

Transport Legislation Amendment (Safety and Reliability) Bill 2003

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to constitute the Independent Transport Safety and Reliability Regulator the *ITSRR*) and the Independent Transport Safety and Reliability Advisory Board (the *Board*),
- (b) to confer on the ITSRR the function of accrediting railway operators in this State, and functions relating to the inspection, monitoring and auditing of the safety and reliability of public train, bus and ferry services,
- (c) to confer on the ITSRR the functions of reporting to and advising the Minister as to the safety and reliability of public train, bus and ferry services,
- (d) to remove requirements for licensing of ferries and masters of ferries under the *Passenger Transport Act 1990*, as they are also licensed under marine legislation,
- (e) to confer on the ITSRR and the Chairperson of the Board the function of holding inquiries into rail, bus and ferry accidents and incidents and reporting on those inquiries,
- (f) to require operators of buses and ferries to have and to implement safety management systems,
- (g) to make provision with respect to the safety of public ferry wharves,
- (h) to make other consequential amendments and law revision amendments,
- (i) to make provision for consequential savings and transitional matters.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation, with certain exceptions.

Clause 3 is a formal provision that gives effect to the amendments to the Acts set out in Schedules 1–9.

Clause 4 repeals the *Transport Administration Amendment (Rail Management) Act 2000* which contains uncommenced provisions relating to the Rail Regulator.

Schedule 1 Amendment of Transport Administration Act 1988 No 109

Schedule 1 [10] inserts proposed Part 4A (Independent Transport Safety and Reliability Regulator) containing the following provisions:

Division 1 Interpretation

Proposed section 42A defines expressions used in the proposed Part.

Division 2 Constitution of Independent Transport Safety and Reliability Regulator

Proposed section 42B constitutes the Independent Transport Safety and Reliability Regulator as a statutory corporation.

Division 3 Charter of Independent Transport Safety and Reliability Regulator

Proposed section 42C provides that the principal objective of the ITSRR is to facilitate the safe operation of transport services in the State. Its other objectives re to exhibit independence, rigour and excellence in carrying out its regulatory and investigative functions and to promote safety and reliability as fundamental objectives in the delivery of transport services. Proposed section 42D sets out the principal functions of the ITSRR. They include providing strategic co-ordination of safety regulation by transport authorities, reviewing and evaluating matters related to the safe operation of transport services and the reliability of Government funded transport services and the functions of transport authorities in that respect, advising the Minister on their safety or reliability, accrediting railway operators, investigating and reporting on public transport accidents and incidents and disseminating information to the public. Proposed section 42E sets out the matters about which the ITSRR is to advise the Minister, including the performance of transport authorities in connection with the safe operation of transport services and the reliability of Government funded transport services. The ITSRR is also to monitor the performance of transport

authorities and the performance of owners and operators of transport services in those respects. Proposed section 42F enables the ITSRR to conduct audits of the compliance of transport authorities and owners and operators of transport services with applicable requirements, on a periodic or other basis. Proposed section 42G requires the ITSRR to report annually to the Minister on the performance of transport authorities and owners and operators of transport services in connection with the safety and reliability of transport services. Proposed section 42H requires the ITSRR to refer certain reports to the Board for consultation and advice before publishing them or giving them to the Minister. Proposed section 42I enables the ITSRR to give directions to the Director-General of the Ministry of Transport (the **Director-General**) and the Waterways Authority relating to the safe operation of transport services and associated matters. The Director-General or Authority may request the ITSRR to review the decision if of the opinion that compliance with the direction may cause a significant variation in the funding requirements for the Ministry of Transport or the Authority. The ITSRR must estimate the variation it may cause and may not confirm the direction unless it has referred it to the Minister and the Minister, after consultation with the Treasurer, approves the direction. Proposed section 42J imposes a duty on the board and chief executive officer of a transport authority and an owner or operator of a transport service to co-operate with the ITSRR in exercising their functions, to notify the ITSRR of matters that could reasonably be expected to affect the exercise of the ITSRR's functions, to provide certain information and to comply with any direction given under proposed section 42I. Proposed section 42K enables the ITSRR to determine certain disputes between parties to a rail access agreement. Proposed section 42L enables the ITSRR, if it thinks it necessary for the safe operation of a transport service, to disclose information acquired in the performance of its functions under the Principal Act or any other Act to any other person. The ITSRR may also publish information to promote the safe operation of transport services.

Division 4 Management of Independent Transport Safety and Reliability Regulator

Proposed section 42M provides for the appointment of the Chief Executive of the ITSRR by the Governor on the recommendation of the Minister.

Proposed section 42N confers on the Chief Executive the function of managing and controlling the affairs of the ITSRR.

Proposed section 42O enables the Minister to appoint an acting Chief Executive in the illness or absence of the Chief Executive.

Proposed section 42P provides that the ITSRR is subject to the direction and control of the Minister, with certain exceptions. The exceptions include exercising functions relating to the accreditation of railway operators, decisions to take or not to take enforcement action, rail safety inquiries or transport safety inquiries, the outcome of any monitoring or auditing relating to the safety or reliability of transport services, the contents of reports and recommendations and giving directions to the Director-General or the Waterways Authority.

Proposed section 42Q enables the ITSRR to delegate functions.

Division 5 Office of Transport Safety Investigations and Chief Investigator

Proposed section 42R provides for the ITSRR to have a division called the Office of Transport Safety Investigations. Proposed section 42S makes the Chief Investigator the head of the Office of Transport Safety Investigations, and provides for the appointment of the Chief Investigator. The Chief Investigator is not subject to the direction and control of the ITSRR in respect of functions relating to a rail safety inquiry, a transport safety inquiry or any function delegated to the Chief Investigator by the Chairperson.

Division 6 Independent Transport Safety and Reliability Advisory Board

Proposed section 42T establishes the Independent Transport Safety and Reliability Advisory Board, which is to consist of 3 members appointed by the Minister, a Chairperson appointed by the Governor and the Chief Executive of the ITSRR.

Proposed section 42U sets out the general functions of the Board, including advising the ITSRR and the Minister.

Proposed section 42V sets out the functions of the Chairperson of the Board, and enables the Chairperson to use staff and facilities of the ITSRR to conduct rail safety inquiries or transport safety inquiries and to delegate functions.

Division 7 Review

Proposed section 42W provides for a review of the amendments made by the proposed Act 12 months after the date of assent.

Schedule 1 [1] and [5] make amendments consequential on the constitution of the ITSRR.

Schedule 1 [3], [7], [18] and [23] update references to the former Department of Transport.

Schedule 1 [6], [13], [19]–[22], [24], [35]–[37] and [40] update outdated statutory references.

Schedule 1 [9] omits a provision as a consequence of the conferral on the ITSRR of functions relating to the accreditation of rail operators. **Schedule 1 [8], [16] and [17]** also make consequential amendments.

Schedule 1 [11] abolishes the advisory bodies the Public Transport Authority of New South Wales and the Public Transport Advisory Council. It also inserts proposed Part 5 (Transport Advisory Group) containing the following provisions:

Proposed section 43 constitutes the Transport Advisory Group which is to be chaired by the Chairperson of the Board and to consist of the Chairperson, representatives of the Independent Pricing and Regulatory Tribunal and the Director-General and 4 other members appointed by the Minister who are to be representatives of public transport stakeholders.

Proposed section 44 confers on the Transport Advisory Group the function of advising the Board on the community expectations of the reliability of public transport services in this State. **Schedule 1 [2], [4] and [30]** make consequential amendments.

Schedule 1 [12] makes an amendment consequential on **Schedule 1 [14]**.

Schedule 1 [14] inserts proposed Division 3A of Part 7 into the Principal Act. The proposed Division inserts the following provisions relating to staff of the ITSRR:

Proposed section 65A contains a definition.

Proposed section 65B enables the ITSRR to employ such staff as it requires to exercise its functions.

Proposed section 65C enables the ITSRR to fix the salary, wages and conditions of employment of its staff.

Proposed section 65D enables regulations to be made with respect to the employment of staff of the ITSRR.

Proposed section 65E applies provisions relating to use of staff and facilities of government authorities, consultants and extended leave to staff of the ITSRR.

Schedule 1 [15] enables the ITSRR to require the State Transit Authority to report on any bus or ferry accident and to send the ITSRR copies of reports of any formal inquiry of the State Transit Authority into a bus or ferry accident.

Schedule 1 [25] and [26] apply miscellaneous provisions relating to the use of seals, contracts, disputes, personal liability of officers, board members and other persons and other matters to the ITSRR.

Schedule 1 [27] excludes disputes between the ITSRR and other transport authorities about matters in respect of which the ITSRR is not subject to the direction or control of the Minister from being determined by the Minister.

Schedule 1 [28]–[30] extend protection from personal liability in the exercise of functions to acts or omissions done or omitted by the Chief Executive of the ITSRR, the Chairperson of the Board and a person acting under their direction.

Schedule 1 [31] omits an unnecessary reference to the constitution of a Local Court.

Schedule 1 [32] inserts proposed Schedule 2A which contains provisions relating to the appointment, terms of office, remuneration and vacation of office of members of the Board as well as provisions relating to the procedure of and transaction of business by the Board.

Schedule 1 [33] and [34] make amendments consequential on **Schedule 1 [9]**.

Schedule 1 [39] applies provisions relating to the effect of the transfer of assets, rights and liabilities to a transfer, by order of the Minister, to the ITSRR of assets, rights and liabilities of the Transport Administration Corporation or in respect of a contract or arrangement entered into by the

Director-General.

Schedule 1 [38] and [41] make consequential amendments. The order making power is inserted by **Schedule 1 [55]**.

Schedule 1 [43] applies provisions setting out rights to extended leave to officers of the ITSRR.

Schedule 1 [42] makes a consequential amendment.

Schedule 1 [45] enables staff of the Office of Co-ordinator General of Rail and of the Ministry of Transport to be transferred to the ITSRR, the State Rail Authority, Rail Infrastructure Corporation or the Ministry of Transport.

Schedule 1 [44] and [46]–[52] make consequential amendments.

Schedule 1 [53] enables savings and transitional regulations to be made.

Schedule 1 [54] omits provisions conferring functions on the Co-ordinator General of Rail.

Schedule 1 [55] inserts savings and transitional provisions consequent on the enactment of the proposed Act.

Schedule 2 Amendment of Marine Safety Act 1998

No 121

Schedule 2 [1] enables regulations to be made prescribing good character as a requirement for holding a marine safety licence.

Schedule 2 [2] inserts definitions relating to public passenger ferry services.

Schedule 2 [3] enables the Minister to appoint an officer of the ITSRR as an authorised officer for the purposes of the marine legislation.

Schedule 2 [4] makes it clear that investigations may be carried out under the *Marine Safety Act 1998* into an accident or incident involving a ferry even if a transport safety inquiry is being, or has been, conducted under the *Passenger Transport Act 1990* or other proceedings are or may be commenced.

Schedule 2 [5] enables the Minister to appoint the Chairperson of the Board as the investigator for the purposes of an investigation under the *Marine Safety Act 1998* into an accident or incident involving a ferry.

Schedule 2 [6] enables the Minister to inform the Director-General, the ITSRR and the Board of a report and any action taken concerning an investigation into an accident or incident involving a ferry.

Schedule 2 [7] inserts proposed Division 5 (Prohibition and improvement notices relating to public ferry wharves) of Part 8, containing the following provisions:

Proposed section 125A defines a **public ferry wharf** as being a wharf and any associated facilities used for the purposes of public passenger services provided by ferries.

Proposed section 125B enables the Minister to cause inspections to be carried out of public ferry wharves.

Proposed section 125C enables the Minister to issue an improvement notice to the owner of a public ferry wharf, or a person responsible for its maintenance, requiring the owner or person to undertake remedial safety work. The time for the work to be carried out must be at least 7 days but may be less than that if the work may be carried out in less time.

Proposed section 125D makes it an offence, without reasonable excuse, to fail to comply with an improvement notice.

Proposed section 125E enables an authorised officer to issue a prohibition notice prohibiting the carrying on of an activity at a public ferry wharf if of the opinion that the activity involves or will involve an immediate risk to the health or safety of any person using, or operating, a public passenger service by means of ferries.

It will be an offence, without reasonable excuse, to fail to comply with a prohibition notice.

Proposed section 125F provides that improvement and prohibition notices may include directions as to measures to be taken.

Proposed section 125G enables a recipient of an improvement or prohibition notice to seek a review of the notice from the Minister. The effect of an application for review is to stay the operation of an improvement notice.

Proposed section 125H enables a recipient of a prohibition notice who has sought a review of the notice to apply to the Administrative Decisions Tribunal for a stay of the notice.

Proposed section 125I enables a person aggrieved by a decision on a review application to apply to the

Administrative Decisions Tribunal for a review of that decision.

Proposed section 125J enables the Minister or an authorised officer to withdraw an improvement or prohibition notice.

Proposed section 125K makes it clear that the giving, variation, revocation or withdrawal of an improvement or prohibition notice does not affect criminal proceedings.

Schedule 2 [8] enables savings and transitional regulations to be made.

Schedule 3 Amendment of Passenger Transport Act 1990 No 39

Schedule 3 [1] inserts a definition of *authorised officer* that is similar to that contained in the *Rail Safety Act 2002*.

Schedule 3 [2] and [19] update references to the former Department of Transport.

Schedule 3 [3] inserts definitions.

Schedule 3 [4] removes ferries from the services subject to accreditation, as referred to in the objects of the Principal Act.

Schedule 3 [5] removes the requirement for operators of regular passenger services carried on by means of a ferry to be accredited. Such vessels must be certified under marine legislation and masters and crew of such vessels must also hold certificates of competency under marine legislation.

Schedule 3 [7], [8],[15]–[17], [20] and [30] make consequential amendments.

Schedule 3 [6] enables regulations to be made prescribing conditions of accreditation relating to the reporting of occurrences by accredited service operators.

Schedule 3 [9] inserts proposed section 9D which makes it a condition of accreditation of an accredited service operator who operates a bus service that the operator has, and implements, a safety management system. The system must be documented and must identify safety risks, specify controls to manage risks and comply with requirements prescribed by the regulations.

Schedule 3 [10] removes the requirement for persons who drive ferries to hold authorities under the Principal Act.

Schedule 3 [13] sets out the requirements for service contracts required to be entered into between the Director-General and the operator of a regular passenger service carried on by means of a ferry.

Schedule 3 [11] and [12] make consequential amendments.

Schedule 3 [14] makes an amendment consequential on the constitution of the Transport Advisory Group.

Schedule 3 [18] inserts proposed Part 4C (Investigations and enforcement). The proposed Part contains the following provisions:

Division 1 Investigations

Proposed section 46A requires a person who carries on a public passenger service by means of a bus or ferry to provide information to the ITSRR about safety measures and to submit a safety report as required by the ITSRR.

Proposed section 46B enables the ITSRR or Chairperson of the Board to inquire into transport accidents or incidents that may affect the safe provision of bus or ferry passenger services. A report on any such inquiry is to be given to the Minister. The Minister may also require the Chairperson to carry out such an inquiry and may not direct the termination of an inquiry. An inquiry may be carried out whether or not there is, or has been, an investigation under the *Marine Safety Act 1998* or any other Act or law. An inquiry under the proposed section is a *transport safety inquiry*.

Proposed section 46C sets out the power of the ITSRR or the Chairperson of the Board to issue a notice requiring persons to attend to answer questions at a transport safety inquiry or to produce documents or other things for the purposes of the inquiry. The proposed section also contains provisions about evidence and other matters. It will be an offence, without reasonable excuse, to refuse or fail to comply with a requirement under the proposed section.

Proposed section 46D requires a report of a transport safety inquiry to be laid before both Houses of Parliament.

Proposed section 46E enables the Chief Investigator to establish a confidential voluntary reporting

system for transport safety employees relating to matters that may affect the safe carrying out of a public passenger service by means of a bus or ferry. Regulations may be made with respect to such systems.

Division 2 Inspection powers

Proposed section 46F contains definitions of *transport safety employee* and *transport safety work*.

Proposed section 46G enables authorised officers to use their powers under the proposed Division for the purposes of inspections, investigations, transport safety inquiries and other inquiries under the Principal Act and for determining whether there has been a contravention of that Act, regulations under that Act or the terms of an accreditation, licence, authority, authorisation, service contract, requirement or exemption under that Act.

Proposed section 46H gives the Director-General and the ITSRR power to cause inspections to be carried out to ensure that an operator of a bus or ferry public passenger service is complying with the terms of the person's accreditation or service contract.

Proposed section 46I confers a power on an authorised officer to enter premises that the officer reasonably suspects are being used for the purposes of a public passenger service, a taxi-cab network or for keeping records for any such purposes.

Proposed section 46J confers powers that may be exercised by authorized officers in or on premises, including powers to inspect vehicles or vessels, to require testing of vehicles, vessels or equipment, to inspect maintenance facilities and equipment, to inquire into transport accidents or incidents, to take samples and photographs, to search for evidence, to require information, to seize things connected with offences and to secure the perimeter of a site.

Proposed section 46K sets out the powers of authorised officers to inspect and enter vehicles or vessels.

Proposed section 46L sets out the powers of authorised officers with respect to documents found by authorised officers on premises entered under the proposed Division.

Proposed section 46M sets out powers of authorised officers to require the furnishing of certain records and information.

Proposed section 46N requires an authorised officer to give notice before entering premises unless to do so would defeat the purpose of entry, or entry is with consent or it is an emergency.

Proposed section 46O limits the use of force by authorised officers to no more force than is reasonably necessary.

Proposed section 46P requires authorised officers to do as little damage as possible in exercising functions under the proposed Division.

Proposed section 46Q requires the Director-General to pay compensation for damage caused by an authorised officer under the proposed Division, except damage arising from an inspection which reveals there has been a contravention of any other Act or law.

Proposed section 46R prohibits an authorised officer from entering premises or taking other action under the proposed Division unless the officer possesses and produces an authority if required to do so by the owner or occupier of premises or the owner or person in charge of the vehicle or vessel.

Proposed section 46S enables the Director-General or the ITSRR to require the owner or occupier of premises to give to an authorised officer such reasonable assistance and facilities as are specified in a written notice given to the owner or occupier. A person who fails to comply with such a notice is taken to have obstructed the authorised officer in the exercise of the officer's functions.

Proposed section 46T prohibits entry to premises or part of premises used for residential purposes except with the occupier's permission or unless authorized by a search warrant.

Proposed section 46U protects a person from having incriminating evidence required to be given under the proposed Division from being admitted against the person if the person claims before giving the evidence that it might tend to incriminate the person or the person's entitlement to make such a claim was drawn to the attention of the person before the evidence was given. Proposed section 46V enables an authorised officer to apply for a search warrant to enter premises or part of premises used for residential purposes.

Proposed section 46W enables the Director-General, the Chairperson of the Board or the ITSRR to appoint Commonwealth officers as authorised officers for the purpose of the investigation of a specified bus or ferry accident or incident.

Schedule 3 [21] inserts proposed section 53D which requires a person who carries on a public passenger service by means of a ferry to have, and implement, a safety management system. The system must be documented and must identify safety risks, specify controls to manage risks and comply with requirements prescribed by the regulations.

Schedule 3 [22] and [27] omit provisions relating to inspectors' powers now covered by the proposed Division 2 of Part 4C.

Schedule 3 [22] inserts proposed section 56 which contains offences relating to obstructing an authorised officer, failing to provide reasonable facilities and assistance to an authorised officer, failing (without reasonable excuse) to answer questions or give information when required to do so by an authorised officer and failing to produce documents for inspection when required to do so by an authorised officer. It also inserts proposed section 57 which contains offences relating to providing false or misleading information to an authorised officer in connection with a transport safety inquiry and in relation to an application for accreditation or variation of accreditation.

Schedule 3 [23] omits an unnecessary reference to the constitution of a Local Court.

Schedule 3 [24] raises the maximum penalty that may be imposed by a Local Court under the Principal Act, to reflect those that may be imposed by a Local Court under the *Rail Safety Act 2002*.

Schedule 3 [25] updates an outdated statutory reference.

Schedule 3 [26] inserts proposed section 66 which protects the State or any authority of the State against any civil liability arising from an act or omission of the Minister, the Director-General, the ITSRR, the Chairperson of the Board or other members of the Board or an officer of the Ministry of Transport or the ITSRR.

Schedule 3 [28] enables savings and transitional regulations to be made.

Schedule 3 [29] inserts savings and transitional provisions consequent on the enactment of the proposed Act.

Schedule 3 [31] enables sentences of imprisonment to be imposed for certain offences relating to carrying out transport safety work while being affected by alcohol or other drugs.

Schedule 3 [32] inserts proposed Schedule 6 which contains provisions relating to the procedure of transport safety inquiries.

Schedule 4 Amendment of Rail Safety Act 2002 No 96

Schedule 4 [1], [2], [7], [9], [10], [12], [16]–[22], [26], [27], [29]–[39], [41]–[44], [46], [49]–[63], [65]–[67], [69], [91]–[94], [96]–[103], [108], [111], [115] and [118] change references to the Director-General of the Department of Transport to the ITSRR. The ITSRR will exercise the functions under the Principal Act formerly exercised by the Director-General, including functions relating to the accreditation of operators of railways, the appointment of authorised officers to exercise inspection and enforcement functions and other administrative functions.

Schedule 4 [3] and [4] update references to the former Department of Transport.

Schedule 4 [5] inserts definitions of *Independent Transport Safety and Reliability Advisory Board* and ITSRR.

Schedule 4 [6] makes an amendment consequential on the repeal of provisions establishing rail investigation panels.

Schedule 4 [8] omits a provision that ceases to be applicable to the Director-General on the Director-General ceasing to accredit operators of railways.

Schedule 4 [11] requires an applicant for accreditation to provide a document describing its safety management system, instead of the current requirement for a safety management plan. **Schedule 4 [13], [14] and [95]** make consequential amendments.

Schedule 4 [15] requires guidelines issued by the ITSRR about safety management systems and annual safety plans to be published in the Gazette.

Schedule 4 [23] and [24] make it clear that the ITSRR may refuse to grant accreditation to an operator of a railway and must give notice of a refusal.

Schedule 4 [25] inserts proposed section 18A which requires the ITSRR to refer the proposed grant or refusal of an accreditation or an exemption to the Board before taking the action and to consider any advice given by the Board.

Schedule 4 [28] inserts proposed section 20A which gives a person aggrieved by a decision of the

ITSRR to refuse accreditation or to grant provisional accreditation the right to apply to the Administrative Decisions Tribunal for a review.

Schedule 4 [40] inserts proposed section 31A which requires the ITSRR to refer a decision to vary, suspend and cancel or cancel an accreditation to the Board before taking the action and to consider any advice given by the Board.

Schedule 4 [45] makes it clear that an operator of a railway can issue certificates of competency for employees of another operator of a railway.

Schedule 4 [47] inserts proposed section 37A which makes it an offence for a railway employee who is carrying out railway safety work to fail to produce, when requested by an authorised officer to do so, proof that the employee is the holder of an appropriate certificate of competency.

Schedule 4 [48] enables a person who keeps a register of certificates of competency issued to railway employees to provide information obtained from the register to the ITSRR or another operator of a railway or person who keeps such a register.

Schedule 4 [64] enables an industry safety report to be included in the annual report of the ITSRR.

Schedule 4 [68] inserts proposed section 65A which enables the Chief Investigator to establish a confidential voluntary reporting system for railway employees relating to matters that may affect the safe carrying out of railway operations.

Schedule 4 [70] enables the ITSRR to waive the requirement for an accredited person to inquire into and report on a railway accident or incident if the accident or incident is the subject of an inquiry under section 67 of the Principal Act (a *rail safety inquiry*).

Schedule 4 [71]–[77] amend the provisions relating to rail safety inquiries which are no longer to be conducted by the Director-General or rail investigation panels. Instead, the ITSRR or Chairperson of the Board may inquire into railway accidents or incidents that may affect the safe carrying on of railway operations. A report on any such inquiry is to be given to the Minister. The Minister may also require the Chairperson to carry out such an inquiry and may not direct the termination of an inquiry. An inquiry may be carried out whether or not other inquiries or proceedings are or may be commenced.

Schedule 4 [78]–[82] amend provisions relating to the powers of persons conducting rail safety inquiries to confer functions on the ITSRR and Chairperson of the Board, rather than the Director-General.

Schedule 4 [83] omits a provision that is now covered by proposed section 42L of the *Transport Administration Act 1988*.

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Explanatory note

Schedule 4 [84] enables the ITSRR or Chairperson of the Board to disclose the whole or part of a train safety record to the Commonwealth or a Commonwealth authority with the consent of the Minister.

Schedule 4 [85] restricts the ITSRR or Chairperson of the Board from disclosing or producing the whole or part of a train safety record to a person or a court except in certain specified circumstances.

Schedule 4 [86] extends to the ITSRR or Chairperson of the Board protection from complying with a subpoena or similar direction within 6 months of an accident or incident subject to a rail safety inquiry.

Schedule 4 [87] and [88] extend to the ITSRR or Chairperson of the Board protection against personal liability (including liability for defamation) in connection with anything done in good faith in connection with the preparation or making public of a report.

Schedule 4 [89] enables an authorised officer to seize anything connected with an offence against the Principal Act or the regulations.

Schedule 4 [90] enables an authorised officer to secure the perimeter of the site of a notifiable occurrence or railway accident or incident for the period the officer considers necessary or the ITSRR specifies.

Schedule 4 [104] inserts proposed section 108A which sets out the functions of the Board and the Chairperson of the Board. The Board's functions include advising on accreditation and authorisation and on reports as well as making recommendations to the ITSRR and the Minister about rail safety generally. The Chairperson's functions are to conduct rail safety inquiries and report on those inquiries.

Schedule 4 [105] and [106] omit provisions relating to staff that are now covered in provisions relating to the ITSRR to be inserted in the *Transport Administration Act 1988*.

Schedule 4 [107] enables the ITSRR and the Chairperson of the Board to appoint Commonwealth officers as authorised officers for the purpose of the investigation of a specified railway accident or incident.

Schedule 4 [108] enables the Minister to delegate functions to the ITSRR.

Schedule 4 [109] makes a consequential amendment.

Schedule 4 [110] and [112] extend to the ITSRR, Chairperson or other member of the Board, and an officer of the ITSRR, protection against personal liability for acts or omissions done or omitted in good faith for the purposes of the Principal Act or any other Act. The protection of the State from liability is also extended in respect of their acts or omissions.

Schedule 4 [113] enables regulations to be made for or with respect to certificates of competency, including cancellation and suspension of certificates and monitoring of procedures relating to certificates of competency.

Schedule 4 [114] enables regulations to be made enabling the ITSRR to issue guidelines for or with respect to certificates of competency, including cancellation and suspension of certificates and monitoring of procedures relating to certificates of competency.

Schedule 4 [116] makes it clear that sentences of imprisonment may be imposed for certain offences relating to carrying out railway safety work while being affected by alcohol or other drugs. This reflects the *Rail Safety Act 1993*.

Schedule 4 [117] corrects references to intercity trains.

Schedule 4 [119] inserts proposed Schedule 4 which contains provisions relating to the procedure of rail safety inquiries.

Schedule 4 [120] enables savings and transitional regulations to be made.

Schedule 4 [121] inserts savings and transitional provisions consequent on the enactment of the proposed Act.

Schedule 5 Amendment of Freedom of Information Act 1989 No 5

Schedule 5 [1] exempts documents containing matter relating to a transport safety inquiry from the provisions of the *Freedom of Information Act 1989*.

Schedule 5 [2] removes the exemption when the report into the inquiry is tabled before both Houses of Parliament.

Schedule 6 Amendment of Industrial Relations Act 1996 No 17

The Schedule prohibits an employer or industrial organisation from victimizing an employee or prospective employee because the person reports a matter relating to the safety or reliability of railway, bus or ferry services to the Chief Investigator of the ITSRR or an officer of the Ministry of Transport.

Schedule 7 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103

Schedule 7 [1] applies the provisions of the *Law Enforcement (Powers and Responsibilities) Act 2002* to search warrants issued under the *Passenger Transport Act 1990*. The provisions of the former Act will commence on repeal of the *Search Warrants Act 1985*.

Schedule 7 [2] makes consequential amendments to the *Passenger Transport Act 1990*.

Schedule 8 Amendment of Public Finance and Audit Act 1983 No 152

Schedule 8 [1] applies provisions relating to auditing and other requirements for statutory bodies to the ITSRR.

Schedule 8 [2] omits matter relating to the Office of the Co-ordinator General of Rail.

Schedule 9 Amendment of Search Warrants Act 1985

No 37

The Schedule applies the provisions of the *Search Warrants Act 1985* to search warrants issued under the *Passenger Transport Act 1990*, pending repeal of the former Act by the *Law Enforcement (Powers and Responsibilities) Act 2002*.