



Transport Safety Investigation Amendment Regulation 2012 (No. 1)¹

Select Legislative Instrument 2012 No. 263

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Transport Safety Investigation Act 2003*.

Dated 22 November 2012

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

ANTHONY ALBANESE
Minister for Infrastructure and Transport

1 Name of regulation

This regulation is the *Transport Safety Investigation Amendment Regulation 2012 (No. 1)*.

2 Commencement

This regulation commences on 20 January 2013.

3 Amendment of *Transport Safety Investigation Regulations 2003*

Schedule 1 amends the *Transport Safety Investigation Regulations 2003*.

Schedule 1 Amendment

(section 3)

[1] Part 4

substitute

Part 4 Rail transport

4.1 What Part applies to

This Part applies to an investigable matter if:

- (a) it is a matter over which the ATSB has jurisdiction; and
- (b) the Rail Safety National Law applies to the railway where the matter happened.

4.2 Definitions

In this Part:

Rail Safety National Law means:

- (a) the Rail Safety National Law set out in Schedule 1 to the *Rail Safety National Law (South Australia) Act 2012*; or
- (b) a law of a State or Territory that corresponds to that law; or
- (c) a regulation made under a law mentioned in paragraph (a) or (b).

rail transport operator has the meaning given by subsection 4 (1) of the Rail Safety National Law.

Regulator has the meaning given by subsection 4 (1) of the Rail Safety National Law.

4.3 Reportable matters defined

For subsection 3 (1) of the Act:

immediately reportable matter means a notifiable occurrence under the Rail Safety National Law that is required under that Act to be notified immediately.

routine reportable matter means any other notifiable occurrence under the Rail Safety National Law.

4.4 Responsible person defined

- (1) This regulation is made for subsection 3 (1) of the Act.
- (2) The following persons are ***responsible persons*** in relation to reportable matters:
 - (a) the rail transport operator, or an employee of the operator, of the rail infrastructure or rolling stock that is involved in the reportable matter;
 - (b) the crew member who is in control of the rail vehicle when the rail vehicle is involved in the reportable matter.

4.5 Particulars for reports of reportable matters

- (1) The particulars prescribed for a report to the Regulator about a reportable matter under the Rail Safety National Law are the prescribed particulars for subsections 18 (1) and 19 (1) and (4) of the Act.
- (2) However, if particulars are not prescribed under the Rail Safety National Law, the following particulars are prescribed:
 - (a) the name, contact details and role of the responsible person making the report;
 - (b) identifying details of the rail vehicle;
 - (c) the name and contact details of the owner of the rail vehicle;
 - (d) the name and contact details of the rail transport operator of the rail vehicle;
 - (e) if the rail vehicle was under hire when the reportable matter occurred—the name and contact details of the hirer;
 - (f) the name and contact details of the driver of the rail vehicle;
 - (g) the place where the reportable matter occurred;
 - (h) the day and local time when the reportable matter occurred;
 - (i) if anyone died or was seriously injured as a result of the reportable matter:
 - (i) for a written report—the names of those persons; and
 - (ii) the number of those persons who were crew members; and
 - (iii) the number of those persons who were passengers; and
 - (iv) the number of other persons;
 - (j) the nature of the reportable matter, including a brief description of what happened;
 - (k) a general statement of the probable cause of the reportable matter (operational or technical problems, or rail vehicle, track or other infrastructure defects, for example).

4.6 Nominated officials for receiving reports

- (1) This regulation is made for subsection 20 (1) of the Act.
- (2) The following persons are *nominated officials* in relation to reportable matters:
 - (a) for an immediate report under subsection 18 (1) of the Act—a staff member;
 - (b) for a written report under subsection 19 (1) of the Act—the Regulator.

Note For the definition of *staff member* in paragraph (a), see subsection 3 (1) of the Act.

4.7 Staff member to pass report on to Regulator

- (1) This regulation applies if a staff member receives a report under subsection 18 (1) of the Act.
- (2) The staff member must, as soon as practicable, pass on details of the report to the Regulator, unless the Regulator advises the staff member not to.

4.8 Regulator to pass report on to staff member

- (1) This regulation applies if the Regulator receives a report under subsection 19 (1) of the Act.
- (2) The Regulator must, as soon as practicable, give the report or details of the report to a staff member, unless the staff member advises the Regulator not to.

4.9 On-board recordings (OBR)

- (1) This regulation is made for subsection 48 (3) of the Act.
- (2) A recording of oral communications made by a rail traffic control service provider, for the purpose of directing or monitoring the progress of a rail vehicle, is not an OBR for the purposes of the Act.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.