

PART 2

STANDING COMMITTEE ON RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE

Inquiry into aspects of road safety – public hearing in Canberra on 15 February 2017

Additional questions on notice – RMS

In relation to the incident on the M5 in Sydney in February 2016:

1. At what point were RMS officials called in to assist?

The inspectors were called in to attend at 10:14 am.

2. When was RMS notified about this situation?

Roads and Maritime Enforcement Operations Inspectors were advised at about 10:10am by the Transport Management Centre.

3. If reversing the truck is one of 15 criteria that are mandatory under the Heavy Vehicle Competency Based Assessment (HVCBA) to obtain a heavy rigid licence, why was the driver allowed to continue to drive the truck after this incident?

The NSW Police Force was responsible for the driver and the scene. In order to prevent the driver from leaving, Police would have needed a lawful power to detain the driver, and would have needed to demonstrate that use of the power was justifiable and necessary.

Roads and Maritime inspectors do not have the authority to challenge a driver licence in such circumstances or to prevent a licensed driver from continuing to drive. Once a person obtains a driver licence, the licence is – on its face – evidence that they meet the competencies required to hold it. If later conduct leaves some doubt that the person is competent or fit and proper to hold the licence, then the NSW law provides that Roads and Maritime may administratively deal with a NSW licence holder by requiring the driver to submit to further testing. This would normally be done on recommendation by Police.

There is no facility in law to immediately suspend a driver licence – even in the circumstances on this occasion – based on the subjective opinion of a witness as to a person's driving ability.

In this case, the matter was further complicated by the driver holding a Queensland licence, a licence over which NSW has no jurisdiction other than to make a decision to recognise the licence or not. A decision to suspend recognition was made in this case.

4. When asked at the public hearing on 15 February 2017 if you thought that there was an issue with the driver's competency, your response was that: "They were certainly able to drive forward". Does this not contradict the very criteria drivers have to meet under the HVCBA?

Under Heavy Vehicle Competency Based Assessment (HVCBA) criteria, applicants for an MC licence must be assessed in a B-Double configuration with a minimum length of 22 metres. MC licence applicants must demonstrate competence in reversing a B-Double vehicle in a straight line for a minimum of 70 metres.

Based on the driver's inability to reverse the vehicle at the scene, Roads and Maritime carried out an investigation and confirmed that training and assessment may not have been conducted in accordance with requirements.

5. **And if the drivers, as you said, did not complete the reversing element of the training, and if an RMS officer had to reverse the truck for them, why were they allowed to continue driving?**

The vehicle was not reversed by Roads and Maritime inspectors, they were not on the scene at that point in time. The Transport Management Centre's Traffic Emergency Patrol staff reversed the vehicle. NSW Police was responsible for the driver and the scene.

Specific training and assessment requirements are not addressed during compliance operations. These deficiencies would be more likely to be identified as part of any subsequent investigation.

6. **Who was ultimately responsible for letting the drivers leave the scene after RMS officers had assisted them in reversing and/or uncoupling the vehicle?**

As in the previous question, the vehicle was not reversed by Roads and Maritime inspectors. The Transport Management Centre's Traffic Emergency Patrol staff reversed the vehicle. The NSW Police Force was responsible for the driver and the scene.

7. **Why don't RMS officers have the authority to cancel licences, or render the capability of a driver as incompetent at the time of an incident such as this?**
8. **Does RMS believe that your inspectors should have the power to revoke licences on the spot if they believe the holder of that licence is clearly incompetent?**

Combined answer 7 & 8.

The law doesn't allow RMS to cancel licences or challenge driver competency at the roadside or 'on-the-spot'. Police may suspend (but not cancel) licences on the spot, but only for offences such as serious drink driving or high level speeding.

Serious consideration and consultation would need to be carried out to develop a policy on assessment and lawful on-the-spot revoking of a driver licence. An assessment that a person is incompetent to hold a driver licence may not feasibly be able to be made on the roadside, and may require further assessment and investigation at safer location. These potential assessments would be best made by the NSW Police Force, who are responsible for enforcing the road rules in NSW and are trained and equipped to deal with these types of situations which could become volatile.

9. **On 15 February 2017, you stated that "Had the driver not had a current licence or an appropriate licence then the vehicle would not have moved forward". If RMS was called in to assist these drivers because they could not reverse or uncouple the heavy vehicle they were driving, wouldn't that say to you, that they should never have been given that licence in the first place, and that they should not have been allowed to continue driving that day?**

Roads and Maritime inspectors were not involved in reversing the combination or observing or instructing the driver to uncouple the trailer. Inspectors were on site to measure the vehicle and obtain evidence for possible Chain of responsibility enquiries. The NSW Police Force was in control of the driver and site.

Roads and Maritime acknowledges that if the driver was unable to complete reversing and un-coupling manoeuvres, it could be concluded that training and assessment may not have been conducted in accordance with requirements. However, to determine if a licence should have been issued would require a full investigation, and such a determination could not feasibly be made at the time of intercept.

In regard to allowing the driver to continue driving, please refer to the answer for Questions 7 & 8.

10. What was discussed between the police who attended and the RMS inspector who attended the scene?

The following details were discussed between Roads and Maritime inspectors and NSW Police:

- the height of the vehicle,
- that the vehicle had to be turned around because it was too high to travel through the tunnel,
- that both drivers were not capable to reverse the vehicle after attempting to do so several times,
- that both drivers were not capable of splitting the trailers, and
- the question of how the licence was obtained by the drivers.

11. Did the police ask the RMS inspector any questions about the competency of the driver?

Yes, NSW Police asked Roads and Maritime how the drivers got a licence if they couldn't reverse. As the driver was licenced in Queensland, Roads and Maritime inspectors were not in a position to comment on the spot.

12. Did the police ask the RMS inspector any questions about the licence that the driver held?

Yes, NSW Police asked to see the driver's licence. The driver held an appropriate class of licence issued in Queensland.

13. When the driver was questioned by the police, was the RMS officer involved in this process?

No, Roads and Maritime inspectors were not involved in the Police questioning.

14. On what basis did the police let the driver leave the site of the incident and continue to drive?

Not known. This is a matter for the NSW Police.

15. Was the incident on the M5 in Sydney in February 2016 where RMS officials had to reverse a B-double and/or uncouple the trailer because the foreign workers driving the truck were unable to do so brought to the Minister's attention by RMS? If not, why not?

Roads and Maritime Services advised the Minister's office of the incident on the M5 when it occurred.

16. Does RMS alert the Minister when incidents like this occur? If not, why not?

It is normal procedure for Roads and Maritime to inform the Minister's Office when an incident occurs on the NSW road network that impacts traffic. These include incidents resulting in multiple lane closures or extended road closures, fatalities or multiple injuries, and incidents involving emergency services.

17. Did the Minister's office make contact with RMS at the time of this incident or at a time thereafter?

During the incident, the Minister's office was in frequent, regular discussion with Roads and Maritime for updates.

18. Does the Minister's office make contact with RMS when similar incidents like the one on the M5 occur?

Similar incidents are handled as described in Questions 15 to 17.

19. Do you believe that there are flaws in the current training and assessment process for drivers wanting to obtain a heavy vehicle drivers licence?

Heavy Vehicle Competency Based Assessment (HVCBA) is a scheme under which heavy vehicle driver licence applicants are assessed against clearly defined criteria relating specifically to heavy vehicle driving. All criteria must be successfully completed, and so the scheme provides a much more thorough and demanding assessment than a standard driving test. Roads and Maritime continually reviews and assesses the scheme and implements required changes to ensure licence applicants are assessed in accordance with requirements.

After a public inquiry was held in October 2013 into the corrupt conduct of an assessor, Roads and Maritime implemented a number of changes to the HVCBA. Changes to the scheme included mandatory in-cabin video and GPS technology to record competency assessments, as well as separating training and assessment to ensure the assessor is independent of the person delivering the training.

Further review of the Competency Based Assessment scheme for heavy vehicles is already underway at Roads and Maritime, with particular focus on driver licence upgrade and the existing arrangements with training providers.

Roads and Maritime is committed to working in partnership with scheme participants to mitigate the risk of misconduct by assessors, and to ensure all assessors are properly qualified to participate in the scheme.

20. Are you aware if the Federal government is doing anything towards delivering a nationally harmonised licencing system for drivers wanting to obtain a heavy vehicle licence?

Roads and Maritime is not aware of any current Federal Government initiative that may be working toward a national system for issuing a heavy vehicle licence.

The intention of the HVCBA was that all states and territories would be involved. To date, only NSW and Victoria participate in the scheme under mutual recognition.