

1990

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

MOTOR VEHICLES (DIMENSIONS AND MASS) BILL 1990

EXPLANATORY MEMORANDUM

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## MOTOR VEHICLES (DIMENSIONS AND MASS) BILL 1990

The Australian Capital Territory is the only jurisdiction in Australia which does not have comprehensive provisions regulating the dimensions, loads and weights of heavy vehicles. The proposed Motor Vehicles (Dimensions and Mass) Bill 1990 (the Bill) introduces into the Territory limitations on the dimensions, loads and weights of heavy vehicles substantially in accordance with legislation in force in New South Wales and the recommendations of the National Association of Australian State Road Authorities.

The Bill provides additional criteria for the registration of heavy vehicles and for that purpose establishes vehicle dimension parameters and loading requirements. The actual registration of motor vehicles remains under the Motor Traffic Act 1936 but will still be subject to the provisions of the Bill. The Bill aims to prevent the use of motor vehicles which do not comply with registration requirements imposed by it or which are incorrectly or excessively loaded within the Territory.

The Bill also provides for the issue of permits to enable vehicles which would not generally be able to be used within the Territory to be used in accordance with the conditions stipulated in the permit.

Furthermore, the Bill also provides for the enforcement of its provisions by members of the police force and inspectors appointed under the Bill. Powers of inspection and direction are conferred upon these officers in order to effectively enforce the Bill. In particular, an officer will be able to issue to a person infringing certain provisions of the Bill a notice of offence which specifies the alleged breach and provide for a penalty. If the penalty is paid, no further proceedings are possible and no conviction will be recorded.

The Bill will not affect revenue. Its main purpose, in addition to enhancing road safety is to facilitate extension of the life of road assets in the Territory and thereby save expenditure on road and bridge work. It will help reduce the need for major capital expenditure many years earlier than would otherwise be necessary. It is not possible to estimate the extent of such savings.

Details of the Bill are set out in the Attachment.

ATTACHMENT

Motor Vehicles (Dimensions and Mass) Bill 1990

Part I deals with preliminary matters comprising clauses 1 to 8.

Clause 1 cites the Bill, when enacted, as the Motor Vehicles (Dimensions and Mass) Act 1990.

Subclause 2(1) provides that section 2 and section 1 commence on the day on which the Act is notified in the Gazette.

Subclause 2(2) provides that subject to subsection (3), the remaining provisions of the Act commence on such day as is fixed by the Minister by notice in the Gazette.

Subclause (3) provides that if the remaining provisions do not commence under subsection (2) within 6 months from the day on which the Act is notified in the Gazette, those provisions commence on the first day after the end of that period.

Clause 3 deals with interpretation for the purposes of the Bill.

Subclause 4(1) outlines the vehicles to which the Bill applies. These are:

- . a bus having a manufacturer's gross vehicle mass of 3.5 tonnes or more;
- . a bus to which a trailer is coupled where the manufacturer's gross combination mass of the bus and the trailer is 3.5 tonnes or more;
- . a vehicle having a manufacturer's gross vehicle mass of 4.5 tonnes or more;
- . an articulated vehicle having a manufacturer's gross combination mass of 4.5 tonnes or more;
- . a motor vehicle to which a trailer (other than a semi-trailer) is coupled where the gross combination mass of the motor vehicle and the trailer is 4.5 tonnes or more;
- . a trailer coupled to a bus, where the manufacturer's gross combination mass of the bus and the trailer is 3.5 tonnes or more; and
- . a trailer (other than a semi-trailer) coupled to a motor vehicle, where the manufacturer's gross combination mass of the motor vehicle and the trailer is 4.5 tonnes or more.

Clause 5 provides that the Bill binds the Crown however nothing in the Act will render the Crown liable to prosecution under the Act.

Clause 6 empowers the Registrar to delegate any of his or her powers or functions under the Bill with the exception of the power to appoint inspectors under subclause 7(1).

Clause 7 deals with the appointment of inspectors. Subclause 7(1) empowers the Registrar, by signed instrument, to appoint persons to be inspectors for the purposes of the Bill.

Subclause 7(2) requires an inspector to perform such duties for the purposes of the Bill as the Registrar directs.

Clause 8 deals with the issue of identity cards. Subclause 8(1) requires the Registrar to issue to each inspector an identity card that specifies the name and appointment of the inspector and on which appears a recent photograph of the inspector.

Subclause 8(2) provides that an inspector is not entitled to exercise any power in relation to a vehicle if he or she fails to produce his or her identity card when requested to do so.

Subclause 8(3) requires an inspector to return his or her identity card to the Registrar upon ceasing to be an inspector.

Subclause 8(4) provides that a person shall not, without reasonable excuse, fail to comply with subclause 8(3). A penalty of \$100 is provided for.

Part II deals with the dimensions and design of vehicles. Unless subject to a permit issued under Part IV, a heavy vehicle must comply with the provisions of Part II relating to length, width, height, projection, rear overhang, loading space, axle and steering systems and turning circles.

Clause 9 specifies the maximum length applicable to specified classes of vehicles (the length includes any equipment or load being carried by the vehicle). Proposed paragraphs 9(1)(a)-(f) provide the following:

<u>Category of Vehicle</u>	<u>Maximum length (in metres)</u>
Non-articulated vehicle (other than a bus)	11
Non-articulated bus that has a twin-steer axle group and another tandem axle group	12.8
Other non-articulated buses	12.2
Articulated buses	18
Other articulated vehicles (other than a bus)	17.5
Vehicles comprising a motor vehicle and a trailer	17.5

Subclause 9(2) provides that a reference to a trailer, in relation to a vehicle comprising a motor vehicle and a trailer, does not include a reference to a semi-trailer.

Clause 10 provides for the width of vehicles. Subclause 10(1) provides that the maximum width of a vehicle together with any equipment or load being carried by the vehicle shall not exceed 2.5 metres.

Subclause 10(2) provides that where a vehicle is fitted with a mirror that is attached to the vehicle by a fitting that is designed to break away from the vehicle when the mirror or the fitting is struck, the mirror and the fitting shall be disregarded in determining the width of the vehicle for the purpose of subsection (1).

Clause 11 provides for the height of vehicles including any equipment or load being carried by it. Where the vehicle is a double deck bus, the maximum height is to be 4.4 metres. In the case of a double deck cattle trailer its height should not exceed 4.6 metres and in any other case it will be 4.3 metres.

Clause 12 deals with the maximum forward projection of a non-articulated vehicle (other than a semi-trailer). "Forward projection" is defined in section 3 to be the distance measured from the most forward point of the vehicle to the rear axle group centre. The maximum forward projection is not to exceed the aggregate of 8.3 metres and the length, if any, by which the overall length vehicle exceeds 11 metres.

Clause 13 provides that the maximum rear overhang applicable to a vehicle as set out in Column 1 of the following table is the lesser of the distances set out in Column 2 of that table and the length calculated in accordance with the formula set out in Column 3 of the table. ("Rear overhang" is defined in section 3

to mean the distance measured from the most rearward point of the vehicle and the rear axle centre of the vehicle).

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>
Category of Vehicle	Length in metres	Formula
Non-articulated motor vehicle, not being a bus, with a length of 9.5 metres or less	3.2	The length equal to 60 percent of the distance in a horizontal plane (i) where the most forward axle is movable - from the pivotal point of that axle; and (ii) otherwise - from the centre line of the most forward axle to the rear axle centre of the vehicle
Bus on which the most rearward axle is not part of an axle group	3.2	As above
Non-articulated motor vehicle, not being a bus, with a length greater than 9.5 metres	3.7	As above
Bus on which the most rearward axle is part of an axle group	3.7	As above
Dog trailer	3.7	-
Pig trailer	3.7	The length equal to the distance between the most forward extremity of the loading space of the trailer and, where the trailer has only one axle - the centre line that axle; or where the trailer has an axle group - the axle group centre of that axle group.

Semi-trailer	3.2	The length equal to half the distance between the point of articulation and the rear axle centre of the semi-trailer.
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Clause 14 provides that the distance between the point of articulation of the front section of an articulated bus and the rear axle centre of that section shall not exceed 40 percent of the distance between the centre line of the most forward axle of the section and the rear axle centre of the front section of the bus.

Clause 15 provides that the maximum length of loading space located to the rear of the rear axle centre in a non-articulated vehicle shall not exceed:

- (i) where the unladen mass of a vehicle exceeds 50 per cent of the maximum gross mass permitted by the Bill, a length equal to the length of the loading space forward of the rear axle centre of the vehicle; or
- (ii) in any other case, a length equal to 90 percent of the length of the loading space forward of the rear axle centre.

Clause 16 provides for the maximum dimensions of semi-trailers as follows:

- (a) length - 12.5 metres (together with any equipment or load being carried by it) (subclause 16(1));
- (b) where equipment or load being carried projects beyond the forward edge of the semi-trailer and the forward projection of the equipment or load beyond that edge would be wholly contained within the arc of a horizontal circle having its centre at the point of articulation of the semi-trailer and a radius of 1.9 metres, the forward projection of that equipment or load beyond the forward edge of the semi-trailer shall not be taken into account in determining the length of the semi-trailer under subclause (1) (subclause 16(2));
- (c) no part of the forward edge of a semi-trailer shall project beyond the arc of a horizontal circle having its centre at the point of articulation of the semi trailer and a radius of 1.9 metres (subclause 16(3));
- (d) the distance between the point of articulation and the rear axle centre shall not be greater than 9 metres (subclause 16(4)).

Subclause 17(1) provides that a vehicle included in one of the following classes of vehicles shall have 2 axles, 2 axle groups or an axle or an axle group:

- (i) non-articulated vehicles;
- (ii) a motor vehicle that is part of a combination of vehicles;
- (iii) dog trailers

Subclause 17(2) provides that a vehicle included in one of the following classes of vehicles shall have only 1 axle or 1 axle group:

- (i) semi-trailers;
- (ii) pig trailers.

Clause 18 provides that where the most forward axle of a vehicle is not part of an axle group, all wheels attached to the axle shall be connected to the same steering system. Where the forward most axle is part of an axle group, all the wheels attached to the axle group shall also be connected to the same steering system.

Clause 19 provides that a motor vehicle shall be capable of turning to the left or to the right so that the outer edge of the tyre track of the vehicle forms a circle which does not exceed 25 metres in diameter.

Subclause 20(1) provides that each axle not part of an axle group and each axle group of a vehicle are to be connected to an acceptable axle suspension system.

Subclause 20(2) provides for interpretation for the purposes of clause 20. Definitions of "acceptable axle suspension system" and "manual" are included.

Clause 21 provides that devices which enable the suspension system of one or more of the axles in an axle group to be isolated from the suspension of the other axle or axles of the axle group, so that the load sharing among the axles of the axle group is altered or ceases, those devices should not be able to be operated by a person riding in or on the vehicle.

Clause 22 provides for the maximum length of drawbars. In the case of a dog trailer, the length should not exceed 5 metres and in the case of a pig trailer, the length should not exceed 8.5 metres.

Part III entitled "Loads and Equipment" regulates the length of loads, the gross mass of vehicles, tyre pressures and imposes limits on individual wheel and axle loads.

Clause 23 provides that generally, the equipment or load of a vehicle cannot project more than 1.2 metres in front or behind of that vehicle. However the equipment or load of a vehicle cannot project more than 0.15 metres on either side of the vehicle. The rear projection may be exceeded where the length of the vehicle and the projection do not exceed the maximum registerable length of a vehicle specified in clause 9 and the projection has a 300 square centimetre red flag attached to it.



Subclause 24(1) provides that the gross mass of a vehicle shall not exceed:

- (a) the manufacturer's gross vehicle mass;
- (b) the aggregate of the maximum mass permitted by clause 25 to be carried by the several wheels of the vehicle; or
- (c) the mass determined in relation to the class of vehicles to which the vehicle belongs;

whichever is least.

Subclause 24(2) provides that the aggregate of the gross masses of a motor vehicle and a trailer or semi-trailer coupled to it shall not exceed:

- (a) the manufacturer's gross combination mass of the motor vehicle and the trailer or semi-trailer;
- (b) the aggregate of the maximum amounts of mass permitted by clause 25 to be carried by the several wheels of the motor vehicle and the trailer or semi-trailer; or
- (c) the mass determined in relation to the class of combination of vehicles to which the motor vehicle and the trailer or semi-trailer belong;

whichever is least.

Clause 25 deals with wheel and axle loads. Subclause 25(1) provides that the mass carried by a wheel of a vehicle shall not exceed the mass determined to the class of wheels to which the wheel belongs.

Subclause 25(2) provides that the axle load of an axle of a vehicle shall not exceed the mass determined for the class of axles to which the axle belongs.

Subclause 25(3) provides that the axle group load of an axle group of a vehicle shall not exceed the mass determined for the class of axle groups to which the axle group belongs.

Clause 26 deals with tyre pressure. The pressure of a pneumatic tyre of a vehicle shall not exceed 825 kilopascals in a radial ply tyre or 700 kilopascals in any other case.

Part IV, headed "Non-complying Vehicles and Excess Loads", provides that the Registrar may issue a permit in respect of a vehicle that does not comply with Part II. A permit issued by the Registrar under this Part enables a vehicle to be used or to carry equipment or a load on public streets or in public places in the Territory, notwithstanding that it does not comply with Part II.

Subclause 27(1) provides that if a vehicle does not comply with Part II, because of its size, shape or mass of the equipment or load to be carried by a vehicle, the vehicle with the equipment or load does not comply with clauses 9-11, 16, 23-26 or a combination of vehicles would not comply with section 34, the Registrar may issue a permit for the vehicle or combination of vehicles to be used or for the vehicle to carry the equipment or load on public streets and in public places notwithstanding that the vehicle, or combination of vehicles or the vehicle together with its equipment or load will not, or may not so comply.

Subclause 27(2) requires the Registrar to specify in a permit issued under subclause (1) the provisions of the Act with which the vehicle or combination of vehicles or the vehicle with its equipment or load is not required to comply.

Subclause 27(3) provides that a permit issued under subclause (1) remains in force -

- . for a period not exceeding 12 months as specified in the permit;
- . for the purpose of enabling a vehicle or vehicles to be used to undertake a journey specified in the permit; or
- . for the purpose of enabling the vehicle or vehicles to be used to undertake a journey specified in the permit within a period not exceeding 12 months specified in the permit.

Clause 28 provides for the issuing of permits in respect of certain vehicles. Subclause 28(1) provides that section 28 will apply to a vehicle that does not comply with Part II, being a vehicle that -

- . was registered under the Motor Traffic Act on the day the Bill was commenced and has been continuously registered since that day;
- . had a permit issued in respect of it which is in force, permitting the vehicle to be used for a specific period on public streets and in public places (other than for a journey specified in the permit), even though the vehicle does not comply with Part II,.

Subclause 28(2) provides that where a vehicle has not undergone any structural change or had any equipment fitted to it (other than replacement equipment identical to the equipment replaced) since -

- . the day the vehicle had its registration last renewed or was first registered; or
- . the day a permit was last issued in respect of the vehicle,

and the Registrar is satisfied that the vehicle, its parts and equipment would, but for paragraphs 7(2)(b) or 8(2)(b) of the Motor Traffic Act, be eligible for registration under that Act, the Registrar shall issue to a person, who is either the owner of the vehicle or a person to whom a permit has been issued, a permit permitting that person to use the vehicle on public streets and in public places for a specified period, even though it does not comply with Part II.

Clause 29 provides for the application for a permit. The application is required to be:

- . in a form approved by the Registrar, and signed by the applicant;
- . lodged with the Registrar not later than 28 days before, in the case of a vehicle to which section 28 applies, the day on which the current registration of the vehicle under the Motor Traffic Act expires or the current permit issued in respect of the vehicle expires or, in any other case, the day on which the vehicle is to be used or is first to be used, in circumstances for which a permit will be required, or at such other time as the Registrar allows; and
- . accompanied by the determined fee.

Clause 30 deals with the issue of a permit subject to conditions. The Registrar may issue a permit under clause 27 subject to any conditions specified in the permit relating to:

- . the speeds at which the vehicle may be operated;
- . the mass carried by a wheel of the vehicle;
- . the axle loads of any axles of the vehicle;
- . the maximum gross mass at which the vehicle may be operated;
- . the public streets and public places that may be used by the vehicle;
- . the manner in which any equipment or load to be carried by the vehicle is to be carried or secured;
- . the strengthening of any bridge, culvert or other structure on or over which the vehicle is to travel;
- . the giving of an indemnity by the owner or operator of the vehicle for any damage that may be caused to any public street, public place, bridge, culvert, structure or installation by the vehicle while on a journey for which the permit is required; and
- . any other matter related to the safety of persons or property.

Clause 31 provides for the factors relating to the issue of a permit. It provides that when the Registrar decides to issue a permit he or she shall have regard to the following matters:

- (a) the extent to which use of the vehicle on a public street or in a public place in accordance with any conditions that may be specified in the permit is likely to cause danger of the death of or injury to, any person, damage to the street, the place or any bridge, culvert or other structure or installation or damage to any other property whatsoever.
- (b) where the vehicle is required for any special purpose - the availability of another vehicle that would comply with Part II or clauses 9-11, 16, 23-26 and 34;
- (c) where the vehicle is required for carrying a particular load, the practicability of dividing the load; and
- (d) the extent to which use of the vehicle on a public street or in a public place is in the public interest.

Part V will deal with offences and related matters.

Subclause 32(1) makes it an offence to drive a vehicle which does not comply with the provisions of subclause 24(1) (gross mass of a vehicle), subclause 25(1) (wheel loads), subclause 25(2) (axle loads), subclause 25(3) (axle group loads) on a public street or in a public place. A penalty of \$3,000 is provided for.

Subclause 32(2) provides that a person shall not drive on a public street or in a public place a motor vehicle to which a trailer or semi trailer is coupled if the aggregate of the gross masses of the motor vehicle and the trailer or semi-trailer exceeds the mass permitted by subsection 24(2). A penalty of \$3000 is provided for.

Clause 33 makes it an offence to drive a vehicle where the vehicle, together with its equipment and load (if any) does not comply with Part II and clauses 23 and 26.

Clause 34 provides that a person may not drive an articulated vehicle on a public street or in a public place if a trailer is coupled to the vehicle. A penalty of \$1,000 is provided for.

Clause 35 requires the driver of a vehicle, in relation to which a permit is in force, to produce the permit to an officer immediately upon being requested by the officer to do so. A penalty of \$500 is provided for.

Clause 36 provides that it is an offence to drive a vehicle subject to a permit on a public street or in a public place unless any conditions and other requirements of the permit are complied with. A penalty of \$3,000 is provided for where the breach of a permit relates to the weight of a vehicle or the load

placed on a wheel or axle or axle group. A penalty of \$1000 is provided for any other breach of the conditions of the permit.

Subclause 37(1) provides that where an offence against section 32 is committed or an offence against section 36 is committed that is punishable in accordance with paragraph 36(c), and the owner of the vehicle is not the driver at the time the offence was committed, the owner is guilty of an offence. A penalty of \$3000 is provided for in the case of a natural person and \$15,000 in the case of a body corporate.

Subclause (2) provides that where an offence is committed against section 33 or against section 36 that is punishable in accordance with paragraph 36(d) and the owner of the vehicle involved in the offence is not the driver of the vehicle at the time the offence is committed, the owner is guilty of an offence. A penalty of \$1000 in the case of a natural person and \$5000 in the case of a body corporate is proposed.

Subclause 38 provides for offences by persons other than owners. A person, other than the owner or driver of a vehicle who causes or permits the vehicle to be driven upon a public street or in a public place in circumstances in which an offence against subsection 32(1) or (2) or section 33 is committed is guilty of an offence. A penalty of \$3000 is provided for.

Subclause 40(1) provides that a person is not guilty of an offence against clauses 32, 33 34, 37 or 38 if he or she adduces evidence that the conduct which is alleged to have constituted the offence was due to:

- . reasonable mistake;
- . reasonable reliance on information supplied by another person; or
- . the act or default of another person or some other cause beyond the defendant's control and the defendant took reasonable precautions and exercised due diligence to avoid committing the offence, and that evidence is not rebutted.

Subclause 40(2) includes a servant, an agent or a director of the defendant as being "another person" referred to in subparagraph 39(1)(a)(ii).

Part VI is titled "Inspection of Vehicles". It provides for the inspection of vehicles to determine whether the provisions of the Bill have been complied with.

Subclause 41(1) provides that an officer may inspect a vehicle, its equipment or load, if the officer has reasonable grounds for believing that the vehicle on a public street or in a public place is a vehicle to which the Bill applies and whether it or its equipment or load complies with the Bill.

Subclause 41(2) provides that for the purposes of inspecting a vehicle, its equipment or load, an officer may at any reasonable time direct the driver of the vehicle to:

- . stop the vehicle;
- . state his or her name and residential address;
- . produce his or her licence to drive the vehicle;
- . state the name and business address of the owner of the vehicle;
- . specify the place where the vehicle will next be loaded or unloaded or where changes will be made to the load or the distribution of the load carried by the vehicle;
- . move the vehicle to the nearest safest place specified by the officer for the purposes of inspecting the vehicle;
- . assist the officer as necessary to determine the dimensions of the vehicle, its equipment and load;
- . take the vehicle to the nearest place where the mass of the vehicle together with its equipment and load may be determined; and
- . assist the officer to determine the gross mass of the vehicle, the axle group load of each axle group of the vehicle, the axle load of each axle of the vehicle, the mass carried by each wheel of the vehicle or any 2 or more of these matters.

Subsection 41(3) provides that an officer shall not give a direction to the driver of a vehicle pursuant to paragraph 41(2)(h) or (i) if the driver produces a certificate of inspection which specifies the gross mass of the vehicle, the axle group load of each axle group of the vehicle and the axle load of each axle of the vehicle that is not part of an axle group or the mass carried by each wheel of the vehicle and specifies the next place at which the vehicle is to be loaded or unloaded or where changes are to be made to the load or the distribution of the load of the vehicle. Further, the officer shall not give a direction if he or she has reasonable grounds for believing that the vehicle is not travelling to the place specified in the certificate as the place at which the vehicle is to be loaded or unloaded or where changes may next be made to the load or to the distribution of the load. Also, if the officer has no reasonable grounds for believing that the load or the distribution of the load of the vehicle has been changed since the certificate was issued the officer should not give a direction pursuant to paragraph (2)(h) or (i);

Subsection 41(4) prohibits a driver without reasonable excuse, from removing any part of the load or equipment from the vehicle or altering with the position or distribution of the load or equipment or to permit another person to do so where a direction

in relation to the vehicle has been given. A penalty of \$3,000 is provided for.

Subclause 41(5) deals with the definition of "certificate of inspection" for the purposes of clause 41.

Clause 42 requires an officer, upon inspecting a vehicle and its equipment and load (if any), to give to the driver a certificate which specifies:

- . the date, time and place on or at which the vehicle was inspected;
- . the name and designation of the officer;
- . the registration number of the vehicle;
- . the place specified by the driver of the vehicle as the next place where the vehicle is to be loaded or unloaded or where alterations are next to be made to the load, or to the distribution of the load, carried by the vehicle;
- . the result of the inspection;

if the officer finds that the vehicle complies with the Bill.

Subclause 43(1) provides that an officer may serve a notice upon the driver of the vehicle where a vehicle is standing unattended upon a public street or a public place and an officer has reasonable grounds for believing that the vehicle with its equipment or load does not comply with the requirements of the Bill.

Subclause 43(2) specifies the requirements of a notice served under subclause (1). These are:

- . the date, time and place on or at which the notice was served;
- . the name and designation of the officer who served the notice;
- . that the vehicle is not to be moved by any means except for the purpose of taking it to a weighing station or weighbridge specified in the notice.

Subclause 43(3) provides that a notice under section 43 remains in force until the vehicle has been presented at the weighbridge or weighing station specified in the notice and an officer has inspected the vehicle and determined its mass together with its equipment or load (if any).

Subclause 43(4) provides that a notice under section 43 may be served on a driver of a vehicle by securely placing the notice upon the vehicle in a conspicuous position.

Subclause 43(5) provides that an officer who serves a notice on the driver of a vehicle shall affix to the windscreen of the vehicle a label which specifies -

- . the registration number of the vehicle;
- . that a notice has been served under clause 43;
- . the date, time and place on or at which the notice was served;
- . the name and designation of the officer who served the notice.

Subclause 43(6) provides that a vehicle which does not have in or near it a person who is apparently in charge of it and who holds a driving licence that authorises the person to drive vehicles of the class to which the vehicle is included is to be taken to be unattended.

Clause 44 deals with offences related to notices issued under clause 43. Where a notice is in force in respect of a vehicle, a person shall not without reasonable excuse:

- . remove, alter or deface a label affixed to the vehicle under subclause 43(5);
- . move the vehicle from the place where the notice was served, except for the purpose of taking it to a weighbridge or weighing station specified in the notice;
- . remove any part of the load being carried by the vehicle;
- . interfere with or alter the position of any part of the load;
- . replace, interfere or adjust a suspension system, axle, wheel or tyre of the vehicle.

A penalty of \$3,000 is provided for.

Subclause 45(1) allows an officer, if the officer finds that the vehicle does not comply with the requirements of the Bill, when inspecting a vehicle in respect of which no permit is in force, to direct the driver to remove part or all of the equipment or load being carried by the vehicle or to adjust or rearrange the equipment or load so that the vehicle with its equipment and load will comply with the Bill.

Subclause 45(2) allows an officer to direct the driver of a vehicle in respect of which there is a permit in force, to remove part or all of the equipment or load being carried by the vehicle or to adjust or rearrange the equipment or load where the officer finds that the vehicle does not comply with the conditions specified in the permit or does not comply with the requirements of the Bill from which the vehicle is not exempted by the permit.



Subclause 46(1) provides that an officer may serve or cause to be served a notice in accordance with clause 46 where he or she has reason for believing that an offence against clause 32, 33, 34 or 35 has been committed.

Subclause 46(2) specifies the requirements of a notice of offence. It is to state -

- . the name and designation of the officer who serves the notice or who causes the notice to be served;
- . the date, time and place at which the offence is alleged to have been committed;
- . the nature of the alleged offence;
- . the registration number of the vehicle or each of the vehicles alleged to have been involved in the offence;
- . the penalty prescribed in respect of the alleged offence;
- . that the person on whom the notice is served may pay the penalty within 21 days after the notice has been served if he or she does not wish the alleged offence to be dealt with by the Court; and
- . the place and manner in which the prescribed penalty may be paid.

The notice may also contain such other particulars, if any, as the Registrar considers necessary.

Subclause 46(3) provides that a notice of offence shall be signed by the officer who serves it or who causes it to be served.

Subclause 46(4) provides for the manner in which a notice of offence may be served. These are, either personally on the person alleged to have committed the offence, by securely placing or fixing it on the vehicle in a conspicuous place or by serving it on the owner of the vehicle.

Subclause 46(5) provides for penalties in respect of a notice of offence.

In respect of an alleged offence against subclause 32(1) relating to an excess of the gross mass of a vehicle permitted by subclause 24(1), a penalty of \$100 is provided for each tonne or part of a tonne by which the gross mass of the vehicle exceeds the permitted amount, up a maximum penalty of \$500.

In respect of an alleged offence against subclause 32(1) relating to an excess of the mass carried by a wheel of a vehicle permitted by subclause 25(1), a penalty of \$100 is provided for where the mass exceeded does not exceed 0.5 of a tonne. A penalty of \$500 is provided for where the mass exceeded in respect of a wheel is more than 0.5 of a tonne.

In respect of an alleged offence against subclause 32(1) relating to the axle load of an axle which exceeds the mass permitted by subclause 25(2), a penalty of \$100 is provided for where the mass exceeded does not exceed 0.5 of a tonne. A penalty of \$500 is provided for where the mass exceeds 0.5 of a tonne.

In respect of an alleged offence against subclause 32(1) relating to the axle group load of an axle group (not being a triaxle group) which exceeds the mass permitted by subclause 25(3), a penalty of the aggregate of \$100 and \$100 for each 0.5 of a tonne or part of 0.5 of a tonne by which the axle group load of the axle group exceeds 1 tonne more than the mass permitted.

In respect of an alleged offence against subclause 32(1) relating to the axle group load of a triaxle group which exceeds the mass permitted by subclause 25(3), a penalty of \$100 is provided for where the axle group load exceeds that permitted by each tonne or part of a tonne. A maximum of \$500 is provided for.

In respect of an alleged offence against subclause 32(2) a penalty of \$100 is provided for each tonne or part of a tonne by which the aggregate of the gross masses of the motor vehicle and the trailer or semi-trailer exceed the aggregate gross mass permitted by subsection 24(3). A maximum penalty of \$500 is provided for.

In respect of an alleged offence against section 33 or 34, a penalty of \$200 is provided for.

In respect of an alleged offence against clause 36 relating to an excess in the gross mass of a vehicle than that allowed by a permit, a penalty of \$100 is provided for each tonne or part of a tonne by which the gross mass is exceeded, up to a maximum of \$500.

In respect of an alleged offence against clause 36 relating to an excess in the maximum mass permitted to be carried by a wheel of the vehicle under a permit, a penalty of \$100 is provided for where the excess mass in respect of the wheel does not exceed 0.5 of a tonne. Where the excess mass is more than 0.5 of a tonne, a penalty of \$500 is provided for.

In respect of an alleged offence against clause 36 relating to the axle load of an axle of the vehicle exceeding the maximum mass allowed by a permit in respect of the axle, a penalty of \$100 is provided for where the excess mass does not exceed 0.5 of a tonne. Where the excess in mass exceeds 0.5 of a tonne, a penalty of \$500 is provided for.

In respect of an alleged offence against section 36 relating to an axle group load of an axle group (not being a triaxle group of more than 3 axles) exceeding the maximum allowed by a permit, a penalty of the aggregate of \$100 and \$100 for each 0.5 of a tonne or part of 0.5 of a tonne by which the axle group load exceeds 1 tonne more than the mass allowed by the permit, up to a maximum of \$500, is provided for.

In respect of an alleged offence against section 36 relating to an excess in the mass permitted in respect of the axle loads of a group of 4 or more axles of the vehicle specified in the permit, a penalty of \$100 is provided for for each tonne or part of a tonne by which the aggregate of axle loads of the axle group exceeds the maximum mass allowed by the permit, up to a maximum of \$500.

In respect of an alleged offence against section 36 relating to an excess in the maximum aggregate masses of the motor vehicle and the trailer or semi-trailer allowed by the permit, a penalty of \$100 is provided for for each tonne or part of a tonne by which the aggregate of the gross masses of the vehicles exceeds the maximum gross mass allowed by the permit. A maximum penalty of \$500 is provided for.

Subclause 46(6) provides that if the penalty specified in the notice is paid within a period of 21 days after the notice was served or within such further time not exceeding 28 days as the Registrar allows, any liability of the person in respect of the alleged offence will be discharged, no further proceedings will be taken in respect of the offence and no person will be regarded as having been convicted in respect of the alleged offence.

Subclause 46(7) provides that at a hearing of a prosecution for an offence specified in a notice of offence a certificate signed by the Registrar or Deputy Registrar stating that the Registrar did not allow further time under subsection (6) for payment of the penalty and the penalty was not paid within 21 days after the notice was served, is evidence of the matters so stated.

Subclause 46(8) provides that at a hearing of a prosecution for an offence specified in a notice of offence a certificate signed by the Registrar or Deputy Registrar stating that the Registrar allowed further time under subsection (6) for the payment of the penalty and the penalty was not paid within 21 days of the notice being served, is evidence of the matters so stated.

Subclause 46(9) provides that for the purposes of section 46, a document that purports to have been signed by the Registrar, or a Deputy Registrar shall be taken to have been so signed unless the contrary is proved.

Subclause 46(10) provides that payment of a penalty specified in a notice by a dishonoured cheque will be taken not to have been made.

Subclause 46(11) provides that, except as provided for in subclause (6), nothing in any way prejudices or affects the institution or prosecution of proceedings in respect of an offence against the Bill.

Subclause 46(12) provides that nothing in clause 46 is to be construed as requiring the service of a notice of offence or limiting the amount of the fine that may be imposed by the Court in respect of an alleged offence against section 32, 33, 34 or 36.

Clause 47 provides that a person to whom an officer gives a direction under Part VI shall not refuse or fail to comply with that direction. A penalty of \$1000 is provided for.

Clause 48 provides for a penalty of \$3,000 if a person obstructs or hinders an officer in the exercise of a power or the performance of a function under the Bill.

Part VII is entitled "Approved Portable Weighing Devices", comprising clause 49-55.

Subclause 49(1) provides that where the Minister is of the opinion that a portable weighing device is suitable for use in determining the mass carried by a wheel of a vehicle and the axle load of an axle of a vehicle, he or she may, by a notice in accordance with the form in the Schedule, that is affixed to the device, approve the device for the purposes of the Act.

Subclause (2) provides that in any proceedings in a court, a notice that purports to be a notice under subclause (1) and to be signed by the Minister and that is affixed by any means to a device, is evidence of the matters stated in the notice and of the facts on which they are based.

Clause 50 relates to evidence of mass. Subclause (1) provides that where in any proceedings in a court evidence is given of -

- . the mass carried by a wheel of a vehicle;
- . the axle load of an axle of a vehicle;
- . the axle group load of an axle group of a vehicle;
- . the gross mass of a vehicle; and
- . the aggregate of the gross masses of a motor vehicle and a trailer or a semi-trailer coupled to the motor vehicle

by reference to the determination of those matters with an approved portable weighing device, those matters shall be deemed to be the mass or load so determined.

Subclause (2) provides that nothing in clause 50 precludes evidence of a matter referred to in subclause (1) being given by evidence other than the evidence referred to in that subsection.

Subclause (3) provides that evidence of a matter referred to in subsection (1) shall not be given by reference to a determination of those matters with an approved portable weighing device unless -

- . the device has, within a period of 12 months before being used, been tested for accuracy by a qualified mechanical engineering approved for the purposes of this subclause by the Minister by notice in the gazette;
- . the device has been sealed by the approved mechanical engineer in such a way as to prevent the mechanism of the device being tampered or interfered with without breaking the seal, and the seal is intact;

the device was, in determining the matters in subsection (1), used in accordance with section 52.

Clause 51 relates to the determination of mass or load with an approved portable weighing device.

Subclause (1) provides that in determining the mass carried by the wheel of a vehicle with the device, the device is to be placed under the tyre of the wheel so that the whole of the mass borne by the wheel is borne by the device.

Subclause (2) provides that in determining the axle load of an axle of a vehicle with the device, the device shall be placed under the tyres of each of 2 wheels of the axle so that the whole of the mass borne by the axle is borne by the 2 devices and the aggregate of the weights shown by the 2 devices is to be taken as the axle load of the axle.

Subclause (3) provides that for the purposes of the Bill -

- . the axle group load of an axle group of a vehicle shall be taken to be the aggregate of the axle loads of the several axles of the axle group;
- . the gross mass of a vehicle shall be taken to be the aggregate of the axle loads of the several axles of the vehicle; and
- . the aggregate of the gross masses of a motor vehicle and a trailer or semi-trailer coupled to the motor vehicle shall be taken to be the aggregate of the axle loads of the several axles of the motor vehicle and the trailer and semi-trailer.

Clause 52 relates to the evidentiary weight of certificates. Subclause (1) provides that in any proceedings in a court where evidence is given of the determination of mass or load with a portable weighing device -

- a certificate purporting to be signed by a qualified mechanical engineer approved by the Minister under subclause 50(3) and stating that on a day specified in the certificate he or she tested the device bearing an identification number stated in the certificate and found the device to be accurate and he or she sealed the device in the manner referred to in paragraph 50(3)(b), is evidence of the accuracy of the device and the matters stated in the certificate; and
- . a certificate purporting to be signed by an officer and stating that at a specified time, day and place he or she used a device bearing the identification numbers specified in the certificate and used the seal referred to above, that the seal of the device was intact at that time, that the device was used in accordance with section 51 in respect of vehicles specified in the

certificate and the mass or load determined was the mass or load specified in the certificate, is evidence of those matters.

Clause 53 relates to the interference with an approved portable weighing device. A person shall not knowingly or without lawful authority tamper or interfere with or damage the mechanism of such a device or tamper or interfere with a seal affixed to the device. A penalty of \$1000 is provided for.

Part VIII is entitled "Miscellaneous", comprising clauses 54-57.

Clause 54 relates to the notification of certain decisions. Subclause (1) provides that where the Registrar makes a decision refusing to issue a permit or to issue a permit subject to conditions, he or she shall within 30 days of the date of the decision notify the person of the decision.

Subclause (2) provides for the requirements of a notice under subsection (1). These are -

- . that an application may be made to the Administrative Appeals Tribunal for review; and
- . that a person whose interests are affected may request a statement of reasons pursuant to the Administrative Appeals Tribunal Act 1989.

Subclause (3) provides that the validity of a decision to which the notice relates shall not be taken to be affected by a failure to comply with subclause (2).

Clause 55 provides that an application may be made to the Administrative Appeals Tribunal for a review of a decision referred to in subclause 54 (1).

Clause 56 provides for evidentiary matters. Subclause 56(1) provides that in any proceedings before a Court a certificate signed by an officer stating that he or she was a police officer or an inspector and that he or she served a notice under section 43 on the driver of a vehicle is evidence of the matters stated in the certificate.

Subclause 56(2) provides that in proceedings before a Court a certificate signed by an officer that he or she was a police officer or an inspector and on a day, time and place specified in the certificate the officer served the driver of a vehicle a notice under clause 46, is evidence of the matters stated in the certificate.

Subclause 56(3) provides that in proceedings before a Court, a certificate signed by the Registrar or Deputy Registrar stating that a permit was or was not in force at the time specified in the certificate permitting the vehicle to be used on public streets and in public places on a day specified in the certificate, or permitting the vehicle to be used for the purpose of undertaking a journey involving travel on a public street or

public place specified in the certificate on a day and at a time specified in the certificate, is evidence of matters stated in the certificate.

Subclause 56(4) provides that where it is necessary to establish the state of mind of a corporation it will be sufficient to show that a director, servant or agent of the corporation had that state of mind provided that the director, servant or agent was acting within the scope of his or her actual or apparent authority.

Clause 57 provides that the Minister may, by notice in the Gazette, determine fees and amounts of mass for the purposes of the Bill. Such a notice is a disallowable instrument for the purposes of section 10 of the Subordinate Laws Act 1989.

The Schedule to the Bill incorporates the Notice of Approval of Portable Weighing Devices. Subclause 49(1) refers.