



Australian Capital Territory

Heavy Vehicle National Law (ACT) Act 2013

A2013-51

Contents

		Page
Part 1	Preliminary	
1	Name of Act	2
2	Commencement	2
3	Dictionary	2
4	Terms used in Heavy Vehicle National Law (ACT)	2
5	Notes	3
6	Offences against Heavy Vehicle National Law (ACT)—application of Criminal Code	3

J2012-537

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 2	Application of Heavy Vehicle National Law	
Division 2.1	General	
7	Application of Heavy Vehicle National Law	4
8	Exclusion of Legislation Act	4
9	Exclusion of other territory laws	5
Division 2.2	Definitions and declarations for Heavy Vehicle National Law (ACT)	
10	Definitions of generic terms	7
11	Authorised officer—the Law, s 5	7
12	Authorised warrant official—the Law, s 5	7
13	Infringement notice offences law—the Law, s 5	7
14	Relevant tribunal or court—the Law, s 5	7
15	Review of decision by ACAT	8
16	Responsible Minister—the Law, s 5	8
17	Road authority—the Law, s 5	8
18	Road manager—the Law, s 5	8
19	Road Rules—the Law, s 5	9
20	Meaning of <i>road</i> and <i>road-related area</i> —the Law, s 8 (3)	9
21	Offences for which person charged does not have benefit of mistake of fact defence—the Law, s 14	10
22	Primary WHS law—the Law, s 18 (4)	10
23	Meaning of <i>police agency</i> —the Law, s 727 (1)	10
24	Meaning of <i>relevant law</i> —the Law, s 727 (1)	10
Part 3	ACT-specific provisions	
25	Use of force against people—the Law, s 491	12
26	Use of force against property—the Law, s 492	12
27	Amendment or withdrawal of vehicle defect notices—the Law, s 531	12
28	Power to seize certain things—the Law, s 552	12
Part 4	Miscellaneous	
29	Provision of information and assistance to Regulator by road transport authority	13
30	Regulation-making power	14

	Page	
Part 5	Delayed application of certain provisions of Heavy Vehicle National Law (ACT)	
Division 5.1	Heavy vehicles—registration	
31	Registration provisions of Heavy Vehicle National Law (ACT)	15
32	Expiry—div 5.1	15
Division 5.2	Heavy vehicles operations—speeding	
33	Vehicle operations speeding provisions of Heavy Vehicle National Law (ACT)	15
34	Expiry—div 5.2	15
Division 5.3	Heavy vehicles operations—driver fatigue	
35	Vehicle operations driver fatigue provisions of Heavy Vehicle National Law (ACT)	16
36	Expiry—div 5.3	16
Division 5.4	Heavy vehicles—intelligent access program	
37	Intelligent access program provisions of Heavy Vehicle National Law (ACT)	16
38	Expiry—div 5.4	16
Division 5.5	Heavy vehicles—accreditation	
39	Accreditation provisions of Heavy Vehicle National Law (ACT)	17
40	Expiry—div 5.5	17
Part 6	Transitional	
41	Saved mass limit exemptions—accreditation under Heavy Vehicle National Law (ACT)	18
42	Transitional regulations	19
43	Expiry—pt 6	19
Schedule 1	Modification—Heavy Vehicle National Law (ACT)	20
Part 1.1	Modifications—general	20
Part 1.2	Modifications—ch 2	28

Contents

	Page
Dictionary	36



Australian Capital Territory

Heavy Vehicle National Law (ACT) Act 2013

A2013-51

An Act to apply a national law relating to the regulation of the use of heavy vehicles, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2012-537

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Heavy Vehicle National Law (ACT) Act 2013*.

2 Commencement

- (1) This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

- (2) The [Legislation Act](#), section 79 (Automatic commencement of postponed law) does not apply to this Act.

3 Dictionary

- (1) The dictionary at the end of this Act is part of this Act.
- (2) A definition in the dictionary applies to the local application provisions of this Act.

Note The dictionary at the end of this Act defines certain terms used in this Act.

4 Terms used in Heavy Vehicle National Law (ACT)

Terms used in the local application provisions of this Act and also in the *Heavy Vehicle National Law (ACT)* have the same meanings in those provisions as they have in that Law.

Note A definition in an Act applies except so far as the contrary intention appears (see [Legislation Act](#), s 155).

5 Notes

A note included in the local application provisions of this Act is explanatory and is not part of those provisions.

Note See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

6 Offences against Heavy Vehicle National Law (ACT)— application of Criminal Code

The [Criminal Code](#) applies in relation to offences against the *Heavy Vehicle National Law (ACT)* subject to section 21 (Offences for which person charged does not have benefit of mistake of fact defence—the Law, s 14).

Note *Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against the *Heavy Vehicle National Law (ACT)* (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Part 2 Application of Heavy Vehicle National Law

Division 2.1 General

7 Application of Heavy Vehicle National Law

- (1) The Heavy Vehicle National Law set out in the schedule to the [Queensland Act](#), as amended from time to time—
 - (a) applies as a territory law, as modified by schedule 1; and
 - (b) as so applying may be referred to as the *Heavy Vehicle National Law (ACT)*; and
 - (c) so applies as if it were part of this Act.

Note Some chapters of the *Heavy Vehicle National Law (ACT)* have a delayed application (see this Act, pt 5).

- (2) Schedule 1, part 1.2 (Modifications—chapter 2) and this subsection expire at the beginning of the day that section 32 (Expiry—div 5.1) commences.

8 Exclusion of Legislation Act

- (1) The [Legislation Act](#) does not apply to the *Heavy Vehicle National Law (ACT)*.
- (2) However, the [Legislation Act](#), chapter 7 (Presentation, amendment and disallowance of subordinate laws and disallowable instruments) applies to a national regulation as if—
 - (a) a reference to a subordinate law were a reference to a national regulation; and

- (b) a reference to ‘notification day’ in the [Legislation Act](#), section 64 (Presentation of subordinate laws and disallowable instruments) were a reference to ‘published’ as mentioned in the *Heavy Vehicle National Law (ACT)*, section 733 (1) (Publication of national regulations); and
 - (c) any other necessary changes were made.
- (3) Also, the [Legislation Act](#), section 104 (References to laws include references to instruments under laws) and section 191 (Offences against 2 or more laws) apply to the *Heavy Vehicle National Law (ACT)* as if that Law were an Act.
 - (4) This section does not limit the application of the [Legislation Act](#) to the local application provisions of this Act.
 - (5) If a national regulation is published as mentioned in subsection (2) (b) before the day this section commences, the regulation is taken to have been published on the day this section commences.
 - (6) Subsection (5) and this subsection expire 12 months after the day this section commences.

9 Exclusion of other territory laws

- (1) The following territory laws do not apply to the Regulator and the Board:
 - (a) the *Annual Reports (Government Agencies) Act 2004*;
 - (b) the *Financial Management Act 1996*;
 - (c) the *Government Procurement Act 2001*;
 - (d) the *Public Interest Disclosure Act 2012*;
 - (e) the *Public Sector Management Act 1994*;

(f) the *Territory Records Act 2002*.

Note The *Freedom of Information Act 1989* and the *Privacy Act 1988* (Cwlth) also do not apply to the Regulator and the Board (see *Freedom of Information Regulation 1991*, s 2B and *Australian Capital Territory Government Service (Consequential Provisions) Act 1994* (Cwlth), s 23 and sch 3).

(2) However, if a function of the Regulator or the Board under the *Heavy Vehicle National Law (ACT)*—

(a) is exercised by an entity that would, apart from subsection (1), be subject to a law mentioned in that subsection, the law applies to the entity; and

Example

The Regulator has an agreement mentioned in the *Heavy Vehicle National Law (ACT)*, s 658 (2) (a) with an ACT entity. The entity is a territory authority. The *Financial Management Act 1996* applies to territory authorities. Therefore, the entity must comply with that Act when doing things under the agreement.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act*, s 126 and s 132).

(b) is exercised by an entity that would, apart from the *Freedom of Information Regulation 1991*, section 2B (Regulator and Board not prescribed authorities—Act, dict, def *prescribed authority*, par (a) (ii)), be subject to the *Freedom of Information Act 1989* and the *Privacy Act 1988* (Cwlth), those Acts apply to the entity.

(3) The *Auditor-General Act 1996* does not apply to the *Heavy Vehicle National Law (ACT)* except to the extent that the Law applies to the auditor-general in carrying out an audit as required by a national regulation under the Law, section 693 (3) (b) (Annual report).

Division 2.2 Definitions and declarations for Heavy Vehicle National Law (ACT)

10 Definitions of generic terms

In the *Heavy Vehicle National Law (ACT)*:

police commissioner means the chief police officer.

police officer means a police officer.

Note The [Legislation Act](#), dict, pt 1 defines *police officer* as a member or special member of the Australian Federal Police.

this jurisdiction means the ACT.

11 Authorised officer—the Law, s 5

A police officer is declared to be an authorised officer for the *Heavy Vehicle National Law (ACT)*.

12 Authorised warrant official—the Law, s 5

A magistrate is declared to be an authorised warrant official for the ACT for the *Heavy Vehicle National Law (ACT)*.

13 Infringement notice offences law—the Law, s 5

The [Road Transport \(General\) Act 1999](#) is declared to be the Infringement Notice Offences Law for the *Heavy Vehicle National Law (ACT)*.

14 Relevant tribunal or court—the Law, s 5

(1) The Magistrates Court is declared to be the relevant tribunal or court for the ACT for the following provisions of the *Heavy Vehicle National Law (ACT)*:

(a) section 556 (Return of seized things or samples);

(b) section 560 (Withdrawal of embargo notice);

- (c) section 565 (Third party protection).
- (2) Any court or tribunal is declared to be the relevant tribunal or court for the ACT for the *Heavy Vehicle National Law (ACT)*, section 727 (1), definition of ***protected information***, paragraph (b) (iii).
- (3) The ACAT is declared to be the relevant tribunal or court for the ACT for the remaining provisions of the *Heavy Vehicle National Law (ACT)*.

15 Review of decision by ACAT

A reference in the *Heavy Vehicle National Law (ACT)* to an appeal against a decision is, for an appeal to the ACAT as the relevant tribunal or court, a reference to a review of the decision under the [*ACT Civil and Administrative Tribunal Act 2008*](#).

16 Responsible Minister—the Law, s 5

The Minister responsible for administering this Act is nominated as the responsible Minister for the *Heavy Vehicle National Law (ACT)*.

17 Road authority—the Law, s 5

The road transport authority is declared to be the road authority for the ACT for the *Heavy Vehicle National Law (ACT)*.

18 Road manager—the Law, s 5

The road transport authority is declared to be the road manager for a road for the *Heavy Vehicle National Law (ACT)*.

19 Road Rules—the Law, s 5

- (1) The [Australian Road Rules](#) are declared to be the Road Rules for the *Heavy Vehicle National Law (ACT)*.
- (2) In this section:

Australian Road Rules—see the [Road Transport \(Safety and Traffic Management\) Regulation 2000](#), section 5.

Note The [Australian Road Rules](#) are applied in the ACT under the [Road Transport \(Safety and Traffic Management\) Regulation 2000](#). They are to be read with, and as if they formed part of, that regulation (see the [regulation](#), s 6 (1)).

20 Meaning of road and road-related area—the Law, s 8 (3)

- (1) This section applies if an instrument under the [Road Transport \(General\) Act 1999](#), section 12 (1) (a) (Power to include or exclude areas in road transport legislation) is in force.
- (2) If the instrument declares that the road transport legislation applies to an area that is open to or used by the public, the area is declared to be a road-related area for the *Heavy Vehicle National Law (ACT)*.
- (3) If the instrument declares that the road transport legislation does not apply to a road or road related area (within the meaning of the [Road Transport \(General\) Act 1999](#)), the road or road related area is taken not to be a road or road-related area for the *Heavy Vehicle National Law (ACT)*.
- (4) In this section:

road transport legislation—see the [Road Transport \(General\) Act 1999](#), section 6.

21 Offences for which person charged does not have benefit of mistake of fact defence—the Law, s 14

- (1) Subsection (2) declares the effect of a provision of the *Heavy Vehicle National Law (ACT)* that states that a person charged with an offence does not have the benefit of the mistake of fact defence for the offence.
- (2) The defence mentioned in the [Criminal Code](#), section 35 (Mistake or ignorance of fact—fault elements other than negligence) or section 36 (Mistake of fact—strict liability) does not apply to the person in relation to the offence.

22 Primary WHS law—the Law, s 18 (4)

The [Work Health and Safety Act 2011](#) is declared to be the primary WHS Law for the *Heavy Vehicle National Law (ACT)*.

23 Meaning of *police agency*—the Law, s 727 (1)

The Australian Federal Police exercising functions under the [Australian Federal Police Act 1979](#) (Cwlth), section 8 (1) (a) is an entity for the *Heavy Vehicle National Law (ACT)*, section 727 (1), definition of *police agency*.

24 Meaning of *relevant law*—the Law, s 727 (1)

The following territory laws are specified for the *Heavy Vehicle National Law (ACT)*, section 727 (1), definition of *relevant law*:

- (a) the [Road Transport \(Alcohol and Drugs\) Act 1977](#);
- (b) the [Road Transport \(Driver Licensing\) Act 1999](#);
- (c) the [Road Transport \(General\) Act 1999](#);
- (d) the [Road Transport \(Public Passenger Services\) Act 2001](#);
- (e) the [Road Transport \(Safety and Traffic Management\) Act 1999](#);

- (f) the *Road Transport (Third-Party Insurance) Act 2008*;
- (g) the *Road Transport (Vehicle Registration) Act 1999*;
- (h) any other territory law prescribed by regulation.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

Part 3 ACT-specific provisions

25 Use of force against people—the Law, s 491

A police officer is authorised to use reasonable force against a person in the exercise or purported exercise of a function under the *Heavy Vehicle National Law (ACT)*, chapter 9 (Enforcement).

26 Use of force against property—the Law, s 492

An authorised officer is authorised to use reasonable force against property in the exercise or purported exercise of a function under the *Heavy Vehicle National Law (ACT)*, chapter 9 (Enforcement).

27 Amendment or withdrawal of vehicle defect notices—the Law, s 531

An authorised officer who is a police officer of another jurisdiction may amend or withdraw a vehicle defect notice issued in the ACT by a police officer.

28 Power to seize certain things—the Law, s 552

- (1) An authorised officer may impound or seize an excluded thing under the *Heavy Vehicle National Law (ACT)*, chapter 9 (Enforcement) as if it were a thing that may otherwise be seized under chapter 9.

Note A similar power under the *Crimes Act 1900*, pt 10 (Criminal investigation) may be used instead (see that [Act](#), s 186).

- (2) In this section:

excluded thing means—

- (a) a heavy vehicle; or
- (b) a thing mentioned in the *Heavy Vehicle National Law (ACT)*, section 552 (1) (b).

Part 4 Miscellaneous

29 Provision of information and assistance to Regulator by road transport authority

- (1) Despite any other territory law, the road transport authority is authorised, on its own initiative or at the request of the Regulator, to give the Regulator—
 - (a) the information (including information given in confidence) in the authority's possession or control that the Regulator reasonably requires for the local application provisions of this Act or the *Heavy Vehicle National Law (ACT)*; and
 - (b) any other assistance that the Regulator reasonably requires to exercise a function under the local application provisions of this Act or the *Heavy Vehicle National Law (ACT)*.
- (2) Information given to the Regulator under subsection (1) is taken to be information obtained in the course of administering the *Heavy Vehicle National Law (ACT)*, as mentioned in the Law, section 727 (1), definition of ***protected information***, paragraph (a).
- (3) Nothing done or authorised to be done by the road transport authority in acting under this section—
 - (a) is a breach of, or default under, a territory law; or
 - (b) is a breach of, or default under, a contract, agreement, understanding or undertaking; or
 - (c) is a breach of a duty of confidence (whether arising by contract, in equity, by custom or in any other way); or
 - (d) is a civil or criminal wrong; or
 - (e) ends an agreement or obligation or fulfils any condition that allows a person to end an agreement or obligation, or gives rise to any other right or remedy; or

- (f) releases a surety or any other obligee wholly or in part from an obligation.
 - (4) This section authorises either or both of the following for the exercise of the Regulator's functions under the local application provisions of this Act or the *Heavy Vehicle National Law (ACT)*:
 - (a) the disclosure of information mentioned in the *Road Transport (Safety and Traffic Management) Act 1999*, section 29A (Disclosure of images by road transport authority) to the Regulator;
 - (b) the disclosure of the information by the Regulator to someone else.
- Note* See the *Road Transport (Safety and Traffic Management) Act 1999*, s 29B (Use, retention and disclosure of images by other people) and s 29C (Protection of images against loss etc).
- (5) This section does not limit the *Heavy Vehicle National Law (ACT)*, section 660 (Cooperation with participating jurisdictions and Commonwealth).

30 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (2) A regulation may modify a national regulation.

Part 5 **Delayed application of certain provisions of Heavy Vehicle National Law (ACT)**

Division 5.1 **Heavy vehicles—registration**

31 **Registration provisions of Heavy Vehicle National Law (ACT)**

Chapter 2 (Registration) of the *Heavy Vehicle National Law (ACT)* does not apply in the ACT.

32 **Expiry—div 5.1**

This division expires at the beginning of the day that this section commences.

Division 5.2 **Heavy vehicles operations—speeding**

33 **Vehicle operations speeding provisions of Heavy Vehicle National Law (ACT)**

Chapter 5 (Vehicle operations—speeding) of the *Heavy Vehicle National Law (ACT)* does not apply in the ACT.

34 **Expiry—div 5.2**

This division expires at the beginning of the day that this section commences.

Division 5.3 Heavy vehicles operations—driver fatigue

35 Vehicle operations driver fatigue provisions of Heavy Vehicle National Law (ACT)

The following provisions of the *Heavy Vehicle National Law (ACT)* do not apply in the ACT:

- (a) chapter 6 (Vehicle operations—driver fatigue);
- (b) part 9.3, division 8 (Further powers in relation to fatigue-regulated heavy vehicles).

36 Expiry—div 5.3

This division expires at the beginning of the day that this section commences.

Division 5.4 Heavy vehicles—intelligent access program

37 Intelligent access program provisions of Heavy Vehicle National Law (ACT)

Chapter 7 (Intelligent Access Program) of the *Heavy Vehicle National Law (ACT)* does not apply in the ACT.

38 Expiry—div 5.4

This division expires at the beginning of the day that this section commences.

Division 5.5 Heavy vehicles—accreditation

39 Accreditation provisions of Heavy Vehicle National Law (ACT)

Chapter 8 (Accreditation) of the *Heavy Vehicle National Law (ACT)* does not apply in the ACT.

40 Expiry—div 5.5

This division expires at the beginning of the day that this section commences.

Part 6 Transitional

41 Saved mass limit exemptions—accreditation under Heavy Vehicle National Law (ACT)

- (1) This section applies to the following instruments as saved under the *Heavy Vehicle National Law (ACT)*, section 748 (General savings and transitional provision):
 - (a) *Road Transport (Mass, Dimensions and Loading) Concessional Mass Limits (CML) Exemption Notice 2010 (No 1)* (NI2010-99);
 - (b) *Road Transport (Mass, Dimensions and Loading) Higher Mass Limits (HML) Exemption Notice 2013 (No 1)* (NI2013-348).

Note The instruments are taken to have been made under the *Heavy Vehicle National Law (ACT)* (see the Law, s 748).

- (2) For the instruments, an operator is taken to be accredited under a Mass Management Accreditation Scheme within the meaning of the *Road Transport (Mass, Dimensions and Loading) Regulation 2010* (repealed), section 46 if the operator is accredited under a law of a participating jurisdiction that substantially corresponds to the *Heavy Vehicle National Law (ACT)*, section 458 (b).

Note 1 An operator may also be accredited under a scheme for mass management approved by a corresponding road transport authority (see *Road Transport (Mass, Dimensions and Loading) Regulation 2010* (repealed), s 46).

Note 2 Ch 8 (Accreditation) of the *Heavy Vehicle National Law (ACT)* has a delayed application (see this Act, div 5.5).

- (3) This section expires 12 months after the day section 40 (Expiry—div 5.5) commences.

42 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act or the *Heavy Vehicle National Law (Consequential Amendments) Act 2013*.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything else in this Act, the *Heavy Vehicle National Law (Consequential Amendments) Act 2013* or another territory law.

43 Expiry—pt 6

This part expires 12 months after the day the last of the following provisions commences:

- (a) section 32 (Expiry—div 5.1);
- (b) section 34 (Expiry—div 5.2);
- (c) section 36 (Expiry—div 5.3);
- (d) section 38 (Expiry—div 5.4);
- (e) section 40 (Expiry—div 5.5).

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

Schedule 1 Modification—Heavy Vehicle National Law (ACT)

(see s 7)

Part 1.1 Modifications—general

[1.1] Section 5, definition of *previous corresponding law*, new paragraph 4

insert

- 4 For the purposes of paragraph 1, if a provision of this Law does not apply in a participating jurisdiction on the day the provision of its Application Act corresponding to section 4 of the *Heavy Vehicle National Law Act 2012* of Queensland commences, and the provision later applies in the jurisdiction, the participation day for the jurisdiction in relation to the provision is taken to be the day the provision applies.

[1.2] New sections 567A and 567B

insert

567A Power to require production of driver licence

- (1) An authorised officer may, for compliance purposes, require the driver of a heavy vehicle to produce for inspection by the officer the driver's driver licence.
- (2) A person of whom a requirement is made under subsection (1) must comply with the requirement.

Maximum penalty: 20 penalty units.

Note It is an offence to produce false or misleading documents (see *Criminal Code 2002*, s 339).

- (3) An offence against this section is a strict liability offence.

- (4) It is a defence to a prosecution for an offence against subsection (2) if the defendant proves that the defendant—
- (a) was not the driver of a heavy vehicle when required to produce the licence; and
 - (b) has a reasonable excuse for failing to produce the licence when required to do so; and
 - (c) within 3 days after being required to produce the licence, produces the licence as directed by the authorised officer.

Note A defendant has a legal burden in relation to the matters mentioned in s (4) (see [Criminal Code 2002](#), s 59).

- (5) The authorised officer may take a copy of, or an extract from, the driver's driver licence.
- (6) The [Legislation Act 2001](#), sections 133 and 134 apply to this section.

567B Power to require people to disclose identity of driver

- (1) If the driver of a heavy vehicle is alleged to have committed an offence against this Law—
- (a) the responsible person for the vehicle, or the person in possession of the vehicle, must, when required to do so by an authorised officer, give information (which must, if so required, be given in the form of a written statement signed by the person) about the name and home address of the driver at the time of the offence; and
 - (b) anyone else must, when required to do so by an authorised officer, give any information that the person can give that may lead to the identification of the driver.

Maximum penalty: 20 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1)(a) if the defendant proves that the defendant did not know and could not with reasonable diligence have found out the driver's name and home address.

Note A defendant has a legal burden in relation to the matters mentioned in s (2) (see *Criminal Code 2002*, s 59).

- (3) If—
- (a) a written statement purporting to be given under subsection (1)(a) is produced in court in a prosecution of the person named in the statement as the driver of a vehicle at the time of an alleged offence against this Law; and
 - (b) the person does not appear before the court; and
 - (c) a copy of the statement was served on the person before the proceeding was begun;
- the statement is evidence without proof of signature that the named person was the driver of the vehicle at that time.
- (4) The *Legislation Act 2001*, sections 133 and 134 apply to this section.

[1.3] Part 10.3, new division 4A

insert

**Division 4A Cancelling, varying or suspending
driver licences or disqualifying
drivers**

598A Sanctions involving driver licences

- (1) This section applies if a court convicts the driver of a heavy vehicle of an offence against this Law relating to a mass, dimension or loading requirement other than an offence that involves only a minor risk breach, or substantial risk breach, of a mass, dimension or loading requirement.
- (2) The court may make an order for either or both of the following:
 - (a) that a stated Australian driver licence issued to the driver is—
 - (i) cancelled; or
 - (ii) varied or suspended for a stated period;
 - (b) that the driver is disqualified from obtaining or holding an Australian driver licence (either generally or of a stated kind) for a stated period.
- (3) An order under this section operates automatically and takes effect immediately or, if a later day is stated in the order, on the stated day.
- (4) To remove any doubt, this section is additional to, and does not limit, the court's powers under—
 - (a) the *Road Transport (Driver Licensing) Regulation 2000*, division 5.2 (Variation, suspension or cancellation of driver licences); or
 - (b) the *Road Transport (General) Act 1999*, division 4.2 (Licence suspension, disqualification and related matters).

- (5) The registrar must give particulars of the conviction to the road authority.
- (6) In this section:
Australian driver licence—see the *Road Transport (Driver Licensing) Act 1999*, dictionary.

[1.4] New section 709A

insert

709A Evidence of speed

- (1) This section applies if the speed of a heavy vehicle is relevant in a proceeding for an offence against this Law.
- (2) Evidence that is obtained or may be given under the *Road Transport (Safety and Traffic Management) Act 1999* may be given in the proceeding.
- (3) Without limiting subsection (2), a certificate about a matter under the *Road Transport (Safety and Traffic Management) Act 1999*, part 6 (Traffic offence detection devices) is—
 - (a) admissible in the proceeding; and
 - (b) evidence of the matter.
- (4) If the heavy vehicle is being towed by another heavy vehicle, the heavy vehicle and towing vehicle are taken to be travelling at the same speed.
- (5) This section does not limit evidence that can be presented apart from this section.

[1.5] New section 710 (1A) and (1B)

insert

- (1A) In a proceeding for an offence against this Law, a statement in the complaint for the offence that—
- (a) at a stated time or during a stated period—
 - (i) a stated person was or was not the holder of a driver licence under the *Road Transport (Driver Licensing) Act 1999* of any particular class or type; or
 - (ii) a stated person was or was not the holder of a driver licence under the *Road Transport (Driver Licensing) Act 1999* authorising the holder to drive a motor vehicle on a stated road; or
 - (b) any distance mentioned in the complaint is or was a stated distance or is or was greater or less than a stated distance;
- is evidence of the matter.
- (1B) Section 715 applies to a matter mentioned in subsection (1A)(b) as if the matter were a matter stated in a certificate to which the section applies.

[1.6] New section 711 (1) (r) to (zc)

insert

- (r) a stated thing was the property of the Regulator; or
- (s) a stated sign was or was not an official traffic sign, contained stated words or was on a stated place; or
- (t) a stated vehicle was or was not inspected under this Law; or
- (u) a stated vehicle was or was not inspected in compliance with a stated requirement made by an authorised officer; or

- (v) an inspection of a stated vehicle under this Law gave stated results; or
- (w) a stated application, or another stated document required to be lodged under this Law, was or was not received by the Regulator; or
- (x) a stated report or stated information required to be given to the Regulator under this Law was received or was not received by the Regulator; or
- (y) no report or information of a stated type, required to be given to the Regulator under this Law, was received by the Regulator; or
- (z) a stated vehicle was or was not of a stated type, or was carrying stated goods; or
- (za) a stated copy of a document was a copy of a document issued, or required to be kept, under the Law; or
- (zb) a stated document was a manufacturer's specification for a stated type of vehicle; or
- (zc) a stated vehicle's GCM or GVM was a stated amount, and how the amount was identified;

[1.7] New section 711 (3)

insert

- (3) A certificate mentioned in the *Road Transport (General) Act 1999*, section 56 signed by or on behalf of the Regulator as administering authority that states a matter is evidence of the matter.

[1.8] Section 712

omit

A certificate

substitute

- (1) A certificate

[1.9] New section 712 (2)

insert

- (2) A certificate mentioned in the *Road Transport (General) Act 1999*, section 72 signed by or on behalf of the road transport authority that states a matter is evidence of the matter.

[1.10] New section 715A

insert

715A Evidence of contents of document examined by authorised officer

Evidence by an authorised officer of the contents of a document issued, or required to be kept, under this Law, that was examined by the officer while it was in someone else's possession, may be given by the officer without the document being produced.

Example—

An authorised officer who examines a driver's work diary may return the work diary to the driver to enable the driver to continue driving. The officer may give evidence of the contents of the work diary without producing it.

[1.11] Section 737 (1)

after

section)

insert

other than an offence mentioned in section 567A or section 567B

Part 1.2 Modifications—ch 2

[1.12] Section 4

omit

The object

substitute

- (1) The object

[1.13] New section 4 (2)

insert

- (2) In this section:

registration means registration under this Law.

[1.14] Section 5, new definition of *corresponding registration law*

insert

corresponding registration law means a law of a participating jurisdiction that substantially corresponds to the *Road Transport (Vehicle Registration) Act 1999*.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see *Legislation Act 2001*, s 104 and *Heavy Vehicle National Law (ACT) Act 2013*, s 8 (3)).

[1.15] Section 5, definition of *GCM*

substitute

GCM (gross combination mass), of a motor vehicle, means the greatest possible sum of the maximum loaded mass of the motor vehicle and of any vehicles that may lawfully be towed by it at the same time—

- (a) specified by the manufacturer on an identification plate on the motor vehicle; or
- (b) if there is no specification by the manufacturer on an identification plate on the motor vehicle or if the specification is not appropriate because the motor vehicle has been modified—certified by the road transport authority or an authority under a corresponding registration law.

[1.16] Section 5, definition of *GVM*

substitute

GVM (gross vehicle mass), of a vehicle, means the maximum loaded mass of the vehicle—

- (a) specified by the manufacturer on an identification plate on the vehicle; or

- (b) if there is no specification by the manufacturer on an identification plate on the vehicle or if the specification is not appropriate because the vehicle has been modified—certified by the road transport authority or an authority under a corresponding registration law.

[1.17] Section 5, definition of *registration*

substitute

registration, of a heavy vehicle, means registration of the vehicle under the *Road Transport (Vehicle Registration) Act 1999* or a corresponding registration law.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see *Legislation Act 2001*, s 104 and *Heavy Vehicle National Law (ACT) Act 2013*, s 8 (3)).

[1.18] Section 5, definition of *registration number*

substitute

registration number, for a heavy vehicle—

- (a) has the same meaning as in the *Road Transport (Vehicle Registration) Regulation 2000*; or
- (b) means the identifying registration number (however described) given to the vehicle under a corresponding registration law.

[1.19] Section 5, definition of *unregistered heavy vehicle permit*

substitute

unregistered heavy vehicle permit means—

- (a) an unregistered vehicle permit under the *Road Transport (Vehicle Registration) Act 1999*; or
- (b) an unregistered heavy vehicle permit (however described) under a corresponding registration law.

[1.20] Section 5, definition of *vehicle register*

substitute

vehicle register means—

- (a) the registrable vehicles register under the *Road Transport (Vehicle Registration) Act 1999*; or
- (b) the register of vehicles (however described) under a corresponding registration law.

[1.21] Section 5, definitions of *wrecked* and *written-off*

omit

[1.22] Section 60 (3) and (4)

substitute

- (3) A person does not commit an offence against subsection (1) in relation to a heavy vehicle's noncompliance with a heavy vehicle standard if, and to the extent, the noncompliance relates to a noncompliance—
 - (a) if the vehicle is registered under the *Road Transport (Vehicle Registration) Act 1999*—known to the road authority when the vehicle was registered under the Act; or
 - (b) if the vehicle is registered under a corresponding registration law—known to the government entity of the participating jurisdiction responsible for administering the law when the vehicle was registered under that law.

- (4) For the purposes of subsection (3), the road authority, or the government entity, is taken to know of a heavy vehicle's noncompliance with a heavy vehicle standard when the vehicle was registered under the *Road Transport (Vehicle Registration) Act 1999* or corresponding registration law if the noncompliance is mentioned in—
- (a) an operations plate that was installed on the vehicle when it was registered; or
 - (b) a certificate of approved operations issued for the vehicle and in force when the vehicle was registered; or
 - (c) a document obtained by the road authority under the *Road Transport (Vehicle Registration) Act 1999*, or the government entity under the corresponding registration law, in connection with the registration of the vehicle.

[1.23] Section 458 (a)

omit

under this Law

[1.24] Section 520 (2) (b)

substitute

- (b) without limiting paragraph (a), look for, check the details of, or film a number plate, label or other thing required to be displayed on the heavy vehicle under this Law, the *Road Transport (Vehicle Registration) Act 1999* or a corresponding registration law; and

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see *Legislation Act 2001*, s 104 and *Heavy Vehicle National Law (ACT) Act 2013*, s 8 (3)).

[1.25] Section 521 (3) (c)

substitute

- (c) without limiting paragraph (b), look for, check the details of, or film a number plate, label or other thing required to be displayed on the heavy vehicle under this Law, the *Road Transport (Vehicle Registration) Act 1999* or a corresponding registration law; and

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see *Legislation Act 2001*, s 104 and *Heavy Vehicle National Law (ACT) Act 2013*, s 8 (3)).

[1.26] Section 522 (6)

after

ground for

insert

cancelling or

[1.27] Section 527 (1) (i)

substitute

- (i) that, if the notice is not cleared by the Regulator under section 530, the law under which the vehicle is registered may provide for sanctions (for example, suspension or cancellation of registration);

[1.28] Section 598 (5)

omit

Regulator is

substitute

Regulator and the road authority are

[1.29] New section 598 (6)

insert

- (6) In this section:

registration, of a heavy vehicle, means registration of the vehicle under the *Road Transport (Vehicle Registration) Act 1999*.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see *Legislation Act 2001*, s 104 and *Heavy Vehicle National Law (ACT) Act 2013*, s 8 (3)).

[1.30] New section 653 (4)

insert

- (4) In this section:

registration means registration under this Law.

[1.31] New section 712 (ca) to (ch)

insert

- (ca) a stated vehicle was or was not registered under the *Road Transport (Vehicle Registration) Act 1999* on the basis of it being a heavy vehicle; or

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see *Legislation Act 2001*, s 104 and *Heavy Vehicle National Law (ACT) Act 2013*, s 8 (3)).

- (cb) a stated vehicle registered under the *Road Transport (Vehicle Registration) Act 1999* was or was not registered as a heavy vehicle of a stated category; or

- (cc) a stated vehicle was or was not exempt from registration under the *Road Transport (Vehicle Registration) Act 1999*; or

- (cd) a stated person was or was not a responsible person (within the meaning of the *Road Transport (General) Act 1999*) for a stated vehicle registered under the *Road Transport (Vehicle Registration) Act 1999*; or
- (ce) a stated person is the holder of a stated permit or other authority under the *Road Transport (Vehicle Registration) Act 1999*; or
- (cf) a stated registration, exemption, authorisation, permit or other authority under the *Road Transport (Vehicle Registration) Act 1999* was or was not amended, suspended or cancelled; or
- (cg) a stated penalty, fee, charge or other amount was or was not, or is or is not, payable under the *Road Transport (General) Act 1999* by a stated person in relation to a heavy vehicle; or
- (ch) a stated fee, charge or other amount payable under the *Road Transport (General) Act 1999* in relation to a heavy vehicle was or was not paid to the road authority; or

Dictionary

(see s 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to the local application provisions of this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- auditor-general
- chief police officer
- entity
- magistrate
- police officer
- road transport authority
- territory authority
- territory law.

Heavy Vehicle National Law (ACT) means the provisions applying because of section 7.

local application provisions of this Act means the provisions of this Act other than—

- (a) the *Heavy Vehicle National Law (ACT)*; and
- (b) the modified text of the *Heavy Vehicle National Law (ACT)* in schedule 1.

Queensland Act means the [Heavy Vehicle National Law Act 2012](#) (Qld).

Note A reference to a law (including the [Queensland Act](#)) includes a reference to the law as originally made and as amended (see [Legislation Act](#), s 102).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 24 October 2013.

2 Notification

Notified under the [Legislation Act](#) on 9 December 2013.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Heavy Vehicle National Law (ACT) Bill 2013, which was passed by the Legislative Assembly on 28 November 2013.

Clerk of the Legislative Assembly

© Australian Capital Territory 2013