



Queensland

Transport Operations (Road Use Management) Act 1995

Transport Operations (Road Use Management—Fatigue Management) Regulation 1998

Reprinted as in force on 1 July 2008

Reprint No. 3E

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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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Part 1 Preliminary

Division 1 Introductory

1 Short title

This regulation may be cited as the *Transport Operations (Road Use Management—Fatigue Management) Regulation 1998*.

2 Commencement

This regulation commences on 30 October 1998.

3 Purpose of regulation

The purpose of this regulation is to manage the fatigue of drivers to help ensure they are in a fit state of health and wellbeing to drive a heavy vehicle safely.

4 Application of regulation

- (1) This regulation applies to drivers of heavy vehicles on roads and road-related areas, and their employers.
- (2) However, this regulation does not apply to a member of the Australian Defence Forces while performing official duties.
- (3) Also, the following provisions may also apply to other persons—

- (a) part 4, division 7;¹
- (b) part 5;²
- (c) part 9.³

Division 2 Interpretation

5 Definitions—the dictionary

The dictionary in schedule 3 defines particular words used in this regulation.

Division 3 Some key concepts for this regulation

Subdivision 1 Persons with special duties

6 What is a *heavy vehicle*, *heavy truck*, *bus* and *commercial bus*

- (1) A *heavy vehicle* is—
 - (a) a heavy truck; or
 - (b) a commercial bus; or
 - (c) a bus with a vehicle mass of more than 12t.
- (2) A *heavy truck* is a motor vehicle (other than a motorhome, bus or tram) with a vehicle mass of more than 12t.
- (3) A *bus* is a motor vehicle built mainly to carry people that seats more than 12 adults (including the driver).
- (4) A *commercial bus* is a bus used—
 - (a) for hire or reward; or

1 Part 4 (Driving records), division 7 (General driving record offences)

2 Part 5 (Extended offences)

3 Part 9 (Enforcement, review and other matters)

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- (b) in the course of carrying on a business; or
- (c) by a community organisation.

Examples of subsection (4)(b)—

- 1 a courtesy bus
- 2 a school bus owned by a private school

- (5) In this section—

motorhome means a vehicle designed mainly for people to live in.

7 Who is a *driver*, *employed driver* and *self-employed driver*

- (1) A ***driver*** is a driver of a heavy vehicle.
- (2) An ***employed driver*** is a driver who is employed by someone else to drive a heavy vehicle.
- (3) A ***self-employed driver*** is a driver who is not an employed driver.

8 Who is an *employer* and *responsible employee*

- (1) An ***employer*** is a person who employs someone else to drive a heavy vehicle.
- (2) A ***responsible employee*** of an employer is an employee or agent of the employer who is responsible for—
 - (a) rostering driving, work or rest time of employed drivers;
or
 - (b) scheduling the transport of people or goods by road;and, if the employer is an individual, includes the employer.

9 Who is a *consignor*

A ***consignor*** is a person who—

- (a) engages someone, either directly or through an agent or other intermediary, to transport goods by road; and

- (b) has possession of, or control over, the goods immediately before they are transported; and
- (c) is not the employer of the driver of a heavy vehicle that transports the goods.

Subdivision 2 Driving, work and rest times

10 What is *driving* and *driving time*

- (1) ***Driving*** is driving a heavy vehicle, and includes—
 - (a) being in the driving seat of a stationary heavy vehicle while the engine is running; and
 - (b) instructing, supervising or assisting someone to drive a heavy vehicle.
- (2) ***Driving time*** is time spent by a driver driving, whether or not the time is spent driving on a road or road-related area.

11 What is *work time*

- (1) ***Work time*** is driving time and other time spent by a driver—
 - (a) loading or unloading a heavy vehicle; or
 - (b) inspecting, servicing or repairing a heavy vehicle, inspecting or attending to the load on a heavy vehicle or attending to the passengers of a commercial bus; or
 - (c) cleaning or refuelling a heavy vehicle; or
 - (d) performing marketing tasks in relation to the operation of a heavy vehicle; or
 - (e) helping with, or supervising, an activity mentioned in paragraphs (a) to (d); or
 - (f) recording information or completing a document in accordance with this regulation or in relation to the operation of a heavy vehicle.
- (2) However, ***work time*** does not include any period of at least 15 consecutive minutes in or on a heavy vehicle if the time is not

driving time and the driver is not engaged in an activity mentioned in subsection (1) during the period.

12 What is *rest time*

Rest time, for a driver, is a period of at least 15 consecutive minutes that is not the driver's work time.

Subdivision 3 Jurisdictions and zones

13 Definitions—jurisdictions and zones

- (1) *This jurisdiction* is the State.
- (2) A *relevant jurisdiction* is—
 - (a) this jurisdiction; or
 - (b) a State, if the law of the State includes provisions having the same, or substantially the same, effect as this regulation.
- (3) The *regulated zone* is all relevant jurisdictions.
- (4) The *non-regulated zone* is all jurisdictions that are not relevant jurisdictions.

Part 2 Regulated hours

Division 1 Introductory

14 Application of pt 2

This part applies to a driver unless—

- (a) the driver is registered as a driver participant in TFMS or a corresponding TFMS; and

- (b) the driver is carrying his or her current driver certification manual or corresponding driver certification manual; and
- (c) if the driver is an employed driver—the driver's employer is registered as an employer participant in TFMS or a corresponding TFMS.

Division 2 Driving, work and rest times of regulated hours drivers

15 Regulated hours—maximum driving times

- (1) In this section—
 - maximum driving time*, for a driver, means—
 - (a) for any 24 hour period—12 hours; and
 - (b) for any 168 hour period—72 hours.
- (2) A driver commits an offence if, for any period mentioned in subsection (1) (the *relevant period*), the driver's total driving time exceeds the driver's maximum driving time.

Maximum penalty—

 - (a) if the excess is less than 1 hour—20 penalty units; or
 - (b) if the excess is at least 1 hour but less than 2 hours—40 penalty units; or
 - (c) if the excess is 2 hours or more—60 penalty units.
- (3) For the penalty in subsection (2), the *excess* is the difference between the driver's total and maximum driving times for the relevant period.
- (4) A driver commits an offence if the driver's continuous driving time exceeds 5 hours.

Maximum penalty—

- (a) if the excess is less than 1 hour—20 penalty units; or
- (b) if the excess is at least 1 hour but less than 2 hours—40 penalty units; or

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- (c) if the excess is 2 hours or more—60 penalty units.
- (5) For the penalty in subsection (4), the *excess* is the difference between the driver's continuous driving time and 5 hours.

16 Regulated hours—maximum work times

- (1) In this section—
 - maximum work time*, for a driver, means—
 - (a) for any 24 hour period—14 hours; and
 - (b) for any 168 hour period—72 hours.
 - (2) A driver commits an offence if, for any period mentioned in subsection (1) in which the driver drives a heavy vehicle (the *relevant period*), the driver's total work time exceeds the driver's maximum work time.

Maximum penalty—

- (a) if the excess is less than 1 hour—20 penalty units; or
- (b) if the excess is at least 1 hour but less than 2 hours—40 penalty units; or
- (c) if the excess is 2 hours or more—60 penalty units.
- (3) For the penalty in subsection (2), the *excess* is the difference between the driver's total and maximum work times for the relevant period.
- (4) A driver commits an offence if the driver's continuous work time exceeds 5 hours.

Maximum penalty—

- (a) if the excess is less than 1 hour—20 penalty units; or
- (b) if the excess is at least 1 hour but less than 2 hours—40 penalty units; or
- (c) if the excess is 2 hours or more—60 penalty units.
- (5) For the penalty in subsection (4), the *excess* is the difference between the driver's continuous work time and 5 hours.

17 Regulated hours—minimum rest times

(1) In this section—

minimum rest times, for the driver of a heavy vehicle (other than a commercial bus), are—

- (a) for any 5.5 hour period—30 minutes, whether in a single period or 2 periods of 15 consecutive minutes; and
- (b) for any 24 hour period—10 hours, including 1 period of 6 consecutive hours that is not spent by the driver in or on the vehicle, other than a vehicle with a sleeper berth complying with ADR 42; and
- (c) for any 168 hour period—96 hours, including at least 1 period of 24 consecutive hours that is not spent by the driver in or on the vehicle.

minimum rest times, for the driver of a commercial bus, are—

- (a) for any 5.5 hour period—30 minutes, whether in a single period or 2 periods of 15 consecutive minutes; and
- (b) for any 24 hour period—10 hours, including 1 period of 6 consecutive hours that is not spent by the driver in or on the vehicle, other than a vehicle with a sleeper berth complying with ADR 42; and
- (c) for any 672 hour period—384 hours, including at least 4 periods of 24 consecutive hours that are not spent by the driver in or on the vehicle.

(2) A driver commits an offence if, for any period mentioned in subsection (1) in which the driver drives a heavy vehicle (the *relevant period*), the driver's rest time is less than the driver's minimum rest time.

Maximum penalty—

- (a) if the relevant period is 5.5 hours—20 penalty units; or
- (b) if the relevant period is 24, 168 or 672 hours and the rest shortfall is less than 1 hour—20 penalty units; or
- (c) if the relevant period is 24, 168 or 672 hours and the rest shortfall is at least 1 hour but less than 2 hours—40 penalty units; or

- (d) if the relevant period is 24, 168 or 672 hours and the rest shortfall is 2 hours or more—60 penalty units.
- (3) For the penalty in subsection (2), the *rest shortfall* is the difference between the driver's rest time and the minimum rest time for the relevant period.

18 Application of div 2 to drivers from elsewhere in regulated zone

In applying this division to a driver, any time spent by the driver in another jurisdiction in the regulated zone is treated in the same way as it would have been treated if the time had been spent in this jurisdiction.

19 Application of div 2 to drivers from non-regulated zone

- (1) This section applies to a driver if the driver drives a heavy vehicle into this jurisdiction from the non-regulated zone.
- (2) In applying this division to the driver—
 - (a) any driving, work or rest time spent by the driver in the non-regulated zone before the start of his or her last 6 hour rest break before entering this jurisdiction is disregarded; and
 - (b) any driving, work or rest time spent by the driver after the start of his or her last 6 hour rest break is taken into account; and
 - (c) any time spent by the driver in the non-regulated zone after the start of his or her last 6 hour rest break is treated in the same way as it would have been treated if the time had been spent in this jurisdiction.

Part 3 Transitional Fatigue Management Scheme

Division 1 Introductory

20 Definition for pt 3

In this part—

driver does not include the driver of a commercial bus.⁴

21 TFMS established

This part establishes the Transitional Fatigue Management Scheme (*TFMS*) and provides for other matters in it.⁵

Division 2 Driving, work and rest times of TFMS drivers

22 Application of div 2

This division applies to a driver only if—

- (a) the driver is registered as a driver participant in TFMS or a corresponding TFMS; and
- (b) the driver is carrying his or her current driver's certification manual or corresponding driver certification manual; and

4 This part does not apply to the drivers of commercial buses. However, driving, work and rest time spent in relation to buses is taken into account in working out the driving, work and rest times of heavy truck drivers.

5 A person may be registered as a driver or employer participant in TFMS under part 7 (TFMS administration), division 1 (Registration of TFMS participants and issue of driver certification manuals).

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- (c) if the driver is an employed driver—the driver’s employer is also registered as an employer participant in TFMS.⁶

23 TFMS—maximum driving times

- (1) In this section—

maximum driving time, for a driver, means—

- (a) for any 24 hour period—14 hours; and
(b) for any 336 hour period—144 hours.
- (2) However, if, at any time in any 24 hour period the driver is a two-up driver, the driver’s *maximum driving time* for the period is 12 hours.
- (3) A driver commits an offence if, for any period mentioned in subsection (1) or (2) (the *relevant period*), the driver’s total driving time exceeds the driver’s maximum driving time.

Maximum penalty—

- (a) if the excess is less than 1 hour—20 penalty units; or
(b) if the excess is at least 1 hour but less than 2 hours—40 penalty units; or
(c) if the excess is 2 hours or more—60 penalty units.
- (4) For the penalty in subsection (3), the *excess* is the difference between the driver’s total and maximum driving times for the relevant period.
- (5) A driver commits an offence if the driver’s continuous driving time exceeds 5 hours.

Maximum penalty—

- (a) if the excess is less than 1 hour—20 penalty units; or
(b) if the excess is at least 1 hour but less than 2 hours—40 penalty units; or
(c) if the excess is 2 hours or more—60 penalty units.

⁶ If this division does not apply to the driver of a heavy truck, part 2 (Regulated hours) applies to the driver—see section 16 (Regulated hours—maximum work times).

- (6) For the penalty in subsection (5), the *excess* is the difference between the driver's continuous driving time and 5 hours.

24 TFMS—maximum work times

- (1) In this section—

maximum work time, for a driver, means—

- (a) for any 24 hour period—14 hours; and
 - (b) for any 336 hour period—144 hours.
- (2) A driver commits an offence if, for any period mentioned in subsection (1) in which the driver drives a heavy truck (the *relevant period*), the driver's total work time exceeds the driver's maximum work time.

Maximum penalty—

- (a) if the excess is less than 1 hour—20 penalty units; or
 - (b) if the excess is at least 1 hour but less than 2 hours—40 penalty units; or
 - (c) if the excess is 2 hours or more—60 penalty units.
- (3) For the penalty in subsection (2), the *excess* is the difference between the driver's total and maximum work times for the relevant period.
- (4) A driver commits an offence if the driver's continuous work time exceeds 5 hours.

Maximum penalty—

- (a) if the excess is less than 1 hour—20 penalty units; or
 - (b) if the excess is at least 1 hour but less than 2 hours—40 penalty units; or
 - (c) if the excess is 2 hours or more—60 penalty units.
- (5) For the penalty in subsection (4), the *excess* is the difference between the driver's continuous work time and 5 hours.

25 TFMS—minimum rest times

- (1) For this section, the *minimum rest times* for a driver are—

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- (a) for any 5.5 hour period—30 minutes, whether in a single period or 2 periods of 15 consecutive minutes; and
 - (b) for any 24 hour period—10 hours, including 1 period of 6 consecutive hours that is not spent by the driver in or on the vehicle, other than a vehicle with a sleeper berth complying with ADR 42; and
 - (c) for any 336 hour period—192 hours, including at least 2 periods of 24 consecutive hours that are not spent by the driver in or on the vehicle.
- (2) For subsection (1)(c), a period of up to 60 consecutive minutes spent by a driver in a 24 hour period cleaning or refuelling a heavy truck (other than at the direction of his or her employer) is taken to be rest time if the beginning and end of the cleaning or refuelling are separated by at least 3 hours from the beginning or end of driving or work time.
- (3) A driver commits an offence if, for any period mentioned in subsection (1) in which the driver drives a heavy truck (the *relevant period*), the driver's rest time is less than the driver's minimum rest time.

Maximum penalty—

- (a) if the relevant period is 5.5 hours—20 penalty units; or
 - (b) if the relevant period is 24 or 336 hours and the rest shortfall is less than 1 hour—20 penalty units; or
 - (c) if the relevant period is 24 or 336 hours and the rest shortfall is at least 1 hour but less than 2 hours—40 penalty units; or
 - (d) if the relevant period is 24 or 336 hours and the rest shortfall is 2 hours or more—60 penalty units.
- (4) For the penalty in subsection (3), the *rest shortfall* is the difference between the driver's rest time and the minimum rest time for the relevant period.

26 Application of div 2 to drivers from elsewhere in regulated zone

In applying this division to a driver, any time spent by the driver in another jurisdiction in the regulated zone is treated in

the same way as it would have been treated if the time had been spent in this jurisdiction.

27 Application of div 2 to drivers from non-regulated zone

- (1) This section applies to a driver if the driver drives a heavy truck into this jurisdiction from the non-regulated zone.
- (2) In applying this division to the driver—
 - (a) any driving, work or rest time spent by the driver in the non-regulated zone before the start of his or her last 6 hour rest break before entering this jurisdiction is disregarded; and
 - (b) any driving, work or rest time spent by the driver after the start of that rest time is taken into account; and
 - (c) any time spent by the driver in the non-regulated zone (or another jurisdiction in the regulated zone) after the start of that rest time is treated in the same way as it would have been treated if the time had been spent in this jurisdiction.

Division 3 General obligations of driver participants

28 Application of div 3

This division applies to a driver who is registered as a driver participant in TFMS.

29 General obligations of employed drivers

- (1) If a driver becomes, or ceases to be, employed to drive a heavy truck, the driver must immediately record in his or her driver certification manual, as required by the instructions in the manual, the date and time when the driver became, or ceased to be, employed and, if the driver became employed—
 - (a) the employer's name and the address of the place where the employer manages the employment of drivers; and

- (b) whether the employer is registered as an employer participant in TFMS; and
- (c) if so, the employer's TFMS registration number.

Maximum penalty—60 penalty units.

- (2) In this section—

driver certification manual includes a corresponding driver certification manual.

TFMS includes a corresponding TFMS.

30 General obligations of self-employed drivers

- (1) A self-employed driver must—

- (a) manage the driver's driving, work and rest times so the driver can comply with this part; and
- (b) keep complete and accurate records showing that the driver has complied with paragraph (a).

Maximum penalty—60 penalty units.

- (2) In this section—

driver certification manual includes a corresponding driver certification manual.

TFMS includes a corresponding TFMS.

31 Medical examination requirements

- (1) The chief executive may, by written notice given to a driver, ask the driver to—

- (a) undergo a medical examination in accordance with the required medical standards; and
- (b) give his or her driver certification manual to the examining doctor for inclusion of the certificate mentioned in subsection (2); and
- (c) produce the manual containing the certificate to the chief executive for inspection within the time stated in the notice.

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- (2) The certificate must state—
 - (a) the name and address of the doctor; and
 - (b) that the doctor examined the driver in accordance with the required medical standards; and
 - (c) the date of the medical examination; and
 - (d) that the person met, or did not meet, the required medical standards.
- (3) The time stated in the notice must be a reasonable time (of at least 7 days) after the notice is given to the driver.
- (4) The driver must comply with the notice unless the driver has a reasonable excuse for not complying with it.

Maximum penalty for subsection (4)—7 penalty units.

32 Approved fatigue management training requirements

- (1) The chief executive may, by written notice given to a driver, ask the driver to—
 - (a) complete an approved fatigue management training course; and
 - (b) give his or her driver certification manual to the person (the *trainer*) conducting the course for inclusion of the certificate mentioned in subsection (2); and
 - (c) produce the manual containing the certificate to the chief executive for inspection within the time stated in the notice.
- (2) The certificate must state—
 - (a) the name and address of the trainer; and
 - (b) that the driver completed an approved fatigue management training course conducted by the trainer; and
 - (c) the date of the course.
- (3) The time stated in the notice must be a reasonable time (of at least 28 days) after the notice is given to the driver.

- (4) The driver must comply with the notice unless the driver has a reasonable excuse for not complying with it.

Maximum penalty for subsection (4)—7 penalty units.

33 Chief executive to be told if driver certification manual destroyed, lost or stolen etc.

- (1) If a driver certification manual issued to a driver is destroyed, lost or stolen, the driver must tell the chief executive, in writing, as soon as possible (but within 2 business days) after becoming aware the manual has been destroyed, lost or stolen.

Maximum penalty—7 penalty units.

- (2) If a lost or stolen driver certification manual (the *earlier manual*) is found or returned to the driver after a replacement driver certification manual has been issued to the driver, the driver must give the earlier manual to the chief executive as soon as possible (but within 3 business days) after the manual is found or returned.

Maximum penalty for subsection (2)—7 penalty units.

Division 4 Obligations of employer participants

34 Application of div 4

This division applies to an employer who is registered as an employer participant in TFMS.

35 General obligations

- (1) The employer must—
- (a) manage employed drivers, including their driving, work and rest times, so that they are able to comply with this regulation; and
 - (b) ensure each employed driver and responsible employee of the employer completes an approved fatigue management training course (a *training course*); and

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- (c) obtain a certificate (a **training certificate**) for each person completing a training course from the person (the **trainer**) conducting the course; and
- (d) keep complete and accurate records showing—
 - (i) the employer has complied with paragraphs (a), (b) and (c); and
 - (ii) the medical examinations undergone by the employer's employed truck drivers for this regulation.

Maximum penalty—20 penalty units.

- (2) The training certificate must state—
 - (a) the name and address of the trainer; and
 - (b) that the person named in the training certificate completed a training course conducted by the trainer; and
 - (c) the date of the course.

36 Chief executive may ask employers to produce training certificate

- (1) The chief executive may, by written notice given to an employer, ask the employer to produce a training certificate mentioned in section 35(1)(c) to the chief executive for inspection within the time stated in the notice.
- (2) The time stated in the notice must be a reasonable time (of at least 28 days) after the notice is given to the employer.
- (3) The employer must comply with the notice unless the employer has a reasonable excuse for not complying with it.

Maximum penalty for subsection (3)—7 penalty units.

Part 4 Driving records

Division 1 Key concepts for pt 4

37 What is a driver's *200km limit*

For the driver of a heavy vehicle the *200km limit* is the circumference of a notional circle of which—

- (a) the centre is the driver's base; and
- (b) the radius is 200km.

38 What is a driver's *base*

- (1) The *base* of the driver of a heavy vehicle is the vehicle's garage address.
- (2) However, if the driver records in his or her logbook that the driver operates and receives instructions from another place stated in the logbook, the other place is the driver's base.
- (3) For this section, if a driver is a self-employed driver and an employed driver at different times, the driver may have 1 base as a self-employed driver and another base as an employed driver.
- (4) For this section, if a driver has 2 or more employers, the driver may have a different base in relation to each employer.

39 What is *local area work* and *non-local area work*

- (1) The driver of a heavy vehicle is engaged in *local area work* if the driver is driving the vehicle within the driver's 200km limit.
- (2) The driver of a heavy vehicle is engaged in *non-local area work* if the driver is driving the vehicle beyond the driver's 200km limit.

40 What is a driver’s *logbook* and *driver certification manual*

- (1) A driver’s *logbook* is a logbook issued to the driver under section 76,⁷ and in this part includes a logbook issued to the driver under a corresponding law.
- (2) A driver’s *driver certification manual* is a driver certification manual issued to the driver under section 81 or 83,⁸ and in this part includes a driver certification manual issued to the driver under a corresponding law.

41 What is an *approved DSMD*

An *approved DSMD* is an automatic recording device of a type that is approved in writing as a driver specific monitoring device by the Ministerial Council.⁹

42 Driving record definitions

- (1) A *driving record* is—
 - (a) a logbook; or
 - (b) a record made in this jurisdiction by an approved DSMD operating in accordance with the manufacturer’s instructions; or
 - (c) a supplementary record; or
 - (d) a local area work record.
- (2) A *supplementary record* is a record made under section 50.¹⁰
- (3) A *local area work record* is a record made under section 52 or section 53.¹¹

7 Section 76 (Issue of logbooks)

8 Section 81 (TFMS registration and issue of driver certification manuals) or 83 (Issue of replacement driver certification manuals)

9 Information about approved DSMDs can be obtained from the National Transport Commission, 15/628 Bourke Street, Melbourne 3000.

10 Section 50 (Supplementary records)

11 Section 52 (Driving records to be made by employers of drivers) or 53 (Driving records to be made by self-employed drivers)

Division 2 Driving records for non-local area work

43 What is a *driving record* for div 2

In this division—

driving record includes a corresponding driving record but does not include a local area work record.

44 Drivers to have logbooks etc.

- (1) The driver of a heavy vehicle must not engage in non-local area work unless the driver has a logbook in which the driver can record information under this division.

Maximum penalty—60 penalty units.

- (2) The driver of a heavy vehicle who is engaged in non-local area work must carry his or her logbook.

Maximum penalty—60 penalty units.

- (3) The driver of a heavy vehicle whose base is not the garage address of the vehicle and who is engaged in local area work must carry his or her logbook.

Maximum penalty—60 penalty units.

- (4) It is a defence to an offence against subsection (2) or (3) if a driver proves, at the time of the offence—

- (a) the driver's logbook had been destroyed, lost or stolen; and
- (b) the driver had not been issued with a replacement logbook; and
- (c) 2 business days had not elapsed since the logbook was destroyed, lost or stolen; and
- (d) the driver has made records in accordance with section 50(2).

45 Logbook records to be made by drivers engaged in non-local area work

- (1) This section applies to a driver for a day on which the driver engages in non-local area work.
- (1A) For this section, an act or omission of a driver in the regulated zone other than this jurisdiction that, had the act or omission happened in this jurisdiction, would contravene this section is taken to have been done or omitted to be done in this jurisdiction.
- (2) Before the driver's first period of driving or work time on the day, the driver must record the following information in the driver's logbook—
 - (a) the day of the week and date;
 - (b) the driver's name and current driver licence number;
 - (c) the State where the licence was issued.

Maximum penalty—60 penalty units.

- (3) The driver must record the registration number of each heavy vehicle driven by the driver on the day in his or her logbook before the driver begins to drive the vehicle for the first time on the day.

Maximum penalty—60 penalty units.

- (4) Immediately before or after each change of activity on the day, the driver must record the following information in the driver's logbook—
 - (a) the change of activity;
 - (b) the driving time, other work time or rest time spent by the driver since the last change of activity;
 - (c) the time and place of the change of activity;
 - (d) if the driver is or becomes a two-up driver—the name and current driver licence number of the other driver in the two-up driving arrangement.

Maximum penalty—60 penalty units.

- (5) A ***change of activity*** for the driver is a change from—
 - (a) driving time to other work time; or

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- (b) work time (except driving time) to driving time; or
 - (c) driving time to rest time; or
 - (d) rest time to driving time; or
 - (e) work time (except driving time) to rest time; or
 - (f) rest time to work time (except driving time); or
 - (g) being a solo driver to being a two-up driver; or
 - (h) being a two-up driver to being a solo driver.
- (6) If subsection (2), (3) or (4) has the effect of requiring the driver to record information in his or her logbook at a time before the driver begins to engage in non-local area work on the day, it is a defence if the driver proves, at the time of the offence—
- (a) the driver was unaware at that time that the driver would be engaging in non-local area work on the day; and
 - (b) the driver recorded the information in his or her logbook as soon as practicable after the driver became aware that the driver would be engaging in non-local area work.
- (7) If this section (or section 46 or 47) applies to 2 drivers who are in a two-up driving arrangement, each driver must separately record information in his or her logbook.
- (8) In this section—
- driver* includes a driver who enters Queensland from another State in the regulated zone.

46 Additional logbook records to be made by drivers before beginning to engage in non-local area work

- (1) Before the driver of a heavy vehicle begins to engage in non-local area work, the driver must record the required information in his or her logbook.

Maximum penalty—60 penalty units.

- (2) In this section—

required information means the information mentioned in section 45(2), (3) and (4) for the period beginning at the start

of the driver's last 6 hour rest break (whether or not the time was spent in the jurisdiction).

47 Additional logbook records to be made by drivers after ceasing to engage in non-local area work

- (1) After the driver of a heavy vehicle ceases to engage in non-local area work, the driver must continue to record the required information in his or her logbook until the cut-off time.

Maximum penalty—60 penalty units.

- (2) In this section—

cut-off time means the start of the driver's next 6 hour rest break (whether or not the time is spent in this jurisdiction).

required information means the information mentioned in section 45(2), (3) and (4).

48 How information is to be recorded in logbooks

The records made in a logbook by a driver must be made in the following way—

- (a) the information for each day must be written on a separate daily sheet in a logbook that has not been cancelled by the chief executive;
- (b) information must be written on a daily sheet in accordance with the instructions in the logbook for recording information of daily sheets;
- (c) the daily sheets in the logbook must be used in turn from the front of the logbook;
- (d) each daily sheet must be signed and dated by the driver;
- (e) information must be written on a daily sheet with enough pressure to ensure a readable record of the information appears on the duplicate daily sheet;

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- (f) other information must be written in the logbook in accordance with the instructions in the logbook for the recording of the information.

Maximum penalty—20 penalty units.

49 Exceptions to logbook record requirements

Sections 44 to 48 do not apply to a driver in relation to information if—

- (a) section 50 applies to the driver and the driver records the information in accordance with the section; or
- (b) the driver records the information using an approved DSMD that is operating in accordance with the manufacturer's instructions.

50 Supplementary records

- (1) This section applies to a driver if—
 - (a) the driver's logbook is completed, destroyed, lost or stolen; and
 - (b) the driver has not been issued with a replacement logbook; and
 - (c) 2 business days have not elapsed since the logbook was completed, destroyed, lost or stolen.
- (2) This section also applies to a driver if—
 - (a) the driver is not carrying a logbook in which the driver can record information under this division in accordance with section 48; and
 - (b) the driver is driving a heavy truck fitted with an approved DSMD that is not operating in accordance with the manufacturer's instructions; and
 - (c) 2 business days have not elapsed since the DSMD stopped operating in accordance with the manufacturer's instructions.

- (3) The driver must record information required by sections 45 to 47 in a way that is no less accurate and understandable than, and in a similar form to, records made in a logbook.

Division 3 Driving records for local area work

51 Application of div 3

This division applies in relation to a driver who is engaged in local area work.

52 Driving records to be made by employers of drivers

- (1) The employer of an employed driver must, within the time stated in subsection (2), record the following information—
- (a) the driver's name;
 - (b) the date of each day (a *driving day*) when the driver drives a heavy vehicle for the employer;
 - (ba) the registration number of each heavy vehicle the driver drives;
 - (c) the times the driver started and finished driving on each driving day;
 - (d) the total of the driver's driving, work and rest times on each driving day;
 - (e) the total of the driver's driving, work and rest times for the driving days in each week.

Maximum penalty—20 penalty units.

- (2) The employer must record the information within 7 days after a driving day.
- (3) The records may be made as part of other records made by the employer.

53 Driving records to be made by self-employed drivers

- (1) A self-employed driver must, within the time stated in subsection (2), record the following information—

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- (a) the date of each day (a ***driving day***) when the driver drives a heavy vehicle;
- (b) the total of the driver's driving, work and rest times on each driving day;
- (c) the total of the driver's driving, work and rest times for the driving days in each week.

Maximum penalty—60 penalty units.

- (2) The self-employed driver must record the information within 7 days after a driving day.
- (3) The records may be made as part of other records made by the driver.

Division 4 Inspection of driving records

54 Driving records—non-local area work

- (1) If a driver is engaged in non-local area work, or has at any time in the last 28 days been engaged in non-local area work, the driver must carry his or her driving records for the last 28 days while driving a heavy vehicle.

Maximum penalty—60 penalty units.

- (2) It is a defence to an offence against subsection (1) if a driver proves, at the time of the offence, the driver's records have been destroyed, lost or stolen.

Division 5 Driving records to be kept

55 Driving records made by employed drivers—non-local area work

An employed driver engaged in non-local area work must give a copy of the driver's driving records for each day the driver is engaged in non-local area work to the driver's employer or, if the driver has 2 or more employers on the day, to each employer—

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- (a) if the driver and employer are both registered participants in TFMS—within 28 days after that day; and
- (b) in any other case—within 21 days after that day.

Maximum penalty—20 penalty units.

55A Employers to obtain driving records of employed drivers—non-local area work

The employer of an employed driver engaged in non-local area work must take reasonable steps to obtain a copy of the driver's driving records for each day the driver is engaged in non-local area work—

- (a) if the driver and employer are both registered participants in TFMS—within 28 days after the day; and
- (b) in any other case—within 21 days after the day.

Maximum penalty—20 penalty units.

56 Non-local area work records to be kept

- (1) The employer of an employed driver engaged in non-local area work must keep the copy of the driver's records for the work in the way required under subsection (2).

Maximum penalty—20 penalty units.

- (2) The records must be kept—
 - (a) at the place where the employer manages the driver's employment; and
 - (b) in—
 - (i) alphabetical order according to the driver's family name; and
 - (ii) chronological order according to the day on which the driver made the record; and
 - (c) for at least one year after the day on which the record was made.

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- (3) A self-employed driver must, as required under subsection (4), keep the driver's driving records for a day on which the driver engages in non-local area work.

Maximum penalty—20 penalty units.

- (4) The records must be kept—
- (a) at the driver's base; and
 - (b) in chronological order according to the day on which the driver made the record; and
 - (c) for at least one year after the day on which the record was made.

57 Local area work records to be kept

- (1) The employer of an employed driver engaged in local area work must keep the employed driver's local area work record in the way required under subsection (2).

Maximum penalty—20 penalty units.

- (2) The records must be kept—
- (a) at the place where the employer manages the driver's employment; and
 - (b) in—
 - (i) alphabetical order according to the driver's family name; and
 - (ii) chronological order according to the day on which the employer made the record; and
 - (c) for at least one year after the day on which the record was made.
- (3) A self-employed driver engaged in local area work must keep the driver's local area work record in the way required under subsection (4).

Maximum penalty—20 penalty units.

- (4) The records must be kept—
- (a) at the driver's base; and

- (b) in chronological order according to the day on which the driver made the record; and
- (c) for at least one year after the day on which the record was made.

Division 6 Other logbook offences

58 Chief executive to be told if logbook destroyed, lost or stolen etc.

- (1) If a logbook issued to a driver is destroyed, lost or stolen, the driver must tell the chief executive, in writing, as soon as possible (but within 2 business days) after becoming aware that the logbook has been destroyed, lost or stolen.

Maximum penalty—7 penalty units.

- (2) If a lost or stolen driver's logbook (the *earlier logbook*) is found or returned to the driver after a replacement logbook has been issued to the driver, the driver must—
 - (a) immediately cancel any unused daily sheets in the earlier logbook by writing 'cancelled' in large letters across each unused sheet; and
 - (b) give the earlier logbook to the chief executive as soon as possible (but within 3 business days) after the logbook is found or returned.

Maximum penalty for subsection (2)—7 penalty units.

59 Certain changes in driver's base to be recorded in logbook

- (1) This section applies to a driver if—
 - (a) the driver has recorded in his or her logbook that the driver operates and receives instructions from a stated place; and
 - (b) the driver ceases to operate and receive instructions from the place.

- (2) The driver must immediately record in his or her logbook the place from which the driver now operates and receives instructions.

Maximum penalty—20 penalty units.

60 Drivers must not have more than 1 logbook

A driver must not have in his or her possession more than 1 logbook in which entries can be made on a daily sheet.

Maximum penalty—60 penalty units.

61 Possession of purported driving records etc. prohibited

A driver or driver's employer must not have in his or her possession something purporting to be a driving record or driver certification manual, if the driver or employer knows, or reasonably ought to know, that it is not a driving record or driver certification manual.

Maximum penalty—60 penalty units.

62 Drivers to tell employers of incorrectly operating approved DSMDs

An employed driver must tell his or her employer as soon as practicable if the driver knows or suspects on reasonable grounds that an approved DSMD fitted in a heavy vehicle driven by the driver for the employer is not operating as required by the manufacturer's specifications.

Maximum penalty—20 penalty units.

Division 7 General driving record offences

63 What is a driving record for div 7

In this division—

driving record includes a corresponding driving record.

64 Making false and misleading entries in driving records etc. prohibited

A person must not—

- (a) make an entry in a driving record that the person knows, or reasonably ought to know, is false or misleading in a material particular; or
- (b) deface or change an entry in a driving record that the person knows, or reasonably ought to know, is correct.

Maximum penalty—60 penalty units.

64A Possessing or using false and misleading driving records prohibited

(1) A person must not possess or use a driving record that—

- (a) does not contain the required information; or
- (b) contains information the person knows, or reasonably ought to know, is false or misleading in a material particular.

Maximum penalty—60 penalty units.

(2) In this section—

required information means the information mentioned in section 45(2), (3), (4) and (7).

65 False representation of driving records prohibited

A person must not falsely represent that a driving record, or an entry in a driving record, was made by the person.

Maximum penalty—60 penalty units.

66 Making entries in someone else's driving records prohibited

(1) A person must not make an entry in someone else's driving record.

Maximum penalty—60 penalty units.

(2) Subsection (1) does not apply to—

- (a) an authorised officer who makes the entry in the driving record; or
- (b) the driver's nominee who makes the entry in the driver's logbook under an exemption applying to the driver.

67 Destruction of certain driving records prohibited

If a driving record is required under this part to be kept for a particular period by a person, the person or someone else must not destroy the record before the end of the period.

Maximum penalty—60 penalty units.

68 Interference with approved DSMDs prohibited

A person must not interfere with the operation of an approved DSMD.

Maximum penalty—20 penalty units.

Part 5 Extended offences

69 Definitions for pt 5

In this part—

core driving hours offence means an offence against any of the following provisions or a corresponding provision—

- section 15 (Regulated hours—maximum driving times)
- section 16 (Regulated hours—maximum work times)
- section 17 (Regulated hours—minimum rest times)
- section 23 (TFMS—maximum driving times)
- section 24 (TFMS—maximum work times)
- section 25 (TFMS—minimum rest times).

driving record offence means an offence against any of the following provisions or a corresponding provision—

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- part 4 (Driving records), division 2 (Driving records for non-local area work)
- section 55 (Driving records made by employed drivers—non-local area work)
- part 4 (Driving records), division 6 (Other logbook offences)
- part 4 (Driving records), division 7 (General driving record offences).

speeding offence means an offence against the law of this or another jurisdiction that involves driving a heavy vehicle at a speed exceeding the maximum speed at which the vehicle may lawfully be driven.

70 Certain requests etc. prohibited

A person must not ask, direct or require, directly or indirectly, the driver of a heavy vehicle to do something if the person knows, or reasonably ought to know, that by complying the driver would, or would be likely to, commit—

- (a) a core driving hours offence; or
- (b) a driving record offence; or
- (c) a speeding offence.

Maximum penalty—

- (a) for paragraph (a)—60 penalty units; or
- (b) for paragraph (b), other than for an offence against section 55—60 penalty units; or
- (c) for paragraph (c) or an offence against section 55—20 penalty units

Example of requirement—

a requirement that is an express or implied condition of the driver's engagement

71 Special obligation of consignors

A consignor must not engage someone to transport goods by road if the consignor knows, or reasonably ought to know, that by complying with an express or implied condition of the engagement the driver of a heavy vehicle transporting the goods would, or would be likely to, commit—

- (a) a core driving hours offence; or
- (b) a driving record offence; or
- (c) a speeding offence.

Maximum penalty—

- (a) for paragraph (a)—60 penalty units; or
- (b) for paragraph (b), other than for an offence against section 55—60 penalty units; or
- (c) for paragraph (c) or an offence against section 55—20 penalty units

72 Special obligation of employers

An employer must not allow an employed driver to drive a heavy vehicle for the employer if the employer knows, or reasonably ought to know, that by driving the vehicle the driver would, or would be likely to, commit a core driving hours offence.

Maximum penalty—60 penalty units.

73 Special obligations—rostering and scheduling

- (1) An employer, or a responsible employee of an employer, must not roster driving, work or rest time of an employed driver if the employer or responsible employee knows, or reasonably ought to know, that by complying with the roster the driver would, or would be likely to, commit a core driving hours offence.

Maximum penalty—60 penalty units.

- (2) An employer, or a responsible employee of an employer, must not schedule the transport of people or goods by road if the

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employer or employee knows, or reasonably ought to know, that by complying with the schedule the driver of the vehicle would, or would be likely to, commit—

- (a) a core driving hours offence; or
- (b) a speeding offence.

Maximum penalty—

- (a) for paragraph (a)—60 penalty units; or
- (b) for paragraph (b)—20 penalty units.

Part 6 Issue of logbooks

74 Logbooks

- (1) A logbook is a logbook provided by the chief executive that complies with this section.
- (2) The logbook must contain—
 - (a) a unique identifying number for the logbook; and
 - (b) sequentially numbered sheets for making daily records; and
 - (c) provision for recording information on the daily sheets; and
 - (d) a duplicate of—
 - (i) each daily sheet; and
 - (ii) any application form in the logbook; and
 - (e) instructions for use of the logbook.
- (3) The logbook may contain an application form for the issue of a logbook.
- (4) When the logbook is used in accordance with the instructions in the logbook, information written on a daily sheet or

application form must be automatically copied on the duplicate daily sheet or application form.

- (5) The logbook must be in the approved form.

75 Application for logbooks

- (1) A driver who wishes to be issued with a logbook (including a replacement logbook) must apply to the chief executive in the approved form.
- (2) If the application is for a logbook to replace a logbook (the *existing logbook*) that has been previously issued to the driver, the driver must give the existing logbook to the chief executive with the application unless the existing logbook has been destroyed, lost or stolen.
- (3) If the driver gives the existing logbook to the chief executive, the chief executive must—
 - (a) cancel any unused daily sheets in the logbook; and
 - (b) return the logbook to the driver when the chief executive issues the replacement logbook to the driver.
- (4) If the application is for a logbook to replace a logbook that has been destroyed, lost or stolen, the application must—
 - (a) state the logbook's number (if known) and that it has been destroyed, lost or stolen; and
 - (b) briefly outline the circumstances of the destruction, loss or theft.

76 Issue of logbooks

- (1) The chief executive must issue a logbook to a driver if the driver—
 - (a) applies to the chief executive in accordance with section 75; and
 - (b) establishes the driver's identity by showing his or her driver licence to the chief executive; and
 - (c) pays the application fee.

- (2) If the chief executive issues a logbook to a driver, the chief executive must complete details in the logbook about the date, time and place of issue.

Part 7 TFMS administration

Division 1 Registration of TFMS participants and issue of driver certification manuals

77 Applications for registration

- (1) An employed or self-employed driver who wishes to be registered as a driver participant in TFMS may apply to the chief executive using the application form in a driver certification manual.
- (2) The application must include the required medical and required training certificates.
- (3) An employer who wishes to be registered as an employer participant in TFMS may apply to the chief executive using the application form provided by the chief executive.
- (4) An applicant must pay the application fee.

78 Driver certification manuals

- (1) A driver certification manual is a manual provided by the chief executive that complies with this section.
- (2) The driver certification manual must contain—
 - (a) an application form for registration as a driver participant in TFMS, including provision for the required medical and training certificates; and
 - (b) provision for a unique identifying number for the manual; and

- (c) provision for other medical and training certificates; and
 - (d) provision for recording employers' names and the addresses of places where the employers manage the employment of drivers; and
 - (e) provision for recording whether an employer is registered as an employer participant in TFMS and if so, for recording the employer's TFMS registration number; and
 - (f) instructions for use of the manual.
- (3) The driver certification manual must be in the approved form.

79 What is a required medical certificate

- (1) For section 77, the required medical certificate is a certificate of a doctor who examined the applicant in accordance with the required medical standards within 1 year before the making of the application.
- (2) The medical certificate must state—
 - (a) the name and address of the doctor; and
 - (b) that the doctor examined the applicant in accordance with the required medical standards; and
 - (c) that the applicant met the required medical standards; and
 - (d) the date of the medical examination.

80 What is a required training certificate

- (1) For section 77, the required training certificate is a certificate by a person (the *trainer*) who conducted an approved fatigue management training course completed by the applicant within 1 year before the making of the application.
- (2) The training certificate must state—
 - (a) the name and address of the trainer; and

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- (b) that the applicant completed an approved fatigue management training course conducted by the trainer; and
- (c) the date of the course.

81 TFMS registration and issue of driver certification manuals

- (1) The chief executive may, on application made under section 77—
 - (a) if the application is for registration as a driver participant in TFMS—register the applicant as a driver participant in TFMS; and
 - (b) if the application is for registration as an employer participant in TFMS—register the applicant as an employer participant in TFMS.
- (2) However, the chief executive must not register the applicant if the applicant was previously registered as a participant in TFMS or a corresponding TFMS and the applicant's registration was cancelled less than 3 months before the applicant again applied for registration.
- (3) After registering an applicant as a driver participant in TFMS, the chief executive must—
 - (a) allocate a TFMS registration number to the applicant; and
 - (b) complete details in the applicant's driver certification manual about the TFMS registration number and the date, time and place of registration; and
 - (c) issue the manual to the applicant.
- (4) After registering an applicant as an employer participant in TFMS, the chief executive must—
 - (a) allocate a unique identifying TFMS registration number to the applicant; and
 - (b) tell the applicant in writing of the number.
- (5) If the chief executive decides not to register an applicant, the chief executive must inform the applicant by written notice.

- (6) The notice must state—
 - (a) the reasons for the decision; and
 - (b) that the applicant may apply within 28 days after the giving of the notice to have the decision reviewed; and
 - (c) how the applicant may apply for the review.

82 Applications for replacement driver certification manuals

- (1) If a driver who is registered as a driver participant in TFMS wishes to be issued with a replacement driver certification manual, the driver must apply to the chief executive using the application form provided by the chief executive.
- (2) The driver must give the driver's current driver certification manual to the chief executive with the application unless the manual has been destroyed, lost or stolen.
- (3) If the driver gives the current driver certification manual to the chief executive, the chief executive must return the manual to the driver when the chief executive issues a replacement driver certification manual to the driver.
- (4) If the application is for a driver certification manual to replace a driver certification manual that has been destroyed, lost or stolen, the application must state—
 - (a) its number (if known); and
 - (b) it has been destroyed, lost or stolen; and
 - (c) a brief outline of the circumstances of the destruction, loss or theft.

83 Issue of replacement driver certification manuals

- (1) The chief executive must issue a replacement driver certification manual to a driver if the driver—
 - (a) applies to the chief executive in accordance with section 82; and
 - (b) pays the application fee.

- (2) If the chief executive issues a replacement driver certification manual to a driver, the chief executive must complete details in the manual about the driver's TFMS registration number and the date, time and place of the driver's TFMS registration.

Division 2 Cancellation of registration of TFMS participants

84 Cancellation of TFMS registration on application

- (1) The chief executive may cancel the registration of a person as a driver or employer participant in TFMS if the person applies in writing to the chief executive for its cancellation.
- (2) If the chief executive decides to cancel the registration—
 - (a) the chief executive must inform the applicant by written notice; and
 - (b) the cancellation takes effect on the day the applicant receives the notice.
- (3) If the chief executive decides not to cancel the registration, the chief executive must inform the applicant by written notice.
- (4) The notice must state—
 - (a) the reasons for the decision; and
 - (b) that the applicant may apply within 28 days after the giving of the notice to have the decision reviewed; and
 - (c) how the applicant may apply for the review.

85 Additional ground for cancelling TFMS registration of driver participants

It is a ground for cancelling the registration of a person as a driver participant in TFMS if the person no longer meets the required medical standards.¹²

86 Notice of cancellation of TFMS registration of employers

If the registration of a person as an employer participant in TFMS is cancelled, the chief executive must give written notice of the cancellation to each employed driver of the employer who—

- (a) is registered as a driver participant in TFMS; and
- (b) whose address is known to the chief executive.

87 Return of driver certification manuals

- (1) If the registration of a person as a driver participant in TFMS is cancelled, the chief executive may, by written notice, ask the person to return his or her driver certification manual to the chief executive.
- (2) The person must comply with the notice within 7 days after the notice is given to the person or, if a longer period is stated in the notice, within the longer period, unless the person has a reasonable excuse for not complying with the notice.

Maximum penalty for subsection (2)—7 penalty units.

¹² Section 18 (Grounds for amending, suspending or cancelling approvals) of the Act also states grounds for cancelling approvals as defined in section 17A (Definition) of the Act.

Division 3 Review and audit of participation of employers and self-employed drivers

88 Application of div 3

This division applies to a person (the *participant*) who is—

- (a) registered as an employer participant in TFMS; or
- (b) registered as a driver participant in TFMS and is, for at least part of the time spent as a driver, a self-employed driver.

89 Reviews of participation required

- (1) The participant must arrange for a review of the person's participation in TFMS as an employer or self-employed driver to be carried out—
 - (a) within 9 months after the participant's registration as a driver or employer participant in TFMS; and
 - (b) before the second and each later anniversary of the registration.

Maximum penalty—7 penalty units.

- (2) The person conducting the review must report in writing to the participant whether the participant's management practices promote compliance with part 3 and other relevant provisions of this regulation by the participant and, if the participant is an employer participant in TFMS, by the participant's employed drivers and responsible employees.

90 Reports of reviews

- (1) The participant must keep the report of a review for at least 2 years after it is given to the participant.

Maximum penalty—7 penalty units.

- (2) The chief executive may, by written notice given to the participant within the 2 year period, ask the participant to give

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a copy of the report to the chief executive within the time stated in the notice.

- (3) The time stated in the notice must be a reasonable time (of at least 7 days) after the notice is given to the participant.
- (4) The participant must comply with the notice unless the participant has a reasonable excuse for not complying with it.

Maximum penalty for subsection (4)—7 penalty units.

91 Chief executive may audit participation

- (1) The chief executive may audit the management practices adopted by the participant to promote compliance with part 3 and other relevant provisions of this regulation by the participant and, if the participant is an employer participant in TFMS, by the participant's employed drivers and responsible employees.
- (2) For the audit, the chief executive may, by written notice given to the participant, ask the participant to give to the chief executive, within the time stated in the notice—
 - (a) for an employer participant—records about any of the following kept by the participant—
 - (i) the receipt and storage of records given to the participant by employed drivers for this regulation;
 - (ii) the medical examinations undergone by the participant's employed drivers for this regulation;
 - (iii) the approved fatigue management training courses attended by the participant's employed drivers and responsible employees;
 - (iv) the management of the participant's employed drivers including their driving, work and rest times; and
 - (b) for a driver participant—records about any of the following kept by the participant—
 - (i) the receipt and storage of records made by the participant for this regulation;

Part 8 Alternative ways of managing fatigue and exemptions

94 Alternative ways of managing fatigue—Act, s 15

- (1) Parts 2, 4, 5 and 6 are prescribed provisions for section 15(1)¹³ of the Act.
- (2) The purpose of the prescribed provisions is to manage the fatigue of drivers to help ensure they are in a fit state of health and wellbeing to drive a heavy vehicle safely.

95 Exemptions

- (1) A person may apply to the chief executive to exempt a person or class of persons from complying with a provision of this regulation.
- (2) The chief executive may give an exemption only if reasonably satisfied the fatigue management practices to be complied with under the exemption will achieve the purpose of this regulation so far as it relates to the drivers of heavy vehicles to whom the exemption applies.¹⁴

Examples of exemptions—

- 1 If a driver is unable to comply with a provision of this regulation requiring the driver to make records in the driver's logbook because of an English literacy disability, the driver may be exempted from compliance with the provision if, under fatigue management practices applying to the driver, the driver makes the records in another way, including, for example, by using a tape recorder.
- 2 If an employer operates in a remote area requiring the employer's drivers to travel long distances from their homes, the employer's drivers may be exempted from compliance with the provision requiring drivers to meet minimum rest requirements for a 168 hour period, if under fatigue management practices applying to the

13 Under section 15 (Alternative ways of complying with Act) of the Act, an operator of a vehicle may apply to the chief executive for approval of an alternative compliance scheme for prescribed provisions.

14 Under section 3 (Purpose of regulation), the purpose of this regulation is to manage the fatigue of drivers to help ensure they are in a fit state of health and wellbeing to drive a heavy vehicle safely.

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drivers, the purpose of this regulation is achieved by alternative rostering limits. For example, the drivers might have 2 days off in 14 days instead of 1 day off in 7 days.

- (3) If the chief executive decides to grant the application, the exemption must be given by written notice to the person.
- (4) The notice must state—
 - (a) the person to whom the exemption is given; and
 - (b) the person or class of persons to whom the exemption applies; and
 - (c) the term (not longer than 5 years) for which the exemption is given; and
 - (d) the conditions on which the exemption is given.
- (5) If the exemption is given on conditions, the exemption operates only if the conditions are complied with.
- (6) If the chief executive decides to refuse the application, or imposes conditions on the exemption, the chief executive must inform the applicant by written notice.
- (7) The notice must state—
 - (a) the reasons for the decision; and
 - (b) that the applicant may apply within 28 days after the giving of the notice to have the decision reviewed; and
 - (c) how the applicant may apply for the review.

Part 9 Enforcement, review and other matters

Division 1 Provisions about offences

95A Information offences

An offence against this regulation involving a heavy vehicle is an information offence for the Act, section 50.¹⁵

96 Deciding whether persons ought reasonably to have known

If, in a prosecution for an offence against this regulation, it is relevant to prove that someone ought reasonably to have known something, the issue must be decided having regard to—

- (a) the person's abilities, experience, qualifications and training; and
- (b) the circumstances surrounding the offence.

97 Limited jeopardy

- (1) A driver is not liable for more than—
 - (a) 3 offences against a particular regulated hours offence provision for any 5.5 hour period on the same day; or
 - (b) 2 offences against a particular regulated hours offence provision for any 24 hour period on the same day; or
 - (c) 2 offences against a particular regulated hours offence provision for any 168 hour period in the same week; or
 - (d) 2 offences against a particular regulated hours offence provision for any 672 hour period in the same 4 week period.

¹⁵ Section 50 (Authorised officer's power to require information for information offence) of the Act

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- (1A) For subsection (1), if a driver's act or omission contravenes more than 1 regulated hours offence provision, the driver is liable only for offences against 1 of those provisions for a period mentioned in paragraph (a), (b), (c) or (d).
- (2) A driver is not liable for more than—
- (a) 3 offences against a particular TFMS offence provision for any 5.5 hour period on the same day; or
 - (b) 2 offences against a particular TFMS offence provision for any 24 hour period on the same day; or
 - (c) 2 offences against a particular TFMS offence provision for any 336 hour period in the same fortnight.

- (2A) For subsection (2), if a driver's act or omission contravenes more than 1 TFMS offence provision, the driver is liable only for offences against 1 of those provisions for a period mentioned in paragraph (a), (b) or (c).

- (3) In this section—

day means a period of 24 hours between midnight on 1 day and midnight on the next day.

fortnight means a period of 14 days starting on a Monday.

regulated hours offence provision means any of the following provisions—

- section 15(2) (Regulated hours—maximum driving times)
- section 16(2) (Regulated hours—maximum work times)
- section 17(2) (Regulated hours—minimum rest times).

TFMS offence provisions means any of the following provisions—

- section 23(3) (TFMS—maximum driving times)
- section 24(2) (TFMS—maximum work times)
- section 25(3) (TFMS—minimum rest times).

week means a period of 7 days starting on a Monday.

Division 2 Additional enforcement powers

98 Power to defer prohibition on persons driving

- (1) This section applies if, under section 38¹⁶ of the Act, an authorised officer is authorised to give a notice to the driver of a heavy vehicle because of a contravention of section 15, 16, 17, 23, 24 or 25.
- (2) The authorised officer may defer the start of the requirement under the notice to allow the driver to drive the vehicle to a stated safe place where the vehicle is not likely to be a hazard to road users.
- (3) The start of the requirement may be deferred by not more than 2 hours calculated from the time the officer suspects the contravention happened.

Example—

A driver (to whom part 2 applies) who is intercepted after driving 13 hours in a 24 hour period can be given up to 1 hour to drive to a safe place.

- (4) The driver does not commit an offence against section 15, 16, 17, 23, 24 or 25, if the driver drives the vehicle to the stated place in accordance with the notice.
- (5) The officer must record details of the requirement in the driver's log book.

100 Information about TFMS etc.

- (1) An authorised officer may ask the driver of a heavy truck whether the driver is registered as a driver participant in TFMS.
- (2) If the driver claims to be registered as a driver participant in TFMS, the authorised officer may ask the driver to produce his or her driver certification manual for inspection.
- (3) The authorised officer may also ask the driver whether the driver is an employed driver.

16 Section 38 (Power to prohibit persons driving) of the Act

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- (4) If the driver claims to be an employed driver, the authorised officer may ask the driver—
- (a) the employer's name and the address of the place where the employer manages the employment of drivers; and
 - (b) whether the employer is registered as an employer participant in TFMS; and
 - (c) if so, the employer's TFMS registration number.
- (5) Subsection (6) applies to the driver if—
- (a) the driver does not answer a question that the authorised officer asks the driver under this section; or
 - (b) the driver does not immediately produce his or her driver certification manual for inspection when asked to produce it by the authorised officer.
- (6) For the application of part 2¹⁷ to the driver, the driver is taken not to be, and not to have been at any time in the last 336 hours, registered as a driver participant in TFMS.

Example—

If, for a 24 hour period, the driver's total driving time exceeds the driver's maximum driving time under section 23, the driver can be dealt with for an offence against section 15,¹⁸ whether or not the driver is registered as a driver participant in TFMS.

- (7) In this section—
- driver certification manual*** includes a corresponding driver certification manual.
- TFMS*** includes a corresponding TFMS.

¹⁷ Part 2 (Regulated hours)

¹⁸ Section 15 (Regulated hours—maximum driving times)

Division 2 Transitional provisions

105 Definition for div 2

In this division—

repealed regulation means the *State Transport Regulation 1987*.

106 Logbooks

A logbook issued under the repealed regulation on or after 3 August 1998 is taken to have been issued under this regulation.

107 Fatigue management approvals

- (1) An approval of a fatigue management program given to the employer of a driver of a heavy vehicle under the repealed regulation, and in force immediately before the commencement of this section, is taken to be an approval of an alternative compliance scheme for parts 2, 4, 5 and 6.
- (2) The approval—
 - (a) is, to the greatest possible extent, subject to the conditions stated in the notice of approval of the program given to the employer; and
 - (b) despite paragraph (a), expires at the earlier of—
 - (i) when it would otherwise expire; or
 - (ii) 1 July 2003.

108 Exemptions

- (1) An exemption from compliance with a provision of part 6 of the repealed regulation, and in force immediately before the commencement of this section, is taken to be an exemption from the corresponding provision of this regulation.

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- (2) The exemption—
 - (a) is, to the greatest possible extent, subject to the conditions stated in the notice giving the exemption; and
 - (b) despite paragraph (a), expires at the earlier of—
 - (i) when it would otherwise expire; or
 - (ii) 1 July 2003.

109 Applications for fatigue management approvals and exemptions

- (1) An application under the repealed regulation for an approval of a fatigue management program is taken to be an application for an approval of an alternative compliance scheme for parts 2, 4, 5 and 6.
- (2) An application under the repealed regulation for exemption from compliance with a provision of part 6 of the repealed regulation is taken to be an application for exemption from the corresponding provision of this regulation.

110 Transitional provision for Transport and Other Legislation Amendment Regulation (No. 1) 2006

- (1) If a person was or is charged with an offence against the pre-amended regulation for an act done before the commencement of the *Transport and Other Legislation Amendment Regulation (No. 1) 2006* and the offence, or the penalty for the offence, has been amended by that regulation, the amendment does not affect the liability of the person for the act.
- (2) In this section—

pre-amended regulation means this regulation as in force immediately before the commencement of the *Transport and Other Legislation Amendment Regulation (No. 1) 2006*, part 5.

Schedule 1 Reviewable decisions

section 102

Section	Description of decision
81	Decision not to register applicant for TFMS registration
84	Decision not to cancel TFMS registration on application
95	Decision not to give an exemption or give an exemption subject to a condition

Schedule 2 Fees

section 103

		\$
1	Application for issue of logbook (s 76).....	18.70
2	Application for registration as a participant in TFMS (s 77)	62.35
3	Application for issue of replacement driver certification manual (s 83)	62.35

Schedule 3 Dictionary

section 5

6 hour rest break means a rest time consisting of a period of at least 6 consecutive hours.

200km limit see section 37.

ADR 42 means the national standard described as ADR 42 under the *Motor Vehicle Standards Act 1989* (Cwlth).

approved DSMD see section 41.

approved fatigue management training course means a fatigue management training course of a kind that is approved, in writing, by the Ministerial Council at the commencement of this definition.

base see section 38.

bus means a motor vehicle built mainly to carry people that seats more than 12 adults (including the driver).

certificate of registration means—

- (a) a certificate of registration issued under the *Transport Infrastructure (Roads) Regulation 1991*; or
- (b) a certificate, issued under a corresponding registration law, that a vehicle is registered under the law.

commercial bus see section 6(4).

community organisation means an entity that is a non-profit entity or otherwise exists for a public purpose.

consignor see section 9.

continuous driving time, for a driver, means driving time that is not broken by—

- (a) rest time; or
- (b) work time that is not driving time.

continuous work time, for a driver, means work time that is not broken by rest time.

Schedule 3 (continued)

core driving hours offence see section 69.

corresponding, for a provision of this regulation, means the provision of the law in force in another participating jurisdiction corresponding to the provision.

corresponding authority means the authority appointed under the provision of the law of another participating jurisdiction corresponding to the *Road Transport Reform (Heavy Vehicles Registration) Act 1997*, part 2 (Cwlth).

corresponding driver certification manual, for a driver, means a driver certification manual issued to the driver under a corresponding law.

corresponding driving record means—

- (a) a corresponding logbook; or
- (b) a record made in another jurisdiction by an approved DSMD operating in accordance with the manufacturer's instructions; or
- (c) a supplementary record under a corresponding law; or
- (d) a local area work record under a corresponding law.

corresponding logbook, for a driver, means a logbook issued to the driver under a corresponding law.

corresponding registration law means a law of the Commonwealth or another State about the registration of vehicles.

corresponding TFMS means a transitional fatigue management scheme established under a corresponding law.

driver section 7(1).

driver certification manual, for a driver, see section 40(2).

driver licence does not include—

- (a) a Queensland driver licence that is—
 - (i) a learner licence issued under the Act; or
 - (ii) a current driver licence receipt issued under the Act for a learner licence; or

Schedule 3 (continued)

- (b) a corresponding document to a Queensland driver licence mentioned in paragraph (a) issued under a corresponding law to the provision of the Act under which a Queensland driver licence mentioned in paragraph (a) is issued.

driving see section 10(1).

driving record—

- (a) see section 42(1); and
(b) for part 4, division 2—see also section 43; and
(c) for part 4, division 7—see also section 63.

driving record offence see section 69.

driving time see section 10(2).

duplicate daily sheet means the duplicate of a daily sheet in a logbook or corresponding logbook.

employed driver see section 7(2).

employer see section 8(1).

exemption means an exemption given under section 95.

garage address, for a vehicle, means the principal depot or base of operations of the vehicle stated in the vehicle's certificate of registration.

heavy truck see section 6(2).

local area work see section 39(1).

local area work record see section 42(3).

logbook, for a driver, see section 40(1).

Ministerial Council means the Ministerial Council for Road Transport established by the Heavy Vehicles Agreement, part 6 set out in the *National Road Transport Commission Act 1991*, schedule 1 (Cwlth).

non-local area work see section 39(2).

non-regulated zone see section 13(4).

Schedule 3 (continued)

regulated zone see section 13(3).

relevant jurisdiction see section 13(2).

required medical standards means the standards for medical examinations in the edition of the publication, published by the Federal Office of Road Safety and the National Road Transport Commission, entitled *Medical Examinations of Commercial Vehicle Drivers* that is current at the commencement of this definition.

responsible employee see section 8(2).

rest time see section 12.

road-related area means any of the following—

- (a) an area that divides a road;
- (b) a footpath or nature strip adjacent to a road;
- (c) an area that is open to the public and is designated for use by cyclists or animals;
- (d) an area that is not a road but is open to or used by the public for driving, riding or parking vehicles.

self-employed driver see section 7(3).

sleeping berth standard means the Queensland Transport sleeping berth standard for two-up driving in buses prepared by the department.²¹

solo driver means a driver who is not a party to a two-up driving arrangement.

speeding offence see section 69.

supplementary record see section 42(2).

TFMS see section 21.

this jurisdiction see section 13(1).

²¹ The standard may be obtained or inspected without charge at the offices of the department during normal business hours.

Schedule 3 (continued)

two-up driver means a driver of a heavy truck or commercial bus who is a party to a two-up driving arrangement.

two-up driving arrangement means an arrangement under which 2 drivers share the driving of—

- (a) a heavy truck that has a driver's sleeper berth complying with the national standard, referred to as ADR 42, under the *Motor Vehicle Standards Act 1989* (Cwth); or
- (b) a commercial bus that has a sleeper berth that conforms with the sleeper berth standard.

vehicle mass, of a motor vehicle, means—

- (a) the GVM of the vehicle; or
- (b) the sum of the GVM of the vehicle and the GVM of trailers attached to the vehicle.

work time see section 11.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 July 2008. Future amendments of the Transport Operations (Road Use Management—Fatigue Management) Regulation 1998 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

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3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	30 October 1998	5 November 1998
1A	1998 SL No. 329	11 December 1998	15 December 1998
1B	1999 SL No. 286	1 December 1999	18 January 2000
1C	2000 SL No. 89	1 July 2000	11 August 2000
1D	2000 SL No. 297	27 November 2000	8 December 2000
2	2000 SL No. 297	27 November 2000	6 April 2001
2A	2001 SL No. 57	1 July 2001	22 February 2002
2B	2002 SL No. 32	1 March 2002	15 March 2002

Reprint No.	Amendments included	Effective	Notes
2C	2002 SL No. 112	1 July 2002	
2D	2002 SL No. 315	29 November 2002	
2E	2003 SL No. 106	1 July 2003	
2F	2003 SL No. 358	19 December 2003	

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Reprint No.	Amendments included	Effective	Notes
2G	2004 SL No. 54	1 July 2004	
2H	2005 SL No. 91	1 July 2005	
2I	2005 SL No. 186	12 August 2005	R2I withdrawn, see R3
3	—	12 August 2005	
3A	2006 SL No. 90	1 July 2006	
3B	2006 SL No. 289	1 March 2007	
3C	2007 SL No. 83	1 July 2007	
3D	2008 SL No. 94	24 April 2008	
3E	2008 SL No. 131	1 July 2008	

5 Tables in earlier reprints

Name of table	Reprint No.
Corrected minor errors	2

6 List of legislation

Transport Operations (Road Use Management—Fatigue Management) Regulation 1998 SL No. 293

made by the Governor in Council on 29 October 1998

notfd gaz 30 October 1998 pp 815–16

commenced on date of notification (see s 2)

exp 1 September 2009 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

amending legislation—

Transport Operations (Road Use Management—Fatigue Management) Amendment Regulation (No. 1) 1998 SL No. 329

notfd gaz 11 December 1998 pp 1376–7

commenced on date of notification

Road Transport Reform Regulation 1999 SL No. 286 ss 1, 2(2), 4 sch 2

notfd gaz 19 November 1999 pp 1149–52

ss 1–2 commenced on date of notification

remaining provisions commenced 1 December 1999 (see s 2(2))

Transport Legislation Amendment Regulation (No. 1) 2000 SL No. 89 pts 1, 8

notfd gaz 19 May 2000 pp 218–19

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2000 (see s 2)

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- Transport Legislation Amendment Regulation (No. 4) 2000 SL No. 297 pts 1, 5**
notfd gaz 24 November 2000 pp 1188–9
ss 1–2 commenced on date of notification
remaining provisions commenced 27 November 2000 (see s 2)
- Transport Legislation Amendment Regulation (No. 2) 2001 SL No. 57 pts 1, 9**
notfd gaz 25 May 2001 pp 334–6
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2001 (see s 2)
- Transport Legislation Amendment Regulation (No. 1) 2002 SL No. 32 pts 1, 7**
notfd gaz 1 March 2002 pp 850–2
commenced on date of notification
- Transport Legislation Amendment Regulation (No. 2) 2002 SL No. 112 pts 1, 12**
notfd gaz 24 May 2002 pp 308–10
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2002 (see s 2)
- Transport Operations (Road Use Management—Fatigue Management Amendment Regulation (No. 1) 2002 SL No. 315**
notfd gaz 29 November 2002 pp 1091–2
commenced on date of notification
- Transport Legislation Amendment Regulation (No. 2) 2003 SL No. 106 pts 1, 13**
notfd gaz 30 May 2003 pp 371–6
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2003 (see s 2)
- Transport Legislation Amendment Regulation (No. 3) 2003 SL No. 358 pts 1, 4**
notfd gaz 19 December 2003 pp 1307–13
commenced on date of notification
- Transport Legislation Amendment Regulation (No. 1) 2004 SL No. 54 pts 1, 12**
notfd gaz 14 May 2004 pp 112–14
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2004 (see s 2)
- Transport Legislation Amendment Regulation (No. 1) 2005 SL No. 91 pts 1, 13**
notfd gaz 20 May 2005 pp 224–6
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2005 (see s 2)
- Transport Legislation Amendment Regulation (No. 2) 2005 SL No. 186 pts 1, 6**
notfd gaz 12 August 2005 pp 1297–1303
commenced on date of notification
- Transport Legislation and Another Regulation Amendment Regulation (No. 1) 2006 SL No. 90 ss 1, 2(1), pt 15**
notfd gaz 19 May 2006 pp 252–4
ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2006 (see s 2(1))

Transport and Other Legislation Amendment Regulation (No. 1) 2006 SL No. 289 ss 1, 2(b), pt 5

notfd gaz 1 December 2006 pp 1587–90
ss 1–2 commenced on date of notification
remaining provisions commenced 1 March 2007 (see s 2(b))

Transport Legislation (Fees) Amendment Regulation (No. 1) 2007 SL No. 83 pts 1, 14

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ss 1–2 commenced on date of notification
remaining provisions commenced 1 July 2007 (see s 2)

Transport Operations and Other Legislation Amendment Regulation (No. 1) 2008 SL No. 94 pts 1, 3

notfd gaz 18 April 2008 pp 2085–8
ss 1–2 commenced on date of notification
remaining provisions commenced 24 April 2008 (see s 2)

Transport Legislation (Fees) Amendment Regulation (No. 1) 2008 SL No. 131 pts 1, 14

notfd gaz 23 May 2008 pp 543–5
ss 1–2 commenced on date of notification
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