



National Road Transport Commission Amendment Act 1998

No. 82, 1998



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***An Act to amend the *National Road Transport
Commission Act 1991*, and for other purposes***

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An Act to amend the *National Road Transport Commission Act 1991*, and for other purposes

[Assented to 2 July 1998]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *National Road Transport Commission Amendment Act 1998*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.
- (2) If this Act does not commence under subsection (1) within the period of 6 months beginning on the day on which this Act

receives the Royal Assent, it commences on the first day after the end of that period.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendment of the National Road Transport Commission Act 1991

National Road Transport Commission Act 1991

1 Section 3:

Insert:

Australian Transport Council means the council of Commonwealth, New Zealand, State, Northern Territory and Australian Capital Territory Ministers known as the Australian Transport Council, constituted for the purposes of this Act and the Agreements so that each of those jurisdictions is represented by a single Minister.

2 Section 3

Insert:

First Heavy Vehicles Amending Agreement means the agreement between the Commonwealth, the States, the Northern Territory and the Australian Capital Territory, being the agreement the form of which is set out in Schedule 1A.

3 Section 3

Insert:

First Light Vehicles Amending Agreement means the agreement between the Commonwealth, the States, the Northern Territory and the Australian Capital Territory, being the agreement the form of which is set out in Schedule 2A.

4 Section 3 (definition of *Heavy Vehicles Agreement*)

Repeal the definition, substitute:

Heavy Vehicles Agreement means the Original Heavy Vehicles Agreement, as amended by:

- (a) the Original Light Vehicles Agreement; and
- (b) the First Heavy Vehicles Amending Agreement.

5 Section 3 (definition of *Light Vehicles Agreement*)

Repeal the definition, substitute:

Light Vehicles Agreement means the Original Light Vehicles Agreement, as amended by the First Light Vehicles Amending Agreement.

6 Section 3 (definition of *Ministerial Council*)

Repeal the definition.

7 Section 3

Insert:

New Zealand member means the member (if any) appointed in accordance with a request made by New Zealand under subsection 6(3).

8 Section 3

Insert:

ordinary member means a member of the Commission other than the Chief Executive Officer.

9 Section 3

Insert:

Original Heavy Vehicles Agreement means the agreement:

- (a) made on 30 July 1991 between the Commonwealth, the States and the Australian Capital Territory; and
- (b) acceded to by the Northern Territory on 15 May 1992;

being the agreement a copy of which is set out in Schedule 1.

10 Section 3

Insert:

Original Light Vehicles Agreement means the agreement:

- (a) made on 11 May 1992 between the Commonwealth, New South Wales, Victoria, Queensland, South Australia, the Northern Territory and the Australian Capital Territory; and
- (b) acceded to by Western Australia on 27 July 1992; and

(c) acceded to by Tasmania on 28 August 1992;
being the agreement a copy of which is set out in Schedule 2.

11 Section 3

Insert:

TTMRA road vehicle standard means a trans-Tasman road vehicle standard referred in paragraph 4.2 of Annex 4 to the Trans-Tasman Mutual Recognition Arrangement entered into on 9 July 1996 between the Commonwealth, New Zealand, the States, the Northern Territory and the Australian Capital Territory.

Note 1: Paragraph 4.2 of Annex 4 to the Trans-Tasman Mutual Recognition Arrangement provides that road vehicles certified as meeting trans-Tasman road vehicle standards will be able to be freely traded between Australia and New Zealand.

Note 2: Annex 4 to the Trans-Tasman Mutual Recognition Arrangement provides that Australia and New Zealand are to pursue a Co-operation Programme. The Co-operation Programme is to develop a body of internationally harmonised standards to form the basis of a set of trans-Tasman road vehicle standards. The Co-operation Programme is also to develop consistent conformance assessment and certification requirements.

12 Subsection 5(1)

Repeal the subsection, substitute:

- (1) The Commission consists of:
- (a) the Chief Executive Officer; and
 - (b) 5 ordinary members.

13 Subsection 5(2)

Omit “one vacancy”, substitute “2 vacancies”.

14 Subsection 6(1)

Omit “members”, substitute “ordinary members”.

Note: The heading to section 6 is altered by omitting “**members**” and substituting “**ordinary members**”.

15 Subsection 6(1)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

16 Subsection 6(2)

Omit “a member”, substitute “an ordinary member”.

17 Subsection 6(2)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

18 Subsection 6(3)

Repeal the subsection, substitute:

- (3) The Australian Transport Council must nominate a person for appointment as an ordinary member if:
 - (a) there is in force a declaration under subsection (4); and
 - (b) New Zealand requests the Australian Transport Council to nominate the person as an ordinary member; and
 - (c) the person will fill a vacancy in the membership of the Commission; and
 - (d) the nomination will not result in there being more than one ordinary member whose appointment is attributable to a request under this subsection.
- (4) The Australian Transport Council may, on request by New Zealand, declare that New Zealand is entitled to have a representative on the Commission.
- (5) In deciding whether to make a declaration under subsection (4), the Australian Transport Council may have regard to any undertakings given by New Zealand that it will pay money to the Commission under section 36.
- (6) Subsection (5) does not limit the matters to which the Australian Transport Council may have regard.
- (7) A declaration under subsection (4) is to be made by resolution of the Australian Transport Council carried in accordance with the Heavy Vehicles Agreement.

19 Subsection 7(1)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

20 Subsection 7(1)

Omit “members”, substitute “ordinary members”.

21 Subsection 7(2)

Omit “a member”, substitute “an ordinary member”.

22 Subsection 7(2)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

23 Subsection 7(3)

Omit “The member”, substitute “The ordinary member”.

24 Subsection 7(3)

Omit “a member”, substitute “an ordinary member”.

25 Paragraph 8(1)(e)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

26 Paragraph 8(1)(f)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

27 Subsection 8(2)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

28 Subsection 8(6)

Repeal the subsection.

29 Subsection 9(1)

Omit “Ministerial Council” (wherever occurring), substitute “Australian Transport Council”.

Note: The heading to section 9 is altered by omitting “**Ministerial Council**” and substituting “**Australian Transport Council**”.

30 Subsection 9(2)

Omit “Ministerial Council” (wherever occurring), substitute “Australian Transport Council”.

31 Subsection 9(3)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

32 After section 10

Insert:

10A Commission's objectives

- (1) In the performance of its functions and the exercise of its powers, the Commission must have regard to the following:
 - (a) the principles set out in Recital C of the Heavy Vehicles Agreement;
 - (b) the objectives set out in Recital D of the Heavy Vehicles Agreement;
 - (c) the objectives set out in Recital C of the Light Vehicles Agreement.
- (2) Subsection (1) does not limit the matters to which the Commission may have regard.

10B Noise or emission standards—consultation with the National Environment Protection Council

- (1) This section applies to a noise or emission standard relating to the design, construction or technical characteristics of new or in-service motor vehicles, where the Commission is involved in the development of the standard.
- (2) The standard may only be developed in conjunction with the National Environment Protection Council.

33 Section 12

Omit “members”, substitute “ordinary members”.

Note: The heading to section 12 is altered by omitting “**Members**” and substituting “**Ordinary members**”.

34 Section 13

Omit “A member”, substitute “An ordinary member”.

35 Subsection 14(1)

Omit “members”, substitute “ordinary members”.

Note: The heading to section 14 is altered by omitting “**members**” and substituting “**ordinary members**”.

36 Subsection 14(1)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

37 Subsection 14(2)

Omit “A member”, substitute “An ordinary member”.

38 Subsection 14(2)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

39 Subsection 14(3)

Omit “by the Ministerial Council”, substitute “by the Australian Transport Council”.

40 Paragraph 14(3)(a)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

41 Subsection 14(4)

Omit “a member”, substitute “an ordinary member”.

42 Section 15

Omit “a member” (wherever occurring), substitute “an ordinary member”.

Note: The heading to section 15 is altered by omitting “**Members**” and substituting “**Ordinary members**”.

43 Subsection 15(1)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

44 Paragraph 15(2)(a)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

45 Subsection 15(3)

Omit “Ministerial Council” (wherever occurring), substitute “Australian Transport Council”.

46 Subsection 15(3)

Omit “the member”, substitute “the ordinary member”.

47 Section 16

Omit “Ministerial Council”, substitute “Australian Transport Council”.

48 Section 17

Omit “A member”, substitute “An ordinary member”.

49 Subsection 18(1)

Omit “a member”, substitute “an ordinary member”.

50 Subsection 18(2)

Omit “a member”, substitute “an ordinary member (other than the New Zealand member)”.

51 After subsection 18(2)

Insert:

(2A) If the New Zealand member:

- (a) is absent from 3 consecutive TTMRA road vehicle standard meetings, except on leave granted under section 16; or
 - (b) contravenes section 25 without reasonable excuse;
- the Governor-General may terminate the appointment of the member.

52 Subsection 18(3)

Omit “unless the Ministerial Council”, substitute “under subsection (1), (2) or (2A) unless the Australian Transport Council”.

53 At the end of section 18

Add:

- (4) The Governor-General must terminate the appointment of the New Zealand member if:
 - (a) New Zealand requests the Australian Transport Council to recommend the termination of the member’s appointment; and
 - (b) the Australian Transport Council has, by resolution carried in accordance with the Heavy Vehicles Agreement, recommended the termination of the member’s appointment.

(5) The Australian Transport Council must make a recommendation under paragraph (4)(b) if requested to do so by New Zealand under paragraph (4)(a).

(6) Subsection (4) does not, by implication, limit subsection (1) or (2A).

(7) In this section:

TTMRA road vehicle standard meeting means a meeting of the Commission at which there is voting on a matter relating to:

- (a) a TTMRA road vehicle standard; or
- (b) a proposed TTMRA road vehicle standard.

54 Section 19

Omit “A member”, substitute “An ordinary member”.

55 Section 19

Omit “Ministerial Council”, substitute “Australian Transport Council”.

56 Subsection 20(2)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

57 Subsection 20(2)

Omit “a member”, substitute “an ordinary member”.

58 Subsection 20(3)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

59 Paragraph 21(2)(b)

Omit “the other 2 members”, substitute “at least 2 other ordinary members”.

60 At the end of section 21

Add:

(3) For the purposes of the application of paragraph (2)(b) to a particular meeting, the New Zealand member is not to be counted unless the meeting is to consider a matter relating to:

- (a) a TTMRA road vehicle standard; or

- (b) a proposed TTMRA road vehicle standard.

61 After section 22

Insert:

22A Resolutions without meetings

- (1) A resolution is taken to have been passed at a meeting of the Commission if, without meeting, a sufficient number of ordinary members indicate agreement with a resolution in accordance with a method determined by the Commission under subsection (2).

Note: *Sufficient number of members* is defined by subsection (3).

- (2) Subsection (1) does not apply unless the Commission:
 - (a) determines that it applies; and
 - (b) determines the method by which ordinary members are to indicate agreement with the resolution.

- (3) In this section:

sufficient number of members, in relation to a resolution, means a majority of the number of ordinary members who would have been entitled to vote on the resolution at a meeting of the Commission if they had been present at the meeting.

62 Section 23

Omit “2 members”, substitute “3 ordinary members”.

63 At the end of section 23

Add:

- (2) The New Zealand member is not to be counted in determining whether there is a quorum during so much of a meeting as relates to the consideration of a matter other than:
 - (a) a matter relating to a TTMRA road vehicle standard; or
 - (b) a matter relating to a proposed TTMRA road vehicle standard.

64 After section 23

Insert:

**23A Voting on matters relating to TTMRA road vehicle standards—
presence of New Zealand nominee**

(1) In this section:

New Zealand nominee means:

- (a) if there is a New Zealand member—that member; or
- (b) if paragraph (a) does not apply, but New Zealand nominates an ordinary member to represent its interests in relation to TTMRA road vehicle standards—that member.

(2) If there is a New Zealand nominee, a matter relating to a TTMRA road vehicle standard, or to a proposed TTMRA road vehicle standard, must not be voted on at a meeting of the Commission unless:

- (a) the New Zealand nominee is present throughout so much of the meeting as relates to the consideration of that matter; or
- (b) both:
 - (i) the New Zealand nominee is not present throughout so much of the meeting as relates to the consideration of that matter; and
 - (ii) each ordinary member has been given at least 14 days notice that the matter, or a related matter, is to be considered at the meeting.

65 Section 24

Omit “members”, substitute “ordinary members”.

66 At the end of section 24

Add:

- (2) The New Zealand member is not entitled to vote on a question in connection with a matter unless the matter relates to:
 - (a) a TTMRA road vehicle standard; or
 - (b) a proposed TTMRA road vehicle standard.

67 Subsection 25(2)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

68 Subsection 26(1)

Omit “appointed by the Commission”, substitute “appointed by the Australian Transport Council on the recommendation of the Commission”.

69 Subsection 27(3)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

70 Subsection 28(2)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

71 Section 36

Omit “or Territory”, substitute “, a Territory or New Zealand”.

Note: The heading to section 36 is altered by omitting “**or Territories**” and substituting “, **Territories or New Zealand**”.

72 Subsection 39(1)

Omit “Ministerial Council” (wherever occurring), substitute “Australian Transport Council”.

73 Subsection 39(2)

Omit “Ministerial Council” (wherever occurring), substitute “Australian Transport Council”.

74 Subsection 39(3)

Omit “Ministerial Council” (wherever occurring), substitute “Australian Transport Council”.

75 Subsection 39(4)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

76 Subsection 40(3)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

77 Subsection 40(5)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

78 After Part 6

Insert:

Part 6A—Strategic plans

41A Strategic plan for Commission

- (1) The Commission must prepare a draft strategic plan at least once a financial year and give it to the Australian Transport Council.
- (2) The Commission must consult the National Environment Protection Council in relation to the preparation of the draft plan. This subsection has effect in addition to, and not instead of, section 10.
- (3) If the draft plan is given to the Australian Transport Council, the Council must:
 - (a) approve the draft plan; or
 - (b) refuse to approve the draft plan.
- (4) If the Australian Transport Council refuses to approve the draft plan, the Council must direct the Commission to:
 - (a) make such alterations to the draft plan as are specified in the direction; and
 - (b) give the altered draft plan to the Council within the period specified in the direction.
- (5) The Commission must comply with a direction under subsection (4).
- (6) If:
 - (a) the altered draft plan is given to the Australian Transport Council; and
 - (b) the alterations are in accordance with the direction;the Council must approve the altered draft plan.
- (7) When the draft plan or altered draft plan, as the case may be, is approved by the Australian Transport Council, the draft plan or altered draft plan becomes a final strategic plan.
- (8) A final strategic plan is to be published by the Commission in such manner as the Commission determines.

- (9) An approval or direction under this section is to be given by resolution of the Australian Transport Council carried in accordance with the Heavy Vehicles Agreement.

79 Before Part 7

Insert:

Part 6B—Exemptions from uniform road transport legislation for defence-related purposes

41B National security and special circumstances exemptions— Australian Defence Force

- (1) The Minister may, by written instrument, declare that:
- (a) the Australian Defence Force; and
 - (b) members of the Australian Defence Force;
- are exempt from all uniform road transport legislation, or from specified provisions of uniform road transport legislation, in respect of anything done or omitted to be done in connection with one or more specified defence-related purposes.

Note 1: *Defence-related purpose* is defined by subsection (6).

Note 2: *Uniform road transport legislation* is defined by section 41G.

- (2) An exemption under subsection (1) may be:
- (a) unconditional; or
 - (b) subject to such conditions as are specified in the declaration.
- (3) The Minister must not make a declaration under subsection (1) unless the Minister is satisfied that:
- (a) because of special circumstances, it is in the interests of the security, defence or international relations of Australia to make the declaration; or
 - (b) both:
 - (i) a State or Territory has applied for protection against domestic violence; and
 - (ii) the making of the declaration is likely to assist the Australian Defence Force in providing that protection;or

- (c) both:
- (i) there is an emergency or disaster (whether natural or otherwise); and
 - (ii) the making of the declaration is likely to assist the involvement of the Australian Defence Force in relation to the management of that emergency or disaster.
- (4) A declaration under subsection (1) has effect accordingly.
- (5) If:
- (a) the Australian Defence Force has completed an activity or a series of activities; and
 - (b) that activity or series of activities has, to any extent, been the subject of an exemption under subsection (1) from the law in force in a State or Territory; and
 - (c) the Chief of the Australian Defence Force is satisfied that, in the event that the State or Territory were to be notified accordingly, the notification would not prejudice the defence, security or international relations of Australia;
- the Chief of the Australian Defence Force must notify the State or Territory accordingly.
- (6) For the purposes of this section, a *defence-related purpose* is a purpose related to any of the following:
- (a) the defence of Australia;
 - (b) the security of Australia;
 - (c) the operation of the Australian Defence Force in connection with the defence of Australia;
 - (d) the operation of the Australian Defence Force in connection with the security of Australia;
 - (e) the management of an emergency or disaster (whether natural or otherwise), where that management involves the Australian Defence Force;
 - (f) the operation of the Australian Defence Force in connection with a peacekeeping or other activity carried out under the auspices of the United Nations;
 - (g) the operation of the Australian Defence Force in connection with the protection of a State or Territory from domestic violence, where the State or Territory has applied for that protection.

**41C National security and special circumstances exemptions—
armed forces of foreign countries**

- (1) The Minister may, by written instrument, declare that:
 - (a) the armed forces of a specified foreign country; and
 - (b) the members of that armed force;are exempt from all uniform road transport legislation, or from specified provisions of uniform road transport legislation, in respect of anything done or omitted to be done in connection with operations of that armed force that are in accordance with an arrangement approved by the Australian Defence Force.
- (2) An exemption under subsection (1) may be:
 - (a) unconditional; or
 - (b) subject to such conditions as are specified in the declaration.
- (3) The Minister must not make a declaration under subsection (1) unless the Minister is satisfied that, because of special circumstances, it is in the interests of the security or defence of Australia to make the declaration.
- (4) A declaration under subsection (1) has effect accordingly.

**41D Limited exemptions—day-to-day operations of the Australian
Defence Force**

- (1) The Minister may, by written instrument, declare that:
 - (a) the Australian Defence Force; and
 - (b) members of the Australian Defence Force;are exempt from specified provisions of uniform road transport legislation in respect of anything done or omitted to be done in connection with the operation of the Australian Defence Force in relation to:
 - (c) the defence of Australia; or
 - (d) the security of Australia.
- (2) An exemption under subsection (1) may be:
 - (a) unconditional; or
 - (b) subject to such conditions as are specified in the declaration.

- (3) The Minister must not make a declaration under subsection (1) unless the Minister is satisfied that it is in the interests of the defence or security of Australia for the declaration to be made.
- (4) A declaration under subsection (1) has effect accordingly.
- (5) A declaration under subsection (1) has no effect unless the Australian Transport Council has, by resolution carried in accordance with the Heavy Vehicles Agreement, consented to the making of the declaration.
- (6) An instrument under subsection (1) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

41E Delegation

- (1) The Minister may, by writing, delegate to the Chief of the Defence Force all or any of the Minister's powers under sections 41B and 41C.
- (2) The delegate is, in the exercise of the power delegated under subsection (1), subject to the directions of the Minister.

41F Application of the *Defence Act 1903*

- (1) Sections 41B, 41C and 41D of this Act have effect in addition to, and not instead of, anything in the *Defence Act 1903*.
- (2) Subsection 123(1) of the *Defence Act 1903* does not apply to:
 - (a) a permission (whether in the form of a licence or otherwise) under:
 - (i) the Road Transport Reform (Mass and Loading) Regulations; or
 - (ii) the Road Transport Reform (Oversize and Overmass Vehicles) Regulations; or
 - (iii) the Road Transport Reform (Restricted Access Vehicles) Regulations; or
 - (b) if a law of a State or Territory makes provision for a permission (whether in the form of a licence or otherwise) equivalent to a permission covered by paragraph (a)—that permission.

41G Uniform road transport legislation

For the purposes of this Part, each of the following laws is *uniform road transport legislation*:

- (a) the *Road Transport Reform (Dangerous Goods) Act 1995*;
- (b) the *Road Transport Reform (Heavy Vehicles Registration) Act 1997*;
- (c) the *Road Transport Reform (Vehicles and Traffic) Act 1993*;
- (d) if an Act relating to road transport declares that this section applies to the Act—that Act;
- (e) regulations under an Act referred to in paragraph (a), (b), (c) or (d);
- (f) so much of a law of a State or Territory as applies or adopts (with or without modification) the substance of any or all of the provisions of a law referred to in paragraph (a), (b), (c), (d) or (e).

80 Subsection 42(2)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

81 Subsection 43(1)

Omit “Ministerial Council” (wherever occurring), substitute “Australian Transport Council”.

Note: The heading to section 43 is altered by omitting “**Ministerial Council**” and substituting “**Australian Transport Council**”.

82 Subsection 43(1)

Omit “Ministerial Council’s”, substitute “Australian Transport Council’s”.

83 Subsection 43(2)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

84 Subsection 43(3)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

85 Subsection 43(4)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

86 Paragraph 44(1)(a)

Omit “Ministerial Council” (wherever occurring), substitute “Australian Transport Council”.

Note: The heading to section 44 is altered by omitting “**Ministerial Council**” and substituting “**Australian Transport Council**”.

87 Paragraph 44(1)(b)

Before “Ministerial Council”, insert “Australian Transport Council or the”.

88 Subsection 44(1)

Omit “Ministerial Council has done the act”, substitute “Australian Transport Council or the Ministerial Council, as the case requires, has done the act”.

89 Paragraph 44(2)(a)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

90 Paragraph 44(2)(b)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

91 Subsection 44(3)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

92 At the end of section 44

Add:

- (4) A reference in paragraph (1)(b) or subsection (3) to an act or thing done by the Australian Transport Council is a reference to an act or thing done by the Australian Transport Council under or in connection with:
 - (a) this Act; or
 - (b) an instrument under this Act; or
 - (c) an Agreement.
- (5) A reference in paragraph (1)(b) to an opinion formed by the Australian Transport Council is a reference to an opinion formed by the Australian Transport Council under or in connection with:
 - (a) this Act; or

- (b) an instrument under this Act; or
- (c) an Agreement.

(6) In this section:

Ministerial Council means the Ministerial Council for Road Transport that was established by the Heavy Vehicles Agreement, as in force before the commencement of this subsection.

93 Subsection 46(1)

Omit “7 years”, substitute “12 years”.

Note: The heading to section 46 is altered by omitting “7 years” and substituting “12 years”.

94 Subsection 46(2)

Omit “Ministerial Council”, substitute “Australian Transport Council”.

95 Subsection 47(1)

Omit “18 months”, substitute “12 months”.

Note: The heading to section 47 is altered by omitting “Commission” and substituting “Australian Transport Council”.

96 Subsection 47(1)

Omit “Commission”, substitute “Australian Transport Council”.

97 Paragraph 47(1)(a)

Omit “Commission’s”, substitute “Council’s”.

98 After Schedule 1

Insert:

Schedule 1A

FIRST HEAVY VEHICLES AMENDING AGREEMENT

BETWEEN

THE COMMONWEALTH OF AUSTRALIA

ALL STATES

THE NORTHERN TERRITORY OF AUSTRALIA

and

THE AUSTRALIAN CAPITAL TERRITORY

amending

THE HEAVY VEHICLES AGREEMENT

THIS FIRST HEAVY VEHICLES AMENDING AGREEMENT

is made the _____ day of _____ 1998

BETWEEN:

COMMONWEALTH OF AUSTRALIA
STATE OF NEW SOUTH WALES
STATE OF VICTORIA
STATE OF QUEENSLAND
STATE OF WESTERN AUSTRALIA
STATE OF SOUTH AUSTRALIA
STATE OF TASMANIA
NORTHERN TERRITORY OF AUSTRALIA
AUSTRALIAN CAPITAL TERRITORY

RECITALS:

- A The parties, other than the Northern Territory of Australia, entered into an Agreement dated 30 July 1991 known as the Heavy Vehicles Agreement ("the Principal Agreement");
- B The Northern Territory of Australia acceded to that Agreement on the 15 May 1992 so that it became on that date a Party; and
- C All the Parties to the Principal Agreement including the Northern Territory of Australia have unanimously decided to amend the Principal Agreement.

NOW IT IS AGREED as follows:

1. This Agreement shall come into force on the date on which all parties have executed this Agreement.
 2. The Principal Agreement is to be amended as follows:
-

- (a) Recital C is deleted and the following Recital inserted in its place:

"The Heads of Government hereby affirm their continuing commitment to cooperatively implement reform of the national road transport regulatory and operating environment through a consultative inclusive arrangement.

Accordingly the agreed principles are:

improvements in road transport industry efficiency and productivity;

improvements in road safety;

minimisation of the adverse environmental impacts of road transport;

encouragement and facilitation of innovation in the industry and its regulation;

encouragement and facilitation of technological advancements in the industry, such as intelligent transport systems;

improvements in regulatory efficiency and reductions in administrative costs;

improvements in the effectiveness and efficiency of compliance arrangements;

encouragement and facilitation of continuous improvement in the road transport regulatory environment (by, for example, monitoring and updating regulation as necessary);

encouragement of continuous improvement in the performance of road and road transport authorities;

facilitation of international harmonisation of vehicle standards;

ensuring road transport reform facilitates effective intermodal linkages between road transport and other transport modes;

having due regard to the impact of road transport reform upon road infrastructure; and

having due regard to the impacts of road transport reform upon remote and rural areas.”;

(b) by deleting from Recital G(f) the words “and Legislation”;

(c) The following Recitals are added:

“H Annex 4 to the Trans-Tasman Mutual Recognition Arrangement, entered into on 9 July 1996 between the Commonwealth, New Zealand, the States, the Northern Territory and the Australian Capital Territory, and requiring Australia and New Zealand to pursue a Road Vehicle Cooperation Programme to develop a body of internationally harmonised standards to form the basis for Trans-Tasman road vehicle standards and to develop consistent conformance assessment and certification requirements, provides that road vehicles certified as meeting Trans-Tasman road vehicle standards will be able to be freely traded between Australia and New Zealand.

I Pending implementation of clause 8(1), the Parties wish to progressively apply the substance of the Commonwealth Road Transport Legislation as enacted from time to time.

J The Parties are to develop and agree on rules which enable the Australian Defence Force to operate in a manner that is consistent , or, where appropriate, at variance, with the Road Transport Legislation.”;

(d) by inserting into clause 2 the following definitions:

“**Australian Transport Council**” means the Council of Commonwealth, New Zealand, State, Northern Territory of Australia and Australian Capital Territory Ministers established by Ministerial Agreement on 11 June 1993 and known as the Australian Transport Council, but constituted so that it consists, when dealing with matters with which this Agreement is concerned, of only one Minister in relation to each member of that Council;

“**COAG**” means the Council of Australian Governments;

“First Heavy Vehicles Amending Agreement” means the Agreement of that name entered into by the Commonwealth, the States, the Australian Capital Territory and the Northern Territory;

“New Zealand Minister” means the Minister in the New Zealand Government responsible for TTMRA road vehicle standards;

“ordinary member” means a member of the National Commission other than the Chief Executive Officer;

“the TTMRA road vehicle standards matters” means a Trans-Tasman road vehicle standard, as it relates to Vehicles, referred to in Annex 4 to the Trans-Tasman Mutual Recognition Arrangement entered into on 9 July 1996 between the Commonwealth, New Zealand, the States, the Northern Territory and the Australian Capital Territory;

- (e) by adding at the end of the definition in clause 2 of “Commonwealth Act” the words “as amended from time to time”;
- (f) by amending the definition in clause 2 of “Voting Member” by adding the words “except New Zealand” to paragraphs (b) and (c) and inserting new paragraphs (ba) and (bb) as follows:
- “(ba) in relation to TTMRA road vehicle standards matters all members of the Australian Transport Council;
- (bb) in relation to a request from New Zealand that it have a member nominated by it on the National Commission, all members of the Australian Transport Council;”;
- (g) by adding the following as clause 3A:
- “3A. On and after the date on which the First Heavy Vehicles Amending Agreement comes into force, references in this Agreement to the expression “Ministerial Council” are to be read as references to the Australian Transport Council.”;
- (h) by deleting from clause 7(4) both the words “and the Commonwealth Road Transport Legislation submitted to the Appropriate Authority” and the word “six” and inserting in the place of the latter word the word “twelve”;

(i) by inserting as the initial words of clause 8(1) the words “Subject to clauses 8A, 8B and 8C”;

(j) by inserting the following clauses 8A, 8B and 8C:

“8A. Prior to a decision by Heads of Government under clause 8B, each Party, other than the Commonwealth and the Australian Capital Territory, shall progressively apply the substance of the Commonwealth Road Transport Legislation as enacted or made from time to time so as to provide a uniform or consistent national operating environment for road transport.

8B. No later than three years after the execution of the First Heavy Vehicles Amending Agreement or such later time as agreed by the Australian Transport Council, the Australian Transport Council will consider and recommend to Heads of Government the preferred means of achieving a nationally uniform or consistent integrated road transport law and Heads of Government shall make their decision by unanimous vote, on the recommendation and any consequential amendments to this Agreement.

8C. Notwithstanding anything to the contrary in clause 8, uniform road transport legislation, as defined in section 41G of the Commonwealth Act, is not to apply to persons to the extent that they are exempted from that legislation under sections 41B, 41C or 41D of the Commonwealth Act.”;

(k) by adding to clause 10 the following:

“The Australian Transport Council is, on and from the date on which the First Heavy Vehicles Amending Agreement comes into force, to be and to exercise the functions and powers of the Ministerial Council for Road Transport which until then had been exercised by the Ministerial Council for Road Transport.”;

(l) by deleting the full stop after clause 11(1) and adding the following:

“and on and after the date on which the First Heavy Vehicles Amending Agreement comes into force, in relation to a matter concerning the TTMRA road vehicle standards, the New Zealand Minister.”;

- (m) by inserting the following words after the word “Legislation” in paragraph 12(a):

“, and the TTMRA road vehicle standards,”;

- (n) by inserting after paragraphs 12 (a), (i) (j) and (l) respectively the following paragraphs:

“(aa) recommend, to COAG that it agree a TTMRA road vehicle standard;

(ia) receive and decide requests from New Zealand that New Zealand nominate a member of the National Commission;

(ja) on the recommendation of the National Commission, appoint, or terminate the appointment of, the Chief Executive Officer of the National Commission;

(la) give directions to the National Commission on its strategic plan;

and by adding to paragraph 12(m) the words “and any application of the substance of the Commonwealth Road Transport Legislation pursuant to clause 8A”;

- (o) by adding to clause 13 the following sub-clause:

“(4) Notwithstanding anything to the contrary in this clause, where any meeting is to consider a matter concerning TTMRA road vehicle standards, notice of that meeting such as would be valid under clause 13(2) is to be given, and if the making of a recommendation to COAG on existing or proposed TTMRA road vehicle standards is to be considered, no vote on that recommendation is to occur unless such notice has been given.”;

- (p) by adding to clause 16 the following paragraph:

“(ca) a matter referred to in paragraph 12(aa), where a recommendation shall be considered carried, unless it is disapproved within two months, or such lesser period as may be agreed unanimously by the Australian Transport Council,

of its being submitted by the National Commission by a vote of a third or more of the Voting Members;”;

- (q) by inserting the following words after the word “Association” in sub-clause 18(1):

“and also, on and after the date on which the First Heavy Vehicles Amending Agreement comes into force, the Government of Papua New Guinea”;
- (r) by inserting the word “each” before the word “be” where it first occurs in sub-clause 18(1);
- (s) by deleting the word “the” where it first appears in sub-clause 18(2) and inserting in its place the word “either”;
- (t) by inserting the words “or only one person” after the word “person” in paragraph 18(3)(a);
- (u) by deleting the words “the person” and inserting the words “any person” in paragraph 18(3)(b);
- (v) by inserting in sub-clause 20(1) immediately after the word “Legislation” where it first appears the words “and any application of the substance of the Commonwealth Road Transport Legislation pursuant to clause 8A” and also before the words “and the recommending” in that sub-clause:

“and facilitating the implementation of road transport reforms approved by the Australian Transport Council under clause 16”;
- (w) by inserting the following paragraphs after paragraph (a) of sub-clause 20(1) the following:
 - “(aa) amendments of the Road Transport Legislation;
 - (ab) road transport reforms;
 - (ac) recommendations to COAG on TTMRA road vehicle standards;

- (ad) the appointment, or termination of the appointment, of the Chief Executive Officer of the National Commission;”;
- (x) by deleting paragraph 20(1)(f);
- (y) by inserting clause 20A as follows:

“20A. The National Commission shall pursue rigorous analysis of issues involved in road transport reform.”;
- (z) by inserting clauses 20B and 20C as follows:

“20B. The National Commission, is in conjunction with the National Environment Protection Council, to develop for Vehicles national motor vehicle emission and noise standards.

“20C. The National Commission is to undertake in relation to Vehicles the activities for which section 41A of the Commonwealth Act provides.”;
- (za) Paragraph 21(1)(b) is deleted and the following paragraph is inserted in its place:

“consist of five ordinary members and a Chief Executive Officer of the National Commission. The ordinary members are to hold office on a part-time basis; and”;
- (zb) by inserting the word “ordinary” before the word “members” in clauses 21(2), 21(3), and 22(2) and paragraph 12(j) and before the word “member” in clause 22(4) and by deleting from clause 21(5) the words “A member” and inserting the words “An ordinary member”;
- (zc) by adding the following words to clause 21(2):

“which must, if New Zealand makes a request, include among those to be nominated by it as a member, a person whom New Zealand requests be so nominated and is the subject of a declaration under section 6(4) of the Commonwealth Act, if :

 - (a) that person will fill a vacancy in the membership of the Commission; and

- (b) the nomination will not result in there being more than one member whose appointment is attributable to a request of that kind.”;
- (zd) by deleting from paragraph 21(5) the words “once only”;
- (ze) by deleting from clause 22(2) the word “two” and inserting in its place the word “three” and adding to that clause the following words:

“and where on a person’s nomination being requested by New Zealand under sub-clause 21(2) that person is so nominated and appointed, the quorum shall include, when the National Commission is considering TTMRA road vehicle standards matters, that person.”;
- (zf) by inserting in clause 27(1) after “Legislation” the words “and any application of the substance of the Commonwealth Road Transport Legislation pursuant to clause 8A”;
- (zg) by inserting clause 31A as follows:

“31A. The National Commission may also receive funds from the government of New Zealand.”;
- (zh) Sub-clause 38 (1) is amended by:
 - (a) deleting the words “Six months” and inserting the words “Twelve months”;
 - (b) deleting the words “and the Commonwealth Road Transport Legislation”;
 - (c) deleting the words “National Commission” and inserting the words “Australian Transport Council”;
 - (d) deleting the words “such legislation” and inserting the words “the Commonwealth Act and the Commonwealth Road Transport Legislation”;
 - (e) deleting the words “the legislation” and inserting the words “the Commonwealth Act”; and

- (f) adding the words “and whether the Commonwealth Road Transport Legislation should be amended”.
- 3. The Principal Agreement is, save as amended above, confirmed in all other respects.

IN WITNESS WHEREOF this First Heavy Vehicles Amending Agreement has been respectively signed for and on behalf of the parties as at the day and year first above written.

SIGNED by the
Prime Minister of the)
Commonwealth of Australia,)
in the presence of:)
)

SIGNED by the
Premier of the State)
of New South Wales, in the presence of:)
)

SIGNED by the
Premier of the)
State of Victoria, in the presence of:)
)

SIGNED by the
Premier of the)
State of Queensland, in the presence of:)
)

SIGNED by the
Premier of the State)
of Western Australia, in the presence of:)
)

SIGNED by the Premier of the)
State of South Australia, in the)
presence of:)

SIGNED by the
Premier of the)
State of Tasmania, in the presence of:)
)

SIGNED by the
Chief Minister of the Northern)
Territory, in the presence of:)
)

SIGNED by the
Chief Minister)
of the Australian Capital)

Territory, in the presence of:)
)

99 At the end of the Act

Add:

Schedule 2A

FIRST LIGHT VEHICLES AMENDING AGREEMENT

BETWEEN

THE COMMONWEALTH OF AUSTRALIA

THE STATES

THE NORTHERN TERRITORY OF AUSTRALIA

and

THE AUSTRALIAN CAPITAL TERRITORY

amending

THE LIGHT VEHICLES AGREEMENT

THIS FIRST LIGHT VEHICLES AMENDING AGREEMENT

is made the _____ day of _____ 1998

BETWEEN:

COMMONWEALTH OF AUSTRALIA
STATE OF NEW SOUTH WALES
STATE OF VICTORIA
STATE OF QUEENSLAND
STATE OF WESTERN AUSTRALIA
STATE OF SOUTH AUSTRALIA
STATE OF TASMANIA
NORTHERN TERRITORY OF AUSTRALIA
AUSTRALIAN CAPITAL TERRITORY

RECITALS:

- A The parties, other than the Western Australia and Tasmania, entered into an Agreement dated 11 May 1992 known as the Light Vehicles Agreement ("the Principal Agreement");
- B The State of Western Australia acceded to that Agreement on or about the 27 July 1992 so that it became on that date a Party;
- C The State of Tasmania acceded to that Agreement on or about the 28 August 1992 so that it became on that date a Party;
- D All the initial Parties to the Principal Agreement and the States of Western Australia and Tasmania have unanimously decided to amend the Principal Agreement.

NOW IT IS AGREED as follows:

- 1. This Agreement shall come into force on the date on which all parties have executed this Agreement.

2. The Principal Agreement is to be amended as follows:

(a) by inserting the words “as amended” after the words “Recital C” in Recital C and adding at the end of that Recital the following:

“Further, the Heads of Government hereby affirm their continuing commitment to cooperatively implement reform of the national road transport regulatory and operating environment through a consultative inclusive arrangement.”;

(b) The following Recitals are added:

“G Annex 4 to the Trans-Tasman Mutual Recognition Arrangement, entered into on 9 July 1996 between the Commonwealth, New Zealand, the States, the Northern Territory and the Australian Capital Territory, and requiring Australia and New Zealand to pursue a Road Vehicle Cooperation Programme to develop a body of internationally harmonised standards to form the basis for Trans-Tasman road vehicle standards and to develop consistent conformance assessment and certification requirements, provides that road vehicles certified as meeting Trans-Tasman road vehicle standards will be able to be freely traded between Australia and New Zealand.

H Pending implementation of clause 8(1), the Parties wish to progressively apply the substance of the Commonwealth Light Vehicle Transport Legislation as enacted from time to time.

I The Parties are to develop and agree on rules which enable the Australian Defence Force to operate in a manner that is consistent, or, where appropriate, at variance, with the Light Vehicle Transport Legislation.”;

(c) by inserting into clause 2 the following definitions:

“**amended Act**” means the *National Road Transport Commission Act 1991* as amended from time to time;

“**Australian Transport Council**” means the Council of Commonwealth, New Zealand, State, Northern Territory of Australia and Australian Capital Territory Ministers established by Ministerial

Agreement on 11 June 1993 and known as the Australian Transport Council, but constituted so that it consists, when dealing with matters with which this Agreement is concerned, of only one Minister in relation to each member of that Council;

“**COAG**” means the Council of Australian Governments;

“**First Light Vehicles Amending Agreement**” means the Agreement of that name entered into by the Commonwealth, the States, the Australian Capital Territory and the Northern Territory;

“**New Zealand Minister**” means the Minister in the New Zealand Government responsible for TTMRA road vehicle standards;

“**the TTMRA road vehicle standards**” means a Trans-Tasman road vehicle standard, as it relates to Light Vehicles, referred to in Annex 4 to the Trans-Tasman Mutual Recognition Arrangement entered into on 9 July 1996 between the Commonwealth, New Zealand, the States, the Northern Territory and the Australian Capital Territory;

- (d) by amending the definition in clause 2 of “Voting Member” by inserting the words “in relation to TTMRA road vehicle standards” after the word “means” and adding the words “but otherwise not including New Zealand” to the end of that definition;
- (e) by deleting sub-clause 7(4);
- (f) by inserting as the initial words of clause 8(1) the words “Subject to clauses 8A, 8B and 8C”;
- (g) by inserting the following clauses 8A, 8B and 8C:

“8A. Prior to a decision by Heads of Government under clause 8B, each Party, other than the Commonwealth and the Australian Capital Territory, shall progressively apply the substance of the Commonwealth Light Vehicle Transport Legislation as enacted or made from time to time so as to provide a uniform or consistent national operating environment for road transport.

8B. No later than three years after the execution of the First Heavy Vehicles Amending Agreement or such later time as agreed by the Australian Transport Council, the Australian Transport Council will

consider and recommend to Heads of Government the preferred means of achieving a nationally uniform or consistent integrated road transport law and Heads of Government shall make their decision by unanimous vote, on the recommendation and any consequential amendments to this Agreement.

8C. Notwithstanding anything to the contrary in clause 8, uniform road transport legislation, as defined in section 41G of the amended Act, is not to apply to persons to the extent that they are exempted from that legislation under sections 41B, 41C or 41D of the amended Act.”

- (h) by inserting a new Part IVA as follows:

“PART IVA - MINISTERIAL COUNCIL

8D. On and from the date on which the First Light Vehicles Amending Agreement comes into force:

- (a) the Australian Transport Council is to be, and to exercise the functions and powers of, the Ministerial Council for Road Transport which until then had been exercised by the Ministerial Council for Road Transport; and
- (b) references in the Light Vehicles Agreement to the expressions “Ministerial Council” or “Ministerial Council established under the Heavy Vehicles Agreement” are to be read as references to the Australian Transport Council; and
- (c) that Council is also to consist, in relation to a matter concerning TTMRA road vehicle standards, of the New Zealand Minister.”;
- (i) by inserting the following words after the word “Legislation” in paragraph 9(a):
- “, and the TTMRA road vehicle standards,”;
- (j) by inserting after paragraph 9(a) the following paragraph:
- “(aa) recommend to COAG that it agree a TTMRA road vehicle standard;”

and adding to paragraph 9(f) the words “and any application of the substance of the Commonwealth Light Vehicle Transport Legislation pursuant to clause 8A”;

(k) by adding to clause 10 the following sub-clause:

“(4) Notwithstanding anything to the contrary in this clause, where any meeting is to consider a matter concerning TTMRA road vehicle standards, notice of that meeting such as would be valid under sub-clause 10(2) is to be given, and if the making of a recommendation to COAG on existing or proposed TTMRA road vehicle standards is to be considered, no vote on that recommendation is to occur unless such notice has been given.”;

(l) by deleting clause 13 and inserting the following clause in its place:

“13. The Ministerial Council will carry a resolution by a simple majority of Voting Members in favour of a resolution except in relation to a matter referred to in:

(a) paragraphs 6(2)(b) and 7(2)(b) and clause 23 where the vote of all Voting Members in favour of the resolution shall cause the resolution to be carried; and

(b) a matter referred to in paragraph 9(aa), where a recommendation shall be considered carried unless it is disapproved within two months, or such lesser period as may be agreed unanimously by the Australian Transport Council, of its being submitted by the National Commission by a vote of a third or more of the Voting Members.”;

(m) by inserting the following words after the word “Association” in sub-clause 15(1):

“and also, on and after the date on which the First Light Vehicle Amending Agreement comes into force, the Government of Papua New Guinea”;

(n) by inserting the word “each” before the word “be” where it first occurs in sub-clause 15(1);

- (o) by deleting the word “the” where it first appears in sub-clause 15(2) and inserting in its place the word “either”;
- (p) by inserting the words “or only one person” after the word “person” in paragraph 15(3)(a);
- (q) by deleting the words “the person” and inserting the words “ any person” in paragraph 15(3)(b);
- (r) by inserting in sub-clause 17(1) immediately after the word “Legislation” where it first appears the words “and any application of the substance of the Commonwealth Light Vehicle Transport Legislation pursuant to clause 8A” and also before the words “and the recommending” in that sub-clause:

“and facilitating the implementation of road transport reforms approved by the Australian Transport Council.”;
- (s) by inserting the following paragraphs after paragraph (a) of sub-clause 17(1) the following:
 - “(aa) amendments of the Light Vehicle Transport Legislation;
 - (ab) road transport reforms;
 - (ac) recommendations to COAG on TTMRA road vehicle standards;”;
- (t) by deleting paragraph 17(1)(c);
- (u) by inserting in sub-clause 17(3) in place of the words “is to develop” the following words:

“, known since the *National Environment Protection Council Act 1994* came into force as the National Environment Protection Council, is to develop”;
- (v) by inserting sub-clause 17(9) as follows:

“(9) The National Commission is to undertake in relation to Light Vehicles the activities for which section 41A of the amended Act provides.”;

- (w) by inserting in clause 19 after “Legislation” the words “and any application of the substance of the Commonwealth Light Vehicle Transport Legislation pursuant to clause 8A”;
 - (x) Sub-clause 29(1) is amended by:
 - (a) deleting the words “Six months” and inserting the words “Twelve months”;
 - (b) deleting the words “and the Commonwealth Light Vehicle Transport Legislation”;
 - (c) deleting the words “National Commission” and inserting the words “Australian Transport Council”;
 - (d) deleting the words “such legislation” and inserting the words “the amended Act and the Commonwealth Light Vehicle Transport Legislation”;
 - (e) deleting the words “the legislation” and inserting the words “the amended Act”; and
 - (f) adding the words “and whether the Commonwealth Light Vehicle Transport Legislation should be amended”;
 - (y) by deleting from sub-clause 29(3) the word “NRTC” and inserting the word “amended”.
3. The Principal Agreement is, save as amended above, confirmed in all other respects.

IN WITNESS WHEREOF this First Light Vehicles Amending Agreement has been respectively signed for and on behalf of the parties as at the day and year first above written.

SIGNED by the
Prime Minister of the)
Commonwealth of Australia,)
in the presence of:)
)

SIGNED by the
Premier of the)
State of New South Wales, in the presence of:)
)

SIGNED by the
Premier of the)
State of Victoria, in the presence of:)
)

SIGNED by the
Premier of the)
State of Queensland, in the presence of:)
)

SIGNED by the
Premier of the)
State of Western Australia, in the presence)
of:)

SIGNED by the
Premier of the)
State of South Australia, in the)
presence of:)

SIGNED by the
Premier of the)
State of Tasmania, in the presence of:)
)

SIGNED by the
Chief Minister of the)
Northern Territory, in the presence of:)
)

SIGNED by the
Chief Minister)

of the Australian Capital)
Territory, in the presence of:)
)

100 Transitional—members holding office under the *National Road Transport Commission Act 1991*

- (1) This item applies to a person who held office as a member under the *National Road Transport Commission Act 1991* immediately before the commencement of this item because of a particular instrument of appointment (the *original instrument of appointment*), so long as the period specified in the person's original instrument of appointment ends after the commencement of this item.
- (2) The person's appointment terminates immediately before the commencement of this item.
- (3) The *National Road Transport Commission Act 1991* has effect as if:
 - (a) the Governor-General had, by instrument (the *notional instrument of appointment*), appointed the person to an office of ordinary member under subsection 6(1) of that Act immediately after the commencement of this item; and
 - (b) the period of appointment specified in the notional instrument of appointment were the period:
 - (i) beginning immediately after the commencement of this item; and
 - (ii) ending at the end of the period specified in the person's original instrument of appointment; and
 - (c) the appointment had been made on the nomination of the Australian Transport Council.

101 Transitional—person holding office as Chairperson under the *National Road Transport Commission Act 1991*

- (1) This item applies to a person who held office as the Chairperson under the *National Road Transport Commission Act 1991* immediately before the commencement of this item because of a particular instrument of appointment (the *original instrument of appointment*), so long as the period specified in the person's original instrument of appointment ends after the commencement of this item.
- (2) The person's appointment terminates immediately before the commencement of this item.

- (3) The *National Road Transport Commission Act 1991* has effect as if:
- (a) the Governor-General had, by instrument (the *notional instrument of appointment*), appointed the person to the office of Chairperson under subsection 7(1) of that Act immediately after the commencement of this item; and
 - (b) the period of appointment specified in the notional instrument of appointment were the period:
 - (i) beginning immediately after the commencement of this item; and
 - (ii) ending at the end of the period specified in the person's original instrument of appointment; and
 - (c) the appointment had been made on the nomination of the Australian Transport Council.

102 Transitional—person holding office as Deputy Chairperson under the *National Road Transport Commission Act 1991*

- (1) This item applies to a person who held office as the Deputy Chairperson under the *National Road Transport Commission Act 1991* immediately before the commencement of this item because of a particular instrument of appointment (the *original instrument of appointment*), so long as the period specified in the person's original instrument of appointment ends after the commencement of this item.
- (2) The person's appointment terminates immediately before the commencement of this item.
- (3) The *National Road Transport Commission Act 1991* has effect as if:
- (a) the Governor-General had, by instrument (the *notional instrument of appointment*), appointed the person to the office of Deputy Chairperson under subsection 7(1) of that Act immediately after the commencement of this item; and
 - (b) the period of appointment specified in the notional instrument of appointment were the period:
 - (i) beginning immediately after the commencement of this item; and
 - (ii) ending at the end of the period specified in the person's original instrument of appointment; and

- (c) the appointment had been made on the nomination of the Australian Transport Council.

103 Transitional—appointment of Chief Executive Officer

The amendment of subsection 26(1) of the *National Road Transport Commission Act 1991* made by this Schedule applies to appointments made after the commencement of this item.

104 Transitional—evidentiary certificates under section 44 of the *National Road Transport Commission Act 1991*

Despite the amendments of section 44 of the *National Road Transport Commission Act 1991* made by this Schedule, that section continues to apply, in relation to a certificate issued before the commencement of this item, as if those amendments had not been made.

105 Transitional—acts of Ministerial Council to be attributed to Australian Transport Council

- (1) This section applies to anything done by, or in relation to, the Ministerial Council under the *National Road Transport Commission Act 1991* before the commencement of this item.
- (2) The *National Road Transport Commission Act 1991* (other than section 44 of that Act) has effect, on and after the commencement of this item, as if the thing had been done by, or in relation to, the Australian Transport Council.

Schedule 2—Amendment of other Acts

Road Transport Reform (Dangerous Goods) Act 1995

1 Section 8

Repeal the section.

Road Transport Reform (Heavy Vehicles Registration) Act 1997

2 Section 7

Repeal the section.

Road Transport Reform (Vehicles and Traffic) Act 1993

3 Section 5

Repeal the section.

*[Minister's second reading speech made in—
House of Representatives on 8 April 1998
Senate on 14 May 1998]*

(61/98)