



Road Vehicle Standards Rules 2019

I, Michael McCormack, Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development, make the following rules.

Dated 13 February 2019

Michael McCormack
Deputy Prime Minister and Minister for Infrastructure, Transport and Regional
Development

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Part 1—Introduction

Division 1—Preliminary

1 Name

This instrument is the *Road Vehicle Standards Rules 2018*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Sections 4 to 236	A day or days to be fixed by the Minister by notifiable instrument. A commencement instrument must not specify a day that occurs more than 90 days before the commencement of section 15 of the <i>Road Vehicle Standards Act 2018</i> . However, if any of the provisions do not commence before the commencement of section 15 of the <i>Road Vehicle Standards Act 2018</i> , they commence at the same time as that section.	

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under the *Road Vehicle Standards Act 2018*.

Division 2—Simplified outline of this instrument

4 Simplified outline of this instrument

This instrument complements the *Road Vehicle Standards Act 2018* (the Act) by prescribing matters relating to the regulation of road vehicles and road vehicle components.

The Act provides that a road vehicle must generally be entered on the Register of Approved Vehicles (the RAV) before a person may provide the vehicle for the first time in Australia. Part 2 of this instrument provides for the keeping of the RAV. Among other things, it sets out the information to be included on the RAV and the persons who may enter and correct that information.

The Act also provides that a vehicle may be entered on the RAV if it satisfies the requirements of an entry pathway. Part 3 sets out the requirements of the two entry pathways – the type approval pathway and the concessional RAV entry approval pathway. Among other things, these pathways require that a road vehicle type approval or concessional RAV entry approval must be in force in relation to the vehicle. Part 3 provides for the grant of such approvals and the conditions to which they will be subject.

Part 4 of this instrument provides for the grant of other approvals to enable vehicles to satisfy the requirements of those entry pathways. Among other things, the Secretary may approve a corporation as a registered automotive workshop (a RAW) under Division 2 or authorised vehicle verifier (AVV) under Division 4. The Secretary may also approve a Model Report under Division 3. These approvals are relevant in a range of circumstances. For instance, one of the means by which certain vehicles may satisfy the requirements of the concessional RAV entry approval pathway is to be manufactured or modified by the holder of a RAW approval in accordance with an approved Model Report, then verified by the holder of an AVV approval.

Division 5 provides for the grant of testing facility approvals, which permit the holder of the approval to test vehicles and road vehicle components against vehicle standards at certain facilities. Evidence produced by testing conducted at such facilities is relevant to the grant of other approvals under this instrument.

Finally, Division 6 provides for the keeping of the Specialist and Enthusiast Vehicles Register (SEVs Register). A variant of a model, or a make and model, of vehicle that satisfies certain special criteria set out in that Division is eligible for entry on the SEVs Register. A vehicle covered by an entry on the SEVs Register may subsequently be entered on the RAV via the concessional RAV entry approval pathway if it meets the additional requirements set out in Part 3.

Part 5 provides for the grant of approvals to permit the importation of road vehicles into Australia. The Part deems the holder of a concessional RAV entry approval to be the holder of an import approval in certain circumstances. It also provides for two further types of import approval – non-RAV entry import approvals (for vehicles that are not, generally, to be used on a public road) and

reimportation import approvals (for vehicles that are outside Australia, but have been either entered on the RAV or fitted with an identification plate or used import plate under the Motor Vehicle Standards Act 1989).

Part 6 provides for the grant of approvals relating to road vehicle components intended for use in the manufacture or modification of certain road vehicles, and the conditions that apply to such approvals. While road vehicle components do not have to be approved in order to be used in road vehicles, the grant of a component type approval provides a means of simplifying the evidence requirements for certain other approvals.

Part 7 empowers the Minister and Secretary to vary, suspend or revoke approvals granted under this instrument, whether on the Minister or Secretary's own initiative (under Division 2) or the request of the approval-holder (under Division 3). Road vehicle type approvals and road vehicle component type approvals will also be automatically suspended in the circumstances set out in Division 4.

Part 8 provides for the recall of road vehicles and approved road vehicle components of particular kinds when, broadly speaking, it appears to the Minister that those vehicles or components do not comply (or it is likely that they do not comply) with relevant standards, or will or may cause injury to a person. It also requires a person who voluntarily takes action to recall road vehicles or road vehicle components to give notice of prescribed matters to the Minister and certain overseas parties.

Part 9 makes provision for a range of miscellaneous matters. Among other things, it requires the Secretary to publish details of various approvals and their variation, suspension or revocation, and provides for the delegation of powers and reviewability of decisions made under this instrument.

Section 5

Division 3—Definitions

5 Definitions

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

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

In this instrument:

Act means the *Road Vehicle Standards Act 2018*.

aggregate trailer mass means the total mass of a laden trailer when carrying the maximum load recommended by the manufacturer, and includes any mass imposed on the towing vehicle when the towing vehicle and trailer are connected and resting on a horizontal surface.

approved form means a form approved under section 236.

approved Model Report means a Model Report for which an approval is in force under section 71 (including a varied Model Report for which an approval is in force under that section because of section 87).

AVV approval means an approval as an authorised vehicle verifier granted under section 93.

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

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

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

damage or corrosion threshold means the threshold determined by the Minister under section 107.

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

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

gross vehicle mass means the maximum laden mass of a motor vehicle as specified by the manufacturer.

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

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

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

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

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

non-RAV entry import approval means a non-RAV entry import approval granted under section 150.

proposed recall notice: see subsection 213(1).

RAV entry import approval means a RAV entry import approval taken to be in force under section 146.

RAW approval means an approval as a registered automotive workshop granted under section 58.

reimportation import approval means a reimportation import approval granted under section 162.

road vehicle component type approval means a road vehicle component type approval granted under section 177.

road vehicle legislation means:

- (a) the Act; or
- (b) the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*; or
- (c) the *Motor Vehicle Standards Act 1989*; or
- (d) Parts VI and XI of the *Competition and Consumer Act 2010*; or
- (e) a provision of the Australian Consumer Law relating to the safety of consumer goods; or
- (f) any instrument made under those Acts; or
- (g) any instrument made under this instrument.

road vehicle type approval means a road vehicle type approval granted under section 19.

supporting information at a particular time, means:

- (a) in relation to the design and componentry of each variant of vehicle covered, or to be covered, by a road vehicle type approval—information that sets out the details of every aspect of vehicle design and componentry (including the source material and manufacturing process of each component) that affects compliance with the applicable national road vehicle standards, as in force at that time; or

Section 5

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

testing facility approval means an approval granted under section 111.

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

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

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

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

variant:

- (a) in relation to a model of a road vehicle that is, or is to be, entered on the SEVs Register—see section 128; and
- (b) in any other case—has its ordinary meaning.

vehicle category means a vehicle category set out in the *Vehicle Standard (Australian Design Rule—Definitions and Vehicle Categories) 2005*, but does not include a subcategory of vehicle category set out in that Vehicle Standard, except where expressly stated in, or impliedly required by, road vehicle legislation.

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

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

Part 2—The Register of Approved Vehicles

Division 1—Introduction

6 Simplified outline of this Part

This Part provides for the keeping of the Register Approved Vehicles (the RAV) established under section 14 of the Act. Section 24 of the Act requires that a road vehicle must generally be on the RAV before a person may provide it for the first time in Australia. Subsection 5(2) of the Act gives an extended meaning to the concept of ‘providing’ a road vehicle. However, subsection 24(3) of the Act, in effect, sets out certain circumstances that do not constitute ‘providing’ a vehicle for these purposes.

A vehicle is only taken to be on the RAV if all of the information set out in section 8 is entered on the RAV in relation to that vehicle. Information may only be entered on the RAV, or subsequently varied to correct errors, by the Secretary and certain other persons (see sections 9 and 11). The RAV must be made publicly accessible online, and certain information on that register must be available to any person who searches for a particular vehicle by its vehicle identification number. The Minister may make various determinations regarding the form and content of the RAV.

7 Purpose of this Part

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

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

Division 2—Content of RAV

8 Information to be included on RAV

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

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

9 Who may enter information on RAV

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

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

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

10 Certain information on RAV to be publicly accessible

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

- (a) the date of entry on the RAV;
- (b) the applicable entry pathway for the vehicle;
- (c) if the applicable entry pathway is the type approval pathway:
 - (i) the name of the holder of the road vehicle type approval under which the vehicle was entered on the RAV; and

- (ii) the approval number for the road vehicle type approval;
- (d) any other information that:
 - (i) is required by a determination made under section 12 to be entered on the RAV in relation to the vehicle; and
 - (ii) is permitted under the determination to be made publicly accessible under this section.

11 Correction of errors on RAV

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

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

Note 2: An approval that enables a person to enter information on the RAV is subject to a condition that the holder of the approval notify the Secretary if the holder becomes aware of an error in information entered on the RAV (see sections 28 and 106).

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

12 Determination—information to be included on RAV etc.

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

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

Part 3—Entry on RAV via entry pathways

Division 1—Introduction

13 Simplified outline of this Part

This Part sets out the pathways by which a vehicle may be entered on the RAV.

The Act provides that a vehicle may be entered on the RAV if it satisfies the requirements of an entry pathway. This Part provides for two such pathways – the type approval pathway and the concessional RAV entry approval pathway. A road vehicle type approval applies to all vehicles of a particular type, while a concessional RAV entry approval applies to an individual road vehicle.

A vehicle satisfies the requirements of the type approval pathway, and may therefore be entered on the RAV, if it meets the criteria set out in section 15. One key criterion is that there must be a road vehicle type approval in force that applies to that type of vehicle. Division 2 sets out the process by which a person may apply for a road vehicle type approval, and the considerations and evidence that the Secretary is to take into account when deciding whether to grant the approval.

Alternatively, a road vehicle can be entered on the RAV via the concessional RAV entry approval pathway if there is a concessional RAV entry approval in force for that vehicle, certain relevant conditions on the approval have been met, and (unless the approval otherwise provides) the vehicle is in Australia. Division 3 sets out the process for applying for a concessional RAV entry approval, and the matters that the Minister is to take into account in granting such an approval.

Both road vehicle type approvals and concessional RAV entry approvals are subject to various conditions. Certain conditions apply to all such approvals, while the Secretary or Minister (as applicable) may impose further conditions on a case-by-case basis.

This Part also provides for certain miscellaneous matters, including when modifications that take place between the entry of a vehicle on the RAV and the provision of the vehicle to a consumer are permitted for the purposes of section 26 of the Act.

14 Purpose of this Part

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

- (a) the requirements of an entry pathway; and
- (b) the grant of approvals:
 - (i) to enable vehicles to satisfy the requirements of the type approval pathway; and

- (ii) to enable road vehicles to satisfy the requirements of other entry pathways; and
- (c) conditions of such approvals.

Division 2—Type approval pathway

Subdivision A—Requirements of the type approval pathway

15 Type approval pathway

- (1) A vehicle of a particular type satisfies the requirements of the type approval pathway if, immediately before the vehicle is entered on the RAV:
 - (a) a road vehicle type approval that is in force applies to that type of vehicle; and
 - (b) the design and componentry of the vehicle is in accordance with the design and componentry for that type of vehicle set out in any version of the supporting information for the approval that:
 - (i) exists immediately before the vehicle is entered on the RAV; and
 - (ii) documents test results demonstrating the extent of the vehicle's compliance with the applicable national road vehicle standards; and
 - (c) the vehicle was manufactured in accordance with the manufacturing process for that type of vehicle set out in any version of the supporting information for the approval that:
 - (i) exists immediately before the vehicle is entered on the RAV; and
 - (ii) documents test results demonstrating the extent of the vehicle's compliance with the applicable national road vehicle standards; and
 - (d) either:
 - (i) the vehicle complies with the applicable national road vehicle standards, as in force at the time the vehicle is entered on the RAV; or
 - (ii) subsection (2) applies to the vehicle; and
 - (e) the vehicle is a new vehicle; and
 - (f) either:
 - (i) the vehicle is in Australia; or
 - (ii) the approval allows the entry of the vehicle on the RAV when the vehicle is outside Australia.

Note 1: A road vehicle type approval may specify that, in certain circumstances, a vehicle of a type covered by the approval may be entered on the RAV when the vehicle is outside Australia (see subsection 23(3)).

Note 2: Where a vehicle satisfies the requirements of the type approval pathway, the Secretary, the holder of a road vehicle type approval that applies to the vehicle, or a person authorised in writing by the holder of the approval, may enter the vehicle on the RAV (see section 9).

Note 3: Subsection 6(1) of the Act partly defines the term 'road vehicle'. Under subsection 6(2), however, a vehicle that is not captured by subsection 6(1) will nonetheless become a 'road vehicle' when it is entered on the RAV by a person authorised to do so under a road vehicle type approval.

- (2) This subsection applies to a vehicle if:
 - (a) the road vehicle type approval specifies that vehicles of that type are not required to comply with the applicable national road vehicle standards in certain respects, or to a certain extent, in order to be entered on the RAV; and

- (b) the vehicle complies with the applicable national road vehicle standards as in force at the time the vehicle is entered on the RAV, except in those respects or to that extent.

Note: Subsection 19(3) permits the Secretary to grant a road vehicle type approval in respect of a type of vehicle that does not comply with the applicable national road vehicle standards, provided that the non-compliance is only in minor and inconsequential respects, or, failing that, the type of vehicle complies with those standards to an extent that makes it suitable for use on a public road in Australia.

In that event, paragraph 23(2)(e) requires that the road vehicle type approval specify the respects in which, or the extent to which, vehicles of the relevant type are not required to comply with the applicable national road vehicle standards in order to be entered on the RAV under the approval.

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

16 Application

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

Note 1: The Secretary may refuse to consider an application if it does not comply with subsection 16(2) (see section 18).

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

Note 3: Under subsection 22(2) of the Act, a person is permitted to import a road vehicle if, at the time of importation, the person holds a road vehicle type approval, the approval is in force, and the vehicle is of a type to which the approval applies.

17 Further information and inspection of premises etc.

- (1) To assist in deciding whether to grant a road vehicle type approval to a person in respect of a type of vehicle, the Secretary may request the person to do the following:
- (a) provide further specified information;
 - (b) allow or arrange for the Secretary or an inspector to inspect premises where:

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- (i) vehicle components of vehicles of that type are designed or manufactured; or
 - (ii) vehicles of that type are designed or manufactured;
 - (c) allow or arrange for the Secretary or an inspector to inspect vehicles of that type, or vehicle components of vehicles of that type.
- (2) A request under subsection (1) must:
- (a) be in writing; and
 - (b) state that the Secretary may refuse to consider the person's application if the person does not comply with the request within the period of 30 days starting on the day the request is made, or within such longer period as the Secretary allows.

18 Secretary may refuse to consider application in certain circumstances

The Secretary may refuse to consider an application for a road vehicle type approval if:

- (a) the application does not comply with subsection 16(2); or
- (b) the applicant does not comply with a request made under subsection 17(1) within the period mentioned in paragraph 17(2)(b).

Note: Subsection 16(2) requires, among other things, that the application be in the approved form and be accompanied by the application fee.

19 Criteria for deciding application

- (1) The Secretary may grant a road vehicle type approval to a person in respect of a type of vehicle if the Secretary is satisfied that:
- (a) either:
 - (i) the type of vehicle complies with the applicable national road vehicle standards, as in force at the time the Secretary decides the application; or
 - (ii) subsection (3) applies to the type of vehicle; and
 - (b) either:
 - (i) the person has control over all stages of the design, componentry and manufacturing process for the type of vehicle; or
 - (ii) the person is able to access information, including information about any changes, relating to the design, componentry and manufacturing process for the type of vehicle that may affect that type of vehicle's compliance with the applicable national road vehicle standards; and
 - (c) the person is able to ensure that the design, componentry and manufacturing process will consistently produce the type of vehicle; and
 - (d) the person is able to arrange for the Secretary or an inspector to inspect premises used, or to be used, in the manufacturing process for the purposes of assessing compliance with:
 - (i) the applicable national road vehicle standards; and
 - (ii) any other requirements of the Act, this instrument, or an instrument made under the Act or this instrument that apply in relation to the person or the type of vehicle; and

- (e) while the approval is in force, and for the period of 7 years after it expires, the person will be able to:
 - (i) access the original and any subsequent versions of the supporting information for the approval; and
 - (ii) provide the information mentioned in subparagraph (i) to the Secretary; and
 - (f) while the approval is in force, the person will ensure that the supporting information for the approval is kept up-to-date; and
 - (g) the person will comply with:
 - (i) the conditions to which the approval will be subject; and
 - (ii) any other requirements of the Act, this instrument, or an instrument made under the Act or this instrument that apply in relation to the person or the type of vehicle.
- (2) For the purposes of subparagraph (1)(a)(i) and paragraph (3)(a), the Secretary may take into account only the following matters:
- (a) the results of testing:
 - (i) conducted under a testing facility approval; or
 - (ii) conducted by a person who holds a testing facility approval but did not at the time the testing was conducted;
 - (b) an approval or other document:
 - (i) issued by the government of a foreign country that is a contracting party to the 1958 Agreement, or by a person who is a competent authority of such a government for the purposes of that agreement; and
 - (ii) that indicates that the type of vehicle complies with requirements applying under that agreement that are equivalent to the applicable national road vehicle standards as in force at the time the Secretary decides the application;
 - (c) in respect of road vehicle components used in the type of vehicle—whether the road vehicle components are approved road vehicle components;
 - (d) any declaration made by the person;
 - (e) any approved Model Report that relates to the type of vehicle;
 - (f) any existing road vehicle type approval that relates to the vehicle;
 - (g) any matter or thing specified in an applicable national road vehicle standard to be acceptable as evidence of compliance with that standard, or an element of that standard, as in force at the time the Secretary decides the application;
 - (h) any information about whether the matters mentioned in paragraphs (a) to (g) demonstrate that vehicles of the type to which the application relates comply with the applicable national road vehicle standards;
 - (i) any information relevant to assessing the accuracy of a matter mentioned in paragraphs (a) to (g).

The Secretary must not take into account any other matters.

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

20 Other considerations

Subject to subsection 19(2), in deciding whether to grant, or to refuse to grant, a road vehicle type approval to a person, the Secretary may take into account:

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

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

21 Timeframe for deciding application

- (1) The Secretary must decide an application for a road vehicle type approval within 60 business days after receiving the application.
- (2) If the Secretary has made a request under subsection 17(1), a day is not to be counted as a business day for the purposes of subsection (1) of this section if it is:
 - (a) on or after the date of the request; and
 - (b) on or before the day the applicant provides the last of the information requested or the premises, vehicles or vehicle components are inspected, as the case may be.

22 Period of road vehicle type approval

A road vehicle type approval:

- (a) comes into force on the day specified in the approval; and

- (b) remains in force for 7 years, unless it is revoked earlier.

23 Notice requirements for grant of road vehicle type approval

- (1) If the Secretary decides to grant a road vehicle type approval to a person, the Secretary must, as soon as practicable:
- (a) notify the person, in writing, of the Secretary's decision; and
 - (b) provide a copy of the approval to the person.
- (2) A road vehicle type approval must specify the following:
- (a) the approval number;
 - (b) the name of the holder of the approval;
 - (c) the type of vehicle to which the approval applies;
 - (d) the national road vehicle standards applicable to the type of vehicle and the documents mentioned in subsection 19(2) that demonstrate that vehicles of that type comply with those standards;
 - (e) if subsection 19(3) applies to the type of vehicle—the respects in which, or the extent to which, vehicles of that type are not required to comply with the applicable national road vehicle standards in order to be entered on the RAV under the approval;
 - (f) the conditions to which the approval is subject;
 - (g) the day that the approval comes into force;
 - (h) that the approval expires at the end of the period of 7 years after it comes into force, unless it is revoked earlier.
- (3) A road vehicle type approval may specify that, in certain circumstances, a vehicle of a type covered by the approval may be entered on the RAV when the vehicle is outside Australia.

Note: Unless a road vehicle type approval allows a vehicle to be entered on the RAV when it is outside Australia, the vehicle will not satisfy the requirements of the type approval pathway if, immediately before it is entered on the RAV, the vehicle is outside Australia (see paragraph 15(1)(f)).

24 Notice requirements for refusal to grant road vehicle type approval

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

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

Subdivision C—Conditions applying to road vehicle type approvals

25 Conditions of road vehicle type approval

A road vehicle type approval is subject to:

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

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

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26 Condition about compliance with national road vehicle standards

- (1) Except where subsection (3) applies, it is a condition of a road vehicle type approval that the holder of the approval, at all times:
 - (a) ensure that vehicles covered by the approval, at the time they are entered on the RAV, comply with the applicable national road vehicle standards as in force at that time; and
 - (b) is able to produce evidence that:
 - (i) demonstrates that vehicles covered by the approval comply with those standards at the time they are entered on the RAV; and
 - (ii) the Secretary could take into account for the purposes of subsection 19(2).
- (2) Subsection (3) applies where the approval specifies that vehicles covered by the approval are not required to comply with the applicable national road vehicle standards in certain respects, or to a certain extent, in order to be entered on the RAV under the approval.

Note: The road vehicle type approval must, under paragraph 23(2)(e), specify the respects in which, or the extent to which, vehicles of that type are not required to comply with the applicable national road vehicle standards in order to be entered on the RAV under the approval.

- (3) It is a condition of a road vehicle type approval that the holder of the approval, at all times:
 - (a) ensure that vehicles covered by the approval, at the time they are entered on the RAV, comply with the applicable national road vehicle standards as in force at that time, except in the respects, or to the extent, mentioned in subsection (2); and
 - (b) is able to produce evidence that:
 - (i) demonstrates that vehicles covered by the approval comply with those standards to the extent mentioned in paragraph (a); and
 - (ii) the Secretary could take into account for the purposes of subsection 19(2).

27 Condition about a conformity of production system

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

- (a) governs the manufacturing process detailed in the supporting information for the approval; and
- (b) ensures that, at the time that a vehicle is entered on the RAV under the approval, the vehicle satisfies the requirements of the type approval pathway under section 15.

28 Condition about notifying the Secretary of errors in RAV entries

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

29 Condition about providing information etc. to the Secretary or an inspector

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

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

30 Condition about keeping up-to-date records of supporting information

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

- (a) keep a record of the original and any subsequent versions of the supporting information for the approval while the approval is in force, and for the period of 7 years after it expires or is revoked; and
- (b) ensure that the supporting information for the approval is kept up-to-date while the approval is in force.

Division 3—Concessional RAV entry approval pathway

Subdivision A—Requirements of the concessional RAV entry approval pathway

31 Concessional RAV entry approval pathway

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

- (a) a concessional RAV entry approval that is in force applies to the vehicle; and
- (b) if the approval is subject to a condition that is required to be met before the vehicle is entered on the RAV—the condition has been met; and
- (c) either:
 - (i) the vehicle is in Australia; or
 - (ii) the approval allows the entry of the vehicle on the RAV when the vehicle is outside Australia.

Note 1: Under subsection 45(3), a concessional RAV entry approval may specify that, in certain circumstances, a road vehicle to which the approval applies may be entered on the RAV when the vehicle is outside Australia.

Note 2: A person who holds a concessional RAV entry approval is taken to be the holder of an import approval within the meaning of section 22 of the Act in the circumstances set out in section 146 of this instrument.

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

32 Application

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

Note: The Minister may refuse to consider an application if it does not comply with subsection 32(2) (see section 34).

33 Further information and inspection of road vehicle

- (1) To assist in deciding whether to grant a concessional RAV entry approval to a person in respect of a road vehicle, the Minister may request the person to do the following:
 - (a) provide further specified information relevant to the application;
 - (b) allow or arrange for the Minister or an inspector to inspect the vehicle.
- (2) A request under subsection (1) must:
 - (a) be in writing; and
 - (b) state that the Minister may refuse to consider the person's application if the person does not comply with the request within the period of 30 days starting on the day the request is made, or within such longer period as the Minister allows.

34 Minister may refuse to consider application in certain circumstances

The Minister may refuse to consider an application for a concessional RAV entry approval if:

- (a) the application does not comply with subsection 32(2); or
- (b) the applicant does not comply with a request made under subsection 33(1) within the period mentioned in paragraph 33(2)(b).

Note: Subsection 32(2) requires, among other things, that the application be in the approved form and be accompanied by the application fee.

35 Criteria for deciding application

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

36 Eligibility criterion—older vehicles

- (1) A road vehicle satisfies the eligibility criterion set out in this section if the Minister is satisfied that:
 - (a) the vehicle is in one of the following vehicle categories:
 - (i) Passenger Car (MA);
 - (ii) Forward-control Passenger Vehicle (MB);
 - (iii) Off-road Passenger Vehicle (MC);
 - (iv) Moped - 2 wheels (LA);
 - (v) Moped - 3 wheels (LB);
 - (vi) Motor cycle (LC);
 - (vii) Motor cycle and side-car (LD);
 - (viii) Motor tricycle (LE);
 - (ix) Light Goods Vehicle (NA); and

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- (b) the vehicle has a relevant build date that is at least 25 years before the date of the application.

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

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

37 Eligibility criterion—vehicles to be modified by the holder of a RAW approval

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

- (a) the vehicle is:
 - (i) covered by an entry on the SEVs Register; or
 - (ii) a used two-wheeled vehicle or a used three-wheeled vehicle; or
 - (iii) a road vehicle that is entered on the RAV via the type approval pathway and has not been provided for the first time in Australia, and has been, is currently undergoing or will be subject to second stage of manufacture before being provided to a consumer for the first time in Australia; and
- (b) unless subparagraph (a)(iii) applies to the vehicle—the applicant owns, or intends to own, the vehicle; and
- (c) the applicant has, or is able to access, an approved Model Report that applies to the vehicle; and
- (d) the applicant will comply with the conditions to which the approval will be subject.

Note: It is a condition of an approval granted on the basis of this section that the road vehicle is modified or manufactured by the holder of a RAW approval in accordance with an approved Model Report, and the vehicle is, or modifications are, verified by the holder of an AVV approval (see section 48).

38 Eligibility criterion—special purpose vehicle

- (1) A road vehicle satisfies the eligibility criterion set out in this section if the Minister is satisfied that the vehicle:
 - (a) does not comply with the applicable national road vehicle standards as in force at the time the Minister decides the application; and
 - (b) would not be able to operate for the purpose for which it was designed if:
 - (i) it were modified to comply with those standards; or
 - (ii) its original design were in accordance with those standards; and
 - (c) complies with the applicable national road vehicle standards, as in force at the time the Minister decides the application, to an extent that makes it suitable for use on a public road in Australia.

- (2) A road vehicle satisfies paragraph (1)(c) only if, were the vehicle used on a public road in Australia, it:
 - (a) would not pose an unacceptable risk to public safety; and
 - (b) would be appropriate for such use.
- (3) Without limiting subsection 33(1), the Minister may require the applicant to provide evidence of the matter in paragraph (1)(c) for the purpose of becoming satisfied of that matter.

39 Eligibility criterion—personal effects

- (1) A road vehicle satisfies the eligibility criterion set out in this section if the Minister is satisfied that:
 - (a) either:
 - (i) the applicant has not previously been granted a concessional RAV entry approval based on the eligibility criterion set out in this section, or an import approval under regulation 13 of the *Motor Vehicle Standards Regulations 1989*, in respect of the same or another vehicle; or
 - (ii) it has been more than 5 years since the applicant was granted an approval mentioned in subparagraph (i); and
 - (b) the applicant:
 - (i) owns the vehicle at the time the application is made; and
 - (ii) became the owner of the vehicle while living outside Australia on a permanent basis; and
 - (iii) owned the vehicle for a continuous period of at least 12 months immediately before the relevant date; and
 - (c) the application is made within 6 months of the relevant date; and
 - (d) the applicant intends to live in Australia indefinitely; and
 - (e) the applicant is of an age that entitles him or her to hold a licence or permit to operate the vehicle on public roads, whether under a law of:
 - (i) Australia; or
 - (ii) the country in which the vehicle was available to and used by the applicant under subsection (2) before the relevant date; and
 - (f) the requirements of subsections (2) and (3) are met.

Note: 'The relevant date' is defined in subsection (4).

- (2) The requirements of this subsection are that, during the period of ownership mentioned in subparagraph (1)(b)(iii), the vehicle was available to the applicant for use on a public road in the country outside Australia in which the person was living on a permanent basis, and was either:
 - (a) regularly used by the applicant on a public road in that country; or
 - (b) in regular use on a public road in that country, where:
 - (i) a substantial part of that use was use by the applicant; and
 - (ii) the remainder of that use was use by a person authorised by the applicant to use the vehicle.

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- (3) The requirements of this subsection are that, at the date of the application, the applicant:
- (a) is entitled to remain in Australia indefinitely; or
 - (b) has applied:
 - (i) to become an Australian citizen; or
 - (ii) to become a permanent resident; or
 - (iii) for a visa that would allow the applicant to remain in Australia indefinitely; or
 - (c) is the holder of a visa that entitles the applicant to apply to become a permanent resident, whether or not after a specified period or in specified circumstances.
- (4) In this section:

the relevant date means:

- (a) the date on which the applicant first arrived in Australia:
 - (i) from the country outside Australia in which the applicant had been living on a permanent basis; and
 - (ii) for the purpose of living in Australia indefinitely; and
- (b) if paragraph (a) would be satisfied in relation to more than one date—the latest of those dates.

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

40 Eligibility criterion—trailers

- (1) A road vehicle satisfies the eligibility criterion set out in this section if the Minister is satisfied that:
- (a) in the 12-month period before the application is made:
 - (i) where the application relates to a trailer with an aggregate trailer mass of 4.5 tonnes or less—the applicant has not been granted concessional RAV entry approvals in respect of 4 or more such trailers on the basis of the eligibility criterion in this section; or
 - (ii) where the application relates to a trailer with an aggregate trailer mass of more than 4.5 tonnes—the applicant has not been granted concessional RAV entry approvals in respect of 4 or more such trailers on the basis of the eligibility criterion in this section; and
 - (b) subsection (2), (3), (4) or (5) applies.

Trailers with an aggregate trailer mass of 4.5 tonnes or less—full compliance

- (2) This subsection applies if:
- (a) the road vehicle is a trailer with an aggregate trailer mass of 4.5 tonnes or less; and
 - (b) the application includes a signed declaration by the applicant that the trailer complies, or will comply at the time it is entered on the RAV, with the applicable national road vehicle standards as in force at the time the application is made.

Trailers with an aggregate trailer mass of 4.5 tonnes or less—substantial compliance

- (3) This subsection applies if:
- (a) the road vehicle is a trailer with an aggregate trailer mass of 4.5 tonnes or less; and
 - (b) the application includes:
 - (i) details of the respects in which the trailer does not comply, or will not comply at the time it is entered on the RAV, with the applicable national road vehicle standards as in force at the time the application is made; and
 - (ii) a signed declaration by the applicant that the trailer, in all other respects, complies, or will comply at the time it is entered on the RAV, with those standards; and
 - (c) either:
 - (i) the trailer's non-compliance with the applicable national road vehicle standards, as in force at the time the Minister decides the application, is or would be only in minor and inconsequential respects; or
 - (ii) where subparagraph (i) does not apply—the trailer complies or would comply with the applicable national road vehicle standards, as in force at the time the Minister decides the application, to an extent that makes it suitable for use on a public road in Australia.

Trailers with an aggregate trailer mass of more than 4.5 tonnes—full compliance

- (4) This subsection applies if:
- (a) the road vehicle is a trailer with an aggregate trailer mass of more than 4.5 tonnes; and
 - (b) the application includes:
 - (i) a signed declaration by the applicant that the trailer complies, or will comply at the time it is entered on the RAV, with the applicable national road vehicle standards as in force at the time the application is made; and
 - (ii) evidence that demonstrates that the trailer complies, or will comply at the time it is entered on the RAV, with those standards.

Trailers with an aggregate trailer mass of more than 4.5 tonnes—substantial compliance

- (5) This subsection applies if:
- (a) the road vehicle is a trailer with an aggregate trailer mass of more than 4.5 tonnes; and
 - (b) the application includes:
 - (i) details of the respects in which the trailer does not comply, or will not comply at the time it is entered on the RAV, with the applicable national road vehicle standards as in force at the time the application is made; and
 - (ii) a signed declaration by the applicant that the trailer, in all other respects, complies, or will comply at the time it is entered on the RAV, with those standards; and

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- (iii) evidence that demonstrates that the trailer, in all other respects, complies, or will comply at the time it is entered on the RAV, with those standards; and
- (c) either:
 - (i) the trailer's non-compliance with the applicable national road vehicle standards, as in force at the time the Minister decides the application, is or would be only in minor and inconsequential respects; or
 - (ii) where subparagraph (i) does not apply—the trailer complies or would comply with the applicable national road vehicle standards, as in force at the time the Minister decides the application, to an extent that makes it suitable for use on a public road in Australia.

Substantial compliance—use on a public road in Australia

- (6) A trailer satisfies subparagraphs (3)(c)(ii) and (5)(c)(ii) only if, were the trailer used on a public road in Australia, it:
 - (a) would not pose an unacceptable risk to public safety; and
 - (b) would be appropriate for such use.

41 Eligibility criterion—road vehicle suitable for entry on RAV

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

42 Minister may make guidelines regarding suitability for entry on RAV

The Minister may, by legislative instrument, make guidelines setting out matters that must be taken into account for the purposes of deciding whether a road vehicle satisfies the eligibility criterion in section 41.

43 Other considerations

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

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

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

44 Timeframe for deciding application

- (1) The Minister must decide an application for a concessional RAV entry approval within 30 business days after receiving the application.

- (2) If the Minister has made a request under subsection 33(1), a day is not to be counted as a business day for the purposes of subsection (1) of this section if it is:
- (a) on or after the date of the request; and
 - (b) on or before the day the applicant provides the last of the information requested or the vehicle is inspected, as the case may be.

45 Notice requirements for grant of concessional RAV entry approval

- (1) If the Minister decides to grant a concessional RAV entry approval to a person, the Minister must, as soon as practicable:
- (a) notify the person, in writing, of the Minister's decision; and
 - (b) provide a copy of the approval to the person.
- (2) A concessional RAV entry approval must specify the following:
- (a) the name of the holder of the approval;
 - (b) details of each road vehicle to which the approval applies (such as the make, model and vehicle identification number of the vehicle);
 - (c) the day that the approval comes into force;
 - (d) the day (if any) that the approval expires;
 - (e) in the case of a trailer to which subsection 40(3) or (5) applies—the respects in which, or the extent to which, the trailer is not required to comply with the applicable national road vehicle standards;
 - (f) any conditions to which the approval is subject.
- (3) A concessional RAV entry approval may specify that, in certain circumstances, a road vehicle to which the approval applies may be entered on the RAV when the vehicle is outside Australia.

Note: Unless a concessional RAV entry approval allows a vehicle to be entered on the RAV when it is outside Australia, the vehicle will not satisfy the requirements of the concessional RAV entry approval pathway if, immediately before it is entered on the RAV, the vehicle is outside Australia (see paragraph 31(c)).

46 Notice requirements for refusal to grant concessional RAV entry approval

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

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

Subdivision C—Conditions applying to concessional RAV entry approvals

47 Conditions of concessional RAV entry approval

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

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(c) the conditions set out in this Subdivision.

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

- (2) Without limiting paragraph (1)(a), the conditions specified in the approval may do one or more of the following:
- (a) require the holder of the approval to export or destroy the vehicle to which the approval applies within a specified period;
 - (b) require the holder of the approval to provide evidence to the Minister that the vehicle to which the approval applies has been exported or destroyed within the specified period;
 - (c) require the holder of the approval to modify the vehicle to which the approval applies within a specified period before the vehicle is entered on the RAV;
 - (d) require the vehicle, or any modifications of the vehicle, to be verified by the holder of an AVV approval in accordance with section 100 before the vehicle is entered on the RAV;
 - (e) require the vehicle, or any modifications of the vehicle, to be verified by the holder of an AVV approval in accordance with the requirements specified in the condition before the vehicle is entered on the RAV;
 - (f) require the holder of the approval to keep specified records for a specified period;
 - (g) require the holder of the approval to provide specified records when requested to do so by the Minister or an inspector;
 - (h) prohibit the holder of the approval from giving another person access to the vehicle to which the approval applies;
 - (i) specify how the vehicle to which the approval applies may be used.

48 Condition applying to approvals for vehicles to be modified by registered automotive workshops

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

- (a) the holder of a RAW approval has modified or manufactured the vehicle in accordance with the requirements set out in an approved Model Report that applies to the vehicle; and
- (b) the holder of an AVV approval has verified the vehicle, or modifications of the vehicle, in accordance with section 100.

49 Condition about providing information etc. on request

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

- (a) provide any information or documents specified in the request:
 - (i) that the Minister or inspector reasonably requires for the purposes of assessing whether the holder of the approval is complying with the

Act, this instrument, or an instrument made under the Act or this instrument; or

- (ii) about vehicles to which the approval applies; and
- (b) provide written answers to questions, specified in the request, about road vehicles entered on the RAV under the approval; and
- (c) where reasonably required for the purpose of assessing whether road vehicles entered on the RAV comply with the applicable national road vehicle standards or any applicable standards determined by the Minister under subsection 89(2)—allow or arrange for the Minister or an inspector to inspect premises, specified in the notice, where activities are carried out under or in relation to the approval.

Division 4—Miscellaneous

50 Circumstances in which a road vehicle may be provided

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

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

Note: Subject to some exceptions, a person contravenes the Act if they provide a road vehicle to another person, the vehicle is provided for the first time in Australia, and the vehicle is not on the RAV. This section sets out the circumstances in which that prohibition does not apply (pursuant to paragraph 24(3)(f) of the Act).

51 Modifications of road vehicles

For the purposes of paragraphs 26(1)(e) and (2)(g) of the Act, the following modifications are allowed:

- (a) modifications carried out on a road vehicle that is entered on the RAV via the type approval pathway for the purpose of seeking:
 - (i) a road vehicle type approval that relates to those modifications; or
 - (ii) the approval of a Model Report that relates to those modifications;
- (b) modifications carried out during second stage of manufacture in accordance with the supporting information for a road vehicle type approval;
- (c) modifications carried out on a road vehicle that is entered on the RAV via the type approval pathway during second stage of manufacture in accordance with an approved Model Report that applies to the vehicle;
- (d) modifications carried out in accordance with the *National Code of Practice Heavy Vehicle Modifications*, as in force in the State or Territory in which the vehicle was modified at the time the modifications were made.

Note: Under paragraphs 26(1)(e) and (2)(g) of the Act, it is an offence for a person to modify a road vehicle on the RAV, or to hand the vehicle over to another person for modification, if the modification occurs before the vehicle is provided to a consumer for the first time in Australia, the modification causes the road vehicle not to satisfy the requirements of the entry pathway that applied at the time the vehicle was entered on the RAV, and the modification is not otherwise allowed by the rules.

52 Allocation of vehicle identification number

If:

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

the Secretary may allocate a vehicle identification number for the vehicle.

Part 4—Tools

Division 1—Introduction

53 Simplified outline of this Part

This Part provides for the grant of a number of approvals to enable vehicles to satisfy the requirements of entry pathways, and for the creation and maintenance of the SEVs Register.

Division 2 empowers the Secretary to approve a corporation as a registered automotive workshop (a RAW). Certain vehicles may be eligible for concessional RAV entry after being modified by the holder of a RAW approval (among other things). The corporation must satisfy the requirements set out in section 58 to be eligible for a RAW approval.

Division 3 provides for the approval of Model Reports in relation to models and variants of the kinds of road vehicles set out in section 68. The Secretary may approve a Model Report if, among other things, the Secretary is satisfied that a relevant road vehicle manufactured or modified in accordance with the report would comply, or substantially comply, with the national road vehicle standards and, where applicable, certain standards determined by the Minister under section 89.

Division 4 provides for the Secretary to approve corporations as authorised vehicle verifiers (AVVs). This instrument, or a condition of an approval, may require certain road vehicles and modifications of road vehicles to be inspected and verified by the holder of an AVV approval.

Division 5 provides for the grant of testing facility approvals by the Secretary. The holder of a testing facility approval may test vehicles or road vehicle components (or both) for compliance with certain standards. Evidence of such testing is relevant to the grant of various approvals under this instrument.

RAW approvals, AVV approvals and testing facility approvals each last for 5 years. Model Report approvals do not expire, but Model Reports must be kept up-to-date as a condition of their approval. The Secretary may impose certain conditions on such approvals on a case-by-case basis, while other conditions will automatically apply to all such approvals.

Finally, Division 6 provides for the creation and maintenance of the Specialist and Enthusiast Vehicles (SEVs) Register. A vehicle that is covered by an entry on the SEVs Register may be eligible for concessional RAV entry if it meets certain further requirements under Part 3 of this instrument. A variant of a model of a road vehicle may be entered on the SEVs Register if, among other things, it satisfies the performance, environmental, mobility, left-hand drive, campervans and motorhomes or rarity criteria at sections 130 to 135. Meanwhile, a make and model of a road vehicle may be entered on the SEVs Register if, among other things, it satisfies the rarity criterion. An entry lasts for 3 years.

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54 Purpose of this Part

For the purposes of subsection 13(1), subsection 19(2) and section 21 of the Act, this Part provides for and in relation to:

- (a) the testing and inspecting of road vehicles and road vehicle components for compliance with national road vehicle standards; and
- (b) the grant of approvals to enable vehicles to satisfy the requirements of the type approval pathway; and
- (c) the grant of approvals to enable road vehicles to satisfy the requirements of other entry pathways; and
- (d) the conditions of such approvals; and
- (e) the keeping of the SEVs Register; and
- (f) applications to be made for the entry of road vehicles on the SEVs Register.

Division 2—RAW approvals

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

55 Application

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

Note: The Secretary may refuse to consider an application if it does not comply with subsection 55(2) (see section 57).

56 Further information and inspection of premises

- (1) To assist in deciding whether to grant a RAW approval to a corporation, the Secretary may request the corporation to do the following:
 - (a) provide further specified information relevant to the application;
 - (b) allow or arrange for the Secretary or an inspector to inspect:
 - (i) any premises occupied by the corporation; and
 - (ii) any premises to be used by the corporation in the manufacture or modification of road vehicles under the approval.
- (2) A request under subsection (1) must:
 - (a) be in writing; and
 - (b) state that Secretary may refuse to consider the person's application if the person does not comply with the request within the period of 30 days starting on the day the request is made, or within such longer period as the Secretary allows.

57 Secretary may refuse to consider application

The Secretary may refuse to consider an application for a RAW approval if:

- (a) the application does not comply with subsection 55(2); or
- (b) the applicant does not comply with a request made under subsection 56(1) within the period mentioned in paragraph 56(2)(b).

Note: Subsection 55(2) requires, among other things, that the application be in the approved form and be accompanied by the application fee.

58 Criteria for deciding application

The Secretary may grant a RAW approval to a corporation if the Secretary is satisfied that:

- (a) the corporation is not in liquidation or under administration; and
- (b) the corporation has a quality management system that:
 - (i) ensures that the corporation has such equipment, trained personnel and procedures in place as are necessary to ensure that each road vehicle manufactured or modified under the approval will be manufactured or modified in a way that meets the requirements set out in an approved Model Report that applies to the vehicle; and
 - (ii) ensures that the corporation will meet the conditions (if any) to which the approval will be subject; and
 - (iii) meets the conditions (if any) relating to the quality management system to which the approval will be subject.
- (c) each member of the key management personnel of the corporation is:
 - (i) at least 18 years of age; and
 - (ii) not an undischarged bankrupt; and
- (d) a personal insolvency agreement under Part X of the *Bankruptcy Act 1966* is not in effect in relation to any member of the key management personnel of the corporation; and
- (e) the corporation will comply with the conditions to which the approval will be subject.

59 Other considerations

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

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

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

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60 Timeframe for deciding application

- (1) The Secretary must decide an application for a RAW approval within 30 business days after receiving the application.
- (2) If the Secretary has made a request under subsection 56(1), a day is not to be counted as a business day for the purposes of subsection (1) of this section if it is:
 - (a) on or after the date of the request; and
 - (b) on or before the day the applicant provides the last of the information requested or premises are inspected, as the case may be.

61 Period of approval

A RAW approval:

- (a) comes into force on the day specified in the approval; and
- (b) remains in force for 5 years, unless it is revoked earlier.

62 Notice requirements for grant of RAW approval

- (1) If the Secretary decides to grant a RAW approval to a corporation, the Secretary must, as soon as practicable:
 - (a) notify the corporation, in writing, of the Secretary's decision; and
 - (b) provide a copy of the approval to the corporation.
- (2) A RAW approval must specify the following:
 - (a) the name and postal address of the corporation to which the approval is granted;
 - (b) the conditions to which the approval is subject;
 - (c) that the approval expires at the end of the period of 5 years after it is granted, unless it is revoked earlier.

63 Notice requirements for refusal to grant RAW approval

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

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

Subdivision B—Conditions applying to RAW approvals

64 Conditions of RAW approvals

A RAW approval is subject to:

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

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

65 Condition about manufacture and modification requirements

- (1) It is a condition of a RAW approval that:
 - (a) each road vehicle manufactured or modified under the approval is manufactured or modified at premises that:
 - (i) have such equipment and trained personnel as are necessary to ensure that the vehicle is manufactured or modified in accordance with the requirements set out in an approved Model Report that applies to the vehicle; and
 - (ii) are occupied by the holder of the RAW approval or in accordance with a contract or other written arrangement to which the holder of the approval is a party; and
 - (b) the holder of the RAW approval ensures that a road vehicle manufactured or modified under the approval is not presented to the holder of an AVV approval for verification unless the vehicle has been manufactured or modified in accordance with the requirements set out in an approved Model Report that applies to the vehicle.
- (2) It is a condition of a RAW approval that, upon presenting a road vehicle or modifications of a road vehicle to the holder of the AVV approval for verification, the holder of the RAW approval provides the holder of the AVV approval with:
 - (a) a signed declaration in the approved form stating that:
 - (i) the vehicle was manufactured, or the modifications of the vehicle were made, in accordance with the latest version of an approved Model Report that applied to the vehicle at the time the vehicle was manufactured or modified; and
 - (ii) the holder of the RAW approval was authorised to use the model report; and
 - (b) information supporting the matter declared under subparagraph (ii).

Conditions relating to damage or corrosion

- (3) It is a condition of a RAW approval that:
 - (a) before a road vehicle is modified under the approval, the holder of the approval ensures that the vehicle is inspected for damage, corrosion, and repair of damage or corrosion; and
 - (b) where subsection (4) or (5) applies:
 - (i) the holder of the approval notify the Secretary, in writing, that the circumstances mentioned in the relevant subsection exist; and
 - (ii) the holder of the approval not continue to work on the vehicle or declare that the vehicle has been modified in accordance with an approved Model Report.
- (4) This subsection applies where:
 - (a) a damage or corrosion threshold has been determined under section 107; and
 - (b) the road vehicle, upon the inspection mentioned in paragraph (3)(a), is found to have a level of damage or corrosion that exceeds that threshold.

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- (5) This subsection applies where:
- (a) no damage or corrosion threshold has been determined under section 107; and
 - (b) the road vehicle's structural integrity is, upon the inspection mentioned in paragraph (3)(a), found to have been reduced by damage or corrosion.

Note: The holder of an AVV approval must generally not verify a road vehicle, or modifications of a road vehicle, unless satisfied that the level of any damage or corrosion on the vehicle does not exceed the damage or corrosion threshold determined under section 107. If no damage or corrosion threshold has been determined, the approval-holder must not verify the vehicle or modifications unless satisfied that the vehicle's structural integrity has not been reduced by damage or corrosion (see subparagraphs 100(1)(b)(ii) to (iii)).

66 Condition about record keeping

- (1) It is a condition of a RAW approval that the holder of the approval keep:
- (a) a record of information that shows that each road vehicle manufactured or modified under the approval and presented to the holder of an AVV approval for verification was manufactured or modified in accordance with an approved Model Report that applied to the vehicle; and
 - (b) a copy of:
 - (i) the signed declaration required under paragraph 65(2)(a); and
 - (ii) the information mentioned in paragraph 65(2)(b); and
 - (iii) the notice required under subparagraph 65(3)(b)(i); and
 - (c) a record of the results of the inspection carried out under paragraph 65(3)(a); and
 - (d) for each road vehicle manufactured or modified under the approval in accordance with an approved Model Report that applied to the vehicle—the records specified in that report in accordance with a determination under subsection 88(1).

Note: Subsection 88(1) empowers the Minister to determine the form that a Model Report must take, including the information that it must contain. Paragraph 88(2)(b) provides that a determination may require a Model Report to set out the records that must be kept by the holder of a RAW approval in relation to the manufacture or modification of a vehicle.

- (2) It is a condition of a RAW approval that the holder of the approval retain a record mentioned in subsection (1) for the period of 7 years starting on the day that the record is made.

67 Condition about providing information etc. to the Secretary or an inspector

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

- (a) give written notification to the Secretary of any change in information held by the Secretary about the holder of the approval within 30 days of the change, including:
 - (i) any change in the key management personnel of the holder of the approval; and
 - (ii) any significant change in the control of the holder of the approval; and
- (b) provide, on written request and within the reasonable time specified in the request, any information that the Secretary or an inspector reasonably

requires for the purposes of assessing whether the holder of the approval is complying with the Act, this instrument, or an instrument made under the Act or this instrument; and

- (c) for the purposes of ensuring compliance with the Act, this instrument, or an instrument made under the Act or this instrument—allow or arrange for the Secretary or an inspector to inspect, at any reasonable time:
 - (i) any premises occupied by the holder of the approval; or
 - (ii) any premises operated by the holder of the approval at which road vehicles are manufactured or modified under the approval; and
- (d) if persons or organisations provide goods or services to the holder of the approval for the purposes of manufacturing or modifying road vehicles under the approval—ensure that, for the purposes of ensuring compliance with the Act, this instrument, or an instrument made under the Act or this instrument, those persons and organisations allow or arrange for the Secretary or an inspector to inspect their premises in relation to the activities of the holder of the approval.

Division 3—Model Reports

Subdivision A—Application for, and grant of, approval of Model Report

68 Application

- (1) A person may apply to the Secretary for approval of a Model Report that applies to a model, or one or more variants, of:
 - (a) a road vehicle that is entered on the SEVs Register; or
 - (b) a used two-wheeled vehicle or a used three-wheeled vehicle that is not entered on the SEVs Register; or
 - (c) a trailer with an aggregate trailer mass of more than 4.5 tonnes; or
 - (d) a road vehicle that:
 - (i) is entered on the RAV via the type approval pathway; and
 - (ii) will be subject to second stage of manufacture.
- (2) The application must:
 - (a) be in the approved form; and
 - (b) be accompanied by the application fee; and
 - (c) include a signed declaration by the person that:
 - (i) the Model Report is in such a form, and contains such information, as is determined by the Minister under subsection 88(1); and
 - (ii) the person will comply with the conditions in sections 82 to 86.

Note: The Secretary may refuse to consider an application if it does not comply with subsection 68(2) (see section 70).

69 Further information and inspection of vehicles or premises

- (1) To assist in deciding whether to approve a Model Report, the Secretary may request the applicant to do the following:
 - (a) provide further specified information relevant to the application;
 - (b) allow or arrange for the Secretary or an inspector to inspect:
 - (i) road vehicles used to develop the Model Report; or
 - (ii) premises associated with the production of the Model Report.
- (2) A request under subsection (1) must:
 - (a) be in writing; and
 - (b) state that the Secretary may refuse to consider the person's application if the person does not comply with the request within the period of 30 days starting on the day the request is made, or within such longer period as the Secretary allows.

70 Secretary may refuse to consider application

The Secretary may refuse to consider an application for approval of a Model Report if:

- (a) the application does not comply with the requirements of this instrument;
or

- (b) the applicant does not comply with a request made under subsection 69(1) within the period mentioned in paragraph 69(2)(b).

Note 1: In the case of an application under subsection 68(1), subsection 68(2) requires, among other things, that the application be in the approved form and be accompanied by the application fee.

Note 2: Subsection 87(3) provides that sections 69 to 80 apply in relation to an application for approval of a variation of the Model Report as if it were an application for the approval of a new Model Report. In the case of an application under subsection 87(1), subsection 87(2) requires, among other things, that the application be in the approved form and be accompanied by the application fee.

71 Criteria for deciding application

The Secretary may approve a Model Report if the Secretary is satisfied that:

- (a) the Model Report is in such a form, and contains such information, as is determined by the Minister under subsection 88(1); and
- (b) the person will comply with the conditions to which the approval will be subject; and
- (c) the Model Report satisfies an eligibility criterion set out in section 72, 73, 74 or 75.

72 Eligibility criterion—Model Report for vehicle covered by entry on SEVs Register

For a Model Report that applies to a model, or one or more variants, of a road vehicle that is entered on the SEVs Register—the eligibility criterion is that a vehicle of the relevant model or variant would, if modified or manufactured in accordance with the Model Report:

- (a) comply with the applicable standards determined by the Minister under subsection 89(2) as in force at the time the Model Report is approved; or
- (b) satisfy subsection 76(1).

Note 1: Under paragraph 89(2)(a), the Minister may determine the standards that certain vehicles must comply with if manufactured or modified in accordance with a Model Report.

Note 2: Subsection 76(1) relates to substantial compliance with standards determined under subsection 89(2).

73 Eligibility criterion—Model Report for used two-wheeled or three-wheeled vehicle

- (1) For a Model Report that applies to a model, or one or more variants, of a used two-wheeled vehicle or used three-wheeled vehicle that is not entered on the SEVs Register—the eligibility criterion is that a vehicle of the relevant model or variant would, if modified or manufactured in accordance with the Model Report, meet the requirements of subsection (2).
- (2) The requirements of this subsection are:
 - (a) to the extent that a determination made by the Minister under subsection 89(2) applies to the vehicle, the vehicle:
 - (i) complies with the standards set out in that determination, as in force at the time the Model Report is approved; or

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- (ii) satisfies subsection 76(1); and
- (b) in all other respects, the vehicle:
 - (i) complies with the applicable national road vehicle standards, as in force at the time the Model Report is approved; or
 - (ii) satisfies subsection 76(2).

Note: Subsections 76(1) and (2) relate to substantial compliance with standards determined under subsection 89(2) and the national road vehicle standards.

74 Eligibility criterion—Model Report for trailer with aggregate trailer mass of more than 4.5 tonnes

For a Model Report that applies to a model, or one or more variants, of a trailer with an aggregate trailer mass of more than 4.5 tonnes—the eligibility criterion is that a trailer of the relevant model or variant would, if modified or manufactured in accordance with the Model Report:

- (a) comply with the applicable national road vehicle standards as in force at the time the Model Report is approved; or
- (b) satisfy subsection 76(2).

Note: Subsection 76(2) relates to substantial compliance with the national road vehicle standards.

75 Eligibility criterion—Model Report for certain vehicles subject to second stage of manufacture

- (1) For a Model Report that applies to a model, or one or more variants, of a road vehicle entered on the RAV via the type approval pathway that will be subject to second stage of manufacture—the eligibility criterion is that a vehicle of the relevant model or variant would, if modified or manufactured in accordance with the Model Report, meet the requirements of subsection (2).
- (2) The requirements of this subsection are:
 - (a) to the extent that a determination made by the Minister under subsection 89(2) applies to the vehicle, the vehicle:
 - (i) complies with the standards set out in that determination, as in force at the time the Model Report is approved; or
 - (ii) satisfies subsection 76(1); and
 - (b) in all other respects, the vehicle:
 - (i) complies with the applicable national road vehicle standards, as in force at the time the Model Report is approved; or
 - (ii) satisfies subsection 76(2).

Note: Subsections 76(1) and (2) relate to substantial compliance with standards determined under subsection 89(2) and the national road vehicle standards.

76 Circumstances in which substantial compliance permitted

Substantial compliance with standards determined under subsection 89(2)

- (1) A road vehicle satisfies this subsection if:

- (a) the vehicle substantially complies with the applicable standards determined by the Minister under subsection 89(2) as in force at the time the Model Report is approved; and
- (b) either:
 - (i) the vehicle's non-compliance with those standards is only in minor and inconsequential respects; or
 - (ii) where subparagraph (i) does not apply—the vehicle complies with those standards to an extent that makes it suitable for use on a public road in Australia.

Substantial compliance with national road vehicle standards

- (2) A road vehicle satisfies this subsection if:
 - (a) the vehicle substantially complies with the applicable national road vehicle standards as in force at the time the Model Report is approved; and
 - (b) either:
 - (i) the vehicle's non-compliance with those standards is only in minor and inconsequential respects; or
 - (ii) where subparagraph (i) does not apply—the vehicle complies with those standards to an extent that makes it suitable for use on a public road in Australia.

Suitability for use on a public road

- (3) A road vehicle satisfies subparagraphs (1)(b)(ii) and (2)(b)(ii) only if, were the vehicle used on a public road in Australia, it:
 - (a) would not pose an unacceptable risk to public safety; and
 - (b) would be appropriate for such use.

77 Other considerations

In deciding whether to approve, or to refuse to approve, a Model Report, the Secretary may take into account:

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

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

78 Timeframe for deciding application

- (1) The Secretary must decide an application for the approval of a Model Report within 60 business days after receiving the application.

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- (2) If the Secretary has made a request under subsection 69(1), a day is not to be counted as a business day for the purposes of subsection (1) of this section if it is:
- (a) on or after the date of the request; and
 - (b) on or before the day the applicant provides the last of the information requested or the vehicle or premises are inspected, as the case may be.

79 Notice requirements for approval of Model Report

- (1) If the Secretary decides to approve a Model Report, the Secretary must, as soon as practicable:
- (a) notify the applicant, in writing, of the Secretary's decision; and
 - (b) provide a copy of the approval to the applicant.
- (2) An approval of a Model Report must be in writing and specify the following:
- (a) the name of the holder of the approval;
 - (b) the day that the approval comes into force;
 - (c) the conditions to which the approval is subject;
 - (d) if the Model Report was approved on the basis of the matter in paragraph 72(b), or subparagraph 73(2)(a)(ii) or 75(2)(a)(ii)—what the Secretary considers to be the respects in which, or the extent to which, it is acceptable for road vehicles manufactured or modified in accordance with the Model Report not to comply with the applicable standards determined by the Minister under subsection 89(2);
 - (e) if the Model Report was approved on the basis of the matter in subparagraph 73(2)(b)(ii), paragraph 74(b) or subparagraph 75(2)(b)(ii)—what the Secretary considers to be the respects in which, or the extent to which, it is acceptable for road vehicles manufactured or modified in accordance with the Model Report not to comply with the applicable national road vehicle standards.

80 Notice requirements for refusal to approve Model Report

If the Secretary decides to refuse to approve a Model Report, the Secretary must, as soon as practicable:

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

Subdivision B—Conditions applying to approval of Model Report

81 Conditions of approval

An approval of a Model Report is subject to:

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

Note 1: An approval of a varied Model Report is also subject to the condition set out in paragraph 87(4)(b).

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

82 Condition about keeping the Model Report accurate and up-to-date

- (1) It is a condition of the approval of a Model Report that, where subsection (2), (3), (4), (5) or (6) applies, the holder of the approval must, as soon as practicable:
 - (a) notify the Secretary of the matter in the relevant subsection; and
 - (b) either:
 - (i) apply to the Secretary under section 87 for approval of a variation to the Model Report in order to rectify that matter; or
 - (ii) request the Secretary, under section 198, to suspend or revoke the approval.

Accuracy and form of Model Report

- (2) This subsection applies where the holder of the approval becomes aware, or should have become aware, that:
 - (a) the Model Report contains an error; or
 - (b) the Model Report is not in the form, or does not contain the information, required by a determination under subsection 88(1).

Keeping Model Report up to date—vehicle covered by entry on SEVs Register

- (3) This subsection applies where the holder of the approval of a Model Report that applies to a model, or one or more variants, of a road vehicle that is entered on the SEVs Register becomes aware, or should have become aware, that a vehicle of the relevant model or variant would not, if manufactured or modified in accordance with the Model Report:
 - (a) for a Model Report approved on the basis of the matter in paragraph 72(a)—comply with the applicable standards determined by the Minister under subsection 89(2) as in force at the time of the modification or manufacture; or
 - (b) for a Model Report approved on the basis of the matter in paragraph 72(b)—satisfy the requirements of subsection (7).

Note: Subsection (7) deals with substantial compliance with the standards determined by the Minister under subsection 89(2).

Keeping Model Report up to date—used two-wheeled or three-wheeled vehicle

- (4) This subsection applies where the holder of the approval of a Model Report that applies to a model, or one or more variants, of a used two-wheeled vehicle or used three-wheeled vehicle that is not entered on the SEVs Register becomes aware, or should have become aware, that a vehicle of the relevant model or variant would not, if modified or manufactured in accordance with the Model Report:
 - (a) for a Model Report approved on the basis of the matter in subparagraph 73(2)(a)(i) or (b)(i)—comply with the applicable standards determined by the Minister under subsection 89(2), or the applicable national road vehicle standards, as in force at the time of the modification or manufacture; or

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- (b) for a Model Report approved on the basis of the matter in subparagraph 73(2)(a)(ii) or (b)(ii)—satisfy the requirements of subsection (7) or (8), as applicable.

Note: Subsections (7) and (8) deal with substantial compliance with the standards determined by the Minister under subsection 89(2) and the national road vehicle standards.

Keeping Model Report up to date—trailer with aggregate trailer mass of more than 4.5 tonnes

- (5) This subsection applies where the holder of the approval of a Model Report that applies to a model, or one or more variants, of a trailer with an aggregate trailer mass of more than 4.5 tonnes becomes aware, or should have become aware, that a trailer of the relevant model or variant would not, if modified or manufactured in accordance with the Model Report:
 - (a) for a Model Report approved on the basis of the matter in paragraph 74(a)—comply with the applicable national road vehicle standards, as in force at the time of the modification or manufacture; or
 - (b) for a Model Report approved on the basis of the matter in paragraph 74(b)—satisfy the requirements of subsection (8).

Note: Subsection (8) deals with substantial compliance with the national road vehicle standards.

Keeping Model Report up to date—certain vehicles subject to second stage of manufacture

- (6) This subsection applies where the holder of the approval of a Model Report that applies to a model, or one or more variants, of a road vehicle entered on the RAV via the type approval pathway that will be subject to second stage of manufacture becomes aware, or should have become aware, that a vehicle of the relevant model or variant would not, if modified or manufactured in accordance with the Model Report:
 - (a) for a Model Report approved on the basis of the matter in subparagraph 75(2)(a)(i) or (b)(i)—comply with the applicable standards determined by the Minister under subsection 89(2), or the applicable national road vehicle standards, as in force at the time of the modification or manufacture; or
 - (b) for a Model Report approved on the basis of the matter in paragraph 75(2)(a)(ii) or (b)(ii)—satisfy the requirements of subsection (7) or (8), as applicable.

Note: Subsections (7) and (8) deal with substantial compliance with the standards determined by the Minister under subsection 89(2) and the national road vehicle standards.

- (7) A road vehicle satisfies the requirements of this subsection if:
 - (a) it substantially complies with the applicable standards determined by the Minister under subsection 89(2) as in force at the time the vehicle is modified or manufactured; and
 - (b) it fails to comply with those standards only in the respects or to the extent permitted by the approval of the Model Report.

Note: Where a Model Report was approved on the basis that road vehicles modified or manufactured in accordance with it would substantially comply with the applicable standards determined by the Minister under subsection 89(2) as in force at the time the

report was approved, the approval must specify the respects in which, or the extent to which, it is acceptable for such vehicles not to comply with those standards (see paragraph 79(2)(d)).

- (8) A road vehicle satisfies the requirements of this subsection if:
- (a) it substantially complies with the applicable national road vehicle standards as in force at the time the vehicle is modified or manufactured; and
 - (b) it fails to comply with those standards only in the respects or to the extent permitted by the approval of the Model Report.

Note: Where a Model Report was approved on the basis that road vehicles modified or manufactured in accordance with it would substantially comply with the national road vehicle standards as in force at the time the report was approved, the approval must specify the respects in which, or the extent to which, it is acceptable for such vehicles not to comply with those standards (see paragraph 79(2)(e)).

83 Condition about keeping records relating to distribution of Model Report

It is a condition of an approval of a Model Report that the holder of the approval keep a record of the following in relation to each person whom the holder has authorised to use or access the Model Report:

- (a) the name and contact details of the person, for the purposes of being able to notify the person of any variations to the Model Report;
- (b) the version of the Model Report that the person was authorised to use or access.

84 Condition about allowing the Department to use the Model Report

It is a condition of an approval of a Model Report that the holder of the approval allows the Department to:

- (a) use the Model Report for the purpose of:
 - (i) assessing whether the holder of a RAW approval or an AVV approval is complying with the Act, this instrument, or an instrument made under the Act or this instrument; or
 - (ii) inspecting a road vehicle that has been modified or manufactured in accordance with the Model Report; and
- (b) provide a copy of the Model Report's verification checklist to the holder of an AVV approval for the purpose of the holder of the AVV approval verifying road vehicles under the AVV approval.

Note: A determination under subsection 88(1) may require a Model Report to set out the verification checklist that the holder of the AVV approval must complete (see paragraph 88(2)(c)).

85 Condition about keeping records of certain testing results

- (1) This section applies if, in order to establish that a Model Report satisfied an eligibility criterion in section 72, 73, 74 or 75, the holder of the approval provided the Secretary with evidence of testing:
- (a) conducted under a testing facility approval; or
 - (b) conducted by a person who holds a testing facility approval but did not at the time the testing was conducted.

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- (2) It is a condition of the approval of the Model Report that the holder of the approval must:
- (a) keep a record of the results of the testing; and
 - (b) retain the record, or a copy of the record, for 7 years after the day the approval of the Model Report is revoked.

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

86 Condition about providing information etc. to the Secretary or an inspector

It is a condition of an approval of a Model Report that the holder of the approval, when requested in writing by the Secretary or an inspector, and within such reasonable time as is specified in the request, do the following:

- (a) provide any information that the Secretary or inspector reasonably requires for the purposes of assessing whether the holder of the approval is complying with the Act, this instrument, or an instrument made under the Act or this instrument;
- (b) provide written answers to questions, specified in the request, relating to the Model Report.

Subdivision C—Variation of approved Model Report

87 Variation of approved Model Report

- (1) The holder of an approval of a Model Report may apply to the Secretary for approval of a variation to the Model Report.
- (2) The application must:
 - (a) be in the approved form; and
 - (b) be accompanied by:
 - (i) a copy of the Model Report that incorporates, and clearly indicates, the variation sought; and
 - (ii) such other documents as are required by the form; and
 - (c) be accompanied by the application fee.
- (3) Sections 69 to 80 apply in relation to an application under subsection (1) as if the application were for approval of a new Model Report.
- (4) If the Secretary approves a varied Model Report under this section:
 - (a) the approval of the varied Model Report replaces any previous approval; and
 - (b) it is a condition of the approval of the varied Model Report that the holder of the approval take reasonable steps to notify all persons whom the holder of the approval has previously authorised to use or access the Model Report that:
 - (i) a variation to the Model Report has been approved; and
 - (ii) the Model Report previously provided has been superseded; and
 - (c) the Department must provide a copy of the verification checklist in the varied Model Report to any holder of an AVV approval to which the

Department provided a copy of the verification checklist in the original Model Report.

- Note 1: Because the approval of the varied Model Report replaces any previous approval of the Model Report, it will also be subject to the conditions set out in Subdivision B, and any further conditions specified in the approval.
- Note 2: Section 87 is the only source of power to approve variations to a Model Report. However, the approval of a Model Report may be varied, suspended or revoked under Part 7 of this instrument.

Subdivision D—Ministerial determinations

88 Determination—information to be contained in Model Report

- (1) The Minister may, by legislative instrument, determine the form that a Model Report must take, including the information that a Model Report must contain.
- (2) Without limiting subsection (1), a determination made for the purposes of subsection (1) may require a Model Report to set out:
 - (a) the steps that the holder of a RAW approval or road vehicle type approval must take when manufacturing or modifying a road vehicle to which the report applies; and
 - (b) the records that must be kept by the holder of the RAW approval or road vehicle type approval in relation to the manufacture or modification of the vehicle; and
 - (c) the verification checklist that the holder of the AVV approval must complete when verifying the vehicle.
- (3) A determination made for the purposes of this section may set out different forms of Model Report for different kinds of vehicles.

89 Determination—compliance with standards

- (1) A determination may only be made under subsection (2) in relation to a model, or one or more variants, of a road vehicle in relation to which a Model Report may be approved, other than a trailer with an aggregate trailer mass of more than 4.5 tonnes.
- (2) The Minister may, by legislative instrument, determine the following:
 - (a) standards that apply to road vehicles manufactured or modified in accordance with a Model Report;
 - (b) the circumstances in which the Secretary must be satisfied that vehicles manufactured or modified in accordance with a Model Report comply, or substantially comply, with:
 - (i) an applicable standard determined under paragraph (a); or
 - (ii) an applicable national road vehicle standard;on the basis of certain specified evidence;
 - (c) in the circumstances set out in a determination under paragraph (b)—the types of evidence that the Secretary must have regard to in deciding whether road vehicles modified or manufactured in accordance with a Model Report comply, or substantially comply, with those standards.

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- (3) Without limiting subsection (2), a determination may do the following:
- (a) provide that the Secretary may only be satisfied that vehicles comply, or substantially comply, with an applicable national road vehicle standard or standard determined under paragraph (2)(a) on the basis of testing:
 - (i) conducted under a testing facility approval; or
 - (ii) conducted by a person who holds a testing facility approval but did not at the time the testing was conducted;
 - (b) require evidence to be given to the Secretary from approved testing facilities for the purposes of becoming satisfied of that matter.

Note 1: Under subsection 82(6) of the Act, a determination made under subsection 89(2) of this instrument may apply, adopt or incorporate, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.

Note 2: Under subsection 14(1) of the *Legislation Act 2003*, a determination made under subsection 89(2) of this instrument may apply, adopt or incorporate, with or without modification, the provisions of a disallowable legislative instrument as in force at a particular time (such as the national road vehicle standards determined under section 12 of the Act, or the vehicle standards determined under section 7 of the *Motor Vehicle Standards Act 1989*).

- (4) A determination made for the purposes of this section may set out different requirements for different kinds of vehicles.

Division 4—AVV approvals

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

90 Application

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

Note: The Secretary may refuse to consider an application if it does not comply with subsection 90(2) (see section 92).

91 Further information

- (1) To assist in deciding whether to grant an AVV approval to a corporation, the Secretary may request the corporation to do the following:
 - (a) provide further specified information relevant to the application;
 - (b) allow or arrange for the Secretary or an inspector to inspect:
 - (i) premises where road vehicles would be inspected under the approval;
or
 - (ii) the technology and equipment that would be used to inspect road vehicles under the approval.
- (2) A request under subsection (1) must:
 - (a) be in writing; and
 - (b) state that the Secretary may refuse to consider the corporation's application if the corporation does not comply with the request within the period of 30 days starting on the day the request is made, or within such longer period as the Secretary allows.

92 Secretary may refuse to consider application

The Secretary may refuse to consider an application for an AVV approval if:

- (a) the application does not comply with subsection 90(2); or
- (b) the corporation does not comply with a request made under subsection 91(1) within the period mentioned in paragraph 91(2)(b).

Note: Subsection 90(2) requires, among other things, that the application be in the approved form and be accompanied by the application fee.

93 Criteria for deciding application

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

- (a) the corporation has, or has access to:

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- (i) the technology, equipment and procedures to inspect road vehicles in accordance with the requirements set out in a determination made by the Minister under section 106; and
- (ii) appropriately skilled staff to carry out such inspections; and
- (b) all of the following apply:
 - (i) the corporation is not a holder of a RAW approval;
 - (ii) neither the corporation nor any member of its key management personnel holds shares or has any other financial interest in a corporation that holds a RAW approval;
 - (iii) the key management personnel of the corporation are not key management personnel, or employees, of a corporation that holds a RAW approval;
 - (iv) the corporation has in place effective arrangements to reduce the likelihood that conflicts of interest will arise in relation to activities undertaken by the corporation under the AVV approval, and to ensure that any such conflicts that arise are appropriately managed; and
- (c) the corporation will comply with the conditions to which the approval will be subject.

Note: Various conditions apply to all AVV approvals, including conditions regarding conflicts of interest. Among other things, it is a condition of an AVV approval that the holder of the approval must not inspect or verify a road vehicle under the approval if the holder of the approval, or a member of their key management personnel or staff, owns, or has a financial interest in, the vehicle.

94 Other considerations

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

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

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

95 Timeframe for deciding application

- (1) The Secretary must decide an application for an AVV approval within 30 business days after receiving the application.
- (2) If the Secretary has made a request under subsection 91(1), a day is not to be counted as a business day for the purposes of subsection (1) of this section if it is:
 - (a) on or after the date of the request; and

- (b) on or before the day the applicant provides the last of the information requested or the premises, or technology and equipment, are inspected, as the case may be.

96 Period of AVV approval

An AVV approval:

- (a) comes into force on the day specified in the approval; and
- (b) remains in force for 5 years, unless it is revoked earlier.

97 Notice requirements for grant of AVV approval

- (1) If the Secretary decides to grant an AVV approval to a corporation, the Secretary must, as soon as practicable:
 - (a) notify the corporation, in writing, of the Secretary's decision; and
 - (b) provide a copy of the approval to the corporation.
- (2) An AVV approval must be in writing and specify the following:
 - (a) the name of the corporation to which the approval is granted;
 - (b) the categories of road vehicle that may be verified under the approval;
 - (c) the day that the approval comes into force;
 - (d) that the approval expires at the end of the period of 5 years after it comes into force, unless it is revoked earlier;
 - (e) the conditions to which the approval is subject.

98 Notice requirements for refusal to grant AVV approval

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

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

Subdivision B—Conditions applying to AVV approvals

99 Conditions of AVV approvals

An AVV approval is subject to:

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

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

100 Condition about conduct of verifications

- (1) It is a condition of an AVV approval that, unless subsection (3) applies, the holder of the approval must only verify a road vehicle or modifications of a road vehicle under the approval if the following requirements are met:
 - (a) where the vehicle was manufactured, or the modifications of the vehicle were made, under a RAW approval:

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- (i) the holder of the AVV approval has received the signed declaration mentioned in paragraph 65(2)(a) from the holder of the RAW approval; and
 - (ii) the holder of the AVV approval is satisfied, on reasonable grounds, that the declaration is true and accurate; and
 - (b) the holder of the AVV approval has inspected the vehicle and is satisfied that:
 - (i) where the vehicle was required to be manufactured or modified in accordance with the latest version of an approved Model Report that applied to the vehicle at the time the vehicle was manufactured or modified—the vehicle has been manufactured or modified in accordance with that report; and
 - (ii) if there is a determination in force under section 107 specifying a damage or corrosion threshold—the level of damage or corrosion on the vehicle does not exceed that threshold; and
 - (iii) if there is no determination in force under section 107 specifying a damage or corrosion threshold—the vehicle’s structural integrity has not been reduced by damage or corrosion; and
 - (iv) the vehicle’s odometer is accurate.
- (2) Subsection (3) applies where a condition specified in an approval granted under this instrument requires a road vehicle, or modifications of a road vehicle, to be verified by the holder of an AVV approval in accordance with the requirements set out in that condition.

Example: Under paragraphs 47(2)(e) and 157(2)(d) respectively, a condition specified in a concessional RAV entry approval or non-RAV entry import approval may require a vehicle, or modifications of the vehicle, to be verified by the holder of an AVV approval in accordance with the requirements set out in that condition.
- (3) It is a condition of an AVV approval that the holder of the approval must only verify the road vehicle or modifications of the road vehicle under the approval if the holder of the approval:
 - (a) has inspected the vehicle in accordance with the requirements specified in the relevant condition of the approval mentioned in subsection (2); and
 - (b) is satisfied that the vehicle meets the requirements specified in that condition.
- (4) If the holder of the AVV approval conducts a verification of a road vehicle or modifications of a road vehicle, the holder must:
 - (a) complete a verification report for the vehicle that states whether or not the vehicle or any modifications of the vehicle are verified; and
 - (b) if the verification report states that the vehicle, or any modifications of the vehicle, are not verified—provide a copy of the verification report to the Department within one business day after the report is completed.
- (5) Except where subsection (3) applies—for the purposes of paragraph (4)(a), the verification report must:
 - (a) be in the approved form; and
 - (b) include the verification checklist from the approved Model Report.

101 Condition about quality assurance and location of inspections

It is a condition of an AVV approval that the holder of the approval:

- (a) maintain the technology, equipment and procedures used to inspect road vehicles in accordance with the requirements set out in a determination made by the Minister under section 106; and
- (b) ensure that such inspections are carried out by appropriately skilled staff; and
- (c) ensure that all inspections carried out under the approval take place in Australia.

102 Conditions about conflicts of interest

- (1) It is a condition of an AVV approval that:
 - (a) the holder of the approval must not apply for a RAW approval; and
 - (b) the holder of the approval and its key management personnel must not acquire shares or any other financial interest in a corporation that holds a RAW approval.
- (2) It is a condition of an AVV approval that the holder of the approval must:
 - (a) have in place effective arrangements to reduce the likelihood that conflicts of interest will arise in relation to activities undertaken under the AVV approval, and to ensure that any such conflicts that arise are appropriately managed; and
 - (b) comply with those arrangements; and
 - (c) when requested in writing by the Secretary or an inspector and within such reasonable time as is specified in the request, provide evidence that those arrangements are in place.
- (3) It is a condition of an AVV approval that the holder of the approval must not inspect or verify a road vehicle under the AVV approval if:
 - (a) the holder of the approval; or
 - (b) a member of:
 - (i) the key management personnel of the holder of the approval; or
 - (ii) the staff of the holder of the approval;owns, or has a financial interest in, the vehicle.

103 Condition about record keeping

It is a condition of an AVV approval that the holder of the approval must, after conducting a verification of a road vehicle or modifications of a road vehicle under the approval:

- (a) retain the following reports or records, or a copy of such a report or record, for a period of 7 years starting on the day that the report or record is made:
 - (i) the verification report completed for the vehicle, including, where applicable, the verification checklist completed for the vehicle; and
 - (ii) a record of any information that an applicable Model Report mentioned in subparagraph 100(1)(b)(i) requires the holder of the approval to review; and

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- (b) provide the report or record, or a copy of the report or record, upon written request by the Secretary or an inspector.

104 Condition about providing information etc. to the Secretary or an inspector

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

- (a) provide any information that the Secretary or inspector reasonably requires for the purposes of assessing whether the holder of the approval is complying with the Act, this instrument, or an instrument made under the Act or this instrument; and
- (b) provide written answers to questions, specified in the request, about road vehicles inspected under the approval; and
- (c) for the purpose of assessing whether road vehicles entered on the RAV comply with the applicable national road vehicle standards or standards determined by the Minister under subsection 89(2)—allow or arrange for the Secretary or an inspector to inspect:
 - (i) premises where road vehicles are inspected under the approval; or
 - (ii) the technology or equipment used to inspect road vehicles under the approval; or
 - (iii) things, including documents, associated with the inspection process.

105 Condition about notifying the Secretary of errors in RAV entries

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

Subdivision C—Ministerial determinations

106 Determination relating to inspection of road vehicles

- (1) The Minister may, by legislative instrument, determine any matter relating to the inspection of a road vehicle by a corporation as an authorised vehicle verifier.
- (2) Without limiting subsection (1), a determination may relate to all or any of the following:
 - (a) the steps that must be taken to inspect a road vehicle;
 - (b) the technology and equipment to be used in inspecting a road vehicle;
 - (c) inspection procedures, including verification checklists for conducting an inspection of a road vehicle;
 - (d) procedures for inspecting for, and assessing the degree of, any damage or corrosion to a road vehicle;
 - (e) administrative matters, including:
 - (i) the keeping of reports, evidence or documents that record the results of an inspection of a road vehicle; and
 - (ii) notifying the results of such an inspection.

- (3) A determination made under this section may set out different requirements for different kinds of vehicles.

107 Determination relating to damage or corrosion

The Minister may, by legislative instrument, determine the extent or types of damage or corrosion that do not prevent the holder of an AVV approval from verifying a road vehicle, or modifications of a road vehicle, under the approval (the *damage or corrosion threshold*).

- Note 1: If the Minister determines a threshold under this section, the holder of an AVV approval must not verify a road vehicle, or modifications to a road vehicle, unless satisfied that the level of any damage or corrosion on the vehicle does not exceed that threshold (see subparagraph 100(2)(b)(ii)).
- Note 2: Under subsection 65(3), the holder of a RAW approval must notify the Secretary, and must not continue to work on a vehicle or declare that it has been modified in accordance with an approved Model Report, if the vehicle, upon inspection, is found to have a level of damage or corrosion that exceeds any damage or corrosion threshold determined under section 107.

Division 5—Testing facility approvals

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

108 Application

- (1) A person may apply to the Secretary for the grant of an approval to carry out testing, at one or more testing facilities, of:
 - (a) vehicles; or
 - (b) road vehicle components; or
 - (c) both vehicles and road vehicle components;against the national road vehicle standards, standards determined by the Minister under subsection 89(2), or both.
- (2) The application must be:
 - (a) in the approved form; and
 - (b) accompanied by:
 - (i) such documents as are required by the form; and
 - (ii) the application fee.

Note: The Secretary may refuse to consider an application if it does not comply with subsection 108(2) (see section 110).

- (3) Among its other operations, this Division provides for and in relation to matters required by subsection 13(1) of the Act.

109 Further information and inspection of premises

- (1) To assist in deciding whether to grant a testing facility approval to a person, the Secretary may request the person to do the following:
 - (a) provide further specified information relevant to the application;
 - (b) allow or arrange for the Secretary or an inspector to inspect any premises where testing under the approval will be carried out.
- (2) A request under subsection (1) must:
 - (a) be in writing; and
 - (b) state that the Secretary may refuse to consider the person's application if the person does not comply with the request within the period of 30 days starting on the day the request is made, or within such longer period as the Secretary allows.

110 Secretary may refuse to consider application

The Secretary may refuse to consider an application for a testing facility approval if:

- (a) the application does not comply with subsection 108(2); or
- (b) the applicant does not comply with a request made under subsection 109(1) within the period mentioned in paragraph 109(2)(b).

Note: Subsection 108(2) requires, among other things, that the application be in the approved form and be accompanied by the application fee.

111 Criteria for deciding application

The Secretary may grant an approval (a *testing facility approval*) to a person if the Secretary is satisfied that the person would have, or have access to:

- (a) technology and equipment to adequately test vehicles and road vehicle components under the approval; and
- (b) appropriately skilled personnel to carry out any testing under the approval.

112 Other considerations

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

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

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

113 Timeframe for deciding application

- (1) The Secretary must decide an application for a testing facility approval within 30 business days after receiving the application.
- (2) If the Secretary has made a request under subsection 109(1), a day is not to be counted as a business day for the purposes of subsection (1) of this section if it is:
 - (a) on or after the date of the request; and
 - (b) on or before the day the applicant provides the last of the information requested or the premises are inspected, as the case may be.

114 Period of testing facility approval

A testing facility approval:

- (a) comes into force on the day specified in the approval; and
- (b) remains in force for 5 years, unless it is revoked earlier.

115 Notice requirements for grant of testing facility approval

- (1) If the Secretary decides to grant a testing facility approval to a person, the Secretary must, as soon as practicable:
 - (a) notify the person, in writing, of the Secretary's decision; and
 - (b) provide a copy of the approval to the person.
- (2) A testing facility approval must specify the following:

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- (a) the name and business address of the person to whom the approval is granted;
- (b) the standards against which vehicles may be tested under the approval;
- (c) the standards against which road vehicle components may be tested under the approval;
- (d) the day that the approval comes into force;
- (e) that the approval expires at the end of the period of 5 years after it comes into force, unless it is revoked earlier;
- (f) the conditions to which the approval is subject.

116 Notice requirements for refusal to grant testing facility approval

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

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

Subdivision B—Conditions applying to testing facility approval

117 Conditions of testing facility approval

A testing facility approval is subject to:

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

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

118 Condition about testing

It is a condition of a testing facility approval that the holder of the approval ensures that any test carried out under the approval is appropriate for assessing the extent to which a vehicle or road vehicle component complies with the national road vehicle standards, standards determined by the Minister under subsection 89(2), or both, as applicable.

119 Conditions relating to equipment used to carry out testing

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

- (a) the equipment be maintained so that the proper functioning or calibration of the equipment can be verified; and
- (b) the holder of the approval:
 - (i) keep a record of the maintenance carried out on that equipment for a period of 7 years starting on the day that the record is made; and
 - (ii) provide a copy of such a record upon written request by the Secretary or an inspector.

120 Condition about appropriately skilled personnel

It is a condition of a testing facility approval that the holder of the approval ensures that appropriately skilled personnel carry out any testing under the approval.

121 Condition about testing reports

- (1) It is a condition of a testing facility approval that, after testing a vehicle or road vehicle component under the approval, the holder of the approval complete a report on the results of the testing.
- (2) A report must:
 - (a) accurately reflect the results of the testing; and
 - (b) be sufficiently detailed so that the test could be repeated based on the information contained in the report.
- (3) It is a condition of the approval that the holder of the approval:
 - (a) retain a report, or a copy of such a report, for a period of 7 years starting on the day that the report is made; and
 - (b) provide the report, or a copy of the report, upon written request by the Secretary or an inspector.

122 Condition about notifying recipients of errors in testing reports

It is a condition of a testing facility approval that, if the holder of the approval becomes aware of an error in a report required under subsection 121(1), the holder must notify any person to whom the holder gave the report of the error as soon as practicable after becoming aware of it.

123 Condition about record keeping

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

- (a) retain a record of all testing of vehicles or road vehicle components conducted under the approval for a period of 7 years starting on the day that the record is made; and
- (b) provide such a record, or a copy of such a record, upon written request by the Secretary or an inspector.

124 Condition about providing information etc. to the Secretary or an inspector

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

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- (a) provide, on written request by the Secretary or an inspector, and within the reasonable time specified in the request:
 - (i) the information or documents specified in the request about testing carried out under the approval; or
 - (ii) any information that the Secretary or inspector reasonably requires for the purposes of assessing whether the holder of the approval is complying with the Act, this instrument, or an instrument made under the Act or this instrument; and
- (b) for the purpose of assessing whether testing conducted under the approval is being carried out to adequately test vehicles for compliance with the national road vehicle standards, standards determined by the Minister under subsection 89(2), or both, as applicable—allow or arrange for the Secretary or an inspector to inspect:
 - (i) premises where road vehicle components of those vehicles are tested; or
 - (ii) premises where those vehicles are tested; or
 - (iii) premises where reports relating to testing under the approval are prepared; or
 - (iv) things, including documents, associated with the testing process.

Division 6—Specialist and Enthusiast Vehicles Register

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

125 Application for entry on SEVs Register

- (1) A person may apply to the Secretary for:
 - (a) a variant of a model of a road vehicle to be entered on the SEVs Register;
or
 - (b) if the application is made on the basis of the rarity criterion in section 135—a variant of a model, or a make and model, of a road vehicle to be entered on the SEVs Register.

Note: For the meaning of *variant*, see section 128.

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

Note: The Secretary may refuse to consider an application if it does not comply with subsection 125(2) (see section 127).

126 Further information

- (1) To assist in deciding whether to enter a variant of a model, or a make and model, of a road vehicle on the SEVs Register, the Secretary may request the applicant to provide further specified information.
- (2) A request under subsection (1) must:
 - (a) be in writing; and
 - (b) state that the Secretary may refuse to consider the person's application if the person does not comply with the request within the period of 30 days starting on the day the request is made, or within such longer period as the Secretary allows.

127 Secretary may refuse to consider application in certain circumstances

The Secretary may refuse to consider an application under subsection 125(1) if:

- (a) the application does not comply with subsection 125(2); or
- (b) the applicant does not comply with a request made under subsection 126(1) within the period mentioned in paragraph 126(2)(b).

Note: Subsection 125(2) requires, among other things, that the application be in the approved form and be accompanied by the application fee.

128 Variant of a model of a road vehicle

- (1) Subject to subsection (2), road vehicles of a particular kind constitute a variant of a model of a road vehicle if their design characteristics are significantly different from those of other vehicles of that model of road vehicle.

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- (2) If no vehicles of a model of road vehicle would satisfy subsection (1)—that model of road vehicle is taken to be a variant of a model of road vehicle.

Example: There may be no significant differences in the design characteristics of the various vehicles in a particular model of road vehicle. For example, certain vehicles of that model may have some additional cosmetic features, but no further differences from other vehicles of the same model. In that case, the model itself will be considered a variant, and all vehicles of that model will be specimens of the same variant.

- (3) Without limiting subsection (1), differences in the following design characteristics of road vehicles with a gross vehicle mass of 12 tonnes or less are significant for the purposes of subsection (1):

- (a) the capacity, configuration or induction of an internal combustion engine;
- (b) the type of motive power driving the engine or motor;
- (c) the transmission or drivetrain system;
- (d) the body shape;
- (e) the vehicle category;
- (f) where the application is made on the basis of the mobility criterion in section 132—features designed to assist people with a disability;
- (g) differences of a kind set out in a determination under subsection 136(1).

Example 1: For paragraph 128(3)(b), the type of motive power driving the engine or motor of the variant will be significantly different from that of other vehicles of the relevant model of road vehicle if the variant is a plug-in hybrid vehicle where other vehicles of the relevant model are hybrids. However, road vehicles of a particular kind would not constitute a variant under paragraph 128(3)(b) by virtue of the fact that they operate on unleaded petrol where other relevant vehicles operate on premium unleaded petrol.

Example 2: For paragraph 128(3)(c), the variant's transmission system will be significantly different from that of other vehicles of the relevant model of road vehicle if vehicles of that variant have a different number of gears, or have a manual gear transmission where other relevant vehicles have an automatic gear transmission.

The variant's drivetrain system will be significantly different from that of other vehicles of the relevant model of road vehicle if vehicles of that variant are front-wheel drive where other relevant vehicles are rear-wheel drive.

Example 3: For paragraph 128(3)(d), the variant's design characteristics will be significantly different from those of other vehicles of the relevant model of road vehicle if vehicles of that variant have a different number of doors, or have a sedan body shape where other relevant vehicles have a hatchback body shape.

- (4) Differences in only one of the following design characteristics of road vehicles with a gross vehicle mass of 12 tonnes or less are not significant for the purposes of subsection (1):

- (a) colour, upholstery, trim or other cosmetic features;
- (b) where the relevant vehicles have the same type of engine—engine tuning or software;
- (c) marketing name;
- (d) differences of a kind set out in a determination under subsection 136(1).

Note: Such vehicles' design characteristics may nonetheless be significantly different from those of other vehicles of the relevant model of road vehicle if differences exist in more than one of the design characteristics set out in subsection (4).

- (5) Without limiting subsection (1), differences in the following design characteristics of vehicles with a gross vehicle mass of more than 12 tonnes are significant for the purposes of subsection (1):

- (a) the type of motive power driving the engine or motor;
- (b) where the application is made on the basis of the mobility criterion in section 132—features designed to assist people with a disability;
- (c) differences of a kind set out in a determination under subsection 136(1).

Example: For paragraph 128(5)(a), the type of motive power driving the engine or motor of the variant will be significantly different from that of other vehicles of the relevant model of road vehicle if the variant is a plug-in hybrid vehicle where other relevant vehicles are hybrids. However, road vehicles of a particular kind would not constitute a variant under paragraph 128(3)(b) by virtue of the fact that they operate on unleaded petrol where other relevant vehicles operate on premium unleaded petrol.

- (6) Differences in only one of the following design characteristics of road vehicles with a gross vehicle mass of more than 12 tonnes are not significant for the purposes of subsection (1):
 - (a) colour, upholstery, trim or other cosmetic features;
 - (b) where the relevant vehicles have the same type of engine—engine tuning or software;
 - (c) marketing name;
 - (d) differences of a kind set out in a determination under subsection 136(1).

Note: Such vehicles' design characteristics may nonetheless be significantly different from those of the relevant model of road vehicle if differences exist more than one of the design characteristics set out in subsection (6).

129 Eligibility for entry on SEVs Register

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

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- (ii) has been provided in Australia and subsection (3), (4) or (5) applies; and
- (b) at least 3 months have passed since that make and model of road vehicle was first made available to a consumer in any market in the world; and
- (c) the make and model of the road vehicle satisfies the rarity criterion.

Type approval holder applies for entry on SEVs Register

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

Vehicles available to consumers outside, but not in, Australia

- (4) This subsection applies if:
 - (a) the variant of the model, or the make and model, of the road vehicle has been provided in Australia, under a road vehicle type approval or because of an approval held under subsection 10A(1) or (2) of the *Motor Vehicle Standards Act 1989*; and
 - (b) either:
 - (i) the variant of the model, or the make and model, of the road vehicle is no longer genuinely available to consumers in Australia as a new vehicle, but is available as a new vehicle in another market in the world; or
 - (ii) the variant of the model, or the make and model, of the road vehicle was not genuinely available to consumers in Australia as a new vehicle for a period during which it was available as a new vehicle in another market in the world; and
 - (c) the application for entry on the SEVs Register relates only to a variant of a model, or make and model, of a road vehicle that was manufactured during the period of time in which the variant of the model or make and model was not genuinely available to consumers in Australia mentioned in subparagraph (b)(i) or (ii), as applicable.

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

- (5) This subsection applies if:
 - (a) the variant of the model, or the make and model, of the road vehicle has been provided in Australia because of an approval held under subsection 10A(1) or (2) of the *Motor Vehicle Standards Act 1989*; and
 - (b) the applicant for the entry on the SEVs Register:
 - (i) is or was the holder of the approval; or
 - (ii) is a person who is authorised, in writing, by the person who is or was the holder of the approval to make the application; and

- (c) the variant of the model, or the make and model, of the road vehicle has not been provided in Australia under a road vehicle type approval.

References to approvals under Motor Vehicle Standards Act 1989

- (6) A reference in this section to an approval held under subsection 10A(1) or (2) of the *Motor Vehicle Standards Act 1989* includes:
- (a) an approval held under those subsections that continues, or is taken to continue, in force under the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*; and
 - (b) an approval held under those subsections that has ceased to be in force (whether before or after the repeal of the *Motor Vehicle Standards Act 1989*).

Note: For paragraph (a), see item 4 of Schedule 3 to the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*.

130 Performance criterion

- (1) A variant of a model of a road vehicle satisfies the performance criterion if the variant, as originally manufactured, is above the power to weight threshold in subsection (2).
- (2) The power to weight threshold is:
- (a) for a vehicle originally manufactured before 1 January 2020—110 kilowatts per tonne; and
 - (b) for a vehicle originally manufactured on or after 1 January 2020—130 kilowatts per tonne.
- (3) In this section:

manufacture, in relation to a road vehicle, includes assembling the vehicle, but does not include modifying the vehicle.

131 Environmental criterion

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

- (a) either:
- (i) the variant meets or exceeds the national road vehicle standards relating to emissions that are applicable to the variant at the time the application is made; or
 - (ii) the variant meets or exceeds emissions standards that are determined under subsection 136(1) to be comparable to the standards mentioned in subparagraph (i); and
- (b) either:
- (i) the variant uses an alternative to an internal combustion engine (other than human or animal power) as a means of propulsion, whether as the exclusive means of propulsion or in addition to an internal-combustion engine; or

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- (ii) the variant has a maximum engine capacity of 660cc, a maximum engine output of 47 kilowatts and is not more than 3.4 metres long and 1.48 metres wide.

132 Mobility criterion

A variant of a model of a road vehicle satisfies the mobility criterion if the Secretary is satisfied that:

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

Note: A variant of a model of road vehicle captured by paragraph (b) can become a variant by virtue of the modification mentioned in subparagraph (i) (see paragraphs 128(3)(f) and (5)(b)). The underlying vehicle need not be a variant by virtue of section 128 before being modified to include those features.

133 Left-hand drive criterion

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

- (a) was originally manufactured as a left-hand drive vehicle; and
- (b) either:
 - (i) is not available as a right-hand drive vehicle in any market in the world; or
 - (ii) if the vehicle is available as a right-hand drive vehicle in a market—the vehicle was not originally manufactured as a right-hand drive vehicle for that market; and
- (c) is in one of the following vehicle categories:
 - (i) Passenger Car (MA);
 - (ii) Off-road Passenger Vehicle (MC);
 - (iii) Light Goods Vehicle (NA);
 - (iv) Medium Goods Vehicle (NB);
 - (v) Heavy Goods Vehicle (NC);

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

134 Campervans and motorhomes criterion

A variant of a model of a road vehicle satisfies the campervans and motorhomes criterion if the Secretary is satisfied that:

- (a) the variant was originally manufactured as a campervan or motorhome; or
- (b) the variant is suitable for such modifications as would be necessary to:
 - (i) convert it into a campervan or motorhome; and

- (ii) ensure that, once converted, it would comply with the applicable standards determined by the Minister under subsection 89(2).

Note: Paragraph 89(2)(a) provides that the Minister may make a determination specifying the standards that certain vehicles must comply with if manufactured or modified in accordance with a Model Report.

135 Rarity criterion

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

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

136 Determinations relating to criteria for entry on SEVs Register

- (1) The Minister may, by legislative instrument, determine matters relating to the criteria set out in sections 128 to 135 for a variant of a model, or a make and model, of a road vehicle to be entered on the SEVs Register.
- (2) Without limiting subsection (1), a determination may relate to any or all of the following:
 - (a) the circumstances in which road vehicles of a particular kind will constitute a variant of a model of a road vehicle;
 - (b) the circumstances in which road vehicles of a particular kind will not constitute a variant of a model of a road vehicle;
 - (c) when differences in the design characteristics of vehicles will, or will not, be significant for the purposes of subsection 128(1);
 - (d) for the purposes of specified criteria—that those criteria apply to particular road vehicle categories;
 - (e) for the purposes of specified criteria—that those criteria apply in respect of particular road vehicle weight ranges;
 - (f) for the purposes of the environmental criterion—emissions standards that are comparable to national road vehicle standards relating to emissions;
 - (g) for the purposes of the mobility criterion—the features that establish whether a road vehicle has features to assist people with a disability;
 - (h) for the purposes of the campervans and motorhomes criterion—road vehicles that are campervans or motorhomes.

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137 Timeframe for considering application

- (1) The Secretary must consider an application for a variant of a model, or a make and model, of a road vehicle to be entered on the SEVs Register within 30 business days after receiving the application.
- (2) If the Secretary has made a request under subsection 126(1), a day is not to be counted as a business day for the purposes of subsection (1) of this section if it is:
 - (a) on or after the date of the request; and
 - (b) on or before the day the applicant provides the last of the information requested.

138 When Secretary may make or refuse to make entry on SEVs Register

- (1) The Secretary may enter a variant of a model, or a make and model, of a road vehicle on the SEVs Register if:
 - (a) the variant of the model, or make and model, of the vehicle is eligible for entry on the SEVs Register under section 129; and
 - (b) any of the following apply:
 - (i) the variant of the model, or the make and model, of the road vehicle is not on the SEVs Register;
 - (ii) the variant of the model, or the make and model, of the road vehicle is on the SEVs Register, but not in relation to the criterion on which the application is based;
 - (iii) the variant of the model, or the make and model, of the road vehicle is on the SEVs Register in relation to the criterion on which the application is based, but the entry is due to expire under section 143 during the 30 business day period mentioned in subsection 137(1).
- (2) If the Secretary enters a variant of a model, or a make and model, of a road vehicle on the SEVs Register in the circumstances mentioned in subparagraph (1)(b)(iii), the entry takes effect on the day after the existing entry expires.
- (3) The Secretary must refuse to enter a variant of a model, or a make and model, of a road vehicle on the SEVs Register if the variant of the model, or make and model, of the vehicle is not eligible for entry on the SEVs Register under section 129.
- (4) In deciding whether a variant of a model, or make and model, of a vehicle is eligible for entry on the SEVs Register under section 129, the Secretary may have regard to any matter the Secretary considers relevant.

139 Notice requirements for entry on SEVs Register

- (1) If the Secretary enters a variant of a model, or a make and model, of a road vehicle on the SEVs Register, the Secretary must, as soon as practicable, notify the applicant, in writing, of the entry.
- (2) If:

- (a) an application is made under subsection 125(1) in respect of a variant of a model, or a make and model, of a road vehicle; and
 - (b) the variant of the model, or the make and model, of the road vehicle is already entered on the SEVs Register; and
 - (c) the application is made before the start of the 30 day period ending on the day that the entry on the SEVs Register is due to expire;
- the Secretary must notify the applicant, in writing, that the variant of the model, or the make and model, of the road vehicle is already entered on the SEVs Register.

140 Notice requirements for refusal to make entry on SEVs Register

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

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

Subdivision B—Maintaining SEVs Register

141 Information to be included on the SEVs Register

- (1) A variant of a model, or a make and model, of a road vehicle is on the SEVs Register if all of the following information is entered on the SEVs Register:
 - (a) the vehicle category;
 - (b) the vehicle make;
 - (c) the vehicle model;
 - (d) the build date range for vehicles of the variant of the model, or make and model.
- (2) The Secretary may also enter any other information on the SEVs Register that he or she considers it appropriate to enter, other than personal information.

142 Correction of errors on SEVs Register

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

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

143 Expiry of entries on the SEVs Register

If the Secretary enters a variant of a model, or a make and model, of a road vehicle on the SEVs Register, the entry expires at the end of the period of 3 years starting on the day the entry is made.

Note: After expiry, the variant of the model, or the make and model, of the road vehicle may be re-entered on the SEVs Register if the Secretary approves a new application made under subsection 125(1).

Part 5—Import approvals

Division 1—Introduction

144 Simplified outline of this Part

This Part provides for the grant of approvals to permit road vehicles to be imported to Australia.

Division 2 sets out the circumstances in which a concessional RAV entry approval is taken to be an import approval for the purposes of the Act, while Division 3 provides for the grant of non-RAV entry import approvals for road vehicles that are not, generally, to be used on a public road.

Division 4 empowers the Secretary to grant reimportation import approvals in respect of vehicles that have been entered on the RAV or fitted with an identification plate or used import plate under the Motor Vehicle Standards Act 1989. Such a vehicle will be eligible for reimportation if, among other things, it remains consistent with the information in its RAV entry or displayed on its identification plate or used import plate.

Non-RAV entry import approvals and reimportation import approvals are automatically subject to conditions permitting the Minister or an inspector to inspect the relevant vehicles and seek certain information, in addition to any further conditions specified in the approval in a particular case.

Division 5 provides for the allocation of vehicle identification numbers for certain vehicles that do not already have them. It also permits the importation of vehicles imported in accordance with the requirements of an intergovernmental agreement, or reimported by after use by the Australian Defence Force in its overseas activities.

145 Purpose of this Part

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

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

Note: A person who holds a road vehicle type approval is permitted to import a road vehicle to which the type approval applies at the time of importation (see paragraph 22(2)(a) of the Act).

Division 2—RAV entry import approvals

146 RAV entry import approval

If a person holds a concessional RAV entry approval that is in force in respect of a road vehicle:

- (a) the person is taken to be the holder of an import approval within the meaning of paragraph 22(2)(c) of the Act (a ***RAV entry import approval***);
- (b) that import approval is taken to be in force; and
- (c) the road vehicle is taken to be specified in that import approval.

Note 1: A person commits an offence if the person imports a road vehicle into Australia where they were not permitted to do so at the time of the importation (see subsection 22(1) of the Act). However, under paragraph 22(2)(c) of the Act, a person is permitted to import a road vehicle if, at the time of the importation, the person holds an import approval, the approval is in force, and the road vehicle is specified in the approval.

Division 3—Non-RAV entry import approvals

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

147 Application for approval

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

Note: The Minister may refuse to consider an application if it does not comply with subsection 147(2) (see section 149).

148 Further information

- (1) To assist in deciding whether to grant a non-RAV entry import approval to a person, the Minister may request the person to provide further specified information relevant to the application.
- (2) A request under subsection (1) must:
 - (a) be in writing; and
 - (b) state that the Minister may refuse to consider the person's application if the person does not comply with the request within the period of 30 days starting on the day the request is made, or within such longer period as the Minister allows.

149 Minister may refuse to consider application in certain circumstances

The Minister may refuse to consider an application for a non-RAV entry import approval if:

- (a) the application does not comply with subsection 147(2); or
- (b) the applicant does not comply with a request made under subsection 148(1) within the period mentioned in paragraph 148(2)(b).

Note: Subsection 147(2) requires, among other things, that the application be in the approved form and be accompanied by the application fee.

150 Criteria for deciding application

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

- (a) an eligibility criterion set out in section 151 or 152 is satisfied in respect of the vehicle; and

- (b) the Minister is satisfied that the person will comply with the conditions to which the approval will be subject.

151 Eligibility criterion—non-road use

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

- (a) the vehicle is being imported for a purpose that:
 - (i) does not involve use on a public road; or
 - (ii) involves use on a public road only in exceptional circumstances; and
- (b) any of the following applies:
 - (i) the vehicle will be used only in a race or rally, or in providing support to a vehicle used in a race or rally;
 - (ii) the vehicle will be used only in a public exhibition and is a vehicle that is not generally available in Australia;
 - (iii) the vehicle will be used only in the production of a film, video, television program or advertisement;
 - (iv) the vehicle will be used only for testing or market evaluation;
 - (v) the vehicle is a significantly modified vehicle (including a hot rod);
 - (vi) the vehicle is suitable to be granted a non-RAV entry import approval, and granting the approval would not be inconsistent with the objects of the Act.

152 Eligibility criterion—temporary

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

- (a) the road vehicle will remain in Australia temporarily; and
- (b) either:
 - (i) the vehicle will not be used on a public road; or
 - (ii) the vehicle will only be used on a public road in exceptional circumstances.

153 Other considerations

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

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

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

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154 Timeframe for deciding application

- (1) The Minister must decide an application for a non-RAV entry import approval within 30 business days after receiving the application.
- (2) If the Minister has made a request under subsection 148(1), a day is not to be counted as a business day for the purposes of subsection (1) of this section if it is:
 - (a) on or after the date of the request; and
 - (b) on or before the day the applicant provides the last of the information requested.

155 Notice requirements for grant of non-RAV entry import approval

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

156 Notice requirements for refusal to grant non RAV entry import approval

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

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

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

157 Conditions of approval

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

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

- (2) Without limiting paragraph (1)(a), the conditions specified in the approval may do one or more of the following:

- (a) require the holder of the approval to export or destroy the vehicle to which the approval applies within a specified period;
- (b) require the holder of the approval to provide evidence to the Minister that the vehicle to which the approval applies has been exported or destroyed within the specified period;
- (c) require the holder of the approval to modify the vehicle to which the approval applies within a specified period;
- (d) require the vehicle, or any modifications of the vehicle, to be verified by the holder of an AVV approval in accordance with the requirements specified in the condition;
- (e) prohibit the holder of the approval from authorising another person to access the vehicle to which the approval applies;
- (f) specify how the vehicle to which the approval applies may be used;
- (g) require the holder of the approval to keep specified records for a specified period;
- (h) require the holder of the approval to provide specified records upon written request by the Minister or an inspector.

158 Condition about providing information etc. on request

It is a condition of a non-RAV entry import approval that the holder of the approval, when requested in writing by the Minister or an inspector and within such reasonable time as is specified in the request:

- (a) provide any information or documents specified in the request:
 - (i) that the Minister or inspector reasonably requires for the purposes of assessing whether the holder of the approval is complying with the Act, this instrument, or an instrument made under the Act or this instrument; or
 - (ii) about vehicles to which the approval applies; and
- (b) provide written answers to questions, specified in the request, about road vehicles covered by the approval.

Division 4—Reimportation import approval

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

159 Application

- (1) A person may apply to the Secretary for the grant of a reimportation import approval in respect of a road vehicle if:
 - (a) the vehicle is either:
 - (i) outside Australia and on the RAV; or
 - (ii) outside Australia and has an identification plate or used import plate that was placed on the vehicle in accordance with the *Motor Vehicle Standards Act 1989*; and
 - (b) where subparagraph (a)(i) applies to the vehicle—in all relevant respects, the vehicle remains consistent with the information entered on the RAV in relation to that vehicle; and
 - (c) where subparagraph (a)(ii) applies to the vehicle—in all relevant respects, the vehicle remains consistent with the details set out on the identification plate or used import plate in relation to that vehicle.
- (2) The application must be:
 - (a) in the approved form; and
 - (b) accompanied by:
 - (i) such documents as are required by the form; and
 - (ii) the application fee.

Note: The Secretary may refuse to consider an application if it does not comply with subsection 159(2) (see section 161).

160 Further information and inspection of road vehicle

- (1) To assist in deciding whether to grant a reimportation import approval to a person in respect of a road vehicle, the Secretary may request the person to do the following:
 - (a) provide further specified information relevant to the application;
 - (b) allow or arrange for the Secretary or an inspector to inspect the vehicle.
- (2) A request under subsection (1) must:
 - (a) be in writing; and
 - (b) state that the Secretary may refuse to consider the person's application if the person does not comply with the request within the period of 30 days starting on the day the request is made, or within such longer period as the Secretary allows.

161 Secretary may refuse to consider application in certain circumstances

The Secretary may refuse to consider an application for a reimportation import approval if:

- (a) the application does not comply with subsection 159(2); or
- (b) the applicant does not comply with a request made under subsection 160(1) within the period mentioned in paragraph 160(2)(b).

Note: Subsection 159(2) requires, among other things, that the application be in the approved form and be accompanied by the application fee.

162 Criteria for deciding application

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

- (a) the eligibility criterion set out in section 163 is satisfied in respect of the vehicle; and
- (b) the person will comply with the conditions to which the approval will be subject.

163 Eligibility criterion

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

- (a) the applicant owns the vehicle at the time the application is made; and
- (b) the vehicle is outside Australia; and
- (c) the vehicle:
 - (i) is on the RAV; or
 - (ii) has an identification plate or used import plate that was placed on the vehicle in accordance with the *Motor Vehicle Standards Act 1989*; and
- (d) where subparagraph (c)(i) applies to the vehicle—in all relevant respects, the vehicle remains consistent with the information entered on the RAV in relation to that vehicle; and
- (e) where subparagraph (c)(ii) applies to the vehicle—in all relevant respects, the vehicle remains consistent with the details set out on the identification plate or used import plate in relation to that vehicle.

164 Other considerations

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

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

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

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165 Timeframe for deciding application

- (1) The Secretary must decide an application for a reimportation import approval within 30 business days after receiving the application.
- (2) If the Secretary has made a request under subsection 160(1), a day is not to be counted as a business day for the purposes of subsection (1) of this section if it is:
 - (a) on or after the date of the request; and
 - (b) on or before the day the applicant provides the last of the information requested or the vehicle is inspected, as the case may be.

166 Notice requirements for grant of reimportation import approval

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

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

167 Notice requirements for refusal of to grant reimportation import approval

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

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

Subdivision B—Conditions applying to reimportation import approvals

168 Conditions of reimportation import approval

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

Note: The holder of an approval may commit an offence or contravene a civil penalty provision if a condition of the approval is breached (see sections 28 and 29 of the Act).
- (2) Without limiting paragraph (1)(a), the conditions specified in the approval may do one or more of the following:
 - (a) require the holder of the approval to export or destroy the vehicle to which the approval applies within a specified period;
 - (b) require the holder of the approval to provide evidence to the Secretary or an inspector that the vehicle to which the approval applies has been exported or destroyed within the specified period;
 - (c) require the vehicle, or any modifications of the vehicle, to be verified by the holder of an AVV approval in accordance with section 100;

- (d) require the holder of the approval to keep specified records for a specified period;
- (e) require the holder of the approval to provide specified records when requested to do so by the Secretary or an inspector;
- (f) prohibit the holder of the approval from giving another person access to the vehicle to which the approval applies;
- (g) specify how the vehicle to which the approval applies may be used.

169 Condition about providing information etc. on Secretary's request

It is a condition of a reimportation import approval that the holder of the approval, when requested in writing by the Secretary or an inspector and within such reasonable time as is specified in the request:

- (a) provide any information or documents specified in the request:
 - (i) that the Secretary or inspector reasonably requires for the purposes of assessing whether the holder of the approval is complying with the Act, this instrument, or an instrument made under the Act or this instrument; or
 - (ii) about vehicles to which the approval applies; and
- (b) provide written answers to questions, specified in the request, about road vehicles covered by the approval.

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Division 5—Miscellaneous

170 Allocation of vehicle identification number

The Secretary may allocate a vehicle identification number for a road vehicle if:

- (a) either:
 - (i) a person is taken to be the holder of a RAV entry import approval in respect of the vehicle; or
 - (ii) the Minister grants a non-RAV entry import approval in respect of the vehicle; and
- (b) the vehicle does not have a vehicle identification number.

Note: A person is taken to be the holder of a RAV entry import approval in respect of a vehicle in the circumstances set out in section 146.

171 Circumstances in which a person is permitted to import a road vehicle

- (1) For the purposes of paragraph 22(2)(d) of the Act, a person is permitted to import a road vehicle if, at the time of the importation, subsection (2) or (3) applies.
- (2) This subsection applies if:
 - (a) the road vehicle is a vehicle to which an intergovernmental agreement applies; and
 - (b) the vehicle is imported in accordance with the requirements of the intergovernmental agreement.
- (3) This subsection applies if the road vehicle:
 - (a) is owned by the Commonwealth and operated by the Australian Defence Force; and
 - (b) was previously exported from Australia in connection with an activity of the Australian Defence Force outside Australia; and
 - (c) is imported into Australia after use in such an activity.

Note: A person commits an offence if the person imports a road vehicle into Australia where they were not permitted to do so at the time of the importation (see subsection 22(1) of the Act). However, the rules may prescribe circumstances in which a person is permitted to import a road vehicle (see paragraph 22(2)(d)).

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

Division 1—Introduction

172 Simplified outline of this Part

This Part provides for the grant of approvals in relation to components to be used in the manufacture or modification of certain road vehicles. The Secretary may grant a road vehicle component type approval if, among other things, the component complies or substantially complies with the applicable national road vehicle standards.

Approvals are subject to the conditions set out in Division 3, and any further conditions specified in the approval. Among other things, the holder of the approval must keep certain records and issue up-to-date instructions for the use or installation of the component.

A road vehicle component type approval lasts for 7 years.

173 Purpose of this Part

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

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

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

174 Application

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

Note 1: The Secretary may refuse to consider an application if it does not comply with subsection 174(2) (see section 176).

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

175 Further information and inspection of premises

- (1) To assist in deciding whether to grant a road vehicle component type approval to a person, the Secretary may request the person to do the following:
 - (a) provide further specified information;
 - (b) allow or arrange for the Secretary or an inspector to inspect premises where the component is designed or manufactured;
 - (c) allow or arrange for the Secretary or an inspector to inspect components (whether or not approved road vehicle components) used in the design or manufacture of the component.
- (2) A request under subsection (1) must:
 - (a) be in writing; and
 - (b) state that the Secretary may refuse to consider the person's application if the person does not comply with the request within the period of 30 days

starting on the day the request is made, or within such longer period as the Secretary allows.

176 Secretary may refuse to consider application in certain circumstances

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

- (a) the application does not comply with subsection 174(2); or
- (b) the applicant does not comply with a request is made under subsection 175(1) within the period mentioned in paragraph 175(2)(b).

Note: Subsection 174(2) requires, among other things, that the application be in the approved form and be accompanied by the application fee.

177 Criteria for deciding application

- (1) The Secretary may grant a road vehicle component type approval to a person in respect of a type of road vehicle component if the Secretary is satisfied that:
 - (a) either:
 - (i) the type of road vehicle component complies with the applicable national road vehicle standards, as in force at the time the Secretary decides the application; or
 - (ii) subsection (3) applies to the type of vehicle component; and
 - (b) either:
 - (i) the person has control over all stages of the design, componentry and manufacturing process for the type of road vehicle component; or
 - (ii) the person is able to access information, including information about any changes, relating to the design, componentry and manufacturing process for the type of road vehicle component that may affect that type of road vehicle component's compliance with the applicable national road vehicle standards; and
 - (c) the person is able to ensure that the design, componentry and manufacturing process will consistently produce the type of road vehicle component; and
 - (d) the person is able to arrange for the Secretary or an inspector to inspect the premises or components used, or to be used, in the manufacturing process for the purposes of assessing compliance with:
 - (i) the applicable national road vehicle standards; and
 - (ii) any other requirements of the Act, this instrument, or an instrument made under the Act or this instrument that apply in relation to the person or the type of road vehicle component; and
 - (e) while the approval is in force, and for the period of 7 years after it expires, the person will be able to:
 - (i) access the original and any subsequent versions of the supporting information for the approval; and
 - (ii) provide the information mentioned in subparagraph (i) to the Secretary; and
 - (f) while the approval is in force, the person will ensure that the supporting information for the approval is kept up-to-date; and

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- (g) the person will comply with:
 - (i) the conditions to which the approval will be subject; and
 - (ii) any other requirements of the Act, this instrument, or an instrument made under the Act or this instrument that apply in relation to the person or the type of road vehicle component.
- (2) For the purposes of subparagraph (1)(a)(i) and paragraph (3)(a), the Secretary may take into account only the following matters:
 - (a) the results of testing:
 - (i) conducted under a testing facility approval; or
 - (ii) conducted by a person who holds a testing facility approval but did not at the time the testing was conducted;
 - (b) an approval or other document:
 - (i) issued by the government of a foreign country that is a contracting party to the 1958 Agreement, or by a person who is a competent authority of such a government for the purposes of that agreement; and
 - (ii) that indicates that the type of road vehicle component complies with requirements applying under that agreement that are equivalent to the applicable national road vehicle standards as in force at the time the Secretary decides the application;
 - (c) in respect of road vehicle components used in the type of road vehicle component—whether the road vehicle components are approved road vehicle components;
 - (d) any declaration made by the person;
 - (e) any matter or thing specified in an applicable national road vehicle standard to be acceptable as evidence of compliance with that standard, or an element of that standard, as in force at the time the Secretary decides the application;
 - (f) any information about whether the matters mentioned in paragraphs (a) to (e) demonstrate that road vehicle components of the type to which the application relates comply with the applicable national road vehicle standards;
 - (g) any information relevant to assessing the accuracy of a matter mentioned in paragraphs (a) to (e);

The Secretary must not take into account any other matters.
- (3) This subsection applies to a type of road vehicle component if:
 - (a) the type of road vehicle component substantially complies with the applicable national road vehicle standards, as in force at the time the Secretary decides the application; and
 - (b) the type of road vehicle component's non-compliance with the applicable national road vehicle standards, as in force at the time the Secretary decides the application, is only in minor and inconsequential respects or to a minor and inconsequential extent.

178 Other considerations

Subject to subsection 177(2), in deciding whether to grant, or to refuse to grant, a road vehicle component type approval to a person, the Secretary may take into account:

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

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

179 Timeframe for deciding application

- (1) The Secretary must decide an application for a road vehicle component type approval within 60 business days after receiving the application.
- (2) If the Secretary has made a request under subsection 175(1), a day is not to be counted as a business day for the purposes of subsection (1) of this section if it is:
 - (a) on or after the date of the request; and
 - (b) on or before the day the applicant provides the last of the information requested, or the premises or components are inspected, as the case may be.

180 Period of road vehicle component type approval

A road vehicle component type approval:

- (a) comes into force on the day specified in the approval; and
- (b) remains in force for 7 years, unless it is revoked earlier.

181 Notice requirements for grant of road vehicle component type approval

- (1) If the Secretary decides to grant a road vehicle component type approval to a person, the Secretary must, as soon as practicable:
 - (a) notify the person, in writing, of the Secretary's decision; and
 - (b) provide a copy of the approval to the person.
- (2) A road vehicle component type approval must specify the following:
 - (a) the approval number;
 - (b) the name of the holder of the approval;
 - (c) the type of road vehicle component to which the approval applies;
 - (d) the national road vehicle standards applicable to the type of road vehicle component to which the approval applies and the documents mentioned in subsection 177(2) that demonstrate that road vehicle components of that type comply with those standards;

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- (e) if subsection 177(3) applies to the type of road vehicle component—the respects in which, or the extent to which, road vehicle components of that type are not required to comply with the applicable national road vehicle standards as in force at the time the Secretary decides the application;
- (f) the conditions to which the approval is subject;
- (g) the day that the approval comes into force;
- (h) that the approval expires at the end of the period of 7 years after it comes into force, unless it is revoked earlier.

182 Notice requirements for refusal to grant road vehicle component type approval

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

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

Division 3—Conditions applying to road vehicle component type approvals

183 Conditions of road vehicle component type approval

A road vehicle component type approval is subject to:

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

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

184 Condition about compliance with national road vehicle standards

- (1) Except where subsection (3) applies, it is a condition of a road vehicle component type approval that the holder of the approval, at all times:
 - (a) ensure that road vehicle components covered by the approval, at the time they are provided for use or installation in a road vehicle, comply with the applicable national road vehicle standards as in force at that time; and
 - (b) is able to produce evidence that:
 - (i) demonstrates that road vehicle components covered by the approval comply with those standards at the time they are provided for use or installation in a road vehicle; and
 - (ii) the Secretary could take into account for the purposes of subsection 177(2).
- (2) Subsection (3) applies where the approval specifies that road vehicle components covered by the approval are not required to comply with the applicable national road vehicle standards in certain respects, or to a certain extent, in order for the approval to be granted.

Note: The road vehicle component type approval must, under paragraph 181(2)(e), specify the respects in which, or the extent to which, road vehicle components of that type are not required to comply with the applicable national road vehicle standards in order for the approval to be granted.

- (3) It is a condition of a road vehicle component type approval that the holder of the approval, at all times:
 - (a) ensure that road vehicle components covered by the approval, at the time they are provided for use or installation in a road vehicle, comply with the applicable national road vehicle standards as in force at that time, except in the respects, or to the extent, that the approval specifies that components of that type are not required to comply with those standards; and
 - (b) is able to produce evidence that:
 - (i) demonstrates that road vehicle components covered by the approval comply with those standards to the extent mentioned in paragraph (a); and
 - (ii) the Secretary could take into account for the purposes of subsection 177(2).

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185 Condition about a conformity of production system

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

- (a) governs the manufacturing process detailed in the supporting information for the approval; and
- (b) ensures that, at the time that a component covered by the approval is manufactured, the component satisfies the applicable national road vehicle standards as in force at that time in the respects, or to the extent, that the component is required to comply with those standards.

Note: The road vehicle component type approval must, under paragraph 181(2)(e), specify the respects in which, or the extent to which, components of that type are not required to comply with the applicable national road vehicle standards as in force at the time the Secretary decides the application.

186 Condition about providing information etc. to the Secretary or an inspector

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

- (a) provide, or arrange for the Secretary or an inspector to access, the original and any subsequent versions of the supporting information for the approval; and
- (b) provide any information that the Secretary or inspector reasonably requires for the purposes of assessing whether the holder of the approval is complying with the Act, this instrument, or an instrument made under the Act or this instrument; and
- (c) provide any other information or documents specified in the request about road vehicle components to which the approval applies; and
- (d) provide written answers to questions, specified in the request, about road vehicle components to which the approval applies; and
- (e) for the purpose of assessing whether road vehicle components or road vehicles containing road vehicle components to which the approval applies would comply with the applicable national road vehicle standards, to the extent that those standards relate to that component—allow or arrange for the Secretary or an inspector to inspect:
 - (i) premises where the road vehicle components are designed or manufactured; or
 - (ii) things, including documents, associated with the design or manufacturing process.

187 Condition about keeping up-to-date records of supporting information

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

- (a) keep a record of the original and any subsequent versions of the supporting information for the approval while the approval is in force, and for the period of 7 years after it expires or is revoked; and

- (b) ensure that the supporting information for the approval is kept up-to-date while the approval is in force.

188 Condition about providing instructions for use or installation of component

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

- (a) issue instructions for the use or installation of the component in a road vehicle that, if followed correctly, will ensure that the vehicle will comply with the applicable national road vehicle standards, as in force at the time that the holder of the approval provided the component for use or installation in a road vehicle, to the extent that those standards relate to that component; and
- (b) as at the time the holder of the approval provides the component for use or installation in a road vehicle—make the latest version of those instructions available to persons using or installing the component.

Part 7—Variation, suspension or revocation of approval

Division 1—Introduction

189 Simplified outline of this Part

This Part provides for the variation, suspension and revocation of approvals.

Divisions 2 and 3 empower the Minister to vary, suspend or revoke approvals granted by the Minister under this instrument, either on his or her own motion, or following an application by the approval-holder. The Secretary has the same power in relation to approvals granted by the Secretary. The Part sets out a number of matters that the Minister and Secretary must take into account when deciding whether to vary, suspend or revoke an approval.

Division 4 further provides that a road vehicle type approval or component type approval will, in certain circumstances, be automatically suspended following a change to the applicable national road vehicle standards. In these circumstances, the approval-holder will need to apply to the Secretary for a variation of the relevant approval. If the Secretary does not vary the approval (or decide that there is no need to do so) before the new or amended standard would apply, the approval is suspended from that applicability time until the time the Secretary varies the approval (or decides that variation is unnecessary).

190 Purpose of this Part

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

Division 2—Action on Minister or Secretary's own initiative

191 Minister or Secretary may vary, suspend or revoke approval

Variation

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

Note: A decision to vary an approval under this section is reviewable (see section 230).

- (3) Without limiting subsections (1) or (2), the Minister or Secretary may vary such an approval by varying, removing or adding conditions to which the approval is subject.
- (4) To avoid doubt, the power in subsection (2) does not include the power to approve a variation to a Model Report.

Note: The Secretary may only approve a variation to a Model Report under section 87. However, subsection (2) does include the power to vary the approval of a Model Report.

Suspension or revocation

- (5) The Minister may suspend or revoke any approval given by the Minister under this instrument on his or her own initiative.
- (6) The Secretary may suspend or revoke any approval given by the Secretary under this instrument on his or her own initiative.

Note: A decision to suspend or revoke an approval under this section is reviewable (see section 230).

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

192 Considerations in deciding whether to vary, suspend or revoke approval

- (1) Subject to subsection (2), in deciding whether to vary, suspend or revoke an approval under this Division, the Minister or Secretary must take into account the following:
 - (a) whether the holder of the approval has engaged in conduct that contravenes or may have contravened road vehicle legislation;
 - (b) the likelihood that the holder of the approval will fail to comply with a condition of:
 - (i) the approval; or
 - (ii) any other approval granted to the holder under this instrument; or
 - (iii) an approval held under the *Motor Vehicle Standards Act 1989* that continues, or is taken to continue, in force under the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*;

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- (c) in the case of a road vehicle type approval—whether the use of the type of vehicle to which the approval applies on a public road would pose an unacceptable risk to public safety;
 - (d) any other matter that the Minister or Secretary considers relevant.
- (2) The Minister or Secretary may only vary an approval under this Division if the Minister or Secretary is satisfied that, if the approval as varied were the subject of an application under this instrument, he or she would grant the approval.
- (3) Without limiting section 191, the Minister or Secretary may suspend or revoke an approval under this Division if he or she ceases to be satisfied of the matters based on which the approval was granted.
- (4) In the case of a testing facility approval, if:
- (a) the facility at which testing is carried out is in a foreign country; and
 - (b) an audit of the facility is undertaken by the government, or by a body or organisation, of that or another country; and
 - (c) the Secretary considers that information in the audit is relevant to whether or not the holder of the approval has failed to comply with a condition of the approval;
- the Secretary may take the information into account in deciding whether to vary, suspend or revoke the approval under this Division.

193 Notifying holder of approval of decision to vary, suspend or revoke approval

Variation of approvals

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

Suspension or revocation of approvals

- (3) As soon as practicable after deciding to suspend or revoke an approval under this Division, the Minister or Secretary, as the case may be, must notify the holder of the approval, in writing, of the decision.
- (4) A decision takes effect:
- (a) on the day on which it is made; or
 - (b) if the notice specifies a later day as the day on which the decision takes effect—on that later day.

194 Effect of suspension

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

Division 3—Action on request by holder of approval

195 Holder of approval may apply for variation of approval

- (1) The holder of an approval granted under this instrument may apply for a variation of the approval:
 - (a) if the approval was granted by the Minister—to the Minister; and
 - (b) if the approval was granted by the Secretary—to the Secretary.
- (2) Without limiting subsection (1), an application to vary such an approval may include an application to do any of the following:
 - (a) vary, remove or add a condition to which the approval is subject;
 - (b) add a variant to, or remove a variant from, a road vehicle type approval;
 - (c) update the evidence provided in connection with the approval;
 - (d) update the approval in response to a change to the national road vehicle standards.
- (3) An application must be:
 - (a) in the approved form; and
 - (b) accompanied by:
 - (i) such documents as are required by the form; and
 - (ii) the application fee.
- (4) The Secretary may refuse to consider an application if it does not comply with subsection (3).

196 Minister or Secretary may seek further information

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

197 Minister or Secretary may vary approval

- (1) Subject to subsection (3), the Minister may vary an approval given by the Minister under this instrument on the application of the holder of the approval.
- (2) Subject to subsection (3), the Secretary may vary an approval given by the Secretary under this instrument on the application of the holder of the approval.
- (3) The Minister or Secretary may only vary an approval under this Division if satisfied that, if the approval as varied were the subject of an application under this instrument, he or she would grant the approval.
- (4) The Minister or Secretary may vary an approval in terms other than those requested by the holder of the approval.

Note: A decision to vary an approval in a terms than those requested by the holder of the approval is reviewable (see section 230).

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- (5) To avoid doubt, the power in subsection (2) does not include the power to approve a variation to a Model Report.

Note: The Secretary may only approve a variation to a Model Report under section 87.

198 Holder may apply to suspend or revoke approval

- (1) The holder of an approval granted by the Minister under this instrument may request the Minister, in writing, to suspend or revoke the approval.
- (2) The holder of an approval granted by the Secretary under this instrument may request the Secretary, in writing, to suspend or revoke the approval.
- (3) The Minister or Secretary must suspend or revoke an approval in accordance with a request under subsection (1) or (2) as soon as practicable after receiving it.
- (4) The Minister or Secretary, as the case may be, must suspend an approval:
- (a) for a specified period; or
 - (b) until a specified event occurs.
- (5) The Minister or Secretary may specify a period or event under subsection (4) even if the period or event is other than that requested by the holder of the approval.

Note: A decision to suspend an approval for a period, or until a specified event, other than that requested by the holder of the approval, is reviewable (see section 230).

199 Notifying holder of approval of decision to vary, suspend or revoke approval

- (1) As soon as practicable after deciding to vary, suspend or revoke an approval under this Division, the Minister or Secretary, as the case may be, must notify the holder of the approval, in writing, of the decision.
- (2) The notice must specify the following:
- (a) the date on which the decision takes effect;
 - (b) if the Minister or Secretary has decided to suspend the approval for a specified period—the period for which the suspension remains in effect;
 - (c) if the Minister or Secretary has decided to suspend the approval until a specified event occurs—that the suspension remains in effect until that event occurs.

200 Effect of suspension

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

201 Interaction with Division 2

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

Division 4—Automatic suspension of approval: compliance with new or amended national road vehicle standards

202 Automatic suspension: compliance with new or amended road vehicle standards

- (1) A road vehicle type approval or road vehicle component type approval is automatically suspended, by force of this section, if:
 - (a) a national road vehicle standard is amended, or a new national road vehicle standard is made; and
 - (b) the new or amended standard would affect the requirements that apply to:
 - (i) vehicles covered by a road vehicle type approval; or
 - (ii) road vehicle components covered by a road vehicle component type approval; and
 - (c) the new or amended standard is to apply in relation to those vehicles or road vehicle components from a particular time (the *applicability time*) after the standard is registered on the Federal Register of Legislation; and
 - (d) those vehicles or road vehicle components would, if provided after the applicability time, be required to comply with the new or amended standard; and
 - (e) the Secretary has not, before the applicability time:
 - (i) varied the road vehicle type approval or road vehicle component type approval under subsection 197(2) on the application of the holder of the approval; or
 - (ii) decided, after considering the application of the holder of the approval, that it is not necessary to vary the approval under subsection 197(2) on the basis that the vehicles or components covered by the approval already comply with the new or amended standard.
- (2) The suspension:
 - (a) starts at the applicability time; and
 - (b) ends on the day that the Secretary:
 - (i) varies the approval under paragraph subsection 197(2); or
 - (ii) decides, after considering the application of the holder of the approval, that it is not necessary to vary the approval under subsection 197(2) on the basis that the vehicles or components covered by the approval already comply with the new or amended standard.
- (3) The Secretary must notify the holder of the approval in writing of the suspension.

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

Division 1—Introduction

203 Simplified outline of this Part

This Part provides for the recall of road vehicles and approved road vehicle components.

Broadly speaking, Division 2 empowers the Minister to initiate compulsory recalls of road vehicles or approved road vehicle components of particular kinds where it appears to the Minister that such vehicles or components will or may cause injury to any person, or do not (or it is likely that they do not) comply with relevant standards. The supplier must then take prescribed remedial action.

Division 3 requires a person who initiates a voluntary recall to notify the Minister and certain other parties of the recall when it takes place in the circumstances covered by that Division.

Division 4 requires the Minister to issue a proposed recall notice before issuing a recall notice, except where the Minister has certified that it is necessary to issue the recall notice without delay. Where the Minister has issued a proposed recall notice, certain interested parties may require that a conference be held regarding the proposed recall. Following such a conference, Secretary must make a recommendation to the Minister as to whether or not to issue the recall notice.

This Part also provides for various miscellaneous matters, including how it interacts with certain aspects of the recall provisions in the Australian Consumer Law.

204 Purpose of this Part

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

Note: Section 45 of the Act affects the meaning of references in this Part to the supply of road vehicles or approved road vehicle components. For the definition of *supply*, see section 5 of the Act. Section 209 of this instrument also affects the meaning of ‘supplier’ in certain provisions of this Part.

205 Definitions

In this Part, a reference to the national road vehicle standards does not include a vehicle standard as in force from time to time under section 7 of the *Motor Vehicle Standards Act 1989* that is taken also to be a national road vehicle standard under Schedule 1 of the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*, or that continues in force as if it were a national road vehicle standard under Item 2 of Schedule 3 of that Act.

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Note: Subsection 206(7) deals with the compulsory recall of vehicles supplied under the *Motor Vehicle Standards Act 1989* which were required to comply with standards made under section 7 of that Act. Such vehicles cannot be recalled under subsection (4), which deals with the compulsory recall of vehicles that do not comply with the national road vehicle standards.

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

206 Compulsory recall of road vehicles or approved road vehicle components

- (1) The Minister may, by legislative instrument, issue a *recall notice* for road vehicles or approved road vehicle components of a particular kind if:
 - (a) a person, in trade or commerce, supplies vehicles or components of that kind; and
 - (b) subsection (3), (4), (6) or (7) applies; and
 - (c) where subsection (4), (6) or (7) applies—it appears to the Minister that the non-compliance is of a substantive nature; and
 - (d) it appears to the Minister that one or more suppliers of such vehicles, or such components, have not taken satisfactory action to:
 - (i) prevent those vehicles or components causing injury to any person; or
 - (ii) where subsection (4), (6) or (7) applies—rectify the non-compliance.
- (2) It is not necessary for the purposes of paragraph (1)(d) for the Minister to know the identities of any of the suppliers of the road vehicles or approved road vehicle components of that kind.

Note: Section 209 affects the meaning of supplier in this section.

Vehicles or components will or may cause injury

- (3) This subsection applies if it appears to the Minister that:
 - (a) a road vehicle or approved road vehicle component of a particular kind will or may cause injury to any person; or
 - (b) a reasonably foreseeable use (including a misuse) of such a vehicle or component will or may cause injury to any person.

Vehicles or components do not comply with national road vehicle standards

- (4) This subsection applies if it appears to the Minister that a road vehicle or approved road vehicle component of a particular kind does not, or it is likely that it does not, comply with the applicable national road vehicle standards.
- (5) Without limiting subsection (4), that subsection applies if it appears to the Minister that:
 - (a) where a vehicle of a particular kind was entered on the RAV via the type approval pathway on the basis that it complied, to a certain extent, with the applicable national road vehicle standards—such a vehicle does not, or it is likely that it does not, comply to that extent with those standards as in force at the time it was entered on the RAV; or
 - (b) where a road vehicle of a particular kind was entered on the RAV via the concessional RAV entry approval pathway on the basis that it complied, to a certain extent, with the applicable national road vehicle standards—such a vehicle does not, or it is likely that it does not, comply to that extent with those standards as in force at the time it was entered on the RAV; or

- (c) where a road vehicle component type approval was granted in respect of a road vehicle component of a particular kind on the basis that it complied, to a certain extent, with the applicable national road vehicle standards—the component does not, or it is likely that it does not, comply to that extent with those standards as in force at the time it was provided for use or installation in a road vehicle by the holder of the approval.

Modified vehicles that do not comply with certain standards

- (6) This subsection applies if:
 - (a) a road vehicle of a particular kind was entered on the RAV via the concessional RAV entry approval pathway on the basis that the vehicle was manufactured or modified in accordance with an approved Model Report; and
 - (b) the Model Report was approved on the basis that vehicles manufactured or modified in accordance with it would comply, to a certain extent, with the applicable national road vehicle standards or standards determined by the Minister under subsection 89(2), or both; and
 - (c) it appears to the Minister that such a vehicle does not, or it is likely that it does not, comply to that extent with those standards as in force at the time the vehicle was manufactured or modified in accordance with the Model Report.

Vehicles supplied under the Motor Vehicle Standards Act

- (7) This subsection applies if:
 - (a) the supply of a road vehicle of a particular kind was permitted on the basis that the vehicle complied, to a particular extent, with applicable standards made under section 7 of the *Motor Vehicle Standards Act 1989*; and
 - (b) it appears to the Minister that the vehicle does not, or it is likely that it does not, comply to that extent with those standards:
 - (i) as in force at the time an identification plate or used import plate was placed on the vehicle under the *Motor Vehicle Standards Act 1989*; or
 - (ii) if the vehicle does not have such a plate—as in force at the time the vehicle was manufactured.

207 Contents of a recall notice

- (1) A recall notice for road vehicles or approved road vehicle components may require one or more suppliers of the vehicles or components to take one or more of the following actions:
 - (a) recall the vehicles or components;
 - (b) disclose to the public, or to a class of persons specified in the notice, one or more of the following:
 - (i) the nature of a defect in, or a dangerous characteristic of, the vehicles or components, as identified in the notice;
 - (ii) the circumstances, as identified in the notice, in which a reasonably foreseeable use or misuse of the vehicles or components is dangerous;
 - (iii) procedures, as specified in the notice, for disposing of the vehicles or components;

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- (c) if the identities of any of those suppliers are known to the Minister—inform the public, or a class of persons specified in the notice, that the supplier undertakes to do whichever of the following the supplier thinks is appropriate:
- (i) repair the vehicles or components;
 - (ii) replace the vehicles or components;
 - (iii) refund to a person to whom the vehicles or components were supplied (whether by the supplier or by another person) the price of the vehicles or components.

Note: Section 209 affects the meaning of supplier in this section.

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

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

- (4) In this section:

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

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

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

208 Obligations of a supplier in relation to a recall notice

- (1) This section applies if a recall notice for road vehicles or approved road vehicle components requires a supplier to take action of a kind referred to in paragraph 207(1)(c).

Note: Section 209 affects the meaning of supplier in this section.

- (2) If the supplier undertakes to repair the road vehicles or approved road vehicle components, the supplier must cause the vehicles or components to be repaired so that:
- (a) any defect in the vehicles or components identified in the recall notice is remedied; and
 - (b) for a vehicle or component recalled on the basis of the matter in subsection 206(4), (6) or (7)—the non-compliance mentioned in the applicable subsection is rectified.

Example: Where a vehicle entered on the RAV via the type approval pathway was recalled on the basis that it did not substantially comply with the national road vehicle standards as in force at the time it was entered on the RAV (pursuant to subsection 206(4)), the vehicle must be repaired so that it substantially complies with those standards as in force at the time of its RAV entry.

- (3) If the supplier undertakes to replace the road vehicles or approved road vehicle components, the supplier must replace a vehicle with a similar vehicle, or the component with a similar component, which:
- (a) if a defect in, or a dangerous characteristic of, the vehicle or component to be replaced was identified in the recall notice—does not contain that defect or have that characteristic; and
 - (b) if the vehicle or component was recalled on the basis of the matter in subsection 206(4), (6) or (7)—complies, to the relevant extent, with the standards referred to in the applicable subsection.

Example: Where an approved road vehicle component of a particular kind was recalled on the basis that it did not substantially comply with the applicable national road vehicle standards as in force at the time it was provided for use or installation in a road vehicle (pursuant to subsection 206(4)), the supplier must replace it with a similar component that substantially complies with those standards as in force at the time it was provided (see paragraph 206(5)(c)).

- (4) If the supplier undertakes:
- (a) to repair the road vehicles or approved road vehicle components; or
 - (b) to replace the road vehicles or approved road vehicle components;
- the cost of the repair or replacement, including any necessary transportation costs, must be paid by the supplier.

209 Holder of a type approval taken to be a supplier

For the purposes of sections 206, 207 and 208:

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

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

- (1) If road vehicles or approved road vehicle components of a particular kind are recalled as required by a recall notice, a person who has supplied or supplies those vehicles or components to a person outside Australia must give that person a written notice that complies with subsection (2).
- (2) The notice given under subsection (1) must:
 - (a) state that the road vehicles or approved road vehicle components are subject to recall; and
 - (b) if the vehicles or components contain a defect or have a dangerous characteristic—set out the nature of that defect or characteristic; and
 - (c) if a reasonably foreseeable use or misuse of the vehicles or components is dangerous—set out the circumstances of that use or misuse; and
 - (d) if the recall notice was issued on the basis of the matter in subsection 206(4), (6) or (7):
 - (i) identify the standards with which the road vehicles or components do not comply, or it is likely that they do not comply; and
 - (ii) set out the nature of the non-compliance or likely non-compliance with those standards as in force at the relevant time.
- (3) The notice under subsection (1) must be given as soon as practicable after the supply of the road vehicles or approved road vehicle components to the person outside Australia.
- (4) A person who is required to give a notice under subsection (1) must, within 10 days after giving the notice, give a copy of the notice to the Minister who issued the recall notice.

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

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

211 Circumstances of voluntary recall of road vehicles or approved road vehicle components

- (1) This Division applies where a person voluntarily takes action to recall road vehicles or approved road vehicle components of a particular kind in the circumstances set out in subsection (2), (3) or (4).

Vehicles or components will or may cause injury

- (2) The person takes the action on the basis that:
 - (a) such vehicles or components will or may cause injury to any person; or
 - (b) a reasonably foreseeable use (including a misuse) of such vehicles or components will or may cause injury to any person.

Vehicles or components do not comply with certain standards

- (3) The person takes the action on the basis that such vehicles do not, or it is likely that they do not, comply with:
 - (a) the applicable national road vehicle standards; or
 - (b) applicable standards determined by the Minister under subsection 89(2); or
 - (c) applicable standards made under section 7 of the *Motor Vehicle Standards Act 1989*.
- (4) The person takes the action on the basis that such components do not, or it is likely that they do not, comply with the applicable national road vehicle standards.

212 Notification requirements for a voluntary recall of road vehicles or approved road vehicle components

- (1) This section applies where a person voluntarily takes action to recall road vehicles or approved road vehicle components of a particular kind in circumstances covered by this Division.

Giving notice of recall action

- (2) The person must, within 2 days after taking the action, give the Minister a written notice that complies with subsection (7).

Note: A person may commit an offence or contravene a civil penalty provision if the person does not give the notice to the Minister (see section 40 of the Act).

- (3) The Minister may publish a copy of the notice on the internet.
- (4) A person who has supplied or supplies a road vehicle or approved road vehicle component of that kind to another person outside Australia must give the other person a written notice that complies with subsection (7).

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(5) The notice under subsection (4) must be given as soon as practicable after the supply of the road vehicle or approved road vehicle component to the person outside Australia.

(6) A person who is required to give a notice under subsection (4) must, within 10 days after giving the notice, give a copy of the notice to the Minister.

Note: A person may commit an offence or contravene a civil penalty provision if the person does not give a copy of the notice to the Minister (see section 40 of the Act).

(7) A notice given under subsection (2) or (4) must:

- (a) state that the road vehicles or approved road vehicle components are subject to recall; and
- (b) if the road vehicles or approved road vehicle components contain a defect or have a dangerous characteristic—set out the nature of that defect or characteristic; and
- (c) if a reasonably foreseeable use or misuse of the road vehicles or approved road vehicle components is dangerous—set out the circumstances of that use or misuse; and
- (d) if the road vehicles or approved road vehicle components were recalled on the basis of one of the matters set out in subsection 211(3) or (4):
 - (i) identify the standards with which the road vehicles or components do not comply, or it is likely that they do not comply; and
 - (ii) set out the nature of the non-compliance or likely non-compliance with those standards.

Interaction with the Australian Consumer Law

(8) A person is taken to give notice under subsection (2) in relation to road vehicles or approved road vehicle components of a particular kind if:

- (a) the person is required to give notice under that subsection; and
- (b) the person has already given notice under subsection 128(2) of the Australian Consumer Law in relation to such vehicles or components.

(9) A person is taken to give notice under subsection (4) in relation to road vehicles or approved road vehicle components of a particular kind if:

- (a) the person is required to give notice under that subsection; and
- (b) the person has already given notice under subsection 128(4) of the Australian Consumer Law in relation to such vehicles or components.

Division 4—Conferences for proposed recall notices

Subdivision A—Conference requirements before compulsory recall

213 Minister must issue a proposed recall notice

- (1) The Minister must issue a *proposed recall notice* if the Minister proposes to issue a recall notice for road vehicles or approved road vehicle components of a particular kind.
- (2) Subsection (1) does not apply in relation to a recall notice if the Minister has published a notice under section 218 certifying that the recall notice should be issued without delay.
- (3) The proposed recall notice must:
 - (a) be in writing; and
 - (b) be published on the internet; and
 - (c) set out a copy of a draft recall notice; and
 - (d) set out a summary of the reasons for the proposed issue of the recall notice; and
 - (e) invite any person who supplies, or proposes to supply, a road vehicle or approved road vehicle component of that kind (including, if appropriate, road vehicle type approval holders or road vehicle component type approval holders) to notify the Secretary, in writing and within a period specified in the notice, if the person wishes the Secretary to hold a conference in relation to the proposed issue of the recall notice.
- (4) The period specified in the proposed recall notice under paragraph (3)(e):
 - (a) must be a period of at least 10 days, or such longer period as the Minister specifies in the notice; and
 - (b) must not commence before the day on which the notice is published.

214 Minister to be notified if no person wishes a conference to be held

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

215 Notification of conference

- (1) If one or more persons notify the Secretary in accordance with a proposed recall notice that they wish the Secretary to hold a conference, the Secretary must:
 - (a) appoint a day, time and place for the holding of the conference; and
 - (b) give written notice to the Minister, and to each person who so notified the Secretary, of that day, time and place.
- (2) The day appointed must be at least 5 days, but not more than 14 days, after the end of the period specified under paragraph 213(3)(e).

Section 216

216 Recommendation after conclusion of conference

- (1) As soon as is practicable after the conclusion of a conference held under this Subdivision in relation to the proposed issue of a recall notice, the Secretary must:
 - (a) by written notice given to the Minister, recommend that the Minister:
 - (i) issue the recall notice in the same terms as the draft recall notice referred to in paragraph 213(3)(c); or
 - (ii) issue the recall notice with such modifications to that draft recall notice as are specified by the Secretary; or
 - (iii) not issue the recall notice; and
 - (b) cause a copy of the notice given under paragraph (a) to be given to each person who was present or represented at the conference.
- (2) The Minister must:
 - (a) have regard to a recommendation made under paragraph (1)(a); and
 - (b) if he or she decides to act otherwise than in accordance with the recommendation—the Minister must, by written notice published on the internet, set out the reasons for his or her decision.

Subdivision B—Conduct of conferences

217 Conduct of conferences

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

Subdivision C—Miscellaneous

218 Recall notice without delay in case of danger to the public

- (1) If it appears to the Minister that road vehicles or approved road vehicle components of a particular kind create an imminent risk of death, serious illness or serious injury, he or she may, by written notice published on the internet, certify that a recall notice for vehicles or components of that kind should be issued without delay.
- (2) If:
 - (a) the Minister publishes a notice under subsection (1); and
 - (b) action of any kind has been taken under Subdivision A of this Division in relation to the recall notice, but no recommendation has been made under section 216;the Minister may issue the recall notice without regard to that action.

219 Copy of notices under this Division to be given to suppliers

- (1) If the Minister:
 - (a) issues a proposed recall notice; or
 - (b) publishes a notice under subsection 218(1);he or she must cause a copy of the notice to be given to each person who, to the knowledge of the Minister, supplies the road vehicles or approved road vehicle components to which the notice relates (including, if appropriate, road vehicle type approval holders or road vehicle component type approval holders).
- (2) The copy must be given:
 - (a) within 2 days after the publication or issue of the notice; or
 - (b) if it is not practicable to give the copy within that period—as soon as practicable after the end of that period.
- (3) A failure to comply with subsection (1) does not invalidate the notice.

Division 5—Miscellaneous

220 Liability under a contract of insurance

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

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

- (2) In this section:

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

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

authority of the Commonwealth means:

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

person includes the holder of a road vehicle type approval or a road vehicle component type approval.

Part 9—Miscellaneous

Division 1—Introduction

221 Simplified outline of this Part

This Part provides for a number of miscellaneous matters. Division 2 requires the Secretary to publish details of various approvals granted under this instrument, as well as notice of certain decisions to vary, suspend or revoke approvals. Among other things, Division 3 sets out the decisions that may be reviewed in the Administrative Appeals Tribunal, and permits the Minister and Secretary to delegate various functions and powers conferred on them by this instrument.

222 Purpose of this Part

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

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

Section 223

Division 2—Publication requirements

223 Road vehicle type approvals

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

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

224 RAW approvals

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

225 Approved Model Reports

- (1) Subject to subsection (2), for each approval of a Model Report that is in force, the Secretary must publish on the Department's website the following information:
 - (a) the model, variant or variants of road vehicle to which the Model Report applies;
 - (b) the contact details of the holder of the approval.
- (2) If the holder of the approval asks the Secretary not to publish the approval-holder's contact details on the Department's website, then:
 - (a) paragraph (1)(b) does not apply; and
 - (b) if the Secretary has already published those contact details on the website—the Secretary must remove the details from the website.

226 AVV approvals

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

227 Testing facility approvals

- (1) Subject to subsection (2), for each testing facility approval that is in force, the Secretary must publish on the Department's website the name and contact details of the holder of the approval.
- (2) If the holder of the approval asks the Secretary not to publish the approval-holder's business name and contact details on the Department's website, then:
 - (a) subsection (1) does not apply; and

- (b) if the Secretary has already published the information on the website—the Secretary must remove the information from the website.

228 Road vehicle component type approvals

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

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

229 Publication of decision to vary, suspend or revoke approval

The Minister or Secretary, as applicable, may publish notice on the Department's website of a decision to vary, suspend or revoke an approval.

Division 3—Miscellaneous

230 AAT review of decisions

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

- (a) a decision to refuse to consider an application for a road vehicle type approval;
- (b) a decision to refuse to grant a road vehicle type approval;
- (c) a decision to impose a condition on a road vehicle type approval;
- (d) a decision to refuse to consider an application for a concessional RAV entry approval;
- (e) a decision to refuse to grant a concessional RAV entry approval;
- (f) a decision to impose a condition on a concessional RAV entry approval;
- (g) a decision to refuse to consider an application for a RAW approval;
- (h) a decision to refuse to grant a RAW approval;
- (i) a decision to impose a condition on a RAW approval;
- (j) a decision to refuse to consider an application for approval of a Model Report;
- (k) a decision to refuse to approve a Model Report;
- (l) a decision to impose a condition on a Model Report approval;
- (m) a decision to refuse to consider an application to approve a variation to a Model Report;
- (n) a decision to refuse to approve a variation to a Model Report;
- (o) a decision to refuse to consider an application for an AVV approval;
- (p) a decision to refuse to grant an AVV approval;
- (q) a decision to impose a condition on an AVV approval;
- (r) a decision to refuse to consider an application for a testing facility approval;
- (s) a decision to refuse to grant a testing facility approval;
- (t) a decision to impose a condition on a testing facility approval;
- (u) a decision to refuse to consider an application relating to the entry of a variant of a model, or a make and model, of a road vehicle on the SEVs Register;
- (v) a decision to refuse to enter a variant of a model, or a make and model, of a road vehicle on the SEVs Register;
- (w) a decision to refuse to consider an application for a non-RAV entry import approval;
- (x) a decision to refuse to grant a non-RAV entry import approval;
- (y) a decision to impose a condition on a non-RAV entry import approval;
- (z) a decision to refuse to consider an application for a reimportation import approval;
- (za) a decision to refuse to grant a reimportation import approval;
- (zb) a decision to grant a reimportation import approval subject to a condition;
- (zc) a decision to refuse to consider an application for a road vehicle component type approval;

- (zd) a decision to refuse to grant a road vehicle component type approval;
- (ze) a decision to impose a condition on a road vehicle component type approval;
- (zf) a decision to vary, suspend or revoke an approval on the Minister's or Secretary's own initiative;
- (zg) a decision to refuse to consider an application by the holder of an approval for variation of the approval;
- (zh) a decision to refuse to vary an approval in response to an application by the holder of the approval;
- (zi) a decision to vary an approval in terms other than those requested by the holder of the approval in an application for variation of the approval;
- (zj) a decision to suspend an approval for a period, or until the occurrence of a specified event, other than that requested by the holder of the approval in an application for the suspension or revocation of the approval;
- (zk) a decision to refuse to consider an application for an advisory notice;
- (zl) a decision to refuse to issue an advisory notice that a specified thing is not a road vehicle.

Example 1: The Minister or Secretary may have refused to consider an application by the holder of an approval for a variation of the approval (see paragraph 230(zg)) until the applicant provided further information in response to a request for information under subsection 196(1), or because the application did not comply with subsection 195(3). These decisions are reviewable under this section.

Example 2: If the Minister decided to impose a condition on a concessional RAV entry approval under section 47(1)(a) requiring the holder of the approval to export the vehicle within a specified period, that decision would be reviewable (see paragraph 230(f)). However, the approval-holder could not seek review of the conditions that are automatically imposed on all concessional RAV entry approvals by this instrument (for example, under paragraph 47(1)(b), and sections 48 and 49).

231 Former holders of type approvals—ongoing obligation to provide supporting information

A person who was the holder of a road vehicle type approval or road vehicle component type approval must, for the period of 7 years after the approval is revoked or expires:

- (a) be able to access the original and any subsequent versions of the supporting information for the approval; and
- (b) provide the information mentioned in paragraph (a) to the Minister upon written request.

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

232 Holder of approvals—ongoing obligation to retain records

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

Section 233

233 Advisory notice that thing is not a road vehicle

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

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

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

234 Delegation by the Minister

- (1) Subject to subsections (2) and (3), the Minister may, in writing, delegate any or all of his or her functions or powers under this instrument to an APS employee.
- (2) The Minister may, in writing, delegate to a person who holds or performs the duties of an SES employee in the Department, the Minister's functions or powers under:
 - (a) subsection 191(1) (about varying an approval); or
 - (b) subsection 191(5) (about suspending or revoking an approval).
- (3) The Minister may not delegate his or her powers under the following provisions of this instrument:
 - (a) section 12 (about determining information to be included on the RAV);
 - (b) section 42 (about determining guidelines for the application of section 41)
 - (c) section 88 (about determining the form of a Model Report);
 - (d) section 89 (determination relating to compliance with standards);
 - (e) section 106 (about determining matters relating to AVV inspections);
 - (f) section 107 (about determining a damage or corrosion threshold);
 - (g) section 136 (determination relating to criteria for entry on SEVs Register);
 - (h) section 206 (about issuing recall notices);
 - (i) section 213 (about issuing proposed recall notices);
 - (j) paragraph 216(2)(b) (about giving reasons relating to recall decisions);
 - (k) section 218 (about certifying that a recall notice should be issued without delay);
 - (l) subsection 219(1) (about causing a copy of a recall notice to be given to each relevant person).

235 Delegation by the Secretary

- (1) Subject to subsection (2), the Secretary may, in writing, delegate any or all of his or her functions or powers under this instrument to an APS employee.
- (2) The Secretary may, in writing, delegate to a person who holds or performs the duties of an SES employee in the Department, the Secretary's functions or powers under:
 - (a) section 87 (about approving a variation to a Model Report); or
 - (b) subsection 191(2) (about varying an approval); or
 - (c) subsection 191(6) (about suspending or revoking an approval); or
 - (d) section 214 (about notifying the Minister that no person wishes a conference to be held); or
 - (e) section 215 (about arranging, and notifying the Minister of, a conference);
or
 - (f) section 216 (about making recommendations to the Minister regarding a recall notice); or
 - (g) section 217 (about the conduct of conferences); or
 - (h) section 236 (about approving forms).

236 Approved forms

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