



Heavy Vehicle National Law Reform

Implementation progress update

August 2023

Context

In August 2022, Infrastructure and Transport Ministers agreed to progress a package of heavy vehicle reforms recommended by Mr Ken Kanofski. A Steering Committee of senior officials was subsequently established to oversee delivery of 45 reform initiatives aimed at improving safety and productivity in the industry. The reforms comprise a range of legislative and non-legislative reforms. The legislative reforms are being led by the National Transport Commission (NTC). The non-legislative reforms are being led by different jurisdictions, the NTC or the National Heavy Vehicle Regulator (NHVR).

The work of Mr Kanofski built upon the outcomes of the Heavy Vehicle National Law (HVNL) Review, the HVNL Safety and Productivity Program and the NTC's consultation Regulation Impact Statement (RIS), previously released in June 2020.

Since November 2022, the Steering Committee has met seven times. Select heavy vehicle industry representatives are being invited to attend some Steering Committee meetings, to provide advice directly to the Committee on implementation of particular reforms.

Progress in implementing legislative reforms

High-level regulatory framework D-RIS

The NTC prepared a Decision-RIS that defines the foundational settings for the future HVNL. The D-RIS includes recommendations expected to make the future law more flexible, enabling more timely responses to changes in the operating environment. The changes are expected to support improvements to safety and productivity, reduce red tape and streamline governance and administration.

At the 9 June 2023 Infrastructure and Transport Ministers Meeting (ITMM), ministers "[endorsed](#) proposed amendments to the HVNL, with the NTC to develop drafting instructions for an Amendment Bill and develop core regulations in consultation with industry". Ministers noted an aspirational goal of having a package of legislation and core regulations presented to them for approval in July 2024. The Decision RIS (D-RIS) will be published shortly. The NTC is preparing drafting instructions consistent with the recommendations in the D-RIS.

Forward plan for achieving legislative reform

The NTC is preparing a detailed implementation plan for finalising the legislative package and will brief industry and government representatives on the engagement approach shortly. The high level milestones anticipated for the exercise include:

- Ministers to consider the proposed changes to HVNL regulations and subordinate instruments in February 2024;
- Ministers to consider the complete package (changes to primary legislation, regulations and subordinate instruments) in July 2024;
- The complete package of legislative amendments to be provided to the Queensland Government for introduction into the Queensland Parliament.

Between now and November 2023, the NTC will undertake structured engagement with industry and government through a combination of workshops, issues papers, one-on-one meetings and ongoing RAC+ (including 'pulse') meetings. Consultation is expected to focus on key reform areas, including vehicle mass and dimension, and fatigue. The NTC will consult with road managers and industry to assess the impact of increasing general mass and dimension limits. Where regulations need to be supported by a cost-benefit analysis, this will be included.

Legislative reform for vehicles and access is to some degree reliant on progress with non-legislative reforms. The NTC's analysis will complement the significant operational work program being overseen by the HVNL Steering Committee.

Formal consultation on the full legislative package (settled primary legislation and regulations) is planned for April-May 2024.

Also between now and November 2023, concurrent work on projects that do not require a formal regulatory impact assessment will be progressed by the NTC. The streams of work include technical translations of requirements from the current law to the future law, and work on penalties and offences. Industry will be consulted to inform the work.

Fatigue management

The NTC recently engaged the Sleep Health Foundation to undertake a safety assessment of proposed changes to the general schedule. Of the seven organisations approached for this work, only one provided a proposal. This means the NTC will not have a panel of 'experts' as part of the fatigue analysis, which was the preferred approach. Instead, the NTC has adopted its contingency plan for a single provider arrangement. The Foundation has provided a final report to the NTC. The NTC intends to discuss the findings of the report with industry at the 4 August RAC+ meeting.

Compliance and enforcement

Following engagement with senior police through a meeting of the NHVR's Road Policing Forum on 27 March, the NTC convened a workshop in Melbourne on 23–24 May with enforcement agency representatives. The workshop aimed to identify potential law reform opportunities for simplifying record keeping and reducing 'administrative' offences in the law that can be seen by drivers as being unreasonable. SAPOL, VicPol, NSW Police and the NHVR participated. Key themes discussed included:

- removing barriers to the greater use of formal warnings/cautions, where appropriate;
- enabling 'education session(s)' as an alternative to infringement/prosecution where appropriate;
- strong support for electronic work diaries, and removing disincentives for their use;
- suggestions for eliminating penalties for aspects of record keeping that are not essential to ensuring compliance and safety; and
- suggestions to simplify the law and record keeping, including possible changes to the National Written Work Diary and instructions.

Participants also highlighted areas of concern, including the abuse of supplementary and duplicate work/rest records and safety risks related to local driving by drivers also doing long haul work. The NTC now has a range of ideas for further development, analysis and consultation. The NTC's overall conclusion is that the workshop outcomes have significantly improved the likelihood of making substantial progress on fatigue management.

Over coming months, the NTC will consult with industry on potential options for fatigue management and changes to record keeping. The NTC intends to raise these matters for initial discussion at the 4 August RAC+ meeting.

National Heavy Vehicle Accreditation Scheme

All stakeholders will have the opportunity to contribute to policy development regarding the National Heavy Vehicle Accreditation Scheme (NHVAS), including through the RAC+ forum and bilateral discussions. As a first step, the NTC recently briefed TruckSafe and the Australian Logistics Council (ALC) Safety Committee regarding the NHVAS, including the introduction of a mandatory Safety Management System (SMS) core module and the introduction of a National Audit Standard (NAS).

The ALC Safety Committee was keen to continue to engage, and the NTC specifically solicited information from the Committee on how the NHVAS, and the NAS in particular, could contribute to minimising 'duplicative audits', which are increasingly being required by companies to address their primary duty obligations. Over coming months, the NTC intends to continue its engagement with stakeholders on the NAS. The NTC is also working closely with the NHVR, Main Roads WA and NHVAS auditors/consultants regarding these matters.

Progress in implementing non-legislative reforms

Work on the vast majority of the non-legislative reforms is now underway. Reform leads are ensuring implementation plans are informed by evidence and practical realities, including consideration of associated technical issues and costs, and the current differences in approaches between jurisdictions. Delivery milestones are being developed as part of the planning process.

Improving access

National Automated Access System (NAAS)

The Commonwealth, NSW and Tasmania are leading this work. Tasmania already has an automated access system (HVAMS - for Special Purpose Vehicles and Oversize Over Mass vehicles). Most other jurisdictions are in various stages of automating access decision making (including adoption of HVAMS already underway in a number of jurisdictions). Technical analysis of systems interoperability issues was completed in May. Austroads expects to finalise its NAAS implementation plan in August 2023, and to work with states, territories and local government to coordinate the roll-out of automated access systems based on HVAMS and access via the National Heavy Vehicle Regulator's Portal over the next two years.

Establish a National Access Framework for Heavy Vehicles (NAFHV)

New South Wales (NSW) is leading this activity. In April, the Infrastructure and Transport Senior Officials Committee endorsed the NAFHV and an associated work plan. The NAFHV Working Group is expected to be established by September.

The initiatives prioritised for scoping and delivery in the near-term are:

- Review and update ministerial guidelines to ensure productivity is considered in access decision making;
- Review and update a shared set of Route Assessment Guidelines;
- Develop a communication strategy and/or plan to educate and engage third parties;
- Update and publish notices and prioritise and sequence existing notices for review and harmonisation;
- Apply the same conditions on notices in HVNL jurisdictions;

- Develop a national PBS network (Levels 1-2) and a national SPV network; and
- Determine interim access permit conditions for EVs.

An Industry Reference Group (IRG) will also be established to ensure ongoing collaboration between industry and organisations represented on the NAFHV Working Group. This follows consultation between August-November 2022, where industry strongly supported the establishment of the NAFHV Working Group and direct engagement with industry. Transport for NSW is currently engaging directly with key industry representatives to gauge their interest in joining the IRG. It is intended to hold an information session for members of the IRG prior to commencement of the NAFHV Working Group.

Rapid economic appraisals of identified routes to be opened up for as-of-right access

Victoria is coordinating this initiative. This requires jurisdictions to conduct assessments of identified routes on the National Road Transport Network, to be opened up for as-of-right access. Victoria has commenced a rapid economic assessment of the Hume Highway corridor within that state. After receiving further advice from Victoria about the assessment methodology, other jurisdictions will consider arrangements for the assessments they are required to complete.

Improving the PBS scheme and access to networks for PBS vehicles

The National Heavy Vehicle Regulator (NHVR) is leading related initiatives. Recent progress includes:

- responses to the recent PBS 2.0 Discussion Paper have been reviewed - the development of templates is expected to be finalised over coming months;
- all new design approvals are now being submitted in digital form in the NHVR Portal by PBS assessors.

Work regarding access to networks for PBS vehicles will be supported by the NAFHV Working Group.

Fatigue management

The NHVR recently sought expressions of interest regarding the development of guidelines and procedures for the use of Fatigue Distraction Detection Technology (FDDT). Industry engagement is expected to occur between now and November.

The NTC plans to commence a review in late 2023 to identify options for improving the diagnosis of sleep apnoea, diabetes and cardiac risk levels in heavy vehicle drivers, with a view to incorporating findings into the Assessing Fitness to Drive guidelines.

Compliance and enforcement

The NHVR has completed a range of projects supporting the National Regulatory Model and this has now transitioned into business as usual activities. Work to develop a related performance measurement framework has commenced.

A field trial of an Operator Risk Profiling (ORP) tool was recently completed, and the results are now being analysed before the NHVR consults with all stakeholders. The aim of the ORP tool is to provide data that will allow the NHVR to consider and assess the compliance behaviour of the industry participant, to determine when and what regulatory action will be taken. This will provide the NHVR with a strategic system of addressing and influencing different behaviours that drive compliance with the HVNL, and allow the NHVR to more effectively allocate/manage resources and risks across all facets of the heavy vehicle industry, including restricted access vehicles. The NHVR's ORP tool trial, related analysis and collaboration with stakeholders are expected to be completed by the end of 2023.

Several forums convened by the NHVR are each meeting three times per year, which enable enforcement agencies to discuss with industry strategies for ensuring enforcement is more consistent. The forums are:

- National Policy Strategic Group,
- National Operations Policy Group; and
- Industry Reference Forum.