

Legislative Instruments (Deferral of Sunsetting—Motor Vehicle Standards Instruments) Certificate 2016

EXPLANATORY STATEMENT

Issued by the Attorney-General
in compliance with section 26 of the *Legislative Instruments Act 2003*

INTRODUCTION

This Certificate was made under paragraph 51(1)(c) of the [Legislative Instruments Act 2003](#) (the LIA) and is a legislative instrument for the purposes of the LIA. The LIA provides that a certificate issued by the Attorney-General under subsection 51(1) of the LIA is not subject to the disallowance provisions of the LIA. Accordingly, a human rights statement of compatibility is not required.

OUTLINE

The purpose of Part 6 of the LIA on the sunseting of legislative instruments is to ensure that legislative instruments are kept up to date and only remain in force for so long as they are needed.

Paragraph 51(1)(c) enables the Attorney-General to issue a certificate to defer the sunseting day for an instrument for a period of six or 12 months. The instrument will then cease to be in force on the day specified in the certificate instead of the scheduled sunseting day.

This allows instruments to continue to be in force for a further but limited period of time when they would otherwise sunset. This removes the administrative burden of remaking instruments which would have a limited duration prior to their repeal and potential replacement.

PROCESS BEFORE CERTIFICATE WAS MADE

Regulatory impact analysis

Certificates of deferral of sunseting are machinery of government instruments, and are therefore not subject to the regulatory impact assessment requirements set out by the Office of Best Practice Regulation (OBPR). The OBPR reference for this standing exemption is ID 19633.

Consultation before making

Before this Certificate was issued, the Attorney-General considered the general obligation to consult imposed by section 17 of the LIA, and the specific circumstances where consultation may be unnecessary or inappropriate set out in section 18. Consultation involved the former Assistant Minister for Infrastructure and Regional Development advising the Attorney-General of the reasons for issuing the Certificate. The Certificate is consistent with the policy intent of the sunseting arrangements and does not significantly alter existing arrangements. Accordingly, further consultation was unnecessary.

Statutory preconditions relevant to this Certificate

If the Attorney-General is satisfied that the statutory conditions in section 51 of the LIA are met, an instrument's sunset day can be deferred for either six or 12 months by means of a certificate made under that section. In terms of process, the LIA requires:

- the responsible rule maker to apply to the Attorney-General in writing
- the Attorney-General to be satisfied that the instrument meets the statutory conditions, and
- the Attorney-General to make a certificate that includes a statement of reasons for the issue of the certificate—this certificate must be registered (LIA s 51(3)) but is exempt from disallowance (LIA s 44(2), item 43).

More information

The detail of the Certificate is provided in [Attachment A](#).

Copies of the instruments subject to this Certificate, and which will now sunset at a later day as specified in this Certificate, are available on the whole-of-government ComLaw website. Further information about these instruments may also be requested from the Department of Infrastructure and Regional Development.

NOTES ON THE CERTIFICATE**Section 1 Name of Certificate**

This section provides for the Certificate to be named as the *Legislative Instruments (Deferral of Sunsetting—Motor Vehicle Standards Instruments) Certificate 2016*. The Certificate may be cited by that name.

Section 2 Commencement

This section provides for the Certificate to commence on the day after it is registered.

Section 3 Authority

This section provides that the Certificate is made under paragraph 51(1)(c) of the *Legislative Instruments Act 2003*.

Section 4 Definitions

This section defines 'Act' to mean the *Legislative Instruments Act 2003*, for the purposes of the Certificate.

Section 5 Statement of reasons for issue of Certificate

This section provides the statement of reasons as required by paragraph 51(2)(a) of the Act.

The statement of reasons provides that the Attorney-General is satisfied that the relevant instruments would (apart from the operation of Part 6 of the Act) be likely to cease to be in force within 12 months after the sunset day, as required by subparagraph 51(1)(b)(i) of the Act.

Section 6 Deferral of sunsetting of legislative instruments

This section provides that the five instruments listed, for which the sunset day is 1 October 2016, are taken to cease to be in force under section 51 of the *Legislative Instruments Act 2003* on 1 October 2017.

Section 7 Repeal

This section provides that the Certificate is repealed on 2 October 2017.