

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 310

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

National Transport Commission Act 2003

*National Transport Commission (Model Amendments Regulations: Heavy Vehicles
Registration — Package No. 1) Regulations 2009*

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 Regulations would implement this commitment.

The purpose of the Regulations is to make a single, minor amendment to improve the operation of the *National Transport Commission (Road Transport Legislation — Heavy Vehicles Registration Act) Regulations 2006* (the Principal Regulations) for nationally consistent implementation in each State and Territory. The Regulations are 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 object of the Regulations is to insert a clause that allows each jurisdiction which has adopted the Principal Regulations to refer to its own privacy legislation.

The NTC developed the Regulations in partnership with the Registration and Licensing taskforce, which comprises representatives from the States, Territories and the Commonwealth.

The Regulations were granted an exemption by the Office of Best Practice and Regulation and did not require a supporting Regulatory Impact Statement (RIS) as the amendment was minor and mechanical in nature, and did not substantially alter existing arrangements or the regulatory burden on any parties.

The NTC submitted the draft Regulations to the Transport Agency Chief Executives (TACE) group in May 2008 under an expedited approvals process. That process, under the *Guidelines for Expedited Approval of Minor and Non-Contentious Amendments to Agreed Reforms*,

provides that NTC amendments that are unanimously and unconditionally endorsed by TACE can be implemented without requiring ATC approval.

A dissenting vote during the TACE approval phase resulted in the Regulations being submitted to the ATC for voting. It should be noted that the dissenting vote was not in relation to the Regulations. Instead, the dissenting vote was lodged in response to other Regulations, the *National Transport Commission (Model Amendments to the National Driver Licensing Scheme (Supporting Principles) – Package No.1)*, which had been submitted by the NTC in the same submission to TACE as the Regulations. Because of the requirements for unanimity in the expedited approvals process any dissenting vote with respect to either set of Regulations constituted a failure to gain unanimous TACE approval. Therefore, the Regulations required approval by the ATC. The Regulations were submitted to the ATC for voting and were unanimously approved on 7 November 2008.

Section 7 of the Act provides that 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 Regulation are not 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 Regulation are not subject to sunseting.