Transport Administration Amendment (Independent Transport Safety Regulator) Bill 2017

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

Overview of Bill
The object of this Bill is to abolish the Independent Transport Safety Regulator, which is a New South Wales statutory corporation that provides specific functions and services under delegation from the Office of the National Rail Safety Regulator, a body established under the Rail Safety National Law (NSW) and corresponding laws of other participating jurisdictions.

The functions that the Independent Transport Safety Regulator currently provides include operating the New South Wales branch office of the Office of the National Rail Safety Regulator and performing a range of regulatory and compliance activities. Those functions will, in the future, be undertaken directly by the Office of the National Rail Safety Regulator.

On its abolition, the assets, rights and liabilities of the Independent Transport Safety Regulator will be transferred to the Crown. Arrangements are being made for the ongoing employment of certain existing employees of the abolished body by the Office of the National Rail Safety Regulator, including arrangements relating to the maintenance of the accrued rights of those employees.

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.
Schedule 1 Amendment of Transport Administration Act 1988 No 109

Schedule 1 [1], [3], [6]–[12] and [23] omit references to the Independent Transport Safety Regulator, which is proposed to be abolished.


Schedule 1 [4] provides for the Office of the National Rail Safety Regulator or another independent professional person approved by the Minister, rather than the Independent Transport Safety Regulator, to be the relevant safety regulator for the purposes of the review of the impact of a direction that relates to rail services or infrastructure given by Transport for NSW to a transport authority.


Schedule 1 [13]–[21] omit references to the Chief Executive of the Independent Transport Safety Regulator, a statutory office that will be abolished by the amendments made by the proposed Act.

Schedule 1 [22] provides for the transfer of the assets, rights and liabilities of the Independent Transport Safety Regulator.

Schedule 1 [24] makes it clear that a provision that extends powers of entry onto railway land, rail infrastructure facilities or railway buildings applies subject to the Rail Safety National Law (NSW).

Schedule 1 [25] inserts provisions that:

(a) abolish the Independent Transport Safety Regulator, and
(b) transfer its assets, rights and liabilities to the Crown, and
(c) empower the Minister to enter into an arrangement with the Office of the National Rail Safety Regulator for the transfer to that Office of any assets, rights and liabilities transferred to the Crown, and
(d) empower the Minister to transfer to a NSW government agency any assets, rights and liabilities transferred to the Crown, and
(e) provide that the Chief Executive of the Independent Transport Safety Regulator ceases to hold office.

Schedule 2 Consequential amendment of other legislation

Schedule 2.1 amends the Government Sector Employment Act 2013 to remove the Independent Transport Safety Regulator Staff Agency as a separate Public Service agency.

Schedule 2.2 amends the Passenger Transport Act 2014 to omit an uncommenced amendment to a provision that will be repealed by the proposed Act.

Schedule 2.3 amends the Public Finance and Audit Act 1983 to omit the Independent Transport Safety Regulator from the list of statutory bodies subject to that Act.

Schedule 2.4 amends the Rail Safety (Adoption of National Law) Act 2012 to omit a section about the provision of information and assistance by the Independent Transport Safety Regulator.

Schedule 2.5 amends the Rail Safety (Adoption of National Law) Regulation 2012 to omit references to the Independent Transport Safety Regulator and to clarify a reference to that body in a savings provision.
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A Bill for

An Act to amend the Transport Administration Act 1988 to abolish the Independent Transport Safety Regulator and to make consequential amendments to other legislation.
The Legislature of New South Wales enacts:

1 Name of Act

This Act is the Transport Administration Amendment (Independent Transport Safety Regulator) Act 2017.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.
Schedule 1  Amendment of Transport Administration Act 1988 No 109

[1]  Section 3 Definitions
Omit the definition of Independent Transport Safety Regulator from section 3 (1).

[2]  Section 3 (1)
Insert in alphabetical order:
National Rail Safety Regulator means the Office of the National Rail Safety Regulator established under the Rail Safety National Law (NSW).

[3]  Section 3B Ministerial responsibility and delegation
Omit the note from section 3B (1).

[4]  Section 3H Review by relevant safety regulator of directions relating to transport safety matters
Omit paragraph (a) of the definition of relevant safety regulator in section 3H (1).
Insert instead:
(a) in the case of a direction relating to rail services or infrastructure—the National Rail Safety Regulator, or other independent professional person, approved by the Minister as the relevant safety regulator for the purposes of this section, or

Omit the Part.

[6]  Section 65 Definitions
Omit paragraph (i) of the definition of transport authority.

[7]  Section 66 Orders providing for transfer of staff of transport authorities
Omit section 66 (3).

[8]  Section 107 Definition of “transport authority”
Omit paragraph (a1) of the definition of transport authority in section 107 (1).

[9]  Section 109 Seals of Authorities
Omit paragraph (g) of the definition of Authority in section 109 (2).

[10]  Section 111 Referral of disputes
Omit section 111 (5).

[11]  Section 112 Personal liability of certain persons
Omit “the Independent Transport Safety Regulator,” from the definition of member of a transport authority in section 112 (2).

[12]  Schedule 1 Functions of Transport for NSW
Omit paragraph (e) of the definition of transport authority in clause 4A (4).

[13]  Schedule 2A, heading
Omit “Chief Executive of the ITSR and”.
[14] Schedule 2A
Omit “(Sections 42M (3) and 45 (2))”. Insert instead “(Section 45 (2))”.

[15] Schedule 2A, clause 1, definition of “Chief Executive”
Omit the definition. Insert instead:

Chief Investigator means the Chief Investigator of the Office of Transport Safety Investigations.

[16] Schedule 2A, clause 2 (1)
Omit “A Chief Executive”. Insert instead “The Chief Investigator”.

[17] Schedule 2A, clause 2 (2)
Omit the subclause.

[18] Schedule 2A, clauses 3, 5 (2), 6 and 7
Omit “Chief Executive” wherever occurring. Insert instead “Chief Investigator”.

[19] Schedule 2A, clause 4
Omit “a Chief Executive” wherever occurring. Insert instead “the Chief Investigator”.

[20] Schedule 2A, clause 4 (1)
Omit “the Chief Executive”. Insert instead “the Chief Investigator”.

[21] Schedule 2A, clause 5 (1)
Omit “Chief Executive”. Insert instead “the Chief Investigator”.

[22] Schedule 4 Transfer of assets, rights and liabilities
Insert after clause 2 (1):

(1A) This Schedule also applies to the transfer of the assets, rights and liabilities of the Independent Transport Safety Regulator to the Crown by Schedule 7. This Schedule applies as if that transfer were an order to which this Schedule applies that took effect on the date of commencement of this subclause.

[23] Schedule 6A Powers relating to rail infrastructure facilities and land
Omit “or an officer of the Independent Transport Safety Regulator” from clause 16 (4).

[24] Schedule 6A, clause 16 (5)
Insert after clause 16 (4):

(5) This clause applies subject to the Rail Safety National Law (NSW).

[25] Schedule 7 Savings, transitional and other provisions
Insert at the end of the Schedule, with appropriate Part and clause numbering:

Part Provisions consequent on enactment of Transport Administration Amendment (Independent Transport Safety Regulator) Act 2017

Abolition of Independent Transport Safety Regulator

(1) The Independent Transport Safety Regulator is abolished.
(2) On its abolition, the assets, rights and liabilities of the Independent Transport Safety Regulator are transferred to the Crown.

(3) The Minister may:
   (a) enter into an arrangement with the National Rail Safety Regulator for the transfer of any assets, rights and liabilities transferred to the Crown by this clause to the National Rail Safety Regulator, or
   (b) transfer any assets, rights and liabilities transferred to the Crown by this clause to a NSW government agency.

(4) Schedule 4 applies to the transfer of assets, rights and liabilities under this clause.

(5) Words and expressions used in this clause have the same meanings as they have in Schedule 4.

Chief Executive of Independent Transport Safety Regulator ceases to hold statutory office

The person holding office as the Chief Executive of the Independent Transport Safety Regulator immediately before the commencement of the Transport Administration Amendment (Independent Transport Safety Regulator) Act 2017:
   (a) ceases to hold that office, and
   (b) is not entitled to any remuneration or compensation for the loss of that office.
Schedule 2   Consequential amendment of other legislation

2.1 Government Sector Employment Act 2013 No 40

Schedule 1 Public Service agencies
Omit the matter relating to the Independent Transport Safety Regulator Staff Agency from Part 3.

2.2 Passenger Transport Act 2014 No 46

Schedule 4 Amendment of Acts
Omit Schedule 4.12 [10].

2.3 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies
Omit “Independent Transport Safety Regulator”.

2.4 Rail Safety (Adoption of National Law) Act 2012 No 82

Section 13 Provision of information and assistance by ITSR
Omit the section.

2.5 Rail Safety (Adoption of National Law) Regulation 2012

[1] Clause 3 Definitions
Omit the definition of ITSR from clause 3 (1).

[2] Clause 44 Improvement and prohibition notices and other compliance and enforcement matters
Omit “ITSR” from clause 44 (5).
Insert instead “former Independent Transport Safety Regulator”.

[3] Clause 49 Information sharing agreements
Omit the clause.