

ONRSR Fact Sheet

Requirement for Rail Transport Operators to Report Notifiable Occurrences



November 2018

Under s.121 of the Rail Safety National Law (RSNL), rail transport operators are required to report certain accidents or 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'?

According to s.4 of the RSNL, 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 notifiable occurrences – incidents with **generally** more serious outcomes – and Category B notifiable occurrences – incidents that **generally** have less serious, but still significant, impacts.

What is required?

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

The Regulator can also direct an operator to report other occurrences that might 'endanger the safe operation' of railways (s.121(3)) or to investigate notifiable occurrences (s.122).

S.121(1) does not limit an operator's responsibilities – it expressly states that "a rail transport operator must report ... all notifiable occurrences that happen on, or in relation to, the operator's railway premises or railway operations".

When an incident involves more than one operator, it is the responsibility of **all** involved RTOs to report.

Penalties can apply if an RTO does not report.

Why is individual reporting preferred?

By receiving reports from all individual operators involved in an incident, ONRSR can verify the data provided.

Multiple reports are not counted as separate incidents, but are collated and consolidated to provide a more complete picture of what occurred.

Where discrepancies arise, this information can be clarified with the reporting RTOs before being recorded in the ONRSR database.

Reports from all involved RTOs can also assist the Regulator in the detection of underreporting.

So it is vital to get information from all operators.

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 RTOs.

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.

So, for operators choosing to report jointly, ONRSR expects at the very least 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.

No ability to contract out responsibility

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

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

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

What does this mean for RTOs?

For a Category A incident, notification to the ATSB must occur immediately once an incident has occurred, with a further written report provided to ONRSR within 72 hours (RSNL National Regulation 57(2)).

For a Category B incident, only a written report is required by ONRSR within 72 hours of the incident (RSNL National Regulation 57(3)).

These reports must be provided in the form and manner required by the Regulator (RSNL National Regulation 57(4)) and contain all the information ONRSR needs, in order to comply with the legislation.

ONRSR expects that information provided from each operator will be complete, accurate and aligns with the [Reporting Requirements for Notifiable Occurrences](#).

Notification is core business

Reporting of an incident enables the Regulator 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)).

Attention should be given after any incident to making improvements to the safety of the RTO's operations, as a normal part of their business practices.

As a result, separate reporting should have minimal impact upon operators working collaboratively to manage and investigate an incident.

For more information, please contact the notifiable occurrences team at occurrences@onrsr.com.au.