

Heavy Vehicle National Law Amendment Bill 2025

Explanatory Notes

Short title

The short title of the Bill is the Heavy Vehicle National Law Amendment Bill 2025.

Policy objectives and the reasons for them

The Bill amends the *Heavy Vehicle National Law Act 2012* (the Act) and the Heavy Vehicle National Law (HVNL) as set out in the Schedule to the Act, to implement policy recommendations made by the National Transport Commission (NTC) and approved by Infrastructure and Transport Ministers through the HVNL Review process.

The policy objectives of the HVNL Review reforms are improving safety and productivity, reducing regulatory red tape, improving regulatory functions, and simplifying administration of the law. These objectives will enhance the operation of the HVNL and provide benefits to the heavy vehicle industry, Queensland road users and the broader community while maintaining a consistent regulatory approach across participating jurisdictions.

Key HVNL review reforms include:

- An enhanced accreditation framework to improve safety that requires operators to have a Safety Management System (SMS) and that broadens the types of accreditations that the National Heavy Vehicle Regulator (the Regulator) may grant.
- A new duty to be fit to drive, which will improve road safety and be combined with the existing duty not to drive fatigued and apply to all heavy vehicle drivers regulated by the HVNL.
- An improved code of practice (CoP) framework that simplifies the process to make new CoP and shifts responsibility for development and approval to the Regulator.
- New ministerial direction and approval powers that support the changes to the accreditation and CoP frameworks and provide an appropriate balance of regulatory discretion and ministerial oversight.
- Improved governance arrangements that will modernise the operation of the Regulator Board and provide for responsible ministers to approve a Statement of Expectations (SoE) for the Regulator in the exercise of its functions.
- Improved enforcement arrangements that remove regulatory red tape, particularly for fatigue management record keeping and the issue of notices.
- Amended penalty amounts which deliver proportionate outcomes without reducing deterrence or increasing road safety risk.
- Shifting prescriptive detail and offences into regulations to simplify the law and allow for more flexible risk-based obligations to improve productivity, including for permits and authorisations.
- Consequential amendments to Queensland law.

Achievement of policy objectives

The Bill achieves the policy objectives by amending the HVNL in the ways indicated below.

Enhanced accreditation framework

The current National Heavy Vehicle Accreditation Scheme (NHVAS) will be enhanced under the Bill by establishing a scalable SMS as a core accreditation requirement to underpin general safety accreditation and alternative compliance accreditation. This approach is designed to reflect industry diversity and will offer more flexibility while improving safety for the community.

Under the new law, operators seeking accreditation must implement an SMS that identifies and addresses public risks associated with the operator's transport activities and specifies the controls to mitigate those risks. An operator's SMS will also need to demonstrate, through independent audit, that it complies with an SMS standard approved by ministers before the operator can be granted general safety accreditation. The Bill will also enable an audit of an accredited operator's SMS to be used as evidence by a court in a primary duty prosecution.

The amendments allow the use of alternative compliance accreditation to demonstrate compliance with prescribed operations requirements including for fatigue management work and rest hours or general mass limits. Operators must also meet general safety accreditation requirements to be eligible for alternative compliance accreditation.

New duty to be fit to drive

The existing duty to not drive a fatigue-regulated heavy vehicle while impaired by fatigue will be combined with a new duty to be 'fit to drive', which will enhance public safety. The Bill's amendments provide for the new combined duty to be expanded to apply to drivers of all heavy vehicles over 4.5 tonnes regulated under the HVNL. The duty currently only applies to drivers of fatigue-regulated heavy vehicles, which are vehicles over 12 tonnes.

The Bill amendments place obligations on drivers to take a proactive and preventative approach to managing their health and fitness as they have a shared responsibility with operators to ensure they are fit to drive. The duty is designed to empower drivers to stop driving if their health or fitness impacts their ability to drive a heavy vehicle safely at any point in time. The amendments define 'unfit to drive' alongside the existing definition of 'impaired by fatigue' and prescribes the matters a court may consider when deciding if a person was fatigued or impaired by fatigue.

Improved CoP framework

The Bill establishes new arrangements for the preparation of CoPs to improve the risk-based approach to safety obligations and to support the Regulator in providing better guidance and advice to regulated parties in meeting their obligations. The Bill changes will simplify the process to make new CoP, and will provide for new CoP to be initiated, developed, and approved by the Regulator (instead of industry). Ministers will also be able to direct the Regulator to amend or revoke a CoP. The Bill requires the Regulator to consult on the issuing, amending, or revoking of a CoP (except for minor amendments). The Bill also enables the Regulator to issue a CoP for duties and obligations under the HVNL for parties in the chain of responsibility and drivers of heavy vehicles.

New ministerial direction and approval powers

The Bill amends the powers of responsible ministers when issuing directions about policies to be applied by the Regulator. The Bill also introduces new provisions for directions in relation to preventing or minimising serious public risk, alternative compliance, and providing advice or information. This will establish a balance of regulatory discretion and ministerial oversight. Ministers will be able to appropriately direct the Regulator without impinging on regulatory autonomy.

Responsible ministers (individually or collectively) may direct the Regulator to exercise a certain function or power in the case of a serious public risk, and when in the public interest to do so. Ministers (individually or collectively) may also direct the Regulator to investigate, provide advice, or provide information about a matter relating to a public risk. A new provision will be introduced that requires the Regulator to comply with directions given to it by a responsible minister. The Regulator will also be required to publish any direction on its website and in its annual report. A responsible minister will also be able to give the Regulator a direction that applies only in their own jurisdiction, provided that they are satisfied the direction is necessary to prevent or minimise a serious public risk.

Responsible ministers will be given the power to approve a new national audit standard, an SMS standard, and a standard for fatigue alternative compliance accreditation. The new national audit standard will be developed by the Regulator who must consult with industry stakeholders before the standard is approved by ministers. The audit standard will outline requirements for accreditation audits under the new general safety and alternative compliance accreditation, and the auditors who conduct them.

Improved Regulator governance arrangements

The Bill will improve and modernise the operation of the Regulator through changes to the Regulator Board composition and governance arrangements, providing for a ministerial SoE for the Regulator, and clarifying timing for the submission of the corporate plan and budget for ministerial consideration.

The Bill amends the HVNL to increase the potential size of the board from a maximum of five members to at least five members and no more than seven members. The qualification requirements of board members are also being modified to reflect the level of expertise, experience and skills that responsible ministers consider appropriate. The Bill introduces provisions that make it clear that responsible ministers may recommend a person for appointment as a board member only if they are satisfied there is no material conflict of interest between the person's employment or other activities, and the functions of the board. A term limit of 3 consecutive terms, or ten cumulative years, will be imposed on Regulator board members. Further, the Bill provides that a board member may be removed where they have engaged in misconduct; have failed to, or are unable to, properly exercise their functions as a board member; or have engaged in paid employment without responsible ministers' approval.

Amendments made by the Bill will formally recognise a ministerial SoE. The SoE outlines the expectations responsible ministers have for the operations and performance of the Regulator, expresses the key outcomes the Regulator will work towards, and is aligned with the objectives of the HVNL. The Regulator must respond to, and exercise its functions in accordance with, an SoE issued by responsible ministers. The Bill also introduces a provision that requires the

Regulator to provide responsible ministers with its corporate plan annually, no later than 30 days before the end of each financial year.

Improved enforcement arrangements

The use of improvement notices will be supported by Bill amendments that remove the restriction on issuing a notice and concurrently commencing a prosecution for the same conduct. The amendment will enable an improvement notice to be issued and, where offending is deemed serious enough and there is sufficient evidence, enable a prosecution to commence for that same conduct. This approach provides additional flexibility to the Regulator to improve compliance and enforcement outcomes.

Under the Bill amendments, authorised officers will be able to issue a formal caution where the officer believes a person has contravened the law and it is appropriate to deal with it through a formal caution rather than a fine. Authorised officers will be able to issue formal warnings for a broader range of breaches, including in respect of fatigue record-keeping. This change aims to make the law fairer on drivers for minor work diary errors.

The Bill will also allow courts to issue alternative verdicts for primary duty offences. This will provide courts with the ability to convict when the original charge is not proven, but the evidence establishes a related but lesser offence.

Amendments in the Bill clarify the meaning of relevant major rest break, where one or more major rest breaks are relevant to the period, so that time must be counted from the end of the longest major rest break.

Amended penalty amounts

To ensure the HVNL supports sensible balance between compliance and taking a fair and reasonable approach towards minor and technical breaches, the Bill increases 50 penalties and decreases 21 penalties to deliver proportionate outcomes that increase deterrence, with a view to enhancing overall road safety. In addition, several offences will be removed from the HVNL altogether, for example, multiple work diary administrative offences have been consolidated into one offence.

Shifting prescriptive detail into regulations

The Bill amendments and supporting regulation amendments will move a range of prescriptive detail into regulations to simplify the law and allow for more flexible risk-based obligations. This will make the law more responsive to future challenges. Details to be shifted into the regulations include those related to compliance with heavy vehicle standards; amendment, cancellation, or suspension of a mass or dimension authority granted by permit; and requirements relating to how work and rest time is counted in 15-minute periods. The Bill also streamlines work diary arrangements by consolidating duplicative details and omitting some details that can be placed in regulation.

Consequential amendments to Queensland legislation

The Bill contains a consequential amendment to remove the power to require production of a driver licence for authorised officer inspection under section 39 of the *Heavy Vehicle National Law Act 2012* as it duplicates section 568 of the HVNL.

Prescriptive detail that is being moved from the primary law to HVNL regulations will require consequential amendments to the *Heavy Vehicle National Law Act 2012* and Queensland subordinate legislation, to remove outdated HVNL terms and update section references. This will ensure that HVNL and national regulation section references are correct. The regulation amendments will progress via a separate consequential regulation amendment package.

Alternative ways of achieving policy objectives

In endorsing the HVNL Review policy initiatives, infrastructure and transport ministers considered how effective implementation of the policy initiatives could be best achieved, and the potential advantages of legislative change over implementation through other administrative options. Ministers agreed that reducing complexity, streamlining the law, and improving the effectiveness of the HVNL could only be achieved through legislative amendments.

Estimated cost for government implementation

Implementation of the Bill will be the responsibility of the Regulator with the support of state and territory road transport and police agencies.

Implementation costs of all reforms in the Bill will be met within existing budget allocations of the Regulator and state and territory road agencies.

Consistency with fundamental legislative principles

The amendments to the HVNL have been scrutinised by government agencies across all Australian jurisdictions as well as the parliamentary counsel of each jurisdiction (including the Office of the Queensland Parliamentary Counsel) through their participation in the Australasian Parliamentary Counsel's Committee.

These amendments have been drafted with regard to fundamental legislative principles (FLPs) as defined in section 4 of the *Legislative Standards Act 1992* (LSA) and are generally consistent with these principles. Potential inconsistencies with FLPs are discussed below.

New and expanded driver duty

Under clause 49, which amends section 228, the Bill combines a new duty to be fit to drive with the existing duty to not drive while impaired by fatigue, and expands this duty to apply to the driving of all vehicles regulated under the HVNL. Clause 18 also amends section 26E to align offences for the prohibition on certain requests and contracts with the new and expanded duty. The inclusion of these provisions raises the issue of whether the legislation has sufficient regard to the rights and liberties of individuals as required by subsection 4(2)(a) of the LSA.

The term 'fit' is defined (and includes being physically and mentally fit to drive the vehicle, or start or stop its engine, as well as not being affected by drugs or alcohol). This affects not only the rights and liberties of drivers of heavy vehicles but also has consequential impacts on the rights and liberties of other persons who have duties and obligations relevant to the driver's expanded duty.

The expanded duty could arguably adversely affect the ability of a driver to earn their livelihood if they are prevented from driving a heavy vehicle. This new and expanded duty for drivers and other parties is considered necessary, and is justified in the public interest. It provides for safe

operation of heavy vehicles on the road by requiring drivers and other responsible parties to ensure that drivers are fit to drive, which outweighs the impact of the expanded, more onerous duty on drivers and the consequential impacts on other persons.

Increased penalties

The Bill amends existing penalties throughout the HVNL in line with the recommendations of a comprehensive penalty review undertaken by the NTC. The proposed penalty amendments include increased and decreased maximum amounts for monetary fines. These amendments may raise fundamental legislative principle issues relating to the rights and liberties of individuals as provided in section 4(2)(a) of the LSA.

The NTC penalty review assessed 349 offences in the HVNL against criteria including public safety impacts, environment and public amenity impacts, road infrastructure impacts, unfair commercial advantage, frustration of enforcement, false and misleading conduct, undermining confidence in the regulatory framework, and systemic conduct. The review was conducted in consultation with working groups comprised of jurisdictions' police and transport agency representatives and industry representatives.

The penalty increases in the Bill are justified as they provide a consistent and proportionate penalty regime that reflects the seriousness of the offences, provides effective deterrent to non-compliance with the HVNL, and is in the public interest to support road safety and manage the impacts of heavy vehicles on the environment, road infrastructure, and public amenity.

Abrogation of an existing right

Two amendments in the Bill may raise fundamental legislative principle issues relating to the rights and liberties of individuals as provided in section 4(2)(a) of the LSA as they may adversely affect the rights and liberties previously granted to individuals under the HVNL.

Current subsection 573(3) restricts the initiation of a prosecution for the same conduct that led to an improvement notice, unless the notice has been revoked or the holder has contravened the notice. Clause 123 of the Bill omits subsection 573(3) to allow a prosecution to commence against a person simultaneously to them being given an improvement notice. This potential adverse effect on an individual is justified as it will enable more proportionate, non-punitive regulatory responses from authorised officers under the HVNL. It will also enable risks to be immediately mitigated in more serious circumstances where an improvement notice and prosecution are considered appropriate. It allows an authorised officer to consider whether a prosecution is necessary, while being able to immediately mitigate risk through the issue of an improvement notice. The amendment also provides greater alignment with the national Model Work Health and Safety Law.

Clause 125 of the Bill amends section 590 to no longer allow an authorised officer to formally warn a person for a contravention of a primary duty breach. Primary duty breaches will need to be prosecuted. The removal of the ability to resolve a primary duty breach administratively by giving a formal warning is justified due to the seriousness of the offence and outweighs the potential adverse effect on an individual.

Delegation of legislative power

The Bill provides that a broad range of prescriptive detail and offences previously provided for in the law is to be prescribed by the national regulations. The inclusion of this power raises the issue

of whether the legislation has sufficient regard to the institution of Parliament by sufficiently subjecting the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly as provided for in section 4(4)(b) of the LSA.

The new regulation-making powers outlined below are required as the matters are technical in nature and require flexibility to support a modern regulatory framework for heavy vehicle operations that can respond to future challenges for industry and rapidly changing technology. The Bill makes amendments that provide for the following matters to be dealt with in subordinate legislation:

- requirements for the definition of twinsteer axle group (refer clause 11 amendment of section 5)
- the Gross Vehicle Mass for particular fatigue-regulated vehicles (refer clause 12 amendment of section 7)
- detail related to what the Regulator must consider when assessing a PBS vehicle or design approval application (refer clauses 13 and 14 amendment of sections 22 and 23)
- exclusions to when an offence for contravening a heavy vehicle standard applies (refer clause 20 amendment of section 60)
- restrictions on the Regulator's power to grant a vehicle standards exemption (refer clause 21 amending section 62)
- requirements for the display of warning signs (refer clause 27 replacement of section 92)
- requirements for the definition of class 2 heavy vehicle (refer clause 34 replacement of section 136)
- requirements for the definition of restricted access vehicle, safer freight combination and specified semitrailer (refer clause 37 amendment of section 153A)
- requirements for heavy vehicle operators subject to alternative compliance accreditation; (refer clause 99 replacement of section 457)
- requirements for class 2 heavy vehicle authorisation permits, fatigue record keeping exemption permits, mass and dimension exemption permits, vehicle standards exemption permits, work and rest hours exemption permits, and work diary exemption permits (refer clause 149 inserting new section 730A).

Section 17(1) of the *Heavy Vehicle National Law Act 2012* provides for the Parliamentary scrutiny of national regulations, and specifies that national regulations are subject to the usual tabling and disallowance procedures that apply in Queensland under sections 49 to 51 of the *Statutory Instruments Act 1992*.

Consultation

The Bill amendments were developed at the direction of the NTC in consultation with state and territory government transport and enforcement agencies. Consultation was also undertaken with peak transport industry organisations, other key stakeholder representatives and the public.

Industry and stakeholder groups indicated general support for the amendments as part of public consultation processes undertaken by the NTC.

Consistency with legislation of other jurisdictions

The Bill will ensure that the consistent and equitable regulation of the heavy vehicle industry continues to be maintained across participating jurisdictions.

Notes on provisions

Clause 1 states that, when enacted, the Act will be cited as the *Heavy Vehicle National Law Amendment Act 2025*.

Clause 2 provides that the Act will commence on a day to be fixed by Proclamation.

Clause 3 provides that Part 2 amends the *Heavy Vehicle National Law Act 2012*.

Clause 4 is a consequential amendment to section 21 to ensure that commissioner consent provisions for a mass or dimension exemption (permit) under section 124(1)(c) of the HVNL is correctly referencing section 122(2)(c).

Clause 5 is a consequential amendment to section 24 recognising that the requirement to issue an information notice for the refusal of a mass or dimension exemption (permit) application is omitted under clause 31. New section 730A provides broad regulation-making powers in relation to permits, enabling requirements for information notices to be prescribed by regulation.

Clause 6 is a consequential amendment to section 25 recognising that the requirement to issue an information notice for the imposition of a condition on a mass or dimension exemption (permit) is omitted under clause 31. Section 730A provides broad regulation-making powers in relation to permits, enabling requirements for information notices to be prescribed by regulation.

Clause 7 omits section 39 which gave authorised officers' powers to require a driver to produce for inspection the driver's driver licence. This provision has been omitted as it duplicates the effects of section 568 of the HVNL set out in the Schedule to the *Heavy Vehicle National Law Act 2012*.

Clause 8 is a consequential amendment to section 42E(6), definition of *fatigue management offence*, recognising that sections 256 and 258 of the HVNL are omitted by clause 56.

Clause 9 provides that Part 3 amends the HVNL as set out in the Schedule to the *Heavy Vehicle National Law Act 2012*.

Clause 10 amends section 4(c)(v) to amend an object to support expanding the duty for a driver to 'not drive a heavy vehicle while impaired by fatigued' to also 'not drive a heavy vehicle while unfit to drive'.

Clause 11 makes changes to section 5 to deliver policy objectives and aid interpretation, and:

- removes the definitions for *AFM accreditation*, *AFM fatigue management system*, *AFM hours*, *AFM standards and business rules*, *approved*, *BFM accreditation*, *BFM fatigue management system*, *BFM hours*, *BFM standards and business rules*, *cancel*, *daily sheet*, *maintenance management accreditation*, *maintenance management standards and business rules*, *maintenance management system*, *mass management accreditation*, *mass management standards and business rules*, *mass management system*, *registered industry code of practice*, *relevant management system*, *relevant standards and business rules*, and *sign of fatigue*.
- amends the definitions for *approved auditor*, *approved electronic recording system*, *class 2 heavy vehicle authorisation*, *electronic recording system*, *fit*, *heavy vehicle accreditation*, *impaired by fatigue*, *indictable offence*, *mass or dimension exemption (permit)*, *night rest break*, *tamper*, *twinsteer axle group*, *vehicle standards exemption (permit)*, *work and rest*

hours exemption (permit), and work diary exemption (permit).

- *inserts new definitions for alternative compliance accreditation, alternative compliance hours, audit standard, cause of fatigue or being unfit to drive, fatigue alternative compliance accreditation, general safety accreditation, prescribed operations requirement, safety management system, safety management system standard, sign of fatigue or being unfit to drive, standard for alternative compliance hours, and unfit to drive.*

Clause 12 amends the meaning of fatigue-regulated heavy vehicle to remove the reference to 12t and allow for the GVM of a fatigue-regulated heavy vehicle to be prescribed by regulation.

Clause 13 omits detail from section 22(2) related to what the Regulator must consider when assessing a PBS design approval application under section 22, and inserts a requirement to consider matters prescribed by the national regulations for the purposes of this subsection. Current section 26 includes a regulation-making power that enables this detail to move into regulations.

Clause 14 omits detail from section 23(2) related to what the Regulator must consider when assessing a PBS vehicle approval application under section 23, and inserts a requirement to consider matters prescribed by the national regulations for the purposes of this subsection. Current section 26 includes a regulation-making power that enables this detail to move into regulations.

Clause 15 omits section 25A which provides for a driver to keep a copy of a PBS vehicle approval, and for a relevant party to ensure the driver complies with this requirement.

Clause 16 inserts a new regulation-making power in subsection 26(e) to enable regulations to prescribe requirements to keep a copy of a PBS vehicle approval.

Clause 17 amends subsection 26D(1) and inserts new subsection 26D(1A) to clarify that the maximum penalty for an executive due diligence breach is the same as a Category 1, 2 or 3 primary duty breach by an individual under either section 26F, 26G or 26H. Clause 17 also makes consequential amendments to subsections 26D(2) and 26D(2A) to recognise new section 26(D)1A.

Clause 18 amends section 26E to expand the prohibition for a person to ask, direct, or require a driver or chain of responsibility party, or enter into a contract with a driver or chain of responsibility party, to do something that the person knows, or ought reasonably to know, would have the effect of causing the driver to drive a fatigue-regulated heavy vehicle while impaired by fatigue, to include causing the driver to drive while unfit to drive. The references to 'fatigue-regulated heavy vehicle' are replaced with 'heavy vehicle' to ensure the prohibition covers prohibited requests and contracts relating to all heavy vehicle drivers. Clause 18 also increases the maximum penalty for a breach of section 26E(1) and (2) from \$10,000 to \$20,000.

Clause 19 inserts new section 26I to enable a court to make an alternative verdict where a primary duty offence under section 26F Category 1 or section 26G Category 2 is proceeded with, and the court is not satisfied the offence is proven, but a lesser category of primary duty offence can be established.

Clause 20 omits the current penalty provisions in section 60(1) and replaces them with a single penalty provision with a maximum penalty of \$6,000. It also removes subsections 60(2)-(5) and inserts new subsection (2) that provides that the offence does not apply in circumstances prescribed by the national regulations.

Clause 21 omits and inserts new section 62(1) to allow the Regulator to grant a vehicle standards exemption (notice) only in circumstances prescribed by the national regulations and if satisfied the use of the heavy vehicles on a road under the exemption will not pose a significant safety risk.

Clause 22 omits sections 68-80 relating to detail of vehicle standards exemption permits granted by the Regulator and includes a note to reference the new regulation-making power in section 730A.

Clause 23 amends section 81 to increase the maximum penalty for a breach of section 81(1) to (3) from \$4,000 to \$6,000.

Clause 24 removes section 83 which contains the requirement for drivers to keep a copy of a vehicle standards exemption (permit) while driving.

Clause 25 removes sections 85-87A which contain the detail and requirements related to modification of a heavy vehicle, enabling the detail to be moved to regulations.

Clause 26 amends section 88 by specifying that regulations may provide for the approval of a modification of a heavy vehicle and offences for tampering with plates or labels attached to modified heavy vehicles.

Clause 27 omits the detail from section 92 related to the display of warning signs on heavy vehicles required by vehicle standards, and inserts a new regulation-making power to enable regulations to prescribe requirements for the display of warning signs on heavy vehicles, including as a heavy vehicle standard or in relation to mass, dimension or loading.

Clause 28 is a consequential amendment to section 96(5), to recognise that the definition of *specified PBS vehicle* will be prescribed by regulation due to amendments made to section 136 by clause 34.

Clause 29 amends section 102 by omitting \$3,000 from sections 102(1)(a) and (b)(i) and inserting \$4,000 instead, to increase the maximum penalty for a dimension breach for a heavy vehicle without goods or passengers, and to increase the maximum penalty for a minor risk breach involving a heavy vehicle carrying goods or passengers, respectively. It also amends section 102 by omitting \$5,000 from section 102(1) paragraph (b)(ii) and inserting \$6,000, to increase the maximum penalty for a substantial risk breach involving a heavy vehicle carrying goods or passengers.

Clause 30 omits section 109 which contains detail about warning signals required for rear projection of loads as clause 27 inserts new regulation-making powers under section 92 that provides for requirements for warning signals to be prescribed by regulation.

Clause 31 omits sections 122-128 as new section 730A provides for this detail to be prescribed by regulation. It also inserts new section 122 that provides for the Regulator to give a person a mass or dimension exemption (permit). Restrictions on the power, such as requiring road manager consent, are retained in the law.

Clause 32 omits section 133 which requires drivers to keep a copy of their permit while driving under a mass and dimension exemption, as new section 730A provides for this detail to be prescribed by regulation. The requirement to return a permit is also omitted to support the use of electronic documents.

Clause 33 omits Part 4.5, Division 5, section 134 which contains detail about displaying warning signs on heavy vehicles that are not required by a dimension exemption, as clause 27 inserts new regulation-making powers under section 92 that provide for requirements for warning signs to be prescribed by regulation.

Clause 34 amends section 136 to remove the detailed requirements that define a *class 2 heavy vehicle* and to provide that the requirements be prescribed in regulation. This enables length and height requirements and the meaning of specified PBS vehicle to be placed in regulations.

Clause 35 omits sections 143 to 149 as new section 730A provides for this detail to be prescribed by regulation. It also inserts a new section 143 to provide the Regulator power to give a class 2 heavy vehicle authorisation (permit) for the use of one or more class 2 heavy vehicles, in stated areas or routes during stated hours of stated days.

Clause 36 omits section 152 which required drivers to keep a copy of their permit while driving under a mass and dimension exemption, as new section 730A provides for this detail to be prescribed by regulation. The requirement to return a permit is omitted to support the use of electronic documents.

Clause 37 amends subsection 153A(2) by omitting definitions for *restricted access vehicle* and *specified semitrailer*, and provides for the requirements for these vehicles and *safer freight combination* to be prescribed by regulation. Clause 37 also makes a consequential amendment to subsection 153A(3)(b) to recognise that the definition of *specified PBS vehicle* will be prescribed by regulation due to amendments made to section 136 by clause 34.

Clause 38 omits Part 4.7, Divisions 4 and 5. Detail related to the amendment, cancellation or suspension of a mass or dimension authority granted by permit, as prescribed in the current Division 4, is omitted as new section 730A provides for these matters to be prescribed in regulations. Requirements in Division 5 related to the return and replacement of permits will not be maintained in the HVNL or regulations, as permits are now issued electronically.

Clause 39 increases the maximum penalties in section 186 from \$10,000 to \$20,000 for offences relating to false or misleading transport documentation for goods.

Clause 40 increases the maximum penalties in section 187 from \$10,000 to \$20,000 for offences relating to false or misleading information in a container weight declaration.

Clause 41 amends the heading for Chapter 6 to include ‘and fitness to drive’ to reflect the expanded duty for a driver to not drive a heavy vehicle while impaired by fatigue or unfit to drive.

Clause 42 amends section 220 to provide that the main purpose of the chapter removes existing references to driving a fatigue-regulated heavy vehicle while fatigued, and replaces them with provisions that support the new expanded duty under amended section 228 for a driver to not drive a heavy vehicle while impaired by fatigue or unfit to drive.

Clause 43 makes changes to definitions for Chapter 6 to deliver policy objectives and aid interpretation, and:

- removes the definitions for *AFM fatigue management system*, *AFM hours*, *approved electronic recording system*, *BFM hours*, *cancel*, *cause of fatigue*, *daily sheet*, *electronic recording system*, *fatigue*, *impaired by fatigue*, and *sign of fatigue*

- provides for the definition for *approved sleeper berth*, with detail to be prescribed by regulation
- inserts new definitions for *cause of fatigue or being unfit to drive* and *sign of fatigue or being unfit to drive*
- amends the definitions for *night work time* and *written work diary*.

Clause 44 omits the heading Part 6.2 Duties relating to fatigue and inserts instead Part 6.2 Duty to not drive while fatigued or unfit to drive.

Clause 45 omits the heading for Part 6.2, Division 1 ‘Preliminary’.

Clause 46 amends sections 224 and 225 to align with the new expanded duty to not drive while impaired by fatigue or unfit to drive. Amendments to section 224 set out the matters a court may consider in deciding whether a person was fatigued or unfit to drive, without limiting the matters a court may consider, and defines the meaning *relevant body of knowledge* for the section. The clause also inserts a new subsection 225(2) to define *unfit to drive*.

Clause 47 amends section 226 references to driving a fatigue-regulated heavy vehicle while impaired by fatigue, and replaces them with provisions that support the new expanded duty under amended section 228 for a driver to not drive a heavy vehicle while impaired by fatigue or unfit to drive.

Clause 48 omits the heading for Part 6.2, Division 2 ‘Duty to avoid fatigue’.

Clause 49 amends section 228 to provide that a person must not drive a heavy vehicle on a road while the person is impaired by fatigue or unfit to drive, expanding the duty from the previous requirement for a person to not drive a fatigue-regulated heavy vehicle while impaired by fatigue. The maximum penalty for the offence against this provision is increased from \$6,000 to \$20,000.

Clause 50 amends section 243 by omitting references to ‘BFM accreditation’ and ‘AFM accreditation’ and inserts terminology for ‘fatigue alternative compliance accreditation’.

Clause 51 omits sections 246 and 246A which detailed how work and rest time is counted in 15-minute periods in a written or electronic work diary, as new subsection 295(4) provides for this detail to be prescribed by regulation.

Clause 52 amends section 247 by replacing relevant major rest break with clearer wording that more closely aligns with the relevant legislative precedent and original policy intent. This reflects that time must be counted from, where one or more major rest breaks are relevant to the period, the end of the longest major rest break.

Clause 53 amends section 249 by omitting ‘BFM accreditation’ and ‘AFM accreditation’ from 249(1) and replacing it with ‘fatigue alternative compliance accreditation’ to reflect changes to accreditation.

Clause 54 amends section 250(1)(a) by decreasing the maximum penalty for a minor risk breach of solo standard hours from \$4,000 to \$3,000.

Clause 55 amends section 251(1)(a) by decreasing the maximum penalty for a minor risk breach of two-up driver standard hours from \$4,000 to \$3,000.

Clause 56 removes Part 6.3 Divisions 3 and 4, including sections 253, 254, 255, 256 and 257, and inserts new Division 3. It inserts new section 253 which prescribes requirements for drivers who operate in breach of alternative compliance hours. This section is adapted from existing offences operating in breach of BFM and AFM hours. It also inserts a new section 254, under which a breach of alternative compliance hours is a breach of the corresponding risk category in Table 1 or 3 of Schedule 2 – dependent on whether the contravention is an escalated risk contravention or not. The same escalated risk contraventions apply that are being omitted from the Heavy Vehicle (Fatigue Management) National Regulation for AFM hours.

Clause 57 amends section 260 by reducing the maximum penalty for a minor risk breach when operating under exemption hours from \$4,000 to \$3,000.

Clause 58 amends section 263 by removing references to ‘BFM hours’ or ‘AFM hours’ and inserts instead terminology to reflect the new ‘fatigue alternative compliance accreditation’ policy. The examples from the same section are removed.

Clause 59 amends section 264 by increasing the maximum penalty for a breach of duty to ensure driver compliance with fatigue work and rest hours obligation from \$6,000 to \$10,000.

Clause 60 amends section 267 by removing references to ‘BFM hours’, ‘AFM hours’, ‘BFM accreditation’ and ‘AFM accreditation’ and inserts instead terminology to reflect the new ‘fatigue alternative compliance accreditation’.

Clause 61 removes sections 273 to 285 and inserts new section 273, to enable the Regulator to issue a permit that grants work and rest hours exemptions related to fatigue-regulated heavy vehicles.

Clause 62 amends section 287(2) and (3) by decreasing the maximum penalty for failing to keep a relevant document when operating under a work and rest hours exemption notice, from \$3,000 to \$1,500.

Clause 63 removes section 288 which relates to keeping a copy of a permit while driving under a work and rest hours exemption (permit) as new section 730A provides for this detail to be prescribed by regulation.

Clause 64 amends section 291 by removing references to ‘BFM hours’ and ‘AFM Hours’ and inserts instead terminology to reflect the new ‘fatigue alternative compliance accreditation’ framework.

Clause 65 amends section 293 by increasing the maximum penalty for a driver of a fatigue-regulated heavy vehicle failing to carry a work diary, from \$6,000 to \$10,000.

Clause 66 inserts new section 293A. This allows the Regulator to issue a written work diary to drivers of fatigue-regulated heavy vehicles, regulations to provide for written work diary applications (including determining an application), the form of a written work diary, and matters it may contain.

Clause 67 omits ‘BFM hours’ and ‘AFM Hours’ from section 294(1)(b) and inserts instead terminology to reflect the new ‘fatigue alternative compliance accreditation’.

Clause 68 inserts new section 295(4) to allow regulations to prescribe things related to how a

driver's work time and rest time are counted in the driver's work diary.

Clause 69 amends section 297(2) by decreasing the maximum penalty for a driver failing to record information immediately after starting work, from \$6,000 to \$4,000.

Clause 70 omits Part 6.4, Division 2, Subdivision 3 which relates to how information must be recorded in a work diary, as this requirement has been moved to regulations. New section 457 includes a regulation-making power that enables this detail to move into regulations.

Clause 71 amends section 307(2) and (3) by decreasing the maximum penalty from \$3,000 to \$1,500 for breaches related to filled up work diaries and how electronic work diaries must be used.

Clause 72 removes section 308 as the amendment to section 295 described in clause 68 provides for details relating to a lost or stolen written work diary that has been found or returned to be prescribed by regulation. The requirement to return the work diary to the Regulator has been removed.

Clause 73 amends section 309 and reduces the maximum penalty from \$3,000 to \$1,500. This offence occurs where the driver fails to inform the driver's record keeper of the matter, within 2 business days after becoming aware of the matter.

Clause 74 amends section 312 to reduce the maximum penalties in subsection (2) and (3) from \$6,000 to \$3,000. This relates to offences where the record keeper fails to take actions relating to an electronic work diary that has been destroyed, lost or stolen.

Clause 75 amends section 314 to reduce the maximum penalty from \$3,000 to \$1,500. This relates to an offence in subsection (2) which requires the driver to use the electronic work diary in a way complying with any conditions under this law or a corresponding fatigue law and the manufacturer's specifications for the electronic recording system.

Clause 76 amends section 315 by replacing the maximum penalty of \$6,000 with a maximum penalty of \$10,000. The clause also makes minor changes to the heading and section, to reflect that subdivisions 1,2 and 4 operate, rather than subdivisions 1-4.

Clause 77 amends section 317 by providing that the record keeper is the operator of the vehicle if the driver is operating under a fatigue alternative compliance accreditation or a work and rest hours exemption (permit) granted in combination with the operator's fatigue alternative compliance accreditation.

Clause 78 amends the heading in Part 6.4, Division 3, Subdivision 3 to replace the words 'or operating under BFM hours, AFM hours' with 'alternative compliance hours'.

Clause 79 amends section 320 to remove reference to 'BFM hours, AFM hours' and replace it with 'alternative compliance' hours.

Clause 80 amends section 321 to replace references to 'AFM standards and business rules', 'BFM standards and business rules', 'BFM hours or AFM hours', 'BFM accreditation or AFM accreditation', with references to reflect the new accreditation framework.

Clause 81 amends section 325 to increase the maximum penalty from \$10,000 to \$20,000. This is for an offence in subsection (1) which requires a person to not record something in a work record

that the person knows, or ought reasonably to know, is false or misleading.

Clause 82 amends section 326 to remove reference to ‘on a daily sheet’ as section 295 provides for this detail to be prescribed by regulation.

Clause 83 amends section 327 to increase the maximum penalty from \$10,000 to \$20,000. This relates to an offence where the driver of a fatigue-regulated heavy vehicle or the record keeper, have in their possession a thing purporting to be a work record, if they know, or ought reasonably to know, that it is not a work record.

Clause 84 amends section 328 to increase the maximum penalty from \$10,000 to \$20,000. This relates to an offence where a person falsely represents that a work record was made by the person.

Clause 85 amends section 329 to increase the maximum penalty from \$10,000 to \$20,000. This relates to an offence where a person defaces or changes a work record that the person knows, or ought reasonably to know, is correct.

Clause 86 amends section 330 to increase the maximum penalty from \$10,000 to \$20,000. This relates to an offence where a person makes an entry in someone else’s work record.

Clause 87 amends section 331 to increase the maximum penalty from \$10,000 to \$20,000. The offence relates to a person who is required to keep a work record destroying the record, or the record being destroyed by someone else, before the end of the period.

Clause 88 increases the maximum penalty in section 332 from \$10,000 to \$20,000. The offence relates to a person removing a daily sheet, or the duplicates of a daily sheet, from a written work diary, except as required or authorised by this Law or a corresponding fatigue law.

Clause 89 increases the maximum penalty in section 335 from \$10,000 to \$20,000. It is an offence for a person to tamper with an approved electronic recording system.

Clause 90 increases the maximum penalty in section 336 from \$10,000 to \$20,000. This relates to an offence for a person who uses an approved electronic recording system permitting another person to tamper with the system.

Clause 91 omits the entire Part 6.4 Division 6. This division relates to the form of written work diary, application for written work diary, and issue of written work diary. New section 293A provides that national regulations may provide for these matters.

Clause 92 amends section 341 and reduces the penalty in subsections (2) and (5) from \$6,000 to \$4,000. Subsection (2) relates to a penalty for keeping records of a driver of a fatigue-regulated heavy vehicle and subsection (5) relates to a record keeper keeping records that are readable and capable of being understood and capable of being used as evidence.

Clause 93 amends section 351, which relates to amending or cancelling an electronic recording system approval on application. As accreditation certificates are issued electronically the clause removes the requirement for an application for amendment or cancellation to include the certificate of approval. The requirement for the certificate of approval to be returned by the Regulator is also removed.

Clause 94 amends section 358 to include reference to the new requirement to be fit to drive.

Clause 95 removes sections 363 to 374 which relate to requirements for the issue of work diary exemption permits, as new section 730A provides for this detail to be prescribed by regulation. The clause also inserts new section 363 that provides that the Regulator may give a work diary exemption permit to exempt a driver of a fatigue-regulated heavy vehicle from the requirement to comply with provisions in Subdivisions 1 to 5 of Division 2.

Clause 96 removes section 377 as new section 730A provides for this detail to be prescribed by regulation.

Clause 97 removes sections 383 to 393 which relate to exemptions for fatigue record keeping requirements as new section 730A provides for this detail to be prescribed by regulation. The clause also inserts a new section 383 that provides that the Regulator may give a fatigue record keeping exemption permit to exempt a record keeper from the requirement to comply with provisions in Division 3.

Clause 98 amends section 456 and changes the term ‘management systems’ to ‘safety management systems’.

Clause 99 replaces section 457 and inserts new section 457 and section 457A. Section 457 provides a new power for national regulations to prescribe a requirement in relation to heavy vehicle operations where an alternative compliance accreditation may be granted. The regulation-making power will enable Ministers to approve requirements in regulations in relation to heavy vehicle operations that may be subject to an alternative compliance accreditation, such as for work and rest hours or mass.

The new section 457A defines a safety management system. For an operator of a heavy vehicle, it is a group of policies, systems and procedures relating to the safety of the operator’s transport activities and the driving of heavy vehicles. A safety management system must identify and assess public risks associated with the operator’s transport activities and the driving of heavy vehicles and specify the controls to manage and mitigate those risks. A safety management system must comply with the safety management system standard approved by Ministers under section 654.

Clause 100 amends section 458 and inserts a provision that provides that the Regulator must not grant alternative compliance accreditation to an operator unless the operator also holds general safety accreditation. This clause replaces references to a decision related to AFM accreditation with a decision for alternative compliance accreditation.

Clause 101 amends section 459 and provides that for an application for heavy vehicle accreditation, an operator must include a statement that the applicant has a safety management system that complies with the safety management standard, a statement by the approved auditor stating that the safety management system complies with the safety management system standard and any other information required for the application under the safety management standard. This clause replaces references to a management system with a safety management system.

Clause 102 replaces section 461 and provides that the Regulator may grant an applicant heavy vehicle accreditation only if satisfied the applicant has a safety management system that complies with the safety management standard, is able to comply with requirements relating to providing information and other matters, and is a suitable person. The Regulator may have regard to a

number of items set out in subsection (2), including audits of the safety management system and any relevant body of fatigue knowledge.

The clause also inserts a new section 461A that requires that the alternative compliance hours specified by the Regulator must be within limits set by Ministers in a standard, approved under section 654.

Clause 103 amends section 462 by requiring all accredited operators to have a safety management system complying with the safety management system standard as a condition of their heavy vehicle accreditation. The clause also provides a new example of a condition that the Regulator may impose of requiring a label to be attached to a heavy vehicle operating under the accreditation.

Clause 104 amends section 464 by requiring an accreditation certificate to state the alternative compliance hours applying to a fatigue alternative compliance accreditation. The definition of prescribed circumstances is amended to reflect the new policy for fatigue alternative compliance accreditation.

Clause 105 removes section 466, which related to heavy vehicle accreditation labels for maintenance management accreditation and mass management accreditation heavy vehicles. The removal of this section will mean that the law no longer creates requirements for labels. Rather, the Regulator may choose to require a label as a condition of accreditation.

Clause 106 amends section 467, replacing ‘BFM accreditation or AFM accreditation’ with ‘heavy vehicle accreditation’.

Clause 107 amends section 468 to remove references to ‘BFM accreditation or AFM accreditation’ and replace it with ‘heavy vehicle accreditation’. It also replaces reference to ‘AFM hours’ with ‘alternative compliance accreditation’.

Clause 108 removes section 469, which relates to the requirement of a driver to return particular documents if they stop operating under BFM accreditation or AFM accreditation. BFM accreditation and AFM accreditation have been removed from the Act.

Clause 109 replaces subsection 470(3). The new provision provides for a penalty of \$6,000 for an accredited operator not informing a driver operating under their fatigue alternative compliance hours of their alternative compliance hours applying under the accreditation. The clause also removes references to AFM accreditation or BFM accreditation.

Clause 110 increases the penalty from \$6,000 to \$10,000 for an offence under section 471. Section 471(2) relates to an offence where the operator must give notice of amendment, suspension or cessation of heavy vehicle accreditation to any driver or scheduler of a heavy vehicle who may be affected.

Clause 111 amends section 472, which relates to amending or cancelling a heavy vehicle accreditation on application. As accreditation certificates are issued electronically the clause removes the requirement for an application for amendment to include the accreditation certificate. The requirement for the accreditation certificate to be returned by the Regulator is also removed.

Clause 112 amends section 473 by replacing section 473(1)(e) and removing subsection (1)(f). Section 473 relates to amending, suspending or cancelling a heavy vehicle accreditation on the

Regulator's initiative. Subsection (1)(f) related to a ground related to a BFM accreditation or AFM accreditation. References to BFM accreditation or AFM accreditation have been removed from the Act.

New subsection 473(1)(e) inserts a new ground for amending, suspending or cancelling a heavy vehicle accreditation that applies where the Regulator considers it necessary to prevent or minimise a public risk.

Clause 113 amends section 474 to remove reference to the 'serious harm to public safety' and replaces it with a 'serious public risk'. Section 474 provides for the immediate suspension of heavy vehicle accreditation under certain circumstances.

Clause 114 removes sections 476 and 477, which relate to a requirement to return an accreditation certificate or replacement of a defaced accreditation certificate. These sections are removed because the certificate is issued electronically, and it is not possible to return an electronic certificate, or for an electronic certificate to be defaced, destroyed, lost or stolen. This aligns with the agreed policy for the law to promote the use of electronic documents.

Clause 115 increases the maximum penalty from \$10,000 to \$20,000 for auditor offences prescribed under section 478. This clause also amends subsections 478(3) and 478(4) to refer to an operator's safety management system, and removes subsection 478(5) to align with amendments made to section 654.

Clause 116 inserts new section 512A to include the definition of *fit* for the purposes of Part 9.3 in relation to a person's ability or capacity to drive a heavy vehicle, or to start or stop its engine.

Clause 117 increases the maximum penalty for offences against section 517(4) from \$6,000 to \$10,000 for failing to comply with a direction given by an authorised officer to move a vehicle to avoid harm or obstruction or to do something reasonably required to avoid harm or destruction.

Clause 118 increases the maximum penalty in section 522(5) from \$6,000 to \$10,000 for failing to produce a heavy vehicle for inspection at the time and place set out in the notice.

Clause 119 increases the maximum penalty in section 524(5) from \$6,000 to \$10,000 for failing to comply with a direction to leave or not enter a heavy vehicle.

Clause 120 amends the heading of Part 9.3, Division 8 to 'Division 8 - Further powers in relation to work and rest arrangements'.

Clause 121 removes the reference to 'fatigue-regulated' in section 537. By removing the reference to 'fatigue-regulated', the division applies to all heavy vehicles.

Clause 122 amends section 540 to extend the power of authorised officers to require a driver to stop driving if impaired by fatigue to include if 'unfit to drive'. The clause amends section 540(2)(b) and (5) to remove any references to 'fatigue-regulated' to extend the power to apply to drivers of all heavy vehicles to align with the expanded duty under section 228. It also amends section 540(4), that relates to recording details in the driver's work diary, to insert 'in relation to a fatigue-regulated heavy vehicle' after 'subsection (2)(a)'.

Clause 123 increases the maximum penalty in section 573 from \$10,000 to \$20,000 for failing to

comply with an improvement notice. The clause also omits section 573(3) to remove the restriction on issuing an improvement notice and commencing a prosecution for the same conduct.

Clause 124 increases the maximum penalty in section 576C from \$10,000 to \$20,000 for failing to comply with a direction made under section 576A(2) or a prohibition notice.

Clause 125 removes section 590(1)(b) which restricts an authorised officer from issuing a formal warning, unless they reasonably believe the person exercised reasonable diligence to prevent the offence and was unaware of it. The amendment will enable authorised officers to issue a formal caution where the officer believes a person has contravened the law and it is appropriate to deal with it through a formal warning. The clause also inserts new subsection 590(3)(c) which will prohibit the issue of a formal warning for a contravention of a safety duty imposed under section 26C.

Clause 126 amends section 632A to recognise that the Regulator will issue codes of practice by providing that codes of practice issued by the Regulator under section 705 are admissible in proceedings for an offence against the HVNL and removing the reference to ‘a registered industry code of practice’.

Clause 127 inserts new section 632B that provides for an audit of an operator’s safety management system to be used as evidence by a court in proceedings for offences against section 26D(1A), 26F, 26G or 26H.

Clause 128 amends section 636 to include reference to offences against the regulations made under section 88 of the HVNL.

Clause 129 amends section 637(4) to include reference to offences against the regulations made under section 88 of the HVNL.

Clause 130 amends section 638(4) to include reference to offences against the regulations made under section 88 of the HVNL.

Clause 131 inserts a new heading for Part 12.1, Division 1, titled ‘Directions to Regulator’.

Clause 132 removes section 651 and inserts the following new sections relating to the responsible Ministers’ directions to the Regulator:

- New section 651 will provide power to responsible Ministers to give directions to the Regulator about policies it needs to apply in exercising its functions. It maintains the policy intent of the current section 651 and provides that a direction may not be issued about a particular person, heavy vehicle, application or proceeding.
- Section 651A provides power to responsible Ministers to direct the Regulator to act or not act where there is a serious public risk. The direction may not be issued to a particular person, heavy vehicle, application or proceeding. Ministers will need to be satisfied the direction is necessary to prevent or minimise a serious public risk.
- Section 651B provides power to responsible Ministers to direct the Regulator to take or not take a particular action in relation to alternative compliance accreditation if satisfied the direction is necessary to prevent or minimise a serious public risk.
- Section 651C provides power to responsible Ministers to direct the Regulator to investigate or provide advice or information about a matter related to a public risk. It may not direct the Regulator about how to conduct an investigation, who it may request or direct to provide assistance, about the outcome of an investigation, or to stop an investigation. Ministers will

need to be satisfied the direction is necessary to prevent or minimise a serious public risk.

- Section 651D requires the Regulator to comply with directions given to it by a responsible Minister or responsible Ministers. It also requires the Regulator to publish any direction on its website and in its annual report, along with action taken.

For sections 651A and 651C, a responsible Minister will be able to independently give the Regulator a direction that applies only in their own jurisdiction. References to ‘serious public risk’ rely on the definition of *public risk* under section 5 and the plain meaning of ‘serious’.

Clause 133 introduces a new heading for Part 12.1, Division 2, titled ‘Other provisions’.

Clause 134 amends the heading for section 653 by replacing ‘authorities’ with ‘matters’. The clause amends subsection 653(1)(l) to remove matters referred to in section 178(1)(b) as a matter for which responsible Ministers may approve guidelines, as section 178 is omitted by clause 38. The clause also amends section 653 to include a new subsection (1A) which requires Ministers, when approving guidelines, to be satisfied that the Regulator and other persons they consider relevant have been consulted.

Clause 135 removes subsection 654(1) and replaces it with new subsections 654(1), (1A) and (1B). This amendment also removes the power for responsible Ministers to approve a standard for sleeper berths.

The new subsection 654(1) provides that Ministers may approve standards relating to accreditation, including:

- a standard for carrying out audits of an operator’s safety management system
- a standard with which an operator’s safety management system must comply
- a standard for alternative compliance hours for the purpose of fatigue alternative compliance accreditation. and with which the alternative compliance hours the Regulator specifies must comply as required by new subsection 461A(3).

These requirements support the new accreditation framework by replacing the powers to approve standards and business rules for AFM accreditation, BFM accreditation, mass management accreditation, maintenance management accreditation, and to approve a class of auditors.

The new subsection 654(1A) sets out requirements for the new audit standard and provides for the standard to be prepared by the Regulator; and now requires the Regulator to prepare and consult on the standard. New subsection 654(1B) requires the Regulator to consult with persons the Regulator considers relevant before submitting the standard to Ministers for approval.

Clause 136 inserts new section 659A that provides that responsible Ministers may issue a statement of expectations (SoE) to the Regulator in relation to the exercise of the Regulator’s functions. The Regulator must exercise its functions in accordance with any SoE issued by the responsible Ministers.

Clause 137 amends section 663 that sets out requirements for membership of the Board. The amendment to subsection 663(1) provides for an increase in the potential size of the Board from five members to between five and seven members. The clause also replaces subsection 663(2) to remove prescriptive requirements for Board member expertise and provide that the Board must consist of members with expertise, experience and skills as considered appropriate by responsible Ministers. The clause also inserts new subsection 663(2A) that provides that responsible Ministers

may only recommend a person if satisfied there is no material conflict of interest between their employment or other activities, and the functions of the board, and the section gives examples of a material conflict of interest. The clause also inserts a new subsection 663(4) which defines *employment* for the purposes of this section.

Clause 138 replaces section 665(2) to provide restrictions on the reappointment of a member of the Board and provides for a new time limit on Board membership, being no more than three consecutive terms or a total period of ten years.

Clause 139 replaces section 667(2) to expand the circumstances under which responsible Ministers may remove a member of the Board to include engagement in paid employment without the responsible Minister's approval and a material conflict of interest between the member's employment or other activities and the functions of the Board.

Clause 140 amends section 695 to require the Regulator to provide responsible Ministers with the corporate plan annually, no later than 30 days before the end of each financial year.

Clause 141 removes the reference to the *Public Records Act 2002* of Queensland in section 696(1)(b) and replaces it with reference to the *Public Records Act 2023* of Queensland. The *Public Records Act 2002* (Queensland) has been repealed and replaced with the *Public Records Act 2023* (Queensland).

Clause 142 increases the maximum penalty in section 701(1) from \$10,000 to \$20,000 and in section 701(2) from \$8,000 to \$15,000 for false or misleading statements.

Clause 143 increases the maximum penalty in section 702(1), from \$10,000 to \$20,000 and in section 702(3) from \$8,000 to \$15,000 for offences relating to false or misleading documents.

Clause 144 increases the penalty in section 703(1) from \$10,000 to \$20,000 and in section 703(2) from \$8,000 to \$15,000, for offences where a false or misleading statement or information is given by a responsible person to another responsible person.

Clause 145 increases the maximum penalty of \$10,000 to \$20,000 in subsections 704(1) to (3). These offences relate to false representations that a heavy vehicle authority is held.

Clause 146 removes Part 13.2 Industry codes of practice and inserts a new Part 13.2 Codes of practice. The new section 705 enables the Regulator to issue a code of practice for duties and obligations under the law for parties in the chain of responsibility and drivers of heavy vehicles. The new section 705 also provides that the Regulator must consult on issuing, amending or revoking a code of practice, other than for minor amendments, and that codes of practice are to be published on the Regulator's website. The Regulator's power to develop guidelines has been removed as the Regulator will be responsible for issuing codes of practice. The current no liability provision if a code of practice is relied on by a person is replicated here.

The new section 706 provides that responsible Ministers may direct the Regulator to amend or revoke a code of practice issued under section 705. The new section 706 limits a direction from being made except where the responsible Ministers are satisfied it is necessary to ensure that the code of practice is not unreasonable or impractical, or contrary to the object of the law. The new section 706 also requires the Regulator to publish the direction on its website and in its annual report.

Clause 147 is a consequential amendment to section 711(1)(n), which relates to evidentiary certificates by the Regulator and removes the reference to an industry code of practice. As the codes of practice will be issued by the Regulator under amended section 705, reference to an industry code of practice is redundant.

Clause 148 is a consequential amendment to remove ‘BFM accreditation or AFM accreditation’ from the definition of *driver fatigue provision* from section 727(1)(b) and replace it with ‘fatigue alternative compliance accreditation’.

Clause 149 amends the law to insert a new section 730A and provides regulation-making powers in relation to the following exemption permits:

- A class 2 heavy vehicle authorisation (permit)
- A fatigue record keeping exemption (permit)
- A mass or dimension exemption (permit)
- A vehicle standards exemption (permit)
- A work and rest hours exemption (permit)
- A work diary exemption (permit).

Clause 150 removes section 751, which provides for the expiry of industry codes of practice. This provision is unnecessary as the Regulator will issue codes of practice under amended section 705.

Clause 151 inserts new Part 14.5 to make transitional arrangements to ensure accreditations in place at the commencement of the Amendment Act may continue to operate under the current legislative requirements until the expiration of the accreditation certificate. The clause also provides that a person who is already a member of the NHVR Board on the commencement of the Amendment Act is not subject to the new requirements under section 663(2A).

Clause 152 removes section 125 and section 146 as authorising provisions for ‘Schedule 2 Subject matter for conditions of mass or dimension authorities’, as the detail in these sections will be moved to regulations.

Clause 153 makes consequential amendments to remove some reviewable decisions from Schedule 3 which primarily relate to removing administrative detail from the law and detail related to decision-making for exemption permits, that will be moved to regulations.

Clause 154 removes sections 79, 85, 87A, 181, 284, 373 and 476 from the table in Schedule 4, which relates to liability provisions. This is a consequential amendment as these provisions are not carried across to regulation. References to sections 85 and 87A are removed from Schedule 4 and are moved to regulations. It also inserts references to section 18(1), 18(2) and 22(1) into the table.