



Queensland

Transport Infrastructure (Rail) Regulation 2017

Subordinate Legislation 2017 No. 145

made under the

State Penalties Enforcement Act 1999

Transport Infrastructure Act 1994

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Transport Infrastructure (Rail) Regulation 2017*.

2 Commencement

This regulation commences on 1 September 2017.

3 Definitions

The dictionary in schedule 1 defines particular words used in this regulation.

Part 2 General obligations

Division 1 Nuisance behaviour

4 Consuming food or beverages on rolling stock

A person must not consume food or beverages on rolling stock displaying a sign indicating that the consumption of food or beverages is not allowed on the rolling stock.

Maximum penalty—20 penalty units.

5 Placing things in, and bringing things onto, rolling stock

- (1) A person must not put anything in an aisle of rolling stock used to transport passengers if the thing is likely to cause an obstruction or injury to another person.

Maximum penalty—20 penalty units.

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- (2) A person must not bring a sizeable object onto rolling stock used to transport passengers without the permission of the railway operator for the rolling stock.

Maximum penalty—20 penalty units.

- (3) A person must not—
- (a) put the person's feet, whether or not covered by footwear, on a seat of rolling stock; or
 - (b) occupy more than 1 seat of rolling stock.

Maximum penalty—20 penalty units.

- (4) In this section—

sizeable object means a thing that, because of its shape or size, can not be put on rolling stock—

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

6 **Playing musical instrument or operating sound equipment**

- (1) A person on a railway or rolling stock must not—
- (a) play a musical instrument; or
 - (b) operate sound equipment.

Maximum penalty—20 penalty units.

- (2) This section does not apply if—
- (a) earphones are attached to the musical instrument or sound equipment and the sound level from the earphones is not reasonably likely to be a nuisance to another person; or
 - (b) the person is playing the musical instrument or operating the sound equipment with the permission of the railway manager for the railway or the railway operator for the rolling stock.

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(3) In this section—

attached, for earphones in relation to a musical instrument or sound equipment, means the earphones are connected to the instrument or equipment in a way that diverts all sounds emitted by the instrument or equipment through the earphones only.

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

7 Other nuisance behaviour

(1) A person must not smoke in—

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

Maximum penalty—20 penalty units.

(2) A person must not spit on—

- (a) rolling stock; or
- (b) a railway platform, or a structure or thing on a railway platform; or

Examples of a structure or thing on a railway platform—

- 1 station office
- 2 lift
- 3 toilet block
- 4 ticket-vending machine
- 5 help phone

- (c) a bridge, path, ramp or stairs providing access to, or adjoining, a railway platform.

Maximum penalty—20 penalty units.

Division 2 Other general obligations

8 Alcohol

- (1) A person must not drink alcohol on a railway unless—
 - (a) the alcohol is supplied by, or with the permission of, the railway manager for the railway; and
 - (b) the person drinks it in an area the railway manager sets aside for drinking it.

Maximum penalty—10 penalty units.

- (2) A person must not drink alcohol on rolling stock unless—
 - (a) the alcohol is supplied by, or with the permission of, the railway operator for the rolling stock; and
 - (b) the person drinks it in an area the railway operator sets aside for drinking it.

Maximum penalty—10 penalty units.

9 Animals on railway

- (1) This section does not apply to—
 - (a) a person with a visual, hearing or other disability who has an assistance animal under the person's control; or
 - (b) a person who has control of an animal on a railway crossing; or
 - (c) a person who is transporting an animal as freight.

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

Maximum penalty—20 penalty units.

- (3) In this section—

assistance animal means an animal that—

- (a) accompanies a person who has a disability; and

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- (b) is specifically trained to give help to the person in relation to the disability.

10 Coloured lights displayed on or near a railway

- (1) If a railway manager or railway operator reasonably believes that a coloured light displayed on or near a railway interferes with the safe operation of the railway, the railway manager or railway operator may direct the person displaying the light to remove or screen the light.
- (2) A person given a direction under subsection (1) must comply with the direction unless the person has a reasonable excuse.
Maximum penalty—40 penalty units.
- (3) In this section—
coloured light does not include a traffic light.

11 Entering or leaving railway or rolling stock

- (1) A person must not enter or leave a railway, other than through an entrance or exit provided by the railway manager for the railway for the purpose of entering or exiting the railway, unless—
 - (a) the person is engaged in the operation, maintenance or construction of the railway; or
 - (b) the person is entering or exiting the railway in another way with the permission of the railway manager for the railway.Maximum penalty—20 penalty units.
- (2) A person must not—
 - (a) enter or leave rolling stock that is moving; or
 - (b) open an external door of rolling stock that is moving, other than a door connecting rolling stock.Maximum penalty—20 penalty units.

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- (3) A person must not enter rolling stock that is not used to transport passengers, unless the person is engaged in the operation, maintenance, loading or unloading of the rolling stock.

Maximum penalty—40 penalty units.

12 Litter

A person must not leave litter on a railway or rolling stock, other than in a container provided for depositing litter.

Maximum penalty—10 penalty units.

13 Riding on, or putting body part, outside of rolling stock

- (1) A person must not ride on the outside of rolling stock.

Maximum penalty—40 penalty units.

- (2) A person must not put a part of the person's body out of—

- (a) a window of rolling stock; or
- (b) a door of rolling stock, other than a door connecting rolling stock, unless the person is getting off the rolling stock onto a platform.

Maximum penalty—20 penalty units.

14 Selling, seeking business or conducting survey

- (1) A person on a railway or rolling stock must not publicly and personally—

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

Maximum penalty—20 penalty units.

- (2) Subsection (1) does not apply if the person has the permission of the railway manager for the railway or the railway operator for the rolling stock.

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15 Wilful damage or defacing

- (1) A person must not wilfully damage or deface a railway or rolling stock.

Example of wilfully damaging a railway or rolling stock—

causing damage to a railway or rolling stock by lighting a fire

Example of defacing a railway or rolling stock—

fixing a poster on a railway or rolling stock

Maximum penalty—40 penalty units.

- (2) Without limiting subsection (1), a person must not put graffiti on a railway or rolling stock.

Maximum penalty—40 penalty units.

Part 3 Access to railway crossings and railway tracks

16 Railway crossings

- (1) A person must not enter a railway crossing if—
- (a) a warning signal is operating, sounding or has just sounded in the vicinity of the crossing; or
 - (b) there is danger of rolling stock hitting the person.

Maximum penalty—20 penalty units.

- (2) If an authorised person reasonably believes that, to ensure safety at a railway crossing at a particular time, a person should not enter the crossing, the authorised person may direct the person not to enter.
- (3) A person given a direction under subsection (2) must obey the direction unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (4) A person must not stay on a railway crossing for longer than is reasonably necessary for the person to cross from 1 side of the crossing to the other.

Maximum penalty—20 penalty units.

- (5) A person who opens a gate at a railway crossing must close and secure the gate as soon as practicable after opening it, unless the person is operating the gate in another way with the permission of the railway manager for the railway.

Maximum penalty—20 penalty units.

17 Railway tracks

A person must not go onto a railway track for a railway unless the person—

- (a) is crossing from 1 side of the track to the other using a railway crossing; or
- (b) is engaged in the operation, maintenance or construction of the railway; or
- (c) has the permission of the railway manager for the railway to go onto the railway track.

Maximum penalty—20 penalty units.

Part 4 Removal and disposal of particular property

Division 1 Moving particular property

18 Property abandoned or left on railway

- (1) This section applies if property is—
- (a) abandoned on a railway; or
 - (b) left on a railway against a direction of the railway manager for the railway or the Authority.
- (2) The railway manager or the Authority may take steps that are reasonable and necessary to move the property to another place.

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- (3) In this section—
- direction*, of a railway manager or the Authority, includes—
- (a) a direction of an employee of the railway manager or the Authority; and
 - (b) a direction of the railway manager or the Authority indicated on a sign displayed on the railway.

19 Property abandoned or left on rolling stock

- (1) This section applies if property is—
- (a) abandoned on rolling stock; or
 - (b) left on rolling stock against a direction of the railway operator for the rolling stock or the Authority.
- (2) The railway operator or the Authority may take steps that are reasonable and necessary to move the property to another place.
- (3) In this section—
- direction*, of a railway operator or the Authority, includes—
- (a) a direction of an employee of the railway operator or the Authority; and
 - (b) a direction of the railway operator or the Authority indicated on a sign displayed on rolling stock.

Division 2 Steps after property moved

20 Application of division

This division applies if a railway manager, railway operator or the Authority (the *moving entity*) moves property under section 18 or 19.

21 Notifying owner that property moved

- (1) Within 14 days after moving the property, the moving entity must give the owner of the property a written notice stating—
 - (a) that the property has been moved; and
 - (b) how the property may be recovered; and
 - (c) if the property is not recovered within 2 months, the property may be sold or otherwise disposed of.
- (2) If the moving entity can not identify or locate the owner within a reasonable time to comply with subsection (1), the notice may be given by publishing it in a newspaper circulating generally in the State.
- (3) The moving entity need not give a notice under this section if—
 - (a) the property has insufficient value to justify giving the notice; or
 - (b) it is otherwise impracticable to give the notice.
- (4) In this section—

insufficient value, for property, means the property—

 - (a) is of no value; or
 - (b) if sold by the moving entity, would not be likely to return sufficient proceeds of sale to cover the expenses reasonably incurred by the moving entity in dealing with the property under this part.

22 Moving expenses

- (1) The moving entity may recover the entity's reasonable expenses of moving the property, securely storing it and publishing any newspaper notice for it (the *moving expenses*) from—
 - (a) the person who was in charge of the property immediately before it was moved; or

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- (b) if the person mentioned in paragraph (a) can not be identified—the property’s owner, unless the property was being used on the railway or rolling stock without the owner’s consent.
- (2) The moving entity must release the property to its owner, or in accordance with its owner’s written directions, if the entity’s moving expenses are paid.
- (3) The moving entity may waive part or all of the moving expenses.

23 Disposing of property

- (1) This section applies if—
 - (a) the moving entity’s moving expenses are not paid within 2 months after a notice is given under section 21 for the property; or
 - (b) if the moving entity decides not to give a notice under section 21(3) for the property—
 - (i) at least 2 months have passed since the decision; and
 - (ii) the moving entity reasonably considers the property has been abandoned.
- (2) The moving entity may dispose of the property—
 - (a) by selling it; or
 - (b) if the proceeds of its sale are not likely to cover the entity’s moving expenses and the reasonable expenses that would be incurred by the entity in selling it—in the way the entity believes appropriate.
- (3) If the property is sold, the proceeds of the sale must be applied in making payments in the following order—
 - (a) the expenses reasonably incurred by the moving entity in selling the property (the *sale expenses*);
 - (b) the moving expenses;

-
- (c) if there is an amount owing to an entity under a security interest registered for the property under the *Personal Property Securities Act 2009* (Cwlth)—in payment of the amount owing under the security interest;
 - (d) the balance (if any) to the owner.
- (4) If the proceeds of the sale are less than the combined sale expenses and moving expenses, the difference between the combined expenses and the proceeds—
- (a) is a debt payable to the moving entity by the person who is liable for the moving expenses; and
 - (b) may be recovered as a debt by action against the person in a court of competent jurisdiction.
- (5) If the property is not sold, the moving expenses and the expenses reasonably incurred by the moving entity in disposing of the property—
- (a) are a debt payable to the moving entity by the person who is liable for the moving expenses; and
 - (b) may be recovered as a debt by action against the person in a court of competent jurisdiction.

Part 5 Vehicles

24 Using vehicles in a way likely to damage or obstruct

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

Maximum penalty—40 penalty units.

25 Driving vehicle on a bridge, platform or in a subway

- (1) A person must not drive a vehicle, other than a wheelchair, on a bridge or platform, or in a subway, that is—
- (a) at a railway; and

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(b) designed for pedestrians.

Maximum penalty—20 penalty units.

(2) This section does not apply if the person is—

(a) engaged in the operation, maintenance or construction of the railway; or

(b) loading luggage onto rolling stock with the permission of the railway manager for the railway or the railway operator for the rolling stock.

26 Driving and parking vehicles generally

(1) This section does not apply to a vehicle being driven on, or that is parked on, a non-railway road.

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

(a) the speed indicated on a sign displayed on the railway; or

(b) if no sign is displayed—20km/h.

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

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

Maximum penalty—20 penalty units.

(6) In this section—

employee, at a railway, means—

- (a) an employee of the railway manager for the railway; or
- (b) an employee of the Authority.

27 Heavy vehicles

- (1) A person must not drive a vehicle on a railway crossing if—
 - (a) the axle mass for any single axle of the vehicle is over 12t; or
 - (b) the total of all axle masses for any 9m of the vehicle's length is over 48t; or
 - (c) the total of all axle masses for the vehicle is over 105t.

Maximum penalty—20 penalty units.

- (2) In this section—

axle group means 2 or more consecutive axles connected by a load-sharing suspension system or steering system.

axle mass, in relation to a vehicle, means the total mass the vehicle, together with its load, transmits to the ground by tyres fitted to a single axle or an axle group.

28 High vehicles

- (1) A person must not drive a vehicle on a railway crossing if the vehicle, together with its load, is higher than—
 - (a) the following—
 - (i) if the crossing is at a place where the SEQ electrified track crosses an access road—4.1m;
 - (ii) if the crossing is at a place where the SEQ electrified track crosses another road—5m;
 - (iii) if the crossing is at a place where another electrified railway track crosses an access road—4.3m;
 - (iv) otherwise—5.2m; or
 - (b) a height barrier for the crossing.

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Maximum penalty—20 penalty units.

(2) In this section—

access road means a road other than a non-railway road.

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

- (a) Acacia Ridge terminal;
- (b) Cleveland station;
- (c) Domestic Airport station;
- (d) Doomben station;
- (e) Exhibition station;
- (f) Ferny Grove station;
- (g) Gympie North station;
- (h) Kippa Ring station;
- (i) Moolabin terminal;
- (j) Rosewood station;
- (k) Shorncliffe station;
- (l) Springfield Central station;
- (m) Varsity Lakes station.

29 Long vehicles

- (1) This section does not apply to a road train driven in accordance with requirements applying to it under the Heavy Vehicle National Law (Queensland).
- (2) A person must not drive a vehicle on a railway crossing if the vehicle, together with its load, is longer than 35m.

Maximum penalty—20 penalty units.

(3) In this section—

road train see the Heavy Vehicle National Law (Queensland), section 5.

30 Wide vehicles

A person must not drive a vehicle on a railway crossing if the vehicle, together with its load, is wider than—

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

Maximum penalty—20 penalty units.

31 Written permission to act contrary to ss 26–30

- (1) A railway manager for a railway may give a person written permission to do an act or make an omission contrary to all or any of sections 26 to 30.
- (2) A person does not contravene all or any of sections 26 to 30 by doing the act or making the omission stated in the permission.
- (3) In considering whether to give a permission, the railway manager must have regard to the following matters—
 - (a) disruption to rail traffic;
 - (b) cost to the person, the railway manager, a railway operator or another person affected by the permission;
 - (c) damage to the railway;
 - (d) anything else that may adversely affect the operation of the railway.

32 Conditions on railway manager's permission

- (1) A railway manager who gives a permission under section 31 may impose a reasonable condition about the following matters on the permission—

34 Evidence of signs

Evidence that a sign was 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.

35 Commercial activities—Act, s 486

- (1) This section declares matters for section 486 of the Act.

Note—

Section 486 of the Act deals with the application of the *Judicial Review Act 1991* to particular decisions of a transport government entity.

- (2) An activity performed by a rail government entity under its community service obligations is taken not to be an activity conducted on a commercial basis.
- (3) Every other activity of a rail government entity is taken to be an activity conducted on a commercial basis.

Part 7 Repeal and transitional provisions

Division 1 Repeal provision

36 Repeal

The Transport Infrastructure (Rail) Regulation 2006 SL No. 237 is repealed.

Division 2 Transitional provisions

37 Definition for division

In this division—

[s 38]

repealed regulation means the *Transport Infrastructure (Rail) Regulation 2006*.

38 Permission to do an act or make an omission

- (1) This section applies to a permission to do an act or make an omission—
 - (a) given to a person by a railway manager or railway operator under the repealed regulation before the commencement; and
 - (b) in force immediately before the commencement.
- (2) The permission is taken to have been given under this regulation.
- (3) A person does not contravene a provision of this regulation by doing the act or making the omission while the permission is in force.
- (4) If the permission was given on conditions, the permission operates only while the conditions are complied with.

39 Property abandoned or left on railway or rolling stock

- (1) This section applies to property, moved by a railway manager or railway operator under part 4 of the repealed regulation, which has not been completely dealt with by the railway manager or railway operator under that part before the commencement.
- (2) The railway manager or railway operator may continue to deal with the property under the repealed regulation as if it had not been repealed.

[s 42]

Column 1 Infringement notice offence	Column 2 Infringement notice fine (penalty units)
s 6(1)	2
s 7(1)	2
s 7(2)	2
s 8(1)	1
s 8(2)	1
s 9(2)	2
s 11(1)	2
s 11(2)	2
s 11(3)	2
s 12	1
s 13(1)	2
s 13(2)	2
s 14(1)	2
s 15(2)	2
s 16(1)	2
s 17	2
s 25(1)	2
s 26(2)	2
s 26(3)	2
s 26(4)	2
s 27(1)	2
s 28(1)	2
s 29(2)	2

Column 1
Infringement notice offence

Column 2
**Infringement notice
fine (penalty units)**

s 30

2

Authorised person for service of infringement notices—an authorised person under the *Transport Operations (Passenger Transport) Act 1994*, section 111

Schedule 1 Dictionary

section 3

drive, a vehicle, includes ride the vehicle.

local government franchised road has the meaning given by section 105B of the Act.

local government tollway has the meaning given by section 105B of the Act.

moving entity, for property moved under section 18 or 19, see section 20.

moving expenses, of a moving entity, see section 22(1).

non-railway road means a—

- (a) franchised road; or
- (b) local government franchised road; or
- (c) local government road; or
- (d) local government tollway; or
- (e) State-controlled road; or
- (f) toll road.

owner, of a vehicle that is registered under a registration Act, means the person in whose name the vehicle is registered under the registration Act.

railway includes car parks and bus stations associated with the railway that are under the railway manager's control.

toll road has the meaning given by section 92 of the Act.

vehicle does not include rolling stock.

ENDNOTES

- 1 Made by the Governor in Council on 17 August 2017.
- 2 Notified on the Queensland legislation website on 18 August 2017.
- 3 The administering agency is the Department of Transport and Main Roads.

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