

TASMANIA

**HEAVY VEHICLE ACCREDITATION SCHEME
VALIDATION BILL 2013**

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HEAVY VEHICLE ACCREDITATION SCHEME VALIDATION BILL 2013

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
17 October 2013

*(Brought in by the Minister for Infrastructure, the Honourable
David James O'Byrne)*

A BILL FOR

An Act to validate certain administrative actions taken for the purposes of the *Traffic Act 1925*, to amend the *Heavy Vehicle National Law (Tasmania) Act 2013* and for related purposes

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Heavy Vehicle Accreditation Scheme Validation Act 2013*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

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alternative compliance
accreditation;

Commission means the Transport Commission incorporated under the *Transport Act 1981*;

Part VII means Part VII of the *Traffic Act 1925*, as in force during the validation period;

responsible department means the responsible Department in relation to the *Traffic Act 1925*;

specified date, in relation to a certificate of accreditation, means the date which is specified in the certificate of accreditation as the date up to and including which the certificate of accreditation is valid;

validation period means the period commencing on 26 June 2000 and ending on the commencement of section 4 of the *Heavy Vehicle National Law (Tasmania) Act 2013*.

4. Actions of officer of responsible department

- (1) If, during the validation period, an officer of the responsible department exercised or performed, or purportedly exercised or performed, a power or function of the Commission under Part VII, the officer of the responsible department is taken

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to have exercised or performed that function or power as a delegate of the Commission.

- (2) No action lies against the Crown in right of Tasmania, or the Commission, in relation to any loss incurred by a person, if the loss is only incurred as a consequence of an officer of the responsible department exercising or performing, or purportedly exercising or performing, a power or function of the Commission under Part VII.

5. Fees

- (1) For the purposes of section 66 of Part VII, the prescribed fee for the validation period is taken to be, and to have always been, \$66, inclusive of GST.
- (2) For the avoidance of doubt, any fees, accompanying an application for alternative compliance accreditation, collected during the validation period by the Commission, are taken to have been validly imposed and collected.
- (3) No action lies against the Crown in right of Tasmania, or the Commission, in relation to any loss incurred by a person if the loss is only incurred as a consequence of the imposition of the payment of a fee, that, but for this section, would not have been validly imposed or collected.

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6. Notification of accreditation

For the purposes of section 69 of Part VII, if there is a certificate of accreditation in relation to an alternative compliance accreditation, the Commission is taken to have given a person notice in writing of its approval of that person's application for alternative compliance accreditation by way of the certificate of accreditation.

7. Conditions of accreditation

- (1) This section applies to a certificate of accreditation, in respect of an alternative compliance accreditation, that specified a list of conditions to which the alternative compliance accreditation was purportedly subject.
- (2) The conditions listed in a certificate of accreditation referred to in subsection (1) are taken to be conditions imposed by the Commission on the alternative compliance accreditation specified in that certificate of accreditation and to be so imposed –
 - (a) pursuant to section 70(1) of Part VII; and
 - (b) from the date of the certificate of accreditation; and
 - (c) for the period the alternative compliance accreditation is –

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(2) Despite section 69(2) of Part VII –

- (a) if the Commission, during the relevant period –
 - (i) approved an application for alternative compliance accreditation; or
 - (ii) renewed, or purportedly renewed, alternative compliance accreditation; and
- (b) the certificate of accreditation for that alternative compliance accreditation had a specified date which was a date less than 3 years from the date of the certificate of accreditation –

that alternative compliance accreditation is taken to have been, unless sooner cancelled under Part VII, effective for a period commencing on the date of the certificate of accreditation and ending on the specified date.

(3) Despite section 69(2) of Part VII –

- (a) if the Commission, during the transitional period –
 - (i) approved an application for alternative compliance accreditation; or

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- (ii) renewed, or purportedly renewed, alternative compliance accreditation; and
- (b) the certificate of accreditation for that alternative compliance accreditation (the *initial accreditation*) had a specified date which was a date less than 3 years from the date of the certificate of accreditation; and
- (c) the Commission renewed or purported to renew the initial accreditation after the specified date–

the initial accreditation is taken to have been effective for a period commencing on the date of the certificate of accreditation and ending on the specified date.

- (4) No action lies against the Crown in right of Tasmania, or the Commission, in relation to any loss incurred by a person in relation to –
 - (a) a certificate of accreditation, if the loss is incurred by reason only that the certificate had a specified date which was a date less than 3 years from the date of the certificate of accreditation; or
 - (b) the renewal of an alternative compliance accreditation, if the loss is incurred by reason only that the accreditation was renewed earlier than it was required under Part VII to be so renewed.

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Part 3 – Miscellaneous

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PART 3 – MISCELLANEOUS

9. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Infrastructure; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Infrastructure, Energy and Resources.

10. Consequential amendments

The legislation specified in Schedule 1 is amended as specified in that Schedule.

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SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

Section 10

Heavy Vehicle National Law (Tasmania) Act 2013

1. Section 39 is amended as follows:

- (a) by omitting paragraph (a) from subsection (2);
- (b) by omitting from subsection (2)(b) “other”;
- (c) by omitting paragraph (a) from subsection (3);
- (d) by omitting from subsection (3)(b) “other”;
- (e) by omitting from subsection (4) “Part 8.2 of”;
- (f) by omitting from subsection (5) “Part 8.2 of”.