

Passed by both Houses



New South Wales

Road Transport (General) Amendment (Heavy Vehicle User Charges) Bill 2007

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2007

Clerk of the Parliaments



New South Wales

Road Transport (General) Amendment (Heavy Vehicle User Charges) Bill 2007

Act No , 2007

An Act to amend the *Road Transport (General) Act 2005* with respect to incremental pricing for mass, dimension, load restraint and access concessions for heavy vehicles and evidence relating to intelligent transport systems; and to make consequential amendments to the *Road Transport (Heavy Vehicles Registration Charges) Act 1995* and other instruments.

See also the *Road Transport Legislation (Breath Testing and Analysis) Act 2007*.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Road Transport (General) Amendment (Heavy Vehicle User Charges) Act 2007*.

2 Commencement

This Act commences on the date of assent to this Act.

3 Amendment of Road Transport (General) Act 2005 No 11

The *Road Transport (General) Act 2005* is amended as set out in Schedule 1.

4 Amendment of other Act and instruments

The Act and instruments specified in Schedule 2 are amended as set out in that Schedule.

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

Schedule 1 Amendment of Road Transport (General) Act 2005

(Section 3)

[1] Section 11A Regulations relating to intelligent transport systems

Insert after section 11A (2) (n):

- (o) specifying the nature of the evidence that may or may not be used to rebut an evidentiary presumption established by a regulation made under paragraph (n).

[2] Section 20 Definitions

Insert in alphabetical order:

access requirement means a requirement of an applicable road law that relates to the roads or class of roads on which a vehicle may or may not be taken, or otherwise limits the area in which a vehicle may or may not operate.

incremental pricing charges means charges to road users, for concessions relating to mass, dimension, load restraint or access requirements, that are based on road users' activities, or likely activities, as a consequence of the concessions and the impact of those activities.

incremental pricing scheme means a scheme for the incremental pricing of concessions relating to mass, dimension, load restraint or access requirements that is established by regulations made under section 28A.

[3] Section 26 Regulations may impose restrictions

Omit "excess weight permit" from section 26 (2).

Insert instead "excess permit".

[4] Section 27

Omit the section. Insert instead:

27 Excess permits

- (1) The Authority may issue an excess permit in respect of a vehicle.
- (2) An excess permit may exempt a vehicle, either unconditionally or subject to conditions, from any specified mass, dimension, load restraint or access requirement imposed by an applicable road law.

- (3) Without limiting subsection (2), an excess permit may be made subject to conditions of the following kinds:
 - (a) a condition imposed by a regulation under section 28A,
 - (b) a condition imposing a maximum laden mass on the vehicle or any part of the vehicle,
 - (c) a condition imposing a maximum unladen mass on the vehicle or any part of the vehicle,
 - (d) a condition imposing a maximum mass on the vehicle's load,
 - (e) a condition specifying the minimum or maximum dimensions of the vehicle or the vehicle's load,
 - (f) a condition imposing a requirement as to the restraint or positioning of a load or any part of a load of the vehicle,
 - (g) a condition specifying any road or class of roads on which the vehicle may or may not be taken or area in which the vehicle may or may not be operated,
 - (h) a condition specifying a time, or period, when the vehicle may or may not be operated,
 - (i) a condition specifying signage or other warning or safety requirements, including conditions as to escort vehicles.
- (4) An excess permit remains in force for the period specified in the permit.
- (5) An application for an excess permit must be in a form approved by the Authority and accompanied by the application fee (if any) approved by the Authority.

Note. An excess permit that is granted in connection with an incremental pricing scheme may also be subject to additional charges established under regulations made under section 28A.

[5] Section 28A

Insert after section 28:

28A Incremental pricing schemes

- (1) Regulations may be made for or with respect to the following matters:
 - (a) conditions of mass, dimension, load restraint or access concessions relating to incremental pricing charges,

Note. See section 76 for the definition of *mass, dimension, load restraint or access concession*.
 - (b) the determination of incremental pricing charges,

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- (c) the notification of incremental pricing charges,
 - (d) conditions of mass, dimension, load restraint or access concessions relating to payment (including prepayment) of incremental pricing charges,
 - (e) the payment of money received by the Authority from incremental pricing charges to roads authorities and the use by roads authorities of that money,
 - (f) the use of information obtained by the use of an intelligent transport system or by other means for the purposes of incremental pricing schemes, including (but not limited to) the calculation of incremental pricing charges,
 - (g) the application of regulations made under section 11A to or in respect of the use, for the purposes of implementing and administering incremental pricing schemes, of information obtained by the use of an intelligent transport system,
 - (h) the monitoring and auditing of incremental pricing schemes and participants in such schemes,
 - (i) the records to be kept and information provided by such participants,
 - (j) regulating or prohibiting the collection, storage, use and disclosure of information obtained for the purposes of incremental pricing schemes or proposed schemes,
 - (k) without limiting paragraph (j), the use of information obtained for the purposes of an incremental pricing scheme for compliance or law enforcement purposes,
 - (l) the use of certificates relating to the following matters as evidence in any proceedings before a court or tribunal:
 - (i) conditions relating to incremental pricing schemes,
 - (ii) vehicles, operators and drivers subject to conditions referred to in subparagraph (i),
 - (iii) information obtained by the use of intelligent transport systems or by other means and used for the purposes of incremental pricing schemes,
 - (m) specifying the nature of the evidence that may or may not be used to rebut an evidentiary presumption established by a regulation made under paragraph (l),
 - (n) refunds of excess charges,
 - (o) any other matters ancillary or incidental to the operation of incremental pricing charges or schemes.

- (2) A regulation made for the purposes of this section may create an offence punishable by a penalty not exceeding 200 penalty units.
- (3) This section is in addition to, and does not limit, any other regulation-making power contained in this Act or any other applicable road law.
- (4) Words and expressions used in this section have the same meaning as they have in Division 9 of Part 3.3.

[6] Section 76 Definitions

Omit “mass, dimension or load restraint concession” from the definition of *condition*.

Insert instead “mass, dimension, load restraint or access concession”.

[7] Section 76

Omit the definition of *mass, dimension or load restraint concession*.

Insert instead:

mass, dimension, load restraint or access concession means a permit, authorisation, approval, exemption, notice or anything else that is granted or issued in writing under an applicable road law and that exempts a person from a provision of an applicable road law in relation to a mass, dimension, load restraint or access requirement, and includes an excess permit under section 27.

[8] Section 77 Offence of contravening condition

Omit “mass, dimension or load restraint concession” wherever occurring.

Insert instead “mass, dimension, load restraint or access concession”.

[9] Section 78 Effect of contravening condition—prosecutions or other action

Omit “mass, dimension or load restraint concession” from section 78 (1).

Insert instead “mass, dimension, load restraint or access concession”.

[10] Section 79 Operation of Division

Omit “mass, dimension or load restraint concession”.

Insert instead “mass, dimension, load restraint or access concession”.

[11] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

*Road Transport (General) Amendment (Heavy Vehicle User
Charges) Act 2007*

[12] Schedule 1

Insert at the end of the Schedule with appropriate Part and clause numbering:

**Part Provisions consequent on enactment of
Road Transport (General) Amendment
(Heavy Vehicle User Charges) Act 2007**

Existing excess weight permits

An excess weight permit that was in force immediately before the substitution of section 27 by the *Road Transport (General) Amendment (Heavy Vehicle User Charges) Act 2007* continues in force for the period for which it would have been in force if that section had not been substituted and is taken to be an excess permit granted under the section as so substituted.

Schedule 2 Amendment of other Act and instruments

(Section 4)

2.1 Road Transport (Heavy Vehicles Registration Charges) Act 1995 No 72

[1] Long title

Omit “and permit charges”.

[2] Section 3 Definitions

Omit “and permit charges” from the definition of *charges* in section 3 (1).

[3] Section 3 (1)

Omit the definitions of *heavy vehicle permit* and *permit charge*.

[4] Part 2, heading

Omit “and permit”.

[5] Section 8

Omit the section.

[6] Section 9 Variations in charges

Omit “Parts 2 and 3” wherever occurring from section 9 (1), (3) and (4).
Insert instead “Part 2”.

[7] Part 2, Division 3

Omit the Division.

[8] Section 19 Adjustment of charges by Authority

Omit “or who holds a heavy vehicle permit” from section 19 (2).

[9] Section 20 Changes in owners or to vehicles must be notified to Authority

Omit section 20 (1). Insert instead:

- (1) A person in whose name a vehicle is registered must notify the Authority of any change during the currency of the registration in the construction, equipment, configuration, use or ownership of the vehicle of such a nature that charges or additional charges

would be payable if the registration was renewed when the change occurred.

Maximum penalty: 100 penalty units.

[10] Section 21 Calculation of charges arising from changes

Omit “or permit” wherever occurring.

[11] Section 22 Refund of charges on cancellation of registration

Omit section 22 (2).

[12] Section 22 (3) (a)

Omit “or permit” wherever occurring.

[13] Section 38 Regulations

Omit section 38 (2) (b). Insert instead:

- (b) providing for and regulating the granting to a person prescribed by the regulations of a refund of a portion of the charges paid in respect of registration of a vehicle if, during the currency of the registration, a change is made in the construction, equipment, configuration, use or ownership of the vehicle of such a nature that no charges or a reduced amount of charges would be payable in respect of the vehicle on the renewal of its registration, and

[14] Section 38 (2) (d)

Omit the paragraph. Insert instead:

- (d) providing for the production, at the time of application for registration or renewal of registration of a vehicle or at any time during the currency of the registration, of weighbridge tickets showing the weight of the vehicle, and

[15] Section 38 (2) (e)

Omit “, registration and heavy vehicle permits”.

Insert instead “and registration”.

[16] Schedule 1 Charges

Omit Part 3.

[17] Schedule 2 Savings and transitional provisions

Insert at the end of clause 1 (1):

Road Transport (General) Amendment (Heavy Vehicle User Charges) Act 2007

[18] Schedule 2

Insert at the end of the Schedule with appropriate Part and clause numbering:

**Part Provisions consequent on enactment of
Road Transport (General) Amendment
(Heavy Vehicle User Charges) Act 2007**

Existing heavy vehicle permits

A heavy vehicle permit that was in force immediately before the repeal of section 14 by the *Road Transport (General) Amendment (Heavy Vehicle User Charges) Act 2007* continues in force for the period for which it would have been in force if that section had not been repealed and is taken to be an excess permit granted under section 27 of the *Road Transport (General) Act 2005*.

**2.2 Road Transport (Heavy Vehicles Registration Charges)
Regulation 2006**

[1] Clause 6

Omit the clause.

[2] Clause 7 Calculation of refund of registration charges on cancellation of registration

Omit “or permit charge” wherever occurring.

[3] Clause 7 (2)

Omit the definition of *number of days*. Insert instead:

number of days means the number of unexpired days of the registration period, from the date on which the Authority cancels the registration of the vehicle.

2.3 Road Transport (Mass, Loading and Access) Regulation 2005

Clause 72ZG

Insert after clause 72ZF:

72ZG Rebuttal of matters of specialised knowledge

- (1) This clause applies to the determination of whether evidence is sufficient to rebut prima facie evidence or a presumption, or to raise doubt about a matter, as referred to in clause 72ZC (1) (g) and (2), 72ZE or 72ZF.
- (2) An assertion that contradicts or challenges:
 - (a) the accuracy or reliability, or the correct or proper operation, of an intelligent access system, or
 - (b) intelligent access information generated by an intelligent access system,

is capable of being sufficient, in proceedings, to rebut such evidence or such a presumption, or to raise such doubt, only if it is evidence adduced from a person who has relevant specialised knowledge (based wholly or substantially on the person's training, study or experience).