

NORTHERN TERRITORY OF AUSTRALIA
NORTHERN TERRITORY RAIL SAFETY REGULATIONS

Regulations 2002, No. 31

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NORTHERN TERRITORY OF AUSTRALIA

Regulations 2002, No. 31*

Regulations under the *Northern Territory Rail Safety Act*

I, JOHN CHRISTOPHER ANICTOMATIS, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Northern Territory Rail Safety Act*.

Dated 30 August 2002.

J. C. ANICTOMATIS
Administrator

By His Honour's Command

CLARE MARTIN
Chief Minister
acting for and on behalf of the
Minister for Transport and Infrastructure

* Notified in the *Northern Territory Government Gazette* on 30 August 2002.

NORTHERN TERRITORY RAIL SAFETY REGULATIONS

PART 1 – PRELIMINARY

1. Citation

These Regulations may be cited as the Northern Territory Rail Safety Regulations.

2. Commencement

These Regulations come into operation on 1 September 2002.

3. Definitions

In these Regulations, unless the contrary intention appears –

"annual fee" means an annual fee payable under regulation 6;

"commercial railway" means a railway other than a railway operated by a non-profit organisation or an organisation whose principle areas of activity involve the natural or cultural heritage of the Territory;

"level crossing" has the same meaning as in the Australian Road Rules;

"pedestrian crossing" means a crossing at substantially the same level as a railway track that is used by pedestrians to cross the railway track;

"previous year", in relation to a year for which an annual fee is payable, means the 12 month period immediately preceding the year;

"railway land" means a railway or a place or building adjacent or near to a railway that is used in connection with the railway (including for the construction of the railway and the storage of rolling stock);

"road" has the same meaning as in the Australian Road Rules;

"road-related area" has the same meaning as in the Australian Road Rules;

"vehicle" means a conveyance with wheels;

"wheeled recreational device" has the same meaning as in the Australian Road Rules;

"wheeled toy" has the same meaning as in the Australian Road Rules;

"year" means 12 months commencing on 1 September and ending on 31 August.

4. Prescribed railway safety work

The following work is railway safety work:

- (a) work that involves or relates to controlling the conduct of persons who are in or on a train or other rolling stock or railway land;
- (b) work that involves holding, collecting or disposing of belongings, luggage or other property of persons or other materials or things that are left in or on a train or other rolling stock or railway land;
- (c) work that relates to controlling, destroying or removing things that may endanger persons in or on a train or other rolling stock or railway land.

PART 2 – FEES

5. Prescription of fees

The fee to be paid for or in relation to a matter under the Act described in column 1 of Schedule 1 is the fee specified opposite in column 2 of that Schedule.

6. Payment of annual fees

- (1) Subject this regulation –
 - (a) the annual fee payable by an accredited person or owner of a registered private siding referred to in column 1 of Schedule 2 is the amount specified, or determined as specified, opposite in column 2 of that Schedule; and
 - (b) an annual fee –
 - (i) is due and payable on 1 September in each year; and
 - (ii) is to be paid on or before 30 September in the same year.
- (2) If a person becomes an accredited person or registers a private siding, during a year the person must pay the portion of the annual fee that is proportionate to the number of days for which the person will be an accredited person or for which the private siding will be registered during the year.
- (3) The portion of an annual fee payable under subregulation (2) –
 - (a) is due and payable on the person being granted accreditation or the siding being registered; and
 - (b) subject to subregulation (4) – is to be paid within 28 days after the person is granted accreditation or the siding is registered.

(4) The Director may make an arrangement with an accredited person or the owner of a registered private siding that permits the accredited person or owner to pay the annual fee payable by the accredited person or owner by instalments and, if so, the accredited person or owner must pay the annual fee in accordance with the arrangement.

7. Calculation of annual fees

(1) If the amount of an annual fee is to be determined as specified in item 1(a) or (d) of Schedule 2 –

- (a) the annual fee is to be calculated based on the operations of the accredited person during the previous year; or
- (b) where the accredited person was accredited for part only of the previous year – the annual fee is calculated as an estimate based on the operations of the accredited person during that part of the previous year.

(2) If an annual fee is due and payable by an accredited person on 1 September 2002 and the amount of the annual fee payable by the accredited person is to be determined as specified in item 1(a) or (d) of Schedule 2, it is calculated as an estimate based on the train kilometres or gross tonne kilometres the accredited person estimates will be travelled during that year by trains along the railway track in respect of which the accredited person is accredited.

(3) If an annual fee is due and payable by a person who becomes accredited during a year –

- (a) where the amount of the annual fee payable by the accredited person is to be determined as specified in item 1(a) or (d) of Schedule 2 – it is calculated as an estimate based on the train kilometres or gross tonne kilometres the accredited person estimates will be travelled during the part of that year for which the person is an accredited person by trains along the railway track in respect of which the accredited person has become accredited; or
- (b) where the amount of the annual fee payable by the accredited person is to be determined as specified in item 1(c) of Schedule 2 – it is calculated as the proportion of \$35 per kilometre of railway track of which the accredited person is, at the time of being granted the accreditation, the accredited owner that is proportionate to the number of days in that year for which the person will be an accredited person.

(4) For the purposes of subregulation (2) and (3)(a) –

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- (a) a reference in subregulations (5) and (6) to train kilometres or gross train kilometres travelled during the previous year is taken to include a reference to train kilometres or gross train kilometres that the accredited person estimates will be travelled during the year or part of the year referred to in subregulation (2) along a railway track in respect of which the accredited person is or has become accredited; and
 - (b) a reference in subregulations (5) and (6) to the number of trains that travelled along, or the distance travelled by a train along, a railway track during the previous year is taken to include a reference to the number of trains the accredited person estimates will travel, or the distance the accredited person estimates will be travelled by a train, during the year or part of the year referred to in subregulation (2) along a railway track in respect of which the accredited person is or has become accredited.
- (5) In determining the amount of an annual fee referred to in item 1(a) of Schedule 2, train kilometres travelled during the previous year by trains along a railway track are calculated in accordance with the formula $365 \times N \times D$, where –
- N is the average number of trains that travelled each day of the previous year along the railway track; and
 - D is the average distance in kilometres travelled each day along the railway track by each train that travelled along the railway track during the previous year.
- (6) In determining the amount of an annual fee referred to in item 1(d) of Schedule 2, gross tonne kilometres travelled during the previous year by freight trains is calculated in accordance with the formula $T \times W$, where –
- T is the train kilometres travelled by the freight trains during the previous year; and
 - W is the sum of the weight of the rolling stock comprising the freight trains and the weight of the freight carried on that rolling stock.

PART 3 – RAILWAY EMPLOYEES AND INSPECTORS

8. Functions of railway employee

A railway employee has the following functions:

- (a) to carry out railway safety work as directed by the accredited person or owner of a private siding who employs him or her;
- (b) the functions imposed on him or her by these Regulations.

9. General power to give directions to leave trains or railway land

(1) If, in the opinion of a railway employee or an inspector, a person is committing an offence against these Regulations, the railway employee or inspector may direct the person to leave the train or other rolling stock or railway land concerned.

(2) The person must comply with a direction given under subregulation (1).

Penalty: 5 penalty units.

10. Removal of persons from trains or railway land

If a person fails to comply with a direction to leave a train or other rolling stock or railway land given under regulation 9 by a railway employee or an inspector, the railway employee or inspector may, with the force that is reasonable and necessary, remove the person from the train, rolling stock or railway land.

PART 4 – CONDUCT ON RAILWAY LAND

11. Conduct generally

(1) A person who is in or on a train or other rolling stock or railway land must conduct himself or herself in such a way so that he or she does not do any of the following acts:

- (a) use offensive language or otherwise behave offensively;
- (b) do an indecent act;
- (c) sleep or erect a tent or other shelter or arrange gear or equipment for the purpose of sleeping or camping;
- (d) throw a thing at, in, on or from a train or other rolling stock or railway land;
- (e) interfere with a facility or equipment, or obstruct or interfere with another person's use of a facility or equipment, in or on a train or other rolling stock or railway land;
- (f) do anything that might endanger a person or damage property in or on a train or other rolling stock or railway land;
- (g) remove from a train or other rolling stock or railway land any property that does not belong to him or her;

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- (h) write, draw or affix a word, representation, character or poster on or onto any infrastructure in or on a train or other rolling stock or railway land;
- (i) deposit or abandon any litter, belongings, luggage or other material or thing in or on a train or other rolling stock or railway land other than by placing it in a receptacle or place provided for the deposit of the litter, belongings, luggage or other material or thing;
- (j) if the person is in or on an area of railway land set apart for the exclusive use of pedestrians – ride an animal or drive a vehicle or use a wheeled recreational device or a wheeled toy;
- (k) spit;
- (l) urinate or defecate, except in toilets provided for the purpose.
- (2) Subregulation (1)(j) does not apply to or in respect of –
 - (a) a vehicle designed to carry a person who is unable to walk;
 - (b) a motorised trolley being used by a railway employee who is acting in accordance with his or her duties; or
 - (c) a member of the Police Force.
- (3) A person who, without reasonable excuse, contravenes or does not comply with subregulation (1) commits an offence.

Penalty: 5 penalty units

12. Smoking on trains and railway land

- (1) A person in or on a train or other rolling stock or railway land may smoke only if he or she –
 - (a) is in an area of railway land that is not roofed or otherwise covered; or
 - (b) if the person is in or on a train or other rolling stock or in an area of railway land that is roofed or otherwise covered – smokes in an area of the train, rolling stock or railway land designated by signs as an area where a person is permitted to smoke.
- (2) A person who contravenes or does not comply with subregulation (1) commits an offence.

Penalty: 5 penalty units

- (3) In this regulation –

"smoke" includes being in possession of a lighted cigarette, cigar, pipe or similar article.

13. Eating and drinking on trains and railway land

(1) A person in or on a train or other rolling stock or railway land must not eat or drink if signs conspicuously erected in or on the train, rolling stock, railway land or an area of railway land prohibit eating or drinking in or on the train, rolling stock, railway land or area.

Penalty: 2 penalty units.

(2) Subregulation (1) does not apply to a person –

- (a) who is permitted to eat or drink by a railway employee; or
- (b) who is eating or drinking for medical reasons.

14. Drinking alcohol on trains and railway land

(1) A person in or on a train or other rolling stock or railway land may drink intoxicating liquor only if the liquor was supplied in or on the train, rolling stock or railway land by or with the permission of an accredited person who is the owner or operator of the relevant railway.

(2) A person who contravenes or does not comply with subregulation (1) commits an offence.

Penalty: 5 penalty units.

(3) In this regulation –

"drink" includes being in possession of an opened container of intoxicating liquor.

15. Intoxicated persons

(1) If, in the opinion of a railway employee or an inspector, a person in or on a train or other rolling stock or railway land –

- (a) is under the influence of intoxicating liquor or a drug; and
- (b) is causing or is likely to cause a nuisance or annoyance to, or endanger, other persons on the train, damage rolling stock or railway land or endanger himself or herself,

the railway employee or inspector may direct the person to leave the train, rolling stock or railway land.

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- (2) A person must comply with a direction given under subregulation (1).

Penalty: 5 penalty units.

16. Persons travelling on trains to remain inside train

(1) A person travelling on a train or other rolling stock must, at all times when the train or rolling stock is moving, remain inside the train or rolling stock in such a manner so that no part of the person is projecting from the train or rolling stock.

Penalty: 5 penalty units.

- (2) Subregulation (1) does not apply to or in respect of –
- (a) a railway employee or inspector acting in accordance with his or her duties; or
 - (b) a person who is acting at the request of or in accordance with a direction of a railway employee or an inspector.

17. No unauthorised commercial activities

(1) A person may carry on a commercial activity in or on a train or other rolling stock or railway land only if the person is authorised to do so in writing by an accredited person who is the owner or operator of the relevant railway.

(2) A person referred to in subregulation (1) must, if requested to do so by a railway employee or an inspector, display to the railway employee or inspector his or her authorisation to carry on the commercial activity.

(3) A person who contravenes or does not comply with subregulation (1) or (2) commits an offence.

Penalty: 5 penalty units.

(4) In this regulation –

"commercial activity" means one or more of the following activities:

- (a) selling, hiring or offering to sell or hire any thing to a person in or on the train, rolling stock or railway land other than by means of a mobile phone call to a person who is not present in or on the train, rolling stock or railway land;
- (b) touting or soliciting custom, hire or employment from a person in or on a train, rolling stock or railway land other

than by means of a mobile phone call to a person who is not present in or on the train, rolling stock or railway land;

- (c) distributing handbills to one or more persons in or on a train, rolling stock or railway land;
- (d) soliciting money from a person in or on a train, rolling stock or railway land, whether by busking or any other means.

18. Unauthorised use of reservoirs or tanks on railway land

A person must not, without permission in writing to do so from the accredited person who is the owner of the relevant railway –

- (a) bathe in the water in a reservoir or tank on railway land;
- (b) pollute the water in a reservoir or tank on railway land;
- (c) fish in a reservoir or tank on railway land; or
- (d) shoot over or on a reservoir or tank on railway land.

Penalty: 5 penalty units

19. Lost property

A person who finds an article on a train or other rolling stock or railway land that belongs to another person must –

- (a) return it to its owner; or
- (b) give it, or report its location, to a railway employee.

Penalty: 5 penalty units.

20. Control of dogs and other animals on trains and railway land

(1) A person may take a dog in or on a train or other rolling stock or railway land only if the dog is –

- (a) guiding or assisting, or being trained to guide or assist, a person who has a disability;
- (b) being used by a railway employee, inspector, member of the Police Force or other person for the purposes of carrying out security work in or on the train, rolling stock or railway land; or
- (c) contained in a cage suitable for transporting the dog on the train or rolling stock in such a manner that no part of the dog is projecting from the cage.

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(2) In subregulation (1) –

"security work" means controlling or monitoring the conduct of persons, removing persons because of their conduct, or patrolling or guarding property.

(3) A person who contravenes or does not comply with subregulation (1) commits an offence.

Penalty: 5 penalty units.

(4) An accredited person who is the operator of a railway may, by signs erected conspicuously in or on railway land, impose conditions on the purpose for which and the manner in which a person may have an animal (other than a dog) in or on a train or other rolling stock or railway land to which the accreditation relates.

(5) A person who contravenes or does not comply with a condition of an accredited operator referred to in subregulation (4) commits an offence.

Penalty: 5 penalty units.

21. Bicycles not to be left on certain parts of railway land

(1) A person may only leave a bicycle on railway land in a place designated for that purpose by the accredited person who is the owner of the relevant railway.

(2) A person who contravenes or does not comply with subregulation (1) commits an offence.

Penalty: 2 penalty units.

22. Restriction on vehicles that may be driven on certain structures on railway land

(1) If there is on railway land a railway road bridge or other structure that is provided for the purpose of enabling vehicles to cross a running line, the accredited person who is the owner of the relevant railway may, by signs erected conspicuously on or near the road bridge or structure, fix a vehicle's maximum loaded mass, maximum axle load or other load limit in respect of the road bridge or structure.

(2) A person must not drive on or over a railway road bridge or other structure referred to in subregulation (1) in a vehicle whose loaded mass, axle load or other load exceeds the maximum limit fixed under subregulation (1) unless –

- (a) the person has obtained permission in writing to do so from the accredited person who is the owner of the relevant railway; and
- (b) if the accredited person's permission is given subject to conditions – the person complies with those conditions.

Penalty: 20 penalty units.

PART 5 – TRESPASSING AND OTHER DANGEROUS ACTIVITIES

23. Trespassing

(1) A person must not, without reasonable excuse, go on to or remain on railway land or a part of railway land, railway track, a level crossing, a pedestrian crossing or a train or other rolling stock unless he or she is authorised to do so.

Penalty: 20 penalty units.

(2) In subregulation (1), a reference to an authorisation to enter or remain on railway land, railway track, a level crossing, a pedestrian crossing or a train or other rolling stock includes –

- (a) signage conspicuously erected permitting a person to go on to or remain on the railway land, railway track, level crossing, pedestrian crossing, train or rolling stock concerned;
- (b) a request or direction to do so by a railway employee or an inspector; and
- (c) the permission of an accredited person or the owner of a private siding.

24. No placing of objects on railway tracks

A person who is not a railway employee or an inspector acting in accordance with his or her duties must not leave, place or deposit any matter, thing, substance or material of any nature whatsoever on a railway track.

Penalty: 100 penalty units.

25. Unauthorised use of communications systems, safety equipment, gates and fences

- (1) A person must not, without reasonable excuse –
- (a) use for a purpose other than the purpose for which it is provided, or damage, any communications system or information system on a train or other rolling stock or railway land;

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- (b) use for a purpose other than the purpose for which it is provided, or damage, any emergency or safety equipment on a train or other rolling stock or railway land; or
- (c) interfere with or damage a gate (including a gate that is electronically operated) or fence on railway land.

Penalty: 40 penalty units.

- (2) In subregulation (1) –

"emergency or safety equipment" includes emergency breakdown equipment, alarms, stretchers, fire extinguishers, fire hydrants and the like.

PART 6 – USING CROSSINGS AND GATES

26. Crossing railway tracks generally

(1) A person must not cross (whether on foot or by driving or riding a vehicle, animal, bicycle, wheeled recreational device or wheeled toy) a railway track unless he or she uses a level crossing, bridge, subway or pedestrian crossing constructed for that purpose.

Penalty: 2 penalty units.

- (2) Subregulation (1) does not apply to or in respect of –
 - (a) a railway employee or an inspector acting in accordance with his or her duties;
 - (b) a person who is acting at the request of or in accordance with a direction of a railway employee or an inspector; or
 - (c) a railway track that is on a road or road-related area.

27. Pedestrians crossing railway tracks

(1) If a bridge, subway or pedestrian crossing is constructed for the purpose of crossing a railway track at or near a place where there is a level crossing over the railway track, a pedestrian must not, without reasonable excuse, cross over the railway track at the level crossing but must use the bridge, subway or pedestrian crossing.

Penalty: 2 penalty units.

- (2) Subregulation (1) does not apply to a pedestrian who is in charge of an animal.

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(3) A pedestrian must not cross over a railway track at a level crossing or a pedestrian crossing –

- (a) if the person is warned not to do so by a railway employee or an inspector;
- (b) if a train is in sight and moving towards the level crossing or pedestrian crossing; or
- (c) if doing so is contrary to a warning of the approach of a train to the level crossing or pedestrian crossing given by a warning device (whether an audio or visual device).

Penalty: 20 penalty units.

(4) A pedestrian must not cross over a railway track at a level crossing or a pedestrian crossing at which barriers are installed while those barriers are in any position other than the fully open position.

Penalty: 20 penalty units.

(5) A pedestrian must not cross over a railway track at a level crossing or pedestrian crossing at which a bell, alarm, red light or other warning device is installed (whether or not barriers are installed) while a bell, alarm, red light or other warning device is operating.

Penalty: 20 penalty units.

(6) This regulation does not apply to –

- (a) a railway employee or inspector acting in the course of carrying out his or her duties; or
- (b) a person who is acting at the request of or in accordance with a direction given by a railway employee or inspector.

28. Restriction on certain vehicles crossing railway tracks at level crossings

(1) A person must not drive a vehicle across a level crossing if –

- (a) the height of the vehicle exceeds –
 - (i) where the vehicle is a trailer with double deck cattle crates or is constructed for the sole purpose of carrying motor vehicles – 4.6 metres; or
 - (ii) in any other case – 4.4 metres;

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- (b) the width of the vehicle, including its load and equipment (if any), exceeds 2.5 metres;
- (c) the vehicle is carrying a load that is likely to cause damage to railway property or to cause an obstruction on the level crossing to other vehicles or pedestrians crossing, or trains or other rolling stock approaching or railway employees in the vicinity of, the level crossing ;
- (d) doing so is contrary to a sign displayed at the level crossing; or
- (e) directed by a railway employee or an inspector not to do so.

Penalty: 100 penalty units.

- (2) Subregulation (1)(a), (b), (c) or (d) does not apply if –
 - (a) the vehicle and its load (if any) comply with the *Motor Vehicles Act* and the Regulations made under that Act or an exemption under section 59 of *Motor Vehicles Act* is in force in respect of the vehicle;
 - (b) the person driving the vehicle has, at least 72 hours before crossing the level crossing, given written notice of the person's intention to drive over the level crossing to the person in charge of the principal office of the accredited person who is the owner of the railway concerned; and
 - (c) the accredited person to whom the driver gives notice does not, by written notice given to the driver before the time specified in the driver's notice as the time when the driver wants to drive the vehicle over the level crossing, prohibit the crossing by the driver.
- (3) Notice referred to in subregulation (2)(b) is to specify –
 - (a) the name and address of the owner of the vehicle to be driven over the level crossing;
 - (b) the level crossing the person wants to drive over;
 - (c) the time when the person wants to drive over the level crossing; and
 - (d) if the vehicle is the subject of an exemption under section 59 of the *Motor Vehicles Act* – details of the exemption.

29. Driving animals across railway tracks

A person must not drive, whether by using a vehicle or otherwise, an animal across a railway track at a level crossing if –

- (a) the person is warned not to do so by a railway employee or an inspector;
- (b) a train is in sight and moving towards the level crossing; or
- (c) warning of the approach of a train to the level crossing has been given by a warning device (whether an audio or visual device).

Penalty: 20 penalty units.

30. Gates to be closed

- (1) In this regulation –

"gate" does not include a gate on railway land that is electronically operated.

(2) A person who opens a gate that is at a level crossing or a pedestrian crossing or elsewhere on railway land, or that is on land adjacent to railway land and that opens on to the railway land, must shut and securely fasten the gate immediately after using the gate.

Penalty: 10 penalty units.

SCHEDULE 1

Regulation 5

FEES

Column 1	Column 2
1. Exemption under section 8 of the Act	\$500
2. Application under section 12 of the Act for permanent accreditation, whether as the owner of a railway or the operator of a railway –	
(a) if the application is for accreditation as the owner of a railway	\$5 000
(b) if the application is for accreditation as the operator of a railway	\$5 000
(c) if the application is for accreditation as the owner and operator of a railway	\$10 000
(d) if the application is made by a non-profit organisation or an organisation whose principal areas of activity involve the natural or cultural heritage of the Territory (whether for accreditation as an the owner or operator or owner and operator of a railway)	\$500
3. Application under section 12 of the Act for temporary accreditation, whether as the owner of a railway or the operator of a railway –	
(a) if the application is for temporary accreditation as the owner of a railway	\$2 000
(b) if the application is for temporary accreditation as the operator of a railway	\$2 000
(c) if the application is for temporary accreditation as the owner and operator of a railway	\$4 000

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(d) if the application is made by a non-profit organisation or an organisation whose principal areas of activity involve the natural or cultural heritage of the Territory (whether for temporary accreditation as an the owner or operator or owner and operator of a railway)	\$200
4. Registration of a private siding under section 29 of the Act	\$200

SCHEDULE 2

Regulation 6

ANNUAL FEES

Column 1	Column 2
1. Annual fee payable by accredited person –	
(a) if the accredited person is the owner of a commercial railway who is responsible for providing train control, signalling or communication systems only	\$0.02 per train kilometre travelled during the previous year by trains along the railway track in respect of which the accredited person is accredited to provide train control, signalling or communication systems
(b) if the accredited person is the owner of a commercial railway who is responsible for the construction of the railway	\$25 000 (payable each year until completion of the construction of the railway)
(c) if the accredited person is the owner of a commercial railway who is not referred to in paragraph (a) or (b)	\$35 per kilometre of railway track in respect of which the accredited person is, on the day the accredited person's annual fee is due and payable, the accredited owner
(d) if the accredited person is the operator of a commercial railway	the sum of \$0.025 per 1 000 gross tonne kilometre travelled during the previous year by freight trains, and \$0.17 per train kilometre travelled during the previous year by trains carrying passengers, in respect of which the accredited person was the accredited operator during the previous year
2. Annual fee payable by owner of registered private siding	\$100