

Queensland



**TRANSPORT
INFRASTRUCTURE
(RAILWAYS) AMENDMENT
BILL 1993**

Queensland



TRANSPORT INFRASTRUCTURE (RAILWAYS) AMENDMENT BILL 1993

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1993

A BILL

FOR

An Act to amend the Transport Infrastructure (Railways) Act 1991

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The Parliament of Queensland enacts—	1
Short title	2
<i>Clause1.</i> This Act may be cited as the <i>Transport Infrastructure (Railways) Amendment Act 1993</i> .	3 4
Amended Act	5
<i>Clause2.</i> The <i>Transport Infrastructure (Railways) Act 1991</i> is amended as set out in this Act.	6 7
Amendment of s.1.3 (Interpretation)	8
<i>Clause3.(1)</i> Section 1.3 (heading)—	9
<i>omit, insert—</i>	10
‘Definitions’.	11
(2) Section 1.3 (definition “ ticket ”)—	12
<i>omit.</i>	13
(3) Section 1.3—	14
<i>insert—</i>	15
‘ “authorised officer” means—	16
(a) an inspector who is in uniform; or	17
(b) a police officer;	18
“inspector” means a person who is appointed under section 7.11 as an inspector;	19 20
“obstruct” includes hinder, resist and attempt to obstruct;	21
“rolling stock” means—	22
(a) a vehicle (including a train) designed for movement on a set of rails; or	23 24

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(b) a vehicle (including a train) providing motive power for a vehicle mentioned in paragraph (a);	1 2
“ 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;	3 4 5
“ ticket examiner ” means a person included in a class of employees of Queensland Railways declared by the chief executive to be ticket examiners;	6 7 8
“ ticket inspector ” means an authorised officer, or a ticket examiner, who is in uniform.’.	9 10
Amendment of s.2.8 (Custody and affixing of seal)	11
<i>Clause4.</i> Section 2.8(2)—	12
<i>omit, insert—</i>	13
‘(2) The seal is to be used only as authorised by the Board.’.	14
Amendment of s.3.1 (Queensland Railways Board)	15
<i>Clause5.</i> Section 3.1(2)—	16
<i>omit.</i>	17
Amendment of s.6.2 (Powers relating to construction and maintenance of railways)	18 19
<i>Clause6.(1)</i> Section 6.2 (heading)—	20
<i>omit ‘railways’, insert ‘railways and other transportation systems’.</i>	21
(2) Section 6.2(1) (after ‘a railway’)—	22
<i>insert ‘or another transportation system operated or to be operated by Queensland Railways’.</i>	23 24

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Amendment of s.6.16 (Closure of roads)	1
<i>Clause7.</i> Section 6.16(4)—	2
omit ‘order in council’, insert ‘gazette notice’.	3
 Amendment of s.6.17 (Substituted roads)	4
<i>Clause8.</i> Section 6.17(12)—	5
omit, insert—	6
‘(12) Despite section 35(17) of the <i>Local Government Act 1936</i> ,	7
Queensland Railways is to maintain in good order and repair—	8
(a) a railway on a road; and	9
(b) the road surface—	10
(i) between the rails; and	11
(ii) outside each rail for a distance of 0.6 m.’.	12
 Amendment of s.6.18 (Agreement for extension of certain roads through or over lands of Queensland Railways)	13 14
<i>Clause9.</i> Section 6.18—	15
omit ‘, with the approval of the Governor in Council and subject to the	16
terms, provisions and conditions that the Governor in Council considers	17
appropriate,’.	18
 Amendment of heading to Part 7 (Administration and offences)	19
<i>Clause10.</i> Part 7 (heading)—	20
omit ‘AND OFFENCES’.	21
 Replacement of s.7.1 (Delegation by Board)	22
<i>Clause11.</i> Section 7.1—	23
omit, insert—	24

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‘Delegation by Board

‘7.1 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.’.

Amendment of s.7.1A (Delegation by chief executive)

Clause12. Section 7.1A—

insert—

‘(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.’.

Amendment of s.7.11 (Inspectors)

Clause13. Section 7.11(6)—

omit, insert—

‘(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.’.

Omission of ss.7.12–7.14

Clause14. Sections 7.12 to 7.14—

omit.

Insertion of new Part 7A	1
<i>Clause</i> 15. After section 7.11—	2
<i>insert—</i>	3
‘PART 7A—OFFENCES AND ENFORCEMENT	4
 ‘Division 1—Interpretation	5
 ‘Meaning of “invalid” ticket	6
‘7.12 For the purposes of this Part, a ticket is invalid—	7
(a) after the end of the journey for which the ticket was issued or used; or	8 9
(b) after the expiry time specified on the ticket; or	10
(c) if the ticket has been altered or defaced; or	11
(d) if a false statement was made to obtain a concession when the ticket was bought or otherwise obtained.	12 13
 ‘Division 2—Enforcement powers	14
 ‘Power to require name, address and age	15
‘7.13(1) An authorised officer may require a person to state the person’s name and address if the authorised officer—	16 17
(a) finds the person committing an offence against this Act; or	18
(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.	19 20 21 22
‘(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.	23 24 25

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‘(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. 1
2
3
4

‘(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. 5
6
7
8

‘Power to require production of ticket etc. 9

‘7.14(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. 10
11

‘(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. 12
13
14
15

‘(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. 16
17
18

‘Power to require person to leave train etc. 19

‘7.14A(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— 20
21
22

(a) finds the person committing an offence against any of the following provisions— 23
24

- section 7.14C(5) (Offences about obstruction, damage etc.) 25
- section 7.14D (Travelling without paying fare etc.) 26
- section 7.14E (Travelling on invalid ticket etc.) 27
- section 7.14F(1) or (2) (Failure to give name, address or age etc.); and 28
29

(b) believes, on reasonable grounds, that the person may continue to 30

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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

‘7.14B(1) This section applies to an offence against either of the following provisions—

- section 7.14C (Offences about obstruction, damage etc.)
- section 7.14F (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.

‘7.14C(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.

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‘(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. 1
2
3
4

Maximum penalty—40 penalty units. 5

‘(3) A person must not wilfully trespass on a railway. 6

Maximum penalty—40 penalty units. 7

‘(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. 8
9
10

Maximum penalty—20 penalty units. 11

‘Travelling without paying fare etc. 12

‘7.14D(1) A person must not travel by railway unless— 13

(a) before starting the journey, the person— 14

(i) had paid the correct fare and obtained a ticket for the journey; 15
or 16

(ii) if the correct fare could not be paid—had obtained a ticket 17
for the journey from an automatic ticket machine and the 18
cost of the ticket was the closest, lesser cost of ticket to the 19
correct fare that it was possible to obtain from the machine; 20
or 21

(b) the person already had a ticket that authorised the person to travel 22
on the journey. 23

Maximum penalty—20 penalty units. 24

‘(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— 25
26
27

(a) was not open for business; and 28

(b) was not equipped with an automatic ticket machine that was 29
capable of dispensing tickets. 30

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‘(3) If—	1
(a) a person obtains a ticket from an automatic ticket machine before	2
starting on a journey by railway; but	3
(b) the cost of the ticket is less than the correct fare for the journey;	4
the person must, at or before the end of the journey, pay to Queensland	5
Railways the difference between the cost of the ticket and the correct fare for	6
the journey.	7
Maximum penalty—20 penalty units.	8
‘(4) If—	9
(a) a person cannot comply with subsection (1)(a) before starting on	10
a journey by railway because of circumstances mentioned in	11
subsection (2); and	12
(b) the person did not already have a ticket that authorised the person	13
to travel by railway on the journey;	14
the person must, at or before the end of the journey, pay to Queensland	15
Railways the correct fare for the journey.	16
Maximum penalty—20 penalty units.	17
‘(5) A person does not commit an offence against subsection (3) or (4)	18
in relation to a journey if—	19
(a) the person was not required by a ticket inspector to produce the	20
person’s ticket for the journey during the journey or before the	21
person left the railway station at which the person ended the	22
journey; and	23
(b) the railway station at which the person ended the journey was not	24
open for business when the person ended the journey.	25
‘(6) However, if at or before the end of a person’s journey mentioned in	26
subsection (3) or (4), the person is required by a ticket inspector to produce	27
the person’s ticket for the journey, the person must immediately offer to	28
pay the amount of the fare payable under subsection (3) or (4) to the ticket	29
inspector.	30
Maximum penalty—20 penalty units.	31
‘(7) A person must not travel by another transportation system operated	32

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by Queensland Railways, including, for example, a bus service, unless before starting the journey, the person—	1 2
(a) had paid the correct fare and obtained a ticket for the journey; or	3
(b) already had a ticket that authorised the person to travel on the journey.	4 5
Maximum penalty—20 penalty units.	6
‘Travelling on invalid ticket etc.	7
‘7.14E(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.	8 9 10
‘(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.	11 12 13
Maximum penalty—20 penalty units.	14
‘Failure to give name, address or age etc.	15
‘7.14F(1) A person must comply with a requirement under section 7.13(1), (2) or (4) (Power to require name, address and age), unless the person has a reasonable excuse for not complying with it.	16 17 18
Maximum penalty—8 penalty units.	19
‘(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.	20 21
Maximum penalty—60 penalty units.	22
‘(3) A person does not commit an offence against subsection (1) if—	23
(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	24 25 26
(b) the person is not proved to have committed an offence.	27

‘Failure to produce ticket etc.

‘7.14G(1) A person must comply with a requirement under section 7.14 (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

‘7.14H An offence against this Act is a summary offence.

‘Evidentiary provisions

‘7.14I(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

‘7.14J(1) This section applies to an offence against any of the following provisions—

- section 7.14C(5) (Offences about obstruction, damage etc.)
- section 7.14D (Travelling without paying fare etc.)

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- section 7.14E (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*.’.

Replacement of s.8.2 (Conveyance of dangerous goods)

Clause 16. Section 8.2—

omit, insert—

‘Carriage of dangerous goods

‘8.2(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.

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‘(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. 1
2
3

Maximum penalty—40 penalty units. 4

‘(3) A person does not commit an offence under subsection (2) in relation to dangerous goods if— 5
6

(a) the goods are of a type commonly used for personal, domestic or household use; and 7
8

(b) the quantity of the goods is reasonable having regard to their nature and common use. 9
10

‘(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. 11
12
13

Maximum penalty—40 penalty units. 14

‘(5) A person must not send goods of a dangerous nature by railway unless— 15
16

(a) the goods are marked and labelled to show clearly they are goods of a dangerous nature; and 17
18

(b) the goods are packed, and otherwise marked and labelled, in a way that is reasonable having regard to— 19
20

(i) the nature and quantity of the goods; and 21

(ii) the safety of the railway and persons working or travelling on it. 22
23

Maximum penalty—40 penalty units. 24

‘(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.’. 25
26
27

Amendment of s.8.3 (Mining under railways) 28

Clause 17. Section 8.3(1)(a)— 29

omit, insert— 30

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- | | |
|--|--------|
| ‘(a) make— | 1 |
| (i) a tunnel or excavation; or | 2 |
| (ii) a stockpile of ore, mineral, tailings, overburden, gravel,
sand, clay, stone or earth; | 3
4 |
| that may make the railway or land unsafe to use for railway
purposes; or’. | 5
6 |

SCHEDULE 7

MINOR AMENDMENTS 8

section 2 9

- | | |
|---|----------|
| 1. Section 1.2(3)— | 10 |
| <i>omit.</i> | 11 |
| 2. Section 2.1(2) (after ‘corporate’)— | 12 |
| <i>insert ‘without corporators’.</i> | 13 |
| 3. Section 2.1(2)(b) and (3)— | 14 |
| <i>omit ‘common’.</i> | 15 |
| 4. Section 2.3(1)(l)— | 16 |
| <i>omit ‘of the Commonwealth (or any Act, amendment or substitution for
that Act)’.</i> | 17
18 |
| 5. Section 2.6(1)(a)— | 19 |
| <i>omit ‘common’.</i> | 20 |

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SCHEDULE (continued)

6. Section 2.7(a) and (b)—	1
<i>omit</i> ‘in right of Queensland’.	2
7. Section 2.7(c)—	3
<i>omit</i> ‘of Queensland’.	4
8. Section 2.8(1), (3) and (4)—	5
<i>omit</i> ‘common’.	6
9. Section 2.8(3)—	7
<i>omit</i> ‘have’, <i>insert</i> ‘have,’.	8
10. Section 2.9—	9
<i>omit</i> ‘common’.	10
11. Section 3.2(1)—	11
<i>omit, insert—</i>	12
‘3.2(1) The Board is responsible for the way Queensland Railways performs its functions and exercises its powers.’.	13
	14
12. Section 3.2(2)(d)—	15
<i>omit, insert—</i>	16
‘(d) has the other functions and powers given to it by this or another Act.’.	17
	18
13. Section 3.6(1)—	19
<i>omit</i> ‘by notification published in the Gazette’.	20

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SCHEDULE (continued)

14. Section 3.7(1)—	1
<i>omit</i> ‘, by notification published in the Gazette,’.	2
15. Section 3.7(2)—	3
<i>omit, insert—</i>	4
‘(2) The deputy chairperson is to act as chairperson during—	5
(a) any vacancy, or all vacancies, in the office of chairperson; and	6
(b) any period, or all periods, when the chairperson is absent from	7
duty or is, for another reason, unable to perform the functions of	8
the office.’.	9
16. Section 3.9(1)(b)—	10
<i>omit, insert—</i>	11
‘(b) has been or is convicted of an indictable offence; or’.	12
17. Section 3.21—	13
<i>omit.</i>	14
18. Section 4.1(4)—	15
<i>omit.</i>	16
19. Section 4.3(b)—	17
<i>omit, insert—</i>	18
‘(b) has been or is convicted of an indictable offence; or’.	19
20. Sections 4.6 and 4.7—	20
<i>renumber</i> (and relocate) as sections 8.5A and 8.5B respectively.	21

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SCHEDULE (continued)

21. Section 6.5—	1
<i>omit</i> ‘Maximum penalty’,	2
<i>insert</i> ‘Maximum penalty for subsection (11)’.	3
22. Section 6.15(1)—	4
<i>omit</i> ‘that’, <i>insert</i> ‘than’.	5
23. Section 6.19 (heading)—	6
<i>omit</i> ‘ Crossings ’, <i>insert</i> ‘ crossings ’.	7
24. Section 6.20(6)—	8
<i>omit</i> ‘Director-General’, <i>insert</i> ‘chief executive of the department’.	9
25. Section 6.20(8)—	10
<i>omit</i> ‘Commissioner of Main Roads’,	11
<i>insert</i> ‘chief executive of the department’.	12
26. Section 6.20(10)—	13
<i>omit</i> ‘trains, locomotives and’.	14
27. Section 7.4(1) (after ‘accident’)—	15
<i>insert</i> ‘or incident’.	16
28. Section 7.6(2) (after ‘maintenance’)—	17
<i>insert</i> ‘or repair’.	18

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SCHEDULE (continued)

29. Section 7.6(7)—	1
<i>omit</i> ‘Director-General’, <i>insert</i> ‘chief executive of the department’.	2
30. Section 7.9—	3
<i>omit</i> ‘Maximum penalty’, <i>insert</i> ‘Maximum penalty for subsection (9)’.	4
31. Section 8.4(1) to (3)—	5
<i>omit, insert—</i>	6
‘ 8.4(1) The Governor in Council may make regulations for the purposes of this Act.	7
	8
‘ (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).	9
	10
	11
‘ (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.’.	12
	13
	14
32. Section 8.5—	15
<i>omit, insert—</i>	16
‘PART 9—TRANSITIONAL AND SAVINGS	17
PROVISIONS	18
‘References to previous Corporation and Commissioner for Railways	19
‘8.5 A reference in an Act or instrument—	20
(a) to the previous Corporation is a reference to Queensland Railways; and	21
	22
(b) to the Commissioner for Railways is a reference to the chief executive.’.	23
	24

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SCHEDULE (continued)

33. Section 8.5B (as renumbered)—	1
omit ‘section 4.6’, insert ‘section 8.5A’.	2
34. Section 8.6—	3
omit, insert—	4
‘Duty to assist transfer of property etc.	5
‘8.6(1) The Registrar of Titles and all other persons who are required or	6
authorised to keep a register about dealings with property must, at the	7
request of Queensland Railways, make in the register all entries necessary	8
to record the vesting of property in Queensland Railways by repealed	9
section 8.5(1).	10
‘(2) A request made under subsection (1) is not liable to stamp duty and	11
no fees or charges are payable for it.’.	12
35. Section 8.7—	13
omit, insert—	14
‘Numbering and renumbering of Act	15
‘8.7 In the next reprint of the Act produced under the <i>Reprints Act 1992</i> ,	16
section 43 (Numbering and renumbering of provisions) of that Act must be	17
used.	18
‘Lapse of by-laws	19
‘8.8(1) To remove any doubt, it is declared that all by-laws made under	20
the <i>Railways Act 1914</i> , and in force immediately before 30 June 1991,	21
lapsed on 30 June 1991.	22
‘(2) This section expires at the end of the day it commences.’.	23
	24