

EXPLANATORY MEMORANDUM

Minute No. _____ of 2004 - Attorney-General

Subject – *Disability Discrimination Act 1992*

Disability Discrimination Amendment Regulations 2004 (No. _____)

Subsection 132(1) of the *Disability Discrimination Act 1992* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Disability Standards for Accessible Public Transport 2002 (the Transport Standards) were formulated under section 31 of the Act and came into effect on 23 October 2003. The Transport Standards apply to operators and providers of public transport services, and set out requirements for accessibility of the premises, conveyances and infrastructure that are used to provide those services.

Subsection 55(1A) of the Act provides that the Human Rights and Equal Opportunity Commission (the Commission) may, on application, grant to persons to whom the application relates, an exemption from the operation of section 32 of the Act. Section 32 of the Act states that it is unlawful for a person to contravene a disability standard.

Subsection 55(1C) of the Act provides that if the regulations prescribe a body as a body that the Commission must consult in relation to the kinds of public transportation services or facilities that will be dealt with in an application for exemption under subsection 55(1A), the Commission must consult that body before granting an exemption.

Regulation 5 of the *Disability Discrimination Regulations 1996* (the Principal Regulations) prescribes the National Transport Secretariat (the NTS) as a body that must be consulted in relation to all kinds of public transportation services and facilities. The NTS ceased to formally exist on 8 May 2003.

The purpose of the proposed Regulations is to amend the Principal Regulations to substitute the existing reference to the NTS with reference to the Accessible Public Transport Jurisdictional Committee (the Jurisdictional Committee) as a body that the Commission must consult before granting an exemption to public transport service operators from operation of the Transport Standards.

The Jurisdictional Committee is comprised of representatives of the Commonwealth, State and Territory transport or equivalent departments. It provides a forum on accessible public transport issues being considered by the Accessible Public Transport National Advisory Committee and reports to the Standing Committee on Transport and the Australian Transport Council on jurisdictional implementation of the Transport Standards.

The Minister Assisting the Prime Minister, the Hon Gary Hardgrave MP, has agreed to the request of the Attorney-General and the Minister for Transport and Regional Services to replace the reference to the NTS in the Principal Regulations with a reference to the Jurisdictional Committee. The Chief Executive Officers of all State and Territory transport or equivalent departments have also agreed to the proposed change.

The Act specifies no conditions that need to be met before the power to make the proposed Regulations may be exercised.

The proposed Regulations would also omit the definition of ‘Australian Transport Council’ for the purposes of regulation 5. The definition is redundant, as that term is not used in the proposed regulation.

The proposed Regulations would commence on the date of their notification in the *Gazette*.

The Minute recommends that Regulations be made in the form proposed.

Authority: Subsection 132(1) of the
Disability Discrimination Act 1992