

Who are rail transport operators?

A **rail transport operator** is a person who is a rail infrastructure manager, a rollingstock operator, or both.

A **rail infrastructure manager** is a person who has effective management and control of rail infrastructure of a railway, whether or not the person owns the rail infrastructure or has a statutory or contractual right to use the rail infrastructure or to control, or provide, access to it.

A **rollingstock operator** is a person who has effective management and control of the operation or movement of rollingstock on rail infrastructure for a particular railway, but does not include a person merely because the person drives the rollingstock or controls the network or the network signals.

How is “effective management and control” determined?

Whether a person has “effective management and control” of rail infrastructure or rollingstock operation is a question of fact, to be considered on a case-by-case basis.

If the same person owns, operates, maintains and manages rail infrastructure, it is clear that person has effective management and control of that infrastructure. The same applies to a person who owns, operates and maintains rollingstock.

In more complex ownership and operating structures such as alliance contracts, there are several considerations for determining who has effective management and control (see below).

What are the considerations for determining who has effective management and control of rail infrastructure?

The owner or lessee is likely to have effective management and control if functions such as construction (particularly sign-off on design and ‘fit for purpose’ when completed), maintenance (particularly safety inspections and the choice of and compliance with standards) and operations (operation of signals, points, crossings, operational access etc) have not been contracted out.

If all functions such as construction, maintenance and operations have been contracted out to a single party, that party is likely to have effective management and control.

If functions such as construction, maintenance and operations are contracted out to more than one party then the contractor exercising the operations functions or the owner may have effective management and control.

What are the considerations for determining who has effective management and control of rollingstock operation?

The owner, lessee or custodian is likely to have effective management and control if functions such as construction, maintenance (commissioning, maintenance, repair, modification and decommissioning) and operations have not been contracted out.

If functions such as construction, maintenance and operations have been contracted out, then matters such as under whose safety management system or access agreement rollingstock operations are to be undertaken should be considered.

On occasion there may need to be more than one operator who is accredited for rollingstock operations. For example, where there is a “hook and pull” arrangement in which the locomotive and crew are provided by a third party operator, there will normally be two rollingstock operators: the owner of the wagons/carriages and the provider of the locomotive and crew. In this case, both will need to be accredited as rollingstock operators unless the wagon carriage owner can demonstrate competence and capacity in locomotive operations and that the locomotive will be operating under its accreditation.

Where do I go for further information?

If you are applying for accreditation or a variation to an existing accreditation and require advice about who has “effective management and control” of rail infrastructure or rollingstock operation, contact the Rail Safety and Security Division.

Find out more

For a full copy of the legislation go to: www.legislation.qld.gov.au

or contact **Rail Safety and Security Division:**

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