

Changes to the Rail Safety National Law 2019

From 1 July 2019, changes to the Rail Safety National Law and National Regulations apply in all state/territories, except for Western Australia as changes need to be progressed separately through the Western Australian Parliament. The changes were approved by Responsible State/ Territory Transport and Infrastructure Ministers in November 2018 and are summarised here.

Provision	Description of change	Who is impacted
<p>Facilitation of drug and alcohol testing</p> <p>New section 127A</p> <p>New sections 128A & 128B</p>	<p>The duties of rail transport operators to facilitate drug and alcohol testing by ONRSR will be clarified to include:</p> <ul style="list-style-type: none"> allowing entry to the railway premises making the rail safety worker available for testing making any other person at the premises available to assist the authorised person if required. <p>Penalties may apply where a person fails to comply without evidencing a reasonable excuse.</p> <p>Supporting penalties for hindering, assaulting or intimidating an authorised person undertaking drug and alcohol testing will also be introduced.</p>	All accredited and registered operators.
<p>Tampering with a drug or alcohol sample</p> <p>New sections 128C</p>	A penalty will be introduced for any person who interferes, tampers with, or destroys a sample of oral fluid, urine or blood taken for the purposes of testing by an authorised person.	Rail safety workers.
<p>Urine testing</p> <p>New section 122A</p> <p>Amendment to sections 127 & 129</p>	ONRSR's drug and alcohol testing program will now include urine testing, which was previously only able to be used in NSW. This will be used for drug testing in certain circumstances.	Accredited and registered operators, and rail safety workers outside of NSW.
<p>Prescribed incidents for drug and alcohol testing</p> <p>Amendment of regulation 28</p>	<p>Rail transport operators are required to continue to immediately report Category A occurrences, with other prescribed incidents also immediately reportable.</p> <p>Post-incident drug and alcohol testing of rail safety workers will be required in response to prescribed incidents, which will apply in all states except for NSW (where existing prescribed incidents continue).</p> <p>Post-incident drug and alcohol testing of rail safety workers involved in the prescribed incident will be mandatory for the operator unless testing is conducted by ONRSR or the police.</p> <p>All operators will be required to ensure they have systems and procedures in their safety management systems for responding to prescribed incidents, which</p>	All accredited operators.

	includes NSW in relation to their existing prescribed incidents (unchanged).	
Monthly returns Amendment of regulation 56	Accredited operators will no longer have to report refusals or positive drug and alcohol tests each month. These will still be reportable as Category B occurrences. The change will come into effect for the July monthly return, due by 21 August 2019.	All accredited operators.
Definition of a 'level crossing' Amendment of section 4 Amendment of section 200	The definition of a 'level crossing' will be amended to improve national consistency. As with the Australian Road Rules, it will clearly exclude unsigned crossings between a tramway and a road or pedestrian crossing (e.g. a road intersection where the tram is controlled by traffic lights). This will replace the term 'railway crossing'. As such, supporting changes to the term 'rail or road crossing' will ensure that interface coordination requirements remain the same, with additional clarification that they apply where rolling stock moves alongside road vehicles on the road.	Accredited light rail operators. The amended definition of a level crossing already applied in QLD and Victoria.
Reporting of notifiable occurrences Amendment of regulation 57(1)(a)(iv) & 57(1)(b)(iii)	Subsequent to the changes to the definition of a level crossing, this change will clarify that a collision or other incident at a 'road or pedestrian crossing' means a 'level crossing'. This clarifies that incidents at unsigned tramway and road/ pedestrian crossings are not reportable as 'level crossing' incidents.	Accredited light rail operators.
Interface coordination - rail infrastructure and public roads Amendment of section 107	A penalty will be introduced for public road managers who breach their interface management requirements. The same penalty may currently apply to rail infrastructure managers. The requirements under section 107 are otherwise unchanged.	Public road managers.
Annual report – auditing of ONRSR Amendment of section 43 New regulations part 1A	Ministers will be able to approve the use of a private sector auditor to audit the financial statements of ONRSR. The statements form part of ONRSR's annual report.	-
Confidentiality and Freedom of Information Amendment of section 244 Amendment of regulation 37	These amendments clarify what information ONRSR can release under the South Australian FOI Act. Documents that may breach a person's privilege against self-incrimination under the RSNL (if they were released under FOI), and documents provided to ministers will be specifically exempt from FOI.	-

Where to find the legislation

Information about amendments to the legislation is available on the ONRSR website at www.onrsr.com.au/operations/legislation/amendmentsto-legislation

The *Rail Safety National Law (SA) 2012 Act* and *National Rail Safety National Law Regulations 2012*, as they apply in each state and territory (except for Western Australia), will be updated from 1 July 2019. A link is available on the ONRSR website at www.onrsr.com.au/operations/legislation

In Western Australia the *Rail Safety National Law (WA) 2015 Act* and *Rail Safety National Law (WA) Regulations* apply and are available from the ONRSR website. Update to these is subject to a separate parliamentary process and timing.

Further information

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