

Transport Regulations Amendment (Rail Safety National Law) Regulations 2022

SL 2022/46

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Transport Regulations Amendment (Rail Safety National Law) Regulations 2022*.

2. Commencement

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

Part 2 — *Rail Safety National Law (WA) (Alcohol and Drug Testing) Regulations 2015* amended

3. Regulations amended

This Part amends the *Rail Safety National Law (WA) (Alcohol and Drug Testing) Regulations 2015*.

4. Regulation 11 amended

In regulation 11(a) delete “Securetec DrugWipe;” and insert:

Securetec Drugwipe II Twin THC/MET;

5. Regulation 13 amended

In regulation 13 delete “Securetec DrugWipe” and insert:

Securetec Drugwipe II Twin THC/MET

Note: The heading to amended regulation 13 is to read:

**Drug screening test using the Securetec Drugwipe II Twin
THC/MET**

6. Regulation 16 replaced

Delete regulation 16 and insert:

16. Prescribed device for oral fluid for analysis

The device known as the UltraSal-2 Saliva Collection Device is prescribed for the purposes of paragraph (b) of the definition of *oral fluid analysis* in section 9(1) of the Act.

7. Part 5 Division 2 deleted

Delete Part 5 Division 2.

8. Regulation 25 amended

In regulation 25(1) delete “is to” and insert:

must

9. Part 5 Division 3A inserted

After Part 5 Division 3 insert:

Division 3A — Securetec Drugwipe II Twin Combo

25A. Preparing to collect oral fluid

All of the following steps must be taken when preparing to collect oral fluid for testing using a Securetec Drugwipe II Twin Combo —

- (a) check that the packaging of the equipment is not damaged and that any expiry date has not passed;
- (b) open the packaged equipment;
- (c) check that each item of the device is present and that none of the items shows any apparent damage.

25B. Collecting oral fluid

All of the following steps must be taken when collecting oral fluid for testing using a Securetec Drugwipe II Twin Combo —

- (a) give the saliva collector to the worker;
- (b) require the worker to wipe both sides of the saliva collector on the worker’s tongue;

- (c) require the worker to place the saliva collector under the worker's tongue and to close the worker's mouth;
- (d) remove the saliva collector from the worker's mouth when the saliva collector's indicator window turns blue.

25C. Setting up for oral fluid test

All of the following steps must be taken when setting up for testing oral fluid using a Securetec Drugwipe II Twin Combo —

- (a) check the viewing windows of the testing device to ensure no control lines are present;
- (b) remove the cover from the testing device.

25D. Conducting oral fluid test

All of the following steps must be taken when testing oral fluid using a Securetec Drugwipe II Twin Combo —

- (a) dab the saliva collector on the pads of the testing device;
- (b) replace the cover on the testing device;
- (c) hold the testing device in a vertical position with the ampoule at the lower end;
- (d) press on the testing device at the appropriate place indicated on the device until the ampoule breaks;
- (e) continue to hold the testing device in a vertical position for a further 10 seconds;
- (f) place the testing device on a horizontal surface and leave it undisturbed for 3 minutes or 8 minutes (as required by the manufacturer's instructions in the testing device's packaging);
- (g) observe the results of the test.

10. Regulation 26 amended

In regulation 26 delete "testing using a" and insert:

testing using an

11. Regulation 28 amended

In regulation 28 delete "2 or 3" and insert:

3, 3A or 4

12. Various references to “are to” amended

In the provisions listed in the Table delete “are to” and insert:

must

Table

r. 6	r. 7
r. 9	r. 10
r. 12	r. 13
r. 14	r. 21
r. 22	r. 23
r. 24	r. 26
r. 27	r. 34
r. 42	

Note: The heading to regulation 8 is to read:

Prescribed device for breath analysis

Part 3 — Rail Safety National Law (WA)
Regulations 2015 amended

13. Regulations amended

This Part amends the *Rail Safety National Law (WA) Regulations 2015*.

14. Regulation 25 amended

In regulation 25 delete “Act (Northern Territory) on 25 March 2004” and insert:

Act 1999 (Northern Territory), as in force from time to time (and published in the Northern Territory *Government Gazette* under that section),

15. Regulation 37 amended

In regulation 37:

- (a) in paragraph (b) delete “(fa)” and insert:

(faa)

- (b) in paragraph (d) in the definition of ***participating jurisdiction*** delete “the Rail Safety National Law set out in the schedule to the *Rail Safety National Law (South Australia) Act 2012*,” and insert:

section 4(1) of the Rail Safety National Law;

- (c) after paragraph (d) insert:

- (da) section 4(1) — as if the following definitions were inserted after the definition of ***principal officer*** —

Rail Safety National Law means ***this Law*** as defined in section 4(1) of the *Rail Safety National Law (WA)*;

Regulator has the same meaning as in section 4(1) of the Rail Safety National Law;

- (d) after paragraph (k) insert:

- (ka) Schedule 1 clause 4(2)(a)(iii) — as if “revenue law” were deleted and “rail safety law” substituted;

- (kb) Schedule 1 clause 4(2)(a)(iv) — as if “or managing rail safety” were inserted after “public safety”;
 - (kc) Schedule 1 clause 7(1)(c)(ii)(A) — as if “the Government or to an agency” were deleted and “ONRSR or the Regulator” substituted;
 - (kd) Schedule 1 clause 9(1)(a)(ii) — as if “including by, or with, a committee of ONRSR,” were inserted after “taken place,”;
 - (ke) Schedule 1 clause 9(1)(a) — as if “Minister or an agency” were deleted and “Minister, ONRSR or the Regulator” substituted;
 - (kf) Schedule 1 clause 13(1)(b)(i) — as if “the Government or to an agency” were deleted and “ONRSR or the Regulator in a co-regulatory environment” substituted;
- (e) after paragraph (l) insert:
- (la) Schedule 1 — as if the following clauses were inserted after clause 19 —

20—Exempt documents communicated between ONRSR or Regulator and Transport and Infrastructure Council and responsible Ministers etc.

The following documents are exempt documents —

- (a) a document that contains information from a communication between ONRSR or the Regulator and either of the following —
 - (i) a member of the Transport and Infrastructure Council (or such other body that may, from time to time, be a body in substitution of the Council);
 - (ii) a government agency of a participating jurisdiction,

where the information relates to the business or proceedings of the Transport and Infrastructure Council (or substituted body);

- (b) a document that contains information from a communication between ONRSR or the Regulator and a responsible Minister (within the meaning of the Rail Safety National Law).

21—Information or documents provided under section 20 of Rail Safety National Law

A document is an exempt document if it is a document that is produced, or contains information or evidence that is given, to the Regulator by a person (whether a natural person or a body corporate) in accordance with a requirement under section 20 of the Rail Safety National Law.

22—Train safety recordings

- (1) A document is an exempt document if —
 - (a) it is a train safety recording or any part of a train safety recording; or
 - (b) it contains any information obtained from a train safety recording or any part of a train safety recording,

provided to, or obtained by, the Regulator under the Rail Safety National Law.

- (2) In this clause —

train safety recording has the same meaning as in section 130 of the Rail Safety National Law.

N. HAGLEY, Clerk of the Executive Council.
