

Watch this space: Parliament considers Bill to expand Heavy Vehicle National Law investigative and enforcement powers

On 1 May 2018, the Heavy Vehicle National Law and Other Legislation Amendment Bill 2018 was introduced in the Queensland Parliament. If passed, the Bill will significantly enlarge the investigative and enforcement powers of authorised officers under the Heavy Vehicle National Law (HVNL). Queensland is the host jurisdiction for the HVNL. If passed, the changes will roll out to other Australian states and territories (other than WA and the NT) in accordance with each state and territory's application legislation.

The changes were originally recommended by the National Transport Commission in a policy paper published in May 2017. Some of the more significant proposed changes are set out in the table below.

Power	What will be changed?	Why?
Inspection of fleet (section 522)	The Bill proposes changes that will enable certain authorised officers to require a whole fleet or class of vehicles to be produced for inspection where they have a reasonable belief that vehicles in that fleet or class are defective or do not comply with the HVNL.	This amendment is intended to address situations where there is a reasonable belief that a fleet of vehicles may (for example) be defective but the authorised officer has not physically sighted each individual vehicle.
Information about third parties (section 570)	The Bill proposes amending the existing power of an authorised officer to require information under section 570 so an authorised officer can also require a responsible person to identify third parties who may hold information about the heavy vehicle (such as third-party suppliers of technology or record keeping services).	The change will enable the identification of third parties who hold documents or information relevant to the investigation of suspected offences under the HVNL.
Information gathering (section 570A)	The Bill proposes a change to the new section 570A information-gathering power (originally introduced in the context of the primary duty) to clarify that the power applies to the investigation of possible breaches of any safety duty under the HVNL, including the executive officer due diligence obligation.	The change will enable the new section 570A information-gathering power to be used in relation to the executive officer due diligence obligation and other safety obligations.
Production of licence (section 568)	The Bill proposes a new power enabling an authorised officer to require the production of a driver's licence, where, by law, the driver is required to carry a licence. The maximum penalty for failing to produce a driver's licence will be \$6,000.	Road safety is at risk if an unqualified driver is operating a heavy vehicle. In addition, a driver must record his or her driver's licence number in the driver's work diary, and the power to require production of the driver's licence will assist the enforcement of driver fatigue requirements.
Prohibition notices (new sections 576A to 576C)	The Bill proposes a new power permitting an authorised officer to issue a prohibition notice to a person where the authorised officer reasonably believes there is an activity occurring (involving a heavy vehicle) that involves or will involve an immediate or imminent serious risk to a person. The prohibition notice prohibits the carrying out of that activity until the matters giving rise to the risk have been remedied. The penalty for non-compliance with a prohibition notice is \$10,000.	The new power will provide for immediate intervention and encourages compliance as the notice will remain in force until an authorised officer is satisfied the matters that give or will give rise to the risk have been remedied.
Injunctions (new section 576E)	The Bill proposes a new power enabling the courts to grant injunctions to compel a person to comply with a notice issued by an authorised officer or to restrain a person from contravening a notice issued by an authorised officer. An authorised officer may apply for an injunction regardless of whether a proceeding has been brought alleging an offence under the HVNL.	The new power will allow timely restraint of non-compliance.
Publication of court outcomes (new section 726D)	The Bill proposes a new power authorising the National Heavy Vehicle Regulator to publish court outcomes, including the offence with which a person is convicted and the penalties imposed (but not information that could identify the person convicted).	The new power will raise awareness of heavy vehicle breaches and has the potential to change non-compliant behaviour.

The Bill has been referred to the Queensland Transportation and Public Works Committee for consideration, with that committee to report back to Parliament by 28 June 2018. Should you wish to discuss any aspect of the Heavy Vehicle National Law or the proposed amendments, please contact Gillian Bristow or Emily Ng.



Gillian Bristow
Special Counsel

T +61 7 3231 2925

E gillian.bristow@cgw.com.au



Emily Ng
Lawyer

T +61 7 3231 2986

E emily.ng@cgw.com.au



COOPER GRACE WARD
LAWYERS