



Performance Based Standards Scheme

Assessor Accreditation Rules



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Publishing information

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1 Purpose of these Rules

The purpose of these Rules is to:

- (a) set out the eligibility requirements for Assessors who are to carry out assessments of vehicle designs and vehicles for the purposes of the PBS Scheme;
- (b) provide for how those Assessors are to carry out their duties;
- (c) provide for the audit, monitoring and review of those Assessors; and
- (d) set out the requirements related to the suspension and termination of a person appointed as a PBS assessor and the process to be followed.

2 Definitions

Term	Definition
Assessment Rules	the Standards and Vehicle Assessment Rules as defined by the <i>Heavy Vehicle (General) National Regulation</i>
Assessor	a PBS assessor as defined by the <i>Heavy Vehicle (General) National Regulation</i>
Assessor agreement	means the agreement between an Assessor and the Regulator, in the form in Appendix A
Assessor QMS	the assessor's quality management system meeting the standards set in Appendix B and as approved by the Regulator
business day	has the meaning given by Schedule 1 Section 12 of the <i>Heavy Vehicle National Law</i>
certificate	a certificate signed by the Assessor stating their opinion as to whether one or more of the standards are, or are likely to be, met
general regulation	the <i>Heavy Vehicle (General) National Regulation</i>
HVNL	the <i>Heavy Vehicle National Law</i>
internal audit	a planned and documented activity to verify by investigation of past performance that the elements of the Assessor QMS have been effectively implemented
PBS Review Panel	has the meaning given by section 6 of the <i>Heavy Vehicle National Law</i>
Primary Assessor	an Assessor who takes primary responsibility for the assessment of a vehicle design, or vehicle, and who is appointed by the Regulator to submit a Design Approval Application Form Part A and B as approved by the Regulator
PBS Scheme	the Performance Based Standards Scheme established under Part 1.4 of the <i>Heavy Vehicle National Law</i>
Standard	has the meaning given by the Assessment Rules

In these Rules, unless a contrary intention appears:

- (a) the singular includes the plural and the plural includes the singular;
- (b) a reference to a rule or Appendix is a reference to a rule of, or Appendix to, these Rules;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to an Act, Regulation, standard, set of Rules or document is a reference to the Act, Regulation, standard, Rules or document as amended from time to time; and
- (e) a reference to a vehicle includes a reference to a combination.
- (f) a reference to an Assessor includes a Primary Assessor.

3 Authority

The Assessor Accreditation Rules, as prescribed by the HVNL, are the Rules made by the National Transport Commission (NTC) in July 2007, as amended from time to time. These Rules were published by the NTC in their capacity as the administrator of the PBS Scheme.

With the transition of administration of the PBS Scheme to the NHVR and the establishment of a legal framework under the HVNL, a number of transitional arrangements were introduced. One such transitional measure was the inclusion of interpretation rules in section 24(2) of the general regulation to provide guidance on how the Rules were to be read to reflect the role of the NHVR as administrator.

To ensure the Rules are clear and easily understood, the NHVR has produced this consolidated version that updates the July 2007 version with the modifications authorised in the HVNR.

4 Role of Assessors

- (1) The role of an Assessor is to use the methods of assessment and the procedures for assessment set out in the Assessment Rules to form an opinion, in respect of any standard for which they are appointed, as to:
 - (a) in relation to a design for a vehicle, the likelihood that a vehicle built to that design will meet the standard; and
 - (b) in relation to a vehicle, whether the vehicle meets the standard.
- (2) The obligations of an Assessor in conducting an assessment are set out in the Assessor's Agreement, Appendix A.

5 Eligibility to become an Assessor

- (1) An applicant may be appointed by the Regulator as a Primary Assessor, and/or as an Assessor authorised to undertake assessments by numerical modelling, by testing, or by both.

Note: A Primary Assessor need not be authorised to undertake assessments to any of the standards, however a Primary Assessor that is not authorised to undertake any of the assessments must commission an Assessor with the required authorisation.

- (2) To be eligible to be appointed as a Primary Assessor, an applicant must have:
 - (a) a detailed knowledge and understanding of the administrative processes of the PBS Scheme, including the roles of Assessors, Certifiers, jurisdictions and the Regulator; and
 - (b) an engineering qualification that would make them eligible for professional membership of the Institution of Engineers Australia and that the Regulator accepts is suitable for the administration and engineering management of heavy vehicle performance assessment; and
 - (c) detailed knowledge and understanding of all Standards, the Assessment Rules, relevant Australian Design Rules, the vehicle standards regulation and relevant international standards.
- (3) To be eligible to be appointed as an Assessor who may undertake assessments of a Standard by numerical modelling, an applicant must be able to demonstrate, to the satisfaction of the Regulator, that they have:
 - (a) an engineering qualification that would make them eligible for professional membership of the Institution of Engineers Australia and that the Regulator accepts is suitable for heavy vehicle performance assessment; and
 - (b) detailed knowledge and understanding of all Standards they are appointed to assess, and of the Assessment Rules, relevant Australian Design Rules, the vehicle standards regulation and relevant international standards; and
 - (c) significant knowledge of, and a minimum of 3 years' experience in, simulation of dynamic performance by numerical modelling; and
 - (d) suitable equipment, particularly acceptable modelling software.
- (4) To be eligible to be appointed as an Assessor who may undertake assessments of a Standard by testing, an applicant must be able to demonstrate, to the satisfaction of the Regulator, that they have:
 - (a) an engineering qualification that would make them eligible for professional membership of the Institution of Engineers Australia and that the Regulator accepts is suitable for heavy vehicle performance assessment; and

- (b) detailed knowledge and understanding of all Standards they are appointed to assess, and of the Assessment Rules, relevant Australian Design Rules, the vehicle standards regulation and relevant international standards; and
 - (c) significant knowledge of, and a minimum of 3 years' experience in, testing of heavy vehicle dynamic performance relevant to the Standard; and
 - (d) suitable test equipment and facilities, or access to suitable test equipment and facilities.
- (5) An applicant may be appointed as an Assessor authorised to undertake assessments against any Standard for which they can demonstrate assessment competence.
- (6) An applicant is not eligible to be appointed as an Assessor if the applicant:
- (a) has been found guilty of an offence of dishonesty within the last 5 years; or
 - (b) has not provided a current Criminal History Check in the form requested by the Regulator in support of their statement about sub-rule (5)(a) ; or
 - (c) has failed, in the opinion of the Regulator, to properly perform obligations that are the same as, or that are similar to, those of an Assessor, or of a person with similar responsibilities to those of an Assessor, under any scheme that requires accreditation, licensing or authorisation in any form.

6 Becoming an Assessor

- (1) A person may apply to the Regulator to be appointed as an Assessor.
- (2) The application must be made in the form and manner specified by the Regulator.
- (3) In considering an application by a person for appointment, the Regulator may require the person to do one or more of the following:
- (a) to attend an interview with a nominee of the Regulator;
 - (b) if the person is seeking appointment to conduct assessments by numerical modelling, to complete sample assessments;
 - (c) to provide references as to their competence or experience;
 - (d) to provide any additional information requested by the Regulator including but not limited to proof of employment by a suitable organisation.
- (4) The Regulator may appoint a person as an Assessor if satisfied that the person is able to meet all of the relevant requirements concerning knowledge, experience and competency set out in rule 5, and is otherwise eligible to be appointed.
- (5) On the Regulator being satisfied that a person is eligible to be appointed, it must advise the person of that fact in writing.
- (6) The Regulator may only appoint a person who is eligible to be appointed if:

- (a) the person, and in the case of a person who will operate as an employee, their employer, signs and undertakes to comply with the requirements of the Assessor Agreement;
 - (b) the person produces evidence that they (or their employer) have complied with the insurance requirements of clauses 24 and 25 of the Assessor Agreement; and
 - (c) the person, or their employer (in the case of a person who will operate as an employee), demonstrates, to the satisfaction of the Regulator, that all assessments that the person will carry out will occur under an Assessor QMS that complies with the requirements of the Standards set out in Appendix B.
- (7) Despite sub-rule (6), if a person is a public servant and will, if appointed, only carry out assessments as a public servant, it is not necessary for the Agreement to provide for the person to be insured, and sub-rule (6)(b) does not apply.
- (8) If the Regulator is not satisfied that a person is eligible to be appointed, it must notify the person of that fact in writing within 5 business days after reaching that conclusion, and it must include in that notification its reasons for reaching that conclusion.
- (9) The Regulator must advise the PBS Review Panel of any application for appointment as an Assessor and must have regard to any advice that the PBS Review Panel provides.

7 Regulator to keep and publish list of Assessors

- (1) The Regulator must maintain, and make available to any person who wishes to have a vehicle designed or assessed for the purposes of the PBS Scheme, an up-to-date list of Assessors that contains:
- (a) each Assessor's name, address and contact details; and
 - (b) a list of the standards for which each Assessor is appointed to certify compliance.

8 Renewal of appointment

- (1) An Assessor's initial appointment is valid for 5 years from the date of issue, unless it is surrendered or terminated under these Rules before the expiry of that period.
- (2) An Assessor's appointment expires at 11.59 p.m. on the day it ceases to be valid unless:
- (a) the Regulator renews the appointment before that expiry; or
 - (b) the Assessor applies for the renewal of the appointment not less than 2 months before that day and has not received written notice that the application has been rejected.
- (3) If sub-rule (2) (b) applies, the Assessor remains appointed until they are given written notice that the application has been rejected.

- (4) In applying for the renewal of their appointment, an Assessor must provide to the Regulator any information required by the Regulator.
- (5) The Regulator must renew the appointment of the Assessor if the Assessor:
 - (a) applies to be re-appointed not less than 2 months before their appointment is due to expire; and
 - (b) continues to meet the relevant criteria specified in rule 5; and
 - (c) is not otherwise ineligible to be appointed.
- (6) If the Assessor applies to be re-appointed less than 2 months before their appointment is due to expire, the Regulator may renew the appointment if sub-rules (5)(b) and (5)(c) above apply.
- (7) A renewed appointment is valid for 5 years.

9 Guidelines for the Regulator – monitoring and auditing of Assessors

- (1) To assist with monitoring and reviewing the work of an Assessor, the Regulator should link all assessments, and the results of all testing, that are undertaken by the Assessor for the purposes of the PBS Scheme.
- (2) The Regulator should review the information provided by an Assessor. Any review of the information may include a request for additional information relating to an assessment.
- (3) Any testing of a vehicle should also be regarded as a review of the work of any Assessor who conducted an assessment of the vehicle or its design. Any relevant concerns with the outcome of the testing should be referred to the Assessor, and the Primary Assessor if considered appropriate, for response.
- (4) Audits of an Assessor can include a review of the Assessor QMS, with the review being either an audit of the system or a more technical audit.
- (5) If a pattern of regular difficulties with the technical aspects of assessments is established, the Regulator may cause a thorough review of the methods undertaken by the Assessor to be conducted by a technical expert under clause 18 of the Agreement.
- (6) The sort of information that the Regulator might request under clause 20 of the Agreement includes the results of the internal audit by the Assessor. The Regulator should request these results at least once in every 12 months.
- (7) In any case, the Assessor shall respond within twenty-eight (28) days to any such request by the Regulator.

10 Dealing with complaints against an Assessor

- (1) No complaint against an Assessor should be considered unless the complaint is in writing, identifies the complainant and outlines the nature of the complaint and any technical facts or justification that are relevant.
- (2) If the complaint is made to, or by, a jurisdiction, that jurisdiction should forward the complaint to the Regulator.
- (3) The Regulator should consider the details of the complaint and, if it appears that there is a basis for the complaint, should ask the Assessor against whom the complaint was made to respond in writing to the complaint within twenty-eight (28) working days.
- (4) After receiving the written response from the Assessor against whom the complaint was made, the Regulator should consider the response and make an initial determination as to whether, in its opinion, the complaint is justified.
- (5) The Regulator may undertake whatever investigations it considers necessary to make a final determination of the complaint, including nominating a person to interview the complainant.
- (6) If the Regulator makes a final determination that the complaint was justified, it should, based on the severity of the matter, decide what further action is necessary.
- (7) The Regulator should advise the complainant of the outcome of its investigations and its final determination, providing as much or as little detail as it determines is appropriate.

11 Suspension by the Regulator

- (1) The Regulator may suspend the appointment of an Assessor in the following circumstances:
 - (a) Where the Regulator believes, on reasonable grounds, that assessments submitted by the Assessor may create a risk to public safety or cause financial loss to a person;
 - (b) Pending the outcome of a show cause notice issued by the Regulator to terminate an appointment under rule 13;
 - (c) Where the Regulator is investigating a complaint against the Assessor and the continuing receipt of applications from the Assessor would interfere with the investigation, or would create a conflict of interest or the appearance of a conflict of interest;
 - (d) Where the Assessor is in the process of correcting issues identified in an investigation or audit and the continuing receipt of applications from the Assessor would create an unacceptable risk, a conflict of interest, a perceived conflict of interest or would impose an unacceptable burden on the Regulator; or
 - (e) Where material submitted by the Assessor contains repeated errors and places an unacceptable administrative burden on the Regulator.

- (2) The Regulator must advise the Assessor of the suspension by notice in writing stating
 - (a) the reason for the suspension;
 - (b) the effect of the suspension;
 - (c) that the suspension takes effect:
 - (i) in the case of a suspension based on rule (1)(a) or (b), immediately; or
 - (ii) for a suspension for any other grounds, on a nominated date no fewer than five business days after the notice is given;
 - (d) details of any corrective actions required of the Assessor before the suspension is lifted and the time in which those corrections must be completed;
 - (e) that if the Regulator becomes aware of a ground for termination under rule 13 it may issue a show cause notice to the Assessor after their appointment has been suspended;
 - (f) that a suspension continues until the Regulator gives the Assessor written notice either:
 - (i) that the appointment is terminated under rule 13, or
 - (ii) that the suspension is lifted; and
 - (g) contact details for the Regulator.
- (3) If the Regulator suspends an Assessor's appointment, the Regulator must remove the Assessor's name from the list of Assessors referred to in rule 7.
- (4) The Regulator must use its best efforts to finalise a suspension as soon as possible.
- (5) If an Assessor has completed all the required actions within the time requested in a notice of suspension, and no show cause notice has been issued, the Regulator must lift the suspension within 10 business days of being notified of completion.
- (6) Where an Assessor has previously been suspended twice and any of the grounds in rule (1) arises within 5 years of the date of the first notice of suspension, the Regulator may commence termination proceedings under rule 13 and 14.


12 Termination by Assessor

- (1) An Assessor may surrender their appointment by giving 20 business days' notice in writing to the regulator of that surrender.

13 Termination by the Regulator

The Regulator may terminate an Assessor's appointment if the Assessor:

- (1) ceases, in the opinion of the Regulator, to meet the criteria specified in rule 5;

- 
- (2) commits an offence of dishonesty;
 - (3) was employed by a person who was a party to the Agreement as required by rule 6(6), and is no longer employed by that party;
 - (4) fails, in the opinion of the Regulator, to carry out the obligations of an Assessor in a competent or professional manner, or at all;
 - (5) fails to comply with the Assessment Rules;
 - (6) fails to comply with a written direction of the Regulator, or a person authorised by the Regulator, issued under these Rules or under the Agreement; or
 - (7) otherwise breaches the Agreement.

14 Termination procedure

- (1) Before terminating an Assessor's appointment, the Regulator must give written notice to the Assessor that:
 - (a) states the Regulator's intention to terminate the Assessor's appointment; and
 - (b) states the grounds on which it proposes to terminate the appointment, and any material facts on which those grounds are based; and
 - (c) invites the Assessor to make, within a stated time of at least 14 days after the notice is given to the Assessor, written representations about why the proposed action should not be taken.
- (2) If, after giving due consideration to any matters that are put to it by the Assessor as above, the Regulator still considers that grounds for termination exist, the Regulator may terminate the appointment.
- (3) The Regulator must give the Assessor a statement of reasons for the decision.
- (4) The decision to terminate the Assessor's appointment takes effect when the information notice is given to the Assessor or at a later time if the statement of reasons states a later date.
- (5) If the Regulator terminates an Assessor's appointment, the Regulator must remove the Assessor's name from the list of Assessors referred to in rule 7.

15 Amendment of these Rules

These Rules may only be amended by the Regulator, with the approval of responsible ministers.

Performance Based Standards Scheme

Assessor Agreement

(Assessor's Name)

No. - *(Assessor's Number)*



This **AGREEMENT** is made on _____ day of _____ 20__

between

The Chief Executive Officer NHVR

on behalf of the National Heavy Vehicle Regulator (the Regulator)

and

(Name) (the “Assessor”)

employed by *(Employers)*

of *(Employer’s Address)*

BACKGROUND

The Regulator is satisfied that a person is eligible to be appointed as an Assessor under the *Heavy Vehicle (General) National Regulation* and in accordance with the Rules.

Under the Rules it is a requirement that there be an agreement in the form of this Agreement before the regulator is able to accredit the Assessor as an assessor.

AGREEMENT

The Regulator and the Assessor therefore agree:

INTERPRETATION

Definitions

1. In this Agreement –

Term	Definition
appointment	The appointment of the applicant as an Assessor.
Assessment Rules	The Standards and Vehicle Assessment Rules as defined by the <i>Heavy Vehicle (General) National Regulation</i> as amended from time to time.
Assessor	means a PBS assessor as defined by the <i>Heavy Vehicle (General) National Regulation</i> , as amended from time to time.
Assessor quality manual	the documented manual for the quality management system of the Assessor that is approved by the Regulator
Business day	has the meaning given by Schedule 1 Section 12 of the <i>Heavy Vehicle National Law Act 2012 (Qld)</i> as amended from time to time.
Certificate	a Certificate signed by the Assessor certifying as to their opinion as to whether one or more of the standards are, or are likely to be, met
infrastructure standard	has the meaning given by the <i>Heavy Vehicle (General) National Regulation</i> as amended from time to time.
PBS Review Panel	has the meaning given by section 5 of the <i>Heavy Vehicle National Law Act 2012 (Qld)</i> as amended from time to time.
PBS Scheme	the Performance Based Standards Scheme established under Part 1.4 of the <i>Heavy Vehicle National Law Act 2012 (Qld)</i> as amended from time to time.
Rules	the Assessor Accreditation Rules as defined by the <i>Heavy Vehicle (General) National Regulation</i> as amended from time to time.
safety standard	has the meaning given by the Assessment Rules.
standard	has the meaning given by the Assessment Rules.

Other interpretative matters

2. In this Agreement, unless a contrary intention appears –
 - a. the singular includes the plural and the plural includes the singular;
 - b. a reference to a clause or schedule is a reference to a clause of, or schedule to, this Agreement;
 - c. if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
 - d. a reference to a standard, agreement or document is a reference to the agreement, standard or document as amended from time to time; and
 - e. a reference to a vehicle includes a reference to a combination.

OBLIGATIONS OF THE REGULATOR

List of Assessors

3. The Regulator must include the Assessor on the list of Assessors referred to in the Rules.

Copies of Standards

4. The Regulator must make any standard available for inspection or purchase or both (in either hard copy or electronic form) by the Assessor.

OBLIGATIONS OF THE ASSESSOR

Compliance with the Assessment Rules

5. The Assessor must undertake assessments of standards in accordance with the Assessment Rules.

Assessments only to be carried out while appointed

6. The Assessor must not carry out an assessment for the purposes of the PBS Scheme or sign a Certificate:
 - a. at any time they do not hold an appointment, including a period during which their appointment is suspended; or
 - b. in respect of a standard in respect of which they are not appointed to conduct assessments.

Input data

7. When preparing to assess safety standards by numerical modelling, the Assessor must:
 - a. authenticate (where possible) input data that is used in the numerical model;

- b. if it is not possible to authenticate input data, review the data to confirm that it is of the order that would be expected in the circumstances; and
- c. record the information required by the Assessor Quality Manual including the source of any input data that cannot be authenticated.

Testing

8. Before undertaking testing relating to the standards, either for compliance or any other testing, the Assessor must be satisfied:
 - a. that the testing will be carried out properly and safely; and
 - b. that all applicable requirements in the Rules have been complied with.

Certificates

9. A Primary Assessor may issue a Certificate that includes an assessment for a standard that is not authorised in Schedule 1 in this agreement if:
 - a. the assessment for that standard was undertaken by an Assessor (the other Assessor) who is authorised to make assessments for that standard; and
 - b. the other Assessor issued a Certificate in respect of that design or vehicle; and
 - c. the Primary Assessor retains a copy of that Certificate, and any other documents received from the other Assessor in respect of the design or vehicle, with their own records relating to the assessment; and
 - d. the Certificate of the Primary Assessor states that it relies on the Certificate of the other Assessor in respect of that standard, and identifies that other Assessor.
10. The Assessor must not advertise or represent in any way that they are appointed to provide a Certificate for any standard that is not authorised in Schedule 1 or for any method of assessment in respect of a standard that is not authorised in respect of that standard in Schedule 1 (unless clause 9 applies).
11. Any Certificate issued by the Assessor must:
 - a. be in a form approved by the Regulator for the purpose for which it is being used; and
 - b. contain any information specified in, and be completed in accordance with, any written directions of the Regulator.
12. If required by the Regulator, the Assessor must forward to the Regulator, in the form required by the Regulator, a copy of any Certificate issued by the Assessor.

Use of required forms

13. If the Regulator requires the Assessor to use Certificate forms (electronic or otherwise) or other items supplied by it in conducting assessments and providing Certificates, the Assessor must comply with the requirement.

Assessor QMS

- 14.** The Regulator may require the Assessor to carry out assessments under a quality system:
 - a. that is approved by the Regulator as incorporating the appointment standards approved by the Regulator; or
 - b. that meets the requirements of the AS/NZS/ISO 9000 series and that shows all applicable requirements in the Assessment Rules have been complied with.
- 15.** If the Regulator makes such a requirement, the Assessor must comply with it.

Maintenance of competency

- 16.** The Assessor must maintain their competency to carry out the assessments for which they are appointed.

Retention of records

- 17.** The Assessor must retain the following records, or ensure that they are retained in a location notified in writing to the Regulator, throughout the period of the Assessor's appointment.
 - a. a copy of each Certificate issued by them;
 - b. the originals, or copies, of all notes, drawings, reports, calculations, specifications, test data and other data made or reviewed by, or on behalf of, the Assessor in relation to each assessment conducted by the Assessor; and
 - c. any other records necessary to enable the nature of the assessment, the time, date and place on which it was carried out, and the identity of the person who carried it out, to be ascertained.

When an Assessor's appointment ends they must provide the records, or enable access to the records, to the person who owns the vehicle design to which each record relates.

Audit and inspection

- 18.** The Assessor must allow a person authorised in writing by the Regulator to conduct an inspection of the Assessor's activities in relation to the assessment of standards, and for that purpose must (on being given 5 business days' notice) allow the person to:
 - a. enter any premises where the Assessor undertakes assessments, and any premises where the Assessor stores any books or records that relate to assessments;
 - b. inspect any equipment used in assessment by testing; and
 - c. inspect and copy books and records that appear to be related to assessments, including reports and records relating to internal audits.
- 19.** The Assessor must give any assistance reasonably required by the Regulator to carry out an audit.
- 20.** The Assessor must provide any information that is requested in writing by the Regulator to assist with an audit or review of their work.

21. The Assessor must comply with any direction given by the Regulator, or a person authorised in writing by the Regulator, to remedy any non-compliance with this Agreement identified in the course of an audit or an inspection under this Agreement.

Confidentiality

22. The Assessor must keep confidential all information provided to, or obtained by, them in conducting assessments, and must not use or disclose the information except as authorised or required under this Agreement or by the Regulator or by any relevant legislation.
23. Clause 22 does not apply if:
- a. the information was in the public domain at the time it was disclosed or obtained; or
 - b. the information is used or disclosed with the express consent of the person from whom it was obtained.

Insurance

24. The Assessor, or the employer of the Assessor, must effect and maintain a professional indemnity insurance policy that applies during any period in which the Assessor is accredited, and for 6 years after the Assessor's appointment ends.
25. The Assessor, or the employer of the Assessor, must effect and maintain an appropriate public liability insurance policy during any period in which the Assessor is appointed.
26. The insurance required by clauses 24 and 25 must:
- a. be with an insurer acceptable to the Regulator;
 - b. be on terms and conditions acceptable to the Regulator.
 - c. cover the parties in respect of any claim arising from or related to the performance of this Agreement;
 - d. be for an amount not less than that stated in the Schedule 2 in this agreement.
27. The Assessor must, if required to do so by the Regulator, provide proof that the insurance required by clauses 24 and 25 has been affected and is being maintained.

Note: If the Assessor is a public servant carrying out certifications as a public servant, clauses 24 and 25 do not apply.

Indemnity

28. The Assessor indemnifies the Regulator, the PBS Review Panel and any person assisting, or acting on behalf of, the Regulator against any liability, loss, damage or expense which the Regulator, member or other person may incur or sustain as a result of any action, proceeding, claim or demand that a person may bring or make against the Regulator, the PBS Review Panel or other person, arising out of:
- a. the performance or non-performance by the Assessor of any obligation under this Agreement;

- b. any negligence or other wrongful act or omission of the Assessor, or any contractor, employee or other person for whose acts or omissions the Assessor is liable;
- c. any negligence or other wrongful act or omission of the Assessor's visitors, invitees or licensees;
- d. death, injury, loss or damage to the Assessor or the Assessor's employees, contractors, agents, visitors, invitees or licensees; or
- e. any breach of this Agreement by the Assessor.

Compliance with laws

- 29.** In performing their obligations under this Agreement, the Assessor must comply with the provisions of all Acts of the Parliament of the Commonwealth and of the participating jurisdictions for the Heavy Vehicle National Law, and with the requirements of all ordinances, regulations, by-laws, local laws, orders and proclamations made or issued under those laws, and with the lawful directions of public authorities.

GENERAL PROVISIONS

Period for which this Agreement is in force

- 30.** This Agreement:
- a. comes into effect on the date on which the Assessor is appointed; and
 - b. ends at 11.59 pm on the 5th anniversary of the day on which the Assessor appointment started.

Dispute resolution

- 31.** If a dispute arises in relation to this Agreement, either party may give the other a notice requiring that an attempt be made to resolve the dispute with the help of a mediator to be appointed jointly by the parties. If the parties do not agree on a mediator within 5 business days after the notice is given, the mediator is to be a mediator nominated by the Chief Executive Officer of the Institution of Engineers, Australia. Each of the parties must co-operate fully with the mediator. Each of the parties must pay an equal share of the mediator's fees and expenses.

Notices

- 32.** A notice, consent, information or request that must or may be given or made to a party under this Agreement is only given or made if it is:
- a. delivered or posted to that party at the address stated in the Schedule 3;
 - b. faxed to that party at the fax number stated in the Schedule 3; or
 - c. e-mailed to that party at the e-mail address stated in the Schedule 3.

33. However, if a party gives another party 3 business days written notice of a change of that, or a subsequent, address or number, a notice, consent, information or request is only given or made by that other party if it is sent to the latest notified address or number.

Time notice etc. is given

34. A notice, consent, information or request is to be treated as given or made at the following time:
- a. if it is delivered, when it is left at the relevant address;
 - b. if it is sent by post, 6 business days after it is posted;
 - c. if it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.
 - d. If it is sent by email, as soon as its receipt is acknowledged by the party to whom it is sent.
35. If a notice, consent, information or request is delivered, or an error free transmission report in relation to it is received, after the normal business hours of the party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

Waivers

36. The fact that the Regulator fails to do, or delays in doing, something the Regulator is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or breach of obligation by, the Assessor. A waiver by the Regulator is only effective if it is in writing.
37. A written waiver by the Regulator is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach, or as an implied waiver of that obligation or breach in relation to any other occasion.

No agency etc.

38. This Agreement does not create a partnership, agency, fiduciary or other relationship between the parties, other than the relationship expressly created by the Agreement. The Regulator is not liable for any act or omission of the Assessor.
39. Except to the extent expressly authorised by the Regulator, the Assessor has no authority to incur any obligation on behalf of the Regulator, or to make any representation on behalf of the Regulator.

Severability

40. If a clause or part of a clause can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.



Effect of legislative change

- 41.** If any legislative provision referred to in this Agreement is amended, re-enacted or replaced, the new provision is to be treated as being substituted in this document for the original one. The substitution takes place from the time the new provision takes effect.

Governing law

- 42.** This Agreement is governed by the law of Queensland.



Signatories to the agreement

Signed for and on behalf of the National Heavy Vehicle Regulator by the Chief Executive Officer **Witness**

.....
Signature

.....
Signature

.....
Full Name

.....
Full Name

Signed by the Assessor **Witness**

.....
Signature of Assessor

.....
Signature of Witness

.....
Full Name

.....
Full Name of Witness

Signed for and on behalf of the Assessor's employer by its duly authorised officer **Witness**

.....
Signature of Officer

.....
Signature of witness

.....
Full Name of officer

.....
Full Name of witness

.....
Position of Officer

Name of person or organisation who is responsible for insurance in accordance with clauses 24 and 25.

.....
Full Name of Responsible Party

SCHEDULE 1

The Assessor is authorised to undertake assessments of the following Standards (indicated by a ✓)		
Safety Standard	Assessment by numerical modelling	Assessment by testing
C1: Startability		
C2: Gradeability		
C3: Acceleration Capability		
<i>C4: Overtaking Provision</i>		
C5: Tracking Ability on a Straight Path		
<i>C6: Ride Quality</i>		
C7: Low-Speed Swept Path		
C8: Frontal Swing		
C9: Tail Swing		
C10: Steer-Tyre Friction Demand		
C11: Static Rollover Threshold		
C12: Rearward Amplification		
C13: High-Speed Transient Offtracking		
C14: Yaw Damping Coefficient		
<i>C15: Handling Quality</i>		
C16: Directional Stability Under Braking		
Infrastructure Standards	Assessment by calculation	
A1: Pavement Vertical Loading		
A2: Pavement Horizontal Loading		
A3: Tyre Contact Pressure Distribution		
A4: Bridge Loading		

Note: C4 has been moved to the Network Classification Guidelines and C6 and C15 do not yet exist.

SCHEDULE 2

Special Conditions	
<p>Is the Assessor a primary assessor and authorised to sign a certificate for all of the Standards in accordance with Appendix G of the Assessment Rules?</p> <p>Yes No</p> <p>Other special conditions:</p>	
Other provisions	
Commencement date:	
TBA	
Insurance requirements: minimum cover per claim	
Professional Indemnity:	Public Liability:
\$5 Million	\$10 Million
The latest copy of the insurance policies must be provided to the NHVR at each insurance renewal to confirm currency of the policies. The Insurer and policies must be acceptable to the NHVR. Email copies of the policies to pbs@nhvr.gov.au.	
Assessor details	
Assessor Accreditation No:	
Address for delivery of notices:	
Assessor:	
Employer:	
Email:	
Phone:	Fax:

SCHEDULE 3

Chief Engineer NHVR contact details	
Contact: (Chief Engineer)	
Email:	
Phone:	Fax:
Address for delivery of notices: Productivity and Safety, National Heavy Vehicle Regulator, Level 3, 76 Skyring Terrace, Newstead Qld 4006 PO Box 492 Fortitude Valley QLD 4006	

Performance Based Standards Scheme

Assessor QMS Standards

1. Introduction

These are the Assessor QMS Standards, developed as part of the Assessor Accreditation Rules. Assessors are appointed by the Regulator to assess, for the purposes of the PBS Scheme, whether a vehicle or vehicle design meets, or is likely to meet, the Safety Standards of the PBS Scheme.

2. Purpose

The purpose of these Standards is to detail minimum requirements for the Assessor QMS and to assist in ensuring that assessments undertaken by Assessors meet the high standards necessary for non-governmental assessments as to whether the safety standards of the PBS Scheme will be, or are, met.

3. Definitions

Term	Definition
Assessor Accreditation Rule	the Assessor Accreditation Rules as defined by the Heavy Vehicle (General) National Regulation as amended from time to time.
Assessment Rules	The Standards and Vehicle Assessment Rules as defined by the <i>Heavy Vehicle (General) National Regulation</i> as amended from time to time.
Assessor	means a PBS assessor as defined by the <i>Heavy Vehicle (General) National Regulation</i> , as amended from time to time.
Assessor QMS	the quality management system of the Assessor that is approved by the Regulator
Assessor quality manual	the documented manual for the Assessor QMS that is approved by the Regulator
Internal Audit	means a planned and documented activity to verify by investigation of past performance that the elements of the Assessor QMS have been effectively implemented
PBS Scheme	the Performance Based Standards Scheme established under Part 1.4 of the Heavy Vehicle National Law Act 2012 (Qld) as amended from time to time.

4. Application

In conducting assessments for the purposes of the PBS Scheme, an Assessor must have in place an Assessor QMS that meets, as a minimum, the following standards:

- Standard 1.0 (responsibilities); and
- Standard 2.0 (records and documentation); and
- Standard 3.0 (internal audit); and
- Standard 4.0 (training and education).

If an Assessor conducts assessments by testing, the Assessor QMS of the Assessor must also meet, as a minimum, the following standard:

- Standard 5.0 (calibration of measuring equipment used in testing).

5. Assessor Quality Manual

Assessor QMS is to be documented in an Assessor Quality Manual.

6. Responsibilities

6.1. Standard

The responsibilities and duties of all positions involved in the management and operations of the organisation undertaking the assessments, or the section of the organisation responsible for the assessments if there is more than one section to the organisation undertaking assessments are to be clearly defined and documented.

6.2. Description

Responsibility for each assessment is to rest with appropriate people within the organisation.

7. Records and Documentation

7.1. Standard

Documented evidence is to be maintained relating to the assessment and certification of vehicles and vehicle designs.

7.2. Description

All standards and the Assessment Rules are to be kept up to date and available to all relevant personnel and all required records are to be kept and are to be available to auditors.

7.3. Criteria

The Assessor QMS is to ensure that:

- Records are kept either in hard copy or in electronic files with hard copy details of the contents of electronic files.
- There is a procedure to ensure that all standards (whether Australian, international, SAE or similar) and like documents relevant to an assessment, together with the Assessment Rules, are up to date and that obsolete copies are clearly marked as such.
- Details of an assessment are kept as required by the Assessment Rules, including a copy of any certification provided.
- All documents relating to an assessment are retained for a period of 5 years.
- In relation to assessments by numerical modelling, records are kept of the origin of any parameters provided by others and all major assumptions that are not required to be documented by the Assessment Rules.
- Changes to procedures are recorded and original documents are kept for external audit purposes.

8. Internal audit

8.1. Standard

The Assessor QMS must be subject to regular internal audit to verify that all records of assessment comply with the System's policies and procedures.

8.2. Description

An internal audit of the Assessor QMS is a regular check of the System against the standards to see that it complies. An effective internal audit will pick up problem areas in the basic requirements, show failures to comply with procedures, and identify non-compliances that should be fixed as soon as possible.

8.3. Criteria

The Assessor needs to be able to demonstrate that the Assessor QMS ensures that regular (at least annual) internal audits of all records of assessment are conducted. The System should comprise, as a minimum, all of the following:

- Procedures that define how the internal audit is to be undertaken.
- A regular internal audit schedule.
- Processes to ensure that internal audits are undertaken by people who are independent of the activity being reviewed, where practical.
- Processes to record all non-conformances and action taken to correct them.
- Processes to ensure that changes to documents and procedures are recorded and that the original documents and procedures are kept for external audit purposes.

9. Training and education

9.1. Standard

The people who hold positions of responsibility under the Assessor QMS are to be able to demonstrate competence in relation to, and are to be trained in and to be familiar with, any specific policy, procedure or instruction that they are responsible for.

9.2. Criteria

Competence, training and education are essential to ensure all employees, including managers, understand the Assessor QMS and their particular responsibilities relating to assessment by testing and have the appropriate knowledge and skills to carry out the tasks given to them.

10. Calibration of equipment used in testing

10.1. Standard

Each item of test equipment used to measure or record results must be capable of accurate measurement or recording.

10.2. Description

Equipment that has not been regularly serviced and re-calibrated is likely to provide inaccurate records of test manoeuvres. Therefore, equipment that is owned must be regularly calibrated (if required by the equipment manufacturer) and equipment that is hired must be checked to ensure that it has been recently calibrated.

10.3. Criteria

The Assessor would need to demonstrate that the Assessor QMS ensures the accuracy of all test equipment. The System should comprise, as a minimum:

- procedures to ensure the calibration of each item of test and measuring equipment that requires regular calibration, and to ensure that records are kept of each calibration; and
- procedures to ensure that each item of test and measuring equipment that is hired is properly calibrated.

10.4. Criteria

The Assessor would need to demonstrate that the Assessor QMS ensures the accuracy of all test equipment. The System should comprise, as a minimum:

- procedures to ensure the calibration of each item of test and measuring equipment that requires regular calibration, and to ensure that records are kept of each calibration; and
- procedures to ensure that each item of test and measuring equipment that is hired is properly calibrated.