

Queensland



Regulatory Impact Statement for SL 1996 No. 173

Transport Infrastructure Act 1994

Transport Operations (Passenger Transport) Act 1994

TRANSPORT INFRASTRUCTURE (RAIL) REGULATION 1996

Title

1. This Regulatory Impact Statement, outlines the impact of the proposed Transport Infrastructure (Rail) Regulation (TIRR) made pursuant to the *Transport Infrastructure Act 1994* and the *Transport Operations (Passenger Transport) Act 1994*.

Background—need for the regulation

2. The proposed regulation is a re-make of the **current** *Transport Infrastructure (Railways) Regulation 1994* which was drafted pursuant to the *Transport Infrastructure (Railways) Act 1991*. That Act has since been repealed and the current regulation has been continued in force, by the *Transport Infrastructure Act 1994*, section 225, to expire on 30 June 1996.

It is intended that the proposed regulation will contain provisions about—

- (a) the obligations of persons on a railway;
- (b) the use of vehicles on railways;
- (c) the definition of codes for the carriage of dangerous goods or substances;
- (d) the removal of abandoned property; and
- (e) declaring those activities of Queensland Rail (QR) that are taken

to be conducted on a commercial basis and as such excluded from the application of the Freedom of Information and Judicial Review legislation.

The current regulation addresses (a), (b) and (c). Other provisions of the current regulation were incorporated into the *Transport Infrastructure Act 1994* (TIA) or are superseded by the provisions of other legislation.

It was also recognised in the drafting of the TIA that provisions dealing with abandoned property should not be included in the principal Act but be placed in subordinate legislation.

Further, the TIA provides that a regulation may declare those activities of a transport GOC that are conducted on a commercial basis and as such excluded from the application of the Freedom of Information and Judicial Review legislation. The TIRR is an appropriate vehicle to make this declaration with regard to Queensland Rail.

Authorising law

3. The proposed regulation will be made pursuant to the *Transport Infrastructure Act 1994*, section 200 which provides that the Governor in Council may make regulations for the purposes of the Act.

Policy objectives

4. The policy objectives of the proposed regulation are to—

- provide for the safe carriage of certain goods and materials on railways;
- seek appropriate levels of safety and behaviour for people on railways;
- enable railway managers to deal with abandoned property;
- encourage safe vehicle usage on railways and minimise damage to infrastructure; and
- declare the activities of Queensland Rail that are conducted on a commercial basis.

Legislative intent

5. The proposed *Transport Infrastructure (Rail) Regulation 1996* **policy objectives will be achieved by—**

- defining “codes” for the carriage of certain goods and materials;
- stating the obligations of persons on railways;
- establishing the means for railway managers to remove and dispose of abandoned property (including vehicles) and to recover incurred expenses;
- providing for the parking and use of vehicles on railways;
- detailing the parameters for safe use of over dimension vehicles on railway crossings and railways; and
- delineating between Queensland Rail's commercial and non-commercial activities.

Consistency with the authorising law

6. The proposed *Transport Infrastructure (Rail) Regulation 1996* has been drafted with reference to the objectives of the principal transport-related legislation.

The objectives of the *Transport Infrastructure Act 1994* for rail include, amongst others, to establish a regime that—

- contributes to overall transport effectiveness and efficiency; and
- contributes to lower transport costs by allowing the maximum flexibility in rail transport operations consistent with achieving safety objectives.

The objectives of the *Transport Operations (Passenger Transport) Act 1994* include amongst others—

- to achieve the provision of the best possible public passenger transport at reasonable cost to the community and government, keeping government regulation to a minimum;
- to enable the effective planning and efficient management of public passenger transport in the State; and
- to provide a system of public passenger transport in the State

that—

- is responsive to community needs; and
- offers an attractive alternative to private transport in a way that reduces the overall environmental, economic and social costs of passenger transport.

The proposed regulation is consistent with these objectives and the provisions of those Acts.

Consistency with other legislation

7. The proposed *Transport Infrastructure (Rail) Regulation 1996* has been drafted in plain English to better integrate with existing transport legislation. The proposed regulation places more reliance on the provisions of the *Transport Operations (Passenger Transport) Act 1994* and regulation. No inconsistencies with other legislation have been identified.

Alternatives to the proposed regulation

8. The proposed Transport Infrastructure (Rail) Regulation is being drafted to replace the current *Transport Infrastructure (Railways) Regulation 1994*. The introduction of new legislation including the principal Acts has overtaken the current regulation which is somewhat dated in style and content.

One alternative to the proposed regulation would be the absence of any regulation. Clearly this would not meet the policy objectives outlined above and would impact on safety, passenger behaviour, rail patronage, commercial viability, operational efficiency and the integrity of rail transport infrastructure and other rail infrastructure.

A further alternative is to provide for the continuation of the current regulation. This would be greatly preferable to the “no regulation” alternative. However, as discussed below, in comparison to the preferred option, the net benefits would not be as significant.

In terms of the Government, Business and Community stakeholder groups the current regulation is somewhat dated and does not integrate well with existing transport legislation. The current regulation is not considered to be as effective in dealing with inappropriate behaviour on railways and

does not contain provisions relating to property and vehicles abandoned on the railway. Further, it does not declare those activities of a Transport Government Owned Corporation that are taken to be conducted on a commercial basis.

While the current regulation option would have net benefits they would not be of the same magnitude as the preferred option.

The analysis reveals that there are no viable alternative means of meeting the policy objectives.

Benefits and costs of the proposed regulation

9. In accordance with the requirements of the Business Regulation Review Unit (BRRU), Department of Tourism, Small Business and Industry, a cost benefit analysis was carried out using the methodology developed for the Systematic Review Program.

The results of the analysis are summarised below and indicate that the proposed TIRR will impose no significant cost impact on business, government or the community.

Impact on Government

10. The proposed regulation will have limited impact on Government. There are relatively minimal costs associated with the drafting of the regulation and the ongoing costs of administering the regulation will be the same as previously required by the current regulation.

The proposed TIRR will lead to improved understanding and a clearer communication of the legislative requirements as it—

- is consistent with current legislative practice;
- has been written in plain English;
- places more reliance on the principal legislation; and
- is consistent with legislation dealing with other modes of transport.

Impact on business

11. No appreciable cost imposition on business is anticipated.

The proposed TIRR is intended to discourage misuse and antisocial behaviour on railways as well as providing safety measures. Any reduction in damage to rail infrastructure, or any increase in rail safety leads to a more efficient rail system which in turn encourages increased rail usage. Such efficiency gains would impact favourably on business as improvements to rail efficiencies will put downward pressure on business distribution costs.

Queensland Rail (QR) is a Government Owned Corporation and has been treated as part of the business sector in the cost benefit analysis. The proposed regulation will assist railway managers such as QR to achieve improved operational efficiencies through reducing damage to infrastructure, dealing with abandoned property and controlling vehicle usage and persons behaviour on the railway.

Further, the proposed TIRR places Rail on more of an even footing with other transport modes competing for passenger transport usage by utilising common principal legislation where possible.

The analysis indicates that the proposed regulation should result in a modest positive impact on business.

Impact on community

12. Some of the provisions of the proposed TIRR include increases in penalties for non-compliance. This is in order to encourage compliance with the regulation which would lead to increased safety, improved services and in turn positive influences on usage. The potential negative impact on the small section of the community who choose to ignore the provisions of the proposed TIRR is more than offset by these benefits.

It is envisaged that the proposed TIRR, by limiting inappropriate behaviour on the railway, will lead to an improved perception by the community of rail's safety and viability as a transport option.

It has been acknowledged that increased use of public transport will have positive environmental impacts through improved resource utilisation and decreases in private vehicle usage. The analysis indicates that the TIRR will have a positive impact on such usage. This in turn has quality of life as well as public health and safety implications.

Consistency with fundamental legislative principles.

13. The proposed TIRR does not offend fundamental legislative principles and is consistent with the *Legislative Standards Act 1992*.

The proposed regulation is drafted in keeping with the policy objectives of the principal legislation and places further reliance on the provisions of that legislation. The TIRR does not introduce any powers which have not been defined in the parent legislation.

National competition policy

14. The current regulation makes specific reference to Queensland Railways which is no longer appropriate. In recognition of national competition policy the proposed Transport Infrastructure (Rail) Regulation has been drafted to apply not only to Queensland Rail but to all potential railway managers and operators.

It is considered that the proposed regulation does not impose restrictions on competition.

Conclusion

15. The proposed Transport Infrastructure (Rail) Regulation has been drafted to address concerns relating to the safety of users of rail transport, the efficiency of rail operations and the potential for damage to rail transport infrastructure and other rail infrastructure.

The proposed regulation is the most appropriate means of achieving the policy objectives described in the sections above. The Preliminary Impact Analysis indicates that the proposed regulation will provide net benefits to business, government and the wider community.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Roads.