

National Rail Safety Guideline

Accreditation of Rail Transport Operators



This national guideline is one of a series of six containing guidance for rail safety regulators, industry stakeholders and other parties about aspects of rail safety legislation.

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Prepared by: Rail Safety Regulators Panel in conjunction with the National Transport Commission

I Foreword

The National Transport Commission (NTC) is an independent body established under Commonwealth legislation and an inter-governmental agreement, and funded jointly by the Commonwealth, States and Territories. In accordance with its duties, the NTC has developed a national model *Rail Safety Bill 2006* and *Rail Safety Regulations 2006* to achieve a nationally consistent approach to regulating rail safety in Australia. The model legislation was developed in conjunction with representatives of all jurisdictions, the rail industry and rail unions and was approved by the Australian Transport Council in 2006. The national model Bill and Regulations will receive legal effect when enacted in State and Territory law.

National Guidelines

National guidelines are intended to assist rail safety regulators, industry stakeholders and other relevant parties with duties under the rail safety legislation to understand and comply with the new legislative requirements. National guidelines are administrative documents that are intended to provide practical advice. Guidelines do not extend, add to or modify legislative obligations contained in the *Rail Safety Bill 2006* or *Rail Safety Regulations 2006*. Depending on the subject matter, guidelines may:

- articulate how rail safety regulators will behave when undertaking their functions to ensure that their processes are transparent to the duty holders (e.g. *National Guideline for Compliance and Enforcement for Rail Safety*);
- provide nationally consistent and/or integrated processes by which rail safety regulators will make decisions (e.g. *National Guideline for Uniform Administration of Accreditation*); or
- assist duty holders with the interpretation of legislative provisions and provide practical guidance for satisfying these requirements (e.g. *National Guideline for Accreditation of Rail Transport Operators*, *National Guideline for the Requirements of a Rail Safety Management System*).

National guidelines impose no legal duties or requirements. Failure to comply with a national guideline does not give rise to any civil or criminal liability. Where actions or outcomes are described as being mandatory in the guidelines, this is because those actions or outcomes reflect provisions in the *Rail Safety Bill 2006* or *Rail Safety Regulations 2006*.

The advice provided in the national guidelines has been expressed in general terms. Rail transport operators and other duty holders should not assume that the advice and any examples provided automatically apply to the operating conditions and environmental circumstances of their railway operations. They should be used as a guide only.

Acknowledgements

Within each State and Territory, the rail safety regulators are responsible for administering rail safety legislation and in some jurisdictions, this responsibility extends to the preparation of rail safety guidelines. Rail safety regulators' national activities are coordinated through their collegiate body, the Rail Safety Regulators Panel (RSRP) which together with the NTC is responsible for the development of this guideline.

The NTC and Rail Safety Regulators Panel (RSRP) would like to thank the members of the Rail Safety Package Steering Committee for their advice during the development of this guideline. Appreciation is also extended to those who made contributions during the public comment period. In particular, the NTC and RSRP acknowledges the work of Public Transport Safety Victoria in developing this guideline.

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1. | Introduction

1.1 Purpose

This guideline outlines the general principles and requirements for being an accredited rail operator in Australia, as reflected in the national model *Rail Safety Bill 2006* (national model Bill) and *Rail Safety Regulations (2006)* (the regulations).

It is intended for persons who may be considering operating as a rail infrastructure manager or a rolling stock operator in one or more of the Australian States or Territories.

‘Person’ can mean any legal entity, for example, an individual or a body corporate. A body corporate is any body that has been incorporated and includes a private company, a public company, an incorporated association and a body deemed by statute to be a body corporate.

A rail infrastructure manager means a person with effective management and control of the rail infrastructure of a railway whether or not the person owns it or has a statutory or contractual right to use, control or provide access to it.

A rolling stock operator means a person with effective management and control of the operation or movement of rolling stock on a railway’s rail infrastructure.

Collectively, rail infrastructure managers and rolling stock operators are referred to as rail transport operators.

The guideline is also intended for currently accredited operators, persons exempt from accreditation, contractors and rail safety workers. That is because the guideline includes comments on maintaining accreditation, and also on safety duties (also referred to as ‘general duties’) which apply to any person involved in operating a railway.

1.2 Content and status

This guideline describes the principles of accreditation as well as the processes and requirements for securing and maintaining accreditation, based on the national model Bill.

Responsibility for the granting and ongoing monitoring of accreditation of rail operators in each State and Territory rests with the local rail safety regulator which has its own office and staff. The contact details for each regulator are set out at the end of this guideline.

Rail operators and potential applicants for accreditation are encouraged to contact their local regulator to discuss accreditation issues generally, as well as concerns or questions they have about the requirements of rail safety legislation.

The rail safety regulators’ collegiate body is the Rail Safety Regulators Panel which has no authority to administer rail safety

legislation, but together with the National transport Commission is responsible for the development of this guideline.

Definitions provided by rail safety legislation apply within this guideline.

Use of the word 'consider' or 'may' indicates an option however the rail transport operator is free to follow a different course of action provided that it complies with the legislation.

Use of the word 'should' indicates a recommendation of the Rail Safety Regulators Panel, however the rail transport operator is free to follow a different course of action provided that it complies with the legislation.

Use of the words or terms such as 'must' or 'mandatory' indicates a legal requirement exists with which compliance is necessary.

Where terms are not defined within legislation the Macquarie Dictionary definition applies.

This document is intended as a guide only. It is not legally binding. It aims to help rail operators understand the overarching nature and requirements of accreditation. Nothing in this document limits how individual rail safety regulators will interpret and apply the specific legislation ultimately enacted in their State or Territory. This guideline does not replace that legislation, and if there is any inconsistency between this guideline and rail safety legislation, the legislation prevails. All persons involved in the rail industry are strongly advised to read the relevant rail safety legislation in their jurisdiction to make sure that they understand the legal obligations that apply in their jurisdiction.

1.3 Context – the national model rail safety legislation

1.3.1 *The national model rail safety legislation*

The *Inter-governmental Agreement for Regulatory and Operational Reform in Road, Rail and Inter-modal Transport 2003* requires the development of a framework to improve and strengthen the co-regulatory system for rail safety. The national model *Rail Safety Bill 2006* was developed by the National Transport Commission in accordance with the requirements of the inter-governmental agreement.

The model legislation was developed in conjunction with all Australian jurisdictions, the rail industry and rail unions. It is not enacted legislation, but it has legal effect once each jurisdiction enacts its own legislation reproducing the model Bill's substantive provisions in accordance with the principles of model legislation.

The model Bill is accompanied by regulations and both are given legal effect when their provisions are reproduced in the legislation of each State and Territory.

Model legislation is different to uniform legislation. The latter is legislation where the provisions in separate statutes are essentially the same. In model legislation, however, statutes reflect generally agreed principles and are substantively consistent with the model legislation, but not necessarily identical.

The objectives of the national model Bill place a high value on the effective management and control of risk to improve safety in railway operations and to promote public confidence in the safety of rail transport.

The national model Bill brings rail safety legislation in Australia into line with modern regulatory approaches for safety. The key features include:

- general duties that apply to responsible parties and establish a 'chain of responsibility' for rail safety;
- risk management criteria based on the requirement to ensure so far as is reasonably practicable, that rail operations are safe;
- detailed requirements for the development and content of safety management systems;
- criteria for the accreditation of rail infrastructure managers and rolling stock operators;
- clearer responsibilities for the rail safety regulator and strengthened audit and enforcement powers; and
- a hierarchy of sanctions and penalties where breaches of rail safety requirements occur.

The meaning of railway operations to which the national model Bill applies is very broad. It includes the operations and movement of rolling stock by any means; the construction of rolling stock or a railway, tracks or associated track structures; and the management, commissioning, maintenance, repair, modification, installation, operation or decommissioning of rail infrastructure and similarly, of rolling stock.

1.3.2 National guidelines for rail safety

This guideline is one of a suite of National Rail Safety Guidelines which are intended to assist rail safety regulators, industry stakeholders and other relevant parties with duties under the rail safety legislation to understand and comply with the new legislative requirements.

National guidelines are administrative documents that are intended to provide practical advice. Guidelines do not extend, add to or modify legislative obligations contained in the *Rail Safety Bill 2006* or *Rail Safety Regulations 2006*. Depending on the subject matter, guidelines may:

- articulate how rail safety regulators will behave when undertaking their functions to ensure that their processes are transparent to the duty holders (e.g. *National Guideline for Compliance and Enforcement of Rail Safety*);
- provide nationally consistent and/or integrated processes by which rail safety regulators will make decisions (e.g. *National Guideline for Uniform Administration of Accreditation*);

- assist duty holders with the interpretation of legislative provisions and provide practical guidance for satisfying these requirements (e.g. *National Guideline for Accreditation of Rail Transport Operators*, *National Guideline for Requirements for Safety Management Systems*).

National guidelines impose no legal duties or requirements. Failure to comply with a national guideline does not give rise to any civil or criminal liability. Where actions or outcomes are described as being mandatory in the guidelines, this is because those actions or outcomes reflect provisions in the *Rail Safety Bill 2006* or *Rail Safety Regulations 2006*.

The advice provided in the national guidelines has been expressed in general terms. Rail transport operators and other duty holders should not assume that the advice and any examples provided automatically apply to the operating conditions and environmental circumstances of their railway operations. They should be used as a guide only.

National Rail Safety Guidelines are developed and maintained through a formal process agreed by and involving rail safety regulators and industry, and facilitated by the National Transport Commission. Through this process, this guideline will be reviewed and amended from time to time to take into account amendments to legislation, feedback from industry as to its usefulness, and changes which the rail safety regulators consider desirable.

2. | Purpose and Principles of Rail Accreditation

The purpose of accreditation is to attest that a rail transport operator has demonstrated that they have the competence and capacity to manage the risks to safety associated with the rail operations for which accreditation was granted.

2.1 Competence and capacity

Accreditation is a method by which rail safety regulators can give an assurance to the public that a rail transport operator has systematically considered the risks that may reasonably be expected to arise from its intended operations, and that it has a safety management system that is appropriate to eliminate risks to safety, or if they cannot be eliminated, reduced so far as is reasonably practicable. A rail transport operator must be able to demonstrate a commitment to implement its safety management system, and safely manage changes to its operations over time.

Due to the potential hazards involved with railway operations, this assurance is required before a person is permitted to operate a railway. In other words, an applicant for accreditation must demonstrate that it has the competence and capacity to manage the risks to safety which could reasonably be expected to arise in the operation of its rail business. A person who has been accredited must demonstrate in turn, that it continues to have the competence and capacity to manage the risks to safety associated with the operation of its rail business.

Rail safety regulators' key concern is to ensure that rail transport operators are able to manage the risks to safety associated with their rail operations. Ultimately, accreditation is designed to promote the safe operation of rail services in Australia.

In making an application for accreditation, a rail transport operator will need to address the risks to safety that are associated with their proposed rail operations and demonstrate the competence and capacity to identify, prioritise, eliminate, control, or lessen these risks on an ongoing basis.

The rail transport operator will need to demonstrate that it has the competence and capacity to manage all safety risks associated with proposed operations, with particular emphasis on the competence and capacity to manage its highest risks. This is because rail safety regulators expect rail transport operators to expend greater effort and resources trying to eliminate or reduce those risks which are more likely to cause serious harm, than on those risks less likely to cause serious injuries or damage.

'Competence and capacity to manage the risks to safety' is referred to in more detail at section 3.4 of this guideline.

2.2 Exemptions from accreditation

Not every person carrying out railway operations needs to be accredited. The national model Bill does not apply to some types of railways and also does not require accreditation for some operators.

In limited circumstances, rail transport operators might be exempt from the requirement to be accredited. Currently the only exemption which is permitted is if a person carries out their rail operations solely within a private siding. While such a person may not need to be accredited, conditions or restrictions to their operations may apply.

As noted above, rail infrastructure managers and rolling stock operators must be accredited in order to operate their rail operations. However, the model Bill (and State and Territory Acts based on it) do not apply to all railways. For example, a railway used only to guide a crane or a railway which is solely within an operating mine are not railway operations for the purposes of rail safety legislation.

3. | Applications for Accreditation

A rail transport operator may apply to the local rail safety regulator for accreditation for the specified railway operations carried out or proposed to be carried out, by or on behalf of, that operator.

Accreditation may be granted to a rail transport operator as a rail infrastructure manager or a rolling stock operator, or both.

If the applicant requests, accreditation may be granted for a specified period only.

3.1 Application form

An application for accreditation must be made on the approved form. This form is available from the rail safety regulator in each jurisdiction. If the applicant wishes to apply for accreditation in more than one jurisdiction, an application for each jurisdiction will need to be submitted. However, the relevant rail safety regulators will communicate and liaise with one another in processing the applications in accordance with the *National Guideline for Uniform Administration of Accreditation*. The purpose of this is to reduce the burden on industry and promote consistency and administrative efficiency for those operators who operate in more than one jurisdiction.

The application must also include specific information set out in relevant legislation, and the prescribed fee.

There are three broad types of information that an applicant can be required to provide. These are described below.

3.1.1 Information relating to governance matters

This includes:

- correct identification and contact details for the applicant;
- if it is a company, details about its directors and evidence that they have authorised the application;
- details about whether the applicant has applied for accreditation elsewhere.

3.1.2 Information about the scope and nature and operational environment

This includes information about the ability of the applicant to actually carry out the operations, for example, if it is applying as a rolling stock operator, that it has an access agreement with the appropriate rail infrastructure manager.

Scope and nature may include matters such as:

- the geographical area of the proposed operations (metropolitan or regional operations, the network area involved, location of relevant infrastructure);

- the nature of rail operations conducted (for example, freight or passenger services, traction type, types of rolling stock to be used, carriage of dangerous goods, maintenance work, details of rail safety work contracted out or conducted in-house, operational parameters, safeworking systems).

3.1.3 Information about the applicant's proposed safety management system

This includes information about the consultation that the applicant has undertaken in developing the safety management system.

The regulations of each State or Territory will set out what a compliant safety management system must contain. Applicants will also find it helpful to refer to the *National Guideline for Requirements of a Rail Safety Management System*, or seek further information from their local rail safety regulator.

Rail safety regulators will pay particular attention to the risk management procedures which the applicant has developed, the applicant's procedures for managing change, and its procedures for managing contractors. The reason for this is that accreditation is an assurance to the public that the rail safety regulator considers that the rail transport operator has the competence and capacity to manage the risks to safety associated with its railway operations. A regulator cannot be satisfied that an applicant has the competence and capacity to manage the risks to safety unless the regulator is satisfied, amongst other things, that there is a compliant safety management system in place which addresses these matters.

The relevant rail safety regulator may require the applicant for accreditation to supply further information and/or verify certain information by statutory declaration. This may include a request to inspect relevant rail infrastructure or rolling stock. The circumstances when this might occur will vary, depending on the nature of the rail operations being contemplated, and the completeness of the information originally provided.

3.2 Endorsement and signing

If the applicant for accreditation is not an individual, evidence must be provided that the application has been endorsed by:

- the directors, if a company applicant;
- each partner, if a partnership applicant; or
- the governing body if an unincorporated association or body applicant.

The application for accreditation must be signed and declared by each signatory to be true and correct.

An application must be signed in accordance with the rules set out below. In addition, each signatory must declare that he or she is not a person who is disqualified under the Corporations Act 2001 from managing corporations.

A person will be disqualified from managing corporations if the person:

- is convicted of a relevant offence;
Note: 'relevant offences' are set out in s 206B of the Corporations Act (Appendix 1) and include, for example, offences concerning the management of a company;
- is an undischarged bankrupt;
- is disqualified by a Court; or
- is disqualified by the Australian Securities and Investment Commission (ASIC).

Special requirements for signature apply to a body corporate that is applying for accreditation. The requirements for signature are as follows.

If the applicant is a company registered under the Corporations Act 2001, then the application must be signed in accordance with s127 of that Act. This means it must be signed by:

- two directors of the company;
- a director and a company secretary of the company; or
- where the company has a sole director who is also the company secretary, that director.

In any other case, the application must be signed by each director, or each member of the committee of management of the body corporate. For example, this will apply to incorporated associations and to bodies deemed by statute to be bodies corporate.

If the applicant is an unincorporated association or body, the application must be signed by its governing body, namely, each member of the committee of management of the association or body.

If the applicant is a partnership, the application must be signed by each partner.

If the applicant is an individual, the application must be signed by the individual.

3.3 Directed co-ordination between two or more applicants for accreditation

If applicable, the rail safety regulator must also be satisfied that the operator has complied with any direction to co-ordinate the application with that of another rail transport operator.

The rail safety regulator may have given such a direction where there are applications from two or more operators and the regulator believes that co-ordinated preparation of the applications is necessary for safety. It is an offence not to comply with such a direction.

3.4 What an applicant for accreditation must demonstrate in its application

Rail safety regulators cannot decide to accredit a person unless that person has demonstrated that:

- the person has the competence and capacity to manage risks to safety associated with the railway operations for which accreditation is sought;
- the person has the competence and capacity to implement its safety management system;
- the person has undertaken consultation in relation to its safety management system;
- the person has the financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities; and
- the person has or can comply with any other legislative requirements.

3.4.1 *The meaning of competence and capacity to manage risks to safety*

In order to demonstrate the competence and capacity to manage the risks to safety associated with its rail transport operation, an applicant for accreditation has to do several things. The first is to demonstrate the ability to identify the risks associated with the rail transport operation.

In identifying the risks to safety associated with the rail operations, an applicant can seek assistance from risk management guidelines and standards, or directly from a rail safety regulator. There is no prescribed way by which a person identifies the risks associated with its operation. A person may choose whatever methodology they consider is the most appropriate and the most thorough in identifying risks. However, an operator may need to be able to justify its choice to a regulator.

The second requirement is to demonstrate the ability to eliminate, control, reduce or mitigate those risks (as appropriate). This will include demonstrating:

- the ability to identify and put in place appropriate risk controls;
- the resources, skills and know how to operate safely; and
- the operational structures and systems to support the safe operation of the railway operations.

Note that this is not the same as the requirement to eliminate or reduce risks so far as is reasonably practicable. Instead the regulators need to be satisfied that the applicant has the competence and capacity to comply with this obligation before it begins operating.

Finally, the applicant must demonstrate that appropriate measures are in place for the review of risk assessments and control measures and to take appropriate remedial action when deficiencies in the safety management system are identified.

In other words, competence and capacity to manage the risks to safety relies not only on the ability to identify and assess risks and identify and implement control measures, but to establish and implement a self sustaining, continuously improving, safety management system that is appropriate for the scope and nature of the railway operations.

3.4.2 Other competence and capacity that must be demonstrated

A person also has to demonstrate that it has the competence and capacity to implement its safety management system. For example, a company which has applied for accreditation but which is in internal disarray, or in financial difficulty, may have difficulty persuading a regulator that it has the competence and capacity to operate a railway safely because funds necessary to maintain operations safely and in compliance with its proposed safety management system may not be available.

The following points are suggestions as to how an applicant can demonstrate to a regulator that it is stable and has the resources and skills to be able to implement its safety management system. Some of these items are included in a safety management plan (see section 6.1):

- organisational charts which show key personnel, reporting lines, and corporate structure;
- job descriptions, or other evidence of the roles for ensuring training and maintenance of competence;
- evidence that processes are in place to ensure key personnel maintain the required knowledge, skills and experience;
- evidence of the ability of senior management to make safety decisions, for example, relevant qualifications of key personnel or relevant previous experience of key personnel;
- evidence of procedures for monitoring competency against required standards;
- evidence of arrangements for ensuring staff comply with their safety/investigations training, and are supervised or mentored appropriately; and
- evidence of processes for identification of safety critical tasks that require specially trained or experienced workers.

In relation to competence and capacity generally, including financial capacity, the applicant could provide details about the resources and systems that it will rely on to carry out its business safely, including, for example (and as appropriate to the particular organisation), information about:

- technical operations;
- human resources;
- legal resources;
- financial resources (including relevant financial statements);
- assets;
- information technology systems; and
- maintenance systems.

The applicant could provide a statement of how resourcing will occur, and how it will plan resourcing and scheduling, taking into account the proposed scope of the operations or assets.

The above points are suggestions on how to substantiate the applicant's ability to properly resource programs, staff and so on to meet safety requirements. If an organisation does not wish to divulge information which it considers is commercial in confidence, then its representatives should speak with the local regulator directly to discuss how this concern might be best addressed.

3.4.3 Evidence of consultation about the safety management system to be provided

The applicant must show that it has complied with the obligation to consult in relation to its safety management system.

Before establishing a safety management system, a rail operator should, so far as reasonably practicable, consult with the persons set out in local legislation. These persons might include:

- (a) persons likely to be affected by the safety management system, being persons who carry out the railway operations, work at the railway premises or with the rolling stock;
- (b) health and safety representatives of any of the persons in (a);
- (c) any union representing any of the persons in (a);
- (d) any other rail transport operator with whom the applicant has an interface co-ordination plan relating to risks to safety; and
- (e) the public, as appropriate.

Applicants should confirm with the local rail safety regulator which persons it is required to consult with in its jurisdiction.

The following are suggested forms of documentary evidence of consultation:

- the procedures for conducting consultations;
- minutes of high level meetings undertaken for the purpose of consultation;
- minutes of risk workshops carried out with relevant parties; and
- correspondence with relevant parties.

Note that the issues raised through the consultation process need to be addressed subsequently in practice.

3.4.4 Evidence of financial capacity to be demonstrated

An applicant must demonstrate that they have the financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities. Applicants should also provide details of the methodology used to assess the adequacy of their financial resources or public risk insurance arrangements.

4. | Other Issues Relating to Accreditation

4.1 Conditions and restrictions to accreditation

A condition of accreditation is a limitation placed on accreditation. There are prescribed conditions of accreditation that all rail operators must comply with. These are set out in legislation. Conditions are in addition to the other duties and obligations placed upon rail transport operators by the legislation. The national model Bill sets out a number of conditions on accreditation which apply to all rail transport operators. Failure to comply with a prescribed condition of accreditation is an offence.

The rail safety regulator may also impose conditions on an accreditation. Regulator imposed conditions vary from operator to operator. Failure to comply with conditions imposed by the regulator is also an offence.

The *National Guideline for Uniform Administration of Accreditation* provides guidance to rail safety regulators in relation to the principles that should be applied in the use of conditions of accreditation. These principles state that conditions of accreditation:

- should only include matters relevant and applicable to a specific operator; and
- should not repeat general legislative or regulatory provisions.

Some matters that historically have been regulated through prescribed or standard conditions of accreditation are now regulated directly by legislation. In some cases these requirements apply more broadly within the rail industry than accredited persons. For example implementation of, and compliance with, the rail transport operator's safety management system; or the notification of occurrences. The fact that the accreditation notice may not list these obligations as a condition of accreditation, does not lessen the rail transport operator's obligation to comply.

For example:

The Rail Safety Regulator could restrict a rail transport operator who is a rail infrastructure manager to provision of freight services. This would mean that it would not be accredited to operate passenger services.

4.2 Variations to accreditation

A person can only undertake the rail operations permitted by the rail safety regulator and set out in its Notice of Accreditation. However, if a person wishes to vary the nature or scope of its operations, then it can seek the permission of the rail safety regulator to vary its accreditation.

Similarly, an operator can seek variation of a condition or restriction imposed by the rail safety regulator. An operator should apply to the regulator on the prescribed form.

The key matter which the rail safety regulator will want to be satisfied of is that the operator has the competence and capacity to manage the risks to safety associated with its changed operations.

If the rail safety regulator receives variation applications from two or more rail transport operators and believes that co-ordinated preparation of the applications is necessary for safety, the regulator may direct them to co-ordinate the applications.

If the applicant is accredited in a corresponding jurisdiction with the variation, the rail safety regulator must consult with his or her counterpart in that other jurisdiction with a view to ensuring consistent outcomes.

The earlier an operator is able to submit an application for variation with the relevant regulator, the greater the certainty for both operator and regulator in the process and timeline that will be followed. Similarly, if an operator is considering changing the nature or scope of its operation, then early discussions with the regulator will assist in identifying and dealing with possible issues, such as the effect on contractors, identifying who else may need to be accredited, and so on.

4.3 Termination of accreditation

An accredited rail transport operator may surrender its accreditation by notifying the rail safety regulator in writing. This might arise because of a cessation of business, insolvency, or a sale of the business to another entity.

Depending on the circumstances, there may be different requirements before an accreditation can be surrendered. Accredited rail transport operators intending to cease all or part of their railway operations should contact their relevant rail safety regulator to determine the requirements for the surrender.

An accreditation can also come to end as the result of the rail safety regulator's disciplinary action against an accredited rail transport operator. However, this will only occur in extreme circumstances. The *National Guideline for Compliance and Enforcement for Rail Safety* describes the circumstances in which a rail safety regulator might consider revocation or suspension of accreditation appropriate.

Appendix 1: Corporations Act - disqualifications

CORPORATIONS ACT 2001

- SECT 206B

Automatic disqualification

Convictions

- (1) A person becomes disqualified from managing corporations if the person:
 - (a) is convicted on indictment of an offence that:
 - (i) concerns the making, or participation in making, of decisions that affect the whole or a substantial part of the business of the corporation; or
 - (ii) concerns an act that has the capacity to affect significantly the corporation's financial standing; or
 - (b) is convicted of an offence that:
 - (i) is a contravention of this Act and is punishable by imprisonment for a period greater than 12 months; or
 - (ii) involves dishonesty and is punishable by imprisonment for at least 3 months; or
 - (c) is convicted of an offence against the law of a foreign country that is punishable by imprisonment for a period greater than 12 months.

The offences covered by paragraph (a) and subparagraph (b)(ii) include offences against the law of a foreign country.

- (2) The period of disqualification under subsection (1) starts on the day the person is convicted and lasts for:
 - (a) if the person does not serve a term of imprisonment—5 years after the day on which they are convicted; or
 - (b) if the person serves a term of imprisonment—5 years after the day on which they are released from prison.

Bankruptcy or personal insolvency agreement

- (3) A person is disqualified from managing corporations if the person is an undischarged bankrupt under the law of Australia, its external territories or another country.
- (4) A person is disqualified from managing corporations if:
 - (a) the person has executed a personal insolvency agreement under:
 - (i) Part X of the Bankruptcy Act 1966; or
 - (ii) a similar law of an external Territory or a foreign country; and (b) the terms of the agreement have not been fully complied with.

Appendix 2: Rail safety regulator contacts

Answers to specific queries about the legislation relevant to a particular State or Territory can be obtained directly from the relevant rail safety regulator.

New South Wales: Independent Transport Safety and Reliability Regulator.

<http://www.transportregulator.nsw.gov.au/>

Northern Territory: Department of Planning and Infrastructure, Rail Safety

transport.dpi@nt.gov.au

Queensland: Queensland Transport

<http://www.transport.qld.gov.au/Home/Safety/Rail/>

South Australia: Department for Transport, Energy & Infrastructure

<http://www.transport.sa.gov.au/safety/rail/>

Tasmania: Department of Infrastructure, Energy & Resources

<http://www.dier.tas.gov.au/>

Victoria: Public Transport Safety Victoria

<http://www.doi.vic.gov.au/doi/internet/vehicles.nsf/headingpagesdisplay/public+transport+safety+victoria>

Western Australia: Department for Planning & Infrastructure

<http://www.dpi.wa.gov.au/>

I Acknowledgements

Principal Authors

Public Transport Safety Victoria, Department of Infrastructure.

Rail Safety Package Steering Committee

Carolyn Walsh (Chair)	ITSRR, NSW
Natalie Pelham	ITSRR, NSW
Bruce Chan	Department for Planning and Infrastructure, WA
Derek Heneker	Department of Transport, Energy and Infrastructure, SA
Alex Rae	Department of Infrastructure, Planning and Environment, NT
John Hartigan	Department of Infrastructure, VIC
Julie Bullas	Queensland Transport, QLD and Rail Safety Regulators' Panel
Mark Addis	Department of Infrastructure, Energy and Resources, TAS
Jim Wolfe	Department of Transport and Regional Services
Roger Jowett	Rail Tram and Bus Union
Paul Milevsky	Queensland Rail, ARA
Phil Sochon	Australasian Railway Association, ARA
Clare Kitchener	RailCorp NSW, ARA
Andrew Kitto	Australian Rail Track Corporation, ARA

Rail Safety Regulators' Panel

Julie Bullas (Chair)	Queensland Transport, QLD
Janice McLoughlin (Sec)	Queensland Transport, QLD
Natalie Pelham	ITSRR, NSW
Michael Quinn	ITSRR, NSW
Rob Burrows	Department for Planning and Infrastructure, WA
Derek Heneker	Department of Transport, Energy and Infrastructure, SA
Alex Rae	Department of Infrastructure, Planning and Environment, NT
Alan Osborne	Public Transport Safety Victoria, VIC
Craig Hoey	Department of Infrastructure, Energy and Resources, TAS
Mervin Harvey	Land Transport Department, NZ

National Transport Commission

Jan Powning
Paul Salter
Kirsty McIntyre
Ray Hassall
Tim Eaton

Communicating for Health

Fiona Landgren
Jessie Murray