



Western Australia

Private Railways (Level Crossings) Act 1966

As at 07 May 2004

Version 01-a0-04

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Reprinted under the
Reprints Act 1984 as at
7 May 2004

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Private Railways (Level Crossings) Act 1966

An Act relating to level crossings over private railways.

1. Short title

This Act may be cited as the *Private Railways (Level Crossings) Act 1966*¹.

2. Commencement

This Act shall come into operation on a date to be fixed by proclamation¹.

3. Interpretation

In this Act, unless the contrary intention appears —

level crossing in relation to a private railway means a place where the line of the private railway crosses a road on the level;

private railway means a railway that is constructed by a person under the authority of an agreement with the State;

road means a thoroughfare or highway which the public is entitled to use and any part thereof and which road has been proclaimed, reserved, declared or otherwise dedicated as a road under an Act.

4. Rights of way at level crossings

- (1) The public right of way at a level crossing —
 - (a) shall cease when and as often as any engine, truck or carriage on the line of a private railway that passes through the level crossing is approaching and within a distance of 400 metres from the level crossing; and
 - (b) shall at all other times extend only to the right of crossing the line of railway at the level crossing with all convenient speed but not stopping or continuing thereon.
- (2) Subject to this Act, the owner of a private railway —
 - (a) may carry on and conduct the working and management of that railway in accordance with the provisions of the agreement under which the railway is constructed, in every respect at or through a level crossing through which the line of that railway passes;
 - (b) may erect, maintain and operate, for the protection of persons and property using or passing over the level crossing, gates and other obstructions on each side of the line of private railway where it passes through the level crossing and may keep the gates closed or obstructions erected, except where persons with or without animals or in vehicles or other conveyances have the right, under subsection (1), to cross the line of railway at the level crossing, and may safely do so.

[Section 4 amended by No. 83 of 1973 s. 3.]

5. Erection of warning devices at existing and future level crossings

- (1) Subject to subsection (2), the owner of a private railway, the line of which passes through a level crossing that is in existence immediately prior to the coming into operation of this Act, shall unless otherwise provided in the agreement under which the railway is constructed cause to be erected, maintained and operated thereat at his own cost in all things, such notices,

warning and safety devices, including boom gates or rails on each side of that line, as is necessary for the protection of persons and property using or passing over the level crossing.

- (2) Where the line of a private railway passes through a level crossing that was not in existence before the coming into operation of this Act, the owner of the private railway shall, if requested by the Minister to do so, on such terms and conditions as to the erection, maintenance and operation thereof as are agreed between the owner and the Minister, cause to be erected, maintained and operated such notices, warning and safety devices as are referred to in subsection (1).
- (3) Any dispute or difference between the owner and the Minister as to the amount of the cost and other terms and conditions upon which such notices, warning and safety devices may be erected, maintained and operated under subsection (2), shall be referred to and settled by arbitration under the provisions of the *Arbitration Act 1895*².

Notes

- ¹ This reprint is a compilation as at 7 May 2004 of the *Private Railways (Level Crossings) Act 1966* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Private Railways (Level Crossings) Act 1966</i>	77 of 1966	12 Dec 1966	30 Dec 1966 (see s. 2 and <i>Gazette</i> 30 Dec 1966 p. 3430)
<i>Metric Conversion Act 1972</i>	94 of 1972 (as amended by No. 83 of 1973)	4 Dec 1972	Relevant amendments (see Third Sch. ³) took effect on 4 Oct 1974 (see s. 4(2) and <i>Gazette</i> 4 Oct 1974 p. 3818)

Reprint 1: The *Private Railways (Level Crossings) Act 1966* as at 7 May 2004
(includes amendments listed above)

- ² Repealed by the *Commercial Arbitration Act 1985*.

- ³ The Third Schedule was inserted by the *Metric Conversion Act Amendment Act (No. 2) 1973*.