

Draft for comment

Rail Safety National Law (Queensland) Bill 2016

Submission by

Association of Tourist Railways – Queensland Inc

On behalf of its constituent Tourist and Heritage (T&H) Railway operators

The Association and its members have been consulted and kept aware of the provisions of the proposed law during the long period involved in bringing it to Parliament, and our members are currently operating under systems that will require only modest adjustment to comply with the proposed Act.

Nevertheless there are a small number of matters where some concerns remain and these are dealt with in the following sections.

Fees and Charges

Under the current Queensland law, Tourist and Heritage Railway operators do not pay accreditation fees and charges because their operations are sufficiently small to fall below the thresholds for such fees.

The Office of the National Rail Safety Regulator (ONRSR) levies various fees and charges (with reduced rates for T&H operators) and, by agreement, the various state governments have arranged to pay certain of these fees under a community service arrangement.

Part 4 of the proposed Act provides for the payment of an additional fee (rail safety investigation fee) with the provision that the chief executive may waive or refund payment – 59 4(a) and (b).

Given the extremely limited resources of not-for-profit Tourist and Heritage Railway operators, and to provide certainty for budgeting and resource planning purposes, it is requested that clause 59 be altered to provide a guaranteed exemption from this type of charge for these bodies.

For the same reasons, it is requested that the community service obligation for payment of ONRSR fees and charges on behalf of T&H operators in Queensland be included within an appropriate section of the Bill.

Impact of Drug and Alcohol Sections

Some concern was initially raised with regard to the requirement for zero blood alcohol levels (and the accompanying testing regime) on volunteer workers performing peripheral “rail safety work” as the definition of that work in the National Law is exceptionally broad. This concern has been allayed by the issue of a Draft Guideline for identifying rail safety work.

On the presumption that this Guideline is implemented as written, we have no further comment on this section.

General

With regard to division 5 - Amendment to the Work Health and Safety Act 2011, while the proposed Bill maintains the status quo, it does not deal specifically with the issue of registration of plant. While the present regulator (Dept of Transport and Main Roads) have an agreement with Workplace Health and Safety that items of plant which require to be registered under the WHSQ act but are also covered under the present Rail Safety Act because they are mounted on railway rollingstock (in particular locomotive boilers) do not need to be registered under WHSQ, the WHSQ Act does not specifically include this exemption.

It is understood that an investigation is currently under way that could lead to this type of responsibility being transferred to ONRSR, However in the interim the National Regulator would need to develop a similar agreement (not ideal).

As this Bill proposes already to make amendment to the WHSQ Act, it may be expeditious to also include a provision amending the WHSQ Regulation 2011 (Note this is the Regulations not Act) Chapter 5 "Plant and Structures" to include an exemption for registering plant located on rail vehicles covered by the National Rail Safety Law.

(End)