



Message from the Chief Executive

It certainly doesn't feel like 12 months have passed but I find myself welcoming you to another end of year edition of *The Regulator*.

It has been a busy and productive year for ITSRR and the rail industry in general. ITSRR experienced many highlights and a number of challenges during 2008 but ending the year with the proclamation of the *Rail Safety Act 2008* certainly stands out as the major achievement.

The development and subsequent fine-tuning of NSW legislation to implement the national model has been a key focus over the past couple of years. It goes without saying that a significant amount of work has gone into

this process and I am therefore delighted that the *Rail Safety Act 2008* will commence on 1 January 2009 (with transitional arrangements in place for some requirements).

The new Act will deliver a range of benefits, particularly in terms of national consistency, for rail transport operators and ITSRR as the rail safety regulator.

As part of our efforts to support the rail industry to understand and implement the new requirements, ITSRR is producing web-based fact sheets on a range of topics and will host a briefing and Q&A session for industry in early February. I encourage you to make use of these opportunities to familiarise yourself with the new Act and Regulations. Read more about the implementation of the *Rail Safety Act 2008* on pages 2 and 3.

During the last quarter, ITSRR has also published several major reports. These include ITSRR's *Annual Report 2007-08*, *Transport Reliability Report 2007-08*, *Survey of CityRail Customers 2008*, *Best Practice in Procurement of Commuter Rail Services*, the fifteenth quarterly Waterfall Report. Read on for more information on these publications and how to access them.

Finally, I would like to thank everyone who has work cooperatively with ITSRR in 2008. I wish you a safe and happy festive season and look forward to working with you again in 2009.



Carolyn Walsh
Chief Executive
ITSRR

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Rail Safety Act 2008 commences on 1 January 2009

The *Rail Safety Act 2008* will commence on 1 January 2009 replacing the *Rail Safety Act 2002* and implementing the National Model Rail Safety legislation in NSW.

The *Rail Safety (General) Regulation 2008*, *Rail Safety (Drug and Alcohol Testing) Regulation 2008* and *Rail Safety (Offences) Regulation 2008* will replace the 2003 regulations.

The key changes – 2002 v 2008

The main differences between the 2002 and 2008 Acts include:

- Limiting the requirements of **accreditation** to rail infrastructure managers and rolling stock operators
- Introducing **general duties** for operators, contractors, designers, suppliers and manufacturers of equipment, and rail safety workers
- Registration of **private sidings** (a 2-year transition applies)
- New obligations on rail infrastructure managers and roads authorities to jointly manage **risks arising from rail or road crossings**, such as level crossings, road over rail bridges and rail over road bridges (a 3-year transition applies)
- Guidelines for regulators to ensure **consistent administration of accreditation** and approach to enforcement.

Introducing general duties

The *Rail Safety Act 2008* introduces duties on rail transport operators and others carrying out railway operations to ensure, so far as is reasonably practicable, the safety of their railway operations.

General duties of safety also apply to contractors, designers, suppliers and manufacturers of equipment, and rail safety workers. They are based on the National Model Rail Safety Legislation and are similar to those in the *Occupational Health and Safety Act 2000* (which continues to apply to NSW rail operators, including in relation to their duties around workplace safety).

Under the *Rail Safety Act 2008* it will be for the defendant to prove, on the civil standard, that they did everything reasonably practicable to eliminate

or minimise risks to the safety of their railway operations.

Accreditation under the new Act

Some organisations previously accredited by ITSRR under the *Rail Safety Act 2002* will not require accreditation under the *Rail Safety Act 2008*.

The *Rail Safety Act 2008* requires all railway operations to be conducted by, or on behalf of, a rail transport operator, who is either accredited in relation to those operations, or has obtained an exemption from the requirement to be accredited in relation to those operations from the ITSRR. Rail transport operators are those organisations with effective management and control of rail infrastructure and/or rolling stock operations.

Arrangements for current accredited operators

Operators who require accreditation under the *Rail Safety Act 2008* **do not need to reapply** for accreditation. They will be issued a new notice of accreditation in the months after the Act has commenced.

Existing notices of accreditation will continue to apply until new notices have been issued. Any current conditions and/or restrictions of accreditation and outstanding statutory notices will be carried over to the new notice of accreditation.

ITSRR is reviewing all current accreditation notices to assess which operators need to be accredited under the *Rail Safety Act 2008*. After commencement of the new Act, operators will be contacted progressively over the next few months and provided with their draft notice of accreditation for review.

As part of the consultation process, operators will be given the opportunity to meet with senior ITSRR staff to discuss their obligations under the new Act and to ensure the permissions granted in the draft notice of accreditation are consistent with the scope and nature of their railway operations. The same consultation process will be offered to currently accredited operators who no longer require accreditation under the new Act.

Transitional arrangements

- Continuing accredited operators will have 12 months to comply with the new **safety management system (SMS)** requirements. The *Rail Safety (Safety Management Systems) Guideline 2006 - No 1* will apply during the transition.

- Rail infrastructure managers of **private sidings** will have two years to register private sidings.
- Requirements in relation to **rail or road crossings interface coordination agreements** between rail infrastructure managers and roads authorities will come into effect in 3 years.
- New **competency** requirements will come into effect in two years. The [Guidelines for Certification of Competency](#) will apply during the transition.

How can you find out more about the new legislation?

1. **Read the fact sheet** [New Rail Safety Laws in NSW – What's Changing?](#) which provides an overview of the key changes introduced by the *Rail Safety Act 2008*. Other fact sheets are being developed on a range of topics and will be available on ITSRR's website under [Publications](#).
2. **Attend the industry briefing** planned for early February 2009. ITSRR will issue an Information Alert about the session and publish details on its website in early January. Email contact@transportregulator.nsw.gov.au to register your interest in attending.
3. **Email questions** to contact@transportregulator.nsw.gov.au or contact one of the following ITSRR officers:
 - Carolyn Boden – 02 8263 7122 (regarding the review of accreditation notices)
 - Celia Murphy – 02 8263 7123 (for other enquiries about the new Act).

ITSRR reports on transport service performance and procurement

ITSRR recently published three major reports on transport service reliability issues.

- The [Transport Reliability Report 2007-08](#), released on 18 December, examines the reliability performance of publicly funded bus, ferry and passenger rail transport in NSW.

The report analyses information provided by transport operators and gives a summary of performance against service standards set by the Ministry of Transport. It also offers a view on the sustainability of publicly funded transport services, particularly rail, and examines emerging issues.

- [Best Practice in Procurement of Commuter Rail Services](#) details the findings of ITSRR's international research into the procurement of commuter rail services.

The research highlights the importance of an arm's length written agreement between the Government and the rail service provider. It found the specification of the services to be provided, including service levels and quality standards, is the most important feature of the agreement between the government and the rail service provider, regardless of whether the provider is a private or public rail operator.

- The [Survey of CityRail Customers 2008](#) found that punctuality and aspects of security and communication with passengers have all improved in the perception of CityRail train users, but crowding in peak hour trains has continued to deteriorate.

The annual survey, undertaken by ITSRR since 2004, is designed to measure changes over time in the quality of CityRail Services from a customer perspective. Its core questions cover 37 aspects of service including crowding, journey time, punctuality and clarity of announcements.


The CityRail survey compares train users' expectations with their experience of service delivery.

Rail Safety Strategic Forum meets

Industry induction training, rail safety worker competencies and common issues identified during ITSRR's recent field activities were topics on the agenda at the December 2008 meeting of the Rail Safety Strategic Forum.

Minutes from the 2 December meeting are available on ITSRR's website: <http://www.transportregulator.nsw.gov.au/aboutUs/RSSF.html>

In 2009, the forum will meet on 4 March, 8 July and 18 November. For more information contact Andrew Crichton on 02 8263 7113 or email andrew.crichton@transportregulator.nsw.gov.au



Seminar provides food for thought on rail safety data

What are the information needs of regulators and rail operators? Who should collect rail safety data? These were some of the questions posed at a recent industry seminar hosted by ITSRR.

The Executive Safety Seminar, held in Sydney on 30 September, was designed to stimulate discussion on the National Data Strategy, an initiative of the National Transport Commission (NTC). The strategy is aimed at improving data collection, access, analysis, publication and use of rail safety data in Australia.

The seminar included presentations and a panel discussion featuring three members of the National Data Strategy working groups – Derek Heneker, (Department of Transport, SA), Julie Bullas (Queensland Transport) and Sue McCarrey (Public Transport Authority of Western Australia). Guest speakers were RailCorp's Steve Bickley and Ruairi Kennedy.

View the [seminar presentations](#) on ITSRR's website.

The Executive Safety Seminar series will continue in 2009. Information on dates and topics will be provided on ITSRR's website.

Poster raises awareness of occurrence notification requirements

ITSRR has distributed a poster to accredited rail operators in NSW to help their staff familiarise themselves with new requirements for the notification of rail safety occurrences.

The A2 poster summarises the information to be provided for notifiable occurrences to be reported to ITSRR in line with the revised national standard (ON-S1) which takes effect in NSW from 1 January 2009 along with a revised guideline for classification (OC-G1). The standard and guideline are being implemented across Australia.

OC-G1 defines the classification of occurrences while ON-S1 provides guidance on the notification of occurrences, incorporating descriptions of the type of occurrence that needs to be notified and the level of information (data) that needs to be provided to ITSRR.

The ON-S1 and OC-G1 documents and occurrence notification information poster can be downloaded from ITSRR's website. Limited hard copies of the poster are available by contacting Andrew Crichton on (02) 8263 7113 or andrew.crichton@transportregulator.nsw.gov.au

Workshop for drug and alcohol testing officers

Twenty-two people attended the latest in the series of ITSRR workshops for drug and alcohol testing officers.

The free workshop, held in November, was based on a model training course developed by ITSRR. It is designed to assist accredited railway operators in meeting the [Guidelines Relating to Drug & Alcohol Programs](#) which specifies that railway operators train their testing officers in accordance with Schedule 1 of the Guidelines.

ITSRR's [model training course](#) is available for download from its website.

More workshops are planned for 2009. Keep an eye on ITSRR's website for details.

Another Waterfall recommendation closed

ITSRR has released its fifteenth quarterly report on the implementation of the NSW Government's response to the Special Commission of Inquiry (SCOI) into the Waterfall Accident.

The total number of recommendations currently closed or claimed by agencies to be closed was 171 or 97% of all recommendations at the close of the reporting period (1 July to 30 September 2008).

During the quarter, one recommendation (number 71) was verified and closed by ITSRR subject to implementation of an approved program or plan. The recommendation involved creating an appropriate position within RailCorp with responsibility for ensuring each train driver's training needs are being met and any safety concerns are properly addressed.

The full quarterly report, as well as past reports, can be read on [ITSRR's website](#).

Rail safety regulator's report card released

A comprehensive program of rail operator safety audits and inspections and international research to advise the Government on best practice commuter rail services procurement are amongst the achievements outlined in ITSRR's *Annual Report 2007-08*.

Two key themes of the year were the collection and application of better quality safety data to guide regulatory activity and working at the national level to deliver consistent rail regulation.

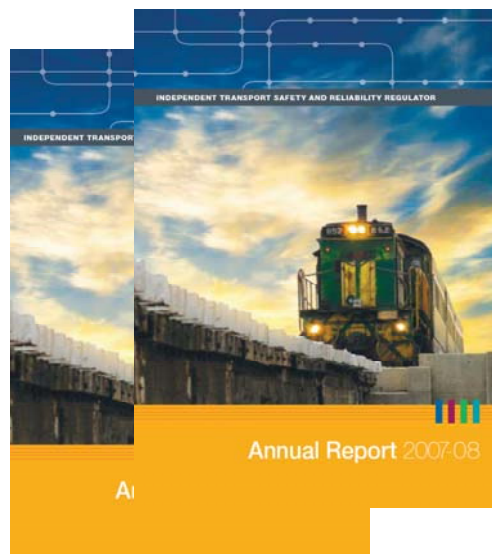
Highlights of 2007-08 for ITSRR included:

- delivering a comprehensive safety audit and inspection program targeting specific safety priorities (including worksite protection and compliance with infrastructure standards) and acting on identified performance issues
- completing international research which is informing Government moves to improve procurement of commuter rail services in NSW
- providing targeted assistance (such as workshops) for rail heritage operators to implement new rail safety requirements
- conducting and publishing the *Survey of CityRail Customers 2007*
- leading the development of national guidelines for safety management systems and administration of accreditation, and developing a national audit tool for use by all State regulators
- closing 78% of recommendations resulting from independent investigations into rail accidents

- publishing a Rail Resource Management training toolkit to assist industry in reducing human errors and their consequences

- working with other NSW transport safety regulators to achieve a 15% increase in the number of recommendations closed for reports on rail, bus and ferry accidents.

Copies of the *Annual Report 2007-08* will be distributed to all accredited operators in January 2009. The report and the Corporate Plan Priorities 2008-09 booklet can be viewed on ITSRR's website under [Publications](#).



ITSRR's Christmas/New Year business hours

ITSRR's office will be closed from 25 December 2008 to 2 January 2009 inclusive. In the event of a rail-related emergency during this time, contact the duty officer on 1800 725 546.

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