



Road Vehicle Standards Amendment (2019 Measures No. 1) Rules 2019

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

Dated 29 October 2019

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

1 Name

This instrument is the *Road Vehicle Standards Amendment (2019 Measures No. 1) Rules 2019*.

2 Commencement

This instrument commences on the day after it is registered.

3 Authority

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

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Road Vehicle Standards Rules 2018

1 Section 1

Omit ‘2018’, substitute ‘2019’.

2 Section 5 (definition of *intergovernmental agreement*)

Repeal the definition.

3 Section 5

Insert:

ATA Convention means the Customs Convention on the A.T.A. Carnet for the Temporary Admission of Goods done at Brussels on 6 December 1961, as in force for Australia from time to time.

Note: The ATA Convention is in Australian Treaty Series 1967 No. 20 ([1967] ATS 20), and could, in 2019, be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

CPD carnet means a document mentioned in Article 7(1) of the Private Road Vehicles Convention, issued in accordance with that Convention.

Istanbul Convention means the Convention on Temporary Admission done at Istanbul on 26 June 1990, as in force for Australia from time to time.

Note 1: The Istanbul Convention is in Australian Treaty Series 1993 No. 43 ([1993] ATS 43), and could, in 2019, be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>).

Note 2: A reference to the Istanbul Convention includes a reference to an Annex to that Convention, as in force for Australia from time to time.

Private Road Vehicles Convention means the Customs Convention on the Temporary Importation of Private Road Vehicles done at New York on 4 June 1954, as in force for Australia from time to time.

Note: The Private Road Vehicles Convention is in Australian Treaty Series 1967 No. 2 ([1967] ATS 2), and could, in 2019, be viewed in the Australian Treaties Library on the AustLII website (<http://www.austlii.edu.au>), together with amendments to that Convention.

Tariff Act means the *Customs Tariff Act 1995*.

4 Section 50

Repeal the section, substitute:

50 Circumstances in which a road vehicle may be provided

- (1) For the purposes of paragraph 24(3)(f) of the Act, a person is permitted to provide a road vehicle if, at the time of the provision, subsection (2), (3), (4) or (5) applies.

Note: Subject to some exceptions, a person contravenes subsection 24(1) of 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 circumstances in which that prohibition does not apply (pursuant to paragraph 24(3)(f) of the Act).

Vehicles covered by a CPD carnet

- (2) This subsection applies if the following are satisfied in respect of the road vehicle:
- (a) the vehicle is covered by a CPD carnet; and
 - (b) the vehicle was imported in circumstances in which Article 2(1) of the Private Road Vehicles Convention provides for temporary admission without payment of import duties and import taxes and free of import prohibitions and restrictions; and
 - (c) the person, in providing the vehicle, would not contravene a condition set out in that Convention.

Example: The Private Road Vehicles Convention, as in force for Australia from time to time, might state that a vehicle covered by this subsection must not be used for transport for payment, reward or other consideration within Australia. If that was a requirement of the Convention at the relevant time, then this subsection would not permit the person to provide the vehicle for use as a taxi in circumstances covered by subsection 24(1) of the Act.

Vehicles covered by an ATA carnet—Istanbul Convention

- (3) This subsection applies if the following are satisfied in respect of the road vehicle:
- (a) the vehicle is covered by an ATA carnet within the meaning of Article (1)(b) of Annex A to the Istanbul Convention, issued in accordance with that Convention; and
 - (b) the vehicle was imported in circumstances in which that Convention provides for the grant of temporary admission of goods; and
 - (c) the person, in providing the vehicle, would not contravene a condition set out in that Convention.

Vehicles covered by an A.T.A. carnet—ATA Convention

- (4) This subsection applies if the following are satisfied in respect of the road vehicle:
- (a) the vehicle is covered by an A.T.A. carnet within the meaning of Article 1(d) of the ATA Convention, issued in accordance with that Convention; and
 - (b) the vehicle was imported under a Convention mentioned in Article 3 of the ATA Convention, as in force for Australia from time to time; and
 - (c) the person, in providing the vehicle, would not contravene a condition set out in:
 - (i) the ATA Convention; or
 - (ii) the Convention under which the importation took place.

Example: For subparagraph (4)(c)(ii) – a Convention mentioned in paragraph (4)(b) may provide that a vehicle imported under its provisions cannot be used for hire or reward. If that was a requirement of the applicable Convention at the relevant time, then, subject to any exceptions in the Convention, this subsection would not permit the person to provide the vehicle for hire or reward in circumstances covered by subsection 24(1) of the Act.

Vehicles covered by certain customs by-laws

- (5) This subsection applies if one of the following is satisfied in respect of the road vehicle:
- (a) item 10 of Schedule 4 to the Tariff Act applies to the vehicle by virtue of a by-law, as in force from time to time, made for the purpose of implementing a Status of Forces Agreement or Status of Visiting Forces Agreement to which Australia is a party;
 - (b) item 11 of Schedule 4 to the Tariff Act applies to the vehicle by virtue of any by-law made for the purposes of that item, as in force from time to time;
 - (c) paragraph 15(d) of Schedule 4 to the Tariff Act applies to the vehicle by virtue of any by-law made for the purposes of that item, as in force from time to time.

Note: Each item of the Tariff Act mentioned in subsection 50(5) applies to goods prescribed by by-law for the purposes of the item. A by-law made for those purposes may set out conditions subject to which the item applies to goods of the kind, or included in the class, specified in that item (see paragraph 272(b) of the *Customs Act 1901*). If those conditions are not met at the relevant time, the item will not apply to the vehicle. As such, subsection (5) will only capture a vehicle if, at the time the person provides the vehicle, the provision is consistent with the conditions set out in the by-law.

Example: A by-law might require that the vehicle remain in the ownership of the person who imported it for a certain period after the date of importation. If that was a requirement of the by-law at the relevant time, then, subject to any exceptions in the by-law, this subsection would not permit the person to provide the vehicle in circumstances covered by subsection 24(1) of the Act by selling it before the end of that period.

5 Section 171

Repeal the section, substitute:

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), (3), (4), (5) or (6) applies.

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)).

Vehicles covered by a CPD carnet

- (2) This subsection applies if the following are satisfied in respect of the road vehicle:
- (a) the vehicle is covered by a CPD carnet; and
 - (b) the vehicle is imported in circumstances in which Article 2(1) of the Private Road Vehicles Convention provides for temporary admission without payment of import duties and import taxes and free of import prohibitions and restrictions.

Vehicles covered by an ATA carnet—Istanbul Convention

- (3) This subsection applies if the following are satisfied in respect of the road vehicle:

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- (a) the vehicle is covered by an ATA carnet within the meaning of Article (1)(b) of Annex A to the Istanbul Convention, issued in accordance with that Convention; and
 - (b) the vehicle is imported in circumstances in which that Convention provides for the grant of temporary admission of goods.

Vehicles covered by an A.T.A. carnet—ATA Convention

- (4) This subsection applies if the following are satisfied in respect of the road vehicle:
 - (a) the vehicle is covered by an A.T.A. carnet within the meaning of Article 1(d) of the ATA Convention, issued in accordance with that Convention; and
 - (b) the vehicle is imported under a Convention mentioned in Article 3 of the ATA Convention, as in force for Australia from time to time.

Vehicles covered by certain customs by-laws

- (5) This subsection applies if one of the following is satisfied in respect of the road vehicle:
 - (a) item 10 of Schedule 4 to the Tariff Act applies to the vehicle by virtue of a by-law, as in force from time to time, made for the purpose of implementing a Status of Forces Agreement or Status of Visiting Forces Agreement to which Australia is a party;
 - (b) item 11 of Schedule 4 to the Tariff Act applies to the vehicle by virtue of any by-law made for the purposes of that item, as in force from time to time;
 - (c) paragraph 15(d) of Schedule 4 to the Tariff Act applies to the vehicle by virtue of any by-law made for the purposes of that item, as in force from time to time.

Note: Each item of the Tariff Act mentioned in subsection 171(5) applies to goods prescribed by by-law for the purposes of the item. A by-law made for those purposes may set out conditions subject to which the item applies to goods of the kind, or included in the class, specified in that item (see paragraph 272(b) of the *Customs Act 1901*). If those conditions are not met at the relevant time, the item will not apply to the vehicle. As such, subsection (5) will only capture a vehicle if, at the time the person imports the vehicle, the importation is consistent with the conditions set out in the by-law.

Example: A by-law might require that the vehicle have been owned and used by a person at least 6 months before the person departs for Australia. If that was a requirement of the by-law at the relevant time, then, subject to any exceptions in the by-law, this subsection would not permit a person to import the vehicle in circumstances covered by subsection 22(1) of the Act where the person had only owned the vehicle for 2 months before departing for Australia.

Re-importation of certain Australian Defence Force vehicles

- (6) 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.