Canadian Transportation Accident Investigation and Safety Board Act

1989, c. 3

C-23.4

[Assented to June 29th, 1989]

An Act to establish the Canadian Transportation Accident Investigation and Safety Board and to amend certain Acts in consequence thereof

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. This Act may be cited as the Canadian Transportation Accident Investigation and Safety Board Act.

INTERPRETATION

2. In this Act,

"aircraft" «aéronef »

"aircraft" means any machine, including a rocket, capable of deriving support in the atmosphere from reactions of the air, other than a machine designed to derive support in the atmosphere from reactions against the earth’s surface of air expelled from the machine;

"aviation occurrence" «accident aéronautique »

"aviation occurrence" means

(a) any accident or incident associated with the operation of an aircraft, and

(b) any situation or condition that the Board has reasonable grounds to believe could, if left unattended, induce an accident or incident described in paragraph (a);

"Board" «Bureau »

"Board" means the Canadian Transportation Accident Investigation and Safety Board established by section 4;

"Chairperson" «président »

"Chairperson" means the Chairperson of the Board;

"commodity pipeline" [Repealed, 1998, c. 20, s. 1]

"commodity pipeline occurrence" [Repealed, 1998, c. 20, s. 1]

"coroner" «coroner »

"coroner" includes any

(a) medical examiner, or

(b) other person

carrying out the duties and functions of a coroner;

"department" «ministère »

"department" means
(a) any department of the Government of Canada, including the Minister responsible therefor and any person acting on behalf of the Minister,

(b) any body listed in the schedule, and

(c) any fact-finding authority, body or person established or appointed by any such department, Minister, person or body;

"Department of National Defence"
«ministère de la Défense nationale »
"Department of National Defence" includes

(a) the Minister of National Defence and any person acting on behalf of the Minister of National Defence, and

(b) any fact-finding authority, body or person established or appointed by the Department of National Defence, the Minister of National Defence or a person acting on behalf of the Minister of National Defence;

"dynamically supported craft"
«engin à portance dynamique »
"dynamically supported craft" means a craft that is designed, used or capable of being used solely or partly for marine navigation and that possesses either of the following characteristics:

(a) the weight, or a significant part thereof, is balanced in one mode of operation by forces other than hydrostatic forces, or

(b) the craft is able to operate at speeds such that the function $v/\sqrt{gL}$ is equal to or greater than 0.9, where $v$ is the maximum speed, $L$ is the waterline length and $g$ is the acceleration due to gravity, all in consistent units;

"investigator"
«enquêteur »
"investigator" means a person referred to in paragraph 10(1)(a) or (b);

"marine occurrence"
«accident maritime »
"marine occurrence" means

(a) any accident or incident associated with the operation of a ship, and

(b) any situation or condition that the Board has reasonable grounds to believe could, if left unattended, induce an accident or incident described in paragraph (a);

"member"
«membre »
"member" means a member of the Board;

"Minister"
«ministre »
"Minister" means the President of the Queen’s Privy Council for Canada;

"pipeline"
«pipeline »
"pipeline" means a pipeline that is used for the transportation of commodities and includes all branches, extensions, pumps, racks, compressors, loading facilities, storage facilities, reservoirs, tanks, preparation plants, separation plants, interstation systems of communication and property and works connected therewith;

"pipeline occurrence"
«accident de pipeline »
"pipeline occurrence" means

(a) any accident or incident associated with the operation of a pipeline, and

(b) any situation or condition that the Board has reasonable grounds to believe could, if left unattended, induce an accident or incident referred to in paragraph (a);

"railway"
«chemin de fer »
"railway" includes all branches, extensions, sidings, yards, stations, depots, wharfs, equipment, stores, signals, control systems, railway bridges, tunnels and other property, railway-related structures and facilities, and works connected therewith;

"railway occurrence"
“accident ferroviaire”
"railway occurrence” means

(a) any accident or incident associated with the operation of rolling stock on a railway, and

(b) any situation or condition that the Board has reasonable grounds to believe could, if left unattended, induce an accident or incident described in paragraph (a);

"rolling stock"
«matériel roulant »
"rolling stock" means every description of car or other railway equipment that is designed for movement on its wheels along a line of railway and, without limiting the generality of the foregoing, includes any locomotive, engine, track motor car, tender, snow-plough, flanger and railway crane that is so designed;

"ship”
«navire »
"ship” includes

(a) every description of vessel, boat or craft designed, used or capable of being used solely or partly for marine navigation without regard to method or lack of propulsion, and

(b) a dynamically supported craft;

"transportation occurrence”
«accident de transport »
"transportation occurrence” means an aviation occurrence, a railway occurrence, a marine occurrence or a pipeline occurrence.

1989, c. 3, s. 2; 1998, c. 20, ss. 1, 24(F), 25(E).

APPLICATION
Application

3. (1) This Act applies in respect of aviation occurrences
(a) in or over Canada;

(b) in or over any place that is under Canadian air traffic control; and

(c) in or over any other place, if

(i) Canada is requested to investigate the aviation occurrence by an appropriate authority, or

(ii) the aviation occurrence involves an aircraft in respect of which, or that is operated by a person to whom, a Canadian aviation document has been issued under Part I of the Aeronautics Act.

Idem

(2) This Act applies in respect of marine occurrences
(a) in Canada; and

(b) in any other place, including waters described in subsection (3), if

(i) Canada is requested to investigate the marine occurrence by an appropriate authority,

(ii) the marine occurrence involves a ship registered or licensed in Canada, or

(iii) a competent witness to, or person having information concerning a matter that may have contributed to, the marine occurrence arrives or is found at any place in Canada.

Application

(3) This Act also applies in respect of marine occurrences or pipeline occurrences related to an activity concerning the exploration or exploitation of the continental shelf.

Idem

(4) This Act applies in respect of railway occurrences and pipeline occurrences
(a) in Canada, if the railway or pipeline is within the legislative authority of Parliament; and
(b) outside Canada, if Canada is requested to investigate the occurrence by an appropriate authority.

(5) [Repealed, 1996, c. 31, s. 64]

Restrictions re national security

(6) The application of this Act, or any provision thereof, in respect of transportation occurrences referred to in subsection 18(3) is subject to such restrictions in the interests of national security as are provided by the National Defence Act or by regulations made under that Act or as the Governor in Council is hereby authorized to prescribe by order.

Act binding on Her Majesty

(7) This Act is binding on Her Majesty in right of Canada or a province.
1989, c. 3, s. 3; 1996, c. 31, s. 64; 1998, c. 20, ss. 2, 24, 25(E).

CANADIAN TRANSPORTATION ACCIDENT INVESTIGATION AND SAFETY BOARD
Board established

4. (1) There is hereby established a board to be known as the Canadian Transportation Accident Investigation and Safety Board, consisting of not more than five members appointed by the Governor in Council, at least three of whom shall be full-time members.

Qualifications of members

(2) The Governor in Council shall appoint as members persons who, in the opinion of the Governor in Council, are collectively knowledgeable about air, marine, rail and pipeline transportation.

Term of office

(3) A member shall be appointed to hold office during good behaviour for a term not exceeding seven years, but may be removed by the Governor in Council at any time for cause.

Re-appointment

(4) A member is eligible for re-appointment.

Continuity of membership

(5) In fixing a term of appointment or re-appointment, the Governor in Council shall endeavour to ensure, to the extent that it is practical to do so, that, notwithstanding periodic changes in the membership of the Board, it remains constituted at all times at least partly of persons who have had previous experience as members.

Remuneration and fees

(6) A full-time member shall be paid the remuneration, and a part-time member shall be paid the fees, that are fixed by the Governor in Council.

Expenses

(7) The members are entitled to be paid reasonable travel and living expenses incurred by them in the course of their duties under this Act while absent from, in the case of full-time members, their ordinary place of work and, in the case of part-time members, their ordinary place of residence.

Retirement pensions

(8) The full-time members are deemed to be employed in the public service for the purposes of the Public Service Superannuation Act.

Compensation

(9) The members are deemed to be employees for the purposes of the Government Employees Compensation Act and to be employed in the federal public administration for the purposes of any regulations made pursuant to section 9 of the Aeronautics Act.
1989, c. 3, s. 4; 1998, c. 20, ss. 3, 24; 2003, c. 22, ss. 224(E), 225(E).

Chairperson

5. (1) The Governor in Council shall designate one member to be the Chairperson of the Board.

Duties of the Chairperson

(2) The Chairperson is the chief executive officer of the Board and has exclusive responsibility for managing personnel matters, financial matters and property matters and for all other aspects of the internal management of the Board, including

(a) directing the staff and apportioning its work, subject to subsections 10(2) and (3);

(b) directing the members and apportioning their work, subject to section 8; and
(c) convening meetings in accordance with section 12 and presiding at meetings in accordance with any by-laws made under paragraph 8(1)(a).

Chairperson may delegate powers and duties

(3) The Chairperson may, subject to any limitations specified in the instrument of delegation,
(a) delegate to any member any power or duty of the Chairperson relating to
(i) convening or presiding at meetings, or
(ii) directing the members or apportioning their work; and

(b) delegate to the staff of the Board any power or duty of the Chairperson under this Act, except the matters described in paragraph (a).

Revocation

(4) A delegation under subsection (3) may be revoked in writing at any time by the Chairperson.

Absence or incapacity of Chairperson

(5) In the event of the absence or incapacity of the Chairperson, or if the office of Chairperson is vacant, a member designated, either before or after that absence, incapacity or vacancy, by the Governor in Council shall act as Chairperson during the continuance of that absence or incapacity or until a new Chairperson is designated.

1989, c. 3, s. 5; 1998, c. 20, s. 4(E).

Conflict of interest prohibited

6. (1) A member shall not, directly or indirectly, as owner, shareholder, director, officer, partner or otherwise,
(a) be engaged in a transportation undertaking or business, or
(b) have an interest in a transportation undertaking or business or an interest in the manufacture or distribution of transportation plant or equipment, except where the distribution is merely incidental to the general merchandising of goods,

and in this subsection, "transportation" means air, marine, rail or pipeline transportation.

Disposal of conflict of interest

(2) Where any interest referred to in subsection (1) vests in a member for the benefit of the member by gift, will, succession or otherwise, the interest shall, within three months after the vesting, be absolutely disposed of by that member.

Conflict of interest prohibited

(3) During the term of office of a member, in addition to the prohibitions described in subsection (1), the member shall not
(a) accept or hold any office or employment, or
(b) carry on any activity

inconsistent with the performance of the member's duties under this Act.

1989, c. 3, s. 6; 1998, c. 20, s. 24.

Object of the Board

7. (1) The object of the Board is to advance transportation safety by
(a) conducting independent investigations, including, when necessary, public inquiries, into selected transportation occurrences in order to make findings as to their causes and contributing factors;
(b) identifying safety deficiencies as evidenced by transportation occurrences;
(c) making recommendations designed to eliminate or reduce any such safety deficiencies; and
(d) reporting publicly on its investigations and on the findings in relation thereto.

Restriction
(2) In making its findings as to the causes and contributing factors of a transportation occurrence, it is not the function of the Board to assign fault or determine civil or criminal liability, but the Board shall not refrain from fully reporting on the causes and contributing factors merely because fault or liability might be inferred from the Board’s findings.

Idem

(3) No finding of the Board shall be construed as assigning fault or determining civil or criminal liability.

Findings not binding

(4) The findings of the Board are not binding on the parties to any legal, disciplinary or other proceedings.

1989, c. 3, s. 7; 1998, c. 20, s. 5.

Duties of members

8. (1) The members, at meetings convened in accordance with section 12,

(a) shall make by-laws respecting the conduct of business at meetings of the Board;

(b) shall establish policies respecting the classes of transportation occurrences to be investigated;

(c) shall establish, either generally or in relation to specific classes of transportation occurrences, policies to be followed in the conduct of investigations;

(d) shall review reports submitted to them by the Directors of Investigations mentioned in paragraph 10(1)(a) and, after such review, may require the Directors of Investigations to conduct further investigation with respect to any aspect of a transportation occurrence;

(e) shall determine the Board’s findings as to the causes and contributing factors of transportation occurrences;

(f) shall identify any safety deficiencies as evidenced by transportation occurrences; and

(g) shall make such recommendations as they consider appropriate.

Policies to be available to public

(2) The Board shall make available to the public any policies established pursuant to paragraph (1)(b) or (c).

1989, c. 3, s. 8; 1998, c. 20, s. 6.

Staff

9. (1) Such employees as are necessary for the proper conduct of the work of the Board shall be appointed in accordance with the Public Service Employment Act.

Technical assistance

(2) If a conflict of interest would not thereby be created, the Chairperson may engage on a temporary basis the services of persons having technical or specialized knowledge to assist the Board in carrying out its duties under this Act, and may pay them such remuneration and expenses as the Board, with the approval of the Treasury Board, may fix.

Directors of Investigations and other investigators

10. (1) From among the employees appointed under subsection 9(1), there shall be

(a) a Director of Investigations (Air), a Director of Investigations (Marine) and a Director of Investigations (Rail and Pipelines); and

(b) other investigators.

Powers of Directors of Investigations

(2) Each of the three Directors mentioned in paragraph (1)(a) has exclusive authority to direct the conduct of investigations on behalf of the Board under this Act in relation to aviation occurrences, marine occurrences, and railway and pipeline occurrences, respectively, but

(a) the Directors’ authority under this subsection must be exercised in accordance with any policies established under paragraphs 8(1)(b) and (c); and

(b) the Directors shall report to the Board with respect to their investigations and shall conduct such further investigation as the Board requires under paragraph 8(1)(d).

Role of other investigators
(3) The investigators mentioned in paragraph (1)(b) shall assist the Directors of Investigations in the conduct of investigations.

Certificates of appointment

(4) The Chairperson shall provide each person mentioned in paragraphs (1)(a) and (b) with a certificate of appointment.

1989, c. 3, s. 10; 1998, c. 20, ss. 7, 25(E).

Status of Board

11. (1) The Board is a body corporate and is for all purposes an agent of Her Majesty, and the duties and powers of the Board under this Act may be exercised only as an agent of Her Majesty.

Contracts

(2) Contracts shall be entered into by the Chairperson on behalf of the Board, either in the name of Her Majesty or in the name of the Board.

Property

(3) Property acquired by the Board is the property of Her Majesty and title thereto may be vested in the name of Her Majesty or in the name of the Board.

Legal proceedings

(4) Actions, suits or other legal proceedings in respect of any right or obligation acquired or incurred by the Board on behalf of Her Majesty, whether in its name or in the name of Her Majesty, may be brought or taken by or against the Board in the name of the Board in any court that would have jurisdiction if the Board were not an agent of Her Majesty.

Chairperson to convene meetings

12. (1) The Chairperson shall convene meetings of the Board whenever the work of the Board so requires or whenever the Chairperson is requested in writing to do so by two or more other members, and the Chairperson shall preside at the meetings.

(2) [Repealed, 1998, c. 20, s. 8]

1989, c. 3, s. 12; 1998, c. 20, s. 8.

Head office

13. (1) The head office of the Board shall be in the National Capital Region as described in the schedule to the National Capital Act.

Audit

(2) The accounts and financial transactions of the Board shall be audited annually by the Auditor General of Canada and a report of the audit shall be made to the Chairperson and to the Minister, who shall cause the report to be laid before each House of Parliament on any of the first twenty days on which that House is sitting after the Minister receives the report.

Annual report

(3) The Board shall report to Parliament through the Minister on its activities, findings and recommendations for each fiscal year and, for that purpose,

(a) the Board shall submit its report to the Minister within three months after the end of each fiscal year; and

(b) the Minister shall cause the report to be laid before each House of Parliament on any of the first twenty days on which that House is sitting after the Minister receives the report.

Fiscal year

(3.1) The fiscal year of the Board begins on April 1 in one year and ends on March 31 in the next year.

Reference to committee

(4) The report laid before Parliament pursuant to subsection (3) stands permanently referred to any committee of Parliament established to review matters relating to transportation.

1989, c. 3, s. 13; 1998, c. 20, s. 9.

INVESTIGATIONS AND PUBLIC INQUIRIES

Jurisdiction of Board

14. (1) Notwithstanding any other Act of Parliament but subject to section 18, the Board may, and if so requested by the Governor in Council shall, investigate any transportation occurrence for the purpose of carrying out the object of the Board.
Request by a department or province

(2) Subject to section 18, the Board may investigate a transportation occurrence where a department, the lieutenant governor in council of a province or the Commissioner of the Northwest Territories or Nunavut, or the Commissioner of Yukon with the consent of the Executive Council of that territory, requests the Board to investigate and undertakes to be liable to the Board for any reasonable costs incurred by the Board in the investigation.

Exclusive jurisdiction of Board

(3) Notwithstanding any other Act of Parliament,
(a) no department, other than the Department of National Defence, may commence an investigation into a transportation occurrence for the purpose of making findings as to its causes and contributing factors if

(i) that transportation occurrence is being or has been investigated by the Board under this Act, or

(ii) the department has been informed that that transportation occurrence is proposed to be investigated by the Board under this Act; and

(b) where an investigation into a transportation occurrence is commenced by the Board under this Act after an investigation into that transportation occurrence has been commenced by a department, other than the Department of National Defence, the department shall forthwith discontinue its investigation, to the extent that it is an investigation for the purpose of making findings as to the causes and contributing factors of the transportation occurrence.

Saving provision

(4) Nothing in subsection (3)
(a) prevents a department from commencing an investigation into or continuing to investigate a transportation occurrence for any purpose other than that of making findings as to its causes and contributing factors, or from investigating any matter that is related to the transportation occurrence and that is not being investigated by the Board; or

(b) prevents the Royal Canadian Mounted Police from investigating the transportation occurrence for any purpose for which it is empowered to conduct investigations.

Where Board does not investigate

(5) For greater certainty, where the Board does not investigate a transportation occurrence, no department is prevented from investigating any aspect of the transportation occurrence that it is empowered to investigate.

1989, c. 3, s. 14; 1993, c. 28, s. 78; 1998, c. 20, s. 10; 2002, c. 7, s. 130.

Coordination of investigations and remedial actions

15. (1) Where, at any time during an investigation into a transportation occurrence under this Act, a department other than the Department of National Defence investigates that transportation occurrence or undertakes remedial measures with respect to that transportation occurrence, the Board and the department shall take all reasonable measures to ensure that their activities with respect to that transportation occurrence are coordinated.

Conflicting interests

(2) Where conflicting interests arise between the Board and a department in co-ordinating their activities pursuant to subsection (1), the requirements and interests of the Board, subject to subsection (3) and any agreement entered into under section 17, take precedence and are paramount to the extent of the conflict.

Saving provision

(3) Nothing in subsection (2) gives the requirements and interests of the Board precedence over those of the Royal Canadian Mounted Police, or prevents a department from taking emergency remedial measures under any other Act of Parliament or any regulations made thereunder.

Agreements with provinces

15.1 (1) The Board may enter into an agreement with a province concerning the exercise by the Board of powers and functions relating to investigations into transportation accidents, incidents and situations or conditions that could, if left unattended, induce an accident or incident that are within the legislative authority of the province. The agreement must provide that the province undertakes to be liable to the Board for any reasonable costs incurred by the Board in the investigation.

Limitation

(2) Under an agreement with a province, the Board shall only exercise powers and functions compatible with section 7 and all other provisions of this Act.

1998, c. 20, s. 11.
Compatible procedures and practices

16. The Board shall take all reasonable measures to ensure that the investigation procedures and practices that it follows in relation to transportation occurrences are compatible with

(a) any international agreements or conventions to which Canada is a party, and

(b) investigation procedures and practices followed by coroners in the provinces and by regulatory bodies established to administer petroleum activities in offshore areas,

and the Board shall make all reasonable efforts to enter into agreements with the governments of the provinces and with those regulatory bodies in order to ensure that the procedures and practices followed by the Board are as compatible as possible with those followed by coroners in the provinces and by those regulatory bodies.

1989, c. 3, s. 16; 1998, c. 20, s. 12.

Agreements

17. The Board shall make all reasonable efforts to enter into agreements with Ministers responsible for departments

(a) providing for the coordination of activities between the Board and departments with respect to transportation occurrences, including investigation procedures and practices and requirements for reporting transportation occurrences; and

(b) providing for procedures to be followed in the event that conflicting interests arise between the Board and a department during their activities with respect to transportation occurrences.

Definitions

18. (1) In this section, "civil transportation facility"
«installation de transport civile »
"civil transportation facility" means

(a) an installation designed or used to facilitate the operation or maintenance of an aircraft or ship,

(b) a railway, or

(c) a pipeline

that is not a military transportation facility;

"military conveyance"
«moyen de transport militaire »
"military conveyance" means an aircraft, ship, rolling stock, motor vehicle or any other machine designed for movement from place to place, that is operated by or on behalf of the Department of National Defence, the Canadian Forces or a visiting force;

"military transportation facility"
«installation de transport militaire »
"military transportation facility" means

(a) an installation designed or used to facilitate the operation or maintenance of an aircraft, ship, motor vehicle or any other machine designed for movement from place to place,

(b) a railway, or

(c) a pipeline

that is operated by or on behalf of the Department of National Defence, the Canadian Forces or a visiting force;

"visiting force"
«force étrangère présente au Canada »
"visiting force" means a visiting force as defined in section 2 of the Visiting Forces Act.

Military conveyance or military transportation facility

(2) Subject to subsection (3), the Board shall not investigate a transportation occurrence that involves a military conveyance or military transportation facility.
Where Board may investigate

(3) The Board may investigate a transportation occurrence that involves
(a) a military conveyance and an aircraft, ship or rolling stock none of which is a military conveyance;
(b) a military conveyance and a civil transportation facility; or
(c) a military transportation facility and an aircraft, ship or rolling stock none of which is a military conveyance.

Investigations to be co-ordinated

(4) Where a transportation occurrence referred to in subsection (3) is being investigated by the Board and by the
Department of National Defence, the Canadian Forces or a visiting force, the Board and the Minister of National Defence
shall take all reasonable measures to ensure that the investigations are coordinated.
1989, c. 3, s. 18; 1998, c. 20, s. 24.

Powers of investigators

19. (1) Where an investigator believes on reasonable grounds that there is, or may be, at or in any place, any thing
relevant to the conduct of an investigation of a transportation occurrence, the investigator may, subject to subsection (2),
enter and search that place for any such thing, and seize any such thing that is found in the course of that search.

Conditions for exercise of powers under subsection (1)

(2) An investigator shall not exercise the powers referred to in subsection (1) in relation to a particular place without the
consent of the person apparently in charge of that place unless
(a) those powers are so exercised in relation to that place under the authority of a warrant, or
(b) by reason of exigent circumstances, it would not be practical for the investigator to obtain a warrant.

Issue of warrant authorizing exercise of powers under subsection (1)

(3) Where a justice of the peace is satisfied by information on oath that an investigator believes on reasonable grounds
that there is, or may be, at or in any place, any thing relevant to the conduct of an investigation of a transportation
occurrence, the justice may, on ex parte application, issue a warrant signed by the justice authorizing the investigator to
enter and search that place for any such thing and to seize any such thing found in the course of that search.

Warrants may be obtained by telephone, etc.

(4) The procedure set out in section 487.1 of the Criminal Code applies in relation to the obtaining of warrants under this
section, subject to regulations made under paragraph 34(1)(h).

Power to test things seized, etc.

(5) Where any thing is seized by an investigator under subsection (1), the investigator
(a) may, subject to paragraph (b), cause such tests, including tests to destruction, to be conducted on the thing as are
necessary for the purposes of the investigation in respect of which the thing was seized;
(b) shall, to the extent that it is practical and safe to do so and does not unreasonably impede the progress of the
investigation,
(i) take all reasonable measures to invite the owner of the thing, and any person who appears on reasonable grounds to
be entitled to it, to be present at any tests referred to in paragraph (a), and
(ii) allow persons referred to in subparagraph (i) to be present at those tests; and
(c) subject to the need to conduct such tests, shall cause the thing to be preserved pending its return in accordance with
section 20.

Power to exclude persons from particular areas

(6) An investigator may, for the purposes of preserving and protecting any thing involved or likely to have been involved in
a transportation occurrence, whether or not the thing has been seized under this section, prohibit or limit access to the
area immediately surrounding the place at which the thing is located for such period as is necessary for the purposes of
the investigation of the transportation occurrence.

Disruption to be minimized

(7) In exercising the power conferred by subsection (6), an investigator shall have regard to the desirability of minimizing
any resulting disruption to transportation services.

Offence in respect of exclusion order
(8) No person shall knowingly enter an area in contravention of a prohibition or limitation of access pursuant to subsection (6).

Additional powers of investigators

(9) An investigator who is investigating a transportation occurrence may

(a) where the investigator believes on reasonable grounds that a person is in possession of information relevant to that investigation,

(i) by notice in writing signed by the investigator, require the person to produce the information to the investigator or to attend before the investigator and give a statement referred to in section 30, under oath or solemn affirmation if required by the investigator, and

(ii) make such copies of or take such extracts from the information as the investigator deems necessary for the purposes of the investigation;

(b) where the investigator believes on reasonable grounds that the medical examination of a person who is directly or indirectly involved in the operation of an aircraft, ship, rolling stock or pipeline is, or may be, relevant to the investigation, by notice in writing signed by the investigator, require the person to submit to a medical examination;

(c) where the investigator believes on reasonable grounds that a physician or other health practitioner has information concerning a patient that is relevant to that investigation, by notice in writing signed by the investigator, require the physician or practitioner to provide that information to the investigator; or

(d) where the investigator believes on reasonable grounds that the performance of an autopsy on the body of a deceased person, or the carrying out of other medical examinations of human remains, is, or may be, relevant to the conduct of the investigation, cause such an autopsy or medical examination to be performed and, for that purpose, by notice in writing signed by the investigator, require the person having custody of the body of the deceased person or other human remains to permit the performance of that autopsy or that medical examination.

Persons to comply with requirements imposed under paragraph (9)(a), (c) or (d)

(10) No person shall refuse or fail to produce information to an investigator, or to attend before an investigator and give a statement, in accordance with a requirement imposed under paragraph (9)(a), or to provide information in accordance with a requirement imposed under paragraph (9)(c) or to make the body of a deceased person or other human remains available for the performance of an autopsy or medical examination in accordance with a requirement imposed under paragraph (9)(d).

Persons to comply with requirements imposed under paragraph (9)(b)

(11) No person shall refuse or fail to submit to a medical examination in accordance with a requirement imposed under paragraph (9)(b), but information obtained pursuant to such an examination is privileged and, subject to the power of the Board to make such use of it as the Board considers necessary in the interests of transportation safety, no person shall

(a) knowingly communicate it or permit it to be communicated to any person; or

(b) be required to produce it or give evidence relating to it in any legal, disciplinary or other proceedings.

Certificate to be produced

(12) Before acting under this section, an investigator shall, on request, produce the investigator’s certificate of appointment to any person in relation to whom the investigator acts.

Meaning of medical examination for certain purposes

(13) The requirement under subsection (9) that a person submit to a medical examination shall not be construed as a requirement that the person submit to any procedure involving surgery, perforation of the skin or any external tissue or the entry into the body of any drug or foreign substance.

Idem

(14) Nothing in this section shall be taken

(a) to imply that a thing seized pursuant to subsection (1) may not be an aircraft, a ship, an item of rolling stock or a pipeline, or any part thereof; or

(b) to authorize the exercise of a power by an investigator in circumstances where the exercise of that power would be inconsistent with section 18.

Use of force

(15) In executing a warrant under this section, an investigator shall not use force unless the investigator is accompanied by a peace officer and the use of force is specifically authorized in the warrant.

Failure to produce document, etc.
Where an investigator has required a person to do something under paragraph (9)(a), (b), (c) or (d) and the person has refused to do as required, the investigator may make an application to the Federal Court or a superior court of a province setting out the facts, and the court may inquire into the matter and, after giving the person an opportunity to comply with the requirement, take steps for the punishment of the person as if the person had been guilty of contempt of the court, or may make such other order as it finds appropriate.

Definitions

(16) In this section,
“document” [Repealed, 1998, c. 20, s. 13]

“information”
«renseignement »
“information” includes a record regardless of form and a copy of a record;

“place”
«lieu »
“place” includes
(a) an aircraft, a ship, rolling stock, any other vessel or vehicle and a pipeline, and
(b) any premises or any building or other structure erected on those premises.

1989, c. 3, s. 19; 1998, c. 20, ss. 13, 24.

Return of seized property

20. (1) Any thing seized pursuant to section 19, except recordings as defined in subsection 28(1), shall, unless
(a) the owner thereof or a person who appears on reasonable grounds to be entitled thereto consents otherwise in writing, or
(b) a court of competent jurisdiction orders otherwise,
be returned to that owner or person, or to the person from whom it was seized, as soon as possible after it has served the purpose for which it was seized.

Application for return

(2) A person from whom any thing was seized pursuant to section 19, except recordings as defined in subsection 28(1), or the owner or any other person who appears on reasonable grounds to be entitled thereto, may apply to a court of competent jurisdiction for an order that the seized thing be returned to the person making the application.

Order for return

(3) Where, on an application under subsection (2), the court is satisfied that the seized thing has served the purpose for which it was seized or should, in the interests of justice, be returned to the applicant, the court may grant the application and order the seized thing to be returned to the applicant, subject to any terms or conditions that appear necessary or desirable to ensure that the thing is safeguarded and preserved for any purpose for which it may subsequently be required by the Board under this Act.

Exception

(4) This section does not apply in respect of any thing seized and tested to destruction in accordance with subsection 19(5).

Public inquiry

21. (1) Where, in the course of an investigation of a transportation occurrence, the Board considers it necessary that a public inquiry be made into the transportation occurrence and the Governor in Council has not caused a public inquiry to be made under Part I of the Inquiries Act, the Chairperson may, subject to section 18, designate a person or persons, who may be or include the Chairperson, to conduct a public inquiry into that transportation occurrence in accordance with any regulations made under section 34 and to report to the Board thereon.

Powers of persons conducting a public inquiry

(2) Any person designated to conduct a public inquiry under subsection (1) has and may exercise the powers of a person appointed as a commissioner under Part I of the Inquiries Act, subject to any restrictions specified in the designation.

ADMINISTRATION

Notification of Board

22. (1) Where a department is notified of a transportation occurrence that the Board has the power to investigate under this Act, the department shall
(a) forthwith provide the Board with particulars of the transportation occurrence; and

(b) forthwith after complying with paragraph (a), advise the Board of any investigation that the department plans to conduct and of any remedial measures that the department plans to take.

Investigator as observer

(2) An investigator authorized by the Chairperson may attend as an observer at an investigation conducted by a department referred to in subsection (1) or during the taking of remedial measures by that department following a transportation occurrence.

Board may review and comment

(3) Subject to any other Act or law, the Board shall, on request, be provided with and may review and comment on any interim or final report prepared in respect of an investigation conducted by a department referred to in subsection (1).

Notification by Board

23. (1) Where the Board is notified of a transportation occurrence, it shall

(a) forthwith provide particulars of the transportation occurrence to any minister responsible for a department having a direct interest in the occurrence; and

(b) forthwith after complying with paragraph (a), advise the Ministers referred to in paragraph (a) of any investigation that it plans to conduct and the scope of the investigation.

Observers

(2) Subject to any conditions that the Board may impose, a person may attend as an observer at an investigation of a transportation occurrence conducted by the Board if the person

(a) is designated as an observer by the Minister responsible for a department having a direct interest in the subject-matter of the investigation;

(c) has observer status or is an accredited representative or an adviser to an accredited representative, pursuant to an international agreement or convention relating to transportation to which Canada is a party; or

(d) is invited by the Board to attend as an observer because, in the opinion of the Board, the person has a direct interest in the subject-matter of the investigation and will contribute to achieving the Board’s object.

Board may remove observer

(3) The Board may remove an observer from an investigation if the observer contravenes a condition imposed by the Board on the observer’s presence or if, in the Board’s opinion, the observer has a conflict of interest that impedes the conduct of the investigation.

Report made public

24. (1) On completion of any investigation, the Board shall prepare and make available to the public a report on its findings, including any safety deficiencies that it has identified and any recommendations that it considers appropriate in the interests of transportation safety.

Representations on draft report

(2) Before making public a report under subsection (1), the Board shall, on a confidential basis, send a copy of the draft report on its findings and any safety deficiencies that it has identified to each Minister and any other person who, in the opinion of the Board, has a direct interest in the findings of the Board, and shall give that Minister or other person a reasonable opportunity to make representations to the Board with respect to the draft report before the final report is prepared.

Confidentiality of draft report

(3) No person shall communicate or use the draft report, or permit its communication or use, for any purpose, other than the taking of remedial measures, not strictly necessary to the study of, and preparation of representations concerning, the draft report.

Manner of dealing with representations

(4) The Board shall

(a) receive representations made pursuant to subsection (2) in any manner the Board considers appropriate;

(b) keep a record of those representations;
(c) consider those representations before preparing its final report; and

(d) notify in writing each of the persons who made those representations, indicating how the Board has disposed of that person’s representations.

Protection of representations

(4.1) A representation is privileged, except for one made by a minister responsible for a department having a direct interest in the findings of the Board. Subject to other provisions of this Act or to a written authorization from the author of a representation, no person, including any person to whom access is provided under this section, shall knowingly communicate it or permit it to be communicated to any person.

Use by Board

(4.2) The Board may use representations as it considers necessary in the interests of transportation safety.

Making representations available to coroner

(4.3) If requested to do so by a coroner conducting an investigation into any circumstances in respect of which representations were made to the Board, the Board shall make them available to the coroner.

Prohibition of use

(4.4) Except for use by a coroner for the purpose of an investigation, no person shall use representations in any legal, disciplinary or other proceedings.

Notification of findings and recommendations

(5) The Board shall

(a) during its investigation of a transportation occurrence, notify forthwith in writing any minister or person who, in the opinion of the Board, has a direct interest in the findings of the Board of any of its findings and recommendations, whether interim or final, that, in the opinion of the Board, require urgent action; and

(b) on completion of its investigation of a transportation occurrence, notify forthwith in writing any minister or person who, in the opinion of the Board, has a direct interest in the findings of the Board of its findings as to the causes and contributing factors of the transportation occurrence, any safety deficiencies it has identified and any recommendations resulting from its findings.

Minister to reply to Board

(6) A Minister who is notified of the findings and recommendations of the Board under paragraph (5)(a) or (b) shall, within ninety days after being so notified,

(a) advise the Board in writing of any action taken or proposed to be taken in response to those findings and recommendations, or

(b) provide written reasons to the Board if no action will be taken or if the action to be taken differs from the action that was recommended,

and, in either case, the Minister shall make that reply available to the public.

Restrictions

(7) Where obligations are imposed on the Minister of National Defence under subsection (6), those obligations are subject to such restrictions in the interests of national security as are provided by the National Defence Act or by regulations made under that Act or as the Governor in Council is hereby authorized to prescribe by order.

Extension of time

(8) Where the Board is satisfied that a Minister is unable to reply to the Board within the period referred to in subsection (6), the period may be extended as the Board deems necessary.

1989, c. 3, s. 24; 1998, c. 20, s. 15.

Interim report to be provided

25. (1) The Board shall, on a confidential basis, provide an interim report on the progress and findings of an investigation

(a) on written request made in respect of that investigation, to any Minister responsible for a department having a direct interest in the subject-matter of the investigation; and

(b) to any coroner investigating the transportation occurrence, where the transportation occurrence involved a fatality and significant progress has been made in the Board’s investigation.

Interim report to be used for limited purpose only
(2) A person, other than a Minister, who is provided with an interim report under subsection (1) shall not use the report, or permit its use, for any purpose not strictly necessary to the examination of the report.
1989, c. 3, s. 25; 1998, c. 20, s. 16.

Power to reconsider

26. (1) The Board may, at any time, reconsider any of its findings and recommendations pursuant to an investigation that it has conducted under this Act, whether or not it has made public a report of those findings and recommendations.

Where Board must reconsider

(2) The Board shall reconsider its findings and recommendations pursuant to an investigation that it has conducted under this Act where, in its opinion, new material facts appear.

Board may delegate powers

27. (1) Subject to subsection (2), the Board may delegate to any person, subject to any limitations specified in the instrument of delegation, any of the powers conferred or duties imposed on the Board under this Act, other than

(a) the power of delegation under this subsection;

(b) the power to make regulations; and

(c) the power to make recommendations.

Revocation

(2) A delegation under subsection (1) may be revoked in writing at any time by the Board.

PRIVILEGE

Definition of “on-board recording”

28. (1) In this section, “on-board recording” means the whole or any part of

(a) a recording of voice communications originating from, or received on or in,

(i) the flight deck of an aircraft,

(ii) the bridge or a control room of a ship,

(iii) the cab of a locomotive, or

(iv) the control room or pumping station of a pipeline, or

(b) a video recording of the activities of the operating personnel of an aircraft, ship, locomotive or pipeline

that is made, using recording equipment that is intended to not be controlled by the operating personnel, on the flight deck of the aircraft, on the bridge or in a control room of the ship, in the cab of the locomotive or in a place where pipeline operations are carried out, as the case may be, and includes a transcript or substantial summary of such a recording.

Privilege for on-board recordings

(2) Every on-board recording is privileged and, except as provided by this section, no person, including any person to whom access is provided under this section, shall

(a) knowingly communicate an on-board recording or permit it to be communicated to any person; or

(b) be required to produce an on-board recording or give evidence relating to it in any legal, disciplinary or other proceedings.

Access by Board

(3) Any on-board recording that relates to a transportation occurrence being investigated under this Act shall be released to an investigator who requests it for the purposes of the investigation.

Use by Board

(4) The Board may make such use of any on-board recording obtained under this Act as it considers necessary in the interests of transportation safety, but, subject to subsection (5), shall not knowingly communicate or permit to be communicated to anyone any portion thereof that is unrelated to the causes or contributing factors of the transportation occurrence under investigation or to the identification of safety deficiencies.

Access by peace officers, coroners and other investigators
(5) The Board shall make available any on-board recording obtained under this Act to
(a) [Repealed, 1998, c. 20, s. 17]
(b) a coroner who requests access thereto for the purpose of an investigation that the coroner is conducting; or
(c) any person carrying out a coordinated investigation under section 18.

Power of court or coroner

(6) Notwithstanding anything in this section, where, in any proceedings before a court or coroner, a request for the
production and discovery of an on-board recording is made, the court or coroner shall
(a) cause notice of the request to be given to the Board, if the Board is not a party to the proceedings;
(b) in camera, examine the on-board recording and give the Board a reasonable opportunity to make representations with
respect thereto; and
(c) if the court or coroner concludes in the circumstances of the case that the public interest in the proper administration of
justice outweighs in importance the privilege attached to the on-board recording by virtue of this section, order the
production and discovery of the on-board recording, subject to such restrictions or conditions as the court or coroner
deems appropriate, and may require any person to give evidence that relates to the on-board recording.

Use prohibited

(7) An on-board recording may not be used against any of the following persons in disciplinary proceedings, proceedings
relating to the capacity or competence of an officer or employee to perform the officer’s or employee’s functions, or in
legal or other proceedings, namely, air or rail traffic controllers, marine traffic regulators, aircraft, train or ship crew
members (including, in the case of ships, masters, officers, pilots and ice advisers), airport vehicle operators, flight service
station specialists, persons who relay messages respecting air or rail traffic control, marine traffic regulation or related
matters and persons who are directly or indirectly involved in the operation of a pipeline.

Definition of “court”

(8) For the purposes of subsection (6), “court” includes a person or persons appointed or designated to conduct a public
inquiry into a transportation occurrence pursuant to this Act or the Inquiries Act.

1989, c. 3, s. 28; 1998, c. 20, s. 17.

Definition of “communication record”

29. (1) In this section, “communication record” means the whole or any part of any record, recording, copy, transcript or
substantial summary of
(a) any type of communications respecting air traffic control or related matters that take place between any of the following
persons, namely, air traffic controllers, aircraft crew members, airport vehicle operators, flight service station specialists
and persons who relay messages respecting air traffic control or related matters,
(b) any type of communications respecting rail traffic control or related matters that take place between any of the
following persons, namely, rail traffic controllers, train crew members, maintenance of way employees, signal maintainers,
vehicle operators and persons who relay messages respecting rail traffic control or related matters,
(c) any type of communications respecting marine traffic regulation or related matters that take place between any of the
following persons, namely, marine traffic regulators, persons designated under subsection 58(1) or section 76, 99 or 106
of the Canada Marine Act, ship crew members (including masters, officers, pilots and ice advisers), and staff of Coast
Guard radio stations, rescue coordination centres and subcentres and harbour master offices,
(d) any type of communications respecting maritime distress, maritime safety or related matters
(i) that take place between any of the following persons, namely, Coast Guard radio station operators, ship crew members
(including masters, officers, pilots and ice advisers), and staff of vessel traffic services centres, persons designated under
subsection 58(1) or section 76, 99 or 106 of the Canada Marine Act, rescue coordination centres and subcentres, harbour
master offices and ship agents’ offices, or
(ii) that take place between any person on shore and a ship via a Coast Guard radio station, or
(e) any type of communication respecting the operation of a pipeline that takes place between persons who are control
room personnel, pumping station personnel, operating personnel or members of a maintenance crew or an emergency
response crew.

(2) to (5) [Repealed, 1998, c. 20, s. 18]
A communication record obtained under this Act shall not be used against any person referred to in subsection (1) in any legal proceedings or, subject to any applicable collective agreement, in any disciplinary proceedings.

1989, c. 3, s. 29; 1998, c. 10, s. 167, c. 20, s. 18.

Interpretation

30. (1) For the purposes of this section and section 19,

(a) “statement” means

(i) the whole or any part of an oral, written or recorded statement relating to a transportation occurrence and given, by the author of the statement, to the Board, an investigator or any person acting for the Board or for an investigator,

(ii) a transcription or substantial summary of a statement referred to in subparagraph (i), or

(iii) conduct that could reasonably be taken to be intended as such a statement; and

(b) where a statement is privileged, the identity of its author is privileged to the same extent.

Statement privileged

(2) A statement is privileged, and no person, including any person to whom access is provided under this section, shall knowingly communicate it or permit it to be communicated to any person except as provided by this Act or as authorized in writing by the person who made the statement.

Use by Board

(3) The Board may make such use of any statement as it considers necessary in the interests of transportation safety.

Access by peace officers, coroners and other investigators

(4) The Board shall make statements available to

(a) [Repealed, 1998, c. 20, s. 19]

(b) a coroner who requests access thereto for the purpose of an investigation that the coroner is conducting; or

(c) any person carrying out a coordinated investigation under section 18.

Power of court or coroner

(5) Notwithstanding anything in this section, where, in any proceedings before a court or coroner, a request for the production and discovery of a statement is contested on the ground that it is privileged, the court or coroner shall

(a) in camera, examine the statement; and

(b) if the court or coroner concludes in the circumstances of the case that the public interest in the proper administration of justice outweighs in importance the privilege attached to the statement by virtue of this section, order the production and discovery of the statement, subject to such restrictions or conditions as the court or coroner deems appropriate, and may require any person to give evidence that relates to the statement.

Definition of “court”

(6) For the purposes of subsection (5), “court” includes a person or persons appointed or designated to conduct a public inquiry into a transportation occurrence pursuant to this Act or the Inquiries Act.

Use prohibited

(7) A statement shall not be used against the person who made it in any legal or other proceedings except in a prosecution for perjury or for giving contradictory evidence or a prosecution under section 35. 1989, c. 3, s. 30; 1998, c. 20, s. 19.

Reporting of transportation occurrences

31. (1) The Board may, subject to the approval of the Governor in Council, make regulations for the establishment and administration of systems for the mandatory or voluntary reporting to the Board of transportation occurrences or such classes thereof as are specified in the regulations.

Use of reports

(2) The Board may, subject to this section, make such use of any report made to it pursuant to regulations made under subsection (1) as it considers necessary in the interests of transportation safety.

Rules for protection of identity
(3) Regulations made under subsection (1) may include rules for the protection of the identity of persons who report transportation occurrences.

Certain information privileged

(4) Where the identity of a person who has made a report to the Board pursuant to regulations made under subsection (1) is protected by rules referred to in subsection (3), information that could reasonably be expected to reveal that identity is privileged, and no person shall
(a) knowingly communicate it or permit it to be communicated to any person; or
(b) be required to produce it or give evidence relating to it in any legal, disciplinary or other proceedings.

Use prohibited

(5) A report made to the Board under a voluntary reporting system established by regulations made under subsection (1) shall not be used against the person who made the report in any legal, disciplinary or other proceedings if the person's identity is protected by rules referred to in subsection (3).

EVIDENCE OF INVESTIGATORS

Appearance of investigator

32. Except for proceedings before and investigations by a coroner, an investigator is not competent or compellable to appear as a witness in any proceedings unless the court or other person or body before whom the proceedings are conducted so orders for special cause.

1989, c. 3, s. 32; 1998, c. 20, s. 20.

Opinions inadmissible

33. An opinion of a member or an investigator is not admissible in evidence in any legal, disciplinary or other proceedings.

1989, c. 3, s. 33; 1998, c. 20, s. 20.

REGULATIONS

Regulations

34. (1) The Board may, subject to the approval of the Governor in Council, make regulations
(a) prescribing the manner of exercising or carrying out any of its powers, duties and functions under this Act and, generally, for its efficient operation;
(b) respecting the keeping and preservation of records, documents and other evidence relating to transportation occurrences;
(c) respecting the attendance of interested persons at tests to destruction conducted under subsection 19(5);
(d) defining, for the purposes of an investigation, the site or sites of a transportation occurrence and prescribing rules for the protection of those sites;
(e) for defining the rights or privileges of persons attending investigations as observers or with observer status;
(f) respecting the tariff of fees and expenses to be paid to any witness attending at an investigation or at a public inquiry conducted under subsection 21(1) and the conditions under which a fee or expenses may be paid to any such witness;
(g) respecting the procedures and rules to be followed in conducting public inquiries under subsection 21(1);
(h) respecting the forms of warrants issued under section 19 and the modifications to be made to section 487.1 of the Criminal Code in its application to section 19; and

(i) generally for carrying out the purposes and provisions of this Act.

Amending schedule

(2) The Governor in Council may, by order, amend the schedule by deleting therefrom or adding thereto the name of any board, commission, body or office.

Publication of proposed regulations

(3) Subject to subsection (4), a copy of each regulation that the Board proposes to make under subsection (1) or section 31 shall be published in the Canada Gazette at least ninety days before the proposed effective date thereof, and a reasonable opportunity within those ninety days shall be afforded to interested persons to make representations to the Board with respect thereto.
Exceptions

(4) Subsection (3) does not apply in respect of a proposed regulation that
(a) has previously been published pursuant to that subsection, whether or not it has been changed as a result of
representations made pursuant to that subsection; or
(b) makes no substantive change to an existing regulation.

1989, c. 3, s. 34; 1998, c. 20, s. 21.

OFFENCES
Offences

35. (1) Every person who
(a) contravenes subsection 19(8), (10) or (11),
(b) without lawful excuse, wilfully resists or otherwise obstructs a member or an investigator in the execution of powers or
duties under this Act or the regulations,
(c) knowingly gives false or misleading information at any investigation or public inquiry under this Act, or
(d) makes a report pursuant to section 31 that the person knows to be false or misleading

is guilty of an indictable offence and liable on conviction to a term of imprisonment not exceeding two years, or is guilty of
an offence punishable on summary conviction.

Idem

(2) Every person who contravenes a provision of this Act or the regulations for which no punishment is specified is guilty
of an offence punishable on summary conviction.

1989, c. 3, s. 35; 1998, c. 20, s. 22.

Evidence

36. (1) Subject to subsections (2) and (3),
(a) a report purporting to have been signed by an investigator stating that the investigator has exercised any power
pursuant to section 19 and stating the results of the exercise of the power, or
(b) a document purporting to have been certified by an investigator as a true copy of or extract from a document produced
to the investigator pursuant to subsection 19(9)

is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official
character of the person appearing to have signed the report or certified the document and is, in the absence of evidence
to the contrary, proof of the statements contained in the report or proof of the contents of the document.

Notice

(2) No report or document shall be received in evidence under subsection (1) unless the party intending to produce it has,
at least seven days before producing it, served on the party against whom it is intended to be produced a notice of that
intention, together with a copy of the report or document.

Cross-examination

(3) The party against whom a report or document is produced under subsection (1) may require the attendance, for the
purposes of cross-examination, of the person who appears to have signed the report or certified the document as a true
copy or extract.

CONSEQUENTIAL AMENDMENTS AND REPEAL
37. to 57. [Amendments and repeal]

TRANSITIONAL
Canadian Aviation Safety Board

58. (1) Any matter that is in the course of being investigated, or that has been investigated, by the Canadian Aviation
Safety Board but on which the report has not been made by that Board when section 41 of this Act comes into force shall,
on the coming into force of section 41, subject to anything to the contrary in the policies established under paragraph 8(1)(
b), be taken up and continued by the Canadian Transportation Accident Investigation and Safety Board, without further
formality, as if it were, or had been, an investigation under this Act.

Privilege to continue
(2) Where, before the coming into force of section 41 of this Act, information was obtained by an investigator pursuant to paragraph 19( g) of the Canadian Aviation Safety Board Act, then, after and notwithstanding the coming into force of section 41 of this Act,
(a) subsection 20(3) of the Canadian Aviation Safety Board Act continues to apply in respect of that information; and
(b) “Board” in that subsection shall be read as “Canadian Transportation Accident Investigation and Safety Board”.

Idem

(3) Where a cockpit voice recording, as defined in section 32 of the Canadian Aviation Safety Board Act, was released to the Canadian Aviation Safety Board or to an investigator before the coming into force of section 41 of this Act, sections 32 to 35 of the Canadian Aviation Safety Board Act, except subsection 33(2), continue to apply in respect of that recording after and notwithstanding the coming into force of section 41 of this Act, and, for that purpose, in the Canadian Aviation Safety Board Act,
(a) “Board” in subsections 33(3) and 34(1) shall be read as “Canadian Transportation Accident Investigation and Safety Board”;
(b) subsection 33(4) shall be deemed to read as follows: “(4) The Canadian Transportation Accident Investigation and Safety Board shall make available any cockpit voice recording obtained under this Act to
(a) a peace officer authorized by law to gain access thereto;
(b) a coroner who requests access thereto for the purpose of an investigation that the coroner is conducting; or
(c) any person carrying out a co-ordinated investigation under section 18 of the Canadian Transportation Accident Investigation and Safety Board Act or designated as an observer by the Minister of Transport under subsection 23(2) of that Act.”; and
(c) “this Act” in subsection 34(2) shall be read as “the Canadian Transportation Accident Investigation and Safety Board Act”.

Idem

(4) Where an air traffic control recording, as defined in section 36 of the Canadian Aviation Safety Board Act, was released to the Canadian Aviation Safety Board or to an investigator before the coming into force of section 41 of this Act, section 36 of the Canadian Aviation Safety Board Act, except subsection (2) thereof, continues to apply in respect of that recording after and notwithstanding the coming into force of section 41 of this Act, and, for that purpose, in the Canadian Aviation Safety Board Act,
(a) in subsections 36(3) and (4), “Board” shall be read as “Canadian Transportation Accident Investigation and Safety Board”, and in subsection 36(3), “release” shall be read as “communicate” and “released” shall be read as “communicated”; and
(b) subsection 36(5) shall be deemed to read as follows: “(5) The Canadian Transportation Accident Investigation and Safety Board shall make available any air traffic control recording obtained under this Act to
(a) a peace officer authorized by law to gain access thereto;
(b) a coroner who requests access thereto for the purpose of an investigation that the coroner is conducting; or
(c) any person carrying out a co-ordinated investigation under section 18 of the Canadian Transportation Accident Investigation and Safety Board Act or designated as an observer by the Minister of Transport under subsection 23(2) of that Act.”.

Idem

(5) Where a statement, as defined in section 37 of the Canadian Aviation Safety Board Act, was obtained by the Canadian Aviation Safety Board or by an investigator before the coming into force of section 41 of this Act, sections 37 to 40 of the Canadian Aviation Safety Board Act continue to apply in respect of that statement after and notwithstanding the coming into force of section 41 of this Act, and, for that purpose, in the Canadian Aviation Safety Board Act,
(a) “Board” in subsection 38(2) shall be read as “Canadian Transportation Accident Investigation and Safety Board”;
(b) subsection 38(3) shall be deemed to read as follows: “(3) The Canadian Transportation Accident Investigation and Safety Board shall make available any statement obtained under this Act to
(a) a peace officer authorized by law to gain access thereto;
(b) a coroner who requests access thereto for the purpose of an investigation that the coroner is conducting; or
(c) any person carrying out a co-ordinated investigation under section 18 of the Canadian Transportation Accident Investigation and Safety Board Act or designated as an observer by the Minister of Transport under subsection 23(2) of that Act.”.
(c) any person carrying out a co-ordinated investigation under section 18 of the Canadian Transportation Accident Investigation and Safety Board Act or designated as an observer by the Minister of Transport under subsection 23(2) of that Act;

(c) “this Act” in subsection 39(2) shall be read as “the Canadian Transportation Accident Investigation and Safety Board Act”; and

(d) “section 43” in section 40 shall be read as “section 35 of the Canadian Transportation Accident Investigation and Safety Board Act”.

Idem

(6) Where, before the coming into force of section 41 of this Act, a person reported an aviation occurrence to the Canadian Aviation Safety Board pursuant to regulations made under subsection 41(1) of the Canadian Aviation Safety Board Act, then, after and notwithstanding the coming into force of section 41 of this Act,

(a) subsections 41(2), (4), (5) and (6) of the Canadian Aviation Safety Board Act continue to apply in respect of that report; and

(b) “Board” in subsection 41(2) of the Canadian Aviation Safety Board Act shall be read as “Canadian Transportation Accident Investigation and Safety Board”.

59. [Repealed, 1996, c. 10, s. 207]

Inquiries under section 40 of Railway Safety Act

60. For the sole purpose of enabling the completion under section 40 of the Railway Safety Act of an inquiry by a person, or by persons who include a person, who is appointed as an investigator under section 9 of this Act into, or into matters that include, the causes and contributing factors of an accident or loss of life or property occurring on a railway, where that inquiry was commenced but not completed before the day on which section 51 of this Act comes into force,

(a) that person continues to have the same powers and duties under the Railway Safety Act as the person had before the person’s appointment under this Act;

(b) the Canadian Transportation Accident Investigation and Safety Board shall make the services of that person available to the Minister of Transport; and

(c) that person shall be paid remuneration and expenses in respect of the performance of duties under the Railway Safety Act as if those duties were being performed under this Act.

Investigations under section 477 of Canada Shipping Act

61. (1) For the sole purpose of enabling the completion under section 477 of the Canada Shipping Act of an investigation by a person, or by persons who include a person, who is appointed as an investigator under section 9 of this Act into, or into matters that include, the causes and contributing factors of an accident on a ship, where the investigation was commenced but not completed before the day on which section 54 of this Act comes into force,

(a) that person continues to have the same powers and duties under the Canada Shipping Act as the person had before the person’s appointment under this Act;

(b) the Canadian Transportation Accident Investigation and Safety Board shall make the services of that person available to the Minister of Transport; and

(c) that person shall be paid remuneration and expenses in respect of the performance of duties under the Canada Shipping Act as if those duties were being performed under this Act.

Preliminary inquiries under section 480 of Canada Shipping Act

(2) For the sole purpose of enabling the completion under section 480 of the Canada Shipping Act of a preliminary inquiry by a person, or by persons who include a person, who is appointed as an investigator under section 9 of this Act into, or into matters that include, the causes and contributing factors of a shipping casualty, where the preliminary inquiry was commenced but not completed before the day on which section 55 of this Act comes into force,

(a) that person continues to have the same powers and duties under the Canada Shipping Act as the person had before the person’s appointment under this Act;

(b) the Canadian Transportation Accident Investigation and Safety Board shall make the services of that person available to the Minister of Transport; and
(c) that person shall be paid remuneration and expenses in respect of the performance of duties under the Canada Shipping Act as if those duties were being performed under this Act.

Staff

62. (1) Every indeterminate employee in the public service of Canada who is transferred to a position in the Canadian Transportation Accident Investigation and Safety Board from the public service of Canada within ninety days after the day on which this section comes into force is deemed to have been appointed to the Board in accordance with subsection 9(1).

Transfer of premises and supplies

(2) All premises and supplies that were assigned to the Canadian Aviation Safety Board, the Department of Transport and the National Transportation Agency as at March 28, 1990 and that were connected with their investigations into transportation occurrences at that time are deemed to have been assigned to the Canadian Transportation Accident Investigation and Safety Board, and all additional arrangements made necessary by this Act shall be made by the appropriate departments and other authorities.

1989, c. 3, s. 62; 1996, c. 10, s. 208.

63. [Repealed, 1998, c. 20, s. 23]

COMING INTO FORCE

Coming into force

*64. This Act or any provision thereof shall come into force on a day or days to be fixed by order of the Governor in Council.

* [Note: Act in force March 29, 1990, see SI/90-63.]

SCHEDULE

(Section 2 and subsection 34(2))

Canadian Nuclear Safety Commission

Commission canadienne de sûreté nucléaire

Canadian Transportation Agency

Office des transports du Canada

National Energy Board

Office national de l’énergie

National Research Council of Canada

Conseil national de recherches du Canada


AMENDMENT NOT IN FORCE

-- 2001, c. 26, s. 284:

284. Section 61 of the Canadian Transportation Accident Investigation and Safety Board Act is repealed.

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