

TABLING NOTE FOR SUBORDINATE LEGISLATION

RAIL SAFETY NATIONAL LAW NATIONAL REGULATIONS (QUEENSLAND FATIGUE PROVISIONS) VARIATION REGULATIONS 2017 NO. 259

RAIL SAFETY NATIONAL LAW NATIONAL REGULATIONS (MISCELLANEOUS) VARIATION REGULATIONS 2017 NO. 258

RAIL SAFETY NATIONAL LAW NATIONAL REGULATIONS (FEES AND RETURNS) VARIATION REGULATIONS 2017 NO. 257

Purpose

The purpose of tabling the *Rail Safety National Law National Regulations (Queensland Fatigue Provisions) Variation Regulations 2017*, *Rail Safety National Law National Regulations (Miscellaneous) Variations Regulations 2017* and the *Rail Safety National Law National Regulations (Fees and Returns) Variation Regulations 2017*, is to ensure amendments to the *National Rail Safety National Law National Regulations 2012* apply in the Northern Territory.

Summary of key provisions

- The current requirements for rail transport operators' fatigue risk programs in regulation 29 of the *Rail Safety National Law Regulations 2012 (SA)* includes a special requirement for New South Wales rail safety workers. The *Rail Safety National Law National Regulations (Queensland Fatigue Provisions) Variation Regulations 2017*, includes additional special requirements for rail safety work carried out in connection with rail operations in Queensland. There are no implications for rail safety operations in the Northern Territory.
- The *Rail Safety National Law National Regulations (Miscellaneous) Variations Regulations 2017*, relates to a specific exempt railway in New South Wales. In addition there is a change to the fees charged by the Rail Safety National Regulator for a complex application for accreditation. A new 'project component fee' has also been created where operations conducted have changed which requires the Regulator to assess the changes as an additional element of assessing an application.
- The *Rail Safety National Law National Regulations (Fees and Returns) Variation Regulations 2017*, removes the need for operators to provide annual returns and substitutes an obligation to provide monthly employee numbers. In addition the variation adjusts the fees payable by infrastructure managers and rolling stock operators. The fees have been reduced for the Northern Territory.

These amendments have been approved by all jurisdictions.

Legislative Authority

Section 8(1) of the *Rail Safety (National Uniform Legislation) Act*.

South Australia

Rail Safety National Law National Regulations (Queensland Fatigue Provisions) Variation Regulations 2017

under the *Rail Safety National Law (South Australia) Act 2012*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Rail Safety National Law National Regulations (Queensland Fatigue Provisions) Variation Regulations 2017*.

2—Commencement

These regulations will come into operation at the same time as the *Rail Safety National Law (Queensland) Act 2017* comes into operation.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Rail Safety National Law National Regulations 2012*

4—Variation of regulation 29—Fatigue risk management program

Regulation 29(4)—delete subregulation (4) and substitute:

- (4) In addition to the requirements of the preceding subregulations, if a rail safety worker carries out rail safety work that includes—
 - (a) work of a kind referred to in Schedule 2 Part 1 in connection with railway operations in New South Wales in respect of which a rail transport operator is required to be accredited—the operator must comply at least with the work scheduling practices and procedures set out in Schedule 2 Part 1, insofar as the worker is required to carry out any rail safety work in New South Wales; or
 - (b) work of a kind referred to in Schedule 2 Part 2 in connection with railway operations in Queensland in respect of which a rail transport operator is required to be accredited—the operator must comply at least with the work scheduling practices and procedures set out in Schedule 2 Part 2, insofar as the worker is required to carry out any rail safety work in Queensland.

Note—

The requirements of Schedule 2 do not preclude other conditions of work (such as shorter or less frequent shifts than those specified in the Schedule) from being provided by a rail transport operator to which this subregulation applies for the purposes of managing fatigue related risks.

5—Variation of Heading to Schedule 2

Heading to Schedule 2—delete "New South Wales" and substitute:

certain participating jurisdictions

6—Variation of Schedule 2—Special fatigue management program requirements in respect of certain rail safety work carried out within certain participating jurisdictions

- (1) Schedule 2—before clause 1 insert:

Part 1—New South Wales requirements

- (2) Schedule 2, clause 1—delete "Schedule" and substitute:

Part

- (3) Schedule 2, clause 6—delete "Schedule" wherever occurring and substitute in each case:

Part

- (4) Schedule 2—after clause 6 insert:

Part 2—Queensland requirements

7—Interpretation

For the purposes of this Part—

- (a) the length of a shift worked or to be worked by a rail safety worker includes all the time between the signing on time and the signing off time of a shift; and
- (b) the length of a break is all of the time between the signing off time of a shift and the next signing on time of a shift; and
- (c) *suburban service*, for a passenger train, means a service that starts and ends in the SEQ area (as defined in section 62AAA(2) of the *Transport Operations (Passenger Transport) Act 1994* of Queensland).

8—Working hours for rail safety workers driving freight trains

The following work scheduling practices and procedures apply to a rail safety worker who drives a freight train:

- (a) in the case of a 2 driver operation where the second driver is a qualified train driver (including a qualified train driver who is learning a route or undergoing an assessment)—the maximum shift length to be worked is 12 hours;
- (b) in the case of a 1 driver operation—the maximum shift length to be worked is 9 hours;
- (c) there is to be a break of at least 12 continuous hours between each shift worked by the rail safety worker if the worker ends a shift at the home depot;
- (d) there is to be a break of at least 8 continuous hours between each shift worked by the rail safety worker if the worker ends a shift away from the home depot and the break is taken away from the home depot;
- (e) in any 14 day period—the rail safety worker may work a maximum number of 12 shifts and, in any event, not more than 132 hours.

9—Working hours for rail safety worker driving passenger trains

The following work scheduling practices and procedures apply to a rail safety worker who drives a passenger train:

- (a) in the case of a passenger train in suburban service—
 - (i) the maximum shift length to be worked is 9 hours (irrespective of whether it is a 1 or 2 driver operation); and

- (ii) the maximum period of time during any shift that a driver may drive the train is 8 hours;
- (b) in the case of any other passenger train—
 - (i) if it is a 2 driver operation where the second driver is a qualified train driver (including a qualified train driver who is learning a route or undergoing an assessment)—the maximum shift length to be worked is 12 hours; and
 - (ii) if it is a 1 driver operation—the maximum shift length to be worked is 9 hours;
- (c) there is to be a break of at least 12 continuous hours between each shift worked by the rail safety worker if the worker ends a shift at the home depot;
- (d) there is to be a break of at least 8 continuous hours between each shift worked by the rail safety worker if the worker ends a shift away from the home depot and the break is taken away from the home depot;
- (e) in any 14 day period—the rail safety worker may work a maximum number of 12 shifts and, in any event, not more than 132 hours.

10—Train drivers who are transported to home depot or rest place

- (1) The following work scheduling practices and procedures apply to a rail safety worker who drives a train and who travels to a home depot or to a place provided for rest between shifts (a *barracks*), as a passenger in a train or other vehicle provided by the rail transport operator:
 - (a) the period between signing on for a shift and reaching the home depot or barracks must not exceed 16 hours;
 - (b) for the purposes of applying the requirements of clauses 8 and 9 (and despite clause 7)—
 - (i) in respect of the length and number of shifts—the time spent travelling to the home depot or barracks is not to be taken to be part of the shift worked; and
 - (ii) in respect of breaks between shifts—the break between a shift commences when the worker reaches the home depot or barracks;
 - (c) the rail safety worker must not undertake any rail safety work or drive a motor vehicle after commencing to travel to the home depot or barracks and before signing off at the home depot or barracks.
- (2) Despite subclause (1), the rail safety worker is for any other purpose taken to have been rostered on for a shift ending when the worker signs off at the home depot or barracks.

11—Emergencies and accidents

- (1) The requirements of this Part do not apply in the event of—
- (a) an accident or emergency; or
 - (b) any urgent circumstances approved by the Regulator; or
 - (c) any other unforeseeable circumstances that make it necessary, in the absence of any reasonably practicable alternative, to contravene this Part to avoid a serious dislocation of train services,

provided that the driver or drivers concerned indicate their fitness to work the extended hours.

- (2) In this clause—

emergency means an emergency arising out of an actual or imminent event, such as fire, flood, storm, earthquake or explosion that—

- (a) endangers, or may endanger, the safety of persons; or
- (b) destroys or damages, or may destroy or damage, property.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

on the unanimous recommendation of the responsible Ministers and with the advice and consent of the Executive Council

on 3 May 2017

No 33 of 2017

MTR/17/015