



# **Interstate Road Transport Act 1985**

## **Act No. 130 of 1985 as amended**

This compilation was prepared on 10 October 2006  
taking into account amendments up to Act No. 109 of 2006

[Note: As at 10 October 2006 not all sections of this Act are in force, *see*  
Notes 1 and 2]

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,  
Attorney-General's Department, Canberra



---

# Contents

<b>Part I—Preliminary</b>	1
1 Short title [see Note 1].....	1
2 Commencement [see Note 1].....	1
3 Interpretation .....	1
3A B-doubles .....	6
4A Indexation of certain fee limits .....	6
5 Application of Act to the Commonwealth and the States .....	8
6 Arrangements with States etc. ....	8
7 Regulatory Authority .....	9
7A Application of the <i>Criminal Code</i> .....	10
<b>Part II—Registration of interstate motor vehicles</b>	11
8 Motor vehicles and trailers to be registered.....	11
9 Registration of motor vehicles etc. ....	12
10 Sub-standard motor vehicles and trailers not to be driven etc. ....	15
11 Cancellation or suspension of registration.....	16
12 Surrender of registration.....	18
12A Mass limits of registered motor vehicles .....	18
12B Regulation of the operation of B-doubles.....	19
12C Operating requirements for B-doubles .....	19
12D Offences involving the operation of B-doubles .....	20
13 Regulations may make further provision with respect to registered motor vehicles etc. ....	20
<b>Part III—Collection of interstate road transport charge</b>	22
14 By whom charge payable .....	22
16 When charge due and payable .....	22
18 Refund of charge on cancellation or surrender .....	22
19 Refund of charge in relation to intra-state operations.....	23
20 Recovery of charge.....	24
<b>Part IV—Interstate Road Transport Account</b>	25
21 Interstate Road Transport Account.....	25
22 Amounts to be credited to Account .....	25
23 Amounts to be debited from the Account.....	25
<b>Part V—sections 24-35 [see Notes 2 and 3]</b>	28
<b>Part VI—Monitoring devices</b>	28
36 [see Note 2] .....	28
37 [see Note 2] .....	28
38 Monitoring devices to be fitted in accordance with the regulations .....	28

---

39	Owner of motor vehicle or trailer to maintain monitoring device .....	28
40	Offences relating to monitoring devices .....	29
41	Falsification, concealment etc. of monitoring device record .....	29
42	Court may order payment of amount in addition to penalty .....	30
43	Evidence of monitoring device record.....	30
<b>Part VII—Miscellaneous</b>		31
43A	Determination of federal routes .....	31
44	Power to stop and search motor vehicles etc. ....	31
45	Power to require persons to give information or produce documents.....	34
46	Inspection of documents .....	36
47A	Conduct of directors, servants and agents.....	37
48	Regulatory Authorities to comply with Ministerial directions.....	38
49	Freedom of interstate trade etc. ....	38
50	Delegation .....	39
51	Reconsideration and review of certain decisions .....	40
52	Effect of this Act and regulations on State laws .....	41
53	Enforcement of orders for payment .....	42
55	Recovery of fees .....	43
56	Regulations.....	43
<b>Notes</b>		47

---

# An Act relating to road transport

## Part I—Preliminary

### 1 Short title [see Note 1]

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

### 2 Commencement [see Note 1]

- (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.

### 3 Interpretation

- (1) In this Act, unless the contrary intention appears:

*Account* means the Interstate Road Transport Account continued in existence by section 21.

*Australian Capital Territory* includes the Jervis Bay Territory.

*carriage of passengers or goods between prescribed places* means carriage of passengers or goods, in trade or commerce, between a place in a State and a place in another State.

*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*.

*compliance plate* means a plate authorised to be placed on a vehicle, or taken to have been placed on a vehicle, under the *Motor Vehicle Standards Act 1989*.

Section 3

---

*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.

*federal route* means a road in respect of which a determination under subsection 43A(1) is in force.

*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.

*insurance* includes participation in a scheme under a law of a State relating to motor vehicle accident compensation.

*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.

***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 subparagraph 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.

***MRC*** (Mass Rating for Charging), in relation to a vehicle, means:

- (a) the maximum mass of the vehicle, including any load, recorded on the compliance plate as the GVM, GTMR or ATM of the vehicle; or
- (b) in relation to a vehicle for which there is no compliance plate—its operating mass.

***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;

Section 3

---

- (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 subsection 36(1).

**State** includes the Australian Capital Territory and the Northern Territory.

**State operator's licence** means a licence granted under a law of a State, 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.

**trailer** means a vehicle that is built to be towed, or is towed, by a motor vehicle, but does not include a motor vehicle that is being towed.

**vehicle** means any means of conveyance which runs on wheels but does not include:

- (a) any vehicle used on a railway; or
  - (b) any vehicle that has an MRC equal to or less than 4.5 tonnes.
- (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—the fee specified in the regulations made under this Act in respect of the performance of that function;
    - or

**Section 3A**

---

- (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) Despite subsection (10) but subject to section 4A, a prescribed fee must 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.

**3A B-doubles**

- (1) A reference in this Act to a B-double is a reference to a motor vehicle that consists of:
  - (a) a prime-mover registered under this Act; and
  - (b) a registered trailer attached to the prime-mover by means of a turntable mounted on the prime-mover; and
  - (c) a registered trailer attached to the rear of the trailer referred to in paragraph (b) by means of a turntable mounted on the last-mentioned trailer.
- (2) A reference in subsection (1) to a registered trailer is a reference to a trailer registered under this Act or under a law of a State.

**4A Indexation of certain fee limits**

- (1) In this section:

***index number***, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

***relevant amount*** means:

- (a) the amount specified in subsection 3(11); or
- (b) the amount specified in subsection 56(4).

***relevant year*** means the period of 12 months commencing on 1 July 1990, and each subsequent period of 12 months.

- (2) Subject to subsection (3), if at any time, whether before or after the commencement of this section, the Australian Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number is to be disregarded for the purposes of this section.
- (3) If at any time, whether before or after the commencement of this section, the Australian Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of the application of this section after the change took place or takes place, regard is to be had only to the index numbers published in terms of the new reference base.
- (4) Where the factor ascertained under subsection (5) in relation to a relevant year is greater than one, this Act has effect as if for each relevant amount there were substituted, on the first day of that relevant year, an amount calculated by multiplying by that factor:
  - (a) in a case to which paragraph (b) does not apply—the relevant amount; or
  - (b) if, by virtue of another application or other applications of this section, this Act has effect as if another amount or amounts were substituted for that relevant amount—the substituted amount or the last substituted amount, as the case requires.
- (5) The factor to be ascertained for the purposes of subsection (4) in relation to a relevant year is the number (calculated to 3 decimal places) ascertained by dividing the index number for the March quarter immediately preceding that relevant year by the index

Section 5

---

number for the March quarter immediately preceding that first-mentioned March quarter.

- (6) Where the factor ascertained in accordance with subsection (5) in relation to a relevant year would, if it were calculated to 4 decimal places, end with a number greater than 4, the factor ascertained in accordance with that subsection in relation to that relevant year is taken to be the factor calculated to 3 decimal places in accordance with that subsection and increased by 0.001.

**5 Application of Act to the Commonwealth and the States**

- (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 subsection (1), *State* includes Norfolk Island.

**6 Arrangements with States etc.**

- (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 subsection (1) or (2) for the variation or revocation of the arrangement.
- (3A) Subject to subsection (3B), the Governor of a State with whom an arrangement is in force under subsection (1) or (2) may, by signed instrument, revoke the arrangement.

- (3B) A revocation under subsection (3A) takes effect at the end of 6 months after the instrument of revocation is signed or, if a later time is specified in the instrument, at that time.
- (4) An arrangement under subsection (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.
- (4A) For the purposes of the application of the above subsections in relation to the Australian Capital Territory:
- (a) references to the Governor-General are taken to be references to the Prime Minister; and
  - (b) references to the Governor of a State are taken to be references to the Chief Minister of the Territory.
- (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 subsection (1) or (2) is made, varied or revoked shall be published in the *Gazette*.

## **7 Regulatory Authority**

- (1) For the purposes of this Act, there shall be, in respect of each State, a Registration Authority.
- (2) For the purposes of this Act, there shall be, in respect of each State, a Licensing Authority.

Section 7A

---

- (3) Subject to subsection (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 subsection 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 subsection (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 subsection 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) For the purposes of the application of subsections (3) and (4) in relation to the Australian Capital Territory, references to the Governor of the State are taken to be references to the Chief Minister of the Territory.
- (6) If there is not in force an arrangement under subsection 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 subsection 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.

**7A Application of the *Criminal Code***

Chapter 2 (other than Part 2.5) of the *Criminal Code* applies to all offences created by this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

## Part II—Registration of interstate motor vehicles

### 8 Motor vehicles and trailers to be registered

- (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.

Penalty: 10 penalty units.

Note 1: If a body corporate is convicted of the offence, subsection 4B(3) of the *Crimes Act 1914* allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

Note 2: A defendant bears an evidential burden in relation to the matters in paragraphs (1)(d) and (e) (see subsection 13.3(3) of the *Criminal Code*).

- (1A) An offence under subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) A motor vehicle or trailer shall not be taken, for the purposes of subsection (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.
- (2A) For the purposes of the application of subsection (2) in relation to the Australian Capital Territory, the reference in that subsection to the commencement of this section is taken to be a reference to the commencement of this subsection.
- (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 subsection (2) if:

Section 9

---

- (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 subsection (1) in relation to the motor vehicle or trailer.

**9 Registration of motor vehicles etc.**

- (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) the whole of the charge in respect of the registration of the motor vehicle or trailer;
    - (ii) the amount of any fee charged by the regulations in respect of a function performed by a Regulatory Authority in or in connection with the registration of the motor vehicle or trailer;
    - (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 subsection (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 subsection (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.

Section 9

---

- (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 subsections (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 subsection (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 subsections (9) and (10), where:
- (a) a document relating to a motor vehicle or trailer is required or permitted by this Act (other than subsection (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 subsection (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 subsection (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 subsection (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 subsection (6) in relation to the motor vehicle or trailer;

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

## **10 Sub-standard motor vehicles and trailers not to be driven etc.**

(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 if the motor vehicle or trailer is in an unsafe or dangerous condition.

Penalty: Imprisonment for one year.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

(1A) Subsection (1) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).

(2) It is a reasonable excuse for the purposes of subsection (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.

---

Section 11

---

(3) 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 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: Imprisonment for 6 months.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of that Act allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

(3A) Subsection (3) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3A) (see subsection 13.3(3) of the *Criminal Code*).

(4) It is a reasonable excuse for the purposes of subsection (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.

## 11 Cancellation or suspension of registration

(1) A Registration Authority may, in accordance with the regulations, 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;
  - (e) the motor vehicle or trailer is destroyed;
  - (f) an amount payable under paragraph 9(1)(a) or (b) or 9(3)(b) and accompanying an application for registration under section 9 has been paid by cheque—the cheque is dishonoured when duly presented for payment.
- (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;
  - (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;
  - (ca) an amount payable under paragraph 9(1)(a) or (b) or 9(3)(b) and accompanying an application for registration under section 9 has been paid by cheque—the cheque is dishonoured when duly presented for payment;
- a Registration Authority may, in accordance with the regulations:
- (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.
-

**Section 12**

---

- (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 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 subsection (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.

**12 Surrender of registration**

- (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.

**12A Mass limits of registered motor vehicles**

Notwithstanding any law of a State relating to mass limits, it is lawful, subject to this Act, for a registered motor vehicle or trailer that complies with the requirements prescribed for the purposes of paragraph 13(aa) to be driven on a road in the carriage of passengers or goods between prescribed places or for any purpose that is incidental to carriage of that kind.

**12B Regulation of the operation of B-doubles**

- (1) The regulations may make provision regulating the operation of B-doubles in the carriage of passengers or goods between prescribed places or for any purpose that is incidental to carriage of that kind.
- (2) The provision that may be made by the regulations includes, but is not limited to:
  - (a) provision fixing the maximum loaded mass of a B-double or any of its component parts; and
  - (b) prohibition of the operation of a B-double on a road that is not a federal route; and
  - (c) prohibition of the operation of a B-double on a federal route in breach of conditions determined under subsection 43A(2) in relation to that route; and
  - (d) prohibition of the embarkation or disembarkation of passengers on or from a B-double except at a place approved under the regulations for the purpose; and
  - (e) prohibition of the loading or unloading of goods on or from a B-double except at a place approved by or under the regulations for the purpose; and
  - (f) provision as to the maximum exterior dimensions of a B-double or any of its component parts; and
  - (g) requirements as to the specifications or condition of any part of a B-double or any equipment on, or forming part of, a B-double; and
  - (h) provision requiring B-doubles:
    - (i) to be weighed; and
    - (ii) if necessary, to be unloaded;for the purpose of ensuring that they comply with this Act and the regulations.

**12C Operating requirements for B-doubles**

In spite of any law of a State relating to the operation of articulated vehicles, it is lawful, subject to this Act, for a B-double that is operated in accordance with this Act and the regulations to be operated on a road in a State in the carriage of passengers or goods between prescribed places or for any purpose that is incidental to carriage of that kind.

Section 12D

---

**12D Offences involving the operation of B-doubles**

- (1) A person must not operate a B-double in the carriage of passengers or goods between prescribed places or for any purpose that is incidental to carriage of that kind if:
- (a) the loaded mass of the B-double exceeds the maximum loaded mass applicable to the B-double under the regulations; or
  - (b) the loaded mass of any component part of the B-double exceeds the maximum loaded mass applicable to that component under the regulations.

Penalty: 40 penalty units.

- (1A) An offence under subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (2) A person who, in relation to a B-double, contravenes regulations made for the purposes of paragraph 12B(2)(h) is guilty of an offence punishable on conviction by a fine not exceeding 40 penalty units.

Note: If a body corporate is convicted of the offence, subsection 4B(3) of the *Crimes Act 1914* allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

- (3) An offence under subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

**13 Regulations may make further provision with respect to registered motor vehicles etc.**

- (1) 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;
  - (aa) requiring a registered motor vehicle or trailer, other than a vehicle or trailer being operated as part of a B-double, to comply with such mass limits 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.
- (2) Without limiting the generality of paragraph (1)(aa), regulations for the purposes of that paragraph may make provision for and in relation to requiring registered motor vehicles or trailers:
- (a) to be weighed; and
  - (b) if necessary, to be unloaded;
- for the purpose of ensuring that they comply with mass limits.

## **Part III—Collection of interstate road transport charge**

### **14 By whom charge payable**

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

### **16 When charge due and payable**

Charge in respect of the registration of a motor vehicle or trailer is due and payable on the day on which the registration comes into force.

### **18 Refund of charge on cancellation or surrender**

If the registration of a motor vehicle or trailer is cancelled or surrendered the Commonwealth must refund to the owner an amount worked out using the formula:

$$\frac{AB}{C}$$

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, apart from the cancellation or surrender, have expired; and

*C* is the number of whole days in the period that is applicable to the registration under subsection 9(3).

**19 Refund of charge in relation to intra-state operations**

- (1) Subject to subsection (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;
- 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

$$\frac{AB}{C},$$

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 subsection (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).

Section 20

---

(3) Where:

- (a) a person (in this subsection referred to as the *convicted person*) is convicted before a court of an offence against section 137.1 of the *Criminal Code* 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 subsection (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.

**20 Recovery of charge**

Charge payable to the Commonwealth may be recovered as a debt due to the Commonwealth.

## **Part IV—Interstate Road Transport Account**

### **21 Interstate Road Transport Account**

- (1) There is continued in existence the Interstate Road Transport Account.

Note: The Account was established by subsection 5(3) of the *Financial Management Legislation Amendment Act 1999*.

- (2) The Account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.
- (3) If interest is received by the Commonwealth from the investment of an amount standing to the credit of the Account, an amount equal to the amount of the interest must be credited to the Account.

### **22 Amounts to be credited to Account**

- (1) There must be credited to the Account amounts equal to the amounts received by the Commonwealth as charge and advances on account of charge.
- (2) There must be credited to the Account amounts equal to amounts received by the Commonwealth by way of the repayment of amounts paid in accordance with a determination under subsection 23(1).

### **23 Amounts to be debited from the Account**

- (1) There is to be debited from the Account and paid by the Commonwealth 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 subsection.
- (3) The Minister, in exercising the power to make determinations under subsection (1), must, as far as practicable, ensure that the allocation of payments under this section among the States reflects

Section 23

---

the distribution of damage done to roads by registered motor vehicles and trailers operating as mentioned in subsection 8(1).

- (4) Payments under this Act must be made at such times, and in such amounts, as the Minister approves.
- (5) Payment of an amount to a State under subsection (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 subparagraph (paragraph (i) are correct;
  - (c) that the State will expend the amount as required by a determination made under that subsection.
- (6) Payment of an amount to a State under subsection (1) may be made subject to such other conditions as are specified in a determination made under that subsection, 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 subsection (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 subsection (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—sections 24-35** [see Notes 2 and 3]

**Part VI—Monitoring devices**

**36** [see Note 2]

**37** [see Note 2]

**38 Monitoring devices to be fitted in accordance with the regulations**

A motor vehicle or trailer shall not be taken, for the purposes of this Act, to be fitted with a monitoring device unless the monitoring device is fitted in accordance with the regulations.

**39 Owner of motor vehicle or trailer to maintain monitoring device**

- (1) The regulations may require the owner of a registered motor vehicle fitted with a standard monitoring device to:
  - (a) cause the monitoring device to be kept in good repair; and
  - (b) cause the monitoring device to be maintained and operated in accordance with procedures specified in the regulations; and
  - (c) cause the monitoring device to be replaced in such circumstances as are specified in the regulations; and
  - (d) if 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; and
  - (e) if information recorded by the monitoring device relating to the operation of the motor vehicle or trailer may be mechanically transferred to a document:
    - (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; and

- (f) cause to be prepared documents, in accordance with the approved form, containing extracts from, or summaries of, documents of a kind referred to in subparagraph (paragraph (d)(i) or (e)(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
  - (g) 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.
- (2) In paragraph (1)(e), *mechanically* includes electronically or by any other means not involving direct human manipulation.

#### **40 Offences relating to monitoring devices**

- (1) If a registered motor vehicle is fitted with a standard monitoring device, a person commits an offence if, during the period the registration is in force, the person does an act and the act results in:
- (a) the destruction of the monitoring device; or
  - (b) damage or injury to, manipulation of, or tampering or interference with the monitoring device in such a way as to hinder its normal operation; or
  - (c) the use or operation of the monitoring device in such a way as to hinder its normal operation; or
  - (d) the removal of the monitoring device.

Penalty: 10 penalty units.

- (2) Paragraph 1(d) does not apply if the removal is permitted by regulations made for the purposes of section 39.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- (3) An offence under subsection (1) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

#### **41 Falsification, concealment etc. of monitoring device record**

A person commits an offence if during the period for which a monitoring device record is required to be kept:

Section 42

---

- (a) the person does an act; and
- (b) the act results in the damage to or alteration, defacing, mutilation, falsification, concealment or destruction (whether in whole or in part) of the monitoring device record.

Penalty: 10 penalty units.

**42 Court may order payment of amount in addition to penalty**

Where:

- (a) a person (in this subsection 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).

**43 Evidence of monitoring device record**

- (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 section 6 of the *Crimes Act 1914*, or an offence against section 11.1, 11.4 or 11.5 of the *Criminal Code*, being an offence that relates to an offence referred to in subparagraph (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**

### **43A Determination of federal routes**

- (1) The Minister may determine, in writing, that certain roads or categories of roads are to be routes for the carriage of passengers or goods between prescribed places or for any purpose that is incidental to carriage of that kind.
- (2) The Minister may determine, in writing, conditions to which the operation of a B-double on a federal route is subject.
- (3) The Minister must cause a notice of a determination made under this section to be published in the *Gazette*.
- (4) The Minister shall cause a copy of a determination under subsection (2) to be laid before each House of the Parliament within 15 sitting days of that House after the determination is published in the *Gazette*.
- (5) If either House of the Parliament, within 15 sitting days of that House after a copy of a determination has been laid before that House, passes a resolution disapproving of the determination, then the determination shall not have any force or effect on or after the day on which the resolution was passed.

### **44 Power to stop and search motor vehicles etc.**

- (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;

Section 44

---

- (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 subparagraph (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 purposes of being inspected by a Registration Authority or by a person authorised by a Registration Authority to act under this paragraph.
- (2) A person must not fail to comply with a requirement under paragraph (1)(c) or (e).

Penalty: 10 penalty units.

- (2A) Subsection (2) does not apply to the extent that the person is not capable of complying with that subsection.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

- (2B) An offence under subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (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 subparagraph (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 subsection (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: 1 penalty unit.

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

Penalty: Imprisonment for 2 years.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment.

- (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.

Section 45

---

*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.

**45 Power to require persons to give information or produce documents**

- (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 must not fail to comply with a notice under this section.

Penalty: 10 penalty units.

- (2A) Subsection (2) does not apply to the extent that the person is not capable of complying with that subsection.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

- (2B) Subsection (2) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2B) (see subsection 13.3(3) of the *Criminal Code*).

- (2C) An offence under subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (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: Imprisonment for 6 months.

Note: Subsection 4B(2) of the *Crimes Act 1914* allows a court to impose an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of the offence, subsection 4B(3) of the *Crimes Act 1914* allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

- (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:

Section 46

---

- (a) in the case of a person not being a body corporate—for an offence against section 137.1 of the *Criminal Code* 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 subsection (1) requiring the production of a document shall include, or be accompanied by, a statement explaining the effects of subsection (3).
- (6) A reference in subsection (4) to an offence of a particular kind includes a reference to:
- (a) an offence against section 6 of the *Crimes Act 1914*; or
  - (b) an offence against section 11.1, 11.4 or 11.5 of the *Criminal Code*;
- being an offence that relates to an offence of that kind.

**46 Inspection of documents**

- (1) A person authorised by a Regulatory Authority to act under this subsection 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 subsection 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.

**47A Conduct of directors, servants and agents**

- (1) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:
  - (a) that the conduct was engaged in by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority; and
  - (b) that the director, servant or agent had the state of mind.
- (2) Any conduct engaged in on behalf of a body corporate by a director, servant or agent of the body corporate within the scope of his or her actual or apparent authority is to be taken, in proceedings for an offence against this Act, to have been engaged in also by the body corporate unless the body corporate establishes that the body corporate took reasonable precautions and exercised due diligence to avoid the conduct.
- (3) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a person other than a body corporate in relation to particular conduct, it is sufficient to show:
  - (a) that the conduct was engaged in by a servant or agent of the person within the scope of his or her actual or apparent authority; and
  - (b) that the servant or agent had the state of mind.
- (4) Any conduct engaged in on behalf of a person other than a body corporate by a servant or agent of the person within the scope of his or her actual or apparent authority is to be taken, in proceedings for an offence against this Act, to have been engaged in also by the first-mentioned person unless the person establishes that the person took reasonable precautions and exercised due diligence to avoid the conduct.
- (5) Where:
  - (a) a person other than a body corporate is convicted of an offence; and
  - (b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted;the person is not liable to be punished by imprisonment for the offence.

Section 48

---

- (6) A reference in subsection (1) or (3) to the state of mind of a person includes a reference to:
  - (a) the knowledge, intention, opinion, belief or purpose of the person; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.
- (7) A reference in this section to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated for a public purpose by a law of the Commonwealth or of a State.
- (8) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.
- (9) In this section:
  - offence against this Act* includes:
    - (a) an offence against section 6 of the *Crimes Act 1914* that relates to an offence against this Act; and
    - (b) any offence against section 11.4 or 11.5 of the *Criminal Code* that relates to an offence against this Act.

*this Act* includes the regulations.

**48 Regulatory Authorities to comply with Ministerial directions**

- (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 subsection (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 subsection (1).

**49 Freedom of interstate trade etc.**

- (1) A power conferred by sections 9, 11 and 26, subsection 27(8), section 30 and subsection 32(2) on the Minister or on a Regulatory

Authority and a power conferred on a court by subsections 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
  - (aa) trade, commerce or intercourse between the Australian Capital Territory and a State is not absolutely free within the meaning of section 69 of the *Australian Capital Territory (Self-Government) Act 1988*.
  - (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 subsection (1), *State* does not include the Australian Capital Territory or the Northern Territory.

### **50 Delegation**

- (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 subsection 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 or the Minister 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*.

Section 51

---

**51 Reconsideration and review of certain decisions**

- (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, subsection 27(8), section 30 or subsection 32(2); or
- (b) a decision of a delegate of the Minister under subsection (2) of this section.

*reviewable decision* means a decision of the Minister under subsection (2) or (4) of this section, but does not include a decision of a delegate of the Minister under subsection (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 subsection (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 subsection (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 subsection (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 subsection (7) or (8) in relation to a decision does not affect the validity of the decision.

## **52 Effect of this Act and regulations on State laws**

- (1) It is the intention of the Parliament that this Act (except sections 12A and 12C) and the regulations shall not, subject to subsection (2), apply to the exclusion of a law of a State.
- (2) Subsection (1) does not apply to a law of a State 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 subsection 8(1) to be registered under a law of a State;
  - (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 subsection 12B(1) or section 13, 37 or 39, or conditions determined under subsection 43A(2);

Section 53

---

- (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 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 subsection 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 subsection 3(1) as mentioned in subsection 8(1);to hold a licence or other authority under a law of a State 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.

**53 Enforcement of orders for payment**

- (1) Where:
  - (a) upon the conviction of a person for an offence against regulations made for the purposes of section 37 or 39 of this Act or an offence against section 40, 41, 44 or 45 of this Act or an offence against section 137.1 of the *Criminal Code* that relates to this Act, 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 of this Act or an offence against section 40, 41, 44 or 45 of this Act or an offence against section 137.1 of the *Criminal Code* that relates to this Act, 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 subsection (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.

## **55 Recovery of fees**

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.

## **56 Regulations**

- (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.

Section 56

---

- (2) Without limiting the generality of subsection (1), the regulations may make provision for and in relation to:
  - (a) regulating the use and operation of registered motor vehicles and trailers and prescribing operating standards (including mass limits) of such vehicles and trailers; and
  - (b) prohibiting or regulating specified conduct or activities:
    - (i) in registered motor vehicles or trailers; or
    - (ii) in connection with the operation or use of registered motor vehicles or trailers; and
  - (c) providing for the charging of fees (other than fees for the purposes of paragraph 9(1)(a), subparagraph 9(3)(b)(ii) or subsection 12(2)) in respect of functions performed by a Regulatory Authority in or in connection with the registration under this Act of a motor vehicle or trailer or the licensing under this Act of a person who proposes to carry on long distance interstate road transport business; and
  - (d) penalties not exceeding a fine of 30 penalty units for offences against regulations made for the purposes of paragraph 13(aa); and
  - (da) enabling a person who is alleged to have committed an offence against section 12D or an offence referred to in paragraph (d) to pay to the Commonwealth, as an alternative to prosecution, a penalty not exceeding:
    - (i) in the case of a natural person—4 penalty units; or
    - (ii) in the case of a body corporate—20 penalty units; and
  - (e) penalties not exceeding a fine of 10 penalty units for offences against the regulations, other than offences referred to in paragraph (d);
  - (f) enabling a person who is alleged to have committed an offence referred to in paragraph (e) to pay to the Commonwealth, as an alternative to prosecution, a penalty not exceeding:
    - (i) in the case of a natural person—1 penalty unit; or
    - (ii) in the case of a body corporate—5 penalty units.
- (3) The regulations may make provision for or in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force at a particular time or as in force from time to time.

- (4) Subject to section 4A, a fee provided for under paragraph (2)(c) shall not exceed \$100.



**Table of Acts****Notes to the *Interstate Road Transport Act 1985*****Note 1**

The *Interstate Road Transport Act 1985* as shown in this compilation comprises Act No. 130, 1985 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 24 November 2000 is not included in this compilation. For subsequent information *see* Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Interstate Road Transport Act 1985</i>	130, 1985	22 Nov 1985	Ss. 1 and 2: Royal Assent Part V (ss. 24–35), ss. 36(1), (5) and 37: [see Note 2] Remainder: 1 Jan 1987 (see <i>Gazette</i> 1986, No. S661)	
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1986</i>	76, 1986	24 June 1986	S. 3: (a)	S. 9
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1986</i>	168, 1986	18 Dec 1986	S. 3: [see (b) and Note 3]	S. 5(1)
<i>Interstate Road Transport Amendment Act 1988</i>	39, 1988	3 June 1988	1 July 1988	—
<i>Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988</i>	99, 1988	2 Dec 1988	2 Dec 1988	—
<i>Transport and Communications Legislation Amendment Act 1989</i>	29, 1989	22 May 1989	22 May 1989	—
<i>Transport and Communications Legislation Amendment Act (No. 2) 1989</i>	23, 1990	17 Jan 1990	Part 9 (ss. 22–26): Royal Assent (c)	—
<i>Interstate Road Transport Amendment Act 1991</i>	128, 1991	2 Sept 1991	15 Nov 1991 (see <i>Gazette</i> 1991, No. S304)	—

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Transport and Communications Legislation Amendment Act (No. 2) 1993</i>	5, 1994	18 Jan 1994	Schedule (item 50): 17 Jan 1990 ( <i>d</i> )	S. 2(4) (am. by 43, 1996, Sch. 3 [item 123])
<b>as amended by</b>				
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 3 (item 123): 18 Jan 1994 ( <i>e</i> )	—
<i>Interstate Road Transport Amendment Act 1995</i>	50, 1995	23 June 1995	1 July 1995 (see s. 2)	—
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 881–888): 1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49) ( <i>f</i> )	—
<i>Interstate Road Transport Amendment Act 1998</i>	43, 1998	17 June 1998	17 June 1998	—
<i>Interstate Road Transport Amendment Act 2000</i>	40, 2000	3 May 2000	( <i>g</i> )	—
<i>Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000</i>	137, 2000	24 Nov 2000	Ss. 1-3 and Schedule 1 (items 1, 4, 6, 7, 9–11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419) [see Table A]
<i>Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001</i>	143, 2001	1 Oct 2001	2 Oct 2001	S. 4 [see Table A]
<i>Financial Framework Legislation Amendment Act 2005</i>	8, 2005	22 Feb 2005	S. 4 and Schedule 1 (items 161–166, 496): Royal Assent	S. 4 and Sch. 1 (item 496) [see Table A]
<i>Maritime Transport and Offshore Facilities Security Amendment (Security Plans and Other Measures) Act 2006</i>	109, 2006	27 Sept 2006	Schedule 2 (items 31, 32): [see ( <i>h</i> ) and Note 4]	—

**Act Notes**

- (a) The *Interstate Road Transport Act 1985* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1986*, subsections 2(12) and (13) of which provide as follows:
- (12) The amendment of paragraph 39(b) of the *Interstate Road Transport Act 1985* made by this Act shall come into operation, or shall be deemed to have come into operation, as the case may be, immediately after section 39 of the *Interstate Road Transport Act 1985* comes or came into operation.
  - (13) The amendment of paragraph 40(b) of the *Interstate Road Transport Act 1985* made by this Act shall come into operation, or shall be deemed to have come into operation, as the case may be, immediately after section 40 of the *Interstate Road Transport Act 1985* comes or came into operation.
- Sections 39 and 40 commenced on 1 January 1987 (see *Gazette* 1986, No. S661).
- (b) The *Interstate Road Transport Act 1985* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1986*, subsection 2(7) of which provides as follows:
- (7) An amendment of a provision of the *Interstate Road Transport Act 1985* made by this Act shall come into operation on the day on which that provision comes into operation. [see Note 3]
- The amendments to sections 3, 11, 39 and 50 commenced on 1 January 1987 (see *Gazette* 1986, No. S661).
- (c) The *Interstate Road Transport Act 1985* was amended by Part 9 (sections 22–26) only of the *Transport and Communications Legislation Amendment Act (No. 2) 1989*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (d) The *Interstate Road Transport Act 1985* was amended by the Schedule (item 50) only of the *Transport and Communications Legislation Amendment Act (No. 2) 1993*, subsection 2(4) of which provides as follows:
- (4) The amendment contained in item 50 of the Schedule is taken to have commenced on 17 January 1990.
- (e) The *Transport and Communications Legislation Amendment Act (No. 2) 1993* was amended by Schedule 3 (item 123) only of the *Statute Law Revision Act 1996*, subsection 2(3) of which provides as follows:
- (3) Each item in Schedule 3 is taken to have commenced when the Act containing the provision amended by the item received the Royal Assent.
- (f) The *Interstate Road Transport Act 1985* was amended by Schedule 2 (items 881–888) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (g) The *Interstate Road Transport Act 1985* was amended by the *Interstate Road Transport Amendment Act 2000*, section 2 of which provides as follows:
- 2 This Act commences immediately after the commencement of the *Interstate Road Transport Charge Amendment Act 2000*.
- The *Interstate Road Transport Charge Amendment Act 2000* came into operation on 1 July 2000 (see *Gazette* 2000, No. S303).
- (h) Subsection 2(1) (item 4) of the *Maritime Transport and Offshore Facilities Security Amendment (Security Plans and Other Measures) Act 2006* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

## Act Notes

---

---

### Commencement information

---

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
4. Schedule 2, items 31 and 32	Immediately after the commencement of sections 34 and 35 of the <i>Interstate Road Transport Act 1985</i> .	[see Note 4]

---

**Table of Amendments****Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision affected	How affected
<b>Part I</b>	
S. 3.....	am. No. 168, 1986; No. 23, 1990; No. 128, 1991; No. 50, 1995; No. 152, 1997; No. 43, 1998; No. 40, 2000; No. 8, 2005
S. 3A .....	ad. No. 128, 1991 am. No. 43, 1998
S. 4.....	rep. No. 43, 1998
S. 4A .....	ad. No. 23, 1990 am. No. 5, 1994
S. 6.....	am. No. 39, 1988; No. 43, 1998
S. 7.....	am. No. 43, 1998
S. 7A .....	ad. No. 143, 2001
<b>Part II</b>	
S. 8.....	am. No. 43, 1998; No. 143, 2001
Note to s. 8(1) .....	ad. No. 43, 1998
Renumbered Note 1 .....	No. 143, 2001
Note 2 to s. 8(1) .....	ad. No. 143, 2001
S. 9.....	am. No. 29, 1989; No. 50, 1995
S. 10.....	am. No. 43, 1998; No. 143, 2001
Note to s. 10(1) .....	ad. No. 43, 1998
Note to s. 10(3) .....	ad. No. 43, 1998
S. 11.....	am. No. 168, 1986; No. 39, 1988; No. 29, 1989; No. 50, 1995
S. 12A .....	ad. No. 39, 1988 am. No. 43, 1998
S. 12B .....	ad. No. 128, 1991
S. 12C .....	ad. No. 128, 1991 am. No. 43, 1998
S. 12D .....	ad. No. 128, 1991 am. No. 43, 1998; No. 143, 2001
Note to s. 12D .....	ad. No. 43, 1998
S. 13.....	am. No. 39, 1988; No. 29, 1989; No. 128, 1991
<b>Part III</b>	
S. 14.....	rs. No. 29, 1989; No. 50, 1995
S. 15.....	rep. No. 50, 1995
S. 16.....	am. No. 29, 1989 rs. No. 50, 1995
S. 17.....	am. No. 39, 1988; No. 29, 1989 rep. No. 50, 1995
S. 17A .....	ad. No. 29, 1989 rep. No. 50, 1995
S. 18.....	am. No. 39, 1988 rs. No. 50, 1995

**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
S. 19.....	am. No. 43, 1998; No. 137, 2000
S. 20.....	rs. No. 50, 1995
<b>Part IV</b>	
Heading to Part IV.....	rs. No. 152, 1997; No. 8, 2005
S. 21.....	rs. No. 152, 1997; No. 8, 2005
Heading to s. 22.....	am. No. 152, 1997 rs. No. 8, 2005
S. 22.....	am. No. 152, 1997 rs. No. 8, 2005
Heading to s. 23.....	am. No. 152, 1997; No. 8, 2005
S. 23.....	am. No. 152, 1997; No. 43, 1998 rs. No. 8, 2005
<b>Part VI</b>	
S. 36.....	am. No. 50, 1995
S. 38.....	am. No. 39, 1988; No. 50, 1995
S. 39.....	am. Nos. 76 and 168, 1986; No. 50, 1995
S. 40.....	am. No. 76, 1986 rs. No. 50, 1995; No. 143, 2001
S. 41.....	am. No. 43, 1998 rs. No. 143, 2001
S. 43.....	am. No. 143, 2001
<b>Part VI</b>	
S. 43A.....	ad. No. 128, 1991
S. 44.....	am. No. 43, 1998; No. 143, 2001
Note to s. 44(6).....	ad. No. 43, 1998
S. 45.....	am. No. 43, 1998; No. 137, 2000; No. 143, 2001
Notes to s. 45(2), (3).....	ad. No. 43, 1998
S. 47.....	am. No. 43, 1998 rep. No. 137, 2000
Note to s. 47(1).....	ad. No. 43, 1998 rep. No. 137, 2000
S. 47A.....	ad. No. 23, 1990 am. No. 43, 1998; No. 143, 2001
S. 49.....	am. No. 43, 1998
S. 50.....	am. No. 168, 1986
Heading to s. 52.....	am. No. 43, 1998
S. 52.....	am. No. 39, 1988; No. 128, 1991; No. 43, 1998
S. 53.....	am. No. 137, 2000
S. 54.....	rep. No. 39, 1988
S. 56.....	am. No. 39, 1988; No. 23, 1990; No. 128, 1991; No. 43, 1998

**Note 2**

Part V (sections 24-35), subsections 36(1), (5) and section 37 provide as follows:

[NOTE: The in force amendments made by the *Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988* (No. 99, 1988), the *Interstate Road Transport Amendment Act 1995* (No. 50, 1995) and the *Interstate Road Transport Amendment Act 1998* (No. 43, 1998) are incorporated into Note 2 below. Additions to the text are shown as underlined. Omitted text is shown as ~~ruled through~~.]

## **PART V—LICENSING OF INTERSTATE ROAD TRANSPORT OPERATORS**

### **24 Interpretation**

(1) In this Part:

***declared associate of a disqualified person*** means a person in respect of whom a declaration under subsection 30(1) is in force.

***disqualification*** means disqualification under subsection 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 subsection (2) to a conviction of a person of an offence includes a reference to the making of an order under a

## Note 2

---

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.

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

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.~~

Penalty: 50 penalty units.

Note: If a body corporate is convicted of the offence, subsection 4B(3) of the *Crimes Act 1914* allows a court to impose a fine of an amount that is not greater than 5 times the maximum fine that could be imposed by the court on an individual convicted of the same offence.

## 26 Grant of federal operator's licence

- (1) Subject to subsection (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 subsection (1) if:
-

---

**Note 2**

- (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 subsection (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 subsection 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.

**27 Disqualified persons**

- (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

## Note 2

---

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

---

**Note 2**

- (8) Where a disqualification of a person is in force under subsection (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 subsection (1) for a period of more than 6 months.
- (10) A reference in subsection (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.

**28 Monitoring device records etc.**

- (1) The regulations may make provision for and in relation to the admissibility, in proceedings arising out of subsection 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 subsection 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 subsection 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.

## **Note 2**

---

- (4) In proceedings arising out of subsection 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.

### **29 Matters to be taken into account by court**

A court, in determining for the purposes of subsection 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.

### **30 Associates of disqualified persons** [see Note 3 ]

- (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 subsection (1) comes into force on such day as is specified in the notice of the declaration.

---

**Note 2**

- (3) Where a declaration made in respect of a person comes into force under subsection (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 subsection (1).
- (5) Where a declaration made in respect of a person is in force under subsection (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.

**31 Publication of particulars of disqualification etc.**

- (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 subsection (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.

## **Note 2**

---

- (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 subsection (4).

### **32 Annual notice by holder of federal operator's licence**

- (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 subsection (1), a Licensing Authority may, by notice in writing served on the person, cancel the licence.

### **33 Court may inform Licensing Authority of conviction etc.**

- (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

---

**Note 2**

a contravention of, a relevant safety provision, the court may cause a Licensing Authority to be informed of that conviction.

- (2) A reference in subsection (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.

### **34 Federal road safety standards**

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.

### **35 Disallowance etc. of federal road safety standards**

- (1) Sections 48, ~~48A, 48B~~, 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*.

### **36 Regulations may specify requirements for monitoring devices**

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

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

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

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

As at 10 October 2006 no date had been fixed for the commencement of Part V (sections 24–35), subsections 36(1), (5) and section 37.

### **Note 3**

---

#### **Note 3**

Section 30 was amended by section 3 and Schedule 1 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1986* (No. 168, 1986). The provision of Schedule 1 applicable to the *Interstate Road Transport Act 1985* provides as follows:

#### **Schedule 1**

##### **Subsection 30(5)**

Omit “the Licensing Authority is satisfied that”.

Subsection 2(7) of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1986* provides as follows:

- (7) An amendment of a provision of the *Interstate Road Transport Act 1985* made by this Act shall come into operation on the day on which that provision comes into operation.

As at 10 October 2006 no date had been fixed for the commencement of subsection 30(5) and the amendment is not incorporated in this compilation.

#### **Note 4**

Section 34 was amended by Schedule 2 (item 31) and section 35 was repealed by Schedule 2 (item 32) of the *Maritime Transport and Offshore Facilities Security Amendment (Security Plans and Other Measures) Act 2006* (No. 109, 2006). The provisions of Schedule 2 applicable to the *Interstate Road Transport Act 1985* provide as follows:

#### **Schedule 2**

##### **31 Section 34**

Omit “by order in writing”, substitute “by legislative instrument”.

##### **32 Section 35**

Repeal the section.

As at 10 October 2006 no date had been fixed for the commencement of sections 34 and 35 and the amendments are not incorporated in this compilation.

---

**Table A**

**Table A**

**Application, saving or transitional provisions**

*Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000* (No. 137, 2000)

**Schedule 2**

**418 Transitional—pre-commencement offences**

- (1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:
- (a) an offence committed before the commencement of this item; or
  - (b) proceedings for an offence alleged to have been committed before the commencement of this item; or
  - (c) any matter connected with, or arising out of, such proceedings;
- as if the amendment or repeal had not been made.
- (2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

**419 Transitional—pre-commencement notices**

If:

- (a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and
  - (b) any or all of those other provisions are repealed by this Schedule; and
  - (c) the first-mentioned provision is amended by this Schedule;
- the amendment of the first-mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.
-

## **Table A**

---

*Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001* (No. 143, 2001)

### **4 Application of Amendments**

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

---

*Financial Framework Legislation Amendment Act 2005* (No. 8, 2005)

### **4 Saving of matters in Part 2 of Schedule 1**

- (1) If:
  - (a) a decision or action is taken or another thing is made, given or done; and
  - (b) the thing is taken, made, given or done under a provision of a Part 2 Act that had effect immediately before the commencement of this Act;then the thing has the corresponding effect, for the purposes of the Part 2 Act as amended by this Act, as if it had been taken, made, given or done under the Part 2 Act as so amended.

- (2) In this section:

**Part 2 Act** means an Act that is amended by an item in Part 2 of Schedule 1.

## **Schedule 1**

### **496 Saving provision—Finance Minister’s determinations**

If a determination under subsection 20(1) of the *Financial Management and Accountability Act 1997* is in force immediately before the commencement of this item, the determination continues in force as if it were made under subsection 20(1) of that Act as amended by this Act.