

Road Transport (General) Amendment (Heavy Vehicle User Charges) Bill 2007

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

The *Road Transport Legislation (Breath Testing and Analysis) Bill 2007* is cognate with this Bill.

Overview of Bill

The object of this Bill is to amend the *Road Transport (General) Act 2005* and the *Road Transport (Heavy Vehicles Registration Charges) Act 1995* to enable the implementation of decisions by the Council of Australian Governments in its 2007 Road Reform Plan with respect to trials for incremental pricing schemes for higher mass and other innovative vehicles.

For that purpose, the Bill amends those Acts and the *Road Transport (Heavy Vehicles Registration Charges) Regulation 2006* as follows:

- (a) to provide for excess permits for vehicles and loads and to repeal provisions relating to heavy vehicle permits under the *Road Transport (Heavy Vehicles Registration Charges) Act 1995*,
- (b) to enable regulations to be made to establish incremental pricing (based on user activity and impact) for additional mass, dimension, load restraint and access concessions,
- (c) to make other consequential amendments and to save existing excess weight permits and heavy vehicle permits.

The Bill also amends the *Road Transport (General) Act 2005* and the *Road Transport (Mass, Loading and Access) Regulation 2005* to provide for evidentiary presumptions as to the operation of or information generated by intelligent transport systems to be able to be rebutted only by persons who have relevant specialized knowledge.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 is a formal provision that gives effect to the amendments to the *Road Transport (General) Act 2005* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the Act and instruments set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Road Transport (General) Act 2005

Schedule 1 [1] amends section 11A of the *Road Transport (General) Act 2005* (the **RTG Act**) to enable regulations to be made specifying the nature of the evidence that may or may not be used to rebut an evidentiary presumption concerning the operation and functioning of intelligent transport systems or information obtained from such systems.

Schedule 1 [2] amends section 20 of the RTG Act to insert definitions of **access requirement**, **incremental pricing charges** and **incremental pricing scheme**. Incremental pricing charges are defined as charges to road users, for concessions relating to mass, dimension, load restraint or access requirements, that are based on road users' activities, or likely activities, as a consequence of the concessions and the impact of those activities.

Schedule 1 [4] substitutes section 27 of the RTG Act to enable the Roads and Traffic Authority (the **Authority**) to grant excess permits exempting vehicles from mass, dimension, load restraint or access requirements. A permit may be granted subject to conditions. **Schedule 1 [3]** makes a consequential amendment.

Schedule 1 [5] inserts proposed section 28A into the RTG Act. The proposed section enables regulations to be made for or with respect to matters relating to incremental pricing charges for mass, dimension, load restraint or access concessions for vehicles. The regulations may cover matters including determination of incremental pricing charges, payment of charges, provision of information, the use of information obtained by intelligent transport systems and other information, evidentiary matters and other matters.

Schedule 1 [7] amends section 76 of the RTG Act to extend references to concessions to include exemptions from access requirements and to update a reference to excess weight permits. **Schedule 1 [6], [9] and [10]** make consequential amendments.

Schedule 1 [8] amends section 77 of the RTG Act to extend the offence of failing to comply with a concession to access requirements.

Schedule 1 [11] amends Schedule 1 to the RTG Act to enable regulations containing savings or transitional provisions to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [12] amends Schedule 1 to the RTG Act to continue existing excess weight permits in force and deems them to have been made under the new section 27.

Schedule 2 Amendment of other Act and instruments

Schedule 2.1 amends the *Road Transport (Heavy Vehicles Registration Charges) Act 1995* to omit provisions providing for the issuing of heavy vehicle permits and the charges for such permits (**Schedule 2.1 [5], [7] and [16]**). Consequential amendments are made to that Act to remove references to heavy vehicle permits, permit charges and repealed provisions (**Schedule 2.1 [1]–[4], [6] and [8]–[15]**).

That Act is also amended to enable regulations containing savings or transitional provisions to be made as a consequence of the enactment of the proposed Act and to continue existing heavy vehicle permits in force and deem them to be excess permits under the new section 27 of the RTG Act (**Schedule 2.1 [17] and [18]**).

Schedule 2.2 amends the *Road Transport (Heavy Vehicles Registration Charges) Regulation 2006* to omit provisions and references relating to heavy vehicle permits and related matters.

Schedule 2.3 amends the *Road Transport (Mass, Loading and Access) Regulation 2005* to provide that an evidentiary presumption relating to the accuracy or reliability, or the correct or proper operation of, or information provided by, an intelligent access system may only be rebutted in proceedings by evidence adduced from a person who has relevant specialised knowledge.