

Australian Capital Territory

Heavy Vehicle National Amendment Regulation 2017

Subordinate law SL[2018]–

made under the

Heavy Vehicle National Law (ACT), s30 (Regulation-making power)

EXPLANATORY STATEMENT

Introduction

This explanatory statement relates to the *Heavy Vehicle National Amendment Regulation 2017* (the Amendment Regulation) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the regulation. It does not form part of the legislation and has not been endorsed by the Assembly.

This explanatory statement must be read in conjunction with the regulation. It is not, and is not meant to be, a comprehensive description of the regulation. What is said about a provision is not taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Overview

The *Heavy Vehicle National Law (ACT) Act 2013* (the Act) which commenced on 10 February 2014 provides that the Heavy Vehicle National Law set out in the schedule to the Queensland Act, as amended from time to time, applies as a territory law, as modified by schedule 1 of the Act, and as so applying may be referred to as the *Heavy Vehicle National Law (ACT)* (the HVNL).

Regulations under the HVNL are published on the NSW legislation register.

Maintenance of the national heavy vehicle legislation is the responsibility of the National Transport Commission (NTC), and is subject to approval by the Transport and Infrastructure Council (the Council) comprised of each State and Territory Government's Transport and Infrastructure portfolio Ministers.

Where the Council approves an amendment to the HVNL, that amendment is progressed through the Queensland Parliament and, in the case of the ACT, adopted automatically.

While the HVNL provides that the majority of the *Legislation Act 2001* (the Legislation Act) does not apply in respect of the HVNL, section 8 of the Act provides that chapter 7 of the Legislation 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 Legislative Assembly within 6 sitting days of notification on the NSW legislation register.

There are no human rights or climate change implications arising from this regulation.

Outline

As part of the ongoing development and review of the HVNL, the NTC, in consultation with jurisdictions, industry and enforcement agencies, identified a number of maintenance amendment issues which were addressed through the *Heavy Vehicle National Law Amendment Act 2017* (the Amendment Act) and the Amendment Regulation.

The Amendment Regulation implements nationally agreed reforms identified through the maintenance process.

The Amendment Regulation amends the:

- *Heavy Vehicle (Fatigue Management) National Regulation*
- *Heavy Vehicle (General) National Regulation*
- *Heavy Vehicle (Mass, Dimension and Loading) National Regulation*
- *Heavy Vehicle (Vehicle Standards) National Regulation*.

It is noted that section 35 of the *Heavy Vehicle National Law (ACT) Act 2013* provides that chapter 6 (Vehicle operations-driver fatigue) and part 9.3, division 8 (Further powers in relation to fatigue-regulated heavy vehicles) of the *Heavy Vehicle National Law (ACT)* do not currently apply in the ACT. In order to meet the requirements in chapter 7 of the Legislation Act, the Fatigue Management Regulation needs to be presented to the Legislative Assembly now, so that it will apply when the ACT adopts the fatigue provisions of the HVNL in the ACT.

Notes on clauses

Clause 1 Short title

This clause cites the name of the regulation as the *Heavy Vehicle National Amendment Regulation 2017*.

Clause 2 Commencement

This clause provides that Part 2 of the regulation will commence on the commencement of section 6 of the *Heavy Vehicle National Law and Other Legislation Amendment Act 2016*.

Remaining provisions of the regulation will commence on the commencement of section 114 of the *Heavy Vehicle National Law and Other Legislation Amendment Act 2016*.

Part 2 **Amendment of Heavy Vehicle
(Fatigue Management) National
Regulation**

Clause 3 **Regulation amended**

This clause identifies that Part 2 of this regulation amends the *Heavy Vehicle (Fatigue Management) National Regulation*.

Clause 4 **Amendment of s 23 (Prescribed driver offence or fatigue
duty under another law)**

This clause is a technical amendment to remove the reference to s 229 (5).

Clause 5 **Omission of ss 26 and 27**

This clause omits sections 26 and 27 which were about examples of how to take reasonable steps to identify and avoid activities that may lead to contraventions of the fatigue requirements.

Part 3 **Amendment of Heavy Vehicle
(General) National Regulation**

Clause 6 **Regulation amended**

This clause identifies that Part 3 of this regulation amends the *Heavy Vehicle (General) National Regulation*.

Clause 7 **Amendment of s 11 (Approval must state particular
conditions for design for vehicle fitted with quad-axle
group)**

This clause omits the requirement for a PBS vehicle fitted with a quad axle group permitted to be loaded to more than 20 tonnes to have accreditation labels for maintenance management and mass management accreditation attached.

Clause 8 **Insertion of new s 72**

This clause inserts a new section describing how fees charged under the HVNL are to be increased.

Part 4 **Amendment of Heavy Vehicle
(Mass, Dimension and Loading)
National Regulation**

Clause 9 **Regulation amended**

This clause identifies that Part 4 of this regulation amends the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation*.

Clause 10 **Amendment of s 3 (Definitions)**

This clause omits the definition of *relevant accreditation label* from the dictionary.

Clause 11 **Omission of pt 2, div 2 (CML heavy vehicle accreditation label)**

This clause omits the requirements about identifying particular heavy vehicles operating under Concessional Mass Limits and Higher Mass Limits.

Clause 12 **Amendment of s 15A (Process for amending a stated map or stated list)**

This clause corrects a typographical error in s15A (2) (b) about road manager consent in relation to amending Higher Mass Limit maps or lists.

Clause 13 **Amendment of s 17 (Amendment or cancellation of HML declaration on Regulator’s initiative)**

Clause 14 **Amendment of s 18 (Amendment or cancellation of HML declaration on request by relevant road manager)**

Clause 15 **Amendment of s 19 (Immediate suspension)**

These clauses provide for the National Heavy Vehicle Regulator (NHVR) to publish public notices about Higher Mass Limit amendments, cancellations, immediate suspensions, and cancellation of immediate suspensions rather than publishing notices in the Commonwealth Gazette and in a newspaper circulating in participating jurisdictions.

Clause 16 **Omission of pt 2, div 3, sdiv 3 (Other provision)**

This clause omits the requirements about prescribed dimension.

Clause 17 **Amendment of sch 5, s 2 (Higher mass limits)**

This clause corrects a numbering error in Schedule 5 of the regulation.

Clause 18 **Replacement of sch 6, s 7 (Width)**

This clause omits paragraph 7 (2) which details how the width of a heavy vehicle is measured, noting that the *Heavy Vehicle (Vehicle Standards) National Regulation* describes how the width of a heavy vehicle is to be measured

Part 5 **Amendment of Heavy Vehicle (Vehicle Standards) National Regulation**

Clause 19 **Regulation amended**

This clause identifies that Part 5 of this regulation amends the *Heavy Vehicle (Vehicle Standards) National Regulation*.

Clause 20 **Amendment of s 4 (Definitions)**

This clause omits the definitions of *exempt vehicle* and *former Australian Transport Council*, and inserts definitions for *Air Services Act*, *Airservices Australia*, *Airservices Australia vehicle*, *Australian Border Force*, *Australian Border Force vehicle*, *exempt vehicle*, *Immigration and Border Protection worker* and *Ministerial Council*.

The clause also omits the reference to the Standards Australia website from the notes in the definitions of 50mm and 90mm kingpins and updates the reference to the Ministerial Council in the definition of *road tank vehicle*.

Clause 21 **Replacement of s 8 (Measurement of width of vehicles)**

This clause replaces existing section 8 and updates the parts of a vehicle that are to be disregarded when measuring a vehicles width.

Clause 22 **Amendment of sch 2, s 12 (Rear vision mirrors)**

This clause clarifies the requirements about how far a rear vision mirror may project from the vehicle.

Clause 23 **Amendment of sch 2, s 17 (Electrical wiring, connectors and conductors)**

This clause omits the reference to the Standards Australia website.

Clause 24 **Amendment of sch 2, s 21 (Window tinting)**

This clause relaxes the requirement for luminous transmittance of glazing behind the driver in a heavy vehicle.

Clause 25 **Amendment of sch 2, s 39 (Headlights to be fitted to vehicles)**

Clause 26 **Omission of sch 2, s 41 (How additional headlights are to be fitted)**

These clauses clarify the number and arrangement of additional headlights that can be fitted to a heavy vehicle.

Clause 27 **Amendment of sch 2, s 59 (Fitting brake lights)**

This clause clarifies that a light that can operate as a brake light and a direction indicator light is considered to be a brake light if the vehicle was built before 1 January 1973.

Clause 28 **Amendment of sch 2, s 71 (Compulsory side reflectors on pole-type trailers)**

This clause corrects the numbering of subsections in the section about side reflectors on pole-type trailers.

Clause 29 **Amendment of sch 2, s 80 (Rear marking plates)**

This clause updates the title of the relevant Commonwealth Department in the note in the section about rear marker plates.

Clause 30 **Amendment of sch 2 (Other vehicle standards applying to single heavy vehicles)**

This clause corrects the numbering of the headings of the Parts relating to Alternative fuel systems and Maximum road speed limiting.