

ONRSR Consultation Paper

Proposed changes to the NSW drug and alcohol identity card issuing process

August 2019



1 Introduction

ONRSR is proposing changes to the process for issuing identity cards to authorised persons to conduct drug and alcohol (D&A) testing in NSW. This paper outlines the proposed changes and seeks the input of NSW Rail Transport Operators (RTOs) and third party testing service providers regarding these changes.

This paper follows a number of NSW D&A identity card discussion sessions held with NSW RTOs and third party service providers in March 2019.

2 Background

D&A testing carried out by NSW RTOs must be conducted by an authorised person appointed under the Rail Safety National Law (RSNL) who holds an identity card currently issued by ONRSR. D&A testing identity cards are administered under section 125 of the RSNL.

Prior to the establishment of ONRSR, operators in NSW issued their own authorised person identity cards. In line with ONRSR's ongoing commitment to promoting efficiencies for industry, we are now proposing to revert back to this model.

3 Why is ONRSR proposing changes?

Reviewing the process of issuing identity cards has benefit for both industry and ONRSR, allowing NSW operators and third party providers to exercise their sub-delegated power to appoint authorised persons more efficiently.

The current process for the issuing of NSW D&A identity cards is considered cumbersome, resulting in additional paperwork and lengthy wait times for the appointment of authorised persons. Transferring the card issue function back to RTOs would bring efficiency gains in overall D&A management and oversight.

4 Summary of proposed changes

The following is a summary of the proposed changes to the NSW D&A identity card issue process, highlighting what would stay the same and what would be different if the cards are issued by RTOs and third party providers.

Process: what stays the same?

- > Regulator delegates to ONRSR Director Operations (Sydney).
- > Director Operations (Sydney) sub-delegates to RTO or third party provider representatives:
 - Not more than three sub-delegates per organisation.
 - Sub-delegate contact and position details provided to ONRSR (including nominated primary contact to be responsible for complying with specific conditions).
 - ONRSR maintains a record of sub-delegated positions.
 - ONRSR advised of any departure or change of position of sub-delegate representatives.
- > RTO or third party provider sub-delegates appoint authorised persons:
 - Ensure authorised persons are suitably qualified and appropriately trained.
 - Authorised person appointments can last for up to three years.

- > RTO or third party provider continue to maintain records:
 - Training
 - Instruments of Appointment
 - Register of authorised persons (including card issue and return dates)
 - Timeframe specified for appointment (up to three years as per current arrangements).

Process: what would be different?

- > Delegations:
 - The sub-delegation would be amended to include card issue and return.
- > Card production and management:
 - RTO or third party provider would produce and administer cards.
 - Cards would be returned to the RTO or third party provider when they expire or when an individual ceases to be an authorised person.
- > Reporting:
 - RTO or third party provider would report to ONRSR annually advising:
 - Number of authorised persons currently appointed
 - Number of appointments made in the year
 - Number of appointments terminated in the year
 - Current training provider, accreditation and training arrangements.

5 Summary of discussion sessions

ONRSR held four sessions with NSW RTOs and third party providers to discuss the current identity card arrangements and potential changes in March 2019. All NSW RTOs and third party providers were invited to attend. Twenty three RTOs and two third party providers were represented at these sessions.

There were no major concerns with the proposed changes raised in the sessions. In order to support implementation of the change, practical matters raised by attendees included:

- > Reasonable timeframe required to enable industry to purchase equipment (for those who do not already produce cards) and set up business processes.
- > Card branding and wording requirements to support recognition by RSWs and Police.
- > Advice on the use of digital cards.
- > Annual reporting requirements.

ONRSR has used the input from the discussion sessions to inform the proposed implementation considerations outlined in the following section.

6 Practical matters for implementation

To support implementation of the proposed NSW D&A identity card changes, a number of practical matters are outlined below.

Card issue and return

RTOs and third party providers would be responsible for the issue and management of the D&A identity cards, including card issue and return.

Section 125 of the RSNL sets the requirements for the creation and use of identity cards. Cards must adequately identify the card holder by means of passport style photograph¹, name and unique identifier issued by the organisation (such as a reference number or code), and must fulfil three key requirements:

- > Cards must be able to be **given** to an authorised person appointed under s124 of the RSNL.
- > Cards must be able to be **produced** for inspection on request.
- > Cards must be able to be **returned** when the card holder ceases to be an authorised person².

The D&A identity cards can be either physical or digital, provided the above requirements can be met. Note that the type and use of physical card production machines or digital information products will not be prescribed by ONRSR.

ONRSR branding will not be included on the identity card. To assist with recognition of authorised persons by RSWs and Police, the following statement must appear on the card:

The bearer of this card is an authorised person appointed under s124 of the Rail Safety National Law to conduct drug and alcohol testing of rail safety workers in NSW in accordance with the Rail Safety National Law.

ONRSR will work with RTOs, third party providers and Police to raise awareness and recognition of any changes to the NSW D&A identity cards.

Changes to current sub-delegations

ONRSR's sub-delegations to industry to appoint authorised persons will be expanded to include identity card issue and return. No amendment to the RSNL is required. ONRSR can exercise its power of delegation under s45 of the RSNL to include card issue and return.

¹ Photograph requirements will remain as per the current ONRSR Photo Guide.

² Note that under the proposed changes to the sub-delegation, operator issued identity cards would not be returned to ONRSR.

Records management

RTOs and third party providers would be required to maintain records of authorised persons to be made available to ONRSR upon request. This includes authorised person contact and position details, card issue and expiry dates, training records and copies of Instruments of Appointment.

RTOs and third party service providers must continue to maintain existing competence and training requirements in line with AQF qualifications and units of competence, and applicable Australian Standards for testing and collecting samples. Refer to the ONRSR website for further information on training of authorised persons to conduct D&A testing.

Reporting requirements

RTOs and third party service providers would be required to report to ONRSR annually advising:

- > Number of authorised persons currently appointed
- > Number of appointments made in the year
- > Number of appointments terminated in the year
- > Current training provider, accreditation and training arrangements.

RTOs would now include this information as part of their annual safety performance report (SPR) and third party service providers would prepare an annual statement.

Proposed timing and process for implementation of the change

Subject to the outcomes of this consultation, ONRSR is proposing a phased implementation approach from December 2019 to March 2020. This will enable RTOs and third party providers to have flexibility in terms of setting up card issue and management processes.

Under the proposed approach, RTOs and third party providers would be asked to nominate one of these months in which to transition.

Current identity cards would remain valid until they expired or if a person ceased to be authorised. These ONRSR issued identity cards must be returned to ONRSR upon expiration.

ONRSR will develop guidance material for RTOs and third party providers regarding the implementation process.

7 Next steps

ONRSR welcomes your views on the proposed changes presented in this paper. Where appropriate, feedback will be incorporated before progressing with implementation.

Please submit any feedback by Friday 30 August 2019 by emailing contact@onrsr.com.au.

ONRSR will advise stakeholders of the outcomes of consultation in October 2019.