

# EXPOSURE DRAFT



## EXPOSURE DRAFT

Released by the Department of Infrastructure and Regional Development.  
This draft is for the purposes of consultation only and may be subject to change  
before finalisation.

## Road Vehicle Standards Rules 2017

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I, Paul Fletcher, Minister for Urban Infrastructure, make the following rules.

Dated 2017

Paul Fletcher [**DRAFT ONLY—NOT FOR SIGNATURE**]  
Minister for Urban Infrastructure

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# EXPOSURE DRAFT

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

Section 1

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## Part 1—Introduction

### Division 1—Preliminary

#### 1 Name

This instrument is the *Road Vehicle Standards Rules 2017*.

#### 2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	[to be confirmed]	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

#### 3 Authority

This instrument is made under the *Road Vehicle Standards Act 2017*.

# EXPOSURE DRAFT

**Part 1** Introduction

**Division 2** Simplified outline of this instrument

Section 4

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## **Division 2—Simplified outline of this instrument**

### **4 Simplified outline of this instrument**

*[The simplified outline will be drafted once the content of the rules is settled.]*

## Division 3—Definitions

### 5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) national road vehicle standard;
- (b) road vehicle;
- (c) road vehicle component.

In this instrument:

*Act* means the *Road Vehicle Standards Act 2017*.

*approved form* means a form approved under section 225.

*approved model report* means a model report for which an approval is in force under section 69 (including a varied model report for which an approval is in force under that section because of section 79).

*AVV approval* means an approval as an authorised vehicle verifier granted under section 85.

*business day* means a day that is not a Saturday, a Sunday or a public holiday in the Australian Capital Territory.

*concessional RAV entry approval* means a concessional RAV entry approval granted under section 35.

*corporation* has the same meaning as in the *Corporations Act 2001*.

*Federal Register of Legislation* means the Federal Register of Legislation established under the *Legislation Act 2003*.

*heavy trailer* means a road trailer with a total mass of more than 4.5 tonnes when carrying the maximum load recommended by the manufacturer. To determine the total mass in relation to a road vehicle to which the road trailer is attached, any mass imposed on the road vehicle, when resting on a horizontal supporting plane, must be included.

*holder* of an approval (however described) means the person to whom the approval has been granted.

*intergovernmental agreement* means an agreement between Australia and another country or countries that provides for road vehicles specified in the agreement to be imported into Australia on a temporary basis without payment of duties of customs.

*key management personnel*, of a body corporate, means persons who have authority and responsibility for planning, directing and controlling the activities of the body corporate (whether directly or indirectly) and includes any director (whether executive or otherwise) of the body corporate.

# EXPOSURE DRAFT

## Part 1 Introduction

### Division 3 Definitions

#### Section 5

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**light trailer** means a road trailer with a total mass of 4.5 tonnes or less when carrying the maximum load recommended by the manufacturer. To determine the total mass in relation to a road vehicle to which the road trailer is attached, any mass imposed on the road vehicle, when resting on a horizontal supporting plane, must be included.

**model report** means a report that:

- (a) describes a procedure for particular modifications of a road vehicle, or the manufacture of a road vehicle, with the procedure designed to ensure that the vehicle as manufactured or modified in accordance with the procedure will comply with particular standards; and
- (b) includes evidence to support how compliance with those standards is achieved.

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

- (a) to have work done on it; or
- (b) to protect it; or
- (c) to store it; or
- (d) if the vehicle has been imported—to transport it to the importer; or
- (e) if the vehicle has been exported—to transport it to the exporter.

**non-RAV entry import approval** means a non-RAV entry import approval granted under section 138.

**proposed recall notice**: see subsection 201(1).

**RAV entry import approval** means a RAV entry import approval granted under section 134.

**RAW approval** means an approval as a registered automotive workshop granted under section 56.

**reimportation import approval** means a reimportation import approval granted under section 150.

**road vehicle component type approval** means a road vehicle component type approval granted under section 164.

**road vehicle legislation** means:

- (a) the Act; or
- (b) the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2017*; or
- (c) the *Motor Vehicle Standards Act 1989*; or
- (d) Parts VI and XI of the *Competition and Consumer Act 2010*; or
- (e) a provision of the Australian Consumer Law relating to the safety of consumer goods; or
- (f) any instrument made under those Acts.

**road vehicle type approval** means a road vehicle type approval granted under section 20.

**supporting information** at a particular time, means:

- (a) in relation to the design and componentry of each variant of road vehicle covered, or to be covered, by a type approval—information that sets out the details of every aspect of vehicle design and componentry (including the source material and manufacturing process of each component) that affects compliance with the applicable national road vehicle standards, as in force at that time; or
- (b) in relation to the manufacturing process that is used, or will be used, to produce each variant of road vehicle covered, or to be covered, by a type approval—information that sets out the details of every aspect of the manufacturing process (including the material, vehicle components and equipment used in that process) that affects compliance with the applicable national road vehicle standards, as in force at that time; or
- (c) in relation to the design and componentry of each road vehicle component covered, or to be covered, by a type approval—information that sets out the details of every aspect of vehicle component design (including the source material and manufacturing process of the vehicle component) that affects compliance with the applicable national road vehicle standards, as in force at that time; or
- (d) in relation to the manufacturing process that is used, or will be used, to produce each road vehicle component covered, or to be covered, by a type approval—information that sets out the details of every aspect of the manufacturing process (including the material and equipment used in that process) that affects compliance with the applicable national road vehicle standards, as in force at that time; or
- (e) if a person does not possess some or all the information mentioned in paragraph (a), (b), (c) or (d)—a copy of any contractual or other arrangement under which the person may access the information.

**testing facility approval** means an approval granted under section 101.

**three-wheeled vehicle** means a road vehicle in one of the following vehicle categories:

- (a) Moped - 3 wheels (LB);
- (b) Motor cycle and side-car (LD);
- (c) Motor tricycle (LE).

**two-wheeled vehicle** means a road vehicle in one of the following vehicle categories:

- (a) Moped - 2 wheels (LA);
- (b) Motor cycle (LC).

**variant**:

- (a) in relation to a road vehicle that is, or is to be, entered on the SEVs Register: see section 124; and
- (b) in any other case—has its ordinary meaning.

**vehicle category** means a vehicle category set out in the *Vehicle Standard (Australian Design Rule—Definitions and Vehicle Categories) 2005*, but does not include a subcategory of vehicle category set out in that Vehicle Standard.

# EXPOSURE DRAFT

**Part 1** Introduction

**Division 3** Definitions

## Section 5

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*vehicle identification number*, for a road vehicle, means a unique identifier that is:

- (a) allocated to the vehicle; and
- (b) marked on the vehicle in a format described in the national road vehicle standards.



# EXPOSURE DRAFT

The Register of Approved Vehicles **Part 2**

Introduction **Division 1**

Section 6

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## **Part 2—The Register of Approved Vehicles**

### **Division 1—Introduction**

#### **6 Simplified outline of this Part**

*[The simplified outline will be drafted once the content of the rules is settled.]*

#### **7 Purpose of this Part**

For the purposes of section 19 of the Act, this Part provides for and in relation to:

- (a) the keeping of the RAV, including the content of the RAV and the persons who may enter information on the RAV; and
- (b) the publication of information on the RAV.

# EXPOSURE DRAFT

Part 2 The Register of Approved Vehicles

Division 2 Content of RAV

Section 8

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## Division 2—Content of RAV

### 8 Information to be included on RAV

A vehicle is on the RAV if all of the following information is entered on the RAV in relation to the vehicle:

- (a) the date of entry on the RAV;
- (b) the vehicle identification number for the vehicle;
- (c) the applicable entry pathway for the vehicle;
- (d) if the applicable entry pathway is the type approval pathway:
  - (i) the name of the holder of the road vehicle type approval under which the vehicle satisfies the requirements of the type approval pathway;  
and
  - (ii) the type approval number for the road vehicle type approval;
- (e) any other information that is required by a determination made under section 12 to be entered on the RAV in relation to the vehicle.

### 9 Who may enter information on RAV

- (1) Information in relation to a vehicle may be entered on the RAV by:
  - (a) for any applicable entry pathway—the Secretary; or
  - (b) for the type approval pathway:
    - (i) the holder of a road vehicle type approval that applies to the vehicle;  
or
    - (ii) a person authorised, in writing, by the holder of such a type approval to enter vehicles on the RAV under the type approval; or
  - (c) for the concessional RAV entry approval pathway or if an approval, or a condition of an approval, relating to a road vehicle requires the vehicle or any modifications of the vehicle to be verified by the holder of an AVV approval—the holder of the AVV approval under which the vehicle and any modifications of the vehicle are verified.

Note: A person may commit an offence or contravene a civil penalty provision if the person enters information on the RAV without authorisation (see section 17 of the Act).

- (2) Information that is entered on the RAV by a person mentioned in paragraph (1)(b) or (c) is taken to have been collected by the Secretary.

### 10 Certain information on RAV to be publicly accessible

The Secretary must ensure that a publicly accessible website is established and maintained that enables a person to enter the vehicle identification number for a vehicle and, if there is an entry on the RAV in relation to the vehicle, to access the following information on the RAV that relates to the vehicle:

- (a) the date of entry on the RAV;
- (b) the applicable entry pathway for the vehicle;

# EXPOSURE DRAFT

The Register of Approved Vehicles **Part 2**

Content of RAV **Division 2**

## Section 11

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- (c) if the applicable entry pathway is the type approval pathway—the name of the holder of the road vehicle type approval under which the vehicle was entered on the RAV;
- (d) any other information that:
  - (i) is required by a determination made under section 12 to be entered on the RAV in relation to the vehicle; and
  - (ii) is permitted under the determination to be made publicly accessible under this section.

### 11 Correction of errors on RAV

- (1) If the Secretary is satisfied that an error exists in information on the RAV (whether because the Secretary has been notified of the error or otherwise), the Secretary may cause the information on the RAV to be varied, including by removing a vehicle from the RAV, for the purpose of correcting the error.

Note 1: An error may exist due to, for example, non-compliance with the applicable entry pathway, clerical or typographical errors or fraud.

Note 2: An approval that enables a person to enter information on the RAV is subject to a condition that the holder of the approval notify the Secretary if the holder becomes aware of an error in information entered on the RAV (see sections 29 and 96).

- (2) Without limiting subsection (1), if the error is in information entered on the RAV by a person authorised to do so under paragraph 9(1)(b) or (c), the Secretary may cause the information to be varied by giving written permission to the person to vary the information on the RAV.
- (3) Information on the RAV must not be varied (including by removing a road vehicle from the RAV) other than in accordance with this section.

### 12 Determination—information to be included on RAV etc.

- (1) The Minister may, by legislative instrument, determine:
  - (a) the information that must be included on the RAV in relation to a vehicle; and
  - (b) whether the information may be made publicly accessible under section 10.
- (2) A determination made for the purposes of subsection (1) may specify:
  - (a) different information to be included on the RAV, or made publicly accessible, for different kinds of vehicles; or
  - (b) different information to be included on the RAV, or made publicly accessible, for different entry pathways.

Note: For specification by class, see subsection 13(3) of the *Legislation Act 2003*.

### 13 Determination—format of information to be included on RAV

The Minister may, by written instrument, determine, for information that must be included on the RAV in relation to a vehicle:

- (a) the format in which the information must be provided; and
- (b) the procedures to be followed to ensure that the information is entered on the RAV effectively.

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**Part 3** Entry on RAV via entry pathways

**Division 1** Introduction

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## **Part 3—Entry on RAV via entry pathways**

### **Division 1—Introduction**

#### **14 Simplified outline of this Part**

*[The simplified outline will be drafted once the content of the rules is settled.]*

#### **15 Purpose of this Part**

For the purposes of section 19 of the Act, this Part provides for and in relation to:

- (a) the requirements of an entry pathway; and
- (b) the grant of approvals:
  - (i) to enable vehicles to satisfy the requirements of the type approval pathway; and
  - (ii) to enable road vehicles to satisfy the requirements of other entry pathways; and
- (c) conditions of such approvals.

## Division 2—Type approval pathway

### Subdivision A—Requirements of the type approval pathway

#### 16 Type approval pathway

A road vehicle of a particular type satisfies the requirements of the type approval pathway if, immediately before the road vehicle is entered on the RAV:

- (a) a road vehicle type approval that is in force applies to that type of vehicle; and
- (b) the design and componentry of the vehicle is in accordance with the design and componentry for that type of vehicle set out in any version of the supporting information for the road vehicle type approval that:
  - (i) exists immediately before the road vehicle is entered on the RAV; and
  - (ii) documents test results demonstrating the extent of the vehicle's compliance with the applicable national road vehicle standards; and
- (c) the vehicle was manufactured in accordance with the manufacturing process for that type of vehicle set out in any version of the supporting information for the type approval that:
  - (i) exists immediately before the road vehicle is entered on the RAV; and
  - (ii) documents test results demonstrating the extent of the vehicle's compliance with the applicable national road vehicle standards; and
- (d) either:
  - (i) the vehicle complies with all applicable national road vehicle standards, as in force at the time the road vehicle is entered on the RAV; or
  - (ii) if subparagraph (i) does not apply—the only respects in which the vehicle does not comply with all applicable national road vehicle standards, as in force at the time the road vehicle is entered on the RAV, are respects specified in the road vehicle type approval as not needing to be complied with before vehicles of that type are entered on the RAV; and
- (e) the vehicle is a new road vehicle; and
- (f) either:
  - (i) the vehicle is in Australia; or
  - (ii) the type approval allows the entry of the vehicle on the RAV when the vehicle is outside Australia.

Note: For a road vehicle that satisfies the type approval pathway, the holder of a road vehicle type approval that applies to the vehicle, or a person authorised in writing by the holder of the approval, may enter the vehicle on the RAV, see section 9.

### Subdivision B—Application for, and grant of, road vehicle type approval

#### 17 Application

- (1) A person may apply to the Minister for the grant of an approval (a *road vehicle type approval*) to enter road vehicles of a particular type on the RAV.

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- (2) The application must:
- (a) be in the approved form; and
  - (b) be accompanied by:
    - (i) such documents as are required by the form; and
    - (ii) the application fee; and
  - (c) include a signed declaration by the person that:
    - (i) at the time the application is made, the person is able to provide the supporting information for the type approval; and
    - (ii) while the type approval is in force, and for the period of 7 years after the type approval expires, the person will be able to provide the original and any subsequent versions of the supporting information; and
    - (iii) while the type approval is in force, the person will ensure that the supporting information is kept up-to-date.

Note 1: The Minister may refuse to consider an application if it is not in the approved form, see section 19.

Note 2: A person may commit an offence or contravene a civil penalty provision if the person makes a false or misleading declaration, see section 31 of the Act.

### **18 Further information and inspection of premises etc.**

- (1) To assist in deciding an application relating to a road vehicle of a particular type, the Minister may request the applicant to:
- (a) give the Minister further specified information; or
  - (b) allow the Minister or an inspector to inspect premises where:
    - (i) vehicle components of vehicles of that type are designed or manufactured; or
    - (ii) vehicles of that type are designed or manufactured; or
  - (c) allow the Minister or an inspector to inspect vehicles of that type, or vehicle components of vehicles of that type.
- (2) A request under subsection (1) must:
- (a) be in writing; and
  - (b) state that the request must be complied with within the period of 30 days starting on the day the request is given, or within such longer period as the Minister allows.

### **19 Minister may refuse to consider application in certain circumstances**

The Minister may refuse to consider an application if:

- (a) it is not in the approved form; or
- (b) a request made under section 18 in relation to the application is not complied with within the period mentioned in paragraph 18(2)(b).

### **20 Criteria for deciding application**

- (1) The Minister may grant a type approval to a person in respect of a type of road vehicle if the Minister is satisfied that:

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- (a) either:
    - (i) the type of vehicle complies with all applicable national road vehicle standards, as in force at the time the approval is granted; or
    - (ii) to the extent that the type of vehicle does not comply with some or all applicable national road vehicle standards, as in force at the time the approval is granted—subsection (3) applies to the type of vehicle; and
  - (b) either:
    - (i) the person has control over all stages of the design, componentry and manufacturing process for the type of road vehicle; or
    - (ii) the person is able to access information, including information about any changes, relating to the design, componentry and manufacturing process for the type of road vehicle that may affect that type of road vehicle's compliance with national road vehicle standards; and
  - (c) the person is able to ensure that the design, componentry and manufacturing process will consistently produce the type of road vehicle; and
  - (d) the person is able to arrange for the Minister or an inspector to inspect premises used, or to be used, in the manufacturing process for the purposes of assessing compliance with:
    - (i) applicable national road vehicle standards; and
    - (ii) any other requirements of the Act or this instrument that apply in relation to the person or the type of vehicle; and
  - (e) while the type approval is in force, and for the period of 7 years after the type approval expires, the person will be able to:
    - (i) access the original and any subsequent versions of the supporting information for the type approval; and
    - (ii) provide those versions to the Minister; and
  - (f) while the type approval is in force, the person will ensure that the supporting information for the type approval is kept up-to-date; and
  - (g) the person is capable of complying with:
    - (i) the conditions to which the type approval will be subject; and
    - (ii) any other requirements of the Act or this instrument that apply in relation to the person or the type of vehicle.
- (2) For the purposes of subparagraph (1)(a)(i) and paragraph (3)(a), the Minister may take into account only the following matters:
- (a) the results of testing:
    - (i) conducted under a testing facility approval; or
    - (ii) conducted by a person who holds a testing facility approval but did not at the time the testing was conducted;
  - (b) an approval or other document:
    - (i) issued by the government of a foreign country that is a contracting party to the 1958 Agreement, or by a person who is a competent authority of such a government for the purposes of that agreement; and
    - (ii) that indicates that the type of road vehicle complies, or substantially complies, with requirements applying under that agreement that are

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equivalent to the applicable national road vehicle standards as in force at the time the approval is to be granted;

- (c) in respect of road vehicle components used in the type of road vehicle—whether the road vehicle components are approved road vehicle components;
- (d) any declaration made by the applicant;
- (e) any information relevant to determining the accuracy of the matter mentioned in paragraph (a) or (d);
- (f) any approved model reports that relate to the type of road vehicle;
- (g) any information about whether the matters mentioned in paragraphs (a), (b), (c) or (f) demonstrate that road vehicles of the type to which the approval is to be granted comply with applicable national road vehicle standards.

The Minister must not take into account any other matters.

- (3) This subsection applies to a type of road vehicle if:
  - (a) the type of road vehicle substantially complies with applicable national road vehicle standards, as in force at the time the approval is granted; and
  - (b) either:
    - (i) the type of road vehicle's non-compliance with applicable national road vehicle standards, as in force at the time the approval is granted, is only in minor and inconsequential respects; or
    - (ii) the type of road vehicle complies with applicable national road vehicle standards, as in force at the time the approval is granted, to an extent that makes it suitable for use on a public road in Australia.
- (4) For the purposes of subparagraph (3)(b)(ii), a type of road vehicle satisfies that subparagraph if the Minister is satisfied that, were the type of road vehicle used on a public road in Australia, the vehicle:
  - (a) would not pose an unacceptable risk to public safety; and
  - (b) would otherwise be appropriate for use.

## 21 Other considerations

In deciding whether to grant, or to refuse to grant, a type approval to a person, the Minister may take into account:

- (a) whether the person has contravened or may have contravened road vehicle legislation; and
- (b) if the person is a body corporate—whether, for each member of the key management personnel of the person, the member has contravened or may have contravened road vehicle legislation; and
- (c) any other matter that the Minister considers relevant, other than a matter that relates to compliance with applicable national road vehicle standards.

Note: Nothing in this section affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).



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## 22 Minister to decide application

- (1) The Minister must decide an application for a road vehicle type approval within 60 business days after receiving the application.
- (2) If the Minister has requested more information, or the inspection of premises, vehicles or vehicle components, in relation to such an application, a day is not to be counted as a business day for the purposes of subsection (1) if it is:
  - (a) on or after the day the Minister made the request; and
  - (b) on or before the day the Minister receives the last of the information requested or the premises, vehicles or vehicle components are inspected, as the case may be.

## 23 Grant of approval

- (1) If the Minister decides to grant a road vehicle type approval to a person, the Minister must, as soon as practicable:
  - (a) notify the person, in writing, of the Minister's decision; and
  - (b) provide a copy of the approval to the person.
- (2) A road vehicle type approval must specify the following:
  - (a) the type approval number;
  - (b) the name of the holder of the type approval;
  - (c) the type of road vehicle to which the type approval applies;
  - (d) the national road vehicle standards applicable to the type of road vehicle and the documents mentioned in subsection 20(2) that demonstrate that road vehicles of that type comply with those standards;
  - (e) if subsection 20(3) applies to the type of road vehicle—the respects in which vehicles of that type do not need to comply with applicable national road vehicle standards before being entered on the RAV under the type approval;
  - (f) the conditions to which the type approval is subject;
  - (g) the day that the type approval comes into force;
  - (h) that the type approval expires at the end of the period of 5 years after it comes into force, unless it is revoked earlier.

## 24 Refusal of application

If the Minister decides to refuse to grant a road vehicle type approval to a person, the Minister must, as soon as practicable:

- (a) notify the person, in writing, of the Minister's decision; and
- (b) provide reasons for the decision.

## Subdivision C—Conditions applying to road vehicle type approvals

### 25 Conditions of road vehicle type approval

- (1) A road vehicle type approval granted under Subdivision B is subject to:
  - (a) any conditions specified in the approval; and

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(b) the conditions set out in this Subdivision.

Note: The holder of an approval may commit an offence or contravene a civil penalty provision if a condition of the approval is breached (see section 28 of the Act).

(2) Without limiting paragraph (1)(a), a road vehicle type approval may specify a condition that allows, in certain circumstances, for the entry on the RAV of a road vehicle of a type covered by the approval when the vehicle is outside Australia.

Note: Such a condition is relevant to the requirement of the type approval pathway in subparagraph 16(f)(ii).

#### 26 Condition about compliance with national road vehicle standards

It is a condition of a road vehicle type approval that the holder of the approval is able to ensure, at all times, that evidence of the matters mentioned in paragraphs 20(2)(a) to (d) demonstrates that road vehicles covered by the approval comply with the applicable national road vehicle standards.

#### 27 Condition about providing evidence of compliance with changed national road vehicle standards

(1) It is a condition of a road vehicle type approval that if:

- (a) a legislative instrument containing a change to a national road vehicle standard is registered on the Federal Register of Legislation; and
- (b) the change to the national road vehicle standard is to apply in relation to road vehicles of the type covered by the approval from a particular time (the *applicability time*) after registration; and
- (c) road vehicles of the type covered by the approval would, if provided after the applicability time, be required to comply with the changed national road vehicle standard;

the holder of the approval must provide evidence to the Minister that road vehicles provided under the approval after the applicability time will comply with the changed national road vehicle standard.

(2) The evidence must be provided to the Minister no later than 60 business days before the applicability time.

Note 1: A failure to comply with this condition by the required time results in automatic suspension of the road vehicle type approval (see section 183). The approval may also be suspended if insufficient evidence is provided (see section 184).

Note 2: The holder of an approval may apply to the Minister for a variation of the approval (see Division 4 of Part 7).

#### 28 Condition about a conformity of production system

It is a condition of a road vehicle type approval that the holder of the approval implement a conformity of production system that:

- (a) governs the manufacturing process detailed in the supporting information for the type approval; and

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- (b) ensures that, at the time that a road vehicle is entered on the RAV under the type approval, the vehicle satisfies the requirements of the type approval pathway under section 16.

## **29 Condition about notifying the Secretary of errors in RAV entries**

It is a condition of a road vehicle type approval that, if the holder of the approval becomes aware of an error in information entered on the RAV under the approval (whether by the holder of the approval or a person authorised in writing by the holder), the holder must notify the Secretary of the error as soon as practicable after becoming aware of the error.

## **30 Condition about providing information etc. to the Minister**

It is a condition of a road vehicle type approval that the holder of the approval, when requested in writing by the Minister and within such reasonable time as is specified in the request:

- (a) give to the Minister, or arrange for the Minister or an inspector to access, the original and any subsequent version of the supporting information for the type approval; and
- (b) give to the Minister, on written request and within the reasonable time specified in the request, any information that the Minister reasonably requires for the purposes of deciding whether the holder of the approval is complying with the Act and this instrument; and
- (c) provide written answers to questions, specified in the request, about road vehicles entered on the RAV under the type approval; and
- (d) for the purpose of determining whether road vehicles entered on the RAV under the type approval comply with applicable national road vehicle standards—allow, or arrange for, the Minister or an inspector, to inspect:
  - (i) premises where road vehicle components of those vehicles are designed or manufactured; or
  - (ii) premises where those road vehicles are designed or manufactured; or
  - (iii) things associated with the design or manufacturing process, including documents, vehicles and components.

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## **Division 3—Concessional RAV entry approval pathway**

### **Subdivision A—Requirements of the concessional RAV entry approval pathway**

#### **31 Concessional RAV entry approval pathway**

A road vehicle satisfies the requirements of the concessional RAV entry approval pathway if, immediately before the road vehicle is entered on the RAV:

- (a) a concessional RAV entry approval that is in force applies to the vehicle; and
- (b) if the concessional RAV entry approval is subject to a condition that is required to be met before the vehicle is entered on the RAV—the condition has been met.

### **Subdivision B—Application for, and grant of, concessional RAV entry approval**

#### **32 Application**

- (1) A person may apply to the Minister for the grant of a concessional RAV entry approval in respect of:
  - (a) a road vehicle that is an older vehicle; or
  - (b) a road vehicle that is to be modified by the holder of a RAW approval; or
  - (c) a road vehicle on the grounds of a special exemption;
  - (d) a road vehicle that is to be imported as part of the person's personal effects;
  - (e) a road vehicle that is a trailer;
  - (f) a road vehicle on the grounds that the vehicle is suitable for entry on the RAV.
- (2) The application must be:
  - (a) in the approved form; and
  - (b) accompanied by:
    - (i) such documents as are required by the form; and
    - (ii) the application fee.

**Note:** The Minister may refuse to consider an application if it is not in the approved form (see section 34).

#### **33 Further information and inspection of road vehicle**

- (1) The Minister may request a person who has made an application under section 32 for a concessional RAV entry approval in respect of a road vehicle to do either or both of the following to assist in deciding the application:
  - (a) give the Minister further specified information relevant to the application;
  - (b) allow the vehicle to be inspected.
- (2) A request under subsection (1) must:

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- (a) be in writing; and
- (b) state that the request must be complied with within the period of 30 days starting on the day the request is given, or within such longer period as the Minister allows.

## 34 Minister may refuse to consider application in certain circumstances

The Minister may refuse to consider an application if:

- (a) it is not in the approved form; or
- (b) a request made under section 33 in relation to the application is not complied with within the period mentioned in paragraph 33(2)(b).

## 35 Criteria for deciding application

If a person applies for a concessional RAV entry approval in respect of a road vehicle on the basis of the eligibility criteria set out in section 36, 37, 38, 39, 40 or 41 the Minister may grant the approval to the person in respect of the road vehicle if the Minister is satisfied that the relevant eligibility criteria are satisfied in respect of the vehicle.

## 36 Eligibility criteria—older vehicles

- (1) A road vehicle satisfies the eligibility criteria set out in this section if:
  - (a) the vehicle is in one of the following vehicle categories:
    - (i) Passenger Car (MA);
    - (ii) Forward-control Passenger Vehicle (MB);
    - (iii) Off-road Passenger Vehicle (MC);
    - (iv) Moped - 2 wheels (LA);
    - (v) Moped - 3 wheels (LB);
    - (vi) Motor cycle (LC);
    - (vii) Motor cycle and side-car (LD);
    - (viii) Motor tricycle (LE);
    - (ix) Light Goods Vehicle (NA); and
  - (b) the vehicle has a relevant build date that is at least 25 years before the date of the application for a concessional RAV entry approval in respect of the vehicle.

Note: Vehicle categories are set out in the *Vehicle Standard (Australian Design Rule—Definitions and Categories) 2005*. See the definition of **vehicle category** in section 5.

- (2) For the purposes of paragraph (1)(b), the **relevant build date** for a road vehicle is the date that the Minister is satisfied is:
  - (a) the date that assembly of the vehicle was first completed; or
  - (b) if the Minister is satisfied that significant modifications were made to the vehicle after assembly of the vehicle was first completed—the date that the last of the significant modifications were completed.

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#### **37 Eligibility criteria—vehicles to be modified by the holder of a RAW approval**

A road vehicle satisfies the eligibility criteria set out in this section if the Minister is satisfied that:

- (a) the vehicle is:
  - (i) entered on the SEVs Register; or
  - (ii) a used two-wheeled vehicle or a used three-wheeled vehicle; or
  - (iii) a road vehicle on the RAV that has not been provided for the first time in Australia, and is, or is to be, subject to second stage manufacture; and
- (b) the applicant owns the vehicle; and
- (c) the applicant has, or is able to access, an approved model report that applies to the vehicle; and
- (d) the person is capable of complying with the conditions to which the approval will be subject under Subdivision C.

Note: It is a condition of an approval granted on the basis of this section that the vehicle is modified by the holder of a RAW approval, and the modifications are verified by the holder of an AVV approval, see section 47.

#### **38 Eligibility criteria—special exemption**

A road vehicle satisfies the eligibility criteria set out in this section if the Minister is satisfied that the vehicle does not comply with the applicable national road vehicle standards and it would not be able to operate for the purpose for which it was designed if:

- (a) it were modified to comply with the applicable national road vehicle standards; or
- (b) its original design were in accordance with the applicable national road vehicle standards.

#### **39 Eligibility criteria—personal effects**

- (1) A road vehicle satisfies the eligibility criteria set out in this section if:
  - (a) either:
    - (i) the applicant has not previously been granted a concessional RAV entry approval based on the eligibility criteria set out in this section, or an import approval under regulation 13 of the *Motor Vehicle Standards Regulation 1989*, in respect of the same or another vehicle; or
    - (ii) it has been more than 5 years since the applicant was granted an approval mentioned in subparagraph (i); and
  - (b) the applicant owns the vehicle at the time the application is made; and
  - (c) the applicant became the owner of the vehicle while living outside Australia; and
  - (d) the applicant owned the vehicle for a continuous period of at least 12 months immediately before arriving in Australia for the purpose of remaining in Australia indefinitely; and

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- (e) during that period of ownership the vehicle was available to the applicant for use on a public road outside Australia; and
- (f) the application is made within 6 months of the applicant arriving in Australia for the purpose of remaining in Australia indefinitely; and
- (g) at the time the application is received by the Minister, the applicant is:
  - (i) an Australian citizen or a permanent resident and provides evidence that he or she intends to remain in Australia indefinitely; or
  - (ii) a person who has applied to become an Australian citizen or a permanent resident and provides evidence that he or she intends to remain in Australia indefinitely if granted Australian citizenship or permanent residency; or
  - (iii) a person who is entitled to remain in Australia indefinitely and provides evidence that he or she intends to do so; or
  - (iv) the holder of a visa that entitles him or her to apply to become a permanent resident (whether or not after a specified period or in specified circumstances) and provides evidence that he or she intends to remain in Australia indefinitely; and
- (h) the applicant is of an age that entitles him or her to hold a licence, or a permit, to operate the vehicle on public roads.

(2) In this section:

*permanent resident* has the same meaning as in the *Australian Citizenship Act 2007*.

### 40 Eligibility criteria—trailers

A road vehicle satisfies the eligibility criteria set out in this section if:

- (a) the vehicle is a light trailer or a heavy trailer; and
- (b) the application includes a declaration by the applicant that the trailer complies, or will comply, with the applicable national road vehicle standards as in force at the time the application is made; and
- (c) in the case of an application for a heavy trailer—the application includes evidence that supports the applicant’s declaration mentioned in paragraph (b); and
- (d) in the 12-month period before the application is made:
  - (i) in the case of an application for a light trailer—the applicant has not been granted more than 4 concessional RAV entry approvals for light trailers on the basis of the eligibility criteria in this section; or
  - (ii) in the case of an application for a heavy trailer—the applicant has not been granted more than 4 concessional RAV entry approvals for heavy trailers on the basis of the eligibility criteria in this section.

### 41 Eligibility criteria—road vehicle suitable for entry on RAV

A road vehicle satisfies the eligibility criteria set out in this section if the Minister is satisfied that the vehicle is suitable for entry on the RAV.

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### Division 3 Concessional RAV entry approval pathway

#### Section 42

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#### 42 Other considerations

In deciding whether to grant, or to refuse to grant, a concessional RAV entry approval to a person, the Minister may take into account:

- (a) whether the person has contravened or may have contravened road vehicle legislation; and
- (b) if the person is a body corporate—whether, for each member of the key management personnel of the person, the member has contravened or may have contravened road vehicle legislation; and
- (c) in respect of the road vehicle to which the approval is to relate—whether the vehicle is, or could be made, fit for use on a public road; and
- (d) any other matter that the Minister considers relevant.

Note: Nothing in this section affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

#### 43 Minister to decide application

- (1) The Minister must decide an application for a concessional RAV entry approval within 30 business days after receiving the application.
- (2) If the Minister has requested more information or the inspection of the road vehicle in relation to such an application, a day is not to be counted as a business day for the purposes of subsection (1) if it is:
  - (a) on or after the day the Minister made the request; and
  - (b) on or before the day the Minister receives the last of the information requested or the vehicle is inspected, as the case may be.

#### 44 Grant of concessional RAV entry approval

- (1) If the Minister decides to grant a concessional RAV entry approval to a person, the Minister must, as soon as practicable:
  - (a) notify the person, in writing, of the Minister's decision; and
  - (b) provide a copy of the approval to the person.
- (2) A concessional RAV entry approval must specify the following:
  - (a) the name of the holder of the approval;
  - (b) details of each road vehicle to which the approval applies (such as the make, model and vehicle identification number of the vehicle);
  - (c) the day that the approval comes into force;
  - (d) the day (if any) that the approval expires;
  - (e) any conditions to which the approval is subject.

#### 45 Refusal of application

If the Minister decides to refuse to grant a concessional RAV entry approval to a person, the Minister must, as soon as practicable:

- (a) notify the person, in writing, of the Minister's decision; and



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- (b) provide reasons for the decision.

## **Subdivision C—Conditions applying to concessional RAV entry approvals**

### **46 Conditions of concessional RAV entry approval**

- (1) A concessional RAV entry approval granted under Subdivision B in respect of a road vehicle is subject to:
- (a) any conditions specified in the approval; and
  - (b) the condition that the holder of the approval must, if requested in writing by the Minister, allow the Minister or an inspector to inspect the vehicle; and
  - (c) the conditions set out in this Subdivision.

Note: The holder of an approval may commit an offence or contravene a civil penalty provision if a condition of the approval is breached (see section 28 of the Act).

- (2) Without limiting paragraph (1)(a), the conditions specified in the approval may do one or more of the following:
- (a) require the holder of the approval to export or destroy the vehicle to which the approval applies within a specified period;
  - (b) require the holder of the approval to provide evidence to the Secretary that the vehicle to which the approval applies has been exported or destroyed within the specified period;
  - (c) require the holder of the approval to modify the vehicle to which the approval applies within a specified period before the vehicle is entered on the RAV;
  - (d) require the vehicle, or any modifications of the vehicle, to be verified by the holder of an AVV approval in accordance with section 91;
  - (e) require the holder of the approval to keep specified records for a specified period;
  - (f) require the holder of the approval to provide specified records to the Minister when requested to do so by the Minister;
  - (g) prohibit the holder of the approval from giving another person access to the vehicle to which the approval applies;
  - (h) specify how the vehicle to which the approval applies may be used.

### **47 Condition applying to approvals for vehicles to be modified by registered automotive workshops**

It is a condition of a concessional RAV entry approval granted on the basis of the eligibility criteria in section 37 that a road vehicle to which the approval applies must not be entered on the RAV until the following are satisfied:

- (a) the vehicle has been modified under a RAW approval in accordance with the requirements set out in an approved model report that applies to the vehicle;
- (b) the modifications to the vehicle have been verified by the holder of an AVV approval in accordance with section 91.

# EXPOSURE DRAFT

**Part 3** Entry on RAV via entry pathways

**Division 4** Miscellaneous

Section 48

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## **Division 4—Miscellaneous**

### **48 Circumstances in which a road vehicle may be provided**

For the purposes of paragraph 24(3)(f) of the Act, a circumstance is that:

- (a) the road vehicle is a vehicle to which an intergovernmental agreement applies; and
- (b) the vehicle is provided in circumstances allowed by the intergovernmental agreement.

### **49 Modifications of road vehicles**

For the purposes of section 26 of the Act, if a road vehicle on the RAV is to be modified before being provided for the first time in Australia, the only modifications of the vehicle allowed are those carried out during second stage manufacture.

### **50 Allocation of vehicle identification number**

If:

- (a) a person is granted a concessional RAV entry approval in respect of a road vehicle; and
  - (b) the road vehicle does not have a vehicle identification number;
- the Secretary may allocate a vehicle identification number for the vehicle.

## Part 4—Tools

### Division 1—Introduction

#### 51 Simplified outline of this Part

[The simplified outline will be drafted once the content of the rules is settled.]

#### 52 Purpose of this Part

For the purposes of subsection 19(2) and section 21 of the Act, this Part provides for and in relation to:

- (a) the grant of approvals to enable road vehicles to satisfy the requirements of entry pathways; and
- (b) the conditions of such approvals; and
- (c) the keeping of the SEVs Register; and
- (d) applications to be made for the entry of road vehicles on the SEVs Register.

### Division 2—RAW approvals

#### Subdivision A—Application for, and grant of, RAW approval

#### 53 Application

- (1) A corporation may apply to the Minister for the grant of an approval as a registered automotive workshop (a **RAW approval**).
- (2) The application must be:
  - (a) in the approved form; and
  - (b) accompanied by:
    - (i) such documents as are required by the form; and
    - (ii) the application fee.

Note: The Minister may refuse to consider an application if it is not in the approved form (see section 55).

#### 54 Further information and inspection of premises

- (1) To assist in deciding an application, the Minister may request the applicant to:
  - (a) give the Minister further specified information relevant to the application;  
or
  - (b) allow the Minister or an inspector to inspect:
    - (i) any premises occupied by the corporation; and
    - (ii) any premises to be used by the corporation to carry out modifications under the approval.

# EXPOSURE DRAFT

## Part 4 Tools

### Division 2 RAW approvals

#### Section 55

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- (2) A request under subsection (1) must:
  - (a) be in writing; and
  - (b) state that the request must be complied with within the period of 30 days starting on the day the request is given, or within such longer period as the Minister allows.

#### 55 Minister may refuse to consider application

The Minister may refuse to consider an application if:

- (a) it is not in the approved form; or
- (b) a request made under section 54 in relation to the application is not complied with within the period mentioned in paragraph 54(2)(b).

#### 56 Criteria for deciding application

- (1) The Minister may grant a RAW approval to a corporation if the Minister is satisfied that:
  - (a) the corporation is not in liquidation or under administration; and
  - (b) the corporation has a quality management system that:
    - (i) meets the requirements of International Standard *ISO 9001: 2015 Quality Management Systems - Requirements*, published by the International Organization for Standardization and as in force from time to time; and
    - (ii) is certified by a certification body accredited for the purpose by the Joint Accreditation System of Australia and New Zealand; and
  - (c) each member of the key management personnel of the corporation is:
    - (i) at least 18 years of age; and
    - (ii) not an undischarged bankrupt; and
  - (d) a personal insolvency agreement under Part X of the *Bankruptcy Act 1966* is not in effect in relation to a member of the key management personnel of the corporation; and
  - (e) the corporation is capable of complying with the conditions to which the approval will be subject.

Note: If the Minister ceases to be satisfied of the matters mentioned in this subsection, the Minister may revoke the RAW approval (see section 182).

- (2) The scope of the certification mentioned in subparagraph (1)(b)(ii) must be in accordance with the requirements set out in the document entitled “JAS-ANZ Procedure 24 - Requirements for bodies undertaking assessment and certification of automotive workshops”, published by the Joint Accreditation System of Australia and New Zealand and as in force from time to time.

#### 57 Other considerations

In deciding whether to grant, or to refuse to grant, a RAW approval to a corporation, the Minister may take into account:

- (a) whether the corporation has contravened or may have contravened road vehicle legislation; and

- (b) whether, for each member of the key management personnel of the corporation, the member has contravened or may have contravened road vehicle legislation; and
- (c) any other matter that the Minister considers relevant, other than a matter that relates to compliance with applicable national road vehicle standards.

Note: Nothing in this section affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

## 58 Minister to decide application

- (1) The Minister must decide an application for a RAW approval within 30 business days after receiving the application.
- (2) If the Minister has requested more information or the inspection of premises in relation to such an application, a day is not to be counted as a business day for the purposes of subsection (1) if it is:
  - (a) on or after the day the Minister made the request; and
  - (b) on or before the day the Minister receives the last of the information requested or premises are inspected, as the case may be.

## 59 Period of approval

A RAW approval:

- (a) comes into force on the day specified in the approval; and
- (b) remains in force for 2 years, unless it is revoked earlier.

## 60 Grant of RAW approval

- (1) If the Minister decides to grant a RAW approval to a corporation, the Minister must, as soon as practicable:
  - (a) notify the corporation, in writing, of the Minister's decision; and
  - (b) provide a copy of the approval to the corporation.
- (2) A RAW approval must specify the following:
  - (a) the name and postal address of the corporation to which the approval is granted;
  - (b) the conditions to which the approval is subject;
  - (c) that the approval expires at the end of the period of 2 years after it is granted, unless it is revoked earlier.

## 61 Refusal of application

If the Minister decides to refuse to grant a RAW approval to a corporation, the Minister must, as soon as practicable:

- (a) notify the corporation, in writing, of the Minister's decision; and
- (b) provide reasons for the decision.

# EXPOSURE DRAFT

## Part 4 Tools

### Division 2 RAW approvals

#### Section 62

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### Subdivision B—Conditions applying to RAW approvals

#### 62 Conditions of RAW approvals

A RAW approval granted under Subdivision A is subject to:

- (a) any conditions specified in the approval; and
- (b) the conditions set out in this Subdivision.

Note: The holder of an approval may commit an offence or contravene a civil penalty provision if a condition of the approval is breached (see section 28 of the Act).

#### 63 Condition about modification requirements

It is a condition of a RAW approval that:

- (a) road vehicles are modified under the approval at premises that:
  - (i) have such equipment and trained personnel as are necessary to ensure that the modifications meet the requirements set out in an approved model report that applies to the vehicle; and
  - (ii) are operated by the holder of the approval or in accordance with a contract or other written arrangement to which the holder of the approval is a party; and
- (b) before a road vehicle is modified under the approval, the holder of the approval ensures that the vehicle is inspected for crash damage, corrosion, and repair of damage or corrosion; and
- (c) if a road vehicle's structural integrity is found to have been reduced by damage or corrosion—both:
  - (i) the holder of the approval must notify the Minister, in writing, of that fact; and
  - (ii) the holder of the approval must not continue to work on the vehicle or declare that the vehicle has been modified in accordance with an approved model report; and
- (d) the holder of the approval ensures that a road vehicle modified under the approval is not presented to the holder of an AVV approval for verification unless the vehicle has been modified in accordance with the requirements set out in an approved model report that applies to the vehicle.

#### 64 Condition about record keeping

- (1) It is a condition of a RAW approval that the holder of the approval keep a record of information that shows that modifications of road vehicles made under the approval and submitted to the holder of an AVV approval for verification meet the requirements set out in an approved model report that applies to the vehicle.
- (2) It is a condition of a RAW approval that the holder of the approval retain a record mentioned in subsection (1) for the period of 7 years starting on the day that the record is made.

#### 65 Condition about providing information etc. to the Minister

It is a condition of a RAW approval that the holder of the approval:

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# EXPOSURE DRAFT

- (a) gives written notification to the Minister of any change in information held by the Minister about the holder of the approval within 30 days of the change, including:
  - (i) any change in the key management personnel of the holder of the approval; and
  - (ii) any significant change in the control of the holder of the approval;
- (b) give to the Minister, on written request and within the reasonable time specified in the request, any information that the Minister reasonably requires for the purposes of deciding whether the holder of the approval is complying with the Act or this instrument; and
- (c) for the purposes of ensuring compliance with the Act and this instrument—allow the Minister to access, at any reasonable time:
  - (i) any premises occupied by the holder of the approval; or
  - (ii) any premises, operated by the holder of the approval, where modifications under the approval are carried out;
- (d) if persons or organisations provide goods or services to the holder of the approval for the purposes of vehicle modification—ensure that, for the purposes of ensuring compliance with the Act and this instrument, those persons and organisations allow the Minister to access their premises in relation to the activities of the holder of the approval.

# EXPOSURE DRAFT

## Part 4 Tools

### Division 3 Model reports

#### Section 66

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### Division 3—Model reports

#### Subdivision A—Application for, and grant of, approval of model report

#### 66 Application

- (1) A person may apply to the Minister for approval of a model report that applies to a variant of a model, or make and model, of:
  - (a) a road vehicle that is entered on the SEVs Register; or
  - (b) a used two-wheeled vehicle or a used three-wheeled vehicle; or
  - (c) a heavy trailer; or
  - (d) a road vehicle that:
    - (i) is entered on the RAV via the type approval pathway; and
    - (ii) has not been provided for the first time in Australia; and
    - (iii) is, or is to be, subject to second stage manufacture.
- (2) The application must be:
  - (a) be in the approved form; and
  - (b) be accompanied by the application fee; and
  - (c) include a signed declaration by the person that:
    - (i) the model report is in such a form, and contains such information, as is determined by the Minister under section 80; and
    - (ii) the person is capable of complying with the conditions in sections 75 to 78.

Note: The Minister may refuse to consider an application if it is not in the approved form (see section 68).

#### 67 Further information and inspection of vehicles or premises

- (1) To assist in deciding an application, the Minister may request the applicant to:
  - (a) give the Minister further specified information relevant to the application;  
or
  - (b) allow the Minister or an inspector to inspect:
    - (i) any road vehicle used to develop the model report; or
    - (ii) premises where the road vehicle was designed or manufactured.
- (2) A request under subsection (1) must:
  - (a) be in writing; and
  - (b) state that the request must be complied with within the period of 30 days starting on the day the request is given, or within such longer period as the Minister allows.

#### 68 Minister may refuse to consider application

The Minister may refuse to consider an application if:

- (a) it is not in the approved form; or



- (b) a request made under section 67 in relation to the application is not complied with within the period mentioned in paragraph 67(2)(b).

## **69 Criteria for deciding application**

- (1) The Minister may approve a model report in relation to a person if the Minister is satisfied that:
  - (a) the model report is in such a form, and contains such information, as is determined by the Minister under section 80; and
  - (b) any of the following applies:
    - (i) a road vehicle entered on the SEVs Register will, if modified or manufactured in accordance with the model report, comply with the standards determined by the Minister under section 81 as in force at the time the model report is approved;
    - (ii) a used two-wheeled vehicle or used three-wheeled vehicle will, if modified in accordance with the model report, comply with the applicable national road vehicle standards as in force at the time the model report is approved;
    - (iii) a heavy trailer will, if modified or manufactured in accordance with the model report, comply with the applicable national road vehicle standards as in force at the time the model report is approved;
    - (iv) a heavy trailer will, if modified or manufactured in accordance with the model report, satisfy subsection (3);
    - (v) a road vehicle entered on the RAV via the type approval pathway that is to be subject to second stage manufacture will, if modified in accordance with the model report, comply with the applicable national road vehicle standards as in force at the time the model report is approved;
    - (vi) a road vehicle entered on the RAV via the type approval pathway that is to be subject to second stage manufacture will, if modified in accordance with the model report, satisfy subsection (3); and
  - (c) the person is capable of complying with the conditions to which the approval will be subject.
- (2) The Minister must, in the circumstances (if any) determined by the Minister under section 81, be satisfied of the matter mentioned in paragraph (1)(b) on the basis of testing:
  - (a) conducted under a testing facility approval; or
  - (b) conducted by a person who holds a testing facility approval but did not at the time the testing was conducted.
- (3) For the purposes of paragraphs (1)(b)(iv) and (vi), a road vehicle satisfies this subsection if:
  - (a) the road vehicle substantially complies with applicable national road vehicle standards, as in force at the time the approval is granted; and
  - (b) either:
    - (i) the road vehicle's non-compliance with applicable national road vehicle standards, as in force at the time the approval is granted, is only in minor and inconsequential respects; or

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## Part 4 Tools

### Division 3 Model reports

#### Section 70

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- (ii) the road vehicle complies with applicable national road vehicle standards, as in force at the time the approval is granted, to an extent that makes it suitable for use on a public road in Australia.
- (4) For the purposes of subparagraphs (3)(b)(ii) and (iii), a road vehicle satisfies that subparagraph if the Minister is satisfied that, were the road vehicle used on a public road in Australia, the vehicle:
  - (a) would not pose an unacceptable risk to public safety; and
  - (b) would otherwise be appropriate for use.

#### 70 Other considerations

In deciding whether to approve, or to refuse to approve, a model report, the Minister may take into account:

- (a) whether the person has contravened or may have contravened road vehicle legislation; and
- (b) if the person is a body corporate—whether, for each member of the key management personnel of the person, the member has contravened or may have contravened road vehicle legislation; and
- (c) any other matter that the Minister considers relevant.

Note: Nothing in this section affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

#### 71 Minister to decide application

- (1) The Minister must decide an application for the approval of a model report within 60 business days after receiving the application.
- (2) If the Minister has requested more information or to inspect a vehicle or premises in relation to such an application, a day is not to be counted as a business day for the purposes of subsection (1) if it is:
  - (a) on or after the day the Minister made the request; and
  - (b) on or before the day the Minister receives the last of the information requested or the vehicle or premises are inspected, as the case may be.

#### 72 Grant of approval

- (1) If the Minister decides to approve a model report, the Minister must, as soon as practicable:
  - (a) notify the person, in writing, of the Minister's decision; and
  - (b) provide a copy of the approval to the person.
- (2) An approval of a model report must be in writing and specify the following:
  - (a) the name of the holder of the approval;
  - (b) the day that the approval comes into force;
  - (c) the conditions to which the approval is subject.

## **73 Refusal of application**

If the Minister decides to refuse to approve a model report, the Minister must, as soon as practicable:

- (a) notify the applicant, in writing, of the Minister's decision; and
- (b) provide reasons for the decision.

## **Subdivision B—Conditions applying to approval of model report**

### **74 Conditions of approval**

An approval of a model report is subject to:

- (a) any conditions specified in the approval; and
- (b) the conditions set out in this section.

Note 1: An approval of a varied model report is also subject to the condition set out in paragraph 79(4)(b).

Note 2: The holder of an approval may commit an offence or contravene a civil penalty provision if a condition of the approval is breached (see section 28 of the Act).

### **75 Condition about keeping the model report up-to-date**

It is a condition of an approval of a model report that the holder of the approval ensures that the model report:

- (a) does not contain any errors; and
- (b) at all times, is in such a form, and contains such information, as is determined by the Minister under section 80; and
- (c) is kept to up-to-date so that a road vehicle of the make and model, or the make, model and variant, to which the model report applies will, if modified or manufactured in accordance with the model report, comply with applicable vehicle standards.

Note: Subdivision C of this Division provides for the holder of the approval to apply for approval of a variation to the model report.

### **76 Condition about keeping records relating to distribution of model report**

It is a condition of an approval of a model report that the holder of the approval keep a record of the following in relation to each person to whom the holder gives the model report, or a copy of the report:

- (a) the name and contact details of the person, for the purposes of being able to notify the person of any variations to the model report;
- (b) the version of the model report that was provided to the person.

### **77 Condition about allowing the Department to use the model report**

It is a condition of an approval of a model report that the holder of the approval allows the Department to:

- (a) use the model report for the purpose of:
  - (i) auditing the holder of a RAW approval or an AVV approval; or

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### Division 3 Model reports

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- (ii) inspecting a road vehicle that has been modified or manufactured in accordance with the model report; and
- (b) provide a copy of the model report's verification checklist to the holder of an AVV approval for the purpose of the holder of the AVV approval verifying road vehicles under the AVV approval.

Note: Model reports are required to include a verification checklist (see subsection 80(2)).

#### **78 Condition about keeping records of certain testing results**

- (1) This section applies if:
  - (a) a model report was approved on the basis of the matter mentioned in subparagraph 69(1)(b)(i); and
  - (b) the Minister was required under subsection 69(2) to be satisfied of that matter on the basis of testing
    - (i) conducted under a testing facility approval; or
    - (ii) conducted by a person who holds a testing facility approval but did not at the time the testing was conducted.
- (2) It is a condition of the approval of the model report that the holder of the approval must:
  - (a) keep a record of the results of the testing; and
  - (b) retain the record, or a copy of the record, for 7 years after the day the approval of the model report is revoked.

Note: A holder of an approval may commit an offence or contravene a civil penalty provision if the record is not retained for the period (see section 30 of the Act).

#### **Subdivision C—Variation of approved model report**

#### **79 Variation of approved model report**

- (1) The holder of an approval of a model report may apply to the Minister for approval of a variation to the model report.
- (2) The application must:
  - (a) be in the approved form; and
  - (b) be accompanied by:
    - (i) a copy of the model report that incorporates, and clearly indicates, the variation sought; and
    - (ii) such other documents as are required by the form; and
  - (c) be accompanied by the application fee.
- (3) Sections 67 to 74 apply in relation to an application under subsection (1) as if the application were for approval of a new model report.
- (4) If the Minister approves a varied model report:
  - (a) the approval of the varied model report replaces any previous approval given under paragraph 72(1)(b) in relation to the model report; and

- (b) it is a condition of the approval of the varied model report that the holder of the approval take reasonable steps to notify any person to whom the holder of the approval has previously provided a copy of the model report that:
  - (i) a variation to the model report has been approved; and
  - (ii) the model report previously provided has been superseded; and
- (c) the Department must provide a copy of the verification checklist in the varied model report to any holder of an AVV approval to which the Department provided a copy of the verification checklist in the original model report.

## **Subdivision D—Ministerial determinations**

### **80 Determination—information to be contained in model report**

- (1) The Minister may, by legislative instrument, determine the form that a model report is to take, including the information that a model report is to contain.
- (2) A determination made for the purposes of subsection (1) must require a model report to contain:
  - (a) the steps that the holder of a RAW approval must take when modifying a vehicle to which the report applies; and
  - (b) the records that must be kept by the holder of the RAW approval in relation to such modifications; and
  - (c) the verification checklist that the holder of the AVV approval must complete when verifying the vehicle.
- (3) A determination made for the purposes of this section may set out different forms of model report for different kinds of vehicles.

### **81 Determination—compliance with standards**

- (1) The Minister may, by legislative instrument, determine:
  - (a) for any road vehicle for which a model report may be approved—the circumstances in which the Minister must be satisfied of the vehicle’s compliance with national road vehicle standards if the vehicle is modified in accordance with a model report on the basis of testing:
    - (i) conducted under a testing facility approval; or
    - (ii) conducted by a person who holds a testing facility approval but did not at the time the testing was conducted; and
  - (b) for a model report that applies to a make and model, or a make, model and variant, of a road vehicle that is entered on the SEVs Register—the standards that the vehicle must comply with if modified in accordance with the model report.
- (2) A determination made for the purposes of subsection (1) may:
  - (a) set out criteria that must be satisfied by the Minister for each circumstance determined under paragraph (1)(a); and
  - (b) require evidence to be given to the Minister from approved testing facilities for the purposes of becoming so satisfied.

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- (3) A determination made for the purposes of this section may set out different forms of model report for different kinds of vehicles.

## Division 4—AVV approvals

### Subdivision A—Application for, and grant of, AVV approval

#### 82 Application

- (1) A corporation may apply to the Minister for the grant of an approval as an authorised vehicle verifier.
- (2) The application must be:
  - (a) in the approved form; and
  - (b) accompanied by:
    - (i) such documents as are required by the form; and
    - (ii) the application fee.

Note: The Minister may refuse to consider an application if it is not in the approved form, see section 84.

#### 83 Further information

- (1) To assist in deciding an application, the Minister may request the corporation to:
  - (a) give the Minister further specified information relevant to the application;  
or
  - (b) allow the Minister or an inspector to inspect:
    - (i) premises where vehicles would be inspected under the approval; or
    - (ii) the technology and equipment that would be used to inspect road vehicles under the approval.
- (2) A request under subsection (1) must:
  - (a) be in writing; and
  - (b) state that the request must be complied with within the period of 30 days starting on the day the request is given, or within such longer period as the Minister allows.

#### 84 Minister may refuse to consider application

The Minister may refuse to consider an application if:

- (a) it is not in the approved form; or
- (b) a request made under section 83 in relation to the application is not complied with within the period mentioned in paragraph 83(2)(b).

#### 85 Criteria for deciding application

The Minister may grant an approval (an *AVV approval*) to a corporation if the Minister is satisfied that:

- (a) the corporation has:
  - (i) the technology, equipment and procedures to inspect road vehicles in accordance with the requirements set out in a determination made by the Minister under section 97; and

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### Division 4 AVV approvals

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- (ii) appropriately skilled staff to carry out such inspections; and
- (b) all of the following apply:
  - (i) the corporation is not a holder of a RAW approval;
  - (ii) the corporation, and any key management personnel of the corporation, do not hold shares or have any other financial interests in a corporation that holds a RAW approval;
  - (iii) the key management personnel of the corporation are not key management personnel, or employees, of a corporation that holds a RAW approval;
  - (iv) the corporation has in place appropriate procedures for the management of conflicts of interest that may arise in relation to activities undertaken by the corporation under the AVV approval; and
- (c) the corporation is capable of complying with the conditions to which the approval will be subject.

#### 86 Other considerations

In deciding whether to grant, or to refuse to grant, an AVV approval to a corporation, the Minister may take into account:

- (a) whether the corporation has contravened or may have contravened road vehicle legislation; and
- (b) whether, for each member of the key management personnel of the corporation, the member has contravened or may have contravened road vehicle legislation; and
- (c) any other matter that the Minister considers relevant.

Note: Nothing in this section affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

#### 87 Minister to decide application

- (1) The Minister must decide an application made under this Subdivision within 30 business days after receiving the application.
- (2) If the Minister has requested more information, a day is not to be counted as a business day for the purposes of subsection (1) if it is:
  - (a) on or after the day the Minister made the request; and
  - (b) on or before the day the Minister receives the last of the information requested or the premises, or technology and equipment, are inspected, as the case may be.

#### 88 Grant of approval

- (1) If the Minister decides to grant an AVV approval to a corporation, the Minister must, as soon as practicable:
  - (a) notify the corporation, in writing, of the Minister's decision; and
  - (b) provide a copy of the approval to the corporation.



- (2) An AVV approval must be in writing and specify the following:
  - (a) the name of the corporation to which the approval is granted;
  - (b) the categories of road vehicle that may be verified under the approval;
  - (c) the day that the approval comes into force;
  - (d) that the approval expires at the end of the period of 2 years after it comes into force, unless it is revoked earlier;
  - (e) the conditions to which the approval is subject.

## 89 Refusal of application

If the Minister decides to refuse to grant an AVV approval to a corporation, the Minister must, as soon as practicable:

- (a) notify the corporation, in writing, of the Minister's decision; and
- (b) provide reasons for the decision.

## Subdivision B—Conditions applying to AVV approvals

### 90 Conditions of AVV approvals

An AVV approval granted under Subdivision A is subject to:

- (a) any conditions specified in the approval; and
- (b) the conditions set out in this Subdivision.

Note: The holder of an approval may commit an offence or contravene a civil penalty provision if a condition of the approval is breached, see section 28 of the Act.

### 91 Condition about conduct of verifications

- (1) It is a condition of an AVV approval that, if the holder of the approval is verifying a road vehicle or the modifications of a road vehicle under the approval, the holder of the approval must comply with subsections (2) and (3).
- (2) A road vehicle, or modifications of a road vehicle, must not be verified under the approval unless:
  - (a) if the vehicle was manufactured, or the modifications of the vehicle were made, under a RAW approval—both:
    - (i) the holder of the approval has received a signed declaration from the holder of the RAW approval that the vehicle was manufactured, or the modifications of the vehicle were made, in accordance with an approved model report that applies to the vehicle; and
    - (ii) the vehicle or modifications are checked by the holder of the approval against the latest version of the approved model report that applies to the vehicle; and
  - (b) the holder of the approval has inspected the vehicle and is satisfied that:
    - (i) the vehicle has been manufactured or modified in accordance with the latest version of the approved model report that applies to the vehicle; and
    - (ii) the vehicle does not have any crash damage or corrosion; and

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- (iii) the vehicle's odometer reading accurately reflects the vehicle's mileage.
- (3) If the holder of the approval conducts a verification of a road vehicle or modifications of a road vehicle, the holder must:
  - (a) complete a verification report for the vehicle that states whether or not the vehicle or any modifications of the vehicle are verified; and
  - (b) if the verification report states that the vehicle, or any modifications of the vehicle, are not verified—provide a copy of the verification report to the Department within one business day after it is completed.
- (4) For the purposes of paragraph (2)(a), the declaration must be in the approved form.
- (5) For the purposes of paragraph (3)(a), the verification report must:
  - (a) be in the approved form; and
  - (b) include the verification checklist from the approved model report.

#### **92 Condition about maintaining equipment etc. used to conduct inspections**

- (1) It is a condition of an AVV approval that the holder of the approval maintain the technology, equipment and procedures used to inspect road vehicles in accordance with the requirements set out in a determination made by the Minister under section 97.
- (2) It is a condition of an AVV approval that the holder of the approval ensures that it has appropriately skilled staff to carry out such inspections.

#### **93 Conditions about conflicts of interest**

- (1) It is a condition of an AVV approval that:
  - (a) the holder of the approval must not apply for a RAW approval; and
  - (b) the holder of the approval, and any key management personnel of the holder, must not acquire shares or any other financial interest in a corporation that holds a RAW approval.
- (2) It is a condition of an AVV approval that the holder of the approval must:
  - (a) maintain appropriate procedures for managing conflicts of interest that may arise in relation to activities undertaken under the AVV approval, and comply with such procedures; and
  - (b) give to the Minister, when requested in writing by the Minister and within such reasonable time as is specified in the request, copies of such procedures.
- (3) It is a condition of an AVV approval that the holder of the approval must not inspect or verify a vehicle under the AVV approval if:
  - (a) the holder of the approval; or
  - (b) a member of:
    - (i) the key management personnel of the holder of the approval; or
    - (ii) the staff of the holder of the approval;

own or have a financial interest in the vehicle.

## **94 Condition about record keeping**

- (1) It is a condition of an AVV approval that the holder of the approval must, after conducting a verification of a road vehicle, or modifications of a road vehicle, under the approval:
  - (a) retain the verification report completed for the vehicle, including the verification checklist completed for the vehicle; and
  - (b) make a record of any information that the applicable model report mentioned in paragraph 91(2)(a) requires the holder to review.
- (2) A verification report or record, or a copy of such a report or record, must be:
  - (a) retained for a period of 7 years starting on the day that the report or record is made; and
  - (b) if requested in writing by the Minister—given to the Minister.

## **95 Condition about providing information etc. to the Minister**

It is a condition of an AVV approval that the holder of the approval, when requested in writing by the Minister and within such reasonable time as is specified in the request:

- (a) gives to the Minister, on written request and within the reasonable time specified in the request, any information that the Minister reasonably requires for the purposes of deciding whether the holder of the approval is complying with the Act and this instrument; and
- (b) provide written answers to questions, specified in the request, about road vehicles inspected by the holder of the approval under the approval; and
- (c) for the purpose of determining whether road vehicles entered on the RAV comply with applicable national road vehicle standards—allow, or arrange for, the Minister or an inspector, to inspect:
  - (i) premises where road vehicles are inspected under the approval; or
  - (ii) the technology or equipment used to inspect road vehicles under the approval; or
  - (iii) things, including documents, associated with the inspection process.

## **96 Condition about notifying the Secretary of errors in RAV entries**

It is a condition of an AVV approval that, if the holder of the approval becomes aware of an error in information entered on the RAV under the approval, the holder must notify the Secretary of the error as soon as practicable after becoming aware of the error.

## **Subdivision C—Ministerial determinations**

### **97 Determination relating to inspection of road vehicles**

- (1) The Minister may, by legislative instrument, determine any matter relating to the inspection of a road vehicle by a corporation as an authorised vehicle verifier.

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- (2) Without limiting subsection (1), a determination may relate to all or any of the following:
  - (a) the steps that must be taken to inspect a road vehicle;
  - (b) the technology and equipment to be used in inspecting a road vehicle;
  - (c) inspection procedures, including verification checklists for conducting an inspection of a road vehicle;
  - (d) administrative matters, including:
    - (i) the keeping of reports, evidence or documents that record the results of an inspection of a road vehicle; and
    - (ii) notifying the results of such an inspection.
- (3) A determination made under this section may set out different requirements for different kinds of vehicles.

## **Division 5—Testing facility approvals**

### **Subdivision A—Application for, and grant of, testing facility approval**

#### **98 Application**

- (1) A person may apply to the Minister for the grant of an approval to carry out testing of:
  - (a) road vehicles; or
  - (b) road vehicle components; or
  - (c) both road vehicles and road vehicle components;against vehicle standards at one or more testing facilities.
- (2) The application must be:
  - (a) in the approved form; and
  - (b) accompanied by:
    - (i) such documents as are required by the form; and
    - (ii) the application fee.

Note: The Minister may refuse to consider an application if it is not in the approved form, see section 100.

#### **99 Further information and inspection of premises**

- (1) To assist in deciding an application, the Minister may request the applicant to:
  - (a) give the Minister further specified information relevant to the application;or
  - (b) allow the Minister or an inspector to inspect any premises where testing under the approval will be carried out.
- (2) A request under subsection (1) must:
  - (a) be in writing; and
  - (b) state that the request must be complied with within the period of 30 days starting on the day the request is given, or within such longer period as the Minister allows.

#### **100 Minister may refuse to consider application**

The Minister may refuse to consider an application if:

- (a) it is not in the approved form; or
- (b) a request made under section 99 in relation to the application is not complied with within the period mentioned in paragraph 99(2)(b).

#### **101 Criteria for deciding application**

The Minister may grant an approval (a *testing facility approval*) to a person if the Minister is satisfied that:

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- (a) the person would have, or have access to, technology and equipment to adequately test road vehicles and road vehicle components under the approval; and
- (b) the person has appropriately skilled people (whether employees or contractors) to carry out any testing under the approval.

#### 102 Other considerations

In deciding whether to grant, or to refuse to grant, a testing facility approval to a person, the Minister may take into account:

- (a) whether the person has contravened or may have contravened road vehicle legislation; and
- (b) if the person is a body corporate—whether, for each member of the key management personnel of the person, the member has contravened or may have contravened road vehicle legislation; and
- (c) whether the person is capable of complying with the conditions to which the approval will be subject; and
- (d) any other matter that the Minister considers relevant.

Note: Nothing in this section affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

#### 103 Minister to decide application

- (1) The Minister must decide an application for an approval under this Subdivision within 30 business days after receiving the application.
- (2) If the Minister has requested more information or to inspect premises in relation to such an application, a day is not to be counted as a business day for the purposes of subsection (1) if it is:
  - (a) on or after the day the Minister made the request; and
  - (b) on or before the day the Minister receives the last of the information requested or the premises are inspected, as the case may be.

#### 104 Grant of approval

- (1) If the Minister decides to grant a testing facility approval to a person, the Minister must, as soon as practicable:
  - (a) notify the person, in writing, of the Minister's decision; and
  - (b) provide a copy of the approval to the person.
- (2) A testing facility approval must specify the following:
  - (a) the name and business address of the person to whom the approval is granted;
  - (b) in relation to road vehicles—the vehicle standards against which testing of road vehicles may be tested under the approval;

- (c) in relation to road vehicle components—the vehicle standards against which testing of road vehicle components may be tested under the approval;
- (d) the categories of road vehicles and road vehicle components that may be tested under the approval;
- (e) the day that the approval comes into force;
- (f) that the approval expires at the end of the period of 5 years after it comes into force, unless it is revoked earlier;
- (g) the conditions to which the approval is subject.

## **105 Refusal of application**

If the Minister decides to refuse to grant a testing facility approval, the Minister must, as soon as practicable:

- (a) notify the applicant, in writing, of the Minister's decision; and
- (b) provide reasons for the decision.

## **Subdivision B—Conditions applying to testing facility approval**

### **106 Conditions of testing facility approval**

A testing facility approval granted under Subdivision A in respect of a road vehicle is subject to:

- (a) any conditions specified in the approval; and
- (b) the conditions set out in this Subdivision.

Note: The holder of an approval may commit an offence or contravene a civil penalty provision if a condition of the approval is breached, see section 28 of the Act.

### **107 Condition about testing**

It is a condition of a testing facility approval that the holder of the approval ensures that any test carried out under the approval is appropriate for determining the extent to which a road vehicle or road vehicle component complies with applicable national road vehicle standards.

### **108 Conditions relating to equipment used to carry out testing**

- (1) It is a condition of a testing facility approval that the holder of the approval ensures that:
  - (a) the holder has, or has access to, technology and equipment to carry out testing under the approval; and
  - (b) for each test carried out under the approval—the equipment is:
    - (i) adequate and appropriate for the test; and
    - (ii) appropriately calibrated for the test; and
  - (c) for each test carried out under the approval—the technology is adequate and appropriate for the test.

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- (2) If the holder of a testing facility approval has such equipment, it is a condition of the approval that the equipment be maintained so that the proper functioning or calibration of the equipment can be verified.

#### **109 Condition about appropriately skilled personnel**

It is a condition of a testing facility approval that the holder of the approval ensures that appropriately skilled people (whether employees or contractors) carry out any testing under the approval.

#### **110 Condition about testing reports**

- (1) It is a condition of a testing facility approval that, after testing a road vehicle or road vehicle component under the approval, the holder of the approval complete a report on the results of testing of the vehicle or component.
- (2) A report must:
  - (a) accurately reflect the results of the testing; and
  - (b) be sufficiently detailed so that the test could be repeated based on the information contained in the report.
- (3) A report, or a copy of such a report, must be:
  - (a) retained for a period of 7 years starting on the day that the report is made; and
  - (b) if requested in writing by the Minister—given to the Minister.

#### **111 Condition about notifying recipients of errors in testing reports**

It is a condition of a testing facility approval that, if the holder of the approval becomes aware of an error in a report on the results of testing of a road vehicle or road vehicle component, the holder must notify any person to whom the holder gave the report of the error as soon as practicable after becoming aware of it.

#### **112 Condition about record keeping**

- (1) It is a condition of a testing facility approval that the holder of the approval retain records of any testing of road vehicles or road vehicle components conducted under the approval.
- (2) A record, or a copy of such a record, must be:
  - (a) retained for a period of 7 years starting on the day that the record is made; and
  - (b) if requested in writing by the Minister—given to the Minister.

#### **113 Condition about providing information etc. to the Minister**

It is a condition of a testing facility approval that the holder of the approval:

- (a) gives to the Minister, on written request and within the reasonable time specified in the request:



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- (i) specified information and documents about testing carried out under the approval; or
  - (ii) any information that the Minister reasonably requires for the purposes of deciding whether the holder of the approval is complying with the Act and this instrument; and
- (b) for the purpose of determining whether testing under the testing facility approval is being carried out to adequately test road vehicles for compliance with applicable national road vehicle standards—allow, or arrange for, the Minister or an inspector, to inspect:
- (i) premises where road vehicle components of those vehicles are tested; or
  - (ii) premises where those road vehicles are tested; or
  - (iii) premises where reports relating to testing under the approval are prepared; or
  - (iv) things, including documents, associated with the testing process.

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### Division 6 Specialist and Enthusiast Vehicles Register

#### Section 114

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## Division 6—Specialist and Enthusiast Vehicles Register

### Subdivision A—Application for entry of road vehicle on SEVs Register

#### 114 Application for entry on SEVs Register

- (1) A person may apply to the Secretary for:
  - (a) a variant of a model of a road vehicle to be entered on the SEVs Register;  
or
  - (b) if the application is made on the basis of the rarity criteria (see section 123)—a make and model, or a variant of a model, of a road vehicle to be entered on the SEVs Register.

Note: For the meaning of *variant*, see section 124.

- (2) The application must be:
  - (a) in the approved form; and
  - (b) accompanied by:
    - (i) such documents as are required by the form; and
    - (ii) the application fee.

#### 115 Further information

- (1) To assist in deciding an application relating to the entry of a variant of a model, or a make and model, of a road vehicle on the SEVs Register, the Secretary may request the applicant to give the Secretary further specified information.
- (2) A request under subsection (1) must:
  - (a) be in writing; and
  - (b) state that the request must be complied with within the period of 30 days starting on the day the request is given, or within such longer period as the Secretary allows.

#### 116 Secretary may refuse to consider application in certain circumstances

The Secretary may refuse to consider an application under subsection 114(1) if:

- (a) it is not in the approved form; or
- (b) a request made under section 115 in relation to the application is not complied with within the period mentioned in paragraph 115(2)(b).

#### 117 Criteria for entry on SEVs Register

- (1) The Secretary may enter a variant of a model of a road vehicle on the SEVs Register if:
  - (a) the variant of the model of road vehicle:
    - (i) has not been provided in Australia, at any time, under a road vehicle type approval or because of an approval held under subsection 10A(1) or (2) of the *Motor Vehicle Standards Act 1989*; or

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- (ii) has been provided in Australia under an approval granted under this Act or the *Motor Vehicle Standards Act 1989*, other than an approval of a kind mentioned in subparagraph (i); or
    - (iii) has been provided in Australia and subsection (3), (4) or (5) applies; and
  - (b) at least 3 months have passed since the variant of the model of road vehicle was available to a consumer in any market in the world; and
  - (c) the variant of the road vehicle satisfies:
    - (i) the performance criteria; or
    - (ii) the environmental criteria; or
    - (iii) the mobility criteria; or
    - (iv) the left-hand drive criteria; or
    - (v) the campervans and motorhomes criteria; or
    - (vi) the rarity criteria.
- (2) The Secretary may also enter a make and model of a road vehicle on the SEVs Register if:
- (a) the make and model of the road vehicle:
    - (i) has not been provided in Australia, at any time, under a road vehicle type approval or because of an approval held under subsection 10A(1) or (2) of the *Motor Vehicle Standards Act 1989*; or
    - (ii) has been provided in Australia under an approval granted under this Act or the *Motor Vehicle Standards Act 1989*, other than an approval of a kind mentioned in subparagraph (i); or
    - (iii) has been provided in Australia and subsection (3), (4) or (5) applies; and
  - (b) at least 3 months have passed since that make and model of road vehicle was available to a consumer in any market in the world; and
  - (c) the make and model of the road vehicle satisfies the rarity criteria.

*Type approval holder applies for entry on SEVs Register*

- (3) This subsection applies if:
- (a) the variant of the model, or make and model, of the road vehicle has been provided in Australia under a road vehicle type approval; and
  - (b) the applicant for the entry on the SEVs Register is:
    - (i) the holder of the road vehicle type approval; or
    - (ii) a person who is authorised, in writing, by the holder of the road vehicle type approval to make the application.

*Vehicle available to consumers outside, but not in, Australia*

- (4) This subsection applies if:
- (a) the variant of the model, or make and model, of the road vehicle has been provided in Australia, under a road vehicle type approval or because of an approval held under subsection 10A(1) or (2) of the *Motor Vehicle Standards Act 1989*; and
  - (b) either:

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- (i) the variant of the model, or make and model, of the road vehicle is no longer available to consumers in Australia as a new road vehicle, but is available as a new road vehicle in another market in the world; or
- (ii) the variant of the model, or make and model, of the road vehicle was not available to consumers in Australia as a new road vehicle for a period during which it was available as a new road vehicle in another market in the world; and
- (c) the application for the entry on the SEVs Register relates only to the variant of the model, or make and model, of the road vehicle that is not, or has not been, available to consumers in Australia as a new road vehicle.

*Vehicle provided under certain Motor Vehicle Standards Act 1989 approvals but not yet provided under a road vehicle type approval*

- (5) This subsection applies if:
- (a) the variant of the model, or make and model, of the road vehicle has been provided in Australia because of an approval held under subsection 10A(1) or (2) of the *Motor Vehicle Standards Act 1989*; and
  - (b) the applicant for the entry on the SEVs Register:
    - (i) is or was the holder of the approval; or
    - (ii) is a person who is authorised, in writing, by the person who is or was the holder of the approval to make the application; and
  - (c) the variant of the model, or make and model, of the road vehicle has not been provided in Australia under a road vehicle type approval.

*References to approvals under Motor Vehicle Standards Act 1989*

- (6) A reference in this section to an approval held under subsection 10A(1) or (2) of the *Motor Vehicle Standards Act 1989* includes:
- (a) an approval held under those subsections that continues, or is taken to continue, in force under the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2017*; and
  - (b) an approval held under those subsections that has ceased to be in force (whether before or after the repeal of the *Motor Vehicle Standards Act 1989*).

Note: For paragraph (a), see item 4 of Schedule 3 to the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2017*.

#### 118 Performance criteria

- (1) A variant of a road vehicle satisfies the performance criteria if the road vehicle, as originally manufactured, is above the power to weight threshold worked out according to the following formula:

$(\text{Year of manufacture} - 1992) + 110\text{kW/t}$

where:

*Year of manufacture* means the year in which the road vehicle is manufactured.

*110kW/t* means 110 kilowatts per tonne.

(2) In this section:

*manufacture*, in relation to a road vehicle, includes assemble the vehicle.

## 119 Environmental criteria

A variant of a road vehicle, as originally manufactured, satisfies the environmental criteria if the Secretary is satisfied that:

- (a) either:
  - (i) the variant of the road vehicle meets or exceeds the national road vehicle standards relating to emissions that are applicable to the variant of the road vehicle at the time the application is made; or
  - (ii) the variant of the road vehicle meets or exceeds emissions standards that are determined under section 125 to be comparable to the standards mentioned in subparagraph (i); and
- (b) either:
  - (i) the variant of the road vehicle uses an alternative to an internal-combustion engine (other than human or animal power) as a means of propulsion, whether as the exclusive means of propulsion or in addition to an internal-combustion engine; or
  - (ii) the variant of the road vehicle has a maximum engine capacity of 660cc, a maximum engine output of 47kW and is not more than 3.4 metres long and 1.48 metres wide.

## 120 Mobility criteria

(1) A variant of a road vehicle satisfies the mobility criteria if the Secretary is satisfied that:

- (a) the road vehicle was originally manufactured with features specifically designed to assist people with a disability; or
- (b) the applicant has evidence that demonstrates that:
  - (i) the variant of the road vehicle was modified, before it was first provided in any market in the world, to include features specifically designed to assist people with a disability; and
  - (ii) the modifications were sponsored or supported by the original manufacturer of the variant of the road vehicle.

(2) In this section:

*disability* has the same meaning as in the *Disability Discrimination Act 1992*.

## 121 Left-hand drive criteria

A variant of a road vehicle satisfies the left-hand drive criteria if the Secretary is satisfied that the variant of the road vehicle:

- (a) was originally manufactured as a left-hand drive vehicle; and
- (b) is not available as a right-hand drive vehicle in any market in the world; and
- (c) is in one of the following vehicle categories:

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- (i) Passenger Car (MA);
- (ii) Off-road Passenger Vehicle (MC);
- (iii) Light Goods Vehicle (NA);
- (iv) Medium Goods Vehicle (NB).

Note: Vehicle categories are set out in the *Vehicle Standard (Australian Design Rule—Definitions and Categories) 2005*. See the definition of **vehicle category** in section 5.

#### 122 Campervans and motorhomes criteria

A variant of a road vehicle satisfies the campervans and motorhomes criteria if the Secretary is satisfied that the variant of the road vehicle was originally manufactured as a campervan or motorhome.

#### 123 Rarity criteria

A variant of a model, or make and model, of a road vehicle satisfies the rarity criteria if the Secretary is satisfied that any of the following applies:

- (a) less than 3,000 vehicles of the make and vehicle category of the road vehicle are produced per year (averaged over the number of years that the make of the road vehicle is, or was, available in any market in the world);
- (b) less than 1,000 vehicles of the model of the road vehicle are produced per year (averaged over the number of years that the model of the road vehicle is, or was, available in any market in the world);
- (c) less than 100 vehicles of the variant of the road vehicle are produced per year (averaged over the number of years that the variant of the road vehicle is, or was, available in any market in the world).

#### 124 Variant of a model of a road vehicle

- (1) A model of a road vehicle (the **first model**) is a **variant** of another model of a road vehicle (the **second model**):
  - (a) if:
    - (i) the first model has a different body to the second model; or
    - (ii) the first model has a different transmission to the second model; or
    - (iii) the first model has a different drivetrain to the second model; or
    - (iv) the first model has a different propulsion system to the second model; or
    - or
    - (v) the first model is in another vehicle category to the second model; or
  - (b) in other circumstances determined by the Minister under section 125.
- (2) However, a model of a road vehicle (the **first model**) is not a **variant** of another model of a road vehicle (the **second model**):
  - (a) if:
    - (i) the first model and second model have the same kind of engine, but the engine of one model has tuning or software changes; or
    - (ii) the first model is only cosmetically different to the second model; or
  - (b) in other circumstances determined by the Minister under section 125.

## **125 Determinations relating to criteria for entry on SEVs Register**

- (1) The Minister may, by legislative instrument, determine matters relating to the criteria set out in sections 117 to 124 for a road vehicle to be entered on the SEVs Register.
- (2) Without limiting subsection (1), a determination may relate to all or any of the following:
  - (a) the circumstances in which a model of a road vehicle is a variant of another model of a road vehicle;
  - (b) the circumstances in which a model of a road vehicle is not a variant of another model of a road vehicle;
  - (c) for the purposes of specified criteria—that those criteria apply to particular road vehicle categories;
  - (d) for the purposes of specified criteria—that those criteria apply in respect of particular road vehicle weight ranges;
  - (e) for the purposes of the environmental criteria—emissions standards that are comparable to national road vehicle standards relating to emissions;
  - (f) for the purposes of the mobility criteria—the features that establish whether a road vehicle has features to assist people with a disability;
  - (g) for the purposes of the campervans and motorhomes criteria—road vehicles that are campervans or motorhomes.

## **126 Determinations relating to road vehicles marketed outside Australia**

For the purposes of determining whether a variant of a model, or a make and model, of a road vehicle is already on the SEVs Register, the Minister may, by legislative instrument, determine that road vehicles of the same design:

- (a) are not variants of a model; or
- (b) are of the same make and model;

whether or not they are identified or marketed outside Australia as a different variant of a model or a different make and model.

## **127 Secretary to consider application**

- (1) The Secretary must consider an application for a road vehicle to be entered on the SEVs Register within 30 business days after receiving the application.
- (2) The Secretary must enter a variant of a model, or a make and model, of a road vehicle on the SEVs Register if:
  - (a) section 117 is satisfied in relation to the variant of the model, or the make and model, of the road vehicle; and
  - (b) any of the following apply:
    - (i) the variant of the model, or the make and model, of the road vehicle is not on the SEVs Register;
    - (ii) the variant of the model, or the make and model, of the road vehicle is on the SEVs Register but not in relation to the criteria on which the application is based;

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- (iii) the variant of the model, or a make and model, of a road vehicle is on the SEVs Register in relation to the criteria on which the application is based, but the entry is due to expire under section 131 during the 30 business day period mentioned in subsection (1).
- (3) If the Secretary enters a variant of a model, or a make and model, of a road vehicle on the SEVs Register in the circumstances mentioned in subparagraph (2)(b)(iii), the entry takes effect on the day after the day that the existing entry expires.
- (4) The Secretary must refuse to enter a variant of a model, or a make and model, of a road vehicle on the SEVs Register if section 117 is not satisfied in relation to the variant of the model, or the make and model, of the road vehicle.
- (5) If the Secretary has requested more information in relation to such an application, a day is not to be counted as a business day for the purposes of subsection (1) if it is:
  - (a) on or after the day the Secretary made the request; and
  - (b) on or before the day the Secretary receives the last of the information requested.

#### 128 Entry of road vehicle on SEVs Register

- (1) If the Secretary enters a variant of a model, or a make and model, of a road vehicle on the SEVs Register, the Secretary must, as soon as practicable, notify the applicant, in writing, of the entry.
- (2) If:
  - (a) an application is made under subsection 114(1) in respect of a variant of a model, or a make and model, of a road vehicle; and
  - (b) the variant of the model, or the make and model, of the road vehicle is already entered on the SEVs Register; and
  - (c) the application is made before the start of the 30 day period ending on the day that the entry on the SEVs Register is due to expire;the Secretary must notify the applicant, in writing, that the variant of the model, or the make and model, of the road vehicle is already entered on the SEVs Register.

#### 129 Refusal of application

If the Secretary decides to refuse to enter a variant of a model, or a make and model, of a road vehicle on the SEVs Register, the Secretary must, as soon as practicable:

- (a) notify the applicant, in writing, of the Secretary's decision; and
- (b) provide reasons for the decision.



## **Subdivision B—Maintaining SEVs Register**

### **130 Correction of errors on SEVs Register**

If the Secretary is satisfied that an error exists in an entry on the SEVs Register, the Secretary may vary the entry on or remove the entry from the SEVs Register, for the purpose of correcting the error.

**Note:** An error in an entry on the SEVs Register may exist for a variety of reasons, for example, as a result of an error in the information originally provided in the application, or because new information becomes available about the relevant road vehicle's compliance with applicable criteria.

### **131 Expiry of entries on the SEVs Register**

If the Secretary enters a variant of a model, or a make and model, of a road vehicle on the SEVs Register, the entry expires at the end of the period of 2 years starting on the day the entry is made.

**Note:** After expiry, the variant of the model, or the make and model, of the road vehicle may be re-entered on the SEVs Register by making a new application under section 114.

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**Part 5** Import approvals

**Division 1** Introduction

Section 132

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## **Part 5—Import approvals**

### **Division 1—Introduction**

#### **132 Simplified outline of this Part**

*[The simplified outline will be drafted once the content of the rules is settled.]*

#### **133 Purpose of this Part**

For the purposes of section 23 of the Act, this Part provides for and in relation to:

- (a) the grant of approvals in relation to the importation of road vehicles; and
- (b) conditions of such approvals.

# EXPOSURE DRAFT

Import approvals **Part 5**  
RAV entry import approvals **Division 2**

Section 134

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## **Division 2—RAV entry import approvals**

### **134 Grant of RAV entry import approval**

A person is taken to have been granted a RAV entry import approval in respect of a road vehicle if the road vehicle is covered by a concessional RAV entry approval.

# EXPOSURE DRAFT

## Part 5 Import approvals

### Division 3 Non-RAV entry import approvals

#### Section 135

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### **Division 3—Non-RAV entry import approvals**

#### **Subdivision A—Application for, and grant of, non-RAV entry import approval**

##### **135 Application for approval**

- (1) A person may apply to the Minister for the grant of a non-RAV entry import approval in respect of a road vehicle if:
  - (a) the road vehicle is not, generally, to be used on a public road; or
  - (b) the road vehicle is to remain in Australia temporarily.
- (2) The application must be:
  - (a) in the approved form; and
  - (b) accompanied by:
    - (i) such documents as are required by the form; and
    - (ii) the application fee.

Note: The Minister may refuse to consider an application if it is not in the approved form (see section 137).

##### **136 Further information**

- (1) To assist in deciding an application relating to a road vehicle, the Minister may request the applicant to give the Minister further specified information relevant to the application.
- (2) A request under subsection (1) must:
  - (a) be in writing; and
  - (b) state that the request must be complied with within the period of 30 days starting on the day the request is given, or within such longer period as the Minister allows.

##### **137 Minister may refuse to consider application in certain circumstances**

The Minister may refuse to consider an application if:

- (a) it is not in the approved form; or
- (b) a request made under section 136 in relation to the application is not complied with within the period mentioned in paragraph 136(2)(b).

##### **138 Criteria for deciding application**

The Minister may grant a non-RAV entry import approval to a person in respect of a road vehicle if the Minister is satisfied that:

- (a) the eligibility criteria set out in section 139 or 141 is satisfied in respect of the vehicle; and
- (b) the person is capable of complying with the conditions to which the approval will be subject.

## 139 Eligibility criteria—non-road use

A road vehicle satisfies the eligibility criteria set out in this section if the Minister is satisfied that:

- (a) the vehicle is being imported for a purpose that:
  - (i) does not involve use on a public road; or
  - (ii) involves use on a public road in exceptional circumstances; and
- (b) any of the following applies:
  - (i) the vehicle is to be used in a race or rally, or in providing support to a vehicle used in a race or rally;
  - (ii) the vehicle is to be used only in a public exhibition;
  - (iii) the vehicle is to be used only in the production of a film, video, television program or advertisement;
  - (iv) the vehicle is to be used only for testing or market evaluation in relation to a proposed road vehicle type approval, road vehicle component type approval or model report;
  - (v) the vehicle is a heavily modified vehicle or a hot rod.

## 140 Eligibility criteria—general discretion

A road vehicle satisfies the eligibility criteria set out in this section if the Minister is satisfied that:

- (a) the vehicle is being imported for a purpose that:
  - (i) does not involve use on a public road; or
  - (ii) involves use on a public road in exceptional circumstances; and
- (b) section 139 is not otherwise satisfied in relation to the vehicle.

## 141 Eligibility criteria—temporary use

A road vehicle satisfies the eligibility criteria set out in this section if the Minister is satisfied that the road vehicle will remain in Australia temporarily.

## 142 Other considerations

In deciding whether to grant, or to refuse to grant, a non-RAV entry import approval to a person, the Minister may take into account:

- (a) whether the person has contravened or may have contravened road vehicle legislation; and
- (b) if the person is a body corporate—whether, for each member of the key management personnel of the person, the member has contravened or may have contravened road vehicle legislation; and
- (c) any other matter that the Minister considers relevant.

Note: Nothing in this section affects the operation of Part VIIC of the Crimes Act 1914 (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

# EXPOSURE DRAFT

## Part 5 Import approvals

### Division 3 Non-RAV entry import approvals

#### Section 143

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#### 143 Minister to decide application

- (1) The Minister must decide an application for a non-RAV entry import approval within 30 business days after receiving the application.
- (2) If the Minister has requested more information in relation to such an application, a day is not to be counted as a business day for the purposes of subsection (1) if it is:
  - (a) on or after the day the Minister made the request; and
  - (b) on or before the day the Minister receives the last of the information requested.

#### 144 Grant of non-RAV entry import approval

- (1) If the Minister decides to grant a non-RAV entry import approval to a person, the Minister must, as soon as practicable:
  - (a) notify the person, in writing, of the Minister's decision; and
  - (b) provide a copy of the approval to the person.
- (2) A non-RAV entry import approval must specify the following:
  - (a) the name of the holder of the approval;
  - (b) details of each road vehicle to which the approval applies (such as the make, model and vehicle identification number of the vehicle);
  - (c) the day that the approval comes into force;
  - (d) if the approval is for a specified period—the day that the approval expires;
  - (e) any conditions to which the approval is subject.

#### 145 Refusal of application

If the Minister decides to refuse to grant a non-RAV entry import approval to a person, the Minister must, as soon as practicable:

- (a) notify the person, in writing, of the Minister's decision; and
- (b) provide reasons for the decision.

### Subdivision B—Conditions applying to non-RAV entry import approvals

#### 146 Conditions of approval

- (1) A non-RAV entry import approval in respect of a road vehicle is subject to:
  - (a) any conditions specified in the approval; and
  - (b) the condition that the holder of the approval must, if requested in writing by the Minister, allow the Minister or an inspector to inspect the vehicle.

Note: The holder of an approval may commit an offence or contravene a civil penalty provision if a condition of the approval is breached (see sections 28 and 29 of the Act).
- (2) Without limiting paragraph (1)(a), the conditions specified in the approval may do one or more of the following:
  - (a) require the holder of the approval to export or destroy the vehicle to which the approval applies within a specified period;

# EXPOSURE DRAFT

Import approvals **Part 5**  
Non-RAV entry import approvals **Division 3**

## Section 146

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- (b) require the holder of the approval to provide evidence to the Secretary that the vehicle to which the approval applies has been exported or destroyed within the specified period;
- (c) require the holder of the approval to modify the vehicle to which the approval applies within a specified period;
- (d) prohibit the holder of the approval from giving another person access to the vehicle to which the approval applies;
- (e) specify how the vehicle to which the approval applies may be used;
- (f) require the holder of the approval, if requested in writing by the Minister, to provide information to the Minister relating to compliance with this Act or the rules.

# EXPOSURE DRAFT

Part 5 Import approvals

Division 4 Reimportation import approval

Section 147

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## Division 4—Reimportation import approval

### Subdivision A—Application for, and grant of, reimportation import approval

#### 147 Application

- (1) A person may apply to the Minister for the grant of a reimportation import approval in respect of a road vehicle that:
  - (a) either:
    - (i) is outside Australia and on the RAV; or
    - (ii) is outside Australia and has an identification plate or used import plate that was placed on the vehicle in accordance with the *Motor Vehicle Standards Act 1989*; and
  - (b) represents the vehicle that is on the RAV or on which the identification plate was placed.
- (2) The application must be:
  - (a) in the approved form; and
  - (b) accompanied by:
    - (i) such documents as are required by the form; and
    - (ii) the application fee.

Note: The Minister may refuse to consider an application if it is not in the approved form (see section 149).

#### 148 Further information and inspection of road vehicle

- (1) The Minister may request a person who has made an application under section 147 for a reimportation import approval in respect of a road vehicle to do either or both of the following to assist in deciding the application:
  - (a) give the Minister further specified information relevant to the application;
  - (b) allow the vehicle to be inspected.
- (2) A request under subsection (1) must:
  - (a) be in writing; and
  - (b) state that the request must be complied with within the period of 30 days starting on the day the request is given, or within such longer period as the Minister allows.

#### 149 Minister may refuse to consider application in certain circumstances

The Minister may refuse to consider an application if:

- (a) it is not in the approved form; or
- (b) a request made under section 148 in relation to the application is not complied with within the period mentioned in paragraph 148(2)(b).



## 150 Criteria for deciding application

The Minister may grant a reimportation import approval to a person in respect of a road vehicle if the Minister is satisfied that:

- (a) the eligibility criteria set out in section 151 is satisfied in respect of the vehicle; and
- (b) the person is capable of complying with the conditions to which the approval will be subject under Subdivision C.

## 151 Eligibility criteria

A road vehicle satisfies the eligibility criteria set out in this section if:

- (a) the applicant owns the vehicle at the time the application is made; and
- (b) the vehicle is outside Australia; and
- (c) the vehicle:
  - (i) is on the RAV; or
  - (ii) has an identification plate or used import plate that was placed on the vehicle in accordance with the *Motor Vehicle Standards Act 1989*; and
- (d) the vehicle represents the vehicle that was entered on the RAV or on which the identification plate or used import plate was placed.

## 152 Other considerations

In deciding whether to grant, or to refuse to grant, a reimportation import approval to a person, the Minister may take into account:

- (a) whether the person has contravened or may have contravened road vehicle legislation; and
- (b) if the person is a body corporate—whether, for each member of the key management personnel of the person, the member has contravened or may have contravened road vehicle legislation; and
- (c) any other matter that the Minister considers relevant.

Note: Nothing in this section affects the operation of Part VIIC of the Crimes Act 1914 (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

## 153 Minister to decide application

- (1) The Minister must decide an application for a reimportation import approval within 30 business days after receiving the application.
- (2) If the Minister has requested more information or that the road vehicle be inspected in relation to such an application, a day is not to be counted as a business day for the purposes of subsection (1) if it is:
  - (a) on or after the day the Minister made the request; and
  - (b) on or before the day the Minister receives the last of the information requested or the vehicle is inspected, as the case may be.

# EXPOSURE DRAFT

## Part 5 Import approvals

### Division 4 Reimportation import approval

#### Section 154

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#### **154 Grant of reimportation import approval**

If the Minister decides to grant a reimportation import approval to a person, the Minister must, as soon as practicable, notify the person, in writing, of:

- (a) the Minister's decision; and
- (b) any conditions to which the approval is subject.

#### **155 Refusal of application**

If the Minister decides to refuse to grant a reimportation import approval to a person, the Minister must, as soon as practicable:

- (a) notify the person, in writing, of the Minister's decision; and
- (b) provide reasons for the decision.

### **Subdivision C—Conditions applying to reimportation import approvals**

#### **156 Conditions of reimportation import approval**

- (1) A reimportation import approval granted under Subdivision B in respect of a road vehicle is subject to:
  - (a) any conditions specified in the approval; and
  - (b) the condition that the holder of the approval must, if requested in writing by the Minister, allow the Minister or an inspector to inspect the vehicle.

Note: The holder of an approval may commit an offence or contravene a civil penalty provision if a condition of the approval is breached (see sections 28 and 29 of the Act).

- (2) Without limiting paragraph (1)(a), the conditions specified in the approval may do one or more of the following:
  - (a) require the holder of the approval to export or destroy the vehicle to which the approval applies within a specified period;
  - (b) require the holder of the approval to provide evidence to the Secretary that the vehicle to which the approval applies has been exported or destroyed within the specified period;
  - (c) require the vehicle, or any modifications of the vehicle, to be verified by the holder of an AVV approval in accordance with section 91;
  - (d) require the holder of the approval to keep specified records for a specified period;
  - (e) require the holder of the approval to provide specified records to the Minister when requested to do so by the Minister;
  - (f) prohibit the holder of the approval from giving another person access to the vehicle to which the approval applies;
  - (g) specify how the vehicle to which the approval applies may be used.

## **Division 5—Miscellaneous**

### **157 Allocation of vehicle identification number**

If:

- (a) either:
    - (i) a person is taken to have been granted a RAV entry import approval in respect of a road vehicle; or
    - (ii) the Minister grants a non-RAV entry import approval in respect of a road vehicle; and
  - (b) the road vehicle does not have a vehicle identification number;
- the Secretary may allocate a vehicle identification number for the vehicle.

### **158 Circumstances in which a person is permitted to import a road vehicle**

For the purposes of paragraph 22(2)(d) of the Act, a circumstance is that:

- (a) the road vehicle is a vehicle to which an intergovernmental agreement applies; and
- (b) the vehicle is imported in accordance with the requirements of the intergovernmental agreement.

# EXPOSURE DRAFT

**Part 6** Type approvals for road vehicle components used or supplied for use in the manufacture of road vehicles

**Division 1** Introduction

Section 159

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## **Part 6—Type approvals for road vehicle components used or supplied for use in the manufacture of road vehicles**

### **Division 1—Introduction**

#### **159 Simplified outline of this Part**

*[The simplified outline will be drafted once the content of the rules is settled.]*

#### **160 Purpose of this Part**

For the purposes of subsection 19(2) of the Act, this Part provides for and in relation to:

- (a) the grant of approvals relating to road vehicle components; and
- (b) conditions of such approvals.

# EXPOSURE DRAFT

Type approvals for road vehicle components used or supplied for use in the manufacture of road vehicles **Part 6**  
Application for, and grant of, a road vehicle component type approval **Division 2**

Section 161

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## Division 2—Application for, and grant of, a road vehicle component type approval

### 161 Application

- (1) A person may apply to the Minister for the grant of an approval (a *road vehicle component type approval*) for the use of a road vehicle component of a particular type in the manufacture of:
  - (a) a road vehicle to which a road vehicle type approval applies; or
  - (b) a road vehicle that is to be subject to a model report.
- (2) The application must:
  - (a) be in the approved form; and
  - (b) be accompanied by:
    - (i) such documents as are required by the form; and
    - (ii) the application fee; and
  - (c) include a signed declaration by the person that:
    - (i) at the time the application is made, the person is able to provide the supporting information for the type approval; and
    - (ii) while the type approval is in force, and for the period of 7 years after the type approval expires, the person will be able to access the original and any subsequent versions of the supporting information; and
    - (iii) while the type approval is in force, the person will ensure that the supporting information is kept up-to-date.

Note 1: The Minister may refuse to consider an application if it is not in the approved form, see section 163.

Note 2: A person may commit an offence or contravene a civil penalty provision if the person makes a false or misleading declaration (see section 31 of the Act).

### 162 Further information and inspection of premises

- (1) To assist in deciding an application relating to a road vehicle component, the Minister may request the applicant to:
  - (a) give the Minister further specified information; or
  - (b) allow Minister or an inspector to inspect premises where the vehicle component is designed or manufactured.
- (2) A request under subsection (1) must:
  - (a) be in writing; and
  - (b) state that the request must be complied with within the period of 30 days starting on the day the request is given, or within such longer period as the Minister allows.

# EXPOSURE DRAFT

**Part 6** Type approvals for road vehicle components used or supplied for use in the manufacture of road vehicles

**Division 2** Application for, and grant of, a road vehicle component type approval

## Section 163

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### **163 Minister may refuse to consider application in certain circumstances**

The Minister may refuse to consider an application from a person for a road vehicle component type approval if:

- (a) it is not in the approved form; or
- (b) a request is made under section 162 in relation to the application is not complied with within the period mentioned in paragraph 162(2)(b).

### **164 Criteria for deciding application**

- (1) The Minister may grant a road vehicle component type approval to a person in respect of a type of road vehicle component if the Minister is satisfied that:
  - (a) either:
    - (i) the type of road vehicle component complies with all applicable national road vehicle standards, as in force at the time the approval is granted; or
    - (ii) to the extent that the type of road vehicle component does not comply with all applicable national road vehicle standards, as in force at the time the approval is granted—subsection (3) applies to the type of vehicle component; and
  - (b) either:
    - (i) the person has control over the design and manufacturing process for the type of road vehicle component; or
    - (ii) the person is able to access information, including information about any changes, relating to the design and manufacturing process for the type of road vehicle component that may affect that type of road vehicle component's compliance with national road vehicle standards; and
  - (c) the person is able to ensure that the manufacturing process will consistently produce the type of road vehicle component; and
  - (d) the person is able to arrange for the Minister or an inspector to inspect the premises used, or to be used, in the manufacturing process for the purpose of assessing compliance with applicable national road vehicle standards; and
  - (e) while the type approval is in force, and for the period of 7 years after the type approval expires, the person will be able to:
    - (i) access the original and any subsequent versions of the supporting information for the type approval; and
    - (ii) provide those versions to the Minister; and
  - (f) while the type approval is in force, the person will ensure that the supporting information for the type approval is kept up-to-date; and
  - (g) the person is capable of complying with the conditions to which the type approval will be subject.
- (2) For the purposes of subparagraph (1)(a)(i) and paragraph (3)(a), the Minister may take into account only the following matters:
  - (a) the results of testing:

# EXPOSURE DRAFT

Type approvals for road vehicle components used or supplied for use in the manufacture of road vehicles **Part 6**  
Application for, and grant of, a road vehicle component type approval **Division 2**

Section 165

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- (i) conducted under a testing facility approval; or
- (ii) conducted by a person who holds a testing facility approval but did not at the time the testing was conducted;
- (b) an approval or other document:
  - (i) issued by the government of a foreign country that is a contracting party to the 1958 Agreement, or by a person who is a competent authority of such a government for the purposes of that agreement; and
  - (ii) that indicates that the type of road vehicle component complies, or substantially complies, with requirements applying under that agreement that are equivalent to the applicable national road vehicle standards as in force at the time the road vehicle component type approval is to be granted;
- (c) in respect of road vehicle components used in the type of road vehicle component—whether the road vehicle components are approved road vehicle components;
- (d) any declaration made by the applicant;
- (e) any information relevant to determining the accuracy of the matter mentioned in paragraph (a) or (d);
- (f) any information about whether the matters mentioned in paragraphs (a), (b) or (d) demonstrate that road vehicle components of the type to which the road vehicle component type approval is to be granted comply with applicable national road vehicle standards.

The Minister must not take into account any other matters.

- (3) This subsection applies to a type of road vehicle component if:
  - (a) the type of road vehicle component substantially complies with applicable national road vehicle standards, as in force at the time the road vehicle component type approval is granted; and
  - (b) the type of road vehicle component's non-compliance with applicable national road vehicle standards, as in force at the time the approval is granted, is only in minor and inconsequential respects.

## 165 Other considerations

In deciding whether to grant, or to refuse to grant, a road vehicle component type approval to a person, the Minister may take into account:

- (a) whether the person has contravened or may have contravened road vehicle legislation; and
- (b) if the person is a body corporate—whether, for each member of the key management personnel of the person, the member has contravened or may have contravened road vehicle legislation; and
- (c) any other matter that the Minister considers relevant, other than a matter that relates to compliance with applicable national road vehicle standards.

Note: Nothing in this section affects the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

# EXPOSURE DRAFT

**Part 6** Type approvals for road vehicle components used or supplied for use in the manufacture of road vehicles

**Division 2** Application for, and grant of, a road vehicle component type approval

## Section 166

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### 166 Minister to decide application

- (1) The Minister must decide an application for a road vehicle component type approval within 60 business days after receiving the application.
- (2) If the Minister has requested more information or the inspection of premises in relation to such an application, a day is not to be counted as a business day for the purposes of subsection (1) if it is:
  - (a) on or after the day the Minister made the request; and
  - (b) on or before the day the Minister receives the last of the information requested or the premises are inspected, as the case may be.

### 167 Grant of approval

- (1) If the Minister decides to grant a road vehicle component type approval to a person, the Minister must, as soon as practicable:
  - (a) notify the person, in writing, of the Minister's decision; and
  - (b) provide a copy of the approval to the person.
- (2) A road vehicle component type approval must specify the following:
  - (a) the type approval number;
  - (b) the name of the holder of the type approval;
  - (c) the type of road vehicle component to which the type approval applies;
  - (d) the national road vehicle standards applicable to the type of road vehicle component to which the type approval applies and the documents mentioned in subsection 164(2) that demonstrate that road vehicle components of that type comply with those standards;
  - (e) if subsection 164(3) applies to the type of road vehicle component—the respects in which road vehicle components of that type do not need to comply with applicable national road vehicle standards;
  - (f) the conditions to which the type approval is subject;
  - (g) the day that the type approval comes into force;
  - (h) that the type approval expires at the end of the period of 5 years after it comes into force, unless it is revoked earlier.

### 168 Refusal of application

If the Minister decides to refuse to grant a road vehicle component type approval to a person, the Minister must, as soon as practicable:

- (a) notify the person, in writing, of the Minister's decision; and
- (b) provide reasons for the decision.



# EXPOSURE DRAFT

Type approvals for road vehicle components used or supplied for use in the manufacture of road vehicles **Part 6**  
Conditions applying to road vehicle component type approvals **Division 3**

Section 169

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## **Division 3—Conditions applying to road vehicle component type approvals**

### **169 Conditions of road vehicle component type approval**

A road vehicle type approval granted under Subdivision B is subject to:

- (a) any conditions specified in the approval; and
- (b) the conditions set out in this Subdivision.

**Note:** The holder of an approval may commit an offence or contravene a civil penalty provision if a condition of the approval is breached (see section 28 of the Act).

### **170 Condition about compliance with national road vehicle standards**

It is a condition of a road vehicle component type approval that the holder of the type approval is able to ensure, at all times, that evidence of the matters mentioned in paragraphs 164(2)(a) to (d) demonstrates that road vehicle components covered by the type approval comply with the applicable national road vehicle standards.

### **171 Condition about providing evidence relating to proposed change to national road vehicle standards**

- (1) It is a condition of a road vehicle component type approval that if:
  - (a) the national road vehicle standards change; and
  - (b) the change relates to road vehicle components covered by the type approval;

the holder of the type approval provide evidence to the Minister that the type of road vehicle component to which the type approval relates comply, from the day the change takes effect, with the changed national road vehicle standards.

- (2) Evidence must be provided to the Minister within 60 business days of the legislative instrument containing the change being registered on the Federal Register of Legislation.

### **172 Condition about a conformity of production system**

It is a condition of a road vehicle component type approval that the holder of the approval implement a conformity of production system that governs the manufacturing process detailed in the supporting information for the type approval.

### **173 Condition about providing information etc. to the Minister**

It is a condition of a road vehicle component type approval that the holder of the type approval, when requested in writing by the Minister and within such reasonable time as is specified in the request:

# EXPOSURE DRAFT

**Part 6** Type approvals for road vehicle components used or supplied for use in the manufacture of road vehicles

**Division 3** Conditions applying to road vehicle component type approvals

## Section 174

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- (a) give to the Minister, or arrange for the Minister or an inspector to access, the original and any subsequent version of the supporting information for the type approval; and
- (b) give to the Minister any other information and documents, specified in the request, about road vehicle components to which the type approval applies; and
- (c) provide written answers to questions, specified in the request, about road vehicle components to which the type approval applies; and
- (d) for the purpose of determining whether road vehicles containing road vehicle components to which the type approval applies would comply with applicable national road vehicle standards—allow, or arrange for, the Minister or an inspector, to inspect:
  - (i) premises where the road vehicle components are designed or manufactured; or
  - (ii) things, including documents, associated with the design or manufacturing process.

### **174 Condition about providing instructions for use**

It is a condition of a road vehicle component type approval that the holder of the approval:

- (a) issue instructions for the use or installation of the component; and
- (b) keep such instructions up-to-date.

# EXPOSURE DRAFT

Variation, suspension or revocation of approval **Part 7**

Introduction **Division 1**

Section 175

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## **Part 7—Variation, suspension or revocation of approval**

### **Division 1—Introduction**

#### **175 Simplified outline of this Part**

*[The simplified outline will be drafted once the content of the rules is settled.]*

#### **176 Purpose of this Part**

For the purposes of sections 19 and 23 of the Act, this Part provides for and in relation to the variation, suspension or revocation of approvals granted under this instrument.

# EXPOSURE DRAFT

**Part 7** Variation, suspension or revocation of approval

**Division 2** Action on Minister's own initiative

Section 177

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## **Division 2—Action on Minister's own initiative**

### **177 Minister may vary, suspend or revoke approval**

#### *Variation*

- (1) The Minister may vary any approval given under this instrument on his or her own initiative.

Note: A decision to vary an approval under this section is reviewable (see section 219).

- (2) The Minister may vary such an approval, including by varying, removing or adding conditions to which the approval is subject.

#### *Suspension or revocation*

- (3) The Minister may suspend or revoke any approval given under this instrument on his or her own initiative.

Note: A decision to suspend or revoke an approval under this section is reviewable (see section 219).

- (4) If the Minister suspends such an approval, the suspension must be:
  - (a) for a specified period; or
  - (b) until a specified event occurs.

### **178 Considerations in deciding whether to vary, suspend or revoke approval**

- (1) In deciding whether to vary, suspend or revoke an approval under this Division, the Minister must take into account the following:
  - (a) whether the holder of the approval has engaged in conduct that contravenes or may contravene of:
    - (i) the Act; or
    - (ii) the *Motor Vehicle Standards Act 1989*, including as continued in force under the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2017*; or
    - (iii) Parts VI and XI of the *Competition and Consumer Act 2010*; or
    - (iv) a provision of the Australian Consumer Law relating to the safety of consumer goods; or
    - (v) any instrument made under those Acts;
  - (b) the likelihood that the holder of the approval will fail to comply with a condition of:
    - (i) the approval; or
    - (ii) any other approval granted to the holder under this instrument; or
    - (iii) an approval held under the *Motor Vehicle Standards Act 1989* that continues, or is taken to continue, in force under the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2017*;
  - (c) in the case of a road vehicle type approval—whether the use of the type of road vehicle to which the approval applies on a public road would cause an unacceptable risk to public safety;

# EXPOSURE DRAFT

Variation, suspension or revocation of approval **Part 7**  
Action on Minister's own initiative **Division 2**

Section 179

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- (d) in the case of an approval of a model report—the matters mentioned in subsection (3);
  - (e) any other matter that the Minister considers relevant.
- (2) However, the Minister may only vary an approval under this Division if the Minister is satisfied that, if the approval as varied were the subject of an application under this instrument, the Minister would grant the approval.
- (3) For the purposes of paragraph (1)(c), the matters to be taken into account are:
- (a) whether there are any errors in the model report; and
  - (b) whether road vehicles modified in accordance with the model report no longer comply with:
    - (i) if the model report relates to a make and model, or a make, model and variant, of a road vehicle that is entered on the SEVs Register—the standards determined by the Minister in accordance with section 81 as in force at the time the decision is made; or
    - (ii) if the model report relates to a make and model, or a make, model and variant, of a used two-wheeled vehicle or a used three-wheeled vehicle—the applicable national road vehicle standards as in force at the time the decision is made.
- (4) In the case of a testing facility approval, if:
- (a) the facility at which testing is carried out is in a foreign country; and
  - (b) an audit of the facility is undertaken by the government, or by a body or organisation, of that or another country; and
  - (c) the Minister considers that information in the audit is relevant to whether or not the holder of the approval has failed to comply with a condition of the approval;
- the Minister may take the information into account in deciding whether to vary, suspend or revoke the approval under this Division.

## **179 Notifying holder of approval of decision to vary, suspend or revoke approval**

### *Variation of approvals*

- (1) As soon as practicable after deciding to vary an approval under this Division, the Minister must notify the holder of the approval, in writing, of the decision. The decision takes effect:
- (a) 30 days after the date of the notice; or
  - (b) if the notice specifies another day (whether earlier or later than the time mentioned in paragraph (a)) as the day on which the decision takes effect—on that day.

### *Suspension or revocation of approvals*

- (2) As soon as practicable after deciding to suspend or revoke an approval under this Division, the Minister must notify the holder of the approval, in writing, of the decision. The decision takes effect:
- (a) on the day on which it is made; or

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**Part 7** Variation, suspension or revocation of approval

**Division 2** Action on Minister's own initiative

## Section 180

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- (b) if the notice specifies a later day as the day on which the decision takes effect—on that later day.

### **180 Publication of decision to vary, suspend or revoke approval**

The Minister may, by notifiable instrument, publish notice of a variation, suspension or revocation an approval under this Division.

### **181 Effect of suspension**

Except for the purposes of Parts 3 and 4 of the Act, an approval is not in force during any period in which it is suspended under this Division.

### **182 Revocation of approval**

This Division does not, by implication, limit the application of subsections 33(3) and (3AA) of the *Acts Interpretation Act 1901*.

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Variation, suspension or revocation of approval **Part 7**  
Suspension of approval: evidence about compliance with proposed changes to national road vehicle standards **Division 3**

Section 183

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## **Division 3—Suspension of approval: evidence about compliance with proposed changes to national road vehicle standards**

### **183 Automatic suspension if evidence is not provided about compliance with proposed change**

- (1) A road vehicle type approval is automatically suspended, by force of this section, if:
  - (a) the national road vehicle standards change; and
  - (b) the holder of the type approval is required under section 27 to provide evidence that the type of road vehicle to which the type approval relates comply, from the day the change takes effect, with the changed national road vehicle standards; and
  - (c) the holder of the type approval does not provide evidence to the Minister by the date required under section 27.
- (2) The suspension:
  - (a) starts on the day after the day by which evidence is required to be provided to the Minister under section 27; and
  - (b) ends on the day that the evidence is provided to the Minister as required by that section.

### **184 Suspension if insufficient evidence is provided about compliance with proposed change**

- (1) The Minister may suspend a road vehicle type approval under this section if:
  - (a) the national road vehicle standards change; and
  - (b) the holder of the type approval is required under section 27 to provide evidence that type of vehicle to which the type approval relates comply, from the day the change takes effect, with the changed national road vehicle standards; and
  - (c) the holder of the type approval provides evidence to the Minister, but the Minister is not satisfied that the type of vehicle to which the type approval relates does in fact comply with the changed national road vehicle standards.
- (2) To satisfy himself or herself for the purpose of paragraph (1)(c), the Minister must take into account the matters mentioned in subsection 20(2).
- (3) The Minister may suspend the road vehicle type approval until the Minister is satisfied that sufficient evidence about compliance with the changed national road vehicle standards has been provided.
- (4) The Minister must notify the holder of the approval, in writing, of the suspension. The suspension takes effect on the date of the notice and remains in effect:
  - (a) for a specified period; or

# EXPOSURE DRAFT

**Part 7** Variation, suspension or revocation of approval

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(b) until a specified event occurs.



# EXPOSURE DRAFT

Variation, suspension or revocation of approval **Part 7**  
Action on request by holder of approval **Division 4**

Section 185

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## **Division 4—Action on request by holder of approval**

### **185 Holder may apply to vary approval**

- (1) The holder of an approval granted under this instrument may apply to the Minister for a variation of the approval.
- (2) An application to vary such an approval may include an application to vary, remove or add conditions to which the approval is subject.
- (3) An application must be:
  - (a) in the approved form; and
  - (b) accompanied by such documents as are required by the form.

### **186 Minister may seek further information**

- (1) The Minister may, in writing, request an applicant to give the Minister, within the period specified in the request, further information about the application.
- (2) The Minister may refuse to consider the application until the applicant gives the Minister the information in accordance with the request.

### **187 Minister may vary approval**

- (1) The Minister may vary an approval in accordance with an application.
- (2) However, the Minister may only vary an approval under this Division if the Minister is satisfied that, if the approval as varied were the subject of an application under this instrument, the Minister would grant the approval.

### **188 Holder may apply to suspend or revoke approval**

- (1) The holder of an approval granted under this instrument may request the Minister, in writing, to suspend or revoke the approval.
- (2) The Minister must suspend or revoke the approval, and may suspend the approval:
  - (a) for a specified period; or
  - (b) until a specified event occurs;even if the period or event is other than that requested by the holder of the approval.

Note: A decision to suspend an approval for a period other than that requested by the holder is reviewable (see section 219).

### **189 Notifying holder of approval of decision to vary, suspend or revoke approval**

As soon as practicable after deciding to vary, suspend or revoke an approval under this Division, the Minister must notify the holder of the approval, in writing, of the decision. The decision takes effect:

- (a) on the day on which it is made; or

# EXPOSURE DRAFT

**Part 7** Variation, suspension or revocation of approval

**Division 4** Action on request by holder of approval

## Section 190

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- (b) if the notice specifies a later day as the day on which the decision takes effect—on that later day.

### **190 Effect of suspension**

Except for the purposes of Parts 3 and 4 of the Act, an approval is not in force during any period in which it is suspended under this Division.

### **191 Interaction with Division 2**

This Division does not, by implication, limit the Minister's power to vary, suspend or revoke an approval under Division 2.

# EXPOSURE DRAFT

Recalls of road vehicles or approved road vehicle components **Part 8**

Introduction **Division 1**

Section 192

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## **Part 8—Recalls of road vehicles or approved road vehicle components**

### **Division 1—Introduction**

#### **192 Simplified outline of this Part**

*[The simplified outline will be drafted once the content of the rules is settled.]*

#### **193 Purpose of this Part**

For the purposes of section 37 of the Act, this Part provides for and in relation to the recall of road vehicles or approved road vehicle components.

Note: Section 45 of the Act affects the meaning of references in this Part to the supply of road vehicles or approved road vehicle components. For the definition of *supply*, see section 5 of the Act. Also, section 197 affects the meaning of supplier in certain provisions of this Part.

# EXPOSURE DRAFT

**Part 8** Recalls of road vehicles or approved road vehicle components

**Division 2** Compulsory recall of road vehicles or approved road vehicle components

Section 194

---

## **Division 2—Compulsory recall of road vehicles or approved road vehicle components**

### **194 Compulsory recall of road vehicles or approved road vehicle components**

- (1) The Minister may, by legislative instrument, issue a *recall notice* for road vehicles or approved road vehicle components of a particular kind if:
  - (a) a person, in trade or commerce, supplies vehicles or components of that kind; and
  - (b) any of the following applies:
    - (i) it appears to the Minister that such vehicles, or such components, will or may cause injury to any person;
    - (ii) it appears to the Minister that a reasonably foreseeable use (including a misuse) of such vehicles, or such components, will or may cause injury to any person;
    - (iii) it appears to the Minister that such vehicles, or such components, do not, or it is likely that they do not, comply with the applicable national road vehicle standards;
    - (iv) in the case of a vehicle entered in the RAV via the type approval pathway—the vehicle does not comply with the national road vehicle standards that were in force at the time the vehicle was entered on the RAV, other than because of paragraph 20(3)(b);
    - (v) in the case of a vehicle entered on the RAV via the concessional RAV entry approval pathway—the vehicle does not comply with the applicable national road vehicle standards in force at the time the vehicle was entered on the RAV or, if applicable, with the standards determined by the Minister under section 81;
    - (vi) in the case of an approved road vehicle component—the component does not comply with the applicable national road vehicle standards in force at the time the component was supplied by the person holding the relevant approval, other than because of paragraph 164(3)(b); and
  - (c) in the case that subparagraph (b)(iii), (iv), (v) or (vi) applies—it appears to the Minister that the non-compliance is of a serious nature; and
  - (d) it appears to the Minister that one or more suppliers of such vehicles, or such components, have not taken satisfactory action to:
    - (i) prevent those vehicles or components causing injury to any person; or
    - (ii) in the case that subparagraph (b)(iii), (iv), (v) or (vi) applies—rectify the non-compliance.
- (2) It is not necessary for the purposes of paragraph (1)(d) for the Minister to know the identities of any of the suppliers of the road vehicles or approved road vehicle components of that kind.

Note: Section 197 affects the meaning of supplier in this section.

# EXPOSURE DRAFT

Recalls of road vehicles or approved road vehicle components **Part 8**  
Compulsory recall of road vehicles or approved road vehicle components **Division 2**

Section 195

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## 195 Contents of a recall notice

- (1) A recall notice for road vehicles or approved road vehicle components may require one or more suppliers of the vehicles or components to take one or more of the following actions:
  - (a) recall the vehicles or components;
  - (b) disclose to the public, or to a class of persons specified in the notice, one or more of the following:
    - (i) the nature of a defect in, or a dangerous characteristic of, the vehicles or components, as identified in the notice;
    - (ii) the circumstances, as identified in the notice, in which a reasonably foreseeable use or misuse of the vehicles or components is dangerous;
    - (iii) procedures, as specified in the notice, for disposing of the vehicles or components;
  - (c) if the identities of any of those suppliers are known to the Minister—inform the public, or a class of persons specified in the notice, that the supplier undertakes to do whichever of the following the supplier thinks is appropriate:
    - (i) repair the vehicles or components;
    - (ii) replace the vehicles or components;
    - (iii) refund to a person to whom the vehicles or components were supplied (whether by the supplier or by another person) the price of the vehicles or components.

Note: Section 197 affects the meaning of supplier in this section.

- (2) The recall notice may specify:
  - (a) the manner in which the action required to be taken by the notice must be taken; and
  - (b) the period within which the action must be taken.
- (3) If the recall notice requires a supplier of the road vehicles or approved road vehicle components to take action of a kind referred to in paragraph (1)(c), the Minister may specify in the notice that, if:
  - (a) the supplier undertakes to refund the price of the vehicles or components; and
  - (b) a period of more than 12 months has elapsed since a person (whether or not the person to whom the refund is to be made) acquired the vehicles or components from the supplier;

the amount of a refund may be reduced by the supplier by an amount calculated in a manner specified in the notice that is attributable to the use which a person has had of the vehicles or components.

- (4) In this section:

**acquire** includes acquire by way of purchase, exchange or taking on lease, on hire or on hire-purchase.

**price**, of road vehicles or approved road vehicle components, means:

# EXPOSURE DRAFT

**Part 8** Recalls of road vehicles or approved road vehicle components

**Division 2** Compulsory recall of road vehicles or approved road vehicle components

## Section 196

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- (a) the amount paid or payable (including any charge of any description) for their acquisition; or
- (b) if such an amount is not specified because the acquisition is part only of a transaction for which a total amount is paid or payable:
  - (i) the lowest amount (including any charge of any description) for which the vehicles or components could reasonably have been acquired from the supplier at the time of the transaction or, if not from the supplier, from another supplier; or
  - (ii) if they could not reasonably have been acquired separately from another supplier—their value at the time of the transaction.

### **196 Obligations of a supplier in relation to a recall notice**

- (1) This section applies if a recall notice for road vehicles or approved road vehicle components requires a supplier to take action of a kind referred to in paragraph 195(1)(c).

Note: Section 197 affects the meaning of supplier in this section.

- (2) If the supplier undertakes to repair the road vehicles or approved road vehicle components, the supplier must cause the vehicles or components to be repaired so that:
  - (a) any defect in the vehicles or components identified in the recall notice is remedied; and
  - (b) for a vehicle that is on the RAV—the vehicle complies with the national road vehicle standards in force at the time the vehicle was entered on the RAV; and
  - (c) for any other vehicle—the vehicle complies with the vehicle standards in force at the time the vehicle had an identification plate or used import plate placed on the vehicle under the *Motor Vehicle Standards Act 1989*, or if the vehicle does not have such a plate, the vehicle complies with the vehicle standards in force at the time the vehicle was manufactured; and
  - (d) for a component—the component does not comply with the applicable national road vehicle standards in force at the time the component was supplied.
- (3) If the supplier undertakes to replace the road vehicles or approved road vehicle components, the supplier must replace a vehicle with a similar vehicle, or the component with a similar component, which:
  - (a) if a defect in, or a dangerous characteristic of, the vehicle or component to be replaced was identified in the recall notice—does not contain that defect or have that characteristic; and
  - (b) for vehicle that is on the RAV—complies with the national road vehicle standards in force at the time the vehicle being replaced was entered on the RAV; and
  - (c) for any other vehicle—complies with the vehicle standards in force at the time the vehicle being replaced had an identification plate or used import plate placed on the vehicle under the *Motor Vehicle Standards Act 1989*, or if the vehicle being replaced did not have such a plate, complies with the

# EXPOSURE DRAFT

Recalls of road vehicles or approved road vehicle components **Part 8**  
Compulsory recall of road vehicles or approved road vehicle components **Division 2**

Section 197

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vehicle standards in force at the time the vehicle being replaced was manufactured; and

(d) for a component—complies with the applicable national road vehicle standards in force at the time the component was supplied.

(4) If the supplier undertakes:

(a) to repair the road vehicles or approved road vehicle components; or

(b) to replace the road vehicles or approved road vehicle components;

the cost of the repair or replacement, including any necessary transportation costs, must be paid by the supplier.

## **197 Holder of a type approval taken to be a supplier**

For the purposes of sections 194, 195 and 196:

(a) a person is taken to be a supplier of road vehicles of a particular kind if the person is the holder of a road vehicle type approval under which such vehicles are entered on the RAV; and

(b) a person is taken to be a supplier of approved road vehicle components of a particular kind if the person is the holder of a road vehicle component type approval for such components.

## **198 Notification by persons who supply road vehicles or approved road vehicle components outside Australia if there is compulsory recall**

(1) If road vehicles or approved road vehicle components of a particular kind are recalled as required by a recall notice, a person who has supplied or supplies those vehicles or components to a person outside Australia must give that person a written notice that complies with subsection (2).

(2) The notice given under subsection (1) must:

(a) state that the road vehicles or approved road vehicle components are subject to recall; and

(b) if the vehicles or components contain a defect or have a dangerous characteristic—set out the nature of that defect or characteristic; and

(c) if a reasonably foreseeable use or misuse of the vehicles or components is dangerous—set out the circumstances of that use or misuse; and

(d) if the road vehicles or approved road vehicle components do not comply with standards—set out the nature of non-compliance with:

(i) for vehicles on the RAV—the national road vehicle standards in force at the time the vehicles were entered on the RAV; and

(ii) for any other vehicles—the vehicle standards in force at the time the vehicles had identification plates or used import plates placed on them under the *Motor Vehicle Standards Act 1989* or the vehicle standards in force at the time the vehicles were manufactured; and

(iii) for components—the applicable national road vehicle standards in force at the time the components were supplied.

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## Part 8 Recalls of road vehicles or approved road vehicle components

### Division 2 Compulsory recall of road vehicles or approved road vehicle components

#### Section 199

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- (3) The notice under subsection (1) must be given as soon as practicable after the supply of the road vehicles or approved road vehicle components to the person outside Australia.
- (4) A person who is required to give a notice under subsection (1) must, within 10 days after giving the notice, give a copy of the notice to the Minister who issued the recall notice.

Note: A person may commit an offence or contravene a civil penalty provision if the person does not give a copy of the notice to the Minister, see section 39 of the Act.

#### 199 Interaction of multiple recall notices

If:

- (a) a recall notice (the *original recall notice*) for road vehicles or approved road vehicle components of a particular kind is issued (the *recalled vehicles or components*) under the Australian Consumer Law; and
- (b) while the original recall notice is in force, the Minister issues a recall notice (the *rules recall notice*):
  - (i) for the recalled vehicles or components; or
  - (ii) for road vehicles or approved road vehicle components of a kind that includes the recalled vehicles or components;

the original recall notice, to the extent that it relates to the recalled vehicles or components, ceases to be in force immediately before the rules recall notice is issued.



# EXPOSURE DRAFT

Recalls of road vehicles or approved road vehicle components **Part 8**  
Voluntary recall of road vehicles or approved road vehicle components **Division 3**

Section 200

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## **Division 3—Voluntary recall of road vehicles or approved road vehicle components**

### **200 Notification requirements for a voluntary recall of road vehicles or approved road vehicle components**

- (1) This section applies if a person voluntarily takes action to recall road vehicles or approved road vehicle components of a particular kind because:
  - (a) the vehicles or components will or may cause injury to any other person; or
  - (b) a reasonably foreseeable use (including a misuse) of the vehicles or components will or may cause injury to any other person; or
  - (c) for vehicles on the RAV—the vehicles do not, or it is likely that the vehicles do not, comply with the applicable national road vehicle standards in force at the time the vehicles were entered on the RAV; and
  - (d) for any other vehicles—the vehicles do not, or it is likely that the vehicles do not, comply with the vehicle standards in force at the time the vehicles had identification plates or used import plates placed on them under the *Motor Vehicle Standards Act 1989*, or if the vehicles do not have such plates, the vehicle do not, or it is likely that the vehicles do not, comply with the vehicle standards in force at the time the vehicles were manufactured; and
  - (e) for components—the components do not, or it is likely that the components do not, comply with the applicable national road vehicle standards in force at the time the components were supplied.
- (2) The person must, within 2 days after taking the action, give the Minister a written notice that complies with subsection (7).

Note: A person may commit an offence or contravene a civil penalty provision if the person does not give the notice to the Minister, see section 40 of the Act.
- (3) The Minister may publish a copy of the notice on the internet.
- (4) A person who has supplied or supplies a road vehicle or approved road vehicle component of that kind to another person outside Australia must give the other person a written notice that complies with subsection (7).
- (5) The notice under subsection (4) must be given as soon as practicable after the supply of the road vehicle or approved road vehicle component to the person outside Australia.
- (6) A person who is required to give a notice under subsection (4) must, within 10 days after giving the notice, give a copy of the notice to the Minister.

Note: A person may commit an offence or contravene a civil penalty provision if the person does not give a copy of the notice to the Minister, see section 40 of the Act.
- (7) A notice given under subsection (2) or (4) must:
  - (a) state that the road vehicles or approved road vehicle components are subject to recall; and

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## Part 8 Recalls of road vehicles or approved road vehicle components

### Division 3 Voluntary recall of road vehicles or approved road vehicle components

#### Section 200

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- (b) if the road vehicles or approved road vehicle components contain a defect or have a dangerous characteristic—set out the nature of that defect or characteristic; and
- (c) if a reasonably foreseeable use or misuse of the road vehicles or approved road vehicle components is dangerous—set out the circumstances of that use or misuse; and
- (d) if the road vehicles or approved road vehicle components do not, or it is likely that they do not, comply with standards—set out the nature of the non-compliance or likely non-compliance with:
  - (i) for vehicles on the RAV—the national road vehicle standards in force at the time the vehicles were entered on the RAV; and
  - (ii) for any other vehicles—the vehicle standards in force at the time the vehicles had identification plates or used import plates placed on them under the *Motor Vehicle Standards Act 1989* or the vehicle standards in force at the time the vehicles were manufactured; and
  - (iii) for components—the applicable national road vehicle standards in force at the time the components were supplied.

#### *Interaction with the Australian Consumer Law*

- (8) A person is taken to give notice under subsection (2) in relation to road vehicles or approved road vehicle components of a particular kind if:
  - (a) the person is required to give notice under that subsection; and
  - (b) the person has already given notice under subsection 128(2) of the Australian Consumer Law in relation to such vehicles or components.
- (9) A person is taken to give notice under subsection (4) in relation to road vehicles or approved road vehicle components of a particular kind if:
  - (a) the person is required to give notice under that subsection; and
  - (b) the person has already given notice under subsection 128(4) of the Australian Consumer Law in relation to such vehicles or components.
- (10) A person is taken to give notice under subsection 128(2) of the Australian Consumer Law in relation to road vehicles or approved road vehicle components of a particular kind if:
  - (a) the person is required to give notice under that subsection; and
  - (b) the person has already given notice under subsection (2) of this section in relation to such vehicles or components.
- (11) A person is taken to give notice under subsection 128(4) of the Australian Consumer Law in relation to road vehicles or approved road vehicle components of a particular kind if:
  - (a) the person is required to give notice under that subsection; and
  - (b) the person has already given notice under subsection (4) of this section in relation to such vehicles or components.

# EXPOSURE DRAFT

Recalls of road vehicles or approved road vehicle components **Part 8**  
Conferences for proposed recall notices **Division 4**

Section 201

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## **Division 4—Conferences for proposed recall notices**

### **Subdivision A—Conference requirements before compulsory recall**

#### **201 Minister must issue a proposed recall notice**

- (1) The Minister must issue a *proposed recall notice* if the Minister proposes to issue a recall notice for road vehicles or approved road vehicle components of a particular kind.
- (2) Subsection (1) does not apply in relation to a recall notice if the Minister has issued a notice under section 206 certifying that the recall notice should be issued without delay.
- (3) The proposed recall notice must:
  - (a) be in writing; and
  - (b) be published on the internet; and
  - (c) set out a copy of a draft recall notice; and
  - (d) set out a summary of the reasons for the proposed issue of the recall notice; and
  - (e) invite any person who supplies, or proposes to supply, a road vehicle or approved road vehicle component of that kind (including, if appropriate, road vehicle type approval holders or road vehicle component type approval holders) to notify the Secretary, in writing and within a period specified in the notice, if the person wishes the Secretary to hold a conference in relation to the proposed issue of the recall notice.
- (4) The period specified in the proposed recall notice under paragraph (3)(e):
  - (a) must be a period of at least 10 days, or such longer period as the Minister specifies in the notice; and
  - (b) must not commence before the day on which the notice is published.

#### **202 Minister to be notified if no person wishes a conference to be held**

If the Secretary is not notified about holding a conference in accordance with a proposed recall notice, the Secretary must, in writing, notify the Minister of that fact.

#### **203 Notification of conference**

- (1) If one or more persons notify the Secretary in accordance with a proposed recall notice that they wish the Secretary to hold a conference, the Secretary must:
  - (a) appoint a day, time and place for the holding of the conference; and
  - (b) give written notice to the Minister, and to each person who so notified the Secretary, of that day, time and place.
- (2) The day appointed must be at least 5 days, but not more than 14 days, after the end of the period specified under paragraph 201(3)(e).

# EXPOSURE DRAFT

**Part 8** Recalls of road vehicles or approved road vehicle components

**Division 4** Conferences for proposed recall notices

Section 204

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## **204 Recommendation after conclusion of conference**

- (1) As soon as is practicable after the conclusion of a conference held under this Subdivision in relation to the proposed issue of a recall notice, the Secretary must:
  - (a) by written notice given to the Minister, recommend that the Minister:
    - (i) issue the recall notice in the same terms as the draft recall notice referred to in paragraph 201(3)(c); or
    - (ii) issue the recall notice with such modifications to that draft recall notice as are specified by the Secretary; or
    - (iii) not issue the recall notice; and
  - (b) cause a copy of the notice given under paragraph (a) to be given to each person who was present or represented at the conference.
- (2) The Minister must:
  - (a) have regard to a recommendation made under paragraph (1)(a); and
  - (b) if he or she decides to act otherwise than in accordance with the recommendation—the Minister must, by written notice published on the internet, set out the reasons for his or her decision.

## **Subdivision B—Conduct of conferences**

### **205 Conduct of conferences**

- (1) At a conference held under Subdivision A of this Division:
  - (a) the Secretary may be represented by a person or persons who are nominated by the Secretary; and
  - (b) each person who notified the Secretary in accordance with a proposed recall notice is entitled to be present or to be represented; and
  - (c) any other person whose presence at the conference is considered by the Secretary to be appropriate is entitled to be present or to be represented; and
  - (d) the Minister is, or a person or persons nominated in writing by the Minister are, entitled to be present; and
  - (e) the procedure to be followed must be as determined by the Secretary.
- (2) The Secretary must cause a record of the proceedings at the conference to be kept.
- (3) The Secretary must, as far as is practicable, ensure that each person who is entitled to be present, or who is representing such a person, at the conference is given a reasonable opportunity at the conference to present his or her case and in particular:
  - (a) to inspect any documents (other than a document that contains particulars of a secret formula or process) which the Secretary proposes to consider for the purpose of making a recommendation after the conclusion of the conference; and
  - (b) to make submissions in relation to those documents.

# EXPOSURE DRAFT

Recalls of road vehicles or approved road vehicle components **Part 8**  
Conferences for proposed recall notices **Division 4**

Section 206

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## **Subdivision C—Miscellaneous**

### **206 Recall notice without delay in case of danger to the public**

- (1) If it appears to the Minister that road vehicles or approved road vehicle components of a particular kind create an imminent risk of death, serious illness or serious injury, he or she may, by written notice published on the internet, certify that a recall notice for vehicles or components of that kind should be issued without delay.
- (2) If:
  - (a) the Minister publishes a notice under subsection (1); and
  - (b) action of any kind has been taken under Subdivision A of this Division in relation to the recall notice, but no recommendation has been made under section 204;the Minister may issue the recall notice without regard to that action.

### **207 Copy of notices under this Division to be given to suppliers**

- (1) If the Minister:
  - (a) issues a proposed recall notice; or
  - (b) publishes a notice under subsection 206(1);he or she must cause a copy of the notice to be given to each person who, to the knowledge of the Minister, supplies the road vehicles or approved road vehicle components to which the notice relates (including, if appropriate, road vehicle type approval holders or road vehicle component type approval holders).
- (2) The copy must be given:
  - (a) within 2 days after the publication or issue of the notice; or
  - (b) if it is not practicable to give the copy within that period—as soon as practicable after the end of that period.
- (3) A failure to comply with subsection (1) does not invalidate the notice.

# EXPOSURE DRAFT

Part 8 Recalls of road vehicles or approved road vehicle components

Division 5 Miscellaneous

Section 208

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## Division 5—Miscellaneous

### 208 Liability under a contract of insurance

- (1) If:
- (a) a contract of insurance between an insurer and a person relates to:
    - (i) the recall of road vehicles or approved road vehicle components that are supplied by the person, or which the person proposes to supply; or
    - (ii) the liability of the person with respect to possible defects in such road vehicles or approved road vehicle components; and
  - (b) the person gives information relating to any such vehicles or components to:
    - (i) the Minister; or
    - (ii) a person appointed or engaged under the *Public Service Act 1999*, or under a corresponding law of a State or a Territory; or
    - (iii) an officer of an authority of the Commonwealth or of a State or Territory;

the liability of the insurer under the contract is not affected only because the person gave the information.

- (2) In this section:

**authority**, in relation to a State or a Territory (including an external Territory), means:

- (a) a body corporate established for a purpose of the State or the Territory by or under a law of the State or Territory; or
- (b) an incorporated company in which the State or the Territory, or a body corporate referred to in paragraph (a), has a controlling interest.

**authority of the Commonwealth** means:

- (a) a body corporate established for a purpose of the Commonwealth by or under a law of the Commonwealth or a law of a Territory; or
- (b) an incorporated company in which the Commonwealth, or a body corporate referred to in paragraph (a), has a controlling interest.

**person** includes a person who holds a road vehicle type approval or a road vehicle component type approval.

## **Part 9—Cost recovery**

### **209 Simplified outline of this Part**

*[The simplified outline will be drafted once the content of the rules is settled.]*

### **210 Purpose of this Part**

For the purposes of sections 66, 67, 68 and 70 of the Act, this Part provides for and in relation to the following:

- (a) fees that may be charged in relation to fee-bearing activities;
- (b) payment of cost-recovery charges;
- (c) late payment fees;
- (d) suspending or revoking approvals because of unpaid cost-recovery charges.

*[Note: This Part will be drafted following consultation on the model for cost-recovery.]*

# EXPOSURE DRAFT

**Part 10** Miscellaneous  
**Division 1** Introduction

Section 211

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## **Part 10—Miscellaneous**

### **Division 1—Introduction**

#### **211 Simplified outline of this Part**

*[The simplified outline will be drafted once the content of the rules is settled.]*

#### **212 Purpose of this Part**

For the purposes of subsection 13(2) and section 82 of the Act, this Part:

- (a) provides for and in relation to the issuing of advisory notices advising that a specified thing is not a road vehicle; and
- (b) makes rules prescribing matters:
  - (i) required or permitted by the Act; or
  - (ii) necessary or convenient to be prescribed for carrying out or giving effect to the Act.



## **Division 2—Publication requirements**

### **213 Road vehicle type approvals**

For each road vehicle type approval that is in force, the Minister must publish on the Department's website:

- (a) the name and contact details of the holder of the approval; and
- (b) a copy of the current approval; and
- (c) if there are previous versions of the approval—a copy of each version of the approval; and
- (d) the road vehicle descriptor for the type of road vehicle covered by the approval.

### **214 RAW approvals**

For each RAW approval that is in force, the Minister must publish on the Department's website the business name and contact details of the holder of the approval.

### **215 Approved model reports**

- (1) For each approval of a model report that is in force, the Minister must publish on the Department's website the following information:
  - (a) the make and model, or make, model and variant, of road vehicle to which the model report applies;
  - (b) the contact details of the holder of the approval.
- (2) However, if the Minister receives from the holder of a model report a request that the information relating to the approval not be published on the Department's website, then:
  - (a) subsection (1) does not apply; and
  - (b) if the Minister has already published the information on the website—the Minister must remove the information from the website.

### **216 AVV approvals**

For each AVV approval that is in force, the Minister must publish on the Department's website the business name and contact details of the holder of the approval.

### **217 Testing facility approvals**

- (1) For each testing facility approval that is in force, the Minister must publish on the Department's website the name and contact details of the holder of the approval.
- (2) However, if the Minister receives from the holder of a testing facility approval a request that the business name and contact details of the holder not be published on the Department's website, then:

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## Part 10 Miscellaneous

### Division 2 Publication requirements

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- (a) subsection (1) does not apply; and
- (b) if the Minister has already published the information on the website—the Minister must remove the information from the website.

#### **218 Road vehicle component type approvals**

For each road vehicle component type approval that is in force, the Minister must publish on the Department's website:

- (a) the name and contact details of the holder of the approval; and
- (b) a copy of the current approval; and
- (c) if there are previous versions of the approval—a copy of each version of the approval.

## **Division 3—Miscellaneous**

### **219 AAT review of decisions**

An application may be made to the Administrative Appeals Tribunal for review of the following decisions by the Minister:

- (a) a decision under section 24 to refuse to grant a road vehicle type approval;
- (b) a decision to grant a road vehicle type approval subject to a condition under paragraph 25(1)(a);
- (c) a decision under section 45 to refuse to grant a concessional RAV entry approval;
- (d) a decision under to grant a concessional RAV entry approval subject to a condition under paragraph 46(1)(a);
- (e) a decision under section 61 to refuse to grant a RAW approval;
- (f) a decision to grant a RAW approval subject to a condition under paragraph 62(a);
- (g) a decision under section 73 to refuse to approve a model report;
- (h) a decision to approve a model report subject to a condition under paragraph 74(a);
- (i) a decision under section 89 to refuse to grant an AVV approval;
- (j) a decision to grant an AVV approval subject to a condition under paragraph 90(a);
- (k) a decision under section 105 to refuse to grant a testing facility approval;
- (l) a decision to grant a testing facility approval subject to a condition under paragraph 106(a);
- (m) a decision under section 145 to refuse to grant a non-RAV entry import approval;
- (n) a decision to grant a non-RAV entry import approval subject to a condition under paragraph 146(1)(a);
- (o) a decision under section 155 to refuse to grant a reimportation import approval;
- (p) a decision to grant a reimportation import approval subject to a condition under paragraph 156(1)(a);
- (q) a decision under section 168 to refuse to grant a road vehicle component type approval;
- (r) a decision to grant a road vehicle component type approval subject to a condition under paragraph 169(a);
- (s) a decision under section 177 to vary, suspend or revoke an approval;
- (t) a decision under paragraph 188(2)(a) to suspend an approval for a period other than that requested by the holder of the approval.

### **220 Former holders of type approvals—ongoing obligation to provide supporting information**

A person who was the holder of a type approval must, for the period of 7 years after the type approval is revoked or expires, be able to:

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## Part 10 Miscellaneous

### Division 3 Miscellaneous

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- (a) access the original and any subsequent versions of the supporting information for the type approval; and
- (b) provide those versions to the Minister.

Note: A person may commit an offence or contravene a civil penalty provision if the person does not provide the information to the Minister (see section 30 of the Act).

#### **221 Holder of approvals—ongoing obligation to retain records**

- (1) If a condition of an approval granted under the Part 3, 4 or 5 is that the holder of the approval retain a record, the holder must retain the record for at least 7 years after the day the record is made.
- (2) If such an approval ceases to be in force during the 7 year period, the person who held the approval must continue to retain each record made while the approval was in force for the balance of the 7 year period.

#### **222 Advisory notice that thing is not a road vehicle**

- (1) A person may apply for an advisory notice that states that a specified thing is not a road vehicle.

Note: See subsection 13(2) of the Act.

- (2) The application must be:
  - (a) in the approved form; and
  - (b) accompanied by:
    - (i) such documents as are required by the form; and
    - (ii) the application fee.
- (3) If the Secretary is satisfied that the specified thing is not a road vehicle, the Secretary may issue an advisory notice stating that the specified thing is not a road vehicle.

#### **223 Delegation by the Minister**

- (1) The Minister may, in writing, delegate to an SES employee or an acting SES employee in the Department, the Minister's functions or powers under:
  - (a) subsection 177(1) (about varying an approval), to the extent that the power relates to varying any of the following approvals:
    - (i) a road vehicle type approval;
    - (ii) a road vehicle component type approval;
    - (iii) a RAW approval;
    - (iv) an approved model report;
    - (v) an AVV approval;
    - (vi) a testing facility approval; or
  - (b) subsection 177(3) (about suspending or revoking an approval), to the extent that the power relates to suspending or revoking any of the following approvals:
    - (i) a road vehicle type approval;
    - (ii) a road vehicle component type approval;

- (iii) a RAW approval;
  - (iv) an approved model report;
  - (v) an AVV approval;
  - (vi) a testing facility approval; or
  - (c) section 225 (about approving forms).
- (2) The Minister may, in writing, delegate his or her functions or powers under any provision of this instrument (other than a provision mentioned in subsection (1)) to an APS employee.

## **224 Delegation by the Secretary**

- (1) The Secretary may, in writing, delegate his or her power under subsection 11(1) (about varying information on the RAV) to an SES employee, or an acting SES employee, in the Department.
- (2) The Secretary may, in writing, delegate his or her functions or powers under any provision of this instrument (other than a provision mentioned in subsection (1)) to an APS employee.

## **225 Approved forms**

The Minister may, in writing, approve a form for the purposes of a provision of this instrument.