

2020

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

**Government Response to the Standing Committee on Justice and Community Safety
(Legislative Scrutiny Role) Scrutiny Report No 51 - Comments on Rail Safety National
Law – Rail Safety National Law National Regulations (Fees and Other Measures)
Variation Regulations 2020**

**Presented by
Chris Steel MLA
Minister for Transport and City Services
December 2020**



Chris Steel MLA

Minister for Transport and City Services

Minister for Skills

Special Minister of State

Member for Murrumbidgee

Chair

Standing Committee on Justice and
Community Safety (Legislation Scrutiny Role)

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Dear Chair

I write in response to comments made by the 9th Assembly Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) (the Committee) in its Scrutiny Report 51. The comments were in relation to the *Rail Safety National Law National Regulations (Fees and Other Measures) Variation Regulations 2020* (No 322 of 2020) which were tabled in the ACT Legislative Assembly on 27 August 2020.

I thank the Committee for its comments relating to the National Regulations and provide the following in response.

The Committee commented on the National Regulations commencement date and raised a concern about the extent to which persons in the ACT who are affected by these amendments were made aware of the making and commencement of the National Regulations, which appear on an other-than-ACT legislation website.

The Rail Safety National Law (RSNL) creates a seamless and coordinated national approach to rail safety regulation in Australia. The RSNL commenced in the ACT in November 2014 through the *Rail Safety National Law (ACT) Act 2014*. Amendments to the RSNL, once agreed to by Ministers sitting on the Transport and Infrastructure Council (TIC), are progressed through the South Australian Parliament, published on the NSW legislation website, and then apply automatically in the ACT.

The Office of the National Rail Safety Regulator (ONRSR) is an independent body corporate, established under the *Rail Safety National Law (South Australia) Act 2012*, to independently administer the RSNL. All Rail Transport Operators (RTO) must be granted accreditation with ONRSR to undertake railway operations.

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ONRSR undertakes extensive consultation with RTO's, unions and jurisdictional transport and infrastructure agency representatives on proposed RSNL amendments. Feedback received during consultation assists in informing decision making by TIC. All RTO's are in close contact with ONRSR on a regular basis and are kept informed of any changes to the RSNL.

A list of all RSNL legislation amendments are published on ONRSR website, as well as resources such as fact sheets and guidelines which provides additional information to RTO's on legislative requirements and ONRSR policies.

In response to the Committees comments, here is a summary of the amendments made in the National Regulations, and how persons in the ACT who were affected by the amendments were made aware of their making and commencement:

Substitution of regulation 25 - Updated the reference to the Northern Territory gazette.

- This change has no impact to RTO's in the ACT.

Variation of regulation 57 - Clarified reporting requirements for category A occurrences.

- This was a technical change to clarify the previous amendment, reducing the likelihood of misinterpretation. It did not result in a change in RTO requirements. ONRSR has published a comprehensive [Guideline on RTO's reporting requirements for Notifiable Occurrences](#).

Variation of Schedule 3 (Fees) - Increased the annual fees payable by a rail transport operator.

- Adjustments in annual fees are in alignment with the Cost Recovery Model. Ample consultation was undertaken on the Cost Recovery Model which was endorsed by TIC (Previously the Standing Council of Transport Infrastructure) in May 2012, with changes commencing in November 2016. ONRSR has published a [Cost Recovery Model Fact Sheet](#) and [Fees Policy](#) to assist RTO's in understanding these requirements.

I would like to thank the Committee for its positive comments on the explanatory statement, which although not required, has been provided with the National Regulations.

The Committee noted a preference to see the fee increases explained by reference to the "old" and "new" fees and the percentage of the increase. I will ensure this is taken into consideration when tabling the next Regulation Variation for fee amendments.

I trust the above response provides clarification and addresses the concerns raised.

Yours sincerely



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