

Heavy Vehicle National Law and Other Legislation Amendment Act 2020

Explanatory notes for SL 2020 No. 18

made under the

Heavy Vehicle National Law and Other Legislation Amendment Act 2019

General Outline

Short title

Proclamation to commence certain provisions of the *Heavy Vehicle National Law and Other Legislation Amendment Act 2019*

Authorising law

Section 2 of the *Heavy Vehicle National Law and Other Legislation Amendment Act 2019*.

Policy objectives and the reasons for them

The objective of the proclamation is to commence, on 28 February 2020, Part 3 of the *Heavy Vehicle National Law and Other Legislation Amendment Act 2019* (Amendment Act), other than sections 10 and 11.

Achievement of policy objectives

The policy objective is achieved by commencing Part 3 provisions of the Amendment Act on 28 February 2020, other than sections 10 and 11.

Consistency with policy objectives of authorising law

The proclamation is consistent with the policy objectives of Part 3 of the Amendment Act.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The Amendment Act provides a number of benefits that will improve roadside enforcement, reduce the compliance burden for industry and reduce the administrative burden for the National Heavy Vehicle Regulator (NHVR).

These benefits will be achieved in a number of ways, including improving consistency between a vehicle defect notice and a self-clearing defect notice, enabling the recognition of modifications to heavy vehicles approved in non-participating jurisdictions and that the giving of advice, information and education are functions of the NHVR and authorised officers and will be included in the NHVR's statutory functions.

Each jurisdiction uses their own NHVR approved forms for vehicle defect notices and self-clearing defect notices, but in most cases, they have combined them into the one form. However, inconsistencies currently exist between the requirements that must be addressed when issuing a vehicle defect notice or a self-clearing defect notice. This makes using a single form confusing.

Jurisdictions and industry will benefit from a consistent regulatory approach following commencement of provisions that will ensure the same requirements must be addressed when issuing a vehicle defect notice or a self-clearing defect notice. The following examples highlight the benefits of this consistent approach:

- the approved form for a vehicle defect notice must state the day and time that the notice was issued, which will align vehicle defect notices with current requirements for a self-clearing defect notice
- authorised officers can permit the use of a heavy vehicle that is subject to a self-clearing defect notice, after the period to take corrective action has expired, will align with how a minor defect notice is currently handled
- the timeframe a driver must provide a vehicle defect notice to the operator will align with the period currently stipulated for a self-clearing defect notice.

Western Australia and the Northern Territory have not applied the *Heavy Vehicle National Law Act 2012* (HVNL) and are non-participating jurisdictions. Vehicle modifications approved in non-participating jurisdictions are not currently recognised under the HVNL, which means an operator is required to have a modification re-assessed if the vehicle is to be operated in a participating jurisdiction.

Modifications approved in a non-participating jurisdiction, which comply with the NHVR's *Code of Practice for the Approval of Heavy Vehicle Modifications*, will be deemed to have been approved under the HVNL. The proposed amendment only applies to common modifications that comply with Vehicle Standards Bulletin 6 issued under the Code of Practice. Other modifications will continue to require approval under the HVNL.

The proposed amendment will benefit industry by removing the need for an operator from a non-participating jurisdiction having to bear the additional cost of having the modification re-assessed and approved under the HVNL.

On 1 October 2018, new primary duty obligations commenced for parties in the chain of responsibility. These new obligations create a reasonable expectation from industry that the NHVR and its officers will provide advice regarding those duties. The HVNL is being amended to expressly specify that the NHVR and its authorised officers can provide advice, information and education to a person who has a duty or an obligation under the HVNL about complying with that duty or obligation. Industry will benefit from the advice provided by the NHVR and its officers on potential and practical measures that may be taken by duty holders to comply with those duties.

Industry will also benefit from an amendment that will increase the allowed volume on certain heavy vehicles where mass is not the constraint. Certain specified semi-trailers will be able to operate at 4.6m high without the need for a notice or individual permit. This amendment will reduce the administrative burden for industry, the NHVR and road managers.

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

Consistency with fundamental legislative principles

The proclamation is consistent with fundamental legislative principles.

Consultation

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation was not consulted about this proclamation. The Department of Transport and Main Roads applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category G—Regulatory proposals that are of a machinery nature).

No other stakeholders were consulted about the proclamation because the commencement of the provisions are machinery in nature.