

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 (Consequential and Transitional Provisions) Bill 2017

No. , 2017

(Infrastructure and Regional Development)

**A Bill for an Act to deal with consequential and
transitional matters in connection with the *Road
Vehicle Standards Act 2017*, and for related
purposes**

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1
2 **A Bill for an Act to deal with consequential and**
3 **transitional matters in connection with the *Road***
4 ***Vehicle Standards Act 2017*, and for related**
5 **purposes**

6 The Parliament of Australia enacts:

7 **1 Short title**

8 This Act is the *Road Vehicle Standards (Consequential and*
9 *Transitional Provisions) Act 2017*.

10 **2 Commencement**

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day after this Act receives the Royal Assent.	
2. Schedule 1	Immediately after the commencement of section 12 of the <i>Road Vehicle Standards Act 2017</i> .	
3. Schedules 2 and 3	At the same time as section 15 of the <i>Road Vehicle Standards Act 2017</i> commences.	
4. Schedule 4, Part 1	At the same time as section 3 of the <i>Road Vehicle Standards Act 2017</i> commences.	
5. Schedule 4, Part 2	At the same time as section 15 of the <i>Road Vehicle Standards Act 2017</i> commences.	
6. Schedule 4,	The day after the end of the period of 12	

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Transitional national road vehicle standards **Schedule 1**

1 **Schedule 1—Transitional national road vehicle**
2 **standards**
3

4 **1 Transitional national road vehicle standards for first 12**
5 **months**

6 (1) This item applies for the purposes of the operation of the following
7 during the period of 12 months beginning on the day the *Road Vehicle*
8 *Standards Act 2017* receives the Royal Assent:

9 (a) provisions of that Act that commence on the day after that
10 Act receives the Royal Assent;

11 (b) any instruments made under those provisions.

12 (2) A vehicle standard as in force from time to time under section 7 of the
13 *Motor Vehicle Standards Act 1989* is taken also to be a national road
14 vehicle standard determined under section 12 of the *Road Vehicle*
15 *Standards Act 2017*.

16 Note: See also item 2 of Schedule 3 in relation to the national road vehicle standards after the
17 repeal of the *Motor Vehicle Standards Act 1989*.

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Schedule 2 Repeal of the Motor Vehicle Standards Act 1989

1 **Schedule 2—Repeal of the Motor Vehicle**
2 **Standards Act 1989**
3

4 *Motor Vehicle Standards Act 1989*

5 **1 The whole of the Act**

6 Repeal the Act.

4 *Road Vehicle Standards (Consequential and Transitional Provisions) No. , 2017*
Bill 2017

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Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Schedule 3

Introduction Part 1

Schedule 3—Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 1—Introduction

1 Definitions

(1) In this Schedule:

approved form means a form approved under item 28.

commencement means the day that this Schedule commences.

new law means the following laws:

- (a) the *Road Vehicle Standards Act 2017*;
- (b) the rules made under that Act;
- (c) the national road vehicle standards determined under that Act;
- (d) any other instruments made under that Act or those rules;
- (e) the *Road Vehicle Standards Charges (Imposition—Customs) Act 2017*;
- (f) the *Road Vehicle Standards Charges (Imposition—Excise) Act 2017*;
- (g) the *Road Vehicle Standards Charges (Imposition—General) Act 2017*.

Note: The national standards made under the *Motor Vehicle Standards Act 1989* (also known as the Australian Design Rules) are taken to be national road vehicle standards determined under the *Road Vehicle Standards Act 2017*: see item 2 of this Schedule.

old law means the following laws, as in force immediately before commencement:

- (a) the *Motor Vehicle Standards Act 1989* (other than sections 25 to 32);
- (b) the *Motor Vehicle Standards Regulations 1989*;
- (c) the national standards determined under the *Motor Vehicle Standards Act 1989* (also known as the Australian Design Rules);

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Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 1 Introduction

- 1 (d) the *Motor Vehicle Standards (Approval to Place Used Import*
2 *Plates) Guidelines 2006 (No. 1)*;
- 3 (e) the *Motor Vehicle Standards (Placement of Used Import*
4 *Plates) Determination 2004 (No.1)*;
- 5 (f) the *Motor Vehicle Standards (Procedures for Inspecting and*
6 *Testing Used Imported Vehicles) Determination 2002*;
- 7 (g) the *Motor Vehicle Standards (Registered Automotive*
8 *Workshops — Fit and Proper Persons) Determination 2002*;
- 9 (h) the *Motor Vehicle Standards (Road Vehicles)*
10 *Determination 2017*;
- 11 (i) the *Motor Vehicle Standards (Used Imported Vehicle Report)*
12 *Determination 2006 (No. 1)*.

13 ***transitional period*** means the 12 month period that begins on
14 commencement.

15 (2) The following expressions used in this Schedule, that are also used in
16 the *Road Vehicle Standards Act 2017*, have the same meaning in this
17 Schedule as they have in that Act:

- 18 (a) import;
- 19 (b) provide;
- 20 (c) road vehicle type approval;
- 21 (d) rules;
- 22 (e) Secretary;
- 23 (f) SEVs Register.

24 (3) To avoid doubt, if a provision of this Schedule provides that the new
25 law does not apply in relation to a matter, the provision has effect
26 subject to items 25 and 27.

27 Note: Those items provide for certain provisions of the new law to apply in relation to this
28 Schedule and the old law (to the extent that the old law applies because of this
29 Schedule).

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Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Schedule 3

National standards Part 2

Part 2—National standards

2 Vehicle standards

A vehicle standard in force under section 7 of the *Motor Vehicle Standards Act 1989* immediately before commencement continues in force as if it were a national road vehicle standard determined under section 12 of the *Road Vehicle Standards Act 2017*.

3 Procedures for testing vehicles

Procedures relating to retaining records to continue in force

(1) The *Motor Vehicle Standards (Procedures for Inspecting and Testing Used Imported Vehicles) Determination 2002* in force under section 9 of the *Motor Vehicle Standards Act 1989* immediately before commencement continues in force for the period of 7 years beginning on commencement (the *retention period*) for the purposes of retaining the records required by section 8 of the Determination.

(2) To avoid doubt, a person to whom subitem (1) applies must retain the records required by the Determination:

(a) even though the retention period ends after the end of the transitional period; and

(b) even though the person ceases to be a registered automotive workshop (within the meaning of the old law), whether because the transitional period ends or otherwise.

Offence—failure to retain records for retention period

(3) A person commits an offence if:

(a) the person is required to retain a record because of subitem (1); and

(b) the person does not retain the record for the period of 7 years beginning on commencement.

Penalty: 60 penalty units.

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Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 3 Certification and approval

1 **Part 3—Certification and approval**

2 **Division 1—Identification plates**

3 **4 Approval for the placement of identification plates—**
4 **subsections 10A(1) and (2)**

5 *Existing approvals to continue in force*

6 (1) Despite the repeal of the *Motor Vehicle Standards Act 1989*, if an
7 approval:

8 (a) was given under subsection 10A(1) or (2) of that Act in
9 relation to vehicles of a particular type; and

10 (b) is in force immediately before commencement;

11 the approval is taken to continue in force during the transitional period
12 subject to the provisions of the old law.

13 *Pending applications*

14 (2) If, before commencement:

15 (a) a person applied to the Minister for an approval under
16 subsection 10A(1) or (2) of the *Motor Vehicle Standards Act*
17 *1989* in relation to vehicles of a particular type; and

18 (b) the Minister had not decided the application;

19 then:

20 (c) the Minister must decide the application in accordance with
21 the old law; and

22 (d) if the Minister decides to give written approval—the
23 approval:

24 (i) comes into force on the day specified by the Minister in
25 the approval; and

26 (ii) continues in force during the transitional period subject
27 to the provisions of the old law.

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Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Schedule 3

Certification and approval **Part 3**

1 *New law does not apply*

2 (3) If an approval continues, or is taken to continue, in force during the
3 transitional period subject to the provisions of the old law by force of
4 this item, then the new law does not apply, during the transitional
5 period, to:

- 6 (a) the importation of vehicles to which the approval applies; and
7 (b) the provision of vehicles that have had identification plates
8 placed on them in accordance with the approval.

9 **5 Transition of approval for the placement of identification**
10 **plates to a road vehicle type approval**

11 (1) If:

12 (a) a person is the holder of:

- 13 (i) an approval under subsection 10A(1) or (2) of the *Motor*
14 *Vehicle Standards Act 1989* that is in force immediately
15 before commencement, as mentioned in subitem 4(1); or
16 (ii) an approval under subsection 10A(1) or (2) of the *Motor*
17 *Vehicle Standards Act 1989* because of a decision by the
18 Minister allowed by subitem 4(2); and

19 (b) during the 6 month period beginning immediately after
20 commencement, the person:

- 21 (i) provides to the Minister, in the approved form, written
22 acknowledgement of the conditions applying to road
23 vehicle type approvals, as set out in the rules, and that
24 breach of any of those conditions is an offence under the
25 new law; and
26 (ii) provides to the Minister, in the approved form, a signed
27 declaration that the person satisfies the conditions
28 applying to road vehicle type approvals, as set out in the
29 rules, in respect of the type of vehicle covered by an
30 approval mentioned in paragraph (a) (an *old approval*);
31 and
32 (iii) pays the charges payable for the purposes of this
33 paragraph;

34 then:

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Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 3 Certification and approval

1 (c) the person is taken to have been granted a road vehicle type
2 approval under the rules in respect of the type of vehicle
3 covered by the old approval for the 5 year period beginning
4 on the day that paragraph (b) is satisfied (the *new approval*);
5 and

6 (d) on that day, the old approval ceases to be in force.

7 (2) The following provisions have effect in relation to paragraph (1)(b):

8 (a) the written acknowledgement mentioned in
9 subparagraph (1)(b)(i) is, for the purposes of section 32 of the
10 *Road Vehicle Standards Act 2017*, information given, or
11 purportedly given, under or for the purpose of the rules;

12 (b) the declaration mentioned in subparagraph (1)(b)(ii) is, for
13 the purposes of section 31 of the *Road Vehicle Standards Act*
14 *2017*, taken to be made in an application for an approval
15 under the rules.

16 Note: This means that offences and civil penalty provisions for giving false or misleading
17 information or making a false or misleading declaration apply to the making of an
18 acknowledgement and a declaration under paragraph (1)(b).

19 (3) The following provisions have effect in relation to the new approval:

20 (a) evidence that enabled the Minister to grant the old approval
21 is taken to be sufficient to satisfy continued compliance with
22 the relevant criteria for granting the new approval under the
23 rules:

24 (i) unless the evidence is found to be false or misleading,
25 or is found to omit any matter or thing without which
26 the evidence is misleading; or

27 (ii) unless, and to the extent that, the person seeks a
28 variation of the new approval under the rules;

29 (b) if a person seeks a variation of the new approval under the
30 rules, to the extent of the variation, evidence of a kind
31 mentioned in paragraph (a) will not be sufficient to meet the
32 evidential requirements of the rules;

33 (c) any written conditions to which the old approval was subject
34 are taken to be conditions that are specified in the new
35 approval under the rules;

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Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Schedule 3

Certification and approval **Part 3**

- 1 (d) evidence that demonstrated that conditions of the old
2 approval were satisfied is taken to be sufficient to satisfy the
3 relevant conditions of the new approval under the rules:
4 (i) unless the evidence is found to be false or misleading,
5 or is found to omit any matter or thing without which
6 the evidence is misleading; or
7 (ii) unless, and to the extent that, the person seeks a
8 variation of the new approval under the rules;
9 (e) to the extent that a written condition to which the old
10 approval was subject is inconsistent with:
11 (i) a condition to which a road vehicle type approval is
12 subject under the rules; or
13 (ii) a requirement of the rules;
14 then, to the extent of the inconsistency, the rules prevail.

15 (4) To avoid doubt, if a person is taken to have been granted a road vehicle
16 type approval under the rules because of subitem (1), then the approval
17 is subject to the new law.

- 18 (5) To avoid doubt, if:
19 (a) a person is the holder of an old approval; and
20 (b) during the 6 month period beginning immediately after
21 commencement, the person does not take all of the actions
22 required by paragraph (1)(b);

23 then, the person's approval ceases to be in force at the end of the
24 transitional period (unless earlier cancelled or suspended under the old
25 law).

26 **6 Approval for the placement of identification plates—** 27 **subsection 10A(3)**

28 *Existing approvals to continue in force*

- 29 (1) Despite the repeal of the *Motor Vehicle Standards Act 1989*, if an
30 approval was given under subsection 10A(3) of that Act and in force
31 immediately before commencement, the approval is taken to continue in
32 force during the transitional period subject to the provisions of the old
33 law.

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Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 3 Certification and approval

1 *Pending applications*

2 (2) If, before commencement:

3 (a) a person applied to the Minister for an approval under
4 subsection 10A(3) of the *Motor Vehicle Standards Act 1989*;
5 and

6 (b) the Minister had not decided the application;

7 then:

8 (c) the Minister must decide the application in accordance with
9 the old law; and

10 (d) if the Minister decides to give written approval—the
11 approval:

12 (i) comes into force on the day specified by the Minister in
13 the approval; and

14 (ii) continues in force during the transitional period subject
15 to the provisions of the old law.

16 *New law does not apply*

17 (3) If an approval continues, or is taken to continue, in force during the
18 transitional period subject to the provisions of the old law by force of
19 this item, then the new law does not apply, during the transitional
20 period, to the provision of vehicles that have had identification plates
21 placed on them in accordance with the approval.

22 **7 Offences in relation to identification plates**

23 Despite the repeal of section 12 of the *Motor Vehicle Standards Act*
24 *1989*, that section, and any other provision of the old law (to the extent
25 to which it relates to that section), continue in force during the
26 transitional period.

27 **Division 2—Used import plates**

28 **8 Application for approval to place a used import plate**

29 *Applications allowed during transitional period*

30 (1) Despite the repeal of the *Motor Vehicle Standards Act 1989*:

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Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Schedule 3

Certification and approval **Part 3**

- 1 (a) an application may be made under section 13C of that Act
2 during the transitional period for an approval to place a plate
3 on a used imported vehicle; and
4 (b) the provisions of the old law continue to apply in relation to
5 the application and the granting of an approval under
6 section 13D of that Act.

7 *New law does not apply*

- 8 (2) If an approval is granted because of an application allowed by this item:
9 (a) the approval remains in force during the transitional period
10 subject to the provisions of the old law; and
11 (b) the new law does not apply, during the transitional period, to
12 the provision of used imported vehicles that have had used
13 import plates placed on them in accordance with the
14 approval.

15 *Number limits on placement of used import plates to apply*

- 16 (3) To avoid doubt, the limits on the number of used import plates set out in
17 regulation 6 of the *Motor Vehicle Standards Regulations 1989* apply in
18 relation to an approval granted because of an application allowed by
19 this item.

20 **9 Grant of approval**

21 *Existing approvals to continue in force*

- 22 (1) Despite the repeal of the *Motor Vehicle Standards Act 1989*, if an
23 approval was granted under section 13D of that Act and in force
24 immediately before commencement, the approval is taken to continue in
25 force during the transitional period subject to the provisions of the old
26 law.

27 *Pending applications*

- 28 (2) If, before commencement:
29 (a) a registered automotive workshop applied to the Minister for
30 an approval under section 13C of the *Motor Vehicle*
31 *Standards Act 1989*; and
-

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Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 3 Certification and approval

- 1 (b) the Minister had not decided the application;
2 then:
3 (c) the Minister must decide the application in accordance with
4 the old law; and
5 (d) if the Minister decides to grant the approval—the approval:
6 (i) comes into force on the day specified by the Minister in
7 the approval; and
8 (ii) continues in force during the transitional period subject
9 to the provisions of the old law.

10 *New law does not apply*

- 11 (3) If an approval continues, or is taken to continue, in force during the
12 transitional period subject to the provisions of the old law by force of
13 this item, then the new law does not apply, during the transitional
14 period, to the provision of used imported vehicles that have had used
15 import plates placed on them in accordance with the approval.

16 *Number limits on placement of used import plates to apply*

- 17 (4) To avoid doubt, the limits on the number of used import plates set out in
18 regulation 6 of the *Motor Vehicle Standards Regulations 1989* apply in
19 relation to an approval continued, or taken to continue, in force during
20 the transitional period by force of this item.

21 **10 Offence in relation to the placement of used import plates**

22 Despite the repeal of section 13G of the *Motor Vehicle Standards Act*
23 *1989*, that section, and any other provision of the old law (to the extent
24 to which it relates to that section), continue in force during the
25 transitional period.

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Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Schedule 3

Supply and importation of vehicles Part 4

Part 4—Supply and importation of vehicles

Division 1—Supply of new vehicles etc.

11 Supply of nonstandard vehicles

Existing approvals to continue in force

- (1) Despite the repeal of the *Motor Vehicle Standards Act 1989*, if:
- (a) an approval was given under section 14A of that Act and in force immediately before commencement; or
 - (b) an approval was given under regulation 20 of the *Motor Vehicle Standards Regulations 1989* for a vehicle to be supplied to the market and the approval was in force immediately before commencement;
- the approval is taken to continue in force during the transitional period subject to the provisions of the old law.

Pending applications

- (2) If, before commencement:
- (a) a person applied to the Minister for:
 - (i) an approval under section 14A of the *Motor Vehicle Standards Act 1989*; or
 - (ii) an approval under regulation 20 of the *Motor Vehicle Standards Regulations 1989* for a vehicle to be supplied to the market; and
 - (b) the Minister had not decided the application;
- then:
- (c) the Minister must decide the application in accordance with the old law; and
 - (d) if the Minister decides to give written approval—the approval:
 - (i) comes into force on the day specified by the Minister in the approval; and

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Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 4 Supply and importation of vehicles

- 1 (ii) continues in force during the transitional period subject
2 to the provisions of the old law.

3 *New law does not apply*

- 4 (3) If an approval continues, or is taken to continue, in force during the
5 transitional period subject to the provisions of the old law by force of
6 this item, then the new law does not apply, during the transitional
7 period, to the provision of a vehicle in accordance with the approval.

8 **12 Transition of approval to supply nonstandard vehicles to a** 9 **road vehicle type approval**

10 (1) If:

11 (a) a person is the holder of:

12 (i) an approval under section 14A of the *Motor Vehicle*
13 *Standards Act 1989* or regulation 20 of the *Motor*
14 *Vehicle Standards Regulations 1989* that is in force
15 immediately before commencement, as mentioned in
16 subitem 11(1); or

17 (ii) an approval under section 14A of the *Motor Vehicle*
18 *Standards Act 1989* or regulation 20 of the *Motor*
19 *Vehicle Standards Regulations 1989* because of a
20 decision by the Minister allowed by subitem 11(2); and

21 (b) during the 6 month period beginning immediately after
22 commencement, the person:

23 (i) provides to the Minister, in the approved form, written
24 acknowledgement of the conditions applying to road
25 vehicle type approvals, as set out in the rules, and that
26 breach of any of those conditions is an offence under the
27 new law; and

28 (ii) provides to the Minister, in the approved form, a signed
29 declaration that the person satisfies the conditions
30 applying to road vehicle type approvals, as set out in the
31 rules, in respect of the type of vehicle covered by an
32 approval mentioned in paragraph (a) (the *old approval*);
33 and

34 (iii) pays the charges payable for the purposes of this
35 paragraph;

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Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Schedule 3

Supply and importation of vehicles **Part 4**

1 then:

- 2 (c) the person is taken to have been granted a road vehicle type
3 approval under the rules in respect of the type of vehicle
4 covered by the old approval for the 5 year period beginning
5 on the day that paragraph (b) is satisfied (the *new approval*);
6 and
7 (d) on that day, the old approval ceases to be in force.

8 (2) The following provisions have effect in relation to paragraph (1)(b):

- 9 (a) the written acknowledgement mentioned in
10 subparagraph (1)(b)(i) is, for the purposes of section 32 of the
11 *Road Vehicle Standards Act 2017*, information given, or
12 purportedly given, under or for the purpose of the rules;
13 (b) the declaration mentioned in subparagraph (1)(b)(ii) is, for
14 the purposes of section 31 of the *Road Vehicle Standards Act*
15 *2017*, taken to be made in an application for an approval
16 under the rules.

17 Note: This means that offences and civil penalty provisions for giving false or misleading
18 information or making a false or misleading declaration apply to the making of an
19 acknowledgement and a declaration under paragraph (1)(b).

20 (3) The following provisions have effect in relation to the new approval:

- 21 (a) evidence that enabled the Minister to grant the old approval
22 is taken to be sufficient to satisfy continued compliance with
23 the relevant criteria for granting the new approval under the
24 rules:
25 (i) unless the evidence is found to be false or misleading,
26 or is found to omit any matter or thing without which
27 the evidence is misleading; or
28 (ii) unless, and to the extent that, the person seeks a
29 variation of the new approval under the rules;
30 (b) if a person seeks a variation of the new approval under the
31 rules, to the extent of the variation, evidence of a kind
32 mentioned in paragraph (a) will not be sufficient to meet the
33 evidential requirements of the rules;
34 (c) any written conditions to which the old approval was subject
35 are taken to be conditions that are specified in the new
36 approval under the rules;
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Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 4 Supply and importation of vehicles

- 1 (d) evidence that demonstrated that conditions of the old
2 approval were satisfied is taken to be sufficient to satisfy the
3 relevant conditions of the new approval under the rules:
4 (i) unless the evidence is found to be false or misleading,
5 or is found to omit any matter or thing without which
6 the evidence is misleading; or
7 (ii) unless, and to the extent that, the person seeks a
8 variation of the new approval under the rules;
9 (e) to the extent that a written condition to which the old
10 approval was subject is inconsistent with:
11 (i) a condition to which a road vehicle type approval is
12 subject under the rules; or
13 (ii) a requirement of the rules;
14 then, to the extent of the inconsistency, the rules prevail.
- 15 (4) To avoid doubt, if a person is taken to have been granted a road vehicle
16 type approval under the rules because of subitem (1), then the approval
17 is subject to the new law.
- 18 (5) To avoid doubt, if:
19 (a) a person is the holder of an old approval; and
20 (b) during the 6 month period beginning immediately after
21 commencement, the person does not take all of the actions
22 required by paragraph (1)(b);
23 then the person's approval ceases to be in force at the end of the
24 transitional period (unless earlier cancelled or suspended under the old
25 law).

Division 2—Supply of used imported vehicles

13 Supply of used imported vehicles

Existing approvals to continue in force

- 29 (1) Despite the repeal of the *Motor Vehicle Standards Act 1989*, if an
30 approval was given under regulation 11, 12, 13 or 17 of the *Motor*
31 *Vehicle Standards Regulations 1989* and in force immediately before
32 commencement, the approval is taken to continue in force during the
33 transitional period subject to the provisions of the old law.
-

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Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Schedule 3

Supply and importation of vehicles **Part 4**

1 Note: See also paragraph 16(1)(d) of the *Motor Vehicle Standards Act 1989* and regulation 7
2 of the *Motor Vehicle Standards Regulations 1989*.

3 *Pending applications*

4 (2) If, before commencement:

5 (a) a person applied to the Minister for an approval under
6 regulation 11, 12, 13 or 17 of the *Motor Vehicle Standards*
7 *Regulations 1989*; and

8 (b) the Minister had not decided the application;

9 then:

10 (c) the Minister must decide the application in accordance with
11 the old law; and

12 (d) if the Minister decides to give written approval—the
13 approval:

14 (i) comes into force on the day specified by the Minister in
15 the approval; and

16 (ii) continues in force during the transitional period subject
17 to the provisions of the old law.

18 *New law does not apply*

19 (3) If an approval continues in force during the transitional period subject
20 to the provisions of the old law by force of this item, then the new law
21 does not apply, during the transitional period, to:

22 (a) the importation of a vehicle in accordance with the approval;
23 and

24 (b) the provision of a vehicle imported in accordance with the
25 approval.

26 **Division 3—Import of new and used vehicles**

27 **14 Importation of road vehicles subject to conditions**

28 Despite the repeal of section 17 of the *Motor Vehicle Standards Act*
29 *1989*, that section, and any other provision of the old law (to the extent
30 to which it relates to that section), continue in force during the
31 transitional period.

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Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 4 Supply and importation of vehicles

15 Authority to take delivery of imported vehicles

Despite the repeal of section 17A of the *Motor Vehicle Standards Act 1989*:

- (a) that section continues in force during the transitional period in relation to a vehicle that may be imported during the transitional period in accordance with that Act, as provided for by this Schedule; and
- (b) an approval may be granted under that section during the transitional period for the delivery of a vehicle imported before or during the transitional period; and
- (c) if an approval was granted under that section before the transitional period for the delivery of a vehicle—the approval continues to allow delivery of the vehicle to be taken during the transitional period; and
- (d) the authorisation of an officer of the Department by the Minister under that section and in force immediately before commencement continues in force during the transitional period; and
- (e) the Minister may authorise an officer of the Department to give approvals under that section during the transitional period.

16 Importation of vehicles requiring modification

Existing approvals to continue in force

(1) If:

- (a) before commencement, the Minister gave written approval to a person under subsection 19(1) of the *Motor Vehicle Standards Act 1989* in relation to a vehicle; and
- (b) at commencement, the person had not imported the vehicle to which the approval relates;

then:

- (c) the approval is taken to continue in force during the transitional period; and
- (d) before the end of the transitional period, the person may import the vehicle in accordance with the approval given under the old law; and

EXPOSURE DRAFT

Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Schedule 3

Supply and importation of vehicles **Part 4**

- 1 (e) the old law applies to the imported vehicle during the
2 transitional period.

3 *Pending applications*

- 4 (2) If, before commencement:

- 5 (a) a person applied to the Minister for an approval under
6 section 19 of the *Motor Vehicle Standards Act 1989* in
7 relation to a vehicle; and
8 (b) the Minister had not decided the application;

9 then:

- 10 (c) the Minister must decide the application in accordance with
11 the old law; and
12 (d) if the Minister grants the approval—both:
13 (i) the person may, before the end of the transitional
14 period, import the vehicle in accordance with the
15 approval given under the old law; and
16 (ii) the old law applies to the imported vehicle during the
17 transitional period.

18 *New law does not apply*

- 19 (3) If an approval given under subsection 19(1) of the *Motor Vehicle*
20 *Standards Act 1989*:

- 21 (a) is taken to continue in force under this item during the
22 transitional period subject to the provisions of the old law; or
23 (b) is granted during the transitional period subject to the
24 provisions of the old law;

25 then the new law does not apply, during the transitional period, to
26 actions taken in accordance with the approval.

27 **17 Approval to import certain nonstandard vehicles**

28 *Existing approvals to continue in force*

- 29 (1) If:

- 30 (a) before commencement, the Minister gave written approval to
31 a person under a regulation made for the purposes of
32 paragraph 20(1)(b) of the *Motor Vehicle Standards Act 1989*
-

EXPOSURE DRAFT

Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 4 Supply and importation of vehicles

- 1 (other than regulation 11, 12, 13 or 17 of the *Motor Vehicle*
2 *Standards Regulations 1989*) in relation to a vehicle; and
3 (b) at commencement, the person had not imported the vehicle to
4 which the approval relates;
5 then:
6 (c) the approval is taken to continue in force during the
7 transitional period; and
8 (d) before the end of the transitional period, the person may
9 import the vehicle in accordance with the approval given
10 under the old law (including any written conditions
11 determined by the Minister); and
12 (e) the old law applies to the imported vehicle during the
13 transitional period.

14 *Pending applications*

- 15 (2) If, before commencement:
16 (a) a person applied to the Minister for an approval under a
17 regulation made for the purposes of paragraph 20(1)(b) of the
18 *Motor Vehicle Standards Act 1989* (other than regulation 11,
19 12, 13 or 17 of the *Motor Vehicle Standards*
20 *Regulations 1989*) in relation to a vehicle; and
21 (b) the Minister had not decided the application;
22 then:
23 (c) the Minister must decide the application in accordance with
24 the old law; and
25 (d) if the Minister grants written approval—both:
26 (i) the person may, before the end of the transitional
27 period, import the vehicle in accordance with the
28 approval given under the old law (including any written
29 conditions determined by the Minister); and
30 (ii) the old law applies to the imported vehicle during the
31 transitional period.

32 *New applications*

- 33 (3) If a person holds an approval:
-

EXPOSURE DRAFT

Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Schedule 3

Supply and importation of vehicles **Part 4**

- 1 (a) under subsection 10A(3) of the *Motor Vehicle Standards Act*
2 *1989* that continues, or is taken to continue, in force during
3 the transitional period by force of item 6 of this Schedule; or
4 (b) under section 14A of that Act or regulation 20 of the *Motor*
5 *Vehicle Standards Regulations 1989* that continues, or is
6 taken to continue, in force during the transitional period by
7 force of item 11 of this Schedule;
- 8 then:
- 9 (c) the person may apply, during the transitional period, for an
10 approval in accordance with regulation 14 of the *Motor*
11 *Vehicle Standards Regulations 1989*, as in force immediately
12 before commencement, to the extent that the application
13 relates to the approval the person holds, as mentioned in
14 paragraph (a) or (b); and
15 (d) the Minister must decide the application in accordance with
16 the old law; and
17 (e) if the Minister gives written approval—both:
18 (i) the person may, before the end of the transitional
19 period, import a vehicle in accordance with the approval
20 given under the old law (including any written
21 conditions determined by the Minister); and
22 (ii) the old law applies to the imported vehicle during the
23 transitional period.

24 *New law does not apply*

- 25 (4) If an approval given under a regulation made for the purposes of
26 paragraph 20(1)(b) of the *Motor Vehicle Standards Act 1989* (other than
27 regulation 11, 12, 13 or 17 of the *Motor Vehicle Standards*
28 *Regulations 1989*):
29 (a) is taken to continue in force under this item during the
30 transitional period subject to the provisions of the old law; or
31 (b) is granted during the transitional period subject to the
32 provisions of the old law;
- 33 then the new law does not apply, during the transitional period, to
34 actions taken in accordance with the approval.

EXPOSURE DRAFT

Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 4 Supply and importation of vehicles

1 **18 Register of Specialist and Enthusiast Vehicles**

- 2 (1) Despite the repeal of section 21 of the *Motor Vehicle Standards Act*
3 *1989*, the Register of Specialist and Enthusiast Vehicles established
4 under that section:
- 5 (a) is to continue in existence during the transitional period; and
6 (b) must be maintained by the Minister during the transitional
7 period in accordance with the old law.
- 8 (2) If:
- 9 (a) immediately before commencement, a road vehicle was
10 entered on the Register of Specialist and Enthusiast Vehicles
11 established under section 21 of the *Motor Vehicle Standards*
12 *Act 1989*; and
13 (b) the Minister considers that it is for the benefit of the
14 Australian community to include a vehicle of that kind on the
15 SEVs Register;
- 16 then:
- 17 (c) even if the vehicle does not meet the criteria set out in the
18 rules, the Minister may, during the transitional period and
19 despite the new law, enter the vehicle on the SEVs Register;
20 and
21 (d) if the vehicle is so entered, the entry of the vehicle on the
22 SEVs Register is subject to the new law.

EXPOSURE DRAFT

Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Schedule 3

Registered automotive workshops Part 5

Part 5—Registered automotive workshops

19 Approval as a registered automotive workshop

Existing approvals to continue in force

- (1) Despite the repeal of the *Motor Vehicle Standards Act 1989*, if:
- (a) an approval was granted under section 21B of that Act and in force immediately before commencement; or
 - (b) an approval granted under section 21B of that Act had been renewed under section 21C of that Act and was in force immediately before commencement;

the approval is taken to continue in force during the transitional period subject to the provisions of the old law.

- (2) However, if an approval mentioned in subitem (1) was in force immediately before commencement because subsection 21C(6) of the *Motor Vehicle Standards Act 1989* applied, then the approval is taken to continue in force during the transitional period (subject to the provisions of the old law) until a decision is made about whether to renew the approval, as mentioned in subitem (4).

Pending applications

- (3) If, before commencement:
- (a) a corporation applied to the Minister for an approval under section 21A of the *Motor Vehicle Standards Act 1989*; and
 - (b) the Minister had not decided the application;
- then:
- (c) the Minister must decide the application in accordance with the old law; and
 - (d) if the Minister decides to grant the approval—the approval:
 - (i) comes into force on the day specified by the Minister in the approval; and
 - (ii) continues in force during the transitional period subject to the provisions of the old law.

EXPOSURE DRAFT

Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 5 Registered automotive workshops

- 1 (4) If, before commencement:
2 (a) a corporation applied to the Minister for the renewal of an
3 approval under section 21C of the *Motor Vehicle Standards*
4 *Act 1989*; and
5 (b) the Minister had not decided the application;
6 then:
7 (c) the Minister must decide the application in accordance with
8 the old law; and
9 (d) if the Minister decides to renew the approval—the approval:
10 (i) comes into force on the day the approval is renewed;
11 and
12 (ii) continues in force during the transitional period subject
13 to the provisions of the old law.

EXPOSURE DRAFT

Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Schedule 3

Continuation of certain conditions Part 6

Part 6—Continuation of certain conditions

20 Obligation to comply with certain conditions after the end of the transitional period

(1) If:

(a) an approval:

(i) is continued, or is taken to continue, in force during the transitional period because of this Schedule; or

(ii) is granted because of this Schedule; and

(b) a condition specified in the approval is that the holder of the approval retain a record for a period (the *retention period*);

the holder must retain the record for the retention period:

(c) even if the retention period ends after the end of the transitional period; and

(d) even though the approval ceases to be in force, whether because the transitional period ends or otherwise.

(2) If:

(a) an approval:

(i) is continued, or is taken to continue, in force during the transitional period because of this Schedule; or

(ii) is granted because of this Schedule; and

(b) a condition specified in the approval is that the holder of the approval export or destroy a vehicle to which the approval applies within a period (the *disposal period*);

the holder must export or destroy the vehicle during the disposal period:

(c) even if the disposal period ends after the end of the transitional period; and

(d) even though the approval ceases to be in force, whether because the transitional period ends or otherwise.

21 Offences—breach of continued conditions

(1) A person commits an offence if:

(a) the person was the holder of an approval that:

EXPOSURE DRAFT

Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 6 Continuation of certain conditions

- 1 (i) was continued, or was taken to continue, in force during
2 the transitional period because of this Schedule; or
3 (ii) was granted because of this Schedule; and
4 (b) a condition specified in the approval was that the holder of
5 the approval retain a record; and
6 (c) the condition requires the record to be retained for a period
7 (the *retention period*) that ends after the end of the
8 transitional period; and
9 (d) the person does not retain the record for the retention period.

10 Penalty: 60 penalty units.

11 (2) A person commits an offence if:

- 12 (a) the person was the holder of an approval that:
13 (i) was continued, or was taken to continue, in force during
14 the transitional period; or
15 (ii) was granted because of this Schedule; and
16 (b) a condition of the approval was that the holder of the
17 approval export or destroy a vehicle to which the approval
18 applies; and
19 (c) the condition requires the vehicle to be exported or destroyed
20 within a period specified in the approval (the *disposal period*)
21 that ends after the end of the transitional period; and
22 (d) the vehicle is not exported or destroyed within the disposal
23 period.

24 Penalty: 60 penalty units.

EXPOSURE DRAFT

Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Schedule 3

Administration Part 7

1 Part 7—Administration

2 22 Appointment of Administrator and Associate 3 Administrator

4 Despite the repeal of section 22 of the *Motor Vehicle Standards Act*
5 *1989*, for the purposes of the old law as continued in force by this
6 Schedule:

- 7 (a) the person holding office as the Administrator under that
8 section immediately before commencement continues to hold
9 that office during the transitional period; and
10 (b) a person holding office as an Associate Administrator under
11 that section immediately before commencement continues to
12 hold that office during the transitional period; and
13 (c) the Administrator and each Associate Administrator continue
14 to have the same functions and powers under the old law
15 during the transitional period; and
16 (d) the Secretary may appoint a person to be an Administrator or
17 Associate Administrator under that section during the
18 transitional period.

19 23 Delegation by Minister

20 Despite the repeal of the *Motor Vehicle Standards Act 1989*:

- 21 (a) any instrument of delegation in force under section 23 of that
22 Act immediately before commencement continues in force
23 during the transitional period; and
24 (b) any instrument of delegation in force under regulation 62 of
25 the *Motor Vehicle Standards Regulations 1989* immediately
26 before commencement continues in force during the
27 transitional period; and
28 (c) the Minister may, by signed instrument, delegate to the
29 Administrator or an Associate Administrator during the
30 transitional period:
31 (i) the functions or powers allowed by section 23 of that
32 Act; or
33 (ii) all or any of the Minister's functions or powers under
34 those Regulations; or
-

EXPOSURE DRAFT

Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 7 Administration

- 1 (iii) all or any of the Minister's functions or powers under
2 this Schedule, other than item 29.

3 **24 Fees**

4 Despite the repeal of section 24 of the *Motor Vehicle Standards Act*
5 *1989*, the following provisions continue in force during the transitional
6 period:

- 7 (a) section 24 of that Act, and any other provision of the old law
8 (to the extent to which it relates to that section);
9 (b) Part 6 of, and Schedule 2 to, the *Motor Vehicle Standards*
10 *Regulations 1989*.

11 **25 Compliance and enforcement**

12 The following provisions have effect:

- 13 (a) Divisions 2 to 4 of Part 4 of the *Road Vehicle Standards Act*
14 *2017* apply for the purposes of ensuring compliance with:
15 (i) the old law during the transitional period; and
16 (ii) this Schedule;
17 (b) for the purposes of ensuring that compliance, those Divisions
18 apply as if references to "this Act" in those Divisions were
19 references to:
20 (i) this Schedule and any rules made under item 29 of this
21 Schedule; and
22 (ii) the old law, to the extent that it applies because of this
23 Schedule.

24 Note: Those Divisions allow inspectors to be appointed and trigger monitoring and
25 investigation powers under the *Regulatory Powers (Standard Provisions) Act 2014*.

EXPOSURE DRAFT

Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Schedule 3

Court proceedings Part 8

Part 8—Court proceedings

26 Evidentiary certificates

Despite the repeal of section 34 of the *Motor Vehicle Standards Act 1989*:

- (a) that section is taken to apply, on and after commencement, in relation to conduct:
 - (i) constituting an offence against section 14, 15, 16 or 19 of that Act; and
 - (ii) engaged in before or during the transitional period; and
- (b) the authorisation of a person by the Minister under that section and in force immediately before commencement continues in force during the transitional period.

27 Legal proceedings not to lie

- (1) Despite the repeal of section 37 of the *Motor Vehicle Standards Act 1989*, that section, and any other provision of the old law (to the extent to which it relates to that section), continue in force during the transitional period.
- (2) Section 81 of the *Road Vehicle Standards Act 2017* applies in relation to this Schedule as if references to “this Act” in that section were references to:
 - (a) this Schedule and any rules made under item 29 of this Schedule; and
 - (b) the old law, to the extent that it applies because of this Schedule.

EXPOSURE DRAFT

Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 9 Miscellaneous

1 **Part 9—Miscellaneous**

2 **28 Approved forms**

3 The Secretary may, in writing, approve a form for the purposes of an
4 item of this Schedule.

5 **29 Transitional rules**

6 (1) The Minister may, by legislative instrument, make rules prescribing
7 matters of a transitional nature (including prescribing any saving or
8 application provisions) relating to:

- 9 (a) the amendments or repeals made by this Act; or
10 (b) the enactment of this Act or the *Road Vehicle Standards Act*
11 *2017*.

12 (2) To avoid doubt, the rules may not do the following:

- 13 (a) create an offence or civil penalty;
14 (b) provide powers of:
15 (i) arrest or detention; or
16 (ii) entry, search or seizure;
17 (c) impose a tax;
18 (d) set an amount to be appropriated from the Consolidated
19 Revenue Fund under an appropriation in this Act;
20 (e) directly amend the text of this Act.

21 (3) This Act (other than subitem (2)) does not limit the rules that may be
22 made for the purposes of subitem (1).

EXPOSURE DRAFT

Consequential amendments **Schedule 4**
Amendments commencing day after Royal Assent **Part 1**

1 **Schedule 4—Consequential amendments**

2 **Part 1—Amendments commencing day after Royal**
3 **Assent**

4 *Age Discrimination Act 2004*

5 **1 Schedule 1 (after table item 41)**

6 Insert:

42 Rules made under the *Road Vehicle Standards Act 2017*

EXPOSURE DRAFT

Schedule 4 Consequential amendments

Part 2 Amendments commencing at beginning of transitional period

1 **Part 2—Amendments commencing at beginning of**
2 **transitional period**

3 *A New Tax System (Luxury Car Tax) Act 1999*

4 **2 Subsection 25-1(4)**

5 Omit “vehicle standards in force under section 7 of the *Motor Vehicle*
6 *Standards Act 1989*”, substitute “national road vehicle standards in
7 force under section 12 of the *Road Vehicle Standards Act 2017*”.

8 *Customs Act 1901*

9 **3 At the end of subsection 229(1A)**

10 Add “or the *Road Vehicle Standards Act 2017*”.

11 *Fuel Tax Act 2006*

12 **4 Section 110-5 (definition of *Transport Minister*)**

13 Omit “*Motor Vehicle Standards Act 1989*”, substitute “*Road Vehicle*
14 *Standards Act 2017*”.

15 *Interstate Road Transport Act 1985*

16 **5 Subsection 3(1) (at the end of the definition of *compliance***
17 ***plate*)**

18 Add “(as in force before its repeal or as continued in force by the *Road*
19 *Vehicle Standards (Consequential and Transitional Provisions) Act*
20 *2017*)”.

21 **6 Subsection 3(1) (paragraph (a) of the definition of *MRC*)**

22 Before “the maximum mass”, insert “if the vehicle has a compliance
23 plate—”.

EXPOSURE DRAFT

Consequential amendments **Schedule 4**
Amendments commencing at beginning of transitional period **Part 2**

1 **7 Subsection 3(1) (after paragraph (a) of the definition of**
2 **MRC)**

3 Insert:

4 (ab) if the vehicle is entered on the RAV—the maximum mass of
5 the vehicle, including any load, as recorded on the RAV; or

6 **8 Subsection 3(1) (paragraph (b) of the definition of MRC)**

7 Omit “in relation to a vehicle for which there is no compliance plate”,
8 substitute “if the vehicle has no compliance plate and is not entered on
9 the RAV”.

10 **9 Subsection 3(1)**

11 Insert:

12 *RAV* (short for Register of Approved Vehicles) has the same
13 meaning as in the *Road Vehicle Standards Act 2017*.

14 ***Interstate Road Transport Charge Act 1985***

15 **10 Section 3A (at the end of the definition of *compliance***
16 ***plate*)**

17 Add “(as in force before its repeal or as continued in force by the *Road*
18 *Vehicle Standards (Consequential and Transitional Provisions) Act*
19 *2017*)”.

20 **11 Section 3A (paragraph (a) of the definition of MRC)**

21 Before “the maximum mass”, insert “if the vehicle has a compliance
22 plate—”.

23 **12 Section 3A (after paragraph (a) of the definition of MRC)**

24 Insert:

25 (ab) if the vehicle is entered on the RAV—the maximum mass of
26 the vehicle, including any load, as recorded on the RAV; or

EXPOSURE DRAFT

Schedule 4 Consequential amendments

Part 2 Amendments commencing at beginning of transitional period

1 **13 Subsection 3A (paragraph (b) of the definition of *MRC*)**

2 Omit “in relation to a vehicle for which there is no compliance plate”,
3 substitute “if the vehicle has no compliance plate and is not entered on
4 the RAV”.

5 ***National Environment Protection Council Act 1994***

6 **14 Paragraph 14(2)(b)**

7 Omit “*Motor Vehicle Standards Act 1989*”, substitute “*Road Vehicle*
8 *Standards Act 2017*”.

9 ***Trans-Tasman Mutual Recognition Act 1997***

10 **15 Clause 3 of Part 2 of Schedule 2 (at the end of the table**
11 **item headed “Road vehicles”)**

12 Add:

Road Vehicle Standards Act 2017

EXPOSURE DRAFT

Consequential amendments **Schedule 4**
Amendments commencing at end of transitional period **Part 3**

1 **Part 3—Amendments commencing at end of**
2 **transitional period**

3 *Age Discrimination Act 2004*

4 **16 Schedule 1 (table item 31)**

5 Repeal the item.

6 *Customs Act 1901*

7 **17 Subsection 229(1A)**

8 Omit “*Motor Vehicle Standards Act 1989* or the”.

9 *Trans-Tasman Mutual Recognition Act 1997*

10 **18 Clause 3 of Part 2 of Schedule 2 (table item headed “Road**
11 **vehicles”)**

12 Omit:

13 *Motor Vehicle Standards Act 1989*