

Heavy Vehicle (Mass, Dimension and Loading) National Amendment Regulation 2018

Explanatory notes for SL 2018 No. 151

made under the

Heavy Vehicle National Law Act 2012

General Outline

Short title

Heavy Vehicle (Mass, Dimension and Loading) National Amendment Regulation 2018

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 associated regulations provide for the consistent regulation of heavy vehicle operations across most of Australia. Operational provisions of the HVNL commenced on 10 February 2014.

The HVNL regulates matters about the operation of heavy vehicles, such as their mass and dimensions, 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, and established the National Heavy Vehicle Regulator (NHVR) to administer the HVNL.

The Transport and Infrastructure Council (the Council) is responsible for overseeing national heavy vehicle reform. Council membership comprises Ministers from the Commonwealth, each state and territory with portfolio responsibility for transport and infrastructure issues, and representatives from New Zealand and the Australian Local Government Association.

Queensland members to the Council are the Minister for Transport and Main Roads, and the Minister for State Development, Manufacturing, Infrastructure and Planning.

Maintenance of the HVNL is the joint responsibility of the National Transport Commission (NTC) and the NHVR, in consultation with all state and territory road transport authorities and peak heavy vehicle industry associations, through the HVNL Maintenance Advisory Group (HVNL-MAG).

On 3 November 2017, the Council voted out-of-session to endorse a range of amendments to the HVNL and the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation*.

Amendments contained in the *Heavy Vehicle (Mass, Dimension and Loading) National Amendment Regulation 2018* (Amendment Regulation) concern changes to the Load Restraint Guide (LRG).

Council agreed to place the load restraint performance standards in the HVNL to address confusion expressed by some operators about precisely what is an obligation for load restraint. This will ensure the LRG is exclusively guidance, rather than being partly enforceable.

Achievement of policy objectives

The LRG provides transport drivers, operators, and other participants in the transport chain of responsibility with basic safety principles that should be followed for the safe carriage of loads on road vehicles.

The LRG is, for the most part, a guidance document or instruction manual for safely securing and transporting loads. However, operators are currently required to comply with enforceable load restraint performance standards that are detailed in the LRG, and then referenced in the HVNL.

These performance standards are designed so that under expected driving conditions, a load will not dislodge from a vehicle and will not move in such a way as to be unsafe.

To clarify obligations for industry, Council agreed to remove the enforceable load restraint performance standards from the LRG and prescribe them in a regulation under the HVNL. This will reduce industry's previous confusion about precisely what is a load restraint obligation, by ensuring the LRG is exclusively guidance only.

To facilitate national application and a common commencement date, the Amendment Regulation must commence immediately upon commencement of Part 3 of the *Heavy Vehicle National Law Amendment Act 2018*, which will take place on 1 October 2018.

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 for heavy vehicle operators.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

There are no financial costs to the government associated with the Amendment Regulation. The new regulation will reduce industry confusion about precisely what is a load restraint obligation by ensuring the LRG is exclusively guidance only.

Consistency with fundamental legislative principles

The Amendment Regulation does not breach any fundamental legislative principles.

Consultation

Maintenance of the HVNL is the joint responsibility of the NTC and NHVR, in consultation with jurisdictions and heavy vehicle industry associations, through the HVNL-MAG. Membership of the HVNL-MAG includes the NTC and NHVR, all state and territory road transport authorities and peak industry associations, including the Australian Trucking Association, the Australian Livestock and Rural Transporters Association, and the Bus Industry Confederation, as well as the Local Government Association of Queensland, and the Australia New Zealand Policing Advisory Agency.

The following organisations are members of the national associations that participate on their behalf in the HVNL maintenance process:

- Queensland Trucking Association
- Livestock and Rural Transporters Association of Queensland
- Queensland Bus Industry Council
- Queensland Police Service.

Stakeholders provided their support during consultation and development of the amendments during the HVNL-MAG process.

In accordance with *The Queensland Government Guide to Better Regulation* (Guidelines), the Department of Transport and Main Roads consulted with the Office of Best Practice Regulation (OBPR), Queensland Productivity Commission, who noted that:

- the Amendment Regulation transfers enforceable load restraint performance standards from the LRG to a regulation under the HVNL, but does not result in any additional regulatory requirements
- the proposal was included in the Heavy Vehicle National Law Amendment Bill 2018 (the Bill). OBPR considered the Bill earlier this year, noted its proposals (including the transfer of the load restraint performance standards) appear to have undergone extensive consultation, and advised the Bill should be excluded from a requirement for further regulatory impact assessment.

On this basis, OBPR considers the proposal in the Amendment Regulation would not benefit from further analysis under the Guidelines.