**EXPLANATORY STATEMENT**

Select Legislative Instrument No. 84, 2014

Issued by Authority of the Minister for Infrastructure and Regional Development

*Interstate Road Transport Act 1985*

*Interstate Road Transport Amendment (Heavy Vehicle National Law) Regulation 2014*

The *Interstate Road Transport Act 1985* (the IRT Act) provides for the registration of heavy vehicles engaged solely in the interstate carriage of passengers or goods, in trade or commerce, or for any purpose that is incidental to the carriage of that kind. A vehicle or trailer is registered as part of the Federal Interstate Registration Scheme (FIRS) under section 8 of the IRT Act, if the conditions specified in Part II of the IRT Act are met. Section 56 of the IRT Act provides, in part, that the Governor-General may make regulations for the purposes of regulating the use and operation of registered motor vehicles and trailers.

The *Interstate Road Transport Regulations 1986* (the Principal Regulations) are made subject to this regulation making power. Regulations 12C and 12L provide for certain FIRS registered vehicles to operate on routes specified by state and territory instruments. The state and territory legislation under which these instruments may be made is outlined in Schedule 4A, which currently distinguishes between instruments made for b-double vehicles and for other vehicle combinations operating under higher mass limits. Instruments may take one of two forms: a notice may be issued to allow all vehicles of a particular configuration to use a specified route and a permit may be issued to allow a particular vehicle to use a specified route.

With the commencement of the *Heavy Vehicle National Law Act 2012* (Qld) (the National Law) and its equivalent enactments in other participating jurisdictions on 10 February 2014, new state and territory route determinations in participating jurisdictions are now made by the National Heavy Vehicle Regulator under the National Law. Currently the participating jurisdictions are New South Wales, Victoria, Queensland, South Australia, Tasmania and the Australian Capital Territory. To ensure ongoing operational compatibility of the IRT Act with the National Law, amendments to the Principal Regulations are required.

Under the *Interstate Road Transport Amendment (Heavy Vehicle National Law)Regulation 2014* (the Regulation), Schedule 4A, which lists state and territory legislation under which relevant instruments may be made, is repealed and replaced by a single definition of relevant instrument. This definition includes three elements:

* reference to provisions of the Heavy Vehicle National Law under which notices and permits are issued by the National Heavy Vehicle Regulator;
* the preservation of any instruments made under former legislation but which continue to apply in jurisdictions participating in the National Law;
* incorporation of instrument making provisions which otherwise remain in force for Western Australia.

Legislation referenced in the single definition of relevant instrument may be obtained through the legislation register of the corresponding jurisdiction.

Subregulations 12C(8) and 12L(5) which formerly defined ‘relevant instrument’ by reference to schedule 4A are repealed. To give effect to the new definition of relevant instrument, the Regulation adds definitions of the ‘Heavy Vehicle National Law’ and the ‘National Heavy Vehicle Regulator’ to the Principal Regulations.

The Regulation also makes minor technical changes to the Principal Regulations to ensure that references are current and to improve their clarity.

Under Division 2 of the Principal Regulations, arrangements are established for compulsory third party insurance for jurisdictions which agreed to participate in the insurance scheme under FIRS. Schedule 2 lists the insurance providers which may insure vehicles and trailers for the scheme. The Regulation updates Schedule 2 to refer to current insurers, which for some jurisdictions broadens the choice of insurer options for FIRS operators.

To improve the clarity of the Principal Regulations, references to the former Australian Transport Advisory Council, which was responsible for the administration of the Australian Design Rules at the time of the drafting of the Principal Regulations, are removed. References to the Australian Transport Advisory Council are replaced by references to the ministerial council responsible for transport matters. This will ensure ongoing validity of the regulation if machinery of government changes produce subsequent changes to the name of the Transport and Infrastructure Council.

Further details of the Regulation changes are outlined in the Attachment.

The State and Territory road authorities that administer FIRS on behalf of the Commonwealth were consulted prior to the drafting of the Regulation. The Regulation incorporates feedback received during this consultation process. The Regulation does not change any pre-existing arrangements for business and does not place any restrictions on competition in the industry. The Regulation makes minor technical changes which have the effect of clarifying current uncertainties in the Principal Regulations. As a result, public consultation was not undertaken in the drafting of this Regulation.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

**ATTACHMENT**

**Details of the *Interstate Road Transport Amendment (Heavy Vehicle National Law) Regulation 2014***

Section 1 – Name of Regulation

This regulation provides that the name of the Regulation is the *Interstate Road Transport Amendment (Heavy Vehicle National Law) Regulation 2014.*

Section 2 – Commencement

This regulation provides for the Regulation to commence on the day following registration.

Section 3 – *Authority*

This regulation provides that the Regulation is made under the *Interstate Road Transport Act 1985*.

Section 4 – Schedule

This regulation provides for amendments to each instrument as specified in the schedule.

Schedule 1 Amendments

**Item [1] – Subregulation 2(1)**

Sub-regulation 2(1) provides definitions for the interpretation of the *Interstate Road Transport Regulations 1986*.

This item repeals the current definition of an administering authority and replaces it with a definition which includes the National Heavy Vehicle Regulator. The definition also simplifies the explanation of state and territory authorities to mean registration authorities for each jurisdiction.

**Item [2] –Subregulation 2(1)**

This item inserts a number of other definitions required to give effect to the Regulation.

The definition of approved insurer is transposed from regulation 6 to regulation 2(1) to improve the organisation of the *Interstate Road Transport Regulations 1986.*A definition of the Heavy Vehicle National Law is inserted as it is the legislation under which the National Heavy Vehicle Regulator is established and under which instruments are currently made in participating jurisdictions.

A definition of the Ministerial Council is inserted for the purposes of item 3 and 4. This definition replaces outdated references to the Australian Transport Advisory Council.

The National Heavy Vehicle Regulator is defined by reference to its establishment under the Heavy Vehicle National Law.

A definition of participating jurisdictions is included for the purpose of defining the operation of the Heavy Vehicle National Law.

A single definition of relevant instrument is inserted into the *Interstate Road Transport Regulations 1986*. This definition defines relevant instruments as notices and permits for class 2 vehicles under the Heavy Vehicle National Law and as Higher Mass Limit notices and permits under the *Heavy Vehicle (Mass, Dimension and Loading) National Regulation* under subitems (a) through (d).

Subitem (e) retains references to former legislation to preserve instruments which are yet to be transitioned to national instruments in participating jurisdictions.

Subitem (f) retains references to other legislation currently in force under which an instrument may be made.

Legislation referenced in this Subregulation may be obtained through the legislation register of the corresponding jurisdiction.

**Item [3] – Subregulation 3(1)**

This item omits the reference in subregulation 3(1) to the Australian Transport Advisory Council and substitutes the Ministerial Council.

**Item [4] – Subregulation 3(2)**

This item also omits the reference in subregulation 3(2) to the Australian Transport Advisory Council and substitutes the Ministerial Council.

**Item [5] – Regulation 6**

This item repeals regulation 6, as the definition of an insurer has been moved to subregulation 2(1).

**Item [6] – Subregulations 12C(8) and 12L(5)**

This item repeals the current definition of a relevant instrument, which is now defined in subregulation 2(1).

**Item [7] – Schedule 2**

This item amends the Schedule of approved insurers to reflect changes to state legislation and bodies and to recognise the broadening of the category of approved insurers for some participating jurisdictions.

**Item [8] – Schedule 4A**

This item repeals the Schedule. Relevant instruments are now defined under subregulation 2(1).

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Interstate Road Transport Amendment (Heavy Vehicle National Law) Regulation 2014**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

Section 56 of the *Interstate Road Transport Act 1985* (the Act) provides, in part, that the Governor-General may make regulations regulating the use and operation of registered motor vehicles

In accordance with section 56 of the *Interstate Road Transport Act 1985,* this Legislative Instrument makes amendments to the *Interstate Road Transport Regulations 1986* to ensure that registered motor vehicles are compliant with the *Heavy Vehicle National Law Act 2012* of the state of Queensland and as enacted in other jurisdictions.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**Warren Truss Minister for Infrastructure and Regional Development**

**[Insert name and title of the promoter of the Bill or the rule-maker of the Legislative Instrument]**

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