

Privacy

Purpose

This Policy provides information about:

- the kinds of personal information that the NHVR collects and holds
- how the NHVR collects and holds personal information
- the purposes for which the NHVR collects, holds, uses and discloses personal information
- how an individual may access personal information about the individual that is held by the NHVR and seek the correction of the information
- how an individual may complain about a breach of the Queensland Privacy Principles, or any Queensland Privacy Principles code that binds the NHVR, and how the NHVR will deal with the complaint
- whether the NHVR is likely to disclose personal information to entities outside Australia and, if so, the countries in which the recipients are likely to be located.

Scope

The National Heavy Vehicle Regulator (**NHVR**) is created by the *Heavy Vehicle National Law* (**the National Law** or **HVNL**).

The National Law establishes a scheme for facilitating and regulating the use of heavy vehicles on roads. It operates across multiple jurisdictions, being Queensland, the ACT, New South Wales, South Australia, Tasmania, and Victoria (**the HVNL participating jurisdictions**). The National Law does not apply in Western Australia or the Northern Territory, and there is no Commonwealth Act implementing it.

The National Law extends the operation of the *Information Privacy Act 2009* (Qld) (**IP Act**) to the NHVR in the HVNL participating jurisdictions, with the ACT, New South Wales, South Australia, Tasmania, and Victoria excluding jurisdiction-specific privacy legislation (e.g., the *Privacy and Personal Information Protection Act 1998* (NSW)) to the National Law and instruments made under it.

The NHVR is bound by the Queensland Privacy Principles (**QPPs**), which regulates how the NHVR collects, secures, and uses and discloses personal information, as well as

how individuals may access and correct personal information held about them.

‘Personal information’ is defined in the IP Act as follows:

Personal information means information or an opinion about an identified individual or an individual who is reasonably identifiable from the information or opinion-

- (a) *whether the information or opinion is true or not; and*
- (b) *whether the information or opinion is recorded in a material form or not.*

‘Sensitive information’ is a type of personal information, which the IP Act affords more extensive protection than other personal information.

The IP Act defines ‘sensitive information’ as follows:

... for an individual, means the following –

- (a) *information or an opinion, that is also personal information, about the individual’s –*
 - (i) *racial or ethnic origin; or*
 - (ii) *political opinions; or*
 - (iii) *membership of a political association; or*
 - (iv) *religious beliefs or affiliations; or*
 - (v) *philosophical beliefs; or*
 - (vi) *membership of a professional or trade association; or*
 - (vii) *membership of a trade union; or*
 - (viii) *sexual orientation or practices; or*
 - (ix) *criminal record;*
- (b) *health information about the individual;*
- (c) *genetic information about the individual that is not otherwise health information;*
- (d) *biometric information that is to be used for the purpose of automated biometric verification or biometric identification; or*
- (e) *biometric templates.*

Part 13.4 of the National Law includes sections 728 and 729, which are penalty provisions that a person exercising functions under the National Law must not disclose ‘protected information’ to another person or use protected information other than for an authorised use.

Under the National Law, ‘protected information’ includes information obtained while administering the National Law or because of an opportunity provided by involvement in administering it that identifies a person.

Kinds of Personal Information the NHVR Collects and Holds

The types of personal information that the NHVR collects will depend on the nature of your dealings with the NHVR and may include:

1. your name, address, gender, age, date of birth, telephone number, and email address (e.g., because of a road-side interaction with our safety and compliance officers, application made to us via NHVR GO, etc.)
2. a photograph of you or video or audio footage of you (e.g., via use of body worn cameras by our safety and compliance officers, roadside cameras, and CCTV cameras at NHVR sites)
3. third party employee or contractor details (e.g., names of persons provided by an operator holding basic fatigue management accreditation)
4. registration and licence information
5. intercept and sighting information and observations
6. your criminal record, including charges and convictions
7. information about offences or potential offences by persons, under the National Law and other laws
8. financial or banking information (e.g., as may be relevant for applications to the NHVR via NHVR GO, investigation or prosecution of offences under the National Law, etc.)
9. some health information (e.g., relating to fatigue, fitness to operate heavy vehicles, safe systems of work, and the fitness or safety of our employees to work)
10. information about you or your employment because of industry consultation, engagement, research, education campaigns, educational engagement with heavy vehicle operators, or surveys
11. information arising from the monitoring of compliance with, and enforcement of, the National Law, including the investigation of offences or potential offences
12. the use of data analytics, where de-identified data may not be suitable or where a comparison of data sets may create information that may identify a person and that is about a person
13. employment records of NHVR staff and contractors (e.g., wage information, bank details, tax file numbers, health/fitness to work information, etc.).

How we Collect and Hold Personal Information

The NHVR collects personal information directly from you, your authorised representatives, and third parties (where authorised by law).

The NHVR only collects personal information if it is reasonably necessary for a function or activity under law, e.g., the National Law or another law under which the NHVR undertakes or performs a function (outlined below).

Furthermore, the NHVR only collects sensitive information about you if:

- you consent to the collection of the information and the information is reasonably necessary for, or directly related to, a function or activity of the NHVR
- or
- the collection of the information is required or authorised under an Australian law or a court or tribunal order
- or
- a permitted ‘general situation’ under Schedule 4, Part 1 of the IP Act exists in relation to the collection of the information by the NHVR
- or
- in the NHVR exercising its remit as a law enforcement agency, the NHVR reasonably believes that the collection of the information is reasonably necessary for, or directly related to, a function or activity of the NHVR.

The NHVR may request personal information directly from you in various instances, while performing functions under the National Law or another law, for example:

- on the roadside, via our safety and compliance officers
- via our investigators or other officers who investigate potential offences under the National Law
- via our contact centre, when you call the NHVR
- when you register with NHVR Go
- when you make application to the NHVR for an authority or decision under the National Law.

The NHVR may obtain personal information about you from third parties. For example:

- licence and registration information, such as that to be kept in the database required by s. 686A of the National Law
- while performing the NHVR's compliance, investigation, or enforcement functions
- when considering applications or administering the requirements of Chapter 1, Part 1.4 of the National Law or Chapter 4, 6, and 8 of the National Law
- in the administration of any assurance regimes under the National Law, e.g., PBS certifiers and assessors and NHVAS auditors
- when engaging or liaising with road managers, transport authorities, or police agencies in relation to a function under law
- when recruiting employees or contracting for services.

In collecting personal information from third parties, the NHVR only does so where:

- you have consented for that to occur
 - the NHVR is authorised or required by law
- or
- it is unreasonable or impracticable to obtain your consent to collect your personal information. For example, if we are investigating a potential offence under the National Law or if your personal information is included in assurance material provided to us, such as part of an NHVAS audit undertaken by an NHVAS auditor.

Where the NHVR receives personal information that it has not solicited, the NHVR will, within a reasonable period after receiving the information, decide whether the NHVR could have collected the information. If not, unless prohibited by law (e.g., due to requirements to keep public records), the information may be destroyed.

Anonymity and Pseudonymity

Under the QPPs, the NHVR is required to allow persons the option of not identifying themselves or using a pseudonym in their dealings with the NHVR in relation to particular matter.

However, that requirement does not apply if, in relation to the matter:

- the NHVR is required or authorised under an Australian law, or a court or tribunal order, to deal with persons who have identified themselves

or

- it is impracticable for the NHVR to deal with individuals who have not identified themselves or who have used a pseudonym.

Where it reasonably can in compliance with the QPPs, the NHVR provides the option of a person not identifying themselves or using a pseudonym.

However, there are many instances where that is simply not possible, for instance in our roadside interactions via our safety and compliance officers, when you make any application to the NHVR under the National Law, or you register for NHVR GO.

Consequences if Personal Information is not Provided

There may be some consequence if you elect not to provide the NHVR with your identity or you use a pseudonym. For instance:

- the NHVR may not be able to process or determine an application under the HVNL
- the NHVR may not be able to respond to a complaint or investigate an offence or alleged offence under the HVNL
- the NHVR may have exercised power under Part 9.4, Division 4 of the National Law, which compels provision of information – which may include your name – with non-compliance potentially giving rise to criminal penalty.

The NHVR also lists consequences of not providing personal information when it is sought in its collection notices.

Verifying Your Identity

The NHVR may request verification of your identity when using services such as NHVR Go. The NHVR uses Australia Post Identity Services for this process. Please refer to the ID verification collection notice.

Purposes for Collecting, Holding, and Using Personal Information

The NHVR only collects, holds, and uses personal information for a lawful purpose directly related to a function or activity of the NHVR, whether under the National Law or another Act.

Furthermore, the NHVR uses personal information for the purposes for which it was collected, unless authorised or required for another use by law, but will

also use your contact details to send you surveys or bulletins.

For example, under the National Law, the NHVR may collect, hold, and/or use personal information to:

- provide the necessary administrative services for the operation of the National Law, including collecting fees, charges and other amounts payable under the National Law
- monitor compliance with the National Law and to investigate contraventions or possible contraventions of provisions of this Law, including offences against the National Law
- bring and conduct proceedings in relation to contraventions or possible contraventions of provisions of the National Law, including offences against the National Law, and to bring and conduct, or conduct and defend, appeals from decisions
- conduct reviews of decisions made under the National Law by the NHVR or authorised officers, to implement and manage an audit program for heavy vehicle accreditations granted under the National Law, to facilitate access to heavy vehicles under Chapter 4 of the National Law, and to undertake the duties in relation to the regulation of fatigue under Chapter 6 of the National Law
- identify and promote best practice methods for complying with the National Law, for managing risks to public safety arising from the use of heavy vehicles on roads, and for the productive and efficient road transport of goods or passengers by heavy vehicles
- encourage and promote safe and productive business practices of persons involved in the road transport of goods or passengers by heavy vehicles that do not compromise the object of the National Law
- provide advice, information and education to persons with duties or obligations under the National Law about compliance with the duties or obligations
- work collaboratively with other law enforcement agencies to ensure a nationally consistent approach for enforcing contraventions of laws involving heavy vehicles.

The NHVR uses data analytics where de-identified data may not be suitable or where a comparison of data sets may create information that may identify a person or be about a person. Such information is then used in the performance of the abovementioned functions, to monitor compliance with the National Law, and to investigate contraventions or possible contraventions of

provisions of this Law, including offences against the National Law.

Additionally, the NHVR's safety and compliance officers may collect and use personal information in carrying out the following functions under the National Law, or related or similar functions as authorised by another law, being to:

- monitor, investigate and enforce compliance with the National Law or another law
- monitor or investigate whether an occasion has arisen for the exercise of powers under the National Law
- facilitate the exercise of powers under the National Law.

A police officer who is also an 'authorised officer' under the National Law may exercise the various powers conferred on the officer by the National Law and under law enforcement legislation.

Disclosing Personal Information

The NHVR will not share personal information about you with third parties including other government agencies, organisations or anyone else unless one of the following applies:

- it is an entity for a use identified in section 727 of the HVNL
or
- you have consented to its disclosure
or
- you would reasonably expect information of that kind is usually passed to those individuals, bodies or agencies
or
- it is reasonably necessary for enforcement related activities conducted by, or on behalf of, an enforcement body (e.g. police). An enforcement agency may disclose information we disclose to it to another enforcement agency
or
- it is reasonably necessary to prevent a serious threat to life, health or welfare of an individual, or to public health, safety or welfare
- it is for research or survey purposes
or
- it is otherwise required or authorised by law.

Storage and Security

The NHVR takes steps to protect the security of the personal information it holds from both internal and external threats by implementing the appropriate advice of the Australian Signals Directorate's Information Security Manual and the Australian Government's Protective Security Policy Framework.

Additionally, the NHVR implements controls aligned to the ISO27001, the International Standard for Information Security.

The NHVR stores personal information in electronic systems, including those provided by contracted cloud service providers such as Amazon Web Services and Microsoft, as well as paper-based records.

The NHVR takes steps to protect the personal information it holds against loss, unauthorised access, use, modification or disclosure, and against other misuse. These steps include password protection and access privileges for accessing our IT systems, securing paper files in locked cabinets, and physical access restrictions.

If a data breach occurs and personal information that the NHVR holds is subject to unauthorised loss, use or disclosure, the NHVR will respond in accordance with the IP Act. Please see the NHVR's *Data Breach Policy*, which is published on the NHVR's website.

The NHVR destroys records, including records with personal information, in accordance with the requirements of the *Public Records Act 2023 (Qld)*.

Quality of Personal Information

The NHVR takes reasonable steps to ensure that the personal information we hold is accurate, up to date, relevant and complete, including when it is used or disclosed.

Online Privacy

The NHVR is committed to protecting user privacy.

The NHVR understands and appreciate that visitors and users of this website are concerned about their privacy and the confidentiality and security of information they provide to the NHVR.

When you visit our website, our server makes a record known as a cookie of your visit and logs the following information for statistical purposes only:

- the user's server address

- the user's top level domain name (for example .com. .gov .au, etc)
- the date and time you visited the site
- the pages accessed and documents downloaded
- the previous site visit
- the type of browser you use.

Cookies used on this website are non-harmful and do not attempt to identify individual users. No attempt will be made to identify users or their browsing activities except in the unlikely event of an investigation, where a law enforcement agency may request inspection of the activity logs through appropriate legal processes.

Electronic Mail Correspondence

Electronic mail correspondence sent via our website will be treated as a public record and will be retained as required by the *Public Records Act 2023 (Qld)*.

Unless specified in a collection statement, your name and address details will not be added to a mailing list, and nor will the NHVR disclose these details to third parties except in the circumstances described above.

Electronic mail messages may be monitored by our support staff for system troubleshooting and maintenance purposes.

Any illegal activities suggested in the content of either feedback or electronic mail will be forwarded to a law enforcement agency for investigation.

Personal Information Overseas

The NHVR will not disclose your personal information to an overseas body or recipient, unless with your express or implied consent, or unless otherwise authorised by the IP Act.

Accessing Your Personal Information

You may request access to your personal information that the NHVR holds. You may also ask the NHVR to correct your personal information if you believe it is inaccurate, incomplete, out of date or misleading.

If you wish to exercise these rights, please forward your request by email to:

- privacyRTI@nhvr.gov.au
or
- Privacy Officer
NHVR
PO Box 492

Fortitude Valley Qld 4006.

To protect your privacy and the privacy of others, the NHVR will need you to provide certified evidence of your identity before it can grant you access to information about you or amend your personal information.

Privacy Complaint

If you believe the NHVR has breached the QPPs or a QPP code that applies to the NHVR you may lodge a complaint. You will need to provide:

- details of your complaint in writing
- a postal or email address for receipt of correspondence
- certified proof of your identification.

Privacy complaints need to be marked *private and confidential* and forwarded to:

- privacyRTI@nhvr.gov.au

or mailed to:

- Privacy Officer
NHVR

PO Box 492

Fortitude Valley Qld 4006.

Office of the Information Commissioner

If you believe the NHVR has not addressed your concern in a satisfactory manner, you may contact the Office of the Information Commissioner Queensland:

Attention: Privacy Team

Office of the Information Commissioner

PO Box 10143

Adelaide Street

BRISBANE QLD 4001

Email: administration@oic.qld.gov.au.