

WILL THE GOVERNMENT OF CANADA EXTEND THE *FAIR RAIL FOR GRAIN FARMERS ACT*?

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On April 22, 2016, the Government of Canada [announced](#) its intention to work with Parliament to postpone for one year the repeal of certain provisions of the *Fair Rail for Grain Farmers Act*, which amended the *Canada Transportation Act* (the "CTA") to:

- allow Cabinet to require Canadian National Railway Company and Canadian Pacific Railway Company to move minimum quantities of certain grain commodities within specified time periods, subject to administrative monetary penalties for failure; and
- empower the Canadian Transportation Agency to
 - require a federal railway company to compensate any person for expenses suffered as a result of that railway company's failure to fulfill its service obligations to that person;
 - extend the regulated interswitching limits from 30 kilometres to 160 kilometres within certain geographic areas or specified commodities only (so far, the Agency has done so for all commodities in the three prairie provinces); and
 - make regulations specifying what constitutes "operational terms" for the purposes of service level arbitrations under the CTA.

The announcement indicates that the postponement is intended to allow interested parties to proceed under a predictable regulatory scheme while the Minister of Transport considers recommendations made in the recently released report (discussed [here](#)) in respect of the 2015 statutory review of the CTA. In the absence of such a postponement, the relevant provisions of the CTA would be repealed on August 1, 2016. Extending the legislation would require approval of both the House of Commons and the Senate.

by François Tougas and Ryan Gallagher

A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

The logo for mcmillan, featuring the word "mcmillan" in a lowercase, sans-serif font. The letters "m", "c", "m", "i", "l", "l", "a", and "n" are in a dark red color, while the letter "c" is in a light blue color. The logo is positioned in the upper left corner of a banner image.

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