

# Heavy Vehicle National Legislation Amendment Regulation 2021

Explanatory notes for SL 2021 No. 9

made under the

*Heavy Vehicle National Law Act 2012*

## General Outline

### Short title

*Heavy Vehicle National Legislation Amendment Regulation 2021*

### Authorising law

Section 730 of the Heavy Vehicle National Law contained in the Schedule to the *Heavy Vehicle National Law Act 2012 (Qld)*.

### Policy objectives and the reasons for them

The Heavy Vehicle National Law (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 it established the National Heavy Vehicle Regulator (NHVR) to administer the HVNL.

The Infrastructure and Transport Ministers' Meeting (ITMM) is responsible for overseeing national heavy vehicle reform. ITMM 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.

As host jurisdiction, Queensland must first pass HVNL amendments before they can be applied by other participating jurisdictions. The HVNL is contained in the schedule to the *Heavy Vehicle National Law Act 2012 (Qld)*.

The policy objectives of the *Heavy Vehicle National Legislation Amendment Regulation 2021* (Amendment Regulation) are to introduce a range of amendments to the *Heavy Vehicle (Vehicle Standards) National Regulation* (VS Regulation) and the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation* (MDL Regulation), to facilitate the implementation of new vehicle standards and technical administrative amendments. This includes making changes to:

- support the deployment of Blind Spot Information Systems (BSIS) and Indirect Vision Devices (IVD) as recognised vehicle standards;
- ensure the measurement of width of a heavy vehicle does not include a BSIS or IVD under the VS Regulation;
- exclude an IVD from the measurement of length of a heavy vehicle under the MDL Regulation;
- extend the requirement that tyres fitted to a heavy motor vehicle must not have cleats or other gripping devices that could damage road safety surfaces to apply to heavy trailers under the VS Regulation;
- replace references to class 1 and class 2 retroreflective material to class 400 and class 100, respectively, to align with the revised Australia/New Zealand standard under the MDL and VS Regulations; and
- consequential amendments to the VS Regulation to ensure alignment with the *Road Vehicle Standards Act 2018* (RVSA) and continued application of Australian Design Rules (ADR) to heavy vehicles.

## **Achievement of policy objectives**

The Amendment Regulation achieves the policy objectives listed above by amending the VS Regulations and the MDL Regulation, as set out below.

### *Blind Spot Information Systems*

BSIS are technology systems to inform the driver of a vehicle of a possible collision with a bicycle or other vulnerable road user. However, heavy vehicle operators are prevented from attaching BSIS technology to vehicles because of prescribed vehicle width requirements. Currently, the installation of a BSIS may result in an infringement of the width restrictions in the MDL Regulation. The amendments provide that a heavy vehicle may be fitted with BSIS under the VS Regulation and, like other existing exemptions, measurement of the width of a heavy vehicle will not include the BSIS, provided the overall width of the heavy vehicle, including the BSIS, is not more than 2.6m.

### *Indirect Vision Device*

Technological advances continue to drive the uptake of improved safety devices, such as the use of cameras, or other IVD. Recent amendments to United Nations regulations that are referenced in the ADR allow an IVD to be used in place of mirrors.

While other safety equipment is excluded from the measurement of a vehicle's width and length, there is no similar exemption for an IVD. The amendments provide that a heavy vehicle may be fitted with an IVD and, like existing exemptions, measurement of the width of the vehicle under the VS Regulation and length of the heavy vehicle under the MDL Regulation, will not include an IVD, provided that:

- the IVD complies with the requirements of ADR 14 about rear vision mirrors; and
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- the IVD does not project more than 150mm beyond the overall length of the vehicle, the device is fitted at least 2m above the ground, and the overall width of the vehicle does not exceed 2.55m.

Amendments concerning tyre treads

Section 28(1) of the VS Regulation prohibits the fitment of tyres to heavy motor vehicles that have cleats or other gripping devices that could damage road surfaces. However, this prohibition does not apply to heavy trailers because the definition of heavy motor vehicle in section 5 of the HVNL excludes a heavy trailer, which is defined separately. Tyres fitted to heavy trailers that have cleats or other gripping devices are equally capable of causing damage to roads as those fitted to a heavy motor vehicle.

It is therefore appropriate that the prohibition in section 28(1) also apply to heavy trailers. This is a technical amendment that achieves the intent of the law and does not add to the burden of regulation.

Amendments concerning retroreflective material

Reflective surfaces for warning signs, labels and other things required to be affixed to a heavy vehicle must comply with the joint Australia/New Zealand Standard about retroreflective devices (AS/NZ1906).

As part of the 2016-17 review of the AS/NZ1906 Standard for Retroreflective materials and devices for road traffic control purposes, 'Class 1' reflective material was renamed 'Class 400' to align with international provisions. Similarly, 'Class 2' reflective material was renamed 'Class 100'. As a result, consequential amendments to the MDL Regulation and VS Regulation are required to ensure alignment with the revised standard. These amendments do not add to the regulatory burden and are only administrative in nature.

Consequential Amendments to the Heavy Vehicle (Vehicle Standards) National Regulation

In December 2018, the RVSA and associated Acts received Royal Assent following passage through the Australian Parliament. These Acts, which will replace the existing *Motor Vehicle Standards Act 1989* (MVSA) and implement reforms that resulted from a comprehensive, multi-year review of the MVSA, were endorsed by the former Transport and Infrastructure Council (Council) in 2015. Council is now ITMM.

The RVSA will modernise the regulation of road vehicles that are entering the Australian marketplace for the first time and replace the current arrangements for road vehicles at the national level that currently exist under the MVSA. The RVSA will replace physical identification/compliance plates as the marker of a vehicle's suitability to enter the Australian marketplace with an online, publicly-searchable database – the Register of Approved Vehicles. Entry of a vehicle on the Register is intended to clarify to the registering authorities and consumers that the vehicle is suitable to be sold, leased, or otherwise provided in Australia for use on a public road, subject to the conditions of registration.

To ensure that the regulation of heavy vehicles aligns with the RVSA, the VS regulation is being amended to:

- change the definition of ADR to refer to the RVSA;

- change the definition of Vehicle Identification Number to capture vehicles administered under the RVSA; and
- change regulations that link to particular approvals under the MVSA, to capture particular approvals under the RVSA.

To facilitate the effective implementation of these amendments, and to provide a common commencement date in all participating jurisdictions, the Amendment Regulation must commence on 22 February 2021, excluding Part 3, Division 3.

Part 3, Division 3 will commence on the commencement of section 15 of the RVSA. It is anticipated that section 15 of the RVSA will commence on a date once proclaimed, or on 1 July 2021.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is 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.

There is no other reasonable way in which to reduce the administrative burden and increase uniformity and equity for heavy vehicle drivers operating across Australia, other than by amending legislation.

## **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**

The Amendment Regulation will provide regulatory benefits to drivers, operators and regulators through the clarification of requirements and terminology, and introduction of safety improvements that will reduce regulatory burden and increase road safety.

There are no financial implications as the amendments are largely administrative in nature. Any costs for Queensland will be met within the Department of Transport and Main Roads' existing budget allocation.

## **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 National Transport Commission (NTC) and NHVR, in consultation with jurisdictions and heavy vehicle industry associations, through respective Maintenance Advisory Groups. These amendments were consulted through the Vehicle Standards Maintenance Advisory Group (VS-MAG).

Membership of the VS-MAG includes the NTC and NHVR, all state and territory road transport authorities and peak industry associations, including the Heavy Vehicle Industry Australia, the

Australian Trucking Association (ATA), the Australian Livestock and Rural Transporters Association (ALRTA) and the Federal Chamber of Automotive Industries.

The amendments were also disseminated through the HVNL Maintenance Advisory Group (HVNL-MAG) for consultation. Membership of the HVNL-MAG includes the NTC and NHVR, all state and territory road transport authorities and peak industry associations, including the ATA, 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 national associations that participate on their behalf in the HVNL maintenance process:

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

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

In accordance with *The Queensland Government Guide to Better Regulation* (the Guidelines), the Department of Transport and Main Roads (TMR) consulted with the Office of Best Practice Regulation (OBPR) about amendments to the MDL Regulation and VS Regulation.

OBPR considers that the proposed amendments seek to improve the efficiency and efficacy of these regulations, and that it is reasonably clear that they will not create significant adverse impacts. No further regulatory impact analysis is required.

In accordance with the Guidelines, OBPR was not consulted about the RVSA related consequential amendments. TMR applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category A – Regulatory proposals that make consequential amendments).