

## House of Assembly

As passed all stages and awaiting assent.

This is an unofficial copy and is subject to correction.

South Australia

# Rail Safety (Safety Coordination) Amendment Bill 2011

A BILL FOR

An Act to amend the *Rail Safety Act 2007*.

---

## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

### Part 2—Amendment of *Rail Safety Act 2007*

- 4 Amendment of section 4—Interpretation
- 5 Amendment of section 57—Exemption from accreditation
- 6 Amendment of section 58—Safety management system
- 7 Substitution of section 62
  - 62 Interface coordination—rail transport operators
  - 62A Interface coordination—rail infrastructure and roads other than private roads
  - 62B Interface coordination—rail infrastructure and private roads
  - 62C Identification and assessment of risks
  - 62D Scope of interface agreements
  - 62E Appointed person may give directions
  - 62F Register of interface agreements
- 8 Amendment of section 112—Temporary closing of railway crossings, bridges etc

---

**The Parliament of South Australia enacts as follows:**

## Part 1—Preliminary

### 1—Short title

This Act may be cited as the *Rail Safety (Safety Coordination) Amendment Act 2011*.

### 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

### 3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## Part 2—Amendment of *Rail Safety Act 2007*

### 4—Amendment of section 4—Interpretation

- (1) Section 4—after the definition of *accredited person* insert:

*appointed person* means a person appointed by the Minister for the purposes of Part 4 Division 4;
- (2) Section 4—after the definition of *exercise* insert:

*footpath* means an area open to the public that is designated for, or 1 of its main uses is, use by pedestrians;
- (3) Section 4—after the definition of *jurisdiction* insert:

*level crossing* means an area where a road and a railway meet at substantially the same level, whether or not there is a level crossing sign on the road at all or any of the entrances to the area;
- (4) Section 4—after the definition of *prescribed drug* insert:

*private road* means a road in private ownership;
- (5) Section 4—after the definition of *rail infrastructure manager* insert:

*rail or road crossing* includes a railway crossing, a bridge carrying a road over a railway and a bridge carrying a railway over a road;
- (6) Section 4, definition of *railway crossing*—delete the definition and substitute:

*railway crossing* means—

  - (a) a level crossing; or
  - (b) any area where a footpath or shared path crosses a railway or tram tracks at substantially the same level;
- (7) Section 4—after the definition of *road* insert:

*road infrastructure* has the same meaning as in the *Road Traffic Act 1961*;

*road manager*—

  - (a) in relation to a private road—means the owner, or other person responsible for the care, control and management, of the road;
  - (b) in relation to any other road—means an authority, person or body responsible for the care, control or management of the road;
- (8) Section 4, definition of *safety*—after "railways" insert:

, users of rail or road crossings
- (9) Section 4—after the definition of *security management plan* insert:

*shared path* has the same meaning as in the *Australian Road Rules*;

## **5—Amendment of section 57—Exemption from accreditation**

Section 57(2)(b)—delete "whether or not those conditions or regulations are the same as, or similar to, any provisions of Division 4, Division 5 or Division 6" and substitute:

(which may include conditions or regulations that are the same as, or similar to, any provisions of Division 4, 5 or 6)

## **6—Amendment of section 58—Safety management system**

(1) Section 58(1)(f)(i)—after "section 62" insert:

, 62A or 62B

(2) Section 58(3)—delete "a plan" and substitute:

an agreement

## **7—Substitution of section 62**

Section 62—delete the section and substitute:

### **62—Interface coordination—rail transport operators**

(1) A rail transport operator must—

- (a) identify and assess, so far as is reasonably practicable, risks to safety that may arise from railway operations carried out by or on behalf of the operator because of, or partly because of, railway operations carried out by or on behalf of any other rail transport operator; and
- (b) determine measures to manage, so far as is reasonably practicable, those risks; and
- (c) for the purpose of managing those risks—seek to enter into an interface agreement with the other rail transport operator or rail transport operators.

Maximum penalty:

- (a) where the offender is a body corporate—\$300 000;
  - (b) where the offender is a natural person—\$100 000.
- (2) Except to the extent that the regulations otherwise provide, subsection (1)(c) does not apply if none of the rail transport operators is a rail infrastructure manager.

### **62A—Interface coordination—rail infrastructure and roads other than private roads**

(1) A rail infrastructure manager must—

- (a) identify and assess, so far as is reasonably practicable, risks to safety that may arise from railway operations carried out on or in relation to the manager's rail infrastructure because of, or partly because of, the existence or use of any rail or road crossing that is part of the road infrastructure of a road other than a private road; and

- (b) determine measures to manage, so far as is reasonably practicable, those risks; and
- (c) for the purpose of managing those risks—seek to enter into an interface agreement with the road manager of that road.

Maximum penalty:

- (a) where the offender is a body corporate—\$300 000;
  - (b) where the offender is a natural person—\$100 000.
- (2) The road manager of a road other than a private road must—
- (a) identify and assess, so far as is reasonably practicable, risks to safety that may arise from the existence or use of any rail or road crossing that is part of the road infrastructure of the road because of, or partly because of, railway operations carried out on or in relation to rail infrastructure; and
  - (b) determine measures to manage, so far as is reasonably practicable, those risks; and
  - (c) for the purpose of managing those risks—seek to enter into an interface agreement with the rail infrastructure manager of the rail infrastructure.
- (3) Nothing in this section authorises or requires a road manager to act inconsistently with, or without regard to, the functions, obligations or powers conferred on it by or under an Act other than this Act.

### **62B—Interface coordination—rail infrastructure and private roads**

- (1) A rail infrastructure manager must—
- (a) identify and assess, so far as is reasonably practicable, risks to safety that may arise from railway operations carried out on or in relation to the manager's rail infrastructure because of, or partly because of, the existence or use of any rail or road crossing that is part of the road infrastructure of a private road; and
  - (b) consider whether it is necessary to manage those risks in conjunction with the road manager of that road and—
    - (i) if the rail infrastructure manager is of the opinion that it is necessary that those risks be managed in conjunction with the road manager—give written notice of that opinion to the road manager and determine measures to manage, so far as is reasonably practicable, those risks; or
    - (ii) if the rail infrastructure manager is of the opinion that the management of those risks does not need to be carried out in conjunction with the road manager—keep a written record of that opinion; and

- (c) unless paragraph (b)(ii) applies—for the purpose of managing those risks, seek to enter into an interface agreement with the road manager.

Maximum penalty:

- (a) where the offender is a body corporate—\$300 000;
  - (b) where the offender is a natural person—\$100 000.
- (2) If a rail infrastructure manager gives a road manager of a private road a written notice under subsection (1)(b)(i), the road manager must—
- (a) identify and assess, so far as is reasonably practicable, risks to safety that may arise from the existence or use of any rail or road crossing that is part of the road infrastructure of the road because of, or partly because of, railway operations; and
  - (b) determine measures to manage, so far as is reasonably practicable, those risks; and
  - (c) for the purpose of managing those risks—seek to enter into an interface agreement with the rail infrastructure manager.

Maximum penalty:

- (a) where the offender is a body corporate—\$300 000;
- (b) where the offender is a natural person—\$100 000.

### **62C—Identification and assessment of risks**

A rail transport operator, rail infrastructure manager or road manager that is required under section 62, 62A or 62B to identify and assess risks to safety that may arise from operations carried out by another person may do so—

- (a) by itself identifying and assessing those risks; or
- (b) by identifying and assessing those risks jointly with the other person; or
- (c) by adopting the identification and assessment of those risks carried out by the other person.

### **62D—Scope of interface agreements**

An interface agreement under this Division may—

- (a) be entered into by 2 or more rail transport operators or by 1 or more rail transport operators and 1 or more road managers; and
- (b) include measures to manage any number of risks to safety that may arise because of, or partly because of, any railway operations; and

- (c) include measures to manage any number of risks to safety that may arise from any railway operations because of, or partly because of, the existence or use of any road infrastructure; and
- (d) make provision for or in relation to any matter by applying, adopting or incorporating any matter contained in any document; and
- (e) consist of 2 or more documents.

**62E—Appointed person may give directions**

- (1) This section applies if the appointed person is satisfied that a rail transport operator, rail infrastructure manager or road manager referred to in section 62, 62A or 62B—
  - (a) is unreasonably refusing or failing to enter into an interface agreement with another person as required under this Division; or
  - (b) is unreasonably delaying the negotiation of such an agreement.
- (2) The appointed person may issue a written notice to the rail transport operator, rail infrastructure manager or road manager (as the case requires) and the other person that—
  - (a) warns of the appointed person's powers under this section, including the power to issue a direction under subsection (3) at any time after a specified date; and
  - (b) includes a copy of this section; and
  - (c) may contain suggested terms for inclusion in an interface agreement.
- (3) If the appointed person issues a notice under subsection (2) to a rail transport operator, rail infrastructure manager or road manager, the appointed person may, in writing, require the operator or manager to provide such information as the appointed person reasonably requires for the purposes of making a direction under this section.
- (4) If a notice is issued under subsection (2) and an interface agreement has not been entered into by or on the date specified in the notice, the appointed person—
  - (a) may determine the arrangements that are to apply in relation to the management of risks to safety referred to in section 62, 62A or 62B (as the case requires); and
  - (b) may direct either or both persons to whom the notice is issued to give effect to those arrangements; and
  - (c) must specify by when a direction must be complied with.
- (5) A direction under subsection (4)—
  - (a) must be in writing; and

- (b) must set out any arrangements determined by the appointed person under that subsection.
- (6) A person to whom a notice or direction is given under this section must comply with the notice or direction within the time specified in the notice or direction.

Maximum penalty:

- (a) where the offender is a body corporate—\$120 000;
- (b) where the offender is a natural person—\$40 000.

### **62F—Register of interface agreements**

- (1) A rail transport operator must maintain a register of—
  - (a) interface agreements to which it is a party; and
  - (b) arrangements determined by the appointed person under section 62E,

that are applicable to its railway operations.

Maximum penalty: \$10 000.

- (2) A road manager must maintain a register of—
  - (a) interface agreements to which it is a party; and
  - (b) arrangements determined by the appointed person under section 62E,

that are applicable to any road in relation to which it is the road manager.

Maximum penalty: \$10 000.

### **8—Amendment of section 112—Temporary closing of railway crossings, bridges etc**

Section 112—after "bridge" wherever occurring insert in each case:

, subway