

1993

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

ROAD TRANSPORT REFORM (VEHICLES AND TRAFFIC)  
BILL 1993

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Transport and  
Communications, Senator the Honourable Bob Collins)





## **ROAD TRANSPORT REFORM (VEHICLES AND TRAFFIC) BILL 1993**

### **GENERAL OUTLINE**

The purpose of the Road Transport Reform (Vehicles and Traffic) Bill 1993 is to enable regulations to be made about specific aspects of motor vehicle and trailer operations and rules of the road for all road users.

The Bill will apply only in the Australian Capital Territory and the Jervis Bay Territory but is being introduced as part of a legislative scheme for uniform road transport legislation throughout Australia. The scheme is set out in the National Road Transport Commission Act 1991 and the Inter-Governmental Agreements scheduled to that Act.

In accordance with the scheme, the Bill has been developed by the National Road Transport Commission in consultation with representatives of industry and of State, Territory and local governments. The Bill has also been considered by the Ministerial Council for Road Transport and approved by it.

The Agreements require the State and Northern Territory Governments to enact legislation to adopt laws made by the Commonwealth under the scheme. The Bill has therefore been drafted in such a way as to identify separately the provisions that are intended to be adopted, together with the regulations, so as to provide a uniform national body of law on the subjects covered by the Bill.

The Bill does not deal with the full range of matters envisaged in the Agreements, but with matters such as motor vehicle and trailer standards, working hours for drivers, traffic regulation and vehicle operations. It is considered that uniformity in these matters can be achieved in the short term and the ability to make the necessary regulations should be provided now while other more complex matters are being negotiated.

It is intended that other Bills will be brought forward progressively until the complete range of matters envisaged by the Agreements is covered by uniform or consistent laws throughout Australia.

This modular approach will enable the benefits of uniformity to be provided to the community at an early date in those areas where the greatest efficiency gains are to be had.

### **FINANCIAL IMPACT STATEMENT**

There will be no significant costs, revenues or saving to the Commonwealth arising from the Bill.

## NOTES ON CLAUSES

### Clause 1 - Short title

This clause provides for the proposed Act to be cited as the *Road Transport Reform (Vehicles and Traffic) Act 1993*.

### Clause 2 - Purpose

This clause declares that the proposed Act forms part of the scheme of uniform or consistent national road transport legislation. It mentions the objectives of the scheme to improve the safety and efficiency and reduce the costs of administration of transport on roads and related areas. It also mentions that, whilst the laws are to apply in the Australian Capital Territory and the Jervis Bay Territory, they are intended to be adopted throughout Australia.

### Clause 3 - Binding the Crown

This clause declares that the proposed Act and the Regulations bind the Crown in all its capacities. It also enables the State and Northern Territory adopting laws to bind the Crown in all its capacities including the Crown in right of the Commonwealth.

### Clause 4 - Definitions

This clause defines the terms "motor vehicle", "road" and "trailer" for the purposes of the Act.

### Clause 5 - Act to cease to be in force

This clause provides in effect that if the uniform scheme terminates and the National Road Transport Commission Act ceases to be in force then the proposed Act will also cease. However, to provide continuity in the ACT, if the scheme as a whole does terminate, the regulations will continue in force as if they were laws made by the Legislative Assembly of the Australian Capital Territory and subject to any amendment or repeal by the Legislative Assembly.

### Clause 6 - Relationship between this Act and the Motor Vehicle Standards Act

This clause declares that the *Motor Vehicle Standards Act 1989* will continue to be the sole source of standards for the design and construction of "new vehicles" as defined in that Act. However, the regulations may deal with standards for new vehicles for which no standards exist under the Motor Vehicle Standards Act. If standards are made subsequent to the regulations, the standards prevail.

#### **Clause 7 - Regulations**

This clause provides a general regulation-making power and enables the regulations to commence on a day or days specified by the Commonwealth Minister by gazette notice.

#### **Clause 8 - Scope of regulations dealing with vehicles and traffic**

This clause declares that the regulations may apply to a vehicle, animal or person on a road or in other places that are commonly included within the definition of "road" or equivalent terms used in State and Territory legislation. The clause also makes it clear that the regulations may incorporate national standards in force from time to time under the Motor Vehicle Standards Act 1989.

#### **Clause 9 - Subject matter of regulations dealing with vehicles and traffic**

This clause provides for the making of regulations on a wide range of matters covered in different ways in existing Commonwealth, State and Territory laws, mainly in the form of regulations, dealing with vehicle standards, driver and rider standards, traffic regulation, vehicle operations and fees.

#### **Clause 10 - Exemptions from the regulations**

This clause enables the regulations to provide for the granting of exemptions from provisions of the regulations, either unconditionally or on specified conditions.

#### **Clause 11 - Penalties under the regulations**

This clause enables the regulations to create offences for breaches of the regulations and to prescribe a maximum penalty:

- (a) not exceeding \$2,000 for an individual or \$10,000 for a body corporate; or
- (b) not exceeding \$3,000 for an individual or \$15,000 for a body corporate for an offence relating to overloading.

The higher penalties for overloading are needed as a commercial deterrent. The penalties, whether for overloading or other offences, are intended to apply to each offence, particularly when several offences are committed on a vehicle simultaneously.

**Clause 12 - Provisions of Part 3 to apply**

This clause is inserted for completeness as Part 2 is the main part dealing with the regulations but the provisions of Part 3 are also intended to apply to the regulations.

**Clause 13 - Application of Division 2**

This clause declares that Division 2, which comprises clauses 15 to 19 inclusive, and the regulations as in force from time to time will form part of the law of the Australian Capital Territory and the Jervis Bay Territory as Commonwealth law. When they are adopted by the other jurisdictions, they will apply as State and Northern Territory law in those jurisdictions.

Subclause 13(2) makes it clear that regulations prescribing fees for services apply only in the Australian Capital Territory and the Jervis Bay Territory because the Agreements envisaged that each jurisdiction will determine its own fees for services, having regard to individual cost structures.

**Clause 14 - Application of Commonwealth Acts Interpretation Act**

This clause ensures consistency in the interpretation of the Act and regulations throughout Australia, whether they are in force as Commonwealth law or as State/Northern Territory law. This is achieved by declaring that the Commonwealth Acts Interpretation Act 1901 applies except in relation to the definition of "Government Gazette" and "Minister".

It is envisaged that local Interpretation Acts of the jurisdictions will also apply in the States and Northern Territory to the extent that they deal with matters additional to those dealt with in the Commonwealth Acts Interpretation Act.

**Clause 15 - Application orders and emergency orders**

This clause provides for special suspensions or variations of the regulations or specified parts of the regulations to be made under the application order and emergency order provisions of the Agreements. It also provides for publication of notice of termination of emergency orders.

**Clause 16 - Power to include areas in the scope of regulations dealing with vehicles and traffic**

This clause empowers the Minister of the jurisdiction concerned, by notice in the local Government gazette, to declare that specified regulations apply to specified areas of the jurisdiction open to or used by the public. This provision matches comparable provisions in the existing laws of the States and Territories, for example, to enable parking and traffic laws to be applied in places that are not roads as such but are open to or used by the public.

**Clause 17 - Power to grant exemptions from particular regulations dealing with vehicles and traffic**

This clause enables the State or Territory Minister concerned to grant exemptions, in accordance with the regulations, by notice in writing. Such an exemption applies only in the jurisdiction in which it is made and may be unconditional or subject to specified conditions.

**Clause 18 - Delegation by Minister**

This clause confers a power of delegation on the State and Territory Ministers. It also enables sub-delegations to persons and classes of persons prescribed in the regulations. These powers are considered necessary to enable the new laws to provide administrative arrangements comparable to those currently in operation. For example, presently the Registrar of Motor Vehicles, or equivalent position, has the power to delegate under State and Northern Territory legislation.

**Clause 19 - Other penalties**

This clause provides that Part 3 and the regulations do not affect a law that applies a non-monetary penalty on conviction or that provides for the issue of an infringement notice or other administrative sanction. It is envisaged that penalties such as licence cancellation, demerit points and cancellation or suspension of vehicle registration as well as "on the spot fines" will be applied for the time being to offences created under the proposed Act and regulations in accordance with the existing rules of the States and Territories. Eventually, these other penal measures will be made uniform under the scheme.

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