TN302

Rail Safety National Law (WA) Act 2015

Rail Safety National Law (WA) Amendment Regulations 2022

SL 2022/66

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Rail Safety National Law (WA) Amendment Regulations 2022*.

2. Commencement

These regulations come into operation as follows —

(a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;

(b) the rest of the regulations — on 1 July 2022.

3. Regulations amended

These regulations amend the *Rail Safety National Law (WA) Regulations 2015*.

4. Regulation 3 amended

In regulation 3 insert in alphabetical order:

Category C notifiable occurrence has the meaning given in regulation 57;

5. Regulation 6 amended

In regulation 6 delete "occurrence (other than a Category A notifiable occurrence referred to in regulation 57(1)(a)(v))." and insert:

occurrence.

6. Regulation 56 amended

Delete regulation 56(1) and insert:

(1) For the purposes of section 120(3) (Power of Regulator to obtain information from rail transport operators) of the Law, a rail transport operator must provide the Regulator with a monthly return that sets out the following information in respect of the whole of the month —

(a) in relation to drug and alcohol testing conducted by the rail transport operator —

(i) the number and type of tests conducted; and

(ii) whether the tests were conducted before or after the rail safety worker had signed on for duty; and

(iii) the class of rail safety work undertaken by rail safety workers who were tested; and

(iv) the employment relationship with the operator of rail safety workers who were tested; and

(v) the outcome of the tests;

(b) in the case of a rail transport operator who is a rail infrastructure manager —

(i) the number of kilometres travelled by trains of a kind, as required by the Regulator, on tracks over which the rail infrastructure manager has effective management and control; and

(ii) the total number of rolling stock operators (not being the rail infrastructure manager) who operated rolling stock on the tracks over which the rail infrastructure manager has effective management and control;

(c) in the case of a rail transport operator who is a rolling stock operator —

(i) the number of kilometres travelled by trains or other rail vehicles of a kind, as required by the Regulator, over which the rolling stock operator has effective management and control; and

(ii) the number of journeys (either estimated or actual) made by passengers on passenger trains over which the rolling stock operator has effective management and control; and

(iii) the number of passenger kilometres travelled on passenger trains (not including light rail passenger vehicles) over which the rolling stock operator has effective management and control (where 1 passenger kilometre represents the transport of 1 passenger by rail over 1 kilometre); and

(iv) the total number of other rail networks (being networks managed by other rail infrastructure managers) on which rolling stock over which the rolling stock operator has effective management and control travelled;

(d) in respect of a railway over which the rail transport operator has effective management and control —

(i) the total number of full-time equivalent contractors and employees engaged by the rail transport operator to undertake rail safety work; or

(ii) the total number of hours of rail safety work undertaken by contractors and employees engaged by the rail transport operator.

Note: The heading to amended regulation 56 is to read:

Periodic information to be supplied monthly

7. Regulation 56A inserted

After regulation 56 insert:

56A. Periodic information to be supplied annually

(1) For the purposes of section 120(3) (Power of Regulator to obtain information from rail transport operators) of the Law, a rail transport operator must provide the Regulator with an annual return that sets out the following information in respect of the period of 12 months to which it relates —

(a) in the case of a rail transport operator who is a rail infrastructure manager —

(i) the length, in kilometres, of operational and non-operational track over which the rail infrastructure manager has effective management and control; and

(ii) a description of the rail network over which the rail infrastructure manager has effective management and control, by line section and segment and its characteristics, as required by the Regulator; and

(iii) a description and details of each level crossing that interfaces with the rail network over which the rail infrastructure manager has effective management and control, as required by the Regulator; and

(iv) details of the interfacing road manager in respect of each level crossing that interfaces with the rail network over which the rail infrastructure manager has effective management and control, as required by the Regulator; and

(v) the number of other networks (excluding private sidings) that are connected to, or interface with, a railway under the effective management and control of the infrastructure manager;

(b) in the case of a rail transport operator who is a rolling stock operator — the number of stations or stops used in the course of the provision of passenger services by trains over which the rolling stock operator has effective management and control.

(2) In providing a return under this regulation, the rail transport operator must set out the particulars of the information required under subregulation (1) in relation to this jurisdiction and every other participating jurisdiction in respect of which the rail transport operator is accredited.

(3) The rail transport operator must, on or before 21 January in every year, or such other date or period specified by the Regulator, provide the return required under subregulation (1) to the Regulator for the period of 12 months ending on the preceding 31 December.

8. Regulation 57 amended

(1) Delete regulation 57(1) and insert:

(1) For the purposes of the definition of ***notifiable occurrence*** in section 4 (Interpretation) of the Law and this regulation —

(a) a notifiable occurrence specified in Schedule 1A Division 1 is a ***Category A notifiable occurrence***; and

(b) a notifiable occurrence specified in Schedule 1A Division 2 is a ***Category B notifiable occurrence*** (unless that occurrence is also a Category A notifiable occurrence); and

(c) a notifiable occurrence specified in Schedule 1A Division 3 is a ***Category C notifiable occurrence*** (unless that occurrence is also a Category A or a Category B notifiable occurrence).

(2) In regulation 57(2):

(a) delete "If" and insert:

For the purposes of section 121 (Notification of certain occurrences) of the Law, if

(b) delete paragraph (b) and insert:

(b) give the Regulator a written report of the occurrence, within the period, and that contains the particulars, as required in respect of the giving of a written report of an immediately reportable matter under the *Transport Safety Investigation Act 2003* (Commonwealth), as in force from time to time.

(3) Delete regulation 57(3) and insert:

(3) For the purposes of section 121 (Notification of certain occurrences) of the Law, if a Category B notifiable occurrence happens on, or in relation to, a rail transport operator's railway premises or railway operations, the operator must —

(a) give the Regulator a written report of the occurrence within the period, and that contains the particulars, as required in respect of the giving of a written report of a routine reportable matter under the *Transport Safety Investigation Act 2003* (Commonwealth), as in force from time to time; and

(b) within 14 days (or such longer period as may be allowed by the Regulator) after becoming aware of the occurrence, provide any other information required by the Regulator in respect of the occurrence that is not included in the report under paragraph (a).

(3A) For the purposes of section 121 (Notification of certain occurrences) of the Law, if a Category C notifiable occurrence happens on, or in relation to, a rail transport operator's railway premises or railway operations during a reporting period, the operator must, subject to subregulations (3B) and (3C), give the Regulator a written report that provides a summary of any such occurrences within 6 months after the end of the reporting period.

(3B) A report under subregulation (3A) must —

(a) provide the total number of Category C notifiable occurrences with respect to each month of the reporting period, and each type of such occurrences, as required by the Regulator; and

(b) unless otherwise specified by the Regulator, be made in conjunction with a safety performance report required by section 103 (Safety performance reports) of the Law.

(3C) The Regulator may, by written notice, require a rail transport operator to provide a report under subregulation (3A), at such other times, and in relation to such other periods, and in such manner, as specified in the notice (which may be in addition to a report otherwise provided in accordance with that subregulation).

(3D) For the purposes of subregulations (3A) and (3B), ***reporting period*** has the same meaning as in section 103(3) (Safety performance reports) of the Law.

9. Schedule 1A inserted

After Schedule 1 insert:

Schedule 1A — Notifiable occurrences

[r. 57(1)]

Division 1 — Category A notifiable occurrences

1. Collisions and near hits

(1) A collision between a train and —

(a) a rail safety worker; or

(b) a person (other than a rail safety worker) that results in a serious injury or fatality, including self-harm incidents; or

(c) another train on the running line; or

(d) a vehicle (other than a train) at a level crossing; or

(e) a vehicle (other than a train) that results in a serious injury or fatality.

(2) A collision, that results in significant damage or a serious injury or fatality, between a train and —

(a) another train; or

(b) rolling stock (other than a train); or

(c) plant or machinery within a rail worksite; or

(d) rail infrastructure.

(3) A near hit between a train and a rail safety worker.

2. Derailment

A derailment that —

(a) consists of the derailment of a single unit of rolling stock and results in significant damage; or

(b) consists of the derailment of more than 1 unit of rolling stock; or

(c) consists of the derailment of passenger rolling stock that is in service; or

(d) occurs in proximity of persons who were at risk of injury from the rolling stock or debris as a result of the derailment.

3. Wrong side failure

(1) A safety critical integrated engineered system has failed, or is suspected to have failed, in an unsafe manner and not in accordance with the system's design principles, including in relation to the following systems —

(a) active level crossings;

(b) signalling systems;

(c) authority management systems;

(d) rolling stock interlocking systems;

(e) train protection systems;

(f) electrical traction systems;

(g) track detection systems.

(2) A total failure of level crossing warning lights or boom barriers.

4. Proceed authority exceeded

(1) A train (not including a light rail vehicle) that exceeds a limit of a proceed authority or proceeds without proceed authority on, or onto, a running line —

(a) due to the driver missing the limit of authority completely; or

(b) that results in the train entering an occupied section of track or the train being in conflict with another train movement.

(2) A train (including a light rail vehicle) that exceeds a limit of a proceed authority or proceeds without proceed authority on, or onto, a running line that results in the train —

(a) entering a rail worksite; or

(b) entering an active level crossing without warning devices activating.

(3) A train (including a light rail vehicle) that proceeds while a restraint authority is in place.

5. Rolling stock runaway

(1) A runaway of a train or rolling stock on, or onto, a running line.

(2) A runaway of a train or rolling stock in a yard that occurs in proximity of persons who were at risk of injury from the train or rolling stock as a result of the runaway.

6. Fire, explosion or dangerous goods spill

A fire, explosion or spill of dangerous goods that directly threatens the safety of people.

7. Breach of network rules or procedures

A breach or omission of, or failure to comply with, a network rule, process or procedure, that results in an immediate or direct threat to the safety of people or railway operations including in the case of the following —

(a) failure to maintain a safe separation of trains with other trains, people or machinery (for example, due to the issuing of an incorrect proceed authority or incorrect protection arrangements);

(b) a worker who is on a track without authority;

(c) failure to protect a person who is working near electrical infrastructure, including trains being routed into de-energised or isolated sections of track;

(d) a worker who is near electrical infrastructure without authority.

8. Load irregularity

A load irregularity that results in an immediate or direct threat to the safety of people or railway operations including in the case of the following —

(a) a load that has shifted and breached the maximum kinetic rolling stock outline that applies in respect of that rolling stock;

(b) a load that has been lost during transit on a running line.

9. Rolling stock irregularity (including monitoring systems)

A rolling stock irregularity that results in an immediate or direct threat to the safety of people or railway operations, including in the case of the following —

(a) a complete bearing failure;

(b) a broken axle or wheel;

(c) a train parting that did not apply the brakes.

10. Track irregularity

A track irregularity that results in an immediate or direct threat to the safety of people or railway operations, including trains traversing an undetected track defect resulting in injury of train crew or passengers or near derailment.

11. Civil infrastructure irregularity

A civil infrastructure irregularity that results in an immediate or direct threat to the safety of people or railway operations, including in the case of the following —

(a) a bridge collapse;

(b) a tunnel collapse.

12. Electrical traction irregularity

An electrical traction irregularity that results in an immediate or direct threat to the safety of people or railway operations, including in the case of the following —

(a) overhead wires falling near people;

(b) a failure that exposes a person to a risk of electrocution.

13. Incidents at person and train interfaces

(1) Any of the following incidents —

(a) a train passenger door or platform screen door being open while the train is in motion;

(b) a person being caught in the passenger door of a train as the train begins to move, or while it is in motion;

(c) an incident involving a platform screen door that results in —

(i) a person being caught and exposed to a moving train; or

(ii) a person being caught between a train and the platform screen door.

(2) Any slip, trip or fall by a person that occurs at an interface between a person and a train that results in a serious injury or fatality, including in the case of the following —

(a) a fall by a person while boarding or alighting from a train;

(b) a fall by a person from a platform onto a track;

(c) a fall by a person between a train and a platform.

14. Other incidents or accidents involving serious injury or fatality

(1) Any incident or accident not included in a preceding provision of this Division, including an incident of self-harm, that results in a serious injury to, or fatality of, a person as a result of, or in relation to, railway operations.

(2) Any incident or accident not included in a preceding provision of this Division, that results in a serious injury to, or fatality of, a rail safety worker while performing rail safety work.

15. Other incidents or accidents directly threatening rail safety

A rail safety incident or accident that is not included in a preceding provision of this Division, that directly threatens the safety of people or railway operations.

Examples of such other incidents or accidents may include —

(a) an incident that involves sabotage or breach of cyber security;

(b) an event that results in an emergency evacuation to protect public safety;

(c) the sudden incapacity of a rail safety worker while performing a safety critical task or function;

(d) de-training of passengers into an uncontrolled environment;

(e) a train that significantly exceeds permitted speed.

Division 2 — Category B notifiable occurrences

16. Collisions and near hits

(1) A collision between a train and a person, other than a rail safety worker, that does not result in a serious injury or fatality.

(2) A collision (that is not a Category A notifiable occurrence) between a train and —

(a) another train; or

(b) rolling stock (other than a train); or

(c) plant or machinery within a rail worksite; or

(d) rail infrastructure.

(3) A near hit (that is not a Category A notifiable occurrence) between a train and —

(a) another train; or

(b) a person or a vehicle (other than a train) at a level crossing; or

(c) rolling stock (other than a train); or

(d) plant or machinery within a rail worksite; or

(e) rail infrastructure.

17. Derailment

A derailment that is not a Category A notifiable occurrence.

18. Proceed authority exceeded

(1) A train (not including a light rail vehicle) that exceeds a limit of a proceed authority or proceeds without proceed authority on, or onto, a running line, other than due to a train rolling back (that is not a Category A notifiable occurrence).

(2) A light rail vehicle that exceeds a limit of a proceed authority or proceeds without proceed authority that results in a near hit (that is not a Category A notifiable occurrence).

19. Rolling stock runaway

A runaway of a train or rolling stock (that is not a Category A notifiable occurrence) that occurs within a yard and where the distance of the train or rolling stock runaway is more than 10 metres.

20. Fire, explosion or spill of dangerous goods

(1) A fire (that is not a Category A notifiable occurrence) that does not directly threaten the safety of people, being —

(a) a fire that occurs on an unoccupied locomotive or in an unoccupied driving cab; or

(b) a lineside fire caused by a train; or

(c) a fire that results in damage to rail infrastructure or rolling stock.

(2) An accident or incident (that is not a Category A notifiable occurrence) that involves the spill of dangerous goods that results in damage to rail infrastructure or rolling stock.

(3) Any other fire, explosion or spill of dangerous goods that does not directly threaten the safety of people.

21. Breach of network rules or procedures

A breach or omission of, or failure to comply with, a network rule, process or procedure, that does not result in an immediate or direct threat to the safety of people or railway operations, including in the case of the following —

(a) failure to maintain a safe separation of trains with other trains, people or machinery (for example, due to the issuing of an incorrect proceed authority or incorrect protection arrangements);

(b) a worker who is on a track without authority;

(c) failure to protect a person who is working near electrical infrastructure, including trains being routed into de-energised or isolated sections of track;

(d) a worker who is near electrical infrastructure without authority.

22. Rolling stock irregularity (including monitoring systems)

(1) A rolling stock irregularity that does not result in an immediate or direct threat to the safety of people or railway operations, but does require operating restrictions to be applied, including in the case of the following —

(a) a non-critical failure of vehicle structural integrity;

(b) a non-critical reduction in braking performance;

(c) a failure that requires the isolation of vigilance or on-board train protection systems;

(d) a draw gear or coupler failure.

(2) A train parting other than a train parting that is a Category A notifiable occurrence.

23. Track irregularity

A track irregularity (that is not a Category A notifiable occurrence) that is detected outside of track maintenance or inspection activities and that requires the imposition of an operational restriction, including in the case of the following —

(a) a broken rail (including a fish plate);

(b) a rail defect;

(c) a track defect that affects horizontal alignment;

(d) a track defect that affects vertical alignment;

(e) spread track;

(f) a points irregularity where damage may result in a threat to the safety of railway operations.

24. Other incidents or accidents involving serious injury or fatality

An incident or accident (that is not a Category A notifiable occurrence) involving a road vehicle that results in a serious injury to, or fatality of, a member of a train crew who is on roster while in transit to or from a service.

Division 3 — Category C notifiable occurrences

25. Collisions and near hits

A collision or near hit (that is not a Category A or a Category B notifiable occurrence) —

(a) between a train and a vehicle (other than a train); or

(b) between a train and a person.

26. Proceed authority exceeded

(1) A train that exceeds a limit of a proceed authority or proceeds without proceed authority (that is not a Category A or a Category B notifiable occurrence) where —

(a) the rear portion of an otherwise stationary train (not including a light rail vehicle) rolls back resulting in part of the rear vehicle re-occupying a section of track; or

(b) in the case of a train (including a light rail vehicle) within a yard — the train remains in the yard.

(2) Any other incident where a train (including a light rail vehicle) exceeds a limit of a proceed authority or proceeds without proceed authority that is not a Category A or a Category B notifiable occurrence.

27. Rolling stock runaway

A runaway of a train or rolling stock (that is not a Category A or a Category B notifiable occurrence) that occurs within a yard and where the distance of the train or rolling stock runaway is 10 metres or less.

28. Breach of network rules or procedures

A breach or omission of, or failure to comply with, work scheduling practices and procedures set out in the rail transport operator's fatigue risk management program.

29. Load irregularity

A load irregularity, that does not result in an immediate or direct threat to the safety of people or railway operations, including —

(a) an open door, hatch, gate or curtain or an ineffective load restraint that results, or may result, in the loss of a load or a collision; and

(b) an uneven distribution of a load, or underloading or overloading beyond safety tolerances (for example, due to the way a train that includes empty and loaded wagons is configured).

30. Rolling stock irregularity (including monitoring systems)

A failure of systems and processes designed to identify and manage rolling stock irregularities, that is not a Category A or a Category B notifiable occurrence, including the following —

(a) a failure of wayside monitoring equipment;

(b) an administrative failure that allows defective rolling stock to remain in service.

31. Level crossing irregularity

A failure of level crossing equipment (that is not a Category A or a Category B notifiable occurrence) that results in the intended level of protection not being fully provided prior to, or during, the passage of a train through the crossing, including in the case of the following —

(a) only partial operation of an active warning device (for example, not all warning lights operating);

(b) slow or incomplete lowering of boom barriers for the passage of a train;

(c) locking systems on pedestrian gates (including emergency escape gates) failing to fully engage when closed;

(d) missing or damaged control signs and devices at a passive level crossing.

32. Track irregularity

A track irregularity (that is not a Category A or a Category B notifiable occurrence) that is detected during track maintenance or inspection activities and that requires the imposition of an operational restriction, including in the case of the following —

(a) a broken rail (including a fish plate);

(b) a rail defect;

(c) a track defect that affects horizontal alignment;

(d) a track defect that affects vertical alignment;

(e) spread track;

(f) a points irregularity where damage may result in a threat to the safety of railway operations.

33. Civil infrastructure irregularity

A civil infrastructure irregularity (that is not a Category A notifiable occurrence) that does not result in an immediate or direct threat to the safety of people or railway operations, including in the case of the following —

(a) a bridge strike by a road vehicle;

(b) a significant track obstruction (for example, a landslide, rock fall, fallen tree, flood water or other infrastructure);

(c) an embankment failure;

(d) a structural defect of a viaduct, bridge, tunnel or station infrastructure;

(e) a scaffolding collapse.

34. Electrical traction irregularity

An electrical traction irregularity (that is not a Category A notifiable occurrence) that does not result in an immediate or direct threat to the safety of people or railway operations, including in the case of the following —

(a) a de-wiring or entanglement of overhead wiring;

(b) failure of overhead wiring;

(c) a traction equipment fault.

35. Incidents at person and train interfaces

(1) A train passenger door failure, system failure or an incident involving a train or a platform screen door (that is not a Category A notifiable occurrence) that results in a risk to the safety of passengers, including in the case of the following —

(a) a defective passenger train door or inter-carriage door;

(b) a train door that opens on the incorrect side of the train or while the train is not at, or completely at, the platform;

(c) a platform screen door that opens while a train is not present;

(d) an emergency door release failing to function.

(2) Any slip, trip or fall by a person that occurs at an interface between a person and train (that is not a Category A notifiable occurrence), that does not result in a serious injury or fatality, including in the case of the following —

(a) a fall by a person while boarding or alighting from a train;

(b) a fall by a person from a platform onto a track;

(c) a fall by a person between a train and a platform.

Note: Schedule 2 to the SA regulations relates only to New South Wales and Queensland and accordingly has not been included here.

10. Schedule 3 amended

In Schedule 3 Division 2:

(a) in clause 1(1) in the Table:

(i) delete "82.31" and insert:

87.59

(ii) delete "0.050" and insert:

0.054

(b) in clause 1(3) and (4) delete "section" and insert:

sections

Notes:

1. The note at the end of regulation 29(3) is to be altered by deleting "and Schedule 2 relate only to New South Wales and accordingly have" and inserting:

   relates only to New South Wales and Queensland and accordingly has

2. The note at the end of Schedule 1 is to be deleted.

N. HAGLEY, Clerk of the Executive Council.