

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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## **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 29—Fatigue risk management program
  - 5 Variation of Heading to Schedule 2
  - 6 Variation of Schedule 2—Special fatigue management program requirements in respect of certain rail safety work carried out within certain participating jurisdictions
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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

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