

EXPLANATORY STATEMENT

STATUTORY RULES NO. 291 OF 1986

ISSUED BY THE AUTHORITY OF THE MINISTER OF STATE FOR TRANSPORT

INTERSTATE ROAD TRANSPORT ACT 1985

INTERSTATE ROAD TRANSPORT REGULATIONS

Sub-section 56(1) of the Interstate Road Transport Act 1985 ('the Act') provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act. The Interstate Road Transport Regulations were made pursuant to this sub-section.

The purpose of the Regulations is to specify matters of detail relating to the operation of a Federal vehicle registration scheme under the Act, as amended by the Statute Law (Miscellaneous Provisions) Act (No 1) 1986.

The Act, together with the Interstate Road Transport Charge Act 1985 provide for

- . the registration of motor vehicles engaged in interstate, State/Territory or Territory/Territory trade and commerce
- . the collection of charges from registered vehicles to recover the costs of road damage
- . the payment of vehicle registration charges into a trust fund; and
- . the distribution of trust funds to the States and Territories for expenditure on the maintenance and upkeep of roads used by registered vehicles.

In addition, the Act makes provision for a Federal system of licensing operators engaged in interstate trade and commerce. It is not proposed to proclaim these provisions for some time and accordingly they are not covered by the Regulations.

The Regulations require vehicles registered in the scheme to have third party insurance, comply with the Australian Design Rules and to be inspected annually. These measures are designed to ensure vehicles are safe and roadworthy.

The Act provides the owner of an interstate vehicle with two options for paying the registration charge, namely:

- . on the basis of actual distance travelled by a vehicle, or

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- . on the basis of a fixed annual charge related to an imputed average distance travelled by a class of vehicle.

Where the owner elects to pay on the basis of the actual distance travelled by the vehicle, an approved distance monitoring device must be installed on the vehicle. The Regulations specify the requirements for these devices including installation and maintenance.

Other matters covered in the Regulations relate to the forms, certificates and fees required by the registration process. The Regulations also provide protection from discriminatory State fees.

The Regulations will come into force with the introduction of the Federal registration scheme. It is intended to proclaim the relevant provisions of the Act and the Interstate Road Transport Charge Act 1985 to come into operation on 1 January 1987.

Details of the Regulations are set out in the Attachment.

S/R No. /86

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INTERSTATE ROAD TRANSPORT REGULATIONS

DETAILS OF REGULATIONS

PART I - PRELIMINARY

Regulation 1 is a formal provision which provides for the regulations to be called the Interstate Road Transport Regulations.

Regulation 2 defines terms used in the regulations.

Regulation 3 defines the term 'Australian Design Rule' and specifies where Australian Design Rules apply.

PART II - REGISTRATION OF VEHICLES

Division 1 - Requirements for the purposes of paragraph 13(a) of the Act.

Regulation 4 defines the term 'Australian Motor Vehicle Certification Board'.

Regulation 5 provides that vehicles must be fitted with a plate approved by the Australian Motor Vehicle Certification Board. Vehicles must continue to comply with relevant Australian Design Rules after any alterations or modifications.

Division 2 - Insurance

Regulations relating to insurance are provided for under paragraph 13(c) of the Act.

Regulation 6 in conjunction with Schedule 1 provides a list of approved State and Territory insurers authorised to issue third party insurance policies to owners of vehicles in the Federal scheme.

Regulation 7 prescribes that a third party insurance policy insures the vehicle owner or other persons using the vehicle in accordance with the Act against liability in respect of death or bodily injury to any other person. It also specifies those circumstances where the policy is not effective.

Under Regulation 8, Commonwealth and State Governments and authorities are not required to take out third party insurance on their own vehicles. However, where a third party policy is not taken out the same liabilities and rights apply as if a policy were in force.

Regulation 9 requires a third party insurance policy to be in force concurrent with the period of registration of a vehicle.

Regulation 10 prescribes that for purposes of registration or re-registration, a vehicle owner must either lodge with the Registration Authority a certificate of third party insurance issued by an approved insurer or nominate an approved insurer and pay the appropriate premium to the Registration Authority.

Regulation 11 specifies that an approved insurer may cancel a third party insurance policy where the vehicle has been issued with another policy expiring after the first-mentioned policy or upon cancellation or surrender of registration.

Regulation 12 provides that persons insured for the purposes of the Federal registration scheme have the same rights and obligations as if they were insured for registration under a State or Territory registration scheme.

Division 3 - Inspection of vehicles

Regulation 13 as prescribed under paragraph 13(e) of the Act requires a vehicle to be produced for inspection either to a Registration Authority or an authorised inspector before it can be registered.

Sub-regulation 13(3) requires inspection of monitoring devices to ascertain that they are in working order and have not been tampered with.

For the purposes of paragraph 9(c) of the Act, sub-regulation 13(4) provides for a certificate of inspection to be issued by a Registration Authority or authorised inspector as evidence that an inspection has been carried out.

Sub-regulation 13(5) requires that a vehicle be inspected within 45 days prior to registration. This is extended to 90 days in the case of vehicles which are normally garaged at a remote location ie. beyond a radius of 250 kilometres from a place of inspection.

Regulation 14 prescribes that exemption from inspection only applies in cases where vehicle ownership is being transferred and there remains an unexpired portion of registration.

Regulation 15 relates to the alteration and modification of vehicles.

Sub-regulation 15(1) specifies in which circumstances registered vehicle owners have to notify the Registration Authority of any intended alterations or modifications to their vehicles.

A Registration Authority may require, under sub-regulation 15(2), that an altered or modified vehicle be inspected.

Sub-regulation 15(3) allows the Registration Authority to request details, reports or other information to enable it to determine whether an inspection of any alteration or modification is required.

Sub-regulation 15(4) requires vehicle owners to comply with requests made by the Registration Authority with respect to inspections and the provision of information relating to alterations and modifications.

Division 4 - Certificates of Registration, Registration Plates and Registration Labels

Regulations relating to registration certificates, plates and labels are provided for under paragraphs 13(d)(f)(h) and (j) of the Act.

Regulation 16 provides that a Registration Authority shall issue a certificate of registration, a registration label and, where appropriate, registration plates when registering a vehicle.

Regulation 17 relates to the attachment of registration labels to motor vehicles and trailers.

Sub-regulation 17(2) prescribes that owners only use the registration label issued for a given vehicle for that vehicle. Other labels or facsimiles may not be used.

Sub-regulation 17(3) provides that a registration label is to be removed from a vehicle where the period of registration has expired or where registration has been cancelled or suspended.

Regulation 18 relates to the replacement and return of registration certificates and labels.

Sub-regulation 18(1) provides for the issuing of a new registration certificate and label in cases where the Registration Authority has issued replacement registration plates with a different registration number from the original plates.

Sub-regulation 18(2) provides for the issuing of a new registration certificate or label where the details appearing on the original certificate or label are no longer accurate because the vehicle has been modified or there has been a change of ownership.

Regulation 19 provides for the issuing of a replacement registration label where the original label has been damaged, defaced, lost, stolen or destroyed.

Regulation 20 requires, where an owner has been requested to destroy a registration certificate or label, a declaration that such destruction has occurred. Sub-regulation 20(2) makes it an offence to make a false declaration.

Regulation 21 specifies the format of registration plates to be issued under the Federal registration scheme. Sub-regulations 21(3) and 21(4) provide that the dimensions, colour and materials used for the number plates be approved by the Minister.

Regulation 22 prescribes the manner in which registration plates are to be attached to a motor vehicle or trailer.

Sub-regulation 22(3) provides that an owner may only attach registration plates issued for a given vehicle to that vehicle. Other plates or facsimiles may not be used.

Regulation 23 provides for the issuing of replacement registration plates where the original plates have been damaged, defaced, lost, stolen or destroyed.

Regulation 24 requires vehicle owners to return registration plates to the relevant Registration Authority not later than 14 days after cancellation, as specified in section 11 of the Act, or expiry of registration.

Regulation 25 exempts a vehicle owner from returning registration plates where vehicle ownership is to be transferred to another person in accordance with sub-section 12(3) of the Act.

Regulation 26 specifies offences relating to the use of registration certificates, labels and plates.

Division 5 - Miscellaneous

Regulation 27 specifies, for the purposes of sub-paragraph 9(3)(b) of the Act, the circumstances where the period of registration can be less than one year. Regulation 27(a) relates to transfer of ownership and allows the new owner to make use of any un-expired portion of registration. Regulation 27(b) facilitates registration for fleet owners by allowing a common expiry date where more than one vehicle is owned.

Regulation 28 requires an owner of a registered vehicle to notify the Registration Authority within 14 days of any change of name or address.

In the case of transfer of ownership, regulation 29 requires the previous owner to notify the Registration Authority within 7 days of the transfer.

PART III - CHARGE MONITORING DEVICES

Regulations relating to charge monitoring devices are provided for under sections 36, 38 and 39 of the Act.

Division 1 - Authorised Persons

Regulation 30 allows a Registration Authority to authorise persons to fit or maintain, repair and test charge monitoring devices. Under sub-regulation 30(3) an authorisation will not be granted unless a person has the appropriate skill and possesses, or has access to, the necessary tools and equipment.

Sub-regulation 30(4) provides for identification of authorised persons by means of an authorisation number.

Sub-regulation 30(5) requires notice of authorisation to be published in the Gazette. Sub-regulation 30(6) provides that an authorisation remains in force until it is surrendered or cancelled.

Regulation 31 requires a register of authorised persons to be kept. Where an authorisation to a person is surrendered or cancelled, sub-regulation 31(2) specifies that the reference to the person be deleted from the register.

Regulation 32 allows a Registration Authority to give notice to an authorised person that an authorisation will be cancelled where the person no longer carries out the business for which he was authorised, does not possess or have access to the necessary tools or equipment or has not exercised due care or efficiency. Where such a notice has been given, the authorised person has 28 days to give reasons or take steps to satisfy the Registration Authority that the authorisation should not be cancelled.

Regulation 33 provides an appeal mechanism against a decision of a Registration Authority to cancel an authorisation.

Regulation 34 empowers a Registration Authority to inspect premises to be used by the applicant in order to determine whether a grant of authorisation or continuation of authorisation is justified.

Division 2 - Requirements in respect of charge monitoring devices

Regulation 35 in conjunction with Schedule 2 specifies requirements for charge monitoring devices as provided for under sub-sections 36(2) and (3) of the Act. These requirements relate to identification of the device, recording functions, prevention of interference with the device and its records and certification.

Regulation 36 empowers the Minister, after consultation with Registration Authorities, to certify charge monitoring devices as appropriate for use on motor vehicles and trailers. Certificates are to be published in the Gazette.

Under sub-regulation 36(3) certificates may include a declaration to allow for periodic testing of devices to monitor the accuracy of their recording facility.

Sub-regulation 36(4) allows the Minister to vary or revoke certificates.

Regulation 37 provides for annual publication in the Gazette of a list of the type of charge monitoring devices currently certified.

Division 3 - Fitting, repair and maintenance of charge monitoring devices

Regulation 38 defines the term 'authorised person' for the purposes of this Division.

Regulation 39 requires that a charge monitoring device be fitted by an authorised person and specifies the manner of installation in accordance with section 38 of the Act.

Regulation 40 requires an authorised installer to issue a certificate verifying that a charge monitoring device has been fitted and is in working order. The certificate is to specify details about the installation of the device, the device itself and the vehicle the device has been fitted to. A certificate is valid for up to 3 years depending on the type of device fitted.

Regulation 41 relates to the repair and maintenance of charge monitoring devices.

Sub-regulation 41(1) requires the vehicle owner to keep a device in good working order. Sub-regulation 41(2) prescribes that only an authorised person can repair and maintain a device. Sub-regulation 41(3) prescribes that repairs to a device are to be effected within 7 days of the owner becoming aware that the device is not working properly.

Sub-regulations 41(4) and 41(5) specify in what circumstances a charge monitoring device or seals on the device can be removed. Any such removal must be effected by an authorised person except in the case of an emergency or where the vehicle or the device breaks down in a remote location.

Sub-regulation 41(6) provides for the replacement of any seals that have been removed. Sub-regulation 41(7) specifies that a charge monitoring device is to be tested and, if necessary, repaired prior to the prescribed expiry period in order to ensure compliance with recording requirements.

Regulation 42 requires owners of vehicles fitted with a device to notify the Registration Authority that the device has ceased to operate properly not later than 7 days after becoming aware of the malfunction.

Regulation 43 prescribes that where a seal on a device is removed or broken the current certificate of installation is to be endorsed by an authorised person with a statement specifying details of work carried out on the device and certifying that the device is in working order.

Regulation 44 provides that in circumstances where a device has not been working properly or has been disconnected, removed or repaired, the vehicle owner is required to make a record as soon as possible after the occurrence and, if necessary, keep a record of the distances travelled during the period that the device was not functioning normally. These records are to be presented to the Registration Authority upon expiry, cancellation or surrender of registration.

Regulation 45 provides that a new certificate for a device be issued by an authorised person where a device has been tested or repaired in accordance with sub-regulation 41(7). The certificate is to verify that the tests have been carried out and that the device is in good working order as well as specifying details about the authorised persons, the test dates,

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the device, the vehicle and the currency of the certificate. A new certificate is valid for up to 3 years depending on the type of device fitted.

Certificates issued by authorised persons are to be drawn up in duplicate. Regulation 46 provides that one copy is to be given to the vehicle owner with the other copy being retained by the authorised person. Both copies are to be made available to a Registration Authority upon request.

Division 4 - Information recorded by charge monitoring devices

Regulation 47 requires owners who have elected to pay registration charges on the basis of distance travelled to take readings from their charge monitoring devices on the first and last day of registration and on a quarterly basis during the registration period. Readings are also required where devices are removed and replaced during the registration period. These readings are to be summarised on a prescribed form as set out in Schedule 3. The summary is to be given to the Registration Authority upon cancellation, expiry or surrender of registration.

Regulation 48 requires owners who have nominated to pay registration charges on the basis of distance travelled to keep the records from the charge monitoring devices in a safe manner until after their nomination has been accepted.

PART IV - MISCELLANEOUS

Regulation 49 in conjunction with Schedule 4 specifies the administrative fees, as provided under sub-section 3(10) of the Act, to be levied by the Registration Authorities for performing functions associated with registration.

Regulation 50 in accordance with sub-paragraph 19(2)(c)(ii) of the Act requires a vehicle owner (or a person with the appropriate knowledge) to make a statutory declaration when claiming a refund of registration relating to the use of a Federally registered vehicle for intrastate journeys, where those journeys are not in contravention of State or Territory laws.

Regulation 51 prevents discriminatory fees being levied on Federally registered vehicles as provided for under paragraph 23(5)(a) of the Act.

Regulation 52 gives effect to sub-section 56(2) of the Act and provides a mechanism for 'on-the-spot' fines and infringement notices as an alternative to prosecution.

Schedule 1 - see Regulation 6

Schedule 2 - see Regulation 35

Schedule 3 - see Regulation 47

Schedule 4 - see Regulation 49