

2008

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

ROAD CHARGES LEGISLATION REPEAL AND AMENDMENT BILL 2008

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Infrastructure, Transport,
Regional Development and Local Government
the Honourable Anthony Albanese, MP)

ROAD CHARGES LEGISLATION REPEAL AND AMENDMENT BILL 2008

OUTLINE

The purpose of the Road Charges Legislation Repeal and Amendment Bill 2008 (the Bill) is to repeal the *Road Transport Charges (Australian Capital Territory) Act 1993* (the Road Transport Charges Act) and parts of the *Road Transport Reform (Heavy Vehicles Registration) Act 1997* (the Heavy Vehicles Registration Act) which refer to the Road Transport Charges Act. The Bill also amends the *Fuel Tax Act 2006* to implement changes to the heavy vehicle road user charge necessary to give effect to revised heavy vehicle charges agreed by all Australian Transport Ministers on 29 February 2008.

Repeal of the Road Transport Charges Act and parts of the Heavy Vehicles Registration Act will allow the implementation of new national heavy vehicle charges in accordance with section 14.5 of the *Inter-Governmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport* entered into between the Commonwealth of Australia, the States and Territories. Failure to repeal these provisions would prevent the Government of the Australian Capital Territory enacting its own heavy vehicle registration charges.

The Bill also implements a new road user charge rate of 21 cents per litre from 1 January 2009 – an increase of 1.367 cents per litre from the current rate determined by the then Acting Minister for Transport and Regional Services, the Hon Jim Lloyd MP on 28 June 2006. In addition to setting the new rate of the road user charge, the Bill also establishes a regulatory mechanism to allow adjustment of the road user charge to ensure that, over time, heavy vehicles continue to pay their fair share of road construction and maintenance costs and no more.

In undertaking the 2007 Heavy Vehicle Charges Determination, the National Transport Commission determined that the current rate of the road user charge of 19.633 cents per litre was insufficient to recover the damage that heavy vehicles cause to roads. If not addressed, the under recovery of heavy vehicle charges provides a strong disincentive for states and territories to allow wider access to their road networks for high productivity vehicles, resulting in more trucks on roads and a consequential erosion of safety outcomes. In addition, any continued under recovery of heavy vehicle road construction and maintenance expenditure must be met by taxpayers.

FINANCIAL IMPACT STATEMENT

Since there is no change to the underlying policy announced in the 2008-09 Budget, the figures quoted in that Budget still apply. That is, the increase in the road user charge of 1.367 cents per litre from 1 January 2009 will decrease Commonwealth Government Fuel Tax Credit expenses by \$40 million in 2008-08, \$110 million in 2009-10, \$150 million in 2010-11 and \$190 million in 2011-12.

REGULATION IMPACT STATEMENT

A Regulation Impact Statement (RIS) outlining the impact of new heavy vehicle charges was prepared as part of the process of developing the 2007 Heavy Vehicle Charges Determination. A Draft RIS was released for public consultation in July 2007 with the final RIS released following the 29 February 2008 Australian Transport Council Meeting.

NOTES ON CLAUSES

Clause 1: Short Title

- 1 This clause provides for the Act to be called the Road Charges Legislation Repeal and Amendment Act 2008.

Clause 2: Commencement

- 2.1 Subclause 2(1) provides that each of the provisions in the Bill specified in column 1 of the table commences or is taken to have commenced at the time specified in column 2.

The first provision of the table provides that sections 1 to 3 and anything in the Act not elsewhere covered by this table comes into effect on the day the Act receives Royal Assent.

The second provision of the table provides that Schedules 1 and 2 come into effect immediately before the commencement of Schedule 1 to the Interstate Road Transport Charge Amendment Act (No.2) 2008. In effect, the repeal of the *Road Transport Charges (Australian Capital Territory) Act 1993* and parts of the *Road Transport Reform (Heavy Vehicles Registration) Act 1997* will take effect immediately before the day when new heavy vehicle registration charges are introduced for heavy vehicles registered under the Federal Interstate Registration Scheme.

The third provision in the table provides that Schedule 3 comes into effect on 1 January 2009.

- 2.2 Subclause 2(2) provides that column 3 of the table is for additional information that does not form part of the proposed Act. This will be used in later publications of the Act to show the actual dates of effect of each provision.

Clause 3: Schedule(s)

- 3 This clause provides that each Act specified in the Schedules to the Bill is repealed or amended in the way described in each of the Schedules.

SCHEDULE 1 – Repeal of the *Road Transport Charges (Australian Capital Territory) Act 1993*

Item 1

Item 1 repeals the whole of the *Road Transport Charges (Australian Capital Territory) Act 1993*. This Act details heavy vehicle charges which would be implemented nationally by each jurisdiction by reference. Jurisdictions have generally chosen to detail the charges in their own legislation rather than referencing the above Act.

SCHEDULE 2 – Amendments relating to the repeal of the *Road Transport Charges (Australian Capital Territory) Act 1993*

Items 1 - 2

Items 1 and 2 are consequential amendments to the *Road Transport Reform (Heavy Vehicles Registration) Act 1997* removing redundant references in this Act to the *Road Transport Charges (Australian Capital Territory) Act 1993*.

SCHEDULE 3 – Amendments to the *Fuel Tax Act 2006*

Item 1

Item 1 amends subsection 43-10(3) of the Fuel Tax Act so that the Fuel Tax Credit is now reduced by the amount of the road user charge rather than the road user charge being determined by the Transport Minister. This change is consequential to the amendment to the mechanism for setting the road user charge which is dealt with under Items 2 and 4 below.

Item 2

Item 2 repeals the existing subsection 43-10(5) of the Act removing the requirement for the Transport Minister to determine the amount of the road user charge. This is replaced by a new provision under Item 4 below for setting the rate of the charge.

Item 3

Item 3 adds a reference to the new definition of 'road user charge' in Item 4.

Item 4

Item 4 defines a rate of road user charge. The road user charge will be 21 cents per litre of taxable fuel used unless the rate is amended by regulations.

The rate of the road user charge has been calculated to recover the cost of government road expenditure attributable to heavy vehicles use which is not otherwise recovered through heavy vehicle registration charges.

Heavy vehicle charges will be regularly reviewed to ensure variables such as changes in government expenditure on roads and changes in heavy vehicle fleet characteristics are reflected in heavy vehicle charges. For this reason, Item 4 provides that regulations in relation to the road user charge may also prescribe a method for indexation of the road user charge (annual adjustment).

This section does not include either a cap or a floor when changing the rate of the road user charge by regulations. A maximum cap or a minimum floor may prevent the Government setting an appropriate rate of the road user charge to recover road construction and maintenance expenditure attributable to heavy vehicles. This may result in either over or under recovery from heavy vehicle charges.

Item 5

Item 5 inserts a definition of 'road user charge' in the Dictionary at section 110-5 of the Act. This definition refers back to the definition in Item 4 above.

Item 6

Item 6 repeals the definition of 'Transport Department' which is no longer required as a consequence of amendments to subsection 43-10(3) and the repeal of subsection 43-10(5) in Items 1 and 2 above.

Item 7

Item 7 repeals the definition of 'Transport Minister' which is no longer required as a consequence of amendments to subsection 43-10(3) and the repeal of subsection 43-10(5) in Items 1 and 2 above.

Item 8

Item 8 replaces the existing definition of 'Transport Secretary' (which referred to the definition of Transport Department repealed in Item 6) with a new self-contained definition.

Item 9

Item 9 provides that the amendments to the Fuel Tax Act covered in Schedule 3 apply from 1 January 2009. This is the implementation date decided by the Australian Government.