

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 (Miscellaneous) Variation Regulations 2017

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

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

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

- 4 Variation of regulation 7—Railways to which Law does or does not apply
 - 5 Variation of Schedule 3—Fees
-

Part 1—Preliminary

1—Short title

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

2—Commencement

These regulations will come into operation on the day on which the *Rail Safety National Law (South Australia) (Miscellaneous No 3) Amendment 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 7—Railways to which Law does or does not apply

Regulation 7(1)(a)—delete "for the North West Rail Link Project" and substitute:

by or on behalf of a public transport agency constituted under the *Transport Administration Act 1988* of New South Wales

5—Variation of Schedule 3—Fees

- (1) Schedule 3, Part 1, table, descriptions for items 1 to 9 (inclusive) —after "Application" wherever occurring insert in each case:
fee

- (2) Schedule 3, Part 1, table—after the entry relating to item 1 insert:

	Section	Description	Fee
1A	64(5)	Application (complex operations) fee for accreditation	\$80 000

- (3) Schedule 3, Part 2, clause 1(1)—delete "Pursuant to section 76(1)" and substitute:

For the purposes of section 76

- (4) Schedule 3, Part 2, clause 1—after subclause (1) insert:

- (1a) The Regulator may determine that an accredited person must pay, in addition to the fee calculated under subclause (1) in respect of a particular financial year, an additional fee (a ***project component fee***) in respect of that year, being 1 or more of the following fees:

- (a) \$198 000;
- (b) \$140 000;
- (c) \$93 000.

- (1b) For the purposes of subclause (1a), in determining whether a project component fee is payable in respect of a particular financial year by an accredited person in relation to the person's railway operations (and, if so, which fee or fees), the Regulator must take into account the following factors:

- (a) whether the railway operations, or any part of the railway operations, involve the introduction of new rolling stock or rail infrastructure not previously used in Australia;
- (b) whether the railway operations, or any part of the railway operations, involve the introduction of safety critical systems or other rail technology not previously used in Australia;
- (c) the complexity of any contract delivery or system integration in relation to the railway operations, or any part of the railway operations;
- (d) the extent of any change required to the safety management system or network rules in respect of the railway operations, or any part of the railway operations;
- (e) the extent of any new safety risks identified in relation to the railway operations, or any part of the railway operations,

and the anticipated impact that those factors will have on the regulatory oversight that may be required by the Regulator in respect of the railway operations, or any part of the railway operations.

- (1c) After considering the factors referred to in subclause (1b), the Regulator—
 - (a) must notify the accredited person in writing—
 - (i) that, in addition to the annual fee referred to in subclause (1), the Regulator is considering charging the person the project component fee or fees specified in the notice; and
 - (ii) that the person may, within 7 days or such longer period as is specified in the notice, make written representations to the Regulator showing cause why the fee or fees should not be charged; and
 - (b) must consider any representations made under paragraph (a)(ii) and not withdrawn.
- (1d) For the purposes of section 76(4)(e) of the Law, a decision of the Regulator to charge a project component fee or fees is a reviewable decision to which Part 7 of the Law applies.
- (1e) If the Regulator proceeds with a decision to charge an accredited person a particular project component fee or fees, the Regulator must notify the person of that fact and include in the notice—
 - (a) the reasons why the Regulator is charging the fee or fees; and
 - (b) the total of the fees being charged; and
 - (c) the date on or before which the fee is or fees are to be paid; and
 - (d) information about the right of review under Part 7 of the Law.

Made by the Governor

on the unanimous recommendation of the responsible Ministers and with the advice and consent of the Executive Council
on 7 June 2017

No 81 of 2017

MTR/17/020