

[Act 1998 No 25]



Roads and Traffic Legislation Amendment (Load Restraint) Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Roads Act 1993* to enable officers of the Roads and Traffic Authority, police officers and other authorised officers to give directions concerning heavy vehicles and commercial vehicles with unstable or otherwise unsafe loads and to enable action to be taken to detain any such vehicle until its load is safe, and
 - (b) to amend the *Traffic Act 1909* to create new offences relating to the use of vehicles in cases where the use of vehicles that are loaded unsafely results in death or personal injury or damage to property.
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Explanatory note

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Roads Act 1993* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Traffic Act 1909* set out in Schedule 2.

Schedule 1 Amendment of Roads Act 1993

Schedule 1 [1] makes it clear that authorised officers have power to stop vehicles for the purpose of checking the safety of vehicle loads.

Schedule 1 [5] amends a provision empowering authorised officers to give directions relating to vehicles that have loads exceeding maximum weight limits. The amendment will extend the defence of it not being possible to comply, or secure compliance, with a direction to a direction requiring the vehicle to be driven to another location. Currently, the defence applies only to directions requiring loads to be removed or adjusted.

Schedule 1 [6] inserts proposed section 231A. The proposed section empowers an authorised officer (that is, an RTA employee or an employee of another roads authority, authorised to exercise the functions of an authorised officer, a police officer or any other person prescribed as an authorised officer by the regulations) to give certain directions if the authorised officer is of the opinion that a load on a heavy vehicle, or a vehicle used for business or commercial purposes, is not safe. Directions that may be given include directions prohibiting the vehicle from being driven until the load is stable and safe, requiring particular action to be taken to secure, remove or adjust the load, prohibiting the depositing of the load or part of it in a particular place and requiring the vehicle to be driven to another location so that it is not on a road or road related area. It will be an offence to breach such a direction with a maximum penalty of \$3,300. It will be a defence, in the case of failure to comply with directions relating to the securing, removal or adjustment of loads or the moving of vehicles, if a defendant establishes that it was impossible to comply, or to secure compliance, with any such direction.

Existing provisions relating to the enforcement of directions will also apply to such directions, including an authorised officer's power to take possession of and detain a vehicle if a direction is not complied with and provisions relating to the form and manner of giving directions.

Schedule 1 [2], [3], [4] and [7] make consequential amendments.

Schedule 1 [8] enables an authorised officer who has given a direction relating to the load carried by a vehicle to detain the vehicle until the load is stable or safe or secured in such a way that it is not likely to fall or be dislodged or is appropriately secured.

Schedule 1 [9] enables savings and transitional regulations to be made consequent on the enactment of the amendments made by Schedule 1 to the proposed Act.

Schedule 2 Amendment of Traffic Act 1909

Schedule 2 [1] inserts proposed section 8C. The proposed section creates new offences relating to unsafe loads on motor vehicles and trailers. A person will be guilty of an offence if the person:

- (a) drives or stands, or causes or permits to be driven or to stand, a motor vehicle or trailer on a road or road related area, the person knows or reasonably ought to know that the vehicle or trailer is loaded unsafely and death or personal injury to a person, or damage to property, occurs because it is loaded unsafely, or
- (b) is the owner of a motor vehicle or trailer that is driven or stood on a road or road related area while loaded unsafely, the person knows or reasonably ought to know that the motor vehicle or trailer is loaded unsafely and death or personal injury to a person, or damage to property, occurs because it is loaded unsafely, or
- (c) 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 driven or stood on a road or road related area while loaded unsafely, the person knows or reasonably ought to know that the motor vehicle or trailer is loaded unsafely and death or personal injury to a person, or damage to property, occurs because it is loaded unsafely.

The maximum penalty for the offence will be \$5,500 or 12 months' imprisonment, or both, in the case of an individual or \$11,000 in the case of a corporation. It will be a defence to an offence under the proposed section if a person proves 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.

Schedule 2 [2] enables savings and transitional regulations to be made consequent on the enactment of the amendment made by Schedule 2 [1] to the proposed Act.