

# Heavy Vehicle (General) National Regulation (NSW) (2013 SI 246a)

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New South Wales

## Status Information

### Currency of version

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### Provisions in force

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### Authorisation

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# Heavy Vehicle (General) National Regulation (NSW) (2013 SI 246a)



New South Wales

## Contents

|   |    |
|---|----|
| <b>Part 1 Preliminary</b>   | 6  |
| 1 Short title   | 6  |
| 2 Commencement  | 6  |
| <b>Part 2 PBS provisions</b>  | 6  |
| <b>Division 1 Preliminary</b>   | 6  |
| 3 Definitions for Pt 2  | 6  |
| <b>Division 2 PBS design approvals</b>  | 7  |
| 4 Application for PBS design approval   | 7  |
| 5 Review by PBS Review Panel  | 7  |
| 6 Assessing application   | 8  |
| 7 Deciding application  | 8  |
| 8 Approval—noncompliance with infrastructure standard   | 8  |
| 9 Approval—noncompliance that poses no additional risk  | 8  |
| 10 PBS design approval  | 9  |
| 11 Approval must state particular conditions for design for vehicle fitted with quad-axle group | 10 |
| 12 Refusal of application for PBS design approval   | 11 |
| <b>Division 3 PBS vehicle approvals</b>   | 11 |
| 13 Application for PBS vehicle approval   | 11 |
| 14 Additional requirement for particular applications   | 11 |

|   |           |
|---|-----------|
| 15 Assessing application .....  | 11        |
| 16 Deciding application .....   | 11        |
| 17 PBS vehicle approval .....   | 12        |
| 18 Refusal of application for PBS vehicle approval .....                                | 12        |
| <b>Division 4 Cancelling or modifying approvals .....</b>                               | <b>12</b> |
| 19 Application for cancellation or modification of approval.....                        | 12        |
| 20 Review by PBS Review Panel of application to modify .....                            | 12        |
| 21 Requirements for deciding application .....  | 13        |
| 22 Grounds for cancellation or modification on Regulator's initiative .....             | 13        |
| 23 Procedure for cancellation or modification on Regulator's initiative .....           | 14        |
| <b>Division 5 PBS assessors and PBS vehicle certifiers .....</b>                        | <b>14</b> |
| 24 Appointment and monitoring of PBS assessors under Assessor Accreditation Rules ..... | 14        |
| 25 Appointment of PBS vehicle certifiers under Vehicle Certification Rules .....        | 15        |
| 26 Requirement to consult with PBS Review Panel .....                                   | 16        |
| 27 Auditing PBS vehicle certifiers .....  | 16        |
| <b>Division 6 Miscellaneous .....</b>   | <b>16</b> |
| 28 Vehicle standards—exemptions for PBS vehicles.....                                   | 16        |
| <b>Part 3 Approved vehicle examiners.....</b>   | <b>17</b> |
| 29 Definitions for Pt 3 .....   | 17        |
| 30 Approval of an approved vehicle examiner .....                                       | 18        |
| 31 Authorisation to approve modification.....   | 19        |
| <b>Part 4 Enforcement .....</b>   | <b>19</b> |
| 32 Seizure of number plates.....  | 19        |
| 33 Return of seized things or samples.....  | 20        |
| 34 Application to Registrar of Personal Property Securities .....                       | 20        |
| 35 Application of proceeds of disposal .....  | 20        |
| <b>Part 5 Annual report provisions .....</b>  | <b>21</b> |
| 36 Application.....   | 21        |
| 37 Definitions for Pt 5 .....   | 21        |
| 38 Australian Accounting Standards and Australian Auditing Standards.....               | 21        |

|  |           |
|--|-----------|
| 39 Auditor.....  | 21        |
| 40 Application of Auditor-General Act.....   | 22        |
| 41 Production of authorisation.....  | 22        |
| 42 Annual report to include performance assurance report .....   | 22        |
| 43 Auditor not subject to direction .....  | 23        |
| <b>Part 6 Oversight of Regulator and Board.....</b>  | <b>23</b> |
| <b>Division 1 Preliminary .....</b>  | <b>23</b> |
| 44 Definitions for Pt 5 .....  | 23        |
| 45 Enforcement jurisdiction for applied Acts .....   | 23        |
| 46 Modifications generally applicable to applied Acts .....  | 24        |
| <b>Division 2 Information Privacy Act 2009 (Queensland) .....</b>  | <b>24</b> |
| 47 Application.....  | 24        |
| 48 Queensland entities to perform functions and exercise jurisdiction for participating jurisdictions .. | 24        |
| 49 Modifications generally .....   | 25        |
| 50 Modifications of particular provisions .....  | 25        |
| <b>Division 3 Public Records Act 2002 (Queensland) .....</b>   | <b>27</b> |
| 51 Application.....  | 27        |
| 52 Queensland entities to perform functions for participating jurisdictions .....                        | 27        |
| 53 Modifications .....   | 27        |
| <b>Division 4 Right to Information Act 2009 (Queensland).....</b>  | <b>28</b> |
| 54 Application.....  | 28        |
| 55 Queensland entities to perform functions and exercise jurisdiction for participating jurisdictions .. | 28        |
| 56 Modifications generally .....   | 29        |
| 57 Modifications of particular provisions .....  | 29        |
| <b>Part 6A Miscellaneous provision .....</b>   | <b>31</b> |
| 57A Qualification of authorised officers—Law, s 481.....   | 31        |
| <b>Part 7 Savings and transitional provisions for section 755 of the Law.....</b>                        | <b>31</b> |
| <b>Division 1 Preliminary .....</b>  | <b>31</b> |
| 58 Application of Pt 7 .....   | 31        |

|  |    |
|--|----|
| 59 Definitions for Pt 7 .....  | 31 |
| <b>Division 2 General</b> .....  | 32 |
| 60 Expedited procedure for road manager’s consent for renewal of mass or dimension authority ..... | 32 |
| 61 Accreditations not granted under former legislation .....                                       | 32 |
| 62 Approved vehicle examiner transitional provision .....  | 32 |
| 63 Continuation of use of existing work diary .....  | 32 |
| <b>Division 3 PBS provisions</b> .....   | 33 |
| 64 Continuation of existing design approvals.....  | 33 |
| 65 Continuation of final PRP approvals.....  | 33 |
| 66 Extent to which continuation of current PBS scheme affected .....                               | 33 |
| <b>Division 4 Replacement of particular exemptions and authorisations</b> .....                    | 34 |
| 67 Application of Div 4 .....  | 34 |
| 68 Definitions for Div 4.....  | 34 |
| 69 Replacement .....   | 35 |
| <b>Part 7A Other savings and transitional provision</b> .....                                      | 36 |
| 69AA References to ADR clauses in current PBS vehicle approvals.....                               | 36 |
| <b>Part 8 Other provisions</b> .....   | 36 |
| 69A Authorisation for s 688 of the Law .....   | 36 |
| 70 Increase of penalty amounts .....   | 37 |
| 71 Fees .....  | 38 |
| 72 Increase of fee amounts .....   | 38 |
| <b>Schedule 1 Fees</b> .....   | 39 |

# Heavy Vehicle (General) National Regulation (NSW) (2013 SI 246a)



New South Wales

## Part 1 Preliminary

### 1 Short title

This Regulation may be cited as the *Heavy Vehicle (General) National Regulation (NSW)*.

### 2 Commencement

A provision of this Regulation commences in a participating jurisdiction on the day on which the provision of the Law for the purposes of which the provision is made commences in that jurisdiction.

**Note—**

In this Regulation, a reference to ‘the Law’ is a reference to the Heavy Vehicle National Law. See section 12(2) of Schedule 1 of the Heavy Vehicle National Law.

## Part 2 PBS provisions

### Division 1 Preliminary

#### 3 Definitions for Pt 2

In this Part—

**Assessor Accreditation Rules** means the Assessor Accreditation Rules (July 2007) made by the National Transport Commission, as amended from time to time.

**Guidelines for Determining National Operating Conditions** means the Guidelines for Determining National Operating Conditions (July 2007) made by the National Transport Commission, as amended from time to time.

**HML declaration** means an HML declaration under section 12 of the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation (NSW)*.

**infrastructure standard** has the meaning given by rule 22 of the Standards and Vehicle Assessment Rules.

**operating condition** means an operating condition made under the Guidelines for Determining National Operating Conditions.

**PBS assessor** means a PBS assessor accredited under Part 2, Division 5.

**PBS vehicle certifier** means a PBS vehicle certifier accredited under Part 2, Division 5.

**physical testing requirement** see section 10(2).

**Standards and Vehicle Assessment Rules** means the Standards and Vehicle Assessment Rules as at 10 November 2008 made by the National Transport Commission, as amended from time to time.

**Vehicle Certification Rules** means the Vehicle Certification Rules (July 2007) made by the National Transport Commission, as amended from time to time.

## **Division 2 PBS design approvals**

### **4 Application for PBS design approval**

- (1) An application for a PBS design approval made under section 22 of the Law must be—
  - (a) in the approved form; and
  - (b) accompanied by—
    - (i) an assessment of the design the subject of the application, carried out by a PBS assessor; and
    - (ii) the prescribed fee for the application.
- (2) The Regulator may, by notice given to the applicant for the PBS design approval, require the applicant to give the Regulator any additional information the Regulator reasonably requires to decide the application.

#### **Example of additional information—**

The Regulator may ask the applicant to obtain additional parameter sensitivity analyses conducted by a PBS assessor in relation to the design.

### **5 Review by PBS Review Panel**

- (1) Before approving or rejecting an application for PBS design approval, the Regulator must give a copy of the application to the PBS Review Panel.
- (2) The PBS Review Panel must, as soon as practicable after receiving the application—
  - (a) review the application having regard to—
    - (i) any approved guidelines relevant to the grant of PBS design approvals; and
    - (ii) the Standards and Vehicle Assessment Rules; and

- (iii) any operating conditions relevant to the application; and
- (b) advise and make recommendations to the Regulator about the matters mentioned in paragraph (a).

## **6 Assessing application**

For the purposes of section 22(2)(b) of the Law, the Standards and Vehicle Assessment Rules are prescribed.

## **7 Deciding application**

The Regulator must decide an application for a PBS design approval as soon as practicable after receiving the PBS Review Panel's advice and recommendations under section 5.

## **8 Approval—noncompliance with infrastructure standard**

- (1) This section applies in relation to an application for a PBS design approval if the Regulator considers it is likely that a heavy vehicle built to the design the subject of the application will not comply with the Standards and Vehicle Assessment Rules only because it will not comply with 1 or more infrastructure standards.
- (2) If the Regulator approves the application, the approval must state that any PBS vehicle approval for a heavy vehicle built to the design is subject to a condition that the vehicle may only be operated under an agreement made with—
  - (a) if a road authority for a jurisdiction is responsible for the roads on which the vehicle is likely to be operating—each responsible road authority; and
  - (b) if 1 or more road managers are responsible for the roads on which the vehicle is likely to be operating—each responsible road manager.

## **9 Approval—noncompliance that poses no additional risk**

- (1) This section applies in relation to an application for a PBS design approval if the Regulator considers that a heavy vehicle built to the design the subject of the application—
  - (a) is not likely to comply with 1 or more standards under the Standards and Vehicle Assessment Rules; and
  - (b) will not pose any additional risk to safety or infrastructure than would be posed by a heavy vehicle—
    - (i) that does comply with the standards; or
    - (ii) that would comply with the standards if particular conditions were imposed on the use of the vehicle and were complied with.

**Examples—**



- 1 The Regulator may consider that while a heavy vehicle built to a design does not comply with a standard under the Standards and Vehicle Assessment Rules, it will not pose any greater risk than a heavy vehicle that complies with the standard because it will considerably exceed the requirements of another related standard in a way that offsets the failure to comply with the standard.
- 2 The Regulator may consider that a heavy vehicle built to a design does not comply with safety standard C2 (Gradeability) under the Standards and Vehicle Assessment Rules. However, it is only intended to run on relatively flat roads and can do so as safely as a vehicle that complies with that standard if its operation is restricted to specified roads that are known to be relatively flat.
- 3 The Regulator may consider that a heavy vehicle built to a design does not comply with a standard under the Standards and Vehicle Assessment Rules. However, the design does meet the purpose and intent of the standard and the vehicle will not pose any greater risk than a vehicle that complies with the standard.

- (2) If the Regulator approves an application to which subsection (1)(b)(ii) applies, the approval must state that any PBS vehicle approval given for a heavy vehicle built to the design is subject to the particular conditions referred to in that subsection.
- (3) If the Regulator approves an application to which subsection (1)(b)(i) or (ii) applies, the Regulator must publish the following on the Regulator's website—
  - (a) the type of heavy vehicle to which the design relates;
  - (b) the standards under the Standards and Vehicle Assessment Rules with which a heavy vehicle built to the design is not likely to comply;
  - (c) the reasons the Regulator considers the noncompliance will not pose any additional risk to safety or infrastructure as described in subsection (1)(b);
  - (d) if the approval states that a PBS vehicle approval given for a heavy vehicle built to the design is subject to particular conditions under subsection (2)—a brief description of the conditions.
- (4) Subsection (3) does not authorise the Regulator to disclose any identifying details of the applicant, the design to which the approval relates, or any other confidential or commercially sensitive information.

## 10 PBS design approval

- (1) A PBS design approval must state—
  - (a) the name and address of the person to whom the approval is given; and
  - (b) for an approval of an application mentioned in section 8 or 9—the standards with which the design is not likely to comply.
- (2) Also, the approval must state the following (each a **physical testing requirement**)—
  - (a) if the design the subject of the approval has features that the Regulator considers are significantly novel—that before a heavy vehicle built to the design is certified by a PBS vehicle certifier, the vehicle must be assessed by physical testing carried

out by a PBS assessor to determine whether the vehicle complies with the Standards and Vehicle Assessment Rules;

- (b) if the approval relates to an application to which section 9(1)(b) applies—that a heavy vehicle built to the design must be assessed by physical testing carried out by a PBS assessor to determine whether the vehicle will pose any additional risk to safety or infrastructure as described in that section.

#### **11 Approval must state particular conditions for design for vehicle fitted with quad-axle group**

- (1) This section applies to a PBS design approval if the design to which the approval relates is for a type of heavy vehicle fitted with a quad-axle group.
- (2) The approval must state that any PBS vehicle approval given for a heavy vehicle built to the design that allows a mass of more than 20t on the quad-axle group is subject to the following conditions—
  - (a) the quad-axle group must be fitted with a certified road-friendly suspension system;
  - (b) all axles in the quad-axle group must be fitted with dual tyres;
  - (c) the axles in the quad-axle group must relate to each other through a load-sharing suspension system within the meaning given by section 33(2) of Schedule 2 of the [Heavy Vehicle \(Vehicle Standards\) National Regulation \(NSW\)](#);
  - (d) if the quad-axle group is fitted with a retractable axle, the retractable axle must comply with ADR 43/04;
  - (e) the quad-axle group must be fitted with either—
    - (i) a steerable axle with no less than 12° steering articulation and an effective automatic centering mechanism; or
    - (ii) another steering mechanism proven to be effective in mitigating the impacts of road scrubbing by tyres;
  - (f) a maintenance management accreditation and mass management accreditation of the vehicle must be in force for the operator of the vehicle.
  - (g) (Repealed)
- (3) In this section—

**certified road-friendly suspension system** has the meaning given by section 3 of the [Heavy Vehicle \(Mass, Dimension and Loading\) National Regulation \(NSW\)](#).

**steerable axle** means a single axle that connects the wheels of a vehicle to a

steering mechanism for the vehicle.

## **12 Refusal of application for PBS design approval**

If the Regulator refuses an application for a PBS design approval, the Regulator must give the applicant an information notice for the decision to refuse the application.

## **Division 3 PBS vehicle approvals**

### **13 Application for PBS vehicle approval**

- (1) An application for a PBS vehicle approval made under section 23 of the Law must be—
  - (a) in the approved form; and
  - (b) accompanied by—
    - (i) the PBS design approval for the design to which the heavy vehicle is built, and any documentation associated with or relevant to the approval; and
    - (ii) a certificate for the vehicle given by a PBS vehicle certifier under the Vehicle Certification Rules; and
    - (iii) the prescribed fee for the application.
- (2) The Regulator may, by notice given to the applicant for the PBS vehicle approval, require the applicant to give the Regulator any other additional information the Regulator reasonably requires to decide the application.

### **14 Additional requirement for particular applications**

- (1) This section applies to an application for a PBS vehicle approval if the PBS design approval for the design to which the vehicle is built includes a physical testing requirement under section 10(2).
- (2) The application for the PBS vehicle approval may be made only if, before the vehicle is certified by a PBS vehicle certifier, the applicant complies with the physical testing requirement.
- (3) A copy of the assessment carried out by a PBS assessor under the physical testing requirement must accompany the application for the PBS vehicle approval.

### **15 Assessing application**

For the purposes of section 23(2)(b) of the Law, the Vehicle Certification Rules are prescribed.

### **16 Deciding application**

The Regulator must decide an application for a PBS vehicle approval as soon as

practicable after receiving it.

#### **17 PBS vehicle approval**

A PBS vehicle approval must state—

- (a) the name and address of the person to whom the approval is given; and
- (b) if the vehicle is built to a design the subject of a PBS design approval that was approved under section 8 or 9—the standards with which the vehicle does not comply; and
- (c) a description of the vehicle the subject of the approval, including its key dimensions and components.

#### **18 Refusal of application for PBS vehicle approval**

If the Regulator refuses an application for a PBS vehicle approval, the Regulator must give the applicant an information notice for the decision to refuse the application.

### **Division 4 Cancelling or modifying approvals**

#### **19 Application for cancellation or modification of approval**

- (1) The holder of a PBS design approval or PBS vehicle approval may apply to the Regulator to cancel or modify the approval.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) be accompanied by—
    - (i) a copy of the approval the subject of the application; and
    - (ii) the prescribed fee for the application; and
  - (c) if the application is to modify a PBS design approval—
    - (i) state clearly the modification sought and the reasons for the modification; and
    - (ii) be accompanied by an assessment of the proposed modification carried out by a PBS assessor under the Standards and Vehicle Assessment Rules.
- (3) The Regulator may, by notice given to the applicant, require the applicant to give the Regulator any additional information the Regulator reasonably requires to decide the application.

#### **20 Review by PBS Review Panel of application to modify**

- (1) This section applies in relation to an application to modify a PBS design approval.

- (2) Before deciding the application, the Regulator must give a copy of the application to the PBS Review Panel.
- (3) The PBS Review Panel must, as soon as practicable after receiving the application—
  - (a) review the application having regard to the matters stated in section 5(2)(a); and
  - (b) advise and make recommendations to the Regulator about the matters mentioned in that section.

## **21 Requirements for deciding application**

- (1) The Regulator must decide an application made under section 19 as soon as practicable after receiving—
  - (a) for an application to cancel a PBS design approval or PBS vehicle approval—the application; or
  - (b) for an application to modify a PBS design approval or PBS vehicle approval—the PBS Review Panel's advice and recommendations under section 20.
- (2) If the Regulator approves an application to modify a PBS design approval, the Regulator must give the applicant a replacement approval.
- (3) A cancellation or modification approved under this section takes effect—
  - (a) when notice of the approval of the application is given to the applicant; or
  - (b) if a later time is stated in the approval, at the later time.
- (4) If the Regulator refuses the application, the Regulator must give the applicant an information notice for the decision.

## **22 Grounds for cancellation or modification on Regulator's initiative**

Each of the following is a ground for cancelling or modifying a PBS design approval or PBS vehicle approval under section 23—

- (a) the approval was given because of a document or representation that was false or misleading;
- (b) the holder of the approval fails to comply with a condition of the approval;
- (c) for a PBS vehicle approval—the vehicle does not comply with the PBS design approval to which it was built.

### **Examples for paragraph (c)—**

- 1** The vehicle no longer complies with a standard because, since the PBS vehicle approval was given, the vehicle has been modified or has not been properly maintained.
- 2** The road performance of the vehicle does not meet the standard for the design the subject of the PBS design approval to which the vehicle was built.

**3** After a PBS vehicle approval is given for a vehicle, the vehicle is found not to comply with the PBS design approval to which it was built because the PBS certifier who certified the vehicle failed to comply with the Vehicle Certification Rules.

## **23 Procedure for cancellation or modification on Regulator's initiative**

- (1) If the Regulator considers a ground mentioned in section 22 exists to cancel or modify a PBS design approval or PBS vehicle approval (the **proposed action**), the Regulator must give the holder of the approval a notice—
  - (a) stating the proposed action; and
  - (b) stating the ground for the proposed action; and
  - (c) outlining the facts and circumstances forming the basis for the ground; and
  - (d) inviting the holder to make, within a stated time of at least 14 days after the notice is given to the holder, written representations about why the proposed action should not be taken.
- (2) If, after considering all written representations made under subsection (1)(d), the Regulator still considers a ground exists to take the proposed action, the Regulator may—
  - (a) if the proposed action was to cancel the approval—cancel the approval; or
  - (b) if the proposed action was to modify the approval—modify the approval, including, for example, by imposing additional conditions on the approval.
- (3) The Regulator must—
  - (a) give the holder an information notice for the decision to cancel or modify the approval; and
  - (b) notify the road authority for each participating jurisdiction of the cancellation or modification.
- (4) The cancellation or modification takes effect—
  - (a) when the information notice is given to the holder; or
  - (b) if a later time is stated in the information notice, at the later time.

## **Division 5 PBS assessors and PBS vehicle certifiers**

### **24 Appointment and monitoring of PBS assessors under Assessor Accreditation Rules**

- (1) The Regulator may do the following in relation to a person—
  - (a) appoint the person as a PBS assessor;

- (b) renew the person's appointment as a PBS assessor;
  - (c) deal with complaints against the person as a PBS assessor;
  - (d) suspend the person's appointment as a PBS assessor;
  - (e) terminate the person's appointment as a PBS assessor;
  - (f) if the person is appointed as a PBS assessor—monitor and audit the person.
- (2) The Assessor Accreditation Rules apply to the Regulator and the person in relation to a matter mentioned in subsection (1)—
- (a) as if—
    - (i) a reference to the Panel, Chairperson of the Panel or Secretariat were a reference to the Regulator; and
    - (ii) a reference to an assessor were a reference to a PBS assessor; and
    - (iii) a reference to the Scheme were a reference to this Part; and
    - (iv) a reference to an accreditation were a reference to an appointment; and
  - (b) with any other necessary or appropriate modifications.

## **25 Appointment of PBS vehicle certifiers under Vehicle Certification Rules**

- (1) The Regulator may do the following in relation to a person—
- (a) appoint the person as a PBS vehicle certifier;
  - (b) renew the person's appointment as a PBS vehicle certifier;
  - (c) suspend the person's appointment as a PBS vehicle certifier;
  - (d) terminate the person's appointment as a PBS vehicle certifier.
- (2) The Vehicle Certification Rules apply to the Regulator and the person in relation to the appointment, renewal, suspension or termination—
- (a) as if—
    - (i) a reference to the Panel, Chairperson of the Panel or Secretariat were a reference to the Regulator; and
    - (ii) a reference to a certifier were a reference to a PBS certifier; and
    - (iii) a reference to the Scheme were a reference to this Part; and
    - (iv) a reference to an accreditation were a reference to an appointment; and

- (b) with any other necessary or appropriate modifications.

## **26 Requirement to consult with PBS Review Panel**

- (1) Before appointing a person as a PBS assessor or PBS certifier under this Division, the Regulator must consult with the PBS Review Panel about the proposed appointment.
- (2) Failure to comply with subsection (1) does not affect the validity of an appointment.

## **27 Auditing PBS vehicle certifiers**

The Regulator may audit a PBS vehicle certifier for compliance with the Vehicle Certification Rules.

# **Division 6 Miscellaneous**

## **28 Vehicle standards—exemptions for PBS vehicles**

- (1) For the purposes of section 24 of the Law, each of the following vehicle standards are prescribed—
  - (a) the following clauses of ADR 43 prescribed as vehicle standards under section 2 of Schedule 1 of the [Heavy Vehicle \(Vehicle Standards\) National Regulation \(NSW\)](#)—
    - clauses 6.1.1 and 6.2.1 (total length)
    - clause 6.2.2 (drawbar length)
    - clauses 6.1.2 and 6.2.3 (rear overhang)
    - clauses 6.1.3 and 6.2.4 (height)
    - clauses 6.1.5 and 6.2.6 (overall width)
    - clause 9.4 (retractable axle), other than to the extent it requires a vehicle to comply with clause 6.1.4, 6.1.6, 6.2.5 or 6.2.7;
  - (b) clause 5.2 (Tow coupling overhang) of ADR 62 prescribed as a vehicle standard under section 2 of Schedule 1 of the [Heavy Vehicle \(Vehicle Standards\) National Regulation \(NSW\)](#);
  - (c) clause 5.1 (Tow coupling location) of ADR 63 prescribed as a vehicle standard under section 2 of Schedule 1 of the [Heavy Vehicle \(Vehicle Standards\) National Regulation \(NSW\)](#);
  - (d) the following provisions of the [Heavy Vehicle \(Mass, Dimension and Loading\) National Regulation \(NSW\)](#) prescribed as vehicle standards under section 34 of Schedule 2 of the [Heavy Vehicle \(Vehicle Standards\) National Regulation \(NSW\)](#)—
    - section 3 of Schedule 6 (Length—general)



- section 4 of Schedule 6 (Length—trailers)
  - section 5 of Schedule 6 (Length—rear overhang)
  - section 6 of Schedule 6 (Length—trailer drawbars)
  - section 7 of Schedule 6 (Width)
  - section 8 of Schedule 6 (Height);
- (e) the following provisions of the *Heavy Vehicle (Vehicle Standards) National Regulation (NSW)*—
- section 29(b) and (c) of Schedule 3 (Attachment of couplings and drawbar eyes on road trains)
  - section 31 of Schedule 3 (Tow coupling overhang on road trains).

(2) A reference in subsection (1) to a clause of an ADR is a reference to—

- (a) the version of the clause applying to the heavy vehicle as a vehicle standard; and
- (b) if another clause was superseded by the clause (including with modification or because of a renumbering of the ADR) and a version of the superseded clause applies to the heavy vehicle as a vehicle standard—the version of the superseded clause applying to the heavy vehicle as a vehicle standard; and

**Example—**

An ADR is amended so that a clause mentioned in subsection (1) replaces a previous clause in the ADR. For a heavy vehicle to which the replaced clause applies as a vehicle standard, the reference to the clause in subsection (1) is a reference to the replaced clause applying to the heavy vehicle as a vehicle standard.

- (c) if the clause is omitted and remade (with or without modification) or renumbered and a version of the clause as remade or renumbered applies to the heavy vehicle as a vehicle standard—the version of the clause as remade or renumbered applying to the heavy vehicle as a vehicle standard.

(3) A reference to a clause of an ADR mentioned in subsection (1) in a PBS vehicle approval is taken to be a reference to the version of the clause mentioned in subsection (2).

## **Part 3 Approved vehicle examiners**

### **29 Definitions for Pt 3**

In this Part—

**authorised**, to perform a function, means—

- (a) approved, appointed or otherwise authorised to perform the function; or

- (b) authorised to perform the function because of an appointment to, or employment in, an office, position or role; or
- (c) given recognition in any form for the purpose of the performance of the function.

**AVE jurisdictional scheme** means—

- (a) a law of a participating jurisdiction, other than the Heavy Vehicle National Law as applied in the jurisdiction; or
- (b) any contract, agreement, document, arrangement, understanding or practice that has effect under the laws of a participating jurisdiction;

under which a person is authorised to perform a function that is the same as or equivalent to a function an approved vehicle examiner may perform under the Law.

**conditions**, on which a person may perform a function, includes requirements, restrictions and terms, whether imposed by law or under an authorisation to perform the function.

**disciplinary provisions** means provisions relating to discipline and disciplinary procedures.

**relevant scheme**, in relation to an approved vehicle examiner under section 30(1), has the meaning given by the subsection.

**responsible entities**, for the performance of a function by a person, means entities having responsibility for the performance of the function by the person, including directors, managers and employees.

### 30 Approval of an approved vehicle examiner

- (1) A person is an approved vehicle examiner in relation to a particular function (the **approved function**) conferred on approved vehicle examiners under the Law if the person is authorised to perform the same or equivalent function (the **jurisdictional function**) under an AVE jurisdictional scheme (the **relevant scheme**).
- (2) The relevant scheme applies in relation to—
  - (a) the approval of the person under subsection (1); and
  - (b) the conditions on which the person may perform the approved function;in the same way as it applies in relation to—
  - (c) the person's authorisation under the relevant scheme; and
  - (d) the conditions on which the person may perform the jurisdictional function.

**Examples—**

1 If, under the relevant scheme, a person is authorised to examine vehicles only of a particular make or type, the person may perform a function as an approved vehicle examiner under subsection (1) to examine vehicles only of the same make or type.

2 If, under the relevant scheme, a person is required to use, for a particular purpose, particular equipment only, the person in performing a function as an approved vehicle examiner under subsection (1) is required to use equipment of the same type for the same purpose.

(3) The relevant scheme applies in relation to the amendment, suspension or cancellation of the approval conferred by subsection (1), including under disciplinary provisions mentioned in subsection (4).

(4) Disciplinary provisions under the relevant scheme apply in relation to—

(a) the person in relation to the approved function; and

(b) responsible entities for the approved function;

in the same way as they apply in relation to—

(c) the person in relation to the jurisdictional function; and

(d) responsible entities for the jurisdictional function.

(5) If the person's authorisation to perform the jurisdictional function ceases or is suspended under the relevant scheme, the person's approval as an approved vehicle examiner in relation to the approved function also ceases or is suspended.

### **31 Authorisation to approve modification**

(1) This section applies for the purposes of, and subject to, section 86 of the Law.

(2) An approved vehicle examiner may approve a modification of a heavy vehicle only if—

(a) the person is authorised to approve the same modification under the relevant scheme (the **relevant scheme modification**); and

(b) the approval is given in compliance with—

(i) the provisions of the relevant scheme applying in relation to the relevant scheme modification; and

(ii) the conditions on which the person may perform the function of approving the modification.

## **Part 4 Enforcement**

### **32 Seizure of number plates**

For the purposes of section 551(5)(b) of the Law, an appropriate authority is an authority of a participating jurisdiction responsible for issuing number plates.

### 33 Return of seized things or samples

- (1) This section applies for the purposes of section 556(5) of the Law.
- (2) An applicant, other than an authorised officer, must serve a copy of the application on the Regulator as soon as practicable after the application is made.
- (3) The application can not be heard unless the applicant satisfies the relevant tribunal or court that the Regulator has been served.
- (4) On service of the application, the Regulator becomes a party to the proceeding and may be, but is not required to be, represented at the hearing.

### 34 Application to Registrar of Personal Property Securities

- (1) Subsection (2) applies if—
  - (a) a thing or sample becomes the property of the Regulator under section 563 of the Law; and
  - (b) there is a registered interest in relation to the thing or sample; and
  - (c) any appeal period has ended.
- (2) The Regulator must do anything necessary under the [Personal Property Securities Act 2009](#) of the Commonwealth to record in the Register the Regulator's ownership or to remove the registration.
- (3) In this section—

**appeal period** means—

  - (a) any period in which a review in relation to a forfeiture must be started; and
  - (b) if a review is started, any further period until the end of the review and the end of any period in which an appeal may be started against a review decision; and
  - (c) if an appeal is started, any further period until the appeal is ended.

### 35 Application of proceeds of disposal

- (1) This section applies—
  - (a) for the purposes of section 566(b) of the Law; and
  - (b) subject to sections 564(5) and 565(8) and (9) of the Law.
- (2) The proceeds of the disposal of a thing or sample under Division 3 of Part 9.4 of the Law are to be applied in payment of—
  - (a) first—the Regulator's expenses—

- (i) of disposal, including of retention for disposal; and
- (ii) of searching any register for a relevant purpose, including to give notice of forfeiture or to find out if any action has to be taken in relation to the register; and
- (b) second, if there is an amount owing to the holder of a registered interest—the amount owing to the holder; and
- (c) last—the balance to the person who was the owner of the thing or sample before it became the property of the Regulator.

## **Part 5 Annual report provisions**

### **36 Application**

This Part applies for the purposes of section 693 of the Law.

### **37 Definitions for Pt 5**

In this Part—

**Auditor-General** means an Auditor-General (however described) of a participating jurisdiction.

**public sector auditor** means—

- (a) an Auditor-General; or
- (b) an auditor employed, appointed or otherwise engaged by an Auditor-General.

### **38 Australian Accounting Standards and Australian Auditing Standards**

The financial statements are to be prepared in accordance with the Australian Accounting Standards and audited in accordance with the Australian Auditing Standards.

### **39 Auditor**

- (1) The financial statements must be audited by 1 of the following decided by the responsible Ministers—
  - (a) a public sector auditor;
  - (b) an appropriately qualified person other than a public sector auditor.
- (2) For the purposes of subsection (1)(a), the responsible Ministers may arrange with an Auditor-General for the Auditor-General to appoint or engage a contract auditor to perform the audit under the Auditor-General's management.
- (3) Subsection (2) does not limit subsection (1)(a).

(4) In this section—

***appropriately qualified person*** means—

- (a) a member of CPA Australia who is entitled to use the letters ‘CPA’ or ‘FCPA’ and holds a current public practice certificate issued by CPA Australia; or
- (b) a member of the Institute of Chartered Accountants in Australia who is entitled to use the letters ‘CA’ or ‘FCA’ and holds a current certificate of public practice issued by the institute; or
- (c) a member of the Institute of Public Accountants who is entitled to use the letters ‘MIPA’ or ‘FIPA’ and holds a professional practice certificate issued by the institute.

***contract auditor*** means a person appointed or engaged by an Auditor-General as a contract auditor who is not a member of the staff of the office managed by the Auditor-General.

#### **40 Application of Auditor-General Act**

- (1) This section applies if a public sector auditor of a particular participating jurisdiction is to audit the financial statements of the Regulator.
- (2) The Auditor-General Act of the participating jurisdiction applies—
  - (a) to the audit; and
  - (b) to the Regulator as a statutory body.
- (3) In this section—

***Auditor-General Act***, of a participating jurisdiction, means the Act of the participating jurisdiction under which the Auditor-General of the jurisdiction audits statutory bodies.

#### **41 Production of authorisation**

An auditor may perform a function under section 39 in relation to a person only if the auditor produces to the Regulator, or other person in relation to whom the function is being performed, documentary proof of the decision of the responsible Ministers under section 39.

**Example of documentary proof—**

a letter outlining the decision endorsed by or on behalf of the responsible Ministers

#### **42 Annual report to include performance assurance report**

- (1) The performance statements included in the annual report must be accompanied by a report prepared by an independent auditor who has reviewed the performance statements in accordance with ASAE 3000.

(2) In this section—

**ASAE 3000** means the standard on assurance engagements ASAE 3000 (Assurance Engagements Other than Audits or Reviews of Historical Financial Information) published in July 2007 by the Auditing and Assurance Standards Board.

**performance statements** means the statements mentioned in section 693(2)(a)(ii) to (iv) of the Law.

#### **43 Auditor not subject to direction**

- (1) An auditor who conducts an audit under section 39 or prepares a report under section 42 is not subject to direction by any person about—
  - (a) the way in which the auditor's functions in relation to the audit or report are to be performed; or
  - (b) the priority to be given to the audit or report.
- (2) Despite subsection (1)(b), the Regulator and the auditor may enter into an agreement to ensure an audit or report is provided in sufficient time for it to be included in the annual report given to the responsible Ministers in compliance with section 693(1) of the Law.
- (3) Subsection (1) does not limit the functions of the Auditor-General of any participating jurisdiction under whose authority an audit is being conducted or a report is being prepared.

## **Part 6 Oversight of Regulator and Board**

### **Division 1 Preliminary**

#### **44 Definitions for Pt 5**

In this Part—

**applied Act** means—

- (a) in another Division of this Part—the Act applied under the Division in the form applied; and
- (b) in sections 45 and 46—any of the Acts applied under this Part.

**Regulator** includes the Board.

#### **45 Enforcement jurisdiction for applied Acts**

An applied Act is taken to provide, in relation to an offence against its provisions—

- (a) that the offence is a summary offence; and

- (b) that the value of a penalty unit is the amount prescribed by the *Acts Interpretation Act 1954* (Queensland); and
- (c) that a court of summary jurisdiction of a participating jurisdiction may hear and decide a charge of the offence.

#### **46 Modifications generally applicable to applied Acts**

- (1) A reference in an applied Act to any Act applied under this Part is taken to be a reference to the Act as applied.
- (2) Subject to subsection (1), a reference in an applied Act to another Act, without stating a particular Act, or to an administrative scheme, is taken to be a reference to an Act or administrative scheme of a participating jurisdiction.
- (3) Other than as mentioned in sections 50(9) and (13)(b), 53(10)(b) and (c) and 57(8) and (15)(a), a reference to the State is taken to be—
  - (a) a reference to a participating jurisdiction; or
  - (b) if the reference to the State is a reference to the Crown in right of the State—the Crown in right of a participating jurisdiction.

### **Division 2 Information Privacy Act 2009 (Queensland)**

#### **47 Application**

- (1) This Division applies for the purposes of applying the *Information Privacy Act 2009* of Queensland (the **IP Act**) under section 696(1)(a) of the Law.
- (2) The IP Act applies for the purposes of the Law with—
  - (a) the modifications stated in this Division and Division 1; and
  - (b) any other necessary modifications.

#### **48 Queensland entities to perform functions and exercise jurisdiction for participating jurisdictions**

- (1) The applied Act is taken to provide that, in relation to the Regulator —
  - (a) the IP Act entities are to perform their IP Act functions in relation to a participating jurisdiction; and
  - (b) the Queensland Civil and Administrative Tribunal is to exercise its IP Act jurisdiction in relation to a participating jurisdiction.

- (2) In this section—

**IP Act entity** means the following within the meaning of the IP Act—



- (a) the OIC;
- (b) the information commissioner;
- (c) the RTI Commissioner;
- (d) the Privacy Commissioner.

**IP Act functions** means the functions conferred by the IP Act.

**IP Act jurisdiction** means jurisdiction conferred by the IP Act.

#### **49 Modifications generally**

- (1) The IP Act is modified as stated in this section.
- (2) A reference to the intention of Parliament, or to anything the Parliament considers, is taken to refer to the Parliament of a participating jurisdiction.
- (3) A reference to an agency is taken to be a reference to the Regulator, except in a reference in sections 50 and 57 to an agency other than the agency to which an application has been made.
- (4) A reference to a document of an agency, or the decision of an agency in relation to a document, is taken to be a reference to a document or decision of the Regulator.
- (5) To the extent a provision applies to a document of a Minister, a decision of a Minister in relation to a document or the Minister as an agency, the provision does not apply.
- (6) A reference to an agency's principal officer, for the Regulator, is taken to be a reference to the chief executive officer of the Regulator.

#### **50 Modifications of particular provisions**

- (1) The IP Act is modified as stated in this section.
- (2) Sections 2, 14, 19, Part 2 of Chapter 2 (and all references in the Act to the NPPs), 40(1)(b), 41(1)(b), 51, 126 (2) and (3), 191(3), 192 and Schedules 2 and 4 do not apply.
- (3) In section 3, a reference to the government is taken to be a reference to the government of a participating jurisdiction.
- (4) In sections 18 and 21, a reference to any entity is taken to be a reference to that entity of a participating jurisdiction.

**Note—**

These sections have a limited application because of section 49(3).

- (5) In sections 43(4) and 44(6), a reference to evidence of identity includes a reference to

any evidence available in a participating jurisdiction that corresponds to the evidence of identity prescribed for the section.

- (6) In section 126(1), a reference to the responsible Minister is taken to be a reference to the responsible Ministers under the Law.
- (7) A reference in section 156 to the Attorney-General is taken to be a reference to the Attorney-General of a participating jurisdiction.
- (8) In sections 169 and 170, a reference to the ombudsman and the *Ombudsman Act 2001* is taken to include a reference to the corresponding entity and Act of a participating jurisdiction.
- (9) In section 183, a reference to the State is taken to be—
  - (a) in relation to a liability of the information commissioner or a member of the staff of the OIC—a reference to the Crown in right of the State of Queensland; or
  - (b) in relation to any other liability—a reference to the Regulator.
- (10) Section 194 is taken to require a report on the operation of the applied Act to be included in the annual report on the operation of the IP Act prepared by the Minister administering that Act for tabling in the Legislative Assembly of Queensland.
- (11) In Schedules 1 and 3—
  - (a) a reference to any entity or matter connected to Queensland is taken to include a reference to a corresponding entity or matter connected to a participating jurisdiction; and
  - (b) a reference to a provision of a Queensland Act, or to a document relating to a Queensland Act, is taken to include a reference to a corresponding provision of, or document relating to, an Act of a participating jurisdiction.
- (12) In Schedule 5, the definitions **health agency, health department, health information, health professional, health service, health service chief executive, Hospital and Health Service, Minister, NPP, relevant chief executive, sensitive information** and **subsidiary** do not apply.
- (13) To avoid doubt, in the applied Act—
  - (a) in Part 3 of Chapter 4, a reference to the Minister is a reference to the Minister administering the IP Act; and
  - (b) in section 154, a reference to the State is a reference to the Crown in right of Queensland; and
  - (c) in sections 193 and 195, a reference to the Speaker, the parliamentary committee or the Assembly is a reference to those entities of the Parliament of Queensland.

## Division 3 Public Records Act 2002 (Queensland)

### 51 Application

- (1) This Division applies for the purposes of applying the *Public Records Act 2002* (Queensland) (the **PR Act**) under section 696(1)(b) of the Law.
- (2) The PR Act applies for the purposes of the Law with—
  - (a) the modifications stated in this Division and Division 1; and
  - (b) any other necessary modifications.

### 52 Queensland entities to perform functions for participating jurisdictions

- (1) The applied Act is taken to provide that, in relation to the Regulator, the PR Act entities are to perform their PR Act functions in relation to a participating jurisdiction.
- (2) For the purposes of subsection (1), the fee prescribed under section 17(2) of the PR Act applies for the applied Act.
- (3) In this section—

**PR Act entity** means the following within the meaning of the PR Act—

- (a) the State Archivist;
- (b) the Queensland State Archives;
- (c) the Public Records Review Committee;
- (d) authorised officers.

**PR Act functions** means functions conferred under Part 3 or 4 of the PR Act.

### 53 Modifications

- (1) The PR Act is modified as stated in this section.
- (2) Sections 2, 6, 7(3), 8(3), 9(1), 15, 16(1)(b) and (c), 26(3), 42(1)(b), 47(2) to (4), 50(2)(a), 52, 58 and Parts 6 and 7 do not apply.
- (3) A reference to a public authority or responsible public authority, other than in section 8(4), is taken to be a reference to the Regulator.
- (4) A reference to the executive officer of a public authority is taken to be a reference to the chief executive officer of the Regulator.
- (5) A reference to a public record or a public record in or of Queensland is taken to be a reference to a record made for use by, or a purpose of, the Regulator and includes a copy of the record, a part of the record and a copy of a part of the record.

- (6) A general reference to Queensland as a jurisdiction is taken to be a reference to a participating jurisdiction.
  - (7) Section 9(2)(a) is taken to apply to the public records of the Regulator.
  - (8) Section 56 is taken to require a report on the administration of the applied Act to be included in the annual report under the PR Act given to the Minister within the meaning of that Act for tabling in the Legislative Assembly of Queensland.
  - (9) In Schedule 2—
    - (a) in the definition **public authority**, a reference to any entity is taken to be a reference to that entity of a participating jurisdiction; and
- Note—**
- This definition has a limited application because of section 53(3).
- (b) the definitions **Assistant Minister**, **court**, **Ministerial record**, **record of an Assistant Minister** and **responsible public authority** do not apply.
- (10) To avoid doubt, in the applied Act—
  - (a) in Part 3, a reference to the Minister (without further description) is a reference to the Minister administering the PR Act; and
  - (b) in sections 9(2) and 54(2), a reference to the State is a reference to the Crown in right of Queensland; and
  - (c) in section 25(2), a reference to the executive government of the State is a reference to the executive government of Queensland.

## Division 4 Right to Information Act 2009 (Queensland)

### 54 Application

- (1) This Division applies for the purposes of applying the *Right to Information Act 2009* (Queensland) (the **RTI Act**) under section 696(1)(c) of the Law.
- (2) The RTI Act applies for the purposes of the Law with—
  - (a) the modifications stated in this Division and Division 1; and
  - (b) any other necessary modifications.

### 55 Queensland entities to perform functions and exercise jurisdiction for participating jurisdictions

- (1) The applied Act is taken to provide that, in relation to the Regulator—
  - (a) the RTI Act entities are to perform their RTI Act functions in relation to a

participating jurisdiction; and

(b) the Queensland Civil and Administrative Tribunal is to exercise its RTI Act jurisdiction in relation to a participating jurisdiction.

(2) In this section—

**RTI Act entity** means the following within the meaning of the RTI Act—

- (a) the OIC;
- (b) the Information Commissioner;
- (c) the RTI Commissioner.

**RTI Act functions** means functions conferred by the RTI Act.

**RTI Act jurisdiction** means jurisdiction conferred by the RTI Act.

## **56 Modifications generally**

- (1) The RTI Act is modified as stated in this section.
- (2) A reference to the reasons or intention of Parliament, or to anything the Parliament considers, is taken to refer to the Parliament of a participating jurisdiction.
- (3) A reference to an agency is taken to be a reference to the Regulator, except in a reference—
  - (a) in Schedules 3 and 4; and
  - (b) in section 21 to an agency other than the relevant agency; and
  - (c) in sections 30 and 38 to an agency other than the agency to which an application has been made.
- (4) A reference to a document of an agency, or the decision of an agency in relation to a document, is taken to be a reference to a document or decision of the Regulator.
- (5) To the extent a provision applies to a document of a Minister, a decision of a Minister in relation to a document or the Minister as an agency, the provision does not apply.
- (6) A reference to an agency's principal officer, for the Regulator, is taken to be a reference to the chief executive officer of the Regulator.

## **57 Modifications of particular provisions**

- (1) The RTI Act is modified as stated in this section.
- (2) Sections 13, 15, 17, 21(4), 23(1)(b), 31, 81(c) and (d), 113(2) and (3), 183, 186 to 188 and Schedule 2 do not apply.

- (3) In the Preamble and Part 1 of Chapter 1, a reference to the government is taken to be a reference to the government of a participating jurisdiction.
- (4) In section 24, a reference to evidence of identity includes a reference to any evidence available in a participating jurisdiction that corresponds to the evidence of identity prescribed for the section.
- (5) Section 72(1) is taken to refer to a presentation to any House or committee of a Parliament of a participating jurisdiction.
- (6) A reference in section 113(1) to the responsible Minister is taken to be a reference to the responsible Ministers.
- (7) A reference in section 168 to the Attorney-General is taken to be a reference to the Attorney-General of a participating jurisdiction.
- (8) In section 174, a reference to the State is taken to be—
  - (a) in relation to a liability of the information commissioner, a member of the staff of the OIC or a person acting under the direction of a Minister—a reference to the Crown in right of the State of Queensland; or
  - (b) in relation to any other liability—a reference to the Regulator.
- (9) In Chapter 5, a reference to a Minister is taken to be a reference to a Minister of a participating jurisdiction, including all or any of the responsible Ministers.
- (10) Section 185 is taken to require a report on the operation of the applied Act to be included in the annual report on the operation of the RTI Act prepared by the Minister administering that Act for tabling in the Legislative Assembly of Queensland.
- (11) In Schedules 1, 3 and 4—
  - (a) a reference to any entity, scheme or matter connected to Queensland is taken to include—
    - (i) a reference to a corresponding entity, scheme or matter connected to a participating jurisdiction; and
    - (ii) in relation to a general reference to an agency or unit of the public sector—the Regulator; and
  - (b) a reference to a Minister is taken to be a reference to a Minister of a participating jurisdiction including all or any of the responsible Ministers; and
  - (c) a reference to a provision of a Queensland Act, or to a document relating to a Queensland Act, is taken to include a reference to a corresponding provision of, or document relating to, an Act of a participating jurisdiction.

- (12) In Schedule 3, sections 4A and 4B do not apply.
- (13) In Part 4 of Schedule 4, section 5 does not apply.
- (14) In Schedule 6, the definitions **community service obligations**, **entity to which this Act does not apply**, **freight operations**, **member of QR group**, **Minister** and **public library**, and paragraph (b) of the definition **document**, do not apply.
- (15) To avoid doubt, in the applied Act—
- (a) in section 166, a reference to the State is a reference to the Crown in right of Queensland; and
  - (b) in section 78(2), parts 1 to 5 of Chapter 4 and in sections 184 and 189—
    - (i) a reference to an entity related to Parliament is a reference to an entity of the Parliament of Queensland; and
    - (ii) a reference to the Minister is a reference to the Minister administering the RT Act; and
    - (iii) a reference to the Governor, Governor in Council or the Premier is a reference to those entities of Queensland.

## Part 6A Miscellaneous provision

### 57A Qualification of authorised officers—Law, s 481

For section 481(1)(d) of the Law the classes are—

- (a) individuals whose services are used by a participating jurisdiction under an arrangement entered into with the employer of the individuals; and
- (b) individuals who are consultants or contractors engaged by a participating jurisdiction.

## Part 7 Savings and transitional provisions for section 755 of the Law

### Division 1 Preliminary

#### 58 Application of Pt 7

This Part applies for the purposes of section 755 of the Law.

#### 59 Definitions for Pt 7

In this Part—

**current PBS scheme**, for Division 3 in relation to a participating jurisdiction, has the same meaning as it has under section 747 of the Law.

**former legislation**, in relation to a participating jurisdiction, has the same meaning as it has under section 747 of the Law.

## Division 2 General

### 60 Expedited procedure for road manager's consent for renewal of mass or dimension authority

- (1) This section applies for the purposes of section 167(1)(a) of the Law.
- (2) A reference to a previous authority includes a reference to an authority, corresponding to a mass or dimension authority under the Law, that was granted under the former legislation of a participating jurisdiction and saved under section 748 of the Law.
- (3) The relevant road manager is taken to have previously consented to the grant of the authority.

### 61 Accreditations not granted under former legislation

- (1) This section applies to an existing accreditation, to which section 748 of the Law does not apply, that was granted for the purposes of the former legislation.
- (2) The existing accreditation has effect as if—
  - (a) the Law had been in force when the accreditation was granted; and
  - (b) the accreditation were the accreditation to which it corresponds under section 458 of the Law; and
  - (c) the accreditation had been granted under the Law for a period of 3 years commencing on the date it was granted.
- (3) In this section—

**existing accreditation** means an accreditation corresponding to an accreditation mentioned in, and in existence immediately before the commencement of, section 458 of the Law.

### 62 Approved vehicle examiner transitional provision

For a person to be an approved vehicle examiner under section 30 in relation to a function, it does not matter whether the person was authorised to perform the same or equivalent function under an AVE jurisdictional scheme before or after the commencement of the section.

### 63 Continuation of use of existing work diary

- (1) This section applies—
  - (a) for the purposes of Part 6.4 of the Law (the **Part**); and



(b) until the end of a period of 6 months after the commencement of this section (the ***transitional period***).

- (2) A driver of a fatigue-regulated heavy vehicle may continue to use an existing work diary until the end of the transitional period for the purposes of complying with the Part in relation to the recording of information in a work diary.
- (3) The driver's recording of information in the existing work diary is taken to be sufficient compliance with the requirements of the Part for the recording of information in work diaries if the driver's recording would comply with the corresponding provisions of the former legislation if those provisions had not been repealed.
- (4) In this section—

***existing work diary*** means a work diary, however described—

- (a) that has as its purpose the recording of information the same as, or substantially the same as, information required to be recorded in a work diary under the Part; and
- (b) that, immediately before the commencement of this section, the driver was using in compliance with the former legislation.

## **Division 3 PBS provisions**

### **64 Continuation of existing design approvals**

- (1) This section applies to a design approval for a design given under the current PBS scheme, if the approval was in force immediately before the commencement of this section.
- (2) The design approval is taken to be a PBS design approval given under section 22 of the Law.

### **65 Continuation of final PRP approvals**

- (1) This section applies to a final PRP approval given for a vehicle under the current PBS scheme, if the approval was in force immediately before the commencement of this section.
- (2) The final PRP approval is taken to be a PBS vehicle approval given under section 23 of the Law.

### **66 Extent to which continuation of current PBS scheme affected**

To remove any doubt, it is declared that Part 2 does not affect the continuation of the instruments that comprise the current PBS scheme under section 753 of the Law, other than to the extent that Part 2 operates in a way that is inconsistent with the instruments.

## Division 4 Replacement of particular exemptions and authorisations

### 67 Application of Div 4

- (1) This Division applies for the purposes of section 748 of the Law and the following saved under the section—
  - (a) an exemption, permit or other instrument that corresponds to a mass or dimension exemption (notice) (a **previous exemption**);
  - (b) an authorisation, permit or other instrument that corresponds to a class 2 heavy vehicle authorisation (notice) (a **previous authorisation**);
  - (c) a declaration or other instrument that corresponds to an HML declaration (a **previous declaration**).
- (2) This Division does not limit any provision of the Law under which a previous exemption, previous authorisation or previous declaration may be replaced by the Regulator.

### 68 Definitions for Div 4

In this Division—

**previous authorisation** has the meaning given by section 67(1)(b).

**previous conditions**, in relation to areas and routes to which a replacement instrument applies, means conditions that are the same, or substantially the same, as the conditions that applied to the relevant previous instrument or instruments in relation to the same areas or routes.

**previous declaration** has the meaning given by section 67(1)(c).

**previous exemption** has the meaning given by section 67(1)(a).

**previous instrument** means a previous authorisation, previous exemption or previous declaration.

**relevant consent provisions** means—

- (a) in relation to a replacement exemption—section 118(1)(b) and (c) of the Law; or
- (b) in relation to a replacement authorisation—section 139(1)(b) and (c) of the Law; or
- (c) in relation to a replacement declaration—section 13(1)(b) and (c) of the [Heavy Vehicle \(Mass, Dimension and Loading\) National Regulation \(NSW\)](#).

**replacement authorisation** means the instrument that replaces 1 or more previous authorisations mentioned in section 69(1)(b).

**replacement declaration** means the instrument that replaces 1 or more previous declarations mentioned in section 69(1)(c).

**replacement exemption** means the instrument that replaces 1 or more previous exemptions mentioned in section 69(1)(a).

**replacement instrument** means a replacement authorisation, replacement declaration or replacement exemption.

## 69 Replacement

(1) The Regulator may—

(a) under Division 2 of Part 4.5 of the Law—

- (i) replace a previous exemption with a mass or dimension exemption (notice); or
- (ii) replace more than 1 previous exemption with a single consolidated mass or dimension exemption (notice); or

(b) under Division 3 of Part 4.6 of the Law—

- (i) replace a previous authorisation with a class 2 heavy vehicle authorisation (notice); or
- (ii) replace more than 1 previous authorisation with a single consolidated class 2 heavy vehicle authorisation (notice); or

(c) under Division 3 of Part 2 of the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation (NSW)*—

- (i) replace a previous declaration with an HML declaration; or
- (ii) replace more than 1 previous declaration with a single consolidated HML declaration.

(2) The relevant consent provisions do not apply if—

- (a) the replacement instrument applies to the areas and routes to which the relevant previous instrument or instruments applied; and
- (b) in relation to those areas and routes, the replacement instrument is subject to—
  - (i) the previous conditions; or
  - (ii) those conditions as amended in relation to any area or route with the consent of the road manager for the area or route.

(3) Under subsection (1), a previous instrument may be replaced entirely or partly.

(4) However, if a previous instrument is only partly replaced—

- (a) the remainder is not affected; and
  - (b) section 750 of the Law applies.
- (5) Subsections (6) to (8) apply in relation to a replacement instrument if, to the extent the conditions that apply to it are the previous conditions, those previous conditions included the following or the equivalent of the following—
- (a) a road condition;
  - (b) a travel condition;
  - (c) a vehicle condition applying to every previous instrument of the same type (a ***common vehicle condition***).
- (6) The road condition is taken to be a road condition imposed under section 160 of the Law because it is a condition on which the relevant road manager consented to the grant of the replacement instrument.
- (7) The travel condition is taken to be a travel condition imposed under section 161 of the Law because it is a condition on which the relevant road manager consented to the grant of the replacement instrument.
- (8) The common vehicle condition is taken to be a vehicle condition imposed under section 162 of the Law at the request of the relevant road manager.

## **Part 7A Other savings and transitional provision**

### **69AA References to ADR clauses in current PBS vehicle approvals**

- (1) Section 28(3) applies—
  - (a) to a current PBS approval; and
  - (b) in relation to a clause of an ADR mentioned in section 28 as in force before the commencement as if the clause were mentioned in section 28(1).
- (2) A reference in a current PBS approval to clause 5.3 of ADR 62 is taken to be, and to always have been, a reference to clause 5.2 of ADR 62.
- (3) In this section—

***current PBS approval*** means a PBS vehicle approval in force on the commencement.

## **Part 8 Other provisions**

### **69A Authorisation for s 688 of the Law**

- (1) For section 688(1)(e) of the Law, an amount equal to the regulatory component of the

paid registration charges is to be paid into the Fund.

(2) In this section—

**paid registration charges** means the charges paid for the registration of a heavy vehicle under a law of a participating jurisdiction or the Commonwealth, taking into account any later refund of the charges.

**regulatory component**, of the paid registration charges, means the component of the charges—

- (a) prescribed under a law of a participating jurisdiction or the Commonwealth as the regulatory component of the charges; or
- (b) paid to, or received by, a participating jurisdiction, under a law of the jurisdiction or the Commonwealth, for payment into the Fund.

## 70 Increase of penalty amounts

- (1) This section applies for the purposes of section 737(2) of the Law.
- (2) The amount of the increase of each penalty that is to happen on each 1 July, as stated in section 737 of the Law, is the amount decided in accordance with the following formula—

$$\text{CPI indexation factor} = \frac{\text{Sum of index numbers for the 4 quarters in the recent calendar year}}{\text{Sum of index numbers for the 4 quarters in the previous calendar year}}$$

- (3) The amount decided under subsection (2) is to be rounded up or down to the nearest multiple of \$10.00 (rounding an amount of \$5.00 upwards).
- (4) If the amount worked out under subsections (2) and (3) for a particular 1 July is less than nil, no increase happens on that 1 July.
- (5) The **CPI indexation factor** for a particular 1 July is the amount of percentage points worked out using the following formula—

$$\text{CPI indexation factor} = \frac{\text{Sum of index numbers for the 4 quarters in the recent calendar year}}{\text{Sum of index numbers for the 4 quarters in the previous calendar year}}$$

where—

**index number**, for a quarter, means the All Groups Consumer Price Index number that is the weighted average of the 8 capital cities and is published by the Australian Statistician for that quarter.

**previous calendar year** means the last calendar year before the recent calendar year.

**recent calendar year** means the calendar year that ended most recently before the 1 July in question.

## 71 Fees

- (1) The fees payable under section 740(1) of the Law are in the Schedule 1.
- (2) For the purposes of section 740(3) of the Law, the Regulator may set all kinds of fees for inspection services, except, for a participating jurisdiction, so far as those fees are provided under another law of the jurisdiction.
- (3) For the purposes of section 740(6) of the Law, the Regulator may waive all or part of a fee for reasonable cause.

## 72 Increase of fee amounts

- (1) This section applies to the fees in Schedule 1 for section 740A(2) of the Law.
- (2) The amount of the increase of each fee that is to happen on each 1 July, as stated in section 740A of the Law, is the amount decided in accordance with the following formula—

$$\text{CPI indexation factor} = \frac{\text{Sum of index numbers for the 4 quarters in the recent calendar year}}{\text{Sum of index numbers for the 4 quarters in the previous calendar year}}$$

- (3) The amount decided under subsection (2) is to be rounded up or down to the nearest multiple of \$1.00, rounding an amount of 50c upwards.
- (4) If the amount worked out under subsections (2) and (3) for a particular 1 July is less than nil, no increase happens on that 1 July.
- (5) The **CPI indexation factor** for a particular 1 July is the amount of percentage points worked out using the following formula—

$$\text{CPI indexation factor} = \frac{\text{Sum of index numbers for the 4 quarters in the recent calendar year}}{\text{Sum of index numbers for the 4 quarters in the previous calendar year}}$$

where—

**index number**, for a quarter, means the All Groups Consumer Price Index number that is the weighted average of the 8 capital cities and is published by the Australian

Statistician for that quarter.

**previous calendar year** means the last calendar year before the recent calendar year.

**recent calendar year** means the calendar year that ended most recently before the 1 July in question.

## Schedule 1 Fees

section 71

|    | Application  | Amount |
|----|--|--------|
|    |  | \$     |
| 1  | An application under section 459(1) for <b>maintenance management accreditation</b> by an operator of a heavy vehicle  | 84.00  |
| 2  | An application to add vehicles to or change vehicles currently nominated under <b>maintenance management accreditation</b> (per vehicle) by an operator of a heavy vehicle         | 31.00  |
| 4  | An application under section 459(1) for <b>mass management accreditation</b> by an operator of a heavy vehicle   | 84.00  |
| 5  | An application by an operator to add vehicles to or change vehicles currently nominated under <b>mass management accreditation</b> (per vehicle) by an operator of a heavy vehicle | 31.00  |
| 7  | An application under section 459(1) for <b>BFM accreditation</b> by an operator of a heavy vehicle   | 84.00  |
| 9  | An application under section 459(1) for <b>AFM accreditation</b> by an operator of a heavy vehicle   | 127.00 |
| 11 | An application for a written work diary under section 339(1) by a driver of a fatigue-regulated heavy vehicle  | 25.00  |
| 12 | An application for a mass or dimension exemption (permit) under section 123(1)   | 70.00  |
| 13 | An application for the renewal of a mass or dimension exemption (permit)   | 70.00  |
| 14 | An application for a class 2 heavy vehicle authorisation (permit) under section 144(1)   | 70.00  |
| 15 | An application for the renewal of a class 2 heavy vehicle authorisation (permit)   | 70.00  |
| 16 | An application for a HML permit under section 21 of the <a href="#">Heavy Vehicle (Mass, Dimension and Loading) National Regulation (NSW)</a>                                      | 70.00  |