



Minister for Climate Change and Sustainability
Minister for Corrections and Justice Health
Minister for Justice, Consumer Affairs and Road Safety
Minister for Mental Health
Member for Kurrajong

Mrs Guilia Jones MLA
Chair
Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)
ACT Legislative Assembly
CANBERRA ACT 2601

Dear Mrs Jones

I am writing to respond to Scrutiny Report 26 of the Standing Committee on Justice and Community Safety in its Legislative Scrutiny Role (the Committee), which examined the *Heavy Vehicle (Registration) National Regulation 2018* and the *Heavy Vehicle National Legislation Amendment Regulation 2018*.

I thank the Committee for its comments and provide the following in response.

The Committee has raised a concern that the regulations in question may have retrospective operation and thus may unduly trespass on rights previously established by law, contrary to principle (1)(b) of the Committee's terms of reference.

The *Heavy Vehicle National Law (HVNL)* creates a uniform regulatory framework for heavy vehicle road transport. The HVNL commenced in the ACT in February 2014 through the *Heavy Vehicle Law (ACT) Act 2013*. Amendments to the HVNL, including regulations, are agreed to by the Transport and Infrastructure Council, and in accordance with agreed procedures then progressed through the Queensland Parliament and published on the NSW legislation website. The Transport and Infrastructure Council (the Council) is comprised of Commonwealth, State, Territory and New Zealand Government's transport and infrastructure portfolio Ministers.

National regulations under the HVNL apply automatically in the ACT on commencement through section 7 of *Heavy Vehicle Law (ACT) Act 2013*. The publication of the regulations on the NSW legislation website means that the regulations are also notified on that date for the purposes of their application in the ACT.

The regulations considered by the Committee were notified on the NSW legislation website on 22 June 2018 and commenced on 1 July 2018. As a result of the *Heavy Vehicle National Law (ACT) Act 2013* (together with section 11 of the HVNL (ACT)) the regulations applied in the ACT from that date and thus are not considered to have retrospective operation.

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Section 8 of the *Heavy Vehicle Law (ACT) Act 2013* provides that chapter 7 of the *Legislation Act 2001 (ACT)* applies to a national regulation as if a reference to a subordinate law were a reference to a national regulation. As such, national regulations, and national amendment regulations, are required to be presented to the ACT Legislative Assembly within 20 sitting days of notification on the NSW legislation register. This provides the Legislative Assembly with the ability to scrutinise these regulations in the same way as other subordinate laws in the ACT.

The regulations are not considered to unduly trespass on personal rights and liberties already established by law as they do not create new offences or amend existing offences and whilst they place obligations on the National Heavy Vehicle Regulator, the road transport authority and operators, these bodies were all consulted extensively during the regulation development process and were aware of the changes prior to their commencement.

The Committee has also raised a concern that the explanatory statements tabled for these regulations do not meet the technical or stylistic standards expected by the Committee.

Noting my comments above in relation to any concerns about the retrospective operation of these regulations. It may reasonably be considered that the explanatory statements provided do meet the technical or stylistic standards expected by the Committee. My directorate is committed to delivering explanatory statements that meet the expectations of the Committee and will review future explanatory statements to ensure adequate information is provided about the operation of the HVNL in the ACT.

I trust the above information is helpful and thank the Committee for its report and careful consideration of these Heavy Vehicle National Law regulations.

Yours sincerely

Shane Rattenbury MLA
Minister for Justice, Consumer Affairs and Road Safety