

Heavy Vehicle National Law Amendment Bill 2025

Statement of Compatibility

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019* (HRA), I, Brent Mickelberg MP, Minister for Transport and Main Roads, make this statement of compatibility with respect to the Heavy Vehicle National Law Amendment Bill 2025.

In my opinion, the Heavy Vehicle National Law Amendment Bill 2025 (the Bill) is compatible with the human rights protected by the HRA. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The Bill amends the Schedule to the *Heavy Vehicle National Law Act 2012* (the HVNL) to improve safety and productivity, reduce regulatory red tape, improve regulatory functions, and simplify administration of the law. The key changes that achieve these outcomes include:

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

Human Rights Issues

Human rights relevant to the Bill (Part 2, Division 2 and 3 *Human Rights Act 2019*)

In my opinion, the human rights relevant to the Bill are:

- recognition and equality before the law (section 15 of the HRA)
- freedom of movement (section 19 of the HRA)
- property rights (section 24 of the HRA)

However, for the reasons outlined below, I am of the view that amendments in the Bill are compatible with human rights and any potential limitation is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 *Human Rights Act 2019*)

Right to recognition and equality before the law (section 15)

(a) the nature of the right

Section 15 (Right to recognition and equality before the law) of the HRA provides that every person has the right to recognition as a person before the law, that every person is equal before the law, and that laws should not be discriminatory.

This right may be limited to the extent that the Bill imposes financial penalties through the increase in fines. Although there are no new penalties introduced, the penalty review has increased the financial penalties for some offences.

The requirement to pay a fine may adversely and disproportionately affect financially disadvantaged persons who may have difficulty paying a monetary sum.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

Any limitation to the right to equality before the law is to ensure compliance with the law and promote road safety.

In a free and democratic society, there is an expectation that persons in control of a vehicle will conduct themselves safely on roads and have consideration for themselves and other road users. The review into HVNL penalties has identified opportunities to create a more equitable framework that better reflects the severity of offending behaviour. Increasing penalties where offending behaviour is more likely to result in severe consequences will deter drivers from engaging in risky behaviour on the road. In improving the safety of heavy vehicle drivers and those they interact with on the road, the amendments will also support the right to life.

- (c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

Any limitation on the right to equality before the law is to ensure efficient enforcement of instances of non-compliance with the provisions of the HVNL.

A financially disadvantaged person who may struggle to pay a financial penalty has the same opportunity as all other drivers to observe safe driving behaviours and obey the road rules. This in turn will avoid the impact of a financial penalty.

A person who receives a fine who cannot afford to pay the whole fine amount can also seek assistance from the State Penalties Enforcement Registry to pay the fine by instalments or settle the debt through other activities such as a work and development order.

Where a matter is heard by a court, if the court finds the person guilty of an offence, it can consider multiple factors when handing down the penalty, one of which may include the person's capacity to pay the fine.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

It is considered that there are no less restrictive ways to achieve the purpose of the amendments contained in the Bill. Financial penalties, including penalty infringement notices, are a key measure to help deter unsafe behaviours that put the lives of other road users at risk. A person can avoid having to pay a fine by observing safe driving practices and obeying all relevant requirements imposed on heavy vehicle drivers.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

For the reasons outlined above, any potential human right impact is considered reasonable and justified. Financial penalties have long been used to deter unsafe driving behaviour given the potential for catastrophic consequences from a road crash involving a heavy vehicle. There is a demonstrable road safety benefit to a penalty framework that reflects that risk and enables effective enforcement of non-compliance.

While the imposition of a financial penalty may have a greater impact on a person who is financially disadvantaged, it is considered that maintaining the punishment and deterrent effect of penalties for applicable offences strikes a fair balance between the human rights of an individual and the necessity of improved road safety.

- (f) any other relevant factors

Nil.

Freedom of movement (section 19)

(a) the nature of the right

Section 19 (Freedom of movement) of the HRA provides that every person has the right to move freely within Queensland, to enter or leave Queensland, and the freedom to choose where to live.

This right may be limited to the extent that the Bill imposes an expanded duty to not drive a heavy vehicle while impaired by fatigue or unfit to drive. The term ‘fit’ is defined within the HVNL and includes being physically and mentally fit to drive the vehicle, or to start or stop its engine, as well as not being affected by drugs and alcohol. This also has consequential impacts on other persons in the chain of responsibility who have duties and obligations relevant to the driver’s expanded duty.

The expanded duty could adversely affect a driver’s ability to move freely within Queensland if they are prevented from driving a heavy vehicle as part of their employment.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

Any limitation to the right to freedom of movement is to promote road safety.

In a free and democratic society, there is an expectation that persons in control of a vehicle will conduct themselves safely on roads and have consideration for themselves and other road users. Enabling a driver that is impaired by fatigue or unfit to drive a heavy vehicle on a road increases the likelihood of a catastrophic road incident occurring.

The expanded duty to not drive a heavy vehicle while impaired by fatigue or unfit to drive is consistent with the values of a free and democratic society by requiring drivers and parties in the chain of responsibility to ensure that anyone driving a heavy vehicle can do so safely. In improving the safety of heavy vehicle drivers and those they interact with on the road, the amendments will also promote the right to life.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

Any limitation on the right to freedom of movement is to ensure the safe operation of heavy vehicles on a road and reduce the risk of unsafe interactions with other road users.

A person that is prevented from driving a heavy vehicle because they are impaired by fatigue or unfit to drive may suffer from a loss of income. However, heavy vehicle drivers have the same opportunity as all other drivers to observe safe driving behaviours and obey the rules. This in turn will avoid the financial impact of a person being restricted from driving for employment.

The expanded duty for drivers is considered necessary and is justified in the public interest to ensure safe operation of heavy vehicles on the road by requiring drivers and other responsible parties to ensure that they are fit to drive. The more onerous duty on drivers, and consequential impacts on persons other than drivers, is supplanted by the safety benefit to all road users.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

It is considered that there are no less restrictive ways to achieve the purpose of the amendments contained in the Bill. In Queensland, all drivers are required to report a medical condition that is likely to affect their ability to drive safely, indicating community acceptance of restrictions on freedom of movement where it is in the public interest and promotes safe driving behaviour. A person can avoid any restriction on the right by observing safe driving practices and obeying all relevant requirements imposed on heavy vehicle drivers such as not driving when impaired by fatigue or unfit to drive.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

For the reasons outlined above, any potential human right impact is considered reasonable and justified. Restrictions on freedom of movement have long been used to deter unsafe driving behaviour and avoid the potentially catastrophic consequences of a road crash occurring. There is a demonstrable road safety benefit in requiring drivers of a heavy vehicle and other responsible parties to ensure that they are fit to drive.

While being prevented from driving for work may affect a person's ability to move freely within Queensland, it is considered that the expanded duty strikes a fair balance between the human rights of an individual and the necessity of improved road safety.

- (f) any other relevant factors

Nil.

Property rights (section 24)

- (a) the nature of the right

Section 24 (Property rights) of the HRA protects the right of all persons to own property and provides that people have a right not to be arbitrarily deprived of their property. Property includes all real and personal property interests recognised under general law and may include some statutory rights.

This right may be limited to the extent that the Bill imposes financial penalties. The Bill may limit the right to property by providing for an increase in the amount of maximum penalties for offences in the HVNL. The right may be further limited by the expanded duty to not drive while impaired by fatigue or unfit to drive, as any restriction on driving may deprive a person of their ability to earn income.

- (b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the increase in penalties is to deter persons from operating vehicles on the road in an unsafe manner and to ensure efficient enforcement of instances of non-compliance with the HVNL.

In a free and democratic society, there is an expectation that persons in control of a vehicle will conduct themselves safely on roads and have consideration for themselves and other road users. The review into HVNL penalties has identified opportunities to create a framework that better reflects the severity of offending behaviour. Restrictions on driving while impaired by fatigue or unfit to drive, and increased penalties for offending behaviour likely to result in severe consequences, will deter drivers from engaging in risky behaviour.

- (c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

Any limit on the right to equality before the law is to deter persons from operating vehicles in an unsafe manner and ensure efficient enforcement of instances of non-compliance with the provisions of the HVNL.

There is a direct relationship between the offence provisions and their penalties in the Bill, and the purpose of protecting the safety of the community on Queensland roads. The penalties will send a strong deterrent message to encourage compliance with the requirements of the Bill.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There is no less restrictive and reasonably available way to promote compliance with the requirements of the Bill than imposing penalties for failure to comply.

The penalties imposed are commensurate with other comparable laws including workplace health and safety laws, the Rail Safety National Law, and Commonwealth environmental protection legislation. The penalties are consistent with penalties for existing offences of a similar kind or of a similar gravity.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The review of penalties in the HVNL was extensive and comprehensive. The Bill does not impose new penalties, and any increase to existing penalties is proportionate to the risks of offending behaviour. The review also resulted in the subsequent reduction of several penalties in the HVNL.

The expanded duty to not drive while impaired by fatigue or unfit to drive will also encourage safe driving behaviour and limit the risk to other road users of sharing the road with a driver of a heavy vehicle who is not fit to drive. While this expanded duty may impact a driver's ability to earn an income, the potential limitation on the right is justified in the public interest.

On balance, these limitations on the right to property are proportionate and are outweighed by the important objective of ensuring an appropriate deterrence against non-compliance with road safety requirements.

- (f) any other relevant factors

Nil.

Conclusion

In my opinion, the Heavy Vehicle National Law Amendment Bill 2025 is compatible with human rights under the HRA because it limits a human right only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

Honourable Brent Mickelberg MP
Minister for Transport and Main Roads

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