

# Rail Safety (General) Regulation 2003

[2003-105]



New South Wales

## Status Information

### Currency of version

Repealed version for 24 August 2007 to 31 December 2008 (accessed 18 July 2024 at 3:30)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Graffiti Control Act 2008 No 100](#) (not commenced)
- **Note**  
The Regulation was impliedly repealed by the repeal of the [Rail Safety Act 2002](#) by sec 176 of the [Rail Safety Act 2008 No 97](#) with effect from 1.1.2009.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 1 January 2009

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New South Wales

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# Rail Safety (General) Regulation 2003



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Rail Safety (General) Regulation 2003*.

### 2 Commencement

This Regulation commences on 8 February 2003.

### 3 Definitions

In this Regulation:

**assistance animal** means an animal referred to in section 9 (Disability discrimination—guide dogs, hearing assistance dogs and trained animals) of the *Disability Discrimination Act 1992* of the Commonwealth.

**concession ticket** means a ticket issued free or at a reduced fare.

**disability** has the same meaning as it has in the *Disability Discrimination Act 1992* of the Commonwealth.

**drive** includes ride or draw (in relation to a vehicle) and ride or lead (in relation to an animal).

**hold**, in relation to a ticket or reservation, means be able to produce the ticket or reservation on request.

**light rail stop** means any place designated for the picking up or setting down of passengers on a route declared, under section 104N (2) of the *Transport Administration Act 1988*, to be the route of a light rail system.

**light rail system** has the same meaning as in section 104N of the *Transport Administration Act 1988*.

**monorail works** means any station, platform, monorail running line or supporting column associated with a monorail transport system.

**RailCorp** means Rail Corporation New South Wales.

**railway land** means:

- (a) land vested in, or under the control of, an accredited person for a railway and used in connection with the railway (other than land of which the accredited person is the lessor), and
- (b) land over which a light rail system operates (whether by way of easements or otherwise).

**restricted area of a station** means:

- (a) if the station has no ticket barrier—the platform, and
- (b) if the station has a ticket barrier—the platform and all other parts of the station between the platform and the ticket barrier.

**station** means:

- (a) a monorail station (whether or not on railway land), and
- (b) any other station on railway land,

and includes any place (other than a light rail stop) designated for the picking up and setting down of passengers on a railway.

**the Act** means the [Rail Safety Act 2002](#).

**ticket** includes a pass or other thing issued to a person, by or on behalf of the accredited person for a railway, for the purpose of authorising the person to travel on a train on the railway.

**train** means:

- (a) a train operated by the State Rail Authority, or
- (b) a light rail vehicle operated on a light rail system, or
- (c) the class of trains operated by an accredited person.

**valid ticket** means a ticket that meets the requirements for validity set out in clause 7.

**vehicle** includes a bicycle.

**Note—**

Section 4 (1) of the [Rail Safety Act 2002](#) defines the **infrastructure of a railway** as “those facilities that are necessary to enable a railway to operate safely”. The section provides that the infrastructure includes, but is not limited to, railway track, associated track structures, tunnels, bridges, stations, platforms, signalling systems, train control systems, communication systems, overhead electrical power supply systems, buildings (including buildings used for administrative purposes), workshops and associated plant, machinery and equipment.

#### 4 Notes

The notes in the text of this Regulation do not form part of this Regulation.

### Part 2 Tickets and payment of fares

#### 5 Fare to be paid and ticket to be held

- (1) A person must not, without reasonable excuse, travel on a train unless:
- (a) the fare for the person's travel has been paid, and
  - (b) the person (or someone accompanying the person) holds a valid ticket for the person's travel.

Maximum penalty: 5 penalty units.

**Note—**

Clause 3 (1) defines **hold**, in relation to a ticket, as meaning "be able to produce the ticket on request".

- (2) It is a defence to a prosecution under this clause if the person proves:
- (a) that it appeared to the person, after reasonable investigation, that no facilities were available, at the station or stop at which the person got on the train, to enable the person to pay the fare or obtain the ticket before getting on the train, or
  - (b) that the person:
    - (i) arrived at the station or stop at a time that should, in the circumstances ordinarily existing at that time of day and on that day of the week, have enabled the person to pay the fare or obtain the ticket before getting on the train, and
    - (ii) diligently took all steps reasonably necessary to pay the fare or obtain the ticket,but was unable to pay the fare or obtain the ticket due to circumstances beyond the person's control.
- (3) Subject to subclause (2), it is not a defence to a prosecution under this clause for a person to prove:
- (a) that the time taken or likely to have been taken to pay the fare or obtain the ticket before getting on the train would have prevented the person from getting on the train, or
  - (b) that the person intended to pay the fare or obtain the ticket while travelling or on arriving at a particular place.



- (4) In this clause, **train** includes any other form of transport (such as a bus) provided by the State Rail Authority in substitution for a train.

## **6 Other offences in relation to fares and tickets**

- (1) A person who is travelling on a train without having paid the fare for the travel concerned must not, without reasonable excuse, fail to pay the fare:
- (a) on demand made by an officer authorised in that regard by the accredited person for the train system, or
  - (b) if the fare has not already been paid pursuant to such a demand, immediately on leaving the train at the station or stop at which the person's travel is completed.

Maximum penalty: 5 penalty units.

- (2) A person must not, knowingly and without reasonable excuse, travel on a train in a carriage or compartment of a class to which the person's ticket does not apply.

Maximum penalty: 5 penalty units.

- (3) In this clause, **train** includes any other form of transport (such as a bus) provided by the State Rail Authority in substitution for a train.

## **7 Validity of tickets**

- (1) A ticket is valid for travel only:
- (a) between the stations or light rail stops (or within the zone or area) specified on it, and
  - (b) on the issue date specified on it (or, if an expiry date or time is specified, until and including that date or until that time), and
  - (c) between the times (if any) specified on it, and
  - (d) in the case of a single or return ticket—if the ticket has not previously been used to authorise the travel concerned, and
  - (e) in the case of a ticket showing the name of the person to whom it was issued—by that person.
- (2) A ticket transferred in contravention of clause 8 is not a valid ticket.
- (3) A ticket is not valid unless:
- (a) the number of the ticket, and
  - (b) the issue date or the expiry date (or both) of the ticket, and
  - (c) the names of stations or light rail stops between which (or the zone or area within

which) the ticket authorises travel, and

(d) the name (if shown) of the person to whom the ticket was issued,

are legible on the ticket, and the ticket is not defaced, mutilated or altered.

(4) However, an illegible, defaced, mutilated or altered ticket is valid if the illegibility, defacing, mutilation or alteration occurred as the result of the ordinary use of the ticket.

## **8 Tickets not transferable**

(1) A person who is issued with a ticket must not transfer (or offer to transfer) the ticket, or a portion of the ticket, to another person.

Maximum penalty: 5 penalty units.

(2) This clause does not apply if:

(a) the ticket was bought on behalf of that other person, or

(b) the transfer is authorised by an accredited person for the railway to which the ticket relates.

## **9 Concession tickets**

(1) A person must not travel on a train on the authority of a concession ticket unless the person is, because his or her age, occupation or status, entitled to the concession ticket.

Maximum penalty: 5 penalty units.

(2) An authorised officer may require a person:

(a) who is travelling on a train on the authority of a concession ticket, or

(b) who makes a concession ticket available for inspection under clause 10, or

(c) who offers a concession ticket for collection or processing under clause 11 or 12, to produce to the authorised officer evidence (for example, the person's pensioner or student concession card) that the person is entitled to the concession ticket.

(3) A person must comply with a requirement made under subclause (2).

Maximum penalty: 5 penalty units.

(4) A person must not:

(a) in or in connection with an application for a concession ticket, or

(b) in purported compliance with a requirement made under this clause,

knowingly give any information or tender any document that contains a false or misleading particular with respect to the age, occupation or status of the person to whom the application or direction relates.

Maximum penalty: 5 penalty units.

## **10 Inspection of tickets**

(1) A person who:

- (a) is on a train, or
- (b) is in a restricted area of a station, or
- (c) has just left the restricted area of a station,

must make his or her ticket available for inspection or processing by an authorised officer on that officer's request.

Maximum penalty: 5 penalty units.

(2) A person who has just left the restricted area of a station does not commit an offence under subclause (1) if the person's ticket has been:

- (a) captured by an automatic gate or other equipment provided to read or record any details on the ticket, or
- (b) given to an authorised officer.

## **11 Entry to restricted area of station**

(1) A person must not, without reasonable excuse, enter the restricted area of a station (otherwise than by getting off a train) without offering the person's ticket for processing in accordance with this clause.

Maximum penalty: 5 penalty units.

(2) For the purposes of this clause, a person offers a ticket for processing:

- (a) if the station has an automatic gate or other equipment provided to read or record any details on the ticket—by putting the ticket into that gate or equipment and, if requested by an authorised officer, by also showing the ticket to the authorised officer, or
- (b) if the station does not have such a gate or equipment—by showing the ticket to an authorised officer on that officer's request.

(3) A person must offer his or her ticket for processing in the manner specified in subclause (2) (a), unless:

- (a) the person's ticket is not designed for insertion in automatic equipment, or

- (b) the station concerned is not supplied with automatic equipment, or
- (c) the person has a reasonable excuse for not using the automatic equipment (for example, the equipment is not operating or the person is accompanied by luggage that would make use of the equipment difficult).

## **12 Leaving restricted area of station**

- (1) A person must not, without reasonable excuse, leave the restricted area of a station (otherwise than by getting on a train) without offering the person's ticket for collection or processing in accordance with this clause.

Maximum penalty: 5 penalty units.

- (2) For the purposes of this clause, a person offers a ticket for processing:
  - (a) if the station has an automatic gate or other equipment provided to read or record any details on the ticket—by putting the ticket into that gate or equipment and, if requested by an authorised officer, by also showing the ticket to the authorised officer (unless the ticket has been captured by the gate or equipment), or
  - (b) if the station does not have such a gate or equipment—by giving or showing the ticket to an authorised officer on that officer's request.
- (3) A person must offer his or her ticket for collection or processing in the manner specified in subclause (2) (a), unless:
  - (a) the person's ticket is not designed for insertion in or passing across automatic equipment, or
  - (b) the station concerned is not supplied with automatic equipment, or
  - (c) the person has a reasonable excuse for not using the automatic equipment (for example, the equipment is not operating or the person is accompanied by luggage that would make use of the equipment difficult).

## **Part 3 Conduct on trains and railway land**

### **13 Conduct generally**

- (1) A person must not on any train, on any railway land or on any part of monorail works wilfully:
  - (a) use offensive language, or
  - (b) behave offensively, or
  - (c) (Repealed)
  - (d) spit.

Maximum penalty: 10 penalty units.

- (2) A person must not on any train, on any railway land or on any part of monorail works wilfully put his or her feet, or either of them, on a seat.

Maximum penalty: 5 penalty units.

#### **14 Luggage and soiled clothing**

- (1) If, in the opinion of an authorised officer, a person's clothing or luggage (or any other thing that the person has, or appears to intend to take, on a train):

- (a) may soil or damage the train or the clothing or luggage of other passengers, or
- (b) has such dimensions that it cannot be accommodated in the train without inconvenience to other passengers,

the authorised officer may direct the person to leave, or not to enter, the train.

- (2) A person must comply with a direction given under subclause (1).

Maximum penalty: 5 penalty units.

#### **15 Smoking generally prohibited**

- (1) A person must not smoke on any train or on any part of railway land or any part of monorail works that is roofed or otherwise covered.

Maximum penalty: 10 penalty units.

- (2) This clause does not apply to a part of a train, railway land or monorail works in or on which smoking is permitted by the display of signs.

- (3) In this clause, **smoke** includes be in possession of a lighted cigarette, cigar, pipe or similar article.

#### **16 Eating and drinking on trains**

- (1) A person must not eat or drink on any train in which eating and drinking is prohibited by signs displayed in the train, except with the permission of an authorised officer.

Maximum penalty: 5 penalty units.

- (2) This clause does not apply to a person who is eating or drinking on a train for medical reasons.

#### **17 Drinking of alcohol generally prohibited**

- (1) A person must not drink any intoxicating liquor on any train, any railway land or any part of monorail works.

Maximum penalty: 10 penalty units.

- (2) This clause does not apply if the liquor that is drunk was supplied on the train, railway land or monorail works concerned by, or with the permission of, the accredited person for the railway.
- (3) In this clause, **drink** includes be in possession of an opened container of intoxicating liquor.

#### **18 Passengers who are intoxicated**

- (1) If, in the opinion of an authorised officer, a person on a station or a train, or at a light rail stop:
  - (a) is under the influence of intoxicating liquor or another drug, and
  - (b) is causing, or is likely to cause, a nuisance or annoyance to other persons on the station or train or at the light rail stop,

the authorised officer may direct the person to leave the station, train or light rail stop.

- (2) A person must comply with a direction given under subclause (1).

Maximum penalty: 10 penalty units.

#### **19 No unauthorised commercial activities**

- (1) A person must not carry on a commercial activity on any train, on any railway land or on any part of monorail works without the written permission of the accredited person for the relevant railway.

Maximum penalty: 5 penalty units.

- (2) For the purposes of this clause, a **commercial activity** means any one or more of the following:
  - (a) the sale or hire (or the offer of sale or hire) of any thing otherwise than by means of a mobile phone call to a person who is not present on the train, railway land or monorail works concerned,
  - (b) the touting or soliciting for custom, hire or employment otherwise than by means of a mobile phone call to a person who is not present on the train, railway land or monorail works concerned,
  - (c) the distribution of handbills to any person,
  - (d) the soliciting of money from any person (whether by way of busking or otherwise).

## **20 Entry to and exit from railway premises**

A person must not, without reasonable excuse, enter or leave a station, platform or other work or premises connected with a railway otherwise than by a place designated by the accredited person for the railway for entry or exit.

Maximum penalty: 5 penalty units.

## **21 Entry to and exit from trains**

A person must not, without reasonable excuse, enter or leave a train:

- (a) while the train is moving, or
- (b) by getting through a window, or
- (c) in the case of a train operated on a railway other than a light rail system—except at the side of the train adjoining the platform or other place designated by the accredited person for the railway for persons to enter or leave the train, or
- (d) in the case of a train operated on a railway that is a light rail system—except at the side of the train adjoining the light rail stop designated by the accredited person for persons to enter or leave the train.

Maximum penalty: 5 penalty units.

## **22 Passengers to remain wholly within trains**

A person who is on a train must not, without reasonable excuse:

- (a) protrude any part of the person's body from an open door or window of the train, or
- (b) touch any building, structure or other object outside the train.

Maximum penalty: 5 penalty units.

## **23 Certain unauthorised travel on trains**

- (1) A person must not board a train, for the purpose of travelling on it, at a station at which the train is not scheduled to pick up passengers, except with the permission of an authorised officer.

Maximum penalty: 5 penalty units.

- (2) A person must not leave a train at a station at which the train is not scheduled to set down passengers, except with the permission of an authorised officer.

Maximum penalty: 5 penalty units.

## **24 Compulsory reservation of sleeping berths or seats**

- (1) A person must not, except with the permission of an authorised officer, travel on a train on which booking is compulsory without holding:
  - (a) both a valid ticket for the travel concerned and a reservation for a sleeping berth or seat, or
  - (b) a combined travel and reservation ticket.

Maximum penalty: 5 penalty units.

- (2) Subclause (1) does not apply to a person who is travelling with another person who holds a valid ticket and reservation, or a combined ticket and reservation (or tickets and reservations, or combined tickets and reservations) authorising, for both persons, travel on the train concerned.

### **Note—**

Clause 3 (1) defines **hold**, in relation to a ticket or reservation, as meaning “be able to produce the ticket or reservation on request”.

- (3) A person is not liable to be punished under both this clause and clause 6 (2) in respect of the same travel.

## **25 Unauthorised occupation of reserved seats**

- (1) The accredited person for a railway may, by an appropriate notice attached to (or in the vicinity of) a seat in a train used on the railway, reserve the seat for a passenger.
- (2) An authorised officer may direct a person to leave a seat reserved for another person if the authorised officer is not satisfied that the person is occupying the seat with the permission of either the person for whom it is reserved or an authorised officer.
- (3) A person must comply with a direction given under subclause (2).

Maximum penalty: 5 penalty units.

## **26 Unauthorised occupation of sleeping berths**

- (1) A person must not, except with the permission of an authorised officer, occupy a sleeping berth on a train:
  - (a) other than the berth allotted to the person, or
  - (b) without holding or having delivered up on the train a sleeping berth ticket or other receipt for the fare for the berth.

Maximum penalty: 5 penalty units.

- (2) An authorised officer may direct a person contravening subclause (1) to leave the



berth.

- (3) A person must comply with a direction given under subclause (2).

Maximum penalty: 5 penalty units.

**27 Unauthorised occupation of seats for aged persons or persons with a disability**

- (1) The accredited person for a railway may, by appropriate notice attached to (or in the vicinity of) seating in a train used on the railway, set aside that seating for persons who are aged or have a disability.
- (2) A person who is not aged and does not have a disability must not continue to occupy a seat set aside for the aged and persons with disabilities if an aged person or a person with a disability wanting to use the seat (or a person on behalf of that person) asks the person to vacate it.

Maximum penalty: 5 penalty units.

**28 No interference with train doors**

A person must not, without reasonable excuse:

- (a) block a train door, or
- (b) open a locked train door at any time, or
- (c) open an unlocked train door (other than an internal door or a door between carriages) while the train is moving, or
- (d) in any way interfere with an automatically operated train door.

Maximum penalty: 50 penalty units.

**29 No entry to crew compartment of train**

- (1) A person must not:
- (a) enter any crew compartment of a train without the permission of an authorised officer, or
- (b) remain in the crew compartment of a train after having been requested to leave the compartment by an authorised officer.

Maximum penalty: 10 penalty units.

- (2) This clause does not apply to an authorised officer in the execution of his or her duty.

**30 Travel not allowed on certain parts of train**

- (1) A person must not, without reasonable excuse, travel on any part of a train not

intended for the conveyance of passengers.

Maximum penalty: 5 penalty units.

- (2) Without limiting subclause (1), parts of a train not intended for the conveyance of passengers include the following:
- (a) the engine or locomotive,
  - (b) the roof, steps and footboard,
  - (c) the stairs of a double-decker train.

### **31 Unauthorised use of certain equipment**

- (1) A person must not, without reasonable excuse, do any of the following:
- (a) use the public address system of a train or on a station or at a light rail stop,
  - (b) use any other communications system or information system of a train or on a station or at a light rail stop or on any other part of the infrastructure of a railway, or any emergency help point for passengers, for a purpose other than the purpose for which it is provided,
  - (c) apply or release any brake on a train,
  - (d) use or interfere with any emergency or safety equipment on a train or on a station or at a light rail stop or on any other part of the infrastructure of a railway,
  - (e) operate or otherwise interfere with any electrical or mechanical apparatus or device that is on railway land or is attached to, or forms part of, any train or any part of monorail works, or
  - (f) throw any article or thing at or towards, or otherwise interfere with, any electricity supply line or any electrical or mechanical apparatus on railway land or situated on or about, or attached to, any part of monorail works.

Maximum penalty: 250 penalty units.

- (2) In this clause, **emergency or safety equipment** includes closed circuit television cameras, emergency help points for passengers, emergency breakdown equipment, alarms, stretchers, fire extinguishers and the like.

### **32 No obstruction or hindrance**

- (1) A person must not, without reasonable excuse:
- (a) obstruct any facility on railway land or monorail works, or
  - (b) hinder (whether by obstruction or by any other means) another person's use of

any facility on railway land or monorail works.

Maximum penalty: 10 penalty units.

- (2) Without limiting subclause (1), a facility on railway land or monorail works includes the following:
- (a) the entrance to a station or light rail stop,
  - (b) the exit from a station or light rail stop,
  - (c) stairways and escalators at a station or light rail stop.

### **33 Pedestrians**

A person must not, while proceeding on foot on any railway land or on any part of monorail works, proceed at a pace or in a manner that may cause injury or damage or that may endanger any person or property.

Maximum penalty: 5 penalty units.

### **34 Use of escalators and lifts**

- (1) A person must not, while on railway land or monorail works:
- (a) ride on a travelling handrail of an escalator, or
  - (b) without reasonable excuse, move while on an escalator in a direction opposite to that in which it is travelling, or
  - (c) without reasonable excuse, convey any goods on an escalator or in a lift, or
  - (d) without reasonable excuse, interfere in any manner with an escalator or lift or the working of an escalator or lift.

Maximum penalty: 5 penalty units.

- (2) In this clause, **goods** does not include shopping, strollers, prams, bicycles, surfboards or luggage.

### **35 Railway property not to be removed**

- (1) A person must not remove any property belonging to an accredited person from any train, any railway land or any part of monorail works.

Maximum penalty: 10 penalty units.

- (2) This clause does not apply to an authorised officer or other person in the execution of the officer's or person's duty.

### **36 Graffiti and vandalism**

(1) A person must not:

- (a) write, draw or affix any word, representation, character or poster on or to, or
- (b) destroy, damage or deface,

any train, any part of the infrastructure of a railway or any property on railway land or monorail works.

Maximum penalty: 20 penalty units.

(2) A person must not, without reasonable excuse, have in his or her possession on any train, any part of a railway, on any railway land or on any part of monorail works any thing intended for use in damaging property.

Maximum penalty: 10 penalty units.

(3) This clause does not apply to an authorised officer in the execution of his or her duty.

### **37 No littering**

(1) A person must not on any train, any part of a railway, on any railway land or on any part of monorail works:

- (a) deposit any litter, or
- (b) deposit any thing that may endanger any person or property,  
otherwise than in a receptacle provided for that purpose.

Maximum penalty: 10 penalty units.

(2) A person must not abandon any building material on any train, any part of a railway, on any railway land or on any part of monorail works.

Maximum penalty: 5 penalty units.

### **38 Lighting fires**

A person must not:

- (a) light a fire on, or
- (b) bring any burning substance into or onto, or cause a burning substance to be brought into or onto, or
- (c) throw or drop any burning substance on or from, or cause any burning substance to be thrown or dropped on or from,

any train, any part of a railway, any railway land or monorail works.

Maximum penalty: 10 penalty units.

### **39 Direction to leave train or premises**

- (1) If, in the opinion of an authorised officer, a person is committing an offence under this Part, the authorised officer may direct the person to leave the train, railway land or part of the monorail works concerned.
- (2) A person must comply with a direction given under subclause (1).

Maximum penalty: 10 penalty units.

## **Part 4 Crossing running lines**

### **40 Definitions**

In this Part:

**level crossing** does not include any crossing over the running lines of the light rail system in a road or road related area.

**road** and **road related area** have the same meanings as in the [Road Transport \(General\) Act 1999](#).

### **41 Crossing running lines—generally**

- (1) A person must not cross or drive a vehicle over a running line except by means of a level crossing, bridge or subway constructed for that purpose.

Maximum penalty: 10 penalty units.

- (2) This clause does not apply to or in respect of:

- (a) an authorised officer or other person in the execution of his or her duty, or
- (b) a person who takes any action referred to in this clause at the request or direction of an authorised officer or other person in the execution of the officer's or person's duty, or
- (c) a running line used in a road or road related area for the purpose of a light rail system.

### **42 Pedestrians crossing running line**

- (1) A person on foot (unless in charge of an animal) must not, without reasonable excuse, cross over a running line at ground level at a level crossing if a bridge or subway is provided at the crossing.

Maximum penalty: 10 penalty units.

- (2) A person on foot must not cross over a running line at a level crossing:

- (a) if warned not to do so by an authorised officer, or
- (b) contrary to a warning displayed at the level crossing.

Maximum penalty: 10 penalty units.

- (3) A person on foot must not cross over a running line at a level crossing at which are installed barriers or a bell, alarm, red light or other warning device:

- (a) if barriers are installed—while those barriers are in any position other than the fully open position, or
- (b) whether or not barriers are installed—while any bell, alarm, red light or other warning device is operating.

Maximum penalty: 10 penalty units.

- (4) This clause does not apply to:

- (a) an authorised officer or other person in the execution of the officer's or person's duty, or
- (b) a person who takes any action referred to in this clause at the request or direction of an authorised officer or other person in the execution of the officer's or person's duty.

#### **43 Certain vehicles crossing running line at level crossing**

- (1) A person must not drive a vehicle across a level crossing:

- (a) if the vehicle is carrying a load that is likely to cause any damage to railway property or to cause an obstruction, or
- (b) contrary to a sign displayed at the level crossing, or
- (c) if directed not to do so by an authorised officer.

Maximum penalty: 10 penalty units.

- (2) Subclause (1) (a) does not apply if the vehicle and load comply with the relevant regulations under the [Roads Act 1993](#) (or are the subject of a relevant permit under that Act).

#### **44 Driving animals across running line at ground level**

A person (with or without a vehicle) must not, at ground level, drive an animal across a running line at a level crossing:

- (a) if warned not to do so by an authorised officer, or
- (b) if a train is in sight and moving towards the level crossing, or

(c) if warning of the approach of a train has been given by a whistle or other device.

Maximum penalty: 10 penalty units.

## **Part 5 Animals and vehicles**

### **45 Control of dogs on stations**

A person must not, without the permission of an authorised officer, take a dog onto any part of a station, or have a dog in his or her charge on a station, unless the dog is under the person's direct physical control by means of a lead, chain or frame (such as those used to control assistance animals) or otherwise.

Maximum penalty: 5 penalty units.

### **46 Animals on trains or railway land**

(1) A person must not take an animal onto a train intended for the conveyance of passengers, or have an animal in his or her charge on such a train, except under the conditions imposed by the accredited person for the relevant railway for the conveyance of the animal.

Maximum penalty: 5 penalty units.

(2) A person must not allow an animal under the person's care or control on, or to stray onto, railway land, except as provided by subclause (1).

Maximum penalty: 5 penalty units.

(3) This clause does not apply to:

- (a) an assistance animal accompanying a person with a disability, or
- (b) an assistance animal in training.

### **47 Person not to drive or ride in certain areas**

(1) A person must not:

- (a) drive a vehicle or an animal (other than a dog controlled in accordance with clause 45 or an animal referred to in clause 46 (3)), or
- (b) allow an animal under the person's care or control to be, or
- (c) use a skateboard, roller skates or rollerblades,

on or along a platform or a pathway, subway or other way on railway land or any part of monorail works used in connection with a station and set apart for the exclusive use of pedestrians.

Maximum penalty: 5 penalty units.

(2) This clause does not apply:

- (a) to vehicles designed to carry persons unable to walk (such as invalid carriages), or
- (b) to a motorised trolley being used by an authorised officer in the execution of his or her duty, or
- (c) in respect of:
  - (i) an animal being taken onto or from a train in accordance with the conditions referred to in clause 46 (1), or
  - (ii) an animal referred to in clause 46 (3).

#### **48 Restrictions on vehicles driven on certain railway structures**

- (1) The accredited person for a railway may by notice exhibited conspicuously on or near a railway road bridge or other railway structure, fix a vehicle's maximum loaded mass, maximum axle load or other load limit in respect of the bridge or structure.
- (2) A person must not drive on or over a railway road bridge or other railway structure a vehicle whose loaded mass, axle load or other load exceeds the maximum limit so fixed and notified unless:
  - (a) the person has obtained the written permission of the accredited person for the railway concerned to do so, and
  - (b) the vehicle is driven in conformity with any conditions determined by the accredited person in respect of it.

Maximum penalty: 5 penalty units.

- (3) In this clause, a reference to a railway road bridge or other railway structure is a reference to a bridge or other structure that is provided for the purpose of enabling vehicles to cross a running line.

#### **49 Bicycles not to be left in certain areas**

A person must not leave a bicycle on railway land or any part of monorail works or chained or otherwise attached to any building, fence or other railway installation on railway land or any part of monorail works, except in a cloak room, parcels office or other place designated by the accredited person for the relevant railway for that purpose.

Maximum penalty: 5 penalty units.

### **Part 6 Accreditation**

#### **49AA Exemptions from requirement to be accredited**

- (1) An operator of a railway is exempt from section 8 of the Act if the operator is



responsible only for one or more of the following kinds of railway operation:

- (a) the construction or maintenance of infrastructure of a railway,
- (b) the construction or maintenance of rolling stock.

**Note—**

Section 8 of the Act makes it an offence for a person to operate a railway unless the person is accredited.

- (2) Subclause (1) applies, in the case of an accredited person, from the date notified in writing to the accredited person by the ITSRR.
- (3) This clause does not apply to a rail infrastructure owner within the meaning of the *Transport Administration Act 1988*, other than the Rail Infrastructure Corporation.

**49AB Exemptions from applications for variations of accreditation**

For the purposes of section 27 (3A) of the Act, the following variations may be made to an accredited person's railway operations or safety management system without the need for the person to apply to the ITSRR for a variation or an approval of the variation:

- (a) the carrying out, by the accredited person, of railway operations for which the person is accredited in a manner that is not covered by the person's accreditation,
- (b) a variation to the accredited person's safety management system.

**49AC Variations to accreditation**

It is a condition of accreditation that an application for a variation to a person's accreditation is to be accompanied by the following information:

- (a) a description of the proposed change to the person's railway operations,
- (b) a detailed plan indicating the key stages of the design, development and implementation of the proposed change and an estimate of when each key stage will be completed,
- (c) a description of the processes that will be used to identify, manage and control the risks of carrying out railway operations during the development and implementation of the proposed change,
- (d) a list of other railway operators and other interested stakeholders who will be affected by the proposed change and a description of the proposed procedures for notifying and consulting those persons about the proposed change.

**49AD Changes to railway operations to be notified to ITSRR**

- (1) The following are conditions of accreditation:
  - (a) an accredited person who proposes to construct or commission the construction of

rolling stock or railway track must, as soon as practicable after the design of that rolling stock or track is approved, notify the ITSRR in writing of the proposal and include:

- (i) a description of the rolling stock or track, and
  - (ii) a proposed timetable for the construction and commissioning of the rolling stock or track,
- (b) an accredited person who proposes to introduce into service rolling stock of a type not previously operated by the person must, at least 28 days before that introduction, notify the ITSRR in writing of the proposal and include:
- (i) a description of the rolling stock, and
  - (ii) the date on which it is proposed to introduce the rolling stock into service,
- (c) an accredited person who proposes to modify a safety critical item of existing rolling stock (being an item listed under the heading “C2 Primary List—Safety Critical Items” in Appendix C to AS 4292.3—1997, *Railway safety management—Rolling stock*) must, at least 28 days before the modified rolling stock is introduced into service, notify the ITSRR in writing of the proposal and include:
- (i) a description of the rolling stock and the proposed modification, and
  - (ii) a proposed timetable for the commencement and completion of the modification,
- (d) an accredited person who proposes to modify existing railway infrastructure (other than routine repairs or maintenance in accordance with the safety management system) must, at least 28 days before commencing the modification, or, if the modification is carried out in an emergency, as soon as practicable after the modification, notify the ITSRR in writing of the proposal and include:
- (i) a description (including the location and technical specifications) of the proposed modification, and
  - (ii) a proposed timetable for the commencement and completion of the modification,
- (e) an accredited person who proposes to amend or replace a standard that is referred to in the person’s safety management system and that relates to the design and construction of railway infrastructure or rolling stock must, as soon as practicable after the change is to take effect, notify the ITSRR in writing of the proposal and include:
- (i) a description of the proposed change, and

- (ii) the date the proposed change takes effect,
- (f) an accredited person who proposes to change the frequency or procedures for the inspection or maintenance of the person's railway infrastructure or rolling stock must, at least 28 days before the change is to take effect, notify the ITSRR in writing of the proposal and include:
- (i) a description of the proposed change, and
  - (ii) the date the proposed change is to take effect,
- (g) an accredited person who proposes to implement a new safeworking system must, as soon as practicable after the design of the safeworking system is approved by the person, notify the ITSRR in writing of the proposal and include:
- (i) a description of the safeworking system and the sections of track on which it is to apply, and
  - (ii) the date the proposed system is to take effect,
- (h) an accredited person who proposes to change a safeworking system must, at least 28 days before the change is to take effect, notify the ITSRR in writing of the proposal and include:
- (i) a description of the proposed change to the safeworking system and the sections of track on which it is to apply, and
  - (ii) the date the proposed change is to take effect, and
  - (iii) evidence that each operator of any railway that will be affected by the proposed change has been notified of that change,
- (i) an accredited person who proposes to introduce or change a rule relating to the conduct of a railway operation on the NSW rail network must, at least 28 days before, or if the change is made in an emergency, as soon as reasonably practicable after, the new or amended rule is to take effect, notify the ITSRR in writing of the proposal and include:
- (i) a copy of the new or amended rule, and
  - (ii) the date the new or amended rule is to take effect, and
  - (iii) evidence that all relevant parties have been notified of the proposed rule change,
- (j) an accredited person who proposes to change the person nominated in the safety management system as the person responsible for maintaining that system must, at least 7 days before the change is to take effect (or as soon as practicable after the change if the accredited person could not reasonably know of the change

beforehand), notify the ITSRR in writing of the proposal and include:

- (i) the name, qualifications and experience of the nominated person, and
  - (ii) details of the nominated person's role and responsibilities with respect to the safety management system.
- (2) Despite subclause (1), a person is not required to notify the ITSRR of a matter if the person has requested a variation to the person's accreditation under section 27 of the Act in respect of the matter and the ITSRR has granted the variation to the person.
- (3) Nothing in subclause (1) or (2) affects any requirement a person must meet under section 27 of the Act.
- (4) If a matter is to take place after the commencement of this clause that would require a person to provide notification under this clause to the ITSRR before that commencement, the notification requirement is satisfied for the purposes of this clause if the notification is provided as soon as practicable after that commencement.
- (5) In this clause:

**NSW rail network** has the same meaning as in the [Transport Administration Act 1988](#).

#### **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,
  - (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) (Repealed)
- (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,
  - (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.

#### **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.

**50** (Renumbered as clause 60B)

#### **51 Network rules and operations**

- (1) The ITSRR may from time to time issue, amend or revoke guidelines as to the making of rules relating to railway network operations and operations of specified accredited persons.
- (2) A guideline issued under this clause, or an amendment to or revocation of any such guideline, is to be published in the Gazette.
- (3) A guideline takes effect on the date of publication or any later date specified in the guideline.
- (4) An accredited person that makes a rule relating to network operations or other operations of the accredited person must not fail to comply with any applicable guideline made under this clause.

Maximum penalty:

- (a) in the case of a corporation—250 penalty units, or
- (b) in the case of an individual—50 penalty units.

#### **Editorial note—**

For guidelines under this clause see Gazette No 16 of 25.1.2007, p 398.

#### **52 Fatigue management**

- (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.
- (2) An accredited person must not permit or require a railway employee to work in a



manner that does not comply with a guideline issued by the ITSRR under section 43 of the Act.

Maximum penalty:

- (a) in the case of a corporation—250 penalty units, or
- (b) in the case of an individual—50 penalty units.

## **Part 7 Notifiable occurrences**

### **52A Interpretation**

In this Part, an occurrence involves an accredited person if it involves railway operations for which the person is accredited.

### **52B Notifiable occurrences**

For the purposes of section 64 of the Act, the occurrences set out in Schedule 2 are notifiable occurrences.

### **52C Category A occurrences to be notified to Chief Investigator**

- (1) An accredited person must notify the Chief Investigator by telephone in accordance with this clause of any Category A occurrence set out in clause 1 of Schedule 2 involving the accredited person as soon as practicable after the occurrence.
- (2) An accredited person is to provide the Chief Investigator with the following information when notifying the Chief Investigator of a Category A occurrence under subclause (1):
  - (a) the name of each accredited person involved in the occurrence,
  - (b) brief details of the occurrence, including the number of people injured or killed (if any), the emergency services that attended (if any) and any actions taken by the emergency services or the accredited person in response to the occurrence,
  - (c) the name and telephone number of an individual who can be immediately contacted by the Chief Investigator to provide further details of the occurrence and who, if practicable, is at the scene.

### **52D All notifiable occurrences to be notified to ITSRR**

- (1) An accredited person must, within 72 hours of any notifiable occurrence involving the accredited person, notify the ITSRR of the occurrence in the approved form.
- (2) The requirement to provide notice to the ITSRR under this clause is in addition to any other requirement imposed on the accredited person to notify the Chief Investigator.

### **52E Notification may be given jointly**

A notification under this Part may be given jointly by 2 or more accredited persons.

### **52F Chief Investigator and ITSRR to share information**

- (1) The Chief Investigator is to provide the ITSRR with access to such details of a notification given to the Chief Investigator under this Part as the ITSRR may require, including access to any telephone recording that may have been made.
- (2) The ITSRR is to provide the Chief Investigator with access to such details of a notification given to the ITSRR under this Part as the Chief Investigator may require.
- (3) This clause does not apply to a train safety recording (within the meaning of Division 3 of Part 3 of the Act), any part of a train safety recording or any information obtained from a train safety recording.

## **Part 8 Miscellaneous offences**

### **53 Gates to be closed**

A person who uses a gate at a level crossing, or any other gate set up at the side of the railway, must shut and securely fasten the gate immediately after use.

Maximum penalty: 5 penalty units.

### **54 Throwing things**

A person must not, without reasonable excuse, throw any thing at or from a train, a station, a light rail stop or any other part of the infrastructure of a railway.

Maximum penalty: 20 penalty units.

### **55 No trespassing**

- (1) A person must not, without reasonable excuse, go onto or into, or remain on or in:
  - (a) the restricted area of a station, or
  - (b) any running lines or associated part of the infrastructure of a railway, or
  - (c) any workshops forming part of the infrastructure of a railway, or
  - (d) any offices or administrative areas of a railway, or
  - (e) any other railway land or any part of monorail works.

Maximum penalty: 50 penalty units.

- (2) Subclause (1) does not apply to:

(a) an authorised officer in the execution of his or her duty, or

(b) a person who has the permission of the accredited person for the railway to enter the railway land or part of the monorail works concerned.

(3) An authorised officer who has reason to believe that a person is committing an offence under subclause (1) may direct the person to leave the restricted area of the station, running lines, associated part of the infrastructure of the railway, workshop, office or administrative area concerned.

(4) A person must comply with a direction given under subclause (3).

Maximum penalty: 5 penalty units.

#### **56 No placing of objects on running lines**

(1) A person must not leave any object on a running line.

Maximum penalty: 50 penalty units.

(2) Subclause (1) does not apply to an authorised officer in the execution of his or her duty.

#### **57 Attempt to do prohibited act**

A person who attempts to do any thing that is prohibited by a provision of this Regulation is taken to have committed an offence under that provision and is punishable accordingly.

#### **58 Removal of persons**

A person who refuses or fails to comply with a direction given under this Regulation to leave any train or railway land or part of monorail works may be removed from the train or land or part of the monorail works by an authorised officer.

#### **59 Lost property**

(1) A person who finds any article in or on a train or railway land or part of monorail works:

(a) must return it to its owner, or

(b) must give it, or report its location, to an employee of an operator of a railway designated by the operator for the purposes of this clause or an authorised officer.

Maximum penalty: 5 penalty units.

(2) The operator of a railway must develop and implement procedures that comply with this clause for dealing with any lost property that is found on a train, railway land or part of monorail works for which the operator is responsible.

Maximum penalty: 5 penalty units.

- (3) The procedures referred to in subclause (2) are to include (but not be limited to) procedures involving:
  - (a) the keeping of registers of:
    - (i) lost property that is found, and
    - (ii) enquiries as to lost property, and
  - (b) the keeping of written records as to when and how lost property, when found, is to be returned or disposed of.
- (4) The procedures referred to in subclause (2) must be capable of being audited.

#### **60 Protection of monorail works**

- (1) A person must not enter the monorail envelope, or cause or permit anything to enter the monorail envelope, otherwise than:
  - (a) for the purpose of entering or leaving or travelling in a monorail train, or
  - (b) in accordance with an approval granted by an authorised person.

Maximum penalty: 5 penalty units.

- (2) In this clause, **monorail envelope** means the space around the Darling Harbour monorail, being the rectangular space within 2 metres on either side of, 4.5 metres above and 1 metre below an imaginary line running along the centre of the bottom surface of the monorail beam.

### **Part 9 Miscellaneous**

#### **60A Train communications systems**

- (1) An accredited person who is responsible for a railway operation referred to in section 5 (3) (b) of the Act (operation or movement of rolling stock on a railway) must ensure that each train for which the person is responsible is, at all times during which the train is on the NSW rail network, fitted with a radio communications system that complies with this clause and a back up means of communication to be used if the radio communications system fails.

Maximum penalty: 100 penalty units.

- (2) A radio communications system for a train must:
  - (a) enable the driver of the train to verbally communicate with any network control officer responsible for the area in which the train is operating, and

- (b) be working at all times that the train is being operated, and
  - (c) be capable of receiving and transmitting emergency calls, and
  - (d) be fitted with an emergency button that enables an emergency call from the train to be given priority over all other calls and that enables direct communication between the train and the network control officer responsible for the area in which the train is operating, and
  - (e) be capable of transmitting an emergency communication in a form that will allow any network control officer responsible for the area in which the train is operating to transmit the communication to other trains in that area.
- (3) A back up means of communication for a train must consist of either or both of the following:
- (a) a “without brakevan (WB) radio”, being a radio that operates at a frequency of 450.050 MHz,
  - (b) a mobile phone that is able to be used anywhere in the area in which the train is operating.
- (4) The ITSRR may, by notice in writing to one or more accredited persons, exempt from the operation of this clause a particular train or class of trains.
- (5) In this clause:
- NSW rail network** has the same meaning that it has in the [Transport Administration Act 1988](#).
- (6) This clause commences on 1 September 2006.

#### **60B Persons who may be appointed as authorised officers**

For the purposes of section 111 (1) of the Act, employees of RailCorp who hold, or are acting in, the position of transit officer (of any rank) are a class of persons who may be appointed as authorised officers.

#### **60C Safety interface agreements on private sidings**

- (1) For the purposes of section 23 (3) of the Act, an agreement referred to in section 23 (2) (a) is to comply with clause 49A as if the agreement were a safety interface agreement under section 12 of the Act.
- (2) The owner of a private siding is exempt from section 23 (2) of the Act if:
- (a) the owner enters an agreement with a person under which the person agrees to be responsible for rail operations on the private siding and to carry out the owner’s responsibilities under section 23 (2) of the Act, and

- (b) the person carries out the owner's responsibilities under section 23 (2) of the Act as if the person were the owner of the private siding.
- (3) If more than one person has entered an agreement referred to in subclause (2) in respect of a private siding, the persons may jointly enter any agreement or give any notice required by section 23 (2) of the Act.
- (4) If the person referred to in subclause (2) is the accredited person in respect of the railway or siding of a railway to which the private siding is connected with or has access to, the accredited person is not required to enter an agreement with itself under section 23 (2) or to notify itself under that subsection.
- (5) It is a condition of accreditation that an accredited person must enter an agreement with any person who is required to enter an agreement with the accredited person because of this clause or section 23 of the Act.

#### **60D Operators of heritage railways exempt from Part 2 and section 48A of Act**

- (1) In this clause:

**heritage railway** means a railway operated for the purpose of the restoration, preservation or operation of vintage trains.

- (2) The ITSRR may, by notice in writing, exempt the operator of a heritage railway from some or all of the provisions of Part 2 (other than Division 1) and section 48A of the Act in respect of that heritage railway.

**Note—**

Section 21 of the Act provides the ITSRR with a power to exempt a person from any one or more of the requirements of Division 1 of Part 2 of the Act.

- (3) A notice under subclause (2) takes effect from the time specified in the notice, or if no time is specified, when it is given to the operator.
- (4) A notice under subclause (2) may be revoked or amended by a further written notice given to the operator.
- (5) A notice under this clause has effect according to its tenor.

#### **61 Penalty notice offences**

- (1) For the purposes of section 105 of the Act:
  - (a) each offence created by a provision specified in Column 1 of Schedule 1 is declared to be a penalty notice offence, and
  - (b) subject to subclause (2), the prescribed penalty for such an offence is the amount specified in Column 2 of Schedule 1.
- (2) In the case of an offence arising under clause 5, 6, 8, 9, 10, 11 or 12 of this

Regulation, the prescribed penalty for the offence is \$50 if the person alleged to have committed the offence is under the age of 18 years.

## **62 (Repealed)**

### **62A Disclosure of train safety records**

- (1) For the purposes of section 72 (2) (c) of the Act, a train safety record (other than a train safety recording) may be disclosed or produced to the Commissioner of the Waterfall Special Commission of Inquiry, or a person assisting or acting on behalf of the Commissioner or that Special Commission, during or for the purposes of proceedings of that Special Commission.
- (2) For the purposes of section 73 (e) of the Act, a train safety recording, or any information obtained from a train safety recording, may be published or communicated:
  - (a) to the Commissioner of the Waterfall Special Commission of Inquiry, or a person assisting or acting on behalf of the Commissioner or that Special Commission, during or for the purposes of proceedings of that Special Commission, and
  - (b) by the Commissioner or any such person during or for the purposes of proceedings of the Waterfall Special Commission of Inquiry or in any report of the Commissioner related to that Special Commission.

- (3) In this clause:

***Waterfall Special Commission of Inquiry*** means the Special Commission of Inquiry established by letters patent on 3 February 2003 under the [Special Commissions of Inquiry Act 1983](#) authorising the Honourable Peter Aloysius McInerney to inquire into certain matters.

- (4) In this clause, a reference to a train safety record or a train safety recording includes a reference to a part of any such record or recording.

### **62B Disclosure of train safety records for monitoring and other purposes**

- (1) For the purposes of section 73 (e) of the Act, a train safety recording may be published or communicated by and to the persons set out in subclause (2), but only if the publication or communication is made for any of the following purposes:
  - (a) the analysis or monitoring of railway operations or rail safety or related matters,
  - (b) without limiting paragraph (a), the auditing of compliance by railway employees with any systems, procedures, instructions or orders relating to the carrying out of railway operations.
- (2) A train safety recording may be published or communicated:

- (a) by an accredited person or an employee or contractor of the accredited person to another accredited person or an employee or contractor of another accredited person, or
  - (b) by an employee or contractor of an accredited person to the accredited person or another employee or contractor of the accredited person, or
  - (c) by an accredited person to an employee or contractor of the accredited person.
- (3) For the purposes of section 73 (e) of the Act, a train safety recording may be published or communicated by or on behalf of an accredited person to the ITSRR.

### 62C Exchange of information—relevant agency

For the purposes of paragraph (c) of the definition of **relevant agency** in section 109 (6) of the Act, Comcare (as established by the [Safety, Rehabilitation and Compensation Act 1988](#) of the Commonwealth) is prescribed.

### 63 Repeal and savings

- (1) The [Rail Safety Regulation 1999](#) is repealed.
- (2) Any act, matter or thing that, immediately before the commencement of this Regulation, had effect under the [Rail Safety Regulation 1999](#) continues to have effect under this Regulation.

## Schedule 1 Penalty notice offences

(Clause 61)

### Part 1 Offences under the [Rail Safety Act 2002](#)

Column 1	Column 2
Offence	Penalty
Section 17 (2)	\$1,000
Section 17 (3)	\$500
Section 23 (4)	\$500
Section 36 (7)	\$600
Section 37	\$600
Section 37A	\$200
Section 39	\$200
Section 53	\$1,500
Section 63 (3)	\$1,500



Section 64	\$600
Section 66 (7)	\$1,500
Section 67A (3)	\$500
Section 67E (4)	\$800
Section 91 (2)	\$5,500
Section 96 (2) (a)	\$100
Section 96 (2) (b)	\$100
Section 97	\$200

## Part 2 Offences under the Rail Safety (General) Regulation 2003

<b>Column 1</b>	<b>Column 2</b>
<b>Offence</b>	<b>Penalty</b>
Clause 5 (1)	\$200
Clause 6 (1) (a)	\$200
Clause 6 (1) (b)	\$200
Clause 8 (1)	\$200
Clause 9 (1)	\$200
Clause 9 (3)	\$200
Clause 9 (4) (a)	\$200
Clause 9 (4) (b)	\$200
Clause 10	\$200
Clause 11 (1)	\$200
Clause 12 (1)	\$200
Clause 13 (1) (a)	\$400
Clause 13 (1) (b)	\$400
Clause 13 (1) (d)	\$400
Clause 13 (2)	\$100
Clause 14 (2)	\$100
Clause 15 (1)	\$400
Clause 16 (1)	\$100
Clause 17 (1)	\$400

Clause 18 (2)	\$400
Clause 19 (1)	\$100
Clause 20	\$100
Clause 21 (a)	\$200
Clause 21 (b)	\$200
Clause 21 (c)	\$200
Clause 21 (d)	\$200
Clause 22 (a)	\$200
Clause 22 (b)	\$200
Clause 23 (1)	\$100
Clause 23 (2)	\$100
Clause 24 (1)	\$100
Clause 25 (3)	\$100
Clause 26 (1) (a)	\$100
Clause 26 (1) (b)	\$100
Clause 26 (3)	\$100
Clause 27 (2)	\$100
Clause 28 (a)	\$400
Clause 28 (b)	\$400
Clause 28 (c)	\$400
Clause 28 (d)	\$400
Clause 29 (1) (a)	\$400
Clause 29 (1) (b)	\$400
Clause 30 (1)	\$200
Clause 31 (1) (a)	\$400
Clause 31 (1) (b)	\$400
Clause 31 (1) (c)	\$400
Clause 31 (1) (d)	\$400
Clause 31 (1) (e)	\$400
Clause 31 (1) (f)	\$400
Clause 32 (1) (a)	\$200

Clause 32 (1) (b)	\$200
Clause 33	\$200
Clause 34 (1) (a)	\$200
Clause 34 (1) (b)	\$200
Clause 34 (1) (c)	\$100
Clause 34 (1) (d)	\$100
Clause 35 (1)	\$200
Clause 36 (1) (a)	\$400
Clause 36 (1) (b)	\$400
Clause 36 (2)	\$200
Clause 37 (1) (a)	\$200
Clause 37 (1) (b)	\$400
Clause 37 (2)	\$200
Clause 38 (a)	\$400
Clause 38 (b)	\$400
Clause 38 (c)	\$400
Clause 39 (2)	\$400
Clause 41 (1)	\$400
Clause 42 (1)	\$400
Clause 42 (2) (a)	\$400
Clause 42 (2) (b)	\$400
Clause 42 (3) (a)	\$400
Clause 42 (3) (b)	\$400
Clause 43 (1) (a)	\$400
Clause 43 (1) (b)	\$400
Clause 43 (1) (c)	\$400
Clause 44 (a)	\$400
Clause 44 (b)	\$400
Clause 44 (c)	\$400
Clause 45	\$100
Clause 46 (1)	\$100

Clause 46 (2)	\$100
Clause 47 (1) (a)	\$100
Clause 47 (1) (b)	\$100
Clause 47 (1) (c)	\$100
Clause 48 (2) (a)	\$200
Clause 48 (2) (b)	\$200
Clause 49	\$100
Clause 52 (2) (in the case of a corporation)	\$5,500
Clause 52 (2) (in the case of an individual)	\$1,100
Clause 53	\$200
Clause 54	\$400
Clause 55 (1) (a)	\$400
Clause 55 (1) (b)	\$400
Clause 55 (1) (c)	\$400
Clause 55 (1) (d)	\$400
Clause 55 (1) (e)	\$400
Clause 55 (4)	\$200
Clause 56 (1)	\$400
Clause 59 (1)	\$100
Clause 60 (1)	\$100
Clause 60A (1)	\$330

## **Schedule 2 Notifiable occurrences**

(Clause 52B)

### **1 Category A notifiable occurrences**

Each of the following is a category A notifiable occurrence if it occurs on railway premises and relates to a railway:

- (a) the death of a person,
- (b) serious injury to a person,
- (c) a derailment of a train or rolling stock from a running line,
- (d) an obstruction on a running line,

- (e) a collision between trains on a running line,
- (f) a collision between a train and a road vehicle or person at a level crossing or pedestrian crossing,
- (g) a fire or explosion affecting the infrastructure of a railway or rolling stock.

## **2 Category B notifiable occurrences**

Each of the following is a category B notifiable occurrence if it occurs on railway premises and relates to a railway (but does not involve the death of, or serious injury to, a person):

- (a) a person falling from a railway platform, bridge or other structure or from a train that is moving (including a train that is starting or stopping),
- (b) a person falling between a train and a railway platform,
- (c) a person being struck by a train or rolling stock,
- (d) a person being struck by any matter thrown from, or at, a train,
- (e) a person being adversely affected by dangerous goods, gases or fumes,
- (f) a person receiving an electric shock,
- (g) a person slipping, tripping or falling on or from a train, railway track, station, platform, escalator, lift or stairs,
- (h) a person being caught in train doors,
- (i) a person being assaulted,
- (j) a derailment of a train or rolling stock from a line other than a running line,
- (k) a collision involving a train (other than a collision referred to in clause 1 (e) or (f)) that results in injury to a person or damage to property,
- (l) a train improperly passing a stop signal,
- (m) a breach of a safeworking system,
- (n) a failure of any equipment or other component that forms part of a safeworking system,
- (o) any of the following (other than a collision referred to in clause 1 (f)):
  - (i) a road vehicle causing damage to a level crossing or equipment at a level crossing,
  - (ii) any rolling stock having a near miss with a person or vehicle at a level crossing,
  - (iii) any rolling stock running on to a level crossing when not authorised to do so,

- (iv) failure of any equipment at or around a level crossing,
- (p) any defect or irregularity in any track or supporting infrastructure, or any tunnel or bridge that causes a danger to the safe passage of trains, vehicles or persons (but does not include any irregularities that are detected and fixed as part of a normal maintenance program),
- (q) any incident involving dangerous goods (that resulted, or may reasonably result, in an explosion, fire or pollution),
- (r) any rolling stock incident that may have caused a serious accident (whether or not any such accident did occur), including, but not limited to, any one or more of the following:
  - (i) any overheated axle bearings (hot box),
  - (ii) any rolling stock dragging equipment, including a chain, rope, tarpaulin or similar,
  - (iii) any object attached to rolling stock that projects out from the line of the rolling stock that caught, or may catch, on rail infrastructure (gauge fouling),
  - (iv) any improper loading of a wagon, or any load that has shifted on a wagon,
  - (v) the door in an item of rolling stock designed to carry persons being defective or accidentally opening,
  - (vi) items of rolling stock in a train becoming accidentally separated,
  - (vii) a defect in a pantograph that is reasonably likely to cause the pantograph to become separated from overhead wiring,
  - (viii) the failure of a wheel or axle on rolling stock,
  - (ix) the failure of a major braking system of a train or rolling stock,
  - (x) rolling stock running out of control,
- (s) an incident involving animals or livestock that may potentially, or did, cause a serious accident,
- (t) any defect in the infrastructure of a railway that may adversely affect the safe carrying out of railway operations, including defects in the electrical infrastructure or civil infrastructure such as tunnels, bridges, viaducts, culverts, stations or other structures,
- (u) track defects (including broken or misaligned rails) that may adversely affect the safe carrying out of railway operations,
- (v) any act of vandalism that adversely affected, or may adversely affect, the safe

carrying out of railway operations,

- (w) any result of a drug or alcohol test of a railway employee that shows that the employee was under the influence of alcohol or any other drug when about to carry out, or while on duty for the purposes of carrying out (whether or not carrying out), railway safety work.