



Appendix L — Australian Land Transport Development Act 1988

(A) Mark-up of the ALTD Act to reflect proposed changes to the Act contained in the draft Financial Framework Legislation Amendment Bill ¹

Australian Land Transport Development Act 1988

An Act to establish a ~~reserve~~ Special Account for the purposes of the development and maintenance of land transport systems, and for related purposes

Part I — Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Australian Land Transport Development Act 1988*.

2 Commencement

This Act commences on 1 January 1989.

3 Interpretation

¹ The text under this subheading is a shortened version of Attachment A to Finance's *Submission No.17*, from page 75. It records all proposed changes to the Act.

(1) In this Act, unless the contrary intention appears:

Account means the Australian Land Transport Development Account continued in existence by section 11.

approved organisation means:

- (a) an approved research organisation; or
- (b) an approved road safety organisation.

approved railway authority means an authority in respect of which a declaration under subsection 7(3) is in force.

approved research organisation means an organisation in respect of which a declaration under subsection 8(1) is in force.

approved road safety organisation means an organisation in respect of which a declaration under subsection 8(2) is in force.

capital railway project means a project by way of capital expenditure in relation to an interstate mainline railway, and includes:

- (a) the construction of an interstate mainline railway;
or
- (b) the acquisition of rolling stock for use on an interstate mainline railway.

charge rate means:

- (a) if paragraph (b) does not apply—4.95 cents per litre; or
- (b) if a determination under section 10 is in force—the rate specified in that determination.

construction in relation to a railway or road, includes:

- (a) the reconstruction or realignment of the railway or road;
 - (b) the bringing of the railway or road to a higher standard;
 - (c) investigation and associated engineering studies in connection with:
 - (i) the construction, reconstruction or realignment of the railway or road;
 - (ii) the bringing of the railway or road to a higher standard; or
 - (iii) the planning of alternative routes for the railway or road;
 - (d) the acquisition of land for the purpose of:
 - (i) constructing, reconstructing or realigning the railway or road; or
 - (ii) bringing the railway or road to a higher standard; and
 - (e) the doing of any other thing in relation to a matter specified in paragraph (a) or (b) approved by the Minister, in writing, for the purposes of this definition;
- but does not include the maintenance of the railway or road.

existing Fund means:

- (a) the Australian Bicentennial Road Development Trust Fund established by section 7 of the *Australian Bicentennial Road Development Trust Fund Act 1982*; or
- (b) the Australian Land Transport Trust Fund established by section 11 of the *Australian Land Transport (Financial Assistance) Act 1985*.

government authority means:

- (a) a local government body;

- (b) an authority of a State, being an incorporated body but not being a local government body, that is responsible for:
 - (i) the construction or maintenance of roads in, or in an area of, the State; or
 - (ii) the provision of railway services over a railway in the State.

indexation factor means an indexation factor ascertained under subsection 9(4) or (5);

interstate mainline railway means a railway, or a proposed railway, in respect of which a declaration under subsection 7(1) is in force.

local road means:

- (a) a road that is not a national highway, a national arterial road or a State arterial road; or
- (b) a path for the use of persons riding bicycles, being a path that is not associated with a road.

maintenance, in relation to a road, includes works and repairs to keep the road in a safe and trafficable condition.

national arterial road means a road or proposed road in respect of which a declaration under subsection 5(1) is in force.

national highway means a road or proposed road in respect of which a declaration under subsection 4(1) or (2) is in force.

organisation includes an association, authority, body or institution, whether incorporated or unincorporated, and whether or not constituting or forming part of a Department of State of the Commonwealth or of a State.

provincial cities and rural highways road means a road or a proposed road in respect of which a declaration under subsection 7A(1) is in force.

railway includes:

- (a) railway signs;
- (b) railway control equipment;
- (c) railway lighting equipment;
- (d) a bridge or tunnel associated with a railway, including a bridge or tunnel for the use of pedestrians; and
- (e) any other thing associated with a railway approved by the Minister in writing for the purposes of this definition.

~~***Reserve*** means the Australian Land Transport Reserve established by section 11.~~

road includes:

- (a) a traffic sign;
 - (b) traffic control equipment;
 - (c) street lighting equipment;
 - (d) a vehicular ferry;
 - (e) a bridge or tunnel, including a bridge or tunnel for the use of pedestrians;
 - (f) a path for the use of persons riding bicycles;
 - (g) a ramp provided to facilitate the launching of boats;
 - (h) vehicular access from a road to a ramp referred to in paragraph (g); and
 - (j) any other thing approved by the Minister in writing for the purposes of this definition;
- associated with a road.

road user charge means so much of each amount paid to the Commonwealth as duty of Excise, or duty of Customs, in respect of motor spirit, or diesel fuel, entered for home consumption as is ascertained by multiplying that amount by the amount represented by the formula:

$$\frac{CR}{RD}$$

where:

CR is the charge rate; and

RD is the rate of duty, expressed in cents per litre, by reference to which the amount paid to the Commonwealth was ascertained.

State includes the Northern Territory or the Australian Capital Territory.

State arterial road means a road, or proposed road, in respect of which a declaration under subsection 6(1) is in force.

urban area means an area designated for the purposes of the Census taken in the year 1986 as:

- (a) the Sydney Statistical Division;
- (b) the Melbourne Statistical Division;
- (c) the Brisbane Statistical Division;
- (d) the Adelaide Statistical Division;
- (e) the Perth Statistical Division;
- (f) the Greater Hobart Statistical Division;
- (g) the Darwin Statistical Division;
- (h) the Newcastle Statistical District;
- (j) the Wollongong Statistical District;
- (k) the Bathurst-Orange Statistical District;

- (m) the Albury-Wodonga Statistical District;
- (n) the Geelong Statistical District;
- (p) the Ballarat Statistical District;
- (q) the Bendigo Statistical District;
- (r) the Sunshine Coast Statistical District;
- (s) the Bundaberg Statistical District;
- (t) the Rockhampton Statistical District;
- (u) the Mackay Statistical District;
- (w) the Townsville Statistical District;
- (y) the Cairns Statistical District;
- (z) the Gold Coast-Tweed Statistical District;
- (za) the Launceston Statistical District;
- (zb) the Burnie-Devonport Statistical District;
- (zc) the Canberra-Queanbeyan Statistical District;
- (zd) the Maitland Urban Centre; or
- (ze) the Toowoomba Urban Centre.

urban public transport project means a project in respect of which a declaration under subsection 7C(1) is in force.

- (2) An amount paid by a State to a government authority for a particular purpose and expended by that authority for that purpose shall, for the purposes of this Act, be taken to have been expended by the State for that purpose.
- (3) For the purposes of this Act, where an amount is expended by a State or a government authority by way of the payment of wages and an amount of tax is paid by the State or the authority (whether by way of a payment of moneys, the crediting of an account or otherwise) on those wages, being a tax imposed by a law of the State upon employers on wages paid by

them, the amount of tax shall be taken to be a part of those wages.

- (4) In subsection (3), **wages** includes payments in the nature of wages.
- (5) Subject to subsection (3), for the purposes of this Act, money paid or credited by a State to a trust account or other account in the Treasury of the State shall not, merely because of its having been so paid or credited, be taken to have been expended by the State.
- (6) Where an approved organisation is, or is part of, a Department of State of a State:
 - (a) a reference in this Act to the payment of an amount ~~out of the Reserve~~ to the approved organisation after a debiting from the Account, is a reference to the payment of the amount, ~~out of the Reserve~~ after such a debiting, to the State by way of the grant of financial assistance;
 - (b) a reference in this Act to expenditure by the approved organisation is a reference to expenditure by the State; and
 - (c) a reference in this Act to an act or thing done or to be done by the organisation arising out of such a payment or expenditure is a reference to an act or thing done or to be done by the State arising out of such a payment or expenditure.
- (7) For the purposes of this Act, a notification or request shall be taken to have been given to a State if it is given to the appropriate Minister of the State.
- (8) Unless the contrary intention appears:
 - (a) a reference in this Act to a road includes a reference to a part of a road; and

- (b) a reference in this Act to a railway includes a reference to a part of a railway.

4 Declaration of national highways

- (1) The Minister may declare a road in a State that constitutes, or a proposed road in a State that would, if constructed, constitute, a part of the road that, in the opinion of the Minister, is or will be the principal road linking:
 - (a) 2 or more State capital cities;
 - (b) Brisbane and Cairns; or
 - (c) Hobart and Burnie;to be a national highway for the purposes of this Act.
- (2) The Minister may declare a road in a State that constitutes, or a proposed road in a State that would, if constructed, constitute, a road that should, in the opinion of the Minister, be treated, by reason of its national importance, as a national highway for the purposes of this Act to be, for those purposes, a national highway.
- (3) A declaration under subsection 4(1) or (2) of the *Australian Land Transport (Financial Assistance) Act 1985* in respect of a road, or a proposed road, in a State, being a declaration that was in force immediately before the commencement of this Act, shall, for the purposes of this Act, be taken to be a declaration made, on the commencement of this Act, under subsection (1) or (2) of this section, whichever is appropriate.
- (4) The Minister may, by declaration, revoke or vary a declaration made, or taken to have been made, under subsection (1) or (2).

- (5) The Minister shall cause a copy of a declaration made under this section in respect of a road, or a proposed road, in a State to be given to the appropriate Minister of the State.

5 Declaration of national arterial roads

- (1) Where the Minister is satisfied:
 - (a) that the construction of a road or of a proposed road in a State will:
 - (i) increase the competitiveness of industries producing:
 - (A) goods for export; or
 - (B) goods that compete with imports on the Australian market; or
 - (ii) facilitate, to a significant extent, travel for tourist purposes; and
 - (b) that the benefits likely to flow from the construction of the road or proposed road justify the incurring of the costs of construction;the Minister may declare the road or proposed road to be a national arterial road for the purposes of this Act.
- (2) The Minister may, by declaration, revoke or vary a declaration made under subsection (1).
- (3) The Minister shall cause a copy of the declaration made under this section in respect of a road, or a proposed road, in a State to be given to the appropriate Minister of the State.

6 Declaration of State arterial roads

- (1) The Minister may declare:
 - (a) a road, or a proposed road, in a State:

- (i) that is predominantly associated with an urban area; and
 - (ii) that forms part of a network of roads the main function of which is to carry traffic into or across an urban area or between the localities within an urban area; or
- (b) a road, or a proposed road, in a State:
- (i) that is not in an urban area; and
 - (ii) the main function of which is to carry traffic between or through major regions, closely settled areas, cities or towns;
- to be a State arterial road for the purposes of this Act.

- (2) A declaration under subsection 5(1) or (2) of the *Australian Land Transport (Financial Assistance) Act 1985* in respect of a road, or a proposed road, in a State, being a declaration that was in force immediately before the commencement of this Act, shall, for the purposes of this Act, be taken to be a declaration, made, on the commencement of this Act, under subsection (1) of this section, that the road or proposed road is a State arterial road.
- (3) The Minister may, by declaration, revoke or vary a declaration made, or taken to have been made, under subsection (1).
- (4) The Minister shall cause a copy of a declaration made under this section in respect of a road, or a proposed road, in a State to be given to the appropriate Minister of the State.

7 Declaration of interstate mainline railways and approved railway authorities

- (1) The Minister may declare a railway in a State that constitutes, or a proposed railway in a State that would, if constructed, constitute, a part of:
 - (a) the railway that, in the opinion of the Minister, is or will be the principal railway linking 2 State capital cities; or
 - (b) any other railway that, in the opinion of the Minister, is of national significance in relation to trade or commerce between the States;to be an interstate mainline railway for the purposes of this Act.
- (2) A declaration under subsection 6(1) of the *Australian Land Transport (Financial Assistance) Act 1985* in respect of a railway, or a proposed railway, in a State, being a declaration that was in force immediately before the commencement of this Act, shall, for the purposes of this Act, be taken to be a declaration made, on the commencement of this Act, under subsection (1) of this section.
- (3) The Minister may declare an authority that provides, or proposes to provide, whether jointly with another authority or otherwise, railway services over an interstate mainline railway to be an approved railway authority for the purposes of this Act.
- (4) A declaration under subsection 7(1) of the *Australian Land Transport (Financial Assistance) Act 1985* in respect of an authority, being a declaration that was in force immediately before the commencement of this Act, shall, for the purposes of this Act, be taken to be a declaration made, on the commencement of this Act, under subsection (3) of this section.

- (5) The Minister may, by declaration, revoke or vary a declaration made, or taken to have been made, under subsection (1) or (3).
- (6) The Minister shall cause a copy of a declaration made under this section in respect of a railway in a State to be given to:
 - (a) the appropriate Minister of the State; or
 - (b) the appropriate approved railway authority.
- (7) A declaration under subsection (3) and a declaration under subsection (5) relating to an approved railway authority shall be published in the *Gazette*.

7A Provincial cities and rural highways projects

- (1) Where the Minister is satisfied:
 - (a) that the construction of a road or a proposed road will yield sufficient economic return to justify the incurring of the costs of construction; and
 - (b) that the road or proposed road is not in a State capital city;the Minister may declare the road or proposed road to be a provincial cities and rural highways road for the purposes of this Act.
- (2) The Minister may, by declaration, revoke or vary a declaration made under subsection (1).
- (3) The Minister must cause a copy of a declaration made under this section in respect of a road, or a proposed road, in a State to be given to the appropriate Minister of the State.

7B Black spot projects and road safety measures

- (1) If the Minister is satisfied that a part of a road that is not a part of a national highway is a site the nature of which has contributed to serious motor vehicle crashes involving death or personal injury, the Minister may declare the location to be a black spot for the purposes of this Act.
- (2) The Minister may declare a measure to be a road safety measure for the purposes of this Act if the Minister is satisfied that the implementation of the measure is likely to reduce the incidence of motor vehicle crashes involving death or personal injury.
- (3) The Minister may, by declaration, revoke or vary a declaration made under subsection (1) or (2).
- (4) The Minister must cause a copy of a declaration made under this section in respect of a part of a road in a State or a measure that relates to a State to be given to the appropriate Minister of the State.

7C Urban public transport projects

- (1) If the Minister is satisfied that a project by way of capital expenditure in a State is likely to result in the reduction of the traffic on, or the wear and tear affecting, any road (including a national arterial road or a State arterial road) in an urban area, or is likely to provide environmentally or socially innovative measures to facilitate public transport, the Minister may declare the project to be an urban public transport project for the purposes of this Act.
- (2) The Minister may, by declaration, revoke or vary a declaration made under subsection (1).

- (3) The Minister must cause a copy of a declaration made under this section in respect of a project in a State to be given to the appropriate Minister of the State.

8 Declaration of approved research organisations and approved road safety organisations

- (1) The Minister may declare an organisation that arranges, assists or carries out, or that proposes to arrange, assist or carry out, research in relation to land transport to be an approved research organisation for the purposes of this Act.
- (2) The Minister may declare an organisation that arranges, assists or carries out, or that proposes to arrange, assist or carry out, activities in relation to road safety, to be an approved road safety organisation for the purposes of this Act.
- (3) A declaration under subsection 8(1) or (2) of the *Australian Land Transport (Financial Assistance) Act 1985* in respect of an organisation, being a declaration that was in force immediately before the commencement of this Act, shall, for the purposes of this Act, be taken to be a declaration made, on the commencement of this Act, under subsection (1) or (2) of this section, whichever is appropriate.
- (4) The Minister may, by declaration, revoke a declaration made, or taken to have been made, under this section.
- (5) A declaration under this section shall be published in the *Gazette*.

9 Indexation factor

- (1) In this section:

index number, in relation to a quarter, means the implicit price deflator for gross non-farm product published by the Statistician in respect of that quarter.

Statistician means the Australian Statistician.

- (2) Subject to subsection (3), if at any time whether before or after the commencement of this Act, the Statistician has published or publishes an index number in respect of a quarter in substitution for an index number previously published by the Statistician in respect of that quarter, the publication of the later index number shall be disregarded for the purposes of this section.
- (3) If at any time, whether before or after the commencement of this Act, the Statistician has changed or changes the reference base for the implicit price deflator for gross non-farm product, then, for the purposes of the application of this section after the change, regard shall be had only to index numbers published in terms of the new reference base.
- (4) The indexation factor in relation to a financial year referred to in the definition of ***guaranteed amount*** in subsection 10(1) is:
 - (a) the number, calculated to 3 decimal places, ascertained by dividing:
 - (i) in the case of the financial year commencing on 1 July 1989—the index number for the December quarter in the year 1988 by the index number for the December quarter in the year 1987; or
 - (ii) in the case of the financial year commencing on 1 July 1990—the index number for the December quarter in the year 1989 by whichever is the higher of the index numbers

for the December quarters in the years 1987 and 1988; or

- (b) if the number so ascertained would, if it were calculated to 4 decimal places, end in a number greater than 4—the number so ascertained increased by 0.001.
- (5) The indexation factor in relation to a period of 6 months referred to in the definition of *relevant period* in subsection 14(1) is:
- (a) the number, calculated to 3 decimal places, ascertained by dividing:
 - (i) if the relevant period commences on 1 April—the index number for the last preceding December quarter; or
 - (ii) if the relevant period commences on 1 October—the index number for the last preceding June quarter;by the highest index number in respect of a December or June quarter that preceded that quarter, not being a December or June quarter that occurred before the December quarter in the year 1987; or
 - (b) if the number so ascertained would, if it were calculated to 4 decimal places, end in a number greater than 4—the number so ascertained increased by 0.001.

10 Determination in relation to charge rate

- (1) In this section:

guaranteed amount means:

- (a) in relation to the financial year commencing on 1 July 1989:

- (i) if subparagraph (ii) does not apply—
\$1,226,000,000; or
 - (ii) if the indexation factor in relation to that financial year is greater than 1—the amount ascertained by multiplying \$1,226,000,000 by that factor; and
 - (b) in relation to the financial year commencing on 1 July 1990:
 - (i) if subparagraph (ii) does not apply—the amount equal to the guaranteed amount in relation to the financial year commencing on 1 July 1989; or
 - (ii) if the indexation factor in relation to the financial year commencing on 1 July 1990 is greater than 1— the amount ascertained by multiplying the amount referred to in subparagraph (i) by that factor.
- (2) Subject to subsections (3) and (4), the Minister may, after consultation with the Treasurer, determine in writing, in respect of a financial year, a rate, expressed in cents per litre, for the purposes of the definition of **charge rate** in subsection 3(1).
- (5) A determination under this section:
- (a) shall be expressed to come, or to have come, into force on the first day of the financial year to which it relates; and
 - (b) subject to subsection (6), is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.
- (6) Paragraph 48(1)(b) of the *Acts Interpretation Act 1901* does not apply in relation to a determination under this section.

Part II — Australian Land Transport Development Reserve Account

11 Establishment of Reserve Australian Land Transport Development Account

- (1) There is ~~established a reserve to be known as~~ continued in existence the Australian Land Transport Development Reserve Account.

Note: The Account was established by subsection 5(3) of the *Financial Management Legislation Amendment Act 1999*.

- (2) The Reserve Account is a component of the ~~Reserved Money Fund~~ Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

12 Money to be paid into Reserve Amounts to be credited to Account

- (1) Subject to subsection (2), there ~~shall be paid into the Reserve out of the Consolidated Revenue Fund~~ must be credited to the Account amounts equal to the amounts of road user charge received by the Commonwealth after the commencement of this Act.
- (2) Where the whole or a part of an amount (which whole or part in this subsection is called the **refunded amount**) paid as duty of Excise, or duty of Customs, in respect of motor spirit, or diesel fuel, entered for home consumption is, after the commencement of this Act, repaid to a person by the Commonwealth by way of rebate or otherwise, there shall be deducted from the

sum of the amounts that would, but for this subsection, be ~~paid into the Reserve~~ credited to the Account under subsection (1) an amount ascertained in accordance with the formula:

$$\frac{CR}{RD} \times RA$$

where:

CR is the charge rate;

RD is the rate of duty, expressed in cents per litre, by reference to which the refunded amount was ascertained; and

RA is the refunded amount.

(3) In ascertaining:

- (a) an amount of road user charge for the purposes of subsection (1); or
- (b) a refunded amount for the purposes of subsection (2);

if 2 or more parts of an amount paid as duty were ascertained by reference to different rates of duty, each of those parts shall be taken to be a separate amount so paid.

(3A) In addition to payments made under subsection (1), ~~the Commonwealth is to pay the following amounts into the Fund~~ the following amounts must be credited to the Account:

- (a) in relation to the financial year beginning on 1 July 1990—\$178,300,000;
- (b) in relation to the financial year beginning on 1 July 1991—\$168,300,000;
- (c) in relation to the financial year beginning on 1 July 1992—\$158,400,000.

- (4) If interest is received by the Commonwealth from the investment of ~~money from the Reserve, an amount equal to the interest must be transferred to the Reserve from the Consolidated Revenue Fund~~ an amount standing to the credit of the Account, an amount equal to the amount of the interest must be credited to the Account.

14 Indexation of charge rate

- (1) In this section, unless the contrary intention appears:

base rate, in relation to a relevant period, means:

- (a) if paragraph (b) does not apply—the charge rate; or
- (b) if, by virtue of an application or applications of this section, this Act has effect immediately before the commencement of the relevant period as if another rate has been substituted for the charge rate—that other rate.

relevant period means:

- (a) the period of 6 months commencing on 1 October 1989;
 - (b) each subsequent period of 6 months, being a period earlier than the period commencing on 1 October 1991; and
 - (c) each subsequent period of 6 months, being a period after the period commencing on 1 April 1991, that the Minister determines in writing to be a relevant period for the purposes of this section.
- (2) If the indexation factor in relation to a relevant period is greater than 1, this Act has effect, from and including the first day of that period and to and including:
- (a) the last day of that period; or

- (b) the day immediately preceding the day on which a determination under section 10 next comes into force;
- whichever is the earlier, as if for the base rate in relation to that period there were substituted a rate calculated by multiplying the base rate by that factor.
- (3) Where, by virtue of the application of this section, another rate (in this subsection called the ***substituted rate***) is substituted for a rate on a particular day, the Minister shall, on or as soon as practicable after that day, publish a notice in the *Gazette* specifying the substituted rate.

15 Application of ~~Reserve~~ Account

- (1) Subject to subsection (2) and sections 16, 17, 18 and 19, amounts standing to the credit of the ~~Reserve~~ may be paid out of the Reserve Account may be debited from the Account and paid by the Commonwealth:
- (a) to a State, by way of the grant of financial assistance to the State, for expenditure by the State on:
- (i) projects for the construction of:
- (A) national highways; or
- (B) national arterial roads;
- and programs for the maintenance of national highways, being projects or programs approved under subsection 26(3);
- (ii) the construction or maintenance of:
- (A) State arterial roads; or
- (B) local roads;
- (iii) capital railway projects and urban public transport projects approved under subsection 26(3);

- (iv) projects for the construction of provincial cities and rural highways roads approved under subsection 26(3); and
- (v) a project, or program of projects, for:
 - (A) the road safety improvement of black spots; or
 - (B) the implementation of road safety measures;
- (b) to an approved railway authority for expenditure by the authority on capital railway projects approved under subsection 26(3);
- (ba) to an approved railway authority for payment as an additional capital contribution in respect of a capital railway project to be undertaken by the authority;
- (c) to an approved research organisation for expenditure by the organisation in arranging, assisting or carrying out programs of research relating to land transport approved under subsection 26(3); and
- (d) to an approved road safety organisation for expenditure by the organisation in arranging, assisting or carrying out programs of activities relating to road safety approved under subsection 26(3).

- (2) An amount may not be ~~paid out of the Reserve~~ debited from the Account and paid by the Commonwealth to a State in relation to a project or program referred to in subparagraph (1)(a)(v) unless the State has given to the Minister an undertaking that it will implement road safety initiatives identified by the Minister.
- (3) An amount is not to be paid ~~out of the Reserve~~ to an approved railway authority as an additional capital

contribution in respect of a capital railway project to be undertaken by the authority unless:

- (a) in response to an invitation from the Minister under paragraph 26(1)(c), the authority has submitted to the Minister particulars of the project; and
- (b) if the authority has a corporate plan—the Minister is satisfied that the undertaking of the project by the authority is consistent with the plan; and
- (c) it has been agreed:
 - (i) if the authority is incorporated under the *Corporations Act 2001* and the Commonwealth is a shareholder in the authority—between the other shareholders and the Commonwealth; or
 - (ii) in any other case—between the authority and the Commonwealth;
that shares in the authority having an equivalent nominal value to the ~~payment from the Reserve~~amount debited from the Account will be issued to the Commonwealth;
 - (iii) on payment ~~from the Reserve~~by the Commonwealth to the authority of all of the additional capital contributions proposed in respect of that project; or
 - (iv) at such later time as is agreed.

17 Limitation of allocations made after 30 June 1989

- (1) The sum of the amounts ~~paid out of the Reserve~~debited from the Account and paid by the Commonwealth, after 30 June 1989, to the State specified in an item in Schedule 2 by way of the grant of financial assistance for expenditure by the State on the construction and

maintenance of State arterial roads shall not exceed the amount specified in column 3 of that item.

- (2) The sum of the amounts ~~paid out of the Reserve~~ debited from the Account and paid by the Commonwealth, after 30 June 1989, to the State specified in an item in Schedule 2 by way of the grant of financial assistance for expenditure by the State on the construction and maintenance of local roads shall not exceed an amount equal to the percentage specified in column 4 of that item of the sum of the amounts ~~paid into the Reserve~~ credited to the Account under subsection 12(1) after that date.

18 Use of funds allocated to projects etc. commenced before the commencement of Act

- (1) Where a project or program approved under subsection 26(3) was commenced before the commencement of this Act, ~~any money paid out of the Reserve~~ an amount debited from the Account and paid by the Commonwealth:
- (a) to a State by way of the grant of financial assistance for expenditure by the State on the project or program; or
 - (b) to an authority or organisation for expenditure on the project or program;
- may, with the approval of the Minister, be used for the reimbursement of amounts expended before the commencement of this Act by the State, authority or organisation on the project or program.
- (2) Where a project or program of a kind referred to in paragraph 26(1)(ba) or (bb) and approved under subsection 26(3) was commenced before the commencement of the *Australian Centennial Roads*

Development Amendment Act 1990, any money paid out of the Reserve:

- (a) to a State by way of the grant of financial assistance for expenditure by the State on the project or program; or
- (b) to an organisation for expenditure on the project or program;

may, with the approval of the Minister, be used for the reimbursement of amounts expended before the commencement of that Act by the State or organisation on the project or program.

19 Reallocation of funds

- (1) The Minister may, upon being so requested by a State and being satisfied, having regard to the policies of the Commonwealth in relation to land transport, that it would be desirable to do so, authorise that:
 - (a) ~~money paid out of the Reserve~~ an amount debited from the Account and paid by the Commonwealth to the State for expenditure by the State on the construction or maintenance of State arterial roads, not exceeding such amount as is specified by the Minister, be expended by the State on:
 - (i) the construction or maintenance of local roads; or
 - (ii) projects or programs in respect of national highways, or projects in respect of national arterial roads, approved under subsection 26(3); or
 - (b) ~~money paid out of the Reserve~~ an amount debited from the account and paid by the Commonwealth to a State for expenditure by the State on the construction or maintenance of local roads, not exceeding such amount as is specified by the

Minister, be expended by the State on the construction or maintenance of State arterial roads.

- (2) The Minister may, on his or her own ~~motion~~ initiative, authorise that:
- (a) ~~money paid out of the Reserve~~ an amount debited from the Account and paid by the Commonwealth to a State or an approved organisation for expenditure on a particular project or program, not exceeding such amount as is specified by the Minister, be expended by any State or organisation specified by the Minister on another project or program; or
 - (b) ~~money paid out of the Reserve~~ an amount debited from the Account and paid by the Commonwealth to a State for expenditure by the State on projects for the construction of national highways or national arterial roads or programs for the maintenance of national highways, not exceeding such amount as is specified by the Minister, be expended by the State on the construction or maintenance of State arterial roads.
- (3) ~~Money paid out of the Reserve~~ An amount debited from the Account and paid by the Commonwealth to a State or an approved organisation, being ~~money~~ an amount to which an authorisation under subsection (1) or (2) relates, may be spent in accordance with the authorisation but, for the purposes of section 16 or 17 (whichever is applicable), the ~~money~~ amount shall is to be taken to have been expended by the State or organisation to which it was originally paid ~~out of the Reserve~~ on the purpose for which it was so paid.

20 Funds for State arterial roads reallocated for expenditure on capital railway projects

(1) ~~Where~~If:

- (a) a State or an approved railway authority in a State has, in accordance with an invitation under subsection 26(1), submitted particulars of a capital railway project to the Minister; and
- (b) the appropriate Minister for the State satisfies the Minister that it would be desirable, having regard to the policies of the Commonwealth in relation to land transport, that a specified amount standing to the credit of the ~~Reserve~~Account should be expended on that project instead of being expended on the construction or maintenance by the State of State arterial roads;

the Minister may, on or after approving the project under subsection 26(3), determine that ~~money~~an amount standing to the credit of the ~~Reserve~~Account and earmarked for expenditure on the construction or maintenance of State arterial roads, ~~not exceeding such amount as is specified in the determination,~~ may be ~~paid out of the Reserve~~debited from the Account and paid by the Commonwealth to the State or approved railway authority for expenditure by the State or authority on the project.

- (2) ~~Where~~If the Minister makes a determination in relation to a capital railway project, the amounts ~~paid out of the Reserve~~debited from the Account in accordance with the determination ~~shall~~must, for the purposes of section 16 or 17, whichever is applicable, be taken to be amounts ~~paid out of the Reserve~~debited from the Account and paid by the Commonwealth to the States by way of a grant of financial assistance for expenditure by the State on the construction of a State arterial road.

21 Funds for State arterial roads reallocated for expenditure on urban public transport projects

(1) ~~Where~~If:

- (a) a State has, in accordance with an invitation under subsection 26(1), submitted particulars of an urban public transport project to the Minister; and
- (b) the appropriate Minister for the State satisfies the Minister that it would be desirable, having regard to the policies of the Commonwealth in relation to land transport, that a specified amount standing to the credit of the ~~Reserve~~Account should be expended on that project instead of being expended on the construction or maintenance by the State of State arterial roads;

the Minister may, on or after approving the project under subsection 26(3), determine that ~~money~~an amount standing to the credit of the ~~Reserve~~Account and earmarked for expenditure on the construction or maintenance of State arterial roads, ~~not exceeding such amount as is specified in the determination,~~ may be ~~paid out of the Reserve debited from the Account and paid by the Commonwealth to the State for expenditure by the State on the project.~~

- (2) ~~Where~~If the Minister makes a determination in relation to an urban public transport project, the amounts ~~paid out of the Reserve debited from the Account in accordance with the determination shall~~must, for the purposes of section 16 or 17, whichever is applicable, be taken to be amounts ~~paid out of the Reserve debited from the Account and paid by the Commonwealth to the States by way of a grant of financial assistance for expenditure by the State on the construction of a State arterial road.~~

22 Time for payments

~~Payments out of the Reserve shall~~ Payments under this Act must be made at such times, and in such amounts, as the Minister approves.

23 Statement accompanying payment

Where a payment is made ~~out of the Reserve, the payment shall~~ by the Commonwealth in respect of a debit of the Account the payment must be accompanied by a statement requiring that the payment, or a specified part of the payment, be expended in arranging, assisting or carrying out:

- (a) a specified project or program approved under subsection 26(3) or of projects or programs of a specified class approved under that subsection; or
- (b) the construction or maintenance of State arterial roads or local roads.

24 Condition of payment

~~A payment of an amount out of the Reserve~~ A debiting of the Account and a payment by the Commonwealth to a State, authority or approved organisation is subject to the condition that the State, authority or organisation will expend the amount as required by the statement under section 23 that accompanied the payment.

Part III — Approval of projects and programs

26 Approval of projects and programs

- (1) The Minister may, from time to time:
 - (a) direct a State to submit particulars of:

- (i) projects for the construction of national highways; or
 - (ii) programs for the maintenance of national highways;to be undertaken by the State;
- (b) invite a State to submit particulars of:
 - (i) projects for the construction of national highways or of national arterial roads; or
 - (ii) programs for the maintenance of national highways;to be undertaken by the State;
- (ba) invite or direct a State to submit particulars of projects for the construction of provincial cities and rural highways roads;
- (bb) invite or direct a State to submit particulars of projects or programs commenced, or to be commenced, on or after 1 July 1990, for:
 - (i) the road safety improvement of black spots; or
 - (ii) the implementation of road safety measures;
- (c) invite a State or an approved railway authority to submit particulars of capital railway projects to be undertaken in the State or by the authority, as the case may be;
- (d) invite or direct a State to submit particulars of urban public transport projects or programs to be undertaken in the State;
- (e) invite an approved research organisation to submit particulars of programs of research relating to land transport to be arranged, assisted or carried out by the organisation; and
- (f) invite an approved road safety organisation to submit particulars of programs of activities relating to road safety to be arranged, assisted or carried out by the organisation.

- (2) The Minister may, in a direction or invitation given to a State, authority or organisation under subsection (1), inform the State, authority or organisation that the Minister considers that particulars of a project or program specified in the direction or invitation should be submitted to the Minister in accordance with the direction or invitation.
- (3) The Minister may approve a project or program of a kind referred to in subsection (1) where the Minister is satisfied that it is appropriate to do so, whether or not the project or program is one in relation to which particulars have been submitted under subsection (1).
- (4) A project or program referred to in subsection (1), (2) or (3) may be:
 - (a) a project or program that was commenced, but not completed, before the commencement of this Act;
or
 - (b) a project or program part of the cost of which it is proposed to meet out of funds obtained otherwise ~~than out of the Reserve~~ from the Commonwealth in respect of a debiting of the Account.
- (5) Where a State, authority or organisation submits particulars of a project or program in accordance with a direction or invitation under subsection (1), those particulars shall include an estimate of the cost of the project or program and particulars of any part of that cost proposed to be met out of funds obtained ~~otherwise than out of the Reserve~~ from the Commonwealth in respect of a debiting of the Account.
- (6) The Minister shall not approve a project or program under subsection (3) unless the Minister is satisfied:

- (a) that the undertaking of the project or program is consistent with the purposes for which the ~~Reserve Account~~ Account was established; and
 - (b) that, having regard to the costs of projects and programs, and other expenditure to be met by payments (Account payments) in respect of the debiting of the Account, ~~out of the Reserve,~~ the costs in relation to the project or program that are proposed to be met by ~~payments out of the Reserve~~ Account payments could be met by ~~such payments~~ Account payments made in accordance with section 15.
- (7) The Minister shall not approve, under subsection (3), a project or program for the construction or maintenance of national highways submitted by a State unless the Minister is satisfied that the project or program complies with the requirements set out in any notification given to the State under paragraph 38(1)(b), (c) or (d) that are applicable in relation to the State.
- (8) The Minister shall not approve, under subsection (3), a capital railway project submitted by a State or an approved railway authority unless the Minister is satisfied that:
- (a) the project is likely to result in improvements to the capacity of, or the quality or efficiency of operations in relation to, interstate mainline railways;
 - (b) the State or authority has taken such steps to improve its operational or commercial practices as will, in the Minister's opinion, be likely to ensure the early achievement of the benefits of those improvements; and

- (c) in the case of a project submitted by the State—the undertaking of the project will be given priority by the State.

27 Variation of projects etc.

- (1) Subject to subsection (2), the Minister may, in accordance with procedures determined by the Minister:
 - (a) approve a variation of a project or program approved under subsection 26(3); or
 - (b) approve a variation of the estimated cost of a project or program approved under subsection 26(3); or
 - (c) approve a variation of the costs in relation to a project or program approved under subsection 26(3) that are to be met by payments ~~out of the Reserve~~ by the Commonwealth in respect of a debiting of the Account.
- (2) The Minister ~~shall~~ must not approve a variation under subsection (1) if the Minister considers:
 - (a) that the approval of the variation would not be consistent with the purposes for which the ~~Reserve Account~~ Account was established; or
 - (b) that, having regard to the cost of projects and programs, and other expenditure to be met by ~~payments out of the Reserve,~~ (Account payments) in respect of a debiting of the Account, the approval of the variation would result in the costs in relation to a project or program that are to be met by ~~payments out of the Reserve being Account~~ payments such that they could not be met by Account payments made in accordance with section 15.

28 Allocations of Reserve to local government bodies

- (1) Money expended by a State by way of funding government authorities to carry out the construction or maintenance of local roads shall not be taken to have been expended in accordance with this Act unless the money is allocated by the State between local government bodies and government authorities that are not local government bodies in accordance with:
 - (a) where the State has formulated principles for the purposes of this subsection and the Minister has approved those principles—those principles; or
 - (b) in any other case—principles determined by the Minister.
- (2) The Minister shall not determine principles for the purposes of subsection (1) in relation to a State unless and until:
 - (a) the appropriate Minister of the State has informed the Minister that the State does not propose to formulate principles for the purposes of that subsection; or
 - (b) the Minister has, by notice in writing, requested the appropriate Minister of the State to arrange for the formulation of such principles within a specified time and, within that time, the State has not formulated such principles or has not formulated such principles that the Minister is prepared to approve.
- (3) A State may, with the approval of the Minister, vary principles formulated by the State for the purposes of subsection (1).
- (4) The Minister may vary principles determined by the Minister for the purposes of subsection (1).

Part IV — Conditions of payments

28A Manner of application of this Part to different payments from Reserve debits from Account

- (1) The provisions of this Part apply to all payments ~~from the Reserve~~ under paragraph 15(1)(a), (b), (c) or (d).
- (2) Subject to subsection (3), the provisions of this Part apply in respect of payments ~~from the Reserve~~ under paragraph 15(1)(ba) in respect of projects of approved railway authorities:
 - (a) as if, so far as assets acquired under those projects are concerned, paragraph 32(1)(n) were omitted; and
 - (b) as if section 31 and paragraph 32(1)(p) were omitted.
- (3) If an approved railway authority to which payment is made under paragraph 15(1)(ba) is a company incorporated under the *Corporations Act 2001*, the obligations of the authority and of its directors and of officers under subsection (2) apply only to the extent that those obligations are consistent with obligations of the authority and of its directors and officers under that Act.

29 Minister may require information to be furnished

- (1) In addition to the conditions specified in any other provision of this Act, a payment of an amount to a State, approved railway authority or approved organisation ~~out of the Reserve~~ in respect of a debit

from the Account is subject to the condition that the appropriate Minister of the State, the authority or the organisation, as the case may be, will comply with any requirement made in accordance with subsection (2).

- (2) The Minister may, by notice in writing, require the appropriate Minister of a State, an approved railway authority or an approved organisation to furnish to the Minister, within the time specified in the notice, such information relevant to the operation of, or to a matter arising under, this Act as is specified in the notice.

30 Statements of expenditure etc. to be furnished

- (1) In addition to the conditions specified in any other provision of this Act, payment of an amount to a State, approved railway authority or approved organisation ~~out of the Reserve~~ in respect of a debit from the Account is subject to the following conditions:

(a) that the State, authority or organisation will give to the Minister:

- (i) as soon as practicable after 30 June in each year, a statement, in accordance with a form approved by the Minister, as to:

(A) the expenditure by the State, authority or organisation during that year out of that amount; and

(B) any sum set aside during that year out of that amount for expenditure by the State, authority or organisation but not expended during that year; and

- (ii) a report by the appropriate person stating:

(A) whether the statement is in the form approved by the Minister;

- (B) whether, in the person's opinion, the statement is based on proper accounts and records;
 - (C) whether the statement is in agreement with the accounts and records; and
 - (D) whether, in the person's opinion, the expenditure of money has been in accordance with this Act;
- (b) that, if the Minister informs the Treasurer of the State or, in the case of an authority or organisation, a responsible officer of the authority or organisation, that the Minister is satisfied that the State, authority or organisation has failed, with respect to that amount, to fulfil the condition specified in paragraph (a), the State, authority or organisation, as the case may be, will repay that amount, or such part of that amount as the Minister specifies, to the Commonwealth.

(2) In this section:

appropriate person means:

- (a) in relation to a State or to an authority or organisation whose accounts are required by law to be audited by the Auditor-General of a State—the Auditor-General of the State;
- (b) in relation to an authority or organisation whose accounts are required by law to be audited by the Auditor-General of the Commonwealth—the Auditor-General of the Commonwealth; or
- (c) in any other case—a qualified accountant.

qualified accountant means:

- (a) a person who is registered as a company auditor or a public accountant under a law in force in a State;
or

- (b) a member of the Institute of Chartered Accountants in Australia or of the Australian Society of Accountants.

31 Condition relating to expenditure of ~~moneys paid out of Reserve~~ amount debited from Account

- (1) In addition to the conditions specified in any other provision of this Act, a payment to a State, approved railway authority or approved organisation ~~out of the Reserve~~ in respect of a debit from the Account is subject to the condition specified in subsection (2).
- (2) The condition is that, if any amount or amounts paid to the State, authority or organisation ~~out of the Reserve~~ has not or have not been wholly expended or otherwise dealt with in accordance with this Act, the State, authority or organisation, as the case may be, will, on demand by the Minister, pay to the Commonwealth an amount specified by the Minister, being an amount not exceeding so much of the sum of the amount or amounts so paid to the State, authority or organisation as has not been so expended or otherwise dealt with.

32 Additional conditions with respect to approved projects and programs

- (1) In addition to the conditions specified in any other provision of this Act, a payment of an amount to a State or approved railway authority ~~out of the Reserve~~ in respect of a debit from the Account (*Account payment*) is subject to the following conditions:
- (a) in the case of a State—that, where amounts paid to the State are required by virtue of this Act to be expended on the carrying out of:
- (i) a project for the construction of a national highway, or of a national arterial road (other

than a national arterial road the construction of which was commenced before the commencement of this Act) or of a provincial cities and rural highways road (other than a provincial cities and rural highways road the construction of which was commenced before the commencement of the *Australian Centennial Roads Development Amendment Act 1990*), being a project that will involve:

- (A) the construction, reconstruction or realignment of the road; or
- (B) the bringing of the road to a higher standard; or

- (ii) a program for the maintenance of a national highway, being a program involving works the estimated cost of which exceeds \$2,000,000 and that have been declared, in writing, by the Minister to be works in relation to which tenders are to be called;

the State will invite, and deal with, tenders for particular works involved in the activities referred to in sub-subparagraph (i)(A) or (B) or in the works referred to in subparagraph (ii), other than exempt works of the State, in accordance with procedures approved by the Minister;

- (b) that, where amounts paid to the State or authority are required by virtue of this Act to be expended in relation to a capital railway project or an urban public transport project, being a project that will involve the performance of works, or the purchase of goods, for which it is appropriate to invite tenders, the State or authority will invite, and deal with, tenders for those works or goods in accordance with procedures approved by the Minister;

- (c) in the case of a State—that the State will, if requested by the Minister to do so, enter into an arrangement with the Minister for the setting up of a committee of persons representing both the Minister and the appropriate Minister of the State to carry out planning and give advice to both Ministers in connection with this Act in so far as it relates to the State;
- (d) that the State or authority will ensure that signs are displayed and maintained in accordance with requirements notified to the State or authority from time to time by the Minister, being signs that indicate that a project or program or the construction or maintenance of a road is being or has been funded by the Commonwealth;
- (e) that the State or authority will ensure that such other recognition of the extent to which a project or program or the construction or maintenance of a road is being or has been funded by the Commonwealth will be given by the State or authority in accordance with requirements notified to the State or authority from time to time by the Minister;
- (f) in the case of a State—that the State will comply with such requirements as are notified to the State from time to time by the Minister prohibiting (either unconditionally or subject to a condition requiring the Minister's approval to be given) the display of signs (other than traffic signs) near national highways, or national arterial roads, in respect of which any ~~payment has been made out of the Reserve~~ Account payment has been made;
- (g) in the case of a State—that, where the amounts paid to the State are required by virtue of this Act to be expended on projects for the construction of

national highways, the State will give to the Minister as soon as practicable after 30 June in each year, a certificate by a person approved by the Minister for the purposes of this paragraph certifying that, in the opinion of the person, work that has been carried out during that year on those projects has been carried out in accordance with the standards (if any) applicable to that work in accordance with section 38;

- (h) in the case of a State—that the State will:
 - (i) develop and implement quality systems for the purposes of projects and programs relating to national highways (including pavement management systems), national arterial roads, or provincial cities and rural highways roads; and
 - (ii) permit, at all reasonable times, a person authorised by the Minister to assess or monitor those systems and inspect any records, documents or other information that the person may reasonably request to inspect for that purpose;
- (j) that the State or authority will, at all reasonable times, permit a person authorised by the Minister:
 - (i) to inspect any work involved in the carrying out of a project or program approved under subsection 26(3); and
 - (ii) to inspect and make copies of, or take extracts from, any plans, designs, tenders, records or other documents relating to a project or program approved under subsection 26(3);
- (k) in the case of a State—that the State will make satisfactory provision for:

- (i) the maintenance of the national arterial roads in the State; and
 - (ii) the provision and maintenance of roads connecting the national highways and national arterial roads in the State with other roads in the State;
- (m) in the case of a State—that the State will not, without the written consent of the Minister, cause or permit a toll or fee to be charged for the right to travel in a vehicle on or over a road that is, or any part of which is, a national highway, or a national arterial road, or a provincial cities and rural highways road, in respect of which ~~any payment has been made out of the Reserve Account~~ payment has been made;
- (n) if an asset acquired by the State or approved railway authority or by a government authority that is not a local government body for a purpose in respect of which an amount was paid to the State or approved railway authority:
- (i) ~~out of the Reserve as an Account payment~~; or
 - (ii) out of an existing Fund; or
 - (iii) under the *States Grants (Roads) Act 1977*, the *Roads Grants Act 1980* or the *Roads Grants Act 1981*;

or any interest in such an asset, is sold or otherwise disposed of after the commencement of this Act, the State or approved railway authority will either pay to the Commonwealth an amount equal to the proceeds of the sale or disposal or to the market value of the asset, whichever is the higher, or ensure that those proceeds are expended:

- (iv) in the case of a State—on the construction or maintenance of roads or on capital railway projects; or
- (v) in the case of an approved railway authority—on capital railway projects;
- (na) in the case of a State—that, where amounts paid to the State are required by virtue of this Act to be expended on the carrying out of a project or program for:
 - (i) the road safety improvement of black spots; or
 - (ii) road safety measures;

the State will give to the Minister an undertaking that it will implement road safety initiatives identified by the Minister;

- (p) that, if the Minister informs the Treasurer of the State or, in the case of an authority, a responsible officer of the authority, that the Minister is satisfied that the State or authority has failed to fulfil a condition specified in a preceding paragraph of this subsection or in section 29, the State or authority will repay to the Commonwealth the amount paid to it, or such part of that amount as the Minister specifies.
- (2) In this section ***exempt works***, in relation to a State, means:
- (a) works determined by the Minister to be works the whole of which:
 - (i) are urgently required by reason of an emergency;
 - (ii) are of such a minor nature that the invitation of tenders for those works would involve undue additional cost;
 - (iii) are of a kind for which it is not practicable to prepare adequate tender specifications; or

- (iv) are of a kind for which competitive tenders are unlikely to be received; or
 - (b) works carried out by a public utility.
- (3) Paragraph 32(1)(n) does not apply:
 - (a) to the sale or other disposal to the National Rail Corporation Limited of an asset; or
 - (b) to the granting to the National Rail Corporation Limited of a lease of an asset having a term of at least 20 years;in accordance with subclause 5(5) of the Agreement set out in the Schedule to the *National Rail Corporation Agreement Act 1992*.

Part V — Miscellaneous

33 Deduction of amounts repayable

The Minister may deduct from an amount payable ~~out of the Reserve by the Commonwealth under this Act~~ to a State, authority or organisation any amount repayable by the State, authority or organisation under this Act.

34 Money repaid to Commonwealth

- (1) Whenever an amount is repaid to the Commonwealth by a State, approved railway authority or approved organisation under this Act, an equal amount must be ~~transferred to the Reserve from the Consolidated Revenue Fund~~ credited to the Account.
- (2) Any money paid to the Commonwealth pursuant to paragraph 32(1)(n) shall be taken to be money repaid to the Commonwealth for the purposes of subsection (1).

36 Money deemed to have been expended on national highway projects

- (1) Subject to subsection (2), a State may, for the purposes of this Act, treat money expended by the State, in a financial year, for the purpose of meeting administrative costs incurred directly in connection with the construction or maintenance of national highways in the State, not being administrative costs incurred in respect of particular works involved in the carrying out of any project or program approved under subsection 26(3), as having been expended in that year by the State on such a project or program.
- (2) Money treated as having been expended on a project or program in a year by virtue of subsection (1):
 - (a) shall not include any money treated, by virtue of that subsection, as having been expended on any other project or program; and
 - (b) shall not exceed, in the aggregate, 4% of the money otherwise expended on that project or program since its commencement.

37 Minister may issue guidelines

- (1) The Minister may:
 - (a) after consultation with each of the States, determine guidelines for the distribution by each State to government authorities in the State of money paid ~~out of the Reserve by the Commonwealth~~ in accordance with this Act for expenditure by the State on the construction or maintenance of State arterial roads; and
 - (b) determine guidelines for the administration of programs or projects approved under subsection 26(3).

- (2) The States must comply with those guidelines.

38 Standards for national highways

- (1) For the purpose of ensuring that this Act is conducive to the construction and maintenance of national highways that are of an adequate standard, the Minister may, from time to time:
- (a) request a State to furnish such information as the Minister specifies relating to the use or likely use of national highways, including the effect on the likely use of national highways of works that the State is carrying out or proposes to carry by way of the construction or maintenance of other roads in the State;
 - (b) after consultation with a State, notify to the State works, or classes of works, by way of the construction or maintenance of the national highways in the State that the Minister considers necessary to be carried out;
 - (c) notify to a State the order in which the Minister considers that works in connection with national highways in the State should be carried out; and
 - (d) notify to a State standards, applicable either generally or otherwise as specified in the notification, that the Minister considers necessary to be observed in connection with the construction or maintenance of national highways.
- (2) The Minister may revoke or vary a request or notification given under subsection (1).

39 Delegations

The Minister may, by signed instrument, delegate to a person appointed or engaged under the *Public Service*

Act 1999 all or any of his or her powers or functions under sections 22, 26, 27 and 29, paragraphs 32(1)(d), (e), (h) and (j), subsection 32(2) and section 38.

41 Report by Minister

- (1) The Minister shall, as soon as practicable after 30 June in each year, cause a report to be laid before each House of the Parliament setting out details of the operation of the Land Transport ~~Reserve~~-Account including:
 - (a) ~~the moneys paid into the Reserve~~amounts credited to the Account;
 - (b) ~~the moneys paid out of the Reserve~~amounts debited from the Account;
 - (c) a description of the progress made on all programs during the year under report;
 - (d) a description of the progress made on all approved national highways, national arterial roads, urban public transport and provincial cities and rural highways projects during the year under report; and
 - (e) the principles on which the allocation of funds for local roads were made.
- (2) The report referred to in subsection (1) is to provide details of all payments made during each year in respect of each land transport project and the total cumulative amount of payments made in respect of each land transport project irrespective of when such payments were made.

[Schedule 2 of the ALTD Act, the Notes to the Act and the Table of Amendments are not included in this Appendix because no changes to these parts are contained in the Bill.]

(B) Operational arrangements under the Australian Land Transport Development Act 1988 ²

Question

Have moneys been switched between national, arterial or local roads projects in the past? (Relates to section 20 of the ALTD.)³

Response

- The ALTD Act, in sections 19, 20 and 21, enables the Minister to authorise that money paid from the Reserve for a specified purpose may be expended on another purpose. The scheme established under these sections is related to the restriction, in schedule 2 of the ALTD Act, on the amounts that can be paid to the States for State arterial roads and local roads.
- In short, the Minister may, on request of a State, authorise that money paid to a State for State arterial roads may be expended on local roads, national highways, national arterial roads, capital railway projects or urban public transport projects notwithstanding the limitation imposed by schedule 2. Money paid for local roads may also be expended on State arterial roads.
- Under subsection 19(2) the Minister also has the power, without a request from a State, to “authorise the transfer of funds [paid to a State or an approved organisation] (a) between the categories of research and road safety, national highways or national arterial roads, or (b) from national highways or national roads to State arterial roads” (the Explanatory Memorandum to the Bill p.20).
- No money has been paid to a State under the ALTD Act for State arterial roads since 1992-93 so the power to switch State arterial funding has not been utilised at least since that time. No funding for local roads has been paid to a State under the ALTD Act since 1990-91.

² Responses, under this subheading, to the questions asked at the hearing were prepared by the Department of Transport and Regional Services and forwarded to Finance. The responses were included as Attachment B in Finance’s *Submission No.17*, pp. 120-122.

³ *Transcript*, p. 52.

- Since 1996-97 the only funding paid to States under the ALTD Act has been for the categories of National Highways, national arterial roads (the category used for the Roads of National Importance programme) and Black Spots. The practice employed since at least 1996-97 in making payments under the Act is to reimburse the States for expenditure incurred in carrying out an approved project plus an advance on estimated expenditure on that project to the date of the next payment. Moneys already paid to a State are not switched between categories of road.

Question

Will the Bill change the way the ALTD Act operates?

Have moneys been switched between national, arterial or local roads in the past? If so, how much and between which projects? Was this transfer ultra vires if there was not a legal underpinning for it previously? How was Parliament informed that these transfers had taken place? Have moneys been switched between states and organisations? If so, how much, and which states and organisations?⁴

Response

- The powers to transfer funds paid to a State from State arterial roads to other categories of road have not been utilised since at least 1992-93. The powers set out in sections 19, 20 and 21 relate to moneys paid to a State. It is not current practice to transfer funding between categories once money has been paid to a State.....
- It is the view of the Department of Transport and Regional Services that any exercise of these powers which has taken place was authorised by the ALTD Act and was not ultra vires.
- The Minister administering the ALTD Act is required to report to Parliament each year on the operation of the Act and reports have been tabled covering each year up to 2000-2001.
- The Department of Transport and Regional Services understands, on the advice of the Department of Finance and Administration and the Australian Government Solicitor, that the changes to the ALTD Act

⁴ *Transcript*, p 54.

proposed by the Financial Framework Legislation Amendment Bill do not alter the effect of the Act.