

Transport Administration Amendment (Independent Transport Safety Regulator) Bill 2017

Second Reading

Mr SCOT MacDONALD (17:01): On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

The purpose of the Transport Administration Amendment (Independent Transport Safety Regulator) Bill 2017 is to abolish the Independent Transport Safety Regulator and allow for the Office of the National Rail Safety Regulator to directly deliver rail safety regulation in New South Wales. In doing so, New South Wales will have fully implemented national reforms to establish a national rail safety scheme.

Consolidating New South Wales rail safety regulation under the National Rail Safety Regulator will deliver clearer accountability on rail safety oversight in New South Wales. It will create a single, nationally-consistent rail safety culture and deliver a more efficient use of funding and resources by reducing the duplication of functions.

As part of the Council of Australian Governments, New South Wales committed to creating a seamless national economy that helps New South Wales businesses to effectively operate and compete nationwide. As part of this commitment, the Government seeks to reduce the regulatory and compliance red tape for transport operators who move passengers and freight around Australia, while at the same time maintaining safety.

Rail operators once had to meet multiple inconsistent standards and regulatory schemes when operating across State and Territory borders. But in 2011, New South Wales and other jurisdictions agreed to set up a national rail safety regulatory scheme under a single regulator. The Government adopted the Rail Safety National Law in 2012 in order to join the national rail regulatory scheme.

The Independent Transport Safety Regulator was established in 2003 in the aftermath of the Waterfall and Glenbrook major rail incidents. Since that time, the Independent Transport Safety Regulator [ITSR] has served the community of New South Wales well, ensuring that rail safety is maintained. ITSR staff are very skilled and knowledgeable about the New South Wales rail system which includes the most complex and busy urban network in Australia. The Independent Transport Safety Regulator's local expertise will be maintained and will also be fully integrated into a national scheme.

The Independent Transport Safety Regulator currently operates the New South Wales office for the National Rail Safety Regulator through a service level agreement. In 2014, an independent review of the delivery of rail safety regulation in New South Wales recommended adopting a direct delivery model by abolishing the Independent Transport Safety Regulator and transferring all rail safety functions to the National Rail Safety Regulator, a recommendation which the former Minister for Transport endorsed.

As the Independent Transport Safety Regulator has been delivering safety regulation in New South Wales on behalf of the National Rail Safety Regulator since 2013, New South Wales can anticipate a seamless transition to the National Rail Safety Regulator. The efforts of the chief executives of the Independent Transport Safety Regulator and the national regulator in negotiating an effective transition agreement have also ensured that there will be no disruption to regulatory services in New South Wales.

The bill will amend the Transport Administration Act 1988 to abolish the Independent Transport Safety Regulator and transfers its assets, rights and liabilities to the Crown. The statutory office of the chief executive of the Independent Transport Safety Regulator will be removed, as it will no longer be required once the Independent Transport Safety Regulator is abolished. The bill will also remove references to the Independent Transport Safety Regulator throughout the Transport Administration Act and in other legislation and regulation.

The National Rail Safety Regulator's authority to directly deliver rail safety regulation and its specific safety regulatory powers and functions are already provided for under the Rail Safety National Law (NSW). As such, in a day to day sense, it will be business as usual and there will be no change to how regulation occurs in New South Wales. The Minister will continue to have the power to direct the national regulator to investigate and advise on the safe operation of railways and whether rail operators comply with safety recommendations.

To maintain the quality and level of regulatory services in New South Wales and ensure a smooth transition, the Independent Transport Safety Regulator and the National Rail Safety Regulator have signed a transition agreement. Under this agreement, the National Rail Safety Regulator will maintain at least the current rail safety regulatory oversight and capacity undertaken by the Independent Transport Safety Regulator in New South Wales unless justified by a change to the safety risk profile.

In order to continue the same level of safety regulation, the Independent Transport Safety Regulator staff are transitioning to the national regulator and the wealth of the Independent Transport Safety Regulator staff experience is being maintained. The transition is due to take effect from 10 March 2017.

The National Rail Safety Regulator has committed to ensuring that staff are offered comparable employment which meets the requirements of New South Wales Government policy on transfers to the non-government sector. The objective is to ensure that the expertise of staff currently employed by the Independent Transport Safety Regulator is retained and used by National Rail Safety Regulator for the benefit of New South Wales.

Under the transfer agreement, detailed in the transition agreement, the national regulator has offered permanent employment to all permanent Independent Transport Safety Regulator staff based on their existing roles, with continuity of service recognised by the National Rail Safety Regulator.

The transfer agreement also provides for: similar work to what is currently being performed; similar, no less favourable work conditions; and no unreasonable increase in travel time to work.

As staff have been offered comparable employment, recognition of prior service and substantially similar employment conditions and journey times, staff who do not accept the employment offer or fail to respond will be treated under Government policies for cessation of employment and will not be entitled to redundancy.

No additional budget will be required to fund the transition agreement as this will be met from within the Independent Transport Safety Regulator's current budget. Delaying or deferring this bill may result in uncertainty regarding the delivery of rail safety services in New South Wales and uncertainty for rail safety staff at the Independent Transport Safety Regulator.

I commend the bill to the House.