



Queensland

Heavy Vehicle National Law Amendment Bill 2019



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2019

A Bill

for

An Act to amend the *Heavy Vehicle National Law Act 2012* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Heavy Vehicle National Law Amendment Act 2019*. 4
5

Clause 2 Commencement 6

(1) Part 2 commences on 10 December 2019. 7

(2) Part 3 commences on a day to be fixed by proclamation. 8

Clause 3 Law amended 9

This Act amends the Heavy Vehicle National Law as set out in 10
the Schedule to the *Heavy Vehicle National Law Act 2012*. 11

Part 2 Amendments commencing on 10 December 2019 12
13

Clause 4 Amendment of s 5 (Definitions) 14

(1) Section 5, definitions *ADR*, *identification plate* and *VIN*— 15
omit. 16

(2) Section 5, in alphabetical order— 17
insert— 18

ADR means— 19

(a) a third edition ADR; or 20

(b) a second edition ADR. 21

-
- identification plate** means a plate approved to be placed on a vehicle, or taken to have been placed on a vehicle, under the *Motor Vehicle Standards Act 1989*. 1
2
3
4
- Motor Vehicle Standards Act 1989** means the repealed *Motor Vehicle Standards Act 1989* of the Commonwealth as in force before its repeal. 5
6
7
- Road Vehicle Standards Act 2018** means the *Road Vehicle Standards Act 2018* of the Commonwealth. 8
9
10
- second edition ADR** means an ADR incorporated in the document described as the ‘Australian Design Rules for Motor Vehicle Safety, Second Edition’ originally published by the former Commonwealth Department of Transport. 11
12
13
14
15
- third edition ADR** means— 16
- (a) a national standard under section 7 of the *Motor Vehicle Standards Act 1989*; or 17
18
- (b) a national road vehicle standard under section 12 of the *Road Vehicle Standards Act 2018*. 19
20
21
- VIN** (vehicle identification number), for a heavy vehicle, means— 22
23
- (a) for a heavy vehicle built before 1 January 1989 that has an identification plate, the number quoted on the vehicle’s identification plate that— 24
25
26
27
- (i) uniquely identifies the vehicle and sets it apart from similar vehicles; and 28
29
- (ii) corresponds to the identification number of the vehicle that is permanently recorded elsewhere on the vehicle; or 30
31
32
33
- (b) for a heavy vehicle built on or after 1 January 1989 that was given an approval 34
35

[s 5]

under the *Motor Vehicle Standards Act 1989* 1
or is given an approval under the *Road* 2
Vehicle Standards (Consequential and 3
Transitional Provisions) Act 2018 of the 4
Commonwealth, the unique vehicle 5
identification number assigned to the 6
vehicle— 7

(i) at the time the vehicle was 8
manufactured, in accordance with a 9
third edition ADR; or 10

(ii) by the department of government of the 11
Commonwealth in which the *Motor* 12
Vehicle Standards Act 1989 was 13
previously administered; or 14

(c) otherwise, the unique number assigned to 15
the heavy vehicle— 16

(i) at the time the vehicle was 17
manufactured, in accordance with an 18
ADR that is a national road vehicle 19
standard under section 12 of the *Road* 20
Vehicle Standards Act 2018; or 21

(ii) by the department of government of the 22
Commonwealth in which the *Road* 23
Vehicle Standards Act 2018 is 24
administered. 25

Clause 5 **Insertion of new s 14** 26

After section 13— 27

insert— 28

14 **References to particular ADR versions** 29

A reference in this Law to an ADR followed by a 30
number is a reference to— 31

(a) if the reference is to a second edition 32
ADR—the ADR of that number in the 33

	‘Australian Design Rules for Motor Vehicle Safety, Second Edition’; or	1 2
	(b) otherwise—the ADR of that number referenced in the relevant standard.	3 4
Clause 6	Amendment of s 84 (Definition for Pt 3.3)	5
	Section 84, definition <i>modification</i> , ‘the <i>Motor Vehicle Standards Act 1989</i> of the Commonwealth’—	6 7
	<i>omit, insert—</i>	8
	the <i>Road Vehicle Standards Act 2018</i> , item 16(2) of Schedule 3 to the <i>Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018</i> of the Commonwealth or the <i>Motor Vehicle Standards Act 1989</i> before the repeal of that Act	9 10 11 12 13
Part 3	Amendments commencing by proclamation	14 15
Clause 7	Amendment of s 5 (Definitions)	16
	(1) Section 5, definitions <i>major defect notice</i> , <i>minor defect notice</i> and <i>vehicle defect notice—</i>	17 18
	<i>omit.</i>	19
	(2) Section 5, in alphabetical order—	20
	<i>insert—</i>	21
	<i>advice purposes</i> means providing advice, information and education to persons with duties or obligations under this Law about compliance with the duties or obligations.	22 23 24 25
	<i>major defect notice</i> means a notice complying with the requirements for a major defect notice under section 527.	26 27 28
	<i>minor defect notice</i> means a notice complying	29

[s 8]

	with the requirements for a minor defect notice under section 527.	1 2
	<i>self-clearing defect notice</i> means a notice complying with the requirements for a self-clearing defect notice under section 527.	3 4 5
	<i>vehicle defect notice</i> means a major defect notice, minor defect notice or self-clearing defect notice.	6 7
Clause 8	Amendment of s 73 (Permit for vehicle standards exemption (permit) etc.)	8 9
	Section 73(1)(b)—	10
	<i>omit, insert—</i>	11
	(b) if the Regulator’s decision to grant the exemption for a period or impose a condition on the exemption is a reviewable decision—a notice stating the review and appeal information for the decision.	12 13 14 15 16
	<i>Note—</i>	17
	Under section 641(6)(a), this notice must also state particular information about obtaining a statement of reasons for the decision.	18 19 20
Clause 9	Amendment of s 85 (Modifying heavy vehicle requires approval)	21 22
	Section 85, after subsection (3)—	23
	<i>insert—</i>	24
	(4) A modification is taken to have been approved by an approved vehicle examiner under section 86 if—	25 26 27
	(a) the modification has been authorised under an Australian road law of a non-participating jurisdiction; and	28 29 30

	(b) a modification plate or label is fitted or affixed to a conspicuous part of the vehicle; and	1 2 3
	(c) the modification plate or label indicates that the modification complies with a code of practice prescribed by the national regulations for the purposes of section 86.	4 5 6 7
	(5) In this section—	8
	<i>authorised</i> includes approved and permitted.	9
	<i>modification plate or label</i> means a plate or label that is stamped, engraved or marked so as to display information that relates to a modification.	10 11 12
	<i>non-participating jurisdiction</i> has the meaning given by section 221.	13 14
Clause 10	Amendment of s 96 (Compliance with mass requirements)	15 16
	Section 96, after subsection (4)—	17
	<i>insert</i> —	18
	(4A) However, if a PBS vehicle is driven on a road other than in accordance with a class 2 heavy vehicle authorisation—	19 20 21
	(a) subsection (4) does not apply to the vehicle; and	22 23
	(b) the mass limit that would otherwise apply to the vehicle under a prescribed mass requirement applies to the vehicle.	24 25 26
Clause 11	Amendment of s 102 (Compliance with dimension requirements)	27 28
	Section 102, after subsection (4)—	29
	<i>insert</i> —	30

[s 12]

	(5)	However, if a PBS vehicle is driven on a road other than in accordance with a class 2 heavy vehicle authorisation—	1 2 3
	(a)	subsection (4) does not apply to the vehicle; and	4 5
	(b)	the dimension limit that would otherwise apply to the vehicle under a prescribed dimension requirement applies to the vehicle.	6 7 8 9
Clause 12		Amendment of s 127 (Permit for mass or dimension exemption (permit) etc.)	10 11
		Section 127(1)(b) and note—	12
		<i>omit, insert—</i>	13
	(b)	a notice stating the review and appeal information for any of the following decisions that is a reviewable decision—	14 15 16
	(i)	the Regulator’s decision to grant the exemption for a period or impose a condition on the exemption;	17 18 19
	(ii)	a relevant road manager’s decision to consent to the grant of the exemption subject to a condition that a road condition or travel condition be imposed on the exemption.	20 21 22 23 24
		<i>Note—</i>	25
		Under section 641(6)(a), this notice must also state particular information about obtaining a statement of reasons for the decision.	26 27 28
Clause 13		Amendment of s 148 (Permit for class 2 heavy vehicle authorisation (permit) etc.)	29 30
		Section 148(1)(b) and note—	31
		<i>omit, insert—</i>	32

-
- (b) a notice stating the review and appeal information for any of the following decisions that is a reviewable decision—
- (i) the Regulator’s decision to grant the authorisation for a period or impose a condition on the authorisation;
 - (ii) a relevant road manager’s decision to consent to the grant of the authorisation subject to a condition that a road condition or travel condition be imposed on the authorisation.
- Note—*
- Under section 641(6)(a), this notice must also state particular information about obtaining a statement of reasons for the decision.

Clause 14 Amendment of s 153A (Using restricted access vehicle)

- (1) Section 153A(2), in alphabetical order—
- insert—*
- specified semitrailer*** means a semitrailer that—
- (a) is not a PBS vehicle; and
 - (b) has an air suspension system with effective dampers fitted; and
 - (c) has a deck height not higher than 1.2m for at least 50% of its deck length; and
 - (d) if in a combination—the combination—
 - (i) consists only of—
 - (A) a prime mover towing a single semitrailer attached to the prime mover by a fifth wheel coupling; or
 - (B) a B-double; or
 - (C) a B-triple; and

[s 15]

	(ii) has a mass not more than 90% of the prescribed mass requirements for the combination.	1 2 3
	<i>Note—</i>	4
	Although this section does not apply to certain combinations, a combination that is a class 2 heavy vehicle will still need to have a class 2 heavy vehicle authorisation (see s 137).	5 6 7 8
	(2) Section 153A(3)(b), ‘.’—	9
	<i>omit, insert—</i>	10
	; or	11
	(3) Section 153A(3), after the note—	12
	<i>insert—</i>	13
	(c) a specified semitrailer.	14
Clause 15	Omission of ss 164 and 165	15
	Sections 164 and 165—	16
	<i>omit.</i>	17
Clause 16	Amendment of s 172 (Requirements for statement explaining adverse decision of road manager)	18 19
	Section 172(2)—	20
	<i>omit, insert—</i>	21
	(2) The written statement complies with this section if it sets out the findings on material questions of fact, referring to the evidence or other material on which those findings were based and giving the reasons for the road manager’s decision.	22 23 24 25 26
Clause 17	Amendment of s 319 (Records record keeper must have)	27
	Section 319(1)(a)(vii), ‘; and’—	28

omit, insert—

1

;

2

Clause 18 Amendment of s 479 (Functions of authorised officers)

3

(1) Section 479, before ‘An’—

4

insert—

5

(1)

6

(2) Section 479—

7

insert—

8

(2) Also, an authorised officer who is not a police officer has the function under this Law to provide advice, information and education to persons with duties or obligations under this Law about compliance with the duties or obligations.

9

10

11

12

13

Clause 19 Insertion of new Pt 9.2, Div 1A

14

Part 9.2, after section 494—

15

insert—

16

Division 1A Entry of relevant places for advice purposes

17

18

494A Non-application to police officers

19

This Division does not apply to an authorised officer who is a police officer.

20

21

494B Power to enter relevant place

22

An authorised officer may, for advice purposes, enter a relevant place if—

23

24

[s 20]

	(a) an occupier of the place consents under Division 4 to the entry and section 503 has been complied with for the occupier; or	1 2 3
	(b) the place is not a residence and is—	4
	(i) open for carrying on a business; or	5
	(ii) otherwise open for entry; or	6
	(iii) required to be open for inspection under this Law.	7 8
	494C Power after entering relevant place	9
	If an authorised officer enters a relevant place under this Division, the officer may, for advice purposes, provide advice, information and education.	10 11 12 13
Clause 20	Amendment of s 496 (General powers after entering relevant place)	14 15
	Section 496, after subsection (6)—	16
	<i>insert—</i>	17
	(6A) If the authorised officer is not a police officer, the officer may, for advice purposes, provide advice, information and education.	18 19 20
Clause 21	Amendment of s 500 (General powers after entering a place)	21 22
	Section 500, after subsection (10)—	23
	<i>insert—</i>	24
	(11) If the authorised officer is not a police officer, the officer may, for advice purposes, provide advice, information and education.	25 26 27

Clause 22	Amendment of s 501 (Application of Div 4)	1
	Section 501, after ‘section’—	2
	<i>insert</i> —	3
	494B(a),	4
Clause 23	Amendment of s 525 (Definitions for Div 6)	5
	Section 525, definition <i>defective vehicle label</i> , paragraph (a), ‘vehicle defect notice’—	6 7
	<i>omit, insert</i> —	8
	major defect notice or minor defect notice	9
Clause 24	Amendment of s 526 (Issue of vehicle defect notice)	10
	(1) Section 526(1) and (2)—	11
	<i>omit, insert</i> —	12
	(1) This section applies if an authorised officer who has inspected a heavy vehicle under this Law reasonably believes—	13 14 15
	(a) the vehicle is a defective heavy vehicle; or	16
	(b) a number plate of the vehicle is wholly or partly obscured, defaced or otherwise not legible.	17 18 19
	(2) The authorised officer may issue the following vehicle defect notice in relation to the heavy vehicle, in the way mentioned in subsection (3)—	20 21 22
	(a) if the officer reasonably believes the vehicle is a defective heavy vehicle and use of the vehicle on a road poses an imminent and serious safety risk—a major defect notice;	23 24 25 26
	(b) if the officer reasonably believes the vehicle is a defective heavy vehicle and use of the vehicle on a road poses a safety risk other	27 28 29

[s 25]

	than an imminent and serious safety risk—a	1
	minor defect notice;	2
	(c) if the officer reasonably believes that use of	3
	the vehicle on a road does not pose a safety	4
	risk or subsection (1)(b) applies—a	5
	self-clearing defect notice.	6
(2)	Section 526(4)—	7
	<i>omit, insert—</i>	8
	(4) If the driver of a heavy vehicle for which a vehicle	9
	defect notice is issued under this section is not the	10
	operator of the vehicle, the driver must give the	11
	notice to the operator as soon as practicable, but	12
	not more than 14 days, after the notice is issued.	13
	Maximum penalty—\$3000.	14
Clause 25	Amendment of s 527 (Requirements about vehicle defect	15
	notice)	16
(1)	Section 527(1)(a)—	17
	<i>omit, insert—</i>	18
	(a) that the notice is a major defect notice,	19
	minor defect notice or self-clearing defect	20
	notice;	21
	(aa) that—	22
	(i) the vehicle is a defective heavy vehicle;	23
	or	24
	(ii) a number plate of the vehicle is wholly	25
	or partly obscured, defaced or	26
	otherwise not legible;	27
	(ab) if the vehicle is a defective heavy vehicle—	28
	details of how the vehicle is a defective	29
	heavy vehicle;	30
(2)	Section 527(1)(b), ‘notice given in circumstances mentioned	31
	in section 526(2)(a)’—	32

<i>omit, insert—</i>	1
major defect notice	2
(3) Section 527(1)(c)—	3
<i>omit, insert—</i>	4
(c) for a minor defect notice—	5
(i) that corrective action must be taken by a stated time (the <i>due time</i>); and	6 7
(ii) that, after the due time, the vehicle must not be used on a road unless corrective action has been taken;	8 9 10
(ca) for a self-clearing defect notice—	11
(i) that corrective action must be taken by a stated day (the <i>due day</i>) not more than 28 days after the notice is issued; and	12 13 14 15
(ii) that, after the due day, the vehicle must not be used on a road unless corrective action has been taken;	16 17 18
(4) Section 527(1)(i) and (j)—	19
<i>omit, insert—</i>	20
(i) the day and time the notice was issued;	21
(j) for a major defect notice or minor defect notice—	22 23
(i) that, if the notice is not cleared by the Regulator under section 530, the vehicle’s registration may be suspended and subsequently cancelled by a registration authority under an Australian road law; and	24 25 26 27 28 29
(ii) any conditions imposed under subsection (2).	30 31
(5) Section 527(2), ‘vehicle defect notice’—	32

[s 26]

omit, insert— 1

major defect notice or minor defect notice 2

(6) Section 527, after subsection (3)— 3

insert— 4

(4) In this section— 5

corrective action, for a vehicle, means action that
stops— 6
7

(a) the vehicle from being a defective heavy
vehicle; or 8
9

(b) a number plate of the vehicle being wholly
or partly obscured, defaced or otherwise not
legible. 10
11
12

**Clause 26 Amendment of s 529 (Using defective heavy vehicles
contrary to vehicle defect notice)** 13
14

(1) Section 529, heading, ‘defective’— 15

omit. 16

(2) Section 529, penalty— 17

omit, insert— 18

Maximum penalty— 19

(a) for a major defect notice or minor defect
notice—\$6000; or 20
21

(b) for a self-clearing defect notice—\$3000. 22

Clause 27 Insertion of new s 529AA 23

After section 529— 24

insert— 25

**529AA Permission to use vehicle the subject of a
self-clearing defect notice** 26
27

(1) An authorised officer may, on request made by 28

	the operator of a heavy vehicle that is the subject	1
	of a self-clearing defect notice, give written	2
	permission for the vehicle to be used on a road	3
	during a period stated in the permission.	4
	(2) The permission is subject to the condition that the	5
	vehicle will be used only for the purpose of	6
	driving the vehicle to and from a place where	7
	repairs are to be carried out.	8
	(3) The use of the vehicle under the permission, in	9
	accordance with the condition, is not a	10
	contravention of the self-clearing defect notice.	11
Clause 28	Replacement of s 529A (Permission by authorised officer	12
	to use vehicle the subject of a vehicle defect notice)	13
	Section 529A—	14
	<i>omit, insert—</i>	15
	529A Permission to use vehicle the subject of a	16
	major or minor defect notice	17
	(1) An authorised officer may, on request made by	18
	the operator of a heavy vehicle that is the subject	19
	of a major defect notice or minor defect notice,	20
	give written permission for the vehicle to be used	21
	on a road during a period stated in the permission.	22
	(2) The authorised officer may give the permission	23
	only if—	24
	(a) the officer is satisfied—	25
	(i) the vehicle will be used only for the	26
	purpose of driving the vehicle to and	27
	from a place where repairs are to be	28
	carried out; and	29
	(ii) the use of the vehicle will not pose an	30
	imminent and serious safety risk; and	31
	(iii) the request is necessary and	32
	reasonable; or	33

[s 29]

- (b) the officer is satisfied—
 - (i) the relevant repairs have been carried out and the vehicle will be taken within the stated period to be inspected for the purpose of enabling the vehicle defect notice to be cleared under section 530; and
 - (ii) the use of the vehicle will not pose a safety risk; and
 - (iii) the request is necessary and reasonable.
- (3) For the purpose of subsection (2)(a)(ii) or (b)(ii), an authorised officer may require evidence of adequate repairs or other measures.
- (4) The permission is subject to conditions that—
 - (a) the use of the vehicle will be as mentioned in subsection (2)(a)(i) or (b)(i); and
 - (b) in relation to the use of the vehicle mentioned in subsection (2)(a)(i)—the vehicle will not be used to carry goods or passengers.
- (5) The authorised officer may also impose other reasonable conditions on the permission.
- (6) The use of the vehicle under the permission is not a contravention of the vehicle defect notice.
- (7) The use of a vehicle in contravention of a condition under subsection (4) or (5) is a contravention of the vehicle defect notice.

Clause 29 Amendment of s 529B (Permitted use of vehicle the subject of a vehicle defect notice without permission of authorised officer)

- (1) Section 529B, heading, ‘vehicle defect’—
omit, insert—

	major or minor defect	1
(2)	Section 529B(1), ‘vehicle defect notice’—	2
	<i>omit, insert—</i>	3
	major defect notice or minor defect notice	4
Clause 30	Amendment of s 530 (Clearance of vehicle defect notices)	5
(1)	Section 530, heading, ‘vehicle’—	6
	<i>omit, insert—</i>	7
	major or minor	8
(2)	Section 530, ‘vehicle defect notice’—	9
	<i>omit, insert—</i>	10
	major defect notice or minor defect notice	11
Clause 31	Omission of ss 531A and 531B	12
	Sections 531A and 531B—	13
	<i>omit.</i>	14
Clause 32	Amendment of s 641 (Applying for internal review)	15
(1)	Section 641(2)(b)—	16
	<i>omit, insert—</i>	17
	(b) if a provision of this Law requires that the	18
	person be given a statement of reasons for	19
	the decision—the day the statement is given	20
	to the person.	21
(2)	Section 641(5), ‘original’—	22
	<i>omit, insert—</i>	23
	reviewable	24
(3)	Section 641(6)—	25
	<i>omit, insert—</i>	26

[s 33]

- (6) If the person is given a decision notice, but not an information notice, for the reviewable decision— 1
2
- (a) the decision notice must state that, within 28 3
days after the notice is given to the person, 4
the person may ask the Regulator for a 5
statement of reasons for the decision; and 6
- (b) the person may, within 28 days after a 7
decision notice complying with paragraph 8
(a) is given to the person, ask the Regulator 9
for a statement of reasons for the decision. 10
- (6A) Within 28 days after the request is made under 11
subsection (6)(b), the Regulator must give the 12
person a statement of reasons. 13
- (4) Section 641(8), in alphabetical order— 14
- insert—* 15
- decision notice***, for a decision, means a notice 16
stating— 17
- (a) the decision; or 18
- (b) the review and appeal information for the 19
decision. 20

Clause 33 Amendment of s 659 (Functions of Regulator) 21

Section 659(2), after paragraph (k)— 22

insert— 23

- (ka) to provide advice, information and 24
education to persons with duties or 25
obligations under this Law about 26
compliance with the duties or obligations; 27

Clause 34 Insertion of new s 698A 28

After section 698— 29

insert— 30

698A No liability, right etc. arising from particular functions of authorised officer or Regulator	1 2
(1) This section applies in relation to anything done by the Regulator or a protected person in the exercise of—	3 4 5
(a) a function of an authorised officer under section 479(2); or	6 7
(b) a function of the Regulator under section 659(2)(ka).	8 9
(2) The doing of the thing does not, of itself, give rise to—	10 11
(a) a civil liability of the Regulator or protected person; or	12 13
(b) a right, expectation, duty or obligation that would not otherwise be conferred or imposed on a person in relation to whom the thing was done; or	14 15 16 17
(c) a defence that would not otherwise be available to a person in relation to whom the thing was done.	18 19 20
(3) However, subsection (2)(a) applies only to a thing done by the Regulator or a protected person in good faith.	21 22 23
<i>Note—</i>	24
See also section 698 in relation to civil liability for a thing done in good faith.	25 26
(4) A reference in this section to doing a thing includes a reference to omitting to do a thing.	27 28
(5) In this section—	29
<i>protected person</i> see section 698(3).	30

Clause 35	Amendment of Sch 4 (Liability provisions)	31
(1)	Schedule 4, column 2, ‘85(1),’—	32

[s 35]

<i>omit.</i>	1
(2) Schedule 4, entry for section 531A—	2
<i>omit.</i>	3

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