

Transport Legislation Amendment (Implementation of Waterfall Rail Inquiry Recommendations) Bill 2005

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

Overview of Bill

The object of this Bill is to amend the *Transport Administration Act 1988*, the *Rail Safety Act 2002*, the *Passenger Transport Act 1990*, the *Marine Safety Act 1998* and the *Rail Safety (Drug and Alcohol Testing) Regulation 2003* for the following purposes:

- (a) to require the Minister for Transport (the **Minister**), the Independent Transport Safety and Reliability Regulator (the **ITSRR**) and RailCorp to ensure that all of the 127 recommendations contained in the Final Report of the Special Commission of Inquiry into the Waterfall Rail Accident dated 17 January 2005 (the **Final Report**) are implemented,
- (b) to require the ITSRR to monitor and report quarterly on the progress of the implementation of the recommendations contained in the Final Report,
- (c) to make the ITSRR independent of the Minister,
- (d) to give the ITSRR the power to make special reports to Parliament,
- (e) to abolish the Independent Transport Safety and Reliability Advisory Board,
- (f) to establish a parliamentary joint committee (named the Independent Transport Safety Regulator Oversight Committee) to monitor and review the exercise by ITSRR of its functions, including its performance in respect of implementing the recommendations contained in the Final Report,
- (g) to allow the Chief Investigator of the Office of Transport Safety Investigations (being a Division of ITSRR) to initiate and conduct a rail safety inquiry or transport safety inquiry or to be appointed as an investigator for the purposes of an investigation under the *Marine Safety Act 1998*,
- (h) to require the Chief Investigator to provide a report of any such inquiry to the Minister and ITSRR,
- (i) to require an applicant for accreditation as a railway operator to comply with any regulations or guidelines issued by ITSRR in respect of communications protocols and procedures,
- (j) to limit the grant of an accreditation as a railway operator to a period of 3 years and to require an accredited person to re-apply for accreditation after the expiry of the accreditation period,
- (k) to require an accredited person, as a condition of that accreditation, to implement a safety management system and comply with any regulations that prescribe the requirements for safety management systems,
- (l) to require an accredited person, as a condition of that accreditation, to implement certain communications protocols and procedures and comply with any regulations that prescribe the requirements for communications protocols and procedures,
- (m) to make it clear that the offence of tampering with railway equipment, contained in section 93 of the *Rail Safety Act 2002*, applies with respect to the tampering with emergency doors,
- (n) to make alcohol and drug testing mandatory for any train driver or guard involved in an accident or irregular incident,
- (o) to extend the general regulation-making power in the *Rail Safety Act 2002* to allow regulations for standards relating to medical examinations required for the employment of railway employees and the issue of certificates of competency.

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 the date of assent.
Clause 3 is a formal provision that gives effect to the amendments to the Acts set out in Schedules 1–4.

Clause 4 is a formal provision that gives effect to the amendment to the *Rail Safety (Drug and Alcohol Testing) Regulation 2003* set out in Schedule 5.

Schedule 1 Amendment of Transport Administration

Act 1988 No 109

Schedule 1 [4] amends section 42D of the Act to make it clear that the ITSRR is responsible for the oversight of rail safety in this State.

Schedule 1 [6] and [21] amend section 42E of the Act and insert Part 5A (proposed sections 45A–45C) respectively, with the effect described above in paragraphs (a) and (b) of the overview.

Schedule 1 [7], [8] and [12] amend section 42G and omit section 42P of the Act, with the effect described above in paragraph (c) of the overview.

Schedule 1 [18] substitutes Division 6 of Part 4A of the Act, with the effect described above in paragraphs (d)–(f) of the overview.

Schedule 1 [1]–[3], [5], [9]–[11], [13]–[17], [19], [20] and [22]–[25] contain consequential amendments.

Schedule 1 [26] and [27] contain savings and transitional provisions.

Schedule 2 Amendment of Rail Safety Act 2002

No 96

Schedule 2 [3] inserts proposed section 13A of the Act, with the effect described above in paragraph (i) of the overview.

Schedule 2 [4] inserts proposed section 18 (3A) and (3B) of the Act, with the effect described above in paragraph (j) of the overview.

Schedule 2 [8] inserts proposed sections 43A and 43B of the Act, with the effect described above in paragraphs (k) and (l) of the overview.

Schedule 2 [10] substitutes section 67 of the Act, with the effect described above in paragraphs (g) and (h) of the overview.

Schedule 2 [16] amends section 93 of the Act, with the effect described above in paragraph (m) of the overview.

Schedule 2 [24] amends section 117 of the Act, with the effect described above in paragraph (o) of the overview.

Schedule 2 [1], [2], [5]–[7], [9], [11]–[15], [17]–[23] and [25]–[27] contain consequential amendments.

Schedule 2 [28] and [29] contain savings and transitional provisions.

Schedule 3 Amendment of Passenger Transport Act

1990 No 39

Schedule 3 [3] and [4] amend section 46B of the Act, with the effect described above in paragraphs (g) and (h) of the overview.

Schedule 3 [1], [2], [5]–[9] and [11]–[13] contain consequential amendments.

Schedule 3 [10] contains savings and transitional provisions.

Schedule 4 Amendment of Marine Safety Act 1998

No 121

Schedule 4 [3] amends section 105 of the Act, with the effect described above in paragraph (g) of the overview.

Schedule 4 [1], [2] and [4] contain consequential amendments.

Schedule 4 [5] contains savings and transitional provisions.

Schedule 5 Amendment of Rail Safety (Drug and Alcohol Testing) Regulation 2003

Schedule 5 substitutes clause 9 of the Regulation, with the effect described above in paragraph (n) of the overview.