



# **New Vehicle Efficiency Standard Act 2024**

**No. 34, 2024**

**An Act to establish a vehicle efficiency standard,  
and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation  
(<https://www.legislation.gov.au/>)



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# **New Vehicle Efficiency Standard Act 2024**

**No. 34, 2024**

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**An Act to establish a vehicle efficiency standard,  
and for related purposes**

*[Assented to 31 May 2024]*

The Parliament of Australia enacts:

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## Part 1—Preliminary

### 1 Short title

This Act is the *New Vehicle Efficiency Standard Act 2024*.

### 2 Commencement

- (1) Each provision of this Act 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 Act	1 January 2025.	1 January 2025

Note: This table relates only to the provisions of this Act as originally enacted.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

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

### 3 Objects of this Act

The objects of this Act are to:

- (a) establish a vehicle emissions standard covering certain vehicles, that will:
- (i) create economic incentives for the manufacturers and suppliers of such vehicles to provide models to the Australian market that emit less carbon dioxide; and
  - (ii) provide consumers in Australia with a choice of vehicles that meet their work and lifestyle needs while



- also meeting the environmental expectations of the community; and
- (iii) be transparent, flexible and able to be calibrated over time according to policy needs; and
  - (iv) be robust and based on the best available evidence and data; and
- (b) reduce carbon dioxide emissions in the transport sector, thereby contributing to the achievement of Australia's greenhouse gas emissions reduction targets; and
- (c) give effect to certain obligations that Australia has as a party to the following:
- (i) the Climate Change Convention;
  - (ii) the Kyoto Protocol;
  - (iii) the Paris Agreement.

#### **4 Simplified outline of this Act**

This Act establishes a vehicle efficiency standard to regulate the carbon dioxide emissions of certain road vehicles. The standard works by setting emissions targets for vehicles covered by the standard.

A person to whom the standard applies in a particular year must ensure that their final emissions value for the year is zero or less. Failure to achieve this may result in a civil penalty.

A person's final emissions value for a year is their interim emissions value for the year minus the number of units they have extinguished for the purpose of reducing their final emissions value.

A person's interim emissions value for a year measures the performance of the person's vehicles against the emissions targets set by the standard for the year. A positive value indicates that the vehicles have collectively underperformed against their targets, whereas a negative value indicates overperformance.

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If a person has a negative interim emissions value for a year, the Secretary must issue units to the person. The person may extinguish some or all of those units to reduce their final emissions value for another year. Alternatively, they may transfer some or all of those units to another person who may extinguish them to reduce their own final emissions value for that year or another year.

Units may also be issued in respect of vehicles covered by the standard in other, limited circumstances.

All transactions involving units are made through a registry.

There are a number of offences and civil penalties in relation to the vehicle efficiency standard and the registry. A range of compliance and enforcement powers are provided for, primarily by applying the Regulatory Powers Act.

The Minister may make rules and certain legislative instruments in relation to the vehicle efficiency standard and the registry.

### **5 Crown to be bound**

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.

### **6 Extension to external Territories**

This Act extends to the external Territories.

### **7 Extraterritorial application**

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

## 8 Constitutional basis of this Act

This Act relies on the Commonwealth's legislative powers under paragraph 51(xxix) of the Constitution to give effect to Australia's obligations under one or more of the following international instruments:

- (a) the Climate Change Convention;
- (b) the Kyoto Protocol;
- (c) the Paris Agreement.

## 9 Additional operation of this Act

- (1) In addition to section 8, this Act also has effect as provided by this section.

### *Corporations*

- (2) This Act also has the effect it would have if a reference in this Act to an activity were expressly confined to an activity undertaken by or on behalf of a corporation to which paragraph 51(xx) of the Constitution applies.

### *Trade and commerce*

- (3) This Act also has the effect it would have if a reference in this Act to an activity were expressly confined to an activity undertaken in the course of trade or commerce:
- (a) between Australia and places outside Australia; or
  - (b) among the States; or
  - (c) between a State and a Territory; or
  - (d) between 2 Territories.

### *Territories*

- (4) This Act also has the effect it would have if a reference in this Act to an activity were expressly confined to an activity undertaken in a Territory.

## 10 Definitions

In this Act:

***adverse publicity order***: see subsection 83(2).

***Australia***, when used in a geographical sense, includes the external Territories.

***Australia's greenhouse gas emissions reduction targets*** has the same meaning as in the *National Greenhouse and Energy Reporting Act 2007*.

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

***Climate Change Convention*** means the United Nations Framework Convention on Climate Change done at New York on 9 May 1992, as amended and in force for Australia from time to time.

Note: The Convention is in Australian Treaty Series 1994 No. 2 ([1994] ATS 2) and could in 2024 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

***Climate Change Department*** means the Department administered by the Climate Change Minister.

***Climate Change Minister*** means the Minister administering the *Climate Change Act 2022*.

***concessional RAV entry approval*** has the same meaning as in the *Road Vehicle Standards Rules 2019*.

***covered vehicle***: see section 12.

***designated MIRO***: see subsection 24(1).

***destroyed vehicle adjustment***: see subsection 41(6).

***emissions number***: see section 20.

***emissions target***: see section 21.

***engage in conduct*** means:

- (a) do an act; or
- (b) omit to perform an act.

***Environment Department*** means the Department administered by the Environment Minister.

***Environment Minister*** means the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999*.

***exempt vehicle***: see section 16.

***Federal Court*** means the Federal Court of Australia.

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

***final emissions value***: see section 18.

***final reconciliation day***: see subsection 17(2).

***headline limit***: see section 22.

***heavy off-road passenger vehicle***: see subsection 15(1).

***held***: a unit is ***held*** in a registry account if there is an entry for the unit in the account.

***inefficient vehicle***, for a person for a year, means a covered vehicle for the person for the year whose emissions number for the year is greater than its emissions target for the year.

***inspector*** means a person appointed as an inspector under section 71.

***interim emissions value***: see section 19.

***interim reconciliation day***, for a year, means the first 1 February after the end of the year.

Example: The interim reconciliation day for 2025 is 1 February 2026.

***introductory period*** means the 5-year period beginning on 1 January 2025.

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***Kyoto Protocol*** means the Kyoto Protocol to the United Nations Framework Convention on Climate Change done at Kyoto on 11 December 1997, as amended and in force for Australia from time to time.

Note: The Protocol is in Australian Treaty Series 2008 No. 2 ([2008] ATS 2) and could in 2024 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

***light off-road passenger vehicle***: see subsection 15(2).

***lower breakpoint***: see section 25.

***mass adjustment factor***: see section 23.

***MIRO number***: see subsection 24(2).

***national road vehicle standard*** has the same meaning as in the *Road Vehicle Standards Act 2018*.

***Paris Agreement*** means the Paris Agreement done at Paris on 12 December 2015, as amended and in force for Australia from time to time.

Note: The Agreement is in Australian Treaty Series 2016 No. 24 ([2016] ATS 24) and could in 2024 be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

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

***RAV*** (short for Register of Approved Vehicles) has the same meaning as in the *Road Vehicle Standards Act 2018*.

***reference MIRO***: see section 27.

***registered holder***, of a unit, means the person in whose registry account there is an entry for the unit.

***Registry*** means the New Vehicle Efficiency Standard Unit Registry established under section 51.

***registry account***: see subsection 55(5).

**Regulatory Powers Act** means the *Regulatory Powers (Standard Provisions) Act 2014*.

**relevant court** means:

- (a) the Federal Court; or
- (b) the Federal Circuit and Family Court of Australia (Division 2); or
- (c) a court of a State or Territory that has jurisdiction in relation to matters arising under this Act.

**road vehicle** has the same meaning as in the *Road Vehicle Standards Act 2018*.

**road vehicle type approval** has the same meaning as in the *Road Vehicle Standards Act 2018*.

**rules** means the rules made under section 92.

**Secretary** means the Secretary of the Department.

**this Act** includes:

- (a) the rules and any other instruments made under this Act; and
- (b) the Regulatory Powers Act as it applies in relation to this Act.

**type 1 vehicle**: see section 13.

**type 2 vehicle**: see section 14.

**unit** means a unit issued to a person under Division 2 of Part 3.

**upper breakpoint**: see section 26.

**vehicle category** means a vehicle category that is specified in a national road vehicle standard that specifies categories of road vehicle.

Note: In 2024 the *Vehicle Standard (Australian Design Rule — Definitions and Vehicle Categories) 2005* specified categories of road vehicle.

**vehicle subcategory** means a subcategory of a vehicle category that is specified in a national road vehicle standard that specifies subcategories of categories of road vehicle.

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Note: In 2024 the *Vehicle Standard (Australian Design Rule — Definitions and Vehicle Categories) 2005* specified subcategories of categories of road vehicle.

*year* means calendar year.



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## **Part 2—New vehicle efficiency standard**

### **Division 1—Introduction**

#### **11 Simplified outline of this Part**

This Part establishes the new vehicle efficiency standard.

The standard applies to any person who has a covered vehicle for a year beginning on or after 1 January 2025. Generally, a covered vehicle for a year is a passenger or light commercial vehicle that is entered on the Register of Approved Vehicles for the first time during the year (or during the second half of the year in the case of a covered vehicle for 2025).

Some vehicles are exempt from the standard. Any vehicle with a gross vehicle mass exceeding 4.5 tonnes is exempt. The Minister may also determine that other classes of vehicle are exempt.

A person to whom the standard applies in a particular year must ensure that, on the third 1 February after the end of the year, their final emissions value for the year is zero or less. Failure to achieve this may result in a civil penalty.

A person's final emissions value for a year is their interim emissions value for the year minus the number of units they have extinguished under Part 3 for the purpose of reducing their final emissions value.

A person's interim emissions value for a year is worked out by comparing, for each covered vehicle for the person for the year, the carbon dioxide emissions of the vehicle entered on the Register of Approved Vehicles against an emissions target. The target takes into account the vehicle's particular characteristics. If the vehicle produces fewer emissions than its target, a negative number is generated; if not, a positive number or zero is generated. These numbers are summated to obtain the person's interim emissions value for the year.

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**Division 1** Introduction

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A positive interim emissions value for a year indicates that a person's vehicles have collectively underperformed their emissions targets, whereas a negative value indicates overperformance. If a person has a negative interim emissions value for a year, the Secretary must issue units to the person under Part 3.

The Minister may determine, by legislative instrument, a range of matters relevant to the vehicle efficiency standard.

Before making such a determination, the Minister must consult with the public.

## Division 2—Covered vehicles

### 12 Covered vehicles

#### *Type approval pathway*

- (1) A vehicle is a **covered vehicle** for a person for a year if:
  - (a) the vehicle is a type 1 vehicle or a type 2 vehicle; and
  - (b) the person holds a road vehicle type approval that applies to the vehicle; and
  - (c) the person (or another person authorised, in writing, by the first-mentioned person to enter vehicles on the RAV under the approval) enters the vehicle on the RAV:
    - (i) if the year is 2025—between 1 July 2025 and 31 December 2025; or
    - (ii) otherwise—during the year; and
  - (d) that entry of the vehicle on the RAV is the first time the vehicle is entered on the RAV.

#### *Concessional RAV entry approval pathway*

- (2) A vehicle is also a **covered vehicle** for a person for a year if:
  - (a) the vehicle is a type 1 vehicle or a type 2 vehicle; and
  - (b) the person holds a concessional RAV entry approval in respect of the vehicle; and
  - (c) the vehicle is entered on the RAV:
    - (i) if the year is 2025—between 1 July 2025 and 31 December 2025; or
    - (ii) otherwise—during the year; and
  - (d) that entry of the vehicle on the RAV is the first time the vehicle is entered on the RAV; and
  - (e) the vehicle is in a class of road vehicle that is determined to be covered by this paragraph in an instrument in force under section 28.

### 13 Type 1 vehicles

- (1) A vehicle is a **type 1 vehicle** if:
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- (a) it is in one of the following vehicle categories:
    - (i) MA (passenger car);
    - (ii) MB (forward-control passenger vehicle); or
  - (b) it is a light off-road passenger vehicle; or
  - (c) it is in a class of road vehicle determined to have type 1 vehicle status in an instrument in force under section 29.
- (2) However, a vehicle is not a **type 1 vehicle** if:
- (a) it is in a class of road vehicle determined to have type 2 vehicle status in an instrument in force under section 29; or
  - (b) it is an exempt vehicle.

Note: A determination under section 29 may provide that a class of road vehicle containing vehicles covered by paragraph (1)(a) or (b) of this section has type 2 or exempt vehicle status (see subsection 29(2)).

## 14 Type 2 vehicles

- (1) A vehicle is a **type 2 vehicle** if:
- (a) it is in:
    - (i) the NA (light goods vehicle) vehicle category; or
    - (ii) the NB1 vehicle subcategory of the NB (medium goods vehicle) vehicle category; or
  - (b) it is a heavy off-road passenger vehicle; or
  - (c) it is in a class of road vehicle determined to have type 2 vehicle status in an instrument in force under section 29.
- (2) However, a vehicle is not a **type 2 vehicle** if:
- (a) it is in a class of road vehicle determined to have type 1 vehicle status in an instrument in force under section 29; or
  - (b) it is an exempt vehicle.

Note: A determination under section 29 may provide that a class of road vehicle containing vehicles covered by paragraph (1)(a) or (b) of this section has type 1 or exempt vehicle status (see subsection 29(3)).

## 15 Off-road passenger vehicles

- (1) A vehicle is a **heavy off-road passenger vehicle** if:
-

- (a) the vehicle is in the MC (off-road passenger vehicle) vehicle category; and
  - (b) the rated towing capacity first entered on the RAV in relation to the vehicle is 3 tonnes or more; and
  - (c) the vehicle's chassis:
    - (i) is determined to be covered by this subparagraph in an instrument in force under section 30; or
    - (ii) if no such instrument is in force—is a body on frame chassis within the ordinary meaning of that expression.
- (2) A vehicle is a ***light off-road passenger vehicle*** if it is in the MC (off-road passenger vehicle) vehicle category and is not a heavy off-road passenger vehicle.

## 16 Exempt vehicles

A vehicle is an ***exempt vehicle*** if:

- (a) the GVM (gross vehicle mass) entered on the RAV in relation to the vehicle exceeds 4.5 tonnes; or
- (b) it is in a class of road vehicle determined to have exempt vehicle status in an instrument in force under section 29.

## Division 3—Emissions from covered vehicles

### Subdivision A—Final and interim emissions value

#### 17 Duty to ensure that final emissions value is zero or less

- (1) If there is a covered vehicle for a person for a year beginning on or after 1 January 2025, the person must ensure that, at the start of the final reconciliation day for the year, the person's final emissions value for the year is zero or less.

Civil penalty: The person's final emissions value for the year multiplied by \$100.

Note: See also section 90 (indexation).

- (2) The **final reconciliation day** for a year is the third 1 February after the end of the year.

Example: The final reconciliation day for 2025 is 1 February 2028.

#### 18 Final emissions value

A person's **final emissions value** for a year is the number worked out using the following formula:

$$IEV - U$$

where:

**IEV** is the person's interim emissions value for the year.

**U** is the number of units extinguished under section 42 for the purpose of reducing the person's final emissions value for the year.

#### 19 Interim emissions value

A person's **interim emissions value** for a year is the number worked out using the following formula (rounded to the nearest whole number and rounded up if the first decimal place is 5 or more):

$$\sum_i (E_i - ET_i)$$

where:

*i* is a covered vehicle for the person for the year.

*E*, for a covered vehicle for the person for the year, is the emissions number for the vehicle for the year.

*ET*, for a covered vehicle for the person for the year, is the emissions target for the vehicle for the year.

## **Subdivision B—Emissions number**

### **20 Emissions number**

The *emissions number* for a vehicle for a year is the number of grams of carbon dioxide emissions that are entered on the RAV (in grams of carbon dioxide per kilometre) in relation to the vehicle at the start of the interim reconciliation day for the year.

Example: If the carbon dioxide emissions that are entered on the RAV in relation to a vehicle at the start of the interim reconciliation day for a year are 130.67g/km, then the emissions number for the vehicle for the year is 130.67.

## **Subdivision C—Emissions target**

### **21 Emissions target**

The *emissions target* for a vehicle for a year is the number worked out using the following formula:

$$HL + MAF(DM - RM)$$

where:

*HL* is the headline limit for the vehicle for the year.

*MAF* is the mass adjustment factor for the vehicle for the year.

*DM* is the designated MIRO for the vehicle for the year.

*RM* is the reference MIRO for the vehicle for the year.

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**22 Headline limit**

*Years in introductory period*

- (1) The **headline limit** for a vehicle for a year specified in column 1 of an item of the following table is:
- (a) if the vehicle is a type 1 vehicle—the number specified in column 2 of that item; or
  - (b) if the vehicle is a type 2 vehicle—the number specified in column 3 of that item.

<b>Headline limit</b>			
<b>Item</b>	<b>Column 1 Year</b>	<b>Column 2 Type 1 vehicles</b>	<b>Column 3 Type 2 vehicles</b>
1	2025	141	210
2	2026	117	180
3	2027	92	150
4	2028	68	122
5	2029	58	110

Note: Headline limits for years in the introductory period were determined consistently with the NEDC (New European Driving Cycle) test procedure.

*Later years—type 1 vehicles*

- (2) The **headline limit** for a type 1 vehicle for a year beginning after the introductory period is:
- (a) if an instrument in force under section 31 determines a number for the headline limit for type 1 vehicles for the year—that number; or
  - (b) otherwise—the headline limit for type 1 vehicles for the previous year.

*Later years—type 2 vehicles*

- (3) The **headline limit** for a type 2 vehicle for a year beginning after the introductory period is:
-



- (a) if an instrument in force under section 31 determines a number for the headline limit for type 2 vehicles for the year—that number; or
- (b) otherwise—the headline limit for type 2 vehicles for the previous year.

## 23 Mass adjustment factor

### *Type 1 vehicles*

- (1) The **mass adjustment factor** for a type 1 vehicle is:
  - (a) for 2025—0.0663; or
  - (b) for a later year:
    - (i) if an instrument in force under section 32 determines a number for the mass adjustment factor for type 1 vehicles for the year—that number; or
    - (ii) otherwise—the mass adjustment factor for type 1 vehicles for the previous year.

### *Type 2 vehicles*

- (2) The **mass adjustment factor** for a type 2 vehicle is:
  - (a) for 2025—0.0324; or
  - (b) for a later year:
    - (i) if an instrument in force under section 32 determines a number for the mass adjustment factor for type 2 vehicles for the year—that number; or
    - (ii) otherwise—the mass adjustment factor for type 2 vehicles for the previous year.

## 24 Designated MIRO

- (1) The **designated MIRO** for a vehicle for a year is:
  - (a) if the MIRO number for the vehicle for the year is less than or equal to the lower breakpoint for the vehicle for the year—that lower breakpoint; or
  - (b) if the MIRO number for the vehicle for the year is between the lower breakpoint for the vehicle for the year and the

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upper breakpoint for the vehicle for the year—that MIRO number; or

- (c) if the MIRO number for the vehicle for the year is greater than or equal to the upper breakpoint for the vehicle for the year—that upper breakpoint.
- (2) The **MIRO number** for a vehicle for a year is the number of kilograms in the MIRO (mass in running order) that is entered on the RAV in relation to the vehicle at the start of the interim reconciliation day for the year.

Example: If the MIRO (mass in running order) that is entered on the RAV in relation to a vehicle at the start of the interim reconciliation day for a year is 2,150.3kg, then the MIRO number for the vehicle for the year is 2,150.3.

## 25 Lower breakpoint

### *Years in introductory period*

- (1) The **lower breakpoint** for a vehicle for a year in the introductory period is 1,500 (whether the vehicle is a type 1 or type 2 vehicle).

### *Later years*

- (2) The **lower breakpoint** for a type 1 vehicle for a year beginning after the introductory period is:
- (a) if an instrument in force under section 31 determines a number for the lower breakpoint for type 1 vehicles for the year—that number; or
- (b) otherwise—the lower breakpoint for type 1 vehicles for the previous year.
- (3) The **lower breakpoint** for a type 2 vehicle for a year beginning after the introductory period is:
- (a) if an instrument in force under section 31 determines a number for the lower breakpoint for type 2 vehicles for the year—that number; or
- (b) otherwise—the lower breakpoint for type 2 vehicles for the previous year.

## 26 Upper breakpoint

### *Years in introductory period*

- (1) The **upper breakpoint** for a vehicle for a year in the introductory period is:
  - (a) if the vehicle is a type 1 vehicle—2,200; or
  - (b) if the vehicle is a type 2 vehicle—2,400.

### *Later years*

- (2) The **upper breakpoint** for a type 1 vehicle for a year beginning after the introductory period is:
  - (a) if an instrument in force under section 31 determines a number for the upper breakpoint for type 1 vehicles for the year—that number; or
  - (b) otherwise—the upper breakpoint for type 1 vehicles for the previous year.
- (3) The **upper breakpoint** for a type 2 vehicle for a year beginning after the introductory period is:
  - (a) if an instrument in force under section 31 determines a number for the upper breakpoint for type 2 vehicles for the year—that number; or
  - (b) otherwise—the upper breakpoint for type 2 vehicles for the previous year.

## 27 Reference MIRO

### *Type 1 vehicles*

- (1) The **reference MIRO** for a type 1 vehicle is:
  - (a) for 2025—1,723; or
  - (b) for a later year:
    - (i) if an instrument in force under section 32 determines a number for the reference MIRO for type 1 vehicles for the year—that number; or
    - (ii) otherwise—the reference MIRO for type 1 vehicles for the previous year.

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*Type 2 vehicles*

- (2) The **reference MIRO** for a type 2 vehicle is:
- (a) for 2025—2,155; or
  - (b) for a later year:
    - (i) if an instrument in force under section 32 determines a number for the reference MIRO for type 2 vehicles for the year—that number; or
    - (ii) otherwise—the reference MIRO for type 2 vehicles for the previous year.

## **Division 4—Determinations made by the Minister**

### **Subdivision A—Determinations**

#### **28 Concessional RAV entry approval pathway**

- (1) The Minister may, by legislative instrument, determine that a class of road vehicle is covered by paragraph (e) of the definition of *covered vehicle* in subsection 12(2).

Note: See also Subdivision B (making a determination) and Subdivision C (consultation requirements).

- (2) A determination under this section must commence at the start of a year.

#### **29 Status for class of vehicle**

- (1) The Minister may, by legislative instrument, determine that a class of road vehicle has one of the following:

- (a) type 1 vehicle status;
- (b) type 2 vehicle status;
- (c) exempt vehicle status.

Note: See also Subdivision B (making a determination) and Subdivision C (consultation requirements).

- (2) A determination under this section may provide that a class of road vehicle containing any of the following vehicles has type 2 vehicle status or exempt vehicle status:

- (a) vehicles in the MA (passenger car) vehicle category;
- (b) vehicles in the MB (forward-control passenger vehicle) vehicle category;
- (c) light off-road passenger vehicles.

- (3) A determination under this section may provide that a class of road vehicle containing any of the following vehicles has type 1 vehicle status or exempt vehicle status:

- (a) vehicles in the NA (light goods vehicle) vehicle category;
- (b) vehicles in the NB1 vehicle subcategory of the NB (medium goods vehicle) vehicle category;

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- (c) heavy off-road passenger vehicles.
- (4) Subsections (2) and (3) do not limit subsection (1).

*Determination generally to be made at least 3 months in advance*

- (5) A determination under this section must:
  - (a) commence at the start of a year; and
  - (b) be registered on the Federal Register of Legislation at least 3 months before it commences (unless it commences on 1 January 2025).

### **30 Heavy off-road passenger vehicles**

- (1) The Minister may, by legislative instrument, determine that a chassis is covered by subparagraph (c)(i) of the definition of **heavy off-road passenger vehicle** in subsection 15(1).

Note: See also Subdivision B (making a determination) and Subdivision C (consultation requirements).

*Determination generally to be made at least 3 months in advance*

- (2) A determination under this section must:
  - (a) commence at the start of a year; and
  - (b) be registered on the Federal Register of Legislation at least 3 months before it commences (unless it commences on 1 January 2025).

### **31 Headline limit and breakpoint**

- (1) The Minister may, by legislative instrument, determine a number for any of the following, for type 1 or type 2 vehicles, for a particular year:
  - (a) the headline limit;
  - (b) the lower breakpoint;
  - (c) the upper breakpoint.

Note: See also Subdivision B (making a determination) and Subdivision C (consultation requirements).

*Headline limits must decrease or be worked out using more stringent test procedure*

- (2) The Minister may determine a number for the headline limit for type 1 or type 2 vehicles for a particular year only if:
- (a) the number is lower than the corresponding headline limit for the previous year; or
  - (b) both of the following apply:
    - (i) the Minister is satisfied that the number has been worked out using a test procedure that is more stringent than the test procedure used to work out the corresponding headline limit for the previous year;
    - (ii) if the number had been worked out using the same test procedure that was used to work out the corresponding headline limit for the previous year, it would be lower than that corresponding headline limit.

*Determination to be made at least 2 years in advance*

- (3) A determination under this section must:
- (a) commence at the start of a year; and
  - (b) be registered on the Federal Register of Legislation at least 2 years before it commences.

### **32 Mass adjustment factor and reference MIRO**

- (1) The Minister may, by legislative instrument, determine a number for any of the following, for type 1 or type 2 vehicles, for a particular year:
- (a) the mass adjustment factor;
  - (b) the reference MIRO.

Note: See also Subdivision B (making a determination) and Subdivision C (consultation requirements).

*Determination generally to be made at least 6 months in advance*

- (2) A determination under this section must:
- (a) commence at the start of a year; and

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- (b) be registered on the Federal Register of Legislation at least 6 months before it commences (unless it commences on 1 January 2025).

### **Subdivision B—Making a determination**

#### **33 Making a determination under this Division**

In making a determination under this Division, the Minister:

- (a) must consider the objects of this Act; and
- (b) may consider:
  - (i) any submissions made as part of public consultation in response to the notice published under subsection 36(1) in relation to the determination; and
  - (ii) any other matter the Minister considers relevant.

#### **34 Publication of reasons**

If the Minister makes a determination under this Division, the Minister must ensure that a notice is published on the Department's website that sets out:

- (a) the reasons for the Minister's decision to make the determination; and
- (b) if submissions were made as part of public consultation in response to the notice published under subsection 36(1) in relation to the determination—which of those submissions (if any) the Minister considered.

#### **35 Incorporation of other instruments**

- (1) A determination made under this Division may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing:
  - (a) as in force or existing at a particular time; or
  - (b) as in force or existing from time to time.
- (2) Subsection (1) has effect despite subsection 14(2) of the *Legislation Act 2003*.



## Subdivision C—Consultation requirements

### 36 Public consultation

- (1) Before making a determination under this Division, the Minister must ensure that a notice is published on the Department’s website that:
  - (a) includes a draft of the proposed determination; and
  - (b) invites any person to make a written submission to the Department in relation to the determination within a period (the *public consultation period*) specified in the notice; and
  - (c) meets the requirements (if any) prescribed by the rules.
- (2) The public consultation period must commence on a day after the notice is published, and must be:
  - (a) if the determination is to be made under section 32 (mass adjustment factor and reference MIRO)—at least 30 days; or
  - (b) otherwise—at least 60 days.
- (3) The Minister must not make the determination before the end of the public consultation period.

#### *Publication of submissions*

- (4) The Minister may arrange for the publication, on the Department’s website, of any submissions made in response to the notice published under subsection (1).
- (5) However, the Minister must not arrange for the publication of a submission if the person who made it requests, in writing, that the submission not be published.

## **Part 3—Units issued in respect of covered vehicles**

### **Division 1—Introduction**

#### **37 Simplified outline of this Part**

This Part provides for units to be issued by the Secretary in respect of vehicles covered by the new vehicle efficiency standard.

Units are issued to a person whose interim emissions value for a year is less than zero. The number of units issued depends on how much that value is less than zero.

Units may also be issued in respect of vehicles covered by the standard in other, limited circumstances.

A person may extinguish some or all of their units to reduce their final emissions value for a year. Alternatively, they may transfer units to another person who may extinguish them to reduce their own final emissions value for a year.

A person extinguishes or transfers units by requesting that the Secretary update the relevant accounts in the registry established under Part 4. The Secretary may refuse such a request in certain circumstances.

A unit is extinguished 3 years after issue, unless it is extinguished earlier.

A unit is the personal property of the person in whose registry account there is an entry for the unit.

## **Division 2—Issue of units**

### **38 How units are issued etc.**

- (1) Units are issued to a person under this Division on behalf of the Commonwealth.
- (2) Units may be issued to a person under more than one provision of this Division in respect of the same covered vehicle.
- (3) The Secretary issues a unit to a person under this Division by making an entry for the unit in the person's registry account.

### **39 Interim emissions value less than zero**

- (1) If a person's interim emissions value for a year beginning on or after 1 January 2025 is less than zero, the Secretary must:
  - (a) issue a number of units to the person that is equal to the absolute value of the person's interim emissions value for the year; and
  - (b) do so as soon as practicable after the interim reconciliation day for the year.

Example: If a person's interim emissions value for a year is -200, the absolute value is 200 and, if the person has a registry account, they will be issued 200 units.

- (2) However, if:
  - (a) the Secretary is required to issue a unit to a person under subsection (1) as soon as practicable after the interim reconciliation day for a year; and
  - (b) the person does not have a registry account; and
  - (c) the person does not apply under section 53, within one year after that day, for the Secretary to open an account in the Registry in the person's name;then, despite that requirement, the Secretary must not issue the unit to the person.

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**40 Adjusted RAV entries**

*Application for units*

- (1) A person may apply for the Secretary to issue a specified number of units to the person under this section.
- (2) The application must:
  - (a) be in writing; and
  - (b) meet the requirements (if any) prescribed by the rules; and
  - (c) be accompanied by the fee (if any) prescribed by the rules.
- (3) A fee prescribed for the purposes of paragraph (2)(c) must not be such as to amount to taxation.

*Issue of units*

- (4) If a person makes an application under subsection (1), the Secretary may issue one or more units to the person if:
  - (a) there is a covered vehicle for the person for a year beginning on or after 1 January 2025; and
  - (b) the person has a registry account; and
  - (c) at a time after the interim reconciliation day for the year either or both of the following subparagraphs apply:
    - (i) the number of grams of carbon dioxide emissions that are entered (in grams of carbon dioxide per kilometre) on the RAV in relation to the vehicle (the **adjusted emissions number**) is different from the emissions number for the vehicle for the year;
    - (ii) the number of kilograms in the MIRO (mass in running order) that is entered on the RAV in relation to the vehicle (the **adjusted MIRO number**) is different from the MIRO number for the vehicle for the year; and
  - (d) the person's interim emissions value for the year would be lower if it were worked out using:
    - (i) if only subparagraph (c)(i) applies—the adjusted emissions number; or
    - (ii) if only subparagraph (c)(ii) applies—the adjusted MIRO number; or

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- (iii) if both subparagraphs (c)(i) and (ii) apply—the adjusted emissions number and the adjusted MIRO number.
- (5) The number of units issued to the person must not exceed the difference between:
- (a) the person's interim emissions value for the year; and
  - (b) the number that is equal to what the person's interim emissions value for the year would be if it were worked out using:
    - (i) if only subparagraph (4)(c)(i) applies—the adjusted emissions number; or
    - (ii) if only subparagraph (4)(c)(ii) applies—the adjusted MIRO number; or
    - (iii) if both subparagraphs (4)(c)(i) and (ii) apply—the adjusted emissions number and the adjusted MIRO number.

*Notice of decision*

- (6) If the Secretary decides:
- (a) to not issue units to the person; or
  - (b) to issue fewer units to the person than the number of units specified in the application;
- the Secretary must give the person written notice of the decision and the reasons for the decision.

**41 Destroyed vehicles***Application for units*

- (1) A person may apply for the Secretary to issue a specified number of units to the person, under this section, in respect of a specified covered vehicle for the person for a year beginning on or after 1 January 2025.
- (2) The application must:
- (a) be in writing; and
  - (b) meet the requirements (if any) prescribed by the rules; and
  - (c) be accompanied by the fee (if any) prescribed by the rules.

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- (3) A fee prescribed for the purposes of paragraph (2)(c) must not be such as to amount to taxation.

*Issue of units*

- (4) If a person makes an application under subsection (1), the Secretary may issue one or more units to the person if:
- (a) the Secretary is satisfied that:
    - (i) the vehicle was destroyed before the final reconciliation day for the year; and
    - (ii) the vehicle was not provided to a consumer for the first time in Australia; and
  - (b) the destroyed vehicle adjustment for the vehicle for the year is more than zero; and
  - (c) the person has a registry account.
- (5) The number of units issued to the person in respect of the vehicle must not exceed the destroyed vehicle adjustment for the vehicle for the year.

- (6) The ***destroyed vehicle adjustment*** for a vehicle for a year is the number worked out using the following formula (rounded to the nearest whole number and rounded up if the first decimal place is 5 or more):

$$E - ET$$

where:

***E*** is the emissions number for the vehicle for the year.

***ET*** is the emissions target for the vehicle for the year.

- (7) For the purposes of subparagraph (4)(a)(ii), ***providing*** a vehicle includes the provision of the vehicle due to a sale, exchange, gift, lease, loan, hire or hire-purchase.

*Notice of decision*

- (8) If the Secretary decides:
- (a) to not issue units to the person; or

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(b) to issue fewer units to the person than the number of units specified in the application;  
the Secretary must give the person written notice of the decision and the reasons for the decision.

### **Division 3—Extinguishment and transfer of units**

#### **42 Units extinguished for purpose of reducing final emissions value**

- (1) If:
- (a) a person is the registered holder of one or more units; and
  - (b) the person's interim emissions value for a year is greater than zero;

the person may request that the Secretary extinguish any or all of those units for the purpose of reducing the person's final emissions value for the year (but not below zero).

- (2) The request must:
- (a) be made during the period:
    - (i) beginning on the interim reconciliation day for the year; and
    - (ii) ending on the second 31 December after the end of the year; and
  - (b) be in writing; and
  - (c) meet the requirements (if any) prescribed by the rules.

Example: A request to extinguish units for the purpose of reducing a person's final emissions value for 2025 must be made between 1 February 2026 (the interim reconciliation day for 2025) and 31 December 2027).

- (3) Within 15 business days after the request is made, the Secretary must extinguish the units covered by the request by removing the entry for each of those units from the person's registry account.
- (4) This section has effect subject to section 46 (Secretary may refuse to extinguish or transfer units).

#### **43 Units extinguished other than for purpose of reducing final emissions value**

- (1) If a person is the registered holder of one or more units, the person may request that the Secretary extinguish any or all of those units.



- (2) The request must be in writing and meet the requirements (if any) prescribed by the rules.
- (3) Within 15 business days after the request is made, the Secretary must extinguish the units covered by the request by removing the entry for each of those units from the person's registry account.
- (4) This section has effect subject to section 46 (Secretary may refuse to extinguish or transfer units).

#### **44 Units extinguished 3 years after issue unless extinguished earlier**

*Units issued in respect of interim emissions values*

- (1) If:
  - (a) the Secretary issues a unit to a person in accordance with a requirement under section 39 to issue the unit as soon as practicable after the interim reconciliation day for a year; and
  - (b) on the third 1 February after the interim reconciliation day for the year, the Secretary has not extinguished the unit under subsection 42(3) or 43(3);

the Secretary must extinguish the unit by removing the entry for the unit from the registry account of the registered holder of the unit.

Example: If the Secretary issues a unit to a person for 2025, the Secretary must extinguish the unit on 1 February 2029 (the interim reconciliation day for 2025 is 1 February 2026) if the unit has not already been extinguished.

*Units issued in respect of adjusted RAV entries and destroyed vehicles*

- (2) If:
  - (a) the Secretary issues a unit to a person under section 40 or 41; and
  - (b) 3 years after doing so, the Secretary has not extinguished the unit under subsection 42(3) or 43(3);

the Secretary must extinguish the unit by removing the entry for the unit from the registry account of the registered holder of the unit.

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**45 Request to transfer units**

- (1) A person (the *transferor*) may request that the Secretary transfer one or more units held in the transferor's registry account to the registry account of another person (the *transferee*).
- (2) The request must be in writing and meet the requirements (if any) prescribed by the rules.
- (3) Within 15 business days after the request is made, the Secretary must:
  - (a) remove the entry for the units covered by the request from the transferor's registry account; and
  - (b) make an entry for those units in the transferee's registry account.
- (4) This section has effect subject to section 46 (Secretary may refuse to extinguish or transfer units).

**46 Secretary may refuse to extinguish or transfer units**

*Scope*

- (1) This section applies if a person requests, in accordance with section 42, 43 or 45, that the Secretary take an action that is one of the following:
  - (a) extinguishing units for the purpose of reducing the person's final emissions value for a year (but not below zero);
  - (b) extinguishing units other than for the purpose of reducing the person's final emissions value for a year;
  - (c) transferring units from the person's registry account to another registry account.

*Refusal to take action*

- (2) The Secretary may refuse to take the action if the Secretary is satisfied that:
    - (a) it is prudent to do so in order to:
      - (i) ensure the integrity of the Registry; or
      - (ii) prevent, mitigate or minimise abuse of the Registry; or
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- (iii) prevent, mitigate or minimise criminal activity involving the Registry; or
- (b) the person has or may have:
  - (i) committed an offence against Division 4 of Part 4 (offences and civil penalties in relation to the Registry etc.) or the *Crimes Act 1914* or the *Criminal Code*, to the extent that it relates to this Act; or
  - (ii) contravened a civil penalty provision of this Act (other than section 17); or
  - (iii) committed an offence against Part 2 of the *Road Vehicle Standards Act 2018*; or
  - (iv) contravened a civil penalty provision of Part 2 of the *Road Vehicle Standards Act 2018*.

*Notification*

- (3) As soon as practicable after the Secretary refuses to take the action, the Secretary must give written notice of the refusal to the person.
- (4) The notice must invite the person to request the Secretary to cease to refuse to take the action.
- (5) A request under subsection (4) must:
  - (a) be in writing; and
  - (b) meet the requirements (if any) prescribed by the rules; and
  - (c) set out the reason for the request.
- (6) If the person makes a request under subsection (4), the Secretary may, by written notice given to the person, require the person to give the Secretary, within the period specified in the notice, further information in connection with that request.

*Prior notice not required*

- (7) The Secretary is not required to give any prior notice of a refusal under this section.

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*Decision on request*

- (8) If the Secretary receives a request under subsection (4), the Secretary must:
  - (a) cease to refuse to take the action; or
  - (b) decide to continue to refuse to take the action.
- (9) The Secretary must take all reasonable steps to ensure that a decision is made under subsection (8):
  - (a) if the Secretary requires the person to give further information under subsection (6) in relation to the request—within 7 days after the person gave the Secretary the information; or
  - (b) otherwise—within 7 days after the request was made.
- (10) As soon as practicable after the Secretary makes a decision under subsection (8), the Secretary must notify the person, in writing, of the decision.

## **Division 4—Property in units**

### **47 Units are personal property**

- (1) A unit is personal property and, subject to this Act, is transmissible by assignment, by will and by devolution by operation of law.
- (2) A unit may be extinguished in accordance with this Act.

### **48 Ownership of units**

- (1) The registered holder of a unit:
  - (a) is the legal owner of the unit; and
  - (b) may, subject to this Act, deal with the unit as its legal owner and give good discharges for any consideration for any such dealing.
- (2) Subsection (1) only protects a person who deals with the registered holder of the unit as a purchaser:
  - (a) in good faith for value; and
  - (b) without notice of any defect in the title of the registered holder.

### **49 Equitable interests in relation to units**

To avoid doubt, this Act does not affect:

- (a) the creation of; or
  - (b) any dealings with; or
  - (c) the enforcement of;
- equitable interests in relation to a unit.

## **Part 4—The Registry**

### **Division 1—Introduction**

#### **50 Simplified outline of this Part**

This Part provides for the creation of a registry through which units are issued, transferred and extinguished in connection with the new vehicle efficiency standard.

The registry is established and maintained by the Secretary.

Registry accounts may be opened by persons who have vehicles covered by the standard.

Registry accounts may be closed by the Secretary in certain circumstances.

The Secretary may correct or rectify the registry.

There are a number of offences and civil penalties in relation to the registry.

The rules may provide further in relation to the registry.

## **Division 2—The Registry and registry accounts**

### **Subdivision A—Establishing and maintaining the Registry**

#### **51 The New Vehicle Efficiency Standard Unit Registry**

- (1) The Secretary must establish and maintain a registry of units to be known as the New Vehicle Efficiency Standard Unit Registry.
- (2) The Registry is to be maintained by electronic means.
- (3) The Registry is not a legislative instrument.

#### **52 Assistance of Clean Energy Regulator**

- (1) The Clean Energy Regulator may assist the Secretary to perform the Secretary's functions and exercise the Secretary's powers in relation to the establishment and maintenance of the Registry if the Secretary requests such assistance.
- (2) The assistance may include providing, or arranging the provision of, services in relation to the establishment and maintenance of the Registry.

### **Subdivision B—Opening and closing registry accounts**

#### **53 Application to open registry account**

- (1) A person may apply for the Secretary to open an account in the Registry in the person's name.
- (2) The application must:
  - (a) be in writing; and
  - (b) meet the requirements (if any) prescribed by the rules; and
  - (c) be accompanied by the fee (if any) prescribed by the rules.
- (3) A fee prescribed for the purposes of paragraph (2)(c) must not be such as to amount to taxation.

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**54 Request for further information**

- (1) If a person makes an application under section 53, the Secretary may, by notice in writing, require the person to give the Secretary, within the period specified in the notice, such further information in relation to the application as the Secretary requires.
- (2) Despite subsection 55(1), the Secretary is not required to decide the application, and may cease considering whether to decide the application, if the person does not provide the required information within the specified period.

**55 Opening of registry account**

- (1) If a person makes an application in accordance with section 53, the Secretary must decide to:
    - (a) open an account in the Registry in the person's name; or
    - (b) refuse to open such an account.
  - (2) The Secretary must not decide to open an account in the Registry in the person's name unless the Secretary is satisfied that:
    - (a) there is a covered vehicle for the person for 2025 or a later year; and
    - (b) the person does not have another registry account; and
    - (c) the person is a fit and proper person, having regard to:
      - (i) whether the Secretary has previously closed a registry account of the person under section 57; and
      - (ii) the matters (if any) prescribed by the rules; and
      - (iii) any other matter the Secretary considers relevant.
  - (3) If the Secretary decides to refuse to open an account in the Registry in a person's name, the Secretary must give the person written notice of the decision and the reasons for the decision.
  - (4) Paragraph (2)(a) does not apply in relation to an application accompanying a declaration of transmission made in accordance with section 68 (transmission of units by operation of law etc.).
  - (5) An account opened in a person's name under paragraph (1)(a) is the person's **registry account**.
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### **56 Voluntary closure of registry account**

- (1) A person who has a registry account may apply for the Secretary to close the account.
- (2) The application must:
  - (a) be in writing; and
  - (b) meet the requirements (if any) prescribed by the rules; and
  - (c) be accompanied by the fee (if any) prescribed by the rules.
- (3) If a person makes an application in accordance with this section, the Secretary may close the person's Registry account if there are no entries for units in the account.
- (4) A fee prescribed for the purposes of paragraph (2)(c) must not be such as to amount to taxation.
- (5) The Registry must set out a record of each closure under this section.

### **57 Unilateral closure of registry account**

- (1) The Secretary may close a person's registry account if the Secretary is satisfied that the person has:
  - (a) committed an offence against:
    - (i) Division 4; or
    - (ii) the *Crimes Act 1914* or the *Criminal Code*, to the extent that it relates to this Act; or
  - (b) contravened a civil penalty provision of this Act (other than section 17); or
  - (c) committed an offence against Part 2 of the *Road Vehicle Standards Act 2018*; or
  - (d) contravened a civil penalty provision of Part 2 of the *Road Vehicle Standards Act 2018*.
- (2) At least 30 days before closing the person's registry account, the Secretary must give the person a written notice that states that:
  - (a) the Secretary proposes to close the account; and

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- (b) any units held in the account when the account is closed will be extinguished.
- (3) The notice must meet the requirements (if any) prescribed by the rules.
- (4) If the Secretary closes the account, any units held in the account immediately before it is closed are extinguished when the account is closed.
- (5) The Registry must set out a record of each closure under this section.

## **Division 3—Correction and rectification of the Registry**

### **58 Corrections of clerical errors, obvious defects or unauthorised entries etc.**

#### *Power of correction*

- (1) The Secretary may alter the Registry for the purposes of correcting an error that is any of the following:
  - (a) a clerical error or an obvious defect in the Registry;
  - (b) an entry made in the Registry without sufficient cause;
  - (c) an entry wrongly existing in the Registry;
  - (d) an entry wrongly removed from the Registry;within 4 years after the error is made.
- (2) The Secretary may exercise the power conferred by subsection (1):
  - (a) on application being made to the Secretary by a person; or
  - (b) on the Secretary's own initiative.
- (3) The Secretary must not exercise the power conferred by subsection (1) of this section in a manner contrary to a decision of a relevant court in proceedings under section 59 (rectification of the Registry by court order).
- (4) The Secretary must not exercise the power conferred by subsection (1) of this section in a manner contrary to section 47 (units are personal property).

#### *Application for correction*

- (5) An application under paragraph (2)(a) must:
  - (a) be in writing; and
  - (b) meet the requirements (if any) prescribed by the rules; and
  - (c) be accompanied by the fee (if any) prescribed by the rules.
- (6) A fee prescribed for the purposes of paragraph (5)(c) must not be such as to amount to taxation.
- (7) If:

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- (a) the Secretary decides to refuse to alter the Registry under subsection (1); and
- (b) the Secretary made the decision in response to an application; the Secretary must give written notice of the decision to the applicant.

*Publication of alteration*

- (8) If the Secretary alters the Registry under subsection (1), the Secretary must publish a notice on the Department's website setting out the details of the alteration.

**59 Rectification of the Registry by court order**

*Application for rectification of Registry*

- (1) A person (including the Secretary) may apply to a relevant court for the rectification of the Registry if the person is aggrieved by any of the following:
  - (a) the omission of an entry from the Registry;
  - (b) an entry made in the Registry without sufficient cause;
  - (c) an entry wrongly existing in the Registry;
  - (d) an error or defect in an entry in the Registry;
  - (e) an entry wrongly removed from the Registry.

*Court orders*

- (2) If an application is made under subsection (1) to a relevant court for the rectification of the Registry, the court may make such order as it thinks fit directing the rectification of the Registry.
- (3) An order made by the court must not be expressed to take effect before the order is made.
- (4) In proceedings under this section, the court may decide any question that it is necessary or expedient to decide in connection with the rectification of the Registry.

*Appearance of Secretary*

- (5) If a person (other than the Secretary) makes an application under subsection (1), notice of the application must be given to the Secretary, whose representative:
- (a) may appear and be heard; and
  - (b) must appear if so directed by the court.

*Compliance with order*

- (6) The Secretary must rectify the Registry in accordance with an order made under subsection (2).

## Division 4—Offences and civil penalties

### 60 False or misleading information

A person must not, in giving information in compliance or purported compliance with this Act, give the Secretary:

- (a) information that is false or misleading in a material particular; or
- (b) information that omits any matter or thing without which the information is false or misleading in a material particular.

Note: A person who contravenes this section might also commit an offence under Division 136 or 137 of the Criminal Code.

Civil penalty: 60 penalty units.

### 61 False Registry copies or extracts

A person commits an offence if:

- (a) the person produces or tenders in evidence a document; and
- (b) the document falsely purports to be a copy of or extract from an entry in the Registry.

Penalty: Imprisonment for 12 months or 60 penalty units, or both.

Note: The same conduct may be an offence against both this section and section 137.2 of the Criminal Code.

### 62 Contravention of requirement in relation to registry account

(1) A person commits an offence if:

- (a) the person is subject to a requirement under the rules in relation to a registry account; and
- (b) the person engages in conduct; and
- (c) the conduct contravenes the requirement.

Penalty: 120 penalty units.

(2) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (1).

- (3) If a person is subject to a requirement under the rules in relation to a registry account, the person must not contravene the requirement.

Civil penalty for contravention of this subsection: 120 penalty units.

### **63 Contravention of condition imposed on registry account**

- (1) A person commits an offence if:
- (a) the person has a registry account; and
  - (b) the Secretary imposes a condition on the account; and
  - (c) the person engages in conduct; and
  - (d) the conduct contravenes the condition.

Penalty: 120 penalty units.

- (2) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (1).

- (3) If:
- (a) a person has a registry account; and
  - (b) the Secretary imposes a condition on the account;
- the person must not contravene the condition.

Civil penalty for contravention of this subsection: 120 penalty units.

### **64 Failure of former registry account holder to retain record**

- (1) A person commits an offence if:
- (a) the person had a registry account that was closed under section 56 or 57; and
  - (b) the Secretary imposed a condition on the account that the person retain a specified record for a period of 7 years starting on the day the record is made; and
  - (c) the person does not retain the record for that 7 year period.

Penalty: 60 penalty units.

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- (2) Section 15.4 of the Criminal Code (extended geographical jurisdiction—category D) applies to an offence against subsection (1).
- (3) If:
- (a) a person had a registry account that was closed under section 56 or 57; and
  - (b) the Secretary imposed a condition on the account that the person retain a record for a period of 7 years starting on the day the record is made;
- the person must retain the record for that 7 period.
- Civil penalty for contravention of this subsection: 60 penalty units.

**65 Failure of former registry account holder to provide information**

- (1) A person commits an offence if:
- (a) the person had a registry account that was closed under section 56 or 57; and
  - (b) the Secretary imposed a condition on the account that if the Secretary requests that the person provide specified information to the Secretary within a specified period, the person must do so; and
  - (c) the person does not comply such a request.
- Penalty: 60 penalty units.
- (2) Section 15.4 of the Criminal Code (extended geographical jurisdiction—category D) applies to an offence against subsection (1).
- (3) If:
- (a) a person had a registry account that was closed under section 56 or 57; and
  - (b) the Secretary imposed a condition on the account that if the Secretary requests that the person provide specified information to the Secretary within a specified period, the person must do so;
- the person must comply with such a request.
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Civil penalty for contravention of this subsection: 60 penalty  
units.

## Division 5—Other matters

### 66 Suspension of operation of the Registry

- (1) The Secretary may temporarily suspend the operation of the Registry if satisfied that:
  - (a) the suspension is required so that maintenance can be carried out; or
  - (b) it is prudent to suspend the operation of the Registry in order to:
    - (i) ensure the integrity of the Registry; or
    - (ii) prevent, mitigate or minimise abuse of the Registry; or
    - (iii) prevent, mitigate or minimise criminal activity involving the Registry.
- (2) If the Secretary suspends the operation of the Registry, the Secretary:
  - (a) must publish a notice on the Department's website informing the public of the suspension; and
  - (b) may defer taking action in relation to the Registry until the suspension ends.

### 67 Evidentiary provisions

- (1) The Secretary may supply a copy of or extract from the Registry certified by the Secretary to be a true copy or true extract, as the case may be.

Note: See also section 155 of the *Evidence Act 1995*.
- (2) The Secretary may charge a fee prescribed by the rules for supplying a certified copy or extract under subsection (1).
- (3) A fee prescribed for the purposes of subsection (2) must not be such as to amount to taxation.

### 68 Transmission of units by operation of law etc.

- (1) If a unit held in the registry account of a person (the *transferor*) is transmitted from the transferor to another person (the *transferee*)
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by any lawful means other than by a transfer under section 45, the transmission is of no force until the Secretary transfers the unit under subsection (7) or (8).

*Declaration of transmission*

- (2) The transferee must, within 90 days after the transmission, give the Secretary:
  - (a) a declaration of transmission; and
  - (b) such evidence of transmission (if any) as is specified in the rules.
- (3) A declaration of transmission must meet the requirements (if any) prescribed by the rules.
- (4) If the transferee does not already have a registry account, the declaration of transmission must be accompanied by an application under section 53 for the Secretary to open a registry account in the name of the transferee.
- (5) If the Secretary is satisfied that special circumstances warrant the extension of the 90-day period mentioned in subsection (2), the Secretary may extend that period.
- (6) The Secretary may exercise the power conferred by subsection (5):
  - (a) on written application being made to the Secretary by the transferee; or
  - (b) on the Secretary's own initiative.

*Transfer of unit—transferee already has a registry account*

- (7) If the transferee already has a registry account, the Secretary must, as soon as practicable after receiving the declaration of transmission, transfer the unit from the transferor's registry account to the transferee's registry account.

*Transfer of unit—transferee does not have a registry account*

- (8) If:
  - (a) the transferee does not already have a registry account; and

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- (b) in accordance with the application mentioned in subsection (4), the Secretary has opened a registry account in the name of the transferee;

the Secretary must, as soon as practicable after opening that registry account, transfer the unit from the transferor's registry account to the transferee's registry account.

*Record*

- (9) If the Secretary transfers the unit under subsection (7) or (8), the Registry must set out a record of the declaration of transmission.

*Notification*

- (10) If:
- (a) the Secretary decides to:
    - (i) extend the 90-day period mentioned in subsection (2);
    - or
    - (ii) refuse to extend the 90-day period mentioned in subsection (2); and
  - (b) the Secretary makes the decision in response to an application;
- the Secretary must give written notice of the decision to the applicant.

**69 Rules for or in relation to the Registry**

- (1) The rules may provide for or in relation to the Registry.
  - (2) The rules may provide for or in relation to any of the following:
    - (a) requirements in relation to registry accounts;
    - (b) the suspension of registry accounts;
    - (c) the identification of registry accounts;
    - (d) the identification of units;
    - (e) the registration of equitable interests in relation to units;
    - (f) the inclusion of information in the Registry;
    - (g) the keeping of records in relation to a registry account by the person in whose name the account was opened under paragraph 55(1)(a);
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- (h) the provision of information to the Secretary that is relevant to the Registry or a registry account;
  - (i) the making of applications to the Administrative Appeals Tribunal for review of decisions made by the Secretary in relation to the Registry;
  - (j) the charging of fees in relation to the Registry.
- (3) The rules may provide that the Secretary may impose conditions on a registry account, including any of the following:
- (a) a condition that the person in whose name the account is opened under paragraph 55(1)(a) retain a specified record in relation to the account for a period of 7 years starting on the day the record is made;
  - (b) a condition that if the Secretary requests that the person in whose name the account is opened under paragraph 55(1)(a) provide the Secretary with specified information that is relevant to the account within a specified period, the person comply with the request.
- (4) Subsections (2) and (3) do not limit subsection (1).
- (5) A fee prescribed for the purposes of paragraph (2)(j) must not be such as to amount to taxation.

## Part 5—Compliance and enforcement

### Division 1—Introduction

#### 70 Simplified outline of this Part

This Part applies the Regulatory Powers Act in relation to the new vehicle efficiency standard. This creates a framework for monitoring and investigating compliance with this Act, as well as providing for the enforcement of civil penalty provisions and the use of infringement notices and enforceable undertakings.

The Secretary may appoint inspectors for the purposes of the framework.

The Secretary may also compel the production of information or documents for certain purposes.

This Part also modifies the Regulatory Powers Act as it applies to a person's duty to ensure that the person's final emissions value for a year is zero or less.

A relevant court may, on application of the Secretary, make an adverse publicity order or a non-punitive order against a person.

#### 71 Appointment of inspectors

- (1) The Secretary may, in writing, appoint a person who is one of the following as an inspector for the purposes of this Act:
  - (a) an SES employee, or acting SES employee, in the Department;
  - (b) an APS employee who holds or performs the duties of an Executive Level 1 or 2 position or an equivalent position in the Department;
  - (c) a person appointed as an inspector under section 49 of the *Road Vehicle Standards Act 2018*.

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- (2) The Secretary must not appoint a person as an inspector unless the Secretary is satisfied that the person has the knowledge or experience necessary to properly exercise the powers of an inspector.
- (3) An inspector must, in exercising powers as such, comply with any directions of the Secretary.
- (4) If a direction is given under subsection (3) in writing, the direction is not a legislative instrument.

## Division 2—Notices to produce

### 72 Secretary may require person to give information etc.

#### *Scope*

- (1) This section applies if the Secretary reasonably believes that a person is capable of giving information, or producing a document, that is relevant for the purposes of investigating:
  - (a) an offence provision, or a civil penalty provision, of Division 4 of Part 4 (offences and civil penalties in relation to the Registry etc.); or
  - (b) an offence provision of the *Crimes Act 1914* or the *Criminal Code*, to the extent that it relates to this Act.

#### *Notice to produce*

- (2) The Secretary may, by written notice, require the person to give the information, or produce the document, to an inspector.
- (3) The notice must specify the following:
  - (a) how the person is to give the information or produce the document;
  - (b) the period (which must be at least 14 days after the day the notice is given) within which the person is to give the information or produce the document;
  - (c) the effect of subsection (4) and sections 137.1 and 137.2 of the *Criminal Code*.

#### *Civil penalty*

- (4) A person is liable to a civil penalty if the person refuses or fails to comply with a notice under this section.

Civil penalty:       60 penalty units.

- (5) Subsection (4) does not apply to the extent that the person is not capable of complying with the notice.
- (6) Subsection (4) does not apply to the extent that:



- (a) the notice relates to producing documents; and
  - (b) the person proves that, after a reasonable search, the person is not aware of the documents; and
  - (c) the person provides a written response to the notice, including a description of the scope and limitations of the search.
- (7) Without limiting paragraph (6)(b), a determination of whether a search is reasonable for the purposes of that paragraph may take into account any of the following:
- (a) the nature and complexity of the matter to which the notice relates;
  - (b) the number of documents involved;
  - (c) the ease and cost of retrieving a document relative to the resources of the person who was given the notice;
  - (d) any other relevant matter.

### **73 Retention of documents**

If documents are produced to an inspector in accordance with a notice under section 72, the inspector:

- (a) may take possession of, and may make copies of or take extracts from, the documents; and
- (b) may retain possession of the documents for such period as is necessary for the purposes of the investigation to which the documents relate; and
- (c) during that period must permit a person who would be entitled to inspect any one or more of the documents if they were not in the possession of the inspector to inspect at all reasonable times such of the documents as the person would be so entitled to inspect.

## Division 3—Monitoring

### 74 Monitoring powers

#### *Provisions subject to monitoring*

- (1) A provision is subject to monitoring under Part 2 of the Regulatory Powers Act if it is:
  - (a) a provision of this Act (other than section 17); or
  - (b) an offence provision of the *Crimes Act 1914* or the *Criminal Code*, to the extent that it relates to this Act.

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

#### *Information subject to monitoring*

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

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

#### *Related provisions, authorised applicant, authorised person, issuing officer, relevant chief executive and relevant court*

- (3) For the purposes of Part 2 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2):
  - (a) a provision of Part 2 of the *Road Vehicle Standards Act 2018* is related to those provisions and that information; and
  - (b) each of the following is an authorised applicant:
    - (i) the Secretary;
    - (ii) an SES employee, or acting SES employee, in the Department; and
  - (c) an inspector is an authorised person; and
  - (d) each of the following is an issuing officer:
    - (i) a magistrate;

- (ii) a Judge of a relevant court; and
- (e) the Secretary is the relevant chief executive; and
- (f) a relevant court (as defined in section 10 of this Act) is a relevant court.

*Person assisting*

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

*Extension to external Territories*

- (5) Part 2 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1) and the information mentioned in subsection (2), extends to every external Territory.

## Division 4—Investigation

### 75 Investigation powers

*Provisions subject to investigation*

- (1) A provision is subject to investigation under Part 3 of the Regulatory Powers Act if it is:
- (a) an offence provision of this Act; or
  - (b) a civil penalty provision of this Act (other than section 17); or
  - (c) an offence provision of the *Crimes Act 1914* or the *Criminal Code*, to the extent that it relates to this Act.

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

*Related provisions, authorised applicant, authorised person, issuing officer, relevant chief executive and relevant court*

- (2) For the purposes of Part 3 of the Regulatory Powers Act, as that Part applies in relation to evidential material that relates to a provision mentioned in subsection (1):
- (a) a provision of Part 2 of the *Road Vehicle Standards Act 2018* is related to that evidential material; and
  - (b) each of the following is an authorised applicant:
    - (i) the Secretary;
    - (ii) an SES employee, or acting SES employee, in the Department; and
  - (c) an inspector is an authorised person; and
  - (d) each of the following is an issuing officer:
    - (i) a magistrate;
    - (ii) a Judge of a relevant court; and
  - (e) the Secretary is the relevant chief executive; and
  - (f) a relevant court (as defined in section 10 of this Act) is a relevant court.

*Person assisting*

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

*Extension to external Territories*

- (4) Part 3 of the Regulatory Powers Act, as that Part applies in relation to a provision mentioned in subsection (1), extends to every external Territory.

## Division 5—Civil penalties

### 76 Civil penalty provisions

#### *Enforceable civil penalty provisions*

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

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

#### *Authorised applicant*

- (2) For the purposes of Part 4 of the Regulatory Powers Act, each of the following persons is an authorised applicant in relation to the civil penalty provisions of this Act:
- (a) the Minister;
  - (b) the Secretary;
  - (c) an SES employee, or acting SES employee, in the Department.

#### *Relevant court*

- (3) For the purposes of Part 4 of the Regulatory Powers Act, a relevant court (as defined in section 10 of this Act) is a relevant court in relation to the civil penalty provisions of this Act.

#### *Liability of Crown*

- (4) Part 4 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), does not make the Crown liable to a pecuniary penalty.

#### *Extension to external Territories*

- (5) Part 4 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), extends to every external Territory.

*Extended geographical jurisdiction for certain civil penalty provisions*

- (6) Each of the civil penalty provisions specified in subsection (7) is enforceable under Part 4 of the Regulatory Powers Act:
- (a) whether or not the conduct constituting the alleged contravention of the civil penalty provision occurs in Australia; and
  - (b) whether or not a result of the conduct constituting the alleged contravention of the civil penalty provision occurs in Australia.
- (7) The following provisions are specified:
- (a) section 17 (duty to ensure that final emissions value is zero or less);
  - (b) section 60 (false or misleading information);
  - (c) section 62 (contravention of requirement in relation to registry account);
  - (d) section 63 (contravention of condition on registry account);
  - (e) section 64 (failure of former registry account holder to retain record);
  - (f) section 65 (failure of former registry account holder to provide information).

## Division 6—Infringement notices

### 77 Infringement notices

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

- (1) A civil penalty provision of this Act is subject to an infringement notice under Part 5 of the Regulatory Powers Act.

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

#### *Infringement officer*

- (2) For the purposes of Part 5 of the Regulatory Powers Act, each of the following persons is an infringement officer in relation to the provisions mentioned in subsection (1):
- (a) the Secretary;
  - (b) an SES employee, or acting SES employee, in the Department.

#### *Relevant chief executive*

- (3) For the purposes of Part 5 of the Regulatory Powers Act, the Secretary is the relevant chief executive in relation to the provisions mentioned in subsection (1).

#### *Extension to external Territories*

- (4) Part 5 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), extends to every external Territory.



## **Division 7—Enforceable undertakings**

### **78 Enforceable undertakings**

#### *Enforceable provisions*

- (1) The following provisions are enforceable under Part 6 of the Regulatory Powers Act:
  - (a) an offence provision, or a civil penalty provision, of this Act (other than section 17);
  - (b) an offence provision of the *Crimes Act 1914* or the *Criminal Code*, to the extent that it relates to this Act.

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

#### *Authorised person*

- (2) For the purposes of Part 6 of the Regulatory Powers Act, each of the following persons is an authorised person in relation to the provisions mentioned in subsection (1):
  - (a) the Minister;
  - (b) the Secretary;
  - (c) an SES employee, or acting SES employee, in the Department.

#### *Relevant court*

- (3) For the purposes of Part 6 of the Regulatory Powers Act, a relevant court (as defined in section 10 of this Act) is a relevant court in relation to the provisions mentioned in subsection (1).

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

- (4) An authorised person in relation to a provision mentioned in subsection (1) must publish an undertaking given in relation to the provision on the Department's website.

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**Division 7** Enforceable undertakings

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*Extension to external Territories*

- (5) Part 6 of the Regulatory Powers Act, as that Part applies in relation to the provisions mentioned in subsection (1), extends to every external Territory.

## **Division 8—Modifications of the Regulatory Powers Act**

### **79 Duty to ensure that final emissions value is zero or less—civil penalty**

Despite subsection 82(5) of the Regulatory Powers Act, the pecuniary penalty that a court orders a person to pay for a contravention of the civil penalty provision in section 17 of this Act must not exceed the pecuniary penalty specified for that civil penalty provision.

### **80 Duty to ensure that final emissions value is zero or less—ancillary contraventions**

Section 92 of the Regulatory Powers Act (ancillary contravention of civil penalty provisions) does not apply in relation to the civil penalty provision in section 17 of this Act.

### **81 Duty to ensure that final emissions value is zero or less—mistake of fact**

Section 95 of the Regulatory Powers Act (mistake of fact) does not apply in relation to the civil penalty provision in section 17 of this Act.

### **82 Duty to ensure that final emissions value is zero or less— infringement notice**

*Amount to be stated in an infringement notice*

- (1) Despite subsection 104(2) of the Regulatory Powers Act, if an infringement notice relates to an alleged contravention of the civil penalty provision in section 17 of this Act, the amount to be stated in the notice for the purposes of paragraph 104(1)(f) of the Regulatory Powers Act is half the maximum penalty that a court could impose on the person for that contravention.

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*Other matters to be stated in an infringement notice*

- (2) If an infringement notice relates to an alleged contravention of the civil penalty provision in section 17 of this Act that consists of a person's final emissions value for a year being greater than zero at the start of the final reconciliation day for the year:
- (a) subparagraph 104(1)(e)(iii) of the Regulatory Powers Act does not apply in relation to the infringement notice; and
  - (b) the infringement notice must state the person's final emissions value for the year at the start of the final reconciliation day for the year.

## **Division 9—Adverse publicity orders**

### **83 Adverse publicity order in relation to duty to ensure that final emissions value is zero or less**

- (1) A relevant court may, on application of the Secretary, make an adverse publicity order in relation to a person who has contravened section 17.
- (2) An *adverse publicity order* in relation to a person is an order that requires the person:
  - (a) to disclose, in the way and to the persons specified in the order, such information as is so specified, being information that the person has possession of or access to; and
  - (b) to publish, at the person's expense and in the way specified in the order, an advertisement in the terms specified in, or determined in accordance with, the order.
- (3) Without limiting subsection (2), an adverse publicity order may require a person to disclose or publish information about the person's inefficient vehicles for a year.
- (4) This section does not limit a relevant court's powers under any other provision of this Part.

## Division 10—Non-punitive orders

### 84 Non-punitive orders

- (1) A relevant court may, on application of the Secretary, make one or more of the orders mentioned in subsection (2) in relation to a person who has engaged in conduct that contravenes a provision of this Act.
- (2) The court may make the following orders in relation to the person who has engaged in the conduct:
  - (a) an order for the purpose of ensuring that the person does not engage in the conduct, similar conduct, or related conduct, during the period of the order (which must not be longer than 3 years) including:
    - (i) an order directing the person to establish a compliance program for employees or other persons involved in the person's business, being a program designed to ensure their awareness of the responsibilities and obligations in relation to such conduct; and
    - (ii) an order directing the person to revise the internal operations of the person's business which led to the person engaging in such conduct;
  - (b) an order requiring the person to publish, at the person's expense and in the way specified in the order, an advertisement in the terms specified in, or determined in accordance with, the order.
- (3) Without limiting paragraph (2)(b), an order requiring a person to publish an advertisement may require the person to publish information about the person's inefficient vehicles for a year.
- (4) This section does not limit a relevant court's powers under any other provision of this Part.

## **Part 6—Miscellaneous**

### **Division 1—Introduction**

#### **85 Simplified outline of this Part**

This Part deals with miscellaneous matters, including the following:

- (a) the sharing and publication of information;
- (b) delegation;
- (c) the review of decisions by the Administrative Appeals Tribunal;
- (d) the making of rules by the Minister.

## Division 2—Publication and sharing of information

### 86 Publication of information

- (1) The Secretary must publish the following information on the Department's website:
  - (a) for each person for whom there is a covered vehicle for a year beginning on or after 1 January 2025—the person's interim emissions value for the year;
  - (b) the name of each person who has a registry account;
  - (c) the number of units held in each registry account;
  - (d) such other information as is prescribed by the rules.
- (2) The Secretary must publish a person's interim emissions value for a year under subsection (1) as soon as practicable after the interim reconciliation day for the year.
- (3) The Secretary must ensure that information published under subsection (1) is kept up to date.

### 87 Sharing of information

The Secretary may share information (other than personal information) obtained or generated under this Act with:

- (a) the Clean Energy Regulator for the purposes of performing any of its functions; or
- (b) the Environment Department for the purposes of administering an Act administered by the Environment Minister; or
- (c) the Climate Change Department for the purposes of administering an Act administered by the Climate Change Minister; or
- (d) an international body of an intergovernmental character for the purposes of monitoring obligations that Australia has as a party to an international agreement that relates to climate change; or
- (e) any other person or body prescribed by the rules for the purposes prescribed by the rules.



## **Division 3—Delegation**

### **88 Delegation**

- (1) The Secretary may, in writing, delegate any of the Secretary's functions or powers under this Act to an SES employee, or an acting SES employee, in the Department.
- (2) The functions or powers that may be delegated under subsection (1) include functions or powers the Secretary has as a relevant chief executive, authorised applicant, infringement officer or authorised person for the purposes of a provision of the Regulatory Powers Act because of this Act.

*Delegate must comply with directions*

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

## Division 4—Other matters

### 89 Reviewable decisions

Applications may be made to the Administrative Appeals Tribunal for review of the following decisions of the Secretary:

- (a) a decision under subsection 40(4) not to issue units or to issue fewer units than applied for;
- (b) a decision under subsection 41(4) not to issue units or to issue fewer units than applied for;
- (c) a decision under paragraph 46(8)(b) to continue to refuse to take an action;
- (d) a decision under paragraph 55(1)(b) to refuse to open a registry account;
- (e) a decision under section 57 to close a registry account;
- (f) a decision to refuse to alter the Registry under subsection 58(1) in response to an application.

### 90 Indexation

#### *Indexation of penalty amount*

- (1) If the indexation factor for an indexation day is greater than 1, the penalty amount is, on that day, replaced by the amount worked out using the following formula:

$$\text{The penalty amount immediately before the indexation day} \times \frac{\text{Indexation factor for the indexation day}}{\text{Indexation factor for the indexation day}}$$

- (2) The amount worked out under subsection (1) is to be rounded to the nearest whole dollar (rounding 50 cents upwards).

#### *Indexation factor*

- (3) The ***indexation factor*** for an indexation day is the number worked out using the following formula:

$$\frac{\text{Index number for the reference quarter}}{\text{Index number for the base quarter}}$$

- (4) The indexation factor is to be worked out to 3 decimal places (rounding up if the fourth decimal place is 5 or more).

*Changes to index reference period and publication of substituted index numbers*

- (5) Amounts are to be worked out under this section:
- (a) using only the index numbers published in terms of the most recently published index reference period for the Consumer Price Index; and
  - (b) disregarding index numbers published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the index reference period).

*Publication of penalty amount*

- (6) If the penalty amount is replaced under subsection (1) on the indexation day, the Secretary must, by notifiable instrument, publish the replacement penalty amount as soon as practicable after the indexation day. However, a failure by the Secretary to do so does not invalidate the indexation.

*Definitions*

- (7) In this section:

**base quarter** means the September quarter that has the highest index number of the September quarters before the reference quarter (but not earlier than the September quarter of 2027).

**indexation day** means 1 January 2029 and each later 1 January.

**index number**, for a quarter, means the All Groups Consumer Price Index number (being the weighted average of the 8 capital cities) published by the Australian Statistician for that quarter.

**penalty amount** means the dollar amount specified in subsection 17(1).

**reference quarter** means the September quarter before the indexation day.

Section 91

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*September quarter* means a period of 3 months starting on 1 July.

**91 Compensation for acquisition of property**

- (1) If the operation of this Act would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph), the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in the Federal Court or the Supreme Court of a State or Territory for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

**92 Rules**

- (1) The Minister may, by legislative instrument, make rules prescribing matters:
  - (a) required or permitted by this Act to be prescribed by the rules; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Despite subsection 14(2) of the *Legislation Act 2003*, the rules may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.
- (3) To avoid doubt, the rules may not do the following:
  - (a) create an offence or civil penalty;
  - (b) provide powers of:
    - (i) arrest or detention; or
    - (ii) entry, search or seizure;
  - (c) impose a tax;
  - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;

(e) directly amend the text of this Act.

### **93 Review of operation of Act**

- (1) The Minister must cause a review of the operation of this Act to be commenced before 31 December 2026.
- (2) The Minister must cause a written report about the review to be prepared.
- (3) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

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*[Minister's second reading speech made in—  
House of Representatives on 27 March 2024  
Senate on 16 May 2024]*

(48/24)

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