 44

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9 Table of renumbered provisionsTABLE OF RENUMBERED PROVISIONS
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