



# Drug and alcohol: Requirements for rail transport operators

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**To ensure the safety of workers and the general public, rail transport operators carry legal responsibilities for minimising and reporting the risks of drug or alcohol use to their railway operations.**

## Background

Under the Rail Safety National Law (RSNL), a rail safety worker must not carry out or attempt to carry out rail safety work while there is any presence of alcohol or a 'prescribed drug' in their system (section 128).

To manage this and reduce the risks to workers and the general public, rail transport operators are required to have a Drug and Alcohol Management Program (DAMP) in place, which includes drug and alcohol testing of their workers.

Rail transport operators are also required to:

- > immediately report Category A notifiable occurrences and conduct mandatory drug and alcohol testing for specified Category A occurrences, where ONRSR or the police have not tested
- > provide monthly drug and alcohol testing information to ONRSR.

The purpose of this fact sheet is to provide guidance to rail transport operators on these requirements.

## Drug and Alcohol Management Program

The requirements for the DAMP are set out in the RSNL National Regulations 2012 (regulation 28) and include:

- > a drug and alcohol policy
- > systems and procedures for the provision of information and education to rail safety workers in relation to the DAMP
- > systems and procedures to ensure the confidentiality of rail safety workers' personal information in relation to drug or alcohol testing, counselling, treatment or rehabilitation

- > details of the drug and alcohol testing regime, including testing procedures
- > systems and procedures to respond to Category A notifiable occurrences specified in regulation 28(1b) (summarised in the section on post-incident testing on page 2)
- > measures to be taken by (or on behalf of) the rail transport operator regarding the establishment of rules relating to the use of drugs and alcohol by rail safety workers (including prohibitions and restrictions on use)
- > the identification of rail safety workers who have drug or alcohol related problems and, where appropriate, referral of those workers to assessment, treatment, counselling or rehabilitation
- > the obligations of rail safety workers.

Rail transport operators must ensure that rail safety workers are aware of their obligations and responsibilities under the DAMP, such as the requirement to advise the rail transport operator if they are concerned that a co-worker is impaired by drugs or alcohol.

The DAMP must be regularly reviewed, and the outcomes of the review documented.

How each rail transport operator complies with the requirements, including for testing workers, may differ depending on the scope and nature of their operations. An example of this is provided in the ONRSR Drugs and Alcohol: Example of Scalability in the Drug and Alcohol Management Plan for Tourist and Heritage Operators fact sheet.

## Testing workers for drugs and alcohol

The level and type of drug and alcohol testing that a rail transport operator undertakes must be risk-based, as part of their DAMP. (Note that in NSW there is a legislated minimum level of testing.)

Many rail transport operators test between 25% and 100% of their rail safety workers. ONRSR encourages rail transport operators to include random drug and alcohol testing in their programs, as it is agreed by experts to be a significant deterrence. Rail transport operators are also encouraged to conduct regular reviews of their

testing regimes to ensure they reflect contemporary research and usage trends including research published by ONRSR.

ONRSR regularly reviews all reports of drug and alcohol testing from rail transport operators. If any concerns are identified, ONRSR will undertake regulatory activities, which may include ONRSR conducted drug and alcohol testing, to address these.

### Post-incident testing

A rail transport operator's DAMP should include post-incident testing arrangements and must include provision for mandatory post-incident testing in response to the following Category A notifiable occurrences:

- > Collision (excluding attempted or suspected self-harm incidents)
- > Derailment
- > Proceed Authority Exceeded
- > Runaway
- > Network Rule or Procedure Breach
- > Person / Train Interface.

Category A notifiable occurrences must be verbally reported to ONRSR immediately by calling **1800 430 888**.

ONRSR may undertake testing of rail safety workers involved in a Category A notifiable occurrence and will communicate with the rail transport operator, as soon as possible following the occurrence being reported, to confirm if ONRSR is testing.

Where ONRSR or police do not undertake drug and alcohol testing, then the rail transport operator is required to undertake this testing, unless:

- > they have been notified by ONRSR that drug and alcohol testing is not required, or
- > they have a reasonable excuse for not doing so.

Where the rail transport operator conducts a drug and alcohol test which requires further analysis, the result of the confirmatory test is to be provided

to ONRSR within 7 days of the test being undertaken.

### Written notifiable occurrence reports

Written Category A notifiable occurrence reports must be submitted to ONRSR within 7 days after the occurrence.

Drug and alcohol test results for Category A notifiable occurrences must be included in the written report. If ONRSR has tested, then these results do not have to be reported.

Category A reports must also include the results of any post-incident testing undertaken by the rail transport operator or police.

### Reporting

Rail transport operators are required to provide information on the drug and alcohol testing undertaken as part of their DAMP, as part of their monthly return (regulation 56). This includes:

- > the number of tests conducted (reported separately for pre and post-sign on)
- > the type of tests conducted
- > the class of rail safety work undertaken by the rail safety workers who were tested
- > the employment type of worker tested to capture worker is a contractor or employee

Monthly returns are due each month by the 21<sup>st</sup> of the following month and should be submitted via the ONRSR Portal.

Rail transport operators must notify the Regulator within 7 days:

- > a rail safety worker that fails to submit to a test
- > any incident involving tampering or interference of a sample.

The rail transport operator is responsible for determining if the worker was in breach of its DAMP. This would include a positive test result for any drug that is not permitted by the operator.

Certain over-the-counter or prescription drugs may be permitted by the DAMP, so the detection of these would not constitute a breach where use was consistent with the DAMP.

## Additional guidance on reporting

### Who is responsible for reporting the drug and alcohol test?

The rail transport operator under whose DAMP the testing is being undertaken.

For testing following Category A notifiable occurrences specified in regulation 28(1b):

- > If the police have tested, the operator is required to report this.
- > If ONRSR has undertaken testing, the operator does not have to provide information on this.

### Class of rail safety worker – what is the meaning of ‘other’?

‘Other’ means rail safety workers whose roles are not listed. This does NOT include people who are not rail safety workers.

### Should a rail transport operator report a drug test that returns a positive result?

Yes, if a confirmatory drug test result was a breach of the rail transport operator’s DAMP.

### Should results be reported of initial on-site drug tests, confirmatory laboratory tests or both?

The rail transport operator must only report confirmatory laboratory drug test results where there was a breach of the DAMP.

## Penalties

Rail transport operators face up to \$500,000 for failing to meet drug and alcohol management requirements under section 115 of the RSNL.

There is a penalty of up to \$20,000 for an individual, or up to \$100,000 for a body corporate who fails to comply with the requirement to immediately report and conduct drug and alcohol testing following Category A notifiable occurrences

specified in regulation 28 (1b), unless ONRSR or police have tested.

Rail safety workers are subject to the requirements of the rail transport operator’s DAMP. This may be their direct employer or through a contract arrangement. The disciplinary actions and penalties for breaching the requirements are determined by the rail transport operator as part of the DAMP.

Rail safety workers also have an overall duty to take reasonable care of their own and others’ safety and to follow the instructions of the rail transport operator, including for drug and alcohol management.

The maximum penalty for an individual rail safety worker who fails to comply with a safety duty range from \$50,000 to \$300,000, or 5 years imprisonment (or both).

## Further information

Further information is available on ONRSR’s website, including the following documents:

- > ONRSR Policy: Drug and Alcohol Testing
- > Drugs and Alcohol: Example of Scalability in the Drug and Alcohol Management Programs for Tourist & Heritage Operators fact sheet
- > Drugs and Alcohol: ONRSR’s Testing Program fact sheet
- > Duties of Rail Safety Workers fact sheet

Refer to ONRSR’s Reporting Requirements for Notifiable Occurrences for descriptions of the occurrences.

NSW operators should refer to the Drug and Alcohol: Requirements for Rail Transport Operators (NSW Only) fact sheet.

Contact ONRSR via [contact@onrsr.com.au](mailto:contact@onrsr.com.au) or phone (08) 8406 1500 (South Australia).