

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2008 No. 128**

Issued by the Authority of the Minister for Infrastructure, Transport, Regional Development  
and Local Government

*National Transport Commission Act 2003*

*National Transport Commission (Model Heavy Vehicle Charges Act) Regulations 2008*

Section 52 of the *National Transport Commission Act 2003* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The provisions of the Act are supported by the Inter-Governmental Agreement on Regulatory and Operational Reform in Road, Rail and Intermodal Transport (IGA), which serves to formalise the cooperative arrangements between the Commonwealth, States and Territories and define the roles and responsibilities of the National Transport Commission, the Australian Transport Council and the jurisdictions. Clause 14 of the IGA requires the Commonwealth to submit model legislation for inclusion in schedules to regulations under the Act. The proposed Regulations would implement this commitment.

The purpose of the Regulations is to establish uniform State and Territory annual registration charges and permit fees that are to apply to various heavy road transport vehicles, commencing from 1 July 2008. The model Act is in model form to allow for implementation in each jurisdiction using the most convenient and effective regulatory manner available – for instance, the provisions may be incorporated into the law of a jurisdiction by way of amendment of existing legislation.

The objects of the model Act are to:

- (a) set out the annual vehicle registration charges applicable to heavy vehicles;
- (b) set out the mechanisms by which charges for the grant of a permit to certain heavy vehicles or set out combinations must be calculated;
- (c) set out the process by which the registration charges are subjected to an annual adjustment process to take account of movements in spending on the primary categories of roads; and
- (d) give effect to each of the above in a single, consolidated legislative instrument so as to facilitate the comprehension of the phasing provisions of the charges which are inherently complex; and
- (e) insert consequential amendments in model Regulations already scheduled under the *National Transport Commission Act 2003* replacing the references to the “*Road Transport Charges (Australian Capital Territory) Act 1993*” with the appropriate references to the model Act.

The *National Transport Commission (Model Act on Heavy Vehicle Charges) Regulations 2008* was developed as part of the Heavy Vehicle Charges Determination. In October 2006, the NTC was directed by the Australian Transport Council (ATC) to develop a new Heavy Vehicle Charges Determination. Subsequent to this direction, the Productivity Commission

(PC) released the *Final Report on Road and Rail Freight Infrastructure Pricing*, in which specific recommendations were made as to the appropriate basis on which the new, 2007, Determination should be made. In July 2007, the NTC released a Draft Regulatory Impact Statement (RIS) that outlined a range of options (including its preferred options) for heavy vehicle charges. In developing these options, the NTC was informed by the Third Determination consultation process, the PC Inquiry, discussions and a technical workshop with industry representatives and government, and analyses of potential impacts of changes in the level of charges. The NTC undertook a comprehensive public consultation as part of the RIS process which included inviting industry and government stakeholders and other interested parties to make written submissions and to provide briefings, participation in public focus group sessions held around the country and extensive discussions with industry representative groups (including the Australian Trucking Association and its member associations and the National Farmers Federation) and governments. Following the finalisation of the 2007 Determination (which reflects the PC recommendations and the outcomes of an extensive round of public consultation), the ATC requested that the NTC prepare model legislation incorporating the outcomes of the 2007 Determination in order to enable implementation of the 2007 Determination during 2008.

The NTC subsequently developed the model Act in 2007, which incorporates the principles and recommendations of the 2007 Heavy Vehicle Charges Determination. The model Act is intended to replace the charges and charging mechanisms that are currently located in the *Road Transport Charges (Australian Capital Territory) Act 1993* and *Road Transport Charges (Australian Capital Territory) Regulations 1995* (and reflected in legislation in each State and Territory), with a single, consolidated instrument. The model Act was submitted to the ATC for consideration and approval, following its endorsement by the Parliamentary Counsels Committee. The ATC unanimously approved the model Act Regulations on 29 February 2008.

Section 7 of the Act provides that the regulations may set out model legislation, being legislation developed by the NTC in accordance with the IGA. Paragraph 7(2)(a) provides that model legislation does not have the force of law. The schedules to the regulations serve only as a repository for nationally agreed reforms, which may then be implemented by jurisdictions.

Item 44 of the table to subsection 44(2) of the *Legislative Instruments Act 2003* together with item 7 of Schedule 2 to the *Legislative Instruments Regulations 2004* operate to provide that the proposed Regulation would not be subject to disallowance. In addition, item 51 of the table to subsection 54(2) of the *Legislative Instruments Act 2003* together with item 4 of Schedule 3 to the *Legislative Instruments Regulations 2004* operate to provide that the proposed Regulation would not be subject to sunseting.