



Western Australia

## **Road Traffic (Vehicles) Act 2012**

Compare between:

[29 Mar 2023, 01-f0-00] and [05 Apr 2023, 01-g0-01]



Western Australia

## **Road Traffic (Vehicles) Act 2012**

**An Act to provide for the licensing and standards of vehicles and for mass, dimension and loading requirements for vehicles used for transporting goods and passengers by road and for related matters.**

## Part 1 — Preliminary

### 1. Short title

This is the *Road Traffic (Vehicles) Act 2012*.

### 2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act, on the day fixed under the *Road Traffic (Administration) Act 2008* section 2(b).

### 3. Terms used

- (1) In this Act, unless the contrary intention appears —

**base**, in relation to the driver of a vehicle, means a place from which the driver normally works and receives instructions and for the purposes of this definition —

- (a) if the driver is a self-employed driver and an employed driver at different times, the driver may have one base as a self-employed driver and another base as an employed driver; and
- (b) if the driver has 2 or more employers, the driver may have a different base in relation to each employer;

**consignee**, in relation to goods, means —

- (a) a person who, with the person's authority, is named or otherwise identified as the intended consignee of the goods in the transport documentation relating to the transport of the goods by road; or
- (b) a person who actually receives the goods after their road transport is completed,

but does not include a person who merely unloads the goods;

**consignor**, in relation to goods, means —

- (a) a person who, with the person's authority, is named or otherwise identified as the consignor of the goods in the

transport documentation relating to the transport of the goods by road; or

- (b) if there is no person to whom paragraph (a) applies —
- (i) a person who engages a responsible person for a vehicle, either directly or indirectly or through an agent or other intermediary, to transport the goods by road; or
  - (ii) a person who has possession of, or control over, the goods immediately before the goods are transported by road; or
  - (iii) a loader in relation to a vehicle that is to transport the goods by road, who loads the vehicle at a place where goods in bulk are stored or temporarily held and the vehicle is unattended during loading except by the driver or co-driver of the vehicle, or any person necessary for the normal operation of the vehicle;

or

- (c) if there is no person to whom paragraph (a) or (b) applies and the goods are imported into Australia, the person who imports the goods;

***dimension requirement*** —

- (a) means a prescribed requirement that relates to the dimensions of —
- (i) a vehicle; or
  - (ii) a vehicle's load; or
  - (iii) a vehicle and its load;
- or
- (b) if, in a particular case, a requirement mentioned in paragraph (a) is modified under Part 4 Division 2 Subdivision 2 means, in that case, the requirement as modified;

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**employee** means an individual who works under a contract of employment, apprenticeship or training;

**employer** means a person who —

- (a) employs a person under a contract of employment, apprenticeship or training; or
- (b) engages a person under a contract for services;

**equipment**, in relation to a vehicle, includes tools, devices and accessories in or on the vehicle;

**freight container** means a container of a prescribed class of container;

**GCM** (which stands for “gross combination mass”), in relation to a vehicle, means the greatest possible sum of the maximum loaded masses of the vehicle and of any vehicles that may be towed by it at the one time —

- (a) as specified by the vehicle’s manufacturer; or
- (b) as specified by the relevant authority if —
  - (i) the manufacturer has not specified the sum of the maximum loaded mass; or
  - (ii) the manufacturer cannot be identified; or
  - (iii) the vehicle has been modified to the extent that the manufacturer’s specification is no longer appropriate;

**goods** —

- (a) includes —
  - (i) animals (whether alive or dead); and
  - (ii) a container (whether empty or not);
- (b) does not include —
  - (i) people; or
  - (ii) fuel, water, lubricant or equipment that is being carried in or on a vehicle for the normal operation of the vehicle;

**GVM** (which stands for “gross vehicle mass”), in relation to a vehicle, means the maximum loaded mass of the vehicle —

- (a) as specified by the manufacturer; or
- (b) as specified by the relevant authority if —
  - (i) the manufacturer has not specified a maximum loaded mass; or
  - (ii) the manufacturer cannot be identified; or
  - (iii) the vehicle has been modified to the extent that the manufacturer’s specification is no longer appropriate;

**heavy vehicle** means a vehicle with a GVM of more than 4.5 t;

**involved person** means a person who is involved in the transport of goods by road by means of a vehicle, and includes —

- (a) an owner of the vehicle; and
  - (b) the driver of the vehicle; and
  - (c) a co-driver of the vehicle; and
  - (d) a responsible person for the vehicle; and
  - (e) a person in charge or apparently in charge of the vehicle; and
  - (f) a person in charge or apparently in charge of a base of the driver of the vehicle; and
  - (g) a person who is —
    - (i) accredited under Part 4 Division 4 in relation to the vehicle; or
    - (ii) responsible for performing a function of a prescribed kind in relation to the vehicle by way of complying with a requirement of accreditation;
- and
- (h) a person in charge of premises entered by a police officer under a road law in relation to the vehicle or goods; and

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- (i) the consignor and the consignee of the goods; and
- (j) a loader in relation to the vehicle; and
- (k) a packer of the goods; and
- (l) in the case where the goods were packed, or put on a vessel, outside Australia a person who, in Australia, receives the goods for road transport; and
- (m) an owner or operator of a weighbridge, or weighing facility, used to weigh the vehicle, or an occupier of premises where such a weighbridge or weighing facility is located; and
- (n) a responsible entity for a freight container in which the goods are contained; and
- (o) a person who controls or directly influences the loading or operation of the vehicle or goods for road transport; and
- (p) an agent, employer, employee or subcontractor of a person mentioned in another paragraph of this definition;

***journey documentation*** means any documentation, except transport documentation, that is directly or indirectly associated with —

- (a) the actual or proposed physical transport of goods or passengers by road or any previous transport of the goods or passengers by any mode; or
- (b) goods or passengers themselves so far as the documentation is relevant to their actual or proposed physical transport,

whether the documentation is in paper, electronic or any other form, and whether or not the documentation relates to a particular journey or to journeys generally, and includes —

- (c) records kept, used or obtained by an involved person in connection with the transport of the goods; and



- (d) workshop, maintenance and repair records relating to a vehicle used or claimed to be used, for the transport of the goods or passengers; and
- (e) a subcontractor's payment advice relating to the vehicle used or claimed to be used, goods, passengers or the transport of the goods or passengers; and
- (f) records kept, used or obtained by the driver or a co-driver of the vehicle used for the transport of the goods or passengers, including (for example) the driver's run sheet, a log book entry, a fuel docket or receipt, a food receipt, a tollway receipt, pay records and mobile or other phone records; and
- (g) driver manuals and instruction sheets; and
- (h) advice in any form from check weighing performed before, during or after a journey;

**light vehicle** means a vehicle with a GVM of 4.5 t or less;

**load**, when used as a noun in relation to a vehicle, means —

- (a) the vehicle's driver and co-drivers and their personal items; and
- (b) the goods and passengers in or on the vehicle; and
- (c) the fuel, water, lubricant or equipment that is being carried in or on the vehicle for the normal operation of the vehicle; and
- (d) anything that is normally removed from the vehicle when not in use;

**loader**, in relation to a vehicle, means a person who —

- (a) loads the vehicle with goods for road transport; or
- (b) loads the vehicle with a freight container (whether or not containing goods) for road transport; or
- (c) loads a freight container that is already in or on the vehicle with goods for road transport; or
- (d) supervises an activity mentioned in paragraph (a), (b) or (c); or

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- (e) manages or controls an activity mentioned in paragraph (a), (b), (c) or (d);

**loading requirement** means a prescribed requirement that relates to the placing or securing of a vehicle's load;

**mass, dimension or loading requirement** means a mass requirement, a dimension requirement or a loading requirement;

**mass or dimension requirement** means a mass requirement or a dimension requirement;

**mass requirement** —

- (a) means a prescribed requirement that relates to the mass of —
  - (i) a vehicle; or
  - (ii) a vehicle's load; or
  - (iii) a vehicle and its load;

or

- (b) if, in a particular case, a requirement mentioned in paragraph (a) is modified under Part 4 Division 2 Subdivision 2 means, in that case, the requirement as modified;

**minor risk breach** —

- (a) in relation to a mass requirement, has the meaning given by section 48;
- (b) in relation to a dimension requirement, has the meaning given by section 52 or 55(1);
- (c) in relation to a loading requirement, has the meaning given by section 58;

**night** means the period between sunset on one day and sunrise on the next day;

**number plate** means an identification tablet or number plate bearing numerals, or letters, or numerals and letters;

**packaging**, in relation to goods for road transport, means the container (including a freight container) in which the goods are

received or held for road transport, and includes anything that enables the container to receive or hold the goods or to be closed;

**packer**, in relation to goods, means a person who —

- (a) puts the goods in packaging for road transport; or
  - (b) assembles the goods for road transport as packaged goods in an outer packaging; or
  - (c) assembles the goods for road transport as a load of packaged goods that are —
    - (i) wrapped then strapped or otherwise secured to a pallet or other base and to each other, for transport; or
    - (ii) placed together in a protective outer container, except a freight container, for transport; or
    - (iii) secured together in a sling for transport;
- or
- (d) supervises an activity mentioned in paragraph (a), (b) or (c); or
  - (e) manages or controls an activity mentioned in paragraph (a), (b), (c) or (d);

**passenger**, in relation to a vehicle, does not include the driver or a co-driver of the vehicle;

**prohibition order** means an order made under section 128;

**reasonable steps defence** means the defence described in section 113;

**relevant authority**, in relation to a vehicle, means —

- (a) if the vehicle has never been licensed or registered but the vehicle is used or is intended to be used in this State — the CEO; or
  - (b) if the vehicle was last licensed in this State — the CEO;
- or

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- (c) if the vehicle was last licensed or registered in another jurisdiction — the corresponding authority in that jurisdiction;

**responsible entity**, in relation to a freight container, is —

- (a) the consignor of the container for road transport in this State if the consignor was in Australia at the time of consignment; or
- (b) if there is no person as described in paragraph (a) — the person who in Australia, on behalf of the consignor, arranged for the transport of the container by road in this State; or
- (c) if there is no person as described in paragraph (a) or (b) — the person who in Australia offers the container for road transport in this State;

**road transport** means the transport of goods or passengers by road by means of a vehicle;

**severe risk breach** —

- (a) in relation to a mass requirement, has the meaning given by section 50;
- (b) in relation to a dimension requirement, has the meaning given by section 54;
- (c) in relation to a loading requirement, has the meaning given by section 60;

**substantial risk breach** —

- (a) in relation to a mass requirement, has the meaning given by section 49;
- (b) in relation to a dimension requirement, has the meaning given by section 53 or 55(2);
- (c) in relation to a loading requirement, has the meaning given by section 59;

**supervisory intervention order** means an order made under section 126;

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***transport documentation*** means —

- (a) contractual documentation directly or indirectly associated with —
  - (i) a transaction for or relating to the actual or proposed transport of goods or passengers by road or any previous transport of the goods or passengers by any mode; or
  - (ii) goods or passengers themselves so far as the documentation is relevant to their actual or proposed transport;

or

- (b) documentation associated with contractual documentation mentioned in paragraph (a) and that is —
  - (i) contemplated, mentioned or incorporated, in the contractual documentation; or
  - (ii) required by law, or customarily provided, in connection with the contractual documentation or with the transaction,

whether the documentation is in paper, electronic or any other form, and includes an invoice, vendor declaration, delivery order, consignment note, load manifest, export receipt advice, bill of lading, contract of carriage, sea carriage document, or container weight declaration as defined in section 84, relating to the goods or passengers.

- (2) The *Road Traffic (Administration) Act 2008* Part 1 Division 2 provides for the meanings of some terms and abbreviations in this Act.

## Part 2 — Licensing of vehicles

### 4. Vehicle licences

- (1) A vehicle licence is required for a vehicle of a prescribed class.
- (2) A responsible person for a vehicle and each person who uses the vehicle on a road commits an offence if, at the time the vehicle is used on the road —
  - (a) a vehicle licence is required for the vehicle; and
  - (b) a licence has not been granted in respect of the vehicle or a licence has been granted in respect of the vehicle but is not current.

Penalty: a fine of 10 PU, and in addition, the court is to order the accused to pay a further penalty equal to the charges payable under this Act for the grant of a vehicle licence for the vehicle concerned for a period of 6 months.

- (3) A person does not commit an offence under subsection (2) arising out of the use of a vehicle within a period after the expiry of the licence that is —
  - (a) prescribed by regulations made under section 6(2)(b) as a period within which the licence may be renewed; and
  - (b) prescribed for the purposes of this subsection.
- (4) A person does not commit an offence under subsection (2) arising out of the use of a vehicle while it is used on a road —
  - (a) under and in accordance with a permit issued under section 13(1); or
  - (b) with number plates mentioned in section 13(2) and in accordance with each requirement applying to the use of the number plates.
- (5) A person does not commit an offence under subsection (2) arising out of the use of a vehicle while its use on a road is authorised under the law of another jurisdiction unless a responsible person for the vehicle is ordinarily resident within this State.

- (6) A person is not to be convicted of an offence under subsection (2) if the person has already been convicted of, or charged with and acquitted of, an offence under the *Motor Vehicle (Third Party Insurance) Act 1943* section 4(3)(a), and both those offences or alleged offences were committed simultaneously.

**5. Applications for grant, renewal, transfer and variation of vehicle licences**

- (1) An owner of a vehicle may apply for the grant, renewal, transfer or variation of a licence for a vehicle by —
- (a) submitting an application in a form approved by the CEO; and
  - (b) paying the amount of —
    - (i) any fee or charge that would be required by section 7; and
    - (ii) the duty, and any penalty tax, payable under the *Duties Act 2008* on the grant or transfer of the licence.
- (2) On the payment of —
- (a) a sum ordered under section 10(7) to be paid; or
  - (b) a sum specified under the *Road Traffic (Administration) Act 2008* section 81(2) in an infringement notice,
- an application for a transfer under subsection (1) is to be taken to have been made, and the payment is to be taken to have been a payment under subsection (1)(b).
- (3) Upon an application under subsection (1) the CEO, in accordance with the regulations, is to grant, renew, transfer or vary a licence for a vehicle if —
- (a) either —
    - (i) the vehicle meets the prescribed standards and requirements for that vehicle and is otherwise fit

for the purpose for which the licence is required;  
or

- (ii) the vehicle does not meet a prescribed standard or requirement for that vehicle but the vehicle is of a prescribed class or is used in a prescribed manner or otherwise complies with each requirement prescribed for the purposes of this subparagraph;

and

- (b) in the case of an application by an individual, the applicant has attained any minimum age prescribed by regulations under section 132(2)(g) and provided any proof of age and identity required by those regulations; and
- (c) the applicant has complied with any applicable provisions of the *Duties Act 2008* relating to the grant or transfer of motor vehicles; and
- (d) the CEO is satisfied that —
  - (i) the vehicle is kept primarily in this State; or
  - (ii) the vehicle is not kept primarily in any jurisdiction;

and

- (e) the vehicle were to be kept primarily in another jurisdiction, the applicant would not be prevented by or under the law of another jurisdiction from holding a licence for, or being registered in respect of, the vehicle; and
- (f) a licence suspension order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 19 or 43 is not in force in respect of the vehicle; and
- (g) the vehicle is not immobilised under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95C; and



- (h) the vehicle's number plates have not been removed under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95F; and
  - (i) a vehicle licence suspension and disqualification order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95G is not in force in respect of the vehicle; and
  - (j) a vehicle licence cancellation and disqualification order made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95J is not in force in respect of the vehicle.
- (4) A vehicle cannot be licensed in the name of more than one person at a particular time.
- (5) Any one of 2 or more owners may apply for the grant or transfer of a licence and the application is to be signed by each of them.
- (6) An application under subsection (5) is to be regarded as notice of the nomination of the applicant for the purposes of the *Road Traffic (Administration) Act 2008* section 5(2).
- (7) Nothing in this section authorises or permits the CEO to grant, renew or vary a vehicle licence contrary to any provision of the *Motor Vehicle (Third Party Insurance) Act 1943* or any other provision of this Act or the regulations.
- (8) The CEO is to refund any amount paid by a person in connection with —
- (a) an application under this section that is refused; or
  - (b) an application for the transfer of a licence upon which the licence is not transferred but cancelled.

*[Section 5 amended: No. 48 of 2012 s. 74; No. 25 of 2020 s. 124.]*

**6. Regulations for grant, renewal and variation of vehicle licences**

- (1) The regulations may provide for the grant, renewal or variation of a vehicle licence by the CEO to the extent that a matter is not provided for in section 5.
- (2) Without limiting subsection (1), the regulations may —
  - (a) fix the periods for which a vehicle licence may be granted or renewed; and
  - (b) fix a period, whether before or after the expiry of a licence, within which the licence may be renewed; and
  - (c) provide that renewal of a vehicle licence within a specified period after the expiry continues the licence; and
  - (d) provide that a vehicle licence that is renewed within a specified period after the expiry of the licence is to be taken as having effect from a specified time which may be immediately after that expiry; and
  - (e) empower the CEO to provide for 3 or more vehicle licences held by the same person to expire on the same day.
- (3) A regulation made under subsection (2)(c) or (d) does not operate to provide a defence in a prosecution of an offence under section 4(2).

**7. Charges for vehicle licences**

- (1) The prescribed recording fee is to be paid to the CEO for the grant, renewal or variation of any licence for a vehicle (other than under Part 3), irrespective of whether the whole or any part of a vehicle licence charge is also payable for the grant, renewal or variation of the licence.
- (2) The prescribed transfer fee is to be paid to the CEO for effecting the transfer of any licence for a vehicle.

- (3) Subject to any reduction, waiver, refund or deferral provided for in the regulations, the appropriate prescribed charge is to be paid to the CEO for granting, renewing or varying any licence for a vehicle.
- (4) If a vehicle licence is granted free of charge or upon the payment of a reduced vehicle licence charge and —
- (a) a condition imposed on the licence is not complied with; or
  - (b) the ownership of the vehicle changes to that of a person who would not be granted a licence free of charge or at a reduced charge; or
  - (c) the vehicle is put to a use for which the licence would not be granted free of charge or at a reduced charge,
- for the purposes of section 4(2) the vehicle licence is to be taken to be not current unless the vehicle licence charge, or the difference between the vehicle licence charge and the reduced vehicle licence charge, is paid.
- (5) If a vehicle licence is granted under this Act and the fees or charges paid in respect of the licence are subsequently found to be in excess of the fees or charges which are properly payable in respect of the licence, the CEO is to refund the amount of the excess to the person to whom the licence was granted as soon as practicable after a written demand for the amount.
- (6) If a vehicle licence is granted under this Act and the fees or charges paid in respect of the licence are subsequently found to be less than the fees or charges which are properly payable in respect of the licence, and if the person to whom the licence was granted fails to pay the deficiency to the CEO within 7 days after the amount of the deficiency has been demanded in writing from the person, the CEO may recover the deficiency in a court of competent jurisdiction from the person.

**8. Licence obtained by means of dishonoured cheque of no effect**

- (1) Where the fees or charges for the grant or renewal of a vehicle licence (the *licence*) are paid by a cheque which is not honoured by the financial institution on which it is drawn, the licence has no effect as from the time of grant or renewal, as is applicable in the case.
- (2) The person granted the licence must, on written demand made by or on behalf of the CEO, deliver the licence document and the number plates relating to the licence to the CEO by the time specified in the demand.  
Penalty: a fine of 6 PU.
- (3) A person to whom a demand is made under subsection (2) must not use or continue to use the licence document or the number plates relating to the licence.  
Penalty: a fine of 6 PU.

**9. Cancellation, suspension of vehicle licence in certain circumstances**

- (1) The CEO may cancel the licence in respect of any vehicle if —
  - (a) the applicable fees and charges have not been paid; or
  - (b) the vehicle does not meet the prescribed standards and requirements for that vehicle; or
  - (c) a responsible person for the vehicle has failed to present it for inspection when directed to do so by the CEO under a road law; or
  - (d) the licence for the vehicle is surrendered in accordance with the *Motor Vehicle Dealers Act 1973* section 28A.
- (2) The CEO may, in circumstances described in subsection (1)(a), (b) or (c), suspend the licence in respect of a vehicle until the circumstances giving rise to the suspension are remedied.

- (3) If requested under the *Road Traffic Act 1974* section 79BD to do so, the CEO must, in accordance with the request —
- (a) suspend the licence in respect of a vehicle; or
  - (b) revoke the suspension of the licence in respect of a vehicle.

*[Section 9 amended: No. 2 of 2015 s. 25.]*

**10. Transfer of vehicle licences**

- (1) A person to whom a licence in respect of a vehicle has been granted must, within 7 days after ceasing to be the owner of the vehicle —
- (a) give notice in writing to the CEO of the name and address of the new owner of the vehicle; and
  - (b) return the licence document and the related number plates to the CEO if —
    - (i) the licence was granted free of charge or upon the payment of a reduced vehicle licence charge; and
    - (ii) the vehicle licence charge, or the difference between the vehicle licence charge and the reduced vehicle licence charge, has not been paid.

Penalty: a fine of 10 PU.

- (2) A person who becomes the owner of a vehicle in respect of which a licence has been granted must, within 14 days after becoming the owner, give notice in writing to the CEO of that fact.

Penalty: a fine of 10 PU.

- (3) As soon as practicable after receiving notice under subsection (1)(a) or (2), or otherwise, of a change in the

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ownership of a vehicle in respect of which a licence has been granted —

- (a) if the CEO reasonably suspects that the vehicle does not meet a prescribed standard or requirement relating to the security of the vehicle, the CEO may issue to the new owner a notice requiring that the vehicle be modified so that it does meet the prescribed standard or requirement; or
  - (b) if the CEO is satisfied that the licence may be transferred under section 5(3) and no application has been made under section 5(1), the CEO may issue to the new owner a notice requiring that an application for the transfer of the licence be made under section 5.
- (4) In subsection (3) —
- new owner**, in relation to a vehicle, means a person who, according to the notice received by the CEO, has become a new owner of the vehicle and, if there is more than one such person, each or any of them.
- (5) If a vehicle has not been modified in accordance with a notice issued under subsection (3)(a) within 28 days after the notice is issued, or any longer period that the CEO allows, the CEO is to cancel the licence in respect of the vehicle.
- (6) A person to whom a notice is issued under subsection (3)(b) commits an offence if an application for the transfer of the licence for the vehicle is not made within 28 days after the notice is issued, or any longer period that the CEO allows, unless it can be shown that —
- (a) the person did not agree to becoming an owner of the vehicle and has notified the CEO in writing accordingly; or
  - (b) another person has been nominated for the purposes of the *Road Traffic (Administration) Act 2008* section 5(2); or

- (c) there is more than one owner of the vehicle and there is good reason for not nominating a person under the *Road Traffic (Administration) Act 2008* section 5(2); or
- (d) there was some other good reason that the application for the transfer of the licence was not made.

Penalty: a fine of 50 PU.

- (7) The court convicting a person of an offence under subsection (6) must, whether imposing a penalty or not, order the person to pay the sum of —
  - (a) the prescribed transfer fee; and
  - (b) the amount payable under a taxation Act, as defined in the *Taxation Administration Act 2003* Glossary, in respect of the transfer of the licence.
- (8) The other subsections of this section do not apply if a person to whom a licence in respect of a vehicle has been granted dies, and in that case the CEO, on an application under section 5, if any, by the executor or administrator of the estate of that person, is to endorse on the licence the transfer of the licence to that executor or administrator.

**11. Requirement to make declaration on applying for grant or transfer of vehicle licence**

- (1) Regulations may require an applicant for the grant or transfer of a licence in respect of a vehicle to declare in writing that the vehicle meets any prescribed standard or requirement relating to the security of vehicles that applies to that vehicle.
- (2) If the applicant does not comply with a requirement of regulations made for the purposes of subsection (1), it may be taken for the purposes of section 5(3)(a) that the vehicle concerned does not meet the prescribed standard or requirement.

**12. Change of nominated owner**

- (1) If a person is the owner of a vehicle as the result of a nomination for the purposes of the *Road Traffic*

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(*Administration*) Act 2008 section 5(2), the person may apply to the CEO, in a form approved by the CEO, to cancel the nomination.

- (2) The application is to include a statement, signed by each person who would be an owner if there had been no nomination, to the effect that they agree to another of them being the owner of the vehicle for the purposes of this Act.
- (3) If the CEO approves the application and the applicant pays the prescribed fee, if any —
  - (a) the current nomination ceases to have effect; and
  - (b) the statement under subsection (2) is to be treated as being a nomination for the purposes of the *Road Traffic (Administration) Act 2008* section 5(2); and
  - (c) the CEO is to vary the licence by changing the name of the person to whom the licence is granted in accordance with the application.

**13. Permits and number plates for unlicensed vehicles**

- (1) The CEO may grant to a person a permit (*permit*) authorising the driving of an unlicensed vehicle or the towing of an unlicensed vehicle in accordance with any requirements specified by the CEO in the permit —
  - (a) to or from any place at which the CEO grants vehicle licences or examines vehicles in connection with the granting of vehicle licences or to or from any place at which the vehicle is to be or has been repaired; or
  - (b) for a purpose that is specified by the CEO in the permit; or
  - (c) for a prescribed purpose.
- (2) The CEO may issue to a person of a prescribed class number plates (*number plates*) which may be used on an unlicensed vehicle in accordance with any requirement specified in writing by the CEO.



- (3) Without limiting any power to make regulations under this Act, the regulations may prescribe —
  - (a) the fees for the grant of a permit; and
  - (b) the requirements that are to be taken to apply to all permits or permits of a class specified in the regulations; and
  - (c) the fees for the issue and use of number plates; and
  - (d) the requirements that are to be taken to apply to the use and return of number plates on all unlicensed vehicles or to the use and return of number plates on unlicensed vehicles of a class specified in the regulations; and
  - (e) a deposit to be paid on the issue of, and in respect of, number plates, and the circumstances in which that deposit is forfeited or refunded.
- (4) The CEO may, by notice in writing, cancel a permit if the vehicle in respect of which it was granted is driven or towed otherwise than in accordance with the permit.
- (5) A notice in writing mentioned in subsection (4) —
  - (a) is to be signed by a person authorised so to do by the CEO; and
  - (b) is to be served on the person to whom the permit was granted; and
  - (c) is to come into operation when it is served or, if a later time is specified in the notice, at that time.

#### **14. Register of vehicle licences**

The CEO is to keep a register of vehicle licences, and enter in it particulars of each vehicle licence that is granted.

**15. Labels to be affixed to certain vehicles**

Regulations may provide for —

- (a) the CEO to issue a label (*label*) on the grant or renewal, under this Part, of a vehicle licence for a vehicle of a prescribed class; and
- (b) specified information about a vehicle to be contained in or on a label for the vehicle; and
- (c) matters relating to the affixing to vehicles, and display, of labels.

**16. Effect of licence suspension order, disqualification**

- (1) Where a licence suspension order is made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* in respect of a person, a licence held by that person in respect of a vehicle specified in the order or in respect of any vehicle (as the order directs) is, by force of this section, suspended so long as the licence suspension order continues in force and during that period is of no effect.
- (2A) If a vehicle licence suspension and disqualification order is made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95G in respect of a person, a licence held by that person in respect of the vehicle specified in the order is, by force of this section, suspended so long as the vehicle licence suspension and disqualification order continues in force and during that period is of no effect.
- (2) Subsections (1) and (2A) do not operate to extend the period for which a vehicle licence may be current or effective beyond the expiration of the period for which the licence was expressed to be granted or renewed.
- (3) A vehicle licence obtained by a person who is disqualified from holding or obtaining a vehicle licence is, by force of this section, of no effect.

- (4) If a vehicle licence cancellation and disqualification order is made under the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 95J in respect of a person, a licence held by that person in respect of the vehicle specified in the order is, by force of this section, cancelled.

*[Section 16 amended: No. 48 of 2012 s. 75; No. 25 of 2020 s. 125.]*

### **17. Classification of vehicle licences**

Despite any other provision of this Part, regulations may prescribe classes of vehicle licences and by those regulations —

- (a) specify the vehicles or classes of vehicle to which any class of licence is to apply; and
- (b) provide for licences of any particular class to be granted for a limited period or limited periods; and
- (c) empower the CEO to impose limitations on the use of a vehicle for which a particular class of licence is granted.

### **18. Applicable charges in case of amendment**

- (1) In this section —

***commencement day***, in relation to regulations, means the day from which, under the *Interpretation Act 1984* section 41, those regulations take effect and have the force of law;

***specified day***, in relation to regulations, means the day prescribed in the regulations as the specified day for the purposes of this section, being a day not less than 30 days after the commencement day of those regulations.

- (2) If regulations made under section 7(3) in relation to charges for granting or renewing a vehicle licence are amended or replaced, the regulations as in force immediately before the commencement day of the amending or replacing regulations continue to apply in relation to —
- (a) the grant of a vehicle licence if that licence is granted before the specified day; and

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- (b) the renewal of a vehicle licence if, in accordance with regulations made under section 6, that renewal has effect, or is to be taken to have effect, on and from a day that precedes the specified day.

**19. Minister may require vehicles to be inspected**

- (1) The Minister may, by order published in the *Gazette*, prohibit the grant, renewal or transfer of any vehicle licence, in respect of a vehicle unless and until the vehicle has been examined and a certificate of inspection has been issued under this Act that the vehicle meets the prescribed standards and requirements for that vehicle and that the vehicle is fit for the purpose for which the licence is desired.
- (2) The Minister may, in an order under subsection (1), declare that the provisions of the order —
  - (a) apply in respect of vehicles generally or in respect of vehicles of a class specified in the order; or
  - (b) apply throughout the State or in a part of the State specified in the order; or
  - (c) do not apply in a case, or cases of a class, specified in the order.

## Part 3 — Overseas motor vehicles when temporarily in Australia

### 20. Terms used

In this Part —

*licence*, in relation to an overseas vehicle, includes registration of the vehicle or any other form of authorisation to drive the vehicle on a public road, effected under the law of the country in which the vehicle's owner is ordinarily resident;

*overseas vehicle* means a motor vehicle that is imported for temporary use in Australia from any other country and is —

- (a) landed in this State direct from that country; or
- (b) brought to this State from another jurisdiction.

### 21. Application of this Part

The provisions of this Part do not affect —

- (a) Part 2 relating to the licensing of vehicles; or
- (b) the provisions of the regulations made under this Act relating to the licensing of vehicles, except to the extent expressly provided; or
- (c) the provisions of the *Transport Co-ordination Act 1966* or the *Transport (Road Passenger Services) Act 2018*.

[Section 21 amended: No. 26 of 2018 s. 324.]

### 22. Free vehicle licences for certain overseas vehicles

- (1) A person may apply to the CEO to be granted, free of charge, a vehicle licence for an overseas vehicle if the person is an owner of the vehicle and is not ordinarily resident in Australia.
- (2) On an application the CEO is to grant, free of charge, a vehicle licence for the overseas vehicle if the CEO is satisfied that —
  - (a) there is in force a vehicle licence granted in relation to that vehicle under the law of the country in which the

- owner is ordinarily resident; and
- (b) there is in force a contract of insurance with respect to the vehicle as provided in the *Motor Vehicle (Third Party Insurance) Act 1943* section 4; and
  - (c) there is documentary evidence establishing that the owner has given to the Australian Government department that has responsibility for customs a guarantee that the vehicle is to be subsequently taken out of Australia; and
  - (d) either —
    - (i) the overseas vehicle meets the prescribed standards and requirements for that vehicle and is otherwise fit for the purpose for which the licence is required; or
    - (ii) the overseas vehicle does not meet a prescribed standard or requirement for that vehicle but the vehicle is of a prescribed class or is used in a prescribed manner or otherwise complies with a requirement prescribed for the purposes of section 5(3)(a)(ii).
- (3) The period of a vehicle licence granted under this section must not go beyond —
- (a) 12 months from the day when the vehicle was landed in this State; or
  - (b) the day of the expiry of the licence granted under the law of the country mentioned in subsection (2)(a); or
  - (c) the day of the expiry of the contract of insurance mentioned in subsection (2)(b).

**23. Vehicle licence for overseas vehicle granted in another jurisdiction has effect in this State**

For the purpose of this Part a licence granted by any licensing or registering authority of another jurisdiction in relation to an overseas vehicle is to be taken to be a vehicle licence under this

Act in respect of the vehicle when it is used on any road within the State —

- (a) during the currency of the licence; and
- (b) so long as a contract of insurance with respect to that vehicle as provided in the *Motor Vehicle (Third Party Insurance) Act 1943* section 3(4) or 4(1) is in force.

**24. Free extension or renewal of vehicle licences for certain overseas vehicles**

- (1) A person may apply to the CEO to be granted, free of charge, an extension or renewal of a vehicle licence granted under section 22 that has expired.
- (2) On an application the CEO is to grant, free of charge, an extension or renewal of the licence if the CEO is satisfied that —
  - (a) the vehicle is being used in this State; and
  - (b) there is in force a vehicle licence granted in relation to that vehicle under the law of the country in which the owner is ordinarily resident; and
  - (c) there is in force a contract of insurance with respect to the vehicle as provided in the *Motor Vehicle (Third Party Insurance) Act 1943* section 4; and
  - (d) there is documentary evidence establishing that the owner has given to the Australian Government department that has responsibility for customs a guarantee that the vehicle is to be subsequently taken out of Australia; and
  - (e) either —
    - (i) the overseas vehicle meets the prescribed standards and requirements for that vehicle and is otherwise fit for the purpose for which the licence is required; or
    - (ii) the overseas vehicle does not meet a prescribed standard or requirement for that vehicle but the

vehicle is of a prescribed class or is used in a prescribed manner or otherwise complies with a requirement prescribed for the purposes of section 5(3)(a)(ii).

- (3) The period for which a vehicle licence is extended or renewed under this section must not go beyond —
- (a) 12 months from the day when the vehicle was landed in Australia; or
  - (b) the day of the expiry of the licence granted under the law of the country mentioned in subsection (2)(b); or
  - (c) the day of the expiry of the contract of insurance mentioned in subsection (2)(c).

**25. Free licence or renewal ceases to have effect in certain cases**

A vehicle licence that is granted under section 22 or extended or renewed under section 24 ceases to have effect when —

- (a) the vehicle's owner becomes ordinarily resident in Australia; or
- (b) the vehicle is transferred to a person who is ordinarily resident in Australia.

**26. Number plates on overseas vehicles**

- (1) If —
- (a) on its arrival in this State, an overseas vehicle is equipped with one or more number plates in accordance with the law of the country or jurisdiction from which it was landed or brought; and
  - (b) a vehicle licence is granted under section 22 or extended or renewed under section 24 in relation to the vehicle,

the number plates are to be taken to have been issued under this Act during the currency of the vehicle licence and while the vehicle is being used temporarily within Australia.



(2) If —

- (a) on its arrival in this State, an overseas vehicle is not equipped with any number plates or has a number plate that is so mutilated that any material part is obscured, obliterated or indistinct; and
- (b) a vehicle licence is granted under section 22 or extended or renewed under section 24 in relation to the vehicle,

the CEO, on payment of the prescribed fee, is to issue to the vehicle's owner a temporary plate or plates which are to be affixed to the vehicle in the manner and place in or on the vehicle that are prescribed for ordinary number plates.

## 27. Regulations

The regulations may provide for —

- (a) matters relating to applications under section 22 or 24; and
- (b) matters relating to the application for the issue of, and the use and return of, temporary number plates; and
- (c) matters relating to the use on roads in this State of overseas vehicles that have the steering apparatus on the left-hand side of the vehicle; and
- (d) matters relating to the issue and use of plates that identify to other road users vehicles mentioned in paragraph (c); and
- (e) the fees for plates mentioned in paragraphs (b) and (d); and
- (f) the nature and kind of information and particulars that owners of overseas vehicles are to give the CEO at any specified time or from time to time, relating to the vehicle; and
- (g) the CEO to issue a label (*label*) on the grant, extension or renewal, under this Part, of a vehicle licence for a vehicle of a prescribed class; and

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- (h) specified information about a vehicle to be contained in or on a label for the vehicle; and
- (i) matters relating to the affixing to vehicles, and display, of labels.

## **Part 4 — Mass, dimension and loading requirements**

### **Division 1 — Term used in this Part**

**28. Term used: person connected**

In this Part —

*person connected* with a vehicle means a person who is —

- (a) the driver of the vehicle; or
- (b) a co-driver of the vehicle; or
- (c) a responsible person for the vehicle; or
- (d) a consignor of goods that are in or on the vehicle; or
- (e) a loader in relation to the vehicle; or
- (f) a packer of goods that are in or on the vehicle.

### **Division 2 — Mass, dimension and loading offences and modification of mass or dimension requirements**

#### **Subdivision 1 — Mass, dimension and loading offences**

**29. Mass, dimension and loading requirements to be complied with**

- (1) A person connected with a vehicle commits an offence if —
  - (a) the vehicle is on a road; and
  - (b) a mass, dimension or loading requirement that applies to the vehicle or its load or to the vehicle and its load is not being complied with.
- (2) In a prosecution for an offence under subsection (1) the person charged has the benefit of the reasonable steps defence.
- (3) A person does not commit an offence under subsection (1) in relation to a mass requirement that applies to a heavy vehicle and its load if —
  - (a) the load is grain, sand, ore, volume loaded liquid, or any other commodity, that is transported in bulk; and

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- (b) the vehicle is built for the purpose of carrying that commodity in bulk; and
- (c) the vehicle is designed so that the load can move within the confines of the vehicle; and
- (d) the gross loaded mass of the vehicle at the time does not exceed the vehicle's GVM; and
- (e) the amount of mass in excess of the amount of the maximum mass permitted in relation to an axle mass requirement, expressed as a percentage of the amount of the maximum mass, is less than 5%.

**30. Penalties for mass, dimension or loading offences**

- (1) The penalty for an offence under section 29(1) that involves a failure to comply with a mass requirement in relation to a heavy vehicle is the fine set out in the Table corresponding to the amount of mass in excess of the amount of the maximum mass permitted under the requirement, expressed as a percentage of the amount of the maximum mass, but the minimum penalty is the minimum fine set out in the Table corresponding to the amount of the excess mass.

**Table — Heavy vehicles — breach of mass requirement**

| Mass in excess of maximum permitted mass (%) |           | Fine | Minimum Fine |
|--|-----------|------|--------------|
| Above or (except in the case of 0%) equal to | Less than |      |              |
| %  | %         | PU   | PU           |
| 0  | 5         | 20   | 4            |
| 5  | 10        | 40   | 6            |
| 10   | 15        | 60   | 10           |
| 15   | 20        | 80   | 12           |
| 20   | 25        | 120  | 18           |

| <b>Mass in excess of maximum permitted mass (%)</b> |                  | <b>Fine</b> | <b>Minimum Fine</b> |
|---|------------------|-------------|---------------------|
| <b>Above or (except in the case of 0%) equal to</b> | <b>Less than</b> |             |                     |
| <b>%</b>  | <b>%</b>         | <b>PU</b>   | <b>PU</b>           |
| 25  | 30               | 140         | 20                  |
| 30  | 35               | 160         | 24                  |
| 35  | 40               | 180         | 28                  |
| 40  | 45               | 200         | 32                  |
| 45  | 50               | 220         | 36                  |
| 50% or more   |                  | 300         | 40                  |

- (2) The penalty for an offence under section 29(1) that involves a failure to comply with a mass requirement in relation to a light vehicle is the fine set out in the Table corresponding to the amount of mass in excess of the amount of the maximum mass permitted under the requirement, expressed as a percentage of the amount of the maximum mass, but the minimum penalty is the minimum fine set out in the Table corresponding to the amount of the excess mass.

**Table — Light vehicles — breach of mass requirement**

| <b>Mass in excess of maximum permitted mass (%)</b> |                  | <b>Fine</b> | <b>Minimum fine</b> |
|---|------------------|-------------|---------------------|
| <b>Above or (except in the case of 0%) equal to</b> | <b>Less than</b> |             |                     |
| <b>%</b>  | <b>%</b>         | <b>PU</b>   | <b>PU</b>           |
| 0   | 5                | 8           | 2                   |
| 5   | 10               | 12          | 3                   |
| 10  | 15               | 16          | 4                   |

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| <b>Mass in excess of maximum permitted mass (%)</b> |                  |             |                     |
|---|------------------|-------------|---------------------|
| <b>Above or (except in the case of 0%) equal to</b> | <b>Less than</b> | <b>Fine</b> | <b>Minimum fine</b> |
| <b>%</b>  | <b>%</b>         | <b>PU</b>   | <b>PU</b>           |
| 15  | 20               | 20          | 5                   |
| 20  | 25               | 24          | 6                   |
| 25  | 30               | 28          | 7                   |
| 30  | 35               | 32          | 8                   |
| 35  | 40               | 40          | 10                  |
| 40  | 45               | 48          | 12                  |
| 45  | 50               | 56          | 14                  |
| 50% or more   |                  | 64          | 16                  |

- (3) The penalty for an offence under section 29(1) that is not mentioned in subsection (1) or (2) is —
- (a) in the case of a breach of a loading requirement that is a minor risk breach, a fine of 4 PU; or
  - (b) in the case of any other minor risk breach, a fine of 20 PU but the minimum penalty is a fine of 6 PU; or
  - (c) in the case of a substantial risk breach, a fine of 40 PU but the minimum penalty is a fine of 10 PU; or
  - (d) in the case of a severe risk breach, a fine of 100 PU but the minimum penalty is a fine of 20 PU.
- (4) If a person is convicted of an offence under section 29(1) involving a failure to comply with a mass or dimension requirement that has been modified under Subdivision 2, the penalty for the offence is that which would have applied if the requirement had not been modified.

**31. Offences by consignees**

- (1) A person who is a consignee of goods consigned for road transport commits an offence if —
- (a) the person engages in conduct that results, or is likely to result, in inducing or rewarding the commission of a breach of a mass, dimension or loading requirement; and
  - (b) the person either —
    - (i) intends the result mentioned in paragraph (a); or
    - (ii) is negligent or reckless as to whether the result mentioned in paragraph (a) occurs.

Penalty: a fine of 200 PU.

- (2) A consignee of goods is to be taken to have intended the result mentioned in subsection (1)(a) if —
- (a) the conduct concerned relates to a freight container consigned for road transport, or for transport partly by road and partly by some other means; and
  - (b) the person knew or ought reasonably to have known that —
    - (i) a container weight declaration for the freight container was not provided as required under Part 7; or
    - (ii) a container weight declaration provided for the container contained information about the weight of the container and its contents that was false or misleading in a material particular.
- (3) For the purposes of subsection (2)(b)(ii), information in a container weight declaration is not false or misleading in a material particular just because it overstates the weight of the freight container and its contents.

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**Subdivision 2 — Modification of mass or dimension requirements for certain vehicles**

**32. Terms used**

In this Subdivision —

*order* means an order mentioned in section 34(1)(a) by which a mass or dimension requirement is modified;

*permit* means a permit mentioned in section 34(1)(b) by which a mass or dimension requirement is modified;

*vehicle* means a vehicle of a class prescribed for the purposes of this definition.

**33. Modification of mass or dimension requirements for prescribed vehicles**

- (1) The Commissioner of Main Roads may modify a mass or dimension requirement that applies to —
  - (a) a vehicle; or
  - (b) the load of a vehicle; or
  - (c) a vehicle and its load.
- (2) A modification of a mass requirement may impose a higher maximum mass than that permitted under the requirement but the higher maximum mass must not exceed the GCM, the GVM or any other mass limit specified by the manufacturer.
- (3) A modification of a dimension requirement may impose a higher maximum width, height or length than that permitted under the requirement.
- (4) The Commissioner of Main Roads is not to modify a mass or dimension requirement that applies to a vehicle that is also a heavy vehicle of a prescribed class or its load unless on or before the day on which the modification takes effect there is a person who is accredited under Division 4 in relation to the vehicle.



- (5) The Minister may declare, in writing in accordance with the regulations, that subsection (4) does not apply to a vehicle, or vehicles of a class, specified by the Minister in the declaration.
- (6) A modification of a mass or dimension requirement has effect for the term specified in the order or permit.

**34. Order or permit for modification**

- (1) A modification of a mass or dimension requirement —
  - (a) if made on the volition of the Commissioner of Main Roads, is to be by order published in the *Gazette*; or
  - (b) if made on the application of a person, is to be by permit issued to the applicant.
- (2) The driver of a vehicle in respect of which, or in respect of the load of which, a mass or dimension requirement has been modified under a permit —
  - (a) must carry in the vehicle a copy of the permit; and
  - (b) must produce a copy of the permit if directed by a police officer to do so.

Penalty: a fine of 20 PU.

**35. Application of modified mass or dimension requirement**

- (1) An order or permit may specify that a modified mass or dimension requirement applies or does not apply —
  - (a) to a specified vehicle or to each vehicle of a specified class; or
  - (b) on a specified road; or
  - (c) in a specified part of the State; or
  - (d) if a specified requirement is complied with; or
  - (e) in other specified circumstances.
- (2) In subsection (1) —  
*specified* means specified in the order or permit.

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- (3) The regulations may prescribe matters that are to be taken to apply, or to not apply to —
- (a) all orders or orders of a class specified in the regulations; or
  - (b) all permits or permits of a class specified in the regulations.

**36. Compliance with orders, permits**

- (1) A person connected with a vehicle in respect of which, or in respect of the load of which, a mass or dimension requirement has been modified under an order or permit must comply with each provision of the order or permit.

Penalty:

- (a) for failure to comply with a provision of an order or permit about a road on which the vehicle can or cannot be driven, the penalty is that which would have applied to an offence under section 29(1) if the mass or dimension requirement had not been modified;
  - (b) for failure to comply with any other provision of an order or permit, a fine of 100 PU, but the minimum penalty is a fine of 12 PU.
- (2) A person who is convicted of an offence under section 29(1) involving a failure to comply with a mass or dimension requirement that has been modified under an order or permit cannot also be convicted of an offence under subsection (1) that arose out of a failure to comply with a provision of the order or permit.

**37. Regulations about modifying mass or dimension requirements**

The regulations may provide for —

- (a) applications for mass or dimension requirements to be modified; and

- (b) the submission of information and documentation in support of applications; and
- (c) the grounds for modifying mass or dimension requirements; and
- (d) the matters to be taken into account by the Commissioner of Main Roads when deciding an application to modify a mass requirement in relation to the transportation of grain to a bulk handler, including any matters that a bulk handler requires a transporter of grain to comply with as part of the bulk handler's business practices; and
- (e) the content of orders and permits; and
- (f) applications for, and other matters relating to, the variation of the modification of a mass or dimension requirement; and
- (g) the suspension or cancellation of a modification of a mass or dimension requirement; and
- (h) fees for applications mentioned in paragraphs (a) and (f).

**Division 3 — Access restrictions on certain vehicles that comply with mass or dimension requirements**

**38. Terms used**

In this Division —

***access approval*** means an approval given by the Commissioner of Main Roads under section 40;

***complying restricted access vehicle*** means a vehicle that —

- (a) conforms with each mass or dimension requirement applying to the vehicle or its load or to the vehicle and its load; and
- (b) is prescribed as a vehicle that cannot be on a road without an access approval;

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*order* means an order mentioned in section 41(1)(a) by which an access approval is given;

*permit* means a permit mentioned in section 41(1)(b) by which an access approval is given;

*road* includes part of a road.

**39. Restriction on access of complying restricted access vehicles to certain roads**

- (1) A person connected with a complying restricted access vehicle commits an offence if the vehicle is on a road without an access approval for the vehicle to be on the road.

Penalty: a fine of 100 PU, but the minimum penalty is a fine of 20 PU.

- (2) In a prosecution for an offence under subsection (1) the person charged has the benefit of the reasonable steps defence.

- (3) A person connected with a complying restricted access vehicle must comply with an order or permit relating to the vehicle.

Penalty: a fine of 100 PU, but the minimum penalty is a fine of 12 PU.

**40. Access approvals**

- (1) The Commissioner of Main Roads may give an access approval for a complying restricted access vehicle to be on a road.

- (2) The Commissioner of Main Roads is not to give an access approval for a complying restricted access vehicle that is also a heavy vehicle of a prescribed class or its load unless on or before the day on which the access approval takes effect there is a person who is accredited under Division 4 in relation to the vehicle.

- (3) The Minister may declare, in writing in accordance with the regulations, that subsection (2) does not apply to a vehicle, or vehicles of a class, specified by the Minister in the declaration.

- (4) An access approval has effect for the term specified in the order or permit.

**41. Order or permit for access approval**

- (1) An access approval —
- (a) if given on the volition of the Commissioner of Main Roads, is to be by order published in the *Gazette*; or
  - (b) if given on the application of a person, is to be by permit issued to the applicant.
- (2) The driver of a vehicle in respect of which an access approval has been given under a permit —
- (a) must carry in the vehicle a copy of the permit; and
  - (b) must produce a copy of the permit if directed by a police officer to do so.

Penalty: a fine of 20 PU.

**42. Application of access approvals**

- (1) An order or permit may specify that an access approval applies or does not apply —
- (a) to a specified complying restricted access vehicle or to each complying restricted access vehicle of a specified class; or
  - (b) to a specified road or each specified road; or
  - (c) at a specified time or during specified periods; or
  - (d) if a specified requirement is complied with; or
  - (e) in other specified circumstances.
- (2) In subsection (1) —  
*specified* means specified in the order or permit.
- (3) The regulations may prescribe matters that are to be taken to apply, or to not apply to —
- (a) all orders or orders of a class specified in the regulations; or

- (b) all permits or permits of a class specified in the regulations.

**43. Regulations about giving access approvals**

The regulations may provide for —

- (a) applications for access approvals to be given; and
- (b) the submission of information and documentation in support of applications; and
- (c) the grounds for giving access approvals; and
- (d) the content of orders and permits; and
- (e) applications for, and other matters relating to, the variation of an access approval; and
- (f) the suspension or cancellation of an access approval; and
- (g) fees for applications mentioned in paragraphs (a) and (e).

**Division 4 — Accreditation**

**44. Accreditation of persons in relation to certain heavy vehicles**

- (1) The regulations are to provide for the accreditation of persons by the Commissioner of Main Roads for the purposes of sections 33(4) and 40(2).
- (2) A person cannot be accredited in relation to a vehicle unless the person —
  - (a) controls or directs the operation of the vehicle; or
  - (b) is of a prescribed class of person in relation to the vehicle.
- (3) A person mentioned in subsection (2)(a) or (b) may, but need not, be a person connected with the vehicle.
- (4) A person is not to be accredited under the regulations unless the Commissioner of Main Roads is satisfied that the person has in

place systems that, to the extent that is reasonably practicable in the circumstances —

- (a) comply with prescribed standards about ensuring and demonstrating compliance with mass, dimension or loading requirements; and
- (b) ensure and demonstrate compliance with provisions of this Act about standards of vehicles mentioned in subsection (2); and
- (c) ensure and demonstrate compliance with any written law that is relevant to the driving or operation of vehicles mentioned in section 33(4) or 40(2).

**45. Regulations about accreditation**

The regulations may provide for —

- (a) applications for persons to be accredited; and
- (b) the submission of information and documentation in support of applications; and
- (c) the form and content of accreditation documentation, including the issue of certificates; and
- (d) the duration of accreditation; and
- (e) the action to be taken by or on behalf of an accredited person so as to continue to be accredited including —
  - (i) providing the Commissioner of Main Roads with, or allowing the Commissioner of Main Roads access to, information and documentation —
    - (I) that is in an accredited person's possession and is relevant to whether the person should continue to be accredited; or
    - (II) that is required to be held or kept under a written law about drivers or operators of vehicles mentioned in section 33(4) or 40(2);

and

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- (ii) conducting internal reviews or independent auditing of management systems; and
  - (iii) training drivers or operators of vehicles mentioned in section 33(4) or 40(2) and personnel involved in management systems;
- and
- (f) the keeping and production of records; and
  - (g) the qualifications, knowledge or experience to be attained and maintained by persons who conduct internal reviews or independent auditing of management systems; and
  - (h) applications for, and other matters relating to, the renewal or variation of accreditation; and
  - (i) the suspension or cancellation of accreditation if action required to be taken by or on behalf of an accredited person is not taken or a person is no longer fit to be accredited; and
  - (j) fees for applications mentioned in paragraphs (a) and (h).

**46. Effect of suspension or cancellation of accreditation on modification or access approval**

- (1) If —
  - (a) section 33(4) or 40(2) requires a person to be accredited for a mass or dimension requirement to be modified or for an access approval to be given; and
  - (b) the accreditation is subsequently cancelled under the regulations,

the modification or approval is of no effect on and from the day of the cancellation of the accreditation.



- (2) If —
- (a) section 33(4) or 40(2) requires a person to be accredited for a mass or dimension requirement to be modified or for an access approval to be given; and
  - (b) the accreditation is subsequently suspended under the regulations,
- the modification or approval is of no effect for the period of the suspension.
- (3) If a mass or dimension requirement has been modified, or an access approval has been given, under an order and no longer has effect because of subsection (1) or (2), the Commissioner of Main Roads is to publish in the *Gazette* notice of the effect of the suspension or cancellation of the accreditation.
- (4) If a mass or dimension requirement has been modified, or an access approval has been given, under a permit and no longer has effect because of subsection (1) or (2), the Commissioner of Main Roads is to give the person who applied for the permit or access approval written notice of the effect of the suspension or cancellation of the accreditation.

## **Part 5 — Categories of breach of mass, dimension or loading requirements**

### **Division 1 — The categories of breach**

#### **47. Categories of breach**

For the purposes of this Act, a breach of a mass, dimension or loading requirement is categorised as —

- (a) a minor risk breach; or
- (b) a substantial risk breach; or
- (c) a severe risk breach.

### **Division 2 — Mass requirements: categories of breach**

#### **48. Mass requirements: minor risk breaches**

- (1) A breach of a mass requirement that relates to the GVM of a vehicle is a minor risk breach if the extent of the breach is less than the greater of —
  - (a) the amount of the maximum mass permitted under the requirement, plus 5% of that amount, rounded up to the nearest 0.1 t; or
  - (b) 0.5 t.
- (2) A breach of any other kind of mass requirement is a minor risk breach if the extent of the breach is less than the amount of the maximum mass permitted under the requirement, plus 5% of that amount, rounded up to the nearest 0.1 t.

#### **49. Mass requirements: substantial risk breaches**

A breach of a mass requirement is a substantial risk breach if the extent of the breach is —

- (a) equal to or greater than the limit set out in section 48(1) or (2) as is applicable in the case; and

- (b) less than the amount of the maximum mass permitted under the requirement, plus 20% of that amount, rounded up to the nearest 0.1 t.

**50. Mass requirements: severe risk breaches**

A breach of a mass requirement is a severe risk breach if the extent of the breach is equal to or greater than the amount of the maximum mass permitted under the requirement, plus 20% of that amount, rounded up to the nearest 0.1 t.

**Division 3 — Dimension requirements: categories of breach**

**51. Terms used**

In this Division —

*dangerous projection requirement* means a prescribed requirement to the effect that a load on a vehicle must not project in a way that is dangerous to a person or property, even if all applicable dimension requirements and warning requirements are complied with at the relevant time;

*warning requirement* means a prescribed requirement that relates to warning signals for a load.

**52. Dimension requirements: minor risk breaches**

A breach of a dimension requirement is a minor risk breach if the extent of the breach —

- (a) in the case of the width of a vehicle or a vehicle and its load, is less than 100 mm over the maximum width permitted under the requirement; and
- (b) in the case of the height of a vehicle or a vehicle and its load, is less than 150 mm over the maximum height permitted under the requirement; and
- (c) in the case of the length of a vehicle or a vehicle and its load, is less than 350 mm over the maximum length permitted under the requirement.

**53. Dimension requirements: substantial risk breaches**

- (1) A breach of a dimension requirement is a substantial risk breach if the extent of the breach —
  - (a) in the case of the width of a vehicle or a vehicle and its load, is at least 100 mm but less than 150 mm over the maximum width permitted under the requirement; and
  - (b) in the case of the height of a vehicle or a vehicle and its load, is at least 150 mm but less than 300 mm over the maximum height permitted under the requirement; and
  - (c) in the case of the length of a vehicle or a vehicle and its load, is at least 350 mm but less than 600 mm over the maximum length permitted under the requirement.
- (2) A breach of a dimension requirement that would otherwise be a minor risk breach under section 52(a) is a substantial risk breach if the breach is committed —
  - (a) at night; or
  - (b) in weather conditions causing reduced visibility.
- (3) A breach of a dimension requirement that would otherwise be a minor risk breach under section 52(c) is a substantial risk breach if an applicable warning requirement is not being complied with at the time of the breach.
- (4) A breach of a dimension requirement that would otherwise be a minor risk breach under section 52(a), (b) or (c) is a substantial risk breach if an applicable dangerous projection requirement is not being complied with at the time of the breach.

**54. Dimension requirements: severe risk breaches**

- (1) A breach of a dimension requirement is a severe risk breach if the extent of the breach —
  - (a) in the case of the width of a vehicle or a vehicle and its load, is 150 mm or more over the maximum width permitted under the requirement; and

- (b) in the case of the height of a vehicle or a vehicle and its load, is 300 mm or more over the maximum height permitted under the requirement; and
  - (c) in the case of the length of a vehicle or a vehicle and its load, is 600 mm or more over the maximum length permitted under the requirement.
- (2) A breach of a dimension requirement that would otherwise be a substantial risk breach under section 53(1)(a) is a severe risk breach if the breach is committed —
- (a) at night; or
  - (b) in weather conditions causing reduced visibility.
- (3) A breach of a dimension requirement that would otherwise be a substantial risk breach under section 53(1)(c) is a severe risk breach if an applicable warning requirement is not being complied with at the time of the breach.
- (4) A breach of a dimension requirement that would otherwise be a substantial risk breach under section 53(1)(a), (b) or (c) is a severe risk breach if an applicable dangerous projection requirement is not being complied with at the time of the breach.

**55. Dangerous projections**

- (1) A breach of a dangerous projection requirement in the case where there is no breach of a dimension requirement or a warning requirement, is to be taken to be a minor risk breach of a dimension requirement if the breach is not committed —
- (a) at night; or
  - (b) in weather conditions causing reduced visibility.
- (2) A breach of a dangerous projection requirement in the case where there is no breach of a dimension requirement or a warning requirement, is to be taken to be a substantial risk breach of a dimension requirement if the breach is committed —
- (a) at night; or

- (b) in weather conditions causing reduced visibility.

**Division 4 — Loading requirements: categories of breach**

**56. Determining whether breach of loading requirement gives rise to certain risks**

For the purposes of this Division, in determining whether or not a breach of a loading requirement gives rise to an appreciable risk of harm to public safety, the environment, road infrastructure or public amenity, regard is to be had to —

- (a) the nature and extent of the breach; and
- (b) the consequences or potential consequences of the breach; and
- (c) any other relevant factors.

**57. When a load's becoming displaced or unsecured is imminent**

- (1) For the purposes of this Division, a load's becoming displaced or unsecured is imminent if, in the opinion of the police officer or court concerned, the load is likely to become displaced or unsecured during the journey that is being, or is about to be, undertaken by which the load is being or is to be transported, having regard to —
  - (a) the nature and condition of the vehicle; and
  - (b) the nature, condition, placement and securing of the load; and
  - (c) the length of the journey; and
  - (d) the nature and condition of the route of the journey; and
  - (e) any other relevant factors.
- (2) For the purposes of this Division, the disembarkation of persons from, or the movement of persons on, a vehicle does not constitute displacement or unsecuring of the vehicle's load.

**58. Loading requirements: minor risk breaches**

A breach of a loading requirement is a minor risk breach if —

- (a) the load concerned has not become displaced or unsecured; and
- (b) the load's becoming displaced or unsecured is not imminent; and
- (c) in the opinion of the police officer or court concerned, the load's becoming displaced or unsecured would not give rise to an appreciable risk of harm to public safety, the environment, road infrastructure or public amenity.

**59. Loading requirements: substantial risk breaches**

- (1) A breach of a loading requirement is a substantial risk breach if —

- (a) the load concerned has become displaced or unsecured; or
- (b) the load's becoming displaced or unsecured is imminent,

but, in the opinion of the police officer or court concerned, the load's becoming displaced or unsecured does not or would not give rise to an appreciable risk of harm to public safety, the environment, road infrastructure or public amenity.

- (2) A breach of a loading requirement is a substantial risk breach if —

- (a) the load concerned has not become displaced or unsecured; or
- (b) the load's becoming displaced or unsecured is not imminent,

but, in the opinion of the police officer or court concerned, the load's becoming displaced or unsecured is likely to occur, although not imminently, and would give rise to an appreciable risk of harm to public safety, the environment, road infrastructure or public amenity.

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**60. Loading requirements: severe risk breaches**

A breach of a loading requirement is a severe risk breach if —

- (a) the load concerned has become displaced or unsecured;  
or
- (b) the load's becoming displaced or unsecured is imminent,

and, in the opinion of the police officer or court concerned, the load's becoming displaced or unsecured gives rise to an appreciable risk of harm to public safety, the environment, road infrastructure or public amenity.



## **Part 6 — Directions as to MDLR breaches, defect notices and improvement notices**

### **Division 1 — General**

#### **61. Application of Part in relation to other directions**

This Part applies to a person regardless of whether or not the person is, has been or becomes the subject of a direction under the *Road Traffic (Administration) Act 2008* Part 4.

### **Division 2 — Rectification of breaches of mass, dimension or loading requirements**

#### **62. Term used: rectification action**

In this Division —

**rectification action**, in relation to a vehicle that a police officer reasonably believes is involved in the commission of a minor risk breach, a substantial risk breach or a severe risk breach of a mass, dimension or loading requirement means action that —

- (a) stops the vehicle being involved in the commission of the breach; or
- (b) renders the vehicle unlikely to be involved in the commission of a further and imminent breach of a similar kind.

#### **63. Minor risk breaches**

- (1) A police officer may give a direction under subsection (2) or (3) if the officer reasonably believes that a vehicle is involved in the commission of a minor risk breach, but not a substantial risk breach or a severe risk breach, of a mass, dimension or loading requirement and that —
  - (a) in the circumstances —
    - (i) it is reasonable to take rectification action in relation to the vehicle; and

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- (ii) the rectification action can be carried out easily;
  - or
  - (b) rectification action is necessary in the public interest to minimise the potential risk of harm to public safety, the environment, road infrastructure or public amenity arising from the breach; or
  - (c) other circumstances justify the giving of the direction.
- (2) A police officer to whom subsection (1) applies may, having specified the alleged minor risk breach, direct the driver or a co-driver of, or a responsible person for, the vehicle to there and then take rectification action in relation to the vehicle.
- (3) A police officer to whom subsection (1) applies and who also reasonably believes that the vehicle should be moved to another location may, having specified the alleged minor risk breach, direct the driver or a co-driver of, or a responsible person for, the vehicle —
  - (a) to move the vehicle or cause it to be moved to a location specified by the officer that the officer reasonably believes is suitable for the purpose of complying with the direction, having regard to any matters the officer considers relevant in the circumstances and —
    - (i) that is within a distance of 30 km from the location of the vehicle when the direction is given; or
    - (ii) if the direction is given in the course of a journey of the vehicle, that is along the forward route of the journey;
  - and
  - (b) to ensure that the vehicle remains at the specified location until rectification action is taken in relation to it.

**64. Substantial risk breaches**

- (1) A police officer must give a direction under subsection (2) if the officer reasonably believes that a vehicle is involved in the commission of a substantial risk breach, but not a severe risk breach, of a mass, dimension or loading requirement and that —
  - (a) moving the vehicle to another location is necessary in the public interest to minimise the potential risk of harm to public safety, the environment, road infrastructure or public amenity arising from the breach; or
  - (b) specific instructions or standing instructions have been given by the CEO that require the moving of the vehicle in the relevant circumstances; or
  - (c) other circumstances justify the moving of the vehicle to another location.
- (2) A police officer to whom subsection (1) applies must, having specified the alleged substantial risk breach, direct the driver or a co-driver of, or a responsible person for, the vehicle —
  - (a) to move the vehicle or cause it to be moved to a location specified by the officer that the officer reasonably believes is suitable for the purpose of complying with the direction, having regard to any matters the officer considers relevant in the circumstances; and
  - (b) to ensure that the vehicle remains at the specified location until rectification action is taken in relation to it.
- (3) A location specified under subsection (2) may, but need not, be —
  - (a) the intended destination of the journey concerned; or
  - (b) the base of the driver of the vehicle concerned.
- (4) A police officer must give a direction under subsection (5) if the officer reasonably believes that a vehicle is involved in the commission of a substantial risk breach, but not a severe risk

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breach, of a mass, dimension or loading requirement and does not have a reasonable belief in relation to a matter mentioned in subsection (1)(a), (b) or (c).

- (5) A police officer to whom subsection (4) applies must, having specified the alleged substantial risk breach, direct the driver or a co-driver of, or a responsible person for, the vehicle to ensure that the vehicle remains at the location where the direction is given until rectification action is taken in relation to it.

**65. Severe risk breaches**

- (1) A police officer must give a direction under subsection (3) if the officer reasonably believes that a vehicle is involved in the commission of a severe risk breach of a mass, dimension or loading requirement and that —
- (a) moving the vehicle to another location is justified in the circumstances because —
    - (i) there is a risk to the welfare of people or live animals in or on the vehicle; or
    - (ii) there is an appreciable risk of harm to public safety, the environment, road infrastructure or public amenity;
  - or
  - (b) specific instructions or standing instructions have been given by the CEO that require the moving of the vehicle in the relevant circumstances.
- (2) In deciding whether there is an appreciable risk of harm to public safety, the environment, road infrastructure or public amenity the police officer may take into account the safety of the vehicle or any load in or on it but is to give greater weight to the welfare of people or live animals in or on the vehicle and the safety of other property or of people, the environment, road infrastructure or public amenity.

- (3) A police officer to whom subsection (1) applies must, having specified the alleged severe risk breach, direct the driver or a co-driver of, or a responsible person for, the vehicle —
- (a) to move the vehicle or cause it to be moved to a location specified by the officer at which the officer reasonably believes the vehicle would pose a reduced risk or no appreciable risk of harm to public safety, the environment, road infrastructure or public amenity; and
  - (b) to ensure that the vehicle remains at the specified location until rectification action is taken in relation to it.
- (4) A police officer must give a direction under subsection (5) if the officer reasonably believes that a vehicle is involved in the commission of a severe risk breach of a mass, dimension or loading requirement and does not have a reasonable belief in relation to a matter mentioned in subsection (1)(a) or (b).
- (5) A police officer to whom subsection (4) applies must, having specified the alleged severe risk breach, direct the driver or a co-driver of, or a responsible person for, the vehicle to ensure that the vehicle remains at the location where the direction is given until rectification action is taken in relation to it.

**66. Directions to be complied with**

A person to whom a direction is given under section 63(2) or (3), 64(2) or (5) or 65(3) or (5) must not, without reasonable excuse, fail to comply with the direction.

Penalty: a fine of 100 PU.

**67. Authorisation to continue journey if only minor risk breaches**

- (1) This section applies if, in the course of a journey, a vehicle is involved in the commission of a breach of a mass, dimension or loading requirement and the continuation of the journey would involve the continuation of or a further breach of a mass, dimension or loading requirement.

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- (2) A police officer may authorise the continuation of the journey if —
- (a) the officer reasonably believes that the continuation would not involve the commission of a substantial risk breach or a severe risk breach of a mass, dimension or loading requirement; and
  - (b) any direction given to take rectification action in relation to the vehicle has been complied with.

**68. Operation of directions in relation to detachable vehicles**

A direction given under section 63(2) or (3), 64(2) or (5) or 65(3) or (5) in relation to a vehicle to which is attached another vehicle does not apply to the attached vehicle unless —

- (a) the direction —
    - (i) requires rectification action to be taken in relation to the attached vehicle; or
    - (ii) prevents the attached vehicle from being separately driven or moved;
- or
- (b) moving the attached vehicle when detached would in itself involve the contravention of a road law.

**69. Directions and authorisations to be in writing**

- (1) A direction under section 63(2) or (3), 64(2) or (5) or 65(3) or (5) and an authorisation under section 67(2) is to be in writing.
- (2) Subsection (1) does not apply —
  - (a) in the case of a direction to move a vehicle, if the moving is carried out in the presence of, or under the supervision of, a police officer; or
  - (b) in prescribed circumstances.

### **Division 3 — Defect notices**

#### **70. Terms used**

In this Division —

**defect**, in relation to a vehicle, means a respect in which the vehicle does not comply with a requirement under a regulation made under section 132(2)(b)(i), (ii), (iii), (iv) or (vii) that applies to the vehicle;

**defect notice** means a notice mentioned in section 71(1);

**inspection station** means premises at which vehicles are examined and tested for the purposes of this Act and that are operated by —

- (a) the CEO; or
- (b) a person authorised by the CEO to establish such premises;

**vehicle examiner** means —

- (a) a public service officer who holds an office, post or position in the department principally assisting the Minister in the administration of this Act and whose principal function is to examine and test vehicles for the purposes of this Act; or
- (b) a person authorised by the CEO as a person to examine and test vehicles for the purposes of this Act.

#### **71. Notices in relation to vehicle defects**

(1) A police officer who reasonably believes that a vehicle has a defect may issue a notice (a **defect notice**) for the vehicle containing a direction that —

- (a) the vehicle is not to be driven at all; or
- (b) the vehicle is not to be driven except at a time or during a period specified in the direction; or
- (c) the vehicle is not to be driven except by a route, specified in the direction, to the nearest police station,

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inspection station, place where repairs can be carried out or other suitable place; or

- (d) the vehicle is not to be driven except in accordance with any reasonable condition specified in the direction.

- (2) If a police officer issues a defect notice for a vehicle, the police officer may, where appropriate, give reasonable directions to the driver or a co-driver of the vehicle about moving the vehicle to a safer or more convenient place until the vehicle can be removed from the road or otherwise dealt with in accordance with the notice.

**72. Form and content of defect notices**

A defect notice is to —

- (a) be in writing in a form approved by the CEO; and
- (b) specify the alleged defect; and
- (c) set out each direction given under section 71(1) and, if relevant, section 71(2); and
- (d) state when the notice comes into force, being either —
  - (i) when the notice is issued; or
  - (ii) a later time.

**73. Service of defect notices**

- (1) A person who issues a defect notice for a vehicle must serve the notice —
  - (a) by serving a copy of the defect notice personally on the driver of the vehicle and affixing, in a conspicuous place on the vehicle, a sticker in a form approved by the CEO indicating that a defect notice is in force for the vehicle; or
  - (b) by affixing a copy of the defect notice to the vehicle in a conspicuous place.



- (2) While a defect notice is in force, a person must not —
- (a) damage or destroy the notice or a copy of it; or
  - (b) remove from the vehicle a sticker affixed to the vehicle under subsection (1)(a); or
  - (c) if a copy of the notice is affixed to the vehicle under subsection (1)(b), remove the copy from the vehicle except for the purpose of ensuring that the notice is complied with.

Penalty: a fine of 40 PU.

- (3) Subsection (2)(b) does not apply to a person who is repairing a vehicle if —
- (a) it is reasonably necessary to remove the sticker in order to rectify a defect specified in the notice; and
  - (b) the person re-affixes the undamaged sticker to the vehicle when the defect has been rectified; and
  - (c) the vehicle is not driven on a road until the undamaged sticker has been re-affixed.

#### **74. Duration of defect notice**

- (1) A defect notice has effect from the time stated in the notice.
- (2) A defect notice ceases to have effect when —
- (a) a vehicle examiner, or an authorised police officer, finds that each defect specified in the notice has been rectified; or
  - (b) a vehicle examiner issues a further defect notice in respect of a defect of the vehicle.
- (3) In subsection (2) —
- authorised police officer***, in relation to a defect of a vehicle, means a police officer, or a police officer of a class, authorised by the CEO to examine defects of that type.

**75. Defect notices and directions to be complied with**

- (1) If there is affixed to a vehicle —
  - (a) under section 73(1)(a), a sticker; or
  - (b) under section 73(1)(b), a copy of a defect notice,a person must not, without reasonable excuse, drive the vehicle, or cause or permit the vehicle to be driven, on a road unless the vehicle is driven in accordance with the applicable defect notice.
- (2) A person does not commit an offence under subsection (1) if the vehicle is driven solely for the purpose of taking the vehicle directly from the place where a defect specified in the notice was rectified to the nearest available vehicle examiner or inspection station.
- (3) A person to whom a direction is given under section 71(2) must not, without reasonable excuse, fail to comply with the direction.

Penalty applicable to subsections (1) and (3): a fine of 50 PU.

**76. Powers of vehicle examiners**

A vehicle examiner has, in relation to a vehicle submitted for examination by the owner of the vehicle, the CEO or a police officer —

- (a) all the powers that a police officer has under this Division; and
- (b) all the powers that a police officer has under the *Road Traffic (Administration) Act 2008* in relation to the exercise of those powers.

### Division 4 — Improvement notices

#### 77. Terms used

In this Division —

**approved officer** means —

- (a) a warden nominated by the CEO as an approved officer for the purposes of this Division; or
- (b) a warden of a class of wardens nominated by the CEO as approved officers for the purposes of this Division; or
- (c) a police officer nominated as an approved officer for the purposes of this Division by —
  - (i) the Commissioner of Police; or
  - (ii) a police officer authorised by the Commissioner to make nominations for the purposes of this definition;

or

- (d) a police officer of a class of police officers nominated as approved officers for the purposes of this Division by —
  - (i) the Commissioner of Police; or
  - (ii) a police officer authorised by the Commissioner to make nominations for the purposes of this definition;

**improvement notice** means a notice mentioned in section 78(1) or (2);

**warden** means a person authorised under the *Road Traffic (Administration) Act 2008* section 22 to perform a function that can be performed by a warden.

#### 78. Improvement notices

- (1) An approved officer who reasonably believes that a person is involved in the commission of a breach of a mass, dimension or loading requirement in the course of a commercial operation

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- may give the person a notice requiring the person to take action that —
- (a) stops the person being involved in the commission of the breach; or
  - (b) renders the person unlikely to be involved in the commission of a further breach of a similar kind.
- (2) An approved officer who reasonably believes that a person is likely to become involved in the commission of a breach of a mass, dimension or loading requirement in the course of a commercial operation may give the person a notice requiring the person to take action that renders the person unlikely to become involved in the commission of the breach.
- (3) Before an approved officer gives a person an improvement notice the person is to be given the opportunity to discuss with a consulting officer, by telephone or any other means of instant communication —
- (a) whether or not the notice should be given in the circumstances; or
  - (b) the appropriateness or otherwise of the proposed requirements of the notice.
- (4) In subsection (3) —
- consulting officer*** —
- (a) in the case where an approved officer under paragraph (a) or (b) of the definition of ***approved officer*** in section 77 proposes to give the notice, means a person authorised by the CEO to be a consulting officer; or
  - (b) in the case where an approved officer under paragraph (c) or (d) of the definition of ***approved officer*** in section 77 proposes to give the notice, means a person authorised by the Commissioner of Police to be a consulting officer.
- (5) Failure to comply with subsection (3) does not affect the validity of the improvement notice.

**79. Form and content of improvement notices**

An improvement notice must —

- (a) be in writing; and
  - (b) state that it is given under section 78(1) or (2), as is applicable in the case; and
  - (c) state that the approved officer is of the belief mentioned in section 78(1) or (2), as is applicable in the case; and
  - (d) state the grounds for the belief; and
  - (e) specify the mass, dimension or loading requirement in respect of which the belief is held; and
  - (f) specify the action to be taken that the approved officer believes would —
    - (i) stop the person given the notice being involved in the commission of the breach; or
    - (ii) render the person unlikely to be involved in the commission of a further breach of a similar kind;
- and
- (g) state the time before which the person is required to comply with the notice which —
    - (i) may be less than 7 days after service of the notice if the approved officer is satisfied that it is reasonably practicable for the person to comply with the notice by the end of that time; or
    - (ii) must be at least 7 days after service of the notice if subparagraph (i) does not apply;
- and
- (h) include information about obtaining a review of the notice.

**80. Improvement notice to be complied with**

- (1) A person who is given an improvement notice must not, without reasonable excuse, fail to comply with the notice.

Penalty: a fine of 200 PU.

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- (2) In a prosecution for an offence under subsection (1) it is a defence for the person charged to prove that, by the time stated in the improvement notice for compliance with the notice, action had been taken that —
- (a) stopped the person being involved in the commission of the breach; or
  - (b) rendered the person unlikely to be involved in the commission of a further breach of a similar kind; or
  - (c) rendered the person unlikely to become involved in the commission of the breach,

as is applicable in the case, even though the action was different from that specified in the notice.

**81. Amendment of improvement notices**

- (1) An improvement notice given by an approved officer who is a warden may be amended by another approved officer who is a warden.
- (2) An improvement notice given by an approved officer who is a police officer may be amended by another approved officer who is a police officer.
- (3) An improvement notice cannot be amended in relation to a mass, dimension or loading requirement that is not the subject of the improvement notice.
- (4) An amendment of an improvement notice is made by giving notice of the amendment to the person who was given the improvement notice.
- (5) Notice of an amendment of an improvement notice must —
  - (a) be in writing; and
  - (b) state that it is given under this section; and
  - (c) state the terms of the amendment; and
  - (d) state the reasons for the amendment; and

- (e) include information about obtaining a review of the notice.

**82. Cancellation of improvement notices**

- (1) An improvement notice given by an approved officer who is a warden may be cancelled by the CEO.
- (2) An improvement notice given by an approved officer who is a police officer may be cancelled by —
  - (a) the Commissioner of Police; or
  - (b) an approved officer who is a police officer and who is senior in rank to the officer who gave the notice.
- (3) Notice of cancellation of an improvement notice must be in writing and given to the person who was given the improvement notice.
- (4) The regulations may make provision for or with respect to determining the seniority in rank of officers for the purposes of this section.

**83. Clearance certificates**

- (1) An approved officer may issue a clearance certificate to the effect that all or any specified requirements of an improvement notice have been complied with.
- (2) An approved officer may issue a clearance certificate in respect of an improvement notice given by another approved officer whether the other approved officer is a police officer or a warden.
- (3) A clearance certificate to the effect that all requirements of an improvement notice have been complied with is conclusive evidence of compliance with all the requirements.
- (4) A clearance certificate to the effect that a specific requirement of an improvement notice has been complied with is conclusive evidence of compliance with that requirement.

## **Part 7 — Container weight declarations**

### **Division 1 — Obligations in relation to container weight declarations**

#### **84. Terms used**

In this Division —

***complying container weight declaration*** means a container weight declaration for a consigned freight container —

(a) that sets out —

(i) the number and such other particulars of the consigned freight container as are necessary to identify the container; and

(ii) the name and home address, and in the case of an individual the business address, in Australia of the responsible entity for the consigned freight container; and

(iii) the date of the declaration; and

(iv) any other information required by the regulations;

and

(b) the contents of which declaration are readily available to a police officer who seeks to ascertain its contents, there and then in the presence of the consigned freight container, whether by examining documents located in or on the vehicle or by obtaining the information by other means; and

(c) in a form that complies with prescribed requirements;

***consigned freight container*** means a freight container that is consigned for road transport, or for transport partly by road and partly by some other means;

***container weight declaration***, in relation to a consigned freight container, means a declaration that states or purports to state the



weight of the container and its contents and includes a copy or a version of such a declaration in any form.

**85. Form of container weight declaration**

A container weight declaration may be —

- (a) in one or more documents or other formats, including in electronic form; or
- (b) wholly or partly in a placard attached or affixed to the consigned freight container; or
- (c) in a form that complies with prescribed requirements.

**86. Duty of responsible entity**

- (1) A responsible entity who offers a consigned freight container to a responsible person for a vehicle for transport in this State by the vehicle must ensure that, before the start of the transport of the container in this State —
  - (a) the responsible person is provided with a complying container weight declaration relating to the container; or
  - (b) the driver or a co-driver of the vehicle is provided with a complying container weight declaration relating to the container.

Penalty: a fine of 50 PU.

- (2) In a prosecution for an offence under subsection (1) the person charged has the benefit of the reasonable steps defence.

**87. Duty of responsible person**

- (1) A responsible person for a vehicle who arranges for a consigned freight container to be transported in this State by the vehicle must ensure that, before the start of the journey in the course of the transport of the container in this State, the driver or a co-driver of the vehicle is provided with a complying container weight declaration relating to the container.

- (2) A responsible person for a vehicle who arranges for a consigned freight container to be transported in this State by the vehicle and another road or rail carrier must ensure that, by the time the other carrier receives the container, the other carrier is provided with a complying container weight declaration relating to the container.

Penalty applicable to subsections (1) and (2): a fine of 50 PU.

- (3) A responsible person for a vehicle is to be taken to have committed an offence under subsection (1) if neither the driver nor any co-driver has a complying container weight declaration relating to the consigned freight container unless the responsible person proves that the driver or a co-driver was provided with the declaration.
- (4) In a prosecution for an offence under subsection (1) or (2) the person charged has the benefit of the reasonable steps defence.

**88. Duty of driver**

- (1) A person must not drive, or be a co-driver of, a vehicle loaded with a consigned freight container on a road in this State without ensuring that the driver or a co-driver of the vehicle has been provided with a complying container weight declaration relating to the container.
- (2) A person who is the driver or a co-driver of a vehicle loaded with a consigned freight container who has been provided with a complying container weight declaration relating to the container must, during the course of a journey in this State, keep the declaration in or about the vehicle or in a form that enables the declaration to be readily accessed from the vehicle.
- Penalty applicable to subsections (1) and (2): a fine of 50 PU.
- (3) In a prosecution for an offence under subsection (1) or (2) the person charged has the benefit of the reasonable steps defence.

**Division 2 — Recovery of losses resulting from not providing accurate container weight declarations**

**89. Recovery of losses if container weight declaration not provided**

- (1) A person who suffers loss as a result of a container weight declaration not being provided as required under section 86(1)(a) or 87(1) or (2) —
  - (a) has, by virtue of this section, a right to recover, from the responsible entity for the relevant consigned freight container, the monetary value of any loss incurred by the person as a result of a container weight declaration relating to the container not being provided; and
  - (b) may enforce that right by bringing proceedings in a court of competent jurisdiction for an order for payment of the monetary value of the loss.
  
- (2) Losses that may be recovered include any or all of the following —
  - (a) any loss incurred from delays in the delivery of the consigned freight container or any goods contained in it or of other goods;
  - (b) any loss incurred as a result of the goods being spoiled or damaged;
  - (c) any loss incurred from the need to provide another vehicle, and any loss incurred from any delay in the provision of another vehicle;
  - (d) any costs or expenses incurred in weighing the consigned freight container or any of its contents or both.

**90. Recovery of losses for provision of inaccurate container weight declaration**

- (1) This section applies if —
- (a) a container weight declaration relating to a consigned freight container is provided as required under section 86(1)(a) or 87(1) or (2); and
  - (b) the declaration contains information —
    - (i) that is false or misleading in a material particular by understating the weight of the container; or
    - (ii) that is otherwise false or misleading in a material particular by indicating that the weight of the container is lower than its actual weight;and
  - (c) a breach of a mass requirement occurs as a result of the reliance, by a responsible person for a vehicle or the driver or co-driver of a vehicle, on the information in the declaration when transporting the container by vehicle by road (whether or not enforcement action has been or may be taken in relation to the breach); and
  - (d) at the time of the breach a responsible person for the vehicle or the driver or co-driver of the vehicle, as is relevant to the case —
    - (i) reasonably believed that the vehicle was not in breach of a mass requirement; and
    - (ii) did not know, and could not reasonably be expected to know, that the weight stated or indicated in the declaration was lower than the actual weight of the container;and
  - (e) a person suffers loss as a result of the reliance mentioned in paragraph (c).

- (2) A person mentioned in subsection (1)(e) —
- (a) has, by virtue of this section, a right to recover, from the responsible entity for the consigned freight container, the monetary value of any loss incurred by the person as a result of the reliance mentioned in subsection (1)(c); and
  - (b) may enforce that right by bringing proceedings in a court of competent jurisdiction for an order for payment of the monetary value of the loss.
- (3) Losses that may be recovered by a person mentioned in subsection (1)(e) include any or all of the following —
- (a) any fine, penalty under an infringement notice or other penalty imposed on the person for an MDLR offence;
  - (b) any fine, penalty under an infringement notice or other penalty imposed on an agent or employee of the person for an MDLR offence and reimbursed by the person;
  - (c) any loss incurred from delays in the delivery of the consigned freight container or any goods contained in it or of other goods;
  - (d) any loss incurred as a result of the goods being spoiled or damaged;
  - (e) any loss incurred from the need to provide another vehicle, and any loss incurred from any delay in the provision of another vehicle;
  - (f) any costs or expenses incurred in weighing the consigned freight container or any of its contents or both.

**91. Recovery of amount by responsible entity**

- (1) This section applies if an order under section 90 has been made or is being sought against a responsible entity for payment of the monetary value of any loss incurred by a person.

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- (2) The responsible entity has, by virtue of this section, a right to recover, from a person (the *information provider*) who provided the responsible entity with all or any of the information that was false or misleading, so much (the *attributable amount*) of the monetary value paid or payable by the responsible entity under the order as is attributable to that information.
- (3) The responsible entity may enforce that right by —
  - (a) joining or seeking the joinder of the information provider in the proceedings for the order under section 90 and applying to the court for an order for payment of the attributable amount to be made when the order is made under that section; or
  - (b) bringing separate proceedings in a court of competent jurisdiction for an order for payment of the attributable amount.

**92. Assessment of monetary value or attributable amount**

- (1) In making an order under this Division, a court may assess in the manner that it considers appropriate —
  - (a) the monetary value of any loss, as mentioned in section 89 or 90; or
  - (b) the attributable amount, as mentioned in section 91.
- (2) In making such an assessment, the court may take into account any matter that it considers relevant, including evidence adduced in connection with a prosecution brought for a breach mentioned in section 90(1)(c).

**93. Costs**

- (1) A court may award costs in relation to the proceedings for an order under this Division.

- (2) A court may, in proceedings for an order under this Division, order payment of any costs or expenses incurred in weighing a consigned freight container or any of its contents or both, if —
  - (a) the weight stated or indicated in the container weight declaration concerned was lower than the actual weight of the container; or
  - (b) a container weight declaration was not provided.
- (3) An order under subsection (2) may be made in favour of a party to the proceedings, the CEO or a public authority of this or any other jurisdiction.

## **Part 8 — Other MDLR offences**

### **Division 1 — False or misleading transport documentation offences**

#### **94. Terms used**

In this Division —

*in the State*, in relation to road transport, includes road transport in the State as part of a journey that is also partly outside the State;

*road transport* includes transport partly by road and partly by some other means.

#### **95. Consignors: transport documentation**

A person who is a consignor of goods commits an offence if the transport documentation relating to the consignment of the goods for road transport in the State is false or misleading in a material particular relating to a mass, dimension or loading requirement that is applicable to any or all of the goods.

Penalty: a fine of 200 PU.

#### **96. Packers: transport documentation**

A person who is a packer of goods commits an offence if —

- (a) the goods are packed in Australia in a freight container or other container or in a package or on a pallet for road transport; and
- (b) the transport documentation relating to the consignment of the goods for road transport in the State is false or misleading in a material particular relating to a mass, dimension or loading requirement that is applicable to any or all of the goods.

Penalty: a fine of 200 PU.



**97. Loaders: transport documentation**

A person who is a loader in relation to a vehicle commits an offence if —

- (a) goods are loaded on the vehicle for road transport; and
- (b) the transport documentation relating to the consignment of the goods for road transport in the State is false or misleading in a material particular relating to a mass, dimension or loading requirement that is applicable to any or all of the goods.

Penalty: a fine of 200 PU.

**98. Receivers: transport documentation**

- (1) In this section —

*receiver* of goods in Australia means the person who is the first person to either —

- (a) receive the goods in Australia otherwise than as a person who merely unloads them; or
- (b) unpack the goods after they are first unloaded in Australia,

but does not include a person of a class declared by the regulations to be excluded from this definition.

- (2) A person who is a receiver of the goods in Australia commits an offence if —

- (a) the goods are packed outside Australia in a freight container or other container or in a package or on a pallet for road transport; and
- (b) the transport documentation relating to the consignment of the goods for road transport in the State is false or misleading in a material particular relating to a mass, dimension or loading requirement that is applicable to any or all of the goods.

Penalty: a fine of 200 PU.

**99. Responsible entity: container weight declaration**

A responsible entity mentioned in section 86(1) commits an offence if the container weight declaration provided in accordance with that provision contains information that is false or misleading in a material particular.

Penalty: a fine of 200 PU.

**100. Responsible person for vehicle: container weight declaration**

A responsible person for a vehicle who is mentioned in section 87(1) or (2) commits an offence if the container weight declaration provided in accordance with the respective provision contains information that is false or misleading in a material particular.

Penalty: a fine of 200 PU.

**101. Container weight declaration: certain information not necessarily false or misleading**

For the purposes of this Part, information in a container weight declaration is not false or misleading in a material particular just because it overstates the weight of the freight container and its contents.

**102. Reasonable steps defence**

In a prosecution for an offence under section 95, 96, 97, 98(2), 99 or 100 the person charged has the benefit of the reasonable steps defence.

**Division 2 — Miscellaneous MDLR offences**

**103. Weight of freight container: consignors' duties**

- (1) A person who is a consignor of any of the goods in a freight container that are consigned for road transport commits an offence if the weight of the freight container exceeds the maximum gross weight as marked on the container or on the container's safety approval plate.

Penalty: a fine of 100 PU.

- (2) In a prosecution for an offence under subsection (1) the person charged has the benefit of the reasonable steps defence.

**104. Weight of freight container: packers' duties**

- (1) A person who is a packer of any goods in a freight container that are consigned for road transport commits an offence if the weight of the freight container exceeds the maximum gross weight as marked on the container or on the container's safety approval plate.

Penalty: a fine of 100 PU.

- (2) In a prosecution for an offence under subsection (1) the person charged has the benefit of the reasonable steps defence.

**105. Dismissal or other victimisation of employee or contractor assisting with or reporting breaches**

- (1) In this section —

*contractor* means an individual who works under a contract for services;

*public agency* means the CEO, a corresponding authority, an Australian police officer, a warden or any other public authority of any jurisdiction.

- (2) An employer must not dismiss an employee or contractor, injure an employee or contractor in his or her employment or alter an employee's or contractor's position to his or her detriment because the employee or contractor —

- (a) has assisted or has given any information to a public agency in respect of an MDLR offence or an alleged MDLR offence; or
- (b) has made a complaint about an MDLR offence or an alleged MDLR offence to the employer, a fellow employee or fellow contractor, a trade union or a public agency.

Penalty: a fine of 200 PU.

- (3) An employer or prospective employer must not refuse or deliberately omit to offer employment to a prospective employee or prospective contractor or treat a prospective employee or prospective contractor less favourably than another prospective employee or prospective contractor would be treated in relation to the terms on which employment is offered because the first-mentioned prospective employee or contractor —
- (a) has assisted or has given any information to a public agency in respect of an MDLR offence or an alleged MDLR offence; or
  - (b) has made a complaint about an MDLR offence or an alleged MDLR offence to a former employer, a former fellow employee or former fellow contractor, a trade union or a public agency.

Penalty: a fine of 200 PU.

- (4) In a prosecution for an offence under subsection (2) or (3), if all the facts constituting the offence other than the reason for the accused's action are proved, the accused has the onus of proving that the accused's action was not actuated by the reason alleged in the charge.
- (5) If a person is found guilty of an offence under subsection (2) or (3), the court may, in addition to imposing a penalty on the offender, make either or both of the following orders —
- (a) an order that the offender pay, within a period specified by the court, the employee or contractor or the prospective employee or prospective contractor such damages as the court thinks fit by way of compensation;
  - (b) an order that —
    - (i) the employee or contractor be reinstated or re-employed in the employee's or contractor's former position or, if that position is not available, in a similar position; or

- (ii) the prospective employee or prospective contractor be employed in the position for which the prospective employee or prospective contractor had applied or, if that position is not available, in a similar position.
- (6) The maximum amount of damages awarded under subsection (5) is not to exceed the monetary jurisdictional limit of the court in civil proceedings.
- (7) An order for payment of damages under subsection (5) is enforceable as if it were a judgment of the court in its civil jurisdiction.
- (8) A person must comply with an order under subsection (5).  
Penalty: a fine of 200 PU.

**106. Coercing, inducing or offering incentive**

- (1) In this section —  
*urge another person to commit an MDLR offence* includes to threaten, intimidate, coerce, induce or offer an incentive to another person to commit the offence.
- (2) A person must not urge another person to commit an MDLR offence.  
Penalty: a fine of 200 PU.
- (3) This section does not affect the liability of the person who actually committed the offence.

**107. Certain false or misleading information not to be provided to involved persons**

- (1) An involved person must not provide to another involved person information in oral or written form that is false or misleading in a material particular if —
  - (a) the person providing the information either knows that, or is reckless as to whether, the information is false or misleading in a material particular; and

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- (b) the material particular relates to an MDLR offence that is or could be committed by any other involved person if that person were to rely on the material particular; and
- (c) the person receiving the information does not know and could not reasonably be expected to know or ascertain that the information is false or misleading in that particular.

Penalty: a fine of 200 PU.

- (2) In a prosecution for an offence under subsection (1) in which it is alleged that the information was given in written form, it is a defence for the person charged to prove that at the time the person gave the information to the other involved person, the person charged informed the other involved person that the information was false or misleading in a material particular and specified in what respect it was false or misleading.
- (3) For the purposes of this section, information in a container weight declaration is not false or misleading in a material particular just because it overstates the weight of the freight container and its contents.

## Part 9 — Liability for MDLR offences committed by other persons

### 108. Liability of officers ~~of bodies~~ for offence by body corporate

(1) ~~In this~~ The Criminal Code section —

~~officer, in relation to~~ 41 (which provides for the criminal liability of officers of a body corporate, ~~has the meaning given~~) applies to an offence under a provision of a road law listed in the Corporations Act 2001 (Commonwealth) but does not include an employee 2<sup>nd</sup> column of the ~~body unless the employee is concerned in the management of the body~~ Table.

~~(2) ——— If a body corporate is charged with an MDLR offence, every person who was an officer~~ Table

| <u>Road law</u>                               | <u>Provision to which<br/>The Criminal Code s. 41 applies</u>  |
|---|--|
| <u>Road Traffic (Administration) Act 2008</u> | <u>s. 44 in relation to a direction given under s. 39(2), 40(2) or 41(2)</u><br><u>s. 56(4)</u><br><u>s. 57(3) and (4)</u><br><u>s. 58(5)</u><br><u>s. 71(5) and (7)</u> |
| <u>Road Traffic (Vehicles) Act 2012</u>       | <u>s. 29(1)</u><br><u>s. 31(1)</u><br><u>s. 36(1)</u><br><u>s. 39(1) and (3)</u><br><u>s. 66 in relation to a direction given under s. 64(2) or (5) or 65(3) or (5)</u>  |

| <u>Road law</u> | <u>Provision to which<br/>The Criminal Code s. 41 applies</u>   |
|-----------------|---|
|                 | <p><a href="#">s. 80(1)</a></p> <p><a href="#">s. 86(1)</a></p> <p><a href="#">s. 87(1) and (2)</a></p> <p><a href="#">s. 95</a></p> <p><a href="#">s. 96</a></p> <p><a href="#">s. 97</a></p> <p><a href="#">s. 98(2)</a></p> <p><a href="#">s. 99</a></p> <p><a href="#">s. 100</a></p> <p><a href="#">s. 105(2), (3) and (8)</a></p> <p><a href="#">s. 106(2)</a></p> <p><a href="#">s. 107(1)</a></p> <p><a href="#">s. 127</a></p> <p><a href="#">s. 129</a></p> |

~~(2) The matters set out in section 113(2) of the body at the time the offence is alleged to have been committed this Act may also be charged with the offence.~~

~~(3) If a body corporate and an officer are charged relevant matters for the purposes of The Criminal Code section 41(4)(c) as permitted by it applies under subsection (2) and the body corporate is convicted of the offence, the officer is to be taken to have also committed the offence, subject to subsection (61).~~

~~(4) If a body corporate commits an MDLR offence, then, although the body is not charged with the offence, every person who was an officer of the body at the time the offence is alleged to have been committed may be charged with the offence.~~



- ~~(5) If an officer is charged as permitted by subsection (4) and it is proved that the body corporate committed the offence, the officer is to be taken to have also committed the offence, subject to subsection (6).~~
- ~~(6) An officer who is charged under this section with an offence has the benefit of the reasonable steps defence in a prosecution for the offence.~~

*[Section 108 inserted: No. 9 of 2023 s. 136.]*

### 109. Liability of partners and persons managing partnerships

- (1) In this section —

**MDLR offence** means an MDLR offence committed or alleged to have been committed in the course of the activities of the relevant partnership;

**partner**, in relation to a partnership, includes each person who is concerned in the management of the partnership.

- (2) If a person who is a partner in a partnership is charged with an MDLR offence, every person who was a partner of the person at the time the offence is alleged to have been committed may also be charged with the offence.
- (3) If a person and a partner are charged as permitted by subsection (2) and the person is convicted of the offence, the partner is to be taken to have also committed the offence, subject to subsection (6).
- (4) If a person who is a partner in a partnership commits an MDLR offence then, although the person is not charged with the offence, every person who was a partner of the person at the time the offence is alleged to have been committed may be charged with the offence.
- (5) If a partner is charged as permitted by subsection (4) and it is proved that the first-mentioned person committed the offence, the partner is to be taken to have also committed the offence, subject to subsection (6).

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- (6) A partner who is charged under this section with an offence has the benefit of the reasonable steps defence in a prosecution for the offence.

**110. Liability of persons managing unincorporated associations**

- (1) In this section —

*MDLR offence* means an MDLR offence committed or alleged to have been committed in the course of the activities of the relevant unincorporated association.

- (2) If a person who is concerned in the management of an unincorporated association (*person 1*) is charged with an MDLR offence, every other person who was concerned in the management of the unincorporated association at the time the offence is alleged to have been committed may also be charged with the offence.
- (3) If person 1 and another person are charged as permitted by subsection (2) and person 1 is convicted of the offence, the other person is to be taken to have also committed the offence, subject to subsection (6).
- (4) If a person who is concerned in the management of an unincorporated association (*person 1*) commits an MDLR offence then, although person 1 is not charged with the offence, every other person who was concerned in the management of the unincorporated association at the time the offence is alleged to have been committed may be charged with the offence.
- (5) If a person is charged as permitted by subsection (4) and it is proved that person 1 committed the offence, the person charged is to be taken to have also committed the offence, subject to subsection (6).
- (6) A person who is charged under this section with an offence has the benefit of the reasonable steps defence in a prosecution for the offence.

**111. Liability of employers**

- (1) If a person is charged with an MDLR offence, the person's employer at the time the offence is alleged to have been committed may also be charged with the offence.
- (2) If a person and the person's employer are charged as permitted by subsection (1) and the first-mentioned person is convicted of the offence, the employer is to be taken to have also committed the offence, subject to subsection (5).
- (3) If a person commits an MDLR offence then, although the person is not charged with the offence, the person's employer at the time the offence is alleged to have been committed may be charged with the offence.
- (4) If an employer is charged as permitted by subsection (3) and it is proved that the person first-mentioned in that subsection committed the offence, the employer is to be taken to have also committed the offence, subject to subsection (5).
- (5) An employer who is charged under this section with an offence has the benefit of the reasonable steps defence in a prosecution for the offence.

**112. Liability of offender not affected**

Nothing in this Part affects the liability of the person who actually committed an MDLR offence with which another person may be charged under this Part.

## **Part 10 — Defences**

### **Division 1 — Reasonable steps defences**

#### **113. Reasonable steps defence**

- (1) If this Act gives a person charged with an offence the benefit of the reasonable steps defence, the person has a defence if it is proved that —
  - (a) the person did not know, and could not reasonably be expected to have known, that the offence was committed; and
  - (b) either —
    - (i) the person had taken all reasonable steps to prevent the commission of the offence; or
    - (ii) there were no steps that the person could reasonably be expected to have taken to prevent the commission of the offence.
- (2) Without limiting the above, in determining whether things done or omitted to be done by a person mentioned in subsection (1) constitute reasonable steps, a court may have regard to any of the following —
  - (a) the circumstances of the alleged offence, including, if relevant, whether the breach is a minor, substantial or severe risk breach;
  - (b) the measures available and measures taken for any or all of the following —
    - (i) to accurately and safely weigh or measure the vehicle or its load or to safely secure the load in or on the vehicle;
    - (ii) to provide and obtain sufficient and reliable evidence from which the weight or measurement of the vehicle or its load might be calculated;

- (iii) to manage, reduce or eliminate a potential breach arising from the location of the vehicle, or from the placement of the load in or on the vehicle, or from the location of goods in the load;
  - (iv) to manage, reduce or eliminate a potential breach arising from weather and climatic conditions, or from potential weather and climatic conditions, affecting or potentially affecting the weight or measurement of the load;
  - (v) to exercise supervision or control over others involved in activities leading to the breach;
- (c) the measures available and measures taken for any or all of the following —
- (i) to include compliance assurance conditions in relevant commercial arrangements with other involved persons;
  - (ii) to provide information, instruction, training and supervision to employees to enable compliance with relevant laws;
  - (iii) to maintain equipment and work systems to enable compliance with relevant laws;
  - (iv) to address and remedy similar compliance problems that may have occurred in the past;
- (d) whether the person charged had, either personally or through an agent or employee, custody or control of the vehicle, or of its load, or of any of the goods included or to be included in the load;
- (e) the personal expertise and experience that the person charged had or ought to have had or that an agent or employee of the person charged had or ought to have had.

### **Division 2 — Other defences**

#### **114. Defence for responsible persons**

- (1) In a prosecution for an MDLR offence alleged to have been committed by a person in the capacity of a responsible person for a vehicle, it is a defence for the person charged to prove that the vehicle was being used at the relevant time by —
  - (a) a person who —
    - (i) did not have express or implied authority to use the vehicle; and
    - (ii) was not an employee or agent of the person charged;
  - or
  - (b) an employee of the person charged who was acting at the relevant time outside the scope of the employment; or
  - (c) an agent, in any capacity, of the person charged who was acting at the relevant time outside the scope of the agency.
- (2) The defence mentioned in subsection (1) is not available if the offence involves an alleged defect in relation to a vehicle, unless the person charged also proves that —
  - (a) before the vehicle ceased to be under the person's control, it had not been involved in the commission of a breach of a road law relating to the defect; and
  - (b) after the vehicle ceased to be under the person's control, a material change was made that resulted in the alleged defect.

#### **115. Defence for drivers**

In a prosecution for an MDLR offence involving an alleged defect in relation to a vehicle and that is alleged to have been committed by a person in the capacity of the driver or a

co-driver of the vehicle, it is a defence for the person charged to prove that the person, whether as driver or otherwise —

- (a) did not cause or contribute to the defect and had no responsibility for or control over the maintenance of the vehicle or its equipment at any relevant time; and
- (b) did not know and could not reasonably be expected to have known of the defect; and
- (c) could not reasonably be expected to have sought to ascertain whether there was or was likely to be a defect relating to the vehicle.

**116. Laws as to criminal responsibility not affected**

The defences described in this Part are in addition to, and do not affect, the operation of *The Criminal Code* Chapter V.

## **Part 11 — Court imposed sanctions**

### **Division 1 — Term used in this Part**

#### **117. Term used: associate**

In this Part —

*associate*, of a person (*person 1*), means a person who is —

- (a) person 1's spouse; or
- (b) a parent, sibling or child of person 1; or
- (c) a member of the same household as person 1; or
- (d) a partner of person 1; or
- (e) a co-trustee or co-beneficiary (including a co-object of a discretionary trust) of person 1; or
- (f) a trustee of a trust in which person 1 is a beneficiary or, in the case of a discretionary trust, an object; or
- (g) a beneficiary (including an object of a discretionary trust) of a trust of which person 1 is a trustee; or
- (h) a body corporate of which person 1 is a director or member of the governing body of the body corporate; or
- (i) a director or member of the governing body of person 1 if person 1 is a body corporate; or
- (j) a body corporate (other than a public company whose shares are listed on a stock exchange) in which person 1 is a shareholder; or
- (k) a shareholder in person 1 if person 1 is a body corporate (other than a public company whose shares are listed on a stock exchange); or
- (l) a related body corporate within the meaning of the *Corporations Act 2001* (Commonwealth); or
- (m) traceable to person 1 by a chain of relationships under any one or more of paragraphs (a) to (l).



**Division 2 — General matters as to sentencing for  
MDLR offences**

**118. Sentencing principles**

- (1) An order under this Part may be made in conjunction with any sentencing option available under a road law or any other written law to a court sentencing a person who is found guilty of an MDLR offence.
- (2) An order under this Part forms part of the sentence.
- (3) Nothing in this Part affects the duties or powers that a court or other person or body has apart from this Part.

**119. Default categorisation**

- (1) If a court is satisfied that there has been a breach of a mass, dimension or loading requirement but is not satisfied that the breach is a substantial risk breach or a severe risk breach, it may treat the breach as a minor risk breach.
- (2) If a court is satisfied that there has been a breach of a mass, dimension or loading requirement and that the breach is at least a substantial risk breach but is not satisfied that the breach is a severe risk breach, it may treat the breach as a substantial risk breach.

**120. Matters to be considered by courts when sentencing**

- (1) When a court is determining the kind and level of sanction to be imposed in respect of a breach of a mass, dimension or loading requirement it is to have regard to each of the following propositions relating to the breach —
  - (a) that a minor risk breach may give rise to either or both of the following —
    - (i) an appreciable risk of accelerated road wear;
    - (ii) an appreciable risk of unfair commercial advantage;

- (b) that a substantial risk breach may give rise to one or more of the following —
    - (i) a substantial risk of accelerated road wear;
    - (ii) an appreciable risk of damage to road infrastructure;
    - (iii) an appreciable risk of increased traffic congestion;
    - (iv) an appreciable risk of diminished public amenity;
    - (v) a substantial risk of unfair commercial advantage;
  - (c) that a severe risk breach may give rise to one or more of the following —
    - (i) an appreciable risk of harm to public safety or the environment;
    - (ii) a serious risk of accelerated road wear;
    - (iii) a serious risk of harm to road infrastructure;
    - (iv) a serious risk of increased traffic congestion;
    - (v) a serious risk of diminished public amenity;
    - (vi) a serious risk of unfair commercial advantage.
- (2) It is not necessary to adduce evidence in support of a proposition mentioned in subsection (1) but a court may require or consider evidence in relation to the relevance and significance of the proposition in a particular case.
- (3) Nothing in this section affects any other matter that may or must be taken into consideration by a court.
- (4) Nothing in this section authorises or requires a court to assign the breach to a different category of breach.

**121. Prohibition order has priority**

If one or more courts make orders under this Part that result in both a supervisory intervention order and a prohibition order

being in force at the same time in relation to the same person, the supervisory intervention order has no effect while the prohibition order has effect.

**122. Previous convictions of MDLR offences**

For the purpose of determining whether a person has been previously convicted of an MDLR offence —

- (a) it is immaterial whether the breaches concerned are of the same risk category or of different risk categories; and
- (b) a person against whom a finding of guilt has been made in another jurisdiction for an offence under a law of the other jurisdiction that is prescribed as a law corresponding to a provision mentioned in the definition of *MDLR offence* is to be taken to be convicted of the MDLR offence.

**Division 3 — Commercial benefits penalty orders**

**123. Commercial benefits penalty orders**

- (1) The court that finds a person guilty of an MDLR offence may, on the application of the prosecutor or the CEO, make an order under this section.
- (2) The court may make a commercial benefits penalty order requiring the person to pay, as a fine, an amount not exceeding 3 times the amount estimated by the court to be the gross commercial benefit —
  - (a) that was received or receivable, by the person or by an associate of the person, from the commission of the offence; and
  - (b) in the case of a journey that was interrupted or not commenced because of action taken by a police officer or warden in connection with the commission of the offence, that would have been received or receivable, by the person or by an associate of the person, from the

commission of the offence had the journey been completed.

- (3) In estimating the gross commercial benefit that was or would have been received or receivable from the commission of the offence, the court may take into account —
  - (a) benefits of any kind, whether monetary or otherwise; and
  - (b) any other matters that it considers relevant, including —
    - (i) the value of any goods involved in the offence; and
    - (ii) the distance over which any such goods were or were to be carried.
- (4) In estimating the gross commercial benefit that was or would have been received or receivable from the commission of the offence, the court is to disregard any costs, expenses or liabilities incurred by the person or by an associate of the person.
- (5) Nothing in this section prevents the court from ordering payment of an amount that is —
  - (a) less than 3 times the estimated gross commercial benefit; or
  - (b) less than the estimated gross commercial benefit.

#### **Division 4 — Driver and vehicle licence sanctions**

##### **124. Power to affect driver's licence**

- (1) In this section —

***MDLR offence by driver*** means an MDLR offence that —

  - (a) was committed in relation to a vehicle by the driver or a co-driver of the vehicle; and
  - (b) gave rise to a severe risk breach of a mass, dimension or loading requirement;

*specified* means specified by the court.

- (2) The court that finds a person guilty of an MDLR offence by driver may make one or either of the following orders —
- (a) that for a specified term not exceeding 5 years the person is disqualified from obtaining or holding a driver's licence, either generally or of a specified kind;
  - (b) that for a specified term not exceeding 5 years, the person is disqualified from driving on a road a motor vehicle of a class of a specified kind.
- (3) An order under this section —
- (a) operates by force of this Act and takes effect immediately or from a specified later date; and
  - (b) may be made in relation to a driver's licence despite the class or classes of vehicles to which it applies.
- (4) A term mentioned in subsection (2)(a) or (b) is concurrent with —
- (a) any other term for which the person is disqualified from obtaining or holding a driver's licence; or
  - (b) any term for which the person's driver's licence is or may be suspended,
- unless the court orders that the term is to be cumulative on those terms.
- (5) The court must ensure that the details of the MDLR offence by driver and the order are sent to the CEO.
- (6) This section does not affect —
- (a) the operation of the *Motor Vehicle (Third Party Insurance) Act 1943* section 18; or
  - (b) any power that the court has under the *Sentencing Act 1995* section 105; or
  - (c) any other right or duty of a court to disqualify a person from holding or obtaining a driver's licence.

**125. Power to affect vehicle licence**

(1) In this section —

*MDLR offence by vehicle licence holder* means an MDLR offence that —

- (a) was committed in relation to a vehicle by a person to whom a licence in respect of the vehicle has been granted; and
- (b) gave rise to a severe risk breach of a mass, dimension or loading requirement;

*specified* means specified by the court.

(2) The court that finds a person guilty of an MDLR offence by vehicle licence holder may order —

- (a) that the licence of the vehicle is cancelled; and
- (b) that for a specified term not exceeding 5 years the person is disqualified from holding or obtaining a vehicle licence in respect of the vehicle.

(3) If the court makes an order under subsection (2) it may also make an order that for a specified term an associate of the person is disqualified from holding or obtaining a vehicle licence in respect of the vehicle.

(4) If the court considers that another person who is not present in court may be substantially affected by an order under this section, the court may issue a summons to that other person to show cause why the order should not be made.

(5) An order under this section operates by force of this Act and takes effect immediately or from a later specified date.

(6) A term mentioned in subsection (2)(b) or (3) is concurrent with any other term for which the person is disqualified from holding or obtaining a vehicle licence in respect of the vehicle, unless the court orders that the term is to be cumulative on those terms.

- (7) The court must ensure that the details of the MDLR offence by vehicle licence holder and the order are sent to the CEO.
- (8) This section does not affect the operation of the *Fines, Penalties and Infringement Notices Enforcement Act 1994* section 19, 43, 95G or 95J.

*[Section 125 amended: No. 48 of 2012 s. 76.]*

### **Division 5 — Supervisory intervention orders**

#### **126. Supervisory intervention orders**

- (1) In this section —  
***compliance report***, in relation to a person in respect of whom a supervisory intervention order is made, means a report relating to —
  - (a) the performance of the person in complying with —
    - (i) the breached laws or the provisions of this Act specified in the order; and
    - (ii) the requirements of the order;and
  - (b) without limiting the above —
    - (i) things done by the person to ensure that any failure by the person to comply in future with the breached laws or the specified provisions of this Act does not continue; and
    - (ii) the results of those things having been done.
- (2) The court that finds a person guilty of an MDLR offence may, on the application of the prosecutor or the CEO, make a supervisory intervention order if the court considers that the person systematically or persistently commits MDLR offences.

- (3) A supervisory intervention order may require the person, at the person's own expense and for a specified period not exceeding one year, to do any or all of the following —
- (a) to do specified things that the court considers will assist the person to comply in future with the breached provisions, including any of the following —
    - (i) appointing or removing staff to or from particular activities or positions;
    - (ii) training and supervising staff;
    - (iii) obtaining expert advice as to compliance;
    - (iv) installing monitoring, compliance, managerial or operational equipment;
    - (v) implementing monitoring, compliance, managerial or operational practices, systems or procedures;
  - (b) to conduct specified monitoring, compliance, managerial or operational practices, systems or procedures subject to the direction of the CEO or a person nominated by the CEO;
  - (c) to furnish compliance reports to the CEO or the court or both as specified in the order;
  - (d) to appoint a person to have responsibilities —
    - (i) to assist the person to comply in future with the breached laws or specified provisions of this Act; and
    - (ii) to monitor the person's performance in complying with the breached laws or specified provisions of this Act and in complying with the requirements of the order; and



- (iii) to furnish compliance reports to the CEO or the court or both as specified in the order.
- (4) The court may specify matters that are to be dealt with in compliance reports and the form, manner and frequency in which compliance reports are to be prepared and furnished.
- (5) The court may require that compliance reports or aspects of compliance reports be made public, and may specify the form, manner and frequency in which they are to be made public.
- (6) The court must not make a supervisory intervention order unless it is satisfied that the order is capable of improving the person's ability or willingness to comply in the future with the breached provisions, having regard to —
- (a) the MDLR offences for which the person has been convicted; and
  - (b) any other offences or other matters that the court considers to be relevant to the conduct of the person in connection with road transport.
- (7) The order may direct that any other penalty or sanction imposed for the offence by the court is suspended until the court determines that there has been a substantial failure to comply with the order.
- (8) A court that has power to make supervisory intervention orders may revoke or amend a supervisory intervention order on the application of —
- (a) the CEO; or
  - (b) the person in respect of whom the order was made, but in that case only if the court is satisfied that there has been a change of circumstances warranting the revocation or amendment.

**127. Supervisory intervention order to be complied with**

A person who is subject to a supervisory intervention order must not, without reasonable excuse, fail to comply with the order.

Penalty: a fine of 200 PU.

**Division 6 — Prohibition orders**

**128. Prohibition orders**

- (1) The court that finds a person guilty of an MDLR offence may, on the application of the prosecutor or the CEO, make a prohibition order if the court considers that the person systematically or persistently commits MDLR offences.
- (2) A prohibition order may, for the purpose of restricting opportunities for the person to commit or be involved in the commission of further offences under the breached provisions, prohibit the person, for a specified period, from having a specified role or responsibilities associated with road transport.
- (3) The court cannot make a prohibition order that prohibits the person from driving a vehicle or holding or obtaining a vehicle licence in respect of a vehicle.
- (4) The court must not make a prohibition order unless it is satisfied that the person should not continue the things the subject of the proposed order and that a supervisory intervention order is not appropriate, having regard to —
  - (a) the MDLR offences for which the person has been convicted; and
  - (b) any other offences or other matters that the court considers to be relevant to the conduct of the person in connection with road transport.

- (5) A court that has power to make a prohibition order may revoke or amend a prohibition order on the application of —
- (a) the CEO; or
  - (b) the person in respect of whom the order was made, but in that case only if the court is satisfied that there has been a change of circumstances warranting the revocation or amendment.

**129. Prohibition order to be complied with**

A person who is subject to a prohibition order must not, without reasonable excuse, fail to comply with the order.

Penalty: a fine of 200 PU.

## **Part 12 — Miscellaneous**

### **130. Substitution of vehicle in certain circumstances**

(1) In this section —

*omnibus* means a vehicle that is equipped to seat more than 8 adult persons, including the driver, and that is used for the carriage of passengers for hire or reward.

(2) A vehicle licence for an omnibus authorises a person to whom the licence has been granted, with the previous written consent of the CEO, to substitute another vehicle for the omnibus during any time that the omnibus is under repair, and to operate the other vehicle during the time that the omnibus is under repair and not being operated.

(3) The CEO is not to give consent for the purposes mentioned in subsection (2) unless the licensee pays the prescribed fee.

### **131. Motor vehicle pools and insurance**

(1) For the purposes of any contract of insurance, a motor vehicle is not to be taken to be used for the carriage of passengers for hire, fare or reward by reason only of the carriage of passengers under a motor vehicle pooling arrangement.

(2) For the purposes of subsection (1) a carriage of passengers is under a motor vehicle pooling arrangement if —

- (a) the motor vehicle is provided by the driver; and
- (b) the driver would be undertaking the relevant journey in any event; and
- (c) the carriage is not the result of plying or touting for hire by the driver or another person; and
- (d) the maximum number of persons in the motor vehicle, including the driver, is 9; and

- (e) a payment by a passenger is limited to making a contribution to the costs incurred in making the journey and does not involve profit for the driver or any other person.

*[Section 131 amended: No. 26 of 2018 s. 325.]*

## **Part 13 — Regulations**

### **132. Regulations**

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1), regulations may —
  - (a) provide for the duties, obligations, conduct and behaviour of owners, responsible persons, and persons in charge of, vehicles or of any class of vehicle; and
  - (b) prescribe standards or other requirements in respect of vehicles, including standards or requirements relating to —
    - (i) the design, construction, efficiency and performance of, and the equipment to be carried on, vehicles; and
    - (ii) the attachment of operational or safety devices; and
    - (iii) roadworthiness; and
    - (iv) safety, emissions and noise; and
    - (v) the coupling of trailers and motor vehicles; and
    - (vi) the identification of vehicles or components of vehicles; and
    - (vii) security of vehicles and the equipment to be fitted to vehicles for the purposes of security; and
  - (c) provide for the examination and testing of vehicles including —
    - (i) providing for matters relating to the authorisation of persons to establish inspection stations or as

- vehicle examiners and the fees to be paid by those persons; and
- (ii) requiring the payment of fees for the examination and testing of vehicles for the purposes of this Act; and
  - (iii) empowering a vehicle examiner to issue or to refuse to issue a certificate of inspection in relation to the inspection of a vehicle;
- and
- (d) provide for the issue, return, retrieval and destruction of number plates except number plates issued under section 13(2) or 26(2) or optional number plates as defined in section 136; and
  - (e) prohibit or regulate the manufacture, sale or supply of —
    - (i) replicas or imitations of number plates; or
    - (ii) articles similar to number plates,and provide for the confiscation and disposal of such replicas, imitations or articles; and
  - (f) enable vehicles to be driven and tested; and
  - (g) prescribe a minimum age at which an individual may apply for the grant or transfer of a vehicle licence and providing for the applicant to provide proof of age and identity; and
  - (h) provide for matters relating to vehicles that are used to warn other road users of the presence of other vehicles; and
  - (i) impose penalties not exceeding a fine of 64 PU for a first offence, and not exceeding a fine of 96 PU for any subsequent offence, under a regulation; and
  - (j) define the previous offences that are to be taken into account in determining whether an offence is a first or subsequent offence for the purpose of a regulation; and

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- (k) prescribe matters for or in respect of which fees may be charged or charges may be made under this Act and prescribing the amounts of such fees or charges; and
  - (l) require a statutory declaration to be made about a matter.
- (3) The regulations may make it an offence to contravene a condition imposed by or under the regulations, but this subsection does not limit the other consequences that the regulations may attach to a contravention.
- (4) For the purposes of subsection (2)(k), a reference in the *Interpretation Act 1984* section 45(1)(f) and (2) to a reduction is to be read as if it included a reference to a deferral.
- (5) Without limiting the *Interpretation Act 1984* section 45(2), the regulations may provide that a reduction, waiver, refund or deferral of a charge for granting, renewing or varying any licence for a vehicle applies subject to conditions imposed by the CEO that are specified in the licence.

*[Section 132 amended: No. 10 of 2015 s. 12.]*

**133. Exemptions from regulations about vehicle standards and requirements**

The regulations may provide for the CEO to grant exemptions from regulations made under section 132(2)(b).

**134. Exemptions from regulations in emergencies**

The regulations may provide for the Commissioner of Main Roads to exempt a vehicle or its load or a vehicle and its load from the application of a mass, dimension or loading requirement in an emergency area as defined in the *Emergency Management Act 2005* section 3 if —

- (a) the vehicle is being used, or is intended to be used, to protect life or property, or to restore communications or



the supply of energy or water or services such as sewage disposal; and

- (b) the exemption does not present an unreasonable danger to other road users.

**135. Regulations about exemptions**

- (1) In this section —

*exemption* means an exemption granted under a regulation mentioned in section 133 or 134.

- (2) The regulations may provide for —

- (a) applications for exemptions to be granted; and
- (b) the submission of information and documentation in support of applications; and
- (c) the grounds for granting exemptions; and
- (d) the form, content and publication of the documents by which exemptions are made; and
- (e) the duration of exemptions; and
- (f) without limiting the application of the *Interpretation Act 1984* section 50(2)(b), the conditions to which exemptions are, or may be, subject; and
- (g) the effect of exemptions and failing to comply with conditions of exemptions; and
- (h) applications for, and other matters relating to, the variation of exemptions; and
- (i) the suspension or cancellation of an exemption; and
- (j) fees for applications mentioned in paragraphs (a) and (h).

**136. Schemes for optional number plates**

- (1) The regulations may provide for schemes under which the CEO —
  - (a) allocates number plates (*optional number plates*) to persons wishing to reserve the right to use those number plates instead of number plates that would otherwise be issued under this Act; or
  - (b) supplies and, if necessary, replaces optional number plates; or
  - (c) permits the transfer from one person to another of the right to use optional number plates; or
  - (d) gives directions as to which vehicle optional number plates are to be used; or
  - (e) is given the power to cancel, with or without compensation, a person's right to use optional number plates if charges due and payable in respect of that right remain unpaid for a prescribed period.
- (2) The rights may be for a specified period or otherwise.
- (3) A scheme may be designed to be operated commercially but —
  - (a) the sale of the rights allocated is to be —
    - (i) by public auction or public tender; or
    - (ii) if the Treasurer authorises the sale to be by private treaty or any other means, by the means authorised;
  - and
  - (b) any other charge under a scheme is to be prescribed in the regulations.
- (4) The amount of a charge that may be prescribed under subsection (3)(b) is not limited to the amount needed to recover costs even though it is for a matter for which only a fee could be prescribed if the number plates were not optional number plates.

- (5) The regulations may deal with matters that it is necessary or convenient to deal with for the purposes of, or in connection with, schemes relating to optional number plates.

**137. Regulations may refer to published documents**

- (1) Regulations made for the purposes of this Act may adopt the text of any published document specified in the regulations —
- (a) as that text exists at a particular date; or
  - (b) as that text may from time to time be amended.
- (2) The text may be adopted —
- (a) wholly or in part; or
  - (b) as modified by the regulations.
- (3) The adoption may be direct (by reference made in the regulations), or indirect (by reference made in any text that is itself directly or indirectly adopted).
- (4) The adoption of text is of no effect unless —
- (a) the adopted text; and
  - (b) if text is adopted as it may be amended from time to time, either —
    - (i) the amendments to the text; or
    - (ii) the text as amended,

can at all reasonable times be inspected or purchased by the public.

**138. Minister's declarations that specified regulations do not apply to specified persons or vehicles**

Regulations may provide for the Minister to declare, in writing in accordance with the regulations, that a requirement of the regulations that is specified by the Minister does not apply to a person or vehicle specified by the Minister.

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**Part 14 — Transitional provisions**

**Division 1 — Transitional provisions arising from certain amendments made to the *Road Traffic Act 1974* by the *Road Traffic Legislation Amendment Act 2012***

**139. Terms used**

In this Division —

**amending Act** means the *Road Traffic Legislation Amendment Act 2012*;

**commencement day** means the day on which the *Road Traffic Legislation Amendment Act 2012* Part 2 comes into operation<sup>1</sup>;

**RT Act** means the *Road Traffic Act 1974* as in force immediately before commencement day.

**140. Application of *Interpretation Act 1984***

The provisions of this Division do not prejudice or affect the application of the *Interpretation Act 1984* to and in relation to the repeals of provisions of the RT Act effected by the amending Act.

**141. Vehicle licences, applications**

- (1) A vehicle licence that is granted, renewed or transferred under the RT Act section 17(2) and that was in effect immediately before commencement day is, on and from commencement day, to be taken to be a vehicle licence that is granted, renewed or transferred, as is relevant to the case, under regulations made under section 5(3).
- (2) An application that was made under the RT Act section 17(1) before commencement day but not decided before commencement day is, on and from commencement day, to be taken to be an application made under section 5(1).

**142. Transfer of vehicle licences**

- (1) If, before commencement day —
- (a) a notice under the RT Act section 24(1)(a) had been given to the Director General; and
  - (b) the Director General had not taken action under the RT Act section 24(2a),
- on and from commencement day, the notice is to be taken to be a notice given under section 10(1)(a).
- (2) If, before commencement day —
- (a) a notice under the RT Act section 24(2) had been given to the Director General; and
  - (b) the Director General had not taken action under the RT Act section 24(2a),
- on and from commencement day, the notice is to be taken to be a notice given under section 10(2).
- (3) A notice under the RT Act section 24(2a)(a) that was in effect immediately before commencement day is, on and from commencement day, to be taken to be a notice under section 10(3)(a).
- (4) A notice under the RT Act section 24(2a)(b) that was in effect immediately before commencement day is, on and from commencement day, to be taken to be a notice under section 10(3)(b).

**143. Change of nominated owner**

- If, before commencement day —
- (a) an application is made under the RT Act section 24B(1); and

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(b) the application is not approved or refused,

on and from commencement day, the application is to be taken to be an application made under section 12(1).

**144. Permits, number plates and notices for unlicensed vehicles**

- (1) A permit under the RT Act section 26(1) that was in effect immediately before commencement day is, on and from commencement day, to be taken to be a permit under section 13(1).
- (2) Number plates issued under the RT Act section 26(2) that were in effect immediately before commencement day are, on and from commencement day, to be taken to be number plates issued under section 13(2).
- (3) A notice under the RT Act section 26(5) that was in effect immediately before commencement day is, on and from commencement day, to be taken to be a notice under section 13(5).

**145. Register of vehicle licences**

A register under the RT Act section 27(1) that was in effect immediately before commencement day is, on and from commencement day, to be taken to be a register under section 14.

**146. Minister may require vehicles to be inspected**

A notice published under the RT Act section 29(1) that was in effect immediately before commencement day is, on and from commencement day, to be taken to be an order published under section 19(1).

**147. Overseas vehicles temporarily in Australia**

- (1) An application that was made under the RT Act section 31 before commencement day but not decided before

commencement day is, on and from commencement day, to be taken to be an application made under section 22(1).

- (2) The grant, under the RT Act section 31, of a vehicle licence for a vehicle without payment of the vehicle licence charge that was in effect immediately before commencement day is, on and from commencement day, to be taken to be a grant under section 22(2).
- (3) An application that was made under the RT Act section 33 before commencement day but not decided before commencement day is, on and from commencement day, to be taken to be an application made under section 24(1).
- (4) A temporary plate issued under the RT Act section 39(2) that was in use immediately before commencement day is, on and from commencement day, to be taken to be a temporary plate issued under section 26(2).

**148. Vehicle examiners and inspection stations**

- (1) A person in respect of whom there was in effect, immediately before commencement day, an authority under the *Road Traffic (Licensing) Regulations 1975* regulation 3A(1)(a)<sup>2</sup> to examine and test vehicles is, for the purposes of paragraph (b) of the definition of **vehicle examiner** in section 70, on and from commencement day, to be taken to be a person authorised by the CEO to examine and test vehicles for the purposes of this Act on the same terms and conditions that applied immediately before commencement day.
- (2) A person in respect of whom there was in effect, immediately before commencement day, an authority under the *Road Traffic (Licensing) Regulations 1975* regulation 3A(1)(b)<sup>2</sup> to establish premises as an inspection station is, for the purposes of paragraph (b) of the definition of **inspection station** in section 70, on and from commencement day, to be taken to be a person authorised by the CEO to establish premises at which vehicles are examined and tested for the purposes of this Act, on

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the same terms and conditions that applied immediately before commencement day.

- (3) Subsections (1) and (2) do not apply to a public service officer who, on commencement day, holds an office, post or position in the department principally assisting the Minister in the administration of this Act.

**149. Mass requirements for class 3 vehicles used in Harvest Mass Management Scheme**

A notice under the *Road Traffic (Vehicle Standards) Regulations 2002* regulation 33<sup>3</sup> applying to vehicles operating in accordance with the scheme known as the Harvest Mass Management Scheme and in effect immediately before commencement day is, on and from commencement day, to be taken to be an order under section 34(1)(a) modifying a mass requirement for the same term and on the same conditions that applied to the notice immediately before commencement day.

**150. Transitional regulations**

The regulations may contain provisions that are necessary or convenient for dealing with matters concerning the transition from the provisions of any written law applying before commencement day to the provisions of this Act, including regulations made under this Act, applying after commencement day.



## Notes

This is a compilation of the *Road Traffic (Vehicles) Act 2012* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

### Compilation table

| Short title  | Number and year                  | Assent                            | Commencement  |
|--|----------------------------------|-----------------------------------|---|
| <i>Road Traffic (Vehicles) Act 2012</i>  | 7 of 2012                        | 21 May 2012                       | s. 1 and 2: 21 May 2012 (see s. 2(a));<br>Act other than s. 1 and 2: 27 Apr 2015 (see s. 2(b) and <i>Gazette</i> 17 Apr 2015 p. 1371) |
| <i>Fines, Penalties and Infringement Notices Enforcement Amendment Act 2012 Pt. 4 Div. 7A</i>                      | 48 of 2012                       | 29 Nov 2012                       | 21 Aug 2013 (see s. 2(b) and <i>Gazette</i> 20 Aug 2013 p. 3815)  |
| <i>Road Traffic Amendment (Alcohol Interlocks and Other Matters) Act 2015 Pt. 3 Div. 4</i>                         | 2 of 2015                        | 25 Feb 2015                       | 27 Apr 2015 (see s. 2(1)(b) and (2) and <i>Gazette</i> 17 Apr 2015 p. 1374)   |
| <i>Road Traffic Legislation Amendment Act 2015 Pt. 5</i>   | 10 of 2015                       | 1 Apr 2015                        | 2 Apr 2015 (see s. 2(b))  |
| <b>Reprint 1: The <i>Road Traffic (Vehicles) Act 2012</i> as at 12 Jun 2015</b> (includes amendments listed above) |                                  |                                   |   |
| <i>Transport (Road Passenger Services) Act 2018 Pt. 14 Div. 2 Subdiv. 6</i>  | 26 of 2018                       | 30 Oct 2018                       | 28 Feb 2019 (see s. 2(b) and <i>Gazette</i> 26 Feb 2019 p. 449-50)  |
| <i>Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020 Pt. 3 Div. 6</i>                       | 25 of 2020                       | 19 Jun 2020                       | 29 Sep 2020 (see s. 2(1)(c) and SL 2020/159 cl. 2(a))   |
| <a href="#"><u><i>Directors' Liability Reform Act 2023 Pt. 3 Div. 55</i></u></a>                                   | <a href="#"><u>9 of 2023</u></a> | <a href="#"><u>4 Apr 2023</u></a> | <a href="#"><u>5 Apr 2023 (see s. 2(j))</u></a>   |

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### Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

| Short title  | Number and year | Assent      | Commencement  |
|--|-----------------|-------------|---|
| <i>Road Traffic (Vehicles) Amendment (Offensive Advertising) Act-2023</i> s. 3-9 | 6 of 2023       | 29 Mar 2023 | <del>To be</del> proclaimed <a href="#">1 November 2023</a> (see s. 2(b)) and <a href="#">SL 2023/154 cl. 2</a> |

### Other notes

- <sup>1</sup> The *Road Traffic Legislation Amendment Act 2012* Pt. 2 commenced on 12-Dec-2012.
- <sup>2</sup> The *Road Traffic (Licensing) Regulations 1975* were repealed by the *Road Traffic (Repeals and Amendment) Regulations 2014* as at 27 Apr 2015 (see *Gazette* 23 Dec-2014 p. 4914).
- <sup>3</sup> The *Road Traffic (Vehicle Standards) Regulations 2002* were repealed by the *Road Traffic (Repeals and Amendment) Regulations 2014* as at 27 Apr 2015 (see *Gazette* 23 Dec 2014 p. 4914).