

# EXPOSURE DRAFT

2016-2017

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

## EXPOSURE DRAFT

Released by the Department of Infrastructure and Regional Development for  
consultation purposes only.

## Road Vehicle Standards Bill 2017

No. , 2017

*(Infrastructure and Regional Development)*

**A Bill for an Act to provide for the regulation of  
road vehicles and road vehicle components, to set  
national road vehicle standards, and for other  
purposes**

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1  
2 **A Bill for an Act to provide for the regulation of**  
3 **road vehicles and road vehicle components, to set**  
4 **national road vehicle standards, and for other**  
5 **purposes**

6 The Parliament of Australia enacts:

7 **Part 1—Introduction**

8 **Division 1—Preliminary**

9 **1 Short title**

10 This Act is the *Road Vehicle Standards Act 2017*.

11 **2 Commencement**

- 12 (1) Each provision of this Act specified in column 1 of the table  
13 commences, or is taken to have commenced, in accordance with  
14 column 2 of the table. Any other statement in column 2 has effect  
15 according to its terms.  
16

| <b>Commencement information</b>  |   |                     |
|--|---|---------------------|
| <b>Column 1</b>  | <b>Column 2</b>   | <b>Column 3</b>     |
| <b>Provisions</b>  | <b>Commencement</b>   | <b>Date/Details</b> |
| 1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table | The day after this Act receives the Royal Assent.   |                     |
| 2. Sections 3 to 14  | The day after this Act receives the Royal Assent.   |                     |
| 3. Sections 15 to 18   | The day after the end of the period of 12 months beginning on the day this Act receives the Royal Assent. |                     |

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## Part 1 Introduction

### Division 1 Preliminary

#### Section 2

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| <b>Commencement information</b> |   |                     |
|---------------------------------|---|---------------------|
| <b>Column 1</b>                 | <b>Column 2</b>   | <b>Column 3</b>     |
| <b>Provisions</b>               | <b>Commencement</b>   | <b>Date/Details</b> |
| 4. Sections 19 to 21            | The day after this Act receives the Royal Assent.   |                     |
| 5. Section 22                   | The day after the end of the period of 12 months beginning on the day this Act receives the Royal Assent. |                     |
| 6. Section 23                   | The day after this Act receives the Royal Assent.   |                     |
| 7. Section 24                   | The day after the end of the period of 12 months beginning on the day this Act receives the Royal Assent. |                     |
| 8. Section 25                   | The day after this Act receives the Royal Assent.   |                     |
| 9. Section 26                   | The day after the end of the period of 12 months beginning on the day this Act receives the Royal Assent. |                     |
| 10. Sections 27 and 28          | The day after this Act receives the Royal Assent.   |                     |
| 11. Section 29                  | The day after the end of the period of 12 months beginning on the day this Act receives the Royal Assent. |                     |
| 12. Sections 30 to 37           | The day after this Act receives the Royal Assent.   |                     |
| 13. Sections 38 to 47           | The day after the end of the period of 12 months beginning on the day this Act receives the Royal Assent. |                     |
| 14. Sections 48 to 74           | The day after this Act receives the Royal Assent.   |                     |
| 15. Sections 75 to 78           | The day after the end of the period of 12 months beginning on the day this Act receives the Royal Assent. |                     |
| 16. Sections 79 to 82           | The day after this Act receives the Royal Assent.   |                     |

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Introduction **Part 1**  
Preliminary **Division 1**

## Section 2

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- 1                                 Note:         This table relates only to the provisions of this Act as originally  
2   enacted. It will not be amended to deal with any later amendments of  
3   this Act.
- 4                                 (2) Any information in column 3 of the table is not part of this Act.  
5   Information may be inserted in this column, or information in it  
6   may be edited, in any published version of this Act.

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## Part 1 Introduction

### Division 2 Objects of this Act

#### Section 3

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1 **Division 2—Objects of this Act**

2 **3 Objects of this Act**

3 (1) The objects of this Act are:

4 (a) to set nationally consistent performance based standards that  
5 road vehicles must comply with before being provided in  
6 Australia; and

7 (b) to provide consumers in Australia with a choice of road  
8 vehicles that:

9 (i) meet safety and environmental expectations of the  
10 community; and

11 (ii) use energy conservation technology and anti-theft  
12 technology; and

13 (iii) are able to make use of technological advancements;  
14 and

15 (c) to give effect to Australia's international obligations to  
16 harmonise road vehicle standards.

17 (2) This Act aims to achieve its objects by:

18 (a) empowering the Minister to determine national road vehicle  
19 standards for road vehicles and road vehicle components; and

20 (b) prohibiting the importation into Australia of road vehicles  
21 that do not comply with national road vehicle standards  
22 (except in limited circumstances); and

23 (c) establishing a Register of Approved Vehicles, on which road  
24 vehicles must be entered before they are introduced onto the  
25 Australian market; and

26 (d) establishing a framework for recalling road vehicles and  
27 approved road vehicle components that are unsafe or do not  
28 comply with national road vehicle standards.

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1 **Division 3—Simplified outline of this Act**

2 **4 Simplified outline of this Act**

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This Act regulates the importation and provision of road vehicles.  
It also regulates the provision of certain road vehicle components.

Road vehicles and certain road vehicle components must comply  
with national road vehicle standards set by the Minister, except in  
limited circumstances.

An approval is required to import a road vehicle into Australia and,  
generally, vehicles must be entered on the Register of Approved  
Vehicles before being provided for the first time in Australia.

If a recall notice is issued to a person in relation to road vehicles or  
approved road vehicle components, due to concerns about safety or  
non-compliance with national road vehicle standards, the person  
must comply with the notice.

To ensure compliance with this Act, the Department has a range of  
enforcement powers to ensure the most proportionate and effective  
regulatory response.

This Act also provides for the rules to set out matters to support the  
regulatory framework of this Act.

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Part 1 Introduction

Division 4 Definitions

Section 5

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1 **Division 4—Definitions**

2 **5 Definitions**

3 (1) In this Act:

4 ***1958 Agreement*** means the Agreement concerning the Adoption of  
5 Uniform Technical Prescriptions for Wheeled Vehicles, Equipment  
6 and Parts which can be Fitted and/or be Used on Wheeled Vehicles  
7 and the Conditions for Reciprocal Recognition of Approvals  
8 Granted on the Basis of these Prescriptions done at Geneva on  
9 20 March 1958, as amended and in force for Australia from time to  
10 time.

11 Note: The Agreement is in Australian Treaty Series 2000 No. 11 ([2000]  
12 ATS 11) and could in 2017 be viewed in the Australian Treaties  
13 Library on the AustLII website (<http://www.austlii.edu.au>).

14 ***1998 Agreement*** means the Agreement concerning the  
15 Establishing of Global Technical Regulations for Wheeled  
16 Vehicles, Equipment and Parts which can be Fitted and/or be Used  
17 on Wheeled Vehicles done at Geneva on 25 June 1998, as amended  
18 and in force for Australia from time to time.

19 Note: The Agreement is in Australian Treaty Series 2008 No. 7 ([2008] ATS  
20 7) and could in 2017 be viewed in the Australian Treaties Library on  
21 the AustLII website (<http://www.austlii.edu.au>).

22 ***approved road vehicle component*** means a road vehicle  
23 component to which a road vehicle component type approval  
24 applies.

25 ***Australia*** does not include any external Territory.

26 ***Australian Consumer Law*** means Schedule 2 to the *Competition*  
27 *and Consumer Act 2010* as applied under Subdivision A of  
28 Division 2 of Part XI of that Act.

29 ***civil penalty provision*** has the same meaning as in the Regulatory  
30 Powers Act.

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- 1                    **Commonwealth place** has the same meaning as in the  
2                    *Commonwealth Places (Application of Laws) Act 1970*.
- 3                    **constitutional corporation** means a corporation to which  
4                    paragraph 51(xx) of the Constitution applies.
- 5                    **cost-recovery charge** means:
- 6                    (a) a fee prescribed by rules made for the purposes of section 66  
7                    for a fee-bearing activity; or
- 8                    (b) a charge imposed by:
- 9                    (i) the *Road Vehicle Standards Charges (Imposition—*  
10                    *Customs) Act 2017*; or
- 11                    (ii) the *Road Vehicle Standards Charges (Imposition—*  
12                    *Excise) Act 2017*; or
- 13                    (iii) the *Road Vehicle Standards Charges (Imposition—*  
14                    *General) Act 2017*; or
- 15                    (c) a late payment fee relating to a fee or charge described in  
16                    paragraph (a) or (b).
- 17                    **disclosure notice**: see subsection 41(2).
- 18                    **engage in conduct** means:
- 19                    (a) do an act; or
- 20                    (b) omit to perform an act.
- 21                    **entry pathway**: see subsection 15(2).
- 22                    **executive officer** of a body corporate means a person (whether or  
23                    not a director of the body) who is concerned in, or takes part in, the  
24                    management of the body.
- 25                    **Federal Circuit Court** means the Federal Circuit Court of  
26                    Australia.
- 27                    **Federal Court** means the Federal Court of Australia.
- 28                    **fee-bearing activities**: see section 66.

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## Part 1 Introduction

### Division 4 Definitions

#### Section 5

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1            ***import***, in relation to a road vehicle, means do an act which  
2            constitutes importation of the vehicle for the purposes of the  
3            *Customs Act 1901*.

4            ***import approval*** means:

- 5            (a) a RAV entry import approval; or  
6            (b) a non-RAV entry import approval; or  
7            (c) any other import approval granted under the rules.

8            ***inspector*** means a person appointed as an inspector under  
9            section 49.

10           ***late payment fee***: see section 68.

11           ***listed corporation*** has the meaning given by section 9 of the  
12           *Corporations Act 2001*.

13           ***manufacture***, in relation to a road vehicle, includes modify the  
14           vehicle and assemble the vehicle.

15           ***motor vehicle*** means a vehicle that uses, or is designed to use:

- 16           (a) volatile spirit, gas, oil, electricity or any other power (other  
17           than human or animal power) as the principal means of  
18           propulsion; or  
19           (b) more than one of the powers mentioned in paragraph (a)  
20           (other than human or animal power) as a means of  
21           propulsion;

22           but does not include a vehicle used exclusively on a railway or  
23           tramway.

24           ***national road vehicle standard***: see section 12.

25           ***non-RAV entry import approval*** means a non-RAV entry import  
26           approval granted under the rules.

27           ***permitted to import***, in relation to a road vehicle: see  
28           subsection 22(2).

29           ***personal information*** has the same meaning as in the *Privacy Act*  
30           *1988*.



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- 1            ***premises*** has the same meaning as in the Regulatory Powers Act.
- 2            ***provide***, in relation to a road vehicle, includes the meaning given  
3            by subsection (2).
- 4            ***public road*** means a road open to the public for the passage of  
5            vehicles, excluding:  
6            (a) a footpath or bicycle path; and  
7            (b) a bikeway, also known as a bike or cycle lane.
- 8            ***RAV***: see ***Register of Approved Vehicles***.
- 9            ***RAV entry import approval*** means a RAV entry import approval  
10           granted under the rules.
- 11           ***recall notice*** means a recall notice issued under the rules.
- 12           ***Register of Approved Vehicles*** or ***RAV***: see subsection 14(1).
- 13           ***Regulatory Powers Act*** means the *Regulatory Powers (Standard*  
14           *Provisions) Act 2014*.
- 15           ***relevant court*** means:  
16           (a) the Federal Court; or  
17           (b) the Federal Circuit Court; or  
18           (c) a court of a State or Territory that has jurisdiction in relation  
19           to matters arising under this Act.
- 20           ***road vehicle***: see section 6.
- 21           ***road vehicle component***: see section 7.
- 22           ***road vehicle component type approval*** means a road vehicle  
23           component type approval granted under the rules.
- 24           ***road vehicle type approval*** means a road vehicle type approval  
25           granted under the rules.
- 26           ***rules*** means the rules made under section 82.
- 27           ***Secretary*** means the Secretary of the Department.

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**Part 1** Introduction  
**Division 4** Definitions

Section 6

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- 1                    **SEVs Register**: see *Specialist and Enthusiast Vehicles Register*.
- 2                    **Specialist and Enthusiast Vehicles Register** or **SEVs Register**: see
- 3                    section 20.
- 4                    **supply**:
- 5                    (a) when used as a verb, includes supply (including re-supply)
- 6                    by way of sale, exchange, lease, hire or hire-purchase; and
- 7                    (b) when used as a noun, has a corresponding meaning;
- 8                    and **supplied** and **supplier** have corresponding meanings.
- 9                    Note:        For Part 3, the meaning of **supply** is also affected by section 45.
- 10                  **this Act** includes:
- 11                  (a) the rules and any instruments made under the rules; and
- 12                  (b) other instruments made under this Act; and
- 13                  (c) the Regulatory Powers Act as it applies in relation to this
- 14                  Act.
- 15                  **trade or commerce** means:
- 16                  (a) trade or commerce within Australia; or
- 17                  (b) trade or commerce between Australia and places outside
- 18                  Australia;
- 19                  and includes any business or professional activity (whether or not
- 20                  carried on for profit).
- 21                  **Extended meaning of provide**
- 22                  (2) A reference in this Act to a person **providing** a road vehicle
- 23                  includes a reference to:
- 24                  (a) the provision of the vehicle due to a sale, exchange, gift,
- 25                  lease, loan, hire or hire-purchase; or
- 26                  (b) the provision of access to the vehicle.

27                  **6 Meaning of road vehicle**

- 28                  (1) A **road vehicle** means any of the following:
- 29                  (a) a motor vehicle designed solely or principally for use in
- 30                  transport on public roads;

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- 1 (b) a trailer or other vehicle (including equipment or machinery  
2 equipped with wheels) designed to be towed on a public road  
3 by a motor vehicle covered by paragraph (a);  
4 (c) a vehicle that is within a class determined in an instrument  
5 under paragraph (5)(a) and not determined in an instrument  
6 under paragraph (6)(b);  
7 (d) a vehicle determined in an instrument under paragraph (6)(a);  
8 (e) a partly completed or unassembled vehicle that would  
9 otherwise be covered by any of the above paragraphs.

10 (2) If:

- 11 (a) a person holds a road vehicle type approval for a vehicle of a  
12 particular type; and  
13 (b) that type of vehicle is not a road vehicle covered by  
14 subsection (1); and  
15 (c) the person enters, or authorises the entry of, a vehicle of that  
16 type on the RAV in accordance with this Act;

17 the vehicle becomes a **road vehicle** at the time the vehicle is  
18 entered on the RAV.

19 (3) For the purposes of paragraphs (1)(a) and (b), in determining  
20 whether a motor vehicle is designed solely or principally for use in  
21 transport on public roads, regard is to be had only to the physical  
22 and operational features of the motor vehicle.

23 (4) However, a vehicle is not a **road vehicle** if:

- 24 (a) the vehicle is within a class determined in an instrument  
25 under paragraph (5)(b) and not determined in an instrument  
26 under paragraph (6)(a); or  
27 (b) the vehicle is specified in an instrument under  
28 paragraph (6)(b).

29 *Determination of classes of vehicles*

30 (5) The Secretary may, by legislative instrument:

- 31 (a) determine classes of vehicles that are **road vehicles**; or  
32 (b) determine classes of vehicles that are not **road vehicles**.

# EXPOSURE DRAFT

**Part 1** Introduction  
**Division 4** Definitions

Section 7

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*Determination of specified vehicles*

- 1
- 2 (6) The Secretary may, by notifiable instrument:
- 3 (a) determine that a specified vehicle is a **road vehicle**; or
- 4 (b) determine that a specified vehicle is not a **road vehicle**.
- 5 (7) The power to make a notifiable instrument under subsection (6) is
- 6 not limited by a legislative instrument made under subsection (5).

7 *Incorporation of other instruments*

- 8 (8) An instrument under subsection (5) or (6) may make provision in
- 9 relation to a matter by applying, adopting or incorporating, with or
- 10 without modification, any matter contained in an instrument or
- 11 other writing:
- 12 (a) as in force or existing at a particular time; or
- 13 (b) as in force or existing from time to time.
- 14 (9) Subsection (8) has effect despite subsection 14(2) of the
- 15 *Legislation Act 2003*.

16 **7 Meaning of road vehicle component**

- 17 (1) A **road vehicle component** means any of the following:
- 18 (a) a component to be used in the manufacture of a road vehicle,
- 19 including an assembly;
- 20 (b) a component that is within a class determined in an
- 21 instrument under paragraph (3)(a) and not determined in an
- 22 instrument under paragraph (4)(b);
- 23 (c) a component determined in an instrument under
- 24 paragraph (4)(a).
- 25 (2) However, a component is not a **road vehicle component** if:
- 26 (a) the component is within a class determined in an instrument
- 27 under paragraph (3)(b) and not determined in an instrument
- 28 under paragraph (4)(a); or
- 29 (b) the component is specified in an instrument under
- 30 paragraph (4)(b).

# EXPOSURE DRAFT

1                                    *Determination of classes of components*

- 2                    (3) The Secretary may, by legislative instrument:  
3                            (a) determine classes of components that are ***road vehicle***  
4    ***components***; or  
5                            (b) determine classes of components that are not ***road vehicle***  
6    ***components***.

7                                    *Determination of specified components*

- 8                    (4) The Secretary may, by notifiable instrument:  
9                            (a) determine that a specified component is a ***road vehicle***  
10    ***component***; or  
11                            (b) determine that a specified component is not a ***road vehicle***  
12    ***component***.
- 13                    (5) The power to make a notifiable instrument under subsection (4) is  
14    not limited by a legislative instrument made under subsection (3).

15                                    *Incorporation of other instruments*

- 16                    (6) An instrument under subsection (3) or (4) may make provision in  
17    relation to a matter by applying, adopting or incorporating, with or  
18    without modification, any matter contained in an instrument or  
19    other writing:  
20    (a) as in force or existing at a particular time; or  
21    (b) as in force or existing from time to time.
- 22                    (7) Subsection (6) has effect despite subsection 14(2) of the  
23    *Legislation Act 2003*.

# EXPOSURE DRAFT

Part 1 Introduction

Division 5 Miscellaneous

Section 8

---

1     **Division 5—Miscellaneous**

2     **8 Act to bind Crown**

3                     This Act binds the Crown in each of its capacities.

4     **9 Crown not liable to prosecution**

5                     This Act does not make the Crown liable to be prosecuted for an  
6                     offence.

7                     Note:        See also section 54 for the liability of the Crown to a pecuniary  
8                     penalty for the breach of a civil penalty provision, and section 55 for  
9                     the liability of the Crown to be given an infringement notice.

10    **10 Extraterritorial application**

11                    This Act extends to acts, omissions, matters and things outside  
12                    Australia.

# EXPOSURE DRAFT

Regulation of road vehicles and road vehicle components **Part 2**  
Simplified outline of this Part **Division 1**

Section 11

---

1 **Part 2—Regulation of road vehicles and road**  
2 **vehicle components**

3 **Division 1—Simplified outline of this Part**

4 **11 Simplified outline of this Part**

5 This Part provides for the regulation of road vehicles and road  
6 vehicle components by:

- 7 (a) allowing the Minister to determine national road vehicle  
8 standards; and  
9 (b) establishing the Register of Approved Vehicles (the  
10 RAV), on which road vehicles must generally be entered  
11 before being provided for the first time in Australia; and  
12 (c) establishing the Register of Specialist and Enthusiast  
13 Vehicles, on which road vehicles may be entered to  
14 facilitate their importation into Australia; and  
15 (d) creating offences and civil penalty provisions that apply  
16 if road vehicles are imported without relevant approvals  
17 or are provided to consumers without being on the RAV;  
18 and  
19 (e) allowing the rules to set out matters to support the  
20 regulatory framework; and  
21 (f) dealing with other miscellaneous matters.

# EXPOSURE DRAFT

Part 2 Regulation of road vehicles and road vehicle components

Division 2 National road vehicle standards

Section 12

---

1 **Division 2—National road vehicle standards**

2 **12 Minister may determine national road vehicle standards**

- 3 (1) The Minister may, by legislative instrument, determine standards  
4 for road vehicles or road vehicle components that are designed to  
5 do any or all of the following:  
6 (a) make road vehicles safe to use;  
7 (b) control the emission of gas, particles or noise from road  
8 vehicles;  
9 (c) secure road vehicles against theft;  
10 (d) provide for security marking of road vehicles;  
11 (e) promote the saving of energy.

12 These standards are the *national road vehicle standards*.

13 *Incorporation of other instruments*

- 14 (2) National road vehicle standards may make provision in relation to  
15 a matter by applying, adopting or incorporating, with or without  
16 modification, any matter contained in an instrument or other  
17 writing:  
18 (a) as in force or existing at a particular time; or  
19 (b) as in force or existing from time to time.
- 20 (3) Without limiting subsection (2), national road vehicle standards  
21 may make provision in relation to a matter by applying, adopting  
22 or incorporating any matter contained in the 1958 Agreement or  
23 1998 Agreement.
- 24 (4) Subsection (2) has effect despite subsection 14(2) of the  
25 *Legislation Act 2003*.

26 **13 Rules**

- 27 (1) The rules must provide for or in relation to the testing and  
28 inspecting of road vehicles and road vehicle components for  
29 compliance with national road vehicle standards.



# EXPOSURE DRAFT

Regulation of road vehicles and road vehicle components **Part 2**  
National road vehicle standards **Division 2**

## Section 13

---

- 1 (2) The rules may provide for or in relation to the issuing of advisory  
2 notices advising that a specified thing is not a road vehicle.

# EXPOSURE DRAFT

Part 2 Regulation of road vehicles and road vehicle components

Division 3 The Register of Approved Vehicles

Section 14

---

1 **Division 3—The Register of Approved Vehicles**

2 **14 Register of Approved Vehicles**

- 3 (1) The Secretary must ensure that a register, to be known as the  
4 Register of Approved Vehicles (the **RAV**), is kept.
- 5 (2) The RAV is to be maintained by electronic means.
- 6 (3) The RAV may be maintained as part of, or together with, another  
7 register or database relating to road vehicles.

8 **15 Entering vehicles on RAV**

- 9 (1) A vehicle may be entered on the RAV if the vehicle satisfies the  
10 requirements of an entry pathway.
- 11 Note: Under the rules, a vehicle may only be entered on the RAV by certain  
12 persons.
- 13 (2) Each of the following is an *entry pathway*:  
14 (a) the type approval pathway;  
15 (b) the concessional RAV entry approval pathway;  
16 (c) any other pathway set out in the rules.
- 17 Note: The rules set out the requirements of each entry pathway.

18 **16 Entry of non-compliant vehicles on RAV**

- 19 (1) A person contravenes this subsection if:  
20 (a) the person enters a vehicle on the RAV; and  
21 (b) the vehicle does not satisfy the requirements of an entry  
22 pathway.
- 23 (2) A person contravenes this subsection if:  
24 (a) the person is the holder of a road vehicle type approval; and  
25 (b) the person authorises another person, in writing, to enter a  
26 vehicle on the RAV; and

# EXPOSURE DRAFT

Regulation of road vehicles and road vehicle components **Part 2**  
The Register of Approved Vehicles **Division 3**

## Section 16

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- 1 (c) the other person purports to enter the vehicle on the RAV;  
2 and  
3 (d) the vehicle does not satisfy the requirements of an entry  
4 pathway.
- 5 (3) Subsections (1) and (2) do not apply if:  
6 (a) a road vehicle component was used in accordance with the  
7 national road vehicle standards in the manufacture of the  
8 vehicle; and  
9 (b) the road vehicle component was represented by the supplier  
10 to be an approved road vehicle component; and  
11 (c) the road vehicle component did not comply with the relevant  
12 national road vehicle standards, as in force at the time the  
13 road vehicle component was acquired by the person; and  
14 (d) there is no other reason why the vehicle does not satisfy the  
15 requirements of the relevant entry pathway.

16 Note: A person who wishes to rely on this subsection bears an evidential  
17 burden in relation to the matters in this subsection (see  
18 subsection 13.3(3) of the *Criminal Code* and section 96 of the  
19 Regulatory Powers Act).

### 20 *Offence*

- 21 (4) A person commits an offence if the person contravenes  
22 subsection (1) or (2).

23 Penalty: 120 penalty units.

- 24 (5) Section 15.4 of the *Criminal Code* (extended geographical  
25 jurisdiction—category D) applies to an offence against  
26 subsection (4).

### 27 *Civil penalty provision*

- 28 (6) A person is liable to a civil penalty if the person contravenes  
29 subsection (1) or (2).

30 Civil penalty: 120 penalty units.

# EXPOSURE DRAFT

Part 2 Regulation of road vehicles and road vehicle components

Division 3 The Register of Approved Vehicles

Section 17

---

1 **17 Information entered on RAV dishonestly or improperly**

2 *Offences*

- 3 (1) A person commits an offence if:
- 4 (a) the person enters information on the RAV; and
- 5 (b) the information relates, or purportedly relates, to a vehicle;
- 6 and
- 7 (c) the person knows that:
- 8 (i) the person is not authorised under the rules to enter the
- 9 information on the RAV; or
- 10 (ii) the vehicle does not exist; or
- 11 (iii) the information is incorrect.

12 Penalty: 120 penalty units.

- 13 (2) A person commits an offence if:
- 14 (a) the person is the holder of a road vehicle type approval (the
- 15 *approval holder*); and
- 16 (b) the person authorises another person, in writing, to enter
- 17 information on the RAV; and
- 18 (c) the other person enters information on the RAV; and
- 19 (d) the information relates, or purportedly relates, to a vehicle;
- 20 and
- 21 (e) the approval holder knows that:
- 22 (i) the vehicle does not exist; or
- 23 (ii) the information is incorrect.

24 Penalty: 120 penalty units.

- 25 (3) Section 15.4 of the *Criminal Code* (extended geographical
- 26 jurisdiction—category D) applies to an offence against
- 27 subsections (1) and (2).

28 *Civil penalty provisions*

- 29 (4) A person contravenes this subsection if:
- 30 (a) the person enters information on the RAV; and

# EXPOSURE DRAFT

Regulation of road vehicles and road vehicle components **Part 2**  
The Register of Approved Vehicles **Division 3**

Section 18

---

- 1 (b) the information relates, or purportedly relates, to a vehicle;  
2 and  
3 (c) either:  
4 (i) the person is not authorised under the rules to enter the  
5 information on the RAV; or  
6 (ii) the vehicle does not exist.

7 Civil penalty: 120 penalty units.

- 8 (5) A person contravenes this subsection if:  
9 (a) the person is the holder of a road vehicle type approval; and  
10 (b) the person authorises another person, in writing, to enter  
11 information on the RAV; and  
12 (c) the other person enters information on the RAV; and  
13 (d) the information relates, or purportedly relates, to a vehicle;  
14 and  
15 (e) the vehicle does not exist.

16 Civil penalty: 120 penalty units.

## 17 **18 Incorrect information entered on RAV**

- 18 (1) A person contravenes this subsection if:  
19 (a) the person enters information on the RAV; and  
20 (b) the information relates, or purportedly relates, to a vehicle;  
21 and  
22 (c) the information is incorrect.
- 23 (2) A person contravenes this subsection if:  
24 (a) the person is the holder of a road vehicle type approval; and  
25 (b) the person authorises another person, in writing, to enter  
26 information on the RAV; and  
27 (c) the other person enters information on the RAV; and  
28 (d) the information relates, or purportedly relates, to a vehicle;  
29 and  
30 (e) the information is incorrect.

# EXPOSURE DRAFT

**Part 2** Regulation of road vehicles and road vehicle components

**Division 3** The Register of Approved Vehicles

## Section 19

---

1

### *Offence*

2

- (3) A person commits an offence if the person contravenes subsection (1) or (2).

3

4

Penalty: 60 penalty units.

5

- (4) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (3).

6

7

8

### *Civil penalty provision*

9

- (5) A person is liable to a civil penalty if the person contravenes subsection (1) or (2).

10

11

Civil penalty: 60 penalty units.

12

## **19 Rules**

13

- (1) The rules:

14

- (a) must provide for or in relation to:

15

- (i) the keeping of the RAV, including the content of the RAV and the persons who may enter information on the RAV; and

16

17

18

- (ii) the requirements of an entry pathway; and

19

- (b) may provide for or in relation to the publication of information on the RAV.

20

21

- (2) The rules may provide for or in relation to the following:

22

- (a) the grant of approvals:

23

- (i) to enable vehicles to satisfy the requirements of the type approval pathway; or

24

25

- (ii) to enable road vehicles to satisfy the requirements of other entry pathways; or

26

27

- (iii) relating to road vehicle components;

28

- (b) conditions of such approvals;

29

- (c) variation, suspension or revocation of such approvals;

30

- (d) obligations of former approval holders.
-

# EXPOSURE DRAFT

Regulation of road vehicles and road vehicle components **Part 2**  
Specialist and Enthusiast Vehicles Register **Division 4**

Section 20

---

1 **Division 4—Specialist and Enthusiast Vehicles Register**

2 **20 Specialist and Enthusiast Vehicles Register**

3 (1) The Secretary must keep a register, to be known as the Register of  
4 Specialist and Enthusiast Vehicles (the *SEVs Register*).

5 Note: The SEVs Register relates to one of the eligibility criteria of the  
6 concessional RAV entry approval pathway.

7 (2) The SEVs Register is to be kept in electronic form.

8 (3) The SEVs Register is to be made available on the Department's  
9 website.

10 **21 Rules**

11 (1) The rules must provide for or in relation to the keeping of the  
12 SEVs Register.

13 (2) The rules may provide for or in relation to applications to be made  
14 for the entry of road vehicles on the SEVs Register.

# EXPOSURE DRAFT

Part 2 Regulation of road vehicles and road vehicle components

Division 5 Importation of road vehicles

Section 22

---

1     **Division 5—Importation of road vehicles**

2     **22 Importing road vehicles**

- 3             (1) A person contravenes this subsection if:
- 4                 (a) the person imports a road vehicle into Australia; and
- 5                 (b) at the time of importation, the person is not permitted to
- 6                     import the vehicle.
- 7             (2) A person is *permitted to import* a road vehicle if:
- 8                 (a) at the time of importation, all of the following apply:
- 9                     (i) the person is the holder of a road vehicle type approval;
- 10                     (ii) the road vehicle type approval is in force;
- 11                     (iii) the road vehicle is of a type to which the road vehicle
- 12                         type approval applies; or
- 13                 (b) at the time of importation, all of the following apply:
- 14                     (i) the person is authorised, in writing, by the holder of a
- 15                         road vehicle type approval to import the road vehicle;
- 16                     (ii) the road vehicle type approval is in force;
- 17                     (iii) the road vehicle is of a type to which the road vehicle
- 18                         type approval applies; or
- 19                 (c) at the time of importation, all of the following apply:
- 20                     (i) the person is the holder of an import approval;
- 21                     (ii) the import approval is in force;
- 22                     (iii) the road vehicle is specified in the import approval; or
- 23                 (d) at the time of importation, a circumstance set out in the rules
- 24                     applies.

25             *Offence*

- 26             (3) A person commits an offence if the person contravenes
- 27                 subsection (1).

28             Penalty: 120 penalty units.



# EXPOSURE DRAFT

Regulation of road vehicles and road vehicle components **Part 2**  
Importation of road vehicles **Division 5**

## Section 23

---

1 *Civil penalty provision*

2 (4) A person is liable to a civil penalty if the person contravenes  
3 subsection (1).

4 Civil penalty: 120 penalty units.

### 5 **23 Rules**

6 The rules may provide for or in relation to the following:

- 7 (a) the grant of approvals in relation to the importation of road  
8 vehicles;
- 9 (b) conditions of such approvals;
- 10 (c) variation, suspension or revocation of such approvals;
- 11 (d) obligations of former approval holders.

# EXPOSURE DRAFT

Part 2 Regulation of road vehicles and road vehicle components

Division 6 Provision of road vehicles not on RAV

Section 24

---

1 **Division 6—Provision of road vehicles not on RAV**

2 **24 Providing road vehicle for the first time in Australia—vehicle not**  
3 **on RAV**

4 *Basic rule*

- 5 (1) A person contravenes this subsection if:
- 6 (a) the person provides a road vehicle to another person in  
7 Australia; and
- 8 (b) the vehicle is provided for the first time in Australia; and
- 9 (c) the vehicle is not on the RAV.
- 10 (2) For the purposes of paragraph (1)(b), in working out whether a  
11 road vehicle is provided for the first time in Australia, the  
12 provision of a road vehicle in a circumstance mentioned in  
13 subsection (3) is to be disregarded.

14 *Exceptions*

- 15 (3) Subsection (1) does not apply if the road vehicle is provided to  
16 another person:
- 17 (a) to have work done on it; or
- 18 (b) to protect it; or
- 19 (c) to store it; or
- 20 (d) if the vehicle has been imported—to transport it to the  
21 importer; or
- 22 (e) if the vehicle is to be exported—to transport it to the  
23 exporter; or
- 24 (f) in a circumstance set out in the rules.
- 25 (4) Subsection (1) does not apply if:
- 26 (a) the person providing the road vehicle is the holder of a  
27 non-RAV entry import approval that relates to the vehicle; or
- 28 (b) the road vehicle is manufactured in Australia and the person  
29 providing the vehicle makes it clear to the recipient that:

# EXPOSURE DRAFT

Regulation of road vehicles and road vehicle components **Part 2**  
Provision of road vehicles not on RAV **Division 6**

## Section 24

---

- 1 (i) the vehicle is not being provided for a purpose that  
2 involves use in transport on a public road; or  
3 (ii) the vehicle is being provided for a purpose that involves  
4 use in transport on a public road only in exceptional  
5 circumstances.

6 Note: A person who wishes to rely on subsection (3) or (4) bears an  
7 evidential burden in relation to the matters in that subsection (see  
8 subsection 13.3(3) of the *Criminal Code* and section 96 of the  
9 Regulatory Powers Act).

### 10 *Offence*

- 11 (5) A person commits an offence if the person contravenes  
12 subsection (1).

13 Penalty: 120 penalty units.

### 14 *Civil penalty provision*

- 15 (6) A person is liable to a civil penalty if the person contravenes  
16 subsection (1).

17 Civil penalty: 120 penalty units.

# EXPOSURE DRAFT

Part 2 Regulation of road vehicles and road vehicle components

Division 7 Modifying road vehicles

Section 25

---

1 **Division 7—Modifying road vehicles**

2 **25 Rules**

3 The rules may provide for or in relation to the circumstances in  
4 which a road vehicle on the RAV may be modified.

5 **26 Modification of road vehicle on RAV**

- 6 (1) A person contravenes this subsection if:
- 7 (a) a road vehicle is on the RAV; and
- 8 (b) the person modifies the road vehicle; and
- 9 (c) the modification occurs before the vehicle is provided to a  
10 consumer for the first time in Australia; and
- 11 (d) the modification causes the road vehicle to not satisfy the  
12 requirements of the entry pathway that applied at the time the  
13 vehicle was entered on the RAV; and
- 14 (e) the modification is not otherwise allowed by the rules.
- 15 (2) A person contravenes this subsection if:
- 16 (a) a road vehicle is on the RAV; and
- 17 (b) the person hands over the road vehicle to another person; and
- 18 (c) the road vehicle is handed over for modification; and
- 19 (d) the road vehicle is modified; and
- 20 (e) the modification occurs before the vehicle is provided to a  
21 consumer for the first time in Australia; and
- 22 (f) the modification causes the road vehicle to not satisfy the  
23 requirements of the entry pathway that applied at the time the  
24 vehicle was entered on the RAV; and
- 25 (g) the modification is not otherwise allowed by the rules.
- 26 (3) In paragraphs (1)(c) and (2)(e), the definition of *provide* applies as  
27 if paragraph 5(2)(b) were omitted.

# EXPOSURE DRAFT

Regulation of road vehicles and road vehicle components **Part 2**  
Modifying road vehicles **Division 7**

Section 26

---

1 *Offence*

2 (4) A person commits an offence if the person contravenes  
3 subsection (1) or (2).

4 Penalty: 120 penalty units.

5 *Civil penalty provision*

6 (5) A person is liable to a civil penalty if the person contravenes  
7 subsection (1) or (2).

8 Civil penalty: 120 penalty units.

# EXPOSURE DRAFT

Part 2 Regulation of road vehicles and road vehicle components

Division 8 Supplying road vehicle components

Section 27

---

1        **Division 8—Supplying road vehicle components**

2        **27 Misrepresentation that a road vehicle component is an approved**  
3                **road vehicle component**

- 4                (1) A person contravenes this subsection if:
- 5                        (a) the person supplies a road vehicle component to another
  - 6                                person; and
  - 7                        (b) the person represents that the road vehicle component is an
  - 8                                approved road vehicle component; and
  - 9                        (c) the representation is false or misleading in a material
  - 10                                particular.

11                        *Offence*

- 12                (2) A person commits an offence if the person contravenes
- 13                        subsection (1).

14                        Penalty: 60 penalty units.

- 15                (3) Section 15.4 of the *Criminal Code* (extended geographical
- 16                        jurisdiction—category D) applies to an offence against
- 17                        subsection (2).

18                        *Civil penalty provision*

- 19                (4) A person is liable to a civil penalty if the person contravenes
- 20                        subsection (1).

21                        Civil penalty:            60 penalty units.

# EXPOSURE DRAFT

Regulation of road vehicles and road vehicle components **Part 2**  
Miscellaneous **Division 9**

Section 28

---

1 **Division 9—Miscellaneous**

2 **Subdivision A—Breach of condition of approvals**

3 **28 Breach of condition of approval—general**

- 4 (1) A person contravenes this subsection if:
- 5 (a) the person is the holder of an approval under the rules; and
  - 6 (b) the approval is subject to a condition; and
  - 7 (c) the condition is not one that requires the person to export or
  - 8 destroy a road vehicle to which the approval applies; and
  - 9 (d) the person engages in conduct; and
  - 10 (e) the person’s conduct contravenes the condition.

- 11 (2) A person contravenes this subsection if:
- 12 (a) the person is the holder of an approval under the rules; and
  - 13 (b) the approval is subject to a condition; and
  - 14 (c) the condition is not one that requires the person to export or
  - 15 destroy a road vehicle to which the approval applies; and
  - 16 (d) another person engages in conduct; and
  - 17 (e) that other person’s conduct contravenes the condition.

18 *Offence*

- 19 (3) A person commits an offence if the person contravenes
- 20 subsection (1) or (2).

21 Penalty: 120 penalty units.

- 22 (4) Section 15.4 of the *Criminal Code* (extended geographical
- 23 jurisdiction—category D) applies to an offence against
- 24 subsection (3).

25 *Civil penalty provision*

- 26 (5) A person is liable to a civil penalty if the person contravenes
- 27 subsection (1) or (2).

# EXPOSURE DRAFT

Part 2 Regulation of road vehicles and road vehicle components

Division 9 Miscellaneous

Section 29

---

1 Civil penalty: 120 penalty units.

2 **29 Breach of condition of approval—export or destruction of road**  
3 **vehicle**

- 4 (1) A person contravenes this subsection if:  
5 (a) the person is the holder of an import approval; and  
6 (b) the approval is subject to a condition that requires the person  
7 to export or destroy a road vehicle to which the approval  
8 applies; and  
9 (c) the road vehicle is not exported or destroyed within the  
10 period specified in the approval.

11 *Offence*

- 12 (2) A person commits an offence if the person contravenes  
13 subsection (1).

14 Penalty: 120 penalty units.

15 *Civil penalty provision*

- 16 (3) A person is liable to a civil penalty if the person contravenes  
17 subsection (1).

18 Civil penalty: 120 penalty units.

19 *Continuing offences and continuing contraventions of civil penalty*  
20 *provisions*

- 21 (4) The maximum penalty for each day that an offence under  
22 subsection (2) continues is 10% of the maximum penalty that can  
23 be imposed in respect of that offence.

24 Note: Subsection (2) is a continuing offence under section 4K of the *Crimes*  
25 *Act 1914*.

- 26 (5) The maximum civil penalty for each day that a contravention of  
27 subsection (3) continues is 10% of the maximum civil penalty that  
28 can be imposed in respect of that contravention.



# EXPOSURE DRAFT

Regulation of road vehicles and road vehicle components **Part 2**  
Miscellaneous **Division 9**

## Section 30

---

1 Note: Subsection (3) is a continuing civil penalty provision under section 93  
2 of the Regulatory Powers Act.

### 3 **Subdivision B—Record-keeping obligations**

#### 4 **30 Breach of obligation to provide records after approval ceases to** 5 **be in force**

- 6 (1) A person contravenes this subsection if:  
7 (a) the person was the holder of an approval granted under the  
8 rules; and  
9 (b) a condition of the approval was that the holder of the  
10 approval retain a record; and  
11 (c) the person does not retain the record:  
12 (i) if a period was specified in that condition—for that  
13 period; or  
14 (ii) in any other case—for the 7 year period starting on the  
15 day the record is made.

- 16 (2) A person contravenes this subsection if:  
17 (a) the person was the holder of an approval granted under the  
18 rules; and  
19 (b) the person is required by or under the rules to provide  
20 information or a document to the Minister; and  
21 (c) the person does not provide the information or document to  
22 the Minister.

#### 23 *Offence*

- 24 (3) A person commits an offence if the person contravenes  
25 subsection (1) or (2).

26 Penalty: 60 penalty units.

- 27 (4) Section 15.4 of the *Criminal Code* (extended geographical  
28 jurisdiction—category D) applies to an offence against  
29 subsection (3).

# EXPOSURE DRAFT

**Part 2** Regulation of road vehicles and road vehicle components

**Division 9** Miscellaneous

Section 31

---

1 *Civil penalty provision*

2 (5) A person is liable to a civil penalty if the person contravenes  
3 subsection (1) or (2).

4 Civil penalty: 60 penalty units.

5 **Subdivision C—False or misleading declarations etc.**

6 **31 False or misleading declaration**

7 *Offence*

8 (1) A person commits an offence if:

9 (a) the person signs a declaration; and

10 (b) the person does so knowing that:

11 (i) the declaration is false or misleading in a material  
12 particular; or

13 (ii) the declaration omits a matter or thing without which  
14 the declaration is misleading in a material particular;  
15 and

16 (c) the declaration is made in an application for an approval  
17 under the rules.

18 Penalty: 60 penalty units.

19 *Civil penalty provision*

20 (2) A person contravenes this subsection if:

21 (a) the person signs a declaration; and

22 (b) either:

23 (i) the declaration is false or misleading in a material  
24 particular; or

25 (ii) the declaration omits a matter or thing without which  
26 the declaration is misleading in a material particular;  
27 and

28 (c) the declaration is made in an application for an approval  
29 under the rules.

# EXPOSURE DRAFT

Regulation of road vehicles and road vehicle components **Part 2**  
Miscellaneous **Division 9**

## Section 32

---

1                    Civil penalty:        60 penalty units.

### 2    **32 False or misleading information**

- 3                    (1) A person contravenes this subsection if:
- 4                            (a) the person gives information or a document to another
- 5    person; and
- 6                            (b) the information or document:
- 7    (i) is false or misleading; or
- 8    (ii) omits any matter or thing without which the information
- 9    or document is misleading; and
- 10                            (c) the information or document is given, or purportedly given,
- 11    under or for the purposes of this Act.

- 12                    (2) Subsection (1) does not apply if the information or document is not
- 13                            false or misleading in a material particular.

14                    Note:        A person who wishes to rely on this subsection bears an evidential

15    burden in relation to the matters in this subsection (see

16    subsection 13.3(3) of the *Criminal Code* and section 96 of the

17    Regulatory Powers Act).

### 18                    *Offence*

- 19                    (3) A person commits an offence if the person contravenes
- 20                            subsection (1).

21                    Penalty: 60 penalty units.

- 22                    (4) Section 15.4 of the *Criminal Code* (extended geographical
- 23                            jurisdiction—category D) applies to an offence against
- 24                            subsection (3).

### 25                    *Civil penalty provision*

- 26                    (5) A person is liable to a civil penalty if the person contravenes
- 27                            subsection (1).

28                    Civil penalty:        60 penalty units.

# EXPOSURE DRAFT

Part 2 Regulation of road vehicles and road vehicle components

Division 9 Miscellaneous

Section 33

---

1 **Subdivision D—Liability of executive officers**

2 **33 Personal liability of an executive officer of a body corporate**

3 *Offence*

- 4 (1) An executive officer of a body corporate commits an offence if:
- 5 (a) the body corporate commits an offence against:
- 6 (i) this Part (other than section 18, 27, 30, 31 or 32); or
- 7 (ii) section 6 of the *Crimes Act 1914*, or section 11.1, 11.4
- 8 or 11.5 of the *Criminal Code*, in relation to an offence
- 9 covered by subparagraph (i); or
- 10 (iii) section 136.1, 137.1 or 137.2 of the *Criminal Code* in
- 11 relation to this Act; and
- 12 (b) the officer knew that the offence would be committed; and
- 13 (c) the officer was in a position to influence the conduct of the
- 14 body in relation to the commission of the offence; and
- 15 (d) the officer failed to take reasonable steps to prevent the
- 16 commission of the offence.
- 17 (2) The maximum penalty for an offence against subsection (1) is the
- 18 maximum penalty that a court could impose in respect of an
- 19 individual for the offence committed by the body corporate.
- 20 (3) Section 15.4 of the *Criminal Code* (extended geographical
- 21 jurisdiction—category D) applies to an offence against
- 22 subsection (1).

23 *Civil penalty provision*

- 24 (4) An executive officer of a body corporate contravenes this
- 25 subsection if:
- 26 (a) the body corporate contravenes a civil penalty provision of
- 27 this Part (other than section 18, 27, 30, 31 or 32); and
- 28 (b) the officer knew that the contravention would occur; and
- 29 (c) the officer was in a position to influence the conduct of the
- 30 body in relation to the contravention; and

# EXPOSURE DRAFT

Regulation of road vehicles and road vehicle components **Part 2**  
Miscellaneous **Division 9**

Section 34

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1 (d) the officer failed to take reasonable steps to prevent the  
2 contravention.

3 (5) The maximum civil penalty for a contravention of subsection (4) is  
4 the maximum civil penalty that a court could impose in respect of  
5 an individual for the civil penalty provision contravened by the  
6 body corporate.

## 7 **34 Reasonable steps to prevent offence or contravention**

8 (1) For the purposes of section 33, in determining whether an  
9 executive officer of a body corporate failed to take reasonable steps  
10 to prevent the commission of an offence, or the contravention of a  
11 civil penalty provision, a court is to have regard to:

12 (a) what action (if any) the officer took towards ensuring that the  
13 body's employees, agents and contractors have a reasonable  
14 knowledge and understanding of the requirements to comply  
15 with this Act, in so far as those requirements affect the  
16 employees, agents or contractors concerned; and

17 (b) what action (if any) the officer took when he or she became  
18 aware that the body was committing an offence against, or  
19 otherwise contravening, this Act.

20 (2) This section does not, by implication, limit the generality of  
21 section 33.

## 22 **Subdivision E—Pecuniary penalties and bodies corporate**

### 23 **35 Determining pecuniary penalties for bodies corporate**

24 If an offence against a provision of this Part may:

25 (a) in some circumstances be committed by both a natural person  
26 and a body corporate; and

27 (b) in other circumstances only be committed by a body  
28 corporate;

29 then, in the circumstances mentioned in paragraph (b), despite  
30 subsection 4B(3) of the *Crimes Act 1914*, the court may, if the  
31 court thinks fit, impose a pecuniary penalty not exceeding an

# EXPOSURE DRAFT

**Part 2** Regulation of road vehicles and road vehicle components

**Division 9** Miscellaneous

## Section 35

---

- 1 amount equal to 5 times the amount of the pecuniary penalty  
2 specified for the offence.

# EXPOSURE DRAFT

Recalls of road vehicles or approved road vehicle components **Part 3**  
Simplified outline of this Part **Division 1**

Section 36

---

1 **Part 3—Recalls of road vehicles or approved road**  
2 **vehicle components**

3 **Division 1—Simplified outline of this Part**

4 **36 Simplified outline of this Part**

5 This Part deals with recalls of road vehicles and approved road  
6 vehicle components for safety purposes or non-compliance with  
7 national road vehicle standards.

8 The rules provide for the Minister to issue a recall notice to  
9 suppliers of vehicles or components. If a recall notice is issued to a  
10 supplier, there are very substantial criminal and civil penalties for  
11 refusing or failing to comply with the recall notice.

12 The rules may also set out requirements for notifying the Minister  
13 of certain matters in relation to compulsory or voluntary recalls.  
14 Penalties apply for refusing or failing to comply with the  
15 notification requirements.

16 If there are concerns about a vehicle or component causing injury  
17 or not complying with national road vehicle standards, the Minister  
18 (or certain other officials) may issue a disclosure notice to the  
19 supplier, requiring that certain information be disclosed. Penalties  
20 apply for refusing or failing to comply with the notice or giving  
21 false or misleading information.

22 Note: Some road vehicles or approved road vehicle components may be  
23 recalled under the Australian Consumer Law as consumer goods. For  
24 the interaction with the Australian Consumer Law, see also  
25 sections 47 and 77 of this Act.

# EXPOSURE DRAFT

**Part 3** Recalls of road vehicles or approved road vehicle components

**Division 2** Rules

Section 37

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1     **Division 2—Rules**

2     **37 Rules**

- 3             (1) The rules must provide for or in relation to the recall of road  
4             vehicles or approved road vehicle components for:
- 5                 (a) safety purposes; or
  - 6                 (b) non-compliance with national road vehicle standards.
- 7             (2) The rules may provide for or in relation to the following:
- 8                 (a) issuing recall notices;
  - 9                 (b) compulsory recalls of road vehicles or approved road vehicle  
10                components;
  - 11                (c) voluntary recalls of road vehicles or approved road vehicle  
12                components;
  - 13                (d) notification requirements relating to compulsory or voluntary  
14                recalls.



# EXPOSURE DRAFT

Recalls of road vehicles or approved road vehicle components **Part 3**  
Complying with recalls **Division 3**

Section 38

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1 **Division 3—Complying with recalls**

2 **38 Compliance with recall notices**

- 3 (1) A person contravenes this subsection if:
- 4 (a) a recall notice for road vehicles or approved road vehicle
- 5 components is in force; and
- 6 (b) the notice requires the person to do one or more things; and
- 7 (c) the person refuses or fails to comply with the notice.
- 8 (2) A person contravenes this subsection if:
- 9 (a) a recall notice for road vehicles or approved road vehicle
- 10 components is in force; and
- 11 (b) the person, in trade or commerce:
- 12 (i) if the notice identifies a defect in, or a dangerous
- 13 characteristic of, the vehicles or components—supplies
- 14 vehicles or components of the kind to which the notice
- 15 relates which contain that defect or have that
- 16 characteristic; or
- 17 (ii) in any other case—supplies vehicles or components of
- 18 the kind to which the notice relates.

19 *Strict liability offence*

- 20 (3) A person commits an offence of strict liability if the person
- 21 contravenes subsection (1) or (2).

22 *Penalty:*

- 23 (a) if the person is a body corporate—5,250 penalty units; or
- 24 (b) if the person is not a body corporate—1,050 penalty units.

25 *Civil penalty provision*

- 26 (4) A person is liable to a civil penalty if the person contravenes
- 27 subsection (1) or (2).

28 *Civil penalty:*

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# EXPOSURE DRAFT

## Part 3 Recalls of road vehicles or approved road vehicle components

### Division 3 Complying with recalls

#### Section 39

---

- 1 (a) if the person is a body corporate—5,250 penalty units; or  
2 (b) if the person is not a body corporate—1,050 penalty units.

#### 39 Notification requirements—compulsory recalls

- 4 (1) A person contravenes this subsection if:  
5 (a) the person is required by the rules to give a copy of a notice  
6 to the Minister in relation to a compulsory recall of road  
7 vehicles or approved road vehicle components; and  
8 (b) the person refuses or fails to give the copy as required by the  
9 rules.

##### 10 *Strict liability offence*

- 11 (2) A person commits an offence of strict liability if the person  
12 contravenes subsection (1).

##### 13 *Penalty:*

- 14 (a) if the person is a body corporate—80 penalty units; or  
15 (b) if the person is not a body corporate—16 penalty units.

##### 16 *Civil penalty provision*

- 17 (3) A person is liable to a civil penalty if the person contravenes  
18 subsection (1).

##### 19 *Civil penalty:*

- 20 (a) if the person is a body corporate—80 penalty units; or  
21 (b) if the person is not a body corporate—16 penalty units.

#### 22 40 Notification requirements—voluntary recalls

- 23 (1) A person contravenes this subsection if:  
24 (a) the person is required by the rules to give a notice, or a copy  
25 of a notice, to the Minister in relation to a voluntary recall of  
26 road vehicles or approved road vehicle components; and  
27 (b) the person refuses or fails to give the notice, or the copy of  
28 the notice, as required by the rules.

# EXPOSURE DRAFT

Recalls of road vehicles or approved road vehicle components **Part 3**  
Complying with recalls **Division 3**

Section 40

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1

*Strict liability offence*

2

- (2) A person commits an offence of strict liability if the person  
3 contravenes subsection (1).

3

4

Penalty:

5

(a) if the person is a body corporate—80 penalty units; or

6

(b) if the person is not a body corporate—16 penalty units.

7

*Civil penalty provision*

8

- (3) A person is liable to a civil penalty if the person contravenes  
9 subsection (1).

9

10

Civil penalty:

11

(a) if the person is a body corporate—80 penalty units; or

12

(b) if the person is not a body corporate—16 penalty units.

# EXPOSURE DRAFT

Part 3 Recalls of road vehicles or approved road vehicle components

Division 4 Disclosure notices

Section 41

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1        **Division 4—Disclosure notices**

2        **41 Power to obtain information etc.**

- 3                (1) The Minister, the Secretary or an SES employee or acting SES  
4                employee in the Department, may give a disclosure notice to a  
5                person (the *supplier*) who, in trade or commerce, supplies road  
6                vehicles or approved road vehicle components of a particular kind  
7                if the person giving the notice reasonably believes:
- 8                    (a) that:
- 9                            (i) vehicles or components of that kind will or may cause  
10                            injury to any person; or
- 11                            (ii) a reasonably foreseeable use (including a misuse) of  
12                            vehicles or components of that kind will or may cause  
13                            injury to any person; or
- 14                            (iii) vehicles or components of that kind do not, or it is likely  
15                            that they do not, comply with the applicable national  
16                            road vehicle standards; and
- 17                    (b) that the supplier is capable of giving information, producing  
18                    documents or giving evidence in relation to those vehicles or  
19                    components.
- 20                (2) A *disclosure notice* is a written notice requiring the supplier:
- 21                    (a) to give, in writing signed by the supplier, any such  
22                    information to the person specified in the notice:
- 23                            (i) in the manner specified in the notice; and  
24                            (ii) within such reasonable time as is specified in the notice;  
25                            or
- 26                    (b) to produce, in accordance with such reasonable requirements  
27                    as are specified in the notice, any such documents to the  
28                    person specified in the notice; or
- 29                    (c) to appear before the person specified in the notice at such  
30                    reasonable time, and at such place, as is specified in the  
31                    notice:
- 32                            (i) to give any such evidence, on oath or affirmation; and  
33                            (ii) to produce any such documents.

# EXPOSURE DRAFT

Recalls of road vehicles or approved road vehicle components **Part 3**

Disclosure notices **Division 4**

Section 42

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- 1 (3) The person specified in the notice may be:  
2 (a) the Minister; or  
3 (b) the Secretary; or  
4 (c) an SES employee, or acting SES employee, in the  
5 Department (whether or not that SES employee, or acting  
6 SES employee, gave the notice).

7 *Holder of a type approval taken to be a supplier*

- 8 (4) For the purposes of this section, a person is taken to supply, in  
9 trade or commerce, road vehicles or approved road vehicle  
10 components of a particular kind, if:  
11 (a) the person is the holder of a road vehicle type approval under  
12 which a vehicle is entered on the RAV; or  
13 (b) the person is the holder of a road vehicle component type  
14 approval.

## 15 **42 Self-incrimination**

- 16 (1) A person is not excused from:  
17 (a) giving information or evidence; or  
18 (b) producing a document;  
19 as required by a disclosure notice given to the person on the ground  
20 that the information or evidence, or production of the document,  
21 might tend to incriminate the person or expose the person to a  
22 penalty.
- 23 (2) However, in the case of an individual:  
24 (a) the information or evidence given, or the document  
25 produced; and  
26 (b) giving the information or evidence, or producing the  
27 document;  
28 are not admissible in evidence against the individual:  
29 (c) in civil proceedings; or  
30 (d) in criminal proceedings, other than proceedings against the  
31 individual for:  
32 (i) an offence against section 43 or 44; or

# EXPOSURE DRAFT

## Part 3 Recalls of road vehicles or approved road vehicle components

### Division 4 Disclosure notices

#### Section 43

---

- 1 (ii) an offence against section 137.1 or 137.2 of the  
2 *Criminal Code* that relates to this Division.

#### 3 **43 Compliance with disclosure notices**

- 4 (1) A person commits an offence of strict liability if:  
5 (a) the person is given a disclosure notice; and  
6 (b) the person refuses or fails to comply with the notice.

7 Penalty:

- 8 (a) if the person is a body corporate—200 penalty units; or  
9 (b) if the person is not a body corporate—40 penalty units.

- 10 (2) Subsection (1) does not apply if the person complies with the  
11 disclosure notice to the extent to which the person is capable of  
12 complying with the notice.

13 Note: A defendant bears an evidential burden in relation to the matter in this  
14 subsection (see subsection 13.3(3) of the *Criminal Code*).

#### 15 **44 False or misleading information etc.**

16 A person commits an offence if:

- 17 (a) the person gives information, evidence or a document in  
18 purported compliance with a disclosure notice; and  
19 (b) the person does so knowing that the information, evidence or  
20 document is false or misleading in a material particular.

21 Penalty:

- 22 (a) if the person is a body corporate—300 penalty units; or  
23 (b) if the person is not a body corporate—60 penalty units or  
24 imprisonment for 12 months, or both.

# EXPOSURE DRAFT

Recalls of road vehicles or approved road vehicle components **Part 3**  
Miscellaneous **Division 5**

Section 45

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1 **Division 5—Miscellaneous**

2 **45 References to supply of road vehicles and approved road vehicle**  
3 **components**

4 In this Part and rules made for the purposes of section 37, a  
5 reference to the supply of road vehicles or approved road vehicle  
6 components includes a reference to agreeing to supply the vehicles  
7 or components.

8 **46 Compensation for acquisition of property**

- 9 (1) If the operation of this Part, or any other provision of this Act (to  
10 the extent to which it relates to this Part), would result in an  
11 acquisition of property (within the meaning of paragraph 51(xxxi)  
12 of the Constitution) from a person otherwise than on just terms  
13 (within the meaning of that paragraph), the Commonwealth is  
14 liable to pay a reasonable amount of compensation to the person.
- 15 (2) If the Commonwealth and the person do not agree on the amount  
16 of the compensation, the person may institute proceedings in the  
17 Federal Court or the Supreme Court of a State or Territory for the  
18 recovery from the Commonwealth of such reasonable amount of  
19 compensation as the court determines.

20 **47 Operation of other laws**

21 This Part is not intended to exclude or limit the operation of any  
22 other law of the Commonwealth or any law of a State or Territory.

# EXPOSURE DRAFT

## Part 4 Compliance and enforcement

### Division 1 Simplified outline of this Part

#### Section 48

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1 **Part 4—Compliance and enforcement**

2 **Division 1—Simplified outline of this Part**

3 **48 Simplified outline of this Part**

4 Inspectors have monitoring, inspection and enforcement powers  
5 under the Regulatory Powers Act to ensure this Act is being  
6 complied with.

7 The Regulatory Powers Act creates a framework for monitoring  
8 and investigating compliance with this Act, as well as providing  
9 for the enforcement of civil penalty provisions, and the use of  
10 infringement notices, enforceable undertakings and injunctions.

11 This Part provides for the application of the Regulatory Powers Act  
12 in relation to these matters.



# EXPOSURE DRAFT

1 **Division 2—Inspectors**

2 **49 Appointment of inspectors**

- 3 (1) The Secretary may, in writing, appoint any of the following  
4 persons as an inspector:  
5 (a) an APS employee in the Department;  
6 (b) an employee of a State or Territory or an authority of a State  
7 or Territory.
- 8 (2) The functions and powers conferred on a person as an inspector are  
9 subject to such conditions and restrictions as are specified in the  
10 person's instrument of appointment.

11 *Prerequisites to appointment*

- 12 (3) The Secretary must not appoint a person as an inspector unless the  
13 Secretary is satisfied that the person has the knowledge or  
14 experience necessary to properly perform the functions or exercise  
15 the powers of an inspector for which the person is to be authorised.
- 16 (4) The Secretary must not appoint an employee of a State or Territory  
17 or an authority of a State or Territory as an inspector without the  
18 agreement of the State or Territory.

19 *Directions to inspectors*

- 20 (5) An inspector appointed under subsection (1) must, in performing  
21 functions or exercising powers as such, comply with any directions  
22 of the Secretary.
- 23 (6) If a direction is given under subsection (5) in writing, the direction  
24 is not a legislative instrument.

# EXPOSURE DRAFT

Part 4 Compliance and enforcement

Division 3 Monitoring

Section 50

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1 **Division 3—Monitoring**

2 **50 Monitoring under Part 2 of the Regulatory Powers Act**

3 *Provisions subject to monitoring*

4 (1) The following provisions are subject to monitoring under Part 2 of  
5 the Regulatory Powers Act:

- 6 (a) a provision of this Act;  
7 (b) an offence against the *Crimes Act 1914* or the *Criminal Code*  
8 that relates to this Act.

9 Note: Part 2 of the Regulatory Powers Act creates a framework for  
10 monitoring whether this Act has been complied with. It includes  
11 powers of entry and inspection.

12 *Information subject to monitoring*

13 (2) Information given in compliance or purported compliance with a  
14 provision of this Act is subject to monitoring under Part 2 of the  
15 Regulatory Powers Act.

16 Note: Part 2 of the Regulatory Powers Act creates a framework for  
17 monitoring whether the information is correct. It includes powers of  
18 entry and inspection.

19 *Related provisions*

20 (3) For the purposes of Part 2 of the Regulatory Powers Act, each of  
21 the following provisions is related to the provisions mentioned in  
22 subsection (1) and the information mentioned in subsection (2):

- 23 (a) section 133G of the *Competition and Consumer Act 2010*;  
24 (b) a provision of the Australian Consumer Law relating to the  
25 safety of consumer goods.

# EXPOSURE DRAFT

1 *Authorised applicant, authorised person, issuing officer, relevant*  
2 *chief executive and relevant court*

- 3 (4) For the purposes of Part 2 of the Regulatory Powers Act, as that  
4 Part applies in relation to the provisions mentioned in  
5 subsection (1) and the information mentioned in subsection (2):  
6 (a) each of the following is an authorised applicant:  
7 (i) the Secretary;  
8 (ii) an SES employee, or an acting SES employee, in the  
9 Department; and  
10 (b) an inspector is an authorised person; and  
11 (c) each of the following is an issuing officer:  
12 (i) a magistrate;  
13 (ii) a Judge of a court of a State or Territory;  
14 (iii) a Judge of the Federal Court or the Federal Circuit  
15 Court; and  
16 (d) the Secretary is the relevant chief executive; and  
17 (e) a relevant court (as defined in section 5) is a relevant court.

18 *Person assisting*

- 19 (5) An authorised person may be assisted by other persons in  
20 exercising powers or performing functions or duties under Part 2 of  
21 the Regulatory Powers Act in relation to the provisions mentioned  
22 in subsection (1) and the information mentioned in subsection (2).

## 23 **51 Modifications of Part 2 of the Regulatory Powers Act**

24 *Additional monitoring powers*

- 25 (1) For the purposes of determining:  
26 (a) whether a provision mentioned in subsection 50(1) has been,  
27 or is being, complied with; or  
28 (b) the correctness of information mentioned in subsection 50(2);  
29 the additional powers mentioned in subsection (2) of this section  
30 are taken to be included in the monitoring powers under Part 2 of  
31 the Regulatory Powers Act.

# EXPOSURE DRAFT

**Part 4** Compliance and enforcement

**Division 3** Monitoring

Section 51

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- 1                   (2) The additional monitoring powers are:
- 2                         (a) the power to sample any thing on premises entered under
- 3                                 Part 2 of the Regulatory Powers Act; and
- 4                         (b) the power to remove and test such samples.

# EXPOSURE DRAFT

Compliance and enforcement **Part 4**

Investigation **Division 4**

Section 52

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1 **Division 4—Investigation**

2 **52 Investigating under Part 3 of the Regulatory Powers Act**

3 *Provisions subject to investigation*

- 4 (1) A provision is subject to investigation under Part 3 of the  
5 Regulatory Powers Act if it is:  
6 (a) an offence against this Act; or  
7 (b) a civil penalty provision of this Act; or  
8 (c) an offence against the *Crimes Act 1914* or the *Criminal Code*  
9 that relates to this Act.

10 Note: Part 3 of the Regulatory Powers Act creates a framework for  
11 investigating whether a provision has been contravened. It includes  
12 powers of entry, search and seizure.

13 *Related provisions*

- 14 (2) For the purposes of Part 3 of the Regulatory Powers Act, each of  
15 the following provisions is related to evidential material that relates  
16 to a provision mentioned in subsection (1):  
17 (a) section 133G of the *Competition and Consumer Act 2010*;  
18 (b) a provision of the Australian Consumer Law relating to the  
19 safety of consumer goods.

20 *Authorised applicant, authorised person, issuing officer, relevant*  
21 *chief executive and relevant court*

- 22 (3) For the purposes of Part 3 of the Regulatory Powers Act, as that  
23 Part applies in relation to evidential material that relates to a  
24 provision mentioned in subsection (1):  
25 (a) each of the following is an authorised applicant:  
26 (i) the Secretary;  
27 (ii) an SES employee, or an acting SES employee, in the  
28 Department; and  
29 (b) an inspector is an authorised person; and  
30 (c) each of the following is an issuing officer:
-

# EXPOSURE DRAFT

## Part 4 Compliance and enforcement

### Division 4 Investigation

#### Section 53

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- 1 (i) a magistrate;
- 2 (ii) a Judge of a court of a State or Territory;
- 3 (iii) a Judge of the Federal Court or the Federal Circuit
- 4 Court; and
- 5 (d) the Secretary is the relevant chief executive; and
- 6 (e) a relevant court (as defined in section 5) is a relevant court.

7 *Person assisting*

- 8 (4) An authorised person may be assisted by other persons in
- 9 exercising powers or performing functions or duties under Part 3 of
- 10 the Regulatory Powers Act in relation to evidential material that
- 11 relates to a provision mentioned in subsection (1).

#### 53 Modifications of Part 3 of the Regulatory Powers Act

13 *Additional investigation powers*

- 14 (1) The additional powers mentioned in subsection (2) are taken to be
- 15 included in the investigation powers under Part 3 of the Regulatory
- 16 Powers Act, as that Part applies in relation to evidential material
- 17 that relates to a provision mentioned in subsection 52(1) of this
- 18 Act.
- 19 (2) The additional investigation powers are:
- 20 (a) the power to sample any thing on premises entered under
- 21 Part 3 of the Regulatory Powers Act; and
- 22 (b) the power to remove and test such samples.

# EXPOSURE DRAFT

1 **Division 5—Civil penalties, infringement notices,**  
2 **enforceable undertakings and injunctions**

3 **54 Civil penalties under Part 4 of the Regulatory Powers Act**

4 *Enforceable civil penalty provisions*

- 5 (1) Each civil penalty provision of this Act is enforceable under Part 4  
6 of the Regulatory Powers Act.

7 Note: Part 4 of the Regulatory Powers Act allows a civil penalty provision to  
8 be enforced by obtaining an order for a person to pay a pecuniary  
9 penalty for the contravention of the provision.

10 *Authorised applicant and relevant court*

- 11 (2) For the purposes of Part 4 of the Regulatory Powers Act, as that  
12 Part applies in relation to the civil penalty provisions of this Act:  
13 (a) each of the following persons is an authorised applicant:  
14 (i) the Minister;  
15 (ii) the Secretary;  
16 (iii) an SES employee, or acting SES employee, in the  
17 Department; and  
18 (b) a relevant court (as defined in section 5 of this Act) is a  
19 relevant court.

20 *Maximum penalties*

- 21 (3) Despite subsection 82(5) of the Regulatory Powers Act, the  
22 pecuniary penalty in relation to a contravention of one of the  
23 following civil penalty provisions must not be more than the  
24 applicable pecuniary penalty specified in the provision:  
25 (a) subsection 38(4) (compliance with recall notices);  
26 (b) subsection 39(3) (notification requirements—compulsory  
27 recalls);  
28 (c) subsection 40(3) (notification requirements—voluntary  
29 recalls).

# EXPOSURE DRAFT

## Part 4 Compliance and enforcement

### Division 5 Civil penalties, infringement notices, enforceable undertakings and injunctions

#### Section 55

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1 Note: Those civil penalty provisions specify the maximum civil penalty that  
2 applies in relation to a person who is a body corporate and a person  
3 who is not a body corporate.

#### 4 *Liability of Crown*

5 (4) Part 4 of the Regulatory Powers Act, as that Part applies in relation  
6 to the civil penalty provisions of this Act, does not make the  
7 Crown liable to a pecuniary penalty.

#### 8 **55 Infringement notices under Part 5 of the Regulatory Powers Act**

#### 9 *Provisions subject to an infringement notice*

- 10 (1) The following provisions are subject to an infringement notice  
11 under Part 5 of the Regulatory Powers Act:
- 12 (a) a civil penalty provision in Part 2 (regulation of road vehicles  
13 and road vehicle components) of this Act;
  - 14 (b) a strict liability offence against a provision in Part 3 (recalls  
15 of road vehicles or approved road vehicle components) of  
16 this Act.

17 Note: Part 5 of the Regulatory Powers Act creates a framework for using  
18 infringement notices in relation to provisions.

#### 19 *Infringement officer and relevant chief executive*

- 20 (2) For the purposes of Part 5 of the Regulatory Powers Act, as that  
21 Part applies in relation to the provisions mentioned in  
22 subsection (1):
- 23 (a) each of the following persons is an infringement officer:
    - 24 (i) the Secretary;
    - 25 (ii) an SES employee, or acting SES employee, in the  
26 Department; and
  - 27 (b) the Secretary is the relevant chief executive.



# EXPOSURE DRAFT

1 *Single infringement notice may deal with more than one*  
2 *contravention*

- 3 (3) Despite subsection 103(3) of the Regulatory Powers Act, a single  
4 infringement notice may be given to a person in respect of:  
5 (a) 2 or more alleged contraventions of a provision mentioned in  
6 subsection (1); or  
7 (b) alleged contraventions of 2 or more provisions mentioned in  
8 subsection (1).

9 However, the notice must not require the person to pay more than  
10 one amount in respect of the same conduct.

11 *Liability of Crown*

- 12 (4) Part 5 of the Regulatory Powers Act, as that Part applies in relation  
13 to the provisions mentioned in subsection (1), does not make the  
14 Crown liable to be given an infringement notice.

## 15 **56 Modifications of Part 5 of the Regulatory Powers Act**

16 *Amount to be stated in an infringement notice*

- 17 (1) Subsections 104(2) and (3) of the Regulatory Powers Act do not  
18 apply in relation to the amount to be stated in an infringement  
19 notice for the purposes of paragraph 104(1)(f) of that Act for an  
20 alleged contravention by a person of any of the following strict  
21 liability offences:  
22 (a) subsection 38(3) (compliance with recall notices);  
23 (b) subsection 39(2) (notification requirements—compulsory  
24 recalls);  
25 (c) subsection 40(2) (notification requirements—voluntary  
26 recalls).
- 27 (2) The amount to be stated in an infringement notice for the purposes  
28 of paragraph 104(1)(f) of the Regulatory Powers Act for an alleged  
29 contravention by a person of a strict liability offence mentioned in  
30 subsection (1) of this section is:

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## Part 4 Compliance and enforcement

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- 1 (a) if the notice relates to only one alleged contravention of the  
2 offence by the person—the amount worked out using the  
3 table below; or  
4 (b) if the notice relates to more than one alleged contravention of  
5 the offence by the person—using the table below, the total  
6 amount worked out by adding together the amounts for each  
7 alleged contravention to which the notice relates.  
8

---

#### Amount to be stated in an infringement notice

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| Item | If the infringement notice is for an alleged contravention of one of the following strict liability offences ... | the amount is ...   |
|------|--|---|
| 1    | subsection 38(3)   | (a) if the person is a listed corporation—600 penalty units; or<br>(b) if the person is a body corporate other than a listed corporation—60 penalty units; or<br>(c) if the person is not a body corporate—12 penalty units |
| 2    | subsection 39(2) or 40(2)  | (a) if the person is a body corporate—30 penalty units; or<br>(b) if the person is not a body corporate—6 penalty units   |

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9

## 57 Enforceable undertakings under Part 6 of the Regulatory Powers Act

11

### *Enforceable provisions*

12

- 13 (1) A civil penalty provision of this Act is enforceable under Part 6 of  
14 the Regulatory Powers Act.

13

14

15

16

Note: Part 6 of the Regulatory Powers Act creates a framework for accepting and enforcing undertakings relating to compliance with provisions.

# EXPOSURE DRAFT

1 *Authorised person and relevant court*

2 (2) For the purposes of Part 6 of the Regulatory Powers Act, as that  
3 Part applies in relation to the provisions mentioned in  
4 subsection (1):

5 (a) each of the following persons is an authorised person:

6 (i) the Minister;

7 (ii) the Secretary;

8 (iii) an SES employee, or acting SES employee, in the  
9 Department; and

10 (b) a relevant court (as defined in section 5 of this Act) is a  
11 relevant court.

12 *Enforceable undertaking must be published on the Department's*  
13 *website*

14 (3) An authorised person in relation to a provision mentioned in  
15 subsection (1) must publish, on the Department's website:

16 (a) notice of a decision to accept an undertaking given in relation  
17 to the provision; and

18 (b) the name of the person who gave the undertaking.

## 19 **58 Injunctions under Part 7 of the Regulatory Powers Act**

20 *Enforceable provisions*

21 (1) A civil penalty provision of this Act is enforceable under Part 7 of  
22 the Regulatory Powers Act.

23 Note: Part 7 of the Regulatory Powers Act creates a framework for using  
24 injunctions to enforce provisions.

25 *Authorised person and relevant court*

26 (2) For the purposes of Part 7 of the Regulatory Powers Act, as that  
27 Part applies in relation to the provisions mentioned in  
28 subsection (1):

29 (a) each of the following persons is an authorised person:

30 (i) the Minister;

---

# EXPOSURE DRAFT

## **Part 4** Compliance and enforcement

### **Division 5** Civil penalties, infringement notices, enforceable undertakings and injunctions

#### Section 58

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- 1 (ii) the Secretary;  
2 (iii) an SES employee, or acting SES employee, in the  
3 Department; and  
4 (b) a relevant court (as defined in section 5 of this Act) is a  
5 relevant court.

# EXPOSURE DRAFT

1 **Division 6—Miscellaneous**

2 **59 Physical elements of offences**

3 (1) This section applies if a provision of this Act provides that a person  
4 contravening another provision of this Act (the *conduct rule*  
5 *provision*) commits an offence.

6 (2) For the purposes of applying Chapter 2 of the *Criminal Code* to the  
7 offence, the physical elements of the offence are set out in the  
8 conduct rule provision.

9 Note: Chapter 2 of the *Criminal Code* sets out general principles of criminal  
10 responsibility.

11 **60 Contravening an offence provision or a civil penalty provision**

12 (1) This section applies if a provision of this Act provides that a person  
13 contravening another provision of this Act (the *conduct provision*)  
14 commits an offence or is liable to a civil penalty.

15 (2) For the purposes of this Act, and the Regulatory Powers Act to the  
16 extent that it relates to this Act, a reference to a contravention of an  
17 offence provision or a civil penalty provision includes a reference a  
18 contravention of the conduct provision.

# EXPOSURE DRAFT

**Part 5** Administration

**Division 1** Simplified outline of this Part

Section 61

---

1 **Part 5—Administration**

2 **Division 1—Simplified outline of this Part**

3 **61 Simplified outline of this Part**

4  
5  
6

This Part deals with administrative matters, such as using computer programs to make decisions, information sharing, cost recovery and delegations.

1 **Division 2—Computerised decision-making**

2 **62 Minister may arrange for use of computer programs to make**  
3 **decisions etc.**

4 (1) The Minister may arrange for the use, under the Minister’s control,  
5 of computer programs for any purposes for which the Minister  
6 may, or must, under this Act:

- 7 (a) make a decision; or  
8 (b) exercise any power or comply with any obligation; or  
9 (c) do anything else related to making a decision, exercising a  
10 power, or complying with an obligation.

11 (2) The Minister is taken to have:

- 12 (a) made a decision; or  
13 (b) exercised a power or complied with an obligation; or  
14 (c) done something else related to the making of a decision, the  
15 exercise of a power, or the compliance with an obligation;  
16 that was made, exercised, complied with, or done (as the case  
17 requires) by the operation of a computer program under an  
18 arrangement made under subsection (1).

19 **63 Minister may substitute more favourable decisions for certain**  
20 **computer-based decisions**

21 (1) The Minister may substitute a decision (the *substituted decision*)  
22 for a decision (the *initial decision*) made by the operation of a  
23 computer program under an arrangement made under  
24 subsection 62(1) if:

- 25 (a) the computer program was not functioning correctly:  
26 (i) at a specified time or during a specified period; and  
27 (ii) in relation to specified outcomes from the operation of  
28 that program under an arrangement made under  
29 subsection 62(1); and  
30 (b) the substituted decision could have been made under the  
31 same provision of this Act as the initial decision; and

# EXPOSURE DRAFT

## Part 5 Administration

### Division 2 Computerised decision-making

#### Section 64

---

- 1 (c) the substituted decision is more favourable to the applicant.
- 2 (2) The Minister does not have a duty to consider whether to exercise  
3 the power under subsection (1) in respect of any decision, whether  
4 he or she is requested to do so by the applicant or by any other  
5 person, or in any other circumstances.
- 6 (3) Subsection (1) has effect despite:  
7 (a) any law of the Commonwealth; or  
8 (b) any rule of common law;  
9 to the contrary effect.

#### 10 **64 Use of computer programs by Secretary to make decisions etc.**

11 Sections 62 and 63 apply in relation to the Secretary in the same  
12 way as those sections apply in relation to the Minister.



1 **Division 3—Sharing information**

2 **65 Sharing information**

- 3 (1) The Secretary may give information, a record or document, or a  
4 copy of a record or document, obtained in the performance of  
5 functions or exercise of powers by a person under this Act (the  
6 ***road vehicle information***) to:
- 7 (a) a body responsible for maintaining the RAV; or
  - 8 (b) the Australian Competition and Consumer Commission for  
9 use by the Commission in relation to:
    - 10 (i) any of the Commission’s functions and powers under or  
11 in relation to Part XI of the *Competition and Consumer*  
12 *Act 2010* or the Australian Consumer Law; or
    - 13 (ii) any of the Commission’s powers under Part XII of that  
14 Act that relate to the laws mentioned in  
15 subparagraph (i); or
  - 16 (c) the Immigration and Border Protection Department for the  
17 use by the Department in relation to the Department’s  
18 functions and powers under or in relation to the *Customs Act*  
19 *1901*; or
  - 20 (d) an authority of a State or a Territory that has responsibilities  
21 for the registration of road vehicles; or
  - 22 (e) a national regulatory authority of a foreign country that has  
23 national responsibility relating to road vehicle standards; or
  - 24 (f) an international body responsible for:
    - 25 (i) investigating contraventions of international agreements  
26 or international decisions; or
    - 27 (ii) administering or ensuring compliance with international  
28 agreements or international decisions; or
  - 29 (g) any other body prescribed by the rules.
- 30 (2) The road vehicle information may be or include personal  
31 information.

32 Note: For use or disclosure of personal information, see the *Privacy Act*  
33 *1988*.

# EXPOSURE DRAFT

## Part 5 Administration

### Division 3 Sharing information

#### Section 65

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- 1                   (3) The road vehicle information may not be used or disclosed by a  
2                   body mentioned in subsection (1) for a commercial purpose.
- 3                   (4) This section does not limit any other powers the Secretary has to  
4                   disclose information to a person.
- 5                   (5) In this section:
- 6                   ***Immigration and Border Protection Department*** means the  
7                   Department administered by the Minister administering the  
8                   *Customs Tariff Act 1995*.

# EXPOSURE DRAFT

1 **Division 4—Cost recovery**

2 **Subdivision A—Fees**

3 **66 Fees for fee-bearing activities**

- 4 (1) The rules may prescribe fees that may be charged in relation to  
5 activities (*fee-bearing activities*) carried out by, or on behalf of, the  
6 Commonwealth in performing functions and exercising powers  
7 under this Act.
- 8 (2) Without limiting subsection (1), the rules may do any of the  
9 following:
- 10 (a) prescribe 2 or more fees for the same matter;
- 11 (b) prescribe a method for working out a fee;
- 12 (c) prescribe the circumstances in which a person is exempt from  
13 paying a specified fee;
- 14 (d) prescribe the circumstances in which the Secretary may  
15 waive a fee;
- 16 (e) prescribe the circumstances in which a fee may be refunded,  
17 in whole or in part;
- 18 (f) prescribe a method for working out the refund of part of a  
19 fee.
- 20 (3) A fee prescribed under subsection (1) must not be such as to  
21 amount to taxation.

22 **Subdivision B—Payment of cost-recovery charges**

23 **67 Paying cost-recovery charges**

24 The rules may:

- 25 (a) prescribe the time when a specified cost-recovery charge is  
26 due and payable; and
- 27 (b) prescribe the way in which a specified cost-recovery charge  
28 is payable; and

# EXPOSURE DRAFT

## Part 5 Administration

### Division 4 Cost recovery

#### Section 68

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- 1 (c) prescribe one or more persons who are liable to pay a  
2 specified cost-recovery charge.

#### 3 **Subdivision C—Unpaid cost-recovery charges**

##### 4 **68 Late payment fee**

- 5 (1) If the rules specify the time when a cost-recovery charge (the *basic*  
6 *charge*) is due and payable, the rules may also specify a fee (a *late*  
7 *payment fee*) that is due and payable if the basic charge is not paid  
8 at or before that time.
- 9 (2) Without limiting subsection (1), a late payment fee may relate to  
10 each day or part of a day that the basic charge remains unpaid after  
11 becoming due and payable.
- 12 (3) The rules may prescribe one or more persons who are liable to pay  
13 a late payment fee in relation to a cost-recovery charge referred to  
14 in paragraph (a) or (b) of the definition of *cost-recovery charge* in  
15 subsection 5(1).

##### 16 **69 Recovery of cost-recovery charges**

17 A cost-recovery charge that is due and payable to the  
18 Commonwealth under this Act may be recovered as a debt due to  
19 the Commonwealth by action in a relevant court.

##### 20 **70 Suspending or revoking approvals because of unpaid** 21 **cost-recovery charges**

- 22 (1) The rules may, in relation to approvals granted under this Act,  
23 provide for or in relation to the suspension or revocation of such  
24 approvals in circumstances where the holder of such an approval is  
25 liable to pay a cost-recovery charge that is due and payable.
- 26 (2) To avoid doubt, subsection (1) does not limit the rules from  
27 providing for or in relation to other circumstances in which  
28 approvals granted under this Act can be suspended or revoked.

# EXPOSURE DRAFT

1                               Note:        See for example paragraphs 19(2)(c) and 23(c), which allow the rules  
2   to provide for or in relation to suspension or revocation of certain  
3   approvals.

4       **71 Secretary may direct that activities not be carried out**

5                               If a person (the *debtor*) is liable to pay a cost-recovery charge that  
6                               is due and payable, the Secretary may refuse to carry out, or direct  
7                               a person not to carry out, specified activities or kinds of activities  
8                               in relation to the debtor under this Act until the cost-recovery  
9                               charge has been paid.

10       **Subdivision D—Miscellaneous**

11       **72 Secretary may remit or refund cost-recovery charges**

- 12                               (1) The Secretary may remit or refund the whole or part of a  
13   cost-recovery charge that is payable or paid to the Commonwealth  
14   if the Secretary is satisfied there are circumstances that justify  
15   doing so.
- 16                               (2) The Secretary may do so on his or her own initiative or on written  
17   application by a person.

# EXPOSURE DRAFT

**Part 5** Administration  
**Division 5** Delegations

Section 73

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1 **Division 5—Delegations**

2 **73 Delegation by the Minister**

- 3 (1) The Minister may, by writing, delegate all or any of the Minister's  
4 functions or powers under this Act (other than those mentioned in  
5 subsection (4)) to:
- 6 (a) the Secretary; or  
7 (b) an SES employee, or an acting SES employee, in the  
8 Department.
- 9 (2) The functions or powers that may be delegated under  
10 subsection (1) include functions or powers the Minister has as an  
11 authorised applicant or authorised person for the purposes of a  
12 provision of the Regulatory Powers Act because of this Act.
- 13 (3) In performing functions or exercising powers under a delegation,  
14 the delegate must comply with any directions of the Minister.
- 15 (4) Subsection (1) does not apply to the following functions and  
16 powers:
- 17 (a) the power to determine national road vehicle standards under  
18 section 12;  
19 (b) the power to make rules under section 82.
- 20 (5) The rules may provide for and in relation to the delegation of all or  
21 any of the Minister's functions or powers under the rules or any  
22 instruments made under the rules (other than those mentioned in  
23 subsection (6)) to:
- 24 (a) the Secretary; or  
25 (b) an APS employee.
- 26 (6) Subsection (5) does not apply to the following functions and  
27 powers:
- 28 (a) the power to issue a recall notice in relation to the  
29 compulsory recall of a road vehicle or approved road vehicle  
30 component;

# EXPOSURE DRAFT

1 (b) the power to determine specified matters by legislative  
2 instrument.

3 (7) The definition of *this Act* in section 5 does not apply to this  
4 section.

## 5 **74 Delegation by the Secretary**

6 (1) The Secretary may, by writing, delegate any or all of his or her  
7 functions or powers under this Act (other than those mentioned in  
8 subsection (4)) to an SES employee, or acting SES employee, in  
9 the Department.

10 (2) The functions or powers that may be delegated under  
11 subsection (1) include functions or powers the Secretary has as a  
12 relevant chief executive, authorised applicant, infringement officer  
13 or authorised person for the purposes of a provision of the  
14 Regulatory Powers Act because of this Act.

15 (3) In performing functions or exercising powers under a delegation,  
16 the delegate must comply with any directions of the Secretary.

17 (4) Subsection (1) does not apply to the power to determine that:  
18 (a) a vehicle of a particular class is, or is not, a road vehicle  
19 under section 6; and  
20 (b) a component of a particular class is, or is not, a road vehicle  
21 component under section 7.

22 (5) The rules may provide for and in relation to the delegation to an  
23 APS employee of all or any of the Secretary's functions or powers  
24 under:  
25 (a) the rules; and  
26 (b) any instruments made under the rules.

27 (6) The definition of *this Act* in section 5 does not apply to this  
28 section.

# EXPOSURE DRAFT

**Part 6** Miscellaneous

**Division 1** Simplified outline of this Part

Section 75

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1 **Part 6—Miscellaneous**

2 **Division 1—Simplified outline of this Part**

3 **75 Simplified outline of this Part**

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|   |
|---|
| This Part deals with miscellaneous matters, such as interactions with other laws and rules. |
|---|



1 **Division 2—Interactions with other laws**

2 **76 Authority to take delivery of imported vehicles**

3 If an authority to deal with an imported road vehicle under the  
4 *Customs Act 1901* is subject to the condition that a specified  
5 permission for the vehicle be obtained under this Act, then that  
6 condition is taken to be satisfied if:

7 (a) both:

8 (i) the person to whom the authority relates is the holder of  
9 a road vehicle type approval; and

10 (ii) the imported road vehicle is of a type to which the road  
11 vehicle type approval applies; or

12 (b) the person to whom the authority relates is the holder of an  
13 import approval and details of the imported road vehicle are  
14 specified in the approval.

15 **77 Application of the Australian Consumer Law**

16 For the purposes of sections 106 and 122 (other than  
17 subsection 106(7)) of the Australian Consumer Law, a national  
18 road vehicle standard is to be taken to be a safety standard (within  
19 the meaning of the Australian Consumer Law).

20 **78 Road vehicle need not comply with State or Territory standards**

21 (1) Subject to this Act, a road vehicle may be used in transport on a  
22 public road in a State or Territory, even though it does not comply  
23 with a road vehicle standard imposed by a law of the State or  
24 Territory, if:

25 (a) at the time the road vehicle is provided by a person for the  
26 first time in Australia:

27 (i) the vehicle is a new road vehicle; and

28 (ii) the vehicle is on the RAV; and

29 (iii) the vehicle complies with the standards mentioned in  
30 subsection (3); and

# EXPOSURE DRAFT

## Part 6 Miscellaneous

### Division 2 Interactions with other laws

#### Section 78

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- 1 (b) the vehicle:
- 2 (i) was manufactured or provided by a constitutional
- 3 corporation for use in transport; or
- 4 (ii) is owned or used, or to be owned or used, by a
- 5 constitutional corporation; or
- 6 (iii) is used, or to be used, exclusively or predominantly in
- 7 trade or commerce among the States or between a State
- 8 and a Territory; or
- 9 (iv) is used, or to be used, in a Territory or Commonwealth
- 10 place.
- 11 (2) For the purposes of paragraph (1)(a), in working out whether a
- 12 road vehicle is provided for the first time in Australia, the
- 13 provision of a road vehicle in a circumstance mentioned in
- 14 paragraph (a) to (f) of the definition of *new road vehicle* in
- 15 subsection (5) is to be disregarded.
- 16 (3) For the purposes of subparagraph (1)(a)(iii), the standards are:
- 17 (a) if the vehicle has been modified before the vehicle is
- 18 provided for the first time in Australia and the modification
- 19 causes the vehicle to not satisfy the requirements of the entry
- 20 pathway that applied at the time the vehicle was entered on
- 21 the RAV—the standards imposed by this Act, at the time of
- 22 the modification, in relation to the vehicle as modified; or
- 23 (b) otherwise—the standards imposed by this Act in relation to
- 24 the vehicle at the time the vehicle was entered on the RAV.
- 25 Note: For modifications of road vehicles on the RAV, see section 26.
- 26 (4) To avoid doubt, this section does not prevent a law of a State or
- 27 Territory from prohibiting or regulating a road vehicle's use in
- 28 transport on a public road in the State or Territory if:
- 29 (a) the vehicle ceases to comply with the standards mentioned in
- 30 subsection (3); or
- 31 (b) the operation of the vehicle becomes defective in any respect.
- 32 (5) In this section:

# EXPOSURE DRAFT

1            ***new road vehicle*** means a road vehicle that has not been used in  
2 transport on a public road in Australia or outside Australia, other  
3 than:

- 4            (a) to have work done on it; or  
5            (b) to protect it; or  
6            (c) to store it; or  
7            (d) if the vehicle has been imported—to transport it to the  
8 importer; or  
9            (e) if the vehicle is to be exported—to transport it to the  
10 exporter; or  
11           (f) in a circumstance set out in the rules.

12           ***road vehicle standard*** means a standard for road vehicles that is  
13 designed to:

- 14           (a) make such vehicles safe to use; or  
15           (b) control the emission of gas, particles or noise from such  
16 vehicles; or  
17           (c) secure such vehicles against theft; or  
18           (d) provide for security marking of such vehicles; or  
19           (e) promote the saving of energy.

## 20    **79 Severability—additional effect of Act**

- 21           (1) Without limiting its effect apart from this section, this Act also has  
22 effect as provided by this section.
- 23           (2) To avoid doubt, no subsection of this section limits the operation of  
24 any other subsection of this section.
- 25           (3) This Act also has the effect that it would have if its operation were  
26 expressly confined to acts or omissions taking place in the course  
27 of, or in relation to, trade or commerce:
- 28           (a) between Australia and places outside Australia; or  
29           (b) among the States; or  
30           (c) within a Territory, between a State and a Territory or  
31 between 2 Territories; or

# EXPOSURE DRAFT

## Part 6 Miscellaneous

### Division 2 Interactions with other laws

#### Section 79

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- 1 (d) by way of the supply of road vehicles or approved road  
2 vehicle components to the Commonwealth or an authority or  
3 instrumentality of the Commonwealth.
- 4 (4) This Act also has the effect that it would have if its operation were  
5 expressly confined to:
- 6 (a) acts or omissions of:
- 7 (i) constitutional corporations; or  
8 (ii) entities acting for or on behalf of a constitutional  
9 corporation; or
- 10 (b) exercising a power or performing a function that affects a  
11 person that is a constitutional corporation; or
- 12 (c) conferring a right or imposing an obligation on a  
13 constitutional corporation.
- 14 (5) This Act also has the effect that it would have if its operation were  
15 expressly confined to acts or omissions taking place outside  
16 Australia.
- 17 (6) This Act also has the effect that it would have if its operation were  
18 expressly confined to matters:
- 19 (a) with respect to Australia's rights and obligations under an  
20 agreement with one or more countries; or  
21 (b) that are of international concern.
- 22 (7) This Act also has the effect it would have if its operation were  
23 expressly confined to acts using postal, telegraphic, telephonic, and  
24 other like services (within the meaning of paragraph 51(v) of the  
25 Constitution).
- 26 (8) This Act also has the effect that it would have if its operation were  
27 expressly confined to:
- 28 (a) acts or omissions that occur at a Commonwealth place; or  
29 (b) exercising a power, performing a function, conferring a right,  
30 or imposing an obligation, in relation to a person or thing in a  
31 Commonwealth place.
- 32 (9) This Act also has the effect that it would have if its operation were  
33 expressly confined to:
-

# EXPOSURE DRAFT

Miscellaneous **Part 6**  
Interactions with other laws **Division 2**

## Section 79

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- 1 (a) acts or omissions taking place in a Territory; or  
2 (b) exercising a power, performing a function, conferring a right,  
3 or imposing an obligation, in relation to a person or thing in a  
4 Territory.
- 5 (10) The definitions of *Australia* and *trade or commerce* in section 5 do  
6 not apply to this section.

# EXPOSURE DRAFT

## Part 6 Miscellaneous

### Division 3 Basis on which approvals granted

#### Section 80

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1 **Division 3—Basis on which approvals granted**

2 **80 Basis on which approvals granted**

3 An approval granted under this Act is granted on the basis that:

4 (a) conditions may be imposed on the approval under this Act;  
5 and

6 (b) conditions imposed on the approval may be varied or  
7 removed under this Act; and

8 (c) the approval may be suspended or revoked under this Act;  
9 and

10 (d) the approval may be cancelled, revoked, terminated or varied  
11 by or under later legislation; and

12 (e) once the approval ceases to be in force—both:

13 (i) conditions may be imposed under this Act on the person  
14 who held the approval; and

15 (ii) conditions imposed on that person may be varied or  
16 removed under this Act; and

17 (f) no compensation is payable if:

18 (i) conditions are imposed on the approval as mentioned in  
19 paragraph (a), or are varied or removed as mentioned in  
20 paragraph (b); or

21 (ii) the approval is suspended, cancelled, revoked,  
22 terminated or varied, as mentioned in paragraph (c) or  
23 (d); or

24 (iii) conditions are imposed on the person who held the  
25 approval, or those conditions are varied or removed, as  
26 mentioned in paragraph (e).

# EXPOSURE DRAFT

1 **Division 4—Miscellaneous**

2 **81 Immunity from suit**

3 (1) An action or proceeding does not lie against the Commonwealth in  
4 respect of any loss incurred, or any damage suffered, because of  
5 reliance on:

- 6 (a) an entry of a road vehicle on the RAV or the SEVs Register;  
7 or  
8 (b) any test carried out under, or for the purposes of, this Act; or  
9 (c) any express statement, or any statement or action implying,  
10 that a road vehicle or a road vehicle component complied  
11 with this Act; or  
12 (d) an approval granted under this Act.

13 (2) An action or proceeding, whether criminal or civil, does not lie  
14 against the following persons:

- 15 (a) the Minister;  
16 (b) the Secretary;  
17 (c) an inspector;  
18 (d) an APS employee in the Department;

19 in relation to anything done, or omitted to be done, in good faith by  
20 the person in connection with the performance or purported  
21 performance of functions or duties, or the exercise or purported  
22 exercise of powers, conferred by this Act.

23 **82 Rules**

24 (1) The Minister may, by legislative instrument, make rules  
25 prescribing matters:

- 26 (a) required or permitted by this Act to be prescribed by the  
27 rules; or  
28 (b) necessary or convenient to be prescribed for carrying out or  
29 giving effect to this Act.

30 (2) Without limiting subsection (1), the rules may do the following:

# EXPOSURE DRAFT

## Part 6 Miscellaneous

### Division 4 Miscellaneous

#### Section 82

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- 1 (a) provide for and in relation to the determination of specified  
2 matters by the Minister by legislative instrument;
- 3 (b) confer a power to make a decision of an administrative  
4 character on the Minister or the Secretary;
- 5 (c) provide for and in relation to the review of a decision made  
6 under this Act, the rules or any instrument made under the  
7 rules;
- 8 (d) provide, as a condition of an approval granted under this Act:  
9 (i) a power to request information or documents from the  
10 holder of the approval; or  
11 (ii) a power of entry and search of premises where activities  
12 are carried out under, or in relation to, the approval;
- 13 (e) provide for and in relation to the publication of approvals,  
14 and details relating to approvals, granted under this Act;
- 15 (f) in relation to matters which are required or permitted by this  
16 Act to be prescribed by the rules—provide for and in relation  
17 to ancillary or incidental matters.
- 18 (3) To avoid doubt, the rules may not do the following:  
19 (a) create an offence or civil penalty;  
20 (b) provide powers of:  
21 (i) arrest or detention; or  
22 (ii) entry, search or seizure (other than as mentioned in  
23 subparagraph (2)(d)(ii));  
24 (c) impose a tax;  
25 (d) set an amount to be appropriated from the Consolidated  
26 Revenue Fund under an appropriation in this Act;  
27 (e) directly amend the text of this Act.
- 28 (4) The definition of *this Act* in section 5 does not apply to this  
29 section.
- 30 *Consultation on rules etc. relating to personal information*
- 31 (5) Before:



# EXPOSURE DRAFT

Miscellaneous **Part 6**  
Miscellaneous **Division 4**

## Section 82

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- 1 (a) making rules, or legislative instruments under the rules, that  
2 relate to the collection, use, disclosure or publication of  
3 personal information on the RAV; or  
4 (b) making rules for the purposes of paragraph 65(1)(g) to  
5 prescribe a body to which personal information may be  
6 disclosed;  
7 the Minister must consult the Information Commissioner in  
8 relation to matters that relate to the privacy functions (within the  
9 meaning of the *Australian Information Commissioner Act 2010*)  
10 and have regard to any submissions made by the Information  
11 Commissioner because of that consultation.

### 12 *Incorporation by reference*

- 13 (6) Despite subsection 14(2) of the *Legislation Act 2003*, the rules and  
14 any instrument made under the rules may make provision in  
15 relation to a matter by applying, adopting or incorporating, with or  
16 without modification, any matter contained in an instrument or  
17 other writing as in force or existing from time to time.