

EXPLANATORY STATEMENT

Issued by authority of the Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development

Road Vehicle Standards Charges (Imposition—General) Act 2018

Road Vehicle Standards Charges (Imposition—General) Regulations 2021

Legislative authority

The *Road Vehicle Standards Charges (Imposition—General) Regulations 2021* (the Regulations) are made under section 9 of the *Road Vehicle Standards Charges (Imposition—General) Act 2018* (the Act).

Section 9 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The prescribed charges are imposed as taxes by section 6 of the Act and are imposed only so far as the charge is neither a duty of customs nor a duty of excise within the meaning of section 55 of the Constitution.

The Act allows the imposition of cost-recovery charges in relation to the administration of the *Road Vehicle Standards Act 2018* (the RVSA) or the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*.

Purpose and operation of the instrument

The purpose of the Regulations is to set the charge for various activities, including the entry of a vehicle on the Register of Approved Vehicles (RAV), by either the type approval pathway or concessional RAV entry approval pathway.

The Regulations implement cost recovery arrangements, in relation to the administration of the RVSA as set out in the Cost Recovery Implementation Statement (CRIS). The CRIS is available free of charge to the public on the department's website (<https://www.infrastructure.gov.au/vehicles>). The Regulations set out different charges payable for different regulated activities, depending on multiple factors set out in the CRIS.

A section by section explanation of the Regulations is at Attachment A.

Consultation

Consultation on the Regulations with the public, including key stakeholders, was conducted through the CRIS process in two stages (in late 2017 and from December 2019 to February 2020).

Prescribing matters by reference to other instruments

Subparagraph 14(1)(a)(ii) and subsection 14(3) of the *Legislation Act 2003* provides that a legislative instrument may incorporate the provisions of a disallowable legislative instrument as in force from time to time unless a contrary intention appears in the enabling legislation.

The Regulations reference definitions in the *Road Vehicle Standards Rules 2019* which are available without cost to the public through the Federal Register of Legislation (www.legislation.gov.au).

Regulation Impact Statement

A Regulation Impact Statement (RIS) was prepared in relation to the *Motor Vehicle Standards Act 1989* and policy options for its repeal and replacement with what would become the RVSA. The RIS is included in the Explanatory Memorandum to the *Road Vehicle Standards Bill 2018*. The Office of Best Practice Regulation (OBPR) reference number for the RIS is 17240. OBPR has advised that no further RIS is required.

Statement of compatibility with human rights

The Regulations are compatible with human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

Details of the *Road Vehicle Standards Charges (Imposition—General) Regulations 2021*

Section 1 – Name

This section provides that the title of the instrument is the *Road Vehicle Standards Charges (Imposition—General) Regulations 2021* (the Regulations).

Section 2 – Commencement

This section provides for the Regulations to commence by notifiable instrument but if they do not commence by 1 April 2021, the provisions would commence automatically on that date.

Section 3 – Authority

This section provides that the *Road Vehicle Standards Charges (Imposition—General) Regulations 2021* is made under the *Road Vehicle Standards Charges (Imposition—General) Act 2018*.

Section 4 – Simplified outline of this instrument

This section provides a simplified outline of the instrument. It sets out that the instrument prescribes charges in relation to certain matters connected with the administration of the *Road Vehicle Standards Act 2018* or the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*, and prescribes exemptions from those charges.

The prescribed charges are imposed as taxes by section 6 of *Road Vehicle Standards Charges (Imposition—General) Act 2018* and are imposed only so far as the charge is neither a duty of customs nor a duty of excise within the meaning of section 55 of the Constitution.

Section 5 – Definitions

This section provides definitions for the instrument. Most definitions reference a meaning in the *Road Vehicle Standards Act 2018* or the *Road Vehicle Standards Rules 2019*.

Section 6 – Charge for entry of vehicle on RAV via type approval pathway

This section prescribes the charges imposed in relation to the entry of a vehicle on the Register of Approved Vehicles (RAV) via the type approval pathway, for the purposes of subsection 6(1) of the *Road Vehicle Standards Charges (Imposition—General) Act 2018*.

Section 7 – Charge for entry of vehicle on RAV via concessional RAV entry approval pathway

This section prescribes the charges imposed in relation to the entry of a vehicle on the RAV via the concessional RAV entry approval pathway, for the purposes of subsection 6(1) of the *Road Vehicle Standards Charges (Imposition—General) Act 2018*.

Section 8 – Charges relating to other matters

Section 8 provides for charges relating to other matters. Items 1 to 3 of the table in subsection 8(1) prescribe the annual charges imposed on holders of registered automotive workshop, approved vehicle verifier and testing facility approvals in relation to the granting and ongoing operation of the approvals.

Item 4 of the table in subsection 8(1) provides for a charge for the transition of an approval for either: (a) the placement of identification plates to a road vehicle type approval, or (b) the transition of an approval to supply nonstandard vehicles to a road vehicle type approval. These transitions are as mentioned in subitem 5(1) or 12(1) of Schedule 3 to the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*, for which charge is payable for the purposes of paragraph 5(1)(b) or 12(1)(b) of that Schedule.

Subsection 8(2) provides an exemption to the charge for testing facility approvals (item 3 of the table in subsection 8(1)) for the first year, if the application for the approval was made under the *Road Vehicle Standards Rules 2019* before 1 July 2021.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Road Vehicle Standards Charges (Imposition—General) Regulations 2021

This disallowable legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulations

The *Road Vehicle Standards Charges (Imposition—General) Regulations 2021* (the Regulations) are made under section 9 of the *Road Vehicle Standards Charges (Imposition—General) Act 2018*.

The purpose of the Regulations is to set the charge for various activities, including the entry of a vehicle on the Register of Approved Vehicles (RAV), by either the type approval pathway or concessional RAV entry approval pathway, and the granting and ongoing operation of various approvals.

Human rights implications

The Regulations support the regulatory framework of the *Road Vehicle Standards Act 2018* and the *Road Vehicle Standards Rules 2019* to ensure that vehicles on public roads meet safety and environmental standards to support the human right to life and health. The Regulations do not engage any human rights beyond those addressed in the Explanatory Memorandum to the *Road Vehicle Standards Act 2018* and the Explanatory Statement for the *Road Vehicle Standards Rules 2019*.

Conclusion

The Regulations are compatible with human rights because they promote the protection of human rights and, to the extent that they may limit human rights, those limitations are considered to be reasonable, necessary and proportionate.

**The Hon Michael McCormack MP
Deputy Prime Minister and Minister for Infrastructure, Transport,
Regional Development and Communications**