IF GOLD IS WHERE YOU FIND IT, WHERE DO YOU FIND ADEQUACY? : THE FORMAL ASSESSMENT OF THE ECONOMIC AND SOCIAL IMPACTS OF REGULATION AND DEREGULATION WITH SPECIAL REFERENCE TO TRANSPORT

P.J. Bannister
Senior Policy Analyst
Department of Management & Budget
Melbourne
AUSTRALIA

J.E. Hartnett
Acting Director Public Authorities
Department of Management & Budget
Melbourne
AUSTRALIA

ABSTRACT:

In 1984, the Government amended the Subordinate Legislation Act, to include the requirements for all regulations, whether new or remade after reaching their full term under previously and separately imposed "sunset" provisions, to be justified to the public or abandoned as an unjustified intrusion into the social and economic life of Victorians

A step in the making, remaking and revocation of all regulations is the publication for public comment of a Regulatory Impact Statement. Under the terms of the Act, the Director-General of the Department of Management and Budget assesses the adequacy of draft Statements prepared by regulating Departments and Authorities.

The paper discusses the use of cost/benefit analysis procedures in relation to the remaking, including some revocation, of the road user traffic, vehicle and procedure regulations for Victoria, including discussion of such topics as:

(a) The difficulties regulators have had in articulating the objectives of, the alternatives to and the estimation of the costs and benefits of the regulatory solutions that were attempted.

(b) Practical legal and political difficulties faced by such systems as those requiring public justification of regulatory change, with special reference to transport.

(c) Advice, based on our own experience, to others who are contemplating the introduction of systematic and formal assessment of the economic and social impacts of transport regulations.

(d) Theoretical issues pertinent to such an assessment process, and a discussion of when "enough is enough".

The permission of the Victorian Department of Management and Budget is gratefully acknowledged by the authors however the views expressed are their own and not necessarily those of the Department.

IF GOLD IS WHERE YOU FIND IT, WHERE DO YOU FIND ADEQUACY? -

The Formal Assessment of the Economic and Social Impacts of Regulation and Deregulation With Special Reference to Transport

P.J. Bannister and J.E. Hartnett

A. INTRODUCTION:

When, in 1984, the Victorian Government amended the Subordinate Legislation Act, it had in mind that the Government governs the better, which governs as little as it must. The law covering regulation making was altered to include the requirement for all regulations whether new or remade after reaching their full term under previously and separately imposed "sunset" provisions, to be justified to the public or abandoned as an unjustified intrusion into the social and economic life of Victorians.

A step in the making, remaking and revocation of all regulations is the publication for public comment of a Regulatory Impact Statement (RIS). Under the terms of the Act, the Victorian Department of Management and Budget (DMB) assesses, normally before publication, the adequacy of draft statements prepared by regulating Departments and Authorities. Essentially each regulation or group of regulations is required by an Act of Parliament to be assessed by a type of cost-benefit analysis.

In this paper, in accordance with Victorian usage, primary statutes or enactments of Parliament are distinguished from subordinate legislation or regulations where, under powers conferred by an Act, the Governor-in-Council makes often quite detailed elaborations of the principal Act. The regulations so made are later scrutinised by an all-party Parliamentary Committee, the Legal and Constitutional Committee, and Parliament may from time to time unmake regulations brought to its attention by the Committee.

Our paper, which discusses this particular process with special emphasis on road traffic and transport regulation, is divided into a number of sections.

The first of these considers the historical setting of regulation in Victoria and the need to reduce regulation, the desirability of reviewing regulations in a systematic manner and the specific requirements of the Subordinate Legislation Act. This is followed by a discussion of two theoretical issues namely, what is adequacy and when should the process of evaluation be broken off and, second, why, in the presentation of material in justification of a course of action, logic alone may not be enough? Practical issues, hints and tips, are covered next and a case study using portions of the recently remade Road Safety regulations presented. The paper formally concludes with a section, Advice to Others.

B HISTORICAL SETTING

B.1 The Need to Reduce Regulation in the Victorian Economy and the Subordinate Legislation Act.

Regulation of economic activity is a common feature of all advanced economies. Governments everywhere regulate private sector activity to achieve a balance between community objectives and to handle economic and social problems. At the same time, regulation should not inhibit economic and social development nor should those affected by proposed regulations be unaware of how any particular proposal may affect them.

As a policy instrument, regulation has the following advantages. It is:

- speedily introduced and useful in dealing with previously unencountered issues.
- easily targetted directly to a particular problem, and it is,
- easy to predict the direct impacts, such as in prescribing some type of behaviour, say, speeding.

Its disadvantages include a generally prescriptive nature, inflexibility, often considerable unintended consequences and high enforcement, compliance and administrative costs. It can also enshrine particular solutions to a given problem, stifling the development of new approaches.

A final defect of regulation and one important in the present discussion, is that it is often extremely difficult to comprehensively evaluate. Data which would enable its performance to be evaluated is often unavailable especially where a strict set of standards currently in force, precludes the occurrence of <u>any</u> instances of the prohibited outcome.

B.2 Reviewing Regulations in a Systematic Manner.

Among the recent changes to the regulatory environment in Victoria (including the establishment of a Cabinet Regulation Review Committee), is the enactment of legislation repealing <u>all</u> statutory rules made prior to 1 August 1962. Rules made between 1 August 1962 and 31 December 1972 will "sunset" on 31 July 1988 and those made between 1 January 1973 and 31 December 1983 on 31 July 1992. Statutory rules made after 31 December 1983 will lapse after 10 years. Indeed, it may be said that a "quiet revolution" is taking place in Victoria. Under the present arrangements the sun will literally set on some 150 sets of regulations this year unless they are remade in the next few weeks. Each changed or retained regulation must receive a cost benefit study and the results must be published for public comment.

Excerpts from the Subordinate Legislation Act itself appear as an Appendix. Its requirements which prove so hard to meet in practice are most simply expressed as including

- stating the regulation's objective
- identifying different means of achieving that objective
- assessing the financial and social costs and benefits of each alternative
- summarising the alternatives considered and giving the reasons why such alternatives are not appropriate.

Before considering the practical issues involved in evaluating regulations and the case study examples we should digress momentarily to look at two fundamental theoretical topics wherein many of the practical problems originate;the statutory requirement to examine Regulations and the determination of when the impacts have been adequately assessed.

C. THEORETICAL ISSUES

C.1 Levels of Examination of Regulations

Proposed regulations are examined in Victoria at four distinct levels and it is with the second of these that we are chiefly concerned in this paper. They are -

1. The Parliamentary Draftsman looking for legal formalities, and at things such as the enabling powers of the Act, whether the Act contains special powers which the regulations may need such as the power to levy a tax, whether the regulations duplicate the Act (which they may not) and the like.

2. **The Department of Management and Budget assessing the RIS to seek if it adequately assesses the impacts of the proposals. This is an unusual statutory requirement placed upon the Director General of DMB. Without this step satisfactorily completed, a regulation could be deemed, and some have been deemed, to be not a legal regulation.**

3. The Community during a 21 day period when public comment on the Regulation and the Statement is received.

4. The Legal and Constitutional Committee of Parliament who act as Parliament's "watchdog" against the so called "New Despotism" of undebated, hard to change or challenge subordinate legislation with the force of a statute which fills in the "detail" of primary legislation that Parliament has really only agreed in a skeleton form.

C.2 What is Adequacy?

Considering the responsibility imposed by the Act to inform the affected parties, how far should one go in the pursuit of adequacy? No generally satisfactory answer to this question is possible. However the problem arises in other spheres, practical and theoretical as well. It is quite fundamental.

Moreover, many d
Regulatory Impac
preparing the St
possible regulat
process of demon
of action to ach
experience very
remade or amende
Statements. Def

Nor is this the
situation appear
justification, f
programs, and in
proof of mathema
parallels betwee
for each.

For example, in
two activities o
however unlikely
their final and
to prove earlier
indeed were the

It seems that th
mathematics is n
administration.
list of Referenc
occurs in the fi

In any case, in
process proceeds
(provisionally h
justification) s
In the course of
argument, except
evaluation or ju
discovered, are
the original con
is continued til
found*.

Such a process m
mathematics, six
Critically appra
establish their
considering the

* Neith
from sel
the indu
for trut
case, un
adequate
Statemen

Moreover, many difficulties encountered in the assessment of Regulatory Impact Statements seem to arise from the method of preparing the Statements. The process of arriving at the best possible regulation is not in principle separate from the ideal process of demonstrating its superiority over alternative courses of action to achieve some given objective. Sadly, in our experience very few sets of regulations have been developed, remade or amended simultaneously with the production of the Statements. Defence of an established position is common.

Nor is this the only case of this type of problem. A similar situation appears to exist in other areas of economic justification, for example the cost/benefit analysis of works programs, and in even seemingly more remote areas such as in the proof of mathematical theorems. There are important theoretical parallels between all three fields and the same important lesson for each.

For example, in mathematics in the older Euclidean tradition, the two activities of guessing and proving seem separate. It is however unlikely that the theorems of geometry were proposed in their final and universal form without regard to earlier attempts to prove earlier, but perhaps slightly faulty, ancestors. How indeed were the conjectures arrived at in the first place?

It seems that the pattern of both proof and discovery in mathematics is no different to that in economics or administration. The work for example of Imre Lakatos cited in the list of References gives an excellent account of the process as it occurs in the field of proof analysis in mathematics.

In any case, in mathematics, economics, administration, the process proceeds similarly from a primitive conjecture (provisionally held) for which an argument (a potential proof or justification) seeks to demonstrate the truth of the proposition. In the course of the detailed examination of the elements of the argument, exceptions emerge which require the proof (read, evaluation or justification) to be re-examined. Exceptions, where discovered, are articulated and incorporated as conditions into the original conjecture (or regulation) improving it. This cycle is continued till most are happy that no more exceptions can be found*.

Such a process may go on for a very long time. Centuries, for mathematics, six months to a year for a large set of regulations. Critically appraising proofs of theorems for their validity or to establish their valid domain is actually very similar to considering the adequacy of an evaluation.

* Neither the deductive (Euclidean) style, where from often far from self evident axioms and definitions we proceed to proofs, nor the inductive (Statistical) style, where an hypothesis is tested for truth by experiment, will do in mathematics. In the latter case, unless one has a prior theory, one cannot observe exceptions adequately. Just so for the analysis of Regulatory Impact Statements.

We have come to realise that it is this process which we use daily to assess the adequacy of the Statements. It is rarely used by the regulators in the development of regulations or Statements initially and this leads to no end of trouble and delays in assessment. Nor, given the foregoing, should this be much of a surprise. A first shot is bound to fail (even one based on a model Statement, adequate some months earlier or from a similar sphere of activity).

The standard of adequacy rises continually, albeit at a declining rate. Statements judged adequate a few years ago, when the system began, may fail today. It is, of course, no more true of mathematical theorems that they are forever complete, than that an adequate Regulatory Impact Statement is always so. Extension is continually occurring. At any time, an argument, supported by the best available data, may be provisionally accepted as adequate - satisfactory up to a point. Nonetheless one might hope that each improvement in the acceptable standard of adequacy is simultaneously an improvement in the content not only of the Statement, but in the regulations themselves, though of course only the Statement is of direct concern to us at DMB.

C.3 Logic is Not Enough

The imposition of a requirement to publicly display all the expected effects of some particular regulation is quite a restriction. Acts of Parliament are openly debated, but the decision is finally the result of voting. Industrial agreements are negotiated, the parties variously threatening to somehow disadvantage or promising to help one another. So it is uncommon to find requirements such as those of the Subordinate Legislation Act elsewhere in the economy and in our experience extremely rare to find, first up, a complete and frank presentation from the Regulator. Sometimes the underlying "illogicality" of the proposal shows through after a few revisions, reflecting the fact that at some much earlier time an arbitrated or negotiated stable position was reached in which "logic" played only a small part. When a broad view is taken we see that in the origin of regulation itself tie fundamental impediments to the process of logical assessment.

Three forces especially impinge from outside the actual situation being regulated, in a way rarely acknowledged in Regulatory Impact Statements -

- major changes, usually sudden and unforeseen, in the course of economic events.
- the wish for an "easy life" on the part of magistrates and administrators, and
- the need to do something urgently.

Firstly, one is struck by the similarity between those changes which occurred at the time of the rise of western capitalism at the close of the Middle Ages and the situation in

the West in the l
deregulation in m
growing economic

In the 14th Centu
organised by the
following

- the en
  which
  the Ea
  import
  overla
- the gr
  cities
- the in
- the in
  capita
  to the

Well ordered trad
routes were being
able to make a pr
generally in oppo
Technical changes
much later and th
Modern Age was a
where business co
Regulation, where
could not influenc
their rise and bri

In modern times we

- trade p
  years,
- multina
  to riva
- continu
  threate
- debt co
  governm

Second, a quite se
responsibility fro
administrator to s
regulations which
speed limits rathe
accept a policeman
recklessly, fall i

the West in the late 20th Century. Pressure for general deregulation in modern times has grown concurrently with the growing economic difficulties of the advanced Western economies.

In the 14th Century, the elaborate system of economic regulation organised by the civic authorities came under similar pressure following

- the enlargement of the boundaries of the world within which trade was conducted. The discovery of a route to the East via the Cape dramatically reduced the importance of Venice as the nearest port to the overland trade route, forever.
- the growth of nationalities, where once there were just cities.
- the incidental catastrophe of the "Black Death" plague.
- the increasing use of money and especially the use of capital for productive purposes (as distinct from loans to the monarch to finance military campaigns).

Well ordered trade hindered development at a time when trade routes were being permanently altered. The adaptable only were able to make a profit and the activity of trade guilds was generally in opposition to these irresistible tendencies. Technical changes in manufacturing and agriculture only occurred much later and the major effect at the time of transition to the Modern Age was a movement of capital to less regulated places where business could be conducted on more capitalistic lines. Regulation, where successful, merely maintained the old rules. It could not influence the course of trade. Cities like Antwerp had their rise and brief flowering at this time.

In modern times we see,

- trade patterns have changed markedly in the last 20 years,
- multinational companies have arisen with influence to rival that of small nations,
- continuous, cheap fossil fuel supplies are threatened from time to time,
- debt costs have grown rapidly for many corporations and governments.

Second, a quite separate motivation for regulation is to shift responsibility from an individual public decision maker or administrator to some arbitrary rule. Accreditation schemes and regulations which permit the prosecution of people for breaking speed limits rather than stipulating that a magistrate needed to accept a policeman's testimony that the offender was driving recklessly, fall into this category.

Some cynics even go so far as to suggest that the community in certain cases, unable to do anything guaranteed to be effective in the face of an acknowledged hazard, will regulate nonetheless hoping for almost magical effects - if we regulate in such a way, this or that terrible calamity will not befall us. Measures ostensibly aimed at road toll reduction seem to belong here at times - certainly, those cases where the tendency may be undeniable but the exact impact of small variations in current practice are difficult to estimate.

To date, no completely satisfactory method of incorporating these factors into Statements is clear. In principle, of course, it should be possible to estimate the commercial or industrial relations repercussions, costs and impacts and report them in any given instance.

D. PRACTICAL ISSUES

D.1 Measurement Difficulties.

There is no unique way to tackle the question of displaying the anticipated effects of some measure or other. Obvious first steps involve listing the types of effect, counting up the affected parties and tabulating historical statistics. When it comes to estimating the impacts expected for alternative futures, commonly used methods from transportation and traffic analysis should be invoked. Some examples of approaches which could be used to estimate impacts appear below. They are not the only ones, just examples, and strange as it might seem, not used in the case study examples reported in a later section, where they may have found a place.

D.1.1. Estimation of the Impacts of Variation in Vehicle Speeds For A Typical Situation

Transport economists have long been used to estimating the difference in travel costs and accident incidence resulting from changes in vehicle speeds. Two early examples of relations used in this way in estimating metropolitan wide traffic impacts in the Melbourne Metropolitan Transportation Study of the 1960's, are shown below.

EXAMPLE 1

Vehicle Class	T F
Private Car on Private Use	
Private Car on Business Use	
Panel Vans, Utilities	
Light Trucks	
Heavy Trucks	

Another imp
construction
reduction i
has been de
million veh
expressed a

Where Y = a

X = m

EXAMPLE 2

Vehicle Class	
Private Car on Private Use	
Private Car on Business Use	
Panel Vans	
Utilities	
Light Trucks	
Heavy Trucks	

EXAMPLE 1

COST-SPEED RELATIONSHIPS

Vehicle Class	Total Unit Time Cost per Vehicle Minute (cents)	Time Cost-Speed Relationship per Vehicle Mile at Speed V m.p.h (cents)
Private Car on Private Use	1.00	..
Private Car on Business Use	3.78	$\frac{227}{V}$
Panel Vans, Utilities	2.56	$\frac{154}{V}$
Light Trucks	2.78	$\frac{167}{V}$
Heavy Trucks	3.27	$\frac{196}{V}$

Another important benefit which will flow from the construction of the freeway network is a substantial reduction in accident costs. For this analysis a function has been developed relating casualty accidents per 10 million vehicle miles to speed. This function can be expressed as:-

$$Y = \frac{210}{X^{0.4}} - 39$$

Where Y = accident rate (casualty accidents/10^7 veh-mile)

X = miles per hour

EXAMPLE 2

RUNNING COST-SPEED RELATIONSHIP

Vehicle Class	Running Cost-cents per Vehicle Mile (By Speed Ranges)			
	5 to 40 m.p.h.	40 to 60 m.p.h.	5 to 30 m.p.h.	Above 30 m.p.h.
Private Car on Private Use	$2.37 + \frac{25}{V}$	$2.72 + \frac{11}{80-V}$	..	..
Private Car on Business Use	$1.76 + \frac{25}{V}$	$2.11 + \frac{11}{80-V}$	..	..
Panel Vans Utilities	$2.53 + \frac{25}{V}$	$2.88 + \frac{11}{80-V}$	..	..
Light Trucks	..	..	$3.62 + \frac{35}{V}$	4.79
Heavy Trucks	..	..	$5.01 + \frac{40}{V}$	6.34

D.1.2. Existing Results of Relevant Modelling by Others

The National Association of Australian State Road authorities (NAASRA) had recently completed a major study of the economics of vehicle mass limits. The following table summarises their findings - estimates at a highly aggregated level.

TABLE 2 - MAJOR EFFECTS OF ALTERNATIVE VEHICLE MASS LIMIT OPTIONS FOR AUSTRALIA

COMMUNITY GROUPS AFFECTED	EFFECT	UNIT	OPTION A	OPTION B	OPTION C	OPTION D	COMMENT
Articulated truck operators	Travel cost savings	$M p.a.	114	156	170	214	(a) Cost savings relate to unrestrained budget condition (b) Effects are compared to the existing situation (c) Rural Arterial roads and outer Urban Arterial roads only (d) Travel cost savings are travel time and vehicle operating cost savings. (e) Jan 1985 prices to nearest million
Rigid truck operators	Travel cost savings	$M p.a.	53	61	64	123	
Cars and light commercial vehicle owners	Travel cost savings	$M p.a.	10	17	18	29	
All road users	Annual reduction in fatal accidents	Number	11	16	18	21	
	Value of Accident Savings	$M p.a.	8	11	12	14	
Residents and occupiers in urban areas	Reduced truck exposure	truck kms (million)	32	53	63	85	Allows for converted/generated traffic but does not allow for the effect of introducing B-Double combination vehicles
	Reduction in traffic noise	—	No significant effect for all options tested				
All community groups	To conserve fuel	$M p.a.	26	35	40	56	Resource costs saved in fuel consumption (1984/85) prices
	To improve productivity	—	Improvement	Improvement	Improvement	Significant Improvement	All Options improve interstate trade
Road transport operators, vehicle manufacturers and enforcement agencies	To improve uniformity of vehicle mass limits	—	Some Improvement	Improvement	Substantial Improvement	Substantial Improvement	Difference in axle spacing mass schedule remains between eastern and western States for all options
Local Government Authorities (LGAs)	Increase in expenditure	$M p.a.	20	33	39	56	(a) Based on limited information collected for the NAASRA Roads Study (1984) (b) 1984/85 prices
State Government Authorities (SRAs)	Increase in bridge expenditure	$M p.a.	8	13	13	29	(a) For unrestrained budget conditions (1984/85 prices) (b) Impact on Rural Arterial and outer Urban Arterial roads including National Highways (c) Majority of increased road costs would be incurred in New South Wales and Queensland
	Increase in road expenditure	$M p.a.	25	39	48	61	
	Total increase in expenditure	$M p.a.	33	52	61	90	
Economic Worth: (a) Unrestrained budget analysis Total quantified monetary benefit Total quantified costs Net present value (NPV) Benefit/cost ratio		$M $M $M B/C	2 825 270 2 555 11	3 785 490 3 295 8	4 050 560 3 490 7	5 780 815 4 965 7	(a) Resource costs and benefits are discounted at 7% over 30 years. Bridge costs are discounted over 10 years. (b) Jan. 1984 prices (c) For restrained budget total effects based on New South Wales and Western Australian analysis results
(b) Restrained budget analysis Net present value (NPV)		$M	1 740	1 600	1 260	Not assessed	

D.1.3. Educational and Publicity Material

Often such sources are overlooked as being too simple or insufficiently representative. Sometimes they contain better material than the early drafts of the submitted Statements.

In the specific instances we will shortly turn to consider, for example, the excellent Walt Disney feature length cartoon on highways and motoring, "Wheels" provides clear, easily comprehended data based on US Highway Research Board work, on such things as how many football field lengths it will take a motorist to stop safely where travelling at say 60 km/hr compared to 70 km/hr.

Similar information also appears in the RTA "Traffic Handbook" for learner drivers.

D.1.4. Calculation of Mathematical Expectations

Many of the risks which regulations are aimed at dealing with involve extremely rare events but for which quite costly consequences may be expected. In such a case, calculation of the products of probability of occurrence and estimated consequential cost may be a feasible approach. The assessment of the regulation of dangerous goods transport and the associated hazard would fall into this category, with an example of such an approach being that of Dryden and Gawecki reported as "The Transport of Hazardous Goods - An Approach to Identifying And Apportioning Costs" in the proceedings of the 1987 Australian Transport Research Forum.

D.2 Resources Needed for a Program of Assessing Statements

How long does all this take? Though some of the community's burdens are relieved, the bureaucrat's workload is increased.

The graphs and tables in the Appendix show the manner in which Statements have been received and the time, both in work hours and in elapsed time, taken to examine Statements prior to publication. The time of the regulator to prepare the RIS is not estimated but it would be much more than that of the assessors.

Typically the assessment of a Statement takes 11 hours spread over 3 months, during which time the regulator revises the Statement sometimes completely altering his approach to the assessment. The time spent by those preparing Statements is unknown however probably less than that required for the evaluation of a large transport investment, for which we normally make a "rule of thumb" allowance of 42 days spread over 6 months elapsed time.

E. CASE STUDIES OF A NUMBER OF REGULATIONS

In September 1986 a draft Regulatory Impact Statement was submitted for the remaking of the entire Victorian Road Safety code, the regulations to be made in 3 sets - Vehicles, Traffic and Procedures.

To trace the course of each evaluation here would be extremely tedious but two examples should illustrate the process. In what follows we compare only the initial and the final version.

A period of over a year separates the two versions and during that time, perhaps partly as a result of the assessment process, some small alterations were made to the regulations themselves. The majority of the new regulations re-established regulations of a similar type that had existed previously in one form or another.

Two points should be remembered. First, the Legal and Constitutional Committee is on record as having said it does not require an elaborate economic treatise just a sound logical presentation of the impact that may be expected. Second, in the iterative process by which an adequate statement is produced, guidance is offered by officers of DMB to assist Departments in the production of the various drafts as well as finally judging their adequacy.

The initial versions appear below for just two portions of the regulations, viz.

1. Speed Limits

2. Mass and Dimension Limits

E.1 First Draft Statement on Speed Limits.

The following is an extract containing the general preamble of the entire "Traffic" component and the whole of the section on Speed Limits. The Statement covering Mass and Dimension limits was submitted with a similar preamble separately. The Statements are quoted at length for completeness sake although readers will lose only the fine detail by following the paper proper in the larger type.

BANNISTER AND HARTNETT

PREAMBLE

1. OBJECTIVES

1.1 The objectives of these Regulations are to set standards and requirements for road users to follow when using the State's road system.

1.2 These Regulations are designed

a. to give clear instruction to road users on the use of the road system

b. to regulate movement on the road and therefore provide protection for road users

c. to supplement the proposed Road Safety Act 1986 and to complement the proposed Road Safety (Procedures) Regulations 1986 and the proposed Road Safety (Vehicle) Regulations 1986.

2 OUTLINE

2.1 These Regulations

a. will replace the Transport (Road Traffic) Regulations 1984 when the later Regulations are repealed by the proposed Road Safety Act 1986

b. incorporate several provisions of the Motor Car Act 1958 and the Motor Car Regulations 1984 relating to the control, regulation and operation of drivers vehicles and passengers

c. introduce some amendments which clarify or extend the existing Regulations.

2.2 Regulations amended as per 2.1 (c) are detailed in Attachment 1

3. IMPACT

3.1 The intention of these Regulations is to consolidate and where possible improve, road user observance of traffic regulations in order that safety and efficiency of the road system can be enhanced.

3.2 The Regulations will not impose any new direct or indirect costs on any individual group or organisation. However the maximum penalties for non-compliance with the Regulations have been increased by an average of 50% in accordance with the Government policy that additional revenue to meet the cost of transport accidents should be derived from sanctions against those who engage in anti-social behaviour on the roads.

SPEED LIMIT REGULATIONS

2. OBJECTIVES OF NEW REGULATIONS

The objectives of the proposed Road Safety (Traffic) Regulations are to ensure clear standards requirements and procedures for road users to follow when using the road system and to provide for a uniform, safe and efficient road traffic system.

This objective is consistent with the purpose of the Road Safety Bill as set out in paragraph (a) of Clause 1; namely, "to provide for safe, efficient and equitable road use".

3 IMPACT

The impact of each of the four groupings of regulations are discussed below. Specific comments related to the changes between the existing regulations and the proposed regulations are shown in the Attachment.

3.1 Moving Traffic

3.1.1 Objective - to ensure that road users act in the same way so that everyone knows what the others are doing.

3.1.2 Alternative - the alternative to Regulations would be a voluntary Code of Practice for using the road system. This would have no legally-enforceable status.

3.1.3 Cost/Benefits of Alternatives.

The cost of developing a Voluntary Code or Practice would be similar to the cost of producing the Regulations. The benefits to the community however would be reduced, because of the inability of a Voluntary Code to be enforced.

3.1.4 Reason for Rejection of Alternative.

The lack of punitive measures, with a Voluntary Code of Practice, would severely reduce its safety and traffic management effects. The non-compliance with such a Code by even a very small number of road users would cause severe disruption to the traffic network and, most likely, a major increase in serious accidents.

The first version was considered entirely too brief. Further, the objectives chosen, though perfectly reasonable, were so general, being nearer those of the Road Safety Act, in the case of Speed Limits, that a large number of potential alternatives was possible. However, at the time, the regulators seemed not to conceive of a world other than the one they knew so well. Note the complete lack of quantification of impacts.

E.2. First Draft Statement On Mass And Dimension Limits

3.3.1 Objectives - to regulate the size and loadings of vehicles using the State's road system in order to protect the road and bridge infrastructure and ensure the safety and convenience of all road users and to provide a datum for road designers.

3.3.2 Alternative - the only alternative to the regulations would be the publication of guidelines on mass and dimension limits for vehicles using the road system, but they would have no legally enforceable status.

3.3.3 Cost/Benefits of Alternative

Because of the inability of guidelines to be enforced the road and bridge infrastructure would be damaged, which would result in disbenefits to road users and increased community costs in maintaining the road system. Road users would also be at risk and inconvenienced by the use of unregulated over dimensional vehicles.

3.3.4 Reason for Rejection of Alternative

The lack of punitive measures would increase the risk to road users and lead to increased road system maintenance costs.

This Statement was similarly deemed not to fully reveal the impacts of the proposals and like the Speed Limit document was revised and a considerable effort produced the following final statements.

What then did we expect to find in the Statements. They should have exhibited two different types of tradeoff. The speed limit regulations seek to balance safety against economics (taking faster to be, other things being equal, more economic) whilst the mass and dimension limit regulations generally seek to balance the economics of trucking against the costs of protecting other road users, pavement and structures.

Of course, the crucial issue is not that driving slower or in smaller vehicles is safer or less economical but, for different alternative speeds and sizes, how much safer and how much more or less costly. Co-measurability is vital to the comparison and it is this comparison that impact statements should bring out.

E.3 Final Statement Speed Limits

Objectives

To require road users to comply with posted and general speed limits to facilitate enforcement of speed limits and to specify some speed limits.

Proposal

To state the current general speed limits in built-up and non built-up areas, to specify limits in local precincts and shared zones and speed zones, to specify modifications to those limits for some trucks, and to require observance of the speed limits.

Alternative

"Duty of care" requirement.

Benefits/costs of Proposal and Alternatives

The proposal allows the RTA on the advice of the Speed Limits Committee to set speed limits other than the two default limits (60 k/hr in built-up areas, and 100 k/hr in non built-up areas). The default limits operate in the absence of a posted limit.

The "Shared Zone" and "Local Traffic Precinct" are separately specified since they have unique speed limit signs associated with them.

The proposed regulations will restrict vehicles over 4.5 tonnes to a maximum of 90 k/hr, or 10 k/hr less than regulated speed limits which are below 100 k/hr except in a shared zone where all vehicles are required to observe the 10 k/hr limit.

The 90 k/hr limit on vehicles over 4.5 tonnes has just been raised from 80 k/hr (January 1987) in line with the ARAC decision to implement this limit on an Australia-wide basis. It is proposed to review the 90 k/hr limit after 12 months operation.

Statements from professional documents and findings of studies with respect to the effects of speed regulation are worth noting prior to considering the alternative. The source documents for these statements are the RTA's "A Speed Management Strategy for Victoria 1987", and the Institute of Transportation Engineers "Transportation and Traffic Engineering Handbook' 1976.

1. "Speed limits should be imposed, thus, only when they will promote better flow or increased safety If drivers do not recognise particular speed limits as being reasonable, the limits will be disrespected and ineffective." (ITE P. 853)

2. "In some cases (Route M1 in England for example) highways were or are operated with no speed limit whatever This total lack of speed control has generally proven unsafe." (ITE p.854).

3 "The consensus of traffic engineers in the United States is that motorists usually adjust their speeds according to conditions on the road and not necessarily to posted speed limits. Hence, if unreasonable low limits are posted, the limit will be violated by large numbers of drivers. This leads to disrespect of other posted limits as well " (ITE p.854).

4 "Although excessive speed has often been listed in police reports as the cause of major contributing factor in accidents the real problem is driving too fast for prevailing conditions". (ITE p. 854).

5 "Statistics have generally shown that the imposition of a speed limit in an urban area leads to a reduction in serious injury rate and in the overall accident rate on a specific highway section The most marked general effect of the imposition of speed limits in urban areas in several European countries has been a reduction in fatal accidents. The effect on slight-injury or property-damage-only accidents is much smaller." (ITE p.855)

6 "In Kent County, England, in a new study of 40 sites where the speed limit was raised from 30 mph, accidents were reduced by about 20 percent. The 85-percentile speed decreased at 20 of the 40 sites and increased at eight." (ITE p. 855). This suggests that the previous limit was considered to be too low by a large number of drivers who consequently chose to ignore it. With the new limit drivers accepted it as more appropriate and many more drove according to the limit.

7 "A study made by the Bureau of Public Roads (now Federal Highway Administration) reveals ... .. A principal conclusion is that the more a driver deviates from he average speed of traffic, the greater his chance of being involved in an accident." (ITE P.855).

8 "The Traffic Committee for American Association of State Highway Officials adopted in 1970 the following policy statement for the establishment of speed zones:

> The 85th percentile speed is to be given primary consideration in speed zones below 50 miles per hour and the 90th percentile speed is to be given primary consideration in establishing speed zones of 50 miles per hour or above. To achieve the optimum in safety, it is desirable to secure a speed distribution with a skewness index approaching unity". (ITE p. 860).

9. "In England, where in urban areas when the 30 mph limit was poorly observed, there was no significant change in accident experience when a 40 mph limit was installed." (ITE p. 855). This suggests that accidents are not speed limit related, although they may be speed related.

10. "Differential (speed) (ED.) limits by kind of vehicle The merits of differential speed limits are still debated. Proponents contend that reduced speed is desirable for larger vehicles because their operating characteristics, e.g. stopping distance, are not as good as for passenger cars. Opponents on the other hand, argue that a differential limit creates a built-in hazardous condition Such variance in speed is apparently undesirable as is evidenced by the results of the study by the Federal Highway Administration...". (ITE p 862).

11. "Crash risk is related both to 'high' speed and particularly, to speed dispersion - in other words a vehicle travelling much faster (or much slower) than the prevailing traffic stream is at elevated risk". (RTA P.2)

12. "Since most motorists control their speed in relation to the prevailing circumstances reliance on a general blanket urban speed limit and a general blanket rural speed limit must result in a high incidence of illegal behaviour." (RTA p 3).

13 'the value of strongly targetting the deviant speeder is underlined". (RTA p 6)

Given the generally accepted tenets that motorists adjust their speeds according to roadway conditions and not speed limits, and that a "tighter" speed distribution is safer than a "spread" speed distribution, then determination of speed limits should reflect this situation.

The RTA in the above quoted report propose that "The broad speed management proposed is based on the principle of greatly improving the degree of concordance between speed zoning and adaptive driver behaviour and then targetting the deviant behaviour for reduction".

DUTY OF CARE

European experience of "first time" imposition of realistic speed limits resulted in improved safety Also experience has shown that routes with no speed limit generally are (relatively) unsafe. (point 2 above).

It is understood that the West Germany a autobahn system operating without speed limits, has a significantly worse accident rate (per vehicle kilometre travelled) than equivalent freeway systems in other countries which operate with speed limits.

Deregulation would logically led to a greater variance in speeds and this has been shown to contribute to poor safety performance.

Costs The general community would incur increased costs due to poorer safety

People associated with those involved in accidents would bear increased costs.

Average vehicle operating and road maintenance costs might increase

Benefits Occupants of vehicles travelling at higher speeds may benefit from reduced travel time. This would particularly apply to business, freight and bus traffic. However, the imposition of appropriate speed limits has been shown to control speed dispersion with often little change in average speed indicating that this benefit is likely to be small.

It is not possible to accurately determine the magnitudes of these costs and benefits but the relative orders of magnitude are generally considered to favour regulation.

General Speed Limits

The 60 k/hr speed limit in built-up areas has been in force in this State since metrication. Experience has shown that many vehicles travel in excess of this speed on arterial roads with relative safety. In residential areas speeds of 60 k/hr are often considered too high for adequate safety and amenity. As a consequence of both situations both higher and lower limit zones which can be implemented administratively by the RTA as appropriate. Given this flexibility in application, and the fact that the current general limit lies about midway between the two most commonly applied alternative limits, then there is no reason to change the existing limit A marginal change to the general limit to say 65 k/hr would probably benefit users on arterial roads, but disbenefit users and residents in local areas. The equity balance and cost-effectiveness cannot be calculated.

The European experience quoted above justifies the imposition of an upper general speed limit The 100 k/hr limit has widespread acceptance as a suitable general limit. The recent introduction of 110 k/hr zones on some high standard freeways indicates that the RTA's speed limit policies are being progressively implemented. On most rural roads the road geometry and location of roadside hazards such as trees and posts indicate that 100 k/hr is a suitable general limit. The choice of the actual limit tends to be arbitrary and political

Despite considerable research on speed and safety, there is no data to indicate that marginally changed limits would be more cost-effective than the current ones.

Reasons for Rejecting Alternatives

There is substantial evidence that deregulation would lead to a lowering of safety levels with little benefit. The ease of policing deviant speeding is far greater (and the cost far less) with speed limits than with a duty of care requirement.

The existing maximum speed limits for trucks were modified in 1987 and have been subject to a separate Regulatory Impact Statement, and the changes made at that time are currently under review.

E.4 Final Statement Mass and Length Regulations

Road pavements are designed for a certain life under existing mass limits: bridge design reflects existing mass limits: the construction width of roads reflects the 2.5 metre width limit of trucks: intersections are designed to allow safe turning of vehicles of standard length, width and internal dimensions: electricity supply lines, telecom lines, tram lines and bridges have been installed with regard to the height limit of vehicles: currently existing vehicles have been built to standard dimension limits: and large articulated trucks have been designed to allow interchangeability of semi-trailers of standard dimension.

A reduction in mass limits in Division 2 (mass) would increase the cost of transport of goods where mass is a limiting factor. RoRVL estimates indicate for GVM of about 38 to 41 tonnes that the benefits in reduced road and bridge damage and reduced fuel consumption and tyre wear are outweighed by about a 10 times greater increase in the cost of transport

A reduction in dimension limits for existing vehicles in Division 3 (Dimensions) would reduce the goods able to be carried when volume, length, width, or height is the limiting factor, thereby increasing costs No benefit would be gained from existing facilities built to current limits, and gains with new installations would be minimal. For registration, new vehicles are limited to the dimensions previously approved by the Premier as part of the Road Safety (Vehicles) Regulations.

Resulting from the above arguments, where the Road Safety (Vehicles) (Consolidated) Regulations adopt a previous standard mass or dimension limit, no discussion is included justifying existing limits, and alternatives which reduce limits are covered by the paragraphs above. Increased limits are covered by the provision of division. 4.

3.2 DIVISION 2 - MASS LIMITS

3.2.1. Unchanged Motor Car Act regulations

3.2.1.1. Regulation 705 - Mass Limit on Tyre - Section (a)

3.2.1.2 Regulation 706 - Mass Limit on Single Axle - Sections (a) (b)(ii) and (b)(iii)

3.2.1.2 Regulation 707 - Mass Limit on Tandem Axle - Sections (a) (b)(ii) (b)(iii) and (b)(iv)

3.2.1.3 Regulation 708 - Mass Limits on Tri-Axle Group

3.2.1.4 Regulation 709 - Mass Limit on Twinsteer Axle

3.2.1.5. Regulation 710 - Mass Limit on Route Buses with Single Axle.

3.2.2.1 Regulation 705 - Mass Limit on Tyre - Section (b)(i)(A)

RoRVL recommended that all states adopt a gross mass limit of 3.0 tonnes on a single tyre or 3.25 tonnes on a wide profile tyre of section width greater than 375mm.

The increase in mass on a single tyre from 2.7 tonnes allows route buses to operate tyres up to 3.0 tonnes mass limit. As axle loads are not being increased, no increase in road damage will result.

The decrease in allowed mass from 3.50 tonnes to 3.35 tonnes on a wide profile tyre reflects a decrease in minimum section width from 450mm to 375mm. In practice, as almost all profile tyres are used on tri-axle groups, the change will allow the industry to achieve some cost benefit of using smaller tyres on current vehicles. Current cost for a 450mm section width tyre is about $810, and for a 375mm section width tyre about $690. For a large tri-axle semi trailer fitted with six wide single tyres, the total cost difference would be $720 for the tyres only. At current annual kilometres and for expected tyre life, this will approximate an annual cost. Industry wide savings may be up to $1 to $2 million per year.

The 'no change' alternative would be that road transport operators wishing to obtain the mass limit benefits of wide profile tyres would be required to buy tyres whose section width and strength well exceeded that required for operation at normal mass limits. Non-uniformity with other States would also lead to problems for vehicles from other states entering Victoria with wide profile tyres narrower than the sizes recognised in Victoria and cause such vehicles to be liable for mass offence penalties even though they were legal in the state of origin. This would be opposed to Objective 1.

3.2.2.2 Regulation 706 - Mass Limits on Single Axle (not a steering axle) - Section (b)(i)(A)

These provisions reflect the RoRVL recommendations and the arguments in paragraph 3.2.1 above.

3.2.2.3 Regulation 706 (b)(i)(B) and 706 (b)(i)(B) - Mass Limits on Low Pressure Large Tractor and Earthmoving Tyres.

This provision allows for a gross mass load on low pressure wide profile tyres of up to 4.5 tonnes, and a gross mass on a single axle fitted with such low pressure tyres of up to 9.0 tonnes subject to a maximum tyre pressure of 165K/pa.

Research by the Australian Road Research Board has revealed that such tyres operated at the recommended Tyre and Rim Association maximums do not more pavement damage than other legally permitted tyres. Further, in so far as bridges are concerned, 9.0 tonnes is already allowed on a single axle up to 2.5 metres wide fitted with dual narrow tyres.

An alternative of a higher limits would remove a restriction on 100-500 out of 50,000 tractors in total. As such tractors normally exceed the standard width of 2.5 metres. They are normally covered by the provisions of Division 4.

The change will allow legal operation on road without permits of those large tractors and some earthmoving equipment which do no more damage to pavements or bridges than other legal road vehicles.

The 'no change' alternative to the proposal as described would prevent the legal movement without permit of tractors and earthmoving machines fitted with large low pressure tyres.

3.2.2.4 Regulation 707 (b)(i) - Mass Limit on Tandem Axle with wide profile tyres.

This regulation reduces the limit in line with the reductions for wide profile tyres discussed in 3.2.2.1. The reduction also reflects RoRVL's finding that this configuration causes 75% more road damage than 8 tyres tandem axle groups even at 13.3 tonnes.

3.2.2.5 Regulation 711 (a) and 712 (a) - Mass Limits for Vehicles

Under the previous act, the maximum vehicle mass was inferred from the bridge loading schedule relating vehicle mass to axle spacing.

To clearly state the maximum vehicle mass, and to allow flexibility in using the bridge loading schedule, new clauses are being inserted defining the maximum vehicle mass. The mass limit itself is required to ensure that semi-trailers, which are safer and can cause less road damage than rigid truck and trailer combinations of the same mass are the preferred vehicle configuration for large trucks of standard dimensions

The 'no change' alternative would leave the mass limit inferred from the bridge schedule and not stated in a separate clause

3.2.2.6 Regulation 713 - Axle distance mass limits on vehicles

As a result of the RoRVL investigations it was decided that the bridge loading schedule for vehicles of maximum width of 2.5 metres be based on the formula (3L + 8) instead of (2L + 12), where L is the distance from the front axle to the rearmost axle. This change will benefit the waste, container and extraction industries by enabling greater loads to be carried on shorter and more manoeuvrable vehicles. Bridge protection will be maintained.

The schedule will be extended to cover vehicles of mass up to 56 tonnes so as to allow for its use with cost recovery permit vehicles and possibly B-Doubles.

The 'no change' alternative would leave the current schedule relating vehicle mass to the distance from the front most to the rear most axle at current values. For a vehicle to operate at 38 tonnes the required distance is 13 metres being 13 x 2 = 26 + 12 = 38 tonnes. The RoRVL recommendation allows vehicles whose extreme axle spacing is 10 metres to operate at 38 tonnes ie 3 x 10 = 30 + 8 = 38 tonnes

All road authorities and all States have accepted the proposed change and it is not considered to be likely to lead to any problems with bridges in Victoria. Adoption will ensure uniformity of regulations between states.

3 2 2 7 **Regulation 711 (e) - Allowable Trailer Mass**

This proposal reduces the Allowable gross mass of a trailer (not a semi-trailer) from 'the gross mass of the motor vehicle and load thereon plus 10%' to "the gross mass of motor vehicle and load thereon". This change is in line with the recommendations of RoRVL.

United States investigations of accident frequency by vehicle type for heavy vehicles has shown that truck-trailer combinations involvement in accidents is twice that of semi-trailers and four times that of rigid trucks. In addition, the relative weight of the trailer to the towing vehicle is shown to have an effect on the safety of operation of truck trailer combinations

The 'no change' alternative would maintain the current situation whereby the trailer (not a semi-trailer) can exceed the towing vehicle total mass by 10%. Given the research overseas the 'no change' proposal would maintain a situation recognised as a significant safety hazard. No other alternative to the current proposal exists in encouraging the safe use of truck trailer combinations on Victorian roads, except to reduce trailer weights further.

Truck trailer combinations need no suffer from a loss in carrying capacity, as cost recovery permits allow such vehicles to operate at slightly higher masses than those currently available under legal limits

3 2 2 8 **Regulation 819 - No more than one trailer to be attached to Motor Vehicles**

The regulation preventing the operation of B-Doubles or road train configurations specifically without a permit was approved by the Premier as part of the Road Safety (Vehicles) Regulations.Matters, to be incorporated in a permit, thereby ensuring the maintenance of road safety, and recovery of costs of road damage. However, B-Doubles are not prohibited.

3 3 2.3 **Regulation 716(2) - Dimension Limits for Articulated Trucks**

These changes are intended to allow the legal operation of long bonnetted prime mover articulated trucks, allow greater flexibility in loading articulated trucks, and better define the legal limits to the sizes of semi-trailers.

In recent times, there has been a trend towards long-bonnetted prime movers with improved ride for the driver leading to reductions in fatigue and safer operation. Due to the distance from the front of the bumper or bull bar to the back of the sleeper cabin, the length of the semi-trailer (12.5 metres) and the clearance required between the cabin and semi-trailer, such vehicles are more than 17.0 metres long. Hence it is proposed to increase the legal limit to 17.5 metres to allow legal operation of such vehicles. An alternative increase beyond 17.5 metres would result in longer semi-trailers and greater swept paths, resulting in increased safety hazards during turning and the likelihood of increased damage to traffic control devices at intersections.

The restriction in distance from the point of articulation to the centre of the rear axle group ('s' dimension) restricts the ability of operators to control the distribution of loads between the drive and rear axle groups, and can lead to loads behind the rear axle being damaged. The RoRVL report recommended that the improvements resulting from increasing the 's' dimension to 9.0 metres would offset the minor increase in safety hazards of a slightly increased swept path of the vehicle whilst turning.

The intent of current limits to semi-trailer size is not met by the present sections of the Motor Car Act. The changes define the size in a manner which is unambiguous, obvious to all manufacturers, and in line with registration standards.

The 'no change' alternative would require many long bonnetted articulated trucks to operate illegally or obtain permits, would unnecessarily restrict the internal dimensions of semi trailers, and would maintain the current imprecise description of the maximum size of a semi trailer. On uniformity, safety, and clarity of legislation grounds the no change alternative is not warranted, and would not comply with objective 1.

No other viable alternatives exist for the other proposals

Although there is quite a quantity of material presented, not all readers may feel that the best possible account of the impacts expected of the proposed regulations had yet been rendered. The revised versions were an enormous improvement, but hardly an adequate statement of expected impacts. To produce such a document is an extremely onerous requirement. The length of the statements had also increased, for the Speed Limit and Mass and Dimension Statements from 50 lines to 400 lines. The whole document was over 4cm thick. In the event, time was running short, the introduction of revised regulations having been postponed nearly a year. Prior to being put out for 21 days public comment, supplementary statements were finally prepared which sought to cover the more important unanswered questions raised by the submission.

Only after the preparation of the following supplementary material was the Director General prepared to issue the required clearance that in his view the statements adequately assessed the likely impacts of the proposed regulations. Here finally are those sections of the supplementary statements dealing with speed limits and the mass and length regulations.

E.5. Supplementary Statements

Regulation 1001 - Speed Limits

Objective:

To provide a speed limit system which achieves a reasonable balance between safety, efficiency and amenity, to require road users to comply with posted and general speed limits, to facilitate enforcement of speed limits and to specify some speed limits.

Regulatory Impact Statement:

The Impact Statement in some detail outlines the need for speed limits and the justification for 60 and 100 k/hr as the two default limits for built-up areas and non built-up areas. The basis for the existing 10 k/hr heavy vehicle speed differential is also outlined.

Comments on the Impact Statements:

A number of comments were received arguing against the continuation of the heavy vehicle speed differential. As a consequence, it is proposed to:

(i) abolish the differential for speed zones up to 90 k/hr

(ii) from 1 July 1988 abolishing the differential in zones up to 100 k/hr

The revised proposed Regulation 1001 is attached

Supplementary Information:

1. General Speed Limits (Regulation 1001 (1)):

The two major default speed limits prescribed in the current regulations are 60 k/hr in built-up areas and 100 k/hr outside built-up areas. In addition, drivers must drive according to signed speed zones which can include 40 k/hr in local traffic precincts or 10 k/hr in shared zones.

Alternatives:

The alternatives would be to increase or decrease these limits

Cost and Benefits of the Alternatives:

The benefits of increasing the limits include:

(i) raising the limit may reduce the spread of speeds A reduction in the variation of speeds has safety advantages. This has been demonstrated by an American study which showed that accident risk increases where speeds are more than 25 k/hr from the average speed.

(ii) higher speeds would reduce travel times and therefore travel and transport costs. Increasing the maximum speed of commercial vehicles by say 10 k/hr in an urban area would reduce transport costs by approximately 1% taking into account stopping times, fuel costs and loading and unloading.

(iii) there is already a substantial degree of non-compliance with speed limits and it could be said that in doing so, drivers make a judgement on what they believe appropriate speeds should be. Raising the limits would make them more compatible with existing traffic buhaviour One survey found that 70% of drivers were exceeding the posted speed limits.

The costs of increasing the limits include:

(i) higher speed would lead to an overall reduction in road safety There would be a significant increase in the severity of accidents as a small rise in speed provides a much larger increase in the energy to be absorbed. (Energy is proportional to the mass x velocity2).

Higher speeds give drivers less time to react. There is also evidence that the number of single vehicle accidents increase with speed, and this is a particularly important point on Australian roads.

(ii) high speeds are less desirable from an amenity viewpoint. In particular in residential areas many would prefer to see reduced speeds to reduce noise and intrusion and to improve safety.

(iii) a change would involve significant costs through the changing of signs and associated publicity The cost of the changeover of signs alone for an increase in one of the speed limits would probably exceed $300,000.

Information is not currently available which would allow a definitive, quantitative assessment of the overall economic benefit and costs of raising or lowering speed limits.

A major study on speed limits, "A Speed Management Strategy for Victoria, 1987", was recently carried out by the RTA in association with the Police and other interest organisations and experts. This study specifically addressed the issue of the general speed limits and concluded that, while it was not possible to quantify the overall effects of altering the general speed limits, the limits of 60 and 100 k/hr should remain. The report was of the opinion that the current limits reflected an appropriate balance and that accidents would increase if the limits increased, and transport costs would increase if the limits decreased.

Conclusion:

It is concluded that the existing limits of 60 and 100 k/hr provide an acceptable balance between safety transport costs and amenity.

2 Heavy Vehicle Speed Limits (Regulation 1001 (2)):

Victorian Regulations currently specify heavy vehicle speed limits of 10 k/hr less than the limits for other vehicles.

Alternatives:

The alternative would be to abolish this differential

Costs and Benefits of the Alternative:

The benefits of abolishing the differential are:

(i) Victoria is the only State with a general heavy vehicle speed differential and this causes confusion for interstate drivers.

(ii) Many heavy vehicle drivers do not comply with the limits and they are not seen by the community as being necessary.

A study has shown that in 60 k/hr zones the average free speed of trucks was 10 k/hr above their limit of 50 k/hr.

(iii) Abolishing the differential would reduce the spread of speeds and this would have road safety benefits.
As outlined earlier an American study has shown that accident risk is contained if vehicles travel at less than 25 k/hr from the average speed.

(iv) The heavy vehicle speed limit in 100 k/hr areas was recently raised from 80 to 90 k/hr. An analysis of this change by the Federal Office of Road Safety did not indicate that there were safety disbenefits. A further increase from 90 to 100 k/hr may lead to a similar result. Allowing heavy vehicles to travel at 110 k/hr in 110 speed zones may however have adverse safety effects. Such a move could only be contemplated after thorough evaluation An increase from 90 to 100 k/hr would allow such an evaluation to be considered.

(v) Victorian heavy vehicles are being unfairly penalised compared to other States and this leads to increased transport costs for goods in this State. A 10 k/hr difference in speeds in urban areas could reduce transport costs by say 1%.

The costs of abolishing the differential are:

(i) the severity of heavy vehicle accidents is much greater on average than those involving other vehicles and trucks require greater braking distances than cars. An increase in heavy vehicle speeds could lead to a reduction in overall safety. Given the low level of compliance with the current limits, and the factors outlined above, it is however not possible to determine the overall safety impact of abolishing the differential.

Conclusion:

It is proposed to abolish the heavy vehicle speed differential up to speed zones of 90 k/hr at the time of implementing the regulations (scheduled for 1 March 1988). As a result of an ATAC meeting on 11 December 1987, it is proposed to also abolish the differential on 100 k/hr zones from 1 July 1988. This means only 110 k/hr zones would still have a differential. This would provide consistency with measures to be introduced by other States. It is considered that this arrangement would provide a reasonable balance between safety and efficiency.

Supplementary Statements

Mass and Dimension of Vehicles

DIVISION 2 - MASS LIMITS

Regulation 705 - Mass Limit on tyre
706 - Mass Limit on single axle
707 - Mass Limit on tandem axle
708 - Mass Limit on triaxle group
709 - Mass Limit on twinsteer axle
710 - Mass Limit on Route Buses with single axles
711 - Mass Limit on Vehicle
712 - Mass Limits of motor vehicle and trailer combination
713 - Axle Distance Mass Limits on motor vehicle and trailer combinations.

Objectives:

To provide a reasonable balance between safety efficiency and limiting damage to the road network through control over mass limits.

Regulatory Impact Statements:

The Impact Statements outline the background to mass limits for vehicles. Many of the mass limits proposed are not changed from the existing standards outlined in the Motor Car Regulations.

Most of the changes which are proposed follow from the Review of Road Vehicles Limits (RoRVL) Study of 1985 which carried out an analysis of mass and dimension limits throughout Australia.

Included in the proposed changes was Regulation 711(e) which reduced the allowable mass limit of a trailer to the mass of the motor vehicle towing it. This proposal followed a RoRVL recommendation for this restriction to be applied to heavy vehicles. As a result of public comment this restriction is now proposed to be dropped for towing vehicles under 4.5 tonnes GVM.

Supplementary Information:

1. General Mass Limits

The Mass Limits for vehicles are specified in Regulations 705 to 713. Travel with heavier vehicles than the limits is permissible subject to obtaining a permit. The limits mean that a typical six axle articulated truck is able to travel at a limit of up to 38 tonnes without a permit.

Operators are able to obtain permits to travel within increased load limits providing the estimated road damage is paid for (Regulation 722). These permits allow six axle articulated trucks to operate at up to 41 tonnes. Permits for higher masses will only be granted for exceptional circumstances such as when a very heavy indivisible load needs to be transported.

Alternatives:

The alternative to these limits would be increase them. There would be little to no support to generally reduce the limits because of the cost this would cause to industry.

Cost and Benefits of the Alternative:

The benefits of increasing the limits include:

(i) higher limits than those specified in Regulations 705-13 would allow suitable vehicles to transport more goods at reduced transport costs per tonne. Depending on the circumstance an increased load of 10% would lead to a reduction in the transport costs of say 3 - 9%.

(ii) a reduction in transport costs would be readily achievable in that many vehicles are capable of transporting heavier loads and thus increased limits would allow operators to match loads more to their vehicle's capabilities.

The costs of increasing the limits include:

(i) the damage caused to roads relates closely to the mass of vehicles. Increased mass limits would reduce the life of road pavements, thereby increasing the costs of reconstruction and maintenance. The overall costs of damage from vehicles currently exceeding the mass limits is estimated at about $10 million per year.

(ii) the amount of road damage incurred increases rapidly as the mass limit increases

For example, if a six axled truck was allowed to operate at 50 tonnes, a 50% increase in load carried would cause a 100% increase in road damage per tonne-kilometre. The same increase in load for a vehicle at the 38 tonne limit would cause an increase in road damage of only 33%.

(iii) while mass limit increases would provide benefits to transport operators, it is unreasonable to expect the public to subsidise heavy transport operations by paying for the increased road damage costs./

(iv) creating further differences between States.

(v) increased damage to bridges

(vi) increased mass loadings would lead to reduced safety in that:

- the effectiveness of braking systems would be reduced.

- there would be increased stress on various vehicle components.

ASSESSMENT OF REGULATORY IMPACTS

MASS LIMIT ON VEHICLE

711. The mass limit of a vehicle is the lesser of -

(a) 38 tonnes; and

(b) any mass limit prescribed in respect of the vehicle in accordance with Regulation 713; and

( ) the sum of the mass limits on the axles or axle groups of the vehicle as calculated in accordance with Regulation 706, 707, 708, 709 or 710 as the case may be; and

(d) any gross mass limit specified in respect of the vehicle by its manufacturer and

(e) in the case of a trailer (other than a semi-trailer) being towed by a motor vehicle with a mass limit as calculated in accordance with this Regulation exceeding 4.5 tonnes - the mass of the towing vehicle.

The extent of any such safety problem is not possible to quantify.

(vii) greater wear and tear on vehicles (including tyres).

The restraints of the existing pavement and bridge system mean that it is not appropriate to make large scale modifications to the mass limits. There are widely varying estimates of the cost-effectiveness of increasing mass limits, with the estimates varying by about 20-fold. (The estimated incremental cost of road damage for an increase of 38 to 41 tonnes varies from 0.3 to 6.0 cents per equivalent standard axle (ESA).km).

Some estimate that an increase would be cost-effective and some suggest it would not. The RoRVL study estimates that for a vehicle with GVM of 38 - 41 tonnes, an increase in mass would benefit industry through reduced costs in transport, about 10 times more than the cost of road and bridge damage, etc

Conclusion:

It is considered that the proposed limits provided a reasonable balance between safety, efficiency and the damage incurred on the road system, and therefore the alternative of increased limits should be rejected. The recently introduced permit system allows vehicles to carry increased loads providing they pay for the estimated increased road damage.

2. **Limitations to the allowable mass of trailers compared to the mass of towing vehicles (Regulation 711 (e))**

The earlier draft regulations included a clause to ensure the mass of trailers did not exceed the mass of towing vehicles. This followed a RoRVL recommendation to apply this restriction to heavy vehicles to minimise bridge damage and to improve road safety.

Alternatives:

A number of organisations proposed that this restriction should not apply to vehicles under 4.5 tonne GVM. The major alternative to the draft regulation would therefore be to not include the provision for light vehicles. These light vehicles are typically used for towing caravans, boats and horse floats.

Costs and Benefits of the Alternatives:

The benefits of not including this provision for light vehicles include:

(i) accident information indicates that there are virtually no reported accidents in Victoria that are directly attributed to such trailers being overladen.

(ii) particular problems with overweight trailers can still be followed up and prosecuted using the general requirement "to be safe and to comply with stopping distance requirements".

The costs of not including regulation for light vehicles include:

(i) the provisions for cars would be different to those for trucks

(ii) a specific guide on mass control for the safe travel of trailers would no longer be retained in the Regulations.

Conclusion:

There is no evidence that this regulation is required for light vehicles to meet the safety objective and therefore the limitation should not apply to vehicles less than 4.5 tonne GVM. The revised regulation is attached.

Regulation 716 - Length Limits

Objective:

To provide a reasonable balance between the safety efficiency and limiting road damage to the Road Network through control over vehicle dimensions.

2. **Length Limits**

Regulation 716 outlines overall length limits for vehicles that may be used without a permit For example, the length limit for a truck-trailer combination is 17.5 metres.

Alternatives:

Many vehicles are already constructed to these lengths and a reduction in the limits is clearly not appropriate. An alternative would be to increase the length limit.

Costs and Benefits of the Alternative:

The benefits of increasing the lengths of vehicles include:

(i) in some cases it would allow goods to be transported at lower costs. Often however length is not an issue and it is the allowable mass that is critical.

The costs of increasing the limits include:

(i) the limits are already in place and are consistent with safe vehicle construction standards.

(ii) the limits are consistent with those from other States.

(iii) increased lengths would cause road safety and mobility difficulties based on:

- in some locations there would be inadequate road space available for longer vehicles to make turns, particularly left turns.
- longer vehicles would encroach on other vehicle space particularly when making turns
- longer vehicles take a longer time to overtake in rural areas and could therefore lead to an increase in overtaking accidents.

It is not possible to quantify these effects

(iv) the arterial road system has been designed to accommodate vehicles of about the current length limit.

B-doubles are not specifically addressed in the Regulations at this stage as a widely representative Government Working Party is currently evaluating the approach to be taken for these vehicles. It is possible to allow B-doubles to operate through the permit system, and this would enable conditions for the safe use of these vehicles (such as route selection and vehicle dimensions) to be specified.

Conclusion:

The current length limits provide a reasonable balance between safety and efficiency and the alternative of increasing the limits should be rejected.

F. ADVICE TO OTHERS

The purpose of this paper has been to describe and discuss the first hand experience of the statutory requirement to apply cost/benefit analysis to making and revoking regulations in the State of Victoria. What have we learnt and what advice can we offer to those considering or already faced with following a similar path?

F.1 Summary of Problems with Statements in General

Common problems encountered with the Statements for all types of regulations, not just those for transport include -

1. Objectives

   Unreasonable or inappropriate objectives, "not in accordance with the enabling Act," inconsistent with other regulations.

2. Alternatives

   Only perfunctory attempts to identify alternative means of achieving the objectives.

   Ignoring non-regulatory methods of meeting the objectives.

3. Costs and Benefits

   Financial, Social, Direct and Indirect, Tangible and Intangible costs and benefits to one or other of the following groups missed

   - a sector of industry or commerce (including employees and employers).
   - consumers.
   - taxpayers and members of the public generally.
   - the State and the Consolidated Fund.

   In some cases regulators were even unaware of the numbers of people that would be affected by a proposal and by how much each person would be affected.

   Ideally, the assessment of costs and benefits should be done as objectively as possible, however, some of the worst submissions have adopted an advocacy style.

4. Drawing Conclusions

   Finally some authors fail to summarise the costs and benefits presented in earlier sections. This last phase should be almost a formality in that given the chosen objective and the material presented on impacts in earlier sections, the reader should be led to the conclusion that the proposed regulation or revocation is the most appropriate thing to do.

F.2 What We Have Learnt

The following observations, based on our experience, may aid others contemplating introducing such a system or faced with the administration of a newly introduced system.

1. The best statements tend to come from people practically involved in an area - engineers, inspectors, and the like. Legal people are often ill equipped to answer such questions as - what will happen to group x if the regulation requires a,b, or c?

2. Workshop seminars held to assist the preparers of Statements have shown that most regulators are much more objective in the assessment of other people's statements than their own. They are less imbued with the conventional restraints and more inclined to develop a "next best" alternative for estimation and ultimate comparison with the preferred course of action.

3. In an area which seems to be characterised by high staff turnover, workshop seminars to help evaluators may only yield returns over a very long time. No immediate effects are apparent. Equally, officers preparing Statements after their first attempt do a better job and take less time than "first-timers".

4. The training which young economists have received assessing the impacts of regulations is extremely valuable for other analytical work within the Department of Management and Budget. Presumably similar incidental benefits have occurred in the regulating bodies.

5. Throughout the regulating organisation the process forces consideration of what precisely should be in the
   - Act
   - Regulations
   - Voluntary Codes

6. From the evidence available from Statements, very little is known about the impacts of different levels of enforcement and penalties. Regulation without adequate policing and penalties appears rather illogical.

7. The process of requiring Statements is inappropriate when time is short, although the expedient of granting a Premier's Certificate exemption for a limited period, during which the regulation temporarily applies and a Statement is prepared for ultimate publication, prior to the regulation being finally made, seems to work well.

8. Preparation of Statements for publication certainly has the scope to reveal the cost the general public ends up bearing following consultation and agreement between directly affected groups such as landlords and retail tenants, or employers and unions.

9. Allow a lot of time for the step of preparing Statements in the regulatory timetable. If a "sunset" provision is to apply, opt for some items to "sunset" each year (not in decade groups) and if possible schedule the remaking and revocation of regulations into a timetable outside the regulators' control so as to avoid a last minute "log jam".

10. Finally, if a system at all like the Victorian one is to be used, the importance of the task must be emphasised to all. It should not be seen as a formality nor an academic exercise. The Victorian solution has been to make production of adequate statements a statutory obligation - perhaps anything less than this would be inadequate.

REFERENCES

Parliament of Victoria: Subordinate Legislation Act 1962 (with amendments to 1984)

Victoria: "Leading Australia Into the Next Decade" VGPS 1987.

Victoria: "The Next Step. Economic Initiatives and Opportunities for the 1980's" VGPS 1984

The Cambridge Modern History Vol. 1

Lakatos, Imre "Proofs and Refutations - The Logic of Mathematical Discovery" CUP 1972.

Road Traffic Authority - Regulatory Impact Statements Road Safety (Traffic) and (Vehicles) (Consolidated) Regulations 22 October 1987.

Road Traffic Authority - Victorian Traffic Handbook 1985.

NAASRA - Review of Road Vehicle Limits Sydney November 1985.

Wentworth B.B. - Motor Vehicle Operating Costs in the Melbourne Area Metropolitan Transportation Committee 1969.

Negus B.J. - Relationships Of the Operating Speeds of Productive and Non Productive Vehicles to the Average Operating Speeds of All Vehicles Metropolitan Transportation Committee 1968.

Dryden P.S. and Gawecki L.J. - The Transport of Hazardous Goods - An Approach to Identifying and Apportioning Costs 12th Australian Transport Research Forum 1987, Brisbane.

Brownbill E.C. Economic Evaluation Techniques For the 1985 Transportation Plan Metropolitan Transportation Committee 1970.

Legal and Constitutional Committee of Parliament Reports 1 - 11

Report on the Subordinate Legislation (Deregulation) Bill. Legal and Constitutional Committee 1984.

APPENDIX A

SOME FACTS AND FIGURES

The following material is presented to show in quantified terms the way matters progressed. It comes from a recording system set up when the scheme began.

	Aug 85 to Dec 85	1986	Jan 87 to Nov 87
Statutory Rules Made	162	400	200
Certificates Issued by the Premier Exempting A Regulation From the Need For An RIS	10	31	14
Regulations Made With A Regulatory Impact Statement	1	20	33

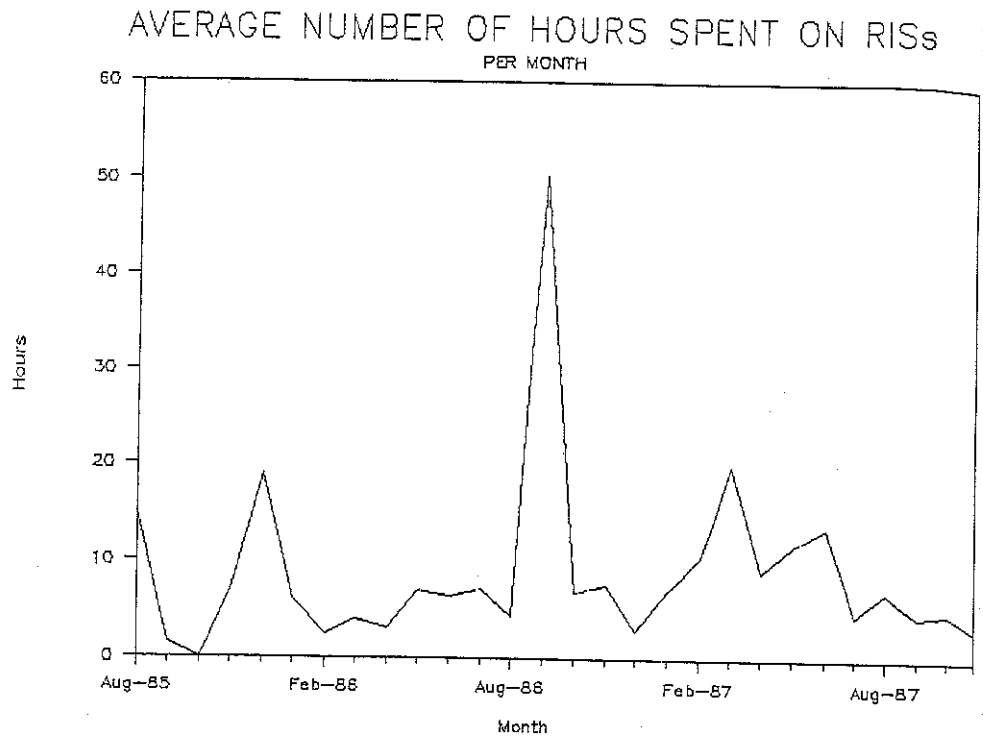
The provision of an exemption mechanism for items other than the purely machinery rules is necessary for the cases where publication of a statement would not be in the public interest and the total of regulations either so exempted or for which a statement was prepared seems to have settled at around 50 per annum.

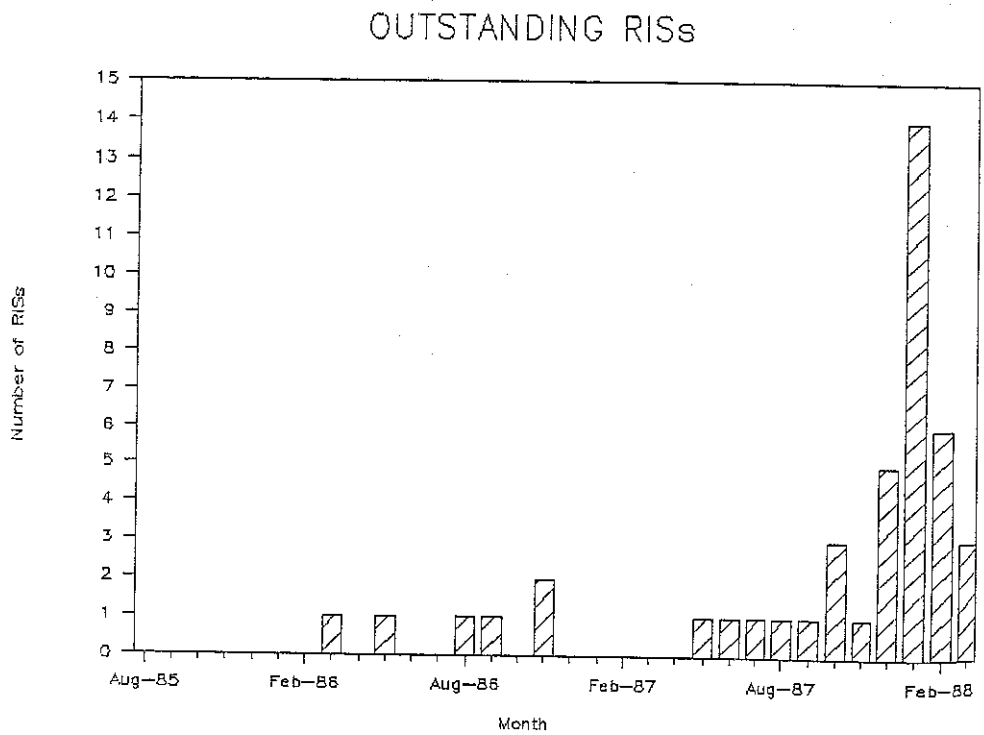
RATE OF ARRIVAL AND PROCESSING

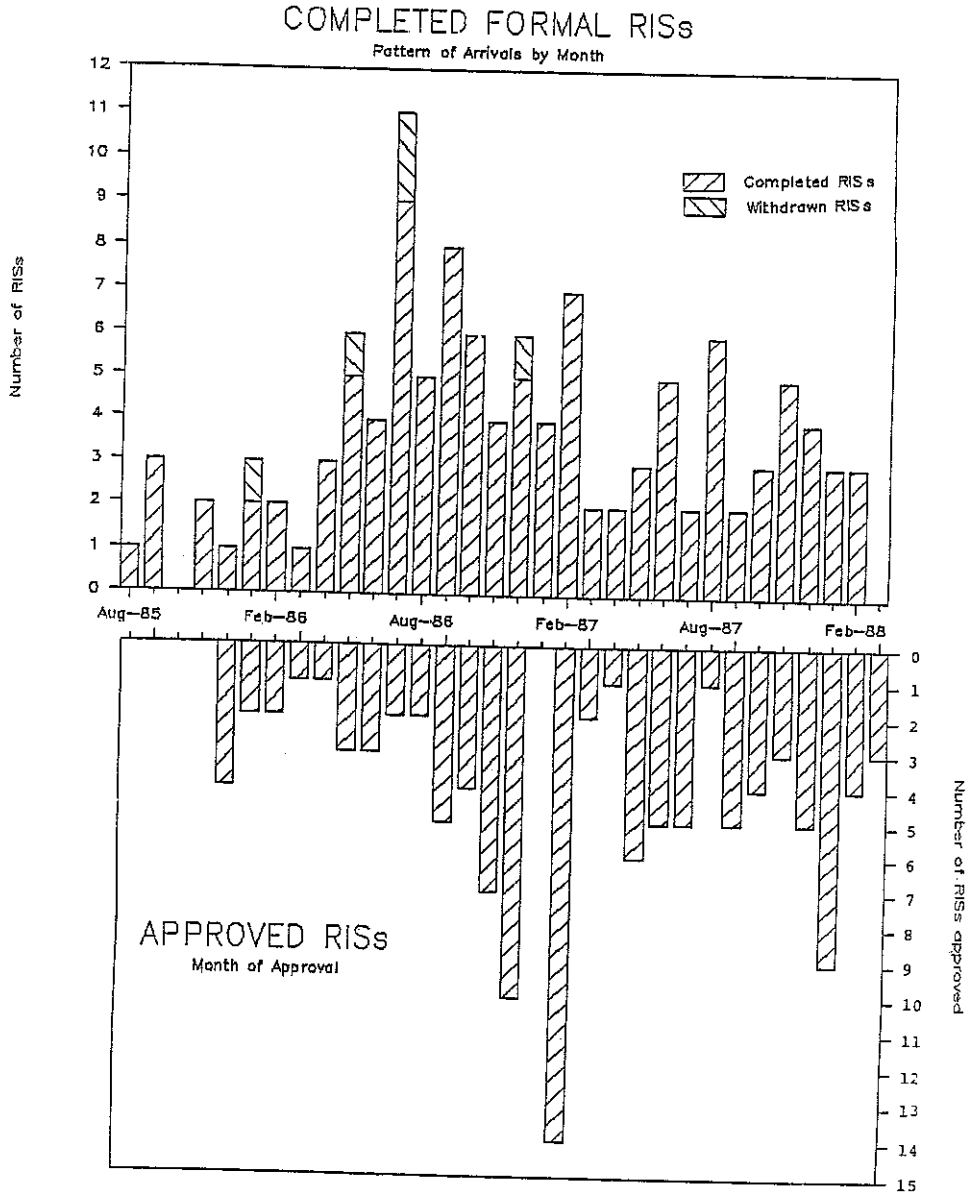
Submission are counted as "arriving" when formally received though in many cases the (preferred) practice of discussion of preliminary drafts with officers means that the statistics generally understate the elapsed time. The time estimated to be spent in evaluation however is the total time spent on drafts of the official versions (ie. one duly authorised by the Senior Executive of the Ministry or Authority concerned).

Over the period August 1985 to March 1987 the average arrival rate was 3-4 per month with a range of 0-9. At March 1987 there were 43 officially submitted Regulatory Impact Statements not yet adequate and a further 10 drafts under discussion.

Average elapsed time per statement was 97 days and an average of 11 hours was spent assessing each evaluation. The pattern over the period August 1985 to March 1987 is shown in the following graphs, where considerable monthly variations may be noted.


AVERAGE NUMBER OF HOURS SPENT ON RISs
PER MONTH
Hours
60
50
40
30
20
10
0
Aug-85
Feb-86
Aug-86
Feb-87
Aug-87
Month


OUTSTANDING RISs
Number of RISs
15
14
13
12
11
10
9
8
7
6
5
4
3
2
1
0
Aug-85
Feb-86
Aug-86
Feb-87
Aug-87
Feb-88
Month


COMPLETED FORMAL RISs
Pattern of Arrivals by Month
Number of RISs
Completed RISs
Withdrawn RISs
Aug–85
Feb–86
Aug–86
Feb–87
Aug–87
Feb–88
APPROVED RISs
Month of Approval
Number of RISs approved

EXTRACT FROM THE SUBORDINATE LEGISLATION ACT

provision in question to the notice of the public or of persons likely to be affected by it or of the person concerned.

Sunset provision for statutory rules.

S. 5A inserted by No. 10169 s. 5.*

5A. (1) Unless sooner revoked, a statutory rule—

(*a*) made prior to 1 January 1962 and referred to in the Schedule to the *Subordinate Legislation (Revocation) Act* 1984 shall by virtue of this Act be revoked on 1 July 1985;

(*b*) made on or after 1 January 1962 and prior to 1 January 1972 shall by virtue of this Act be revoked on 30 June 1988;

(*c*) made on or after 1 January 1972 and prior to 1 July 1982 shall by virtue of this Act be revoked on 30 June 1992; and

(*d*) made on or after 1 July 1982 shall by virtue of this Act be revoked on the day which is 10 years after the day which is the earliest day on which any provision of the statutory rule came into operation.

(2) For the purposes of this section a reference to a statutory rule where a statutory rule has been amended by any other statutory rule, is a reference to the statutory rule as amended from time to time and not to any of the amending statutory rules.

(3) For the purposes of determining when a statutory rule was made where the statutory rule is a statutory rule to which sub-section (1) (*b*), (1) (*c*) or (1) (*d*) applies, the statutory rule shall be deemed to have been made on the day on which the *Government Gazette* containing the notice required by section 4 (2) was published.

(4) Where a statutory rule is revoked by virtue of this section any statutory rule which amends that statutory rule and any provision in a statutory rule which is a provision that amends that statutory rule shall also be revoked.

Statutory rules to be published.

4. (1) All statutory rules made on or after the commencement of this Act shall forthwith after they are made be numbered printed and published by the Government Printer.

Ss. (2) amended by Nos 9486 s. 3 (a), 10096 s. 4 (4).

(2) A notice of the making of a statutory rule and of the place where copies of the rule can be obtained and of the date on which the rule was first obtainable from that place shall be published in the *Government Gazette* as soon as is practicable after the making of the statutory rule.

Ss. (2A) inserted by No. 10096 s. 4 (4).

(2A) The production of a copy of the *Government Gazette* purporting to contain a notice published pursuant to sub-section (2) with respect to a statutory rule shall be conclusive evidence that the statutory rule was printed and published by the Government Printer on the date

*Note: Act No. 10169 comes into operation on 1.7.85.

(3) Until the Attorney-General prepares and issues guidelines under this section, the guidelines specified in Schedule 2 shall apply.

Regulatory impact statement.

S. 12 re-numbered by No. 10169 s. 8 (1).

12. (1) Where a statutory rule is proposed to be made which is of a type or of a class in respect of which the guidelines operating under section 11 require the preparation of a regulatory impact statement the following provisions shall apply:

(*a*) A notice shall be published in the *Government Gazette* and in a daily newspaper and where appropriate any relevant trade, professional, business or public interest journal or publication—

(i) specifying the reasons for the proposed statutory rule and the objectives to be achieved;

(ii) summarizing the results of the regulatory impact statement;

(iii) advising where a copy of the regulatory impact statement may be obtained; and

(iv) inviting public comments and submissions within such time being not less than 21 days from the publication of the notice as is specified in the notice;

(*b*) The Minister administering the Act under which the statutory rule is to be made shall cause all the comments and submissions received under this section to be considered before the statutory rule is made;

(*c*) A copy of the regulatory impact statement shall be forwarded to—

(i) the Director-General of the Department of Management and Budget; and

(ii) the Legal and Constitutional Committee; and

(*d*) A copy of all the comments and submissions received under this section shall be forwarded to the Legal and Constitutional Committee.

(2) Schedule 3 has effect with respect to regulatory impact statements.

(3) It shall not be necessary to comply with sub-section (1) if—

(*a*) the Premier certifies in writing that in the Premier's opinion in the special circumstances of the particular case the public interest requires that the proposed statutory rule should be made without complying with sub-section (1); and

(*b*) a copy of the certificate is submitted with the proposed statutory rule to the Governor in Council.

* Note: Act No. 10169 comes into operation on 1.7.85.

*Note: Act No. 10169 comes into operation on 1.7.85.

(b) a copy of the certificate is submitted with the proposed statutory rule to the Governor in Council.

* Note: Act No. 10169 comes into operation on 1.7.85.

(2) A report of the Legal and Constitutional Committee under this section may contain any of the following:

(a) Such recommendations as the Legal and Constitutional Committee considers appropriate, including a recommendation that a statutory rule should be—

(i) disallowed in whole or in part; or

(ii) amended as suggested in the report;

(b) A declaration that the statutory rule should be suspended in accordance with section 6 pending consideration by Parliament.

SCHEDULE

Sch. repealed by No. 7282 s. 4 * * * * * * *

Section 11 (2) Schedule 1 inserted by No. 10169 s. 8(1)*

SCHEDULE 1
MATTERS TO BE INCLUDED IN GUIDELINES

The Guidelines prepared under section 11 shall include the following matters:

1. Guidelines as to the types of matters appropriate for inclusion in statutory rules rather than in Acts or in instruments which are not of a legislative character.

2. Procedures to be followed to ensure co-ordination and consultation between government agencies empowered to make or responsible for preparing statutory rules.

3. Procedures to be implemented to ensure that—

(a) the need for a proposed statutory rule can be justified;

(b) objectives of a proposed statutory rule are formulated and included in any proposed principal statutory rule;

(c) alternative means of achieving the objectives sought to be achieved by a proposed statutory rule such as self regulation and voluntary codes of conduct have been considered;

(d) a proposed statutory rule embodies the alternative which achieves the objectives of that statutory rule at a financial and social cost which is less than the financial and social benefits which may result from the alternative;

(e) in appropriate cases a proposed statutory rule sets performance standards rather than prescribing detailed requirements; and

(f) a detailed examination of the financial and social benefits and the financial and social costs of the proposed statutory rule is undertaken.

4. Guidelines as to the types of statutory rules in respect of which a regulatory impact statement under section 12 is to be obtained.

5. Guidelines as to the style and language to be used in drafting statutory rules.

6. Guidelines as to the printing and submission of statutory rules to the Governor in Council.

* Note: Act No. 10169 comes into operation on 1.7.85.

SCHEDULE 2
GUIDELINES
with respect to the preparation and content of
STATUTORY RULES

Section 11 (3) Schedule 2 inserted by No. 10169 s. 8(1)*

1. In these guidelines, wherever costs and benefits, advantages and disadvantages are referred to, financial and social costs and benefits, advantages and disadvantages shall be taken into account and given due consideration.

2. In these guidelines, wherever consultation is required to take place, the consultation shall take place with the public, community groups, special interest groups and business interests as may be appropriate in each case.

3. Before a statutory rule is proposed to be made:

(a) The objectives sought to be achieved and the reasons for them shall be clearly formulated and defined;

(b) Those objectives shall be checked to ensure that they:

(i) Are reasonable and appropriate;

(ii) Accord with the objectives, principles, spirit and intent of the enabling Act;

(iii) Are not inconsistent with the objectives of other legislation, statutory rules and stated government policies;

(iv) Do not involve costs or disadvantages which are greater than the benefits or advantages sought to be achieved;

(c) Alternative means of achieving those objectives (whether wholly or substantially, and whether by way of self regulation, voluntary codes of conduct or otherwise) shall be considered and an evaluation made of the benefits and advantages expected to arise from each such alternative as compared with the costs and disadvantages, both direct and indirect, tangible and intangible;

(d) Where a proposed statutory rule impinges upon or may affect the area of responsibility of another department or statutory body, consultation shall take place with a view to ensuring in advance that any differences are reconciled and that there shall be no overlapping or duplication of or conflict with legislation, statutory rules or stated government policies administered by such other department or statutory body;

(e) (i) Where a proposed statutory rule is likely to impose any appreciable burden, disadvantage or cost, whether direct or indirect, tangible and intangible upon any sector of industry or commerce or of consumers or members of the public or of the State, consultation shall take place with appropriate representatives of that sector as to the need or otherwise for and consequences of the action proposed;

(ii) The nature and extent of the consultation with any such sector, and of the publicity for the proposal, shall be commensurate with the impact likely to arise for the particular sector from implementation of the proposal;

(f) A regulatory impact statement shall be prepared under section 12, unless the proposed statutory rule relates only to matters which:

(i) Are of a fundamentally declaratory or machinery nature; or

(ii) Deal with relations, organization or procedures within or as between departments or statutory bodies; and

(iii) Impose no appreciable burden, cost or disadvantage upon any sector of the public.

4. In determining the course of action to be taken, the responsible Minister shall have regard to the following principles:

(a) Administrative decisions shall be based on adequate information and consultation concerning the need for and consequences of proposed government action;

(b) Regulatory action shall not normally be undertaken unless the potential benefits

* Note: Act No. 10169 comes into operation on 1.7.85.

SCHEDULE 3—*continued*

to the community from the proposed statutory rule outweigh the potential costs to the community;

(c) Regulatory objectives shall be chosen to maximize the net benefits to the community;

(d) Among alternative approaches to any given regulatory objective, the alternative involving the least net cost or the greatest benefit to the community shall normally be chosen; and

(e) Regulatory priorities shall be set with the aim of maximizing the aggregate net benefits to the community, taking into account the prospective effects of each proposal upon the economy and upon every sector of industry or commerce, or of consumers or members of the public or of the State which may be affected thereby.

5. A statutory rule shall:

(a) Accord with the letter and intent of the enabling Act;

(b) In the case of a principal statutory rule, clearly set out as part of its text—

(i) the objectives of the rule; and

(ii) the precise provision authorizing the rule;

(c) Be directed towards those objectives and not go beyond them;

(d) Adopt the means of achieving those objectives which appear likely to involve the least burden or the greatest advantage on the community;

(e) Wherever appropriate, set performance standards rather than prescribe detailed requirements as to the manner in which those standards shall be achieved;

(f) Be expressed plainly and unambiguously, consistently with the language of the enabling Act and in accordance with modern standards of drafting applying in the State of Victoria.

6. A statutory rule shall not:

(a) Exceed the powers conferred by the Act under which the rule purports to be made;

(b) Without clear and express authority in the enabling Act—

(i) have any retrospective effect;

(ii) impose any tax or fee, or any fine, imprisonment or other penalty;

(iii) purport to shift the onus of proof to a person accused of an offence;

(iv) provide for any further delegation of powers delegated by the Act;

(c) Be inconsistent with the principles, objectives or intent of the enabling Act;

(d) Make unusual or unexpected use of the powers conferred by the Act under which the rule is made having regard to the general objectives, intention or principles of that Act;

(e) Embody principles of major substance or controversy or contain any matter which principles or matter should properly be dealt with by an Act and not by subordinate legislation;

(f) Unduly trespass on rights and liberties of the person previously established by law;

(g) Unduly make rights and liberties of the person dependent upon administrative and not upon judicial decisions;

(h) Is inconsistent with principles of justice and fairness;

(i) Duplicate, overlap or conflict with other statutory rules or legislation.

7. Where a regulatory impact statement has been prepared under section 12 and a decision has been made that the proposed statutory rule the subject of that regulatory impact statement should be made the responsible Minister shall before the proposed statutory rule is submitted to the Governor in Council publish the decision in the *Government Gazette* and in a daily newspaper.

SCHEDULE 3—*continued*

8. Where a regulatory impact statement has been prepared under section 12 and a decision has been made that the proposed statutory rule the subject of that regulatory impact statement should not be made or that an alternative means to the making of a statutory rule should be used to carry out the objectives specified in the regulatory impact statement the responsible Minister shall as soon as possible after the decision is made publish the decision in the *Government Gazette* and in a daily newspaper.

SCHEDULE 3

Section 12 (2)
Schedule 3 inserted by No. 10169 s. 4 (1)*

PROVISIONS APPLYING TO REGULATORY IMPACT STATEMENTS

A regulatory impact statement shall include the following matters:

1. A statement of the objectives of the proposed statutory rule.

2. An identification of the different means by which the objectives of the statutory rule can be achieved.

3. An assessment of the financial and social costs and benefits of each alternative including resource allocation, administration and compliance costs and where the benefits and costs cannot be assessed solely in financial terms an outline of the social costs and benefits.

4. A summary of any alternatives to the making of a statutory rule which have been considered and of the reasons why such alternatives are not appropriate.

* Note: Act No. 10169 comes into operation on 1.7.85.

By Authority F.D. Atkinson Government Printer Melbourne