



Speech By  
**Hon. Stirling Hinchliffe**


**MEMBER FOR SANDGATE**

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Record of Proceedings, 13 September 2016

## **RAIL SAFETY NATIONAL LAW (QUEENSLAND) BILL**

### **Message from Governor**

 **Hon. SJ HINCHLIFFE** (Sandgate—ALP) (Minister for Transport and the Commonwealth Games) (12.46 pm): I present a message from His Excellency the Governor.

**Madam DEPUTY SPEAKER** (Ms Farmer): The message from His Excellency recommends the Rail Safety National Law (Queensland) Bill. The contents of the message will be incorporated in the *Record of Proceedings*. I table the message for the information of members.

MESSAGE

RAIL SAFETY NATIONAL LAW (QUEENSLAND) BILL 2016

*Constitution of Queensland 2001, section 68*

I, PAUL de JERSEY AC, Governor, recommend to the Legislative Assembly a Bill intituled—

A Bill for an Act to apply a national law that provides for a national system of rail safety, to repeal the Transport (Rail Safety) Act 2010, and to amend this Act, the Coal Mining Safety and Health Act 1999, the Mining and Quarrying Safety and Health Act 1999, the Queensland Rail Transit Authority Act 2013, the Work Health and Safety Act 2011 and the Acts mentioned in schedule 1 for particular purposes


(sgd)

GOVERNOR

Date: 13 SEP 2016

*Tabled paper:* Message, dated 13 September 2016, from His Excellency the Governor recommending the Rail Safety National Law (Queensland) Bill 2016 [[1487](#)].

### **Introduction**

 **Hon. SJ HINCHLIFFE** (Sandgate—ALP) (Minister for Transport and the Commonwealth Games) (12.46 pm): I present a bill for an act to apply a national law that provides for a national system of rail safety, to repeal the Transport (Rail Safety) Act 2010, and to amend this act, the Coal Mining Safety and Health Act 1999, the Mining and Quarrying Safety and Health Act 1999, the Queensland Rail Transit Authority Act 2013, the Work Health and Safety Act 2011 and the acts mentioned in schedule 1 for particular purposes. I table the bill and the explanatory notes. I nominate the Transportation and Utilities Committee to consider the bill.

*Tabled paper:* Rail Safety National Law (Queensland) Bill 2016 [[1488](#)].

*Tabled paper:* Rail Safety National Law (Queensland) Bill 2016, explanatory notes [[1489](#)].

I am pleased to introduce the Rail Safety National Law (Queensland) Bill 2016 to the Queensland parliament. This bill supports the Palaszczuk government's commitment to rail safety and delivers regulatory harmonisation across the Australian states and territories.

Queensland has one of the most extensive rail networks of any state in Australia, growing to more than 9,500 kilometres of operational track and 67 accredited rail operators over the last 150 years. Our rail network provides the basis for a vital transport system, delivering connectivity to strategic areas in regional Queensland, supporting agricultural, mining, manufacturing, retail and tourism industries and mass commuter transport services in South-East Queensland. It is recognised as an efficient mode of transport for moving bulk commodities, coal, minerals, agricultural products, livestock and large volumes of passengers across a geographically vast state. We boast Australia's largest export coal rail network, as well as some of the country's most remote and iconic passenger trains, including the *Spirit of the Outback*, the *Gulflander* and the *Savannahlander* services.

Queensland's rail transport industry is made up of a very diverse group of organisations. Rail transport operators range from major corporations operating thousands of kilometres of freight, coal or passenger services to the enthusiastic volunteers who operate small historic and tourist railways. There are also 31 registered private sidings owned by organisations that are not rail transport operators—for example, mining companies—but are used to load bulk commodities onto rail wagons.

The Palaszczuk government recognises the importance of rail. This is reflected in the following three major new rail infrastructure projects: the Gold Coast Light Rail Stage 2, which will open in time for the Commonwealth Games in 2018; the Redcliffe Peninsula line from Petrie to Kippa-Ring, which will provide affordable and efficient transport links to Brisbane's north; and the duplication of the Gold Coast line between Helensvale and Coomera, providing the missing link for that line to provide more services for the Gold Coast.

To meet the challenges and capitalise on the opportunities presented by our size, population growth and diverse economic base, Queensland needs a safe, efficient and reliable rail network. Rail transport operators in Queensland must be accredited in accordance with the Transport (Rail Safety) Act 2010. The act specifically requires operators to demonstrate that they have the competence and capacity to operate rail, that they have appropriate funding, effective management and control of their operations and a safety management system in place. Once accredited, rail transport operators are required to demonstrate ongoing compliance with the requirements of the act through regular audits and compliance inspections.

In Queensland rail regulation is conducted in a co-regulatory environment. This means that rail operators are responsible for determining and maintaining safety standards in their own operations, while the rail regulator is responsible for reviewing and checking that safety standards are met. Co-regulation is intended to boost productivity and facilitate economic growth by empowering rail transport operators to take active responsibility for setting and meeting appropriate safety standards.

Since 2010 Queensland has recorded a continued trend of improvement in rail safety. While rail kilometres and passenger journeys continued to increase in 2015-16, there were no rail related fatalities in Queensland, which is a fantastic outcome that rail operators, railway workers and passengers should be proud of. The safe, efficient and seamless operation of rail transport networks will be further reinforced by the Queensland government's decision to adopt the national reforms. Queenslanders can be confident that our high safety standards will be retained following commencement of the bill.

Historically, Australian states and territories have regulated railways differently, including after the development of the model rail safety law in 2006. These jurisdictional differences were about not just differences in the laws but also differences in how the laws were interpreted and applied by the rail safety regulator in each jurisdiction. Industry operating railways across jurisdictional boundaries were required to work with a number of different rail safety regulators in order to carry out their operations. This created additional work for the operators with no discernible benefit.

The move to a single national law and one set of processes and procedures will result in significant efficiency and productivity improvements for commercial rail organisations operating in more than one state. It will build on the substantial progress in rail safety achieved in Queensland since 2010 and underpin a culture of continuous improvement in rail safety across Australia. This bill will also benefit workers, including contractors who by choice or by contract will be working in different states and territories. These workers will better understand their responsibilities under the law and they might find the transition easier.

Across Australia significant work has happened in relation to the national harmonisation of rail safety regulation and investigation from as far back as 2009, when the Council of Australian Governments agreed to the establishment of the National Rail Safety Regulator, the development of a single Rail Safety National Law, and the expansion of the role of the Australian Transport Safety Bureau as the national rail safety investigator. The bill I am introducing today reflects many years of work, both in Queensland and nationally, to ensure a more consistent approach to policy and regulation across jurisdictions, and remove inefficiencies resulting from varying inconsistencies between states and territories.

The main purpose of the bill is to apply the Rail Safety National Law as a law of Queensland. The Rail Safety National Law was prepared and passed by South Australia in 2012, as the host jurisdiction, with the intention that all other states and territories pass legislation to apply the Rail Safety National Law as a law of their own jurisdiction. The bill does not incorporate the Rail Safety National Law within its provisions but rather applies the Rail Safety National Law, as modified by the bill, as a law of Queensland. Therefore, any future amendments made to the Rail Safety National Law will not be considered by the Queensland parliament. However, changes to the Rail Safety National Law can only be made by unanimous agreement at the Transport and Infrastructure Council before progressing through the South Australian parliament.

By applying the Rail Safety National Law, the bill will provide that the Office of the National Rail Safety Regulator will act as the rail safety regulator in Queensland. The Office of the National Rail Safety Regulator commenced operations in South Australia, New South Wales, Tasmania, and the Northern Territory in January 2013, Victoria in May 2014, the Australian Capital Territory in November 2014, and Western Australia in November 2015. Therefore, should parliament support this bill, there will be greater national consistency in rail safety regulation for all Australian rail transport operations. While some functions of the Office of the National Rail Safety Regulator will be based in South Australia, Queensland will retain a branch office, which will continue to do the day-to-day functions of rail safety regulation and retain the relationships they have with the rail industry, which is vital in a co-regulatory environment.

As the Rail Safety National Law was based on a model law, which also formed the basis of the Transport (Rail Safety) Act 2010, there are only a small number of substantive changes for Queensland. The major differences are that the Office of the National Rail Safety Regulator must undertake a cost-benefit analysis if a particular decision is likely to result in significant costs or expenses to the rail transport operator. Further, a mining railway in Weipa is currently excluded under the Transport (Rail Safety) Act 2010 but will not be excluded under the Rail Safety National Law due to their aboveground operation. However, a transitional provision will provide a period of three years to enable this railway to comply with the Rail Safety National Law. Rio Tinto, which operates the mining railway in Weipa, has been involved in discussions and has indicated that it will ensure it complies with any requirements under the bill.

The other differences are: persons who load or unload freight on rolling stock will have an obligation to ensure that such operations are carried out safely to recognise that there is a shared responsibility to ensure the safety of railway operations; and some penalties are significantly higher than the penalties currently contained within the Transport (Rail Safety) Act 2010 because the penalties have been aligned to penalty amounts contained in work health and safety legislation and also reflect the national harmonisation of rail safety law.

The bill, by applying the Rail Safety National Law, will also introduce drug and alcohol testing by the regulator in Queensland. Rail safety workers will be able to be tested, in particular circumstances, by authorised persons who are appointed by the Office of the National Rail Safety Regulator. The drug and alcohol testing procedures contained in the bill are largely consistent with the road testing rules under the Transport Operations (Road Use Management) Act 1995. Queensland police officers will continue to test train drivers, as they currently do, under the Transport Operations (Road Use Management) Act 1995. Drug and alcohol testing by the National Rail Safety Regulator is in addition to the requirement for rail transport operators to prepare and implement a drug and alcohol management plan.

In July this year, Queensland amended the Transport (Rail Safety) Regulation 2010 to introduce work hours and rest period provisions for train drivers as a fatigue risk safety net. To ensure that there is no reduction in safety in Queensland, the work hours and rest period provisions will be included in the Rail Safety National Law National Regulations 2012. These provisions will only apply to Queensland operators and are similar to the New South Wales fatigue provisions that are already contained in the national regulations. The amendment to the national regulations to include Queensland's fatigue provisions is expected to receive support from the Transport Infrastructure Council in November 2017 and will commence simultaneously with this bill.

As part of the national rail safety reforms, the Australian Transport Safety Bureau will commence conducting necessary no-blame rail safety investigations in Queensland. These no-blame rail safety investigations are currently undertaken by the rail safety regulation unit in the Department of Transport and Main Roads under the Transport (Rail Safety) Act 2010. Following the repeal of the Transport (Rail Safety) Act 2010, investigations will be done by the Australian Transport Safety Bureau under the national Transport Safety Investigation Act 2003.

The fee model currently in the Transport (Rail Safety) Act 2010 reflects that the Department of Transport and Main Roads currently undertakes both regulatory and investigation functions. The Office of the National Rail Safety Regulator will collect annual accreditation fees from accredited rail transport operators to cover the costs to undertake regulatory functions only. They do not collect the investigation component of the fee that rail operators currently pay in Queensland. Therefore, the bill includes an adjusted rail safety investigation fee, which the Department of Transport and Main Roads will collect from high-frequency accredited rail transport operators to cover the costs of the Australian Transport Safety Bureau undertaking no-blame rail safety investigations in Queensland. In recognition of the important contribution tourist and heritage railways make to Queensland's tourism industry and cultural heritage, the Department of Transport and Main Roads will pay the annual accreditation fees for tourist and heritage rail operations in Queensland for the foreseeable future.

The bill includes a commencement date of the end of 30 June 2017 to give industry, the Office of the National Rail Safety Regulator and the Department of Transport and Main Roads certainty to aid in the transition. Both the Department of Transport and Main Roads and the Office of the National Rail Safety Regulator have dedicated resources to manage the implementation and transition to the Rail Safety National Law.

The Rail Safety National Law was developed in consultation with all Australian states and territories and also the rail industry, unions and other representative groups. I will briefly reflect on the consultation that has occurred. The Australasian Railway Association, the Association of Tourist and Heritage Rail Australia, and the Rail, Tram and Bus Union were members of the National Rail Safety Regulator Advisory Committee during the development of the Rail safety National Law. This is testament to this being a piece of legislation that will bring the rail safety environment in Queensland into a nationally harmonised and safe environment that will endure for more than 150 years into the future.

### **First Reading**

**Hon. SJ HINCHLIFFE** (Sandgate—ALP) (Minister for Transport and the Commonwealth Games) (1.00 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

### **Referral to the Transportation and Utilities Committee**

**Madam DEPUTY SPEAKER** (Ms Farmer): Order! In accordance with standing order 131, the bill is now referred to the Transportation and Utilities Committee.