

**Legislative Council—No 54**

As received from the House of Assembly and read a first time, 1 November 2022

South Australia

**Rail Safety National Law (South Australia)  
(Miscellaneous) Amendment Bill 2022**

A BILL FOR

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

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## 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) Amendment Act 2022*.

#### 2—Commencement

This Act comes 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*

#### 4—Amendment of section 42—National Rail Safety Register

Section 42(2)(e)—delete "conferred on a person" and substitute:  
granted under Part 6

#### 5—Amendment of section 117—Assessment of competence

Section 117—after subsection (6) insert:

- 20 (6a) A person who provides a document or information in relation to the assessment by a rail transport operator of the competency of that person to carry out rail safety work that the person knows—
  - (a) is false or misleading in a material particular; or

- (b) omits any matter or thing without which the document or information is misleading,

is guilty of an offence.

Maximum penalty: \$10 000.

5 **6—Amendment of section 203—Ministerial exemptions**

- (1) Section 203(3)(a)—delete paragraph (a) and substitute:

- (a) vary an exemption (but not so as to extend the operation of the exemption to exceed the period referred to in subsection (2)(b)); or

- (2) Section 203(3)—after paragraph (a) insert:

- 10 (ab) cancel an exemption; or

**7—Insertion of Part 6 Division 1A**

After Part 6 Division 1 insert:

**Division 1A—Exemptions granted by Regulator in event of emergency**

15 **203A—Exemptions granted by Regulator in event of emergency**

- (1) The Regulator may, in the event of an emergency, by notice in the South Australian Government Gazette, exempt rail transport operators or rail transport operators of a class, from the operation of section 114 in respect of the railway operations, or specified railway operations, of the operator.

- (2) The Regulator may grant an exemption under subsection (1)—

- (a) on conditions specified in the notice; and
- (b) for a period (not exceeding 3 months) specified in the notice.

- (3) The Regulator may, at any time, by further notice in the South Australian Government Gazette—

- (a) vary an exemption (but not so as to extend the operation of the exemption to exceed the period referred to in subsection (2)(b)); or
- (b) cancel an exemption; or
- (c) vary or cancel a condition of an exemption.

- (4) A rail transport operator who, without reasonable excuse, contravenes a condition of an exemption that applies to the operator is guilty of an offence.

35 Maximum penalty:

- (a) in the case of an individual—\$20 000;
- (b) in the case of a body corporate—\$100 000.

- 5
- (5) Subsection (4) places an evidential burden on the accused to show a reasonable excuse.
  - (6) The Regulator must publish a copy of a notice under this section on the ONRSR's website.
  - (7) In this section—

*emergency* means an event or circumstance that is declared to be an emergency or disaster by—

- 10
- (a) the Commonwealth or a State or Territory; or
  - (b) a Commonwealth, State or Territory authority responsible for managing responses to emergencies or disasters.

### **8—Amendment of heading to Part 6 Division 2**

Heading to Part 6 Division 2—after "Regulator" insert:  
on application