

Rail safety workers have an important role in ensuring the safety of railway operations and carry specific legal duties under the Rail Safety National Law (RSNL).

Who are rail safety workers?

A rail safety worker is any individual (whether employee or contractor) who has carried out, is carrying out, or is about to carry out, rail safety work (section 4 of the RSNL). This may be their only role or a task that is part of their role.

'Rail safety work' is defined in section 8 of the RSNL and is further clarified in the ONRSR guideline Identifying Rail Safety Work under the RSNL.

Duties of rail safety workers

Rail safety is a shared responsibility and rail safety workers have prescribed safety duties to minimise risks to safety associated with railway operations.

Section 56 of the RSNL describes these specific duties. These are relative to the capacity they may have to control, eliminate, or mitigate risks.

These duties cannot be transferred and more than one person can have the same duty at the same time (section 51 of the RSNL).

Taking reasonable care

When carrying out rail safety work, rail safety workers must take reasonable care:

- > for their own safety
- > that their acts or omissions do not adversely affect the safety of others

What constitutes 'reasonable care', is determined by the extent of knowledge the rail safety worker might have had about relevant circumstances.

Following reasonable instruction

Rail safety workers must comply, so far as they are reasonably able, with any reasonable

instruction by the rail transport operator to allow them to comply with the RSNL.

Whether an instruction is 'reasonable' will depend on several factors, including whether it is lawful and clear, and whether it is consistent with safety requirements.

Intentional, wilful or reckless behaviour

When carrying out rail safety work, rail safety workers must not:

- > intentionally or recklessly interfere with or misuse anything provided by the rail transport operator in the interests of safety or compliance with the RSNL
- > wilfully or recklessly place the safety of another person on or in the immediate vicinity of rail infrastructure at risk

Penalties for breaching safety duties

Penalties may apply to individual rail safety workers.

The most serious category of offences relates to reckless conduct involving a risk of death or serious injury, carrying a maximum penalty of up to \$300,000 and/or up to 5 years imprisonment.

Duties of rail transport operators

Rail transport operators must ensure, so far as is reasonably practicable, the safety of the operator's railway operations. This includes providing safe systems of work, infrastructure and equipment, while ensuring that rail safety workers are:

- > of sufficient good health and fitness to perform their duties safely
- > competent to undertake their tasks safely
- > not impaired by drugs, alcohol or fatigue whilst on duty
- > provided with relevant information, instruction, training and supervision to be able to undertake their tasks safely

Safety management system

Rail transport operators must develop and implement a safety management system (SMS) for their operations in consultation with relevant rail safety workers, and other affected persons, in order to manage the risks associated with rail safety work (section 99 of the RSNL).

There are also specific requirements for competency (section 117 of the RSNL).

The SMS must include programs to manage specific risks to railway operations associated with rail safety workers, including:

- > a health and fitness management program (section 114)
- > a drug and alcohol management program (section 115)
- > a fatigue risk management program (section 116).

Rail safety workers must comply with the SMS as part of their duty to follow reasonable instructions from the rail transport operator.

Identification of rail safety workers

Rail transport operators must ensure that rail safety workers have identification that enables a rail safety officer to check the worker's training and competency (section 118 of the RSNL).

Rail safety workers must produce this identification when requested by a rail safety officer or incur a penalty of up to \$2,500.

Drug and alcohol use

Rail safety workers must not carry out or attempt to carry out rail safety work:

- > with any alcohol in their blood
- > with a *prescribed drug* present in their oral fluid or blood
- > under the influence of any drug that affects their ability to effectively perform their duties, which may include over-the-counter or prescription medications that may result in side effects, such as drowsiness

In addition, it is an offence to:

- > hinder or obstruct an 'authorised person' (a person authorised by the Regulator to undertake drug and alcohol testing, or a police officer)
- > assault, threaten or intimidate an authorised person
- > interfere or tamper with, or destroy, samples

Prescribed drugs include cannabis (THC), methamphetamine/'speed', and MDMA/'ecstasy'.

Rail safety workers must notify the rail transport operator if their ability to undertake rail safety work, or the ability of another worker, may be impaired by alcohol or drugs.

Drug and alcohol testing

Rail safety workers may be tested for drugs and/or alcohol by a rail transport operator or an authorised person.

Rail transport operators undertake drug and alcohol testing under their Drug and Alcohol Management Program as part of their SMS (regulation 28). Note: Operator testing in NSW must be carried out by an authorised person.

ONRSR may also undertake testing at any time and it is an offence for a rail safety worker to refuse or not comply with the directions of the authorised person.

Further information

- > Rail safety workers are encouraged to discuss any questions or concerns with their rail transport operator or contact ONRSR.
- > The RSNL and National Regulations, and other guidance, is available on ONRSR's website at www.onrsr.com.au