



# Victoria Government Gazette

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## **Rail Safety Act 2006**

### SECTION 169

#### Revocation of procedure to be followed in Assessing Drug Impairment

I, Alan Osborne, the Director, Public Transport Safety, hereby revoke the notice setting out the procedure to be followed in assessing drug impairment as published in the Government Gazette S108 on 25 June 2002.

## **Rail Safety Act 2006**

### SECTION 79(7)

#### Procedure to be followed in Assessing Drug Impairment

Section 79(7) of **Rail Safety Act 2006** provides that the Director, Public Transport Safety (“Safety Director”) may, by notice published in the Government Gazette, specify the procedure to be followed in assessing drug impairment.

In accordance with that section, I, Alan Osborne, as the Safety Director, hereby specify the procedure to be followed in assessing drug impairment.

It is an offence under the **Rail Safety Act 2006** to refuse to co-operate with the Drug Impairment Assessment or to undergo blood and/or urine testing if lawfully requested by an authorised assessing officer. This is the case even if the request was not made at a place where such an assessment could be carried out, or if an assessing officer was not present at the place where the request was made at the time it was made.

### **The Schedule**

#### ***Procedure for Assessing Drug Impairment***

1. This procedure is to be carried out by a Transport Safety Officer (TSO) authorised under section 228T of the **Transport Act 1983** or an authorised member of the police, referred to collectively as the “assessing officer”. Assessing officers must have undertaken a competency based training course approved by the Safety Director or as otherwise required by the Chief Commissioner of the Victoria Police.
2. The assessing officer must identify themselves to the subject as an authorised party to undertake the drug impairment assessment, if they have not already done so for the preliminary breath test.
3. The procedure consists of the following:
  - an interview by the assessing officer of the person who is to be assessed (“the subject”);
  - a request by the assessing officer to the subject to perform a Horizontal Gaze Nystagmus Test as described below;
  - the performance of that test by the subject;
  - observation by the assessing officer of the performance of the subject during that test;
  - a request by the assessing officer to the subject to perform a Walk and Turn Test as described below;
  - the performance of that test by the subject;
  - observation by the assessing officer of the performance of the subject during that test;
  - a request by the assessing officer to the subject to perform a One Leg Stand Test as described below;

**SPECIAL**

- the performance of that test by the subject;
- observation by the assessing officer of the performance of the subject during that test;
- the progressive completion by the assessing officer of a report of assessment of drug impairment in accordance with the Regulations.

***Interview Procedure***

4. The interview consists of questions about the subject's name, address and date of birth, the circumstances that led to the identification of the subject and any recent history of illness, injury, medical treatment or drug use.
5. The purpose of these questions is to obtain relevant information as well as to permit observations to be made that may assist in establishing whether impairment is present or not.
6. If at any time during the interview the assessing officer suspects that the subject may be suffering from an injury or illness that may be the cause of impairment, the assessing officer must take immediate steps to arrange for the subject to be examined by a registered medical practitioner.

***Horizontal Gaze Nystagmus Procedure***

7. The assessing officer informs the subject that the assessing officer is going to check the subject's eyes. If the subject is wearing eyeglasses the assessing officer directs the subject to remove them. The assessing officer asks the subject if the subject wears contact lenses and notes the reply. The assessing officer instructs the subject to keep the subject's head still, and follow the movement of an object held by the assessing officer by moving the eyes only. The assessing officer directs the subject to focus on the object until directed to stop. This test should not be administered if the subject has an obvious abnormal eye disorder or an artificial eye.
8. The assessing officer observes and notes whether the subject's eyes track the stimulus together or one eye lags behind the other, whether both pupils are equal in size, whether the subject's eyes are able to pursue the stimulus smoothly, or with a jerky motion.
9. The assessing officer then observes each of the subject's eyes separately to determine –
  - a. whether nystagmus is visible in the left eye when the eye is held as far to the left as possible or in the right eye when the right eye is held as far to the right as possible;
  - b. whether, when each eye is observed separately, nystagmus is observable in the left eye before the left eye has moved beyond 45 degrees from the extreme left position, or in the right eye before the right eye has moved beyond 45 degrees from the extreme right position, or whether vertical nystagmus is present.
10. The assessing officer also notes any other observations that may be relevant to the subject's performance in this test.

***Walk and Turn Procedure***

11. The test is conducted on a dry, hard, level, non-slippery surface marked with a straight line. There should be sufficient room for the subject to complete nine heel-to-toe steps.
12. The assessing officer directs the subject to place the subject's left foot on the marked line, and the right foot in front of the left foot, with the heel of the right foot against the toe of the left foot. The assessing officer demonstrates these actions. The assessing officer then directs the subject to place the subject's arms down by the subject's sides and to stay in that position until directed to begin. The assessing officer tells the subject not to start to walk until told to do so. The assessing officer asks the subject whether the instructions have been understood, and if necessary, repeats them to the subject.

13. The assessing officer then explains the test requirements, using oral instructions, accompanied by demonstrations. The subject is directed that, when told to start, the subject is to take nine heel-to-toe steps down the line, turn around, and take nine heel-to-toe steps back up the line. The assessing officer demonstrates two or three heel-to-toe steps. The subject is then directed to turn by keeping the subject's front foot on the line and taking a series of small steps with the other foot. The assessing officer demonstrates this manoeuvre.
14. The subject is directed to keep the subject's arms down by the subject's sides throughout the test, to watch the subject's feet at all times, and to count each step out loud. The subject is also directed to not stop walking until the subject has completed the test. The assessing officer asks the subject whether the instructions have been understood, and if necessary, repeats them.
15. The subject is then directed to begin and to count the steps, with the first step from the heel-to-toe position being counted as "One".
16. The assessing officer notes whether the subject maintains balance while listening to instructions, starts to walk before being instructed to do so, stops while walking, does not walk "heel-to-toe", steps off the line, uses the arms to maintain balance, takes the incorrect number of steps or does not turn as directed. The assessing officer also notes if the subject fails to complete the test.

#### ***One Leg Stand Procedure***

17. The assessing officer directs the subject to stand with the subject's feet together and the subject's arms down by the subject's sides, and to not start the test until told to do so. The assessing officer demonstrates this. The assessing officer then asks the subject whether the instructions have been understood, and, if necessary, repeats them.
18. The assessing officer then directs the subject that when told to start the subject must raise one leg approximately 15 centimetres off the ground with toes pointed out, with both arms straight, and by the subject's sides. The assessing officer demonstrates this.
19. The assessing officer then directs the subject to hold that position and count out loud for thirty seconds in the manner demonstrated while the subject keeps the subject's arms by the subject's sides and watches the raised foot. The assessing officer then asks the subject whether the instructions have been understood, and, if necessary, repeats them.
20. The assessing officer then directs the subject to start. The assessing officer allows the test to continue for 30 seconds. The test is discontinued after 30 seconds.
21. The assessing officer then directs the subject to repeat the test while standing on the other leg.
22. The assessing officer notes whether the subject sways while balancing, uses arms to maintain balance, hops, or puts the subject's raised foot on the ground. The assessing officer also notes if the subject is unable to complete the test. This information is recorded separately for each leg.

#### ***Conclusion***

23. At the conclusion of the above impairment assessment procedure, the assessing officer reviews all the available information including the completed Preliminary Breath Test and Impairment Assessment Record, the results of any breath analysis test, any information obtained from observation or questioning and the results of the three tests referred to above. The assessing officer then considers all of this information and forms an opinion as to whether the subject may be impaired by a drug, or drugs.
  24. Any positive results must be reported to the Safety Director within 48 hours with a statement of action.
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