

2013

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Heavy Vehicle National Law (ACT) Bill 2013

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FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Heavy Vehicle National Law (ACT) Bill 2013

A Bill for

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

4 **2 Commencement**

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

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

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

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

14 **3 Dictionary**

15 (1) The dictionary at the end of this Act is part of this Act.

16 (2) A definition in the dictionary applies to the local application
17 provisions of this Act.

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

20 **4 Terms used in Heavy Vehicle National Law (ACT)**

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

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

1 **5** **Notes**

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

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

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

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

12 *Note* *Criminal Code*
13 The [Criminal Code](#), ch 2 applies to all offences against the *Heavy*
14 *Vehicle National Law (ACT)* (see Code, pt 2.1).
15 The chapter sets out the general principles of criminal responsibility
16 (including burdens of proof and general defences), and defines terms
17 used for offences to which the Code applies (eg *conduct*, *intention*,
18 *recklessness* and *strict liability*).

1 **Part 2 Application of Heavy Vehicle**
2 **National Law**

3 **Division 2.1 General**

4 **7 Application of Heavy Vehicle National Law**

5 (1) The Heavy Vehicle National Law set out in the schedule to the
6 [Queensland Act](#), as amended from time to time—

7 (a) applies as a territory law, as modified by schedule 1; and

8 (b) as so applying may be referred to as the *Heavy Vehicle*
9 *National Law (ACT)*; and

10 (c) so applies as if it were part of this Act.

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

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

16 **8 Exclusion of Legislation Act**

17 (1) The [Legislation Act](#) does not apply to the *Heavy Vehicle National*
18 *Law (ACT)*.

19 (2) However, the [Legislation Act](#), chapter 7 (Presentation, amendment
20 and disallowance of subordinate laws and disallowable instruments)
21 applies to a national regulation as if—

22 (a) a reference to a subordinate law were a reference to a national
23 regulation; and

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

19 **9 Exclusion of other territory laws**

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

1 (f) the *Territory Records Act 2002*.

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

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

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

12 **Example**

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

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

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

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

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

3 **10** **Definitions of generic terms**

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

5 *police commissioner* means the chief police officer.

6 *police officer* means a police officer.

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

9 *this jurisdiction* means the ACT.

10 **11** **Authorised officer—the Law, s 5**

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

13 **12** **Authorised warrant official—the Law, s 5**

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

16 **13** **Infringement notice offences law—the Law, s 5**

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

20 **14** **Relevant tribunal or court—the Law, s 5**

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

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

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

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

9 **15 Review of decision by ACAT**

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

14 **16 Responsible Minister—the Law, s 5**

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

17 **17 Road authority—the Law, s 5**

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

20 **18 Road manager—the Law, s 5**

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

1 **19 Road Rules—the Law, s 5**

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

4 (2) In this section:

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

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

11 **20 Meaning of road and road-related area—the Law, s 8 (3)**

12 (1) This section applies if an instrument under the [Road Transport](#)
13 [\(General\) Act 1999](#), section 12 (1) (a) (Power to include or exclude
14 areas in road transport legislation) is in force.

15 (2) If the instrument declares that the road transport legislation applies
16 to an area that is open to or used by the public, the area is declared
17 to be a road-related area for the *Heavy Vehicle National Law (ACT)*.

18 (3) If the instrument declares that the road transport legislation does not
19 apply to a road or road related area (within the meaning of the [Road](#)
20 [Transport \(General\) Act 1999](#)), the road or road related area is taken
21 not to be a road or road-related area for the *Heavy Vehicle National*
22 *Law (ACT)*.

23 (4) In this section:

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

- 1 **21** **Offences for which person charged does not have benefit**
2 **of mistake of fact defence—the Law, s 14**
- 3 (1) Subsection (2) declares the effect of a provision of the *Heavy*
4 *Vehicle National Law (ACT)* that states that a person charged with
5 an offence does not have the benefit of the mistake of fact defence
6 for the offence.
- 7 (2) The defence mentioned in the [Criminal Code](#), section 35 (Mistake or
8 ignorance of fact—fault elements other than negligence) or
9 section 36 (Mistake of fact—strict liability) does not apply to the
10 person in relation to the offence.
- 11 **22** **Primary WHS law—the Law, s 18 (4)**
- 12 The [Work Health and Safety Act 2011](#) is declared to be the primary
13 WHS Law for the *Heavy Vehicle National Law (ACT)*.
- 14 **23** **Meaning of *police agency*—the Law, s 727 (1)**
- 15 The Australian Federal Police exercising functions under the
16 [Australian Federal Police Act 1979](#) (Cwlth), section 8 (1) (a) is an
17 entity for the *Heavy Vehicle National Law (ACT)*, section 727 (1),
18 definition of *police agency*.
- 19 **24** **Meaning of *relevant law*—the Law, s 727 (1)**
- 20 The following territory laws are specified for the *Heavy Vehicle*
21 *National Law (ACT)*, section 727 (1), definition of *relevant law*:
- 22 (a) the [Road Transport \(Alcohol and Drugs\) Act 1977](#);
- 23 (b) the [Road Transport \(Driver Licensing\) Act 1999](#);
- 24 (c) the [Road Transport \(General\) Act 1999](#);
- 25 (d) the [Road Transport \(Public Passenger Services\) Act 2001](#);
- 26 (e) the [Road Transport \(Safety and Traffic Management\)](#)
27 [Act 1999](#);

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

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

1 **Part 3 ACT-specific provisions**

2 **25 Use of force against people—the Law, s 491**

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

6 **26 Use of force against property—the Law, s 492**

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

10 **27 Amendment or withdrawal of vehicle defect notices—the**
11 **Law, s 531**

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

15 **28 Power to seize certain things—the Law, s 552**

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

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

22 (2) In this section:

23 ***excluded thing*** means—

24 (a) a heavy vehicle; or

25 (b) a thing mentioned in the *Heavy Vehicle National Law (ACT)*,
26 section 552 (1) (b).

1 Part 4 Miscellaneous

2 29 Provision of information and assistance to Regulator by 3 road transport authority

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

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

18 **30 Regulation-making power**

- 19 (1) The Executive may make regulations for this Act.
- 20 *Note* A regulation must be notified, and presented to the Legislative
21 Assembly, under the [Legislation Act](#).
- 22 (2) A regulation may modify a national regulation.

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

4 **Division 5.1** **Heavy vehicles—registration**

5 **31** **Registration provisions of Heavy Vehicle National Law**
6 **(ACT)**

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

9 **32** **Expiry—div 5.1**

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

12 **Division 5.2** **Heavy vehicles operations—speeding**

13 **33** **Vehicle operations speeding provisions of Heavy Vehicle**
14 **National Law (ACT)**

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

17 **34** **Expiry—div 5.2**

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

1 **Division 5.3** **Heavy vehicles operations—driver**
2 **fatigue**

3 **35** **Vehicle operations driver fatigue provisions of Heavy**
4 **Vehicle National Law (ACT)**

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

7 (a) chapter 6 (Vehicle operations—driver fatigue);

8 (b) part 9.3, division 8 (Further powers in relation to
9 fatigue-regulated heavy vehicles).

10 **36** **Expiry—div 5.3**

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

13 **Division 5.4** **Heavy vehicles—intelligent access**
14 **program**

15 **37** **Intelligent access program provisions of Heavy Vehicle**
16 **National Law (ACT)**

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

19 **38** **Expiry—div 5.4**

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

1 **Division 5.5** **Heavy vehicles—accreditation**

2 **39** **Accreditation provisions of Heavy Vehicle National Law**
3 **(ACT)**

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

6 **40** **Expiry—div 5.5**

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

1 **Part 6 Transitional**

2 **41 Saved mass limit exemptions—accreditation under Heavy**
3 **Vehicle National Law (ACT)**

4 (1) This section applies to the following instruments as saved under the
5 *Heavy Vehicle National Law (ACT)*, section 748 (General savings
6 and transitional provision):

7 (a) *Road Transport (Mass, Dimensions and Loading)*
8 *Concessional Mass Limits (CML) Exemption Notice*
9 *2010 (No 1)* (NI2010-99);

10 (b) *Road Transport (Mass, Dimensions and Loading) Higher Mass*
11 *Limits (HML) Exemption Notice 2013 (No 1)* (NI2013-348).

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

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

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

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

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

1 **42** **Transitional regulations**

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

13 **43** **Expiry—pt 6**

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

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

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

1 **Schedule 1 Modification—Heavy Vehicle**
2 **National Law (ACT)**

3 (see s 7)

4 **Part 1.1 Modifications—general**

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

7 *insert*

- 8 4 For the purposes of paragraph 1, if a provision of this Law does not
9 apply in a participating jurisdiction on the day the provision of its
10 Application Act corresponding to section 4 of the *Heavy Vehicle*
11 *National Law Act 2012* of Queensland commences, and the
12 provision later applies in the jurisdiction, the participation day for
13 the jurisdiction in relation to the provision is taken to be the day the
14 provision applies.

15 **[1.2] New sections 567A and 567B**

16 *insert*

17 **567A Power to require production of driver licence**

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

23 Maximum penalty: 20 penalty units.

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

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

- 1 (4) It is a defence to a prosecution for an offence against subsection (2)
2 if the defendant proves that the defendant—
- 3 (a) was not the driver of a heavy vehicle when required to produce
4 the licence; and
- 5 (b) has a reasonable excuse for failing to produce the licence when
6 required to do so; and
- 7 (c) within 3 days after being required to produce the licence,
8 produces the licence as directed by the authorised officer.
- 9 *Note* A defendant has a legal burden in relation to the matters mentioned in
10 s (4) (see *Criminal Code 2002*, s 59).
- 11 (5) The authorised officer may take a copy of, or an extract from, the
12 driver’s driver licence.
- 13 (6) The *Legislation Act 2001*, sections 133 and 134 apply to this
14 section.

15 **567B Power to require people to disclose identity of driver**

- 16 (1) If the driver of a heavy vehicle is alleged to have committed an
17 offence against this Law—
- 18 (a) the responsible person for the vehicle, or the person in
19 possession of the vehicle, must, when required to do so by an
20 authorised officer, give information (which must, if so
21 required, be given in the form of a written statement signed by
22 the person) about the name and home address of the driver at
23 the time of the offence; and
- 24 (b) anyone else must, when required to do so by an authorised
25 officer, give any information that the person can give that may
26 lead to the identification of the driver.
- 27 Maximum penalty: 20 penalty units.

- 1 (2) It is a defence to a prosecution for an offence against
2 subsection (1)(a) if the defendant proves that the defendant did not
3 know and could not with reasonable diligence have found out the
4 driver's name and home address.
- 5 *Note* A defendant has a legal burden in relation to the matters mentioned in
6 s (2) (see *Criminal Code 2002*, s 59).
- 7 (3) If—
- 8 (a) a written statement purporting to be given under
9 subsection (1)(a) is produced in court in a prosecution of the
10 person named in the statement as the driver of a vehicle at the
11 time of an alleged offence against this Law; and
- 12 (b) the person does not appear before the court; and
- 13 (c) a copy of the statement was served on the person before the
14 proceeding was begun;
- 15 the statement is evidence without proof of signature that the named
16 person was the driver of the vehicle at that time.
- 17 (4) The *Legislation Act 2001*, sections 133 and 134 apply to this
18 section.

1 **[1.3] Part 10.3, new division 4A**

2 *insert*

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

6 **598A Sanctions involving driver licences**

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

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

2 *insert*

3 (1A) In a proceeding for an offence against this Law, a statement in the
4 complaint for the offence that—

5 (a) at a stated time or during a stated period—

6 (i) a stated person was or was not the holder of a driver
7 licence under the *Road Transport (Driver Licensing)*
8 *Act 1999* of any particular class or type; or

9 (ii) a stated person was or was not the holder of a driver
10 licence under the *Road Transport (Driver Licensing)*
11 *Act 1999* authorising the holder to drive a motor vehicle
12 on a stated road; or

13 (b) any distance mentioned in the complaint is or was a stated
14 distance or is or was greater or less than a stated distance;

15 is evidence of the matter.

16 (1B) Section 715 applies to a matter mentioned in subsection (1A)(b) as
17 if the matter were a matter stated in a certificate to which the section
18 applies.

19 **[1.6] New section 711 (1) (r) to (zc)**

20 *insert*

21 (r) a stated thing was the property of the Regulator; or

22 (s) a stated sign was or was not an official traffic sign, contained
23 stated words or was on a stated place; or

24 (t) a stated vehicle was or was not inspected under this Law; or

25 (u) a stated vehicle was or was not inspected in compliance with a
26 stated requirement made by an authorised officer; or

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Part 1.1

Modification—Heavy Vehicle National Law (ACT)
Modifications—general

Modification [1.7]

- 1 (v) an inspection of a stated vehicle under this Law gave stated
2 results; or
- 3 (w) a stated application, or another stated document required to be
4 lodged under this Law, was or was not received by the
5 Regulator; or
- 6 (x) a stated report or stated information required to be given to the
7 Regulator under this Law was received or was not received by
8 the Regulator; or
- 9 (y) no report or information of a stated type, required to be given
10 to the Regulator under this Law, was received by the
11 Regulator; or
- 12 (z) a stated vehicle was or was not of a stated type, or was carrying
13 stated goods; or
- 14 (za) a stated copy of a document was a copy of a document issued,
15 or required to be kept, under the Law; or
- 16 (zb) a stated document was a manufacturer's specification for a
17 stated type of vehicle; or
- 18 (zc) a stated vehicle's GCM or GVM was a stated amount, and how
19 the amount was identified;

20 **[1.7] New section 711 (3)**

21 *insert*

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

1 **[1.8] Section 712**

2 *omit*

3 A certificate

4 *substitute*

5 (1) A certificate

6 **[1.9] New section 712 (2)**

7 *insert*

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

11 **[1.10] New section 715A**

12 *insert*

13 **715A Evidence of contents of document examined by**
14 **authorised officer**

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

19 *Example—*

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

- 1 **[1.11] Section 737 (1)**
- 2 *after*
- 3 section)
- 4 *insert*
- 5 other than an offence mentioned in section 567A or section 567B

6 **Part 1.2 Modifications—ch 2**

7 **[1.12] Section 4**

- 8 *omit*
- 9 The object
- 10 *substitute*
- 11 (1) The object

12 **[1.13] New section 4 (2)**

- 13 *insert*
- 14 (2) In this section:
- 15 ***registration*** means registration under this Law.

1 **[1.14] Section 5, new definition of *corresponding registration***
2 ***law***

3 *insert*

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

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

11 **[1.15] Section 5, definition of *GCM***

12 *substitute*

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

17 (a) specified by the manufacturer on an identification plate on the
18 motor vehicle; or

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

24 **[1.16] Section 5, definition of *GVM***

25 *substitute*

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

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

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

6 **[1.17] Section 5, definition of *registration***

7 *substitute*

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

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

15 **[1.18] Section 5, definition of *registration number***

16 *substitute*

17 ***registration number***, for a heavy vehicle—

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

22 **[1.19] Section 5, definition of *unregistered heavy vehicle permit***

23 *substitute*

24 ***unregistered heavy vehicle permit*** means—

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

1 **[1.20] Section 5, definition of *vehicle register***

2 *substitute*

3 ***vehicle register*** means—

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

8 **[1.21] Section 5, definitions of *wrecked* and *written-off***

9 *omit*

10 **[1.22] Section 60 (3) and (4)**

11 *substitute*

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

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

15 **[1.23] Section 458 (a)**

16 *omit*
17 under this Law

18 **[1.24] Section 520 (2) (b)**

19 *substitute*

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

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

1 **[1.25] Section 521 (3) (c)**

2 *substitute*

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

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

12 **[1.26] Section 522 (6)**

13 *after*

14 ground for

15 *insert*

16 cancelling or

17 **[1.27] Section 527 (1) (i)**

18 *substitute*

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

23 **[1.28] Section 598 (5)**

24 *omit*

25 Regulator is

26 *substitute*

27 Regulator and the road authority are

1 **[1.29] New section 598 (6)**

2 *insert*

3 (6) In this section:

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

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

10 **[1.30] New section 653 (4)**

11 *insert*

12 (4) In this section:

13 **registration** means registration under this Law.

14 **[1.31] New section 712 (ca) to (ch)**

15 *insert*

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

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

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

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

- 1 (cd) a stated person was or was not a responsible person (within the
2 meaning of the *Road Transport (General) Act 1999*) for a
3 stated vehicle registered under the *Road Transport (Vehicle*
4 *Registration) Act 1999*; or
- 5 (ce) a stated person is the holder of a stated permit or other
6 authority under the *Road Transport (Vehicle Registration)*
7 *Act 1999*; or
- 8 (cf) a stated registration, exemption, authorisation, permit or other
9 authority under the *Road Transport (Vehicle Registration)*
10 *Act 1999* was or was not amended, suspended or cancelled; or
- 11 (cg) a stated penalty, fee, charge or other amount was or was not,
12 or is or is not, payable under the *Road Transport (General)*
13 *Act 1999* by a stated person in relation to a heavy vehicle; or
- 14 (ch) a stated fee, charge or other amount payable under the *Road*
15 *Transport (General) Act 1999* in relation to a heavy vehicle
16 was or was not paid to the road authority; or

1 Dictionary

2 (see s 3)

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

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

- 6 • ACAT
- 7 • auditor-general
- 8 • chief police officer
- 9 • entity
- 10 • magistrate
- 11 • police officer
- 12 • road transport authority
- 13 • territory authority
- 14 • territory law.

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

17 ***local application provisions of this Act*** means the provisions of this
18 Act other than—

19 (a) the *Heavy Vehicle National Law (ACT)*; and

20 (b) the modified text of the *Heavy Vehicle National Law (ACT)* in
21 schedule 1.

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

24 *Note* A reference to a law (including the [Queensland Act](#)) includes a
25 reference to the law as originally made and as amended (see [Legislation](#)
26 [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 2013.

3 Republications of amended laws

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

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