

October, 2024

Background

When Western Australia formally adopted the *Rail Safety National Law* (RSNL) in 2015, giving ONRSR jurisdiction as the State's rail safety regulator, it was implemented using what is known as 'mirror legislation'.

This meant that unlike other states and territories the law was not automatically updated as changes were made. Rather, they were required to go through the WA parliamentary process meaning many were either delayed or not enacted. This effectively left WA with a "locked down", or localised 2015 version of the national legislation.

Following its passage through the Western Australian Parliament earlier this year and a comprehensive period of stakeholder engagement, the full application of the *Rail Safety National Law* (RSNL) commenced in WA from 1 October 2024.

The decision to bring WA into line with all other states and territories ensures that rail operators in the west benefit from a range of amendments made to the RSNL since 2015.

What Does It Mean for WA Rail Operators?

For the most part the full application of the RSNL will have a minimal impact on Western Australia's rail transport operators.

Since 2015, a series of amendments have been made to the RSNL that have not been applied in WA. These are detailed on the ONRSR website (see section "Amendments to RSNL Since 2015" on the next page).

They include changes that provide clarity in three key areas – the definition of rail safety work,

regulation of major rail projects and drug and alcohol testing of rail safety workers.

1. Major Projects

ONRSR charges fees to regulate the suite of major rail projects being undertaken across Australia. Until 1 October 2024 the fee did not apply in Western Australia, and it **will not** be applied retrospectively.

However, rail transport operators with oversight of major projects in Western Australia now need to consider the fee in their project delivery phase.

ONRSR defines a major project as the delivery of a significant change to railway infrastructure or rolling stock by one or more entities.

ONRSR makes a decision on what fees apply following discussions with the project proponent. The key considerations are:

- the significance of the proposed change
- the scale and complexity of the regulatory oversight that will be required.

For further information on major projects and ONRSR's regulatory role and responsibilities, operators are encouraged to read [The ONRSR Major Projects Guideline](#) and the [Major Project Fees ONRSR Fact Sheet](#).

2. Definition of Rail Safety Work

Since its enactment in Western Australia in 2015, the section of the RSNL that defines what constitutes rail safety work has been updated.

The most important change, that WA-based operators need to be aware of and communicate to their staff, is the difference between section 8 of the 2015 RSNL and section 8 of the 2024 RSNL.

Whereas the 2015 legislation did not include situations where individuals are exposed to moving rolling stock in the definition of rail safety work, the updated law expands the definition to include “*work on or about rail infrastructure or associated works or equipment that places, or may place, the person performing the work at risk of exposure to moving rolling stock*”.

ONRSR has produced a guideline – [Identifying Rail Safety Work Under the RSNL](#) – and operators are encouraged to use this resource in conjunction with the new legislation to ensure they, and their rail safety workers, are aware of the full extent of their safety duties.

3. Drug and Alcohol Testing Regime

WA-based rail transport operators are now subject to a series of new requirements in relation to drug and alcohol (D&A) testing covering:

- Mandatory post-incident D&A testing of rail safety workers in response to Category A notifiable occurrences. Operators will be required to undertake D&A testing where either the police or the Regulator do not attend.
- the facilitation of testing by operators
- penalties for tampering with samples.

Further information on these requirements is available via the ONRSR website (see section “Amendments to RSNL Since 2015” below).

Operators are encouraged to familiarise themselves with these requirements as a priority, and to contact ONRSR (using the details below) to seek any clarification necessary.

Amendments to RSNL Since 2015

To ensure the RSNL remains effective and relevant, several amendments have been made. Many of these have been made since the mirror legislation was enacted in Western Australia in 2015.

These have been documented in full, and categorised by year, on the ONRSR website’s [Amendments to Legislation](#) page.

Further Information and Contact

Rail transport operators who have questions or wish to discuss the full implementation of the legislation further should contact ONRSR’s Perth office on 1800 433 038 or email ONRSR at contact@onrsr.com.au