

House of Assembly—No 116

As laid on the table and read a first time, 13 April 2016

South Australia

**Rail Safety National Law (South Australia)
(Miscellaneous No 2) Amendment Bill 2016**

A BILL FOR

An Act to amend the *Rail Safety National Law (South Australia) Act 2012*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Rail Safety National Law (South Australia) Act 2012*

- 4 Amendment of section 4—Interpretation
 - 5 Amendment of section 33—Payments into Fund
 - 6 Amendment of section 117—Assessment of competence
 - 7 Amendment of section 149—Securing a site or rolling stock
 - 8 Amendment of section 183—Contents of non-disturbance notice
 - 9 Amendment of section 199—Power to require works to stop
 - 10 Amendment of section 218—Period within which proceedings for offences may be commenced
 - 11 Insertion of section 260A
 - 260A Payment of portion of fines to ONRSR
 - 12 Amendment of Schedule 2—Miscellaneous provisions relating to interpretation
 - 15A Provisions creating offences
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Rail Safety National Law (South Australia) (Miscellaneous No 2) Amendment Act 2016*.

2—Commencement

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

3—Amendment provisions

- 10 In this Act, a provision in Part 2 amends the *Rail Safety National Law* set out in the Schedule to the *Rail Safety National Law (South Australia) Act 2012*.

Part 2—Amendment of *Rail Safety National Law (South Australia) Act 2012*

4—Amendment of section 4—Interpretation

Section 4(1), definitions of *AQF* and *AQTF*—delete the definitions

- 15 **5—Amendment of section 33—Payments into Fund**

Section 33—after paragraph (b) insert:

- (ba) all infringement penalties paid to or recovered by ONRSR; and

- (bb) all portions of fines paid to ONRSR by order of a court under section 260A; and

6—Amendment of section 117—Assessment of competence

- (1) Section 117(2)(a)(i)—delete "the provisions of the AQTF and"

- (2) Section 117—after subsection (6) insert:

- (7) In this section, a reference to the *AQF* is a reference to the Australian Qualifications Framework within the meaning of the *Higher Education Support Act 2003* of the Commonwealth as in force from time to time, and includes a reference to any national policy that may be made in substitution for the Australian Qualifications Framework as in force from time to time.

7—Amendment of section 149—Securing a site or rolling stock

- (1) Section 149(1)—after "secure" insert:

rolling stock or

- (2) Section 149(2)—delete subsection (2) and substitute:

- (2) A person must not, without the permission of an authorised officer—

- (a) enter or remain near rolling stock that is secured under this section; or

- (b) enter or remain at a site the perimeter of which is secured under this section.

Maximum penalty: \$10 000.

- (3) Section 149(3)—delete "site, or remains at the site" and substitute:

rolling stock or site, or remains near or at the rolling stock or site

- (4) Section 149(3)(b)—after "from the" insert:

rolling stock or

8—Amendment of section 183—Contents of non-disturbance notice

- (1) Section 183(1)(b)—after "plant" insert:

or rolling stock

- (2) Section 183(3)—delete "plant, substance, structure or thing" and substitute:

rail infrastructure, rolling stock, substance or other thing

9—Amendment of section 199—Power to require works to stop

- (1) Section 199—after subsection (1) insert:

- (1a) If a rail infrastructure manager believes on reasonable grounds that proposed works of which the manager has been notified under subsection (1) threaten, or are likely to threaten—

- (a) the safety of the manager's railway; or

- (b) the operational integrity of the manager's railway,

the manager may, by written notice, give the person advice in connection with the proposed work.

(2) Section 199(8)—delete "A" and substitute:

Subject to subsection (9), a

(3) Section 199—after subsection (8) insert:

(9) Subsection (8)(a) does not apply to a notice under subsection (1a).

10—Amendment of section 218—Period within which proceedings for offences may be commenced

Section 218(2)—delete subsection (2) and substitute:

(2) Despite anything to the contrary in an Act, proceedings for an offence against this Law to which this section applies may be commenced within the latest of the following periods to occur:

- (a) the period of 2 years after commission of the alleged offence;
- (b) if evidence of an alleged offence comes to light as a result of an inquiry by a prescribed authority—within 1 year after the report of the inquiry is published;
- (c) if a rail safety undertaking has been given in relation to the offence—within 6 months after—
 - (i) the undertaking is contravened; or
 - (ii) it comes to the notice of the Regulator that the undertaking has been contravened; or
 - (iii) the Regulator has agreed under section 256 to the withdrawal of the undertaking.

11—Insertion of section 260A

After section 260 insert:

260A—Payment of portion of fines to ONRSR

A court by which a person is convicted of an offence against this Law may make an order directing that a portion (not exceeding one-half) of any fine imposed as a penalty against the offender by the court be paid to ONRSR.

12—Amendment of Schedule 2—Miscellaneous provisions relating to interpretation

Schedule 2, Part 3—after clause 15 insert:

15A—Provisions creating offences

- (1) In this Law, a penalty set out at the foot of a provision indicates that contravention of the provision (whether by act or omission) constitutes an offence punishable on conviction by a penalty not exceeding the penalty so set out.

- (2) Subclause (1) applies whether or not the provision expressly creates an offence.