

# **Rail Safety National Law (Queensland) (Transitional) Amendment Regulation 2019**

Explanatory notes for SL 2019 No. 87

made under the

*Rail Safety National Law (Queensland) Act 2017*

## **General Outline**

### **Short title**

*Rail Safety National Law (Queensland) (Transitional) Amendment Regulation 2019*

### **Authorising law**

Sections 63 and 132 of the *Rail Safety National Law (Queensland) Act 2017*

### **Policy objectives and the reasons for them**

The *Rail Safety National Law (Queensland) Act 2017* commenced at the end of 30 June 2017. The primary purpose of the Act was to repeal the *Transport (Rail Safety) Act 2010* and apply the Rail Safety National Law as a law of Queensland. The Rail Safety National Law is set out in the schedule to the *Rail Safety National Law (South Australia) Act 2012* (SA). Amendments to the Rail Safety National Law are made by the Parliament of South Australia and are automatically applied as part of the law in Queensland.

The policy objective of the *Rail Safety National Law (Queensland) (Transitional) Amendment Regulation 2019* (the transitional amendment regulation) is to ensure that references to *level crossing* and *railway crossing* in the Rail Safety National Law as it applies in Queensland retain their existing meaning after changes are made to the Rail Safety National Law on 1 July 2019.

### **Achievement of policy objectives**

Commencing on 1 July 2019, the *Rail Safety National Law (South Australia) (Miscellaneous No 4) Amendment Act 2019* (SA Act) will make amendments to the Rail Safety National Law. The amendments are intended to align the definition of *level crossing* in the Rail Safety

National Law with the Australian Road Rules, consistent with Queensland's policy relating to the management of safety at level crossings. To achieve this, the SA Act amends the definition of *level crossing* in the Rail Safety National Law and removes the definition of *railway crossing*.

The outcome that will be achieved by the SA Act is already reflected in the law as it applies in Queensland. This is because specific modifications were included in Queensland's application law at the time the Rail Safety National Law commenced in Queensland in 2017. However, the amendments in the SA Act will impact upon the legislative mechanism applying in Queensland.

To achieve the policy objective referred to above and ensure doubt is not cast on the meaning of the concepts of *railway crossing* and *level crossing* in the Rail Safety National Law as it applies in Queensland, the transitional amendment regulation will retain the existing meanings of *level crossing* and *railway crossing*. This will ensure that current safety requirements relating to rail or road crossings, such as interface coordination and the ability to close or regulate crossings due to threats to safety, continue unchanged.

Section 132 of the *Rail Safety National Law (Queensland) Act 2017* provides a power to make a regulation of a saving or transitional nature which is necessary to facilitate the change from the operation of the *Transport (Rail Safety) Act 2010* to the operation of the *Rail Safety National Law (Queensland) Act 2017*. In accordance with section 132, the transitional amendment regulation will apply until the end of 30 June 2020. If subsequent Act amendments are required, they will be progressed within that period.

## **Consistency with policy objectives of authorising law**

The transitional amendment regulation is consistent with the policy objectives of the *Rail Safety National Law (Queensland) Act 2017*.

## **Inconsistency with policy objectives of other legislation**

The transitional amendment regulation is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

As outlined above, the benefits of making the transitional amendment regulation are that there will be no uncertainty as to the meaning of *level crossing* and *railway crossing* after the SA Act makes amendments to the Rail Safety National Law on 1 July 2019.

The cost of implementing the amendments is minimal and will be met from existing resources.

## **Consistency with fundamental legislative principles**

The transitional amendment regulation is consistent with fundamental legislative principles, as set out in section 4 of the *Legislative Standards Act 1992*.

## **Consultation**

The amendments are technical and specifically designed to ensure that there is no change to current requirements. Therefore, no industry consultation has been undertaken.

In accordance with the *Queensland Government Guide to Better Regulation*, the Department of Transport and Main Roads applied a self-assessable exclusion from undertaking further regulatory impact analysis on the amendments based on Category (e) – regulatory proposals that are of a transitional nature.