

ment that provides for a process substantially equivalent to that provided for in this section, the Corporation shall have the right to assign, allocate, reassign, reallocate, and consolidate work formerly performed on the rail properties acquired pursuant to the provisions of this chapter from a railroad in reorganization to any location, facility, or position on its system if it does not remove such work from coverage of a collective bargaining agreement and does not infringe upon the existing classification of work rights of any craft or class of employees at the location or facility to which such work is assigned, allocated, reassigned, reallocated, or consolidated. Prior to the exercise of authority under this subsection, the Corporation shall negotiate an agreement with the representatives of the employees involved permitting such employees the right to follow their work.

(b) Expiration

The authority granted by this section shall apply only for as long as benefits are provided under this subchapter with funds made available under section 797¹ of this title.

(Pub. L. 93-236, title VII, §706, as added Pub. L. 97-35, title XI, §1143(a), Aug. 13, 1981, 95 Stat. 665.)

REFERENCES IN TEXT

Section 797¹ of this title, referred to in subsec. (b), was repealed by Pub. L. 99-509, title IV, §4033(a)(2), Oct. 21, 1986, 100 Stat. 1908, and a new section 797¹ of this title was subsequently added by Pub. L. 104-88, §327(5).

§ 797f. Contracting out

All work in connection with the operation or services provided by the Corporation on the rail lines, properties, equipment, or facilities acquired pursuant to the provisions of this chapter and the maintenance, repair, rehabilitation, or modernization of such lines, properties, equipment, or facilities which has been performed by practice or agreement in accordance with provisions of the existing contracts in effect with the representatives of the employees of the classes or crafts involved shall continue to be performed by the Corporation's employees, including employees on furlough. Should the Corporation lack a sufficient number of employees, including employees on furlough, and be unable to hire additional employees, to perform the work required, it shall be permitted to subcontract that part of such work which cannot be performed by its employees, including those on furlough, except where agreement by the representatives of the employees of the classes or crafts involved is required by applicable collective-bargaining agreements. The term "unable to hire additional employees" as used in this section contemplates establishment and maintenance by the Corporation of an apprenticeship, training, or recruitment program to provide an adequate number of skilled employees to perform the work.

(Pub. L. 93-236, title VII, §707, as added Pub. L. 97-35, title XI, §1143(a), Aug. 13, 1981, 95 Stat. 665.)

¹ See References in Text note below.

§ 797g. New collective-bargaining agreements

(a) Agreement

Not later than 60 days after the effective date of any conveyance pursuant to the provisions of this chapter, the representatives of the various classes or crafts of employees of a railroad in reorganization involved in a conveyance and representatives of the Corporation shall commence negotiation of a new single collective bargaining agreement for each class and craft of employees covering the rate of pay, rules, and working conditions of employees who are the employees of the Corporation. Such collective bargaining agreement shall include appropriate provisions concerning rates of pay, rules, and working conditions, but shall not, before April 1, 1984, include any provisions for job stabilization which may exceed or conflict with those established herein. Negotiations with respect to such single collective bargaining agreement, and any successor thereto, shall be conducted systemwide.

(b) Procedure

(1) Any procedure for finally determining the components of the first single collective bargaining agreement for any class or craft, agreed upon before August 13, 1981, shall be completed no later than 45 days after August 13, 1981. Such agreed upon procedure shall be deemed to satisfy the requirements of sections 157 and 158 of this title. The National Mediation Board shall appoint any person as provided for by such agreements.

(2) Nothing in this section shall be construed to require the parties to enter into a new single collective bargaining agreement if the agreement between the parties in effect immediately prior to August 13, 1981, complied with section 774(d)¹ of this title as in effect immediately prior to such date.

(c) Railway Labor Act notices

Employees of the Corporation may not serve notices under section 156 of this title for the purpose of negotiating job stabilization or other protective agreements with the Corporation until after April 1, 1984.

(Pub. L. 93-236, title VII, §708, as added Pub. L. 97-35, title XI, §1143(a), Aug. 13, 1981, 95 Stat. 665.)

REFERENCES IN TEXT

Section 774 of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 97-35, title XI, §1144(a)(1), Aug. 13, 1981, 95 Stat. 669.

§ 797h. Employee and personal injury claims

(a) Liability for employee claims

In all cases of claims, prior to April 1, 1976, by employees, arising under the collective bargaining agreements of the railroads in reorganization in the Region, and subject to section 153 of this title, the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier, as the case may be, shall assume responsibility for the processing of any such claims, and payment of those which are sustained or settled on or subsequent to the date of convey-

¹ See References in Text note below.

ance, under section 743(b)(1) of this title, and shall be entitled to direct reimbursement from the Association pursuant to section 721(h) of this title, to the extent that such claims are determined by the Association to be the obligation of a railroad in reorganization in the Region. Any liability of an estate of a railroad in reorganization to its employees which is assumed, processed, and paid pursuant to this subsection by the Corporation, the National Railroad Passenger Corporation, or an acquiring carrier shall remain the pre-conveyance obligation of the estate of such railroad for purposes of section 721(h)(1) of this title. The Corporation, the National Railroad Passenger Corporation, an acquiring carrier, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 721(h) of this title (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations are discharged or paid. In those cases in which claims for employees were sustained or settled prior to such date of conveyance, it shall be the obligation of the employees to seek satisfaction against the estate of the railroads in reorganization which were their former employers.

(b) Assumption of personal injury claims

All cases or claims by employees or their personal representatives for personal injuries or death against a railroad in reorganization in the Region arising prior to the date of conveyance of rail properties, pursuant to section 743 of this title, shall be assumed by the Corporation or an acquiring railroad, as the case may be. The Corporation or the acquiring railroad shall process and pay any such claims that are sustained or settled, and shall be entitled to direct reimbursement from the Association pursuant to section 721(h) of this title, to the extent that such claims are determined by the Association or its successor authority to be the obligation of such railroad. Any liability of an estate of a railroad in reorganization which is assumed, processed, and paid, pursuant to this subsection, by the Corporation or an acquiring railroad shall remain the pre-conveyance obligation of the estate of such railroad for purposes of section 721(h)(1) of this title. The Corporation, an acquiring railroad, or the Association, as the case may be, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 721(h) of this title (other than paragraph (4)(A) thereof), for reimbursement (including costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such obligations were discharged or paid.

(Pub. L. 93-236, title VII, §709, as added Pub. L. 97-35, title XI, §1143(a), Aug. 13, 1981, 95 Stat. 666.)

ABOLITION OF UNITED STATES RAILWAY ASSOCIATION AND
TRANSFER OF FUNCTIONS AND SECURITIES

See section 1341 of this title.

§ 797i. Limitations on liability

(a) Federal Government

The liability of the United States under an agreement entered into or benefit schedule prescribed under section 797¹ of this title or for payment of a termination allowance under section 797a of this title shall be limited to amounts appropriated under section 797¹ of this title.

(b) The Corporation

(1) The Corporation, Amtrak Commuter, and commuter authorities shall incur no liability under an agreement entered into or benefit schedule prescribed under section 797¹ of this title or for the payment of a termination allowance under section 797a of this title.

(2) Notwithstanding any other provision of law, until April 1, 1984, the Corporation shall have no liability for employee protection in the event of a sale of any asset to a purchaser, and such purchaser shall assume the liability for the application of employee protection conditions imposed by the Commission for all employees adversely affected by such sale.

(Pub. L. 93-236, title VII, §710, as added Pub. L. 97-35, title XI, §1143(a), Aug. 13, 1981, 95 Stat. 667.)

REFERENCES IN TEXT

Section 797 of this title, referred to in subsecs. (a) and (b)(1), was repealed by Pub. L. 99-509, title IV, §4024(c), Oct. 21, 1986, 100 Stat. 1904, effective on the sale date (Apr. 2, 1987).

Section 797¹ of this title, referred to in subsec. (a), was repealed by Pub. L. 99-509, title IV, §4033(a)(2), Oct. 21, 1986, 100 Stat. 1908, and a new section 797¹ of this title was subsequently added by Pub. L. 104-88, §327(5).

ABOLITION OF INTERSTATE COMMERCE COMMISSION AND
TRANSFER OF FUNCTIONS

Interstate Commerce Commission abolished and functions of Commission transferred, except as otherwise provided in Pub. L. 104-88, to Surface Transportation Board effective Jan. 1, 1996, by section 702 of Title 49, Transportation, and section 101 of Pub. L. 104-88, set out as a note under section 701 of Title 49. References to Interstate Commerce Commission deemed to refer to Surface Transportation Board, a member or employee of the Board, or Secretary of Transportation, as appropriate, see section 205 of Pub. L. 104-88, set out as a note under section 701 of Title 49.

§ 797j. Preemption

No State may adopt or continue in force any law, rule, regulation, order, or standard requiring the Corporation to employ any specified number of persons to perform any particular task, function, or operation, or requiring the Corporation to pay protective benefits to employees, and no State in the Region may adopt or continue in force any such law, rule, regulation, order, or standard with respect to any railroad in the Region.

(Pub. L. 93-236, title VII, §711, as added Pub. L. 97-35, title XI, §1143(a), Aug. 13, 1981, 95 Stat. 667; amended Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379.)

¹ See References in Text note below.