

Heavy Vehicle National Amendment Regulation 2015

Explanatory notes for SL 2015 No. 188

made under the

Heavy Vehicle National Law Act 2012

General Outline

Short title

The *Heavy Vehicle National Amendment Regulation 2015*.

Authorising law

Section 730 of the *Heavy Vehicle National Law Act 2012*.

Policy objectives and the reasons for them

The *Heavy Vehicle National Law Act 2012* (HVNL) and national regulations which commenced on 10 February 2014, provide for the consistent regulation of heavy vehicle operations across most of Australia.

The national heavy vehicle legislation 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, speed compliance and the use of intelligent transport systems. The HVNL also includes chain of responsibility offences, enforcement powers and administrative provisions.

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

As part of the ongoing development and review of the HVNL, the NTC, in consultation with jurisdictions, industry and enforcement agencies, identified a number of minor and technical issues which are addressed through the *Heavy Vehicle National Law Amendment Act 2015* and the *Heavy Vehicle National Amendment Regulation 2015* (the Amendment Regulation).

The Amendment Regulation implements nationally agreed reforms identified through the maintenance process, reflects new policy and makes consequential amendments as a result of the provisions of the *Heavy Vehicle National Law Amendment Act 2015*.

A number of new policy initiatives are also introduced to support the use of electronic work diaries, assist in the better management of heavy vehicle driver fatigue, create definitions and add clarity.

Achievement of policy objectives

The Amendment Regulation amends the:

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

The Amendment Regulation is to commence 6 February 2016.

Heavy Vehicle (Fatigue Management) National Regulation

The amendments to the *Heavy Vehicle (Fatigue Management) National Regulation* will:

- make provision for drivers of fatigue regulated heavy vehicles working under Standard Hours or Basic Fatigue Management Hours work and rest options, who use an electronic work diary (EWD), to work up to eight minutes in any 24 hour period in excess of their maximum work hours, without a penalty being applied;
- recognise the use of a Global Navigation Satellite System (GNSS) recording by an EWD to satisfy the odometer reading requirement imposed under the Act;
- clarify compliance requirements if drivers stop using one form of work diary (written work diary or EWD) and start using the other form.

While the amendments provide flexibility for the users of EWDs, the allowable eight minute excess work time will not apply to longer work period requirements such as seven days and 14 days. This means drivers who take advantage of the up to eight minute excess work time, must reduce their working hours by the same amount of time elsewhere within the seven and 14 day periods, to ensure there is no compromise to the safety requirements of the driver fatigue provisions.

These amendments will ensure a more equitable approach to fatigue management for the users of the written work diary and EWD.

The amendments insert a new section 18A which provides a penalty for drivers changing between forms of work diary (written work diary and EWD) who fail to record the required information in compliance with the laws.

Additionally the amendments recognise the use of a GNSS recording by an electronic work diary to satisfy the odometer reading requirement imposed by section 16(2)(c) of the Act and make administrative amendments to Schedules clarifying terminology around risk categories.

Heavy Vehicle (General) National Regulation

The amendments to the *Heavy Vehicle (General) National Regulation* reflect amendments to the general savings and transitional provisions and include new definitions and new provisions to facilitate the replacement of previous authorisations with national authorisations (notices).

Heavy Vehicle (Mass, Dimension and Loading) National Regulation

The amendments to the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation*:

- update some definitions and the general mass limits in Schedule 1;
- reflect the simplification of the process to amend approved routes and/or approved maps or stated lists without the requirement to Gazette each change; and
- insert a new Part 8 Transitional provisions, which preserves previously existing approved Higher Mass Limit routes and or declarations.

Heavy Vehicle (Vehicle Standards) National Regulation

The amendment to the *Heavy Vehicle (Vehicle Standards) National Regulation* is an administrative amendment which includes updated provisions about measurement of vehicles, a reference to and reflection of the provisions of section 85 (Modifying heavy vehicle requires approval) and other minor technical or administrative corrections.

Consistency with policy objectives of authorising law

The amendment regulation remains consistent with the main objectives and safety standards of the HVNL while reducing the administrative burden and increasing uniformity and equity for heavy vehicle drivers.

Inconsistency with policy objectives of other legislation

The regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

There are no financial benefits nor costs to the government associated with this amendment.

Consistency with fundamental legislative principles

The Amendment Regulation does not breach any fundamental legislative principles.

Consultation

Consultation has been undertaken on a national level by the National Transport Commission with jurisdictions, industry and enforcement agencies. As these amendments are made to reflect the provisions of the Amendment Act, no additional external consultation was undertaken.

The Department of Transport and Main Roads has also consulted with the Departments of Justice and Attorney-General, Premier and Cabinet and Treasury as well as with the Queensland Office of Best Practice Regulation in relation to the RIS system.

Government departments consulted were supportive of the proposed amendments which have previously been unanimously supported by Ministers at the Transport and Infrastructure Council at its meetings of 7 November 2014 and 22 May 2015.

The Queensland Office of Best Practice Regulation has advised that the amendments do not require a Regulatory Impact Statement.