

TN303

Road Traffic (Administration) Act 2008
Road Traffic (Vehicles) Act 2012

Road Traffic Regulations Amendment (Pilot Vehicle Drivers) Regulations 2016

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Road Traffic Regulations Amendment (Pilot Vehicle Drivers) Regulations 2016*.

2. Commencement

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 28 November 2016.

**Part 2 — Road Traffic (Vehicles)
Regulations 2014 amended**

3. Regulations amended

This Part amends the *Road Traffic (Vehicles) Regulations 2014*.

4. Regulation 3 amended

- (1) In regulation 3 insert in alphabetical order:

over-mass, in relation to a vehicle, means having a mass that exceeds an applicable mass requirement (whether or not the vehicle also has a dimension that exceeds an applicable dimension requirement);

- (2) In regulation 3 in the definition of *pilot vehicle* after “oversize” insert:

or over-mass

5. Part 13A inserted

After regulation 454 insert:

Part 13A — Pilot vehicles

Division 1 — Preliminary

454A. Terms used

In this Part —

approved means approved by the Commissioner of Main Roads;

driver’s licence does not include a provisional licence;

heavy vehicle pilot licence means a licence granted under Division 2;

medical practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

provisional licence has the meaning given in the *Road Traffic (Authorisation to Drive) Act 2008* section 3(1);

relevant offence means any of the following —

- (a) an offence against a road law;
- (b) an offence against a law of another place that substantially corresponds to an offence against a road law;

renewal application means an application made under regulation 454O for the renewal of a heavy vehicle pilot licence.

454B. Pilot vehicle must be driven by holder of heavy vehicle pilot licence or authorised person

- (1) A person must not use a pilot vehicle for the purpose of facilitating the movement of an oversize or over-mass vehicle unless —
 - (a) the person is the holder of a heavy vehicle pilot licence; or
 - (b) the person is authorised to use the pilot vehicle by a notice given under subregulation (2).

Penalty for this subregulation:

- (a) for a first offence, a fine of 24 PU;
- (b) for a subsequent offence, a fine of 32 PU.

Modified penalty: 4 PU.

- (2) The Commissioner of Main Roads may, by notice published in the *Gazette*, authorise a person or a class of person to use a pilot vehicle for the purpose of facilitating the movement of a class of oversize or over-mass vehicle specified in the notice in circumstances specified in the notice.
- (3) The Commissioner of Main Roads must not publish a notice under subregulation (2) unless the Commissioner is satisfied that —
 - (a) the use of the pilot vehicle will be for the purpose of facilitating the movement of the oversize or over-mass vehicle for an agricultural or primary production application; and
 - (b) use of the pilot vehicle in accordance with the notice would not result in an unreasonable danger to road users.

Division 2 — Licensing of pilots

Subdivision 1 — General matters

454C. Applying for a heavy vehicle pilot licence

- (1) A person may apply to the Commissioner of Main Roads for a heavy vehicle pilot licence.
- (2) An application for a heavy vehicle pilot licence must be —
 - (a) in an approved form; and
 - (b) accompanied by any document that is required by the approved form; and
 - (c) accompanied by the medical evidence required by regulation 454D; and
 - (d) accompanied by the competency evidence required by regulation 454E(2); and
 - (e) accompanied by a copy of the applicant's driver's licence; and
 - (f) accompanied by a fee of \$205.

454D. Medical evidence

The medical evidence for the purposes of an application for a heavy vehicle pilot licence, or a renewal application, is a report made by a medical practitioner certifying that the medical practitioner —

- (a) examined the applicant on a day specified in the report, which is a day within 6 months, or within a longer approved period, before the day the application is made; and
- (b) on that examination, passed the applicant in accordance with the set of medical standards described as the commercial standards in *Assessing Fitness to Drive for commercial and private vehicle drivers*, Fifth Edition 2016, published by Austroads Ltd (ISBN 978-1-925451-10-8).

454E. Competency evidence

- (1) In this regulation —

Certificate of Attendance means a certificate issued by a registered training provider stating that a person has attended a training course provided by the registered training provider;

registered training provider means —

- (a) a training organisation registered by the Training Accreditation Council as a training provider under the *Vocational Education and Training Act 1996* section 58B(a); or
- (b) a training organisation registered by the National VET Regulator as a registered training organisation under the *National Vocational Education and Training Regulator Act 2011* (Commonwealth);

Statement of Attainment means a statement issued by a registered training provider stating that a person has successfully completed training provided by the registered training provider.

- (2) The competency evidence for the purposes of an application for a heavy vehicle pilot licence is a Statement of Attainment issued by a registered training provider to a person stating that the person has, within the period of 12 months before making the application, successfully completed training that includes —
 - (a) a training course in the pilotage of oversize and over-mass vehicles accredited by —
 - (i) the Training Accreditation Council under the *Vocational Education and Training Act 1996* section 58C(a); or
 - (ii) the National VET Regulator under the *National Vocational Education and Training Regulator Act 2011* (Commonwealth);
 - and
 - (b) an approved training course on bridge supervision.

- (3) The competency evidence for the purposes of a renewal application is a Certificate of Attendance issued by a registered training provider to a person stating that the person has, within the period of 12 months before making the application, attended a refresher training course in the pilotage of oversize and over-mass vehicles that is an approved training course.

454F. Powers for dealing with applications for heavy vehicle pilot licence

- (1) For the purposes of deciding an application for a heavy vehicle pilot licence, the Commissioner of Main Roads may request the applicant to give the Commissioner any of the following —
 - (a) any information that is reasonably necessary in order to decide the application;

- (b) a report by either or both of the following —
 - (i) a medical practitioner about the person's physical health and fitness to engage safely in the activities that would be authorised by the licence;
 - (ii) a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession about the person's mental health and fitness to engage safely in the activities that would be authorised by the licence.
- (2) On an application for a heavy vehicle pilot licence, the Commissioner of Main Roads may request the applicant to demonstrate that the applicant is competent to engage safely in the activities that would be authorised by the licence.
- (3) An applicant who does not comply with a request made under subregulation (1) or (2) within 21 days after the date on which the request is made, or any longer period permitted by the Commissioner of Main Roads, is to be taken to have withdrawn the application.
- (4) The Commissioner of Main Roads may require an applicant to verify by means of statutory declaration any information provided in response to a request made under subregulation (1) or (2).

454G. Deciding applications for heavy vehicle pilot licence

- (1) On an application for a heavy vehicle pilot licence, the Commissioner of Main Roads may refuse the application or grant the heavy vehicle pilot licence.
- (2) However, the Commissioner of Main Roads must not grant a heavy vehicle pilot licence unless satisfied as to each of these matters —
 - (a) that the application complies with regulation 454C(2);
 - (b) that the applicant is physically and mentally fit to engage safely in the activities that would be authorised by the licence;
 - (c) that the applicant is competent to engage safely in the activities that would be authorised by the licence;
 - (d) that the applicant holds a driver's licence;
 - (e) that, on the grant of the heavy vehicle pilot licence, the applicant would be a person, or in a class of persons, declared by the Commissioner of Police under the *Road Traffic Code 2000*

regulation 271 to be an authorised person for the purpose of facilitating the movement of an oversize or over-mass vehicle.

454H. Conditions of heavy vehicle pilot licence

- (1) A heavy vehicle pilot licence is subject to the following conditions —
 - (a) the holder must not use a pilot vehicle for the purpose of facilitating the movement of an oversize or over-mass vehicle during any period when the holder is not —
 - (i) the holder of a driver's licence; or
 - (ii) an authorised person of a kind mentioned in regulation 454G(2)(e);
 - (b) that the holder of the licence must, while using a pilot vehicle for the purpose of facilitating the movement of an oversize or over-mass vehicle, carry their driver's licence;
 - (c) that the holder of the licence must operate in accordance with the "Heavy Vehicle Pilot Licence Code of Conduct" prepared by, and published on the website of, Main Roads Western Australia, as amended from time to time.

Note for this subregulation:

The website address of Main Roads Western Australia is
<<http://www.mainroads.wa.gov.au>>

- (2) A heavy vehicle pilot licence may be subject to any other conditions decided by the Commissioner of Main Roads and specified in the licence.
- (3) Conditions that may be imposed include —
 - (a) a condition that limits the time, place or circumstances in which an activity authorised by the licence may be conducted;
 - (b) any condition that is reasonably necessary to ensure, so far as is practicable, that any activity that is authorised by the licence is conducted safely.

454I. Duration of heavy vehicle pilot licence

- (1) A heavy vehicle pilot licence has effect on and from the date it is granted for the period specified in it, being 3 years or less.
- (2) Subregulation (1) applies unless the licence is cancelled in that period.

454J. Form of heavy vehicle pilot licence

- (1) The Commissioner of Main Roads must issue a licence document to the holder of a heavy vehicle pilot licence.
- (2) The document must be in writing in an approved form.

454K. Heavy vehicle pilot licence not transferable

A heavy vehicle pilot licence is not transferable.

454L. Heavy vehicle pilot licence may be surrendered

- (1) A heavy vehicle pilot licence holder may surrender the licence by giving it to the Commissioner of Main Roads with written notice that it is being surrendered.
- (2) On receipt of the written notice, the Commissioner of Main Roads must cancel the licence.

454M. Lost heavy vehicle pilot licence may be replaced

- (1) If the Commissioner of Main Roads is satisfied that a heavy vehicle pilot licence has been destroyed, lost or stolen, the Commissioner may issue a replacement.
- (2) A fee of \$14.90 is payable for issuing a replacement under subregulation (1).

454N. Amending heavy vehicle pilot licence

- (1) In this regulation —
amend, a heavy vehicle pilot licence, includes to amend, impose and remove a condition of the licence.
- (2) A heavy vehicle pilot licence holder may apply to the Commissioner of Main Roads to amend the licence.
- (3) The application must be —
 - (a) in an approved form; and
 - (b) accompanied by any document that is required by the approved form; and
 - (c) accompanied by a fee of \$14.90.
- (4) The Commissioner of Main Roads may refuse the application, or grant it and amend the licence.
- (5) If, while a heavy vehicle pilot licence has effect, the Commissioner of Main Roads wants to amend it in any material way, the Commissioner must —
 - (a) give the holder written notice of the proposal and reasons for it; and
 - (b) except where the removal of a condition is proposed, give the holder a reasonable opportunity to make submissions about the proposal; and

- (c) consider any submissions and then decide whether to amend the licence; and
 - (d) give the holder written notice of the decision.
- (6) Subregulation (5) does not apply to an amendment to a licence that is in accordance with an application by the licence holder.
- (7) Regulations 454F and 454G, with any necessary changes, apply in relation to dealing with an application to amend a heavy vehicle pilot licence as if it were an application for a heavy vehicle pilot licence.
- (8) Regulations 454H and 454I, with any necessary changes, apply in relation to amending a heavy vehicle pilot licence in the same way as they apply to the granting of a heavy vehicle pilot licence.
- (9) A decision by the Commissioner of Main Roads to amend a heavy vehicle pilot licence has effect on the date specified in the notice.

454O. Renewing heavy vehicle pilot licence

- (1) In this regulation —
expiry day, in relation to a heavy vehicle pilot licence means the last day of the period for which the licence is in effect.
- (2) The holder of a heavy vehicle pilot licence may, within 6 months before the expiry day, apply to the Commissioner of Main Roads for a renewal of the licence.
- (3) The application must be —
 - (a) in an approved form; and
 - (b) accompanied by any document that is required by the approved form; and
 - (c) accompanied by the medical evidence referred to in regulation 454D; and
 - (d) accompanied by the competency evidence referred to in regulation 454E(3); and
 - (e) accompanied by a copy of the applicant's driver's licence; and
 - (f) accompanied by a fee of \$205.
- (4) Regulations 454F and 454G, with any necessary changes, apply in relation to dealing with a renewal application as if it were an application for a heavy vehicle pilot licence.

- (5) Regulations 454H and 454I, with any necessary changes, apply in relation to renewing a heavy vehicle pilot licence in the same way as they apply to granting a heavy vehicle pilot licence.

Subdivision 2 — Suspending and cancelling heavy vehicle pilot licence

454P. Grounds for suspending or cancelling

For the purposes of this Subdivision, the following are grounds to suspend or cancel a heavy vehicle pilot licence —

- (a) the holder is charged in this State or elsewhere with a relevant offence;
- (b) the holder —
 - (i) has not complied with the licence; or
 - (ii) has not complied with a road law; or
 - (iii) has obtained the licence because of false or misleading information; or
 - (iv) is not physically or mentally fit to engage safely in the activities that are authorised by the licence; or
 - (v) is not competent to engage safely in the activities that are authorised by the licence; or
 - (vi) is not qualified under these regulations to hold the licence;
- (c) the holder is convicted in this State or elsewhere of a relevant offence.

454Q. Procedure for suspending or cancelling heavy vehicle pilot licence

- (1) This regulation applies if the Commissioner of Main Roads is satisfied that there are grounds to suspend or cancel a heavy vehicle pilot licence and proposes to suspend or cancel it (the *proposed action*).
- (2) The Commissioner of Main Roads must give the heavy vehicle pilot licence holder a written notice that states —
 - (a) the proposed action; and
 - (b) any period of suspension proposed by the Commissioner (either as a period of time or by reference to a future event); and
 - (c) the grounds and the evidence in support of the grounds; and

- (d) that the holder is entitled to give the Commissioner written submissions about the proposed action; and
 - (e) the date (the *submission date*), being at least 28 days after the date on which the notice is given to the holder, by which any submission must be received.
- (3) Having considered any submissions received from the holder before the submission date, the Commissioner may, if the Commissioner considers there are grounds to do so —
 - (a) suspend the heavy vehicle pilot licence for a period that is no longer than the period of suspension specified in the notice; or
 - (b) cancel the heavy vehicle pilot licence in accordance with the proposed action specified in the notice.
- (4) The suspension or cancellation of the heavy vehicle pilot licence has effect when the holder is given notice of the suspension or cancellation under subregulation (3) or on a later date specified in the notice.

454R. Suspension in urgent circumstances

- (1) Despite regulation 454Q, the Commissioner of Main Roads may suspend a heavy vehicle pilot licence for a period of up to 28 days by giving the holder of the licence a written notice of the suspension and the suspension period (stated either as a period of time or by reference to a future event).
- (2) The Commissioner may take action under subregulation (1) only if the Commissioner is satisfied that —
 - (a) there are grounds to suspend or cancel the licence; and
 - (b) if the procedure in regulation 454Q were followed, an unacceptable risk in relation to people or property would exist during the time it is followed.
- (3) The notice must be accompanied by written reasons for the decision to suspend the licence.
- (4) The suspension of the heavy vehicle pilot licence has effect when the holder is given the notice or on any later date specified in the notice.
- (5) This regulation does not prevent the Commissioner of Main Roads from also taking action under regulation 454Q to suspend or cancel a heavy vehicle pilot licence.

454S. Heavy vehicle pilot licence to be returned if cancelled or suspended

If the Commissioner of Main Roads suspends or cancels a heavy vehicle pilot licence, the holder must return the licence document to the Commissioner within 14 days after the date of receiving notice of the suspension or cancellation.

Penalty:

- (a) for a first offence, a fine of 4 PU;
- (b) for a subsequent offence, a fine of 8 PU.

Modified penalty: 2 PU.

454T. Suspension may be lifted

The Commissioner of Main Roads may lift the suspension of a heavy vehicle pilot licence at any time by written notice given to the holder.

Subdivision 3 — Duties of heavy vehicle pilot licence holder

454U. Duty to correct wrong information

- (1) This regulation applies if the holder of a heavy vehicle pilot licence becomes aware that information given by the holder to the Commissioner of Main Roads in, or in relation to, an application made under regulation 454C, 454N or 454O is, or has become, incorrect in a material respect.
- (2) Within 14 days after becoming aware of the matter, the holder must inform the Commissioner of Main Roads about the matter and give the correct information to the Commissioner.

Penalty for this subregulation:

- (a) for a first offence, a fine of 4 PU;
- (b) for a subsequent offence, a fine of 8 PU.

Modified penalty: 2 PU.

454V. Duty to notify Commissioner of Main Roads if no longer authorised to drive

If a person who is the holder of a heavy vehicle pilot licence ceases to be authorised to drive a motor vehicle on roads, the person must give the Commissioner of Main Roads written notice of the fact as soon as practicable.

Penalty:

- (a) for a first offence, a fine of 4 PU;
- (b) for a subsequent offence, a fine of 8 PU.

Modified penalty: 2 PU.

454W. Duty to notify Commissioner of Main Roads of medical impairment

(1) In this regulation —

medical impairment, in relation to a person who is the holder of a heavy vehicle pilot licence, means any permanent or long-term mental or physical condition (which may include a dependence on drugs or alcohol) if —

- (a) the condition is likely to impair the ability of the person to safely engage in activities authorised by the licence; or
- (b) the treatment for the condition is likely to impair the ability of the person to safely engage in activities authorised by the licence.

(2) If a person who is the holder of a heavy vehicle pilot licence becomes medically impaired, the person must give the Commissioner of Main Roads written notice of the fact as soon as practicable.

Penalty for this subregulation:

- (a) for a first offence, a fine of 4 PU;
- (b) for a subsequent offence, a fine of 8 PU.

Modified penalty: 2 PU.

454X. Licence to be carried and produced on request

The holder of a heavy vehicle pilot licence must —

- (a) while driving a pilot vehicle on a road, carry the licence document; and
- (b) produce that document if directed to do so by a police officer.

Penalty:

- (a) for a first offence, a fine of 24 PU;
- (b) for a subsequent offence, a fine of 32 PU.

Modified penalty: 4 PU.

454Y. Facilitating movement of oversize or over-mass vehicle in accordance with order or permit

The holder of a heavy vehicle pilot licence must not use a pilot vehicle to facilitate the movement of an oversize or over-mass vehicle unless a mass or dimension requirement that applies to the vehicle or its load has been modified by —

- (a) an order as defined in section 32 of the Act; or
- (b) a permit as defined in section 32 of the Act.

Penalty:

- (a) for a first offence, a fine of 24 PU;
- (b) for a subsequent offence, a fine of 32 PU.

Modified penalty: 4 PU.

454Z. Contravening condition of heavy vehicle pilot licence

The holder of a heavy vehicle pilot licence must not contravene a condition of the licence.

Penalty:

- (a) for a first offence, a fine of 24 PU;
- (b) for a subsequent offence, a fine of 32 PU.

Modified penalty: 4 PU.

Subdivision 4 — Miscellaneous matters

454ZA. Register of heavy vehicle pilot licences

- (1) The Commissioner of Main Roads must keep a register in an approved form of all heavy vehicle pilot licences.
- (2) The register must record, in relation to each heavy vehicle pilot licence, the following information —
 - (a) the name of the holder of the licence;
 - (b) the date on which the licence was granted;
 - (c) if the licence was renewed — the date of the renewal;
 - (d) if the licence was suspended — the date of the suspension;
 - (e) if the licence was cancelled — the date of the cancellation.
- (3) The register may record any other information relevant to a heavy vehicle pilot licence holder or to the grant, amendment, renewal, suspension or cancellation of a heavy vehicle pilot licence that the Commissioner of Main Roads thinks fit.
- (4) The Commissioner of Main Roads must ensure the information in the register is up-to-date.

454ZB. Notification and reconsideration of decisions under this Part

Part 15 provides for the notification and reconsideration of certain decisions made under this Part.

454ZC. Transitional arrangements for accredited pilots

- (1) In this regulation —
commencement day means the day on which the *Road Traffic Regulations Amendment (Pilot Vehicle Drivers) Regulations 2016* regulation 5 comes into operation;
transitional pilot means a person who, immediately before commencement day, was an accredited pilot as defined in the *Road Traffic Code 2000* regulation 3(1).
- (2) Unless subregulation (3) applies, a person who is a transitional pilot does not commit an offence under regulation 454B(1) if the person uses a pilot vehicle for the purpose of facilitating the movement of an oversize or over-mass vehicle in the period starting on commencement day and ending on the day that is 12 months after that day.
- (3) For the purposes of an application for a heavy vehicle pilot licence made by a transitional pilot in the period starting on commencement day and ending on the day that is 3 years after that day, the requirement referred to in regulation 454C(2)(d) is satisfied if the application is accompanied by —
 - (a) evidence that the applicant is a transitional pilot; and
 - (b) evidence of the applicant's experience in piloting oversize or over-mass vehicles in the period of 3 years before the application is made.

6. Regulation 478 amended

In regulation 478 in the definition of *MDL reviewable decision* after paragraph (h) insert:

- (i) under regulation 454G to refuse an application for a heavy vehicle pilot licence; or
- (j) under regulation 454H(2) to impose a condition on a heavy vehicle pilot licence; or
- (k) under regulation 454N to amend a heavy vehicle pilot licence other than an amendment to remove a condition of the licence; or
- (l) under regulation 454Q or 454R to suspend or cancel a heavy vehicle pilot licence;

**Part 3 — Road Traffic (Administration)
Regulations 2014 amended**

7. Regulations amended

This Part amend the *Road Traffic (Administration) Regulations 2014*.

8. Regulation 13 amended

In regulation 13(1) in the Table after the item for “*Road Traffic (Vehicles) Regulations 2014* r. 140” insert:

<i>Road Traffic (Vehicles) Regulations 2014</i> r. 454X	Direct production of heavy vehicle pilot licence
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9. Regulation 14 amended

In regulation 14(1) in the Table after the item for “*Road Traffic (Vehicles) Regulations 2014* r. 140” insert:

<i>Road Traffic (Vehicles) Regulations 2014</i> r. 454X	Direct production of heavy vehicle pilot licence
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10. Regulation 17 amended

- (1) In regulation 17(2) at the end of the Table insert:

<i>Road Traffic (Vehicles) Regulations 2014</i> r. 454X	Direct production of heavy vehicle pilot licence
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- (2) In regulation 17(3)(d) delete “regulation 452(2).” and insert:
- regulation 452(2) or 454X.

11. Regulation 24 amended

In regulation 24(1) in the definition of *road law regulation offence* in the last item in the Table after “12,” insert:

13A,

12. Regulation 26 amended

In regulation 26 in the last item in the Table after “12,” insert:

13A,