



New South Wales

Rail Safety (General) Amendment (Exemption) Regulation 2009

under the

Rail Safety Act 2008

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Rail Safety Act 2008*.

DAVID CAMPBELL, MP
Minister for Transport

Explanatory note

The object of this Regulation is to amend the *Rail Safety (General) Regulation 2008* to exempt the Rail Infrastructure Corporation (**RIC**) from Part 3 (Accreditation of rail transport operators) of the *Rail Safety Act 2008*. That Part provides that a rail transport operator must not carry out railway operations unless the person is accredited under that Part or exempt from the requirement to be accredited. The purpose of the accreditation is to attest that the operator has demonstrated the competence and capacity to manage risks to safety associated with railway operations. The exemption of RIC from those provisions is subject to the following conditions:

- (a) that RIC must, if requested, provide the ITSRR with certain information relating to the maintenance and operation of the RIC rail network and the maintenance of certain bridges over the RIC rail network,
- (b) that RIC ensures, to the satisfaction of the ITSRR, that ARTC identifies and assesses risks to safety arising from certain work on the RIC rail network,
- (c) that RIC ensures, to the satisfaction of the ITSRR, that any person engaged by RIC to maintain a public bridge over the RIC rail network, on behalf of RIC, identifies and assesses risks to safety arising from that maintenance.

This Regulation is made under the *Rail Safety Act 2008*, including section 174 (the general regulation-making power).

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Clause 1 Rail Safety (General) Amendment (Exemption) Regulation 2009

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1 Name of Regulation

This Regulation is the *Rail Safety (General) Amendment (Exemption) Regulation 2009*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Rail Safety (General) Regulation 2008

Clause 46A

Insert after clause 46:

46A Exemption from accreditation: Rail Infrastructure Corporation

- (1) RIC is exempt from the provisions of Part 3 of the Act and any regulations made under those provisions.
- (2) The exemption under this clause is subject to the following conditions:
 - (a) that RIC must comply with any reasonable request made by the ITSRR for information or a report relating to any of the following:
 - (i) the operation and maintenance of the RIC rail network, other than the Interstate and Hunter Valley rail network (known as the country regional network),
 - (ii) the maintenance of public overbridges,
 - (b) that RIC ensures, to the satisfaction of the ITSRR, that ARTC:
 - (i) identifies and assesses, so far as is reasonably practicable, risks to safety that may arise from railway operations carried out by or on behalf of ARTC on the RIC rail network that may be caused wholly or partly by the maintenance of a public overbridge by a person or body engaged by RIC for that purpose, and
 - (ii) determines measures to manage, so far as is reasonably practicable, those risks, and
 - (iii) for the purpose of managing those risks, seeks to enter into a safety agreement with that other person or body,
 - (c) that RIC ensures, to the satisfaction of the ITSRR, that any person or body engaged by RIC to maintain a public overbridge:
 - (i) identifies and assesses, so far as is reasonably practicable, risks to safety that may arise from such maintenance that may be caused wholly or partly by railway operations carried out by or on behalf of ARTC or another rail transport operator, and

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- (ii) determines measures to manage, so far as is reasonably practicable, those risks, and
- (iii) for the purpose of managing those risks, seeks to enter into a safety agreement with ARTC or the other rail transport operator (as the case may be).

(3) In this clause:

ARTC means the Australian Rail Track Corporation Ltd (ACN 081 455 754).

public overbridge means a bridge, owned by, or vested in, RIC, that enables the public to pass over any part of the RIC rail network.

RIC means the Rail Infrastructure Corporation constituted under the *Transport Administration Act 1988*.

RIC rail network means the part of the NSW rail network vested in or owned by RIC.

safety agreement means an agreement in writing about managing risks to safety identified and assessed under this clause that includes provisions for:

- (a) implementing and maintaining measures to manage those risks, and
- (b) the evaluation, testing and, if appropriate, revision of those measures, and
- (c) the respective roles and responsibilities of each party to the agreement in relation to those measures, and
- (d) procedures by which each party to the agreement will monitor compliance with the obligations under the agreement, and
- (e) a process for reviewing and revising the agreement.