



Railways Regulations 2008

Anand Satyanand, Governor-General

Order in Council

At Wellington this 21st day of April 2008

Present:

His Excellency the Governor-General in Council

Pursuant to sections 59 and 60 of the Railways Act 2005, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

		Page
1	Title	2
2	Commencement	2
3	Interpretation	2
4	Fees payable to Authority	2
5	Payment of fees	2
6	Refund of fees	3
7	Hourly rate for certain work	3
8	Rail participants	3
9	Exemption	3
10	Exclusion	4
11	Transitional provisions	4

Schedule
Fees payable by licence holders to Authority

4

Regulations

- 1 Title**
These regulations are the Railways Regulations 2008.
- 2 Commencement**
These regulations come into force on 22 May 2008.
- 3 Interpretation**
In these regulations, unless the context otherwise requires, **Act** means the Railways Act 2005.
- 4 Fees payable to Authority**
- (1) A licence holder must pay to the Authority an annual safety fee of \$391.23.
 - (2) A licence holder who engages in an activity specified in the first column of the Schedule must, in addition to the annual safety fee specified in subclause (1), pay to the Authority the annual fee for that activity specified in the second column of the Schedule.
 - (3) A person who makes an application under section 16 of the Act must pay to the Authority an application fee of \$117.00.
 - (4) The fees prescribed under this regulation are inclusive of any goods and services tax payable under the Goods and Services Tax Act 1985.
- 5 Payment of fees**
The fees payable under regulation 4(1) or (2)—
- (a) are due on 30 June each year in respect of the following 12-month period; and
 - (b) must be paid by 4 equal instalments to be made on or before 20 July, 20 October, 20 January, and 20 April of that 12-month period.

6 Refund of fees

The Director may refund the whole or part of any fee payable under regulation 4 on any of the following grounds:

- (a) the activity or application in respect of which the fee has been paid has been withdrawn or nullified;
- (b) the activity or application is of a minor nature and the work of and expense to the Authority are reduced to an extent that justifies the refund;
- (c) in all the circumstances of the case it would be inappropriate to require the fee, or the full fee, to be paid.

7 Hourly rate for certain work

The Authority may charge a rail participant an hourly rate not exceeding \$175.50 per hour (including any goods and services tax payable under the Goods and Services Tax Act 1985) for—

- (a) an ordinary assessment that the Authority carries out;
- (b) a special safety assessment that the Authority carries out.

8 Rail participants

(1) The following are rail participants:

- (a) the Driving Creek Railway of Coromandel; and
- (b) the Whangaparaoa Narrow Gauge Railway of Auckland.

(2) The rail participants specified in subclause (1) must hold a licence granted under section 17 of the Act.

9 Exemption

A rail participant is exempt from the provisions of the Act if—

- (a) the rail participant is involved in a mining or forestry business; and
- (b) the rail participant, in the course of its mining or forestry operations,—
 - (i) carries employees or freight but does not carry members of the public; and
 - (ii) is subject to any regulations made under the Health and Safety in Employment Act 1992.

10 Exclusion

A railway line is excluded from the definition of railway line in section 4 of the Act if—

- (a) the line is operated by a mining or forestry business; and
- (b) the only passengers carried on the line are employees of the mining or forestry business; and
- (c) the only freight carried on the line is the property or the product of the mining or forestry business; and
- (d) the operation carried out on the line is subject to regulations made under the Health and Safety in Employment Act 1992 (if any).

11 Transitional provisions

For the period 1 April 2008 to 31 March 2009,—

- (a) the annual licence monitoring fee payable under regulation 7A of the Transport Services Licensing Regulations 1989 is payable, on a pro rata basis, for the period 1 April 2008 to 30 June 2008; and
- (b) the annual fees payable under regulation 4(1) or (2) of these regulations are payable, on a pro rata basis, for the period 1 July 2008 to 31 March 2009; and
- (c) with respect to any payment made under regulation 7A of the Transport Services Licensing Regulations 1989, the Director must refund any payment that is not attributable to the period 1 April 2008 to 30 June 2008.

Schedule

r 4(2)

Fees payable by licence holders to Authority

Activity	Fee
Access provider (network)	\$171.70 per km
Access provider (other)	\$5.31 per km
Passenger operator (metro)	\$14.19 per 1 000 passengers
Passenger operator (cable car)	\$1.00 per 1 000 passengers

Activity	Fee
Passenger operator (heritage and small tourist business)	\$1.74 per 1 000 passengers
Passenger operator (long distance)	\$20.85 per 1 000 passengers
Freight operator (including industrial sidings)	\$94.16 per million dollars of freight revenue

Diane Morcom,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 22 May 2008, prescribe the fees and charges payable for the purposes of meeting the costs and expenses incurred by Land Transport New Zealand in the exercise of its functions under the Railways Act 2005.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 24 April 2008.
These regulations are administered by the Ministry of Transport.
