



New South Wales

# Rail Safety (General) Amendment (Miscellaneous) Regulation 2005

under the

Rail Safety Act 2002

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Rail Safety Act 2002*.

MICHAEL COSTA, M.L.C.,  
Minister for Transport Services

## Explanatory note

The objects of this Regulation are to amend the *Rail Safety (General) Regulation 2003* as follows:

- (a) to prescribe additional requirements for safety interface agreements between railway operators, including requirements for the assessment, allocation and management of risks under any such agreement and matters to be specified in any such agreement,
- (b) to exempt applicants for accreditation from requirements for safety interface agreements if they comply with those requirements within 12 months after this Regulation commences,
- (c) to prescribe matters to be included in passenger security policies required for accreditation as a railway operator, including allocation of responsibilities and accountabilities and provision for consultation,
- (d) to prescribe matters to be included in passenger security plans required for accreditation as a railway operator, including requirements for the assessment of security risks, measures to reduce risks, emergency procedures, allocation of responsibilities for security, provision for liaison with other agencies, training of staff and other matters,
- (e) to exempt certain railway operators from the operation of mandatory conditions of work under the Act relating to fatigue management, where conditions relating to risk assessment and other matters are complied with and to require related programs to be consistent with any applicable exemptions,
- (f) to re-make other exemptions relating to fatigue management for a limited period.

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Explanatory note

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This Regulation is made under the *Rail Safety Act 2002*, including sections 13, 43 and 117 (the general regulation-making power).

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## **Rail Safety (General) Amendment (Miscellaneous) Regulation 2005**

under the

Rail Safety Act 2002

### **1 Name of Regulation**

This Regulation is the *Rail Safety (General) Amendment (Miscellaneous) Regulation 2005*.

### **2 Amendment of Rail Safety (General) Regulation 2003**

The *Rail Safety (General) Regulation 2003* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Clause 2)

### [1] Part 5A

Insert after Part 5:

### **Part 5A Additional requirements relating to accreditation**

#### **49A Safety interface agreements**

- (1) A safety interface agreement is to be in writing.
- (2) A safety interface agreement may apply to one or more interfaces at one or more locations.
- (3) The identification, assessment, allocation and management of the safety risks of safety interfaces under a safety interface agreement must be carried out in accordance with accepted risk management practice.
- (4) The allocation of responsibility for managing the safety risks of safety interfaces under a safety interface agreement must reflect the respective capacities of the parties to manage the risks.
- (5) For the purposes of section 12 (3) of the Act, a safety interface agreement must specify or contain the following:
  - (a) the parties to the agreement,
  - (b) a description of the safety interfaces and an assessment of the significant safety risks of those interfaces,
  - (c) the controls to manage those safety risks (the *risk controls*),
  - (d) the party who has responsibility for implementing and monitoring the performance of each of the risk controls,
  - (e) the party who has responsibility for modifying the operation of each of the risk controls, whether or not in response to performance information,
  - (f) arrangements for the exchange of information between the parties and for the conduct of reciprocal inspections and audits by each party,
  - (g) the effect on the agreement of any change in ownership of the railway operations concerned or of the parties to the agreement,

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- (h) a requirement that the parties warrant that contractors and subcontractors of the parties will comply with the agreement when engaged in railway operations to which the agreement relates,
  - (i) provision for the auditing of the implementation of the agreement by the ITSRR and the provision of information to the ITSRR for that purpose.
- (6) Nothing in this clause prevents additional matters from being included in a safety interface agreement.
  - (7) A safety interface agreement may be incorporated in an interface co-ordination plan, access agreement or other agreement.
  - (8) A person is exempted from complying with section 12 (1) (b) and (c), (2) and (3) of the Act on condition that the person complies with those provisions not later than 12 months after the commencement of this clause.
  - (9) In this clause:  
*safety interface* means an interface between the railway operations of 2 or more parties from which safety management implications arise.

**49B Passenger security policies**

- (1) For the purposes of section 13 (2) of the Act, a passenger security policy must contain the following:
  - (a) a statement of the accredited person's commitment to maximising passenger and staff security,
  - (b) the responsibilities and accountabilities of the accredited person and the person's railway employees with respect to passenger security,
  - (c) provision for consultation by the accredited person in developing, implementing and evaluating measures relating to passenger security.
- (2) Nothing in this clause prevents additional matters from being included in a passenger security policy.

**49C Passenger security plans**

- (1) For the purposes of section 13 (2) of the Act, a passenger security plan must contain the following:
  - (a) an assessment of the security risks affecting passengers, staff, rolling stock and associated infrastructure,

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#### Schedule 1 Amendments

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- (b) the measures that are to be used to eliminate or reduce identified security risks, including training, policies, procedures and practices, equipment, facilities and physical resources,
  - (c) the measures that are to be used for responding to higher threat situations and changes to national terrorism alert levels,
  - (d) procedures that are effective and timely for reporting and dealing with security threats, security breaches and other security incidents,
  - (e) provision for the creation and maintenance of an intelligence data base to contain details of security breaches and security incidents so as to enable analysis of such data,
  - (f) procedures for dealing with emergencies and responses to emergency situations, both in situations dealt with by the operator and situations co-ordinated by other bodies,
  - (g) the allocation of responsibilities for security to appropriate persons,
  - (h) provision for arrangements with other transport operators in relation to shared locations such as bus/rail interchanges,
  - (i) provision for business continuity plans,
  - (j) provision for liaison with other agencies and stakeholders, including NSW Police, to share information and provide for joint operations,
  - (k) provision for the evaluation and testing of the plan and security procedures,
  - (l) provision for the periodic review of the risks identified by the plan and the measures employed to eliminate or reduce them,
  - (m) provision for security awareness training of the operator's railway employees, including training relating to the nature of security risks, recognition of security risks and actions to be taken in the event of a security breach,
  - (n) any other matters required by the ITSRR to be included.
- (2) Nothing in this clause prevents additional matters from being included in a passenger security plan.

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**49D Fatigue management programs**

For the purposes of section 43 (2) of the Act, an accredited person must ensure that the person's program for the management of fatigue, safe hours of work and periods between work is consistent with the requirements of any applicable exemption under clause 52.

**[2] Clause 52 Fatigue management**

Omit clause 52 (1). Insert instead:

- (1) An accredited person is exempted from the condition of accreditation that an accredited person must provide conditions of work in accordance with Schedule 2 to the Act subject to the following conditions:
  - (a) the person carries out the following risk assessment and control measures to the satisfaction of the ITSRR and in compliance with any guidelines issued by the ITSRR:
    - (i) the person identifies and assesses the major fatigue-related safety risks associated with the operations for which the exemption is sought, including any risks associated with any proposed operating standards,
    - (ii) the person identifies and implements adequate controls to manage the risks, including operating standards to replace the requirements contained in Schedule 2,
    - (iii) the person specifies the evidence used to develop the operating standards,
    - (iv) the person consults with its railway employees affected by the exemption in relation to proposed operating standards,
  - (b) the person implements a system to monitor and report on the operation of the controls to manage the risks, being a system that is capable of monitoring actual hours worked against the operating standards, and the person audits the operation of that system,
  - (c) the person reviews the operating standards when required by any incident or change in the nature of work (including patterns of work and duties of railway employees) covered by the exemption, or when there is reasonable evidence that the operating standards are no longer valid, and obtains the approval of the ITSRR to any changes to the operating standards,

- (d) the work is carried out in a way that complies with any applicable regulations made or guidelines issued for the purposes of section 43 of the Act,
  - (e) the work is carried out in accordance with any applicable industrial or other agreement or award relating to the employment of the railway employees who carry out the work,
  - (f) the person complies with any requirements made by the ITSRR to provide information as to compliance with the conditions specified in this subclause,
  - (g) the person complies with any requirements made by the ITSRR with respect to operations covered by the exemption,
  - (h) any limitation on the period of the exemption imposed by the ITSRR in respect of a particular accredited person or class of accredited persons.
- (1A) The ITSRR may cancel an exemption under subclause (1) in respect of an accredited person or a class of accredited persons.
- (1B) The following accredited persons are exempt, for the periods specified in relation to those persons, from the conditions of accreditation that an accredited person must provide conditions of work in accordance with Schedule 2 to the Act:
- (a) Blue Scope Steel (AIS) Pty Ltd, Perisher Blue Pty Ltd and Connex Sydney Pty Ltd, for the period of 12 months commencing on the commencement of this clause,
  - (b) RailCorp, but only in relation to New Year's Eve and special events, for a period ending on 1 July 2005.