# NSW LIVESTOCK LOADING SCHEME

## BUSINESS RULES

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1. **ABOUT THESE BUSINESS RULES**

1.1 **Purpose**

The purpose of these Business Rules is to provide a framework for the administration of the New South Wales Livestock Loading Scheme.

To avoid confusion between this Scheme and the National Heavy Vehicle Accreditation Scheme, these Business Rules use the term “enrolment” rather than “accreditation” when referring to this Scheme.

1.2 **How the Business Rules will be amended**

These Rules will be periodically amended to reflect changes in the Scheme, new requirements and suggestions from users. Amendments may constitute a part or the whole of this document.

2. **LEGAL FRAMEWORK**

The legal framework for the Scheme includes:

- The NSW Livestock Loading Scheme Business Rules.
- The *Ministerial Declaration (NSW Livestock Loading Scheme) Order 2012*.

2.1 **Road Transport (Mass, Loading and Access) Regulation 2005**

Part 6 (clauses 68-72) of this Regulation provide for:

- the approval of mass management accreditation schemes.
- the approval of applications for accreditation and the collection of application fees.
- the granting, refusal, variation, suspension or cancellation of accreditation.
- the internal review of decisions concerning accreditations.
- labels to be affixed to vehicles nominated under mass management accreditation schemes.

2.2 **Scheme Business Rules**

The Business Rules set out the following requirements of the Scheme:

- requirements and approved forms for applications for enrolment and amendments to enrolment.
- sanctions that may be applied by Roads and Maritime Services (RMS) for non-compliance with the Scheme’s mass limits and operating conditions.

2.3 **Ministerial Declaration (NSW Livestock Loading Scheme) Order 2012**

The *Road Transport (Mass, Loading and Access) Regulation 2005*, establishes mass limits for heavy vehicles, combinations, axles and axle groups.

The *Ministerial Declaration (NSW Livestock Loading Scheme) Order 2012*:

- declares the regulated mass limits do not apply to specified types of combinations which comply with the mass limits and operations conditions set out in the Order.
- includes as an operating condition that vehicles must display a NSW Livestock Loading Scheme label or display or carry or evidence of a corresponding Scheme of another jurisdiction.
declares that Road Transport (Mass, Loading and Access) Regulation 2005 clause 69(4) provisions limiting the duration of an “accreditation” do not apply to enrolments in the NSW Livestock Loading Scheme.

3. APPLICATIONS FOR SCHEME ENROLMENT

3.1 Eligibility for Scheme enrolment
An operator may apply for enrolment in the Scheme including an operator that is:
- a company registered with the Australian Securities and Investment Commission.
- an individual.
- a partnership.
A company, partnership or individual may only apply for Scheme membership once under any one ACN or ABN.

3.2 Application for Scheme enrolment
An operator seeking Scheme enrolment must provide the following to the RMS:
- a membership application form.
- the applicable application fee.
Applications may be submitted in writing, using an application form approved by the RMS.

3.3 Application Form
The approved application form must include the following information:

(a) Operator details
- the applicant’s name.
- the applicant’s ACN and/or ABN.
- the applicant’s RMS customer number.
- the applicant’s registered business or trading name.
- the applicant’s registered office or business address.
- the street and postal address of the place where vehicle inspections may be undertaken.

(b) Contact person details
- the name, title, telephone and facsimile numbers and email address of a contact person.

(c) Nominated vehicle list
- details of the vehicles nominated for enrolment in the Scheme, including:
  - vehicle make.
  - registration number.
  - State or Territory of registration.
  - Gross Vehicle Mass (GVM).
  - vehicle identification number (VIN) of chassis number.
  - if the vehicle is registered in a different name from the applicant, the name of the registered owner of the vehicle.

(d) Applicant declaration
- the name of a person authorised by the applicant to make the declaration on behalf of the applicant.
- the signature of that person.
- the date signed.
- a declaration that the operator agrees to comply with the requirements of the NSW Livestock Loading Scheme and understands that non-compliance with these requirements can result in fines.
- a declaration that the RMS is authorised to disclose information and documentation relating to the enrolment in accordance with these Business Rules.
- a declaration that the information provided in the application is true and correct.

(e) Penalties for providing false information an offence
- a statement that providing false or misleading information to an RMS is an offence and may result in a financial penalty or other sanction.

The approved application form must be available on the RMS website.

3.4 Enrolment application fees
Applications are subject to the fee prescribed in clause 68 of the Road Transport (Mass, Loading and Access) Regulation 2005, as amended from time to time.

The application fee is not required to be submitted with the application form. Once an application is received and processed by the RMS, the applicant will be issued with an invoice for the fee.

3.5 Granting of enrolment
The RMS will determine applications for Scheme membership, as soon as practicable after a completed application is lodged.

If an application is approved, the applicant will be issued with a confirmation letter which contains the following information:
- the applicant’s name.
- the date of commencement of enrolment.
- that the enrolment is subject to compliance with the Scheme’s mass limits and operating conditions.

The operator will also be issued with identification labels for each nominated vehicle to identify them on the road.

3.6 Enrolment period
Enrolment commences at the date indicated on the confirmation letter.

Enrolment is not subject to periodic renewal.

3.7 Refusal to approve an application
The Road Transport (Mass, Loading and Access) Regulation 2005, clause 69 provides that the RMS may refuse to approve an application if RMS is not satisfied that the applicant or the nominated vehicles meet the requirements of the Scheme.

The RMS may refuse to enroll a particular vehicle nominated in an application if the RMS considers that the vehicle does not comply with the requirements of the Scheme.
If the RMS refuses to approve an application and/or refuses to accept a nominated vehicle, the RMS will provide the applicant with:
- written reasons for the refusal.
- details of how the applicant can apply for an internal review of the decision.

4. **MAINTAINING SCHEME ENROLMENT**

4.1 **Amendments to enrolment**

Operators must notify the RMS of amendments to their details or nominated vehicles within 14 days of the change taking place. This includes:
- changes to the operator’s name, address and/or contact details.
- new vehicles to be enrolled.
- enrolled vehicles to be deleted.
- changes to vehicle registration plate.
- replacement of lost or damaged vehicle identification labels.

Amendments to an operator’s details or nominated vehicles may be submitted in writing, using an amendment form approved by the RMS, and available on the RMS website.

4.2 **Enrolment amendment form**

The approved amendment form must include the following items of information:

(a) **Operator details**
- name.
- RMS customer number.
- ACN.

(b) **Amendment details**
- any changes to the operator’s name or contact details.
- any changes to nominated vehicle list, including new or deleted vehicles or changes to registration plates.
- if new or replacement Scheme vehicle labels are required

(c) **Operator declaration**
- the name of a person authorised by the operator to make the declaration on behalf of the applicant.
- the signature of that person.
- the date signed.
- a declaration that the operator agrees to comply with the requirements of the NSW Livestock Loading Scheme and understands that non-compliance with these requirements can result in fines.
- a declaration that the RMS is authorised to disclose information and documentation relating to the enrolment in accordance with these Business Rules.
- a declaration that the information provided in the application is true and correct.

(d) **Penalties for providing false information an offence**
- a statement that providing false or misleading information to an RMS is an offence and may result in a financial penalty or other sanction.
The approved enrolment amendment form must be available on the RMS website.

4.3 **Enrolment amendment fees**
Amendments are subject to the fee prescribed in clause 68 of the *Road Transport (Mass, Loading and Access) Regulation 2005*, as amended from time to time.

The fee is not required to be submitted with the application form. Once an application is received and processed by the RMS, the applicant will be issued with an invoice for the fee.

4.4 **Acceptance of amendments**
Once an amendment form is submitted and processed, the RMS will issue the operator with:
- an acknowledgement that the amendments are accepted.
- an invoice for the amendment fee.
- an updated list of nominated vehicles (if relevant).
- new or replacement identification labels (if relevant).

4.5 **Complaint investigations**
A complaint about the compliance of an operator with the mass limits and conditions set out in the Ministerial Order may be made to the RMS by any person, either verbally or in writing.

If a complaint is made in writing, the RMS must respond to the complainant in writing. The RMS has the discretion not to act on complaints which are vexatious or anonymous.

The RMS may carry out an inspection or investigation in response to a complaint. The inspection or investigation should be carried out by a person who has knowledge and experience relevant to the nature of the complaint.

While a complaint is being investigated, the RMS may choose not to advise the operator of the complaint. If the RMS decides to take action after investigation, the operator must be advised in writing of the complaint.

If, after inspection or investigation, the complaint is substantiated, the RMS may take action against the operator.

If action is taken, the RMS must keep a record of the incident and action taken, which must be filed with other information about the operator.

4.6 **Random compliance checks**
Random compliance checks are carried out to gather information on a Scheme member's level of compliance. These checks cover compliance with the Scheme’s mass limits and operating conditions and the road transport legislation generally.

Random compliance checks may include:
- on-road intercepts.
- triggered or random inspections.

(a) **On-road intercepts**
On-road intercepts may provide information about compliance with the Scheme’s mass limits and operating conditions and road transport legislation generally. On-road intercepts can be carried out by authorised officers or Police officers.
(b) Inspections
RMS may order an inspection of a vehicle to be carried out at the operator’s premises.

A report is to be produced at the time of an inspection indicating any findings and if any action is recommended. A copy of the report is to be provided to the operator.

If an inspection indicates non-compliance with the Scheme’s operating conditions or the road transport legislation, the RMS may take action against the operator.

4.7 Surrender of enrolment
An operator may voluntarily surrender their enrolment at any time by advising the RMS using the Details Amendment Form that:
- they wish to do so.
- the date by which the proposed variation, suspension or cancellation takes effect.

An operator that voluntarily surrenders their enrolment must remove any Scheme identification labels from their vehicles unless the vehicle has been transferred to another Scheme operator.

5. ENROLMENT SANCTIONS

5.1 When enrolment sanctions may be applied
The RMS may apply sanctions to an operator if:
- the operator has failed to comply with the requirements of the Scheme.
- a nominated vehicle of the operator does not comply with the requirements of the Scheme.

5.2 Types of sanctions
Sanctions that the RMS can impose on an operator in relation to their participation in the Scheme:
- issuing a formal warning or improvement notice (as provided for in the Road Transport (General) Act 2005).
- varying, suspending or cancelling enrolment.

5.3 Notice of variation, suspension or cancellation of enrolment
Before varying, suspending or cancelling an operator’s enrolment, the RMS must comply with the requirements of clause 72 of the Road Transport (Mass, Loading and Access) Regulation 2005.

This clause requires the RMS to provide the operator with written notice of:
- the proposed variation, suspension or cancellation.
- any actions to be taken by the operator within 28 days, in order to avoid the proposed variation, suspension or cancellation.
- the date by which the proposed variation, suspension or cancellation takes effect.
- details of how the operator can apply for an internal review of the decision as set out in clause 72 of the Road Transport (Mass, Loading and Access) Regulation 2005.
- details of how the operator can apply for a review of the decision by a Local Court, after the internal review, as provided for by clause 28 of the Road Transport (General) Regulation 2005.
The variation, suspension or cancellation of enrolment takes effect from the date specified on the written notice to the operator.

However, if the operator lodges an internal review or an appeal to the Local Court, the variation, suspension or cancellation does not take effect until the review or appeal is determined.

6. APPROVED DRIVER TRAINING COURSE

6.1 Legal requirement for driver training
The Ministerial Declaration (NSW Livestock Loading Scheme) Order 2012 (“the Scheme Order”) provides that from 1 May 2013, drivers operating vehicles under the Scheme must have completed either:
- the NSW Livestock Loading Scheme driver training course approved by RMS; or
- the Victorian Livestock Loading Scheme driver training course.

6.2 Objectives of Approved Course
The objectives of the NSW Driver Training Course (“Approved Course”) are to ensure drivers operating vehicles under the Scheme:
- understand and can access information on the legal requirements for operating under the Scheme including vehicle standards, route restrictions and mass limits; and
- can safely operate 4.6 metre high livestock vehicles and apply techniques to minimise the risk of vehicle roll-over.

6.3 Content of the Approved Course
The Approved Course will be suitable for delivering in training sessions of no more than 4 hours duration as follows:
- Scheme legal requirements - approximately one hour, including individual written assessment task
- Roll-over prevention – approximately 2.5 hours, including individual and/or group assessment tasks

RMS will develop the Approved Course in consultation with Transport for NSW (Centre for Road Safety) and industry stakeholders.

6.4 Delivery of the Approved Course
The Approved Course will be delivered by suitably qualified and experienced trainers approved by RMS (“Approved Trainers”).

RMS will provide all Approved Trainers with the materials required to deliver the Approved Course (“Approved Course Materials”), including:
- presentation slides and roll-over demonstration models;
- a facilitation guide for Approved Trainers that includes guidance on delivering the Approved Course and the participant assessment processes; and
- handouts for drivers containing guidance material relevant to the Approved Course content.

6.5 Updating the Approved Course
RMS may periodically approve changes to the Approved Course, following consultation with Transport for NSW (Centre for Road Safety) and livestock transport industry stakeholders.
For example, the Approved Course may be changed to include information about any changes to the Scheme’s legal requirements, including vehicle standards, mass limits and approved routes.

RMS will provide all Approved Trainers with updated versions of Approved Course Materials.

7. APPROVAL OF TRAINERS

7.1 Approved Trainers
RMS may approve persons as an Approved Trainer for the purposes of delivering the Approved Course.

7.2 Criteria for approval as an Approved Trainer
Persons seeking approval as an Approved Trainer must meet the following criteria to RMS’s satisfaction:
- Certificate IV in Assessment and Workplace Training (or equivalent);
- a minimum of two years experience in providing training courses related to heavy vehicle operations and livestock transport;
- demonstrated ability to organise training courses, including processing trainee applications and certificates; and
- provide evidence of relevant business insurances acceptable to RMS.

To ensure a consistent and professional approach to the delivery of the Approved Course, Trainers will be required to:
- attend a one day Trainer Briefing Session conducted by RMS; and
- sign a Driver Trainer Agreement with RMS.

7.3 Approved Trainer application form
Persons seeking approval as an Approved Trainer, must apply to RMS using an application form approved by RMS and published on the RMS website.

RMS will provide written acknowledgement of all applications received from applicants for approval as a Trainer.

7.4 Assessment of applicants
Applications received will be assessed by RMS against the assessment criteria. Applications may be assessed by an individual or by an assessment panel which makes recommendations to RMS. Assessment panels may include Transport for NSW personnel and/or industry stakeholders in addition to RMS staff.

The outcomes of the assessment of an application may include:

(a) Approval
- but the prospective Trainer is not approved by RMS until a Driver Trainer Agreement has been signed and all RMS requirements have been satisfied including the completion of a Trainer Briefing Session.

(b) Rejection
- the prospective Trainer is rejected on the basis that RMS is not satisfied that the assessment criteria have been met or the application is incomplete.

RMS will advise prospective Trainers of the outcome of their application in writing. The written advice to prospective Trainers that are rejected will include:
- the reason(s) the application was rejected;
- details of how the prospective Trainer can apply for an internal review of the decision.

7.5 **Driver Trainer Agreement**
The Driver Trainer Agreement will (among other things):
- require the Trainer to comply with relevant requirements of these Business Rules concerning the conduct and administration of the Approved Course; and
- require the Trainer to comply with privacy and probity requirements.

Once a Driver Trainer Agreement has been signed RMS may publish details of the Trainer on the RMS website subject to the Trainer’s agreement.

8. **TRAINER’S ADMINISTRATIVE OBLIGATIONS**
Approved Trainers must follow the following procedures concerning the enrolment, training and certification of Drivers.

8.1 **Driver Application form**
Approved Trainers must require Drivers to complete the RMS-approved Driver Application Form. The Driver Application Form is available on the RMS website. RMS may amend the form from time to time and it is the responsibility of the Trainer to use the current form.

8.2 **Proof of Identity of Driver**
Trainers must sight the driver licence of each Driver to verify the identity of each Driver. Trainers must not deliver training to any Driver whose identity they have not verified as correct.

RMS requires Trainers to sign the Driver Application Form to certify the identity of each Driver. RMS relies on the accuracy of the Trainer’s identity check on Drivers.

Every Driver Application form (signed by both the Driver and the Trainer) must be forwarded by the Trainer to RMS along with the Training Report on the completion of Training (see 9.4 below).

8.3 **Temporary Certificate of Completion**
Trainers will issue a temporary Certificate of Completion in respect of Drivers who have satisfactory completed the Approved Course.

Trainers must use the RMS-approved form for the Certificate of Completion. RMS may amend the approved form from time to time and it is the Trainer’s responsibility to use the current version.

Trainers will issue the temporary Certificate of Completion to the Driver and provide a copy to RMS with the Training Report (see 9.4 below).

8.4 **Durable Certificate of Completion Card**
Drivers that have successfully completed the Approved Course will receive a durable wallet-sized Certificate of Completion card issued by RMS identifying the Driver and stating that:
- the Driver has successfully completed the Approved Course; and
- the Driver is eligible to drive vehicles operating under the NSW Scheme.
This durable Certificate of Completion card will replace the temporary Certificate of Completion issued by the Trainer to the Driver.

9. **CONDUCT OF TRAINING COURSES**

9.1 **Commercial arrangements for provision of training**
Trainers may provide the Approved Course to the public (whether directly or via their employer or principal) or they may deliver the Approved Course in-house to the staff of their employer or principal.

Trainers may require Drivers to pay a fee to undertake Training in which case they must maintain a fair policy of refunds in relation to course cancellations.

RMS does not control or regulate fees but requires Trainers to act fairly and may report any price-gouging or unfair practices to NSW Fair Trading and may suspend or terminate a Trainer’s approval to deliver the NSW Course.

9.2 **Training premises and equipment**
Trainers must only conduct the Approved Course at premises that provide a suitable and safe environment for training activities.

Premises in which the Approved Course is provided must include:
- audiovisual equipment required to deliver the Approved Course (computer, data projector and large screen); and
- adequate and comfortable seating for applicants.

9.3 **Delivery of Approved Course**
Trainers must deliver the Approved Course and conduct assessments in accordance with:
- their Driver Trainer Agreement with RMS;
- these Business Rules;
- any directions issued by RMS; and
- the Approved Course materials.

Trainers may not make changes to the Approved Course materials without RMS’s written permission.

9.4 **Reporting**
Within 7 days of completing any Training the Trainer must send RMS a Training Report listing the Drivers who undertook the Training and whether or not they successfully completed the Training.

The Training Report must be in a form approved by RMS, and must include:
- the place where the Training was conducted (premises name and street address),
- the date the Training was conducted,
- the Trainer’s name and signature,
- for each Driver:
  - the Driver’s full name;
  - the Driver’s licence class and number;
  - the Driver’s licence State or Territory of issue; and
  - whether or not the Driver successfully completed the Training.

The Training Report may be forwarded to RMS by mail or email
- mail to Freight Branch, Locked Bag 928 North Sydney 2059, or
9.5 Training course records
The Trainer must maintain the following records concerning Training for at least 7 years:
- a completed copy of the Driver Application Form for each driver that successfully completes the Approved Course.
- a copy of all Training Reports
- a copy of every Certificate of Completion issued by the Trainer.

10. TRAINING COURSE MONITORING AND COMPLIANCE

10.1 Complaint investigation
A complaint about the conduct of a Trainer and/or a Driver in relation to the Approved Course may be made to RMS by any person, either verbally or in writing.

If a complaint is made in writing, the RMS must respond to the complainant in writing. The RMS has the discretion not to act on complaints which are vexatious or anonymous.

The RMS may carry out an inspection or investigation in response to a complaint. The inspection or investigation should be carried out by a person who has knowledge and experience relevant to the nature of the complaint. The Trainer must cooperate fully with RMS.

While a complaint is being investigated, the RMS may choose not to advise the Trainer and/or Driver of the complaint. If the RMS decides to take action after investigation, the Trainer and/or Driver must be advised in writing of the complaint.

If, after inspection or investigation, the complaint is substantiated, the RMS may take action against the Trainer including termination or suspension of their status as an approved Trainer.

If action is taken, the RMS must keep a record of the action taken, which must be filed with other information about the Trainer.

Note: the Trainer Approval Agreement contains provisions about access to trainer records and sanctions RMS may impose on Trainers.