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RAIL SAFETY ACT 2010



## RAIL SAFETY REGULATIONS 2011



Western Australia

## **Rail Safety Regulations 2011**

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Rail Safety Act 2010

## **Rail Safety Regulations 2011**

Made by the Governor in Executive Council.

### **Part 1 — Preliminary**

**1. Citation**

These regulations are the *Rail Safety Regulations 2011*.

**2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) regulation 11 — on the day on which the *Rail Safety Act 2010* section 63 comes into operation;
- (c) the rest of the regulations — on the day on which the *Rail Safety Act 2010* section 229 comes into operation.

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**Part 2 — Accreditation****3. Application for accreditation**

For the purposes of section 34(2)(d) of the Act, an application for accreditation must contain —

- (a) the following identification details of the applicant —
  - (i) the applicant's name;
  - (ii) the applicant's registered business name and trading name if that is different to the registered business name;
  - (iii) the applicant's ACN or ABN, if applicable;
  - (iv) the applicant's residential address or, in the case of a body corporate, registered business address;and
- (b) the name and contact details of a person who has been appointed by the applicant to deal with any queries that the Rail Safety Regulator may have in relation to the application; and
- (c) if the applicant is accredited under a corresponding law, a copy of the notice of accreditation; and
- (d) in addition to the requirements of section 34(2)(c) of the Act, if the applicant is also seeking accreditation under a corresponding law, details of where, and in respect of what, the application for that accreditation was made; and
- (e) in the case of a rail infrastructure manager who does not own the rail infrastructure, documentary evidence that the manager has, or will have, management and control of the rail infrastructure; and
- (f) a description of the operational assets, or classes of operational assets, that the applicant intends to use or manage in the operations for which the application is made, including any stations, signal and train control



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## Accreditation

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- centres, signalling systems and rolling stock for service and maintenance activities; and
- (g) a description of the safe working systems that the applicant intends to use in the operations for which the application is made; and
  - (h) in the case of a rolling stock operator, documentary evidence that the applicant has, or will have, effective management and control of the operation or movement of the rolling stock on rail infrastructure for a particular railway; and
  - (i) if electrified railway tracks will be used, details of the electrification; and
  - (j) details of the consultation undertaken by the applicant in relation to the applicant's safety management system, including —
    - (i) who was consulted; and
    - (ii) when and how the consultation occurred; and
    - (iii) the results of the consultation;and
  - (k) if the applicant is not an individual, evidence that the application has been submitted to and endorsed —
    - (i) if the applicant is a body corporate —
      - (I) that is a company within the meaning of the *Corporations Act 2001* (Commonwealth), by its Board of Directors in accordance with section 127 of that Act; or
      - (II) in any other case, by its governing body;
    - (ii) if the applicant is a partnership, by each partner;
    - (iii) if the applicant is an unincorporated association or body, by its governing body;

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and

- (l) if any of the activities that it is intended to carry out under the accreditation sought are to be carried out by any other person on behalf of the applicant —
  - (i) the name and contact details of each such person; and
  - (ii) details of the activities that it is intended that the person will carry out on behalf of the applicant.

**4. Prescribed details of accredited person**

For the purposes of section 38(2)(a) of the Act, a notice of accreditation must specify the accredited person's —

- (a) name; and
- (b) registered business name and trading name if that is different to the registered business name; and
- (c) ACN or ABN, if applicable; and
- (d) residential address or, in the case of a body corporate, registered business address.

**5. Prescribed conditions of, or restrictions on, accreditation**

- (1) For the purposes of section 39 of the Act, any accreditation granted to a rail transport operator is subject to the following conditions and restrictions —
  - (a) if the operator is accredited under a corresponding law —
    - (i) it must advise the Rail Safety Regulator in writing immediately if its accreditation in the other State or Territory expires, or is suspended, surrendered or revoked; and
    - (ii) if it receives a prohibition notice or an improvement notice from a corresponding Rail Safety Regulator in relation to the accreditation under the corresponding law, it must

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Accreditation

**Part 2****r. 5**

immediately give the Rail Safety Regulator a copy of the notice;

- (b) the operator must pay the annual fee by the date determined by the Rail Safety Regulator that is set out in the notice of accreditation;
- (c) the operator must notify the Rail Safety Regulator in writing of any of the proposed decisions, proposed events or changes listed in column 2 of the Table in accordance with the requirement specified in column 3 of the Table with respect to that item.

**Table**

<b>Item</b>	<b>Decision, event or change</b>	<b>When notification must be given</b>
1.	A decision to design or construct, or to commission the design or construction of, rolling stock or new railway tracks.	As soon as is reasonably practicable after the decision is made.
2.	The introduction into service of rolling stock of a type not previously operated by the operator, or the re-introduction into service of rolling stock not currently operated by the operator.	At least 28 days before the date the operator intends to introduce or re-introduce the rolling stock into service.
3.	A change to a safety critical element of existing rolling stock.	At least 28 days before the date the operator intends to bring the change into operation.

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<b>Item</b>	<b>Decision, event or change</b>	<b>When notification must be given</b>
4.	A change to one or more of the classes of rail infrastructure used in the operator's accredited operations.	At least 28 days before the date the operator intends to introduce the new class of rail infrastructure into service.
5.	A change to a safety standard for the design of rail infrastructure or rolling stock.	At least 28 days before the date the operator intends to adopt the change.
6.	The decision to adopt a new safety standard for the design of rail infrastructure or rolling stock.	At least 28 days before the date the operator intends to adopt the new standard.
7.	A change to the frequency or procedures for the inspection or maintenance of railway infrastructure or rolling stock.	At least 28 days before the date the operator intends to bring the change into effect.
8.	A change to any safeworking system rule or procedure relating to the conduct of the operator's railway operations.	At least 28 days before the date the operator intends to bring the change into effect.

**Rail Safety Regulations 2011**

Accreditation

**Part 2**

r. 5

<b>Item</b>	<b>Decision, event or change</b>	<b>When notification must be given</b>
9.	A decision to introduce a new safeworking system rule or procedure relating to the conduct of the operator's railway operations.	As soon as is reasonably practicable after the decision is made.
10.	The replacement of the person nominated in the safety management system as the contact person for dealing with queries in relation to the safety management system of the operator with another person.	As soon as is reasonably practicable after it is known that the replacement will occur.

- (d) the operator must ensure that there is at all times available one of its directors or managers as a contact person should the Rail Safety Regulator wish to communicate with it, and that the Regulator is provided with sufficient details so that for any particular time the Regulator knows who the contact person is, and how to contact that person;
- (e) if it is not possible to comply with any other requirement specified in this subregulation because of an emergency, the operator must provide the required information as soon as is reasonably practicable after the decision is made or the event or the change occurs, as the case may be.
- (2) Nothing in subregulation (1) is intended to require an accredited person to notify the Rail Safety Regulator of any matter that is

**Rail Safety Regulations 2011****Part 2**                      Accreditation**r. 6**

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the subject of an application for the variation of the accreditation.

**6. Surrender of accreditation**

An accredited person may surrender its accreditation under section 45 of the Act by notifying the Rail Safety Regulator in writing not less than 28 days before the proposed date of surrender of its intention to surrender the accreditation, and of the arrangements that are proposed in relation to the cessation of its railway operations.

**7. Application for a variation of an accreditation**

For the purposes of sections 49(2)(b) and 54 of the Act, an application for a variation of an accreditation, or an application for a variation of a condition or restriction imposed by the Rail Safety Regulator, must contain —

- (a) the details required by regulation 3(a) (identification) and (b) (contact person); and
- (b) details of the scope and nature of the proposed variation; and
- (c) details of the changes that will be made to the applicant's safety management system if the proposed variation occurs; and
- (d) details of any consultation that has occurred with the parties who might be affected by the proposed variation, including —
  - (i) who was consulted; and
  - (ii) when and how the consultation occurred; and
  - (iii) the results of the consultation;and
- (e) evidence to demonstrate that the applicant has the competence and capacity to manage the risks to safety associated with the proposed variation.

**Rail Safety Regulations 2011**

Safety management

**Part 3**

Safety management systems

**Division 1****r. 8****Part 3 — Safety management****Division 1 — Safety management systems****8. Prescribed requirements for a safety management system**

A safety management system must provide for all of the matters listed in Schedule 1 that are relevant to the railway operations for which the rail transport operator is accredited, or seeking to be accredited, and must provide a level of detail with respect to each of those matters that is appropriate having regard to the scope, nature and risks to safety of those operations, and to the operator's duties under section 28 of the Act.

**Division 2 — Private sidings****9. Maintenance and operational conditions**

The following conditions are imposed for the purposes of section 58(2)(b) of the Act —

- (a) the rail infrastructure manager must have systems and procedures to ensure that it complies with the safety duties imposed on it by section 28 of the Act in relation to the private siding;
- (b) the rail infrastructure manager must have a risk register that includes the following things at a level of detail that is appropriate having regard to the scope, nature and risks to safety of the operation of the private siding, and to the manager's duties under section 28 of the Act —
  - (i) a listing of the risks to safety arising from the maintenance and operation of the private siding;
  - (ii) details of the assessment of those risks (including their likelihood, likely consequences and ranking);
  - (iii) a description of any elimination or risk control measures that are to be used to manage, so far as

**Rail Safety Regulations 2011****Part 3** Safety management**Division 3** Interface coordination plans**r. 10**

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is reasonably practicable, those risks, including, where appropriate, the identification of who is responsible for implementing the measures;

- (c) the rail infrastructure manager must have systems and procedures to ensure that the details in the register are current, so far as is reasonably practicable;
- (d) the rail infrastructure manager must have a document that provides details about how rail infrastructure within the private siding is to be maintained by it.

**Division 3 — Interface coordination plans****10. Term used: interface agreement**

In this Division —

***interface agreement*** means an agreement in relation to risks in relation to railway operations that makes provision for —

- (a) implementing and maintaining control measures that are to be used to manage those risks, and providing for the evaluation, testing and, if necessary, revision, of those control measures; and
- (b) the respective roles and responsibilities of each party to the agreement in relation to each control measure; and
- (c) the procedures by which each party will monitor and determine whether the other party complies with its obligations under the agreement; and
- (d) the exchange of information between the parties in relation to their obligations under the agreement; and
- (e) the triggers for, and the frequency of, reviews of the agreement, and if necessary, the revision of the agreement.



**Rail Safety Regulations 2011**

Safety management

**Part 3**

Security management plans

**Division 4****r. 11****11. Obligations on rail transport operators**

- (1) A rail transport operator must take the following steps to develop and implement an interface agreement for the purposes of section 63(1) of the Act —
  - (a) the railway operations to which the agreement is to apply must be identified;
  - (b) the risks to safety identified under section 63(1)(a) of the Act that may be caused by those operations must be assessed in conjunction with the other operator;
  - (c) a process must be established to seek an interface agreement with the other operator;
  - (d) the process must be undertaken and pursued until there is a written interface agreement between the rail transport operator and the other operator.
- (2) The process described in subregulation (1) must be repeated by the rail transport operator with respect to every other rail transport operator referred to in section 63(1)(a) of the Act.
- (3) A rail transport operator who has entered into an interface agreement under subregulation (1) must do everything that the operator has agreed to do under the agreement in relation to implementing, maintaining or monitoring any control measure.

**Division 4 — Security management plans****12. Security management plan**

For the purposes of section 71 of the Act, a security management plan must include —

- (a) a list of the risks arising from the matters specified in section 71(a)(i) of the Act; and
- (b) a description of the preventative and response measures to be used to manage those risks, including a description of the policies, procedures and equipment and other physical resources that it is proposed to use for those

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measures, and of the training that it is proposed to provide; and

- (c) if the rail transport operator shares a location such as a modal interchange or a port with one or more other transport operators, a description of the arrangements made with those other transport operators in relation to that location to prevent or respond to security incidents; and
- (d) procedures for the recording, reporting and analysis of security incidents; and
- (e) the allocation of security roles and responsibilities to appropriate people; and
- (f) provision for liaison, the sharing of information and for joint operations, with emergency services, and with other transport operators who may be affected by the implementation of the plan; and
- (g) provision for the evaluation, testing and, if necessary, the revision, of security measures and procedures.

**Division 5 — Emergency management plans****13. Preparation of an emergency management plan**

- (1) For the purposes of section 72(2)(b)(ii) of the Act, when preparing an emergency management plan, a rail transport operator must consult with, in addition to the people specified in section 59(2) of the Act, the following —
  - (a) any government agencies with emergency management functions with respect to the area to which the plan relates;
  - (b) any other transport operators who may be affected by the implementation of the plan;

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Safety management

**Part 3**

Emergency management plans

**Division 5****r. 14**

- 
- (c) any of the following that may be required to assist in the implementation of the plan —
- (i) an entity (whether publicly or privately owned) that provides, or intends to provide, water, sewerage, drainage, gas, electricity, telephone, telecommunication or other like services under the authority of an Act of this jurisdiction or the Commonwealth;
  - (ii) any person who, under the authority of an Act of this jurisdiction, is permitted to own or use a pipeline, or is licensed to construct or operate a pipeline;
  - (iii) any provider of public transport.
- (2) The Rail Safety Regulator may exempt a rail transport operator from the requirement to consult with any particular person or body under subregulation (1).

**14. Matters to be included in an emergency management plan**

An emergency management plan prepared under section 72 of the Act must address —

- (a) the types or classes of foreseeable emergencies; and
- (b) the consequences of each type or class of those emergencies, including estimates of the likely magnitude and severity of the effects of each type or class; and
- (c) the risks to safety arising from those emergencies; and
- (d) methods to mitigate the effects of those emergencies; and
- (e) initial response procedures for dealing with those emergencies and the provision of rescue services; and
- (f) recovery procedures for the restoration of railway operations and for the assistance of people affected by the occurrence of those emergencies; and

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- (g) the allocation of emergency management roles and responsibilities within the rail transport operator's organisation, and between the operator and other organisations; and
- (h) call-out procedures; and
- (i) the allocation of personnel for the on-site management of those emergencies; and
- (j) procedures for liaison with relevant emergency services, including information about the circumstances in which the emergency services are to be immediately contacted; and
- (k) procedures to ensure that emergency services are provided with all the information that is reasonably required to enable them to respond effectively to an emergency; and
- (l) procedures for effective communications and cooperation throughout the emergency response; and
- (m) procedures for ensuring site security and the preservation of evidence.

**15. Keeping, maintaining and testing an emergency management plan**

- (1) A rail transport operator must ensure, so far as is reasonably practicable, that all employees of the operator, and all contractors engaged by the operator, who may be required to implement any emergency response procedures in the emergency management plan —
  - (a) are provided with information about the relevant elements of the plan; and
  - (b) are able to do anything that may be required of them under the plan.

**Rail Safety Regulations 2011**

Safety management

**Part 3**

Emergency management plans

**Division 5****r. 15**

- 
- (2) The operator must test the emergency management plan, or elements of the plan, to ensure that the plan remains effective —
    - (a) at the intervals set out in the plan; and
    - (b) after any significant changes are made to the plan.
  - (3) In preparing an emergency management plan, the operator must, if it is reasonably practicable to do so, determine intervals for the purposes of subregulation (2)(a) in conjunction with the emergency services.
  - (4) When testing the emergency management plan, or elements of the plan, the operator must, so far as is reasonably practicable, arrange for participation in the testing by the relevant emergency services.
  - (5) The operator must ensure that in-house exercises to test the emergency management plan are undertaken as often as is necessary, in the opinion of the operator, to ensure that the plan will be properly implemented should an emergency arise.
  - (6) A rail transport operator must ensure that the emergency management plan is comprehensible, and is readily accessible at all times, to —
    - (a) all employees of the operator, and all contractors engaged by the operator, who may be required to implement any emergency response procedures in the plan; and
    - (b) all other rail transport operators who may be affected by the plan; and
    - (c) any person or body referred to in regulation 13(1)(c); and
    - (d) emergency services.

**Rail Safety Regulations 2011****Part 3** Safety management**Division 6** Review**r. 16**

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**Division 6 — Review****16. Review of safety management system**

- (1) A rail transport operator must comply with this regulation in conducting a review of the operator's safety management system.
- (2) In conducting the consultation required by section 59(2) of the Act before carrying out the review, the operator must ensure that those consulted are asked for their opinion on whether, and if so, how, the safety management system can be improved.
- (3) In conducting the review the operator must ensure —
  - (a) that the effectiveness of the safety management system is assessed (including an examination of the operator's records in relation to notifiable occurrences and breaches of the system); and
  - (b) that the effectiveness of any revisions that were made as a result of the last review are assessed; and
  - (c) that any recommendations or issues arising out of any audits or safety investigations that have occurred since the last review are taken into account; and
  - (d) that any issues arising from any prohibition or improvement notices that have been issued since the last review are taken into account; and
  - (e) that any deficiencies in the system are identified; and
  - (f) that methods of remedying any deficiencies are designed and assessed; and
  - (g) that any opinions provided under subregulation (2) are assessed; and
  - (h) that any other suggestions for improving the system that arise during the course of the review are assessed; and
  - (i) if any deficiencies or practicable improvements are identified, that a plan is created to remedy those

***Rail Safety Regulations 2011***

Safety management

**Part 3**

Review

**Division 6****r. 16**

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deficiencies, or to effect those improvements (as the case may be).

- (4) The outcomes of the review must be summarised and reported in the safety performance report required by section 62 of the Act.

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**Part 4 — Rail safety workers****17. Health and fitness management programme**

For the purposes of section 73 of the Act, a rail transport operator must have, and must implement, a health and fitness programme for rail safety workers that complies, so far as is reasonably practicable, with Volumes 1 and 2 of the *National Standard for Health Assessment of Rail Safety Workers*, published by the National Transport Commission, as amended from time to time.

**18. Matters to be included in alcohol and drug management programme**

For the purposes of section 74 of the Act, an alcohol and drug management programme prepared and implemented by a rail transport operator must include the following —

- (a) guidelines and provision for training for managers and supervisors as to how to deal with rail safety workers whose work is or may be affected by the use of alcohol or other drugs;
- (b) an alcohol and drug policy;
- (c) testing procedures;
- (d) training procedures.



**Rail Safety Regulations 2011**

Rail safety workers

**Part 4****r. 19****19. Fatigue management programme**

For the purposes of section 76 of the Act, a fatigue management programme prepared and implemented by a rail transport operator must —

- (a) establish and maintain documented procedures to manage, insofar as is reasonably practicable, the risks to safety identified under section 59 of the Act that are attributable to the adverse effects of fatigue arising from various factors including (but not limited to) the following —
  - (i) scheduled operations;
  - (ii) extended hours of work, including overtime, call-in and on call arrangements;
  - (iii) extended wakefulness;
  - (iv) significant physical exertion or high cognitive task demand;
  - (v) monotony, boredom or low task demand;
  - (vi) circadian effects and the effects of shift work or rostered work patterns;and
- (b) provide rail safety workers with appropriate training in relation to the identification and management of fatigue that is relevant to the rail safety work being undertaken by those rail safety workers.

**20. Records of competence**

For the purposes of section 77(5) of the Act, a rail transport operator must maintain records of competence that include details of —

- (a) the rail safety training undertaken by each rail safety worker, including when, and for how long, the training was undertaken; and

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- (b) the qualifications of each rail safety worker, including, if applicable —
  - (i) the units of competence undertaken to achieve the qualification; and
  - (ii) the level of qualification attained; and
  - (iii) if and when a re-assessment of competence is to be conducted; and
  - (iv) if and when re-training is due; and
  - (v) the date any re-training was undertaken;and
- (c) the name of the organisation conducting the training or re-training; and
- (d) the name and qualifications of the person who assessed the competence of the rail safety worker.

**Rail Safety Regulations 2011**

Investigation powers

**Part 5****r. 21****Part 5 — Investigation powers****21. Terms used**

In this Part —

**analyst** has the meaning given in the *Road Traffic Act 1974* section 65;

**authorised breath tester** means a person certified by the chief executive officer of the Chemistry Centre (WA) as being competent to operate breath analysing equipment;

**authorised person** has the meaning given in section 154(1) of the Act;

**breath analysis** means an analysis of breath by breath analysing equipment under regulation 24(1);

**breath analysing equipment** means equipment of a specified kind approved under regulation 23;

**drugs analyst** has the meaning given in the *Road Traffic Act 1974* section 65;

**medical practitioner** means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

**nurse** means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing and midwifery profession whose name is entered on the Register of Nurses kept under that Law;

**prescribed drug** means a drug prescribed under regulation 22.

**22. Prescribed drugs**

For the purposes of section 154(3) of the Act, each of the following drugs is prescribed —

- (a) tetrahydrocannabinol;
- (b) methylamphetamine;

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- (c) 3, 4-methylenedioxy-n,  
alpha-dimethylphenylethylamine (MDMA).

**23. Approval of breath analysing equipment**

The Minister may approve an apparatus of a specified kind as breath analysing equipment for the purposes of these regulations.

**24. Breath test**

- (1) If a person is directed to submit to a breath test under section 154(2)(c) of the Act, the test is to be conducted by an authorised breath tester using breath analysing equipment.
- (2) If a person has submitted to a breath analysis, the person operating the breath analysing equipment must —
  - (a) immediately give the person a written notice setting out the date, time and result of the breath analysis; and
  - (b) if an independent investigator is or has been appointed to investigate the rail safety matter that gave rise to the direction to submit to the test, give the investigator a copy of the written notice.

**25. Taking blood or urine sample**

- (1) If a person is directed to give a sample of blood or urine for analysis under section 154(2)(d) of the Act, the sample is to be taken by a medical practitioner or a nurse.
- (2) A blood or urine sample taken by a medical practitioner or nurse under this regulation is to be taken in the presence of an authorised person.

**Rail Safety Regulations 2011**

## Investigation powers

**Part 5****r. 26****26. Procedures relating to blood or urine tests**

- (1) A medical practitioner or nurse who takes a blood or urine sample under regulation 25 must place it, in approximately equal proportions, in 2 separate containers and —
  - (a) must make available to an authorised person —
    - (i) one of the containers marked with an identification number distinguishing the sample from other samples taken under these regulations; and
    - (ii) a certificate signed by the medical practitioner or nurse containing the information required under subregulation (3);and
  - (b) must cause the other container to be delivered to, or retained on behalf of, the person from whom the sample was taken.
- (2) A medical practitioner or nurse who takes a sample under regulation 25 must take such measures as are reasonably practicable in the circumstances to ensure that a sample of blood or urine taken under these regulations is not adulterated and does not deteriorate so as to prevent a proper assessment of the concentration of alcohol or of the existence of a prescribed drug in the blood or urine.
- (3) The certificate referred to in subregulation (1)(a) must be signed by the medical practitioner or nurse who took the sample and contain the following information —
  - (a) the identification number of the sample marked on the container referred to in subregulation (1)(a);
  - (b) the name and address of the person from whom the sample was taken;
  - (c) the name of the medical practitioner or nurse who took the sample;

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- (d) the date, time and place at which the sample was taken.
- (4) An authorised person may arrange for a portion of a sample of a person's blood or urine provided under subregulation (1)(a) to be submitted for analysis by either or both of the following —
- (a) an analyst to determine the concentration of alcohol in the blood;
  - (b) a drugs analyst to determine whether the blood or urine contains a prescribed drug.
- (5) After analysing the sample, the analyst or drugs analyst, as the case may be, must sign a certificate containing the following information —
- (a) the identification number of the sample marked on the container;
  - (b) the name and professional qualifications of the analyst or drugs analyst;
  - (c) the date the sample was received in the laboratory in which the analysis was performed;
  - (d) the concentration of alcohol, or the prescribed drug, found to be present in the sample;
  - (e) any factors relating to the sample or the analysis that might, in the opinion of the analyst or drugs analyst, adversely affect the accuracy or validity of the analysis;
  - (f) any other information relating to the sample or analysis that the analyst or drugs analyst thinks fit to include.
- (6) After a sample is analysed, the certificate of the medical practitioner or nurse by whom the sample was taken and the certificate of the analyst or drugs analyst who performed or supervised the analysis must be sent to the Rail Safety Regulator or retained on behalf of the Rail Safety Regulator and copies of the certificates must be sent by the analyst or drugs analyst to the person from whom the sample was taken.

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- (7) If copies of the certificates are not to be sent under subregulation (6) because the whereabouts of the person from whom the sample was taken is unknown, copies of the certificates must be provided by the Rail Safety Regulator on application made within 3 years of the date of the analysis by that person or a relative (including a de facto partner) or personal representative of that person.

**27. Destruction of sample**

A sample referred to in regulation 26(1)(a)(i) that is not destroyed in the course of analysis may be destroyed by or at the direction of a drug analyst not less than 6 months after the day on which it was taken.

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**Part 6 — Miscellaneous****28. Prescribed concentration of alcohol in blood of rail safety worker: section 28(3)(c)(i)**

For the purposes of section 28(3)(c)(i) of the Act, the concentration prescribed is 0.02% of alcohol.

**29. Periodic returns**

- (1) Returns made under section 44 of the Act are to be lodged monthly, as soon as practicable after the end of each month and not later than the 21st day of the following month.
- (2) A monthly return is to contain —
  - (a) the number of notifiable occurrences which happened in that month; and
  - (b) the number of tests designed to determine the concentration of alcohol or drugs in a sample of blood or urine conducted in that month; and
  - (c) the number of times on which rail safety workers required to undergo those tests returned a result to a test that suggests that the worker was in breach of a relevant safety requirement concerning the use of alcohol or drugs at a relevant time.
- (3) A monthly return is to be made in such form as the Rail Safety Regulator may approve.
- (4) A monthly return is to be verified by the signature of the person making the return or by the common seal of a corporation making a monthly return being affixed to the return.

**30. Prescribed public road: section 64(a)(i)**

For the purposes of section 64(a)(i) of the Act, the following public roads are prescribed —

- (a) the Mitchell Freeway;



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- (b) the Kwinana Freeway between its northern extremity and its intersection with Thomas Road, Bertram.

**31. Periodic information to be supplied**

- (1) In this regulation —

*financial year* means the period of 12 months ending at midnight on 30 June.

- (2) Under section 81(1)(c) of the Act the following information is prescribed —

- (a) a monthly return that sets out in respect of the month —

- (i) in the case of a rail infrastructure manager, the length, in kilometres, of track in this jurisdiction over which it has effective management and control; and

- (ii) in the case of a rolling stock operator —

- (I) the number of kilometres travelled in this jurisdiction by passenger trains over which it has effective management and control; and
- (II) the number of kilometres travelled in this jurisdiction by freight trains over which it has effective management and control; and
- (III) the number of journeys (either estimated or actual) made by passengers in urban areas of this jurisdiction on passenger trains over which it has effective management and control; and
- (IV) the number of journeys (either estimated or actual) made by passengers in non-urban areas of this jurisdiction on passenger trains over which it has effective management and control;

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- (b) an annual return that sets out, in respect of the current financial year —
    - (i) in the case of a rail infrastructure manager, the length, in kilometres, of track in this jurisdiction over which it estimates that it will have effective management and control; and
    - (ii) in the case of a rolling stock operator —
      - (I) the number of kilometres that it estimates will be travelled in this jurisdiction by passenger trains over which it has effective management and control; and
      - (II) the number of kilometres that it estimates will be travelled in this jurisdiction by freight trains over which it has effective management and control; and
      - (III) the number of journeys that it estimates will be made by passengers in urban areas of this jurisdiction on passenger trains over which it has effective management and control; and
      - (IV) the number of journeys that it estimates will be made by passengers in non-urban areas of this jurisdiction on passenger trains over which it has effective management and control;
- and
- (iii) the number of employees that the rail transport operator estimates will be engaged in railway safety work on, or in relation to, a railway within, or partly within, this jurisdiction.
- (3) The rail transport operator must provide the monthly return required by subregulation (2)(a) to the Rail Safety Regulator as

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soon as is practicable after the end of each month, and not later than the 21st day of the following month.

- (4) The rail transport operator must provide the annual return required by subregulation (2)(b) to the Rail Safety Regulator before 29 July in the financial year to which it relates, or before any other date or period that is specified by the Regulator.

**32. Reporting of notifiable occurrences**

- (1) In this regulation —

**Category A notifiable occurrence** means any of the following notifiable occurrences —

- (a) an accident or incident that causes death, serious injury or significant property damage;
- (b) a running line derailment;
- (c) a running line collision between rolling stock;
- (d) a collision at a road or pedestrian level crossing between rolling stock and either a road vehicle or a person;
- (e) a fire or explosion on or in rail infrastructure or rolling stock that affects the safety of railway operations or that endangers one or more people;
- (f) a suspected terrorist attack or threat of attack;
- (g) any accident or incident involving a significant failure of a safety management system that could cause death, serious injury or significant property damage;
- (h) any other accident or incident that is likely to generate intense public interest or concern;

**Category B notifiable occurrence** means any of the following notifiable occurrences, unless that occurrence is also a Category A notifiable occurrence —

- (a) a derailment other than a running line derailment;

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- (b) any collision involving rolling stock, other than a collision described in paragraph (c) or (d) of the definition of *Category A notifiable occurrence*;
- (c) any incident at a road or pedestrian level crossing, other than a collision described in paragraph (d) of the definition of *Category A notifiable occurrence*;
- (d) the passing of a stop signal, or a signal with no indication, by rolling stock without authority;
- (e) any accident or incident where rolling stock exceeds the limits of authorised movement given in a proceed authority;
- (f) any failure of a signalling or communications system that endangers, or that has the potential to endanger, the safe operation of trains or the safety of people, or to cause damage to adjoining property;
- (g) any rolling stock run-away;
- (h) any slip, trip or fall by a person on railway property, or any person being caught in the door of any rolling stock;
- (i) any situation where a load affects, or could affect, the safe passage of trains or the safety of people, or cause damage to adjoining property;
- (j) any accident or incident involving dangerous goods that affects, or could affect, the safety of railway operations or the safety of people, or cause damage to property;
- (k) any breach of a safe working system or procedure;
- (l) the detection of any irregularity in any rail infrastructure (including electrical infrastructure) that could affect the safety of railway operations or the safety of people;
- (m) the detection of any irregularity in any rolling stock that could affect train integrity or the safety of people, or cause damage to the rolling stock;
- (n) any fire or explosion that causes damage to rail infrastructure or rolling stock, or both, or that causes the

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- disruption or closure of a railway (even if the closure is only a precautionary measure);
- (o) any incident on railway property where a person inflicts, or is alleged to have inflicted, an injury on another person;
  - (p) a suspected attempt to suicide;
  - (q) the notification that a rail safety worker has returned a result to a test designed to determine the concentration of alcohol or drugs in a sample of blood or urine that suggests that the worker was in breach of a relevant safety requirement concerning the use of alcohol or drugs at a relevant time;
  - (r) the infliction of any wilful or unlawful damage to, or the defacement of, any rail infrastructure or rolling stock that could affect the safety of railway operations or the safety of people;
  - (s) a corridor security incident that affects the safety of railway operations.
- (2) If a Category A notifiable occurrence happens on, or in relation to, a rail transport operator's railway premises or railway operations, the operator —
- (a) must report that fact to the Rail Safety Regulator immediately after becoming aware of the occurrence; and
  - (b) must give the Rail Safety Regulator a written report of the occurrence within 72 hours after becoming aware of the occurrence.
- (3) If a Category B notifiable occurrence happens on, or in relation to, a rail transport operator's railway premises or railway operations, the operator must give the Rail Safety Regulator a written report of the occurrence within 72 hours after becoming aware of the occurrence.

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- (4) The operator must ensure that any report it makes under this regulation is in the form, contains all the information, and is made in the manner, required by the Rail Safety Regulator.
- (5) The Rail Safety Regulator may extend any time limit specified in this regulation by giving the operator a written notice to that effect.
- (6) An extension granted under subregulation (5) has effect as specified in the notice.

**33. Documents to be made available for public inspection**

For the purposes of section 48(c) of the Act, each annual safety performance report prepared under section 62 of the Act is prescribed.

**34. Embargo notices**

For the purposes of section 101 of the Act, an embargo notice must contain the following details in addition to the matters required by section 101(4) of the Act —

- (a) a description of the thing to which the notice applies;
- (b) either the name of the person on whom the notice is to be served or a statement that the notice is to be affixed to the thing;
- (c) the name, signature and business telephone number of the rail safety officer who issued the notice;
- (d) the date on which the notice was served or affixed.

**35. Act not to apply in certain cases**

Under section 5(1) of the Act, the following railways are railways to which the provisions of the Act do not apply —

- (a) a railway used solely by horse-drawn trams;
- (b) a railway used solely for a static display;
- (c) a railway used solely for a fairground amusement.

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**r. 36**

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**36. Service of documents or notice**

- (1) Without limiting the *Interpretation Act 1984* sections 75 and 76, a notice or other document under the Act or these regulations may be served on a person —
  - (a) by facsimile transmission to a facsimile number provided by the person; or
  - (b) by email to an email address provided by the person.
- (2) If a notice or other document is served by facsimile transmission or email, the notice or other document is to be taken to have been served at the time it was sent by the person serving the notice or document.

**Rail Safety Regulations 2011****Part 7 Fees****r. 37**

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**Part 7 — Fees****37. Annual fees for private sidings**

A rail infrastructure manager must pay the fee set out in item 1 of the Table in Schedule 2 for any private siding that the rail infrastructure manager registers with the Rail Safety Regulator under section 58(2)(a) of the Act.

**38. Application fees**

A rail transport operator must pay the relevant fee set out in item 2 of the Table in Schedule 2.

**39. Annual fees**

A rail transport operator must pay the relevant annual fee set out in item 3, 4, 5, 6 or 7 of the Table in Schedule 2 by the date determined by the Rail Safety Regulator that is set out in the notice of accreditation.

**40. Late fees**

If an annual fee, or a part of a fee, is not paid when due, the Rail Safety Regulator may impose a late payment fee of an amount equal to 15% of the outstanding amount of the fee.

**41. Reduction, waiver or refund of fees**

The Rail Safety Regulator may reduce, waive or refund, in whole or part, any fee provided for by these regulations.



**Rail Safety Regulations 2011**Content of the safety management system **Schedule 1****cl. 1****Schedule 1 — Content of the safety management system**

[r. 8]

**1. Safety policy**

- (1) A safety policy or policies that aligns or align with other organisational policies and that is, or that are, endorsed by the CEO and Board (or any other person or body controlling the rail transport operator).
- (2) A safety policy or policies that includes or include an express commitment to safety, the development and maintenance of a positive safety culture and the continuous improvement of all aspects of the safety management system.

**2. Safety culture**

Systems and procedures to enable and enhance the development, improvement and assessment of a positive safety culture.

**3. Governance and internal control arrangements**

- (1) Systems and procedures to ensure that the CEO and Board (or any other person or body controlling the rail transport operator), or the people managing the railway operations, have sufficient knowledge —
  - (a) of the risk profile of the railway operations carried out by the rail transport operator to enable the rail transport operator to proactively manage the risks arising from those operations; and
  - (b) of the level of compliance by the organisation with its duties and obligations under the Act and these regulations; and
  - (c) to determine whether —
    - (i) the safety management system is working effectively; and
    - (ii) risks to safety are being identified, assessed and managed so far as is reasonably practicable; and
    - (iii) controls used to monitor safety and to manage risks to safety are being regularly reviewed and revised.

**Rail Safety Regulations 2011****Schedule 1** Content of the safety management system**cl. 4**

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- (2) Systems and procedures to ensure that decisions and directions made by the CEO and Board (or any other person or body controlling the rail transport operator), or of the people managing the railway operations, that affect safety are being implemented effectively.

**4. Management, responsibilities, accountabilities and authorities**

- (1) Policies that indicate how safety responsibilities, accountabilities, authorities and interrelationships have been determined.
- (2) Documents that describe the responsibilities, accountabilities, authorities and interrelation of the personnel who manage or carry out rail safety work or who verify such work.
- (3) Procedures for the reporting of risks to safety by personnel with safety responsibilities.
- (4) Documents that describe the authorities given to personnel with safety responsibilities to enable them to meet those responsibilities.

**5. Regulatory compliance**

- (1) Systems and procedures for the identification of safety requirements under the Act and other safety legislation.
- (2) Systems and procedures to ensure compliance with those requirements.

**6. Document control arrangements and information management**

Systems and procedures to control and manage all documents and information relevant to the management of risks to safety associated with railway operations, including systems and procedures for —

- (a) the identification, creation, maintenance, management, storage and retention of records and documents; and
- (b) ensuring the currency of documents required for operations; and
- (c) the communication of any changes to the document control systems and procedures to rail safety workers and employees of the rail transport operator who rely on those systems and procedures to carry out their work.

**Rail Safety Regulations 2011**Content of the safety management system **Schedule 1****cl. 7**

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- 7. Review of the safety management system**
- (1) Systems and procedures for the review of the safety management system in accordance with section 61 of the Act and regulation 16.
  - (2) Documentation of the matters set out in regulation 16(3).
- 8. Safety performance measures**
- (1) Systems and procedures to ensure that the safety management system is effective by using key performance indicators to measure safety performance and to determine the effectiveness of the safety management system.
  - (2) Systems and procedures to ensure the collection, analysis, assessment and dissemination of safety information held by the rail transport operator.
- 9. Safety audit arrangements**
- (1) An audit programme that provides for —
    - (a) the scheduling and frequency of audits; and
    - (b) safety management system audits as part of the audit programme; and
    - (c) the giving of priority to those matters that represent the greatest safety risk.
  - (2) Documented audit procedures to ensure there is a process for the collection of information to determine whether the railway operations comply with the safety management system and to determine the effectiveness of the safety management system.
  - (3) Procedures to ensure that auditors —
    - (a) have the skills and knowledge to undertake audits; and
    - (b) are independent from the area being audited to the maximum extent that is practicable.
  - (4) Procedures for —
    - (a) communicating the results of audits to those people who are responsible for the oversight of the railway operations in the

**Rail Safety Regulations 2011****Schedule 1** Content of the safety management system**cl. 10**

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area audited for review and, where appropriate, for corrective action; and

- (b) where appropriate, the registration and effective implementation of recommendations for action identified by the audit; and
- (c) the review of the effectiveness of the audit programme.

**10. Corrective action**

- (1) Procedures to ensure, so far as is reasonably practicable, that corrective action is taken in response to any safety deficiencies identified following inspections, testing, audits, investigations or notifiable occurrences.
- (2) Procedures for —
  - (a) registering any corrective actions taken; and
  - (b) the review of those corrective actions; and
  - (c) the implementation of corrective action if it is determined that corrective action is required; and
  - (d) the assigning of responsibilities for corrective action.
- (3) Procedures for giving priority, when undertaking corrective action, to those matters representing the greatest safety risk.

**11. Management of change**

Procedures for ensuring that changes that may affect the safety of railway operations are identified and managed, including, but not limited to, procedures for ensuring, so far as is reasonably practicable —

- (a) that changes are fully identified and described in the context of the railway operations; and
- (b) that affected parties are identified and, if practicable, consulted; and
- (c) that the roles and responsibilities of rail safety workers and employees of the rail transport operator are clearly specified with respect to the change; and

**Rail Safety Regulations 2011**Content of the safety management system **Schedule 1****cl. 12**

- (d) that the rail safety workers and employees of the rail transport operator are fully informed and trained to understand and deal with the proposed change; and
- (e) that the requirements of section 59(1)(c) and (d) of the Act are observed in relation to any risks associated with the proposed change; and
- (f) that the change, once implemented, is reviewed and assessed by the rail transport operator to determine whether or not the change has been appropriately managed.

**12. Consultation**

Systems and procedures to ensure that the consultation required by section 59(2) of the Act occurs when the safety management system is reviewed or varied.

**13. Internal Communication**

Systems and procedures —

- (a) for the dissemination of information about the content of the safety management system to people who are to participate in the implementation of the system or who may be otherwise affected by the implementation; and
- (b) for the communication of the rail transport operator's safety policy and safety objectives to all people who are to participate in the implementation of the safety management system; and
- (c) for the internal reporting of accidents and incidents involving the operator's railway operations, including accidents and incidents involving contractors and sub-contractors; and
- (d) to support communication and the dissemination of information throughout, and between all levels of, the operator's railway operations.

**14. Risk management**

- (1) Systems and procedures for compliance with the risk management obligations set out in sections 6 and 59(1)(c), (d) and (e) of the Act.

**Rail Safety Regulations 2011****Schedule 1** Content of the safety management system**cl. 15**

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- (2) A risk register that includes —
- (a) a listing of the risks to safety identified under section 59(1)(c) of the Act; and
  - (b) details of the assessment of those risks (including their likelihood, likely consequences and ranking); and
  - (c) a description of any elimination or risk control measures that are to be used to manage, so far as is reasonably practicable, those risks, including, where appropriate —
    - (i) the identification of who is responsible for implementing the measures; and
    - (ii) a reference to the general location or locations in the safety management system where more details on the measures can be found.
- (3) Systems and procedures to ensure that the details in the register are current, so far as is reasonably practicable.

**15. Human factors**

Procedures to ensure that human factor matters are taken into account during the development, operation and maintenance of the safety management system and for the integration of human factors, principles and knowledge into all relevant aspects of operational and business systems.

**16. Procurement and contract management**

Systems and procedures —

- (a) for the review of tender documents and contracts to ensure that safety requirements under the safety management system are adequately defined and documented in those tender documents and contracts; and
- (b) to ensure that the terms of any tender documents or contracts do not lead to unsafe work or an activity that may affect the safety of railway operations; and
- (c) for the selection and control of contractors and to ensure the monitoring of the performance of contractors, including conducting or commissioning audits of the contractor's

**Rail Safety Regulations 2011**Content of the safety management system **Schedule 1****cl. 17**

performance in relation to the safety aspects of the contract;  
and

- (d) to ensure that safety duties under the Act are being met under contracts and procedures for the taking of remedial action where necessary; and
- (e) to ensure that goods and services provided to the railway operation meet the standards and specifications required for the safety of the railway operation.

**17. General engineering and operational systems safety requirements**

- (1) A documented set of engineering standards and procedures, and operational systems, safety standards and procedures, to cover the following, and, if relevant, the interface between any 2 or more of them —
  - (a) rail infrastructure;
  - (b) rolling stock;
  - (c) operational systems.
- (2) Details of the implementation and updating of the documents specified in clause 1.
- (3) Procedures for the control and verification of the design of structures, rolling stock, equipment and systems, in accordance with the engineering standards and procedures and operational systems safety standards specified in clause 1.
- (4) Systems, procedures and standards for the following in relation to rail infrastructure and rolling stock —
  - (a) engineering design;
  - (b) construction and installation;
  - (c) implementation and commissioning;
  - (d) monitoring and maintenance;
  - (e) system operation;
  - (f) modification;
  - (g) decommissioning or disposal.

**Rail Safety Regulations 2011****Schedule 1** Content of the safety management system**cl. 18**

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**18. Process control**

- (1) Procedures for the rail transport operator to monitor its compliance with the standards and procedures specified in clause 17, including procedures for the inspection and testing of safety related engineering and operational systems.
- (2) Procedures for the control, calibration and maintenance of all equipment used to inspect or test rail infrastructure or rolling stock.
- (3) Arrangements for the establishment and maintenance of inspection and test records to provide evidence of the condition of rail infrastructure or rolling stock.

**19. Asset management**

An asset management policy and processes that address all phases of the asset lifecycle of the rail infrastructure or rolling stock operations.

**20. Safety interface coordination**

- (1) Procedures for the identification of interface risks to the safety of railway operations and for the development and implementation of interface coordination plans in accordance with sections 63, 64 and 65 of the Act and regulations 10 and 11.
- (2) Procedures for monitoring the implementation and effectiveness of interface coordination plans and compliance with interface agreements.

**21. Management of notifiable occurrences**

- (1) Systems and procedures for the reporting of notifiable occurrences in accordance with regulation 32.
- (2) Procedures for the management of the scene of a notifiable occurrence and for the preservation of evidence where reasonably practicable.
- (3) Procedures for the management of all notifiable occurrences, including procedures to enable the determination of which notifiable occurrences are to be investigated and how investigations are to be conducted.



**Rail Safety Regulations 2011**Content of the safety management system **Schedule 1****cl. 22****22. Rail safety worker competence**

Procedures, and where necessary standards, to ensure compliance with section 77 of the Act and with regulation 20.

**23. Security management**

- (1) The security management plan required by section 71 of the Act.
- (2) Systems and procedures to ensure compliance with section 71 and regulation 12.

**24. Emergency management**

- (1) The emergency management plan required by section 72 of the Act.
- (2) Systems and procedures to ensure compliance with section 72 and Part 4 Division 4 of the Act.

**25. Fatigue**

Systems and procedures to ensure compliance with section 76 of the Act and regulation 19.

**26. Drugs and alcohol**

Systems and procedures to ensure compliance with sections 74 and 75 of the Act and with regulation 18 and Part 5.

**27. Health and fitness**

Systems and procedures to ensure compliance with section 73 of the Act and with regulation 17.

**28. Resource availability**

Systems and procedures for the following —

- (a) estimating the resources, including people and equipment, that the rail transport operator will need to operate and maintain its railway operations;
- (b) implementing, managing and maintaining the safety management system of the operator;

***Rail Safety Regulations 2011*****Schedule 1** Content of the safety management system**cl. 28**

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- (c) preparing plans to ensure that the operator has adequate access to the resources referred to in paragraph (a).

**Rail Safety Regulations 2011**Fees **Schedule 2****Schedule 2 — Fees**

[Pt. 7]

**Table**

<b>Type of fee</b>	<b>Provision of Act</b>	<b>Regulation</b>	<b>Fee \$</b>
1. Annual private siding registration fee, per siding	s. 58(2)(a)	r. 37	106.59
2. Application for accreditation for —	s. 34(2)(e)	r. 38	
(a) a commercial enterprise			8 153.25
(b) a heritage, not-for-profit organisation —			
(i) with trains travelling more than 15 000 km per annum			1 279.11
(ii) with trains travelling 15 000 km or less per annum			532.96
3. Annual fee for a rail infrastructure manager (per kilometre of track or part thereof) with the minimum fee prescribed in item 7	s. 41(1)	r. 39	51.2103
4. Annual fee for a rolling stock operator (per train/tram kilometre) with the minimum fee prescribed in item 7	s. 41(1)	r. 39	0.0315
5. Additional annual fee for a rail infrastructure manager if an accreditation is varied (per kilometre of track or part thereof)	s. 41(3)	r. 39	51.2103

**Rail Safety Regulations 2011**  
**Schedule 2 Fees**

<b>Type of fee</b>	<b>Provision of Act</b>	<b>Regulation</b>	<b>Fee \$</b>
6. Additional annual fee for a rolling stock operator if an accreditation is varied (per train/tram kilometre)	s. 41(3)	r. 39	0.0315
7. Minimum annual fee for a —	s. 41(1)	r. 39	
(a) commercial enterprise			8 153.25
(b) heritage, non-profit organisation —			
(i) with trains travelling more than 15 000 km per annum			1 279.11
(ii) with trains travelling 15 000 km or less per annum			532.96

By Command of the Governor,

G. MOORE, Clerk of the Executive Council.