

# Australia's Approach To Uniform Road Transport Law

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## ABSTRACT

This paper describes Australia's approach to developing uniform road transport law. It outlines the formation and role of the National Road Transport Commission and summarises its progress in developing national law and its other activities.

## INTRODUCTION

To understand Australia's current pre-occupation with micro-economic reform in the transport industry, it is appropriate to briefly deal with the geography of the country, the history of settlement and government, and its growing dependence on exports to maintain a high living standard.

Australia is an island continent located between the Pacific and Indian Oceans, roughly the size of the United States with flying time four to five hours from east to west and three to four hours from north to south. The majority of our 18 million people live in the south and eastern fertile parts of the country.

It was settled by the British commencing in 1788 leading to the progressive establishment of six individual State Governments whose major claim to fame was to construct railways of differing gauges. Accordingly, it is not hard to imagine the development over time of differing road transport laws across the country.

Federation of the States was achieved in 1901 with formation of a Federal Government with a specific constitution and with States giving up some of their powers.

Road transport between States did not exist in 1901 to any extent so there was no specific transport responsibility allocated to the Federal Government in the Constitution. This allowed disparate regulations to develop as road transport both within and between States increased. Protection of government railways played an important role in the growth of sometimes restrictive regulation.

Over the years, Australia's economic fortunes have been based on exports of agricultural and mining products providing foreign exchange to pay for rising manufactured

imports, as standards of living rose. Over recent years Australia has developed a serious balance of payments problem. This has influenced the Federal Government to encourage the exports of more manufactured products to achieve balance in the economy.

As a major input to the process, the Federal Government has embarked on micro-economic reform programs in all aspects of the economy to make it more efficient. Road transport was recognised as a vital link in the search for greater efficiency. This recognition led to visionary action by State Premiers, Chief Ministers and the Prime Minister when they agreed in 1991 and 1992 to a major reform program on national road transport law. This agreement recognised that there had been significant progress in the past on national design rules for new vehicles, progressive mass limit increases for heavy trucks and other gradual moves towards national uniformity. In fact, exclusive of fuel taxes, the Australian road transport industry has been judged to be internationally competitive with developed economies by recent Government Agency surveys.

However, there was no substantial mechanism in place to ensure current and future agreements would be implemented by States and Territories and there remained a number of non-uniform practices which adversely affected productivity and efficiency. These included non-uniform registration charges and need for permits to cross some State borders, differing administration and enforcement of regulations, various rules for operation of overmass and oversize vehicles, for registration procedures for vehicles and for the regulation of driver behaviour.

Very often these problems were an annoyance to transport operators and largely uncosted, but certainly not costless.

Let me give a few brief examples:

- (a) A large firm whose business is to cart dangerous bulk liquids is based in Western Australia. The transport manager awards a contract for the construction of trailers for a 25 metre tri-tri B-double combination to a firm on the east coast. To move that new (empty) trailers back to Western Australia, the operator needed to obtain a permit in three States.

The vehicle needed to be inspected by dangerous goods inspectors in South Australia, costing over \$10,000 and again in Western Australia, costing around the same. This is over and above registration and driver licensing laws, stamp duty, third party insurance and a myriad of other hurdles he had to negotiate. It took over a month for all the paperwork and he was unable to move the vehicle through one other State at all (so needed to detour around it).

- (b) A bus driver in one State may be fully accredited to drive in the snowfields of one State, but, should the driver wish to take a charter party to a snowfield in a neighbouring State, the driver is obliged to retest and be re-accredited in that State.
- (c) An owner of a fully registered vehicle (perhaps a brand new BMW) is obliged to obtain a roadworthiness certificate if the owner happens to shift State of residence.
- (d) Large vehicles, known as road trains, operate over 80% of Australia, essentially outside the heavily populated areas. However several jurisdictions refuse entry and these vehicles have to be broken up into individual units. This requirement is based purely on State boundaries rather than any more national foundation, such as operational safety and efficiency.

Whilst I am sure similar issues be-devil both industry and regulators in other countries, the Commission is in the business of rationalising regulations on a national basis to minimise or eliminate inefficiencies of this nature.

**FORMATION OF THE NATIONAL ROAD TRANSPORT COMMISSION (NRTC)**

Based on the 1991/92 Agreements referred to earlier, the NRTC operates under a Federal Act (or Bill) of Parliament but makes recommendations on National Law to a Council of Transport Ministers from States, Territories and the Commonwealth. My remarks will basically be confined to heavy vehicles greater than 4.5 tonnes GVM. The Commission is also involved with Light Vehicle Law but with less economic or interstate impact.

There is a formal voting system whereby majority rules on all but procedural matters. States and Territories are then obligated to adopt the agreed National Law in their own Parliaments once the Federal Parliament has voted favourably on the law.

Under the Agreements and the Federal Act, NRTC recommendations on National Law must respond to three principles:

- improvements in road safety;
- improvements in transport efficiency; and
- reductions in the costs of road transport administration.

The recommendations must also be developed on the basis of wide consultation with Governments, Industry and the Community and include definitive Regulatory Impact Statements to assist Ministers with their final evaluation of proposals.

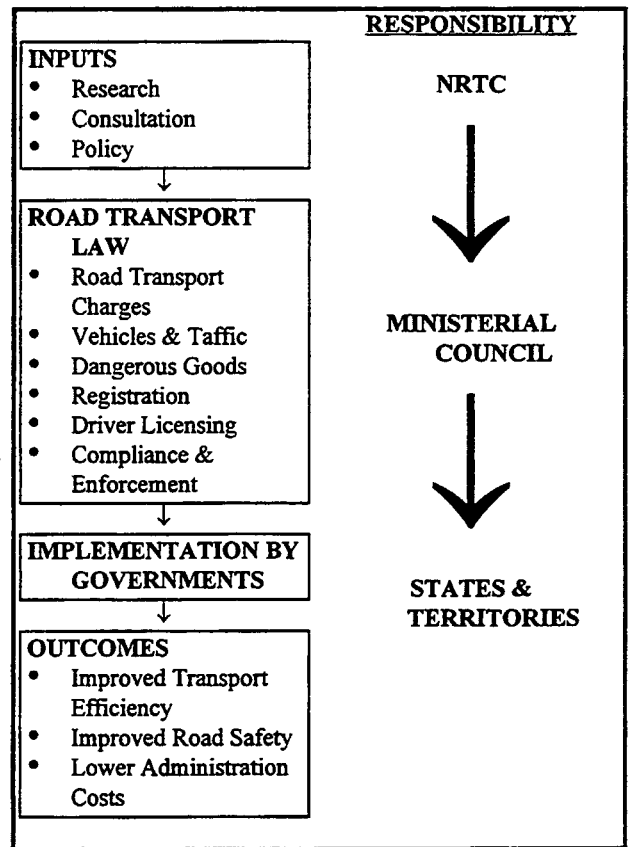


Figure 1. The National Road Reform Process & Responsibilities.

The process is illustrated in Figure 1 which shows in the top box, the NRTC Inputs to the process involving research, consultation and policy development. The elements of the Road Transport Law are shown in the next box leading to voting and Implementation by State Governments with the required Outcomes based on the three principles.

In the development of the National Law the NRTC has utilised, where practical, performance-oriented legislation, in contrast to the traditional prescriptive regulation. Where appropriate, the regulations are supplemented by guidelines for Industry as to how the desired performance standards can be achieved. Examples of these are Roadworthiness Guidelines, Medical Examinations of Commercial Vehicle Drivers and a Load Restraint Guide.

The NRTC has a staff of 24, with a Chief Executive reporting to a Chairman and two Commissioners. Research and analytical work is contracted out to expert consultants where the expertise or time availability precludes doing the work in-house. It should also be noted that the NRTC utilises and co-operates with existing Government organisations and where there are potential conflicts of responsibility, we negotiate a Memorandum of Understanding to eliminate or minimise conflicts.

**NEW VEHICLE DESIGN RULES**

The Federal Government has been able to exercise its constitutional powers over private corporations and international trade to legislate control over new vehicle standards.

The Federal Office of Road Safety (FORS) administers the relevant Act and has well established audit and compliance processes. It also has strong international links to assist in harmonisation with overseas standards.

The NRTC has entered into a Memorandum of Understanding (MoU) with FORS to outline the working and business arrangements between the two bodies. This MoU recognises the NRTC and FORS joint responsibility for new Vehicle Standards.

The two Heads of Government Agreements provide that the Commonwealth will adopt as standards those recommended by the NRTC and approved by Ministerial Council.

The ADR development process and day to day administration of the Motor Vehicle Standards Act includes consultation with industry and affected parties, drafting, publishing, overseeing of testing for compliance, monitoring of compliance, issuing import approvals and certifying compliance.

In practice, the NRTC and FORS work closely together on ADR development and new streamlined arrangements have been established.

In addition, the development of national motor vehicle emission and noise standards will be carried out in conjunction with the soon to be established National Environment Protection Council (NEPC).

• Charges	• Act passed - Federal Parliament • Regulations made
• Vehicles and Traffic (operations)	• Act passed - Federal Parliament • 5 Regulations approved (3 made) • 4 Regulations to be completed
• Dangerous Goods	• Act passed - Federal Parliament • Regulations to be completed (Dec 1995)
• Registration	• June 1995
• Driver Licensing	• July 1995
• Compliance & Enforcement	• December 1995

Figure 2. Status of Road Transport Law Modules (ACTS)

The progress on the various modules of the National Law are shown in Figure 2. National uniform registration charges

are at the stage where our Federal Parliament has passed the appropriate Act together with the associated regulations. States and Territories now have the obligation to adopt the law in their Parliaments.

To give you an insight into the difficulties inherent in our process,

- six jurisdictions supported the NRTC's recommendations;
- one voted against, because the recommended charges were considerably higher than current charges in that state;
- another voted against, because the recommended charges were considerably lower than current charges in its state (resulting in a loss of income to that government); and
- another did not vote at all, because it did not wish to give support either way.

To further complicate the situation, two of the six who voted yes have indicated they will not implement the charges unless all others agree to do likewise.

But I don't want to be too pessimistic. I am reasonably confident that we will have a national set of registration charges by 1 January 1996 - albeit 6 months later than the statutory date.

The Vehicles and Traffic Act has also passed Federal Parliament with five regulations approved by Ministers and four regulations still to be completed and approved by Ministers.

The Dangerous Goods Act has passed Federal Parliament with regulations to follow later in 1995 in conjunction with a significant revision of the Dangerous Goods Code of Practice.

Heavy Vehicle Registration and Driver Licensing National Laws are at an advanced stage of development and are planned to be ready for submission to Ministers in June and July respectively.

Finally, the Compliance and Enforcement module is under active development now that the other modules are virtually complete. This important aspect of the task is designed to achieve greater uniformity in regulation enforcement and penalty application across the country, with appropriate emphasis on targeting all persons who bear responsibility for infringements.

ROAD TRANSPORT REFORM (VEHICLES & TRAFFIC) ACT (passed Commonwealth Parliament)	
PASSED	BEING DEVELOPED
<ul style="list-style-type: none"> <li>• Heavy Vehicle Standards Regulations (Made)</li> <li>• Mass and Loading Regulations (Made)</li> <li>• Oversize &amp; Overmass Vehicles Regulations (Made)</li> <li>• Bus Driver Working Hours Regs. Bus: (Approved)</li> <li>• Roadworthiness Standards Regulations (Approved)</li> </ul>	<ul style="list-style-type: none"> <li>• Restricted Access Vehicles (June 1995)</li> <li>• Light Vehicle Standards and Roadworthiness Regulations (July 1995)</li> <li>• Traffic Regulations (Mid 1995)</li> <li>• Truck Driver Working Hours Regulations.</li> <li>Truck Policy: Pending</li> </ul>

Figure 3. Status of Regulations under Vehicles and Traffic Act.

Now back briefly to the Vehicles and Traffic Act. Figure 3 shows the nine sets of regulations and their status. Heavy Vehicle Standards, Mass and Loading, Roadworthiness, Oversize and Overmass, and Bus Driver Working Hours, are all approved by Ministers. Restricted Access Vehicles, Light Vehicle Standards and Roadworthiness, and Traffic (or National Road Rules) are all close to being submitted to Ministers for voting.

The only one remaining, Truck Driver Working Hours, is proving to be most difficult to resolve, with differing state positions which range from 12 hour days to no formal regulation. The NRTC is doing further work on this problem to seek a national position.

In summary, it is anticipated that by approximately mid year all heavy vehicle law will be either passed by Federal Government, agreed by Ministers or in the voting process, with the exception of the Compliance and Enforcement module which will be with Ministers for voting by end of this year.

The test for the Agreements is still to come when States begin formally adopting the national law. However there is in place, an informal adoption process where States have agreed to pick up important elements of the National Law using their own existing legislation pending the formal adoption process in their parliaments.

We are hopeful the National Law Package will eventually be adopted without change in the State Parliaments in accordance with the 1991/92 Agreements.

The final test is still to come, although the Federal Government has recently found a financial lever which will provide some muscle to the process of adoption.

**OTHER NRTC ACTIVITIES**

**MASS LIMITS REVIEW**

The current mass limit for a six axle articulated vehicle is 42.5 Tonnes GVM, with 59 Tonnes available to a standard 8 axle B-Double limited to 23 metre length.

On NRTC's recommendation, Ministers have approved a B-Double length increase to 25 metres with air suspension tri-tri B-Doubles (9 axles) able to load to 62.5 tonnes GVM without payment of any additional charge. This recommendation followed an extensive Pilot Test Program by an expert monitoring group co-ordinated by the NRTC.

In addition the NRTC is co-ordinating a general Mass Limits Review which should result in a recommendation to Ministers early in 1996. It will be no surprise to learn that the analysis of bridge effects is the major item of difficulty in the study. Any recommended mass increase is likely to apply only to vehicles with road friendly suspensions.

**ALTERNATIVE COMPLIANCE**

The other major item of activity outside of formal law development is the concept of alternative compliance. By that we simply mean alternative ways of government regulators and enforcers being assured by transport companies of their compliance with aspects of road transport law resulting in a reduced need for costly roadside and other inspection regimes. The concept is that this should lead to significant productivity gains, without reducing road safety or increasing road or bridge damage. It should also allow enforcement officers to target those companies unable or unwilling to become accredited operators.

<p><b>Operational Modules</b></p> <ul style="list-style-type: none"> <li>• Fatigue Management</li> <li>• Roadworthiness</li> <li>• Mass Management</li> </ul> <p><b>Process Modules</b></p> <ul style="list-style-type: none"> <li>• Audit</li> <li>• Legal</li> <li>• Administration</li> </ul>
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Figure 4. Alternative Compliance

To this end, Ministers have agreed to the development of pilot schemes on Roadworthiness, Mass Management and Fatigue Management. If successful, it is anticipated that implementation of a National Scheme would follow.

The work is being carried out by three states but under overall co-ordination by the NRTC. The processes required to implement those modules are being considered by project teams on audit, legal and administration issues.

The NRTC's involvement is designed to ensure consistency with alternative compliance principles, developed by the NRTC after exhaustive consultation and then approved by Ministers. These principles provide a framework which allows for independence between local schemes, but requires uniformity where national schemes are proposed.

The major impetus for alternative compliance is the desire of transport operators, regulatory authorities and enforcement agencies to work in a spirit of co-operation rather than potential conflict. The attraction for operators is improved productivity and public image. The attraction for road authorities and enforcement agencies is improved levels of compliance not only by scheme members but also by non-members through the more effective targeting of conventional enforcement.

The approach taken in development of alternative compliance is based on transparency of policy making and full co-operation between industry and transport agencies. The practical development of this program is at a very early stage and there are clearly significant difficulties. Nevertheless we are hopeful that national schemes may turn out to be a practical reality that regulators can enthusiastically support.

## CONCLUDING REMARKS

Australia has embarked on a unique process to improve the safety, efficiency and reduce Government and industry administration costs for our road transport industry.

Considerable progress has been made so far! The approach no doubt reflects a unique set of Government regulatory constraints but perhaps at least parts of the program may have application in other countries. If so, further information can be obtained from the NRTC office in Melbourne.

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