



Interstate Road Transport Charge Amendment Bill 2010

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Interstate Road Transport Charge Amendment Bill 2010

Date introduced: 12 May 2010

House: House of Representatives

Portfolio: Infrastructure, Transport, Regional Development and Local Government

Commencement: On Royal Assent.

Links: The [links](#) to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bills page, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

The Interstate Road Transport Charge Amendment Bill 2010 ('the Bill') will amend the *Interstate Road Transport Charge Act 1985* to enable partial implementation to a 30 April 2010 decision of the Australian Transport Council (ATC)¹ regarding the heavy vehicle registration charge under the Federal Interstate Registration Scheme (FIRS)².

The relevant decision by the ATC was to lower the prospective increase in the registration charge from 9.7 per cent to 4.2 per cent and have this lower figure come into effect on 1 July 2010.³

Background

Under arrangements established for the FIRS, sections 4 and 5 of the *Interstate Road Transport Charge Act 1985* (the Act) provide for an annual registration charge for heavy

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1. See <http://www.atcouncil.gov.au/communique/files/ATCCommunique30April2010.pdf>, viewed 27 May 2010.
 2. According to the Minister's second reading speech, 20 500 heavy vehicles are registered under FIRS, which is meant to recover the cost of road usage by heavy vehicles. FIRS is designed to provide uniform charges and operating conditions for heavy vehicles (those over 4.5 tonnes) engaged solely in interstate operations. FIRS -registered vehicles only represent a portion of Australia's heavy vehicle fleet, with the remainder being registered under State and Territory arrangements.
 3. Complete implementation will also require amendment of the Interstate Road Transport Charge Regulations 2009 so as change to the registration charge annual adjustment formula and thus lower the proposed increase.

Warning:

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vehicles coming within the scope of that scheme. The amount of the registration charge (which will depend on the type of vehicle) is set by the Interstate Road Transport Charge Regulations 2009 (the Regulations). Importantly for the purposes of this Bill, the Regulations also sets the ‘annual adjustment factor’ – which, as its names implies, adjusts the amount of the registration charge every year according to a formula set out in Schedule 1.

The origin of the Regulations was, as stated by the Minister in his second reading speech on the Bill:⁴

In February 2008, the Australian Transport Council adopted the 2007 Heavy Vehicle Charges Determination, which ensures that the road user charge and heavy vehicle registration charges achieve cost recovery from the heavy vehicle industry for its fair share of road infrastructure and maintenance costs incurred by governments in Australia.

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Adjustments to the heavy vehicle registration charge depend heavily on changes in the level of spending on roads and bridges and on changes in road usage by heavy vehicles.

Roads expenditure across all levels of government has increased significantly in recent years. At the same time, there has been a substantial growth in the number of higher productivity heavy vehicles using the road network.⁵

The effects of those factors in the current automatic annual adjustment formula results in a registration charge increase of 9.7 per cent and a potential national over-recovery of \$116 million from heavy vehicle owners and operators in 2010-11.

Pursuant to the provisions of the *Fuel Tax Act 2008*, the National Transport Commission (NTC)⁶ was requested by Commonwealth Transport Minister asked to undertake a consultation with industry on heavy vehicle user charges. The recommendation of a 4.2 per cent increase, rather than 9.7 per cent produced by the current formula in Schedule 1 of the Regulations, was contained in the relevant consultation paper released in March

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4. Anthony Albanese MP, ‘Second reading speech: Interstate Road Transport Charge Amendment Bill 2010’, House of Representatives, *Debates*, 12 May 2010, p. 9, viewed 27 May 2010
<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F2010-05-12%2F0034%22>.
 5. Such ‘higher productivity heavy vehicles’ include ‘B-doubles’ – that is, prime movers hauling two trailers, and thus potentially bigger loads than a more tradition single trailer arrangement.
 6. Information about the NTC can be accessed at <http://www.ntc.gov.au/>, viewed 27 May 2010.

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2010.⁷ Note that FIRS heavy vehicle charges are made up of two elements: a road user charge (which is levied on diesel fuel, and is currently 21.7c per litre, and is dealt with under separate legislation) and a registration charge, but it appears that they are annually adjusted according to the same formulae. Hence, the NTC recommendation to reduce the increase in the road user charge to 4.2 per cent also meant a comparable reduction in the increase to the registration charge.⁸

The NTC recommendation was subsequently adopted by the ATC in its meeting of 30 April:

From 2010, ATC has approved a technical modification to the heavy vehicle charges annual adjustment formula applied to registration charges and the road user charge to ensure that it avoids over or under-recovery of road costs due to changes in road use (including fleet mix). This will result in the 2010 adjustment being 4.2% from 1 July 2010, or as soon as possible thereafter depending on the regulatory timetables in the separate jurisdictions. The National Transport Commission will provide the result of future annual adjustment calculations to ATC members no later than 31 January each year.⁹

Committee consideration

At its meeting of 13 May 2010, the Senate Selection of Bills Committee resolved the Bill *not* be referred to committee.

Position of significant interest groups/press commentary

The submission of the Australian Trucking Association on the NTC's March 2010 consultation paper welcomed the NTC's view that the proposed 9.7 per cent increase of the registration charge would result in 'over-recovery' of relevant road costs. However, they stated that the '...industry presently does not accept the 4.2 per cent figure put forward by the NTC as it includes expenditure that cannot be verified'.¹⁰

7. NTC, *2010 Heavy Vehicle Road User Charge Annual Adjustment Consultation Document, March 2010*, viewed 27 May 2010, <http://www.ntc.gov.au/filemedia/Reports/2010RoadUserChargeAAConPapMar10.pdf>

8. *Ibid.*, p. 16.

9. See <http://www.atcouncil.gov.au/communique/files/ATCCommunique30April2010.pdf>, viewed 27 May 2010.

10. See http://www.atatruck.net.au/policies_submissions/ata%20submission%20annual%20adjustment%20april%202010.pdf, viewed 27 May 2010.

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Coalition/Greens/Family First/independent policy position/commitments

In the second reading debate in the House of Representatives, Warren Truss MP, Leader of the National Party, stated that ‘the coalition does not oppose the legislation’, although he was critical of matters relating to heavy vehicle safety, and more particularly the issue of the lack of sufficient road side rest stops.¹¹

Financial implications

The Explanatory Memorandum states:

There is no net financial impact on the Australian Government Budget flowing from this amendment. All revenue from FIRS charges is returned to the state and territory governments under an agreed distribution formula that accounts for road usage by FIRS heavy vehicles. State and Territory governments are required to use FIRS funds on road maintenance within their jurisdictions.¹²

However, should the Bill be passed and subsequently the proposed registration charge increase lowered from 9.7 per cent to 4.2 per cent, FIRS revenue to the States and Territories will be lower than what would have otherwise been the case.

Main provisions

Schedule 1

Item 1 repeals subsection 5(6) of the Act. Subsection 5(6) provides that regulations made ‘for the purposes of this section must not take effect earlier than the first day after the end of the period in which the regulations may be disallowed under Part 5 of the *Legislative Instruments Act 2003*’.¹³

The Interstate Road Transport Charge Regulation 2009 discussed above falls within the scope of subsection 5(6). The repeal of subsection 5(6) will therefore allow the amendment to these regulations (to change to the annual adjustment formula to the registration charge) to take effect on July 1 2010, providing of course the amendment itself is made by that date.

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11. Warren Truss MP, ‘Second reading speech: Interstate Road Transport Charge Amendment Bill 2010’, House of Representatives, *Debates*, 25 May 2010, p. 92.
 12. Explanatory Memorandum to the Interstate Road Transport Charge Amendment Bill 2010, p.3.
 13. The *Legislative Instruments Act 2003* requires legislative instruments to be laid before both Houses of Parliament within six sitting days of registration. Notice of a motion for disallowance may be given within fifteen sitting days of the instrument being so laid, and the period for disallowance expires a further fifteen sitting days after the notice is given.

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