

South Australia

Rail Safety National Law (South Australia) (Miscellaneous No 3) Amendment Act 2017

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

This Act may be cited as the *Rail Safety National Law (South Australia) (Miscellaneous No 3) Amendment Act 2017*.

2—Commencement

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

3—Amendment provisions

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 13—Functions and objectives

Section 13(3), definition of *prescribed authority*—after paragraph (a) insert:

- (ab) Rail Industry Safety and Standards Board (RISSB) Limited; and

5—Amendment of section 64—Application for accreditation

- (1) Section 64(2)(d)—delete "prescribed application fee" and substitute:

application fee prescribed by the national regulations

- (2) Section 64—after subsection (3) insert:

- (4) If the Regulator, on receiving an application for accreditation, is of the opinion that the scope and nature of the railway operations in respect of which accreditation is sought is such that the scale and complexity of the regulatory oversight that will be required by the Regulator in respect of the operations will be significant, the Regulator—

- (a) must notify the rail transport operator in writing—

- (i) that, in addition to the application fee referred to in subsection (2)(d), the Regulator is considering charging the operator the application (complex operations) fee prescribed by the national regulations; and
- (ii) that the operator may, within 7 days or such longer period as is specified in the notice, make written representations to the Regulator showing cause why the application (complex operations) fee should not be charged; and

- (b) must consider any representations made under paragraph (a)(ii) and not withdrawn.

- (5) If the Regulator proceeds with a decision to charge a rail transport operator the application (complex operations) fee, the Regulator must notify the operator of that fact and include in the notice—

- (a) the reasons why the Regulator is charging the fee; and
- (b) the date on or before which the fee is to be paid; and
- (c) information about the right of review under Part 7.

6—Amendment of section 76—Annual fees

Section 76(4)—after paragraph (d) insert:

and

- (e) make provision for the decision of the Regulator to charge a particular fee according to a factor determined by the Regulator to be a reviewable decision under Part 7.

7—Amendment of section 94—Surrender of registration

- (1) Section 94(2)—after "registration" first occurring insert:
in respect of a private siding
- (2) Section 94(2)(b)—delete "in respect of" and substitute:
carried out in
- (3) Section 94(3)—delete "arrangements proposed in relation to the cessation of the registered person's railway operations" and substitute:
proposed arrangements
- (4) Section 94(3)—after "registration" insert:
in respect of the relevant private siding
- (5) Section 94(4)—delete "arrangements proposed in relation to the cessation of the registered person's railway operations" and substitute:
proposed arrangements
- (6) Section 94(4)(c)—after "registration" insert:
in respect of the relevant private siding

8—Substitution of heading to Part 6, Division 2, Subdivision 4

Heading to Part 6, Division 2, Subdivision 4—delete the heading and substitute:

Subdivision 4—Cancellation, suspension or surrender of an exemption

9—Insertion of section 213A

After section 213 insert:

213A—Surrender of exemption

- (1) An exemption granted under this Division may only be surrendered in accordance with this section.
- (2) If a rail transport operator intends to surrender an exemption, the operator must—
 - (a) give the Regulator written notice of the intention to surrender the exemption; and
 - (b) provide the Regulator with details as to the arrangements proposed in relation to the cessation of the operator's relevant railway operations.
- (3) If the Regulator is satisfied as to the arrangements proposed in relation to the cessation of the relevant railway operations, the Regulator must, as soon as reasonably practicable, by written notice given to the rail transport operator, inform the operator that the exemption may be surrendered in accordance with the proposed arrangements on the date specified in the notice.

- (4) If the Regulator is not satisfied as to the arrangements proposed in relation to the cessation of the relevant railway operations, the Regulator must, as soon as reasonably practicable, by written notice given to the rail transport operator, inform the operator—
- (a) that the Regulator is not satisfied as to the proposed arrangements; and
 - (b) of the reasons for the Regulator's dissatisfaction; and
 - (c) that the exemption may not be surrendered until the Regulator is satisfied as to the proposed arrangements.

10—Amendment of section 215—Reviewable decisions

- (1) Section 215(1), table—before item 1 insert:

A1	Section 64 (decision of the Regulator to charge additional application (complex operations) fee)	A rail transport operator who is required to pay the additional application (complex operations) fee
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- (2) Section 215(1), table—after item 11 insert:

11A	Section 76 (if the national regulations so provide—decision of the Regulator to charge a particular fee according to a factor determined by the Regulator)	An accredited person who is required to pay a particular fee
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- (3) Section 215(1), table—after item 39 insert:

40	Section 213A (surrender of exemption)	A rail transport operator whose notice of surrender of exemption has been refused
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