

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

---

**ROAD TRANSPORT REFORM (HEAVY VEHICLES REGISTRATION) BILL 1996**

---

**EXPLANATORY MEMORANDUM**

(Circulated by authority of the Minister for Transport and Regional  
Development, the Honourable John Sharp MP)



# ROAD TRANSPORT REFORM (HEAVY VEHICLES REGISTRATION) BILL 1996

## OUTLINE

The purpose of the *Road Transport Reform (Heavy Vehicles Registration) Bill 1996* (the Bill) is to establish a framework for a national registration scheme for heavy vehicles throughout Australia. The Bill defines a heavy vehicle as a motor vehicle or trailer with a gross vehicle mass greater than 4.5 tonnes. The scheme will provide uniform arrangements for initial registration, renewal, transfer, suspension and cancellation of registration, and the issue and clearance of vehicle defect notices.

The Bill forms part of a system of nationally consistent road transport laws envisaged by the Inter-governmental Agreements on Road Transport signed by Heads of Government in 1991 (the Heavy Vehicles Agreement) and 1992 (the Light Vehicles Agreement) (the Agreements), which are scheduled to the *National Road Transport Commission Act 1991*. In accordance with the Agreements, it is intended that the Bill shall form the substantive law of the Australian Capital Territory in respect of the registration of heavy vehicles and that the States and the Northern Territory are to adopt the Bill unchanged as the law of their respective jurisdictions. The Bill forms part of an overall regulatory package for the registration of heavy vehicles, of which the regulations to be made under the Bill are to be an integral part.

The Bill contains provisions relating to:

- the appointment of a registration authority in each jurisdiction;
- the functions and powers of the registration authority;
  - the security of personally or commercially sensitive information collected by the registration authority;
  - the delegation of powers by the registration authority;
  - significant offences for the unauthorised use of a heavy vehicle; and
  - the review of decisions of the registration authority.

The Bill has been developed by the National Road Transport Commission in consultation with State and Territory registration authorities, the Commonwealth, the transport industry, and agencies responsible for the administration of third party insurance and stamp duty legislation.

## FINANCIAL IMPACT STATEMENT

The costs of implementing the scheme will fall mainly on registration authorities (\$12.4 million in Net Present Value terms), while recurring benefits will accrue to those same registration authorities (\$10 million), vehicle operators (\$14 million), and enforcement agencies (\$1.5 million). The Light Vehicles Agreement signed by Heads of Government requires the National Road Transport Commission to demonstrate significant net benefits before including light vehicles in the scheme. Due to the high implementation costs

which would be incurred by registration authorities, and the low estimated benefits of only \$3.5 million annually (ie 30 cents per vehicle), the Commission recommended that the legislation not be extended to all vehicles at this time.

## **NOTES ON CLAUSES**

### **Clause 1 - Short title**

This clause provides for the Act to be cited as the *Road Transport Reform (Heavy Vehicles Registration) Act 1996*.

### **Clause 2 - Definitions**

Clause 2 provides for definitions of certain terms used in the Act. The definition of the term “garage address” is included to support the concept in clause 11 that a heavy vehicle must be registered in the jurisdiction in which it is principally based.

A definition of the term “registered operator” makes it clear that the person recorded on the register is the person responsible for a vehicle, but may not be its owner. The definition also supports clause 12, which provides that the register does not provide evidence of title.

Definitions of the terms “road” and “road related area” are included to make it clear as to where the Act and regulations are to apply.

### **Clause 3 - Purpose**

This clause sets out the purpose of the Act which is to make provision for the registration of heavy vehicles and related matters in the Australian Capital Territory and the Jervis Bay Territory. The clause provides that it is intended that the States and the Northern Territory will adopt the substantive provisions of the Act as well as the regulations to be made under the Act. After such adoption, it is intended that the Act will become the primary law of the States and the Northern Territory. The clause also provides that the Australia-wide legislative scheme is intended to improve road safety, transport efficiency and reduce the costs of administering road transport for both vehicle operators and government agencies.

### **Clause 4 - Binding the Crown**

This clause provides that the Crown is bound in all its capacities and that an adopting law of a State or of the Northern Territory may bind the Crown in right of the Commonwealth.

### **Clause 5 - Application of the *Acts Interpretation Act 1901***

This clause sets out how the Commonwealth *Acts Interpretation Act 1901* shall apply to the Act. It further provides that the interpretation legislation of a State or Territory may also apply to the Act to the extent that it is consistent with the Commonwealth *Acts Interpretation Act 1901*.

### **Clause 6 - Status of this Act under Commonwealth and ACT laws**

This clause provides that the Act is to be taken to be a law made by the Legislative Assembly for the Australian Capital Territory under the *Australian Capital Territory (Self-Government) Act 1988*. However, the Legislative Assembly is not empowered to make a law amending or repealing the Act.

#### **Clause 7 - Act to cease to be in force**

This clause provides that the Act ceases to be in force when the Commonwealth *National Road Transport Commission Act 1991* ceases operation. This is consistent with the intent of the Inter-governmental Agreements which established the cooperative arrangements for the development of legislation by the National Road Transport Commission (see Schedules 1 and 2 to the *National Road Transport Commission Act 1991*).

#### **Clause 8 - Minister to appoint a registration authority**

This clause provides that the relevant Minister of a State or Territory may appoint a registration authority to administer the registration scheme.

#### **Clause 9 - Functions of the registration authority**

This clause establishes the administration of the registration scheme including the maintenance of a register of heavy vehicles, the collection of registration and permit charges, and the provision of information about heavy vehicles and registered operators as functions of the registration authority.

#### **Clause 10 - Powers of registration authority**

This clause confers certain powers on the registration authority, including, in accordance with the regulations made under the Act, the power to refuse registration, transfer registration, permit the use of unregistered heavy vehicles, impose conditions on the use of heavy vehicles, and to suspend or cancel the registration of heavy vehicles. The registration authority is also empowered to fix administrative fees for services provided in connection with registration processes.

#### **Clause 11 - Registration authority not to register heavy vehicles based outside the jurisdiction**

This clause provides that the registration authority must not register a heavy vehicle unless it is satisfied that the vehicle's garage address is within its jurisdiction. The term "garage address" is defined as meaning the principal depot or base of operations of the vehicle. The provision is designed to ensure that the registration charges collected for vehicle use are retained by the jurisdiction in which the vehicle is principally based.

#### **Clause 12 - Register does not provide evidence of title**

This clause makes it clear that the Act is not intended to provide any evidence of title to any motor vehicle or trailer. The primary focus of the Act is to identify the person responsible for a vehicle's operation. However, it does not prevent the registration authority from recording ownership details on the register.

### **Clause 13 - Security of information in register**

This clause requires the registration authority to ensure that information of a personal nature or that is commercially sensitive is only released in accordance with the regulations. It is intended that the regulations are to call up the Information Privacy Principles contained in section 14 of the Commonwealth *Privacy Act 1988* as the basis on which requests for information must be assessed.

### **Clause 14 - Delegation by registration authority**

This clause provides that the registration authority may delegate all or any of its powers. It is intended that the regulations will set out in more detail the bodies and qualifications of the persons to whom powers may be appropriately delegated.

### **Clause 15 - Ownership of documents**

This clause provides that devices, plates or documents issued by the registration authority in the course of registering a heavy vehicle remain the property of the authority.

### **Clause 16 - Regulations**

This clause provides that the Governor-General may make regulations which are required or permitted to be prescribed by the Act, or necessary or convenient for carrying out or giving effect to the Act. The clause also provides that such regulations may commence on a day specified by the Commonwealth Minister responsible for administering the Act.

### **Clause 17 - Regulations to establish a registration system**

This clause sets out the matters which regulations made under the Act may cover in order to facilitate the establishment of a national heavy vehicle registration scheme. These matters include periods for which registration may be effected, the manner in which registration charges for periods less than 12 months may be calculated, and the approval of application forms used in the registration process. Importantly, it is intended that the law shall provide for the recognition by the registration authority of things done under a corresponding law of another jurisdiction.

### **Clause 18 - Regulations may exclude heavy vehicles from this Act**

This clause provides that the regulations may exempt particular vehicles from the provisions of the Act. This clause is necessary to provide sufficient operational flexibility for jurisdictions to appropriately manage unique circumstances particular to their State or Territory.

#### **Clause 19 - Review of decisions**

This clause provides that a system of review of decisions is to be set out in the regulations. It is intended that the regulations establish a system of both internal and external review, and require the registration authority to inform affected parties of the reasons for the decision and their rights of review.

#### **Clause 20 - Prohibition on using unregistered heavy vehicles**

This clause creates an offence of using a heavy vehicle on a road or road related area if the vehicle is not registered, not exempted or not otherwise permitted to operate by the regulations.

#### **Clause 21 - Obtaining registration by false statements**

This clause creates an offence for a person to attempt to register a heavy vehicle, or to possess a device, plate or document obtained by dishonest means. It also provides that any registration arising from such offences is void.

#### **Clause 22 - Using heavy vehicle contrary to conditions or prohibitions**

This clause creates an offence for a person who uses a heavy vehicle contrary to conditions or a prohibition which were imposed by a member of the police force or a registration authority under clause 28.

#### **Clause 23 - Obligations of registered operator**

This clause sets out the obligations of the registered operator in respect of compliance with third party insurance and stamp duty legislation, the display of plates and labels on the vehicle, documents which must be carried and produced, and compliance with the directions of the registration authority in respect of the vehicle's registration.

#### **Clause 24 - Penalties for offences**

This clause sets out the maximum penalties for offences committed by individuals or corporate bodies against the Act and regulations.

#### **Clause 25 - Evidentiary provisions**

This clause provides that a court may admit into evidence a document signed on behalf of a registration authority certifying certain matters about the registration of a heavy vehicle or its registered operator, and that the court

must accept the documents as proof of the facts stated in them if there is no evidence to the contrary. The clause also provides that a court may admit into evidence other documents as prescribed by the regulations.

#### **Clause 26 - Application orders and emergency orders**

This clause provides that the relevant Minister of a State or Territory may suspend or vary the application of the Act or regulations in accordance with the Inter-governmental Agreements scheduled to the *National Road Transport Commission Act 1991*. It also provides that if the Ministerial Council for Road Transport terminates an emergency order, the State or Territory Minister concerned must publish notice of the termination in the Government Gazette of the jurisdiction in which the order applies.

#### **Clause 27 - Power to include or exclude areas**

This clause provides that the Minister of a State or Territory may declare a specified area of the jurisdiction to be either included or excluded from the application of the Act and the regulations for a specified period. This provision is necessary to provide the jurisdictions with sufficient flexibility to meet unusual circumstances which may arise from time to time, eg. motor vehicle rallies, celebratory parades, etc.

#### **Clause 28 - Defective heavy vehicles**

This clause provides that a member of the police force or the registration authority may inspect a heavy vehicle in order to determine its identity, condition, or registration status, and may, in accordance with the regulations, issue a vehicle defect notice or seize a device, plate or document suspected of being used in committing an offence against the Act.

#### **Clause 29 - Indemnity**

This clause provides that an individual who, honestly and in good faith, carries out his or her duties under this Act or the regulations does not incur civil liability for any act or omission. The clause further provides that such liability attaches instead to the registration authority.

#### **Clause 30 - Unpaid charges and fees**

This clause provides that an amount of any unpaid charges or fees owed in respect of the registration of a heavy vehicle are a debt owed to the registration authority which may be recovered in court.