

# Heavy Vehicle National Law Amendment Bill 2019

## Explanatory Notes

### Short title

The short title of the Bill is the Heavy Vehicle National Law Amendment Bill 2019.

### Summary

Operational provisions of the *Heavy Vehicle National Law Act 2012* (the Act) commenced on 10 February 2014. The Act provides a single national law for the consistent regulation of heavy vehicle operations across most of Australia. The Act also established the National Heavy Vehicle Regulator (the Regulator) to administer the Heavy Vehicle National Law (HVNL) which is contained in the Schedule to the Act.

All Australian states and territories, except Western Australia and the Northern Territory, are participating jurisdictions for the purposes of the HVNL and have applied the HVNL as a law of each of their jurisdictions.

The HVNL is the cornerstone of the Council of Australian Governments' (COAG) national heavy vehicle reform agenda and ensures industry can operate across state borders without conflicting regulatory requirements.

The HVNL regulates matters about the operation of heavy vehicles, such as the mass and dimensions of heavy vehicles, vehicle safety standards, the work and rest hours of heavy vehicle drivers and other measures to manage fatigue, heavy vehicle accreditation, and the use of intelligent transport systems. The HVNL also places obligations on identified off-road parties involved in the transport and logistics chain (chain of responsibility parties), and includes enforcement powers and administrative provisions.

The Bill amends the HVNL to implement nationally agreed reforms or necessary amendments to:

- make consequential amendments arising from the enactment of the Commonwealth *Road Vehicles Standards Act 2018*, which will repeal the *Motor Vehicle Standards Act 1989* (Cth);
- improve consistency between a vehicle defect notice and a self-clearing defect notice;
- enable the recognition of modifications to heavy vehicles approved in non-participating jurisdictions;
- provide that the giving of advice, information and education are functions of the Regulator and authorised officers;
- improve productivity by allowing certain semitrailers greater access to the road network where mass is not a constraint; and

- ensure that a Performance-Based Standards (PBS) scheme vehicle travelling ‘off-route’ (i.e. on a road without authorisation under the HVNL and where not otherwise permitted) is treated consistently with other over mass or over dimension vehicles on that road.

The Bill also makes a range of minor or technical amendments that remove unnecessary administrative or regulatory burdens, will help improve the enforceability of the HVNL, correct minor errors and ensure the HVNL remains contemporary and fit for purpose.

## **Policy objectives and the reasons for them**

The Bill contains amendments to maintain currency, improve administrative efficiency and reduce complexity of the HVNL.

The Bill implements the final elements of the 2017 decision by the Transport and Infrastructure Council (the Council) to amend the HVNL to improve the productivity of the road network and freight fleet by increasing allowed volume on certain heavy vehicles where mass is not the constraint.

The Bill contains consequential amendments arising from the enactment of the Commonwealth *Road Vehicles Standards Act 2018* (RVSA), and repeal of the *Motor Vehicle Standards Act 1989* (Cth) (MVSA) to maintain currency and continued application of heavy vehicle in-service standards.

The Bill also includes a number of minor and technical amendments that will reduce administrative or regulatory burden for the Regulator and/or the heavy vehicle industry, clarify existing requirements or otherwise aid interpretation of the HVNL.

## **Achievement of policy objectives**

The Bill addresses a number of operational, minor and technical drafting issues that will improve roadside enforcement, reduce the compliance burden for industry and reduce the administrative burden for the Regulator, by:

- including ‘self-clearing defect notice’ in the definition of ‘vehicle defect notice’;
- inserting new definitions for ‘advice purposes’, ‘minor defect notice’, ‘major defect notice’, and ‘self-clearing defect notice’;
- removing minor inconsistencies between major and minor defect notices and self-clearing defect notices, including, but not limited to, the timeframe for the driver to provide the notice to the operator;
- allowing authorised officers to permit the use of a heavy vehicle subject to a self-clearing defect notice after the period to take corrective action has expired;
- recognising certain modifications to heavy vehicles approved in non-participating jurisdictions;
- providing an express head of power for authorised officers to give advice, information and education;
- clarifying that the giving of advice, information and education is a function of the Regulator;
- removing the requirement for a road manager to identify, in a statement of reasons, all the documents relevant to a decision to grant or refuse a mass or dimension permit;

- replacing the requirement that the Regulator provide a person with a statement of reasons for a decision to grant the person a vehicle standards exemption (permit), mass or dimension exemption (permit) or class 2 authorisation (permit) with a requirement to provide the person with a notice advising the person of their review and appeal rights, which includes the right to request a statement of reasons within 28 days of being given the decision; and
- introducing a 28-day timeframe for a person, who is not given a statement of reasons for a decision, to request a statement.

The policy objective of maintaining currency and continued application of heavy vehicle in-service standards under the RVSA is achieved by amendments to:

- definitions for 'ADR', 'second edition ADR' and 'third edition ADR' to preserve national vehicle standards made prior to the MVSA, under the MVSA, and those made under the RVSA;
- the definition for 'VIN', to include vehicle identification numbers assigned to vehicles built before the MVSA, approved under the MVSA, as well as the future vehicles approved under the RVSA; and
- the definition of 'modification' under section 84 to include modifications to vehicles approved under the RVSA.

The policy objective of increasing allowed volume on certain heavy vehicles where mass is not the constraint is achieved by amendments providing for the specified semi-trailers to operate at 4.6m high under the legislation without the need for a notice or individual permit. A related amendment provides for protecting public safety and managing risks to infrastructure caused by high-productivity vehicles is achieved by the amendments that ensure that a PBS vehicle travelling “off-route” (i.e. on a road without authorisation under the HVNL) is, for enforcement purposes, treated consistently with other over mass or over dimension vehicles on that road.

The policy objective of improving administrative efficiency and reducing complexity is achieved by a number of miscellaneous technical or minor amendments.

## **Alternative ways of achieving policy objectives**

The Bill amends existing provisions of the HVNL to maintain currency and further enhance clarity and operability.

In endorsing these national heavy vehicle reform policy initiatives, the Council considered how effective implementation of the policy initiatives could be best achieved and the potential advantages of legislative change over implementation through other administrative options.

Reducing complexity and improving the effectiveness of the HVNL can only be achieved through legislative amendment.

Similarly, improving the productivity of the road network and freight fleet by increasing access to certain heavy vehicles where mass is not the constraint can only be achieved through legislative amendment.

Protecting public safety and managing risks to infrastructure caused by PBS vehicles travelling on non-PBS routes, could only be achieved through legislative amendment to ensure that relevant mass and dimension breach penalties and other remedies apply.

## **Estimated cost for government implementation**

Implementation of the Bill will be the responsibility of the Regulator with the support of state and territory road transport and police agencies.

Implementation costs of all reforms in the Bill will be met within existing budget allocations of the Regulator and state and territory road agencies.

## **Consistency with fundamental legislative principles**

The amendments to the HVNL have been scrutinised by government agencies across all Australian jurisdictions as well as the parliamentary counsel of each jurisdiction (including the Office of the Queensland Parliamentary Counsel) through their participation in the Australasian Parliamentary Counsels' Committee.

These amendments have been drafted with regard to fundamental legislative principles (FLPs) as defined in section 4 of the *Legislative Standards Act 1992* and are generally consistent with these principles.

The following clauses raise potential departures from section 4(3)(a) of the *Legislative Standards Act 1992* that provides that legislation make individual makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review:

- Clause 8 – Amendment of section 73 (Permit for vehicle standards exemption (permit) etc);
- Clause 12 – Amendment of section 127 (Permit for mass or dimension exemption (permit) etc);
- Clause 13 – Amendment of section 148 (Permit for class 2 heavy vehicle authorisation (permit) etc); and
- Clause 32(3) – Amendment of section 641(6) (Applying for internal review).

Clause 8 amends section 73(1)(b) by replacing the requirement that the Regulator provide a person with an information notice, containing a statement of reasons, for a decision to grant the person a vehicle standards (permit) with conditions or for a period less than that sought, with a requirement to provide the person with a notice stating the person's review and appeal information.

Review and appeal information is provided under section 641, which is also being amended by the Bill. It includes the right for the person to request a statement of reasons within 28 days of being given the decision notice and the right to apply for an internal review within 28 days of receiving the statement.

Clause 12 makes the same amendment to section 127(1)(b) in relation to a mass or dimension exemption (permit).

Clause 13 makes the same amendment to section 148(1)(b) in relation to a class 2 heavy vehicle authorisation (permit).

All vehicle standards (permits), mass or dimension exemption (permits) and class 2 heavy vehicle authorisation (permits) are issued with at least one condition, which means that an information notice for the decision is currently required for all these permits. This is a significant administrative burden for the Regulator and provides little benefit to operators as the reason for the imposition of the condition on the permit is generally apparent and easily understandable by the operator.

This amendment does not affect the obligation on the Regulator to provide a person with an information notice containing a statement of reasons for any decision to refuse to grant a vehicle standards (permit), mass or dimension exemption (permit) or class 2 heavy vehicle authorisation (permit).

Clause 32(3) amends section 641(6) by providing that if a person is given a decision notice for a decision under the HVNL but not an information notice, the person has a right to request a statement of reasons for the decision within 28 days after the decision notice is given to the person.

There is currently no timeframe prescribed in the HVNL for a person to make a request for a statement of reasons. The introduction of a 28-day timeframe for a person to request a statement of reasons is considered reasonable. Where such a request is made, the Regulator must provide the statement of reasons to the person within 28 days of receiving the request and the person may apply for an internal review of the decision within 28 days after receiving the statement of reasons.

This Bill does not affect the Regulator's ability, under section 641(3), to extend the time for a person to make a review application in appropriate circumstances.

Clause 34 raises potential departures from section 4(3)(h) of the *Legislative Standards Act 1992* that provides that legislation should not confer immunity from proceeding or prosecution without adequate justification.

Clause 34 inserts a new section 698A that provides protections from liability for the Regulator or a protected person carrying out the function of providing advice, information or education in good faith. The protection in this clause is limited to acts or omissions done in good faith and is modelled on the Occupational Health and Safety Act 2004 (Vic).

On 1 October 2018, the Heavy Vehicle National Law and Other Legislation Amendment Bill 2016 introduced certain primary duty obligations into the HVNL for parties in the chain of responsibility. These new obligations create a reasonable expectation from industry that the Regulator and its officers will provide advice regarding those duties and will provide guidance on potential and practical measures that may be taken by duty holders to comply with those duties.

Without some form of immunity from civil liability for the Regulator and its officers, there is likely to be a reluctance to offer that advice. The purpose of this amendment is to encourage, in the public interest, the provision of assistance to industry in the form of advice and guidance about the primary duties under the HVNL by providing the Regulator and its officers with protection from liability when providing advice in good faith.

The Regulator is a single national entity which is potentially subject to a range of differing laws in each participating jurisdiction. As such, it is important that matters such as protection from liability for the Regulator and its officers is specifically provided for in the HVNL, rather than being left to the potential application of differing state and territory legislation. This provides greater certainty and consistency in each participating jurisdiction. A similar level of immunity is provided under the *Petroleum (Submerged Lands) Act 1982* to provide for a nationally consistent approach.

## Consultation

The amendments were developed by the National Transport Commission and the Regulator in consultation with state and territory government transport and enforcement agencies. Consultation was also undertaken with peak transport industry organisations and other key stakeholder representatives.

While Western Australia and the Northern Territory are not participating jurisdictions at this time, they have been consulted on the development of these amendments.

Stakeholders have indicated support for these amendments.

## Consistency with legislation of other jurisdictions

The Bill will ensure that the consistent and equitable regulation of the heavy vehicle industry is maintained across participating jurisdictions.

## Notes on provisions

*Clause 1* states that when enacted, the Bill will be cited as the *Heavy Vehicle National Law Amendment Act 2019*.

*Clause 2* provides for commencement of the *Heavy Vehicle National Law Amendment Act 2019*. Part 2, containing the consequential amendments arising from the *Road Vehicle Standards Act 2019* of the Commonwealth, will commence on 10 December 2019. The remainder of the provisions, contained in Part 3, will commence on a day to be fixed by proclamation.

*Clause 3* states that this law amends the Heavy Vehicle National Law as set out in the Schedule to the *Heavy Vehicle National Law Act 2012*.

*Clause 4* omits a number of definitions and inserts a number of new definitions in section 5. These omissions and insertions ensure that terms within the HVNL correctly reference the *Road Vehicle Standards Act 2018* of the Commonwealth and the repealed *Motor Vehicle Standards Act 1989* of the Commonwealth.

*Clause 5* inserts a new section 14 to clarify the meaning of references in the HVNL to particular ADR versions. ADR means Australian Design Rule. This provision is a consequence of the change being made to the definition of ADR. The reference to 'relevant standard' is either the national standard under section 7 of the MVSA, or the national road vehicle standard under

section 12 of the RVSA. This provision sets up a general operation to provide that when 'ADR' followed by a number appears, this means an ADR of that number in a particular standard.

*Clause 6* amends section 84 to omit and insert a definition for the purpose of Part 3.3. This is a consequential amendment arising from the enactment of the Commonwealth *Road Vehicles Standards Act 2018*, and repeal of the *Motor Vehicle Standards Act 1989* (Cth).

*Clause 7* omits a number of definitions and inserts a number of new definitions in section 5. These omissions and insertions are for the purposes of other amendments set out in Part 3 of the Bill.

*Clause 8* amends section 73(1)(b) by replacing the requirement that the Regulator provide a person with an information notice stating the reasons for a decision to grant the person a vehicle standards (permit) for a period less than that sought or with conditions, with a requirement to provide the person with a notice stating the person's review and appeal rights for reviewable decisions.

Reviewable decisions of the Regulator are provided for in Schedule 3, Part 1. These include a decision by the Regulator to grant a vehicle standards exemption (permit):

- for a period less than the period of not more than 3 years sought by the applicant (under section 68); and
- to impose a condition not sought by the applicant (under section 71).

This clause also inserts a note at the end of subsection 73(1)(b) to aid interpretation.

*Clause 9* inserts new section 85(4). This new section provides that a modification to a vehicle is taken to have been approved by an approved vehicle examiner, under section 86, if:

- the modification has been authorised under an Australian road law of a non-participating jurisdiction; and
- a modification plate or label that indicates that the modification complies with a code of practice prescribed by the national regulations for the purpose of section 86, has been fitted or affixed to a conspicuous part of the vehicle.

This clause also inserts new subsection 85(5) which contains new definitions of 'authorised', 'modification plate or label' and 'non-participating jurisdiction'.

*Clause 10* amends section 96 so that a PBS vehicle travelling "off-route" (i.e. on a road without authorisation under the HVNL and where not otherwise permitted by the vehicle's class 2 heavy vehicle authorisation) is subject to the same mass limits that apply to non-PBS vehicles. This ensures the vehicle is treated consistently with any other over mass vehicle on that road. The term 'PBS vehicle' means Performance-Based Standards scheme vehicle.

*Clause 11* amends section 102 so that a PBS vehicle travelling "off-route" (i.e. on a road without authorisation under the HVNL and where not otherwise permitted by the vehicle's class 2 heavy vehicle authorisation) is subject to the same dimension requirements that apply to non-PBS vehicles. This ensures the vehicle is treated consistently with any other over dimension vehicle on that road.

*Clause 12* amends section 127(1)(b) to replace the requirement that the Regulator provide a person an information notice stating the reasons for a decision to grant the person a mass or

dimension exemption (permit) for a period less than that sought or with conditions imposed under section 125(1)(a), (c) or (d), with a requirement to provide the person with a notice stating the person's review and appeal rights for the decision.

Reviewable decisions of the Regulator are provided for in Schedule 3, Part 1. These include a decision by the Regulator to grant a mass or dimension exemption (permit):

- for a period less than the period of not more than 3 years sought by the applicant (under section 122); and
- a decision to impose a condition not sought by the applicant and not a road condition or travel condition required by a relevant road manager for the exemption (under section 125).

This clause also inserts a note at the end of subsection 127(1)(b) to aid interpretation.

*Clause 13* amends section 148(1)(b) by replacing the requirement that the Regulator provide a person with an information notice stating the reasons for a decision to grant the person a class 2 heavy vehicle authorisation (permit) for a period less than that sought or with conditions imposed under section 146, with a requirement to provide the person with a notice stating the person's review and appeal rights for the decision.

Reviewable decisions of the Regulator are provided for in Schedule 3, Part 1. These include a decision by the Regulator to grant a class 2 heavy vehicle authorisation (permit):

- for a period less than the period of not more than 3 years sought by the applicant (under section 143); and
- a decision to impose a condition not sought by the applicant and not a road condition or travel condition required by a relevant road manager for the authorisation (under section 146).

This clause also replaces the note at the end of subsection 148(1)(b) to aid interpretation.

*Clause 14* amends section 153A by inserting a definition of 'specified semitrailer'. This is a semitrailer that meets certain conditions including, if in combination, that its mass is no more than 90 per cent of the prescribed mass limit for the combination. The amendment also provides that a specified semitrailer is not a restricted access vehicle. The result is that a specified semitrailer is permitted to operate at 4.6m high without the requirement for an additional authorisation.

*Clause 15* is a consequential amendment to omit sections 164 and 165, arising from the amendments to sections 127 and 148 under clauses 12 and 13 respectively.

*Clause 16* amends section 172(2) by removing the requirement for a road manager to identify every document or part of a document relevant to the road manager's decision in the written statement explaining an adverse decision that is provided to the Regulator by the road manager. The written statement is required when a road manager decides not to consent to the grant of a mass or dimension authority (as referred to in section 156(A)) or to consent to the grant on the condition that a road or travel condition is imposed on the authority. This amendment is consistent with the content of a statement of reasons in section 27B of the *Acts Interpretation Act 1954* (Qld).

*Clause 17* amends section 319 to correct a drafting error by removing the word ‘and’ which is incorrectly placed between subsections 319(1)(a)(vii) and (viii).

*Clause 18* renumbers the matters currently provided for in section 479 as subsection 479(1) and inserts a new sub-section 479(2), which provides that an authorised officer, who is not a police officer, has the function of providing advice, information and education to persons with duties or obligations under the HVNL about compliance with those duties or obligations.

*Clause 19* inserts a new division, Division 1A, into Part 9.2.

This clause also inserts new section 494A, which provides that Division 1A of Part 9.2 does not apply to an authorised officer who is a police officer.

This clause also inserts new section 494B, which creates an express power for an authorised officer to enter a relevant place, for advice purposes, if:

- an occupier of the place consents to the entry under Division 4 and section 503 has been complied with for the occupier; or
- the place is not a residence and it is open for carrying on a business or is otherwise open for entry; or
- is required to be open for inspection under the HVNL.

This clause also inserts new section 494C, which provides that if an authorised officer enters a relevant place under Division 1A, the authorised officer may, for advice purposes, provide advice, information and education.

*Clause 20* inserts a new section 496(6A), which provides that if an authorised officer, who is not a police officer, enters a relevant place for monitoring purposes, the authorised officer may provide advice, information and education for advice purposes.

*Clause 21* inserts a new section 500(11), which provides that if an authorised officer, who is not a police officer, enters a place for investigation purposes, the authorised officer may provide advice, information and education for advice purposes.

*Clause 22* amends section 501 to insert a reference to the new express power to enter for advice purposes under section 494B.

*Clause 23* amends the definition of ‘defective vehicle label’ in section 525 by replacing ‘vehicle defect notice’ with ‘major defect notice or minor defect notice’. This is a consequential amendment arising from the amendment to the definition of ‘vehicle defect notice’ in section 5 under clause 7.

*Clause 24*, under subclause 24(1), amends subsections 526(1) and (2) to incorporate the requirements for a self-clearing defect notice, which are relocated from section 531B arising from the amendment to the definition of ‘vehicle defect notice’ in section 5 under clause 7.

This clause, under subclause 24(2), also amends section 526(4) by providing that the driver of a heavy vehicle for which a vehicle defect notice is issued must give the notice to the operator as soon as practicable, but not more than 14 days, after the notice is issued. This amendment aligns the timeframe for the giving of the notice to the operator with that currently provided for a self-clearing defect notice in existing section 531A(5).

*Clause 25*, under subclause 25(1), amends section 527(1)(a) and inserts new subsections (1)(aa) and (1)(ab). These are consequential amendments arising from the amendment to the definition of ‘vehicle defect notice’ in section 5 under clause 7.

This clause, under subclause 25(2), also amends subsection 527(1)(b) for clarity.

This clause, under subclause 25(3), also amends subsection 527(1)(c) and inserts new subsection (1)(ca) for clarity and to provide consistency about the requirements for when corrective action must be taken for a minor defect notice and a self-clearing defect notice.

This clause, under subclause 25(4), also replaces subsection 527(1)(i) by providing that the approved form for a vehicle defect notice must state the day and time that the notice was issued. This amendment aligns with the requirements for a self-clearing defect notice currently provided for in existing s531B.

Subclause 25(4) also inserts new section 527(1)(j), which is a consequential amendment arising from the amendment to the definition of ‘vehicle defect notice’ in section 5 under clause 7. The matters dealt with in subsections 527(1)(i) and (1)(j) are relocated to new subsections 527(1)(j)(i) and (ii).

This clause, under subclause 25(5), also amends subsection 527(2), which is a consequential amendment arising from the amendment to the definition of ‘vehicle defect notice’ in section 5 under clause 7.

This clause, under subclause 25(6), also relocates the matter currently provided for in section 531B(2) for a self-clearing defect notice to new subsection 527(4). This is a consequential amendment arising from the amendment to the definition of ‘vehicle defect notice’ in section 5, the amendment to subsection 527(1)(c) and the introduction of new subsection 527(1)(ca).

*Clause 26*, under subclause 26(1), amends the heading to section 529 by omitting the word ‘defective’. This is a consequential amendment arising from the amendment to the definition of ‘vehicle defect notice’ in section 5 under clause 7.

This clause, under subclause 26(2), also amends section 529 by relocating the penalty currently provided for in existing section 529 for a major or minor defect notice, to subsection 529(a) and by inserting the words ‘for a major defect notice or minor defect notice’. The penalty currently provided for in existing subsection 531A(5) for a self-clearing defect notice is relocated to subsection 529(b) and the words ‘for a self-clearing defect notice’ are inserted.

*Clause 27* inserts new section 529AA, which provides that an authorised officer may give written permission for a vehicle that is the subject of a self-clearing defect notice to be used on a road during the period stated in the permission. The permission is subject to the condition in new subsection 529AA(2) that the vehicle will be used only for the purpose of driving the vehicle to and from a place where repairs are to be carried out. New subsection 529AA(3) provides that the use of the vehicle under the permission is not a contravention of the self-clearing defect notice.

*Clause 28* amends the heading to section 529A by replacing ‘vehicle defect notice’ with ‘major or minor defect notice’. This is a consequential amendment arising from the amendment to the definition of ‘vehicle defect notice’ in section 5 under clause 7.

This section also amends section 529A to provide that an authorised officer may give permission to an operator to use a vehicle subject to a vehicle defect notice on a road where the authorised officer is satisfied of certain matters. Those matters are currently provided for in subsections 529A(2)(a), (b) and (c).

This clause also relocates the matters currently provided for in subsections 529(2)(a)(i) and (ii) to new subsections 529(2)(a)(i) and (2)(b)(i).

This clause also relocates the matter currently provided for in existing subsection 529(2)(b) to new subsections 529(2)(a)(iii) and (2)(b)(iii) because it is relevant to both the grounds for giving permission in subsection 529(2)(a)(i) and (b)(i).

This clause also relocates the matter currently provided for in existing subsection 529(2)(c) to new subsection 529(2)(b)(ii) because it is relevant only to the ground for giving permission in subsection 529(2)(b)(i).

This clause also introduces a new requirement in subsection 529(2)(a) that an authorised officer may only grant the permission if the officer is satisfied that the use of the vehicle will not pose ‘an imminent and serious safety risk’. This replaces the existing requirement, in section 529A(2)(c), that the authorised officer may only grant permission if the officer is satisfied that the use of the vehicle will not pose ‘a safety risk’.

This clause also amends subsections 529A(3) and 529A(4)(a), which are consequential amendments arising from the amendment to subsection 529A(2).

*Clause 29* amends the heading to section 529B by replacing ‘vehicle defect notice’ with ‘major or minor defect notice’. This clause also amends subsection 529B(1) by replacing ‘vehicle defect notice’ with ‘major defect notice or minor defect notice’. These are consequential amendments arising from the amendment to the definition of ‘vehicle defect notice’ in section 5 under clause 7.

*Clause 30* amends the heading to section 530 by replacing ‘vehicle defect notices’ with ‘major or minor defect notices’. This clause also amends subsections 530(1) and 530(2) by replacing ‘vehicle defect notice’ with ‘major defect notice or minor defect notice’. These are consequential amendments arising from the amendment to the definition of ‘vehicle defect notice’ in section 5 under clause 7.

*Clause 31* omits sections 531A and 531B as the matters provided for in these sections for self-clearing defect notices have been materially incorporated into sections 526, 527 and 529 under clauses 24, 25 and 26 respectively.

*Clause 32*, under subclause 32(1), amends 641(2)(b) by providing that where a provision of the HVNL requires a person be given a statement of reasons for a decision, the person may make a review application within 28 days after the day the statement is given to the person. This is a consequential amendment arising from the amendments to sections 73(1)(b), 127(1)(b) and 148(1)(b) under clauses 8, 12 and 13 respectively.

This clause, under subclause 32(2), also amends subsection 641(5) to correct an existing error by replacing 'original decision' with 'reviewable decision'.

This clause, under subclause 32(3), also amends subsection 641(6) providing that if a person is given a decision notice but not an information notice for a reviewable decision:

- the decision notice must state that the person may ask the Regulator for a statement of reasons within 28 days after the decision notice is given to the person; and
- the person may within 28 days after a decision notice is given to the person, ask the Regulator for a statement of reasons for the decision.

Subclause 32(3) also inserts new subsection 641(6A) which provides that within 28 days after receiving a request under subsection 641(6)(b), the Regulator must give the person a statement of reasons.

This clause, under subclause 32(4), also inserts a definition of 'decision notice' into new subsection 641(8).

*Clause 33* inserts new subsection 659(2)(ka), which clarifies that the Regulator has the function to provide advice, information and education to persons with duties or obligations under the HVNL about the duties or obligations.

*Clause 34* inserts a new section 698A that provides that anything done by the Regulator or a protected person carrying out the function of providing advice, information or education does not give rise to:

- a civil liability of the Regulator or the protected person;
- a right, expectation, duty or obligation on the person to whom the thing was done that would not otherwise be conferred or imposed on the person; or
- a defence to a civil action that would not otherwise be available to the person in relation to whom the thing was done.

This clause also inserts subsection 698A(3), which provides that the protection in subsection (2)(a) only applies where the thing is done in good faith.

This clause also inserts subsection 698A(4), which provides that reference to the doing of a thing includes reference to omitting to do a thing.

This clause also inserts subsection 698A(5), which refers to section 698(3) for the definition of a 'protected person'.

*Clause 35* amends schedule 4 Liability Provisions to remove reference to s 85(1) in column 2 as an entry for section 85, as it does not apply for the purposes of sections 636(1), 637(4) and 638(4), and to remove reference to the entry in column 1 for section 531A as this section has been omitted under clause 31.