



Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018

No. 164, 2018

**An Act to deal with consequential and transitional
matters in connection with the *Road Vehicle
Standards Act 2018*, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018

No. 164, 2018

An Act to deal with consequential and transitional matters in connection with the *Road Vehicle Standards Act 2018*, and for related purposes

[Assented to 10 December 2018]

The Parliament of Australia enacts:

1 Short title

This Act is the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*.

No. 164, 2018 *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018* 1

2 Commencement

- (1) Each provision of this Act 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 3 and anything in this Act not elsewhere covered by this table	The day after this Act receives the Royal Assent.	11 December 2018
2. Schedule 1	Immediately after the commencement of section 12 of the <i>Road Vehicle Standards Act 2018</i> .	11 December 2018
3. Schedules 2 and 3	At the same time as section 15 of the <i>Road Vehicle Standards Act 2018</i> commences.	10 December 2019
4. Schedule 4, Part 1	At the same time as section 3 of the <i>Road Vehicle Standards Act 2018</i> commences.	11 December 2018
5. Schedule 4, Part 2	At the same time as section 15 of the <i>Road Vehicle Standards Act 2018</i> commences.	10 December 2019
6. Schedule 4, Part 3	The day after the end of the period of 12 months beginning on the day section 15 of the <i>Road Vehicle Standards Act 2018</i> commences.	10 December 2020

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 2—Repeal of the Motor Vehicle Standards Act 1989

Motor Vehicle Standards Act 1989

1 The whole of the Act

Repeal the Act.

Schedule 3—Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 1—Introduction

1 Definitions

(1) In this Schedule:

approved form means a form approved under item 28.

commencement means the day that this Schedule commences.

new law means the following laws:

- (a) the *Road Vehicle Standards Act 2018*;
- (b) the rules made under that Act;
- (c) the national road vehicle standards determined under that Act;
- (d) any other instruments made under that Act or those rules;
- (e) the *Road Vehicle Standards Charges (Imposition—Customs) Act 2018*;
- (f) the *Road Vehicle Standards Charges (Imposition—Excise) Act 2018*;
- (g) the *Road Vehicle Standards Charges (Imposition—General) Act 2018*.

Note: The national standards made under the *Motor Vehicle Standards Act 1989* (also known as the Australian Design Rules) are taken to be national road vehicle standards determined under the *Road Vehicle Standards Act 2018*: see item 2 of this Schedule.

old law means the following laws, as in force immediately before commencement:

- (a) the *Motor Vehicle Standards Act 1989* (other than sections 25 to 32);
- (b) the *Motor Vehicle Standards Regulations 1989*;
- (c) the national standards determined under the *Motor Vehicle Standards Act 1989* (also known as the Australian Design Rules);
- (d) the *Motor Vehicle Standards (Approval to Place Used Import Plates) Guidelines 2006 (No. 1)*;

- (e) the *Motor Vehicle Standards (Placement of Used Import Plates) Determination 2004 (No.1)*;
- (f) the *Motor Vehicle Standards (Procedures for Inspecting and Testing Used Imported Vehicles) Determination 2002*;
- (g) the *Motor Vehicle Standards (Registered Automotive Workshops—Fit and Proper Persons) Determination 2002*;
- (h) the *Motor Vehicle Standards (Road Vehicles) Determination 2017*;
- (i) the *Motor Vehicle Standards (Used Imported Vehicle Report) Determination 2006 (No. 1)*.

transitional period means the 12 month period that begins on commencement.

- (2) The following expressions used in this Schedule, that are also used in the *Road Vehicle Standards Act 2018*, have the same meaning in this Schedule as they have in that Act:
 - (a) import;
 - (b) provide;
 - (c) road vehicle type approval;
 - (d) rules;
 - (e) Secretary;
 - (f) SEVs Register.
- (3) To avoid doubt, if a provision of this Schedule provides that the new law does not apply in relation to a matter, the provision has effect subject to items 25 and 27.

Note: Those items provide for certain provisions of the new law to apply in relation to this Schedule and the old law (to the extent that the old law applies because of this Schedule).

Part 2—National standards

2 Vehicle standards

A vehicle standard in force under section 7 of the *Motor Vehicle Standards Act 1989* immediately before commencement continues in force as if it were a national road vehicle standard determined under section 12 of the *Road Vehicle Standards Act 2018*.

3 Procedures for testing vehicles

Procedures relating to retaining records to continue in force

- (1) The *Motor Vehicle Standards (Procedures for Inspecting and Testing Used Imported Vehicles) Determination 2002* in force under section 9 of the *Motor Vehicle Standards Act 1989* immediately before commencement continues in force for the period of 7 years beginning on commencement (the **retention period**) for the purposes of retaining the records required by section 8 of the Determination.
- (2) To avoid doubt, a person to whom subitem (1) applies must retain the records required by the Determination:
 - (a) even though the retention period ends after the end of the transitional period; and
 - (b) even though the person ceases to be a registered automotive workshop (within the meaning of the old law), whether because the transitional period ends or otherwise.

Offence—failure to retain records for retention period

- (3) A person commits an offence if:
 - (a) the person is required to retain a record because of subitem (1); and
 - (b) the person does not retain the record for the period of 7 years beginning on commencement.

Penalty: 60 penalty units.

Part 3—Certification and approval

Division 1—Identification plates

4 Approval for the placement of identification plates— subsections 10A(1) and (2)

Existing approvals to continue in force

- (1) Despite the repeal of the *Motor Vehicle Standards Act 1989*, if an approval:
- (a) was given under subsection 10A(1) or (2) of that Act in relation to vehicles of a particular type; and
 - (b) is in force immediately before commencement;
- the approval is taken to continue in force during the transitional period subject to the provisions of the old law.

Pending applications

- (2) If, before commencement:
- (a) a person applied to the Minister for an approval under subsection 10A(1) or (2) of the *Motor Vehicle Standards Act 1989* in relation to vehicles of a particular type; and
 - (b) the Minister had not decided the application;
- then:
- (c) the Minister must decide the application in accordance with the old law; and
 - (d) if the Minister decides to give written approval—the approval:
 - (i) comes into force on the day specified by the Minister in the approval; and
 - (ii) continues in force during the transitional period subject to the provisions of the old law.

New law does not apply

- (3) If an approval continues, or is taken to continue, in force during the transitional period subject to the provisions of the old law by force of
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this item, then the new law does not apply, during the transitional period, to:

- (a) the importation of vehicles to which the approval applies; and
- (b) the provision of vehicles that have had identification plates placed on them in accordance with the approval.

5 Transition of approval for the placement of identification plates to a road vehicle type approval

(1) If:

- (a) a person is the holder of:
 - (i) an approval under subsection 10A(1) or (2) of the *Motor Vehicle Standards Act 1989* that is in force immediately before commencement, as mentioned in subitem 4(1); or
 - (ii) an approval under subsection 10A(1) or (2) of the *Motor Vehicle Standards Act 1989* because of a decision by the Minister allowed by subitem 4(2); and
- (b) during the 6 month period beginning immediately after commencement, the person:
 - (i) provides to the Minister, in the approved form, written acknowledgement of the conditions applying to road vehicle type approvals, as set out in the rules, and that breach of any of those conditions is an offence under the new law; and
 - (ii) provides to the Minister, in the approved form, a signed declaration that the person satisfies the conditions applying to road vehicle type approvals, as set out in the rules, in respect of the type of vehicle covered by an approval mentioned in paragraph (a) (**an *old approval***); and
 - (iii) pays the charges payable for the purposes of this paragraph;

then:

- (c) the person is taken to have been granted a road vehicle type approval under the rules in respect of the type of vehicle covered by the old approval for the 5 year period beginning on the day that paragraph (b) is satisfied (**the *new approval***); and
 - (d) on that day, the old approval ceases to be in force.
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- (2) The following provisions have effect in relation to paragraph (1)(b):
- (a) the written acknowledgement mentioned in subparagraph (1)(b)(i) is, for the purposes of section 32 of the *Road Vehicle Standards Act 2018*, information given, or purportedly given, under or for the purpose of the rules;
 - (b) the declaration mentioned in subparagraph (1)(b)(ii) is, for the purposes of section 31 of the *Road Vehicle Standards Act 2018*, taken to be made in an application for an approval under the rules.

Note: This means that offences and civil penalty provisions for giving false or misleading information or making a false or misleading declaration apply to the making of an acknowledgement and a declaration under paragraph (1)(b).

- (3) The following provisions have effect in relation to the new approval:
- (a) evidence that enabled the Minister to grant the old approval is taken to be sufficient to satisfy continued compliance with the relevant criteria for granting the new approval under the rules:
 - (i) unless the evidence is found to be false or misleading, or is found to omit any matter or thing without which the evidence is misleading; or
 - (ii) unless, and to the extent that, the person seeks a variation of the new approval under the rules;
 - (b) if a person seeks a variation of the new approval under the rules, to the extent of the variation, evidence of a kind mentioned in paragraph (a) will not be sufficient to meet the evidential requirements of the rules;
 - (c) any written conditions to which the old approval was subject are taken to be conditions that are specified in the new approval under the rules;
 - (d) evidence that demonstrated that conditions of the old approval were satisfied is taken to be sufficient to satisfy the relevant conditions of the new approval under the rules:
 - (i) unless the evidence is found to be false or misleading, or is found to omit any matter or thing without which the evidence is misleading; or
 - (ii) unless, and to the extent that, the person seeks a variation of the new approval under the rules;

- (e) to the extent that a written condition to which the old approval was subject is inconsistent with:
 - (i) a condition to which a road vehicle type approval is subject under the rules; or
 - (ii) a requirement of the rules;then, to the extent of the inconsistency, the rules prevail.
- (4) To avoid doubt, if a person is taken to have been granted a road vehicle type approval under the rules because of subitem (1), then the approval is subject to the new law.
- (5) To avoid doubt, if:
 - (a) a person is the holder of an old approval; and
 - (b) during the 6 month period beginning immediately after commencement, the person does not take all of the actions required by paragraph (1)(b);then, the person's approval ceases to be in force at the end of the transitional period (unless earlier cancelled or suspended under the old law).

6 Approval for the placement of identification plates— subsection 10A(3)

Existing approvals to continue in force

- (1) Despite the repeal of the *Motor Vehicle Standards Act 1989*, if an approval was given under subsection 10A(3) of that Act and in force immediately before commencement, the approval is taken to continue in force during the transitional period subject to the provisions of the old law.

Pending applications

- (2) If, before commencement:
 - (a) a person applied to the Minister for an approval under subsection 10A(3) of the *Motor Vehicle Standards Act 1989*; and
 - (b) the Minister had not decided the application;then:

- (c) the Minister must decide the application in accordance with the old law; and
- (d) if the Minister decides to give written approval—the approval:
 - (i) comes into force on the day specified by the Minister in the approval; and
 - (ii) continues in force during the transitional period subject to the provisions of the old law.

New law does not apply

- (3) If an approval continues, or is taken to continue, in force during the transitional period subject to the provisions of the old law by force of this item, then the new law does not apply, during the transitional period, to the provision of vehicles that have had identification plates placed on them in accordance with the approval.

7 Offences in relation to identification plates

Despite the repeal of section 12 of the *Motor Vehicle Standards Act 1989*, that section, and any other provision of the old law (to the extent to which it relates to that section), continue in force during the transitional period.

Division 2—Used import plates

8 Application for approval to place a used import plate

Applications allowed during transitional period

- (1) Despite the repeal of the *Motor Vehicle Standards Act 1989*:
 - (a) an application may be made under section 13C of that Act during the transitional period for an approval to place a plate on a used imported vehicle; and
 - (b) the provisions of the old law continue to apply in relation to the application and the granting of an approval under section 13D of that Act.

New law does not apply

- (2) If an approval is granted because of an application allowed by this item:
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- (a) the approval remains in force during the transitional period subject to the provisions of the old law; and
- (b) the new law does 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 the approval.

Number limits on placement of used import plates to apply

- (3) To avoid doubt, the limits on the number of used import plates set out in regulation 6 of the *Motor Vehicle Standards Regulations 1989* apply in relation to an approval granted because of an application allowed by this item.

9 Grant of approval

Existing approvals to continue in force

- (1) Despite the repeal of the *Motor Vehicle Standards Act 1989*, if an approval was granted under section 13D of that Act and in force immediately before commencement, the approval is taken to continue in force during the transitional period subject to the provisions of the old law.

Pending applications

- (2) If, before commencement:
 - (a) a registered automotive workshop applied to the Minister for an approval under section 13C of the *Motor Vehicle Standards Act 1989*; and
 - (b) the Minister had not decided the application;then:
 - (c) the Minister must decide the application in accordance with the old law; and
 - (d) if the Minister decides to grant the approval—the approval:
 - (i) comes into force on the day specified by the Minister in the approval; and
 - (ii) continues in force during the transitional period subject to the provisions of the old law.

New law does not apply

- (3) If an approval continues, or is taken to continue, in force during the transitional period subject to the provisions of the old law by force of this item, then the new law does 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 the approval.

Number limits on placement of used import plates to apply

- (4) To avoid doubt, the limits on the number of used import plates set out in regulation 6 of the *Motor Vehicle Standards Regulations 1989* apply in relation to an approval continued, or taken to continue, in force during the transitional period by force of this item.

10 Offence in relation to the placement of used import plates

Despite the repeal of section 13G of the *Motor Vehicle Standards Act 1989*, that section, and any other provision of the old law (to the extent to which it relates to that section), continue in force during the transitional period.

Part 4—Supply and importation of vehicles

Division 1—Supply of new vehicles etc.

11 Supply of nonstandard vehicles

Existing approvals to continue in force

- (1) Despite the repeal of the *Motor Vehicle Standards Act 1989*, if:
- (a) an approval was given under section 14A of that Act and in force immediately before commencement; or
 - (b) an approval was given under regulation 20 of the *Motor Vehicle Standards Regulations 1989* for a vehicle to be supplied to the market and the approval was in force immediately before commencement;

the approval is taken to continue in force during the transitional period subject to the provisions of the old law.

Pending applications

- (2) If, before commencement:
- (a) a person applied to the Minister for:
 - (i) an approval under section 14A of the *Motor Vehicle Standards Act 1989*; or
 - (ii) an approval under regulation 20 of the *Motor Vehicle Standards Regulations 1989* for a vehicle to be supplied to the market; and
 - (b) the Minister had not decided the application;

then:

- (c) the Minister must decide the application in accordance with the old law; and
- (d) if the Minister decides to give written approval—the approval:
 - (i) comes into force on the day specified by the Minister in the approval; and
 - (ii) continues in force during the transitional period subject to the provisions of the old law.

New law does not apply

- (3) If an approval continues, or is taken to continue, in force during the transitional period subject to the provisions of the old law by force of this item, then the new law does not apply, during the transitional period, to the provision of a vehicle in accordance with the approval.

12 Transition of approval to supply nonstandard vehicles to a road vehicle type approval

- (1) If:
- (a) a person is the holder of:
 - (i) an approval under section 14A of the *Motor Vehicle Standards Act 1989* or regulation 20 of the *Motor Vehicle Standards Regulations 1989* that is in force immediately before commencement, as mentioned in subitem 11(1); or
 - (ii) an approval under section 14A of the *Motor Vehicle Standards Act 1989* or regulation 20 of the *Motor Vehicle Standards Regulations 1989* because of a decision by the Minister allowed by subitem 11(2); and
 - (b) during the 6 month period beginning immediately after commencement, the person:
 - (i) provides to the Minister, in the approved form, written acknowledgement of the conditions applying to road vehicle type approvals, as set out in the rules, and that breach of any of those conditions is an offence under the new law; and
 - (ii) provides to the Minister, in the approved form, a signed declaration that the person satisfies the conditions applying to road vehicle type approvals, as set out in the rules, in respect of the type of vehicle covered by an approval mentioned in paragraph (a) (the *old approval*); and
 - (iii) pays the charges payable for the purposes of this paragraph;
- then:
- (c) the person is taken to have been granted a road vehicle type approval under the rules in respect of the type of vehicle
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Schedule 3 Transitional provisions commencing on repeal of the Motor Vehicle Standards Act 1989

Part 4 Supply and importation of vehicles

covered by the old approval for the 5 year period beginning on the day that paragraph (b) is satisfied (the *new approval*); and

(d) on that day, the old approval ceases to be in force.

(2) The following provisions have effect in relation to paragraph (1)(b):

- (a) the written acknowledgement mentioned in subparagraph (1)(b)(i) is, for the purposes of section 32 of the *Road Vehicle Standards Act 2018*, information given, or purportedly given, under or for the purpose of the rules;
- (b) the declaration mentioned in subparagraph (1)(b)(ii) is, for the purposes of section 31 of the *Road Vehicle Standards Act 2018*, taken to be made in an application for an approval under the rules.

Note: This means that offences and civil penalty provisions for giving false or misleading information or making a false or misleading declaration apply to the making of an acknowledgement and a declaration under paragraph (1)(b).

(3) The following provisions have effect in relation to the new approval:

- (a) evidence that enabled the Minister to grant the old approval is taken to be sufficient to satisfy continued compliance with the relevant criteria for granting the new approval under the rules:
 - (i) unless the evidence is found to be false or misleading, or is found to omit any matter or thing without which the evidence is misleading; or
 - (ii) unless, and to the extent that, the person seeks a variation of the new approval under the rules;
- (b) if a person seeks a variation of the new approval under the rules, to the extent of the variation, evidence of a kind mentioned in paragraph (a) will not be sufficient to meet the evidential requirements of the rules;
- (c) any written conditions to which the old approval was subject are taken to be conditions that are specified in the new approval under the rules;
- (d) evidence that demonstrated that conditions of the old approval were satisfied is taken to be sufficient to satisfy the relevant conditions of the new approval under the rules:

- (i) unless the evidence is found to be false or misleading, or is found to omit any matter or thing without which the evidence is misleading; or
 - (ii) unless, and to the extent that, the person seeks a variation of the new approval under the rules;
- (e) to the extent that a written condition to which the old approval was subject is inconsistent with:
 - (i) a condition to which a road vehicle type approval is subject under the rules; or
 - (ii) a requirement of the rules;then, to the extent of the inconsistency, the rules prevail.
- (4) To avoid doubt, if a person is taken to have been granted a road vehicle type approval under the rules because of subitem (1), then the approval is subject to the new law.
- (5) To avoid doubt, if:
 - (a) a person is the holder of an old approval; and
 - (b) during the 6 month period beginning immediately after commencement, the person does not take all of the actions required by paragraph (1)(b);then the person's approval ceases to be in force at the end of the transitional period (unless earlier cancelled or suspended under the old law).

Division 2—Supply of used imported vehicles

13 Supply of used imported vehicles

Existing approvals to continue in force

- (1) Despite the repeal of the *Motor Vehicle Standards Act 1989*, if an approval was given under regulation 11, 12, 13 or 17 of the *Motor Vehicle Standards Regulations 1989* and in force immediately before commencement, the approval is taken to continue in force during the transitional period subject to the provisions of the old law.

Note: See also paragraph 16(1)(d) of the *Motor Vehicle Standards Act 1989* and regulation 7 of the *Motor Vehicle Standards Regulations 1989*.

Pending applications

- (2) If, before commencement:
- (a) a person applied to the Minister for an approval under regulation 11, 12, 13 or 17 of the *Motor Vehicle Standards Regulations 1989*; and
 - (b) the Minister had not decided the application;
- then:
- (c) the Minister must decide the application in accordance with the old law; and
 - (d) if the Minister decides to give written approval—the approval:
 - (i) comes into force on the day specified by the Minister in the approval; and
 - (ii) continues in force during the transitional period subject to the provisions of the old law.

New law does not apply

- (3) If an approval continues in force during the transitional period subject to the provisions of the old law by force of this item, then the new law does not apply, during the transitional period, to:
- (a) the importation of a vehicle in accordance with the approval; and
 - (b) the provision of a vehicle imported in accordance with the approval.

Division 3—Import of new and used vehicles

14 Importation of road vehicles subject to conditions

Despite the repeal of section 17 of the *Motor Vehicle Standards Act 1989*, that section, and any other provision of the old law (to the extent to which it relates to that section), continue in force during the transitional period.

15 Authority to take delivery of imported vehicles

Despite the repeal of section 17A of the *Motor Vehicle Standards Act 1989*:

- (a) that section continues in force during the transitional period in relation to a vehicle that may be imported during the transitional period in accordance with that Act, as provided for by this Schedule; and
- (b) an approval may be granted under that section during the transitional period for the delivery of a vehicle imported before or during the transitional period; and
- (c) if an approval was granted under that section before the transitional period for the delivery of a vehicle—the approval continues to allow delivery of the vehicle to be taken during the transitional period; and
- (d) the authorisation of an officer of the Department by the Minister under that section and in force immediately before commencement continues in force during the transitional period; and
- (e) the Minister may authorise an officer of the Department to give approvals under that section during the transitional period.

16 Importation of vehicles requiring modification

Existing approvals to continue in force

- (1) If:
 - (a) before commencement, the Minister gave written approval to a person under subsection 19(1) of the *Motor Vehicle Standards Act 1989* in relation to a vehicle; and
 - (b) at commencement, the person had not imported the vehicle to which the approval relates;then:
 - (c) the approval is taken to continue in force during the transitional period; and
 - (d) before the end of the transitional period, the person may import the vehicle in accordance with the approval given under the old law; and
 - (e) the old law applies to the imported vehicle during the transitional period.

Pending applications

- (2) If, before commencement:
- (a) a person applied to the Minister for an approval under section 19 of the *Motor Vehicle Standards Act 1989* in relation to a vehicle; and
 - (b) the Minister had not decided the application;
- then:
- (c) the Minister must decide the application in accordance with the old law; and
 - (d) if the Minister grants the approval—both:
 - (i) the person may, before the end of the transitional period, import the vehicle in accordance with the approval given under the old law; and
 - (ii) the old law applies to the imported vehicle during the transitional period.

New law does not apply

- (3) If an approval given under subsection 19(1) of the *Motor Vehicle Standards Act 1989*:
- (a) is taken to continue in force under this item during the transitional period subject to the provisions of the old law; or
 - (b) is granted during the transitional period subject to the provisions of the old law;
- then the new law does not apply, during the transitional period, to actions taken in accordance with the approval.

17 Approval to import certain nonstandard vehicles

Existing approvals to continue in force

- (1) If:
- (a) before commencement, the Minister gave written approval to a person under a regulation made for the purposes of paragraph 20(1)(b) of the *Motor Vehicle Standards Act 1989* (other than regulation 11, 12, 13 or 17 of the *Motor Vehicle Standards Regulations 1989*) in relation to a vehicle; and
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- (b) at commencement, the person had not imported the vehicle to which the approval relates;

then:

- (c) the approval is taken to continue in force during the transitional period; and
- (d) before the end of the transitional period, the person may import the vehicle in accordance with the approval given under the old law (including any written conditions determined by the Minister); and
- (e) the old law applies to the imported vehicle during the transitional period.

Pending applications

- (2) If, before commencement:

- (a) a person applied to the Minister for an approval under a regulation made for the purposes of paragraph 20(1)(b) of the *Motor Vehicle Standards Act 1989* (other than regulation 11, 12, 13 or 17 of the *Motor Vehicle Standards Regulations 1989*) in relation to a vehicle; and
- (b) the Minister had not decided the application;

then:

- (c) the Minister must decide the application in accordance with the old law; and
- (d) if the Minister grants written approval—both:
 - (i) the person may, before the end of the transitional period, import the vehicle in accordance with the approval given under the old law (including any written conditions determined by the Minister); and
 - (ii) the old law applies to the imported vehicle during the transitional period.

New applications

- (3) If a person holds an approval:

- (a) under subsection 10A(3) of the *Motor Vehicle Standards Act 1989* that continues, or is taken to continue, in force during the transitional period by force of item 6 of this Schedule; or

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- (b) under section 14A of that Act or regulation 20 of the *Motor Vehicle Standards Regulations 1989* that continues, or is taken to continue, in force during the transitional period by force of item 11 of this Schedule;

then:

- (c) the person may apply, during the transitional period, for an approval in accordance with regulation 14 of the *Motor Vehicle Standards Regulations 1989*, as in force immediately before commencement, to the extent that the application relates to the approval the person holds, as mentioned in paragraph (a) or (b); and
- (d) the Minister must decide the application in accordance with the old law; and
- (e) if the Minister gives written approval—both:
 - (i) the person may, before the end of the transitional period, import a vehicle in accordance with the approval given under the old law (including any written conditions determined by the Minister); and
 - (ii) the old law applies to the imported vehicle during the transitional period.

New law does not apply

- (4) If an approval given under a regulation made for the purposes of paragraph 20(1)(b) of the *Motor Vehicle Standards Act 1989* (other than regulation 11, 12, 13 or 17 of the *Motor Vehicle Standards Regulations 1989*):
 - (a) is taken to continue in force under this item during the transitional period subject to the provisions of the old law; or
 - (b) is granted during the transitional period subject to the provisions of the old law;

then the new law does not apply, during the transitional period, to actions taken in accordance with the approval.

18 Register of Specialist and Enthusiast Vehicles

- (1) Despite the repeal of section 21 of the *Motor Vehicle Standards Act 1989*, the Register of Specialist and Enthusiast Vehicles established under that section:
-

- (a) is to continue in existence during the transitional period; and
- (b) must be maintained by the Minister during the transitional period in accordance with the old law.

(2) If:

- (a) immediately before commencement, a road vehicle was entered on the Register of Specialist and Enthusiast Vehicles established under section 21 of the *Motor Vehicle Standards Act 1989*; and
- (b) the Minister considers that it is for the benefit of the Australian community to include a vehicle of that kind on the SEVs Register;

then:

- (c) even if the vehicle does not meet the criteria set out in the rules, the Minister may, during the transitional period and despite the new law, enter the vehicle on the SEVs Register; and
- (d) if the vehicle is so entered, the entry of the vehicle on the SEVs Register is subject to the new law.

Part 5—Registered automotive workshops

19 Approval as a registered automotive workshop

Existing approvals to continue in force

- (1) Despite the repeal of the *Motor Vehicle Standards Act 1989*, if:
- (a) an approval was granted under section 21B of that Act and in force immediately before commencement; or
 - (b) an approval granted under section 21B of that Act had been renewed under section 21C of that Act and was in force immediately before commencement;

the approval is taken to continue in force during the transitional period subject to the provisions of the old law.

- (2) However, if an approval mentioned in subitem (1) was in force immediately before commencement because subsection 21C(6) of the *Motor Vehicle Standards Act 1989* applied, then the approval is taken to continue in force during the transitional period (subject to the provisions of the old law) until a decision is made about whether to renew the approval, as mentioned in subitem (4).

Pending applications

- (3) If, before commencement:
- (a) a corporation applied to the Minister for an approval under section 21A of the *Motor Vehicle Standards Act 1989*; and
 - (b) the Minister had not decided the application;
- then:
- (c) the Minister must decide the application in accordance with the old law; and
 - (d) if the Minister decides to grant the approval—the approval:
 - (i) comes into force on the day specified by the Minister in the approval; and
 - (ii) continues in force during the transitional period subject to the provisions of the old law.

- (4) If, before commencement:
-

- (a) a corporation applied to the Minister for the renewal of an approval under section 21C of the *Motor Vehicle Standards Act 1989*; and
 - (b) the Minister had not decided the application;
- then:
- (c) the Minister must decide the application in accordance with the old law; and
 - (d) if the Minister decides to renew the approval—the approval:
 - (i) comes into force on the day the approval is renewed; and
 - (ii) continues in force during the transitional period subject to the provisions of the old law.

Part 6—Continuation of certain conditions

20 Obligation to comply with certain conditions after the end of the transitional period

- (1) If:
- (a) an approval:
 - (i) is continued, or is taken to continue, in force during the transitional period because of this Schedule; or
 - (ii) is granted because of this Schedule; and
 - (b) a condition specified in the approval is that the holder of the approval retain a record for a period (the *retention period*);
the holder must retain the record for the retention period:
 - (c) even if the retention period ends after the end of the transitional period; and
 - (d) even though the approval ceases to be in force, whether because the transitional period ends or otherwise.

- (2) If:
- (a) an approval:
 - (i) is continued, or is taken to continue, in force during the transitional period because of this Schedule; or
 - (ii) is granted because of this Schedule; and
 - (b) a condition specified in the approval is that the holder of the approval export or destroy a vehicle to which the approval applies within a period (the *disposal period*);
the holder must export or destroy the vehicle during the disposal period:
 - (c) even if the disposal period ends after the end of the transitional period; and
 - (d) even though the approval ceases to be in force, whether because the transitional period ends or otherwise.

21 Offences—breach of continued conditions

- (1) A person commits an offence if:
- (a) the person was the holder of an approval that:
-

- (i) was continued, or was taken to continue, in force during the transitional period because of this Schedule; or
- (ii) was granted because of this Schedule; and
- (b) a condition specified in the approval was that the holder of the approval retain a record; and
- (c) the condition requires the record to be retained for a period (the *retention period*) that ends after the end of the transitional period; and
- (d) the person does not retain the record for the retention period.

Penalty: 60 penalty units.

(2) A person commits an offence if:

- (a) the person was the holder of an approval that:
 - (i) was continued, or was taken to continue, in force during the transitional period; or
 - (ii) was granted because of this Schedule; and
- (b) a condition of the approval was that the holder of the approval export or destroy a vehicle to which the approval applies; and
- (c) the condition requires the vehicle to be exported or destroyed within a period specified in the approval (the *disposal period*) that ends after the end of the transitional period; and
- (d) the vehicle is not exported or destroyed within the disposal period.

Penalty: 60 penalty units.

Part 7—Administration

22 Appointment of Administrator and Associate Administrator

Despite the repeal of section 22 of the *Motor Vehicle Standards Act 1989*, for the purposes of the old law as continued in force by this Schedule:

- (a) the person holding office as the Administrator under that section immediately before commencement continues to hold that office during the transitional period; and
- (b) a person holding office as an Associate Administrator under that section immediately before commencement continues to hold that office during the transitional period; and
- (c) the Administrator and each Associate Administrator continue to have the same functions and powers under the old law during the transitional period; and
- (d) the Secretary may appoint a person to be an Administrator or Associate Administrator under that section during the transitional period.

23 Delegation by Minister

Despite the repeal of the *Motor Vehicle Standards Act 1989*:

- (a) any instrument of delegation in force under section 23 of that Act immediately before commencement continues in force during the transitional period; and
- (b) any instrument of delegation in force under regulation 62 of the *Motor Vehicle Standards Regulations 1989* immediately before commencement continues in force during the transitional period; and
- (c) the Minister may, by signed instrument, delegate to the Administrator or an Associate Administrator during the transitional period:
 - (i) the functions or powers allowed by section 23 of that Act; or
 - (ii) all or any of the Minister's functions or powers under those Regulations; or

- (iii) all or any of the Minister's functions or powers under this Schedule, other than item 29.

24 Fees

Despite the repeal of section 24 of the *Motor Vehicle Standards Act 1989*, the following provisions continue in force during the transitional period:

- (a) section 24 of that Act, and any other provision of the old law (to the extent to which it relates to that section);
- (b) Part 6 of, and Schedule 2 to, the *Motor Vehicle Standards Regulations 1989*.

25 Compliance and enforcement

The following provisions have effect:

- (a) Divisions 2 to 4 of Part 4 of the *Road Vehicle Standards Act 2018* apply for the purposes of ensuring compliance with:
 - (i) the old law during the transitional period; and
 - (ii) this Schedule;
- (b) for the purposes of ensuring that compliance, those Divisions apply as if references to "this Act" in those Divisions were references to:
 - (i) this Schedule and any rules made under item 29 of this Schedule; and
 - (ii) the old law, to the extent that it applies because of this Schedule.

Note: Those Divisions allow inspectors to be appointed and trigger monitoring and investigation powers under the *Regulatory Powers (Standard Provisions) Act 2014*.

Part 8—Court proceedings

26 Evidentiary certificates

Despite the repeal of section 34 of the *Motor Vehicle Standards Act 1989*:

- (a) that section is taken to apply, on and after commencement, in relation to conduct:
 - (i) constituting an offence against section 14, 15, 16 or 19 of that Act; and
 - (ii) engaged in before or during the transitional period; and
- (b) the authorisation of a person by the Minister under that section and in force immediately before commencement continues in force during the transitional period.

27 Legal proceedings not to lie

- (1) Despite the repeal of section 37 of the *Motor Vehicle Standards Act 1989*, that section, and any other provision of the old law (to the extent to which it relates to that section), continue in force during the transitional period.
- (2) Section 81 of the *Road Vehicle Standards Act 2018* applies in relation to this Schedule as if references to “this Act” in that section were references to:
 - (a) this Schedule and any rules made under item 29 of this Schedule; and
 - (b) the old law, to the extent that it applies because of this Schedule.

Part 9—Miscellaneous

28 Approved forms

The Secretary may, in writing, approve a form for the purposes of an item of this Schedule.

29 Transitional rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to:
 - (a) the amendments or repeals made by this Act; or
 - (b) the enactment of this Act or the *Road Vehicle Standards Act 2018*.
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.
- (3) This Act (other than subitem (2)) does not limit the rules that may be made for the purposes of subitem (1).

Schedule 4 Consequential amendments

Part 1 Amendments commencing day after Royal Assent

Schedule 4—Consequential amendments

Part 1—Amendments commencing day after Royal Assent

Age Discrimination Act 2004

1 Schedule 1 (after table item 41)

Insert:

42 Rules made under the *Road Vehicle Standards Act 2018*

Part 2—Amendments commencing at beginning of transitional period

A New Tax System (Luxury Car Tax) Act 1999

2 Subsection 25-1(4)

Omit “vehicle standards in force under section 7 of the *Motor Vehicle Standards Act 1989*”, substitute “national road vehicle standards in force under section 12 of the *Road Vehicle Standards Act 2018*”.

Customs Act 1901

3 At the end of subsection 229(1A)

Add “or the *Road Vehicle Standards Act 2018*”.

Fuel Tax Act 2006

4 Section 110-5 (definition of *Transport Minister*)

Omit “*Motor Vehicle Standards Act 1989*”, substitute “*Road Vehicle Standards Act 2018*”.

Interstate Road Transport Act 1985

5 Subsection 3(1) (at the end of the definition of *compliance plate*)

Add “(as in force before its repeal or as continued in force by the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*)”.

6 Subsection 3(1) (paragraph (a) of the definition of *MRC*)

Before “the maximum mass”, insert “if the vehicle has a compliance plate—”.

7 Subsection 3(1) (after paragraph (a) of the definition of *MRC*)

Insert:

- (ab) if the vehicle is entered on the RAV—the maximum mass of the vehicle, including any load, as recorded on the RAV; or

8 Subsection 3(1) (paragraph (b) of the definition of *MRC*)

Omit “in relation to a vehicle for which there is no compliance plate”, substitute “if the vehicle has no compliance plate and is not entered on the RAV”.

9 Subsection 3(1)

Insert:

RAV (short for Register of Approved Vehicles) has the same meaning as in the *Road Vehicle Standards Act 2018*.

Interstate Road Transport Charge Act 1985

10 Section 3A (at the end of the definition of *compliance plate*)

Add “(as in force before its repeal or as continued in force by the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018*)”.

11 Section 3A (paragraph (a) of the definition of *MRC*)

Before “the maximum mass”, insert “if the vehicle has a compliance plate—”.

12 Section 3A (after paragraph (a) of the definition of *MRC*)

Insert:

- (ab) if the vehicle is entered on the RAV—the maximum mass of the vehicle, including any load, as recorded on the RAV; or

13 Subsection 3A (paragraph (b) of the definition of *MRC*)

Omit “in relation to a vehicle for which there is no compliance plate”, substitute “if the vehicle has no compliance plate and is not entered on the RAV”.

National Environment Protection Council Act 1994

14 Paragraph 14(2)(b)

Omit “*Motor Vehicle Standards Act 1989*”, substitute “*Road Vehicle Standards Act 2018*”.

Trans-Tasman Mutual Recognition Act 1997

15 Clause 3 of Part 2 of Schedule 2 (at the end of the table item headed “Road vehicles”)

Add:

Road Vehicle Standards Act 2018

Part 3—Amendments commencing at end of transitional period

Age Discrimination Act 2004

16 Schedule 1 (table item 31)

Repeal the item.

Customs Act 1901

17 Subsection 229(1A)

Omit “*Motor Vehicle Standards Act 1989* or the”.

Trans-Tasman Mutual Recognition Act 1997

18 Clause 3 of Part 2 of Schedule 2 (table item headed “Road vehicles”)

Omit:

Motor Vehicle Standards Act 1989

[*Minister’s second reading speech made in—
House of Representatives on 7 February 2018
Senate on 18 June 2018*]

(10/18)
