

# **EXPOSURE DRAFT**

2016-2017

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**ROAD VEHICLE STANDARDS CHARGES (IMPOSITION – GENERAL) BILL 2017**  
**ROAD VEHICLE STANDARDS CHARGES (IMPOSITION – CUSTOMS) BILL 2017**  
**ROAD VEHICLE STANDARDS CHARGES (IMPOSITION – EXCISE) BILL 2017**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Urban Infrastructure  
the Hon Paul Fletcher MP)

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## **ROAD VEHICLE STANDARDS CHARGES (IMPOSITION – GENERAL) BILL 2017** **ROAD VEHICLE STANDARDS CHARGES (IMPOSITION – CUSTOMS) BILL 2017** **ROAD VEHICLE STANDARDS CHARGES (IMPOSITION – EXCISE) BILL 2017**

### **OUTLINE**

The Road Vehicle Standards Bill 2017 (Road Vehicle Standards Bill) will replace the *Motor Vehicle Standards Act 1989* (Motor Vehicle Standards Act) as the primary legislation for regulating the importation and provision of road vehicles in Australia.

The three Bills subject of this explanatory memorandum allow the Commonwealth to impose charges in relation the administration of the Road Vehicle Standards Bill. This ensures that, among other matters, the Government is able to develop the National Road Vehicle Standards; maintain appropriate compliance and enforcement arrangements; and provide support to consumers utilising the Road Vehicle Standards Bill.

The Authority to collect charges imposed is provided by the Road Vehicle Standards Bill and the Road Vehicle Standards (Transitional and Consequential Amendments) Bill 2017 (Road Vehicle Standards Transitional Bill) for the transitional period of twelve months.

The Bills do not contain amounts of charges. These will be prescribed in regulations, which are disallowable by Parliament. Setting the charges through regulations allows the relevant Minister to consult with stakeholders on the amounts; make appropriate and timely adjustments to the charges; and, ensures that there is a level of parliamentary scrutiny for the charges.

### **Road Vehicle Standards Charges (Imposition-General) Bill 2017**

The Road Vehicle Standards Charges (Imposition-General) Bill 2017 (the General Charges Bill) enables the imposition of cost-recovery charges to activities connected with the administration of the Road Vehicle Standards Bill, to the extent that the imposition does not amount to a duty of customs or a duty of excise within the meaning of section 55 of the *Constitution*.

### **Road Vehicle Standards Charges (Imposition – Customs) Bill 2017**

The Road Vehicle Standards Charges (Imposition – Customs) Bill 2017 (the Customs Charges Bill) enables the imposition of cost-recovery charges to activities connected with the administration of the Road Vehicle Standards Bill to the extent that the imposition amounts to a duty of customs within the meaning of section 55 of the *Constitution*.

### **Road Vehicle Standards Charges (Imposition – Excise) Bill 2017**

The Road Vehicle Standards Charges (Imposition – Excise) Bill 2017 (the Excise Charges Bill) enables the imposition of cost-recovery charges for activities connected with the administration of the Road Vehicle Standards Bill to the extent that the imposition amounts to a duty of excise within the meaning of section 55 of the *Constitution*.

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## **Financial impact statement**

The Bills do not set the amount of the charges and will not impose any financial impacts on businesses. These Bills provide a framework for recovery costs associated with the administration of the Road Vehicle Standards Bill.

The costs to the Australian Government of regulating the importation and provision of road vehicles will be offset by revenue from cost recovery activities where this is consistent with the Australian Government Charging Framework. Consistent with Australian Government policy, the amount of any applicable charge, or fees for services provided under the Bill, will be determined on a case-by-case basis through a Cost Recovery Implementation Statement.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Road Vehicle Standards Charges (Imposition-General) Bill 2017**  
**Road Vehicle Standards Charges (Imposition – Customs) Bill 2017**  
**Road Vehicle Standards Charges (Imposition – Excise) Bill 2017**

These Bills are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

## **Overview of the Bill**

The Road Vehicle Standards Bill 2017 (Road Vehicle Standards Bill) will replace the *Motor Vehicle Standards Act 1989* (Motor Vehicle Standards Act) as the primary legislation for regulating the importation and provision of road vehicles in Australia.

The three Bills subject of this explanatory memorandum allow the Commonwealth to impose charges in relation the administration of the Road Vehicle Standards Bill. This ensures that, among other matters, the Government is able to develop the National Road Vehicle Standards; maintain appropriate compliance and enforcement arrangements; and provide support to consumers utilising the Road Vehicle Standards Bill.

The Authority to collect charges imposed is provided by the Road Vehicle Standards Bill and the Road Vehicle Standards Transitional Bill for the transitional period of twelve months.

The Bills do not contain amounts of charges. These will be prescribed in regulations, which are disallowable by Parliament. Setting the charges through regulations allows the relevant Minister to consult with stakeholders on the amounts; make appropriate and timely adjustments to the charges; and, ensure that there is a level of parliamentary scrutiny for the charges.

## **Human rights implications**

The General Charges Bill, the Customs Charges Bill, and the Excise Charges Bill do not engage any human rights and therefore do not limit any rights.

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The Road Vehicle Standards Bill and the Road Vehicle Standards Transitional Bill engage a number of human rights. A full analysis is available in their corresponding Statements of Compatibility with Human Rights in their respective Explanatory Memoranda.

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The clauses in the Bill are enabling and mechanistic in nature. It does not itself set the amount of the charges and will not impose any financial impacts on businesses. The amount of cost-recovery charges and who is liable to pay them will be set in the regulation under the Bill.

The legislation will complement the fee-for service cost-recovery mechanisms under the Road Vehicle Standards Bill and support Australia's capacity to ensure the safety, anti-theft and environmental standards of road vehicles and approved road vehicle components.

This Bill does not engage any of the applicable rights or freedoms.

## **Conclusion**

This Bill is compatible with human rights as it does not engage any human rights issues.

**Minister for Urban Infrastructure, the Hon Paul Fletcher MP**

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## NOTES ON CLAUSES

### Road Vehicle Standards Charges (Imposition – General) Bill 2017

#### Clause 1: Short Title

1. This clause provides that the Bill, when enacted may be cited as the Road Vehicle Standards Charges (Imposition – General) Bill 2017.

#### Clause 2: Commencement

2. This clause sets out when the various clauses of the Bill commence.

#### Clause 3: Act binds the Crown

3. This clause provides that the Act will bind the Crown in each of its capacities. This means that the Commonwealth and state and territory governments will be bound to comply with the provisions of the Act.

#### Clause 4: Extraterritorial application

4. This clause states that this Act extends to acts, omissions, matters and things outside Australia. An example of a thing could be a contract entered into outside Australia.

#### Clause 5: Act does not impose tax on property of a State

5. The Bill does not impose a tax on property of any kind belonging to at State. This provision ensures that the Bill will not contravene section 114 of the *Constitution*, which prohibits the Commonwealth imposing any tax on the property of any kind belonging to a State.

#### Clause 6: Imposition of charges

6. This clause permits the Commonwealth to impose charges in relation to prescribed matters connected with the administration of the Road Vehicle Standards Bill or the Road Vehicle Standards Transitional Bill. These matters will be prescribed in the delegated legislation and will reflect the costs to Government of administering the Road Vehicle Standards Bill or the Road Vehicle Standards Transitional Bill and providing services to regulated entities.
7. The charges prescribed will be imposed as taxes for the purposes of cost recovery and should not raise revenue above the cost of administering the Road Vehicle Standards Bill or the Road Vehicle Standards Transitional Bill and providing services to regulated entities.
8. This clause is designed to provide the Department with sufficient flexibility to ensure that any charges best reflect any services provided and allow the cost-recovery for such services to be appropriate in all circumstances.

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## **Clause 7: Matters relating to amount of charges**

9. This clause allows for regulations to prescribe charges by specifying an amount as the charge or by specifying a method for calculating the amount of a charge.
10. Specifying the amount of a charge or the method for calculating the amount of a charge in regulations, as opposed to the Bill itself, ensures that there is appropriate flexibility to change the amount of a charge or the method for calculating the amount of a charge over time. This will allow charges imposed in delegated legislation to be more easily increased or decreased as the costs for delivering services under the Road Vehicle Standards Bill change. This will also help to minimise over or under recoveries.

## **Clause 8: Exemptions from charges**

11. This clause allows the regulations to provide for exemptions from a charge or charges under the Bill.
12. Specifying exemption from a charge in regulations, as opposed to the Bill itself, ensures there is appropriate flexibility to make amendments to exemptions as required.

## **Clause 9: Regulations**

13. The Governor-General has regulation-making powers for prescribing matters are required or permitted for the purposes of the Act or that are necessary or convenient for carrying out or giving effect to the Act.

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## Road Vehicle Standards Charges (Imposition-Customs) Bill 2017

### Clause 1: Short Title

1. This clause provides that the Bill, when enacted may be cited as the Road Vehicle Standards Charges (Imposition – Customs) Bill 2017.

### Clause 2: Commencement

2. This clause sets out when the various clauses of the Bill commence.

### Clause 3: Act binds the Crown

3. This clause provides that the Act will bind the Crown in each of its capacities. This means that the Commonwealth and state and territory governments will be bound to comply with the provisions of the Act.

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7. The charges prescribed will be imposed as taxes for the purposes of cost recovery and should not raise revenue above the cost of administering the Road Vehicle Standards Bill or the Road Vehicle Standards Transitional Bill and providing services to regulated entities.
8. This clause is designed to provide the Department with sufficient flexibility to ensure that any charges best reflect any services provided and allow the cost-recovery for such services to be appropriate in all circumstances.
9. Charges imposed under this Bill are only valid insofar as the charge is a customs duty within the meaning of section 55 of the *Constitution*.



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13. Specifying exemption from a charge in regulations, as opposed to the Bill itself, ensures there is appropriate flexibility to make amendments to exemptions as required.

## **Clause 9: Regulations**

14. The Governor-General has regulation-making powers for prescribing matters are required or permitted for the purposes of the Act or that are necessary or convenient for carrying out or giving effect to the Act.

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## Road Vehicle Standards Charges (Imposition – Excise) Bill 2017

### Clause 1: Short Title

1. This clause provides that the Bill, when enacted, may be cited as the Road Vehicle Standards Charges (Imposition – Excise) Bill 2017.

### Clause 2: Commencement

2. This clause sets out when the various clauses of the Bill commence

### Clause 3: Act binds the Crown

3. This clause provides that the Act will bind the Crown in each of its capacities. This means that the Commonwealth and state and territory governments will be bound to comply with the provisions of the Act.

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### Clause 5: Imposition of charges

6. This clause permits the Commonwealth to impose charges in relation to prescribed matters connected with the administration of the Road Vehicle Standards Bill or the Road Vehicle Standards Transitional Bill. These matters will be prescribed in the delegated legislation and will reflect the costs to Government of administering the Road Vehicle Standards Bill or the Road Vehicle Standards Transitional Bill and providing services to regulated entities.
7. The charges prescribed will be imposed as taxes for the purposes of cost recovery and should not raise revenue above the cost of administering the Road Vehicle Standards Bill or the Road Vehicle Standards Transitional Bill and providing services to regulated entities.
8. This clause is designed to provide the Department with sufficient flexibility to ensure that any charges best reflect any services provided and allow the cost-recovery for such services to be appropriate in all circumstances.
9. Charges imposed under this Bill are only valid insofar as the charge is an excise duty within the meaning of section 55 of the *Constitution*.

### Clause 6: Matters relating to amount of charges

10. This clause allows for regulations to prescribe charges by specifying an amount as the charge or by specifying a method for calculating the amount of a charge.
11. Specifying the amount of a charge or the method for calculating the amount of a charge in regulations, as opposed to the Bill itself, ensures that there is appropriate flexibility to

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change the amount of a charge or the method for calculating the amount of a charge over time. This will allow charges imposed in delegated legislation to be more easily increased or decreased as the costs for delivering services under the Road Vehicle Standards Bill change. This will also help to minimise over or under recoveries.

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13. Specifying exemption from a charge in regulations, as opposed to the Bill itself, ensures there is appropriate flexibility to make amendments to exemptions as required.

## **Clause 8: Regulations**

14. The Governor-General has regulation-making powers for prescribing matters are required or permitted for the purposes of the Act or that are necessary or convenient for carrying out or giving effect to the Act.