

National Transport Reform Implementation Monitoring Report 2022-23

Yearly progress report

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Abbreviations

ACT	Australian Capital Territory
ATSB	Australian Transport Safety Bureau
COAG	Council of Australian Governments
HVNL	Heavy Vehicle National Law
ITTM	Infrastructure and Transport Ministers' Meeting
NHVR	National Heavy Vehicle Regulator
NSW	New South Wales
NT	Northern Territory
NTC	National Transport Commission
ONRSR	Office of the National Rail Safety Regulator
QLD	Queensland
RSNL	Rail Safety National Law
SA	South Australia
TAS	Tasmania
VIC	Victoria
WA	Western Australia

The NTC welcomes feedback that can help improve this report in the future. Please email the NTC at enquiries@ntc.gov.au or telephone (03) 9236 5000.

Executive summary

The National Transport Commission (NTC) is a national transport reform agency that works with all Australian governments to advance social and economic outcomes through an efficient, integrated and nationally consistent land transport system. The NTC provides advice to the Infrastructure and Transport Ministers' Meeting (ITMM) on regulatory and operational transport reforms.

Each year the NTC provides a progress report on the implementation status of nationally agreed reforms. The 2023 National Transport Reform Implementation Monitoring Report is the tenth report produced. The reporting period is from 1 July 2022 to 30 June 2023. Any implementation progress after 30 June 2023 will be included in the 2023-24 monitoring report.

Heavy Vehicle National Law

All the participating jurisdictions to the Heavy Vehicle National Law (HVNL) scheme have implemented the most current amendment packages described at Table 2 of this report. Appendix A provides a high-level analysis of HVNL derogations by jurisdictions.

As the HVNL is currently being reviewed, it is anticipated that future amendment packages will be considered once the revised HVNL is implemented. A timeline for further amendment packages has not been set.

Rail Safety National Law

All the participating jurisdictions to the Rail Safety National Law (RSNL) scheme, except WA, have implemented the amendment packages described at Table 4 of this report.

The WA Government has approved a request to amend the Rail Safety National Law (WA) to include all outstanding amendments, which will better align WA with the scheme.

Appendix B provides a summary of derogations for the RSNL scheme.

Australian Road Rules

The Australian Road Rules contain the rules of the road for motorists, motorcyclists, cyclists, pedestrians, passengers, and others. All jurisdictions have implemented the 9th, 10th, 11th and 12th amendment packages. Jurisdictions are progressing implementation of the 13th amendment package. It is expected that all jurisdictions will have implemented the 13th amendment package by the time the next report is published.

Given that most of these amendment packages are relatively minor in nature and improve clarity in the road rules, the variation in implementation dates for the 13th amendment package is unlikely to affect safety or productivity.

Australian Light Vehicle Standards Rules

The Australian Light Vehicle Standards Rules supersede the Australian Vehicle Standards Rules, which covered both light and heavy vehicle in-service standards. There was no change in policy when the Australian Light Vehicle Standards Rules were introduced. Therefore, a failure to adopt the Australian Light Vehicle Standards Rules had no practical effect.

The nature of the subsequent amendments means the impact of different implementation dates for jurisdictions will be minor because, even if their in-service standards are based on the Australian Vehicle Standards Rules, they have most of the Australian Light Vehicle Standards Rules already.

Australian Dangerous Goods Code

All jurisdictions have implemented edition 7.6 of the Australian Dangerous Goods Code. The ACT is yet to implement some or all the model subordinate law changes. This jurisdiction has committed to implementing outstanding amendment packages subject to government legislative program priorities. Edition 7.7 has been implemented by all jurisdictions.

Implementation of edition 7.6 by all jurisdictions means that most of the reforms relating to the transport of limited quantities of dangerous goods that provide productivity benefits are realised.

Implementation of edition 7.7 makes requirements for the transport of limited quantity dangerous goods in Australia consistent with accepted overseas practice, with minor differences aimed at addressing risks that are unique to the Australian transport environment.

Heavy Vehicle Charges Model Law

New national heavy vehicle registration charges to apply in 2023–24 were approved by ITMM in May 2023. All jurisdictions, except TAS, WA and NT have implemented the national registration charges. Heavy vehicle charges in WA and NT are set independent of the national heavy vehicle charges. TAS heavy vehicle charge legislation is due to be amended in late August 2023. This means that the revised charges will not be available for registration renewals that fall due between July 2023 and November 2023.

WA and NT have historically implemented annual adjustments to heavy vehicle charges that are broadly similar to those applied by other jurisdictions.

The differences between national registration charges and those set in WA and NT are not significant enough to warrant concern that they would have a substantial effect on where vehicle operators choose to register their vehicles.

1 Introduction

1.1 Purpose

This report provides an assessment of the implementation progress of national transport reforms and projects.

This report also provides stakeholders with information about reform implementation. It helps explain implementation issues, successes and departures from agreed recommendations.

1.2 Method

The report presents progress of national reforms by using 'traffic light' indicators and brief commentaries describing achievements, impediments and recommends corrective actions where required. The report also highlights state or territory-based variations to national laws that may affect the realisation of expected benefits of national reforms. In preparation of this report, the NTC sought updates on the progress of reforms or tasks from the states and territories.

1.3 Reforms and projects for monitoring

This report monitors the implementation of national transport reforms, projects and recommendations approved by ITMM (or its predecessors) or the Council of Australian Governments (COAG) and work undertaken by the NTC. Annual monitoring will continue until either all participating jurisdictions have completed the final implementation milestone or if there is a nationally agreed direction from ministers or senior officials that reform monitoring is no longer required.

1.4 Structure of report

This report is divided into four areas:

- **Heavy vehicle reforms** – monitors the heavy vehicle regulatory reform and amendments to the Heavy Vehicle National Law (HVNL) and regulations
- **Rail reforms** – monitors the amendments to the Rail Safety National Law (RSNL) and regulations
- **Maintenance of existing reforms** – monitors implementation of:
 - the Australian Road Rules
 - Australian Light Vehicle Standards Rules
 - Heavy Vehicle - Vehicle Standards Rules
 - the Code for the Transport of Dangerous Goods by Road and Rail and model legislation
 - the Heavy Vehicle Charges Model Law

- **Derogations** – assesses derogations to the Heavy Vehicle National Law and Rail Safety National Law (Attachments A and B).

1.5 Indicator of implementation status

Each state and territory were asked to provide implementation status indicators and where relevant describe:

- implementation progress
- variations to the national approach and/or implementation challenges
- possible solutions against each of the current national transport reforms and projects included in this report.

Definitions of implementation status indicators used in this report are provided below.

Table 1. Reform implementation status indicators

Implementation status indicator	Status definition	Progress comments required
✓	Fully implemented in line with national/model law, i.e., no material derogations or on track if the agreed start date is not yet reached	Describe: <ul style="list-style-type: none"> • when and how the final output was implemented • if any local variations were implemented, describe the variation and how it impacts on the ability to realise the desired benefits of the national reform
✓	Fully implemented with material derogations from national/model law or on track if the agreed start date is not yet reached	
●	Delayed implementation with intent to align with national/model law	Describe: <ul style="list-style-type: none"> • progress made within the last 12 months • expected time for completion • reasons for any delays
○	Delayed implementation with intent to derogate materially from national/model law	
⊗	No intent to implement, but efforts to harmonise with national/model law	Describe how non-participation will impact on the benefits of the national reform
✘	No intent to implement and no intent to harmonise with national/model law	
n/a	The jurisdiction is not responsible for implementing the reform	No comment required

2 Heavy vehicle reforms

Key points

- The 5th Heavy Vehicle National Law amendment package, the *Heavy Vehicle National Law and Other Legislation Amendment Act 2016*, was passed by the Queensland Parliament (host jurisdiction) in December 2016.
- The 6th Heavy Vehicle National Law amendment package, the *Heavy Vehicle National Law and Other Legislation Amendment Act 2018*, was passed by the Queensland Parliament in June 2018.
- The 7th Heavy Vehicle National Law amendment package, the *Heavy Vehicle National Law Amendment Act 2018*, was passed by the Queensland Parliament in September 2018.
- The 8th Heavy Vehicle National Law amendment package, the *Heavy Vehicle National Law Amendment Bill 2019*, was introduced into the Queensland Parliament in April 2019 and was assented to on 26 September 2019.
- The registration related provisions contained in the 6th amendment package commenced on 1 July 2018.
- The Council agreed that a common implementation date in the second half of 2018 should apply to all chain of responsibility and executive officer liability amendments included in the 5th, 6th and 7th amendment packages. These amendments commenced on 1 October 2018.
- All participating jurisdictions have implemented the 8th amendment package.
- As the HVNL is currently being reviewed, it is anticipated that future amendment packages will be considered once the revised HVNL is implemented.

2.1 Amendments to Heavy Vehicle National Law

Tables 2 and 3 provide an overview of the progress of implementing the HVNL amendments.

As the HVNL is currently being reviewed, it is anticipated that future amendment packages will be considered once the revised HVNL is implemented. A timeline for the next package of proposed amendments to the HVNL has not been set.

Table 2. Implementation summary of Heavy Vehicle National Law amendments

Heavy Vehicle National Law amendments	Implementation status							
	NSW	VIC	QLD	WA	SA	TAS	ACT	NT
Heavy Vehicle National Law and Other Legislation Amendment Act 2016 (5 th amendment package) (draft amendments approved in May 2016)	✓	✓	✓	✗	✓	✓	✓	✗

Heavy Vehicle National Law and Other Legislation Amendment Act 2018 (6 th amendment package) (draft amendments approved in May 2017)	✓	✓	✓	✗	✓	✓	✓	✗
Heavy Vehicle National Law Amendment Act 2018 (7 th amendment package) (approved November 2017)	✓	✓	✓	✗	✓	✓	✓	✗
Heavy Vehicle National Law Amendment Bill 2019 (8 th amendment package) (approved November 2018)	✓	✓	✓	✗	✓	✓	✓	✗

Table 3. Participating jurisdictions' comments on adopting the Heavy Vehicle National Law 5th, 6th, 7th and 8th amendment packages

Jurisdiction	Implementation comments
NSW	There were no amendment packages in 2022/2023. NSW is participating in a review of the HVNL being led by the NTC.
VIC	<p>The registration-related provisions contained in the 6th and 7th amendment packages commenced on 1 July 2018.</p> <p>The Chain of Responsibility amendments contained in the 5th, 6th and 7th amendment packages commenced on 1 October 2018, along with the remaining provisions of the 7th amendment package.</p> <p>The 8th amendment package was assented to on 26 September 2019 as part of the <i>Heavy Vehicle National Law and Other Legislation Amendment Act 2019</i>. The majority of amendments to the HVNL commenced in two packages on 10 December 2019 and 28 February 2020.</p> <p>Commencement of sections 10 and 11 of the <i>Heavy Vehicle National Law and Other Legislation Amendment Act 2019</i>, which amend sections 96 (Compliance with mass requirements) and 102 (Compliance with dimension requirements) of the HVNL respectively, have been postponed to September 2021 to allow time to resolve an issue relating to unintended and inconsistent consequences in the enforcement outcomes for off route Performance Based Standards vehicles.</p>
QLD	<p>Maintenance amendments contained in the 5th amendment package commenced on 1 July 2017.</p> <p>The registration-related provisions contained in the 6th and 7th amendment packages commenced on 1 July 2018.</p> <p>The Chain of Responsibility amendments contained in the 5th, 6th and 7th amendment packages commenced on 1 October 2018, along with the remaining provisions of the 7th amendment package.</p> <p>The 8th amendment package was assented to on 26 September 2019 as part of the <i>Heavy Vehicle National Law and Other Legislation Amendment Act 2019</i>. The majority of amendments to the Heavy Vehicle National Law (HVNL) commenced in two packages on 10 December 2019 and 28 February 2020.</p> <p>Sections 10 and 11 of the <i>Heavy Vehicle National Law and Other Legislation Amendment Act 2019</i>, which amend sections 96 (Compliance with mass requirements) and 102 (Compliance with dimension requirements) of the HVNL respectively, were repealed on 24 June 2021 to</p>

	<p>allow issues relating to unintended and inconsistent consequences in the enforcement outcomes for off route Performance Based Standards vehicles to be considered and resolved through the HVNL Review reforms.</p>
SA	<p>Part of the 5th amendment package commenced on 1 July 2017, while the remainder commenced on 1 October 2018.</p> <p>Similarly, part of the 6th amendment package commenced on 1 July 2018, while the remainder commenced on 1 October 2018.</p> <p>The 7th amendment package commenced on 1 October 2018.</p> <p>Part of the 8th amendment package commenced operating in SA on 28 February 2020, with the Part 2, Division 1 changes in the <i>Heavy Vehicle National Law and Other Legislation Amendment Act 2019</i> (Qld) commenced in SA on the same day that section 15 of the <i>Road Vehicle Standards Act 2018</i> of the Commonwealth came into operation (i.e. 1 July 2021). Sections 10 and 11 of the <i>Heavy Vehicle National Law and Other Legislation Amendment Act 2019</i> (Qld) were drafted to commence operating in SA, on the same day that they came into operation in Queensland.*</p> <p>*The <i>Defamation (Model Provisions) and Other Legislation Amendment Act 2021 (Queensland)</i>, assented to on 24 June 2021, omitted sections 10 and 11 from the HVNL (nothing further is required in SA to remove the provisions).</p> <p>As the HVNL review has been ongoing, there have been no amendment packages during 2022/23.</p>
TAS	<p>The remainder of the 5th and 6th amendment packages commenced in Tasmania upon proclamation in October 2018.</p> <p>The registration-related provisions contained in the 6th and 7th amendment packages commenced on 1 July 2018.</p> <p>The Chain of Responsibility amendments contained in the 5th, 6th and 7th amendment packages commenced on 1 October 2018, along with the remaining provisions of the 7th amendment package.</p> <p>The 8th amendment package was incorporated into the <i>Heavy Vehicle National Law and Other Legislation Amendment Act 2019</i>, which was tabled in Tasmania on 14 November 2019.</p>
ACT	<p>The <i>Heavy Vehicle National Law (ACT) Act 2013</i> (the Act) which commenced on 10 February 2014 provides that the HVNL set out in the schedule to the Queensland Act, as amended from time to time, applies as a territory law, as modified by schedule 1 of the Act, and may be referred to as the <i>Heavy Vehicle National Law (ACT)</i>.</p> <p>Amendments to the HVNL and regulations (while needing to be tabled in the ACT Legislative Assembly and being subject to disallowance) under the HVNL are adopted automatically in the ACT.</p> <p>As such HVNL and regulation amendments commence in the ACT at the same time as they commence in Queensland.</p> <p>The registration-related provisions contained in the 6th and 7th amendment packages commenced on 1 July 2018.</p>

The Chain of Responsibility amendments contained in the 5th, 6th and 7th amendment packages commenced on 1 October 2018, along with the remaining provisions of the 7th amendment package.

Disapplied chapters of the HVNL were applied in the ACT on 1 July 2019 coinciding with transition of functions from Access Canberra to the NHVR.

The 8th amendment package as part of the *(Qld) Heavy Vehicle National Law and Other Legislation Amendment Act 2019* progressed through the Queensland Parliament and was assented to on 26 September 2019. All provisions, other than sections 10 and 11 (that were further deferred by the *(Qld) Heavy Vehicle National Law and Other Legislation Amendment (Postponement) Regulation 2020* until the end of 26 September 2021 and then subsequently repealed by the *(Qld) Defamation (Model Provisions) and Other Legislation Amendment Act 2021*) relating to amendment of sections 96 and 102 about compliance with mass and dimension requirements for PBS vehicles, commenced on 28 February 2020.

2.2 Implementation analysis

All participating jurisdictions have adopted and commenced HVNL amendments contained in the 5th, 6th, 7th and 8th amendment packages at the same time those amendments commenced in Queensland, the host jurisdiction.

Western Australia and the Northern Territory are not implementing the HVNL.

3 Rail reform

Key points

- National rail safety reforms aim to deliver a more consistent approach to rail safety policy and regulation across jurisdictions.
- Legislative maintenance of the Rail Safety National Law (RSNL) aims to ensure that the legislation continues to align with the original policy objective of the national reforms.
- The Council approved the 4th RSNL amendment package in November 2018. The Rail Safety National Law (South Australia)(Miscellaneous) Amendment Act 2019 was assented to on 11 April 2019 and commenced on 1 July 2019.
- The Council approved the 5th amendment package in November 2019 through the *Rail Safety National Law (South Australia)(Rail Safety Work) Amendment Act 2019* which commenced on 1 July 2020. This has been implemented by the majority of jurisdictions.
- The Infrastructure and Transport Ministers' Meeting approved the Rail Safety National Law (South Australia) (Miscellaneous) Amendment Bill 2022 on 11 February 2022. The Act commenced operation on 1 May 2023.
- The Infrastructure and Transport Ministers' Meeting approved the Rail Safety National Law (South Australia) (Fees) Amendment Bill 2022 in December 2022. The Act was assented to on 26 May 2023 but has not yet commenced operation.

3.1 Objective of the Rail Safety National Law Reform and Maintenance Activities

The objective of the RSNL reform is to create a single national regulatory framework for rail safety. The national rail safety reforms were established to deliver a more consistent approach to policy and regulation across jurisdictions and to remove inconsistencies in the rail regulatory regimes between states and territories.

The objectives of maintenance activities associated with the RSNL are to:

- promote improved safety outcomes for the safe movement of people, freight and services
- monitor and review the effectiveness of the RSNL to ensure that it remains contemporary, fit for purpose and fulfils the needs of stakeholders.

3.2 Amendments to Rail Safety National Law

The *Rail Safety National Law (South Australia) (Miscellaneous) Amendment Act 2019* commenced in RSNL participating jurisdictions, except WA, on 1 July 2019. Changes include:

- enabling the ONRSR to use oral fluid, urine or blood for drug testing

- mandating drug and alcohol testing by operators following prescribed incidents where ONRSR or police do not test except for NSW where arrangements for operator testing remain unchanged
- offence provisions for tampering or interfering with a sample
- amendments to improve the application of the *Freedom of Information Act 1991* (SA)
- technical clarifications and administrative improvements.

In November 2019, the Council approved the *Rail Safety National Law (South Australia) (Rail Safety Work) Amendment Bill*, the fifth amendment package to the RSNL. The amendments ensure the definition of ‘rail safety work’ aligns with the objects of the RSNL, capture only work that could pose a risk to railway operations, current or future, and clearly distinguish between risk from the work and risk to the person performing the work. The amendments also remove risks to workers that are not specific to railway operations and therefore are adequately addressed under workplace health and safety laws. The Bill was passed by the South Australian Parliament and assented to in June 2020.

The *Rail Safety National Law (South Australia) (Rail Safety Work) Amendment Act 2020* commenced operation in South Australia on 1 July 2020.

The *Rail Safety National Law (South Australia) (Alcohol and Drug Offence) Amendment Act 2021* came into operation in South Australia on 1 November 2021 and amended the RSNL to clarify when a rail safety worker is taken to be carrying out rail safety work or attempting to do so.

The *Rail Safety National Law (South Australia) (Miscellaneous) Amendment Act 2023* was assented to on 23 February 2023 and commenced operation on 1 May 2023. The Act introduced a new offence into the RSNL for providing a false or misleading document or information in relation to an assessment of a person’s competency to carry out rail safety work. The Act also gave the National Rail Safety Regulator the power to grant rail transport operators an exemption from the requirement to prepare and implement a health and fitness program for rail safety workers in the event of an emergency.

The *Rail Safety National Law (South Australia) (Fees) Amendment Act 2023* was passed by the South Australian Parliament and assented to in May 2023 but is yet to commence operation. On commencement, the Act will make amendments to the RSNL relating to a new cost recovery model proposed by the Office of the National Rail Safety Regulator.

The WA Government has approved a request to amend the *Rail Safety National Law (WA)* to include all outstanding amendments, which will better align WA with the scheme.

Tables 4 and 5 provide an overview of jurisdictional progress in implementing RSNL amendments.

Table 4. Implementation summary of amendments to the Rail Safety National Law

Rail Safety National Law amendments	Implementation status							
	NSW	VIC	QLD	WA	SA	TAS	ACT	NT
The Rail Safety National Law (South Australia) (Miscellaneous) Amendment Act 2019 4 th Amendment package (approved November 2018)	✓	✓	✓	●	✓	✓	✓	✓

The Rail Safety National Law (South Australia) (Rail Safety Work) Amendment Act 2020 5 th Amendment package (approved November 2019)	✓	✓	✓	●	✓	✓	✓	✓
The Rail Safety National Law (South Australia) (Alcohol and Drug Offence) Amendment Act 2021 (approved 30 March 2021)	✓	✓	✓	●	✓	✓	✓	✓
The Rail Safety National Law (South Australia) (Miscellaneous) Amendment Act 2023 (approved by ITMM on 1 February 2022)					✓			

Table 5. Jurisdictions' comments on amendments to the Rail Safety National Law

Jurisdiction	Implementation comments
NSW	The 5 th Amendment Package commenced on 1 July 2020, the same day as it commenced in South Australia.
VIC	The Rail Safety National Law is applied in Victoria by the <i>Rail Safety National Law Application Act 2013 (Vic)</i> . As there are no tabling requirements for amendments to the <i>Rail Safety National Law</i> , any amendments commence in Victoria at the same time as they commence in South Australia through amendments to the Schedule to the <i>Rail Safety National Law (South Australia) Act 2012 (SA)</i> .
QLD	The Rail Safety National Law is applied in Queensland by the <i>Rail Safety National Law (Queensland) Act 2017</i> . Amendments to the <i>Rail Safety National Law (SA)</i> commence in Queensland at the same time as they commence in South Australia. The 4th amendment package commenced on 1 July 2019. The 5th amendment package commenced on 1 July 2020.
WA	The WA Government has approved a request to amend the <i>Rail Safety National Law (WA)</i> to include all outstanding amendments. Ministerial and legislative priority will dictate the timeframe for introduction of the amendments.
SA	The 4th amendment package commenced on 1 July 2019. The 5th Amendment Package commenced on 1 July 2020. <i>The Rail Safety National Law (South Australia) (Alcohol and Drug Offence) Amendment Act 2021</i> commenced on 1 November 2021. The <i>Rail Safety National Law (South Australia) (Miscellaneous) Amendment Act 2023</i> commenced operation on 1 May 2023. The <i>Rail Safety National Law (South Australia) (Fees) Amendment Act 2023</i> is yet to commence operation.
TAS	The components of the 4th amendment package were tabled in Parliament over July/August 2019. <i>The Rail Safety National Law (South Australia) (Rail Safety Work) Amendment Act 2020</i> commenced on 1 July 2020 and was tabled in each House of Parliament in Tasmania in September 2020.

	<p>The <i>Rail Safety National Law (South Australia) (Alcohol and Drug Offence) Amendment Act 2021</i> was tabled in Parliament in Tasmania in August 2021. The amendments in that Act are applied as law in Tasmania.</p>
ACT	<p><i>The Rail Safety National Law (ACT) Act 2014</i> (the Act) which commenced in May and November 2014, adopts the RSNL set out in the schedule to the <i>Rail Safety National Law (South Australia) Act 2012 (SA)</i>. This schedule as amended from time to time, applies as a territory law, and may be referred to as the <i>Rail Safety National Law (ACT)</i>.</p> <p>Amendments to the RSNL are adopted automatically in the ACT and commence at the same time as they commence in South Australia.</p> <p>National regulations made under the RSNL must be tabled in the ACT Legislative Assembly within 20 sittings day of being notified. All national regulations have been tabled.</p> <p>The ACT in adopting the RSNL, adopted its own alcohol and drug testing provisions to align with its road drink and driving laws.</p>
NT	<p>Amendments to the <i>Rail Safety National Law (SA)</i> are adopted automatically in the NT and commence at the same time as they commence in South Australia.</p>

3.3 Implementation analysis

There has been progress with the WA Government approving a request to amend the Rail Safety National Law (WA) to include all outstanding amendments, noting that Ministerial and legislative priority will dictate the timeframe for implementation.

Until implementation, the ONRSR and industry continue to operate under differing requirements in WA compared to the rest of Australia.

All other jurisdictions have implemented the amendment packages covered by this report.

Appendix B provides a summary of derogations for the RSNL scheme.

4 Maintenance of existing reforms

4.1 Australian Road Rules

Key points

- Most jurisdictions have implemented the 9th, 10th, 11th and 12th amendment packages.
- The 13th amendment package was endorsed by Council in November 2019 and is being progressively implemented by jurisdictions.

4.1.1 Objective of the Australian Road Rules reform and maintenance activities

The objective of the Australian Road Rules (ARRs) reform and maintenance activities are to promote the safe and efficient use of roads in Australia. This is achieved by ensuring that the rules remain contemporary and fit for purpose.

The NTC works closely with jurisdictions to deliver a nationally agreed model for jurisdictions to adopt into their road safety legislation.

4.1.2 About the Australian Road Rules amendment package

The ARR sets out the basic rules of the road for motorists, motorcyclists, cyclists, pedestrians, passengers and other road users. The purpose of a single national set of road rules is to provide uniformity across Australia so that people are not confronted with different requirements as they travel from one state or territory to another.

The road rules are model laws that have no legislative force of their own and need to be adopted in each jurisdiction's laws before they can take effect. The rules have been broadly adopted and now form the basis of the road rules in each state and territory.

The 9th amendment package included changes relating to portable warning triangles and the use of disability parking permits.

The 10th included changes relating to bicycle crossing lights, level crossing line markings, and driver's aids such as navigation devices.

The 11th included changes relating to motorcycles, cycling on footpaths for children and people with a medical condition and their companions, as well as driver distraction (mobile phones and video displays).

The 12th amendment package included:

- specifying load restraint performance standards in the law, rather than relying on jurisdictions to reference the standards with variation
- improving consistency in rules for road crossings by pedestrians and cyclists
- introducing nationally consistent rules relating to motorcycle lane-filtering and approved motorcycle helmets
- removing barriers to access for larger vehicles through small roundabouts, and
- several technical clarifications.

In November 2019, Council approved the 13th amendment package to the ARRs, which includes:

- Creating an offence for a driver to interrupt a funeral procession
- Inserting technology neutral terminology about payment of parking fees
- Providing model rules about the use of 'Bus Only' lanes
- Providing model rules and signage about parking of electric vehicles, including when being charged
- Clarifying rules about motorcyclists with respect to signalling a change of direction and removal of feet from footrests

Tables 6 and 7 provide an overview of progress in delivering the ARR amendment packages.

Table 6. Implementation summary of the Australian Road Rules amendment packages

Australian Road Rules amendments	Implementation status							
	NSW	VIC	QLD	WA	SA	TAS	ACT	NT
Adopt the 9 th amendment package (approved December 2011)	✓	✓	✓	✓	✓	✓	✓	✓
Adopt the 10 th amendment package (approved November 2013)	✓	✓	✓	✓	✓	✓	✓	✓
Adopt the 11 th amendment package (approved November 2015)	✓	✓	✓	✓	✓	✓	✓	✓
Adopt the 12 th amendment package (approved November 2017)	✓	✓	✓	✓	✓	✓	✓	✓
Adopt the 13 th amendment package (approved November 2019)	✓	✓	✓	●	●	✓	●	✓
Adopt the Australian Road Rules (Personal Mobility Devices) Amendment 2021 (approved in May 2021)	✗	✓	✓	✓	●	✓	○	●

Table 7. Jurisdictions' comments on implementing the Australian Road Rules amendment package

Jurisdiction	Implementation comments
NSW	NSW implemented the 13 th package through the <i>Road Transport Legislation Amendment Regulation 2021</i> which commenced on 18 November 2022 NSW will consider the Personal Mobility Devices Amendment after the conclusion of the NSW e-scooter trial.
VIC	The new Victorian <i>Road Safety Road Rules 2017</i> , which commenced on 1 July 2017, include the 11 th amendment package of changes. The 12 th amendment package was incorporated into the Victorian <i>Road Safety Rules 2017</i> which commenced on 26 June 2018. The 13 th package was

	implemented in November 2020. In April 2023 Victoria implemented a modified version of the Personal Mobility Device amendment.
QLD	Queensland implemented the 12 th amendment package on 23 November 2018 and the 13 th amendment package on 4 February 2022. The <i>Queensland Road Rules</i> already reflected the majority of the Personal Mobility Device amendments, given these rules were substantively modelled on the existing Queensland rules.
WA	The 11 th and 12 th packages were implemented in December 2020. A modified version of the Personal Mobility Device amendments was implemented in December 2021. The 13 th amendment package will be considered for implementation together with driver distraction amendments in 2024.
SA	SA implemented the 12th package on 1 December 2019, and is aiming to implement the 13th package by early 2024. SA local laws reflect the framework of the PMD amendments, and further harmonisation with the model rules is being considered.
TAS	The personal mobility devices (PMD) amendment was implemented in December 2021. The 13 th amendment package was implemented in July 2022.
ACT	<p>Amendments from the 12th package were incorporated into the <i>Road Transport (Road Rules) Regulation 2017</i> and commenced on 1 July 2019. In adopting the 12th package a minor variation to the lane filtering requirements were maintained to keep the existing ACT conditions relating to lane filtering.</p> <p>The electric vehicle parking amendments from the 13th package commenced on 11 May 2022. The ACT progressed PMD regulations in late 2018. Assessment of whether any further amendments are required will be undertaken as the rest of the 13th package is progressed.</p> <p>The ACT is currently developing drafting instructions in relation to the remaining provisions that have not been adopted at this stage.</p>
NT	<p>The 13th amendment package was adopted in the Northern Territory and commenced on 5 August 2020.</p> <p>The Northern Territory is considering options for implementing Personal Mobility Device amendments in the future, including options for the adoption or modification of the model amendments approved by Council in 2021.</p>

4.1.3 Implementation analysis

The 9th, 10th, 11th and 12th amendment packages have been implemented by all jurisdictions. Four jurisdictions have implemented the 13th amendment package, with the remaining jurisdictions progressing implementation.

There are no major implications associated with the current state of implementation, as outlined in Table 8.

Table 8. Jurisdictions’ comments on the implications of any non-implementation or delayed implementation on whether the objectives of the reform are being achieved

Jurisdiction	Implications of non-implementation
NSW	N/A
VIC	N/A
SA	<p>SA will implement the 13th package using the EV signage that was prepared for the 14th package but withdrawn. Signage had been approved by the MS-12 committee.</p> <p>SA is considering how best to implement the PMD package given users have been characterised as pedestrians in the model ARR. SA has undertaken a public consultation on the desirability of personal PMDs being legalised in SA, and further harmonisation with the model ARR is being considered.</p>
QLD	<p>Queensland has substantively adopted the 12th and 13th package of amendments as well as the Personal Mobility Device amendments. For the most part, only minor drafting variations have been made, and the intent of the national rules is unchanged. Some amendments were not required as Queensland already had rules in place that achieved the same or similar outcome.</p> <p>From the 13th package, Queensland has not adopted section 203B (priority parking for electric powered vehicles) as there is currently no demand for this. Instead, Queensland has adopted section 203C (parking for electric powered vehicles while charging) as this aligns with existing infrastructure deployments.</p>
WA	<p>No significant implications have arisen as a result of delayed implementation of the 13th amendment package. Delaying implementation of 203B and 203C has not prevented local governments regulating in this area where required and has prevented confusion. Insertion of rule 271(1A) is not required as WA road rules already permit motorcycle riders to remove both feet from footrests or footboards.</p>
TAS	N/A
NT	N/A
ACT	<p>There are not expected to be anything other than minor implications from not having implemented the entirety or the 13th package and having slightly different PMD rules. The current ACT PMD rules are slightly more relaxed than some of the provisions in the model PMD provisions, and any provisions in the model rules that are less stringent than the current ACT requirements will be considered in the current work to implement any outstanding provisions.</p>

4.2 Australian Light Vehicle Standards Rules

Key points

- The Australian Light Vehicle Standards Rules (ALVSRs) supersede the Australian Vehicle Standards Rules, which covered both light and heavy vehicle in-service standards.
- The nature of the subsequent amendments means the impact of different implementation dates for jurisdictions will be minor because, even if their in-service standards are based on the Australian Vehicle Standards Rules, they have most of the ALVSRs already.

4.2.1 Objective of the Australian Light Vehicle Standard Rules Reform and Maintenance Activities

The objective of the ALVSRs reform and maintenance activities are to promote, throughout the life of a vehicle, its safe use, efficiency, the protection of the environment in which it is used, and to reduce the cost of transport administration. This is achieved by ensuring that the rules remain contemporary and fit for purpose.

The NTC works closely with jurisdictions to deliver a nationally agreed model for jurisdictions to adopt into their road safety legislation.

4.2.2 About the Australian Light Vehicle Standards Rules

In November 2015 Council approved the ALVSRs. Heavy Vehicles Standards Rules are now included in the Heavy Vehicle National Law. There have been five amendment packages for the ALVSRs.

The 3rd amendment package was approved in November 2018. This package better aligns the ALVSRs with the Australian Design Rules, clarifies requirements and terminology, introduces safety improvements and amends requirements for labelling for hydrogen and electric vehicles.

The 4th amendment package was approved in November 2019. These better align both the ALVSRs with the HVNL and with the Australian Design Rules and clarify requirements and terminology and introduce safety improvements.

The 5th amendment package was approved in November 2020. These amendments align aspects of the ALVSRs with the Australian Design Rules and AS/NZ standards to remove unintended inconsistency. The package amended the Heavy Vehicle Standard Rules to enable safety improvements on heavy vehicles.

Tables 9 and 10 provide an overview of progress in delivering the ALVSRs.

Table 9. Implementation summary of the Australian Light Vehicle Standards Rules and amendment packages

Adoption of amendment packages	Implementation status							
	NSW	VIC	QLD	WA	SA	TAS	ACT	NT
Adopt the Australian Light Vehicle Standards Rules (approved November 2015)	✓	✓	✓	✓	✓	✓	●	●
Adopt the 1 st amendment package to the Australian Light Vehicle Standards Rules (approved May 2016)	✓	✓	✓	✓	✓	✓	●	●
Adopt the 2 nd amendment package to the Australian Light Vehicle Standards Rules (approved May 2017)	✓	✓	✓	●	✓	✓	●	●
Adopt the 3 rd amendment package to the Australian Light Vehicle Standards Rules (approved November 2018)	✓	✓	✓	●	✓	●	●	●
Adopt the 4 th amendment package to the Australian Light Vehicle Standards Rules (approved November 2019)	✓	✓	✓	●	●	●	●	●
Adopt the 5 th amendment package to the Australian Light Vehicle Standards Rules (approved November 2020)	✓	✓	✓	●	✓	●	●	●

Table 10. Jurisdictions' comments on implementing the Australian Light Vehicle Standards Rules and amendment packages

Jurisdiction	Implementation comments
NSW	The 5 th amendment package to the ALVSRs came into force on 25 June 2021 through the <i>Road Transport Amendment (Vehicle Registration) Regulation 2021</i> .
VIC	The 5 th amendment package to the ALVSRs came into force on 30 September 2021 through the <i>Road Safety (Vehicles) Regulations 2021</i> .
QLD	TMR adopted the 4 th and 5 th amendment package in Queensland's <i>Transport Operations (Road Use Management – Vehicle Standards and Safety) Regulation 2021</i> (the VSS Regulation), which commenced on 1 September 2021. The 5 th amendment package includes the introduction of a new rule 111-113 via section 15(3)(c) of the ALVSRs. The requirements of rule 111 are met in Queensland through the <i>Transport Operations (Passenger Transport) Standard 2010</i> and therefore are not currently reproduced in the VSS Regulation. <i>The Transport Operations (Passenger Transport) Standard 2010</i> is currently under review with the intention to transition the requirements for warning lights and signs by adopting rules 111-113 in the VSS Regulation.

WA	WA has amended the regulations to be consistent with the 2015 ALVSRs and the 1st amendment package. WA has commenced the drafting process to update legislation to adopt selected elements of the 2 nd -5 th amendments packages.
SA	The 3 rd package was implemented on 1 July 2019. The 4 th package will be implemented in 2023-2024 now that the <i>Road Vehicle Standards Act 2018</i> (Cth) has commenced. SA implemented the 5 th package amendments in October 2020.
TAS	Tasmania implemented the 2016 ALVSRs and both the 1 st and 2 nd amendment packages in 2018. Implementation of the 3 rd , 4 th and 5 th amendment packages is still to be determined, subject to business and legislative priorities in 2023/2024.
ACT	The ACT has begun work to progress adoption of the ALVSRs and the amendment packages to those rules. It is now expected that this work will be completed through 2023-24, noting that the existing standards for light vehicles in the <i>Road Transport (Vehicle Registration) Regulation 2000</i> are already very similar to the requirements of the Australian Light Vehicle Standards Rules, and relaxations to vehicle standards as a result of those packages have been managed through an exemption instrument until regulation changes can be progressed. The requirements for labelling electric and hydrogen powered vehicles was progressed out of sequence and commenced on 1 January 2019, noting the ACT has not, as yet, been able to identify a consistent supply of labels that owners of affected vehicles can purchase to fit to their vehicles. The ACT also recently progressed local amendments commencing on 1 July 2021 to take account of the commencement of the (Cwlth) <i>Road Vehicle Standards Act 2018</i> .
NT	The NT has commenced analysis of options for either adapting its combined in-service light and heavy vehicle standards regulations to reflect amendments in the outstanding packages (of the Australian Vehicle Standards Rules and the ALVSRs) or separating the light and heavy vehicle standards to allow direct adoption of the ALVSRs including any outstanding packages. Timing of implementation is subject to advice on the options and the Government's legislative drafting priorities.

4.2.3 Implementation analysis

The ALVSRs supersede the Australian Vehicle Standards Rules, which covered both light and heavy vehicle in-service standards. There was no change in policy when the ALVSRs were introduced. Therefore, a failure to adopt the ALVSRs had no practical effect.

A majority of jurisdictions has implemented the 2015 ALVSRs. Jurisdictions are progressing implementation of subsequent amendments in line with individual jurisdictional resource availability and prioritisation.

The nature of the subsequent amendments means the impact of different implementation dates for jurisdictions will be minor because, even if their in-service standards are based on the Australian Vehicle Standards Rules, they have most of the Australian Light Vehicle Standards Rules already.

Table 11. Jurisdictions’ comments on the implications of any non-implementation or delayed implementation on whether the objectives of the reform are being achieved

Jurisdiction	Implications of non-implementation
NSW	N/A
VIC	N/A
SA	The 4 th package amendments require changes to head Acts to account for the introduction of the <i>RVSA (Cth)</i> . In the interim, continuity provisions of the <i>Legislation Interpretation Act 2021</i> ensure that the head Acts accommodate the proper operation of the RVSA.
QLD	N/A
WA	The main objectives of the reform are primarily being achieved, despite delays in implementation of the outstanding amendment packages potentially having minor harmonisation consequences. Legislative changes to address this are actively being pursued.
TAS	The objectives of the reform are being achieved, notwithstanding the delayed implementation of the 3 rd , 4 th and 5 th packages.
NT	There are minimal implications arising from NT’s non-implementation of the amendment packages. The current NT version applies the requirements of the ADRs in-service in the same way as the latest model law does. Inconsistencies that affect industry or the community are extremely rare and can be dealt with efficiently via exemptions.
ACT	There are limited implications from the ACT not implementing the ALVSRs as the existing standards for light vehicles in the <i>Road Transport (Vehicle Registration) Regulation 2000</i> are already very similar to the requirements of the Australian Light Vehicle Standards Rules, and relaxations to vehicle standards as a result of those packages have been managed through an exemption instrument until regulation changes can be progressed

4.3 Transport of Dangerous Goods laws

4.3.1 About the Transport of Dangerous Goods Model Regulations and Code

The transport of dangerous goods laws provides a single national set of laws to reduce the risks of personal injury, death, property damage and environmental harm arising from the transport of dangerous goods by road or rail. The laws consist of a model law, model subordinate law and the Australian Code for the Transport of Dangerous Goods by Road and Rail.

Key points

- All jurisdictions apart from the Australian Capital Territory have implemented the Dangerous Goods Model Regulations and Code. The ACT will progress implementation when resources are available.
- The most recent package of amendments, which addresses inconsistencies between Australian-specific requirements and UN requirements, including changes to the regulation of limited quantity dangerous goods.

4.3.2 Objective of the Transport of Dangerous Goods Laws Reform and Maintenance Activities

The NTC implements maintenance amendments to the model subordinate law and the Australian Code for the Transport of Dangerous Goods by Road and Rail every two years. These amendments incorporate the biennial updates to the UN Model Recommendations. As a general principle, policy changes are not included as part of the maintenance cycle but are progressed on a project basis.

The ADG Code is adopted in all Australian jurisdictions. The model law and model subordinate instrument are also implemented in every jurisdiction, albeit with some minor variations.

4.3.3 About the Transport of Dangerous Goods Model Regulations and Code

The transport of dangerous goods laws provides a single national set of laws to reduce the risks of personal injury, death, property damage and environmental harm arising from the transport of dangerous goods by road or rail. The laws consist of a model law, model subordinate law and the *Australian Code for the Transport of Dangerous Goods by Road and Rail*.

The model regulations and the code set out the requirements for transporting dangerous goods by road or rail. The objectives of these are to:

- ensure dangerous goods are transported safely
- ensure uniformity and consistency in technical requirements across jurisdictions for transporting dangerous goods by road and rail
- harmonise Australian regulations with international intermodal regulations
- maintain a single set of laws governing the transport of dangerous goods by road and rail.

Tables 12 and 13 provide an overview of the progress of states and territories in implementing Council reforms.

In June 2020, Council endorsed the most recent amendment package to the model regulations and code (edition 7.7 of the code) which includes:

- the removal of inconsistencies between Australian specific requirements and UN requirements to prevent an unfair advantage to overseas manufacturers
- amendments to minimum fire extinguisher requirements and personal protective and safety equipment
- extend offences that previously only applied to the driver of a vehicle about where a road vehicle may be parked, unloading of dangerous goods and detaching of trailers, to the prime contractor responsible for the transport of the dangerous goods.

The changes reduce the compliance burden for duty holders by removing previously introduced sub-categories of limited quantity dangerous goods, that resulted in disproportionately complex compliance requirements. The amendments make requirements for the transport of limited quantity dangerous goods in Australia consistent with accepted overseas practice, with minor differences aimed at addressing risks that are unique to the Australian transport environment (e.g., the use of higher capacity vehicles).

Table 12. Implementation summary of the Transport of Dangerous Goods model regulations and Code

Model Subordinate Law and Australian Dangerous Goods Code Amendments	Implementation status							
	NSW	VIC	QLD	WA	SA	TAS	ACT	NT
Amendments to the Model Subordinate Law on the <i>Transport of Dangerous Goods by Road or Rail 2007</i> (Amendment package 3) (approved May 2015)	✓	✓	✓	✓	✓	✓	●	✓
Edition 7.5 of the Australian Dangerous Goods code (approved November 2016)	✓	✓	✓	✓	✓	✓	✓	✓
Amendments to the Model Subordinate Law on the <i>Transport of Dangerous Goods by Road or Rail 2007</i> (Amendment package 4) (approved November 2016)	✓	✓	✓	✓	✓	✓	●	✓
Amendments to the Model Subordinate Law on the <i>Transport of Dangerous Goods by Road or Rail 2007</i> (Amendment package 5) (approved May 2018)	✓	✓	✓	✓	✓	✓	●	✓
Edition 7.6 of the Australian Dangerous Goods code (approved May 2018)	✓	✓	✓	✓	✓	✓	✓	✓

Amendments to the Model Subordinate Law on the <i>Transport of Dangerous Goods by Road or Rail 2007</i> (Amendment package 6) (approved June 2020)	✓	✓	✓	✓	✓	✓	●	✓
Edition 7.7 of the Australian Dangerous Goods code (approved June 2020)	✓	✓	✓	✓	✓	✓	✓	✓

Table 13. Jurisdictions' comments on implementing the Australian Dangerous Goods Code

Jurisdiction	Implementation comments
NSW	<p>The regulation was remade with minor variations from the model law on 19 August 2022. These variations were notified to the NTC.</p> <p>The <i>Dangerous Goods (Road and Rail Transport) Regulation 2022</i> provides for the ADG Code to be in force "as amended from time to time". Edition 7.8 of the ADG Code thus took effect on 1 April 2023 in NSW.</p> <p>NSW amended its regulation to reflect changes in the model subordinate law, with changes taking effect from 16 June 2023.</p> <p>This is administered by the NSW Environment Protection Authority (EPA).</p>
VIC	<p>Victoria amended its regulations to reflect changes in the model subordinate law, with changes taking effect from 1 April 2021. The ADG Code Edition 7.7 came into force on 1 April 2021 with a transition period of 6 months.</p>
QLD	<p>Amendment Package 6 and ADG 7.7 commenced operation on 1 October 2020.</p>
WA	<p>Amendment Package 6 and ADG 7.7 commenced on 10 October 2020.</p>
SA	<p>The SA <i>Dangerous Substances (Dangerous Goods Transport) Regulations 2008</i> provide for the AGD code as in force from time to time. As such, ADG Edition 7.7 commenced on 1 October 2021.</p> <p>The SA regulations have been amended to reflect changes in the model subordinate law, with changes taking effect on 1 October 2021.</p>
TAS	<p>The <i>Dangerous Goods (Road and Rail Transport) Regulations 2021</i> refer to the ADG Code 'as in force or remade from time to time'. Edition 7.7 therefore took effect on 1 October 2020 and became mandatory on 1 October 2021.</p> <p>The regulations were amended to reflect changes in the model subordinate law, with changes taking effect on 15 December 2021.</p>

ACT	<p>The <i>Dangerous Goods (Road Transport) Regulation 2010</i> provides that the code in force in the ACT is the Australian Code for the Transport of Dangerous Goods by Road and Rail, 7th edition, as approved from time to time. As such, edition 7.7 is in force in the ACT.</p> <p>The ACT is currently progressing amendments to the model subordinate law on the transport of dangerous goods by road or rail subject to government legislative program priorities.</p>
NT	Code 7.7 has been implemented in the NT.

4.3.4 Implementation analysis

All jurisdictions have implemented edition 7.6 of the Australian Dangerous Goods Code. The ACT is yet to implement some of the model subordinate law changes. This jurisdiction has committed to implementing outstanding amendment packages subject to government legislative program priorities. Edition 7.7 has been implemented by all jurisdictions.

Implementation of edition 7.7 by all jurisdictions makes requirements for the transport of limited quantity dangerous goods in Australia consistent with accepted overseas practice, with minor differences aimed at addressing risks that are unique to the Australian transport environment.

Table 14. Jurisdictions' comments on the implications of any non-implementation or delayed implementation on whether the objectives of the reform are being achieved

Jurisdiction	Implications of non-implementation comments
NSW	NSW variations involve minor process changes and clarifications which are expected to have minimal impact.
VIC	Not applicable. Amendment package 6 and ADG Code edition 7.7 commenced on 1 April 2021.
SA	SA has implemented Amendment Package 6 and have adopted ADG Code 7.7. There are no known implications to the goals of the reform.
QLD	Not Applicable. Amendment Package 6 has been adopted and ADG Code edition 7.7 commenced operation on 1 October 2020.
WA	Not Applicable as Amendment Package 6 and ADG Code edition 7.7 commenced on 10 th October 2020.
TAS	
ACT	
NT	<p>Implemented the entirety of the reform with two variations to reduce or mitigate impacts on local industry practices that historically have not resulted in a decrease in safety:</p> <ol style="list-style-type: none"> 1. Detach a trailer, or allow a trailer to be detached – the NT proposes to allow the detachment of trailers containing class 3 flammable liquids if it is necessary to do so to access remote areas and the detachment does not compromise public safety.

2. Ullage – the NT proposes to allow industry the adequate opportunity by way of additional time to adjust their tanker fleet assets to comply with new ullage requirements being introduced.

4.4 Heavy Vehicle Charges Model Law

Key points

- All jurisdictions apart from WA and NT have adopted the heavy vehicle charges for 2023-24 set out in the Heavy Vehicle Charges Model Law.
- Heavy vehicle registration charges in WA and the NT are set independently of the national charges.
- WA and NT have historically implemented annual adjustments to heavy vehicle charges that are broadly like those applied by other jurisdictions.

4.4.1 Objective of the Heavy Vehicle Charges Model Law

The principal objective of the Heavy Vehicle Charges Model Law is to achieve nationally consistent registration charges for heavy vehicles.

4.4.2 About the Heavy Vehicle Charges Model Law

The Heavy Vehicle Charges Model Law sets out a set of national heavy vehicle registration charges, as approved by ITMM and its predecessors from time to time. The intent of setting heavy vehicle registration charges on a national basis is to provide a neutral competitive environment for heavy vehicle operators, and to avoid providing incentives to register heavy vehicles in a particular location to benefit from differences in registration charges between jurisdictions.

Tables 15 and 16 provide an overview of the progress of states and territories in implementing the heavy vehicle registration charges set out in the *Heavy Vehicle Charges Model Law*.

Table 15. Implementation summary of heavy vehicle registration charges for 2023–24

Heavy Vehicle Charges	Implementation status							
	NSW	VIC	QLD	WA	SA	TAS	ACT	NT
Heavy Vehicle Registration Charges for 2023-24 to 2025-26 (approved in May 2023)	✓	✓	✓	✗	✓	✓	✓	✗

Table 16. Jurisdictions' comments on implementing the 2023–24 heavy vehicle registration charges

Jurisdiction	Implementation comments
NSW	New charges came into effect on 1 July 2023 with no derogations.

VIC	
QLD	The nationally agreed increase in charges by 6.0% was implemented from 1 July 2023.
WA	WA's heavy motor vehicle licence fees are set independently of national heavy vehicle charging decisions. WA increased heavy motor vehicle licence fees by 2.5% on 1 July 2023
SA	The nationally agreed charges for 2023-2024 were implemented with effect from 1 July 2023 through the (Motor Vehicles (National Heavy Vehicles Registration Fees) Amendment Regulations 2023 (SA), gazetted 18 May 2023. As the regulatory component of the charges has not been finalised for the 2024-2025 and 2025-2026 financial years, further regulations changes implementing the charges in each of these financial years will be required.
TAS	<p>The amended heavy vehicle charges were implemented in Tasmania through an amendment to the <i>Vehicle and Traffic (Heavy Vehicle Charges) Regulations 2017</i> (Tas).</p> <p>The making of the amendments is scheduled for late August 2023. This means that the revised charges will not be available for registration renewals that fall due between July 2022 and November 2023.</p> <p>While ITMM approved the charges on 8 May 2023, we did not receive notice that ITSOC had endorsed the charges until 8 June 2023. Amendment of our regulations could not commence until notification had been received.</p> <p>Further, while the rates have for the Regulatory Component have been set for three years, the Road Component has not been explicitly identified. Consequently, Tasmania will need to make annual amendments to the Regulations to achieve conformance, and the putative efficiencies of setting fees for three years are not realised.</p> <p>n implementation, Tasmania charges lower rates for good carrying trailers with GVM between 4.5 tonnes and 9 tonnes. This differentiation applies in both the road and regulatory components of motor tax.</p>
ACT	Agreed HV charges for 2023-24 were implemented with effect from 9 May 2023 by the Road Transport (General) Vehicle Registration and Related Fees Determination 2023 (No 2) for registrations commencing on or after 1 July 2023. Agreed HV charges for 2024-25 and 2025-26 are expected to be implemented with similar timing in the respective forward years.
NT	<p>The Northern Territory does not directly apply the Heavy Vehicle Charges Model Law.</p> <p>The Northern Territory works with the local transport industry on annual adjustments to charges. In 2021 and 2022, the Northern Territory increased charges by 1.5%. The Northern Territory has adopted a 3% increase in charges for three years from October to September 2023-24, 2024-25 and 2025-26.</p>

4.4.3 Implementation analysis

All jurisdictions except for TAS, WA and NT have implemented the new heavy vehicle registration charges for 2023-24, as approved by ITMM. TAS heavy vehicle charge legislation is due to be amended in late August 2023. This means that the revised charges will not be available for registration renewals that fall due between July 2023 and November 2023

WA and NT have implemented annual adjustments to heavy vehicle charges that are broadly like those applied by other jurisdictions.

Table 17. Jurisdictions’ comments on the implications of any non-implementation or delayed implementation on whether the objectives of the reform are being achieved

Jurisdiction	Implications of non-implementation comments
NSW	
VIC	
SA	
QLD	
WA	N/A
TAS	
NT	N/A
ACT	

Appendix A: Derogations for the Heavy Vehicle National Law

In analysing the derogations, the NTC has examined the type and impact of derogations. We have used the following categories to classify derogation type:

- **Addition:** refers to the inclusion of a new section or subsection by the adopting jurisdiction that was not included in the model law.
- **Omission:** refers to the exclusion of a section or subsection of the model law by the adopting jurisdiction.
- **Alteration:** refers to the amendment of a specific detail in a section or subsection of the model law by the adopting jurisdiction.

Reference: refers to a clarifying note that explains how a related piece of legislation is affected by the adoption of the HVNL in that jurisdiction.

Chapter 1 - Preliminary
Chapter 1 of the HVNL sets out several introductory matters, including the object of the law, the regulatory framework to achieve the object of the law, definitions, and the application and operation of the HVNL. Part 1.4 also sets out provisions in relation to Performance Based Standards (PBS) vehicles.
NSW derogations: Heavy Vehicle (Adoption of National Law) Act 2013 No 42
Addition of definition of hire vehicle: This definition is not in the HVNL. It is defined as a hire vehicle within the meaning of the <i>Point to Point Transport (Taxis and Hire Vehicles) Act 2016</i> of New South Wales. Description: This definition relates to a derogation under section 26J and 222B of the Heavy Vehicle National Law (NSW), where hire vehicles are exempt from certain provisions in relation to speed and fatigue. The definition is inserted to reflect NSW legislation.
Addition of definition of Public Passenger Service: means a public passenger service within the meaning of the <i>Passenger Transport Act 1990</i> of NSW. Description: This definition relates to a further derogation under section 26J of the Act.
Addition of definition of TfNSW: TfNSW means Transport for NSW in line with NSW legislation. Description: Definition was added to reflect machinery of government changes in NSW and relates to derogations under section 711.
Queensland derogations: Heavy Vehicle National Law Act 2012 (Qld)
Addition of definitions relating to s 118 - Commissioner's consent required for a mass or dimension exception notice: <i>commissioner, critical area, critical road, non-critical area, relevant map, public safety condition, commissioner's amendment or cancellation decision, commissioner's conditional decision, commissioner's refusal decision, review and appeal information.</i> Description: These definitional derogations facilitate a derogation under s 118 of the Queensland legislation.
Chapter 1A - Safety duties
Chapter 1A of the HVNL establishes a chain of responsibility to ensure that both on-road and off-road parties in a position of control or influence in the supply chain are held accountable to their actions.

NSW derogations: Heavy Vehicle (Adoption of National Law) Act 2013 No 42

Addition of schedule 1 section 26I: Exemptions for emergency services from the operation of section 26C of the HVNL.

Description: This provision exempts emergency service operators from the primary duty in the chain of responsibility duties, but only in relation to speed and fatigue

Addition of schedule 1 section 26J: Exemptions for hire vehicles and buses.

Description: This provision exempts operators of hire vehicles and buses (except the driving of a bus for the purposes of providing a public passenger service) from the primary duty in the chain of responsibility (26C) as well as the prohibited requests and contracts (26E) but only in relation to speed and fatigue.

Chapter 3 - Vehicle operations - standards and safety

The purpose of chapter 3 is to ensure heavy vehicles used on roads are of a standard and in a condition that prevents or minimises safety risks (s 58). This chapter provides power for the prescribing of regulations about vehicle standards. Under this chapter it is an offence for a person to use or permit to be used, a heavy vehicle that contravenes a heavy vehicle standard applying to the vehicle (s 60). This chapter also provides a scheme under which the Regulator may provide a vehicle standards exemption.

NSW derogations: Heavy Vehicle (Adoption of National Law) Act 2013 No 42

Addition of section 93(8A) Person must not tamper with speed limiter fitted to heavy vehicle: *Nothing in this section limits the application of Part 6.2 (Speed limiting of heavy vehicles) of the Road Transport Act 2013 of New South Wales to a heavy vehicle to which that Part applies.*

Addition of section 93A: Monitoring of heavy vehicles and vehicles carrying dangerous goods: *(1) Part 6.1 of the Road Transport Act 2013 of New South Wales makes provision for the monitoring of the journeys on roads of certain heavy vehicles with GVMs or GCMs exceeding 13.9 tonnes and vehicles carrying dangerous goods.*

(2) The requirements of that Part are in addition to, and do not limit the effect of, any other provisions of this Law concerning the use of monitoring devices or equipment (such as intelligent transport systems) and the keeping of journey documentation or other records for a heavy vehicle.

Section 157 of the Road Transport Act 2013 No 18: While not technically a derogation from the HVNL, this provision provides penalties for tampering with monitoring devices or vehicle movement records in NSW local legislation.

SA derogations: Heavy Vehicle National Law (South Australia) Act 2013

Omission - section 93 (Person must not tamper with speed limiter fitted to heavy vehicle)—*applies as if subsection (8) were deleted.*

Description: This derogation omits the reasonable steps defence from the offence of tampering with a speed limiter fitted to a heavy vehicle. Section 93(8) was removed from the HVNL in October 2018, and so the derogation no longer applies. The SA Act will be consequentially amended in due course.

Addition section 20 (Application Act) —Person must not possess certain devices: *(1) A person must not, without reasonable excuse, have in his or her possession a device that is designed, or is adapted, to enable tampering with a speed limiter (a tampering device). Maximum penalty: (a) if the offender is a natural person—\$10 000; (b) if the offender is a body corporate—\$50 000. (2) An authorised officer may seize, retain and test any device that he or she has reasonable cause to suspect is a tampering device. (3) A court that has convicted a person of an offence against this section may order that the tampering device in relation to which the offence was committed be forfeited to the Crown. (4) In proceedings for an offence against this section, an allegation in the complaint that a specified device is designed, or is adapted, to enable tampering with a speed limiter is, in the absence of proof to the contrary, proof of the matter so alleged. (5) For the purposes of this section, a reference to a tampering device includes a reference to a computer or other electronic device on which a software program that is intended, or able, to be used to tamper with a speed limiter is installed or stored.*

Description: This provision is an additional provision to section 93 HVNL inserted into the South Australian Act to create an offence for possessing a device that enables tampering with a speed limiter.

Queensland derogations: Heavy Vehicle National Law Act 2012 (Qld)

Addition - section 40 Commissioner consent for grant of blue light vehicle standards exemption

- (1) *The Regulator may, under the Law, grant a blue light vehicle standards exemption only with the consent of the commissioner.*
- (2) *The Regulator must ask the commissioner for the consent.*
- (3) *The commissioner must decide to give or not to give the consent within 28 days after the request is made.*
- (4) *The commissioner may decide to give the consent only if the commissioner is satisfied that the blue light vehicle standards exemption will not, or is not likely to, adversely affect public safety.*
- (5) *Without limiting subsection (4), the commissioner must be satisfied that the exemption will not, or is not likely to, operate to reduce the effectiveness of using blue lights to clearly identify to other road users' vehicles being used for law*
- (6) *Also, in deciding whether or not to give the consent, the commissioner must have regard to the approved guidelines for granting vehicle standards exemptions. enforcement or for an emergency.*
- (7) *The commissioner may decide to consent to the grant of a blue light vehicle standards exemption subject to a condition that a stated public safety condition is imposed on the exemption.*
- (8) *If the commissioner decides to consent in a way mentioned in subsection (7), the Regulator must impose the public safety condition on the exemption.*
- (9) *Section 26 applies to a blue light vehicle standards exemption (notice) as if the exemption were a mass or dimension exemption (notice) for which the commissioner's consent was given.*
- (10) *Section 27, other than section 27(5)(b) and (c), applies to a blue light vehicle standards exemption (permit) as if the exemption were a mass or dimension exemption (permit) for which the commissioner's consent was given.*
- (11) *This section applies in relation to a blue light whether or not it is a light that flashes.*

Addition - section 41 Commissioner permission for fitting of blue light if vehicle standards exemption is not required

- (1) *This section applies to a heavy vehicle, other than a police vehicle, that under the heavy vehicle standards may be fitted with a blue light.*
- (2) *The heavy vehicle standards are taken to further provide that the heavy vehicle may be fitted with a blue light only if the commissioner has given written permission for the fitting of the light.*
- (3) *A written permission for the fitting with a blue light of a heavy vehicle to which this section applies, given by the commissioner before the commencement of this section and still in force immediately before the commencement, is taken to be a written permission for the fitting of the light given under subsection (2).*
- (4) *This section applies in relation to a blue light whether or not it is a light that flashes.*
- (5) *In this section—police vehicle means a heavy vehicle driven by a police officer in the course of the police officer's duty.*

Description: These provisions prevent heavy vehicles from being fitted with blue lights unless there is consent for a blue light vehicle standards exemption from the Commissioner. This is a local Queensland issue relating to Queensland light vehicle standards and heavy vehicle standards.

Chapter 4 - Vehicle operations - mass, dimension and loading

Chapter 4 is about minimising the risk to public safety caused by excessively loaded or large heavy vehicles. This chapter also recognises that the use of particular heavy vehicles that do not comply with mass and dimension requirements, may be permitted on roads in particular circumstances and subject to particular conditions.

Queensland derogations: Heavy Vehicle National Law Act 2012 (Qld)

Alteration of s 118: Commissioner's consent required for a mass or dimension exception notice.

(1) For section 118(1)(c) of the Law, the consent of the commissioner is required for a mass or dimension exemption (notice).

(2) However, a consent is required under subsection (1) for a mass or dimension exemption (notice) only to the extent the exemption applies to any of the following—

(a) the use of class 1 heavy vehicles, of more than a width or length prescribed under a regulation for this paragraph, in a critical area or on a critical road; (b) the use of class 1 heavy vehicles, of more than a width or length prescribed under a regulation for this paragraph, in the non-critical area.

(3) To remove any doubt, it is declared that subsection (1), as limited by subsection (2), is, for section 167(2)(d) of the Law, a law of this jurisdiction that requires consultation with third parties.

Description: This derogation materially changes the intent and operation of the HVNL by putting another layer of statutory consent requirements in place for a s 118 mass or dimension exemption notice.

Alteration of s 124: Other consents under s 124 of the Law

(1) For section 124(1)(c) of the Law, the consent of the commissioner is required for a mass or dimension exemption (permit).

(2) However, a consent is required under subsection (1) for a mass or dimension exemption (permit) only to the extent the exemption applies to any of the following—

(a) the use of a class 1 heavy vehicle, of more than a width or length prescribed under a regulation for this paragraph, in a critical area or on a critical road; (b) the use of a class 1 heavy vehicle, of more than a width or length prescribed under a regulation for this paragraph, in the non-critical area.

(3) To remove any doubt, it is declared that subsection (1), as limited by subsection (2), is, for section 167(2)(d) of the Law, a law of this jurisdiction that requires consultation with third parties.

Description: This derogation materially changes the intent and operation of the HVNL by putting another layer of statutory consent requirements in place for a s 124 mass or dimension exemption notice.

Addition of sections: s 22 (Deciding request for consent generally), 23 (Imposition of conditions), 24 (Information notice for decision to refuse application because commissioner did not give consent), 25 (Information notice for imposition of condition requested by commissioner), 26 (Amendment or cancellation of mass or dimension exemption (notice) on request by commissioner), 27 (Amendment or cancellation of mass or dimension exemption (permit) on request by commissioner), 28 (Reviewable decision), 29 (Applying review and appeal provisions of the Law).

Description: The addition of these provisions is a necessary consequence of the derogations which alter sections 118 and 124 (above). Together these sections create a scheme that materially changes the intent and operation of the HVNL by putting another layer of statutory consent requirements in place for a mass or dimension exemption notice or permit.

Tasmanian derogations: Heavy Vehicle National Law (Tasmania) Act 2013

Addition of s 24 Determination of wheel load, single axle load, axle group load or aggregate axle load:

(1) An authorised officer may, in accordance with the local application regulations, determine the wheel load, single axle load, axle group load or aggregate axle load of a vehicle or combination for the purposes of the Heavy Vehicle National Law (Tasmania).

(2) The local application regulations may make provision in relation to –

- (a) methods for determining the mass and dimensions of vehicles, combinations and their loads; and
- (b) the issue of certificates in relation to wheel, single axle, axle group and aggregate axle loads; and
- (c) methods for testing instruments used for determining the mass and dimensions of vehicles, combinations and their loads.

Description: This derogation is likely related to historical, local practice of authorised officers in determining wheel load, single axle load, axle group load or aggregate axle load, and to put beyond doubt that regulations may be made with respect to testing methods and the issuing of certificates on these matters.

Alteration of section 25 Contravening condition of mass or dimension exemption relating to escort vehicle

Section 130 of the Heavy Vehicle National Law, as that Law applies as a law of this jurisdiction, does not apply to the driver of the escort vehicle accompanying the heavy vehicle, and the operator of the heavy vehicle, if the driver of the escort vehicle –

- (a) is an authorised officer; and
- (b) does not comply with a condition of the mass or dimension exemption that relates to –
 - (i) the positioning of the escort vehicle; or
 - (ii) the escorting distance; and
- (c) is satisfied that the failure to comply with the condition is necessary for public safety.

Description: This derogation effectively means that an authorised officer driving a pilot or escort vehicle must comply with the conditions of the mass or dimension exemption of that vehicle, unless the condition relates to the positioning or distance of the escort vehicle, and breaching a condition is necessary for public safety. The policy intent of this derogation is to preserve public safety.

Chapter 6 - Vehicle operations - driver fatigue

The purpose of chapter 6 of the HVNL is to provide safe management of the fatigue of drivers of fatigue-regulated heavy vehicles while they are driving on the road.

NSW derogations: Heavy Vehicle (Adoption of National Law) Act 2013 No 42

Addition of section 222A Exemptions for accredited service operators and their drivers:

(1) Section 459 (3) and (4) do not apply in relation to an accredited service operator.

(2) The BFM standards and AFM standards relating to assessing a driver's health to determine his or her fitness to drive do not apply in relation to an accredited service operator to the extent that those standards are relevant for the purposes of sections 459 and 467.

(3) Section 468 does not apply to the driver of a bus that is a fatigue-regulated heavy vehicle when the driver is driving the bus for an accredited service operator if—

- (a) the bus is on a journey that is less than 100 kilometres from the driver's base; or
 - (b) the bus is being used to provide a regular bus service under a passenger service contract (regardless of the distance travelled).
- (4) In this section—

Accredited service operator has the same meaning as in the Passenger Transport Act 1990 of New South Wales

Passenger service contract has the same meaning as in the *Passenger Transport Act 2014 of New South Wales*

Regular bus service has the same meaning as in the *Passenger Transport Act 1990 of New South Wales*.

Description:

s 222A(1): has the effect that an operator who applies for heavy vehicle accreditation under the HVNL does not need to include a declaration that they have not committed a crime against the HVNL or a crime of fraud or dishonesty (punishable on conviction by imprisonment for 6 months or more).

s 222A(2): has the effect that for an application for heavy vehicle accreditation under the HVNL, the BFM and AFM standards relating to assessing a driver's health to determine his or her fitness to drive, do not apply.

s 222(3): has the effect that the offence under section 468 of the HVNL (relating to failure to carry certain documents) does not apply in relation to a driver of a bus travelling less than 100km or, a bus being used to provide a regular bus service under a service contract.

Addition of section 222B Exemptions for certain buses and private hire vehicles:

(1) A person is exempt from the requirements of this Chapter (other than those of Division 2 of Part 6.2) in relation to the driving of a private hire vehicle, or the driving of a bus, that is a fatigue-regulated heavy vehicle.

(2) Subsection (1) does not apply to the driving of a bus for the purpose of providing a public passenger service.

Description: section 222B has the effect that hire vehicles or buses that are fatigue related heavy vehicles, are excluded from the requirements of Chapter 6 (which contains duties and requirements in relation to fatigue).

Alteration of section 246 Counting periods of less than 15 minutes:

*(6) This section does not apply to the work time and rest time of a driver of a fatigue-regulated heavy vehicle that is a bus on a journey undertaken in accordance with a service contract entered into under the *Passenger Transport Act 2014 of New South Wales*.*

Description: Section 246(6) exempts certain fatigue related buses from the rounding rule, which applies to counting periods of less than 15 minutes. This was inserted to maintain the status quo for these operators that record actual time of work for these periods.

Addition of section 248A Occupying driver's seat to count as rest time in certain circumstances:

(1) A period during which the driver of a fatigue-regulated heavy vehicle occupies the driver's seat of the vehicle while its engine is running counts as rest time rather than work time if—

(a) the vehicle is stationary during that period; and

(b) the driver is not subject to work demands during that period; and

(c) the period is at least 15 minutes or forms part of a period of rest time of at least 15 minutes.

Note— Section 246 provides for the manner in which periods of rest time are to be calculated.

(2) This section has effect despite paragraph (d) of the definition of work in section 221.

Note— This section is inserted for New South Wales.

Description: This provision provides for circumstances in which occupying a driver's seat may be counted as rest time.

Addition of section 248B Certain personal activities may be counted as part of rest time:

(1) A rest period of at least 24 continuous hours of stationary rest time that is required to be taken by a driver of a fatigue-regulated heavy vehicle under this Chapter may include a period of up to one continuous hour of permitted personal activity that is to be treated as part of that rest time, but only if—

(a) the permitted personal activity is not done at the direction of the driver's employer or for fee or reward; and

(b) the beginning of the period of permitted personal activity occurs at least 3 hours after the beginning of the 24-hour rest period; and

(c) the end of the period of permitted personal activity occurs at least 3 hours before the end of the 24-hour rest period.

(2) A permitted personal activity means any of the following—

(a) cleaning or refuelling a fatigue-regulated heavy vehicle;

(b) driving a fatigue-regulated heavy vehicle.

(3) This section has effect despite the definitions of rest and work in section 221.

Description: This section makes provision for certain personal activities to be counted as rest time.

Alteration of section 265 Exemptions for emergency services:

(1) A person who is an officer, member or member of staff of an emergency service is exempt from the provisions of this Chapter, but only in relation to the driving of a fatigue-regulated heavy vehicle in the course of undertaking work for an emergency service.

(2) An emergency service is any of the following—

(a) the NSW State Emergency Service established under the State Emergency Service Act 1989 of New South Wales;

(b) Fire and Rescue NSW and any permanent fire brigade or volunteer fire brigade within the meaning of the Fire Brigades Act 1989 of New South Wales;

(c) the NSW Rural Fire Service established by the Rural Fires Act 1997 of New South Wales;

(d) the Ambulance Service of NSW within the meaning of the Health Services Act 1997 of New South Wales;

(e) the NSW Police Force established by the Police Act 1990 of New South Wales;

(f) New South Wales Volunteer Rescue Association Inc;

(g) a government agency of another jurisdiction, or a body authorised under the law of another jurisdiction, that has corresponding functions to the bodies referred to in any of the above paragraphs.

(3) The exemption provided by this section is in addition to, and does not limit the effect of, the exemption provided by section 265A.

Description: This provision exempts emergency services staff from obligations concerning fatigue compliance, but only in the course of undertaking work for an emergency service.

Addition of section 265A Exemptions in relation to emergencies:

(1) A person who is attending an emergency and who is undertaking activities with respect to the control of the emergency in the course of his or her employment or usual business activities is exempt from compliance with this Part in relation to the driving of a fatigue-regulated heavy vehicle to and from the emergency so long as subsection (2) is complied with.

(2) Any record that would be required to be made under this Chapter if the exemption under subsection (1) were not available—

(a) must be made as soon as practicable after the journey from the emergency is completed; and

(b) must include a record of the following—

(i) the time, date, location and nature of the emergency;

(ii) if the person was asked by another person to attend the emergency, the name and contact details of that other person.

(3) In this section, emergency means an event (or an anticipated event) that—

(a) endangers, or may endanger, life, property or the environment; or

(b) has disrupted, or may disrupt, communications, energy, water supply or sewerage services; or

(c) is declared to be an emergency or disaster by—

(i) the Commonwealth or a State or Territory; or

(ii) a Commonwealth, State or Territory authority responsible for managing responses to emergencies or disasters.

Description: This provision applies to the record keeping provisions under the HVNL, and essentially states that exempt emergency service providers must still comply with record

keeping obligations, but that these records can be made as soon as is practicable after the journey from an emergency is completed.

Victorian derogations: Heavy Vehicle National Law Application Act 2013 (Vic)

Alteration of section 7 - Rail replacement buses and buses responding to an emergency exemption

(1) Chapter 6 of the Heavy Vehicle National Law (Victoria) does not apply to a person in the course of carrying out his or her duties as—

- (a) a driver for a rail replacement bus service who is responding to a rail disruption; or*
- (b) a driver for a bus service who is responding to an emergency.*

Description: This derogation relieves both rail replacement buses and bus drivers responding to an emergency, of the requirements of chapter six.

Chapter 8 - Accreditation

Purpose of chapter 8: The purpose of chapter 8 is to make provisions about accreditation, which is; to allow certain operators to operate under alternative requirements under the HVNL in order to meet business needs and operations.

NSW derogations: Heavy Vehicle (Adoption of National Law) Act 2013 No 42

Addition of section 462A Conditions imposed on AFM accreditations by responsible Minister:

(1) Apart from the conditions referred to in section 462, an AFM accreditation is also subject to any conditions that may be imposed by the responsible Minister for this jurisdiction under this section.

(2) The responsible Minister for this jurisdiction may, by notice given to the holder, impose either or both of the following kinds of conditions on an AFM accreditation—

- (a) conditions specifying different AFM hours to those that would otherwise apply to drivers of heavy vehicles while operating under the accreditation in this jurisdiction;*
- (b) conditions that require compliance with different or additional standards or business rules (or both) to the AFM standards and business rules in relation to heavy vehicles while operating under the accreditation in this jurisdiction.*

(3) A condition imposed under this section has effect (and must be complied with) despite anything to the contrary in any of the following—

- (a) the AFM accreditation (including any conditions referred to in section 462 to which the accreditation is subject);*
- (b) the AFM standards and business rules;*
- (c) Chapter 6 (particularly, section 257) and this Chapter;*
- (d) an exemption, notice or permit issued or granted under Division 8 of Part 6.3.*

(4) The responsible Minister for this jurisdiction may, by further notice given to the holder, revoke a condition that has been imposed under this section.

(5) The responsible Minister for this jurisdiction must, as soon as practicable, notify the Regulator, in writing, of any condition imposed or revoked under this section.

Description: This derogation enables the relevant NSW Minister to impose conditions on an AFM accreditation, whereas under the HVNL this function is solely in the domain of the Regulator.

Alteration of 464 Accreditation certificate for heavy vehicle accreditation etc

Insert “or by the responsible Minister for this jurisdiction under section 462A” after “the Regulator” in section 464 (2) (c).

Description: This derogation is necessary to operationalise the 462A derogation (above).

Addition of 464 (2A)

If an AFM accreditation certificate inaccurately states the conditions applicable to the accreditation because of the imposition or revocation of a condition under section 462A, the Regulator is to issue a replacement certificate to the holder as soon as practicable after the Regulator is informed by the responsible Minister for this jurisdiction of the imposition or

revocation of the condition. Analysis: This derogation is necessary to operationalise the 462A derogation (above).

NSW derogations: Heavy Vehicle (Adoption of National Law) Act 2013 No 42

Addition in Section 659 (2)(n) Functions of the Regulator

Insert “or another Act, including a delegation or authorisation made under another Act” after “Law” in section 659(2)(n).

Insert at end of section 659(2): Note – Subsection (2)(n) is amended for NSW by inserting “or another Act, including a delegation or authorisation made under another Act” after “Law”.

Description: This derogation makes amendments consequential on the transfer of certain functions from TfNSW to the NHVR.

Omission from section 497 General power to enter places: Omit section 497 (8). *Insert instead: (8) An authorised officer may use force that is reasonably necessary for exercising a power under this section.*

Description: This allows authorised officers to use force in relation to exercising a power under section 497.

Omission from section 498 Power to enter a place if evidence suspected to be at the place: Omit section 498 (6) and (7). *Insert instead: (6) An authorised officer may use force that is reasonably necessary for gaining entry to a place under this section.*

Description: This section derogates from the HVNL by providing greater powers to authorised officers, to use force that is reasonably necessary in relation to any of the locations mentioned in section 498. The HVNL confines this power to a "place that is required to be open for inspection under this Law".

Omission from section 499 Power to enter particular places if incident involving death, injury or damage: Omit section 499 (7). *Insert instead: (7) An authorised officer may use force that is reasonably necessary for exercising a power under this section.*

Description: This section derogates from the HVNL by enabling an authorised officer to use force that is reasonably necessary for exercising powers under this section. It is inconsistent with the HVNL, which states that an authorised officer is not authorised to use force when exercising a power under this section.

Omission from section 500 General powers after entering a place: Omit “section 497 (1) (c)” from section 500 (2) (c). *Insert instead “section 497, 498 or 499”.*

Description: This section provides for the powers of an authorised officer once they have entered a place. This section derogates from the HVNL by enabling an authorised officer to use force that is reasonably necessary in relation to powers exercised under s 497, 498, or 499, whereas the HVNL only enables force that is reasonably necessary in relation to powers used under s 497(1)(c).

Omission from section 521 Power to enter and search heavy vehicle involved, or suspected to be involved, in an offence etc.: Omit section 521 (6).

Description: This section derogates from the HVNL by enabling an authorised officer to exercise powers under s 521 in relation to an incident that involves the death of, or injury to a person. Under the HVNL, only police officers have this power.

SA derogations: Heavy Vehicle National Law (South Australia) Act 2013

Alteration of section 498(1)(b) (Power to enter a place if evidence suspected to be at the place): *applies —as if paragraph (b) were deleted and the following paragraph substituted: (b) there may be at the place evidence of an offence against this Law.*

Description: Section 498(1)(b) of the HVNL creates a power to enter a place if there is evidence suspected to be at the place. Under the HVNL this power may only be exercised if the evidence at the place may be concealed or destroyed unless the place is immediately entered and searched. The derogation under South Australian legislation takes this requirement away and simply requires that there *may* be at the place evidence of an offence against the HVNL section 16(b) Application Act).

Alteration of section 499(1)(d) (Power to enter particular places if incident involving death, injury or damage)—as if paragraph (d) were deleted and the following paragraph substituted: (d) there may be at the place evidence of the offence mentioned in paragraph (b).

Description: Section 499(1)(d) of the HVNL creates a power to enter a place if incident involving death, injury, or damage. Under the HVNL this power may only be

exercised if the evidence at the place may be concealed or destroyed unless the place is immediately entered and searched. The derogation under South Australian legislation takes this requirement away and simply requires that there *may* be at the place evidence of an offence under the HVNL section 16(c) Application Act).

Alteration of section 517(1) (Direction to move heavy vehicle if causing harm etc)—*as if paragraph (b) were deleted and the following paragraphs substituted: (b) obstructing, or likely to obstruct, traffic or any event lawfully authorised to be held on the road; or (c) obstructing or hindering, or likely to obstruct or hinder, vehicles from entering or leaving land adjacent to the road.*

Description: Section 517 of the HVNL limits the power to direct to move a heavy vehicle if causing harm, to circumstances where a vehicle is a) causing, or creating a risk of, serious harm to public safety, the environment or road infrastructure; or b) obstructing traffic or likely to obstruct traffic. The South Australian derogation adds further circumstances in which the power may be used, including any event lawfully authorised to be held on a road, and vehicles obstructing or hindering vehicles from entering or leaving adjacent land (section 16(d) Application Act).

Alteration of Section 572 (Improvement notices)— *applies (i) as if subsections (1) and (2) were deleted and the following subsections substituted:*

(1) This section applies if an authorised officer reasonably believes a person has contravened, is contravening, or is likely to contravene, a provision of this Law.

(2) The authorised officer may give the person a notice (an improvement notice) requiring the person to take action within a stated period to stop the contravention from occurring, continuing or occurring again or to remedy the matters or activities occasioning, or that would occasion, the contravention or likely contravention.

(ii) as if paragraphs (a) to (d) (inclusive) of subsection (4) were deleted and the following paragraphs substituted:

(a) that the authorised officer reasonably believes the person has contravened, is contravening, or is likely to contravene, a provision of this Law

(b) the reasons for that belief

(c) the provision of this Law in relation to which that belief is held

(d) that the person must take action within a stated period to stop the contravention from occurring, continuing or occurring again or to remedy the matters or activities occasioning, or that would occasion, the contravention or likely contravention;

Description: Section 572 of the HVNL creates a power for an authorised officer to issue an improvement notice, in certain circumstances. The power is limited to where " *it is likely that the contravention will continue or be repeated.*" The South Australian derogation omits this requirement. The power arises where " *an authorised officer reasonably believes a person has contravened, is contravening, or is likely to contravene, a provision of this Law.*" (section 16(e) Application Act).

Alteration of section 576(3) (Clearance certificate), definition of approved authorised officer, (a)—as if "police officer and" were deleted and "police officer, or a police officer of a class," were substituted;

Description: Definition amendment of relevance for SA (section 17(c) Application Act).

Alteration section 525 section 19 (Application Act) Power to enter certain places - (1) *At any time when a place where heavy vehicles are exhibited or kept for sale or hire is open for business, an authorised officer may, for the purposes of determining whether a vehicle exhibited or kept for sale or hire at that place is a defective heavy vehicle (within the meaning of section 525 of the Heavy Vehicle National Law (South Australia), inspect the vehicle or direct the owner, the registered operator or the person in charge of the vehicle to produce it for inspection at a time and place stated by the authorised officer.*

Description: This provision is an entirely new provision inserted into the South Australian Act which expands the power of authorised officers to enter certain places.

Alteration section 21 (Application Act) - Offence to sell or dispose of heavy vehicle in respect of which vehicle defect notice is in force - (1) *A person must not sell or otherwise dispose of a heavy vehicle in respect of which a vehicle defect notice has been issued if the vehicle defect notice has not been cleared under the Heavy Vehicle National Law of a participating jurisdiction. Maximum penalty: \$3000.*

(2) It is a defence to a charge under subsection (1) of having sold or otherwise disposed of a heavy vehicle in respect of which a vehicle defect notice is in force if the defendant satisfies the court that at the time of the sale or disposal he or she had reason to believe that the vehicle was not intended to be used on a road after the sale or disposal.

Description: This provision is an entirely new provision inserted into the South Australian Act which creates an offence for selling or disposing of a vehicle that is subject to a defect notice.

Alteration section 22 (Application Act) - Moving unattended etc heavy vehicle if danger or obstruction (long provision - refer to Act)

Description: This provision is an entirely new provision that operates in addition to the powers in s518 HVNL. The section authorises an authorised officer (or their assistant) to move a heavy vehicle (or any component of a combination heavy vehicle) if the vehicle is unattended or broken down on a bridge, culvert or freeway or, in particular circumstances, on a road. For the purposes of the section, an authorised officer includes a person authorised by the Minister (if it is a freeway), and, if the vehicle is in a road within the area of a council, an officer of the council). There are fundamental differences between s 22 of the SA Act and section 518 of the HVNL. The SA act allows an authorised officer to drive the vehicle that must be moved even if they are not qualified to do so. The SA provision is prescriptive in terms of the circumstances in which this power can arise (with a number of factual scenarios listed, including that the heavy vehicle is unattended or broken down on a bridge, culvert or freeway), whereas the HVNL provides that this power arises if the authorised officer reasonably believes a heavy vehicle is unattended and the authorised officer intends to exercise a power under the HVNL, and the authorised officer reasonably believes it is necessary to move the heavy vehicle in order to exercise the power.

Victorian derogations: Heavy Vehicle National Law Application Act 2013 (Vic)

Alteration of section 556 - Return of seized things or samples - applies as if after section 556(4) there were inserted— "(4A) If the relevant tribunal or court is not satisfied as set out in subsection (4), it may— (a) make an order for the return of the thing or sample to the person from whom it was seized or to the owner if that person is not entitled to possess it; or (b) make an order that the thing or sample be forfeited to the State and— (i) destroyed in accordance with the order; or (ii) sold in accordance with the order and the proceeds of the sale paid into the Consolidated Fund. (4B) An order made under subsection (4A)(b) cannot take effect before the end of any applicable appeal period or the determination of any appeal made within that period."

Description: While s 556(4) makes provision for This derogation makes provision for when a tribunal or tribunal is satisfied that a thing or sample does not need to be retained, section 556(4A) makes provision for when a tribunal or Court is not satisfied that a thing or sample should not be retained.

Addition: section 9 Use of certificates in assessing compensation Section 613(1) of the Heavy Vehicle National Law (Victoria): *applies as if a reference in that section to 28 days were a reference to 60 days.*

Description: This derogation requires a public authority who proposes to submit a s 612(2)(c) certificate in a proceeding for the making of a compensation order, to provide that certificate to the defendant at least 60 days, and not 28 days (as under the HVNL).

Queensland derogations: Heavy Vehicle National Law Act 2012 (Qld)

Addition of section 35 Application of particular provisions to police officers

A provision of Chapter 9 of the Heavy Vehicle National Law (Queensland) that corresponds to a provision of the Police Powers and Responsibilities Act 2000 does not apply to an authorised officer who is a police officer.

Addition of section 37 Use of force

(1) For section 491(2) of the Law, a police officer is authorised to use force against a person in the exercise or purported exercise of a function under Chapter 9 of the Law if the Police Powers and Responsibilities Act 2000 authorises the police officer to use the force against the person.

(2) For section 492(1)(b) of the Law, the exercise of the power to use force against property is authorised for the purposes of the following provisions of the Law—(section 497(4)(a); (b)section 498(6); (c)section 500(2)(c);(d)section 518(6)(b); (e)section 519(7); section 521(1); section 523(2).

Description: These provisions assert that the enforcement powers of police officers are provided for in the *Police Powers and Responsibilities Act 2000*, except for those provisions of the HVNL which do not correspond with the provisions of that Act. This derogation is unlikely to have a significant impact on the consistent application of the HVNL.

Addition of section 38 Power to seize

If, apart from section 552(1) of the Law, a heavy vehicle, or a thing mentioned in section 552(1)(b) of the Law, is a thing that may be seized under Chapter 9 of the Law, it may be seized under Chapter 9 of the Law despite section 552(1).

Description: This provision renders section 552 of the HVNL null and void, and deviates materially from the intention of the HVNL

Addition of section 39 Power to require production of driver licence

(1) An authorised officer may, for compliance purposes, require the driver of a heavy vehicle to produce for inspection by the officer the driver's driver licence.

(2) A person of whom a requirement is made under subsection (1) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—45 penalty units.

(3) It is not a reasonable excuse for the person to fail to comply with a requirement made under subsection (1)—

(a) that the person does not have the driver licence in his or her immediate possession; or

(b) that complying with the requirement might tend to incriminate the person or make the person liable to a penalty.

(4) The authorised officer may take a copy of, or an extract from, the driver's driver licence.

Description: This derogation gives an additional power to authorised officers under the HVNL, which may be regarded as deviating from the intent of the HVNL.

Tasmanian derogations: Heavy Vehicle National Law (Tasmania) Act 2013**Addition of section 21(1) Authority to use force**

(1) An authorised officer who is a police officer is authorised to use force against a person in the exercise, or purported exercise, of a function under the Heavy Vehicle National Law (Tasmania).

(2) An authorised officer is authorised to use force against property in the exercise, or purported exercise, of a function under the Heavy Vehicle National Law (Tasmania)

Description: S 21(1) enables police to use force against a person in the exercise of a function under the HVNL. S 21(2) expands, quite significantly, the powers of authorised officers to use force against property in the exercise of powers under the HVNL.

Alteration of section 22 - Amendment or withdrawal of vehicle defect notices

For the purposes of section 531 of the Heavy Vehicle National Law (Tasmania), a police officer of another jurisdiction may amend or withdraw a vehicle defect notice that has been issued in this jurisdiction by an authorised officer who is a police officer.

Description: This provision puts beyond doubt that a police officer in a jurisdiction that is not Tasmania, may withdraw or amend a vehicle defect notice issued in Tasmania. The intent of this derogation makes good operational sense, as it would be absurd for a vehicle in Victoria to travel back to Tasmania to organise an inspection by a police officer to withdraw or amend a defect notice. Given this absurdity, this derogation raises the question of why other jurisdictions have not derogated in a similar way, and whether it is necessary at all.

Chapter 10 - Sanctions and provisions about liability for offences

Tasmanian derogations: Heavy Vehicle National Law (Tasmania) Act 2013

Addition of section 23 - Infringement notices

(1) In this section – *demerit points, in relation to an offence, means the demerit points fixed in relation to that offence in the demerits points schedule, within the meaning of the Vehicle and Traffic Act 1999.*

(2) For the purposes of the Heavy Vehicle National Law (Tasmania), the Monetary Penalties Enforcement Act 2005 is declared to be the Infringement Notice Offences Law for this jurisdiction.

(3) For the purposes of section 591 of the Heavy Vehicle National Law (Tasmania), a prescribed offence is an offence prescribed, for the purposes of that section, in the local application regulations.

(4) A penalty specified in an infringement notice issued under section 591 of the Heavy Vehicle National Law (Tasmania) is to be an amount equal to 10% of the maximum penalty for the offence.

(5) An infringement notice issued under section 591 of the Heavy Vehicle National Law (Tasmania) is to specify the number of demerit points (if any) in respect of the offence or offences to which the notice relates.

(6) An infringement notice issued under section 591 of the Heavy Vehicle National Law (Tasmania) is to be in accordance with section 14 of the Monetary Penalties Enforcement Act 2005.

(7) Any payments in respect of an infringement notice are payable into the Consolidated Fund.

Description: This derogation reflects local legislative arrangements with respect to monetary penalties.

Addition of section 28 - No double jeopardy

If – (a) an act or omission is an offence against the Heavy Vehicle National Law (Tasmania) or the Heavy Vehicle National Regulations (Tasmania) and is also an offence against a law of another participating jurisdiction; and

(b) the offender has been punished for that offence under the law of the other jurisdiction –

the offender is not liable to be punished for the offence against the Heavy Vehicle National Law (Tasmania) or the Heavy Vehicle National Regulations (Tasmania), as the case may be.

Description: This provision prevents a person from being charged twice for the same offence in different jurisdictions.

Chapter 12 - Administration

Chapter 13 sets out general offences including discrimination, victimisation, false or misleading information, as well as industry codes of practice, and matters relating to legal proceedings and evidence relating to offences under the Act.

NSW derogations: Heavy Vehicle (Adoption of National Law) Act 2013 No 42

Addition of section 711 Evidence by certificate by Regulator and TfNSW generally:

Insert after section 711(1)-

- (1A) A certificate purporting to be issued by TfNSW and stating the following, at a stated time or during a stated period, is evidence of the matter -
- (a) A stated vehicle was or was not registered on the basis it is a heavy vehicle,
 - (b) A stated vehicle was or was not registered as a heavy vehicle of a stated category,
 - (c) A stated person was or was not the registered operator of a stated registered vehicle,
 - (d) A stated registration was or was not amended, suspended or cancelled.

Queensland derogations: Heavy Vehicle National Law Act 2012 (Qld)

Addition of section 30 (Additional Regulator certificates): 30 Additional Regulator certificates

(1) A certificate purporting to be issued by the Regulator and stating that, at a stated time or during a stated period or by a stated day—

- (a) a stated thing was the property of the Regulator; or*
 - (b) a stated sign was or was not an official traffic sign, contained stated words or was on a stated place; or*
 - (c) a stated vehicle was or was not inspected under the Law; or*
 - (d) a stated vehicle was or was not inspected in compliance with a stated requirement made by an authorised officer; or*
 - (e) an inspection of a stated vehicle under the Law gave stated results; or*
 - (f) a stated application, or another stated document required to be lodged under the Law, was or was not received by the Regulator; or*
 - (g) a stated report or stated information required to be given to the Regulator under the Law was received or was not received by the Regulator; or*
 - (h) no report or information of a stated type, required to be given to the Regulator under the Law, was received by the Regulator; or*
 - (i) a stated vehicle was or was not of a stated type, or was carrying stated goods; or*
 - (j) a stated heavy vehicle was or was not, whether generally or for the purposes of stated circumstances, insured in accordance with the requirements of any third party insurance legislation applying to the vehicle; or*
 - (k) a stated copy of a document was a copy of a document issued, or required to be kept, under the Law; or*
 - (l) a stated document was a manufacturer's specification for a stated type of vehicle;*
 - (m) a stated vehicle's GCM or GVM was a stated amount, and how the amount was identified;*
- is evidence of the matter.*

(2) Subsection (1) does not limit section 711 of the Law.

(3) Section 715 of the Law applies to a matter mentioned in subsection (1)(a) to (m) as if the matter was stated in a certificate under section 711 of the Law.

Description: This section sets out a list of statements on a certificate issued by the Regulator, that can be considered as evidence of a matter, in addition to those statements already provided for under s 711 of the Act. Inconsistent evidentiary requirements is confusing for operators and arguably the above requirements deviate from the intent of the HVNL for evidentiary requirements.

Addition of section 32 Evidence of contents of document examined by authorised officer

Evidence by an authorised officer of the contents of a document issued, or required to be kept, under the Law, that was examined by the officer while it was in someone else's possession, may be given by the officer without the document being produced.

Description: This provision would, for example, allow an authorised officer to give evidence of the contents of a work diary, which the officer examined by then returned to the holder. This derogation adds to the list of evidence and results in an inconsistent application of evidentiary requirements across jurisdictions.

Addition of section 33 Averments

(1) In a proceeding for an offence against the Law, a statement in the complaint for the offence that—

(a) at a stated time or during a stated period—

(i) a stated person was or was not the holder of a driver licence under the Transport Operations (Road Use Management) Act 1995 of any particular class or type; or

(ii) a stated person was or was not the holder of a driver licence under the Transport Operations (Road Use Management) Act 1995 authorising the holder to drive a motor vehicle on a stated road; or (b) any distance mentioned in the complaint is or was a stated distance or is or was greater or less than a stated distance; is evidence of the matter.

(2) Section 715 of the Law applies to the matter mentioned in subsection (1)(b) as if the matter were a matter stated in a certificate to which the section applies.

Description: This provision allows for the admission of averments as evidence, which is not specified as allowed by the HVNL.

Tasmanian derogations: Heavy Vehicle National Law (Tasmania) Act 2013

Addition of section 26 Fees for vehicle inspections:

1) In this section –

approved vehicle examiner means a person approved by the Registrar to undertake vehicle inspections;

heavy vehicle inspection services provider means an organisation that has a contract with the Department to undertake heavy vehicle inspection services.

(2) The fee payable for an inspection of a heavy vehicle under the Heavy Vehicle National Law (Tasmania) is –

(a) if the inspection is carried out by or on behalf of a heavy vehicle inspection services provider, the fee specified by that heavy vehicle inspection services provider; or

(b) if the inspection is not carried out by or on behalf of a heavy vehicle inspection services provider –

(i) in the case of an inspection by an approved vehicle examiner, the fee specified by that examiner; or

(ii) in the case of an inspection by an authorised officer, the fee, if any, prescribed for the purposes of section 58A(a) of the Vehicle and Traffic Act 1999 .

Description: This provision provides a definition for approved vehicle examiner and heavy vehicle inspection services provider and provides arrangements for fees for vehicle inspections.

Addition of section 27 Fees for route assessments:

1) If a route assessment is required under the Heavy Vehicle National Law (Tasmania), the road manager supplying the route assessment may charge and recover a fee for the route assessment.

(2) The road manager may only charge an amount that is no more than the reasonable cost of providing the service.

Description: This provision limits the amount a road manager may charge to the "reasonable cost" of providing the service.

2.1 Heavy Vehicle (Vehicle Standards) National Regulation

[1A] Schedule 1 Vehicle standards relating to ADRs applying to single heavy vehicles

Insert after section 5—

5A

(1) This section applies to an MD or ME category vehicle over 4.5 tonne GVM.

(2) An MD or ME category vehicle is not required to comply with ADR 58, clause 58.13.1, applied by section 1(1) or 2(1) in relation to a 2 for 3 bus seat fitted to the vehicle if—

(a) the rear parts of the seat fitted directly in front of a centre seating position of a 2 for 3 bus seat comply with the Energy Dissipation Test under ADR 3, Seats and Seat Anchorages, and

(b) the centre seating position of a 2 for 3 bus seat complies with ADR 5, Anchorages for Seatbelts, and

(c) the vehicle has a conspicuous label or sign affixed inside of the vehicle warning passengers that a 2 for 3 bus seat can only be used in a 3 seat configuration by children less than 12 years of age.

(3) In this section—

2 for 3 bus seat means a bus seat—

(a) consisting of 2 adult seating positions, and

(b) that incorporates an additional centre seating position for occupation of each of the 3 seating positions by a person who is less than 12 years of age.

MD or ME category vehicle means a light omnibus (MD) or heavy omnibus (ME) within the meaning of ADR (Definitions and Vehicle Categories).

Description: The National Heavy Vehicle Regulator (NHVR) previously provided a vehicle standards exemption (via notice) to allow 'two for three' seats to be used in some buses that transport children in NSW, when additional safety standards are met in relation to those seats. A derogation (commenced 11.06.22) allows this arrangement to continue and provides certainty for bus operators.

Appendix B: Summary of derogations for the Rail Safety National Law

NSW	Enforcement derogations				
	Derogation	Type	Impact	Description	Comment
	Rail Safety (Adoption of National Law) Regulation 2018 Part 2 Drug and alcohol testing	Addition	Medium	NSW has specific requirements in relation to: <ul style="list-style-type: none"> • Drug and alcohol offences (Division 1) • Testing for alcohol or other drugs (Division 2) • Offences relating to testing for alcohol/other drugs (Division 3) • Admission of evidence in proceedings (Division 4) • Certificate evidence (Division 5) 	NSW will consider removing specific requirements for drug and alcohol testing methods and align with the national system which permits oral fluid, blood, urine and breath testing
	Rail Safety (Adoption of National Law) Regulation 2018 Part 3 Train communications systems	Addition	Medium	NSW has specific requirements for radio communication systems. A rolling stock operator must ensure that their trains are fitted with a radio communications system that complies with the requirements and a back-up means of communication to be used if the radio communications system fails. A rail infrastructure manager must ensure that a rolling stock operator of rolling stock operated on any part of the NSW rail network vested in or owned, managed or controlled by the rail infrastructure manager complies with those requirements.	NSW Government have advised the RISSB standard (AS7660: 2016 Wireless Communication in the Rail Corridor) does not sufficiently meet their requirements. The derogation remains and no further work is being undertaken in this area.

Fatigue derogations				
Derogation	Type	Impact	Description	Comment
Rail Safety National Law National Regulations 2012 Schedule 2 Part 1 NSW requirements	Addition	Medium	In addition to the general fatigue risk management requirements, NSW prescribes maximum shift lengths for rail safety workers driving passenger trains (both single and two-person operation) and freight trains. It also prescribes work scheduling practices and procedures for rail safety workers who are transported to home depot or rest place.	ONRSR completed a review in May 2019 and no change recommendations have been made as any proposed change would be unlikely to gain unanimous agreement. There are no plans to remove this derogation.

VIC	Drug and alcohol testing				
	Derogation	Type	Impact	Description	Comment
	Rail Safety National Law Application Act (2013)	Addition	Low	Victoria has kept the offence of drug impairment in the Victorian law. Testing for drug impairment follows the Road Safety Act and procedures set out in a notice made under s.55A(5) of that Act (Part 4A)	There are no plans to remove this derogation.
	Other				
	Derogation	Type	Impact	Description	Comment
	Rail Safety National Law Application Act (2013)	Addition	Low	Victoria departs from other provisions of the RSNL as follows: <ul style="list-style-type: none"> Victoria includes rail safety duties for labour-hire entities (s.40A) Victoria omits the due diligence offence contained in s.55 of the national law (s41) 	There are no plans to remove these derogations.

				<ul style="list-style-type: none"> Victoria applies derivative use immunity to the giving of evidence and self-incrimination (s46). 	
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QLD	Fatigue derogations				
	Derogation	Type	Impact	Description	Comment
	Rail Safety National Law Queensland Part 3 Subdivision 3	Addition	Medium	Under the RSNL, a rail transport operator must prepare and implement a program for the management of fatigue of rail safety workers. The RSNL does not prescribe limits on train driver hours; however, Queensland's application of the RSNL includes specified provisions about standard work hours and rest periods for drivers of passenger or freight trains, light rail vehicles or other rolling stock such as track maintenance machines.	ONRSR completed a review in May 2019 and no change recommendations have been made as any proposed change would be unlikely to gain unanimous agreement. There are no plans to remove this derogation.
	Rail Safety National Law National Regulations 2012 Schedule 2 Part 2				
	Drug and Alcohol Management derogations				
Derogation	Type	Impact	Description	Comment	
Rail Safety National Law (Queensland) Act 2017 Part 3	Alteration	Low	Under the Qld Adoption Act, police officers will continue to conduct drug and alcohol testing of train drivers exercising powers under other legislation. An authorised officer appointed under the RSNL may not perform these tests if a police officer is also performing the same tests under other legislation.	There are no plans to remove this derogation.	

WA	RSNL – Mirror Legislation				
	Derogations	Type	Impact	Description	Comment
	Rail Safety National Law (WA) 2015	Alterations and Additions	High	<p>WA implements the RSNL by enacting it in mirror form to address circumstances in WA. Significant differences are:</p> <ul style="list-style-type: none"> • Urine testing may continue as part of drug and alcohol management programs • Samples may be used for other purposes • The Governor of WA will continue to make regulations under the law rather than the Governor of SA and may do so without the unanimous recommendation of Ministers of relevant jurisdictions • Changes to the RSNL WA will be able to be made by the legislation of WA and not SA legislation. 	The WA Government has approved a request to amend the Rail Safety National Law (WA) to include all outstanding amendments and address ongoing legislative inconsistency issues. Ministerial and legislative priority will dictate the timeframe for introduction of the amendments.

TAS	Drug and Alcohol Management derogations				
	Derogation	Type	Impact	Description	Comment
	Rail Safety National Law (Tasmania) Act 2012 Part 4	Addition	Low	Provides for the application of applicable provisions of the <i>Road Safety (Alcohol and Drugs) Act 1970 (Tas)</i> , with appropriate modifications, to and in relation to a rail safety worker carrying out, or attempting to carry out, rail safety work.	There are no plans to remove this derogation.

NT	Drug and alcohol testing procedures				
	Derogation	Type	Impact	Description	Comment
	Rail Safety (National Uniform Legislation) Act 2012 Part 4	Alteration	Low	Provides for drug and alcohol testing and analysis procedures that reflect what is done under the Traffic Act 1987, and Traffic Regulations 1999, and allows for testing to be conducted by police officers.	ONRSR is currently reviewing all state and territory drug and alcohol provisions with a view to standardising procedures across Australia.

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