



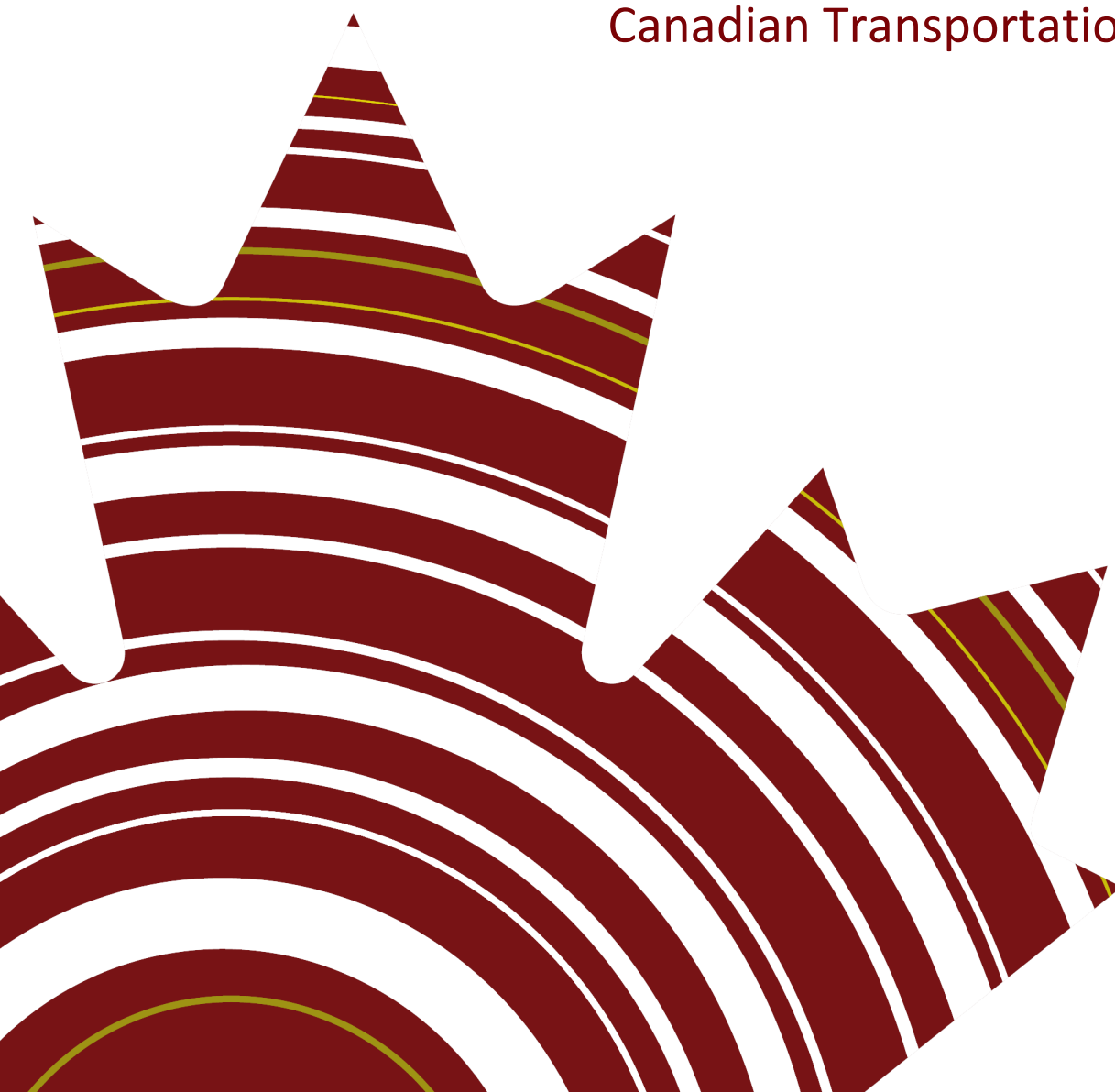
Canadian  
Transportation  
Agency

Office  
des transports  
du Canada

# Railway Crossings: A Guide

**For landowners, road authorities, utility companies,  
and federal railway companies**

Canadian Transportation Agency



Canada 

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[Alternate formats](#) are available. *Une [version française](#) est disponible.*

# 1. Introduction

This guide explains how to avoid and resolve disputes about railway crossings. It covers building, maintaining, and paying for a crossing, in two parts:

- Information for landowners who want to cross a railway line on or next to their land. This part of the guide explains:
  - the two different types of private crossings;
  - how to get a crossing and who pays for it;
  - how the Canadian Transportation Agency (CTA) can help resolve crossing disputes; and
  - how to apply to us for help.
- Information for road authorities, utility companies and railway companies (also referred to as railway) about road and utility crossings. This part of the guide explains:
  - how to create a road or utility crossing agreement;
  - the benefits of giving the CTA a copy of your agreement;
  - how the CTA can help resolve crossing disputes;
  - additional considerations; and
  - how to apply to us for help.

This guide covers crossings over [federal railway](#) lines in Canada. Parts of the guide may apply to crossings over provincial short lines, if a province has agreed to apply federal law to its railways. Currently, this is the case in Ontario and British Columbia. Information about construction and maintenance costs may vary in those cases.

## Terms used in this guide

Term	Definition
<b>Landowner</b>	An owner of a parcel of land that has a railway line on or next to it.
<b>Private crossing</b>	A road or other way across a railway line that is on or next to a parcel of land.
<b>Road authority</b>	A municipal government, a provincial department of highways or any other authority responsible for public roads.
<b>Road crossing</b>	A road or other way across a railway line that is on or next to a parcel of land.
<b>Utility company</b>	A municipal or provincial body, or a corporation, that moves goods, energy or services through wires, cables, pipelines or similar means. Examples include hydro and telecommunication companies.
<b>Utility crossing</b>	A wire, cable, pipeline or similar means of moving utilities that crosses a railway line. This can include water and sewage pipes.
<b>Parties</b>	Those involved in a crossing agreement or crossing dispute – for example, the railway company and the road authority, or the railway company and the landowner.
<b>Cost apportionment</b>	How parties divide the building, maintenance, or other costs related to a crossing.

## 2. Private crossings

This part of the guide is for landowners who want to cross a railway line that is on, or next to, their land. Railway companies will also have an interest in this section. Road authorities and utility companies should go to [Part 3](#).

### Getting a crossing

There are two situations in which a landowner may be able to get a private crossing.

- When the railway line was built, it split a single parcel of land in two and there is no way to get from one side to the other without a crossing. Landowners in this situation must be able to prove it. If they have enough proof, they can ask the railway company to build and maintain a suitable crossing. In this situation, the railway company pays the costs.
- Building the line did not split the land, or the landowner does not have proof that it did. However, the landowner needs a crossing to get to or use their land. In these cases, the landowner can ask the railway company to build a suitable crossing. In this situation, the landowner pays the costs.

If you are in the first situation above, the crossing you want is called a "Section 102" Crossing. If you are in the second situation, it is called a "Section 103" Crossing. These section names come from the *Canada Transportation Act*.

In either case, your first step should always be to contact the railway company and negotiate with them for a suitable crossing. You and the railway may be able to agree. You should discuss construction, maintenance and any other issues related to the crossing you want.

## Proving you should have a Section 102 Crossing

To get a Section 102 Crossing, you need proof about the history of your land and the railway line. For example:

- You need proof that the railway line that divides your land was built after 1888. This is the year the law started making railway companies build these types of crossings for landowners. In past cases, the CTA has said the railway does not have to build or pay for the crossing if the line was built before 1888.
- The land on both sides of the line must always have been owned as a single parcel since the time the line was built. Normally, one side must never have been sold off, by itself. You would need to prove this.

We can help you understand more about the proof you need. Even if you do not have enough proof to get a Section 102 Crossing, you can still try to get a Section 103 Crossing, if you are willing to pay for it.

## Help with disputes

If you want a crossing, but you and the railway cannot agree – or you have a crossing, but a dispute has come up – you can ask the CTA for help. We resolve disputes about building, maintaining and paying for crossings. This can include altering or rebuilding crossings.

You could start with our fastest, most informal services ([facilitation](#) or [mediation](#)).

Under this option, we would work with you and the railway, often by phone, to help you reach an agreement. This is how we resolve the vast majority of disputes we receive.

If informal means do not work, or you prefer a formal approach, you can ask [CTA Members](#) to settle the dispute. Members are our decision-makers and are similar to judges. Under this option, you must apply in writing with information about the dispute, and one or more Members will consider your application and make a decision. They could:

- order the railway to build you a crossing;
- decide what a suitable crossing is, in your particular case;
- decide who is responsible for maintaining the crossing; and/or
- in some cases, set other terms and conditions.

This formal process is called [adjudication](#). When it involves private crossings, all owners of the land usually have to apply together. The railway would have a chance to comment on your application and give its side of the dispute, as Members consider both sides before making a decision. The full process may take several months.

### **What is a suitable crossing?**

CTA Members will only order a crossing to be built if they decide it is suitable. This means that it is fit for the purpose you want to use it for.

Members will consider different factors to decide whether your proposed private crossing is suitable. For example, they usually look at how the crossing will affect you and affect the railway.

Safety is also an important factor. If you are asking for a new crossing, Members will ask Transport Canada (TC) for comments, because TC, and not the CTA, sets safety standards for crossings.

For more information on crossing safety, visit TC's [webpage on private crossings](#). If you have or get a crossing, you must always meet your safety obligations.

## **How to contact us**

To find out what kind of crossing case you may have, or ask us about facilitation or mediation, call our rail help line at 1-877-850-7148.

To ask CTA Members to settle your dispute, send us an application in writing. It must include all the information shown in [Annex A](#). You can email it to [secretariat@otc-cta.gc.ca](mailto:secretariat@otc-cta.gc.ca), or fax it to 1-819-953-5253.



# 3. Road and utility crossings

This part of the guide is for road authorities, utility companies, and railway companies. Landowners interested in private crossings should go to [Part 2](#).

## Crossing agreements

Parties interested in a road or utility crossing should always try to agree on building and maintenance issues. For example, if you are a road authority interested in a new crossing, your first step should be negotiating with the railway company that owns or operates the railway line. This is also the first step if you already have a crossing, but want to discuss upkeep, modifications or reconstruction.

Parties can negotiate any issue related to a crossing. For proposed new road or utility crossings, we suggest signing a formal agreement that covers the following issues:

- the location and purpose of the crossing;
- a description of the crossing and related work;
- crossing design and materials (including material standards);
- plans or drawings (done to scale, signed and dated);
- maintenance, including:
- planned or possible alterations to the crossing;
- the advance notice to be given and process to be followed if work is done on, or affecting, the crossing; and
- who will supervise such work;
- costs (for example, which party is covering the costs, or how the parties will apportion those costs, including the cost of construction, maintenance, restoration, or any of the above issues); and
- any other crossing-specific issues.

You can also negotiate amendments to agreements you already have. These may cover any or all of the above subjects.

## Putting your agreement on record

Parties that sign a crossing agreement or amendment may choose to give the CTA a copy. Either party can send us the document, but it must be signed by both parties. The signatures are proof that both parties consented to make or change the agreement.

There are benefits to sending us your agreement or amended agreement. We keep it on record in case there are any future disputes about it, and we can enforce it as if it were a CTA order, if either party asks us to.

## Help with disputes

If you and the other party have tried to negotiate, but cannot agree on a proposed road or utility crossing or related work, you can ask the CTA for help. We resolve disputes about crossing construction, maintenance and related costs. This can include disputes about modifying or reconstructing a crossing.

We also help parties who have successfully negotiated and signed crossing agreements, but later find themselves disagreeing. In these cases, we can help if the dispute is about enforcing the agreement or about a construction, maintenance or cost issue not covered by the agreement.

You could start by using our [facilitation](#) or [mediation](#) services. This is the fastest and least adversarial option. Either party can ask us to facilitate or mediate the dispute, and we will work with both of you, often by phone, to help you reach an agreement. We resolve the majority of disputes we receive through these informal methods.

If informal means do not work, or you prefer a more formal process, we also offer [adjudication](#). Under this option, the party that wants the crossing built, or maintained in a certain way, applies to us if they and the other party cannot agree. One or more [CTA Members](#) – our decision-makers, who are similar to judges – will consider the application and make a decision. This could include:

- ordering the crossing to be built;
- ordering maintenance work, modifications, or reconstruction; and/or
- ruling on other issues the parties cannot agree on.

If the dispute is about costs, Members could also decide who will pay for what. They have the power to apportion costs related to constructing, altering, or maintaining a road or utility crossing. They can also apportion costs related to other railway work that could come up in a crossing dispute, such as some safety feature costs.

Either party can request adjudication. Where the dispute concerns costs, you can apply even if work on the crossing, or the other railway work, has already started or is finished.

### **Disputes over issues in a signed agreement**

You may have a signed crossing agreement that covers a wide range of subjects. The CTA only settles disputes related to construction, maintenance, and costs (including modifications and reconstruction). Members will not usually consider other issues your agreement may cover, such as liability.

Members do not generally hear cases where one party's goal is to change the signed agreement. Only the parties to the agreement can amend it. Members will only rule on disputes about the existing agreement provisions if they relate to construction, maintenance, or costs.

# Considerations

CTA Members do not automatically approve road and utility crossing projects. If you have asked them to adjudicate your dispute, they will carefully review it and weigh all available evidence. They do this through a structured process that invites each party to present arguments and information. Members hear both sides before making a decision, and the entire process may take several months.

While Members work on a case-by-case basis, you can expect them to consider:

- whether a proposed road or utility crossing is suitable; and
- if costs are part of the dispute, any factors that would help them apportion the costs fairly, such as:
- which party created the need for the work to be done; and
- the relative benefits each party stands to gain.

## What is a suitable crossing?

Members consider a range of factors when deciding whether a crossing is suitable. Here are some factors they consider in road crossing cases:

- how the crossing would affect railway operations. This includes whether there would be an increase in railway noise and vibration;
- how the crossing might affect the safety of people and property. Suitability always includes an element of safety;
- other impacts, if any, on people in the area;
- whether there are technical issues that would affect construction.

Members may also look at other factors, such as:

- how much train and vehicle traffic there would be at the proposed crossing;
- what other traffic would use the crossing (including pedestrians, cyclists, vulnerable road users, emergency services and school buses);
- the maximum allowed speed for trains and vehicles at the location;
- the number of railway tracks and road lanes at the location;
- the type of traffic carried by trains in the area (for example, passengers, freight, dangerous goods)
- whether there are problems with blocked crossings in the area; and
- past collisions at the crossing location, or the potential for future collisions there.

If your case involves crossing construction, Members will send your application to Transport Canada (TC) for its views about the crossing's safety. The CTA has an [agreement](#) with TC about this, because TC – and not the CTA – sets safety standards for crossings. TC's feedback on your proposed road or utility crossing is therefore very important.

### **More on crossing safety**

Parties responsible for a road or utility crossing have a legal obligation to keep the crossing safe. CTA decisions do not change this fact. Whether Members order or allow you to build, maintain, modify or reconstruct a crossing, you must always meet your safety obligations.

We encourage you to visit Transport Canada's website page to learn more. The site includes:

- information on [rail safety](#), with links to crossing regulations;
- [contact information](#) for Transport Canada offices across Canada; and
- updates on safety [funding](#) that may be available for crossing projects.

## **How to contact us**

To ask us to facilitate or mediate your road or utility crossing dispute, or learn more about those services, call our rail help line at 1-877-850-7148.

To ask Members to settle your dispute through adjudication, send us an application in writing. It must include all information in [Annex B](#). You can email it to [secretariat@otc-cta.gc.ca](mailto:secretariat@otc-cta.gc.ca) or fax it to 1-819-953-5253.

# Annex A – Application Information for Landowners

If you are applying to have CTA Members settle your dispute with the railway company about a private crossing, you must send us the following information.

## 1. Application

- A document with the title: "Application (Rail Crossing)". Inside this document, you should:
  - Give us your name, complete address, phone number, and email and fax number, if any;
  - Tell us whether you are applying for a Section 102 Crossing or a Section 103 Crossing. (We explain the two types in [Part 2](#) of this guide);
  - Explain why you need the crossing and how it will be used;
  - Tell us which railway company owns or operates the line you want to cross;
  - Give the location of the crossing. Include the railway subdivision the crossing is on and the mileage point. (The railway company can give you this information if you do not have it);
  - If possible, also give the town and/or your land title co-ordinates;
  - Describe any important features of the location. (This means ones that could affect the building or maintenance of a crossing.) For example:
    - describe the approaches to the crossing, including whether it is located on a curve or a hill;
    - Use enough detail for Members to best consider your case; and
    - If you and the railway company agree on any issues related to the crossing, list or describe these issues

## 2. Supporting documents

- Attach these supporting documents:
  - A list or description of the issues you and the railway do **not** agree on, that you want CTA Members to resolve. (Note: the railway company will also be given an opportunity to comment on this list);
  - A plan, drawing, sketch or other map that helps describe the location of the crossing;
  - If you are applying for a Section 102 Crossing, send us a copy of all the land ownership documents back to the year the railway line was built. The documents should show that the land on both sides of the line has always been owned as a single parcel of land.

### Reminder about cost disputes

If you get a Section 102 Crossing, the railway company must pay to build and maintain it. If you get a Section 103 Crossing, you must pay the railway company to build and maintain it.

### Important note:

You will need to give us additional information, or fill out certain forms, if:

- someone will be representing you in the adjudication and that person is not a lawyer (a member of the Bar in a Canadian province or territory); or
- there is confidential information in your application (in other words, it would be harmful if the railway or the public saw that information).

If a non-lawyer will be helping you, or you think you have confidential information, contact us at [secretariat@otc-cta.gc.ca](mailto:secretariat@otc-cta.gc.ca).



# Annex B – Application Information for Road Authorities, Utility Companies, and Railway Companies

This annex is for a road authority, utility company, or railway company that is applying to have CTA Members settle a dispute about a road or utility crossing. To apply, you must send us the following information.

## 1. Application

- A document with the title: "Application (Rail Crossing)". Inside this document, you should:
  - Give your organization's name, complete address, and a contact name. Also include the contact's title, telephone number, and email and fax number, if any;
  - Say whether your application concerns a road crossing or a utility crossing. Explain the purpose of the crossing or related work you are applying for;
  - If you are not the railway company, tell us which railway company owns or operates the line you want to cross;
  - Give the location of the crossing, including:
    - what railway subdivision the crossing is on and what the mileage point is (the railway company can give you this information if you do not have it),
    - the name of the town and/or land title co-ordinates, and
    - for road crossings, the name of the road;
- Describe important characteristics of the location (ones that could affect the building or maintenance of the crossing). Include enough detail for Members to formally consider your case; and
- If you and the other party agree on any issues related to the crossing, list or describe these issues.

## Cost issues

If the dispute includes how to apportion the cost of constructing, maintaining, modifying, or reconstructing the crossing or related railway work, include or attach the following information.

- A cost estimate, where appropriate;
- Any information affecting how to apportion costs fairly, including:
  - which party created the need for the work;
  - the relative benefits each party stands to gain from the work; and
  - seniority (what was there first: the railway line, the road, or the utility corridor?);
- For disputes about maintenance, modifications, or reconstruction, a description of the crossing's or related infrastructure's current state/condition, including why its current condition is no longer adequate;
- Other options considered in place of the work being proposed; and
- Any other relevant information.

## 2. Supporting documents

Attach the following supporting documents.

### a. For road crossings only

#### Road crossings – general

- One copy of a general arrangement plan or drawing, done to scale and signed and dated. The plan should include a title block containing the:
  - name of the road authority;
  - road identification;
  - name of the railway company;
  - railway subdivision and mileage point;
  - plan number; and
  - date.

- A key map showing the location of the proposed work and all road crossings affected by it.
- If you have information on the following, it may also help Members consider your case:
  - the number of railway tracks and road lanes at the location;
  - train and vehicle counts at the location;
  - the posted or proposed road speed and the maximum train speed;
  - the type of traffic trains in the area carry (for example, passengers, freight, dangerous goods);
  - data on other traffic that would use the crossing (such as pedestrians, cyclists, vulnerable road users, emergency services, and school buses);
  - data on past collisions at the crossing location; and
  - data on any blocked crossings in the area.

## **Road crossings – grade separations**

- A document showing or explaining the boundaries of the:
  - existing road allowance; and
  - proposed road allowance where the proposed work will be located (include its approaches and any related drainage and utility facilities).
- An elevation of the proposed work that shows the horizontal and vertical clearances.
- A cross section of the proposed work that shows:
  - for a bridge, the location and width of the traffic lanes, shoulders, curbs, medians, sidewalks, railings, drainage and utility facilities;
  - for a subway, the track structure, as well as the number and spacing of tracks, walkways, railings, drainage and all utility facilities.
- The limits to which you and the other party could share costs, in your opinion.
- Information about posted or proposed road speeds, maximum train speeds, and vehicle count.

## **b. For utility crossings only**

- Copy of a general arrangement plan or drawing, done to scale and signed and dated. The plan should include a title block containing the:
  - name of the utility and its identification number;
  - name of the railway company;
  - railway subdivision and mileage point;
  - plan number; and
  - date.
- A key map showing the location of the proposed work.
- The number of railway tracks at the location.
- The number and type of other utilities at the location.

### **Important note:**

You will need to give us additional information, or fill out certain forms, if:

- someone from outside your organization will be representing it in the adjudication, and that person is **not** a lawyer (a member of the Bar in a Canadian province or territory), or
- you believe there is confidential information in your application (in other words, it would be harmful if the other party or the public saw that information).

If either of these situations apply to you, contact us at [secretariat@otc-cta.gc.ca](mailto:secretariat@otc-cta.gc.ca).