

# 2013

## CHAPTER 28

### An Act to amend *The Railway Act*

(Assented to May 15, 2013)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

#### Short title

**1** This Act may be cited as *The Railway Amendment Act, 2013*.

S.S. 1989-90, c.R-1.2, new sections 22.1 and 22.2

**2 Sections 22.1 and 22.2 of *The Railway Act* are repealed and the following substituted:**

#### “Dismantling of railway line

**22.1(1)** In this section, ‘**interested person**’ means a person who, pursuant to subsection (4), makes known his or her interest in buying, leasing or acquiring a railway line or a part of a railway line.

(2) A railway company that intends to dismantle all or any part of a railway line shall:

(a) provide at least 60 days’ written notice of its intention to do so to the board; and

(b) advertise its intention to do so, in at least one newspaper having general circulation in Saskatchewan, at those times and in a form acceptable to the board.

(3) For the purposes of clause (2)(b), an advertisement must include:

(a) a description of the railway line or the part of the railway line to be dismantled and how it is to be sold;

(b) a statement that the advertisement is directed to persons interested in buying, leasing or acquiring the railway line or the part of the railway line to be dismantled for the purpose of continuing service on the railway line or the part of the railway line;

(c) the date by which persons mentioned in clause (b) must make their interest known in writing to the railway company; and

(d) the process the railway company intends to follow for receiving and evaluating the offer of each person who makes his or her interest known in accordance with the advertisement.

(4) For the purposes of clause (3)(c), the date by which persons must make their interest known in writing to the railway company must be at least 60 days after the date on which the advertisement is first published.

(5) A railway company has four months or any further or lesser period or periods that the board may authorize to reach an agreement with an interested person after the date stated in the advertisement by which persons must make their interest known.

(6) A railway company shall negotiate in good faith and in accordance with the process it discloses with an interested person.

(7) Subject to subsections (8) to (12), if an agreement is not reached within the period mentioned in subsection (5), the railway company shall:

- (a) continue providing service on the railway line; or
- (b) offer, in writing, to sell the railway line or the part of the railway line to the Government of Saskatchewan or a municipality for not more than its net salvage value in accordance with section 22.2.

(8) Before the end of the period mentioned in subsection (5), the railway company may apply to the board in writing for an order declaring that the interested person is not negotiating in good faith and that the railway company is no longer required to negotiate with that interested person.

(9) On an application pursuant to subsection (8), if the board is satisfied that the interested person is not negotiating in good faith, the board may make the order requested.

(10) Before the end of the period mentioned in subsection (5), an interested person may apply in writing to the board alleging that the railway company is not negotiating in good faith as required by subsection (6).

(11) On an application pursuant to subsection (10), the board may:

- (a) order the railway company to enter into an agreement with the interested person to effect the transfer and to deal with matters respecting operating arrangements for the interchange of traffic if the board is satisfied that:
  - (i) the railway company is not negotiating in good faith; and
  - (ii) a sale, lease or other transfer of the railway line or the part of the railway line, or the company's operating interest in the railway line or the part of the railway line, to the interested person for continued operation would be commercially fair and reasonable to the parties; or

(b) dismiss the application and order that the railway company is no longer required to negotiate with the interested person if the board is satisfied that the interested person is not negotiating in good faith.

(12) In an order made pursuant to clause (11)(a), the board may:

(a) specify the terms and conditions to be included in an agreement, including consideration to be provided with respect to the transfer or operating arrangements; and

(b) set the period within which the parties must reach an agreement.

**“Sale of railway line to government**

**22.2(1)** In this section, ‘**council**’ means the council of a municipality in which the railway line or the part of the railway line to be dismantled is located.

(2) If a railway company decides to make a written offer pursuant to clause 22.1(7)(b), the railway company shall send the written offer to the minister and every council.

(3) Subject to subsection (5), the minister shall, within 30 days after the day on which the minister receives the written offer, accept or decline the written offer.

(4) If the railway company and the minister are unable to agree on the net salvage value, either party may apply to the Court of Queen’s Bench to determine the net salvage value of the railway line or the part of the railway line.

(5) If an application is made pursuant to subsection (4), the minister shall, within 30 days after the day on which the minister and railway company are notified of the Court of Queen’s Bench order determining the net salvage value, accept or decline the written offer.

(6) If the minister does not accept the written offer within the 30-day period mentioned in subsection (3) or (5):

(a) the minister shall advise in writing every council; and

(b) a council may accept the written offer.

(7) Subject to subsection (10), an acceptance mentioned in subsection (6) must be made within 30 days after the day on which the 30-day period mentioned in subsection (6) expires.

(8) If the railway company and a council are unable to agree on the net salvage value of the railway line or the part of the railway line and no determination of the net salvage value was made by the Court of Queen's Bench pursuant to subsection (4), either party may apply to the board to determine the net salvage value of the railway line or the part of the railway line.

(9) On an application pursuant to subsection (8), the board shall determine the net salvage value within 45 days after the day on which the board receives the application or within any further period that the board considers appropriate.

(10) If an application is made pursuant to subsection (8), the council shall, within 30 days after the day on which the council and railway company are notified of the board's determination of the net salvage value, accept or decline the written offer”.

**Coming into force**

**3** This Act comes into force on assent.