

SECOND READING SPEECH

The HON David O'Byrne MP

HEAVY VEHICLE ACCREDITATION SCHEME VALIDATION BILL 2013

Mr Speaker,

I move that the Bill now be read a second time.

Mr Speaker, I present to the house today the Heavy Vehicle Accreditation Scheme Validation Bill 2013.

The purpose of this Bill is to correct administrative oversights that have occurred during administration of the National Heavy Vehicle Accreditation Scheme (NHVAS).

Part VII of the *Traffic Act 1925* (the Act) allows for the Transport Commission to grant membership to approved alternative compliance schemes. The approved accreditation schemes in Tasmania are mass management and maintenance management and they enable accredited operators to increase transport efficiency by reducing the costs of compliance and by allowing Scheme members greater flexibility because of regulatory concessions in the management of their transport business.

This Bill will rectify identified administrative oversights in respect of past, current and future heavy vehicle operator accreditations and ensure no unfair advantage has been given to accredited operators within

Tasmania or when compared to interstate operators who have been operating under similar schemes.

This situation has arisen due to the Transport Commission following the NHVAS business rules, which were agreed to by Industry and approved by Australian Transport Ministers in 1997, rather than the Act, when dealing with the collection of accreditation fees and the granting of accreditation for periods.

These oversights were identified by the Department of Infrastructure, Energy and Resources (DIER) early this year, during preparation for the introduction of the National Heavy Vehicle Regulator (NHVR) reforms in Tasmania. Accordingly, advice was sought from the Solicitor-General as to the legal effects of these oversights. The Solicitor-General has confirmed that the actions taken by the Transport Commission were not in accordance with legislation and has recommended corrective action. Importantly, the Solicitor-General also advised that these administrative oversights did not invalidate the accreditations.

The Transport Commission had been charging an 'application fee' of \$66 for entry to the Tasmanian scheme without it having been prescribed by regulation as required by the Act and had granted accreditation predominantly for periods of 2 years, contrary to 3 years as also required by the Act.

The Transport Commission could cease requiring the payment of the application fee, however this gives rise to serious questions of equity between accredited operators, where some would have paid a fee and some would have not. It is therefore considered desirable that both past and future payments of the application fee are authorised in legislation, with retrospective effect.

The Transport Commission has consulted with the Tasmanian Transport Association, Metro Tasmania and the NHVR who supported his intention to recommend that the State Government introduce retrospective legislation to confirm the integrity of the scheme.

The Act specifies that accreditation is effective for a period of three years. The Transport Commission has been predominantly granting periods of accreditation for two years. This confusion arose as an early draft and subsequent final version of the NHVAS Business Rules, which are used to administer the Tasmanian scheme, state that an operator can be issued with accreditation for a period of up to a maximum of three years. In practice, applicants are given an initial two-year period, which can be extended to three years when the performance of the NHVAS member is of a very high standard. It has become apparent that, when the Act was amended in 1997 to allow for the future introduction of operator accreditation in Tasmania, the words 'up to a maximum' were inadvertently missed from the drafting instructions.

The Transport Commission has contacted current operators and advised them that their accreditation period is three years and issued new certificates which show the correct accreditation period.

For operators where their accreditation had expired within one year of identifying the oversights, the Transport Commission has notified them of the intention to re-instate their accreditation for one year from the date of expiry if they have a continued need for accreditation.

All new applicants have been issued accreditation for three years.

The Transport Commission has been advising accredited operators of these changes and has been advising new applicants that they would be billed by DIER once legislation is in place.

The independent NHVR, which is based in Queensland, came into effect under limited operations on 21 January 2013 and as part of these limited operations administers Tasmania's NHVAS as a delegate of the Transport Commission.

It should be noted that Part VII of the Act will be repealed when the Heavy Vehicle National Law (HVNL) commences in Tasmania and the NHVR becomes fully operational. At that time, the heavy vehicle accreditation schemes operating in the individual states, with the exception of Western Australia, will be fully combined into a single national scheme administered by the NHVR.

Whilst amending the Act the Transport Commission has taken the opportunity to clarify the use of the accreditation certificate and associated forms.

In closing, I ask Members to note that NHVAS operators in Tasmania receive considerable productivity benefits for participating in the accreditation scheme, which far outweigh the entry and audit costs. Mr Speaker, the Government fully supports the introduction of this Bill.

I commend this Bill to the House.