

Fact Sheet

Changes to the Rail Safety National Law

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From 1 August 2016, changes to the Rail Safety National Law and National Regulations will apply. The changes were approved by Ministers in November 2015. A summary of the changes as they will apply to accredited and registered operators is provided here.

Provision	Description of the change	Who is impacted
Competency for rail safety workers Amendment of section 4 Amendment of section 117	Reference to the Australian Quality Training Framework (AQTF) will be removed as it no longer applies nationally. There will not be any change to requirements and competency must still be assessed in accordance with the Australian Qualifications Framework (AQF). A revised definition of the AQF will also be inserted to avoid the need for amendment if the name changes.	Accredited operators Operators already complying with the AQF will continue to comply with this provision, with no other actions required.
Non-disturbance of rolling stock Amendment of section 149 Amendment of section 183	An authorised officer may secure a site for compliance and investigation purposes. The amendment will clarify that this may include rolling stock. Authorised officers will continue to secure sites or rolling stock using the non-disturbance notice.	Accredited and registered operators Operators should be aware of the change but note it is for clarification only.
Third party proposed works near a railway Insertion of sub-section 199 (1a)	When a rail infrastructure manager (RIM) receives notification of works on or near a railway, they will be able to respond to the third party with written advice – where those works threaten or are likely to threaten the safety of the railway or its operational integrity. Failure of a third party to comply with this written advice will not carry a penalty. The amendment seeks to encourage resolution of issues at a local level and will not impact on the power of the National Rail Safety Regulator to intervene if requested.	Accredited and registered operators Operators should take the opportunity to respond to third parties with written advice, where necessary.

<p>Payment of penalties & infringement fines to National Rail Safety Regulator Fund New section 260A Amendment of section 33</p>	<p>The amendments will clarify that infringement fines will be paid to the ONRSR, and that ONRSR may receive up to half of any penalty payable by a convicted person (at the direction of a court).</p> <p>Money received from infringement fines and penalties will be invested by ONRSR into safety improvement initiatives.</p>	<p>This is an administrative change only</p>
<p>Period within which proceedings for offences may be commenced Amendment of section 218</p>	<p>The change will clarify that if there is a conflict in the periods within which a prosecution may be commenced, it is the later period that applies.</p>	<p>Accredited and registered operators</p> <p>Applicable where there is a possible prosecution only.</p>
<p>Provisions creating offences New section 15A (Schedule 2)</p>	<p>The change will improve consistency in the Rail Safety National Law by clarifying that where the term 'offence' is used, this also includes contravention of a provision that has a penalty.</p>	<p>Accredited and registered operators</p> <p>Applicable where there is a possible issuing of a penalty or a prosecution only.</p>
<p>Written reporting of notifiable occurrences Amendment of regulation 57</p>	<p>The changes will give the Regulator the ability to permit an accredited operator to provide a written category A or B report later than 72 hours. It is not expected to be used often. An example may be where an operator requests extension in preparation for a public holiday or shutdown period, because there will be limited staff to provide written reports.</p> <p>The Australian Transport Safety Bureau (ATSB) may still require a report within the extended period under the <i>Transport Safety Investigation Act 2003</i> (TSI Act).</p>	<p>Accredited operators</p> <p>Operators may apply to the Regulator for an extension where necessary.</p>

Where to find the legislation

Information about amendments to the legislation is available on the ONRSR website at www.onrsr.com.au/operations/legislation/amendments-to-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 under the ONRSR (except for WA), will be updated from 1 August 2016. A link to these is available on the ONRSR website at www.onrsr.com.au/operations/legislation

In Western Australia, changes to the *Rail Safety National Law (WA) 2015 Act* are subject to parliamentary processes, which are unlikely to take effect until after March 2017. The [Rail Safety National Law \(WA\) Regulations 2015](#) incorporates changes that were made to the regulations.

Further information Call: 08 8406 1500 | Email: contact@onrsr.com.au | Visit: www.onrsr.com.au