

Australian Capital Territory

Rail Safety National Law National Regulations (Queensland Fatigue Provisions) Variation Regulations 2017 (No)

Subordinate law SL[2018]–

made under the

Rail Safety National Law (ACT) Act 2014, s55 (Regulation-making power)

EXPLANATORY STATEMENT

Introduction

This explanatory statement relates to the *Heavy Vehicle (General) National Amendment Regulation* (the Amendment Regulation) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the regulation. It does not form part of the legislation and has not been endorsed by the Assembly.

This explanatory statement must be read in conjunction with the regulation. It is not, and is not meant to be, a comprehensive description of the regulation. What is said about a provision is not taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Operation and amendment of the Rail Safety National Law

The Rail Safety National Law provides a national rail safety regulation scheme, including a national rail safety regulator and a national rail safety investigator. The Rail Safety National Law is set out in the *Rail Safety National Law (South Australia) Act 2012* (SA). This Law is adopted in the *Rail Safety National Law (ACT) Act 2014*. Section 6 of the *Rail Safety National Law (ACT) Act 2014* applies the Rail Safety National Law set out in the *Rail Safety National Law (South Australia) Act 2012* (SA), schedule, as if it were an ACT law called the Rail Safety National Law (ACT).

National regulations are made under section 264 of the *Rail Safety National Law (South Australia) Act 2012* and notified on the NSW legislation website.

Amendments to the Rail Safety National Law, once agreed by Ministers sitting as the Transport and Infrastructure Council, are progressed through the South Australian Parliament and apply automatically in the ACT. Amendments to the Rail Safety

National Law Regulations are also automatically adopted in the ACT. However, the national regulations are required to be presented to the Legislative Assembly within six sitting days of being notified on the NSW Legislation website to have effect in the ACT (Section 7 of the *Rail Safety National Law (ACT) Act 2014*).

Human rights and climate change implications

There are no human rights or climate change implications arising from this regulation.

Amendments by the *Rail Safety National Law National Regulations (Queensland Fatigue Provisions) Variation Regulation*

The *Rail Safety National Law National Regulations (Queensland Fatigue Provisions) Variation Regulations 2017* facilitates Queensland's adoption of the Rail Safety National Law from 1 July 2017 by including specific fatigue provisions for Queensland. These amendments maintained the provisions in place in Queensland before it adopted the Rail Safety National Law. This approach was taken with NSW when it adopted the Rail Safety National Law. Inclusion of these provisions in the Rail Safety National Law national regulations allows all provisions relating to fatigue nationally to be in one piece of legislation.

This Regulation was published on the NSW website on 9 June 2017 and commenced on 30 June 2017 in all jurisdictions where the Rail Safety National Law applies, including the ACT.

Notes on clauses

Part 1 Preliminary

Clause 1 Short title

This clause provides that the regulation may be cited as the *Rail Safety National Law National Regulations (Queensland Fatigue Provisions) Variation Regulations 2017*.

Clause 2 Commencement

This clause provides that the regulation will come into operation at the same time as the *Rail Safety National Law (Queensland) Act 2017* comes into operation.

Clause 3 Variation provisions

This clause sets out the provisions being amended by this Regulation.

Part 2

Variation of Rail Safety National Law National Regulations 2012

Clause 4

Variation of regulation 29—Fatigue risk management program

This clause amends section 29 to include additional requirements in relation to fatigue risk management for work performed in connection railway operations in Queensland.

Clause 5

Variation of Heading to Schedule 2

This clause amends the heading to Schedule 2 and is consequential on the changes made by clause 4.

Clause 6

Variation of Schedule 2—Special fatigue management program requirements in respect of certain rail safety work carried out within certain participating jurisdictions

This clause amends Schedule 2 to include specific fatigue provisions for Queensland and makes other amendments that are consequential on the changes made by clause 4.