



New South Wales

Roads and Traffic Legislation Amendment (Load Restraint) Act 1998 No 25

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Roads Act 1993 No 33	2
4 Amendment of Traffic Act 1909 No 5	2

Schedules

1 Amendment of Roads Act 1993	3
2 Amendment of Traffic Act 1909	7



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Roads and Traffic Legislation Amendment (Load Restraint) Act 1998 No 25

Act No 25, 1998

An Act to amend the *Roads Act 1993* with respect to directions relating to unsafe loads on vehicles and vehicles carrying such loads; to amend the *Traffic Act 1909* with respect to unsafe loads on vehicles; and for other purposes. [Assented to 3 June 1998]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Roads and Traffic Legislation Amendment (Load Restraint) Act 1998*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Roads Act 1993 No 33

The *Roads Act 1993* is amended as set out in Schedule 1.

4 Amendment of Traffic Act 1909 No 5

The *Traffic Act 1909* is amended as set out in Schedule 2.

Schedule 1 Amendment of Roads Act 1993

(Section 3)

[1] Section 230 Powers relating to vehicles and loads

Omit “public road” from section 230 (1).

Insert instead “road or road related area within the meaning of section 231A”.

[2] Section 230 (1)

Insert “or the safety of the vehicle’s load to be checked” after “weighed” in section 230 (1).

[3] Part 14, Division 2

Omit the heading. Insert instead:

Division 2 Enforcement of excess weight limits and other load requirements

[4] Section 231 Vehicles exceeding maximum weight limits

Insert “, subject to any specified conditions,” after “vehicle” where firstly occurring in section 231 (1) (d).

[5] Section 231 (4)

Insert “or (d)” after “subsection (1) (b)”.

[6] Section 231A

Insert after section 231:

231A Vehicles contravening load requirements

- (1) If an authorised officer is of the opinion that a load on a vehicle is placed in a way that makes the vehicle unstable or unsafe, that it is not secured in such a way that it is unlikely to fall or be dislodged from the vehicle or that the method used to secure the load on the vehicle is not appropriate, the authorised officer may give a direction:

- (a) prohibiting the person in charge of the vehicle from driving the vehicle on a road or road related area until the vehicle's load is secured in a way that makes the vehicle stable and safe, secured in such a way that it is unlikely to fall or be dislodged from the vehicle or secured by an appropriate method, or
 - (b) requiring the person in charge of the vehicle to secure, remove or adjust the whole or any part of the vehicle's load, or
 - (c) prohibiting the person in charge of the vehicle from depositing any part of the vehicle's load in or on any specified place, or
 - (d) requiring the person in charge of the vehicle, subject to any specified conditions, to drive the vehicle from its present location to some other location (being a location situated not more than 20 kilometres or such other distance as is reasonable in the circumstances from its present location) for the purpose of removing the vehicle from a road or road related area.
- (2) A direction under this section may specify the manner in which, and the period within which, the direction must be complied with.
- (3) A person must not, without reasonable excuse, fail to comply with a direction under this section.
- Maximum penalty: 30 penalty units.
- (4) It is a defence to a prosecution for an offence arising from a failure to comply with a direction under subsection (1) (b) or (d) if the defendant establishes that it was impossible to comply, or to secure compliance, with the direction.
- (5) This section applies to the following vehicles only:
- (a) a vehicle having a GVM exceeding 4.5 tonnes,
 - (b) a combination, consisting of a motor vehicle connected to one or more vehicles, having a GCM exceeding 4.5 tonnes,

- (c) any other vehicle that is, in the opinion of an authorised officer, being used for business or commercial purposes.

(6) In this section:

GCM of a vehicle means the greatest possible sum of the maximum loaded mass of the vehicle and of any vehicles that may lawfully be towed by it at one time:

- (a) as specified by the vehicle's manufacturer:
 - (i) on a plate fixed to the vehicle by the manufacturer, or
 - (ii) if the manufacturer has not specified the sum of the maximum loaded mass on a plate fixed to the vehicle, in another place, or
- (b) as specified by the RIA if
 - (i) the manufacturer has not specified the sum of the maximum loaded mass, or
 - (ii) the manufacturer cannot be identified, or
 - (iii) the vehicle has been modified to the extent that the manufacturer's specification is no longer appropriate.

GVM of a vehicle means the maximum loaded mass of the vehicle:

- (a) as specified by the manufacturer, or
- (b) as specified by the RIA if
 - (i) the manufacturer has not specified a maximum loaded mass, or
 - (ii) the manufacturer cannot be identified, or
 - (iii) the vehicle has been modified to the extent that the manufacturer's specification is no longer appropriate.

road or road related area means a road or road related area within the meaning of the *Traffic Act 1909* (other than a road or road related area that is the subject of a declaration made under section 2A (1) (b) of that Act).

vehicle includes a trailer.

[7] Section 232 Powers of authorised officer if direction not complied with

Insert “, if a direction is given under section 231,” after “may” in section 232 (c).

[8] Section 232 (d)

Insert after section 232 (c):

, and

- (d) may, if a direction is given under section 231A, detain the vehicle until the vehicle’s load is secured in a way that makes the vehicle stable and safe, secured in such a way that it is unlikely to fall or be dislodged from the vehicle or secured by an appropriate method.

[9] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Roads and Traffic Legislation Amendment (Load Restraint) Act 1998.

Schedule 2 Amendment of Traffic Act 1909

(Section 4)

[1] Section 8C

Insert after section 8B:

8C Unsafe loads

- (1) A person is guilty of an offence if
- (a) the person knows, or ought reasonably to know, that a motor vehicle or trailer is loaded unsafely, and
 - (b) the person drives or causes or permits the motor vehicle or trailer to be driven or to stand on a road or road related area, and
 - (c) death or personal injury to a person, or damage to property (other than the motor vehicle, trailer or load), occurs while the motor vehicle or trailer is being so driven or stood because it is loaded unsafely.

Maximum penalty: 50 penalty units, or 12 months' imprisonment, or both, in the case of an individual or 100 penalty units, in the case of a corporation.

- (2) The owner of a motor vehicle or trailer is guilty of an offence if
- (a) the motor vehicle or trailer is loaded unsafely and is driven or stood on a road or road related area, and
 - (b) the owner knows, or ought reasonably to know, that the motor vehicle or trailer is loaded unsafely, and
 - (c) death or personal injury to a person, or damage to property (other than the motor vehicle, trailer or load), occurs while the motor vehicle or trailer is being so driven or stood because it is loaded unsafely.

Maximum penalty: 50 penalty units, or 12 months' imprisonment, or both, in the case of an individual or 100 penalty units, in the case of a corporation.

- (3) A person is guilty of an offence if
- (a) the person is a director of, or a person concerned in the management of, a corporation that is the owner of a motor vehicle or trailer that is loaded unsafely and is driven or stood on a road or road related area, and
 - (b) the person knows, or ought reasonably to know, that the motor vehicle or trailer is loaded unsafely, and
 - (c) death or personal injury to a person, or damage to property (other than the motor vehicle, trailer or load), occurs while the motor vehicle or trailer is being so driven or stood because it is loaded unsafely.

Maximum penalty: 50 penalty units, or 12 months' imprisonment, or both, in the case of an individual or 100 penalty units, in the case of a corporation.

- (4) It is a defence to a prosecution for an offence under this section if a person establishes that the person was not in a position to prevent the motor vehicle or trailer from being driven or stood on a road or road related area while loaded unsafely.
- (5) For the purposes of this section, a motor vehicle or trailer is *loaded unsafely* if:
- (a) a load on the motor vehicle or trailer is placed in a way that makes the motor vehicle or trailer unstable or unsafe, or
 - (b) a load on the motor vehicle or trailer is not secured in such a way that it is unlikely to fall or be dislodged from the motor vehicle or trailer, or
 - (c) an appropriate method is not used to secure a load on the motor vehicle or trailer.
- (6) In proceedings for an offence under this section, it is sufficient to prove that a motor vehicle or trailer was loaded unsafely if the prosecution proves that the load on

the vehicle or trailer was not placed, secured or restrained in a way that met the performance standards recommended in the *Load Restraint Guide—Guidelines for the safe carriage of loads on road vehicles* published by the Australian Government Publishing Service on 12 December 1994.

(7) In this section:

motor vehicle includes a combination consisting of a motor vehicle connected to one or more vehicles.

[2] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Roads and Traffic Legislation Amendment (Load Restraint) Act 1998.

[Minister's second reading speech made in—
Legislative Assembly on 20 May 1998
Legislative Council on 27 May 1998]