



Transport (Rail Safety) Act 2010

Transport (Rail Safety) Regulation 2010

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Reprint No. 1E

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Queensland

Transport (Rail Safety) Regulation 2010

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Transport (Rail Safety) Regulation 2010

[as amended by all amendments that commenced on or before 24 August 2012]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Transport (Rail Safety) Regulation 2010*.

2 Commencement

This regulation commences on 1 September 2010.

3 Definitions

The dictionary in schedule 5 defines particular words used in this regulation.

Part 2 Provision about rail safety duties

4 Prescribed concentration of alcohol—Act, s 25(1)(c)(i)

For section 25(1)(c)(i) of the Act, the concentration is—

- (a) for the presence of alcohol in a rail safety worker's blood—20mg of alcohol in 100mL of blood; or
- (b) for the presence of alcohol in a rail safety worker's breath—0.020g of alcohol in 210L of breath.

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Part 3 Provisions about requirements relating to safety of railway operations

Division 1 Notice granting exemption

5 Details for inclusion in notice granting exemption—Act, s 46

For section 46(2)(a) of the Act, the following details are prescribed—

- (a) the applicant's name;
- (b) if the applicant's railway operations are, or are to be, carried out under a registered business name, the registered business name;
- (c) the applicant's ABN;
- (d) if the applicant is a corporation, the applicant's ACN;
- (e) the applicant's address stated on the application.

Division 2 Registration of private sidings

6 Registration particulars to be made available for inspection—Act, s 55(7)

For section 55(7) of the Act, the following registration particulars for each registered private siding must be made available—

- (a) the name of the rail infrastructure manager of the siding;
- (b) if railway operations at the siding are, or are to be, carried out under a registered business name, the registered business name;
- (c) the rail infrastructure manager's ABN;

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- (d) if the rail infrastructure manager is a corporation—
 - (i) the corporation’s ACN; and
 - (ii) the corporation’s registered office under the Corporations Act;
 - (e) the location of the private siding;
 - (f) the railway operations, rail safety work and other activities associated with the railway operations that are, or will be, carried out at the private siding.

7 Prescribed registration conditions—Act, s 56

- (1) For section 56(1) of the Act, the following conditions are prescribed for a registered private siding—
 - (a) the rail infrastructure manager of the private siding must have and implement systems and procedures for ensuring the manager complies with the manager’s rail safety duties for railway operations carried out on or at the private siding;
 - (b) the rail infrastructure manager of the private siding must keep a register of the relevant risk information, with a level of detail that is appropriate for the railway operations carried out on or at the private siding having regard to the following—
 - (i) the scope and nature of the railway operations;
 - (ii) the risks to safety of persons arising, or potentially arising, from the carrying out of the railway operations;
 - (iii) the manager’s rail safety duties;
 - (c) the rail infrastructure manager of the private siding must have and implement systems and procedures for ensuring information kept in the register mentioned in paragraph (b) remains current, so far as is reasonably practicable;
 - (d) the rail infrastructure manager of the private siding must keep a document providing details of how rail

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infrastructure within the private siding is to be maintained and repaired.

(2) In this section—

relevant risk information, for railway operations carried out on or at a registered private siding, means—

- (a) a list of the risks to safety of persons arising, or potentially arising, from the carrying out of the railway operations that are identified under section 59(2)(a) of the Act; and
- (b) details of the assessment of the risks mentioned in paragraph (a), including their likelihood, likely consequences and ranking; and
- (c) a description of the measures that are to be used to manage, so far as is reasonably practicable, the risks mentioned in paragraph (a), including, where appropriate, identification of the person responsible for implementing the measures.

scope and nature, of railway operations carried out on or at a registered private siding that are not the subject of an accreditation, means—

- (a) the nature of the railway operations; and
- (b) the details of the nature of the railway operations, including, for example, the location of the railway operations or the rail infrastructure to which the railway operations relate.

Note—

For the meaning of scope and nature of railway operations the subject of an accreditation, see the Act, schedule 3, definition *scope and nature*, paragraph (b).

Division 3 Safety management system

8 **Requirements for safety management system—Act, s 64(1)(b)(i)**

- (1) This section prescribes, for section 64(1)(b)(i) of the Act, requirements for a rail transport operator's safety management system for railway operations.
- (2) The safety management system must provide for each matter (*prescribed matter*) mentioned in schedule 1 that is relevant to the railway operations.
- (3) For each prescribed matter, the safety management system must provide a level of detail that is appropriate for the railway operations having regard to the following—
 - (a) the scope and nature of the railway operations;
 - (b) the risks to safety of persons arising, or potentially arising, from the carrying out of the railway operations;
 - (c) the rail transport operator's rail safety duties.

9 **Risk management principles, methods and procedures for safety management system—Act, s 64(1)(b)(ii)**

For section 64(1)(b)(ii) of the Act, the risk management principles, methods and procedures for a rail transport operator's safety management system for railway operations are—

- (a) identify the aspects of the scope and nature of the railway operations from which risks to the safety of persons arise or may arise; and
- (b) identify the risks to the safety of persons arising, or potentially arising, from the railway operations; and
- (c) analyse the identified risks to understand the nature of the risks, the level of the risks and why the risks arise or may arise; and

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- (d) evaluate the identified risks to identify the extent to which the risks may be prevented or managed; and
- (e) address the identified risks by adopting measures to prevent or manage the risks, which may include identifying and adopting a range of measures for preventing or managing the risks; and
- (f) assess the effectiveness of measures adopted as mentioned in paragraph (e).

10 Review of safety management system—Act, s 65

- (1) This section prescribes, for section 65 of the Act, the way a rail transport operator must review the operator's safety management system for railway operations.
- (2) In conducting the consultation required for the review under section 66 of the Act, the rail transport operator must ensure the persons consulted are asked for their opinion on whether the safety management system can be improved and, if so, how the safety management system can be improved.
- (3) In conducting the review, the rail transport operator must ensure—
 - (a) the effectiveness of the safety management system is assessed, including by an examination of the operator's records about notifiable occurrences and breaches of the system; and
 - (b) the effectiveness of any changes resulting from the previous review, if any, of the safety management system are assessed; and
 - (c) any recommendations or issues arising out of any of the following conducted during the relevant period are taken into account—
 - (i) an audit under section 130 of the Act;
 - (ii) an investigation under part 7 of the Act; and

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- (d) any issues arising from any improvement notice or prohibition notice given under the Act during the relevant period are taken into account; and
 - (e) any deficiencies in the safety management system are identified; and
 - (f) measures to remedy the identified deficiencies in the safety management system are designed and assessed; and
 - (g) any opinions made by a person under subsection (2) are assessed; and
 - (h) any other suggestions for improving the safety management system arising during the review are assessed; and
 - (i) if any deficiencies in the safety management system are identified during the review, a plan is made to remedy the deficiencies; and
 - (j) if any practicable improvements for the safety management system are identified during the review, a plan is made to effect the improvements.
- (4) In this section—
- relevant period*, in relation to a review of a safety management system, means—
- (a) if the review is the first review of the system—the period since the system was prepared; or
 - (b) otherwise—the period since the previous review of the system.

Division 4 Safety performance reports

11 Information to be included in safety performance report—Act, s 70

For section 70(2)(c)(iv) of the Act, a safety performance report given to the chief executive by a rail transport operator

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must include a summary of the outcomes of any review, under section 65 of the Act, of the operator's safety management system that is finalised during the reporting period to which the report relates.

Division 5 Security management plans

12 Requirements for security management plan—Act, s 81

- (1) For section 81(2)(b) of the Act, a rail transport operator's security management plan for railway operations must—
 - (a) include a list of the risks to safety of persons arising, or potentially arising, from a security incident; and
 - (b) include a description of the measures mentioned in section 81(2)(a) of the Act, including a description of—
 - (i) the policies and procedures, and the equipment and other physical resources, that will be used for implementing the measures; and
 - (ii) the training that will be provided for persons involved in implementing the measures; and
 - (c) if the rail transport operator shares a location, including, for example, a modal interchange or port, with another transport operator—include a description of any arrangements made with the other transport operator about protecting people from, or responding to, a security incident; and
 - (d) include procedures for recording, reporting and analysing security incidents that happen in relation to the railway operations; and
 - (e) identify, by name or title, the person responsible for each role or responsibility mentioned in the plan; and
 - (f) provide for how, in relation to security incidents, the operator is to liaise, share information, and operate jointly, with—

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- (i) emergency services; and
 - (ii) other transport operators who may be affected by the implementation of the plan; and
 - (g) provide for the evaluation, testing and, if necessary, revision of the measures, policies and procedures mentioned in the plan.
- (2) In this section—
- security incident* means an incident of a type mentioned in section 81(2)(a) of the Act.

Division 6 Emergency management plans

13 Consultation requirement for preparing emergency management plan—Act, s 82(2)(a)(ii)

- (1) This section prescribes, for section 82(2)(a)(ii) of the Act, requirements about the way a rail transport operator's emergency management plan for the railway operations must be prepared.
- (2) The rail transport operator must consult with each of the following entities in preparing the emergency management plan—
 - (a) each entity the operator is required, under section 66 of the Act, to consult with before establishing, reviewing or varying the operator's safety management system for the railway operations;
 - (b) each government agency, other than an emergency service, that has functions or responsibilities relating to managing emergencies in the area to which the plan relates;
 - (c) each transport operator who may be affected by the implementation of the plan;

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- (d) each of the following entities if the entity may be required to assist in implementing the plan, or a response measure of the plan—
 - (i) an entity that provides, or intends to provide, water, sewerage, drainage, gas, electricity, telephone, telecommunication or other similar services under an Act or a law of the Commonwealth;
 - (ii) a person who owns, or who is authorised under an Act to construct or use, a pipeline, whether underground or above ground, for transporting chemical, gas or petroleum products, or mineral slurry;
 - (iii) an entity that provides a public passenger service under the *Transport Operations (Passenger Transport) Act 1994*.

14 Matters for which emergency management plan must provide—Act, s 82(2)(b)

- (1) This section prescribes, for section 82(2)(b) of the Act, the matters for which a rail transport operator's emergency management plan for railway operations must provide.
- (2) The emergency management plan must provide for the following for each type of emergency that may happen in relation to the railway operations—
 - (a) the consequences of the type of emergency, including estimates of the likely magnitude and severity of the effects of the type of emergency;
 - (b) the risks to the safety of persons arising, or potentially arising, from the type of emergency;
 - (c) measures to mitigate the effects of the type of emergency;
 - (d) procedures for implementing the appropriate response measures of the plan that the rail transport operator is required to implement under the plan for the type of

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- emergency, including procedures about the provision of rescue services for dealing with the type of emergency;
- (e) procedures for restoring railway operations, and assisting people, affected by the type of emergency happening;
 - (f) the allocation of each role or responsibility mentioned in the plan for the type of emergency—
 - (i) to the rail transport operator or another entity; and
 - (ii) for a role or responsibility allocated to the rail transport operator—to 1 or more of the operator's employees, representatives or agents;
 - (g) the allocation to 1 or more of the rail transport operator's employees, representatives or agents, or to other entities, the responsibility to provide on-site management of the type of emergency;
 - (h) procedures for how the rail transport operator is to liaise with each relevant emergency service in relation to the type of emergency, including the identification of the circumstances in which the emergency service must be contacted immediately;
 - (i) procedures for ensuring that the relevant emergency service is provided with all the information that is reasonably required for the emergency service to respond effectively to the type of emergency;
 - (j) procedures for effective communication and cooperation throughout the implementation of the appropriate response measures;
 - (k) procedures for securing the site affected by the type of emergency and preserving evidence at the site;
 - (l) the evaluation, testing and, if necessary, revision, of the measures and procedures mentioned in the plan.
- (3) The emergency management plan must also provide for procedures for ensuring, so far as is reasonably practicable, that the rail transport operator's employees, representatives or

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agents, or other entities, who may be required to implement a response measure of the plan—

- (a) are provided with information about the relevant elements of the plan; and
- (b) are able to do anything that may be required of them under the plan.

15 Requirements for keeping emergency management plan—Act, s 82(3)(a)

- (1) This section prescribes, for section 82(3)(a) of the Act, requirements about how a rail transport operator’s emergency management plan for railway operations must be kept.
- (2) A rail transport operator must keep the operator’s emergency management plan for railway operations in a way that ensures it is comprehensible, and readily accessible at all times, to the following entities—
 - (a) every employee, representative or agent of the operator who may be required to implement a response measure of the plan, perform a role or undertake a responsibility stated in the plan;
 - (b) every other transport operator who may be affected by the implementation of the plan;
 - (c) each entity mentioned in section 13(2)(d) who may be required to implement a response measure of the plan, perform a role or undertake a responsibility stated in the plan;
 - (d) each emergency service.

16 Requirements for testing emergency management plan—Act, s 82(3)(c)

- (1) This section prescribes, for section 82(3)(c) of the Act, the way a rail transport operator’s emergency management plan for railway operations must be tested.

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- (2) A rail transport operator must test the operator's emergency management plan for railway operations, or relevant elements of the plan, to ensure the plan remains effective—
 - (a) at intervals stated in the plan; and
 - (b) after each significant change is made to the plan.
 - (3) A rail transport operator must, so far as is reasonably practicable, arrange for each relevant emergency service to participate in the testing of the operator's emergency management plan for railway operations or an element of the plan.
 - (4) A rail transport operator must test the operator's emergency management plan for railway operations by undertaking in-house exercises as often as the operator considers necessary to ensure the plan will be properly implemented if an emergency happens.
 - (5) This section does limit the ways in which an emergency management plan for railway operations may be tested.

Division 7 Management programs other than fatigue management programs

17 Requirement for health and fitness management program—Act, s 83

- (1) For section 83 of the Act, a rail transport operator's health and fitness program for rail safety workers must provide for procedures for monitoring and assessing the health and fitness of the rail safety workers that are consistent with the guidelines for the procedures stated in the national health standard.
- (2) In this section—

national health standard means the standard called 'National Standard for Health Assessment of Rail Safety Workers', developed by the National Transport Commission.

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Note—

A copy of the standard may be obtained, free of charge, from the National Transport Commission's website on the internet.

Editor's note—

At the commencement of this section, the National Transport Commission's website was at <www.ntc.gov.au>.

National Transport Commission means the National Transport Commission established under the *National Transport Commission Act 2003* (Cwlth), section 5.

18 Requirements for alcohol and drug management program—Act, s 84

- (1) For section 84 of the Act, a rail transport operator's alcohol and drug management program for rail safety workers must provide for the following—
 - (a) identifying and assessing risks to safety arising from, or potentially arising from, the operator's railway operations that may be caused, wholly or partly, by rail safety workers carrying out work on or in relation to the operator's rail infrastructure or rolling stock whilst—
 - (i) under the influence of alcohol; or
 - (ii) impaired by a drug;
 - (b) managing the risks identified under paragraph (a);
 - (c) without limiting paragraph (b), measures for ensuring, so far as is reasonably practicable, rail safety workers do not carry out work on or in relation to the operator's rail infrastructure or rolling stock whilst under the influence of alcohol or impaired by a drug, including, for example, procedures for—
 - (i) rail safety workers notifying the operator, in confidence, of any factors that may affect the level of alcohol or a drug in the rail safety workers' blood or breath; or
 - (ii) the consequences applying to rail safety workers who carry out work on or in relation to the

operator's rail infrastructure or rolling stock whilst under the influence of alcohol or impaired by a drug;

- (d) educating and training rail safety workers, and managers and supervisors of rail safety workers, about—
 - (i) the risks identified under paragraph (a); and
 - (ii) their obligations relating to ensuring, so far as is reasonably practicable, rail safety workers do not carry out work on or in relation to the operator's rail infrastructure or rolling stock whilst under the influence of alcohol or impaired by a drug; and
 - (iii) the consequences for not complying with the obligations.
- (2) For subsection (1), a rail safety worker is under the influence of alcohol if the alcohol present in the worker's blood or breath is, or is higher than, the prescribed concentration.
- (3) In this section—

prescribed concentration means the concentration prescribed for section 25(1)(c)(i) of the Act.

Note—

See section 4 for the prescribed concentration.

Division 7A Fatigue management programs

Subdivision 1 Requirements for fatigue management program

18A Definitions for div 7A

In this division—

drive, a train, means drive or otherwise control the movement of the train.

train means a freight train or passenger train.

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train driver, of a train operator, means a rail safety worker who drives the operator's train.

train operator means a rolling stock operator for a train.

19 Requirements for fatigue management program—Act, s 85

- (1) For section 85 of the Act, a rail transport operator's fatigue management program for rail safety workers must provide for the following—
 - (a) identifying and assessing risks to the safety of persons arising, or potentially arising, from the operator's railway operations that may be caused, wholly or partly, by rail safety workers carrying out work on or in relation to the operator's rail infrastructure or rolling stock whilst fatigued;
 - (b) identifying and assessing factors that may cause rail safety workers carrying out work on or in relation to the operator's rail infrastructure or rolling stock to be fatigued, including any of the following that apply to the operator's work arrangements for rail safety workers—
 - (i) work schedules, including schedules involving rail safety workers having to call in to find out if they are working on a particular day or being on-call to work on a particular day;
 - (ii) shift work;
 - (iii) rail safety workers working for extended hours, including, for example, because of overtime or working, or being on-call to work, on days they are not scheduled to work;
 - (iv) rail safety workers having to remain awake for extended hours;
 - (v) significant physical or mental exertion of rail safety workers;
 - (vi) monotonous or low demand tasks that may create boredom;

- (c) having regard to the matters identified and assessed under paragraphs (a) and (b), procedures for ensuring, so far as is reasonably practicable, rail safety workers do not carry out work on or in relation to the operator's rail infrastructure or rolling stock whilst fatigued;
 - (d) educating and training rail safety workers about—
 - (i) identifying symptoms of fatigue; and
 - (ii) managing fatigue whilst carrying out work on or in relation to the operator's rail infrastructure or rolling stock.
- (2) Also, for section 85 of the Act, if a rail transport operator is a train operator, the operator's fatigue management program for rail safety workers must—
- (a) state the work hours and rest periods applying, under subdivision 2, to the operator's train drivers; and
 - (b) provide for measures for ensuring the operator's work arrangements for the operator's train drivers comply with the work hours and rest periods applying to the drivers under subdivision 2; and
 - (c) provide for measures to monitor and record compliance with the work hours and rest periods applying, under subdivision 2, to the operator's train drivers, including measures to monitor and record—
 - (i) the actual hours worked, and rest periods taken, by the drivers; and
 - (ii) any contravention of the work hours and rest periods by the drivers; and
 - (d) if the operator has an alternative work and rest hours approval—
 - (i) include, as part of the program, the alternative work hours and rest periods management plan for the alternative work hours and rest periods the subject of the approval; and
 - (ii) provide for implementing the management plan.

[s 19A]

Subdivision 2 Work hours and rest periods for train drivers

19A Purpose of sdiv 2

The purpose of this subdivision is to state, for section 19(2), the work hours and rest periods that apply to a train operator's train driver.

19B Standard work hours and rest periods

- (1) This section applies if the train driver drives the train operator's train other than under an alternative work and rest hours approval.
- (2) The length of the train driver's shift must not be more than—
 - (a) if the driver drives a train as a one-driver operation for any period during the shift—9 hours; or
 - (b) otherwise—12 hours.
- (3) For subsection (2), the train driver drives a train as a ***one-driver operation*** for a period if the driver is the only person responsible for driving the train for the period.
- (4) Also, if, during a shift, the train driver drives a passenger train on an urban journey, the driver must not spend more than 8 hours of the shift driving trains.
- (5) The train driver's rest period must be at least—
 - (a) 12 hours; or
 - (b) if the driver's shift ending immediately before the rest period starts ended at an away depot—8 hours.
- (6) In any 14 day period, the train driver—
 - (a) must not carry out work in relation to railway operations in more than 12 shifts; and
 - (b) must not carry out work in relation to railway operations for more than 132 hours.
- (7) In this section—

away depot, for a train operator's train driver, means a place, other than the driver's home depot, provided or arranged by the operator as a place for the driver to rest between shifts.

home depot, for a train operator's train driver, means the work location identified as the driver's home depot in the driver's contract of employment, contract of training or contract for services.

length, of a shift of a train operator's train driver, means the time between when the driver signs on to start the shift and when the driver signs off to end the shift.

19C Alternative work hours and rest periods

- (1) This section applies if the train driver drives the train operator's train under an alternative work and rest hours approval.
- (2) The train driver's shifts and rest periods must comply with the alternative work hours and rest periods the subject of the alternative work and rest hours approval.

19D Transitioning between different work hours and rest periods

- (1) This section applies to the train driver if the following happens (a ***work arrangement change***)—
 - (a) for a train driver who is driving a train other than under an alternative work and rest hours approval—the driver starts driving a train under an alternative work and rest hours approval;
 - (b) for a train driver who is driving a train under an alternative work and rest hours approval—
 - (i) the alternative work hours and rest periods the subject of the approval are varied; or
 - (ii) the driver starts driving a train other than under an alternative work and rest hours approval; or

[s 19E]

- (iii) the driver starts driving a train under another alternative work and rest hours approval.
- (2) Subject to subsection (3), the work hours and rest periods applying to the train driver under section 19B or 19C immediately before the work arrangement change happens continue to apply to the driver until—
 - (a) if the driver is in the middle of a rest period when the change happens—the end of the rest period; or
 - (b) otherwise—the end of the driver’s first rest period after the change.
- (3) The length of the rest period mentioned in subsection (2) must be the longer of the following—
 - (a) the minimum rest period under the work hours and rest periods applying to the train driver under section 19B or 19C immediately before the work arrangement change happens;
 - (b) the minimum rest period under the work hours and rest periods applying to the train driver under section 19B or 19C immediately after the work arrangement change happens.
- (4) The work hours and rest periods applying to the train driver under section 19B or 19C immediately after the work arrangement change happens start to apply to the driver when the rest period mentioned in subsection (2) ends.

19E Exception for accident or emergency

Sections 19B to 19D do not apply to the train driver if—

- (a) either—
 - (i) an accident or emergency happens; or
 - (ii) other urgent or unforeseeable circumstances arise that make it necessary for the driver to contravene the sections to avoid serious disruption to the train operator’s railway services, because there is no reasonable alternative available; and

-
- (b) the driver reasonably believes the driver is not fatigued to the extent that the driver's ability to carry out rail safety work safely is impaired.

Note—

Under section 35 of the Act, a rail safety worker has a duty to not, intentionally or recklessly, place at risk the safety of another person while carrying out rail safety work on or in the immediate vicinity of rail infrastructure.

Subdivision 3 Approval of alternative work hours and rest periods for train drivers

19F Approval may be granted

- (1) The chief executive may approve alternative work hours and rest periods for a train operator's train drivers for the operator's railway operations of a stated scope and nature.
- (2) For subsection (1), the stated scope and nature of the railway operations includes—
 - (a) the railway operations for which the approval is granted under subsection (3); and
 - (b) details of the nature of the railway operations mentioned in paragraph (a), including, for example—
 - (i) the railway tracks, and routes, in relation to which the railway operations are carried out; or
 - (ii) the type of train used to carry out the railway operations; or
 - (iii) the type of service provided by the railway operations.
- (3) An approval under subsection (1) may be granted for 1 or more of the following—
 - (a) all or stated railway operations;
 - (b) a service or aspect, or part of a service or aspect, of stated railway operations.

[s 19G]

19G Consultation requirement

A train operator intending to apply for approval, under this subdivision, of alternative work hours and rest periods for the operator's train drivers must—

- (a) prepare a proposed alternative work hours and rest periods management plan for the alternative work hours and rest periods; and
- (b) so far as is reasonably practicable, consult with the following persons about the proposed management plan—
 - (i) rail safety workers who are likely to be affected by the plan, including train drivers who would be required to comply with the alternative work hours and rest periods;
 - (ii) workplace health and safety representatives, within the meaning of the Work Health and Safety Act, representing any of the persons mentioned in subparagraph (i);
 - (iii) unions representing any of the persons mentioned in subparagraph (i).

19H Application for approval

- (1) A train operator may apply to the chief executive to approve alternative work hours and rest periods for the operator's train drivers for the operator's railway operations of a stated scope and nature.
- (2) The application for the approval must—
 - (a) be in the approved form; and
 - (b) state the following—
 - (i) the scope and nature of the railway operations for which the approval is sought;
 - (ii) details of the alternative work hours and rest periods for which the approval is sought;

-
- (iii) whether or not the applicant—
 - (A) has alternative work hours and rest periods approved under a corresponding law; or
 - (B) has applied for approval of alternative work hours and rest periods under a corresponding law; and
 - (c) include an alternative work hours and rest periods management plan for the alternative work hours and rest periods for which the approval is sought; and
 - (d) include any information the applicant used to prepare the management plan mentioned in paragraph (c); and
 - (e) include details of the consultation about a proposed alternative work hours and rest periods management plan for the alternative work hours and rest periods for which the approval is sought undertaken by the applicant under section 19G, including, for example, the following details—
 - (i) the persons, or groups of persons, who were consulted;
 - (ii) when and how the consultation was carried out;
 - (iii) the views about the proposed management plan expressed by the persons consulted;
 - (iv) the changes made to the proposed management plan as a result of the consultation.
 - (3) The chief executive may, by notice, require the applicant—
 - (a) to supply further information; or
 - (b) to verify by statutory declaration any information supplied to the chief executive.

19I What applicant for approval must demonstrate

- (1) The chief executive may grant an approval under this subdivision, with or without conditions, only if the chief executive is satisfied that granting the approval would not be

[s 19J]

likely to create risks to the safety of the applicant's railway operations greater than that which would be the case if the standard work hours and rest periods applied to the applicant's train drivers for the railway operations.

- (2) In making a decision under subsection (1), the chief executive must have regard to the following—
 - (a) the scope and nature of the railway operations for which the approval is sought;
 - (b) the applicant's alternative work hours and rest periods management plan for the alternative work hours and rest periods for which the approval is sought;
 - (c) anything else the chief executive considers relevant.

19J Considering application

- (1) The chief executive must consider each application for approval of alternative work hours and rest periods under this subdivision and—
 - (a) if the chief executive is satisfied the chief executive can grant the approval under section 19I—grant the approval, with or without conditions; or
 - (b) refuse the application.
- (2) The chief executive must grant the approval, or refuse the application, before the latest of the following periods ends—
 - (a) 3 months after the application was received by the chief executive;
 - (b) if the chief executive requested further information in relation to the application—3 months after the chief executive receives the final information requested;
 - (c) another later period agreed to by the chief executive and the applicant.
- (3) For subsection (1), the chief executive may impose conditions on the alternative work and rest hours approval, including, for example, that the applicant make stated changes to the applicant's alternative work hours and rest periods

management plan for the alternative work hours and rest periods the subject of the approval.

19K Steps after application decided

- (1) If the chief executive approves alternative work hours and rest periods under this subdivision, the chief executive must give the applicant—
 - (a) a notice stating the matters mentioned in subsection (2); and
 - (b) if the chief executive has imposed a condition on the approval—an information notice for the decision to impose the condition.
- (2) A notice under subsection (1)(a) must state the following—
 - (a) the details of the applicant mentioned in subsection (4);
 - (b) the scope and nature of the railway operations for which the approval is granted;
 - (c) details of the alternative work hours and rest periods for which the approval is granted;
 - (d) the conditions of the approval;
 - (e) the day, which must be at least 7 days after the notice is given to the applicant, on which the approval is to take effect.
- (3) If the chief executive decides to refuse the application, the chief executive must give the applicant an information notice for the decision.
- (4) For subsection (2)(a), the following details of the applicant must be stated—
 - (a) the applicant's name;
 - (b) if the applicant's railway operations are carried out under a registered business name, the registered business name;
 - (c) the applicant's ABN;

[s 19L]

- (d) if the applicant is a corporation, the applicant's ACN;
- (e) the applicant's address stated on the application.

19L When approval takes effect

An alternative work and rest hours approval takes effect on the day stated in the notice for the approval given under section 19K.

19M Approval subject to conditions

- (1) An alternative work and rest hours approval is subject to the following conditions—
 - (a) the train operator to whom the approval is granted must review the operator's alternative work hours and rest periods management plan for the alternative work hours and rest periods the subject of the approval—
 - (i) after each fatigue-related notifiable occurrence happens on or in relation to the operator's railway operations the subject of the approval; and
 - (ii) after each change in the nature of the work of the operator's train drivers that may cause the drivers to drive trains for the operator's railway operations the subject of the approval whilst fatigued; and
 - (iii) in any event—at least once every year;
 - (b) the train operator to whom the approval is granted must notify the chief executive of the outcome of a review under paragraph (a) within 28 days after the review is completed;
 - (c) if the train operator to whom the approval is granted intends to vary the alternative work hours and rest periods management plan for the alternative work hours and rest periods the subject of the approval—the operator must give the chief executive a copy of the management plan as varied at least 2 months before the variation is to take effect;

-
- (d) the conditions, if any, imposed by the chief executive under section 19J.
 - (2) The train operator must comply with the conditions of the alternative work and rest hours approval.

Note—

Failure to comply with a condition of an alternative work and rest hours approval is a ground for the approval to be varied, suspended or revoked under section 19N.

- (3) For subsection (1)(a)(i), a *fatigue-related notifiable occurrence* happens on or in relation to a train operator's railway operations if—
 - (a) a notifiable occurrence happens on or in relation to the railway operations; and
 - (b) the operator knows, or reasonably suspects, the notifiable occurrence was caused wholly or partly because a train driver was driving a train for the railway operations whilst fatigued.

19N Grounds for varying, suspending or revoking approval

- (1) This section applies if—
 - (a) an alternative work and rest hours approval was granted because of a document or representation that is false or misleading or obtained or made in another improper way; or
 - (b) the chief executive reasonably considers risks to the safety of a train operator's railway operations the subject of an alternative work and rest hours approval are greater than that which would be the case if the standard work hours and rest periods applied to the operator's train drivers for the railway operations; or
 - (c) the chief executive—
 - (i) becomes aware that the alternative work hours and rest periods management plan for the alternative work hours and rest periods the subject of an

[s 19O]

- alternative work and rest hours approval has been, or is to be, changed; and
- (ii) reasonably considers, having regard to the change or proposed change, risks to the safety of the railway operations the subject of the approval have increased or are likely to increase; or
- (d) the chief executive reasonably believes the alternative work hours and rest periods the subject of an alternative work and rest hours approval are not being complied with; or
- (e) the train operator granted an alternative work and rest hours approval has contravened—
 - (i) a condition of the approval; or
 - (ii) the Act.
- (2) The chief executive may, by complying with section 19O—
 - (a) vary the alternative work and rest hours approval in any of the following ways—
 - (i) by varying the scope and nature of the railway operations that are the subject of the approval;
 - (ii) by varying the alternative work hours and rest periods that are the subject of the approval;
 - (iii) by varying the conditions of the approval, including by imposing new conditions; or
 - (b) suspend the approval wholly or partly, or in relation to stated railway operations, for a stated period; or
 - (c) revoke the approval wholly or partly, or in relation to stated railway operations, with immediate effect or with effect from a stated future date.

19O Procedure for varying, suspending or revoking approval

- (1) Before making a decision under section 19N, the chief executive must—
 - (a) give the train operator a notice stating—

- (i) that the chief executive is considering making a decision under section 19N of the type, and for the reasons, stated in the notice; and
 - (ii) that the operator may, within the period of at least 28 days stated in the notice, make written representations to the chief executive showing cause why the decision should not be made; and
- (b) consider any representations made under paragraph (a)(ii) that have not been withdrawn.
- (2) If, after considering the written representations, the chief executive decides to act under section 19N, the chief executive must give the train operator an information notice for the decision.
- (3) If the chief executive decides to revoke the alternative work and rest hours approval, the information notice must also include a direction to the train operator to return the notice given under section 19K(1) for the approval to the chief executive within 14 days after receiving the information notice.
- (4) A train operator who is directed under subsection (3) to return a notice must comply with the direction, unless the operator has a reasonable excuse.

Maximum penalty—20 penalty units.

- (5) A decision under section 19N takes effect on the later of the following—
 - (a) the day the information notice is given to the train operator;
 - (b) the day of effect stated in the information notice.
- (6) If, after considering the written representations, the chief executive decides action is no longer required under section 19N in relation to the alternative work and rest hours approval, the chief executive must give the train operator notice of the decision.

[s 19P]

19P Suspending approval immediately

- (1) This section applies if the chief executive reasonably considers there is, or would be, an immediate and serious risk to the safety of persons if a train operator's alternative work and rest hours approval is not suspended immediately.
- (2) The chief executive may, by notice given to the train operator and without complying with section 19O, immediately suspend the operator's alternative work and rest hours approval—
 - (a) wholly or partly, or in relation to stated railway operations; and
 - (b) for a stated period not exceeding 6 weeks.
- (3) The notice given under subsection (2) must include, or be accompanied by, an information notice.
- (4) The chief executive may amend a suspension of a train operator's alternative work and rest hours approval under this section to—
 - (a) reduce the period of suspension; or
 - (b) extend the period of suspension so long as the total suspension period does not exceed 6 weeks.
- (5) Before amending a suspension of a train operator's alternative work and rest hours approval under this section to extend the period of suspension, the chief executive must—
 - (a) give the operator a notice stating—
 - (i) that the chief executive is considering extending the period of suspension for the reasons stated in the notice; and
 - (ii) that the operator may, within the period of at least 7 days stated in the notice, make written representations to the chief executive showing cause why the suspension should not be extended; and
 - (b) consider any representations made under paragraph (a)(ii) that have not been withdrawn.

- (6) If, after considering the written representations, the chief executive decides to amend the suspension of the train operator's alternative work and rest hours approval to extend the period of suspension, the chief executive must give the operator an information notice for the decision.
- (7) If the chief executive decides to amend the suspension of the train operator's alternative work and rest hours approval to reduce the period of suspension, the chief executive must give the operator a notice stating the new period of suspension.

19Q Application for variation of approval

- (1) A train operator may apply to the chief executive for a variation of the operator's alternative work and rest hours approval, including, for example, to vary—
 - (a) the scope and nature of the railway operations that are the subject of the approval; or
 - (b) the alternative work hours and rest periods that are the subject of the approval; or
 - (c) a condition of the approval imposed by the chief executive.
- (2) An application for a variation of an alternative work and rest hours approval must—
 - (a) be in the approved form; and
 - (b) include the details of the variation being sought.
- (3) Also, if the application is for a variation of the alternative work hours and rest periods that are the subject of the alternative work and rest hours approval, the application must be made as if it were an application for the approval of the alternative work hours and rest periods under this subdivision.

Note—

See sections 19G and 19H for the requirements for an application for the approval of alternative work hours and rest periods.

- (4) The chief executive may, by notice, require the applicant—
 - (a) to supply further information; or

[s 19R]

- (b) to verify by statutory declaration any information supplied to the chief executive.

19R Considering application for variation and conditions that may be imposed

- (1) The chief executive must consider each application, under section 19Q, for a variation of an alternative work and rest hours approval and—
 - (a) vary the approval in the way sought by the applicant, with or without imposing new or varied conditions on the approval not sought by the applicant; or
 - (b) refuse the application.
- (2) However, the chief executive may vary the alternative work and rest hours approval under subsection (1)(a) only if the chief executive is satisfied that the approval as it applies after the variation would not be likely to create risks to the safety of the applicant's railway operations greater than that which would be the case if the standard work hours and rest periods applied to the applicant's train drivers for the railway operations.
- (3) In making a decision under subsection (1), the chief executive must have regard to the following—
 - (a) the scope and nature of the railway operations that are the subject of the alternative work and rest hours approval to which the application relates;
 - (b) the following management plan—
 - (i) if the application is for a variation of the alternative work hours and rest periods that are the subject of the alternative work and rest hours approval—the applicant's alternative work hours and rest periods management plan for the alternative work hours and rest periods as varied;
 - (ii) otherwise—the applicant's alternative work hours and rest periods management plan for the

alternative work hours and rest periods the subject of the approval;

- (c) anything else the chief executive considers relevant.
- (4) For subsection (1)(a), the chief executive may impose new or varied conditions on the alternative work and rest hours approval not sought by the applicant, including, for example, that the applicant make stated changes to the applicant's alternative work hours and rest periods management plan for the alternative works hours and rest periods the subject of the approval.
- (5) The chief executive must vary the alternative work and rest hours approval, or refuse the application, before the latest of the following periods ends—
 - (a) 3 months after the application was received by the chief executive;
 - (b) if the chief executive requested further information in relation to the application—3 months after the chief executive receives the final information requested;
 - (c) another later period agreed to by the chief executive and the applicant.

19S Steps after application for variation decided

- (1) If the chief executive decides to vary an alternative work and rest hours approval under section 19R, the chief executive must give the applicant—
 - (a) a notice stating the matters mentioned in subsection (2); and
 - (b) if the chief executive has imposed a new or varied condition on the approval not sought by the applicant—an information notice for the decision to impose the new or varied condition.
- (2) A notice under subsection (1)(a) must state the following—
 - (a) the details of the applicant mentioned in subsection (4);

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- (b) details of the variation of the alternative work and rest hours approval;
 - (c) if the chief executive has imposed a new or varied condition on the alternative work and rest hours approval—the new or varied condition.
- (3) If the chief executive decides to refuse the application, the chief executive must give the applicant an information notice for the decision.
- (4) For subsection (2)(a), the following details of the applicant must be stated—
 - (a) the applicant's name;
 - (b) if the applicant's railway operations are carried out under a registered business name, the registered business name;
 - (c) the applicant's ABN;
 - (d) if the applicant is a corporation, the applicant's ACN;
 - (e) the applicant's address stated on the application.

Division 8 Provisions about other requirements about safety management

20 Assessment of competence of rail safety workers—Act, s 87(2)

- (1) For section 87(2) of the Act, the competence of a rail safety worker to carry out particular rail safety work must be assessed in either of the following ways—
 - (a) by the worker attaining the qualification, or successfully completing the units of competency, recognised under the Australian Qualifications Framework that apply to the work;
 - (b) by the rail transport operator in a way that assesses whether the worker has the level of knowledge and skills

necessary to enable the worker to carry out the work safely.

(2) In this section—

Australian Qualifications Framework means the system of national qualifications for schools, vocational education and training and higher education, that—

- (a) is called the ‘Australian Qualifications Framework’; and
- (b) was developed by the Ministerial Council on Education, Employment, Training and Youth Affairs.

Editor’s note—

For more information about the framework, see <www.aqf.edu.au>.

21 Record of competence of rail safety workers—Act, s 87(4)

- (1) This section prescribes, for section 87(4) of the Act, the way a record of the competence of a rail safety worker who carries out rail safety work on or in relation to a rail transport operator’s rail infrastructure or rolling stock must be kept.
- (2) The record must include the following details—
 - (a) details of the rail safety training undertaken by the worker, including—
 - (i) when the training was undertaken; and
 - (ii) the duration of the training; and
 - (iii) the name of the entity who conducted the training;
 - (b) details of the worker’s qualification, including details of each of the following—
 - (i) any units of competency undertaken by the worker to achieve the qualification;
 - (ii) the level of qualification attained by the worker;
 - (iii) whether or not the worker’s competence will be reassessed and, if so, when the reassessment will be conducted;

[s 21A]

- (iv) whether or not the worker requires further rail safety training or retraining and, if so, when the further training or retraining will be undertaken;
 - (c) if any further rail safety training or retraining is undertaken by the worker, details of the further rail safety training or retraining, including—
 - (i) when the further rail safety training or retraining was undertaken; and
 - (ii) the duration of the further rail safety training or retraining; and
 - (iii) the name of the entity who conducted the further rail safety training or retraining;
 - (d) the name and qualifications of the person who assessed the worker's competence.
- (3) In this section—

rail safety training means training about an aspect of rail safety work.

Division 8A Provision about information chief executive may require

21A Information that may be required—Act, s 90

- (1) This section prescribes, for section 90 of the Act, information the chief executive may, under that section, require from a rail transport operator who is a train operator.
- (2) The chief executive may require the train operator to give any of the following information for a stated period—
 - (a) information about compliance, during the period, with the work hours and rest periods applying, under division 7A, subdivision 2, to the operator's train drivers, including information about—
 - (i) the actual hours worked, and rest periods taken, by the drivers in the period; and

- (ii) any contravention of the work hours and rest periods by the drivers in the period;
- (b) information about any circumstances in which sections 19B to 19D did not apply, in the period, to a train driver of the operator because of the operation of section 19E;
- (c) if the operator has an alternative work and rest hours approval, information about—
 - (i) compliance, during the period, with the alternative work hours and rest periods management plan for the alternative work hours and rest periods the subject of the approval; and
 - (ii) the outcome of a review of the alternative work hours and rest periods management plan, for the alternative work hours and rest periods the subject of the approval, conducted in the period.

Division 9 Provisions about giving prescribed information

Subdivision 1 Preliminary

22 Purpose of div 9

This division prescribes the following for section 91 of the Act—

- (a) the information required to be given under that section;
- (b) the way the information must be given to the chief executive;
- (c) the time within which, and the periods for which, the information must be given to the chief executive.

[s 23]

23 Brief explanation of div 9

- (1) This division provides that, under section 91 of the Act, a rail transport operator is required to give—
 - (a) information (*monthly information*) for each month during which railway operations are carried out by or on behalf of the operator under the operator's accreditation; and
 - (b) information (*annual information*) for each year during which railway operations are carried out by or on behalf of the operator under the operator's accreditation.
- (2) Subdivision 2 outlines the requirements under section 91 of the Act for monthly information.
- (3) Subdivision 3 outlines the requirements under section 91 of the Act for annual information.

Subdivision 2 Monthly information

24 Information that must be given—Act, s 91(1)

A rail transport operator must give the chief executive the following information for each month during which railway operations are carried out by or on behalf of the operator under the operator's accreditation—

- (a) if the rail transport operator is a rail infrastructure manager—the length, in kilometres, of railway tracks in the State for which the rail transport operator was a rail infrastructure manager during the month;
- (b) if the rail transport operator is a rolling stock operator—
 - (i) the number of kilometres travelled on railway tracks in the State, in the month, by passenger trains for which the rail transport operator is a rolling stock operator; and
 - (ii) the number of kilometres travelled on railway tracks in the State, in the month, by freight trains

for which the rail transport operator is a rolling stock operator; and

- (iii) the number, either estimated or actual, of urban journeys made by passengers, in the month, on passenger trains for which the rail transport operator is a rolling stock operator; and
- (iv) the number, either estimated or actual, of non-urban journeys made by passengers, in the month, on passenger trains for which the rail transport operator is a rolling stock operator.

Example for working out number of kilometres of railway tracks travelled in a month—

A train transports passengers or freight from point A to point B and makes a return journey to point A without passengers or freight. The train uses 300km of railway tracks in the journey from point A to point B, and in the return journey.

If the train makes 30 return journeys between point A and point B each day of a month, the number of kilometres the train has travelled on railway tracks in a month of 30 days is $2 \times 300\text{km} \times 30 \times 30$ (being 540000km).

25 Way information must be given—Act, s 91(2)(a)

Information mentioned in section 24 must be given in the approved form for a return of monthly information.

26 Time within which, and periods for which, information must be given—Act, s 91(2)(b) and (c)

A rail transport operator must give the chief executive the information mentioned in section 24—

- (a) for each month during which railway operations are carried out by or on behalf of the operator under the operator's accreditation; and
- (b) as soon as practicable but no later than 21 days after the end of the month to which the information relates.

[s 27]

Subdivision 3 Annual information

27 Information that must be given—Act, s 91(1)

- (1) A rail transport operator must give the chief executive the following information for each financial year during which railway operations are carried out by or on behalf of the operator under the operator's accreditation—
 - (a) if the rail transport operator is a rail infrastructure manager—the estimated length, in kilometres, of railway tracks in the State for which the rail transport operator will be a rail infrastructure manager during the financial year;
 - (b) if the rail transport operator is a rolling stock operator—
 - (i) the estimated number of kilometres of railway tracks in the State that passenger trains for which the rail transport operator is a rolling stock operator will travel on in the financial year; and
 - (ii) the estimated number of kilometres of railway tracks in the State that freight trains for which the rail transport operator is a rolling stock operator will travel on in the financial year; and
 - (iii) the estimated number of urban journeys that will be made, in the financial year, by passengers on passenger trains for which the rail transport operator is a rolling stock operator; and
 - (iv) the estimated number of non-urban journeys that will be made, in the financial year, by passengers on passenger trains for which the rail transport operator is a rolling stock operator;

Example for working out estimated number of kilometres of railway tracks that will be travelled in a financial year—

A train transports passengers or freight from point A to point B and makes a return journey to point A without passengers or freight. The train uses 300km of railway tracks in the journey from point A to point B, and in the return journey.

If it is estimated that the train will make 30 return journeys between point A and point B each day of a financial year, the estimated number of kilometres the train will travel on railway tracks in the financial year is $2 \times 300\text{km} \times 30 \times 365$ (being 6570000km).

- (c) the estimated number of rail safety workers who will, during the financial year, carry out rail safety work in relation to the rail transport operator's railway operations in the State.
- (2) Also, if the rail transport operator is a train operator, the operator must give the chief executive the following information for each financial year during which railway operations are carried out by or on behalf of the operator under the operator's accreditation—
- (a) information about compliance, during the year, with the work hours and rest periods applying, under division 7A, subdivision 2, to the operator's train drivers, including information about any contravention of the work hours and rest periods by the drivers in the year;
 - (b) information about any circumstances in which sections 19B to 19D did not apply, in the year, to a train driver of the operator because of the operation of section 19E;
 - (c) if the operator has an alternative work and rest hours approval—information relating to the implementation of the alternative work hours and rest periods management plan, for the alternative work hours and rest periods the subject of the approval, during the year.

28 Way information must be given—Act, s 91(2)(a)

Information mentioned in section 27 must be given in the approved form for a return of annual information.

29 Time within which, and periods for which, information must be given—Act, s 91(2)(b) and (c)

A rail transport operator must give the chief executive the information mentioned in section 27—

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- (a) for each financial year during which railway operations are carried out by or on behalf of the operator under the operator's accreditation; and
- (b) no later than—
 - (i) 29 July of the financial year to which the information relates; or
 - (ii) if the chief executive has given the operator a notice stating a day after the day mentioned in subparagraph (i) as the day by which the information must be given, the stated day.

Division 10 Provisions about reporting notifiable occurrences

30 Explanation of div 10

- (1) This division—
 - (a) categorises notifiable occurrences as either a category A notifiable occurrence or category B notifiable occurrence; and
 - (b) prescribes, for section 93(1) of the Act, the period within which, and the way, a rail transport operator must report a category A notifiable occurrence or category B notifiable occurrence.
- (2) This division does not prescribe any accidents or incidents associated with railway operations to be notifiable occurrences for schedule 3, definition *notifiable occurrence*, paragraph 1(b) of the Act.
- (3) An accident or incident mentioned in section 31(a) to (h) is a category A notifiable occurrence only if it is a notifiable occurrence within the meaning of schedule 3, definition *notifiable occurrence*, paragraph 1(a) of the Act.

Example for subsection (3)—

Section 31(e) mentions a fire or explosion on or in rail infrastructure or rolling stock that affects the safe carrying out of railway operations or

that has endangered 1 or more persons. The fire or explosion is a category A notifiable occurrence only if the fire or explosion has caused, or could have caused, significant property damage, serious injury or death.

- (4) An accident or incident mentioned in section 32(1)(a) to (r) is a category B notifiable occurrence only if it is a notifiable occurrence within the meaning of schedule 3, definition *notifiable occurrence*, paragraph 1(a) of the Act.

Example for subsection (4)—

Section 32(1)(m) mentions a fire or explosion that either causes damage to rail infrastructure or rolling stock or disrupts the operation of, or results in the closure of, a railway. The fire or explosion is a category B notifiable occurrence only if the fire or explosion has caused, or could have caused, significant property damage, serious injury or death. However, if the fire or explosion has caused significant property damage, serious injury or death, it would be a category A notifiable occurrence under section 31(a) and is therefore not a category B notifiable occurrence because of section 32(2).

31 What is a *category A notifiable occurrence*

A notifiable occurrence that is 1 or more of the following types is a *category A notifiable occurrence*—

- (a) an accident or incident that has caused significant property damage, serious injury or death;
- (b) a running line derailment;
- (c) a running line collision between rolling stock;
- (d) a collision at a rail or road crossing between rolling stock and either a road vehicle or a person;
- (e) a fire or explosion on or in rail infrastructure or rolling stock that affects the safe carrying out of the railway operations or has endangered 1 or more persons;
- (f) a terrorist attack or an act or event suspected to be a terrorist attack;
- (g) an accident or incident involving an inadequacy in the safety management system for the railway operations

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that could have caused significant property damage, serious injury or death;

- (h) another accident or incident that is likely to generate intense public interest or concern.

Example for paragraph (h)—

an accident or incident that because it does not fall under paragraphs (a) to (g) would be a category B notifiable occurrence but is likely to generate intense public interest or concern because it has happened at or in the immediate vicinity of a platform at which passengers are present

32 What is a *category B notifiable occurrence*

- (1) Subject to subsection (2), a notifiable occurrence that is 1 or more of the following types is a ***category B notifiable occurrence***—
- (a) a derailment other than a running line derailment;
 - (b) a collision involving rolling stock other than a collision mentioned in section 31(c) or (d);
 - (c) an accident or incident at a rail or road crossing other than a collision mentioned in section 31(d);
 - (d) the passing of a stop signal, or a signal with no indication, by rolling stock without an authority given by the rail infrastructure manager responsible for the signal;
 - (e) an accident or incident involving rolling stock exceeding the limits of movement authorised by an authority given by the rail infrastructure manager of the rail infrastructure on or in which the rolling stock is operating or moving;
 - (f) a failure of a signalling system or communications system that endangers, or has the potential to endanger, the safe operation of trains or the safety of persons, or that causes, or has potential to cause, damage to adjoining property;
 - (g) a person—

- (i) slipping, tripping or falling at railway premises; or
- (ii) being caught in the door of rolling stock;
- (h) a situation where a load on rolling stock affects, or could affect, the safe passage of rolling stock or the safety of persons, or causes, or could cause, damage to adjoining property;
- (i) an accident or incident involving dangerous goods that affects, or could affect, the safe carrying out of railway operations or the safety of persons, or causes, or could cause, damage to property;
- (j) an accident or incident involving—
 - (i) a breach of a safe working system or procedure relating to the carrying out of the railway operations; or
 - (ii) an irregularity or deficiency in a system or procedure mentioned in subparagraph (i);
- (k) an accident or incident involving an irregularity in rail infrastructure that could affect the safe carrying out of railway operations or the safety of persons;
- (l) an accident or incident involving an irregularity in rolling stock that could affect the safe operation or movement of rolling stock or the safety of persons, or could cause damage to rolling stock;
- (m) a fire or explosion that causes damage to rail infrastructure or rolling stock, disrupts the operation of a railway, or results in the closure of a railway (even if the closure is only a precautionary measure);
- (n) an incident on railway premises involving a person inflicting, or allegedly inflicting, injury on another person;
- (o) an attempted suicide or an act suspected to be attempted suicide;
- (p) an accident or incident resulting from a rail safety worker contravening a requirement under the Act, or a

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rail transport operator's safety management system, about the level of concentration of alcohol or another drug in the worker's blood, breath or saliva;

- (q) the infliction of wilful or unlawful damage to, or the defacement of, rail infrastructure or rolling stock that could affect the safe carrying out of railway operations or the safety of persons;
 - (r) a corridor security incident that affects the safe carrying out of railway operations.
- (2) A notifiable occurrence of a type mentioned in subsection (1) is not a category B notifiable occurrence if it is a category A occurrence.
 - (3) A notifiable occurrence that is not a category A notifiable occurrence and is not of a type mentioned in subsection (1) is also a *category B notifiable occurrence*.
 - (4) In this section—

corridor security incident means an incident involving a person, or a vehicle or other thing, being on land on which rail infrastructure is situated without—

- (a) permission from the rail infrastructure manager for the rail infrastructure; or
- (b) other lawful authority.

Examples—

- a person trespassing on land on which rail infrastructure is situated
- a person throwing a thing onto land on which rail infrastructure is situated without the relevant permission or other lawful authority

dangerous goods means goods that are dangerous goods under the *Transport Infrastructure (Dangerous Goods by Rail) Regulation 2008*, section 30.

33 Reporting category A notifiable occurrence—Act, s 93

- (1) This section prescribes, for section 93(1) of the Act, the period within which, and the way, a rail transport operator must report a category A notifiable occurrence that has

happened on or in relation to a rail transport operator's railway premises or railway operations.

- (2) The rail transport operator must report the category A notifiable occurrence by—
 - (a) notifying the relevant reporting entity for the operator, in the approved way, that the occurrence has happened, immediately after the operator becomes aware that the occurrence has happened; and
 - (b) giving the relevant reporting entity for the operator a written report, in the approved form, about the occurrence within—
 - (i) 72 hours after the operator becomes aware that the occurrence has happened; or
 - (ii) if the chief executive has, by notice, extended the period within which the operator must give the report—the extended period.
- (3) In this section—

approved way, for notifying the relevant reporting entity that a category A notifiable occurrence has happened, means the way—

- (a) approved by the chief executive for the notification; and
- (b) published on the department's website.

Editor's note—

At the commencement of this section, the department's website was at <www.transport.qld.gov.au>.

34 Reporting category B notifiable occurrence—Act, s 93

- (1) This section prescribes, for section 93(1) of the Act, the period within which, and the way, a rail transport operator must report a category B notifiable occurrence that has happened on or in relation to a rail transport operator's railway premises or railway operations.
- (2) The rail transport operator must report the category B notifiable occurrence by giving the relevant reporting entity

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for the operator a written report, in the approved form, about the occurrence within—

- (a) 72 hours after the operator becomes aware that the occurrence has happened; or
- (b) if the chief executive has, by notice, extended the period within which the operator must give the report—the extended period.

Division 11 Provisions about keeping documents

35 Additional documents that must be kept—Act, s 96

- (1) For section 96(3), definition *relevant document*, paragraph (d), of the Act, each relevant safety performance report for a rail transport operator is prescribed for the operator.
- (2) In this section—
relevant safety performance report, for a rail transport operator, means a safety performance report that—
 - (a) is prepared by the operator under section 70 of the Act; and
 - (b) is less than 7 years old.

Part 4 Provisions about accreditation

36 Application for accreditation—Act, s 100

For section 100(2)(c)(i) of the Act, an application for accreditation for railway operations must include the information or items mentioned in schedule 2.

37 Details for inclusion in accreditation notice—Act, s 105

- (1) For section 105(2)(a) of the Act, the following details are prescribed—
 - (a) the applicant's name;
 - (b) if the applicant's railway operations are, or are to be, carried out under a registered business name, the registered business name;
 - (c) the applicant's ABN;
 - (d) if the applicant is a corporation, the applicant's ACN;
 - (e) the applicant's address stated on the application.
- (2) For section 105(2)(e) of the Act, the notice given under section 105(1)(a) of the Act for an accreditation of a rail infrastructure manager must state whether the manager may act under the *Transport Infrastructure Act 1994*, section 487 in relation to a railway the subject of the accreditation.

38 Prescribed accreditation conditions—Act, s 106

- (1) For section 106(1) of the Act, a person's accreditation for railway operations is subject to the following conditions—
 - (a) if the accredited person is accredited under a corresponding law, the accredited person must immediately notify the chief executive, in writing, if the accreditation under the corresponding law expires, or is suspended, surrendered or revoked;
 - (b) if the accredited person is given an improvement notice or prohibition notice under a corresponding law, the accredited person must immediately give the chief executive a copy of the notice;
 - (c) subject to subsections (2) and (3), if a decision, event or change mentioned in schedule 3, column 1 is made or happens in relation to the railway operations to which the accreditation relates, the accredited person must, within the period stated in schedule 3, column 2 for the

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- decision, event or change, notify the chief executive, in writing, of the decision, event or change;
- (d) if the accredited person is a corporation, the accredited person must ensure—
- (i) that at all times, an executive officer of the corporation is available as a contact person if the chief executive wishes to communicate with the rail transport operator; and
 - (ii) the chief executive is given sufficient details so that, at any given time, the chief executive knows who the contact person is and how to contact the contact person.
- (2) If it is not possible for an accredited person to comply with the condition mentioned in subsection (1)(c) because of an emergency, the accredited person must notify the chief executive of the relevant decision, event or change as soon as reasonably practicable after the decision, event or change is made or happens.
- (3) The condition mentioned in subsection (1)(c) does not require an accredited person to notify the chief executive of a decision, event or change if the decision, event or change is the subject of an application for variation of the accredited person's accreditation.

39 Application for variation of accreditation or variation of conditions—Act, ss 113 and 118

For section 113(2)(b)(ii) of the Act, an application for a variation of accreditation for railway operations must include the following—

- (a) the applicant's name;
- (b) if the applicant's railway operations are carried out under a registered business name, the registered business name;
- (c) the applicant's ABN;
- (d) if the applicant is a corporation, the applicant's ACN;

- (e) the following address—
 - (i) for an applicant that is a corporation—the corporation’s registered office under the Corporations Act;
 - (ii) for an applicant who is an individual—the individual’s residential address;
- (f) the name and contact details of the person nominated by the applicant to deal with any queries of the chief executive in relation to the application;
- (g) details of any variation of the applicant’s safety management system for the railway operations that is proposed if the chief executive varies the accreditation in the way stated in the application;
- (h) details of any consultation undertaken by the applicant with persons who may be affected by the variation the subject of the application or a proposed variation of the applicant’s safety management system for the railway operations, including, for example, the following details—
 - (i) the persons, or groups of persons, who were consulted;
 - (ii) when and how the consultation was carried out;
 - (iii) the changes to the proposed safety management system made as a result of the consultation;
- (i) evidence showing the applicant has the competence and capacity to manage risks to the safety of persons arising, or potentially arising, from the carrying out of the railway operations to which the accreditation will relate if the chief executive varies the accreditation in the way stated in the application.

Note—

Under section 118(2) of the Act, an application for a variation of a condition of an accreditation for railway operations must be made as if it were an application for variation of accreditation.

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40 Details for inclusion in notice for variation of accreditation or variation of conditions—Act, ss 117 and 122

For sections 117(2)(a) and 122(1)(a) of the Act, the following details are prescribed—

- (a) the applicant's name;
- (b) if the applicant's railway operations are carried out under a registered business name, the registered business name;
- (c) the applicant's ABN;
- (d) if the applicant is a corporation, the applicant's ACN;
- (e) the applicant's address stated on the application.

41 Surrender of accreditation—Act, s 124

(1) For section 124 of the Act, an accredited person may surrender the person's accreditation for railway operations by giving the chief executive a notice of surrender for the accreditation, at least 28 days before the proposed surrender date stated in the notice.

(2) In this section—

notice of surrender, for the accredited person's accreditation, means a notice stating—

- (a) that the accredited person intends to surrender the accreditation on a stated proposed surrender date; and
- (b) the arrangements that are proposed for ending the railway operations.

Part 5 Embargo notices

42 Particulars that must be stated on embargo notice—Act, s 171

For section 171(2)(c) of the Act, an embargo notice must state the following—

- (a) if a copy of the notice is to be given to the owner of the record, device or other thing to which the notice relates—the name of the owner;
- (b) if, because the owner can not be found after making reasonable inquiries, a copy of the notice is to be attached to the record, device or other thing to which the notice relates—that the notice is to be attached to the record, device or other thing;
- (c) the name and business telephone number of the rail safety officer who issued the notice;
- (d) the date on which the notice is issued.

Part 6 Fees

43 Annual registration fee payable—Act, s 58(1)

- (1) For section 58(1) of the Act, the annual registration fee payable by a rail infrastructure manager of a registered private siding for each financial year during which the siding is registered—
 - (a) is the amount payable under subsections (2) and (3); and
 - (b) is payable no later than 30 September of the financial year.
- (2) The fee payable is—
 - (a) if paragraph (b) does not apply—\$110.00; or

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- (b) if the rail infrastructure manager is a rail infrastructure manager of 6 or more registered private sidings—
 - (i) for each of the first 5 registered private sidings—\$110.00; and
 - (ii) for each additional registered private siding—\$70.00.
- (3) However, if a private siding is registered under the Act after a financial year starts, the annual registration fee payable for the siding is the part of the amount mentioned in subsection (2) that is proportionate to the number of days for which the siding is registered in the financial year.

44 Fee payable for application for accreditation—Act, s 100(2)(d)

For section 100(2)(d) of the Act, the application fee for an application for accreditation for railway operations is—

- (a) if the railway operations are only tourist and heritage railway operations—\$1013.00; or
- (b) if paragraph (a) does not apply and the applicant is accredited under a corresponding law for railway operations of the same, or substantially the same, scope and nature—\$3039.00; or
- (c) otherwise—\$8104.00.

45 Annual accreditation fee payable—Act, s 108

- (1) For section 108 of the Act, the annual accreditation fee payable by an accredited person for each financial year during which railway operations are carried out under the person's accreditation—
 - (a) is the prescribed amount worked out under section 46 for the financial year; and
 - (b) is payable no later than—
 - (i) 30 September of the financial year; or

-
- (ii) if the chief executive has given the accredited person a notice stating a day after the day mentioned in subparagraph (i) as the day by which the fee must be paid, the stated day.
- (2) Subsection (1) is subject to sections 47 and 48.

46 Prescribed amount for annual accreditation fee

- (1) For section 45, the *prescribed amount* for an annual accreditation fee payable by an accredited person for a financial year is the following—
- (a) if the total amount of the person's estimated rail revenue for the financial year is not more than \$250000—nil;
 - (b) if the total amount of the person's estimated rail revenue for the financial year is more than \$250000 but not more than \$500000—
 - (i) for an accreditation for only tourist and heritage railway operations—\$6034.45; or
 - (ii) for another accreditation—\$7241.35;
 - (c) if the total amount of the person's estimated rail revenue for the financial year is more than \$500000—
 - (i) for an accreditation for only tourist and heritage railway operations—
 - (A) \$69.30 for each estimated kilometre of railway track for which the person is accredited as a rail infrastructure manager for the financial year; and
 - (B) 8.3c for each estimated kilometre of railway track to be used for transporting passengers or freight under the person's accreditation as a rolling stock operator for the financial year; or
 - (ii) for another accreditation—
 - (A) \$83.10 for each estimated kilometre of railway track for which the person is

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accredited as a rail infrastructure manager for the financial year; and

- (B) 10.1c for each estimated kilometre of railway track to be used for transporting passengers or freight under the person's accreditation as a rolling stock operator for the financial year.

Examples of kilometres of railway tracks used for transporting passengers or freight—

- 1 If a train uses 300km of railway tracks to transport passengers or freight from point A to point B, and then makes a return journey to point A without passengers or freight, the number of kilometres of railway tracks used to transport the passengers or freight is 2 x 300km (being 600km).
 - 2 If the train mentioned in example 1 makes 30 return journeys between point A and point B each day of a financial year, the number of kilometres of railway tracks used to transport passengers or freight for the financial year is 2 x 300km x 30 x 365 (being 6570000km).
- (2) However, if a person is granted accreditation after a financial year starts, the ***prescribed amount*** is the part of the amount mentioned in subsection (1) that is proportionate to the number of days for which the person is accredited in the financial year.

47 Refund or credit if amounts used for calculating annual accreditation fee overestimated

- (1) This section applies if—
- (a) after a financial year ends the chief executive obtains or becomes aware of any of the following details (each ***actual details***) about an accredited person—
 - (i) the accredited person's actual rail revenue for the financial year;

-
- (ii) the actual kilometres of railway tracks for which the accredited person was accredited as a rail infrastructure manager for the financial year;
 - (iii) the actual kilometres of railway tracks that were used for transporting passengers or freight under the accredited person's accreditation as a rolling stock operator for the financial year; and
 - (b) using the actual details to work out, under section 46, the annual accreditation fee payable by the accredited person for the financial year, the annual accreditation fee payable is lower than the annual accreditation fee paid by the accredited person.
 - (2) Subject to subsection (3), the chief executive must refund the accredited person with the difference between—
 - (a) the amount of the annual accreditation fee paid for the financial year; and
 - (b) the amount of the annual accreditation fee worked out using the actual details for the financial year.
 - (3) If the chief executive is required to refund an amount to an accredited person under subsection (2) and the chief executive reasonably believes the accredited person is or will be an accredited person for the railway operations in the following financial year, the chief executive must, instead of refunding the amount to the accredited person—
 - (a) credit the amount to the accredited person's account for the following financial year; and
 - (b) deduct the amount from the annual accreditation fee payable by the accredited person for the following financial year.

48 Additional amount payable if amounts used for calculating annual accreditation fee underestimated

- (1) This section applies if—

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- (a) after a financial year ends the chief executive obtains or becomes aware of any of the following details (each *actual details*) about an accredited person—
 - (i) the accredited person’s actual rail revenue for the financial year;
 - (ii) the actual kilometres of railway tracks for which the accredited person was accredited as a rail infrastructure manager for the financial year;
 - (iii) the actual kilometres of railway tracks that were used for transporting passengers or freight under the accredited person’s accreditation as a rolling stock operator for the financial year; and
 - (b) using the actual details to work out, under section 46, the annual accreditation fee payable by the accredited person for the financial year, the annual accreditation fee payable is higher than the annual accreditation fee paid by the accredited person.
- (2) The chief executive may, by written notice, require the accredited person to pay, by the date stated in the notice, the difference between—
- (a) the amount of the annual accreditation fee paid for the financial year; and
 - (b) the amount of the annual accreditation fee worked out by using the actual details for the financial year.
- (3) For section 108 of the Act, an amount required to be paid under a notice given under subsection (2)—
- (a) is a part of the annual accreditation fee payable for the financial year; and
 - (b) is payable by the date stated in the notice.

49 Chief executive may request details of actual rail revenue

- (1) After a financial year ends, the chief executive may, by notice (*request notice*), require an accredited person to give the chief

executive details of the accredited person's rail revenue for the financial year within a stated period of at least 28 days.

- (2) An accredited person who is given a request notice must comply with the notice.

Note—

If an accredited person fails to comply with a request notice, the chief executive may suspend or revoke the accredited person's accreditation for railway operations, wholly or partly, under section 109 of the Act.

Part 7 Internal and external review

50 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 4 (the *original decision*) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
- (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed.

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51 External review of decisions

- (1) This section applies if the chief executive's decision (the *internal review decision*) on a review under section 50 is not the decision sought by the applicant for the review.

Note—

Under the *Transport Planning and Coordination Act 1994*, section 34, the chief executive must give the applicant a notice complying with the QCAT Act, section 157(2).

- (2) The applicant may apply, as provided under the QCAT Act, to QCAT for a review of the internal review decision.

Note—

The QCAT Act, section 22(3) provides that QCAT may stay the operation of the internal review decision, either on application by a person or on its own initiative.

Part 8 Transitional provision for Transport (Rail Safety) Amendment Regulation (No. 1) 2012

52 Application of particular provisions

The following provisions do not apply in relation to a train operator's railway operations until 11 February 2013—

- section 19(2)
- division 7A, subdivision 2
- division 8A
- section 27(2).

Schedule 1 Matters for which safety management system must provide

section 8(2)

1 Safety policy

A safety policy, consisting of 1 or more policies, that—

- (a) includes an express commitment to—
 - (i) safety; and
 - (ii) the development and maintenance of a positive safety culture; and
 - (iii) the continuous improvement of all aspects of the safety management system; and
- (b) aligns with the rail transport operator's other policies, to the extent that the other policies are consistent with the commitments mentioned in paragraph (a); and
- (c) is endorsed by the controlling body.

2 Governance and internal control arrangements

- (1) Systems and procedures to ensure that the controlling body, and each person responsible for managing the carrying out of railway operations by or on behalf of the rail transport operator, have—
 - (a) sufficient knowledge of the risk profile of the railway operations carried out by or on behalf of the rail transport operator to enable the operator to proactively manage the risks arising from the railway operations; and
 - (b) sufficient knowledge of the rail transport operator's level of compliance with the operator's duties and obligations under the Act; and

- (c) sufficient knowledge to decide—
 - (i) whether or not the safety management system is working effectively; and
 - (ii) whether or not risks to safety arising, or potentially arising, from the carrying out of the railway operations are being identified, assessed and managed so far as is reasonably practicable; and
 - (iii) whether or not the controls mentioned in section 64(1)(d)(i) of the Act are being regularly reviewed and revised.
- (2) Systems and procedures to ensure that each decision made or direction given by the rail transport operator's controlling body, or a person responsible for managing the carrying out of railway operations by or on behalf of the rail transport operator, that affects rail safety is implemented effectively.

3 Responsibilities, accountabilities, authorities and interrelationships

- (1) A policy that indicates how the safety responsibilities, accountabilities, authorities and interrelationships of persons who manage or carry out rail safety work for the rail transport operator, or who verify that work, have been decided.
- (2) A document that describes the safety responsibilities, accountabilities, authorities and interrelationships of persons mentioned in subsection (1).
- (3) Systems and procedures for the reporting of risks to safety by persons mentioned in subsection (1).
- (4) A document that describes the authorities given to persons mentioned in subsection (1), to enable the persons to meet their safety responsibilities, including a description of—
 - (a) the limits of the authorities; and
 - (b) the competency required for the authorities.

4 Regulatory compliance

- (1) Systems and procedures for identifying the rail transport operator's duties and obligations about safety under the Act and other Acts about safety.
- (2) Systems and procedures to ensure compliance with the duties and obligations mentioned in subsection (1).

5 Document control arrangements and information management

- (1) Systems and procedures to control and manage relevant documents held by the rail transport operator, including systems and procedures for—
 - (a) identifying, creating, maintaining, managing, storing and retaining the documents; and
 - (b) ensuring the documents remain current; and
 - (c) communicating any changes to the systems and procedures to rail safety workers and other persons who rely on the systems and procedures to carry out work for the rail transport operator.

- (2) In this section—

relevant document means a document of a type mentioned in section 178(1)(a), (b) or (c) of the Act.

6 Review of safety management system

- (1) Systems and procedures for the review of the safety management system under section 65 of the Act.
- (2) Document containing the details of each of the matters mentioned in section 10(3)(a) to (j) of this regulation.

7 Safety performance measures

- (1) Systems and procedures—

- (a) to ensure the safety management system is effective by using key performance indicators to measure safety performance; and
 - (b) to determine the effectiveness of the safety management system.
- (2) Systems and procedures to ensure the collection, analysis, assessment and dissemination of information about the safety of the rail transport operator's railway operations.

8 Safety audit arrangements

- (1) An audit program that provides for—
- (a) the scheduling and frequency of audits mentioned in section 64(1)(d)(i) of the Act; and
 - (b) audits of the safety management system, as part of the program; and
 - (c) giving priority to matters representing the greatest risks to safety.
- (2) Documented audit procedures to ensure there is a process for the collection of information to determine—
- (a) whether the railway operations comply with the safety management system; and
 - (b) the effectiveness of the safety management system.
- (3) Systems and procedures to ensure each auditor conducting an audit for the rail transport operator—
- (a) has the necessary skills and knowledge to undertake the audit; and
 - (b) is independent from the area being audited, to the greatest practicable extent.
- (4) Systems and procedures for—
- (a) communicating the results of an audit to the person managing the railway operations in the area audited, for that person's review and, if applicable, corrective action; and

- (b) keeping a register of, and implementing, any recommendations identified by an audit; and
- (c) reviewing the effectiveness of the audit program.

9 Corrective action

- (1) Systems and procedures to ensure, so far as is reasonably practicable, corrective action is taken in response to any deficiencies relating to safety identified following an inspection, test, audit or investigation under the Act or a notifiable occurrence.
- (2) Systems and procedures for—
 - (a) implementing corrective action determined to be required; and
 - (b) keeping a register of corrective action taken; and
 - (c) reviewing proposed corrective action and any corrective action taken; and
 - (d) assigning responsibilities for taking corrective action.
- (3) Systems and procedures for giving priority, when undertaking corrective action, to the matters representing the greatest risk to safety.

10 Management of change

Systems and procedures for ensuring changes that may affect the safety of railway operations are identified and managed, including, for example, systems and procedures for ensuring, so far as is reasonably practicable—

- (a) that the changes are identified and described in the context of how the changes may affect the safety of the railway operations; and
- (b) that persons who may be affected by the changes are identified and, if practicable, consulted about the changes; and
- (c) that the roles and responsibilities of rail safety workers involved in the railway operations, and employees of the

rail transport operator, in relation to the changes are clearly specified; and

- (d) that rail safety workers involved in the railway operations, and employees of the rail transport operator, are fully informed and trained to understand and deal with the changes; and
- (e) that the requirements of section 64(1)(c) and (d) of the Act are complied with in relation to the changes; and
- (f) that the changes, once implemented, are reviewed and assessed by the rail transport operator to determine whether or not the changes are being appropriately managed.

11 Consultation

Systems and procedures to ensure the consultation required under section 66 of the Act is carried out each time the safety management system is reviewed or varied.

12 Internal communication

Systems and procedures for—

- (a) disseminating information about the content of the safety management system, or a relevant part of the safety management system, to—
 - (i) persons who have roles or responsibilities in implementing the system, or the relevant part of the system; and
 - (ii) persons who may be otherwise affected by the implementation of the system, or the relevant part of the system; and
- (b) communicating the rail transport operator's safety policy and safety objectives to persons who have roles or responsibilities for implementing the system; and
- (c) internal reporting of accidents and incidents associated with the railway operations, including accidents and

incidents involving persons undertaking railway operations on behalf of the rail transport operator; and

- (d) supporting communication and the dissemination of information to all persons involved in the railway operations, including between levels of the operator's personnel.

13 Risk management

- (1) Systems and procedures for the following—
 - (a) eliminating, or reducing, the risks to safety caused by the rail transport operator's prescribed railway operations, in accordance with section 23 of the Act;
 - (b) identifying and assessing the risks to safety of persons arising, or potentially arising, from the carrying out of the rail transport operator's railway operations, in accordance with section 64(1)(c) of the Act;
 - (c) managing risks to the safety of persons arising, or potentially arising, from the carrying out of the rail transport operator's railway operations, in accordance with section 64(1)(d) of the Act.
- (2) A register that includes the following—
 - (a) a list of the risks to safety of persons arising, or potentially arising, from the carrying out of the railway operations identified under section 64(1)(c) of the Act;
 - (b) details of the assessment of the risks mentioned in paragraph (a), including their likelihood, likely consequences and ranking;
 - (c) a description of the measures that are to be used to manage, so far as is reasonably practicable, the risks mentioned in paragraph (a), including, where appropriate—
 - (i) identification of the persons responsible for implementing the measures; and

- (ii) a reference to the parts of the safety management system where more details about the measures can be found.
- (3) Systems and procedures to ensure the information and details included in the register mentioned in subsection (2) remain current, so far as is reasonably practicable.

14 Human factors

Systems and procedures—

- (a) to ensure human factors are taken into account in the establishment, review, implementation and maintenance of the safety management system; and
- (b) for integrating human factor principles into all relevant aspects of the carrying out of the railway operations.

15 Procurement and contract management

Systems and procedures for—

- (a) reviewing tender documents and contracts relating to the railway operations to ensure requirements about rail safety under the safety management system are adequately defined and documented in the documents and contracts; and
- (b) ensuring the terms of any tender documents or contracts relating to the railway operations do not lead to work that is unsafe or an activity that may affect rail safety; and
- (c) selecting and controlling persons undertaking the railway operations on behalf of the rail transport operator and monitoring their performance, including by conducting or commissioning audits of their performance against the parts of their contract with the rail transport operator that relate to rail safety; and
- (d) ensuring the rail transport operator's rail safety duties are being complied with under contracts relating to the

railway operations, and taking remedial action where necessary; and

- (e) ensuring goods and services provided in relation to the railway operations meet the standards and specifications required for ensuring rail safety is not affected by the railway operations.

16 General engineering and operational systems safety requirements

- (1) A documented set of engineering standards and procedures, and standards and procedures for ensuring the safety of operational systems, that cover the following and, if relevant, the interface between any 2 or more of the following—
 - (a) rail infrastructure used for the railway operations;
 - (b) rolling stock used for the railway operations;
 - (c) operational systems used for the railway operations.
- (2) Details of how the standards and procedures mentioned in subsection (1) have been implemented and, if applicable, how they have been updated.
- (3) Systems and procedures for controlling and verifying the design of rail infrastructure, rolling stock, and operational systems, used for the railway operations in accordance with standards and procedures mentioned in subsection (1).
- (4) Systems and procedures, and standards and procedures, for the following—
 - (a) constructing rail infrastructure or rolling stock;
 - (b) installing rail infrastructure;
 - (c) introducing and commissioning new rail infrastructure or new rolling stock;
 - (d) monitoring, maintaining and repairing rail infrastructure or rolling stock;
 - (e) operating rail infrastructure or rolling stock;
 - (f) modifying rail infrastructure or rolling stock;

- (g) decommissioning or disposing of rail infrastructure or rolling stock.

17 Process control

- (1) Systems and procedures for monitoring the rail transport operator's compliance with the standards and procedures, and systems and procedures, mentioned in section 16 of this schedule, including systems and procedures for inspecting and testing rail infrastructure, rolling stock and operational systems.
- (2) Systems and procedures for controlling, calibrating and maintaining all equipment used for inspecting or testing rail infrastructure, rolling stock or operational systems used for the railway operations.
- (3) Arrangements for establishing and maintaining records about inspections and testing of rail infrastructure, rolling stock or operational systems for providing evidence of the condition of the rail infrastructure, rolling stock or operational systems used for the railway operations.

18 Asset management

A policy and processes that address all phases of the lifecycle of each item of rail infrastructure and each rolling stock used for the railway operations.

19 Safety interface coordination

- (1) Systems and procedures for identifying risks to the safety of persons, and preparing and implementing interface agreements, in accordance with section 59, 72, 73 or 74 of the Act.
- (2) Systems and procedures for monitoring the implementation and effectiveness of interface arrangements, and compliance with interface arrangements.

20 Management of notifiable occurrences

- (1) Systems and procedures for reporting notifiable occurrences in accordance with section 93 of the Act.
- (2) Systems and procedures for managing a notifiable occurrence that has happened on or in relation to the rail transport operator's railway premises or railway operations, including systems and procedures for—
 - (a) managing the scene where the notifiable occurrence happened; and
 - (b) preserving evidence at the scene to the extent reasonably practicable; and
 - (c) identifying the notifiable occurrences that need to be investigated (in addition to notifiable occurrences identified by the chief executive under 94 of the Act), and how the investigation is to be conducted.

21 Rail safety worker competence

Systems and procedures and, if necessary, standards for—

- (a) ensuring the competence of rail safety workers who carry out rail safety work relating to the railway operations is assessed in accordance with section 87(1) and (2) of the Act; and
- (b) keeping records of the competence of rail safety workers who carry out rail safety work relating to the railway operations in accordance with section 87(4) of the Act.

22 Security management

Systems and procedures for developing and implementing a security management plan for the railway operations in accordance with section 81 of the Act.

23 Emergency management

Systems and procedures for developing and implementing an emergency management plan for the railway operations in accordance with section 82 of the Act.

24 Health and fitness

Systems and procedures for developing and implementing a health and fitness management program, for rail safety workers carrying out rail safety work in relation to the railway operations, in accordance with section 83 of the Act.

25 Alcohol and drug management

Systems and procedures for developing and implementing an alcohol and drug management program, for rail safety workers carrying out rail safety work in relation to the railway operations, in accordance with section 84 of the Act.

26 Fatigue management

Systems and procedures for developing and implementing a fatigue management program, for rail safety workers carrying out rail safety work in relation to the railway operations, in accordance with section 85 of the Act.

27 Resource availability

- (1) Systems and procedures for identifying the resources, including people and equipment, the rail transport operator will need for the following—
 - (a) to carry out the railway operations safely;
 - (b) to implement, manage and maintain the operator's safety management system.
- (2) Systems and procedures for ensuring the rail transport operator has adequate access to the resources identified under subsection (1).

Schedule 2 Information or items to be included in application for accreditation

section 36

- 1 the applicant's name
- 2 if the applicant's railway operations are, or are to be, carried out under a registered business name, the registered business name
- 3 the applicant's ABN
- 4 if the applicant is a corporation, the applicant's ACN
- 5 the following address—
 - (a) for an applicant that is a corporation—the corporation's registered office under the Corporations Act;
 - (b) for an applicant who is an individual—the individual's residential address
- 6 the name and contact details of the person nominated by the applicant to deal with any queries of the chief executive in relation to the application
- 7 if the applicant is an accredited person for railway operations under a corresponding law (including a person whose accreditation for railway operations is suspended under a corresponding law)—a copy of the accreditation notice for the accreditation under the corresponding law
- 8 if the applicant has applied for accreditation for railway operations under a corresponding law—
 - (a) the corresponding law under which the application is made; and
 - (b) details about the scope and nature of the railway operations for which accreditation under the corresponding law is sought

Schedule 2

- 9 for an applicant who is or will be a rail infrastructure manager for the rail infrastructure to which the railway operations for which the accreditation is sought relate, documentary evidence showing either or both of the following—
- (a) that the applicant is, or will be when the accreditation is granted, the owner of the rail infrastructure;
 - (b) that the applicant has, or will have when the accreditation is granted, effective management and control of the rail infrastructure
- Example for paragraph (b)—*
- a contract between the owner of the rail infrastructure and the applicant providing for the applicant to have effective management and control of the rail infrastructure at the relevant time
- 10 a description of the operational assets, or classes of operational assets, the applicant intends to use for the railway operations for which accreditation is sought, including—
- (a) any station, signal and train control centre or signalling system; and
 - (b) any rolling stock used for servicing, maintaining or repairing rail infrastructure or other equipment used for the railway operations
- 11 a description of the safe working systems the applicant has developed and intends to implement for carrying out the railway operations for which accreditation is sought
- 12 for an applicant who is or will be a rolling stock operator for the rolling stock to which the railway operations for which the accreditation is sought relate, documentary evidence showing either or both of the following—
- (a) that the applicant is, or will be when the accreditation is granted, the owner of the rolling stock;
 - (b) that the applicant has, or will have when the accreditation is granted, effective management and control of the rolling stock

Example for paragraph (b)—

a contract between the owner of the rolling stock and the applicant providing for the applicant to have effective management and control of the rolling stock at the relevant time

- 13 if electrified railway tracks will be used for the railway operations for which accreditation is sought—details of the electrification
- 14 details of the consultation undertaken by the applicant in relation to the applicant's proposed safety management system for the railway operations for which accreditation is sought, including, for example, the following details—
 - (a) the persons, or groups of persons, who were consulted;
 - (b) when and how the consultation was carried out;
 - (c) the changes made to the proposed safety management system as a result of the consultation
- 15 if the applicant is a corporation, evidence that the application has been—
 - (a) for a corporation that is a company registered under the Corporations Act—endorsed by the company's board of directors in a way the company may execute documents under the Corporations Act, section 127; or
 - (b) for another corporation—endorsed by the governing body of the corporation
- 16 if the railway operations, or a part of the railway operations, for which accreditation is sought are intended to be carried out by another person on behalf of the applicant—
 - (a) the name and contact details of the other person; and
 - (b) the details of the railway operations, or part of the railway operations, intended to be carried out by the other person

Schedule 3 Notification requirements for prescribed accreditation conditions

section 38(1)(c)

Column 1 Decision, event or change	Column 2 Period for notifying chief executive
1 decision to design or construct, or to commission the design or construction of, rolling stock or new railway tracks for the railway operations	as soon as reasonably practicable after the decision is made
2 introduction into service of rolling stock of a type not previously operated, or re-introduction into service of rolling stock not currently operated, for the railway operations	at least 28 days before the rolling stock is to be introduced or re-introduced into service
3 change to a safety critical element of existing rolling stock used in the railway operations	at least 28 days before the change is to be given effect
4 change to 1 or more classes of rail infrastructure used in the railway operations	at least 28 days before the new class of rail infrastructure is to be introduced
5 change to a safety standard for the design of rail infrastructure or rolling stock used in the railway operations	at least 28 days before the change is to be adopted by the accredited person
6 decision to adopt a new safety standard for the design of rail infrastructure or rolling stock used in the railway operations	at least 28 days before the new safety standard is to be adopted by the accredited person
7 change to the frequency of, or procedures for, inspections or routine maintenance of rail infrastructure or rolling stock used in the railway operations	at least 28 days before the change is to be given effect

Column 1 Decision, event or change	Column 2 Period for notifying chief executive
8 change to a rule or procedure, of a safe working system, relating to the carrying out of the railway operations	at least 28 days before the change is to be given effect
9 decision to introduce a new rule or procedure, for a safe working system, relating to the carrying out of the railway operations	as soon as reasonably practicable after the decision is made
10 replacement of the person identified in the safety management system for the railway operations as the contact person for dealing with queries about the system with another person	as soon as reasonably practicable after it is known that the replacement will happen

Schedule 4 Internal and external reviews

section 50

Section of Regulation	Description of decision
19J(1)(a)	decision of chief executive to impose conditions on approval of alternative work hours and rest periods
19J(1)(b)	decision of chief executive to refuse application for approval of alternative work hours and rest periods
19N(2)	decision of chief executive to vary, suspend or revoke alternative work and rest hours approval
19P	decision of chief executive to immediately suspend alternative work and rest hours approval, or extend period of immediate suspension of the approval
19R(1)(a)	decision of chief executive to impose on an alternative work and rest hours approval to which an application for variation relates new or varied conditions not sought by the applicant
19R(1)(b)	decision of chief executive to refuse application for variation of alternative work and rest hours approval

Schedule 5 Dictionary

section 3

accreditation notice, for an accreditation under a corresponding law, means a notice evidencing the accreditation given under the corresponding law by the relevant corresponding rail safety regulator.

alternative work and rest hours approval means an approval of alternative work hours and rest periods granted under part 3, division 7A, subdivision 3.

alternative work hours and rest periods means work hours and rest periods applying to a train operator's train driver that are different to the standard work hours and rest periods.

alternative work hours and rest periods management plan, for alternative work hours and rest periods, means a document that—

- (a) states—
 - (i) the alternative work hours and rest periods; and
 - (ii) the railway operations to which the alternative work hours and rest periods apply; and
- (b) identifies and assesses any additional risks to the safety of the railway operations likely to result from the alternative work hours and rest periods applying to a train operator's train drivers for the railway operations; and
- (c) states any measures to manage the additional risks identified under paragraph (b).

category A notifiable occurrence see section 31.

category B notifiable occurrence see section 32.

controlling body—

- (a) for a rail transport operator who is an individual—the individual; or

- (b) for a rail transport operator that is a corporation—
 - (i) if the corporation is a company registered under the Corporations Act—the company’s board of directors; or
 - (ii) otherwise—the governing body of the corporation.

drive, a train, for part 3, division 7A, see section 18A.

emergency service see section 82(5) of the Act.

freight train means a train that carries only freight.

information notice, for a decision, means a notice stating the following—

- (a) the decision;
- (b) reasons for the decision;
- (c) that, under section 50, the person may ask for the decision to be reviewed by the chief executive;
- (d) that, under the *Transport Planning and Coordination Act 1994*, part 5, division 2, the person may apply for the decision to be stayed by QCAT;
- (e) that, in relation to the chief executive’s decision on the review, the person may—
 - (i) under section 51, ask for the decision to be reviewed by QCAT; and
 - (ii) under the QCAT Act, apply for the decision to be stayed by QCAT.

non-urban journey means a journey starting or ending in the State that is not an urban journey.

passenger train means a train that carries only passengers, or passengers and freight.

rail revenue, for an accredited person, means revenue from any of the following sources—

- (a) the management of 1 or more railways;
- (b) the operation of any rolling stock on 1 or more railways;

- (c) both the management of 1 or more railways and the operation of rolling stock on 1 or more railways.

registered business name means a business name registered on the register established and maintained under the *Business Names Registration Act 2011* (Cwlth), section 22.

registered private siding means a private siding registered under part 4, division 2, subdivision 5 of the Act.

relevant reporting entity, for a rail transport operator reporting a notifiable occurrence, means—

- (a) if, under section 93(1) of the Act, the chief executive has given the operator a notice nominating another entity to whom the report of the notifiable occurrence is to be given under that section—the nominated entity; or
- (b) otherwise—the chief executive.

rest period, for a train operator's train driver, means the period between when the driver signs off to end a shift and when the driver signs on to start the driver's next shift.

safety critical element, of rolling stock, means any part of the rolling stock that could cause, or affect the impact of, an accident or incident if the part failed to operate properly.

Examples of safety critical element—

- brake system
- system protecting rolling stock from colliding or minimising the impact of a collision
- fire protection or control system
- anything that affects how the person driving the rolling stock can control the movement of it, including windscreen wipers and demisters, lights and anti-glare equipment
- anything used to exit, enter or move through the rolling stock, including doors, steps, walkways, hand-holds
- alarm system
- equipment used to deal with an emergency

standard work hours and rest periods means the work hours and rest periods applying to a train operator's train driver under section 19B.

tourist and heritage railway means a railway that—

- (a) is operated on either or both of the following bases—
 - (i) for personal enjoyment;
 - (ii) for enjoyment by the public on a not-for-profit basis; and
- (b) has, as its purpose, the re-creation of railway experiences of the past, including, for example, by using vintage rail infrastructure and vintage rolling stock.

tourist and heritage railway operations means railway operations for a tourist and heritage railway.

train, for part 3, division 7A, see section 18A.

train driver, of a train operator, has the meaning given by section 18A.

train operator has the meaning given by section 18A.

transport operator means—

- (a) a rail transport operator; or
- (b) a responsible road manager for a road; or
- (c) a person who operates an aircraft, boat or a vehicle designed to operate or move other than on a railway track.

urban journey means a journey that starts and ends in the SEQ area as defined under the *Transport Operations (TransLink Transit Authority) Act 2008*, section 7(2).

work hours and rest periods means maximum work hours and minimum rest periods.

Endnotes

1 Index to endnotes

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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 24 August 2012. Future amendments of the Transport (Rail Safety) Regulation 2010 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
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	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	1 September 2010	
1A	2011 SL No. 64	1 July 2011	
1B	2012 SL No. 14	3 February 2012	
1C	2011 Act No. 34	28 May 2012	
1D	2012 SL No. 55	1 July 2012	
1E	2012 SL No. 140	24 August 2012	

5 List of legislation

Regulatory impact statements

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

Explanatory notes

All subordinate legislation made on or after 1 January 2011 has an explanatory note. For subordinate legislation made before 1 January 2011 that has an explanatory note, specific reference to the note is included in this list.

Transport (Rail Safety) Regulation 2010 SL No. 167

made by the Governor in Council on 1 July 2010

notfd gaz 2 July 2010 pp 1033–7

ss 1–2 commenced on date of notification

remaining provisions commenced 1 September 2010 (see s 2)

exp 1 September 2020 (see SIA s 54)

Notes—(1) The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

(2) A national regulatory impact statement was prepared.

amending legislation—

Transport Legislation (Fees) Amendment Regulation (No. 1) 2011 SL No. 64 pts 1, 19

notfd gaz 20 May 2011 pp 142–3

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2011 (see s 2)

Business Names (Commonwealth Powers) Act 2011 No. 34 ss 1, 2(b), 31–32 sch 1

date of assent 28 October 2011

ss 1–2 commenced on date of assent

remaining provisions commenced 28 May 2012 (2012 SL No. 58)

Transport (Rail Safety) Amendment Regulation (No. 1) 2012 SL No. 14

notfd gaz 3 February 2012 pp 227–8
commenced on date of notification

Transport Legislation (Fees) Amendment Regulation (No. 1) 2012 SL No. 55 pts 1, 19

notfd gaz 18 May 2012 pp 74–6
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2012 (see s 2)

Transport (Rail Safety) Amendment Regulation (No. 2) 2012 SL No. 140

notfd gaz 24 August 2012 pp 1065–6
commenced on date of notification

6 List of annotations

Definitions

s 3 amd 2012 SL No. 14 s 3

PART 3—PROVISIONS ABOUT REQUIREMENTS RELATING TO SAFETY OF RAILWAY OPERATIONS

Division 7—Management programs other than fatigue management programs

div hdg amd 2012 SL No. 14 s 4

Division 7A—Fatigue management programs

div hdg ins 2012 SL No. 14 s 5

Subdivision 1—Requirements for fatigue management program

sdiv 1 (s 18A) ins 2012 SL No. 14 s 5

Requirements for fatigue management program—Act, s 85

s 19 amd 2012 SL No. 14 s 6

Subdivision 2—Work hours and rest periods for train drivers

sdiv 2 (ss 19A–19E) ins 2012 SL No. 14 s 7

Subdivision 3—Approval of alternative work hours and rest periods for train drivers

sdiv 3 (ss 19F–19S) ins 2012 SL No. 14 s 7

Assessment of competence of rail safety workers—Act, s 87(2)

s 20 amd 2012 SL No. 140 s 3

Division 8A—Provision about information chief executive may require

div 8A (s 21A) ins 2012 SL No. 14 s 8

Information that must be given—Act, s 91(1)

s 27 amd 2012 SL No. 14 s 9

Fee payable for application for accreditation—Act, s 100(2)(d)

s 44 sub 2012 SL No. 55 s 38

Prescribed amount for annual accreditation fee

s 46 amd 2011 SL No. 64 s 43; 2012 SL No. 55 s 39

PART 7—INTERNAL AND EXTERNAL REVIEW

pt hdg prev pt 7 hdg om R1 (see RA s 7(1)(k))
pres pt 7 hdg ins 2012 SL No. 14 s 10

Division 1—Amendment of Queensland Civil and Administrative Tribunal Regulation 2009

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

Internal review of decisions

s 50 prev s 50 om R1 (see RA s 40)
pres s 50 ins 2012 SL No. 14 s 10

External review of decisions

s 51 prev s 51 om R1 (see RA s 40)
pres s 51 ins 2012 SL No. 14 s 10

Division 2—Amendment of Transport Infrastructure (Rail) Regulation 2006

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

PART 8—TRANSITIONAL PROVISION FOR TRANSPORT (RAIL SAFETY) AMENDMENT REGULATION (No. 1) 2012

pt hdg ins 2012 SL No. 14 s 10

Application of particular provisions

s 52 prev s 52 om R1 (see RA s 40)
pres s 52 ins 2012 SL No. 14 s 10

Amendment of s 3 (Definitions)

s 53 om R1 (see RA s 40)

Omission of pt 6 (Annual levy)

s 54 om R1 (see RA s 40)

Omission of sch 1 (Annual levy)

s 55 om R1 (see RA s 40)

Renumbering of sch 2 (Dictionary)

s 56 om R1 (see RA s 40)

SCHEDULE 4—INTERNAL AND EXTERNAL REVIEWS

ins 2012 SL No. 14 s 12

SCHEDULE 5—DICTIONARY

(prev sch 4) renum 2012 SL No. 14 s 11(2)

def “**alternative work and rest hours approval**” ins 2012 SL No. 14 s 11(1)

def “**alternative work hours and rest periods**” ins 2012 SL No. 14 s 11(1)

def “**alternative work hours and rest periods management plan**” ins 2012 SL No. 14 s 11(1)

def “**drive**” ins 2012 SL No. 14 s 11(1)

def “**information notice**” ins 2012 SL No. 14 s 11(1)

def “**registered business name**” sub 2011 Act No. 34 s 31 sch 1

def “**rest period**” ins 2012 SL No. 14 s 11(1)

def “**standard work hours and rest periods**” ins 2012 SL No. 14 s 11(1)

def “**train**” ins 2012 SL No. 14 s 11(1)

def **“train driver”** ins 2012 SL No. 14 s 11(1)
def **“train operator”** ins 2012 SL No. 14 s 11(1)
def **“work hours and rest periods”** ins 2012 SL No. 14 s 11(1)

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