

AUSTROADS RESEARCH REPORT

Guidelines for the Content, Development, Approval and Use of Industry Codes of Practice



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Use of Industry Codes of Practice***

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Austrroads

Sydney 2006

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Austrroads is the association of Australian and New Zealand road transport and traffic authorities whose purpose is to contribute to the achievement of improved Australian and New Zealand road transport outcomes by:

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- promoting improved practice by Australasian road agencies
- facilitating collaboration between road agencies to avoid duplication
- promoting harmonisation, consistency and uniformity in road and related operations
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- Roads Corporation Victoria
- Department of Main Roads Queensland
- Main Roads Western Australia
- Department for Transport, Energy and Infrastructure South Australia
- Department of Infrastructure, Energy and Resources Tasmania
- Department of Planning and Infrastructure Northern Territory
- Department of Urban Services Australian Capital Territory
- Australian Department of Transport and Regional Services
- Australian Local Government Association
- Transit New Zealand

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SUMMARY

These guidelines are intended to set out how to develop voluntary industry codes of practice for compliance with heavy vehicle laws. The guidelines have been developed following wide consultation in April-November 2004.

A voluntary industry code of practice will help businesses comply with new 'chain of responsibility' laws, including those contained in the national model Road Transport Reform (Compliance and Enforcement) Bill and future national heavy vehicle laws.

The model bill was developed by the National Transport Commission in conjunction with transport agencies, police and industry, and was approved unanimously by the Australian Transport Council in November 2003. It will be implemented in every state and territory from late 2005.

The 'chain of responsibility' provisions impose liability for heavy vehicle offences on all people or businesses whose actions, inactions or demands influence conduct on the road as well as on-road parties such as drivers and operators. Details of liability for specific parties are contained in the relevant 'chain of responsibility' provisions in particular areas of heavy vehicle regulation, including the model bill. Under 'chain of responsibility' laws parties with specific liability must take reasonable steps to prevent breaches of the heavy vehicle laws.

For example, under the model bill parties such as consignors, loads and packers have specific liability for compliance with heavy vehicle mass, dimension and load restraint requirements. Industries covered by these provisions could include shipping, freight forwarding, exporting and importing, retailing, wholesaling, manufacturing, service industries, mining and resources and primary production – in addition to the road transport industry. Full details of the 'chain of responsibility' under the model bill are contained in Appendix 3.

Developing and adhering to a voluntary industry code of practice will assist anyone in the 'chain of responsibility' to comply with the 'chain of responsibility' laws under the model bill and future national heavy vehicle laws – and avoid liability for heavy vehicle breaches. A code of practice will also provide other benefits to industry such as:

- productivity gains through improved ability to load accurately and closer to statutory limits
- monitoring and understanding compliance risks and obligations under the chain of responsibility and other legislation (eg OHS laws, environment laws) through a centralised compliance tool
- minimising the risk of civil claims resulting from unintentional safety breaches
- satisfying insurance obligations
- generating marketing opportunities by showing the ability to manage compliance thereby reducing exposure of customers and suppliers under the chain of responsibility.

While any business can seek to develop its own code of practice, there is greater advantage in developing an industry-wide code and thereby promoting industry-wide benchmarks for achieving compliance, rather than the uncertainty that would exist with a variety of different standards.

These guidelines also provide guidance on the benefits of registering industry codes of practice, where available, and outline the process that must be followed in those jurisdictions that provide registration of codes.

Further 'chain of responsibility' provisions are intended be included in future national heavy vehicle laws, including laws regarding heavy vehicle fatigue management and compliance with vehicle standards. It is possible that industry codes of practice could be used for these future laws to assist in demonstrating compliance – however it is essential that you consult the relevant legislation to determine the liability standards imposed and defences available for the particular area of regulation.

Abbreviations and terms used

Through these guidelines the following abbreviations and terms are used:

Chain of responsibility	Members of the transport logistics chain liable under the model bill or other heavy vehicle laws
Heavy vehicles	Vehicles over 4.5 tonnes, including combinations
Model bill	Road Transport Reform (Compliance and Enforcement) Bill

1. INTRODUCTION

1.1 What is an industry code of practice?

An industry code of practice is a voluntary code that identifies appropriate and effective practices for a particular industry or business to achieve compliance with heavy vehicle laws that contain 'chain of responsibility' provisions.

Any industry or individual business that operates a heavy vehicle or uses the services of a heavy vehicle operator to transport goods by road may develop a code. This includes, for example, those involved in consigning, loading and packing goods transported in heavy vehicles who have specific legal obligations under the mass, dimension and load restraint 'chain of responsibility' contained in the model bill – see Appendix 3 for more information. Details of liability for specific parties in other areas of heavy vehicle regulation will be contained in the relevant legislation.

1.2 What is a registered industry code of practice?

Some jurisdictions allow for industry codes of practice for mass, dimension and loads restraint to be registered. It is also possible that future 'chain of responsibility' provisions may allow for registration of industry codes for other areas of heavy vehicle regulation.

Registration provides a person who is abiding by the letter and spirit of the code an opportunity to establish a legal defence in the event of inadvertent breaches. Part 3 of these guidelines provide more information about registration.

1.3 Who does an industry code of practice cover?

The 'chain of responsibility' applies equally to individuals, bodies corporate, employers and employees. It also specifically includes company directors and partners.

The benefits of complying with an industry code of practice, therefore, apply not only to a particular business, but also to the individuals involved in the management of the business and its individual employees, including drivers.

While an industry code of practice may be developed for a particular business, it is preferable for codes to be developed on an industry-wide basis. This will ensure one industry-wide benchmark for compliance is established and minimise the uncertainty that could result from multiple standards across the same industry.

Example

Industry sectors with multiple parties, such as the grain industry, may benefit from establishing a common industry-wide code of practice which establishes industry-wide benchmarks for mass, dimension and load restraint compliance.

For example, a grain harvest code of practice could apply to cover consigning farmers, trucking companies, drivers and silo operators who ultimately receive the harvested grain. In each case employees and management in business entities could be covered by the code.

1.4 What are the legal benefits of an industry code of practice?

Compliance with an industry code of practice can assist a person to establish a 'reasonable steps' defence* under the 'chain of responsibility' in the event of a heavy vehicle breach occurring – provided that the person did not know and could not reasonably be expected to have known of the breach.

By complying with an industry code of practice, businesses can:

- minimise the risk of causing heavy vehicle breaches and being penalised under the 'chain of responsibility'
- be more confident of demonstrating the 'reasonable steps' defence to a court in the event of an unintentional heavy vehicle breach, and
- be able to request a reduced penalty in the event that the 'reasonable steps' defence is not established

Currently the 'reasonable steps' defence is only available under the model bill for mass, dimension and load restraint breaches. However, future 'chain of responsibility' laws will include a 'reasonable steps' defence which may vary according to the area of regulation.

In developing an industry code of practice it is essential to consult the relevant legislation for the particular area of regulation the code seeks to cover.

1.5 What are some other benefits of an industry code of practice?

An industry code of practice may also provide other benefits in addition to compliance with heavy vehicle laws, including:

- productivity gains, eg through improved ability to load accurately and closer to statutory limits
- monitoring and understanding compliance risks and obligations under the 'chain of responsibility' and other legislation (eg OHS laws, environment laws) through a centralised compliance tool
- minimising the risk of civil claims resulting from unintentional safety breaches
- satisfying insurance obligations
- generating marketing opportunities by showing the ability to manage compliance thereby reducing exposure of customers and suppliers under the 'chain of responsibility'.

* See clause 89(3) of the model bill (see Appendix 4) and the jurisdiction equivalents of that clause.

2. CONTENT OF INDUSTRY CODE OF PRACTICE

2.1 Who will the code cover?

The first step in developing an industry code of practice for heavy vehicle laws is to consider who the code will cover and the extent of that coverage.

In particular, the industry or business will need to determine:

- who is intended to be covered by the code (an industry-wide code will have a broader coverage than a business-wide code)
- who are the relevant stakeholders that may contribute to compliance with the relevant heavy vehicle laws
- who should be consulted and involved in developing the code.

The code may address compliance with applicable heavy vehicle laws – or it may cover any combination of the requirements.

Example

The National Heavy Vehicle Accreditation Scheme (NHVAS) is a national accreditation-based compliance scheme open to operators of heavy vehicles. The mass module of the NHVAS is consistent with these guidelines and provides a useful example on how to manage the risk of mass breaches – but does not extend to managing the risk of dimension or load restraint breaches. This is an example of a compliance tool that applies to only one element of compliance with heavy vehicle laws.

(Parties who wish to develop an industry code of practice related to mass alone may choose to use the mass module of the NHVAS as a basis for its development.)

2.2 Who will administer the code?

An administrator must be appointed to be responsible for the development and administration of the code, ensuring it is endorsed and kept up-to-date. While the administrator can contract for someone else to manage this on their behalf, they will remain responsible for ensuring their duties as administrator are properly carried out.

The administrator must be named and their functions and operations specified in the code. If no one is appointed as an administrator the code won't be updated when necessary, and the code's capacity to improve compliance with the heavy vehicle laws is likely to be severely limited.

2.3 How should the code address heavy vehicle compliance issues?

The code should set out clear reasons for its establishment and the intended outcomes including specifying the relevant heavy vehicle laws that it is seeking to address.

To be effective, the code should have broad rules that focus on each and every reasonable risk of non-compliance with the relevant heavy vehicle laws for that particular industry or business together with the broad type of controls that are necessary in a business compliance system.

Examples of controls

Types of controls that may be specified in an industry code of practice might include requirements to:

- ensure the accuracy of statements made in transport documentation that is given to heavy vehicle operators and drivers
- include heavy vehicle compliance assurance requirements in commercial arrangements with customers and other parties in the 'chain of responsibility'
- exercise supervision or control over employees, agents or other parties involved in activities that might lead to a heavy vehicle compliance problem occurring
- provide information, instruction and training in relation to the code and heavy vehicle compliance
- undertake and document processes to demonstrate compliance with the code
- regularly monitor and review the operation of the code to ensure it is kept up to date by promptly addressing problems, eg recently committed offences, including to:
 - maintain equipment and work systems to ensure compliance
 - ensure that the equipment and systems can be verified and
 - remedy any compliance problems that occur.

The risks identified will vary according to the specific area/s of heavy vehicle laws that an industry code of practice seeks to address.

Examples of controls specific to an area of heavy vehicle regulation

Codes should also deal with risks specific to particular areas of heavy vehicle regulation.

For example, types of controls that may be specified in an industry code of practice in relation to mass, dimension or load restraint might include requirements to:

- ensure that the weight or dimension or positioning of a particular load will not result in a breach of a heavy vehicle's permissible limits
- securely restrain the goods on a heavy vehicle
- pass on accurate container weight declarations to heavy vehicle operators and drivers
- provide and obtain sufficient and reliable evidence from which the weight or measurement of a heavy vehicle or its load might be calculated

Other documents produced by NTC, road transport agencies or standards organisations may provide assistance for addressing risks specific to particular area/s of heavy vehicle regulation.

For example, in relation to fatigue management, NTC will be developing a *Guide for Managing Driver Fatigue* that may assist in developing industry codes of practice for fatigue management. Existing Australian and New Zealand Standards that may assist in developing an industry code of practice or business compliance system are also listed in Appendix 5.

2.4 What about competitive implications?

Codes should not be written in an anti-competitive way.

When it is necessary to include potential anti-competitive provisions, authorisation should be obtained from the Australian Competition and Consumer Commission.

There are a number of Australian and New Zealand Standard documents that may assist in identifying the priorities to be addressed. These are listed in Appendix 5.

2.5 Who should be consulted in developing a code?

If a code is to be accepted by other responsible parties in the 'chain of responsibility', governments and the general public, credibility with stakeholders is vital.

Development of industry codes of practice should be in consultation with the appropriate stakeholders and details of consultation must be noted in the code.

This includes consultation with regulators, unions and industry organisations to ensure that the proposed procedures specific to the industry or business are practicable, reasonable and have their support.

2.6 What language should be used in a code?

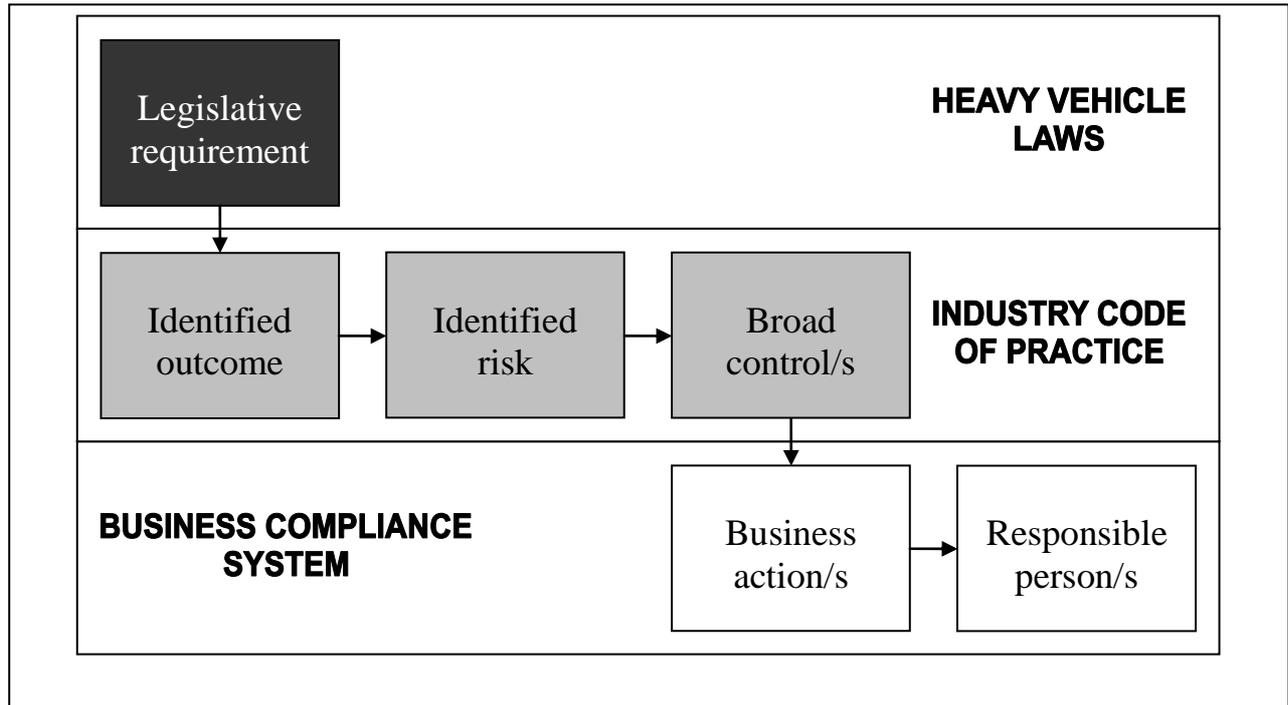
For all stakeholders to accept the code it should be accurate, easy to understand and avoid ambiguity.

To assist clarity, use of plain english writing is encouraged. All acronyms, technical and industry terms should be defined.

Commitments in a code or that are to be contained in a business compliance system should be clear and measurable (ie what must be done and by whom). For example, a commitment to 'train staff in correct weighing procedure' in a code should require business compliance systems under the code specify the type of training that will be conducted, by whom and at what frequency, and for which staff.

2.7 What is a business compliance system?

Any business seeking to comply with a code must have a business compliance system that addresses the requirements contained in the code. The following diagram demonstrates the relationship between a code and a business compliance system:



The code will identify every reasonable risk of non-compliance with the relevant heavy vehicle laws and specify the broad controls that must be addressed by businesses. A business compliance system must specify what must be done and by whom in that particular business to ensure the risks are managed consistent with the broad controls outlined in the code.

Examples

A business compliance system may:

- make a clear statement of the organisation's commitment to compliance
- give details of management responsibilities for promoting and implementing compliance measures, including the provision of adequate resources
- integrate procedures for implementing and monitoring compliance with the organisation's day-to-day operating procedures
- provide for effective reporting and record-keeping systems
- detail education and training for the organisation's personnel
- develop a complaints handling system that will assist in identifying and overcoming compliance failures
- ensure the business compliance system is subject to audit and is kept up-to-date

Existing Australian and New Zealand Standards (listed in Appendix 5) may assist in establishing a business compliance system. These standards provide principles for the development, implementation and maintenance of effective compliance programs within both public and private organisations.

In Australia, compliance manuals may be developed based on the Australian standard on compliance provisions (AS 3806) – available from Standards Australia.

2.8 Who should doublecheck my code?

All industry codes of practice should be audited and endorsed by an accredited auditor.

An accredited auditor is a person who is approved to conduct audits for the relevant area of heavy vehicle regulation under the National Heavy Vehicle Accreditation Scheme (NHVAS). A list of accredited auditors can be obtained from the RABQSA International, the peak quality assurance service provider in Australia, or from NTC (contact details are contained in Appendix 1).

An accredited auditor assesses whether the proposed code:

- meets the requirements of these guidelines
- provides effective measures to prevent contraventions of the relevant heavy vehicle laws for the industry or business the code seeks to cover.

If satisfied with these two matters, the accredited auditor will issue a signed statement of endorsement of the proposed code. The assessment by the auditor may involve not only a desk-based consideration of the adequacy of the proposed code, but also such site visits, interviews, or analysis of relevant records as are considered necessary by the accredited auditor.

When a code has previously been endorsed and registered it is not necessary to return to the same auditor when seeking endorsement of a new or amended code.

An accredited auditor is likely to charge a fee for undertaking the audit of the proposed code.

2.9 How should a code be reviewed and kept up-to-date?

The code should provide for regular review by an accredited auditor to ensure that the broad rules and controls on the code are addressing the identified risks and working effectively. Mechanisms by which stakeholders will be involved in a review of the code should be included.

A review must be conducted at least every three years or earlier if any major problems are identified.

In addition, changes to applicable heavy vehicle regulatory requirements may also necessitate review of the code. The code can only be practicable if it reflects the current heavy vehicle regulatory requirements of states and territories.

The date by which the code must be reviewed should be marked prominently on the front cover of the code.

3. REGISTERING CODES OF PRACTICE

A code that meets all of the requirements of these guidelines may also be registered in those jurisdictions that offer registration. A Drafting Checklist of these matters is contained in Appendix 2.

Once the code is endorsed by an accredited auditor the code can be registered by the road authority where a jurisdiction allows for registration. Contact details for the relevant road authorities in each state and territory are provided in Appendix 1.

In those jurisdictions that allow for registration of codes, there is nothing to prevent a road authority from registering an existing industry compliance scheme or accreditation scheme as a registered industry code of practice, provided the scheme also satisfies these guidelines. If a particular scheme addresses matters in addition to heavy vehicle compliance, only those aspects that relate to heavy vehicle compliance are to constitute the registered industry code of practice.

A code must be registered separately in each state or territory that allows for registration of codes in which you operate and wish the code to be recognised. Registration in one jurisdiction will not mean that a code is automatically recognised in other jurisdictions that allow for registration. The code may therefore need to contain some jurisdiction-specific provisions to reflect any variations in the legislation between those states/territories.

While a code may generate considerable other benefits such as improved road safety, marketing opportunities and ensuring compliance with other legislative requirements, these are not essential criteria for registration of the code of practice.

It is important to note that registration of a code by a road authority is not an endorsement of its effectiveness as a compliance system or its ability to ensure compliance with any legislative requirement.

APPENDIX 1: CONTACT DETAILS

Road transport authorities

Australian Capital Territory:

Department of Urban Services
GPO Box 151
CIVIC SQUARE ACT 2601
☎ (02) 6207 6130
Link to legislation at
www.legislation.act.gov.au

South Australia:

Transport SA
PO Box 1
WALKERVILLE SA 5081
☎ (08) 8343 2222
Link to legislation at www.parliament.sa.gov.au

New South Wales:

Roads and Traffic Authority
PO Box K198
HAYMARKET NSW 1238
☎ (02) 9218 3603
Link to legislation at
www.legislation.nsw.gov.au

Tasmania:

Department of Infrastructure, Energy and
Resources
GPO Box 936J
HOBART TAS 7001
☎ (03) 6233 2442
Link to legislation at
www.thelaw.tas.gov.au

Northern Territory:

Department of Infrastructure, Planning &
Environment
L2 Energy House
18 Cavenagh Street
DARWIN NT 0800
☎ (08) 8924 7609
Link to legislation at
www.nt.gov.au/lant/hansard/hansard.shtml

Victoria:

VicRoads
60 Denmark Street
KEW VIC 3101
☎ (03) 9854 2901
Link to legislation at
www.parliament.vic.gov.au

Queensland:

Queensland Transport
PO Box 673
FORTITUDE VALLEY QLD 4006
☎ (07) 3253 4211
Link to legislation at
www.legislation.qld.gov.au

Western Australia:

Department of Transport (Licensing)
21 Murray Road South
WELSHPOOL WA 6106
☎ 13 11 56
Link to legislation at
www.slp.wa.gov.au

Accredited auditors

A current list of auditors accredited under the National Heavy Vehicle Accreditation Scheme (NHVAS) for assessment of industry codes of practice is available from:

RABQSA International

PO Box 4067
PENRITH NSW 2750
☎ (02) 4728 4600
www.rabqsa.com

National Transport Commission

Level 15/628 Bourke Street
MELBOURNE VIC 3000
☎ (03) 9236 5000
www.ntc.gov.au

APPENDIX 2: DRAFTING CHECKLIST

DRAFTING CHECKLIST 1	√ or X
<p>Process for developing a code:</p> <ul style="list-style-type: none"> ■ determine and document who is to be covered by the code ■ list the administrator and provide contact details ■ clarify the scope of the proposed code ■ prepare a first draft of the code. ■ consult with affected industry members and peak bodies representing heavy vehicle drivers and operators ■ document the consultation, listing who was consulted, and summarise the issues raised had how they have been incorporated in the code or otherwise addressed ■ consider comments and revise code as necessary ■ obtain an audit of the code by an accredited auditor and a statement of endorsement of the code by the auditor ■ if seeking registration, submit code to the relevant road authority with: <ul style="list-style-type: none"> – this completed checklist – the documented consultation process, listing who was consulted and summary of issues raised and how they have been incorporated in the code or otherwise addressed – statement of endorsement issued by the accredited auditor. <p>The code must contain or provide for each of the following essentials:</p> <ul style="list-style-type: none"> ■ identify the risks and the broad controls that are necessary in a business compliance system to address common complaints and concerns about the industry's or business' practices ■ specify relevant legislation the code is seeking to address ■ a well documented consultation process ■ clarity of expression ■ the establishment, functions and operations of a proposed administrator ■ specificity of coverage ■ details of business compliance systems and commitments to be addressed ■ procedures for ongoing recording and addressing compliance problems including as necessary updating the code and/or in-house programs to promptly address problems as they arise ■ three yearly reviews by accredited auditors. <p>Further, the code must not be written in an anti-competitive way.</p>	

APPENDIX 3: MASS, DIMENSION AND LOAD RESTRAINT REQUIREMENTS UNDER THE MODEL BILL

In general, the state and territory heavy vehicle mass, dimension and load restraint laws are based on national mass, dimensions and load restraint laws that have been developed through national consultation and agreement.

Following approval of the model bill by Transport Ministers in November 2003, jurisdictions are moving to amend local law. Subject to passage of necessary amendments through the various parliaments, implementation is expected in each jurisdiction in the last quarter of 2005.

Before developing an industry code of practice note that there may be variations between the states and territories in some mass or dimension limits applying to particular vehicles or in particular circumstances, due to local schemes or conditions. A code that will be used in more than one state or territory must provide for and with the legislation of each of those jurisdictions.

The road transport authorities listed in Appendix 1 can be contacted for details of local schemes or conditions applying in their respective states and territories. Links are also provided where possible to the legislation of each state and territory.

Mass requirements

These are the maximum permissible masses that can be carried by the various heavy vehicle axles or axle groups, or the maximum permissible gross mass of different classifications of heavy vehicles. While these maximum permissible masses are based on national standards, they may also be increased or reduced by factors such as:

- manufacturer's maximum permissible masses for tyres, wheels, axles, vehicles and combinations
- vehicle configuration and spacings between axles and axle groups
- gazetted mass permits allowing higher masses for specified vehicles (eg vehicles whose operators may be accredited in the NHVAS mass management scheme and/or fitted with road-friendly suspension; or certain vehicles operating under the Federal Interstate Registration Scheme) on specified routes
- individual mass permits permitting higher masses on specific routes
- gazetted schemes for livestock or grain cartage.

Dimension requirements

Nationally agreed standards set maximum permissible dimensions relating to height, width and length for individual heavy vehicles and various heavy vehicle combinations. However, vehicles and combinations may be permitted to operate at increased dimension limits under:

- individual permits that would be subject to conditions such as escort vehicles, specific routes, maximum speed, time of travel etc, or
- gazetted permits allowing the movement of specified vehicle types subject to specified requirements.

Load restraint requirements

The requirements for load restraint are the performance standards set out in the *Load Restraint Guide* that is available from road authorities. The guide reflects the jurisdictional equivalents of regulation 9 of the national Road Transport Reform (Mass and Loading) Regulations. It covers both general principles and practical illustrations of effective methods of restraint for different types of load. All states and territories use evidence of non-compliance with the guide when establishing an offence for failing to have a load properly secured.

Chain of responsibility requirements

The chain of responsibility provisions are contained in Part 4 of the model bill. These impose obligations on all parties in the 'chain of responsibility' including directors and senior managers. Liability may be avoided if a person can establish that they took all reasonable steps within their power to ensure compliance with statutory limits. Parties in the 'chain of responsibility' include consignors, packers, loaders and receivers as well as drivers and operators and may be prosecuted for their actions, inactions or demands that lead to offences on the road.

APPENDIX 4: REASONABLE STEPS DEFENCE

Road Transport Reform (Compliance and Enforcement) Bill

89 Reasonable steps defence

(1) **Defence**

If a provision of this Part states that a person has the benefit of the *reasonable steps defence* for an offence, it is a defence to a charge for the offence concerned if the person charged establishes that:

- (a) the person did not know, and could not reasonably be expected to have known, of the contravention concerned
- (b) either:
 - (i) the person had taken all reasonable steps to prevent the contravention
 - (ii) there were no steps that the person could reasonably be expected to have taken to prevent the contravention.

(2) **Matters that court may have regard to**

Without limiting the above, in determining whether things done or omitted to be done by the person charged constitute reasonable steps, a court may have regard to:

- (a) the circumstances of the alleged offence, including (where relevant) the risk category to which the breach concerned belongs
- (b) without limiting paragraph (a), the measures available and measures taken for any or all of the following:
 - (i) to accurately and safely weigh or measure the vehicle or combination or its load or to safely restrain the load in or on the vehicle or combination
 - (ii) to provide and obtain sufficient and reliable evidence from which the weight or measurement of the vehicle or combination or its load might be calculated; Road Transport Reform (Compliance and Enforcement) Bill—Model Bill
 - (iii) to manage, reduce or eliminate a potential breach arising from the location of the vehicle or combination, or from the location of the load in or on the vehicle or combination, or from the location of goods in the load
 - (iv) to manage, reduce or eliminate a potential breach arising from weather and climatic conditions, or from potential weather and climatic conditions, affecting or potentially affecting the weight or measurement of the load
 - (v) to exercise supervision or control over others involved in activities leading to the breach
- (c) the measures available and measures taken for any or all of the following:
 - (i) to include compliance assurance conditions in relevant commercial arrangements with other responsible persons
 - (ii) to provide information, instruction, training and supervision to employees to enable compliance with relevant laws
 - (iii) to maintain equipment and work systems to enable compliance with relevant laws
 - (iv) to address and remedy similar compliance problems that may have occurred in the past
- (d) whether the person charged had, either personally or through an agent or employee, custody or control of the vehicle or combination, or of its load, or of any of the goods included or to be included in the load
- (e) the personal expertise and experience that the person charged had or ought to have had or that an agent or employee of the person charged had or ought to have had.

(3) **Proof of compliance with industry code of practice**

If the person charged establishes that the person had complied with all relevant standards and procedures under a registered industry code of practice, and with the spirit of the code, with respect to matters to which the breach relates, proof of compliance (as so established by the (person) is prima facie evidence that the person charged had taken reasonable steps to prevent the contravention.

(4) **Notice of intention to prove compliance with industry code of practice**

Subsection (3) is not available unless the person charged has served notice of intention to establish the matters referred to in that subsection on the prosecution at least 28 working days before the day on which the matter is set down for hearing.

APPENDIX 5: RELEVANT STANDARDS PUBLICATIONS

The following standards and handbooks that are available from Standards Australia may assist in identifying compliance and quality management issues that can be incorporated into an industry code of practice or business compliance system.

Standards

AS 3806-1998 *Compliance Programs*

AS/NZS 4360:1999 *Risk management*

AS/NZS 3905.7:1995 *Quality system guidelines – Guide to AS/NZS ISO 9001:1994 for the road freight transport industry*

Handbooks

HB133-1999 *A Guide to AS 3806-1998 Compliance programs* HB 254-2003 *Guide to Controls Assurance and Risk Management*

The International Standards ISO 9000 Quality series including:

AS/NZS ISO 9000:2000 *Quality management systems – Fundamentals and vocabulary*

AS/NZS ISO 9001:2000 *Quality management systems – Requirements*

AS/NZS ISO 9004:2000 *Duality management systems – Guidelines for performance improvements*

AS/NZS ISO 9000.2: 1998 *Quality management and quality assurance Standards -Generic guidelines for the application of ISO 9001, ISO 9002 and ISO 9003*

AS/NZS ISO 9004.5:1998 *Quality management and Quality system elements – I. Guidelines for Quality plans*

HB 9001-2000 *The Small Business Handbook – Guide to ISO 9001:2000*

Draft standards

DR 03360 which is the draft replacement to AS/NZS 4360:1999 that is expected to be released as AS/NZS 4360:2004

INFORMATION RETRIEVAL

Austrroads (2006) **Guidelines for the Content, Development and Use of Industry Codes of Practice**, Sydney, A4, 25pp, AP-R282/06

Keywords:

Guidelines, Industry Codes of Practice, Chain of Responsibility, Heavy Vehicles, Compliance & Enforcement, Transport Logistics Chain

Abstract:

The purpose of this document is to deliver consistency of enforcement practices across jurisdictions, improve compliance with road transport law, and deliver greater road safety outcomes and asset protection.

It is intended to provide guidance to industry on:

- the preparation of codes of practice for `best practice` mass, dimension and load restraint compliance
- the process for obtaining approval of such codes of practice [in jurisdictions where they are registrable]
- the application of the codes, including the means by which compliance with an approved code will support a defence to proceedings relating to non-compliance with the mass, dimension and load restraint laws.