

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 293

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

National Transport Commission Act 2003

National Transport Commission (Model Amendments Regulations 2008 (Twin Steer Mass and Loading Limits)) Regulations 2009

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

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

The purpose of the Regulations is to enable certain heavy vehicles to operate at an increased mass limit if they are fitted with twin steer axle groups. In order to allow heavy vehicles to carry increased mass the Regulations amend the *National Transport Commission (Road Transport Legislation – Mass and Loading Regulations) Regulations 2006* (the Mass & Loading Regulations) and the *National Transport Commission (Road Transport Legislation – Higher Mass Limits) Regulations 2006* (the Higher Mass Limits Regulations) which together set out the mass limits which heavy vehicles operate under. The Regulations are intended to provide those operating in the transport industry with the flexibility to interchange between different vehicle combinations depending on what transport activity they are undertaking. The Regulations are in model form to allow for implementation in each jurisdiction using the most convenient and effective regulatory manner available – for instance, the provisions may be incorporated into the law of a jurisdiction by way of amendment of existing legislation.

The object of the Regulations are:

- (a) to make amendments to the Mass & Loading and Higher Mass Limits Regulations to enable heavy vehicles to operate at an increased mass if they are fitted with twin steer axle groups; and
- (b) to specifically increase mass limits in the Mass & Loading Regulations to enable twin-steer combinations up to 46.5 tonnes at general mass limits and 49.5 tonnes at higher mass limits; and
- (c) to provide for greater productivity by allowing heavy vehicles fitted with twin-steer axle groups to operate under increased mass limits.

The Regulations make a number of amendments to the Mass & Loading Regulations which were approved, in draft form, by the Ministerial Council for Road Transport on 20 December 1993. The purpose of the Mass & Loading Regulations is to help manage road wear and the risk that vehicles and their loads may pose to road users. They achieve this purpose by matching load limits on heavy vehicles with the current capacity of roads and bridges and imposing mass limits for vehicles and combinations, including their loads, individual tyres, wheels, axles and axle groups. The Regulations amend the Mass & Loading Regulations to allow for an increase in the gross mass limit at the general mass limit from 42.5 to 46.5 tonnes and higher mass limits from 47.5 to 49.5 tonnes for vehicles fitted with twin steer axle groups. Similarly, the Higher Mass Limits Regulations, which were approved by the Australian Transport Council on 10 March 2000, are also amended to allow for an increase in the mass that can be carried by vehicles fitted with twin steer axle groups.

The NTC developed the Regulations following several rounds of consultation. Four rounds of consultations were undertaken. The first, in 1998, sought road agency comments on a general proposal circulated by VicRoads. It proposed increases in the gross mass for seven-axle, articulated combinations with a twin-steer axle group. It also considered a report prepared by Roaduser Research relating to the operation of twin-steer articulated combinations. Further comments were sought from government and industry, by means of the wide circulation of the *Twin-Steer Axle Mass Limits Project: Discussion Paper July 2004*.

Further input into the development of the Regulations was obtained at a workshop held at VicRoads on 27 July 2004, with participants from government and industry. The main focus of the workshop was the discussion paper. However, other relevant issues included industry takeup, the ability to achieve the load on the twin-steer axle group, interchangeability of semitrailers and a methodology for calculating impacts. Further public consultation took place with the circulation of a draft proposal and regulatory impact statement in October 2006. The finalized Regulations and a regulatory impact statement approved by the Office of Best Practice Regulation (OBPR) were submitted to Transport Agency Chief Executives in February 2007 for noting. The Regulations were then submitted to the Australian Transport Council for voting and were approved on 21 February 2008.

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

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