

Interstate Road Transport Amendment Regulations 2001 (No. 1)

2001 No. 15

EXPLANATORY STATEMENT

STATUTORY RULES 2001 No. 15

Issued by the Minister for Regional Services, Territories and Local Government

Interstate Road Transport Act 1985

Interstate Road Transport Amendment Regulations 2001 (No. 1)

The *Interstate Road Transport Act 1985* (the Act) and *Interstate Road Transport Regulations 1986* (the Regulations) establish the Federal Interstate Registration Scheme (FIRS), which provides a national registration scheme for heavy vehicles on interstate journeys, as an alternative to the various State and Territory registration requirements. The States and Territories administer FIRS on behalf of the Commonwealth.

Subsection 56(1) of the the Act provides that the Governor-General may make regulations, 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.

Subsection 56(2) of the Act further provides that, without limiting the generality of subsection 56(1), the regulations may make provision for, among other things: regulating the use and operation of registered motor vehicles and trailers; prescribing operating standards; and regulating the conduct or activities in, or in connection with the operation or use of, registered motor vehicles or trailers.

Paragraph 13(1)(b) of the Act provides that regulations may make provision for requirements for the owner of a registered motor vehicle or trailer to cause acts or things to be done in relation to the motor vehicle or trailer.

The purpose of the Regulations is to include clear provisions to enable State and Territory Registration Authorities to suspend the registration of a motor vehicle or trailer registered under the Act for up to three months where the owner of the motor vehicle has failed to cause the vehicle to be driven so as to prevent at least three contraventions of road transport laws in a rolling three year period. This is in addition to any sanctions the drivers of vehicles would face under State and Territory law.

The Regulations also limit the power of Registration Authorities to suspend, rather than cancel, the registration of a motor vehicle registered under the Act where the owner of the motor vehicle has breached the requirements of certain road transport laws. Other minor amendments are also proposed to clarify the operation of the regulations and to correct earlier misdescribed amendments.

The amendments specify that:

- "the relevant Registration Authority" be replaced by "a Registration Authority" Regulation 5C
- a motor vehicle must not be driven in contravention of road transport laws not Regulation 5D more than three times in three years
- a Registration Authority may suspend a vehicle's registration for up to three months for breaches of regulations 5C and 5D Regulation 23A
- a relevant Registration Authority is to be advised of the cancellation or suspension of registration action taken by another Registration Authority Regulation 23AA

- a vehicle must be operated in accordance with its registration Regulation 29A
- the list of offences in the definition of "prescribed penalty" includes offences Regulation 52 against regulation 12ZAB (distribution of load)

Details of the Regulations are attached.

The Regulations commenced on gazettal.

ATTACHMENT

Interstate Road Transport Amendment Regulations 2001 (No. 1)

The amendments to the Regulations contain the following features:

Regulation 1 cites the name of the Regulations as the *Interstate Road Transport Amendment Regulations 2001 (No. 1)*.

Regulation 2 provides that the regulations commence on gazettal.

Regulation 3 provides that the provisions set out in Schedule 1 amend the *Interstate Road Transport Regulations 1986*.

Schedule 1 Amendments

Item 1 Subregulation 5C(2), note

This item amends the note following subregulation 5C(2) to clarify that a Registration Authority is only able to suspend for up to three months, rather than cancel or suspend, the registration of a vehicle or trailer not complying with subregulation 5C(2). The amendment also adds a cross reference to regulation 23A.

Item 2 Subregulations 5C(4), (5) and (6)

This item replaces the phrase "the relevant Registration Authority" wherever mentioned in subregulations 5C(4), (5) and (6) with "a Registration Authority".

According to regulation 2 of the Regulations, "relevant Registration Authority" means "in relation to a registered motor vehicle or trailer, the Registration Authority that registered the motor vehicle or trailer". The proposed amendment will enable Registration Authorities in other States and Territories to take action under regulation 5C against FIRS motor vehicles, regardless of place of registration, which have been driven at excessive speed.

Item 3 After regulation 5C

This item inserts new regulation 5D which provides that, should a Registration Authority be reasonably satisfied that a motor vehicle has been driven in contravention of a road transport law, it may write to the owner of the motor vehicle about the contravention and explain the effect of this regulation. The regulation provides that the owner of a motor vehicle must ensure that the motor vehicle is not driven in contravention of a road transport law more than three times in a three year period. If a motor vehicle is driven in manner that contravenes a road transport law three times in three years, then a Registration Authority may suspend the motor vehicle's registration for up to three months.

The regulation provides for a rolling three year period commencing on the date of the contravention described in the letter from a Registration Authority. The regulation makes it clear that a Registration Authority may take into consideration contraventions of the same law or different laws.

A note is included in the regulation indicating that under section 11 of the *Interstate Road Transport Act 1985* and regulation 23A, a Registration Authority may suspend the registration of a motor vehicle for up to three months for a breach of subregulation 5D(4).

For the purpose of the regulation, a "road transport law" is limited to laws in the areas of driving hours, driving speed, use of vehicle lights, safe distances between vehicles while driving, driving of vehicles within a lane on a road and obscuring or damaging of a registration plate.

Item 4 Subregulation 23A(1)

This item amends regulation 23A by inserting new subregulations 23A(1), (1A), (1B) and (1C). These provisions provide that a Registration Authority may cancel or suspend the registration of a motor vehicle by sending a written notice of the cancellation or suspension to the owner of the motor vehicle. However, subregulation (1A) limits the power of a Registration Authority, for the purposes of subregulations 5C(2) or 5D(4), to the suspension of a motor vehicle's registration for a period of up to three months.

Item 5 After regulation 23A

This item inserts new regulation 23AA which provides that if the Registration Authority suspending or cancelling the registration of a motor vehicle or trailer is not the relevant Registration Authority (see Item 2), the Registration Authority must send notice of this action to the relevant Registration Authority.

A note is included after regulation 23AA cross referencing this regulation with subregulation 23A(1C).

Item 6 After regulation 29

This item inserts new regulation 29A which provides that a vehicle must be operated in accordance with its registration. This amendment rectifies the misdescription of a proposed amendment in regulation 16 of Statutory Rules 1995 No. 151.

Item 7 Subregulation 52(1), definition of *prescribed penalty*

This item amends the definition of "prescribed penalty" in subregulation 52(1) by inserting regulation 12ZAB. This amendment was misdescribed in regulation 12 of Statutory Rules 1996 No. 250. The proposed amendment also replaces the term "natural person" with "individual" and the dollar amount for the penalties with penalty units in line with current drafting practice.