

2014

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**RAIL SAFETY NATIONAL LAW (ACT) REGULATION 2014
SL2014-29**

EXPLANATORY STATEMENT

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Rail Safety National Law (ACT) Regulation 2014

Background

The *Rail Safety National Law (ACT) Regulation 2014* (the Regulation) is made under the *Rail Safety National Law (ACT) Act 2014* (the Act).

The Act, which was notified on 20 May 2014, provides for the adoption of the Rail Safety National Law (RSNL) as a Territory law through the application of section 6 of the Act.

The RSNL was enacted as a schedule to the application law of South Australia, as the host jurisdiction for the RSNL and the National Rail Safety Regulator (the Regulator).

The head of power enabling the Regulator to test rail safety workers for the presence of a drug or alcohol is set out in the RSNL, part 3, division 9 (Drug and alcohol testing by Regulator). Details of the procedures relating to breath, blood and oral fluid sampling and evidentiary procedures to be followed are included in Part 3, Alcohol and Drug Testing, of the Act.

This Regulation prescribes devices and instruments for use in drug and alcohol testing of rail safety workers under Section 10, Part 3, Alcohol and Drug Testing, of the Act.

Notes on Clauses

Clause 1 Name of regulation

This clause provides that the title of this regulation is the *Rail Safety National Law (ACT) Regulation 2014*.

Clause 2 Commencement

This clause provides that the Regulation will commence on the commencement of Section 10 of the Act. A note included in the clause refers to commencement provisions in the *Legislation Act 2001* which are relevant to this commencement provision.

Clause 3 Alcohol screening device—Act, s 10, def *alcohol screening device*, par (b)

This clause prescribes the AlcoQuant 6020 as an alcohol screening device for the purpose of the Act.

Clause 4 Drug screening device—Act, s 10, def *drug screening device*, par (b)

This clause prescribes the Medvet Oral7 as a drug screening device for the purpose of the Act.

Clause 5 Oral fluid analysis instrument—Act, s 10, def *oral fluid analysis instrument*, par (b)

This clause prescribes the following instruments as oral fluid analysis instruments for the purpose of the Act:

- (a) AB Sciex QTrap 5500;
- (b) Thermo LTQ Orbitrap Discovery;
- (c) Thermo TSQ Quantum Access;
- (d) Thermo TSQ Quantum Ultra.

Clause 6 **Oral fluid analysis of sample from worker in custody—requirements for statement—Act, s 21 (4)**

Section 21(4) of the Act requires that an authorised operator who carries out an oral fluid analysis must give the rail safety worker a signed written statement containing the particulars required by the Regulation.

This clause prescribes that the particulars mentioned in the *Road Transport (Alcohol and Drugs) Regulation 2000*, schedule 2, are the details that are required to be included in a statement mentioned in section 21 (4) of the Act. The details required to be included in the statement include the result of the analysis shown by an instrument.