

Transport Infrastructure (Rail) Regulation 2017

Explanatory notes for SL 2017 No. 145

made under the

State Penalties Enforcement Act 1999
Transport Infrastructure Act 1994

General Outline

Short title

Transport Infrastructure (Rail) Regulation 2017 (the Regulation).

Authorising law

Section 165 of the *State Penalties Enforcement Act 1999*.
Sections 486 and 490 of the *Transport Infrastructure Act 1994* (the Act).

Policy objectives and the reasons for them

The *Transport Infrastructure (Rail) Regulation 2006 (2006 Regulation)* is due to expire on 1 September 2017. A review of the 2006 Regulation has been conducted and confirmed the need for continued regulation of matters contained within it. The 2006 Regulation will be remade largely as is prior to 1 September 2017.

The key policy objective for the Regulation is to ensure the safety and amenity of passengers, and the efficient and effective operation of Queensland's railways and rolling stock, by providing for the continued regulation of:

- the general and other obligations of persons on railways or rolling stock
- access to railway crossings and tracks
- the removal and disposal of particular property
- the use of vehicles on a railway
- other miscellaneous matters (for example, signage).

The Regulation has also been drafted to reflect modern contemporary drafting practices, including minor technical amendments to improve clarity and consistency.

Achievement of policy objectives

The amendment Regulation supports the achievement of the Act's overall rail policy objective by ensuring the Regulation contributes to overall transport effectiveness and efficiency. It provides for the safety of railways and persons at, on or near railways and contributes to lower transport costs by allowing flexibility in rail transport operations consistent with achieving safety objectives. Finally, the Regulation allows railway managers and operators to make decisions on a commercial basis.

The Regulation will provide for updated provisions consistent with the above objectives.

Consistency with policy objectives of authorising law

The amendment Regulation is consistent with the overall objectives of the Act, which seeks to provide a regime that allows for and encourages effective integrated planning and efficient management of a system of transport infrastructure.

Consistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

The benefit of the remake is to ensure that the Regulation continues to operate in conjunction with the *Transport Infrastructure Act 1994*.

As the Regulation will be remade largely as is without any major policy changes, the changes will not result in any costs for government, industry or the community.

Consistency with fundamental legislative principles

The Regulation is consistent with the fundamental legislative principles.

Consultation

No public consultation was undertaken as the policy objectives for remaking the Regulation are uncontentious and the amendments minor and technical in nature.

The Queensland Productivity Commission advised that the Department of Transport and Main Roads has met the objectives for sunset reviews as provided in the Queensland Government Guide to Better Regulation guidelines, and that no additional regulatory assessment was required. Their decision was based on a demonstrated need for continued regulatory action, and that the regulation satisfies its objectives and meets regulatory best practice.

Notes on provisions

Clause 1 states the short title of the Regulation.

Clause 2 states 1 September 2017 as the commencement date of the Regulation.

Clause 3 states that certain words used in the Regulation are defined in the dictionary in Schedule 1.

Clause 4 prohibits the consumption of food and beverages on rolling stock, where there is a sign to this effect.

Clause 5 prohibits certain activities on rolling stock used to transport passengers. In particular, it provides that a person must not:

- put anything in an aisle if the thing is likely to cause an obstruction or injury to another person
- bring a sizeable object without the permission of the railway operator
- put their feet on a seat, or occupy more than one seat.

The intention of this clause is to prohibit nuisance type behaviours and to ensure the safety and comfort of transport passengers.

Clause 6 prohibits playing a musical instrument or operating sound equipment on a railway or rolling stock, unless earphones are attached and the sound level is not likely to be a nuisance, or with the relevant permission.

Clause 7 prohibits other types of nuisance behaviours on rolling stock or a railway, namely smoking and spitting.

Clause 8 prohibits a person drinking alcohol on a railway or rolling stock, unless otherwise permitted.

Clause 9 prohibits a person taking or allowing an animal to be taken onto a railway. Clause 9 does not apply to a person:

- with a visual, hearing or other disability who have an assistance animal under their control
- who has control of an animal on a railway crossing
- who is transporting an animal as freight.

Clause 10 allows a railway manager or railway operator to direct a person regarding the use of coloured lights displayed on or near a railway, if this will interfere with the safe operation of the railway.

Clause 11 prohibits a person entering or leaving a railway other than through a specified entrance or exit, or rolling stock that is in motion or not used to transport passengers. This clause is necessary to ensure the safety of passengers and efficiency of operation and maintenance.

Clause 12 prohibits littering on a railway or rolling stock.

Clause 13 prohibits a person from riding or putting a body part outside of rolling stock, unless the person is alighting the rolling stock onto a platform.

Clause 14 prohibits a person from selling anything, seeking business or conducting surveys unless otherwise permitted.

Clause 15 prohibits a person from wilfully damaging, defacing or placing graffiti on a railway or rolling stock.

Clause 16 prohibits a person from entering a railway crossing under certain circumstances which pose danger to the person or rolling stock.

Clause 17 prohibits a person from going onto a railway track, unless otherwise permitted.

Clause 18 allows a railway manager or the Authority to remove and dispose of property abandoned or left on a railway.

Clause 19 allows the railway operator or the Authority to remove and dispose of property abandoned or left on a rolling stock.

Authority is defined under the *Transport Infrastructure Act 1994* as the Authority established under section 6 of the *Queensland Rail Transit Authority Act 2013*.

Clause 20 sets out notice requirements a railway manager or railway operator must undertake when moving property under clause 18 or 19. This clause is required to ensure that an owner is able to recover their property or be made aware that their property had been moved.

Clause 21 sets out the process of notifying the owner of the property the property has been moved and how it may be recovered.

Clause 22 provides that the moving entity must release the property to its owner if the moving expenses are paid.

Clause 23 allows the moving entity to dispose of the property abandoned on a railway or rolling stock under specific circumstances. The clause also sets out what happens when the property is sold and how the proceeds must be applied.

Clause 24 prohibits a person from using a vehicle in a way likely to damage or obstruct a railway.

Clause 25 prohibits a person from driving a vehicle, other than a wheelchair, on a bridge or platform, or in a subway, unless otherwise permitted.

Clause 26 prohibits a person from driving or parking a vehicle on a railway, unless otherwise permitted.

Clause 27 prohibits a person from driving a heavy vehicle of certain specifications on a railway crossing.

Clause 28 prohibits a person from driving a high vehicle of certain specifications on a railway crossing.

Clause 28(2) defines the term “SEQ electrified track”. The following list of stations or places had been amended or added:

- “2km north of Caboolture station” is replaced with “Gympie North station”
- “Eagle Farm station” is replaced with “Doomben station”
- “Richlands station” is replaced with “Springfield Central station”
- addition of “Kippa Ring station”
- addition of “Domestic Airport station”.

Clause 29 prohibits a person from driving a long vehicle of a certain specification on a railway crossing. The clause does not apply to a road train driven in accordance with requirements under the Heavy Vehicle National Law (Queensland).

Clause 30 prohibits a person from driving a wide vehicle of certain specifications on a railway crossing.

Clause 31 allows a railway manager for a railway to give a person written permission to do an act or make an omission contrary to all or any of clauses 26 to 30.

Clause 32 allows a railway manager to impose a relevant condition for a written permission made under clause 31. The clause also sets out the matters for a relevant conditions.

Clause 33 provides that if a rail manager or railway operator gives a permission under this Regulation, the permission may be given on conditions, and operates only while the conditions are complied with.

Clause 34 provides that evidence of a sign displayed on a railway or rolling stock is evidence the sign was displayed with the authority of the railway manager for the railway or the railway operator for the rolling stock.

Clause 35 declares the types of activities conducted by a transport government entity that are taken and not taken to be on a commercial basis, pursuant to section 486 of the Act.

Clause 36 repeals the *Transport Infrastructure (Rail) Regulation 2006* SL No. 237.

Clause 37 states that in Division 2, the “repealed regulation” means the *Transport Infrastructure (Rail) Regulation 2006*.

Clause 38 provides that a permission to do an act or make an omission given by a railway manager or railway operator under the “repealed regulation” is taken to have been given under the Regulation.

Clause 39 provides that a property moved under the “repealed regulation” is to be dealt with under provisions of the “repealed regulation”.

Clause 40 states that Part 8 amends the *State Penalties Enforcement Regulation 2014*.

Clause 41 makes a consequential amendment to section 14(4) of the *State Penalties Enforcement Regulation 2014* to update the reference to the Regulation.

Clause 42 makes a consequential amendment to Schedule 1, by replacing the entry for the *Transport Infrastructure (Rail) Regulation 2006* with an equivalent entry for the Regulation.