

Queensland



Transport Infrastructure Act 1994

TRANSPORT INFRASTRUCTURE (RAIL) REGULATION 1996

**Reprinted as in force on 17 November 2000
(includes amendments up to SL No. 281 of 2000)**

Reprint No. 1A

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Information about this reprint

This regulation is reprinted as at 17 November 2000. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



**TRANSPORT INFRASTRUCTURE (RAIL)
REGULATION 1996**

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TRANSPORT INFRASTRUCTURE (RAIL) REGULATION 1996

[as amended by all amendments that commenced on or before 17 November 2000]

PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Transport Infrastructure (Rail) Regulation 1996*.

Commencement

2. This regulation commences on 1 July 1996.

Definitions

3. In this regulation—

“**damage**” includes deface, destroy, injure, mark, put a notice on, remove and soil.

“**drive**” a vehicle includes ride the vehicle.

“**left**”, for property, includes parked.

“**owner**” of a registered vehicle means the person in whose name the vehicle is registered.

“**property**” includes a vehicle and goods.

“**railway**” includes car parks and bus stations under a railway manager’s control.

“**SEQ electrified track**” means the electrified railway track between Brisbane Central station and any of the following places—

(a) 2 km north of Caboolture station;

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- (b) Acacia Ridge terminal;
- (c) Helensvale station;
- (d) Cleveland station;
- (e) Eagle Farm station;
- (f) Exhibition station;
- (g) Ferny Grove station;
- (h) Ipswich station;
- (i) Moolabin terminal;
- (j) Shorncliffe station.

“**vehicle**” includes a load on the vehicle.

Dangerous goods codes

4. The following documents are codes under the *Transport Infrastructure Act 1994*, section 138(6)¹—

- (a) the Australian Code for the Transport of Dangerous Goods by Road and Rail (ADG Code) prepared by the Federal Office of Road Safety;
- (b) the Australian Code for the Transport of Explosives by Road and Rail (Australian Explosives Code) prepared by the Federal Office of Road Safety;
- (c) the Code of Practice for the Safe Transport of Radioactive Substances prepared by the Commonwealth Department of the Arts, Sport, the Environment, Tourism and Territories.

Commercial activities

5.(1) This section applies for the purposes of the *Transport*

¹ Section 138 (Carrying dangerous goods)

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Infrastructure Act 1994, section 199.2

(2) An activity performed by Queensland Rail under its community service obligations is not an activity conducted on a commercial basis.

(3) Every other activity of Queensland Rail is an activity conducted on a commercial basis.

Exemption with permission

6.(1) A person does not contravene a provision of this regulation by an act or omission for which the person has—

- (a) for an act or omission prohibited by part 4³—the railway manager’s written permission; or
- (b) otherwise—the permission of the railway manager or railway operator.

(2) The railway manager or railway operator may impose a relevant condition on the permission.

(3) If a permission is given on conditions, the permission operates only while the conditions are complied with.

PART 2—OBLIGATIONS OF PERSONS ON RAILWAYS

Alcohol

7. A person must not drink alcohol on a railway unless—

- (a) the alcohol is supplied by—
 - (i) for alcohol drunk on rolling stock—the railway operator; or

² Section 199 (Application of Freedom of Information Act and Judicial Review Act)

³ Part 4 (Vehicles)

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- (ii) otherwise—the railway manager; and
- (b) the person drinks it at a place the railway manager or railway operator sets aside for drinking it.

Maximum penalty—10 penalty units.

Animals

8.(1) This section does not apply to—

- (a) a person crossing a railway with an animal by a railway crossing; or
- (b) a person who is blind or aurally deficient with a guide dog; or
- (c) a person who is transporting an animal by rail.

(2) A person must not allow an animal under the person's control to go onto a railway.

Maximum penalty—20 penalty units.

Coloured lights

9. A person must not display a coloured light on or near a railway.

Maximum penalty—40 penalty units.

Injurious behaviour

10.(1) A person must not—

- (a) enter or leave moving rolling stock; or
- (b) open a door of moving rolling stock, other than a door connecting rolling stock; or
- (c) put a part of the person's body out of—
 - (i) a window of rolling stock; or
 - (ii) a door of rolling stock, unless the person is getting off the rolling stock onto a platform; or

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- (d) enter or leave a railway other than through a proper entrance or exit.

Maximum penalty—20 penalty units.

(2) A person must not—

- (a) enter rolling stock that is not designed for passengers; or
(b) ride on the outside of rolling stock.

(3) A person must not wilfully damage a railway.

Example—

A person must not light a fire on a railway.

(4) Without limiting subsection (3), a person must not—

- (a) put anything on a seat of rolling stock that is likely to soil the seat, including, for example, the person's feet (whether or not with shoes); or
(b) put graffiti on a railway.

Maximum penalty for subsections (2) to (4)—40 penalty units.

Litter

11. A person must not leave wastepaper or other rubbish on a railway, except in a container provided for that purpose.

Maximum penalty—10 penalty units.

Nuisance behaviour

12.(1) A person must not smoke in—

- (a) rolling stock; or
(b) a part of a railway displaying a sign indicating that smoking is not allowed.

(2) A person must not consume food or drink in rolling stock displaying a sign indicating that the consumption of food or drink is not allowed.

(3) A person must not—

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- (a) put the person's feet (whether or not with shoes) on a seat of rolling stock; or
- (b) occupy more than 1 seat of rolling stock.

(4) A person must not bring anything on rolling stock designed for passengers that, because of its shape or size, can not be put—

- (a) under a seat; or
- (b) in an overhead rack; or
- (c) in a designated storage area.

(5) A person must not put anything in the aisles of rolling stock that is likely to cause an obstruction or injury to someone.

(6) A person on a railway must not publicly—

- (a) sell anything; or
- (b) seek business; or
- (c) conduct a survey.

(7) A person on a railway must not—

- (a) play a musical instrument; or
- (b) operate sound equipment, unless—
 - (i) earphones are attached to it; and
 - (ii) the sound level from the earphones is not likely to be a nuisance.

Maximum penalty for subsections (1) to (7)—20 penalty units.

(8) In subsection (7)—

“sound equipment” means an amplifier, radio, tape recorder or other device that emits sound.

Railway crossings

13.(1) A person, whether or not with an animal, must not cross a railway track other than by a railway crossing.

(2) A person must not enter a railway crossing if—

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- (a) a warning signal is operating, sounding or has just sounded in the vicinity of the crossing; or
- (b) there is danger of a train hitting the person.

Maximum penalty for subsections (1) and (2)—20 penalty units.

(3) If an authorised person reasonably believes that, to ensure safety at a railway crossing at a particular time, a person should not enter the crossing, the authorised person may direct the person not to enter.

(4) The person must obey the direction, unless the person has a reasonable excuse.

(5) A person must not stay on a railway crossing for longer than is reasonably necessary for the person to cross the railway.

(6) A person must not drive a vehicle (other than a wheelchair) or toy vehicle on a bridge or platform, or in a subway, designed for pedestrians that is on, or under, a railway.

(7) A person who opens a gate at a railway crossing must close and secure the gate as soon as practicable after opening it.

Maximum penalty for subsections (4) to (7)—20 penalty units.

(8) In subsection (6)—

“toy vehicle” has the meaning given by the *Traffic Regulation 1962*.

PART 3—MOVING PROPERTY ABANDONED OR LEFT ON RAILWAYS

Moving property abandoned or left on railways

14.(1) This section applies if property—

- (a) is abandoned on a railway; or
- (b) is left on a railway against the railway manager’s directions.

(2) The railway manager may take steps that are reasonable and necessary to move the property.

(3) In this section—

“**direction**” includes a direction—

- (a) of an employee of the railway manager; and
- (b) indicated on a sign displayed on the railway.

Notifying owner that property moved

15.(1) Within 14 days after moving property, the railway manager must give its owner a written notice stating—

- (a) the property has been moved; and
- (b) how the property may be recovered; and
- (c) if the property is not recovered within 2 months, the property will be considered to be abandoned property and may be sold.

(2) If the owner can not be identified or located within the 14 days, the notice may be given by publishing it in a newspaper circulating generally in the State.

(3) The railway manager need not give the notice if—

- (a) the property has insufficient value to justify giving the notice; or
- (b) it is otherwise impracticable to give the notice.

Moving expenses

16. The railway manager may recover the reasonable expenses of moving the property, securely storing it and publishing any newspaper notice for it (the “**moving expenses**”) from—

- (a) the person who was in charge of the property immediately before it was moved; or
- (b) if the person in charge can not be identified—the property’s owner, unless the property was being used on the railway without the owner’s consent.

Releasing property when expenses paid

17. The railway manager must release the property to its owner if the moving expenses are paid.

Disposing of property

18.(1) The railway manager may dispose of the property if—

- (a) the moving expenses are not paid within 2 months of notifying the owner that the property has been moved; or
- (b) if the railway manager decides not to give a notice—at least 2 months have passed since the decision.

(2) The railway manager may only dispose of the property—

- (a) by selling it; or
- (b) if the proceeds of its sale are not likely to cover the moving expenses and the reasonable expenses that would be incurred by the railway manager in selling it—in the way the railway manager believes appropriate.

(3) If the property is sold, the sale proceeds must be applied in making payments in the following order—

- (a) the expenses reasonably incurred by the railway manager in selling the property (the “**sale expenses**”);
- (b) the moving expenses;
- (c) any balance to the owner.

(4) If the sale proceeds are less than the sale and moving expenses, the difference—

- (a) is a debt payable to the railway manager by the person who is liable for the moving expenses; and
- (b) may be recovered by action against the person in a court of competent jurisdiction.

(5) The railway manager may waive the whole or any part of the expenses.

PART 4—VEHICLES

Driving and parking vehicles

19.(1) This section does not apply to a road within the meaning of the *Transport Infrastructure Act 1994*, chapter 5.⁴

(2) A person must not drive a vehicle, other than rolling stock, on a railway at more than—

- (a) the speed indicated on a sign displayed on the railway; or
- (b) if no sign is erected—20 km/h.

(3) A person must not park a vehicle on a railway except in a designated parking space.

(4) A person driving a vehicle on a railway must obey a direction indicated on a sign displayed on a railway about driving or parking the vehicle, unless the person has a reasonable excuse.

(5) A person driving a vehicle on a railway must obey an employee's direction about driving or parking the vehicle, unless the person has a reasonable excuse.

Maximum penalty for subsections (2) to (5)—20 penalty units.

(6) In this section—

“**employee**” means an employee of a railway manager or railway operator.

Using vehicles in a way likely to damage or obstruct

20. A person must not use a vehicle in a way likely to damage or obstruct a railway.

Maximum penalty—40 penalty units.

⁴ Chapter 5 (Road transport infrastructure)

Heavy vehicles

21.(1) A person must not drive a vehicle on a railway crossing if—

- (a) the axle mass for any single axle of the vehicle is over 12 t; or
- (b) the total of all axle masses for any 9 m of the vehicle’s length is over 48 t; or
- (c) the total of all axle masses for the vehicle is over 105 t.

Maximum penalty—20 penalty units.

(2) In this section—

“axle group” has the meaning given by the *Transport Operations (Road Use Management) Regulation 1995*.

“axle mass” means the total mass transmitted to the road by the tyres fitted to an axle group.

High vehicles

22.(1) A person must not drive a vehicle on a railway crossing if the vehicle is higher than—

- (a) a height barrier for the crossing; or
- (b) where the SEQ electrified track crosses an access road—4.1 m; or
- (c) where the SEQ electrified track crosses another road—5 m; or
- (d) where another electrified railway track crosses an access road—4.3 m; or
- (e) otherwise—5.2 m.

Maximum penalty—20 penalty units.

(2) In this section—

“access road” means a road other than a road within the meaning of the *Transport Infrastructure Act 1994*, chapter 5.5

Long vehicles

23.(1) This section does not apply to a road train driven in accordance with the *Traffic Regulation 1962*, part 21, division 1.

(2) A person must not drive a vehicle longer than 35 m on a railway crossing.

Maximum penalty—20 penalty units.

Wide vehicles

24. A person must not drive a vehicle on a railway crossing if the vehicle is wider than—

- (a) 5.5 m; or
- (b) the distance between the posts of a height barrier for the crossing.

Maximum penalty—20 penalty units.

Written permission to act contrary to pt 4

25.(1) A railway manager may give a person written permission to do an act or make an omission contrary to this part.

(2) In considering whether to give a permission, the railway manager must have regard to the following matters—

- (a) disruption to rail traffic;
- (b) cost to the person, the railway manager or another person affected by the permission;
- (c) damage to the railway;
- (d) another matter that adversely affects the operation of the railway.

Example of another person affected mentioned in paragraph (b)—

A railway operator.

Conditions on railway manager's permission

26.(1) A railway manager may impose a relevant condition about the

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following matters on the written permission—

- (a) the time a permission may be used;
- (b) raising, dismantling, taking away or cutting power to the railway manager's overhead electricity lines;
- (c) repairing, replacing or reconstructing—
 - (i) the railway manager's overhead electricity lines; or
 - (ii) other property of the railway manager; or
 - (iii) the part of a road surface that the railway manager is required to maintain in good order and repair;
- (d) paying the railway manager an amount for—
 - (i) administration involved in the application for permission; or
 - (ii) facilitating the use of the railway crossing mentioned in this part;
- (e) paying the railway manager's costs or loss, including repair of damage to property, arising from the permission.

(2) For subsection (1)(d), the railway manager may only fix an amount that—

- (a) the railway manager considers reasonable; and
- (b) is not more than the reasonable cost of doing something mentioned in the subsection.

(3) If a permission is given on conditions, the permission operates only while the conditions are complied with.

PART 4A—ANNUAL LEVY

Railway manager or railway operator to pay annual levy

26A.(1) A person who is accredited as a railway manager or railway operator for a railway must pay the annual levy set out in the schedule.

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(2) The levy must be paid by a date the chief executive decides and notifies in writing to the manager or operator.

(3) Despite subsections (1) and (2), if a person becomes accredited during the year—

- (a) the person must pay the part of the levy that is proportionate to the number of days for which the person is accredited in the year; and
- (b) the person must pay the part of the levy when the person is accredited.

Payment of annual levy by instalments

26B. An accredited person may pay the annual levy by instalments under an agreement between the chief executive and the manager or operator.

What happens if basis for calculation of levy underestimated or overestimated

26C.(1) If an amount used to work out an annual levy has been underestimated, the chief executive may require the accredited person to pay the difference between the amount of the levy paid and the amount of the levy worked out using the actual amount.

(2) If an amount used to work out an annual levy has been overestimated, the chief executive must credit the accredited person with the difference between the amount of the levy paid and the amount of the levy worked out using the actual amount.

Effect on accreditation of failure to pay annual levy

26D.(1) If an accredited person fails to pay an annual levy by the date on which the levy is payable, the person's accreditation lapses.

(2) However, the accreditation is taken not to have lapsed if the person pays the annual levy by another date the chief executive decides and notifies to the person.

PART 5—EVIDENCE

Evidence of concession entitlement

27.(1) A person who buys a concession ticket must carry evidence of the person's entitlement to the concession when—

- (a) buying the ticket; or
- (b) travelling on the journey for which the ticket is used.

(2) An authorised person for a railway may require someone who has bought a concession ticket to produce evidence of the person's entitlement to the concession.

(3) A person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

Evidence of signs

28. Evidence that a sign was displayed on a railway is evidence the sign was displayed with the authority of the railway manager or railway operator.

SCHEDULE

ANNUAL LEVY

section 26A(1)

\$

1. Railway manager or railway operator with estimated annual revenue from the management or operation of the railway for which the manager or operator is accredited of—
 - (a) not more than \$50 000 no fee
 - (b) over \$50 000 to not more than \$200 000 500
 - (c) over \$200 000 to not more than \$500 000 5 000
 - (d) over \$500 000 10 000 plus
 - (i) for a railway manager—\$8.50 for each estimated kilometre of track that the railway manager is accredited to manage for the year; or
 - (ii) for a railway operator—.1c for each estimated passenger journey to be provided, and .22c for each estimated tonne of freight to be hauled, by the railway operator for the year under the operator's accreditation.

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 17 November 2000. Future amendments of the Transport Infrastructure (Rail) Regulation 1996 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

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3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No.[X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	28 October 1996

5 List of legislation

Transport Infrastructure (Rail) Regulation 1996 SL No. 173

notfd gaz 28 June 1996 pp 1164–70

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 1996 (see s 2)

exp 1 September 2006 (see SIA s 54)

as amended by—

Transport Infrastructure (Rail) Amendment Regulation (No. 1) 2000 SL No. 281
notfd gaz 10 November 2000 pp 1016–17
commenced on date of notification

6 List of annotations

PART 4A—ANNUAL LEVY

pt 4 (ss 26A–26D) ins 2000 SL No. 281 s 3

PART 6—AMENDMENT OF JUSTICES REGULATION 1993

pt hdg om R1 (see RA s 7(1)(k))

Regulation amended

s 29 om R1 (see RA ss 7(1)(k), 40)

Amendment of sch 1

s 30 om R1 (see RA s 40)

SCHEDULE—ANNUAL LEVY

ins 2000 SL No. 281 s 4