

Essential Services Commission  
Victorian Rail Access Regime  
Network Management Rules

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## 1. Background

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### 1.1 Legislative Background

Section 38U of the *Rail Corporations Act 1996* provides for the Commission to make network management rules in accordance with the procedures set out in section 38N. Section 38U provides:

#### **38U. Network management rules**

- (1) *The Commission must make rules for or with respect to the carrying out of a relevant rail network management activity.*
- (2) *The Commission may make rules—*
  - (a) *for or with respect to requiring an access provider to prepare and maintain protocols for the management of a rail network;*
  - (b) *for or with respect to requiring an access provider to comply with protocols referred to in paragraph (a);*
  - (c) *that confer a function or power on or leave anything to be decided by the Commission in relation to any matter or thing specified in sub-section (1) or this sub-section, including the power to approve protocols referred to in paragraph (a) consistent with the rules.*
- (3) *Rules made under this section—*
  - (a) *must be consistent with the principle of passenger priority; and*
  - (b) *must prohibit an access provider from, while carrying out a relevant network management activity, unreasonably favouring itself or another person over any other person.*

*Note:* The procedure for making of the network management rules is set out in section 38N.

These network management rules are made pursuant to section 38U.

### 1.2 Purpose

The purpose of these **network management rules** is to:

- (a) achieve transparency in the conduct of **relevant rail network management activities**, by requiring an **access provider** to establish and make publicly available a set of **binding protocols** and certain other documents relating to the management of the **rail network**, which together comprise a statement of the principles and practices that will be applied to the real time management of the **rail network**; and
- (b) ensure that **access providers** carry out **relevant rail network management activities** in a non-discriminatory manner as between the **access provider** (including any **related body corporate** of the **access provider**) and other persons.

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### 1.3 Application

Subject to section 11.2, these **network management rules** apply in their entirety to all **access providers**.

### 1.4 Commencement

These **network management rules** commence with effect from 1 January 2006.

## 2. General obligations of an access provider with respect to relevant rail network management activities

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### 2.1 Obligations of an access provider with respect to relevant rail network management activities

In carrying out a **relevant rail network management activity**, an **access provider** must, subject to all relevant **legislation** (including in relation to safety):

- (a) not unreasonably favour itself or another person (including any **related body corporate** of the **access provider** or a **business unit** of the **access provider** that carries out **other activities**), over any other person;
- (b) act in a manner that is consistent with the **principle of passenger priority**;
- (c) use **all reasonable endeavours** to promote the compatibility in operations of its **rail network** with the operations of any other **rail network** of an **access provider** that interfaces with the **access provider's rail network**; and
- (d) use **all reasonable endeavours** to maximise the use of the **rail network**.

### 2.2 Access agreements and other arrangements for the provision of declared rail transport services

An **access provider** must ensure that any contract, agreement, arrangement or understanding between that **access provider** and an **access seeker** or a **user** for the provision of **declared rail transport services** is consistent with these **network management rules**.

## 3. Operating Handbook

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### 3.1 Obligation to prepare operating handbook

- (a) An **access provider** must prepare and maintain an operating handbook.
- (b) The operating handbook must contain a copy of:
  - (i) each **binding protocol** that the **access provider** is required to prepare and maintain under sections 4 and 8 of these rules and that the **Commission** has approved under these rules;
  - (ii) protocols made under section 5 of these rules; and
  - (iii) the **rolling stock interface standards**.

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- (c) If a **binding protocol** or other protocol made under section 5 is varied, or if the **rolling stock interface standards** are varied, the **access provider** must update the operating handbook accordingly.

### 3.2 Publication of protocols and operating handbook etc

- (a) An **access provider** must:
- (i) make available for inspection at its offices; and
  - (ii) publish on its website,  
a copy of the operating handbook, as updated from time to time.

## 4. Protocols for the management of a rail network

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### 4.1 Short term scheduling and planning train services

- (a) An **access provider** must prepare and maintain protocols for the short-term scheduling and rescheduling of **train paths** and the short-term planning of **train services**.
- (b) Without limiting paragraph (a), protocols made under paragraph (a) must:
- (i) require an **access provider** to prepare a **daily train plan** on a weekly basis;
  - (ii) require that the **daily train plan** be consistent with the **master train timetable**, subject to specific exceptions identified in the protocols, which may include **rail network possessions** (as described in section 4.5) and the allocation of **unscheduled train paths**;
  - (iii) require that the **daily train plan** be accurate with respect to all information known at the time of its preparation;
  - (iv) require that where an **access provider** has varied an allocated **train path**, the **access provider** amend the **daily train plan** accordingly;
  - (v) require an **access provider** to undertake **real-time scheduling** and planning of **train services** in accordance with the **daily train plan**;
  - (vi) require that if the **daily train plan** varies from the **master train timetable**:
    - (A) the **access provider** must use **all reasonable endeavours** to minimise disruption to **users**;
    - (B) the **access provider** must apply the following order of priorities when rescheduling **train paths**:
      - (1) first, **passenger train paths**;
      - (2) second, **scheduled freight train paths**; and
      - (3) third, **unscheduled freight train paths**;
  - (vii) specify the principles and procedures that the **access provider** will apply in undertaking **real-time scheduling** and planning of **train services**;

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- (viii) specify the circumstances in which an **access provider** must obtain the consent of **users** to a **train path** allocation in the **daily train plan** that differs from the **master train timetable**;
  - (ix) specify the circumstances in which the **access provider** will make available an **unscheduled train path** to a **user** on the request of a **user**; and
  - (x) require an **access provider** to use **all reasonable endeavours** to accommodate a request of a **user** under paragraph (ix), subject to meeting existing **train path** commitments under the **master train timetable**.

#### 4.2 Train control services

- (a) An **access provider** must prepare and maintain protocols with respect to **train control services**, including protocols for giving directions to **train operators** with respect to the operation of or the granting of permission to operate **rolling stock**, including a **train** or a **train service**, between particular locations on the **rail network** of the **access provider** at particular times.
- (b) Without limiting paragraph (a), protocols made under paragraph (a) must:
  - (i) specify the requirements that a **train operator** must satisfy before the **train operator** is permitted to enter the **rail network** of the **access provider**, including any requirement to comply with any **rolling stock interface standards** of the **access provider**, to provide a **train manifest** to the **access provider** and to have a **train path**;
  - (ii) require that **train operators** who use the **rail network** of the **access provider** comply immediately with a direction given by a **train controller**;
  - (iii) require an **access provider**, when providing **train control services**, to use **all reasonable endeavours** to facilitate the running of **train services** and **trains** in accordance with the allocated **train paths** and scheduled **line** entry and exit times set out in the **daily train plan**, subject to:
    - (A) safety considerations;
    - (B) matters outside the control of the **access provider**;
    - (C) requisite notice from the **train operator** and presentation of the **train operator's train service** or **train on time** at the scheduled **line** entry point;
    - (D) emergencies and **force majeure events**; and
    - (E) other reasonable matters identified in the protocols;
  - (iv) specify the practices and procedures that the **access provider** will apply in order to facilitate the running of **train services** and **trains** in accordance with the allocated **train paths** and scheduled **line** entry and exit times set out in the **daily train plan**;

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- (v) specify the train control practices and procedures that the **access provider** will apply in circumstances where, as a result of a matter outside the control of the **access provider**, an emergency or a **force majeure event**.
    - (A) the provision of **declared rail transport services** is interrupted or prevented or restricted; and
    - (B) the **access provider** is required to resolve competing interests of **users**; and
  - (vi) require an **access provider**, in the circumstances set out in paragraph (v), to:
    - (A) comply with the **train path priorities**;
    - (B) subject to paragraph (A), use **all reasonable endeavours** to minimise disruptions to **train paths** and **train services**; and
    - (C) subject to paragraph (A), use **all reasonable endeavours** to provide to each affected **user** an alternative **train path**.

#### 4.3 Protocols for managing operational conflicts

- (a) An **access provider** must prepare and maintain protocols for the management of operational conflicts, including protocols for the real time re-allocation of **train paths**:
  - (i) in circumstances where a **train service** or **train**:
    - (A) is or, in the reasonable opinion of the **access provider**, is likely to be delayed or cancelled; or
    - (B) arrives late or early at the scheduled **line** entry point; and
  - (ii) in the event of a conflict between a **healthy train service** or **train** and an **unhealthy train service** or **train** or between a **healthy train service** or **train** and a **train service** or **train** that is **running ahead**, or between an **unhealthy train service** or **train** and a **train service** or **train** that is **running ahead**.
- (b) Protocols made under paragraph (a)(i) must require the **access provider** to:
  - (i) use **all reasonable endeavours** to accommodate a **train service** or **train** that arrives late or early at the scheduled **line** entry point;
  - (ii) comply with the **train path priorities**;
  - (iii) subject to paragraph (ii), use **all reasonable endeavours** to minimise disruptions to **train paths** and **train services**; and
  - (iv) subject to paragraph (ii), use **all reasonable endeavours** to provide to each affected **user** an alternative **train path**.
- (c) Protocols made under paragraph (a)(ii) must require the **access provider**.
  - (i) first, to give priority to a regular **passenger train service**, and to use **all reasonable endeavours** to facilitate that:

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- (A) if the regular **passenger train service** is **healthy** or **running ahead**, that it exits the relevant **line on time**; and
  - (B) if the regular **passenger train service** is **unhealthy**, that, after having complied with paragraph (A) with respect to **healthy** regular **passenger train services**, the **unhealthy** regular **passenger train service** makes up time;
- (ii) second, having complied with paragraph (i), in respect of any **freight train service**, to use **all reasonable endeavours** to facilitate that:
- (A) if the **freight train service** is **healthy** or **running ahead**, that it exits the relevant **line on time**; and
  - (B) if the **freight train service** is **unhealthy**, that, after having complied with paragraph (A) with respect to **healthy freight train services**, the **unhealthy freight train service** makes up time.

#### 4.4 Clearing network blockages and failed trains

- (a) An **access provider** must prepare and maintain protocols for giving directions or taking action for the purpose of clearing **rail network** blockages and failed **trains** or failed **rolling stock**.
- (b) Protocols made under paragraph (a) must:
  - (i) require the **access provider** to consult the relevant **train operator** of the failed **train** or failed **rolling stock** with respect to the management of the failure and the **train operator's** recovery plan;
  - (ii) include protocols in relation to:
    - (A) the use of an alternative **train** or alternative **rolling stock** and personnel;
    - (B) the reduction of the loading of the failed **train** or failed **rolling stock**;
    - (C) the continuation of the failed **train** or failed **rolling stock** on the allocated **passenger train path** or the **freight train path** or on an alternative **line** at reduced speed;
    - (D) the amalgamation of the failed **train** or failed **rolling stock** with another **train service**;
    - (E) the clearing of failed **rolling stock** or a failed **train** from the **rail network** of the **access provider**; and
    - (F) other matters relating to the management of the **rolling stock** or **train** failure; and
  - (iii) require an **access provider** to:
    - (A) comply with the **train path priorities**;
    - (B) subject to paragraph (A), use **all reasonable endeavours** to minimise disruptions to **train paths** and **train services**; and

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- (C) subject to paragraph (A), use **all reasonable endeavours** to provide to each affected **user** an alternative **train path**.

#### 4.5 Possessions

- (a) An **access provider** must prepare and maintain protocols relating to the closure or taking **possession** of all or any part of the **rail network** of the **access provider** for the purpose of undertaking repair or maintenance work or upgrading **rail infrastructure**.
- (b) Without limiting paragraph (a), protocols made under paragraph (a) must:
- (i) specify the circumstances in which an **access provider** may close or take **possession** of all or any part of the **rail network** of the **access provider** for the purpose of undertaking repair or maintenance work or upgrading **rail infrastructure**;
- (ii) include protocols for:
- (A) the procedures and practices that the **access provider** will apply in relation to the closure or taking **possession** of all or any part of the **access provider's rail network** for the purpose of undertaking repair or maintenance work or upgrading **rail infrastructure** or for the purpose of any **alteration** to **rail infrastructure** that is being undertaken or occurs; and
- (B) the operation of **train services, trains** and **rolling stock** on the **rail network** of the **access provider** where repair or maintenance work is being undertaken or any **alteration** to **rail infrastructure** is being undertaken or occurs; and
- (iii) where the closure or **possession** or proposed closure or **possession** of the **rail network** is reasonably likely materially to affect **train paths**, require the **access provider** to:
- (A) notify each affected **user** and **access seeker** prior to the commencement of the works or the closure or taking **possession** of all or any part of the **rail network**, which notice must include a description of the extent and nature of the works, the likely duration of the works, the likely duration of any proposed closure or taking **possession** of all or any part of the **rail network**, the potential effect on **train paths** and the proposed alternative arrangements;
- (B) consult with each affected **user** and **access seeker**;
- (C) comply with the **train path priorities**;
- (D) subject to paragraph (C), use **all reasonable endeavours** to minimise disruptions to **train paths** and **train services**; and
- (E) subject to paragraph (C), use **all reasonable endeavours** to provide to each affected **user** an alternative **train path**.
- (c) Protocols made under paragraph (a)(iii) must specify:



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- (i) the consultation processes that the **access provider** will follow; and
  - (ii) the minimum notice periods that the **access provider** will give, which may differ according to the circumstances of the proposed closure or **rail network possession**, for example, in respect of scheduled and unscheduled repair or maintenance work.

#### 4.6 Management of incidents that affect or may affect the operation or safe operation of a rail network

- (a) An **access provider** must prepare and maintain protocols for the management of an emergency or a **force majeure event** on the **rail network** of the **access provider**.
- (b) Protocols made under paragraph (a) must:
  - (i) specify procedures for the following matters, without limitation:
    - (A) the closure or taking **possession** of all or any part of the **rail network** of the **access provider**;
    - (B) the provision of **declared rail transport services** during the emergency or **force majeure event**; and
    - (C) the measures that the **access provider** is taking or will take to reinstate the **rail network** or make it available; and
  - (ii) require an **access provider** to:
    - (A) comply with the **train path priorities**;
    - (B) subject to paragraph (A), use **all reasonable endeavours** to minimise disruptions to **train paths** and **train services**; and
    - (C) subject to paragraph (A), use **all reasonable endeavours** to provide to each affected **user** an alternative **train path**.

#### 4.7 Protocols for the management of certain activities on a rail network

- (a) An **access provider** must prepare and maintain other protocols for the management of and the safe, efficient and reliable operation of the **rail network** of the **access provider**.
- (b) Protocols made under paragraph (a) must:
  - (i) specify procedures for the following matters, without limitation:
    - (A) the management of historic **trains**, special loadings or the carriage of certain loads on the **rail network**, including dangerous goods or hazardous materials;
    - (B) the use of the **rail network** of the **access provider** for military or defence purposes; and
    - (C) the use of a **rail network** of the **access provider** for safety or testing or driver training or other similar purposes; and

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- (ii) require an **access provider** to:
    - (A) comply with the **train path priorities**;
    - (B) subject to paragraph (A), use **all reasonable endeavours** to minimise disruptions to **train paths** and **train services**; and
    - (C) subject to paragraph (A), use **all reasonable endeavours** to provide to each affected **user** an alternative **train path**.

## 5. Communications protocols

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### 5.1 Communications between access providers, users and train operators

- (a) An **access provider** must prepare and maintain protocols for communications between an **access provider** and a **train operator**.
- (b) Without limiting paragraph (a), protocols made under paragraph (a) must:
  - (i) require **train operators** to:
    - (A) submit a **train manifest** to the **access provider** in the form and at the times notified in advance by the **access provider** to the **train operator**, and
    - (B) establish and maintain a 24 hour communications link with the **train controller** of the **access provider**, of a type specified by the **access provider**;
  - (ii) in relation to any matter requiring a direction to be given by a **train controller** of the **access provider** to a **user** or **train operator**.
    - (A) specify the procedures and practices that the **access provider** and the **train controller** will follow, and the form of communication, for the giving of the direction, according to the circumstances of the direction;
    - (B) require the **train controller** to notify the **user** or **train operator** as soon as reasonably practicable after becoming aware of the need to give a direction;
  - (iii) in relation to any circumstance or matter that will or may require the variation of a **train path** or that will or may affect the provision of **declared rail transport services**, and as soon as reasonably practicable after the **access provider** becomes aware of such circumstance or matter, require the **access provider** to notify each affected **user** and **access seeker** of the circumstance or matter, which notice must include details of:
    - (A) the circumstance or matter;
    - (B) the likely impact on **train paths** or the provision of **declared rail transport services**;

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- (C) the likely duration of the circumstance or matter, including, if applicable, the likely duration of any closure or **possession** of any part of the **rail network** of the **access provider**;
  - (D) the provision of **declared rail transport services** during the duration of the circumstance or matter, if applicable;
  - (E) the measures that the **access provider** is taking or will take to reinstate the **rail network** or make it available, if applicable;
  - (F) proposed alternative arrangements; and
  - (G) any other matter that the **access provider** considers relevant; and
- (iv) without limiting paragraph (iii), in relation to any circumstance or matter that will or may require the variation of a **train path** or that will or may affect the provision of **declared rail transport services**, specify the circumstances in which the **access provider** must consult with each affected **user** and **access seeker** (for example, where the **access provider** proposes to take **possession** of all or any part of the **rail network** to undertake maintenance work), and the consultation process that will apply, including any timing requirements.

## 5.2 Communications with other access providers and operators of networks

- (a) Where a **rail network** of an **access provider** interfaces with another rail network (whether or not a **rail network** as defined in the **Act**), the **access provider** must prepare and maintain protocols for:
- (i) communications with the operator of the other network; and
  - (ii) the coordination and management of the interface between the networks.
- (b) Protocols made under paragraph (a) must:
- (i) require the **access provider** to establish and maintain a 24 hour communications link with the operator of the other network;
  - (ii) include protocols for, without limitation:
    - (A) the procedures governing communications between the **access provider** and the operator of the other network, including communications between train controllers (whether or not **train controllers** as defined in these rules); and
    - (B) the provision of **declared rail transport services** at the interface between the networks.

## 5.3 Continuous recording of data

Subject to compliance with relevant **legislation**, an **access provider** must record all voice and data transmissions relevant to the operations of **train services**, **trains** and **rolling stock** movements, including transmissions to and from train controllers (whether or not **train controllers** as defined in these rules), **train operators**, other **access providers**,

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operators of other rail networks (whether or not a **rail network** as defined in the **Act**) and the police.

## 6. Rolling stock interface standards

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- (a) An **access provider** must establish and maintain documented **rolling stock interface standards**.
- (b) The **rolling stock interface standards** must:
  - (i) specify the minimum **rolling stock** standards, axle loads and clearances required for operation on the **rail network** of the **access provider**, and the rules or procedures of the **access provider** relating to constraints in operation;
  - (ii) contain information about the **rail infrastructure** which is sufficient to inform the **access seeker** or **user** about the compatibility of its **train** or **rolling stock** with the **rail network** of the **access provider**;
  - (iii) specify the circumstances in which an **access provider** may require a **user** to provide to the **access provider** information about the **rolling stock** the **user** proposes to use on a **train path** that has been allocated to that **user**;
  - (iv) specify the information that the **access provider** may require a **user** to provide to the **access provider** under paragraph (iii);
  - (v) require a **user** to provide to the **access provider** the information referred to in paragraph (iv);
  - (vi) specify the time within which the **user** must provide the information referred to in paragraph (iv); and
  - (vii) specify the consequences of a failure by the **user** to provide all or any of the information referred to in paragraph (iv); and
  - (viii) require a **train operator** to ensure that its **rolling stock** at all times complies with the **access provider's** minimum **rolling stock** standards and that the **rolling stock** can be operated on the **train path** allocated to that **user** safely, reliably and in accordance with the scheduled **line** entry and exit times for the **train path** allocated to that **user**.
- (c) Protocols made under section 6(b):
  - (i) must require an **access provider** to consult with the **user**;
  - (ii) may permit the **access provider** to refuse to make the allocated **train path** available to that **user** in respect of that **rolling stock** in the circumstances defined in the protocol;
  - (iii) must require an **access provider** to notify the **user** of any modifications required to be made to the **rolling stock** to make the **rolling stock** comply with the requirements of the **access provider**; and

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- (iv) must require an **access provider** at all times to act in good faith.

## 7. Safe working systems etc

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- (a) An **access provider** must document the signalling systems, safe working systems and operational systems with respect to each **rail network** of the **access provider**.
- (b) The documentation referred to in paragraph (a) must contain:
- (i) a description of each system, including sufficient information about each to enable **access seekers** and **users** to understand their nature and substance; and
- (ii) the **access provider's** requirements for compliance with each system.
- (c) If the **access provider** varies, amends or replaces any of the signalling systems, safe working systems or operational systems, the **access provider** must amend the documentation referred to in paragraph (a) accordingly.

Note: An **access provider** is required to include this documentation in the information pack provided to **access seekers** under section 2 of the **negotiation guidelines**.

## 8. Complaints

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### 8.1 Protocol for addressing complaints

- (a) An **access provider** must prepare and maintain protocols for addressing complaints from a **user** or **access seeker** about an alleged failure of the **access provider** to comply with these rules.
- (b) Protocols made under paragraph (a) must require an **access provider** to:
- (i) address each complaint in good faith; and
- (ii) report to the **Commission** each such complaint and the measures taken by the **access provider** in response to such complaint.

## 9. Consistency of protocols, standards and systems with legislation

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- (a) Protocols and **binding protocols** made under section 4, 5 and 8;
- (b) the **rolling stock interface standards** made under section 6; and
- (c) the signalling systems, safe working systems and operational systems referred to in section 7,

must be consistent with section 2.1 and must comply with relevant **legislation**, all applicable **standards** and **good industry practice**.

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## 10. Submission and approval of protocols

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### 10.1 Submission of protocols to Commission for approval

- (a) An **access provider** must submit to the **Commission** for approval at the same time as it is required to submit a proposed access arrangement any proposed protocols that the **access provider** is required to prepare and maintain under sections 4 and 8 of these rules.
- (b) The **Commission** must make a decision whether or not to approve any proposed protocol provided to it under paragraph (a) as a **binding protocol**.
- (c) If the **Commission** makes a decision to approve a proposed protocol, that protocol will be a **binding protocol** for the purposes of these rules.
- (d) If the **Commission** is not satisfied that a proposed protocol:
  - (i) provides for the matters listed in these rules; and
  - (ii) is consistent with the objectives set out in section 38F of the **Act**,the **Commission** may reject the proposed protocol.
- (e) If the **Commission** rejects a proposed protocol:
  - (i) the **Commission** must return the proposed protocol to the **access provider** with a notice in writing that outlines the matters that must be addressed for the **Commission** to approve the proposed protocol as a **binding protocol**;
  - (ii) the **access provider** must amend the proposed protocol to address the matters specified by the **Commission** under paragraph (i); and
  - (iii) the **access provider** must submit the amended proposed protocol to the **Commission** within 14 days after receipt of the notice referred to in paragraph (i).
- (f) Subject to paragraph (g), if the **Commission** decides to reject the amended proposed protocol submitted to the **Commission** in accordance with paragraph (e)(iii), the process in this section will continue to apply until the proposed protocol is accepted as a **binding protocol**:
  - (i) with such alterations and modifications as are necessary; and
  - (ii) as if the amended proposed protocol were a proposed protocol submitted for approval under paragraph (a).
- (g) If the **Commission** has rejected the amended proposed protocol (as described in paragraph (e)(iii)) twice on the basis that it is not satisfied that it complies with paragraph (d), then following the second rejection the **Commission** may either:
  - (i) return the amended proposed protocol to the **access provider** for reconsideration (in which case the process in paragraph (f) above will apply); or

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- (ii) amend the amended proposed protocol so that it complies with paragraph (d) and is consistent with the objectives set out in section 38F of the **Act**.

### 10.2 Access provider's obligation to comply with protocols and standards

The **access provider** must comply with:

- (a) each **binding protocol** on and from the date the **Commission** approves the proposed protocol as a **binding protocol** or approves a variation to the **binding protocol** (as applicable);
- (b) protocols made under section 5; and
- (c) the **rolling stock interface standards**,

subject to doing so being in compliance with all relevant **legislation** (including in relation to safety).

### 10.3 Commission to approve variations to protocols

- (a) An **access provider** may apply to the **Commission** to vary a **binding protocol**.
- (b) The variation must be consistent with these rules.
- (c) An application must;
  - (i) be in writing;
  - (ii) include a description of the proposed variation; and
  - (iii) state the reasons for the proposed variation.
- (d) The **Commission** must make a decision whether or not to approve a variation to a **binding protocol**.
- (e) If the **Commission** considers that the variation that is the subject of the application is a material variation, section 10.1 applies to that variation:
  - (i) with such alterations and modifications as are necessary; and
  - (ii) as if:
    - (A) the proposed variation to be made were a proposed protocol submitted for approval under section 10.1(a); and
    - (B) a decision under this section were a decision under section 10.1.
- (f) If the **Commission** decides to approve a variation to a protocol, the variation takes effect on and from the date of the decision.

### 10.4 Copies of variations to other protocols and standards

If an **access provider** varies:

- (a) protocols made under section 5; or
- (b) the **rolling stock interface standards**,

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the **access provider** must provide a copy of the varied protocols or standards (as relevant) to the **Commission**. For clarification, the **Commission** is not required to approve such variations.

## 11. Application

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### 11.1 Application of network management rules to joint ventures

- (a) This section applies if there is more than one **access provider** in connection with **rail infrastructure**, including if:
- (i) the relevant **rail infrastructure** is owned or operated by two or more persons as a joint venture or partnership; or
  - (ii) the **rail infrastructure** is owned and operated by different persons; or
  - (iii) **rail infrastructure** is legally owned by a person or persons on trust for others.

In such a case each **access provider** in connection with the **rail infrastructure** is referred to in this section as a **participant**.

- (b) If these rules require or permit something to be done by the **access provider**, that thing may be done by one of the **participants** on behalf of all the **participants**.
- (c) If a provision of these rules refers to the **access provider** bearing any costs, the provision applies as if the provision referred to any of the **participants** bearing any costs.

### 11.2 Waiver of rules

The **Commission** may at its sole discretion and by notice in writing to an **access provider** waive any of an **access provider's** obligations under these rules where the **Commission** considers this would be consistent with the **Commission's** statutory objectives and that compliance with the obligation would not be necessary to achieve the purpose of these **network management rules** as set out in section 1.2.

## 12. Definitions

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In these rules, unless the context otherwise requires:

- (a) terms that appear **like this** and that are not otherwise defined in these rules have the same meaning as in the Act; and
- (b) in deciding whether an **access provider** has used **all reasonable endeavours**, regard shall be had to relevant **standards**, **good industry practice** and other regulatory requirements, the performance of other **access providers** and to interstate, national and international benchmarks;
- (c) **access seeker** when used in these rules means a person, including a **business unit** or **related body corporate** of the **access provider**, seeking to be provided a **declared rail transport service** by an **access provider**;



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- (d) **Act** means the *Rail Corporations Act 1996* (Vic);
- (e) **alteration** in respect of **rail infrastructure**, means any addition to, extension to, modification of, replacement of, recovery of, repair of, maintenance of, removal from, deletion to, destruction of, damage to, loss of or inability to use that **rail infrastructure**;
- (f) **binding protocol** means a protocol that has been approved by the Commission under section 10.1;
- (g) **business unit** means a distinct division, department, branch, group, team or unit of a business or company, or a separate company;
- (h) **conditional**, in respect of a freight train path, means the entitlement of a **user** to use a **train path** on a **rail network** of an **access provider** which **train path**:
- (i) does not conflict with a **passenger train path** or a **scheduled train path**; and
  - (ii) provides for optional destinations; or
  - (iii) permits the **train path** to be re-allocated:
    - (A) on the basis of seasonal or intermittent requirements; or
    - (B) in order to provide reserve or surge capacity;
- (i) **daily train plan** means the document prepared by an **access provider** under section 4.1(b) that details the scheduled times for all **train services** on the **rail network** of the **access provider** and any **possessions** of the **rail network** of that **access provider** for a particular day on the specified portion of the **rail network**;
- (j) **flexible**, in respect of a **freight train path**, means the entitlement of a **user** to a **train path** which:
- (i) does not conflict with a **passenger train path** or a **scheduled train path**;
  - (ii) for a particular day, the **line** entry and exit time (nominated by the **access provider**) is a time as close as possible to the **line** entry and exit time requested by the **user** but not less than 48 hours prior to the requested **line** entry time; and
  - (iii) the entitlement of a **user** to a **train path** in circumstances where that entitlement arises other than pursuant to an access agreement with the **access provider**;
- (k) **force majeure event** means any circumstances beyond the reasonable control of a person (including a **business unit** of an **access provider**) which occur without the negligence of that person (including a **business unit** of an **access provider**) and includes inevitable accident, storm, flood, fire, earthquake, explosion, peril of navigation, hostility, war (declared or undeclared), insurrection, sabotage, executive or administrative order or act of either general or particular application of any government prohibition or restriction by domestic or foreign laws, regulations or policies (other than laws specifically for that purpose passed by the Commonwealth), quarantine or customs restrictions, strike, lockout or industrial

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- dispute, break-down or damage to or confiscation of property but does not include breakdown or delay of any **rolling stock** operated by the **user**;
- (l) **freight services** means **rail transport services** that are not **passenger services** or **rail transport services** that are provided by means of a **terminal**;
  - (m) **freight train path** means an entitlement of a **user** to use a **train path** on a **rail network** of an **access provider** to provide **freight services**, and includes a **scheduled train path**, a **conditional train path** and a **flexible train path**;
  - (n) **good industry practice** means all those practices followed in the commercial railway industry when an activity is undertaken in accordance with relevant **legislation** and all applicable **standards** and with due care and skill;
  - (o) **healthy**, in respect of a **train service** or **train**, means a **train service** or **train** that has entered the **rail network** or **line** of an **access provider on time**, or if it has entered the **rail network** or **line** late has made up time, or if it has entered the **rail network** or **line** early has lost time, such that in the reasonable opinion of the **access provider** it is running **on time** and there are no indications that it will not exit the **rail network** or **line on time**, or it has entered the **rail network** or **line** of an **access provider on time**, has lost time en-route and is not **on time** as a result of "below rail" causes;
  - (p) **legislation** means Commonwealth, Victorian or local government legislation including regulations, orders, by-laws, rules and other subordinate legislation or other document enforceable under any such legislation, regulations, orders, by-laws, rules or subordinate legislation;
  - (q) **line** in respect of the **rail network** of an **access provider**, means the rail path between two locations on the **rail network** that may be the subject of a **train path** and that has a common volume of capacity identified in accordance with the protocol referred to in section 6.3(a)(i) of the **capacity use rules**;
  - (r) **master train timetable** means the master train timetable that an **access provider** is required to prepare and maintain under the **capacity use rules**;
  - (s) **on time** in respect of a **train service** or **train** means within a certain number of minutes of the scheduled **line** entry or expected **line** exit time as applicable the number of minutes to be specified by the **access provider** in the operating handbook;
  - (t) **passenger services** means railway services for the carriage of passengers by **train** between locations on the **rail network**;
  - (u) **passenger train path** means either:
    - (i) an entitlement of a **user** under an access agreement to use a **train path** on a **rail network** of an **access provider** to provide **passenger services** which has a fixed **line** entry and exit time and fixed intervals for passenger stops; or

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- (ii) a passenger **train path** specified in the timetable approved by the Director of Public Transport, as amended from time to time, under section 10 of the *Transport Act 1983*;
- (v) **possession** means the closure of a section of track to **train** operations to allow work to be carried out on that section of track;
- (w) **principle of passenger priority** means the giving of priority to the provision of **declared rail transport services** to **passenger service users** over the provision of **declared rail transport services** to **other users**;
- (x) **rail network** means the **rail infrastructure** used to provide **declared rail transport services**;
- (y) **real-time scheduling** means the process of co-ordinating arrival and departure times for **train services** at the beginning, intermediate and destination locations of a **train** journey, where this process takes place on the day of the **train service** in question.
- (z) **related body corporate** has the meaning set out in the *Corporations Act 2001* (Cth);
- (aa) **relevant rail network management activity** means—
- (i) scheduling and planning **train services**;
  - (ii) an activity carried out for the provision of **train control services**, including **train** traffic management;
  - (iii) the management of the interaction of **rail infrastructure** and **rolling stock**;
  - (iv) the management of incidents that affect or may affect the operation or safe operation of a **rail network**;
  - (v) any activity that is ancillary to an activity referred to in paragraphs (i) to (iv);
- (bb) **rolling stock** means locomotives, carriages, wagons, rail cars, rail motors, light rail vehicles, light inspection vehicles, rail/road vehicles, trolleys and any other vehicle that operates on or uses the rail track;
- (cc) **rolling stock interface standards** means the standards that an **access provider** is required to prepare and maintain in accordance with section 6;
- (dd) **running ahead**, in respect of a **train service** or **train**, means a **train service** or **train** that has entered the **rail network** or **line** of an **access provider** before its scheduled entry time or is making up time en-route and in the reasonable opinion of the **access provider** is expected to exit the **rail network** or **line** earlier than its scheduled exit time;
- (ee) **scheduled**, in respect of a **freight train path**, means the entitlement of a **user** to use a **train path** on a **rail network** of an **access provider** for **freight services** which has a fixed entry and exit time;
- (ff) **standard** means any standard or code of practice issued from time to time by Standards Australia (an incorporated body formerly known as the Standards Association of Australia), the Association of American Railroads, the International
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Union of Railways, British Standards, Federal Railroad Administration, the Australasian Railway Association or such similar body to the extent that the standard or code is applicable to the Victorian railway industry;

- (gg) **train** means a locomotive and with or without wagons used to operate **train services**;
- (hh) **train control services** means services involving the giving of directions or the granting of permission to operate **rolling stock** on a **rail network** consistent with the safe and efficient operation of that **rolling stock** and that **rail network**;
- (ii) **train controller**, in respect of an **access provider**, means a person at a train control centre of the **access provider** who carries out one or more of the following activities:
- (i) performing **train control services**;
  - (ii) managing and monitoring **train** movements and all other operation of **rolling stock** on the **rail network** of the **access provider** and any activities affecting or potentially affecting such **train** movements and **rolling stock** operation;
  - (iii) managing incidents that occur or may occur on the **rail network** of the **access provider**;
- (jj) **train manifest** means a written notice (including, if agreed, in electronic form) prepared by a **user** in relation to a **train service** or **train** and containing a complete list of all of the freight or container units being carried by a service on a given date, itemised by the wagons on which they are being carried;
- (kk) **train operator** means a **user** who runs or a person who runs a **train service** or **train** or operates **rolling stock** on a **rail network**;
- (ll) **train path** means a right (whether arising under an agreement or otherwise) to operate **rolling stock** between particular locations on a railway at particular times;
- (mm) **train path priorities** means the order of priorities for the scheduling and rescheduling of **train paths** or **train services** and for the provision of alternative **train paths**, as set out in section 4.1(b)(vi)(B);
- (nn) **train service** means a **train** run by a **user** (including a **train operator**), an **access provider** or a **related body corporate** of an **access provider** by which that person provides railway **freight services** or **passenger services**;
- (oo) **unhealthy**, in respect of a **train service** or **train**, means a **train service** or **train** that has not entered the **rail network** or **line** of an **access provider on time** or has lost time en-route as a result of "above rail" causes, so that in either case it is not, in the reasonable opinion of the **access provider**, expected to exit the **rail network** or **line on time**;
- (pp) **unscheduled**, in respect of a **freight train path**, means a **conditional train path**, a **flexible train path** or any other **train path** that is not a **passenger train path** or a **scheduled train path**; and

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- (qq) **user**, when used in these rules, means any person, including the **access provider** or a **related body corporate** of the **access provider** who:
- (i) acquires or uses a **declared rail transport service** or is a party to an agreement, arrangement or understanding under which they acquire or use a **declared rail transport service**; or
  - (ii) has a right to be provided a **declared rail transport service** under a **dispute resolution decision**.