

South Australia

Rail Safety (General) Regulations 2008

under the *Rail Safety Act 2007*

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Schedule 2—Transitional provisions

1 Transitional provisions

Part 1—Preliminary matters

1—Short title

These regulations may be cited as the *Rail Safety (General) Regulations 2008*.

2—Commencement

These regulations will come into operation on the day on which the *Rail Safety Act 2007* comes into operation.

3—Interpretation

In these regulations—

Act means the *Rail Safety Act 2007*;

emergency services means each of the following:

- (a) South Australian Police;
- (b) South Australian Country Fire Service;
- (c) South Australian Metropolitan Fire Service;
- (d) SA Ambulance Service Inc.

4—Definition of occupational health and safety legislation

The *Occupational Health and Safety Act 1991* is a law of the Commonwealth for the purposes of the definition of *occupational health and safety legislation* in section 4 of the Act.

5—Definition of private siding

For the purposes of paragraph (e) of the definition of *private siding* in section 4 of the Act, the following are not private sidings:

- (a) a siding under the control and management of an accredited rail infrastructure manager;
- (b) a balloon loop used for the purpose of loading or unloading trains.

6—Act not to apply in certain cases

For the purposes of section 6(f) of the Act, the Act does not apply to the following:

- (a) a railway used solely for the purposes of horse-drawn trams;
- (b) a railway used solely for the purposes of static displays.

Part 2—Accreditation

7—Application for accreditation

For the purposes of section 34(2)(d) of the Act, an application for accreditation must contain—

- (a) the following identification details of the applicant:
 - (i) the applicant’s name;
 - (ii) the applicant’s registered business name, and trading name if that is different to the registered business name;
 - (iii) the applicant’s ACN or ABN, if applicable;
 - (iv) the applicant’s residential address or, in the case of a body corporate, registered business address; and
- (b) the name and contact details of the person or persons appointed by the applicant—
 - (i) to deal with any queries that the Regulator may have in relation to the application; and
 - (ii) to be responsible for accreditation and to deal with any queries that the Regulator may have in relation to accreditation; and
 - (iii) to be responsible for the implementation and ongoing operation and management of the safety management system and to deal with any queries that the Regulator may have in relation to the safety management system; and
- (c) if the applicant is accredited under a corresponding law, a copy of the notice of accreditation; and
- (d) in addition to the requirements of section 34(2)(c) of the Act, if the applicant is also seeking accreditation under a corresponding law, details of where, and in respect of what, the application for that accreditation was made; and
- (e) in the case of a rail infrastructure manager who does not own the rail infrastructure, documentary evidence that the manager has, or will have, management and control of the rail infrastructure; and
- (f) a description of the operational assets, or classes of operational assets, that the applicant intends to use or manage in the operations for which the application is made, including any stations, signal and train control centres, signalling systems and rolling stock for service and maintenance activities; and
- (g) a description of the safe working systems that the applicant intends to use in the operations for which the application is made; and
- (h) in the case of a rolling stock operator, documentary evidence that the applicant has, or will have, effective management and control of the operation or movement of the rolling stock on rail infrastructure for a particular railway; and
- (i) if electrified railway tracks will be used, details of the electrification; and

- (j) details of the consultation procedures and processes of the applicant in relation to the applicant's safety management system; and
- (k) if the applicant is not an individual, evidence that the application has been submitted to and endorsed—
 - (i) if the applicant is a body corporate—
 - (A) that is a company within the meaning of the *Corporations Act 2001*, by its Board of Directors in accordance with section 127 of that Act; or
 - (B) in any other case, by its governing body;
 - (ii) if the applicant is a partnership, by each partner;
 - (iii) if the applicant is an unincorporated association or body, by its governing body; and
- (l) if any of the activities that the applicant intends to carry out under the accreditation are to be carried out by any other person on behalf of the applicant—
 - (i) the name and contact details of each such person; and
 - (ii) details of the activities that it is intended that the person will carry out on behalf of the applicant.

8—Prescribed details of accredited person

For the purposes of section 38(2)(a) of the Act, a notice of accreditation must specify the accredited person's—

- (a) name; and
- (b) registered business name, and trading name if that is different to the registered business name; and
- (c) ACN or ABN, if applicable; and
- (d) residential address or, in the case of a body corporate, registered business address.

9—Prescribed conditions of, or restrictions on, accreditation

- (1) For the purposes of section 39 of the Act, any accreditation granted to a rail transport operator is subject to the following conditions and restrictions:
 - (a) if the operator is accredited under a corresponding law—
 - (i) the operator must advise the Regulator in writing immediately if the operator's accreditation in the other State or Territory expires, or is suspended, surrendered or revoked;
 - (ii) if the operator receives a prohibition notice or an improvement notice from a corresponding Regulator in relation to the accreditation under the corresponding law, the operator must immediately give the Regulator a copy of the notice;

- (b) the operator must notify the Regulator in writing of any of the proposed decisions, proposed events or changes listed in column 2 of the table in accordance with the requirement specified in column 3 of the table with respect to that item;

Table

Item	Decision, event or change	When notification must be given
1	A decision to design or construct, or to commission the design or construction of, rolling stock or new railway tracks.	As soon as is reasonably practicable after the decision is made.
2	The introduction into service of rolling stock of a type not previously operated by the operator, or the re-introduction into service of rolling stock not currently operated by the operator.	At least 28 days before the date the operator intends to introduce or re-introduce the rolling stock into service.
3	A change to a safety critical element of existing rolling stock.	At least 28 days before the date the operator intends to bring the change into operation.
4	A change to 1 or more of the classes of rail infrastructure used in the operator's railway operations.	At least 28 days before the date the operator intends to introduce the new class of rail infrastructure into service.
5	A change to a safety standard for the design of rail infrastructure or rolling stock.	At least 28 days before the date the operator intends to adopt the change.
6	The decision to adopt a new safety standard for the design of rail infrastructure or rolling stock.	At least 28 days before the date the operator intends to adopt the new standard.
7	A change to the frequency or procedures for the inspection or maintenance of railway infrastructure or rolling stock.	At least 28 days before the date the operator intends to bring the change into effect.
8	A change to any safeworking system rule or procedure relating to the conduct of the operator's railway operations.	At least 28 days before the date the operator intends to bring the change into effect.
9	A decision to introduce a new safeworking system rule or procedure relating to the conduct of the operator's railway operations.	As soon as is reasonably practicable after the decision is made.
10	The replacement, or a change in the contact details of any person appointed under regulation 7(b).	As soon as is reasonably practicable after it is known that the replacement or change will occur.
11	A change in the operator's name or residential address, or the operator's business or trading name, or in the case of a body corporate, a change in the name or registered business address of the body corporate.	As soon as is reasonably practicable after the change is made.

Item	Decision, event or change	When notification must be given
12	A change affecting the accuracy of information provided to the Regulator for the purposes of obtaining accreditation or affecting the accuracy of particulars specified in the accreditation.	As soon as reasonably practicable after the change is made.
(c)	the operator must ensure that there is at all times available 1 of the operator's directors or managers as a contact person should the Regulator wish to communicate with the operator, and that the Regulator is provided with sufficient details so that for any particular time the Regulator knows who the contact person is, and how to contact that person;	
(d)	the operator must regularly review the adequacy of any public risk insurance arrangements maintained for the purposes of the Act including by taking into account increases in the cost of living and potential increases in liability;	
(e)	unless otherwise required by the Regulator under section 75 of the Act, the operator must—	
(i)	investigate any accident or incident associated with the railway operations carried out by the operator that has caused death or serious injury to a person or significant property damage; and	
(ii)	provide a report to the Regulator on the investigation within 8 weeks of the date of the accident or incident (or such longer period as agreed by the Regulator, on application by the operator);	
(f)	if it is not possible to comply with any other requirement specified in this subregulation because of an emergency, the operator must provide the required information as soon as is reasonably practicable after the decision is made or the event or the change occurs, as the case may be.	
(2)	Nothing in subregulation (1) is intended to require an accredited person to notify the Regulator of any matter that is the subject of an application for the variation of the accreditation.	

10—Surrender of accreditation

An accredited person may surrender the person's accreditation under section 44 of the Act by notifying the Regulator in writing not less than 28 days before the proposed date of surrender of the person's intention to surrender the accreditation, and of the arrangements that are proposed in relation to the cessation of the person's railway operations.

11—Application for a variation of an accreditation

For the purposes of sections 48(2)(b) and 53 of the Act, an application for a variation of an accreditation, or an application for a variation of a condition or restriction imposed by the Regulator, must contain—

- (a) the details required by regulations 7(a) and 7(b); and
- (b) details of the scope and nature of the proposed variation; and
- (c) details of the changes that will be made to the applicant's safety management system if the proposed variation occurs; and

- (d) details of the consultation procedures and processes with the parties who might be affected by the proposed variation; and
- (e) evidence to demonstrate that the applicant has the competence and capacity to manage the risks to safety associated with the proposed variation.

Part 3—Safety management

Division 1—Safety management systems

12—Prescribed requirements for a safety management system

A safety management system must provide for all of the matters listed in Schedule 1 that are relevant to the railway operations for which the rail transport operator is accredited, or seeking to be accredited, and must provide a level of detail with respect to each of those matters that is appropriate having regard to the scope, nature and risks to safety of those operations, and to the operator's duties under section 28 of the Act.

Division 2—Private sidings

13—Maintenance and operational conditions

The following conditions are imposed for the purposes of section 57(2)(b) of the Act:

- (a) the rail infrastructure manager must have systems and procedures to ensure that the manager complies with the safety duties imposed on it by section 28 of the Act in relation to the private siding;
- (b) the rail infrastructure manager must have a document that provides details about how rail infrastructure within the private siding is to be maintained by the manager.

Division 3—Interface co-ordination

14—Meaning of interface agreement

In this Division *interface agreement* means an agreement in relation to risks in relation to railway operations that makes provision for—

- (a) implementing and maintaining control measures that are to be used to manage those risks, and providing for the evaluation, testing and, if necessary, revision, of those control measures;
- (b) the respective roles and responsibilities of each party to the agreement in relation to each control measure;
- (c) the procedures by which each party will monitor and determine whether the other party complies with its obligations under the agreement;
- (d) the exchange of information between the parties in relation to their obligations under the agreement;
- (e) the triggers for, and the frequency of, reviews of the agreement, and if necessary, the revision of the agreement.

15—Obligations on rail transport operators

- (1) A rail transport operator must take the following steps to develop and implement an interface agreement for the purposes of section 62(1) of the Act:
 - (a) the railway operations to which the agreement is to apply must be identified;
 - (b) a process must be established to seek an interface agreement with the other operator;
 - (c) the process must be undertaken and pursued until there is a written interface agreement between the rail transport operator and the other operator.
- (2) The process described in subregulation (1) must be repeated by the rail transport operator with respect to every other rail transport operator referred to in section 62(1)(a) of the Act.
- (3) A rail transport operator who has entered into an interface agreement under subregulation (1) must do everything that the operator has agreed to do under the agreement in relation to implementing, maintaining or monitoring any control measure.
- (4) For the purposes of section 62(2) of the Act, where a rolling stock operator transfers any aspect of the effective management and control of the operation or movement of rolling stock to another rolling stock operator, both rolling stock operators must seek to enter into an interface agreement under section 62(1)(c) of the Act.

Division 4—Security management plans

16—Security management plan

For the purposes of section 63 of the Act, a security management plan must include—

- (a) a list of the risks arising from the matters specified in section 63(a)(i) of the Act; and
- (b) a description of the preventative and response measures to be used to manage those risks, including a description of the policies, procedures and equipment and other physical resources that it is proposed to use for those measures, and of the training that it is proposed to provide; and
- (c) if the rail transport operator shares a location such as a modal interchange or a port with 1 or more other transport operators, a description of the arrangements made with those other transport operators in relation to that location to prevent or respond to security incidents; and
- (d) procedures for the recording, reporting and analysis of security incidents; and
- (e) the allocation of security roles and responsibilities to appropriate people; and
- (f) provision for liaison, the sharing of information and for joint operations, with emergency services, and with other transport operators who may be affected by the implementation of the plan; and
- (g) provision for the evaluation, testing and, if necessary, the revision, of security measures and procedures.

Division 5—Emergency management plans

17—Preparation of an emergency management plan

- (1) For the purposes of section 64(2)(b)(ii) of the Act, when preparing an emergency management plan, a rail transport operator must consult with, in addition to the people specified in section 58(2) of the Act, the following:
 - (a) any government agencies with emergency management functions with respect to the area to which the plan relates; and
 - (b) any other rail transport operators who may be affected by the implementation of the plan; and
 - (c) any of the following that may be required to assist in the implementation of the plan:
 - (i) an entity (whether publicly or privately owned) that provides, or intends to provide, water, sewerage, drainage, gas, electricity, telephone, telecommunication or other like services under the authority of an Act of this jurisdiction or the Commonwealth;
 - (ii) any person who, under the authority of an Act of this jurisdiction, is permitted to own or use a pipeline, or is licensed to construct or operate a pipeline;
 - (iii) any provider of public transport.
- (2) The Regulator may exempt a rail transport operator from the requirement to consult with any particular person or body under subregulation (1).

18—Matters to be included in an emergency management plan

An emergency management plan prepared under section 64 of the Act must address—

- (a) the types or classes of foreseeable emergencies; and
- (b) the consequences of each type or class of those emergencies, including estimates of the likely magnitude and severity of the effects of each type or class; and
- (c) the risks to safety arising from those emergencies; and
- (d) methods to mitigate the effects of those emergencies; and
- (e) initial response procedures for dealing with those emergencies and the provision of rescue services; and
- (f) recovery procedures for the restoration of railway operations and for the assistance of people affected by the occurrence of those emergencies; and
- (g) the allocation of emergency management roles and responsibilities within the rail transport operator's organisation, and between the operator and other organisations; and
- (h) call out procedures; and
- (i) the allocation of personnel for the on site management of those emergencies; and

- (j) procedures for liaison with relevant emergency services, including information about the circumstances in which the emergency services are to be immediately contacted; and
- (k) procedures to ensure that emergency services are provided with all the information that is reasonably required to enable them to respond effectively to an emergency; and
- (l) procedures for effective communications and co-operation throughout the emergency response; and
- (m) procedures for ensuring site security and the preservation of evidence.

19—Keeping, maintaining and testing an emergency management plan

- (1) A rail transport operator must ensure, so far as is reasonably practicable, that all employees of the operator, and all contractors engaged by the operator, who may be required to implement any emergency response procedures in the emergency management plan—
 - (a) are provided with information about the relevant elements of the plan; and
 - (b) are able to do anything that may be required of them under the plan.
- (2) The operator must test the emergency management plan, or elements of the plan, to ensure that the plan remains effective—
 - (a) at the intervals set out in the plan; and
 - (b) after any significant changes are made to the plan.
- (3) In preparing an emergency management plan, the operator must, if it is reasonably practicable to do so, determine intervals for the purposes of subregulation (2)(a) in conjunction with the emergency services.
- (4) When testing the emergency management plan, or elements of the plan, the operator must, so far as is reasonably practicable, arrange for participation in the testing by the relevant emergency services.
- (5) The operator must ensure that in-house exercises to test the emergency management plan are undertaken as often as is necessary, in the opinion of the operator, to ensure that the plan will be properly implemented should an emergency arise.
- (6) A rail transport operator must ensure that the emergency management plan is comprehensible, and is readily accessible at all times, to—
 - (a) all employees of the operator, and all contractors engaged by the operator, who may be required to implement any emergency response procedures in the plan; and
 - (b) all other rail transport operators who may be affected by the plan; and
 - (c) any person or body referred to in regulation 17(1)(c); and
 - (d) emergency services.

Division 6—Review

20—Review of safety management system

- (1) A rail transport operator must comply with this regulation in conducting a review of the operator's safety management system.
- (2) In conducting the consultation required by section 58(2) of the Act before carrying out the review, the operator must ensure that those consulted are asked for their opinion on whether, and if so, how, the safety management system can be improved.
- (3) In conducting the review the operator must ensure—
 - (a) that the effectiveness of the safety management system is assessed (including an examination of the operator's records in relation to notifiable occurrences and breaches of the system); and
 - (b) that the effectiveness of any revisions that were made as a result of the last review are assessed; and
 - (c) that any recommendations or issues arising out of any audits or safety investigations that have occurred since the last review are taken into account; and
 - (d) that any issues arising from any prohibition or improvement notices that have been issued since the last review are taken into account; and
 - (e) that any deficiencies in the system are identified; and
 - (f) that methods of remedying any deficiencies are designed and assessed; and
 - (g) that any opinions provided under subregulation (2) are assessed; and
 - (h) that any other suggestions for improving the system that arise during the course of the review are assessed; and
 - (i) if any deficiencies or practicable improvements are identified, that a plan is created to remedy those deficiencies, or to effect those improvements (as the case may be).
- (4) The outcomes of the review must be summarised and reported in the safety performance report required by section 61 of the Act.

Part 4—Rail safety workers

21—Health and fitness management programs

For the purposes of section 65 of the Act, a rail transport operator must have, and must implement, a health and fitness program for rail safety workers that complies, so far as is reasonably practicable, with Volumes 1 and 2 of the National Standard for Health Assessment of Rail Safety Workers, published by the National Transport Commission, as amended from time to time.

22—Alcohol and drug management program

For the purposes of section 66 of the Act, an alcohol and drug management program prepared and implemented by a rail transport operator must establish and maintain procedures to ensure, in so far as is reasonably practicable, that a rail safety worker about to carry out, carrying out, or attempting to carry out, rail safety work is not impaired by alcohol or drugs.

23—Fatigue management program

For the purposes of section 68 of the Act, a fatigue management program prepared and implemented by a rail transport operator must—

- (a) establish and maintain documented procedures to manage, insofar as is reasonably practicable, the risks to safety identified under section 58 of the Act that are attributable to the adverse effects of fatigue arising from various factors including (but not limited to):
 - (i) scheduled operations;
 - (ii) extended hours of work, including overtime, call-in and on-call arrangements;
 - (iii) extended wakefulness;
 - (iv) significant physical exertion or *high cognitive task demand*;
 - (v) monotony, boredom or *low task demand*;
 - (vi) circadian effects and the effects of shift work; and
- (b) provide rail safety workers with appropriate training in relation to the identification and management of fatigue that is relevant to the rail safety work being undertaken by those rail safety workers.

24—Records of competence

For the purposes of section 69(5) of the Act, a rail transport operator must maintain records of competence that include details of—

- (a) the rail safety training undertaken by each rail safety worker, including when, and for how long, the training was undertaken; and
- (b) the qualifications of each rail safety worker, including, if applicable—
 - (i) the units of competence undertaken to achieve the qualification; and
 - (ii) the level of qualification attained; and
 - (iii) if and when a re-assessment of competence is to be conducted; and
 - (iv) if and when re-training is due; and
 - (v) the date any re-training was undertaken; and
- (c) the name of the organisation conducting the training or re-training; and
- (d) the name and qualifications of the person who assessed the competence of the rail safety worker.

Part 5—Miscellaneous

25—Periodic information to be supplied

- (1) The following returns of information are required under section 73(3) of the Act:
 - (a) a monthly return that sets out in respect of the month—
 - (i) in the case of a rail infrastructure manager that is an accredited person, the length, in kilometres, of track in this jurisdiction over which the manager has effective management and control; and
 - (ii) in the case of a rolling stock operator—
 - (A) the number of kilometres travelled in this jurisdiction by passenger trains over which the operator has effective management and control;
 - (B) the number of kilometres travelled in this jurisdiction by freight trains over which the operator has effective management and control;
 - (C) the number of journeys (either estimated or actual) made by passengers in urban areas of this jurisdiction on passenger trains over which the operator has effective management and control;
 - (D) the number of journeys (either estimated or actual) made by passengers in non-urban areas of this jurisdiction on passenger trains over which the operator has effective management and control; and
 - (b) in the case of a rail infrastructure manager that is an accredited person—an annual return that sets out, in respect of the immediately preceding financial year—
 - (i) the location of any private sidings that are connected with, or have access to, the railway to which the accreditation relates; and
 - (ii) the name of the rail infrastructure manager of any such private siding.
- (2) The rail transport operator must provide the monthly return required by subregulation (1)(a) to the Regulator as soon as is practicable after the end of each month, and not later than the 21st day of the following month.
- (3) The rail transport operator must provide the annual return required by subregulation (1)(b) to the Regulator by 29 July in the year immediately following the year to which it relates, or before any other date or period that is specified by the Regulator.

26—Reporting of notifiable occurrences

- (1) For the purposes of this regulation—
 - (a) a Category A notifiable occurrence is any of the following notifiable occurrences:

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- (i) an accident or incident that has caused death, serious injury or significant property damage;
 - (ii) a running line derailment;
 - (iii) a running line collision between rolling stock;
 - (iv) a collision at a road or pedestrian level crossing between rolling stock and either a road vehicle or a person;
 - (v) a fire or explosion on or in rail infrastructure or rolling stock that affects the safety of railway operations or that endangered 1 or more people;
 - (vi) an incident (including a threat) that required the implementation of response measures contained in the security management plan of a rail transport operator;
 - (vii) any accident or incident involving a significant failure of a safety management system that could have caused death, serious injury or significant property damage;
 - (viii) any other accident or incident that is likely to generate intense public interest or concern;
- (b) a Category B notifiable occurrence is any of the following notifiable occurrences, unless that occurrence is also a Category A notifiable occurrence:
- (i) a derailment other than a running line derailment;
 - (ii) any collision involving rolling stock, other than a collision described in paragraph (a)(iii) or (iv);
 - (iii) any incident at a road or pedestrian level crossing, other than a collision described in paragraph (a)(iv);
 - (iv) the passing of a stop signal, or a signal with no indication, by rolling stock without authority;
 - (v) any accident or incident where rolling stock exceeds the limits of authorised movement given in a proceed authority;
 - (vi) any rolling stock run-away;
 - (vii) any failure of a signalling or communications system that endangers, or that has the potential to endanger, the safe operation of trains or the safety of people, or to cause damage to adjoining property;
 - (viii) any slip, trip or fall by a person on or from rolling stock, rail infrastructure or other railway premises directly associated with railway operations, or any person being caught in the door of any rolling stock;
 - (ix) any situation where a load affects, or could affect, the safe passage of trains or the safety of people, or cause damage to adjoining property;
 - (x) any accident or incident involving dangerous goods that affects, or could affect, the safety of railway operations or the safety of people, or cause damage to property;
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- (xi) any breach of a safe working system or procedure, or the detection of any irregularity or deficiency in such a system or procedure;
 - (xii) other than during normal maintenance activities, the detection of any irregularity in any rail infrastructure (including electrical infrastructure) that could affect the safety of railway operations or the safety of people;
 - (xiii) other than during normal maintenance activities, the detection of any irregularity in any rolling stock that could affect train integrity or the safety of people, or cause damage to the rolling stock;
 - (xiv) any fire or explosion that causes damage to rail infrastructure or rolling stock, or both, or that causes the disruption or closure of a railway (even if the closure is only a precautionary measure);
 - (xv) any incident on railway property where a person inflicts, or is alleged to have inflicted, an injury on another person;
 - (xvi) a suspected attempt to suicide;
 - (xvii) the notification that a rail safety worker employed by a rail transport operator has returned a result to a test designed to determine the concentration of alcohol or drugs in a sample of blood, urine or oral fluid that suggests that the worker was in breach of a relevant safety requirement concerning the use of alcohol or drugs at a relevant time;
 - (xviii) the infliction of any wilful or unlawful damage to, or the defacement of, any rail infrastructure or rolling stock that could affect the safety of railway operations or the safety of people;
 - (xix) a corridor security incident that affects the safety of railway operations.
- (2) If a Category A notifiable occurrence happens on, or in relation to, a rail transport operator's railway premises or railway operations, the operator—
- (a) must report that fact to the Regulator immediately after becoming aware of the occurrence; and
 - (b) must give the Regulator a written report of the occurrence within 72 hours after becoming aware of the occurrence.
- (3) If a Category B notifiable occurrence happens on, or in relation to, a rail transport operator's railway premises or railway operations, the operator must give the Regulator a written report of the occurrence within 72 hours after becoming aware of the occurrence.
- (4) The operator must ensure that any report the operator makes under this regulation is in the form, contains all the information, and is made in the manner, required by the Regulator.
- (5) The Regulator may extend any time limit specified in this regulation by giving the operator a written notice to that effect.
- (6) An extension granted under subregulation (5) has effect as specified in the notice.

27—Documents to be made available for public inspection

For the purposes of section 47(c) of the Act, each annual safety performance report prepared under section 61 of the Act is prescribed.

28—Search warrant

- (1) For the purposes of section 86(3)(b) of the Act, the grounds of an application for a warrant must be verified by affidavit.
- (2) If an application for a warrant is made by telephone the following provisions apply—
 - (a) the applicant must—
 - (i) inform the magistrate of the applicant's name and identify himself or herself as an authorised officer and the magistrate, on receiving that information, is entitled to assume its accuracy without further inquiry;
 - (ii) inform the magistrate of the purpose for which the warrant is required and the grounds on which it is sought;
 - (b) if it appears to the magistrate from the information given by the applicant that there are proper grounds to issue a warrant, the magistrate must inform the applicant of the facts that justify, in the magistrate's opinion, the issue of the warrant and must not issue the warrant unless the applicant undertakes to make an affidavit verifying those facts;
 - (c) if the applicant gives such an undertaking, the magistrate may then make out and sign a warrant, noting on the warrant the facts that justify, in the magistrate's opinion, the issue of the warrant;
 - (d) the warrant is taken to have been issued, and comes into force, when signed by the magistrate;
 - (e) the magistrate must inform the applicant of the terms of the warrant;
 - (f) the applicant must fill out and sign a warrant form (the *duplicate warrant*) that sets out the name of the magistrate who issued the original and the terms of the warrant;
 - (g) the applicant must, as soon as practicable after the issue of the warrant, forward to the magistrate an affidavit verifying the facts referred to in paragraph (b) and a copy of the duplicate warrant.

29—Embargo notices

For the purposes of section 91 of the Act, an embargo notice must contain the following details in addition to the matters required by section 91(4) of the Act:

- (a) a description of the thing to which the notice applies;
- (b) either the name of the person on whom the notice is to be served or a statement that the notice is to be affixed to the thing;
- (c) the name, signature and business telephone number of the authorised officer who issued the notice;
- (d) the date on which the notice was served or affixed.

30—Confidentiality

For the purposes of section 145(2)(f) of the Act—

- (a) information obtained in the administration of the Act may be disclosed or communicated to the following:
 - (i) SafeWork SA for the purposes of an investigation under, or enforcement of the *Occupational Health, Safety and Welfare Act 1986*;
 - (ii) Comcare for the purposes of an investigation under, or enforcement of, the *Occupational Health and Safety Act 1991*;
- (b) the Regulator may provide a copy of the certificate of the analyst referred to in clauses 10(g) or 11(g) of Schedule 2 of the Act to a rail transport operator who employs a rail safety worker where that certificate indicates that the prescribed concentration of alcohol or a prescribed drug or other drug was present in the rail safety worker's sample of blood or oral fluid.

31—Service of documents

- (1) A notice or document required or authorised by or under the Act to be given or served on a person may—
 - (a) be served on the person personally; or
 - (b) be posted in an envelope addressed to the person—
 - (i) at the person's last known address; or
 - (ii) if the person holds an accreditation under the Act—at that person's address for service; or
 - (c) if the person holds an accreditation under the Act—be left for the person at the person's address for service with someone apparently over the age of 16 years; or
 - (d) be transmitted by fax or email to a fax number or email address provided by the person for that purpose (in which case the notice or document will be taken to have been given or served at the time of transmission).
- (2) The address for service of an accredited person is the address last provided by the person in writing to the Regulator as the address for service.

Part 6—Offences

32—Occupying prohibited areas of rolling stock

- (1) A person must not occupy a stairway, step, entrance platform, exit platform, or any other part of rolling stock designated by the rolling stock operator as a prohibited area—
 - (a) while the rolling stock is in motion; or

- (b) contrary to stipulations contained in a notice affixed on or near the relevant part of the rolling stock.

Maximum penalty: \$2 000.

Expiation fee: \$750.

- (2) Subregulation (1) does not apply to a rail safety worker who occupies a prohibited area with the authority of the rolling stock operator.

33—Motor vehicles

- (1) A person must not, without the permission of the rail transport operator who has effective management and control of the railway premises, drive, ride, park or leave standing a motor vehicle on railway premises directly associated with railway operations except in an area that is set aside for that purpose.

Maximum penalty: \$1 000.

Expiation fee: \$150.

- (2) A person who drives or rides a motor vehicle on railway premises must—
 - (a) comply with the reasonable directions of an employee of the rail transport operator; and
 - (b) obey any speed restriction, traffic control sign or parking control sign displayed on the premises.

Maximum penalty: \$1 000.

Expiation fee: \$150.

34—Pedal cycles, skateboards etc

- (1) A person must not, without the permission of the rail transport operator who has effective management and control of the railway premises—

- (a) ride a bicycle, scooter, skateboard, roller-skates, roller-blades or similar device; or
- (b) ride, lead or tether an animal,

on railway premises directly associated with railway operations.

Maximum penalty: \$1 000.

Expiation fee: \$150.

- (2) Subregulation (1) does not apply to a device or animal used to assist a person with a physical impairment.

35—Pedestrians

A pedestrian must not, without the permission of the rail transport operator who has effective management and control of the railway premises, enter or remain on any part of the railway premises directly associated with railway operations that is not set aside for use by pedestrians.

Maximum penalty: \$1 000.

Expiation fee: \$150.

36—Duty of pedestrians at pedestrian crossings

- (1) In this regulation—
- pedestrian crossing* means a footpath or other structure designed for the use of pedestrians to cross over a railway;
- traffic lights* means signals for controlling traffic by means of illuminated signs.
- (2) A pedestrian must not enter or remain on a pedestrian crossing—
- (a) if rolling stock with which he or she may collide is approaching along the railway, or is on the crossing; or
 - (b) if warned not to do so by an employee of the rail transport operator operating the railway; or
 - (c) while a warning device at or near the crossing is activated or while the crossing is closed against traffic by gates or barriers, unless he or she is directed by an employee of the rail transport operator operating the railway to proceed across the crossing.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (3) A pedestrian must not remain within the limits of a pedestrian crossing any longer than is reasonably necessary for the purpose of passing over the crossing.

Maximum penalty: \$1 250.

Expiation fee: \$160.

- (4) If a pedestrian crossing is controlled by traffic lights, a pedestrian must comply with any instructions applicable to the pedestrian that are indicated by the traffic lights or any sign exhibited with the traffic lights.

Maximum penalty: \$1 250.

Expiation fee: \$160.

Schedule 1—Content of the safety management system

1—Safety policy

- (1) A safety policy or policies that aligns or align with other organisational policies and that is, or that are, endorsed by the CEO and Board (or any other person or body controlling the rail transport operator).
- (2) A safety policy or policies that includes or include an express commitment to safety, the development and maintenance of a positive safety culture and the continuous improvement of all aspects of the safety management system.

2—Governance and internal control arrangements

- (1) Systems and procedures to ensure that the CEO and Board (or any other person or body controlling the rail transport operator), or the people managing the railway operations, have sufficient knowledge—
 - (a) of the risk profile of the railway operations carried out by the rail transport operator to enable the rail transport operator to probatively manage the risks arising from those operations; and

- (b) of the level of compliance by the organisation with its duties and obligations under the Act and these Regulations; and
- (c) to determine whether—
 - (i) the safety management system is working effectively; and
 - (ii) risks to safety are being identified, assessed and managed so far as is reasonably practicable; and
 - (iii) controls used to monitor safety and to manage risks to safety are being regularly reviewed and revised.
- (2) Systems and procedures to ensure that decisions and directions made by the CEO and Board (or any other person or body controlling the rail transport operator), or of the people managing the railway operations, that affect safety are being implemented effectively.

3—Management, responsibilities, accountabilities and authorities

- (1) Policies that indicate how safety responsibilities, accountabilities, authorities and interrelationships have been determined.
- (2) Documents that describe the responsibilities, accountabilities, authorities and interrelation of the personnel who manage or carry out rail safety work, or who verify such work.
- (3) Procedures for the reporting of risks to safety by personnel with safety responsibilities.
- (4) Documents that describe the authorities given to personnel with safety responsibilities to enable them to meet those responsibilities.

4—Regulatory compliance

- (1) Systems and procedures for the identification of safety requirements under the Act and other safety legislation.
- (2) Systems and procedures to ensure compliance with those requirements.

5—Document control arrangements and information management

Systems and procedures to control and manage all documents and information relevant to the management of risks to safety associated with railway operations, including systems and procedures for—

- (a) the identification, creation, maintenance, management, storage and retention of records and documents; and
- (b) ensuring the currency of documents required for operations; and
- (c) the communication of any changes to the document control systems and procedures to rail safety workers and employees of the rail transport operator who rely on those systems and procedures to carry out their work.

6—Review of the safety management system

- (1) Systems and procedures for the review of the safety management system in accordance with section 60 of the Act and regulation 20.
- (2) Documentation of the matters set out in regulation 20(3).

7—Safety performance measures

- (1) Systems and procedures to ensure that the safety management system is effective by using key performance indicators to measure safety performance and to determine the effectiveness of the safety management system.
- (2) Systems and procedures to ensure the collection, analysis, assessment and dissemination of safety information held by the rail transport operator.

8—Safety audit arrangements

- (1) An audit program that provides for—
 - (a) the scheduling and frequency of audits; and
 - (b) safety management system audits as part of the audit program; and
 - (c) the giving of priority to those matters that represent the greatest safety risk.
- (2) Documented audit procedures to ensure there is a process for the collection of information to determine whether the railway operations comply with the safety management system and to determine the effectiveness of the safety management system.
- (3) Procedures to ensure that auditors—
 - (a) have the skills and knowledge to undertake audits; and
 - (b) are independent from the area being audited to the maximum extent that is practicable.
- (4) Procedures for—
 - (a) communicating the results of audits to those people who are responsible for the oversight of the railway operations in the area audited for review and, where appropriate, for corrective action; and
 - (b) where appropriate, the registration and effective implementation of recommendations for action identified by the audit; and
 - (c) the review of the effectiveness of the audit program.

9—Corrective action

- (1) Procedures to ensure, so far as is reasonably practicable, that corrective action is taken in response to any safety deficiencies identified following inspections, testing, audits, investigations or notifiable occurrences.
- (2) Procedures for—
 - (a) registering any corrective actions taken; and
 - (b) the review of those corrective actions; and
 - (c) the implementation of corrective action if it is determined that corrective action is required; and
 - (d) the assigning of responsibilities for corrective action.
- (3) Procedures for giving priority, when undertaking corrective action, to those matters representing the greatest safety risk.

10—Management of change

Procedures for ensuring that changes that may affect the safety of railway operations are identified and managed, including, but not limited to, procedures for ensuring, so far as is reasonably practicable—

- (a) that changes are fully identified and described in the context of the railway operations; and
- (b) that affected parties are identified and, if practicable, consulted; and
- (c) that the roles and responsibilities of rail safety workers and employees of the rail transport operator are clearly specified with respect to the change; and
- (d) that the rail safety workers and employees of the rail transport operator are fully informed and trained to understand and deal with the proposed change; and
- (e) that the requirements of sections 58(1)(c) and 58(1)(d) of the Act are observed in relation to any risks associated with the proposed change; and
- (f) that the change, once implemented, is reviewed and assessed by the rail transport operator to determine whether or not the change has been appropriately managed.

11—Consultation

Systems and procedures to ensure that the consultation required by section 58(2) of the Act occurs when the safety management system is reviewed or varied.

12—Internal communication

Systems and procedures—

- (a) for the dissemination of information about the content of the safety management system to people who are to participate in the implementation of the system or who may be otherwise affected by the implementation; and
- (b) for the communication of the rail transport operator's safety policy and safety objectives to all people who are to participate in the implementation of the safety management system; and
- (c) for the internal reporting of accidents and incidents involving the operator's railway operations, including accidents and incidents involving contractors and subcontractors; and
- (d) to support communication and the dissemination of information throughout, and between all levels of, the operator's railway operations.

13—Risk management

- (1) Systems and procedures for compliance with the risk management obligations set out in sections 8, 58(1)(c), 58(1)(d) and 58(1)(e) of the Act.
- (2) A risk register that includes—
 - (a) a listing of the risks to safety identified under section 58(1)(c) of the Act; and
 - (b) details of the assessment of those risks (including their likelihood, likely consequences and ranking); and

- (c) a description of any elimination or risk control measures that are to be used to manage, so far as is reasonably practicable, those risks, including, where appropriate—
 - (i) the identification of who is responsible for implementing the measures; and
 - (ii) a reference to the general location or locations in the safety management system where more details on the measures can be found.
- (3) Systems and procedures to ensure that the details in the register are current, so far as is reasonably practicable.

14—Human factors

Procedures to ensure that human factor matters are taken into account during the development, operation and maintenance of the safety management system and for the integration of human factors principles and knowledge into all relevant aspects of operational and business systems.

15—Procurement and contract management

Systems and procedures—

- (a) for the review of tender documents and contracts to ensure that safety requirements under the safety management system are adequately defined and documented in those tender documents and contracts; and
- (b) to ensure that the terms of any tender documents or contracts do not lead to unsafe work or an activity that may affect the safety of railway operations; and
- (c) for the selection and control of contractors and to ensure the monitoring of the performance of contractors, including conducting or commissioning audits of the contractor's performance in relation to the safety aspects of the contract; and
- (d) to ensure that safety duties under the Act are being met under contracts, and procedures for the taking of remedial action where necessary; and
- (e) to ensure that goods and services provided to the railway operation meet the standards and specifications required for the safety of the railway operation.

16—General engineering and operational systems safety requirements

- (1) A documented set of engineering standards and procedures, and operational systems, safety standards and procedures, to cover the following, and, if relevant, the interface between any 2 or more of them:
 - (a) rail infrastructure;
 - (b) rolling stock;
 - (c) operational systems.
- (2) Details of the implementation and updating of the documents specified in subclause (1).

- (3) Procedures for the control and verification of the design of structures, rolling stock, equipment, and systems, in accordance with the engineering standards and procedures, and operational systems safety standards specified in subclause (1).
- (4) Systems, procedures and standards for the following in relation to rail infrastructure and rolling stock:
 - (a) engineering design;
 - (b) construction and installation;
 - (c) implementation and commissioning;
 - (d) monitoring and maintenance;
 - (e) system operation;
 - (f) modification;
 - (g) decommissioning or disposal.

17—Process control

- (1) Procedures for the rail transport operator to monitor the operator's compliance with the standards and procedures specified in clause 16, including procedures for the inspection and testing of safety related engineering and operational systems.
- (2) Procedures for the control, calibration and maintenance of all equipment used to inspect or test rail infrastructure or rolling stock.
- (3) Arrangements for the establishment and maintenance of inspection and test records to provide evidence of the condition of rail infrastructure or rolling stock.

18—Asset management

An asset management policy and processes that address all phases of the asset life cycle of the rail infrastructure or rolling stock operations.

19—Safety interface coordination

- (1) Procedures for the identification of interface risks to the safety of railway operations and for the development and implementation of interface agreements in accordance with section 62 of the Act and regulations 14 and 15.
- (2) Procedures for monitoring the implementation and effectiveness of and compliance with interface agreements.

20—Management of notifiable occurrences

- (1) Systems and procedures for the reporting of notifiable occurrences in accordance with regulation 26.
- (2) Procedures for the management of the scene of a notifiable occurrence and for the preservation of evidence where reasonably practicable.
- (3) Procedures for the management of all notifiable occurrences, including procedures to enable the determination of which notifiable occurrences are to be investigated, and how investigations are to be conducted.

21—Rail safety worker competence

Procedures and, where necessary, standards to ensure compliance with section 69 of the Act and with regulation 24.

22—Security management

- (1) The security management plan required by section 63 of the Act.
- (2) Systems and procedures to ensure compliance with section 63 of the Act and regulation 16.

23—Emergency management

- (1) The emergency management plan required by section 64 of the Act.
- (2) Systems and procedures to ensure compliance with section 64 of the Act and Division 5 of Part 3 of these regulations.

24—Fatigue

Systems and procedures to ensure compliance with section 68 of the Act and regulation 23.

25—Drugs and alcohol

Systems and procedures to ensure compliance with sections 66 and 67 of the Act and with regulation 22.

26—Health and fitness

Systems and procedures to ensure compliance with section 65 of the Act and with regulation 21.

27—Resource availability

Systems and procedures for estimating the resources, including people and equipment, that the rail transport operator will need to operate and maintain the operator's railway operations and to implement, manage and maintain its safety management system, and for the preparation of plans to ensure that it has adequate access to those resources.

Schedule 2—Transitional provisions

1—Transitional provisions

- (1) Section 57(2)(c) of the Act does not apply until the first anniversary of the day on which the Act comes into operation.
- (2) Regulation 13 does not apply until the first anniversary of the day on which the Act comes into operation.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 25 September 2008

No 266 of 2008