

Heavy Vehicle National Amendment Regulations 2024

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Heavy Vehicle National Amendment Regulations 2024 [NSW]

1 Name of Regulations

These Regulations are the *Heavy Vehicle National Amendment Regulations 2024*.

DRAFT

Schedule 1 Amendment of Heavy Vehicle (Fatigue Management) National Regulation

[1] Section 3

Omit the section. Insert instead—

3 Definitions

In this Regulation—

cancel, in relation to an unused daily sheet in a written work diary, means cancel by writing ‘cancelled’ in large letters across the sheet.

daily sheet, for a written work diary, has the meaning given by section 12C(1)(b).

[2] Section 4 Interpretation provisions

Omit “sections 244–248 of the Law applies” from section 4(2).

Insert instead “sections 244–248 of the Law, and sections 19 and 19A of this Regulation, apply”.

[3] Section 4A

Insert after section 4—

4A Prescribed operations requirements for driver fatigue

For the purposes of section 457 of the Law, the requirements of Division 2 of Part 6.3 of the Law are prescribed operations requirements.

[4] Parts 2 and 2A

Omit Part 2. Insert instead—

Part 2 Maximum work and minimum rest requirements

5 Standard hours

(1) For the purposes of section 249 of the Law, the following standard hours are prescribed—

- (a) for the solo driver of a fatigue-regulated heavy vehicle—the hours set out in Table 1 of Schedule 1;
- (b) for the solo driver of a fatigue-regulated bus—the hours set out in either, but not both, Table 1 or Table 2 of Schedule 1;
- (c) for the driver of a fatigue-regulated heavy vehicle who is a party to a two-up driving arrangement—the hours set out in Table 3 of Schedule 1.

(2) For a period stated in column 1 of a Table in Schedule 1—

- (a) column 2 of the Table states the maximum work time for the driver; and
- (b) column 3 of the Table states the minimum rest time for the driver.

Note— Column 3 refers to a block of time unless blocks of time are referred to. A night rest break is a block of time.

(3) A contravention of section 250(1) of the Law for a period stated in column 1 of Table 1 or Table 2 in Schedule 1 is a breach of the risk category stated in column 4 of the Table for the circumstance of the contravention.

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- (4) A contravention of section 251(1) of the Law for a period stated in column 1 of Table 3 in Schedule 1 is a breach of the risk category stated in column 4 of the Table for the circumstance of the contravention.
- (5) If, apart from this subsection, the driver would commit a minor risk breach in relation to a total period stated in column 1 of a Table in Schedule 1 that is not more than 24 hours, the driver does not commit the minor risk breach if—
 - (a) the period the driver works in excess of the maximum work time stated in column 2 of the Table for the corresponding total period stated in column 1 of the Table is not more than 8 minutes; and
 - (b) the driver uses an electronic work diary to record the period the driver works that is mentioned in paragraph (a).

6 Alternative compliance hours

- (1) For the purposes of section 461A(3) of the Law, the maximum work times and minimum rest times set out in Table 1 in Schedule 2 are prescribed.
- (2) For a period stated in column 1 of Table 1 in Schedule 2—
 - (a) column 2 of the Table states the maximum work time for the driver; and
 - (b) column 3 of the Table states the minimum rest time for the driver.

Note— Column 3 refers to a block of time unless blocks of time are referred to. A night rest break is a block of time.

- (3) Despite the minimum rest time of 7 continuous hours of stationary rest time in a period of 24 hours specified in Table 1 in Schedule 2, the driver may instead have a split rest break in the 24-hour period if the driver has not had a split rest break in the previous 24-hour period.
- (4) A contravention of section 254 of the Law is a breach of the following risk category—
 - (a) for a contravention, other than an escalated risk contravention, for a period stated in column 1 of Table 2 in Schedule 2—the risk category stated in column 2 of the Table for the circumstance of the contravention;
 - (b) for an escalated risk contravention for a period stated in column 1 of Table 4 in Schedule 2—the risk category stated in column 2 of the Table for the circumstance of the contravention.

- (5) In this section—

escalated risk contravention means a contravention involving a driver, for a period stated in column 1 of Table 3 in Schedule 2—

- (a) working for more than the maximum work time stated in column 2 of the Table for the period; or
- (b) resting for less than the minimum rest time stated in column 3 of the Table for the period.

split rest break means—

- (a) 6 continuous hours of stationary rest time; and
- (b) 2 continuous hours of stationary rest time.

7 Risk categories for contraventions of exemption hours

A contravention of section 260(1) of the Law for any period of exemption hours that is stated in column 1 of the Table in Schedule 5 is a breach of the risk category stated in column 2 of the Table for the circumstance of the contravention.

Part 2A Work and rest hours exemption (permits)

Note— See also Part 3A of the *Heavy Vehicle (General) National Regulation*, which contains additional provisions relating to work and rest hours exemption (permits) and other exemption permits.

8 Regulator's power to grant work and rest hours exemption (permit)

- (1) A work and rest hours exemption (permit) must not be granted for a period of more than 3 years.
- (2) A work and rest hours exemption (permit) may be granted to the operator of a fatigue-regulated heavy vehicle in combination with the operator's fatigue alternative compliance accreditation.
- (3) The Regulator may grant a work and rest hours exemption (permit)—
 - (a) in a way that does not cover all the drivers sought by the applicant; or
 - (b) setting maximum work times and minimum rest times different to the maximum work times and minimum rest times sought by the applicant.

9 Application for work and rest hours exemption (permit)

- (1) The following persons may apply to the Regulator for a work and rest hours exemption (permit)—
 - (a) an employer of a driver of a fatigue-regulated heavy vehicle;
 - (b) a prime contractor for a driver of a fatigue-regulated heavy vehicle;
 - (c) an operator of a fatigue-regulated heavy vehicle;
 - (d) a self-employed driver of a fatigue-regulated heavy vehicle.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) state the following—
 - (i) the period for which the permit is sought;
 - (ii) any conditions for the permit sought by the applicant;
 - (iii) the name of the driver of a fatigue-regulated heavy vehicle to whom the permit is sought to apply, or details of the class of drivers of fatigue-regulated heavy vehicles to whom the permit is sought to apply;
 - (iv) the proposed maximum work times and minimum rest times that would be followed by drivers operating under the permit;
 - (v) if the proposed maximum work times and minimum rest times to apply under the permit could be accommodated within alternative compliance hours under a fatigue alternative compliance accreditation—
 - (A) the driver fatigue management practices that would be followed by the applicant and drivers operating under the permit; and
 - (B) how the practices would safely manage fatigue risks; and
 - (C) how the requirements applying to a fatigue alternative compliance accreditation with alternative compliance hours would be unreasonable for the operations conducted by the applicant, having regard to the nature of the operations.

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- (3) The Regulator may, by notice given to the applicant, require the applicant to give the Regulator any additional information the Regulator reasonably requires to decide the application.

10 Restriction on grant of work and rest hours exemption (permit)

- (1) The Regulator may grant a work and rest hours exemption (permit) only if the Regulator is satisfied—
 - (a) requiring the drivers to whom the permit is to apply to comply with the standard hours would be an unreasonable restriction on operations conducted by the applicant; and
 - (b) if the maximum work times and minimum rest times to apply under the permit could be accommodated within alternative compliance hours under an alternative compliance accreditation—the requirements applying to a fatigue alternative compliance accreditation with alternative compliance hours would be unreasonable for the operations conducted by the applicant, having regard to the nature of the operations; and
 - (c) the driver fatigue management practices that are to apply to drivers operating under the permit would, if followed, safely manage fatigue risks; and
 - (d) the drivers to whom the permit is to apply are likely to follow the practices consistently and effectively.
- (2) In deciding whether or not to grant a work and rest hours exemption (permit), the Regulator must have regard to the approved guidelines for granting work and rest hours exemptions.

11 Conditions of work and rest hours exemption (permit)

- (1) If the Regulator grants a work and rest hours exemption (permit) to the operator of a fatigue-regulated heavy vehicle in combination with the operator's fatigue alternative compliance accreditation, it is a condition of the permit that the operator must comply with all the conditions of the operator's fatigue alternative compliance accreditation.
- (2) A work and rest hours exemption (permit) may be subject to any other conditions the Regulator considers appropriate, including, for example, conditions about—
 - (a) driver fatigue management practices that are to apply to drivers operating under the permit; and
 - (b) keeping records relating to the driver fatigue management practices.

12 Permit for work and rest hours exemption (permit) etc.

- (1) If the Regulator grants a work and rest hours exemption (permit) to a person, the Regulator must give the person—
 - (a) a work and rest hours exemption (permit); and
 - (b) if prescribed circumstances apply to the grant of the permit—an information notice for the prescribed circumstances.
- (2) A work and rest hours exemption (permit) must state the following—
 - (a) the name of the person to whom the permit is given;
 - (b) the driver of a fatigue-regulated heavy vehicle, or class of drivers of fatigue-regulated heavy vehicles, to which the permit applies;

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- (c) the maximum work times and minimum rest times that apply to drivers operating under the permit;
 - (d) the conditions of the permit, including, if applicable, the condition mentioned in section 11(1);
 - (e) the period for which the permit applies.
- (3) In this section—
- prescribed circumstances**, for a work and rest hours exemption (permit), means the Regulator has—
- (a) imposed conditions on the permit under section 11(2); or
 - (b) granted the permit in a way that does not cover all the drivers sought by the applicant; or
 - (c) granted the permit setting maximum work times and minimum rest times different to the maximum work times and minimum rest times sought by the applicant; or
 - (d) granted the permit for a period less than the period of not more than 3 years sought by the applicant.

12A Immediate suspension of work and rest hours exemption (permit)

- (1) This section applies if the Regulator considers—
- (a) a ground exists to cancel a work and rest hours exemption (permit); and
 - (b) it is necessary to suspend the permit immediately to prevent or minimise serious harm to public safety.
- (2) The Regulator may, by notice (an **immediate suspension notice**) given to the person to whom the permit was given, immediately suspend the permit until the earliest of the following—
- (a) the Regulator gives the holder an information notice under section 31E(5) of the *Heavy Vehicle (General) National Regulation* and the amendment or cancellation takes effect under section 31E(6) of that Regulation;
 - (b) the Regulator cancels the suspension;
 - (c) the end of 56 days after the day the immediate suspension notice is given to the person.
- (3) This section applies despite sections 31D and 31E of the *Heavy Vehicle (General) National Regulation*.

12B Keeping copy of permit while driving

- (1) The driver of a fatigue-regulated heavy vehicle who is driving the vehicle under a work and rest hours exemption (permit) must keep the permit or a copy of the permit in the driver's possession.
Maximum penalty—\$1500.
- (2) Each relevant party for a driver mentioned in subsection (1) must ensure the driver complies with subsection (1), unless the relevant party has a reasonable excuse.
Maximum penalty—\$1500.
- (3) In this section—
- relevant party**, for the driver of a fatigue-regulated heavy vehicle, means the following—

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- (a) an employer of the driver, if the driver is an employed driver;
- (b) a prime contractor of the driver, if the driver is a self-employed driver;
- (c) an operator of the vehicle, if the driver is making a journey for the operator.

[5] Part 3, Division 1A

Insert before Division 1—

Division 1A Obtaining written work diary

12C Form of written work diary

- (1) A written work diary must contain—
 - (a) a unique identifying number for the work diary; and
 - (b) sheets (*daily sheets*) that—
 - (i) provide for recording information daily; and
 - (ii) are sequentially numbered; and
 - (c) 2 duplicates of each daily sheet; and
 - (d) a duplicate of any application form contained in the work diary under subsection (2); and
 - (e) instructions for use of the work diary.
- (2) A written work diary may contain an application in the approved form for the issue of another work diary.
- (3) Each daily sheet of a written work diary must be in a form that ensures that, if information is written on the daily sheet in the way stated in the instructions in the work diary or the Law, the information should be automatically copied on to the duplicates for the sheet.

12D Application for written work diary

- (1) The driver of a fatigue-regulated heavy vehicle may apply to the Regulator for a written work diary.
- (2) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by the prescribed fee for the application.
- (3) If the application is for a written work diary to replace a written work diary that has been destroyed, lost or stolen, the application must—
 - (a) state the previous work diary's number and that it has been destroyed, lost or stolen; and
 - (b) briefly outline the circumstances of the destruction, loss or theft.

12E Issue of written work diary

- (1) The Regulator must issue a written work diary to the driver of a fatigue-regulated heavy vehicle if the driver—
 - (a) applies for the work diary under section 12D; and
 - (b) identifies the driver by showing the driver's current driver licence to the Regulator.

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- (2) If the Regulator issues a written work diary to the driver of a fatigue-regulated heavy vehicle, the Regulator must note the date, time and place of issue on the written work diary.
- (3) The Regulator may make other notes on the written work diary the Regulator considers appropriate.

12F Cancelling unused daily sheets

- (1) As soon as a driver is issued a replacement written work diary, the driver must cancel any unused daily sheets in the old work diary.
Maximum penalty—\$3000.
- (2) Subsection (1) does not apply to a written work diary issued to replace a destroyed, lost or stolen written work diary.

[6] Section 15 Information to be recorded immediately after starting work

Omit “day of the week and” from section 15(1)(a).

[7] Section 15(1)(e)

Omit the paragraph. Insert instead—

- (e) if the driver is not operating under standard hours—whether the driver is operating under alternative compliance hours or exemption hours; and

[8] Section 15(1)(g)

Omit the paragraph.

[9] Section 15(1)(h)

Omit “AFM accreditation” wherever occurring.

Insert instead “alternative compliance accreditation”.

[10] Section 15(3), definition of “accreditation number”

Omit “for a BFM accreditation or AFM accreditation” wherever occurring.

Insert instead “for an alternative compliance accreditation”.

[11] Sections 19 and 19A

Omit section 19. Insert instead—

19 Counting periods of less than 15 minutes—written work diaries

- (1) This section applies if a driver uses a written work diary.
- (2) Work time must be counted in 15 minute periods.
- (3) A period of work time of less than 15 minutes counts as 15 minutes work time.
Examples for the purposes of subsection (3)—
 - 1 A period of working for 14 minutes counts as 15 minutes work time.
 - 2 A period of working for 17 minutes counts as 30 minutes work time.
 - 3 A period of working for 53 minutes counts as 1 hour work time.
- (4) Rest time must be counted in blocks of time of no less than 15 minutes.
- (5) A period of rest time of less than 15 minutes must be disregarded.

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Examples for the purposes of subsection (5)—

- 1 A period of not working for only 14 minutes does not count as rest time, because 14 minutes is less than 15 minutes.
- 2 A period of not working for 17 minutes counts as 15 minutes rest time, because 17 minutes is more than 15 minutes, but is less than 2 lots of 15 minutes (30 minutes).

19A Counting periods of less than 15 minutes—electronic work diaries

- (1) This section applies if a driver uses an electronic work diary.
- (2) Work time and rest time must be counted in 1 minute periods.
- (3) A period of work time or rest time of less than 1 minute must not be counted.
- (4) A period of rest time of less than 15 minutes does not count towards a minimum rest time.

Examples for the purposes of subsection (4)—

- 1 A period of not working for 10 minutes does not count towards a minimum rest time because 10 minutes is less than 15 minutes.
- 2 A period of not working on 3 separate occasions for 14 minutes, 24 minutes and 22 minutes does not count as 60 minutes rest time because the period of 14 minutes, being less than 15 minutes, is disregarded.

Note— This section relates to calculating whether a driver has complied with maximum work requirements and minimum rest requirements applying to the driver. It does not matter if the technology used by an electronic work diary counts a period less than 1 minute mentioned in subsections (2) and (3) in the course of arriving at calculations that comply with the subsections.

[12] Part 3, Divisions 2–4

Omit Division 2. Insert instead—

Division 2 How information must be recorded in work diary

20 Recording information in written work diary

- (1) If the driver's work diary is a written work diary, the driver must record information in the work diary in the following way—
 - (a) if, on a day, the driver changes the work and rest hours option under which the driver is working, the information for the part of the day after the change must be written on a separate daily sheet in the work diary;
 - (b) information must be written on a daily sheet in the way stated in the instructions in the work diary for recording information on daily sheets;
 - (c) each daily sheet must be—
 - (i) signed and dated by the driver; and
 - (ii) if the driver is driving under a two-up driving arrangement—signed by the other driver who is a party to the arrangement;
 - (d) information recorded other than on a daily sheet must be written in the work diary in the way stated in the instructions in the work diary for the recording of the information.

Maximum penalty—\$1500.
- (2) The driver must comply with subsection (1)(c)(i) in relation to a daily sheet for a day (the *relevant day*) before or at the time the earlier of the following happens—
 - (a) the first work and rest change the driver has on a day, after the relevant day, for which the driver has to record information;

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- (b) the driver is required to comply with section 322 or 341 of the Law in relation to records the driver is required to make or keep for the relevant day.

Note— If the driver's record keeper is a person other than the driver, section 322(2) of the Law requires a copy of recorded information to be given to the record keeper within 21 days. If the driver is the driver's own record keeper, section 341(4) of the Law requires the record or a copy of the record to be available within 21 days at the driver's record location.

20A Recording information in electronic work diary

If the driver's work diary is an electronic work diary, the driver must record information in the work diary in a way complying with—

- (a) if the Regulator has, when approving the electronic recording system constituting the work diary or of which the work diary is a part, imposed any conditions in relation to the way information must be recorded in the work diary—those conditions; and
- (b) the manufacturer's instructions, if any, for recording information in the electronic work diary, to the extent the instructions are consistent with the conditions mentioned in paragraph (a).

Maximum penalty—\$1500.

Note— The Regulator may impose conditions on the use of an electronic recording system under section 343 of the Law.

20B Time zone of driver's base must be used

The driver must record time in the driver's work diary according to the time zone in the place where the driver's base is, rather than the time zone in the place where the driver is.

Maximum penalty—\$1500.

Note— See also section 248 of the Law, which requires that time periods be counted by reference to the time zone of a driver's base when the driver's journey involves travelling into a different time zone.

Division 3 Work diary exemption (permits)

Note— See also Part 3A of the *Heavy Vehicle (General) National Regulation*, which contains additional provisions relating to work diary exemption (permits) and other exemption permits.

21 Regulator's power to grant work diary exemption (permits)

A work diary exemption (permit) must not be granted for a period of more than 3 years.

21AA Application for work diary exemption (permit)

- (1) The driver of a fatigue-regulated heavy vehicle who is working under standard hours may apply to the Regulator for a work diary exemption (permit).
- (2) The application must—
- (a) be in the approved form; and
- (b) state the following—
- (i) the period for which the permit is sought;
- (ii) any conditions for the permit sought by the applicant; and
- (c) nominate a person (the *nominee*) to make written work records for the driver; and
- (d) be accompanied by the nominee's written agreement to the nomination.

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- (3) An employer of the driver of a fatigue-regulated heavy vehicle may make an application under subsection (1) on behalf of the driver.
- (4) The Regulator may, by notice given to the applicant, require the applicant to give the Regulator any additional information the Regulator reasonably requires to decide the application.

21A Restriction on grant of work diary exemption (permit)

- (1) The Regulator may grant a work diary exemption (permit) only if the Regulator is satisfied—
 - (a) the driver can not make records in the driver's work diary because of the driver's inadequate English literacy; and
 - (b) the nominee for the driver, included in the application for the permit under section 21AA(2)(c), will be able to make records that are no less complete or accurate than records made in accordance with—
 - (i) Division 2; and
 - (ii) Subdivisions 1, 2, 4 and 5 of Division 2 of Part 6.4 of the Law; and
 - (c) the driver works only under standard hours.
- (2) In deciding whether or not to grant a work diary exemption (permit), the Regulator must have regard to the approved guidelines for granting work diary exemptions.

21B Conditions of work diary exemption (permit)

- (1) A work diary exemption (permit) is subject to the condition that the driver to whom the permit applies must carry out all work as a driver of fatigue-regulated heavy vehicles under standard hours only.
- (2) A work diary exemption (permit) may be subject to any other conditions the Regulator considers appropriate, including, for example, conditions about—
 - (a) the information to be included in records about the work carried out by the driver of a fatigue-regulated heavy vehicle to whom the permit applies; and
 - (b) how the records are to be made.

21C Permit for work diary exemption (permit) etc.

- (1) If the Regulator grants a work diary exemption (permit) to a person, the Regulator must give the person—
 - (a) a work diary exemption (permit); and
 - (b) if the Regulator has imposed conditions on the permit under section 21B(2) or has granted the permit for a period less than the period of not more than 3 years sought by the person—an information notice for the decision to impose the conditions or grant the permit for the shorter period.
- (2) A permit for a work diary exemption (permit) must state the following—
 - (a) the name of the driver of a fatigue-regulated heavy vehicle to whom the permit is given;
 - (b) the name of the person making written work records for the driver;
 - (c) the conditions of the permit;
 - (d) the period for which the permit applies.

21D Keeping copy of permit while operating

The driver of a fatigue-regulated heavy vehicle who is operating under a work diary exemption (permit) must keep the permit or a copy of the permit in the driver's possession.
Maximum penalty—\$3000.

Division 4 Miscellaneous

21E Lost or stolen written work diaries

- (1) This section applies if a lost or stolen written work diary (the *old work diary*) is found by or returned to the driver of a fatigue-regulated heavy vehicle after a replacement work diary has been issued to the driver.
- (2) The driver must immediately cancel any unused daily sheets in the old work diary.
Maximum penalty—\$3000.
- (3) If the old work diary is found or returned within 28 days after it was lost or stolen, the driver must notify the Regulator in the approved form that it has been found or returned.
Maximum penalty—\$3000.

[13] Part 3A

Insert after Part 3—

Part 3A Fatigue record keeping exemption (permits)

Note— See also Part 3A of the *Heavy Vehicle (General) National Regulation*, which contains additional provisions relating to fatigue record keeping exemption (permits) and other exemption permits.

21F Regulator's power to grant fatigue record keeping exemption (permit)

- (1) A fatigue record keeping exemption (permit) must not be granted for a period of more than 3 years.
- (2) A fatigue record keeping exemption (permit) may be granted to the operator of a fatigue-regulated heavy vehicle in combination with the operator's fatigue alternative compliance accreditation.
- (3) The Regulator may grant a fatigue record keeping exemption (permit)—
 - (a) in a way that does not cover all the drivers sought by the applicant; or
 - (b) setting conditions different to the conditions sought by the applicant.

21G Application for fatigue record keeping exemption (permit)

- (1) The record keeper for a driver of a fatigue-regulated heavy vehicle may apply to the Regulator for a fatigue record keeping exemption (permit).
- (2) The application must—
 - (a) be in the approved form; and
 - (b) state the following—
 - (i) the period for which the permit is sought;
 - (ii) any conditions for the permit sought by the applicant;
 - (iii) the name and details of each driver of a fatigue-regulated heavy vehicle to whom the permit is sought to apply.

- (3) The Regulator may, by notice given to the applicant, require the applicant to give the Regulator any additional information the Regulator reasonably requires to decide the application.
- (4) In deciding whether or not to grant a fatigue record keeping exemption (permit), the Regulator must have regard to the approved guidelines for granting fatigue record keeping exemptions.

21H Conditions of fatigue record keeping exemption (permit)

A fatigue record keeping exemption (permit) may be subject to any conditions the Regulator considers appropriate, including, for example, conditions about—

- (a) a condition about the information to be included in records about the work carried out by drivers of fatigue-regulated heavy vehicles to whom the permit applies; and
- (b) a condition about how the records are to be made; and
- (c) a condition that a record keeper for the driver of a fatigue-regulated heavy vehicle who is operating under the permit must keep in the record keeper's possession—
 - (i) the permit; or
 - (ii) a stated document or stated kind of document relating to the permit.

21I Permit for fatigue record keeping exemption (permit) etc.

- (1) If the Regulator grants a fatigue record keeping exemption (permit) to a person, the Regulator must give the person—
 - (a) a fatigue record keeping exemption (permit); and
 - (b) if prescribed circumstances apply to the grant of the permit—an information notice for the prescribed circumstances.
- (2) A fatigue record keeping exemption (permit) must state the following—
 - (a) the driver of a fatigue-regulated heavy vehicle to which the permit applies;
 - (b) the conditions of the permit;
 - (c) the period for which the permit applies.
- (3) In this section—

prescribed circumstances, for a fatigue record keeping exemption (permit), means the Regulator has—

 - (a) imposed conditions on the permit under section 21H; or
 - (b) granted the permit for a period less than the period of not more than 3 years sought by the applicant.

21J Immediate suspension of fatigue record keeping exemption (permit)

- (1) This section applies if the Regulator considers—
 - (a) a ground exists to cancel a fatigue record keeping exemption (permit); and
 - (b) it is necessary to suspend the permit immediately to prevent or minimise serious harm to public safety.

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- (2) The Regulator may, by notice (an *immediate suspension notice*) given to the person to whom the permit was given, immediately suspend the permit until the earliest of the following—
- (a) the Regulator gives the holder an information notice under section 31E(5) of the *Heavy Vehicle (General) National Regulation* and the amendment or cancellation takes effect under section 31E(6) of that Regulation;
 - (b) the Regulator cancels the suspension;
 - (c) the end of 56 days after the day the immediate suspension notice is given to the person.
- (3) This section applies despite sections 31D and 31E of the *Heavy Vehicle (General) National Regulation*.

[14] Section 22 Multiple minimum rest time requirements

Omit “Schedule 1 or 2” from section 22(1). Insert instead “Schedule 1”.

[15] Section 22(4)

Omit the subsection. Insert instead—

- (4) An example of the operation of subsections (2) and (3) is in Schedule 3.

[16] Section 26

Insert after section 25—

26 Approved sleeper berths

For the purposes of the definition of *approved sleeper berth* in section 221 of the Law, an approved sleeper berth is a sleeper berth that—

- (a) complies with—
 - (i) for a fatigue-regulated bus—a standard approved by the Regulator; or
 - (ii) for another fatigue-regulated heavy vehicle—ADR 42; and
- (b) is able to be used by the driver when resting.

[17] Schedule 1, heading

Omit “of standard hours”.

[18] Schedule 1

Omit “sections 5, 6 and 8”. Insert instead “section 5”.

[19] Schedule 2

Omit the Schedule. Insert instead—

Schedule 2 Alternative compliance hours and risk categories for contraventions

section 6

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Table 1 Maximum work times and minimum rest times for alternative compliance hours

Column 1 Total period	Column 2 Maximum work time	Column 3 Minimum rest time
<i>In any period of ...</i>	<i>... a driver must not work for more than ...</i>	<i>... a driver must not rest for less than ...</i>
24 hours	15½ hours work time	7 continuous hours stationary rest time (or in the case of a driver who is a party to a two-up driving arrangement, 7 continuous hours of stationary rest time or rest time in an approved sleeper berth while the vehicle is moving)

Table 2 Risk categories for contraventions—general

Column 1 Total period	Column 2 Category of breach		Risk category
	Circumstance of contravention relating to work time	Circumstance of contravention relating to rest time	
<i>In any period of ...</i>	<i>If a driver has exceeded the maximum work time by ...</i>	<i>If a driver has had less than the minimum rest time by ...</i>	<i>... the following category of breach is committed ...</i>
Less than 7 days	≤ 45 minutes work time	≤ 45 minutes rest time	minor risk breach
	> 45 but ≤ 75 minutes work time	> 45 but ≤ 75 minutes rest time	substantial risk breach
	> 75 but ≤ 90 minutes work time	> 75 but ≤ 90 minutes rest time	severe risk breach
	> 90 minutes work time	> 90 minutes rest time	critical risk breach
28 days, if the period is 7 days or more	≤ 1½ hours work time		minor risk breach
	> 1½ but ≤ 2½ hours work time		substantial risk breach
	> 2½ but ≤ 3 hours work time		severe risk breach
	> 3 hours work time		critical risk breach

Table 3 Thresholds for escalated risk contraventions

Column 1 Total period	Column 2 Maximum work time	Column 3 Minimum rest time
<i>In any period of ...</i>	<i>... a driver must not work for more than ...</i>	<i>... a driver must not rest for less than ...</i>

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Column 1 Total period	Column 2 Maximum work time	Column 3 Minimum rest time
24 hours	15½ hours work time	7 continuous hours stationary rest time (or in the case of a driver who is a party to a two-up driving arrangement, 7 continuous hours of stationary rest time or rest time in an approved sleeper berth while the vehicle is moving)
14 days (336 hours)	154 hours work time	30 continuous hours stationary rest time that includes the periods 12am to 6am on a day and 12am to 6am on the following day, using the time zone of the driver's base
28 days (672 hours)	288 hours work time	

Table 4 Risk categories for contraventions—escalated risk

Column 1 Total period	Column 2 Category of breach		Risk category
	Circumstance of contravention relating to work time	Circumstance of contravention relating to rest time	
<i>In any period of ...</i>	<i>If a driver has exceeded the maximum work time by ...</i>	<i>If a driver has had less than the minimum rest time by ...</i>	<i>... the following category of breach is committed ...</i>
Less than 7 days	≤ 15 minutes work time	≤ 15 minutes rest time	substantial risk breach
	> 15 minutes but ≤ 30 minutes work time	> 15 minutes but ≤ 30 minutes rest time	severe risk breach
	> 30 minutes work time	> 30 minutes rest time	critical risk breach
28 days, if the period is 7 days or more	≤ 30 minutes work time		substantial risk breach
	> 30 minutes but ≤ 1 hour work time		severe risk breach
	> 1 hour work time		critical risk breach

[20] Schedule 3, heading

Omit “**Examples**”. Insert instead “**Example**”.

[21] Schedule 3

Omit “**Example 1**”. Insert instead “**Example**”.

[22] Schedule 3

Omit Example 2.

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[23] Schedule 4

Omit the Schedule.

[24] Schedule 5 Risk categories for contraventions of exemption hours

Omit “section 12”. Insert instead “section 7”.

DRAFT

Schedule 2 Amendment of Heavy Vehicle (Mass, Dimension and Loading) National Regulation

[1] Section 3 Definitions

Insert in alphabetical order—

mass alternative compliance accreditation means an alternative compliance accreditation granted in relation to the prescribed operations requirement specified in section 5D.

[2] Sections 5C–5E

Insert after section 5B—

5C Twinsteer axle groups

- (1) The requirements imposed by this section are prescribed for the purposes of the definition of *twinsteer axle group* in section 5 of the Law.
- (2) The group of 2 axles must—
 - (a) have single tyres; and
 - (b) be fitted to a motor vehicle; and
 - (c) be connected to the same steering mechanism.
- (3) The horizontal distance between the centre-line of the 2 axles must be more than 1m but not more than 2.5m.

5D Prescribed operations requirements for mass

For the purposes of section 457 of the Law, the requirements of section 95(2)(c) are prescribed operations requirements.

5E Mass alternative compliance accreditation

For the purposes of section 461(5)(a)(ii) of the Law, the mass limits allowed under mass alternative compliance accreditation must comply with the limits specified in Schedules 2 and 5.

[3] Sections 16(2) and 28

Omit “\$3000” wherever occurring. Insert instead “\$4000”.

[4] Sections 34(2) and 35(1)

Omit “\$4000” wherever occurring. Insert instead “\$1500”.

[5] Sections 37A and 37B

Insert after section 37—

37A Warning signals required for rear projection of loads

- (1) This section applies if—
 - (a) a load projects more than 1.2m behind a heavy vehicle consisting of only a motor vehicle; or
 - (b) a load projects more than 1.2m behind either the towing vehicle or a trailer in a heavy combination; or
 - (c) a load projects from a pole-type trailer in a heavy combination; or

- (d) a load projects from a heavy vehicle in a way that it would not be readily visible to a person following immediately behind the vehicle.
- (2) A person must not use the heavy vehicle, or permit the heavy vehicle to be used, on a road unless—
 - (a) during the daytime—a brightly coloured red, red and yellow, or yellow flag at least 300mm by 300mm is fixed to the extreme back of the load; or
 - (b) at night—a light showing a clear red light to the back, visible at a distance of at least 200m, is fixed to the extreme back of the load.

Maximum penalty—\$3000.

37B Displaying warning signs on vehicles if not required by dimension exemption

- (1) A heavy vehicle warning sign must not be displayed on a heavy vehicle unless the heavy vehicle is being used under a dimension exemption.
Maximum penalty—\$3000.
- (2) A pilot vehicle warning sign must not be displayed on a vehicle unless the vehicle is being used as a pilot vehicle for a heavy vehicle being used under a dimension exemption.
Maximum penalty—\$3000.

- (3) In this section—

dimension exemption means an exemption under Part 4.5 of the Law from compliance with a dimension requirement.

heavy vehicle warning sign means a warning sign required to be attached to a heavy vehicle under Schedule 8.

pilot vehicle warning sign means a warning sign required to be attached to a vehicle being used as a pilot vehicle for a heavy vehicle under Schedule 8.

[6] Part 4A

Insert after section 38—

Part 4A Class 2 heavy vehicle authorisation (permits) and mass or dimension exemption permits

Note— See also Part 3A of the *Heavy Vehicle (General) National Regulation*, which contains additional provisions relating to class 2 heavy vehicle authorisation (permits) and mass or dimension exemption (permits) and other exemption (permits).

38A Application of Part

- (1) This Part applies to—
 - (a) a class 2 heavy vehicle authorisation (permit); and
 - (b) a mass or dimension exemption (permit).
- (2) In this Part—
permit means a permit specified in subsection (1)(a) or (b).

38AB Regulator's power to grant permit

A permit must not be granted for a period of more than 3 years.

38B Application for permit

- (1) A person may apply to the Regulator for a permit.

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- (2) The application must be—
 - (a) in the approved form; and
 - (b) accompanied by the prescribed fee for the application.
- (3) The Regulator may, by notice given to the applicant, require the applicant to give the Regulator any additional information the Regulator reasonably requires to decide the application.

38C Restriction on grant of class 2 heavy vehicle authorisation (permit)

- (1) The Regulator may grant a class 2 heavy vehicle authorisation (permit) for a class 2 heavy vehicle only if—
 - (a) the Regulator is satisfied the use of the class 2 heavy vehicle on a road under the permit will not pose a significant risk to public safety; and
 - (b) each relevant road manager for the permit has consented to the grant; and
 - (c) the Regulator is satisfied all other consents required for the permit under the law of the relevant jurisdiction have been obtained by the applicant or have been otherwise given.
- (2) In deciding whether to grant a class 2 heavy vehicle authorisation (permit), the Regulator must have regard to the approved guidelines for granting class 2 heavy vehicle authorisations.

38D Restriction on grant of mass or dimension exemption (permit)

- (1) This section applies to a class 1 heavy vehicle or class 3 heavy vehicle that includes 2 or more prime movers or 2 or more hauling units.
- (2) The Regulator may grant a mass or dimension exemption (permit) that exempts the heavy vehicle from compliance with a mass requirement relating to the GCM of the individual prime movers or hauling units if the total GCM of the prime movers or hauling units complies with the mass requirement relating to the GCM of the combined prime movers or hauling units.

38E Conditions of class 2 heavy vehicle authorisation (permits)

- (1) A class 2 heavy vehicle authorisation (permit) must be subject to the road conditions or travel conditions required by a relevant road manager for the permit under section 160 or 161 of the Law.
- (2) A class 2 heavy vehicle authorisation (permit) may be subject to any other conditions the Regulator considers appropriate, including, for example—
 - (a) conditions about 1 or more matters mentioned in Schedule 2 of the Law; and
 - (b) without limiting paragraph (a), intelligent access program conditions.

38F Conditions of mass or dimension exemption (permits)

- (1) A mass or dimension exemption (permit) must—
 - (a) include a condition about the areas or routes to which the permit applies; and
 - (b) be subject to the road conditions or travel conditions required by a relevant road manager for the permit under section 160 or 161 of the Law.
- (2) A mass or dimension exemption (permit) is also subject to conditions applying to the permit under section 39.

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- (3) A mass or dimension exemption (permit) may be subject to any other conditions the Regulator considers appropriate, including, for example—
 - (a) conditions about 1 or more matters mentioned in Schedule 2 of the Law; and
 - (b) without limiting paragraph (a), intelligent access program conditions.

38G Granting of permits

- (1) If the Regulator grants a permit to a person, the Regulator must give the person—
 - (a) a permit; and
 - (b) a notice stating the review and appeal information for any of the following decisions that is a reviewable decision—
 - (i) the Regulator's decision to grant the permit for a period or impose a condition on the permit;
 - (ii) a relevant road manager's decision to consent to the grant of the permit subject to a condition that a road condition or travel condition be imposed on the permit.
- (2) A permit for a class 2 heavy vehicle authorisation (permit) must state the following—
 - (a) the name of the person to whom the permit is given;
 - (b) if the permit applies to particular categories of class 2 heavy vehicles, the categories of heavy vehicles to which the permit applies;
 - (c) the areas or routes to which the permit applies;
 - (d) the days and hours to which the permit applies;
 - (e) the road conditions or travel conditions required by a relevant road manager for the permit under section 160 or 161 of the Law;
 - (f) any other conditions applying to a class 2 heavy vehicle being used on a road under the permit;
 - (g) the period for which the permit applies.
- (3) A permit for a mass or dimension exemption (permit) must state the following—
 - (a) the name of the person to whom the permit is given;
 - (b) a description of each heavy vehicle to which the permit applies, including the registration number of the vehicle if it is registered;
 - (c) the mass requirement or dimension requirement to which the permit applies;
 - (d) the areas or routes to which the permit applies;
 - (e) the road conditions or travel conditions required by a relevant road manager for the permit under section 160 or 161 of the Law;
 - (f) the conditions of the permit;
 - (g) the period for which the permit applies.

38H Amendment or cancellation on request by relevant road manager

- (1) This section applies if a relevant road manager for a permit is satisfied the use of heavy vehicles on a road under the permit—
 - (a) has caused, or is likely to cause, damage to road infrastructure; or

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- (b) has had, or is likely to have, an adverse effect on the community arising from noise, emissions or traffic congestion or from other matters stated in approved guidelines for granting class 2 heavy vehicle authorisations or mass or dimension exemptions; or
 - (c) has posed, or is likely to pose, a significant risk to public safety arising from heavy vehicle use that is incompatible with road infrastructure or traffic conditions.
- (2) The road manager may ask the Regulator to—
- (a) amend the permit, including, for example, by—
 - (i) amending the areas or routes to which the permit applies; or
 - (ii) amending the days or hours to which the permit applies; or
 - (iii) imposing or amending road conditions or travel conditions on the permit; or
 - (b) cancel the permit.
- (3) The Regulator must comply with the request.
- (4) However, if consent to the grant of the permit was given by a road authority under section 163 of the Law—
- (a) the Regulator may refer the request to the road authority; and
 - (b) if the road authority gives the Regulator its written approval of the request, the Regulator must comply with the request; and
 - (c) if the road authority does not give written approval of the request within 28 days after the referral is made, the Regulator—
 - (i) must not comply with the request; and
 - (ii) must notify the road manager that the road authority has not given its written approval of the request and, as a result, the Regulator must not comply with it.
- (5) If the permit is amended or cancelled under this section, the Regulator must give the holder of the permit notice of the amendment or cancellation at least 28 days before the amendment or cancellation is to take effect.
- (6) The notice given to the holder must state—
- (a) the day the amendment or cancellation is to take effect; and
 - (b) the reasons given by the road manager for the amendment or cancellation; and
 - (c) the review and appeal information for the road manager's decision.

38I Immediate suspension of permit

- (1) This section applies if the Regulator considers it is necessary to suspend a permit immediately to prevent or minimise serious harm to public safety or significant damage to road infrastructure.
- (2) The Regulator may, by notice (an *immediate suspension notice*) given to the person to whom the permit was given, immediately suspend the permit until the earliest of the following—
 - (a) the Regulator gives the person a notice under section 38H(5) of this Regulation or an information notice under section 31E(5) of the *Heavy Vehicle (General) National Regulation* and the amendment or cancellation takes effect;
 - (b) the Regulator cancels the suspension;

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- (c) the end of 56 days after the day the immediate suspension notice is given to the person.
- (3) This section applies despite—
 - (a) section 38H of this Regulation; and
 - (b) sections 31D and 31E of the *Heavy Vehicle (General) National Regulation*.

38J Keeping copy of permit while driving

- (1) The driver of a heavy vehicle who is driving the vehicle under a permit must keep the permit or a copy of the permit in the driver's possession.
Maximum penalty—\$3000.
- (2) Each relevant party for a driver mentioned in subsection (1) must ensure the driver complies with subsection (1), as the case requires, unless the relevant party has a reasonable excuse.
Maximum penalty—\$3000.
- (3) In this section—
relevant party, for the driver of a heavy vehicle, means—
 - (a) an employer of the driver, if the driver is an employed driver; or
 - (b) a prime contractor of the driver, if the driver is a self-employed driver; or
 - (c) an operator of the vehicle, if the driver is making a journey for the operator.

[7] Schedule 2 Concessional mass limits

Omit “mass management accreditation” from section 1(b).
Insert instead “mass alternative compliance accreditation”.

[8] Schedule 5 Higher mass limits

Omit “mass management accreditation” from section 1(5)(c).
Insert instead “mass alternative compliance accreditation”.

Schedule 3 Amendment of Heavy Vehicle (Vehicle Standards) National Regulation

[1] Section 3 Prescription of vehicle standards

Insert “, for the purposes of section 59 of the Law,” after “standards” in section 3(1).

[2] Section 3A

Insert after section 3—

3A Circumstances in which compliance with vehicle standards not required

- (1) This section prescribes the circumstances in which section 60(1) of the Law does not apply.
- (2) Section 60(1) of the Law does not apply to a heavy vehicle that—
 - (a) is on a journey to a place for the repair of the vehicle, or any of its components or equipment, and is travelling on the most direct or convenient route to that place from the place where the journey began; and
Note— The subparagraph does not operate to exempt a person from complying with the requirements of a vehicle defect notice applying to the vehicle.
 - (b) does not have any goods in it; and
 - (c) is used on a road in a way that does not pose a safety risk.
- (3) Section 60(1) of the Law does not apply to a heavy vehicle that—
 - (a) is on a road for testing or analysis of the vehicle, or any of its components or equipment, by an approved vehicle examiner for the purpose of checking its compliance with the heavy vehicle standards; and
 - (b) does not have any passengers in it; and
 - (c) does not have any goods in it, unless—
 - (i) it has a quantity of goods that is necessary or appropriate for the conduct of the testing or analysis; and
 - (ii) without limiting paragraph (d), there are no reasonable grounds to believe the vehicle laden with those goods poses a significant safety risk; and
 - (d) is used on a road in a way that does not pose a safety risk.
- (4) Section 60(1) of the Law does not apply to a person in relation to a heavy vehicle’s noncompliance with a heavy vehicle standard if, and to the extent, the noncompliance relates to a noncompliance known to the registration authority for the heavy vehicle at the time the registration authority registered the vehicle under an Australian road law.
- (5) For the purposes of subsection (4), the registration authority is taken to have known of the heavy vehicle’s noncompliance with a heavy vehicle standard at the time the registration authority registered the vehicle if the noncompliance was mentioned in—
 - (a) an operations plate that was installed on the vehicle at the time it was registered; or
 - (b) a certificate of approved operations issued for the vehicle and in force at the time the vehicle was registered; or

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- (c) a document obtained by the registration authority under an Australian road law in connection with the registering of the vehicle.
- (6) Subsection (4) applies only if the heavy vehicle, and its use on a road, complies with the conditions of the heavy vehicle's registration under an Australian road law.

[3] Section 11A

Insert after section 11—

11A Incorrect use of warning signs

- (1) This section applies if, under this Regulation, a warning sign is required to be displayed on a heavy vehicle of a particular type, size or configuration.
- (2) A person must not use, or permit to be used, on a road a heavy vehicle that has the warning sign displayed on it unless the vehicle is of the particular type, size or configuration.
Maximum penalty—\$3000.
- (3) In this section—
warning sign means a sign indicating that the vehicle to which it is attached is of a particular type, size or configuration.

[4] Section 12 Modifications

Omit the section.

[5] Parts 3–5

Insert after Part 2—

Part 3 Vehicle standards exemption (permits)

Note— See also Part 3A of the Heavy Vehicle (General) National Regulation, which contains additional provisions relating to vehicle standards exemption (permits) and other exemption permits.

12 Regulator's power to grant vehicle standards exemption (permit)

A vehicle standards exemption (permit) must not be granted for a period of more than 3 years.

13 Application for vehicle standards exemption (permit)

- (1) A person may apply to the Regulator for a vehicle standards exemption (permit).
- (2) The application must be in the approved form.
- (3) The Regulator may, by notice given to the applicant for a vehicle standards exemption (permit), require the applicant to give the Regulator any additional information the Regulator reasonably requires to decide the application.

14 Restriction on grant of vehicle standards exemption (permit)

- (1) The Regulator may grant a vehicle standards exemption (permit) for a heavy vehicle only if—
 - (a) 1 of the following applies—
 - (i) the Regulator is satisfied complying with the heavy vehicle standard to which the permit is to apply would prevent the heavy vehicle from operating in the way in which, or for the purpose for which, the vehicle was built or modified;

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- (ii) the Regulator is satisfied the heavy vehicle is an experimental vehicle, prototype or similar vehicle that could not reasonably be expected to comply with the heavy vehicle standard to which the permit is to apply;
- (iii) the heavy vehicle, immediately before the relevant commencement date, was not required to comply with a similar standard at that time and was—
 - (A) registered under an Australian road law of that jurisdiction; or
 - (B) operating under an unregistered heavy vehicle permit or exemption from registration (however described) granted or issued under an Australian road law of that jurisdiction; and
- (b) the Regulator is satisfied the use of the heavy vehicle on a road under the permit will not pose a significant safety risk.
- (2) In deciding whether to grant a vehicle standards exemption (permit), the Regulator must have regard to the approved guidelines for granting vehicle standards exemptions.
- (3) In this section—
relevant commencement date means the date on which section 70 of the Law commenced in a participating jurisdiction.

15 Conditions of vehicle standards exemption (permit)

A vehicle standards exemption (permit) may be subject to any conditions the Regulator considers appropriate, including, for example, a condition about protecting road infrastructure from damage.

16 Permit for vehicle standards exemption (permit) etc.

- (1) If the Regulator grants a vehicle standards exemption (permit) to a person, the Regulator must give the person—
 - (a) a vehicle standards exemption (permit); and
 - (b) if the Regulator's decision to grant the permit for a period or impose a condition on the permit is a reviewable decision—a notice stating the review and appeal information for the decision.
- (2) A permit for a vehicle standards exemption (permit) must state the following—
 - (a) the name of the person to whom the permit is given;
 - (b) each heavy vehicle to which the permit applies, including the registration number of the vehicle if known when the permit is given;
 - (c) the heavy vehicle standard to which the permit applies;
 - (d) the conditions of the permit;
 - (e) the period for which the permit applies.

17 Immediate suspension on Regulator's initiative

- (1) This section applies if the Regulator considers it is necessary to suspend a vehicle standards exemption (permit) immediately to prevent or minimise serious harm to public safety or significant damage to road infrastructure.

- (2) The Regulator may, by notice (an *immediate suspension notice*) given to the person to whom the permit was given, immediately suspend the permit until the earliest of the following—
 - (a) the Regulator gives the person an information notice under section 31E(5) of the *Heavy Vehicle (General) National Regulation* and the amendment or cancellation takes effect under section 31E(6) of that Regulation;
 - (b) the Regulator cancels the suspension;
 - (c) the end of 56 days after the day the immediate suspension notice is given to the person.
- (3) This section applies despite section 31D and 31E of the *Heavy Vehicle (General) National Regulation*.

18 Keeping copy of permit while driving

- (1) The driver of a heavy vehicle who is driving the vehicle under a vehicle standards exemption (permit) must keep the permit or a copy of the permit in the driver's possession.
Maximum penalty—\$3000.
- (2) Each relevant party for a driver mentioned in subsection (1) must ensure the driver complies with subsection (1), unless the relevant party has a reasonable excuse.
Maximum penalty—\$3000.
- (3) In this section—
relevant party, for the driver of a heavy vehicle, means—
 - (a) an employer of the driver, if the driver is an employed driver; or
 - (b) a prime contractor of the driver, if the driver is a self-employed driver; or
 - (c) an operator of the vehicle, if the driver is making a journey for the operator.

Part 4 Modifying heavy vehicles

19 Modifying heavy vehicle requires approval

- (1) A person must not modify a heavy vehicle unless the modification has been approved by—
 - (a) the Regulator under section 20; or
 - (b) an approved vehicle examiner under section 21.
Maximum penalty—\$3000.
- (2) A person must not use, or permit to be used, on a road a heavy vehicle that has been modified unless the modification has been approved by—
 - (a) the Regulator under section 20; or
 - (b) an approved vehicle examiner under section 21.
Maximum penalty—\$3000.
- (3) This section does not apply to a modification that—
 - (a) is of a type that does not require approval according to the *NHVR Code of Practice for the Approval of Heavy Vehicle Modifications*; and

- (b) complies with the *NHVR Code of Practice for the Approval of Heavy Vehicle Modifications*.
- (4) A modification is taken to have been approved by an approved vehicle examiner under section 21 if—
 - (a) the modification has been authorised, approved or permitted under an Australian road law of a non-participating jurisdiction; and
 - (b) a modification plate or label is fitted or affixed to a conspicuous part of the vehicle; and
 - (c) the modification plate or label indicates that the modification complies with the *NHVR Code of Practice for the Approval of Heavy Vehicle Modifications*.
- (5) In this section—

modification plate or label means a plate or label that is stamped, engraved or marked so as to display information that relates to a modification.

non-participating jurisdiction has the meaning given by section 221 of the Law.

20 Approval of modification by Regulator

- (1) The Regulator may approve a modification of a heavy vehicle if the Regulator is satisfied—
 - (a) the use on a road of the modified vehicle will not pose a significant safety risk; and
 - (b) as to either or both of the following, as relevant—
 - (i) the modified vehicle will comply with the applicable vehicle standards in Part 8 of Schedule 2, except as provided by subparagraph (ii);
 - (ii) the Regulator has exempted the modified vehicle from a standard referred to in subparagraph (i) and the Regulator is satisfied that the modified vehicle complies with the requirements of the permit.
- (2) This section applies whether or not the modification complies with the *NHVR Code of Practice for the Approval of Heavy Vehicle Modifications*.

21 Approval of modification by approved vehicle examiners

An approved vehicle examiner may approve a modification of a heavy vehicle only if the modification complies with the *NHVR Code of Practice for the Approval of Heavy Vehicle Modifications*.

22 Requirements for approved modified heavy vehicles

- (1) If the Regulator or an approved vehicle examiner approves a modification of a heavy vehicle under this Part, the Regulator or examiner must—
 - (a) give a certificate approving the modification, in the approved form, to—
 - (i) the registered operator of the vehicle; or
 - (ii) if there is no registered operator of the vehicle—an owner of the vehicle; and
 - (b) ensure a plate or label that complies with subsection (2) is fitted or affixed to a conspicuous part of the vehicle.

Maximum penalty—\$3000.

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- (2) For the purposes of subsection (1)(b), a plate or label complies with this subsection if—
 - (a) it is of a type approved by the Regulator; and
 - (b) it is stamped, engraved or marked so as to display information approved by the Regulator that relates to the modification.

23 Person must not tamper with plate or label

- (1) A person must not tamper with a plate or label fitted or affixed to a heavy vehicle under section 22.
Maximum penalty—\$3000.
- (2) In a proceeding for an offence against subsection (1), it is a defence for the person to prove that the tampering was done with the written approval of the Regulator.
- (3) In this section—
tamper means alter, damage, remove or otherwise interfere with.

Part 5 Miscellaneous

24 Restriction on grant of vehicle standards exemption (notice)

- (1) For the purposes of section 62(1)(a) of the Law, the following circumstances are prescribed—
 - (a) the Regulator is satisfied complying with the heavy vehicle standard to which the exemption is to apply would prevent heavy vehicles of that category from operating in the way in which, or for the purpose for which, the vehicles were built or modified;
 - (b) the Regulator is satisfied heavy vehicles of that category are experimental vehicles, prototypes or similar vehicles that could not reasonably be expected to comply with the heavy vehicle standard to which the exemption is to apply;
 - (c) the exemption has been requested by a road authority for a participating jurisdiction for the use of heavy vehicles of that category in that jurisdiction;
 - (d) the category of heavy vehicles consists of heavy vehicles that, immediately before the relevant commencement date, were not required to comply with a similar standard at that time and were—
 - (i) registered under an Australian road law of that jurisdiction and not required to comply with a similar standard at that time; or
 - (ii) operating under an unregistered heavy vehicle permit or exemption from registration (however described) granted or issued under an Australian road law of that jurisdiction.
- (2) In this section—
relevant commencement date means the date on which section 62 of the Law commenced in a participating jurisdiction.

Schedule 4 Amendment of Heavy Vehicle (General) National Regulation

[1] **Section 6**

Omit the section. Insert instead—

6 Assessing application

For the purposes of section 22(2) of the Law, in assessing an application for a PBS design approval, the Regulator must have regard to the following—

- (a) the approved guidelines for granting PBS design approvals;
- (b) the Standards and Vehicle Assessment Rules;
- (c) the advice of the PBS Review Panel in relation to the application.

[2] **Section 11 Approval must state particular conditions for design for vehicle fitted with quad-axle group**

Omit section 11(2)(f). Insert instead—

- (f) the operator of the vehicle must have mass alternative compliance accreditation.

[3] **Section 11(3)**

Insert in alphabetical order—

mass alternative compliance accreditation has the meaning given by section 3 of the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation*.

[4] **Section 15**

Omit the section. Insert instead—

15 Assessing application

For the purposes of section 23(2) of the Law, in assessing an application for a PBS vehicle approval, the Regulator must have regard to the following—

- (a) the approved guidelines for granting PBS vehicle approvals;
- (b) the Vehicle Certification Rules;
- (c) the advice of the PBS Review Panel in relation to the application.

[5] **Section 18A**

Insert after section 18—

18A Keeping copy of PBS vehicle approval while driving

- (1) The driver of a PBS vehicle must keep the PBS vehicle approval or a copy of the PBS vehicle approval in the driver's possession while driving the PBS vehicle.

Maximum penalty—\$3000.

- (2) Each relevant party for a driver mentioned in subsection (1) must ensure the driver complies with subsection (1), unless the relevant party has a reasonable excuse.

Maximum penalty—\$3000.

- (3) In this section—

relevant party, for the driver of a PBS vehicle, means—

- (a) an employer of the driver, if the driver is an employed driver; or
- (b) a prime contractor of the driver, if the driver is a self-employed driver;
or
- (c) an operator of the vehicle, if the driver is making a journey for the operator.

[6] Section 31 Authorisation to approve modification

Omit the section.

[7] Part 3A

Insert after Part 3—

Part 3A Provisions about exemption (permits) and authorisation (permits)

31 Application of Part

This Part applies to the following permits—

- (a) a class 2 heavy vehicle authorisation (permit);
- (b) a fatigue record keeping exemption (permit);
- (c) a mass or dimension exemption (permit);
- (d) a work and rest hours exemption (permit);
- (e) a work diary exemption (permit);
- (f) a vehicle standards exemption (permit).

31A Definition for Pt 3A

In this Part—

permit means a permit specified in section 31.

31B Period for which permit applies

- (1) A permit applies for the period stated in the permit.
- (2) The period may be less than the period sought by the applicant.

31C Refusal of application for permit

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

31D Amendment or cancellation of permit on application by permit holder

- (1) The holder of a permit may apply to the Regulator for an amendment or cancellation of the permit.
- (2) The application must—
 - (a) be in the approved form; and
 - (b) if the application is for an amendment—state clearly the amendment sought and the reasons for the amendment.
- (3) If the application relates to a work diary exemption (permit) for an amendment of the person making written work records for the driver (the *nominee*), the application must be accompanied by the nominee's written agreement to the nomination.

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- (4) The Regulator may, by notice given to the applicant, require the applicant to give the Regulator any additional information the Regulator reasonably requires to decide the application.
- (5) For a prescribed amendment—
 - (a) the Regulator must ask the relevant road managers, for the roads to which the amendment relates, for their consent to the amendment; and
 - (b) the provisions of Division 2 of Part 4.7 of the Law apply to the request for consent in the same way as they apply to a request for consent under that Division, with any necessary modifications.
- (6) The Regulator must decide the application as soon as practicable after receiving it.
- (7) If the Regulator decides to grant the application—
 - (a) the Regulator must give the applicant notice of the decision; and
 - (b) the amendment or cancellation takes effect—
 - (i) when notice of the decision is given to the applicant; or
 - (ii) if a later time is stated in the notice—at the later time.
- (8) If the Regulator decides to grant an application to amend a permit, the Regulator must give the applicant a replacement permit.
- (9) If the Regulator decides to grant an application to amend a class 2 heavy vehicle authorisation (permit) or mass or dimension exemption (permit) by changing the vehicle to which the permit applies to an equivalent vehicle, the Regulator must give notice of the amendment to the relevant road manager within 28 days after the permit is amended.
- (10) If the Regulator decides not to amend or cancel the permit, as sought by the applicant, the Regulator must give the applicant an information notice for the decision.
- (11) In this section—

equivalent vehicle, of another vehicle, means a vehicle that—

 - (a) is of the same category as the other vehicle; and
 - (b) has mass requirements that are no more than the mass requirements applying to the other vehicle; and
 - (c) has dimension requirements that are no more than the dimension requirements applying to the other vehicle; and
 - (d) poses no greater public risk than the other vehicle.

prescribed amendment means an amendment of a class 2 heavy vehicle authorisation (permit) or mass or dimension exemption (permit) to—

 - (a) amend the areas or routes to which the authority applies (otherwise than by omitting an area or route or reducing an area or route in size); or
 - (b) impose or amend road conditions or travel conditions.

31E Amendment or cancellation of permit on Regulator's initiative

- (1) Each of the following is a ground for amending or cancelling a permit—
 - (a) the permit was granted because of a document or representation that was—
 - (i) false or misleading; or
 - (ii) obtained or made in an improper way;

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- (b) the person to whom the permit is granted has contravened the Law or a corresponding fatigue law;
 - (c) for a class 2 heavy vehicle authorisation (permit) or mass or dimension exemption (permit)—
 - (i) the person to whom the permit is granted has contravened a condition of the permit; or
 - (ii) the use of heavy vehicles on a road under the permit has caused, or is likely to cause, a significant risk to public safety;
 - (d) for a work and rest hours exemption (permit) or a fatigue record keeping exemption (permit)—a driver of a fatigue-regulated heavy vehicle to whom the permit applies has contravened the Law or a corresponding fatigue law;
 - (e) for a work diary exemption (permit)—the person making written work records for the driver has contravened a condition of the permit;
 - (f) for a vehicle standards exemption (permit)—the use of a heavy vehicle on a road under the permit has caused, or is likely to cause, a significant safety risk;
 - (g) since the permit was granted—
 - (i) there has been a change in the circumstances that were relevant to the Regulator's decision to grant the permit; and
 - (ii) had the changed circumstances existed when the permit was granted, the Regulator would not have granted the permit, or would have granted the permit subject to conditions or different conditions.
- (2) Subsection (1)(b) and (g) do not apply to—
- (a) a class 2 heavy vehicle authorisation (permit); or
 - (b) a mass or dimension exemption (permit).
- (3) If the Regulator considers a ground exists to amend or cancel a permit (the **proposed action**), the Regulator must give the holder of the permit a notice—
- (a) stating the proposed action; and
 - (b) stating the ground for the proposed action; and
 - (c) outlining the facts and circumstances forming the basis for the ground; and
 - (d) if the proposed action is to amend the permit, including a condition of the permit—stating the proposed amendment; and
 - (e) inviting the holder to make, within a stated time of at least 14 days after the notice is given to the holder, written representations about why the proposed action should not be taken.
- (4) If, after considering all written representations made under subsection (3)(e), the Regulator still considers a ground exists to take the proposed action, the Regulator may—
- (a) if the proposed action was to amend the permit—amend the permit, including, for example, by imposing additional conditions on the permit, in a way that is not substantially different from the proposed action; or
 - (b) if the proposed action was to cancel the permit—
 - (i) amend the permit, including, for example, by imposing additional conditions on the permit; or

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- (ii) cancel the permit.
- (5) The Regulator must give the holder an information notice for the decision.
- (6) The amendment or cancellation takes effect—
 - (a) when the information notice is given to the holder; or
 - (b) if a later time is stated in the information notice—at the later time.

31F Minor amendment of permit

- (1) The Regulator may, by notice given to the holder of a permit, amend the permit in a minor respect—
 - (a) for a formal or clerical reason; or
 - (b) in another way that does not adversely affect the holder's interests.
- (2) The Regulator must give notice of an amendment to a class 2 heavy vehicle authorisation (permit) or mass or dimension exemption (permit) to the relevant road manager—
 - (a) if the permit is amended for a formal or clerical reason—within 28 days after the permit is amended; or
 - (b) if the permit is amended in another way—as soon as practicable, but no later than 7 days, after the permit is amended.

[8] Section 49 Modifications generally

Omit “Regulator, except in a reference in sections 50 and 57 to an agency other than the agency to which an application has been made” from section 49(2).

Insert instead “Regulator.”.

[9] Section 50 Modifications of particular provisions

Omit section 50(2). Insert instead—

- (2) Sections 2, 18, 192 and Schedule 2 do not apply.

[10] Section 50(4)

Omit “sections 18 and 21”. Insert instead “section 21”.

[11] Section 50(4), note

Omit “These sections have”. Insert instead “Section 21(4) has”.

[12] Section 50(5) and (6)

Omit the subsections.

[13] Section 50(10)

Omit “Minister administering that Act”. Insert instead “Information Commissioner”.

[14] Section 50(12)

Omit “*NPP, relevant chief executive*”.

[15] Part 6, Division 3, heading

Omit the heading. Insert instead—

Division 3 Public Records Act 2023 (Queensland)

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[16] Section 51 Application

Omit “*Public Records Act 2002 (Queensland)*” from section 51(1).

Insert instead “*Public Records Act 2023 (Queensland)*”.

[17] Section 52 Queensland entities to perform functions for participating jurisdictions

Omit section 52(2). Insert instead—

- (2) For the purposes of subsection (1), a reasonable charge imposed under section 25(3) or 41(7)(b) of the PR Act applies for the applied Act.

[18] Section 52(3), definition of “PR Act functions”

Omit “Part 3 or 4”. Insert instead “Part 4 or 5”.

[19] Section 53 Modifications

Omit section 53(2). Insert instead—

- (2) Sections 2, 9, 11(4), 17, 70(b), 82(2)(a) and Schedule 3, definition of *responsible public authority* do not apply.

[20] Section 53(3)

Omit “section 8(4)”. Insert instead “section 16”.

[21] Section 53(7)

Omit “Section 9(2)(a)”. Insert instead “Section 13(2)(a)”.

[22] Section 53(8)

Omit “Section 56”. Insert instead “Section 89”.

[23] Section 53(9)

Omit “Schedule 2”. Insert instead “Schedule 3”.

[24] Section 53(9)(b)

Omit “, *record of an Assistant Minister*”.

[25] Section 53(10)(a)

Omit “Part 3”. Insert instead “Part 4”.

[26] Section 53(10)(b)

Omit “sections 9(2) and 54(2)”. Insert instead “section 13(2)”.

[27] Section 53(10)(b)

Omit “Queensland; and”. Insert instead “Queensland.”.

[28] Section 53(10)(c)

Omit the paragraph.

[29] Section 56 Modifications generally

Omit section 56(3)(b).

[30] Section 56(3)(c)

Omit “sections 30 and 38”. Insert instead “sections 30, 38, 78H and 78L”.

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[31] Section 57 Modifications of particular provisions

Omit “21(4),” from section 57(2). Insert instead “21(5), definition of *agency*.”

[32] Section 57(4)

Omit “section 24”. Insert instead “sections 24 and 78E”.

[33] Section 57(12)

Omit “sections 4A and 4B do not apply”. Insert instead “section 4B does not apply”.

[34] Section 57(14)

Omit “Schedule 6”. Insert instead “Schedule 5”.

[35] Section 57(15)

Omit “section 78(2), parts 1 to 5”. Insert instead “Parts 1 to 5”.

[36] Part 6A Miscellaneous provision

Omit the Part.

[37] Sections 73 and 74

Insert after section 72—

73 Meaning of fatigue-regulated heavy vehicle

For the purposes of section 7(1)(a) and (b) and (3)(a) of the Law, a GVM of 12t is prescribed.

74 Qualification of authorised officers

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

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

[38] Schedule 1 Fees

Omit the Schedule. Insert instead—

Schedule 1 Fees

section 71

	Application	Amount
		\$
1	An application for fatigue alternative compliance accreditation by an operator of a heavy vehicle under section 459(1) of the Law	127.00
2	An application for mass alternative compliance accreditation by an operator of a heavy vehicle under section 459(1) of the Law	84.00
3	An application by an operator to add a vehicle to or change a vehicle currently nominated under mass alternative compliance accreditation an operator of a heavy vehicle, per vehicle	31.00

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	Application	Amount
		\$
4	An application for a written work diary under section 12D of the <i>Heavy Vehicle (Fatigue Management) National Regulation</i> by a driver of a fatigue-regulated heavy vehicle	25.00
5	An application for a HML permit under section 21 of the <i>Heavy Vehicle (Mass, Dimension and Loading) National Regulation</i>	70.00
6	An application for a mass or dimension exemption (permit) under section 38B of the <i>Heavy Vehicle (Mass, Dimension and Loading) National Regulation</i>	70.00
7	An application for a class 2 heavy vehicle authorisation (permit) under section 38B of the <i>Heavy Vehicle (Mass, Dimension and Loading) National Regulation</i>	70.00

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