

2022

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

**Rail Safety National Law National Regulations (Fees and FOI) Amendment
Regulations 2022**

**Presented by
Chris Steel MLA
Minister for Transport and City Services
August 2022**

South Australia

Rail Safety National Law National Regulations (Fees and FOI) Amendment Regulations 2022

under the *Rail Safety National Law*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Rail Safety National Law National Regulations 2012*

- 4 Amendment of regulation 37—Modifications of FOI Act for purposes of national rail safety scheme
 - 5 Amendment of Schedule 3—Fees
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Rail Safety National Law National Regulations (Fees and FOI) Amendment Regulations 2022*.

2—Commencement

These regulations come into operation on 1 July 2022.

3—Amendment provisions

In these regulations, a provision under a heading referring to the amendment of specified regulations amends the regulations so specified.

Part 2—Amendment of *Rail Safety National Law National Regulations 2012*

4—Amendment of regulation 37—Modifications of FOI Act for purposes of national rail safety scheme

Regulation 37(ea), inserted definition of *Rail Safety National Law*—delete the definition and substitute:

Rail Safety National Law means—

- (a) the *Rail Safety National Law*, as amended from time to time, set out in the Schedule to the *Rail Safety National Law (South Australia) Act 2012*, as it applies as a law of a participating jurisdiction; or

- (b) a law of a participating jurisdiction, as in force from time to time, that—
- (i) substantially corresponds to the *Rail Safety National Law* set out in the Schedule to the *Rail Safety National Law (South Australia) Act 2012*; or
 - (ii) is prescribed by the *Rail Safety National Law National Regulations 2012* for the purposes of paragraph (c) of the definition of *participating jurisdiction*;

5—Amendment of Schedule 3—Fees

- (1) Schedule 3, Part 1, table, item 1A—delete "\$82 172" and substitute:

\$84 555

- (2) Schedule 3, Part 2, clause 1(1), table—delete the table in clause 1(1) and substitute:

	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
Rate per kilometre of track managed by a rail infrastructure manager (\$/km) (R_r)	310.59	310.59	66.52	137.39	124.08	101.87	210.55	87.59
Rate per kilometre travelled by trains of a rolling stock operator (\$/km) (R_r)	0.095	0.095	0.178	0.080	0.111	0.282	0.047	0.054

- (3) Schedule 3, Part 2, clause 1(1a)(a) to (c)—delete paragraphs (a) to (c) (inclusive) and substitute:

- (a) \$209 274;
- (b) \$147 971;
- (c) \$98 295.

Made by the Governor of South Australia

as the designated authority under section 264 of the *Rail Safety National Law* on the unanimous recommendation of the responsible Ministers and with the advice and consent of the Executive Council of South Australia
on 23 June 2022

2022

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

**Rail Safety National Law National Regulations (Fees and FOI) Amendment
Regulations 2022 – Explanatory Statement**

**Presented by
Chris Steel MLA
Minister for Transport and City Services
August 2022**

Australian Capital Territory

Rail Safety National Law National Regulations (Fees and FOI) Amendment Regulations 2022

made under the

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

EXPLANATORY STATEMENT

Introduction

This explanatory statement relates to the *Rail Safety National Law National Regulations (Fees and FOI) Amendment Regulations 2022* (the regulation) as presented to the Legislative Assembly. It has been prepared 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 Infrastructure and Transport Ministers Meeting (ITMM), 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 20 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 (Fees and FOI) Amendment Regulations 2022*

The *Rail Safety National Law National Regulations (Fees and FOI) Amendment Regulations 2022* amends Schedule 3 of the Rail Safety National Law regulations.

This regulation was published on the NSW website on 23 June 2022 and automatically commenced on 1 July 2022 in all jurisdictions with application law, 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 (Fees and FOI) Amendment Regulations 2022*.

Clause 2 Commencement

This clause provides that the regulation came into operation on 1 July 2022.

Clause 3 Amendment provisions

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

Part 2 Amendment of *Rail Safety National Law National Regulations 2012*

Clause 4 Amendment of regulation 37 - Modifications of FOI Act for purposes of national rail safety scheme

Substitutes Regulation 37(ea) to amend the definition of Rail Safety National Law (RSNL) to ensure it includes RSNL as it applies in a state or territory and is not confined to the “*Rail Safety National Law set out in the Schedule to the Rail Safety National Law (South Australia) Act 2012*”.

Though the Regulation is only making a minor and technical amendment to the definition, this is intended to support the operation of provisions in the National Regulations that protect individual’s information provided to the Regulator under compulsion (as per Section 20 of RSNL).

Section 20 of RSNL gives the Regulator power to compel information in relation to possible contraventions of the RSNL, or information that will assist to monitor or enforce compliance. Previous amendments were made to the Regulation and clarified that any document provided to the Regulator under this section was exempt from being produced under an FOI request.

The amendment in this Regulation supports this provision, and the associated protections on the right to privacy, by further clarifying that this exemption applies in all jurisdictions, not just under the South Australian legislation. This engages and supports the right to privacy codified in section 12 of the *Human Rights Act 2004* (ACT).

Clause 5 Amendment of Schedule 3 - Fees

This clause provides an increase in the annual fees payable by a rail transport operator, in accordance with the cost recovery model agreed by the Infrastructure and Transport Ministers Meeting (ITMM).