

**WESTERN
AUSTRALIAN
GOVERNMENT
Gazette**

6725



PERTH, THURSDAY, 30 NOVEMBER 2000 No. 254 SPECIAL

PUBLISHED BY AUTHORITY KEVIN J. McRAE, ACTING GOVERNMENT PRINTER AT 3.30 PM

RAIL FREIGHT SYSTEM ACT 2000

**RAIL FREIGHT SYSTEM
(CORRIDOR LAND)
REGULATIONS 2000**

Rail Freight System Act 2000

Rail Freight System (Corridor Land) Regulations 2000

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations may be cited as the *Rail Freight System (Corridor Land) Regulations 2000*.

2. Definitions

In these regulations, unless the contrary intention appears —

“chief executive officer” means the person for the time being designated by the Railway Corridor Minister, by notice published in the *Gazette*, as the chief executive officer for the purposes of these regulations;

“railway” means a railway that is operated on corridor land in the exercise of rights conferred by a disposition of an interest in that land by the Rail Corridor Minister under section 42 of the Act;

“railway owner” means the person that has the management and control of a railway;

“railway premises” means —

- (a) corridor land; and
- (b) anything on that land as provided by section 6 of the Act.

Rail Freight System (Corridor Land) Regulations 2000**Part 2** Railway premises and conduct on them**Division 1** Gates in the vicinity of level crossings**r. 3**

Part 2 — Railway premises and conduct on them**Division 1 — Gates in the vicinity of level crossings****3. Railway owner may erect gates**

Where a railway track crosses any road on the level, the railway owner may —

- (a) erect and maintain gates across the road on each side of the railway; and
- (b) keep those gates closed except when any person, animal, vehicle or other thing on the road has to cross the railway and may safely do so.

4. Erection of gates by other persons

- (1) Where a road crosses any railway track on the level, it is not lawful for a local government or other person, without the consent in writing of the Rail Corridor Minister, to erect or maintain any gate across the road on railway premises.
- (2) Subregulation (1) does not apply to the railway owner.
- (3) The Rail Corridor Minister may give a consent under subregulation (1) on such terms and conditions as the Rail Corridor Minister thinks necessary in the interests of public safety.
- (4) Section 177 of *The Criminal Code* does not apply to a breach of subregulation (1).

5. Removal of gates

- (1) If cattle stops are provided at a level crossing the Rail Corridor Minister may, by notice in writing to the local government or other person —
 - (a) cancel a consent given under regulation 4(1); and
 - (b) require the removal of the gate.

Rail Freight System (Corridor Land) Regulations 2000

Railway premises and conduct on them

Part 2

Railway crossings

Division 2**r. 6**

-
- (2) If a gate is erected or maintained by a local government or other person in breach of regulation 4, it may be removed by the Rail Corridor Minister —
 - (a) without notice; and
 - (b) at the cost in all respects of the local government or other person.
 - (3) Subregulation (2) does not affect any other liability to which the local government or other person may be subject on account of the breach.

Division 2 — Railway crossings**6. Crossing at unauthorised places**

- (1) A person must not cross, or attempt to cross, any railway track —
 - (a) elsewhere than at an authorised crossing-place; or
 - (b) at an authorised crossing-place after being warned not to do so by a person authorised by the chief executive officer for the purposes of this regulation.

Penalty: \$200.

- (2) In subregulation (1) —
“authorised crossing-place” means —
 - (a) a public thoroughfare; or
 - (b) an area for which signs or other indications have been put in place by the railway owner showing that it may be used for the purpose of crossing the track.
- (3) The chief executive officer is to issue to each person who is authorised for the purposes of subregulation (1)(b) a certificate stating that the person is so authorised.
- (4) The person must produce the certificate, so far as he or she can practicably do so in the circumstances, if required to do so by a

Rail Freight System (Corridor Land) Regulations 2000**Part 2** Railway premises and conduct on them**Division 2** Railway crossings**r. 7**

person to whom he or she has given, or is about to give, a warning under subregulation (1)(b).

7. Use of overbridges and subways

- (1) A person on foot must not cross, or attempt to cross, a railway track on the level at any place where an overbridge or subway is provided.
Penalty: \$200.
- (2) Subregulation (1) does not apply to a person in charge of a vehicle or livestock.

8. Crossings by traction engines and large vehicles

- (1) This regulation applies to —
- (a) a machine that travels on crawler-type tracks;
 - (b) a road vehicle or machine which, or the load of which, exceeds 5 metres in width or height; and
 - (c) a road vehicle or machine that —
 - (i) is limited to a speed of 15 kilometres per hour or less;
 - (ii) is likely to cause, or create a risk of causing, an obstruction to, interference with, or displacement of, a railway track.
- (2) A person must not take, or attempt to take, a vehicle or machine to which this regulation applies across a railway track on the level except under and in accordance with a permit granted by the railway owner or by a person authorised by the railway owner in that behalf.
Penalty: \$200.

Rail Freight System (Corridor Land) Regulations 2000

Railway premises and conduct on them

Part 2

Railway crossings

Division 2**r. 9**

- (3) A permit may be granted for the purposes of subregulation (2) subject to such conditions and restrictions as the railway owner or officer considers necessary to prevent damage being done to the railway.

9. Duties of driver of vehicle on approach to level crossing

- (1) The driver of a vehicle approaching a railway level crossing (“**the driver**”) must comply with —
- (a) regulation 10; and
 - (b) such of the provisions of regulations 11, 12, 13, 14 and 15 as are applicable in the circumstances.

Penalty: \$200.

- (2) References in regulations 11, 12, 13, 14 and 15 to stopping the vehicle are to stopping the vehicle on the approach side of the railway track so that the front of it is safely clear of the nearest rail of the track.
- (3) In this regulation and in regulations 11, 12, 13, 14 and 15 —
- “**driver**” means the person in charge of a vehicle;
- “**vehicle**” means a conveyance capable of being propelled or drawn on wheels.

10. Duty to check whether track clear

The driver must satisfy himself or herself, before proceeding to cross the railway track, that the track is sufficiently clear of railway and other traffic to allow a safe crossing.

11. Directions by authorised person

If the driver is directed or instructed to stop by a person authorised by the chief executive officer for the purposes of this regulation, the driver must —

- (a) stop the vehicle as provided in regulation 9(2); and
- (b) not proceed except in accordance with the person’s direction.

Rail Freight System (Corridor Land) Regulations 2000**Part 2** Railway premises and conduct on them**Division 2** Railway crossings**r. 12**

12. Approaching train

If —

- (a) an approaching train is visible or emits an audible signal; and
- (b) there is a danger of collision between the driver's vehicle and the train,

the driver must —

- (c) stop the vehicle as provided in regulation 9(2); and
- (d) not proceed until he or she has ascertained that in the circumstances it is safe to do so.

13. Stop sign

If a stop sign facing the driver is erected at or near the level crossing, the driver must —

- (a) stop the vehicle as provided in regulation 9(2); and
- (b) proceed only if it is safe to do so.

14. Flashing lights etc.

If —

- (a) twin alternating red lights are flashing;
- (b) a boom-gate is down or is moving; or
- (c) a warning bell is ringing,

at or near the level crossing, the driver must —

- (d) stop the vehicle as provided in regulation 9(2); and
- (e) not proceed until —
 - (i) the lights or bell have ceased to flash or ring; or
 - (ii) the boom-gate has returned to an upright position,

unless otherwise directed or instructed by a person authorised by the chief executive officer for the purposes of this regulation.

Rail Freight System (Corridor Land) Regulations 2000

Railway premises and conduct on them

Part 2

Traffic control on railway premises

Division 3**r. 15****15. Traffic congestion**

If by reason of traffic congestion the driver is not immediately able to lawfully drive the vehicle over and clear of the level crossing, the driver must —

- (a) stop the vehicle as provided in regulation 9(2); and
- (b) not proceed until he or she is able to lawfully drive the vehicle over and clear of the level crossing.

16. Authorised person to produce certificate

- (1) The chief executive officer is to issue to each person who is authorised for the purposes of regulation 11 or 14 a certificate stating that the person is so authorised.
- (2) The person must produce the certificate, so far as he or she can practicably do so in the circumstances, if required to do so by a person to whom he or she has given, or is about to give, a direction or instruction under regulation 11 or 14.

Division 3 — Traffic control on railway premises**17. Speed limits and traffic signs on railway premises**

- (1) This regulation applies to a person who is in charge of a vehicle on or in a railway station, railway yard or other railway premises.
- (2) The person must not drive the vehicle —
 - (a) within a speed zone, at a speed exceeding in kilometres per hour that indicated by the numerals on the restriction sign at the beginning of the speed zone; or
 - (b) outside a speed zone, at a speed exceeding 20 kilometres per hour.

Penalty: \$200.

- (3) The person must comply with the directions of traffic control signals or signs that are erected and displayed and applicable to the person.

Rail Freight System (Corridor Land) Regulations 2000**Part 2** Railway premises and conduct on them**Division 3** Traffic control on railway premises**r. 17**

Penalty: \$200.

(4) In this regulation —

“de-restriction sign” means a sign that —

- (a) has inserted on it the words “End.....speed” and numerals between those words; and
- (b) is erected —
 - (i) near the left hand side of the road; or
 - (ii) in any other traffic area, in such a position that the sign is readily visible to a person in charge of a vehicle when approaching the sign in a normal manner;

“restriction sign” means a sign that —

- (a) has inserted on it the words “Speed Limit” followed by numerals; and
- (b) is erected —
 - (i) near the left hand side of a road; or
 - (ii) in any other traffic area, in such a position that the sign is readily visible to a person in charge of a vehicle when approaching that area in a normal manner;

“speed zone” means —

- (a) a portion of a road; or
- (b) a traffic area,
that is defined by means of —
 - (c) a restriction sign at its beginning; and
 - (d) a de-restriction sign, or a restriction sign bearing different numerals, at its end;

“traffic area” means an area of land that is improved, designed or ordinarily used for vehicular traffic.

Rail Freight System (Corridor Land) Regulations 2000

Railway premises and conduct on them

Part 2

General conduct

Division 4**r. 18****Division 4 — General conduct****18. Possession of graffiti equipment**

A person on railway premises must not have in his or her possession a spray can, felt pen, crayon or other article capable of being used to deface property, unless the person has a lawful excuse for possessing that article.

Penalty: \$200.

19. Posting bills and advertisements, and similar conduct

A person, other than the railway owner, must not without the permission of the Rail Corridor Minister —

- (a) give or distribute, post, stick, paint or write; or
- (b) cause to be given or distributed, posted, stuck, painted or written,

any placard, bill, advertisement, or other matter within, or on any thing on, railway premises.

Penalty: \$200.

20. Throwing of missiles, rubbish etc.

A person must not throw, or cause to be thrown —

- (a) at or from any vehicle operating on or using a railway;
or
- (b) on to any railway premises,

any object or missile, or any filth, dirt, rubbish or matter of a similar nature.

Penalty: \$200.

21. Sewage etc., and drainage

A person must not —

- (a) permit to flow on to railway premises;
- (b) place on railway premises; or

Rail Freight System (Corridor Land) Regulations 2000**Part 2** Railway premises and conduct on them**Division 4** General conduct**r. 22**

- (c) cause or suffer to flow on to, or to be placed on, railway premises,

any sewage or other offensive matter or any drainage.

Penalty: \$200.

22. Shutting and fastening of gates

A person who passes through a gate in a fence —

- (a) on, or forming the boundary of, railway premises; or
(b) on land adjoining such premises,

must shut and securely fasten the gate as soon as the person and any animal, vehicle or other thing under his or her control have passed through the gate.

Penalty: \$200.

23. Animals

A person must not —

- (a) drive on railway premises; or
(b) negligently allow to stray onto such premises,

any cattle, horse, sheep or other animal.

Penalty: \$200.

Rail Freight System (Corridor Land) Regulations 2000

Miscellaneous

Part 3**r. 24****Part 3 — Miscellaneous****24. Person to give correct name and address when so required**

- (1) If this subregulation applies, a person authorised in writing by the chief executive officer for the purposes of this regulation may require a person on railway premises —
 - (a) to provide the person's correct name and address to the authorised person; or
 - (b) to verify that a name and address provided to the authorised person are correct.
- (2) Subregulation (1) only applies if the authorised person believes on reasonable grounds that the person to whom the requirement is directed has committed an offence against these regulations.
- (3) A person who is required to give his or her name and address under subregulation (1) must not refuse to provide his or her name and address.
Penalty: \$200.
- (4) A person who is required to give his or her name and address under subregulation (1) must not give a false name or address.
Penalty: \$200.
- (5) A person who is required to verify his or her name and address under subregulation (1) must comply with that requirement unless the person has reasonable grounds for not doing so.
Penalty: \$200.
- (6) The chief executive officer is to issue to each person who is authorised for the purposes of this regulation a certificate stating that the person is so authorised.
- (7) The person must produce the certificate if required to do so by a person in respect of whom he or she has exercised, or is about to exercise, the power conferred by subregulation (1).

Rail Freight System (Corridor Land) Regulations 2000**Part 3** Miscellaneous**r. 25**

25. Warrant to enter

The form set out in Schedule 1 is prescribed for the purposes of section 55(3)(a) of the Act.

26. Continuation of certain things done before the commencement of these regulations**(1) A gate that —**

- (a) was erected by the Western Australian Government Railways Commission (“**the Commission**”) under section 18(1) of the *Government Railways Act 1904* before the commencement of these regulations; and
- (b) is in place immediately before that commencement,

is to be taken after that commencement to be a gate erected and maintained by the railway owner under regulation 3.

(2) A consent that —

- (a) was given by the Commission under section 18(2) of the *Government Railways Act 1904* before the commencement of these regulations; and
- (b) is in force immediately before that commencement,

is to be taken after that commencement to be a consent given by the Rail Corridor Minister under regulation 4(1).

(3) A sign or other indication of an authorised crossing-place that —

- (a) was put in place by the Commission before the commencement of these regulations; and
- (b) is in place immediately before that commencement,

is to be taken after that commencement, for the purposes of paragraph (b) of the definition of “authorised crossing-place” in regulation 6(2), to have been put in place by the railway owner.

Rail Freight System (Corridor Land) Regulations 2000

Miscellaneous

Part 3

r. 27

- (4) A permission that —
- (a) was given by the Commission under by-law 31 of the *Government Railways Act By-laws* before the commencement of these regulations; and
 - (b) is in force immediately before that commencement,
- is to be taken after that commencement to be a permission given by the Rail Corridor Minister under regulation 19.

27. Repeal

The *Rail Freight System Regulations 2000* are repealed.

Schedule 1 — Form

[r. 25]

<i>Rail Freight System (Corridor Land)</i> <i>Regulations 2000</i> Warrant to Enter
--

Warrant	The persons named below are authorised to enter the land, premises or thing described below for the purpose set out below, using as much force as is necessary.
Persons authorised to enter	<ul style="list-style-type: none"> • The Rail Corridor Minister by its authorised persons • Police officers • _____ • _____
Land, premises or thing to be entered	
Purpose for which entry is permitted	
Grounds for warrant	<p>I am satisfied that the entry is reasonably required and that —</p> <p><input type="checkbox"/> entry has been refused or is opposed or prevented;</p> <p><input type="checkbox"/> entry cannot be obtained; or</p> <p><input type="checkbox"/> notice cannot be given under section 54 of the Act without unreasonable difficulty or without unreasonably delaying entry.</p>
Justice of the Peace	Signature
	Name
	Date

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.

