



Interstate Road Transport Act 1985

No. 130 of 1985

TABLE OF PROVISIONS

PART I—PRELIMINARY

Section

1. Short title
2. Commencement
3. Interpretation
4. Carriage of passengers or goods between prescribed places
5. Application of Act to the Commonwealth and the States
6. Arrangements with States, & c.
7. Regulatory Authority

PART II—REGISTRATION OF INTERSTATE MOTOR VEHICLES

8. Motor vehicles and trailers to be registered
9. Registration of motor vehicles, & c.
10. Sub-standard motor vehicles and trailers not to be driven, & c.
11. Cancellation or suspension of registration
12. Surrender of registration
13. Regulations may make further provision with respect to registered motor vehicles, & c.

PART III—COLLECTION OF INTERSTATE ROAD TRANSPORT CHARGE

14. By whom charge payable
15. Owner may nominate actual distance amount
16. When charge due and payable
17. Advance on account of charge
18. Refund of charge on cancellation or surrender
19. Refund of charge in relation to intra-state operations
20. Recovery of charge, & c.

PART IV—INTERSTATE ROAD TRANSPORT TRUST FUND

21. Interstate Road Transport Trust Fund
22. Money to be paid into Fund
23. Money to be paid out of Fund

TABLE OF PROVISIONS—*continued*

Section

PART V—LICENSING OF INTERSTATE ROAD TRANSPORT OPERATORS

- 24. Interpretation
- 25. Operators not to carry on long distance interstate road transport business unless licensed
- 26. Grant of federal operator's licence
- 27. Disqualified persons
- 28. Monitoring device records, & c.
- 29. Matters to be taken into account by court
- 30. Associates of disqualified persons
- 31. Publication of particulars of disqualification, & c.
- 32. Annual notice by holder of federal operator's licence
- 33. Court may inform Licensing Authority of conviction, & c.
- 34. Federal road safety standards
- 35. Disallowance, & c., of federal road safety standards

PART VI—MONITORING DEVICES

- 36. Regulations may specify requirements for monitoring devices
- 37. Regulations may require standard monitoring device to be fitted to registered motor vehicles
- 38. Regulations may specify manner of fitting monitoring devices
- 39. Owner of motor vehicle or trailer to maintain monitoring device
- 40. Offences relating to monitoring devices
- 41. Falsification, concealment, & c., of monitoring device record
- 42. Court may order payment of amount in addition to penalty
- 43. Evidence of monitoring device record

PART VII—MISCELLANEOUS

- 44. Power to stop and search motor vehicles, & c.
- 45. Power to require persons to give information or produce documents
- 46. Inspection of documents
- 47. False or misleading statements
- 48. Regulatory Authorities to comply with Ministerial directions
- 49. Freedom of interstate trade, & c.
- 50. Delegation
- 51. Reconsideration and review of certain decisions
- 52. Effect of this Act and regulations on State and Territory laws
- 53. Enforcement of orders for payment
- 54. Penalties for corporations
- 55. Recovery of fees
- 56. Regulations



Interstate Road Transport Act 1985

No. 130 of 1985

An Act relating to road transport

[Assented to 22 November 1985]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Interstate Road Transport Act 1985*.

Commencement

2. (1) Sections 1 and 2 shall come into operation on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act shall come into operation on such day as is, or on such respective days as are, fixed by Proclamation.

Interpretation

3. (1) In this Act, unless the contrary intention appears—
“Australian Capital Territory” includes the Jervis Bay Territory;

Interstate Road Transport No. 130, 1985

- “casual hiring agreement” means an agreement for taking a motor vehicle or trailer on hire where the agreement is of a kind ordinarily entered into by persons taking motor vehicles or trailers on hire intermittently as the occasion requires on an hourly, daily, weekly or monthly basis;
- “charge” means charge imposed by the *Interstate Road Transport Charge Act 1985*;
- “charge monitoring device” means—
- (a) a motor vehicle charge monitoring device; or
 - (b) a trailer charge monitoring device;
- “drive”, in relation to a motor cycle, means ride;
- “federal operator’s licence” means a licence granted under section 26;
- “federal road safety standard” means a federal road safety standard declared under section 34;
- “Fund” means the Interstate Road Transport Trust Fund established by sub-section 21 (1);
- “goods” includes—
- (a) ships, aircraft and vehicles (including vehicles used on a railway);
 - (b) animals (including fish);
 - (c) minerals (including petroleum); and
 - (d) gas;
- “Governor”, in relation to the Northern Territory, means the Administrator of the Northern Territory;
- “heavy motor vehicle” means a motor vehicle the designed maximum laden capacity of which is not less than 12 tonnes;
- “leased” means let on hire under an agreement and includes—
- (a) a letting on hire that is described in the agreement as a lease; and
 - (b) a letting on hire under a hire-purchase agreement;
- “long distance interstate fleet operator” means a person who carries on a business that involves the carriage by the person of goods or passengers by heavy motor vehicles between prescribed places that are more than 100 kilometres apart otherwise than under contracts for the carriage of goods or passengers;
- “long distance interstate haulage contractor” means a person who carries on the business of entering into contracts for the carriage by the person or by another person of goods or passengers by heavy motor vehicles between prescribed places that are more than 100 kilometres apart;
- “long distance interstate road transport business” means the business of—
- (a) a long distance interstate fleet operator;
 - (b) a long distance interstate haulage contractor; or
 - (c) a long distance interstate transport agent,
- but does not include business included in a prescribed class of business;

Interstate Road Transport No. 130, 1985

“long distance interstate transport agent” means a person who, as an agent and for reward, arranges contracts for the carriage of goods or passengers by heavy motor vehicles between prescribed places that are more than 100 kilometres apart;

“monitoring device” means—

- (a) a standard monitoring device; or
- (b) a charge monitoring device;

“monitoring device record” means a document of the kind referred to in sub-paragraph 39 (f) (i) or (g) (i) or first referred to in paragraph 39 (h);

“motor vehicle” means a vehicle that uses or is designed to use volatile spirit, gas, oil, electricity or any other power (not being human or animal power) as the principal means of propulsion;

“motor vehicle charge monitoring device” means a device that meets the requirements specified in regulations made for the purposes of sub-section 36 (2);

“owner”, in relation to a motor vehicle or trailer, means—

- (a) except in a case to which paragraph (b) or (c) applies—the owner for the time being of the motor vehicle or trailer;
- (b) in a case where the motor vehicle or trailer is leased—
 - (i) if the motor vehicle or trailer is leased under a casual hiring agreement—the lessor for the time being of the motor vehicle or trailer;
 - (ii) in any other case—the lessee for the time being of the motor vehicle or trailer;
- (c) in a case where the motor vehicle or trailer is subject to a security but is not leased—the person for the time being who has rights in the nature of an equity of redemption in respect of the motor vehicle or trailer;

“railway” includes tramway;

“registration” means registration under this Act, and includes re-registration under this Act;

“Regulatory Authority” means a Licensing Authority or a Registration Authority;

“road” means a road, street, lane or footpath (including a road, street, lane or footpath on or forming part of a bridge) or other place (whether or not similar to a road, street, lane or footpath) that is open to or used by the public;

“road safety matter” means any matter that is directed at—

- (a) preventing death or injury arising out of the use of a motor vehicle;
- (b) protecting persons from, or from risk of, death or injury arising out of the use of a motor vehicle;

- (c) preventing loss of or damage to property arising out of the use of a motor vehicle; or
- (d) protecting property from, or from risk of, loss or damage arising out of the use of a motor vehicle;

“standard monitoring device” means a device that meets the requirements specified in regulations made for the purposes of sub-section 36 (1);

“State” includes the Northern Territory;

“State operator’s licence” means a licence granted under a law of a State or the Australian Capital Territory, being a licence of a kind that is declared by the regulations to be a State operator’s licence for the purposes of this Act;

“Territory” does not include an external Territory or the Northern Territory;

“trailer” means—

- (a) a vehicle (other than a side-car) without motive power designed for attachment to a motor vehicle; or
- (b) a piece of machinery or equipment that is equipped with wheels and designed to be towed behind a vehicle, but is not designed as a means of conveyance;

“trailer charge monitoring device” means a device that meets the requirements specified in regulations made for the purposes of sub-section 36 (3);

“vehicle” means any means of conveyance which runs on wheels but does not include any vehicle used on a railway.

(2) Unless the contrary intention appears, a reference in this Act to a motor vehicle shall, where a trailer is attached to the motor vehicle, be read as including a reference to the motor vehicle and trailer.

(3) Where there are 2 or more joint owners or part owners of a motor vehicle or trailer, each joint owner or part owner shall be deemed to be, for the purposes of this Act, the owner of the motor vehicle or trailer.

(4) A reference in this Act to the re-registration of a motor vehicle or trailer is a reference to the registration by way of renewal of an existing registration of the motor vehicle or trailer.

(5) A reference in this Act to driving a trailer is a reference to driving a motor vehicle to which the trailer is attached.

(6) For the purposes of this Act, where a motor vehicle is being towed, a person occupying the driver’s seat of the motor vehicle shall be taken to be driving the motor vehicle.

(7) For the purposes of this Act, where a place is situated beyond a radius of 100 kilometres of another place, the places shall be taken to be more than 100 kilometres apart.

(8) A reference in this Act to a person carrying on business is a reference to a person carrying on business alone, in partnership with another person or otherwise.

(9) A reference in a provision of this Act to an approved form is a reference to a form approved by the Minister by writing for the purposes of the provision.

(10) A reference in this Act to a prescribed fee is a reference—

(a) in a case where the fee relates to the performance of a function of a Regulatory Authority in respect of a State, being the Minister, of a Regulatory Authority in respect of the Australian Capital Territory or of the Minister—the fee specified in the regulations made under this Act in respect of the performance of that function; or

(b) in a case where the fee relates to the performance of a function of a Regulatory Authority in respect of a State, not being the Minister—the fee (if any) payable under a law of the State in respect of the performance of that function, not being a fee that exceeds the maximum fee specified in the regulations made under this Act in respect of the performance of that function.

(11) Notwithstanding sub-section (10), a prescribed fee shall not exceed \$100.

(12) A fee payable in respect of the performance of a function of a Regulatory Authority in respect of a State, not being the Minister, shall not be taken to be payable under this Act.

(13) For the purposes of this Act, a motor vehicle or trailer shall be taken to be registered under a law of Western Australia if a vehicle licence is in force under a law of that State in respect of the motor vehicle or trailer.

(14) For the purposes of this Act, the designed maximum laden capacity of a motor vehicle shall be ascertained in accordance with the regulations.

Carriage of passengers or goods between prescribed places

4. A reference in this Act to the carriage of passengers or goods between prescribed places is a reference to the carriage of passengers or goods, in trade or commerce, between—

- (a) a place in a State and a place in another State;
- (b) a place in a State and a place in a Territory; or
- (c) a place in a Territory and a place in another Territory.

Application of Act to the Commonwealth and the States

5. (1) This Act (other than Part V) binds the Crown in right of the Commonwealth and of each of the States in so far as the Crown in right of the Commonwealth or of a State carries on a business, either directly or by an authority of the Commonwealth or by an authority of a State, but nothing in this Act renders the Crown in right of the Commonwealth or of a State liable to be prosecuted for an offence.

(2) In sub-section (1), “State” includes Norfolk Island.

Arrangements with States, &c.

6. (1) The Governor-General may make an arrangement with the Governor of a State for and in relation to designating an authority or officer of the State as the authority or officer who is to perform the functions of a Registration Authority under this Act and the regulations.

(2) The Governor-General may make an arrangement with the Governor of a State for and in relation to designating an authority or officer of the State as the authority or officer who is to perform the functions of a Licensing Authority under this Act and the regulations.

(3) The Governor-General may arrange with the Governor of a State with whom an arrangement is in force under sub-section (1) or (2) for the variation or revocation of the arrangement.

(4) An arrangement under sub-section (1) or (2) may make provision for authorities or officers of a State to—

- (a) give information, and produce documents, relevant to this Act or the regulations to the Minister or a person authorised by the Minister;
- (b) keep accounts and accounting records relevant to this Act or the regulations;
- (c) arrange for the audit of accounts, accounting records and financial statements relevant to this Act or the regulations; and
- (d) permit persons authorised by the Minister to inspect and make copies of, or take extracts from, documents relevant to this Act or the regulations.

(5) An amount received by an officer or authority of a State under this Act by way of a charge or an advance on account of charge shall be received by the officer or authority on behalf of the Commonwealth.

(6) A copy of each instrument by which an arrangement under sub-section (1) or (2) is made, varied or revoked shall be published in the *Gazette*.

Regulatory Authority

7. (1) For the purposes of this Act, there shall be, in respect of each State and the Australian Capital Territory, a Registration Authority.

(2) For the purposes of this Act, there shall be, in respect of each State and the Australian Capital Territory, a Licensing Authority.

(3) Subject to sub-section (6), the Registration Authority in respect of a State is the authority or officer of the State for the time being specified in an arrangement under sub-section 6 (1) with the Governor of the State as the authority or officer who is to perform the functions of a Registration Authority under this Act and the regulations.

(4) Subject to sub-section (7), the Licensing Authority in respect of a State is the authority or officer of the State for the time being specified in an arrangement under sub-section 6 (2) with the Governor of the State as the

authority or officer who is to perform the functions of a Licensing Authority under this Act and the regulations.

(5) The Registration Authority and the Licensing Authority in respect of the Australian Capital Territory is the Registrar of Motor Vehicles appointed under the *Motor Traffic Ordinance 1936* of the Australian Capital Territory.

(6) If there is not in force an arrangement under sub-section 6 (1) specifying an authority or officer of a State who is to perform the functions of a Registration Authority under this Act, the Minister shall be the Registration Authority in respect of the State.

(7) If there is not in force an arrangement under sub-section 6 (2) specifying an authority or officer of a State who is to perform the functions of a Licensing Authority under this Act, the Minister shall be the Licensing Authority in respect of the State.

PART II—REGISTRATION OF INTERSTATE MOTOR VEHICLES

Motor vehicles and trailers to be registered

8. (1) A person shall not—

- (a) drive on a road;
- (b) cause or permit to be driven on a road; or
- (c) cause or permit to be left standing on a road,

a motor vehicle or trailer in the carriage of passengers or goods between prescribed places or for any purpose that is incidental to carriage of that kind unless the motor vehicle or trailer is—

- (d) registered under this Act in the name of the owner of the motor vehicle or trailer; or
 - (e) registered under a law of a State or of the Australian Capital Territory.
- Penalty: \$1,000.

(2) A motor vehicle or trailer shall not be taken, for the purposes of sub-section (1), to be registered under a law of a State if the registration is an interstate registration that was granted or renewed after the commencement of this section.

(3) The registration of a motor vehicle or trailer under a law of a State shall be taken to be an interstate registration for the purposes of sub-section (2) if—

- (a) the registration is subject to the condition, or to the giving of an undertaking, that the motor vehicle or trailer will not be used in the State except for the purposes of trade, commerce or intercourse among the States; or
- (b) the motor vehicle or trailer is wholly or partly exempt from a fee, charge or tax payable under a law of the State in respect of the use or registration of a motor vehicle or trailer on the grounds that the motor vehicle or trailer is not or will not be used in the State except for the purposes of trade, commerce or intercourse among the States.

(4) For the purposes of paragraph (3) (b), a motor vehicle or trailer shall be taken to be partly exempt from a fee, charge or tax if the fee, charge or tax is rebatable or is levied at a nominal rate.

(5) Where—

- (a) a motor vehicle or trailer is registered under this Act;
- (b) the registration is not in the name of the owner; and
- (c) the owner has owned the motor vehicle or trailer for not more than 14 days,

a person shall not be taken to have contravened sub-section (1) in relation to the motor vehicle or trailer.

Registration of motor vehicles, &c.

9. (1) Subject to this section, upon application made in accordance with the approved form by the owner of a motor vehicle or trailer, a Registration Authority shall register the motor vehicle or trailer in the name of the owner if—

- (a) the application is accompanied by the prescribed fee;
- (b) the owner tenders the following amounts in respect of the motor vehicle or trailer:
 - (i) in a case where charge is due and payable on the registration of the motor vehicle or trailer—the amount of the charge;
 - (ii) in a case where advance is payable under sub-section 17 (1)—the amount of the advance;
 - (iii) the amount of any charge due and payable by the owner in respect of any previous registration of the motor vehicle or trailer;
- (c) the motor vehicle or trailer is not, under the regulations, exempt from inspection and the owner produces the motor vehicle or trailer for inspection by the Registration Authority or a person authorised in writing by the Registration Authority to act under this paragraph;
- (d) the motor vehicle or trailer complies with requirements prescribed for the purposes of paragraph 13 (a) or section 37;
- (e) otherwise than as mentioned in paragraph (d), the motor vehicle or trailer is not, and is not likely to be, dangerous or unsafe; and
- (f) the requirements of regulations made for the purposes of paragraph 13 (c) relating to insurance have been met in respect of the motor vehicle or trailer.

(2) A Registration Authority may refuse to register a motor vehicle or trailer if the owner of the motor vehicle or trailer has not complied with requirements prescribed for the purposes of paragraph 13 (b).

(3) Subject to sub-section (4), registration comes into force on the day on which it is granted and remains in force—

- (a) in a case to which paragraph (b) does not apply—for one year; or

(b) in a case where—

- (i) the owner, in the application for registration, requests registration for a period of less than one year, being a period specified in the regulations; and
- (ii) the application is accompanied by the prescribed fee, being a fee additional to the fee referred to in paragraph (1) (a),

for the period requested by the owner.

(4) Where application is made for the re-registration of a motor vehicle or trailer that is already registered, the re-registration may be expressed to come into force immediately after the existing registration ceases to be in force.

(5) A Registration Authority, in exercising the power conferred by sub-section (2), shall have regard only to—

- (a) the safety of the public; and
- (b) the need to ensure compliance with this Act and the regulations.

(6) Where there are 2 or more owners of a motor vehicle or trailer, those owners may, by notice in writing in accordance with the approved form signed by each of them and given to a Registration Authority, nominate one of the owners as being the representative owner of the motor vehicle or trailer.

(7) Subject to sub-sections (9) and (10), where—

- (a) there are 2 or more owners of a motor vehicle or trailer; and
- (b) the motor vehicle or trailer is registered in the name of a person in respect of whom a nomination is in force under sub-section (6) in relation to the motor vehicle or trailer,

the motor vehicle or trailer shall be taken, for the purposes of this Act, to be registered in the names of each of the owners.

(8) Subject to sub-sections (9) and (10), where—

- (a) a document relating to a motor vehicle or trailer is required or permitted by this Act (other than sub-section (6)) or the regulations to be served on, or given to a Registration Authority by, the owner of a motor vehicle or trailer;
- (b) there are 2 or more owners of the motor vehicle or trailer; and
- (c) a document relating to the motor vehicle or trailer is served on, or given to a Registration Authority by, a person in respect of whom a nomination under sub-section (6) is in force in relation to the motor vehicle or trailer,

the document shall be taken, for the purposes of this Act, to have been served on, or given by, as the case may be, each of the owners.

(9) Where—

- (a) a person has been nominated under sub-section (6) in relation to a motor vehicle or trailer; and

- (b) one of the owners of the motor vehicle or trailer, by notice in writing in accordance with the approved form given to the Registration Authority, revokes that nomination,

that nomination ceases to be in force.

(10) Where—

- (a) a person has been nominated under sub-section (6) in relation to a motor vehicle or trailer; and
- (b) a person ceases to be, or becomes, one of the owners of the motor vehicle or trailer,

that nomination ceases to be in force.

(11) Where—

- (a) there are 2 or more owners of a motor vehicle or trailer; and
- (b) an application for registration of the motor vehicle or trailer is not accompanied by a nomination under sub-section (6) in relation to the motor vehicle or trailer,

a Registration Authority may refuse to register the motor vehicle or trailer.

Sub-standard motor vehicles and trailers not to be driven, &c.

10. (1) A person shall not, without reasonable excuse—

- (a) drive on a road;
- (b) cause or permit to be driven on a road; or
- (c) cause or permit to be left standing on a road,

a motor vehicle or trailer in the carriage of passengers or goods between prescribed places or for any purpose that is incidental to carriage of that kind if the motor vehicle or trailer is in an unsafe or dangerous condition.

Penalty: \$2,000 or imprisonment for one year, or both.

(2) It is a reasonable excuse for the purposes of sub-section (1) if the person—

- (a) did not know; and
- (b) could not reasonably be expected to have known,

that the motor vehicle or trailer was in an unsafe or dangerous condition.

(3) A person shall not, without reasonable excuse—

- (a) drive on a road;
- (b) cause or permit to be driven on a road; or
- (c) cause or permit to be left standing on a road,

a registered motor vehicle or trailer in the carriage of passengers or goods between prescribed places or for any purpose that is incidental to carriage of that kind if the requirements of the regulations relating to insurance are not met in respect of the motor vehicle or trailer.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(4) It is a reasonable excuse for the purposes of sub-section (3) if the person—

- (a) did not know; and
- (b) could not reasonably be expected to have known,

that the requirements of the regulations relating to insurance were not met in respect of the motor vehicle or trailer.

(5) An offence against sub-section (1) is punishable on summary conviction.

Cancellation or suspension of registration

11. (1) A Registration Authority may, by notice in writing served on the owner of a registered motor vehicle or trailer, cancel the registration of the motor vehicle or trailer if—

- (a) the motor vehicle or trailer does not comply with requirements prescribed for the purposes of paragraph 13 (a) or (c) or section 37;
- (b) otherwise than as mentioned in paragraph (a), the motor vehicle or trailer is, or is likely to be, dangerous or unsafe;
- (c) the owner of the motor vehicle or trailer has not complied with requirements prescribed for the purposes of paragraph 13 (b) or section 39;
- (d) the motor vehicle or trailer has been so altered or modified as not to correspond to the specifications set out in the certificate of registration; or
- (e) the motor vehicle or trailer is destroyed.

(2) If—

- (a) the motor vehicle or trailer does not comply with requirements prescribed for the purposes of paragraph 13 (a) or (c) or section 37;
- (b) otherwise than as mentioned in paragraph (a), the motor vehicle or trailer is, or is likely to be, dangerous or unsafe; or
- (c) the owner of the motor vehicle or trailer has not complied with requirements prescribed for the purposes of paragraph 13 (b) or section 39,

a Registration Authority may, by notice in writing served on the owner of the motor vehicle or trailer—

- (d) suspend the registration of the motor vehicle or trailer; and
- (e) give directions to the owner requiring acts or things to be done to or in relation to the motor vehicle or trailer—
 - (i) in a case to which paragraph (a) applies—for the purpose of ensuring that the motor vehicle or trailer complies with requirements prescribed for the purposes of paragraph 13 (a) or (c) or section 37;
 - (ii) in a case to which paragraph (b) applies—for the purpose of ensuring that the motor vehicle or trailer is not, and is not likely to be, dangerous or unsafe; or

- (iii) in a case to which paragraph (c) applies—for the purposes of rectifying or remedying the consequences of the failure by the owner of the motor vehicle or trailer to comply with requirements prescribed for the purposes of paragraph 13 (b) or section 39.

(3) Where—

- (a) a Registration Authority has suspended the registration of a motor vehicle or trailer and has given directions to the owner of the motor vehicle or trailer; and
- (b) the Registration Authority is satisfied that the owner has complied with those directions,

the Registration Authority shall, by notice in writing served on the owner, terminate the suspension.

(4) Where the registration of a motor vehicle or trailer is suspended, the motor vehicle or trailer shall, for the purposes of section 8, be deemed not to be registered while the registration is suspended.

(5) A Registration Authority, in exercising the powers conferred by sub-section (1) or (2), shall have regard only to—

- (a) the safety of the public; and
- (b) the need to ensure compliance with this Act and the regulations.

Surrender of registration

12. (1) The owner of a registered motor vehicle or trailer may, by notice in accordance with the approved form given to a Registration Authority, surrender the registration of the motor vehicle or trailer.

(2) A notice surrendering the registration of a motor vehicle or trailer shall be accompanied by the prescribed fee.

(3) A notice surrendering the registration of a motor vehicle or trailer shall, except in such circumstances as are prescribed, be accompanied by any registration plates issued under the regulations in respect of the motor vehicle or trailer.

Regulations may make further provision with respect to registered motor vehicles, &c.

13. The regulations may make provision for and in relation to—

- (a) requiring a registered motor vehicle or trailer to comply with such requirements as are specified in the regulations;
- (b) requiring the owner of a registered motor vehicle or trailer to cause the motor vehicle or trailer to be fuelled, lubricated, cleaned, maintained or repaired, or to cause other acts or things to be done in relation to the motor vehicle or trailer, in accordance with the regulations;
- (c) requiring arrangements relating to insurance to be in force in connection with a registered motor vehicle or trailer;

- (d) prohibiting the defacement, or the alteration, without the authority of a Registration Authority, of certificates of registration, registration plates and registration labels;
- (e) requiring registered motor vehicles or trailers to be produced for inspection by a Registration Authority or by a person authorised by a Registration Authority;
- (f) the issue, replacement and return of certificates of registration, registration plates and registration labels;
- (g) requiring notification to be given to a Registration Authority of such matters as are prescribed;
- (h) regulating the use of registration plates and labels; and
- (j) prohibiting the display of words, letters or digits that are, or other matter that is, capable of being mistaken for a registration plate or label.

PART III—COLLECTION OF INTERSTATE ROAD TRANSPORT CHARGE

By whom charge payable

14. Charge in respect of the registration of a motor vehicle or trailer is payable by the person who is, at the time when the charge is due and payable, the owner of the motor vehicle or trailer.

Owner may nominate actual distance amount

15. (1) Subject to this section, the owner of a motor vehicle or trailer may, in the application for registration of the motor vehicle or trailer, nominate the actual distance amount as the amount of charge to be payable in respect of the registration of the motor vehicle or trailer.

(2) An owner of a motor vehicle is not entitled to make a nomination in relation to the motor vehicle unless the motor vehicle is fitted with a motor vehicle charge monitoring device.

(3) An owner of a trailer is not entitled to make a nomination in relation to the trailer unless the trailer is fitted with a trailer charge monitoring device.

(4) Where—

(a) a nomination in relation to the registration of a motor vehicle or trailer was made under sub-section (1); and

(b) upon the cancellation, expiry or surrender of the registration—

(i) a Registration Authority is satisfied that an appropriate charge monitoring device was fitted to the motor vehicle or trailer throughout the period of the registration;

(ii) the Registration Authority has no reasonable grounds to suspect that the device did not operate accurately throughout that period; and

- (iii) the owner of the motor vehicle or trailer produces documents of the kind first referred to in paragraph 39 (h) summarising, or containing extracts from, documents of the kind referred to in sub-paragraph 39 (f) (i) or (g) (i) setting out information recorded by the device in respect of the period of the registration and, if the Registration Authority requires, those last-mentioned documents,

the Registration Authority shall accept the nomination.

When charge due and payable

16. Charge in respect of the registration of a motor vehicle or trailer is due and payable—

- (a) in the case of a motor vehicle or trailer in relation to which a nomination has been made under sub-section 15 (1)—on the cancellation, expiry or surrender of the registration; or
- (b) in any other case—on the day on which the registration comes into force.

Advance on account of charge

17. (1) Where a nomination in relation to a motor vehicle or trailer is made under sub-section 15 (1), the owner of the motor vehicle or trailer is liable to pay to the Commonwealth, by way of an advance on account of the charge that will become due and payable in respect of the registration of the motor vehicle or trailer, an amount equal to—

- (a) if the registration is for a period of one year—the imputed distance amount in relation to the motor vehicle or trailer; or
- (b) if the registration is for a period of less than one year—an amount calculated in accordance with the formula $\frac{A B}{C}$, where—

A is the imputed distance amount in relation to the motor vehicle or trailer;

B is the number of whole days in the period that is applicable to the registration under sub-section 9 (3); and

C is 365.

(2) Where—

- (a) charge is due and payable on the cancellation, expiry or surrender of the registration of a motor vehicle or trailer; and
- (b) the amount paid by a person by way of an advance on account of charge exceeds the amount of the charge,

then—

- (c) in a case where application is made by the owner for the re-registration of the motor vehicle or trailer—the amount of the excess shall be credited to the charge in respect of the re-registration or, if an advance on account of that charge is payable, to that advance; and

- (d) in any other case—the amount of the excess shall be refunded to the owner of the motor vehicle or trailer.

Refund of charge on cancellation or surrender

18. Where—

- (a) the registration of a motor vehicle or trailer is cancelled or surrendered; and
(b) the owner of the motor vehicle or trailer did not make a nomination under sub-section 15 (1) in relation to the registration of the motor vehicle or trailer,

the Commonwealth shall—

- (c) except in a case to which paragraph (d) applies—refund to the owner an amount calculated in accordance with the formula $\frac{A B}{C}$, where—

A is the amount of charge payable in respect of the registration of the motor vehicle or trailer;

B is the number of whole days in the period commencing on the cancellation or surrender and ending at the time when the registration would, but for the cancellation or surrender, have expired; and

C is the number of whole days in the period that is applicable to the registration under sub-section 9 (3); or

- (d) in the case of a surrender—if the owner includes in the notice of surrender a statement directing that the amount that would, but for this paragraph, be refunded to the owner be credited to the charge in respect of another registration of the motor vehicle or trailer or the registration of another motor vehicle or trailer or, if an advance on account of charge is payable, to that advance—the Commonwealth shall comply with the direction.

Refund of charge in relation to intra-state operations

19. (1) Subject to sub-section (2), where—

- (a) a registered motor vehicle or trailer is used in intra-state operations; and
(b) that use was not in contravention of a law of a State or the Australian Capital Territory,

the owner of the motor vehicle or trailer is entitled to a refund of the charge in respect of the registration of the motor vehicle or trailer of an amount calculated in accordance with the formula $\frac{A B}{C}$, where—

A is the number of whole kilometres travelled by the motor vehicle or trailer in intra-state operations during the period the registration was in force;

B is the amount of charge payable in respect of the registration of the motor vehicle or trailer; and

C is the number of whole kilometres travelled by the motor vehicle or trailer during the period the registration was in force.

(2) The owner of a motor vehicle or trailer is not entitled to a refund under sub-section (1) in relation to the motor vehicle or trailer unless—

- (a) the owner makes a claim for the refund in accordance with the approved form to a Registration Authority;
- (b) the owner caused to be prepared a written record in accordance with the approved form of each journey undertaken by the motor vehicle or trailer during the period the registration was in force; and
- (c) the claim is accompanied by—
 - (i) the records referred to in paragraph (b); and
 - (ii) such declarations (if any) as are prescribed (including declarations made by a person other than the owner).

(3) Where—

- (a) a person (in this sub-section referred to as the “convicted person”) is convicted before a court of an offence against section 47 in relation to an act or omission; and
- (b) the court is satisfied that the purpose of, or one of the purposes of, the act or omission was to enable the convicted person or another person to receive an amount under sub-section (1) to which the convicted person or the other person, as the case requires, was not entitled,

the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Commonwealth an amount not exceeding double the amount referred to in paragraph (b).

(4) A reference in this section to the use of a motor vehicle or trailer in intra-state operations is a reference to the use of the motor vehicle or trailer otherwise than—

- (a) in the carriage of passengers or goods between prescribed places; or
- (b) for any purpose that is incidental to carriage of that kind.

Recovery of charge, &c.

20. The following amounts payable to the Commonwealth may be recovered as a debt due to the Commonwealth by action in a court of competent jurisdiction:

- (a) charge;
- (b) an advance under sub-section 17 (1).

PART IV—INTERSTATE ROAD TRANSPORT TRUST FUND

Interstate Road Transport Trust Fund

21. (1) There is established a fund, to be known as the Interstate Road Transport Trust Fund.

(2) Income derived from the investment of money standing to the credit of the Fund forms part of the Fund.

(3) The Fund is a Trust Account for the purposes of section 62A of the *Audit Act 1901*.

Money to be paid into Fund

22. (1) There shall be paid into the Fund, out of the Consolidated Revenue Fund, which is appropriated accordingly, amounts equal to the amounts received by the Commonwealth as charge and advances on account of charge.

(2) There shall be paid into the Fund amounts received by the Commonwealth by way of the repayment of amounts paid in accordance with a determination under sub-section 23 (1).

Money to be paid out of Fund

23. (1) There shall be paid out of the Fund to a State by way of the grant of financial assistance for expenditure by the State on the maintenance and upkeep of roads in the State that are used by registered motor vehicles or trailers, such amounts as are ascertained in accordance with a determination made by the Minister in writing for the purposes of this sub-section.

(2) There shall be paid out of the Fund so much of the expenses incurred by the Commonwealth or an authority of the Commonwealth on the maintenance and upkeep of roads in the Australian Capital Territory that are used by registered motor vehicles or trailers as are ascertained in accordance with a determination made by the Minister in writing for the purposes of this sub-section.

(3) The Minister, in exercising the power to make determinations under sub-section (1) or (2), shall, as far as practicable, ensure that the allocation of payments under this section between the States and in respect of the Australian Capital Territory reflects the distribution of damage done to roads by registered motor vehicles and trailers operating as mentioned in sub-section 8 (1).

(4) Payments out of the Fund shall be made at such times, and in such amounts, as the Minister approves.

(5) Payment of an amount to a State under sub-section (1) is subject to the following conditions:

- (a) that the State shall not impose a fee, charge or tax in respect of, or relating to the use of, a registered motor vehicle or trailer, being a fee, charge or tax of a kind specified in the regulations;
- (b) that the State will give to the Minister—
 - (i) as soon as practicable after 30 June in each year a statement, in accordance with a form approved by the Minister, as to—
 - (A) the expenditure by the State during that year out of that amount;

- (B) in a case where that amount was paid to the State and that amount or part of that amount has been paid by the State to a government authority—the expenditure by the government authority during that year out of that amount or that part of that amount; and
 - (C) any sum set aside during that year out of that amount for expenditure by the State but not expended during that year; and
 - (ii) a certificate by the Auditor-General of the State certifying that, in the opinion of the Auditor-General, the contents of a statement referred to in sub-paragraph (i) are correct;
 - (c) that the State will expend the amount as required by a determination made under that sub-section.
- (6) Payment of an amount to a State under sub-section (1) may be made subject to such other conditions as are specified in a determination made under that sub-section, including, but without limiting the generality of the foregoing, conditions for the purposes of this Act requiring the State to—
- (a) comply with a request to give information to the Minister; and
 - (b) in a case where the Minister informs the Treasurer of the State that the Minister is satisfied that the State has not complied with a condition of payment—re-pay to the Commonwealth that amount or such part of that amount as the Minister specifies.
- (7) The Minister shall cause a copy of a determination made under sub-section (1) to be given to the appropriate Minister of each State.
- (8) For the purposes of this section, a notification or request shall be taken to have been given to a State if it is given to the appropriate Minister of the State.
- (9) An amount paid by a State to a government authority for a particular purpose and expended by that authority for that purpose shall, for the purposes of this section, be deemed to have been expended by the State for that purpose.
- (10) For the purposes of this section, where an amount is expended by a State or a government authority by way of the payment of wages and an amount of tax is paid by the State or the authority (whether by way of a payment of moneys, the crediting of an account or otherwise) on those wages, being a tax imposed by a law of the State upon employers on wages paid by them, the amount of tax shall be deemed to be a part of those wages.
- (11) Subject to sub-section (10), for the purposes of this section, money paid or credited by a State to a trust account or other account in the Treasury of the State shall not be taken, by reason only of it having been so paid or credited, to have been expended by the State.
- (12) In this section—
- “government authority” means—
- (a) a local government body; or

- (b) an authority of a State, being an incorporated body but not being a local government body, that is responsible for the construction of roads in, or in an area of, the State;
- “wages” includes payments in the nature of wages.

PART V—LICENSING OF INTERSTATE ROAD TRANSPORT OPERATORS

Interpretation

24. (1) In this Part—

“declared associate of a disqualified person” means a person in respect of whom a declaration under sub-section 30 (1) is in force;

“disqualification” means disqualification under sub-section 27 (1) or (2);

“disqualified person” means a person in respect of whom a disqualification is in force;

“relevant safety provision” means a provision of—

- (a) a law of a State or Territory with respect to a road safety matter; or
- (b) a federal road safety standard.

(2) Where a person is convicted of an offence against a law of a State or Territory constituted by a contravention of, or attempt to contravene or an involvement in a contravention of, a relevant safety provision, the person shall be taken, for the purposes of this Part, to have contravened, attempted to contravene or been involved in a contravention of, as the case may be, the relevant safety provision.

(3) A reference in sub-section (2) to a conviction of a person of an offence includes a reference to the making of an order under a provision of a law of a State or Territory corresponding to section 19B of the *Crimes Act 1914* in relation to the person in respect of the offence.

(4) A reference in this Part to a person involved in a contravention of a relevant safety provision is a reference to a person who—

- (a) has aided, abetted, counselled or procured the contravention;
- (b) has induced, whether by threats or promises or otherwise, the contravention;
- (c) has been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
- (d) has conspired with others to effect the contravention.

Operators not to carry on long distance interstate road transport business unless licensed

25. A person shall not carry on long distance interstate road transport business unless the person—

- (a) is the holder of a federal operator’s licence; or

(b) is the holder of a State operator's licence.

Penalty: \$5,000.

Grant of federal operator's licence

26. (1) Subject to sub-section (2), upon application made in accordance with the approved form by a person who proposes to carry on long distance interstate road transport business, a Licensing Authority shall grant to the applicant a licence authorising the carrying on by the person of long distance interstate road transport business unless—

- (a) the application is not accompanied by the prescribed fee;
- (b) the applicant is a disqualified person; or
- (c) the applicant is a declared associate of a disqualified person.

(2) A Licensing Authority may refuse to grant a federal operator's licence to an applicant under sub-section (1) if—

- (a) the applicant is, in relation to any long distance interstate road transport business that is being or may be carried on by the applicant, a partner of a disqualified person; or
- (b) a disqualified person has, whether directly or indirectly, a significant degree of control of, or a significant capacity to influence, any long distance interstate road transport business that is being or may be carried on by the applicant.

(3) An application under sub-section (1) made by a person who proposes to carry on long distance interstate road transport business shall set out, in addition to the matters required by the form approved for the purposes of that sub-section to be set out, the name of the person responsible for the day-to-day management of that business or, if there are 2 or more such persons, the person who is, or the persons who are, principally responsible for the day-to-day management of that business.

(4) A Licensing Authority shall not grant a federal operator's licence before the end of the period of 7 days after the day on which application was made for the licence.

(5) An applicant for a federal operator's licence may withdraw his or her application at any time before the licence is granted.

(6) A federal operator's licence comes into force on the day on which it is granted and remains in force until cancelled in accordance with this Act.

Disqualified persons

27. (1) Subject to this Act, where a court, on application made to it by a Licensing Authority for an order under paragraph (d), is satisfied that—

- (a) a person has, after the commencement of this section, on one or more occasions, contravened, attempted to contravene, or been involved in a contravention of, one or more relevant safety provisions; and
- (b) it is in the interests of public safety to do so,

the court may—

- (c) except where the person has been admonished under this paragraph on 2 occasions in the period of 10 years ending on the day on which the application was made—admonish the person; or
- (d) make an order disqualifying the person, either permanently or for a specified period, from participating in long distance interstate transport business.

(2) Where—

- (a) a person (in this sub-section referred to as the “convicted person”) is convicted before a court of an offence against regulations made for the purposes of section 37 or 39 or against section 40, 41, 44, 45 or 47 in relation to an act or omission; and
- (b) the court is satisfied that the purpose of, or one of the purposes of, the act or omission was to prevent or frustrate the collection of evidence relevant to proceedings that have been or could be instituted under sub-section (1) against the convicted person or another person,

the court may, in addition to imposing a penalty on the convicted person, make an order disqualifying the convicted person from participating in long distance interstate road transport business for such period, not exceeding 3 years, as is specified in the order of disqualification.

(3) Subject to sub-section (4), the disqualification of a person comes into force on such day as is specified in the order of disqualification.

(4) Where a person is already disqualified for a specified period, a further period of disqualification of the person comes into force immediately after the end of the period for which the person is already disqualified.

(5) Where a disqualification of a person comes into force, any federal operator’s licence held by the person shall be deemed to be cancelled.

(6) A person who is disqualified shall be deemed, for the purposes of this Part, not to hold a State operator’s licence while the disqualification is in force.

(7) Where a court disqualifies a person under sub-section (1), the court may specify in the order of disqualification a date after which the person may apply under sub-section (8) for the revocation of the disqualification.

(8) Where a disqualification of a person is in force under sub-section (1), a Licensing Authority may, on application made by a disqualified person after the date so specified in the order of disqualification, revoke the disqualification of the person if the person has not been further disqualified and the Licensing Authority is satisfied that there are special circumstances that warrant the revocation of the disqualification.

(9) A court of summary jurisdiction shall not disqualify a person under sub-section (1) for a period of more than 6 months.

(10) A reference in sub-section (1) to a court is a reference to—

- (a) a court of summary jurisdiction;
- (b) the Supreme Court of a State; or

- (c) the Supreme Court of the Australian Capital Territory.

Monitoring device records, &c.

28. (1) The regulations may make provision for and in relation to the admissibility, in proceedings arising out of sub-section 27 (1), of a monitoring device record.

(2) Where an alleged act or omission of a person constitutes both an offence against a law of a State or Territory and a contravention of, an attempt to contravene or an involvement in a contravention of, a relevant safety provision, proceedings shall not be instituted under sub-section 27 (1) in a court relating to that act or omission unless the Licensing Authority in respect of the State or Territory causes to be filed in the court a certificate issued not earlier than 7 days before the day on which the proceedings are instituted stating that, as of the day of issue of the certificate—

- (a) it is not proposed to institute criminal proceedings against the person in respect of the act or omission; or
- (b) criminal proceedings have been instituted against the person in respect of the act or omission and those proceedings have been finally dealt with according to law.

(3) Where, in proceedings arising out of sub-section 27 (1) in relation to an act done, or omitted to be done, by a body corporate, it is necessary to establish the intention of the body corporate, it is sufficient to show that a servant or agent of the body corporate by whom the act was done or omitted to be done, as the case may be, had the intention.

(4) In proceedings arising out of sub-section 27 (1), an act done, or omitted to be done, on behalf of a body corporate by—

- (a) a director, servant or agent of the body corporate;
- (b) any other person—
 - (i) at the direction; or
 - (ii) with the consent or agreement (whether express or implied), of a director, servant or agent of the body corporate,

shall be deemed to have been done, or omitted to have been done, as the case may be, also by the body corporate.

Matters to be taken into account by court

29. A court, in determining for the purposes of sub-section 27 (1) whether it is in the interests of public safety to disqualify a person, being a person who has, on one or more occasions, contravened, attempted to contravene, or been involved in the contravention of, one or more relevant safety provisions, shall have regard to all relevant matters, including, but without limiting the generality of the foregoing—

- (a) the conduct of the person before, during and after the attempt, involvement or contravention; and
- (b) any other conduct of the person that is relevant to road safety.

Associates of disqualified persons

30. (1) A Licensing Authority may, by notice in writing served on a person, declare the person to be an associate of a disqualified person if—

- (a) the first-mentioned person has become, in relation to any long distance interstate road transport business that is being carried on by the first-mentioned person, a partner of a disqualified person; or
- (b) a disqualified person has, whether directly or indirectly, acquired a significant degree of control of, or a significant capacity to influence, any long distance interstate road transport business that is being carried on by the first-mentioned person.

(2) A declaration under sub-section (1) comes into force on such day as is specified in the notice of the declaration.

(3) Where a declaration made in respect of a person comes into force under sub-section (1), any federal operator's licence held by the person shall be deemed to be cancelled.

(4) A declared associate of a disqualified person shall be deemed, for the purposes of this Part, not to hold a State operator's licence while the declaration made in respect of the person is in force under sub-section (1).

(5) Where a declaration made in respect of a person is in force under sub-section (1), a Licensing Authority shall, on application made by the person, revoke the declaration if the Licensing Authority is satisfied that—

- (a) the person is not, in relation to any long distance interstate road transport business that is being carried on by the person, a partner of a disqualified person; and
- (b) no disqualified person has, whether directly or indirectly, a significant degree of control of, or a significant capacity to influence, any long distance interstate road transport business that is being carried on by the first-mentioned person.

Publication of particulars of disqualification, &c.

31. (1) As soon as practicable after a disqualification of a person comes into force, the Minister shall cause to be prepared a statement setting out particulars of the disqualification and explaining the effects of the disqualification.

(2) As soon as practicable after a disqualification of a person is revoked in accordance with this Act, the Minister shall cause to be prepared a statement setting out particulars of the revocation and explaining the effects of the revocation.

(3) Where a statement is prepared under sub-section (1) or (2), the Minister shall, as soon as practicable after the preparation of the statement, and from time to time thereafter, may, cause the statement to be published in the prescribed manner.

(4) The Minister shall cause to be kept registers to be known as the Register of Holders of Federal Operator's Licences, the Register of Disqualified Persons and the Register of Declared Associates of Disqualified Persons.

(5) A person may, on payment of the prescribed fee (if any), inspect a register kept under sub-section (4).

Annual notice by holder of federal operator's licence

32. (1) Where—

- (a) a person holds a federal operator's licence on 1 July in any year; and
- (b) the person wishes to continue to hold the licence,

the person shall, before 31 July in that year, or before such later date as the Licensing Authority allows, give a notice to a Licensing Authority in accordance with the approved form—

- (c) stating that the person wishes to continue to hold the licence; and
- (d) setting out—

- (i) the name of the person responsible for the day-to-day management of any long distance interstate road transport business that is being or may be carried on by the first-mentioned person or, if there are 2 or more such persons, the person who is, or the persons who are, principally responsible for the day-to-day management of that business; and
- (ii) such other information (if any) with respect to any long distance interstate road transport business that is being or may be carried on by the person, as is required by the form to be given.

(2) If a person who is the holder of a federal operator's licence does not give a notice as and when required by sub-section (1), a Licensing Authority may, by notice in writing served on the person, cancel the licence.

Court may inform Licensing Authority of conviction, &c.

33. (1) Where a person is convicted by a court of an offence constituted by a contravention of, an attempt to contravene, or an involvement in a contravention of, a relevant safety provision, the court may cause a Licensing Authority to be informed of that conviction.

(2) A reference in sub-section (1) to a conviction of a person of an offence includes a reference to the making of an order in relation to the person under a provision of a law of a State or Territory corresponding to section 19B of the *Crimes Act 1914* in respect of the offence.

Federal road safety standards

34. For the purposes of this Part, the Minister may, by order in writing, declare standards, to be known as federal road safety standards, with respect to road safety matters.

Disallowance, &c., of federal road safety standards

35. (1) Sections 48, 49, 49A and 50 of the *Acts Interpretation Act 1901* apply in relation to orders made under section 34 of this Act as if in those sections references to regulations were references to orders, references to a regulation were references to an order and references to a repeal were references to a revocation.

(2) An order made under section 34 of this Act shall be deemed to be a statutory rule within the meaning of the *Statutory Rules Publication Act 1903*.

PART VI—MONITORING DEVICES

Regulations may specify requirements for monitoring devices

36. (1) The regulations may specify requirements for standard monitoring devices.

(2) The regulations may specify requirements for motor vehicle charge monitoring devices.

(3) The regulations may specify requirements for trailer charge monitoring devices.

(4) A motor vehicle charge monitoring device may be of the same or a different kind as a trailer charge monitoring device.

(5) A charge monitoring device may be a device of the same or a different kind as a standard monitoring device.

Regulations may require standard monitoring device to be fitted to registered motor vehicles

37. The regulations may require a registered motor vehicle to be fitted with a standard monitoring device.

Regulations may specify manner of fitting monitoring devices

38. A motor vehicle or trailer shall not be taken, for the purposes of this Act and the *Interstate Road Transport Charge Act 1985*, to be fitted with a monitoring device unless the monitoring device is fitted in accordance with a manner specified in the regulations.

Owner of motor vehicle or trailer to maintain monitoring device

39. The regulations may require the owner of—

- (a) a registered motor vehicle fitted with a standard monitoring device; or
- (b) a registered motor vehicle or trailer fitted with a charge measuring device in relation to which a nomination under sub-section 15 (1) has been made,

to—

- (c) cause the monitoring device to be kept in good repair;

- (d) cause the monitoring device to be maintained and operated in accordance with procedures specified in the regulations;
- (e) cause the monitoring device to be replaced in such circumstances as are specified in the regulations;
- (f) in a case where the monitoring device records information relating to the operation of the motor vehicle or trailer in a document located in the device—
 - (i) cause the document to be removed in accordance with procedures specified in the regulations; and
 - (ii) cause the document to be kept in a manner, and for a period, specified in the regulations;
- (g) in a case where the monitoring device records information relating to the operation of a motor vehicle or trailer in an electronic memory circuit located in the device—
 - (i) cause that information to be transferred to a document in accordance with procedures specified in the regulations; and
 - (ii) cause the document to be kept in a manner, and for a period, specified in the regulations;
- (h) cause to be prepared documents, in accordance with the prescribed form, containing extracts from, or summaries of, documents of a kind referred to in sub-paragraph (f) (i) or (g) (i) and cause the documents first referred to in this paragraph to be kept in a manner, and for a period, specified in the regulations; and
- (j) notify a Licensing Authority of such matters relevant to monitoring devices as are specified in the regulations including, but without limiting the generality of the foregoing, the places where monitoring device records are kept.

Offences relating to monitoring devices

40. Where—

- (a) a registered motor vehicle is fitted with a standard monitoring device; or
- (b) the owner of a registered motor vehicle or trailer fitted with a charge measuring device makes a nomination in relation to the motor vehicle or trailer under sub-section 15 (1),

a person shall not, during the period the registration is in force—

- (c) destroy the monitoring device;
- (d) damage, injure, manipulate or tamper or interfere with the monitoring device in such manner as to hinder the normal operation of the monitoring device;
- (e) use or operate the monitoring device in such manner as to hinder the normal operation of the device; or
- (f) except as permitted by regulations made for the purposes of section 39, remove the monitoring device.

Penalty: \$1,000.

Falsification, concealment, &c., of monitoring device record

41. A person shall not, during the period for which a monitoring device record is required to be kept, alter, deface, mutilate, falsify, damage, conceal or destroy (whether in whole or in part) the monitoring device record.

Penalty: \$1,000.

Court may order payment of amount in addition to penalty

42. Where—

- (a) a person (in this sub-section referred to as the “convicted person”) is convicted before a court of an offence against section 40 or 41 in relation to an act or omission; and
- (b) the court is satisfied that the purpose of, or one of the purposes of, the act or omission was to facilitate the avoidance of an amount of charge payable by the convicted person or another person,

the court may, in addition to imposing a penalty on the convicted person, order the convicted person to pay to the Commonwealth an amount not exceeding double the amount referred to in paragraph (b).

Evidence of monitoring device record

43. (1) A monitoring device record is not admissible in evidence in any criminal proceedings unless—

- (a) the proceedings are proceedings for—
 - (i) an offence against section 40 or 41 of this Act;
 - (ii) an offence against—
 - (A) section 6, 7 or 7A of the *Crimes Act 1914*; or
 - (B) sub-section 86 (1) of that Act by virtue of paragraph (a) of that sub-section,being an offence that relates to an offence referred to in sub-paragraph (i) of this paragraph; or
 - (iii) an offence punishable by imprisonment for a period of not less than 3 years; or
- (b) the record is adduced by the defendant.

(2) Nothing in this section affects the admissibility in any civil proceedings of a monitoring device record.

PART VII—MISCELLANEOUS

Power to stop and search motor vehicles, &c.

44. (1) Where a police officer or an inspector believes on reasonable grounds that—

- (a) a motor vehicle or trailer is or has been involved in a contravention of this Act or the regulations or of a federal road safety standard; or

- (b) there is in or on a motor vehicle or trailer anything that will afford evidence of such a contravention,
the police officer or inspector may—
- (c) require the driver of the motor vehicle or trailer—
- (i) to stop the motor vehicle or trailer;
 - (ii) to state the driver's name and address;
 - (iii) to state the name and address of the owner of the motor vehicle or trailer;
 - (iv) to state particulars relating to the registration of the motor vehicle or trailer or to the origins and destinations of any passengers or goods being carried by or in the motor vehicle or trailer; and
 - (v) for the purposes of verifying the matters referred to in sub-paragraph (ii), (iii) or (iv), to produce to the police officer or inspector—
 - (A) a driver's licence issued to the person;
 - (B) a certificate of registration issued in respect of the motor vehicle or trailer under this Act or another law; or
 - (C) a consignment note, passenger manifest or other document;
- (d) detain the motor vehicle or trailer for such period as is reasonably necessary to carry out a search, test or inspection of the motor vehicle or trailer; and
- (e) if the police officer or inspector believes on reasonable grounds that the motor vehicle or trailer—
- (i) is registered under this Act; and
 - (ii) is, or is likely to be, dangerous or unsafe,
- by notice in writing given to the driver of the motor vehicle or trailer, require the driver of the motor vehicle or trailer to cause the motor vehicle or trailer to be driven, or if the police officer or inspector so directs, towed, forthwith, or by such date as the police officer or inspector directs, to such place, or to a place included in such class of places, as the police officer or inspector directs for the purpose of being inspected by a Registration Authority or by a person authorised by a Registration Authority to act under this paragraph.

(2) A person shall not refuse or fail to comply with a requirement under paragraph (1) (c) or (e) to the extent that the person is capable of complying with the requirement.

Penalty: \$1,000.

(3) Where the driver of a motor vehicle or trailer stops the motor vehicle or trailer pursuant to a requirement given under paragraph (1) (c) by a police officer who is not in uniform or by an inspector, the police officer or inspector shall, before searching, inspecting or testing the motor vehicle or trailer or giving a requirement of the kind mentioned in sub-paragraph (1) (c) (ii), (iii),

(iv) or (v) or paragraph (1) (e), produce, for the inspection of the driver of the motor vehicle or trailer, written evidence of the fact that he or she is a police officer or an inspector, as the case may be.

(4) For the purposes of sub-section (3), the Minister may cause to be issued to an inspector an identity card in a form approved by the Minister by writing.

(5) A person who ceases to be an inspector shall forthwith return his or her identity card to the Minister.

Penalty: \$100.

(6) A person shall not, by words or conduct, falsely represent that he or she is an inspector.

Penalty: \$5,000 or imprisonment for 2 years, or both.

(7) In this section—

“Commonwealth officer” means a person who—

- (a) is in the service or employment of the Commonwealth or an authority of the Commonwealth; or
- (b) holds or performs the duties of any office or position under a law of the Commonwealth;

“inspector” means a State officer included in a class of State officers, or a Commonwealth officer included in a class of Commonwealth officers, appointed by the Minister, by notice in writing published in the *Gazette*, to be inspectors for the purposes of this section;

“police officer” means—

- (a) a member or special member of the Australian Federal Police; or
- (b) an officer of the Police Force of a State;

“State officer” means a person who—

- (a) is in the service or employment of a State or an authority of a State; or
- (b) holds or performs the duties of any office or position established by or under a law of a State.

Power to require persons to give information or produce documents

45. (1) Where a Regulatory Authority has reason to believe that a person is capable of furnishing information or producing documents relevant to the performance of the functions of the Regulatory Authority under this Act or the regulations or relating to a contravention or possible contravention of this Act or the regulations or of a relevant safety provision, the Regulatory Authority may, by notice in writing served on the person, require the person—

- (a) to give to the Regulatory Authority, by writing signed by the person or, in the case of a body corporate, by a competent officer of the body corporate, within the time and in the manner specified in the notice, any such information; or

- (b) to produce to the Regulatory Authority, or to a person specified in the notice acting on behalf of the Regulatory Authority, in accordance with the notice, any such document.

(2) A person shall not, without reasonable excuse, refuse or fail to comply with a notice under this section to the extent that the person is capable of complying with it.

Penalty: \$1,000.

(3) A person who, pursuant to a notice under this section, produces a document that, to the knowledge of the person, is false or misleading in a material particular shall, upon so producing the document, give to the person to whom the first-mentioned person is required to produce the document, a statement in writing signed by the first-mentioned person or, in the case of a body corporate, by a competent officer of the body corporate—

- (a) stating that the document is, to the knowledge of the first-mentioned person, false or misleading in a material particular; and
- (b) setting out, or referring to, the material particular in respect of which the document is, to the knowledge of the first-mentioned person, false or misleading.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(4) A person is not excused from giving information or a statement, or from producing a document, pursuant to this section on the ground that the information or statement or the production of the document may tend to incriminate the person, but the information or statement or the production of the document is not admissible in evidence in a prosecution against the person except in a prosecution—

- (a) in the case of a person not being a body corporate—for an offence against section 47 that relates to this section; or
- (b) in the case of a body corporate—for an offence against this Act or the regulations.

(5) A notice under sub-section (1) requiring the production of a document shall include, or be accompanied by, a statement explaining the effects of sub-section (3).

(6) A reference in sub-section (4) to an offence of a particular kind includes a reference to an offence against—

- (a) section 6, 7 or 7A of the *Crimes Act 1914*; or
- (b) sub-section 86 (1) of the Act by virtue of paragraph (a) of that sub-section,

being an offence that relates to an offence of that kind.

Inspection of documents

46. (1) A person authorised by a Regulatory Authority to act under this sub-section may inspect a document produced pursuant to a notice under section 45 and may make copies of, or take extracts from, the document.

(2) A person authorised by a Regulatory Authority to act under this sub-section may, for the purposes of this Act, take, and retain for so long as is necessary for those purposes, possession of a document produced pursuant to a notice under section 45 but the person otherwise entitled to possession of the document is entitled to be supplied, as soon as practicable, with a copy certified by the authorised person to be a true copy and the certified copy shall be received in all courts as evidence as if it were the original.

(3) Where such a certified copy of a document is supplied, the authorised person having possession of the document shall, at such times and places as the authorised person thinks appropriate, permit the person otherwise entitled to possession of the document, or a person authorised by that person, to inspect and make copies of, or take extracts from, the document.

False or misleading statements

47. (1) A person shall not make a statement to an interstate motor vehicle officer that is, to the knowledge of the person, false or misleading in a material particular.

Penalty: \$1,000 or imprisonment for 6 months, or both.

(2) In this section, “interstate motor vehicle officer” means a person exercising powers or performing functions under this Act or the regulations.

(3) A reference in this section to a statement made to an interstate motor vehicle officer is a reference to a statement made to an interstate motor vehicle officer orally, in writing, or in any other form but does not include a reference to a statement made in a document produced pursuant to sub-paragraph 44 (1) (c) (v) or paragraph 45 (1) (b).

Regulatory Authorities to comply with Ministerial directions

48. (1) The Minister may, by order in writing, issue directions to be complied with by Regulatory Authorities with respect to all or any of their powers under this Act and the regulations.

(2) The Minister shall cause a copy of an order under sub-section (1) to be given to each Regulatory Authority and published in the *Gazette*.

(3) A Regulatory Authority, in exercising any powers conferred by this Act and the regulations, shall comply with any relevant directions in force under sub-section (1).

Freedom of interstate trade, &c.

49. (1) A power conferred by sections 9, 11 and 26, sub-section 27 (8), section 30 and sub-section 32 (2) on the Minister or on a Regulatory Authority and a power conferred on a court by sub-sections 27 (1), (2) and (7) shall not be exercised in such a manner that—

- (a) trade, commerce and intercourse among the States is not absolutely free within the meaning of section 92 of the Constitution; or

(b) trade, commerce or intercourse between the Northern Territory and the States is not absolutely free within the meaning of section 49 of the *Northern Territory (Self-Government) Act 1978*.

(2) In sub-section (1), "State" does not include the Northern Territory.

Delegation

50. (1) A Regulatory Authority or the Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by the Regulatory Authority or the Minister, as the case may be, delegate to a person all or any of his or her powers under this Act or the regulations, other than this power of delegation or the powers conferred by sub-section 23 (1), (2) or (5) or section 34 or 48.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act or the regulations, be deemed to have been exercised by the Regulatory Authority or the Minister, as the case requires.

(3) A delegation under this section does not prevent the exercise of a power by the Regulatory Authority or the Minister, as the case requires.

(4) A delegation under this section by a Regulatory Authority may be varied or revoked by writing signed by the same or a subsequent holder of the office of Regulatory Authority or Minister, as the case may be.

(5) A copy of each instrument making, varying or revoking a delegation under this section shall be published in the *Gazette*.

Reconsideration and review of certain decisions

51. (1) In this section—

"decision" has the same meaning as in the *Administrative Appeals Tribunal Act 1975*;

"relevant decision" means—

(a) a decision of a Regulatory Authority, or a delegate of a Regulatory Authority, under section 9, 11 or 26, sub-section 27 (8), section 30 or sub-section 32 (2); or

(b) a decision of a delegate of the Minister under sub-section (2) of this section;

"reviewable decision" means a decision of the Minister under sub-section (2) or (4) of this section, but does not include a decision of a delegate of the Minister under sub-section (2) of this section.

(2) A person affected by a relevant decision who is dissatisfied with the decision may, within 28 days after the day on which the decision first comes to the notice of the person, or within such further period as the Minister (either before or after the end of that period), by notice in writing served on the person, allows, by notice in writing given to the Minister, request the Minister to reconsider the decision.

(3) There shall be set out in the notice of request the reasons for making the request.

(4) The Minister shall, within 60 days after the receipt of the request, reconsider the relevant decision and may make a decision—

- (a) in substitution for the relevant decision, whether in the same terms as the relevant decision or not; or
- (b) revoking the relevant decision.

(5) Where, as a result of a reconsideration under sub-section (4), the Minister makes a decision in substitution for or revoking a relevant decision, the Minister shall, by notice in writing served on the person who made the request under sub-section (2) for the reconsideration, inform the person of the result of the reconsideration and give reasons for the decision.

(6) Applications may be made to the Administrative Appeals Tribunal for review of a reviewable decision.

(7) Where a relevant decision is made and the person who made the relevant decision gives to a person whose interests are affected by the decision notice in writing of the making of the decision, that notice shall include a statement to the effect that a person affected by the decision—

- (a) may, if the person is dissatisfied with the decision, seek a reconsideration of the decision by the Minister in accordance with sub-section (2); and
- (b) may, subject to the *Administrative Appeals Tribunal Act 1975*, if the person is dissatisfied with a decision of the Minister upon that reconsideration, make application to the Administrative Appeals Tribunal for review of that decision.

(8) Where the Minister, or a delegate of the Minister, makes a reviewable decision and gives to a person whose interests are affected by the decision notice in writing of the making of the decision, that notice shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for review of the decision to which the notice relates by or on behalf of a person whose interests are affected by the decision.

(9) Any failure to comply with the requirements of sub-section (7) or (8) in relation to a decision does not affect the validity of the decision.

Effect of this Act and regulations on State and Territory laws

52. (1) It is the intention of the Parliament that this Act and the regulations shall not, subject to sub-section (2), apply to the exclusion of a law of a State or Territory.

(2) Sub-section (1) does not apply to a law of a State or Territory in so far as that law has the effect of—

- (a) requiring a motor vehicle or trailer that is registered under this Act and operating as mentioned in sub-section 8 (1) to be registered under a law of a State or Territory;
- (b) requiring compliance, in respect of a registered motor vehicle or trailer, with requirements that are directly inconsistent with requirements prescribed for the purposes of section 13, 37 or 39;
- (c) requiring a person who holds a federal operator's licence and is carrying on long distance interstate road transport business to hold a licence or other authority under a law of a State or Territory authorising the person to carry on long distance interstate road transport business generally or, except in such circumstances as are prescribed, long distance interstate road transport business specified in that law or long distance interstate road transport business included in a class of long distance interstate road transport business specified in that law; or
- (d) requiring—
 - (i) a person who does not hold a federal operator's licence and is operating a registered motor vehicle or trailer as mentioned in sub-section 8 (1); or
 - (ii) a person who holds a federal operator's licence and is operating a registered motor vehicle or trailer (other than a motor vehicle, or a motor vehicle and attached trailer, that is a heavy motor vehicle as defined in sub-section 3 (1)) as mentioned in sub-section 8 (1),

to hold a licence or other authority under a law of a State or Territory authorising that operation, being a licence or authority specified in the regulations or a licence or authority included in a class of licences or authorities specified in the regulations.

Enforcement of orders for payment

53. (1) Where—

- (a) upon the conviction of a person for an offence against regulations made for the purposes of section 37 or 39 or against section 40, 41, 44, 45 or 47, the court before which the person is convicted, in addition to imposing a penalty on the person, orders the person to pay an amount to the Commonwealth; and
- (b) the court has civil jurisdiction to the extent of the amount,

the order is enforceable in all respects as a final judgment of the court in favour of the Commonwealth.

(2) Where—

- (a) upon conviction of a person for an offence against regulations made for the purposes of section 37 or 39 or against section 40, 41, 44, 45 or 47, the court before which the person is convicted, in addition to

imposing a penalty on the person, orders the person to pay an amount to the Commonwealth; and

- (b) the court—
 - (i) does not have civil jurisdiction; or
 - (ii) has civil jurisdiction, but does not have civil jurisdiction to the extent of the amount,

the proper officer of the court shall issue to the Minister a certificate in the prescribed form containing the prescribed particulars.

(3) The certificate may, in the prescribed manner and subject to the prescribed conditions (if any), be registered in a court having civil jurisdiction to the extent of the amount ordered to be paid to the Commonwealth.

(4) Upon registration under sub-section (3), the certificate is enforceable in all respects as a final judgment of the court in favour of the Commonwealth.

(5) The costs of registration of the certificate and other proceedings under this section shall, subject to the prescribed conditions (if any), be deemed to be payable under the certificate.

Penalties for corporations

54. Where a corporation is convicted of an offence against this Act or the regulations, the penalty that the court may impose is a fine not exceeding 5 times the maximum amount that, but for this section, the court could impose as a pecuniary penalty for that offence.

Recovery of fees

55. A fee payable to the Commonwealth under this Act may be recovered as a debt due to the Commonwealth by action in a court of competent jurisdiction.

Regulations

56. (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of sub-section (1), the regulations may make provision for and in relation to—

- (a) penalties not exceeding a fine of \$500 for offences against the regulations; and
- (b) enabling a person who is alleged to have committed an offence against the regulations to pay to the Commonwealth, as an alternative to prosecution, a penalty not exceeding—
 - (i) in the case of a natural person—\$100; or
 - (ii) in the case of a body corporate—\$500.

[*Minister's second reading speech made in—
House of Representatives on 11 September 1985
Senate on 5 November 1985*]