

LEGISLATIVE ASSEMBLY

TRANSPORT LEGISLATION (AMENDMENT) BILL

(Amendments to be moved by Mr. Walsh)

1. Clause 41, line 12, omit "and 11" and insert ", 11 and 12".
2. Clause 41, page 57, lines 19 and 20, omit ", penalties and defences" and insert "and penalties".
3. Clause 41, page 58, line 18, omit "less" and insert "not more".
4. Clause 41, page 58, line 24, omit "less" and insert "not more".
5. Clause 41, page 58, after line 25 insert -
"Examples:
 1. The gross mass limit of a particular B-double under the regulations is 62.5 tonnes. It is stopped on a road and is found to weigh 65.0 tonnes. In this case the breach of the gross mass limit is a minor risk breach because the amount by which the limit is exceeded ($65.0 - 62.5 = 2.5$ tonnes) is less than 5% of the maximum permissible gross mass (5% of 62.5 tonnes = 3.125 tonnes).
 2. The mass limit for a particular truck under the regulations is 8.0 tonnes. It is stopped on a road and is found to weigh 8.6 tonnes. In this case the breach of the mass limit is a substantial risk breach because the amount by which the limit is exceeded ($8.6 - 8.0 = 0.6$ tonnes) is more than either 5% of the maximum permissible gross mass (5% of 8 tonnes = 0.4 tonnes) or the 0.5 tonnes referred to in paragraph (a)(ii). If the truck's weight when stopped had been found to be 8.5 tonnes, the breach would have been a minor risk breach because the 0.5 tonnes excess is not more than the 0.5 tonnes referred to in paragraph (a)(ii), even though the 0.5 tonnes is more than 5% of the maximum permissible gross mass."
6. Clause 41, page 58, line 26, omit "A" and insert "Subject to sub-section (3)(a)(ii), a".
7. Clause 41, page 58, line 28, omit "5% or more" and insert "more than 5%".
8. Clause 41, page 73, lines 16 to 23, omit all words and expressions on these lines and insert -
"(3) A person charged with an offence under this section has the benefit of the reasonable steps defence."
9. Clause 41, page 74, lines 6 to 13, omit all words and expressions on these lines and insert -
"(3) A person charged with an offence under this section has the benefit of the reasonable steps defence."
10. Clause 41, page 81, lines 26 to 34 and page 82, lines 1 to 17, omit proposed clause 180.
11. Clause 41, page 117, after line 19 insert -

"Division 5A—Formal Warnings

212A. Formal warnings

- (1) An inspector may, instead of taking proceedings against a person for a contravention of a relevant heavy vehicle offence, formally warn the person if the inspector believes—
 - (a) the person had taken reasonable steps to prevent the contravention and was unaware of the contravention; and
 - (b) it is appropriate to deal with the contravention by way of a formal warning under this section.
- (2) A formal warning must be in writing.
- (3) A formal warning may not be given for a substantial risk breach or a severe risk breach of a mass, dimension or load restraint limit or requirement.
- (4) In this section, **"proceedings"** includes action by way of an infringement notice.

212B. Appeals against formal warnings

- (1) A person to whom a formal warning is given may, within 28 days after the warning is given, appeal in writing against the giving of the warning to the Magistrates' Court.
- (2) After inquiring into the circumstances relating to the giving of the warning, the Court may—
 - (a) affirm the warning; or
 - (b) cancel the warning.
- (3) A cancelled warning is to be treated as if it had never been issued.

212C. Withdrawal of formal warnings

- (1) A formal warning may be withdrawn by a person who is, or who is a member of a class of person that is, authorised to do so by the regulations by serving on the alleged offender a written notice of withdrawal within 21 days after the formal warning was given.
- (2) After the formal warning has been withdrawn, proceedings may be taken against the person for the contravention.
- (3) In this section, **"proceedings"** includes action by way of an infringement notice.'

12. Clause 41, page 124, after line 32 insert -

**'PART 12—CERTAIN MASS LIMITS MAY BE EXCEEDED BY CERTAIN
VEHICLES TRANSPORTING GRAIN**

223. Definitions applying to this Part

In this Part—

"grain" includes oilseeds and legumes;

"grain harvest transport management scheme" has the meaning set out in section 227.

224. Vehicles transporting grain may exceed certain mass limits

- (1) If all the conditions listed in sub-section (2) apply, a vehicle may be driven on a road even though—
 - (a) a mass limit in relation to the vehicle's maximum gross mass has been exceeded by up to 7.5%;
 - (b) a mass limit in relation to the maximum mass on any of the vehicle's tyres, axles or axle groups has been exceeded by up to 10%.
- (2) For the purposes of sub-section (1), the conditions are that at the time that the vehicle is driven on the road—
 - (a) it is registered under a grain harvest transport management scheme; and
 - (b) it is carrying grain from the place where the grain was harvested to the nearest appropriate grain receiver participating in the scheme; and
 - (c) the harvest season for the grain is in progress.

225. Additional tolerance permitted on very occasional basis

- (1) If all the conditions listed in sub-section (2) apply, a vehicle may be driven on a road even though—
 - (a) a mass limit in relation to the vehicle's maximum gross mass has been exceeded by more than 7.5% but less than 15%;
 - (b) a mass limit in relation to the maximum mass on any of the vehicle's tyres, axles or axle groups has been exceeded by more than 10% but less than 20%.
- (2) For the purposes of sub-section (1), the conditions are that at the time that the vehicle is driven on the road—
 - (a) all the conditions listed in section 224(2) apply; and
 - (b) the operator of the vehicle has not been given 2 warning notices under the scheme in the 12 months immediately before that time.
- (3) For the purposes of sub-section (2)(b), a **"warning notice"** is a notice of the sort referred to in section 227(g).

226. Offence does not occur

Despite anything to the contrary under this Act, an offence does not occur if a vehicle is driven as permitted by section 224(1) or 225(1).

227. Grain harvest transport management scheme

A grain harvest transport management scheme is a scheme that has the following features—

- (a) it is created by an agreement made between the Victorian Farmers Federation and grain receivers; and
- (b) it is recognised, by notice published in the Government Gazette, by the Minister; and
- (c) it is administered by a person appointed under the agreement; and
- (d) it provides for the administrator to register for the purposes of the scheme vehicles that carry grain in Victoria in respect of which an application for registration has been made and that are eligible to be registered under the scheme; and
- (e) it requires participating grain receivers to record the mass of registered vehicles delivering grain to any place at which the grain receivers receive grain, and to report any instance of a vehicle having a mass in excess of the ranges of tolerance permitted by either section 224(1) or 225(1) to the Corporation and to the administrator without delay after the record is made; and
- (f) it does not permit the administrator to register any vehicle unless the operator of the vehicle has authorised the reporting of records concerning the mass of the vehicle referred to in paragraph (e) and has otherwise agreed to comply with the terms of the scheme; and
- (g) it requires the administrator to issue a warning notice to the operator of any vehicle that is recorded by a participating grain receiver as having a mass in the ranges of tolerance permitted by section 225(1) without delay after the record is reported to the administrator (unless the administrator is required to deregister the vehicle from the scheme on receiving the record); and
- (h) it requires the administrator to deregister from the scheme any vehicle that is recorded by a participating grain receiver—
 - (i) as having a mass in excess of any of the ranges of tolerance permitted by section 225(1); or
 - (ii) as having a mass in the ranges of tolerance permitted by section 225(1) more than twice in any 12 month period—
on the record, or the third record in the case of sub-paragraph (ii), being reported to the administrator; and
- (i) it does not permit the administrator to register any vehicle that has been deregistered for the reason referred to in paragraph (h) until the expiry of the anniversary of the deregistration; and

- (j) it makes provision for grain receivers who were not part of the initial agreement creating the scheme to participate in the scheme; and
- (k) it makes provision for what is to happen if participating grain receivers fail to comply with their obligations under the scheme; and
- (l) its terms of operation have not been altered since the scheme was recognised by the Minister, except for alterations that have been recognised, by notice published in the Government Gazette, by the Minister.'.