



ROAD VEHICLE STANDARDS

Guidance note

When are road vehicles on the RAV considered provided to consumers for the first time?

Provision of type-approved road vehicles to consumers by original equipment manufacturers or dealerships.

What this guidance covers

This guidance note **only** applies where a road vehicle:

- has been entered on the Register of Approved Vehicles (RAV) under a vehicle type approval, and
- is sold to a consumer by an original equipment manufacturer (OEM) or dealership.

This guidance note sets out the department's compliance and enforcement position relating to modifications **requested by a consumer** during the sale of a type-approved vehicle by an OEM or dealership to the consumer, and which involve fitting accessories or making other minor changes.

Examples of these modifications include adding headlight protectors, awnings or trailer canopies to a vehicle. These modifications exclude those carried out during second stage of manufacture (SSM) under the *Road Vehicle Standards Act 2018* (RVSA), being:

- modifications carried out during SSM in accordance with a vehicle type approval, or
- modifications carried out during SSM in accordance with an approved Model Report that applies to the vehicle.

The department's compliance and enforcement position in relation to these modifications is relevant to section 26 of the RVSA. Section 26 covers the modification of road vehicles that have been entered on the RAV, before they are provided to consumers for the first time in Australia.

The RVS legislation

Under section 26 of the RVSA, it is an 'offence for any person to modify a road vehicle that is on the RAV before it is provided to a consumer for the first time, where the modification causes the road vehicle to no longer satisfy the requirements for entry on the RAV, unless the modification is allowed by the Rules.'

Section 51 of the [Road Vehicle Standards Rules 2019](#) (the Rules) sets out road vehicle modifications that are allowed between entry on the RAV and provision to a consumer for the first time.

These modifications include modifications carried out on a road vehicle in accordance with written instructions provided by a relevant vehicle type approval holder (paragraph 51(e)).

There is a corresponding condition on vehicle type approval holders. Under this condition, vehicle type approval holders must not give instructions for the modification of a vehicle if they would result in the vehicle no longer complying with the applicable national road vehicle standards that must have been complied with for it to be entered on the RAV under the vehicle type approval (subsection 26(4) of the Rules).

For the purposes of section 26 of the RVSA, various stakeholders have an interest in understanding when the department would consider the road vehicle to be provided to a consumer for the first time, in situations where these modifications are requested by a consumer during the sale to the consumer of a type-approved vehicle by an OEM or dealership.

The department sets modification standards for vehicles **before** they are provided to a consumer in Australia for the first time. National, state and territory in-service regulators set modification standards for vehicles **after** they have been provided to a consumer.

The department's position will assist stakeholders understand when the department considers these modifications should be carried out in accordance with the RVS legislation, and the point after which the department considers these modifications can be regulated by national, state and territory in-service regulators.

The department's position

The department's compliance and enforcement position, in relation to section 26 of the RVSA and the relevant modifications, is that it will consider a road vehicle to have been provided to a consumer for the first time in Australia when the following conditions have been met:

- the vehicle has been correctly entered on the RAV, and
- a contract of sale has been entered into between the consumer and either an OEM or dealership.

Note: a contract of sale entered into by an entity approved to carry out SSM, and an OEM or dealership, is not relevant to whether the department will consider a road vehicle to have been provided to a consumer for the first time in Australia.

It is not necessary for a consumer to have taken physical delivery of a road vehicle from the OEM or dealership for the department to consider the vehicle to have been provided to the consumer.

Once the criteria above have been met, the department considers any further modifications should comply with the modification standards required by national, state and territory in-service regulators.

The department recommends that contract of sale documentation between the OEM or dealership, and the consumer, sets out the details of the vehicle and the modifications to be carried out.

This will allow the department to clearly determine that a valid contract of sale for the vehicle has been entered into by the consumer, and the OEM or dealership, and that these modifications have been requested by the consumer as part of the sale of the vehicle.

Note: National, state and territory in-service regulators have been consulted in the development of this guidance note.

Further information

For further information on the RAV entry approval framework, please visit the [department's website](#) or submit an [online enquiry](#).