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AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

**MOTOR TRAFFIC (CONSEQUENTIAL PROVISIONS)
BILL 1995**

EXPLANATORY MEMORANDUM

**Circulated by Authority of the Minister for Urban Services
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Outline

The Motor Traffic Act (Consequential Provisions) Bill 1995 ("the Bill") amends the *Motor Traffic Act 1936* ("the Act"). The Bill is a supplementary Bill in a package of two. The main Bill is the Motor Vehicles (Dimensions and Mass) (Amendment) Bill 1995 (the "Dimensions and Mass Bill") which amends the *Motor Vehicles (Dimensions and Mass) Act 1990*.

The Dimensions and Mass Bill provides for a flexible process for regulation of dimensions and mass of heavy vehicles in keeping with nationally uniform standards and practices. The amendments are a part of the ongoing development of nationally uniform road transport regulations developed by the National Road Transport Commission pursuant to agreements between the Commonwealth, States and Territories.

The Dimensions and Mass Bill provides for the Minister to prescribe maximum dimensions by determination, introduces a process of "exemption notices" which allows the Minister to exempt classes of vehicles from requirements of Parts II and III of the Motor Vehicles (Dimensions and Mass) Act and provides for service of infringement notices on owners as well as drivers.

The Dimensions and Mass Bill also inserts new definitions and amends existing definitions of terms including "manufacturer's vehicle mass", "manufacturer's gross combination mass", "semi-trailer", "B-double" and "road train". The new definitions are based on Commonwealth regulations which are intended for adoption in all jurisdictions. The Bill amends the interpretation section of the Act so that the terms and definitions of the Act are consistent with the new or amended definitions made by the Dimensions and Mass Bill.

The main feature of the Bill concerns the amendment of existing definitions of "manufacturer's gross vehicle mass" and "manufacturer's gross combination mass". Existing section 4 of the Act defines the "manufacturer's gross vehicle mass" and "manufacturer's gross combination mass" as the maximum loaded mass specified by the manufacturer. The manufacturer's gross vehicle mass is the manufacturer's specification of the maximum mass that a vehicle may safely carry at any one time. The manufacturer's gross combination mass is the manufacturer's specification of the combined maximum mass that a vehicle may carry and also tow.

In the industry and in Commonwealth regulations made under the *Road Transport Reform (Vehicles and Traffic) Act 1993* (Cth), these concepts are referred to as "GVM" (maximum loaded gross vehicle mass) and "GCM" (maximum loaded gross combination mass). In order to be consistent with

national usage, the Bill and the Dimensions and Mass Bill substitute the existing definitions of "manufacturer's gross vehicle mass" and "manufacturer's gross combination mass" with the terms "GVM" and "GCM" respectively. This Explanatory Memorandum uses the new terms "GVM" and "GCM" to indicate maximum loaded mass of a vehicle and maximum loaded mass of a vehicle and of any vehicles which the vehicle may tow respectively.

The GVM and GCM which specify a maximum loaded mass should not be confused with the existing definitions of "gross mass" and "gross combination mass" which refer to the actual mass which the vehicle is carrying. These definitions are unchanged.

The GVM and GCM of vehicles are important. They are an indication of the maximum mass that a vehicle may safely carry. The rights and liabilities of an operator of a vehicle are determined by the GVM and GCM of the vehicle. In particular, the Motor Vehicles (Dimensions and Mass) Act applies only to vehicles which have a GVM or GCM of 4.5 tonnes or over (3.5 tonnes for buses). In summary, the maximum permissible dimensions of a vehicle, the roads it may use and the maximum load it may carry and other matters are all determined in part by the GVM or GCM.

In relation to heavy vehicles (vehicles other than standard motor cars and motor cycles), the manufacturer will specify a GVM and where appropriate a GCM for the vehicle. The *Motor Vehicle Standards Act 1989* (Cth) with limited exceptions, requires all new or imported vehicles to comply with national standards and also to have a compliance plate. The compliance plates of heavy vehicles will in most cases indicate the GVM/GCM specified by the manufacturer.

The national reform process has taken account of the fact that in a minority of cases the GVM/GCM of a heavy vehicle may never have been specified by the manufacturer or may have been lost over time. In addition, the Motor Vehicle Standards Act provides for some non standard vehicles without compliance plates to be used in prescribed circumstances. Typically, these vehicles are of an unusual type such as specialised farm machinery.

The purpose of this Bill is to ensure, as far as possible, that all heavy vehicles have a GVM and GCM as appropriate. The requirement that all vehicles have a GVM/GCM is not to apply to standard passenger vehicles, that is, motor cars and motor cycles as these vehicles would not have a GVM or GCM of more than 3.5 tonnes and so the Motor Vehicles (Dimensions and Mass) Act and requirements applying to heavy vehicles in the Act would never apply.

The amendments to existing section 7 require heavy vehicles to have a GVM and where appropriate a GCM before these vehicles can be registered. New section 8A provides for the Registrar of Motor Vehicles to specify a GVM and where appropriate a GCM if the Registrar considers that a GVM/GCM has not

been specified or cannot be found. The Registrar's decision is subject to review by the Administrative Appeals Tribunal.

The definition of GVM and GCM also recognises the decision of registration authorities outside the ACT to specify the GVM/GCM of vehicles in the above circumstances.

The GVM/GCM of a vehicle may therefore arise in one of the following three ways. The GVM/GCM of a vehicle may:

- a) be specified by the manufacturer and indicated through the compliance plate of the vehicle (the majority of vehicles);
- b) if the vehicle is registered in the ACT, be specified by the Registrar if the GVM/GCM does not exist or cannot be found; or
- c) if the vehicle is registered outside the ACT, be specified by the registration authority of the State or Territory in which the vehicle is registered.

Financial implications

This Bill is not expected to have any revenue implications.

Details of the Bill are as follows.

Clause 1 - short title

Clause 1 provides for the citation of the Bill once enacted as the *Motor Traffic (Consequential Provisions) Act 1995*.

Clause 2 - commencement

Clause 2 provides for the commencement of the Act. As the Bill amends definitions in order to be consistent with the Dimensions and Mass Bill, the commencement of the substantive provisions of the Bill are tied to the commencement of the definitions in section 4 of the Dimensions and Mass Bill.

Clause 4 - interpretation

Clause 4 amends the existing interpretation section 4. The most important amended definitions are of "GVM", "GCM", "semi-trailer" and "vehicle". The new definition of "vehicle" makes it clear that the term "vehicle" does not include trams.

Clause 5 - registration of motor vehicles

Existing section 7 of the Act provides that the Registrar shall not register a vehicle unless the vehicle complies with certain requirements of the Act and also, if the vehicle is subject to the Motor Vehicles (Dimensions and Mass) Act, Part II of that Act. Clause 5 inserts a new requirement for certain vehicles which must be met before the vehicle can be registered.

Clause 5 inserts new paragraph 7(2)(ab) which is to apply to all vehicles except for motor cars, motor cycles and similar passenger vehicles specified in new subsection 7(3). New paragraph 7(2)(ab) is to require motor vehicles (other than the passenger vehicles excluded) to have a GVM before they can be registered. Motor vehicles which are capable of towing other vehicles must also have a GCM before they can be registered. In circumstances where the Registrar specifies a GVM or GCM under new section 8A, the Registrar's specification becomes the required GVM or GCM for the purposes of this subsection.

Clause 6 - registration of trailers

Clause 6 inserts new paragraph 8(2)(ab) which requires trailers to have a GVM before they can be registered. In circumstances where the Registrar specifies a GVM for the trailer, the Registrar's specification becomes the required GVM for the purposes of this subsection.

Clause 7 - insertion - manner of determining GCM or GVM of vehicles

Clause 7 inserts new section 8A which provides for the Registrar to specify a GVM or GCM for vehicles in certain circumstances. New subsection 8A(3) provides that new section 8A does not apply to motor cars, motor cycles or similar passenger vehicles.

New subsection 8A(1) provides for the Registrar to specify a GCM for motor vehicles which are capable of towing other vehicles if the registrar is satisfied that the manufacturer has not specified a GCM, the manufacturer's specification cannot be found, or the vehicle has been modified so that the manufacturer's specification is no longer relevant.

New subsection 8A(2) similarly provides for the Registrar to specify a GVM for vehicles. The category of "vehicles" includes motor vehicles and those trailers which are vehicles, that is, a means of conveyance running on wheels.

New subsection 8A(3) sets out the factors which the Registrar must consider in specifying a GVM or GCM. In summary, the Registrar must decide what is the maximum mass which a vehicle may safely carry.

New subsection 8A(4) provides that the Registrar may require and make use of an engineer's report to assist with the specification of the GVM or GCM.

Clause 8 - Schedule 7

Clause 8 inserts two new items in existing Schedule 7 which lists those decisions which are subject to review by the Administrative Appeals Tribunal. The new items provide that the decision of the Registrar to specify a GVM or GCM for a motor vehicle, and a GVM for a trailer, are subject to review by the Administrative Appeals Tribunal.

Clause 9 - Further amendments

Clause 9 provides for further related amendments as set out in the Schedule to the Bill. These amendments substitute "GVM" for "manufacturer's gross vehicle mass" and "GCM" for "manufacturer's gross combination mass" wherever occurring in the Act.

Clause 10 - amendments of *Motor Traffic (Alcohol and Drugs) Act 1977*

Clause 10 amends existing section 4 of the Motor Traffic (Alcohol and Drugs) Act by substituting "manufacturer's gross vehicle mass" with "GVM" and substituting "manufacturer's gross combination mass" with "GCM".