

# National Rail Safety Guideline

## Uniform Administration and Accreditation



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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Rail Safety  
Regulators' Panel



National Transport Commission

**National Guideline for Uniform Administration of Accreditation**

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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 guidance and 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 the Independent Transport Safety and Reliability Regulator of New South Wales in developing this guideline, specifically the following officers: Natalie Pelham, Susan Kozianski and Celia Murphy.

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# 1. Introduction

## 1.1 Purpose

The purpose of this guideline is to promote and facilitate consistent decision making by rail safety regulators in relation to applications for accreditation, variation of accreditation and variation of conditions of or restrictions to accreditation where a rail transport operator is accredited or is seeking accreditation in more than one jurisdiction.

The national model *Rail Safety Bill* provides for rail safety legislation that will form part of a system of nationally consistent rail safety laws. One of the principles underpinning the Bill is that rail regulatory decision making processes should be timely, transparent and nationally consistent. Achieving consistency requires a common interpretation of legislative requirements and a coordination of decision making processes. This requirement is reflected in clause 36 of the Bill:

1. This section applies if the rail safety regulator receives an application for accreditation, or for variation of accreditation or the conditions or restrictions of accreditation, that indicates that the applicant is accredited, or is seeking accreditation, under a corresponding law of one or more other jurisdictions (whether or not contiguous with this jurisdiction).
2. The rail safety regulator must, as soon as possible and before deciding whether or not to grant the application, consult with the relevant corresponding rail safety regulator, or regulators, in relation to the application with a view to the outcome of the application being consistent with the outcome of applications made in the other jurisdiction or jurisdictions.
3. The rail safety regulator, in complying with sub-section (2), must take into account any guidelines applicable to this section.
4. If the rail safety regulator does not, in relation to an application, act consistently with the provisions of the guidelines, the rail safety regulator must give the applicant reasons for not so acting.

Further information about the requirements for accreditation and the application for accreditation are included in the *National Guideline for Accreditation of Rail Transport Operators*.

## 1.2 Content and status

This guideline outlines business rules that have been developed to ensure a consistent approach is taken by jurisdictions in relation to applications for accreditation or applications for variation of accreditation, and applications for variation of conditions of or restrictions to accreditation. The guideline includes:

- a template accreditation notice and guidance on the information which should be included in notice of accreditation (section 2);

- a business process for the assessment of applications for accreditation where clause 36 applies (section 3);
- a business process for the assessment of applications for variation of accreditation where clause 36 applies (section 4); and
- a business process for the assessment of applications for variation of conditions of or restrictions to accreditation where clause 36 applies (section 5).

The business rules seek to ensure national consistency in terms of the form of the accreditation notice, the way in which conditions and restrictions are applied, and the process used to assess applications for accreditation or variation of accreditation of rail transport operators operating in more than one jurisdiction.

The application of the business rules will not necessarily result in consistent accreditation of an individual rail transport operator, as there may be differences in the nature and scope of that operator's railway operations in different jurisdictions.

The business rules set out in this guideline provide the broad steps rail safety regulators must take in order to meet the requirements set out in clause 36 of the national model Bill. However, individual rail safety regulators may develop more detailed processes to reflect the regulator's operational structure and to meet the operational needs of the regulator.

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.

## **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 Intermodal Transport requires the development of a framework to improve and strengthen the co-regulatory system for rail safety. The national model *Rail Safety Bill* was developed by the National Transport Commission in accordance with the requirements of the inter-governmental agreement.

The model *Rail Safety Bill* was developed by the National Transport Commission (NTC) following an extensive review of the current co-regulatory approach to rail safety in Australia. It was developed in conjunction with representatives from the rail safety regulators and transport agencies of all states, territories and the Commonwealth, the rail industry and rail unions and other relevant regulatory agencies.

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

The objectives of the 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 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 contents of safety management systems;
- clear 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 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. | Accreditation Notice Template and Guidance

### 2.1 General format and content of accreditation notices

Accreditation notices should be prepared using the *National Accreditation Notice Template* (refer Appendix 1) This notice template has been designed to meet statutory requirements. Specific guidance about completing the template is included in section 2.3 of this guideline.

Accreditation notices should be drafted to reflect the permissions sought and the competence and capacity demonstrated by the rail transport operator.

For example, a large national rail transport operator, whose railway operations involve the commissioning of large infrastructure or capital projects, will require a safety management system that anticipates large scale, complex change, and has sophisticated risk management, change management, and contractor management systems. These generic capabilities would enable the regulator to grant broad permissions under the accreditation for the conduct of railway operations.

Conversely, a rail transport operator who uses a particular (limited) type of rolling stock, and undertakes limited railway operations that are not expected to change, would require systems that reflect that intent. That is simpler risk, change and contractor management systems.

Again, the accreditation must reflect the demonstrated level of competence and capacity for the permissions sought. As a result, certain risk controls might be mandated, or other restrictions may be imposed; to limit the operations to those that the rail transport operator has demonstrated the competence and capacity to undertake. Any request to grant broader permissions for, or lift restrictions on, such a rail transport operator would be reliant on the development and demonstration of the necessary competence and capacity for the requested permissions.

An important principle of the national rail accreditation scheme is that no variation of accreditation be required where there is nothing qualitatively different in the railway operations being conducted. For example, where a rail transport operator has demonstrated the competence and capacity to undertake the design, construction and commissioning of new types of rolling stock, it should not be necessary to apply for variation to accreditation to commence a new project of the same type.

The reasons for a decision to impose conditions or restrictions on accreditation must be provided to the operator. So too should information about the operators' right for independent review of the regulators decision. This information should be included in a covering letter, which forms part of the notice.

## 2.2 Conditions of accreditation

### 2.2.1 *Principles for the use of restrictions and conditions (clause 37(2)(c))*

A rail safety regulator may impose restrictions or conditions on the accreditation of a rail transport operator (refer *National Guideline for Accreditation of Rail Transport Operators*).

A condition or restriction imposed on an accreditation is void if it is inconsistent with rail safety legislation or any other law.

Accreditation conditions and restrictions imposed by the rail safety regulator:

- ***Should only include matters relevant and applicable to a specific operator.***

Conditions or restrictions that are relevant and applicable to all accredited operators or a specified class of operators should be applied through national model regulations, which are not subject to judicial review and which can be enforced by regulators through the range of enforcement mechanisms under the legislation.

- ***Should not repeat general legislative or regulatory provisions.***

Since such requirements are enforceable in their own right, it is not necessary to repeat them in accreditation conditions. In order to provide accredited operators with a convenient summary of their obligations, it may be useful to develop a standard summary of accredited operator legislative and regulatory obligations as a separate document to the accreditation notice.

For example, conditions should not include compliance with the operator's safety management system as included in their accreditation application, or with a specified standard such as AS4292 Railway Safety Management or AS4360 Risk Management. Safety management requirements are imposed directly by the national model Bill and Regulations.

### 2.2.2 *Conditions regarding nature of railway operations*

The following matters relevant to the nature of operations may be included as a condition of accreditation where it is not practicable to articulate the restrictions on the accreditation within schedules 1 and 2 of the notice template, and only where required to reflect the limitations of the accredited persons competence or capacity, or to reflect the operations for which the applicant sought accreditation:

- the intensity of railway operations. This may be the case for proposed operations that are seasonal, or periodic;
- whether the railway operations are to be conducted in daylight hours or night time, or between specific hours;
- the type of infrastructure being managed. For example whether the track is electrified;
- the type of traction to be used in relation to rolling stock; and

- services or aspects of services or specific railway operations to be undertaken.

### **2.2.3 Conditions requiring specific safety management initiatives or projects**

Accreditation conditions may include performance of specific safety management initiatives or projects by specified deadlines.

This may be appropriate in the case of new accreditations or variations, where projects are being undertaken that are material to the competence or capacity of the accredited person.

For example reopening of disused track may require prior completion of an upgrading of infrastructure; commencing operations on new networks may require completion of programs of driver training on route knowledge and so on. The rail transport operator may be judged to not have the competence and capacity to safety manage the risks associated with the proposed railway operations until such programs are completed.

### **2.2.4 Reasons for conditions and restrictions of accreditation**

The national model Bill requires rail safety regulators to justify the imposition of conditions and restrictions on accreditations granted, and to be prepared to justify them before an external review body, such as a court or an appeals tribunal. The detail of arrangements for external review of accreditation decisions vary from jurisdiction to jurisdiction.

Given the legislative basis for accreditation, conditions and restrictions applied to the accreditation should fall into one of the following categories:

- those prescribed by the national model Regulations;
- those imposed to indicate the limits of the competence and capacity demonstrated by the accredited person at a local jurisdictional level;
- those imposed because the programs of work required are judged to be material to the competence and capacity required for the management of risks to safety associated with the subject railway operations; and/or
- those imposed to indicate the permissions sought by the applicant.

### **2.2.5 Variations to accreditation**

Variations to accreditation must be granted by the issue of a notice under the national model Bill, and contain (at a minimum) the matters specified in cl.49. To facilitate certainty, a rail safety regulator will issue the operator with a 'consolidated accreditation notice' at the time of the issuing of the notice of variation.<sup>1</sup>

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<sup>1</sup> The obligation on the part of the regulator to give this notice may be made mandatory by a local provision

The consolidated notice is intended to provide certainty for regulators, operators and any sufficiently interested third party as to the conditions of operation in place at any given point in time. It does so by identifying all permissions applied as a result of a decision to vary an operator's accreditation over the life of the relevant operations. For a jurisdiction that issues superseding notices of variation, a notice issued under s49 of the model Bill (Determination of application for variation) should be treated as a consolidated notice.

For a jurisdiction issuing notices of variation that amend the original instrument of accreditation, the consolidated notice will be issued separately for information purposes, and the notice of variation is generally the sole instrument having legal effect.<sup>2</sup> The form in which the variations should be recorded is set out in the template in Appendix 1.

To provide a complete record, regulators' accreditation files must hold the consolidated notice prepared each time a variation is granted, and for a jurisdiction that does not issue superseding notices, the original accreditation notice.

### 2.3 Completion of notice of accreditation by the rail safety regulator

In order to facilitate consistency in processes and decision making across the jurisdictions, a template accreditation notice has been developed (Appendix 1).

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<sup>2</sup> Unless legislation provides to the contrary, see for example Clause 104 and Schedule 3 of the Transport (Rail Safety) Bill 2008 (Qld)

**Table 1. Completion of Notice of Accreditation by the rail safety regulator**

NOTICE ITEM	REFERENCES
<p><b>1. Accredited person</b></p>	<p>Insert name and address and ACN or ABN of the legal entity to be accredited.</p> <p>Include the applicants registered business name. Also include the trading name if it is different from the business name. Note that business names and trading names are not a legal entity and are not capable of accreditation.</p> <p>Insert the applicants residential address, or in the case of a body corporate, registered business address.</p>
<p><b>2. Commencement Date</b></p>	<p>Insert date of initial accreditation followed by the date of issue of consolidated notice. For example:</p> <p><i>'Accreditation first granted 1 July 2007</i></p> <p><i>This consolidated version of the Notice of Accreditation was last updated on XXXXXXXX as a result of the commencement of Notice of Variation 2007 No 1.'</i></p>
<p><b>3. Variation</b></p>	<p>In the case of a notice issued as a result of a variation, insert identifying number of the variation.</p> <p>For example: 'Notice of Variation (No1) 01-09-2007'</p> <p>If not a variation, insert 'not applicable'.</p>

**Table 1. Completion of Notice of Accreditation by the rail safety regulator (cont)**

NOTICE ITEM	REFERENCES
<p><b>4. Duration</b></p>	<p>Insert duration of accreditation where applicant has requested a time limited accreditation.</p> <p>If the applicant has not requested a time limited accreditation this row should be deleted.</p> <p>Clause 32(2) of the national model Bill provides that if an applicant for Accreditation so requests, an Accreditation may be granted for a specified period only.</p>
<p><b>5. Type of Rail Transport Operator</b></p>	<p>The national model Bill defines a rail transport operator as:</p> <ul style="list-style-type: none"> <li>(a) a rail infrastructure manager; or</li> <li>(b) a rolling stock operator; or</li> <li>(c) a person who is both a rail infrastructure manager and a rolling stock operator.</li> </ul> <p>The rail safety regulator should insert either or both of a 'Rail Infrastructure Manager' and a 'Rolling Stock Operator' at this Item.</p> <p>In determining whether the accredited person is either or both of the above types of rail transport operator the rail safety regulator should refer to the definitions provided by clause 4 of the national model Bill.</p>
<p><b>6. Railway Operations</b></p>	<p>Standard text is provided by the notice template for this field.</p> <p>As an introduction to the standard text, a brief description of the railway operations may also be included in this field. Care should be taken that such a prose description and schedules 1 and 2 are not inconsistent.</p>
<p><b>7. Related Bodies Corporate of the Accredited Person, exempt from accreditation under clause 31(c) of the national model Bill in connection with the railway operations</b></p>	<p>Specify which (if any) companies are exempt and are accordingly permitted to carry out the railway operations in relation to which the accreditation applies.</p> <p>Under the provisions of the national model Bill two companies are related bodies corporate if one of them is:</p> <ul style="list-style-type: none"> <li>(a) a holding company of the other company;</li> <li>(b) a subsidiary of the other company, or</li> <li>(c) a subsidiary of a holding company that is also the holding company of the other company.</li> </ul> <p>For example, one company may be responsible for owning and maintaining the rolling stock and other assets while another may undertake the day-to-day rail transport operations. In this situation, rather than grant accreditation to each of the related bodies corporate a rail safety regulator may exempt (under clause 31(c) of the national model Bill) one or more of the related bodies corporate in respect of their operations so that only one entity within the group needs be accredited.</p>

**Table 1. Completion of Notice of Accreditation by the rail safety regulator (cont)**

NOTICE ITEM	REFERENCES
<p><b>8. Frequency of safety performance reports</b></p>	<p>Specify whether the rail safety regulator requires that a safety performance report be produced by the rail transport operator every 12 calendar months or whether it may be produced after a different period. For example:  <i>‘The accredited person is required to provide to the rail safety regulator a safety performance report once every 18 calendar months commencing on the commencement date of this accreditation.’</i>            Clause 60 of the national model Bill requires rail transport operators to provide regular safety performance reports to the rail safety regulator. Clause 60(4) provides that the reporting period which determines the time period in which each report must be supplied is <i>‘a calendar year or such other period as is agreed from time to time by the rail safety regulator and the rail transport operator.’</i></p>
<p><b>9. Frequency of safety management system reviews</b></p>	<p>Specify at this item whether the rail safety regulator requires that the safety management system be reviewed by the rail transport operator every 12 calendar months or whether it must be reviewed more or less frequently. For example:  <i>‘The accredited person is required to conduct a review of its safety management system once every 18 calendar months commencing on the commencement date of this accreditation.’</i>            Clause 59 of the national model Bill provides that the rail transport operator must review its safety management system in accordance with the regulations at least once each year or at such other time as is agreed between the rail transport operator and the rail safety regulator.</p>
<p><b>10. Annual Accreditation fee due</b></p>	<p>Insert appropriate date. This should generally be 30 September as agreed by the ATC.</p>
<p><b>11. Conditions and restrictions attaching to the accreditation</b></p>	<p>Standard text is provided in the template for this field.  <i>‘As set out in the Conditions and Restrictions accompanying this Notice of Accreditation including any schedules, attachments and exhibits.’</i></p>

**Table 2. Completion of Schedules to the accreditation application**

<p>Schedule 1 and Schedule 2: Railway Operations are to be completed having regard to introductory words in the preceding table, that is,  <i>'The Accredited Person is authorised to carry out the Railway Operations listed in Item 1 of Schedules 1 and 2 with respect to the:</i></p> <ol style="list-style-type: none"> <li>1. <i>Rail Infrastructure or rolling stock listed in Item 2 and/or;</i></li> <li>2. <i>Railway listed in Item 3;</i></li> </ol> <p><i>and:</i></p> <ol style="list-style-type: none"> <li>1. <i>for the purposes specified in Item 4; and</i></li> <li>2. <i>using the manner of carrying out specified in Item 4.'</i> </li></ol>	
<p><b>Item 1: Railway Operations</b></p>	<p>Specify the railway operations that the accredited person is permitted to undertake, using the template as a guide (refer Appendix 1.2).          Terms used should reflect clause 32 of the national model Bill and the definition of railway operations.</p> <ul style="list-style-type: none"> <li>• construction</li> <li>• management</li> <li>• commissioning</li> <li>• maintenance</li> <li>• repair</li> <li>• modification</li> <li>• installation</li> <li>• operation</li> <li>• decommissioning.</li> </ul> <p>Or in relation to rolling stock:</p> <ul style="list-style-type: none"> <li>• construction</li> <li>• commissioning</li> <li>• maintenance</li> <li>• repair</li> <li>• modification</li> <li>• decommissioning</li> <li>• operation or movement, or causing the operation or movement by any means.</li> </ul> <p>These are the only types of railway operation permissions allowable under the legislation and rail safety regulators should not use other terms in this item.</p> <p>The rail transport operator for each railway operation will need to hold accreditation. This applies even if the work in question is being undertaken on the rail transport operators behalf by a contractor. For example, where a rail infrastructure manager contracts a infrastructure maintenance company to do maintenance work the rail infrastructure manager ( the principal) would be accredited for maintenance of rail infrastructure. The contracting party may be accredited for the construction and operation of the rolling stock used for the maintenance being undertaken., but would not be accredited for maintenance conducted for the principal, because the legislation states that only the rail infrastructure manager for the designated railway operation can be accredited.</p>
<p><b>Item 2: Schedule 1 – Railway Infrastructure</b></p>	<p>Use this item to specify the particular rail infrastructure to which the railway operation applies. This may be all rail infrastructure or the accreditation may be granted with restrictions imposed in this item at the discretion of the rail safety regulator. Restrictions should be determined with regard to the demonstrated competence and capacity of the rail transport operator. Additional guidance tailored to various railway operations is provided on the template notice.</p>

**Table 2. Completion of Schedules to the accreditation application (cont)**

<p><b>Item 2: Schedule 2 – Rolling stock</b></p>	<p>Use this item to specify the particular rolling stock to which the railway operations applies. This may be all rolling stock, or the accreditation may be granted with restrictions imposed in this item at the discretion of the rail safety regulator. Restrictions should be determined with regard to the demonstrated competence and capacity of the rail transport operator. Additional guidance tailored to various railway operations is provided on the template notice.</p>
<p><b>Item 3: Railway</b></p>	<p>Each accreditation must designate at this Item, details that identify the railway in respect of which the rail transport operator is to be accredited. Sufficient detail should be inserted at this item to ensure that the physical and geographical limits of the relevant railway are clearly and unambiguously identified. Reference may be made to maps or diagrams attached to the accreditation.</p> <p>The geographic location and limits should be described using defined terms where available (e.g. metropolitan rail area<sup>1</sup>) or specific localities (e.g. Kalgoorlie to Kewdale and Kwinana) as appropriate.</p> <p>It is preferred that the notice contain all required information and not refer to the accreditation application. Decisions on whether to reference external documents in the notice of accreditation should be made in consultation with the rail safety regulators of each interested jurisdiction.</p> <p>Rail safety regulators should review the external documents and ensure that they do not include levels of detail that would result in a need for variations to accreditation inconsistent with the intent of the national model Bill.</p> <p>The description of the railway in this field should include classification using the descriptors provided the definition of railway in clause 4 of the national model Bill. For example: heavy railway, light railway, monorail, inclined railway, tramway, railway within a marshalling area or a passenger or freight terminal.</p>
<p><b>Item 4: Purposes / manner of carrying out</b></p>	<p>Item 4 is a non-mandatory field and should be used only where necessary to articulate the permissions being granted. Accreditation may be granted for the purpose of allowing the specified railway operations. If these are satisfactorily described by use of items 1, 2 and 3 there may be no need to add anything to item 5. However describing the purposes or manner of carrying out railway operations can be the most effective means of articulating the limitations of the permission granted.</p> <p>Any or all of items 2, 3 and 4 may be needed to describe the railway operations permitted to be undertaken.</p> <p>Where appropriate this field may be used to describe the manner in which the railway operations are to be carried out. (see s37(2)(b)) For example this could be specification of the type of train control to be exercised on the railway specified, reflecting that there is a significant difference in the competence and capacity required for use of different train control methods.</p> <p>If there is insufficient space on the template, reference may be made to attachments.</p>

<sup>1</sup> A term defined in the NSW Transport Administration Act 1988

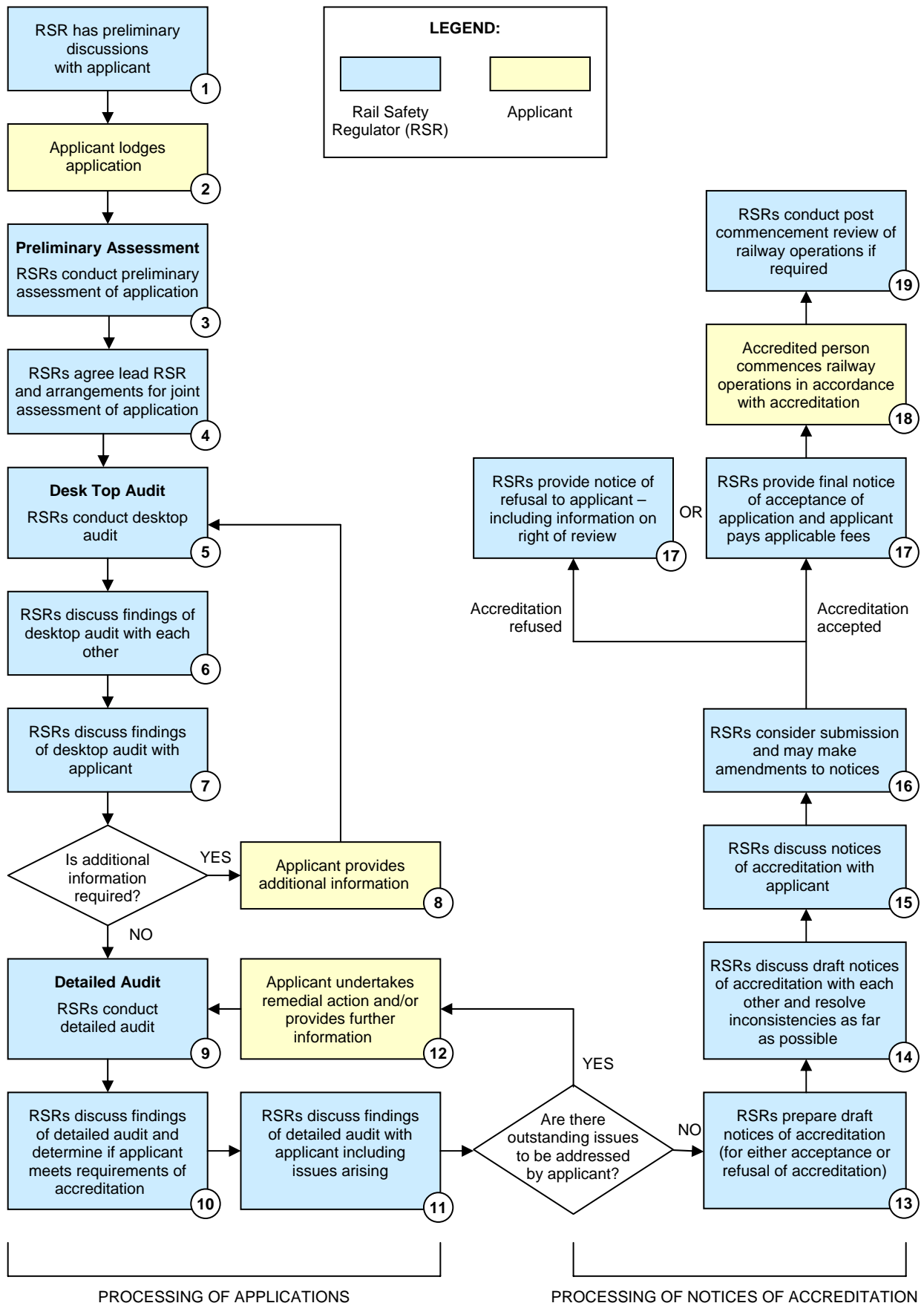
### 3. | Agreed Business Processes

This section describes the agreed business processes for:

- the assessment of applications for accreditation where clause 36 applies (section 3.1);
- for the assessment of applications for variation of accreditation where clause 36 applies (section 3.2); and
- for the assessment of applications for variation of conditions of or restrictions to accreditation where clause 36 applies (section 3.3)

Figure 1 summarises the general steps common to each of these processes. These are further elaborated in the tables in the following sections.

**Figure 1. General steps in processing accreditation applications, including variations and variations to conditions and restrictions**



### 3.1 Business Processes for Assessing Applications for Accreditation

This section describes the process for assessing applications for accreditation under clause 33 of the national model *Rail Safety Bill* where clause 36 of the national model Bill applies.

This process may be applied where a rail transport operator is:

- seeking accreditation in multiple jurisdictions simultaneously; or
- is already accredited in one or more jurisdictions and is seeking accreditation in one or more other jurisdictions.

These steps are described in detail in Table 3. The column on the left sets out the steps that rail safety regulators are to take in assessing applications where clause 36 of the national model Bill applies. The column on the right provides relevant references to the national model Bill, Regulation and guidelines relating to those steps.

**Table 3. Steps in assessing a multi-jurisdictional application for accreditation**

STEP	REFERENCES
<p><b>STEP 1</b>  <b>Rail safety regulator conducts preliminary discussion with prospective applicant and provides relevant information</b></p>	<ul style="list-style-type: none"> <li>• The requirements in relation to applications for accreditation are set out in clauses 33 and 34 of the national model Bill and clauses 3 and 4 of the national model Regulation. Applicants should also refer to the <i>National Guideline to Accreditation of Rail Transport Operators</i> and the <i>National Guideline for Requirements of a Rail Safety Management System</i> for guidance.</li> <li>• Clause 35 of the national model Bill allows the rail safety regulator to direct two or more applicants for accreditation to coordinate their applications.</li> <li>• Clause 55(1) of the national model Bill allows the rail safety regulator to waive any one or more requirements of part 4, division 2 of the national model Bill where an accredited person proposes to transfer railway operations for which it is accredited to the applicant for accreditation. However, clause 55(2) only allows such requirements to be waived if the applicant is able to demonstrate that it has the competence and capacity to comply with the relevant requirements of part 4, division 2.</li> </ul>
<p><b>STEP 2</b>  <b>Applicant lodges application and pays appropriate fee</b></p>	<ul style="list-style-type: none"> <li>• Clause 33(2)(f) of the national model Bill requires that an application for accreditation be accompanied by the prescribed application fee. Clause 33 of the national model Regulation sets out the relevant fees.</li> <li>• Clause 37 of the national model Bill sets out the timeframe in which the rail safety regulator is required to make a determination in relation to an application for accreditation.</li> </ul>

**Table 3. Steps in assessing a multi-jurisdictional application for accreditation (cont)**

STEP	REFERENCES
<p><b>STEP 3</b>  <b>Rail safety regulator undertakes preliminary assessment of application</b></p> <ul style="list-style-type: none"> <li>• Assess whether applicant is eligible to apply for accreditation.</li> <li>• Determine whether clause 36 of the national model Bill applies.</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 34(a) of the national model Bill requires an applicant for accreditation to demonstrate that it is a rail infrastructure manager or rolling stock operator in relation to the railway operations for which accreditation is sought.</li> <li>• Clause 56 of the national model Bill exempts a rail infrastructure manager of a private siding from accreditation.</li> <li>• Clause 162(3) of the national model Bill allows the making of regulations to exempt railway operators from accreditation.</li> <li>• Clause 36 of the national model Bill requires a rail safety regulator to consult with other rail safety regulators where an application for accreditation indicates that the applicant is accredited or is seeking accreditation under a corresponding law of one or more other jurisdictions.</li> </ul>
<p><b>STEP 4</b>  <b>Rail safety regulator contact other rail safety regulators</b></p> <ul style="list-style-type: none"> <li>• Determine which other rail safety regulators need to be consulted.</li> <li>• Advise relevant rail safety regulator(s) of application.</li> <li>• Compare permissions being sought by applicant with permissions granted or sought in other jurisdiction(s).</li> <li>• Make arrangements with other relevant rail safety regulators for joint assessment of the application if there are applications in multiple jurisdictions.</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 33(2)(d) of the national model Bill requires an application for accreditation to specify whether or not the applicant is accredited or has applied for accreditation under a corresponding law.</li> <li>• Refer to Accreditation Notice Template and Guidance (section 2 of this document) for information on the permissions which may be granted to applicants for accreditation.</li> <li>• Clause 37 of the national model Bill provides guidance on the timeframes in which the assessment of an accreditation application should be finalised.</li> <li>• A lead rail safety regulator should be appointed selected on a case by case basis.</li> <li>• Arrangements for correspondence with applicant to be established in consultation with other regulators and the applicant on a case by case basis.</li> </ul>
<p><b>STEP 5</b>  <b>Rail safety regulator conducts desktop audit</b></p> <ul style="list-style-type: none"> <li>• Determine whether the information provided by the applicant allows the rail safety regulator to assess the application.</li> <li>• Determine what, if any, additional information should be requested.</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 34 of the national model Bill sets out what an applicant for accreditation must demonstrate. Also refer to the <i>National Guideline for Accreditation of Rail Transport Operators</i> for guidance on the competence and capacity requirements to be demonstrated by an applicant for accreditation.</li> <li>• Clause 33(3) of the national model Bill allows the rail safety regulator to require an applicant to supply any further information requested.</li> </ul>
<p><b>STEP 6</b>  <b>Rail safety regulator discusses desktop audit findings with other relevant rail safety regulators</b></p>	

**Table 3. Steps in assessing a multi-jurisdictional application for accreditation (cont)**

STEP	REFERENCES
<p><b>STEP 7</b>  <b>Rail safety regulator discusses desktop audit findings with applicant and, if necessary, requests further information from applicant</b></p>	
<p><b>STEP 8</b>  <b>Applicant provides further information if required</b></p>	
<p><b>STEP 9</b>  <b>Rail safety regulator conducts a detailed audit<sup>2</sup></b></p> <ul style="list-style-type: none"> <li>• May involve a field visit.</li> <li>• May involve coordination with relevant other rail safety regulators.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant to be audited against the requirements set out in part 4, division 4 of the national model Bill and relevant provisions of the national model Regulations.</li> </ul>
<p><b>STEP 10</b>  <b>Rail safety regulator discusses detailed audit findings with other relevant rail safety regulators and determines whether the applicant meets the requirements for accreditation</b></p>	<ul style="list-style-type: none"> <li>• Clause 34 of the national model Bill sets out what an applicant for accreditation must demonstrate. Also refer to the <i>National Guideline for Accreditation of Rail Transport Operators</i> for guidance on the competence and capacity requirements to be demonstrated by an applicant for accreditation.</li> <li>• While joint assessment of an application may be undertaken, each rail safety regulator remains obliged to satisfy themselves that the applicant has met the requirements for accreditation in their jurisdiction. This is a decision for the individual jurisdiction only and is not taken by cross jurisdictional committee.</li> </ul>
<p><b>STEP 11</b>  <b>Rail safety regulator discusses findings of the detailed audit with applicant and, advises applicant of any issues arising.</b></p> <ul style="list-style-type: none"> <li>• Applicant may be asked to provide additional information.</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 51 of the national model Bill allows the rail safety regulator to direct a rail transport operator to amend its safety management system.</li> <li>• Clause 33(3) of the national model Bill allows the rail safety regulator to require an applicant to supply any further information requested.</li> </ul>
<p><b>STEP 12</b>  <b>Applicant addresses any issues arising from detailed audit and provides more information as required</b></p>	<ul style="list-style-type: none"> <li>• Steps 9 – 12 may be repeated one or more times during the course of assessment of the application.</li> </ul>

<sup>2</sup> A detailed audit means an audit of the matters relevant to the application.

**Table 3. Steps in assessing a multi-jurisdictional application for accreditation (cont)**

STEP	REFERENCES
<p><b>STEP 13</b>  <b>Rail safety regulator develops draft notice</b></p> <ul style="list-style-type: none"> <li>The notice may grant accreditation, may grant accreditation but impose conditions or restrictions, or may refuse the application.</li> </ul>	<ul style="list-style-type: none"> <li>Clause 37(2) of the national model Bill and clause 5 of the national model Regulation set out what information a notice of accreditation must include. Also refer to the Accreditation Notice Template and Guidance (section 2 of this document).</li> <li>Clause 37(3) of the national model Bill sets out what information a notice refusing an application for accreditation or imposing a condition or restriction must include.</li> </ul>
<p><b>STEP 14</b>  <b>Rail safety regulator discusses draft notice with other rail safety regulators</b></p> <ul style="list-style-type: none"> <li>The rail safety regulator must compare its draft notice with existing notices or draft notices issued or proposed by other rail safety regulators.</li> <li>If the notices are inconsistent, the rail safety regulator must discuss the inconsistencies with the other relevant rail safety regulators with a view to amending the notice to make it as consistent as possible.</li> <li>The rail safety regulator must be able to justify any inconsistencies to other rail safety regulators and the applicant.</li> </ul>	
<p><b>STEP 15</b>  <b>Rail safety regulator discusses notice with applicant</b></p> <ul style="list-style-type: none"> <li>Discuss with applicant reasons for any inconsistencies with accreditation in other jurisdictions.</li> </ul>	
<p><b>STEP 16</b>  <b>Discuss final notice with other rail safety regulators and makes amendments as required</b></p>	

**Table 3. Steps in assessing a multi-jurisdictional application for accreditation (cont)**

STEP	REFERENCES
<p><b>STEP 17</b>  <b>Rail safety regulator provides final notice to applicant</b></p> <ul style="list-style-type: none"> <li>• Provide covering letter setting out reasons for any inconsistencies with accreditation in other jurisdictions.</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 37 of the national model Bill               <ul style="list-style-type: none"> <li>– sets out the timeframe in which the rail safety regulator is required to make a determination in relation to an application for accreditation; and</li> <li>– requires a rail safety regulator to provide reasons for any decision to refuse an application or impose a condition or restriction; and</li> <li>– requires the notice to include information on the applicant's right to review of accreditation decisions.</li> </ul> </li> </ul>
<p><b>STEP 18</b>  <b>Applicant pays annual accreditation fee and commences operations in accordance with the accreditation granted</b></p>	<ul style="list-style-type: none"> <li>• Clause 40 of the national model Bill allows an annual accreditation fee to be prescribed.</li> </ul>
<p><b>STEP 19</b>  <b>Rail safety regulator conducts post-commencement review of operations if required</b></p> <ul style="list-style-type: none"> <li>• May involve coordination with other relevant rail safety regulators.</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 75 of the national model Bill allows a rail safety regulator to inspect the railway operations of a rail transport operator.</li> </ul>

### 3.2 Business Process for Assessing Applications for Variation of Accreditation

This section describes the process for assessing applications for variation of accreditation under clause 47 of the national model Bill where clause 36 of the national model Bill applies.

Where a change to operations is proposed, the accredited person will need to assess, with reference to its notice of accreditation and the *National Guideline for Accreditation of Rail Transport Operators*, whether the change requires an application for variation of accreditation.

Table 4. summarises the process for assessing an application for variation of accreditation. The column on the left sets out the steps rail safety regulators are to take in assessing applications where clause 36 of the national model Bill applies. The column on the right provides relevant references to the national model Bill, Regulation and Guidelines relating to those steps.

**Table 4. Steps in assessing an application for variation of accreditation**

STEP	REFERENCES
<p><b>STEP 1</b>  <b>Rail safety regulator conducts preliminary discussion with prospective applicant and provides relevant information</b></p>	<ul style="list-style-type: none"> <li>• Clause 47 of the national model Bill and clause 8 of the national model Regulation set out the requirements for an application for variation of accreditation. Applicants should also refer to the <i>National Guideline for Accreditation of Rail Transport Operators</i> and the <i>National Guideline for the Preparation of a Rail Safety Management System</i>.</li> <li>• Clause 48 of the national model Bill allows the rail safety regulator to direct two or more applicants for variation of accreditation to coordinate their applications.</li> </ul>
<p><b>STEP 2</b>  <b>Applicant lodges application and pays appropriate fee</b></p>	<ul style="list-style-type: none"> <li>• Clause 47(c) of the national model Bill requires that an application for variation of accreditation be accompanied by the prescribed application fee. Clause 33 of the national model Regulation sets out the relevant fees.</li> <li>• Clause 49 of the national model Bill sets out the timeframe in which the rail safety regulator is required to make a determination in relation to an application for variation of accreditation.</li> </ul>
<p><b>STEP 3</b>  <b>Rail safety regulator undertakes preliminary assessment of application</b></p> <ul style="list-style-type: none"> <li>• Confirm whether the applicant needs to apply for a variation of accreditation.</li> <li>• Determine whether clause 36 of the national model Bill applies</li> <li>• Notify other relevant rail safety regulators that an application for variation of accreditation has been received.</li> </ul>	<ul style="list-style-type: none"> <li>• Whether an accredited person needs to make an application for variation of accreditation will depend on the change proposed and the content of the person's notice of accreditation.</li> <li>• Clause 36 of the national model Bill requires a rail safety regulator to consult with other rail safety regulators where an application for variation of accreditation indicates that the applicant is accredited or is seeking accreditation under a corresponding law of one or more other jurisdictions.</li> <li>• Clause 33(2)(d) of the national model Bill requires an application for accreditation to specify whether or not the applicant is accredited or has applied for accreditation under a corresponding law.</li> </ul> <p>(continued overleaf)</p>

**Table 4. Steps in assessing an application for variation of accreditation (cont)**

STEP	REFERENCES
<p><b>STEP 3 (cont)</b></p>	<ul style="list-style-type: none"> <li>• It is a prescribed condition of accreditation under clause 6 of the national model Regulation that an accredited person must advise the rail safety regulator if the accredited person becomes accredited under a corresponding law, has its accreditation under a corresponding law suspended or revoked, or if it surrenders its accreditation under a corresponding law.</li> <li>• Note: there is no requirement in the national model Bill or Regulation that an applicant for variation of accreditation inform the rail safety regulator that a variation of accreditation is being sought under a corresponding law.</li> </ul>
<p><b>STEP 4</b>  <b>Rail safety regulator contacts other relevant rail safety regulators</b></p> <ul style="list-style-type: none"> <li>• Determine which other rail safety regulators need to be consulted.</li> <li>• Advise other relevant rail safety regulator(s) of application.</li> <li>• Compare variation being sought with accreditation granted or sought in other jurisdiction(s).</li> <li>• Make arrangements with other relevant rail safety regulators for joint assessment of the application if there are applications in multiple jurisdictions.</li> </ul>	<ul style="list-style-type: none"> <li>• Refer to Accreditation Notice Template and Guidance (section 2 of this document) for information on the permissions which may be granted by an accreditation.</li> <li>• Clause 49 of the national model Bill provides guidance on the timeframes in which the assessment of an application for variation of an accreditation should be finalised.</li> <li>• A lead rail safety regulator should be appointed selected on a case by case basis.</li> <li>• Arrangements for correspondence with applicant to be established in consultation with other regulators and the applicant on a case by case basis.</li> </ul>
<p><b>STEP 5</b>  <b>Rail safety regulator conducts desktop audit</b></p> <ul style="list-style-type: none"> <li>• Determine whether the information provided by the applicant allows the rail safety regulator to assess the application.</li> <li>• Determine what, if any, additional information should be requested.</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 49 of the national model Bill sets out what an applicant for variation of accreditation must demonstrate. Also refer to the <i>National Guideline for Accreditation of Rail Transport Operators</i> for guidance on the competence and capacity requirements to be demonstrated by an applicant for variation of accreditation.</li> <li>• Clause 47(3) of the national model Bill allows the rail safety regulator to require an applicant to supply any further information requested.</li> </ul>
<p><b>STEP 6</b>  <b>Rail safety regulator discusses desktop audit findings with other relevant rail safety regulators</b></p>	

**Table 4. Steps in assessing an application for variation of accreditation (cont)**

STEP	REFERENCES
<p><b>STEP 7</b>  <b>Rail safety regulator discusses desktop audit findings with applicant and, if necessary, requests further information from applicant</b></p>	
<p><b>STEP 8</b>  <b>Applicant provides further information if required</b></p>	
<p><b>STEP 9</b>  <b>Rail safety regulator conducts detailed audit<sup>3</sup></b></p> <ul style="list-style-type: none"> <li>• May involve a field visit.</li> <li>• May involve coordination with other relevant rail safety regulators.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant to be audited against the relevant requirements set out in part 4, division 4 of the national model Bill and relevant provisions of the national model Regulations.</li> </ul>
<p><b>STEP 10</b>  <b>Rail safety regulator discusses detailed audit findings with other relevant rail safety regulators and determines whether the applicant meets the requirements for variation of accreditation</b></p>	<ul style="list-style-type: none"> <li>• Clause 49 of the national model Bill sets out what an applicant for variation of accreditation must demonstrate. Also refer to the <i>National Guideline for Accreditation of Rail Transport Operators</i> for guidance on the competence and capacity requirements to be demonstrated by an applicant for variation of accreditation.</li> <li>• While joint assessment of an application may be undertaken, each rail safety regulator remains obliged to satisfy themselves that the applicant has met the requirements for accreditation in their jurisdiction. This is a decision for the individual jurisdiction only and is not taken by cross jurisdictional committee.</li> </ul>
<p><b>STEP 11</b>  <b>Rail safety regulator advises applicant of issues arising from detailed audit, as required</b></p> <ul style="list-style-type: none"> <li>• Applicant may be asked to provide additional information.</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 51 of the national model Bill allows the rail safety regulator to direct a rail transport operator to amend its safety management system.</li> <li>• Clause 47(3) of the national model Bill allows the rail safety regulator to require an applicant to supply any further information requested.</li> </ul>
<p><b>STEP 12</b>  <b>If necessary, applicant addresses issues arising from detailed audit</b></p>	<ul style="list-style-type: none"> <li>• Steps 9 – 13 may be repeated one or more times during the course of assessment of the application.</li> </ul>

<sup>3</sup> A detailed audit means an audit of the matters relevant to the application.

**Table 4. Steps in assessing an application for variation of accreditation (cont)**

STEP	REFERENCES
<p><b>STEP 13</b>  <b>Rail safety regulator develops draft notice</b></p> <ul style="list-style-type: none"> <li>The notice may grant the variation of accreditation, grant the variation of accreditation but impose conditions or restrictions, or refuse the application.</li> </ul>	<ul style="list-style-type: none"> <li>Clause 49(2) of the national model Bill sets out what information a notice of variation of accreditation must include.</li> <li>Clause 49(3) of the national model Bill sets out what information a notice refusing an application for variation of accreditation or imposing a condition or restriction must include.</li> </ul>
<p><b>STEP 14</b>  <b>Rail safety regulator discusses draft notice with other relevant rail safety regulators</b></p> <ul style="list-style-type: none"> <li>The rail safety regulator must compare its draft notice with existing notices or draft notices issued or proposed by other rail safety regulators.</li> <li>If the notices are inconsistent, the rail safety regulator must discuss the inconsistencies with the other relevant rail safety regulators with a view to amending the notice to make it as consistent as possible.</li> <li>The rail safety regulator must be able to justify any inconsistencies to other rail safety regulators and the applicant.</li> </ul>	
<p><b>STEP 16</b>  <b>Rail safety regulator seeks applicant's comments on draft notice</b></p> <ul style="list-style-type: none"> <li>Discuss with applicant reasons for any inconsistencies with accreditation in other jurisdictions.</li> </ul>	
<p><b>STEP 17</b>  <b>Rail safety regulator discusses final notice with other rail safety regulators</b></p>	

**Table 4. Steps in assessing an application for variation of accreditation (cont)**

STEP	REFERENCES
<p><b>STEP 18</b>  <b>Rail safety regulator provides final notice to applicant</b></p> <ul style="list-style-type: none"> <li>• Provide covering letter setting out reasons for any inconsistencies with accreditation in other jurisdictions, and information on the applicant's right to review.</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 49 of the national model Bill:               <ul style="list-style-type: none"> <li>– sets out the timeframe in which the rail safety regulator is required to make a determination in relation to an application for variation of accreditation;</li> <li>– requires a rail safety regulator to provide reasons for any decision to refuse an application for variation or impose a condition or restriction;</li> <li>– requires that a notice refusing an application for variation include information about the applicant's right of review.</li> </ul> </li> </ul>
<p><b>STEP 19</b>  <b>Applicant pays adjusted annual accreditation fee (where applicable) and commences operations in accordance with the varied accreditation</b></p>	<ul style="list-style-type: none"> <li>• Clause 40 of the national model Bill allows an annual accreditation fee to be prescribed with a local variation for the manner of fixing fees.</li> </ul>
<p><b>STEP 20</b>  <b>Rail safety regulator conducts post-commencement review of operations if required</b></p> <ul style="list-style-type: none"> <li>• May involve coordination with other relevant rail safety regulators.</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 75 of the national model Bill allows a rail safety regulator to inspect the railway operations of a rail transport operator.</li> </ul>

### 3.3 Business Process for Assessing Applications for Variation of Conditions of or Restrictions to Accreditation

This section describes the process for assessing applications for variation of conditions of or restrictions to accreditation under clause 52 of the national model Bill where clause 36 of the national model Bill applies.

Where a change to operations is proposed, the accredited person will need to assess, with reference to its notice of accreditation and the *National Guideline for Accreditation of Rail Transport Operators*, whether the change requires an application for variation of conditions of or restrictions to accreditation.

Table 5 summarises the steps for assessing application for variation of conditions or restrictions on an accreditation. The column on the left sets out the steps rail safety regulators are to take in assessing applications where clause 36 of the national model Bill applies. The column on the right provides relevant references to the national model Bill, Regulation and Guidelines relating to those steps.

**Table 5. Steps in assessing application for variation of conditions or restrictions on an accreditation**

STEP	REFERENCES
<p><b>STEP 1</b>  <b>Rail safety regulator conducts preliminary discussion with prospective applicant and provides relevant information</b></p>	<ul style="list-style-type: none"> <li>• Clauses 52 of the national model Bill requires an application for variation of conditions of or restrictions to accreditation to meet the requirements for applications for accreditation set out in clause 33. Applicants should also refer to the <i>National Guideline for Accreditation of Rail Transport Operators</i> and the <i>National Guideline for Requirements of a Rail Safety Management System</i>.</li> <li>• Note: there is no provision in the national model <i>Rail Safety Bill</i> to allow the rail safety regulator to direct two or more applicants for variation of conditions or restrictions to coordinate their applications.</li> </ul>
<p><b>STEP 2</b>  <b>Applicant lodges application and pays appropriate fee</b></p>	<ul style="list-style-type: none"> <li>• Clause 33(2)(f) of the national model Bill requires that an application for accreditation be accompanied by the prescribed application fee. Clause 33 of the national model Regulation sets out the relevant fees.</li> </ul>
<p><b>STEP 3</b>  <b>Rail safety regulator conducts initial assessment of application</b></p> <ul style="list-style-type: none"> <li>• Confirm that the applicant needs to apply for a variation of conditions of or restrictions to accreditation.                      (continued overleaf)</li> </ul>	<ul style="list-style-type: none"> <li>• Whether an accredited person needs to make an application for variation of conditions of or restrictions to accreditation will depend on the change proposed and the content of the person's notice of accreditation.</li> <li>• Clause 36 of the national model Bill requires a rail safety regulator to consult with other rail safety regulators where an application for variation of conditions of or restrictions to accreditation indicates that the applicant is accredited or is seeking accreditation under a corresponding law of one or more other jurisdictions.</li> </ul>

**Table 5. Steps in assessing application for variation of conditions or restrictions on an accreditation (cont)**

STEP	REFERENCES
<p><b>STEP 3 (cont)</b>  <b>Rail safety regulator undertakes preliminary assessment of application</b></p> <ul style="list-style-type: none"> <li>• Determine whether clause 36 of the national model Bill applies.</li> <li>• Notify other relevant rail safety regulators that an application for variation of conditions of or restrictions to accreditation has been received.</li> </ul>	<ul style="list-style-type: none"> <li>• Clauses 52 of the national model Bill requires an application for variation of conditions of or restrictions to accreditation to meet the requirements for applications for accreditation set out in clause 33.</li> <li>• Clause 33(2)(d) of the national model Bill requires an application for accreditation to specify whether or not the applicant is accredited or has applied for accreditation under a corresponding law.</li> </ul>
<p><b>STEP 4</b>  <b>Rail safety regulator contact other rail safety regulators</b></p> <ul style="list-style-type: none"> <li>• Determine which other rail safety regulators need to be consulted.</li> <li>• Advise relevant rail safety regulator(s) of application.</li> <li>• Compare permissions being sought by applicant with permissions granted or sought in other jurisdiction(s).</li> <li>• Make arrangements with other relevant rail safety regulators for joint assessment of the application if there are applications in multiple jurisdictions.</li> </ul>	<ul style="list-style-type: none"> <li>• Refer to Accreditation Notice Template and Guidance (section 2 of this document) for information on the permissions which may be granted by an accreditation.</li> <li>• Note: there is no provision in the national model bill as to timeframes in which an application for variation of conditions of or restrictions to accreditation must be finalised.</li> <li>• A lead rail safety regulator should be appointed selected on a case by case basis.</li> <li>• Arrangements for correspondence with applicant to be established in consultation with other regulators and the applicant on a case by case basis.</li> </ul>
<p><b>STEP 5</b>  <b>Rail safety regulator conducts desktop audit</b></p> <ul style="list-style-type: none"> <li>• Determine whether the information provided by the applicant allows the rail safety regulator to assess the application.</li> <li>• Determine what, if any, additional information should be requested.</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 52(3) of the national model Bill sets out what an applicant for variation of conditions of or restrictions to accreditation must demonstrate. Also refer to the <i>National Guideline for Accreditation of Rail Transport Operators</i> for guidance on the competence and capacity requirements to be demonstrated by an applicant for variation of conditions of or restrictions to accreditation.</li> <li>• Note: There is no provision to allow the rail safety regulator to require the applicant to provide further information in relation to an application for variation of conditions of or restrictions to accreditation. However, the rail safety regulator may be obliged to refuse the application if adequate information is not provided.</li> </ul>
<p><b>STEP 6</b>  <b>Rail safety regulator discusses desktop audit findings with other relevant rail safety regulators</b></p>	

**Table 5. Steps in assessing application for variation of conditions or restrictions on an accreditation (cont)**

STEP	REFERENCES
<p><b>STEP 7</b>  <b>Rail safety regulator discusses desktop audit findings with applicant and, if necessary, requests further information from applicant</b></p>	
<p><b>STEP 8</b>  <b>Applicant provides further information if required</b></p>	
<p><b>STEP 9</b>  <b>Rail safety regulator conducts detailed audit<sup>4</sup></b></p> <ul style="list-style-type: none"> <li>• May involve a field visit.</li> <li>• May involve coordination with other relevant rail safety regulators.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant to be audited against the relevant requirements set out in part 4, division 4 of the national model <i>Rail Safety Bill</i> and relevant provisions of the national model Regulation.</li> </ul>
<p><b>STEP 10</b>  <b>Rail safety regulator discusses detailed audit findings with other relevant rail safety regulators and determines whether the applicant meets the requirements for variation of accreditation</b></p>	<ul style="list-style-type: none"> <li>• Clause 49 of the national model Bill sets out what an applicant for variation of accreditation must demonstrate. Also refer to the <i>National Guideline for Accreditation of Rail Transport Operators</i> for guidance on the competence and capacity requirements to be demonstrated by an applicant for variation of accreditation.</li> <li>• While joint assessment of an application may be undertaken, each rail safety regulator remains obliged to satisfy themselves that the applicant has met the requirements for accreditation in their jurisdiction. This is a decision for the individual jurisdiction only and is not taken by cross jurisdictional committee.</li> </ul>
<p><b>STEP 11</b>  <b>Rail safety regulator advises applicant of issues arising from detailed audit, as required</b></p> <ul style="list-style-type: none"> <li>• Applicant may be asked to provide additional information.</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 51 of the national model Bill allows the rail safety regulator to direct a rail transport operator to amend its safety management system.</li> <li>• Note: There is no provision to allow the rail safety regulator to require the applicant to provide further information in relation to an application for variation of conditions of or restrictions to accreditation. However, the rail safety regulator may be obliged to refuse the application if adequate information is not provided.</li> </ul>
<p><b>STEP 12</b>  <b>If necessary, applicant addresses issues arising from detailed audit</b></p>	<ul style="list-style-type: none"> <li>• Steps 9 – 12 may be repeated one or more times during the course of assessment of the application.</li> </ul>

<sup>4</sup> A detailed audit means an audit of the matters relevant to the application.

**Table 5. Steps in assessing application for variation of conditions or restrictions on an accreditation (cont)**

STEP	REFERENCES
<p><b>STEP 13</b>  <b>Rail safety regulator develops draft notice</b></p> <ul style="list-style-type: none"> <li>The notice may grant the variation of accreditation, grant the variation of accreditation but impose conditions or restrictions, or refuse the application.</li> </ul>	<ul style="list-style-type: none"> <li>Clause 52(3) of the national model Bill sets out what information a notice of variation of conditions of or restrictions to accreditation must include.</li> <li>Clause 52(4) of the national model Bill sets out what information a notice refusing an application for variation of conditions of or restrictions to accreditation must include.</li> </ul>
<p><b>STEP 14</b>  <b>Rail safety regulator discusses draft notice with other relevant rail safety regulators</b></p> <ul style="list-style-type: none"> <li>The rail safety regulator must compare its draft notice with existing notices or draft notices issued or proposed by other rail safety regulators.</li> <li>If the notices are inconsistent, the rail safety regulator must discuss the inconsistencies with the other relevant rail safety regulators with a view to amending the notice to make it as consistent as possible.</li> <li>The rail safety regulator must be able to justify any inconsistencies to other rail safety regulators and the applicant.</li> </ul>	
<p><b>STEP 16</b>  <b>Rail safety regulator seeks applicant's comments on draft notice</b></p> <ul style="list-style-type: none"> <li>Discuss with applicant reasons for any inconsistencies with accreditation in other jurisdictions.</li> </ul>	
<p><b>STEP 17</b>  <b>Rail safety regulator discusses final notice with other rail safety regulators</b></p>	

**Table 5. Steps in assessing application for variation of conditions or restrictions on an accreditation (cont)**

STEP	REFERENCES
<p><b>STEP 18</b>  <b>Rail safety regulator provides final notice to applicant</b></p> <ul style="list-style-type: none"> <li>• Provide covering letter setting out reasons for any inconsistencies with accreditation in other jurisdictions, and information on the applicant's right to review.</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 52 of the national model Bill requires a rail safety regulator to provide reasons for any decision to refuse an application for variation to conditions of or restriction to accreditation and information about the applicant's right to review of the decision.</li> <li>• Note: the national model Bill does not provide a timeframe in which the rail safety regulator must make a determination in relation to an application for variation of conditions of or restrictions to accreditation.</li> </ul>
<p><b>STEP 19</b>  <b>Applicant pays adjusted annual accreditation fee (where applicable) and commences operations in accordance with the varied accreditation</b></p>	<ul style="list-style-type: none"> <li>• Clause 40 of the national model Bill allows an annual accreditation fee to be prescribed with a local variation for the manner of fixing fees.</li> </ul>
<p><b>STEP 20</b>  <b>Rail safety regulator conducts post-commencement review of operations if required</b></p> <ul style="list-style-type: none"> <li>• May involve coordination with other relevant rail safety regulators.</li> </ul>	<ul style="list-style-type: none"> <li>• Clause 75 of the national model Bill allows a rail safety regulator to inspect the railway operations of a rail transport operator.</li> </ul>

# Appendix 1: National Accreditation Notice Template

## A1.1 Particulars of accreditation

[Act (STATE/TERRITORY)]

Notice of Accreditation

[Accredited Person]

The accredited person is granted accreditation under [section XX of the Rail Safety Act 2007 (STATE/TERRITORY)] by the [Rail Safety Regulator] as a Rail Transport Operator as described in the particulars of accreditation and subject to the Restrictions and Conditions.

### Particulars of this Accreditation

ITEM	PARTICULARS
<b>Accredited person</b>	<i>Insert the name, address and ACN or ABN of the entity to be accredited. For example:</i> Railway Authority Ltd (name and ACN of legal entity) ACN 75 081 455 754 Ground Floor, ZYX Building, off Alan Donald Bradman Drive Passenger Rail Terminal Road MILE END SA 5031
<b>Commencement Date</b>	<i>Insert date of initial accreditation followed by date of issue of this notice. For example:</i> (1 July 2007) This consolidated version of the Notice of Accreditation was last updated on XXXXXX as a result of the commencement of XYZ Notice of Variation 2006 No. 1.
<b>Variation</b>	<i>Insert identifying number if this a variation. For example:</i> Notice of Variation (No. 1) 01-09-07 <i>Otherwise insert not applicable'.</i>
<b>Duration</b>	<i>Insert expiry date where the applicant requests. Otherwise delete this row. For example:</i> This Accreditation will expire on [date] unless surrendered or revoked earlier. This field is for designation of duration only for the accreditation as a whole. Where a duration applies for only some of the railway operations carried out by the accredited person, these should be described in schedule 1 in their own row and the duration specified within Item 5 as illustrated in the sample notice.
<b>Type of Rail Transport Operator</b>	Rail Infrastructure Manager; or Rolling Stock Operator; or Rail infrastructure manager and rolling stock operator. <i>Delete types not appropriate</i>

ITEM	PARTICULARS
<b>Railway Operations</b>	<p><i>A brief prose description of the railway and railway operations of the accredited person may be inserted as an introduction to this field before the following standard text.</i></p> <p>The Accredited Person is authorised to carry out the Railway Operations listed in Item 1 of Schedules 1 and 2 with respect to the:</p> <ul style="list-style-type: none"> <li>• Rail Infrastructure or rolling stock listed in the Item 2 and/or;</li> <li>• Railway listed in Item 3; and</li> <li>• for the purposes specified in Item 4; and</li> <li>• using the manner of carrying out specified in Item 4.</li> </ul>
<b>Related Bodies Corporate of the Accredited Person, exempt from accreditation under clause 31(c) of the national model Bill in connection with the railway operations</b>	<p>List entities exempt under clause 31(2)(c). For example:          Xyz Services Company Pty Ltd</p>
<b>Frequency of Safety Performance Reports</b>	<p><i>Specify timing for Safety Performance Reports.. For example: (delete as appropriate)</i></p> <p>Every 3 years in April          or          Annually within 6 months after 31 December.</p>
<b>Frequency of Safety Management System Reviews</b>	<p><i>Specify timing for Safety Management System Reviews. For example:</i></p> <p>Every 3 years in April          or          At least once in each 12 month period.</p>
<b>Conditions and Restrictions attaching to the Accreditation</b>	<p>As set out in the Conditions and Restrictions accompanying this Notice of Accreditation including any schedules, attachments and exhibits.</p>

## A1.2 Schedules to the application

Schedule 1 Railway operations – Rail Infrastructure			
Item 1 Railway Operation	Item 2 Rail Infrastructure	Item 3 Railway / geographic	Item 4 Purposes / manner of carrying out
<p>Construction Management Commissioning Maintenance Repair Modification Installation Operation Decommissioning.</p> <p>List the railway operations to which this line relates. These are the only types of railway operation permissions allowable under the legislation and rail safety regulators should not use other terms in this item.</p> <p>Note that Design of rail infrastructure does not require accreditation.</p> <p>Maintenance includes inspection.</p> <p>Decommissioning includes disposal by whatever means.</p> <p>It may be necessary to have multiple lines for railway operations in order to apply appropriate restrictions on each operation, or operations at specific locations. Multiple railway operations may be included in one line where they all relate to the same rail infrastructure, railway and purposes/manner.</p>	<p>Specify the particular rail infrastructure to which the railway operation applies. This may be all rail infrastructure or the accreditation may be granted with restrictions.</p> <p>To impose restrictions on infrastructure select terms from the list in the definition of rail infrastructure where they apply or itemise using other descriptive terms as necessary to articulate the railway infrastructure the accredited person is permitted to maintain, commission etc.</p> <p>Descriptors might refer to technology used, terrain or other aspects relevant to the demonstrated competence and capacity of the accredited person.</p> <p>(note that the bill states that rail infrastructure is not limited to the items listed in the definition).</p>	<p>Describe the type and geographic limits of the railway.</p> <p>The broadest permission allows railway operations on any railway for which the accredited operator is the rail infrastructure manager.</p> <p>It may be necessary to add descriptors here as well or instead of in item 2. Where you choose to locate description will be influenced by whether the descriptor/s apply to the whole railway or only certain items of infrastructure.</p>	<p>Non- mandatory field.</p> <p>If the purpose of the accreditation is simply to allow the conduct of the specified railway operations and these are satisfactorily described by items 1,2 and 3, there may be no need to use Item 4.</p> <p>However describing the purposes or manner of carrying out railway operations can be the most effective means of articulating the limitations of the permission granted.</p> <p>Any or all of items 2, 3 and 4 may be needed to describe the scope and nature of the railway operations undertaken.</p>

<b>Schedule 2 Railway operations – Rolling stock</b>			
<b>Item 1 Railway Operation</b>	<b>Item 2 Rolling Stock</b>	<b>Item 3 Railway</b>	<b>Item 4 Purposes / methods</b>
<p><i>Construction Commissioning Maintenance Repair Modification Decommissioning Operation or movement, or causing the operation or movement by any means</i></p> <p><i>List the railway operations to which this line relates. These are the only types of railway operation permissions allowable under the legislation and rail safety regulators should not use other terms in this item.</i></p> <p><i>It may be necessary to have multiple lines for railway operations in order to apply appropriate restrictions on each operation, or operations at specific locations. Multiple railway operations may be included in one line where they all relate to the same rail infrastructure, railway and purposes/manner.</i></p>	<p><i>Specify the particular rolling stock to which the railway operation applies. This may be all rolling stock or the accreditation may be granted with restrictions.</i></p> <p><i>To impose restrictions on rolling stock select terms from the list in the definition of rolling stock where they apply or itemise using other descriptive terms as necessary to articulate the rolling stock the accredited person is permitted to operate, maintain, commission etc.</i></p> <p><i>Descriptors might refer to motive power used, or other aspects relevant to the demonstrated competence and capacity of the accredited person. For example locomotives, wagons, track maintenance vehicles (note that rolling stock is not limited to the items listed in the definition).</i></p>	<p><i>Describe the type and geographic limits of the railway.</i></p> <p><i>The broadest permission allows railway operations on any railway.</i></p> <p><i>It may be necessary to add descriptors here as well or instead of in item 2. Where you choose to add description will be influenced by whether the descriptor/s apply to all rolling stock operations or movements or only some of them.</i></p>	<p><i>Non-mandatory field. If the purpose of the accreditation is simply to allow the conduct of the specified railway operations and these are satisfactorily described by items 1,2 and 3, there may be no need to use Item 4.</i></p> <p><i>However describing the purposes or manner of carrying out railway operations can be the most effective means of articulating the limitations of the permission granted.</i></p> <p><i>Any or all of items 2, 3 and 4 may be needed to describe the scope and nature of the railway operations undertaken.</i></p> <p><i>Other lines in the schedule may be referenced here if necessary, for example 'For the purpose of rail infrastructure railway operations described in Schedule 1.'</i></p>

**Chief Executive  
Rail Safety Regulator**

Dated:

### A1.3 Restrictions and conditions of accreditation

[Act (STATE/TERRITORY)]

[Accredited Person]

In accordance with [section XX of the Rail Safety Act 2007 (STATE/TERRITORY)] the following Restrictions and Conditions are imposed on the Accreditation of [Accredited Person] dated [Date of Notice of Accreditation]:

*[Set out any specific Restrictions and Conditions to apply in respect of this Accreditation if required.]*

#### Table of Variations

VARIATION INSTRUMENT	PARTICULARS	DATE
<i>For example:</i> Notice of Variation (Railway Authority Ltd) Accreditation (No 1)	<i>For example:</i> <b>Schedule 1 Railway Operations –</b> Delete description of ‘Railway’ in Item 4 in Rows 5 and 6 and replace with ‘All Railway’  <b>Restrictions and Conditions</b> Delete condition 2. and replace with: .....	<i>For example:</i> 1 September 2007

## 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](mailto: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+vic](http://www.doi.vic.gov.au/doi/internet/vehicles.nsf/headingpagesdisplay/public+transport+safety+vic)

Western Australia: Department for Planning & Infrastructure

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

# I Acknowledgements

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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
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