

# Requirement for Rail Transport Operators to Report Notifiable Occurrences

July 2019



**Rail transport operators are required to report certain incidents associated with their railway operations to ONRSR as Notifiable Occurrences.**

Failure to do so could result in a penalty of up to \$20,000 for an individual or up to \$100,000 for a body corporate.

**What is a 'notifiable occurrence'?**

A 'notifiable occurrence' is an accident or incident associated with railway operations-

- (a) *that has, or could have, caused-*
  - (i) *significant property damage; or*
  - (ii) *serious injury; or*
  - (iii) *death; or*
- (b) *that is, or is of a class that is, prescribed by the national regulations to be a notifiable occurrence or class of notifiable occurrence.*

These are divided into Category A and Category B occurrences (regulation 57).

Category A notifiable occurrences are incidents with generally more serious outcomes and Category B notifiable occurrences are incidents that generally have less serious (but still significant) outcomes.

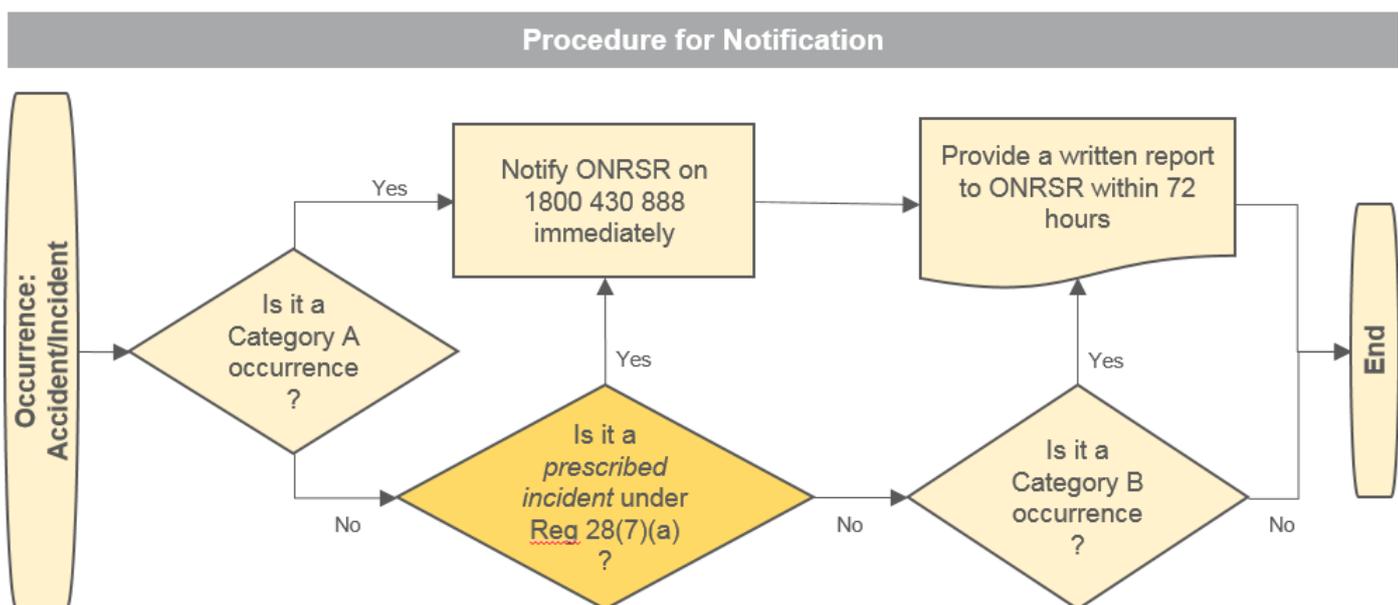
Some notifiable occurrences are also 'prescribed incidents' which carry additional requirements for drug and alcohol testing and require immediate notification to ONRSR.

The Regulator can also direct an operator to report other occurrences that might 'endanger the safe operation' of railways (s.121(3)).

**What reporting is required?**

s.121(1) of the RSNL states that operators must report all notifiable occurrences to the ONRSR or 'another authority specified by the Regulator'.

Category A incidents and prescribed incidents require immediate reporting ONRSR on 1800 430 888, followed by a written report within 72 hours. Immediate notification of the location and type of incident is a priority: additional information can be provided in a follow up call or via the written report if required.



Category B incidents require a written report to be submitted to ONRSR within 72 hours.

The written report is submitted through the ONRSR Portal.

The Regulator may also require an operator to investigate notifiable occurrences (s.122) and provide a report in a specified manner within a specified period.

#### Is the operator required to 'hold' the site?

Operators are not automatically required by the RSNL to 'hold the site' following a notifiable occurrence. The operator should take care to preserve evidence to enable an investigation to be undertaken if required, whether by the ATSB, police, ONRSR or the operator themselves.

If necessary, ONRSR may issue a non-disturbance notice (s.182) or secure the site (s.149) to preserve evidence and in the process of this, will liaise with the operator and with other agencies as appropriate.

#### Can operators report jointly?

Notwithstanding the benefits of individual reporting, the RSNL does make some provision for joint reporting.

Under s.121(2), operators involved in an incident can make a joint report with any other relevant operators.

A joint report must give the specific details of the notifiable occurrence as identified by all parties involved in the incident and must be confirmed by each as being an accurate account of what occurred.

Reporting is a legislated responsibility – even if operators choose to report jointly, there is an onus upon all to ensure that:

- > the information provided is accurate; and

- > the report has been submitted to ONRSR within the required timeframes.

For operators choosing to report jointly, ONRSR expects that they would be able to demonstrate a robust, documented process showing how:

- > the entities would collaborate;
- > any entity submitting the joint report would ensure that all other entities had contributed;
- > the entities would resolve data differences; and
- > the entities would assure themselves that no reports are missed.

ONRSR must also be provided with the details of all parties involved in the report so that officers can contact them to clarify details if required.

For more information on how to report jointly, please contact the notifiable occurrences team at [occurrences@onrsr.com.au](mailto:occurrences@onrsr.com.au).

#### No ability to contract out responsibility

Under the RSNL, operators cannot contract out of their duties and more than one person can hold a duty concurrently (s.51).

This means, that while operators involved in an incident can make a joint report with any other relevant operators, they are not permitted merely to provide information to another operators and expect them to submit it.

So, while an accredited operator may be required under a contract or access agreement to notify another operators of any incident, this does not acquit their responsibilities under the legislation – they must still actively report (either individually or jointly) to ONRSR.

Penalties can apply if an operator does not report.

#### Notification is core business

Reporting enables ONRSR to identify safety concerns and trends, allowing it to work proactively with industry to resolve them.

Reporting is integral to the efficient management of an operator's safety management system (SMS), in that the information collected on an incident should feed into procedures for monitoring, reviewing, and revising the adequacy of existing controls (s.99(1)(f)).

#### Further information

- > ONRSR's [Notifiable Occurrences webpage](#)
- > ONRSR's [Drug and alcohol testing webpage](#)
- > The ONRSR Portal is accessible via the ONRSR Portal link on the ONRSR homepage or via <https://portal.onrsr.com.au/>