# We have listened

The [Road Vehicle Standards Act 2018](https://www.legislation.gov.au/Details/C2018A00163) (the Act) and the [Road Vehicle Standards Rules 2019](https://www.legislation.gov.au/Details/F2019L00198) (the Rules) have been subject to an extensive consultation process from 2013.

A key part of our consultation on the Rules included the release of an Exposure Draft of the Rules for public comment in December 2017. We also held information sessions in major cities around Australia to brief industry and the community on the details on the legislation, including the Exposure Draft.

Our key objectives for the Rules were to provide:

* Clear legislation for safe, secure, and environmentally friendly vehicles
* Flexibility for the future of road vehicles
* More choice of road vehicles for Australians
* Improved compliance and enforcement powers, particularly for recalls of road vehicles and approved road vehicle components.

We considered the feedback of our stakeholders alongside these objectives and, on 16 May 2018, [announced](http://webarchive.nla.gov.au/gov/20181009232849/https:/infrastructure.gov.au/vehicles/mv_standards_act/index.aspx) refinements to the Rules, including:

* extending the original proposed period of approval timeframes for road vehicle type approvals, Registered Automotive Workshop (RAW) approvals and Authorised Vehicle Verifier (AVV) approvals
* amendments to the performance and campervan eligibility criteria for the Specialist and Enthusiast Vehicles (SEVs) Register
* allowing heavy vehicles to be eligible for consideration for entry on the SEVs Register but requiring these vehicles to be made fully compliant with the Australian Design Rules applicable at the time of importation in order to minimise community risk
* allowing for the modification of heavy vehicles, prior to provision to a customer, according to Vehicle Standard Bulletin 6 (the National Code of Practice for Heavy Vehicle Modification)

The Rules now reflect these key policy changes. We also made other changes to the Rules, including some substantive amendments and other changes to clarify our policy intention and improve consistency across the Rules.

This document is intended to give an overview of substantive changes to the Rules, such as key policy changes. It does not capture all changes to the Rules compared to the Exposure Draft.

# General changes made across the Rules

# Clarity and consistency

Many amendments to the Rules are stylistic or for clarity. Despite some minor changes to the way the provisions are worded, the substance often remains the same.

We have also made amendments to ensure that the Rules clearly reflect our policy intention and to improve the consistency in the way we will assess applications, and of the obligations of holders of approvals, for example:

* we have ensured that the powers of the Minister or Secretary to take into account other matters considered relevant when making a decision on an application are applied consistently, and to all applications.
* we have ensured that the powers of the Minister or Secretary to request information to support a decision on an application or as a condition of an approval, are applied consistently, and to all applications and approvals.

# Authority

The Exposure Draft set out different authorities for the exercise of powers. The Rules now reflect that matters where concessions may be granted against the national road vehicle standards are appropriate for Ministerial discretion. In other matters, where there are not being concessions granted against the national road vehicle standards and there is a substantial framework to guide decision-making, it is appropriate for functions and powers to sit with the Secretary.

The principle set out in the Exposure Draft that the powers of the Minister and Secretary may generally be delegated to departmental staff remains the same. Section 234 of the Rules provides that the Minister may not delegate powers to make determinations or powers relating to the issue of recall notices.

# Record keeping

There have been a number of changes across the Rules to improve the clarity and consistency in record keeping obligations.

Particular changes regarding record keeping have been made for holders of road vehicle type approvals and road vehicle component type approvals (regarding supporting information) and for holders of RAW approvals (regarding their modification or manufacture of vehicles in accordance with Model Reports) and are explained in the relevant sections below.

# Numbering and section titles

We have updated the numbering in the Rules as some sections have been added and others have been removed. Some section titles have also changed. Our *Renumbering Comparison* document may assist you to identify the section numbers and titles that have changed.

# Specific changes made to the Rules

Below are our comments on some changes to specific provisions of the Rules to assist you in understanding how they are different from provisions in the Exposure Draft.

# The Register of Approved Vehicles (RAV)

## Format of information to be included on the RAV

Section 13 of the Exposure Draft allowed the Minister to determine, by written instrument, the format of information to be included on the RAV and procedures to be followed to ensure the information is entered on the RAV effectively. The Rules no longer include this power, reflecting that the format of this information is not required to be included in a determination. The information and procedures will be set out administratively, for example through the [RAV Guide](https://infrastructure.gov.au/vehicles/rvs/files/Updated_VSS_RAV_Guide.pdf).

# RAV Entry Pathways

## Road vehicle type approval pathway

### Period of a road vehicle type approval

We have extended the period of a road vehicle type approval from five to seven years. This change has also been made for road vehicle component type approvals.

The period of a road vehicle type approval granted in the opt-in period from 10 December 2019 to 10 June 2019 will be five years.

### Compliance with national road vehicle standards – matters to be taken into account

Subsection 19(2) lists the kind of matters the Secretary may take into account when deciding whether a vehicle complies or substantially complies with the national road vehicle standards. We have extended this list to include the following matters:

* Existing road vehicle type approvals relating to the type of vehicle in the application. For example, road vehicle type approvals held by people other than the applicant may be considered for the purpose of granting a road vehicle type approval for new vehicles to be subject to second stage of manufacture.
* Any matter or thing specified in an applicable national road vehicle standard to be acceptable as evidence of compliance with that standard, or an element of that standard, as in force at the time the Secretary decides the application. For example, an Australian Design Rule (ADR) may set out certain evidence which the Secretary may take into account when deciding whether a vehicle complies with that ADR.
* Information relevant to assessing the accuracy of certain other matters listed in section 19(2). For example, the Secretary may take into account information that suggests that a declaration made in an application for a road vehicle type approval is false or misleading

We have not changed the broader intention of section 19(2): that the Secretary does not have a general discretion to take into account what he or she considers relevant concerning whether a type of vehicle complies or substantially complies with national road vehicle standards. The Secretary must only have regard to the list of factors in section 19(2) for this purpose.

These changes have also been made for road vehicle component type approvals.

### Condition about compliance with national road vehicle standards and automatic suspension of approvals

The Exposure Draft set out that it was a condition of a road vehicle type approvals that the holder of the approval provide evidence that demonstrates that type of vehicle complies with changed national road vehicle standards. Failure to provide this information would have meant that the type approval was automatically suspended 60 days before the applicability date for the national road vehicle standard.

This condition had unintended impacts on type approval holders that did not intend to keep providing vehicles after the applicability date for the updated standard. It would have meant that they had to provide evidence to the new standard that they did not intend to meet, or lose 60 days of vehicle provision and risk committing an offence by failing to comply with a condition.

To reduce the regulatory burden on holders of road vehicle type approvals and better align with business practice, we have revised the automatic suspension of type approvals in the event of a change to the national road vehicle standards.

Section 202 of the Rules covers what must happen if standards change. It sets out that a road vehicle type approval or road vehicle component type approval will be automatically suspended if the approval is not varied (or the Secretary decides a variation is unnecessary) to reflect amended national road vehicle standards that apply to the approval, by the time those standards apply.

Applying for a variation will involve the holder of an approval providing us with supporting information (through an application for variation of their approval) that demonstrates that vehicles covered by the type approval will comply with the amended standards. They should provide this with sufficient time for us to consider the information before the applicability date for the national road vehicle standard.

Holders of type approvals who will not provide vehicles or components under the approvals after the amended or new standards come into force are not required to provide us any information about compliance with those standards and can continue providing vehicles up to the applicability date for the changed national road vehicle standard, when the road vehicle type approval would be automatically suspended.

These changes also apply to road vehicle component type approvals.

### Record keeping for supporting information

Road vehicle type approvals and road vehicle component type approvals have an additional condition relating to keeping records of supporting information.

Sections 30 and 187 of the Rules set out that, as a condition of road vehicle type approvals and road vehicle component type approvals, holders of these approvals must keep up-to-date records of supporting information that evidences the compliance of vehicles or components covered by the approval with national road vehicle standards, including to:

* keep a record of the original and any subsequent versions of supporting information for the approval for a period of seven years after the approval expires or is revoked
* ensure that the supporting information for the approval is kept up-to-date while the approval is in force

This condition does not require holders of these approvals to continually provide original or subsequent versions of supporting information to the department. The intention of this condition is to ensure that they have proper systems in place to develop, maintain, and store supporting information (for example, sufficient design change controls and testing), and provide the supporting information to us as requested.

This is not a new requirement – the eligibility criteria in the Exposure Draft already flagged this requirement. The addition of these conditions is to ensure the conditions reflect the eligibility criteria for the approval.

## Concessional RAV entry approval pathway

### Entry of a vehicle on RAV only when in Australia

The Exposure Draft provided for the entry of a vehicle on the RAV at the time that a concessional RAV entry approval was granted and conditions of the approval were met. This meant that any vehicle could be entered on the RAV while outside Australia. Following stakeholder feedback that vehicles should be in Australia before inspection by the holder of an AVV approval, and entry of vehicles on the RAV is only appropriate after certain conditions of the approval (including modification and inspection of the vehicle) are met, we have ensured that vehicles can generally only be entered on the RAV after they are in Australia.

The Rules provide at section 31 for the entry of a vehicle on the RAV after a concessional RAV entry approval has been granted, after any conditions that were required to be met have been met (for example, modification by the holder of a RAW approval) and if the vehicle is in Australia. The vehicle may still be entered on the RAV outside Australia in limited circumstances, for example to allow for second stage manufacture of a new vehicle overseas.

### Eligibility criterion – special purpose vehicle

The Exposure Draft referred to a ‘special exemption’ eligibility criterion for grant of a concessional RAV entry approval. Section 38 of the Rules now refers to this as the ‘special purpose vehicle’ eligibility criterion in line with current practice under the *Motor Vehicle Standards Act 1989*.

Section 38 of the Rules now also clarifies our power to request evidence of special purpose vehicle’s suitability for use on a public road and consider this when deciding an application. Subsection 38(1) requires a special purpose vehicle to comply with the applicable national road vehicle standards to the extent it makes it suitable for use on a public road. For example, a road vehicle that is a crane may still be required to comply with the applicable national road vehicle standards relevant to the steering assembly, even if it cannot meet other national road vehicle standards due to it impeding on the operational requirements of the vehicle.

This is in addition to the existing power under section 43 for the Minister to take into account whether a vehicle is, or could be made, fit for use on a public road, when deciding an application for a concessional RAV entry approval.

### Eligibility criterion – trailers

A number of changes have been made to the eligibility criterion for the grant of a concessional RAV entry approval in relation to trailers.

*Substantial compliance with national road vehicle standards*

Subsection 40(3) to (6) of the Rules now allow us to grant concessional RAV entry approvals for trailers that substantially comply with national road vehicle standards. Previously the Exposure Draft only provided for trailers that fully complied with national road vehicle standards to be eligible for the grant of this approval.

*Evidence and assessment of compliance with standards*

Different requirements for the provision and assessment of evidence depending on whether the vehicle is a light or heavy trailer and whether the trailer fully or substantially complies with the approval.

**Table 1: Evidence requirements in applications regarding fully compliant trailers**

|  |  |  |
| --- | --- | --- |
| Requirements | Light trailers | Heavy trailers |
| Application requires a declaration of compliance? | Yes | Yes |
| Application requires evidence to support the declaration? | No | Yes |

**Table 2: Evidence requirements in applications regarding substantially compliant trailers**

|  |  |  |
| --- | --- | --- |
| Requirements | Light trailer | Heavy trailers |
| Application requires the detail of vehicle’s non-compliance? | **Yes** | **Yes** |
| Application requires a declaration of compliance? | **Yes** | **Yes** |
| Application requires evidence to support the declaration? | **No** | **Yes** |

*Modification in accordance with the National Code of Practice for Heavy Vehicle Modifications*

Section 51 of the Rules now permits the modification of heavy vehicles, prior to provision to a customer, in accordance with Vehicle Standard Bulletin 6 (the National Code of Practice for Heavy Vehicle Modification). The Exposure Draft did not allow for this.

The National Code is published by the Australian Motor Vehicle Certification Board which includes representatives from the Australian Government, state and territory governments, and the National Heavy Vehicle Regulator. It sets out minimum national requirements for modifications to vehicles with a gross vehicle mass greater than 4.5 tonnes and trailers with an aggregate trailer mass greater than 4.5 tonnes, to ensure that these modified vehicles are safe and comply with the relevant standards. It also provides for Approved Vehicle Examiners to certify certain modifications to these vehicles. The National Code is a document available to the public free of charge on the National Heavy Vehicle Regulator’s website.

*Light and heavy trailers*

The Exposure Draft referred to light and heavy trailers. The Rules now refer to trailers by weight category – trailers with an aggregate trailer mass of 4.5 tonnes or less, and trailers with an aggregate trailer mass of more than 4.5 tonnes. Aggregate trailer mass is also now defined in the Rules.

# Tools

## Registered Automotive Workshop (RAW) approvals

### Period of a RAW approval

We have extended the period of a RAW approval from two to five years.

### Damage or corrosion inspection

The Exposure Draft set out an expectation that the holder of a RAW approval inspect the vehicle for damage and corrosion and take certain action if that corrosion has been found to reduce the structural integrity of the vehicle. Holders of AVV approvals were similarly expected to conduct an inspection for damage or corrosion. The Rules broadly maintain that expectation.

Section 107 of the Rules now allows the Minister to make a determination regarding what meets or does not meet a threshold for damage or corrosion. A determination made under this section is intended to provide a more objective threshold of damage or corrosion, and any vehicle that exceeds that threshold:

* must not be declared by the holder of a RAW approval to have been modified in accordance with an approved Model Report and must be reported to the department in writing (section 65 of the Rules),
* must not be verified by the holder of an AVV approval, and a verification report stating that the vehicle has not been verified be provided to the Department within one business day after the report is completed (section 100).

Where there is no damage or corrosion threshold determined under section 107, then the test becomes whether the vehicle has had its structural integrity reduced by damage or corrosion.

### Quality management system

The Exposure Draft previously required holders of RAW approvals to be certified by an accredited body to meet the requirements of *ISO9001 Quality Management Systems – Requirements*. Section 58 of the Rules now reflects a more flexible, performance-based expectation that holders of RAW approvals have a quality management system that does all of the following:

* ensures the applicant has the equipment, trained personnel and procedures in place to ensure the modification or manufacture of a road vehicle will be conducted in accordance with the relevant Model Report
* ensures that the holder of the approval will meet any conditions to which the approval will be subject
* meets any conditions that relate to the quality management system to which the approval will be subject

A RAW that has an *ISO9001* certification would likely satisfy the quality management system requirement but now may choose not to obtain this certification.

### Modification or manufacture in accordance with a Model Report, and authorisation to use the Model Report

The Rules have been amended to ensure that holders of RAW approvals only modify or manufacture vehicles in accordance with Model Reports that they have been authorised by the holder of the Model Report approval to use. These changes are designed to help holders of approved Model Reports keep track of their Model Reports.

The Rules set out a new requirement that holders of RAW approvals must make a declaration that states the vehicle has been modified or manufactured in accordance with an approved Model Report, keep a copy of the declaration, and provide a copy of that declaration to the AVV that will verify the vehicle. The Model Report must have been the latest version that applied at the time of the modification or manufacture. The holder of a RAW approval must also retain the information that supports that declaration.

The Rules also set out a new requirement at section 65 that the holders of RAW approvals declare that they were authorised to use the Model Report and provide a copy of that declaration, and information that supports that declaration, to the AVV that will verify the vehicle. Section 100 of the Rules requires that the AVV assess the declaration against the information provided by the holder of the RAW approval, and so be satisfied that this declaration is true and accurate.

## Model Reports

### Applicable standards for a Model Report

There have been changes to the Rules at sections 72 to 76 to clarify that there are four different kinds of Model Reports and to clarify what standards apply to each. This is summarised in the table below. The Rules now also provide that vehicles that are modified or manufactured in accordance with a Model Report must fully or substantially comply with the relevant standards set out below. Previously the Exposure Draft provided that vehicles had to fully comply with the relevant standards, but did not make these standards particularly clear.

**Table 3: Standards that apply to each kind of Model Report**

|  |  |  |
| --- | --- | --- |
| Kind of Model Report | Primary standards that apply | Default standards |
| Vehicles covered by an entry on the Specialist and Enthusiast Vehicles (SEVs) Register | Standards determined under section 89 of the Rules. | No other standards apply. |
| Used two- or three-wheeled vehicles | Standards determined under section 89 of the Rules. | In all other respects (if standards have not been determined under section 89 or are not applicable) modified vehicles must comply with national road vehicle standards. |
| Trailers with an aggregate trailer mass of more than 4.5 tonnes. | National road vehicle standards. | No other standards apply. |
| Certain vehicles subject to second stage of manufacture | Standards determined under section 89 of the Rules. | In all other respects (if standards have not been determined under section 89 or are not applicable) modified vehicles must comply with national road vehicle standards. |

### Keeping a Model Report accurate and up to date

Section 82 now sets out in detail what keeping the Model Report up to date means for each of the four kinds of Model Report. The effect of this section is to ensure that Model Reports reflect the latest standards in force.

The Rules retain the obligation of holders of approved Model Reports to record the contact details of those whom they have authorised to use a Model Report, and notify them if the Model Report has been varied, for example to ensure that it is in accordance with the latest standards in force.

### Variation of an approved Model Report

The Rules now clearly distinguish between a Model Report itself, and the approval document that applies to the Model Report (the approval of a Model Report). The grounds for the variation, suspension or revocation of Model Reports specifically provided for in the previous section 178 (now section 192) have been incorporated into the power of the Secretary to approve the variation of a Model Report (after it has been approved) under section 87 of the Rules. The power to vary the approval of the Model Report remains in the general power to vary, suspend or revoke approvals under section 192 of the Rules.

### Authorisation to use a Model Report

The Rules have been amended to ensure that holders of RAW approvals only modify or manufacture vehicles in accordance with Model Reports that they have been authorised by the holder of the Model Report approval to use.

The Rules set out a new requirement that holders of RAW approvals must make a declaration that states the vehicle has been modified or manufactured in accordance with an approved Model Report, keep a copy of the declaration, and provide a copy of that declaration to the AVV that will verify the vehicle. The holder of an AVV must be satisfied that the declaration is true and accurate before verifying the vehicle (see section above under ‘RAW approvals – authorisation to use the Model Report’ for more details).

## Authorised Vehicle Verifier (AVV) approvals

### Period of an AVV approval

We have extended the period of an AVV approval from two to five years.

### Conflicts of interest

The Exposure Draft previously required that the holder of an AVV approval have appropriate procedures for management of conflicts of interest. The Rules now clarify this obligation.

Paragraph 93(b)(iv) and section 102 of the Rules now set out the obligation of holders of AVV approvals to have effective arrangements to reduce likelihood that conflicts of interest will arise in relation to its activities and ensure that these conflicts of interest are appropriately managed if they do arise.

This moves the focus of the obligation away from having “appropriate procedures” for managing conflict of interest and to an expectation that those procedures are effective.

### Conduct of verifications

Some expectations have changed in the Rules regarding how inspections of vehicles are to be conducted by holders of AVV approvals. The condition of an AVV approval set out by section 100 of the Rules now includes:

* a new requirement that the holder of an AVV approval be satisfied that a declaration made by the holder of a RAW approval that they were authorised to use a Model Report is true and accurate. The holder of a RAW approval is obligated to provide such a declaration to the holder of the AVV approval as well as information that supports the declaration (see section above under ‘RAW approvals – authorisation to use Model Report’ for more details).
* a reference to the power of the Minister under section 107 to determine a threshold for damage and corrosion, and the obligation of the holder of an AVV approval to inspect vehicles against this threshold, not verify vehicles that exceed this threshold, and provide a verification report to the department (see section above under ‘RAW approvals – damage or corrosion inspection’ for more details).
* a clarification that if the holder of the AVV is conducting an inspection as a condition of an approval then it must conduct that inspection in accordance with the requirements of that condition. Not all inspections conducted by the holder of an AVV approval will be conducted in accordance with a Model Report checklist. In such a case, the department will specify in the condition of the relevant approval how the holder of the AVV approval must conduct the inspection.

### Location of inspections

Following stakeholder feedback that vehicles should be in Australia before inspection by the holder of an AVV approval, and entry of vehicles on the RAV is only appropriate after certain conditions of the approval (including modification and inspection of the vehicle) are met, section 101(c) of the Rules now requires that all inspections carried out under AVV approvals take place in Australia.

## Testing facility approvals

No significant policy changes in the Rules.

## Specialist and Enthusiast Vehicles (SEVs) Register

The SEVs Register is designed to identify vehicles that are of a specialist and enthusiast nature that are not, or were not, genuinely available to Australian consumers. An application must be made to have a variant of a model of a vehicle (or make and model of a rare vehicle) entered on the SEVs Register. A number of changes have been made to the Rules regarding the SEVs Register.

An [introductory paper](https://infrastructure.gov.au/vehicles/rvs/files/Discussion-Paper-TL1-Introduction-to-SEVs-Register.pdf) released in our consultation on the implementation of the Road Vehicle Standards legislation gives some more detail on the administration of the SEVs Register and the requirements for entry of a variant of model or make and model of a vehicle on the SEVs Register.

### Information to be included on the SEVs Register

Section 141 of the Rules now provides for the information that must be included on the SEVs Register. The vehicle category, make, model and build date range for the vehicles must be included to assist in the accurate identification of a variant of a model, or a make and model of a road vehicle entered on the SEVs Register.

The Secretary may also enter any other information on the SEVs Register that he or she considers appropriate to enter, other than personal information. The type of information will be dependent on the kind of road vehicle entered and the eligibility criteria it entered the SEVs Register through.

The Exposure Draft did not set out the requirements for what must be entered on the SEVs Register.

### Period of an entry on the SEVs Register

Following stakeholder feedback, we have extended the period of an entry on the SEVs Register from two to three years to take into account the period of time it may take to prepare a Model Report after a vehicle is entered on the SEV register.

### Definition of variant

The Rules set out an amended definition of variant at section 128. The Rules are intended to provide Australian consumers with access to variants of vehicles that are not or were not genuinely available to Australian consumers and that meet one of the eligibility criteria for entry onto the SEVs Register. To be considered a variant, the vehicle must have “significantly different” design characteristics from other models of that road vehicle.

Section 128 provides increased clarity about how “significant” should be interpreted, by setting out matters that are definitely considered significant, while also setting out matters that are not, on their own, considered significant differences. This section now establishes a higher threshold of what is considered to be “significantly different” for vehicles with a gross vehicle mass of more than 12 tonnes, reflecting the differences in the design and production of these vehicles from other vehicles, in particular the tendency for these vehicles to be highly customised.

### Genuinely available to Australian Consumers

The Rules set out that a vehicle is eligible for entry onto the SEVs Register if the vehicle has not been ‘genuinely’ provided to Australian consumers. The addition of the word ‘genuinely’ reflects the policy intent.

### Determinations relating to road vehicles marketed outside Australia

The Rules no longer include the power for the Minister to make determinations relating to road vehicles marketed outside Australia. The intention of section 126 of the Exposure Draft was to prevent ‘badge engineering’ being considered a significant difference for the purpose of deciding whether the vehicle was a variant.

Instead, the Rules include marketing name of a vehicle in the section 128 list of matters in that should not be, on their own, considered to be significant differences. In addition, the Rules include the ability for the Minister to consider other relevant matters when deciding whether to make an entry on the SEVs Register. The combined effect of these two provisions achieve the intended policy effect of the previous determination-making power.

### Performance criterion

Section 130 of the Rules has been amended to set out a different threshold for the power to weight ratio of a vehicle in order to be eligible for entry on the SEVs Register under the performance criterion.

The threshold in the Exposure Draft was a power to weight ratio of 110 kilowatts per tonne for vehicles manufactured in 1992. For each year after 1992, the power to weight ratio threshold was one kilowatt per tonne higher. For example, for a vehicle manufactured in 1994, the power to weight ratio threshold was 112 kilowatts per tonne.

The threshold in the Rules is now a power to weight ratio of 110 kilowatts per tonne for vehicles originally manufactured before 1 January 2020, and 130 kilowatts per tonne for vehicles originally manufactured on or after 1 January 2020.

### Left-hand drive criterion

Section 133 of the Rules now provides that Heavy Goods Vehicles (NC category) may be eligible for entry on the SEVs Register under the left-hand drive criterion.

### Campervans and motorhomes criterion

Section 134 of the Rules now provides that vehicles suitable for conversion into a campervan or motorhome may be eligible for entry on the SEVs Register under the campervans and motorhomes eligibility criterion.

# Import Approvals

## Non-RAV entry import approvals

### Fitness for use on a public road

Section 153(c) of the Rules now allows the Minister, in deciding whether to grant a non-RAV entry import approval, to consider whether the vehicle is or could be made fit for use on a public road. The Minister may consult with others, for example, state and territory registration authorities, when deciding on fitness of vehicles for use on public roads.

### Eligibility criterion – non-road use

The eligibility criterion for grant of non-RAV entry import approvals in relation to vehicles which are being imported for purposes that only involve use on public road in exceptional circumstances has been extended. Section 151 of the Rules now includes the discretion for the Minister to grant approvals for vehicles that are suitable to be granted this approval, and where granting the approval would not be inconsistent with the objects of the Act. This replaces the separate ‘general discretion’ eligibility criterion.

Section 151(b)(ii) of the Rules now limits the eligibility of vehicles to be imported for the purpose of public exhibition to those vehicles which are not generally available in Australia, in line with current practice under the *Motor Vehicle Standards Act 1989*.

### Eligibility criterion – temporary

The Exposure Draft allowed for the import of vehicles that will remain in Australia temporarily. Section 152 of the Rules now sets out an additional requirement for vehicles to meet this eligibility criterion, that the vehicle only be used on public roads in exceptional circumstances.

## Reimportation import approvals

No significant policy changes in the Rules.

## Other import of vehicles

### Australian Defence Force vehicles

The Rules now provide that certain Australian Defence Force vehicles are able to be imported without an import approval.

Section 171 of the Rules provides for circumstances in which a person is permitted to import a road vehicle. Paragraph 22(2)(d) of the Act provides that a person is permitted to import a road vehicle if, at the time of importation, a circumstance set out the in Rules applies – otherwise it is an offence under the Act. The new subsection 171(3) of the Rules provides that if vehicles are:

* owned by the Commonwealth
* operated by the Australian Defence Force
* had been previously exported from Australia in connection with an activity of the Australian Defence Force outside Australia, and
* are being imported into Australia after use in such an activity

then such a circumstance as mentioned in paragraph 22(2)(d) of the Act applies and the vehicles do not require import approvals.

# Road vehicle component type approvals

There have been substantive changes to road vehicle component type approvals to make these consistent with the updated provisions in the Rules relating to road vehicle type approvals. Refer to the section above explaining the changes to the Rules for road vehicle type approvals for an overview of changes, and Part 6 of the Rules for the updated provisions.

Additionally, we have updated the Rules at section 188 to clarify what issuing instructions for the use or installation of a component means.

# Variation, suspension and revocation of approvals

## Variation, suspension or revocation on the Minister or Secretary’s own initiative

The Rules set out one new ground for the suspension or revocation of an approval. Section 192(3) provides that the Minister or Secretary (as applicable) may suspend or revoke an approval if he or she ceases to be satisfied of the matters based on which the approval was granted. An example of where this power may be exercised is where an approval was granted and it is later determined that the information supplied in the application for the approval was false or misleading information. In such circumstances, the Minister or Secretary may decide to suspend or revoke the approval.

The grounds for the variation, suspension or revocation of Model Reports specifically provided for in the previous section 178 (now section 192) have been incorporated into the power of the Secretary to vary an approved Model Report under section 87 of the Rules.

## Variation, suspension or revocation on request by the holder of an approval

The revised Division 3 clarifies the powers of the Minister and Secretary to vary, suspend or revoke an approval on the request of the holder of that approval.

Section 195(3) of the Rules now clarifies that we may require an application fee be paid (under cost recovery arrangements to be set out in a future version of the Rules) for a variation of an approval on request by the holder of the approval.

See the explanation above of changes to road vehicle type approvals for an overview of the changes to the automatic suspension of road vehicle type approvals and road vehicle component type approvals in section 202 of the Rules.

# Recalls

## Recall of vehicles in relation to non-compliance with certain standards

The Exposure Draft set out that compulsory recalls may be initiated, and voluntary recall obligations apply, in relation to road vehicles or approved road vehicle components that do not comply with standards determined under the *Road Vehicle Standards Act 2018* or Rules 2019, or vehicles that will or may cause injury. This remains the same under the Rules.

The Rules have been amended to clarify that the department can also initiate compulsory recalls in relation to non-compliance of vehicles with applicable standards determined under the *Motor Vehicle Standards Act 1989*. The Rules further clarify that obligations that attach to voluntary recall action (for example, notification of the department about a voluntary recall) also apply to voluntary recalls undertaken in relation to non-compliance of vehicles with applicable standards determined under the *Motor Vehicle Standards Act 1989*.

## Interaction with the Australian Consumer Law

Section 200 of the Exposure Draft established reciprocal recognition of notifications about voluntary recalls under the Rules and the Australian Consumer Law, Schedule 2 to the *Competition and Consumer Act 2010*, administered by the Australian Competition and Consumer Commission (ACCC). The intention was to avoid suppliers having to provide a notification about their voluntary action to undertake a recall under both the Rules and the Australian Consumer Law if that notification related to road vehicles or approved road vehicle components of the same kind.

It was unclear whether the drafting of section 200 of the Exposure Draft would achieve its purported effect. The Rules now no longer provide that a notification to us under the Rules in relation to a voluntary recall is also taken to be a notification to the ACCC under the Australian Consumer Law. Subsections 212(8) and (9) of the Rules maintain that a notification about a voluntary recall under the Australian Consumer Law is taken to be a notification under the Rules.

Reciprocal recognition of notifications about voluntary recalls under the Rules and Australian Consumer Law remains our policy and we will continue to work with the ACCC to implement this.