

South Australia

# **Rail Safety National Law (South Australia) (Miscellaneous) Amendment Act 2023**

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) Amendment Act 2023*.

### **2—Commencement**

This Act comes 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 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:

- (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.

### **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:

- (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**

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