Western Australia

Rail Safety National Law (WA) Act 2015

# Rail Safety National Law (WA) (Alcohol and Drug Testing) Regulations 2015

These regulations were repealed by the *Rail Safety National Law Application Act 2024* s. 48(2)(a) (No. 7 of 2024) on 1 Oct 2024 (see s. 2(b) and SL 2024/193 cl. 2).

Western Australia

# Rail Safety National Law (WA) (Alcohol and Drug Testing) Regulations 2015

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# Rail Safety National Law (WA) (Alcohol and Drug Testing) Regulations 2015

## Part 1 — Preliminary

### 1. Citation

These regulations are the *Rail Safety National Law (WA) (Alcohol and Drug Testing) Regulations 2015*.

### 2. Commencement

These regulations come into operation as follows —

(a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;

(b) the rest of the regulations — on the day on which the *Rail Safety National Law (WA) Act 2015* section 37 comes into operation.

### 3. Terms used

In these regulations, unless the contrary intention appears —

***approved*** means approved by the Minister;

***BAC*** has the meaning given in section 9 of the Act;

***worker*** means a rail safety worker.

### 4. Qualified person

A person is a qualified person for the purposes of the definition of that term in section 9(1) of the Act if the person has been trained to take samples of blood from persons by a registered training organisation within the meaning of the Australian Quality Training Framework as approved from time to time

under the *Skilling Australia's Workforce Act 2005* (Commonwealth).

# Part 2 — Preliminary breath test

## 5. Prescribed device for preliminary breath test

The device known as the AlcoQuant 6020 is prescribed for the purposes of paragraph (b) of the definition of ***preliminary breath test*** in section 9(1) of the Act.

## 6. Preparing for preliminary breath test

All of the following steps must be taken by an authorised person when preparing to conduct a preliminary breath test using an AlcoQuant 6020 —

(a) check the packaging of the device is not damaged and that any expiry date has not passed;

(b) open the packaged device;

(c) check that each item of the device is present and that none of the items shows any apparent damage.

*[Regulation 6 amended: SL 2022/46 r. 12.]*

## 7. Preliminary breath test using the AlcoQuant 6020

All of the following steps must be taken by an authorised person when conducting a preliminary breath test using an AlcoQuant 6020 under Part 3 Division 2 of the Act —

(a) ensure that the device is switched on and is in "ACTIVE MODE";

(b) insert a new mouthpiece;

(c) direct the worker whose breath is to be analysed to provide a sample of the worker's breath into the device;

(d) ensure that a sufficient sample is obtained, as indicated by a sequence of tones and flashing yellow LED followed by the appearance of the word "ANALYSIS" on the display panel;

(e) ensure that a result of the test is displayed on the panel, otherwise follow the instructions in paragraphs (b) to (c) again.

*[Regulation 7 amended: SL 2022/46 r. 12.]*

# Part 3 — Breath analysis

## 8. Prescribed device for breath analysis

The device known as the Dräger Alcotest 7110 is prescribed for the purposes of paragraph (b) of the definition of ***breath analysis instrument*** in section 9(1) of the Act.

## 9. Preparing for breath analysis

All of the following steps must be taken by an authorised person when preparing to conduct a breath analysis using a Dräger Alcotest 7110 —

(a) check the packaging of the device is not damaged and that any expiry date has not passed;

(b) open the packaged device;

(c) check that each item of the device is present and that none of the items shows any apparent damage.

*[Regulation 9 amended: SL 2022/46 r. 12.]*

## 10. Breath analysis using the Dräger Alcotest 7110

All of the following steps must be taken by an authorised person when conducting a breath analysis using a Dräger Alcotest 7110 under Part 3 Division 2 of the Act —

(a) ensure that the device is switched on, that there is sufficient paper in the paper roll in the printer compartment, and that the words "READY TO START" appear on the display panel;

(b) push the pad marked "START" on the keyboard and then use the keyboard to enter particulars relating to the analysis;

(c) connect a mouthpiece to the sampling hose;

(d) after the words "PLEASE BLOW" appear on the display panel, direct the worker whose breath is to be analysed

to provide a sample of the worker's breath into the device;

(e) if the expression "TEST REPEAT Y/N" appears on the display panel indicating that a sample of breath has not been provided as required —

(i) press the pad marked "Y", then press the pad marked "ENTER" on the keyboard and follow the instruction in paragraph (d) again; or

(ii) press the pad marked "N" on the keyboard and do all of the following —

(I) press the pad marked "ENTER" on the keyboard;

(II) after the words "READY TO START" appear on the display panel press the pad marked "0" on the keyboard;

(III) after the words "OVERRIDE START" appear on the display panel follow the instructions in paragraphs (b) to (d) again.

*[Regulation 10 amended: SL 2022/46 r. 12.]*

# Part 4 — Drug screening test

## 11. Prescribed devices for drug screening test

The following devices are prescribed for the purposes of paragraph (b) of the definition of ***drug screening test*** in section 9(1) of the Act —

(a) the device known as the Securetec Drugwipe II Twin THC/MET;

(b) the device known as the Medvet Oral7.

*[Regulation 11 amended: SL 2022/46 r. 4.]*

## 12. Preparing for drug screening test

All of the following steps must be taken by an authorised person when preparing to conduct a drug screening test using a device prescribed under regulation 11 —

(a) check the packaging of the device is not damaged and that any expiry date has not passed;

(b) open the packaged device;

(c) check that each item of the device is present and that none of the items shows any apparent damage.

*[Regulation 12 amended: SL 2022/46 r. 12.]*

## 13. Drug screening test using the Securetec Drugwipe II Twin THC/MET

All of the following steps must be taken by an authorised person when conducting a drug screening test using a Securetec Drugwipe II Twin THC/MET under Part 3 Division 3 of the Act —

(a) ensure the device is ready for collecting oral fluid;

(b) ensure that the device is wiped on the worker's tongue;

(c) check that sufficient oral fluid has been collected;

(d) check if the device indicates the presence of a prohibited drug.

*[Regulation 13 amended: SL 2022/46 r. 5 and 12.]*

## 14. Drug screening test using the Medvet Oral7

All of the following steps must be taken by an authorised person when conducting a drug screening test using a Medvet Oral7 under Part 3 Division 3 of the Act —

(a) ensure the device is ready for collecting oral fluid;

(b) open the sealed oral fluid testing device and remove the foam collector;

(c) open the plastic wrapper containing the foam collector using the slit in the packaging located at the base of the handle;

(d) require the worker to open the worker's mouth and inspect it to ensure the worker is not pooling water in it to dilute the sample;

(e) place the foam collector in the worker's mouth and require the worker to swab around the worker's gums, tongue and inside cheek;

(f) require the worker to retain the foam collector in the worker's mouth until the collector head is fully saturated with oral fluid;

(g) insert the head of the foam collector into the opening of the tube provided as a part of the testing device, then slowly push down the foam collector handle against the bottom of the tube and move it up and down (to the bottom) at least 5 times within the tube;

(h) check if the device indicates the presence of a prohibited drug not less than 5 minutes and not more than 15 minutes after following the instruction in paragraph (g).

*[Regulation 14 amended: SL 2022/46 r. 12.]*

## 15. Manufacturer's instructions

An authorised person may have regard to any manufacturer's instructions in the analysis device's packaging if the prescribed steps in regulation 13 or 14 do not appear to fully describe the steps required for that particular device.

# Part 5 — Oral fluid analysis

## Division 1 — Prescribed devices

### 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.

*[Regulation 16 inserted: SL 2022/46 r. 6.]*

*[Division 2 (r. 17-20) deleted: SL 2022/46 r. 7.]*

## Division 3 — Dräger DrugTest 5000 Analyzer

### 21. Preparing to collect oral fluid

All of the following steps must be taken by an authorised person when preparing to collect oral fluid for testing using a Dräger DrugTest 5000 Analyzer —

(a) check that the packaging of the device is not damaged and that any expiry date has not passed;

(b) open the packaged device;

(c) check that each item comprising the device is present and that none of the items shows any apparent damage;

(d) remove the safety cap and buffer cartridge from the saliva test kit collector but do not dispose of them;

(e) remove, but do not discard, the lid from the storage tube holding the drug collection head;

(f) push the drug collection head held by the storage tube onto the saliva test kit collector until the gap between the sampler and the blue socket of the collector has narrowed to between 3 mm and 5 mm;

(g) remove the storage tube but do not discard it.

*[Regulation 21 amended: SL 2022/46 r. 12.]*

## 22. Collecting oral fluid

All of the following steps must be taken by an authorised person when collecting oral fluid for testing using a Dräger DrugTest 5000 Analyzer —

(a) give the saliva test kit collector (with the attached drug collection head) to the worker;

(b) require the worker to place (or replace) the collector inside the worker's mouth and move it carefully from one side to the other for 10 to 15 seconds;

(c) require the worker to place (or replace) the collector under the worker's tongue until the sample volume indicator shows blue;

(d) require the worker to ensure that the drug collection head remains on the saliva test kit collector at all times during the procedures referred to in paragraphs (b) and (c);

(e) end the sample collection when the sample volume indicator shows blue.

*[Regulation 22 amended: SL 2022/46 r. 12.]*

## 23. Setting up for oral fluid test

All of the following steps must be taken by an authorised person when setting up for testing oral fluid using a Dräger DrugTest 5000 Analyzer —

(a) remove the drug collection head from the saliva test kit collector and place the head in the vial insert in the storage tube;

(b) open the vial containing isopropanol included with the device and pour the isopropanol into the vial insert containing the drug collection head;

(c) replace the lid on the storage tube holding the vial insert.

*[Regulation 23 amended: SL 2022/46 r. 12.]*

## 24. Conducting oral fluid test

All of the following steps must be taken by an authorised person when testing oral fluid using a Dräger DrugTest 5000 Analyzer —

(a) do all of the following within 10 minutes after obtaining the sample —

(i) open the door of the Analyzer, ensuring the screen displays "Ready for Measurement";

(ii) insert the saliva test kit collector into the lower compartment and buffer cartridge into the upper Analyzer compartment;

(iii) close the Analyzer door and follow the instructions on the screen;

(b) do all of the following as soon as practicable after following the steps prescribed in paragraph (a) —

(i) move the oral fluid sample from the drug collection head to the bottom of the storage tube either by shaking for approximately 30 seconds or by using a centrifuge;

(ii) use a pipette to transfer the oral fluid sample and isopropanol in the storage tube into 2 empty vials for the purposes of any independent testing under regulation 25;

(iii) observe the results of the test.

*[Regulation 24 amended: SL 2022/46 r. 12.]*

## 25. Independent testing

(1) A worker who returns a presumptive positive test result for a prohibited drug may request, and must be given on request, a sample under regulation 24(b)(ii).

(2) Any independent testing is conducted at the expense of the worker.

*[Regulation 25 amended: SL 2022/46 r. 8.]*

## Division 3A — Securetec Drugwipe II Twin Combo

*[Heading inserted: SL 2022/46 r. 9.]*

### 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.

*[Regulation 25A inserted: SL 2022/46 r. 9.]*

### 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.

*[Regulation 25B inserted: SL 2022/46 r. 9.]*

### 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.

*[Regulation 25C inserted: SL 2022/46 r. 9.]*

### 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.

*[Regulation 25D inserted: SL 2022/46 r. 9.]*

## Division 4 — UltraSal-2 Saliva Collection Device

### 26. Preparing to collect oral fluid

All of the following steps must be taken by an authorised person when preparing to collect oral fluid for testing using an UltraSal-2 Saliva Collection Device —

(a) check that the packaging of the device is not damaged and that any expiry date has not passed;

(b) open the packaged device;

(c) check that each item comprising the device is present and that none of the items shows any apparent damage;

(d) assemble the device by removing a storage cap from a collection tube and connecting the tube to the mouthpiece.

*[Regulation 26 amended: SL 2022/46 r. 10 and 12.]*

### 27. Collecting oral fluid

All of the following steps must be taken by an authorised person when collecting oral fluid for testing in a laboratory —

(a) require the worker to hold the device up to the worker's mouth in a manner that keeps the collection tubes close to vertical;

(b) require the worker to avoid swallowing so as to create a pool of oral fluid in the worker's mouth;

(c) require the worker to place the hole of the mouthpiece of the device to the worker's lips and require the worker to release oral fluid into one of the tubes without blowing excessive air into the device;

(d) once sufficient oral fluid is obtained in the tube, or the level of fluid or bubbles reaches the lower tip of the collection tube's outlets, rotate the device to direct the flow of oral fluid into the other tube and repeat the step in paragraph (c);

(e) remove each collection tube by holding the base of the device in one hand and grasping the tube in the other hand and pushing the bottom of the base with thumb of that hand;

(f) insert one of the blue caps provided with the device into the top of each collection tube;

(g) discard the mouthpiece and base of the device.

*[Regulation 27 amended: SL 2022/46 r. 12.]*

## Division 5 — Miscellaneous

### 28. Manufacturer's instructions

An authorised person may have regard to any manufacturer's instructions in the analysis device's packaging if the prescribed steps in Division 3, 3A or 4 do not appear to fully describe the steps required for that particular device.

*[Regulation 28 amended: SL 2022/46 r. 11.]*

# Part 6 — Urine analysis

## 29. Term used: urine sampling equipment

In this Part —

***urine sampling equipment*** means sampling equipment provided by an approved body for the purpose of collecting urine samples.

## 30. Application

This Part applies to a urine sample taken under Part 3 Division 3 of the Act.

## 31. Taking of urine sample

A urine sample must be taken by a sample taker using only urine sampling equipment.

## 32. Urine sampling equipment

The urine sampling equipment must comprise all of the following —

(a) one container for collecting urine;

(b) 2 specimen containers;

(c) one pair of disposable gloves.

## 33. Preparation of urine sampling equipment

Before urine sampling equipment is provided to a sample taker for the taking of a urine sample, an analyst must —

(a) complete and sign a certificate in an approved form; and

(b) seal the equipment in a serially numbered package by signing the analyst's name over the sealed portion or flap of the package.

### 34. Method of sampling

All of the following steps must be taken by a sample taker when taking a urine sample —

(a) examine the package containing urine sampling equipment provided to the sample taker and, in the presence of the person providing the equipment, ensure that —

(i) the package is sealed and intact; and

(ii) the indicated expiry date for the use of the equipment has not passed;

(b) use only urine sampling equipment contained in a package that is sealed and intact and in respect of which the indicated expiry date has not passed;

(c) collect a sample of urine from the worker;

(d) pour as much of the urine into the 2 specimen containers as is necessary to enable an analysis of the urine to be made;

(e) ensure that the cap on each specimen container is securely tightened.

*[Regulation 34 amended: SL 2022/46 r. 12.]*

### 35. Certificate by sample taker

(1) On complying with regulation 34, the sample taker must sign a certificate in an approved form specifying all of the following —

(a) the name and address of the worker from whom the sample was taken (to the extent known);

(b) the name of the sample taker, and whether he or she is a medical practitioner, registered nurse or qualified person;

(c) the date and time when, and place where, the sample was taken.

(2) The sample taker must then —

(a) make one of the containers and the signed certificate available to an authorised person (who must give it to, or retain it on behalf of, the Regulator); and

(b) give the other container to the worker or the worker's representative, or retain it on behalf of the worker.

### 36. Procedures relating to urine analysis

(1) On the completion of an analysis of the urine sample, the analyst who performed or supervised the analysis must sign a certificate in an approved form specifying all of the following information —

(a) the serial number marked on the container of the sample;

(b) the name of the analyst;

(c) the date the sample was received in the laboratory where the analysis was performed;

(d) if the presence of a drug is detected in the sample — the type of drug;

(e) any factors relating to the sample or analysis that might, in the opinion of the analyst signing the certificate, adversely affect the accuracy or validity of the analysis;

(f) any other information relating to the sample or analysis the analyst considers appropriate.

(2) The signed certificate must be given to, or retained by the analyst on behalf of, the Regulator.

(3) A copy of the signed certificate must be given to the sample taker who took the sample and the worker.

(4) The Regulator may provide a copy of the signed certificate to a rail transport operator who employs a worker if the certificate indicates the prescribed BAC or a prohibited drug was present in the worker's sample of urine.

# Part 7 — Blood testing

## 37. Term used: blood sampling equipment

In this Part —

***blood sampling equipment*** means sampling equipment provided by an approved body for the purpose of taking blood samples.

## 38. Application

This Part applies to a blood sample taken under Part 3 Division 4 of the Act.

## 39. Taking of blood sample

A blood sample must be taken by a sample taker by venepuncture, using only blood sampling equipment.

## 40. Blood sampling equipment

The blood sampling equipment must comprise either —

(a) all of the following —

(i) a sterile syringe;

(ii) 2 sterile containers for storing blood samples, each marked with the serial number of the package mentioned in regulation 41(b) and containing approximately 25 mg of potassium oxalate and approximately 10 mg of sodium fluoride;

(iii) 2 non-alcoholic swabs of cotton wool or 2 hospital-approved non-alcoholic medical wipes;

or

(b) all of the following —

(i) 2 screw top plastic storage containers;

(ii) 2 evacuated blood collection tubes with approximately 170 mg of sodium fluoride and 42.5 mg of potassium oxalate;

(iii) 2 disposal needles and needle holders;

(iv) a tamper proof outer plastic bag;

(v) latex gloves;

(vi) a sterile dry swab;

(vii) a hospital-approved non-alcoholic medical wipe;

(viii) a sticking plaster.

### 41. Preparation of blood sampling equipment

Before blood sampling equipment is provided to a sample taker for the taking of a blood sample, an analyst must —

(a) complete and sign a certificate in an approved form; and

(b) seal the equipment in a serially numbered package by signing the analyst's name over the sealed portion or flap of the package.

### 42. Method of sampling

All of the following steps must be taken by a sample taker when taking a blood sample —

(a) examine the package containing the blood sampling equipment provided to the sample taker and, in the presence of the person providing the equipment, ensure that —

(i) the package is sealed and intact; and

(ii) the indicated expiry date for the use of the equipment has not passed;

(b) use only blood sampling equipment contained in a package that is sealed and intact and in respect of which the indicated expiry date has not passed;

(c) cleanse the proposed site of the venepuncture only by means of a non-alcoholic swab of cotton wool, or a hospital-approved non-alcoholic medical wipe, contained in the blood sampling equipment;

(d) take —

(i) one sample of blood using the blood sampling equipment referred to in regulation 40(a); or

(ii) 2 samples of blood using the blood sampling equipment referred to in regulation 40(b);

(e) if —

(i) one sample of blood is taken with the blood sampling equipment referred to in regulation 40(a) — discharge approximately one-half of the blood withdrawn into one of the 2 containers supplied in the blood sampling equipment and the balance of the blood into the second of those containers; or

(ii) 2 samples of blood are taken with the blood sampling equipment referred to in regulation 40(b) — discharge each sample into a separate container provided in the blood sampling equipment;

(f) ensure that the cover of each container is securely tightened;

(g) shake each container thoroughly and in so doing invert it at least 20 times to mix the contents.

*[Regulation 42 amended: SL 2022/46 r. 12.]*

### 43. Certificate by sample taker

(1) On complying with regulation 42, the sample taker must sign a certificate in an approved form specifying all of the following —

(a) the name and address of the worker from whom the sample was taken (to the extent known);

(b) the name of the sample taker, and whether he or she is a medical practitioner, registered nurse or qualified person;

(c) the date and time when, and place where, the sample was taken.

(2) The sample taker must then —

(a) make one of the containers and the signed certificate available to the authorised person (who must give it to, or retain it on behalf of, the Regulator); and

(b) give the other container to the worker or the worker's representative, or retain it on behalf of the worker.

### 44. Procedures relating to blood analysis

(1) On the completion of an analysis of the blood sample, the analyst who performed or supervised the analysis must sign a certificate in an approved form specifying all of the following information —

(a) the serial number marked on the container of the sample;

(b) the name of the analyst;

(c) the date the sample was received in the laboratory where the analysis was performed;

(d) if the presence of alcohol is detected in the sample — the concentration of alcohol;

(e) if the presence of a drug is detected in the sample — the type of drug;

(f) any factors relating to the sample or analysis that might, in the opinion of the analyst signing the certificate, adversely affect the accuracy or validity of the analysis;

(g) any other information relating to the sample or analysis the analyst considers appropriate.

(2) The signed certificate must be given to, or retained by the analyst on behalf of, the Regulator.

(3) A copy of the signed certificate must be given to the sample taker who took the sample and the worker.

(4) The Regulator may provide a copy of the signed certificate to the relevant rail transport operator if the certificate indicates the prescribed BAC or a prohibited drug was present in the worker's sample of blood.

### 45. Analytical method

The analytical method by which blood samples must be analysed for alcohol by an analyst is —

(a) by ascertaining the change in concentration of a solution of a dichromate; or

(b) by gas chromatography.

# Notes

This is a compilation of the *Rail Safety National Law (WA) (Alcohol and Drug Testing) Regulations 2015* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table.

## Compilation table

| Citation | Published | Commencement |
|---|---|---|
| *Rail Safety National Law (WA) (Alcohol and Drug Testing) Regulations 2015* | 16 Oct 2015 p. 4263-89 | r. 1 and 2: 16 Oct 2015 (see r. 2(a)); Regulations other than r. 1 and 2: 2 Nov 2015 (see r. 2(b) and *Gazette* 16 Oct 2015 p. 4149) |
| *Transport Regulations Amendment (Rail Safety National Law) Regulations 2022* Pt. 2 | SL 2022/46 8 April 2022 | 9 April 2022 (see r. 2(b)) |
| **These regulations were repealed by the *Rail Safety National Law Application Act 2024* s. 48(2)(a) (No. 7 of 2024) on 1 Oct 2024 (see s. 2(b) and SL 2024/193 cl. 2)** | | |

# Defined terms

*[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]*

| Defined term | Provision(s) |
|---|---|
| approved | 3 |
| BAC | 3 |
| blood sampling equipment | 37 |
| urine sampling equipment | 29 |
| worker | 3 |

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