Western Australia

Rail Safety National Law (WA) Act 2015

Rail Safety National Law (WA) Regulations 2015

These regulations were repealed by the *Rail Safety National Law Application Act 2024* s. 48(2)(b) (No. 7 of 2024) on 1 Oct 2024 (see s. 2(b) and SL 2024/193 cl. 2).

Western Australia

Rail Safety National Law (WA) Regulations 2015

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Defined terms

Rail Safety National Law (WA) Regulations 2015

Part 1 — Preliminary

1. Citation

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

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 the day on which the *Rail Safety National Law (WA) Act 2015* section 4 comes into operation.

3. Terms used

In these regulations, unless the contrary intention appears —

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

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

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

Law means the Rail Safety National Law as set out in the Schedule to the Act;

National Transport Commission means the body of that name established under the *National Transport Commission Act 2003* (Commonwealth);

network rules means the rules, systems and procedures relating to railway operations established or adopted by a rail infrastructure manager to ensure the safety of the manager's railway operations for the purposes of section 52(3)(c) and (4)(c) (Duties of rail transport operators) of the Law;

relevant emergency services means emergency services that would be expected to attend a notifiable occurrence;

SA regulations means the *Rail Safety National Law National Regulations 2012* (South Australia).

[Regulation 3 amended: SL 2022/66 r. 4.]

4. Definition of occupational health and safety legislation

The *Work Health and Safety Act 2020* is prescribed for the purposes of the definition of ***occupational health and safety legislation*** in section 4 (Interpretation) of the Law.

[Regulation 4 amended: SL 2022/23 r. 4.]

5. Declaration of drug

For the purposes of paragraph (a) of the definition of ***drug*** in section 4 (Interpretation) of the Law, a substance included in a Schedule to the current Poisons Standard within the meaning of the *Therapeutic Goods Act 1989* (Commonwealth) is declared to be a drug.

6. Meaning of prescribed notifiable occurrence

A prescribed notifiable occurrence is a Category A notifiable occurrence.

[Regulation 6 amended: SL 2022/66 r. 5.]

7A. Numbering

In order to maintain consistent numbering between these regulations and the SA regulations —

(a) if the SA regulations contain a regulation that is not required in these regulations, the provision number and heading to the regulation appearing in the SA regulations are included in these regulations despite the omission of the body of the regulation; and

(b) if these regulations contain a regulation that is not included in the SA regulations, the regulation is numbered so as to maintain consistency in numbering between regulations common to both regulations.

Note for this regulation:

1. A note appears under each heading of a kind referred to in paragraph (a) describing the omitted regulation of the SA regulations.
2. A note appears under each regulation of a kind referred to in paragraph (b) highlighting the non-appearance of an equivalent regulation in the regulations.
3. Some regulations contained in the regulations and included in these regulations have been modified for consistency with State law and practice.
4. This regulation does not appear in the SA regulations.

7B. Notes

Notes in these regulations are provided to assist understanding and do not form part of these regulations.

Note for this regulation:

This regulation does not appear in the SA regulations.

7. Railways to which Law does or does not apply

Note for this regulation:

The SA regulations provide for railways to which the Law does not apply.

Part 2 — Accreditation

8. Application for accreditation

For the purposes of section 64(2)(c) (Application for accreditation) of the Law, an application for accreditation must contain —

(a) the following identification details of the applicant —

(i) the applicant's name;

(ii) the applicant's registered business name and trading name (if different from the registered business name);

(iii) the applicant's ACN if the applicant has an ACN (but, if not, the applicant's ABN);

(iv) the applicant's residential address or, in the case of a body corporate, registered business address;

and

(b) the name and contact details of the person or persons appointed by the applicant —

(i) to deal with any queries that the Regulator may have in relation to the application; and

(ii) to deal with any queries that the Regulator may have in relation to accreditation; and

(iii) to deal with any queries that the Regulator may have in relation to the safety management system;

and

(c) in the case of a rail infrastructure manager who does not own the rail infrastructure — documentary evidence that the manager has, or will have, management and control of the rail infrastructure; and

(d) a description of the operational assets, or classes of operational assets, that the applicant intends to use or

manage in the operations in respect of which the application is made, including any stations, signal and train control centres, signalling systems and rolling stock for service and maintenance activities; and

(e) a description of the communications systems and network rules that the applicant intends to use in the operations in respect of which the application is made; and

(f) in the case of a rolling stock operator — documentary evidence that the applicant has, or will have, effective management and control of the operation or movement of the rolling stock on rail infrastructure for a particular railway; and

(g) if electrified railway tracks will be used — details of the electrification; and

(h) details of the consultation undertaken by the applicant in relation to the applicant's safety management system, including —

(i) who was consulted; and

(ii) when and how the consultation occurred; and

(iii) the results of the consultation;

and

(i) if the applicant is not an individual — evidence that the application has been submitted to and endorsed —

(i) if the applicant is a body corporate —

(A) that is a company within the meaning of the *Corporations Act 2001* (Commonwealth) — in accordance with section 127 of that Act; or

(B) in any other case — by its governing body;

(ii) if the applicant is a partnership — by each partner;

(iii) if the applicant is an unincorporated association or body — by its governing body;

and

(j) if any of the activities that the applicant intends to carry out under the accreditation are to be carried out by any other person on behalf of the applicant —

(i) the name and contact details of each such person; and

(ii) details of the activities that it is intended the person will carry out on behalf of the applicant.

9. Prescribed conditions and restrictions

(1) For the purposes of section 67(2)(a) (Determination of application) of the Law, any accreditation granted to a rail transport operator is subject to the following conditions and restrictions —

(a) the operator must notify the Regulator in writing of any of the proposed decisions, proposed events or changes listed in column 2 of the Table in accordance with the requirement specified in column 3 of the Table with respect to that item —

Table

Item	Decision, event or change	When notification must be given
1	A decision to design or construct, or to commission the design or construction of, rolling stock or new railway tracks.	As soon as is reasonably practicable after the decision is made.

Item	Decision, event or change	When notification must be given
2	The introduction into service of rolling stock of a type not previously operated by the operator, or the re-introduction into service of rolling stock not currently operated by the operator.	At least 28 days before the date the operator intends to introduce or re-introduce the rolling stock into service.
3	A change to a safety critical element of existing rolling stock.	At least 28 days before the date the operator intends to bring the change into operation.
4	A change to 1 or more of the classes of rail infrastructure used in the operator's railway operations.	At least 28 days before the date the operator intends to introduce the new class of rail infrastructure into service.
5	A change to a safety standard for the design of rail infrastructure or rolling stock.	At least 28 days before the date the operator intends to adopt the change.
6	The decision to adopt a new safety standard for the design of rail infrastructure or rolling stock.	At least 28 days before the date the operator intends to adopt the new standard.

Item	Decision, event or change	When notification must be given
7	A change to the frequency of, or procedures for, the inspection or maintenance of railway infrastructure or rolling stock.	At least 28 days before the date the operator intends to bring the change into effect.
8	A change to the network rules relating to the conduct of the operator's railway operations.	In accordance with the provisions of Part 4 Division 4 of the regulations.
9	A decision to introduce a new network rule relating to the conduct of the operator's railway operations.	In accordance with the provisions of Part 4 Division 4 of the regulations.
10	A decision to change any work scheduling practices and procedures set out in the operator's fatigue risk management program.	At least 28 days before the date the operator intends to bring the change into effect.
11	The replacement, or a change in the contact details of any person appointed under regulation 8(b).	As soon as is reasonably practicable after it is known the replacement or change will occur.

Item	Decision, event or change	When notification must be given
12	A change in the operator's name or residential address, or the operator's business or trading name, or in the case of a body corporate, a change in the name or registered business address of the body corporate.	As soon as is reasonably practicable after the change is made.

(b) the operator must ensure that, at all times —

(i) one of the operator's directors or managers is available as a contact person should the Regulator wish to communicate with the operator; and

(ii) the Regulator is provided with sufficient details so that, for any particular time, the Regulator knows who the contact person is and how to contact that person;

(c) if it is not possible to comply with any other requirement specified in this subregulation because of an emergency — the operator must provide the Regulator with the required information as soon as is reasonably practicable after the decision is made or the event or the change occurs (as the case may be).

(2) Nothing in subregulation (1) is intended to require an accredited person to notify the Regulator of any matter that is the subject of an application for the variation of the accreditation.

10. Prescribed details for required notification

For the purposes of sections 67(4)(b)(i) (Determination of application) and 69(2)(b)(i) (Determination of application for variation) of the Law, the prescribed details of the applicant required to be specified in the notification are the details required by regulation 8(a).

11. Application for variation of accreditation

For the purposes of sections 68(3)(b) (Application for variation of accreditation) and 71 (Variation of conditions and restrictions) of the Law, an application for a variation of an accreditation, or an application for a variation of a condition or restriction imposed by the Regulator, must contain —

(a) the details required by regulations 8(a) and 8(b); and

(b) details of the scope and nature of the proposed variation; and

(c) details of the changes that will be made to the applicant's safety management system if the proposed variation occurs; and

(d) details of any consultation that has occurred with the parties who might be affected by the proposed variation, including —

(i) who was consulted; and

(ii) when and how the consultation occurred; and

(iii) the results of the consultation;

and

(e) evidence to demonstrate that the applicant has the competence and capacity to manage the risks to safety associated with the proposed variation.

Part 3 — Registration of rail infrastructure managers of private sidings

12. Application for registration

(1) For the purposes of section 84(2)(a)(v) (Application for registration) of the Law, an application for registration must contain —

(a) the following identification details of the applicant —

(i) the applicant's name;

(ii) the applicant's registered business name and trading name (if different from the registered business name);

(iii) the applicant's ACN if the applicant has an ACN (but, if not, the applicant's ABN);

(iv) the applicant's residential address or, in the case of a body corporate, registered business address;

and

(b) the name and contact details of the person or persons appointed by the applicant —

(i) to deal with any queries that the Regulator may have in relation to the application; and

(ii) to be responsible for registration and to deal with any queries that the Regulator may have in relation to registration;

and

(c) if the applicant is not an individual — evidence that the application has been submitted to and endorsed —

(i) if the applicant is a body corporate —

(A) that is a company within the meaning of the *Corporations Act 2001* (Commonwealth) — in accordance with section 127 of that Act; or

(B) in any other case — by its governing body;

(ii) if the applicant is a partnership — by each partner;

(iii) if the applicant is an unincorporated association or body — by its governing body;

and

(d) if any of the activities that the applicant intends to carry out under the registration are to be carried out by any other person on behalf of the applicant —

(i) the name and contact details of each such person; and

(ii) details of the activities that it is intended the person will carry out on behalf of the applicant;

and

(e) copies of any interface agreement to which the applicant is a party.

(2) For the purposes of section 84(2)(a)(iv)(A) (Application for registration) of the Law, if the private siding is to be (or continue to be) connected with, or to have access to, a railway of an accredited person, an application for registration must contain the following details of the accredited person —

(a) the person's name;

(b) the person's registered business name and trading name (if different from the registered business name);

(c) the person's ACN if the person has an ACN (but, if not, the person's ABN);

(d) the person's residential address or, in the case of a body corporate, registered business address.

(3) For the purposes of section 84(2)(a)(iv)(B) (Application for registration) of the Law, if the private siding is to be (or continue to be) connected with, or to have access to, another

private siding, an application for registration must contain the following —

(a) details about the scale and complexity of the other private siding;

(b) details about the extent of the railway track layout and other rail infrastructure of the other private siding;

(c) details about the railway operations to be carried out in the other private siding;

(d) the name and contact details of the owner of the other private siding.

13. Prescribed conditions and restrictions

For the purposes of section 86(2)(a) (Determination of application) of the Law, it is a condition of registration that the applicant must establish —

(a) a scheme for the management of risks to safety associated with the railway operations to be carried out in the private siding that provides for —

(i) processes for the identification of potential risks to the safety of rail operations carried out by the applicant for the purposes of developing a safety interface agreement; and

(ii) so far as is reasonably practicable, processes for the identification of incidents and hazards and the assessment of all possible incidents and hazards identified; and

(iii) a description of the control measures adopted by the applicant; and

(iv) processes to ensure, so far as is reasonably practicable, that rail safety work is prioritised so that those hazards representing the greatest risk are given priority; and

(v) details about how rail infrastructure within the private siding is to be maintained by the applicant;

and

(b) a risk register that includes —

(i) a comprehensive listing of hazards; and

(ii) risks associated with each hazard; and

(iii) the control measures applicable to each hazard; and

(iv) nomination of the person responsible for each control measure; and

(v) key engineering, operational and maintenance standards applicable to each control measure.

14. Prescribed details for required notification

(1) For the purposes of section 86(3)(b)(i) (Determination of application) of the Law, the prescribed details of the applicant required to be specified in the notification are the details required by regulation 12(1)(a).

(2) For the purposes of section 86(3)(b)(ii) (Determination of application) of the Law, the prescribed details of the private siding required to be specified in the notification are details of —

(a) the location of the private siding; and

(b) the railway operations to be carried out in the private siding.

(3) For the purposes of section 88(2)(b)(i) (Determination of application for variation) of the Law, the prescribed details about the applicant required to be specified in the notification are the details required by regulation 12(1)(a).

15. Application for variation of registration

For the purposes of sections 87(3)(b) (Application for variation of registration) and 90 (Variation of conditions and restrictions) of the Law, an application for a variation of a registration or an application for a variation of a condition or restriction imposed by the Regulator, must contain —

(a) details of the scope and nature of the proposed variation; and

(b) details of the changes that will be made to the applicant's scheme for the management of risks to safety associated with the railway operations to be carried out in the private siding if the proposed variation occurs; and

(c) details of any consultation that has occurred with the parties who might be affected by the proposed variation, including —

(i) who was consulted; and

(ii) when and how the consultation occurred; and

(iii) the results of the consultation.

Part 4 — Safety management

Division 1 — Safety management systems

16. Prescribed requirements for safety management system

A safety management system must provide for all of the matters listed in Schedule 1 that are relevant to the railway operations in respect of which the rail transport operator is accredited, or seeking to be accredited, and must provide a level of detail with respect to each of those matters that is appropriate having regard to the scope, nature and risks to safety of those operations, and to the operator's duties under section 52 (Duties of rail transport operators) of the Law.

17. Review of safety management system

(1) A rail transport operator must comply with this regulation in conducting a review of the operator's safety management system under section 102 (Review of safety management system) of the Law.

(2) In conducting the consultation required by section 99(3) (Safety management system) of the Law before carrying out the review, the operator must ensure that those consulted are asked for their opinion on whether, and if so, how, the safety management system can be improved.

(3) In conducting the review, the operator must ensure —

(a) that the effectiveness of the safety management system is assessed (including an examination of the operator's records in relation to notifiable occurrences and breaches of the system); and

(b) that the effectiveness of any revisions that were made as a result of the last review are assessed; and

(c) that any recommendations or issues arising out of any audits or safety investigations that have occurred since the last review are taken into account; and

(d) that any issues arising from any prohibition or improvement notices that have been issued since the last review are taken into account; and

(e) that any deficiencies in the system are identified; and

(f) that methods of remedying any deficiencies are designed and assessed; and

(g) that any opinions provided under subregulation (2) are assessed; and

(h) that any other suggestions for improving the system that arise during the course of the review are assessed; and

(i) if any deficiencies or practicable improvements are identified — that a plan is created to remedy those deficiencies or effect those improvements (as the case may be).

(4) The outcomes of the review must be summarised and reported in the safety performance report required by section 103 (Safety performance reports) of the Law.

Division 2 — Security management plans

18. Security management plan

For the purposes of section 112 (Security management plan) of the Law, a security management plan must include —

(a) a list of the risks arising from the matters specified in section 112(1)(a) of the Law; and

(b) a description of the preventative and response measures to be used to manage those risks, including a description of the policies, procedures and equipment and other physical resources that it is proposed to use for those measures, and of the training that it is proposed to provide; and

(c) if the rail transport operator shares a location (such as a modal interchange or port) with 1 or more other

transport operators — a description of the arrangements made with those other transport operators in relation to that location to prevent or respond to security incidents; and

(d) procedures for the recording, reporting and analysis of security incidents; and

(e) the allocation of security roles and responsibilities to appropriate people; and

(f) provision for liaison, the sharing of information and for joint operations with relevant emergency services, and with other transport operators who may be affected by the implementation of the plan; and

(g) provision for the evaluation, testing and (if necessary) the revision, of security measures and procedures.

Division 3 — Emergency management plans

19. Emergency management plan

(1) For the purposes of section 113(2)(b)(ii) (Emergency management plan) of the Law, when preparing an emergency management plan, a rail transport operator must consult (in addition to the people specified in section 99(3) (Safety management system) of the Law) with —

(a) any government agency with emergency management functions with respect to the area to which the plan relates; and

(b) any other rail transport operator who may be affected by the implementation of the plan; and

(c) any of the following that may be required to assist in the implementation of the plan —

(i) an entity (whether publicly or privately owned) that provides, or intends to provide, water, sewerage, drainage, gas, electricity, telephone, telecommunication or other like services under

the authority of an Act of a participating jurisdiction or the Commonwealth;

(ii) a person who, under the authority of an Act of a participating jurisdiction, is permitted to own or use a pipeline, or is licensed to construct or operate a pipeline;

(iii) a provider of public transport.

(2) An emergency management plan prepared for the purposes of section 113 (Emergency management plan) of the Law must address —

(a) the types or classes of foreseeable emergencies; and

(b) the consequences of each type or class of those emergencies, including estimates of the likely magnitude and severity of the effects of each type or class; and

(c) the risks to safety arising from those emergencies; and

(d) methods to mitigate the effects of those emergencies; and

(e) initial response procedures for dealing with those emergencies and the provision of rescue services; and

(f) recovery procedures for the restoration of railway operations and the assistance of people affected by the occurrence of those emergencies; and

(g) the allocation of emergency management roles and responsibilities within the rail transport operator's organisation, and between the operator and other organisations; and

(h) call out procedures; and

(i) the allocation of personnel for the on site management of those emergencies; and

(j) procedures for liaison with relevant emergency services, including information about the circumstances in which

the relevant emergency services are to be immediately contacted; and

(k) procedures to ensure that relevant emergency services are provided with all the information that is reasonably required to enable them to respond effectively to an emergency; and

(l) procedures for effective communications and cooperation throughout the emergency response; and

(m) procedures for ensuring site security and the preservation of evidence.

20. Keeping, maintaining and testing emergency management plan

(1) A rail transport operator must ensure, so far as is reasonably practicable, that all employees of the operator, and all contractors engaged by the operator, who may be required to implement any emergency response procedures in the emergency management plan —

(a) are provided with information (including by way of briefings and appropriate education programs) about the relevant elements of the plan; and

(b) are able to do anything that may be required of them under the plan.

(2) The rail transport operator must test the emergency management plan, or elements of the plan, to ensure that the plan remains effective —

(a) at the intervals set out in the plan; and

(b) after any significant changes are made to the plan.

(3) In preparing an emergency management plan, the rail transport operator must, if it is reasonably practicable to do so, determine intervals for the purposes of subregulation (2)(a) in conjunction with the relevant emergency services.

(4) When testing the emergency management plan, or elements of the plan, the rail transport operator must, so far as is reasonably practicable, arrange for participation in the testing by the relevant emergency services.

(5) The rail transport operator must ensure that in-house exercises to test the emergency management plan are undertaken as often as is necessary, in the opinion of the operator, to ensure that the plan will be properly implemented should an emergency arise.

(6) A rail transport operator must ensure that the emergency management plan is comprehensible, and is readily accessible at all times, to —

(a) all employees of the operator, and all contractors engaged by the operator, who may be required to implement any emergency response procedures in the plan; and

(b) all other rail transport operators who may be affected by the plan; and

(c) any person or body referred to in regulation 19(1)(c); and

(d) relevant emergency services.

Division 4 — Network rules

21. Interpretation

In this Division —

amendment of network rules includes removing, adding or substituting a rule;

stakeholders, in relation to railway operations in respect of which a rail infrastructure manager is required to be accredited, means —

(a) rolling stock operators who operate or move rolling stock on rail infrastructure of the manager; and

(b) any other rail infrastructure managers of rail infrastructure that connects with or has access to the rail infrastructure of the manager; and

(c) if the safety of the railway operations of any other rail infrastructure managers may be affected by the network rules of the manager — those other rail infrastructure managers; and

(d) persons likely to be affected by the network rules of the rail infrastructure manager, being persons who —

(i) carry out the railway operations in respect of which the manager is required to be accredited; or

(ii) work on or at the manager's railway premises; or

(iii) carry out the operation or movement of rolling stock on rail infrastructure of the manager;

and

(e) health and safety representatives (within the meaning of the occupational health and safety legislation) representing any of the persons referred to in paragraph (d); and

(f) any union representing any of the persons referred to in paragraph (d).

22. Establishing and amending network rules

(1) Subject to regulation 23, a rail infrastructure manager must, before establishing or amending network rules in relation to railway operations in respect of which the manager is required to be accredited —

(a) give written notice of the proposed rules or proposed amendment to —

(i) the Regulator; and

(ii) so far as is reasonably practicable, the stakeholders;

and

(b) specify the date (being not earlier than 28 days after the notice is given) by which submissions may be made to the rail infrastructure manager about the proposed rules or proposed amendment; and

(c) specify the date (being not earlier than 28 days after the date on which submissions close) on which it is proposed to commence the rules or the amendment.

Penalty: a fine of $10 000.

(2) The rail infrastructure manager must consider all submissions received under subregulation (1) and determine whether to proceed with the proposed network rules or proposed amendment to the network rules.

23. Emergency amendments to network rules

(1) This regulation applies if a rail infrastructure manager identifies an immediate risk to safety resulting from exceptional circumstances or an emergency that requires an amendment to the manager's network rules.

(2) The rail infrastructure manager may amend the network rules if the manager complies with this regulation.

(3) Before making the amendment, the rail infrastructure manager must —

(a) take reasonable steps to notify the stakeholders of the proposed amendment and the reasons for that change; and

(b) take appropriate steps to mitigate any reasonably foreseeable adverse consequences arising from implementation of the proposed amendment without stakeholders being informed of the amendment; and

(c) notify the Regulator of the proposed emergency amendment in the manner approved by the Regulator for the purpose of this regulation.

(4) An amendment made under this regulation ceases to have effect 180 days after it is implemented, unless the rail infrastructure manager complies with regulation 22.

(5) A rail infrastructure manager that implements an amendment under this regulation to deal with temporary circumstances must withdraw the amendment if circumstances change so that the amendment is no longer necessary, or the circumstances no longer exist.

(6) A rail infrastructure manager who withdraws an amendment to the network rules under subregulation (5) must —

(a) take reasonable steps to notify the stakeholders; and

(b) notify the Regulator in the manner approved by the Regulator for the purposes of this regulation.

Division 5 — Interface agreements

24. Interface coordination — rail infrastructure and public roads

For the purposes of section 107 (Interface coordination — rail infrastructure and public roads) of the Law, the following public roads are prescribed public roads —

(a) the Kwinana Freeway between its northern extremity and where it intersects Thomas Road, Bertram in Western Australia;

(b) the Mitchell Freeway in Western Australia.

25. Interface coordination — rail infrastructure and private roads

For the purposes of section 108(1)(b) (Interface coordination — rail infrastructure and private roads) of the Law, the protocol

made under section 21 of the *AustralAsia Railway (Special Provisions) Act 1999* (Northern Territory), as in force from time to time (and published in the Northern Territory *Government Gazette* under that section), is prescribed.

[Regulation 25 amended: SL 2020/75 r. 4; SL 2022/46 r. 14.]

Division 6 — Disclosure of train safety recordings

26. Disclosure of train safety recordings

(1) For the purposes of section 131(e) (Disclosure of train safety recordings) of the Law, a train safety recording may be published or communicated by and to the persons set out in subregulation (2), for the following purposes —

(a) the analysis or monitoring of railway operations or rail safety or related matters;

(b) without limiting paragraph (a), the auditing of compliance by rail safety workers with any systems, procedures, instructions, orders, notices or undertakings relating to the carrying out of railway operations.

(2) A train safety recording may be published or communicated by —

(a) a rail transport operator, or an employee or a contractor of the operator, to another rail transport operator or an employee or a contractor of another operator; or

(b) an employee or contractor of a rail transport operator to the operator or another employee or contractor of the operator; or

(c) a rail transport operator to an employee or contractor of the operator.

(3) For the purposes of section 131(e) (Disclosure of train safety recordings) of the Law, a train safety recording may be published or communicated by or on behalf of a rail transport operator to the Regulator.

Part 5 — Rail safety workers

27. Health and fitness management program

For the purposes of section 114 (Health and fitness management program) of the Law, a rail transport operator must have, and must implement, a health and fitness program for rail safety workers that complies with the *National Standard for Health Assessment of Rail Safety Workers*, published by the National Transport Commission, as amended from time to time.

28. Drug and alcohol management program

(1) For the purposes of section 115 (Drug and alcohol management program) of the Law, a drug and alcohol management program of a rail transport operator must include the following —

(a) a drug and alcohol policy that sets out the objectives of the rail transport operator with respect to drug and alcohol management in the workplace;

(b) systems and procedures for the provision of information and education to rail safety workers in relation to the drug and alcohol management program;

(c) systems and procedures to ensure the confidentiality of personal information obtained from, or in respect of, a rail safety worker in relation to drug or alcohol testing, counselling, treatment or rehabilitation;

(d) details of the drug and alcohol testing regime, including testing procedures and procedures for the management of rail safety workers in respect of the results of such testing;

(e) measures in accordance with subregulation (6).

Note for this subregulation:

In the SA regulations, subregulations (2) to (4) of this regulation relate only to New South Wales and accordingly have not been included here.

(5) The drug and alcohol management program of a rail transport operator must provide for the following measures to be taken by or on behalf of the operator —

(a) the establishment of rules relating to the use of drugs and alcohol by rail safety workers (including prohibitions and restrictions on use);

(b) the identification of rail safety workers who have alcohol or other drug related problems and, where appropriate, referral of those workers to assessment, treatment, counselling or rehabilitation.

(6) The drug and alcohol management program of a rail transport operator must set out the obligations of rail safety workers with respect to the management of alcohol and other drug use and the actions that may be taken by the operator if there is a breach of those obligations, including the following —

(a) a requirement that a rail safety worker notify the operator, or a nominated person, if the worker is aware that the ability of the worker, or another worker, to carry out rail safety work may be impaired by alcohol or any other drug;

(b) the provision of education and rehabilitation measures for rail safety workers, including provision for information to be provided about referral to counselling, treatment and rehabilitation services where appropriate;

(c) the provision of information to rail safety workers about their responsibilities and obligations in relation to alcohol and other drug use under an application Act of a participating jurisdiction and the Law;

(d) the provision of information to rail safety workers with respect to the effect of alcohol and other drugs and the possible disciplinary action and other penalties that may apply if a rail safety worker fails to comply with the drug and alcohol management program;

(e) appeals and grievance mechanisms for dealing with complaints about the application of disciplinary action and other penalties, or the implementation of the drug and alcohol management program;

(f) protocols for fair procedures relating to the operation of the drug and alcohol management program.

Note for this regulation:

In the SA regulations, subregulation (7) of this regulation relates only to New South Wales and accordingly has not been included here.

29. Fatigue risk management program

(1) For the purposes of section 116 (Fatigue risk management program) of the Law, when preparing a fatigue risk management program, a rail transport operator must take into account, and assess, any fatigue related risks to safety arising from factors, including the following —

(a) scheduling of work and non-work periods, including time-on-task and rest opportunities in shifts and the total period of time in which work is being carried out;

(b) call-in, on-call and lift-up and lay-back arrangements and extended hours of work, including overtime;

(c) the impact of work scheduling and relief practices generally on social and psychological factors that may impact on performance and safety, including the effect of scheduling practices, schedule predictability and irregularity and control over work hours on sleep loss, performance and safety;

(d) physiological factors arising out of work practices affecting rail safety workers, such as the effect on worker alertness and recovery of the time when work is undertaken, the length and frequency of breaks, commuting time, circadian effects, extended

wakefulness, chronic sleep loss effects, and sleep inertia;

(e) the kinds of rail safety work being carried out, including —

(i) work that requires significant physical exertion or high cognitive task demand; and

(ii) the degree of monotony or boredom or low cognitive task demand of the work;

(f) the variations in shifts and rest periods that may be required by different rail safety work requirements, including different routes, crew-call practices and predictability of working hours;

(g) the suitability of rest environments, including barracks, rest houses and relay vans provided for rail safety workers by the operator;

(h) the physical environment in which rail safety work is to be carried out, including climatic conditions, noise, vibration and fumes;

(i) fatigue risks arising from any one-off or occasional circumstances in which rail safety work may be required to be carried out, including in emergencies or under degraded or abnormal conditions, subject to the working hours being dependent on the rail safety workers' indication of their fitness to continue;

(j) relevant developments in research related to fatigue and any technology that may be applied to manage work-related fatigue.

(2) A rail transport operator's fatigue risk management program must establish and maintain documented procedures to manage,

so far as is reasonably practicable, fatigue related risks, including —

(a) specified work scheduling practices and procedures that provide for —

(i) safe hours of work; and

(ii) safe periods of time between shifts; and

(iii) sufficient rail safety workers to be available to meet reasonably foreseeable demands for relief arrangements;

and

(b) provisions for monitoring of hours of work, in particular —

(i) procedures for monitoring how actual hours of work of rail safety workers compare with planned hours of work for rail safety workers; and

(ii) procedures for monitoring the impact to changes to planned rosters due to shift swapping, overtime and on-call working;

and

(c) provision of appropriate education and information in relation to the identification and management of fatigue risks that are relevant to the rail safety work being undertaken.

(3) For the purposes of subregulation (2)(a)(i) and (ii), hours of work or periods of time between shifts are taken to be safe if the effect of implementing those hours or periods is sufficient to manage risks arising from fatigue so far as is reasonably practicable.

Note: In the SA regulations, subregulation (4) of this regulation relates only to New South Wales and Queensland and accordingly has not been included here.

(5) In this regulation —

lift-up and lay-back arrangement means an arrangement where a rail safety worker commences a shift at an earlier or later time than the time for which the worker was originally rostered.

30. Records of competence

For the purposes of section 117(6) (Assessment of competence) of the Law, a rail transport operator must maintain records of the competence of rail safety workers who carry out rail safety work on or in relation to the operator's rail infrastructure or rolling stock that include details of —

(a) the rail safety training undertaken by each rail safety worker, including when the training was undertaken and its duration; and

(b) the qualifications and competencies of each rail safety worker, including, if applicable —

(i) the units of competence attained by the worker; and

(ii) the level of qualification attained; and

(iii) if and when a re-assessment of competence is to be conducted; and

(iv) if and when re-training is due; and

(v) the date any re-training is undertaken;

and

(c) the name of the organisation who conducted the training or re-training; and

(d) the name and qualifications of the person who assessed the competence of the rail safety worker.

Part 6 — Exemptions granted by Regulator

31. Application for exemption

For the purposes of section 205(2)(c) (Application for exemption) of the Law, an application for an exemption must contain —

(a) the following identification details of the applicant —

(i) the applicant's name;

(ii) the applicant's registered business name and trading name (if different from the registered business name);

(iii) the applicant's ACN if the applicant has an ACN (but, if not, the applicant's ABN);

(iv) the applicant's residential address or, in the case of a body corporate, registered business address;

and

(b) the name and contact details of the person or persons appointed by the applicant —

(i) to deal with any queries that the Regulator may have in relation to the application; and

(ii) to be responsible for the exemption and to deal with any queries that the Regulator may have in relation to the exemption;

and

(c) if the applicant is not an individual — evidence that the application has been submitted to and endorsed —

(i) if the applicant is a body corporate —

(A) that is a company within the meaning of the *Corporations Act 2001* (Commonwealth) — in accordance with section 127 of that Act; or

(B) in any other case — by its governing body;

(ii) if the applicant is a partnership — by each partner;

(iii) if the applicant is an unincorporated association or body — by its governing body;

and

(d) if any of the activities that the applicant intends to carry out in respect of which the exemption is sought are to be carried out by another person on behalf of the applicant —

(i) the name and contact details of each such person; and

(ii) details of the activities that it is intended that the person will carry out on behalf of the applicant;

and

(e) evidence of the applicant's competence and capacity to manage risks to safety associated with the railway operations in respect of which the exemption is sought; and

(f) evidence of the applicant's financial capacity, or public risk insurance arrangements, to meet reasonable potential accident liabilities arising from the railway operations in respect of which the exemption is sought.

32. Prescribed details for required notification

(1) For the purposes of section 207(3)(b)(i) (Determination of application) of the Law, the prescribed details of the applicant required to be specified in the notification are the details required by regulation 31(a).

(2) For the purposes of section 209(2)(b)(i) (Determination of application for variation) of the Law, the prescribed details of

the applicant required to be specified in the notification are the details required by regulation 31(a).

33. Application for variation of an exemption

For the purposes of sections 208(3)(b) (Application for variation of an exemption) and 211 (Variation of conditions and restrictions) of the Law, an application for a variation of an exemption, or an application for a variation of a condition or restriction imposed by the Regulator, must contain —

(a) details of the scope and nature of the proposed variation; and

(b) details of the changes that will be made to the applicant's scheme for the management of risks to safety associated with the railway operations to be carried out if the proposed variation occurs; and

(c) details of any consultation that has occurred with the parties who might be affected by the proposed variation, including —

(i) who was consulted; and

(ii) when and how the consultation occurred; and

(iii) the results of the consultation.

Part 7 — Infringement penalty provisions

34. Infringement penalty provisions

For the purposes of these regulations, an ***infringement penalty provision*** is a provision of these regulations specified in an item in the table at the foot of this regulation.

Table

Item	Infringement penalty provision	Infringement penalty
1	Regulation 22 (Establishing and amending network rules)	$1 000

Part 8 — Application of certain South Australian Acts to the Law

Division 1 — Application of South Australian FOI Act

35. Interpretation

In this Division —

FOI Act means the *Freedom of Information Act 1991* (South Australia).

36. Application of FOI Act

For the purposes of section 263 (Application of certain South Australian Acts to this Law) of the Law, this Division sets out modifications of the FOI Act as it applies as a law of a participating jurisdiction for the purposes of the national rail safety scheme.

37. Modifications of FOI Act for purposes of national rail safety scheme

The FOI Act applies —

(a) as if a reference to the Ombudsman were a reference to the Ombudsman under the *Ombudsman Act 1972* (South Australia);

(b) section 4(1) definition of ***agency*** — as if the following paragraph were inserted after paragraph (f) of the definition —

(faa) the Office of the National Rail Safety Regulator (***ONRSR***); or

(c) section 4(1) definition of ***government*** — as if government referred to the government of each participating jurisdiction;

(d) section 4(1) — as if the following definition were inserted after the definition of ***officer*** —

> ***participating jurisdiction*** has the same meaning as in section 4(1) of the Rail Safety National Law;

(da) section 4(1) — as if the following definitions were inserted after the definition of ***principal officer*** —

> ***Rail Safety National Law*** means ***this Law*** as defined in section 4(1) of the Rail Safety National Law (WA);
>
> ***Regulator*** has the same meaning as in section 4(1) of the Rail Safety National Law;

(e) section 4(1) definition of ***State Government agency*** — as if the ONRSR were excluded from the definition;

(f) section 9(1a) — as if subsection (1a) were deleted and the following subsection substituted —

> (1a) ONRSR must, at intervals of not more than 12 months, cause an up-to-date information statement to be published in ONRSR's annual report and on ONRSR's website.

(g) section 21(1)(b) — as if the reference to Parliament were a reference to the Parliament of a participating jurisdiction;

(h) section 53(2)(b) — as if paragraph (b) were deleted;

(i) as if section 54AA were deleted and the following section substituted —

54AA — Keeping of records etc.

(1) ONRSR must comply with any requirements notified by the Minister in the *Gazette* as to the keeping of records and information for the purposes of monitoring compliance with this Act.

(2) The annual report of ONRSR must include the information referred to in subsection (1).

(j) Schedule 1 — as if a reference to Cabinet were a reference to the Cabinet of a participating jurisdiction;

(k) Schedule 1 — as if a reference to Executive Council were a reference to the Executive Council (by whatever name) of a participating jurisdiction;

(ka) Schedule 1 clause 4(2)(a)(iii) — as if "revenue law" were deleted and "rail safety law" substituted;

(kb) Schedule 1 clause 4(2)(a)(iv) — as if "or managing rail safety" were inserted after "public safety";

(kc) Schedule 1 clause 7(1)(c)(ii)(A) — as if "the Government or to an agency" were deleted and "ONRSR or the Regulator" substituted;

(kd) Schedule 1 clause 9(1)(a)(ii) — as if "including by, or with, a committee of ONRSR," were inserted after "taken place,";

(ke) Schedule 1 clause 9(1)(a) — as if "Minister or an agency" were deleted and "Minister, ONRSR or the Regulator" substituted;

(kf) Schedule 1 clause 13(1)(b)(i) — as if "the Government or to an agency" were deleted and "ONRSR or the Regulator in a co-regulatory environment" substituted;

(l) Schedule 1 clause 13(2) to (7) — as if subclauses (2) to (7) (inclusive) were deleted;

(la) Schedule 1 — as if the following clauses were inserted after clause 19 —

20—Exempt documents communicated between ONRSR or Regulator and Transport and Infrastructure Council and responsible Ministers etc.

The following documents are exempt documents —

(a) a document that contains information from a communication between ONRSR or the Regulator and either of the following —

(i) a member of the Transport and Infrastructure Council (or such other body that may, from time to time, be a body in substitution of the Council);

(ii) a government agency of a participating jurisdiction,

where the information relates to the business or proceedings of the Transport and Infrastructure Council (or substituted body);

(b) a document that contains information from a communication between ONRSR or the Regulator and a responsible Minister (within the meaning of the Rail Safety National Law).

21—Information or documents provided under section 20 of Rail Safety National Law

A document is an exempt document if it is a document that is produced, or contains information or evidence that is given, to the Regulator by a person (whether a natural person or a body corporate) in accordance with a requirement under section 20 of the Rail Safety National Law.

22—Train safety recordings

(1) A document is an exempt document if —

(a) it is a train safety recording or any part of a train safety recording; or

(b) it contains any information obtained from a train safety recording or any part of a train safety recording,

provided to, or obtained by, the Regulator under the Rail Safety National Law.

(2) In this clause —

train safety recording has the same meaning as in section 130 of the Rail Safety National Law.

(m) with any other modifications that are necessary.

[Regulation 37 amended: SL 2022/46 r. 15.]

38. Conferral of jurisdiction on District Court of South Australia

For the purposes of the FOI Act as applied under section 263 of the Law, the District Court of South Australia has jurisdiction under Part 5 Division 2 of the FOI Act to hear and determine an appeal from the ONRSR or a person in a participating

jurisdiction insofar as that appeal is made under a law of a participating jurisdiction.

39. Modification of Freedom of Information (Fees and Charges) Regulations

The *Freedom of Information (Fees and Charges) Regulations 2003* (South Australia) apply —

(a) regulation 3, definition of ***concession cardholder***, (a)(ii) — as if subparagraph (ii) were deleted and the following subparagraph substituted —

(ii) issued by a participating jurisdiction,

(b) regulation 6 — as if the regulation were deleted.

40. Disapplication of other regulations

The *Freedom of Information (Exempt Agency) Regulations 2008* and the *Freedom of Information (General) Regulations 2002* (South Australia) do not apply as laws of a participating jurisdiction for the purposes of the national rail safety scheme.

Division 2 — Application of South Australian Ombudsman Act

41. Interpretation

In this Division —

Ombudsman Act means the *Ombudsman Act 1972* (South Australia).

42. Application of Ombudsman Act

For the purposes of section 263 (Application of certain South Australian Acts to this Law) of the Law, this Division sets out modifications of the Ombudsman Act as it applies as a law of a participating jurisdiction for the purposes of the national rail safety scheme.

43. Modifications of Ombudsman Act for purposes of national rail safety scheme

The Ombudsman Act applies —

(a) as if a reference to the Ombudsman were a reference to the Ombudsman under the Ombudsman Act;

(b) section 3(1) definition of ***agency to which this Act applies*** — as if the following paragraph were inserted after paragraph (d) of the definition —

(da) the Office of the National Rail Safety Regulator (***ONRSR***); or

(c) section 3(1) — as if the following definition were inserted after the definition of ***officer*** of the Ombudsman —

participating jurisdiction has the same meaning as in the Rail Safety National Law set out in the schedule to the *Rail Safety National Law (South Australia) Act 2012*;

(d) section 14 — as if the section were deleted;

(e) section 15(3) — as if a reference to a member of either House of Parliament were a reference to a member of Parliament of a participating jurisdiction;

(f) section 30(1) and (2) — as if a reference to this or any other Act were a reference to this Act as it applies as a law of a participating jurisdiction or any other Act of a participating jurisdiction;

(g) section 30(3) definition of ***member of the Ombudsman's staff*** — as if a reference to this Act were a reference to this Act as it applies as a law of a participating jurisdiction;

(h) with any other modifications that are necessary.

44. Conferral of function on Ombudsman of South Australia

For the purposes of the Ombudsman Act as applied under section 263 of the Law, the Ombudsman under the Ombudsman Act has the functions under the Ombudsman Act in a participating jurisdiction insofar as that function is to be exercised under a law of a participating jurisdiction.

45. Conferral of jurisdiction on Supreme Court of South Australia

For the purposes of the Ombudsman Act as applied under section 263 of the Law, the Supreme Court of South Australia has jurisdiction to hear and determine an application under section 28 of the Ombudsman Act insofar as that application is made under a law of a participating jurisdiction.

Division 3 — Application of *Public Finance and Audit Act 1987* (South Australia)

46. Interpretation

In this Division —

PFA Act means the *Public Finance and Audit Act 1987* (South Australia).

47. Application of Public Finance and Audit Act

For the purposes of section 263 (Application of certain South Australian Acts to this Law) of the Law, this Division sets out modifications of the PFA Act as it applies as a law of a participating jurisdiction for the purposes of the national rail safety scheme.

48. Modifications of PFA Act for purposes of national rail safety scheme

The PFA Act applies —

(a) as if a reference to the Auditor General were a reference to the Auditor General under the PFA Act;

(b) section 4(1) — as if the following definition were inserted after the definition of imprest account —

> ***participating jurisdiction*** has the same meaning as in the Rail Safety National Law set out in the schedule to the *Rail Safety National Law (South Australia) Act 2012*;

(c) section 4(1) definition of ***public authority*** — as if the following paragraph were inserted after paragraph (c) of the definition —

> (ca) the Office of the National Rail Safety Regulator (***ONRSR***); or

(d) Part 2 — as if the Part were deleted;

(e) section 31(2) — as if the following were inserted after "efficiency" —

> , effectiveness

(f) section 32 — as if the section were deleted;

(g) Part 3 Division 4 — as if Division 4 were deleted;

(h) section 36(1)(a)(i) — as if subparagraph (i) were deleted;

(i) subject to paragraph (j) — as if a reference to the Treasurer were a reference to the Treasurer of a participating jurisdiction;

(j) section 39(2) — as if the reference to the Treasurer were a reference to the Treasurer of South Australia;

(k) as if a reference to the President of the Legislative Council and the Speaker of the House of Assembly were a reference to the presiding member of each House of Parliament of a participating jurisdiction;

(l) Part 4 — as if the Part (other than sections 42 and 43) were deleted;

(m) with any other modifications that are necessary.

49. Conferral of function on Auditor General of South Australia

For the purposes of the PFA Act as applied under section 263 of the Law, the Auditor General of South Australia has the functions under the PFA Act in a participating jurisdiction insofar as that function is to be exercised under a law of a participating jurisdiction.

50. Conferral of jurisdiction on Supreme Court of South Australia

For the purposes of the PFA Act as applied under section 263 of the Law, the Supreme Court of South Australia has jurisdiction to hear and determine an application under section 34 of the PFA Act insofar as that application is made under a law of a participating jurisdiction.

51. Disapplication of regulations

The *Public Finance and Audit Regulations 2002* do not apply as a law of a participating jurisdiction for the purposes of the national rail safety scheme.

Division 4 — Application of *State Records Act 1997* (South Australia)

52. Interpretation

In this Division —

State Records Act means the *State Records Act 1997* (South Australia).

53. Application of State Records Act

For the purposes of section 263 (Application of certain South Australian Acts to this Law) of the Law, this Division sets out modifications of the State Records Act as it applies as a law of a participating jurisdiction for the purposes of the national rail safety scheme.

54. Modifications of State Records Act for purposes of national rail safety scheme

The State Records Act applies —

(a) as if a reference to the Manager, or Manager of State Records, were a reference to the Manager of State Records under the State Records Act;

(b) as if a reference to State Records were a reference to the office of State Records established under the State Records Act;

(c) as if a reference to the State Records Council were a reference to the State Records Council established under the State Records Act;

(d) section 3(1) definition of ***agency*** — as if the following paragraph were inserted after paragraph (e) of the definition —

(ea) the Office of the National Rail Safety Regulator (***ONRSR***); or

(e) section 3(1) — as if the following definition were inserted after the definition of ***official record*** —

participating jurisdiction has the same meaning as in the Rail Safety National Law set out in the schedule to the *Rail Safety National Law (South Australia) Act 2012*;

(f) with any other modifications that are necessary.

55. Conferral of functions on South Australian Manager and Council

(1) For the purposes of the State Records Act as applied under section 263 of the Law, the Manager of State Records under the State Records Act has the functions under the State Records Act in a participating jurisdiction insofar as that function is to be exercised under a law of a participating jurisdiction.

(2) For the purposes of the State Records Act as applied under section 263 of the Law, the State Records Council under the State Records Act has the functions under the State Records Act in a participating jurisdiction insofar as that function is to be exercised under a law of a participating jurisdiction.

Part 9 — Miscellaneous

56. Periodic information to be supplied monthly

(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.

(2) In providing a monthly return, 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 provide the monthly return required under subregulation (1) to the Regulator as soon as

practicable after the end of each month, and not later than the 21st day of the following month, or before any other date or period specified by the Regulator.

[(4) deleted]

[Regulation 56 amended: Gazette 26 May 2017 p. 2635-6; SL 2022/66 r. 6.]

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.

[Regulation 56A inserted: SL 2022/66 r. 7.]

57. Reporting of notifiable occurrences

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

(a) immediately after becoming aware of the occurrence — give an oral report of the occurrence to the Regulator; and

(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) 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.

(4) The rail transport operator must ensure that any report the operator makes under this regulation is in the form, contains all the information, and is made in the manner, required by the Regulator.

[Regulation 57 amended: SL 2020/75 r. 5; SL 2022/66 r. 8.]

58. Fees

The fees set out in Schedule 3 are payable by a rail transport operator as specified in that Schedule.

Note for this regulation:

The Regulator may waive or refund the whole or any part of a fee payable under Part 3 Division 4 or Division 5 of the Law (see

sections 77 and 96 of the Law). The Regulator may, for example, waive or refund part of the fee payable by a rail transport operator in respect of an application that relates to the operation of a not for profit tourist or heritage railway.

Schedule 1 — Content of safety management system

[r. 16]

1. Interpretation

In this Schedule, a reference to the chief executive and governing body of the rail transport operator includes a reference to any other person or body that has control of the rail transport operator.

2. Safety policy

(1) A safety policy or policies that aligns or align with other organisational policies and that is, or that are, endorsed by the chief executive and governing body of the rail transport operator.

(2) A safety policy or policies that includes or include an express commitment to safety, the development and maintenance of a positive safety culture and the continuous improvement of all aspects of the safety management system.

3. Safety culture

Methods to promote and maintain a positive safety culture, so far as is reasonably practicable, with consideration given to —

(a) the importance of leadership and commitment of senior management; and

(b) the executive safety role of line management; and

(c) the need to involve rail safety workers at all levels; and

(d) encouraging open communication; and

(e) the need for human factors to be positively addressed; and

(f) the promotion of a just culture and environment; and

(g) the awareness and recognition of opportunities for safety improvement; and

(h) a willingness to devote resources to safety.

4. Governance and internal control arrangements

(1) Systems and procedures to ensure that the chief executive and governing body of the rail transport operator, or the people managing the railway operations, have sufficient knowledge —

(a) of the risk profile of the railway operations carried out by the rail transport operator to enable the operator to probatively manage the risks arising from those operations; and

(b) of the level of compliance by the organisation with its duties and obligations under the Law and these regulations; and

(c) to determine whether —

(i) the safety management system is working effectively; and

(ii) risks to safety are being identified, assessed and managed so far as is reasonably practicable; and

(iii) controls used to monitor safety and to manage risks to safety are being regularly reviewed and revised.

(2) Systems and procedures to ensure that decisions and directions made by the chief executive and governing body of the rail transport operator, or of the people managing the railway operations, that affect safety are being implemented effectively.

5. Management, responsibilities, accountabilities and authorities

(1) Policies that indicate how safety responsibilities, accountabilities, authorities and interrelationships have been determined.

(2) Documents that describe the responsibilities, accountabilities, authorities and interrelation of the personnel who manage or carry out rail safety work, or who verify such work.

(3) Procedures for the reporting of risks to safety by personnel with safety responsibilities.

(4) Documents that describe the authorities given to personnel with safety responsibilities to enable them to meet those responsibilities.

6. Regulatory compliance

(1) Systems and procedures for the identification of safety requirements under the Law and other safety legislation.

(2) Systems and procedures to ensure compliance with those requirements.

7. Document control arrangements and information management

Systems and procedures to control and manage all documents and information relevant to the management of risks to safety associated with railway operations, including systems and procedures for —

(a) the identification, creation, maintenance, management, storage and retention of records and documents; and

(b) ensuring the currency of documents required for operations; and

(c) the communication of any changes to the document control systems and procedures to rail safety workers and employees of the rail transport operator who rely on those systems and procedures to carry out their work.

8. Review of the safety management system

(1) Systems and procedures for the review of the safety management system in accordance with section 102 (Review of safety management system) of the Law and regulation 17.

(2) Documentation of the matters set out in regulation 17(3).

9. Safety performance measures

(1) Systems and procedures to ensure that the safety management system is effective by using key performance indicators to measure safety performance and determine the effectiveness of the safety management system.

(2) Systems and procedures to ensure the collection, analysis, assessment and dissemination of safety information held by the rail transport operator.

10. Safety audit arrangements

(1) An audit program that provides for —

(a) the scheduling and frequency of audits; and

(b) safety management system audits as part of the audit program; and

(c) the giving of priority to those matters that represent the greatest safety risk.

(2) Documented audit procedures to ensure there is a process for the collection of information to determine whether the railway operations comply with the safety management system and the effectiveness of the safety management system.

(3) Procedures to ensure that auditors —

(a) have the skills and knowledge to undertake audits; and

(b) are independent from the area being audited to the maximum extent that is practicable.

(4) Procedures for —

(a) communicating the results of audits to those people who are responsible for the oversight of the railway operations in the area audited for review and, where appropriate, for corrective action; and

(b) where appropriate, the registration and effective implementation of recommendations for action identified by the audit; and

(c) the review of the effectiveness of the audit program.

11. Corrective action

(1) Procedures to ensure, so far as is reasonably practicable, that corrective action is taken in response to any safety deficiencies identified following inspections, testing, audits, investigations or notifiable occurrences.

(2) Procedures for —

(a) registering any corrective actions taken; and

(b) the review of those corrective actions; and

(c) the implementation of corrective action if it is determined that corrective action is required; and

(d) the assigning of responsibilities for corrective action.

(3) Procedures for giving priority, when undertaking corrective action, to those matters representing the greatest safety risk.

12. Management of change

Procedures for ensuring that changes that may affect the safety of railway operations are identified and managed, including procedures for ensuring, so far as is reasonably practicable, that —

(a) changes are fully identified and described in the context of the railway operations; and

(b) affected parties are identified and, if practicable, consulted; and

(c) the roles and responsibilities of rail safety workers and employees of the rail transport operator are clearly specified with respect to the change; and

(d) the rail safety workers and employees of the rail transport operator are fully informed and trained to understand and deal with the proposed change; and

(e) the requirements of section 99(1)(c) and (d) (Safety management system) of the Law are observed in relation to any risks associated with the proposed change; and

(f) the change, once implemented, is reviewed and assessed by the rail transport operator to determine whether or not the change has been appropriately managed.

13. Consultation

Systems and procedures to ensure that the consultation required by section 99(3) (Safety management system) of the Law occurs when the safety management system is reviewed or varied.

14. Internal communication

Systems and procedures —

(a) for the dissemination of information about the content of the safety management system to people who are to participate in the implementation of the system or who may be otherwise affected by the implementation; and

(b) for the communication of the rail transport operator's safety policy and safety objectives to all people who are to participate in the implementation of the safety management system; and

(c) for the internal reporting of accidents and incidents involving the operator's railway operations, including accidents and incidents involving contractors and subcontractors; and

(d) to support communication and the dissemination of information throughout, and between all levels of, the operator's railway operations.

15. Training and instruction

(1) Systems and procedures —

(a) for the training of rail safety workers who are to participate in the implementation of the safety management system or who may otherwise be affected by the implementation; and

(b) to encourage the awareness, understanding and participation of rail safety workers in the safety management system.

(2) Provision for induction and ongoing training with regard to rail safety including information, instruction and training on new work practices, procedures, policies and standards, specified hazards and relevant control measures.

16. Risk management

(1) Systems and procedures for compliance with the risk management obligations set out in sections 46 (Management of risks) and 99(1)(c), (d) and (e) (Safety management system) of the Law.

(2) A risk register that includes —

(a) a listing of the risks to safety identified under section 99(1)(c) (Safety management system) of the Law; and

(b) details of the assessment of those risks (including their likelihood, likely consequences and ranking); and

(c) a description of any elimination or risk control measures that are to be used to manage, so far as is reasonably practicable, those risks, including, where appropriate —

(i) the identification of who is responsible for implementing the measures; and

(ii) a reference to the general location or locations in the safety management system where more details on the measures can be found.

(3) Systems and procedures to ensure that the details in the register are current, so far as is reasonably practicable.

17. Human factors

Procedures to ensure that human factor matters are taken into account during the development, operation and maintenance of the safety management system and for the integration of human factors principles and knowledge into all relevant aspects of operational and business systems.

18. Procurement and contract management

Systems and procedures —

(a) for the review of tender documents and contracts to ensure that safety requirements under the safety management system are adequately defined and documented in those tender documents and contracts; and

(b) to ensure that the terms of any tender documents or contracts do not lead to unsafe work or an activity that may affect the safety of railway operations; and

(c) for the selection and control of contractors and to ensure the monitoring of the performance of contractors, including conducting or commissioning audits of the contractor's

performance in relation to the safety aspects of the contract; and

(d) to ensure that safety duties under the Law are being met under contracts, and procedures for the taking of remedial action where necessary; and

(e) to ensure that goods and services provided to the railway operation meet the standards and specifications required for the safety of the railway operation.

19. General engineering and operational systems safety requirements

(1) A documented set of engineering standards and procedures, and operational systems, safety standards and procedures, to cover the following, and, if relevant, the interface between any 2 or more of them —

(a) rail infrastructure;

(b) rolling stock;

(c) operational systems.

(2) Details of the implementation and updating of the documents specified in subclause (1).

(3) Procedures for the control and verification of the design of structures, rolling stock, equipment, and systems, in accordance with the engineering standards and procedures, and operational systems safety standards specified in subclause (1).

(4) Systems, procedures and standards for the following in relation to rail infrastructure and rolling stock —

(a) engineering design;

(b) construction and installation;

(c) implementation and commissioning;

(d) monitoring and maintenance;

(e) system operation;

(f) modification;

(g) decommissioning or disposal.

20. Process control

(1) Procedures for the rail transport operator to monitor the operator's compliance with the standards and procedures specified in clause 19, including procedures for the inspection and testing of safety related engineering and operational systems.

(2) Procedures for the control, calibration and maintenance of all equipment used to inspect or test rail infrastructure or rolling stock.

(3) Arrangements for the establishment and maintenance of inspection and test records to provide evidence of the condition of rail infrastructure or rolling stock.

21. Asset management

An asset management policy and processes that address all phases of the asset life cycle of the rail infrastructure or rolling stock operations.

22. Safety interface coordination

(1) Procedures for the identification of interface risks to the safety of railway operations and for the development and implementation of interface agreements in accordance with Part 3 Division 6 Subdivision 2 (Interface agreements) of the Law.

(2) Procedures for monitoring the implementation and effectiveness of and compliance with interface agreements.

23. Management of notifiable occurrences

(1) Systems and procedures for the reporting of notifiable occurrences in accordance with regulation 57.

(2) Procedures for the management of the scene of a notifiable occurrence and for the preservation of evidence where reasonably practicable.

(3) Procedures for the management of all notifiable occurrences, including procedures to enable the determination of which notifiable occurrences are to be investigated, and how investigations are to be conducted.

24. Rail safety worker competence

Procedures and, where necessary, standards to ensure compliance with section 117 (Assessment of competence) of the Law.

25. Security management

(1) The security management plan required by section 112 (Security management plan) of the Law.

(2) Systems and procedures to ensure compliance with section 112 (Security management plan) of the Law and regulation 18.

26. Emergency management

(1) The emergency management plan required by section 113 (Emergency management plan) of the Law.

(2) Systems and procedures to ensure compliance with section 113 (Emergency management plan) of the Law and Part 4 Division 3 of these regulations.

27. Health and fitness

Systems and procedures to ensure compliance with section 114 (Health and fitness management program) of the Law and with regulation 27.

28. Drugs and alcohol

Systems and procedures to ensure compliance with section 115 (Drug and alcohol management program) of the Law and with regulation 28.

29. Fatigue risk management

Systems and procedures to ensure compliance with section 116 (Fatigue risk management program) of the Law and regulation 29.

30. Resource availability

Systems and procedures for estimating the resources, including people and equipment, that the rail transport operator will need to operate and maintain the operator's railway operations and to implement, manage and maintain its safety management system, and for the preparation of plans to ensure that it has adequate access to those resources.

Schedule 1A — Notifiable occurrences

[r. 57(1)]

[Heading inserted: SL 2022/66 r. 9.]

Division 1 — Category A notifiable occurrences

[Heading inserted: SL 2022/66 r. 9.]

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.

[Clause 1 inserted: SL 2022/66 r. 9.]

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.

[Clause 2 inserted: SL 2022/66 r. 9.]

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.

[Clause 3 inserted: SL 2022/66 r. 9.]

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.

[Clause 4 inserted: SL 2022/66 r. 9.]

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.

[Clause 5 inserted: SL 2022/66 r. 9.]

6. Fire, explosion or dangerous goods spill

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

[Clause 6 inserted: SL 2022/66 r. 9.]

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.

[Clause 7 inserted: SL 2022/66 r. 9.]

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.

[Clause 8 inserted: SL 2022/66 r. 9.]

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.

[Clause 9 inserted: SL 2022/66 r. 9.]

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.

[Clause 10 inserted: SL 2022/66 r. 9.]

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.

[Clause 11 inserted: SL 2022/66 r. 9.]

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.

[Clause 12 inserted: SL 2022/66 r. 9.]

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.

[Clause 13 inserted: SL 2022/66 r. 9.]

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.

[Clause 14 inserted: SL 2022/66 r. 9.]

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.

[Clause 15 inserted: SL 2022/66 r. 9.]

Division 2 — Category B notifiable occurrences

[Heading inserted: SL 2022/66 r. 9.]

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.

[Clause 16 inserted: SL 2022/66 r. 9.]

17. Derailment

A derailment that is not a Category A notifiable occurrence.

[Clause 17 inserted: SL 2022/66 r. 9.]

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).

[Clause 18 inserted: SL 2022/66 r. 9.]

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.

[Clause 19 inserted: SL 2022/66 r. 9.]

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.

[Clause 20 inserted: SL 2022/66 r. 9.]

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.

[Clause 21 inserted: SL 2022/66 r. 9.]

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.

[Clause 22 inserted: SL 2022/66 r. 9.]

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.

[Clause 23 inserted: SL 2022/66 r. 9.]

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.

[Clause 24 inserted: SL 2022/66 r. 9.]

Division 3 — Category C notifiable occurrences

[Heading inserted: SL 2022/66 r. 9.]

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.

[Clause 25 inserted: SL 2022/66 r. 9.]

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.

[Clause 26 inserted: SL 2022/66 r. 9.]

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.

[Clause 27 inserted: SL 2022/66 r. 9.]

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.

[Clause 28 inserted: SL 2022/66 r. 9.]

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).

[Clause 29 inserted: SL 2022/66 r. 9.]

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.

[Clause 30 inserted: SL 2022/66 r. 9.]

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.

[Clause 31 inserted: SL 2022/66 r. 9.]

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.

[Clause 32 inserted: SL 2022/66 r. 9.]

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.

[Clause 33 inserted: SL 2022/66 r. 9.]

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.

[Clause 34 inserted: SL 2022/66 r. 9.]

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.

[Clause 35 inserted: SL 2022/66 r. 9.]

Schedule 3 — Fees

[r. 58]

Division 1 — Application fees

	Section	Description	Fee
1	64(2)(d)	Application for accreditation	$10 000
2	68(3)(c)	Application for variation of accreditation	$1 000
3	71(2)	Application for variation of conditions/restrictions of accreditation	$1 000
4	84(2)(b)	Application for registration	$1 000
5	87(3)(c)	Application for variation of registration	$250
6	90(2)	Application for variation of conditions/restrictions of registration	$250
7	205(2)(d)	Application for exemption	$1 000
8	208(3)(c)	Application for variation of exemption	$100
9	211(2)	Application for variation of conditions/restrictions of exemption	$100

Division 2 — Annual fees

1. Annual fees

(1) Pursuant to section 76(1) of the Law, the annual fee payable by an accredited person in respect of a financial year is to be calculated by adding the fixed component (F) to the relevant variable component (V) for each of the jurisdictions in which the accredited person carries out railway operations. For example, if the accredited person carries

out railway operations in 4 jurisdictions in a financial year, the annual fee payable in respect of that year would be calculated as follows —

$A = F + V_{\text{jurisdiction 1}} + V_{\text{jurisdiction 2}} + V_{\text{jurisdiction 3}} + V_{\text{jurisdiction 4}}$

where —

A is the annual fee

F is the fixed component ($15 000) of the annual fee

Note: If an accredited person is both a rail infrastructure manager and a rolling stock operator, the fixed component of the annual fee is payable only once in respect of each financial year.

V, in respect of a particular jurisdiction, is the variable component of the annual fee (see explanation and formula set out below as to how to calculate the variable component)

The variable component (V), in respect of each jurisdiction in which the accredited person carries out railway operations, is the product of the relevant rates as set out in the table below and either (or both) of the following as relevant —

(a) in the case of an accredited person who is a rail infrastructure manager — the number of kilometres of track over which the manager has effective management and control within the jurisdiction;

(b) in the case of an accredited person who is a rolling stock operator — the number of kilometres travelled within the jurisdiction by trains over which the operator has effective management and control,

and is to be calculated as follows —

$V_{\text{jurisdiction}} = (T \times R_T) + (t \times R_t)$

where —

V, in respect of a particular jurisdiction, is the variable component of the annual fee

T is the kilometres of track managed by a rail infrastructure manager

R_T is equal to the rate per kilometre of track managed by a rail infrastructure manager

t is the kilometres travelled by trains of a rolling stock operator

R_t is equal to the rate per kilometre travelled by trains of a rolling stock operator

Table

Rate per kilometre of track managed by a rail infrastructure manager ($/km) ($R_T$)	100.03
Rate per kilometre travelled by trains of a rolling stock operator ($/km) ($R_t$)	0.062

(2) Pursuant to section 95(1) of the Law, the annual fee payable by a registered person is $500 (regardless of the number of private sidings in respect of which the person is registered and the participating jurisdiction or participating jurisdictions in which the private sidings are located).

(3) For the purposes of sections 76(2) and 95(2) of the Law, the prescribed date for the payment of annual fees is 31 October in each year.

(4) For the purposes of sections 76(4)(d) and 95(4)(d) of the Law, an additional fee of an amount equivalent to 15% of the annual fee is payable if the annual fee is not paid on or before the prescribed date.

[Clause 1 amended: Gazette 14 Jun 2016 p. 1992; 26 May 2017 p. 2636; 25 May 2018 p. 1642; 28 Jun 2019 p. 2487; SL 2020/75 r. 6; SL 2021/91 r. 4; SL 2022/66 r. 10; SL 2024/122 r. 4.]

Notes

This is a compilation of the *Rail Safety National Law (WA) Regulations 2015* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table.

Compilation table

Citation	Published	Commencement
Rail Safety National Law (WA) Regulations 2015	16 Oct 2015 p. 4187-262	r. 1 and 2: 16 Oct 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 2 Nov 2015 (see r. 2(b) and *Gazette* 16 Oct 2015 p. 4149)
Transport Regulations Amendment (Fees and Charges) Regulations (No. 2) 2016 Pt. 4	14 Jun 2016 p. 1987-2003	1 Jul 2016 (see r. 2(b))
Rail Safety National Law (WA) Amendment Regulations 2017	26 May 2017 p. 2634-6	r. 1 and 2: 26 May 2017 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2017 (see r. 2(b))
Transport Regulations Amendment (Fees and Charges) Regulations 2018 Pt. 4	25 May 2018 p. 1640-7	1 Jul 2018 (see r. 2(b))
Rail Safety National Law (WA) Amendment Regulations 2019	28 Jun 2019 p. 2486-7	r. 1 and 2: 28 Jun 2019 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2019 (see r. 2(b))
Rail Safety National Law (WA) Amendment Regulations 2020	SL 2020/75 9 Jun 2020	r. 1 and 2: 9 Jun 2020 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2020 (see r. 2(b))
Rail Safety National Law (WA) Amendment Regulations 2021	SL 2021/91 18 Jun 2021	r. 1 and 2: 18 Jun 2021 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2021 (see r. 2(b))
Transport Regulations Amendment (Work Health and Safety) Regulations 2022 Pt. 2	SL 2022/23 11 Mar 2022	31 Mar 2022 (see r. 2(b) and SL 2022/18 cl. 2)
Transport Regulations Amendment (Rail Safety National Law) Regulations 2022 Pt. 3	SL 2022/46 8 Apr 2022	9 Apr 2022 (see r. 2(b))

Citation	Published	Commencement
Rail Safety National Law (WA) Amendment Regulations 2022	SL 2022/66 3 Jun 2022	r. 1 and 2: 3 Jun 2022 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2022 (see r. 2(b))
Rail Safety National Law (WA) Amendment Regulations 2024	SL 2024/122 26 Jun 2024	r. 1 and 2: 26 Jun 2024 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Jul 2024 (see r. 2(b))
These regulations were repealed by the *Rail Safety National Law Application Act 2024* s. 48(2)(b) (No. 7 of 2024) on 1 Oct 2024 (see s. 2(b) and SL 2024/193 cl. 2)		

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
amendment	21
Category A notifiable occurrence	3, 57(1)
Category B notifiable occurrence	3, 57(1)
Category C notifiable occurrence	3, 57(1)
FOI Act	35
infringement penalty provision	34
Law	3
lift-up and lay-back arrangement	29(5)
National Transport Commission	3
network rules	3
Ombudsman Act	41
PFA Act	46
relevant emergency services	3
reporting period	57(3D)
SA regulations	3
stakeholders	21
State Records Act	52

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