



New South Wales

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 [2] inserts a definition of *National Rail Safety Regulator*.

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 [5] omits provisions that establish the Independent Transport Safety Regulator and provide for its functions.

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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New South Wales

Transport Administration Amendment (Independent Transport Safety Regulator) Bill 2017

No. , 2017

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

1 Name of Act

2

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

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2 Commencement

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This Act commences on a day or days to be appointed by proclamation.

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Schedule 1	Amendment of Transport Administration Act 1988 No 109	1
		2
[1] Section 3 Definitions		3
	Omit the definition of <i>Independent Transport Safety Regulator</i> from section 3 (1).	4
[2] Section 3 (1)		5
	Insert in alphabetical order:	6
	<i>National Rail Safety Regulator</i> means the Office of the National Rail Safety Regulator established under the <i>Rail Safety National Law (NSW)</i> .	7 8
[3] Section 3B Ministerial responsibility and delegation		9
	Omit the note from section 3B (1).	10
[4] Section 3H Review by relevant safety regulator of directions relating to transport safety matters		11 12
	Omit paragraph (a) of the definition of <i>relevant safety regulator</i> in section 3H (1).	13
	Insert instead:	14
	(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	15 16 17 18
[5] Part 4A Independent Transport Safety Regulator		19
	Omit the Part.	20
[6] Section 65 Definitions		21
	Omit paragraph (i) of the definition of <i>transport authority</i> .	22
[7] Section 66 Orders providing for transfer of staff of transport authorities		23
	Omit section 66 (3).	24
[8] Section 107 Definition of “transport authority”		25
	Omit paragraph (a1) of the definition of <i>transport authority</i> in section 107 (1).	26
[9] Section 109 Seals of Authorities		27
	Omit paragraph (g) of the definition of <i>Authority</i> in section 109 (2).	28
[10] Section 111 Referral of disputes		29
	Omit section 111 (5).	30
[11] Section 112 Personal liability of certain persons		31
	Omit “the Independent Transport Safety Regulator,” from the definition of <i>member of a transport authority</i> in section 112 (2).	32 33
[12] Schedule 1 Functions of Transport for NSW		34
	Omit paragraph (e) of the definition of <i>transport authority</i> in clause 4A (4).	35
[13] Schedule 2A, heading		36
	Omit “Chief Executive of the ITSR and”.	37

[14] Schedule 2A	1
Omit “(Sections 42M (3) and 45 (2))”. Insert instead “(Section 45 (2))”.	2
[15] Schedule 2A, clause 1, definition of “Chief Executive”	3
Omit the definition. Insert instead:	4
<i>Chief Investigator</i> means the Chief Investigator of the Office of Transport Safety Investigations.	5
	6
[16] Schedule 2A, clause 2 (1)	7
Omit “A Chief Executive”. Insert instead “The Chief Investigator”.	8
[17] Schedule 2A, clause 2 (2)	9
Omit the subclause.	10
[18] Schedule 2A, clauses 3, 5 (2), 6 and 7	11
Omit “Chief Executive” wherever occurring. Insert instead “Chief Investigator”.	12
[19] Schedule 2A, clause 4	13
Omit “a Chief Executive” wherever occurring. Insert instead “the Chief Investigator”.	14
[20] Schedule 2A, clause 4 (1)	15
Omit “the Chief Executive”. Insert instead “the Chief Investigator”.	16
[21] Schedule 2A, clause 5 (1)	17
Omit “Chief Executive”. Insert instead “the Chief Investigator”.	18
[22] Schedule 4 Transfer of assets, rights and liabilities	19
Insert after clause 2 (1):	20
(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.	21
	22
	23
	24
[23] Schedule 6A Powers relating to rail infrastructure facilities and land	25
Omit “or an officer of the Independent Transport Safety Regulator” from clause 16 (4).	26
[24] Schedule 6A, clause 16 (5)	27
Insert after clause 16 (4):	28
(5) This clause applies subject to the <i>Rail Safety National Law (NSW)</i> .	29
[25] Schedule 7 Savings, transitional and other provisions	30
Insert at the end of the Schedule, with appropriate Part and clause numbering:	31
Part Provisions consequent on enactment of Transport Administration Amendment (Independent Transport Safety Regulator) Act 2017	32
	33
	34
Abolition of Independent Transport Safety Regulator	35
(1) The Independent Transport Safety Regulator is abolished.	36

- (2) On its abolition, the assets, rights and liabilities of the Independent Transport Safety Regulator are transferred to the Crown. 1
2
- (3) The Minister may: 3
- (a) enter into an arrangement with the National Rail Safety Regulator for 4
the transfer of any assets, rights and liabilities transferred to the Crown 5
by this clause to the National Rail Safety Regulator, or 6
- (b) transfer any assets, rights and liabilities transferred to the Crown by this 7
clause to a NSW government agency. 8
- (4) Schedule 4 applies to the transfer of assets, rights and liabilities under this 9
clause. 10
- (5) Words and expressions used in this clause have the same meanings as they 11
have in Schedule 4. 12
- Chief Executive of Independent Transport Safety Regulator ceases to hold 13
statutory office 14**
- The person holding office as the Chief Executive of the Independent Transport 15
Safety Regulator immediately before the commencement of the *Transport 16
Administration Amendment (Independent Transport Safety Regulator) Act 17
2017*: 18
- (a) ceases to hold that office, and 19
- (b) is not entitled to any remuneration or compensation for the loss of that 20
office. 21

Schedule 2	Consequential amendment of other legislation	1
2.1	Government Sector Employment Act 2013 No 40	2
	Schedule 1 Public Service agencies	3
	Omit the matter relating to the Independent Transport Safety Regulator Staff Agency from Part 3.	4 5
2.2	Passenger Transport Act 2014 No 46	6
	Schedule 4 Amendment of Acts	7
	Omit Schedule 4.12 [10].	8
2.3	Public Finance and Audit Act 1983 No 152	9
	Schedule 2 Statutory bodies	10
	Omit “Independent Transport Safety Regulator”.	11
2.4	Rail Safety (Adoption of National Law) Act 2012 No 82	12
	Section 13 Provision of information and assistance by ITSR	13
	Omit the section.	14
2.5	Rail Safety (Adoption of National Law) Regulation 2012	15
[1]	Clause 3 Definitions	16
	Omit the definition of <i>ITSR</i> from clause 3 (1).	17
[2]	Clause 44 Improvement and prohibition notices and other compliance and enforcement matters	18 19
	Omit “ITSR” from clause 44 (5).	20
	Insert instead “former Independent Transport Safety Regulator”.	21
[3]	Clause 49 Information sharing agreements	22
	Omit the clause.	23