



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

This Guidance Note (GN) **only** applies where a road vehicle:

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

The purpose of this GN is to set out the Department's compliance and enforcement position in relation to modifications of a road vehicle as requested by a consumer during the sale of a type-approved vehicle to the consumer by an OEM or dealership, 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 VTA, or
- modifications carried out during SSM in accordance with an applicable Model Report that applies to a vehicle.

The Department's compliance and enforcement position in relation to these modifications is relevant to section 26 of the RVSA, which regulates the

modification of road vehicles that have been entered on the RAV, before those vehicles 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 modifications to a road vehicle 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 holder of a relevant VTA (paragraph 51(e)).

There is a corresponding condition on holders of VTAs. Under this condition holders of VTAs must not to give instructions for the modification of a vehicle, if those instructions would result in the vehicle ceasing to comply with the applicable national road vehicle standards that were required to be complied with in order for the vehicle to be entered on the RAV under the VTA (subsection 26(4) of the Rules).

For the purposes of section 26 of the RVSA, various stakeholders have an interest in understanding when, in

situations where these modifications are requested by a consumer during the sale of a type-approved vehicle by an OEM or dealership to the consumer, the Department would consider the road vehicle to be provided to a consumer for the first time.

Noting that the Department sets modification standards for vehicles before provision to a consumer, and National, State and Territory in-service regulators set modification standards for vehicles after provision to a consumer, the Department's position will assist stakeholders understand the point before which the Department considers these modifications should be carried out in accordance with the RVS legislation, and after which the Department considers these modifications can be regulated by the in-service regulators.

The Department's position

For the purposes of the Department's compliance and enforcement position in relation to section 26 of the RVSA and the relevant modifications, the Department will consider a road vehicle to have been provided to a consumer for the first time 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 by the consumer and an OEM or dealership.

(Note that 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.)

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 these criteria have been met, the Department considers any further modifications should comply with the in-service modification standards of the National Heavy Vehicle Regulator, or States and Territories.

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.

National, State and Territory in-service regulators have been consulted in the development of this GN.

More information

For further information on the RAV entry approval framework, contact the department:

www.infrastructure.gov.au/infrastructure-transport-vehicles/vehicles/rvs/contact-us