

EXPLANATORY STATEMENT

Approved by the Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government

Road Vehicle Standards Amendment (2023 Measures No. 1) Rules 2023

Summary

The *Road Vehicle Standards Amendment (2023 Measures No. 1) Rules 2023* (the amending Rules) is made under paragraph 65(1)(g) of the *Road Vehicle Standards Act 2018* (the Road Vehicle Standards Act).

The amending Rules amends the *Road Vehicle Standards Rules 2019* (the Road Vehicle Standards Rules) to prescribe Austroads Ltd (ACN 136 812 390) and the National Heavy Vehicle Regulator as bodies to which the Secretary may give road vehicle information.

Legislative authority

The Road Vehicle Standards Act and the Road Vehicle Standards Rules provide a modern framework for the Commonwealth to regulate, among other matters, the importation and the first provision of road vehicles in Australia. It includes measures to manage the risks associated with road vehicles and road vehicle components. Such measures are designed to ensure that road vehicles and approved road vehicle components provided in Australia meet certain safety, anti-theft and environmental standards. The Act also gives effect to Australia's obligations regarding the harmonisation of international road vehicle standards.

Paragraph 82(1)(a) of the Road Vehicle Standards Act empowers the Minister to, by legislative instrument, make rules prescribing matters required or permitted by that Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to that Act.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides, in part, that the power to amend rules is conferred by the same power to make those rules.

The amending Rules is made under paragraph 65(1)(g) of the Road Vehicle Standards Act. Section 65 of the Act allows the Secretary to provide road vehicle information to a number of listed organisations/bodies, including in paragraph 65(1)(g) to any other body prescribed by the rules.

Purpose and operation of the instrument

Overview of the Road Vehicle Standards Act and Road Vehicle Standards Rules

The primary purpose of the Road Vehicle Standards Act is to regulate the importation and provision of road vehicles. The Road Vehicle Standards Rules set out matters that support the regulatory framework of the Act. Part 2 of the Rules provides for the keeping of a Register of Approved Vehicles (RAV), on which a road vehicle must be entered before it may be provided for the first time in Australia (section 24 of the Act).

Operation of the amending Rules

The amending Rules pertains to the inclusion in Part 9 (miscellaneous matters) of a new section listing two bodies under paragraph 65(1)(g) of the Road Vehicle Standards Act. Listing of the bodies provides the authority for the Secretary to share road vehicle information with them as allowed for under section 65 of the Act. These bodies have a key role in facilitating vehicle registration. These bodies listed are Austroads Ltd (ACN 136 812 390) and the National Heavy Vehicle Regulator.

Austroads Ltd has an ongoing role with state and territory registration authorities as well as the National Heavy Vehicle Regulator (collectively, in-service regulators) as it holds and maintains the Australian database of vehicle and driver information. To provide a complete service to the in-service regulators, Austroads must be shared road vehicle information to have the RAV.

The National Heavy Vehicle Regulator is Australia's regulator for heavy vehicles (except in WA and NT). Section 65 of the Road Vehicle Standards Act allows for information sharing with an authority of a state or a territory. The NHVR has the same requirements for road vehicle information such as that contained in some applications and approvals for road vehicles.

The amending Rules 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 A](#).

The amending Rules commence the day after registration on the Federal Register of Legislation. A detailed explanation of the amending Rules is at [Attachment B](#).

Consultation

In accordance with paragraph 82(5)(b) of the Road Vehicle Standards Act, the Minister consulted with the Office of the Australian Information Commissioner regarding the implications for privacy of sharing road vehicle information with the listed bodies.

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 has now become the Road Vehicle Standards Act. The RIS is included in the Explanatory Memorandum to the Road Vehicle Standards Bill 2018. The Office of Best Practice Regulation (now the Office of Impact Analysis) reference number for the RIS is 17240.

There is no change to regulatory impact in the amending Rules as the amendment is limited to providing power for the Secretary to share road vehicle information with two listed bodies. These bodies have as part of their core business function, facilitating the registration of road vehicles.

ATTACHMENT A—STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*
Road Vehicle Standards Amendment (2023 Measures No.1) Rules 2023

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 Amendment (2023 Measures No.1) Rules 2023* (the amending Rules) are made under section 82 of the *Road Vehicle Standards Act 2018* (the Road Vehicle Standards Act).

The amending Rules amends the *Road Vehicle Standards Rules 2019* (the Rules) to prescribe Austroads Ltd (ACN 136 812 390) and the National Heavy Vehicle Regulator as bodies to which the Secretary may give road vehicle information.

These bodies have a key role in facilitating vehicle registration.

Human rights implications

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

Conclusion

The instrument is compatible with human rights because it promotes the protection of human rights and, to the extent that it may limit human rights, those limitations are considered to be reasonable, necessary and proportionate.

Minister for Infrastructure Transport, Regional Development and Local Government
The Hon Catherine King MP

ATTACHMENT B—OVERVIEW OF PROVISIONS

Section by section explanation of the *Road Vehicle Standards Amendment (2023 Measures No.1) Rules 2023*

Section 1: Name

Section 1 provides that the name of the instrument is the *Road Vehicle Standards Amendment (2023 Measures No. 1) Rules 2023* (the amending Rules).

Section 2: Commencement

Section 2 provides that this instrument commences on the day following its registration on the Federal Register of Legislative instruments.

Section 3: Authority

Section 3 provides that the instrument is made under the *Road Vehicle Standards Act 2018* (the Act).

Section 4: Schedules

Section 4 provides that each instrument that is specified in a Schedule to this is amended or repealed as set out in the applicable items of the Schedule. Any other item in a Schedule has effect according to its terms.

Schedule 1—Amendments

Item 1—Section 236A Bodies to which the Secretary may give road vehicle information

This item inserts a new section 236A after section 236.

Subsection (1) lists Austroads Ltd (ACN 136 812 390) and the National Heavy Vehicle Regulator as bodies, prescribed under paragraph 65(1)(g) of the Act, to which the Secretary may give road vehicle information.

Subsection (2) defines terms used in this section as follows:

Heavy Vehicle National Law means the Heavy Vehicle National Law set out in the Schedule to the *Heavy Vehicle National Law Act 2012* (Qld) as that law applies from time to time in any participating jurisdiction.

National Heavy Vehicle Regulator means the National Heavy Vehicle Regulator established under the Heavy Vehicle National Law.

participating jurisdiction means any of the following:

- (a) New South Wales;
- (b) Victoria;
- (c) Queensland;
- (d) South Australia;
- (e) Tasmania;
- (f) Australian Capital Territory.

The ability to share road vehicle information with Austroads Ltd and the National Heavy Vehicle Regulator, as specific prescribed bodies, is necessary for the regulation of road vehicles in Australia.

The term **road vehicle information** is defined in subsection 65(1) of the Act as *‘information, a record or document, or a copy of a record or document, obtained in the performance of functions or exercise of powers by a person under this Act.’*

Subsection 65(2) of the Act provides that **road vehicle information** may include **personal information**. The note following the subsection states ‘For use or disclosure of personal information, see the *Privacy Act 1988*’. This is in accordance with Australian Privacy Principles, which allows for the use or disclosure of personal information where it is authorised by Australian law. Section 5 of the Act provides that *‘personal information has the same meaning as in the Privacy Act 1988’*.

Further privacy safeguards are provided by subsection 65(3) of the Act which states that *‘road vehicle information may not be used or disclosed by a body mentioned in subsection (1) for a commercial purpose’*. In addition, paragraph 82(5)(b) of the Act states that before making rules for the purposes of paragraph 65(1)(g) to prescribe a body to which personal information may be disclosed, the Minister must consult with the Information Commissioner (as per the *Australian Information Commissioner Act 2010*) and have regard to any submissions made by the Information Commissioner because of that consultation.