

Policy for regulatory response to management of change



INDEPENDENT
TRANSPORT
SAFETY AND
RELIABILITY
REGULATOR

Contents

1. Overview.....	3
2. Accreditation.....	5
2.1 Policy rationale for accreditation.....	5
2.2 Accreditation requirements.....	6
2.3 SMS requirements.....	7
2.4 Change management requirements of SMS.....	7
2.5 Accreditation notices.....	8
3. Proposed changes within the scope of accreditation...9	
3.1 Notification of change.....	9
3.2 Policy rationale for notification of change.....	9
3.3 Notification of change requirements.....	10
3.4 Change not identified in Regulations.....	11
4. Regulatory response to management of change within scope of accreditation.....12	
4.1 Detailed description of regulatory process.....	14
4.2 Is the proposed change within scope and nature of accreditation... 14	
4.3 Assessment of notification of change.....	14
4.4 ITSRR satisfied with change management procedures.....	15
4.5 ITSRR uncertain of change management processes.....	15
4.5.1 Request additional information.....	15
4.5.2 Undertake inspection.....	15
4.5.3 Undertake audit.....	16
4.6 ITSRR not satisfied with change management processes.....	16
4.6.1 Improvement notice.....	16
4.6.2 Direction to amend SMS.....	17
4.6.3 Prohibition notice.....	17
4.6.4 Investigation resulting in possible:	
• Prosecution for breach of SMS	
• Prosecution for breach of general duties.....	17
4.6.5 Imposition of conditions and or restrictions.....	17
5. Proposed changes outside the scope of accreditation.18	
5.1 Variation to Accreditation.....	18
5.2 Policy rationale for variation to accreditation.....	18
5.3 Variation to accreditation requirements.....	18
6. Time to lodge an application for variation to accreditation19	

1. OVERVIEW

The NSW Independent Transport Safety and Reliability Regulator (ITSRR) has the principal objective of facilitating the safe operation of transport services in New South Wales. This is achieved through regulation of the rail industry in accordance with the *Rail Safety Act 2008* and supporting regulations, guidelines and policies, and promotion of safety as a fundamental objective in the delivery of transport services.

The purpose of this policy is to provide guidance to rail safety officers on the legislative requirements for the management of change.

To understand management of change, it is first necessary to have an understanding of accreditation, both in relation to the requirements for accreditation, and what accreditation permits or does not permit the accredited operator to do without further approval from the rail safety regulator. It is also necessary to understand the differing regulatory requirements imposed where a proposed change is to be made either inside or outside the scope of the initial grant of accreditation.

For these reasons, this policy provides a detailed explanation of both the policy rationale and requirements for accreditation, variation to accreditation and notification of change.

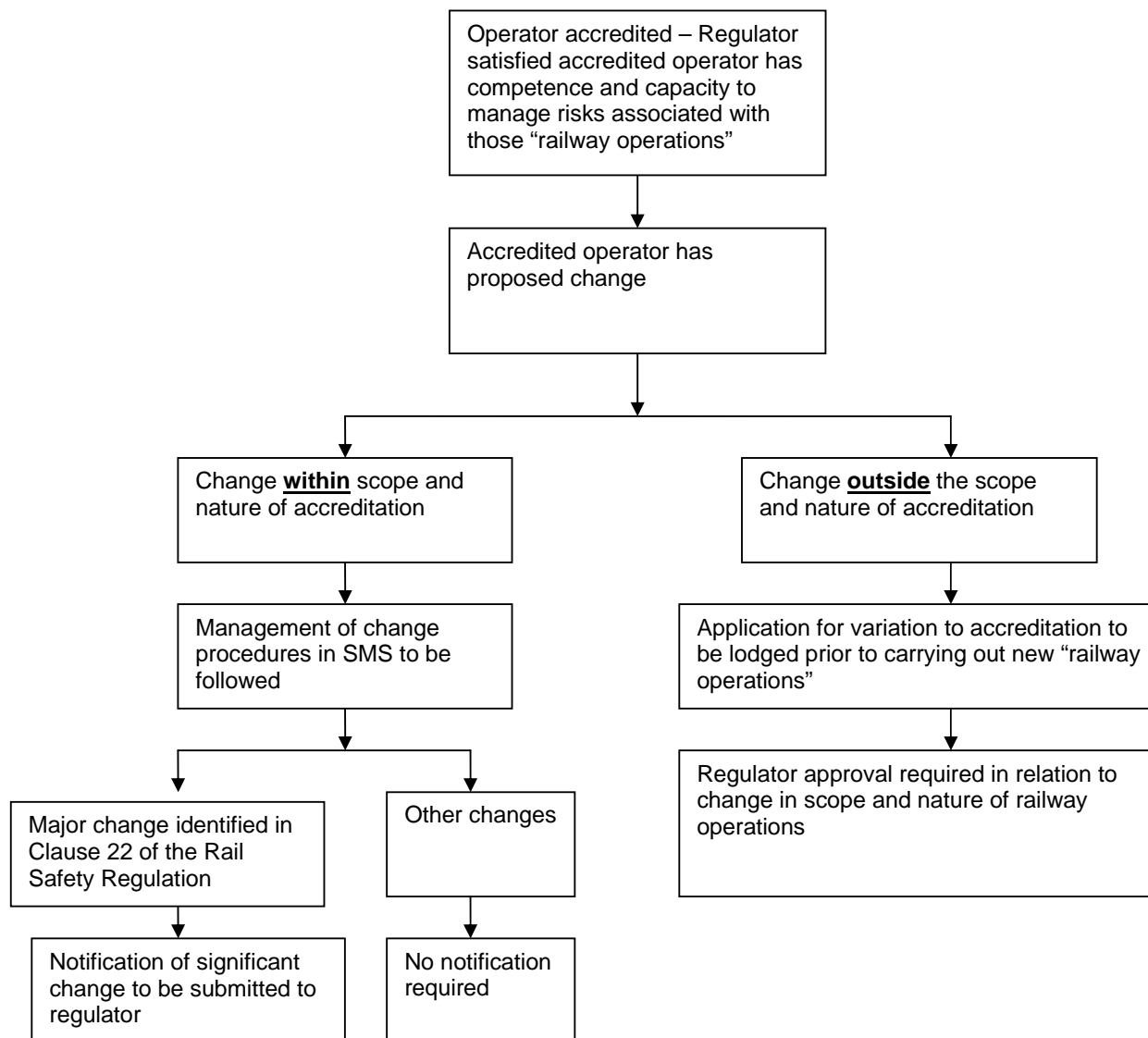
The policy also details the regulatory options available to rail safety officers where it is believed, following receipt of a notification of change or otherwise through regulatory intelligence and the ongoing monitoring of the accredited operator that the operator is not following prescribed management of change procedures.

The policy further addresses the time period to lodge an application for variation to accreditation; and the importance of involving the regulator during the development phase of the project for the purpose of facilitating confidence building between the operator and regulator in relation to the proposed change before the submission of any formal application for variation.

A flow chart providing an overview of the regulatory response to management of change is provided below.

Policy for regulatory response to management of change Document Reference No: A162586 Document Owner: Natalie Pelham Custodian: Celia Murphy	Version 1.0 Issue date: 12 February 2009 Page 3 of 21
---	---

OVERVIEW OF REGULATORY RESPONSE TO MANAGEMENT OF CHANGE



2. ACCREDITATION

2.1 Policy rationale for accreditation

The *National Rail Safety Guideline - Accreditation of Rail Transport Operators* states that:

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

Importantly, in granting accreditation, the rail safety regulator is not certifying that the rail transport operator is safe, or that every control measure of the operator's safety management system (SMS) has been checked and verified. Instead, ITSRR is certifying that the rail transport operator has demonstrated that, among other things, it has the competence and capacity to:

- manage risks to safety associated with the railway operations for which accreditation is sought; and
- implement the proposed SMS.

It should be noted that the competency and capacity to manage risks to safety and to implement the proposed SMS directly relate to the scope and nature of the railway operations. For this reason, section 38 of the *Rail Safety Act 2008* requires the applicant to detail the scope and nature of the railway operations in the application for accreditation.

Similarly, if the rail transport operator is granted accreditation, section 42(2) requires ITSRR to specify the scope and nature of the railway operations in the accreditation notice. The purpose of doing this is to directly link the activities for which the rail transport operator is accredited back to the application for accreditation, and to make it clear what ITSRR is accrediting the operator to do, without having a continued approval process for operations or changes made within the scope and nature of the railway operations specified in the accreditation notice.

The *National Rail Safety Guideline – Accreditation of Rail Transport Operators* states that:

Policy for regulatory response to management of change Document Reference No: A162586 Document Owner: Natalie Pelham Custodian: Celia Murphy	Version 1.0 Issue date: 12 February 2009 Page 5 of 21
---	---

Scope and nature may include matters such as:

- *the geographical area of the proposed operations (metropolitan or regional operations, the network area involved, location of relevant infrastructure);*
- *the nature of rail operations conducted (for example, freight or passenger services, traction type, types of rolling stock to be used, carriage of dangerous goods, maintenance work, details of rail safety work contracted out or conducted in-house, operational parameters, safeworking systems).*

Once accredited, the rail transport operator has an ongoing obligation to manage the risks associated with the agreed scope and nature of the railway operations. Managing risks to safety is not a once off activity. An operator must constantly review the particular risk, how it is being managed, its effectiveness, and changes which affect the controls put in place. If this does not occur, then it may be difficult for the operator to establish that it has done what is reasonably practicable to manage safety. For instance, rail transport operators may not comply with safety duties if they merely comply with industry standards and operating procedures. Instead, standards and procedures should be continually reviewed against a rail transport operator's operations to make sure that they address matters such as technology, different operating environments, changes to personnel, changes in legislation, benefits of experience and research and so on. Therefore, a good safety management system should include procedures to ensure the ongoing review of risks and corresponding controls.

2.2 Accreditation requirements

Section 34 of the Rail Safety Act 2008 states that the purpose of accreditation of a rail transport operator in relation to its railway operations is to attest that the rail transport operator has demonstrated to the ITSRR the competence and capacity to manage risks to safety associated with those railway operations.

Before granting accreditation, section 39 of the *Rail Safety Act 2008* requires that ITSRR must be satisfied that the applicant has demonstrated the following:

- a) That the applicant is or is to be a rail infrastructure manager or rolling stock operator in relation to the railway operations for which accreditation is sought;
- b) That the applicant has the competence and capacity to manage risks to safety associated with the railway operations for which accreditation is sought;

- c) That the applicant has the competence and capacity to implement the proposed SMS;
- d) That the applicant has met the consultation requirements of the Act in relation to the applicant's SMS;
- e) That the applicant has the financial capacity, or has public risk insurance arrangements, to meet reasonable potential accident liabilities arising from the railway operations; and
- f) That the applicant has complied with the requirements prescribed by the regulations (if any) for the purposes of this section.

2.3 SMS requirements

Section 12(2) of the *Rail Safety Act 2008* details the requirements for a SMS, which the applicant must demonstrate that it has the competence and capacity to implement, in accordance with section 39(c). That is, the SMS must:

- a) be in a form approved by ITSRR;
- b) comply with the relevant requirements, and the risk management principles, methods and procedures, prescribed by the regulations, and
- c) identify and assess any risks to safety that have arisen or may arise from the carrying out of railway operations, for which the rail transport operator is required to be accredited, on or in relation to the rail transport operator's rail infrastructure or rolling stock, and
- d) specify the controls (including audits, expertise, resources and staff) that are to be used by the rail transport operators to manage risks to safety and to monitor safety in relation to those railway operations, and
- e) include procedures for monitoring, reviewing and revising the adequacy of those controls, and include the following:
 - interface co-ordination plans
 - a security management plan
 - an emergency management plan
 - a health and fitness management program
 - a drug and alcohol management program
 - a fatigue management program.

2.4 Change management requirements of SMS

Policy for regulatory response to management of change Document Reference No: A162586 Document Owner: Natalie Pelham Custodian: Celia Murphy	Version 1.0 Issue date: 12 February 2009 Page 7 of 21
---	---

The *Rail Safety (General) Regulation 2008* details the relevant requirements, and the risk management principles, methods and procedures, with which the applicant is required to comply, in accordance with section 12(2)(b) of the Act.

Item 10 of Schedule 1 of the Regulation details the management of change procedures that must be included in the safety management system. The purpose of these procedures is to ensure that changes that may affect the safety of railway operations of the rail transport operator are identified and managed, including, but not limited to, procedures for ensuring the following, so far as is reasonable practicable:

- a) that changes are fully identified and described in the context of the railway operations;
- b) that affected parties are identified and, if practicable, consulted;
- c) that the roles and responsibilities of rail safety workers and employees of the operator are clearly specified with respect to the change;
- d) that the rail safety workers and employees of the operator are fully informed and trained to understand and deal with the proposed change;
- e) that the requirements of section 12 (2) (c) and (d) of the Act are observed in relation to any risks associated with the proposed change (which are described above);
- f) that the change, once implemented, is reviewed and assessed by the operator to determine whether or not the change has been appropriately managed.

It should be noted that the *National Rail Safety Guideline – Preparation of a Rail Safety Management System* provides detailed guidance on management of change and risk management principles.

2.5 Accreditation notices

Where ITSRR is satisfied that a rail transport operator has met the requirements for accreditation, ITSRR must issue in writing a notice granting accreditation. The accreditation notice must specify:

- the prescribed details of the applicant; and
- the scope and nature of the railway operations in respect of which the accreditation is granted; and

- any conditions and restrictions imposed by ITSRR on the grant of accreditation; and
- any other information prescribed by the regulations.

Therefore, the initial grant of accreditation, as evidence by the accreditation notice, will determine the scope and nature of the railway operations for which the operator is accredited. Accordingly, the wording of the accreditation notice will be crucial in deciding whether any subsequent change falls within or outside the scope of the initial grant of accreditation.

3. PROPOSED CHANGES WITHIN THE SCOPE OF ACCREDITATION

3.1 Notification of change

3.2 Policy rationale for notification of change

The policy rationale for notification of change is to ensure that regulators are aware of certain proposed significant operational changes falling within the scope of accreditation, so that ITSRR is able to plan the next audit of the operator or to develop other intervention strategies as part of the ongoing monitoring of the operator's SMS and change management procedures. It is not intended, however, that regulators would formally approve (or potentially assume legal liability) in respect of such notified changes.

A further purpose of the notification regime is to support the outcomes of the audits conducted on these operations, and to inform the regulatory and intervention strategies in relation to these operators in accordance with the *National Rail Safety Guideline - Compliance and Enforcement for Rail Safety*.

It is not intended, however, that ITSRR will scrutinise each and every notification of change to verify the risk management decisions made by the operator in relation to these changes. In granting the rail transport operator accreditation in the first instance, ITSRR has been satisfied that the operator has the competence and capacity to manage its risks and to implement its safety management system. Therefore, ITSRR does not require the accredited operator to justify its decision making, in every instance, where the management of change is within the scope of the operator's accreditation.

In some instances, however, the available regulatory intelligence in relation to a particular operator, gleaned from a range of sources, may justify ITSRR intervening to ascertain if changes are being appropriately managed within the operator's SMS and change

management procedures. In these circumstances, ITSRR may pursue appropriate compliance and enforcement action, as part of a broader strategy of addressing the change management inadequacies of that operator.

It is important to note that the notification of change regime is only one aspect of regulating management of change.

3.3 Notification of change requirements

Clause 22 of the Regulation imposes a condition on any accreditation granted to a rail transport operator that the operator notify ITSRR in writing of any proposed decisions, proposed events or changes listed in column 2 of the table below within the period specified in column 3 of the table.

Policy for regulatory response to management of change Document Reference No: A162586 Document Owner: Natalie Pelham Custodian: Celia Murphy	Version 1.0 Issue date: 12 February 2009 Page 10 of 21
---	--

Item:	Decision, event or change	When notification must be given
1.	A decision to design or construct, or to commission the design or construction of, rolling stock or new railway tracks.	As soon as reasonably practicable after the decision is made.
2.	The introduction into service of rolling stock of a type not previously operated by the operator, or the re-introduction into service of rolling stock not currently operated by the operator.	At least 28 days before the date the operator intends to introduce or re-introduce the rolling stock into service.
3.	A change to a safety critical element of any existing rolling stock.	At least 28 days before the date the operator intends to bring the change into operation.
4.	A change to one or more of the classes of rail infrastructure used in the operator's accredited operation.	At least 28 days before the date the operator intends to introduce the new class of rail infrastructure into service.
5.	A change to a safety standard for the design of rail infrastructure or rolling stock.	At least 28 days before the date the operator intends to adopt the change.
6.	The decision to adopt a new safety standard for the design of rail infrastructure or rolling stock.	At least 28 days before the date the operator intends to adopt the new standard.
7.	A change to the frequency of or procedures for the inspection or maintenance of rail infrastructure or rolling stock.	At least 28 days before the date the operator intends to bring the change into effect.
8.	A change to any safeworking system rule or procedure relating to the operator's railway operations.	At least 28 days before the date the operator intends to bring the change into effect.
9.	A decision to introduce a new safeworking system rule or procedure relating to the conduct of the operator's railway operations.	As soon as is reasonably practicable after the decision is made.
10.	The replacement of the person nominated in the safety management system as the contact person for dealing with the queries in relation to the safety management system of the operator.	As soon as is reasonably practicable after it is known that the replacement will occur.

3.4 Changes not identified in Regulations

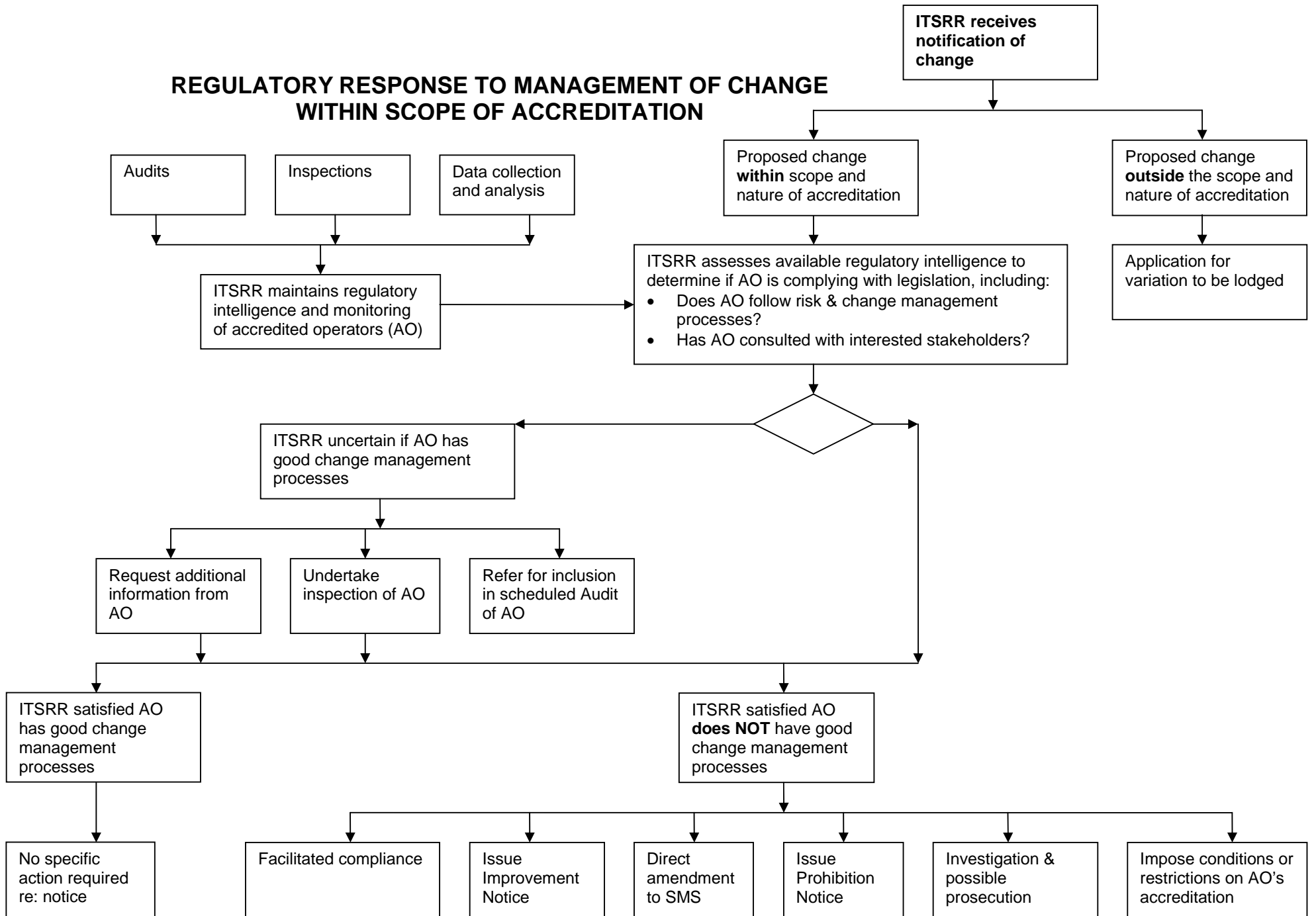
The table in clause 22 of the Regulation is not exhaustive of the types of changes an accredited operator may make within the scope and nature of their accreditation. While these other changes must also be

made in accordance with the accredited operator's management of change procedures, outlined in their SMS, there is no additional requirement to notify ITSRR of these changes.

4. REGULATORY RESPONSE TO MANAGEMENT OF CHANGE WITHIN SCOPE OF ACCREDITATION

A flow chart is provided below setting out the regulatory response to management of change.

REGULATORY RESPONSE TO MANAGEMENT OF CHANGE WITHIN SCOPE OF ACCREDITATION



4.1 DETAILED DESCRIPTION OF REGULATORY PROCESS

4.2 Is the proposed change within the scope and nature of accreditation?

On receipt of a notification of change, it is first necessary to determine if the proposed change is within the scope and nature of the accredited operator's initial grant of accreditation. To make this decision, the proposed change detailed in the notification of change will need to be assessed against the accredited operator's notice of accreditation to determine if the proposed change is within the scope and nature of the railway operations specified in the accreditation notice. If the proposed change falls outside the scope and nature of the operator's accreditation, the operator will need to be advised to lodge an application for variation.

4.3 Assessment of notification of change

Where it is apparent the proposed change falls within the scope and nature of the accredited operator's accreditation, ITSRR will need to have regard to the available regulatory intelligence and monitoring of that accredited operator (obtained through ITSRR audits, inspections and data collection and analysis), to determine if that operator is currently complying with the rail safety legislation. For instance, consideration should be given to whether:

- The accredited operator follows risk and change management processes generally;
- The accredited operator currently operates within the scope and nature of their accreditation; and
- The accredited operator complies with the requirement to notify ITSRR of certain changes to their SMS.

In addition to the details of the proposed change, the accredited operator is required to provide details of any consultation that has occurred with parties who might be affected by the proposed variation, including:

- who was consulted; and
- when and how the consultation occurred; and
- the results of the consultation.

The requirement to provide details of consultation in relation to the proposed changes reflects an essential requirement of the *Rail Safety Act 2008* for the accredited operator to consult before establishing, reviewing or varying a safety management system. Consultation is also an essential requirement of the prescribed change management procedures.

Importantly, proper consultation with key stakeholders about proposed changes will ensure that a risk is not transferred to those stakeholders without their knowledge.

4.4 ITSRR satisfied with change management procedures

Where the available regulatory intelligence in relation to the accredited operator indicates that the operator has good risk and change management procedures; and, in this instance, the operator has undertaken adequate consultation in relation to the proposed change, ITSRR should take no further action in relation to the notification.

4.5 ITSRR uncertain of change management processes

If after considering the available regulatory intelligence in relation to the accredited operator, ITSRR remains uncertain as to whether the accredited operator has good change management processes, or that these processes are being following in relation to the proposed change, ITSRR may take the following action:

4.5.1 Request additional information

Under section 106 of the *Rail Safety Act 2008*, ITSRR may request the accredited operator to provide additional information about the proposed change. The decision to request additional information about the proposed change should be informed by the regulatory intelligence currently available in relation to the accredited operator and that operator's change management procedures. For instance, ITSRR does not micro-manage an operator's risk management processes by requiring detailed information in relation to the risk assessment of the proposed change relating to each and every notification of change. If such an approach were adopted, it is expected that operators would simply choose to make an application for variation to obtain the necessary regulatory certainty to proceed with the proposed change.

Given that in most instances, the regulations prescribe that notice be given 28 days before the proposed change, time is of the essence in the issuing of any notice for further information.

4.5.2 Undertake inspection

ITSRR may undertake an inspection of the accredited operator to ascertain if the operator is following prescribed change management procedures in relation to proposed changes.

4.5.3 Undertake audit

ITSRR may refer for inclusion in the next scheduled audit of the accredited operator an examination of aspects of the operator's change management procedures. Alternatively, ITSRR may organise additional audits of the operator to address any specific concerns ITSRR may have in relation to management of change procedures.

The information gleaned from requests for additional information or from inspections and audits will enhance the regulatory intelligence ITSRR maintains in relation to those operators. This information will also alert ITSRR to any future notifications lodged by accredited operators whose change management processes ITSRR may previously have identified as of concern, and will facilitate any subsequent compliance and enforcement action in relation to those operators.

4.6 ITSRR not satisfied with change management processes

If, after the gathering of sufficient evidence, ITSRR is not satisfied that an accredited operator is complying with prescribed change management procedures in relation to proposed changes, the Rail Safety Bill provides a range of escalating compliance and enforcement action that ITSRR can take against the operator. This escalating action is detailed below.

4.6.1 Improvement notice

A rail safety officer may issue an improvement notice if the officer believes the person is:

- contravening a provision of the rail safety law
- has contravened a provision of rail safety law, and it is likely that the contravention will continue to be repeated, or
- is carrying out or has carried out railway operations that threaten safety.

An improvement notice may require the person, within the period specified in the notice to undertake, among other things, remedial safety work or do any other thing to remedy the contravention or likely contravention, or the matters or activities occasioning the contravention or likely contravention. Therefore, as it is an offence under section 13 of the Act for a rail transport operator to fail, without reasonable excuse, to comply with their

SMS, an improvement notice could be issued on the basis of a contravention or likely contravention of this provision. For example, it would be open to a rail safety officer to issue an improvement notice on the basis that the failure of an accredited operator to comply with the management of change requirements of the operator's SMS is likely to lead to a contravention of section 11 of the Act, or more broadly to a contravention of the general duties provisions.

4.6.2 Direction to amend SMS

If it is apparent that the accredited operator's SMS does not include the prescribed procedures for management of change, section 24 provides that ITSRR may direct a rail transport operator, by notice in writing, to amend the operator's SMS within a specified period, being not less than 28 days after the giving of the direction.

Similarly, if after applying a change management process, it is apparent that a rail transport operator has failed to introduce a control measure to address the proposed change, ITSRR may also direct the operator to amend the SMS to introduce that control measure.

It is an offence for a rail transport operator to fail, without reasonable excuse, to comply with a direction to amend a SMS.

4.6.3 Prohibition notice

If it is apparent that the proposed change will result in an immediate risk to safety, a rail safety officer may issue a prohibition notice, which can include directions to minimise or eliminate risks.

4.6.4 Investigation and possible prosecution

If, after an investigation is undertaken, it is apparent that the accredited operator is not following the prescribed procedures for management of change, ITSRR may:

Breach of SMS

- Commence a prosecution under section 13 of the Act, which makes it an offence for a rail transport operator to implement the operator's SMS. It is also an offence for a rail transport operator to fail, without reasonable excuse, to comply with the operator's SMS.

Breach of general duties

- Commence a prosecution for a breach of the safety duties placed on rail transport operators under section 8 of the Act.

4.6.5 Conditions and restrictions on accreditation

ITSRR may also impose conditions and/or restrictions on the accredited operator's accreditation. However, any such action would only be taken in rare instances where a long history of non-compliance with the regulatory requirements could be established.

The *National Rail Safety Guideline – Compliance and Enforcement for Rail Safety* and supporting ITSRR policies provide separate guidance on the issue of prohibition and improvement notices, and the regulatory approach ITSRR applies generally in relation to compliance and enforcement.

5. PROPOSED CHANGES OUTSIDE THE SCOPE OF ACCREDITATION

5.1 Variation to accreditation

5.2 Policy rationale for variation to accreditation

As described above, where an accredited operator wishes to make a change within the scope and nature of the railway operations for which accreditation has been granted, there is no requirement to obtain prior regulatory approval. This approach is predicated on the principle that there is a threshold of change below which competent duty holders are deemed, by virtue of their original accreditation, capable of proceeding without any change being subject to prior regulatory approval.

By contrast, the policy intent of the variation of accreditation provisions is to ensure that approval of a variation is only required where the change goes outside the scope and nature of the accreditation, and that the accredited operator has the competence and capacity to manage the risks associated with these new railway operations. It is also intended that the regulatory response must be proportionate to the scale and nature of the change, as well as the existing competence, capacity and systems of the accredited operator.

5.3 Variation to accreditation requirements

If an accredited person wishes to operate outside the scope and nature of the railway operations in respect of which accreditation has been granted, an accredited person may apply to ITSRR for a variation of accreditation under section 55 of the Act. Clause 27 of the Regulation requires that an application for variation to accreditation contain the following information:

- a) the following identification details of the applicant:
 - (i) the applicant's name,
 - (ii) the applicant's registered business name, and trading name if that is different to the registered business name,
 - (iii) the applicant's ACN or ABN, if applicable,
 - (iv) the applicant's residential address or, in the case of a corporation, the address of the registered office or a principal office of the corporation,
- b) the name and contact details of a person who has been appointed by the applicant to deal with any queries that ITSRR may have in relation to the application,
- c) details of the scope and nature of the proposed variation,
- d) details of the changes that will be made to the applicant's SMS if the proposed variation occurs,
- e) details of any consultation that has occurred with parties who might be affected by the proposed variation, including:
 - (i) who was consulted, and
 - (ii) when and how the consultation occurred, and
 - (iii) the results of the consultation.
- f) evidence to demonstrate that the applicant has the competence and capacity to manage the risks to safety associated with the proposed variation.

Under section 56 of the Act, ITSRR must, within the relevant period after the application for variation is made vary the accreditation, with or without any conditions or restrictions, if satisfied as to the matters referred to in sections 39 and 40, so far as they are applicable to the proposed variation; or if not satisfied, refuse the application. Section 39 details the matters that ITSRR be satisfied before granting accreditation, described above. Section 40 relates to the co-ordination of applications for accreditation and variation with other rail safety regulators.

The “relevant period” is defined under the Act to mean 6 months after the application was received by ITSRR, unless another period is specified in accordance with the provision.

There are no additional regulatory requirements for the management of change outside the scope of accreditation, other than those prescribed in Schedule 1 of the draft Rail Safety Regulations, described above.

6. Time to lodge application for variation to accreditation

An application for variation to accreditation must be lodged and approved before the accredited operator is able to carry out any new railway operations not described in the initial accreditation notice. Section 37(2) of the Rail Safety Act provides an offence for accredited person to carry out or cause or permit the carrying out of a railway operation that is not authorised by an accreditation.

The Rail Safety Act defines “railway operations” to mean any of the following:

- (a) the construction of a railway, railway tracks and associated track structures or rolling stock,
- (b) the management, commissioning, maintenance, repair, modification, installation, operation or decommissioning of rail infrastructure,
- (c) the commissioning, maintenance, repair, modification or decommissioning of rolling stock,
- (d) the operation or movement, or causing the operation or movement by any means, of rolling stock on a railway (including for the purposes of construction or restoration of rail infrastructure),
- (e) the movement, or causing the movement, or rolling stock for the purposes of operating a railway service.

Therefore, in considering the time at which to lodge an application for variation to accreditation, an accredited operator will need to be mindful of the definition of “railway operations”; and the circumstances in which the accredited operator may be considered to have commenced any new railway operations not addressed in the scope and nature of the initial accreditation. For instance, an accredited operator would need to apply and have approved any application for variation to accreditation before constructing any railway, railway track and associated track structure or rolling stock. Similarly, an accredited operator would need to have a variation approved before commissioning any new rail infrastructure or rolling stock.

For this reason, the accredited operator will need to ensure that any application for variation of accreditation is submitted in sufficient time before the carrying out of any new railway operations to ensure compliance with the Rail Safety Act.

In any event, ITSRR strongly encourages the applicant to contact ITSRR during the development phase of the project for the purpose of facilitating confidence building between the operator and regulator in relation to the proposed change before the submission of any formal application for variation. However, the decision to involve the regulator will be a risk decision of the operator, bearing in mind that the operator will ultimately need to seek the regulator's approval to the variation of accreditation.