

Transport and Other Legislation Amendment Bill 2023

Explanatory Notes

FOR

Amendments during consideration in detail to be moved by the Honourable Bart Mellish MP, Minister for Transport and Main Roads and Minister for Digital Services

Short title

The short title of the Bill is the Transport and Other Legislation Amendment Bill 2023.

Policy objectives and the reasons for them

The objective of the amendments to be moved during consideration in detail of the Transport and Other Legislation Amendment Bill 2023 (the Bill), is to amend the *Heavy Vehicle National Law Act 2012* (HVNL) in order to align the HVNL with the Australian Design Rules (ADR) Safer Freight Vehicles package, specifically to:

- increase overall vehicle width from 2.50m to 2.55m for heavy motor vehicles (excluding buses) fitted with safer freight vehicle technology (as applicable)

The objective of Amendment 1 is to make a cross reference correction in section 34B as inserted by clause 6.

Safer Freight Vehicles package

On 14 September 2023, the Commonwealth Minister for Infrastructure, Transport, Regional Development and Local Government, the Honourable Catherine King MP, signed the Safer Freight Vehicles package.

The Commonwealth's Safer Freight Vehicles package includes four new ADRs and amends six existing ADRs. These ADR changes reflect an increase in overall vehicle width limit from the current 2.50m to 2.55m for heavy motor vehicles fitted with Safer Freight Vehicle technology, and to exclude various devices for indirect vision (e.g. mirrors, cameras) and monitoring devices to detect other road users (e.g. blind spot information systems for the detection of vehicles, bicycles, and/or pedestrians) to be excluded when measuring the length and width of a heavy motor vehicle.

These ADRs commenced nationally on 1 October 2023.

The new ADRs implementing additional safety features are primarily harmonised with international vehicle regulations developed by the United Nations, in line with existing practices and agreements of the Commonwealth Government.

The purpose of the legislative amendments are to align the HVNL with changes to ADR dimension requirements for heavy vehicles.

Aligning the HVNL with ADRs contributes to the application of nationally consistent heavy vehicle regulation. This means reduced red tape and regulatory burden for the heavy vehicle industry. It also reduces the cost of compliance with regulatory requirements for the heavy vehicle industry through the application of nationally consistent regulations.

Achievement of policy objectives

The amendments moved during consideration in detail of the Bill achieves the policy objectives by amending the HVNL in the ways indicated below.

The purpose of the amendments is to align the HVNL with changes to ADR dimension requirements for heavy vehicles. This will be achieved by inserting new definitions for safer freight vehicles and safer freight combinations into the HVNL.

Amendments to the HVNL are required as soon as possible after the 1 October 2023 commencement date to enable consistency of heavy freight vehicle dimensions in HVNL participating jurisdictions. The Northern Territory and Western Australia will conduct their own concurrent amendment processes.

Consequential amendments to HVNL supporting regulations will be made to specify dimension limits for safer freight vehicles and ensure that indirect vision devices will be disregarded when measuring the length and width of heavy vehicles.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives other than through legislative amendments.

As host jurisdiction, Queensland must first pass HVNL amendments before they can be applied nationally by other participating jurisdictions.

Estimated cost for government implementation

It is intended that government costs incurred through implementation of the amendments to be moved during consideration in detail of the Bill will be met within existing budget and resource allocations.

Consistency with fundamental legislative principles

The amendments to be moved during consideration in detail of the Bill do not breach any fundamental legislative principles.

Consultation

A public consultation process concerning Safer Freight Vehicles was undertaken by the

Commonwealth Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Commonwealth department) to identify any potential barriers or impediments to the supply of safer and cleaner heavy freight vehicles.

Public comment was sought on a range of policy options through publication of the *Safer Freight Vehicles Discussion Paper* (Commonwealth of Australia, 2021a) and draft ADRs on the Commonwealth department's website, for a 10-week public comment period, which closed on 30 June 2021.

The publication of proposed policy options and exposure drafts of implementing ADRs for public comment was an integral part of the consultation process. This provided an opportunity for businesses, peak industry associations, jurisdictions, and other interested stakeholders, to respond to the proposal by writing or otherwise submitting their comments to the Commonwealth department. This helped to identify the likely impacts and enabled informed debate on the issues.

The Commonwealth then consulted further with both jurisdictions and industry stakeholders through its established ADR consultative forums, before releasing the Commonwealth's *Safer Freight Vehicles: Impact analysis of options for maximum overall width* (Impact Analysis) in September 2023.

The Department of Transport and Main Roads' response to the *Safer Freight Vehicles Discussion Paper* was included in the Impact Analysis under Appendix 14 – Public Comment, Safer Freight Vehicles Discussion Paper.

The purpose of the Impact Analysis was to consider the case for increasing the maximum allowable width for freight vehicles in Australia from 2.50m to 2.55m for heavy vehicles fitted with safer freight vehicle technology, together with changes to allow various devices for indirect vision (e.g. mirrors, cameras) and monitoring devices to detect other road users (e.g. blind spot information systems for the detection of vehicles, bicycles and/or pedestrians) to be excluded from vehicle width and length measurements.

There was widespread support for increasing the overall width of heavy freight vehicles to 2.55m for vehicles fitted with safer freight vehicle technology, and to exclude various indirect vision devices, such as blind spot information systems for the detection of vehicles and vulnerable road users, when measuring the length and width of a heavy motor vehicle.

Consistency with legislation of other jurisdictions

The amendments to be moved during consideration in detail of the Bill are consistent with the main objectives and safety standards of the HVNL as applied in participating jurisdictions, while reducing the administrative burden and increasing uniformity for heavy vehicle operators. As the Northern Territory and Western Australia are non-HVNL participating jurisdictions, they will conduct their own concurrent amendment processes to align with the ADRs.

Notes on provisions

Amendment 1

Amendment 1 amends clause 6 of the Bill to correct the cross reference in newly inserted section 34B(1)(c) of the *Heavy Vehicle National Law Act 2012*. The correct cross reference should be section 34E rather than section 34D.

Amendment 2

Amendment 2 inserts Part 3A Amendment of Heavy Vehicle National Law into the Bill, which includes clauses 8A to 8C.

Clause 8A amends the Heavy Vehicle National Law as set out in the Schedule to the *Heavy Vehicle National Law Act 2012*.

Clause 8B inserts a definition of *safer freight vehicle* into Chapter 1 Preliminary, Part 1.2 Interpretation, Section 5 Definitions of the HVNL, so that:

- *safer freight vehicle* has the meaning given by section 153A.

Clause 8C inserts definitions for *safer freight vehicle* and *single heavy motor vehicle* into Chapter 4 Vehicle operations – mass, dimension and loading, Part 4.6A Restricted access vehicle, Section 153A Using restricted access vehicle, so that:

- *safer freight vehicle* means a single heavy motor vehicle that meets the requirements prescribed for the purposes of this definition by the national regulations, but does not include a bus.
- *single heavy motor vehicle* means a motor vehicle that, on its own, is a heavy vehicle.

Clause 8C also amends Chapter 4 Vehicle operations – mass, dimension and loading, Part 4.6A Restricted access vehicle, Section 153A(3) so that Section 153A Using restricted access vehicle does not apply to:

- a *safer freight vehicle*
- a combination that includes a *safer freight vehicle*, together with its load, that is the only component vehicle wider than 2.5m, and is not higher than 4.3m and is not longer than 19m.