



Road Vehicle Standards Amendment (2021 Measures No. 1) Rules 2021

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

Dated

25/3/2021

Michael McCormack

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

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1 Name

This instrument is the *Road Vehicle Standards Amendment (2021 Measures No. 1) Rules 2021*.

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 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Schedule 1, Part 1	The day after this instrument is registered.	
3. Schedule 1, Part 2	A day or days to be fixed by the Minister by notifiable instrument. However, if any of the provisions do not commence before 1 April 2021, they commence on that day.	
4. Schedule 1, Parts 3 to 7	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made.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*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Part 1—Importation approvals during the transitional period

Road Vehicle Standards Rules 2019

1 Section 4

Omit:

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).

substitute:

It also provides for three further types of import approval:

- non-RAV entry import approvals (for vehicles that are not, generally, to be used on a public road);
- transitional import approvals (which are available temporarily for certain vehicles following the repeal of the *Motor Vehicle Standards Act 1989*); 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*).

2 Section 5

Insert:

identification plate has the meaning given by the *Motor Vehicle Standards Act 1989*.

used import plate has the meaning given by the *Motor Vehicle Standards Act 1989*.

RAW (unrestricted volume used two or three-wheeled vehicle) import approval means an import approval granted under section 146F.

RAW (used vehicle) import approval means an import approval granted under section 146E.

trailer (aggregate trailer mass of 4.5 tonnes or less) import approval means an import approval granted under section 146G.

transitional import approval means:

- (a) a RAW (used vehicle) import approval; or
- (b) a RAW (unrestricted volume used two or three-wheeled vehicle) import approval; or

(c) a trailer (aggregate trailer mass of 4.5 tonnes or less) import approval.

3 Section 144

Repeal the section, substitute:

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. Division 2A provides temporarily for the grant of certain import approvals during the transitional period following the repeal of the *Motor Vehicle Standards Act 1989*.

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.

Most types of 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 certain intergovernmental agreements, or reimported after use by the Australian Defence Force in its overseas activities.

4 After Division 2 of Part 5

Insert:

Division 2A—Import approvals during the transitional period

Subdivision A—Definitions

146A Definitions

(1) In this Division:

RAW means the holder of an approval granted under section 21B of the *Motor Vehicle Standards Act 1989* that remains in force by virtue of the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*.

Note: Part 5 of Schedule 3 of the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018* continues such approvals in force during the ‘transitional period’ set out under that Act.

restricted volume two-wheeled or three-wheeled vehicle has the meaning given by the *Motor Vehicle Standards Regulations 1989*.

schedule of approved vehicles has the meaning given by the *Motor Vehicle Standards Regulations 1989*.

unrestricted volume two-wheeled or three-wheeled vehicle has the meaning given by the *Motor Vehicle Standards Regulations 1989*.

Vehicle Standards Bulletin 1 means the publication published by the Department and known as *Vehicle Standards Bulletin 1 (Revision 5, June 2009)—National Code of Practice—Building Small Trailers*.

- (2) In this Division, the following terms have the meaning given by the *Motor Vehicle Standards Act 1989*:
- (a) make;
 - (b) model;
 - (c) new vehicle;
 - (d) nonstandard;
 - (e) road trailer.

Subdivision B—Application for, and grant of, transitional import approvals

146B Application for approval

- (1) A person may apply to the Minister for the grant of a transitional import approval in accordance with the following table.

Applications for transitional import approvals

Item	Column 1 The following may apply...	Column 2 For an approval of the following kind...	Column 3 In respect of...
1	A RAW	A RAW (used vehicle) import approval	A road vehicle that is not a new vehicle
2	A RAW	A RAW (unrestricted volume used two or three-wheeled vehicle) import approval	One or more two-wheeled or three-wheeled vehicles that are not new vehicles
3	A person	A trailer (aggregate trailer mass of 4.5 tonnes or less) import approval	One or more road vehicles that are both: <ul style="list-style-type: none"> (a) nonstandard road vehicles or road vehicles that do not have an identification plate; and

Applications for transitional import approvals

Item	Column 1 The following may apply...	Column 2 For an approval of the following kind...	Column 3 In respect of...
			(b) road trailers with an aggregate trailer mass of 4.5 tonnes or less

- (2) An application under subsection (1) cannot be made more than 10 months after the commencement of section 15 of the Act.
- (3) 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 must refuse to consider an application that is made out of time under subsection 146B(2), and may refuse to consider an application if it does not comply with subsection 146B(3) (see section 146D).

146C Further information

- (1) To assist in deciding whether to grant a transitional import approval to an applicant, the Minister may request the applicant 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 application if the applicant 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.

146D Minister may refuse to consider application in certain circumstances

- (1) The Minister may refuse to consider an application for a transitional import approval if:
- (a) the application does not comply with subsection 146B(3); or
 - (b) the applicant does not comply with a request made under subsection 146C(1) within the period mentioned in paragraph 146C(2)(b).

Note: Subsection 146B(3) requires, among other things, that the application be in the approved form and be accompanied by the application fee.

- (2) The Minister must refuse to consider an application for a transitional import approval if it is made after the date mentioned in subsection 146B(2).

146E Criteria for deciding application—RAW (used vehicle) import approval

- (1) The Minister may grant a RAW (used vehicle) import approval to a RAW in respect of a road vehicle if:

- (a) the vehicle is not a new vehicle; and
- (b) the vehicle was originally manufactured after 31 December 1988; and
- (c) the make and model of the vehicle is included in the schedule of approved vehicles for the RAW; and
- (d) the application is accompanied by an application under section 13C of the *Motor Vehicle Standards Act 1989* for approval to place a used import plate on the vehicle; and
- (e) for a vehicle other than a two-wheeled or three-wheeled vehicle—in the period of 12 months immediately preceding the application, the RAW has not been granted approval to import more than a total of 130 vehicles in the vehicle category to which the vehicle belongs under:
 - (i) this section; or
 - (ii) section 15 of the *Motor Vehicle Standards Regulations 1989*; or
 - (iii) both (considered together); and
- (f) for a restricted volume two-wheeled or three-wheeled vehicle—in the period of 12 months immediately preceding the application, the RAW has not been granted approval to import more than a total of 130 vehicles in the vehicle category to which the vehicle belongs under:
 - (i) this section; or
 - (ii) section 15 of the *Motor Vehicle Standards Regulations 1989*; or
 - (iii) both (considered together).

Note: For paragraph 146E(1)(d)—broadly speaking, a used import plate permits a used imported vehicle to be supplied to the market for the purposes of subsection 16(1) of the *Motor Vehicle Standards Act 1989*. Applications under section 13C of that Act can be made and granted in accordance with the provisions of the old law during the transitional period – see Division 2, Part 3 of Schedule 3 of the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*. The Act and this instrument do not apply, during the transitional period, to the provision of used imported vehicles that have had used import plates placed on them in accordance with such an approval.

- (2) This section does not apply to an unrestricted volume two-wheeled or three-wheeled vehicle.

146F Criteria for deciding application—RAW (unrestricted volume used two or three-wheeled vehicle) import approval

The Minister may grant a RAW (unrestricted volume used two or three-wheeled vehicle) import approval to a RAW in respect of one or more road vehicles that are not new vehicles if each vehicle specified in the application:

- (a) is an unrestricted volume two-wheeled or three-wheeled vehicle of a make and model included in the applicant's schedule of approved vehicles; and
- (b) was first manufactured after 31 December 1988.

146G Criteria for deciding application—trailer (aggregate trailer mass of 4.5 tonnes or less) import approval

The Minister may grant a trailer (aggregate trailer mass of 4.5 tonnes or less) import approval to a person in respect of one or more nonstandard road vehicles, or road vehicles that do not have an identification plate, if the following are satisfied in respect of each vehicle specified in the application:

- (a) the road vehicle is a road trailer with an aggregate trailer mass of 4.5 tonnes or less; and

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- (b) the person provides to the Minister a written statement from the original manufacturer of the trailer stating that, at the time of manufacture, the aggregate trailer mass of the trailer was 4.5 tonnes or less; and
 - (c) the Minister is satisfied that the trailer is capable of being modified to comply with the requirements set out in Vehicle Standards Bulletin 1.

146H Approval has effect as an import approval

If a person holds a transitional import approval that is in force in respect of one or more road vehicles:

- (a) the person is taken to be the holder of an import approval within the meaning of paragraph 22(2)(c) of the Act; and
- (b) that import approval is taken to be in force; and
- (c) each such 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.

Note 2: A transitional import approval does not permit a road vehicle to be provided for the first time in Australia for the purposes of section 24 of the Act.

146J Timeframe for deciding application

- (1) The Minister must decide an application for a transitional import approval within 30 business days after receiving the application.
- (2) If the Minister has made a request under subsection 146C(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.
- (3) The Minister must not decide an application for a transitional import approval more than 11 months after the commencement of section 15 of the Act.

146K Notice requirements for grant of transitional import approval

- (1) If the Minister decides to grant a transitional 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 transitional import approval must specify the following:
 - (a) the name of the holder of the approval;
 - (b) the 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.

146L Notice requirements for refusal to grant transitional import approval

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

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

Subdivision C—Conditions applying to transitional import approvals

146M Conditions of approval

A transitional import approval 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 or vehicles covered by the approval; 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).

146N Condition about providing information etc. on request

It is a condition of a transitional 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) that the Minister or inspector reasonably requires for the purposes of assessing whether the holder of the approval is complying with the *Motor Vehicle Standards Act 1989* or *Motor Vehicle Standards Regulations 1989* to the extent they continue to apply by virtue of the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*; or
 - (iii) about the road vehicle or vehicles to which the approval applies; and
- (b) provide written answers to questions, specified in the request, about the road vehicle or vehicles to which the approval applies.

5 Subparagraph 170(a)(ii)

After 'non-RAV entry import approval', insert 'or a transitional import approval'.

6 After paragraph 230(v)

Insert:

- (va) a decision to refuse to consider an application for a transitional import approval;
- (vb) a decision to refuse to grant a transitional import approval;
- (vc) a decision to impose a condition on a transitional import approval;

Part 2—Main amendments relating to cost recovery

Road Vehicle Standards Rules 2019

7 Subsection 2(1) (table item 15)

Omit '253', substitute '255'.

8 At the end of section 4

Add:

Part 10 provides for the charging of fees and the payment of cost-recovery charges.

9 At the end of section 8

Add:

Note: The date of entry of a vehicle on the RAV may not be able to be entered until an outstanding cost-recovery charge is paid (see section 12A).

10 At the end of Division 2 of Part 2

Add:

12A Restriction on entering vehicle on RAV before cost-recovery charge is paid

- (1) This section applies to a vehicle if:
- (a) for a vehicle that satisfies the requirements of the type approval pathway:
 - (i) the charge mentioned in item 1 of the table in subsection 254(1) in relation to the entry of the vehicle on the RAV has not been paid or wholly remitted; and
 - (ii) an invoice specifying the time the charge is due and payable has not been issued to the person liable to pay the charge; and
 - (iii) the Secretary, on behalf of the Commonwealth, has not entered into a written agreement with the person that the invoice may be issued after the vehicle is entered on the RAV; or
 - (b) for a vehicle that satisfies the requirements of the concessional RAV entry approval pathway—the charge mentioned in subsection 254(2) in relation to the entry of the vehicle on the RAV has not been paid or wholly remitted.

Note: The Secretary may remit the whole or part of a cost-recovery charge (see section 72 of the Act).

- (2) The Secretary must not enter on the RAV the date of entry of the vehicle on the RAV if this section applies to the vehicle.

Note 1: A vehicle is not on the RAV if the date of entry of the vehicle on the RAV is not entered on the RAV (see paragraph 8(a)).

Note 2: Under section 72 of the Act, the Secretary may remit the whole or part of a cost-recovery charge that is payable to the Commonwealth if the Secretary is satisfied there are circumstances that justify doing so.

11 At the end of paragraph 32(2)(b)

Add:

- ; and (iii) for an application relating to a road vehicle other than one mentioned in paragraph (1)(b)—the charge mentioned in subsection 254(2) in relation to the entry of the vehicle on the RAV.

12 Section 61

Repeal the section, substitute:

61 Period of RAW approval

- (1) A RAW approval:
 - (a) subject to subsection (2), comes into force on the day specified in the approval; and
 - (b) remains in force for 5 years, unless it is revoked earlier.
- (2) A RAW approval must not come into force until after the holder of the approval has paid any outstanding charge mentioned in item 2 of the table in subsection 254(1) in relation to the first 12 month period for which the approval is expected to be in force.

Example: The approval might specify that it comes into force on the later of a specified day or the day that the charge is paid.

13 Paragraph 62(2)(c)

Omit 'it is granted', substitute 'it comes into force'.

14 Section 96

Repeal the section, substitute:

96 Period of AVV approval

- (1) An AVV approval:
 - (a) subject to subsection (2), comes into force on the day specified in the approval; and
 - (b) remains in force for 5 years, unless it is revoked earlier.
- (2) An AVV approval must not come into force until after the holder of the approval has paid any outstanding charge mentioned in item 2 of the table in subsection 254(1) in relation to the first 12 month period for which the approval is expected to be in force.

Example: The approval might specify that it comes into force on the later of a specified day or the day that the charge is paid.

15 Section 114

Repeal the section, substitute:

114 Period of testing facility approval

- (1) A testing facility approval:
 - (a) subject to subsection (2), comes into force on the day specified in the approval; and

(b) remains in force for 5 years, unless it is revoked earlier.

- (2) A testing facility approval must not come into force until after the holder of the approval has paid any outstanding charge mentioned in item 2 of the table in subsection 254(1) in relation to the first 12 month period for which the approval is expected to be in force.

Example: The approval might specify that it comes into force on the later of a specified day or the day that the charge is paid.

- (3) Subsection (2) only applies in relation to an application made on or after 1 July 2021.

16 Section 190

Omit ‘section 19 and 23’, substitute ‘sections 19, 23 and 70’.

17 Subsection 192(3)

Repeal the subsection, substitute:

- (3) Without limiting section 191, the Minister or Secretary may suspend or revoke an approval under this Division if:
- (a) in any case—that person ceases to be satisfied of the matters based on which the approval was granted; or
 - (b) for a RAW approval, an AVV approval or a testing facility approval—a cost-recovery charge that is due and payable in relation to the granting and ongoing operation of the approval has not been paid.

Note: For cost-recovery charges in relation to the granting and ongoing operation of an approval, see subsection 254(1).

18 Sections 237 and 238

Repeal the sections, substitute:

237 Simplified outline of this Part

This Part provides for:

- (a) the charging of fees in respect of fee-bearing activities; and
- (b) the payment of cost-recovery charges imposed by the *Road Vehicle Standards Charges (Imposition—Customs) Act 2018*, the *Road Vehicle Standards Charges (Imposition—Excise) Act 2018* and the *Road Vehicle Standards Charges (Imposition—General) Act 2018*.

238 Purposes of this Part

For the purposes of Division 4 of Part 5 of the Act, this Part provides for and in relation to:

- (a) the fees that may be charged in relation to fee-bearing activities; and
- (b) the payment of cost-recovery charges imposed by the following:
 - (i) the *Road Vehicle Standards Charges (Imposition—Customs) Act 2018*;
 - (ii) the *Road Vehicle Standards Charges (Imposition—Excise) Act 2018*;

(iii) the *Road Vehicle Standards Charges (Imposition—General) Act 2018*.

19 Section 239

Insert:

bus means a road vehicle that is in one of the following vehicle categories:

- (a) light omnibus (MD);
- (b) heavy omnibus (ME).

goods vehicle means a road vehicle that is in one of the following vehicle categories:

- (a) light goods vehicle (NA);
- (b) medium goods vehicle (NB);
- (c) heavy goods vehicle (NC).

Imposition—Customs Regulations means the *Road Vehicle Standards Charges (Imposition—Customs) Regulations 2021*.

Imposition—Excise Regulations means the *Road Vehicle Standards Charges (Imposition—Excise) Regulations 2021*.

Imposition—General Regulations means the *Road Vehicle Standards Charges (Imposition—General) Regulations 2021*.

passenger vehicle means a road vehicle that is in one of the following vehicle categories:

- (a) passenger car (MA);
- (b) forward-control passenger vehicle (MB);
- (c) off-road passenger vehicle (MC).

20 Section 239 (definition of *road vehicle type approval—non-IWVTA based: bus*)

Repeal the definition, substitute:

road vehicle type approval—non-IWVTA based: bus means a road vehicle type approval (other than a road vehicle type approval—IWVTA based) that applies to a type of bus.

21 Section 239 (definition of *road vehicle type approval—non-IWVTA based: goods vehicle*)

Repeal the definition, substitute:

road vehicle type approval—non-IWVTA based: goods vehicle means a road vehicle type approval (other than a road vehicle type approval—IWVTA based) that applies to a type of goods vehicle.

22 Section 239 (definition of *road vehicle type approval—non-IWVTA based: passenger vehicle*)

Repeal the definition, substitute:

road vehicle type approval—non-IWVTA based: passenger vehicle means a road vehicle type approval (other than a road vehicle type approval—IWVTA based) that applies to a type of passenger vehicle.

23 At the end of Part 10

Add:

Division 15—Payment of cost-recovery charges

254 Liability and timing for payment of certain cost-recovery charges

- (1) For the purposes of paragraphs 67(a) and (c) of the Act:
- (a) the person mentioned in column 2 of an item of the following table is liable to pay the charge mentioned in column 1 of the item; and
 - (b) the charge is due and payable at the time (if any) mentioned in column 3 of the item.

Note 1: The charges mentioned in this section are imposed by the *Road Vehicle Standards Charges (Imposition—Customs) Act 2018*, the *Road Vehicle Standards Charges (Imposition—Excise) Act 2018* or the *Road Vehicle Standards Charges (Imposition—General) Act 2018*.

Note 2: Column 3 will not specify when a charge is due and payable in all cases. In some cases, other provisions of the Rules will have the effect of requiring the charge to be paid at a particular time (see, eg, sections 61, 96 and 114). The person mentioned in column 2 is still liable to pay the charge in such cases.

Item	Column 1 Charge	Column 2 Person liable to pay charge	Column 3 Time charge is due and payable
1	The charge in relation to the entry of a vehicle on the RAV via the type approval pathway (as prescribed by the Imposition—Customs Regulations, the Imposition—Excise Regulations or the Imposition—General Regulations)	The holder of the road vehicle type approval under which the vehicle is to be entered on the RAV	If an invoice specifying the time the charge is due and payable is issued to the person liable to pay the charge—at the time specified in the invoice
2	The charge in relation to the granting and ongoing operation of a RAW approval, an AVV approval or a testing facility approval (as prescribed by section 8 of the Imposition—General Regulations)	The holder of the approval	As follows: <ol style="list-style-type: none"> (a) for the second 12 month period for which the approval is expected to be in force—at the end of the day that is the first anniversary of the day on which the approval came into force; (b) for a subsequent 12 month period for which the approval is expected to be in force—at the end of the day that is the first anniversary of the day on

Item	Column 1 Charge	Column 2 Person liable to pay charge	Column 3 Time charge is due and payable which the charge for the previous 12 month period was due and payable
3	The charge payable for the purposes of paragraph 5(1)(b) or 12(1)(b) of Schedule 3 to the <i>Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018</i> (the <i>Transitional Provisions Act</i>) (as prescribed by section 8 of the Imposition—General Regulations)	The holder of the approval that is being sought to be transitioned to a road vehicle type approval in accordance with item 5 or 12 (as relevant) of Schedule 3 to the Transitional Provisions Act	At the time the person provides the written acknowledgement and signed declaration to the Minister under item 5 or 12 (as relevant) of Schedule 3 to the Transitional Provisions Act

Note 1: For the charge mentioned in item 1 of the table, if an invoice specifying the time the charge is due and payable is not issued, the Secretary must not enter on the RAV the date of entry of the vehicle on the RAV until the outstanding charge has been paid, except in certain circumstances (see section 12A).

Note 2: For the charge mentioned in item 2 of the table, the approval must not come into force until after any outstanding charge has been paid for the first 12 month period for which the approval is expected to be in force (see sections 61, 96 and 114).

Note 3: For the charge in relation to the granting and ongoing operation of a testing facility approval (see item 2 of the table), the charge is not payable for the first 12 month period for which the approval is expected to be in force if the application for the approval was made before 1 July 2021 (see subsection 8(2) of the Imposition—General Regulations).

- (2) For the purposes of paragraph 67(c) of the Act, the person liable to pay the charge in relation to the entry of a vehicle on the RAV via the concessional RAV entry approval pathway (as prescribed by the Imposition—Customs Regulations, the Imposition—Excise Regulations or the Imposition—General Regulations) is:
- if a concessional RAV entry approval has been granted in respect of the vehicle—the holder of the approval; or
 - otherwise—the applicant for the grant of the approval mentioned in paragraph (a).

255 Method of payment of certain cost-recovery charges

For the purposes of paragraph 67(b) of the Act, the way in which a cost-recovery charge mentioned in section 254 of this instrument is payable is as follows:

- if an invoice for the charge is issued to the person liable to pay the charge—using any of the methods specified in the invoice for payment of the charge;
- if an invoice is not issued for the charge—electronically.

Part 3—Other amendments relating to cost recovery

Road Vehicle Standards Rules 2019

24 Section 199

Repeal the section, substitute:

199 Notifying holder of approval of decisions relating to approval

- (1) As soon as practicable after deciding to:
 - (a) vary, suspend or revoke an approval under this Division; or
 - (b) change information of an administrative nature under section 197A; 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) if the Minister or Secretary has decided to vary the approval—the amount of the fee payable under section 252 (if any);
 - (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;
 - (d) if the person applied under subsection 195A(1) for a variation of administrative information, and the Secretary decided that the application was to be treated as an application for variation of an approval under subsection 195(1)—that fact.
- (3) The notice must also specify:
 - (a) where a fee is payable under section 252—that the decision does not take effect until the day after any outstanding fee is paid; and
 - (b) where paragraph (a) does not apply—the date on which the decision takes effect.

25 After paragraph 230(zm)

Insert:

- (zma) a decision that a fee is payable under section 244;
- (zmb) a decision that a fee is payable, or as to the amount of any fee payable, under section 252;

26 Subsection 240(1)

Omit ‘Commonwealth’, substitute ‘Secretary’.

27 Subsection 241(1)

Omit ‘Commonwealth’, substitute ‘Secretary’.

28 Subsection 242(1)

Omit ‘Commonwealth’, substitute ‘Secretary’.

29 Subsection 243(1)

Omit 'Commonwealth', substitute 'Secretary'.

30 Subsection 244(1)

Omit 'Commonwealth', substitute 'Secretary'.

31 Subsection 244(2) (note)

Repeal the note, substitute:

Note: Paragraph 87(2)(c) requires an application for approval of a variation to an approved Model Report to be accompanied by the application fee. The Secretary may refuse to consider the application if the person does not pay the fee (see paragraph 87(2A)(a)).

32 Subsection 244(3) (example)

Omit 'A', substitute 'For the purposes of subparagraph (3)(c)(iii)—a'.

33 Subsection 245(1)

Omit 'Commonwealth', substitute 'Secretary'.

34 Subsection 246(1)

Omit 'Commonwealth', substitute 'Secretary'.

35 Division 8 of Part 10 (heading)

Omit 'register', substitute 'Register'.

36 Section 247 (heading)

Omit 'register', substitute 'Register'.

37 Subsection 247(1)

Omit 'Commonwealth', substitute 'Secretary'.

38 Subsection 247(2) (table item 1, column 1)

Omit 'variant of a model, or a make and model, of a road vehicle', substitute 'make and model, or one or more variants of a model, of a road vehicle'.

39 After Division 8 of Part 10

Insert:

Division 8A—Fees: transitional import approvals

247A Transitional import approvals—when fees are payable

- (1) The person mentioned in column 1 of the following table must pay a fee to the Secretary in accordance with column 2 of the table.
- (2) The fee is due and payable at the time the application mentioned in column 1 is made.

Note: Subparagraph 146B(3)(b)(ii) requires an application for a transitional import approval to be accompanied by the application fee. The Minister may refuse to consider the application if the person does not pay the fee (see paragraph 146D(1)(a)).

Transitional import approval applications—when fees are payable

Item	Column 1 This person ...	Column 2 must pay the following fee ...
1	a person who applies for a transitional import approval	\$50

40 Subsection 248(1)

Omit ‘Commonwealth’, substitute ‘Secretary’.

41 Subsection 249(1)

Omit ‘Commonwealth’, substitute ‘Secretary’.

42 Subsection 250(1)

Omit ‘Commonwealth’, substitute ‘Secretary’.

43 Subsection 251(1)

Omit ‘Commonwealth’, substitute ‘Secretary’.

44 Section 252

Repeal the section, substitute:

252 Variation of approvals—when fees are payable

- (1) The person mentioned in column 1 of the following table must pay a fee to the Secretary in accordance with column 2 of the table in relation to an application under section 195 for the variation of an approval, where the variation would:
- (a) change the scope of the approval, except where the variation would only reduce the scope of the approval; or
 - (b) reduce or remove a restriction imposed by a condition to which the approval is subject.

Example: A variation would change the scope of the approval (other than by reducing it) where, for instance, it added a variant to a road vehicle type approval, or allowed the holder of a testing facility approval to conduct an additional kind of testing that is not covered by the existing approval.

Note: The fee is not due and payable on any specific date. However, the variation decision will not take effect until the fee is paid (see subsection 199(3)).

Applications for variation of approvals—when fees are payable

Item	Column 1 This person ...	Column 2 must pay the following fee ...
1	a person who applies for the variation of a road vehicle type approval—IWVTA based	\$0
2	a person who applies for the variation of a: (a) road vehicle type approval—non-IWVTA based: passenger vehicle; or	\$140

Schedule 1 Amendments

Applications for variation of approvals—when fees are payable		
Item	Column 1 This person ...	Column 2 must pay the following fee ...
	(b) road vehicle type approval—non-IWVTA based: 2 or 3-wheeled vehicle; or (c) road vehicle type approval—non-IWVTA based: goods vehicle; or (d) road vehicle type approval—non-IWVTA based: bus	
3	a person who applies for the variation of a: (a) road vehicle type approval—non-IWVTA based: trailer (aggregate trailer mass of more than 4.5 tonnes) (with Model Report); or (b) road vehicle type approval—non-IWVTA based: trailer (aggregate trailer mass of more than 4.5 tonnes) (without Model Report)	\$85
4	a person who applies for the variation of a road vehicle type approval—non-IWVTA based: trailer (aggregate trailer mass of 4.5 tonnes or less)	\$50
5	a person who applies for the variation of a concessional RAV entry approval	\$0
6	a person who applies for the variation of a testing facility approval	\$75
7	a corporation that applies for the variation of a RAW approval	\$55
8	a corporation that applies for the variation of an AVV approval	\$60
9	a person who applies for the variation of a transitional import approval	\$0
10	a person who applies for the variation of a non-RAV entry import approval	\$0
11	a person who applies for the variation of a reimportation import approval	\$0
12	a person who applies for the variation of a road vehicle component type approval	\$0
13	a person who applies for the variation of an approval of a Model Report	\$0

- (2) No fee is payable if the application for variation is refused.
- (3) Where the Minister or Secretary decides to vary an approval in terms other than those requested by the holder of the approval, the fee payable is the fee applicable to the variation granted (and not the variation sought).
- (4) A decision as to whether a fee is payable, or the amount of the fee that is payable, is to be made by the Secretary.

Note: A fee would not be payable if the type of variation sought would not fall within the scope of paragraph 252(1)(a) or (b).

45 Amendments of listed provisions—light trailer

Omit ‘light trailer’ and substitute ‘trailer (aggregate trailer mass of 4.5 tonnes or less)’ in the following provisions:

- (a) section 239 (definition of road vehicle type approval—non-IWVTA based: light trailer);
- (b) subsection 240(2) (item 8 of the table).

46 Amendments of listed provisions—heavy trailer

Omit ‘heavy trailer’ (wherever occurring) and substitute ‘trailer (aggregate trailer mass of more than 4.5 tonnes)’ in the following provisions:

- (a) section 239;
- (b) subsection 240(2) (items 6 and 7 of the table).

Part 4—Amendments relating to Model Reports

Road Vehicle Standards Rules 2019

47 After paragraph 68(2)(b)

Insert:

- (ba) include a copy of the Model Report for which approval is sought, set out in a manner that complies with a determination under subsection 88(1); and

48 Paragraph 70(a)

Repeal the paragraph, substitute:

- (a) the application does not comply with subsection 68(2); or

49 Section 70 (notes)

Repeal the notes, substitute:

- Note: Subsection 68(2) requires, among other things, that the application be in the approved form and be accompanied by the application fee.

50 Section 72

Repeal the section, substitute:

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

- (1) 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, 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; or
 - (ii) satisfies subsection 76(2).

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

Note 3: The determination made under subsection 89(2) may set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards.

51 Subparagraph 73(2)(b)(i)

Omit the words ‘, as in force at the time the Model Report is approved’.

52 Section 73 (note)

Repeal the note, substitute:

- Note 1: Subsections 76(1) and (2) relate to substantial compliance with standards determined under subsection 89(2) and the national road vehicle standards.
- Note 2: The determination made under subsection 89(2) may set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards.

53 Subparagraph 75(2)(b)(i)

Omit the words ‘, as in force at the time the Model Report is approved’.

54 Section 75 (note)

Repeal the note, substitute:

- Note 1: Subsections 76(1) and (2) relate to substantial compliance with standards determined under subsection 89(2) and the national road vehicle standards.
- Note 2: The determination made under subsection 89(2) may set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards.

55 Paragraph 76(2)(a)

Repeal the paragraph, substitute:

- (a) the vehicle substantially complies with:
- (i) for a vehicle mentioned in section 74—the applicable national road vehicle standards as in force at the time the Model Report is approved; and
 - (ii) otherwise—the applicable national road vehicle standards; and

56 At the end of subsection 76(2)

Add:

- Note: The determination made under subsection 89(2) may set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards. However, a determination under section 89 cannot be made in relation to a model, or one or more variants, of a vehicle mentioned in section 74 (a trailer with an aggregate trailer mass of more than 4.5 tonnes).

57 Paragraph 79(2)(d)

Omit ‘paragraph 72(b), or subparagraph 73(2)(a)(ii) or 75(2)(a)(ii)’, substitute ‘subparagraph 72(2)(a)(ii), 73(2)(a)(ii) or 75(2)(a)(ii)’.

58 Paragraph 79(2)(e)

Omit ‘subparagraph 73(2)(b)(ii)’ substitute ‘subparagraph 72(2)(b)(ii), subparagraph 73(2)(b)(ii)’.

59 Subsection 82(3)

Repeal the subsection, substitute:

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 subparagraph 72(2)(a)(i) or (b)(i)—comply with:
 - (i) the applicable standards determined by the Minister under subsection 89(2) as in force at the time of the modification or manufacture; or
 - (ii) the applicable national road vehicle standards, as ascertained at the time of the modification or manufacture; or
- (b) for a Model Report approved on the basis of the matter in subparagraph 72(2)(a)(ii) or (b)(ii)—satisfy the requirements of subsection (7) or (8), as applicable.

Note 1: 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.

Note 2: The determination made under subsection 89(2) may set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards.

60 Paragraph 82(4)(a)

Repeal the paragraph, substitute:

- (a) for a Model Report approved on the basis of the matter in subparagraph 73(2)(a)(i) or (b)(i)—comply with:
 - (i) the applicable standards determined by the Minister under subsection 89(2) as in force at the time of the modification or manufacture; or
 - (ii) the applicable national road vehicle standards, as ascertained at the time of the modification or manufacture; or

61 Subsection 82(4) (note)

Repeal the note, substitute:

Note 1: 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.

Note 2: The determination made under subsection 89(2) may set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards.

62 Paragraph 82(6)(a)

Repeal the paragraph, substitute:

- (a) for a Model Report approved on the basis of the matter in subparagraph 75(2)(a)(i) or (b)(i)—comply with:
 - (i) the applicable standards determined by the Minister under subsection 89(2) as in force at the time of the modification or manufacture; or
 - (ii) the applicable national road vehicle standards, as ascertained at the time of the modification or manufacture; or

63 Subsection 82(6) (note)

Repeal the note, substitute:

Note 1: 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.

Note 2: The determination made under subsection 89(2) may set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards.

64 Paragraph 82(8)(a)

Repeal the paragraph, substitute:

- (a) it substantially complies with:
 - (i) for a vehicle mentioned in section 74—the applicable national road vehicle standards, as in force at the time the vehicle is modified or manufactured; and
 - (ii) otherwise—the applicable national road vehicle standards, as ascertained at the time the vehicle is modified or manufactured; and

65 Subsection 82(8) (note)

Omit ‘as in force at the time the report was approved’.

66 Paragraph 87(2)(b)

Repeal the paragraph, substitute:

- (b) include such documents as are required by the form; and
- (ba) be accompanied by a copy of the Model Report that:
 - (i) incorporates, and clearly indicates, the variation sought; and
 - (ii) is set out in a manner that complies with a determination under subsection 88(1); and

67 After subsection 87(2)

Insert:

- (2A) The Secretary may refuse to consider an application for approval of a variation to a Model Report if:
 - (a) the application does not comply with subsection (2); or
 - (b) the applicant does not comply with a request made under subsection 69(1) within the period mentioned in paragraph 69(2)(b).

68 Subsection 87(3)

Omit ‘Sections 69 to 80’, substitute ‘Section 69, and sections 71 to 80,’.

69 Paragraphs 89(2)(b) and (c)

Repeal the paragraphs, substitute:

- (b) matters relating to the material to be taken into account by the Secretary when deciding an application for approval of a Model Report, including by doing one or more of the following:
 - (i) specifying the kinds of material that the Secretary may or must consider;
 - (ii) specifying limits on the kinds of material that the Secretary may consider;
 - (iii) specifying that the Secretary can only be satisfied that a Model Report satisfies an eligibility criterion set out in section 72, 73 or 75 on the basis of certain kinds of material;

- (c) how to ascertain which national road vehicle standards are the applicable national road vehicle standards in respect of a vehicle of a model or variant mentioned in subsection (1).

70 Paragraph 89(3)(a)

Omit ‘vehicles comply’, substitute ‘vehicles would comply’.

71 After paragraph 89(3)(b)

Insert:

- ; (c) set out a method for determining which version of a national road vehicle standard applies to a vehicle;
- (d) set out concessional requirements relating to testing evidence.

72 Paragraph 206(6)(c)

Repeal the paragraph, substitute:

- (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:
 - (i) the applicable standards determined under subsection 89(2), as in force at the time the vehicle was manufactured or modified in accordance with the Model Report; or
 - (ii) for a vehicle mentioned in section 74—the applicable national road vehicle standards, as in force at the time of the manufacture or modification; or
 - (iii) otherwise—the applicable national road vehicle standards, as ascertained at the time of the manufacture or modification.

Note: The determination made under subsection 89(2) may set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards. However, a determination under section 89 cannot be made in relation to a model, or one or more variants, of a vehicle mentioned in section 74 (a trailer with an aggregate trailer mass of more than 4.5 tonnes).

73 Paragraph 225(1)(b)

Repeal the paragraph, substitute:

- (b) the name and contact details of the holder of the approval;
- (c) the approval number and approval status of the Model Report;
- (d) the unique document identifier of each set of Work Instructions in the relevant version of the Model Report;
- (e) the eligibility criterion on the basis of which the Model Report was approved;
- (f) the compliance level on the basis of which the Model Report was approved;
- (g) such additional information about the model, variant or variants of road vehicle to which the Model Report applies as the Secretary considers it appropriate to publish.

74 Subsection 225(2)

Omit ‘the approval-holder’s contact details’, substitute ‘their name and contact details’.

75 Paragraph 225(2)(b)

Repeal the paragraph, substitute:

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

76 At the end of section 225

Add:

- (3) The *approval status* refers to whether the Model Report is approved, suspended or revoked.
- (4) The *compliance level* refers to:
 - (a) the extent to which a model, or one or more variants, of a road vehicle would, if manufactured or modified in accordance with the Model Report, comply with the applicable national road vehicle standards or applicable standards determined by the Minister under subsection 89(2); and
 - (b) what the Secretary considers to be the respects in which, or the extent to which (if any), it is acceptable for road vehicles manufactured or modified in accordance with the Model Report not to comply with those standards; and
 - (c) what the Secretary considers to be the key respects in which road vehicles manufactured or modified in accordance with the Model Report are not required to comply with the national road vehicle standards by virtue of a determination under subsection 89(2).

Note: For paragraph (4)(b)—this information will also be set out in the approval (see paragraphs 79(2)(d) and (e)).

Example: For paragraph (4)(c)—the determination might prescribe that certain vehicles do not need to undergo destructive testing in accordance with a particular national road vehicle standard. The Secretary might consider this a key concession.

Part 5—Amendments relating to AVVs

Road Vehicle Standards Rules 2019

77 Paragraph 65(3)(a)

Omit ‘damage, corrosion, and repair of damage or corrosion’, substitute ‘damage or corrosion, and repair of damage or corrosion’.

78 Paragraph 65(4)(b)

After ‘level of damage or corrosion’, insert ‘, or repair of damage or corrosion,’.

79 Subsection 65(5) (note)

Repeal the note, substitute:

Note: The holder of an AVV approval must not verify a road vehicle, or modifications of a road vehicle, unless satisfied that the level of any damage or corrosion, or repair of damage or corrosion, on the vehicle does not exceed the damage or corrosion limit determined under section 107. If no damage or corrosion limit has been determined, the holder of the approval 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)).

80 Subparagraph 91(1)(b)(i)

Omit ‘inspected’, substitute ‘verified’.

81 Paragraph 100(1)(b)

Omit ‘inspected the vehicle’, substitute ‘completed the inspections and examined the information (if any) that it is required to complete or examine by a determination under section 106,’.

82 Subparagraph 100(1)(b)(ii)

After ‘level of damage or corrosion’, insert ‘, or repair of damage or corrosion,’.

83 After section 100

Insert:

100A Condition about compliance with s 106 determination

It is a condition of an AVV approval that the holder of the approval comply with the requirements of a determination under section 106.

84 Section 101

Repeal the section, substitute:

101 Condition about quality assurance and location of verifications

It is a condition of an AVV approval that the holder of the approval ensure that all verifications carried out under the approval:

- (a) are performed by appropriately skilled staff; and
- (b) take place in Australia.

85 After subparagraph 103(a)(ii)

Insert:

- (iii) a record of any information that the holder of the approval is required to keep by a determination under section 106; and

86 Paragraph 104(b)

Omit 'inspected', substitute 'presented for verification'.

87 Subparagraph 104(c)(i)

Omit 'inspected', substitute 'verified'.

88 Subparagraph 104(c)(iii)

Omit 'inspection', substitute 'verification'.

89 Section 106

Repeal the section, substitute:

106 Determination relating to verification of road vehicles

- (1) The Minister may, by legislative instrument, determine any matter relating to the verification 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 verify a road vehicle;
 - (b) the circumstances, or limits on the circumstances, in which the holder of an AVV approval must or may be satisfied that the signed declaration mentioned in paragraph 65(2)(a) is true and accurate;
 - (c) the kinds of supporting material, or limits on the kinds of supporting material, that the holder of an AVV approval may rely on or take into account when determining whether to verify a road vehicle under the approval;
 - (d) the technology and equipment to be used in inspecting a road vehicle;
 - (e) the calibration and maintenance of that technology and equipment;
 - (f) verification procedures, including verification checklists, for the verification of a road vehicle;
 - (g) procedures for identifying, and assessing the degree of, any damage or corrosion, or repair of damage or corrosion, on a road vehicle;
 - (h) administrative matters, including:
 - (i) the keeping of reports, evidence or documents that record the results of the verification of a road vehicle; and
 - (ii) notification requirements.
- (3) A determination made under this section may set out different requirements for different kinds of vehicles.

90 Section 107

Repeal the section, substitute:

107 Determination relating to damage or corrosion

The Minister may, by legislative instrument, determine the extent or types of:

- (a) damage or corrosion; or
- (b) repair of damage or corrosion;

that will 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 limit***).

Note 1: If the Minister determines a limit 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, or repair of damage or corrosion, on the vehicle does not exceed that limit (see subparagraph 100(1)(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, or repair of damage or corrosion, that exceeds any damage or corrosion limit determined under section 107.

Part 6—Amendments relating to the SEVs Register

Road Vehicle Standards Rules 2019

91 Section 4

Omit:

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.

substitute:

A person may apply to the Secretary for a make and model, or one or more variants of a model, of a road vehicle to be entered on the SEVs Register.

92 Section 53

Omit:

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.

substitute:

A make and model, or one or more variants of a model, of a road vehicle may be entered on the SEVs Register if, among other things, the make and model, or each relevant variant, satisfies the performance, environmental, mobility, left-hand drive, campervans and motorhomes or rarity criteria at sections 130 to 135. As a transitional measure, the Division also permits certain makes and models, or variants of models, of road vehicles on the 'SEVs List' maintained by the Department to be entered on the SEVs Register.

93 Subsection 125(1)

Repeal the subsection, substitute:

- (1) A person may apply to the Secretary for a make and model, or one or more variants of a model, of a road vehicle to be entered on the SEVs Register.

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

- (1A) An application for entry on the SEVs Register on the basis of subsection 129(1) must not relate to more than one of the eligibility criteria in sections 130 to 135.

Example 1: A person cannot make a single application for one variant of a model of a road vehicle to be entered on the SEVs Register on the basis of the performance criterion, and another to be entered on the basis of the rarity criterion. However, the person could make two separate applications for the two variants.

Example 2: A person cannot make a single application for a make and model of a road vehicle to be entered on the SEVs Register on the basis of both the performance criterion and the rarity criterion. However, if the Secretary is satisfied that the model is eligible for entry on the SEVs Register under a different eligibility criterion to the one identified in the application, the model may still be entered on the SEVs Register on the basis of the criterion under which it is eligible (see section 138).

Note: When deciding an application made on the basis of subsection 129(4), the Secretary does not need to determine whether a make and model, or variant of a model, of a road vehicle meets one of the eligibility criteria in sections 130 to 135.

(1B) An application may relate to entry on the SEVs Register on the basis of subsection 129(1) or 129(4), but not both.

Note: Subsection 129(1) is the main basis for entry on the SEVs Register. Subsection 129(4) provides a more limited transitional basis for entry. A single application cannot rely on both bases for entry on the SEVs Register. However, the person could make two separate applications.

94 Subsection 126(1)

Omit ‘variant of a model, or a make and model, of a road vehicle’, substitute ‘make and model, or one or more variants of a model, of a road vehicle’.

95 Paragraph 128(3)(a)

Omit ‘capacity,’.

96 Section 129

Repeal the section, substitute:

129 Eligibility for entry on SEVs Register

Eligibility for entry on the SEVs Register

- (1) A variant of a model, or a make and 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, or the make and model:
 - (i) has not been made available to consumers in Australia, at any time, under a road vehicle type approval or an approval given under subsection 10A(1) or (2) of the *Motor Vehicle Standards Act 1989*; or
 - (ii) has been made available to consumers in Australia and section 129A applies; and
 - (b) at least 3 months have passed since the variant of the model, or the make and model, was first made available to a consumer in any market in the world; and
 - (c) the variant of the model, or the make and model, 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.

Note: See subsection (3) for when a variant of a model, or a make and model, of a road vehicle has been made available to consumers in Australia.

Multiple variants—Secretary may consider globally

- (2) Where a person applies for more than one variant of a model of a road vehicle to be entered on the SEVs Register, the Secretary may be satisfied that each variant meets the criteria in subsection (1) on the basis of evidence that all variants covered by the application meet those criteria.

Example: A person applies for entry on the SEVs Register of all V8-engined variants of a particular model of a road vehicle. Because of subsection (2), the person can provide evidence demonstrating that all of the V8 variants meet the requirements in subsection (1), without performing specific variant-by-variant analysis. The Secretary may then make a global assessment of whether all of the variants covered by the application meet the relevant criteria.

Note: Section 138 also affects how the eligibility criteria apply where a person seeks entry of more than one variant on the SEVs Register.

When a variant or model is available to consumers in Australia

- (3) To avoid doubt, a variant of a model, or a make and model, of a road vehicle will have been made available to consumers in Australia at a particular time if such consumers had the opportunity to purchase a vehicle of the variant or model, even if no such vehicles had been physically delivered to consumers in Australia at that time.

Transitional eligibility—vehicles on the SEVs List

- (4) A variant of a model, or a make and model, of a road vehicle is eligible for entry on the SEVs Register if the Secretary is satisfied that:
- (a) the variant, or make and model:
 - (i) was entered on the SEVs List before the commencement of section 15 of the Act; and
 - (ii) is not otherwise eligible for entry on the SEVs Register; and
 - (b) the application for entry on the SEVs Register is made no later than 12 months after the commencement of section 15 of the Act.
- (5) The **SEVs List** is the list, administered by the Department, of variants of models, and makes and models, of road vehicles that have been assessed as suitable for entry on the SEVs Register on an interim basis.

Note: An entry on the SEVs List will identify which of the criteria in sections 130 to 135 the vehicle was assessed against in order to determine its suitability for interim entry. However, the Secretary does not need to determine whether a make and model, or variant of a model, of a road vehicle meets one of those criteria when considering its eligibility under subsection (4).

97 After section 129

Insert:

129A Entry on SEVs Register—vehicles that have been made available to consumers in Australia

Type approval holder applies for entry on SEVs Register

- (1) This section applies if:

- (a) the variant of the model, or the make and model, of the road vehicle has been made available to consumers 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

- (2) This section applies if:
 - (a) the variant of the model, or the make and model, of the road vehicle has been made available to consumers in Australia, under a road vehicle type approval or an approval given 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 build date range specified in the application for the variant of the model, or the make and model, of the road vehicle falls wholly within the period in which the variant, or the make and model, was not genuinely available to consumers in Australia mentioned in subparagraph (b)(i) or (ii), as applicable.

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

- (3) This section applies if:
 - (a) the variant of the model, or the make and model, of the road vehicle has been made available to consumers in Australia under an approval given 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 made available to consumers in Australia under a road vehicle type approval.

129B References to approvals under the Motor Vehicle Standards Act 1989

A reference in section 129 or 129A to an approval given under subsection 10A(1) or (2) of the *Motor Vehicle Standards Act 1989* includes:

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- (a) an approval given 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 given 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*.

98 Subsection 130(1)

Repeal the subsection, substitute:

- (1) A variant of a model, or a make and model, of a road vehicle satisfies the performance criterion if the variant, or the make and model, as originally manufactured, has a power to weight ratio that exceeds the threshold in subsection (2).

99 After subsection 130(2)

Insert:

Power to weight threshold for particular vehicles

- (2A) Subsection (2B) applies where a variant of a model, or a make and model, of a road vehicle was originally manufactured across a period beginning before 1 January 2020 and finishing on or after 1 January 2020.
- (2B) Vehicles of the variant of the model, or the make and model, that were originally manufactured on or after 1 January 2020 need only exceed the power to weight threshold specified in paragraph 130(2)(a).

100 Section 131

Repeal the section, substitute:

131 Environmental criterion

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

- (a) either:
 - (i) meets or exceeds the national road vehicle standards relating to emissions that would apply to a new vehicle of the variant, or the make and model, at the time the application is made; or
 - (ii) 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) uses an alternative to an internal combustion engine (other than human or animal power) as a means of propulsion, whether as the exclusive means of propulsion or in addition to an internal combustion engine; or

- (ii) 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.

101 Section 132

Repeal the section, substitute:

132 Mobility criterion

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

- (a) the variant, or the make and model, 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, or the make and model, 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 subject to the modification.

102 Section 133

Repeal the section, substitute:

133 Left-hand drive criterion

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

- (a) was originally manufactured in left-hand drive; and
- (b) either:
 - (i) is not available in right-hand drive in any market in the world; or
 - (ii) if the variant, or the make and model, is available in right-hand drive in a market—was not originally manufactured in right-hand drive 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.

103 Section 134

Repeal the section, substitute:

134 Campervans and motorhomes criterion

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

- (a) was originally manufactured as a campervan or motorhome; or
- (b) 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.

104 Section 136

Repeal the section, substitute:

136 Determinations relating to SEVs Register

- (1) The Minister may, by legislative instrument, determine matters relating to any aspect of sections 128 to 135.
- (2) Without limiting subsection (1), a determination may do any or all of the following:
 - (a) prescribe the circumstances in which road vehicles of a particular kind will constitute a variant of a model of a road vehicle;
 - (b) prescribe the circumstances in which road vehicles of a particular kind will not constitute a variant of a model of a road vehicle;
 - (c) specify when differences in the design characteristics of road vehicles will, or will not, be significant for the purposes of subsection 128(1);
 - (d) for the purposes of specified eligibility criteria—specify that those criteria apply to particular road vehicle categories;
 - (e) for the purposes of specified eligibility criteria—specify that those criteria apply in respect of particular road vehicle weight ranges;
 - (f) for the purposes of the environmental criterion—prescribe emissions standards that are comparable to national road vehicle standards relating to emissions;
 - (g) for the purposes of the mobility criterion—prescribe 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:
 - (i) prescribe road vehicles that are, or are not, campervans or motorhomes; and
 - (ii) prescribe factors relevant to determining whether a road vehicle is a campervan or motorhome.

105 Section 137 (heading)

Omit ‘considering’, substitute ‘deciding’.

106 Subsection 137(1)

Omit ‘consider’, substitute ‘decide’.

107 Subsection 137(1)

Omit ‘variant of a model, or a make and model, of a road vehicle’, substitute ‘make and model, or one or more variants of a model, of a road vehicle’.

108 Section 138

Repeal the section, substitute:

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

When Secretary may make entry on SEVs Register

- (1) The Secretary may enter a make and model, or one or more variants of a model, of a road vehicle on the SEVs Register if:
 - (a) the make and model, or each relevant variant, is eligible for entry on the SEVs Register under section 129; and
 - (b) the make and model, or each relevant variant:
 - (i) is not on the SEVs Register; or
 - (ii) is on the SEVs Register, but not in relation to the same criterion in sections 130 to 135; or
 - (iii) is on the SEVs Register in relation to the same criterion in sections 130 to 135, but the entry is due to expire under section 143 during the 30 business day period mentioned in subsection 137(1).

Note: For the purposes of subparagraphs (1)(b)(ii) and (iii)—where an entry is made on the SEVs Register on the basis of subsection 129(4), the SEVs List will identify the criterion in sections 130 to 135 that is relevant to the make and model, or variant of a model, in question.

Certain entries takes effect after existing entry expires

- (2) If the Secretary enters a make and model, or one or more variants of a 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.

Secretary must refuse to enter variant, or make and model, where ineligible

- (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 it is not eligible for entry on the SEVs Register under section 129.

Secretary may grant entry based on different eligibility criterion to application

- (4) To avoid doubt, where:
 - (a) a person applies for entry of a make and model, or one or more variants of a model, of a road vehicle on the SEVs Register on the basis of a particular eligibility criterion in sections 130 to 135; and
 - (b) the Secretary:
 - (i) is not satisfied that the make and model, or each relevant variant, satisfies that eligibility criterion; and

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- (ii) is satisfied that the make and model, or each relevant variant, satisfies a different eligibility criterion;

the Secretary may enter the make and model, or each relevant variant, on the SEVs Register on the basis of the eligibility criterion mentioned in subparagraph (b)(ii).

Note: For subparagraph (4)(b)(ii)—where a group of variants is concerned, all variants in the group must still be entered on the SEVs Register under the same eligibility criterion.

Multiple variants—ineligibility of some variants does not disqualify remainder

- (5) Subject to subsection (1), where:
- (a) a person applies for more than one variant of a model of a road vehicle to be entered on the SEVs Register; and
 - (b) the Secretary is satisfied that some, but not all, of the variants covered by the application are eligible for entry on the SEVs Register;

the Secretary may enter the eligible variants on the SEVs Register.

Note: A person applies for entry on the SEVs Register of all V6 and V8 variants of a model of a road vehicle. The Secretary is satisfied that the V8 variants are eligible, but the V6 variants are not. The Secretary may enter the V8 variants on the SEVs Register.

Matters that Secretary may take into account

- (6) In deciding an application for entry of a make and model, or one or more variants of a model, of a road vehicle on the SEVs Register, the Secretary may have regard to any matter the Secretary considers relevant.

109 Section 139

Repeal the section, substitute:

139 Notice requirements for entry on SEVs Register

- (1) If the Secretary enters a make and model, or one or more variants of a 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 make and model, or one or more variants of a model, of a road vehicle (***relevant model or variant***); and
 - (b) the relevant model or variant is already entered on the SEVs Register in relation to the same criterion in sections 130 to 135; 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 relevant model or variant is already entered on the SEVs Register.

110 Section 140

Omit ‘variant of a model, or a make and model, of a road vehicle’, substitute ‘make and model, or one or more variants of a model, of a road vehicle’.

111 Section 142 (note)

Repeal the note, substitute:

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 extent to which a relevant variant, or make and model, complies with the applicable criteria.

112 Section 143

Repeal the section, substitute:

143 Expiry of entries on the SEVs Register

If the Secretary enters a make and model, or one or more variants of a model, of a road vehicle on the SEVs Register, the entry expires at the end of the period of 3 years starting on:

- (a) for an entry made on the basis of subsection 129(4)—the date of entry on the SEVs List; or
- (b) otherwise—the day the entry on the SEVs Register is made.

Note: After expiry, the make and model, or the variant or variants of the 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).

113 Paragraph 230(u)

Omit ‘variant of a model, or a make and model, of a road vehicle’, substitute ‘make and model, or one or more variants of a model, of a road vehicle’.

114 Paragraph 230(v)

Omit ‘variant of a model, or a make and model, of a road vehicle’, substitute ‘make and model, or one or more variants of a model, of a road vehicle’.

Part 7—Miscellaneous amendments

Road Vehicle Standards Rules 2019

115 Paragraph 23(2)(d)

Before ‘documents’, insert ‘reference numbers of the’.

116 At the end of section 26

Insert:

- (4) It is a condition of a road vehicle type approval that the holder of the approval must not give instructions, for the purposes of paragraph 51(e), that would result in a vehicle covered by the approval ceasing to comply with the applicable national road vehicle standards as in force at the time the Secretary granted the approval, except in the respects or to the extent (if any) that vehicles of that type are not required to comply with those standards in order to be entered on the RAV under the approval.

Note: The notice for the grant of the approval will 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 (see paragraph 23(2)(e)). This is relevant to a type of vehicle to which subsection 19(3) (substantial compliance) applies.

117 Subsection 50(1)

Omit ‘subsection (2), (3), (4) or (5) applies’, substitute ‘any of subsections (2) to (6) apply’.

118 Paragraph 51(d) and note

Repeal the paragraph and note, substitute:

- (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;
- (e) modifications carried out on a road vehicle that is entered on the RAV via the type approval pathway, where the modifications:
- (i) are not covered by the supporting information for the relevant road vehicle type approval; and
 - (ii) are made in accordance with written instructions provided by the holder of that approval.

Note 1: 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.

Note 2: For the purposes of paragraph (e)—it is a condition of a road vehicle type approval that the holder of the approval cannot give instructions that, broadly speaking, would detrimentally affect the extent to which a relevant vehicle complies with the national road vehicle standards.

119 At the end of section 50

Add:

Provision for the purposes of this instrument

- (6) This subsection applies where the provision of the road vehicle is expressly or impliedly permitted or required by:
- (a) this instrument; or
 - (b) a condition of an approval granted under this instrument.

Example 1: 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 the holder of a RAW approval has modified or manufactured the vehicle in accordance with an approved Model Report, and the holder of an AVV approval has verified the vehicle or modifications. The vehicle can be provided to the holders of those approvals and their staff for the purpose of enabling them to carry out the relevant modification, manufacture or verification without breaching subsection 24(1) of the Act.

Example 2: The holder of a testing facility approval granted under Division 5 of Part 4 may be authorised to test vehicles under the approval. A vehicle can be provided to the holder of the approval or their staff for the purpose of enabling them to carry out testing under the approval without breaching subsection 24(1) of the Act.

120 Section 147 (heading)

Omit the words ‘for approval’.

121 Section 156 (heading)

Omit ‘non RAV’, substitute ‘non-RAV’.

122 Section 167 (heading)

Omit ‘of’.

123 Paragraph 181(2)(d)

Before ‘documents’, insert ‘reference numbers of the’.

124 Paragraph 195(3)(b)

Repeal the paragraph, substitute:

- (b) accompanied by such documents as are required by the form.

125 After section 195

Insert:

195A Changes to administrative information associated with approval

- (1) The holder of an approval granted under this instrument may apply to the Secretary to change information of an administrative nature associated with the approval.

Example: Such information would include the applicant’s contact details.

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

Note: The same form may be approved for an application under subsection 195A(1) as for an application under subsection 195(1).

- (3) The Secretary may refuse to consider an application if it does not comply with subsection (2).

126 Subsection 196(1)

Omit ‘the application’, substitute ‘an application under subsection 195(1) or 195A(1)’.

127 Subsection 197(4) (note)

Omit ‘in a terms than those’, substitute ‘in terms other than those’.

128 After section 197

Insert:

197A Secretary may change administrative information associated with approval

- (1) The Secretary may change information of an administrative nature associated with an approval on the application of the holder of the approval, if satisfied that doing so would not amount to a variation of the approval.
- (2) If the Secretary is satisfied that changing the information would amount to a variation of the approval, the application is to be treated as though it were an application for variation of an approval under subsection 195(1).

Note: No application fee applies to an application under subsection 195A(1). However, an application fee may apply to an application under subsection 195(1).

129 Subsection 227(2)

Omit ‘the approval-holder’s business name and contact details’, substitute ‘their name and contact details’.

130 After paragraph 230(zg)

Insert:

- (zga) a decision to refuse to consider an application by the holder of an approval to change information of an administrative nature associated with the approval;

131 After section 230

Insert:

230A Withdrawal of applications

- (1) A person who applies for an approval under this instrument may, by written notice, withdraw the application.
- (2) The Minister or Secretary must not decide an application that has been withdrawn.

- (3) A fee paid in respect of an application that is withdrawn is not refundable where the Minister or Secretary had begun to consider the application before receiving the notice of withdrawal.

Note: Under section 72 of the Act, the Secretary may refund the whole or part of a cost- recovery charge paid to the Commonwealth if the Secretary is satisfied there are circumstances that justify doing so.