



*I hereby certify that this PUBLIC BILL has finally passed the  
Legislative Assembly of Queensland.*

*Legislative Assembly Chamber,  
Brisbane,*

*The Clerk of the Parliament.*

*9 December 2016*

*In the name and on behalf of the Queen, I assent to this Bill.*

*Paul de Jersey*  
Government House,

Brisbane,

*9 December 2016*



Queensland

**No. 65 of 2016  
A BILL for**

**An Act to amend the Heavy Vehicle National Law Act 2012 and the Transport  
Operations (Passenger Transport) Act 1994 for particular purposes**



Queensland

# Heavy Vehicle National Law and Other Legislation Amendment Bill 2016

## Contents

	Page
<b>Chapter 1</b>	<b>Preliminary</b>
1	Short title . . . . . 10
2	Commencement . . . . . 10
<b>Chapter 2</b>	<b>Responsibility amendments</b>
<b>Part 1</b>	<b>Amendment of Heavy Vehicle National Law Act 2012</b>
3	Act amended . . . . . 10
4	Amendment of s 10 (Relevant tribunal or court) . . . . . 10
5	Omission of s 16 (Offences for which the persons charged do not have the benefit of the mistake of fact defence) . . . . . 11
<b>Part 2</b>	<b>Amendment of Heavy Vehicle National Law</b>
6	Law amended . . . . . 11
7	Amendment of s 5 (Definitions) . . . . . 11
8	Omission of s 14 (References to mistake of fact defence) . . . . . 16
9	Amendment of s 18 (Relationship with primary work health and safety laws) . . . . . 16
10	Insertion of new Ch 1A . . . . . 16
	Chapter 1A Safety duties
	Part 1A.1 Principles
26A	Principle of shared responsibility . . . . . 17
26B	Principles applying to duties . . . . . 17
	Part 1A.2 Nature of duty
26C	Primary duty . . . . . 18
26D	Duty of executive of legal entity . . . . . 19
26E	Prohibited requests and contracts . . . . . 20
	Part 1A.3 Failing to comply with duty
26F	Category 1 offence . . . . . 22

Contents

---

	26G	Category 2 offence	22
	26H	Category 3 offence	23
11		Amendment of s 33 (Unregistered heavy vehicle temporarily in Australia)	23
12		Amendment of s 50 (Obtaining registration or registration items by false statements etc.)	24
13		Amendment of s 82 (Keeping relevant document while driving under vehicle standards exemption (notice))	24
14		Amendment of s 83 (Keeping copy of permit while driving under vehicle standards exemption (permit))	24
15		Amendment of s 91 (Person must not tamper with emission control system fitted to heavy vehicle)	24
16		Amendment of s 93 (Person must not tamper with speed limiter fitted to heavy vehicle)	25
17		Amendment of s 96 (Compliance with mass requirements)	25
18		Amendment of s 102 (Compliance with dimension requirements)	25
19		Amendment of s 111 (Compliance with loading requirements)	26
20		Amendment of s 130 (Contravening condition of mass or dimension exemption relating to pilot or escort vehicle)	26
21		Amendment of s 132 (Keeping relevant document while driving under mass or dimension exemption (notice))	26
22		Amendment of s 133 (Keeping copy of permit while driving under mass or dimension exemption (permit))	27
23		Amendment of s 151 (Keeping relevant document while driving under class 2 heavy vehicle authorisation (notice))	27
24		Amendment of s 152 (Keeping copy of permit while driving under class 2 heavy vehicle authorisation (permit))	27
25		Amendment of s 153 (Keeping copy of PBS vehicle approval while driving under class 2 heavy vehicle authorisation)	28
26		Omission of Pt 4.8 (Extended liability)	28
27		Amendment of s 186 (False or misleading transport documentation for goods)	28
28		Amendment of s 187 (False or misleading information in container weight declaration)	30
29		Amendment of s 190 (Duty of responsible entity)	30
30		Amendment of s 191 (Duty of operator)	31
31		Amendment of s 192 (Duty of driver)	31
32		Amendment of s 193 (Weight of freight container exceeding weight stated on container or safety approval plate)	32
33		Omission of s 194 (Conduct of consignee resulting or potentially resulting in contravention of mass, dimension or loading requirement)	32

---

34	Amendment of s 199 (Recovery of losses for provision of inaccurate container weight declaration) . . . . .	33
35	Omission of Ch 5 (Vehicle operations—speeding) . . . . .	33
36	Amendment of s 221 (Definitions for Ch 6) . . . . .	33
37	Omission of s 227 (Who is a party in the chain of responsibility) . . . . .	33
38	Amendment of Pt 6.2, Div 2, hdg (Duty to avoid and prevent fatigue) . . . . .	33
39	Omission of s 229 (Duty of party in the chain of responsibility to prevent driver driving while fatigued) . . . . .	33
40	Omission of Pt 6.2, Divs 3–8 . . . . .	34
41	Amendment of s 250 (Operating under standard hours—solo drivers) . . . . .	34
42	Amendment of s 251 (Operating under standard hours—two-up drivers) . . . . .	34
43	Amendment of s 254 (Operating under BFM hours—solo drivers) . . . . .	34
44	Amendment of s 256 (Operating under BFM hours—two-up drivers) . . . . .	34
45	Amendment of s 258 (Operating under AFM hours) . . . . .	34
46	Amendment of s 260 (Operating under exemption hours) . . . . .	35
47	Omission of Pt 6.3, Div 6 (Extended liability) . . . . .	35
48	Amendment of s 263 (Operating under new work and rest hours option after change) . . . . .	35
49	Amendment of s 264 (Duty of employer, prime contractor, operator and scheduler to ensure driver compliance) . . . . .	35
50	Amendment of s 287 (Keeping relevant document while operating under work and rest hours exemption (notice)) . . . . .	35
51	Amendment of s 288 (Keeping copy of permit while driving under work and rest hours exemption (permit)) . . . . .	36
52	Amendment of s 311 (What record keeper must do if electronic work diary filled up) . . . . .	36
53	Amendment of s 312 (What record keeper must do if electronic work diary destroyed, lost or stolen) . . . . .	36
54	Amendment of s 313 (What record keeper must do if electronic work diary not in working order or malfunctioning) . . . . .	37
55	Replacement of s 315 (Liability of employer etc. for driver’s contravention of particular requirements of this Division) . . . . .	37
	315 Ensuring driver complies with Sdivs 1–4 . . . . .	37
56	Amendment of s 319 (Records record keeper must have) . . . . .	38
57	Amendment of s 321 (Records record keeper must have) . . . . .	38
58	Amendment of s 322 (General requirements about driver giving information to record keeper) . . . . .	38

Contents

---

59	Amendment of s 323 (Requirements about driver giving information to record keeper if driver changes record keeper) . . . . .	39
60	Amendment of s 324 (Record keeper must give information from electronic work diary) . . . . .	39
61	Amendment of s 325 (False or misleading entries) . . . . .	39
62	Amendment of s 335 (Person must not tamper with approved electronic recording system) . . . . .	39
63	Amendment of s 336 (Person using approved electronic recording system must not permit tampering with it) . . . . .	40
64	Amendment of s 336A (Reporting tampering or suspected tampering with electronic work diary) . . . . .	40
65	Amendment of s 337 (Intelligent access reporting entity must not permit tampering with approved electronic recording system) . . . . .	40
66	Amendment of s 341 (Period for which, and way in which, records must be kept) . . . . .	40
67	Amendment of s 376 (Keeping relevant document while operating under work diary exemption (notice)) . . . . .	41
68	Amendment of s 396 (Owner must maintain odometer) . . . . .	41
69	Amendment of s 398 (What owner must do if odometer malfunctioning) . . . . .	41
70	Amendment of s 399 (What employer or operator must do if odometer malfunctioning) . . . . .	42
71	Amendment of s 404 (Offence to give false or misleading information to intelligent access service provider) . . . . .	42
72	Amendment of s 405 (Advising vehicle driver of collection of information by intelligent access service provider) . . . . .	42
73	Amendment of s 407 (Advising driver of driver's obligations about reporting system malfunctions) . . . . .	42
74	Amendment of s 410 (Collecting intelligent access information) . . . . .	43
75	Amendment of s 412 (Protecting intelligent access information) . . . . .	43
76	Amendment of s 421 (Destroying intelligent access information etc.) . . . . .	43
77	Amendment of s 427 (Collecting intelligent access information) . . . . .	44
78	Amendment of s 428 (Protecting intelligent access information collected) . . . . .	44
79	Amendment of s 437 (Destroying intelligent access information or removing personal information from it) . . . . .	44
80	Amendment of s 441 (Collecting intelligent access information) . . . . .	45
81	Amendment of s 442 (Protecting intelligent access information collected) . . . . .	45
82	Amendment of s 450 (Destroying intelligent access information or	

---

	removing personal information from it) . . . . .	45
83	Amendment of s 459 (Application for heavy vehicle accreditation)	45
84	Amendment of s 468 (Driver operating under BFM accreditation or AFM accreditation must carry accreditation details) . . . . .	46
85	Amendment of s 518 (Moving unattended heavy vehicle on road to exercise another power) . . . . .	46
86	Amendment of s 556 (Return of seized things or samples) . . . . .	46
87	Amendment of s 557 (Power to issue embargo notice) . . . . .	46
88	Amendment of s 558 (Noncompliance with embargo notice) . . . . .	46
89	Amendment of s 569 (Power to require production of documents etc. generally) . . . . .	47
90	Amendment of s 570 (Power to require information about heavy vehicles) . . . . .	47
91	Insertion of new s 570A . . . . .	47
	570A      Requiring information . . . . .	47
92	Amendment of s 578 (Duty to minimise inconvenience or damage)	49
93	Amendment of s 579 (Restoring damaged thing) . . . . .	49
94	Amendment of s 588 (Evidential immunity for individuals complying with particular requirements) . . . . .	50
95	Amendment of s 590 (Formal warning) . . . . .	50
96	Insertion of new Pt 10.1A . . . . .	50
	Part 10.1A      Enforceable undertakings	
	590A      Accepting undertaking . . . . .	50
	590B      Effect of undertaking . . . . .	52
	590C      Withdrawing or changing undertaking . . . . .	52
	590D      Contravening undertaking . . . . .	53
97	Amendment of s 592 (Recording information about infringement penalties) . . . . .	54
98	Amendment of s 611 (Court may make compensation order) . . . . .	54
99	Omission of Pt 10.4, Divs 1 and 2 . . . . .	54
100	Replacement of Pt 10.4, Div 3, hdg (Other defences) . . . . .	54
	Division 3      Defences	
101	Insertion of new s 632A . . . . .	54
	632A      Using code of practice in proceeding . . . . .	55
102	Amendment of s 634 (Multiple offences) . . . . .	55
103	Amendment of s 636 (Liability of executive officers of corporation)	56
104	Amendment of s 637 (Treatment of unincorporated partnerships)	57

Contents

105	Amendment of s 638 (Treatment of other unincorporated bodies)	58
106	Amendment of s 701 (False or misleading statements) . . . . .	59
107	Amendment of s 702 (False or misleading documents) . . . . .	59
108	Replacement of s 707 (Proceedings for offences) . . . . .	59
	707 Proceeding for indictable offences . . . . .	59
	707A Proceeding for other offences . . . . .	60
109	Amendment of s 710 (Averments) . . . . .	60
110	Insertion of new s 726A . . . . .	61
	726A Evidence of offence . . . . .	61
111	Insertion of new s 735A . . . . .	61
	735A Legal professional privilege . . . . .	61
112	Amendment of s 742 (Contracting out prohibited) . . . . .	62
113	Replacement of Sch 4 (Provisions specified for liability of executive officers for offences by corporations) . . . . .	62
	Schedule 4 Liability provisions . . . . .	62
<b>Chapter 3</b>	<b>Maintenance amendments</b>	
<b>Part 1</b>	<b>Amendment of Heavy Vehicle National Law Act 2012</b>	
114	Act amended . . . . .	68
115	Amendment of s 26 (Amendment or cancellation of mass or dimension exemption (notice) on request by commissioner) . . . . .	68
<b>Part 2</b>	<b>Amendment of Heavy Vehicle National Law</b>	
116	Law amended . . . . .	68
117	Amendment of s 5 (Definitions) . . . . .	69
118	Amendment of s 45 (Amendment or cancellation of registration exemption) . . . . .	69
119	Amendment of s 46 (Immediate suspension) . . . . .	69
120	Amendment of s 66 (Amendment or cancellation of vehicle standards exemption (notice)) . . . . .	70
121	Amendment of s 67 (Immediate suspension on Regulator's initiative) . . . . .	70
122	Amendment of s 173 (Amendment or cancellation on Regulator's initiative) . . . . .	71
123	Amendment of s 174 (Amendment or cancellation on request by relevant road manager) . . . . .	71
124	Amendment of s 175 (Immediate suspension) . . . . .	72
125	Insertion of new s 175A . . . . .	72
	175A Minor amendment . . . . .	73
126	Amendment of s 176 (Amendment or cancellation on application by permit holder) . . . . .	73

127	Amendment of s 180 (Minor amendment of permit for a mass or dimension authority) . . . . .	74
128	Amendment of s 271 (Amendment or cancellation of work and rest hours exemption (notice)) . . . . .	74
129	Amendment of s 272 (Immediate suspension) . . . . .	75
130	Amendment of s 362 (Amendment or cancellation of work diary exemption (notice)) . . . . .	75
131	Amendment of s 382 (Amendment or cancellation of fatigue record keeping exemption (notice)) . . . . .	76
132	Amendment of s 457 (Definitions for Ch 8) . . . . .	76
133	Amendment of s 466 (Accreditation labels for maintenance management accreditation and mass management accreditation) . . . . .	76
134	Insertion of new ss 531A and 531B . . . . .	77
	531A Self-clearing defect notices . . . . .	77
	531B Requirements about self-clearing vehicle defect notice . . . . .	78
135	Amendment of s 586 (Multiple requirements) . . . . .	80
136	Insertion of new s 655A . . . . .	80
	655A Delegation by responsible Ministers . . . . .	80
137	Insertion of new s 740A . . . . .	81
	740A Increase of fee amounts . . . . .	81
138	Insertion of new Pt 14.4 . . . . .	82
	Part 14.4 Heavy Vehicle National Law and Other Legislation Amendment Act 2016 (Queensland)	
	759 Application of s 737 to a new penalty . . . . .	82
139	Amendment of various provisions . . . . .	83
<b>Chapter 4</b>	<b>Amendment of Transport Operations (Passenger Transport) Act 1994</b>	
140	Act amended . . . . .	90
141	Insertion of new s 155A . . . . .	90
	155A Taxi and limousine industry assistance regulation . . . . .	90
141A	Insertion of new ch 12, pt 4 . . . . .	92
	Part 4 Other provision	
	155B Implementing particular recommendations of parliamentary committee . . . . .	92
142	Insertion of new ch 13, pt 17 . . . . .	93
	Part 17 Transitional provision for Heavy Vehicle National Law and Other Legislation Amendment Act 2016	
	207 Regulation-making power—expiry or repeal of taxi and limousine industry assistance regulation . . . . .	93





**2016**

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# **A Bill**

for

**An Act to amend the *Heavy Vehicle National Law Act 2012* and the *Transport Operations (Passenger Transport) Act 1994* for particular purposes**

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[s 1]

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**The Parliament of Queensland enacts—**

## **Chapter 1      Preliminary**

### **1      Short title**

This Act may be cited as the *Heavy Vehicle National Law and Other Legislation Amendment Act 2016*.

### **2      Commencement**

Chapters 2 and 3 commence on a day to be fixed by proclamation.

## **Chapter 2      Responsibility amendments**

### **Part 1                      Amendment of Heavy Vehicle National Law Act 2012**

#### **3      Act amended**

This part amends the *Heavy Vehicle National Law Act 2012*.

#### **4      Amendment of s 10 (Relevant tribunal or court)**

Section 10(2)—

*insert—*

(d) section 590D.

**5 Omission of s 16 (Offences for which the persons charged do not have the benefit of the mistake of fact defence)**

Section 16—

*omit.*

**Part 2 Amendment of Heavy Vehicle National Law**

**6 Law amended**

This part amends the Heavy Vehicle National Law set out in the Schedule to the *Heavy Vehicle National Law Act 2012*.

**7 Amendment of s 5 (Definitions)**

- (1) Section 5, definitions *commercial consignor*, *loading manager*, *mistake of fact defence*, *party in the chain of responsibility* and *reasonable steps defence*—

*omit.*

- (2) Section 5—

*insert—*

***business practices***, of a person, means the person's practices in running a business associated with the use of a heavy vehicle on a road, including—

- (a) the operating policies and procedures of the business; and
- (b) the human resource and contract management arrangements of the business; and

[s 7]

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- (c) the arrangements for preventing or minimising public risks associated with the person's practices.

***complaint***, for an offence, means a complaint, charge, notice or other process that starts a proceeding for the offence.

***contract*** includes an agreement.

***encourage*** includes give an incentive.

***false or misleading*** means false or misleading in a material particular.

***indictable offence*** means an offence mentioned in section 26F.

***information*** includes—

- (a) information in the form of a document; and
- (b) information stored electronically.

***loading manager***, for goods in a heavy vehicle, means—

- (a) a person who manages, or is responsible for the operation of, regular loading or unloading premises for heavy vehicles where the goods are—
  - (i) loaded onto the heavy vehicle; or
  - (ii) unloaded from the heavy vehicle; or
- (b) a person who has been assigned by a person mentioned in paragraph (a) as responsible for supervising, managing or controlling, directly or indirectly, activities carried out by a loader or unloader of goods at regular loading or unloading premises for heavy vehicles.

***management member***, of an unincorporated body, means—

- (a) if the body has a management committee—each member of the management committee; or
- (b) otherwise—each member who is concerned with, or takes part in, the body's management, whatever name is given to the member's position in the body.

***party in the chain of responsibility***, for a heavy vehicle, means each of the following persons—

- (a) if the vehicle's driver is an employed driver—an employer of the driver;
- (b) if the vehicle's driver is a self-employed driver—a prime contractor for the driver;
- (c) an operator of the vehicle;
- (d) a scheduler for the vehicle;
- (e) a consignor of any goods in the vehicle;
- (f) a consignee of any goods in the vehicle;
- (g) a packer of any goods in the vehicle;
- (h) a loading manager for any goods in the vehicle;
- (i) a loader of any goods in the vehicle;
- (j) an unloader of any goods in the vehicle.

***promisee*** see section 590A.

***public risk*** means—

- (a) a safety risk; or
- (b) a risk of damage to road infrastructure.

***reasonably practicable***, in relation to a duty, means that which is, or was at a particular time, reasonably able to be done in relation to the duty, weighing up all relevant matters, including—

[s 7]

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- (a) the likelihood of a safety risk, or damage to road infrastructure, happening; and
- (b) the harm that could result from the risk or damage; and
- (c) what the person knows, or ought reasonably to know, about the risk or damage; and
- (d) what the person knows, or ought reasonably to know, about the ways of—
  - (i) removing or minimising the risk; or
  - (ii) preventing or minimising the damage; and
- (e) the availability and suitability of those ways; and
- (f) the cost associated with the available ways, including whether the cost is grossly disproportionate to the likelihood of the risk or damage.

***transport activities*** means activities, including business practices and making decisions, associated with the use of a heavy vehicle on a road, including, for example—

- (a) contracting, directing or employing a person—
  - (i) to drive the vehicle; or
  - (ii) to carry out another activity associated with the use of the vehicle (such as maintaining or repairing the vehicle); or
- (b) consigning goods for transport using the vehicle; or
- (c) scheduling the transport of goods or passengers using the vehicle; or

- (d) packing goods for transport using the vehicle; or
- (e) managing the loading of goods onto or unloading of goods from the vehicle; or
- (f) loading goods onto or unloading goods from the vehicle; or
- (g) receiving goods unloaded from the vehicle.

***unincorporated body*** includes an unincorporated local government authority, but does not include an unincorporated partnership.

- (3) Section 5, definition *consign* and *consignor*, paragraph (b)—  
*omit, insert—*

- (b) the person engages an operator of the vehicle, either directly or indirectly or through an agent or other intermediary, to transport the goods by road; or
- (c) if paragraphs (a) and (b) do not apply—the person has possession of, or control over, the goods immediately before the goods are transported by road.

- (4) Section 5, definition *entity*, after ‘person’—  
*insert—*

, an unincorporated partnership

- (5) Section 5, definition *record keeper*, ‘, for the purposes of Chapter 6,’—

*omit.*

- (6) Section 5, definition *regular loading or unloading premises*, paragraph 3, note, ‘(including sections 227, 238, 239 and 261)’—

*omit.*



[s 8]

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**8 Omission of s 14 (References to mistake of fact defence)**

Section 14—

*omit.*

**9 Amendment of s 18 (Relationship with primary work health and safety laws)**

(1) Section 18(1)—

*omit, insert—*

(1) If a provision of this Law and a provision of the primary WHS Law deal with the same thing, and it is possible to comply with both provisions, a person must comply with both provisions.

(1A) However, to the extent it is not possible for the person to comply with both provisions, the person must comply with the provision of the primary WHS Law.

(2) Section 18—

*insert—*

(3A) If an act, omission or circumstances constitute an offence under this Law and the primary WHS Law, the offender is not liable to be punished twice for the act, omission or circumstances.

**10 Insertion of new Ch 1A**

After Chapter 1—

*insert—*

## **Chapter 1A Safety duties**

### **Part 1A.1 Principles**

## **26A Principle of shared responsibility**

- (1) The safety of transport activities relating to a heavy vehicle is the shared responsibility of each party in the chain of responsibility for the vehicle.
- (2) The level and nature of a party's responsibility for a transport activity depends on—
  - (a) the functions the person performs or is required to perform, whether exclusively or occasionally, rather than—
    - (i) the person's job title; or
    - (ii) the person's functions described in a written contract; and
  - (b) the nature of the public risk created by the carrying out of the transport activity; and
  - (c) the party's capacity to control, eliminate or minimise the risk.

## **26B Principles applying to duties**

- (1) A person may have more than 1 duty because of the functions the person performs or is required to perform.
- (2) More than 1 person can concurrently have a duty under this Law and each duty holder must comply with that duty to the standard required by this Law even if another duty holder has the same duty.
- (3) If more than 1 person has a duty for the same matter, each person—
  - (a) retains responsibility for the person's duty in relation to the matter; and
  - (b) must discharge the person's duty to the extent to which the person—

[s 10]

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- (i) has the capacity to influence and control the matter; or
  - (ii) would have had that capacity but for an agreement or arrangement purporting to limit or remove that capacity.
- (4) A duty under this Law may not be transferred to another person.

## **Part 1A.2 Nature of duty**

### **26C Primary duty**

- (1) Each party in the chain of responsibility for a heavy vehicle must ensure, so far as is reasonably practicable, the safety of the party's transport activities relating to the vehicle.
- (2) Without limiting subsection (1), each party must, so far as is reasonably practicable—
  - (a) eliminate public risks and, to the extent it is not reasonably practicable to eliminate public risks, minimise the public risks; and
  - (b) ensure the party's conduct does not directly or indirectly cause or encourage—
    - (i) the driver of the heavy vehicle to contravene this Law; or
    - (ii) the driver of the heavy vehicle to exceed a speed limit applying to the driver; or
    - (iii) another person, including another party in the chain of responsibility, to contravene this Law.
- (3) For subsection (2)(b), the party's conduct includes, for example—

- (a) the party asking, directing or requiring another person to do, or not do, something; and
- (b) the party entering into a contract—
  - (i) with another person for the other person to do, or not do, something; or
  - (ii) that purports to annul, exclude, restrict or otherwise change the effect of this Law.

### **26D Duty of executive of legal entity**

- (1) If a legal entity has a duty under section 26C, an executive of the legal entity must exercise due diligence to ensure the legal entity complies with the duty.

Maximum penalty—the penalty for a contravention of the provision by an individual.

- (2) The executive may be convicted of an offence against subsection (1) even if the legal entity has not been proceeded against for, or convicted of, an offence relating to the duty.
- (3) In this section—

*due diligence* includes taking reasonable steps—

- (a) to acquire, and keep up to date, knowledge about the safe conduct of transport activities; and
- (b) to gain an understanding of—
  - (i) the nature of the legal entity’s transport activities; and
  - (ii) the hazards and risks, including the public risk, associated with those activities; and

[s 10]

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- (c) to ensure the legal entity has, and uses, appropriate resources to eliminate or minimise those hazards and risks; and
- (d) to ensure the legal entity has, and implements, processes—
  - (i) to eliminate or minimise those hazards and risks; and
  - (ii) for receiving, considering, and responding in a timely way to, information about those hazards and risks and any incidents; and
  - (iii) for complying with the legal entity's duty under section 26C; and
- (e) to verify the resources and processes mentioned in paragraphs (c) and (d) are being provided, used and implemented.

***executive***, of a legal entity, means—

- (a) for a corporation—an executive officer of the corporation; or
- (b) for an unincorporated partnership—a partner in the partnership; or
- (c) for an unincorporated body—a management member of the body.

***legal entity*** means—

- (a) a corporation; or
- (b) an unincorporated partnership; or
- (c) an unincorporated body.

## **26E Prohibited requests and contracts**

- (1) A person must not ask, direct or require (directly or indirectly) the driver of a heavy vehicle or a party in the chain of responsibility to do or not do

something the person knows, or ought reasonably to know, would have the effect of causing the driver—

- (a) to exceed a speed limit applying to the driver; or
- (b) to drive a fatigue-regulated heavy vehicle while impaired by fatigue; or
- (c) to drive a fatigue-regulated heavy vehicle while in breach of the driver's work and rest hours option; or
- (d) to drive a fatigue-regulated heavy vehicle in breach of another law in order to avoid driving while impaired by fatigue or while in breach of the driver's work and rest hours option.

Maximum penalty—\$10000.

- (2) A person must not enter into a contract with the driver of a heavy vehicle or a party in the chain of responsibility that the person knows, or ought reasonably to know, would have the effect of causing the driver, or would encourage the driver, or would encourage a party in the chain of responsibility to cause the driver—
  - (a) to exceed a speed limit applying to the driver; or
  - (b) to drive a fatigue-regulated heavy vehicle while impaired by fatigue; or
  - (c) to drive a fatigue-regulated heavy vehicle while in breach of the driver's work and rest hours option; or
  - (d) to drive a fatigue-regulated heavy vehicle in breach of another law in order to avoid driving while impaired by fatigue or while

[s 10]

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in breach of the driver's work and rest hours option.

Maximum penalty—\$10000.

*Note—*

See section 632 for the matters a court may consider when deciding whether a person ought reasonably to have known something.

## **Part 1A.3      Failing to comply with duty**

### **26F Category 1 offence**

- (1) A person commits an offence if—
  - (a) the person has a duty under section 26C; and
  - (b) the person, without a reasonable excuse, engages in conduct related to the duty that exposes an individual to a risk of death or serious injury or illness; and
  - (c) the person is reckless as to the risk.

Maximum penalty—

- (a) if an individual commits the offence—\$300000 or 5 years imprisonment or both; or
  - (b) if a corporation commits the offence—\$3000000.
- (2) The prosecution bears the burden of proving that the conduct was engaged in without reasonable excuse.

### **26G Category 2 offence**

A person commits an offence if—

- (a) the person has a duty under section 26C; and
- (b) the person contravenes the duty; and
- (c) the person's contravention exposes an individual, or class of individuals, to a risk of death or serious injury or illness.

Maximum penalty—

- (a) if an individual commits the offence—\$150000; or
- (b) if a corporation commits the offence—\$1500000.

### **26H Category 3 offence**

A person commits an offence if—

- (a) the person has a duty under section 26C; and
- (b) the person contravenes the duty.

Maximum penalty—

- (a) if an individual commits the offence—\$50000; or
- (b) if a corporation commits the offence—\$500000.

## **11 Amendment of s 33 (Unregistered heavy vehicle temporarily in Australia)**

Section 33(1)(c)—

*omit, insert—*

- (c) the vehicle is used, to the fullest extent possible, in accordance with any conditions of the registration in the foreign country; and



[s 12]

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**12 Amendment of s 50 (Obtaining registration or registration items by false statements etc.)**

Section 50(1)(a) and (2)(a), ‘in a material particular’—  
*omit.*

**13 Amendment of s 82 (Keeping relevant document while driving under vehicle standards exemption (notice))**

Section 82(3) to (6)—  
*omit, insert—*

- (3) Each relevant party for a driver mentioned in subsection (2) must ensure the driver complies with subsection (2), unless the relevant party has a reasonable excuse.

Maximum penalty—\$3000.

**14 Amendment of s 83 (Keeping copy of permit while driving under vehicle standards exemption (permit))**

Section 83(3) to (6)—  
*omit, insert—*

- (3) Each relevant party for a driver mentioned in subsection (2) must ensure the driver complies with subsection (2), unless the relevant party has a reasonable excuse.

Maximum penalty—\$3000.

**15 Amendment of s 91 (Person must not tamper with emission control system fitted to heavy vehicle)**

Section 91(5) and (6)—  
*omit.*

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**16 Amendment of s 93 (Person must not tamper with speed limiter fitted to heavy vehicle)**

Section 93(7) and (8)—

*omit.*

**17 Amendment of s 96 (Compliance with mass requirements)**

(1) Section 96(1), from ‘A’ to ‘vehicle.’—

*omit, insert—*

A person who drives, or permits another person to drive, a heavy vehicle on a road must ensure the vehicle, and the vehicle’s components and load, comply with the mass requirements applying to the vehicle, unless the person has a reasonable excuse.

(2) Section 96(2) and (3)—

*omit.*

**18 Amendment of s 102 (Compliance with dimension requirements)**

(1) Section 102(1), from ‘A’ to ‘vehicle.’—

*omit, insert—*

A person who drives, or permits another person to drive, a heavy vehicle on a road must ensure the vehicle, and the vehicle’s components and load, comply with the dimension requirements applying to the vehicle, unless the person has a reasonable excuse.

(2) Section 102(2) and (3)—

*omit.*

[s 19]

---

**19 Amendment of s 111 (Compliance with loading requirements)**

(1) Section 111(1)—

*omit, insert—*

- (1) A person who drives, or permits another person to drive, a heavy vehicle on a road must ensure the vehicle, and the vehicle's components and load, comply with the loading requirements applying to the vehicle, unless the person has a reasonable excuse.

Maximum penalty—

- (a) for a minor risk breach—\$3000; or
- (b) for a substantial risk breach—\$5000; or
- (c) for a severe risk breach—\$10000.

(2) Section 111(2) and (3) and note—

*omit.*

**20 Amendment of s 130 (Contravening condition of mass or dimension exemption relating to pilot or escort vehicle)**

Section 130(3) and (4)—

*omit, insert—*

- (3) The operator of the heavy vehicle must ensure, so far as is reasonably practicable, the driver of the pilot vehicle or escort vehicle complies with subsection (2).

Maximum penalty—\$6000.

**21 Amendment of s 132 (Keeping relevant document while driving under mass or dimension exemption (notice))**

Section 132(3) to (6)—

*omit, insert—*

- (3) Each relevant party for a driver mentioned in subsection (2) must ensure the driver complies with subsection (2), unless the relevant party has a reasonable excuse.

Maximum penalty—\$3000.

**22 Amendment of s 133 (Keeping copy of permit while driving under mass or dimension exemption (permit))**

Section 133(3) to (6)—

*omit, insert—*

- (3) Each relevant party for a driver mentioned in subsection (1) must ensure the driver complies with subsection (1), unless the relevant party has a reasonable excuse.

Maximum penalty—\$3000.

**23 Amendment of s 151 (Keeping relevant document while driving under class 2 heavy vehicle authorisation (notice))**

Section 151(3) to (6)—

*omit, insert—*

- (3) Each relevant party for a driver mentioned in subsection (2) must ensure the driver complies with subsection (2), unless the relevant party has a reasonable excuse.

Maximum penalty—\$3000.

**24 Amendment of s 152 (Keeping copy of permit while driving under class 2 heavy vehicle authorisation (permit))**

Section 152(3) to (6)—

*omit, insert—*

[s 25]

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- (3) Each relevant party for a driver mentioned in subsection (1) must ensure the driver complies with subsection (1), unless the relevant party has a reasonable excuse.

Maximum penalty—\$3000.

**25 Amendment of s 153 (Keeping copy of PBS vehicle approval while driving under class 2 heavy vehicle authorisation)**

Section 153(2) to (5)—

*omit, insert—*

- (2) Each relevant party for a driver mentioned in subsection (1) must ensure the driver complies with subsection (1), unless the relevant party has a reasonable excuse.

Maximum penalty—\$3000.

**26 Omission of Pt 4.8 (Extended liability)**

Part 4.8—

*omit.*

**27 Amendment of s 186 (False or misleading transport documentation for goods)**

- (1) Section 186(2) to (7)—

*omit, insert—*

- (2) The consignor of the goods must ensure, so far as is reasonably practicable, the consignment documentation is not false or misleading.

Maximum penalty—\$10000.

- (3) If the goods are Australian-packed goods, the packer of the goods must ensure, so far as is

reasonably practicable, the consignment documentation is not false or misleading.

Maximum penalty—\$10000.

- (4) If the goods are overseas-packed goods, the receiver of the goods must ensure, so far as is reasonably practicable, the consignment documentation is not false or misleading.

Maximum penalty—\$10000.

- (5) If the goods are loaded on the heavy vehicle, the loading manager for, or loader of, the goods must ensure, so far as is reasonably practicable, the consignment documentation is not false or misleading.

Maximum penalty—\$10000.

- (2) Section 186(9)—

*insert—*

***Australian-packed goods*** means goods packed—

- (a) in Australia; and
- (b) on a pallet or in a package, freight container or other container.

***consignment documentation***, for goods, means the transport documentation for the consignment of the goods, in so far as the documentation relates to the mass, dimension or loading of any or all of the goods.

***overseas-packed goods*** means goods packed—

- (a) outside Australia; and
- (b) on a pallet or in a package, freight container or other container.

[s 28]

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**28 Amendment of s 187 (False or misleading information in container weight declaration)**

(1) Section 187(2) and (3)—

*omit, insert—*

(2) The responsible entity for the freight container must ensure, so far as is reasonably practicable, the container weight declaration for the container that is given to an operator of the heavy vehicle is not false or misleading.

Maximum penalty—\$10000.

(3) An operator of the heavy vehicle must ensure, so far as is reasonably practicable, the container weight declaration for the container that is given to the vehicle's driver is not false or misleading.

Maximum penalty—\$10000.

(2) Section 187(5) and (6)—

*omit.*

**29 Amendment of s 190 (Duty of responsible entity)**

(1) Section 190(1)—

*omit, insert—*

(1) The responsible entity for the freight container must ensure an operator or driver of a heavy vehicle does not transport the freight container by road using the vehicle without a complying container weight declaration for the freight container containing information in the form required under section 192A, unless the responsible entity has a reasonable excuse.

Maximum penalty—\$6000.

(2) Section 190(2) and (3) and note—

*omit.*

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**30 Amendment of s 191 (Duty of operator)**

(1) Section 191(1)—

*omit, insert—*

- (1) An operator of a heavy vehicle must ensure the vehicle's driver does not transport the freight container by road using the vehicle without a complying container weight declaration for the freight container containing information in the form required under section 192A.

Maximum penalty—\$6000.

(2) Section 191(2), from 'unless'—

*omit, insert—*

unless the operator—

- (a) proves that the driver was provided with the declaration before the driver started transporting the freight container; or
- (b) has a reasonable excuse.

(3) Section 191(3), from 'must' to 'unless'—

*omit, insert—*

must, unless the operator has a reasonable excuse, ensure the freight container is not given to the carrier unless

(4) Section 191(4) and (5)—

*omit.*

**31 Amendment of s 192 (Duty of driver)**

(1) Section 192(1)—

*omit, insert—*

- (1) A person must not drive a heavy vehicle loaded with the freight container on a road without a



[s 32]

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complying weight declaration for the container,  
unless the person has a reasonable excuse.

Maximum penalty—\$6000.

- (2) Section 192(2), after ‘must’—

*insert—*

, unless the driver has a reasonable excuse

- (3) Section 192(3) and (4) and note—

*omit.*

**32 Amendment of s 193 (Weight of freight container exceeding weight stated on container or safety approval plate)**

Section 193(2) to (4)—

*omit, insert—*

- (2) Each consignor or packer of the goods must ensure, so far as is reasonably practicable, the weight of the container does not exceed the maximum gross weight marked on—

(a) the container; or

(b) the container’s safety approval plate.

Maximum penalty—\$10000.

**33 Omission of s 194 (Conduct of consignee resulting or potentially resulting in contravention of mass, dimension or loading requirement)**

Section 194—

*omit.*

**34 Amendment of s 199 (Recovery of losses for provision of inaccurate container weight declaration)**

Section 199(1)(b), ‘in a material particular’—  
*omit.*

**35 Omission of Ch 5 (Vehicle operations—speeding)**

Chapter 5—  
*omit.*

**36 Amendment of s 221 (Definitions for Ch 6)**

(1) Section 221, definition *loading manager*, note, ‘(including sections 227, 238, 239 and 261)’—

*omit.*

(2) Section 221, definition *party in the chain of responsibility*—

*omit.*

**37 Omission of s 227 (Who is a *party in the chain of responsibility*)**

Section 227—  
*omit.*

**38 Amendment of Pt 6.2, Div 2, hdg (Duty to avoid and prevent fatigue)**

Part 6.2, Division 2, heading, ‘and prevent’—  
*omit.*

**39 Omission of s 229 (Duty of party in the chain of responsibility to prevent driver driving while fatigued)**

Section 229—

[s 40]

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*omit.*

**40 Omission of Pt 6.2, Divs 3–8**

Part 6.2, Divisions 3 to 8—

*omit.*

**41 Amendment of s 250 (Operating under standard hours—solo drivers)**

Section 250(2) and (3) and note—

*omit.*

**42 Amendment of s 251 (Operating under standard hours—two-up drivers)**

Section 251(2) and (3) and note—

*omit.*

**43 Amendment of s 254 (Operating under BFM hours—solo drivers)**

Section 254(2) and (3) and note—

*omit.*

**44 Amendment of s 256 (Operating under BFM hours—two-up drivers)**

Section 256(2) and (3) and note—

*omit.*

**45 Amendment of s 258 (Operating under AFM hours)**

Section 258(2) and (3) and note—

*omit.*

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**46 Amendment of s 260 (Operating under exemption hours)**

Section 260(2) and (3) and note—

*omit.*

**47 Omission of Pt 6.3, Div 6 (Extended liability)**

Part 6.3, Division 6—

*omit.*

**48 Amendment of s 263 (Operating under new work and rest hours option after change)**

Section 263(3) and (4)—

*omit.*

**49 Amendment of s 264 (Duty of employer, prime contractor, operator and scheduler to ensure driver compliance)**

(1) Section 264(2), after ‘must’—

*insert—*

ensure, so far as is reasonably practicable, the  
driver

(2) Section 264(2)(a), ‘ensure the driver’—

*omit.*

(3) Section 264(2)(b), from ‘take’ to ‘driver’—

*omit.*

(4) Section 264(3) and (4)—

*omit.*

**50 Amendment of s 287 (Keeping relevant document while operating under work and rest hours exemption (notice))**

Section 287(3) to (6)—

[s 51]

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*omit, insert—*

- (3) Each relevant party for a driver mentioned in subsection (2) must ensure the driver complies with subsection (2), unless the relevant party has a reasonable excuse.

Maximum penalty—\$3000.

**51 Amendment of s 288 (Keeping copy of permit while driving under work and rest hours exemption (permit))**

Section 288(3) to (6)—

*omit, insert—*

- (3) Each relevant party for a driver mentioned in subsection (1) must ensure the driver complies with subsection (1), unless the relevant party has a reasonable excuse.

Maximum penalty—\$3000.

**52 Amendment of s 311 (What record keeper must do if electronic work diary filled up)**

Section 311(4) and (5) and note—

*omit.*

**53 Amendment of s 312 (What record keeper must do if electronic work diary destroyed, lost or stolen)**

- (1) Section 312(3), after ‘stolen’—

*insert—*

, unless the record keeper has a reasonable excuse

- (2) Section 312(5) and (6) and note—

*omit.*

**54 Amendment of s 313 (What record keeper must do if electronic work diary not in working order or malfunctioning)**

- (1) Section 313(3)(c), after ‘has malfunctioned’—

*insert—*

, unless the record keeper has a reasonable excuse

- (2) Section 313(8) and (9) and note—

*omit.*

**55 Replacement of s 315 (Liability of employer etc. for driver’s contravention of particular requirements of this Division)**

Section 315—

*omit, insert—*

**315 Ensuring driver complies with Sdivs 1–4**

- (1) Each responsible party for the driver of a fatigue-regulated heavy vehicle must ensure, so far as is reasonably practicable, the driver complies with each of Subdivisions 1, 2, 3 and 4 so far as they are applicable.

Maximum penalty—\$6000.

- (2) In this section—

***responsible party***, for the driver of a fatigue-regulated heavy vehicle, means—

- (a) if the driver is an employed driver—an employer of the driver; or
- (b) if the driver is a self-employed driver—a prime contractor of the driver; or
- (c) an operator of the vehicle; or
- (d) a scheduler for the vehicle.

[s 56]

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**56 Amendment of s 319 (Records record keeper must have)**

- (1) Section 319(1), after ‘must’—

*insert—*

, unless the record keeper has a reasonable excuse

- (2) Section 319(4) and (5)—

*omit.*

**57 Amendment of s 321 (Records record keeper must have)**

- (1) Section 321(1), after ‘must’—

*insert—*

, unless the record keeper has a reasonable excuse

- (2) Section 321(3), after ‘must’—

*insert—*

, unless the record keeper has a reasonable excuse,

- (3) Section 321(5) and (6)—

*omit.*

**58 Amendment of s 322 (General requirements about driver giving information to record keeper)**

- (1) Section 322(2), after ‘on that day’—

*insert—*

, unless the driver has a reasonable excuse

- (2) Section 322(4), after ‘ensure’—

*insert—*

, so far as is reasonably practicable,

- (3) Section 322(6) and (7) and note—

*omit.*

**59 Amendment of s 323 (Requirements about driver giving information to record keeper if driver changes record keeper)**

- (1) Section 323(2), after ‘period’—

*insert—*

, unless the driver has a reasonable excuse

- (2) Section 323(3), after ‘ensure’—

*insert—*

, so far as is reasonably practicable,

- (3) Section 323(6) and (7) and note—

*omit.*

**60 Amendment of s 324 (Record keeper must give information from electronic work diary)**

- (1) Section 324(2), ‘diary.’—

*omit, insert—*

diary, unless the record keeper has a reasonable excuse.

- (2) Section 324(4) and (5) and note—

*omit.*

**61 Amendment of s 325 (False or misleading entries)**

Section 325(1), ‘in a material particular’—

*omit.*

**62 Amendment of s 335 (Person must not tamper with approved electronic recording system)**

- (1) Section 335(3) and (4)—

*omit.*



[s 63]

---

(2) Section 335(5), ‘Also, in’—

*omit, insert—*

In

**63 Amendment of s 336 (Person using approved electronic recording system must not permit tampering with it)**

Section 336(2) and (3) and note—

*omit.*

**64 Amendment of s 336A (Reporting tampering or suspected tampering with electronic work diary)**

Section 336A(3) and (4) and note—

*omit.*

**65 Amendment of s 337 (Intelligent access reporting entity must not permit tampering with approved electronic recording system)**

Section 337(3) and (4) and note—

*omit.*

**66 Amendment of s 341 (Period for which, and way in which, records must be kept)**

(1) Section 341(1), (3) and (5), after ‘must’—

*insert—*

, unless the record keeper has a reasonable excuse,

(2) Section 341(2) and (7), after ‘must’, first mention—

*insert—*

, unless the record keeper has a reasonable excuse,

(3) Section 341(4), after ‘must’—

*insert—*

, unless the driver as record keeper has a reasonable excuse,

- (4) Section 341(9) and (10) and note—

*omit.*

**67 Amendment of s 376 (Keeping relevant document while operating under work diary exemption (notice))**

Section 376(3) to (6)—

*omit, insert—*

- (3) Each relevant party for a driver mentioned in subsection (2) must ensure the driver complies with subsection (2), unless the relevant party has a reasonable excuse.

Maximum penalty—\$3000.

**68 Amendment of s 396 (Owner must maintain odometer)**

- (1) Section 396(2), ‘regulations.’—

*omit, insert—*

regulations, unless the owner has a reasonable excuse.

- (2) Section 396(3) and (4) and note—

*omit.*

**69 Amendment of s 398 (What owner must do if odometer malfunctioning)**

Section 398(3) and (4) and note—

*omit.*

[s 70]

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**70 Amendment of s 399 (What employer or operator must do if odometer malfunctioning)**

(1) Section 399(2), after ‘must not’—

*insert—*

, without a reasonable excuse,

(2) Section 399(3) and (4) and note—

*omit.*

**71 Amendment of s 404 (Offence to give false or misleading information to intelligent access service provider)**

Section 404(1)(c) and (4)(c), ‘in a material particular’—

*omit.*

**72 Amendment of s 405 (Advising vehicle driver of collection of information by intelligent access service provider)**

Section 405(1), from ‘take’ to ‘information,’—

*omit, insert—*

, unless the operator has a reasonable excuse, ensure the vehicle’s driver is given the following information

**73 Amendment of s 407 (Advising driver of driver’s obligations about reporting system malfunctions)**

Section 407(1), from ‘must’ to ‘journey’—

*omit, insert—*

, before the vehicle begins a journey, must, unless the operator has a reasonable excuse, ensure the vehicle’s driver is told

**74 Amendment of s 410 (Collecting intelligent access information)**

Section 410(1) and (2), ‘take all reasonable steps to ensure’—

*omit, insert—*

ensure, so far as is reasonably practicable,

**75 Amendment of s 412 (Protecting intelligent access information)**

Section 412, from ‘take’ to ‘provider’—

*omit, insert—*

ensure, so far as is reasonably practicable,  
intelligent access information collected by the  
service provider is protected

**76 Amendment of s 421 (Destroying intelligent access information etc.)**

Section 421(1)—

*omit, insert—*

- (1) An intelligent access service provider must ensure, so far as is reasonably practicable—
  - (a) intelligent access information collected by the service provider is destroyed 1 year after the information is collected; and
  - (b) a record that the service provider is required to keep under section 419 is destroyed within 1 year after the service provider is no longer required to keep the record under that section.

Maximum penalty—\$6000.

[s 77]

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**77 Amendment of s 427 (Collecting intelligent access information)**

Section 427, ‘take all reasonable steps to ensure’—

*omit, insert—*

ensure, so far as is reasonably practicable,

**78 Amendment of s 428 (Protecting intelligent access information collected)**

Section 428, from ‘take’ to ‘it’—

*omit, insert—*

ensure, so far as is reasonably practicable,  
intelligent access information collected by TCA is  
protected

**79 Amendment of s 437 (Destroying intelligent access information or removing personal information from it)**

Section 437(1)—

*omit, insert—*

(1) TCA must ensure, so far as is reasonably practicable, intelligent access information collected by TCA is destroyed—

(a) generally—1 year after the information is collected; or

(b) if, at the end of that 1 year, the information is required for law enforcement purposes—as soon as practicable after the information is no longer required for law enforcement purposes.

Maximum penalty—\$6000.

**80 Amendment of s 441 (Collecting intelligent access information)**

Section 441, ‘take all reasonable steps to ensure’—

*omit, insert—*

ensure, so far as is reasonably practicable,

**81 Amendment of s 442 (Protecting intelligent access information collected)**

Section 442, from ‘take’ to ‘auditor’—

*omit, insert—*

ensure, so far as is reasonably practicable,  
intelligent access information collected by the  
auditor is protected

**82 Amendment of s 450 (Destroying intelligent access information or removing personal information from it)**

Section 450(1), from ‘take’ to ‘that’—

*omit, insert—*

ensure, so far as is reasonably practicable,  
intelligent access information held by the auditor  
is destroyed as soon as practicable after the  
information

**83 Amendment of s 459 (Application for heavy vehicle accreditation)**

Section 459(3), ‘taken all reasonable steps’—

*omit, insert—*

exercised reasonable diligence

[s 84]

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**84 Amendment of s 468 (Driver operating under BFM accreditation or AFM accreditation must carry accreditation details)**

Section 468(3) to (6)—

*omit, insert—*

- (3) The operator of the vehicle must ensure the driver complies with subsection (1), unless the operator has a reasonable excuse.

Maximum penalty—\$3000.

**85 Amendment of s 518 (Moving unattended heavy vehicle on road to exercise another power)**

Section 518(7), from ‘ensure’ to ‘reasonably practicable,’—

*omit, insert—*

exercise reasonable diligence to ensure

**86 Amendment of s 556 (Return of seized things or samples)**

Section 556(2), ‘take reasonable steps’—

*omit, insert—*

exercise reasonable diligence

**87 Amendment of s 557 (Power to issue embargo notice)**

Section 557(4)(b), ‘all reasonable steps have been taken’—

*omit, insert—*

the authorised officer exercises reasonable diligence

**88 Amendment of s 558 (Noncompliance with embargo notice)**

Section 558(3), from ‘take’ to ‘doing’—

*omit, insert—*

ensure, so far as is reasonably practicable, another person does not do

**89 Amendment of s 569 (Power to require production of documents etc. generally)**

Section 569(10)—

*omit.*

**90 Amendment of s 570 (Power to require information about heavy vehicles)**

Section 570(6), definition *information*—

*omit.*

**91 Insertion of new s 570A**

Part 9.4, Division 4—

*insert—*

**570A Requiring information**

- (1) This section applies if an authorised officer reasonably believes a person is capable of giving written or oral information—
  - (a) in relation to a possible contravention of a duty under section 26C; or
  - (b) that will assist the authorised officer to monitor or enforce compliance with the duty under section 26C.
- (2) The authorised officer may, by notice, require the person to give the information to the authorised officer.
- (3) If the authorised officer, despite reasonable diligence, has not been able to obtain the



[s 91]

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information under subsection (2), the authorised officer may, by notice given to the person, require the person to give the information to a person appointed by the authorised officer.

- (4) The notice must state—
  - (a) that—
    - (i) the requirement is made under this section; and
    - (ii) failing to comply with the requirement is an offence; and
  - (b) if the notice requires the person to give written information—the time and way, that is reasonable in the circumstances, in which the person must give the information; and
  - (c) if the notice requires the person to give oral information—
    - (i) the day, time and place, that is reasonable in the circumstances, for the person to appear before the person appointed by the authorised officer; and
    - (ii) that the person may appear with an Australian legal practitioner; and
  - (d) the effect of—
    - (i) subsections (7) and (8); and
    - (ii) section 735A.
- (5) The person must comply with a requirement under this section, unless the person has a reasonable excuse.  
Maximum penalty—\$10000.
- (6) It is not a reasonable excuse for the person to fail to comply with a requirement made under this

section on the ground that complying with the requirement might tend to incriminate the person or make the person liable to a penalty.

- (7) However, the following information is not admissible as evidence against an individual in a civil or criminal proceeding, other than a proceeding for false or misleading information—
  - (a) information that the individual gives in complying with a requirement under this section;
  - (b) information that is directly or indirectly derived from information mentioned in paragraph (a).
- (8) An authorised officer may act under this section only if—
  - (a) for an authorised officer who is a police officer—the officer has the relevant police commissioner’s written authority to act under this section; or
  - (b) for an authorised officer who is not a police officer—the officer’s instrument of appointment provides that the authorised officer may act under this section.

**92 Amendment of s 578 (Duty to minimise inconvenience or damage)**

Section 578(1), ‘take all reasonable steps’—

*omit, insert—*

exercise reasonable diligence

**93 Amendment of s 579 (Restoring damaged thing)**

Section 579(2), ‘take all reasonable steps’—

[s 94]

---

*omit, insert—*

exercise reasonable diligence

**94 Amendment of s 588 (Evidential immunity for individuals complying with particular requirements)**

Section 588(2)(a) and (b)—

*omit, insert—*

- (a) information, other than information in the form of a document, that the individual gives in complying with the requirement;
- (b) information that is directly or indirectly derived from information to which paragraph (a) applies.

**95 Amendment of s 590 (Formal warning)**

Section 590(1)(b), ‘taken reasonable steps’—

*omit, insert—*

exercised reasonable diligence

**96 Insertion of new Pt 10.1A**

After Part 10.1—

*insert—*

**Part 10.1A Enforceable undertakings**

**590A Accepting undertaking**

- (1) This section applies if a person contravenes or is alleged to have contravened this Law, other than section 26F.

- (2) The Regulator or an authorised officer (the *promisee*) may accept an undertaking made by the person in relation to the contravention or alleged contravention.
- (3) The undertaking must be in the approved form.
- (4) The promisee may accept the undertaking only if the promisee reasonably believes the undertaking will ensure the person complies with this Law.
- (5) The promisee may accept the undertaking at any time before the proceeding for the contravention, or alleged contravention, ends.
- (6) If the promisee accepts an undertaking before the proceeding ends, the promisee must use reasonable diligence to have the proceeding discontinued as soon as possible.
- (7) The promisee must give the person written notice of—
  - (a) the promisee’s decision to accept or reject the undertaking; and
  - (b) the reasons for the decision.
- (8) If the promisee decides to accept the undertaking and the promisee is not the Regulator, the promisee must give the following documents to the Regulator within 28 days after accepting the undertaking—
  - (a) a copy of the undertaking;
  - (b) a statement of the reasons for the promisee’s decision to accept the undertaking.
- (9) The Regulator must publish the following information on the Regulator’s website—
  - (a) a promisee’s decision to accept an undertaking under this section;
  - (b) the reasons for the decision.

[s 96]

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- (10) An authorised officer may act under this section only if—
  - (a) for an authorised officer who is a police officer—the officer has the relevant police commissioner’s written authority to act under this section; or
  - (b) for an authorised officer who is not a police officer—the officer’s instrument of appointment provides that the authorised officer may act under this section.

### **590B Effect of undertaking**

- (1) An undertaking takes effect—
  - (a) when the promisee gives notice of the decision to accept the undertaking to the person who made the undertaking; or
  - (b) at a later time stated in the notice.
- (2) While the undertaking is in effect, the person must comply with the undertaking.  
Maximum penalty—\$10000.
- (3) If the person complies with the undertaking, no proceeding for the contravention or alleged contravention may be taken against the person.
- (4) The offer to make, or the making of, an undertaking is not an admission of guilt by the person offering to make, or making, the undertaking.

### **590C Withdrawing or changing undertaking**

- (1) The person who made an undertaking may, at any time, with the written agreement of the promisee—

- (a) withdraw the undertaking; or
  - (b) change the undertaking.
- (2) However, the provisions of the undertaking may not be changed to provide for a different contravention or alleged contravention of this Law.
- (3) If the promisee is not the Regulator, the promisee must give notice of the withdrawal or change of the undertaking to the Regulator.
- (4) The Regulator must publish notice of the withdrawal or change on the Regulator's website.

### **590D Contravening undertaking**

- (1) The promisee may apply to a relevant tribunal or court for an order if the person who made an undertaking fails to comply with the undertaking.
- (2) If the relevant tribunal or court is satisfied the person has failed to comply with the undertaking, the relevant tribunal or court, as well as imposing any penalty, may make—
  - (a) an order directing the person to comply with the undertaking; or
  - (b) an order discharging the undertaking.
- (3) Also, the relevant tribunal or court may make any other order that the tribunal or court considers appropriate in the circumstances, including an order directing the person to pay to the State—
  - (a) the costs of the proceeding; and
  - (b) the reasonable costs of the promisee in monitoring whether the person complies with the undertaking in the future.
- (4) Nothing in this section prevents a proceeding being taken for the contravention or alleged

[s 97]

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contravention to which the undertaking relates.

**97 Amendment of s 592 (Recording information about infringement penalties)**

Section 592(2)(c)—

*omit.*

**98 Amendment of s 611 (Court may make compensation order)**

Section 611, note—

*omit, insert—*

*Note—*

See section 707A for the period within which a proceeding for an offence against this Law, other than an indictable offence, must start.

**99 Omission of Pt 10.4, Divs 1 and 2**

Part 10.4, Divisions 1 and 2—

*omit.*

**100 Replacement of Pt 10.4, Div 3, hdg (Other defences)**

Part 10.4, Division 3, heading—

*omit, insert—*

**Division 3                      Defences**

**101 Insertion of new s 632A**

After section 632—

*insert—*

### **632A Using code of practice in proceeding**

- (1) This section applies in a proceeding for an offence against this Law.
- (2) A registered industry code of practice is admissible as evidence of whether or not a duty or obligation under this Law has been complied with.
- (3) The court may—
  - (a) have regard to the code as evidence of what is known about a hazard or risk, risk assessment, or risk control, to which the code relates; and
  - (b) rely on the code in determining what is reasonably practicable in the circumstances to which the code relates.
- (4) Nothing in this section prevents a person from introducing evidence of complying with this Law in a way that differs from the code but that provides a standard of safety or protection equivalent to or higher than the standard required in the code.
- (5) However, the person may introduce the evidence mentioned in subsection (4) only if the person has given written notice of the person's intention to do so to the complainant at least 28 days before the day fixed for the hearing of the offence.

## **102 Amendment of s 634 (Multiple offences)**

- (1) Section 634(3)—

*insert—*

- (c) 2 or more contraventions of a provision by a person that arise from the same factual circumstances may be charged as—



[s 103]

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- (i) a single offence; or
- (ii) separate offences.

(2) Section 634—

*insert—*

- (4) Subsection (3)(c) does not authorise contraventions of 2 or more provisions to be charged as a single offence.
- (5) A single penalty only may be imposed in relation to 2 or more contraventions of a provision that are charged as a single offence.

**103 Amendment of s 636 (Liability of executive officers of corporation)**

Section 636(2) and (3)—

*omit, insert—*

- (2) An executive officer of a corporation commits an offence if—
  - (a) the corporation commits an offence against a provision of this Law specified in column 3 of Schedule 4; and
  - (b) the officer did not exercise reasonable diligence to ensure the corporation did not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of the provision by an individual.

- (3) In deciding whether the executive officer exercised reasonable diligence for subsection (2)(b), a court must have regard to—
  - (a) whether the officer was in a position to influence the corporation's conduct in relation to the offence; and

- (b) the action the officer took, or could reasonably have taken, to prevent the corporation's conduct constituting the offence; and
- (c) any other relevant matter.

**104 Amendment of s 637 (Treatment of unincorporated partnerships)**

- (1) Section 637(4), from 'this Law' to 'subsection (5))'—

*omit, insert—*

a provision of this Law specified in column 2 of Schedule 4

- (2) Section 637(5) and (6)—

*omit, insert—*

- (5) An offence against a provision of this Law specified in column 3 of Schedule 4 that would otherwise be committed by the partnership is taken to have been committed by each partner who did not exercise reasonable diligence to ensure the partnership did not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of the provision by an individual.

- (6) In deciding whether the partner exercised reasonable diligence for subsection (5), a court must have regard to—

- (a) whether the partner was in a position to influence the partnership's conduct constituting the offence; and
- (b) the action the partner took, or could reasonably have taken, to prevent the partnership's conduct constituting the offence; and

[s 105]

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(c) any other relevant matter.

**105 Amendment of s 638 (Treatment of other unincorporated bodies)**

(1) Section 638(4), from ‘this Law’ to ‘subsection (5)’—

*omit, insert—*

a provision of this Law specified in column 2 of  
Schedule 4

(2) Section 638(5) and (6)—

*omit, insert—*

(5) An offence against a provision of this Law specified in column 3 of Schedule 4 that would otherwise be committed by the unincorporated body is taken to have been committed by each management member who did not exercise reasonable diligence to ensure the body did not engage in the conduct constituting the offence.

Maximum penalty—the penalty for a contravention of the provision by an individual.

(6) In deciding whether the management member exercised reasonable diligence for subsection (5), a court must have regard to—

(a) whether the management member was in a position to influence the unincorporated body’s conduct constituting the offence; and

(b) the action the management member took, or could reasonably have taken, to prevent the unincorporated body’s conduct constituting the offence; and

(c) any other relevant matter.

(3) Section 638(10)—

*omit.*

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**106 Amendment of s 701 (False or misleading statements)**

Section 701(1) and (2), ‘in a material particular’—  
*omit.*

**107 Amendment of s 702 (False or misleading documents)**

Section 702(1) and (3), ‘in a material particular’—  
*omit.*

**108 Replacement of s 707 (Proceedings for offences)**

Section 707—  
*omit, insert—*

**707 Proceeding for indictable offences**

- (1) The prosecution may bring a proceeding for an indictable offence—
  - (a) on indictment; or
  - (b) in a summary way.
- (2) However, a court of summary jurisdiction must not hear and decide an indictable offence in a summary way if—
  - (a) at the start of the hearing, the defendant asks for the charge to be prosecuted on indictment; or
  - (b) the court is satisfied—
    - (i) after hearing submissions from the prosecution and defence at any stage of the hearing, that the defendant, if convicted, may not be adequately punished for the particular offence on a summary conviction; or
    - (ii) on an application made by the defence, that the charge should not be heard and

[s 109]

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decided in a summary way because of exceptional circumstances.

- (3) If the court decides that the offence be prosecuted on indictment—
  - (a) the court must conduct the proceeding as a committal proceeding; and
  - (b) any evidence given in the proceeding, before the court decided that the offence be prosecuted on indictment, is taken to be evidence in the committal proceeding; and
  - (c) the court must disregard any plea that the defendant made at the start of the proceeding.

### **707A Proceeding for other offences**

- (1) The prosecution must bring a proceeding for an offence against this Law, other than an indictable offence, in a summary way.
- (2) The proceeding must start—
  - (a) within 2 years after the offence is committed; or
  - (b) within 1 year after the commission of the offence comes to the complainant's knowledge, but within 3 years after the offence is committed.
- (3) A statement in a complaint for an offence against this Law that the matter of the complaint came to the complainant's knowledge on a stated day is evidence of when the matter came to the complainant's knowledge.

## **109 Amendment of s 710 (Averments)**

Section 710(3)—

*omit.*

## **110 Insertion of new s 726A**

Part 13.3, Division 2—

*insert—*

### **726A Evidence of offence**

(1) In a proceeding for an offence against this Law—

- (a) evidence of a court convicting a person of a heavy vehicle offence is evidence that the heavy vehicle offence happened at the time and place, and in the circumstances, stated in the complaint for the heavy vehicle offence; and
- (b) evidence of details stated in an infringement notice issued for a heavy vehicle offence is evidence that the heavy vehicle offence happened at the time and place, and in the circumstances, stated in the infringement notice.

(2) In this section—

***heavy vehicle offence*** means—

- (a) an offence against this Law; or
- (b) an offence by the driver of a heavy vehicle of exceeding a speed limit applying to the driver.

## **111 Insertion of new s 735A**

After section 735—

*insert—*

### **735A Legal professional privilege**

Nothing in this Law compels a person to give

[s 112]

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information that is the subject of legal professional privilege to another person.

**112 Amendment of s 742 (Contracting out prohibited)**

Section 742(4)—

*omit.*

**113 Replacement of Sch 4 (Provisions specified for liability of executive officers for offences by corporations)**

Schedule 4—

*omit, insert—*

**Schedule 4 Liability provisions**

sections 636, 637 and 638

The provisions specified in column 2 of the following table are specified for the purposes of sections 636(1), 637(4) and 638(4). The provisions specified in column 3 of the table are specified for the purposes of sections 636(2), 637(5) and 638(5).

Column 1	Column 2	Column 3
Section of this Law	Provision specified for sections 636(1), 637(4) and 638(4)	Provision specified for sections 636(2), 637(5) and 638(5)
26E	26E(1), 26E(2)	26E(1), 26E(2)
30	30(1)	30(1)
50	50(1), 50(2)	---
60	60(1)	---
79	79(2)	---

Heavy Vehicle National Law and Other Legislation Amendment Bill 2016  
Chapter 2 Responsibility amendments  
Part 2 Amendment of Heavy Vehicle National Law

[s 113]

Column 1	Column 2	Column 3
Section of this Law	Provision specified for sections 636(1), 637(4) and 638(4)	Provision specified for sections 636(2), 637(5) and 638(5)
81	81(1), 81(2), 81(3)	---
85	85(1), 85(2)	---
87A	87A(1)	---
89	89(1)	89(1)
93	93(1), 93(2), 93(3)	93(1), 93(2), 93(3)
129	129(1), 129(2), 129(3)	129(1), 129(2), 129(3)
130	130(3)	---
137	137	137
150	150(1)	150(1)
153A	153A(1)	153A(1)
181	181(3)	---
185	185(1), 185(2)	---
186	186(2), 186(3), 186(4), 186(5)	186(2), 186(3), 186(4), 186(5)
187	187(2), 187(3)	187(2), 187(3)
190	190(1)	---
191	191(1), 191(3)	---
193	193(2)	---
264	264(2)	---
284	284(2)	---
286	286(1)	---
310	310(2)	---



Heavy Vehicle National Law and Other Legislation Amendment Bill 2016  
Chapter 2 Responsibility amendments  
Part 2 Amendment of Heavy Vehicle National Law

[s 113]

Column 1	Column 2	Column 3
Section of this Law	Provision specified for sections 636(1), 637(4) and 638(4)	Provision specified for sections 636(2), 637(5) and 638(5)
311	311(2)	---
312	312(2)	---
313	313(2), 313(3)	---
314	314(3)	---
315	315(1)	---
319	319(1)	---
321	321(1), 321(3)	---
322	322(4)	---
323	323(3)	---
324	324(2)	---
324A	324A(2)	---
327	327	---
328	328	---
329	329	---
330	330(1)	---
331	331	---
332	332	---
335	335(1)	335(1)
336	336(1)	336(1)
336A	336A(1)	---
337	337(2)	337(2)

Heavy Vehicle National Law and Other Legislation Amendment Bill 2016  
Chapter 2 Responsibility amendments  
Part 2 Amendment of Heavy Vehicle National Law

[s 113]

Column 1	Column 2	Column 3
Section of this Law	Provision specified for sections 636(1), 637(4) and 638(4)	Provision specified for sections 636(2), 637(5) and 638(5)
341	341(1), 341(2), 341(3), 341(5)	---
347	347	---
354	354(3), 354(5)	---
355	355(2), 355(4), 355(6)	---
373	373(2)	---
375	375	---
396	396(2)	---
398	398(2)	---
399	399(2)	---
404	404(1), 404(4)	---
405	405(1)	---
406	406(1), 406(2)	---
417	417	---
422	422(2)	---
423	423(1)	---
424	424(1), 424(3)	---
451	451	---
452	452	---
453	453(1), 453(2)	---
454	454(1), 454(2)	454(1), 454(2)
467	467	467

Heavy Vehicle National Law and Other Legislation Amendment Bill 2016  
Chapter 2 Responsibility amendments  
Part 2 Amendment of Heavy Vehicle National Law

[s 113]

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Section of this Law</b>	<b>Provision specified for sections 636(1), 637(4) and 638(4)</b>	<b>Provision specified for sections 636(2), 637(5) and 638(5)</b>
470	470(2), 470(3), 470(4), 470(5), 470(6)	470(2), 470(3), 470(4)
471	471(2)	---
476	476(2)	---
478	478(1), 478(2), 478(3), 478(4)	---
514	514(3)	---
516	516(3)	---
517	517(4)	---
528	528(3)	---
529	529	---
531A	531A(5)	---
533	533(7)	---
534	534(5)	---
535	535(5)	---
553	553(3)	---
558	558(1), 558(3)	---
559	559(3), 559(4), 559(5)	---
567	567(4)	---
568	568(7)	---
569	569(2), 569(7)	---
570	570(3)	---

Heavy Vehicle National Law and Other Legislation Amendment Bill 2016  
Chapter 2 Responsibility amendments  
Part 2 Amendment of Heavy Vehicle National Law

[s 113]

Column 1	Column 2	Column 3
Section of this Law	Provision specified for sections 636(1), 637(4) and 638(4)	Provision specified for sections 636(2), 637(5) and 638(5)
570A	570A(5)	---
573	573(1)	---
577	577(4)	---
590B	590B(2)	---
604	604	604
610	610	610
699	699(1), 699(2)	---
700	700(4)	---
702	702(1), 702(3)	---
703	703(1), 703(2)	---
704	704(1), 704(2), 704(3)	---
728	728(1)	---
728A	728A(1)	---
729	729(1), 729(3)	---
729A	729A(1), 729A(2)	---

## **Chapter 3            Maintenance amendments**

### **Part 1                    Amendment of Heavy Vehicle National Law Act 2012**

#### **114    Act amended**

This part amends the *Heavy Vehicle National Law Act 2012*.

#### **115    Amendment of s 26 (Amendment or cancellation of mass or dimension exemption (notice) on request by commissioner)**

Section 26(4)—

*omit, insert—*

- (4) The Regulator must publish notice of the amendment or cancellation—
  - (a) in the Commonwealth Gazette; and
  - (b) on the Regulator’s website; and
  - (c) if the Regulator considers it appropriate—in another way, including, for example, in a national newspaper.

### **Part 2                    Amendment of Heavy Vehicle National Law**

#### **116    Law amended**

This part amends the Heavy Vehicle National Law set out in the Schedule to the *Heavy Vehicle National Law Act 2012*.

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**117 Amendment of s 5 (Definitions)**

Section 5—

*insert—*

***public notice*** means a notice—

- (a) in the Commonwealth Gazette; and
- (b) on the Regulator’s website; and
- (c) if the Regulator considers it appropriate—in another way, including, for example, in a national newspaper.

**118 Amendment of s 45 (Amendment or cancellation of registration exemption)**

- (1) Section 45(3), from ‘notice in’ to ‘website’—

*omit, insert—*

public notice

- (2) Section 45(5)—

*omit, insert—*

- (5) The Regulator must publish a public notice of the amendment or cancellation.

- (3) Section 45(6)(a)—

*omit, insert—*

- (a) 28 days after the Commonwealth Gazette notice is published under subsection (5); or

**119 Amendment of s 46 (Immediate suspension)**

- (1) Section 46(2) and (3)—

*omit, insert—*

- (2) The Regulator may, by public notice, immediately suspend the exemption until the

[s 120]

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earliest of the following—

- (a) the end of 56 days after the day the public notice is published;
- (b) the Regulator publishes a notice under section 45(5) and the amendment or cancellation takes effect under section 45(6);
- (c) the Regulator cancels the suspension by public notice.

(2) Section 46(6)—

*omit.*

**120 Amendment of s 66 (Amendment or cancellation of vehicle standards exemption (notice))**

(1) Section 66(3), from ‘notice in’ to ‘website’—

*omit, insert—*

public notice

(2) Section 66(5)—

*omit, insert—*

- (5) The Regulator must publish a public notice of the amendment or cancellation.

(3) Section 66(6)(a)—

*omit, insert—*

- (a) 28 days after the Commonwealth Gazette notice is published under subsection (5); or

**121 Amendment of s 67 (Immediate suspension on Regulator’s initiative)**

Section 67(2) and (3)—

*omit, insert—*

- (2) The Regulator may, by public notice, immediately suspend the exemption until the earliest of the following—
  - (a) the end of 56 days after the day the public notice is published;
  - (b) the Regulator publishes a notice under section 66(5) and the amendment or cancellation takes effect under section 66(6);
  - (c) the Regulator cancels the suspension by public notice.

**122 Amendment of s 173 (Amendment or cancellation on Regulator’s initiative)**

- (1) Section 173(3), from ‘notice in’ to ‘website’—  
*omit, insert—*  
public notice
- (2) Section 173(5)—  
*omit, insert—*
  - (5) The Regulator must publish a public notice of the amendment or cancellation.
- (3) Section 173(7)—  
*omit.*

**123 Amendment of s 174 (Amendment or cancellation on request by relevant road manager)**

- (1) Before section 174(2)(a)(i)—  
*insert—*
  - (ia) amending the category of vehicle to which the authority applies; or



[s 124]

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(ib) amending the type of load that may be carried by vehicles to which the authority applies; or

(2) Section 174(5)—

*omit, insert—*

(5) The Regulator must publish a public notice of the amendment or cancellation.

(3) Section 174(7)—

*omit.*

## **124 Amendment of s 175 (Immediate suspension)**

(1) Section 175(2) and (3)—

*omit, insert—*

(2) The Regulator may, by public notice, immediately suspend the authority until the earliest of the following—

(a) the end of 56 days after the day the public notice is published;

(b) the Regulator publishes a notice under section 173(5) or 174(5) and the amendment or cancellation takes effect under section 173(6) or 174(6);

(c) the Regulator cancels the suspension by public notice.

(2) Section 175(6)—

*omit.*

## **125 Insertion of new s 175A**

Part 4.7, Division 3—

*insert—*

### **175A Minor amendment**

- (1) The Regulator may amend a mass or dimension authority, granted by Commonwealth Gazette notice, in a minor respect—
  - (a) for a formal or clerical reason; or
  - (b) in another way that does not adversely affect the interests of a person who is operating under the authority.
- (2) The Regulator must publish a public notice of the amendment.

### **126 Amendment of s 176 (Amendment or cancellation on application by permit holder)**

- (1) Section 176(6)—

*insert—*

- (d) if the authority is amended to change the vehicle to which the authority applies to an equivalent vehicle, the Regulator must give notice of the amendment to the relevant road manager within 28 days after the authority is amended.

- (2) Section 176—

*insert—*

- (8) In this section—

***equivalent vehicle***, of another vehicle, means a vehicle that—

- (a) is of the same category as the other vehicle; and
- (b) has mass requirements that are no more than the mass requirements applying to the other vehicle; and

[s 127]

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- (c) has dimension requirements that are no more than the dimension requirements applying to the other vehicle; and
- (d) poses no greater public risk than the other vehicle.

**127 Amendment of s 180 (Minor amendment of permit for a mass or dimension authority)**

Section 180(2)—

*omit, insert—*

- (2) The Regulator must give notice of the amendment to the relevant road manager—
  - (a) if the authority is amended for a formal or clerical reason—within 28 days after the authority is amended; or
  - (b) if the authority is amended in another way—as soon as practicable, but no later than 7 days, after the authority is amended.

**128 Amendment of s 271 (Amendment or cancellation of work and rest hours exemption (notice))**

- (1) Section 271(3), from ‘notice in’ to ‘website’—

*omit, insert—*

public notice

- (2) Section 271(5)—

*omit, insert—*

- (5) The Regulator must publish a public notice of the amendment or cancellation.
- (3) Section 271(6)(a)—  
*omit, insert—*

- (a) 28 days after the Commonwealth Gazette notice is published under subsection (5); or

**129 Amendment of s 272 (Immediate suspension)**

- (1) Section 272(2) and (3)—

*omit, insert—*

- (2) The Regulator may, by public notice, immediately suspend the exemption until the earliest of the following—

- (a) the end of 56 days after the day the public notice is published;
- (b) the Regulator publishes a notice under section 271(5) and the amendment or cancellation takes effect under section 271(6);
- (c) the Regulator cancels the suspension by public notice.

- (2) Section 272(6)—

*omit.*

**130 Amendment of s 362 (Amendment or cancellation of work diary exemption (notice))**

- (1) Section 362(3), from ‘notice in’ to ‘website’—

*omit, insert—*

public notice

- (2) Section 362(5)—

*omit, insert—*

- (5) The Regulator must publish a public notice of the amendment or cancellation.

- (3) Section 362(7)—

[s 131]

---

*omit.*

**131 Amendment of s 382 (Amendment or cancellation of fatigue record keeping exemption (notice))**

- (1) Section 382(3), from ‘notice in’ to ‘website’—

*omit, insert—*

public notice

- (2) Section 382(5)—

*omit, insert—*

- (5) The Regulator must publish a public notice of the amendment or cancellation.

- (3) Section 382(7)—

*omit.*

**132 Amendment of s 457 (Definitions for Ch 8)**

Section 457, definition *mass management system*, paragraph (b)(i)—

*omit, insert—*

- (i) weighing or otherwise assessing the weight of the vehicle and its load before the vehicle starts a journey, or starts a part of a journey, after the load is increased;

**133 Amendment of s 466 (Accreditation labels for maintenance management accreditation and mass management accreditation)**

Section 466—

*insert—*

- (2A) The operator must attach the accreditation label for a relevant vehicle to the vehicle in a way that

the label—

- (a) is readable from outside the vehicle; and
- (b) is not wholly or partly obscured, defaced or otherwise not legible.

Maximum penalty—\$3000.

- (2B) A person must not drive a relevant vehicle if the vehicle's accreditation label—

- (a) is not attached to the vehicle; or
- (b) is attached to the vehicle in a way that the label is wholly or partly obscured, defaced or otherwise not legible.

Maximum penalty—\$3000.

## 134 Insertion of new ss 531A and 531B

Part 9.3, Division 6—

*insert—*

### 531A Self-clearing defect notices

- (1) This section applies if an authorised officer who has inspected a heavy vehicle under this Law reasonably believes—
  - (a) the vehicle is a defective heavy vehicle, but the use of the vehicle on a road does not pose a safety risk; or
  - (b) a number plate of the vehicle is wholly or partly obscured, defaced or otherwise not legible.
- (2) The authorised officer may issue a notice (a ***self-clearing defect notice***), in the approved form, in relation to the heavy vehicle.
- (3) The authorised officer may issue the self-clearing defect notice by—

[s 134]

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- (a) if the driver of the heavy vehicle is present—giving the notice to the driver; or
- (b) if the driver of the heavy vehicle is not present—attaching the notice to the vehicle.
- (4) If the driver of a heavy vehicle for which a self-clearing defect notice is issued is not the operator of the vehicle, the driver must give the notice to the operator as soon as practicable, but not more than 14 days, after the notice is issued.

Maximum penalty—\$3000.

- (5) A person must not use, or permit to be used, on a road a heavy vehicle in contravention of a self-clearing defect notice.

Maximum penalty—\$3000.

### **531B Requirements about self-clearing vehicle defect notice**

- (1) A self-clearing defect notice for a heavy vehicle must state—
  - (a) that—
    - (i) the vehicle is a defective heavy vehicle and details of how the vehicle is a defective heavy vehicle; or
    - (ii) a number plate of the vehicle is wholly or partly obscured, defaced or otherwise not legible; and
  - (b) that corrective action must be taken as soon as practicable, but not more than 28 days, after the notice is issued; and
  - (c) the name of the vehicle's driver if known by the authorised officer when issuing the notice or, if the driver is not present or the driver's name is not known by the

- authorised officer when issuing the notice, the term ‘registered operator’; and
- (d) details to identify the vehicle, including, for example—
    - (i) the vehicle’s registration number or, if the vehicle is not registered, a vehicle identifier of the vehicle; and
    - (ii) the vehicle’s make and category; and
  - (e) the nature of the inspection that led to the notice being issued; and
  - (f) whether an infringement notice was also given when the notice was issued; and
  - (g) the identification details for the authorised officer; and
  - (h) the day and time the notice was issued; and
  - (i) the number of the notice; and
  - (j) that if the driver of the vehicle is not the operator of the vehicle, the driver must give the notice to the operator as soon as practicable, but not more than 14 days, after the notice is issued; and
  - (k) that a person must not use, or permit to be used, on a road the heavy vehicle in contravention of the notice.
- (2) In this section—
- corrective action*** means the action that is required to stop—
- (a) the vehicle from being a defective heavy vehicle; or
  - (b) a number plate of the vehicle being wholly or partly obscured, defaced or otherwise not legible.



[s 135]

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**135 Amendment of s 586 (Multiple requirements)**

- (1) Section 586, after ‘direction’—

*insert—*

or notice

- (2) Section 586—

*insert—*

(ba) give a notice to a person in relation to a heavy vehicle under a provision of this Chapter and give a notice to a person in relation to the same heavy vehicle under the same provision or 1 or more other provisions of this Chapter; or

- (3) Section 586(c), after ‘directions’—

*insert—*

, notices

- (4) Section 586(c), ‘or (b)’—

*omit, insert—*

, (b) or (ba)

**136 Insertion of new s 655A**

Part 12.1—

*insert—*

**655A Delegation by responsible Ministers**

- (1) The responsible Ministers may delegate to the Board the function of approving a minor amendment of—

- (a) a guideline mentioned in section 653; or  
(b) an approval mentioned in section 654.

- (2) In this section—

*minor amendment*, of a guideline or approval, means an amendment of the guideline or approval in a minor respect—

- (a) for a formal or clerical reason; or
- (b) in another way that does not—
  - (i) increase a safety risk; or
  - (ii) increase a risk of damage to road infrastructure; or
  - (iii) cause an adverse effect on public amenity; or
  - (iv) make a person liable to a penalty.

### 137 Insertion of new s 740A

After section 740—

*insert—*

#### **740A Increase of fee amounts**

- (1) This section applies to a fee payable under section 740, including a fee whose amount has already been increased by a previous application or applications of this section.
- (2) At the start of 1 July of each year, starting with 1 July 2016, the amount of the fee is increased from the amount that applied immediately before that 1 July, in accordance with the method prescribed by the national regulations for the purposes of this section.

*Note—*

In some circumstances, the operation of the method can result in no increases occurring on a particular 1 July.

- (3) A recommendation of the responsible Ministers for national regulations prescribing a method for the increase of fees may not be made unless the

[s 138]

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responsible Ministers are satisfied the method generally accords with increases in relevant inflation indexes or similar indexes.

- (4) As soon as practicable, but before 1 July of each year, the Regulator must, by public notice, publish the amounts of each fee applying as from that date.

## **138 Insertion of new Pt 14.4**

Chapter 14—

*insert—*

### **Part 14.4 Heavy Vehicle National Law and Other Legislation Amendment Act 2016 (Queensland)**

#### **759 Application of s 737 to a new penalty**

- (1) The enactment of a new penalty includes the enactment of an increase in the amount of penalty applying under section 737, to take effect when the new penalty commences.
- (2) For the purpose of applying section 737 under subsection (1) to a new penalty, the amount of penalty applying under section 737 is to be calculated as if—
- (a) the new penalty had commenced before 1 July 2014; and
  - (b) the amount of penalty applying had been increased under section 737(2) on 1 July 2014 and any later 1 July happening before the new penalty actually commences.

(3) In this section—

***new penalty*** means a penalty stated at the end of a provision enacted by the *Heavy Vehicle National Law and Other Legislation Amendment Act 2016* (Queensland).

### 139 Amendment of various provisions

Each provision mentioned in column 1 is amended by omitting the words in column 2 and inserting the words in column 3—

Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 5 section 403 section 404	intelligent access agreement	intelligent access program agreement
section 5 section 403 section 433 section 440 section 447 section 450	intelligent access audit	intelligent access program audit

[s 139]

Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 5 section 411 section 417 section 419 section 433 section 440 section 441 section 442	intelligent access auditor	intelligent access program auditor
section 443 section 444 section 445 section 446 section 447 section 448 section 449 section 450 section 451 section 452 section 453 section 721		
Part 7.6, heading	intelligent access auditors	intelligent access program auditors
section 449	intelligent access auditor's	intelligent access program auditor's

Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 154	intelligent access condition	intelligent access program condition
section 5 section 119 section 125 section 146 section 400 section 402	intelligent access conditions	intelligent access program conditions
section 403 section 404		
section 455	intelligent access identifier	intelligent access program identifier
section 455	intelligent access identifiers	intelligent access program identifiers

[s 139]

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Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 5	intelligent access information	intelligent access program information
section 400		
section 403		
section 409		
section 410		
section 411		
section 412		
section 416		
section 418		
section 419		
section 421		
section 426		
section 427		
section 428		
section 432		

Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 433 section 434 section 435 section 437 section 440 section 441 section 442 section 446 section 447 section 448 section 449 section 450 section 454 section 727		
section 5 section 221 section 310 section 313 section 337	intelligent access reporting entity	intelligent access program reporting entity



Heavy Vehicle National Law and Other Legislation Amendment Bill 2016  
Chapter 3 Maintenance amendments  
Part 2 Amendment of Heavy Vehicle National Law

[s 139]

Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 5	intelligent access service	intelligent access program
section 402	provider	service provider
section 403		
section 404		
section 405		
section 409		
section 410		
section 411		
section 412		
section 413		
section 414		
section 415		
section 416		
section 417		
section 418		
section 419		
section 420		
section 421		
section 422		
section 423		
section 424		
section 447		
section 451		
section 452		
section 721		

Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 5 section 400 Part 7.4, heading section 425 section 451	intelligent access service providers	intelligent access program service providers
section 419	intelligent access service provider's	intelligent access program service provider's
section 5 section 403 section 404 section 405 section 406 section 407 section 408 section 409 section 418 section 422 section 423 section 425 section 433 section 447 section 452 section 455	intelligent access vehicle	intelligent access program vehicle

[s 140]

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Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 400 Part 7.2, heading Part 7.3, heading	intelligent access vehicles	intelligent access program vehicles
section 405	intelligent access vehicle's	intelligent access program vehicle's

## Chapter 4      Amendment of Transport Operations (Passenger Transport) Act 1994

### 140      Act amended

This chapter amends the *Transport Operations (Passenger Transport) Act 1994*.

### 141      Insertion of new s 155A

Chapter 12—

*insert—*

#### **155A Taxi and limousine industry assistance regulation**

- (1) A regulation may provide for a scheme for the payment of financial assistance to certain persons who—
  - (a) have held or hold—
    - (i) a taxi service licence; or

- (ii) a limousine service licence, other than a special purpose limousine service licence; or
- (b) have been or are—
  - (i) an accredited operator of a taxi service; or
  - (ii) an accredited operator of a service for the administration of taxi services; or
  - (iii) an accredited operator of a limousine service, other than a limousine service provided under a special purpose limousine service licence.
- (2) For example, a regulation may provide for—
  - (a) the criteria for eligibility to receive financial assistance; or
  - (b) proof of eligibility; or
  - (c) applications for financial assistance; or
  - (d) the period within which applications for financial assistance may be made; or
  - (e) the provision of additional information or records by applicants; or
  - (f) the determination of applications for financial assistance; or
  - (g) conditions on payment of financial assistance; or
  - (h) the review of decisions relating to applications for financial assistance; or
  - (i) the amount payable to a person who is eligible for financial assistance; or
  - (j) the repayment of all or part of financial assistance paid to a person who—
    - (i) was not eligible for the assistance; or

[s 141A]

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- (ii) did not comply with conditions on payment of the assistance.
- (3) This section, and any regulation made under this section, expire 2 years after this section commences.

## **141A Insertion of new ch 12, pt 4**

Chapter 12—

*insert—*

### **Part 4                      Other provision**

#### **155BImplementing particular recommendations of parliamentary committee**

- (1) The Minister must, within 3 months after the commencement, table in the Legislative Assembly a document containing—
  - (a) a draft Bill or proposed subordinate legislation implementing action in response to the relevant recommendations; and
  - (b) proposed dates for—
    - (i) the introduction into the Legislative Assembly of a Bill substantially in accordance with the draft Bill or the making of subordinate legislation substantially in accordance with the draft proposed subordinate legislation; and
    - (ii) the commencement of the provisions of the Bill or proposed subordinate legislation.
- (2) The proposed date for the commencement of provisions of the Bill or proposed subordinate legislation must be no later than 6 months after the

commencement.

(3) In this section—

***relevant recommendations*** means the following recommendations of the Transportation and Utilities Committee made in its report on the Heavy Vehicle National Law and Other Legislation Amendment Bill 2016, Report No. 27 of the 55th Parliament, November 2016—

- (a) recommendation 7 (Licence fee) to the extent it relates to introducing a proposed licencing system for booked hire services;
- (b) recommendation 22 (CTP insurance);
- (c) recommendation 23 (Payment of registration and CTP insurance);
- (d) recommendation 24 (Cameras);
- (e) recommendation 26 (Training for drivers providing wheelchair accessible services).

## 142 Insertion of new ch 13, pt 17

Chapter 13—

*insert—*

### **Part 17                      Transitional provision for Heavy Vehicle National Law and Other Legislation Amendment Act 2016**

#### **207 Regulation-making power—expiry or repeal of taxi and limousine industry assistance regulation**

- (1) A regulation may provide for a matter of a saving or transitional nature relating to the expiry or

[s 142]

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repeal of a regulation under section 155A (*taxi and limousine industry assistance regulation*).

- (2) A regulation under subsection (1) may provide for the continued operation of all or part of the taxi and limousine industry assistance regulation for any of the following purposes—
- (a) determining an application for financial assistance made, but not determined, before the expiry or repeal of the taxi and limousine industry assistance regulation;
  - (b) starting or deciding a review of a decision relating to an application for financial assistance;
  - (c) the repayment of all or part of financial assistance paid to a person before or after the expiry or repeal of the taxi and limousine industry assistance regulation.

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