

Appendix to *National Rail Safety Guideline for Management of Fatigue in Rail Safety Workers*: NSW



INDEPENDENT
TRANSPORT
SAFETY AND
RELIABILITY
REGULATOR

Purpose	This Appendix details how the Independent Transport Safety and Reliability Regulator (ITSRR) takes account of the <i>National Rail Safety Guideline for the Management of Fatigue in Rail Safety Workers</i> and explains differences between NSW rail safety legislation (the <i>Rail Safety Act 2008</i> and <i>Rail Safety (General) Regulation 2008</i>) and the National Model Legislation in respect of fatigue management requirements.
Scope	<p>The <i>National Rail Safety Guideline for the Management of Fatigue in Rail Safety Workers</i> provides a summary of research findings and practical guidance intended to assist duty holders to meet their requirements under rail safety legislation to prepare and implement a fatigue management program.</p> <p>The status of the <i>Guideline</i> is advisory; therefore rail operators should conduct their own assessments to determine relevance of the content to the operating conditions and environmental circumstances of their railway operations.</p> <p>ITSRR will take into account relevant content of the <i>Guideline</i> to help assess if Rail Transport Operators are meeting their obligations of managing the risk of fatigue. ITSRR will also consider any other relevant matters in forming a view of whether or not a Rail Transport Operator is complying with their fatigue management obligations.</p> <p>Like any guidance material that presents scientifically based information about safety practice, the current state of knowledge will change over time. In this regard NSW legislation through the general safety duty expects rail transport operators to keep under review relevant developments in safety research and technology that may be applied to manage work-related fatigue to ensure that rail transport operators are managing safety so far as is reasonably practicable.</p>
Differences between the NSW Act and Regulations and the National Model Legislation in respect of fatigue management.	
Fatigue management	<p>NSW requirements that are the same as the Model Legislation:</p> <p>Rail transport operators must:</p> <ul style="list-style-type: none"> ➤ Prepare and implement a fatigue management program for rail safety workers who carry out rail safety work in connection with the railway operations for which they are accredited (<i>Rail Safety Act 2008</i> s20(1)) ➤ Ensure the fatigue management program is included in the safety management system (<i>Rail Safety Act 2008</i> s12(2)(f) (vi)) ➤ Ensure so far as is reasonably practicable that rail safety workers comply with the fatigue management program program (<i>Rail Safety Act 2008</i> s8(2)(d)). <p>Additional NSW requirements:</p> <p>1. <i>Fatigue management programs</i></p> <p>Unlike the National Model Legislation, the <i>NSW Rail Safety (General) Regulation 2008</i> (cl 11–13) sets out mandatory risk management processes that operators must follow in developing and implementing a fatigue management program.</p> <p>These mandatory processes are very similar to the advisory content of the <i>National Rail Safety Guideline for the Management of Fatigue in Rail Safety Workers</i>, and are summarised as follows:</p>

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- In developing or making changes to the fatigue management program the rail transport operator must take into account and assess fatigue-related risks arising from:
 - The impact on workers of scheduling of work and rest
 - The impact of work scheduling and relief practices on social and psychological factors that may impact on performance and safety
 - The kinds of work undertaken
 - Physiological factors e.g. the effect on alertness and recovery of the time when work is undertaken and length and frequency of breaks
 - Need for education and training of workers to identify and manage fatigue
 - Rest environments provided by the operator
 - Work environments
 - Emergencies or degraded or abnormal conditions
 - Variations in shifts and rest periods for different routes etc.
 - The fatigue management program must:
 - Provide for safe hours of work and safe periods of time between shifts (*Hours of work or periods between shifts are taken to be safe if the effect of their implementation is sufficient to eliminate, manage or control risks to safety arising from fatigue*)
 - Provide sufficient numbers of rail safety workers for reasonably foreseeable demand
 - Reflect the scope of the operations and address operating conditions
 - Balance commercial and operational needs with safety duties
 - Review relevant developments in research related to fatigue, and technology that may be applied to manage work-related fatigue
 - Monitor actual hours against the conditions of work (planned hours)
 - Monitor impact of changes from planned rosters due to swapping, overtime or on-call working
 - Assess effectiveness of fatigue management program using quantitative measures
- 2. *Minimum working conditions (shift arrangements) for rail safety workers who drive trains***
- Schedule 2 of the *NSW Rail Safety Act (2008)* details maximum shift lengths, maximum numbers of shifts which may be worked within certain periods and minimum length of periods between shifts for rail safety workers who drive freight and passenger trains. Schedule 2 also contains provisions to allow for these workers to return to home depot or rest accommodation as passengers.
- 3. *Exemptions from minimum working conditions for rail safety workers who drive trains***
- Rail Transport Operators may apply for exemption from some or all of the conditions of work specified in Schedule 2 of the *Rail Safety Act 2008*. Application requirements and conditions associated with exemptions from Schedule 2 are set out in of the *Rail Safety (General) Regulation 2008* cl 14.
- 4. *Annual safety performance reports***
- The safety performance report provided annually to ITSRR should contain information regarding the operator's compliance with fatigue requirements (*Rail Safety (General) Regulation 2008* cl 17).

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FURTHER INFORMATION

In determining compliance with the law, operators are advised to refer to the detailed provisions regarding fatigue management as they are expressed in the context of the *NSW Rail Safety Act 2008* and *Rail Safety (General) Regulation 2008*. A more detailed summary of fatigue management requirements of the *NSW Rail Safety Act and Regulations* appears in a Fact Sheet at www.transportregulator.nsw.gov.au